



STATE PROCUREMENT OFFICE  
EMERGENCY PROCUREMENT

13 JUN 14 P2:03

TO: Chief Procurement Officer

STATE PROCUREMENT OFFICE  
STATE OF HAWAII

Department of the Attorney General  
Name of Requesting Department

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

1. Date or period of Emergency: May 14, 2013	2. After-the-Fact: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--	--

3. Describe in detail the emergency situation that created a threat to life, public health, welfare or safety.  
 On May 13, 2013, after the close of business, the Department of Hawaiian Home Lands (DHHL) informed the Department of the Attorney General (AG) that on May 15, 2013 the U.S. Fish and Wildlife Service's (USFWS) was holding a public informational meeting and public hearing in Kona regarding the USFWS' proposal to designate 18,766 acres in the Kona area as critical habitat for three endangered plant species. Of the 18,766 acres, 64% is on state lands, 34% on private lands, 2% on federal lands, and less than 1% on county lands. Much of the impacted state land is Hawaiian homestead land. The initial comment period closed on December 17, 2012, subsequently after preparing an economic analysis in late April, 2013, the USFWS decided to re-open the public comment period and accept final public comments until May 30, 2013. Because of unfamiliarity with the federal designation process and procedures, the DHHL had not submitted any opposition, and did not inform the AG of the USFWS' proposed designation until May 13, 2013, and the AG determined the State needed to immediately prepare and submit a vigorous rebuttal to the proposed designation on the basis that the USFWS is overreaching and designating much more land than is necessary to protect the three endangered plant species.

4. Vendor/Contractor/Service Provider: Charlene Shimada, Esq. Michael B. Wigmore, Esq. Ella Gannon, Esq. Bingham McCutchen LLP Three Embarcadero Center San Francisco, CA 94111	5. Amount of Request: <del>\$50,000</del> 29,289 00 01/13
---	--

6. Describe in detail the emergency goods, services, or construction and explain why it is necessary.  
 Highly specialized legal services to immediately prepare testimony in opposition to the USFWS proposed designation of state lands as critical habitat. Designation of critical habitat by the USFWS is a highly specialized subject area, requiring knowledge and experience in both the substantive law and the federal procedures. The State has already missed its previous opportunities to comment on the proposed designation, and it now appears there is only one final chance to submit comments. As such, these final comments must be thorough and complete because there may be no opportunity to expand or correct these comments. Compounding the difficulty of the matter is the fact that much of the land affected by proposed designation involves Hawaiian homestead lands, and an inevitable and highly public conflict is expected between environmentalists and native Hawaiians. The testimony thus needs to be sensitively considered and written, acknowledging the various factions of interested parties, and mindful of the highly emotionally and politically charged nature of the subject matter.

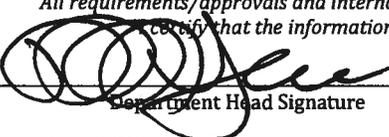
7. State the reason (s) the vendor/contractor/service provider was selected. Explain what competition, as is practicable, was conducted.  
 Due to the highly specialized nature of the legal services required for this project, the Attorney General contacted the National Association of Attorneys General and specific attorneys general who also have had to go against the USFWS over the designation of critical habitats, and asked for recommendations for qualified attorneys with the requisite knowledge and expertise in this specialized area. The Attorney General also reviewed local counsel for familiarity and experience in this area. The Attorney General interviewed several individuals from established firms. Final selection was based on the depth and scope of experience and expertise in the subject area and a high regard for the legal services provided to the AG on a previous USFWS endangered species proceeding involving endangered migratory sea birds.

8. Identify the primary responsible staff person(s) conducting and managing this procurement. (Appropriate delegated procurement authority and completion of mandatory training required.)

\*Point of contact (Place asterisk after name of person to contact for additional information.)

Name	Division/Agency	Phone Number	E-mail address
David Moore	OAG/ASO	808-586-1287	David.T.Moore@hawaii.gov

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


  
 \_\_\_\_\_  
 Department Head Signature

JUN 13 2013  
 \_\_\_\_\_  
 Date

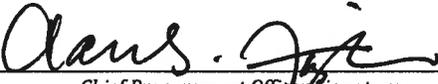
**For Chief Procurement Officer Use Only**

Chief Procurement Officer (CPO) Comments:

This request is disapproved as the State (DHHL) had known that the comment periods existed but had failed to notify the Department of the Attorney General in a timely manner. This request does not meet the requirements of HRS §103D-307. Emergency procurement is not to be used to rectify missed opportunities to provide comments on the subject matter due to the State's unfamiliarity with federal processes and procedures and does not qualify as an unusual or compelling urgency. Department may resubmit request on form SPO-016.

If there are any questions, please contact Wendy Ebisui at 586-0563, or wendy.mo.ebisui@hawaii.gov.

Approved    
  Disapproved    
  No Action Required

  
 \_\_\_\_\_  
 Chief Procurement Officer Signature

8/8/2013  
 \_\_\_\_\_  
 Date