

Procurement Training
for
State and County Purchasing Personnel

**Procurements Exempt from
HRS Chapter 103D**

**HRS Section 103D-102
HAR Chapter 3-120**

NEIL ABERCROMBIE
GOVERNOR



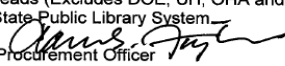
AARON S. FUJIOKA
ADMINISTRATOR

STATE OF HAWAII
STATE PROCUREMENT OFFICE
P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 587-4700 Fax: (808) 587-4703
<http://hawaii.gov/spo>

December 6, 2010

PROCUREMENT DELEGATION NO. 2010-01

TO: Chief of Staff, Office of the Governor
Chief of Staff, Office of the Lieutenant Governor
Executive Department Heads (Excludes DOE, UH, OHA and HHSC)
State Librarian, Hawaii State Public Library System

FROM: Aaron S. Fujioka, Chief Procurement Officer 

SUBJECT: Delegation of Procurement Authority

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5. Crisis Purchase of Service (HRS §103F-406);
Requires CPO approval for ALL dollar amounts and approval may be obtained after-the-fact (Refer to Form-H600).

Exemptions to HRS chapter 103D (HRS §103D-102 & HAR chapter 3-120) and HRS chapter 103F (HRS §103F-101 & HAR chapter 3-141) may be used as appropriate. Except CPO exemptions pursuant to HRS §103D-102(b)(4)(L) and HRS §103F-101(a)(4) shall continue to be submitted using form SPO-007 or SPOH-150 as appropriate. Authorized designated Procurement Officers or personnel are required to attend SPO training Workshop #125, *Exemptions from HRS chapter 103D and/or #210 Treatment, Restrictive, Crisis and Small Purchase of Health & Human Services, and Exemptions from HRS Chapter 103F*, prior to submitting the respective request for exemption for approval.

DELEGATION OF PROCUREMENT AUTHORITY

This procurement authority may be further delegated by you to personnel as designated procurement officers or authorized to conduct and participate in procurement activities in accordance with HAR §3-121-16. Participation in procurement activities includes small purchases, developing/drafting a solicitation, reviewing, approving, conducting, managing, and administering the procurement/contract.



HRS §103D Hawaii Public Procurement Code

HRS §103D-102 Application of this chapter. (a) This chapter shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings, any of which the State receives or is owed; in-kind benefits; or forbearance; provided that nothing in this chapter or rules adopted hereunder shall prevent any governmental body from complying with the terms and conditions of any other grant, gift, bequest, or cooperative agreement.

§103D-104 Definitions.

"Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any good, service, or construction. The term also includes all functions that pertain to the obtaining of any good, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

§103D-104 Definitions.

- “Goods” mean all property, including but not limited to equipment, equipment leases, materials, supplies, printing, insurance, and processes, including computer systems and software, ***excluding land or a permanent interest in land, leases of real property, and office rentals.***

Methods of Procurement		
Method	Bases for Use	Bases of Award
Competitive Sealed Bids	Always used unless it is not feasible or practicable.	Lowest responsive, responsible bid.
Small Purchases	Purchases of smaller quantities for goods and services of less than \$100,000 and construction less than \$250,000.	Lowest responsive, responsible quotation.
Competitive Sealed Proposals	Competitive sealed bidding is not practicable; price is not the most critical factor.	Based on RFP evaluation criteria.
Multi-step Bid	Used when pre-qualification of offerors necessary before considering price.	Lowest bidder of qualified offerors.
Sole Source	Only one source for the required good, service, or construction.	Approved single source at agreed prices.
Emergency	Used to respond the needs that are immediate and serious that are a threat to life, public health, welfare, or safety.	Lowest responsive and/or responsible offeror.
Professional Services	Professional services as defined in rules and statutes.	Qualified respondent that meets determined criteria; prices are agreed to.
Request for Interest (For Federal Grants)	Used prior to applying for the Federal grants where time is limited or economic situations require a "quick" selection process.	Criteria determined in RFI.

What is the definition of a procurement exempt from HRS Chapter 103D?

- A situation where a procurement of a good, service, or construction by competitive means is either not practicable or not advantageous to the State.

“Practicable”- feasible, useful, usable

“Advantageous”- to be a benefit to; to impose upon

Where are Procurements Exempt From Chapter 103D, HRS, currently listed?

- HRS Section 103D-102
- Exhibit A, titled “Procurements Exempt From HRS Chapter 103D, HAR Chapter 3-120;
- For the Executive Branch, CPO approved SPO Form 7 on the SPO website; Each respective Chief Procurement Officer approves procurement exemptions for goods, services, and construction for their own jurisdictions.

What kinds of Procurements Exemptions are listed in HRS Section 103D-102?

1. Grants or subsidies as those terms are defined in section 42F-101, made by the State in accordance with standards provided by law as required by article VII, section 4, of the State Constitution; or by the counties pursuant to their respective charters or ordinances;
2. To make payments to or on behalf of public officers and employees for salaries, fringe benefits, professional fees, or reimbursements;

Continued HRS 103D-102

3. Obligations that the State is required to pay by law, including paying fees, permanent settlements, subsidies, or other claims, making refunds, and returning funds held by the State as Trustee, custodian, or bailee;
4. Entitlement programs, including public assistance, unemployment, and workers' compensation programs, established by state or federal law;

Continued HRS 103D-102

5. Dues and fees of organizations of which the State or its officers and employees are members, including the National Association of Governors, the National Association of State and County Governments, and the Multi-State Tax Commission;
6. For the deposit, investment, or safekeeping, including expenses related to their deposit, investment, or safekeeping;
7. Awards to governmental bodies of the State

