



11 MAY -5 P4:16

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 Land and Natural Resources, State Parks

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 construction of a replacement heating, ventilating and air conditioning ("HVAC") system for Iolani Palace ("Palace") and related improvements by the Department of Land and Natural Resources ("DLNR"). The project consists of an off-site chilled water system in the Kekauluohi/Archives ("Archives"); a waterline that will transmit chilled water from the Archives basement to the Palace; and various mechanical/electrical/architectural improvements within the Palace.

This request is for an exemption to limit work to the Palace only and to negotiate with the apparent low bidder as further described in item 9 below.

4. Name of Vendor: Economy Plumbing & Sheet Metal, Inc. ("EPSMI")

Address: 1029 Ulupono Street
Honolulu, Hawaii 96819

5. Price:

\$3,613,000 (est.)

6. Term of Contract: From: 6/11 (est.)

To: 7/12 (est.)

7. Prior Exemption Ref. No.

0

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

SEE ATTACHED PAGES 3 THROUGH 6.

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, as described above, was competitively bid with EPSMI as the apparent low bidder. For the reasons described on the following pages, it became clear that consolidating the plant within the Palace was the obvious workable solution. To ensure fair and open competition, as practicable, we have analyzed and compared each bid submitted. Within each bid proposal, we have "crossed out" those line items, which would be eliminated due to consolidation of the plant. After this evaluation, EPSMI is still the low bidder (see attached Exhibit). We anticipate to negotiate with the low bidder to hold the unit prices of the remaining bid items, except for the HVAC unit replacement. Because of the capacity difference, we anticipate a reduced price and will verify with suppliers as to fair and competitive pricing. If no agreement can be reached, we will negotiate with the next low bidder.

10. A description of the agency's internal controls and approval requirements for the exempted procurement:

We will be negotiating with the apparent low bidder of the competitive sealed bidding process. Unit prices of line items contained within the bid proposal will be adhered where possible. Other item(s) will be negotiated and prices will be verified with suppliers as to fair and competitive pricing. If no agreement can be reached, we will negotiate with the next low bidder.

Request for Exemption from Chapter 103D HRS (continued from page 1)

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

HISTORY:

The Division of State Park, DLNR ("Parks") has control and management of the Iolani Palace State Monument pursuant to Executive Order 3570 dated October 14, 1992. The Monument includes the Palace, its grounds and the Archives. The Friends of Iolani Palace ("Friends") operate and manage the Palace including the current HVAC system pursuant to General Lease S-5504, as amended on January 17, 2006. The Department of Accounting and General Services ("DAGS") operate and manage the Archives and its current air conditioning ("AC") system through a Memorandum of Agreement with Parks dated December 31, 1992.

During 2006 and 2007, the Division of State Parks, DLNR ("State Parks") requested and obtained funding for the new HVAC system pursuant to Act 160, Session Laws of Hawaii ("SLH") 2006 and Act 213, SLH 2007. A total of \$5,400,000 was appropriated for the design and construction of the new system servicing the Palace. Funding was requested because the existing system in the Palace was failing and, the resulting mold and other moisture bearing impacts threatened irreplaceable cultural resources and artifacts that were on display in the Palace.

During 2008 and 2009, design activities comprised of charrettes, in-house and interagency discussions. Various options were identified for the chiller system that included:

- In-Palace replacement.
- Off-site placement – on Palace grounds in underground vaults adjacent to Archives.
- Off-site placement – in the State Capitol building and in Archives.

During this discussion period, the off-site option was preferred to house an emergency generator within the chilled water system facility to minimize damage to the Palace. Further, DLNR believed that the funding provided an opportunity to optimize limited CIP funding to benefit other State agencies such as DAGS.

In 2009 and 2010, DLNR and DAGS started discussions on the off-site placement of the chiller system. Initial discussions focused on the basement of the State Capitol, which was rendered infeasible due to space limitations and logistical barriers. The focus shifted to the basement of Archives as a nearby option for an off-site chiller system.

On June 12, 2010, bids were opened and low bidder was Economy Plumbing & Sheet Metal, Inc. ("EPSMI") whose bid was \$4,387,000. There is \$4,527,849 encumbered for the construction of this project.

