

Special Committee on the State of Hawaii Procurement (SCP)

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State Procurement Office (SPO) and Department of Transportation, Airports Division (DOT-A). State Procurement Officer Bonnie Kahakui. Department of Transportation (DOT) Director Jade Butay; DOT Deputy Director of Administration Lynn Araki-Regan; DOT-A Deputy Director Ross Higashi; Airports Administrator Davis Yogi; DOT-A Engineering Branch Interim Program Manager Guy Ichinotsubo; Airport Operations Officer Alex Tamoria; and DOT-A Fiscal Management Officer Kurt Yamasaki.

Documents Received

- Handout A: Procurement Delegation Form (Form SPO-036)
- Handout B: DOT Procurement Delegation (Effective January 25, 2019)
- Handout C: Spreadsheet of DOT employees with procurement signing authority
 - Note that this chart states the date of authorization, not the date that the training was completed.

General Points

- Training: DOT performs its training in accordance with the procurement code.
 - Its employees can access the training through the Department of Human Resources Development's (DHRD's) Learning Management System (LMS).
 - DOT's Business Management Office (BMO) processes the SPO form 036 and reviews the SPO training that DOT employees receive. The BMO also monitors the procurement violations of DOT employees.
 - There are 161 employees in the DOT-A who have some level of procurement authority.
 - Ethics and compliance training is required every three years and retraining is required every five years. Internal deadline for these trainings is at the end of the calendar year.
- Current Procurement Process:
 - DOT-A follows federal requirements for its state projects so that they will advertise for 30 vs 21 calendar days.

- DOT-A also needs to obtain an FAA clearance after award for federally funded projects.
- Project managers evaluate the bids for IFB construction contracts and verify that the contractors are properly licensed.
 - RFP contracts do have evaluation committees.
- DOT-A has a process that develops a project definition report that contains the operational and functional requirements of the project so that it is easier for stakeholders to visualize the completed project.
- Most change orders are due to unforeseen site conditions, owner/stakeholder-requested change, or design errors.
 - Typically, 1 to 2 percent of the change orders of a project is attributed to design errors.
 - DOT-A notes that contracts with architects include broad language that attributes design errors to normal engineering or industry standards.
 - DOT-A does go after design consultants for design errors, but it is rare.
 - The maps and files used to base DOT-A as-builts on are not that accurate.
 - They do not usually have a contractor tone the utility lines during the design process. Instead, this practice occurs prior to construction.
 - It is more cost-effective to tone the lines for projects on undeveloped or open areas.
 - DOT-A does not usually tone when renovating existing buildings.
- The threshold for sole source purchases is \$4,000 for goods.
 - All special maintenance or CIP construction projects are procured through competitive sealed bidding.
 - DOT-A has a different of method of procurement for small purchases based on different thresholds of purchase costs.
- Most airport projects are above \$250,000.

- DOT-A is currently trying to close out its IFB construction contracts over five years old.
 - DOT-A does not practice parceling since an investigation 20 years ago.
- DOT-A hires a consultant as a construction manager to oversee the construction and inspection of every major project, including making recommendations on the payment of bills. The State project manager who is assigned to the project oversees the construction, construction manager, and the contract.
- The program manager for the engineering branch is responsible for approving the design plans of a design-build project for construction.
- DOT-A does not evaluate contractors' past performance for IFBs.
 - DOT-A does evaluate price and past performance for RFBs.
- DOT-A does not prefer to bid RFBs as there is an increase of time-delaying protests on this method of procurement, not to mention media scrutiny.
- DOT-A does consider past performance for the procurement of consultants.
 - However, the selection of contractors may be limited for certain contracts.
- DOT-A is open to inserting language in their solicitations for design consultants that will let the State recoup a certain percentage of the contract if certain design errors are found.
 - DOT-A recommends the reinstatement of the waiver for professional services, especially for specialty procurements, and suggested including this language for consultants who are hired under this waiver.
- DOT-A generally has a deadline for requests for information 14 days before bid opening so that they can answer the requests and issue any necessary addendums 7 days before bid opening.
 - SPO confirms that there is no specific deadline required for requests for information, only that it is submitted prior to bid opening and notes that under current law, IFBs have a 10-day minimum posting requirement.
- DOT-A recommends that the insurance companies providing captive insurance should be vetted using federal guidelines to ensure that contractors have enough funds to pay their suppliers and subcontractors.
- DOT-A would like to expand the scope of emergency procurement in light of the shortages due to the SARS-CoV-2 virus.

- SPO confirms that the procurement statutes and rules are the same for every department, but their processes may differ.

Information/Action Requested

- DOT:
 - Recurrent training spreadsheet.
- DOT-A:
 - Updated flowchart of operations for the four bid processes to include the planning and design stages and the average/range of time of each step.
 - List of IFBs over the last five years, containing estimates of the specific project costs, a breakdown of the different types of change orders, along with their costs, and the final project loss.
 - Summary sheet/list of the methods of procurements DOT-A uses for small purchases of different purchase costs thresholds.
 - Specific statutory language reinstating the waiver for professional services with a requirement that will allow the State to recoup a certain percentage from their design consultants if certain design errors are found.
 - Review the statutory language submitted regarding emergency procurement and revise as necessary.
- SPO:
 - Copy of the guidance it gives all departments regarding its small purchase thresholds.

Remaining Questions

- DOT:
 - How many and what kind of procurement violations have occurred over past few years?
 - What criteria does BMO use to assess these violations?
 - What measures are taken to prevent a violator from exercising procurement authority?

- What procedures are necessary for the violator to regain procurement authority?
 - Is there any type of renewal or retraining necessary for procurement officers when procurement laws change?
- DOT-A:
 - How many change orders were requested on the Hawaiian Airlines maintenance facility project and how many were approved?
 - NOTE:
 - This project was a design-build project.
 - There are questions on whether the design plans were ever approved for construction.
 - This project is currently under litigation.
 - What is the process to scope a project from procurement to execution and who is involved in each step of the process?
 - At what point is a design error on a project large enough to necessitate a new RFP?
- SPO:
 - Should the federal requirement for contractors to resolve its concerns on the award of an IFB contract with the contracting officer prior to submitting a protest be adopted by the State?
 - Should the State allow the prevailing protestor to recover its fees and cost in order to encourage the procurement officer to resolve protests before it is appealed to the administrative hearing stage?
 - Current practice shows that the hearing officer has the parties pay for their own fees and costs.
 - SPO notes that this may add to the cost of the project protested.