



**STATE PROCUREMENT OFFICE  
NOTICE OF REQUEST FOR EXEMPTION  
FROM HRS CHAPTER 103D**

12 FEB -7 P3:08

STATE PROCUREMENT OFFICE  
STATE OF HAWAII

TO: Chief Procurement Officer

FROM: Department of Hawaiian Home Lands  
*Name of Requesting Department*

Pursuant to HRS § 103D-102(b)(4) and HAR chapter 3-120, the Department requests a procurement exemption for the following:

1. Describe the goods, services or construction:  
As part of DHHL's Native Hawaiian Development Program (NHDP), (HAR Title 10, Chapter 6.1) the Hawaiian Home Lands Trust Grant is being offered to DHHL beneficiary organizations to support said organizations achieve their mission and goals. \$500,000 in grant funds will be made available for the program. This program is intended to help beneficiary organizations carry out their plans to help applicants become lessees, improve homestead areas and facilities, increase the use of homestead land, or implement a community vision. The Hawaiian Home Lands Trust Grant is only available to beneficiary organizations.

2. Vendor/Contractor/Service Provider:	Various	3. Amount of Request: \$ 500,000.00
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4. Term of Contract From: <del>tbd</del> <i>period: Date of Approval to 12 month after</i>	To: <del>tbd</del> <i>Date of approval KT</i>	5. Prior SPO-007, Procurement Exemption (PE):
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6. Explain in detail, why it is not practicable or not advantageous for the department to procure by competitive means:  
DHHL will procure by competitive means. The DHHL Grants process is modeled after the State of Hawaii's procurement process known as Competitive Sealed Proposals or Request for Proposals (HRS§103D-303, and HAR Chapter 3-122, Subchapter 6).

7. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider:  
DHHL has prepared a Grants Manual explaining the procurement process in detail. It is attached hereto as Attachment A.

8. Identify the primary individual(s) who is knowledgeable about this request, who will conduct and manage this process, and has 1) completed mandatory training; and 2) who may contact for follow up inquiry, if any.  
 (Type over "example" and delete cells not used.)

Name of Department Personnel	Division/Agency	Phone Number	e-mail address
Kamana'o Mills	DHHL-OCH	620-9508	kamanao.mills@hawaii.gov

**All requirements/approvals and internal controls for this expenditure is the responsibility of the department.  
 I certify that the information provided above is, to the best of my knowledge, true and correct.**



Department Head Signature

2/7/12

Date

**For Chief Procurement Officer Use Only**

Date Notice Posted: 2/9/12

Submit written objection to this notice to issue an exempt contract within seven calendar days or as otherwise allowed from date notice posted to:

[state.procurement.office@hawaii.gov](mailto:state.procurement.office@hawaii.gov)

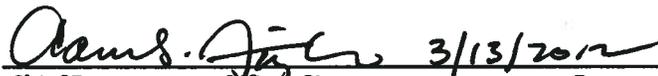
Chief Procurement Officer (CPO) Comments:

This request is disapproved as it lacks sufficient justification, the department shall comply with HRS chapter 103D when awarding funds pursuant to HAR Title 10, Chapter 6.1. If the department wants to schedule a meeting to discuss this matter further, please contact Kevin Takaesu at 586-0568, or [kevin.s.takaesu@hawaii.gov](mailto:kevin.s.takaesu@hawaii.gov).

Approved

Disapproved

No Action Required

  
 Chief Procurement Officer Signature 3/13/2012  
 Date

# Attachment 1



DEPARTMENT OF HAWAIIAN HOME LANDS



# Grants Manual

11/2011



DEPARTMENT OF HAWAIIAN HOME LANDS

THIS MANUAL WAS CREATED TO ASSIST DHHL STAFF TO:

Establish, and follow, a consistent DHHL internal grants process based on the Competitive Sealed Proposal guidelines outlined in Chapter 103D, Hawaii Revised Statutes.

**FOR INTERNAL DHHL USE ONLY**

This document, tailored for DHHL, is based on the Federal and State procurement policies and procedures. Where applicable, this Grants manual shall be considered an addendum to the Hawaii Administrative Rules, only when implementing and enforcing Federal regulations take precedence.

