

**State Procurement Office**

**Small Purchase  
Method of Procurement**

**AKA Small Purchase Request for Quote**

**Workshop No. SPO 120**

**HRS Section 103D-305 and  
HAR Chapter 3-122, Subchapter 8**

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**Small Purchase Method of Procurement**

**Who this Workshop is for  
and What is it intended to do?**

- This workshop is designed for state personnel who:
  - have or will have written delegated authority to procure goods, services and construction using the small purchase request for quote method of procurement pursuant to HRS 103D-305 and HAR 3-122, Subchapter 8.
- This workshop will cover:
  - The purpose of this method of procurement and its place within the framework of procurement procedures;
  - The conditions under which this method of procurement may be used;
  - An overview of the development, issuance and award of a small purchase request for quote;
  - Some of the administrative requirements you must consider; and
  - How to find resources and answers to common questions on the SPO website.
- This workshop is not intended to:
  - Teach you everything you need to know about procurement, awards or contracting. (There isn't enough time.) You must take the appropriate workshops for the procurement method, function or administrative requirement (Contract administration, exemptions, price/vendor lists, insurance requirements, bonding, construction, etc. )
  - Provide all the circumstances when small purchase may not apply or is not appropriate.
  - Show you how to use HlePRO. You must take HlePRO workshops to use HlePRO (in addition to the required workshops for the method of procurement.)

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## Small Purchases What We Will Cover Today

- Housekeeping - Overview
- Why we procure this way - Background, definitions and history;
- Who- should conduct small purchase method of procurement;
- What- can the small purchase method of procurement be used for;
- When- is it a small purchase and when is it not a small purchase (timing);
- Where- eProcurement or 3 quotes
- How- Procedures & Parts of the Solicitation-
  - Who What Where When How and Why
  - Developing the Solicitation - What Must be Included?
  - Issuing the Solicitation - Responding to Questions
  - Evaluation and Award
  - What if?
  - Recordkeeping and Documentation
  - Protests
  - Public Inspection
  - Managing the Award – It Doesn't Stop at Award
- Q & A

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## Before You Procure/Administer Contract: Written Delegated Authority and Training

**Before** you develop/draft/participate in a solicitation, review, approve, conduct, manage, or administer a procurement/contract, you must:

- **Have written delegated authority per signed and submitted (to SPO) Form SPO-036.**  
**Note:** See Procurement Delegation Memorandum 2010-01, as amended.
  - See : <http://hawaii.gov/spo>
    - > For State & County Personnel
    - > Required Procurement Delegation Authority (there is also a link to the required (mandatory) training requirements site)
- **Have taken all required training.**  
*Reference: Procurement Circular 2010-05, as amended*  
**Note:** Some requirements have changed. Check the website periodically.
  - See: <http://hawaii.gov/spo>
    - > Training & Informational Sessions
    - > Training for State and County Personnel
    - > Training Requirements: Which Workshops Do I need to Take?

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### **Prerequisite for Procuring Required (Mandatory) Training**

- In addition to delegated authority , you must also take all required training.
  - See <http://hawaii.gov/spo>
  - Training and Informational Sessions
  - Training for State and County Personnel
  - Training Requirements: Which Workshops Do I Need to Take?
- Read instructions; scroll to the Training Requirements Table.
- Across the top of the table, look for Method of Procurement you are going to conduct or in which you participate. Look down the column.
- Ensure you take all workshops with an **M** (Mandatory) before you procure/participate in a procurement.

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### **Required Training Small Purchase Method of Procurement Pursuant to HRS 103D-305 Level 2**

- **SPO 120** - Small Purchase Method of Procurement
- **SPO 127** - Understanding, Detecting and Preventing Anti-Trust Violations
  - If using **eProcurement add** to the above:  
**SPO 301** – HlePRO Buyer Training
  - If procuring for **construction add** to the above:  
**SPO 130** – Construction Procurements  
**SPO 185** - Prevailing Wage, Certified Payroll and Contract Agency Responsibilities

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## About Public Sector Procurement

### *Why can't we 'Just Do it'*

- We use taxpayer funds;
- Our “shareholders” are the taxpayers (everyone).
- Like the private sector, we want best value **AND** we have additional obligations:
  - 1. We must be open/transparent.**
    - Everyone has a right to know and have easy access.
  - 2. We must be fair to all qualified vendors.**
    - Everyone has the right to compete.
  - 3. We ARE accountable.**
    - Keep an auditable trail. (document, document, document!)
    - Follow standardized rules and procedures.  
(Statutes, Administrative Rules, Procurement Circulars, Internal Procedures)

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## When We Procure

- We must procure in accordance with statutes and rules.
  - Hawaii Revised Statutes (HRS) Chapter 103D, The Hawaii Public Procurement Code
  - Hawaii Administrative Rules (HAR) Chapters 3-120 to 3-132
  - Procurement Circulars
  - Related HRS and HAR
- There are 6 methods of procurement (source selection). Each of the methods:
  - has specific procedures;
  - shall be used under certain conditions;
  - more than one method may be applicable;
- Small Purchases is one of those methods.
- When more than one method is applicable, choose the most appropriate method (generally the most competitive).

