



10 OCT 21 P1:45

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: Ronald Baird, Natural Energy Laboratory of Hawaii Authority

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: Professional appraisal services related to the appraisal arbitration process for determining sublease rents. The appraisal arbitration process includes reviewing tenant appraisal reports submitted in response to NELHA's initial appraisal report generated by ACM Consultants Inc., working with tenant appraisers to resolve differences between the two reports, and appointing a third appraiser to determine a final fair market value for rental rate reopening. The services during the appraisal arbitration process are to be provided under a supplemental contract to an existing contract. The current contract is for \$23,500.00, which includes an initial appraisal for five subleases. An additional \$30,000.00 may be needed if appraisal arbitration services are required for all five subleases.</p>	
<p>4. Name of Vendor: ACM Consultants, Inc. Address: 2073 Wells St., Ste 100 Wailuku, HI 96793</p>	<p>5. Price: \$30,000</p>
<p>6. Term of Contract: <i>10/1/10 to 10/25/10</i> From: Oct 1, 2010 To: Jan 25, 2011</p>	<p>7. Prior Exemption Ref. No.</p>
<p>8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State: The vendor contracted to complete appraisals for NELHA and for five specific tenants (Contract No. 59094). The initial appraisals are done. One tenant has disagreed with the appraisal and initiated arbitration procedures as outlined in the subleases (see attached document). Pursuant to the sublease clause, NELHA must use the same appraiser during the arbitration process. Furthermore, the vendor is familiar with the subject-matter, having done the initial appraisal. The scope of services incorrectly referred to the arbitration process as a part of the initial appraisal work, and a separate compensation provision was not included for the arbitration process. But NELHA did not expect and the bid was not based upon the work needed for the appraisal arbitration process. Consequently, NELHA must use the same vendor for the arbitration process but did not include the arbitration services as a separate work item with a separate compensation provision in Contract No. 59094.</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: Vendor was originally selected via competitive method (HePS).</p>	
<p>10. A description of the agency's internal controls and approval requirements for the exempted procurement: Services and specifications shall be described clearly in a supplemental agreement to the existing contract. An estimate of time required to perform services shall be established along with an hourly rate. Hours expended shall be closely monitored by the Officer in Charge of contract #59094. The hourly rate is determined to be fair by comparing to rates for other State appraisal arbitration projects, in particular at 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
Laurence Sombardier	Contracts and Leasing Specialist	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Ronald N. Baird	Executive Director	<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
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration

13. Direct inquiries to:	Department: DBEDT, NELHA Contact Name: Ron Baird Phone Number: 808-329-7341 X225 Fax Number: 808-326-3262
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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.*



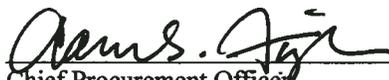
OCT 20 2010

Department Head

Date

Reserved for SPO Use Only
15. Date Notice Posted <u>10/22/10</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="center"> Chief Procurement Officer State Procurement Office P.O. Box 119 Honolulu, Hawaii 96810-0119 </p>
Chief Procurement Officer's comments: <p align="center"> This approval is based on the department's representation that the ACM appraisers are required (as part of the lease agreement) to participate in the arbitration process for determining sublease rents. This award is required to be posted on the Awards Reporting System. </p>

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


 Chief Procurement Officer Date 11/9/2010