WRITING SPECIFICATIONS AND SCOPE OF WORK

Hawaii Revised Statutes (HRS) Chapter 103D

Agenda

- Procurement 101
- Specifications
- Scope of Work
- Word Selection
Specifications: What is

- Merriam-Webster:
  - The act or process of specifying.
  - Specifying: To name or state explicitly or in detail.
Authority to Prepare Specifications
HAR §3-122-11

- The chief procurement officer (CPO), with the assistance of the using agency, shall prepare and approve specifications.
- The CPO may delegate, in writing, to using agencies the authority to prepare and use its own specifications.
- Procurement Delegation 2010-01 delegates procurement authority for preparation and writing of specifications. (Executive Departments)

Definitions
HAR §3-122-1

- **Practicable** = what may be accomplished or put into practical application.
- **Advantageous** = a judgmental assessment of what is in the State’s best interest.
- **Best value** = 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.
- **Standard commercial product** = a product or material, in the normal course of business, is maintained in stock or readily available by a manufacturer, distributor, or dealer for the marketing of the product.

Specifications: Purpose
HAR 3-122-10

- A specification is the basis for procuring a good, service or construction item.
- Purchasing agencies may seek to procure standard commercial products and obtain the most advantageous prices.
- All specifications shall seek to promote overall competition, shall not be restrictive, and provide fair and equal opportunity for every supplier that is able to meet the State’s needs.
Specifications: Sources

- Request for Information (HAR §3-122-9.02)
- Manufacturers (compare multiple manufacturers)
- Colleagues: SPO, Other Purchasing Jurisdictions, Other Departments/Agencies

Specifications: Importance

- Critical to procurement planning process.
- Provides clarity to the supplier/vendor community.
- Conveys the level of quality and function.
- Avoids the acquisition of inferior products and materials.
- Provides fair opportunity to all qualified offerors.
- Promotes a competitive bidding environment.
- Key component to strategic sourcing.

Sample: Hook
Sample: Fish Hook

Specifications vs. Scope of Work

- **Specification** = any description of the physical or functional characteristics, or of the nature of a supply, service, or construction. It may include a description of any requirement for inspecting, testing, or preparing a supply, service or construction item for delivery. HRS 103D-104
- **Scope of Work** or **Statement of Work** = a description of the requirements of services to be performed. The scope of work may include material requirements to perform the needed services.

Specifications: Types

HAR §3-122-13(b)

- Design
- Performance
- Restrictive
- Brand Name or Equal
- Qualified Products List
- Combination
Design Specs: Defined

- The dimensional and other physical requirements of the item being purchased, how a product is to be fabricated or constructed. HAR §3-122-1
- Sets the requirements for the product, detailing the characteristics that the item must possess; how the item is to be manufactured. HAR §3-122-13(b)(1)
- Used primarily when agency knows exactly what it want and also has the capability to develop exact procedures or processes that should be followed.

Design Specs: Advantages

- Accurate supply arrangements
- Compliance to design characteristics
- Specifies exactly what the design intends

Design Specs: Disadvantages

- May limit competition
- May create obsolescence and restrictiveness
- Price may reflect cost for development
- May over-specify and therefore increase the price unnecessarily
- May increase liability for claims
- Puts responsibility of final product on the specifier and not the supplier
Performance Specs: Defined

- The functional or performance requirements of the item, what a product does and how well it performs. (HAR §3-122-1)
- Describes the capabilities that the product must meet, use of test or criteria are developed to measure the item’s ability to perform as required. (HAR 3-122-13(b)(2))

Performance Specs: Advantages

- Result/Outcome specific
- Can result in quality goods/services
- Can allow Offeror's flexibility on their offer

Performance Specs: Disadvantages

- Time consuming
- Must take special care to describe in detail all the design intents.
- May result in long, lengthy specs
- Poorly developed performance specs can result in poor quality goods/services
Restrictive Specs: Defined

- Otherwise known as Brand Name Specifications
- Does not allow for an "or equal"
- A specification limited to one or more items by manufacturers' names or catalogue numbers, commonly referred to as restrictive specification.

