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**DEPARTMENT OF
FINANCE COUNTY OF
HAWAI'I STATE OF
HAWAI'I**

RULES AND REGULATIONS OF THE DIRECTOR OF FINANCE

RULE 4

**RULES AND REGULATIONS RELATING TO
PURCHASE OF MATERIALS, SUPPLIES, EQUIPMENT
AND SERVICES**

Rule 4. 1 Definitions.

For the purpose of this rule, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, the masculine shall be deemed to embrace and include the feminine and the singular shall be deemed to embrace and include the plural. The word "shall" is always mandatory and not merely directory.

- a) "Contractual services" shall mean and include items such as utility services, traveling expenses, cleaning services, rental and leases, repairs or maintenance of equipment or other County-owned assets, insurance, and services rendered by independent contractors and professional and other personal services.
- b) "Equipment" shall include tangible property of a more or less permanent nature, other than land, buildings, or other improvements to real property, which is useful in carrying on operations.
- c) "Supplies" shall include all supplies and materials such as stationery and office supplies, automotive and machinery parts, construction materials, recreation supplies, books, toilet and cleaning supplies, and horticultural supplies.
- d) "Using agency" is any department, agency, commission, board or unit of the County using materials, supplies and equipment and procuring contractual services, except the Department of Water Supply.

Rule 4. 2 Scope of Authority; Powers and Duties.

The Director of Finance, with the assistance of the Purchasing Agent, shall have the power and duty to:

- a) Purchase or contract for all supplies, equipment and contractual services needed by any using agency which derives its support wholly or in part from the County, in accordance with these rules and regulations, any purchasing procedures adopted for internal management and operation of the Purchasing Division of the Department of Finance and any applicable laws.

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The Director of Finance may delegate any or all functions relating to procurement, bidding procedures, contract award and/or contract administration to any using agency.

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- b) Seek to procure for the County the highest quality in materials, supplies, equipment and contractual services at the least expense, consistent with the needs of the using agency.
- c) Promote and encourage competition in purchases and sales.
- d) Establish procedures and prepare and issue circulars and instructions for the efficient operation of the purchasing process.
- e) Keep informed of current developments in the field of purchasing, prices, market conditions and new products, and secure for the County the benefits of research done in the field of purchasing by other jurisdictions, national technical societies, trade associations having national recognition, and by private businesses and organizations.
- f) Prescribe and revise such forms and procedures as reasonably necessary for informing interested parties of upcoming bids, proposals and other information.
- g) Take optimum advantage of quantity discounts through "bulk" purchases and intergovernmental cooperative buying.
- h) Declare vendors who default on their bids and/ or contracts or participate in any fraudulent, illegal or unethical business practices, irresponsible bidders, and debar them from receiving any business from the County for a minimum period of one year and a maximum period of three years, in accordance with Hawaii Revised Statutes. Any such vendor shall be given notice by registered mail and shall be given an opportunity to present any argument against such action at a public hearing; failure to respond to such written notice within five calendar days shall be considered evidence of "no-contest" to the debarment action.
- i) Classify with the assistance of using agencies and the Standardization Committee, all suitable materials, supplies and equipment commonly used by the various agencies, and prepare and adopt standards and specifications for such materials, supplies and equipment.

Rule 4. 3 Emergency Purchases.

Emergency purchases shall only be made if such purchases are required because of an urgent and immediate need created by equipment or machinery breakdown, acts of public enemies, strikes, natural disasters, civil disturbances, freight embargoes, fires, extraordinary weather, or by other unforeseeable causes or circumstances over which the agencies have no control. Emergency purchases shall be made for the purpose of protecting the health, safety and/or welfare of the people, or for protecting property, materials, supplies, equipment, and for maintaining services immediately needed. Such competition as is practicable shall be obtained, provided that required goods, services or construction may be procured in time to meet the emergency.