Continued HRS 103D-102

8. Loans, under loan programs administered by a governmental body;
9. Contracts awarded in accordance with Chapter 103F, HRS;
10. Goods, services, or construction from a governmental body other than the University of Hawaii Bookstores, from the federal government, or from another state or its political subdivision;

Continued HRS 103D-102

11. Services of expert witnesses for potential and actual litigation of legal matters involving the State, its agencies, and its officers and employees, including administrative quasi-judicial proceedings;
12. Works of art for museum or public display;
13. Research and reference materials including books, maps, periodicals, and pamphlets, which are published in print, video, audio, magnetic, or electronic form;

Continued HRS 103D-102

14. Meats and foodstuffs for the Kalaupapa Settlement;
15. Opponents for athletic contests;
16. Utility services whose rates or prices are fixed by regulatory processes or agencies;
17. Performances, including entertainment, speeches, and cultural and artistic presentations;
18. Goods and services for commercial resale by the State;

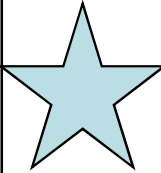
Continued HRS 103D-102

19. Services of printers, rating agencies, support facilities, fiscal and paying agents, and registrars for the issuance and sale of the State's or Counties' bonds;
20. Services of attorneys employed or retained to advise, represent, or provide any other legal service to the State or any of its agencies, on matters arising under laws of another state or foreign country, or in an action brought in another state, federal or foreign jurisdiction, when substantially all legal services are expected to be performed outside this state;

Continued HRS 103D-102

21. Financing agreements under chapter 37D,HRS; and
22. Trade agreements, including the Uruguay Round General Agreement on Tariffs and Trade (GATT) which requires certain non-construction and non-software development procurements by the comptroller to be conducted in accordance with its terms.

Where are Procurements Exempt From Chapter 103D, HRS, currently listed?

- HRS Section 103D-102
-  Exhibit A, titled “Procurements Exempt From HRS Chapter 103D, HAR Chapter 3-120;
- For the Executive Branch, CPO approved SPO Form 7 on the SPO website; Each respective Chief Procurement Officer approves procurement exemptions for goods, services, and construction for their own jurisdictions.

Who determines the Procurements Exemptions listed on Exhibit A in HAR Chapter 3-120?

- The Procurement Policy Board (PPB) approves goods and services that are exempt from HRS Chapter 103D, because they have determined that although such goods or services may be available from multiple services, their procurement by competitive means would be either not practicable or not advantageous to the State.
- CPOs may on an annual basis request that additional exemptions be added to Exhibit A.

HAR Chapter 3-120

- The Procurement Policy Board shall review the exhibit annually for amendments.
- When using any of the exemptions on Exhibit A, the purchasing agencies shall cite on the purchase order or the contract, the authority waiver as “Exempt from Chapter 103D, HRS, pursuant to section 3-120-4(b) (cite exemption number from exhibit), HAR.

What kinds of Procurements Exemptions are listed on Exhibit A in HAR Chapter 3-120?

1. Research, reference, and educational materials, including books, maps, periodicals, and pamphlets, which are published or available in print, video, audio, magnetic, or electronic forms, including web-based databases;
2. Services of printers, rating agencies, support facility providers, fiscal and paying agents, and registrars for the issuance and sale of the State's or counties' bonds;

HAR Chapter 3-120 Exhibit A Continued

3. Services of lecturers, speakers, trainers, facilitators and scriptwriters, when the provider possess specialized training methods, techniques, or expertise in the subject matter;

HAR Chapter 3-120 Exhibit A Continued

4. Services of legal counsel, guardian ad litem, psychiatrists, psychologists, receivers and masters, when, required by court order;
5. ~~Fresh meats and produce;~~ (No longer, Act 175)
6. Insurance to include insurance broker services;
7. ~~Animals and plants;~~ (No longer, Act 175)
8. New or used items which are advantageous and available on short notice through an auction bankruptcy, foreclosure, etc.

HAR Chapter 3-120 Exhibit A Continued

9. Food and fodder for animals;
10. Facility costs for conferences, meetings, and training sessions;
11. Advertisements in specialized publications, such as in ethnic or foreign language publications, trade publications, or professional publications;
12. Arbitrators and mediator services;
13. Interpreter services

HAR Chapter 3-120 Exhibit A Continued

14. Procurement of repair services when dismantling is required to assess the extent of repairs;
15. Burial services consisting of mortuary crematory, cemetery, and other essential services for deceased indigent persons or unclaimed corpses;
16. Radio and television airtime when selection of station is based on the targeted audience (i.e., ethnic or age group, gender, etc)

HAR Chapter 3-120 Exhibit A Continued

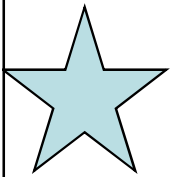
17. Subscription costs and registration or workshop fees for conferences or training;
and
18. Court Reporter Services.

**Where are Procurements Exempt From
Chapter 103D, HRS, currently listed?**

HRS Section 103D-102

Exhibit A, titled “Procurements Exempt From
HRS Chapter 103D, HAR Chapter 3-120;

For the Executive Branch, CPO approved SPO
Form 7 on the SPO website; Each respective
Chief Procurement Officer approves
procurement exemptions for goods, services,
and construction for their own jurisdictions.



When is a CPO approved Exemption From HRS Chapter 103D, necessary?

- When HOPA determines that a situation exists for a good, service or construction that is not listed in HRS Section 103D-102, and HAR Chapter 3-120, and that procurement by competitive means is either not practicable or not advantageous to the State.

How does an Agency obtain a CPO Approved Exemption from Chapter 103D, HRS?

- A request for CPO approval on SPO Form 7 must be downloaded from the SPO website and be submitted to the CPO.
- The CPO must post the submitted SPO Form 7 on the designated public website for 7 calendar days before taking any approval action.

