

**STATE PROCUREMENT OFFICE
WORKSHOP NO. SPO 225**

**RFPs: GETTING FROM A NOTICE OF AWARD TO AN
EXECUTED CONTRACT
FOR HEALTH AND HUMAN SERVICES**

Pursuant to HRS Chapter 103F

**WHAT HAVE WE LEARNED ABOUT THE RFP
PROCESS SO FAR?**

1. We started with **PLANNING** (HAR Chapter 3-142)
2. We did a Request for Information (RFI) (HAR Chapter 3-142)
3. We put together and issued the RFP (HAR Chapter 3-143)
 - a. Procurement Notices System (PNS)
 - b. Request for Proposals Website (RFPW)
 - c. Orientation
 - d. Addenda issued, if applicable
 - e. RFP available for a minimum of 28 days

The RFP Process So Far (continued)

4. Evaluated the proposals submitted.
 - a. Evaluation committee trained. No conflict of interest.
 - b. Register of all proposals submitted
 - c. Evaluation based solely upon evaluation criteria and relative priorities set in the RFP.
 - d. Numerical evaluations shall include a **written explanation of scores given** in accordance with criteria in the RFP.

What's The Next Step?

To Get To An
Executed Contract

Notice of Award
(HAR §3-143-303)

- Shall be sent to each responsive and responsible applicant
- Shall contain a statement of findings and decision
 - ✓ Purchasing agency
 - ✓ RFP title and number
 - ✓ Applicant(s) selected
 - ✓ Comments for the evaluation and scores received in support of award/non-award decision
 - ✓ Copy of proposal evaluation worksheet of applicant notice is being sent.

Notice of Award: Statement of Findings and Decision

Competitive Purchases of Service
Chapter 103F, HRS
Statement of Findings and Decision

SAMPLE

(Date)

State Agency Issuing RFP: _____
(Department, division, branch, etc. as applicable)

Applicant: _____ Log # _____

Request for Proposal Title: _____ RFP ID # _____

Applicant's proposal was selected.

Amount awarded subject to appropriation and availability of funds: \$ _____

Comments:

Applicant's proposal was not selected.

Comments:

Identification of applicant(s) selected for this RFP:

A copy of applicant's proposal evaluation worksheet is attached for your information.

If there are any questions, please call _____ at _____.
(Contact name) (Phone #)

State Purchasing Agencies should use this notice in conjunction with their agency's cover letter.

Distribution of Notice of Award

- Shall be sent by United States mail and may be sent electronically
- Options:
 - Send by certified mail (can be tracked at www.usps.com); or if that is not possible,
 - Prepare a list of applicants. Have the postal service agent postmark each envelope and the list of applicants being mailed a Notice of Award.

All is going well, until.....

**You Get a
Protest!**

Submission of Notice of Protest (HAR §3-148-301)

- Can only be submitted by US mail or by hand delivery.
- Shall be submitted within 5 working days of the postmark of the notice of findings and decision, or notice of rejection sent to the protestor.

Once a notice of protest is filed, all activity toward making the award is suspended. (HAR §3-148-501)

- No execution of a contract.
- No delivery of services in anticipation of execution of a contract.
- No negotiations or discussions with a provider regarding an intended award.

During the Protest Period:

- The head of the purchasing agency acts as an impartial party during this process.
- Opposing parties must let the other know before communicating with the head of the purchasing agency about the merits of the protest.

THE PROTEST PROCESS

HAR CHAPTER 3-148

Who Can Protest

“Protestor” or “protesting applicant”

- ⦿ Any party who is aggrieved in connection with the award of a contract through the HRS 103F competitive or restrictive procurement process.

What can be protested? (HAR §3-148-103)

A purchasing agency’s:

1. Failure to follow procedures established by HRS Chapter 103F;
2. Failure to follow Hawaii Administrative Rules for Chapter 103F; and
3. Failure to follow any procedure, requirements, or evaluation criterion in an RFP issued by the purchasing agency.

The Protest Process: Step 1 Informal Request for Explanation

- Respond promptly.
- Listen and explain.
- Advise potential protestor of the submittal deadline to file a notice of protest, where to get Form SPO-H-801, who it must be sent to, etc.

