

**State Procurement Office
Workshop No. 225
RFPs: Getting from a Notice of Award to an Executed Contract
For Health and Human Services
HRS Chapter 103F**

Slide 1: Title Page, RFPs: Getting from a Notice of Award to an Executed Contract for Health and Human Services (Title Page)

Welcome to the State Procurement Office's Workshop No. SPO 225 RFPs: Getting from a Notice of Award to an Executed Contract for Health and Human Services, pursuant to HRS Chapter 103F. This workshop will provide an overview of the notice of award, the protest process, and a bit about contracting.

Slide 2: What Have We Learned About the RFP Process So Far

As a review, we started with planning, which included doing a RFI. We put together and issued the RFP, published the procurement notice, posted the RFP, conducted an orientation, issued addenda, as applicable, and set the proposal submittal deadline for a minimum of 28 days from the date the RFP was first published.

Slide 3: The RFP Process So Far (continued)

We evaluated the proposals received in response to the RFP, trained the evaluation committee members, did a register of proposals received, evaluated each proposal solely upon the evaluation criteria and the relative priorities set in the RFP, and provided written explanations for the numerical scores given.

Slide 4: What's the Next Step to get to an Executed Contract?

So, now what's the next step to get to an executed contract?

Slide 5: Notice of Award (HAR §3-143-303)

After evaluations are completed, the notice of award is issued. For purchases of health and human services pursuant to HRS Chapter 103F, the notice of award means sending out the evaluation statement of findings and decision to each responsive and responsible applicant regarding only their own proposal evaluation. The statement of findings and decision shall contain the name of the purchasing agency, the RFP title and number, the comments for the evaluation and scores that the applicant received in support of the award or non-award decision, a copy of the applicant's proposal evaluation worksheet with comments, and the names of the applicant(s) selected.

Slide 6: Sample Statement of Findings and Decision

A sample statement of findings and decision is available for your use on the State Procurement's Office website, spo.hawaii.gov, search keywords "Forms and Templates."

Slide 7: Distribution of Notice of Award

The notice of award shall be sent to the applicant by U.S. mail and may be sent electronically. Note the word "and." It doesn't say "or." So you are required to send it by U.S. mail.

Protests must be submitted within 5 working days of the postmark of the statement of findings and decision. So it's important that you have evidence of the postmark date. Therefore, here are some options which you may want to consider. Send your notice(s) of award by certified mail whereby you have the postmark and can track your mailing(s). Another way in which you could obtain the postmark is to prepare a list of applicants that you are sending a notice of award. Take the notices and the list to the post office and have the postal agent postmark each envelope and also the list. It can be quite embarrassing to get a notice of protest and not know what the postmark date is, then having to call the protestor to find out what that date is.

Slide 8: Protest

Ok, you sent the notice of awards which includes the statements of findings and decision and all is going well till you get the protest.

Slide 9: Submission of Notice of Protest

In accordance with HAR §3-148-301, the notice of protest shall be sent by U.S. mail or hand delivered, and shall be submitted within 5 working days of the postmark of the notice of findings and decision or the notice of rejection sent to the protestor.

Slide 10: Suspension of Award

When you receive the notice of protest, everything shall come to a halt. Your purchasing agency cannot execute a contract, no services can be delivered, and negotiation or discussions with a provider shall be stopped. All activity toward making an award is suspended until the protest is resolved. During the protest period, confidentiality is maintained. You should inform the awardee that a protest has been filed, but that is about all. Do not inform them who has protested or what's it about.

Slide 11: During the Protest Process

During the protest period, the head of the purchasing agency acts as an impartial party. Of course, when the notice of protest is sent, it is sent to the head of the purchasing agency and the procurement officer. So the head of the purchasing agency may inquire as to what the protest is all about. You can explain what the protest is about, but let him/her know that it will be handled at the purchasing agency level and as part of the protest process, he/she will have an opportunity to render a decision. Prior to that time, the purchasing agency handles the notice of protest and initial protest process.

In accordance with the rules, opposing parties must let the other know before communicating with the head of the purchasing agency about the merits of the protest.

