

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Amendment and Compilation of Chapter 3-142  
Hawaii Administrative Rules

December 29, 2005

SUMMARY

1. §3-142-202 is amended
2. §§3-142-301 and 3-142-302 are amended.
3. §3-142-403 is amended.
4. Chapter 142 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

SUBTITLE 11

PROCUREMENT POLICY BOARD

CHAPTER 142

PLANNING

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SUBCHAPTER 1

PURPOSE AND SCOPE

§3-142-101 Purpose. The purpose of this chapter is to encourage purchasing agencies to adopt uniform planning practices in order to create greater efficiency and economy in the procurement and purchase of health and human services. [Eff 6/19/99; comp ] (Auth: HRS §103F-106) (Imp: HRS §103F-301)

JAN 23 2006

§3-142-102 Scope. The provisions of this chapter shall apply to all purchasing agencies purchasing health and human services under chapter 103F, HRS, and these rules. [Eff 6/19/99; comp ] (Auth: HRS §103F-106) (Imp: HRS §103F-301)

JAN 23 2006

SUBCHAPTER 2

PLANNING ACTIVITIES AND METHODS

§3-142-201 Planning. (a) Planning is a general term that encompasses different types of activities carried out by different agencies within government and organizations within the community. In order to define clearly the different subsets of planning activities under chapter 103F, HRS, the following categories are established:

- (1) Planning to determine what service to purchase. Purchasing agencies carry out information gathering and analysis with input from funders, other state agencies, client advocacy organizations and providers on how to achieve better results in reaching goals established by statute or funder's conditions, or community planning processes.

Purchasing agencies also review the program monitoring and evaluation reports for current contracts. This subset of planning activities is initiated by the purchasing agency. The scope of a purchasing agency's planning, may be defined by its statutory language;

- (2) Planning to establish procurement schedules and requirements. Chapter 103F, HRS, establishes two advisory groups to assist the administrator with development of procurement instructions to all purchasing agencies. The administrator weighs and considers these recommendations in conjunction with decisions by state policy-makers responsible for budget and expenditure instructions. These instructions guide all purchasing agencies on when and what annual and biennial planning and procurement activities may be carried out. The scope of the instructions is limited to common activities, schedules, or guidelines that affect all purchasing agencies; and
- (3) Planning with provider organizations. Purchasing agencies may seek planning information from providers. Purchasing agencies are encouraged to collaborate with providers through sharing of planning information and analysis that results in improved service specifications for purchased services and progress towards desired outcomes. [Eff 6/19/99; comp  
**JAN 23 2006** ] (Auth: HRS §103F-106) (Imp: HRS §103F-301)

§3-142-202 Requests for information. (a) At a minimum, a purchasing agency shall prepare a request for information prior to the development of a request for proposals to obtain community input and facilitate community planning activities. A request for

information may also be prepared at any other time to facilitate a purchasing agency's planning activities and may be sent to any knowledgeable person or entity that the purchasing agency deems advisable.

(b) Permissible subjects. A request for information may address any subject relevant to a purchasing agency's planning activities and in preparation for a solicitation, including but not limited to:

- (1) Long- and short-term goals and objectives, or the objective of a procurement;
- (2) The target population or clients to be served;
- (3) The services the purchasing agency anticipates may be necessary to achieve its goals and objectives;
- (4) Service specifications, feasibility, or cost; or
- (5) Request for expressions of interest to provide a service.

(c) Form of request. At a minimum, a request for information shall be in writing and shall include:

- (1) The name of the state agency issuing the request;
- (2) A description of the information being sought;
- (3) The procedure for responding;
- (4) A statement that participation is optional, and is not required to respond to any subsequent procurement action a purchasing agency may take;
- (5) A statement that neither the purchasing agency nor the interested party responding has any obligation under the request for information; and
- (6) If applicable, other means by which the request for information is being solicited, including but not limited to an oral presentation, meeting, telephone survey, electronic media, or any combination of these methods.

(d) Public notice. Public notice shall be given for all requests for information in accordance with section 3-141-407 and shall be posted for a minimum of seven days.

(e) Waiver for good cause. When the nature and circumstances of the service and the community need remain unchanged, the head of a purchasing agency may waive compliance with the issuance of a request for information. The waiver shall be in writing and shall include justification for the waiver. The waiver shall be placed in the procurement file and also included in the request for proposals. Waivers shall not be granted for requests for information issued pursuant to subsection (f).

