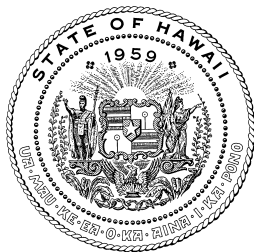


**Small Business Regulatory Review Board Meeting**

**January 20, 2022**

**10:00 a.m.**



## SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)  
No. 1 Capitol District Building, 250 S. Hotel Street, Fifth Floor, Honolulu, HI 96813  
Mailing Address: P.O. Box 2359, Honolulu, HI 96804  
Email: [dbedt.sbrrb.info@hawaii.gov](mailto:dbedt.sbrrb.info@hawaii.gov)  
Website: [sbrrb.hawaii.gov](http://sbrrb.hawaii.gov)

Tel: 808 798-0737

### AGENDA

**Thursday, January 20, 2022 ★ 10:00 a.m.**  
**Honolulu, HI 96813**

**David Y. Ige**  
*Governor*

**Mike McCartney**  
*DBEDT Director*

#### Members

Robert Cundiff  
*Chairperson*  
*O'ahu*

Mary Albitz  
*Vice Chairperson*  
*Maui*

Jonathan Shick  
*2nd Vice Chairperson*  
*O'ahu*

Dr. Nancy Atmospera-  
Walch  
*O'ahu*

William Lydgate  
*Kaua'i*

James (Kimo) Lee  
*Hawai'i*

Garth Yamanaka  
*Hawai'i*

Taryn Rodighiero  
*Kaua'i*

Mark Ritchie for  
Director, DBEDT  
*Voting Ex Officio*

As authorized under Act 220, Session Laws of Hawaii 2021 and the Governor's December 29, 2021 Emergency Proclamation Related to Sunshine Law In-Person Meetings, the meeting will be held remotely with Board Members, Staff, and Agencies participating via online meeting venue. The public can participate in the meeting via video-audio livestream, or telephonically; to join the meeting go to:

<https://zoom.us/j/3082191379> or

Dial 1-669-900-6833 with Meeting ID 883 5814 0200

When the Chairperson asks for public testimony during the meeting, you may indicate that you want to provide oral testimony by using the raise hand function or, if calling in by telephone, entering \* and 9 on your phone keypad. When recognized by the Chairperson, you will be unmuted. If calling in by phone, you can unmute and mute yourself by pressing \* and 6 on your keypad.

Members of the public may submit written testimony via e-mail to: [DBEDT.sbrrb.info@hawaii.gov](mailto:DBEDT.sbrrb.info@hawaii.gov) or mailed to SBRRB, No. 1 Capitol District Building, 250 S. Hotel Street, Room 506A, Honolulu, HI 96813, or P.O. Box 2359, Honolulu, HI 96804. All written testimony should be received no later than 4:30 p.m., Wednesday, January 19, 2022.

Copies of the Board Packet will be available on-line for review at: [Agendas & minutes – Small Business Regulatory Review Board \(hawaii.gov\)](http://Agendas&minutes-SmallBusinessRegulatoryReviewBoard(hawaii.gov)). An electronic draft of the minutes for this meeting will also be made available at the same location when completed.

The Board may go into Executive Session under Section 92-5 (a)(4), HRS to Consult with the Board's Attorney on Questions and Issues Concerning the Board's Powers, Duties, Immunities, Privileges and Liabilities.

#### **I. Call to Order**

#### **II. Approval of December 9, 2021 Meeting Minutes**

#### **III. New Business – Before Public Hearing**

- A. Discussion and Action on Proposed Amendments to Hawaii Administrative Rules (HAR) Title 16 Chapter 116, **Travel Agencies**, promulgated by Department of Commerce and Consumer Affairs (DCCA) – **Discussion Leader – Nancy Atmospera-Walch; Backup Discussion Leader – Taryn Rodighiero**

- B. Discussion and Action on Proposed Amendments to HAR Title 16 Chapter 115, **Professional Engineers, Architects, Surveyors, and Landscape Architects**, promulgated by DCCA – **Discussion Leader – Nancy Atmospera-Walch; Backup Discussion Leader – Taryn Rodighiero**

**IV. Old Business – After Public Hearing**

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 3 Chapter 40, **Rules Governing Public Use of the Land Survey Division Maps, Descriptions, and Records, and Schedule of Fees for Services Maps, and Other Record Data**, promulgated by Department of Accounting and General Services – **Discussion Leader – Mark Ritchie**

**V. Administrative Matters**

- A. Discussion and Action on the Board’s Investigative Taskforce’s “Deliberation and Decision-Making” on the Proposed Phase II Website, in accordance with Section 92-2.5(b)(1)(C), Hawaii Revised Statutes (HRS)
- B. Update on the Board’s Upcoming Advocacy Activities and Programs in accordance with the Board’s Powers under Section 201M-5, HRS

**VI. Legislative Matters**

- A. Discussion and Action on the Upcoming Governor’s Message Submitted for Consideration for the Gubernatorial Nomination of James (Kimo) Lee to the Small Business Regulatory Review Board to expire June 30, 2024

**VII. Next Meeting:** Thursday, February 17, 2022 at 10:00 a.m.

**VIII. Adjournment**

If you require special assistance or auxiliary aid and/or services to participate in the public hearing process, please call (808) 798-0737 or email [dbedt.sbrrb.info@hawaii.gov](mailto:dbedt.sbrrb.info@hawaii.gov) at least three (3) business days prior to the meeting so arrangements can be made.

## **II. Approval of December 9, 2021 Meeting Minutes**

## Small Business Regulatory Review Board

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### MEETING MINUTES - HELD THROUGH VIDEO-CONFERENCING - DRAFT

December 9, 2021

- I. **CALL TO ORDER:** Chair Cundiff called the meeting to order at 10:06 a.m., with a quorum present, which was open to the public.

**MEMBERS PRESENT:**

- Robert Cundiff, Chair
- Mary Albitz, Vice Chair
- Jonathan Shick, 2<sup>nd</sup> Vice Chair
- Garth Yamanaka
- William Lydgate
- James (Kimo) Lee
- Taryn Rodighiero
- Mark Ritchie

**ABSENT MEMBERS:**

- Dr. Nancy Atmospera-Walch

**STAFF:** DBEDT

Dori Palcovich  
Jet'aime Ariola

Office of the Attorney General

Alison Kato

II. **APPROVAL OF OCTOBER 21, 2021 MINUTES**

Second Vice Chair Shick motioned to accept the October 21, 2021 meeting minutes, as agreed. Vice Chair Mary Albitz seconded the motion, and the Board members unanimously agreed.

III. **NEW BUSINESS** – Before Public Hearing

- A. Discussion and Action on Proposed New Rules for Title 3 Department of Budget and Fiscal Services, Subtitle 6 Liquor Commission, Rules of the Liquor Commission of the City and County of Honolulu, State of Hawaii, as follows, promulgated by the Liquor Commission, City & County of Honolulu
- a. Appendix B, Multi-Sector General Permit (MSGP)
  - b. Appendix E, Authorizing Discharges of Once Through Cooling Water Less Than One (1) Million Gallons Per Day
  - c. Appendix F, Authorizing Discharges of Hydrotesting Water
  - d. Appendix G, Authorizing Discharges Associated with Construction Activity Dewatering
  - e. Appendix K, Small Municipal Separate Storm Sewer Systems

Ms. Anna Hirai, Assistant Administrator at the City & County of Honolulu Liquor Commission, summarizes the rule amendments, the Liquor Commission has 1,422 licensees, representing 12 active license classes. With the exception of hotel class licensees (49/1,422), virtually all licensees are small businesses within the meaning of HRS §201 M-1. The proposed rules are substantially based on existing rules, with changes to clarify existing requirements, eliminate unnecessary regulation, and update necessitated by statutory changes. The Liquor Commission believes that adverse impact has been minimized.

As the proposed rules are substantially based on existing rules with the above-described changes, no increase in the level of direct costs or indirect costs are anticipated for licensee compliance. Clarification of existing requirements and elimination of unnecessary regulation were based on licensee and staff input. Accordingly, adverse impact to our licensees has been minimized to the extent practicable. Any requirements that imposed procedures and protocols solely on staff (internal management) without impacting a licensee's rights or available procedures were not included in any proposed rules.

The Liquor Commission is undergoing the roll out of a new online application system and database. With that project in the background, it was an appropriate time to look at the entire rule group and clean up the format and to address recent statutory changes. The Liquor Commission intends to return to rule making approx. 1 year from effectiveness of this group to address any needed clean up and housekeeping effort.

The Liquor Commission solicited input from the 12 active license classes via the licensees themselves or licensee representatives (collectively, "stakeholders") prior to conducting stakeholder meetings. The Liquor Commission conducted four (4) Zoom stakeholder meetings in 2021, which are listed in the attached table entitled "Stakeholder Meeting Attendance", which includes attendance demographics. Stakeholder input from the four (4) meetings are detailed in the attached table entitled "Stakeholder Input". Of the 17 inputs received, LIQ anticipates substantial testimony at public hearing pertaining to the following proposed rules, §3-82-31.15 Deliveries and §3-82-38.18 Sampling on Licensed Premises.

In the case of the Deliveries rule, Liquor Commission wishes to proceed to public hearing with both versions (depicted in purple and green text). The versions could not be reconciled through informal discussion, and the Liquor Commission believes that the Commission decision makers (the five-member Commission) would benefit from testimony for and against both positions prior to approving a particular version or developing a hybrid version.

There was a handful of testimony submitted and they all express the same concern. The concern rests in the proposed language where the requirement is the "same ownership" for the satellite entities. This is concerning for a liability purpose from potential accidents where that liability from one location would carry over to all locations. Testimony provided claims satellite locations are a vital part to the brewing industry as it allows to locate breweries (where beer is produced) in industrial areas while opening satellite locations in more commercial areas. This translates to growth for manufacturing components and more jobs and more taxable income.

Second Vice Chair Shick asked how the classification of ownership is written in the rules and how it will affect the breweries. Ms. Hirai explains that they made modifications to that ownership language in both the brewpub licensees and small craft producer rules. She encourages moving to public hearing to air all the different opinions in the public hearing forum and it would be in that environment to seek advice from corporation council to make the most informed decision.

Chair Cundiff states for the record that we did receive written testimony from Brew Lab HI, Honolulu Beerworks, Kauai Island Brewing Co., Waikiki Brewing, Lanikai Brewing Co., and Maui Brewing Co. Chair Cundiff commends Ms. Hirai and the City & County of Honolulu Liquor Commission for including all the licensees for input and acknowledges that it is a huge undertaking with 188 action items. He explains that it appears everyone has an issue with the one inclusion statement of "same ownership." Testimony suggests indicating the same "trade name" only and drop "same ownership."

Ms. Hirai recognizes that more work needs to be done on the two rules and proposes that the Liquor Commission be permitted to exclude §82-31.05, Brewpub licenses and §82-31.17, Small craft producer pub licenses from the current rule amendment package and move forward to public hearing with everything else. It would be 186 items moving to public hearing instead of 188 items with holding two rules back for further work.

Second Vice Chair Shick motioned to recommend that the proposed amended rules move forward to public hearing with the exclusion of §82-31.05, Brewpub licenses and §82-31.17, Small craft producer pub licenses. Vice Chair Albitz seconded the motion, Mr. Yamanaka recused himself from voting due to a potential conflict of interest, and the remaining members agreed.

#### **IV. OLD BUSINESS – After Public Hearing**

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Repeal of HAR Title 17 Chapter 891.1 and Adoption of Chapter 891.2, Registration of Family Child Care Homes, promulgated by Department of Human Services (DHS)
- B. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Repeal of HAR Title 17 Chapter 892.1 and Adoption of Chapter 892.2, Licensing of Group Day Care Centers and Group Child Care Homes, promulgated by DHS
- C. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Repeal of HAR Title 17 Chapter 895 and Adoption of Chapter 895.1, Licensing of Infant and Toddler Child Care Centers, promulgated by DHS

D. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Repeal of HAR Title 17 Chapter 896 and Adoption of Chapter 896.1, Licensing of Before and After School Child Care Facilities, promulgated by DHS

Chair Cundiff suggests the board look at all four rules in its entirety. He introduces and thanks Ms. Dayna Luka, Acting Child Care Program Administrator (DHS). Discussion Leader Vice Chair Mary Albitz mentions the main feedback received during the public hearing was regarding the requirement for continued education for substitutes and volunteers in the proposed rule amendment. She also mentions there was a mention about “closed” lanais.

Ms. Tanya Enrico (DHS) explains that the public hearing was held July 30, 2021. There was 10 written testimony and 3 testifiers that attended the public hearing. The testimony provided was regarding the licensing of Infant and Toddler Child Care Centers, licensing of Group Day Care Centers, licensing of Before and After School Child Care Facilities.

Written testimonies were submitted; and comments were overwhelmingly in support of reinserting the language pertaining to the use of lanai space to be used in calculating the maximum number of children allowed on the license. Businesses testified as to how the removal of the language to allow for lanai space to be counted as usable space would negatively affect their operations.

The department acknowledges that while applying the rule regarding the use of lanai space in the calculation for license maximum incorrectly, we will need time to rewrite it so that the language is clear. The rule has been reinserted into the proposed rules that enclosed lanai space will be counted in the license maximum until we are able to rewrite the rule in concise language.

Ms. Tanya Enrico explains that DHS held discussion sessions with early childhood stakeholders beginning in 2015 to discuss health and safety training hours. Discussions on other proposed rules were held during quarterly DHS Child Care Advisory Committee meetings and during statewide informational sessions that were held between 1/2019 – 3/2019. Infant and toddler childcare center providers agreed that the 16 hours of on-going health and safety training over a 12-month period was a reasonable amount.

The recommendation to not require annual health and safety training for substitutes and volunteers was partially incorporated. The number of on-going health and safety training hours for substitutes and volunteers were reduced from 16 hours to 10 hours and 8 hours, respectively. The requirement for a substitute and volunteer to complete on-going health and safety training is to comply with the CCDBG Act of 2014 which requires caregivers to complete on-going health and safety training annually. Completion of on-going health and safety training hours increases the health and safety of children and the quality of childcare.

Vice Chair Albitz motioned to move all four items to the Governor for adoption. Mark Ritchie seconded the motion, and the Board members unanimously agreed.

## V. ADMINISTRATIVE MATTERS

### A. Discussion and Action on the Board's Investigative Taskforces Resulting Findings and Recommendations on the Proposed Phase II Website, in accordance with Section 92-2.5(b)(1)(B), HRS

Chair Cundiff, discussion leader, turns it over to Rosie Warfield, Manager of eGovernment Services, and Mark Moran of NIC Division. There were a few conversations with the task force and some of the findings from it were that the site works well but it's really focused on the meetings and the attendance side. The focus now is to target the small businesses and expanding the site to include more resources. As well as being able to send more targeting messaging through Mail Chimp.

In the proposal there is a full breakdown of all the details down to the hour. The main areas that the proposal will cover is a revised homepage to focus on specific ways small business can get involved with the board; de-emphasize focus on meetings. The second item is the meeting and agenda section. Add department level filtering to meetings, agendas, reports to allow users to drill down to which agencies are being discussed in each meeting (by agency or county) via filters/tags. The third updating some of the page content. Content updates for resource pages (resources, small biz., gov't and rulemaking process). Assist with content writing and updating rulemaking process graphics. For Mail Chimp, update signup form to include email preferences (by agency/county), create email campaign to send existing users to let them categorize their preferences, and design new email template to match site.

Ms. Warfield states that the next step is to approve the contract on February 3, 2022. This will be to start of the revision of the website. A final presentation will be available before June 2022.

Mark Ritchie motioned to accept the proposal from NIC. Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

### B. Discussion and Action on the Board's Draft 2021 Annual Report Summary for Submission to the Hawaii State Legislature, under Section 201M-5(f), HRS

Ms. Palcovich adds that we are just waiting for the Chair's Message to finalize the report. Chair Cundiff noted that the total number of rules reviewed by the Small Business Regulatory Review Board since inception is 983 rules. Mr. Yamanaka asks is there a follow up on the "post" public hearing rules. Ms. Palcovich responds that yes, we do follow up and some of the rules may come to the board next year 2022. Some of the rules take a while to go through the process. The 2021 Annual Report Summary are rules reviewed this year to date.

Mr. Ritchie motioned to approve the Board's draft 2021 *Annual Report Summary*. Vice Chair Shick seconded, and the Board members unanimously agreed.

C. Discussion and Update on Chapter 92, HRS and Act 220, Session Laws of Hawaii 2021 regarding in-person meeting locations where members of the public can observe the remote meeting or testify in person

Chair Cundiff explains Act 220 begins January 1, 2022 and will affect in-person meetings. As the Legislature and boards have been doing during the COVID-19 pandemic, boards will be given the option under the Sunshine Law to hold remote meetings so that members of the board and the public may participate from their homes, workplaces, or other locations without having to show up in person at a physical meeting site.

While the bill thus expands public and board participation and access throughout our island state by allowing for remote meetings, it also recognizes that there is a digital divide that could affect members of the public or board who do not have the equipment, reliable internet connection, skills, or desire to participate online. Therefore, a board must also provide at least one physical location, with guaranteed connection via ICT to the remote meeting, where board members and the public can go to participate in person if they so desire. Although a board is not required to provide more than one physical location, it may choose to provide for the public's convenience additional physical locations with ICT connectivity to the remote meeting, but without being required to terminate the meeting if connectivity is interrupted or lost to those courtesy sites.

Conference Room 436 is the designated room for the public if they choose to attend. Dori and Jet'aime will be physically present during the Zoom meeting to satisfy the new Act 220 requirement.

D. Discussion and Action on the Delegation of Authority to Board Member(s) and/or Staff to Submit Testimony and/or Testify on behalf of the Board during the 2022 Hawaii State Legislative Session

Mr. Yamanaka proposed Chair Cundiff be the designated representative for the board. Chair Cundiff accepts authority. Chair Cundiff proposes Mr. Ritchie also be a designated representative. Mr. Ritchie accepts to support new board members and to testify. He suggests Chair Cundiff be the SBRRB legislative support. Mr. Yamanaka adds that Second Vice Chair Shick is also a Honolulu representative and can be secondary, Mr. Shick accepts.

Chair Cundiff motioned to designate Ms. Palcovich to generate testimony and submit testimony on the board's behalf; for personal appearances and or representation of the board with testimony Chair Cundiff will be primary contact for delegation authority; Second Vice Chair Shick will be secondary, and Mark Ritchie an alternate. Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

**VI. NEXT MEETING** - Thursday, January 20, 2022 at 10:00 a.m.

**VII. ADJOURNMENT** – Chair Cundiff made a motion to adjourn the meeting and Vice Chair Albitz seconded the motion; the meeting adjourned at 11:49 a.m.

### **III. New Business – Before Public Hearing**

#### **A. Discussion and Action on Proposed Amendments to HAR Title 16 Chapter 116, **Travel Agencies**, promulgated by DCCA**

**PRE-PUBLIC HEARING SMALL BUSINESS IMPACT STATEMENT  
TO THE  
SMALL BUSINESS REGULATORY REVIEW BOARD**  
(Hawaii Revised Statutes §201M-2)

RECEIVED  
By SBRRB at 2:36 pm, Oct 27, 2021

Date: 10/25/2021

Department or Agency: DCCA - Professional and Vocational Licensing Division

Administrative Rule Title and Chapter: Title 16 Chapter 116

Chapter Name: Travel Agencies

Contact Person/Title: Sandra Matsushima

E-mail: smatsush@dcca.hawaii.gov Phone: (808) 586-2702

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?

☐ Yes ☒ No

If "Yes," provide details: \_\_\_\_\_

**I. Rule Description:**

☐ New ☐ Repeal ☒ Amendment ☐ Compilation

**II. Will the proposed rule(s) affect small business?**

☐ Yes ☒ No

(If "No," no need to submit this form.)

\* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

\* "Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

**III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?**

☐ Yes ☒ No

(If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

**IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))**

☐ Yes ☒ No

(If "Yes" no need to submit this form.)

\*

\*

\*

**If the proposed rule affects small business and are not exempt as noted above, please provide a reasonable determination of the following:**

1. Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected.

The Charter Tour Operator(s), which currently has one registrant, Vacations Hawaii, that will directly benefit by the proposed rules.

2. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.

No additional direct or indirect costs are anticipated.

If the proposed rule imposes a new or increased fee or fine:

- a. Amount of the current fee or fine and the last time it was increased.
- b. Amount of the proposed fee or fine and the percentage increase.
- c. Reason for the new or increased fee or fine.
- d. Criteria or methodology used to determine the amount of the fee or fine (i.e., Consumer Price Index, Inflation rate, etc.).

3. The probable monetary costs and benefits to the agency or other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used.

Monetary benefits to the department are not anticipated.

4. The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or other mitigating techniques.

Through the opportunity for input by the Vacations Hawaii and other stake holders representing small business, the proposed rule amendments clarify and formalize current Program practices.

5. The availability and practicability of less restrictive alternatives that could be implemented in lieu of the proposed rules.

Currently there are no alternatives to the prospective rules changes.

6. Consideration of creative, innovative, or flexible methods of compliance for small businesses. The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules.

No direct costs or affects are expected for small businesses.

7. How the agency involved small business in the development of the proposed rules.

The Program has been in contact with the representative from Vacations Hawaii to provide input and suggested language to and participate in the drafting of language for this rule amendment. In addition, the public hearing will afford all interested persons the opportunity to comment on the proposed rules.

- a. If there were any recommendations made by small business, were the recommendations incorporated into the proposed rule? If yes, explain. If no, why not.

8. Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

There are no mandated federal, state, or county standards applicable to this area.

If yes, please provide information comparing the costs and benefits of the proposed rules to the costs and benefits of the comparable federal, state, or county law, including the following:

- a. Description of the public purposes to be served by the proposed rule.
- b. The text of the related federal, state, or county law, including information about the purposes and applicability of the law.
- c. A comparison between the proposed rule and the related federal, state, or county law, including a comparison of their purposes, application, and administration.
- d. A comparison of the monetary costs and benefits of the proposed rule with the costs and benefits of imposing or deferring to the related federal, state, or county law, as well as a description of the manner in which any additional fees from the proposed rule will be used.
- e. A comparison of the adverse effects on small business imposed by the proposed rule with the adverse effects of the related federal, state, or county law.