To place the chiller system in the Archives basement, DAGS required that DLNR and DAGS enter into a memorandum of agreement ("MOA") to clarify cost sharing issues for the operation, maintenance, repair and replacement of the new chiller system.

From July 2010 to February 2011, staff from DLNR and DAGS discussed and negotiated the MOA including the appropriate cost share measures and calculations to apply to utility, emergency and scheduled repair costs, and maintenance contract costs for the new chiller system. Parks does not expend monies for any of the operation and maintenance costs for the HVAC system serving the Palace; these costs are paid by the Friends. DAGS does not have the statutory authorization to receive and expend funds to non-state organizations such as the Friends. In the proposed MOA, cost sharing was being established between DAGS and DLNR, where one agency will need to fully expend monies for the operation and maintenance costs to be reimbursed by the other. During the negotiations between DAGS and DLNR on the MOA, it appeared that DLNR may have been able to fund these costs prior to the unanticipated reductions in Legislative funding. Due to the additional costs of combining the Archives with the Palace system, neither agency will be able to fully fund these costs. Even with the anticipated cost savings of new HVAC system, the burden of solely funding all utility, operational and maintenance costs will not be possible with the current reduced budgets. Due to these circumstances, DLNR is seeking to consolidate all project work within the Palace, where the operation and maintenance costs of the new HVAC system will be paid by the Friends. Based on the consultant and DAGS staff experience, the costs for the new HVAC system is estimated at \$200,000 annually.

DISCUSSION:

Due to unanticipated reductions in operating general funds, DAGS and DLNR will not be able to fully pay for the upfront operating costs of the shared system due to the lag period between payment due dates and collection of prorated monies due from users. The Friends have expressed its willingness to pay for the operating, maintenance and repair costs of the new HVAC system serving the Palace. DLNR is seeking to consolidate all improvements to construct a new HVAC system within the Palace as intended by the

aforementioned appropriations and release DAGS and Parks from increased operational expenditures that reduces the operational feasibility for both agencies.

a. Unforeseen Conditions Reducing Operational Feasibility

The budget reductions of FY 2011 and the pending reductions of general funds for all State agencies for the next biennium prevent the feasibility of the joint system. As the intent of both agencies was to implement a collaborative effort in implementing the State's energy policies and optimizing limited capital funding, the unanticipated budget reductions imposed by the Administration will force both DLNR and DAGS to reduce its operating costs.

With the reduced operating funds, DAGS has stated it will not exceed its payment for electrical costs for its current AC system in the Archives so an increase in paying for a larger system is not feasible. Parks understands and relates to this situation, as Parks general funds were reduced by nearly 40% within the last 10 years. Even with compensation, Parks has not budgeted and cannot advance the full cost of \$200,000 annually for the operating costs of the new HVAC system that will service both the Palace and Archives.

DLNR and DAGS continued with negotiations on the MOA on the premise that funding restrictions will relax upon slow improvement of the State's economy. As revenue projections decreased and with recent international disasters these conditions will prolong the State's economic recovery, thus State agencies such as DLNR and DAGS will not be able handle increased operational expenditures for the next few fiscal cycles. On the other hand, the Friends have been funding and will continue to fund the operating, maintenance and repair costs of the HVAC system servicing the Palace through their funding from fund raising, fee revenues, donations and grants.

In light of the current situation, DAGS stated it is satisfied with the current AC system in the Archives without any expansion or improvement to the system. The Friends have expressed interest in having the HVAC system consolidated in the Palace as the off-site options have become infeasible. DLNR concurs with these assessments.

b. Nominal Reduction in the Scope of Work

Consolidating the scope of work to the Palace will not drastically change the scope of work for the project. It will reduce the capacity needed for the chilled water system by 30 – 40% and, relocate meters, electrical/DDC controls and emergency power outlets to the Palace. The chilled water line will be eliminated reducing any impacts to cultural or historical artifacts or resources beneath the Palace grounds. Refer to Table 1 for a comparison of the changes in the scope of work.

