

**PROCUREMENT POLICY BOARD**

1151 Punchbowl Street  
Conference Room 410  
Honolulu, Hawaii 96813

Regular Meeting  
January 18, 2007 at 1:00 pm

Continuation of December 21, 2006

AMENDED AGENDA

- I. Call to Order
- II. Approval of Minutes – Meeting of October 27, 2006
- III. Executive Session pursuant to HRS § 92-5(a)(4) to consult with the Board’s attorney on issues pertaining to the Board’s powers, duties and liabilities.
- IV. The State Comptroller and the State Procurement Office learned on October 20, 2006 that two new board members were appointed, and whose terms were effective September 29, 2006. Due to the appointment of these two new board members, the reconvened meeting of the Board held on October 5, 2006 lacked quorum. At its October 27, 2006 meeting, the Board voted to reconsider the actions taken at the October 5, 2006 meeting for the Agenda Items VI, VII, and VIII:
  - VI. Petition for the Adoption of a Rule  

Consideration of Akaku, Maui Community Television’s petition for a proposed rule that states, “3-120-6 Code Not applicable to PEG Access provider Contracts. The State Procurement Code does not apply to Public Education Government Access Provider Contracts which direct the cable franchises to cause payments from the cable franchise fees to the several Public Education Government Access Providers as provided by law.”
  - VII. Petition for the Modification of a Rule  

Consideration of Akaku, Maui Community Televisions’ petition for a proposed amendment to Hawaii Administrative Rule §3-120-4(b), Exhibit “A” by adding “Services of non-governmental non-profit corporations to provide public, educational, and governmental cable access” to the list of procurements exempt from chapter 103D, Hawaii Revised Statutes.

VIII. Petition for Declaratory Ruling

Consideration of Olelo's petition for a declaratory ruling pursuant to HRS §91-8, stating that public, education and government (PEG) access channels are contracts for "utility services" within the meaning of HRS §103D-102(b)(4)(F) and, for which competitive award procedures of HRS Chapter 103D are neither practicable nor advantageous to the State.

V. Executive Session pursuant to HRS § 92-5(a)(4) to consult with the Board's attorney on Akaku: Maui Community Television vs. Aaron Fujioka, Administrator of the State Procurement Office, Procurement Policy Board, and Department of Commerce and Consumer Affairs, Civil No. 06-1-0443(3), complaint filed by Akaku, Maui Community Television.

- (1) Consideration of Petition of Akaku: Maui Community Television for Declaratory Order that "funds collected and disbursed by the cable franchisees pursuant to order or rule of the Department of Commerce and Consumer Affairs are not 'public funds' within the meaning of Haw. Rev. Stat. 103D-102" and "the State Procurement Code does not apply to services for providing public educational and governmental cable services."

VI. Proposed amendments to add two new items to listing for HAR Chapter 3-122, Procurement Approved for Sole Source.

- (1) Repair and maintenance services and supplies from the original equipment manufacturer or its designated representative.
- (2) Procurement of equipment upgrades from the original manufacturer to existing equipment and information technology hardware.

VII. Executive Session pursuant to HRS § 92-5(a)(4) to consult with the Board's attorney on the Office of Information Practice's Correspondence regarding an "Appeal from Agency Denial of Access to Records (APPEAL 07-19) Request for Investigation (S INVES-P 07-26)"

VIII. Announcements

IX. Adjournment

Procurement Policy Board  
Amended Agenda  
January 18, 2007  
Page 3

Individuals may present testimony on matters on the Procurement Policy Board's agenda when the agenda item is being discussed by the Board. Individuals who intend 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](mailto:procurement.policy.board@hawaii.gov) or faxed to (808) 587-4703 until 1:00 pm, January 16, 2007. Testimonies received after the January 16, 2007 deadline will be forwarded to the board after the January 18, 2007 meeting.

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., January 15, 2007 to discuss accommodation arrangements.