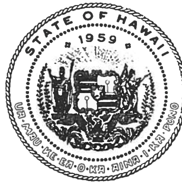
DAVID Y. IGE
GOVERNOR OF HAWAII



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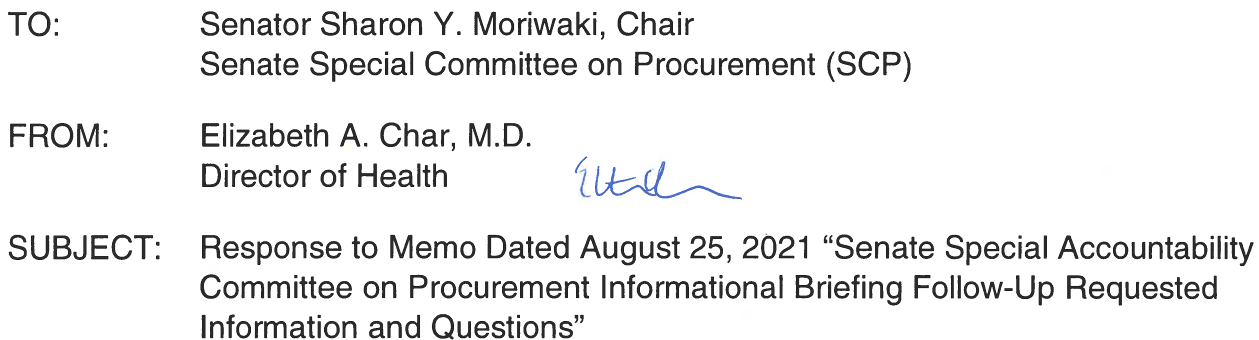
In reply, please refer to:
File: A/22-004

September 20, 2021



TO: Senator Sharon Y. Moriwaki, Chair
Senate Special Committee on Procurement (SCP)

FROM: Elizabeth A. Char, M.D.
Director of Health

SUBJECT: Response to Memo Dated August 25, 2021 "Senate Special Accountability Committee on Procurement Informational Briefing Follow-Up Requested Information and Questions"

Per the above-mentioned memo, the Department of Health (DOH) is submitting responses to the following items:

1. A revised table of contracts to include the following: type of contract (IFB, RFP, RFQ, IBIQ, Purchase Order, Sole Source, etc.), date and amount of the contract award (total cost of the contract), cost at the end of the contract period, the number of modifications and reasons, contract period, and the number of extensions and reasons. Since your department decentralizes the approval of contracts, please list the above bydivision, branch or office that approved the contract(s).

   Response: Attached is the revised Contract Listing containing the additional information being requested (Attachment A).

2. A flowchart of the DOH procurement and contracting process for each of the different types of contracts (e.g. IFB, RFP, RFQ, IBIQ, Purchase Order, Sole Source, etc.), starting with scoping of a project through execution; and include the average number of days foreach phase of the process. Also provide the criteria for determining use of and the process used for HRS103D and for HRS103F contracts.

   Response: The information contained in Slide #10 of the PowerPoint presentation has been modified to include the workflow and processing times (Attachment B).

3. Are the above procedures used for federal funds? Given that federal funds, and in particular, COVID federal relief funds, are time-sensitive, please elaborate on the procedure used for federal contracts and the average number of days for each phase ofthe process. Also provide the total dollars received by the department in federal COVID relief funds, including CARES and ARPA, and a

list of COVID-funded contracts bydivision/branch, including project award and contract period.

Response: The procedures detailed in Attachment B in response to Item #2 above do apply to federal funding. A listing of COVID-19 funding received by the DOH and the expenditure levels is attached (Attachment C). This is the report that is submitted to Budget & Finance - Office of Federal Awards Management (OFAM).

4. How many contracts and the dollar amount of the awards were service ordered to the Research Corporation of the University of Hawaii (RCUH)? Provide data for the past three years. Additionally, provide criteria for using RCUH.

   Response: The DOH has a contract directly to RCUH to provide genetic administrative services for our Family Health Services Division. The criteria for using RCUH is included in the contract. Attachment D provides information on the contract and the criteria used to utilize RCUH. On Attachment F, listing of Contracts Less than $100K (Item #10), there are purchase orders made to RCUH and are primarily for attendance at training sessions organized by RCUH.

