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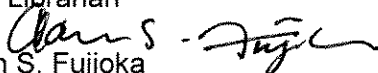
**STATE OF HAWAII  
STATE PROCUREMENT OFFICE**

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October 15, 2009

PROCUREMENT CIRCULAR NO. 2009-15

TO: Office of the Governor  
Office of the Lieutenant Governor  
Executive Department Heads  
State Librarian

FROM: Aaron S. Fujioka 

SUBJECT: ACT 175, SLH 2009: PART I, SECTION 2  
Small Purchases Procurement and Performance Bonds for Construction

This circular is a follow-up to Procurement Circular No. 2009-07 on *2009 Procurement Related Legislation* for guidance and information on ACT 175, SLH 2009 effective as of July 1, 2009. PART I, SECTION 2 of ACT 175, SLH 2009 temporarily amends HRS §103D-305 for the small purchases procurement method.

The SECTION 2 amendments are applicable to only small purchases procurement. Departments may elect to utilize other procurement methods, as appropriate. For example, a competitive sealed bid or proposal procurement method for a construction project of \$150,000 may be conducted pursuant to HRS §§103D-302 or -303, and the SECTION 2 amendments would not be applicable.

The following are the small purchases procurement changes:

**Small purchase thresholds**

- Goods or services: Increased to less than \$100,000; provided purchases between \$15,000 to less than \$100,000 shall be conducted on the Hawaii Electronic Procurement System (HePS).
- Construction: Increased to less than \$250,000; provided purchases between \$15,000 to less than \$250,000 shall be conducted on HePS.

**Performance bond requirement**

- Required for small purchases procurement construction contracts over \$50,000;
- In accordance with Procurement Circular No. 2007-05;
- Executed by a surety company registered with the Department of Commerce & Consumer Affairs; and
- Equal to 100% of the contract price or secured as specified in the solicitation by the purchasing agency.

The following Procurement Circulars are replaced, effective as of the date of this circular:

- 2006-07, Amendment 1 *Small Purchases Guidelines and the Hawaii Electronic Procurement System*
- 2006-08 *Hawaii Electronic Procurement System (HePS)*

PART I of ACT 175, SLH 2009 is scheduled to be repealed on July 1, 2012, at which time all of the above shall revert to the prior HRS §103D-305 form which was in effect on June 30, 2009.

If your staff has questions, they may contact:

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or please call me at 587-4700.

Attachment

c: Chief Procurement Officers

**STATE PROCUREMENT OFFICE**  
**PROCEDURES**  
**FOR**  
**SMALL PURCHASES PROCUREMENT**

Effective July 1, 2009

**A. Application**

These procedures apply to small purchases procurement to request for quotes (RFQ), and do not apply to purchases made in accordance with:

1. SPO Price and Vendor lists;
2. \*Exemptions from HRS Chapter 103D, pursuant to HRS §103D-102 (exemptions list) or HAR Chapter 3-120, *Exhibit A-Procurements Exempt From Chapter 103D, HRS; and*
3. \*HAR Chapter 3-122, *Procurements Approved For Sole Source.*

Note: \*Awards shall be posted on the Procurement Reporting System (PRS), pursuant to Procurement Circular 2006-01, or as amended.

Purchases made using a purchase order or pCard shall annotate the appropriate number (i.e. SPO Price/Vendor List, exemption, or sole source number) on the purchase order or pCard receipt or statement for documentation purposes.

**B. Goods, Services, or Construction: Under \$5,000**

1. Adequate and reasonable competition is recommended;
2. Award shall be made to the lowest responsive, responsible offeror; or
3. When award to the lowest responsive, responsible offer is not practicable, award shall be made to the vendor whose offer provides the best value to the State.
4. SPO Form-10 and Form 10A are optional.

**C. Goods, Services, or Construction: \$5,000 to less than \$15,000**

1. Obtain a minimum of three (3) quotations (i.e. phone, fax, etc.).
  - a. Furnish the same description or specifications to each vendor; and
  - b. Document the offers received on SPO-10, Part B.
  - c. If unable to obtain three (3) quotes due to insufficient sources, sole source, or emergency, etc., document on SPO-10, Part C.
2. Award shall be made to the lowest responsive, responsible offeror; or
3. When award to the lowest responsive, responsible offer is not practicable, award shall be made to the vendor whose offer provides the best value to the State, and shall be documented on SPO-10, Part D.

