

Presentation to the Procurement Committee

August 17, 2021

AGENDA

- I. Procurement Training Procedures/Certification Held By Your Procurement Officer(S) And Names
- II. Brief Description Of Your Department's Procurement Procedures And Timeline, Consistent Across Each Division Within Your Department.
- III. Brief Description Of Your Department's Bid Protests Procedures
- IV. Problems Or Challenges Your Department Faces In Procurement
- V. Suggested Recommendations For Addressing These Challenges

I. Procurement Training Procedures

Certification Held By Your Procurement Officer(S) And
Names

Procurement Training Procedures

HRS 103D-110, Education and Training (c). Each state procurement officer shall attend mandatory fundamental training and development session within sixty days of being appointed or named to the position of procurement officer.


* Names of Procurement Officers provided separately.

115 Professional Services	1/14/2015
120 Small Purchases	1/22/2015
125 Exemptions from HRS Chapter 103D	2/16/2016
126 Procurement Code of Ethics and Compliance	7/10/2020
127 Understanding, Detecting and Preventing Anti-Trust Violations	7/10/2020
130 Construction Procurements (for construction procurements)	8/10/2011
135 Contract Administration	6/5/2018
140 Overview of the SPO Website and Reporting/Posting Procurement Notices, Awards and Solicitations (PANS)	8/11/2011
150 Insurance Requirements for Contracts	2/3/2017
170 Overview of Procurement Practices - HRS chapter 103D	11/17/2008
180 Personal Services Contracting	8/10/2010
185 Prevailing Wages, Certified Payroll & Contracting Agency Responsibilities (for construction procurements)	7/26/2011

Procurement Training Procedures

Managing Procurement
Authorities

BROWSE



DOT Library
BUS

DOT

- Departmental Staff Manual
- DOT Organization
- DOT Policies
- Forms
- Telephone

✓ Name

▾ [DOT Delegation \(2\)](#)

DOT Procurement Delegation 2019-01-25, Exhibit A 2021-07-21	...
OMPO Procurement Delegation, Effective 2018-03-08, Exhibit A 2019-10-23	...

Procurement Training Procedures

SPO Form 036

Managing Procurement Authorities

Handout A

PROCUREMENT DELEGATION
FORM SPO-036

SPO Use ONLY Procurement Delegation Effective Date

SECTION 1 - PURPOSE
Purpose of this Request _____ Revise Existing Delegation _____

SECTION 2 - EMPLOYEE INFORMATION

Position Level 2

Last Name _____ First Name _____
 DOT _____
 Department _____ Division or Administratively Attached Agency/Office (Print) _____

I acknowledge (1) the delegated procurement authority and responsibility as indicated below and (2) prior to exercising this authority, I am responsible to attend all appropriate SPO training workshops pursuant to Procurement Circular 2010-05 as amended, and as posted on the training website at <http://hawaii.gov.spo>, click *Training for State and County Procurement Personnel*.

OPTIONAL FOR DEPT/AGENCY USE
 Employee Signature _____ Date _____ Print Name _____ Signature _____

SECTION 3 - DELEGATES PROCUREMENT AUTHORITY AS PROCUREMENT OFFICER TO CERTIFY (SIGN SPO FORMS) (Check all that apply) (*) Requires CPO approval

HRS chapter 103D - Hawaii Public Procurement Code

<input type="checkbox"/> SPO-001 Notice and Request for Sole Source*	<input checked="" type="checkbox"/> SPO-010 Record of Procurement
<input type="checkbox"/> SPO-001B Notice of Amendment to Sole Source Contract*	<input type="checkbox"/> SPO-014 Restrictive Specifications Request*
<input checked="" type="checkbox"/> SPO-002 Emergency Procurement Request*	<input type="checkbox"/> SPO-015 Use of Alternative Procurement Method*
<input type="checkbox"/> SPO-003 Request for Extension of Time on Contracts*	<input type="checkbox"/> SPO-035 Request to Use Purchasing Card for Blocked Purchases*
<input type="checkbox"/> SPO-005 SPO Price or Vendor List Contract Purchase Exception	<input type="checkbox"/> SPO-050 Notice of Request to Use GSA Schedule 70 (Exceeding \$1M)*
<input type="checkbox"/> SPO-007 Notice of and Request for Exemption from Chapter 103D HRS*	<input type="checkbox"/> SPO-060 Assignment of HANDS Department Administrator/Alternate
<input type="checkbox"/> SPO-007B Notice of Amendment to Exemption from Chapter 103D HRS*	

HRS chapter 103F - Purchases of Health and Human Services

<input type="checkbox"/> SPOH-150 Notice of and Request for Exemption from HRS Chapter 103F*	<input type="checkbox"/> SPOH-500 Notice of and Request for Restrictive Purchase of Service*
<input type="checkbox"/> SPOH-300 Request for After-the-Fact Secondary Purchase*	<input type="checkbox"/> SPOH-600 Request for Crisis Purchase of Service*

NOTE: Only Dept Head is authorized to certify (sign SPO forms): SPO-016, SPO-018, SPO-018A

SECTION 4 - DELEGATES PROCUREMENT AUTHORITY TO EXECUTE, CONDUCT, PARTICIPATE IN THE VARIOUS PROCUREMENT METHODS, AND TO ACT AS HEPS APPROVER OR BUYER (Check all that apply) (*) Requires CPO approval