Continued: SPO Form 7 :

- Objections to the request must be written and received by the CPO within 7 calendar days of the initial posting on the website.
- Written objections received by the deadline will be considered by the CPO.
- The CPO may approve the request after the 7th day from the initial posting on the website.
- Disapproval action on a request can be done anytime and returned to the agency.

When is an amendment to a CPO approved Exemption from Chapter 103D, HRS, necessary and how is it done?

- Amendment to a contract or purchase order that would change the original scope of work, including increased cost, may be done only with the approval of the CPO on an SPO Form 7B.
- SPO Form 7B has the same posting and approval process as SPO Form 7.

Example of Exemption Request SPO-007

Previously the agency got a waiver to hire outside counsel to negotiate and drafting of the Option Agreement for various parcels of land located at Kapolei. The vendor was hired through professional services method. The contract has expired but now the leasee is requesting to amend the option agreement and also revise the draft general lease document. The agency believes it more advantageous to use a different legal counsel since their fees are too high and felt they were at times non-responsive. Agency wants to hire a new legal counsel (A & W) one that they have experience working with, knowledge of HHC ACT and HRS Chapter 171 and would need little time to get up to speed and renegotiate now.

Example of Exemption Request

Previously the agency got a waiver to hire outside counsel to negotiate and drafting of the Option Agreement for various parcels of land located at Kapolei. The vendor was hired through professional services method. The contract has expired but now the leasee is requesting to amend the option agreement and also revise the draft general lease document. The agency believes it more advantageous to use a different legal counsel since their fees are too high and felt they were at times non-responsive. Agency wants to hire a new legal counsel (A & W) one that they have experience working with, knowledge of HHC ACT and HRS Chapter 171 and would need little time to get up to speed and renegotiate now.

Request has been withdrawn by the department.

The explanations given in the request and emails did not support the need to exempt the hiring of outside legal counsel rather it is based on convenience between the agency and the selected vendor. No lost revenue projections were submitted with the request, nor the estimated time savings realized if the selection of the outside legal counsel is exempted.

Example of Exemptions

The Patient Protection and Affordable Act, signed by President Obama on March 23, 2010 effective June 1, 2010 contained provisions to benefits Early Retirees (55-65). The new law provides \$5 billion to assist employers with providing health coverage for their retirees. Applications for this program are expected to be available June 1, 2010 or shortly after and are critical that the information is accurate and complete. Applications will be processed in the order it is received. Agency is requesting that the current benefits consultant (AON) be contracted with to submit the applications for EUFT. According to the EUTF, applications that are submitted early have the best chance of receiving funds and the later it is submitted has the least chance. It is estimated that EUTF may be eligible to receive \$15 million for plan year 2010.

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Approved. Meeting the 6/1/2010 application date or shortly after is critical in the process of receiving funding from this program. AON has developed over time a complete understanding and knowledge of EUTF's operational procedures, information systems analysts and all insurance carriers and plan administrators, and has the expertise and experience to complete and successfully file the application, any other contractor would have to go through a learning curve.

Samples of Exemptions

An agency is requesting an exemption to purchase Abbott test strips through Abbott Laboratories Inc., Diagnostics Division. In June 2005, the agency decided to standardize their glucose meters statewide and decided on Abbott Laboratories, Abbott Precision Xtra Meters without doing a solicitation. The vendor decided to supply the meters for free. These meters can only read their brand name test strips. Abbott Labs will not compete with their distributors and the agency would pay double the local prices for the same test strips. Agency has been purchasing the test strips from Abbott Laboratories since their agreement.

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Disapproved. Agency should have put out a solicitation for the purchase of the meters and the cost of the test strips. The agency is instructed to re-submit as a procurement violation (SPO-16) explaining the reason(s) for not following the procurement procedures in selecting Abbott Laboratories glucose meters.

Example of Exemptions

Landscape maintenance, specifically grass-cutting within the Kakaako Waterfront Park and two other parks. Agency was notified that the contractor has filed for bankruptcy, lost its landscaping contractor's license and no longer maintains liability insurance. The agency terminated the contract, and requested help from other agencies, but none could assist with the maintenance schedule. To avoid increase vector infestation, the existing grass cutting schedule needs to be maintained (10 day period). Work to begin on August 30, 2010. Typically it takes 2 to 3 months to execute a contract. Due to the short time table, the agency did not utilize HePS, eight contractors were contacted, and two submitted quotes. Lowest responsible bidder \$61,600 est.

Example of Exemptions

Service: Landscape maintenance, specifically grass-cutting within the Kakaako Waterfront Park and two other parks. Agency was notified that the contractor has filed for bankruptcy, lost its landscaping contractor's license and no longer maintains liability insurance. The agency terminated the contract, and requested help from other agencies, but none could assist with the maintenance schedule. To avoid increase vector infestation, the existing grass cutting schedule needs to be maintained (10 day period). Work to begin on August 30, 2010. Typically it takes 2 to 3 months to execute a contract. Due to the short time table, the agency did not utilize HePS, eight contractors were contacted, and two submitted quotes. Lowest responsible bidder \$61,600 est.

Request approved, until the execution of the next contract. The contract that was cancelled included also, trash pickup and tree trimming which the exemption request were submitted separately. All three exemption requests could have been incorporated in one request. The last exemption approved, tree trimming, needed to be RUSHED, due to the safety hazards of coconuts falling from trees needing trimming.

Example of Exemption

Monthly advertising space (posters) in free standing three (3) sided Kiosks in high volume and geographic specific shopping centers and malls throughout the state. The vendor (Hawaii Malls, Inc.) is the sole representative for advertising in shopping malls Kiosks throughout the state. There are no other vendors for this service. The program manager investigated the various sites effectiveness in reaching the largest number of the target consumers. Contract is negotiated with vendor.