\* \* \*

Small Business Regulatory Review Board / DBEDT

Phone: (808) 586-2594 / Email: [DBEDT.sbrrb.info@hawaii.gov](mailto:DBEDT.sbrrb.info@hawaii.gov)

This Statement may be found on the SBRRB Website at: <http://dbedt.hawaii.gov/sbrrb/resources/small-business-impact-statements>



DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LIEUTENANT GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
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HONOLULU, HAWAII 96809  
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Fax Number: 586-2856  
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

October 25, 2021

**MEMORANDUM**

**TO:** Chairperson Robert Cundiff  
Small Business Regulatory Review Board  
Department of Business, Economic Development & Tourism

**FROM:** Catherine P. Awakuni Colón, Director  
Department of Commerce and Consumer Affairs

**SUBJECT:** Small Business Impact Review of the Proposed Amendments to Chapter 116,  
Title 16, Hawaii Administrative Rules, Relating to Travel

Attached for your review is the proposal to amend Title 16, Chapter 116, Hawaii Administrative Rules ("HAR"), the rules of the Travel Agencies Program.

I. Proposed Rules

The Travel Rules Program ("Program") proposes the following amendments to Hawaii Administrative Rules ("HAR") Chapter 16-116. The reasons for the changes are as follows:

REFERENCES TO HAWAII REVISED STATUTES CHAPTER 468K

References to Hawaii Revised Statutes Chapter 468K. Housekeeping amendments, which delete all references to Chapter 468K, Hawaii Revised Statutes ("HRS"). Act 285, Sessional Laws of Hawaii 1991, repealed Chapter 468K, HRS, and replaced it with a new chapter, referred to hereafter as Chapter 468L, HRS.

SUBCHAPTER 3 – REGISTRATION

Section 16-116-12 Registration requirements. The purpose of a client trust account is to safeguard consumer's moneys until services have been provided. Each registration, whether an individual or business entity requires a client trust account. Subsection (b) is amended to codify the Program's current practice of requiring a separate registration of a branch office if the branch office utilizes a separate client trust account from the principal office. A separate client trust account is required so that any moneys received by a branch office are handled in accordance with section 468L-5, HRS. It affords the same consumer protection by allowing the

Department to take legal action, if necessary against each, the main registrant and the branch. It also provides for a more business friendly environment offering two options for branch registration. It would make it easier to enforce the law by allowing more access to records and would simplify the enforcement process. Due to the amendments made to subsection (b), all subsequent subsections are re-alphabetized accordingly. A new subsection (d) is being added to clearly set forth that it is each applicant's responsibility to furnish the information or documentation requested and codifies the Program's long standing policy placed upon all applicants.

#### SUBCHAPTER 4 – DENIAL OR REJECTION OF REGISTRATION

Section 16-116-19 Denial or rejection of application. Subsection (a)(1) is amended by deleting the reference to Chapter 468K, and inserting the proper statutory section, section 468L-2.5, HRS, which provides the director the authority to deny the registration of a travel agency or charter tour operator.

#### SUBCHAPTER 5 – RENEWAL

Section 16-116-28 The Director may refuse to renew or restore. This section is being amended to delete the reference to Chapter 468K and make non-substantive amendments for clarity and style.

#### SUBCHAPTER 6 – CLIENT TRUST ACCOUNTS, NOTARIZED STATEMENTS, DISCLOSURE OF CONSUMER RIGHTS

Section 16-116-33.1 Charter tour client trust account; client trust account out of state. A new section is added to allow a charter tour operator to hold a client trust account in a federally insured financial institution located out of the State.

The impetus for this amendment was the result of the notification to a sole charter tour operator by a Hawaii financial institution managing their charter tour trust account. Specifically, the Hawaii financial institution informed the sole charter tour operator that it would discontinue offering its federal Department of Transportation public charter program depository account services. The sole charter tour operator was also notified that the other three largest (as measured by total assets) financial institutions in the State are unable to and/or are reluctant to provide services to meet the federal reporting requirements of a charter tour trust account and do not have the resources to accommodate this client.

The purpose of requiring the client trust account be maintained in the State is to ensure that consumer funds are protected and the state has the ability to take action expeditiously if there is a proof of conduct contrary to recognized standards that puts the funds at a serious risk or loss. The Department's objectives are twofold: 1) validate that the charter tour operator is unable to maintain its client trust accounts in the State; and 2) ensure sufficient protection of consumer funds located out of the State if there is a proven loss of local bank support.

As authorized in section 468L-5(e), HRS, this amendment outlines the parameters to hold an out-of-state charter tour trust account. The Director sought other means to ensure that the appropriate protections and services would be maintained for the consumers of the State. Additional requirements to hold an out of state account are stringent and detailed. The charter tour operator shall: 1) identify the out of state financial institution and its federal and state regulator; 2) if applicable, list any publicly available enforcement orders issued by the regulator against the financial institution; 3) if applicable, name the third-party vendor the financial institution employs to manage the client trust account; and 4) provide executed copies of

records required to operate as a public charter under Title 14 Code of Federal Regulations ("CFR") part 380, as amended. For your information the U.S. Department of Transportation defines a U.S. Public Charter Operator as:

An indirect air carrier that is a citizen of the United States as defined in 49 U.S.C. 40102(a) and that is authorized to engage in the formation of groups for transportation on Public Charters in accordance with [Part 380].

14 CFR 380 contains regulations regarding the conditions that must be met with respect to the deposit and processing of consumer funds by a federally insured financial institution used by federal public charter tour operators.

The charter tour operator must also submit statements from each of the three largest federally- insured financial institutions in the State (as measured by total assets) that under then-current circumstances cannot, is incapable of, or declines to manage a charter tour trust account.

The charter tour operator must also agree to allow the Department of Commerce and Consumer Affairs ("Department") access to information relating to the client trust account. The Regulated Industries Complaints Office must have the ability to obtain the same records in State. The charter tour operator will bear any reasonable expenses associated with reproduction of records requested by the Department, any enforcement action, and any additional reasonable amounts for travel in connection with an audit. A quarterly report, prepared by an independent certified public accountant, which must be filed with the Department will be an additional safeguard.

## SUBCHAPTER 8 - FEES

Section 16-116-44 Fees established. The fee schedule was included in the rules until the fees were adopted in Chapter 16-53, HAR. All fees relating to the Department's boards and commissions are set forth in Chapter 16-53. Chapter 16-53-40.5, HAR, was adopted in 1988, and amended in 2016. A new subsection is added to refer to the fee schedule outlined in Chapter 16-53, HAR.

After a discussion with the affected parties, the Department was informed that funds will be moved to the out of state account after five days. Title 14, Code of Federal Regulations, Part 380 provides significant protection for consumers over and beyond the current requirements of 468L-5. All checks, money orders and credit card drafts must be deposited into a separate escrow account at the depository bank. In addition, the bank must comply to agreements under the force of the federal law, including that payments be made directly to the air carriers not earlier than 60 days prior to departure; that if the charter is cancelled, the bank shall make applicable refunds directly to charter participants. The federal rule (14 CFR 380.34(b)(1)) requires the charter tour operator to furnish a security agreement in the amount of at least \$10,000.00 times the number of flights, up to a maximum of \$200,000.00. Consumers will be provided ample protection with this additional bond requirement referenced in HRS 468L and the federal rule.

### II. Small Business Impact Statement pursuant to section 201M-2, HRS:

1. The businesses that will be directly affected by, bear the cost of, or directly benefit from the proposed rules?

The Charter Tour Operator(s), which currently has one registrant, Vacations Hawaii, that will directly benefit by the proposed rules.

2. Description of the small business that will be required to comply with the proposed rules and how they may be adversely affected?

We do not anticipate any adverse affects.

3. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance?

No additional direct or indirect costs are anticipated.

4. The probable monetary costs and benefits to the implementing agency and other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used?

Monetary benefits to the department are not anticipated.

5. The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or any other mitigating techniques?

Through the opportunity for input by the Vacations Hawaii and other stake holders representing small business, the proposed rule amendments clarify and formalize current Program practices.

6. How the agency involved small business in the development of the proposed rules?

The Program has been in contact with the representative from Vacations Hawaii to provide input and suggested language to and participate in the drafting of language for this rule amendment. In addition, the public hearing will afford all interested persons the opportunity to comment on the proposed rules.

7. Whether the proposed rules include provisions that are more stringent than those mandated by any comparable related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

There are no mandated federal, state, or county standards applicable to this area.

### III. Other Alternatives in Lieu of Proposed Rules:

There appears to be no other way to implement and clarify the statutory requirements.

Robert Cundiff  
October 25, 2021  
Page 5

The proposed rules have been reviewed by the Legislative Reference Bureau and the Department of the Attorney General.

The department submits these proposed rules and the Small Business Impact Statement contained herein, for consideration by the Small Business Regulatory Review Board.

If you have any questions, please contact Sandra Matsushima, Executive Officer, at (808) 586-2702 or email address [smatsush@dcca.hawaii.gov](mailto:smatsush@dcca.hawaii.gov).

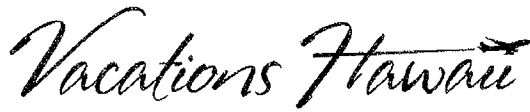
Very truly yours,



Catherine P. Awakuni Colón  
Director

Attachment

cc: Sandra Matsushima, Executive Officer



A Subsidiary of Boyd Gaming Corporation

HAWAII ♦ LAS VEGAS

November 17, 2021

**RECEIVED**  
By SBRRB at 8:33 pm, Nov 17, 2021

[Via Email Only - [DBEDT.sbrrb.info@hawaii.gov](mailto:DBEDT.sbrrb.info@hawaii.gov)]

Mr. Robert Cundiff

Chairman

Small Business Regulatory Review Board

State of Hawai'i

Department of Business, Economic Development & Tourism

P.O. Box 2359

Honolulu, Hawai'i 96804

**Re: Testimony in Support of Proposed Amendments to  
HAR Chapter 16-116 (Travel Agencies)**

Dear Chairman Cundiff and Members of the Board:

On behalf of Vacations Hawaii, thank you for the opportunity to provide a statement in support of the amendments to Hawai'i Administrative Rules Chapter 16-116 (Travel Agencies) being proposed by the Department of Commerce and Consumer Affairs Travel Agency Program.

Among other provisions, the proposed amendments to HAR Chapter 16-116 adds a new rule to Subchapter 6 (HAR § 16-116-33.1), which permits charter tour operators the option to maintain a client trust account in a federally insured financial institution located out of the State of Hawai'i subject to the director's approval and other provisions in the proposed rule.

Vacations Hawaii supports the proposed rule because it ensures, with reasonable protections, that charter tour operators will be able to continue to serve Hawai'i residents in the event that a Hawai'i financial institution is unable or unwilling to service a client trust account. As the Board may be aware, a financial institution's decision to discontinue servicing a client trust account would, for all practical purposes, require a charter tour operator to immediately and indefinitely suspend charter tour operations.

In the case of Vacations Hawaii, there is only one financial institution in the State of Hawai'i that has agreed to maintain Vacations Hawaii's charter client trust account. Due to extensive regulatory and reporting requirements imposed on financial institutions maintaining such accounts, this financial institution expressed concerns in the past about continuing to maintain Vacations Hawaii's account, and previously informed Vacations Hawaii that it would no longer serve as the depository institution for the trust account. After several positive discussions, the financial institution has agreed to continue to serve as the depository institution for the time being; however, permitting charter tour operators the ability to maintain a client trust account outside of Hawai'i with reasonable protections provides flexibility for charter tour operators to continue to operate and service the residents of our state.

Mr. Robert Cundiff

November 17, 2021

Page 2

To Vacations Hawaii's knowledge, the charter tour operator industry is one of only four industries in Hawai'i currently subject to a statutory requirement that limits the location of a trust account solely to financial institutions in Hawai'i (the other industries being legal service providers, activity desks, and travel agents). Federal public charter operators such as Vacations Hawaii, however, are already subject to detailed and stringent consumer protection regulations enforced by the federal Department of Transportation, and aside from the location of the account, this new rule will not amend any other state regulations applicable to charter tour operators, including DCCA's oversight and enforcement authority over charter tour operators.

Thank you for the opportunity to provide our comments in support of the proposed rule, and we request that the Board move the proposed amendments to a public hearing.

Sincerely,

Bill Smith  
Vice President and General Manager  
Vacations Hawaii

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-116  
Hawaii Administrative Rules

M DD, YYYY

1. Chapter 16-116, Hawaii Administrative Rules, entitled "Travel Agencies", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 116

TRAVEL AGENCIES

Subchapter 1 General Provisions

§16-116-1 Objective  
§16-116-2 Definitions

Subchapter 2 Powers and Duties of the Director

§16-116-7 Delegation of authority

### Subchapter 3 Registration

- §16-116-12 Registration requirements
- §16-116-13 Registration issued; notice of change

### Subchapter 4 Denial or Rejection of Registration

- §16-116-19 Denial or rejection of application

### Subchapter 5 Renewal

- §16-116-24 Notice of renewal
- §16-116-25 Date for filing
- §16-116-26 Automatic forfeiture of registration
- §16-116-27 Restoration of a forfeited registration
- §16-116-28 Director may refuse to renew or restore

### Subchapter 6 Client Trust Accounts, Notarized Statements, Disclosure of Consumer Rights

- §16-116-33 Client trust accounts
- §16-116-33.1 Charter tour client trust account;  
client trust account out-of-state
- §16-116-34 Notarized statement
- §16-116-35 Disclosure of consumer rights

### Subchapter 7 Grounds for Denial, Revocation, Suspension, Refusal to Renew or Restore, or to Condition Registration

- §16-116-39 Grounds for denial, revocation,  
suspension, refusal to renew or  
restore, or to condition registration

### Subchapter 8 Fees

- §16-116-44 Fees established

§16-116-45        Form of fee  
§16-116-46        Dishonored checks considered failure to  
                     meet requirements

Subchapter 9    Recovery Fund--Repealed

§16-116-51        Repealed

Subchapter 10   Civil Proceeding

§16-116-55        Civil proceeding

Subchapter 11   Administrative Procedures

§16-116-60        Administrative practice and procedure

Historical Note: Chapter 16-116, Travel Agencies,  
replaces chapter 16-105 of the rules of the Travel  
Agencies and Travel Sales Representatives. [Eff  
12/27/84; R 2/3/92]

SUBCHAPTER 1

GENERAL PROVISIONS

**§16-116-1 Objective.** This chapter is intended  
to clarify and implement [~~sections 468K-3, 468K-4,  
468K-5, 468K-6, 468K-8, 468K-9, 468K-10, 468K-11, and~~]  
chapter 468L, Hawaii Revised Statutes (HRS), to the  
end that the provisions thereunder may be best  
effectuated and the public interest most effectively  
served. [Eff 2/3/92; am and comp 1/16/93; am and comp  
] (Auth: HRS §468L-3) (Imp: HRS  
§468L-3)

**§16-116-2 Definitions.** As used in [~~sections 468K-3, 468K-4, 468K-5, 468K-6, 468K-8, 468K-9, 468K-10, 468K-11,~~] chapter 468L, HRS, and this chapter:

"Branch office" means any place or location, other than the principal place of business, from which a travel agency conducts a travel agency business.

"Travel agency" or "agency" includes any branch office of a travel agency which maintains a separate client trust account from the principal agency. [Eff 2/3/92; am and comp 1/16/93; am and comp

] (Auth: HRS §468L-3) (Imp: HRS §468L-3)

## SUBCHAPTER 2

### POWERS AND DUTIES OF THE DIRECTOR

**§16-116-7 Delegation of authority.** The director may delegate any of the director's powers and duties as the director deems reasonable and proper, provided that the director shall not delegate the director's power and duty to:

- (1) Adopt, amend, or repeal rules;
- (2) Suspend or revoke any registration for any violation of [~~chapters 468K,~~] chapter 468L, HRS, or this chapter; and
- (3) Grant, deny, renew, refuse to renew, or otherwise condition a registration unless the granting, denying, refusal to renew, or conditioning of a registration does not require the exercise of the director's expertise and discretion. [Eff 2/3/92; comp 1/16/93; am and comp ]  
(Auth: HRS §468L-3) (Imp: HRS §§436B-7, 468L-3)

### SUBCHAPTER 3

#### REGISTRATION

**§16-116-12 Registration requirements.** (a)

Application for registration shall be made under oath on a form provided by the director. The form may require the agency to provide:

- (1) The travel agency's name and any trade names being used;
- (2) Evidence of registration of the corporation, partnership, organization, association, and any trade names with the business registration division of the department;
- (3) The applicant's business address and phone number and the business addresses and phone numbers of each branch office; and
- (4) Evidence that the client trust account has been established in compliance with subchapter 6.

(b) ~~[Each application shall be accompanied with the appropriate fees.]~~ A separate registration shall be made for a branch office if the branch office utilizes a separate client trust account from the principal office.

(c) ~~[It shall be each applicant's responsibility to furnish the information or documentation requested.]~~ Each application shall be accompanied by the appropriate fees.

(d) It shall be each applicant's responsibility to furnish the information or documentation requested.

[Eff 2/3/92; am and comp 1/16/93; am and comp

] (Auth: HRS §468L-3) (Imp: HRS

§§468L-2, 468L-3, 468L-5)

**§16-116-13 Registration issued; notice of change.** A registration shall be issued only to agencies meeting the requirements of chapter 468L, HRS, and of this chapter and shall not be transferable. Unless provided otherwise, in the event of any change of information or documentation each agency or applicant shall notify the director, in writing, within ten days of the change. Notice to registrants, as required by law, shall be deemed met if notice is sent to the address on file with the director. [Eff 2/3/92; comp 1/16/93; am and comp ] (Auth: HRS §468L-3) (Imp: HRS §§468L-2, 468L-3, 468L-5)

#### SUBCHAPTER 4

#### DENIAL OR REJECTION OF REGISTRATION

**§16-116-19 Denial or rejection of application.**

(a) An application for issuance of a registration shall be denied when an application is insufficient or incomplete. In addition, the director may deny issuance of a registration:

- (1) When a license of the applicant or any officer, director, partner, or other personnel of the applicant has been terminated under section [~~468K-5,~~] 468L-2.5, HRS; or
- (2) When a license or registration, as the case may be, of the applicant or any officer, director, partner, or other personnel has been revoked or suspended under [~~chapters~~] chapter [~~468K,~~] 468L, HRS, [~~or this chapter~~]; or
- (3) When an applicant fails to submit evidence of establishment or maintenance of a client trust account which is in compliance with subchapter 6.

(b) An application shall be automatically rejected when the applicant, after receiving notice:

- (1) Fails to pay the appropriate fees; or
- (2) Fails to submit any information or documentation requested by the director within sixty days from the date of notice.

(c) Any application which has been denied or rejected shall remain in the possession of the director and shall not be returned.

(d) An applicant, whose application has been denied, may file for an administrative hearing under chapter 201, administrative [~~practices~~] practice and [~~procedures~~] procedure of the department and chapter 91, HRS. [Eff 2/3/92; am and comp 1/16/93; am and comp ] (Auth: HRS §468L-3) (Imp: HRS §§91-2, 468L-3)

## SUBCHAPTER 5

### RENEWAL

**§16-116-24 Notice of renewal.** (a) All registrations shall expire on December 31 of each odd-numbered year.

(b) Before November 15 of the odd-numbered year, the director or the director's authorized delegate shall mail to every current registrant, a renewal application to the address of the registrant on record. [Eff 2/3/92; am and comp 1/16/93; comp ] (Auth: HRS §468L-3) (Imp: HRS §§468L-2, 468L-3)

**§16-116-25 Date for filing.** (a) All registrants shall complete and submit a renewal application, together with the required fees and a notarized statement which shall be in compliance with

subchapter 6, on or before December 31, 1993, and every subsequent odd-numbered year.

(b) A completed renewal application with the required fees and documents sent by United States mail shall be considered timely filed if the envelope bears a postmark no later than December 31 of the odd-numbered year.

(c) Failure to submit the notarized statement commencing with the 1994-95 renewal and each biennium thereafter shall cause the registration to be automatically forfeited. [Eff 2/3/92; am and comp 1/16/93; comp ] (Auth: HRS §468L-3) (Imp: HRS §§468L-2, 468L-5)

**§16-116-26 Automatic forfeiture of registration.**

The failure to timely renew the registration, pay the required fees, submit the required documentation, or pay fees with a check which is honored upon first deposit shall cause the registration to be automatically forfeited. [Eff 2/3/92; comp 1/16/93; comp ] (Auth: HRS §468L-3) (Imp: HRS §§468L-2, 468L-5)

**§16-116-27 Restoration of a forfeited**

**registration.** (a) A registration which has been forfeited may be restored within six months of the forfeiture provided the applicant pays the appropriate fees, including restoration fees, and submits the notarized statement in compliance with subchapter 6.

(b) An applicant who fails to restore the registration as provided above shall apply as a new applicant. [Eff 2/3/92; am and comp 1/16/93; comp ] (Auth: HRS §468L-3) (Imp: HRS §§468L-2, 468L-3)

**§16-116-28 Director may refuse to renew or restore.** (a) The director may refuse to renew or restore the registration for failure or refusal of the applicant or registrant:

- (1) To properly complete or timely submit the application, all fees, and required documentation;
- (2) To provide evidence that the travel agency's practices are in accordance with chapter 468L, HRS, and this chapter; or
- (3) To provide evidence of establishment and maintenance of a client trust account.

(b) In addition, the director may refuse to renew or restore registration [÷

~~(1) To] to any agency whose activities have been enjoined by court order [; or~~

~~(2) To any agency who having been previously licensed under chapter 468K, HRS, and on whose behalf payment from the recovery fund was made, has not repaid the fund in accordance with section 468K-5, HRS.]. [Eff 2/3/92; comp 1/16/93; am and comp ] (Auth: HRS §468L-3)  
(Imp: HRS §§468L-2, 468L-3)~~

## SUBCHAPTER 6

### CLIENT TRUST ACCOUNTS, NOTARIZED STATEMENTS, DISCLOSURE OF CONSUMER RIGHTS

**§16-116-33 Client trust accounts.** (a) Each travel agency shall provide evidence of the establishment of the client trust account or accounts, which may be either a checking or savings account, by letter or a verified document from a federally insured financial institution located in Hawaii which states when the account was established, and the account number, or a copy of a blank, void check which bears

the name and address of the financial institution, identifies the account as a client trust account, the name of the travel agency, and the client trust account number.

(b) A travel agency may deposit the agency's own moneys into the client trust account as advance moneys; provided that records regarding the amount of the advance deposit are maintained by the agency. An agency may withdraw the agency's own moneys; provided the date and amount of withdrawal is clearly identified in the agency's records. [Eff 2/3/92; am and comp 1/16/93; comp ] (Auth: HRS §468L-3) (Imp: HRS §468L-5)

**§16-116-33.1 Charter tour client trust account; client trust account out of state.** (a) Every travel agency engaged in the business of a charter tour operator shall establish and maintain a separate charter tour client trust account solely for the purpose of the travel agency's charter tour business. The charter tour client trust account shall be maintained in accordance with section 16-116-33, except as provided for in this section.

