



February 10, 2017

Lilia Kapuniaia
Executive Director
Papakolea
2150 Tantalus Drive
Honolulu, HI 96813

Dear Ms. Kapuniaia,

This is in response to the protest of award for Request for Proposal (RFP) 17-06 for Kūkulu Ola, protest submitted on February 3, 2017 on behalf of Papakolea Community Development Corporation (PCDC) in regards to a program entitled Papakolea Ha`aheo Project. After careful review and consideration of the written submittal, the protest is denied. We provide the following analysis in connection with this denial:

1. *“PCDC sufficiently addressed the evaluation criteria within the application character limitation, and we presented a project that advanced the goals of the Living Hawaiian Culture Program.”*

Yes, the proposal did meet the requirements set forth in the RFP. The Chief Procurement Officer (CPO) has the discretion to eliminate from consideration any proposals that are not substantially responsive to the RFP requirements. Your proposal was not eliminated and was presented to the evaluation committee for consideration. Meeting these requirements is a threshold matter and does not guarantee award.

2. *“PCDC has solid past performance, and has strong capacity to deliver a project of similar scope, that was demonstrated in its detailed work plan. Elements of the proposal are consistent with grant writing standards, and sufficient details were provided to justify the budget request. Moreover, the application included 17 letters of support from a diverse range of project partners representing academia, financial institutions, the local public school system, and community-based organizations, that look to PCDC to broaden the reach of their programs and promote Hawaiian culture.”*

The elements you listed were presented to the evaluation committee and were judged and scored by the evaluation committee based on the criteria and scoresheet published in the RFP. RFP 17-06 was a competitive procurement. There were over 60 submissions for this RFP. We find that the CPO followed all the rules and procedures when handling submissions.

3. *“Subjective opinions by evaluators do not constitute a fair and impartial evaluation. In fact, a fair and impartial evaluation is a result of objectivity in scoring against the evaluation criteria defined in the RFP.”*

RFP 17-06 was an open invitation for program proposals related to Hawaiian Culture. In a typical government procurement, the government takes bids from the public on a specific State project that needs to be done, and the submissions are judged by price and applicant qualifications. RFP 17-06, however, was not a request for bids to a specific

State project proposal but was, instead, an invitation to the public to present project proposals for State consideration. The proposals received for RFP 17-06 covered a wide range of programs and events, in a variety of locations, with varying budgets and differing key performance indicator results. As such, a certain degree of subjectivity is appropriate and even necessary. This subjectivity, however, has to be balanced with a thorough and transparent criterion. The criterion in the RFP and RFP Addendums need to match the criterion in the fillable PDF which in turn needs to match the breakdown on the scoresheet. The breakdown in the scoresheet published in the RFP or RFP Addendum has to match the breakdown of the scoresheet used by the evaluators. The degree of subjectivity was also noted in the RFP itself on page 55. The process undertaken by the CPO satisfied this requirement. We found no inherent unfairness in the process.

4. *“I am hereby requesting re-evaluation of the Papakolea Haaheo Project proposal by the Chief Procurement Officer and the Chief Operating Officer.”*

A protest is limited by statute to challenge the failure of a purchasing agency to follow rules and procedures as established by Hawai‘i Administrative Rules (HAR) 3-148 and by Hawai‘i Revised Statute Chapter (HRS) 103F. Absent any evidence of failure in that regard, the purchasing agency will not override the decision of the evaluation committee, nor will we reevaluate the proposal.

5. *“Further, I am requesting the following documents in accordance with the Uniform Information Practices Act that specifically promotes open and transparent government practices.”*

Your UIPA request will be processed in accordance with HRS 92 and HRS 92F.

Consequently, the protest is denied and this decision is final and conclusive. Pursuant to Hawai‘i Revised Statutes (HRS) §103D-709, you may appeal this decision by filing a request for administrative review along with a cash or protest bond in the amount of \$1,000.00, within seven (7) calendar days from issuance of this letter to:

Office of Administrative Hearings
Department of Commerce and Consumer Affairs
335 Merchant Street, Suite 100
Honolulu, Hawaii 96813

The Procurement Officer shall be notified within seven calendar days of the issuance of this decision if a request for an administrative review will be filed. Pursuant to HRS §103D-709(d) the protestor may request an administrative review when the procurement is conducted pursuant to HRS § 103D-302, competitive sealed bidding, or §103D-303, competitive sealed proposals. The following provision for submitting an appeal is based on your proposal request of \$51,170.00:

For RFPs in which the resulting contract has an estimated value of less than \$1,000,000.00, and the protest concern at issue is greater than \$10,000.00, the request to appeal shall include cash or protest bond as follows:

- If the contract estimated value is less than \$500,000.00, submit \$1,000.00.

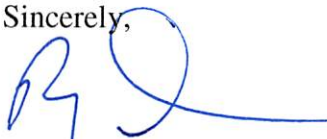
Note: “Estimated value of the contract” or “estimated value” means the lowest responsible and responsive bid [IFB], or the amount of the responsible offeror whose proposal [RFP] is determined most advantageous.

If you prevail in the DCCA administrative proceeding, the cash or protest bond shall be returned to the protestor. If protestor does not prevail, the cash or protest bond will be deposited into the general fund.

Bonds forms are available at <http://hawaii.gov/spo>, select ‘SPO Forms’ under the ‘Toolbox/Quicklinks’ menu; click on *Forms for Vendors Contractors and Service Providers of Goods, Services and Construction*.

Questions on this matter may be directed to me at randy@gohta.net.

Sincerely,



Randy Baldemor
Chief Operating Officer