Example of Exemption

Monthly advertising space (posters) in free standing three (3) sided Kiosks in high volume and geographic specific shopping centers and malls throughout the state. The Vendor is the sole representative for advertising in shopping malls Kiosks throughout the state. There are no other vendors for this service. The program manager investigated the various sites effectiveness in reaching the largest number of the target consumers. Contract is negotiated with vendor.

Request approved. The department has determined that targeted audiences can be reached with the greatest impact, by advertising on free standing kiosks in specific shopping malls and centers throughout the state. It would not be advantageous to the state to solicit for the required service because while there are other advertising companies, Hawaii Malls Inc. is the sole representative for shopping mall kiosks across the state.

Example of Exemption

Title sponsorship for a *Hawaii Venture Capital Association (HVCA)* Think Tech community event on 5/24/12 at the Plaza Club to discuss and raise awareness on broadband. Sponsorship includes, speaker position at the event, posting of HBI video of the thinktechhawaii.com website, posting of HBI videos on thinktechhawaii TV spots. If the agency were to do promote broadband initiatives alone, they would not have as wide of a reach, would not have sufficient staff, etc. and would cost more.

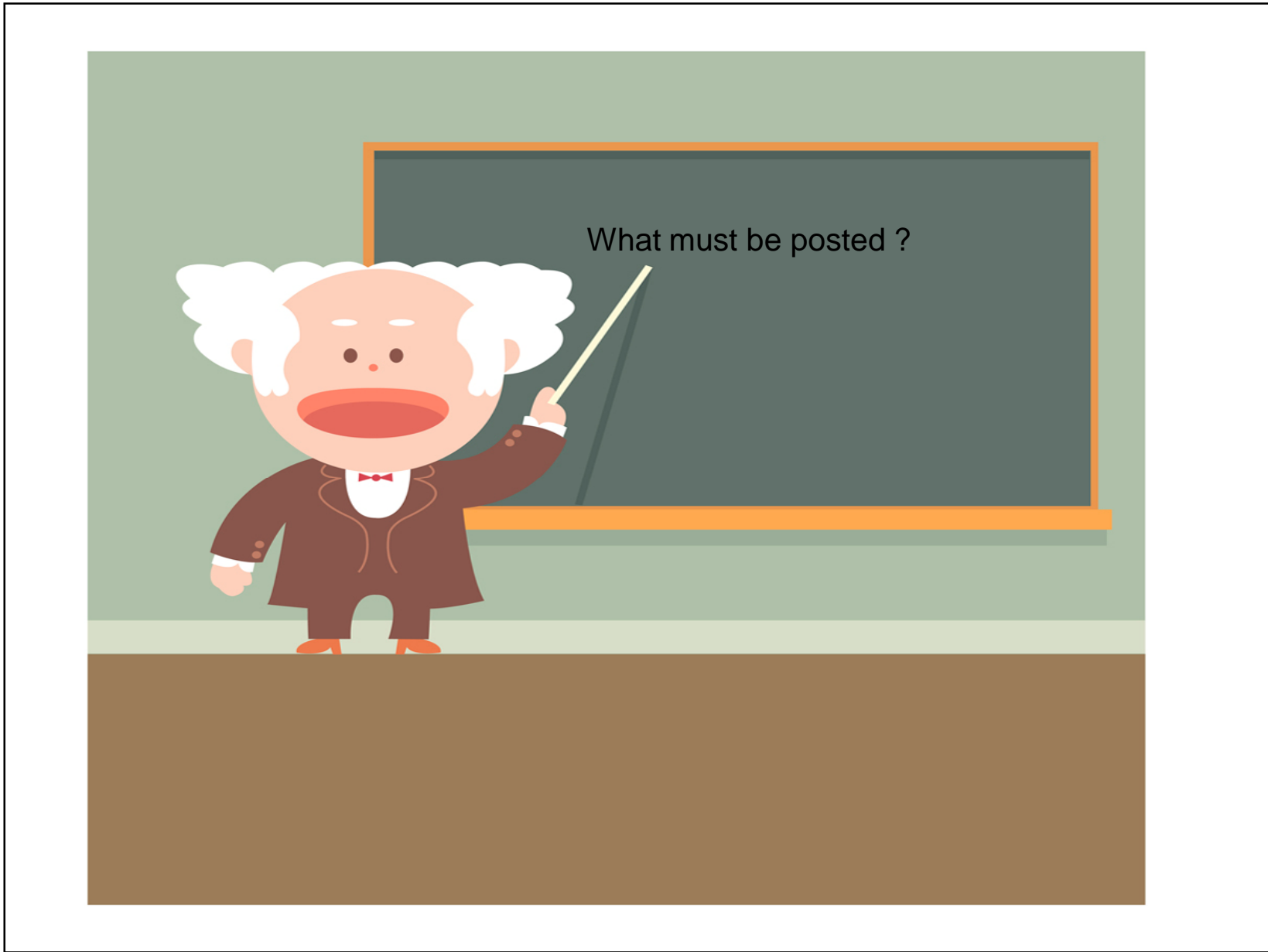
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Request approved. However, the original request for a overall blanket exemption for event sponsorships were disapproved. The agency meet with the SPO to discuss a hybrid procedure based on an RFP and Professional Services process. The modified RFP will accept applications for sponsorships for a period of 12 months and multiple awards will be determined based on qualifications, meeting the agencies objectives, date and cost of the event, etc. This particular request for sponsorship fell in before the modified RFP excepted applications.

How is procurement transparency achieved in this process?

- SPO Forms 7 and 7B are posted on the SPO public website prior to and after CPO action.
- Documents submitted supporting the exemptions, objections and responses to the request, if any, shall be kept with the respective exemption file and be public information after CPO action unless otherwise allowed under chapter 92F, HRS.



