



STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
STATE PROCUREMENT OFFICE

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 586-0554
email: state.procurement.office@hawaii.gov
<http://spo.hawaii.gov>

July 10, 2023

PROCUREMENT CIRCULAR NO. 2024-02

TO: Executive Branch Departments/Agencies
(Excluding DOE, UH, and HHSC)

CC: Administrative Services Offices

FROM: Bonnie Kahakui, Acting Administrator *Bonnie A Kahakui*

SUBJECT: Notice of No Interest for the Procurement of Professional Services – Form SPO-004

The purpose of this circular is to provide guidance for conducting Professional Services method of procurement pursuant to ACT 188, SLH 2023, to allow agencies to rank fewer than three persons for professional services when less than three qualified persons respond to the solicitation or request to use alternative procurement procedures when no qualified person responds to the solicitation.

ACT 188 amends HRS §103D-304 by adding subsection (i) to give agencies options when an agency procures professional services and does not receive the requisite number of responses, even after the additional notice of need is posted for ten business days.

WHAT ARE THE OPTIONS WHEN THE SELECTION COMMITTEE CANNOT PROVIDE A LIST OF MINIMUM THREE PERSONS* TO THE HEAD OF THE PURCHASING AGENCY (HOPA) TO CONDUCT NEGOTIATIONS

****Pursuant to HAR §3-120-2, Definitions, "Persons" means individuals, partnerships, corporations, associations, or public or private organizations or any character other than a governmental body."***

If, after ten business days, fewer than three qualified persons respond to the **additional** notice of need is posted, the following options are allowed:

ALLOWABLE OPTIONS BASED ON NUMBER OF QUALIFIED SUBMISSIONS	
For two (2) qualified persons	<ul style="list-style-type: none">The selection committee shall rank the qualified persons based on the criteria in HRS §103D-304, (e).

	<ul style="list-style-type: none"> • If both persons hold the same qualifications, the selection committee shall rank the persons in a manner that ensures equal distribution of contracts among persons holding the same qualifications. • Rankings shall be provided to the HOPA to conduct negotiations in accordance with HRS 103D-304(h)
For one (1) qualified person	<ul style="list-style-type: none"> • The selection committee shall first evaluate the persons' qualifications and may then provide the name of the person to the HOPA to negotiate a contract at a fair and reasonable price. • The HOPA may request approval from the chief procurement officer (CPO) to proceed as if no person had responded only if: <ul style="list-style-type: none"> ○ The HOPA determines, in writing, that either the price received is not fair and reasonable; OR ○ That the qualifications of the offeror are not adequate to meet the procurement needs.
If no qualified person responds	<ul style="list-style-type: none"> • The HOPA shall consider time constraints and competition in the marketplace, and may determine in writing that: <ul style="list-style-type: none"> ○ The service needs to continue and that there is no time for re-solicitation; OR ○ That re-solicitation would likely be futile. ○ If the HOPA makes this determination, then the HOPA shall submit a "Notice of No Interest" request, via the Form SPO-004, to the CPO for approval to engage in direct negotiations with a qualified person.

In addition to submitting the form SPO-004, *Notice of No Interest*, agencies are required to attach supporting documentation, which may include but not be limited to:

- Justification, i.e., details explaining why the services are necessary;
- Copy of the original solicitation & any additional notices
- Details of the market research conducted (i.e., competition in the marketplace);
- Written analysis and determination that price(s) are fair and reasonable (i.e., SPO-055);
- For purchases in excess of \$2500, provide proof of compliance (i.e., compliant Certificate of Vendor Compliance (CVC) from Hawaii Compliance Express (HCE));
- SPO-036 Delegation; and
- Official copy of the training transcript and/or DHRD Learning Management System (LMS) Learner's transcript.

Refer to SPO-004i (instructions) for summary guidance in completing and providing supporting documentation for the form SPO-004. The form, with instructions, is available on the SPO website, <http://spo.hawaii.gov>, located under the *Forms* tab.

A complete listing of all current Procurement Circulars is available at <https://spo.hawaii.gov/>, located under the *References* menu, click on *Procurement Circulars*.

Should there be any questions, procurement personnel may contact the listed SPO staff, or you may contact me at bonnie.a.kahakui@hawaii.gov or via phone at 587-4700.

