



Sole Source Method of Procurement

SPO 111

Audience

Executive Branch Departments and Agencies who wish to conduct solicitations using the Sole Source method of procurement.

Topics

- Procurement Methods
- Procurement Compliance
- Procurement Process
- References

Regulations

- Hawaii Revised Statutes (HRS) §103D-306
- Hawaii Administrative Rules (HAR) §3-122, Subchapter 9



Procurement Methods

This procurement method is used when there is only one source for the required good, service, or construction. The award is generally based on an approved single source at agreed prices.

There are several procurement methods, each with specific procedures and conditions.

Statute	Procurement Method
HRS §103D-302	Competitive Sealed Bidding (Invitation for Bids)
HRS §103D-303	Competitive Sealed Proposals (Request for Proposals)
HRS §103D-304	Professional Services
HRS §103D-305	Small Purchases
HRS §103D-306	Sole Source
HRS §103D-307	Emergency

When a procurement falls under more than one method, use the one that allows for maximum competition.

IMPORTANT: In public procurement, you need to be open and transparent. Taxpayers have a right to know how their money is being spent. Public sector procurements must be fair and competitive. Therefore, you, as a public servant, are accountable for the purchases you make.

NOTE: Before developing a solicitation, consider utilizing a State Procurement Office (SPO) Price/Vendor List contract. These contracts are pre-approved, cooperative purchase agreements procured by the SPO and listed on the SPO website. Using one of these contracts can save time and may provide the best prices for the purchase. To obtain a list of vendors and their prices, contact the SPO.

Procurement Compliance

A sole source purchase has a unique feature, characteristic, or capability that is essential for an agency to accomplish its work and only one available source or supplier.

Special Consideration

An agency may obtain Chief Procurement Officer (CPO) approval of this procurement method for a limited quantity of a good or services for test or evaluation purposes.

Sole Source Method of Procurement



Pre-Approved Purchases

Pursuant to HAR §3-122-81, the Procurement Policy Board has pre-approved the use of the Sole Source method for the following seven situations.

Situation	Reason
Rental of booth space for exhibits at conventions and trade shows when organized by a single sponsor	Only available through one source
Repair, replacement, installation, or relocation of public utility company equipment or facilities	Owned or controlled by the utility company
Annual license renewal and maintenance for computer software	Only available from the manufacturer of that software
Computer software conversions, modifications, and maintenance for existing programs	Only obtained from the manufacturer of that software
Transcripts of court proceedings	Only available from the assigned court reporter provided by the Judiciary
Repair/maintenance services and supplies from the original equipment manufacturer or representative	Only available from the original equipment manufacturer or its designated representative to retain the manufacturer's warranty or guarantee
Equipment upgrades from the original manufacturer to existing equipment and information technology hardware	Only available from the manufacturer

IMPORTANT: CPO approval of the sole source purchase is mandatory for all dollar levels.

The state's procurements are governed by the statutes (foundation) and its administrative rules (procedures). Any procurement you conduct shall be in accordance with the statutes (<http://spo.hawaii.gov/references/hrs/>) and rules (<http://spo.hawaii.gov/references/har/>).

- HRS §103D-306
- HAR §3-122, Subchapter 9

IMPORTANT: You must post the award and place all relevant documentation in the procurement file. Documentation is extremely important because it verifies what took place and why decisions were made.

NOTE: For transparency purposes, all documents relating to the solicitation that are not marked "confidential" are considered public information and, therefore, may be released to anyone requesting it through the Office of Information Practices process.



Procurement Process

To purchase services using the Sole Source procurement method, follow these steps:

1. Sole Source Determination

When not on the pre-approved list, the Head of the Purchasing Agency (HOPA) determines in writing that the request meets the sole source criteria in HRS §103D-306.

2. Form SPO-001 Submission

The agency completes *Form SPO-001* and submits it to the CPO, who posts the request on the designated SPO website for seven (7) calendar days.

