

Small Business Utilization Council Meeting

MINUTES OF REGULAR MEETING

November 5, 2007

No. 1 Capitol District Building – Conference Room 436

1. Call to Order - Chair Liu called the meeting to order at 1:04 p.m., with a quorum present.

MEMBERS PRESENT:

- Theodore E. Liu
- Russ K. Saito
- Barry Fukunaga
- Mary Patricia Waterhouse

ATTENDEES:

- Patricia Ohara
- Jessica Horiuchi
- Andrew Poepoe
- Larry Orr
- James Tollefson
- Tim Lyons
- Anthony Marlin
- Richard Kane
- Caroline Kim
- Karl Borgstrom
- Justin Fo
- X. Hasani
- Dori Palcovich

ABSENT MEMBERS:

- Aaron Fujioka

2. Approval of August 6, 2007 Minutes – Minutes of the August 6, 2007 Small Business Utilization Council (SBUC) meeting were approved as presented.
3. Follow-up on the recommendation to approve Ms. Mary Patricia Waterhouse to the Procurement Policy Board as a voting member to the Small Business Utilization Council – Vice Chair Saito indicated that the Procurement Policy Board approved Ms. Waterhouse's recommendation. The Council members welcomed Ms. Waterhouse as a new voting member to the SBUC.
4. Recommendation to the Procurement Policy Board to approve Messrs. Kalbert Young, William Takaba and Wallace Rezendes as voting members to the Small Business Utilization Council – Information regarding the three prospective members was provided to the members. Chair Liu stated that Mr. Young is a Director of Finance and was designated by Maui Mayor Charmaine Tavares; Mr. William Takaba is a Director of Finance and designated by Hawaii Island Mayor Harry Kim; Mr. Wallace Rezendes, Jr., is a Director of Finance and designated by Kauai Mayor Bryan Baptiste.

Vice Chair Saito recommended that a formal proposal be submitted to the State Procurement Policy Board for the approval of Messrs. Young, Takaba, and Rezendes, Jr., to become voting members on the Small Business Utilization Council; the members unanimously agreed. Staff will compose the recommendation for Chair Liu's signature which will be routed to Vice Chair Saito for submission to the Procurement Policy Board.

5. Follow-up on Chair Liu's discussion with the Departments of Education and Human Services – Chair Liu explained that he has not yet had a discussion with Ms. Patricia Hamamoto, Superintendent of Education but he will set up a meeting soon. He has had conversations with the Department of Human Services' Director Lillian Koller and Health Department's Director, Doctor Chiyome Fukino. Both directors

expressed their desire to be supportive of this Council's work but were unaware of the exact proportion of the small business procurement work their respective departments did. They are interested in finding out more about the Council's role, what the small business preference program means for their agencies, and what the rules entail. During discussions with these directors, it was suggested that a Governor's Administrative Directive (AD) be issued to all the State agencies. The AD would guide the State agencies, provide background information on the preference program's set-asides, describe the establishment of the Small Business Utilization Council, provide decisions made to-date of this Council, explain definitions, and reference the provision that provides a twenty percent goal for small business contracts. As a result, Chair Liu requested that staff draft an AD for discussion at the next meeting.

Vice Chair Saito explained that the Department of Accounting and General Services (DAGS) has the ability to track all State payments that have been made based on provided invoices. He mentioned that if DAGS were to track the purchases made in regards to the preference program that proper coding mechanisms would need to be established. Ms. Horiuchi cautioned the members of a tracking system on an annual basis because the rules are currently only interim, eighteen months. Vice Chair Saito stated that training is specifically needed on the executive level in regards to the procurement codes. Training would also entail a "how to" process of the procedures and the proper forms to be used, such as "request for project" forms. DAGS is presently working with Hawaii Procurement Institute (HPI) to craft such a training course.

Ms. Horiuchi stated that the HPI board recently elected her as its Executive Director. HPI, which is a separate stand-alone entity, is available to do educational training, hold conferences and be a general resource on procurement. HPI is currently pursuing a federal grant to assist in providing technical assistance centers.