HAR §3-122-1
- Requires CPO approval (Use Form SPO-014).

HAR §3-122-13(b)(3)

Restrictive Specs: Impact

- Very limited or no competition
- No incentive to offer best price
- If only one bid/proposal received, cannot demonstrate that supplier is offering the best price or solution
- Higher cost to purchase goods, services, or construction
- Could be perceived as being more than what is needed

Restrictive Specs: Transformed

- Change a restrictive spec to a generalized one by identifying and addressing issues in specs.

<table>
<thead>
<tr>
<th>Issue</th>
<th>Transformation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poor Performance</td>
<td>Include performance expectations in your specs</td>
</tr>
<tr>
<td>Compatibility</td>
<td>Include in your specs a statement that product needs to work with existing equipment (and specify existing equipment)</td>
</tr>
<tr>
<td>Predetermined Outcome</td>
<td>Obtain approval for restrictive specs OR beef up your specs to make them more specific to your needs without being restrictive.</td>
</tr>
</tbody>
</table>
Restrictive Specs: Transformed

<table>
<thead>
<tr>
<th>Restrictive</th>
<th>Transformed</th>
<th>Best Transformation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fuel Economy: 26/34</td>
<td>Minimum Fuel Economy: 26/34</td>
<td></td>
</tr>
<tr>
<td>Horsepower: 132 @ 6,000 RPM</td>
<td>Minimum Horsepower: 132 @ 6,000 RPM</td>
<td></td>
</tr>
<tr>
<td>Torque: 128 @ 4,400 RPM</td>
<td>Minimum Torque: 128 @ 4,400 RPM</td>
<td></td>
</tr>
<tr>
<td>4-speed Automatic</td>
<td>Minimum 4-speed Automatic</td>
<td></td>
</tr>
<tr>
<td>Toyota Corolla LE</td>
<td>Toyota Corolla LE or equal</td>
<td></td>
</tr>
</tbody>
</table>

Brand Name or Equal: Defined

- A specification which uses one or more manufacturer’s names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet requirements, and which provides for the submission of equivalent products. HAR §3-122-1

Brand Name or Equal: Sample

- Toilet tissue:
  - Roll, 2-ply, fully bleached (white) completely wrapped, Approx. 4.0” x 4.0” sheets to fit standard size dispenser, 500 sheets per roll, 96 rolls per case or 550-605 sheets per roll, 80 rolls per case (Kimberly Clark Scott 04460-50, Georgia-Pacific 19880/01, or equal)
Qualified Products List: Defined

- An approved list of goods, services, or construction items described by model or catalogue numbers, which, prior to competitive solicitation, the State has determined will meet the applicable specification requirement. HAR §3-122-1
- A list of goods, services, or construction items, which, prior to the opening of the competitive solicitation, are examined, tested, and determined to meet the applicable specification requirements. HAR §3-122-13(b)(5)

Qualified Products List: Defined

- Products and samples are evaluated and pre-qualified in advance of solicitation to ensure compliance with specifications and an acceptable quality level.
- Allow for substitution requests. (Issue addendum to address additional acceptable items).
- Pre-qualification process must be fair for all qualifying vendors.

Combination Specs

- The most common type of specs
- Example: Design Specs + Performance Specs where specs contain elements of both design and performance specifications
pop-quiz

What kind of spec is this: “retractable gel pen with black ink, 0.5mm, Pilot G-2 (N131002)”

- Design
- Performance
- Restrictive
- Brand Name or Equal

pop-quiz

What kind of spec is this: “Gel, retractable, refillable pen, 0.5mm, black ink (Pilot N131002 or equal)”

- Design
- Restrictive
- Brand Name or Equal
- Both A & B
- Both A & C

Specifications: Development
HAR §3-122-13

- Identify minimum requirements
- Allow for competition
- List reproducible test methods to be used in testing for compliance with specifications
- Provide an equitable award at the best value
Elements of Sound Specifications

- Uses industry terminology
- Specifies acceptable tolerances
- Describes the application and environment
- Be clear, concise and consistent
- Avoids ambiguous or conflicting terms
- Avoids proprietary requirements that limit or eliminate competition

