



10 MAY -6 P3:07

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

- 1. TO: Chief Procurement Officer
2. FROM: Kaulana H. Park, Chairman, Hawaiian Homes Commission

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:

3. Description of goods, services or construction:
Financial and related assistance for the development, including construction, of water systems on land owned by the Department of Hawaiian Home Lands ("DHHL"), but leased to the contractor. In exchange for the contractor's agreement to fund construction of the system, DHHL will lease back the system at a rate equivalent to the contractor's construction debt payments and any related expenses.

4. Name of Vendor: Na Kupa`a O Kuhio
Address: P.O. Box 700248
Kapolei, HI 96709
5. Price: \$20,000,000.00 NTE

6. Term of Contract: From: 2008 To: 2013
7. Prior Exemption Ref. No.

8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:
Please see Attachment 1.

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:
DHHL will enter into a non-exclusive memorandum of agreement with Na Kupa`a for development of water systems on DHHL land. Because its agreement with Na Kupa`a is not exclusive, other organizations coming forward with water development proposals and capable of providing the same level of service to DHHL will be considered.

10. A description of the agency's internal controls and approval requirements for the exempted procurement:
1. Exemption from procurement approved by the Chief Procurement Officer.
2. Memorandum of Agreement drafted and approved by AG.
3. MOA signed by Na Kupa`a and by DHHL Chairman.

**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
Kaulana H. R. Park	Chairman	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Anita S. Wong	Deputy	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Kamanao Mills	Special Assistant	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Robert J. Hall	Executive Assistant	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Kay Ahina	Special Assistant	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration

13. Direct inquiries to:	Department: Hawaiian Home Lands Contact Name: Kamanao Mills Phone Number: 620-9508 Fax Number: 620-9529
--------------------------	--

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.*



**MAY 05 2010**

Department Head

Date

<b>Reserved for SPO Use Only</b>	
	15. Date Notice Posted <u>5/13/10</u>
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: <p align="right">                     Chief Procurement Officer                      State Procurement Office                      P.O. Box 119                      Honolulu, Hawaii 96810-0119                 </p>	
Chief Procurement Officer's comments:          	

16.  APPROVED  DISAPPROVED  NO ACTION REQUIRED


5/21/2010  
 Chief Procurement Officer Date

Attachment 1 to SPO-07  
Vendor: Na Kupa`a O Kuhio  
May 4, 2010

8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:

The Department of Hawaiian Home Lands (“DHHL”) seeks this exemption from chapter 103D, HRS, competitive procurement in order to enter into a memorandum of agreement with Na Kupa`a O Kuhio (“Na Kupa`a”). Na Kupa`a has come forward with the ability to invest millions of dollars into water system development on DHHL lands, as a result of grants and/or low-interest loans now available to Na Kupa`a from the United States Department of Agriculture (“USDA”).

DHHL’s contemplated memorandum of agreement is not an exclusive agreement with Na Kupa`a. Any organization that comes forward with this type of water development proposal would be considered by DHHL. In fact, there may be other not-for-profit organizations, in existence or to be formed, that could also be eligible for USDA money, but Na Kupa`a has an established relationship with USDA and USDA has already committed funds to Na Kupa`a for DHHL water projects. USDA has not committed funds to any other organization for these DHHL projects.

An exemption from procurement by competitive means is advantageous to the State because DHHL is not eligible for the grants and loans now available from USDA. As a federal agency, USDA has built a program that is structured to support, rather than profit from, rural development. DHHL is not able to secure similar grants and loans elsewhere on these favorable terms because no equivalent programs are available for DHHL’s water development projects. At the end of the leaseback period, DHHL would own the entire water system free and clear.