Informal Resolution of Protests (HAR §3-148-201)

- Informal request for an explanation or justification for an award may be resolved informally through mutual agreement.
- Formal protests may, at any time, be resolved by mutual agreement, in writing, and signed by both parties.

Informal Resolution of Protests (continued)

☉ Mutual agreement remedies:

1. Amend or cancel RFP
2. Terminate awarded contract
3. Re-open evaluation process or re-solicit
4. Declare contract null and void from time of award
5. Affirm award decision
6. Dismiss the protest

The Protest Process: Step 2

Notice of Protest

(HAR §3-148-301)

- Form SPO-H-801 (Notice of Protest)
- Contains a brief description of the basis of the protest.
- Submitted by the protestor to the head of the purchasing agency and the procurement officer by U.S. Mail or hand delivery.
- Shall be postmarked or received within 5 working days of the postmark of the Notice of Findings and Decision or notice of rejection. If late, then protest shall be dismissed (HAR §3-148-301(e)).

Notice of Protest (Form SPO-H-801)

**STATE PROCUREMENT OFFICE
NOTICE OF PROTEST
CHAPTER 103F, HRS
PURCHASES OF HEALTH AND HUMAN SERVICES**

PROTESTER/APPLICANT		PARTIES		STATE PURCHASING AGENCY	
Name:		Department:		Department:	
Address:		Division:		Division:	
Contact Person:		Branch/Office:		Branch/Office:	
Phone:		Procurement Officer:		Procurement Officer:	
Fax:		Phone:		Phone:	
		Fax:		Fax:	

PROTEST MATTER	
<input type="checkbox"/> Competitive POS	<input type="checkbox"/> Restrictive POS
RFP No. _____	RH No. _____
Description of Health and Human Service Procured:	

GROUNDS FOR PROTEST	
Brief description of grounds/reasons for protest. <i>(Check one or all grounds and provide a brief statement of the grounds for the protest.)</i>	
<input type="checkbox"/>	Purchasing Agency failed to follow procedures and/or requirements established by Chapter 103F, _____ Hawaii Revised Statutes. <i>(State appropriate section.)</i>
<input type="checkbox"/>	Purchasing Agency failed to follow procedures and/or requirements established by Section 3-_____, Hawaii Administrative Rules. <i>(State appropriate section.)</i>
<input type="checkbox"/>	Purchasing Agency failed to follow procedures and/or requirements established by request for proposals (RFP) _____. <i>(State appropriate section and page no. of RFP.)</i>
Brief statement of grounds for protest:	

CERTIFICATION BY SUBMITTER	
<small>I declare, under penalty of perjury that all the information on this form is true and correct to the best of my knowledge.</small>	
_____ <small>(Printed name of protester)</small>	_____ <small>(Printed name of protester)</small>
_____ <small>(Title)</small>	_____ <small>(Title)</small>

SPO-H-801 (Rev. 11-03)

The Protest Process: Step 3 Settlement and Scheduling Conference (HAR §3-148-302)

- Purpose
 - To try to resolve protest by mutual agreement;
 - Schedule timeline for requests for clarification, if applicable; and
 - Schedule timeline for the remaining steps of the process.

Settlement and Scheduling Conference (continued)

- Form SPO-H-802 (Settlement and Scheduling Conference)
- Head of the purchasing agency/designee (usually procurement officer) shall organize and conduct settlement and scheduling conference within 3 working days upon receipt of the notice of protest.
- Can be held in person, by phone or by other electronic medium

Scheduling and Settlement Conference (continued)

Who Should Be Involved?

- **Department head/designee**
Role is as an impartial party.
- **The protestor**
Role is to explain why they believe the process was violated.
- **The procurement officer for the protested procurement.**
Role is to *Listen*
 - Explain any misunderstanding the protestor may have.
 - Make preliminary determination if the process was flawed.
- *It is permissible to have additional staff present*
(Evaluation committee member(s), RFP coordinator)

Scheduling and Settlement Conference (continued)

The procurement officer must be knowledgeable of the:

- Procurement process
(If the procurement officer is not knowledgeable, it is unlikely the protestor will have any confidence in the procurement process.)
- RFP
- Proposal
- Evaluation

Settlement and Scheduling Conference (Form SPO-H-802)

