

 HAWAII HEALTH SYSTEMS C O R P O R A T I O N <i>"Touching Lives Everyday"</i>	Department: Corporate Finance	Policy No.: PUR 0024
		Revision No.: 1
Policies and Procedures	Issued by: Kelley Roberson COO & CFO	Effective Date: October 1, 2007
	Approved by: Thomas M. Driskill, Jr. President & CEO	Supersedes Policy: November 1, 2006
Subject: Procurement Violations		Page: 1 of 3

- I. **PURPOSE:** The Board of Directors and the President & CEO are responsible for ensuring that the law is followed in the procurement of goods, services and construction. Documentation of noncompliance with procurement laws, rules and guidelines will help ensure that the Board is informed of errors and gives management valuable information to identify areas that need improved training and processes. Violations also assist in pointing out deficiencies in the applicable procurement laws and can assist in forming the basis for legislative initiatives.

- II. **POLICY:** It is the policy of HHSC that employees will self-report violations of procurement rules, as more fully detailed below. Violations of the procurement policies, rules, laws, and guidelines will be documented on the HHSC modified version of the State Procurement Office Form 16 (HHSC PUR Form 016, attached). Violations are generally inadvertent and can be decreased through implementation of better procedures, employee training and progressive discipline. The Executive Director of Contract Management will regularly report violations to the Board and will present corrective actions, where applicable.

- III. **PROCEDURE:**
 - A. **Procurement Violation Defined.** A procurement violation as intended in this policy references failure to follow applicable laws, rules, policies and Chief Procurement Officer (CPO) issued guidance in procuring goods, services, or construction. Examples would include, but not be limited to, the following:
 1. Failing to use the appropriate level of competition;
 2. Working a contractor or buying goods without a valid purchase order or contract in place prior to commencement of performance or after expiration of the contract;
 3. Expenditure beyond the not-to-exceed (NTE) amount of the contract, unless the NTE is designated as administrative, only, in non-fixed contracts;
 4. Failing to obtain the required tax clearance, or DLIR or DCCA certificates prior to execution of the contract;
 5. Failing to obtain Board approval or other necessary approvals prior to entering into a contract;
 6. Parceling (artificial division of purchase to avoid procurement requirements).

B. Process.

1. When a procurement violation has been identified, the responsible employee shall complete the PUR Form 016 and submit it to the applicable Executive Management Team (EMT) member for review and signature. The violation shall state the facts of the occurrence and be completed in a thorough and truthful manner, to include:
 - a. The facts and circumstances leading to the need for the good or service, including the explanation as to why established procedures were not followed;
 - b. Whether there are any indications of intent to deliberately evade established purchasing procedures;
 - c. Any lack of procurement information or training;
 - d. Whether this is a first occurrence; and
 - e. Whether appropriate written assurance and safeguards have been established to preclude a subsequent unauthorized procurement.
2. The completed PUR Form 016 report shall be submitted to the office of the Executive Director of Contract Management for review. If the document is not complete, it will be returned for further clarification.
3. Once complete, the PUR Form 016 shall be sent to the CPO (Pres/CEO), or his designee in his absence, for review, comment, and approval. The CPO shall indicate if any corrective action is necessary to remedy the situation, or prevent its reoccurrence. Action may include training, or reduction of an employee's purchasing authority, or other appropriate action.
4. The CPO or designee will then send the PUR Form 016 back to the Executive Director of Contract Management's Office where the Director will review it for instructions from the CPO and further corrective action or other follow thru. The approved PUR Form 016 is then sent to the requesting employee, EMT member, and contract manager involved, as applicable.
5. The EMT member is responsible for disseminating the approved PUR Form 016 to other staff, as applicable, such as, the business office, and following thru with the corrective action applicable to his/her area of responsibility.

C. Retroactive or "after-the-fact" Payment. In the event payment of a contractor is requested without a valid purchase order or contract in place covering the performed services, the amount requested and the time period shall be clearly stated on the form. It is permissible to also include in the dollar amount requested payments for future work up to 4 months while a contracting action is being finalized. The Purchase Request must have been submitted and accepted prior to requesting payment for future services (attach it to the PUR Form 016).

D. Approval of The PUR Form 016 is Not Approval to Negotiate a Contract. The Purchase Request form must still be completed and the appropriate method of procurement followed in order to continue the services or purchase.

E. Penalties. Civil and criminal penalties may be applicable for failure to adhere to the procurement law and rules.

- IV. **APPLICABILITY:** All HHSC facilities and HHSC Corporate staff. Once a Regional System Board has adopted procurement policies and is overseeing procurement in the region, this policy shall no longer apply to errors involving Regional or Multi-Regional Contracts (See PUR 0019 for definitions).
- V. **REFERENCES:** HRS 323F, as amended; Chapter 103D HRS; HAR 3-120 thru 132, specifically 3-131. Reference to HRS 103D and corresponding administrative rules does not intend to waive any applicable exemption to 103D and the rules.

HAWAII HEALTH SYSTEMS CORPORATION
PROCUREMENT VIOLATION:
REPORT OF FINDINGS AND CORRECTIVE ACTIONS
REQUEST FOR AFTER-THE-FACT PAYMENT APPROVAL

TO: Thomas Driskill Jr. Chief Procurement Officer, Pres/CEO

FROM: _____ FACILITY: _____

SUBJECT: Procurement Violation Pursuant to § 3-131-6, HAR

Specifically: (describe procurement action and vendor name HERE):

PART I - REPORT OF FINDINGS AND CORRECTIVE ACTIONS for a procurement violation.

☐ Information attached on separate sheet.

(1) Describe the facts and circumstances leading to the need for the good or service, including the explanation as to why established procedures were not followed.

(2) Describe any appearance or indications of intent to deliberately evade established purchasing procedures.

(3) Is there any lack of procurement information or training? ☐ YES ☐ NO If yes, explain:

(4) Was this a first occurrence? ☐ YES ☐ NO If no, explain:

(5) Describe assurances and safeguards that have been established to preclude a subsequent unauthorized procurement. Attach any written procedures and policies that apply.

(6) Direct questions to: _____ Phone: _____
I certify that the information provided above is to the best of my knowledge, true and correct.

Department Head or Designee Date Title (If other than Department Head)
Print name here:

Chief Procurement Officer's comments:

☐ APPROVED ☐ DISAPPROVED _____
Chief Procurement Officer Date

PART II. REQUEST FOR AFTER-THE-FACT PAYMENT APPROVAL, if applicable.

*☐ Request is hereby made for payment to the vendor (attach explanation if necessary):

Vendor/Provider Name: _____ Amount: _____

Was there a valid contract/PO in place when services/goods received: ☐ YES ☐ NO

Any additional justification for payment:

Chief Financial Officer's comments:

☐ APPROVED ☐ DISAPPROVED _____
Chief Financial Officer/Comptroller Date