

OVERVIEW

THE AUDITOR
STATE OF HAWAII

An Audit of Hawaii's Implementation of the New Procurement Law

Summary

In response to a procurement code that was old, fragmented, and unclear, the 1993 Legislature, in Act 8 of the 1993 Special Session, passed a comprehensive procurement code for the State of Hawaii. The new law, Chapter 103D, HRS, which was based on the framework provided by the American Bar Association's *Model Procurement Code for State and Local Governments*, was enacted to increase competition, ensure fairness, and establish greater uniformity in the purchase of goods and services by the State and counties. The law also established a procurement compliance audit unit in the Office of the Auditor.

We found that the administration has been slow in implementing the procurement code and has not taken the necessary steps to ensure effective implementation. The late start of the Procurement Policy Office without appropriate staff has limited the ability of the policy board to carry out its responsibilities. Furthermore, the late appointment of the interim administrator of the Procurement Office delayed development of an on-going training program, procurement manual, and a periodic review of the procurement process. Because rules were issued late and insufficient attention was paid to interpreting the law and communicating the rules clearly, we found a number of instances of noncompliance and confusion about the law and rules.

We also found that State and county departments and agencies followed questionable practices in three areas. First, small purchase policies vary among agencies. Second, to avoid formal competitive bids required for purchases of goods and services over \$10,000, agencies are improperly breaking up purchases into amounts below \$10,000, commonly known as "parceling." Finally, to avoid use of competitive sealed proposals to procure professional services, agencies are using the alternate list method of selection with questionable justification.

The new procurement organization structure is ineffective with conflicting and unclear roles and responsibilities. The division of responsibility and authority between the administrator and the policy office is not clear in law or practice. Both have a responsibility to audit procurement practices. In addition, we found that the administrator has conflicting roles as the chief procurement officer (CPO) for the Executive Branch and as the individual responsible for reviewing procurement practices of all governmental agencies.

Recommendations and Response

We recommend that the Procurement Policy Board and the Procurement Office be consolidated as a central authority to issue rules, interpret the procurement law and rules, and audit, monitor, and enforce its implementation.



We believe that Chapter 103D, HRS, should be amended to eliminate the designated chief procurement officers, and have the comptroller designate procurement officers for the executive branch and have the heads of the Judiciary, the Legislature, and counties designate their respective chief procurement officers. The statute should also be amended to require the administrator to issue delegations of purchasing authority.

We also recommend that the new Procurement Office establish formal written procedures to follow when clarification and interpretation of the procurement law and rules are required, and immediately develop a procurement training program specifically on the new Hawaii law and rules. The Procurement Office should amend the rules to prohibit the creation of different thresholds within the small purchase limits and specify quotation methods. Finally, the Procurement Office should develop a procurement manual with standardized forms for the source selection methods and investigate noncompliance in procurement practices.

The Procurement Policy Board agrees with our recommendation to consolidate the Policy Board and the Procurement Office. The board believes that standardized forms would conflict with each jurisdiction's unique roles and functions. Also, the board disagrees that it should prohibit the creation of different thresholds within the small purchase limits and specify quotation methods. The board agrees that the new Procurement Office should develop procurement training programs and investigate noncompliance of procurement problems and issues.

The interim administrator agrees that the law's early effective date allowed little time to plan for proper implementation of the law. He agrees on the need for contractual consistency, an expedited training program, and new procurement manuals and vendor guides.

The City and County of Honolulu commented on delegation of purchasing authority, sole source purchases, procurement of professional services, and small purchase requirements.

The Division of Community Hospitals responded that it developed division guidelines with no "lead time" in compliance with the law. The division also says it has implemented training sessions, developed its own policy and procedures manuals, and established communication linkage with facilities. The division is seeking a waiver to Chapter 103D, HRS, for the procurement of pharmaceutical drugs, and other medical supplies.

Marion M. Higa
State Auditor
State of Hawaii

Office of the Auditor
465 South King Street, Room 500
Honolulu, Hawaii 96813
(808) 587-0800
FAX (808) 587-0830