

SPO 001 PROCUREMENT BASICS

Intro Slide - SPO 001 Procurement Basics

This workshop provides the very basic things you need to know prior to conducting or participating in procurement activities such as developing and drafting a solicitation, reviewing, approving, conducting, managing the procurement and administering the contract.

Slide 2 - Definitions

These are just some of the definitions that are important for you to know. Other definitions can be found in the statutes (HRS) and rules (HAR).

“Chief Procurement Officer” or CPO. There are a total of 21 CPOs.

“Contract” is any type of agreement, no matter what it’s called. Purchase orders, Memorandum of Agreements, and Memorandum of Understanding are all contracts.

According to HRS Chapter 103D, “Contractor” is a legal entity, acting directly or through its agents or employees, under contract with the State.

“Head of the Purchasing Agency” or HOPA is the head of any agency with delegated procurement authority.

“HRS 103D” is the Hawaii Public Procurement Code for goods, services, and construction.

“HRS 103F” refers to Purchases of Health and Human Services

According to HRS Chapter 103D, “Offer” is a bid, proposal or quotation and “Offeror” is the legal entity submitting an offer for a good, service, or construction.

Slide 3 – Definitions - continued

“Procurement” includes buying, purchasing, renting and leasing of goods, services and construction, and is the inclusive process from planning to contract administration.

“Procurement Officer” is any person with delegated authority to enter into and administer contracts and make written determinations with respect to contracts.

“Solicitation” is generally an invitation for bids, a request for proposals, or a request for quotations.

Slide 4 - Public Sector Procurement

The State’s procurements are governed by the Statutes (HRS) and its Administrative Rules (HAR).

Generally, the statutes set up the foundation or provide the procurement authority. The rules establish the procedures. In public procurement, we need to be open and transparent, meaning taxpayers have a right to know how their money is being spent. Public sector procurements must also be fair and competitive. Therefore, we as public servants are accountable for the purchases we make.

Slide 5 - State and County Personnel Responsibilities

State and County personnel conducting procurement have responsibilities that need to be followed when conducting procurement. 1. They need to comply with statutes and rules, procurement circulars and directives, manuals, references, internal policies and procedures issued by their department, and any applicable federal regulations. 2. They are accountable for their work; they can’t run around pointing fingers at someone else when a mistake is found. Procurement is subject to audit, so keep an auditable trail. Document away like your sanity depended on it. And 3. Be ethical. Avoid conflicts of interest AND any appearance of conflicts of interest. The last thing you want is your name and picture on the front page of the Star-Advertiser attached to some negative article.

Slide 6 - Written Delegated Authority

Per Procurement Delegation Memorandum 2010-01, as amended, State Public Libraries and executive department personnel (except Department of Education, University of Hawaii, Office of Hawaiian Affairs and Hawaii Health Systems Corporation) shall have written delegated authority through Form SPO-036 before participating in any procurement activity such as overseeing/supervising the procurement process; developing, drafting, reviewing, editing, conducting, managing or approving the specifications or solicitation; or administering the contract. The Procurement Delegation Memo can be found on the SPO website under Manual for State & County Personnel. Click Delegation.

Slide 7 - Training Requirements

Procurement Circular No. 2010-05, for Statewide Procurement Training, states that training shall be completed prior to conducting or participating in procurement activities. Applicable training ensures delegated procurement officers and personnel receive the appropriate training to fulfill their responsibilities.

Procurement Circulars can be found on the SPO website under References.

The SPO website also provides training information to assist departments to determine mandatory and recommended workshop attendance for their procurement personnel. To find this information, go to the website; select Training for State and County Personnel and click Training Requirements. There you will find Procurement Position Levels and Procurement Training Requirements Table.

On-Demand Training provides more opportunities for staff to fulfill their training requirements by allowing them to view recorded training workshops at their own convenience. For more information about this, go to the SPO website and click on Training for State and County Personnel. Then select On-Demand Training.

Slide 8 - When we Procure

Any procurement that you conduct shall be in accordance with the statutes and rules. Procurements for Goods, Services, and Construction follow HRS Chapter 103D and HAR Chapters 3-120 to 3-132.

Procurements for Health and Human Services follow HRS Chapter 103F and HAR 3-140 to 3-149.

Procurements shall also be in accordance with HRS Chapter 103, applicable statutes and rules related to your procurement like for example construction or vehicles, as well as procurement circulars and directives. There are multiple methods of procurement and each method has specific procedures that need to be followed and are to be used under certain conditions. In the event that a procurement falls under more than one method, it is best to use the method that is the most competitive.

Slide 9 – Source Selection – HRS Chapter 103D

Pursuant to HRS Chapter 103D, there are 6 methods of procurement: Small Purchases, Competitive Sealed Bidding, Competitive Sealed Proposals, Sole Source, Emergency, and Professional Services. Each one has different criteria that need to be followed and the SPO has training workshops for each method.

