

State Procurement Office (SPO)
SPO Workshop 120

Small Purchases Method of Procurement

Pursuant to
HRS Section 103D-305 &
HAR Chapter 3-122, Subchapter 8

Small Purchases What Will Be Covered

- Why we do it this way - Background, Definitions and History
- Who- should conduct small Purchases method of procurement
- What- can the small purchase method of procurement be used for
- When- is it a small purchase and when is it not a small purchase
- Where- eProcurement
- How- Procedures & Parts of the Solicitation-
 - Who What Where When How and Why
 - Responding to questions
 - Adequate competition
 - Award
 - What if?
 - Recordkeeping and documentation
 - Protests
 - Public inspection
- Q & A

About Public Sector Procurement

Why can't we 'Just Do it'

- We use taxpayer funds;
 - Our “shareholders” are the taxpayers (everyone).
 - Like the private sector, we want best value **AND** we have additional obligations:
- 1. We must be open/transparent.**
 - Everyone has a right to know and have easy access.
 - 2. We must be fair to all qualified vendors.**
 - Everyone has the right to compete.
 - 3. We ARE accountable.**
 - Keep an auditable trail. (document, document, document!)
 - Follow standardized rules and procedures.
(Statutes, Administrative Rules, Procurement Circulars, Internal Procedures)

When We Procure

- We must procure in accordance with statutes and rules.
 - Hawaii Revised Statutes (HRS) Chapter 103D, The Hawaii Public Procurement Code
 - Hawaii Administrative Rules (HAR) Chapters 3-120 to 3-132
 - Procurement Circulars
- There are 6 methods of procurement (source selection). Each of the methods:
 - has specific procedures;
 - shall be used under certain conditions;
 - more than one method may be applicable;
- Small Purchases is one of those methods.
- When more than one method is applicable, choose the most appropriate method (generally the most competitive).

Methods of Procurement		
Method	Bases for Use/Award	\$ Threshold
Competitive Sealed Bids	Used unless it is not feasible or practicable./Lowest responsive, responsible bid.	As stated in Invitation for Bid (IFB)
Competitive Sealed Proposals	Competitive sealed bidding is not practicable; price is not the most critical factor. Requires HOPA approval to use Request for Proposals (RFP) process./Best value based on RFP evaluation criteria.	As stated in Request for Proposal
Sole Source	There is only one source for the required good, service, or construction. Written approval required.	As stated in approval
Emergency	Threat to life, public health, welfare, or safety; immediate and serious . Approval required.	As stated in approval
Professional Services	Professional services as defined in rules and statutes. Demonstrated competence and qualification for the type of services required, at fair, reasonable prices.	All dollar levels.
Small Purchase	Purchasing small amount and not feasible or practicable to use competitive sealed bidding./Lowest responsive, responsible quotation.	Less than \$100,000 for goods, services; \$250,000 for construction*

***Act 175, SLH 2009
 Changed Small Purchases**

- Increased the thresholds
 - goods and services: less than \$100,000
 - Construction: \$250,000
- For construction, performance bond is required for purchases of \$50,000 and greater.
- This act is repealed July 1, 2012
 (as of July 1, 2012 the threshold for small purchases returns to less than \$50,000 for goods, services and construction)

What are Small Purchases?

- Procurements of less than \$100,000 for goods, services, or \$250,000 for construction* conducted in accordance with small purchase procedures.
- Designed to be simple to solicit and administer
- The only informal procurement method
- More formal procurement not necessary
 - small amount
 - clear-cut minimum specifications/qualifications
 - awarded to lowest priced offer

**Reference: Act 175 SLH 2009 Section 2 which is repealed July 1, 2012*

Small Purchases, Prohibition Against Parceling HRS Section 103D-305

- Amended by Act 283 SLH 2006
 - Raised small purchase threshold from less than \$25,000 to less than \$50,000 **provided** all purchases between 25,000 and less than \$50,000 are conducted on an eProcurement system.
- Competition.
- Simplicity.
- Multiple expenditures shall not be created at the beginning of job to evade procurement requirements.
- Shall not be artificially divided/parceled to make a small purchase.

Small Purchases

HAR 3-122, Subchapter 8

Sections 3-122-75, 3-122-77, 3-122-78

- Adequate and reasonable competition.
 - The more vendors available, the more quotes should be obtained.
- Procedures
 - Number of quotes to be obtained/how they are to be submitted.
 - Defines quote, parceling, etc.
- chief procurement officers:
 - Determine procedures for purchases of less than \$5,000.
 - May be more restrictive (require written quotes at lower dollar thresholds).
 - May determine what goods, services and construction shall be purchased on an eProcurement system.