Specs: Inclusions

- Detailed product requirements
- Quantity
- Performance requirements
- The intended use of the product or the intended need for the service provided
- Product certifications, professional licenses or required training
- Delivery/Installation
- Warranty
- Training requirements
- Insurance requirements
- Vendor price inclusions: freight, transportation, packaging, delivery, taxes, GET, fees, etc
- Other responsibilities

Specs: Sample – Trash Bags

GROUP 1: LOW LINEAR DENSITY POLYETHYLENE

Material: Film for bags shall be made from polyethylene or ethylene copolymer resin (low density, linear low density, or linear low density/linear low density). 

Durability: Bags shall be capable of recycling under normal recycling practices.

Size: The dimensions of bags shall be from 10" x 11" to 14" x 18" of the use is identified in the offer form. The following formulae used to calculate storage weight:

\[ \text{Storage Weight} = \frac{\text{Volume of Bag} \times \text{Weight of Content}}{1000} \]

Workmanship: Bags shall be of good general quality, underwear made, free from cuts, tears, punctures, perforations, foreign matter and undesirable raw materials. There shall be no undue defects such as bulges, tears, cuts, contamination, wrinkles, holes, seams, or other imperfections which would adversely affect the performance of the product.

Bags shall be easy to open. Bags may be flat or gusseted. Bags larger than 27.5 x 1 mm are gusseted internally for easy use.

Test Two: Approximately 45 lbs (20 kg) shall be placed inside the bag. The bag shall be sealed and sent away. The (2) test shall not be repeated for each bag, but only when requested by the recipient.

Care of Labeling: All contents shall be clearly identified as to allow a quick identification of the contents. Labeling shall contain the following information: bag dimensions, quantity of bags, gussets, and net case weight.
Specs: Sample – Trash Bags

Specs: Sample Clauses

Reference Controller’s Memo:
- 2010-06 – General Liability and Automobile Insurance Requirements for Contracts
- 2010-08 – Insurance Requirements for Use of State Facilities and Grounds
- 2010-39 – Certificate of Insurance Requirements for Contracts
Recycled Products

- Specifications shall not discriminate against the use of recycled materials. HAR §3-122-13(a)
- To encourage the use of recycled products, contracts shall be awarded to the lowest responsible and responsive bidders, with preference being given to the products containing recycled material. HRS §103D-1005(e)
- When purchasing office paper and printed material, State purchasing agencies shall, and county agencies are urged to, purchase only office paper and printed material with recycled content. HRS §103D-1005(e)

Recycled Products: Sample – Office Paper

SPECIFICATIONS

RECYCLED PAPER

"Recycled paper product" means a paper product where each sheet or individual unit consists of a minimum of 30% recycled material or post-consumer recovered material as defined.

Definitions:
- "Recycled material" means material that has been separated, diverted, or recovered from the solid waste stream after its manufacturing process for the purpose of use, reuse, or recycling.
- "Post-consumer waste" means any product (used, not discarded by a consumer and that has been separated and diverted) or the solid waste stream for the purpose of recycling.
- "Stockpile stream" means discarded material remaining from the point of discard to ultimate disposal.

GENERAL REQUIREMENTS

All paper shall be standard recycled paper bound. All paper shall be long grain cut edgerow wrapped at the roll with a printed label attached identifying the roll brand, type of paper, size and substrate weight. All paper shall be evaluated type and size.

For all items,信心 shall offer a recycled product.
Recycled Products: Sample – Toilet Tissue

SPECIFICATIONS

GROUP A: ROLL TOILET PAPER

For all Toilet Tissue, the Minimum Recycled Content, if applicable, not less than 20% of the total weight shall consist of post-consumer recovered material.

1. Roll, 2-ply, fully bleached (white) completely wrapped. Approx. 16" x 4.5" sheets to fit standard size dispenser. 600 sheets per roll. 20 rolls per case or 12,000 sheets per case. 60 rolls per case (Georgia-Pacific, 1800094, or equal).

