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STATE PROCUREMENT OFFICE EMERGENCY PROCUREMENT REQUEST

STATE PROCUREMENT OFFICE
STATE OF HAWAII

1. TO: Chief Procurement Officer
2. FROM: Land & Natural Resources/Engineering

Department/Division/Agency

Pursuant to §103D-307, HRS, and Subchapter 10, Chapter 3-122, HAR, the Department requests approval for the following:

3. Date 4/1/2011	4. After the fact <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
5. Nature of the Emergency During 12/07, heavy rains inundated Manele SBH; flooding rains overtopped the existing silt basin and deposited debris across the harbor's shore facilities. Approx. 1,300 CY of sediment filled an existing stormwater management sediment basin greatly reducing its ability to handle future stormwater flows. The damages from this storm led to Governor's Emergency Proclamation and Presidential Emergency Proclamation.	

6. Vendor: Maui Master Builders Address: 72 Ting's Drive Wailuku, Hawaii 96793	7. Price: \$37,870.00
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8. Description of goods, services, or construction to be purchased
The scope of work included all labor, materials, equipment and incidentals to remove and dispose of the approximately 1,300 CY of debris and sediment within the silt basin.

9. Reason for Vendor Selection
Written quotes were received from three vendors; Maui Master Builders, Inc. (MMB) provided the lowest quote, which was lower than FEMA's estimate. Further, MMB was the only construction company with all the heavy equipment to do the work on Lanai and MMB was readily available to do the work.

10. Direct questions to: Dickey Lee/Gayle Ito ⁵⁸⁷⁻⁰²⁷³ Phone: 587-0280

11. I certify that the information provided above is to the best of my knowledge, true and correct.

Gayle Ito 4/11/11
Department Head Date

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12. Chief Procurement Officer's comments:

This request does not meet the requirements for an emergency procurement, and is not an appropriate use of the emergency procurement provision because the department took approximately two years after the heavy rains to initiate and complete the corrective action on the silt basin. As this is a procurement violation, department shall submit form SPO-016.

13. APPROVED DISAPPROVED NO ACTION REQUIRED

David Ayala 5/4/2011
Chief Procurement Officer Date

14. E.P.No. 11039-K

**Supplemental Information Pertaining to
Emergency Procurement Request – Manele Small Boat Harbor**

The following information is included to familiarize the reader with the history of this project.

1. This project was identified by FEMA to be eligible for Public Assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.
2. FEMA identified this project as PW80 and by letter from State Civil Defense (“SCD”), dated September 28, 2009, obligated a total of \$110,087.52, representing 75 percent of the total eligible amount of \$146,783.36
3. Written quotations were received from three (3) contractors as summarized on the “Record of Procurement” contained herein. The quotation received from the low bidder, Maui Master Builders, Inc. (“MMB”) was lower than the \$108,000 estimated by FEMA. MMB was awarded the contract and the project was completed on February 19, 2010.
4. Because funds were not available to pay for 100 percent of the work (\$37,870.00), DLNR Engineering worked with SCD to receive 75 percent of the actual cost (\$28,402.50) requiring the State to provide 25 percent of the actual cost and the State would be able to pay the contractor and provide SCD with proof of payment. SCD transferred the funds (\$28,402.50) to DLNR during November 2010.
5. Because Engineering had mistakenly received Federal funds for a portion of the State’s 25 percent share of the cost, this error had to be corrected. Federal funds cannot be used to supplement the 75 percent Public Assistance monies provided by FEMA.
6. After the aforementioned error was corrected, processing of the paperwork for payment to the contractor resumed and submitted to Fiscal for payment. Engineering was then informed by Fiscal that an approved Emergency Procurement Request was required before the payment could be further processed.
7. SCD is now requesting documentation of payment to the contractor or reimbursement to SCD/FEMA for the funds advanced. Without the advance, the contractor cannot be paid as funds are not available. Even if funds were available to pay the contractor, returning the advance to SCD/FEMA seriously jeopardizes repayment once the contractor is paid. Also, SCD has withheld an advance for another project, which was previously requested.
8. It should be noted that these advances provided by SCD/FEMA are crucial as funds were NOT appropriated by the Legislature to pay for any damages for this disaster and because of budgetary constraints, the agencies do not have adequate funds to cover the costs of repairs.