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Emergency purchase procedure for materials, supplies, equipment and services shall be as follows:

- a) If the cost is less than \$5,000 and the item is immediately available, the operating agency may, after seeking such competition as may be practicable, make the purchase and attach a completed emergency purchase form when processing payment.
- b) If the cost is over \$5,000 but less than statutory limits for advertised bids or proposals, after seeking such competition as may be practicable, a completed emergency purchase form must be provided and prior approval of the Purchasing Division must be obtained before purchase is made.
- c) If the cost exceeds statutory limits for advertised bids or proposals, after seeking such competition as may be practicable, a completed emergency purchase form must be provided in detail and the prior approval of the Director of Finance must be obtained.
- d) If an emergency should occur at a time when the office of the Purchasing Division is closed, the using agency may, after seeking such competition as may be practicable, obtain the materials, supplies, equipment or services directly from the most practical source and immediately thereafter submit a completed emergency purchase form and a written explanation of the emergency.

Rule 4. 4 Petty Cash Funds.

Petty cash funds are fixed sums of money provided to a using agency for the purpose of making change or paying small obligations for which the issuance of a purchase order would be too expensive and time-consuming.

- a) The establishment of all petty cash funds shall be approved by the Director of Finance.
- b) The amount of cash to be disbursed for small purchases and the procedures for use and control of petty cash funds shall be established by the Director of Finance through memoranda and may be amended from time to time.
- c) The fund shall not be used for piecemeal purchases with the aggregate purchases exceeding the monetary limits established by the Director of Finance. The fund shall also not be used as a temporary borrowing medium or to cash checks.
- d) With the approval of the Director of Finance or Purchasing Agent, petty cash may be used to take advantage of discounts offered with prompt payment.
- e) Use of petty cash funds shall be in accordance with County purchasing policies and procedures.

Rule 4. 5 Price Term Agreements.

Price term agreements eliminate the need for new procurement actions with each request for delivery or performance. In addition, price term agreements aggregate purchases allowing for greater

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competitive pricing to be obtained.

Price Term Agreements may be issued by the Purchasing Division for purchase of materials, supplies and services when:

- a) Materials, supplies and services are frequently needed in small quantities over an annual period; and
- b) Source and/ or price have been determined through purchasing procedures in conformance with procurement laws and rules.

Price term agreements must be issued to vendors with an estimated dollar limit and for a specific annual period of time, although there is no legal requirement to purchase from the vendor at any amount.

Rule 4. 6 Payment by Invoice.

Payment by invoice may be authorized for use by the Director of Finance for processing certain purchases such as those for purchases under dollar limits established herein, per diem, mileage, meals, conference and program registrations, books and periodicals, items purchased under price-term agreements, payments to government agencies, court-ordered payments, and others made in the best interest of the County in accordance with the rules established herein..

The Director of Finance may also authorize, in writing, specific individuals or specific agencies to use credit cards and the like for the purchase of specific types of items as may be efficient and practical, provided the purchases are made in accordance with established purchasing procedures and that an accurate accounting of such purchases shall be maintained at all times.

Rule 4. 7 Competitive Purchases.

All competitive purchases shall conform to Hawaii Revised Statutes and Hawaii Administrative Rules, provided that:

- a) Purchases in an amount less than \$2,500 [~~\$1,000~~], including shipping charges or taxes, may be made by using agencies pursuant to memoranda issued by the Director of Finance. Competitive quotes are strongly recommended, but are not required to be submitted to the Purchasing Division, provided that the purchase is a prudent use of public funds. An invoice may be submitted for the processing of payment for purchases less than \$2,500 [~~\$1,000~~].
- b) Purchases of \$2,500 [~~\$1,000~~] or more shall be made by the Purchasing Division, except for those items specifically delegated to certain using agencies or those items specifically exempt by law or rule. Agencies shall submit a requisition to the Purchasing Division together with complete specifications for the requested goods or services. In instances where time is of the essence, the Purchasing Division may permit agencies to solicit quotes for purchases less than statutory limits for advertised bids or proposals, with the Purchasing Division approving the final purchase.

Rule 4. 8 Noncompetitive Purchases.

