




The Senate

STATE CAPITOL
HONOLULU, HAWAII 96813

August 24, 2021

MEMORANDUM

TO: Jade Butay, Director
Ross Higashi, Airports Division Deputy Director
Department of Transportation

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

SUBJECT: Senate Special Accountability Committee on Procurement Informational Briefing
Follow-Up Questions

Thank you for your presentation and the documents you provided at the August 17 Senate Special Committee's informational briefing on your department's procurement and contracting policies and procedures. A number of questions and requests for further information arose from the briefing. Please provide the following:

Training:

1. A revised chart (Handout C) on employees with procurement delegation, procurement officer or buyer/purchaser designation, dates of training required for authorization and also include latest refresher or updated training completed.
2. Explain the procedure and requirements for approving delegated authorization, e.g. some officers have completed training three years prior to authorization (see p. 7-Ana Marie Aiu) and others have been approved prior completing training (see p. 7-Carter Luke).
3. With 161 airports employees with delegated authority, who and how are the procurement staff supervised to ensure compliance with procurement law? Does the Business Management Office monitor training and/or determine whether staff has adequate knowledge? If not, who oversees staff performance? If there are challenges and/or recommendations, please provide.

4. Within the last three years, how many procurement violations have occurred? Provide the department and/or division procedures for addressing violations of procurement law, specifically the revocation of authorization and/or any other assessment(s) for violations. If procurement authority was not revoked, what corrective action has been taken to address the violation. Also provide the criteria for reinstatement.
5. Are the time requirements of ethics and compliance training every three years and mandatory procurement training every five years adequate? If not, provide recommendations.

Procurement Procedures:

6. Revise the procurement process flow charts to include designing the scope of the project; and the average days for each of the phases from solicitation to contract award
7. Concerns arise from change orders that include change of the project scope increasing the original cost of the project. Does the department monitor these changes and causes if appropriate, eg. unanticipated construction conditions. Who approves the change orders and what criteria are used.
8. The division indicated that some of the change orders occur due to design error or stakeholder requests. For contracts during the past 3 years, how many contracts required change orders due to (1) design error and (2) stakeholder requests. What were the additional costs of these change orders? Were there change orders that resulted in a change in the scope of work?
9. Provide recommendations to assess consultants for design error that results in change orders that increase the cost of the project. When professional services are submitted, language at the front-end for deterrence in language of solicitation and then determine how consultants responds
10. One of the problems of using the competitive sealed bid procurement is that the award is based on the lowest bid so there can be no consideration of the past performance of the vendor. Is this a challenge to obtaining quality performance on state contracts? What recommendations can you provide to address this problem?

Challenges/Recommendations

11. Allowing captive insurance, while cheaper for the contractor, is not in the best interest of the state. It is recommended that we require a surety bond similar to the federal

requirement but the cost of the project would increase. Provide more specific information and recommendations for a policy change in consultation with the Insurance Commissioner.

12. Procurement of professional services (HRS103D-304(g)) requires a minimum of three persons/firms to be ranked by department's selection committee, but the division has faced problems in obtaining three submissions. In these cases, continuing to solicit names is not productive and delays the project. The department recommends waiving the provision and authorizing the director to rank the submissions and proceed with the award. As there was concern raised, the department should work with the SPO and the AG to propose an amendment with safeguards, e.g. allowing after a second request for submissions (since it would require only an additional 30 days).

13. The department has faced situations when it had to deal with emergencies but the SPO has denied the request as the problem could have been prevented. The cost in going through the lengthy process increases due and may lead to more damage not immediately corrected. The department proposes more flexibility regarding emergency procurement under HRS103D-307; and also more expedited review by the SPO in these circumstances. The department proposes to add equipment failure and repairs to protect against further loss or damage, etc. and. replace the SPO approval with report to the legislature. Has the department discussed this with the SPO? Please provide responses from the SPO and recommendations to address the department's needs with safeguarding the fairness and competition standards of the procurement law.

We ask that you submit responses by **September 13** to Committee Clerk Kaley Vatalaro at k.vatalaro@capitol.hawaii.gov.

Thank you for your attention to this matter.

cc: Senator Donovan M. Dela Cruz
Senator Michelle N. Kidani
Senator Donna Mercado Kim
Senator Kurt Fevella
SPO Interim Director Bonnie Kahakui