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

## Terms You Should Know

- **Head of Purchasing Agency (HOPA)**= Head of any agency with delegated procurement authority.
- **Procurement Officer (PO)**=Any person authorized to enter into and administer contracts and make written determinations with respect thereto. The term also includes an authorized representative acting within the limits of authority. The delegated authority is received from the chief procurement officer directly or through the head of a purchasing agency or designee to the procurement officer.
- **Solicitation**= invitation for bids, request for proposals, request for quotations, or any other document issued by the State for the purpose of soliciting bids, or proposals to perform a state contract.

*Reference (HAR Section 3-120-2)*

## Responsibilities

### of all State and County Personnel

- **Comply with statutes/admin rules, etc.**
  - **Ensure you are in the Loop. Keep up to date.** Check procurement circulars regularly. Check manuals, references, program guides, etc.
  - Know your internal policies and procedures (Jurisdiction, department, division, office, etc.)
- **Ensure you have written delegated authority.** (Form-SPO-036).
- **Ensure you have taken all required training.**
  - (Requirements change, check the website.)
- **Adhere to code of ethics-**
  - Effective 7/6/10 - HRS 103D-101 Requirements of ethical public procurement
  - Redundant of HAR Procurement Code of Ethics in HAR Chapter 3-131.
  - No conflict of interest or appearance of conflict of interest.
    - For example: For HePS, buyers have access to vendor information. HePS buyers cannot also be vendors to the State because of this access.
- *Reference:*  
*Act 207 SLH 2010; > HRS 103D-101, Requirements of Ethical Public Procurement HAR Chapter 3-131 Compliance;*  
*HAR Section 3-131-1.02 Procurement Code of Ethics*

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## Small Purchases Definition

- Procurements of less than \$100,000 for goods, services, or \$250,000 for construction\* conducted in accordance with small purchase procedures.
- Designed to be simple to solicit and administer
- The only informal procurement method
- More formal procurement not necessary
  - small amount
  - clear-cut minimum specifications/qualifications
  - awarded to lowest priced offer
  - No parceling
  - No multiple procurements exceeding small purchase dollar thresholds

*\*Reference:*

*Act 173, SLH 2012, > Procurement Circular 2012-04:*  
*Act 173 SLH 2012, Small Purchases Procurement and Performance Bonds for Construction*

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**History**  
**Small Purchases, Prohibition Against Parceling**  
**HRS Section 103D-305**

- Amended by Act 283 SLH 2006
  - Raised small purchase threshold from less than \$25,000 to less than \$50,000 **provided** all purchases between 25,000 and less than \$50,000 are conducted on an **eProcurement system**.
- Competition.
- Simplicity.
- Multiple expenditures shall not be created at the beginning of job to evade procurement requirements.
- Shall not be artificially divided/parceled to make a small purchase.

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**Act 175, SLH 2009**  
**Changed Small Purchases**

- Increased the thresholds
  - goods and services: less than \$100,000
  - Construction: \$250,000
- For construction, performance bond is required for purchases of \$50,000 and greater.
- This act **was repealed July 1, 2012**

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**\*Act 173, SLH 2012**  
**Procurement Circular 2012-04**  
**Small Purchases and**  
**Performance Bonds for Construction**

- Act 173, SLH 2012 established the thresholds for small purchase as
  - goods and services: less than \$100,000
  - Construction: \$250,000
- For construction, performance bond is required for purchases of \$50,000 and greater.
- Instructions for the Procurement Circular also changed the posting requirement for small purchases from \$15,000 or more to \$2,500 or more.
- Note: Procurement Circular 2012-04 applies to Executive Branch. Procurement Circular 2012-05 applies to CPOs for other Jurisdictions.

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**Any Questions so Far??**

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## **Small Purchases**

### **HAR 3-122, Subchapter 8**

**Sections 3-122-75, 3-122-77, 3-122-78**

- Adequate and reasonable competition.
  - The more vendors available, the more quotes should be obtained.
- Procedures
  - Number of quotes to be obtained/how they are to be submitted.
  - Defines quote, parceling, etc.
- chief procurement officers:
  - Determine procedures for purchases of less than **\$5,000**.
  - May be more restrictive (for example: require written quotes at lower dollar thresholds).
  - May determine what goods, services and construction shall be purchased on an eProcurement system.

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## **Chief Procurement Officers (CPO)**

- **Executive (5)**
    - Administrator of the State Procurement Office, *except for*:
      - Office of Hawaiian Affairs--Chairperson of the Board;
      - University of Hawaii--President of UH;
      - Department of Education, *excluding the Hawaii Public Library System*--Superintendent of Education;
      - Hawaii Health Systems Corporation--CEO, HHSC
  - **Judiciary (1)**--Administrative Director of the Courts
  - **Legislative (2)**
    - Senate -President
    - House of Representatives -Speaker
- Counties: (12)** -Executive Branch--Finance Directors, except for Boards of Water Supply, Legislative Branch--Chairpersons of the Councils, Boards/Departments of Water Supply--Managers and Chief Engineers as designated by county charter.