STATE PROCUREMENT CODE
SETTLEMENT AND SCHEDULING CONFERENCE
CHAPTER 105F, HRS
 PURCHASES OF HEALTH AND HUMAN SERVICES

PARTIES	
Protestor/Applicant	State Purchasing Agency
Name: _____	Department: _____
Address: _____	Division: _____
_____	Branch/Office: _____
Contact Person: _____	Procurement Officer: _____
Phone: _____	Phone: _____
Fax: _____	Fax: _____

PROTEST MATTER

Competitive P.O.S. RFP No. _____ Restrictive P.O.S. RH No. _____

Description of Health and Human Service Procured: _____

ORDER

The above-named parties or their representatives are hereby ordered, pursuant to Section 5-146-302, HARS, to attend a settlement and scheduling conference

ON _____ DAY OF _____ AT _____

The conference shall be conducted:

face-to-face at _____

by telephone _____

by other electronic medium: _____

If a party desires to attend by an alternate method, please contact: _____

_____ at _____ to make appropriate arrangements.

_____ _____

_____ _____

_____ _____

SPO-H-802 (rev 4/03)

Protest Process: Step 4 Scheduling Order (Timetable)

(HAR §3-148-302 (c) and (d))

- Form SPO-H-803 (Protest Scheduling Order)
- Sets deadlines for each step in the process.
- All submissions up to protestor's reply – Completion within 10 working days, if practicable.
- Head of the purchasing agency decision – Issued within 5 working days from protestor's reply, if practicable.
- Head of State agency has discretion to provide more time.
- Order is issued same day as the conference or the next day.

Protest Scheduling Order (Form SPO-H-803)

STATE PROCUREMENT OFFICE
PROTEST SCHEDULING ORDER
CHAPTER 103F, RULES
PURCHASING OF HEALTH AND HUMAN SERVICES

PROTESTER/APPLICANT		FAR TIES		STATE PURCHASING AGENCY	
Name:		Department:		Department:	
Address:		Division:		Division:	
Contact Dates:		Branch/Office:		Branch/Office:	
Phone:		Procurement Officer:		Procurement Officer:	
Fax:		Fax:		Fax:	

PROTESTED MATTER	
<input type="checkbox"/> Competitive POs (RFP)	<input type="checkbox"/> Restrictive POs
RFP No.:	RH No.:
Description of Health and Human Services Procured:	

SCHEDULE		
<i>Item</i>	<i>Party Responsible</i>	<i>Due Date</i>
Request for Clarification (as applicable/optional)	Protestor & State Purchasing Agency	
Response to Request for Clarification	Protestor & State Purchasing Agency	
Submission of Protest	Protestor	
Response to Protest	Procurement Officer	
Protestor's Reply	Protestor	
Written Decision	Head of Purchasing Agency	

ORDER

Pursuant to Section 3-148-302, HAR, the parties are ordered to follow the above schedule for the contest. It is further ordered that the protestor should submit the protest to the above-named procurement officer and the head of the state purchasing agency pursuant to Section 3-148-302.

Signature of Procurement Officer or Supplier

Date

Signature

Date

Complete w/in 10 working days, if practicable

Issued w/in 5 working days from receipt of protestor's reply

The Protest Process: Steps 5 & 6

Requests for Clarification and Responses

- Clarification requests and responses are due in accordance with the Scheduling Order.
- Forms SPO-H-804 (Request for Clarification) and SPO-H-805 (Response to Request for Clarification)

Responses to Requests for Clarification

- Read Section HAR §3-148-502, Requests for clarification!
- The protestor may request access to the purchasing agency's relevant procurement records.
- The purchasing agency shall provide access to the extent the information is required or permitted to be withheld by law.

Request for Clarification (Form SPO-H-804)

STATE PROCUREMENT OFFICE
REQUEST FOR CLARIFICATION
 CHAPTER 105F, MRS
 PURCHASES OF HEALTH AND HUMAN SERVICES

PARTIES	
Requester/Applicant	State Purchasing Agency
Name: _____	Department: _____
Address: _____	Division: _____
Contact Person: _____	Branch/Office: _____
Home: _____	Procurement Officer: _____
Fax: _____	Phone: _____
Requester <input type="checkbox"/>	<input type="checkbox"/>

PROTESTED MATTER

Competitive POF **Restrictive POF**
 RFP No. _____ RH No. _____
 Description of Health and Human Service Procured: _____