(b) A charter tour operator may deposit client trust account funds in a federally insured financial institution located out of the State upon the approval of the director; provided that the charter tour operator:

- (1) Files an application with the director, on a form prescribed by the department, that shall:
  - (A) Identify the out of State financial Institution and its federal and state regulator, as applicable;
  - (B) List publicly available enforcement orders issued by its federal or state regulator against the out of State financial institution, if any;
  - (C) Name the third-party vendor the out of State financial institution employs in

its management of the client trust account, if any; and

(D) Include executed copies of the Public Charter Depository Agreement, Certification of the Public Charter Operator, Direct Air Carrier, and Escrow Bank, and other records required to operate as a public charter under title 14 Code of Federal Regulations part 380, as amended.

(2) Submits with its application, statements from each of the three largest federally insured financial institutions in the state (as measured by total assets), that each financial institution, as of the date of the statement and under then-current circumstances cannot, is incapable of, or otherwise declines to manage a charter tour trust account for a charter tour operator licensed to operate as a public charter under title 14 Code of Federal Regulations part 380, as amended; provided that a notarized statement from the charter tour operator stating that one or more of the banks did not respond in writing with the required information within thirty days of a request for a statement required by this subsection shall conclusively satisfy the requirement of this subsection for the applicable bank(s); and

(3) Agrees, in writing, to produce to the department and the department may access, receive, and use for official investigative purposes, and use any books, accounts, records, files, documents, or information relating to the client trust account.

(c) A charter tour operator who has applied for and obtained approval from the director to deposit sums in a trust account maintained in a federally insured financial institution outside the State shall:

(1) Maintain records of the out of State financial institution relating to the

- charter tour trust account at the charter  
tour operator's place of business in the  
State, including copies of records required  
to be filed in compliance with title 14 Code  
of Federal Regulations part 380, as amended;
- (2) File a quarterly report, as required by  
section 468L-26, HRS, prepared by an  
independent certified public accountant  
licensed pursuant to chapter 466, HRS,  
containing a statement affirming that all  
funds have been deposited in accordance with  
the charter tour operator's Public Charter  
Depositor Agreement on file with the  
department;
- (3) Bear any reasonable expense to reproduce any  
records requested by the department to  
determine compliance with this chapter;
- (4) Bear any reasonable expense associated with  
any enforcement action taken on behalf of  
the department to protect consumers or  
otherwise ensure compliance with this  
chapter;
- (5) Bear any additional reasonable amounts for  
travel, per diem, mileage, and other  
reasonable expenses incurred in connection  
with an audit, payable to the department;  
and
- (6) Comply with the requirements of this  
administrative rule or order of the director  
promulgated under the authority of this  
chapter. [Eff and comp  
(Auth: HRS §§468L-3, 468L-21) (Imp:  
§468L-23)

**§16-116-34 Notarized statement.** (a) Each agency shall provide, by way of notarized verification by the principal owner or a responsible person of the travel agency, the following information on a form provided by the director:

- (1) The date the account was established, account number, name and address of the federally insured financial institution located in Hawaii;
- (2) That sums received from consumers for travel services have been deposited, or charged to the appropriate payment processing or card issuing company, by the agency within five business days of receipt or charge, as the case may be;
- (3) That withdrawals made were:
  - (A) For partial or full payment for travel services to the entity or an authorized representative of the entity directly providing the travel services;
  - (B) For partial or full payment to another registered travel agency who in turn will be paying the travel services provider from the travel agency's account;
  - (C) To provide refunds to consumers;
  - (D) To withdraw advance deposits made by the agency;
  - (E) To withdraw the amount of the sales commissions, up to a maximum of fifteen per cent;
  - (F) To withdraw any interest earned and credited to the trust account; or
  - (G) Subsequent to providing all travel services, tickets, or other documentation binding upon the ultimate provider to the consumer; ~~and~~
- (4) That the account has not been closed~~[.]~~; and
- (5) All notarized statements shall have been prepared within three months of the due date to the director.

(b) A travel agency shall make available for inspection and audit the agency's books and records, including books and records of any branch office within three business days of a written request by the director or the director's authorized delegate. [Eff 2/3/92; am and comp 1/16/93;am and

comp ] (Auth: HRS §468L-3) (Imp:  
HRS §§468L-3, 468L-5)

**§16-116-35 Disclosure of consumer rights.** (a)

Every travel agency shall provide to a consumer a written disclosure of the consumer's rights under section 468L-7, HRS, no later than at the time the travel agency issues tickets, vouchers, or documents for travel services to the consumer.

(b) In the case of repeat customers or business accounts, the disclosure need only be given once, provided the travel agency is assured that the customer or business is aware of the provisions under section 468L-7, HRS.

(c) In the case of group travel, the agency need not provide a form to each group member, but shall be required to provide a form to the group leader; provided the agency is assured that the group leader will accept responsibility to inform members of the group of the provisions under section 468L-7, HRS.

(d) A travel agency shall obtain approval from the director or the director's authorized delegate prior to using the consumer's rights form developed by the agency. Approval may be withheld if the form:

- (1) Does not contain all provisions under section 468L-7, HRS;
- (2) Is less than 8-point [~~helvetica~~] Helvetica size print; or
- (3) Fails to make necessary disclosures in a clear manner. [Eff 2/3/92; am and comp 1/16/93;am and comp ] (Auth: HRS §468L-3) (Imp: HRS §468L-7)

SUBCHAPTER 7

GROUND FOR DENIAL, REVOCATION, SUSPENSION, REFUSAL TO  
RENEW OR RESTORE, OR TO CONDITION REGISTRATION

**§16-116-39 Grounds for denial, revocation, suspension, refusal to renew or restore, or to condition registration.** In addition to any other acts or conditions provided by law, the director may deny, revoke, suspend, refuse to renew or restore, or condition in any manner, any registration for any one or more of the following acts or conditions:

- (1) Failure to meet or maintain the conditions and requirements necessary to qualify for the granting of registration;
- (2) Failure to establish or maintain a client trust account in accordance with section 468L-5, HRS, and subchapter 6;
- (3) Failure to notify the director of any change in the travel agency's client trust account number or location within three business days of the change;
- (4) Failure to allow the inspection or audit of books and records in accordance with section 468L-3(6), HRS, and section 16-116-34;
- (5) Failure to notify the director of any change of information, documentation, or mailing address in accordance with section 16-116-13;
- (6) Violating any condition or limitation upon which the conditional registration was issued;
- (7) Violating this chapter, the applicable licensing laws, or any rule or order of the director; or
- (8) Failure to comply with the deposit and withdrawal provisions of chapter 468L-5, HRS, and this chapter [~~;~~ ~~or~~
- ~~(9) Having a travel agency license issued under chapter 468K, HRS, terminated upon the issuance of a court order authorizing payment from the travel agency recovery fund.].~~ [Eff 2/3/92; am and comp 1/16/93; am and comp ] (Auth: HRS

§468L-3) (Imp: HRS §§436B-19, 468K-5,  
468L-3, 468L-5)

## SUBCHAPTER 8

### FEES

**§16-116-44 Fees established.** (a) ~~[The fees for applications, registration, renewal, restoration, and compliance resolution shall be as follows:]~~

- ~~(1) Application fee \$20~~
- ~~(2) Registration fee \$40~~
- ~~(3) Biennial renewal fee \$20~~
- ~~(4) Restoration fee for failure to renew shall be the renewal fee, plus \$20~~
- ~~(5) Compliance resolution fund~~
  - ~~(A) Compliance resolution fund fee \$25~~
  - ~~(B) Annual compliance resolution fund fee \$25~~
  - ~~(C) Biennial compliance resolution fund fee \$50]~~

Every application for a travel agency or charter tour operator registration, renewal of a registration, or restoration of a registration shall be accompanied by the appropriate fees as provided in chapter 16-53.

~~[(b) The fees shall be as provided above, until fees are adopted by the director in chapter 16-53, after hearing, pursuant to chapter 91, HRS.]~~

~~(c)]~~ (b) The application fees shall be non-refundable. [Eff 2/3/92; comp 1/16/93; am and comp ] (Auth: HRS §468L-3) (Imp: HRS §§26-9, 468L-3)

**§16-116-45 Form of fee.** The fees, if in the form of money order or check, shall be made payable to the department of commerce and consumer affairs. [Eff

2/3/92; comp 1/16/93; comp ] (Auth:  
HRS §468L-3) (Imp: HRS §468L-3)

**§16-116-46 Dishonored checks considered failure to meet requirements.** The dishonoring of any check upon first presentment shall be considered a failure to meet the requirements herein. [Eff 2/3/92; comp 1/16/93; comp ] (Auth: HRS §468L-3) (Imp: HRS §468L-3)

~~[SUBCHAPTER 9~~

~~RECOVERY FUND~~

~~**§16-116-51 Recovery fund claims.** Claims for payment from the travel agency recovery fund shall be limited to claims arising from travel services purchased prior to October 1, 1991, provided that no claim may be paid based upon a lawsuit commenced on or after October 1, 1993; and provided further that a claim shall be paid only if made against an eligible travel agency duly registered during the time period in question. An eligible travel agency is an agency or a travel sales representative that previously, under section 468K-3, HRS, contributed to the recovery fund.]~~ [Eff 2/3/92; comp 1/16/93; R ]  
(Auth: HRS §468L-3) (Imp: HRS §§468K-3, 468K-5, 468L-3)

SUBCHAPTER 10

CIVIL PROCEEDING

**§16-116-55 Civil proceeding.** A consumer who may have a claim against a travel agency may elect to sue to recover damages which may result in recovery of three times the actual damages or \$1,000 whichever is greater. ~~[The consumer, if successful in obtaining a judgment, who elects to recover from the recovery fund as outlined in section 16-116-51, shall be limited to the amount provided for under section 468K-3, HRS.]~~  
[Eff 2/3/92; comp 1/16/93; am and comp  
] (Auth: HRS §468L-3) (Imp: HRS  
§§468K-3, 468K-5, 468L-8, 468L-10, 468L-11)

## SUBCHAPTER 11

### ADMINISTRATIVE PROCEDURES

**§16-116-60 Administrative practice and procedure.** The rules of practice and procedure for travel agencies shall be as provided in chapter 16-201, the rules of practice and procedure of the department as adopted and as may subsequently be amended, which are incorporated by reference and made part of this chapter." [Eff 2/3/92; comp 1/16/93; am and comp  
] (Auth: HRS §468L-3) (Imp: HRS §468L-3)

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

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

4. These amendments to and compilation of chapter 16-116, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing 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 M DD, YYYY, and filed with the Office of the Lieutenant Governor.

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Catherine P. Awakuni Colón  
Director of Commerce and  
Consumer Affairs

APPROVED AS TO FORM:

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Deputy Attorney General

### **III. New Business** – Before Public Hearing

#### **B. Discussion and Action on Proposed Amendments to HAR Title 16 Chapter 115, Professional Engineers, Architects, Surveyors, and Landscape Architects, promulgated by DCCA**

PRE-PUBLIC HEARING SMALL BUSINESS IMPACT STATEMENT  
TO THE  
SMALL BUSINESS REGULATORY REVIEW BOARD  
(Hawaii Revised Statutes §201M-2)

Date: 11/18/2021

Department or Agency: DCCA - Professional and Vocational Licensing Division

Administrative Rule Title and Chapter: Title 16 Chapter 115

Chapter Name: Professional Engineers, Architects, Surveyors, and Landscape Architects

Contact Person/Title: Sandra Matsushima

E-mail: smatsush@dcca.hawaii.gov Phone: (808) 586-2702

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?

☐ Yes ☒ No

If "Yes," provide details: \_\_\_\_\_

I. Rule Description:

☐ New ☐ Repeal ☒ Amendment ☐ Compilation

II. Will the proposed rule(s) affect small business?

☐ Yes ☒ No

(If "No," no need to submit this form.)

\* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

\* "Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?

☐ Yes ☒ No

(If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))

☐ Yes ☒ No

(If "Yes" no need to submit this form.)

\*

\*

\*

**If the proposed rule affects small business and are not exempt as noted above, please provide a reasonable determination of the following:**

1. Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected.

We do not anticipate any adverse effects.

2. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.

No additional direct or indirect costs are anticipated.

If the proposed rule imposes a new or increased fee or fine:

- a. Amount of the current fee or fine and the last time it was increased.
- b. Amount of the proposed fee or fine and the percentage increase.
- c. Reason for the new or increased fee or fine.
- d. Criteria or methodology used to determine the amount of the fee or fine (i.e., Consumer Price Index, Inflation rate, etc.).

3. The probable monetary costs and benefits to the agency or other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used.

Monetary benefits to the department are not anticipated.

4. The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or other mitigating techniques.

Through the forum of public Board meetings at which the proposed rule amendments were discussed, the availability and distribution of minutes covering those open meetings, and the availability of the proposed rules throughout the process we hope to address any concerns.

5. The availability and practicability of less restrictive alternatives that could be implemented in lieu of the proposed rules.

Currently there are no alternatives to the prospective rules changes.

6. Consideration of creative, innovative, or flexible methods of compliance for small businesses. The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules.

No direct costs or affects are expected for small businesses.

7. How the agency involved small business in the development of the proposed rules.

In addition to the public Board meetings and availability of minutes of those meetings, the public hearing will afford all interested parties the opportunity to comment on the proposed rules.

- a. If there were any recommendations made by small business, were the recommendations incorporated into the proposed rule? If yes, explain. If no, why not.

8. Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

There are no mandated federal, state, or county standards applicable to this area.

If yes, please provide information comparing the costs and benefits of the proposed rules to the costs and benefits of the comparable federal, state, or county law, including the following:

- a. Description of the public purposes to be served by the proposed rule.
- b. The text of the related federal, state, or county law, including information about the purposes and applicability of the law.
- c. A comparison between the proposed rule and the related federal, state, or county law, including a comparison of their purposes, application, and administration.
- d. A comparison of the monetary costs and benefits of the proposed rule with the costs and benefits of imposing or deferring to the related federal, state, or county law, as well as a description of the manner in which any additional fees from the proposed rule will be used.
- e. A comparison of the adverse effects on small business imposed by the proposed rule with the adverse effects of the related federal, state, or county law.

\* \* \*

Small Business Regulatory Review Board / DBEDT  
Phone: (808) 586-2594 / Email: [DBEDT.sbrrb.info@hawaii.gov](mailto:DBEDT.sbrrb.info@hawaii.gov)

This Statement may be found on the SBRRB Website at: <http://dbedt.hawaii.gov/sbrrb/resources/small-business-impact-statements>



**RECEIVED**

By SBRRB at 11:39 am, Nov 22, 2021

DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LIEUTENANT GOVERNOR

**STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**  
335 MERCHANT STREET, ROOM 310  
P.O. BOX 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

November 18, 2021

**MEMORANDUM**

**TO:** Chairperson Robert Cundiff  
Small Business Regulatory Review Board  
Department of Business, Economic Development & Tourism

**FROM:** Catherine P. Awakuni Colon, Director  
Department of Commerce and Consumer Affairs

**SUBJECT:** Small Business Impact Review of the Proposed Amendments to Chapter 115, Title 16, Hawaii Administrative Rules, Relating to the Professional Engineers, Architects, Surveyors, and Landscape Architects.

Attached for your review is the proposal to amend Title 16, Chapter 115, Hawaii Administrative Rules ("HAR"), the rules of the Professional Engineers, Architects, Surveyors, and Landscape Architects.

I. Proposed Rules

The Professional Engineers, Architects, Surveyors, and Landscape Architects Board ("Board") proposes the following amendments to Hawaii Administrative Rules ("HAR") Chapter 16-115. The reasons for the changes are as follows:

REFERENCES TO HAWAII REVISED STATUTES CHAPTER 464

References to Hawaii Revised Statutes Chapter 464. These amendments are to clarify and implement chapter 464, Hawaii Revised Statutes ("HRS") to the end that the provisions thereunder may be best effectuated, and the public interest most effectively served.

SUBCHAPTER 1  
GENERAL PROVISIONS

Section 16-115-2 Definitions. This amendment proposes to add the definitions of two new branches of engineering, environmental engineer and fire protection engineer, for a professional engineer license. Since licensure in Hawaii is by discipline, currently the Board licenses professional engineers only in the following branches of engineering: agriculture;

chemical; civil; electrical; industrial; mechanical; and structural. The additional two branches will be added to the list of engineering branches acceptable for licensure.

The environmental engineer applies soil science, biology, and chemistry to develop solutions to all environmental issues and works to improve recycling, waste disposal, public health, and water and air pollution control. Hawaii being an island State, the environmental engineer licensee will be a valuable asset to assist with sustainable plans for our island's future.

The fire protection engineer applies science and technology to make our world safer from fire. They design systems to protect the environment, property, and most importantly, people from the dangers of fire. Currently, an engineer would need to be "duo-licensed", as an electrical engineer and a mechanical engineer, to design a fire safety protection system. The addition of the fire protection engineer license in Hawaii would allow one licensed engineer to efficiently design a complete fire safety protection system.

Section 16-115-8 Seal or stamp.

This section is being amended to incorporate the newly created environmental and fire protection branches of engineering.

## SUBCHAPTER 2 PROFESSIONAL ENGINEERS

Section 16-115-21 Branches of engineering. This amendment proposes to add subsection (5) to include the environmental engineer and subsection (6) the fire protection engineer as new branches of engineering.

Section 16-115-40 Licensure of environmental engineers. This new section is being added to address the qualifications and licensure requirements for environmental engineers. This definition shall not prevent licensed civil engineers from performing the work of environmental engineers within their respective scope of practice.

The inclusion for licensure of environmental engineers in Hawaii is beneficial by having professional engineers who conduct research in all areas of air, water, waste, and environmental health and safety assessments to minimize the effects of acid rain, global warming, automobile emissions, and ozone depletion. Environmental engineers also practice in areas such as hazard-waste management, evaluating the significance of the hazard and advise on treating and containment.

In addition, environmental engineers would also provide support services in attaining the goals in Governor Ige's Sustainable Hawaii Initiative plan, as environmental engineers work closely with scientists, planners, hazardous waste technicians, and other engineers, professionals and specialists to address environmental problems and sustainability.

Section 16-115-40.5 Licensure of fire protection engineers. The addition of this new section addresses the qualifications and licensure requirements for fire protection engineers. This definition shall not prevent licensed civil, electrical, or mechanical engineers and architects from performing the work of fire protection engineers within their respective scopes of practice.

The inclusion for licensure of fire protection engineers in Hawaii is beneficial by having professional engineers who design complete fire safety systems for installation in residential homes up to large-scale high rise buildings. The fire protection engineer would also provide

support services to the fire departments and the City and County Council discussions on ordinances, the fire code, building codes, and other discussions related to the design of fire alarm and extinguishing systems.

Each year, the fire codes and standards are expanding and changing to include new technology and updated information from testing and hazardous events. The data from actual fires have caused changes in the code in order to better protect the public. These fire codes and standards are increasingly more complex and the profession has become more specialized, making a Fire Protection Engineering classification more relevant.

In addition, the inclusion of the Fire Protection license will bring Hawaii in line with the rest of the United States and its territories. We are currently the only state that does not have a Fire Protection license classification.

### SUBCHAPTER 3 ARCHITECTS

In accordance with §464-9 (d) Hawaii Revised Statutes (“HRS”) licensed architects are required to complete continuing education (“CE”) to renew a license. This section also provides that all CE courses shall be relevant to public protection subjects and shall be approved by the board as provided for in the board’s rules. The board has not promulgated any rules to clarify the CE requirements as set forth in §464-9 (d), HRS. This rule amendment proposes to add new sections for clarification of the CE requirements for licensed architects.

Section 16-115-60 Continuing education. This section is added to specify the continuing education (“CE”) requirements for all architects as of the biennial renewal date. This measure clarifies the period of time in which each licensee shall have completed the CE program requirements for two years preceding the biennial renewal date.

Section 16-115-60.5 Requirements for approval by the board. The addition of this section provides clarification and defines the requirements of public protection course subjects as it relates to the health, safety, and welfare (“HSW”) of the public.

Licensed architects in professional practice have a positive duty to protect the public in their practice and designs. The CE courses need to address knowledge intended to protect the public and the built environment. The CE subject areas necessary for the proper evaluation, design, construction, and utilization of buildings are considered HSW subjects. In accordance with §464-9(d), only public protection subjects are acceptable CE hours.

Section 16-115-61 Certificate of compliance and audit. This section is being added to ensure that architect licensees who certify on the renewal application, attest that the licensee has complied with all requirements as set forth in this chapter. In addition, this includes measures to conduct a random CE audit and request for evidence demonstrating compliance with the CE requirements, and includes a retention period of CE documents for four years following the renewal period.

Section 16-115-62 Waiver or modification of requirements. The addition of this section clarifies the language for a licensee seeking renewal of an architect license without full compliance of the CE requirements. Licensees may request for a modification or waiver by submitting a written request with an explanation on why the waiver or modification is being sought based upon three categories (full time active duty of the armed forces; undue hardship

by reason of a medical illness; or retired from practice). This section also contains language that reinstates the CE requirements prior to returning to active practice.

II. Small Business Impact Statement pursuant to section 201M-2, HRS:

1. The businesses that will be directly affected by, bear the cost of, or directly benefit from the proposed rules?

We do not anticipate any adverse effects on businesses or any additional direct costs for businesses to bear.

2. Description of the small business that will be required to comply with the proposed rules and how they may be adversely affected?

We do not anticipate any adverse affects.

3. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance?

No additional direct or indirect costs are anticipated.

4. The probable monetary costs and benefits to the implementing agency and other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used?

Monetary benefits to the department are not anticipated.

5. The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or any other mitigating techniques?

Through the forum of public Board meetings at which the proposed rule amendments were discussed, the availability and distribution of minutes covering those open meetings, the availability and distribution of the proposed rules throughout the process we hope to address any concerns.

6. How the agency involved small business in the development of the proposed rules?

In addition to the public Board meetings and availability of minutes of those meetings, the public hearing will afford all interested persons the opportunity to comment on the proposed rules.

7. Whether the proposed rules include provisions that are more stringent than those mandated by any comparable related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

There are no mandated federal, state, or county standards applicable to this area.

III. Other Alternatives in Lieu of Proposed Rules:

There appears to be no other way to implement and clarify the statutory requirements.