	Procurement Methods	HePS
HRS chapter 103D - Hawaii Public Procurement Code		
Competitive Sealed Bidding (HRS § 103D-302)	<input type="checkbox"/> Procurement Officer	<input checked="" type="checkbox"/> Conducts/Participates <input type="checkbox"/> Approver <input type="checkbox"/> Buyer
Competitive Sealed Proposals (HRS § 103D-303)	<input type="checkbox"/> Procurement Officer	<input checked="" type="checkbox"/> Conducts/Participates <input type="checkbox"/> Approver <input type="checkbox"/> Buyer
Professional Services (HRS § 103D-304)	<input type="checkbox"/> Procurement Officer	<input checked="" type="checkbox"/> Conducts/Participates
Small Purchases (HRS § 103D-305)	<input checked="" type="checkbox"/> Procurement Officer	<input checked="" type="checkbox"/> Conducts/Participates <input type="checkbox"/> Approver <input checked="" type="checkbox"/> Buyer
Sole Source (HRS § 103D-306) *	<input type="checkbox"/> Procurement Officer	<input checked="" type="checkbox"/> Conducts/Participates
Emergency (HRS § 103D-307) *	<input checked="" type="checkbox"/> Procurement Officer	<input checked="" type="checkbox"/> Conducts/Participates
HRS chapter 103F - Purchases of Health and Human Services		
Competitive Purchase of Service (HRS § 103F-402)	<input type="checkbox"/> Procurement Officer	<input type="checkbox"/> Conducts/Participates <input type="checkbox"/> Approver <input type="checkbox"/> Buyer
Restrictive Purchase of Service (HRS § 103F-403) *	<input type="checkbox"/> Procurement Officer	<input type="checkbox"/> Conducts/Participates
Treatment Purchase of Service (HRS § 103F-404)	<input type="checkbox"/> Procurement Officer	<input type="checkbox"/> Conducts/Participates
Small Purchases (HRS § 103F-405)	<input type="checkbox"/> Procurement Officer	<input type="checkbox"/> Conducts/Participates <input type="checkbox"/> Approver <input type="checkbox"/> Buyer
Crisis Purchase of Service (HRS § 103F-406) *	<input type="checkbox"/> Procurement Officer	<input type="checkbox"/> Conducts/Participates

SECTION 5 - DELEGATES PROCUREMENT AUTHORITY FOR PCard/HEPS ADMINISTRATOR/ ALTERNATE
(Check all that apply). Only one person is authorized to be an Administrator for each department.

pCard

pCard Administrator	<input type="checkbox"/> Administrator <input type="checkbox"/> Alternate
Emergency pCard Administrator	<input type="checkbox"/> Administrator <input type="checkbox"/> Alternate

HePS

HePS	<input type="checkbox"/> Administrator <input type="checkbox"/> Alternate
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Attach form SPO-036 to SPO-036transmittal and submit via email to: state.procurement.office@hawaii.gov. **This delegation form SPO-36 supersedes any previous delegation forms for this employee.**

SPO-036 (8/28/17)

Procurement Training Procedures

SPO Form 036

Managing Procurement Authorities

Handout B

DEPARTMENT OF TRANSPORTATION
PROCUREMENT DELEGATION
Effective January 25, 2019

This Procurement Delegation is in accordance with and pursuant to the State Procurement Office's Procurement Delegation No. 2010-01, dated December 6, 2010 and 2014-01, dated December 16, 2014.

I. Delegation from the Chief Procurement Officer (CPO) to the Director of Transportation, Head of Purchasing Agency (HOPA)

Categories of Procurement:

HRS Chapter 103D- Hawaii Public Procurement Code (goods, services, construction)

1. Competitive Sealed Bidding (HRS § 103D-302)
2. Competitive Sealed Proposals (HRS § 103D-303)
3. Professional Services (HRS § 103D-304)
4. Small Purchases (HRS § 103D-305)
Pursuant to and in compliance with Procurement Circular 2012-04, or as amended, Small Purchases Procurement and Performance Bonds for Construction;
5. Sole Source (HRS § 103D-306)
Requires CPO written approval for ALL dollar amounts (Refer to form SPO-001); and
6. Emergency (HRS § 103D-307)
Requires CPO approval for ALL dollar amounts and approval may be obtained after-the-fact (Refer to form SPO-002)

Other HRS chapter 103D delegations granted are for:

- Preparation of specifications (HAR § 3-122-11);
- Bid security (HRS § 103D-323)
- Contract performance and payment bonds (HRS § 103D-324)
- Resolution of protests (HRS § 103D-701)
- Contract controversies (HRS § 103D-703)
- Act 150, SLH 2009 for the expedient use of ARRA funds (HAR § 3-133); and
- Designation of:
HlePRO System Administrator and alternate(s)
pCard Administrator and alternate(s)
Emergency pCard Administrator and alternate(s)
Procurement Exempt to HRS Chapter 103D (HRS § 103D-102 & HAR Chapter 3-120) and HRS chapter 103F (HRS § 103-F-101 & HAR chapter 3-141)

HRS § 103F – Purchases of Health and Human Services

1. Competitive Purchase of Service (HRS § 103F-402);
2. Restrictive Purchase of Service (HRS § 103F-403);
Requires CPO approval for ALL dollar amounts (Refer to Form H-500)
3. Treatment Purchase of Service (HRS § 103F-404)
4. Small Purchase of Service (HRS § 103F-405) and
5. Crisis Purchases of Service (HRS § 103F-406)
Requires CPO approval for ALL dollar amounts and approval may be obtained after-the-fact (Refer to Form H600)