REQUEST

Pursuant to Section 3-148-502, H&H, request is made for the following information:

Pursuant to the scheduling order, response to this request is due by _____

To coordinate transmittal of your response, please contact:
 _____ at _____
(NAME OF CONTACT PERSON) (PHONE NUMBER)

SPO-H-804 (4.13)

Response to Request for Clarification (Form SPO-H-805)

STATE PROCUREMENT OFFICE
RESPONSE TO REQUEST FOR CLARIFICATION
 CHAPTER 105F, MRS
 PURCHASES OF HEALTH AND HUMAN SERVICES

PARTIES	
Requester/Applicant	State Purchasing Agency
Name: _____	Department: _____
Address: _____	Division: _____
Contact Person: _____	Branch/Office: _____
Home: _____	Procurement Officer: _____
Fax: _____	Phone: _____
Responder <input type="checkbox"/>	<input type="checkbox"/>

PROTESTED MATTER

Competitive POF **Restrictive POF**
 RFP No. _____ RH No. _____
 Description of Health and Human Service Procured: _____

Response to Request

PURSUANT TO Section 3-148-502, H&H, the following attachment(s) are submitted in response to the Request for information:

CERTIFICATION

I declare, under penalty of perjury that all information provided is true and correct to the best of my knowledge.

(Requester's signature)

(Signature of Responder)

(NAME)

(Requester's name)

SPO-H-805 (4.13)

The Protest Process: Step 7

Formal Protest

(HAR §3-148-303)

- Filed by Protestor: Form SPO-H-806 (Protest)
- Contains:
 - ✓ A detailed statement of the reasons for the protest;
 - ✓ Supporting exhibits, evidence, documents; and
 - ✓ Additional relevant information that would help the head of the State agency make a decision.
- Due date in accordance with scheduling order.

Protest (Form SPO-H-806)

STATE PROCUREMENT OFFICE PROTEST CHAPTER 103F, HRS DEPARTMENT OF HEALTH AND HUMAN SERVICES	
PARTIES	
Protestor/Applicant	State Purchasing Agency
Name: _____	Department: _____
Address: _____	Division: _____
Contact Person: _____	Branch/Office: _____
Phone: _____	Procurement Officer: _____
Fax: _____	Phone: _____
	Fax: _____
PROTESTED MATTER	
<input type="checkbox"/> Competitive P.O.S.	<input type="checkbox"/> Restrictive P.O.S.
RFP No. _____	RFP No. _____
Description of Health and Human Service Procure: _____	
ATTACHMENTS	
<input type="checkbox"/> Attachment A: Statement of Facts and Argument (Reasons for Protest)	
<input type="checkbox"/> Attachment B-1 to B-_____: Evidence to Support the Statement of Facts or Argument (as needed)	
RELIEF REQUESTED PURSUANT TO CHAPTER 148, HAR	
<input type="checkbox"/> Cancel the RFP or seek approval of restrictive purchase of service	
<input type="checkbox"/> Amend RFP as provided in "ATTACHMENT" and/or issue RFP	
<input type="checkbox"/> Terminate awarded contract	
<input type="checkbox"/> Re-evaluate proposals	
<input type="checkbox"/> Re-procur necessary services under a new competitive purchase of service (RFP)	
<input type="checkbox"/> Decline awarded contract and void	
CERTIFICATION BY PROTESTOR	
I declare, under penalty of perjury that all facts contained in this protest are true and correct to the best of my knowledge, and that the documents attached hereto as Exhibits E1 to E-_____ are true and correct copies of the originals.	
_____ <i>(Printed name of protestor)</i>	_____ <i>(Printed name of authorized official)</i>
_____ <i>(Signature)</i>	_____ <i>(Signature)</i>

SPO-H-806 (6/11)

The Protest Process: Step 8
Response to the Protest
 (HAR §3-148-304)

- Form SPO-H-807 (Response to Formal Protest)
- Purchasing agency's response
- Deadline per scheduling order
- Substantiate with exhibits/documents
- Be factual
- Address (all) the issues raised by the protestor
- Send by U.S. mail or hand deliver

Response to Protest (Form SPO-H-807)

STATE GOVERNMENT OFFICE
RESPONSE TO FORMAL PROTEST
CHAPTER 103F, HRS
 DEPARTMENT OF HEALTH AND HUMAN SERVICES

PARTIES	
Protestor/Applicant	State Purchasing Agency
Form #: _____	Department: _____
Address: _____	Division: _____
	Branch/Office: _____
Contact Person: _____	Procurement Officer: _____
Name: _____	Phone: _____
Fax: _____	Fax: _____

PROTESTED MATTER

Competitive POS Restrictive POS

RFP No. _____ PIH No. _____

Description of Health and Human Service Procured: _____

RESPONSE TO PROTEST

Pursuant to Section 3-148-304, HAR, attached is the purchasing agency's response to the formal protest.

