



# Emergency Method of Procurement

SPO 110

## Audience

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

## Topics

- Procurement Methods
- Procurement Compliance
- Procurement Process
- Posting Requirements
- References

## Regulations

- Hawaii Revised Statutes (HRS) §103D-307
- Hawaii Administrative Rules (HAR) §3-122, Subchapter 10



### Procurement Methods

The Emergency method of procurement is used to respond to immediate and serious needs when there is a threat to life, public health, welfare, or safety. The award is generally based on the lowest-priced responsive and/or responsible offer.

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 an 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

This type of purchase is only for immediate needs created by an emergency. The situation that warrants an emergency purchase must be unforeseen/unanticipated and must meet **all** of the following conditions:

- Creates a threat to life, public health, welfare, or safety
- Generates an immediate and serious need
- Threatens continued government functions or irreplaceable property

**IMPORTANT:** Chief Procurement Officer (CPO) approval of the emergency purchase is mandatory for all dollar levels.

**NOTE:** It is not considered an emergency when an agency uses a good/service on a regular basis but fails to solicit/execute a contract in a timely manner. It is also not considered an emergency when an agency realizes that there is a potential loss of funds at the end of the fiscal year.

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-307
- HAR §3-122, Subchapter 10

**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 Emergency procurement method, follow these steps:

#### 1. HOPA/Designee Approval

- a. Request the approval from the Head of the Purchasing Agency (HOPA) or a designee.
- b. If possible, obtain the approval before you carry out the procurement. If not, get approval as soon as you are realistically able to do so.

#### 2. Procurement Solicitation

- a. If time permits, solicit quotes to allow for fair competition.
- b. Follow the same procedures as you would for small purchases.

#### 3. Form SPO-002 Approval

- a. The HOPA or designee determines the good, service, or construction meets the requirements for emergency procurement.
- b. The HOPA or designee completes and signs *Form SPO-002*.
  - i. The form should include the nature of the emergency, the contractor name, the expenditure amount, what is being purchased, and the reason for contractor selection.
  - ii. Attached to the form should be any information that helps explain the need for the continuing function of the government, preservation or protection of irreplaceable property, or the health and safety of the public.

#### 4. Purchase Order/pCard Prepared

- a. After CPO approval is received, a confirming purchase order or pCard is prepared.
- b. The payment document must include, in detail, any agreements (including price) made orally with the contractor.

#### 5. Compliance Documentation

- a. Compliance documentation must be included as part of the procurement documentation. Refer to *Procurement Circular 2019-04* for more information.
- b. Compliance documentation is not required at the time services are rendered if requesting after-the-fact. However, the SPO may check when *Form SPO-002* is submitted.

#### 6. Price Reasonableness Determination (*Form SPO 055*)

- a. All emergency procurement requests with a requested amount of \$100,000 or greater require submission of *Form SPO 055, Memorandum for Record (MFR) of Price Reasonableness Determination*. The MFR is a tool that can be used as the summary page to attach your cost and price analysis.
- b. Price analysis is used to ensure that the overall price the State pays is fair and reasonable and is required to be conducted for all procurements. See *Procurement Circular 2020-02* for additional documentation requirements.

#### 7. Posting Requirements

- a. All emergency procurement requests of \$2,500 or greater are signed by the CPO and the awards are posted by the department/agency on the SPO website for transparency.
- b. Regardless of the amount, the award must be posted on the on the SPO Hawaii Awards & Notices Data System (HANDS) website and include the following:
  - i. The award date
  - ii. Contract or purchase order number
  - iii. A brief description of the procurement
  - iv. The original purchase order or pCard amount
  - v. The vendor name



## References

### Procurement Statutes and Rules

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

- HRS §103D-307 (*Emergency*)

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

- HAR §3-122, Subchapter 10 (*Emergency*)

### Procurement Circulars

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

- 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/for-state-county-personnel/programs/delegation/>

- 2010-01, Delegation of Procurement Authority
- 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=EAAD24699A45A09467742A5B8283F1A.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)

<https://www.irs.gov/forms-instructions>

- Internal Revenue Service (IRS)

### Procurement Forms

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

SPO Contact Information	
Website	<a href="http://spo.hawaii.gov">http://spo.hawaii.gov</a>
E-Mail	<a href="mailto:state.procurement.office@hawaii.gov">state.procurement.office@hawaii.gov</a>
Phone	808-586-0554