Procurement Training Procedures

SPO Form 036

Managing Procurement Authorities

Handout C


APPROVED BY:  Jade T. Butay, Director

EXHIBIT A: PROCUREMENT DELEGATION		"PROCUREMENT OFFICER" SIGNING AUTHORITY			APPROVED BY: Jade T. Butay, Director				
As of:	7/27/2021								
Reference	Name	Position	SMALL PURCHASES	Procurement EXEMPT to 103D	PROFESSIONAL SERVICES	EMERGENCY	SOLE SOURCE	OTHER AUTHORITY	
I. DIRECTOR OF TRANSPORTATION									
	Jade Butay	Director of Transportation	Authorized, see DOT Procurement Delegation	Authorized, see DOT Procurement Delegation	Authorized, see DOT Procurement Delegation	Authorized, see DOT Procurement Delegation	Authorized, see DOT Procurement Delegation	See DOT Procurement Delegation	
	Lynn A.S. Araki-Regan	Deputy Director, Administration (ONLY when on temporary assignment as Director of Transportation)	Authorized, see DOT Procurement Delegation	Authorized, see DOT Procurement Delegation	Authorized, see DOT Procurement Delegation	Authorized, see DOT Procurement Delegation	Authorized, see DOT Procurement Delegation	See DOT Procurement Delegation	
	Edwin Shiffen	Deputy Director, Highways Division (ONLY when on temporary assignment as Director of Transportation)	Authorized, see DOT Procurement Delegation	Authorized, see DOT Procurement Delegation	Authorized, see DOT Procurement Delegation	Authorized, see DOT Procurement Delegation	Authorized, see DOT Procurement Delegation	See DOT Procurement Delegation	
II. A. DEPUTY DIRECTORS:									
	Lynn A.S. Araki-Regan	Deputy Director, Administration	Authorized 2/26/2019 Goods & Services - less than \$100,000 Construction - less than \$250,000	Authorized 2/26/2019 Authorized (up to \$50,000) Applies to 103D	No	Authorized 2/26/2019 (up to \$100,000)	Authorized 2/26/2019 Pre-approved sole source for amounts up to \$4,000	See DOT Procurement Delegation	
	Ross Higashi	Deputy Director, Airports Division	Authorized 12/09/2014 Goods & Services - less than \$100,000 Construction - less than \$250,000 Health & Human Services - up to \$50,000	Authorized 12/09/2014 Authorized (up to \$50,000) Applies to 103D & 103F	No	Authorized 12/09/2014 (up to \$100,000)	Authorized 12/09/2014 Pre-approved sole source for amounts up to \$4,000	See DOT Procurement Delegation	
	Derek J. Chow	Deputy Director, Harbors Division	Authorized 03/08/2019 Goods & Services - less than \$100,000 Construction - less than \$250,000	Authorized 03/08/2019 Authorized (up to \$50,000) Applies to 103D	No	Authorized 03/08/2019 (up to \$100,000)	Authorized 03/08/2019 Pre-approved sole source for amounts up to \$4,000	See DOT Procurement Delegation	
	Edwin Shiffen	Deputy Director, Highways Division	Authorized 1/26/2015 Goods & Services - less than \$100,000 Construction - less than \$250,000	Authorized 1/26/2015 Authorized (up to \$50,000) Applies to 103D	No	Authorized 1/26/2015 (up to \$100,000)	Authorized 1/26/2015 Pre-approved sole source for amounts up to \$4,000	See DOT Procurement Delegation	
II. B. Assistance from SPO									
	Formal Request	SPO-018 Procurement Services Request							
II. C. 1. DIVISIONS ADMINISTRATOR									
	Davis Yogi	Harbors Administrator	Goods, services and construction under \$100,000 Authorized 7/23/2012	1. Unlimited Utilities only 2. Highways ONLY - less than \$10,000 for non-utilities Authorized Class taken 2/25/2010	Approval to negotiate with the first ranked consultant only Authorized 7/23/2012	Up to \$100,000 (Requires CPO Approval - See DOT Procurement Delegation) Authorized 7/23/2012	NONE	Preparation of specifications pursuant to HAR 3-122-11	See DOT Procurement Delegation
	Neil Takekawa	Harbors District Manager - Oahu District (ONLY when on temporary assignment as Harbors Administrator)	Authorized 5/11/2018	Authorized 5/11/2018 Class Taken 11/04/2016	Authorized 5/11/2018	Authorized 5/11/2018	No	See DOT Procurement Delegation	
	Peter Pillone	Commercial Harbors Manager (ONLY when on temporary assignment as Harbors Administrator)	Authorized 6/23/2021	Authorized 6/23/2021 Class Taken 8/28/2017	Authorized 6/23/2021	Authorized 6/23/2021	No	See DOT Procurement Delegation	

Page 1

II. Departmental Procurement Procedures & Timeline

Brief Description - Consistent Across Each Division Within the
Department

Brief Description - Consistent Across Each Division Within the Department

For consistency, the Department complies with HRS 103D provides for the different types of procurement methods of source selection and the Hawaii Administrative Rules Chapter 3-120 :