CERTIFICATION

I declare, under penalty of perjury that all information provided is true and correct to the best of my knowledge.

Procurement Officer's Signature

Applicant's Signature

FORM

SPO-H-807(4/03)

The Protest Process: Step 9

Reply by Provider

(HAR §3-148-305)

- Form SPO-H-808 (Protest Reply)
- Reply by protestor
- Due per scheduling order
- Contains:
 - Additional reasons/arguments;
 - Additional evidence/materials; or
 - Additional information that would help the head of the State agency make a decision.
- Send by U.S. mail or hand deliver

Protest Reply (Form SPO-H-808)

STATE PROCUREMENT CODE
PROTEST REPLY
 CHAPTER 103P, ICS
 DEPARTMENT OF HEALTH AND HUMAN SERVICES

PARTIES	
Protestor/Applicant	State Purchasing Agency
Name: _____	Department: _____
Address: _____	District: _____
	Branch/Office: _____
CONTACT PERSON: _____	PROCUREMENT OFFICER: _____
Phone: _____	Phone: _____
Fax: _____	Fax: _____

PROTESTED MATTER	
<input type="checkbox"/> Competitive PDS	<input type="checkbox"/> Restrictive PDS
RFP No. _____	RGE No. _____
Description of Health and Human Service Procured: _____	

REPLY BY PROVIDER	
Pursuant to Section 2-148-205, HAR, the attached is submitted in reply to the state agency's response to the formal protest.	

_____ <small>(Signature of protestor/applicant)</small>	_____ <small>(Signature of procurement officer)</small>
_____ <small>(Title)</small>	_____ <small>(Title)</small>

SPO-H-808(805)

If the dispute cannot be resolved in good faith,...

- “then the head of the purchasing agency may resolve such dispute as fairly as possible in light of all the circumstances.” (HAR §3-148-502(e))

The Protest Process: Step 10

Decision by the Head of Purchasing Agency
(HAR §3-148-306)

- Due date is per scheduling order, unless head of the purchasing agency gives written notice that an extension to a certain date is necessary.
- Contains:
 - Statement of action to be taken/resolution to the protest;
 - **Detailed statement of reasons for decision including factual findings;**
 - Statement of protestor’s right to request reconsideration;
 - Statement that the decision is final and conclusive, unless a timely request for reconsideration is made.
- Send by U.S. mail or hand deliver

Resolutions to Protest

Allowed Actions:

1. Amend or cancel RFP
2. Terminate awarded contract
3. Re-open evaluation or re-solicit
4. Declare contract null and void from award
5. Affirm contract award
6. Dismiss protestor's protest

**REQUEST FOR
RECONSIDERATION
(HAR §§3-148-401 TO 3-148-402)**

Request for Reconsideration 3 Steps

1. **Protestor submits request to the chief procurement officer and opposing party within 5 working days after receipt of decision of the head of the purchasing agency.**

Form SPO-H-810 (Request for Reconsideration of a Protest)

- Detailed statement of factual and legal grounds for reconsideration based on materials presented to the head of the State agency; and
- Copies of scheduling order, protest, response, reply, decision and supporting materials submitted during initial protest procedure.

Request for Reconsideration (Form SPO-H-810)

STATE PROCUREMENT OFFICE
REQUEST FOR RECONSIDERATION OF A PROTEST
CHAPTER 103F, HRS
STATE BOARD OF HEALTH AND HUMAN SERVICES

PARTIES	
Protestor/Applicant	State Purchasing Agency
Name:	Department:
Address:	Division:
Contact Person:	Branch/Office:
Phone:	Procurement Officer:
Fax:	Phone:
	Fax:

PROTESTED MATTER

Competitive PDS Restrictive PDS

RFP No. _____ RH No. _____

Description of Health and Human Service Procured: _____

REQUEST

To the Chief Procurement Officer:
Pursuant to Section 7-149-401, HAP, request for reconsideration of the decision of the head of the state purchasing agency in the above-reference matter is hereby made.
The decision of the head of the purchasing agency was received on _____.

