

PROCUREMENT POLICY BOARD MEETING (PPB)

July 16, 2009

1:00 pm

Conference Room 410

1151 Punchbowl Street

Honolulu, Hawaii 96813

Members Present

Darryl Bardusch, Vice Chair

Russ Saito, Secretary

Leslie Chinen, member

Daryle Ann Ho, member

Keith Matsumoto, member

Others

Aaron Fujioka, State Procurement Office

Ruth Yamaguchi, State Procurement Office

Patricia Ohara, Department of the Attorney General

Colin Tanaka, State Procurement Office

Kevin Takaesu, State Procurement Office

Lance Inouye, General Contractors Association/Ralph S. Inouye Co., Ltd.

Kathy Kanemori, Honolulu Board of Water Supply

Ken Takenaka, General Contractors Association

John Cheung, Building Industry Association

Agenda Item I - Call to Order

Vice Chair Darryl Bardusch called the meeting to order at 1:01 p.m.

Agenda Item II - Minutes

Mr. Leslie Chinen made a motion, seconded by Mr. Keith Matsumoto, to approve the minutes of the June 18, 2009 meeting as amended, amending the heading "Agenda IX" to "Agenda VI." The motion was unanimously carried.

Agenda Item III - Investigative Committee Report on proposed changes to HAR Section 3-125-13 (addition to the Price Adjustment Clause in Construction Contracts.)

Mr. Lance Inouye reported that the Investigative Subcommittee met twice and came up with proposed language amending HAR section 3-125-13 (Price Adjustment Clause in Construction Contracts) for submission to the PPB.

Agenda Item IV - For approval as interim HAR amendments to HAR Section 3-125-13 (addition of subsection (3) to the Price Adjustment clause in Construction Contracts.)

Mr. Lance Inouye presented the PPB with further amendments to HAR section 3-125-13 (Price Adjustment Clause in Construction Contracts) in addition to what was previously submitted.

Mr. Matsumoto made a motion, seconded by Mr. Chinen, to adopt the proposed amendments as further amended, as interim rules, HAR Section 3-125-13. The motion was unanimously carried.

Agenda Item V - Summary and results from public hearing and for the Procurement Policy Board's final approval of Hawaii Administrative Rules Chapters 3-120, 3-121, 3-125, 3-128 and 3-131

Mr. Aaron Fujioka reported to the PPB that HAR Chapters 3-120, General Provisions; 3-121, Procurement Organization; 3-125, Modifications and Terminations of Contracts; 3-128, Governmental Relations and Cooperative Purchasing; and 3-131, Compliance are currently in effect as interim rules, as approved by the Board during prior meetings, with effective dates not to exceed 18 months while the public hearing process is conducted. The statewide public notice issued on June 10, 2009 announced the public hearing on the proposed amendments which was held on July 13, 2009 via video conference on Oahu, with the islands of Hawaii, Maui and Kauai. No verbal or written comments or testimony were received.

Mr. Matsumoto made a motion seconded by Mr. Chinen to adopt HAR Chapters 3-120, General Provisions; 3-121, Procurement Organization; 3-125, Modifications and Terminations of Contracts; 3-128, Governmental Relations and Cooperative Purchasing; and 3-131, Compliance. The motion was unanimously carried.

Agenda Item VI - Procurement Policy Board adoption of proposed amendments and compilation of HAR Chapter 3-124, Subchapter 9, Small Business Preference Rules (Interim)

Mr. Fujioka explained to the PPB that at the May 21, 2009 PPB meeting he stated that interim rules HAR Chapter 3-124, Subchapter 9 will expire on September 2, 2009. However, with the Small Business Utilization Council conducting ongoing discussions about possible amendments to Chapter 3-124, the SPO is recommending various amendments to and the continuation of Subchapter 9 as interim rules to facilitate continued input and amendments to the HAR.

Mr. Matsumoto made a motion, seconded by Mr. Chinen, to approve the amendments to HAR Chapter 3-124, Subchapter 9, as further amended on page 3, 3 (B), to read “. . . 'energy efficiency' using alternative energy.” and adopt Chapter 3-124, as amended, as interim rules. The motion was unanimously carried.

Agenda Item VI - *Announcements*

Mr. Fujioka announced the next PPB meeting is scheduled for Thursday, August 20, 2009 at 1:00 pm.

Mr. Matsumoto inquired about any legislative acts dealing with procurement. Mr. Fujioka said SB 21 became Act 150, to help expedite ARRA funds and HB 1470 became Act 175, which is an omnibus procurement bill dealing with exemptions, Hawaii products preferences, bonding, small purchase procurements and the protest process.

Deputy Attorney General Patricia Ohara requested an executive session with the Board to discuss with the Board its powers and liabilities relative to on-going matters in litigation.

Mr. Russ Saito made a motion, seconded by Mr. Matsumoto to go into an executive session to consult with the Board's attorney. The motion was unanimously carried.

The PPB went into executive session at 1:34 pm.

Vice Chair Bardusch called the meeting back to order at 1:50 pm.

Agenda Item VII - *Adjournment*

Mr. Matsumoto made a motion, seconded by Mr. Chinen, to adjourn the meeting. The motion was unanimously carried. The meeting was adjourned at 1:50 p.m.

Respectfully submitted,

8/27/09
Date


RUSS K. SAITO, Secretary
Procurement Policy Board

Attachment: July 16, 2009 Agenda

PROCUREMENT POLICY BOARD (PPB)
1151 Punchbowl Street, Conference Room 410
Honolulu, Hawaii 96813

Regular Meeting
July 16, 2009
1:00 pm

AGENDA

- I. Call to Order.
- II. Approval of Minutes – Meeting of June 18, 2009.
- III. Investigative Committee Report on proposed changes to HAR Section 3-125-13 (addition to the Price Adjustment Clause in Construction Contracts.)
- IV. For approval as interim HAR amendments to HAR Section 3-125-13 (addition of subsection (3) to the Price Adjustment Clause in Construction Contracts.)
- V. Summary and results from public hearing and for the Procurement Policy Board's final approval of the following Hawaii Administrative Rules Chapters:
 - Chapter 3-120, General Provisions
 - Chapter 3-121, Procurement Organization
 - Chapter 3-125, Modifications and Terminations of Contracts
 - Chapter 3-128, Governmental Relations and Cooperative Purchasing
 - Chapter 3-131, Compliance
- VI. Procurement Policy Board adoption of proposed amendments and compilation of HAR Chapter 3-124, Subchapter 9, Small Business Preference Rules (Interim)
 - Amendments include:
 - Incorporate §3-124-71, Small Business Utilization Council, amendment that was previously approved as Interim;
 - Incorporate information provide in Procurement Directives on size determination, geographic areas for set-asides, and emerging industries;
 - Format and non-substantial changes; and
 - Compile Subchapter 9
- VI. Announcements.
- VII. Adjournment.

Agenda and available agenda items may be viewed at <http://hawaii.gov/spo/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, July 14, 2009. Testimonies received after the July 14, 2009 deadline will be forwarded to the board as time permits. 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., July 13, 2009 to discuss accommodation arrangements.