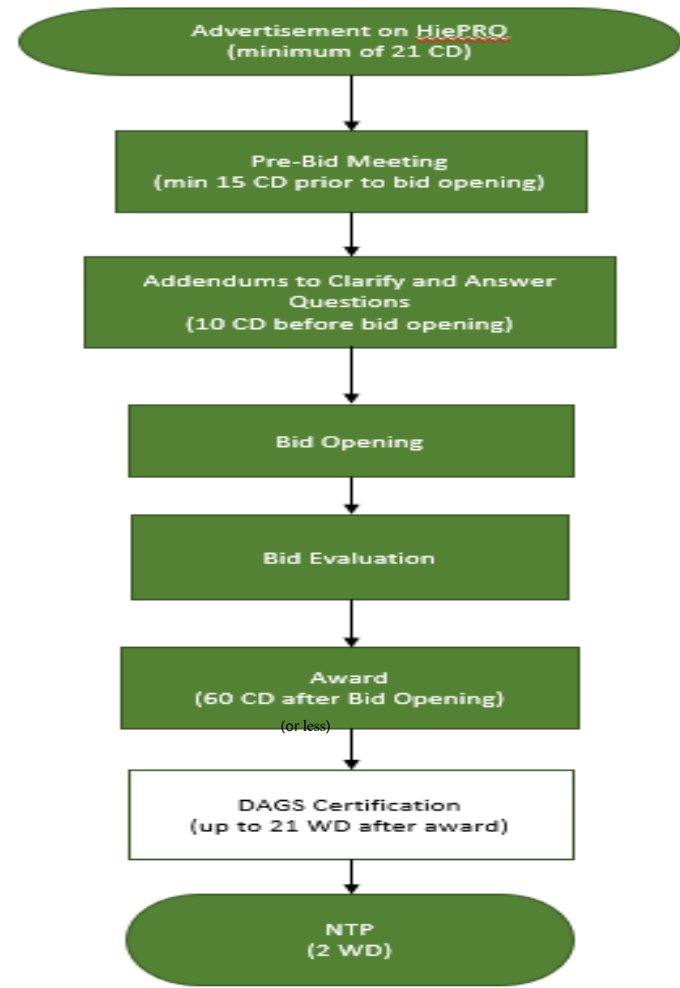
- Exemption
- Sole Source
- Emergency
- Small Purchase
- Competitive Sealed Bidding (aka, low bid or IFB)
- Competitive Sealed Proposals
- Professional Services

Current Procurement Process

Competitive Sealed Bidding

HRS 103D-302

BID SOLICITATION & AWARD FLOWCHART



* Process is the same, use of HiePro or DOT Contracts Office Varies between Divisions.

** Time is subject to project complexity. Airports FAA Funded Projects:

- DBE & Good Faith Effort Evaluation
- FAA Concurrence to Award (e.g. add 30 – 90 CD).

TOTAL 72 – 108 Calendar Days **

COLOR KEY:

Outside Party

DIVISIONS

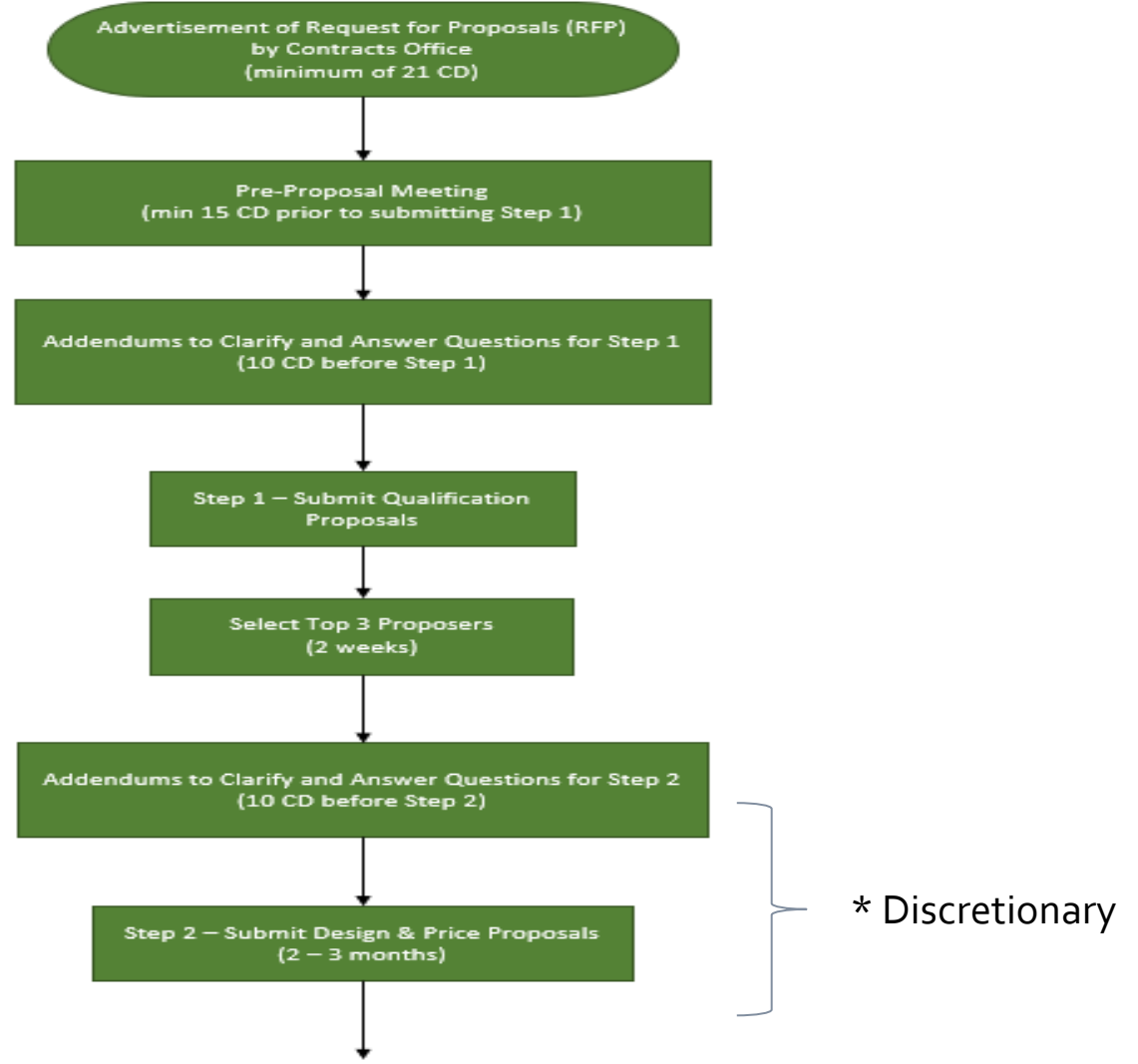
Current Procurement Process

Request for Proposals

(e. g. Design Build)