5. Because the department has thousands of contracts and hundreds of modifications approved at the division/branch levels, does it provide criteria for approving modifications and extensions. If so, please submit the criteria used by the units. Do you have a departmental manual for procurement and contracting through closing to ensure consistent application of HRS 103D and HRS103F? If so, please submit.

   Response: The criteria used to extend/modify contracts are included in the contract to the vendor/provider, if applicable. Please refer to Attachment A regarding the reason and criteria for modifications/extensions.

6. Does the department use memoranda of agreement (MOA) in lieu of contracts? If so,what are the criteria and procedure for obtaining services through the MOA?

   Response: The DOH may use an MOA in lieu of a contract provided that the Attorney General's office reviews the MOA. Under guidance from the Attorney General's office, although they do not have an official policy on the use of MOAs, they will consider using an MOA when both parties are government entities. In cases where there is low risk of non-compliance between government entities, an MOA can be used to establish an agreement. In more complex agreements, the Attorney General recommends the use of a contract. If an MOA is to be considered, the program consults with the Attorney General to determine whether an MOA can be used or if a more formal contract is needed and the completed MOA is approved by the Attorney General.

7. The department is commended for its kaizen exercise in 2015 yielding streamlined and shorter contract processing time. What is the current process and timeline if contractsare approved at the division/branch levels? Does any other review occur for large contracts over $100,000? If it is approved at a higher level, who monitors and approvesthese large contracts and what is the average time for approval at that level? Does the department consult with the attorney general?

   Response: Please refer to the flowchart provided in Attachment B that addresses the workflow for approvals (Item #2).

8. Based on the table of contracts submitted by the department, several questions arose about project costs and extensions, e.g. initial contract award amounts that significantly increased, e.g. Kapiolani Medical Center (#345) awarded $380,462 but the final cost of the project was $1,111,546. Also explain Bio-Tech Medical Software (#405) that began as a small purchase at $49,000, had 5 extensions for a contract period from 4/16-6/21 and final cost of $887,400. Should the contract, when it went over the $50,000 threshold, have gone to competitive bid? If not, why not?

Response: For Item #345, award to Kapiolani Medical Center was for the Women's Infants and Children's Program (WIC) in the Family Health Services Division (FHSD). The award was made per Chapter 103F Solicitation # HTH-560-WIC-17-01 on December 13, 2016. This is a 100% federally funded contract to provide nutrition education counseling, breastfeeding promotion and support and food instruments for women, infants and children on Oahu. Award was for 1 year, October 1, 2017 to September 30, 2018, with option to extend for up to 5 years and dates correspond with federal fiscal year. Increase in annual budget amount is related to caseload which started at 1,825 in FY18 to 2,590 in FY22. WIC means Women, Infants and Children. BFPC means Breastfeeding Peer Counselor Services. The contract amounts are listed below:

Current Contract Dates: October 1, 2017 to September 30, 2022

	Budgeted*	WIC Services	BFPC Svc.	Total Spent**
FY 2018	$380,462.00	$312,412.85	$51,461.46	$363,874.31
FY 2019	$380,462.00	$307,279.49	$14,000.00	$321,279.49
FY 2020	$380,649.00	$319,867.70	$31,740.81	$351,608.51
FY 2021	$474,792.00	$423,900.00	$50,892.00	$ pending
FY2022	$517,092.00	$466,200.00	$50,892.00	$ pending
Total	$2,133,457.00			$1,036,762.31

* Initial Budget amount for the year

** Final amount spent based on actual services performed

For Item #405, contract to Bio-Tech Medical Software, in July 2015, the Governor signed Act 241 into law which exempted this contract from Chapter 103D. Pursuant to section329-6(j), Hawaii Revised Statute, 7 proposals were evaluated and Bio-Tech was selected to establish a computer software tracking system for the medical marijuana dispensary (now called Medical Cannabis). This was a 3 phase proposal and not a small purchase. The contract phases are listed below:

Contract Dates: April 1, 2016 to June 30, 2021

April 1, 2016 to December 31, 2016	Implement Phase I configuration of software
January 1, 2017 to June 30, 2017	Implement Phase II to install, train, and test; and Phase III support and on-going maintenance
July 1, 2017 to June 30, 2018	Phase III support and on-going maintenance
July 1, 2018 to June 30, 2019	Phase III support and on-going maintenance
July 1, 2019 to June 30, 2020	Phase III support and on-going maintenance
July 1, 2020 to June 30, 2021	Phase III support and on-going maintenance

	Budget	
FY 2016	$49,000	Phase I
FY 2017	$190,000	Phases II and III
FY 2018	$160,000	Phase III
FY 2019	$160,000	Phase III
FY 2020	$160,000	Phase III
FY2021	$160,000	Phase III
TOTAL	$887,400	

9. Questions arose about the redemption center contracts that show contract costs increasing as much as seven-fold (see #446-447, #455, #471-475, 480-487, 491-492,503-504, 506). Provide justification for increases and extensions. Further questions arose regarding the oversight and management of the recycling program, specifically:

   - What is the cost or profit of recycled products after shipping costs?
   - How many recycling companies does the state contract with? Based on the tableof contracts, there are as many as 17. Are there more? And how many companies at the time the program first started?

- What is the cost now as compared to when it originally started?
- How many bottles/cans go into the City's blue bins? And how does the city dispose/recycle the bottles/cans?
- Who is monitoring the department's program and does he/she report annually on its progress?
- The March 2019 audit required the program to audit the redemption center. Please provide the status of what's been done and oversight over the redemption program.

Response: Please see Attachment E for explanations regarding the DBC.

10. Provide a table of all contracts less than $100,000 – small purchases—made to the same vendor for the same purpose within a year. Provide the contracts by division/branch forthe last 3 years.

Response: Please see Attachment F for the contract listing.

11. Provide the criteria used for determining rate schedules. Provide the department's rate schedule for all services using rate schedules and provide a list of contracts and their approved rates.

Response: Attached is the revised Contract Listing containing the additional information being requested (Attachment A).

12. Provide a list of multi-year contracts by division/branch, including start and completion dates of the contract, contract budget award, and the final cost of the project; and dates of performance evaluation(s), if any. Provide for the past 3 years.

Response: Attached is the revised Contract Listing containing the additional information being requested (Attachment A).

13. As your department has decentralized the procurement and contracting responsibilities, please provide a list of your divisions/branches and the names and level of delegated authorities of all department staff and dates of training (noting that training is required prior to delegated authorization) and indicate whether the officer attend the latest annual training of the CAPS office. For each office that approves its own contracts, provide the name of the responsible procurement officer and level of authority.

Response: Attached is the procurement delegation listing for DOH (Attachment G).

14. The department issues thousands of contracts annually. What policies or procedures arein place to ensure vendor performance? Please provide the department's policy, if any, and data collected on performance. If not, please provide any recommendations for evaluating vendor performance, including criteria.

    Response: Attached is the revised Contract Listing containing the additional information being requested (Attachment A).

15. One of the challenges presented (Slide 17) is the competition for the same or similar vendors by the department with other departments seeking the same services. Is the CAPS office involved in the efforts on group purchasing and master agreements? If not,who is in responsible for these initiatives? Please provide a report on the department's concept of group purchasing to coordinate funding for similar services within the department and across State departments; and the status of the department's work on the following initiatives intended to reverse the vendor-driven services to one where the state agenciescoordinate needs and funding to drive outcome-based services as directed by law:

    - coordination of funding for outcome-based services under Act 263(2019) which was further clarified this past session to focus on coordinating funding sources and establishing outcome measures for behavioral or substance abuse conditions (Act 154 /HB541) and
    - Behavioral Health Administration (BHA) initiative to coordinate with programs within the department on a master services agreement, with a request for proposal to be posted this past July.