Procurement Circular No 2010-01
 Posting Procurement Awards, Notices and Solicitations (PANS)

Awards

POST: Within Seven (7) Days After Notice of Award Date	Dollar Threshold or Condition
HRS Chapter 103D - Hawaii Public Procurement Code (Goods, Services and Construction)	
Competitive Sealed Bids (IFB) (Reference: HRS §103D-302)	All awards
Competitive Sealed Proposal (RFP) (Reference: HRS §103D-303)	All awards
Professional Services (Reference: HRS §103D-304) (Shall be posted on Professional Services Awards posting webpage)	All awards
Small Purchase Request for Quotes (RFQ) (Reference: HRS §103D-305)	\$15,000 and above
Sole Source (Reference: HRS §103D-306)	\$2,500 and above
Emergency (Reference: HRS §103D-307)	\$2,500 and above
Exemptions from HRS chapter 103D (Reference: HRS §103D-102)	\$2,500 and above
Amendments, extensions, change orders, supplemental agreements (Reference: HAR chapter 3-125)	Whenever change affects: <ul style="list-style-type: none"> • Contract term; or • Funding amount

For those that post notices and awards recommend SPO Workshop 141

State Procurement Office
Exemptions from HRS Chapter 103D (SPO125)

The screenshot shows the website for the State Procurement Office of Hawaii. The browser window title is "Contracts for Goods, Services, and Construction - Mozilla Firefox". The address bar shows "http://hawaii.gov/spo2/source/". The page header includes the Hawaii.gov logo and the State Procurement Office logo. The main content area is titled "Contracts for Goods, Services, and Construction - Home".

Agency

- Emergency Procurement
- Exemptions from Chapter 103D-102, HRS
- Invitation for Bids (IFB)
- Professional Services
- Request for Proposal (RFP)
- Small Purchase Award
- Sole Source Awards

Search
Does not include Professional Services Awards.

CPO Approvals

- Emergency
- CPO Exemptions from Chapter 103D
- Sole Source

Two blue arrows point from text on the right to the "Exemptions from Chapter 103D-102, HRS" link and the "CPO Exemptions from Chapter 103D" link.

To view other exemption awards

To view status of your exemption request

Home | spo2 | Terms of Use | A
Contact Webmaster | Search

State Procurement Office
Exemptions from HRS Chapter 103D (SPO125)

Contracts for Goods, Services, and Construction

6- Exemption pursuant to HRS section 103D-102, or HAR Chapter 3-120

Results Found: 8377

Click on column titles to sort table in ascending order. Click a second time to order table in descending order. Click on Number to view more information.

Award Date	Contract/PO NO.	Description	Original Award Amount	Method	Vendor	Department
02/09/2020	PC10A223	2009 H1N1 influenza vaccination media campaign on KUMU & KPOI	\$4,000	P.E.	Visionary Related Entertainment	Health
05/23/2012	10153	Sponsorship for a ThinkTech and HVCA community event on 5/24/12.	\$7,000	P.E.	ThinkTech Hawaii, Inc.	Business, Economic Development, & Tourism
05/16/2012	pending	Ref. HAR chapter 3-122 subchapter 8 Pre-approved procurement exemption from HAR 3-120 HAR-15. Subscription costs and registration of workshop fees for conferences or training. For this procurement the registration fees are valued at 14950 for an estimated 2000 children ages 4-12 3.00 per and for 1790 students with ID 5.00 per for the 2012 Hawaii State Farm Fair - 50th year event - to take place July 7-8 2012 at Kualoa Ranch.	\$14,950	P.E.	Hawaii Farm Bureau Federation	Agriculture
05/15/2012	pending	Clean Energy Support including contractor support for two tasks under a Department of Energy review of clean energy 1. data collection/analysis of impacts 2. environmental considerations. Also task reports annual reports and a final technical report.	\$250,000	P.E.	University of Hawaii Office of Research Services	Business, Economic Development, & Tourism
05/11/2012	10144	Energy feasibility study for HTDC-MEP client National Astronomical Observatory via Letter of Agreement.	\$4,352	P.E.	The Chong Group LLC	Business, Economic Development.



State Procurement Office
Exemptions from HRS Chapter 103D (SPO125)

hawaii.gov/spo2/exempt103d/

Hawaii.gov
Official site for the State of Hawaii

State Procurement Office
Department of Accounting and General Services

Exemption from Chapter 103D, HRS

PE No.	Posted Date	Status	Status Date	Description	Amount	Provider Name	Document
PE12-116-D	05/29/12	Pending	05/29/12	Implementation of the Hawaii Health Insurance Exchange.	\$ 14440144	Hawaii Health Connector	View
PE12-115K	05/29/12	Pending	05/29/12	Creation facilitation management of a new monthly International Standard Serial Numbered Hawaii Journal of Medicine Public Health and the Hawaii Journal of Medicine Public Health website.	\$ 10000	University Clinical Education Research Assoc.	View
PE12-114D	05/24/12	Approved	05/29/12	Installation services for retrofit kits purchased utilizing SS11-004-D.	\$ 675000	Federal Signal Corporation	View
PE12-113K	05/24/12	Pending	05/24/12	Building construction The project was previously competed however due to lack of funds the building project was cancelled in 2009. Agency requesting to contract with the lowest offeror.	\$ 13236561	Isemoto Contracting Co. Ltd	View
PE11-101B	05/22/12	Approved	05/29/12	Amendment 1 - Grant and memorandum of agreement to evaluated a photovoltaic aquaponics project at Kauai Community College. This is a no cost extension for approval until 12/31/2012.	\$ 0	Kauai Economic Development Board	View
PE12-112D	05/18/12	Pending	05/18/12	Furnish and deliver secure programmed identity card stock compatible with existing security badging system at HNL.	\$ 1300000	Johnson Controls Inc	View