1 of 2

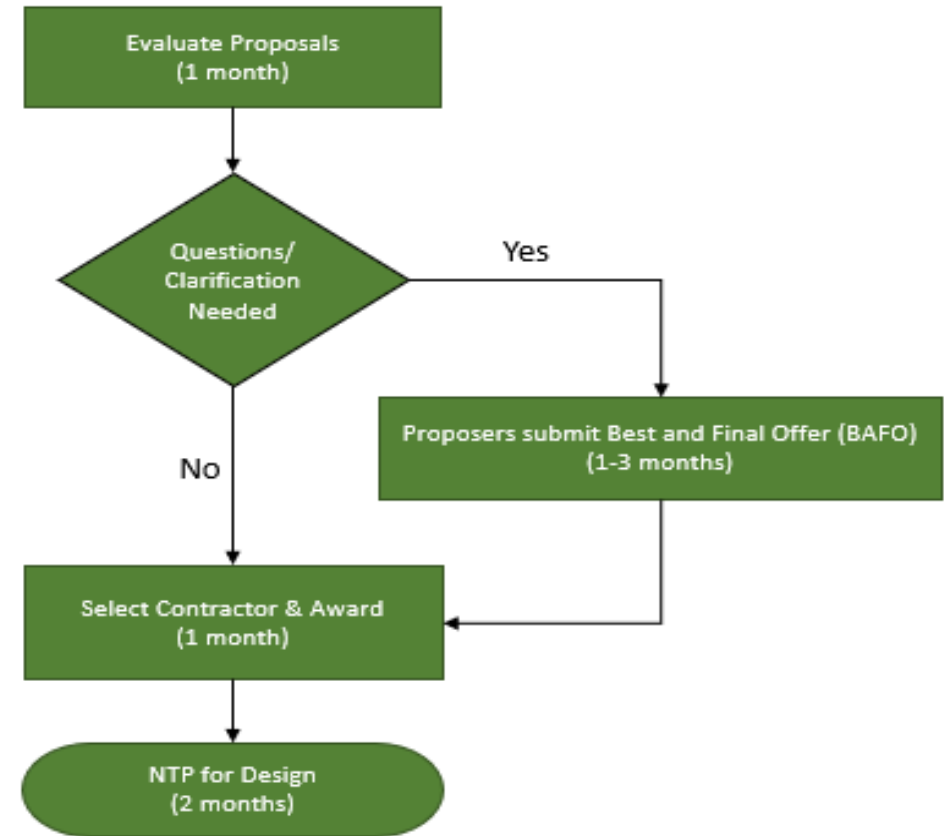
EXAMPLE OF A REQUEST FOR PROPOSAL DESIGN BUILD FLOWCHART



Current Procurement Process

Competitive Sealed Proposals

HRS 130D-303

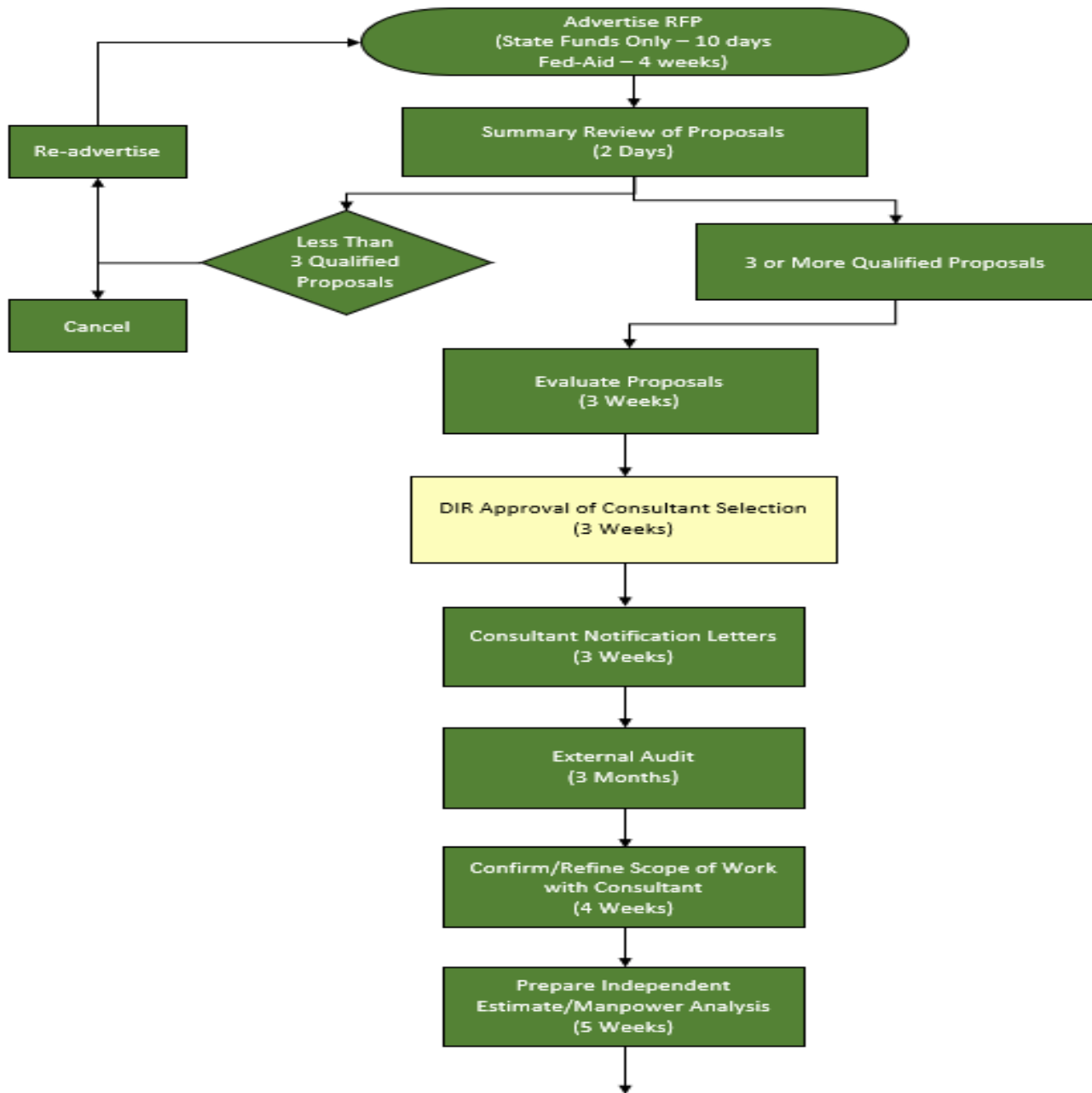


TOTAL = 215 – 335 Calendar Days

Current Procurement Process

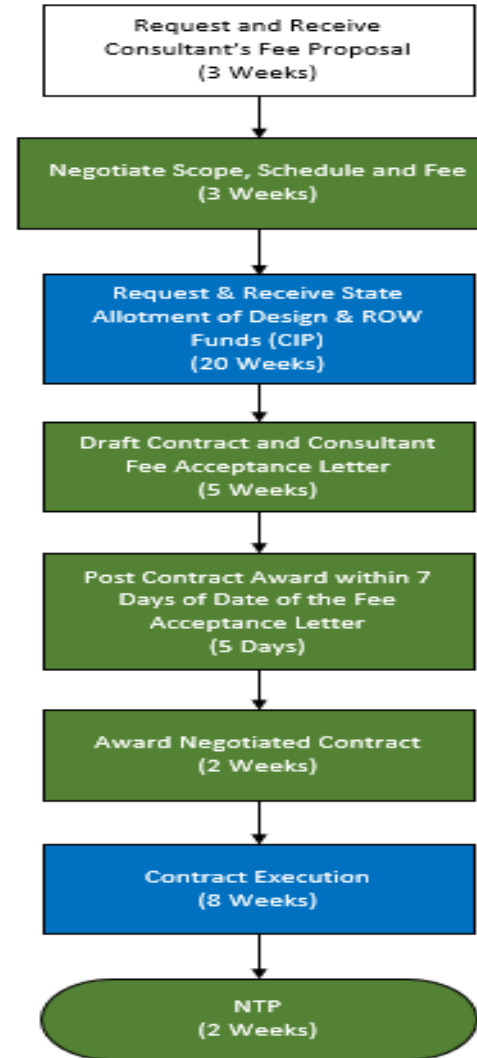
Professional Services (Consultant)
1 of 2

CONSULTANT PROCUREMENT FLOWCHART



Current Procurement Process

Professional Services (Consultant)
2 of 2



TOTAL = 382 – 392 Working Days *

* Time to review Fee Proposal is subject to project complexity.