(Ref: HRS 103D-203)

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***When More than One Method of Procurement May be Used***  
**Professional Services Less Than \$100,000\***

- May be procured through either
  - professional service method of procurement;
  - professional services small purchase (HRS 103D-304(j)); or
  - small purchase method of procurement
- Exception – Procurement of design professional services furnished by licensees under HRS chapter 464 shall be procured by the professional method of source selection.

(Ref: HAR, Section 3-122-67;

\*Act 173 SLH 2012, Procurement Circular 2012-04

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**Electronic Procurement**  
**HAR §3-122-78**

- At minimum, includes the functionality of:
  - notification of registered vendors; and
  - electronic receipt of offers.

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***What if:***

**Non-Electronic Procurement**

- \$25,000 to less than \$100,000 (goods, services) and \$250,000 (construction)\* procurements that cannot be purchased through an electronic procurement system may be conducted pursuant to Competitive Sealed Bidding, Competitive Sealed Proposals or Procurement of Professional Services.
- Chief Procurement Officer (CPO) may determine what goods, services or construction, less than \$25,000 will be made through an electronic procurement system.

*\*Reference: Act 173, SLH 2012 and Procurement Circular 2012-04 (and 2012-05 for other CPO Jurisdiction CPOs)*

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***When Small Purchases Does Not Apply***  
**SPO Price/Vendor List Contracts (PL/VL)**

- Cooperative Purchasing (solicitation already conducted)
- Purchasing agencies delegated procurement authority and **committed to its use shall** use SPO PL/VL unless exempt or approval granted to purchase outside the SPO PL/VL.  
(See: Form SPO-005, SPO Request for Purchase Exemption from SPO Price or Vendor List Contract at <http://hawaii.gov/spo> click **SPO forms** under **Toolbox**).
- For some price/vendor list contracts, use is optional.
- When contract use is optional, buyers may choose to use SPO price and vendor list contracts (most Western States Contracting Alliance (WSCA) contracts are optional); however, when not used, the goods/services/construction must be procured using the applicable method of procurement.

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## Small Purchase Thresholds and Numbers of Quotes

- **HAR 3-122, Subchapter 8**
  - Total purchase shall be less than:
    - 100,000 for goods, services; and
    - \$250,000 for construction.\*
  - Less than \$5,000 –procedures established by CPO
  - \$ 5,000-less than \$15,000 –3 quotes
  - \$15,000-less than \$25,000 –3 written quotes
  - \$25,000-less than \$100,000 (goods/services)\* -eProcurement
  - \$25,000-less than \$250,000 (construction)\* –eProcurement
- **Executive Branch Departments**  
(CPO = SPO Administrator)
  - Procurement Circular; 2012-04 (Executive Branch)
  - **\$15,000**- less than \$100,000 (goods, services) \$250,000 (construction)\* -HePS
  - Compliance documents shall be obtained for purchases from \$2,500.
  - Awards of **\$2,500** and above shall be posted on the Awards Reporting Site of PANS
  - Procurements less than \$5,000 – adequate and reasonable competition  
-This is a small purchase request for quote procedure.

\*Reference: Act 173, SLH 2012 and Procurement Circular 2012-04

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## General Rules for Small Purchases

- Allow for adequate and reasonable competition.
  - Within procurement dollar threshold for small purchases.
  - Parceling prohibited.
  - Preferences pursuant to Part X, HRS Chapter 103D does not apply.
  - Public notice not required.
  - Public bid openings not required.
  - Written Delegated Authority- You must have this before procuring
    - Check with your Administrative Services Office (ASO) regarding your delegation of procurement authority (Form SPO-036.) 
    - See <http://hawaii.gov/spo> click **For State and County Personnel and Required Procurement Delegation Authority**
  - Required workshops- Have you taken all mandatory training?
    - You must have take all required (mandatory) workshops prior to procuring.
    - See <http://hawaii.gov/spo> click **Training and informational Sessions and Training for State and County Personnel and Training Requirements: Which Workshops Do I Need to Take?**
- Note:** There is also an **FAQ on Training Requirements.**

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## Parceling

- Purchases of goods, services and construction shall not be parceled by dividing purchases that are same, like or related into smaller quantities.
- The expenditure threshold applies for **any 12-month** period. (Not FY or calendar year)
- Purchase may be for more than 12 months **if the grand total expenditure does not exceed small purchase dollar thresholds**—includes recurring annual service contracts (sum over all years of the contract).
- Purchases shall not be artificially divided because of various funding sources.

*(Reference: HAR Section 3-131-2)*

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## How to Avoid Parceling

- Procurements should be done by the most competitive method feasible.
- Procurements should be considered for consolidation under the following circumstances:
  - ✓ The higher the price of a group of procurements, the more likely they should be consolidated.
  - ✓ The more similar the good, service or construction, the more likely it should be consolidated.
  - ✓ The more likely that the procurement can be obtained from one vendor, the more likely it should be consolidated.
  - ✓ If it is known about a procurement of similar goods, services, and construction, the more likely it should be consolidated.

