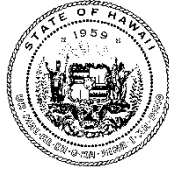


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

BONNIE KAHAKUI
ADMINISTRATOR



PROCUREMENT POLICY
BOARD
RICHARD HELTZEL
LANCE INOUE
PAULA YOUNGLING
MEOH-LENG SILLIMAN

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
PROCUREMENT POLICY BOARD

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 587-4701

Email: procurement.policy.board@hawaii.gov
Website: <http://spo.hawaii.gov>

Notice of Meeting - Procurement Policy Board

Date: Wednesday, October 21, 2026

Time: 2:00 p.m. – 4:00 p.m.

Location: Virtual Zoom and 1151 Punchbowl Street, Room 416, Honolulu, HI 96813

Physical Meeting Location

Kalanimoku Building, 1151 Punchbowl Street, Room 416, Honolulu, HI 96813.

The physical location is available to the public and is guaranteed to be connected to the remote virtual meeting.

Virtual Location

Use the meeting link below. If the hyperlink does not work, copy and paste the URL into your web browser.

Meeting Link

Join MS Teams

<https://teams.microsoft.com/meet/238073884462986?p=HTYUgMEqAJctJVsvTM>

Meeting ID: 238 073 884 462 986

Passcode: By2QW26t

Join by Phone

Dial [+1 808-829-4853,625375909#](tel:+18088294853625375909) and enter phone conference ID: 625 375 909#

How to Testify

Written Testimony –Written public testimony submitted to the Procurement Policy Board will be treated as public record and any information contained therein may be available for public inspection and copying.

There is no deadline for submission of testimony, however, to ensure that the public as well as Board members are able to review testimony prior to the meeting, we request written testimony be submitted **no later than 9:00 a.m. one business day prior to the scheduled meeting date and time.** Testimony is to clearly state the agenda item.

- **To Submit by Email:** Email procurement.policy.board@hawaii.gov. In the Subject line, note “Testimony” and the date of the meeting.
- **To Submit by U.S. Postal Mail or Hand-Delivery:** 1151 Punchbowl Street, Room 416, Honolulu, HI 96813.
- **To Submit via Facsimile:** (808) 587-4703

Oral Testimony – Oral testimony will be accepted via the remote testimony link or in-person at 1151 Punchbowl Street, Room 416.

Testimony or comments presented by members of the public during the Board meetings shall be limited to three (3) minutes per agenda item. In compliance with the Americans with Disabilities Act (ADA), a reasonable amount of additional time shall be afforded to persons with a communication disability to present testimony or comments, if needed. Any person who needs additional time to present testimony or comments is encouraged to contact the Procurement Policy Board at procurement.policy.board@hawaii.gov in advance of the meeting.

Members of the public may present comment or testimony during Board meetings on each agenda item. Public comment or testimony, if any, shall be presented on each agenda item before the Board deliberates on the item. After all public comment or testimony is presented, the Board shall deliberate on the agenda item without further comment or testimony from the public unless further public comment or testimony is requested by the Board.

How to Request Accommodation

If you need an auxiliary aid/service or other accommodation due to a disability, contact Ruth Baker at (808) 587-4701 or ruth.a.baker@hawaii.gov as soon as possible. Requests made as early as possible have a greater likelihood of being fulfilled. Upon request, this notice is available in alternate/accessible formats.

Meeting Materials and Other Information

The agenda and meeting materials for this meeting are available for inspection as follows:

- At the State Procurement Office at 1151 Punchbowl Street, Room 416.
- On the [Procurement Policy Board's Meeting Agenda and Minutes database](#).
An electronic draft of the minutes for this meeting will also be made available at the same location when completed.

If the remote connection via Teams is lost, the meeting will be recessed for up to thirty (30) minutes to restore communication. If the connection is lost, we will attempt to restart the meeting with the same link. If the Board is unable to reconvene the meeting because neither audiovisual communication nor audio communication can be reestablished within thirty minutes, the meeting will be automatically terminated.

AGENDA

I. Call to Order, Public Notice

II. Roll Call/Introductions

III. Public Testimony

Individuals may provide oral testimony at the meeting or may submit written testimony in advance of the meeting via email procurement.policy.board@hawaii.gov or via mail addressed to **Procurement Policy Board**, 1151 Punchbowl Street **Room 416**, Honolulu, Hawaii 96813.

In accordance with Hawaii Revised Statutes, Section 92-3, testimony will be limited to five minutes per person per agenda item, at the discretion of the Chair to modify this limit at any given meeting. Testimony can be presented through the virtual Teams conference room or in person at the physical meeting location indicated above.

IV. Review and Approval of [September 25, 2026, Meeting Minutes](#)

V. Discussion and Possible Approval of Proposed Amendments to Hawaii Administrative Rules Hawaii Administrative Rules Chapter 3-127 – Assistance to Small Business

As provided in section 91-2.6, Hawaii Revised Statutes, the proposed rules in Ramseyer format may be viewed as follows:

- In person at 1151 Punchbowl Street, Room 416, Honolulu, HI 96813.
- Online at proposed amendments to [Ramseyer Hawaii Administrative Rules 3-127, Subchapter 3, proposed 10/21/26](#).

1. Subchapter 3 – Definitions

§3-127-3 – Definitions – Add new definition of "small business" based on data from statewide small business surveys conducted in June 2025, the definition previously proposed in the Small Business Preference Rules

(Interim) 2009, and size standards from the U.S. Small Business Administration (SBA) and Code of Federal Regulations (CFR).

To establish an accurate small business registration, certification, and identification process in the state pursuant to Act 168, SLH 2022, there first needs to be an approved definition for "small business." This definition shall be used to determine who qualifies as a small business eligible for set-asides and other policies under this chapter.