A side note. You will see reference to the procurement officer and the chief procurement officer. These are not the same. The procurement officer is the procurement officer for the protested RFP (stated in the RFP). The chief procurement officer is as follows:

For the executive branch of government except for the DOE - the Administrator of the State Procurement Office is the CPO

For the DOE - the Superintendent

For the Judiciary - the Administrative Director of the Courts.

Slide 12: The Protest Process

Now let's talk about the protest process, which is covered under HAR Chapter 3-148.

Slide 13: Who Can Protest

Who can submit a protest? The “protestor” or “protesting applicant” is any party who is aggrieved (meaning wronged) in connection with the award of a contract through the HRS Chapter 103F competitive or restrictive procurement process.

Just for the record, a potential provider that has not submitted a proposal, is not considered aggrieved of an award. Also, the provider who was rejected because their proposal was submitted after the proposal submittal deadline is not aggrieved of an award.

Slide 14: What can be Protested

For HRS Chapter 103F health and human services procurement, in accordance with HAR §3-148-103, there are only 3 things that a protestor can protest and they are:

1. Failure to follow Chapter 103F Hawaii Revised Statutes;
2. Failure to follow Chapter 103F Hawaii Administrative Rules; and
3. Failure to follow what’s in the RFP.

Slide 15: The Protest Process: Step 1, Informal Request for Explanation (HAR §3-148-201)

There are ten steps to the protest process, but the protest can be resolved at any step along the way.

First there is the informal request for an explanation. This would be an informal debriefing. After sending the notice of award, and prior to submitting the notice of protest, the applicant may ask for an informal meeting to go over some concerns. As the purchasing agency, the 5 days to submit the notice of protest is ticking, so respond promptly to the request. Listen and explain. If the applicant is not satisfied with the explanation, advise the applicant about the deadline to submit the notice of protest, where to get the protest forms, and where it needs to be sent.

The informal request for information is to nip any possible protest from happening. Maybe the applicant just needs an explanation without going through the protest process.

Slide 16: The Protest Process: Step 2, Notice of Protest (HAR §3-148-301)

Step 2. Once the statement of findings and decision is sent, an applicant has 5 working days from the postmark date to submit the notice of protest. Protests which are not timely submitted shall be dismissed pursuant to HAR §3-148-301(e).

For the Executive Branch, the Notice of Protest is submitted on form SPOH-801, which provides a brief description of the protest basis.

The Notice of Protest is submitted to the head of the purchasing agency and the procurement officer by U.S. mail or hand delivery.

Slide 17: Notice of Protest (Form SPO-H-801)

This is form SPOH-801, the Notice of Protest.

At the top of the page the applicant and purchasing agency information needs to be provided. The 2nd part is whether the notice of protest is related to the competitive or restrictive method of procurement. As far as the grounds for protest, remember, there are only 3 things that can be protested. The purchasing agency failed to follow statutes, rules or the RFP. Then the form would be signed by the protestor.

Slide 18: The Protest Process: Step 3, Settlement and Scheduling Conference (HAR §3-148-302)

When you receive the Notice of Protest, set the settlement and scheduling conference. The purpose of the conference is to try to resolve the pending protest by mutual agreement. This would be the formal debriefing. If the issues are not settled at this conference than your agency would be scheduling the timeline for the rest of the protest process – the scheduling order.

Slide 19: Settlement and Scheduling Conference (continued)

Complete form SPOH-802 for the Settlement and Scheduling Conference. The head of the purchasing agency or his/her designee shall organize and conduct the settlement and scheduling conference within 3 working days upon receipt of the notice of protest. Since the head of the purchasing agency needs to act as an impartial party, the procurement officer is usually the designee. Although HAR §3-148-302 states that the head of the purchasing agency shall organize and conduct the conference, HAR §3-148-504 requires the head of the purchasing agency to be a neutral and impartial party and can designate another state employee to act in his or her place. The conference can be held in person, by phone or by some other electronic medium.

Slide 20: Settlement and Scheduling Conference (Form SPOH-802)

This is form SPOH-802 for the settlement and scheduling conference. The first part is information on the protestor and the state purchasing agency. The second part is checking off whether the protest is related to the competitive purchase of services or a restrictive purchase. The third part is where, when and how the conference will be conducted, and point-of-contact.