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## **Parceling is**

1. Same, like or related goods, services or construction; and
  2. Purchased within any 12 month period; and
  3. The grand total exceeds the small purchase dollar threshold.
- It is **still** parceling if:
- Different funding sources are used.
  - Different fiscal or calendar years are included.
  - Different vendors are used.

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## **Getting Started Developing your Solicitation**

- What do you want to purchase?
- What is the estimated total dollar purchase?
- What are the specifications?
- How much do you want to buy (now and over a 12 month period)?
- What is the unit of measurement?
- What is the contract period?
- When does delivery need to occur?
- Are there any other special/administrative requirements in general or specific to the goods, services, construction?

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## **What Do You Want to Purchase?**

- Group similar items in one solicitation.
- Award does not need to be total sum (does not have to be awarded to the same vendor.)

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## **What is the Total Dollar Purchase?**

- When it is known that the total purchase will be less than \$15,000, use of an electronic procurement system is allowed.
- Agencies may determine that a procurement less than the small purchase dollar threshold be procured through competitive sealed bidding (IFB) or Competitive sealed proposals (RFP) method of procurement.
  - Note: Procurements using the Competitive Sealed Proposal method of procurement (RFP) require prior HOPA approval.

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## Specifications

- Seek to procure standard commercial products.
- Seek to promote overall competition.
- Shall not be restrictive.
- Provide a fair and equal opportunity for every supplier that is able to meet the State's needs.
- Unique requirements should be avoided.

*Reference:*

*Procurement Circular 2008-09, Specifications  
HAR chapter 3-122, Subchapter 3*

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## Guidelines for Developing Specifications

- Identify minimum requirements.
- Allow for competition.
- List reproducible test methods to be used in testing for compliance with specifications.
- Provide for a fair award.
  
- See also: <http://hawaii.gov/spo>
  - For State and County Personnel
  - Purchasing Goods, Services and Construction
  - Methods of Procurement
  - Small Purchase
  - Specifications

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## **Types of Specifications**

- Design
- Performance
- Brand name or equal
- Qualified products list (QPL) or pre-approved products

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## **Other Parts of an RFQ**

- Quantity
- Unit of Measure
- Contract Period
- Delivery
- Minimum qualifications of vendor
- Administrative Requirements
  - Examples: Compliance, Bonding, Insurance

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## Act 190 SLH 2011

- Hawaii Compliance Express:
  - Expedites vendor's ability to furnish proof of compliance with HRS 103D-310(c);
  - For a nominal price;
  - Provides real-time monitoring;
  - Automatically emails vendor when status changes.
- Small Business working group recommended extending Hawaii Compliance Express to small business.
- Purpose of Act is to support the findings of the small business working group.
- Act 190 amends HRS 103D-310(c) by adding “...**contracts and procurements of \$2,500 or more awarded pursuant to section 103D-305...**” to meet the requirements of the section.

*Reference: Procurement Circular 2011-02  
Guidance on Amend to HRS 103D-310(c), Verification of Compliance for Small Purchase Contract Award*

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## Administrative Requirements Vendor Responsibility and Verification of Compliance HCE

- **Registered and in Good Standing to do business in the State of Hawaii** (DCCA)
- **Compliance with Labor Laws** (DLIR)
- **Tax Clearances** (IRS and DOTAX)
- IRS and DoTax no longer use paper tax clearances for contracting purposes.

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**Administrative Requirements**

**When Soliciting for Services...  
HRS Section 103-55**

- Before entering into a contract to perform services in excess of \$25,000 for any governmental agency, the vendor shall certify:
  - Services shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work.
  - Compliance with labor laws.
- No contract to perform services shall be granted unless the conditions are met.
- It is the duty of the governmental contracting agency awarding the contract to enforce this requirement.

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**Administrative Requirements**

**Public Works Construction Contracts  
HRS Section 103-55.5**

- Before entering into a public works construction contract for a project over \$2,000, subject to HRS Chapter 104, the vendor shall certify :
  - Individuals performing on the contract shall be paid not less than the prevailing wages determined by the DLIR director; and overtime plus fringe (weekends, State Holidays; over 8 hours on other days; and
  - Compliance with all applicable federal and state laws of the relating to workers' compensation, unemployment compensation, payment of wages.

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**Public Works Construction Contracts**  
**HRS Section 103-55.5** *Continued*

- No contract for construction of any public work project in excess of \$2,000 shall be granted unless all the conditions of this section are met.
- It shall be the duty of the governmental contracting agency awarding the contract to enforce this section.
- Be sure to check during the contract.

