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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: Department of Transportation/Highways Division

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:
Waiver of the encumbrance of County funds for the Widening of Queen Kaahumanu Highway, Island of Hawaii.

4. Name of Vendor: Goodfellow Bros., Inc. Address: 1300 North Holopono Street, Suite 201 Kihei, Hawaii 96753	5. Price: \$80,010,000.00
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6. Term of Contract: From: Approval To: 8-30-10	7. Prior Exemption Ref. No.
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8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State: The DOT had hoped to use the recently enacted ACT 140, SLH 2010 to waive the encumbrance of County funds for the installation of new utilities in our Queen Kaahumanu Highway widening project ("Project"), but ACT 140 only applies to utility relocation under Section 264-33, HRS not new facilities. Allowing DOT to use the provisions under ACT 140 for this Project would allow the County to pay Goodfellow Bros., Inc. directly for their share of the work rather than requiring the County to deposit the full amount of the County's share upfront to the DOT.

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:
The Project was procured under the Competitive Sealed Proposal process under Section 103D-303, HRS.

10. A description of the agency's internal controls and approval requirements for the exempted procurement:
The DOT will encumber \$73,111,500 of the \$80,010,000 contract, and the County has certified that their share of the funds for the Project are also available. DOT will prepare two monthly progress payments and forward one to the Highways Division Fiscal Office for payment of the State and Federal share the other monthly progress payment will be sent to the County for payment of it's share of the Project. Both the DOT and County will follow current policy and procedure for construction payments.

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
Sterling Chow	Construction Engineer	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Sal Panem	Assistant District Engineer	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Stanley Tamura	District Engineer	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Wai Li	Fiscal Officer	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration

13. Direct inquiries to:	Department: Transportation/ Highways Division Contact Name: Jamie Ho Phone Number: 587-2185 Fax Number: 587-2340
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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.*

 Department Head

7/6/10

 Date

Reserved for SPO Use Only

15. Date Notice Posted 7/7/2010

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 request is disapproved as it lacks justification for an exemption. Act 140, SLH 2010 was amended by the legislature to apply only to contracts pursuant to HRS section 264-33 rather than to any utility contract.

After discussions with the department, it was noted that Mr. Henry Kennedy wrote and conducted the RFP process without written delegated authority or the required mandatory procurement training. Please be advised that Mr. Kennedy shall not participate in any procurement activities until he has received both written delegated procurement authority and has completed the appropriate mandatory procurement training requirements pursuant to Procurement Delegation No. 2008-01 and Procurement Circular No. 2008-05.

16. APPROVED DISAPPROVED NO ACTION REQUIRED


 Cheryl J. Jeter
 Chief Procurement Officer

8/2/2010

 Date