Slide 21: Settlement and Scheduling Conference (continued)

Now, who should be involved in the conference? The head of the purchasing agency may have to make a decision on the protest at one stage of the protest, so until that time he or she needs to be an impartial party so should not be actively involved during the settlement conference. The protestor would be present to explain why the process was flawed. The procurement officer would be in attendance to listen and explain any misunderstanding and make a preliminary decision. If desired, other staff could also be present.

Slide 22: Settlement and Scheduling Conference (continued)

Since the procurement officer is there to listen and explain, he or she must know the procurement process and be very familiar with the RFP requirements, the submitted proposal and the evaluation. At the settlement conference, as in the informal meeting (if there was one), allow the protestor to speak. Listen and explain the scoring and comments given. Don't argue. If the protestor concerns cannot be resolved by mutual agreement, move on to the scheduling order.

Slide 23: Protest Process: Step 4, Scheduling Order (Timetable), (HAR §3-148-302 (c) and (d))

Step 4 is the scheduling order. You can either work out the scheduling order with the protestor or set the schedule after the meeting. Sometimes it's best to work it out with the protestor. If the protestor asks for a day or two extra for a particular step, you might want to consider it. On the other hand if they want to delay it for 3 weeks because they are going on vacation that is excessive. In that case someone else from the protestor's organization needs to step in and meet the scheduled deadlines. The scheduling order should be completed the same day. Some director's designees like to have it typed and sent the next day. That is okay. Fax/e-mail and mail it. It helps expedite things.

Slide 24: Protest Scheduling Order (Form SPOH-803)

This is the protest scheduling order form SPOH-803. The information for the first 2 parts are the same as the previous form. In filling out the schedule, HAR §3-148-302(d) says that the protest shall be speedily resolved, and as practicable, up to and including the protestor's reply shall be completed within 10 working days. Thereafter, the head of the purchasing agency's written decision shall be issued within 5 working days. At the discretion of the head of the purchasing agency, more or less time can be scheduled.

Slide 25: The Protest Process: Steps 5 & 6, Requests for Clarification and Responses

Steps 5 and 6 are the requests for clarification and responses. Clarification requests and responses are due in accordance with the Scheduling Order. Forms SPOH-804, the Request for Clarification, and SPOH-805, the Response to Request for Clarification, are used. Clarification requests and responses should be relevant to the material being protested.

Slide 26: Responses to Requests for Clarification

HAR §3-148-502 provides information regarding requests for clarification. The requests can only relate to the RFP or the protestor's proposal, no one else's.

The protestor may request access to the purchasing agency's relevant procurement records, and the purchasing agency shall provide the information as required or permitted to be withheld by law. If the information requested is not relevant, explain why it is not relevant to the protest issues, but you can provide the information; sometimes it is easier to provide the information rather than arguing the relevancy. For example, if the protestor questions a change in configuration of services from previous solicitations the protestor had an opportunity to raise questions prior to the proposal submittal deadline; and therefore, is not a protestable issue. Remember, there are only three things that a protestor can protest ---- that the purchasing agency did not follow the statutes, rules or the RFP.

Slide 27: Request for Clarification (Form SPO-H-804

The Request for Clarification forms, SPOH-804 and SPOH-805 are for the requests and responses. SPOH-804 is for the request, and...

Slide 28: Response to Request for Clarification (Form SPO-H-805

SPOH-805 is for the response to the request.

Slide 29: The Protest Process: Step 7, Formal Protest (HAR §3-148-303)

Step 7 of the protest process is the formal protest. The word "formal" is used to distinguish it from the whole process. First there is the Notice of Protest, and if the issues cannot be resolved at that stage, then the protestor submits the formal protest pursuant to HAR §3-148-303. The protest is filed on form SPOH-806 and contains:

1. A detailed statement of the reasons for the protest;
2. Supporting exhibits, evidence, documents; and
3. Any additional relevant information that would help the purchasing agency make a decision.