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**Administrative Requirements**  
**Public Works Construction**  
**Performance Bond Requirements**

- Contracts of \$50,000 or greater
- In accordance with Procurement Directive 2007-02
- See Procurement Circulars 2012-04 and 2012-05 as appropriate

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### **Newer Requirement: Security Services Act 201 SLH 2010**

- Act 208, SLH 2010, effective July 1, 2013.
- **What is required of vendors:**  
All individual guards, and all agents, operatives, and assistants employed by a guard agency, private business entity, or government agency who act in a guard capacity shall apply to register with the **Board of Private Detectives and Guards.**
- **What is required of State/County Procurement Personnel:**  
When a security guard firm is procured it must be made certain that all of the guard employees are first properly registered with the DCCA. ...“
- **What is required of State/County Contract Administration Staff:**  
Ensure the vendor is registered.
- Effective 7/1/2013  
If you are procuring now for a 1 year contract it will affect your contract. You must include this requirement in your solicitation.

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### **ADA (American Disabilities Act) Compliance**

- State must be ADA compliant.
- Documents uploaded to a website must be accessible to the visually impaired. (The website must also be accessible.)
- Contact your Administrative Services Office or Business Management Office if you have questions on ensuring your documents are ADA compliant.

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## During a Solicitation

- Answering vendor questions is permissible
  - Must ensure that all vendors receive the same information in a timely manner.
  - Recommend in writing.
- Changes to solicitation
  - If on HePS or HIePRO - in writing, use addenda function
  - If always in writing, protects you and the vendor.

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## Basis of Award

- Award shall be made to the lowest responsive, responsible offeror.
- When award to the lowest, responsible offeror is not practicable, award shall be made to the offeror whose quotation provides best value to the State.
- Written determination for the selection shall be placed in the procurement file.
- Best value does **not** mean buyer has free reign to do whatever they want. Burden of proof is on the buyer.

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## **What is Best Value?**

- Most advantageous offer determined by evaluating and comparing all relevant criteria in addition to price so that 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.

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## **Criteria to Consider**

- Quality
- Warranty
- Delivery
- Total Cost of Ownership
- Other Criteria
- If minimum criteria for these or other criteria were not in the RFQ, protests are likely!

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## Adequate Competition

### Non-Electronic

“No bid” does not qualify as one quote.  
“No response/reply” does not qualify as one quote.

### Electronic

HePS/HIePRO provides for adequate competition, provided the buyer ensures

- appropriate vendors are in the system;
- correct commodity codes are used;
- specifications are clear; and
- solicitation is available for adequate amount of time.

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## For Executive Branch Agencies

(CPO = SPO Administrator)

### Procurement Circular 2012-04

- Under \$5,000 –
  - adequate and reasonable competition is recommended;
  - record of procurement (SPO Form 10) and RFQ (SPO 10A) are optional.
- \$5,000-less than \$15,000- minimum 3 quotes.
  - record of procurement (SPO Form 10) required.
- \$15,000-less than \$100,000 (goods, services) and less than \$250,000 (construction)—
  - solicitation must be conducted on Hawaii eProcurement System (HePS);
  - **Verification of proof of compliance required for purchases \$2,500 and above**
  - **eProcurement Award Summary Report** replaces SPO Form 10.
  - **Posted on Awards Reporting System if \$2,500 or greater.**

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## Making the Award

- Contract not required if small purchase method is used. May use P.O.
  - Must have paper contract or P.O. Can attach contract to notice of award in HePS.
- If an agency chooses to award by contract, use AG-002 for small purchase contracts.
- For Executive Departments – **Verification of proof of compliance** for total purchases \$2,500 and above if small purchase process used.
- Procurement and award through HlePRO (or HePS) requires Award Summary Report.
- If \$2,500 and above post on Awards Reporting System (of the PANS - Procurement Awards, Notices and Solicitations) **within 7 days of notice of award**. (exception: HlePRO will post award upon completing award in HlePRO, that is, once all approvers (if any) have approved).
- **Note: For small purchase method of procurement protests shall be submitted “within 5 working days of knowledge giving rise to the protest” or if a debriefing is held, within five working days after the debriefing.**
  - In your solicitation include where awards will be posted (Awards website). You may want to post sooner than 7 days.

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## Award to Other Than Lowest Quote

### Non-Electronic

Complete SPO Form 10,  
Part D

### Electronic

Complete the **Competition  
Comments** Field on HePS

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## **When to Verify Proof of Compliance**

**(Compliance Documentation)**

- Be sure to verify proof of compliance **BEFORE** awarding!
- If you awarded and cannot verify that you obtained proof of compliance:
  - Vendor cannot be paid.
  - Procurement violation.
  - Cancellation of award/solicitation.
  - Administrative fine (personnel making the award).

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## **Compliance for Small Purchase Awards**

- Reminder: Effective 7/1/11 proof of Compliance for Contracts/Awards for Small Purchase method of Procurement Contracts is now required for all small purchase awards of **\$2,500** and above.
- Acceptable documentation of proof –
  - Hawaii Compliance Express
  - Paper documents (buyer must verify)
- Compliance is an issue of Responsibility (HAR Section 3-22-112 Responsibility of Offerors)
- *Reference:*
  - *Procurement Circular 2011-02*
  - *Procurement Circular 2011-02 Amendment 1*

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## Compliance and Responsibility

Compliance is an issue of Responsibility  
(HAR 3-22-112 Responsibility of Offerors)

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## Compliance, Responsibility and Responsiveness

- **Responsiveness** = an **offer** that conforms in all material respects to the solicitation.
- **Responsibility** = Capability of the **offeror**.
  - “...the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance...”
- Procurement Officer may request additional information to determine responsibility.
- Upon determination of non-responsibility, offeror may request administrative hearing pursuant to HAR 3-126-42.