The proposed rules have been reviewed by the Legislative Reference Bureau and the Department of the Attorney General.

The department submits these proposed rules and the Small Business Impact Statement contained herein, for consideration by the Small Business Regulatory Review Board.

If you have any questions, please contact Sandra Matsushima, Executive Officer, at (808) 586-2702 or email address [smatsush@dcca.hawaii.gov](mailto:smatsush@dcca.hawaii.gov).

Very truly yours,



CATHERINE AWAKUNI-COLÓN  
Director

Attachment

cc: Sandra Matsushima, Executive Officer

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-115  
Hawaii Administrative Rules

M DD, YYYY

1. Chapter 16-115, Hawaii Administrative Rules, entitled "Professional Engineers, Architects, Surveyors, and Landscape Architects", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 115

PROFESSIONAL ENGINEERS, ARCHITECTS, SURVEYORS, AND  
LANDSCAPE ARCHITECTS

Subchapter 1 General Provisions

- §16-115-1 Objective
- §16-115-2 Definitions
- §16-115-3 Notification and filing of names, addresses, and changes
- §16-115-4 Business entities
- §16-115-5 Display of certificate
- §16-115-6 Lost, destroyed, or mutilated certificate of licensure
- §16-115-7 Biennial renewal
- §16-115-8 Seal or stamp

- §16-115-9 Authentication: preparation or supervision of design and observation of construction
- §16-115-10 Misconduct in the practice
- §16-115-11 Oral testimony
- §16-115-12 Denial
- §16-115-13 Demand for hearing
- §16-115-14 Proceedings upon demand for hearing
- §16-115-15 Administrative practice and procedure

## Subchapter 2 Professional Engineers

- §16-115-21 Branches of engineering
- §16-115-22 Forms and instructions
- §16-115-24 Licensure by endorsement
- §16-115-26 Licensure by examination
- §16-115-27 Examination requirements for licensure
- §16-115-29 Passing score
- §16-115-31 Examination-fundamentals of engineering: qualifications, application, fees, required documents
- §16-115-33 Examination-professional engineering: qualifications, application, fees, required documents
- §16-115-35 Examination-professional engineering (additional branch): qualifications, application, fees, required documents
- §16-115-37 Re-examination
- §16-115-39 Lawful experience
- §16-115-40 Licensure of environmental engineers
- §16-115-40.5 Licensure of fire protection engineers

## Subchapter 3 Architects

- §16-115-45 Forms and instructions
- §16-115-47 Licensure by endorsement
- §16-115-49 Licensure by examination
- §16-115-50 Examination requirements for licensure
- §16-115-52 Passing score

§16-115-54	Examination: qualifications, application, fees, documents required
§16-115-56	Re-examination
§16-115-58	Lawful experience
§16-115-59	Intern development program
§16-115-60	<u>Continuing education</u>
§16-115-60.5	<u>Requirements for approval by the board</u>
§16-115-61	<u>Certification of compliance and audit</u>
§16-115-62	<u>Waiver or modification of requirements</u>

#### Subchapter 4 Land Surveyors

§16-115-64	Forms and instructions
§16-115-66	Licensure by endorsement
§16-115-68	Licensure by examination
§16-115-69	Examination requirements for licensure
§16-115-71	Passing score
§16-115-73	Examination-fundamentals of land surveying: qualifications, application, fees, required documents
§16-115-75	Examination-professional land surveying: qualifications, application, fees, required documents
§16-115-77	Re-examination
§16-115-79	Lawful experience

#### Subchapter 5 Landscape Architects

§16-115-85	Forms and instructions
§16-115-87	Licensure by endorsement
§16-115-89	Licensure by examination
§16-115-90	Examination requirements for licensure
§16-115-92	Passing score
§16-115-94	Examination: qualifications, application, fees, documents required
§16-115-96	Re-examination
§16-115-98	Lawful experience

Historical note: Chapter 16-115, Professional Engineers, Architects, Surveyors, and Landscape

Architects, is based substantially upon chapter 16-82 of the rules of the Professional Engineers, Architects, Surveyors, and Landscape Architects. [Eff 4/18/80; am and ren 2/13/81; am and comp 10/16/82; am and comp 11/22/86; am 2/26/88; R 8/29/94]

## SUBCHAPTER 1

### GENERAL PROVISIONS

**§16-115-1 Objective.** This chapter is intended to clarify and implement chapter 464, Hawaii Revised Statutes, to the end that the provisions thereunder may be best effectuated, and the public interest most effectively served. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; am and comp ] (Auth: HRS §464-7) (Imp: HRS §464-7)

**§16-115-2 Definitions.** As used in this chapter: "Agricultural engineering" means that branch of professional engineering involving the design, construction, and use of specialized equipment, machines, structures, and materials relating to the agricultural industry and economy. It requires knowledge of the engineering sciences relating to physical properties and biological variables of foods and fibers; atmospheric phenomena as they are related to agricultural operations; soil dynamics as related to traction, tillage and plant-soil-water relationships; and human factors relative to safe design and use of agricultural machines. The safe and proper application and use of agricultural chemicals and their effect on the environment are also concerns of the agricultural engineers.

"Architect committee" means members of the board who are professional architects.

"Branch examination" means a professional engineering examination which covers subjects within only one branch of professional engineering. The branches of engineering examined in are agricultural, chemical, civil, electrical, industrial, mechanical, and structural.

"Chemical engineering" means that branch of professional engineering which embraces studies or activities relating to the development and application of processes in which chemical or physical changes of materials are involved. These processes are usually resolved into a coordinated series of unit physical operations and unit chemical processes. It is concerned with the research, design, production, operational, organizational, and economic aspects of the above.

"Civil engineering" means that branch of professional engineering which embraces studies or activities in connection with fixed works for matters such as irrigation, drainage, waterpower, water supply, flood control, inland waterways, harbors (not including piers), municipal improvements, railroads, highways, traffic, non-structurally supported tunnels, airfields and airways, purification of water, geotechnical activities, and sewerage and refuse disposal.

"CLARB" means Council of Landscape Architectural Registration Boards.

"Consultation" means meetings, discussions, written or verbal messages, reports, etc., involving scientific, aesthetic or technical information, facts, or advice for purposes of planning, designing, deciding, or locating construction or alteration of structures, buildings, works, machines, processes, land areas, or projects.

"Design" means any procedure which conveys the plan, location, arrangement, intent, purpose, appearance, and nature of construction or alteration of existing or proposed buildings, structures, works, machines, processes, land areas, or projects.

"Direct control" or "directly in charge of the professional work" means personal preparation, or direct supervision of the preparation and personal review, of all instruments of professional service.

"Electrical engineering" means that branch of professional engineering which embraces studies or activities relating to the generation, transmission, and utilization of electrical energy, including the design of electrical, electronic, and magnetic circuits and the technical control of their operation and of the design of electrical gear. It is concerned with research, organizational, and the economic aspects of the above.

"Engineer committee" means members of the board who are professional engineers.

"Environmental engineering" means that branch of engineering which embraces studies of activities relating to wastewater, storm water, potable water, and water resources; air quality systems and pollution control; municipal and industrial solid waste, hazardous waste, medical, radioactive and other waste; site assessment and remediation; and environmental health and safety assessment. Except as otherwise provided above, this definition shall not be construed to permit an environmental engineer to practice any other branch of professional engineering. This definition shall also not be construed to prevent civil engineers from performing the above work within their respective scope of practice, as provided in this chapter and chapter 464, HRS.

"Experience in responsible charge" means direct control or personal supervision of engineering, architecture, landscape architecture, or land surveying work.

"Evaluation" means careful search, examination, or inquiry to reveal, determine, or estimate the value, worth, merit, effect, efficiency, or practicability of planning, design, location, construction, or alteration of existing or proposed structures, buildings, works, processes, land areas, or projects.

"Fire protection engineering" means that branch of engineering which involves the safeguarding of life and property from fire and fire-related hazards; the identification, evaluation, correction, or prevention of present or potential fire and fire-related hazards in buildings, groups of buildings, or communities; and the arrangement and use of fire-resistant building materials and design of fire detection suppression and communication systems, devices, and apparatuses in order to protect life and property. Except as otherwise provided above, this definition shall not be construed to permit a fire protection engineer to practice any other branch of professional engineering. This definition shall also not be construed to prevent licensed civil, electrical, or mechanical engineers and architects from performing the above work within their respective scopes of practice, as provided in this chapter and chapter 464, HRS.

"Full-time" means forty hours or more per week.

"Geotechnical activities" means the investigation and engineering evaluation of earth materials including soil, rock, groundwater and man-made materials and their interaction with earth retention systems, structural foundations, and other civil engineering works. The activities involve application of the principles of soil mechanics and the earth sciences, and requires a knowledge of engineering laws, formulas, construction techniques, and performance evaluation of civil engineering works influenced by earth materials.

"IDP" means the intern development program of NCARB or other similar program satisfactory to the board.

"Industrial engineering" means that branch of professional engineering involving the investigation, design, and evaluation of systems of persons, materials, and facilities for the purpose of economical and efficient production, use, and distribution. It requires the application of specialized engineering knowledge of the mathematical and physical sciences, together with the principles and methods of engineering analysis and design to

specify, predict, and evaluate the results to be obtained from such systems.

"Institution of higher education approved by the board" means an institution approved by the board that offers curricula leading to a master's degree in engineering, architecture, or landscape architecture.

"Investigation" means careful search, examination, inquiry, or study to reveal or determine scientific, aesthetic, technical information, or facts for the planning, design, location, construction, or alteration of existing or proposed structures, buildings, works, machines, processes, land areas, or projects.

"Land surveyor committee" means members of the board who are professional land surveyors.

"Landscape architect committee" means members of the board who are professional landscape architects.

"Lawful experience" means that type of experience listed in sections 16-115-39, 16-115-58, 16-115-79 and 16-115-98.

"Mechanical engineering" means that branch of professional engineering, which deals with engineering problems relating to generation, transmission, and utilization of energy in the thermal or mechanical form and also with engineering problems including but not limited to the production of tools, machinery, and their products and to heating, ventilation, refrigeration, and plumbing. It is concerned with the research, design, production, operational, organizational, and economic aspects of the above.

"NCARB" means National Council of Architectural Registration Boards.

"NCEES" means National Council of Examiners for Engineering and Surveying.

"Observation of construction" means making and documenting visits to the site by a licensed engineer, architect, landscape architect, or qualified representatives working under the supervision of a licensed engineer, architect, or landscape architect, as the case may require, to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with

the contract documents. It is not required that they make exhaustive or continuous on-site observations to check the quality or quantity of work nor is it intended that the engineer, architect, or landscape architect be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work.

"Part-time" means less than forty hours per week.

"Planning" means careful search, examination, inquiry, study, and the formulation or execution of a statement, outline, draft, map, drawing, diagram, or picture showing arrangement, scheme, schedule, program, or procedure for locating, building, or altering existing or proposed buildings, structures, works, machines, processes, land areas, or projects.

"Prepared by" means that a licensed engineer, architect, surveyor, or landscape architect, as the case may be, personally drafts, draws, or designs the plans, specifications, and other related documents.

"Public officials" means and includes without limitation all federal, state, and county agencies that issue permits.

"School or college approved by the board" means an institution approved by the board and offering curricula leading to degrees in engineering, architecture, geo-science, or landscape architecture accredited by the Accreditation Board for Engineering and Technology, the National Architectural Accreditation Board, Inc., the Landscape Architectural Accreditation Board, or as approved by the board.

"Specifications" means the specifying of material, equipment, projects, or methods to be used in the construction or alteration of buildings, structures, works, machines, processes, land areas, or projects.

"State-produced licensing examination" means and includes a licensing examination administered by states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, as approved by the board.

"Structural engineering" means that branch of professional engineering which deals with the investigation of, the design of, the selection of, and construction observation of the force-resisting and load-supporting members of structures such as foundations, walls, columns, slabs, beams, girders, trusses, and similar members where such investigation, design, selection, and supervision requires a knowledge of engineering laws, formulae, practice, and knowledge of the methods used in their erection.

"Supervise", "supervision", "supervision of design", or "under the supervision of" means that a licensed engineer, architect, surveyor, or landscape architect, as the case may be, shall:

- (1) Exercise direct control and oversee the subject activity through physical presence or through the use of communication devices; provided the licensee has both direct control and detailed professional knowledge of the work being supervised; or
- (2) Substantially redraft, redraw, redesign, or recalculate the plans, specifications, and other related documents;

and be responsible for all work within the licensee's discipline performed on plans, specifications, and other related documents.

"Written examination" means paper-pencil or computer-assisted examination. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8, 464-11)

**§16-115-3 Notification and filing of names, addresses, and changes.** A licensee shall file the licensee's mailing address and name with the board and shall immediately notify the board in writing within thirty days of any and all changes of address or name. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp

] (Auth: HRS §464-7) (Imp: HRS  
§§464-7, 464-9)

**§16-115-4 Business entities.** Pursuant to chapters 428 and 464, HRS, a corporation, partnership, or limited liability company may engage in the practice of professional engineering, architecture, land surveying, or landscape architecture in the State provided the person or persons connected with the business entity directly in charge of the professional work is or are duly licensed under chapter 464, HRS. The person or persons in direct charge shall be full-time employee(s), principal(s), officer(s), partner(s), member(s), or manager(s) of the business entity, and shall have been delegated the legal authority to bind the business entity in all matters relating to the professional work. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ]  
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-12)

**§16-115-5 Display of certificate.** Every licensee who, as an individual or as a member of a firm, partnership, corporation, or limited liability company, conducts an office or other place of business for the practice of the licensee's profession, shall display the licensee's certificate together with evidence of current validation in a conspicuous manner, in the licensee's principal office or place of business. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7)  
(Imp: HRS §§464-7, 464-9)

**§16-115-6 Lost, destroyed, or mutilated certificate of licensure.** Upon request accompanied by affidavit showing loss, destruction, or mutilation of a certificate, a licensee shall be furnished a new

certificate. [Eff 8/29/94; comp 10/26/01; comp  
5/23/13; comp ] (Auth: HRS §464-7)  
(Imp: HRS §§464-7, 464-9)

**§16-115-7 Biennial renewal.** Renewal fees paid  
by mail shall be considered as paid when due if the  
envelope bears a postmark of April 30 or earlier.  
[Eff 8/29/94; comp 10/26/01; comp 5/23/13; comp  
] (Auth: HRS §464-7) (Imp: HRS  
§§464-7, 464-9)

**§16-115-8 Seal or stamp.** (a) The licensee  
shall use a seal or stamp that is legible and  
reproducible of the following design:

- (1) Two circles - a smaller one, 1-1/8" in  
diameter, within a larger one, 1-1/2" in  
diameter. The name of the licensee and the  
words "Hawaii, U.S.A." shall be in the outer  
or annular space. The words "Licensed  
Professional Engineer", "Licensed  
Professional Architect", "Licensed  
Professional Land Surveyor", or "Licensed  
Professional Landscape Architect", together  
with the licensee's license number, shall be  
inserted in the center space;
- (2) The engineer shall also insert in the center  
space and after the license number, the  
abbreviation of the engineering branch in  
which the engineer has especially qualified;  
and
- (3) The engineering branch abbreviations shall  
be:
  - (A) "Ag." - Agricultural;
  - (B) "Ch." - Chemical;
  - (C) "C." - Civil;
  - (D) "E." - Electrical;
  - (E) "En." - Environmental;
  - (F) "FP." - Fire Protection;

(4) An example of an acceptable seal or stamp is  
as follows:

(c) All plans, specifications, maps, reports, surveys, and descriptions prepared by or under the supervision of a licensed professional engineer, architect, land surveyor, or landscape architect submitted to public officials for approval shall be stamped with the authorized seal or stamp and authenticated as provided in section 16-115-9. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp \_\_\_\_\_] (Auth: HRS §§464-7, 464-11) (Imp: HRS §§464-7, 464-11)

(a) All plans, specifications, maps, reports, surveys, descriptions, and every sheet in a set of design drawings prepared by or under the supervision of a licensed professional engineer, architect, land surveyor, or landscape architect shall be stamped with the authorized seal or stamp when filed with public officials. Below the seal or stamp, the authentication shall state "This work was prepared by me or under my supervision", be signed by the licensee, and state the expiration date of the license, as follows:

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Signature	Expiration Date of the License
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Provided that where applicable, the form of authentication shall be as determined by the rules of the land court, the statute relating to file plans, or other legal authorities relating to maps, surveys, descriptions, etc.

(b) In addition to the requirements of subsection (a), when applications are made for building or construction permits involving public safety or health, all plans and specifications in connection therewith shall bear the authorized seal or stamp of the duly licensed professional engineer, architect, or landscape architect charged with observation of construction pursuant to sections 464-4 and 464-5, HRS. Below the seal or stamp, the authentication shall state "Construction of this project will be under my observation", be signed by the licensee, and state the expiration date of the license, as follows:

CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY  
OBSERVATION

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Signature	Expiration Date of the License
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(c) Where the licensed professional engineer, architect, or landscape architect has responsibility for design and observation of construction, the authentication shall state "This work was prepared by me or under my supervision and construction of this project will be under my observation", be signed by the licensee, and state the expiration date of the license, as follows:

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION  
AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY  
OBSERVATION

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Signature	Expiration Date of the License
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(d) In the event the licensed professional engineer, architect, or landscape architect whose seal or stamp and signature appear in connection with the statement in subsection (b) or (c) concerning observation of construction has been removed, replaced, or is otherwise unable to discharge the licensee's duties, the licensed professional engineer, architect, or landscape architect shall so notify the appropriate public official(s) in writing within fifteen days. The notification shall include the name, if known, of the licensed professional engineer, architect, or landscape architect charged with continuing the construction observation.

(e) All signatures required under this section shall be original. The use of rubber signature stamps, or computer generated, or other facsimile signatures is prohibited. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp ] (Auth: HRS §§464-7, 464-11) (Imp: HRS §§464-7, 464-11)

**§16-115-10 Misconduct in the practice.**

Misconduct in the practice of the profession of engineering, architecture, land surveying, or landscape architecture means without limitation the following:

- (1) Acting for licensee's client, or employer, in matters otherwise than as a faithful agent or trustee, or accepting any

- remuneration other than the licensee's stated recompense for services rendered;
- (2) To knowingly injure or attempt to injure falsely or maliciously, directly or indirectly, the professional reputation, prospects, or practice of another engineer, architect, land surveyor, or landscape architect;
  - (3) Advertising in a false, misleading, or deceptive manner;
  - (4) "Plan stamping"; i.e. sealing, stamping, or certifying any document which was not prepared by or supervised by the licensee; and
  - (5) Misrepresentation, deceit, fraud, gross negligence, and other offenses relating to misconduct of the licensee's practice. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp                      ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-10, 464-11)

**§16-115-11 Oral testimony.** (a) The board shall accept oral testimony on any item which is on the board's agenda, provided that the testimony shall be subject to the following conditions:

- (1) Each person seeking to present oral testimony is requested to notify the board not later than forty-eight hours prior to the meeting, and at that time, to state the item on which testimony is to be presented;
- (2) The board may request that any person providing oral testimony submit the remarks, or a summary of the remarks, in writing to the board;
- (3) The board may rearrange the items on the agenda for the purpose of providing for the most efficient and convenient presentation of oral testimony;
- (4) Persons presenting oral testimony shall, at the beginning of the testimony, identify

themselves and the organization, if any,  
that they represent;

- (5) The board may limit oral testimony to a specified time period; provided that the period is not less than five minutes, and the person testifying be informed prior to the commencement of the testimony of the time constraints to be imposed; and
- (6) The board may refuse to hear any testimony which is irrelevant, immaterial, or unduly repetitious to the agenda item on which it is presented.

(b) Nothing in this section shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is the subject of another pending proceeding subject to the hearing's relief, declaratory relief, or rule relief provisions of chapter 16-201.

(c) Nothing in this section shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the board on any particular matter on the board's agenda. [Eff 8/29/94; comp 10/26/01; am and comp 5/23/13; comp ]  
(Auth: HRS §464-7) (Imp: HRS §92-3)

**§16-115-12 Denial.** In the event an application for the issuance of a license or for the reinstatement thereof is denied, the board shall notify the applicant by letter of the board's action which shall include a concise statement of the reasons therefor and a statement informing the applicant of the applicant's right to a hearing if the applicant so desires. Where the board has approved an application for licensure subject to the applicant passing an examination, but the applicant fails the examination, notice of failure of the examination shall be deemed sufficient notice under this rule. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; am and comp ]  
(Auth: HRS §464-7) (Imp: HRS §§464-7, 91-2)

**§16-115-13 Demand for hearing.** Any person whose application for a license or whose application for the reinstatement of a license has been denied by the board shall be entitled to a hearing after notice, provided that the demand for a hearing is filed with the board within sixty days of the date of mailing of the letter informing the applicant of the denial of applicant's application. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: §§464-7, 91-2)

**§16-115-14 Proceedings upon demand for hearing.** If a demand for hearing is filed within the time prescribed, the board shall order a hearing upon notice, which shall be conducted pursuant to chapter 91, HRS, and chapter 16 201, Administrative Practice and Procedure. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 91-9)

**§16-115-15 Administrative practice and procedure.** The rules of practice and procedure for engineers, architects, surveyors, and landscape architects shall be as provided in chapter 16-201, the rules of practice and procedure of the department of commerce and consumer affairs, which are incorporated by reference and made a part of this chapter. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 91-2)

## SUBCHAPTER 2

## PROFESSIONAL ENGINEERS

**§16-115-21 Branches of engineering.** A person may qualify for licensure in the following branches of engineering:

- (1) Agricultural;
- (2) Chemical;
- (3) Civil;
- (4) Electrical;
- (5) Environmental;
- (6) Fire Protection;
- ~~{(5)}~~ (7) Industrial;
- ~~{(6)}~~ (8) Mechanical; or
- ~~{(7)}~~ (9) Structural. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; am and comp ] (Auth: HRS §464-7) (Imp: HRS §§464-1, 464-7)

**§16-115-22 Forms and instructions.** To apply for licensure, a person shall complete and file with the board the appropriate application forms. The following forms are currently in use by the board:

- (1) Application for Licensure Engineer;
- (2) Additional Experience Form;
- (3) Verification of Lawful Experience; and
- (4) Verification or Experience in Responsible Charge.

The aforementioned forms may be modified from time to time as required. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

**§16-115-24 Licensure by endorsement.** (a) The engineer committee shall review a person's qualifications for licensure by endorsement and make recommendations to the board.

