

11 FEB 14 A8:27



STATE PROCUREMENT OFFICE
 STATE OF HAWAII
NOTICE OF AND REQUEST FOR EXEMPTION
FROM CHAPTER 103D, HRS
 (AMENDED)

- 1. TO: Chief Procurement Officer
- 2. FROM: Department of Human Services/Hawaii Public Housing 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:

3. Description of goods, services or construction: *57 2/14/11*
 Purchase and installation of up to ~~41~~ instantaneous gas water heater systems to include: 1) upgrade to existing check meter to accommodate added gas load; 2) purchase of up to 57 gas tankless water heating systems; 3) extend and install low pressure gas piping to gas heater on building roof; and 4) install and connect electrical power to gas water heaters.

4. Name of Vendor: The Gas Company
 Address: P.O. Box 3000
 Honolulu, Hawaii 96802

5. Price:
 \$see attached
 est \$ 798,000 *see 2/14/11*

6. Term of Contract: From: upon approval To: 60 calendar days
 From: ~~NTT~~

7. Prior Exemption Ref. No.

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

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:
 See attached

10. A description of the agency's internal controls and approval requirements for the exempted procurement:
 his exempted procurement requires the approval of the HPHA's Office of the Executive Director, Procurement Office, and Budget Office. The Construction Management Section will be responsible to monitor the Contractor's performance. Except for the requirement to engage in a competitive selection process, the HPHA does not intend to waive any other established controls. HRS section 103D-31(c) and HAR section 3-122-112 shall continue to apply.

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	
Becky Chui	Acting State Housing Dev. Admin.	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Mark Buflo	Budget Analyst	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Rick Sogawa	Acting Procurement Officer	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Barbara Arashiro	Executive Assistant	<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: Contract and Procurement Office
 Contact Name: Rick Sogawa
 Phone Number: 832-6038
 Fax Number: 832-6039

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

2/11/11
 Date

15. Date Notice Posted 2/14/2011

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:

SEE CPO COMMENTS ATTACHED AS PAGE 5.

16. APPROVED DISAPPROVED NO ACTION REQUIRED


 Chief Procurement Officer Date 2/16/2011

**Attachment SPO – 07 (revised)
Request for Exemption**

7. Price

Cost estimate: Approx. \$14,000 per tankless system; not to exceed \$798,000 for 57 tankless systems. Purchase subject to the availability of funds.

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

Of the 35 buildings at Mayor Wright Homes, some have solar panels/tanks that are working, but on cloudy days the electrical back-up does not work. On other buildings, the solar systems have prematurely reached the end of their useful life and the solar tanks are leaking. The State inspector has indicated that without the necessary repairs the HPHA will be forced to shut down the water tanks on several buildings. (Note: The repairs to the leaking tanks would not be practicable in light of the impending comprehensive upgrade to the entire system, would be cost prohibitive, and not timely enough to provide relief for the tenants.)

As background, the HPHA was previously working with a consultant to design and oversee the installation of a comprehensive solar heating system at Mayor Wright Homes. The original consultant went bankrupt before completing the design work on the major system. The HPHA made several attempts to obtain the partial design work, which after review led the HPHA to conclude that the partial design is not useable. The default on this contract caused a delay in the project and since then several more tanks have begun to fail. While the HPHA has competitively engaged the services of a new consultant to design the long term upgrade of the entire solar system, the HPHA needs to install the back-up instant hot water back-up systems at Mayor Wright Homes to provide immediate relief to the tenants.

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:

The HPHA is requesting exemption from §103D, HRS to hire The Gas Company to install instant hot water back-up systems at Mayor Wright Homes. The instant hot water systems installed under this exemption will remain in place when the new solar system is installed and serve as the back-up system. The HPHA will execute a task order contract subject to the availability of funds.

The HPHA intends to use gas back-up systems and check meters on the new solar system being designed for Mayor Wright Homes. The Gas Company has previously installed several gas tankless water heaters at Mayor Wright Homes which have proved to be timely and reliable. After installation, The Gas Company also provided training to the project staff to perform preventative maintenance on the system for the HPHA.

Under §103D-102(b)(4)(f) utility services whose rates or prices are fixed by regulatory processes or agencies and as such, the portion of the procurement for the gas and check meters from The Gas Company are exempt and/or considered eligible sole source procurements. As The Gas Company is currently the sole provider of the gas for the tankless systems and the gas check meter, to parcel the project into separate procurement actions would still result in any

other vendor having to subcontract with The Gas Company. Prior HcPS procurements with other vendors, resulted in The Gas Company having to come in and install additional hardware (i.e., the gas check meters and brackets). To that end, it is more cost efficient, to work directly with The Gas Company as the lead on the project since it is narrow in scope and focus.

Under the installation of a comprehensive solar system, it would make sense to work with a general contractor. However, for this specific installation, it is more cost and time efficient for the HPIIA to manage a contract directly with The Gas Company, rather than having to route all directives through a general contractor. Given that The Gas Company is the sole source provider for gas, check meters, and their related hardware to procure a general contractor to sub-contract these services would not yield the best value for the State.

During initial discussions, The Gas Company reported that they have tankless systems in stock, thus there will be no delay in the start of the project. Due to their knowledge and past satisfactory experience at Mayor Wright Homes, we believe it in the best interests to work with The Gas Company for the purchase and installation of the instantaneous tankless gas water heater systems.

CPO COMMENTS:

There is insufficient justification as to why award should be made to the Gas Company.

Page 3, No. 9, 2nd paragraph states “The Gas Company has previously installed several gas tankless water heaters at Mayor Wright Homes which have proved to be timely and reliable.”

1. There is no explanation on the procurement method used;
2. Whether there were any other offers received; and
3. No explanation or comparison was provided to substantiate “which have proved to be timely and reliable.”

Page 4, 1st paragraph states “Prior HePS procurements with other vendors, resulted in The Gas Company having to come in and install additional hardware . . . it is more cost efficient, to work directly with The Gas Company . . . “

1. There is no explanation on the contents of the solicitation and whether it addressed the installation of the additional hardware from The Gas Company; and
2. No explanation was provided on the cost comparison utilized to determine the cost efficiency working directly with The Gas Company.

Page 4, last paragraph states “The Gas Company reported that they have tankless systems in stock, thus there will be no delay in the start of the project.” It does not state that they have 57 tankless systems in stock. One could surmise that upon award of the contract, they will start and order the additional amount needed. Another contractor could do the same.

This request does not provide:

- Any additional information on whether other prospective vendors were contacted to justify that this exemption would be most advantageous to the State;
- Information as to whether the Gas Company is the only vendor with the tankless water heaters immediately available; and
- Information addressing whether the Gas Company will be providing all the labor and materials involved in the total installation of the water heaters, and not hiring sub-contractor(s) for part of the work.

To provide fair and open competition, all potential vendors should be given the opportunity to provide a price quotation. The earlier approved exemption dated 02/11/11 allowed DHS/HPHA an abbreviated and expedited process to secure contractor(s) to address the urgent situation of supplying hot water to the residents at Mayor Wright Homes. If HPHA had utilized its resources in placing the solicitation on HePS as directed, award could have been made by today, or the latest tomorrow.

This amendment request is disapproved, and the previous CPO comments of PE 11-065-B shall remain in place. HPHA should include in the solicitation details relating to the urgency of the project and the requirements to complete the job within the number of days needed and to have equipment in stock to avoid any delay in implementation, and any other terms and conditions that HPHA deems necessary, such as multiple awards to expedite project.