**Federal Law**

Federal regulations from 24 CFR § 85.36, 24 CFR § 84.42, 24 CFR § 1006.360, and any relevant regulations required by Federal statutes and executive orders issued by the U.S Department of Housing and Urban Development.

**State Law**

The procedures from Chapter 103D, Hawaii Revised Statutes, Chapters 3-120 to 3-132, Hawaii Administrative Rules, Procurement

Directives issued by the Procurement Policy Board, Procurement Circulars issued by the Administrator of the State Procurement Office (SPO), the SPO web site, and SPO Forms are also incorporated into this manual. The internal processes are based on information received from DHHL staff.

Please note that the State's procurement process routinely changes over time. As such, the procedures, SPO Forms, requirements, etc. covered in this manual may become outdated, and require annual updating. This manual reflects the State's procurement policies and procedures as of Fiscal Year 2011-12.

# Department of Hawaiian Home Lands Grants Manual

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# 1

## DHHL's Grant Program Basis

Procurement ensures the fair and equitable treatment of all persons in the State's purchasing and grants process.

It also promotes the best buy for the State by fostering competition, while maintaining the fiscal integrity, responsibility, and efficiency for the use of State and Trust funds. Though some may have concerns regarding the lengthy time and process of procurement, it is necessary to ensure fair competition among duly qualified businesses and individuals when using State and Trust funds.

### **DHHL grant programs model the RFP - 103D Procurement Process**

In consultation with the Department of Accounting and General Services - State Procurement Office (September 30, 2011), DHHL's Grant Program is modeled after the State of Hawaii's procurement process known as Competitive Sealed Proposals or Request for Proposals (abbreviated to RFP). The law and rules governing this form of procurement is covered under HRS§103D-303, and HAR Chapter 3-122, Subchapter 6.

This manual offers a step-by-step synopsis of the grants process for DHHL Divisions and staff to use. It is important for all those involved in the grants process to use this manual in conjunction with the statutes and rules. This manual should not be used as a replacement for the Hawai'i Public Procurement Code, Chapter 103D of the Hawai'i Revised Statutes (HRS); Title 3, Subtitle 11, Hawai'i Administrative Rules (HAR) on procurement; and extracts from other laws that have a direct impact on purchasing personnel. Nothing contained in this document should be construed by users to amend, modify, override, or nullify any federal or state statute, county ordinance, rule, policy or procedure of the Procurement Policy Board or the provision of any document used in competitive procurement.

### **When in doubt...**

Assistance is available to all DHHL Divisions. If you have any questions, concerns, or doubts regarding the procurement process, please ask.

# 2

## Overview of DHHL's Grant Programs

See Hawaii Administrative Rules  
Title 10  
Department of Hawaiian Home Lands  
Chapter 6.1  
Native Hawaiian Development Program



# 3

## 10 Steps thru the DHHL Grants Process

### Step 1: Draft the Grant Application

The Grant Application should include sufficient information for a potential grantee to make an adequate assessment of the work required, potential costs, time requirements, and the conditions impacting the provision of goods or services. Basic components of the Grant Application includes:

- **Purpose:** This is a brief statement about the grant program's goals and objectives, and how the grant proposals must address the needs stated within these goals and objectives.
- **Eligibility Requirements - Applicant:** This section should notify grant applicants regarding what types of organizations may apply (ie. 501(c)(3) Non-Profit Organizations, Associations on Hawaiian Home Lands, etc.), and any other applicant-related requirements. A statement should be included asserting that grant proposals received that do not meet this eligibility requirement will be automatically rejected.
- **Eligibility Requirements - Beneficiaries:** This section should notify grant applicants regarding what types of beneficiaries shall be serviced under this grant, (ie. Beneficiaries of the Hawaiian Home Lands Trust.) and any requirements that shall be met, such as household income limits. A statement should be included asserting that grant proposals received that do not meet this eligibility requirement will be automatically rejected.
- **Eligibility Requirements - Eligible Categories and Activities:** This section should notify grant applicants regarding what types of grant categories and activities shall be considered under this grant, as it relates to the grant programs goals and objectives. A statement should be included asserting that grant proposals received that do not meet this eligibility requirement will be automatically rejected.
- **Background:** This section should briefly state important facts about the grants process.