(f) Federal grant applications. When utilizing a request for information to select a provider for inclusion in a federal grant application, the request for information shall include, but not be limited to:

- (1) The name of the state agency issuing the request;
  - (2) A statement that the request is being issued for the purpose of including a provider or providers in a federal grant application which may result in a contract with the provider if the state is awarded;
  - (3) A description of the service or services being sought;
  - (4) The criteria by which applicants will be evaluated for selection;
  - (5) The deadline by which responses to the request for information shall be submitted; and
  - (6) Any other requirements that the purchasing agency deems relevant to the request.
- [Eff 6/19/99; am and comp **JAN 23 2006** ]  
 (Auth: HRS §103F-106) (Imp: HRS §103F-301)

§3-142-203 Collaboration of providers. (a) Purchasing agencies may ask providers to participate in purchasing agency planning activities in order to

create greater efficiency, responsiveness, and organization in meeting the health, social and economic needs of the various communities.

(b) Areas for collaboration. Specific areas for collaboration with providers may include, but are not limited to:

- (1) Sharing of information on community needs;
- (2) Determination of best practices;
- (3) Inventory of available resources;
- (4) Budgetary or cost factors;
- (5) Configuration of services; and
- (6) Recommendations for service specifications and requirements.

(c) No disqualification from procurement.

Uncompensated provider participation is encouraged, and such involvement shall not disqualify any responsible provider from responding to any subsequent procurement actions a purchasing agency may take.

(d) No exemption from anti-competitive practices. The collaborative practices permitted under this section shall not be construed to create an exemption to allow anti-competitive practices otherwise prohibited by federal, state or county law.

[Eff 6/19/99; am and comp **JAN 23 2006** ] (Auth:  
HRS §§103F-106, 103F-203) (Imp: HRS §103F-203)

### SUBCHAPTER 3

#### STATE AGENCY PLANNING

##### §3-142-301 State agency planning activities.

(a) To make decisions on the type and amount of services to purchase, purchasing agencies shall carry out planning activities, including but not limited to:

- (1) Receiving information from funders, including the legislature, federal agencies, and private foundations on funding terms and conditions;
- (2) Asking for information from other state agencies on services to the same community,

families, children, adults, or school, or on cooperative strategies to make progress towards achieving a shared goal;

- (3) Utilizing the contracts database issued by the administrator to analyze information on similar services and services to the same community or target groups;
- (4) Taking into account the views of service recipients and community advocacy organizations on conditions affecting the achievement of mandated goals;
- (5) Taking into account the views of provider organizations on how to improve service specifications to better achieve mandated goals, a request for information may be utilized as provided in section 3-142-202;
- (6) Analyzing information from program monitoring and evaluation reports for current contacts; and
- (7) Analyzing socio-economic and health data for trends, and analyzing waiting lists and client satisfaction surveys to determine demand factors.

(b) Agencies determine planning activities.

Purchasing agencies shall determine which types of planning activities they will carry out, and at which time intervals, based on the type of service being purchased, the availability of staff and resources; and the scope of purchasing agency discretion to adjust the type or amount of services being purchased. When a competitive procurement is subsequently conducted, planning activities utilized shall be listed in the request for proposals.

(c) Planning information part of budgeting.

Planning information shall be considered in the purchasing agency's biennium budgeting process, but does not solely determine budget recommendations. Purchasing agency budget recommendations are subject to decision-making at the departmental and executive levels in order to ensure accordance with statewide program and fiscal priorities.

(d) Public inspection of planning information

activities. A brief reference to the planning activities utilized by a purchasing agency for consideration in the budgeting and purchasing decisions for services shall be included in the request for proposals. The referenced documents shall be made available for public inspection. [Eff 6/19/99; am and comp **JAN 23 2006** ] (Auth: HRS §103F-106) (Imp: HRS §103F-301)

§3-142-302 State agency planning schedule.

(a) The planning activities schedule for a particular service shall be determined by the length of the service contract, for example, every two years for two year contracts, every four years for four year contracts, and so on.