Chief Procurement Officers (CPO)

- **Executive (5)**
 - Administrator of the State Procurement Office, *except for*:
 - Office of Hawaiian Affairs--Chairperson of the Board;
 - University of Hawaii--President of UH;
 - Department of Education, *excluding the Hawaii Public Library System*--Superintendent of Education;
 - Hawaii Health Systems Corporation--CEO, HHSC
 - **Judiciary (1)**--Administrative Director of the Courts
 - **Legislative (2)**
 - Senate -President
 - House of Representatives -Speaker
- Counties: (12)** -Executive Branch--Finance Directors, except for Boards of Water Supply, Legislative Branch--Chairpersons of the Councils, Boards/Departments of Water Supply--Managers and Chief Engineers as designated by county charter.
(Ref: HRS 103D-203)

Terms You Should Know

- **Head of Purchasing Agency (HOPA)**= Head of any governmental body which is authorized by this chapter or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods, services, or construction.
- **Procurement Officer (PO)**=any person authorized to enter into and administer contracts and make written determinations with respect thereto. The term also includes an authorized representative acting within the limits of authority. *(ref: HRS 103D-104)*

When More than One Method of Procurement May be Used **Professional Services Less Than \$100,000***

- May be procured through either
 - professional service method of procurement;
 - professional services small purchase (HRS 103D-304(j)); or
 - small purchase method of procurement
- Exception – Procurement of design professional services furnished by licensees under chapter 464 shall be procured by the professional method of source selection.

(Ref: HAR, Section 3-122-67;

**Act 175 SLH 2009, Section 2 (repealed 7/1/12)*

***When Small Purchases Does Not Apply
SPO Price Lists/Vendor Lists (PL/VL)***

- Cooperative Purchasing (solicitation already conducted)
- Purchasing agencies delegated procurement authority and committed to its use shall use SPO PL/VL unless exempt or approval granted to purchase outside the SPO PL/VL. (*Ref: Form SPO-5, SPO Price List Purchase Exemption*).
- Agencies may choose to use SPO Western States Contracting Alliance (WSCA) contracts; however, when not used, applicable procurement procedures must be followed.

General Rules for Small Purchases

- Allow for adequate and reasonable competition.
- Within procurement dollar threshold for small purchases.
- Parceling prohibited.
- Preferences pursuant to Part X, HRS Chapter 103D does not apply.
- Public notice not required.
- Public bid openings not required.
- Check with your Administrative Services Office (ASO) regarding delegation of authority.

Parceling

- Purchases of goods, services and construction shall not be parceled by dividing purchases that are same, like or related into smaller quantities.
- The expenditure threshold applies for any 12-month period. (Not FY or calendar year)
- Purchase may be for more than 12 months if the **total** expenditure does not exceed small purchase thresholds—includes recurring annual service contracts.
- Purchases shall not be artificially divided because of various funding sources.

How to Avoid Parceling

- Procurements should be done by the most competitive method feasible.
- Procurements should be considered for consolidation under the following circumstances:
 - ✓ The higher the price of a group of procurements, the more likely they should be consolidated.
 - ✓ The more similar the good, service or construction, the more likely it should be consolidated.
 - ✓ The more likely that the procurement can be obtained from one vendor, the more likely it should be consolidated.
 - ✓ If it is known about a procurement of similar goods, services, and construction, the more likely it should be consolidated.

Small Purchase Limits

- **HAR 3-122, Subchapter 8**
 - Total purchase shall be less than ~~\$50,000~~
 - 100,000 for goods, services; and
 - \$250,000 for construction.*
 - Less than \$5,000 –procedures established by CPO
 - \$ 5,000-less than \$15,000 –3 quotes
 - \$15,000-less than \$25,000 –3 written quotes
 - \$25,000-less than \$100,000 (goods/services)* -eProcurement
 - \$25,000-less than \$250,000 (construction)* –eProcurement
- **Executive Branch Departments**
(CPO = SPO Administrator)
 - Procurement Circular 2006-07, Amendment 1, Small Purchases and the Hawaii Electronic Procurement System,
 - **\$15,000-** less than \$100,000 (goods, services) \$250,000 (construction)* -HePS
 - Compliance documents shall be obtained for purchases from \$15,000.

**Reference: Act 175, SLH 2009, Section 2
(repealed on 7/1/12, thresholds will return to less than \$50,000)*

Electronic Procurement HAR §3-122-78

- At minimum, includes the functionality of:
 - notification of registered vendors; and
 - electronic receipt of offers.
- Note: Doesn't apply to but HePS may be used for:
 - Sole Source procurements
 - Emergency procurements

What if:

Non-Electronic Procurement

- \$25,000 to less than \$100,000 (goods, services) and \$250,000 (construction)* procurements that cannot be purchased through an electronic procurement system may be conducted pursuant to Competitive Sealed Bidding, Competitive Sealed Proposals and Procurement of Professional Services.
- Chief Procurement Officer (CPO) may determine what goods, services or construction, less than \$25,000 will be made through an electronic procurement system.