2. Roll, 1-ply, fully bleached (white) or blue colored. Approx. 16" x 4.5" sheets to fit standard size dispenser. 4200 sheets per roll. 20 rolls per case (Kimberly-Clark Scott, 001062, Wisconsin, 800050, or equal). 60 rolls per case.

3. Jumbo Roll, 2-ply, fully bleached (white). Approx. 35 1/2" x 9" sheets. 12 rolls per case (Kimberly-Clark Scott, 001080, or equal). 60 rolls per case.

4. Jumbo Roll, 1-ply, fully bleached (white). Approx. 20" x 12" sheets. 12 rolls per case (Georgia-Pacific, 101846, or equal). 60 rolls per case.

Recycled Products: Sample – Toilet Tissue

RECYCLED PRODUCT PERFORMANCE

A ten percent (10%) of the products selected for test to recycled content shall be in response to the specifications that meet the specifications for recycled content, pursuant to VMS Chapter 3-4014. Recycled products. Copies of the specifications are available on the SPO website: http://www.spo.state.mn.us/ Click on "State Business with the State" > "How the State Buys Goods, Services and Construction > Standards"

Where applicable, color shall indicate in the space provided on the offer form papers, whether a recycled product is being offered. If an "X" is deviated from the indicator in the space provided, it shall be presumed that a non-recycled product is being offered.

Before ordering a purchase for recycled products, shall submit the attached SPO Form(s) (div. 3-4014). CERTIFICATION OF RECYCLED CONTENT, when shall be equal to the product offered. The form shall be signed on an official authority to sign on behalf of the manufacturer and satisfactorily with the bid. The State, however, shall have the discretion in scrutinizing satisfaction of the products involved.

Recycled Products: Sample – Toilet Tissue

The following chart is hereby submitted:

<table>
<thead>
<tr>
<th>Description</th>
<th>Recycled A. %</th>
<th>Recycled B. %</th>
<th>Total A. %</th>
<th>Total B. %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roll, 2-ply</td>
<td>25.00</td>
<td>25.00</td>
<td>50.00</td>
<td>50.00</td>
</tr>
<tr>
<td>Roll, 1-ply</td>
<td>10.00</td>
<td>10.00</td>
<td>20.00</td>
<td>20.00</td>
</tr>
<tr>
<td>Jumbo Roll</td>
<td>15.00</td>
<td>15.00</td>
<td>30.00</td>
<td>30.00</td>
</tr>
<tr>
<td>TOTAL RED PRICE</td>
<td>1.00</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1 approximate
pop-quiz

- State agencies are REQUIRED to purchase recycled office paper?
  - true
  - false

Energy-efficient vehicles
HAR §3-122-13(c)

- Specifications for purchasing or leasing motor vehicles shall be in compliance with HRS §103D-412

Guard Services
HRS §463-10.5

- Effective July 1, 2013, all guards, agents, operatives, and assistants who act in a guard capacity shall apply to register with the board, and meet the following registration, instruction, and training requirements prior to acting as a guard:
  - 18+ years old;
  - High school education or equal;
  - No psychiatric or psychological disorder; and
  - Have not been convicted of a crime,
Other Statutes to Consider

- HRS §103D-407 Construction projects, roadway materials, recycled glass content requirements.
  - Act 22, SLH 2011 - May purchase roadway materials with minimum recycled glass content; may use a minimum of ten percent crushed glass aggregate
- HRS §103D-408 Indigenous and Polynesian introduced plants; use in public landscaping.
- HRS §103D-409 Provisions for pollution control.
- HRS §103D-410 Energy efficiency through life-cycle costing.
- HRS §103D-411 Value engineering clauses.

Specification Preparation/Writers

- A contractor paid for services to develop or prepare specifications or work statements shall be precluded from submitting an offer or receiving a contract for that particular solicitation.
- Specifications prepared by architects, engineers, consultants and others for public contracts, shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the State's needs and shall not be unduly restrictive.

Agenda

- Procurement 101
- Specifications
- **Scope of Work**
- Word Selection
Scope/Statement of Work: Defined

- **Scope of Work** or **Statement of Work** = a description of the requirements of services to be performed. The scope of work may include material requirements to perform the needed services.