<http://hawaii.gov/spo2/exempt103d/>

What Contract Forms to use

- Agencies shall use the AG's Standard Contract Form, AG-002 Rev. 07/24/06, titled, Contract for Goods and Services: Exempt; Small Purchase; Sole Source; or Emergency), that can be found at:

PROCUREMENT EXEMPTIONS THAT NEED STATE PROCUREMENT OFFICE (SPO) ADMINISTRATOR APPROVAL

- SUBMIT FORM SPO-07 TO SPO via Email to:
state.procurement.office@hawaii.gov
- Or send two copies to SPO

The State Procurement Office
Kalanimoku Bldg.
1151 Punchbowl St.
Honolulu HI 96813
PO Box 119
Honolulu HI 96810-0119

State Procurement Office
Exemptions from HRS Chapter 103D (SPO125)

The screenshot shows the State Procurement Office website. The main navigation bar includes links for Home, About, Doing Business with the State, For State & County Personnel, HePS, Public Information, and Contact. A search bar is located on the right. The page title is "Forms for State and County Personnel". Below this, there is a list of categories for forms: General, Goods, Services and Construction, Health and Human Services, and Inventory Management and Excess Property. A table titled "Procurement Forms for Goods, Services and Construction" is displayed, listing various forms with their numbers, titles, and update dates. A red arrow points to the rows for SPO-007 and SPO-007B, with a red text label "Forms SPO -007 and 007B" next to it.

Form Number	Title	Updated
SPO-001	Notice and Request for Sole Source	01/12/12
SPO-001B	Notice of Amendment to Sole Source Contract	01/12/12
SPO-002	Emergency Procurement	01/12/12
SPO-003	Request for Contract Extension	01/12/12
SPO-007	Notice and Request for Exemption from Chapter 103D, HRS	01/12/12
SPO-007B	Notice of Amendment to Exemption from Chapter 103D, HRS	01/12/12
SPO-010	Record of Procurement	12/06/10
SPO-010A	Small Purchase Quotation Form	12/06/10
SPO-014	Restrictive Specifications Request	01/12/12
SPO-015	Request for an Alternative Procurement	01/12/12
SPO-018	Procurement Services Request	01/03/06
SPO-018A	Request for Review Services: For Invitation for Bids and Request for Proposals-Goods	01/01/04

SPO-007



**STATE PROCUREMENT OFFICE
 NOTICE OF REQUEST FOR EXEMPTION
 FROM HRS CHAPTER 103D**

*12 MAY 14 P2:36

STATE PROCUREMENT OFFICE
 STATE OF HAWAII

TO: Chief Procurement Officer
 FROM: High Tech Development Corporation (HTDC)
Name of Requesting Department

Pursuant to HRS § 103D-102(b)(4) and HAR chapter 3-120, the Department requests a procurement exemption for the following:

1. Describe the goods, services or construction:
 Title sponsorship for a HVCA/Think Tech community event on 5/24/2012 at the Plaza Club to discuss and raise awareness on broadband. Sponsorship includes, speaker position at the event, posting of HBI videos on the thinktechhawaii.com website, posting of HBI videos on thinktechhawaii TV spots, and HTDC credited as a general sponsorship partner in Think Tech's promotion of the Hawaii Broadband Initiative. Think Tech will also handle the organization of the event, making it financially reasonable (if State were to do it alone, we would not have as wide a reach, would not have sufficient staff, etc. and would cost us more).

2. Vendor/Contractor/Service Provider:	Think Tech Hawaii, Inc.	3. Amount of Request:
		\$ 7000
4. Term of Contract From: 5/24/2012 To: 5/24/2012	5. Prior SPO-007, Procurement Exemption (PE):	

1. Description of goods, services or construction
2. Name of Vendor
3. Price
4. Term of Contract
5. Prior Exemption Ref. No.

State Procurement Office
Exemptions from HRS Chapter 103D (SPO125)

6. Explain in detail, why it is not practicable or not advantageous for the department to procure by competitive means:

Sponsorships of events are difficult to categorize using standard procurement methods. HTDC has worked with SPO to create a hybrid procedure based on an RFP, but it will not meet the 30 day posting notice requirement in time for this event. The agreement with DCCA expires on June 30, 2012, thus it is imperative that HTDC partner and sponsor relevant conferences while the new procedure is being solicited.

7. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider:

The first priority in identifying and sponsoring HBI related events was to look at our current partners. Think Tech Hawaii is a non-profit organization HTDC is currently working with to promote HBI. In addition, HTDC will follow the RFP-12-003-HTDC protocol referenced above, with the understanding that the event has already been approved by the Executive Director as it addresses HTDC's top priority initiative with an established partner, and critical timing. This event will serve as a baseline for the scoring process and will serve as a comparison for future proposals.

Form SPO-007 (rev 01/12/2012)

Procurement Exemption No. 12-109K

Page 1


6. Explanation describing how procurement by competitive means is either not practicable or not Advantageous to the State.
7. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:
Note: The Procurement Exemption No. for this request is 12-109K

State Procurement Office
Exemptions from HRS Chapter 103D (SPO125)

8. Identify the primary individual(s) who is knowledgeable about this request, who will conduct and manage this process, and has 1) completed mandatory training; and 2) who may contact for follow up inquiry, if any.
(Type over "example" and delete cells not used.)

Name of Department Personnel	Division/Agency	Phone Number	e-mail address
Yuka Nagashima	HTDC	539-3601	ceo@htdc.org
Steve Sakuda	HTDC	539-3844	steves@htdc.org

All requirements/approvals and internal controls for this expenditure is the responsibility of the department. I certify that the information provided above is, to the best of my knowledge, true and correct.