VI. Discussion and Possible Approval of Proposed Amendments to Hawaii Administrative Rules HAR §3-122 – Source Selection and Contract Formation

As provided in section 91-2.6, Hawaii Revised Statutes, the proposed rules in Ramseyer format may be viewed as follows:

- In person at 1151 Punchbowl Street, Room 416, Honolulu, HI 96813.
- Online at proposed amendments to [Ramseyer Hawaii Administrative Rules 3-122, Subchapters 6 to 9, proposed 10/21/26.](#)

1. Subchapter 6 – Competitive Sealed Proposals

- §3-122-45.01 – Evaluation committee.
Create subsection (a) to explain that the procurement officer or an evaluation committee shall evaluate the proposals. Add (b) for style and grammar to transition to language regarding the evaluation committee. Delete 2(C), which addresses signing of an “affidavit. Add new subsection (5) to require that all evaluation members sign an attestation confirming no conflicts of interest, clarifying disclosure limitations, and strengthening enforcement of non-disclosure agreements by changing the language from “may” to “shall” to ensure confidentiality. Also add new subsection (6) to provide guidance on the conduct of the evaluation committee members.

Note: At the December 2, 2025, meeting of the Procurement Policy Board, a recommendation was made to table this issue until Comptroller Keith Regan is present to participate in the discussion and allow the Department of the Attorney General time to review and provide input.

2. Subchapter 6.5 – Multi-Step Competitive Sealed Bidding

- §3-122-61.05 – Purpose.
Amend Purpose for clarity and style to state that this subchapter provides rules for the use of multi-step competitive sealed bidding where technical evaluation precedes pricing.
- §3-122-61.06 – Preparing a multi-step invitation for bids.
Amend (a), (b)(2), (b)(3), and (b)(5) for clarity and style to allow for flexibility in complex procurements.
- §3-122-61.07 – Phase one.
Amend (2) for clarity to add language that the procurement officer shall notify the bidder when the bid has been determined to be not acceptable. Clarify the first phase in the process, allowing for more flexible and effective procurement of complex goods or services.
- §3-122-61.08 – Phase two.
 - Amend (a)(1) by removing “If priced bids were required to be submitted in phase one.”
 - Amend (a)(2) and (a)(3) by adjusting numeric sequence.
 - Amend what is now (a)(3) by removing “return the sealed priced bids to the bidders,” adding language “that is clearly identified as amended, and changing “them” to “bidders” for clarity and style.

3. Subchapter 7 – Procurement of Professional Services

- §3-122-63 – General provisions.
 - Amend (a) for clarity by adding “Procurement of,” and adding “The use of this method is limited to professions as defined in section 103D-104, HRS.”
 - Amend (b) by replacing “screening” with “selection” for clarity, consistency, and style to align with Hawaii Revised Statutes 103D-304’s reference to a “selection committee” vs. a “screening committee.”
- §3-122-67 – Small purchases of professional services.
 - Amend for clarity by adding language that clarifies purchases of professional services “that are within the small purchase dollar threshold,” except design professional services under Hawaii Revised

Statutes chapter 464, may be conducted under Hawaii Revised Statutes 103D-304(k) or subchapter 8, Small purchases.

- The deletion of “small purchase of” specifies that design professional services under chapter 464, Hawaii Revised Statutes, are excluded from this section.
- The reference to section 103D-304, Hawaii Revised Statutes, has been updated from “(j)” to “(k)” to reflect the correct subsection to align with amendments made via Act 188, Session of Laws Hawaii 2023.

This section now explicitly states that purchases professional services within the small purchase dollar threshold may be conducted pursuant to 103D-304(k), Hawaii Revised Statutes, or Hawaii Administrative Rules subchapter 8, Small purchases.

○ §3-122-69 – Review and selection committees.

- Amend (a) by deleting “who are not employees of a governmental body” to clarify that persons who serve on the review and/or selection committee should have sufficient knowledge and serve without compensation.
- Amend (a)(3) for clarity, consistency, and style by replacing the word “affidavit” with “attestation” to reflect that evaluation, review, and selection committee members are attesting to having no personal business, or any other relations that will influence their decisions.
- Amend (a)(3)(B) by striking out “and” to add to (a)(3)(C) with a semi-colon as a grammatical change.
- Add new subsection (a)(3)(D) as a best practice, which says, “The procurement officer may require participants to sign a non-disclosure agreement (NDA) prior to reviewing any information.” This amendment also aligns with the Board’s approved amendment to 3-122-1, Definitions, which added the new definition of “Non-Disclosure Agreement (NDA).”
- Amend (b) by adding “Directors” to the list of appointed positions, which already includes deputy directors, that shall not serve on review or selection committees.

○ §3-122-70 – Debriefing.

- Amend subsection (b) for clarity by deleting “submitted” and replacing “filed” with “submitted in writing.” This clarifies the protest requirement for documentation and due process.
- Also subsection (b)’s reference to section 103D-304, Hawaii Revised Statutes, has been updated from “(k)” to “(l)” to reflect the correct

subsection to align with amendments made via Act 188, Session of Laws Hawaii 2023.