(b) To be eligible for licensure by endorsement, a person shall hold a current license from another jurisdiction, currently possess the appropriate education and lawful experience requirements provided in section 464-8(a)(2) to (6), HRS, and sections 16-115-33(a) and 16-115-39, and shall:

- (1) Have successfully passed the NCEES fundamentals of engineering examination or a similar state-produced licensing examination; provided that this examination requirement may be waived if the person has at least fifteen years of experience in responsible charge of the appropriate branch of engineering work as approved by the board; and
- (2) Have successfully passed the NCEES professional engineering branch or combined examination, or the board-produced structural engineering examination, or a similar state-produced licensing examination.

(c) Every person shall certify on the application that the person has read, understood, and agreed to comply with the laws and rules of the board.

(d) A person applying for licensure by endorsement shall file an Application for Licensure-Engineer. The application shall be accompanied by the application fee, which shall not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school or college approved by the board; provided that if the applicant is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;
- (2) Verification(s) of Lawful Experience completed by supervisors who are licensed professional engineers and in the same

- branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification(s) of Lawful Experience completed by supervisors who are licensed professional civil engineers in that jurisdiction; and
- (3) If applicable, Verification(s) of Experience in Responsible Charge completed by licensed professional engineers who are in the same branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification(s) of Experience in Responsible Charge completed by licensed professional civil engineers in that jurisdiction. If the applicant operated as a sole proprietorship, the applicant shall complete and submit Verification(s) of Experience in Responsible Charge; or
- (4) Appropriate NCEES records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp ]  
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-26 Licensure by examination.** (a) The engineer committee shall review a person's qualifications for licensure by examination and make recommendations to the board.

(b) To be eligible for licensure by examination, the person shall:

- (1) Meet the qualifications as contained in section 464-8(a)(2) to (6), HRS;
- (2) Have passed the appropriate examinations as contained in section 16 115-27; and

- (3) Certify on the application that the person has read, understood, and agrees to comply with the laws and rules of the board. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-27 Examination requirements for licensure.** (a) A person applying for licensure by examination shall be required to pass the following examinations:

- (1) NCEES fundamentals of engineering examination; and
- (2) NCEES professional engineering branch examination.

(b) The board reserves the right to modify or supplement the examinations. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-29 Passing score.** The passing score shall be:

- (1) A grade of not less than seventy for the NCEES fundamentals of engineering and professional engineering branch examinations, or a grade of pass for similar state-produced licensing examinations; and
- (2) For structural engineers, a grade of not less than seventy for Part I and a grade of pass for both portions of Part II of the NCEES structural engineering examination, or a grade of not less than seventy or pass for a state-produced structural engineering licensing examination. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-31 Examination-fundamentals of engineering: qualifications, application, fees, required documents.** (a) To be eligible for the NCEES fundamentals of engineering examination, the person shall:

- (1) Hold a [~~masters~~] master's degree in engineering from an institution of higher education approved by the board;
- (2) Be a graduate of a school or college of engineering approved by the board;
- (3) Be a graduate of a school or college approved by the board, have completed an engineering technology curriculum of four years or more or an arts and science curriculum of four years or more with a math, science, or science-related major and have not less than two years of full-time lawful experience or the part-time equivalent in engineering;
- (4) Be in the last year of an engineering curriculum at a school or college approved by the board with graduation expected not later than seven months from the date of application as confirmed by the dean of the applicant's school or college of engineering. If graduation does not occur within the seven-month period, the application shall be void; or
- (5) Have not less than nine years of full-time lawful experience or part-time equivalent in engineering.

(b) A person applying for the NCEES fundamentals of engineering examination shall file an Application for Licensure-Engineer no later than January 10 for the examination which is regularly conducted once a year in April. The application shall be accompanied by the application fee, which shall not be refunded, the examination fee, which may not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school or college approved by the board; provided that if the applicant is educated in a foreign institution, school or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;
- (2) Verification(s) of Lawful Experience completed by supervisors who are licensed professional engineers and in the same branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification(s) of Lawful Experience completed by supervisors who are licensed professional civil engineers in that jurisdiction; and
- (3) If applicable, Verification(s) of Experience in Responsible Charge completed by licensed professional engineers who are in the same branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification(s) of Experience in Responsible Charge completed by licensed professional civil engineers in that jurisdiction; or
- (4) Appropriate NCEES records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp ]  
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-33 Examination-professional engineering: qualifications, application, fees, required documents.**

(a) To be eligible for the NCEES professional engineering branch examination, the person shall:

- (1) Hold a [~~masters~~] master's degree in engineering from an institution of higher education approved by the board, be a graduate of a school or college approved by the board, have completed an engineering curriculum of four years or more, and have not less than three years of full-time lawful experience or the part-time equivalent in engineering;
- (2) Hold a [~~masters~~] master's degree in engineering from an institution of higher education approved by the board and have not less than four years of full-time lawful experience or the part-time equivalent in engineering;
- (3) Be a graduate of a school or college approved by the board, have completed an engineering curriculum of four years or more, and have not less than four years of full-time lawful experience or the part-time equivalent in engineering;
- (4) Be a graduate of a school or college approved by the board, have completed an engineering technology curriculum of four years or more or an arts and science curriculum of four years or more with a math, science, or science-related major, and have not less than eight years of full-time lawful experience or the part-time equivalent in engineering; or
- (5) Have not less than twelve years of full-time lawful experience or part-time equivalent in engineering.

(b) A person applying for the NCEES professional engineering branch examination in the civil, chemical, electrical or mechanical branch shall file an Application for Licensure-Engineer no later than

January 10 for the examination which is regularly conducted once a year in April.

(c) A person applying for the NCEES professional engineering branch examination in the agricultural, industrial or structural branch shall file an Application for Licensure-Engineer no later than July 10 for the examination which is regularly conducted once a year in October.

(d) The application shall be accompanied by the application fee, which shall not be refunded, the examination fee, which may not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school or college approved by the board; provided that if the applicant is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;
- (2) Verification(s) of Lawful Experience completed by supervisors who are licensed professional engineers and in the same branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification(s) of Lawful Experience completed by supervisors who are licensed professional civil engineers in that jurisdiction; and
- (3) If applicable, Verification(s) of Experience in Responsible Charge completed by licensed professional engineers who are in the same branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification(s) of Experience in Responsible Charge

- completed by licensed professional civil engineers in that jurisdiction; or
- (4) Appropriate NCEES records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp ]  
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-35 Examination-professional engineering (additional branch): qualifications, application, fees, required documents.** (a) To be eligible for the NCEES professional engineering branch examination for the additional branch, the person shall:

- (1) Hold a current professional engineer's license; and
- (2) Meet the educational and experience requirements as contained in section 16-115-33(a).

(b) A person applying for the NCEES professional engineering branch examination in the additional civil, chemical, electrical or mechanical branch shall file an Application for Licensure-Engineer no later than January 10 for the examination which is regularly conducted once a year in April.

(c) A person applying for the NCEES professional engineering branch examination in the additional agricultural, industrial or structural branch shall file an Application for Licensure-Engineer no later than July 10 for the examination which is regularly conducted once a year in October.

(d) The application shall be accompanied by the application fee, which shall not be refunded, the examination fee, which may not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school or college approved by the board; provided that if the applicant is educated in a foreign institution,

school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;

- (2) Verification(s) of Lawful Experience completed by supervisors who are licensed professional engineers and in the same branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification(s) of Lawful Experience completed by supervisors who are licensed professional civil engineers in that jurisdiction; and
- (3) If applicable, Verification(s) of Experience in Responsible Charge completed by licensed professional engineers who are in the same branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification(s) of Experience in Responsible Charge completed by licensed professional civil engineers in that jurisdiction; or
- (4) Appropriate NCEES records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-37 Re-examination.** (a) A person may retake the examination(s) failed.

(b) A person applying to retake the NCEES fundamentals of engineering or the NCEES professional engineering branch examination in the civil, chemical, electrical, or mechanical branch shall file an Application for Reexamination no later than January 10

for the examination which is regularly conducted once a year in April.

(c) A person applying to retake the NCEES professional engineering branch examination in the agricultural, industrial, or structural branch shall file an Application for Re-examination no later than July 10 for the examination which is regularly conducted once a year in October.

(d) The application shall be accompanied by the examination fee, which may not be refunded. [Eff 8/29/94; comp 10/26/01; am and comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-39 Lawful experience.** (a) The following may be acceptable lawful experience subject to the evaluation and approval of the board:

- (1) Field, including construction, and office training or experience in engineering under the supervision of licensed professional engineers who are in the same branch in which the person seeks licensure;
- (2) For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, field and office training in structural engineering under the supervision of a licensed professional civil engineer in that jurisdiction; or
- (3) Teaching in an accredited institution, school, or college of engineering. Maximum experience credit for teaching shall be one year of teaching third, fourth, or fifth year courses. One year of teaching shall be considered to be a total teaching load of twenty semester credit hours or thirty quarter credit hours. The teaching credit can be applied only where minimum full-time lawful experience requirements are more than two years.

(b) Lawful experience may only be applied to one branch or profession. For lawful experience to be acceptable, each engagement shall be separate and distinct; dual credit for engagements that overlap shall not be allowed.

(c) The part-time equivalent of full-time lawful experience shall be calculated as follows: divide the total hours of part-time lawful experience by 173.33 hours to determine the number of months of full-time lawful experience; where:

- (1) 2,080 hours equals one year of full-time lawful experience; and
- (2) 2,080 hours divided by twelve months equals 173.33 hours or one month of full-time lawful experience.

(d) Any amount of time in excess of forty hours per week, whether for one or more supervisors, shall be considered full-time experience and shall not be considered part-time experience.

(e) Experience in responsible charge may be accepted in lieu of lawful experience in the discretion of the board; provided the applicant possesses experience in responsible charge in the ratio of 2:1 of the required lawful experience.

(f) Lawful experience may be compiled only up to the final filing date of the examination. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §464-7, 464-8)

#### **§16-115-40 Licensure of environmental engineers.**

(a) Notwithstanding any provision of this chapter to the contrary, a person may apply for licensure in the environmental branch of engineering by submitting a completed application to the board and shall be required to take and pass an environmental branch examination approved by the board, and comply with the other requirements of this chapter 464, HRS. [Eff and comp ] (Auth: HRS §464-7) (Imp: §§464-1, 464-7)

**§16-115-40.5 Licensure of fire protection engineers.** (a) Notwithstanding any provision of this chapter to the contrary, a person may apply for licensure in the fire protection branch of engineering by submitting a completed application to the board and shall be required to take and pass a fire protection branch examination approved by the board, and comply with all the other requirements of this chapter and chapter 464, HRS. [Eff and comp ]  
(Auth; HRS §464-7) (Imp: HRS §§464-1, 464-7)

### SUBCHAPTER 3

#### ARCHITECTS

**§16-115-45 Forms and instructions.** To apply for licensure, a person shall complete and file with the board the appropriate application forms. The following forms are currently in use by the board:

- (1) Application for Licensure Architect;
- (2) Additional Experience Form;
- (3) Verification of Lawful Experience; and
- (4) Verification of Experience in Responsible Charge.

The aforementioned forms may be modified from time to time as required. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

**§16-115-47 Licensure by endorsement.** (a) The architect committee shall review a person's

qualifications for licensure by endorsement and make recommendations to the board.

(b) To be eligible for licensure by endorsement, a person shall hold a current license from another jurisdiction, currently possess the appropriate education and lawful experience requirements provided in section 464-8(b)(2) to (5), HRS, and sections 16-115-54(a) and 16-115-58, and shall either:

- (1) Hold a current NCARB certificate; or
- (2) Have successfully passed the NCARB architect registration examination (A.R.E.) or a similar state-produced licensing examination.

(c) Every person shall certify on the application that the person has read, understood, and agreed to comply with the laws and rules of the board.

(d) A person applying for licensure by endorsement shall file an Application for Licensure-Architect. The application shall be accompanied by an application fee, which shall not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school or college approved by the board, provided that if the applicant is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials; and
- (2) Either of the following, as applicable:
  - (A) Verification(s) of Lawful Experience completed by supervisors who are licensed professional architects;
  - (B) Verification(s) of Experience in Responsible Charge completed by licensed professional architects. If the applicant operated as a sole proprietorship, the applicant shall complete and submit Verification(s) of Experience in Responsible Charge; or

- (C) Appropriate NCARB records that document completion of the IDP of NCARB or appropriate documentation from a similar program satisfactory to the board.

A person may submit appropriate NCARB records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-49 Licensure by examination.** (a) The architect committee shall review a person's qualification for licensure by examination and make recommendations to the board.

(b) To be eligible for licensure by examination, the person shall:

- (1) Meet the qualifications as contained in section 464-8(b) (2) to 5, HRS;
- (2) Have passed the appropriate examination(s) as contained in section 16-115-50; and
- (3) Certify on the application that the person has read, understood, and agrees to comply with the laws and rules of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-50 Examination requirements for licensure.** (a) A person applying for licensure by examination shall be required to pass the A.R.E.

(b) The board reserves the right to modify or supplement the examination(s). [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-52 Passing score.** The passing score shall be:

- (1) A grade of not less than seventy-five or pass for each of the portions of the A.R.E.;  
or
- (2) A grade of pass for similar state-produced licensing examination. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp  
] (Auth: HRS §464-7) (Imp:  
HRS §§464-7, 464-8)

**§16-115-54 Examination: qualifications, application, fees, documents required.** (a) To be eligible for the A.R.E., the person shall:

- (1) Hold a bachelor's, master's, or higher degree in architecture from a school or college approved by the board as of satisfactory standing, and be enrolled in IDP;
- (2) Be a graduate of a school or college with an architectural curriculum of four years or a pre-architecture or arts and science curriculum of four years or more, have not less than five years of full-time lawful experience or the part-time equivalent in architecture, and have completed IDP;
- (3) Be a graduate of a community college or other technical training school with an architectural technology curriculum of two years or more, have not less than eight years of full-time lawful experience or the part-time equivalent in architecture, and have completed IDP; or
- (4) Have not less than eleven years of full-time lawful experience or the part time equivalent in architecture[7] and have completed IDP.

(b) A person applying for the A.R.E. shall file an Application for Licensure-Architect. The

application shall be accompanied by the application fee, which shall not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school, or college approved by the board; provided that if the applicant is educated in a foreign institution, school or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials; and
- (2) Appropriate NCARB records that document completion or enrollment in IDP of NCARB or appropriate documentation from a similar program satisfactory to the board; and if applicable:
  - (A) Verification(s) of Lawful Experience completed by supervisors who are licensed professional architects; and
  - (B) Verification(s) of Experience in Responsible Charge completed by licensed professional architects.

A person may submit appropriate NCARB records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp ] (Auth: HRS §464-7) (Imp: HRS §§4647, 464-8)

**§16-115-56 Re-examination.** (a) A person may retake the failed portion(s) of the A.R.E. every six months or at times specified by NCARB.

(b) The testing agency approved by the board shall send a notice of authorization to retake the failed portion(s) of the A.R.E. to the person prior to the date the examination may be retaken.

(c) A person shall schedule the re-examination with the testing agency approved by the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13;

comp ] (Auth: HRS §464-7) (Imp: HRS  
§§464-7, 464-8)

**§16-115-58 Lawful experience.** (a) The following may be acceptable lawful experience subject to the evaluation and approval of the board:

- (1) Field and office training or experience in architecture under the supervision of licensed professional architects;
- (2) Teaching in an accredited institution, school, or college of architecture. Maximum experience credit for teaching shall be one year of teaching third, fourth, or fifth year courses. One year of teaching shall be considered to be a total teaching load of twenty semester credit hours or thirty quarter credit hours. The teaching credit can be applied only where minimum full-time lawful experience requirements are more than two years;
- (3) Intern development program experience; or
- (4) Successful completion of the practicum experience component in an architecture doctorate degree program.

(b) Lawful experience may only be applied to one profession. For lawful experience to be acceptable, each engagement shall be separate and distinct; dual credit for engagements that overlap shall not be allowed.

(c) The part-time equivalent of full-time lawful experience shall be calculated as follows: divide the total hours of part-time lawful experience by 173.33 hours to determine the number of months of full-time lawful experience; where:

- (1) 2,080 hours equals one year of full-time lawful experience; and
- (2) 2,080 hours divided by twelve months equals 173.33 hours or one month of full-time lawful experience.

(d) Any amount of time in excess of forty hours per week, whether for one or more supervisors, shall be considered full-time experience and shall not be considered part-time experience.

(e) Experience in responsible charge may be accepted in lieu of lawful experience in the discretion of the board; provided the applicant possesses experience in responsible charge in the ratio of 2:1 of the required lawful experience. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-59 Intern development program.** (a) Effective June 30, 2000, an applicant shall be required to fulfill the training requirements of the IDP of NCARB as approved by the board, or any similar program satisfactory to the board.

(b) An applicant shall acquire seven hundred training units to satisfy the IDP training requirement. One training unit equals eight hours of acceptable experience in the training categories specified below.

(c) The training units shall be acquired in the following training settings as approved by the board:

- (1) Experience in architecture as an employee under the supervision of a licensed professional architect in a firm whose practice encompasses the comprehensive practice of architecture;
- (2) Experience in architecture as an employee under the supervision of a licensed professional architect in a firm whose practice does not encompass the comprehensive practice of architecture;
- (3) Experience directly related to architecture under the supervision of a licensed professional engineer or licensed professional landscape architect;

- (4) Excluding the experience provided in paragraphs (1) to (3) above, experience in activities involving the design and construction of buildings or structures, (e.g., analysis of existing buildings, planning, programming, design of interior space, review or technical submissions, engaging in building construction activities and the like) under the supervision of a person experienced and licensed in the activity; or
- (5) Teaching or research in a professional degree program accredited by the National Architectural Accreditation Board, Inc.

(d) The applicant shall be responsible for documenting in detail the training obtained in the categories below. At a minimum, the applicant shall document the projects and dates involved. Applicants may select the NCARB Council Record as their documentation system. The board shall have the discretion to review and approve the documented training.

(e) The IDP training requirements shall be as follows:

<del>[(1) Category A: Design and construction documents]</del>		<del>Minimum training units required</del>
<del>(A)</del>	<del>Programming</del>	<del>10</del>
<del>(B)</del>	<del>Site and environmental analysis</del>	<del>10</del>
<del>(C)</del>	<del>Schematic design</del>	<del>15</del>
<del>(D)</del>	<del>Engineering systems coordination</del>	<del>15</del>
<del>(E)</del>	<del>Building cost analysis</del>	<del>10</del>
<del>(F)</del>	<del>Code research</del>	<del>15</del>
<del>(G)</del>	<del>Design development</del>	<del>40</del>
<del>(H)</del>	<del>Construction documents</del>	<del>135</del>
<del>(I)</del>	<del>Specifications and materials research</del>	<del>15</del>
<del>(J)</del>	<del>Document checking and coordination</del>	<del>10</del>
<del>(K)</del>	<del>Additional units in any of the above</del>	<del>75</del>
<del>(2) Category B: Construction administration</del>		
<del>(A)</del>	<del>Bidding and contract negotiation</del>	<del>10</del>
<del>(B)</del>	<del>Construction phase office</del>	<del>15</del>
<del>(C)</del>	<del>Construction phase observation</del>	<del>15</del>
<del>(D)</del>	<del>Additional units in any of the above</del>	<del>30</del>
<del>(3) Category C: Management</del>		

(A)	Project management	15
(B)	Office management	10
(C)	Additional units in any of the above	10
(4)	Category D: Related activities	
(A)	Professional and community service	10
(B)	Teaching, research, post-professional degree, and other related activities	0
(5)	Other elective units from any of the above categories	235
	Total training units	700]

(1)		Category A: Design and construction documents	Minimum training units required
	(A)	Programming	10
	(B)	Site and environmental analysis	10
	(C)	Schematic design	15
	(D)	Engineering systems coordination	15
	(E)	Building cost analysis	10
	(F)	Code research	15
	(G)	Design development	40
	(H)	Construction documents	135
	(I)	Specifications and materials research	15
	(J)	Document checking and coordination	10
	(K)	Additional units in any of the above	75
(2)		Category B: Construction administration	
	(A)	Bidding and contract negotiation	10
	(B)	Construction phase-office	15
	(C)	Construction phase-observation	15
	(D)	Additional units in any of the above	30
(3)		Category C: Management	
	(A)	Project management	15
	(B)	Office management	10
	(C)	Additional units in any of the above	10
(4)		Category D: Related activities	

	(A)	Professional and community service	10
	(B)	Teaching, research, post-professional degree, and other related activities	0
(5)		Other elective units from any of the above categories	235
		Total training units	700

(f) Completion of the IDP shall fulfill the lawful experience requirement provided in sections 16-115-54(a)(1) and (2) as approved by the board. For sections 16-115-54(a)(2) to (4), time participating in the IDP shall be credited toward the lawful experience requirement as approved by the board. [Eff and comp 10/26/01; am and comp 5/23/13; am and comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-60 Continuing education.** (a) Continuing education ("CE") shall be required to renew a license for all architects effective as of the biennial renewal date for a license expiring on April 30, 2008, and for every biennial renewal period thereafter. Each licensee shall have completed the CE program requirements for two years preceding the biennial renewal date. All CE courses shall be relevant to public protection subjects, as approved by the board.

(b) Each licensee shall be required to have sixteen CE credit hours for each biennium period as a condition to renew a license, provided that:

- (1) A licensee initially licensed in the first year of the biennium shall complete eight CE credit hours;
- (2) A licensee initially licensed in the second year of the biennium shall not be required to complete any CE credit hours;
- (3) "Credit hours" means one 60-minute clock hour of an educational activity with no less than

50 minutes of instructional content within the hour; and

- (4) CE credits earned in excess of the sixteen required for renewal may not be carried forward to apply towards the next renewal period.

(c) Except as provided in section 16-115-62, failure of a licensee to present evidence of compliance with the CE program requirements shall constitute a forfeiture of license, which may be restored pursuant to section 464-9(c), HRS. [Eff and comp ]  
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

**§16-115-60.5 Requirements for approval by the board.** (a) Public protection subjects shall be related to the health, safety, and welfare ("HSW") of the public.

