



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

12 APR 18 10:55

STATE PROCUREMENT OFFICE
STATE OF HAWAII

TO: Chief Procurement Officer

FROM: Department of Land and Natural Resources, Land Division
Name of Requesting Department

Pursuant to HRS § 103D-102(b)(4) and HAR chapter 3-120, the Department requests a procurement exemption for the following:

1. Describe the goods, services or construction: Appraisal Services as needed for acquisitions, disposition of easements or remnants, or rent determination for various types of property; real estate consulting services; and land maintenance services.

2. Vendor/Contractor/Service Provider: Various real estate appraisal, real estate consulting, and land maintenance firms	3. Amount of Request: \$ Variable
4. Term of Contract From: Upon CPO Approval To:	5. Prior SPO-007, Procurement Exemption (PE): 06-025-C exp 6/30/06

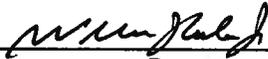
6. Explain in detail, why it is not practicable or not advantageous for the department to procure by competitive means: Land Division was granted an Exemption from Chapter 103D, HRS, in March 2006, which was extended to June 30, 2006, and subsequently expired. In the meantime, Land Division created a "Hybrid" procurement process incorporating some Professional Services and some Small Purchase procedures and requests an exemption thru the end of the current fiscal year to operate using the "Hybrid" procurement process.
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7. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider: Land Division's Hybrid procurement process is as follows: Land Division's Appraisal Review Committee, which comprises of three members including its procurement chief or designee, will select a group of qualified firms from which to solicit quotes. When appraisal services are required, Land Division solicits quotes from the list of qualified firms. There is five day deadline for the firms to submit quotes. Once the deadline expires, the Appraisal Selection Committee, comprised of three members, will rank each firm that submitted quotes based upon the pre-determined criterias. An SPO Form 10 is prepared documenting all the quotes received and this form is signed by Land Division's Administrator and Assistant Administrator. Chair approval is obtained for the firm that provides the best value to the State and a Contract for Services is generated. All awards are posted to the SPO website.
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8. Identify the primary individual(s) who is knowledgeable about this request, who will conduct and manage this process, and has 1) completed mandatory training; and 2) who may contact for follow up inquiry, if any.
 (Type over "example" and delete cells not used.)

Name of Department Personnel	Division/Agency	Phone Number	e-mail address
Russell Tsuji, Administrator	DLNR, Land Division	587-0422	russell.y.tsuji@hawaii.gov
Kevin Moore, Asst. Administrator	DLNR, Land Division	587-0426	kevin.e.moore@hawaii.gov

**All requirements/approvals and internal controls for this expenditure is the responsibility of the department.
 I certify that the information provided above is, to the best of my knowledge, true and correct.**


 Department Head Signature

4/17/12
 Date

For Chief Procurement Officer Use Only

amended 6-4-12

Date Notice Posted: 4-18-12

Submit written objection to this notice to issue an exempt contract within seven calendar days or as otherwise allowed from date notice posted to:

state.procurement.office@hawaii.gov

Chief Procurement Officer (CPO) Comments:

PE-06-25-C Request for Exemption from Chapter 103D, HRS was approved for the period 12/07/05 to 03/31/06 to allow the department time to conduct a competitive procurement, specifically competitive sealed proposals (CSP) method of procurement. An amendment to the request was approved for an additional period from 04/01/06 to 06/30/06 to allow the department to transition between the existing process and executing a new contract. The CPO comments noted that ". . . a procurement violation may occur if no contract is executed by June 30, 2006." According to the department, they have been procuring appraisal services for the period 04/01/06 and would like to continue following their devised process until June 30, 2013.

This request is disapproved. Pursuant to Hawaii Administrative Rules (HAR) 3-120-5, requests shall be submitted prior to procurement for CPO approval. The department is advised to submit a procurement violation, form SPO-016 to explain why a competitive procurement was not conducted for appraisal services as required. The department has not addressed why the CSP method of procurement could not be utilized as the department has determined that award be based on criteria other than low price.

If there are any questions, please contact Donn Tsuruda-Kashiwabara at 586-0565 or donna.tsuruda-kashiwabara@hawaii.gov.

Approved

Disapproved

No Action Required


 Chief Procurement Officer Signature

6/13/2012
 Date

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GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

May 31, 2012

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

MEMORANDUM

TO: Aaron Fujioka, Administrator
State Procurement Office

FROM: William J. Aila, Jr., Chairperson *William J. Aila, Jr.*

SUBJECT: Request for Exemption from Chapter 103D, HRS;
Procurement Exemption 12-095D (Pending)

We provide the following information in response to Donna E. Tsuruda-Kashiwabara's email message dated May 9, 2012 to the Land Division seeking additional information on its request for an exemption from Chapter 103D, HRS, as reflected in Form SPO-7, Procurement Exemption 12-095D (Pending):

1. Why It Is Not Practical or Not Advantageous to Follow One of the Methods of Procurement:
 - a. Timing and Delivery of Services: Land Division has two major categories of requests for appraisal services that it receives in the course of a fiscal year: (1) scheduled rental reopenings for existing leases, and (2) unscheduled requests for appraisals of dispositions such as new leases, grants of easement, and sales of remnants. When a category 2 request comes in, Land Division needs to be able to process it expeditiously. The alternative of waiting for several requests to be received, combining them and soliciting bids from appraisers for conducting appraisals on the group of requests will impede the efficient processing of Land Division's work. Delays will be encountered in waiting to accumulate a group of items to solicit bids on as well as in the appraiser's generating multiple appraisal reports at one time. Moreover, following the HRS Section 103D-304 requirement of negotiating a contract and quote for appraisal services with the first ranked consultant and then the next for all jobs in a fiscal year will not provide for the timely delivery of services due to the nature and scope of work involved in preparing appraisal reports. With six (6) weeks given as the default delivery time for appraisers to submit an appraisal report, assigning all anticipated requests for

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STATE OF HAWAII

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appraisal services for the fiscal year to a single appraiser is not in the best interests of the State.

