

Small Business Utilization Council Meeting

MINUTES OF REGULAR MEETING

May 16, 2007

No. 1 Capitol District Building – Conference Room 506

1. Call to Order - Chair Liu called the meeting to order at 7:35 a.m., with a quorum present. Vice Chair Saito advised the members and attendees that a deputy attorney general from the Attorney General's Office should be present to oversee the meetings in regards to the Sunshine law. Chair Liu stated that the meeting was officially posted and confirmed that a representative from the Attorney General's Office will be requested for upcoming meetings.

MEMBERS PRESENT:

- Theodore E. Liu
- Barry Fukunaga
- Russ K. Saito

ATTENDEES:

- Aaron Fujioka
- Andrew Poepoe
- Jessica Horiuchi
- Ruth Yamaguchi
- Dennis Ling
- Dori Palcovich

2. Review of Act 50, SLH 2005 and Hawaii Administrative Rules (HAR) 3-124 pertaining to small business set-asides and utilization as subcontractors – Ms. Yamaguchi indicated that these rules, entitled “Small Business Preference Rules,” are interim rules that will expire in eighteen months of the rule's effective date or until such time that the Procurement Policy Board (PPB) approves the rules for permanency.
 - A. 3-124-70 Purpose – Vice Chair Saito explained that the purpose of the rules is based on Act 50 (2005) allowing the Small Business Utilization Council (SBUC) to establish set-asides within the small business preference program so that the SBUC may make recommendations to the PPB for approval. Should amendments be proposed by the SBUC, a formal public hearing is required.
 - B. 3-124-71 Small Business Utilization Council – The SBUC is currently made up of three voting members. Vice Chair Saito stated that representatives from DAGS and DOT were listed as voting members because they are large procurers and DOT also handles the Disadvantage Business Program.
 - C. 3-124-72 Administrator of the State Procurement Office - The PPB can approve the rules and the set-asides but the responsibility of the actual procurement falls onto the procurement officers in the various agencies. The PPB has no expectations in terms of recommendations from the SBUC, but will review and approve the recommendations regarding specific geographic areas for the set-asides and criteria relating to the size of businesses.
 - D. 3-124-73 Chief Procurement Officers (CPO) and Heads of Purchasing Agencies – Ms. Yamaguchi indicated that each county has three procurement officers, and the University of Hawaii's CPO is its president.
 - E. 3-124-74 Procedures and Clauses – The rules include various procedures and clauses that can be incorporated into the small businesses services however Vice Chair Saito explained that although these clauses were established to help the SBUC, it was unclear whether the specific language in the rules affords the members the flexibility to create additional procedures and clauses; an opinion from the Attorney General's Office will be requested.

3. Establishment and Discussion of the Small business Utilization Council

- A. Confirmation of membership as specified in HAR 3-124-71 – Members can be added to the SBUC. Vice Chair Saito indicated that a broad spectrum of representatives should serve on this council as it will assist in helping with the selection of the set asides. After much discussion, it was agreed that the State's four counties would be recommended to be included as voting members.
- B. Nomination of other voting and nonvoting members – In addition to the State's four counties, Vice Chair Saito recommended that a representative from one of the major State agencies also be included as a voting member of the SBUC as it would make the procurement process easier and more consistent. All such nominees will require the approval of the PPB but to proceed, protocol would dictate that a letter be initiated from the SBUC chairperson to the Governor who would then send a letter to the four county mayors requesting either the CPO or a designee be considered as an SBUC voting member.

After discussing the procurement practices of the various agencies, it was suggested that a procurement representative from the Department of Education (DOE) as well as either the Department of Human Services (DHS) or the Department of Health (DOH) be considered. Mr. Fujioka stated that DOH has numerous contracts that are service-oriented but it would not necessarily be beneficial to have DOH represent the council regarding creating "set asides." Based on this discussion, Chair Liu will have a conversation with the directors of DHS and DOE to discuss the preference program.

C. Discussion of roles and responsibilities

- (1) Recommendations – Discussed and incorporated within the body of the minutes.
- (2) Reports – Discussed and incorporated within the context of the minutes.

D. Discussion of SBUC support and consultations

- (1) Department of Business, Economic Development and Tourism (DBEDT) and other State, Federal and County Agencies – Mr. Poepoe explained that in the federal sector, the specific business size criteria is mandated; DBEDT is in a much better position because it can be determined exactly what businesses and size criteria it wants to choose for the initial set up. Ms. Horiuchi suggested that the SBUC initially consider targeting smaller industries in regards to geographic limitations.
- (2) Industry groups, labor organizations – Discussed and incorporated within the body of the minutes.
- (3) U.S. Small Business Administration – It was discussed that the council initially use the SBA's standards in regards to the definition of small business. Vice Chair Saito indicated that the rules do not mandate that the council establish a specific set-aside per small business category definition, so the definition of small business does not have to be redefined. Mr. Poepoe indicated that Ms. Anne Murata will likely represent the SBA in his place at the meetings.
- (4) Hawaii Procurement Institute – Chair Liu explained that Hawaii Procurement Institute (HPI) was instrumental in drafting the administrative rules. Ms. Horiuchi explained that HPI is a non-profit organization and its director, Professor Danielle Conway-Jones, is currently teaching procurement in Australia on a Fulbright Fellowship. Ms. Horiuchi distributed a handout in draft form (attached to these minutes) highlighting HPI's suggestions regarding objectives, issues, and approaches for the SBUC's implementation of Act 50 (2005). Specifically, she referred to HRS § 103D-91, explaining that this Council may want to adopt the same size standards as the existing SBA size standards for the various industry groups identified in the SBA's published rules. She also suggested that the Council identify one or more industry areas that present the greatest growth potential for Hawaii businesses.

4. Discussion of Issues, Objectives of the Program and Approaches – Mr. Fujioka will “flag” the procurement preference program on the State’s appropriate website. Ms. Palcovich and Mr. Poepoe will provide a listing of Hawaii small business agencies, chambers and trade groups so that an introductory letter about the preference program from the SBUC will be sent to these organizations. Vice Chair Saito suggested that the SBUC solicit feedback from the small businesses regarding this program. Chair Liu also suggested that an op-ed piece be done by HPI about the program and Vice Chair Saito stated that it is important to get the word out that the preference program is to aid and develop small business. It was further suggested that the op-ed not be done until all the voting members on the Council have been put into place. The ability to video conference the upcoming meetings was discussed and generally agreed upon, however, it was again stressed that a representative from the Attorney General’s Office must be present.
5. Next Meeting Location, Date and Time – The next meeting is scheduled for Tuesday, June 12, 2007 at 1:00 p.m. in conference room 436. Thereafter, the SBUC meetings will be held on the first Monday of each month in conference room 436 at 1:00 p.m. Chair Liu confirmed that one member from each county’s executive branch will be invited to the meeting.
6. Adjournment - Chair Liu adjourned the meeting at 9:39 a.m.