4. Subchapter 8 – Small Purchases

- §3-122-74 – General provisions.
Subsection (b) is amended by updating reference from “j” to “k” to align with the statute change made to HRS §103D-304, via Act 188, Session Laws of Hawaii 2023 that added new subsection (i) to HRS 103D-304. Add new subsection (f) “Single Offeror” language to state: “(f) Single Offeror purchases shall be analyzed for fair and reasonableness and documented in the procurement file.” The addition of (f) is for clarity, consistency, and style to match the competitive sealed bidding and competitive sealed proposals “single bidder/offeror” verbiage in Hawaii Administrative Rules sections 3-122-35(a)(1) and 3-122-59(a)(1)(A).
- §3-122-75 – Goods, services, and construction.
 - Amend (a)(1) and (a)(2) by amending the small purchase threshold from \$25,000 to \$50,000, as revised by Act 262, Session Laws of Hawaii 2025.
 - Delete (a)(3) in its entirety because it is no longer applicable.
 - Amend (c) by deleting “lowest responsive” and adding “with the lowest price and responsive, technically acceptable offer” to remind buyers that the State Procurement Office determined that technically acceptable offer is part of responsiveness.
 - Amend (d) by adding clarifying language: “Best value is a cost benefit trade off as defined in section 3-122-1, HAR” for clarity and consistency as a reminder to agencies of the definition of “best value” in Hawaii Administrative Rules 3-122-1, Definitions.
 - Add new subsection (e) to state: “Award shall be posted within seven days of notice of award” to remind agencies that small purchase awards of \$2,500 and above are required to be posted within seven calendar days of award.
 - The remaining points “(e),” “(f),” and “(g)” are re-lettered to accommodate the addition of a new point “(e).”
- §3-122-77 – Procurement file and disclosure of information.
Amend for clarity and style, including adding the word “publicly” and “or when contract award is made, whichever comes sooner.” The amendments ensure that quotation information remains confidential until a

definitive action is taken, providing clarity on when the information can be disclosed publicly to align with proposed changes to 3-122-9.01(a)(1), Hawaii Administrative Rules, Disclosure of information.

This amendment will allow agencies to disclose information sooner rather than later as the pricing or information submitted electronically may be available immediately after the deadline for receipt of quotes.

Note that in previous discussions by the Procurement Policy Board, the proposed amendments to §3-122-77 were deferred pending outcomes of Senate Bill 382 and House Bill 988 during the 2026 Legislative Session. Both bills did not pass.

- §3-122-78 – Electronic procurement
 - Amend (a) by deleting “Effective July 1, 2007, small” to eliminate the specific effective date and amending the small purchase threshold from “\$25,000 to less than \$50,000” to “\$50,000 to less than the small purchase threshold.”
 - Amend (e) by replacing “\$25,000 with “\$50,000” and adding “the small purchase threshold” to increase the small purchase threshold when the use of an electronic procurement system is required.

These amendments align with Act 262, Session Laws of Hawaii 2025, which increases the minimum amount for small purchase procurements that are subject to an electronic procurement system, from \$25,000 to \$50,000.

5. Subchapter 9 – Sole Source Procurement

- §3-122-81 – General provisions.
 - Amend (b) for clarity, consistency, and style by deleting “for a purchase” to align with 103D-306, Hawaii Revised Statutes, Sole source procurement, which states, “...there is only one source for the required good, service, or construction....”
 - Amend (g) to provide clear guidance by replacing “should” with “shall” and adding language: “are found fair and reasonable in the market. Negotiations shall be documented in the procurement file.” These revisions aim to strengthen the procurement process by making it mandatory for the procurement officer to conduct thorough negotiations and document the outcomes in the procurement file.

- Amend (i) for clarity, consistency, and style to delete "A purchase order shall be issued or a certification that funds are" and "shall be obtained for a sole source purchase" to be replaced to state: "Funds must be available for the amount of the purchase, pursuant to section 103D-309, Hawaii Revised Statutes, and subchapter 12." These changes simplify the language and make it clear that the availability of funds is a prerequisite for the purchase and that the certification of funds and issuing a purchase order are one and the same.
- Add missing subsection (k) to final paragraph of 3-122-81, HAR, for clarity, consistency, and style.

VII. Act 087, Session Laws of Hawaii 2026 – Hawaii Bidder and Offeror Preference

For Information: The State Procurement Office issued guidance on Act 87, Session Laws of Hawaii 2026, via [Procurement Circular 2027-01](#) - Hawaii Bidder and Offeror Preference, and will recommend rules for review by the Procurement Policy Board for discussion at future meetings. The rules will be in Hawaii Administrative Rules, Chapter 3-124 – Preferences.

VIII. Next Meeting

Wednesday, December 2, 2026, 2:00 p.m. – 4:00 p.m. (HST)

Procurement Policy Board meetings will be hybrid, on Microsoft Teams and in-person in a physical location at 1151 Punchbowl Street, Room 416.

IX. Adjournment



STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
PROCUREMENT POLICY BOARD

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 587-4701
Email: procurement.policy.board@hawaii.gov
Website: <http://spo.hawaii.gov>

Procurement Policy Board Meeting (Draft) Minutes

Date: September 25, 2026

Time: 10:00 a.m.

Location: Virtual Teams and 1151 Punchbowl Street, Room 416, Honolulu, HI 96813

PRESENT:

Procurement Policy Board Members: Rick Heltzel (Chair ProTem), Lance Inouye, Paula Youngling

Department of the Attorney General: Lori Tanigawa

State Procurement Office (SPO) Staff: SPO Administrator Bonnie Kahakui, SPO Assistant Administrator Dayna Omiya, Ruth Baker, Jacob Chang, Matthew Chow, Shane Duyvejonck, Elizabeth Matsumoto, Stacey Kauleinamoku-Murakami, Jessica Reyes, Carey Ann Sasaki, Keari Shibuya, Jetson Yee, Alan Yeh

GUESTS: Tim Lyons

I. Call to Order, Public Notice

As Chair ProTem, Rick Heltzel, called the Procurement Policy Board (PPB) to order at 10:02 a.m. The meeting was held on Microsoft Teams and in-person in the physical location of the Bid Room in Room 416 of 1151 Punchbowl Street. The meeting was recorded.

II. Roll Call/Introductions/Quorum

The PPB members confirmed their virtual attendance. Roll call was conducted of the PPB members; there was quorum.

