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STATE PROCUREMENT OFFICE  
STATE OF HAWAII

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

- 1. TO: Chief Procurement Officer
- 2. FROM: DLNR/DOFAW

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:  
 The Hawaii Forest Stewardship Program (FSP) is a landowner assistance grant program established under HRS Chapter 195F and further described in HAR 13-109. The program offers interested landowners cost-share reimbursement for the implementation of management practices on their land that restores, conserves, or promotes timber production. Interested landowners must plan and commit to a 10-year management period during which they are eligible to receive 50% reimbursement of their costs associated with their detailed management plan, which is approved by the mandated Forest Stewardship Advisory Committee (FSAC). Parties interested in FSP must first be approved and accepted into the program by the FSAC (through a project proposal form) who then determine if the proposed project is inline with the program's goals. Accepted proposals must then generate (with the help/used of the technical expertise of FSAC) and submit a detailed Forest Stewardship management plan for review and approval by the FSAC to be eligible for the assistance funding for the implementation of their management plan described practices. The program also provides cost-share funding for the management plan development.

4. Name of Vendor: TBD Address:	5. Price: \$various mx\$75,000/yr
6. Term of Contract: <i>CPD approval</i> From: <i>min 10yrs</i>	7. Prior Exemption Ref. No. To: <i>12 months</i> <del>To: max 30yrs</del>

8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:  
 The required use of the FSAC to review, approve, provide technical expertise, and involvement with the applicant throughout the development of management plans and their ultimate approval for cost-share assistance makes procurement under Chapter 103D, HRS not practicable. FSP projects are evaluated by the FSAC on individual merits because projects are location, practice, biota, and intention specific based on the needs and goals of the site, thus requiring the use of RFP process. However, all FSAC meetings and discussions are subject to Hawaii Sunshine Law, which does not allow proposed projects to be kept confidential prior to award. Further, FSAC provides recommendations to applicants on the specifics, costs, and implementation of management practices under the management plan prior to approval of the project for cost-share funding. FSP also allows for continuous sign-up of projects and does not have a set date for submission of project proposals. (continued on attached)

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:  
 FSP announcement (Notice to Citizens and Communities) is posted on the State procurement website and information about FSP is on a link at [www.hawaii.gov/dlnr/dofaw](http://www.hawaii.gov/dlnr/dofaw). The FSP website has information about current & past landowners, enrollment, eligibility requirement, practice use, how to apply for the program (within FSP Handbook), and FSAC meeting minutes. The program enrollment is contiguous and all landowners that meet the eligibility requirements are eligible for cost-share assistance on the development of their project management plan. All proposals and management plans are evaluated by the FSAC on the project specifications/goals, and guidance is provided to all eligible landowners on shortfalls or needed improvement to their plans. FSAC will competitively evaluate all approved FSP management plans should program funding be limited. To date FSP has been able to provide cost-share assistance to all projects with a FSAC approved management plan.

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

10. A description of the agency's internal controls and approval requirements for the exempted procurement:  
 The FSAC reviews and approves all projects and recommends to DOFAW projects with approved management plans for cost-share funding. DOFAW is an ex-officio member on the FSAC and participates in all meetings and discussions; DOFAW staff also provides the administrative support for FSAC. DOFAW staff works with applicants and provides technical expertise for various practices to assure that best management practices are utilized. The FSAC may deny, approve, or defer the management plan pending further clarification, submission of additional information, or inclusion of needed land management practices under the project. Upon recommendation and approval of a FSP project by DOFAW, the project and contract agreement is submitted to BLNR for approval of funding.

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	
Sheri Mann	Cooperative Resource Forester	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Island Representative	Service Forester	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
FSP Committee Members	FSP Committee	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Paul Conry	Adminstrator, DOFAW	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Laura Thielen	Chairperson, BLNR	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
		<input type="checkbox"/> Approval	<input type="checkbox"/> Administration

13. Direct inquiries to: Department: DLNR/DOFAW  
 Contact Name: M. Irene Sprecher  
 Phone Number: 587-4167  
 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.*

  \_\_\_\_\_ Date 6/15/10

Department Head

Reserved for SPO Use Only	
	15. Date Notice Posted <u>6-23-10</u>
<p>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> <p align="center">Chief Procurement Officer                      State Procurement Office                      P.O. Box 119                      Honolulu, Hawaii 96810-0119</p>	

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

**Chief Procurement Officer's comments:**

The department has determined that procurement by competitive means through HRS chapter 103D is not practicable because HAR chapter 109 provides guidance to contract for administrative services to manage the department's responsibilities to protect and restore forest resources on private lands throughout Hawaii. Approval granted with the requirement that the department comply with HAR chapter 109 to procure these services. The term of the exemption request is limited to 12 months starting from the approval date. During this time, the department shall issue a public notice(s) at minimum on the SPO Procurement Notice System soliciting proposals for the services required.

Although it is noted that contract administrator, Sheri Mann has written delegated authority, she shall not participate in any procurement activity until she has completed the appropriate mandatory procurement training requirements pursuant to Procurement Circular No. 2008-05. In addition, Ms. Mann shall register and attend the next Exemptions from HRS Chapter 103D Workshop No. 125.

16.

**APPROVED**     **DISAPPROVED**     **NO ACTION REQUIRED**

Adams. Taylor      9/7/2010  
Chief Procurement Officer      Date

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

The general timeline for projects to be approved for funding by the FSAC under FSP is 1 year from the date the project proposal is submitted (first step in process); this timeframe does not include any additional required contracting steps. During this period, the FSAC and staff have multiple interactions with the applicant to ensure that the best management practices for each site will be utilized on each site and that available funding will be used in the most beneficial manner.