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Procurement Circular No. 2017-04

TO: Office of the Governor
Office of the Lieutenant Governor
Chief of Staff
Executive Department Heads
Hawaii State Public Library System, State Librarian
Chief Procurement Officers

FROM: Sarah Allen 
Administrator

SUBJECT: Guidance on Application of HAR §3-120-4(b)(3) Services of Lecturers, Speakers, Trainers, etc.

Exhibit A, HAR Chapter 3-120, Procurements Exempt From Chapter 103D, HRS, 03/17/2011

(3) Services of lecturers, speakers, trainers, facilitators and scriptwriters, when the provider possess specialized training methods, techniques or expertise in the subject matter.

Purchasing agencies have interpreted the term “trainers” broadly and are applying it to services which extend beyond the exemption parameters. This circular is issued to assist agencies to determine when HAR §3-120-4(b)(3) “trainers” applies to an anticipated procurement.

Agencies shall determine the overall short and long term goals/outcomes/objectives that is planned for the procurement and any resulting related procurements. The “trainer” exemption applies when the trainer has specialized training methods techniques or expertise in the subject matter and **teaches, educates, or instructs only**. When the services includes or expands to incorporate advising, planning, consulting, assessment, empowering (coaching), solving client issues/problems, or implementation of a solution, then this exemption no longer applies, and another method of procurement shall be utilized.

The attached table is provided as guidance.

Should there be any questions, your staff may contact Mara Smith at 586-0554, mara.smith@hawaii.gov, or you may call me at 587-4700.

GUIDANCE ON APPLICATION OF HAR §3-120-4(b)(3)

“Services of lecturers, speakers, trainers, facilitators and scriptwriters, when the provider possess specialized training methods, techniques or expertise in the subject matter.”

APPLIES	DOES <u>NOT</u> APPLY	
<i>Trainer</i>	<i>Coach</i>	<i>Consultant</i>
Teaches, educates, instructs only	Empowers, enhances already learned skills, advises, plans, counsels	Provides solution to client problems; advises, plans, consults
Limited personal interaction; talks to audience; structured approach	Contract pays for personal interaction; talks with clients – listens and assists with coming up with a solution; customized for the individual	Contract pays for personal interaction; customized to assist with resolving client’s issues/problems
Does not go beyond transferring specific information/skills	Individualized/customized guidance to help make decisions and fulfill potential	Analyzes problem and suggests/advises/proposes/implements a course of action to resolve the problem or achieve desired goals