Slide 10 - Methods of Procurement – HRS Chapter 103F

HRS Chapter 103F has 5 methods of procurement – competitive- done through the RFP process, restrictive- otherwise known as sole source, treatment- which should be used only on a sporadic basis, small purchase- which is less than \$25,000, and crisis- or emergency purchase of services.

Slide 11 - Administrative Requirements HRS §103-55

HRS §103-55 pertains to wages, hours, and working conditions of employees of contractors performing services. Prior to entering into a service contract in excess of \$25,000, the offeror shall certify that the services be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work. The statute also requires vendors to be in compliance with all applicable labor laws.

HRS §103-55 does not apply to certain service contracts. Refer to HRS §103-55(c) to view which service contracts it does not apply to. Also, public works construction contracts over \$2,000, subject to HRS Chapter 104, have different requirements for wages and hours of employees. Refer to HRS §103-55.5.

For both types of contracts mentioned, it is the responsibility of the governmental contracting agency to enforce the requirements.

Slide 12 - Chief Procurement Officers

There are 21 jurisdictions within the State and counties and each has their own chief procurement officer. The link to the jurisdictions and the current CPOs can also be found at the bottom of the SPO website, at spo.hawaii.gov.

Slide 13 – Executive Branch Jurisdiction

These listed departments of the State’s Executive Branch are under the authority of the Administrator of the State Procurement Office, who is the Executive Branch Jurisdiction’s Chief Procurement Officer or CPO. Although the Hawaii State Public Library System is linked to the Department of Education, which has their own CPO, it falls under the Executive Branch Jurisdiction.

Slide 14 - Hawaii Compliance Express

HCE is a tool that is utilized to furnish real-time proof of compliance with the Department of Taxation, the IRS, the Department of Commerce and Consumer Affairs and the Department of Labor and Industrial Relations. Vendors are able to utilize the HCE for an annual subscription fee, currently \$12.00 and they are notified anytime a status falls out of compliance or when their subscription is up for renewal. HCE is not required. If a vendor wants to provide paper documents such as the A-6 form, LIR#27 form, and Certificate of Good Standing, as proof of compliance, they are more than welcome to. However, we would advise the agency accepting paper documents to double check with the issuing agency such as Department of Taxation, Internal Revenue Service, Department of Commerce and Consumer Affairs, and Department of Labor and Industrial Relations, to ensure the vendors compliance, as it is possible that a vendor may fraudulently modify and submit the paper compliance document. It is the buyer’s responsibility to ensure submitted documents are current and valid.

If an agency is required to obtain proof of compliance prior to award, you better make sure the vendor is compliant prior to award. Failure to do so is a procurement violation.

Slide 15 - Public Disclosure

Procurement information and records are generally open to the public in accordance with HAR §§ 3-122-9.01 and 9.02 and HAR § 3-141-303, excluding proprietary and confidential information. Staff participating in procurement must know when (meaning- at what point in the process) information and records can be released. Refer to applicable method of procurement/ source selection training. The

Office of Information Practices (OIP), has forms on their website to assist the public in their request for access to a government record and forms for the Agency's response to the requestor. To find these forms and for more information on OIP, visit the OIP website at oip.hawaii.gov.

Slide 16 - Record Retention

With reference to HAR § 3-122-201 and HAR § 3-141-301, for state and county agencies, procurement records shall be retained and disposed of in accordance with chapter 94, HRS, and records retention guidelines and schedules. The State Comptroller authorizes records retention and disposition schedules known as General Records Schedules (GRS), which set the minimum record retention and disposition requirements for common records created and maintained by State Executive and Legislative agencies. For procurement and property management records, please refer to the GRS located on the Department of Accounting and General Services website, Archives Division at ags.hawaii.gov/archive/. If you have any questions, you may call the Hawaii State Archives Office at 586-0329. Per HAR §§ 3-122-181 and 182, Contractors shall maintain the books and records for three years from the date of final payment under the contract when pricing information is required. Subcontractors shall maintain books and records for three years after final payment under the subcontract. There are sanctions for failure to do so. Depending on the goods or services, there may be other requirements for contractors to maintain records beyond the close of the contract. Per HAR § 3-141-302, referring to Health and Human Services, any provider or sub-provider shall maintain appropriate programmatic and financial records for three years from the date of final payment under contract.

Slide 17 - American Disabilities Act (ADA) Compliance

The State of Hawaii must be compliant with the Americans with Disabilities Act of 1990 (ADA), as amended, and Section 508 of the Rehabilitation Act of 1973. Documents (including procurement documents) uploaded to a website must be accessible to individuals with disabilities. Contact your Administrative Services Office or Business Management Office if you have any questions on ADA compliance.

Slide 18 – Any questions?

If you have any questions regarding this presentation, please feel free to email us at: state.procurement.office@hawaii.gov

Slide 19 – Thank you for attending

Thank you for attending. Please take a moment to fill out the self-certification form that will pop up shortly. You will also be requested to fill out a short survey by clicking on a link. We appreciate your feedback. Thank you very much.