Reconsideration of decision of the head of the state purchasing agency is necessary because:
 factual determinations made by the head of the state purchasing agency were clearly erroneous; and/or
 the head of the state purchasing agency erroneously interpreted the applicable law.

Argument regarding the reasons supporting this request for reconsideration is attached as Exhibit A.
Copies of the Scheduling Order, Protest, Answer, Reply, and Decision (if any) together with all supporting exhibits and materials are attached as Exhibit B.

CERTIFICATION

I declare, under penalty of perjury that all the information contained in this request for reconsideration was and continues to be true and correct to the best of my knowledge, and that the documents attached hereto to Exhibit A & B are true and accurate copies of the original.

Signature of protestor/applicant

Signature of procurement officer

Date

Date

SPO-H-810 (REV 1/01)

Request for Reconsideration (continued)

2. Reply by State agency

Within 5 working days after submittal of the request for reconsideration, purchasing agency may submit a reply to the request.

- Based on materials submitted to head of State agency during initial protest period.

Request for Reconsideration (continued)

3. Decision of the Chief Procurement Officer (CPO)

Within 15 calendar days of receipt of request; unless CPO provides written notice of the extended deadline.

Contains:

- Decision to uphold the head of the State agency or reopen the protest and award an appropriate remedy (from the allowable methods for resolving a protest);
- A detailed statement of the reason for the decision, including factual findings.

Request for Reconsideration (continued)

- ◎ CPO Resolutions
 - Amend or cancel the RFP
 - Terminate awarded contract
 - Re-open evaluation or re-solicit
 - Declare the awarded contract null and void
 - Affirm purchasing agency's award decision
 - Dismiss protest

Protest Process Summary: Flow Chart

Chapter 103F, HRS Purchases of Health and Human Services
PROTEST AND REQUEST FOR RECONSIDERATION PROCESS
For the Competitive Purchases of Services Method of Procurement (RFP)

STATEMENT OF FINDINGS & DECISION ISSUED

NOTICE OF PROTEST
(Form SPO-H-801)

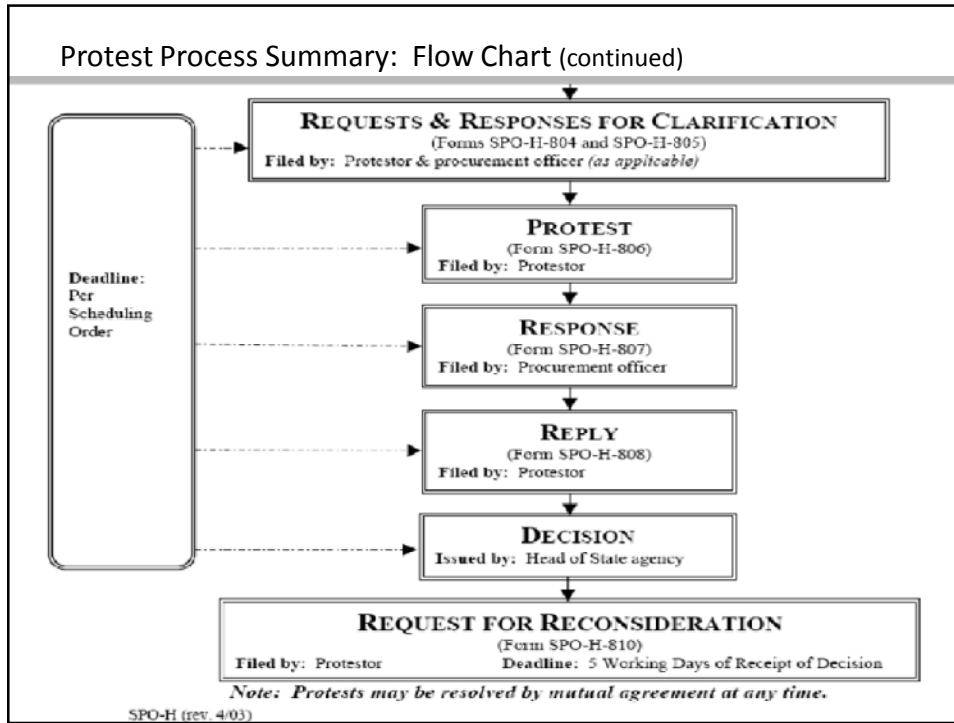
Filed by: Protestor
Deadline: 5 working days from postmark of Statement of Findings and Decision

