PROCUREMENT POLICY BOARD MEETING
March 31, 2005
2:00 p.m.
Conference Room 410
1151 Punchbowl Street
Honolulu, Hawaii 96813

Members Present

Gregory King, Vice-Chair
Russ Saito, Secretary
Gordon Ing, member
Myron Tong, member

Members Excused

Claire Motoda, member
Winifred Odo, member
Richard Totten, member

Others

Ruth Yamaguchi, State Procurement Office
Justin Fo, State Procurement Office
Mara Smith, State Procurement Office
Corinne Higa, State Procurement Office
Sharon Koga, State Procurement Office
Colin Tanaka, State Procurement Office
Pat Ohara, Attorney General's Office
Eric Tsugawa, Case, Bigelow & Lombardi
Al Kanno, Safety Systems
Clifford Higa, One Shot Supplies

Call to Order

Vice-Chair Greg King called the meeting to order at 2:00 p.m.

Minutes

Mr. Gordon Ing asked if the January 1st date on page 3 to implement the central validation system was January 1, 2005. Mrs. Ruth Yamaguchi replied that the system is still in development by the portal contractor, Hawaii Information Consortium (HIC), with no target date.

Motion

Mr. Gordon Ing made a motion, seconded by Mr. Myron Tong, to approve the minutes of the December 16, 2004 meeting.

The minutes were approved as distributed.

Old Business

Vice-Chair King asked if there were any comments on the response to Safety Systems, letter dated 12/17/2004 and the responses to Eric Tsugawa for clarification of interim rules chapter 3-122-112. No comments were received.

New Business

For Action

1. Election of Officers

Mrs. Ruth Yamaguchi asked Deputy Attorney General Pat Ohara if a quorum was present. Ms. Ohara confirmed that a quorum was present.

Vice-Chair King asked for nominations for chair and vice-chair.

- Mr. Gordon Ing made a motion, seconded by Mr. Myron Tong, to nominate Vice-Chair King for Chair.
- Mr. Tong nominated Mr. Ing as Vice-Chair; it was seconded by Vice-Chair King.

A discussion was held on having gender equity among the officers, but both female members terms expire on June 30, 2005.

Vice-Chair King asked for acceptance of new officers, all members present replied with ayes.

2. Adoption of Interim HAR, Chapter 3-122 Source Selection and Contract Formation.

Mrs. Ruth Yamaguchi explained that Chapter 3-122 was previously approved as interim by the board in November of 2003 and is now with the Governor's Office for preliminary approval to go to public hearing. Approval has already been received by DBEDT. Approval for the interim rule was for eighteen months, which will expire in May 2005. This is not enough time to go to public hearing. There were amendments to statutes with Act 216 last year and Act 52 in the prior year, which resulted in issuing interim rules, particularly section 3-122-112 on *Responsibility of Offerors* that has gone through various changes. Chapter 3-122 has been compiled to incorporate all the changes. Adopting Chapter 3-122 as interim for another eighteen months will allow time for the State Procurement Office to complete the public hearing process.

Mrs. Yamaguchi explained that Chapter 3-122, which includes Section 3-122-112, was already approved by the board and has been compiled, but is in the public hearing process. After approval is received from the Governor for the public hearing, 30 days notice is given to the public for a public hearing held through the Video Conferencing Center. If there are no comments or no changes the rules will be presented to the board saying that the hearings were held, then filed with the Governor's Office and the Lt. Governor's Office.

Chair King made a motion; seconded by Mr. Gordon Ing to adopt Chapter 3-122 as an interim rule. The motion was unanimously passed.

3. Adoption of Revised HAR to Chapter 103F for Public Hearing.

Ms. Mara Smith explained that changes were made to 8 of the 9 chapters several months ago. Eight major changes were presented to the board at the last board meeting. Since then a number of technical changes have been made.