6. Follow-up on the recommendation to the Procurement Policy Board regarding the adoption of the SBA guidelines of the federal acquisition regulations' size standards – Vice Chair Saito indicated that the guidelines proposed by this Council to the PPB are too broad. Therefore, it was agreed that HPI would draft proposed language for the rules. HPI is in the process of drafting guidelines that would be narrowly tailored to fit the State's requirements. Ms. Horiuchi explained that Mr. Larry Orr, the Small Business Administration's (SBA's) Procurement Officer, will be assisting Ms. Horiuchi with the drafting of the guidelines; completion time of the draft rules is expected by January 2008.
7. Follow-up and discussion from the Small Business Administration on the Federal process of determining set asides for small business – Mr. Larry Orr explained that on a daily basis his job with the SBA is to work with and target small businesses within the federal government's procurement policies and procedures. He distributed several handouts, "SBA Oversight of Goals, Incentives and Preferences in Federal Procurement," "Information Needed by SBA to Process a Size Protest," and "Set-Aside Decision Tree for Requirements Not Exceeding \$100,000" for review by the SBUC members. Mr. Orr discussed the SBA's procurement process at length. He explained that some areas, such as HUB Zones (Historically Under-utilized Business Zones) are an area where procurement is not sufficiently utilized to its fullest potential and where the SBA has targeted.

Ms. Horiuchi noted that in the State procurement system, everything is "full and open," whereas in the federal procurement system, a "set-aside" listed on one of the targeted groups is chosen, unless it is proven that a larger business has to perform the services; this is driven by an exception. Vice Chair Saito explained that while the SBA's procurement program covers "small disadvantaged" businesses or "women-owned" small businesses, the State's preference program does not; the State businesses are strictly small business HUB Zones. Ms. Horiuchi and Vice Chair Saito explained that the Small Business Preference Program rules are instructional but because the laws are in effect, the program can be applied immediately. Therefore, it was noted that the heads of the agencies have enough legal bases to move forward and begin contracting right away. Vice Chair Saito added that if a job is too big for a small business but there are components for which a small business would be considered, then that would be the sub-contractor requirement.

8. Discussion of suggestions for potential pilot sectors – Vice Chair Saito recommended that each State agency decide what industry to target; thus, that industry would be the agency's pilot. He thought this would be the best strategy to take rather than the SBUC members directing all the State agencies on what to do. Mr. Fukunaga concurred with this suggestion.

9. Discussion of budgetary issues – Chair Liu indicated that the preference program was not approved during the beginning of a budgeting cycle. Vice Chair Saito explained that there are valid expenses to be utilized by this Council and so the need for a budget is necessary. Because Sunshine laws allow for video-conferencing, Vice Chair Saito will look into the availability of video-conferencing. He stated that there are certain expenses for reference materials and subscriptions to various organizations to assist this Council. Because the SBUC is attached to DBEDT, it was recommended that a supplemental budget to the Budget and Finance Department be submitted, however, this would be created for the beginning of fiscal year 2009, July 1, 2008. In the meantime, travel and other expenses are required. Ms. Palcovich stated that the County of Kauai is willing to pay for its nominee, but the Counties of Maui and Hawaii are expecting the State to pay the nominees travel expenses; she will provide monthly budget figures to Chair Liu.
10. Public input and discussion – Mr. Richard Kane explained that there is a common goal of twenty percent which is a very good goal but its ambiguity could result in unintended consequences. Mr. Tim Lyons, Executive Director of Hawaii Business League and who also represents the Sub-contractor's Association, indicated that an informal poll of thirty-five contractors revealed concerns with the twenty percent as well and that the definition of small business was too broad. Chair Liu explained that these issues are worth further discussion.
11. Next Meeting: Monday, December 3, 2007, No. 1 Capital Building, Room. 436, 1:00 to 3:00 p.m.
12. Adjournment – Chair Liu adjourned the meeting at 2:28 p.m.