COLOR KEY:

Multiple Agencies

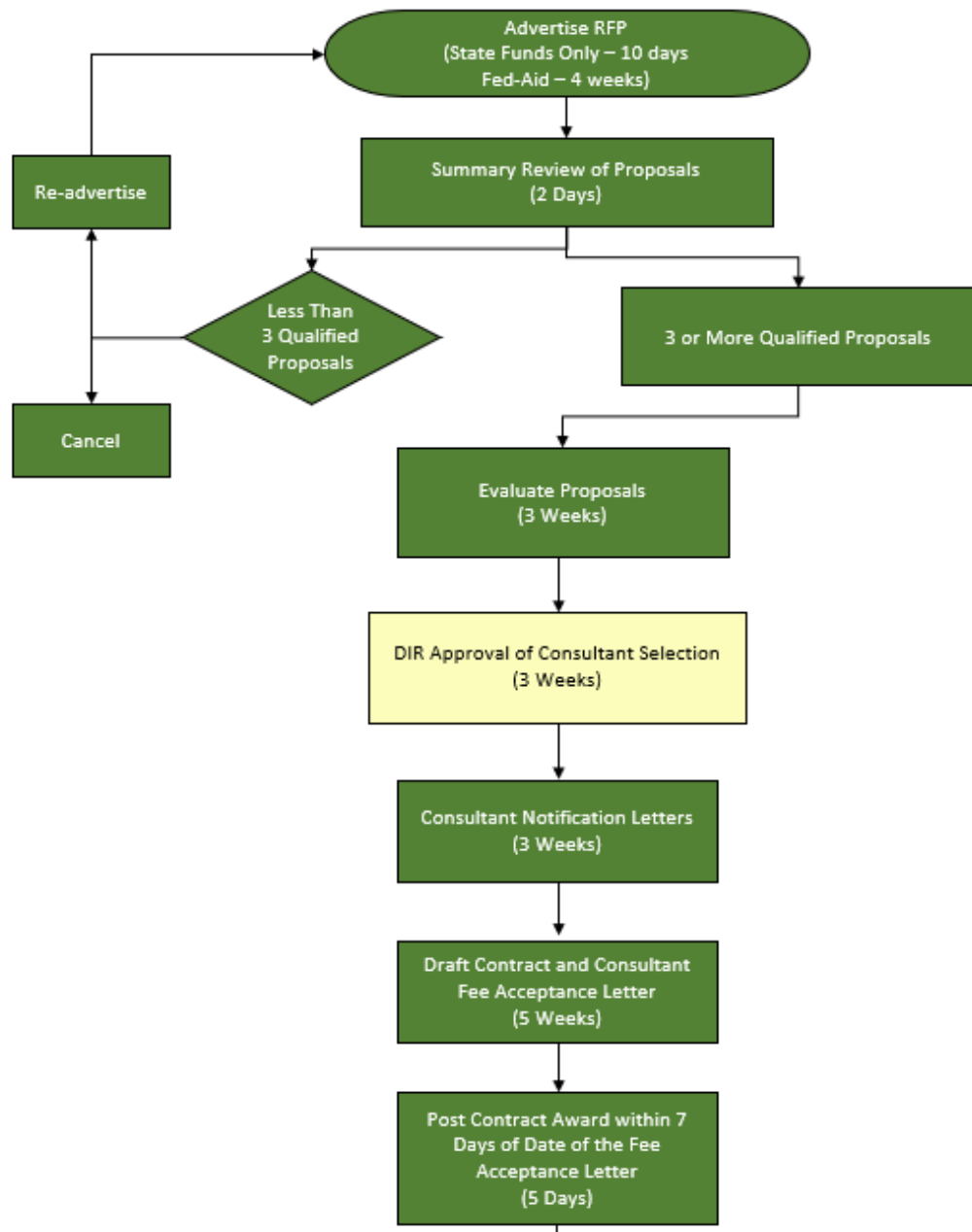
DOT ADMIN

DIVISIONS

Current Procurement Process

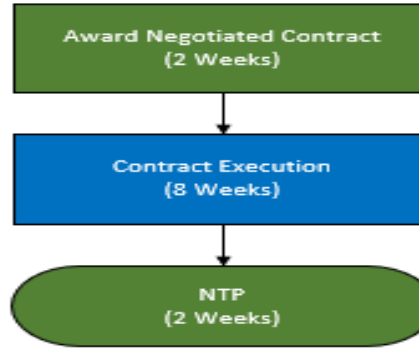
Professional Services/IDIQ (Consultant) IDIQ Process
1 of 2

CONSULTANT IDIQ PROCUREMENT FLOWCHART



Current Procurement Process

Professional Services/IDIQ (Consultant) IDIQ Process
2 of 2



TOTAL = 147 – 157 Working Days

COLOR KEY:

Multiple Agencies

DOT ADMIN

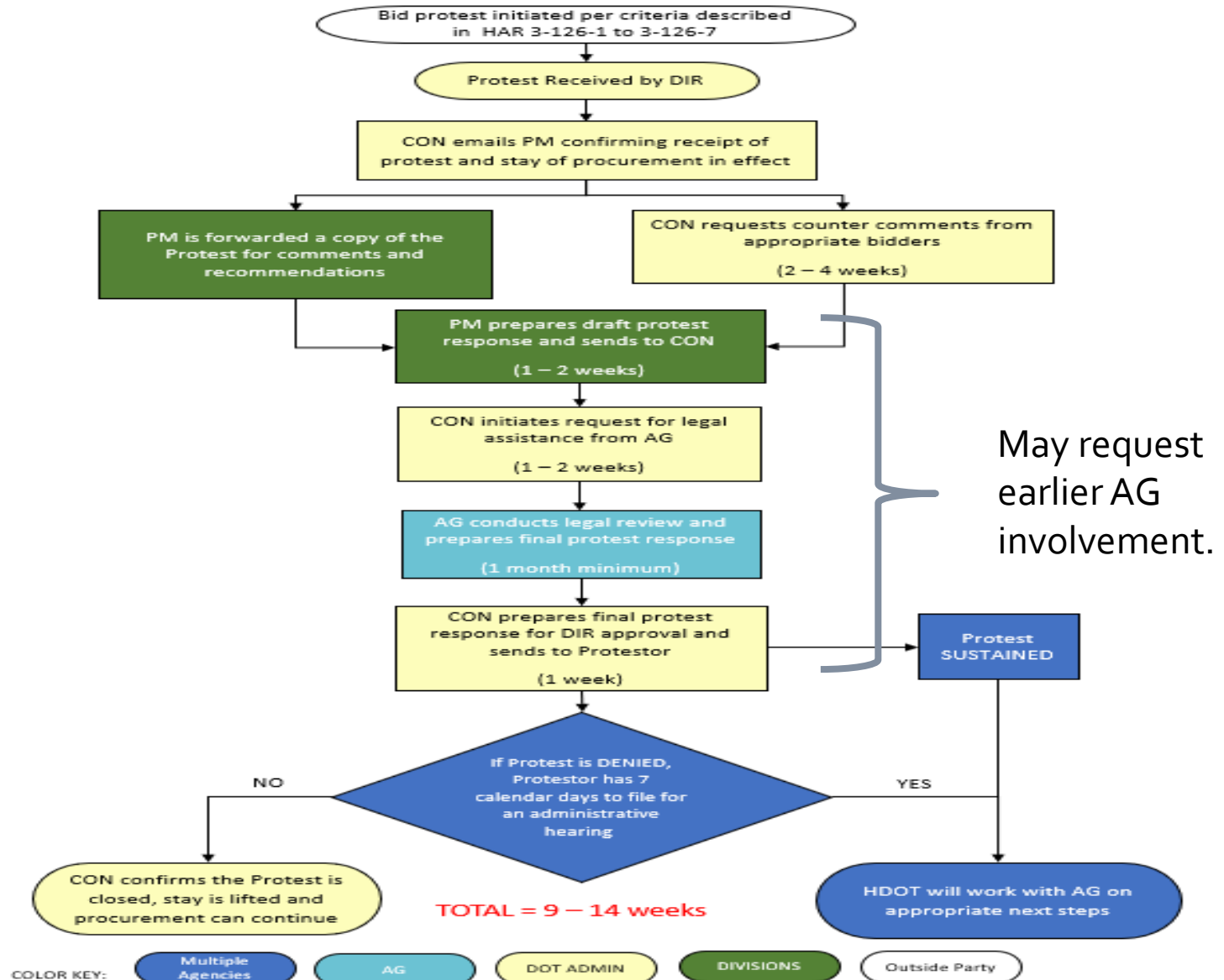
DIVISIONS

III. Department's Bid Protests Procedures

Brief Description: Bid Protests Procedures

Protests

BID PROTEST FLOWCHART



2019 to
Present

- 10 Protests Received
 - 5 Denied *
 - 1 Sustained
 - 2 Withdrawn
 - 2 Pending
 - * 1 Overturned

SB 1329 75 Calendar Days to Respond

(Act 224)

- 75 Calendar Days to Respond to Protest (45-day extension).
 - 3 Protests > 75 days (1 > 120 days (75+45 extension)).
 - Reason > 75 days
 - > 75 days:
 - DLIR Suspension Issue (first impression)
 - Apprenticeship Preference coordination with other Agencies for consistency
 - > 120 days:
 - Hawaii Products Preference

Mahalo!!!

SB 1329
Removed the
Protest Bond
\$10,000 Cap

Established 1%
Estimated
Contract Value
Bond Amount

- SB 1329 Protest Bond 1% of the Estimated Contract Value.
- 3 Protests Appealed DOT Decision to the DCCA Office of Administrative Hearings.

	Estimated Contract Value	Current HRS 103D-709	SB 1329
HNL CONRAC	\$300 M	\$10,000	\$3,000,000

IV. Departmental Procurement Challenges

Brief Description: Problems or Challenges Your Department Faces In Procurement

V. Department's Recommendations

Recommendations For Addressing Challenges

Challenges - Recommended Improvements

Contract Bonds

Contract Bonds

- Issue with Captive Insurance.
- Recommendations:
 - Captive Insurances should not be allowed to bond construction projects.
 - Insurance companies be vetted following the Federal Requirements.
 - Have 10 times the amount of the bond in capital and surplus.

Challenges - Recommended Improvements

Professional Services

Professional Service Procurement

- HRS 103D-304(g) “The selection committee shall rank a minimum of three persons based on the selection criteria and send the ranking to the head of the purchasing agency. The contract file shall contain a copy of the summary of qualifications for the ranking of each of the persons provided to the head of the purchasing agency for contract negotiations. If more than one person holds the same qualifications under this section, the selection committee shall rank the persons in a manner that ensures equal distribution of contracts among the persons holding the same qualifications. The recommendations of the selection committee shall not be overturned without due cause.”
- HAR 3-122-66 allowed the purchasing agency a waiver.
- Supreme Court invalidated this waiver.

(Asato v. Procurement Policy Board (Haw. 2014)).

Challenges - Recommended Improvements

Emergency Procurement

- Revise HRS 103D-307, Emergency Procurements to add equipment failures, repairs to public property to protect against further loss of, or damage to public property, to prevent or minimize serious disruption in continued functioning of government services. To replace chief procurement officer approval with an accounting report to the legislature within sixty days after the end of the fiscal year in which the procurement was made.