SETTLEMENT & SCHEDULING CONFERENCE
(Form SPO-H-802)

Scheduled by: Head of State agency or designee
Deadline: 3 working days of receipt of Notice of Protest

SCHEDULING ORDER
(Form SPO-H-803)

Issued by: Head of State agency or designee **When:** Same or next day



DISCUSSIONS WITH APPLICANTS AFTER NOTICE OF AWARD AND BEFORE CONTRACT EXECUTION

(HAR §3-143-404)

ALLOWABLE PURPOSE OF DISCUSSIONS

To negotiate a more advantageous contract for the state.

What Does It Mean To Negotiate?

To arrange or settle by discussion and mutual agreement.

Negotiation is a two way street.

Scope of Discussions

- Contractual terms and conditions not specifically discussed in the request for proposals (RFP); and
- Contractual terms and conditions which are substantially the same/do not constitute a **material change to the proposal**. Cannot materially alter the criteria, specifications, or scope of work of the original proposal.

MATERIAL CHANGE TO A CONTRACT

Any change that would have adversely affected the proposal's rating during the evaluation process.



Are the following material changes?

Is this a Material Change?

- In the proposal, the awardee indicated they would have a 7 MSW social workers.
- They now are proposing only 3.
- The RFP requires 4 MSW social workers.
- The number of social workers was included in the evaluation criteria.

Is this a Material Change?

- The provider wants to change the the rate they proposed in the proposal.
- The rate was part of the evaluation criteria.

Is this a Material Change?

- ⦿ Purchasing agency issued a RFP whereby 7 divisions within the department would be participants.
- ⦿ After the contract was awarded, 6 divisions did not require the services.

Conducting the Negotiations

- Establish:
 - ✓ Procedures
 - Consistency in how discussions are conducted among providers.
 - Criteria for face-to-face negotiations vs. over the phone/by mail.
 - ✓ Schedules
 - Timing

Procedures in Conducting Negotiations

- Plan ahead of time.
- What issues do you want to address with each provider?
- Have an agenda (topic notes are helpful, too).
- One person or more at the negotiations?
- Let the provider know the topics you'd like to discuss so they can be prepared.

Putting It All Into A Contract

AG Forms Online for HRS Chapter 103F

<http://hawaii.gov/forms>

“View Internal Forms on the Database...”

All contract forms are now available online.

Contract Order

1. Contract
2. Provider Acknowledgement
3. Certificate of Exemption From Civil Service
4. Provider’s Standard of Conduct
5. Scope of Services
6. Time of Performance
7. Compensation and Payment Schedule
8. General Conditions
9. Special Conditions

Contract Order (continued)

10. Certifications
11. Attestation of Internet Posting
12. Public Notice
13. Tax Clearance or Hawaii Compliance Express Certificate
14. Certificate of Insurance
15. Other purchasing agency requirements