c. Protection of Irreplaceable Cultural and Historical Artifacts and Resources

The Palace contains collections of irreplaceable historic and cultural artifacts such as furniture, dinnerware and kahilis, and other iconic items in storage. The failing AC and climate control system causes mold, mildew and other moisture bearing impacts affecting irreplaceable historic and cultural artifacts. The new HVAC system will provide multi-levels of climate control, and new air handlers and fan coils will improve the efficiency of the system and its energy usage. Reportedly, the Palace had three chiller units in operation, but is now down to one and that unit requires constant repair. The new HVAC system is needed now; time is of the essence to preserve these iconic resources. Rebidding the project will consume valuable time risking further damage and loss of these artifacts and cultural resources.

d. Bid Savings

Bidding this project as a separate new project will require that the bid package, plans and specifications be revised, resulting in additional costs, including consultant's time, scanning and printing of plans and specifications. Cost savings will be realized if DLNR is allowed to negotiate with the low bidder.

e. Operation Savings

With the new HVAC system contained within the Palace, all operational and maintenance costs will be paid by the Friends. This will not result in any increases to DAGS or impose new expenditures to Parks. There will be no new costs or increase to costs for the operation of this HVAC system contained within the Palace for either agency.

f. Optimizing Use of Limited Funding

It took many years of lobbying and justification to secure funding for the new HVAC system. As noted, the project utilized funding from two separate fiscal years to enable enough funds to cover project costs. With the consolidation of the new HVAC

system in the Palace, the project will be able to cover all costs including contingencies and unforeseen work needed in a historic building. As an icon of Hawaii's history, the Palace symbolizes the last remaining alii to have sovereign control and any work in and on the structure will require higher level of work and care.

In summary, bidding this project will result in increased costs, loss of available funding opportunities, risk of irreparable harm to historic and cultural resources and delays for the protection of a significant piece of Hawaii's history. Due to unforeseen economic conditions and fiscal policies, the joint off-site system is not feasible and the risk of pursuing that course will be constructing a new system that cannot be operated. Hence, we are requesting your consideration in our request for exemption from Chapter 103D, HRS. The exemption will enable the Engineering Division, DLNR, to negotiate with EPSMI, the low bidder in construction of the new HVAC system for the Palace by consolidating the scope of work within the Palace. This will still achieve the intent and goals of the original scope without enduring additional rebidding costs, protracted solicitation periods and risks of losing pieces of Hawaii's heritage and history.

CPO COMMENTS:

Based on the department's representation that the changes to the scope of work to the original IFB are minimal and that rebidding would not be advantageous to the State as it would result in an increase in costs, likely loss of available funding, and increase the risk to historic and cultural artifacts, this request is approved with the following conditions:

1. The direct negotiations with the lowest bidder, conducted by the department shall adhere to the scope of services, required qualifications and any other specifications identified in the solicitation Job No. F11C763A, Iolani Palace State Monument – Phase 1, Replacement of Chilled Water System, with the exceptions as noted in Procurement Exemption Request (PE 11-087-B);
2. HRS §103D-310(c) and HAR §3-122-112 shall apply;
3. Approval is for the solicitation process only;
4. Contract shall be for a 12 month period starting from 07/01/11 to 06/30/12; and
5. Award is required to be posted on the Awards Reporting System.

As a reminder, individual(s) participating in procurement activities are required to be in compliance with Procurement Delegation No. 2010-01 and Amendment 1, and Procurement Circular No. 2010-05, *Statewide Procurement Training*, as appropriate. Procurement requests submitted to the SPO listing departmental personnel without written delegated procurement authority and the appropriate mandatory procurement training will be returned with no action taken.