- **Project Concept / Scope of Work:** This should describe, in general terms, the good, service, or construction to be considered for grant award. Specifications may be referenced by attachment. The project concept / scope of work should address:
  1. Goals, objectives, specific tasks, sub tasks, parameters and limitations restricting such task or sub tasks which shall be accomplished to meet the overall purpose of the proposed grant. Tasks and sub-tasks shall be presented in a work plan, with each task numbered and organized in such a manner as to identify it as an individual task among many. This is one of the most important sections of the grant proposal because it is the section upon which the grant applicants will base their proposed costs.
  2. Descriptive factors, such as plans, statistical reports, office space, personnel, response times, workmanship, working hours, overtime, access to work site etc.
  3. Consistent terminology describing the roles of those involved in the grant. Examples include: using grantee (not offeror, consultant and then vendor). At the same time, refer to the administrator of the grant as the grant manager (not project leader, purchasing manager, etc.). Any term is acceptable, but should be used consistently to avoid any assumption that more than one position may exist.
  4. Mandatory verses optional requirements should be addressed with shall and must verses should and may.
  
- **Funding Levels and Project Term:** This section should notify grant applicants regarding any minimum or maximum funding levels, different funding ceilings for each goal/objective if applicable, timelines to complete grants, whether contract extensions are allowed, etc.
- **Proposal Preparation Instructions:** This section should tell the grant applicants how and where to submit their proposals and specific instructions on the number of copies, signature requirements, required attachments, grant deadlines, etc.
- **Evaluation and Award Criteria:** This section should provide the grant applicants with a clear understanding of how their grant proposal will be evaluated and the procedures for awarding the grant. This section is described in more detail further on in this manual.

## **Step 2: Appoint the Evaluation Committee**

The evaluation committee shall consist of at least three state employees with a background in grants and/or working with homestead communities. One of the committee members must be the contract administrator. Private consultants may also serve (without compensation) on the committee provided that they have relevant knowledge, do not have a conflict of interest, agree to keep the evaluation and all information they view confidential, and agree to their name being made public upon the award of the contract.

Individuals serving on the evaluation committee must complete an affidavit (SPO Form-24) to ensure that there are no potential conflicts.

## **Step 3: Announce Availability of Grants : Public Notice**

Issue the Grant Application with a cover sheet, and publish a public notice to solicit potential grantees. At a minimum, public notices must be publicized on the SPO internet site. Public notices may also be published in a statewide newspaper (of statewide circulation,) a county wide publication (of circulation in the pertinent county,) or may be mailed or faxed to persons on any applicable mailing list, if any. A copy of the solicitation should also be available for public inspection at DHHL. Pursuant to HAR §3-122-16.02(2), the minimum time period between the date of the last public notice of the solicitation and the date set for receipt of grant proposals is thirty calendar days.

Pursuant to HAR §3-122-16.03(b), the public notice must include the following information:

- The title of the grant application or funding source and a brief description of the services being sought, eligible categories and activities accepted under the grant;
- Where and when the grant application will be available and a phone number or e-mail address where interested parties may request a copy;
- How long the grant application will be available; and,
- Other appropriate information.

## **Step 4: Receive Grant Applications**

Once the public notice has been published and grants proposals arrive at DHHL, time stamp the grant proposals upon receipt and store in a secure location until the due date.

Open the grant proposals in the presence of two or more DHHL officials. Prepare a register of grant proposals received and indicate the name of each potential grantee, the number of modifications received, if any, and a description of the goods and/or services offered. Grant proposals are open for public inspection only after the grant is approved, and a contract is signed by all parties.

## Step 5: Convene Evaluation Committee, Score Proposals

Convene the members of the evaluation committee to evaluate the grant applications. Provide the evaluation committee with score sheets based on the criteria stated in the grant application.

Evaluation factors which are not specified in the grant application may not be considered. The grant application cannot contain language that says the evaluation is based on “and any other criteria DHHL may decide to use.”

