

Special Committee on the State of Hawaii Procurement (SCP)

September 23, 2021 1:30 PM

State Procurement Office (SPO) and Department of Land and Natural Resources (DLNR).

State Procurement Officer Bonnie Kahakui. DLNR Chairperson Suzanne Case; First Deputy Bob Matsuda; Fiscal Management Officer Cynthia Gomez; Division of Boating and Ocean Recreation (DOBOR) Administrator Ed Underwood; DOBOR Assistant Administrator Meghan Statts; DOBOR's Engineering Branch Lead Engineer Finn McCall; Engineering Division: Chief Engineer Carty Chang; Engineering Division's Project Management and Mineral Resources Branch Chief Jimmy Karata; Dina Lau (Engineering Division); Teri Wong (Engineering Division); Denise Manuel (Engineering Division); Division of Conservation and Resources Enforcement (DOCARE) Chief Jason Redulla; Division of Forestry and Wildlife's (DFW's) Native Ecosystems Protection and Management Manager Emma Yuen; Commission on Water Resource Management (CWRM) member Neil Fujii; Linda Chow (Deputy Attorney General).

Documents Received

- Partial List of Contracts (dated September 23, 2021)

General Points

- DLNR solicits for professional services on its Capital Improvement Program (CIP) and operating budget projects on the Hawaii Awards and Notices Data System (HANDS) in the beginning of each fiscal year.
 - All Statement of Qualifications (SOQ) are reviewed and a list of qualified firms for each professional services discipline are prepared.
 - DLNR selects and contracts the consultant from the list of firms once the services are needed and funds are released.
 - The contracted consultant works with the in-house project manager to determine the scope of work and the cost of the project.
 - This process takes an average of seven months.
- DLNR holds a mandatory pre-bid meeting for IFB projects with an estimated cost greater than \$500K. Contractors are not required to attend.
 - The procurement process for these projects take up to 12 months.
- The division requiring the procurement initiates the process by researching the procurement and method and completing a form for approval from the Chair.
- The cost of hiring the consultants is determined by what the consultant is asked to do. Generally, 10 to 20% of the total construction is set aside for planning and design, but it

all depends. Factors such as the number of permits needed for the project, outreach meetings necessary for impacted users, and multiple subcontractors may increase the cost of a design consultant.

- The project manager does a cost analysis and review of the consultant's work to determine whether the consultant's cost is reasonable.
- DLNR does not always hire a construction manager (CM) as their projects are not that large. In addition, DLNR has in-house staff to conduct inspections, hold negotiations, and process paperwork.
 - DLNR hires CMs for very large projects or projects on islands where they don't have available staff. The cost of a CM is based on a percentage of the project and can go up to 50%, but it depends on the scope of their work.
- Senator Kim suggested starting a pilot project to see how competitive it would be and how much the State might save when professional services, such as construction management are retained outside of the procurement process.
 - She also noted that depending on their scope of work, CMs may be required to be licensed engineers.
- Chapter 464 identifies architects, engineers, landscape architects, and surveyors as licensed professionals, whose services are required to be procured under Chapter 103D.
- The longest it has taken for DLNR to issue a final decision to a protest is 68 days.
 - DLNR's average response time for protests has been thirty days.
 - All of DLNR's protests over the past five years have been denied at the department level and have not been appealed to the administrative hearing level.
- Most of DLNR's projects have been Design-Bid-Builds (DBBs), but they are starting to use Requests for Proposals (RFPs) more often.
- The Ala Wai Canal Dredging and Improvements project is a DBB/IFB with 13 change orders. DLNR said that the project had multiple change orders because although the original scope of the project was to dredge the canal and repair the walls, the funding for the project was appropriated separately. Therefore, when DLNR sent this project out for bid, it was only to cover a viable scope of work with the initial appropriation received.
 - This project was also under time constraints as DLNR did not want to further delay the use of the canal to the community.

- When DLNR awarded this contract, they also ensured that the contractor was licensed to perform the additional work that the eventual change order covered.
- DLNR notes that its request for CIP funding to the Legislature aligns with the scope of the projects it intends to procure.
- DLNR has not had any problems with the Hawaii products preference, but has with incorrect subcontractor listings. DLNR recognizes the need for the subcontractor listing requirement to reduce bid shopping.

Final Remarks

- DLNR will make sure that SCP has received all the materials that SCP has requested.
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