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Noncompetitive purchases shall conform to Hawaii Revised Statutes and Hawaii Administrative Rules, provided that unless otherwise exempt by rule or law:

- a) Purchases of \$2,500 ~~[\$1,000 or more, but less than]~~ and up to \$5,000, shall be approved in advance by the Purchasing Division.
- b) Purchases over \$5,000, but less than statutory limits for advertised bids or proposals, shall be approved in advance by the Director of Finance.
- c) Purchases for amounts exceeding statutory limits for advertised bids or proposals shall be made only in conformance with all requirements of Hawaii Revised Statutes, including posting on the County's web site for the required period of time, and, if exceeding \$100,000, including cost and pricing data.
- d) Grants to nonprofit agencies, charitable institutions or community groups, not to exceed \$25,000, may be authorized by the Director of Finance for worthy projects or programs which enhance the community or provide needed services or assistance to residents or visitors, upon written request of a funding agency. A written contract shall be entered into between the nonprofit agency, charitable institution, or community group and the appropriate County expending agency prior to funds being released.

Rule 4. 9 Approval and Signing of Purchase Orders.

- a) Purchase orders shall be approved and signed by the Director of Finance, Purchasing Agent or any employee authorized by the Director of Finance.
- b) Purchase orders may be signed electronically, including the use of scanned or facsimile signatures.
- c) Electronic transactions without physical documents may be employed, provided that proper controls, including electronic verification, are instituted.

Rule 4. 10 Negotiated Sales of Property.

The Director of Finance may dispose by negotiated sale any County property found unusable for public purposes and valued below \$250, without public auction. The Director of Finance may authorize the transfer of any County property found unusable or in excess of needs to any recognized charitable or nonprofit organization if, in the Director's opinion, there will be a public benefit to such a transfer. Such transfers shall be made in accordance with written procedures established by the Director of Finance and such procedures and a record of any such transfers shall be kept available for public inspection.

Rule 4. 11 Protest Procedures.

All protests involving procurement actions shall strictly follow Hawaii Revised Statutes Section 103D-701, and Administrative Rules, Chapter 126, provided that:

- a) The term "should have known" shall mean the date that the information in question was available as a public record, regardless of whether any specific notification was mailed or otherwise conveyed to the aggrieved party.

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- b) Protests involving issues regarding bid specifications, special provisions, proposal documents and the like must be filed no later than five calendar days before the deadline for receipt of proposals or opening of bids.
- c) Protests involving issues relating to eligibility of bidders, award of contract to any bidder alleged to be non-responsible or non-responsive or any good or service claimed to be not in compliance with specification must be filed within five calendar days of the opening of bids, or in the case of RFP's, the announcement of award.
- d) Protests must be filed only with the Director of Finance, in duplicate, and either hand delivered (with a receipt obtained) or mailed certified, return receipt requested, in conformance with Section 3-126-3 of Hawaii Administrative Rules. Any protests not exactly conforming to the above will not be considered.

Rule 4. 12 Contracts.

Generally, formal contracts will be drafted and executed for all purchases exceeding \$50,000. Lesser amounts may be authorized using purchase orders, unless the scope of services or other terms and conditions are better described within a formal contract.

Purchase orders exceeding \$50,000 may be issued to authorize purchase of emergency services, sole source procurements, any purchases exempt from procurement law or rule, purchases made using cooperative purchasing agreements available through the State Procurement Office, any inter- governmental agreement, settlement agreement, court judgment or to enable an amendment to an existing contract or price agreement.

The General Terms and Conditions for Goods and Services, dated May 10, 2023 [~~July 1, 1994~~], or General Requirements and Covenants for Public Works Projects, dated July 1972, or subsequent revisions to same shall be attached to all contracts for the purchase of goods, services or construction as may be applicable. These documents may be revised from time to time as the need may arise, without public notice or hearing.

Rule 4. 13 Severability.

If any provision of these rules or the applicability thereof should be held invalid for any reason, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provisions or applications and to this end these rules are declared to be severable.

Rule 4. 14 Effective Date.

These rules and regulations shall take effect ten days after filing with the County Clerk.