 Department Head Signature

5/10/12
 Date

For Chief Procurement Officer Use Only

Date Notice Posted: 5/15/12

Submit written objection to this notice to issue an exempt contract within seven calendar days or as otherwise allowed from date notice posted to:

state.procurement.office@hawaii.gov

Chief Procurement Officer (CPO) Comments:

Approval is granted for 05/24/12 event with the understanding that future sponsorship events will be evaluated and awarded through the RFP-12-003HTDC process for the period 07/01/12 to 06/30/13. This approval is for the solicitation process only, HRS section 103D-310(c) and HAR section 3-122-112, shall apply (i.e. vendor is required to be compliant on the Hawaii Compliance Express) and award is required to be posted on the Awards Reporting System.

If there are any questions, please contact Kevin Takaesu at 586-0568, or kevin.s.takaesu@hawaii.gov.

Approved
 Disapproved
 No Action Required


 Chief Procurement Officer Signature

5/23/2012
 Date

SPO-007B



STATE PROCUREMENT OFFICE
NOTICE OF REQUEST TO AMEND AN EXEMPTION
FROM HRS CHAPTER 103D CONTRACT

TO: Chief Procurement Officer

FROM:
Name of Requesting Department

Pursuant to HRS §103D-102(b)(4) and HAR section 3-120-5(d), the Department requests to amend an exempt contract as follows:

1. SPO-007, Exemption Reference (PE) Number:
2. Vendor/Contractor/Service Provider Name:
3. Describe the goods, services, or construction:
4. Explain in detail what is being amended:
5. Amended contract price for this request:
6. Explain in detail why the amendment(s) are necessary:

State Procurement Office
Exemptions from HRS Chapter 103D (SPO125)

7. Identify the primary individual(s) who is knowledgeable about this request, who will conduct and manage this process, and has 1) completed mandatory training and 2) who may be contacted for follow up inquiry, if any.

(Type over "example" and delete cells not used.)

Department Personnel Name	Division/Agency	Phone Number	Email address
Ex. Jane Doe	HTDC		
Ex. John Doe	HPHA		

All requirements/approvals and internal controls for this expenditure is the responsibility of the department. I certify that the information provided is to the best of my knowledge, true and correct.

Department Head Signature

Date

For Chief Procurement Officer Use Only

Date Notice Posted: _____

Submit written objection to this notice to issue a sole source contract within seven calendar days or as otherwise allowed from date notice posted to:

Approved Disapproved No Action Required

Chief Procurement Officer

Date

State Procurement Office
Exemptions from HRS Chapter 103D (SPO125)

The screenshot shows a web browser window displaying the State Procurement Office website. The browser's address bar shows the URL: hawaii.gov/spo/goods-services-construction/exemptions-from-hrs-chapter-103d. The website header features the State of Hawaii logo and the text "STATE PROCUREMENT OFFICE Integrity in an Open, Fair and Transparent Process". A navigation menu includes links for Home, About, Doing Business with the State, For State & County Personnel, HePS, Public Information, and Contact. A search bar is located in the top right corner.

The main content area is titled "Exemptions from HRS Chapter 103D" and includes a breadcrumb trail: "you are here: home > goods-services-construction > exemptions from hrs chapter 103d". Below the title, there are three sections:

- Requirements/Procedures**
 - Exemptions from Chapter HRS 103D HRS Training Reference (Workshop SPO 125)
- Information**
 - Request for Exemption to the CPO for the Executive Branch; Status
 - Contract Awards for purchases exempt from HRS 103D by CPO approval or exempt by statutes/rules (Executive Branch)
- Forms**
 - SPO-007 Notice and Request for Exemption from Chapter 103D, HRS

At the bottom of the main content area, there are links for "Back to Purchasing Goods, Services & Construction", "For State and County Personnel", and "State Procurement Office Home".

The right sidebar contains three main sections:

- Information**
 - Procurement Notices for Solicitation
 - Contract Awards & Info
 - Price & Vendor List Contracts
 - Chief Procurement Officers
- Toolbox**
 - Hawaii Compliance Express
 - SPO Forms
 - Attorney General Contract Forms
 - Doing Business with the State
 - For State and County Procurement Personnel
 - Goods, Services & Construction for Vendors, Contractors & Service Providers
 - Goods, Services & Construction for State & County Procurement Personnel
 - SPO Training and Informational Sessions
 - FAQs
- Reference**

**STATE PROCUREMENT OFFICE
PROGRAMS EXEMPT FROM CHAPTER 103D, HRS
DEPARTMENTS AND AGENCIES:**

- **GOVERNOR**
Civil Defense and Emergency Act
§128-10 Other powers. “(10) ...Chapter 103D,...shall not apply to any civil defense or other emergency functions...”
- **Labor Disputes; Stevedoring Industry**
§382-3 Government operations. “After the issuance of a proclamation pursuant to section 382-2 and during the emergency thereby proclaimed... The governor may make contracts without regard to chapter 103D....”
- **BUDGET AND FINANCE**
§37D-2 Financing agreements. “(5) The department shall not be subject to chapter 103D and any and all other requirements of law for competitive bidding for financing agreements.”

**STATE PROCUREMENT OFFICE
PROGRAMS EXEMPT FROM CHAPTER 103D, HRS
DEPARTMENTS AND AGENCIES**

- **BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM**
Hawaii Tourism Authority
§201B-12 Exemption of authority from taxation and Hawaii public procurement code. “(b) The authority shall not be subject to chapter 103D and any and all other requirements of law for competitive bidding for project agreements, construction contracts, lease and sublease agreements, or other contracts unless a project agreement with respect to a project otherwise shall require.”
§ 210D-13 Grants Under Community-based Economic Development Program
- **COMMERCE AND CONSUMER AFFAIRS**
Hawaii Hurricane Relief Fund
§431P-16 Establishment of trust finds. “(a)... Disbursements from the trust funds shall not be subject to chapter 103D and shall be made in accordance with procedures adopted by the board.”
- **EDUCATION**
§302B-7 Charter school local school boards; powers and duties. “Local school boards shall be exempt from chapter 103D, but shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices.”