- (1) Such subjects include building design, landscape design, environmental or land use analysis, life safety, architectural programming, site planning, site and soils analyses, plant material, accessibility, structural systems considerations, lateral forces, building codes, evaluation and selection of building systems, products or materials, construction methods, contract documentation, construction administration, energy conservation, zoning and governance policies and procedures, hurricane/high wind safety and design, sustainability, building in coastal requirements, mold mitigation, and the impact of design on human physiology and neurology;
- (2) CE courses shall be structured educational activities in which the teaching methodology consists primarily of the systematic presentation of public protection subjects by qualified individuals or organizations, including monographs; courses of study taught in person or by correspondence (including

- courses of study taught by distance education via computer, video, or telephone); organized lectures, presentations, or workshops; and other means through which identifiable technical and professional subjects are presented in a planned manner;
- (3) Teaching or instructing an architectural course, seminar, lecture, presentation, or workshop on a qualifying HSW subject may be used to satisfy the CE requirements of this section, provided that:
- (A) One credit hour shall be accepted for each hour spent in the actual seminar, lecture, presentation, or workshop;
- (B) These credits shall only be valid when the course, seminar, lecture, presentation, or workshop is initially taught or instructed and may be acceptable up to a maximum of fifty percent of the required credits; and
- (C) Teaching credit shall not apply to full-time faculty at a college, university, or other educational institution.
- (4) Contact hours spent in professional service to the public which draws upon the licensee's professional expertise on boards, commissions, and committees of the State or its political subdivisions (e.g., serving on planning commissions, building code advisory boards, urban renewal boards, code study committees or regulatory boards) may be acceptable up to a maximum of fifty percent of the required credits.
- (5) The Board shall not pre-approve individual courses or programs.
- (b) Licensees shall comply with CE requirements by completing the required number of HSW hours in courses approved or offered by organizations such as the American Institute of Architects (AIA), Construction Specifications Institute (CSI), National Council of Architectural Registration Boards (NCARB), University of Hawaii School of Architecture (UHSoA) or similar

organizations devoted to architectural education, design, or construction technology education, as approved by the board. [Eff and comp ]  
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

**§16-115-61 Certification of compliance and audit.**

(a) At the time of renewal, each licensee shall certify on the renewal application that the licensee has satisfied all of the CE requirements in this section and chapter.

(b) The Board may audit and shall require any licensee to submit copies of the original documents or evidence of attendance (e.g., certificate of attendance, transcripts, proof of registration, etc.) demonstrating compliance with the CE requirements. The Board may require additional evidence demonstrating the licensee's compliance with the CE requirements.

(c) It shall be the responsibility of each licensee to retain or otherwise produce evidence of such compliance. The evidence shall be retained for at least four years following the renewal period for which the CE courses were taken.

(d) A false certification to the board by a licensee shall be deemed a violation of this chapter and chapter 464, HRS, as applicable, and subject the licensee to disciplinary proceedings. [Eff and comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

**§16-115-62 Waiver or modification of requirements.**

(a) A licensee seeking renewal of license without full compliance of the CE requirements shall submit:

- (1) A written request for waiver or modification of the CE requirements, with an explanation why the waiver or modification is being sought; and
- (2) Other supporting documents.

(b) The board may grant a waiver or modification  
of the CE requirements for:

- (1) A licensee who is a member of the armed forces, national guard or a reserve component on full-time active duty and deployed for a period of time exceeding one hundred twenty consecutive days during the renewal period, where such activity restricts participation in a CE program;
  - (2) A licensee who demonstrates to the satisfaction of the board that meeting these requirements would constitute an undue hardship by reason of a medical disability, illness, or other clearly extenuating circumstances. Such supporting documentation shall be in the form of a sworn statement by the licensee, and a statement from a physician or medical records which show that the disability or illness prevented the licensee's participation in active practice and in the CE program during a substantial part of the renewal period;
  - (3) A licensee who has retired from practice but wishes to maintain a license may be exempt from the CE requirement; provided that the licensee has not performed any architectural services and have not sealed or signed any documents in the preceding two-year period. A licensee who is granted a retired status shall not perform any architectural services during the renewal biennial period; or
  - (4) A licensee who has been granted an exemption and desires to reenter active practice shall complete CE requirements for each year of inactive practice, not to exceed thirty-two CE credit hours. [Eff and comp
- ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

## SUBCHAPTER 4

## LAND SURVEYORS

**§16-115-64 Forms and instructions.** To apply for licensure, a person shall complete and file with the board the appropriate application forms. The following forms are currently in use by the board:

- (1) Application for Licensure-Land Surveyor;
- (2) Additional Experience Form;
- (3) Verification of Lawful Experience; and
- (4) Verification of Experience in Responsible Charge.

The aforementioned forms may be modified from time to time as required. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

**§16-115-66 Licensure by endorsement.** (a) The land surveyor committee shall review a person's qualifications for licensure by endorsement and make recommendations to the board.

(b) To be eligible for licensure by endorsement, a person shall hold a current license from another jurisdiction, currently possess the appropriate education and lawful experience requirements provided in section 464-8(c)(1)(B) to (D), HRS, and sections 16-115-75(a) and 16-115-79, and shall either:

- (1) Have successfully passed the NCEES fundamentals of land surveying examination and the NCEES professional land surveying examination, or similar state-produced licensing examination; or
- (2) Possess at least fifteen years of experience in responsible charge of land surveying work as approved by the board.

(c) Every person shall be required to pass the board-produced professional land surveying examination on Hawaii land matters and Hawaii land description [7]

and certify on the application that the person has read, understood, and agrees to comply with the laws and rules of the board.

(d) A person applying for licensure by endorsement shall file an Application for Licensure-Land Surveyor. The application shall be accompanied by the application fee, which shall not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school or college approved by the board; provided that if the applicant is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;
- (2) Verification(s) of Lawful Experience completed by supervisors who are licensed professional land surveyors; and
- (3) If applicable, Verification(s) of Experience in Responsible Charge completed by licensed professional land surveyors. If the applicant operated as a sole proprietorship, the applicant shall complete and submit Verification(s) of Experience in Responsible Charge; or
- (4) Appropriate NCEES records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp ]  
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-68 Licensure by examination.** (a) The land surveyor committee shall review a person's qualifications for licensure by examination and make recommendations to the board.

(b) To be eligible for licensure by examination, the person shall:

- (1) Meet the qualifications as contained in section 464-8(c)(1)(B) to (D), HRS;
- (2) Have passed the appropriate examinations as contained in section 16-115-69; and
- (3) Certify on the application that the person has read, understood, and agrees to comply with the laws and rules of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-69 Examination requirements for licensure.** (a) A person applying for licensure by examination shall be required to pass the following examinations:

- (1) NCEES fundamentals of land surveying examination;
- (2) NCEES professional land surveying examination; and
- (3) Board-produced professional land surveying examination on Hawaii land matters and Hawaii land description.

(b) The board reserves the right to modify or supplement the examinations. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-71 Passing score.** The passing score shall be:

- (1) A grade of not less than seventy for the NCEES fundamentals of land surveying and professional land surveying examinations, or a grade of pass for similar state produced licensing examinations; and
- (2) A grade of not less than seventy for the board-produced professional land surveying

examination. [Eff 8/29/94; am and comp  
10/26/01; comp 5/23/13; comp  
] (Auth: HRS §464-7) (Imp:  
HRS §§464-7, 464-8)

**§16-115-73 Examination-fundamentals of land  
surveying: qualifications, application, fees,  
required documents.** (a) To be eligible for the NCEES  
fundamentals of land surveying examination, the person  
shall:

- (1) Be a graduate of a school or college  
approved by the board and have completed a  
geo-science or civil or general engineering  
curriculum of four years or more;
- (2) Be a graduate of a school or college  
approved by the board, have completed a  
civil engineering technology (survey option)  
curriculum of two years or more or arts and  
science curriculum of four years or more  
with a math, science, or science-related  
major and have not less than five years of  
full-time lawful experience or the part-time  
equivalent in land surveying;
- (3) Be in the last year of a geo-science or  
civil or general engineering curriculum at a  
school or college approved by the board with  
graduation expected not later than seven  
months from the date of application as  
confirmed by the dean of the applicant's  
school or college. If graduation does not  
occur within the seven-month period, the  
application shall be void; or
- (4) Have not less than nine years of full-time  
lawful experience or the part-time  
equivalent in land surveying.

(b) A person applying for the NCEES fundamentals  
of land surveying examination shall file an  
Application for Licensure-Land Surveyor no later than  
January 10 for the examination which is regularly  
conducted once a year in April. The application shall

be accompanied by the application fee, which shall not be refunded, the examination fee, which may not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school, or college approved by the board; provided that if the applicant is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;
- (2) Verification(s) of Lawful Experience completed by supervisors who are licensed professional land surveyors; and
- (3) If applicable, Verification(s) of Experience in Responsible Charge completed by licensed professional land surveyors; or
- (4) Appropriate NCEES records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-75 Examination-professional land surveying: qualifications, application, fees, required documents.** (a) To be eligible for the NCEES or board-produced professional land surveying examination, the person shall:

- (1) Be a graduate of a school or college approved by the board, have completed a geoscience, civil engineering, or general engineering curriculum of four years or more and also have not less than three years of full-time lawful experience or part-time equivalent in land surveying;
- (2) Be a graduate of a school or college approved by the board, have completed a civil engineering technology (survey option)

curriculum of two years or more or arts and sciences curriculum of four years or more with a math, science, or science-related major, and also have not less than seven years of full-time lawful experience or the part-time equivalent in land surveying; or

(3) Have not less than eleven years of full-time lawful experience or the part time equivalent in land surveying.

(b) A person applying for the NCEES or board-produced professional land surveying examination shall file an Application for Licensure-Land Surveyor no later than January 10 for the examination which is regularly conducted once a year in April. The application shall be accompanied by the application fee, which shall not be refunded, the examination fee, which may not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school, or college approved by the board; provided that if the applicant is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;
- (2) Verification(s) of Lawful Experience completed by supervisors who are licensed professional land surveyors; and
- (3) If applicable, Verification(s) of Experience in Responsible Charge completed by licensed professional land surveyors; or
- (4) Appropriate NCEES records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-77 Re-examination.** (a) A person may retake the examination(s) failed.

(b) A person applying to retake the NCEES fundamentals of land surveying examination, NCEES professional land surveying examination, and board produced professional land surveying examination shall file an Application for Re-examination no later than January 10 for the examination which is regularly conducted once a year in April.

(c) The application shall be accompanied by the examination fee, which may not be refunded. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-79 Lawful experience.** (a) The following may be acceptable lawful experience subject to the evaluation and approval of the board:

- (1) Field and office training or experience in land surveying under the supervision of licensed professional land surveyors; or
- (2) Teaching in an accredited institution, school, or college. Maximum experience credit for teaching shall be one year of teaching third, fourth, or fifth year courses. One year of teaching shall be considered to be a total teaching load of twenty semester credit hours or thirty quarter credit hours. The teaching credit can be applied only where minimum full-time lawful experience requirements are more than two years.

(b) Lawful experience may only be applied to one profession. For lawful experience to be acceptable, each engagement shall be separate and distinct; dual credit for engagements that overlap shall not be allowed.

(c) The part-time equivalent of full-time lawful experience shall be calculated as follows: divide the total hours of part-time lawful experience by 173.33

hours to determine the number of months of full-time lawful experience; where:

- (1) 2,080 hours equals one year of full-time lawful experience; and
- (2) 2,080 hours divided by twelve months equals 173.33 hours or one month of full-time lawful experience.

(d) Any amount of time in excess of forty hours per week, whether for one or more supervisors, shall be considered full-time experience and shall not be considered part-time experience.

(e) Experience in responsible charge may be accepted in lieu of lawful experience in the discretion of the board; provided the applicant possesses experience in responsible charge in the ratio of 2:1 of the required lawful experience.

(f) Lawful experience may be compiled only up to the final filing date of the examination. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

## SUBCHAPTER 5

### LANDSCAPE ARCHITECTS

**§16-115-85 Forms and instructions.** To apply for licensure, a person shall complete and file with the board the appropriate application forms. The following forms are currently in use by the board:

- (1) Application for Licensure-Landscape Architect;
- (2) Additional Experience Form;
- (3) Verification of Lawful Experience; and
- (4) Verification of Experience in Responsible Charge.

The aforementioned forms may be modified from time to time as required. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

**§16-115-87 Licensure by endorsement.** (a) The landscape architect committee shall review a person's qualifications for licensure by endorsement and make recommendations to the board.

(b) To be eligible for licensure by endorsement, a person shall hold a current license from another jurisdiction, currently possess the appropriate education and lawful experience requirements provided in section 464-8(d) (2) to (5), HRS, and sections 16-115-94(a) and 16-115-98, and shall either:

- (1) Have successfully passed a CLARB landscape architectural licensing examination or a similar state-produced licensing examination; or
- (2) Possess at least fifteen years of experience in responsible charge of landscape architectural work as approved by the board.

(c) Every person shall be required to pass the board-produced landscape architectural licensing examination on the State's climatic conditions, native plants and ecosystems, land use ordinances and special management area requirements, and cultural and historical conditions affecting landscape architecture, and certify on the application that the person has read, understood, and agreed to comply with the laws and rules of the board.

(d) A person applying for licensure by endorsement shall file an Application for Licensure Landscape Architect. The application shall be accompanied by an application fee, which shall not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school or college approved by the board; provided that if the applicant

is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;

- (2) Verification(s) of Lawful Experience completed by supervisors who are licensed professional landscape architects; and
- (3) If applicable, Verification(s) of Experience in Responsible Charge completed by licensed professional landscape architects. If the applicant operated as a sole proprietorship, the applicant shall complete and submit Verification(s) of Experience in Responsible Charge; or
- (4) Appropriate CLARB records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp ]  
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-89 Licensure by examination.** (a) The landscape architect committee shall review a person's qualifications for licensure by examination and make recommendations to the board.

(b) To be eligible for licensure by examination, the person shall:

- (1) Meet the qualifications as contained in section 464-8(d)(2) to (5);
- (2) Have passed the appropriate examinations as contained in section 16-115-90; and
- (3) Certify on the application that the person has read, understood, and agreed to comply with the laws and rules of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-90 Examination requirements for licensure.** (a) A person applying for licensure by examination shall be required to pass the following examinations:

- (1) CLARB landscape architectural licensing examination; and
- (2) Board-produced landscape architectural licensing examination on the State's climatic conditions, native plants and native ecosystems, land use ordinances and special management area requirements, and cultural and historical conditions affecting landscape architecture.

(b) The board reserves the right to modify or supplement the examinations. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ]  
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-92 Passing score.** The passing score shall be:

- (1) A grade of not less than seventy-five for each section of the CLARB landscape architectural licensing examination, or a grade of pass for similar state-produced licensing examination; and
- (2) A grade of not less than seventy-five for the board produced landscape architectural licensing examination. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-94 Examination: qualifications, application, fees, documents required.** (a) To be eligible for the CLARB or board-produced landscape

architectural licensing examinations, the person shall:

- (1) Hold a master's degree in landscape architecture from an institution of higher education approved by the board, be a graduate of a school or college approved by the board, have completed a landscape architecture curriculum of four years or more and have not less than two years of full-time lawful experience or the part-time equivalent in landscape architecture;
- (2) Be a graduate of a school or college approved by the board, have completed a landscape architectural curriculum of four years or more and also have not less than three years of full-time lawful experience or the part-time equivalent in landscape architecture;
- (3) Be a graduate of a school or college approved by the board, have completed a pre-landscape architectural or arts and science curriculum of four years or more and also have not less than five years of full-time lawful experience or the part-time equivalent in landscape architecture; or
- (4) Have not less than twelve years of full-time lawful experience or part-time equivalent in landscape architecture.

(b) A person applying for the CLARB or board-produced landscape architectural licensing examination shall file an Application for Licensure-Landscape Architect no later than March 10 for the examination which is regularly conducted once a year in June. The application shall be accompanied by the application fee, which shall not be refunded, the examination fee, which may not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation, or official transcripts from an institution, school, or college approved by the board; provided that if the applicant is educated in a foreign institution, school

or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;

- (2) Verification(s) of Lawful Experience completed by supervisors who are licensed professional landscape architects; and
- (3) If applicable, Verification(s) of Experience in Responsible Charge completed by licensed professional landscape architects; or
- (4) Appropriate CLARB records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-96 Re-examination.** (a) A person may retake the failed portions of the CLARB landscape architectural examination or the board-produced landscape architectural examination.

(b) A person applying to retake the failed portions of the CLARB landscape architectural licensing examination or board-produced landscape architectural licensing examination shall file an Application for Re-examination no later than March 10 for the examination which is regularly conducted once a year in June.

(c) The application shall be accompanied by the examination fee which may not be refunded. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp ] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

**§16-115-98 Lawful experience.** (a) The following may be acceptable lawful experience subject to the evaluation and approval of the board:

- (1) Field and office training or experience in landscape architecture under the supervision of licensed professional landscape architects; or
  - (2) Teaching in an accredited institution, school, or college of landscape architecture. Maximum experience credit for teaching shall be one year of teaching third, fourth, or fifth year courses. One year of teaching shall be considered to be a total teaching load of twenty semester credit hours or thirty quarter credit hours. The teaching credit can be applied only where minimum full-time lawful experience requirements are more than two years.
- (b) Lawful experience may only be applied to one profession. For lawful experience to be acceptable, each engagement shall be separate and distinct; dual credit for engagements that overlap shall not be allowed.
- (c) The part-time equivalent of full-time lawful experience shall be calculated as follows: divide the total hours of part-time lawful experience by 173.33 hours to determine the number of months of full-time lawful experience; where:
- (1) 2,080 hours equals one year of full-time lawful experience; and
  - (2) 2,080 hours divided by the twelve months equals 173.33 hours or one month of full-time lawful experience.
- (d) Any amount of time in excess of forty hours per week, whether for one or more supervisors, shall be considered full-time experience and shall not be considered part-time experience.
- (e) Experience in responsible charge may be accepted in lieu of lawful experience in the discretion of the board; provided the applicant possesses experience in responsible charge in the ratio of 2:1 of the required lawful experience.
- (f) Lawful experience may be compiled only up to the final filing date of the examination. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp

] (Auth: HRS §464-7) (Imp: HRS  
§§464-7, 464-8)

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

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

4. These amendments to and compilation of chapter 16-115, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing 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 M DD, YYYY, and filed with the Office of the Lieutenant Governor.

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Catherine P. Awakuni Colón  
Director of Commerce and  
Consumer Affairs

APPROVED AS TO FORM:

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Deputy Attorney General

## **IV. Old Business – After Public Hearing**

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 3 Chapter 40, **Rules Governing Public Use of the Land Survey Division Maps, Descriptions, and Records, and Schedule of Fees for Services Maps, and Other Record Data**, promulgated by DAGS

**SMALL BUSINESS STATEMENT**  
**“AFTER” PUBLIC HEARING TO THE**  
**SMALL BUSINESS REGULATORY REVIEW BOARD**  
(Hawaii Revised Statutes (HRS), §201M-3)

Department or Agency: \_\_\_\_\_

Administrative Rule Title and Chapter: \_\_\_\_\_

Chapter Name: \_\_\_\_\_

Contact Person/Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_ Date: \_\_\_\_\_

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?

☐ Yes ☐ No

(If "Yes," please provide webpage address and when and where rules may be viewed in person. Please keep the proposed rules on this webpage until after the SBRRB meeting.)

I. Rule Description: ☐ New ☐ Repeal ☐ Amendment ☐ Compilation

II. Will the proposed rule(s) affect small business?

☐ Yes ☐ No (If "No," no need to submit this form.)

\* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

\* "Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?

☐ Yes ☐ No

(If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))

☐ Yes ☐ No

(If "Yes" no need to submit this form.)

\*

\*

\*

**V. Please explain how the agency involved small business in the development of the proposed rules.**

- a. **Were there any recommendations incorporated into the proposed rules? If yes, explain. If not, why not?**

**VI. If the proposed rule(s) affect small business, and are not exempt as noted above, please provide the following information:**

1. A description of how opinions or comments from affected small businesses were solicited.
2. A summary of the public's and small businesses' comments.
3. A summary of the agency's response to those comments.
4. The number of persons who:
  - (i) Attended the public hearing:
  - (ii) Testified at the hearing:
  - (iii) Submitted written comments:
5. Was a request made at the hearing to change the proposed rule in a way that affected small business?  
☐ **Yes**    ☐ **No**
  - (i) If "Yes," was the change adopted? ☐ **Yes**    ☐ **No**
  - (ii) If No, please explain the reason the change was not adopted and the problems or negative result of the change.

Small Business Regulatory Review Board / DBEDT  
Phone: (808) 586-2594 / Email: [DBEDT.sbrrb.info@hawaii.gov](mailto:DBEDT.sbrrb.info@hawaii.gov)

This statement may be found on the SBRRB Website at:  
<http://dbedt.hawaii.gov/sbrrb-impact-statements- pre-and-post-public-hearing>

## July 2021 Meeting Minutes

The proposed changes will apply to small businesses that are currently required to be registered or licensed by DCCA's Insurance Division. Such businesses include insurance agents, agencies, adjusters, service contract providers, vehicle protectors and many others.

Finally, the proposed changes will not require additional costs to small businesses but rather would result in cost savings due to utilizing the electronic process by streamlining the application procedures.

Second Vice Chair Shick motioned to move the proposed amendments to public hearing. Mr. Ritchie seconded the motion and the Board members unanimously agreed.

B. Discussion and Action on the Proposed Amendments to HAR Title 3 Chapter 40 Rules Governing Public Use of the Land Survey Division Maps, Descriptions, and Records, and Schedule of Fees for Services, Maps, and Other Record Data, promulgated by Department of Accounting and General Services (DAGS)

Mr. Ritchie stated that the Board has seen situations like these where a department will propose a fee increase when it has not increased its fees in years. This fee proposal relates to the land court and plan maps which small businesses are required to pay; the average fees will increase by 50 percent and is authorized by the HRS.

Mr. Meyer Cummins, Land Boundary Surveyor at DAGS, confirmed that his office has not updated its fee schedule in several years, despite technological advances, as the existing rules do not address "digital" copies. Many of the existing costs have developed over time. He added that most of the funds received from fees go into DCCA's general fund.

In terms of background information, Mr. Cummins explained that his office at DAGS checks maps that are registered with the land court, and also checks maps and descriptions for subdivisions that will be recorded. In the past, these checks required hundreds of manhours, running calculations, and checking land titles from historic documents. However, most of this information is currently available on line and some of the information is free to the public; so, the time involved in researching the information has significantly dropped.

Despite this, because the fees have not been increased, in some cases, nearly 30 years, there is a large disparity as to what the actual cost is for research versus the fee being charged. Although the cost of checking and processing may cost \$50 to \$60, based on the current fee schedule, only \$10 to \$15 is being charged.