The formal protest's submittal deadline is in accordance with the scheduling order. Replies submitted by hand delivery shall be considered to be submitted when actually received by the purchasing agency. Protests sent by United States mail shall be considered to be submitted on the date of the postmark rather than the date received by the purchasing agency.

Slide 30: Protest (Form SPO-H-806)

Here is form SPOH-806, the formal protest. The first two parts are to be completed as explained previously. The third part indicates what the protestor is attaching. And the next part is what protest resolution they are seeking. They can request to:

1. Cancel the RFP or rescind approval of restrictive purchase of service
2. Amend RFP as provided in "ARGUMENT" and reissue RFP
3. Terminate awarded contract
4. Re-evaluate proposals
5. Re-procure necessary services under a new competitive purchase of service (RFP)
6. Declare awarded contract null and void

Slide 31: The Protest Process: Step 8, Response to the Protest (HAR §3-148-304)

Step 8 is the purchasing agency's response to the formal protest. Form SPOH-807 is used at this stage. The deadline for the response is per the scheduling order. Be sure that your response is factual and substantiated with exhibits/documents to back up your statements. Address all the issues raised by the protestor. If there are issues that are not protestable or irrelevant to the protest, address it with a short explanation why the issue is not protestable.

If upon receiving and reviewing the protest, the purchasing agency finds that an error has occurred on the part of the purchasing agency, then the response would be one or more of the remedies to re-open the evaluation process, amend and reprocure the services, or if already awarded, declare the contract null and void or terminate the contract.

When you respond to the protest, it shall be sent by U.S. mail or hand delivered. The response shall be considered sent on the postmark date if sent by U.S. mail or upon receipt if hand delivered.

Slide 32: Response to Protest (Form SPO-H-807)

Here is form SPO-H-807, Response to the Protest. The first two sections are completed as previously stated. The third section is for the response. If you are writing a letter, you can just insert "See attached letter."

Slide 33: The Protest Process: Step 9, Reply by Provider (HAR §3-148-305)

Now if the protestor, upon receiving the purchasing agency's reply, is not satisfied, then it's Step 9, the reply by the provider (protestor). This is the protestor's opportunity to indicate why the procurement officer's explanation was not adequate by providing:

1. Additional reasons or arguments supporting the original protest
2. Additional evidence or materials supporting the original protest
3. Any additional relevant information that would help the head of the purchasing agency reach a decision.

The protestor cannot bring up new issues, only those related to the original protest.

The protestor's reply shall be sent by U.S. mail or hand delivery. The deadline is per the scheduling order.

Make sure you get a copy of it, especially if the protestor decides to pursue the protest beyond the head of the purchasing agency's decision.

Slide 34: Protest Reply (Form SPO-H-808)

And this is form SPO-H-808, Protest Reply. As in the previous form, the protestor could complete or just write "See attached" if attaching a separate write-up.

Slide 35: If the dispute cannot be resolved in good faith,...

Now it's the head of the purchasing agency's turn to resolve the dispute. In accordance with HAR §3-148-502(e), if the dispute cannot be resolve in good faith by the purchasing agency and the protestor, "then the head of the purchasing agency may reolve such dispute as fairly as possible in light of all the circumstances."

Slide 36: The Protest Process: Step 10, Decision by the Head of Purchasing Agency (HAR §3-148-306)

Step 10, Decision by the Head of the Purchasing Agency. The head of the purchasing agency's decision shall be issued per the scheduling order, unless the head gives written notice to the protestor that an extension to a certain date is necessary.

The decision shall contain:

1. A statement of the action to be taken or the resolution to the protest;
2. A detailed statement of reasons for the decision including factual findings;
3. A statement of the protestor's right to request reconsideration of the protest; and
4. A statement that the head's decision is final and conclusive, unless a timely request for reconsideration is made.

The head of the purchasing agency decision can be one or more of the following:

1. Affirm the purchasing agency's award;
2. Dismiss the protestor's protest;
3. Re-open the evaluation;
4. Amend and reprocure the services;
5. Cancel the RFP; and/or
6. If awarded, terminate the contract or declare the contract null and void from the time of its award.

The head of the purchasing agency's decision shall be sent by U.S. mail or hand delivery.