F11C763A IOLANI PALACE STATE MONUMENT - PHASE 1
 REPLACEMENT OF CHILLED WATER SYSTEM, OAHU, HAWAII
 (revised 6/8/2011)

Item No.	Description	Unit Price	EPSI	EPSI	SCI	SCI	BCI	BCI	HSIMI	HSIMI	RICL	RICL
			at Iolani Palace	at Iolani Palace	at Iolani Palace	at Iolani Palace	at Iolani Palace	at Iolani Palace	at Iolani Palace	at Iolani Palace	at Iolani Palace	at Iolani Palace
1	Mobilization & Demobilization	LS	100,000	100,000	180,000	180,000	60,000	60,000	110,000	110,000	100,000	100,000
2	Demolition work; to include demolition, hauling & disposal	LS	100,000	100,000	240,000	240,000	165,000	165,000	67,400	67,400	85,000	85,000
3	Exterior piping, conduit, trenching and grading work	LS	420,000	****	380,000	****	358,000	****	715,000	****	500,000	****
4	Architectural work - Iolani Palace	LS	5,000	5,000	240,000	240,000	85,000	85,000	159,200	159,200	250,000	250,000
5	Architectural work - Archives Bldg	LS	30,000	****	20,000	****	5,000	****	27,000	****	35,000	****
6	Structural work - Archives Bldg	LS	120,000	****	80,000	****	80,000	****	183,000	****	70,000	****
7	Civil Work - Archives Bldg	LS	30,000	****	20,000	****	30,000	****	142,000	****	750,000	****
8	New HVAC equipment replacement	LS	850,000	850,000	2,250,000	2,250,000	1,064,000	1,064,000	963,000	963,000	3,013,000	3,013,000
9	New OA ductwork replacement New chilled water insulation replacement	LS	60,000	60,000	34,000	34,000	50,000	50,000	120,000	120,000	35,000	35,000
10	New DDC System - Iolani Palace	LS	230,000	230,000	228,000	228,000	63,000	63,000	70,000	70,000	235,000	235,000
11	New DDC System - Archives Bldg	LS	300,000	300,000	117,000	117,000	195,000	195,000	176,000	176,000	120,000	120,000
12	Commissioning work - Iolani Palace	LS	40,000	****	65,000	****	35,000	****	38,400	****	67,000	****
13	Commissioning work - Archives Bldg	LS	30,000	30,000	43,000	43,000	8,000	8,000	26,300	26,300	44,000	44,000
14	TAB work - Iolani Palace	LS	70,000	70,000	37,000	37,000	40,000	40,000	89,600	89,600	38,000	38,000
15	TAB work - Archives Bldg	LS	4,000	****	22,000	****	6,000	****	5,000	****	22,000	****
16	Service contract - Iolani Palace	LS	20,000	****	51,000	51,000	95,000	95,000	37,500	37,500	52,000	52,000
17	Service contract - Archives Bldg	LS	20,000	****	26,000	****	40,000	****	20,600	****	26,000	****
18	Electrical work - Iolani Palace	LS	260,000	260,000	80,000	80,000	319,000	319,000	345,000	345,000	22,000	22,000
19	Electrical work - Archives Bldg	LS	155,000	****	50,000	****	186,000	****	201,300	****	10,000	****
20	Electrical work - Emergency Power	LS	455,000	455,000	60,000	60,000	561,000	561,000	608,900	608,900	10,000	10,000
21	Emergency Power - Archives AHU/FCU	LS	210,000	****	50,000	****	252,000	****	274,000	****	10,000	****
22	New Central Plant Mechanical Work	LS	775,000	775,000	146,700	146,700	1,064,000	1,064,000	-	-	10,400	10,400
23	Existing Chiller DDC	allowance	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
24	Remove Existing Chiller Plant	allowance	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
25	120 V Power Connections - Misc.	allowance	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
26	Archive Bldg AHU/FCU - Emergency Power	allowance	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
27	Relocate existing telephone/LAN equipment in Archive Basement	allowance	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
			4,387,000 ✓	3,353,000	4,533,700	3,804,700	4,867,000	3,867,000	4,503,500 ✓	2,870,900	5,618,400	4,112,400
	total at Iolani Palace			260,000		260,000		260,000		260,000		260,000
				3,613,000		4,064,700		4,127,000		3,130,900		4,372,400
								928,800		928,800		198,000
	mistakes in bid proposal - bid shown in bold							5,432,300		4,059,700		4,570,400

*Added
removed
6/8/11*

AE recommends additional cost for Iolani Palace procurement exemption:
 for difficulty in accessing attic space in Iolani Palace \$200,000
 design coordination \$60,000
 total \$ 260,000

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11 JUN -8 AM 1:47