Response: There may be potential areas for group purchases such as information systems where the eventual goal is for the BHA to be on a single platform. However, the challenge is consolidating what appears to be similar services being procured by each division and the need for separate contracts to a single provider. For example, our Child and Adolescent Mental Health Division (CAMHD), has four programs that bill with the same Medicaid code leading some to believe that they are the same service. However, when looking at each program, we found that one program is a 30-day crisis stabilization program, another program treats adjudicated youth that has sexually offended, and other program treats girls that have been sexually trafficked. All these activities require different scopes of work and have different reimbursement rates. Looking at similar services across divisions within BHA, there are also programs that in the broadest definition of services appear to be similar but in actuality, there are differences in the services and/or reimbursement models. For example, AMHD uses Crisis Mobile Outreach (CMO) with high frequency allowing them to reimburse on a fee for service basis. CAMHD does not get enough calls to sustain a CMO program that is trained to specifically serve youth and therefore, the reimbursement is cost reimbursable. In the case of CAMHD, if we were to use a fee

for service model, it would be similar to paying the fire department per fire. Not all programs want to respond to both adult and child crises, therefore, separate contracts would be issued. Other challenges with consolidation of services with a single provider are:

- Since CAMHD's services are youth-specific, there are differences with the diagnostic categories and a treatment approach that differs from the adult system.
- Program monitoring is tailored specifically to our service array, producing different corrective action plans therefore monitoring will be different between divisions.
- Because all services existing in a child-serving system (an interconnected array); if one resource increases admissions, it will decrease admissions elsewhere and if a program closes, it will burden another program, making utilization management and data collection specific to a "closed" child serving system. For most services, any master contract would quickly branch out into separate scopes of work, separate populations, separate reimbursement models – essentially creating separate contracts.

There have been some discussion about "shared" consumers across divisions which in reality seldom happens for technical and clinical reasons. As mentioned earlier, there are instances where joint contracting occurs such as information systems and Zoom licenses. We are researching the use of Master Services Agreements.

16. The department cites challenges on the lack of expertise and resources to develop sound bid specifications, which is important for contract performance, and on the need for more frequent training of procurement staff (Slide 19). Has the department provided these resources? If not, what would you require to address these challenges? Please be specific.

Response: The DOH has provided staff with information on our website and samples of "good" bid specifications but have not provided dedicated resources to assist in the development of sound bid specifications. Program staff who are not experts in creating bid specifications are often tasked with creating their own bid specifications. There are complex 103F type procurements that occur every 4 to 6 years and large 103D type procurements as the need arises. Some programs do not have resources to fund full-time staff dedicated to contracts to those who are tasked with providing assistance in the development of contracts may become "rusty." It would be beneficial if the DOH could obtain resources to assist program staff in creating bid specifications out of the program requirements for which the program staff have expertise in. The resources could be for funding out-service training for staff whose primary responsibility is the procurement of goods and services for their unit/program, designating these individuals as Subject Matter Experts (SMEs), and "buying out" their time from their assigned unit/program to provide assistance in developing bid specifications for other DOH programs (backfill funding to SME's regular assigned unit/program

17. The department cites the challenge of the current rules regarding the certificate of insurance that may delay projects starting. Please provide recommendations for changes to address this problem.

Response: There is specific wording required on the Certificates of Insurance (COI) and it would help if DAGS-Risk Management could provide step-by-step detailed instructions for vendors/contractors to follow. For DOH's 103F Health and Human Services contracts, many of our providers are "mom-and-pop"/small operations and may need assistance in making sure that the COI contains the requisite language and policy requirements (claims made vs. occurrence based insurance policies, dollar limits of coverage, effective dates). Insurance coverage for both 103D and 103F contracts may be cost prohibitive to some vendors/contractors and they may not obtain the coverage until they are awarded the contract resulting in delays to the start of the contract. It would help if there is an "automatic" waiver of the insurance coverage for a specific time period (e.g. not to exceed 30 days from the start date of the contract) until the vendor is able to secure the coverage required for the contract and include this language in the contract document. Consideration of the State/Legislature possibly funding an insurance policy to carry providers and contractors for this period would allow for the contractor to start providing the goods and/or services and minimize delays due to obtaining insurance. Another consideration would be for the State/Legislature to establish an automobile insurance policy coverage for contractors/providers for non-State vehicles and have the contractors/providers pay a fee to be covered by this policy.