III. Review and Approval of April 24, 2026, Meeting Minutes

The members reviewed the PPB minutes of the April 24, 2026, meeting. A motion was made by Member Lance Inouye and seconded by Member Paula Youngling to approve the minutes of the meeting on April 24, 2026. The minutes were then approved by voice vote with no objections.

IV. Election of chairperson pursuant to §103D-201(e), Hawaii Revised Statutes, and Election of Vice Chair

The members held an election for the position of chairperson and vice chair. Chair ProTem Heltzel opened the floor for nominations or volunteers.

A. Election of Chairperson

Member Lance Inouye nominated Rick Heltzel as Chair. A motion was made by Member Lance Inouye and seconded by Member Paula Youngling to elect Mr. Heltzel as Chair. The motion passed unanimously after voice votes recorded from all three members present.

B. Election of Vice Chair

Chair Heltzel continued as the official Chair of the PPB and explained that although Hawaii Revised Statutes (HRS) Section 103D-201(e) does not define a Vice Chair position for the Board, this procedure of electing a Vice Chair is consistent with the Board's agreed governance practices. The Board has previously agreed that the Vice Chair may act as Chair when necessary.

Member Inouye nominated Paula Youngling as Vice Chair. A motion was made by Member Inouye and seconded by Chair Heltzel to elect Ms. Youngling as Vice Chair. The motion passed unanimously after voice votes recorded from all three members present.

V. New Business

Member Inouye noted that Act 87, Session Laws of Hawaii (SLH) 2026 – Senate Bill 2075 – requires the Board to create associated rules. SPO Administrator Kahakui confirmed this and stated that in the interim, the SPO issued Procurement Circular 2027-01 to provide guidance to Executive Branch departments on implementing and applying the statutory requirement, including the recommended bidder-preference language that must be used for solicitations, Invitations for Bid, and Requests for Proposals.

Chair Heltzel requested that the circular be sent to the Board members and be attached to the meeting minutes of this meeting. He also suggested that the rules relating to Act 87, SLH 2026, be added to the agenda for the next meeting.

VI. Announcements

Next Meetings

Future Procurement Policy Board meetings are scheduled for

- Wednesday, October 21, 2026, from 2:00 to 4:00 p.m., and
- Wednesday, December 2, 2026, from 2:00 to 4:00 p.m.

The meetings will be hybrid on Microsoft Teams and in-person in a physical location at 1151 Punchbowl Street, Room 416.

VII. Adjournment

Since there was no further business, the motion to adjourn was made by Chair Inouye and by Member Youngling, then approved by voice votes with no objections. The meeting was adjourned at 10:13 a.m.

Respectfully Submitted,

Rick Heltzel, Chair
Procurement Policy Board

Attachment: [Procurement Circular 2027-01 Guidance on Act 087, SLH 2026 – Hawaii Bidder and Offeror Preference](#)



STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
STATE PROCUREMENT OFFICE

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 586-0554
email: state.procurement.office@hawaii.gov
<http://spo.hawaii.gov>

July 9, 2026

PROCUREMENT CIRCULAR NO. 2027-01

TO: Office of the Governor, Chief Operating Officer
Office of the Lieutenant Governor, Chief of Staff
Executive Department Heads
Hawaii State Public Library System, State Librarian

CC: Administrative Services Offices

FROM: Bonnie Kahakui, Administrator *Bonnie Kahakui*

SUBJECT: Guidance on Act 087, SLH 2026 - Hawaii Bidder and Offeror Preference

The purpose of this Circular is to 1) explain the statutory requirement governing Hawaii bidders and offerors preference provisions and 2) provide guidance to procuring agencies regarding the implementation and application of the provisions.

Act 087, SLH 2026, was enacted to promote in-state economic participation while preserving fairness, transparency, and fiscal responsibility in the procurement process. All new solicitations released on or after July 1, 2026, conducted under §103D-302, HRS, *Competitive Sealed Bidding*, and §103D-303, *Competitive Sealed Proposals*, shall include language providing Hawaii bidders and offerors a five per cent (5%) preference.

The following guidelines shall apply:

Procuring Agency

- The preference shall only apply when the total bid or proposal is less than \$10,000,000.
- The total preference amount shall not exceed \$500,000.
- The application of the preference does not conflict with federal law or regulation or a condition for the allocation of federal funds.
- The preference applies only when at least one qualified bidder/offeror competes against at least one bidder/offeror that does not qualify for the preference. The preference is not applied when all bidders/offerors qualify for the Hawaii preference and shall not be used to create an advantage between qualified Hawaii bidders/offerors.
- The five per cent (5%) preference reduction is only for evaluation purposes and not a reduction in price. The award of the contract shall be at the original bid/proposal price and not at the reduced evaluated price.

- Before an award is made to a bidder/offeror receiving the preference, the procurement officer shall verify the bidder/offeror satisfies all the eligibility requirements and shall give the bidder/offeror reasonable time to cure any deficiency.

Bidder/Offeror:

- A bidder/offeror shall certify, under penalty of perjury (see Form SPO-081) that:
 - Not less than fifty-one (51) per cent of the total direct labor hours required for the performance of the contract will be performed within the state.
 - The bidder/offeror shall maintain the qualification as a Hawaii bidder/offer throughout the contract performance.
- Failure to maintain qualification as a Hawaii bidder/offeror shall subject the contract price adjustment equal to the value of the preference applied and may constitute cause for debarment.

Recommended Solicitation Language

Preferences:

In accordance with HRS §103D-302 (or HRS §103D-303), the Hawaii bidder (or offeror) preference is applicable to this solicitation, for evaluation purposes only. Bidders (or offerors) desiring to qualify for the five per cent (5%) preference shall submit a completed Hawaii Bidder/Offeror Preference Certification Form (Form SPO-081) with each bid (or proposal) at or before the time set for receipt of bids (or proposals). Certifications submitted for previous or other solicitations will not be accepted.