3. Request Review and Determination

SPO staff reviews the request and makes a recommendation. The CPO considers the SPO recommendation and any objections submitted in writing before making a final determination.

4. Compliance Documentation Verification

The agency must verify compliance for all contracts awarded. See Procurement Circular 2019-04 for additional documentation requirements. The CPO may specify additional documentation requirements for an award of any dollar amount.

5. Cost or Price Data Collection and Contract

The vendor provides factual data or other pricing documentation to support the pricing offered to the agency for a contract. The agency may use form *AG-002, Contract for Goods and Services: Exempt; Small Purchase; Sole Source; or Emergency* or their own template to create and issue the contract. See Procurement Circular 2020-02 for additional documentation requirements.

IMPORTANT: Cost or pricing data is factual data or other pricing documentation used by a vendor to support the pricing offered to the agency for a contract. If a sole source contract is expected to exceed \$100,000, cost and/or pricing data is required. Any price adjustment to a contract involving cumulative increases or decreases in costs, plus applicable profits, that exceed \$100,000 will also require cost or pricing data. Additionally, the CPO may make a written determination that circumstances warrant submission of cost or pricing data. Pursuant to HAR §3-122, Subchapter 15, a vendor may be required to provide this data certification using form *SPO-013, Certification of Cost or Pricing Data*.

Exceptions (HAR §3-122-124)

- Established catalog price, price list, schedule, or form
- Established market price
- Price set by law or regulation
- Requirements waived by CPO

In addition to cost or pricing data, per Procurement Circular 2019-04, a sole source justification letter from the manufacturer or vendor is required.

6. Required Document Posting

All sole source procurement requests, regardless of the dollar amount, are posted on the SPO website after being signed by the CPO. The award and amendments must also be posted by the department/agency for transparency.



References

Procurement Statutes and Rules

<http://spo.hawaii.gov/references/hrs/>

- HRS §103D-306 (*Sole Source*)
- HRS §103D-309 (*Contract not binding unless funds available*)
- HRS §103D-312 (*Fair and reasonable pricing policy; cost or pricing data*)

<http://spo.hawaii.gov/references/har/>

- HAR §3-122, Subchapter 9 (*Sole Source*)

Procurement Circulars

<http://spo.hawaii.gov/references/procurement-circulars/>

- 2010-02 (*2010 Procurement Related Legislation*)
- 2010-05 (*Statewide Procurement Training*)
- 2019-04 (*Requests for Chief Procurement Officer Approval Chapters 103D and 103F*)
- 2019-05 (*Posting Procurement Awards, Notices, Solicitation and CPO Requests on the Hawaii Awards and Notice Data System (HANDS)*)
- 2020-02 (*Price Reasonableness Determination - Form SPO-055*)

Procurement Delegation

<https://spo.hawaii.gov/wp-content/uploads/2013/11/ProcDelegation2010-02.pdf>

- 2010-02 (*Education and Training Requirements for Procurement Delegation*)

On-Demand Training

<http://spo.hawaii.gov/for-state-county-personnel/training/new-spo-training-portal/>

Vendor Compliance Verification

<https://vendors.ehawaii.gov/hce/splash/welcome.html;jsessionid=EAADE24699A45A09467742A5B8283F1A.prodapp1>

- Service Tool: Hawaii Compliance Express (HCE)

<http://tax.hawaii.gov/forms/>

- *Tax Clearance Certificate* from Department of Taxation (DOTAX)

<http://labor.hawaii.gov/forms/>

- *Certificate of Compliance* from Department of Labor and Industrial Relations (DLIR)

<http://cca.hawaii.gov/breg/>

- *Certificate of Good Standing (COGS)* from Department of Commerce and Consumer Affairs (DCCA)

Procurement Forms

<http://spo.hawaii.gov/all-forms/>



SPO Contact Information	
Website	http://spo.hawaii.gov
E-Mail	state.procurement.office@hawaii.gov
Phone	808-586-0554