



Professional Services Method of Procurement

SPO 115

Audience

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

Topics

- Procurement Method
- Procurement Compliance
- Procurement Process
- Debriefs and Protests
- References

Regulations

- Hawaii Revised Statutes (HRS) §103D-304
- Hawaii Revised Statutes (HRS) §103D-104
- Hawaii Administrative Rules (HAR) §3-122, Subchapter 7



Procurement Method

The Professional Services method of procurement is used to purchase professional services as defined in HRS §103D-104. Contract awards are based on demonstrated competence and qualifications for the type of services required. Price is not considered as part of the evaluation or selection process.

NOTE: Only those services defined by the statutes and rules as professional services may be procured through the Professional Services method of procurement.

IMPORTANT: The Professional Services method **is mandatory** for the procurement of design professionals licensed under HRS Chapter 464. Procurement of other professional services may use this method or another method of procurement.

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	Procurement of Professional Services
HRS §103D-305	Small Purchases Method of Procurement
HRS §103D-306	Sole Source Procurement
HRS §103D-307	Emergency Procurement

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.



Procurement Compliance

For the Professional Services method of procurement, applicants submit their qualifications to a review committee for evaluation. Then, a selection committee chooses the most qualified offeror based on those evaluations. Unlike other methods of procurement, price is not considered until the highest ranked offeror is determined. Then, the Head of the Purchasing Agency (HOPA) negotiates the project scope of work, schedule, budget, and fees.

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/>).

Reference	Description
HRS §103D-304	Identifies requirements for Professional Services method of procurement, such as the basis of award decisions and procurement processes and procedures
HRS §103D-104	Lists services that may be purchased using the Professional Services method of procurement
HRS Chapter 464	Lists design professionals that must be purchased using the Professional Services method of procurement
HRS §415-A	Lists professional services licensed under specific chapters that may be purchased using the Professional Services method of procurement
HAR Chapter 3-122, Subchapter 7	Defines guidelines and procedures for conducting the Professional Services method of procurement
U.S. Office of Personnel Management’s Qualification Standards Handbook	Identifies occupational services listed under the Professional and Scientific Positions section that may be purchased using the Professional Services method of procurement

IMPORTANT: You must provide the award determination in writing and place all relevant documentation in the procurement file. Documentation is extremely important because it verifies what took place and why decisions were made. Also, vendors may want to know why they were not awarded.

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 Professional Services procurement method, follow these steps:

1. Public Notice

- a. Before the start of the fiscal year, determine professional service needs.
- b. Post public notices to invite submissions of Expressions of Interest (EOIs) and Statements of Qualifications (SOQs) on the SPO Hawaii Awards & Notices Data System (HANDS) website.

2. Review

- a. The HOPA appoints a review committee of at least three people. Each member must have sufficient education, training, and credentials; sign an attestation form to ensure impartiality and independence; and will have his or her name placed in the contract file.
- b. The review committee reviews and evaluates all submissions and prepares a list of pre-qualified persons for the selection committee.

3. Selection

- a. The HOPA appoints a selection committee of at least three people. These may be the same people in the review committee. Each member must have sufficient education, training, and credentials; sign an attestation form to ensure impartiality and independence; and will have his or her name placed in the contract file.
- b. The selection committee reviews applicants in descending order on the following criteria: experience and qualifications, past performance, capacity to accomplish work in the allotted time, and other relevant criteria. They may hold confidential discussions with qualified persons to gather more information but may not disclose information derived from the competing offerors.
- c. The selection committee evaluates and ranks at least three persons on the list of pre-qualified persons based on the established criteria. If less than three names are received, three options are considered: put out another notice, consider another method of procurement, or cancel the procurement. When there is a tie, persons are ranked equally. A summary of qualifications for each person's ranking is placed in each contract for reference.

NOTE: Contracts for professional services of less than the limits in §103D-305 (small purchase threshold for goods, services and construction) may be negotiated by the HOPA or designee with at least any two persons on the list of pre-qualified persons.

4. Negotiations

- a. The HOPA negotiates with the first ranked person to establish a contract with fair and reasonable compensation. If negotiations fail with that person, the HOPA terminates negotiations with that person and starts negotiations with the second ranked person. This process is continued until an agreement is reached.
- b. If a contract is not able to be negotiated with the top three ranked persons, the selection committee may submit three additional names.

5. Award

- a. After a successful contract has been completed, the HOPA awards the contract.
- b. When a contract for professional services is \$5,000 or more, the award must be posted on the SPO Award website within seven calendar days of the notice of the award letter.



Debriefs and Protests

Within five days after the award is posted, non-selected offerors may submit a written request for a debriefing from the purchasing agency to learn the basis for the source selection decision and contract award.

The HOPA attempts to hold a debriefing, either individually or combined with other offerors, within seven working days of the request.

What is included in a debrief?

The debriefing may be delivered orally or in writing and may include the following:

- Evaluation of significant application weaknesses or deficiencies
- Evaluation of technical ratings of the successful and debriefed applications
- Identification of the overall ranking of selected applications
- A summary of the rationale for the award

REMEMBER: It is a best practice to maintain a list of all attendees and a summary of the debriefing in the contract files.

What is NOT included in a debrief?

Procurement Officers should use their best judgement when debriefings are conducted to ensure the regulatory purpose of the debrief is met.

The following topics are not appropriate for a debrief:

- Point-by-point comparison of the debriefed submittals with those of other applicants
- Any information prohibited from disclosure by law (per HRS Chapter 92F, Uniform Information Practices Act), including trade secrets or privileged or confidential commercial or manufacturing information

IMPORTANT: The debrief is used as a forum to discuss the unsuccessful submittal only. It is not used to discuss the submissions of other applicants.

Protests

After the debriefing, any protest by an applicant shall be filed in writing with the procurement officer or designee within five working days after the date of the award.

REMEMBER: If you have any questions related to the solicitation, award, or protest process, reach out to the SPO for assistance. They are there to help.



References

Procurement Statutes and Rules

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

- HRS §103D-304 (*Procurement of Professional Services*)
- HRS §103D-104 (*Definitions of Professional Services*)
- HRS §464-1 (*Definitions of Design Professionals ...*)
- HRS §415A-2 (*Professional services licensed under chapters ...*)

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

- HAR §3-122, Subchapter 7 (*Professional Services*)

Procurement Circulars

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

- PC 2014-16(A) (*Professional Services List*)
- 2019-05 (*Posting Procurement Awards, Notices, Solicitation and CPO Requests on the Hawaii Awards and Notices Data System [HANDS]*)

List of Professional and Scientific Occupations Handbook

<https://www.opm.gov/policy-data-oversight/classification-qualifications/general-schedule-qualification-standards/#url=GS-PROF>

- U.S. Office of Personnel Management's (OPM) Qualification Standards

On-Demand Training

<http://spo.hawaii.gov/for-state-county-personnel/training/on-demand-training/>

Procurement Forms

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

- Form SPO-024 Attestation

SPO Contact Information	
Website	http://spo.hawaii.gov
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