Scope of Work: Inclusions

- Background of the procurement
- Objectives
- Contractor’s tasks
- Deliverables
- Dates/deadlines
- Department responsibilities

Scope of Work: Characteristics

- Consistent, simple and exact
- Easy to read and understand
- Easy to revise
- Categorized
- Organized with a good numbering system.
Questions to Consider

- Who will be responding?
- Will my scope restrict my competition?
- What do you want the offerors to know?
- How detailed and exact should my information be?
- What questions may come up?
- What are you buying?

Agenda

- Procurement 101
- Specifications
- Scope of Work
- Word Selection

Key Words

- **Must** and/or **shall** – whenever a specification expresses a requirement binding on either contractor or the department/agency.
- **Will** – to express a declaration of purpose on the part of the purchaser.
- **Should** and/or **may** – to express non-mandatory provisions
Use of terminology

- “The Contractor __________ deliver bags within 10 days of receipt of order.”
- “Offeror __________ provide at least three (3) references where they have provided same or similar work.”
- “Offeror __________ provide proof of their Certificate of Liability Insurance.”

pop-quiz

- If you require the Offeror to be HCE compliant prior to award what word should you use?
  - Offeror SHALL be HCE compliant
  - Offeror MAY be HCE compliant
  - Offeror SHOULD be HCE compliant

Selecting Words

- Use simple language; choose simple words over complex ones.
- Don’t need to impress.
- Say what you mean.
- Be clear on what you mean.
- Limit wordiness
Selecting Words: Sample

- Which is easiest to read and understand:
  - Empty trash cans.
  - All 10 gallon, 30" high trash receptacles shall be emptied into the building's 4 cubic yard metal container at least 5 times a week at approximately 10AM sharp. Replace all liners with quality, extra-thick, black, low density polyethylene, 24"Wx30"L, 1mil gauge plastic liners. Contractor shall furnish all labor, equipment (including liners) and supplies necessary to perform services.
  - Empty trash cans into the building's refuse bin 5 times a week. Replace receptacle liner when the existing bag is leaking, torn, or unsanitary. Contractor shall furnish all labor, equipment (including but is not limited to: cleaner, disinfectant, bags) and supplies necessary to perform services.

Contractor vs. Offeror

- Contractor – after the contract is awarded
- Offeror – Entity that is responding to the solicitation
- Specify which is responsible for what and the consequence, if any.
  - Consequences for Offerors:
    - Delay award/execution of contract
    - Non-responsive & offer rejected
  - Consequences for Contractors:
    - Breach of contract
    - Liquidated Damages
    - Terminate Contract

Terms and Acronyms

- Use terms and acronyms with a specific meaning to the solicitation.
- Capitalize acronyms.
- Keep acronyms to a minimum.
Which is easiest to read and understand:

- The TP shall be FB 2-ply with SS APX 4” x 4” to fit SSD, with 500 SPR, and 9 RPC. DLVY shall be to the SPO.
- The Toilet Paper shall be fully bleached 2-ply with sheet size approximately 4” x 4” to fit standard sized dispensers, with 500 sheets per roll, and 9 rolls per case. Delivery shall be to the State Procurement Office.
- The Toilet Paper shall be fully bleached 2-ply with sheet size approx. 4” x 4” to fit standard sized dispensers, with 500 sheets/roll, and 9 rolls/case. Delivery shall be to the SPO.

Writing Style:

- Expository style
- Active voice
- Shorter words/phrases
- Parallel structure

Writing Style: Expository

- Used to inform, describe or explain.
- Sentence structures:
  - Long sentences (about 35 words) are usually harder to understand.
  - Too many short sentences (about 10 words) may make writing sound choppy.
  - Continual medium-length sentences (15-20 words), can be monotonous.
  - Keep your average sentence length of about 20 words.
### Writing Style: Active vs Passive