SPO Staff Name	E-mail Address	Phone Number
Christopher Amandi	christopher.j.amandi@hawaii.gov	586-4706
Jittima Laurita	jittima.laurita@hawaii.gov	586-0766
Stacey Kauleinamoku	stacey.l.kauleinamoku@hawaii.gov	586-0571



**STATE PROCUREMENT OFFICE
NOTICE OF NO INTEREST**

TO: Chief Procurement Officer

FROM: _____
Name of Requesting Department

Provide the following information about the procurement:

1. Title and Description of the Solicitation:				
2. Solicitation No.:	3. Date of Notice:	4. Offer Due Date:	5. Term of Contract:	6. Est. \$ Amount of Contract:
7. Additional Solicitation Notice of Need Information (pursuant to HRS 103D-304(i)):				
Date of Notice: _____ Offer Due Date: _____				
<p>8. Pursuant to HRS §§103D-304(i)(2) and (3), Procurement of Professional Services, the Department requests approval to conduct direct negotiations with a qualified person for one of the following (select one and explain):</p> <p><input type="checkbox"/> There was one qualified person but the price was not fair and reasonable, or the qualifications of the offeror was not adequate to meet the procurement needs. Explain the situation and why there is no time for re-solicitation or why re-solicitation would not result in a successful procurement, and why the need for the service continues. NOTE: Include justification, i.e., details explaining why the services are necessary.</p> <p>Explanation:</p> <p>or</p> <p><input type="checkbox"/> There were no qualified responses. Explain the situation and why it is neither practicable nor advantageous to re-solicit. In the explanation, provide the impact of time constraints, what competition exists, and why the need for the service continues. NOTE: Include justification, i.e., details explaining why the services are necessary.</p> <p>Explanation:</p>				

9. Provide the name(s) on the list, including the situation in which no person responded.

10. Explain, in detail, the process that will be followed in selecting the qualified person.

11. Identify the primary responsible staff person(s) conducting and managing this procurement. (Appropriate delegated procurement authority and completion of mandatory training required).

*Point of contact (Place asterisk after name of person to contact for additional information).

Department Personnel Name	Division/Agency	Phone Number	E-mail Address

All requirements/approvals and internal controls for this expenditure is the responsibility of the department.

I certify that the information provided is to the best of my knowledge, true and correct.

Department Head Signature

Date

For Chief Procurement Officer Use Only

Date Notice Posted: _____

Inquiries about this request shall be directed to the contact named in No. 11. Submit written objection to this notice to proceed with direct negotiations within seven calendar days or as otherwise allowed from date notice posted to:

state.procurement.office@hawaii.gov

Chief Procurement Officer (CPO) Comments:

☐ Approved ☐ Disapproved ☐ No Action Required

Chief Procurement Officer Signature

Date

STATE OF HAWAII

**NOTICE OF NO INTEREST
HRS §103D-304(i)(3)**

**FORM SPO-004
INSTRUCTIONS**

1. Enter the title and brief description of the professional services the department wishes to purchase (i.e., the solicitation's title and its description).
2. Enter the solicitation number used to reference the public notice.
3. Enter the date the solicitation was released.
4. Enter the offer due date for the solicitation.
5. Enter the start and end date of the proposed contract, including all possible extensions. The contract may begin later than the approved contract start date but may not exceed the approved end date.
6. Enter the maximum total funds for this contract, including funding for all possible extensions if the contract will be longer than a year.
7. Enter the additional solicitation notice's date of notice and offer due date.
8. Select the circumstance justifying approval to conduct direct negotiations with a qualified person. Explain why it is not feasible to procure competitively. Additionally, for one qualified person, explain why there is no time for re-solicitation or why re-solicitation would not result in a successful procurement. For no qualified responses, explain the impact of time constraints, what competition exists in the marketplace, and why the need for the service continues.
9. Enter the legal name(s) of the persons on the list (including the situation in which no person responded), as registered with the Department of Consumer Affairs (DCCA) Business Registration Division, as applicable, and as it will appear on the contract, if approved. For the situation in which no person responded, include the name(s) of the persons the agency will conduct direct negotiations with, if approved.
10. Describe the process/procedure to select the person to ensure maximum open and fair competition. As applicable, include the names of the persons to be contacted. Note: A listing of all contacts made shall be included in the procurement file including name, date, and details of the information requested and the response. Utilize attachment to provide details.
11. Enter the name(s), phone number(s) and e-mail address(es) of the staff person(s) responsible for conducting and managing this procurement and include an asterisk after the name of the person to contact for additional information. Ensure the person knows he/she is listed as the point of contact.

Note: Notices of No Interest and their dispositions are located on the Hawaii Awards and Notices Data System (HANDS) website at: <https://hands.ehawaii.gov/hands/>, click on "CPO Requests."