- D. **Goods or Services:** \$15,000 to less than \$100,000  
**Construction:** \$15,000 to less than \$250,000

Solicitations shall be conducted on the Hawaii Electronic Procurement System (HePS).

1. Solicitations will utilize the *HePS Award Summary Report* as documentation; SPO Form 10 and 10A are not required.
2. Award shall be made to the lowest responsive, responsible offeror; or
3. When award to the lowest responsive, responsible offer is not practicable, award shall be made to the vendor whose offer provides the best value to the State and documented on the *HePS Award Summary Report*.
4. Obtain compliance document (i.e. Hawaii Compliance Express (HCE)) to verify vendor compliance with statutes. (Ref: Procurement Circular 2005-04, Amend. 3)

When the HePS is not utilized, agencies shall use the following appropriate procurement methods:

HRS §103D-302, Competitive Sealed Bidding (Invitation for Bids)  
HRS §103D-303, Competitive Sealed Proposals (Request for Proposals)  
HRS §103D-304, Procurement of Professional Services  
HRS §103D-306, Sole Source Procurement  
HRS §103D-307, Emergency Procurement

The statutes and rules pertaining to small purchases procurement in HAR Chapter 3-122, Subchapter 8 and HRS §103D-305, may be viewed at <http://www.hawaii.gov/spo>, including the following definitions:

HAR §3-122-1 states:

**“Best Value”** means the most advantageous offer determined by evaluating and comparing all relevant criteria in addition to price so that the offer meeting the overall combination that best serves the State is selected. These criteria may include, in addition to others, the total cost of ownership, performance history of the vendor, quality of goods, services, or construction, delivery, and proposed technical performance.

HAR §3-122-73 provides:

**“Adequate and reasonable competition”** means the amount of vendors solicited based upon the number of vendors available and the value or price of the goods, service, or construction. Because of the variations in circumstances, it is not possible to define what is adequate and reasonable competition for every small procurement. However, in general, the more vendors there are that can meet the needs of the agency, or the higher the price of goods, services, or construction, then a greater number of vendors should be solicited.

HAR §3-131-1 states:

**“Parceling”** means the artificial division or intentional division of a purchase of same, like or related items of goods, services, or construction into several purchases or smaller quantities, in order to evade the statutory competitive [bidding] requirements.

Departments may impose stricter requirements in its departmental small purchases procurement procedures, e.g. to require written quotes at lower dollar limits. Additionally, departments may create their own forms similar to SPO Form-10 and Form-10A, provided the entries on the departmental form are similar to the SPO forms. The SPO forms are available at [www.hawaii.gov/spo](http://www.hawaii.gov/spo), click on ‘Forms for State Agencies’.

## SMALL PURCHASES PROCUREMENT

HRS §103D-305  
HAR Chapter 3-122, Subchapter 8  
Effective July 1, 2009

### GOODS & SERVICES

Under \$100,000

### CONSTRUCTION

Under \$250,000

#### Under \$5,000

- Adequate and reasonable competition is recommended.
- Award to vendor offering lowest responsive, responsible offer.
- SPO-10 and SPO-10A are optional.

#### \$5,000 to less than \$15,000

- Obtain minimum three (3) quotes.
- Documentation: SPO-10, *Record of Procurement*.
- Award to vendor offering lowest responsive, responsible offer.

#### Hawaii Electronic Procurement System (HePS)

**GOODS & SERVICES: \$15,000 to less than \$100,000**  
**CONSTRUCTION: \$15,000 to less than \$250,000**

- Solicitation shall be conducted on HePS.
- Performance bond required for CONSTRUCTION contracts over \$50,000.
- Award to vendor offering lowest responsive, responsible offer
- Documentation: *HePS Award Summary Report*.
- Obtain compliance documents (i.e. HCE) prior to award.