Document Checklist for Contract Submittal – HRS Chap. 103F

DOCUMENT CHECKLIST FOR CONTRACT PAYMENTS
FOR HRS CHAPTER 103F
PURCHASES OF HEALTH AND HUMAN SERVICES

1. Required Contract Submittal Documents for Encumbrance or Initial Payment (X = required)

Form No.	Form Title	Competitive Purchase of Services AG Form 103F	Restrictive Purchase of Service HRS §103F-403	Crisis Purchase of Service HRS §103F-406	Exemption from HRS Chapter 103F
CONTRACT DOCUMENTS:					
	Contract pages	X	X	X	X
AG-103F7	Provider's Acknowledgement	X	X	X	X
AG-103F8	Certificate of Exemption from Civil Service	X	X	X	X
AG-103F9	Standards of Conduct Declaration	X	X	X	X
AG-011	Attachment 1 – Scope of Services	X	X	X	X
AG-013	Attachment 2 – Time of Performance	X	X	X	X
AG-012	Attachment 3 – Compensation and Payment Schedule	X	X	X	X
AG-103F13	General Conditions for Health and Human Services Contracts	X	X	X	X
AG-015	Special Conditions	As Applicable	As Applicable	As Applicable	As Applicable
SPO-020	Statement of Attestation for Internet Posting with copy of Procurement Notice (Download on 1 st day)	X	X		
	Certificate of Insurance	X	X	X	X
	Tax Clearance Application	X (\$25,000 and over)	X (\$25,000 and over)	X (\$25,000 and over)	X (\$25,000 and over)
SPOH 500	Copy of GPO Approved Notice of and Request for Restrictive Purchase of Service		X		
SPOH 600	Copy of GPO Approved Request for Crisis Purchase of Service Pursuant to Section 103F-406, HRS			X	

Document Checklist for Contract Submittal – HRS Chap. 103F

DOCUMENT CHECKLIST FOR CONTRACT PAYMENTS
FOR HRS CHAPTER 103F
PURCHASES OF HEALTH AND HUMAN SERVICES

SPOH 150	Copy of CFO Approved Notice of and Request for Exemption from Chapter 103F, HRS				X
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2. Documents To Be Submitted to DAGS, Pre-Audit for Initial and Subsequent Payments During Contract Term

	Form				
MBP462	Summary Warrant Voucher	X	X	X	X
SAF C-03	Purchase Order	if applicable	if applicable	if applicable	if applicable
	Original Invoice	X	X	X	X
	Tax Clearance (For Final Payment)	if applicable (\$25,000 and over)	if applicable (\$25,000 and over)	if applicable (\$25,000 and over)	if applicable (\$25,000 and over)

3. Things to check for:

- a. Contract Execution Date. Contract effective date should not be prior to the date on which the parties sign off on and fully execute the agreement. Comptroller's Memorandum No. 2009-14.
- b. The notary acknowledgement date is the same as the date the service provider executed the contract.
- c. The time of performance is correctly stated throughout the contract.
- d. The certificate of insurance is current.
- e. The service provider's legal name on the contract matches all supporting documents.
- f. The service provider name on the Hawaii Compliance Express compliance certificate matches the contract name.
- g. Contract modifications/supplemental agreements are submitted when payments are based on the amendments.
- h. The contract/p.o. vendor code name and address matches the "Remit To" name and address.
- i. Payments are for services rendered within the contract period.
- j. Payments do not exceed the maximum funding amount.
- k. Tax clearances are submitted with invoices for final payment.

2 of 2

Timely Execution of Contracts

- Make this top priority.
- It is parceling to make a small purchase in anticipation of execution of a contract.
- Inadequate planning by the purchasing agency is not sufficient justification for an exemption.
- You can extend an existing contract for the same service per HAR §3-149-301, if the reason is continuity of services. **NOTE: A contract can only be extended if it has not expired.**

What happens if we cannot execute a contract on a timely basis?????

**Extension of Existing Contract During Procurement Process
(HAR §3-149-301)**

An existing contract may be extended if:

1. Purpose is for continuity of service between termination of contract to be extended and effective date of new executed contract;
2. Extension shall be for 6 months or less;
3. Funds are appropriated and available; and

Extension of Existing Contract During Procurement Process (continued)

4. Terms of the extended contract is fair, reasonable and remain substantially the same contract, as amended.

HOWEVER...

Extension of Existing Contract During Procurement Process (continued)

- ⦿ The contract can only be extended if it has not expired!

And Lastly,

DON'T FORGET TO POST AWARDS to the Posting Awards, Notices and Solicitations (PANS) awards/contracts database

Posting of Awards/Contracts
Procurement, Awards, Notices & Solicitations (PANS)

- Post on the awards/contracts database (PANS) within 7 days of the date on the notice of award (statement of findings and decision) or award of contract, whichever is earlier.
- Funding is the amount estimated to be expended during the fiscal year (not contract year).
- If contract is not by FY, enter an estimate for the FY. It may be changed later.

FYI

- Modifications to contracts shall be reported on the awards/contracts database within 7 days of the execution of the supplemental agreement.

State Procurement Office
<http://hawaii.gov/spo>
Click "Health and Human Services..."

QUESTIONS?

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