**Reference: Act 175, SLH 2009, Section 2
(repealed on 7/1/12, thresholds will return to less than \$50,000)*

Getting Started

- What do you want to purchase?
- What is the total dollar purchase?
- What are the specifications?
- How much do you want to buy?
- What is the unit of measurement?
- What is the contract period?
- When does delivery need to occur?

What Do You Want to Purchase?

- Group similar items in one solicitation.
- Award does not need to be total sum (does not have to be awarded to the same vendor.)

What is the total dollar purchase?

- When it is known that the total purchase will be less than \$15,000, use of an electronic procurement system is allowed.
- Agencies may determine that a procurement less than the small purchase dollar threshold be procured through a competitive sealed bid or request for proposals process.
- Procurements through RFP process requires HOPA approval.

Specifications

- Seek to procure standard commercial products.
- Seek to promote overall competition.
- Shall not be restrictive.
- Provide a fair and equal opportunity for every supplier that is able to meet the State's needs.
- Unique requirements should be avoided.
- Reference: Procurement Circular 2008-09 on Specifications

Guidelines for Developing Specifications

- Identify minimum requirements.
- Allow for competition.
- List reproducible test methods to be used in testing for compliance with specifications.
- Provide for a fair award.

Types of Specifications

- Design
- Performance
- Brand name or equal
- Qualified products list (QPL) or pre-approved products

Other Parts of an RFQ

- Quantity
- Unit of Measure
- Contract Period
- Delivery

Other Considerations

- Pre-bid conference/site inspections.
- Minimum qualifications.
- Insurance requirements.
- Departments may have additional requirements.

Soliciting for Services...

HRS Section 103-55

- Before entering into a contract to perform services in excess of \$25,000 for any governmental agency, the vendor shall certify:
 - Services shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work.
 - Compliance with labor laws.
- No contract to perform services shall be granted unless the conditions are met.
- It is the duty of the governmental contracting agency awarding the contract to enforce this requirement.

Questions from Vendors

- Okay to respond.
- Must provide same information to all vendors.

Required Number of Quotes

Pursuant to HAR 3-122

(At a Minimum)

- Less than \$5,000 -procedures determined by each CPO.
- \$ 5,000-less than \$15,000- 3 quotes.
- \$15,000-less than \$25,000- 3 written quotes.
- \$25,000-less than \$100,000 (goods, services) or \$250,000 (construction)- eProcurement*.
- When procurement is conducted (properly) on an e-Procurement system there is no requirement for minimum number of quotes.

**Reference: Act 175, SLH 2009, Section 2
(repealed on 7/1/12, thresholds will return to less than \$50,000)*

**For Executive Branch Agencies
(CPO = SPO Administrator)**

Procurement Circular 2006-07, Amendment 1

- Under \$5,000 –
 - adequate and reasonable competition is recommended;
 - record of procurement (SPO Form 10) and RFQ (SPO 10A) are optional.
- \$5,000-less than \$15,000- minimum 3 quotes.
 - record of procurement (SPO Form 10) required.
- \$15,000-less than \$100,000 (goods, services) and less than \$250,000 (construction)*—
 - solicitation must be done on Hawaii Electronic Procurement System (HePS);
 - compliance documents required,
 - HePS Award Summary Report replaces SPO Form 10.

**Reference: Act 175, SLH 2009, Section 2
(repealed on 7/1/12, thresholds will return to less than \$50,000)*

Adequate Competition

Non-Electronic

“No bid” does not qualify as one quote.
“No response/reply” does not qualify as one quote.

Electronic

HePS provides for adequate competition, provided buyer ensures appropriate vendors are in the system.

Basis of Award

- Award shall be made to the lowest responsive, responsible offeror.
- When award to the lowest, responsible offeror is not practicable, award shall be made to the offeror whose quotation provides best value to the State.
- Written determination for the selection shall be placed in the procurement file.

What is Best Value?

- Most advantageous offer determined by evaluating and comparing all relevant criteria in addition to price so that the overall combination that best serves the State is selected. These criteria may include, in addition to others, the total cost of ownership, performance history of the vendor, quality of goods, services, or construction, delivery, and proposed technical performance.