Questions concerning this Procurement Circular may be directed to Stacey Kauleinamoku-Murakami at (808) 586-0571 or email stacey.l.kauleinamoku@hawaii.gov, or you may contact me at (808) 587-4701 or email bonnie.a.kahakui@hawaii.gov.

Mahalo.

Attachment (Form SPO-081)

C: Chief Procurement Officers (CPOs):

Department of Education, Superintendent
University of Hawaii, Chief Financial Officer
Office of Hawaiian Affairs, Chairperson of the Board
Hawaii Health Systems Corporation, Chief Executive Officer
Judiciary, Administrative Director of the Courts
Senate, President
House of Representatives, Speaker
School Facilities Authority, Executive Director

Counties of Hawaii, Kauai, and Maui, and City & County of Honolulu
Executive Branch, Finance Director
Legislative Branch, City/County Council Chair
Board/Departments of Water Supply, Manager/Chief Engineer
Honolulu Authority for Rapid Transportation, Executive Director



STATE OF HAWAII
Hawaii Bidder/Offeror
Preference Certification Form
(As Defined in HRS103D-1001)

I, _____, _____ of
(Authorized Officer's Name) (Office or Position Held)

_____, certify the following:
(Name of Bidder/Offeror)

- (1) That the Bidder/Offeror holds a valid commercial place of business located in the State of Hawaii at the following address:

and that the above-named office was opened on the following date: _____,

and has been staffed by the Bidder/Offeror or an employee of the Bidder/Offeror for not less than two (2) consecutive years immediately preceding the time and date set for the opening of bids or receipt of proposals;

- (2) That the bid or proposal in response to IFB/RFP No. _____, is submitted under the name under which the Bidder/Offeror is authorized to do business in the State;
- (3) That not less than fifty-one percent (51%) of the total direct labor hours required for performance of the contract will be performed within the State; and
- (4) If the Bidder/Offeror is a joint venture, the Bidder/Offeror is composed entirely of parties meeting the requirements of paragraphs (1), (2), and (3).

I certify under penalty of perjury that the above statements are true. I agree to maintain the above qualifications throughout contract performance; any changes in eligibility shall be reported to the Contract Administrator or purchasing agency's contact person identified in the RFP/IFB. I acknowledge that failure to maintain the above qualifications triggers a price adjustment equal to the value of the preference applied and may constitute cause for debarment under HRS §103D-702.

Signature of Authorized Officer

Print Name and Title

Date

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
Amendments to Chapter 3-127

Interim
Hawaii Administrative Rules

October 21, 2026

1. §3-127-3, Hawaii Administrative Rules, is added to read as follows:

"§3-127-3 Definitions. Definitions for terms used in this chapter are in section 103D-901, HRS. The following definition is also applicable to terms used in this chapter:

"Small business" means a business that is independently owned and meets the following criteria, or is certified as a Disadvantaged Business Enterprise under the Hawaii Department of Transportation:

- (1) Principal office or place of business is in the State of Hawaii;
- (2) Fifty-one per cent or more of owners, officers, members/managers, and managing partners are domiciled in Hawaii. This does not apply if owners, officers, members/managers, and managing partners are of Native Hawaiian ancestry;
- (3) Is independently owned and operated and is not a subsidiary, affiliate, or division of another business entity;
- (4) Is not owned or controlled, directly or indirectly, by a person or entity that owns or controls one or more businesses that, in the aggregate, exceed the gross receipts or employee thresholds of this section; and
- (5) Is not a franchisee, licensee, or operator of a business operating under a national or international brand with more than fifty locations globally; and
- (6) Has an average number of employees over the past twelve months and average annual gross

receipts over the past three tax years that do not exceed the amounts in the tables below. When determining the number of employees, individuals employed on a full-time, part-time, or other basis, and all divisions, branches, or subsidiaries of the business shall be included in the count.

For purposes of this chapter, gross receipts and employee counts shall be aggregated across all commonly owned or controlled business entities. Receipts include all revenue in whatever form received or accrued from whatever source, including the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances. Generally, receipts are considered "total income" (or in the case of a sole proprietorship "gross income") plus "cost of goods sold" as these terms are defined and reported on Internal Revenue Service (IRS) tax return forms.

For prime contractors in the construction industry:

<u>Number of Employees</u>	<u>Gross Receipts</u>
<u>500 or fewer</u>	<u>\$45,000,000 or less</u>

For all other entities:

<u>Number of Employees</u>	<u>Gross Receipts</u>
<u>10 or fewer</u>	<u>\$5,000,000 or less</u>
<u>11 - 50</u>	<u>\$10,000,000 or less</u>
<u>51 - 100</u>	<u>\$19,000,000 or less</u>

[Eff _____] (Auth: HRS §§103D-202, 103D-902) (Imp: HRS §§103D-901, 103D-902)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 3-127, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the forgoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on October 21, 2026, by the Procurement Policy Board and filed with the Office of the Lieutenant Governor.

RICHARD HELTZEL
Chairperson
Procurement Policy Board

MEOH-LENG SILLIMAN
State Comptroller

APPROVED AS TO FORM:

Deputy Attorney General

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
Amendments to Chapter 3-122

Interim
Hawaii Administrative Rules

October 21, 2026

Historical Note: This amendment of Chapter 3-122,
Hawaii Administrative Rules:

1. Replaces rules effective 03/21/2008 (file no. 2802) which compiled Chapter 122.
2. Replaces rules effective 08/21/2016 (file no. 3193) which amended section 3-122-14; and repealed section 3-122-66.

**1. §3-122-45.01, Hawaii Administrative Rules,
is amended to read as follows:**

"§3-122-45.01 Evaluation committee. (a) Prior to the preparation of the request for proposals, a determination shall be made by the procurement officer that the procurement officer or an evaluation committee selected in writing by the procurement officer shall evaluate the proposals. A copy of the document identifying ~~[any]~~ all committee members and any subsequent changes thereto shall be placed in the contract file.