Evaluations may be done with a numerical rating system. If the evaluators set their own criteria, it must be in writing and included in the Grant Application prior to the solicitation. Evaluations must consider applicability of any preference offered in Chapter 3-124, HAR, Preferences. Special calculations are required when price is evaluated using a numerical rating system. (See example below.)

The points allocated to the higher-priced proposals must be equal to the lowest proposal price, multiplied by the maximum points available for price, divided by the proposal price. Formula:

**SAMPLE**

Lowest proposal price X Maximum points ÷ Proposal price = Rating Points

Proposal 1: \$105,000. \$85,392 X 25 points ÷ \$105,000 = 20.33 Rating Points  
Proposal 2: \$85,392. \$85,392 X 25 points ÷ \$85,392 = 25.00 Rating Points  
Proposal 3: \$175,000. \$85,392 X 25 points ÷ \$175,000 = 12.20 Rating Points  
Proposal 4: \$86,500. \$85,392 X 25 points ÷ \$86,500 = 24.68 Rating Points

*Example evaluation rating system*

## Step 6: Formal Approvals

The following documents, properly signed and dated, shall be included in the contract file prior to the Chairman's approval.

DOCUMENT SIGNATURE	DOCUMENT
Signed by Chair	<b>Memo:</b> Appointment and identification of evaluation committee members. (3 Minimum)
Signed by Evaluation Committee	<b>Affidavit of Evaluation Committee members</b> (SPO-24)
	<b>Document:</b> Grant Application
	<b>Notice:</b> Notice of Grant Availability solicitation
Signed by Solicitation Poster	<b>Document:</b> Statement of Attestation for Internet Posting
	<b>Proposals:</b> Grant proposals with time stamps
	<b>Document:</b> If there are rejected proposals, statement as to why the proposal was rejected.
Signed by Evaluation Committee	Score sheets & rankings
Signed by Chair	<b>Document:</b> Submittal before the Hawaiian Homes Commission
	<b>Document:</b> HHC Minutes of the approval/disapproval of the grant award(s)
	<b>Memo:</b> Notice of Award
	<b>Document:</b> Register of grant proposals
	<b>Notice:</b> Public Posting of Award (Contracting to begin after 5 days)
	<b>Document:</b> De-briefing of un-awarded grant applicant(s), if necessary

## **Step 7: Posting Awards**

All grant recipients, their award amount, and their proposed services, must be posted publicly on DAGS Procurement Awards, Notices, and Solicitations (PANS) website within 7 days of award.

## **Step 8: Debriefing and Protest Periods**

### **Debriefing**

Pursuant to HRS§103D-303(h), non-selected grant applicants may submit a written request for debriefing to DHHL within three working days after the posting of the award of the contract. Thereafter, DHHL shall provide the requester a prompt debriefing. Any protest by the requester pursuant to HRS §103D-701 following debriefing shall be filed in writing with the DHHL within five working days after the date that the debriefing is completed.

### **Protest**

Pursuant to HRS§103D-701, there are two windows when an individual or agency may protest: A protest of the solicitation and a protest of the award. A protest of the grant's solicitation must be made prior to proposal opening date as stated in the grant application. A protest of an award or proposed award shall be submitted in writing within five working days after the public posting of award of the contract.

## Step 9: Contracting

Should there be no protests following five working <sup>days</sup> after the award(s) are published on the PANS website, Contracting of awards shall commence.

The contract templates to use for grants are as follows:

DOCUMENT NO.	DOCUMENT
Not an AG form	Sub Recipient Agreement
AG-008	General Conditions
AG-010	Standards of Conduct
AG-011	Scope of Services
AG-012	Compensation and Payment Schedule
AG-014	Certificate of Exemption from Civil Service
AG-015	Special Conditions (if needed)

Forward to the Department of the Attorney General-PSHAA (via email) the contract for initial review. Once approved by the AG, print four copies of the contract. Signature process as follows:

1. Contracts to the grantee for signature / notary.
2. Contracts to Deputy Attorney General for signature.
3. Contract to HHC Chairman for signature.

Once all signatures have been secured, the contracts are forwarded to Fiscal. Fiscal forwards contracts to DAGS Pre-audit for contract certification. Once the contract administrator receives the certified copies from DAGS, the invoices for payment may be processed.