Mr. Cummins also explained that his office has yet to reach out to the public regarding the rule changes. However, on an annual basis, his office does reach out to land surveying companies to educate surveyors, developers, and law firms on how to make changes, etc. Chair Cundiff acknowledged and concurred that it was probably a good time to increase the fees. He also highly recommended that DAGS take the opportunity to reach out to the stakeholders to share the reasons for the proposed changes and for feedback.

Mr. Ritchie motioned to move the proposed amendments to public hearing. Second Vice Chair Shick seconded the motion and the Board members unanimously agreed.

Amendment and Compilation of Chapter 3-40,  
Hawaii Administrative Rules

(Date of Adoption)

1. Chapter 3-40, Hawaii Administrative Rules, entitled "Rules Governing Public Use of the Land Survey Division Maps, Descriptions, and Records, and Schedule of Fees for Services, Maps, and Other Record Data", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

CHAPTER 40

RULES GOVERNING PUBLIC USE OF THE LAND SURVEY  
DIVISION MAPS, DESCRIPTIONS, AND RECORDS, AND SCHEDULE  
OF FEES FOR SERVICES, MAPS, AND OTHER RECORD DATA

- §3-40-1 Purpose and applicability
- §3-40-2 Definitions
- §3-40-3 Public use of land survey division maps, descriptions, documents, and other material
- §3-40-4 Conduct
- §3-40-5 Certification of authenticity
- §3-40-6 Fees for maps and services

Historical Note: Chapter 40 of Title 3 is based on rules governing the Fee Schedule of the Division of Land Survey, and includes the rules governing the Public Use of State Survey Records. [Eff 11/20/64; R 6/1/81]

**§3-40-1 Purpose and applicability.** (a) The purpose of these rules is to prescribe the procedures for the use of public records, maps, and other materials in the custody of the land survey division, department of accounting and general services, and the fees for reproduction and special services.

(b) These rules shall apply to all persons using the records and other materials in the custody of the land survey division, including employees of the State of Hawaii or its political subdivisions. [Eff 6/1/81; am and comp 8/30/97; comp ] (Auth: HRS §§26-6, 26-38) (Imp: HRS §§26-6, 26-38)

**§3-40-2 Definitions.** As used in these rules, unless the context specifically or otherwise indicates, the following definitions apply:

"Calculation books" means books used by individual members of the staff of the land survey division to perform calculations and other functions related to job assignments.

"CSF No. \_\_\_\_" means copy surveys furnished of all maps and descriptions prepared from the inception of the office of the surveyor general and continuing to the present land survey division, that have been assigned numbered designations.

"Field book registered no. \_\_\_\_" means books used by the surveyors to record field data obtained from surveys performed by government surveyors or private surveyors for the government that have been assigned numbered designations.

"\_\_\_\_ File carton no. \_\_\_\_" means a special carton for each respective island that is used to store and identify maps and descriptions of government subdivisions such as homestead subdivisions, houselots, agricultural lots, and industrial lease lots, that has been assigned numbered designations.

"\_\_\_\_ File folder no. \_\_\_\_" means a special file folder for each respective island that is used to store and identify maps and descriptions of government subdivisions such as house lots, agricultural lots, and industrial lots that has been assigned numbered designations.

"File Plan" means a plan of land prepared in the form of a file plan that is accepted for recordation by the registrar of the state bureau of conveyances in sections 502-17, 502-18, and 502-19, HRS.

"Folder no. \_\_\_\_" means a folder used by the division to file correspondence, job requests, and other documents.

"HSS Plat \_\_\_\_" means Hawaii state survey plat maps usually twenty-one inches by thirty-two inches in size that have been assigned numbered designations indicating official acceptance as maps in the custody of the land survey division since statehood.

"HTS Plat \_\_\_\_" means Hawaii territory plat maps usually twenty-one inches by thirty-two inches in size that have been assigned numbered designations indicating official acceptance as maps in the custody of the land survey division during territorial status.

"Land court" means the land court of the State as defined in chapter 501, HRS.

"Land survey division" is a division of the department of accounting and general services located in room 210 of Kalanimoku building, 1151 Punchbowl Street, Honolulu, and its contents.

~~["HSS Plat \_\_\_\_" means Hawaii state survey plat maps usually twenty-one inches by thirty-two inches in size that have been assigned numbered designations indicating official acceptance as maps in the custody of the land survey division since statehood.~~

~~"HTS Plat \_\_\_\_" means Hawaii territory plat maps usually twenty-one inches by thirty-two inches in size that have been assigned numbered designations indicating official acceptance as maps in the custody~~

~~of the land survey division during territorial status.]~~

"Registered map no. \_\_\_\_" means official government survey maps and maps from private sources that have been assigned numbered designations indicating official acceptance as maps in the custody of the land survey division from 1871 to present. [Eff 6/1/81; am and comp 8/30/97; am and comp \_\_\_\_\_] (Auth: HRS §§26-6, 26-38) (Imp: HRS §§26-6, 26-38)

**§3-40-3 Public use of land survey division maps, descriptions, documents, and other material.** (a) All persons shall be serviced by authorized members of the staff of the land survey division. Admittance to the storage vault shall be restricted to authorized personnel only.

(b) The use of maps, records, and other material in fragile condition shall be regulated at the discretion of the state land surveyor.

(c) All persons including land survey division staff members shall exercise all possible care to prevent damage to items being used.

(d) No person shall remove any maps, records, and other material from the land survey division premises. Only the state land surveyor or the assistant state land surveyor is authorized to waive this rule.

~~[(e) The printing of reproducible media, such as sepia, xerox vellum, or mylar, of registered maps, plat maps, land court maps, or file plan maps is not permitted.]~~ [Eff 6/1/81; am and comp 8/30/97; am and comp \_\_\_\_\_] (Auth: HRS §§26-6, 26-38) (Imp: HRS §§26-6, 26-38)

**§3-40-4 Conduct.** (a) No person shall handle maps, folders, field books, or other material without proper authorization.

(b) Eating or drinking while handling or viewing any material or documents is prohibited. [Eff 6/1/81; comp 8/30/97; comp ] (Auth: HRS §§26-6, 26-38) (Imp: HRS §§26-6, 26-38)

**§3-40-5 Certification of authenticity.** Except as provided in section 3-40-3, certified copies of maps and descriptions, documents, and other materials in the custody of the land survey division may be made. The state land surveyor, assistant state land surveyor, or a land survey division staff member designated in writing by the comptroller or the state land surveyor are authorized to sign the certification. [Eff 6/1/81; am and comp 8/30/97; comp ] (Auth: HRS §92-21) (Imp: HRS §92-21)

**§3-40-6 Fees for maps and services.** (a) The following fees shall be charged for ~~[diaz and other]~~ reproductions of maps, descriptions, field notes and correspondence that are under the custody of the land survey division. Completed reproductions shall not be released unless all fees due are paid in full.

- (1) For a ~~[diaz blue line]~~ copy of a plan of land, ~~[\$3 for the first square foot plus fifteen cents for each additional square foot or fraction thereof based on the size of the plan, effective July 1, 1997; \$4.50 for the first square foot plus fifteen cents per additional square foot, effective January 1, 1998;]~~ \$6 for the first square

- foot plus fifteen cents per additional square foot [~~, effective January 1, 1999~~];
- (2) [~~Xerographic~~] For a copy of any record up to [eight and one-half] eleven inches by [thirteen] seventeen inches, \$1 per page;
- (3) For a scanned copy of any maps, descriptions, field notes or correspondence recorded on a compact disc or digital versatile disc, \$2 per disc;
- ~~[(3)]~~ (4) Certification of only those products under the custody of the land survey division will be provided at [~~\$1.50 per certification, effective July 1, 1997;~~] \$2 per certification [~~, effective January 1, 1998~~];
- ~~[(4)]~~ (5) Other reproductions including maps having no reproducible media or use of other reproduction materials shall be accommodated only by special arrangement.

(b) [~~Fees~~] The following fees shall be charged for services [relating] related to the [discharge of duties as set forth by the land court of the State shall be at the current rate as established by rule 107 of the rules of the land court] checking and processing of land court maps, referred by the land court for check and report. Completed maps shall not be released unless all fees due are paid in full.

- (1) For verifying and checking map on the ground, for lots of one acre or less, \$125; an addition of \$5 an acre or fraction thereof for all areas over one acre and up to one hundred acres; an addition of \$2.50 an acre or fraction thereof for all areas over one hundred acres and up to one thousand acres; and addition of \$1.25 an acre or fraction thereof for all areas over one thousand acres;

- (2) Any expense incurred for air transportation, rental of ground transportation, and per diem for the survey crew shall be charged to the applicant;
- (3) For checking survey and map as to form and mathematical correctness but not on the ground, \$15 an hour;
- (4) For processing subdivisions and designation of easements of registered land, and for checking same as to form and mathematical correctness but not on the ground, \$15 an hour.

(c) Fees charged for services related to the checking and processing of file ~~[plan maps]~~ plans submitted to the bureau of conveyances for recordation shall be ~~[at the current rate as established by rule 107 of the rules of the land court]~~ \$15 an hour. Completed maps shall not be released unless all fees due are paid in full.

(d) Whenever applicable by statute, the above fees will not be charged to federal, state, or county governments." [Eff 6/1/81; am and comp 8/30/97; am and comp ] (Auth: HRS §§92-21, 501-218, 502-17) (Imp: HRS §§92-21, 501-218, 502-17)

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

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

4. These amendments to and the compilation of chapter 3-40, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing is a copy of the rules drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_ and filed with the Office of the Lieutenant Governor.

\_\_\_\_\_  
Curt Otaguro, State Comptroller  
Department of Accounting and  
General Services

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

## **V. Administrative Matters**

- A. Discussion and Action on the Board's Investigative Taskforce's "Deliberation and Decision-Making" on the Board's Proposed Phase II Website, in accordance with Section 92-2.5(b)(1)(C), HRS

**§92-2.5 Permitted interactions of members.** (a) Two members of a board may discuss between themselves matters relating to official board business to enable them to perform their duties faithfully, as long as no commitment to vote is made or sought and the two members do not constitute a quorum of their board.

(b) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may be assigned to:

(1) Investigate a matter relating to the official business of their board; provided that:

(A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the board;

(B) All resulting findings and recommendations are presented to the board at a meeting of the board; and

(C) Deliberation and decisionmaking on the matter investigated, if any, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board; or

(2) Present, discuss, or negotiate any position which the board has adopted at a meeting of the board; provided that the assignment is made and the scope of each member's authority is defined at a meeting of the board prior to the presentation, discussion, or negotiation.

(c) Discussions between two or more members of a board, but less than the number of members which would constitute a quorum for the board, concerning the selection of the board's officers may be conducted in private without limitation or subsequent reporting.

(d) Board members present at a meeting that must be canceled for lack of quorum or terminated pursuant to section 92-3.5(c) may nonetheless receive testimony and presentations on items on the agenda and question the testifiers or presenters; provided that:

(1) Deliberation or decisionmaking on any item, for which testimony or presentations are received, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the testimony and presentations were received;

(2) The members present shall create a record of the oral testimony or presentations in the same manner as would be required by section 92-9 for testimony or presentations heard during a meeting of the board; and

(3) Before its deliberation or decisionmaking at a subsequent meeting, the board shall:

(A) Provide copies of the testimony and presentations received at the canceled meeting to all members of the board; and

(B) Receive a report by the members who were present at the canceled or terminated meeting about the testimony and presentations received.

(e) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may attend an informational meeting or presentation on matters relating to official board business, including a meeting of another entity, legislative hearing, convention, seminar, or community meeting; provided that the meeting or presentation is not specifically and exclusively organized for or directed toward members of the board. The board members in attendance

may participate in discussions, including discussions among themselves; provided that the discussions occur during and as part of the informational meeting or presentation; and provided further that no commitment relating to a vote on the matter is made or sought.

At the next duly noticed meeting of the board, the board members shall report their attendance and the matters presented and discussed that related to official board business at the informational meeting or presentation.

(f) Discussions between the governor and one or more members of a board may be conducted in private without limitation or subsequent reporting; provided that the discussion does not relate to a matter over which a board is exercising its adjudicatory function.

(g) Discussions between two or more members of a board and the head of a department to which the board is administratively assigned may be conducted in private without limitation; provided that the discussion is limited to matters specified in section 26-35.

(h) Communications, interactions, discussions, investigations, and presentations described in this section are not meetings for purposes of this part. [L 1996, c 267, §2; am L 2005, c 84, §1; am L 2012, c 177, §1]

### **Law Journals and Reviews**

Hawai'i's Sunshine Law Compliance Criteria. 26 UH L. Rev. 21.

### **Case Notes**

Even assuming that written memoranda circulated by council members, in which the council members presented proposed actions, included justifications for the proposals, and sought "favorable consideration" of the proposals constituted a permitted interaction under subsection (a), the memoranda violated the mandate under subsection (b) that no permitted interaction be used to circumvent the spirit or requirements of the sunshine law to make a decision or to deliberate toward a decision upon board business. The "express premise" of the sunshine law is that opening up the government process to public scrutiny is the only viable and reasonable way to protect the public. 130 H. 228, 307 P.3d 1174 (2013).

Written memoranda circulated by council members, in which the council members presented proposed actions, included justifications for the proposals, and sought "favorable consideration" of the proposals did not fall within the permitted interaction described in subsection (a) because the memoranda: (1) were distributed among all of the members of the Maui county council rather than among only two members of the board; and (2) sought a commitment to vote by asking for "favorable consideration" of the proposals contained within them and thus, violated the sunshine law. 130 H. 228, 307 P.3d 1174 (2013).

Although subsection (a) does not expressly preclude city counsel members from engaging in serial one-on-one conversations, when council members engaged in a series of one-on-one conversations relating to a particular item of council business, under §92-5(b), the spirit of the open meeting

requirement was circumvented and the strong policy of having public bodies deliberate and decide its business in view of the public was thwarted and frustrated. 117 H. 1 (App.), 175 P.3d 111.

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## PROPOSAL FOR THE SMALL BUSINESS REGULATORY REVIEW BOARD WEBSITE UPDATES

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The purpose of this project is to assist with updates to the existing Small Business Regulatory Review Board (SBRRB) website. NIC Hawaii designed and launched the website on August 13, 2019. The site updates will include a homepage refresh, site content updates and assistance with MailChimp.

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### PROJECT DEVELOPMENT COSTS

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#### TOTAL PROJECT COST

The total *cost* for this project is **\$9,382.20** (\$8,960 + \$422.20 GET).  
The total *hours* of work are estimated to be **101**.

#### INVOICE AND PAYMENT SCHEDULE

Fees will be invoiced according to the following schedule (dates shown are estimates, actual due dates will be determined by the project start date):

Date	Deliverable	Price	GE Tax	Total
Feb 2022	Payment upon deployment of functional test pages and SBRRB acceptance	\$1,792	\$84.44	\$1,876.44 (20%)
Feb 2022	Payment upon completion of testing and SBRRB acceptance	\$1,792	\$84.44	\$1,876.44 (20%)
March 2022	Payment after acceptance letter signed by SBRRB and submittal of application for launch to production environment	\$1,792	\$84.44	\$1,876.44 (20%)
June 2022	Payment at end of 90-day warranty period	\$3,584	\$168.88	\$3,752.88 (40%)

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## CURRENT PROCESS

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The SBRRB website is located at: [sbrrb.hawaii.gov](http://sbrrb.hawaii.gov). The website was built using the WordPress Content Management System and is hosted by ETS.

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## PURPOSE STATEMENT

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The purpose of this project is to assist with updates to the existing Small Business Regulatory Review Board (SBRRB) website. NIC Hawaii designed and launched their existing website on August 13, 2019.

The site updates will include a homepage refresh, site content updates and assistance with MailChimp.

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## PROJECT GOALS

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Goals for the site include:

- **Redesigned homepage**
  - Build out the small business section to add specific actions users can take to get involved with the board.
  - De-emphasize focus on meetings by moving its presence further down the page.
  - Revisit naming of menu items to make more actionable (ex: 'Get involved' instead of 'Resources')
  - Re-imagine the impactful events section, possibly convert to a more general news style feed and / or use more photos to accompany each story.
- **Mailchimp**
  - Update signup form to include user selected email preferences (appx ~25 state / county agencies including an 'all' option)
  - Create an email campaign for existing users to have them select their email preferences.
  - Design a MailChimp template that matches visual style of website.
- **Resources (Content updates)**
  - The final changes for each page will be uncovered through our weekly meetings and discovery sessions. The scope of changes will cover these pages:
    - Resources
      - Suggest removing this as a standalone page and incorporating the resources directly in to the Small Business and Government sections to give users a 'one stop shop' for content.
    - For small businesses and associations
      - Work with SBRRB to uncover additional actions and content needed for this page such as Chamber of Commerce and more info on trade associations.
    - For government agencies

- Work with SBRRB to uncover additional actions and content needed for this page.
  - The rulemaking process
    - Put actions/links within the flowchart to better guide the user through the process.
  - Submit a regulation for review
    - No changes
  - Rule status
    - No changes
- **Add department level filtering to meetings/agendas/reports**
  - Updates will occur on this page:
    - <https://sbrrb.hawaii.gov/meetings/agendas-minutes>
  - Add another level of filtering so users can drill down in to which agency (state or county) is being discussed during each meeting.
    - Example: <https://invest.hawaii.gov/buy-hawaii/hawaii-products-2/>
  - This info would be added by SBRRB manually when uploading each months meeting agendas/minutes.
  - Limited to counties/departments only, not open ended tagging.
  - Will include redesigning the side menu and possibly removing Twitter to make space for the additional filtering.

## DETAILED WORK BREAKDOWN

Below is the detailed breakdown of all hours by role necessary to accomplish all project goals.

Work Description	Role	Hours	Rate (h)	Total
<b>Redesigned homepage</b> - Revise homepage to focus on specific ways small biz can get involved with the board; de-emphasize focus on meetings	Sr PM	3	\$120	\$360
	Developer	25	\$80	\$2,000
<b>Add department level filtering to meetings/agendas/reports</b> - Allow users to drill down to which agencies are being discussed in each meeting (by agency or county) via filters/tags	Sr PM	3	\$120	\$360
	Developer	32	\$80	\$2,560
<b>Updates to content pages</b> - Content updates for resource pages (resources, small biz., gov't and rulemaking process). - Assist with content writing and updating rulemaking process graphic	Sr PM	7	\$120	\$840
	Developer	8	\$80	\$640
<b>Mailchimp</b> - Update signup form to include email preferences (by agency/county) - Create email campaign to send existing users to let them categorize their preferences - Design new email template to match site	Sr PM	1	\$120	\$120
	Developer	6	\$80	\$480
Testing, final review, training & deployment of new content to the live site	Sr PM	8	\$120	\$960
	Developer	8	\$80	\$640
<b>Totals</b>		<b>101</b>		<b>\$8,960</b>

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## SCHEDULE ESTIMATES & NEXT STEPS

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The project will be carried out according to a Milestone Schedule, which will be agreed upon by NIC Hawaii and SBRRB. The expected duration will be 2-4 months from start to finish.

Below is an overview of all steps needed in order to work with us if you determine you would like to proceed:

- If SBRRB approves estimate, NIC Hawaii will create a Statement of Work (SOW) then send to SBRRB for review.
- Once SBRRB approves SOW, SOW is both sent to ETS for additional review/feedback and reviewed internally by NIC Hawaii.
  - **SOW drafts / pricing must be approved by SBRRB before Friday, Nov 5<sup>th</sup> in order to make the Dec 2 AHC meeting.**
- Once SOW is agreed upon by all parties, SOW is presented during the AHC meeting (held quarterly). SBRRB is required to give a brief overview of the project / why they need to do the work to the committee members and answer any questions (we'll help prep you for this).
- Once SOW is approved by the AHC, the SOW is sent out for signature via eSign.
- Once all parties: NIC Hawaii, SBRRB and ETS have signed the SOW, the project can begin.
- The estimated project start date is in January 2022.

# STATEMENT OF WORK AMENDMENT 1

DEPARTMENT OF BUSINESS, ECONOMIC  
DEVELOPMENT & TOURISM

SMALL BUSINESS REGULATORY REVIEW BOARD

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Website Services

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Version 1.00

Document Number – DBEDT.FY2022.004.A1

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## OVERVIEW

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This Statement of Work (“SOW”) document identifies the responsibilities between the Department of Business, Economic Development & Tourism, Small Business Regulatory Review Board, (“STATE”) and the Hawaii Information Consortium, LLC dba NIC Hawaii (“NIC HI”), the Internet Portal provider for the State of Hawaii. This document is subordinate to the requirements stated in RFP-08-11-SW, Internet Portal Manager and Service Provider, NIC HI’s Proposal and the contract between the State of Hawaii and NIC HI dated December 3, 2007 (collectively referred to as the “CONTRACT”).

The SOW is subordinate to the Service Level Agreement (“SLA”) between the STATE and NIC HI signed and dated on February 26, 2015. This SOW is subject to all terms and conditions thereof unless specifically designated as exceptions in this document.

This is an Amendment to the original SOW document entitled “Website Services” dated October 31, 2018 and signed between STATE and NIC HI.

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## TERM AND TERMINATION

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This SOW shall begin on the date it is signed by all parties (hereinafter referred to as “Effective Date”) and shall continue in effect until the expiration/termination of the CONTRACT. Termination of this SOW shall not operate to terminate any other SOW between the parties, and such termination shall not, by itself, operate to terminate the CONTRACT.

This SOW may be terminated pursuant to the terms and conditions in the AG’s General Conditions.

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## CURRENT PROCESS

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The Small Business Regulatory Review Board (SBRRB) currently has a website located at: [sbrrb.hawaii.gov](http://sbrrb.hawaii.gov). The website was built in WordPress by NIC Hawaii and launched on August 13, 2019. The site is hosted by ETS. The SBRRB board administrator, Dori Palcovich, manages and maintains the current website.

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## PURPOSE STATEMENT

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The purpose of this project is to complete updates to the existing SBRRB website. High level site updates will include a homepage refresh, page content updates and assistance with MailChimp.

Detailed goals for the site include:

- **Redesigned homepage**
  - Make the homepage speak more directly to the three audiences: small business, business intermediaries such as trade groups and associations, and government
  - Provide more specific ways small biz and business intermediaries such as trade groups and associations can get involved with the board
  - De-emphasize focus on meetings
- **Add department level filtering to meetings/agendas/reports** (help users find info that relates to them more quickly)

- Allow users to drill down to which agencies are being discussed in each meeting (by agency or county) via filters/tags
- **Updates to content pages**
  - Content updates for resource pages (resources, small biz., gov't and rulemaking process).
  - Assist with updating rulemaking process graphic
- **Mailchimp** (send more targeted emails)
  - Update signup form to include email preferences (by agency/county)
  - Create email campaign to send existing users to let them categorize their preferences
  - Design new email template to match site

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## DEFINITIONS

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**Acceptance:** Acceptance refers to the STATE's written approval of the functionality delivered in the production environment.