Slide 37: Resolution of Protest by Mutual Agreement (HAR §3-148-202)

Throughout the protest process, in accordance with HAR §3-148-201, a protest can be resolved at anytime by mutual agreement by:

1. Amending or cancelling the RFP;
2. Terminating the awarded contract;
3. Re-opening the evaluation process or re-soliciting
4. Declaring the contract null and void from the time of the award;
5. Affirming the award decision; and/or
6. Dismissing the protest.

Slide 38: Request for Reconsideration (HAR §§3-148-401 to 3-148-402) (Title page)

After the head of the purchasing agency sends the protestor his/her decision, and the protestor is still in disagreement, then the protestor can request for reconsideration of the protest in accordance with HAR §§3-148-401 to 3-148-402.

Slide 39: Request for Reconsideration, 3 Steps

There are 3 steps to the request for reconsideration. No new grounds for protest can be presented at this time.

The protestor has 5 working days after the receipt of the decision of the head of the purchasing agency to submit the request for reconsideration to the chief procurement officer.

Form SPO-H-810 is used for this purpose. The protestor shall provide a detailed statement of factual and legal grounds for reconsideration based on materials already presented to the head of the purchasing agency and copies of all related documents submitted during the initial protest period. The request shall be hand delivered or sent by U.S. mail. If hand delivered, the request is considered submitted upon actual receipt; if mailed, then submittal is per the postmark date.

Slide 40: Request for Reconsideration (Form SPO-H-810)

This is form SPO-H-810, Request for Reconsideration of a Protest. The first two parts are completed like the other forms.

The form states,

“Pursuant to Section 3-148-401, HAR, request for reconsideration of the decision of the head of the state purchasing agency in the above-referenced matter is hereby made.

The decision of the head of the purchasing agency was received on (Date)

Reconsideration of decision of the head of the state purchasing agency is necessary because: (The protestor would check the applicable boxes.)

factual determinations made by the head of the state purchasing agency were clearly erroneous; and/or

the head of the state purchasing agency erroneously interpreted the applicable law.

Argument regarding the reasons supporting this request for reconsideration is attached as Exhibit A.

Copies of the Scheduling Order, Protest, Answer, Reply, and Decision (if any) together with all supporting exhibits and materials are attached as Exhibit B.”

Slide 41: Request for Reconsideration (continued)

When the protestor submits the request for reconsideration, the purchasing agency has 5 working days to provide evidence or argument that refutes or opposes the protestors request based on the materials submitted to the head of the purchasing agency during the initial protest procedure.

Slide 42: Request for Reconsideration (continued)

Then within 15 calendar days, unless more time is needed, the CPO issues a written decision. The CPO’s decision could be to uphold the decision of the head of the purchasing agency or reopen the protest and award an appropriate remedy pursuant to HAR §3-148-402(d). The CPO’s decision shall detail the reason(s) for the decision, which includes factual findings.

If additional time is needed for the CPO decision, a written notice shall be sent to the protestor of the extended deadline.

The decision of the CPO is final.

Slide 43: Request for Reconsideration (continued)

And these are the remedies which are available to the CPO.

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

Slide 44: Protest Process Summary: Flow Chart

So in a nutshell, you can see the entire protest process in the flowchart shown. Let's summarize the process.

1. First, the statement of findings and decision is issued after evaluations are done.
2. If the applicant is aggrieved of an award, then applicant sends the notice of protest within 5 working days from the postmark of the Statement of Findings and Decision.

The purchasing agency schedules a settlement and scheduling conference (a debriefing) and if the protestor is not satisfied with the meeting then setting a scheduling order follows. This is the timetable for the rest of the protest process.

Slide 45: Protest Process Summary: Flow Chart (continued)

The scheduling order allows for clarifications, if needed by either the purchasing agency or the protestor. If the protestor is still in disagreement, the protestor files the formal protest. The purchasing agency responds, then the protestor replies for the head of the purchasing agency to make a decision. If the protestor continues to be in disagreement with the head of the purchasing agency's decision, then the protestor may make a request for reconsideration of the protest. The purchasing agency has the opportunity to provide information. Then the chief procurement officer reviews and issues a decision based on the evidence presented on the original protest. The CPO's decision is final.