## Step 10: Contract Monitoring

The contract is awarded to a grantee (now referred to as a sub-recipient). The sub-recipient shall maintain records including, but not limited to, financial records, bid documents, and all other records sufficient to reflect all direct and indirect costs incurred to perform the work assigned.

Sub-recipients shall submit quarterly reports and/or other data as required by DHHL. Sub-recipients shall maintain, and make available for review and inspection, all records and reports related to the grant. These records and reports shall be maintained for a period of three years after the close of the grant agreement.

At any time during the term of contract, DHHL may conduct site visit(s) at the sub-recipient's place of work, or job site(s) for the purposes of contract monitoring.

For Grants using NHHBG Funds, DHHL is responsible for monitoring its grant activities, monitoring any sub-recipients, ensuring compliance with applicable federal requirements, and monitoring its 5-year and 1-year goals and objectives under the NHHP.

### Self-monitoring

DHHL is required to complete a self-monitoring assessment of adherence to NHHBG Program requirements and applicable statutes and regulations at least once a year. This monitoring requirement includes conducting an on-site inspection of all DHHL-owned housing units assisted with NHHBG funds. Reporting on self-monitoring assessments is a required element of the APR.

### NHHBG

DHHL, as the NHHBG recipient, is responsible for monitoring grant activities to ensure compliance with applicable federal requirements and monitoring performance goals. DHHL is responsible for preparing and submitting to HUD:

1. An APR within 60 days of the end of the program year.
2. An OMB Circular A-133 Single Audit Act audit within 9 months after the end of its fiscal year.

### Sub Recipients

Within the NHHBG program, sub-recipients may be non-profit or other entities that have a sub-recipient agreement with DHHL to undertake and manage specified projects and activities. DHHL is required to monitor all of the sub-recipients to ensure compliance with written sub-recipient agreements.

**Contract Close Out**

To close a sub recipient agreement at the end of its term, the sub recipient sends DHHL a “Final Payment” invoice and a final report. The sub recipient must also include their certificate of vendor compliance with the status of “compliant.”

Should a sub recipient’s certificate of vendor compliance be “not compliant,” final payment can not be remitted. Sub-recipient must fulfill all state requirements and return to the status of “compliant” prior to remitting final payment.

**Unencumbrance of Funds**

A sub recipient may also request a contract to be closed before all of the funds have been expended for various reasons (ie. project completion; unable to complete project due to staff shortages, etc.). In this circumstance, the sub recipient shall send a letter to DHHL explaining the reason(s) for the premature closure.

The contract monitor then drafts an internal memo to the DHHL Fiscal Officer requesting an unencumbrance of funds. The memo shall state the sub recipient’s name; the sub recipient agreement’s contract number; the sub recipient agreement’s contract balance; and reason(s) for the premature termination of the sub recipient agreement.

The following documents shall be included with the memo.

- Copy of letter requesting the unencumbrance;
- Copy of the first page of the contract;
- Copy of the contract certification from DAGS;
- Certificate of Vendor Compliance

# 4

## Debriefings and Protests

### Debriefings

Within three working days after the posting of the award, a grant applicant may request, in writing, for debriefing. DHHL's Procurement Officer shall schedule the meeting within seven working days, or as soon as practicable.

DHHL's Procurement Officer provides a debriefing to furnish the basis for the selection decision and contract award. Debriefing should be given orally, in writing, or by any other method as determined by the Procurement Officer, and should include:

- The evaluation of significant weaknesses or deficiencies in the grant applicant's proposal, if applicable;
- The overall ranking of all grant proposals (abstract or summary of results), when any such ranking was developed during the grants process;
- A summary of the rationale for award; and
- Reasonable responses to relevant questions whether the grant procedures, applicable laws and rules were followed.

Debriefings should not:

- Include point-by-point comparisons of the requesting grant applicant proposal with those of other grantees.
- Reveal any information prohibited from disclosure by law (HRS chapter 92F, Uniform Information Practices Act), including trade secrets, or privileged or confidential commercial or manufacturing information.

