

Workshop SPO 001 Procurement Basics

Rev 8/2014

1

Definitions

- **Chief Procurement Officer:** The Chief Procurement Officer for State entities and the several counties as provided in Section 103D-203, HRS, or the Officer's designee. (HAR §3-120-2)
- **Contract:** all types of agreements, regardless of what they may be called, for the procurement or disposal of goods or services, or for construction. (HRS §103D-104)
- **Contractor:** an individual, partnership, firm, corporation, joint venture, or other legal entity undertaking the execution of the work under the terms of the contract with the State, and acting directly or through its agents or employees. (HAR §3-120-2)
- **Head of the Purchasing Agency:** the head of any agency with delegated procurement authority. (HAR §3-120-2)
- **HAR:** Hawaii Administrative Rules
- **HRS:** Hawaii Revised Statutes
- **HRS 103D:** The Hawaii Public Procurement Code (Goods, Services, and Construction)
- **HRS 103F:** Purchases of Health and Human Services
- **Offer:** a bid, proposal, or quotation. (HAR §3-120-2)
- **Offeror:** any individual, partnership, firm, corporation, joint venture, or other legal entity submitting, directly or through a duly authorized representative or agent, an offer for the good, service, or construction contemplated. (HAR §3-120-2)

Rev 8/2014

2

Definitions – continued

- **Procurement:** buying, purchasing, renting, leasing, or otherwise acquiring any good, service, or construction. The term also includes all functions that pertain to the obtaining of any good, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration. (HRS §103D-104)
- **Procurement Officer:** any person with delegated authority to enter into and administer contracts and make written determination with respect thereto. The term 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. (HAR §3-120-2)
- **Responsive bidder:** a person who has submitted a bid which conforms in all material respects to the invitation for bids. (HRS §103D-104)
- **Responsible bidder or offeror:** a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance. (HRS §103D-104)
- **Solicitation:** an invitation for bids, a request for proposals, a request for quotations, or any other document issued by the State for the purpose of soliciting bids or proposal to perform a state contract. (HAR §3-120-2)

Rev 8/2014

3

Public Sector Procurement

- **Open and Transparent**
 - Everyone has a right to know and have easy access.
- **Fair to all vendors**
 - Everyone has the right to compete.
- **Accountable**
 - We use taxpayer funds

Rev 8/2014

4

State and County Personnel Responsibilities

- Comply with statutes/admin rules, etc.
 - Check procurement circulars and directives regularly.
 - Check procurement manuals, references, program guides, etc.
 - Know your internal policies and procedures (Jurisdiction, department, division, office, etc.)
 - Comply with federal regulations, if applicable.
- Accountability
 - Keep an auditable trail. (document, document, document!)
- Adhere to code of ethics
 - No conflict of interest or appearance of conflict of interest.

References

- Act 207 SLH 2010; HRS §103D-101, *Requirements of Ethical Public Procurement*
- HAR Chapter 3-131, *Compliance*
- <http://spo.hawaii.gov/references/procurement-circulars/>

Rev 8/2014

5

Written Delegated Authority

For Executive Departments (excluding DOE, HHSC, OHA, UH), before you begin any procurement, you shall have written delegated authority (form SPO-036).

- <http://spo.hawaii.gov>
 - > Manual For State & County Personnel
 - > Delegation

Reference:

- Procurement Delegation Memorandum 2010-01, as amended.

Rev 8/2014

6

Training Requirements

For Executive Departments (excluding DOE, HHSC, OHA, UH), before you begin any procurement, you shall:

- **Take all required applicable training.**
Reference: Procurement Circular 2010-05, as amended
 Check the website periodically as some requirements may change.
 - <http://spo.hawaii.gov>
 - > Training for State & County Personnel
 - > Training Requirements
- **On-Demand Training**
 - Reference SPO Training webpage

Rev 8/2014

7

When We Procure

- We must procure in accordance with statutes and rules.
 - HRS Chapter 103D
 - HAR Chapters 3-120 to 3-132
 - HRS Chapter 103F
 - HAR Chapters 3-140 to 3-149
 - HRS Chapter 103
 - Statutes and rules related to your procurement
 - Procurement Circulars and Directives
- There are various methods of procurement. Each of the methods:
 - has specific procedures;
 - shall be used under certain conditions;
 - more than one method may be applicable;
- When more than one method is applicable, choose the most appropriate method (generally the most competitive).