(b) If an evaluation committee is selected,

- (1) The evaluation committee shall consist of at least three governmental employees with sufficient qualifications in the area of the goods, services, or construction to be procured;
- (2) Private consultants may also serve on the committee and shall:
 - (A) Have sufficient knowledge to serve on the committee; and
 - (B) Serve without compensation, unless justified and determined in

writing by the head of the
purchasing agency that
compensation is justified; [and

~~(C) Sign an affidavit:~~

~~(i) Attesting to having no
personal, business, or any
other relationship that will
influence their decision in
the evaluation process;~~

~~(ii) Agreeing not to disclose any
information on the evaluation
process to other than an
employee of a governmental
body; and~~

~~(iii) Agreeing that their names
will become public
information upon award of the
contract;]~~

(3) The contract administrator shall serve
as a member of the committee;

(4) The contract administrator or a designee
shall serve as chairperson, and the
procurement officer or a designee shall
serve as advisor~~[-"]~~;

(5) All evaluation committee members and
advisors shall sign an attestation:

(A) Attesting to having no personal,
business, or any other relationship
that will influence their decision
in the evaluation process;

(B) Agreeing not to disclose any
information on the evaluation
process to other than an employee of
a governmental body;

(C) Agreeing that their names will
become public information upon award
of the contract; and

(D) The procurement officer shall
require participants to sign a non-
disclosure agreement prior to
reviewing any information; and

- (6) All evaluation committee members shall not engage in conduct that:
- (A) Favors one offeror over another;
 - (B) Reveals an offeror's technical solution, including unique technology, innovative and unique uses of commercial items, or any information that would compromise an offeror's intellectual property to another offeror; or
 - (C) Reveals the names of individuals providing reference information about an offeror's past performance." [Eff and comp 03/21/08; am and comp]
(Auth: HRS §§103D-202, 103D-303)
(Imp: HRS §103D-303)

2. §3-122-61.05, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-61.05 Purpose. The purpose of this subchapter is to provide rules for the use of the multi-step competitive sealed bidding method of source selection ~~[when it is determined that award to the lowest responsive, responsible bidder is desired, but it is not practical to initially prepare a definitive purchase description which will be suitable to permit an award based on price, and is desirable, prior to soliciting priced bids, to:]~~. This method is a two-step process which:

- (1) ~~[Invite and evaluate]~~ Evaluates technical proposals to determine their acceptability to fulfill the purpose of the procurement; and
- (2) ~~[Conduct]~~ Allows for discussions pursuant to section 3-122-53. " [Eff and comp 03/21/08; am and comp] (Auth: HRS §103D-202) (Imp: HRS §103D-302)

3. §3-122-61.06, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-61.06 Preparing a multi-step invitation for bids. (a) The multi-step sealed bidding process ~~[uses an invitation for bids consisting]~~ consists of two phases~~[, and combines the receipt of technical proposals of the competitive sealed proposals process and the low priced bid award of the competitive sealed bidding process]~~.

- (1) Phase one is composed of one or more steps in which bidders submit unpriced technical proposals to be evaluated based on criteria set forth in the invitation for bids; and
 - (2) Phase two is to consider the priced bids from bidders whose unpriced technical proposals are determined to be acceptable in phase one, and award is made to the lowest responsive, responsible bidder.
- (b) The two-phase invitation for bids shall conform to the requirements of section 3-122-21, including the following:
- (1) That unpriced technical proposals are requested;
 - (2) Whether priced bids are to be submitted at the same time as unpriced technical proposals, and if they are, that the priced bids shall be submitted ~~[in a]~~ separately~~[sealed envelope]~~;
 - (3) That the priced bids will be requested and considered only in phase two and only from those bidders whose unpriced technical proposals are found acceptable in phase one;
 - (4) That the State, to the extent the procurement officer finds necessary, may conduct discussions pursuant to section 3-122-53; and
 - (5) That the good, service, or construction being procured shall be furnished ~~[generally]~~ in accordance with the bidder's unpriced technical proposal ~~[as found to be finally acceptable]~~ and shall meet the

requirements of the invitation for bids."
[Eff and comp 03/21/2008; am and comp
] (Auth: HRS §§103D-202, 103D-302) (Imp: HRS
§103D-302)

**4. §3-122-61.07, Hawaii Administrative Rules,
is amended to read as follows:**

"§3-122-61.07 Phase one. Phase one shall be conducted in accordance with subchapter 6, with the exception of the rules relating to the priced offer and the following:

- (1) The procurement officer may initiate phase two of the procedure if there is only one acceptable unpriced technical proposal. If no proposals are submitted, the procurement officer may make a determination pursuant to section 3-122-59(b);
- (2) The procurement officer shall notify the bidder in writing when oral or written discussions are not conducted and the bid has been determined to be not acceptable, and upon written request from the bidder, the bidder shall be given the opportunity to review the evaluation of its offer and meet with the evaluator(s) to discuss the evaluation at least five working days prior to the deadline for receipt and opening of the priced offers." [Eff and comp 03/21/08; am and comp
] (Auth: HRS §§103D-202, 103D-302) (Imp: HRS §103D-302)

**5. §3-122-61.08, Hawaii Administrative Rules,
is amended to read as follows:**

"§3-122-61.08 Phase two. (a) Upon completion of phase one, the procurement officer shall:

- (1) [~~If priced bids were required to be submitted in phase one, open~~] Open the

priced bids from bidders whose unpriced technical proposals were found to be acceptable;

- (2) If priced bids have not been submitted, invite each acceptable bidder to submit a priced bid; or
- (3) If technical discussions have been held, or if material modifications to the procurement item, project, or procedure have been made after the original submission of priced bids, [return the sealed priced bids to the bidders] and provide [them] bidders reasonable opportunity to submit a modified priced bid that is clearly identified as amended. [-(3) If priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.]