A summary of any debriefing conducted should be included in the contract file. The debriefed grant applicant may file a protest within five working days after the date that the debriefing is completed.

## **Protests**

Within five working days of the public notice of award, or prior to the grant proposal opening date, an individual or organization may submit a formal protest in writing to DHHL. Pursuant to HAR §3-126-5, once a protest is received, a stay of procurement is executed. All grants are frozen, and no further action shall take place until the protest is settled.

A decision is rendered by the Chief Procurement Officer (Chairman of Hawaiian Homes Commission) to either deny or sustain the protest. If the protest is denied, the protester, within seven calendar days of the Chief Procurement Officer's decision, may file an appeal with the Department of Commerce and Consumer Affairs - Administrative Hearings Office, and shall inform the Chief Procurement Officer when filing an appeal with the DCCA. Should the protest be sustained, remedies are developed pursuant to HAR Chapter 3-126, Subchapter 4.

# 5

## Violations

The Chairman is responsible for DHHL's compliance with the procurement law.

Violations of chapter 103D, HRS, which are normally inadvertent, may be avoided through the implementation of better procedures, employee training, and progressive discipline.

Certain violations of chapter 103D, HRS, may be subject to civil and criminal penalties:

**Civil penalties.** A person who contracts for, or purchases goods, services, or construction, in a manner the person knows to be contrary to the requirements of the procurement law is liable for all costs and damages to the State arising out of the violation.

In order for civil penalties to apply, a person must have knowingly violated the requirements of the law. Violations that are the result of administrative error or mistake, ignorance, or carelessness are usually not subject to the civil penalties.

**Criminal penalties.** A person who intentionally or knowingly contracts for or purchases goods, services, or construction, under a scheme or artifice to avoid the requirements of the procurement law shall be guilty of a misdemeanor, subject to removal from office, and be liable to the State for any sum paid.

In order for criminal penalties to apply, the violation must have been committed in a deliberate manner, involving some calculated means, such as parceling for a single procurement, a deliberate misstatement of fact, or an after-the-fact purchase, which is purposefully designed to avoid the requirements of the law.

**Corrective action.** When a purchasing violation has occurred, the Chief Procurement Officer determines whether any corrective action is necessary to remedy the situation, or prevent its reoccurrence. Action may include training, or a reduction of an employee's purchasing authority.

# 6

## Other Federal Requirements

Pursuant to Federal regulation 24 CFR § 85.36(a), “When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal Funds.”

### **Federal Contracting Database**

Prior to awarding a contract, please be advised that DHHL and grantees are required to check the Federal Limited Denial of Participation and Excluded Parties List System pursuant to 24 CFR § 85.35. This is to ensure that DHHL and grantees do not make any award or permit any award to any party which is debarred, suspended, or is otherwise excluded from Federal assistance programs under Executive Order 12549, “Debarment and Suspension.”

### **Limited Denial of Participation:**

[https://www5.hud.gov/Ecpcis/main/ECPCIS\\_List](https://www5.hud.gov/Ecpcis/main/ECPCIS_List)

When accessing this website, print out the entire list to indicate whether the party you are searching is listed or not; or you can search on the party’s name and print out the result. If the party is not listed, the web site will indicate “Records Found: 0”.

### **Excluded Parties List System:** <http://www.epls.gov/>

This search can be done by partial name or exact name and SSN/TIN. The search will either produce a list of names that contain the partial name you are looking for and you will need to read through it to see if there are any matches, or the web site will indicate “Your search returned no results”. In either instance you are able to print out the results. If a list of names is produced, you will find a printer friendly option at the bottom of the page to make a clean print out of the results. If you do not find a match to the list of results you are searching, that can be documented by hand on the print out by whomever is doing the search and verification.

### **State Debarred / Suspended Persons List**

DHHL and grantees are also required to check the State of Hawai’i List of Debarred and Suspended Persons. This is to ensure that DHHL and grantees do not make any award or permit any award to any party which is debarred and/or suspended pursuant to HRS 103D-702. The list and procedures for debarment and suspension is located at: <http://hawaii.gov/spo/hawaii-public-procurement-code-chapter-103d-hrs/debarmentand-suspension>.