*Reference:*

*HRS Section 103D-104 Definitions*

*HAR Section 3-120-2 Definitions*

*HAR 3-122 Subchapter 13, Responsibility of Bidders and Offerors*

*HAR Chapter 126 Legal and Contractual Remedies*

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***What if:***  
**Quotes Not Received**  
**(Non-Electronic - less than \$15,000)**

- If minimum quotes required not received, justification shall be provided.
- Complete SPO Form 10, Part C and place in procurement file.

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***What if:***  
**No Quotes Received on eProcurement**  
**System**

- **HOPA** may determine that it is neither practicable nor advantageous to the State to issue a new solicitation.
  - Can specifications be revised?
  - Time constraints?
  - Competition in the marketplace?
  - Document and place in procurement file.
- Written determination/approval by HOPA!

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***What If:***

**Lack of Competition**

- Consider whether specifications can be revised, time constraints, and competition in the marketplace.
- Upon approval by the HOPA, alternative procurement method may be selected to include, but not limited to, direct negotiations.
- Documentation of the alternative procurement shall be placed in the procurement file.

*Ref: HAR, Section 3-122-78; See also HePS Buyer FAQ*

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***What if:***

**Quotes Are Over Small Purchase Threshold**

- Goods: Quantity may be reduced. However, another RFQ for the reduced amount shall not be solicited within 12 months.
- Services: Specifications may be altered/decreased.
  - Scope shall not be broken up and re-solicited within 12 months.

*See also the HePS Buyer FAQ*

*<http://hawaii.gov/spo> click **HiPRO/HePS** and then **HePS for State and County Procurement Personnel...***

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## Protests

- Shall be within five working days of when protestor knows or should have known of award.
- Shall be within 5 **working** days of posting.
- Shall be in writing to the Procurement Officer.
- Once notified of protest by vendor, all action on award shall cease until protest is resolved.

*(Ref: HAR, Ch. 3-126, Legal and Contractual Remedies)  
Procurement Circular 2012-04*

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## Reporting of Protests

- All protests shall be reported to the SPO.
- Form SPO-043 shall be used.
- See Procurement Circular 2012-03, as amended and accompanying instructions.
- There is also a link to the form, instructions and procurement circular on the **Protest** page for **State and County Personnel**:
  - <http://hawaii.gov/spo>
  - for State and County Personnel
  - Purchasing Goods, Services and Construction
  - Protests

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## **Recording and Documenting the Award**

- Purchases made by Executive Branch shall be recorded on SPO Form 10 for purchases \$5,000 to less than \$15,000.
- Purchases made by Executive Branch from **\$2,500** shall be posted on the SPO Awards Reporting System (of the PANS\*) within 7 calendar days from issuance of HePS award.

*Reference:*

*Procurement Circular 2012-04, as amended*

\*PANS= Posting Procurement Notices, Awards & Solicitations

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## **Documentation and the Procurement File**

- Non- selected vendors (and the legal system ) need documentation that decisions were arrived at through a process (not 'arbitrary and capricious').
- Procurement file should "tell the story," especially if not selecting lowest price.
  - Document how the decision was arrived at.
  - First impressions count. Memo to file citing any rules, statutes that apply and explain;
    - Rejection of any quotes that are not responsive,
    - Determinations that an offeror is not responsible.

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## **It Doesn't Stop at the Award**

- Someone must be responsible for managing the award to ensure the State receives what it contracts for (including purchases by purchase orders or pCards).
  - Commonly known as contract administrator.
  - Just because there is no formal contract (AG form) it is still a contract and must be managed.
    - Ensure the state gets what it solicited for.
    - Payment was in accordance with the quote. 

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## **Public Inspection**

After a small purchase is completed (purchase order issued, pCard order), all documents relating to the small purchase (unless marked confidential) are considered public record and should be released to anyone requesting such information in accordance with HRS, Chapter 92F\*.

\*HRS, Chapter 92F - Uniform Information Practices Act (Modified)

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## Contract Amendments

- Must be within the scope of the **solicitation and offer**.
- Must be in writing and signed by both parties.
- Must be timely. **Cannot be issued after an contract expires**.
- Must be reported on the awards reporting site.

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## Contract Extensions

- Contract extensions may only be implemented when they are allowable and stated in the solicitation (length and number of extensions).
- Total contract amount, **including extensions** shall not exceed the small purchase threshold.
- Contract Extensions shall be **executed** prior to the end date of contract.
  - **After end date, a contract cannot be 'extended.'**
    - You cannot extend what doesn't exist.
  - **'Executed'** means the formal document signed by all parties. It does **not** mean the letter or response from a vendor that they agree to extend.