Rev 8/2014

8

Source Selection – HRS Chapter 103D

Method	Bases for Use	Bases of Award
Competitive Sealed Bidding (IFB)	Minimum specifications/scope of work are definable.	Lowest responsive, responsible bid.
Small Purchases	Purchases of smaller quantities for goods and services of less than \$100,000 and construction less than \$250,000.	Lowest responsive, responsible quotation.
Competitive Sealed Proposals (RFP)	Competitive sealed bidding is not practicable; price is not the most critical factor.	Based on RFP evaluation criteria.
Multi-step Competitive Sealed Bidding	Used when pre-qualification of offerors necessary before considering price. Follows RFP as 1 st step; IFB as the 2 nd step.	Lowest bidder of qualified offerors.
Sole Source	Only one source for the required good, service, or construction.	Approved single source at agreed prices.
Emergency	Used to respond the needs that are immediate and serious that are a threat to life, public health, welfare, or safety.	Lowest responsive and/or responsible offeror.
Professional Services	Professional services as defined in rules and statutes	Qualified respondent that meets determined criteria; prices are agreed to.
Request for Interest (For Federal Grants)	Used prior to applying for the Federal grants where time is limited or economic situations require a "quick" selection process.	Criteria determined in RFI.

Rev 8/2014 9

Methods of Procurement – HRS Chapter 103F

Method	HAR Chapter
Competitive (RFP)	3-143
Restrictive (Sole Source)	3-144
Treatment	3-145
Small Purchase	3-146
Crisis	3-147

Rev 8/2014 10

Administrative Requirements HRS §103-55

- Before entering into a contract to perform services in excess of \$25,000, 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.
- Governmental contracting agency is responsible for enforcing this requirement.
- Exceptions apply. Refer to HRS §103-55(c).
- Public Works Construction Contracts have different requirements – Refer to HRS §103-55.5

Rev 8/2014

11

Chief Procurement Officers (CPO) – 21 jurisdictions

- Executive
 - Administrator, State Procurement Office (i.e. DAGS, DOT, DLNR, DOH, DHHL, HSPLS, etc)
 - Chairperson, Office of Hawaiian Affairs
 - President, University of Hawaii
 - Superintendent, Department of Education
 - CEO, Hawaii Health Systems Corporation
- Judicial
 - Administrative Director of the Courts
- Legislative
 - Senate President
 - Speaker of the House
- Counties (13)
 - Executive Branch, the respective Finance Directors
 - Legislative Branch, the respective chairpersons of the councils
 - Managers and chief engineers, the respective water supply boards
 - Honolulu Authority for Rapid Transportation (HART)

Reference: HRS §103D-203
<http://spo.hawaii.gov/chief-procurement-officers/>

Rev 8/2014

12

Executive Branch Jurisdiction

- Office of the Governor
- Office of the Lt. Governor
- Accounting and General Services (DAGS)
- Agriculture (DOA)
- Attorney General (AG)
- Budget & Finance (B&F)
- Business, Economic Development and Tourism (DBEDT)
- Commerce and Consumer Affairs (DCCA)
- Defense (DOD)
- Hawaiian Home Lands (DHHL)
- Hawaii State Public Library Systems (HSPLS)
- Health (DOH)
- Human Resources Development (DHRD)
- Human Services (DHS)
- Labor and Industrial Relations (DLIR)
- Land and Natural Resources (DLNR)
- Public Safety (PSD)
- Taxation (DoTAX)
- Transportation (DOT)

Rev 8/2014

13

Hawaii Compliance Express (HCE)

- Features:
 - Furnish proof of compliance with HRS §103D-310(c)
 - Nominal fee
 - Provides real-time monitoring
 - Emails vendor when status changes
 - <http://vendors.ehawaii.gov>
- If compliance required prior to award:
 - Failure to obtain proof of compliance is a Procurement Violation and personnel who made the award may be subject to an administrative fine.

Reference: Procurement Circular 2005-04, as amended

Rev 8/2014

14

Public Disclosure

- The public has the right to request access to a government record, in accordance with existing law governing information practices
- HAR §§
 - 3-122-9.01, Disclosure of information (HRS 103D)
 - 3-122-9.02, Request for information (HRS 103D)
 - 3-141-303, Confidentiality (HRS 103F)
- Office of Information Practices (OIP)
 - <http://oip.hawaii.gov/>

Rev 8/2014

15

Record Retention

- HAR §§
 - 3-122-181, Retention of books and records (HRS 103D)
 - 3-122-182, Sanctions for lack of cooperation (HRS 103D)
 - 3-122-201, Retention of procurement records (HRS 103D)
 - 3-141-301, Retention of procurement records (HRS 103F)
 - 3-141-302, Retention of books and records (HRS 103F)
- Managing Government Records
 - <http://ags.hawaii.gov/archives/>
- Archives Contact Information
 - Phone: (808) 586-0329
 - Email: archives@hawaii.gov

Rev 8/2014

16

American Disabilities Act (ADA) Compliance

- State must be ADA compliant.
- Documents uploaded to a website must be accessible to individuals with disabilities.
- Contact your Administrative Services Office or Business Management Office if you have questions on ADA compliance.

Reference: Americans with Disabilities Act of 1990, as amended, Section 508 of the Rehabilitation Act of 1973

Rev 8/2014

17

ANY QUESTIONS?

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

Email: state.procurement.office@hawaii.gov

Rev 8/2014

18

Thank You!

