

PROCUREMENT POLICY BOARD MEETING

June 19, 2008

1:00 pm

Conference Room 410

1151 Punchbowl Street

Honolulu, Hawaii 96813

Members Present

Gregory King, Chair
Pamela Torres, Vice-Chair
Russ Saito, Secretary
Keith Matsumoto, member
Darryl Bardusch, member

Others

Aaron Fujioka, State Procurement Office
Ruth Yamaguchi, State Procurement Office
Pat Ohara, Office of the Attorney General
Justin Fo, State Procurement Office
Colin Tanaka, State Procurement Office
Steven Kamaura, Department of Human Resources Development
Cassandra Adachi, Department of Human Resources Development
Diane Sumida, Department of Human Resources Development
Beverly Braun, City and County of Honolulu, Risk Manager
Isaac Maeda, Department of Agriculture
Kathryn Kanemori, Honolulu Board of Water Supply (BWS)
Susan Yamamoto, Department of Human Services
Gwen Won, University of Hawaii
Kara Iwasaki, City and County of Honolulu, Human Resources
Clark Hirota, City and County of Honolulu, Human Resources
Lance M. Inouye, General Contractors Association
Ken Takenaka, General Contractors Association

Agenda Item I - Call to Order

Chair Greg King called the meeting to order at 1:00 p.m.

Mr. Russ Saito made a motion, seconded by Ms. Pamela Torres to take out of order and discuss Agenda Item VII. The motion was unanimously carried.

Agenda Item VII.

Mr. Saito announced that board members Chair King and Mr. Darryl Bardusch terms expired at the end of this month. He explained the process for board members to be appointed by the governor. The nominating committee appointed by the Governor, Senate President and Speaker of the House is awaiting the appointment of the Senate President's nominee. No timetable was given as to when the board members will be appointed for these positions.

Mr. Saito suggested that the board defer election of a chair to replace Chair King, whose second term expires on June 30, 2008, until members are named to the county employee and federal positions.

Mr. Aaron Fujioka announced the next board meeting is tentatively scheduled for July 17th. Mr. Keith Matsumoto inquired on legislative updates, to which Mr. Fujioka said there were none at this time and Mr. Saito explained that the governor has not reviewed any procurement bills that affects the board. The Governor has until June 23rd to inform the Legislature of any bills she plans to veto.

Mr. Bardusch made a motion, seconded by Mr. Saito to go back to the order of the Agenda. The motion was unanimously carried.

Agenda Item II

Mr. Bardusch made a motion, seconded by Mr. Saito, to approve the minutes of the May 15, 2008 meeting. The motion was unanimously carried.

Agenda Item III

Ms. Patricia Ohara, reported that in reviewing the three proposals, the HPI version and Mr. Bardusch's version were virtually the same. Other than matters of style, the primary difference between the HPI/Mr. Bardusch's version and the SPO version is the amendment to 3-125-2(b)(2) (the same concept is reflected in 3-125-4(2)). SPO deletes language from the HPI/Mr. Bardusch version that requires the "procurement officer to promptly and duly make the provisional adjustments in payment or time for the direct costs of the work as the State deems reasonable." The SPO version includes language not in the other version, "Failure of the parties to agree to an adjustment in contract price shall be resolved pursuant to HRS 103D-501(b)(5). She also briefly described the amendment sought by the Board of Water Supply to 3-125-13.

Mr. Lance Inouye submitted written and oral testimony regarding the language for section 3-125-13 requesting changes/amendments.

The board discussed the difference in the languages and one of the concerns was whether the proposed language, intended to comply with the intent of Act 291, would allow agencies to knowingly commit funds they did not have.

Mr. Keith Matsumoto made a motion, seconded by Mr. Bardusch, to have Deputy Attorney General Pat Ohara use item IIIc (the HPI/Bardusch version) as the base document to edit/amend the appropriate sections to adjustments in payment or time for direct costs of the work, and to consider for incorporation, the suggestions submitted by the BIA/GCA. The motion was unanimously carried.

Agenda Item IV

Ms. Ohara said she had reviewed the submittals from the BWS and agreed with the BWS that 3-125-13 as written, could be read to subject all price adjustments to the maximum amount set forth in 3-125-13(2), regardless of the method used to calculate the price adjustment. Ms. Kathryn Kanemori explained the background of the BWS submittal.

Mr. Matsumoto made a motion, seconded by Mr. Bardusch to incorporate item IV with item IIIc as necessary for clarification purposes. The motion was unanimously carried.

Agenda Item V

Chair King requested those present and wishing to testify on specific exemptions to do so prior to the board's discussion of each exemption.

Ms. Diane Sumida presented oral testimony supporting exemption no. 3. Ms. Beverly Braun presented oral testimony in support of exemption no. 6. Ms. Susan Yamamoto presented oral testimony in support of exemption nos. 3 and 15.

Mr. Saito made a motion, seconded by Mr. Bardusch, to defer Agenda Items V and VI until the next board meeting. The motion was unanimously carried.

Agenda Item VIII

Mr. Saito made a motion, seconded by Mr. Bardusch, to adjourn the meeting. The motion was unanimously carried. The meeting was adjourned at 2:48 p.m.

Respectfully submitted,

7/10/08
Date



RUSS K. SAITO, Secretary
Procurement Policy Board

Attachment: June 19, 2008 Agenda

PROCUREMENT POLICY BOARD

1151 Punchbowl Street
Conference Room 410
Honolulu, Hawaii 96813

Regular Meeting
June 19, 2008
1:00 pm

AGENDA

- I. Call to Order.
- II. Approval of Minutes – Meeting of May 15, 2008.
- III. Report by Deputy Attorney General Patricia Ohara on the various versions of the proposed rules to HAR Chapter 3-125, Modifications and Terminations of Contracts:
 - a. Proposal 1 – submitted by the Attorney General’s Office/State Procurement Office on October 18, 2007 (view at website below, PPB Agenda for October 18, 2007);
 - b. Proposal 2 – submitted by Jessica Horiuchi/Terry Thomason on October 18, 2007 (view at website below, PPB Agenda for October 18, 2007); and
 - c. Proposal 3 – submitted by Member Darryl Bardusch on February 21, 2008 (view at website below, PPB Agenda for February 21, 2008, agenda item IX, pages 9-21).
- IV. Proposed amendment by Katherine Kanemori, Honolulu Board of Water Supply regarding HAR 3-125-13(a)(2).
- V. Annual Review of HAR Chapter 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D (view at website below, PPB Agenda for May 15, 2008, Agenda Item IVa & b).
- VI. Election of Officers.
- VII. Announcements.
- VIII. Adjournment.

Available agenda items may be viewed at www.spo.hawaii.gov/procurement-policy-board-minutes-of-meeting. Individuals may present testimony on matters on the Procurement Policy Board’s agenda when the agenda item is being discussed by the Board. Individuals intending to testify should contact the State Procurement Office at (808) 587-4700 at least 48 hours before the scheduled meeting. Written testimonies will be accepted through e-mail at procurement.policy.board@hawaii.gov or faxed to (808) 587-4703 until 1:00 pm, June 17, 2008. Testimonies received after the June 17, 2008 deadline will be forwarded to the board after the June 19, 2008 meeting. Individuals submitting written testimony at the meeting and would like the written testimony distributed to the board at this meeting, are requested to provide 12 copies.

Individuals requiring special assistance or services may call (808) 587-4700 by 1:00 p.m., June 16, 2008 to discuss accommodation arrangements.