<table>
<thead>
<tr>
<th>Passive sentence</th>
<th>Active sentence</th>
</tr>
</thead>
<tbody>
<tr>
<td>The meetings will be held monthly by the Contractor's management team.</td>
<td>The Contractor's management team will conduct monthly meetings.</td>
</tr>
<tr>
<td>Questions will be addressed by the named contact person on the solicitation.</td>
<td>The contact person named in the solicitation will respond to inquiries.</td>
</tr>
<tr>
<td>Timeline for project schedule shall be submitted.</td>
<td>Offeror shall provide a written timeline for the project schedule.</td>
</tr>
</tbody>
</table>

### Writing Style: Shorter Words/Phrases

<table>
<thead>
<tr>
<th>Instead of</th>
<th>Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior to</td>
<td>Before</td>
</tr>
<tr>
<td>Subsequent to</td>
<td>after</td>
</tr>
<tr>
<td>In the event of</td>
<td>if</td>
</tr>
<tr>
<td>In the amount of</td>
<td>For or of</td>
</tr>
<tr>
<td>On a daily basis</td>
<td>Daily</td>
</tr>
<tr>
<td>In reference to</td>
<td>About</td>
</tr>
<tr>
<td>In order to</td>
<td>To</td>
</tr>
<tr>
<td>Due to the fact that</td>
<td>Because</td>
</tr>
<tr>
<td>At this point in time</td>
<td>Now</td>
</tr>
<tr>
<td>Each and every one</td>
<td>all</td>
</tr>
</tbody>
</table>

### Writing Style: Parallel Structure

<table>
<thead>
<tr>
<th>Non-Parallel</th>
<th>Parallel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Please complete the form, sign it and then include it in the proposal.</td>
<td>Complete the form, sign it, and include it in the sealed proposal.</td>
</tr>
<tr>
<td>The offer shall include insurance, tax, and reimbursing costs.</td>
<td>The offer shall include liability insurance, all applicable taxes and cost reimbursements.</td>
</tr>
<tr>
<td>The Contractor is required to sweep the floor, water plants, and to empty trash cans into the buildings refuse bin.</td>
<td>The Contractor shall sweep the floor, water plants and empty trash cans into the buildings refuse bin.</td>
</tr>
</tbody>
</table>
Writing Style: Extras

- State requirements only one time.
- Use the same noun consistently to describe a person, function, action, item or organization.
- Be consistent in wording or phrasing.
- Clearly state when any enhancements or add-ons are optional and under what conditions they may be used under the contract.

Specifications & the Procurement Process

<table>
<thead>
<tr>
<th>Effect area</th>
<th>Poorly Written Specs:</th>
<th>Well Written Specs:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of offerors</td>
<td>• Overly broad or restrictive specifications</td>
<td>• Complete, clear, concise specifications</td>
</tr>
<tr>
<td></td>
<td>• Deter potential offerors</td>
<td>• Attract many qualified offerors</td>
</tr>
<tr>
<td></td>
<td>• Increase costs</td>
<td>• Reduce chance of failed results</td>
</tr>
<tr>
<td>Evaluation process</td>
<td>• Easily misinterpreted</td>
<td>• Sharp, specific criteria</td>
</tr>
<tr>
<td>and protests</td>
<td>• Open to challenge and protest by unsuccessful offerors</td>
<td>• Easier to evaluate</td>
</tr>
<tr>
<td></td>
<td>• Provides resource to debrief and possibly minimize protests</td>
<td></td>
</tr>
<tr>
<td>Offeror risk</td>
<td>• Unreasonable requirements can be at a higher risk and higher cost</td>
<td>• Reasonable requirements lower assumption of risk by offeror</td>
</tr>
<tr>
<td>Type of contract</td>
<td>• Uncertain amount of effort leads to cost reimbursement contract (HAR §3-122-135)</td>
<td>• Leads to a firm, fixed price contract (HAR §3-122-136)</td>
</tr>
<tr>
<td>Administration of contract</td>
<td>• Unclear, inaccurate specifications lead to management problems</td>
<td>• Leads to more control and easier administration</td>
</tr>
</tbody>
</table>

Overview

- Taxpayers Money
- Spec out what you need.
- Be clear and concise.
- Other requirements: HCE, Liability Insurance, Delivery
State Procurement Office

Point of Contacts

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Thank you!