**CMS (Content Management System) site:** The front-end user interface that allows a user, even with limited expertise, to add, modify, and remove content from a website without the intervention of a webmaster; primarily allows the user to perform actions.

**Delivery:** Delivery refers to when NIC HI delivers the entire functionality per the SOW requirements into the production environment.

**Final Acceptance:** Final Acceptance refers to the STATE's written approval of the entire project.

**Fixed Rate (Business Model):** When transaction fees are not feasible, we can still offer services with a fixed rate. In most cases, this funding model is used when an agency wants to develop an online service that has an existing funding model (i.e., federal grants) or the service doesn't generate any revenue but requires significant development and maintenance.

**Hybrid (Business Model):** A hybrid approach is using both the self-funded and time & materials models together. There are development costs, however, they are discounted as there is also a self-funded component to the application.

**Self-funded (Business Model):** NIC HI absorbs the risk and cost of developing & maintaining the service in return for future revenue over the lifecycle of the service. NIC HI generates revenue through portal fees that are added on to the online services we build. These fees can be passed to the fee payer or absorbed in part or whole by the STATE.

**Services:** Web site and application development; Web site and application maintenance; Web site and application hosting; Marketing; Customer service; Payment portal and account management; Portal development and maintenance; Mobile web applications. See SPO Vendor List Contract No. 08-13 for entire list of services.

**Software:** Web applications, CMS websites and APIs. For purposes of clarity, the following off-the-shelf, SaaS solutions are developed, owned and maintained by NIC HI affiliates and expressly excluded from the definition of "Software": (1) payment processing services and subscriber billing; (2) the Gov2Go® Platform and related services; (3) a proprietary application development platform referred to as "Application Engine," which enables expedited application design services; and (4) any other enterprise SaaS solutions developed outside of the CONTRACT and provided for STATE use under the CONTRACT.

**Web application or application:** A client–server software application in which the client (or user interface) runs in a web browser; primarily allows the user to perform actions.

**Work plan:** A work plan provides a timeline of the deliverables outlined in the SOW that is developed by NIC HI and approved by the STATE.

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#### SCOPE OF WORK AND DELIVERABLES

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Specifications for the project are attached as Exhibit A and made a part of this SOW.

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#### DELIVERY, ACCEPTANCE AND FINAL ACCEPTANCE

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##### DELIVERY

Prior to launch of the service, NIC HI will provide the STATE with an Authorization to Deploy Letter describing that the service has been built to the STATE requirements. The STATE shall sign and return the Authorization to Deploy Letter to NIC HI within 5 business days.

After receiving the signed Authorization to Deploy Letter, NIC HI will deploy the entire functionality per the SOW requirements into the production environment on the date specified in the Authorization to Deploy Letter.

##### ACCEPTANCE (Deliverables)

The STATE shall not exceed fifteen (15) working days to review each deliverable and to either notify NIC HI of acceptance, or to provide NIC HI a detailed list of deficiencies that must be remedied prior to payment being made. In the event the STATE notifies NIC HI of material, non-compliance with the functional specifications, NIC HI shall correct the error within a period not to exceed fifteen (15) working days or a time period mutually agreed upon between NIC HI and STATE.

##### FINAL ACCEPTANCE

STATE should notify NIC HI of any errors or bugs when discovered during testing in the 90-day post-launch period. NIC HI shall fix any specifications not met by the project completion date specified in the Work Plan, plus the 10 business days to fix all issues at no extra cost or charge to STATE, or any longer time specified as mutually agreed upon in writing.

Once all the errors and bugs, if any, have been fixed and the Software or service has been retested, or at the end of the 90-day post-delivery period, whichever occurs later, NIC HI shall provide an acceptance letter to STATE with a checklist of the deliverables/specifications for approval. STATE shall sign and return the acceptance letter to NIC HI within 5 business days at which time the maintenance period begins.

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#### MAINTENANCE AND SUPPORT

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The annual maintenance and support shall be provided to the STATE, irrespective of any changes or enhancements to the system, as described under Maintenance and Support Fees in Exhibit A.

NIC HI will provide support for the proper installation and ongoing general maintenance and operation of the application including the following:

- Customer Service Technical Support including phone, email, and chat support Monday through Friday 7:45 AM to 4:30 PM, excluding state holidays.
- Maintenance of the web application and hosted environment
  - annual application scan within a year of the anniversary of service launch date
  - server, system, and security updates upon release of new patches/updates by third-party vendors
  - monitoring of the application and hosted environment 24/7

Notification to STATE to be posted of any changes or maintenance at least 48 hours prior.

After the application is delivered, as defined in the DELIVERY and FINAL ACCEPTANCE section, NIC HI shall immediately provide troubleshooting to correct any errors in the application and issues reported by STATE.

Upon receipt of notice of an error, NIC HI will assign a priority level to the error or issue in accordance with the following criteria:

- Priority A – An error that results in the service being substantially or completely nonfunctional or inoperative. These issues shall be resolved within 6 business hours. If an issue cannot be resolved within the 6 business hours or a work-around is the immediate solution, a resolution plan must be presented by NIC HI to the STATE within the 6 business hours and the NIC HI General Manager will be notified. If the service is unavailable a message will immediately be posted by NIC HI to web users that the site is temporarily down.
- Priority B – An error that does not impact the performance or operation of the site, but correction of the error will result in improved user experience or application efficiency. NIC HI will investigate and resolve within 10 business days. If the issue cannot be resolved within the 10 business days or a work-around, decided by both parties, is the immediate solution, a resolution plan must be presented by NIC HI to the STATE within the 10 business days.
- Priority C – A simple text or graphic (non-design) change. The change will be completed within 15 business days unless a mutually agreed upon timeline is stated in writing.

During state business hours, 7:45 a.m. – 4:30 p.m., Monday through Friday, the STATE will contact the Partner Liaison if there are any issues with the service. During non-business hours, the NIC HI support team can be contacted at 808-695-4627.

In the event of a system-wide service issue, NIC HI will immediately notify the Office of Enterprise Technology Services (ETS) via email, [ets.notifyus@hawaii.gov](mailto:ets.notifyus@hawaii.gov). For all other service issues impacting a single service, NIC HI will immediately notify the State Portal Program Manager and the STATE Project Manager by email and phone (See Exhibit A for contact information).

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#### FEES

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All fees shall be reviewed periodically by the STATE and the Access Hawaii Committee (AHC) and adjusted after review via an amendment to the SOW upon mutual agreement of NIC HI, the STATE, and the AHC.

The AHC will review and approve any and all Portal charges for fairness, reasonableness, and appropriateness in furthering the goals of this CONTRACT.

### **NIC HI RATES**

#### **RATE CHART – RFP 08-011**

Job Specialty	Hourly Rate
General Manager	\$240.00
Software Architect	\$120.00
Senior Project Manager	\$120.00
Project Manager	\$80.00
Senior Business Analyst	\$100.00
Business Analyst	\$70.00
Senior Developer	\$100.00
Developer	\$80.00
Web/Creative Designer	\$60.00
Print Designer	\$75.00
Marketing Executive	\$80.00
Marketing Associate	\$50.00
Financial Management/Billing Specialist/Support Staff	\$70.00
Database Administrator	\$100.00
Security Administrator	\$100.00
Systems Administrator	\$100.00

### **DEVELOPMENT FEES**

The project development cost plus Hawaii General Excise Tax (GET) shall be stated in Exhibit A. NIC HI will invoice STATE according to a payment schedule set forth in Exhibit A.

### **HOSTING FEES**

The site will continue to be hosted by ETS at no cost. No additional support will be provided by NIC HI outside of the 90-day post launch period.

## **MAINTENANCE AND SUPPORT FEES**

This project shall not incur maintenance & support fees for the duration of the service.

## **TRANSACTION FEES**

Transaction fees do not apply to this project as it is a CMS site.

Any and all fees and payment policies may be altered by mutual agreement in writing between STATE and NIC HI via an SOW Amendment.

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### **INVOICE AND PAYMENT SCHEDULE**

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Upon acceptance of NIC HI deliverables, NIC HI will send an original invoice to STATE. The STATE has 30-days to pay from the receipt of a valid invoice.

See Exhibit A for details of Invoice and Payment Schedule.

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### **RESPONSIBILITIES OF THE STATE**

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STATE will designate a Project Manager with responsibility and authority for review and approval of deliverables under this SOW.

To accomplish the tasks outlined in this SOW and provide the deliverables defined in the Deliverables/Milestones section of this document, STATE Project Manager will work with NIC HI Project Manager/Project Liaison to establish a project plan/timeline in conjunction with Deliverables/Milestones, NIC HI will require the following from STATE by the agreed upon dates in the Work Plan. If STATE does not provide any of these items by the required date, delivery dates for NIC HI deliverables will be revised accordingly. NIC HI will not be held responsible for delays in the timetable due to unavailability of data or resources from STATE.

- STATE will provide timely authorization for the project and for each approval required during the project.
- STATE will provide written functional requirements for all system components.
- STATE agrees to designate content-knowledgeable reviewer(s) to review each deliverable prior to acceptance to ensure that acceptance represents an informed commitment.
- STATE will provide knowledge transfer of necessary IT knowledge, environment, and business processes. Verbal walkthroughs and documentation will satisfy this responsibility.
- STATE will provide content information to be presented on the website.
- While building the website, it is the STATE's responsibility to ensure all pre-existing PDF documents meet the August 25, 2010 State Comptroller's Memorandum 2010-28 on Policy Guidance on Web Site Accessibility, which is incorporated herein by reference. This includes adding tags to each document to ensure they are easily read by screen readers.
- After 90-days post launch, STATE is responsible for maintaining ADA compliance.
- STATE will perform testing and give approval of acceptance

- See additional responsibilities in Exhibit A

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#### **RESPONSIBILITIES OF NIC HAWAII**

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NIC HI will provide a Project Manager to serve as the primary point of contact and coordination with the STATE project team for the duration of the implementation of this project. STATE will require the following from NIC HI by the agreed upon dates. If NIC HI does not provide any of these items by the required date, delivery dates, then STATE will not be held responsible for delays in the timetable due to unavailability of data or resources from NIC HI. NIC HI will provide all the NIC HI deliverables detailed in the Deliverables section and will:

- Host the application over the course of its lifecycle
- Present a resolution plan for Priority A prior to project commencement
- Create and submit a Continuity plan to the STATE 5 business days prior to launch
- Provide day-to-day management of the project work plan
- Host periodic team meetings to review the status of project activities against the plan
- Provide Project Plan Updates
- Provide Executive Briefing as needed
- Provide the STATE with transaction reports and money transfers on a schedule mutually agreed to by NIC HI and the STATE
- Provide a consistent look and feel for related applications under development
- Provide ongoing monitoring of system efficiency and effectiveness and correct deficiencies in a prompt manner
- Provide resources to design, create, test, and implement the service
- Perform system maintenance and upgrades
- Run database backups and recovery routines
- Provide services as specified in the SOW
- Ensure website accessibility compliance per the August 25, 2010 State Comptroller's Memorandum 2010-28 on Policy Guidance on Web Site Accessibility, which is incorporated herein by reference. Accessibility of content added by the STATE post-production launch is at the responsibility of the STATE.
- Includes acceptance testing criteria and process
- See additional responsibilities in Exhibit A

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#### **REMEDIES**

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##### **Failure to Perform**

If NIC HI substantially fails to perform the SOW, STATE will give NIC HI written notice describing such failure. Thereafter, NIC HI shall have 10 days (or a longer period of time if set forth in the written notice) to remediate such failure. If NIC HI has not remediated such failure within the allotted time period, STATE may terminate this SOW.

Pursuant to section 9.16.2 of the CONTRACT, substantial failure of NIC HI to perform the SOW may cause the STATE to terminate the SOW. In this event, the STATE may require NIC HI to reimburse the monies paid (based on the identified portion of unacceptable work received) and may seek associated damages.

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**MODIFICATIONS AND AMENDMENTS**

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This SOW may be modified, amended or extended only by mutual agreement signed by both parties.

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**STAKEHOLDERS**

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**Department of Business, Economic Development & Tourism**

No. 1 Capitol District Building

250 S. Hotel Street

Honolulu, HI 96813

**Hawaii Information Consortium, LLC dba NIC Hawaii**

201 Merchant Street Suite 1805

Honolulu, HI 96813

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**CHAIN OF COMMAND**

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**STATE**

Mike McCartney, Director

Robert Cundiff, SBRRB Chair

Dori Palcovich, SBRRB Administrator

**NIC HI**

Bertrand Ramos, General Manager

Janet Pick, Director of Portal Operations

Zheng Fang, Director of Development

Rosie Warfield, Manager of eGovernment Services

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**SIGN OFF**

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I, the undersigned, have the authority to make binding decisions and have the authority to sign on behalf of my respective agency/department regarding projects in collaboration with NIC HI.

Date:

Date:

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Mike McCartney  
Director  
DBEDT

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Bertrand Ramos  
General Manager  
Hawaii Information Consortium, LLC  
dba NIC Hawaii

REVIEWED AND APPROVED:

Date:

ACCESS HAWAII COMMITTEE

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By: Douglas Murdock  
Chief Information Officer  
Office of Enterprise Technology Services  
State of Hawaii

## SOW Amendment 1 EXHIBIT A

### DBEDT SBRRB Website Services

<b>State Agency:</b>	Department Of Business, Economic Development & Tourism Small Business Regulatory Review Board
<b>Agency Contact:</b>	Dori Palcovich
<b>Agency Email:</b>	<a href="mailto:dori.palcovich@hawaii.gov">dori.palcovich@hawaii.gov</a>
<b>Agency Address:</b>	No. 1 Capitol District Building 250 S. Hotel Street Honolulu, Hawaii 96813
<b>Agency Phone:</b>	808 – 586 - 2594
<b>NIC HI PM:</b>	Rosie Warfield
<b>NIC HI PM Email:</b>	<a href="mailto:rosie@egov.com">rosie@egov.com</a>
<b>NIC HI PM Phone:</b>	808 - 695 - 4629
<b>Application Name:</b>	Small Business Regulatory Review Board website updates
<b>Business Model:</b>	Fixed rate
<b>Estimated Deployment Date:</b>	June 15, 2021

## SCOPE OF WORK AND DELIVERABLES

### Scope

The Small Business Regulatory Review Board (SBRRB) currently has a website located at: [sbrrb.hawaii.gov](http://sbrrb.hawaii.gov). The website was built in WordPress by NIC Hawaii and launched on August 13, 2019. The site is hosted by ETS.

This proposal was created after detailed discussions with the task force. Overall, the site works well but it's very focused on meetings and attendance. Since the target audience is small business and business intermediaries such as trade groups and associations they'd like to expand the site to include more content/resources specific to this group. They also want to be able to send more targeted emails to the various groups who attend their meetings.

NIC HI will work closely with SBRRB to complete the website updates through facilitated meetings. Goals include:

- **Redesigned homepage**
  - Make the homepage speak more directly to the three audiences: small business, business intermediaries such as trade groups and associations, and government
  - Provide more specific ways small biz can get involved with the board
  - De-emphasize focus on meetings
- **Add department level filtering to meetings/agendas/reports** (help users find info that relates to them more quickly)
  - Allow users to drill down to which agencies are being discussed in each meeting (by agency or county) via filters/tags
- **Updates to content pages**
  - Content updates for resource pages (resources, small biz, business organizations, gov't and rulemaking process).
  - Assist with updating rulemaking process graphic
- **Mailchimp** (send more targeted emails)

- Update signup form to include email preferences (by agency/county)
- Create email campaign to send existing users to let them categorize their preferences
- Design new email template to match site

## Delivery

The STATE shall have fifteen (15) working days to review each deliverable and to either notify NIC HI of acceptance, or to provide NIC HI a detailed list of deficiencies that must be remedied prior to payment being made. In the event the STATE notifies NIC HI of material, non-compliance with the functional specifications, NIC HI shall correct the same within fifteen (15) working days, unless the STATE consents in writing to a longer period.

## Milestone Schedule

Task Duration	Description	Deliverable	Role	Hours	Rate (h)	Total	Payment Schedule (includes GET)
TBD	Signed Statement of Work	Signed SOW	N/A	N/A	N/A	N/A	
Kickoff Meeting	Determine Start of Project Work	Work Plan with dates for each deliverable presented					
4 weeks after kickoff meeting	Wireframes/Design prototypes	3-4 facilitated workshops, (Wireframes, Design prototypes as needed)	Developer	25	\$80	\$2,000	
			Sr PM	3	\$120	\$360	
15 working days after completed design prototypes completed	Approval to proceed	Sign off					
4 weeks after design prototype approved	Beta deployment	Website deployed in TEST environment	Developer	46	\$80	\$3,680	
			Sr PM	11	\$120	\$1,320	
15 working days after website deployed in test environment	Approval to proceed	Sign off					<b>20% payment (\$1,876.44)</b>

1 week after site deployed to TEST	Testing, training & review	1 training session for personnel	Developer	6	\$80	\$480	
			Sr PM	4	\$120	\$480	
15 working days after testing website deployed in test environment	Approval to proceed	Sign off					<b>20% payment (\$1,876.44)</b>
2 days after testing approval	Website updates live	Website updates deployed in PROD environment	Developer	2	\$80	\$160	
			Sr PM	4	\$120	\$480	
After website deployed in PROD environment	LOD	Sign off					<b>20% payment (\$1,876.44)</b>
N/A	Post Launch	Final invoice sent 90-days post launch					<b>40% payment (\$3,752.88)</b>
			<b>Work Totals</b>	<b>101</b>			<b>\$8,960</b>

## NOTES

### Work Plan/Deliverables

NIC HI is to provide a detailed description of all the tasks that are to be completed to accomplish each of the deliverables in the table above. This will serve a road map for the project.

The following is the work plan determined at the time of SOW creation. An updated work plan will be provided to the STATE within 2 days after project kickoff meeting.

Wireframes/Design Prototypes (February 8 – March 29)

- Kickoff Meeting (February 8)
- Design prototype + feedback (February 8 – March 8)
- Obtain STATE signoff on prototypes (March 9 – March 29)

Development and TEST Deployment (March 30 – May 13)

- Initial WordPress Setup (March 30 – March 31)
- Integrate Wireframes and Visual Design Across All Pages (March 30 – April 1)
- Add Department Level Filtering to Meetings/Agendas/Reports (April 4 – April 15)
- Integrate Mailchimp Updates (April 4 – April 15)
- Page Content Updates (April 18 – April 22)
- SBRRB Approval to Proceed (April 25 – May 13)

Testing, Training, and Launch (May 16 – June 16)

- NIC HI website testing (May 16 – May 20)
- STATE website testing (May 23 – June 10)
- Production prep (June 13 - June 14)
- Deployment to production environment (June 15)
- STATE training (June 16)

NIC HI shall, at the commencement of project discussions, also identify and define all dependencies that may occur for each stage of the project and present those dependencies in writing, as part of this section, prior to signing of the SOW.

## FEES

Include total cost (including general excise tax) and breakdown of all other fees (i.e. development, hosting, maintenance and support, transaction and other fees).

1. Development Fees:  $\$8,960 + \$422.20 \text{ GET} = \$9,382.20$
2. Hosting Fees:  $\$0.00 + \text{GET} = \$0.00$
3. Maintenance and Support Fees:  $\$0.00 + \text{GET} = \$0.00$
4. Transaction Fees:  $\$0.00$
5. Other Fees:  $\$0.00$

## INVOICE AND PAYMENT SCHEDULE

The total not-to-exceed development cost for this project is: **\$9,382.20** (\$8,960 + \$422.20 GET) and will be invoiced and paid 30-days after the invoice is received according to the following schedule:

### Invoice Schedule

Date	Deliverable	Price	GE Tax	Total
April 2022	Payment upon deployment of functional test pages and STATE acceptance	\$1,792	\$84.44	\$1,876.44 (20%)
May 2022	Payment upon completion of testing and STATE acceptance	\$1,792	\$84.44	\$1,876.44 (20%)
June 2022	Payment after acceptance letter signed by STATE and submittal of application for launch to production environment	\$1,792	\$84.44	\$1,876.44 (20%)
August 2022	Payment at end of 90-day warranty period	\$3,584	\$168.88	\$3,752.88 (40%)
<b>TOTAL</b>		<b>\$8,960.00</b>	<b>\$422.20</b>	<b>\$9,382.20</b>

## ADDITIONAL RESPONSIBILITIES OF STATE

List set of responsibilities for STATE that are specific to this project.

## ADDITIONAL RESPONSIBILITIES OF NIC HI

List set of responsibilities for NIC HI that are specific to this project.

## CHECKLIST OF SERVICES NIC HI WILL PROVIDE

### Idea Development

- ☐ Analysis of existing processes, workflows and systems
- ☐ Roadmap creation
- ☐ Workflow process re-engineering
- ☐ Alternative solution exploration

### Customer Service

- ☐ Customer service via phone, web chat, and email during state business hours
- ☐ Monthly customer service statistics
- ☐ Technical support for users

### Strategic Marketing

- ☐ Business cards and postcards
- ☐ Email and text notifications and reminders
- ☐ Posters and multimedia presentations
- ☒ Content modifications for online and offline collateral
- ☐ Social media integration

### Project Management

- ☐ Agile process and experienced project teams
- ☒ Requirements collection and development
- ☒ Workflow reengineering
- ☐ Solution estimating
- ☐ Alternative approach planning and development

### Web Design and Development

- ☒ Accessibility and 508 compliance
- ☐ Customer service technical support
- ☐ Java application development
- ☐ Mobile applications (Android and iOS)
- ☒ Responsive web design
- ☐ User feedback data pipelines
- ☒ User centered design
- ☒ User experience, user interface, and visual design
- ☒ Web Content Management Systems

### 3rd Party Merchant Processing

- ☐ Level-3 PCI DSS compliance
- ☐ Secure configuration with external PCI scans
- ☐ Credit card and electronic check payments
- ☐ ACH and manual disbursements
- ☐ Chargeback and refund support
- ☐ Collection and frontline customer support for all payments
- ☐ Reporting modules

## **V. Administrative Matters**

- B. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, HRS - *No attachments Included*

## **V. Legislative Matters**

- A. Discussion and Action on the Upcoming Governor's Message Submitted for Consideration for the Gubernatorial Nomination of James (Kimo) Lee to the Small Business Regulatory Review Board to expire June 30, 2024 - *No attachments Included*