What Criteria to Consider

- Quality
- Warranty
- Delivery
- Other Criteria

Making the Award

- Contract not required if small purchase method is used.
- If an agency chooses to award by contract, use AG-002 for small purchase contracts.
- For Executive Departments - Compliance documents required for total purchases \$15,000 and above if small purchase process used.
- Procurement and award through HePS requires Award Summary Report.
- If above \$15,000 post on Procurement Reporting System (PRS)

Award to Other Than Lowest Quote

Non-Electronic

Complete SPO Form 10,
Part D

Electronic

Complete the
Competition Comments
Field on HePS

Compliance Documents

HCE or Paper

- **May be obtained either separately hard copy or through Hawaii Compliance Express (HCE).**
- **Certificate of Good Standing** - may be a copy but must be dated within 6 months of solicitation.
- **Certificate of Compliance** (Form LIR27) – may be a copy but must be dated within 6 months of solicitation.
- **Tax Clearance** – must be original with green stamp and dated within 6 months of solicitation.

What if:
**Quotes Not Received
(Non-Electronic)**

- If minimum quotes required not received, justification shall be provided.
- Complete SPO Form 10, Part C and place in procurement file.

What if:
No Quotes Received on eProcurement System

- HOPA may determine that it is neither practicable nor advantageous to the State to issue a new solicitation.
 - Can specifications be revised?
 - Time constraints?
 - Competition in the marketplace?
 - Document and place in procurement file.

What If :
Lack of Competition

- Consider whether specifications can be revised, time constraints, and competition in the marketplace.
- Alternative procurement method may be selected to include, but not limited to, direct negotiations.
- Documentation of the alternative procurement shall be placed in the procurement file.

Ref: HAR, Section 3-122-78; See also HePS Buyer FAQ

What if:
Quotes Are Over Small Purchase Threshold

- Quantity may be reduced. However, another RFQ for the reduced amount shall not be solicited.
- Specifications may be altered.
- Scope shall not be broken up and re-solicited.

See also the HePS Buyer FAQ

Recording and Documenting the Award

- Purchases made by Executive Branch shall be recorded on SPO Form 10 for purchases \$5,000 to less than \$15,000.
- Purchases made by Executive Branch from \$15,000 shall be posted on the SPO Procurement Reporting System (PRS) within 7 calendar days from issuance of PO/pCard or HePS award.

Protest

- Shall be within five working days of when protestor knows or should have known of award.
- Shall be in writing to the Procurement Officer.
- Once notified of protest by vendor, all action on award shall cease until protest is resolved.

(Ref: HAR, Ch. 3-126, Legal and Contractual Remedies)

Public Inspection

- After a small purchase is completed (purchase order issued, pCard order), all documents relating to the small purchase (unless marked confidential) are considered public record and should be released to anyone requesting such information in accordance with HRS, Chapter 92F.

The Changing Face of Procurement

- Procurement is more open.
- Procurement awarded on “best value” needs to provide for fair evaluation models and promote the selection of advantageous offers.

How eProcurement is Different

- More open and fair than 3 quotes.
- More accessible to more vendors.
 - Specifications need to be written.
 - Minimum qualifications for vendors when applicable.
 - Vendors notified of solicitations.
 - Responses submitted only on HePS.
 - Offerors notified of results.
- Better documentation
- Wet signatures not required for submission of solicitation.

Who Should Procure: Responsibilities

- Delegated procurement authority
- Responsible for being 'in the loop' for procurement rules and changes, and any other rules/procedures relevant to the procurement, good/service/construction being procured.
- HAR, Chapter 3-131, Compliance
 - Procurement Code of Ethics
 - Procurement Violations
 - Administrative Fines

When to Procure

- Think it through – Plan!
- Electronic procurement – recommended length of solicitation is 7 days.
- Failure to plan is not justification for emergency procurement, exemption, or parceling.
- Knowing there will be emergencies may not be the same as the inability to anticipate -another method of procurement may be more appropriate (and less stressful). Contact SPO to consider options.

References

Accessible from SPO website <http://hawaii.gov/spo>

- Procurement Statutes and Rules –
 - HRS, Ch. 103D
 - HAR, Ch. 3-122, Subch. 8 (Small Purchases); HAR, Ch. 3-126, (Protests), HAR, Ch. 3-131 (Compliance)
 - Act 175, SLH 2009
 - Click **Statutes and Rules**
- Procurement Circulars
 - 2005-04, Amend. 3, Hawaii Compliance Express; 2006-01, Amend. 1-3, Procurement Reporting System (PRS); 2009-14 and 2009-15 Act 175, SLH 2009: Part I, Section 2 Small Purchases Procurements and Performance Bonds for Construction
 - Click **Procurement Circulars**
- HePS Buyer FAQ
 - Click **Hawaii eProcurement System** then **Buyer FAQ**
- Procurement Reporting System
 - Click **Awards**

Q&A

State Procurement Office

The end. Thanks for attending!

Questions?

<http://hawaii.gov/spo>

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