(b) Phase two shall be conducted as any other competitive sealed bid procurement except as specifically set forth in this section and no public notice need be given to phase two, submission of priced bids, because the notice was previously given." [Eff and comp 03/21/08; am and comp]
(Auth: HRS §§103D-202, 103D-302) (Imp: HRS §103D-302)

6. §3-122-63, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-63 General provisions. (a) Procurement of [Professional] professional services shall be in accordance with section 103D-304, HRS. The use of this method is limited to professions as defined in section 103D-104, HRS.

(b) After the contract is awarded, the following information shall be open to public inspection, including but not limited to the contract, the list of qualified persons, the ~~[screening]~~ selection committee's criteria for selection established under section 103D-304(d), HRS, and the statements of qualifications and related information submitted by the qualified persons, except those portions for which

a written request for confidentiality has been made subject to section 3-122-58.

(c) Amendment to a professional services contract shall require prior approval of the head of the purchasing agency when the increase is at least \$25,000 and ten per cent or more of the initial contract price." [Eff 12/15/95; comp 11/17/97; am and comp 03/21/08; am and comp] (Auth: HRS §103D-202) (Imp: HRS §103D-304)

7. §3-122-67, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-67 Small purchases of professional services. [~~Small purchases~~] Purchases of professional services that are within the small purchase dollar threshold, except [~~small purchase of~~] design professional services furnished by licensees under chapter 464, HRS, may be conducted pursuant to section 103D-304[~~(j)~~](k), HRS, or subchapter 8, Small purchases." [Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp] (Auth: HRS §§103D-202, 103D-305) (Imp: HRS §§103D-304, 103D-305)

8. §3-122-69, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-69 Review and selection committees. (a) Persons who serve on the review or selection committee[~~who are not employees of a governmental body~~] shall:

- (1) Have sufficient knowledge to serve on the review or selection committee;
- (2) Serve without compensation, unless justified and determined in writing by the head of the purchasing agency that compensation is justified; and
- (3) Sign an [~~affidavit~~] attestation:
 - (A) Attesting to having no personal,

business, or any other relationship that will influence their decision in the review or selection process;

(B) Agreeing not to disclose any information on the review or selection process; ~~[and]~~

(C) Agreeing that their names will become public information upon award of the contract~~[-]~~; and

(D) The procurement officer may require participants to sign a non-disclosure agreement (NDA) prior to reviewing any information.

(b) ~~[Deputy directors]~~ Directors, deputy directors, or equivalent appointed positions shall not serve on review or selection committees." [Eff and comp 03/21/08; am and comp] (Auth: HRS §103D-202) (Imp: HRS §103D-304)

9. §3-122-70, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-70 Debriefing. (a) The purpose of a debriefing is to inform providers of professional services of the basis for non-selection.

(1) A written request for a debriefing shall be made within three working days after the posting of the award of the contract;

(2) Debriefing shall be held by the procurement officer or designee, to the maximum extent practicable, within seven working days; provided the procurement officer or designee may determine whether or not to conduct individual or combined debriefings.

(b) A protest by the requestor ~~[submitted]~~ pursuant to section 103D-701, HRS, following a debriefing shall be ~~[filed]~~ submitted in writing within five working days, as specified in section 103D-304~~[(k)]~~ (1), HRS." [Eff and comp 03/21/08; am and comp] (Auth: HRS §103D-202) (Imp: HRS §103D-304)

10. §3-122-74, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-74 General provisions. (a) Small purchases shall be subject to section 103D-305, HRS, and do not require public notice or public bid openings.

(b) Small purchase contracts for professional services may be procured pursuant to this subchapter or section 103D-304~~[(j)]~~ (k), HRS; provided that small purchase of design professional services furnished by licensees under chapter 464, HRS, shall be procured in accordance with section 103D-304, HRS.

(c) Unless otherwise exempt, purchasing agencies delegated small purchase authority shall comply with state procurement office price or vendor lists, price schedules, or other chief procurement officer lists and schedules, where applicable.

(d) Purchases shall not be parceled by dividing the purchase of same, like, or related items of goods, services, or construction into several purchases of smaller quantities, so as to evade the statutory competitive bidding requirements. For additional details, refer to chapter 3-131.

(e) Preferences pursuant to part X, chapter 103D, HRS, shall not apply to small purchases.

(f) Single Offeror purchases shall be analyzed for fair and reasonableness and documented in the procurement file." [Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp] (Auth: HRS §§103D-202, 103D-305) (Imp: HRS §103D-305)

11. §3-122-75, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-75 Goods, services, and construction. (a) Based on specifications and with adequate and reasonable competition:

- (1) No less than three quotes shall be solicited for expenditures of \$5,000 to less than

\$15,000; and

- (2) No less than three written quotes shall be obtained for expenditures of \$15,000 to less than ~~[\$25,000; and]~~ \$50,000.

~~[(3) For the period up to and including June 30, 2007, no less than three written quotes shall be obtained for expenditures of \$25,000 to less than \$50,000.]~~

(b) Only vendors that supply the goods, services, or construction required, shall be solicited and considered to meet the minimum quotation requirements.

(c) Considering the criteria, including but not limited to quality, warranty, and delivery; award shall be made to the ~~[lowest responsive,]~~ responsible offeror with the lowest price and responsive, technically acceptable offer.

(d) When award to the lowest responsive, responsible offeror is not practicable, award shall be made to the offeror whose quotation provides the best value to the State. Best value is a cost benefit trade off as defined in section 3-122-1, HAR. Written determination for the selection shall be placed in the procurement file.

(e) Award shall be posted within seven days of notice of award.