Chapter 3-141 is amended by adding the requirements for public notice, moving it from chapter 3-143, 3-144, 3-145, 3-146 and 3-147, for purposes of consolidation and uniformity. The request for exemption process is amended to require posting of a notice of exemption to the Internet prior to any approval action by a chief procurement officer. A process for reporting and correcting procurement violations is added. Chapter 3-142 is amended to improve planning and coordination of services by 1) changing the request for information process from optional to mandatory prior to issuance of a request for proposal; and 2) changing planning activities from optional to mandatory. Chapter 3-143 is amended to require that numerical evaluations include a written explanation of the scores. A process for state agencies to issue joint request for proposals is also added to improve planning and coordination. Chapter 3-144 is amended to change the sequence of posting the public notice for a restrictive request. Ms. Smith explained that the posting and a preliminary review would occur concurrently to screen out those requests that do not meet the criteria for a restrictive purchase of service but final approval by the chief procurement officer would occur after public notice. Chapter 3-145 is amended to require that a minimum of three providers be contacted prior to selection from the Treatment List of Qualified Private Providers. All other changes were for housekeeping and included changes to language to incorporate current technology.

Chair King asked if the state agencies had any problems with mandatory planning activities. Ms. Smith replied that although a few would prefer that planning not be a requirement, the majority were already conducting planning activities and those that weren't knew they should. A question was asked if any joint requests for proposals have already been issued. Ms. Smith replied that while no joint requests for proposals have been issued, a few planned secondary purchases have been successfully issued. Chair King asked if the State agencies had a chance to see these draft rules. Ms. Smith stated that a very similar version was presented at a POST (State Purchase of Service Team) meeting in December, the only difference being a few housekeeping changes. With regard to the required explanation of numerical scoring for proposals, Chair King

commented that it seemed difficult to do that, since evaluation was subjective. Ms. Smith stated that while there would always be some subjectivity due to the nature of the process and the services, the process could be made more objective by having clear evaluation criteria in the request for proposals and written comments to support the scores given in accordance with the criteria. Deputy Attorney General Pat Ohara indicated that written comments are very helpful, especially in a protest because sometimes a person will forget why they rated the way they did.

Mr. Gordon Ing made a motion; seconded by Mr. Myron Tong to the above adoption of revised chapter 103F. The motion was unanimously passed.

Acting Administrator's Report

Mrs. Ruth Yamaguchi reported on Legislation. At the start of the legislative session SPO had a number of bills to track, however, the number has been significantly reduced since the cross over. SPO is tracking a few bills. There is a bill transferring the Hawaii Procurement Institute responsibility, currently under SPO, to the University of Hawaii; SPO has no objection. HPI was established under the UH.

There is a bill on Small Business to establish set asides to industries or areas that need assistance; SPO has no objection. Currently there is a chapter in 103D titled Part IX to develop rules to provide assistance, training, etc. Reserved section in the rules called Assistance to Small Business; and SPO has developed a vendor guide.

The SPO is mainly tracking Senate Bill 1127, which amends section 103D-310 on responsibility of offerors, to provide relief on documentation requirements for verification of vendor compliance with all applicable State laws for small purchases, which SPO is supporting. Mr. Gordon Ing asked what is the issue on 103D-310. Ms. Yamaguchi replied they are removing the small purchase requirement for vendors to submit documentation verifying compliance with all applicable Hawaii laws. Documentation will be required only for IFB, RFP, Professional Services, Sole Source; not needed for emergency and small purchase. The documents referred to are the tax clearance, DLIR compliance and DCCA business registration.

Ms. Yamaguchi reported that the notice for the Administrator's position was published in the newspapers, with a due date of April 1, 2005. The Board will need to meet again to review the list of applicants after the Personnel Office has determined if applicants have met the minimum qualifications.

Comptroller Saito commented that DAGS publishes everything on the SPO website which is really good. What needs to be done to have all the State and County agencies doing the same thing, posting to a website or the SPO website. He receives inquiries on where to find particular awards. Mr. Saito asked if the rules can require agencies to post on the SPO website? Ms. Yamaguchi replied that SPO can require the Executive branch to post. Mr. Saito asked if a Procurement Directive can be issued to require all Executive agencies to post. Ms. Yamaguchi explained that other CPOs are given a copy of the Procurement Directive, and are being cooperative and posting the professional services on the SPO website.

Next Meeting

The next meeting will be at the call of the chair.

Adjournment

There being no further business, the meeting was adjourned at 3:04 p.m.

Respectfully submitted,

5/3/05
Date

RUSS K. SAITO, Secretary
Procurement Policy Board