(b) Waiver of planning activities for good cause. The head of a purchasing agency may waive planning activities for procurement upon a written determination it is in the best interest of the State. The waiver shall be in writing and shall include an explanation of the circumstances justifying the waiver. The written waiver shall be placed in the procurement file and included in the request for proposals. [Eff 6/19/99; am and comp **JAN 23 2006** ] (Auth: HRS §103F-106) (Imp: HRS §103F-301)

SUBCHAPTER 4

STATE PROCUREMENT OFFICE PLANNING

§3-142-401 State procurement office planning activities. (a) The administrator may carry out the planning activities provided in this subchapter prior to establishing procurement instructions to all purchasing agencies. The administrator shall weigh and consider the advice of the interagency committee and the community council as provided in this section.

(b) The interagency committee on purchase of

health and human services. The interagency committee, which is composed of heads of purchasing agencies or their designated representatives, shall assist the administrator on matters including, but not limited to:

- (1) How, when, and on what issues, to secure input from providers to facilitate purchasing agency decision-making;
- (2) Schedules for planning and purchasing health and human services;
- (3) Criteria to evaluate proposals for competitive and restrictive purchase of services; and
- (4) Education and training needs of purchasing agencies and providers.

(c) The community council. The community council, which is composed of nine appointed members and one ex-officio member of the interagency committee, shall assist the administrator with advice on matters including, but not limited to:

- (1) When, and on what issues, to secure input from providers to facilitate purchasing agency decision-making and how to facilitate provider participation in purchasing agency planning and purchasing;
- (2) Schedules for planning and purchasing health and human services;
- (3) Criteria to evaluate proposals for competitive and restrictive purchase of services;
- (4) Education and training needs of purchasing agencies and providers; and
- (5) Market or business concerns facing providers that may affect the availability of services and the scope of competition.

(d) No conflicts with other authorized policies. The administrator shall issue instructions that incorporate, and do not conflict with, current Governor's executive orders, state comptroller's administrative directives, and attorney general's opinions that may, by statute, establish guidelines or instructions to purchasing agencies which restrict or

direct the budgeting, contracting and expenditure of public funds. [Eff 6/19/99; comp **JAN 23 2006** ] (Auth: HRS §103F-106) (Imp: HRS §§103F-201, 103F-202, 103F-301)

§3-142-402 State procurement office planning schedule. Instructions from the administrator that cover topics including but not limited to, issues listed in section 3-142-401 will normally be issued to purchasing agencies in coordination with budgeting and expenditure instructions that are issued on an annual or biennial basis. Information to assist the administrator from the interagency committee and the community council may be provided on an annual or biennial basis, as appropriate. [Eff 6/19/99; comp **JAN 23 2006** ] (Auth: HRS §103F-106) (Imp: HRS §103F-301)

§3-142-403 Assistance in provider planning.

(a) In order to assist providers to plan their organizations' budgets and staff levels on a predictable and timely basis, the administrator shall make information on anticipated purchases public annually.

(b) Planned purchases. Purchasing agencies shall submit a list of services, which they anticipate purchasing in the coming years and the anticipated method of procurement. The purchasing agencies shall transmit their lists to the administrator at the time and in the manner prescribed by the administrator.

(c) Consolidated report of planned purchases. The administrator shall prepare a consolidated report of the services that purchasing agencies anticipate purchasing in the coming years. The administrator shall make the report available in a manner reasonably calculated to provide fair and equal access to all providers that might be interested in competing to provide the anticipated services.

(d) Changes allowed. The lists and consolidated report shall not obligate purchasing agencies to

solicit proposals for any service included, because purchasing agencies may experience changes to planned expenditures after the report is made available to interested providers. [Eff 6/19/99; am and comp  
**JAN 23 2006** ] (Auth: HRS §103F-106) (Imp: HRS §103F-301)

Amendments to and compilation of chapter 3-142, title 11, Hawaii Administrative Rules, on the Summary Page dated December 29, 2005 were adopted on December 29, 2005 following a public hearing held on November 30, 2005 in Honolulu, Hawaii; and via video conference from Honolulu, Hawaii on November 30, 2005 to Hilo, Hawaii; Wailuku, Maui; and Lihue, Kauai; after public notice was given in the Honolulu Star-Bulletin, Hawaii Tribune-Herald, West Hawaii Today, The Maui News, and The Garden Island on October 28, 2005.

They shall take effect ten days after filing with the Office of the Lieutenant Governor.

  
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GREGORY L. KING  
Chairperson  
Procurement Policy Board

  
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RUSS K. SAITO  
State Comptroller

  
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LINDA LINGLE  
Governor  
State of Hawaii

Dated: JAN 11 2006

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Filed

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APPROVED AS TO FORM:

  
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Deputy Attorney General