Note: At any time when the decision is made during the protest process, if the decision is made to re-open evaluation, upon re-evaluation of all proposals, another statement of findings and decision shall be sent to the applicants and the protest period starts all over again.

And that's the protest process.

Slide 46: Discussions With Applicants After Notice of Award and Before Contract Execution (HAR §3-143-404) (title page)

Now let's talk about discussion with applicants after the notice of award and before contract execution.

Slide 47: Allowable Purpose of Discussions

The purpose of discussions after notice of award and before contract execution is to negotiate a more advantageous contract for the state. Negotiate is to arrange or settle by discussion and mutual agreement.

Negotiations is a two way street. It is not a take it or we will go on to the next applicant situation. As an example, let's say that Applicant A had the highest overall evaluation score, however, the purchasing agency would like to see if the pricing can be negotiated down. The State can't force the change. It needs to be discussed and mutually agreed upon.

Or another example, maybe the payment schedule needs to be refined. Or the periodic provider reports might need to be adjusted.

These would not be material changes because it does not adversely affect the proposal's evaluated rating.

Slide 48: Scope of Discussions

The scope of discussion is limited to the following:

1. Contractual terms and conditions not specifically addressed in the RFP that would not constitute a material change to the proposals; and
2. Contractual terms and conditions which are substantially the same or that do not constitute a material change to the proposals.

Slide 49: Material Change to a Contract

A material change is one that would adversely affect the proposal's evaluation rating/score. You cannot change the scope of the RFP because then it would be unfair to other applicants and potential applicants. You cannot materially alter the criteria, specifications, or scope of work of the original RFP or proposal.

Also, just because it wasn't in the RFP does not automatically mean you can demand something now and within the scope of work. It must be reasonable.

Slide 50: Is this a Material Change?

Okay, let's look at some examples.

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

Is this a material change? If you say yes it is a material change then you are correct. The RFP requirements cannot be reduced from 4 to 3 social workers because that would be unfair to other applicants and potential applicants. Although the applicant proposed 7 social workers, the RFP required 4.

Slide 51: Is this a Material Change?

Okay, here's another one.

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

Is this a material change?

If you answered yes, then you again are correct. By changing the rate, it would adversely affect the proposal's evaluation score.

Slide 52: Is this a Material Change?

Now let's look at the last example. This one is a little different.

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

Is this a material change?

This is a drastic service change on the part of the State. There are 2 reasons why this would be considered a material change.

First, a potential applicant could say that had they known that the services would only be for 1 division rather than 7 they would have submitted a proposal. The second reason is that the awardee based his proposal on doing the services for 7 divisions and now it may not be worth their time to do the services for only 1.

Slide 53: Conducting the Discussion/Negotiations

Prior to conducting discussions, the purchasing agency shall establish procedures so that discussions with providers are consistent. You would also need to know how to conduct discussions under various scenarios, i.e., negotiations face to face versus phone or mail negotiations. You would also need to work out schedules taking into consideration the timeframe that you have to work with.

Slide 54: Procedures in Conducting Negotiations

When we talk about procedures, what are we talking about. Well, be sure that you have an agenda. It doesn't have to be formal, but you should write it down ahead of time and have it with you. A script is not necessary, but include the major points for it will help keep you on task. Plan ahead. What issues do you want to cover for each provider? It will help to know who will be in attendance. And be sure that you let the provider know the topics to be discussed, so that they come prepared.

Slide 55: Putting It All Into A Contract (title page)

Now you are able to put it all down into a contract.

Slide 56: AG Forms Online for HRS Chapter 103F

All contract forms are located at hawaii.gov/forms. The health and human services contract forms are number AG-103F01 to AG-103F15. If you are in doubt as to what contract forms to use, check with your Deputy Attorney General.

Slide 57: Contract Order

So what about the contract order. Generally, unless advised otherwise, this is the contract order.