~~[(e)]~~ (f) When the minimum quotations are not obtained, for reasons such as insufficient sources, written justification shall be placed in the procurement file.

~~[(f)]~~ (g) Expenditures with an estimated total cost that are less than \$5,000 shall be by procedures established by each chief procurement officer.

~~[(g)]~~ (h) Chief procurement officers may be more restrictive in their jurisdiction's small purchase procedures, e.g., requiring written quotes at lower dollar limits." [Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp]

(Auth: HRS §§103D-202, 103D-305) (Imp: HRS §103D-305)

12. §3-122-77, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-77 Procurement file and disclosure of information. All quotations received shall be documented and placed in a procurement file. Pursuant to section 3-122-9.01, a purchasing agency is not required to publicly disclose quotation information received from vendors until the purchase order is issued, ~~[or]~~ the purchasing card order is placed~~[-]~~, or when contract award is made, whichever comes sooner." [Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp] (Auth: HRS §§103D-202, 103D-305) (Imp: HRS §103D-305)

13. §3-122-78, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-78 Electronic procurement. (a) ~~[Effective July 1, 2007, small]~~ Small purchase procurements of ~~[\$25,000]~~ \$50,000 to less than ~~[\$50,000]~~ the small purchase threshold shall be made through an electronic procurement system.

(b) This section shall not apply to procurements subject to sections 103D-306 and 103D-307, HRS.

(c) The electronic procurement system shall include at a minimum, the functionality of notifying registered vendors of the procurement opportunity and the electronic receipt of offers.

(d) If no responsive, responsible quotes, or reasonable prices are received through an electronic procurement solicitation, the head of the purchasing agency or designee may determine that it is neither practicable, nor advantageous to the State to issue a new solicitation.

- (1) When making this determination, consideration shall be given to whether the specifications can be revised, time constraints, and competition in the marketplace;
- (2) In the event of this determination, an

alternative procurement method may be selected to include, but not limited to, direct negotiations; and

- (3) Documentation of the alternative procurement determination shall be made part of the procurement file.

(e) Procurements of goods, services, or construction of [~~\$25,000~~]\$50,000 to less than [~~\$50,000~~] the small purchase threshold, which cannot be purchased through an electronic procurement system may be conducted pursuant to sections 103D-302, 103D-303, and 103D-304, HRS.

(f) The chief procurement officer may determine what goods, services, or construction, less than \$25,000 will be made through an electronic procurement system." [Eff and comp 03/21/08; am and comp] (Auth: HRS §§103D-202, 103D-305) (Imp: HRS §103D-305)

14. §3-122-81, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-81 General provisions. (a) Sole source procurement shall be in accordance with section 103D-306, HRS, with the exception of sole source procurement subject to section 103D-305, HRS.

(b) A sole source purchase may be made when only one source is available [~~for a purchase~~], unless the expenditure is expressly exempt from public bidding by law or rule. (c) Justification for a sole source purchase must establish that the good, service, or construction has a unique feature, characteristic, or capability essential to the agency to accomplish its work and is available from only one supplier or source.

Examples are:

- (1) Proprietary item;
- (2) Compatibility to existing equipment; or
- (3) Public utility repair or construction that can only be provided by the utility company.

(d) The contract period for a sole source procurement shall not exceed one year, unless approval is granted for a multi-term contract pursuant to section 3-122-149.

(e) Approval for sole source procurement may be granted by the chief procurement officer when there is a requirement for a good or service in limited quantity for test or evaluation purpose.

(f) The following are not justifications for sole source procurements:

- (1) An item is referred to by an exact brand, but there are other brands that qualify as "equals";
- (2) An item is unique, but is available from more than one supplier, is called a "restrictive" purchase subject to bidding;
- (3) The fact that a person or organization is or has been furnishing services to a purchasing agency does not, by itself, render the person or organization the only source for the type of service required;
- (4) The potential loss of funds at the end of a fiscal year.

(g) The procurement officer [~~should~~] shall conduct negotiations with the sole source vendor to determine the factors as cost, quality, terms, and delivery are found fair and reasonable in the market. Negotiations shall be documented in the procurement file.

(h) Cost or pricing data requirements shall be as specified in section 103D-312, HRS, and subchapter 15.

(i) [~~A purchase order shall be issued or a certification that funds are~~] Funds must be available for the amount of the purchase [~~shall be obtained for a sole source purchase,~~] pursuant to section 103D-309, HRS, and subchapter 12.

(j) Pursuant to section 103D-306(c), HRS, the procurement policy board shall maintain a list, entitled "Procurements Approved for Sole Source" that

may be procured without obtaining a sole source approval, pursuant to section 3-122-82. The chief procurement officer may request reports from the heads of purchasing agencies on sole source procurements.

(k) The list of sole source procurements shall be reviewed by the procurement policy board biennially and issued by procurement directive. Purchasing agencies shall cite on the purchase order or on the contract the sole source authority as "Approved for Sole Source Procurement pursuant to Section 3-122-81, (cite sole source number from attached list), Hawaii Administrative Rules." [Eff 12/15/95; am and comp 11/17/97; am 7/6/99; am and comp 03/21/08; am and comp] (Auth: HRS §§103D-202, 103D-306, 103D-312) (Imp: HRS §§103D-306, 103D-309, 103D-312)

15. Material, except source notes, to be repealed is bracketed. New material is underscored.

16. Additions to update source notes to reflect these amendments and compilation are not underscored.

17. These amendments to and compilation of chapter 3-122, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the forgoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on October 21, 2026, by the Procurement Policy Board and filed with the Office of the Lieutenant Governor.

RICHARD HELTZEL
Chairperson
Procurement Policy Board

MEOH-LENG SILLIMAN
State Comptroller

APPROVED AS TO FORM:

Deputy Attorney General