**STATE PROCUREMENT OFFICE
PROGRAMS EXEMPT FROM CHAPTER 103D, HRS
DEPARTMENTS AND AGENCIES**

- **HEALTH**
§103D-102(c) Notwithstanding subsection (a), this chapter shall not apply to contracts made by any regional system board of the Hawaii health systems corporation.
- **UNIVERSITY OF HAWAII**
Research Corporation of the University of Hawaii
§304A-3005 Research corporation excepted from certain state laws. “(2) Chapter 103D, relating to advertising for bids and purchases to be made in Hawaii whenever public moneys are expended.”
- **ALL POLITICAL SUBDIVISIONS**
Civil Defense and Emergency Act
§128-13 Power and authority of local organizations. “(3)Chapter 103D, ... shall not apply to any civil defense functions of and to the extent that the mayor finds that the provisions, in whole or in part, impede or tend to impede the expeditious discharge of the functions, or that compliance therewith is impracticable due to existing conditions.”

•Hawaii Public Housing Authority

§356D-Development of property; partnership or development agreement..

“For development of public housing projects pursuant to subsection (a), except as provided by federal law or regulation, the authority shall not be subject to chapter 103 and 103D... provided that the authority shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices.”

Act 164, SLH 2012 (HB2529, HD1, SD1)
Effective July 1, 2012.

Land and Natural Resources (Kaho’olawe Island Reserve Commission (KIRC)

§ (Assigned by the Legislative Reference Bureau) Procurement exemption “ Contracts made by the commission for the procurement of food or fuel products necessary to carry out the purposes of this chapter shall be exempt from Chapter 103D; provided that the commission shall continue to comply with any reporting requirements under chapter 103D or rules adopted thereunder for contracts entered into pursuant to this section.”

Act 159, SLH 2010

Effective date: 7/1/2010

Act 244 SLH 2013 removed expiration date.

Research Corporation of the University of Hawaii (RCUH).

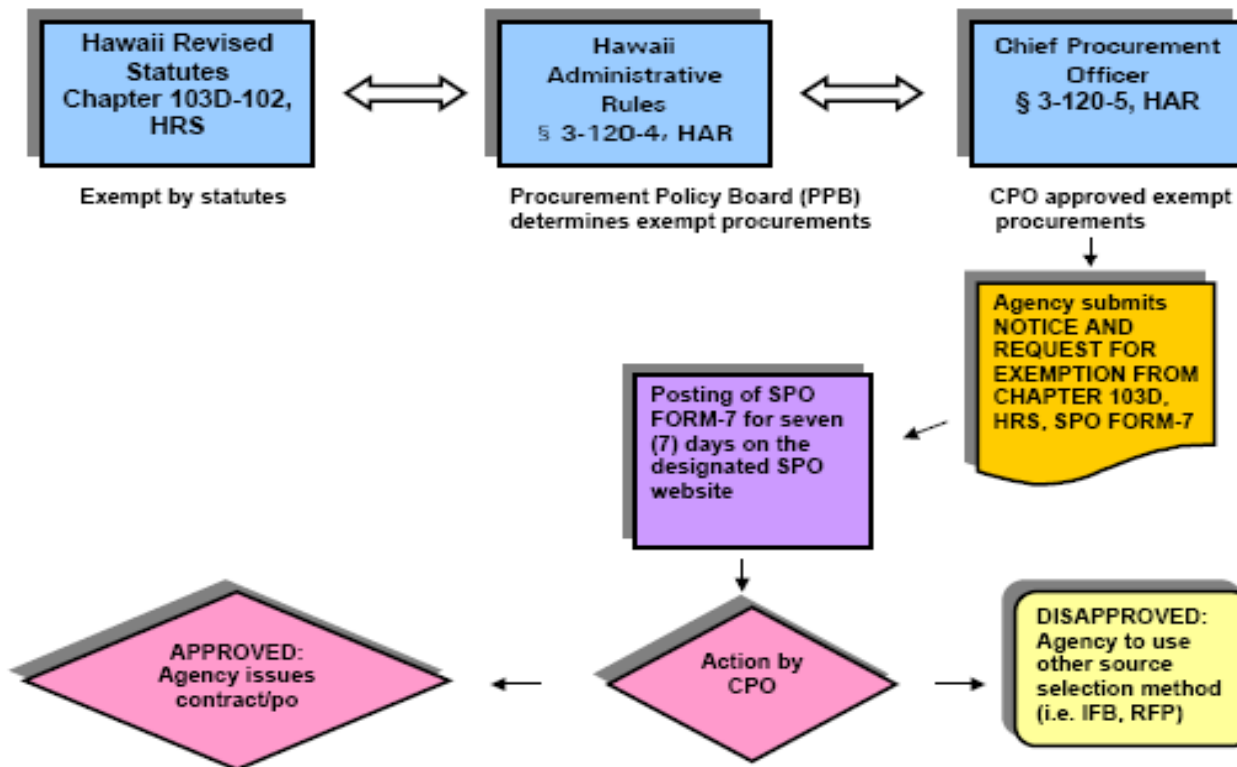
Modify the procurement exemption for certain construction contracts.

Act 288, SLH 2013 (SB1388)

SUMMARY

EXEMPTIONS FROM CHAPTER 103D, HRS

Section 103D-102, HRS
Chapter 3-120, HAR



7/06

QUESTIONS??

Kevin Takaesu 586-0568

Or

kevin.s.takaesu@hawaii.gov