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## The Changing Face of Procurement

- Procurement is more open/transparent.
- Trend toward using more solicitations with criteria for award based on “best value” (Competitive Sealed Proposals (RFP))
- Best value types of procurements must provide for **more objective, fair evaluation models** and promote the selection of advantageous offers.

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## eProcurement is Different

- More open and fair than 3 quotes.
- More accessible to more vendors.
  - Specifications need to be written.
  - Minimum qualifications for vendors when applicable.
  - Vendors notified of solicitations.
  - Responses submitted only on HePS.
  - Offerors notified of results.
- Better documentation
- ‘Wet’ signatures not required for submission of solicitation.

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## **eProcurement is a Tool**

- HlePRO (and HePS) are **not** methods of Procurement
  - eProcurement is a tool to make your procurement more efficient and transparent
- It does not know all the statutes and rules.
  - You have to know them.
- It does not know specifications.
  - That is also your job.
- It is not artificial intelligence. To the eProcurement application, text is text.
  - Your intelligence is what counts.

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## **HlePRO (and HePS) are Not Just Sites to Post a Notice**

- They are a procurement tool to be used by **personnel trained in procurement and authorized to procure.**
- You must have written delegated authority and training to procure:
  - for the method of procurement; and
  - to procure using eProcurement.
- HePS and HlePRO buyers are responsible for the solicitations they issue.
- HePS and HlePRO buyers must complete required training. (Taking this workshop is required but not sufficient-there are additional workshops required.)

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## **Who Should Procure: Responsibilities**

- Delegated procurement authority.
- Taken all required training.
- Responsible for being 'in the loop' for procurement changes to rules/procedures and any other rules/procedures relevant to the procurement, and/or the good/service /construction being procured.
- HAR, Chapter 3-131, Compliance
  - Procurement Code of Ethics
  - Procurement Violations
  - Administrative Fines

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## **When to Procure**

- Think it through – Plan ahead!
- Electronic procurement – recommended length of solicitation is 7 days.
- Failure to plan is not justification for emergency procurement, exemption, or parceling.
- Knowing there will be emergencies is not the same as the inability to anticipate -another method of procurement may be more appropriate (and less stressful). Contact SPO to consider options.

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### 3 things+

1. Purchasing of goods, services and construction must be conducted pursuant to one of the 6 methods of procurement.
  - Small Purchase Request for Quotes is one of those methods.
  - eProcurement is NOT a method of procurement.
2. Parceling has NOTHING to do with number of vendors, source of funds or fiscal/calendar years.
  - Parceling occurs when **same, like or related goods, services or construction are purchased within any 12 month period** and the **total exceeds the small purchase dollar thresholds**.
3. eProcurement is a **tool** to facilitate open, fair and competitive procurements. (It is effective and fair, too, when conducted correctly.) eProcurement is **not a method of procurement**.
  - Placing a solicitation on an eProcurement application does not make the procurement compliant. The buyer must know the requirements of the method of procurement being used.

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### 1 more thing

- Small purchases method of procurement is not a shopping trip or a fishing expedition.
  - The buyer must know exactly what is needed; the specifications and minimum qualifications of the vendor, if applicable.
    - They must be in the solicitation.
    - They must be clear and objective.
  - Award is to the lowest priced vendor meeting the specifications and qualifications.
    - ‘Responsive’ and ‘Responsible.’

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### Small Purchase Method of Procurement References

Information	Location on SPO website <a href="http://hawaii.gov/spo">http://hawaii.gov/spo</a>
Small Purchase Method of Procurement	<ul style="list-style-type: none"> <li>&gt; For State and County Personnel</li> <li>&gt; Purch. Goods Services &amp; Const</li> <li>&gt; Methods of Procurement</li> <li>&gt; Small Purchases</li> </ul>
Procurement Statutes & Rules Including: <ul style="list-style-type: none"> <li>• HRS, Ch. 103D</li> <li>• HAR, Ch. 3-122, Subch. 8 (Small Purchases);</li> <li>• HAR, Ch. 3-126, (Protests),</li> <li>• HAR, Ch. 3-131 (Compliance)</li> <li>• Act 173, SLH 2012</li> </ul>	<ul style="list-style-type: none"> <li>&gt; Statutes and Rules (under <i>Reference</i>)</li> </ul>
Procurement Circulars	<ul style="list-style-type: none"> <li>&gt; Procurement Circulars (under <i>Reference</i>)</li> </ul>

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### Small Purchase Method of Procurement References (Continued)

Information	Location on SPO website <a href="http://hawaii.gov/spo">http://hawaii.gov/spo</a>
HePS / HlePRO info	<ul style="list-style-type: none"> <li>➤ HePS/HlePRO</li> <li>➤ HePS for State &amp; County Personnel</li> <li>➤ HlePRO for State &amp; County</li> </ul>
<ul style="list-style-type: none"> <li>• Required Procurement Delegation</li> <li>• Procurement Code of Ethics</li> <li>• Posting Procurement Awards, Notices and Solicitations (PANS)</li> <li>• Frequently Asked Questions (FAQ)</li> </ul>	<ul style="list-style-type: none"> <li>➤ For State &amp; County Personnel</li> </ul>
<ul style="list-style-type: none"> <li>• eAdministrators</li> <li>• PANS Accounts Administrators</li> </ul>	<ul style="list-style-type: none"> <li>➤ For State &amp; County Personnel</li> <li>➤ Department &amp; CPO Jurisdiction Administrators, Managers &amp; Contacts for SPO Programs</li> </ul>