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

Slide 58: Contract Order (continued)

10. Certifications
11. Attestation of Internet Posting
12. Public Notice
13. Tax Clearance or Hawaii Compliance Express Certificate

14. Certificate of Insurance
15. Other purchasing agency requirements

Slide 59: Document Checklist for Contract Submittal – HRS Chap. 103F

Here is a document checklist which you can use for contract payments. When encumbering contracts or making initial payment, the first table show the documents for the various methods of procurement that needs to be submitted for encumbrance or initial payment. You can find this handout under the training materials of the SPO website.

Slide 60: Document Checklist for Contract Submittal – HRS Chap. 103F (continued)

The second table lists the documents required for initial and subsequent payments during the contract terms. If you have any questions regarding payment documents, check with your fiscal office.

Item 3 is a listing of things which your agency needs to double check before submitting for encumbrance or payment:

Be sure that:

1. The contract effective date should not be prior to the date on which the parties sign off on and fully execute the agreement. Refer to Comptroller's Memorandum No. 2009-14.
2. The notary acknowledgement date is the same as the date the service provider executed the contract.
3. The time of performance is correctly stated throughout the contract.
4. The certificate of insurance is correct and current.
5. The service provider's legal name on the contract matches all supporting documents.
6. The service provider name on the compliance certificate (Hawaii Compliance Express or other) matches the contract name.
7. Contract modifications/supplemental agreements accompany payments based on the amendments.
8. The contract/p.o. vendor code name and address matches the "Remit To" name and address.
9. Payments for services rendered are within the contract period.
10. Payments do not exceed the maximum funding amount.
11. Tax clearances are submitted with invoices for final payment.

Slide 61: Timely Execution of Contracts

When executing a contract be sure that it is done on a timely basis. As an FYI, once an existing contract expires, there is no way to revive it. If a contract expires, don't think that you can just do a small purchase with the current provider until a new contract can be executed. That would be considered parceling

So if you anticipate that you are not able to execute a new contract before the old one expires, be sure to extend the existing contract pursuant to HAR §3-149-301, if you are in the procurement process and the reason for the extension is for continuity of services.

Slide 62: Extension of Existing Contract During Procurement Process (HAR §3-149-301)

HAR §3-149-301, Extension of Existing Contract During Procurement Process, states that an existing contract can be extended if:

1. The purpose of the extension is for continuity of service between the termination of the contract to be extended and the effective date of the new executed contract;

2. The extension shall be for 6 months or less;
3. The funds are appropriated and available; and
4. The terms of the extended contract is fair, reasonable and remain substantially the same as the original contract, as amended.

The extension would be done as a supplemental agreement; however,...

Slide 63: Extension of Existing Contract During Procurement Process (continued)

The contract can only be extended if it has not expired! As a note, include in the procurement file a written determination with an explanation that the conditions for the extension, HAR §3-149-301(b) have been met.

Slide 64: Post Awards

And last but not least, don't forget to post the award(s) to the Posting of Awards, Notices and Solicitations (PANS) awards/contracts database.

Slide 65: Posting of Awards/Contracts Procurement, Awards, Notices & Solicitations (PANS)

Agencies are required to post all health and human services awards and contracts on the awards/contracts database within 7 days of the date on the notice of award, which is the statement of findings and decision, or award of contract, whichever is earlier. The only time that you would delete the award is if the award somehow falls through. The funding portion of the database is the amount estimated to be expended during the fiscal year, not the contract year. If the contract is not by fiscal year, e.g., calendar year, then enter an estimate. The funding data can always be changed later.

Modifications/amendments to contracts shall be reported on the database within 7 days of the execution of the supplemental agreement. Make the addition to the existing contract entry. Do not make a new entry for the modification.

Also remember that you need to update the contract whenever there are changes/modifications/amendments for the life of the contract.

Slide 66: Thank you

And that brings us to the close of Workshop No. 225, RFPs: Getting from a Notice of Award to an Executed Contract for Health and Human Services. Before you exit out of this workshop, a self-certification attendance form will pop up on your screen. Please complete and click on the submit button. Soon after there will be a link for a short survey which we would like you to complete. We appreciate your feedback. If you have any questions regarding what was covered in this session, please call or email me, Corinne Higa at the phone number or email address shown on this page.