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# STATE PROCUREMENT OFFICE NOTICE OF AND REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS

STATE PROCUREMENT OFFICE  
STATE OF HAWAII

- 1. TO: Chief Procurement Officer
- 2. FROM: DLNR Division of Forestry and Wildlife

Department/Division/Agency

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

<p>3. Description of goods, services or construction: Provide expert service for the State of Hawai'i in collaboration with the Hawai'i Endangered Bird Conservation Program Partnership. Services provided include operation of the Maui Bird Conservation Center, Olinda, Maui and the Keauhou Bird Conservation Center, Volcano, Big Island, all aspects of avicultural care and breeding of endangered and surrogate birds, operations and maintenance of captive facilities, veterinary care of captive birds, assistance with field collections and release of birds, working with cooperating agencies to intergrate the captive propagation program with other aspects of endangered bird management and recovery, public outreach, and contibution of no less than \$281,820 in cash or in-kind services over the two year contract to provide the match for the federal funds that contribute to this project.</p>	
<p>4. Name of Vendor: Zoological Society of San Diego (ZSSD). Address: P.O. Box 120551, San Diego, CA 92112</p>	<p>5. Price: \$402,000 (FY11) \$452,000 (FY12)</p>
<p>6. Term of Contract: From: on approval To: 6/30/2012</p>	<p>7. Prior Exemption Ref. No. <i>AK</i> 07-009-J/09-036-C</p>
<p>8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:  See Attached Explanation on Page 3</p>	
<p>9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:  N/A</p>	
<p>10. A description of the agency's internal controls and approval requirements for the exempted procurement: The Division of Forestry and Wildlife will oversee the project implementation to ensure it is in compliance with performance standards of the federal grant program, the 6-year and annual work plans, and the contract scope of work developed by the Division. The project requires weekly, monthly and annual preformance reports. These reports and a project description are made availabe to the public via the Division's web page. Once the purchase of services is approved, the scope of work will be developed and incorporated into a contract, the contract will be submitted for approval by the Division of Forestry and Wildlife Administrator and the Chairperson of DLNR.</p>	

**REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS (Cont.)**

12. A list of agency personnel, by position, who will be involved in the approval process and administration of the contract:		
Name	Position	Involvement in Process
BLNR		<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Deputy Attorney General		<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Laura H. Thielen	Chirperson, DLNR	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Paul J. Conry	DOFAW Administrator	<input checked="" type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Scott Fretz	DOFAW Program Manager	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
David Leonard	DOFAW Wildlife Biologist	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration

13. Direct inquiries to: Department: DLNR/DOFAW  
 Contact Name: Scott Fretz  
 Phone Number: 587-4187  
 Fax Number: 587-0160

Agency shall ensure adherence to applicable administrative and statutory requirements

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

*PJC*

*[Signature]*

*2/25/10*

Department Head

Date

*Reserved for SPO Use Only*

15. Date Notice Posted 3-2-10

The Chief Procurement Officer is in the process of reviewing this request for exemption from Chapter 103D, HRS. Submit written objections to this notice to issue an exemption from Chapter 103D, HRS, within seven calendar days or as otherwise allowed from the above posted date to:

Chief Procurement Officer  
 State Procurement Office  
 P.O. Box 119  
 Honolulu, Hawaii 96810-0119

Chief Procurement Officer's comments:

This approval is for the solicitation process only, HRS section 103D-310(c) and HAR section 3-122-112, shall apply. Department is reminded that procurements \$2,500 or more are required to be posted on the Procurement Reporting System.

16.  **APPROVED**  **DISAPPROVED**  **NO ACTION REQUIRED**

*David J. [Signature]* 4/12/2010  
 Chief Procurement Officer Date

Attachment 1. (Continued from page 1)

**Explanation describing how procurement by competitive means is neither practicable nor advantageous to the State:**

The captive propagation program for which the Zoological Society of San Diego (ZSSD) currently provides goods and services is part of an interagency collaboration with the U.S. Fish and Wildlife Service (USFWS) and the State of Hawai'i. The Department of Land and Natural Resources (DLNR) and the USFWS share costs of the program, with DLNR funds originating from Section 6 of the Federal Endangered Species Act. The Zoological Society of San Diego operates two separate facilities (one on Maui and one on Hawai'i) as a single integrated program. Maintenance of separate facilities administered by one organization is a key component of the program's success because it provides the following advantages: 1) allows for the rapid exchange of birds between facilities, 2) reduces the mortality risk of individual birds and thereby the risk of losing a species by providing standardized protocols for complex avicultural procedures (e.g., incubation, neonatal care), 3) facilitates the cross-training of personnel, and 4) allows personnel to move between facilities and field sites (e.g., remote release sites) as necessary. Overall, the two facilities-one administration approach minimizes the program's cost while at the same time ensures that the State receives a high-quality product. This product is measured in terms of successful propagation and release of native Hawaiian birds and ultimately by the recovery of these endangered species. This approach also facilitates collaboration among the USFWS, DLNR, and ZSSD.

Prior to the establishment of this program, no institution or entity had demonstrated the ability to breed endangered Hawaiian passerines in captivity. The current operator continues to be the only such institution worldwide. Although this program was previously carried out under the supervision of The Peregrine Fund, no change in management or operations occurred at the time of transfer to ZSSD. The Zoological Society of San Diego staff has acquired years of experience and has established a 10-year record of successful operations of this program. Procurement by competitive means would be neither advantageous to the State nor practicable. No other vendor has similar expertise and experience to ZSSD in breeding and caring for endangered Hawaiian forest birds. Thus a change in vendors would increase the risk of failure, the potential loss of critically endangered species, and program setbacks; all of which could result in a loss of public support and funding for the program. Currently, the USFWS has a cooperative agreement with ZSSD through which they provide money to ZSSD. These funds are in addition to those provided to the State (i.e., Section 6 funds; see above) which are passed through to ZSSD.

To be successful the program requires unique expertise which can only be obtained through years of experience. Shifting to a new vendor would introduce an element of risk, which if accompanied by average or poor performance, would result in poor production in the captive propagation program. This could result in the injury or death of irreplaceable and Federally protected captive endangered birds. This risk is especially acute for the 'Alalā, or Hawaiian Crow, which is critically endangered. Because no 'Alalā exist in the wild, the species is entirely dependent on the captive breeding program to prevent their extinction.

~ The current operator has a nationally recognized and award-winning program that is currently caring for and breeding the world's remaining 'Alalā, and housing four other endangered Hawaiian forest birds. The operator is currently maintaining: 56 'Alalā, 27 Puaiohi, 25 Palila, 12 Maui Parrotbill, and 1 Ākepa. All of the birds are listed as endangered by the USFWS and the State of Hawai'i. A mishap in the care and breeding of these endangered birds during a transition of operations would be unfortunate and potentially have legal ramifications. Thus, it is to the State's advantage to maintain ZSSD as the operator of its captive breeding program.