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### **Self-Test**

**You should be able to answer correctly before you procure.**

1. Which of the following are methods of procurement for goods, services and construction:
  - A. Small Purchases request for Quote
  - B. Competitive Sealed Bidding
  - C. Competitive Sealed Proposals
  - D. Exemptions from Procurement
  - E. eProcurement
  - F. All of the above
  - G. A, B and C
  - H. A, B, C and E

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### **Self-Test (continued)**

2. An office purchases office furniture use small purchase method of procurement for a total of \$99,000 in May. In September, the office purchases additional office furniture for a total of \$13,000 using federal funds. Is this parceling?
  - A. No. It is different source of funds and different fiscal year.
  - B. Yes. It is same like or related goods, services or construction within a 12 month period.

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### **Self-Test (continued)**

3. If you are procuring using eProcurement (HePS or HlePRO) you do not need to worry about the method of procurement or knowing procurement rules/procedures. The application takes care of that for you.
- A. True
  - B. False

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### **Self-Test (continued)**

4. To conduct a small purchase solicitation on HlePRO, in addition to the required training, a buyer must have:
- A. Written delegated authority for small purchases;
  - B. Written delegated authority for eProcurement;
  - C. Both;
  - D. Neither. No written delegated authority required. Once a buyer is given access, he/she can issue a small purchase on HlePRO because HlePRO knows all the requirements.

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## State Procurement Office Contacts for General and Specific Info

- **Donn Tsuruda-Kashiwabara** 586-0565  
[donna.tsuruda-kashiwabara@hawaii.gov](mailto:donna.tsuruda-kashiwabara@hawaii.gov)  
RFPs, Specifications, Emergency, Sole Source, Professional Svcs., Exemptions
- **Mara Smith** 587-4704  
[mara.smith@hawaii.gov](mailto:mara.smith@hawaii.gov)  
HePS, HlePRO, PANS (Reporting/Posting Awards, Notices & Solicitations), SPO website
- **Kevin Takaesu** 586-0568  
[kevin.s.takaesu@hawaii.gov](mailto:kevin.s.takaesu@hawaii.gov)  
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- **Bonnie Kahakui** 587-4702  
[bonnie.a.kahakui@hawaii.gov](mailto:bonnie.a.kahakui@hawaii.gov)  
Travel, pCard, Emergency, Sole Source, Prof. Svcs., Exemptions, HePS, HlePRO
- **Stanton Mato** 586-0566  
[stanton.d.mato@hawaii.gov](mailto:stanton.d.mato@hawaii.gov)  
Price and Vendor Lists
- **Corinne Higa** 587-4706  
[corinne.y.higa@hawaii.gov](mailto:corinne.y.higa@hawaii.gov)  
Health & Human Services (all procurement methods), Training
- **Stacey Kauleinamoku** 586-0571  
[stacey.L.kauleinamoku@hawaii.gov](mailto:stacey.L.kauleinamoku@hawaii.gov)  
Delegated Procurement Authority, HlePRO
- **Andrew Lum** 586-0558  
[andrew.a.lum@hawaii.gov](mailto:andrew.a.lum@hawaii.gov)  
HCE, SPO website

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## State Procurement Office

***The end. Thanks for attending!***

***Remember to complete any group attendance forms and email them to  
[spo.training@hawaii.gov](mailto:spo.training@hawaii.gov)  
WITHIN 1 WORKING DAY***

**Questions?**

**<http://hawaii.gov/spo>**

- Ph: 586-0554
- [State.procurement.office@hawaii.gov](mailto:State.procurement.office@hawaii.gov)
- [hiepro@hawaii.gov](mailto:hiepro@hawaii.gov)
- [spo.training@hawaii.gov](mailto:spo.training@hawaii.gov)

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## Self-Test Answers

1. Which of the following are methods of procurement for goods, services and construction:  
**G. A, B, and C (Small Purchase Request for Quotation, Competitive Sealed Bidding, Competitive Sealed Proposals)**
2. An office purchases office furniture use small purchase method of procurement for a total of \$99,000 in May. In September, the office purchases additional office furniture for a total of \$13,000 using federal funds. Is this parceling?  
**B. Yes. It is same like or related goods, services or construction within a 12 month period.**
3. If you are procuring using eProcurement (HePS or HIePRO) you do not need to worry about the method of procurement or knowing procurement rules/procedures. The application takes care of that for you.  
**B. False!**
4. To conduct a small purchase solicitation on HIePRO, in addition to the required training, a buyer must have:  
**C. Both (written delegated authority for Small Purchase Request for Quote Method of Procurement and to conduct a solicitation on eProcurement)**

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