For the rental reopenings in category 1, Land Division does group jobs together when it is practicable and feasible to do so due to the location and/or similarity in nature of the properties involved and/or the scope of the work requested for appraisal services. A recent example is the grouping of nine rental reopenings of industrial leases in Hilo. But Land Division has different types of leases, including industrial, commercial, resort/hotel and agricultural. It is generally not practicable or feasible to combine appraisal jobs for dissimilar leases. The ability to conduct a fair, open and competitive bidding environment utilizing various consultants from a pre-approved qualified list that is reviewed annually to perform appraisal services with firm bids/prices (as further described in Exhibit "A", Land Division's Proposed Hybrid Procurement Process, attached) allows Land Division to be timely and responsive to anticipated requests for appraisal services on behalf of the State.

- b. Various Types of Appraisal Services: Requests for appraisal services received by Land Division during the fiscal year can further vary between areas of expertise based upon the type, use and/or location of the properties and/or scope of work of the jobs (e.g., agriculture, conservation, pasture land, aquaculture, easements, remnants, improved land, properties on the neighbor islands, etc.). As such, having to negotiate with a single appraiser would inhibit the efficient processing of Land Division's work. Utilizing various appraisal consultants with diverse areas of expertise from a pre-approved qualified list provides for flexibility and assurance that a consultant with the appropriate specialized experience will be hired to perform each job.
- c. Other Procurement Methods are More Restrictive: As explained above, HRS Section 103D-304 is too restrictive for Land Division's needs. It would be too time-consuming for Land Division to negotiate contracts with appraisers each time services were required, and such negotiations would impede Land Division's operations. Regardless of the estimated dollar expenditure for the jobs for appraisal services, Land Division's Proposed Hybrid Procurement Process satisfies the requirements of Small Purchases under the \$5,000 range and the \$5,000 to less than \$15,000 range for all jobs for appraisal services. In fact, Land Division's hybrid process is more stringent than the requirements for Small Purchases, as allowed by Hawaii Administrative Rules (HAR) Section 3-122-75(f) and (g). As such, the Land Division's Proposed Hybrid Procurement Process more than meets the minimum statutory requirements of the applicable Small Purchases procurement code.
- d. Other Criteria Considered "Best Value" in Awarding Assignments: Land Division's ranking of appraisal bids and award of contracts are based upon certain selection criteria to determine the "best value" (as defined in Chapter 3-122-1,

HAR) for the State, which is inclusive of, and not just limited to, pricing. The lowest bid offer received is not automatically selected as the first ranked consultant by the Appraisal Selection Committee (as defined in Exhibit "A" attached). Other relevant criteria, in addition to price, such as quality, performance, reputation/history of the vendor, and timing/delivery of services are also evaluated and taken into consideration in an effort to ensure that the selected bid offer meets the overall combination of the "best value" for the State. Soliciting competitive bids on individual jobs from a pre-approved list of qualified consultants allows the Land Division to assure the best value and the best interest for the State.

2. The Time Period Being Requested for This Exemption: Retroactive from and including July 1, 2006 through and including June 30, 2013, with annual renewals of the exemption permitted from and including every July 1st through and including June 30th subsequent to the submittal of a completed SPO Form-7.

(This proposed annual renewal time period corresponds with the Land Division's annual selection and designation of the Appraisal Review Committee and Appraisal Selection Committee, as defined in Exhibit "A" attached, for the fiscal year from and including July 1st through and including June 30th.)

3. The Estimated Dollar Expenditure for the Time Period: Our expenditures on appraisal services for the period from July 1, 2006 through the most recent fiscal year are as follows:

FY2006-07 – \$ 96,049.79
FY2007-08 – \$125,387.30
FY2008-09 – \$134,564.92
FY2009-10 – \$194,090.74
FY2010-11 – \$118,041.66

On average, therefore, our annual expenditure is approximately \$133,626.88. The average price of an appraisal contract is around \$2,200.

As in the past, we anticipate our jobs for appraisal services will continue to fall within the Small Purchases thresholds, with approximately 90 % of such services under \$5,000 and approximately 10% of such services within the \$5,000 to less than \$15,000 range. The estimated dollar expenditure is based upon the scope of work of the appraisal services and/or size of the respective properties involved from quotes received from the pre-approved list of qualified consultants as jobs are requested. As previously mentioned, regardless of the estimated dollar expenditure for the jobs for appraisal services, Land Division's Proposed Hybrid Procurement Process satisfies the requirements for Small Purchases under the \$5,000 range and the \$5,000 to less than \$15,000 range for all jobs for appraisal services.

Aaron Fujioka, Administrator
State Procurement Office
May 31, 2012
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4. An Update of the Proposed Hybrid Procurement Process: Please see Exhibit "A" attached with regard to the Land Division's Proposed Hybrid Procurement Process.

The intent of the Land Division's request for exemption from Chapter 103D, HRS, is not, by any means, an effort to circumvent the procurement statutes or rules. Land Division does not artificially divide or parcel appraisal jobs to fit within the Small Purchases threshold. Instead, the overall goal of the Land Division's Proposed Hybrid Procurement Process is to best facilitate its work with regard to appraisal services as needed during the applicable fiscal year in a fair, open and competitive bidding environment that is both practicable and advantageous in an effort to assure the best value and the best interest for the State of Hawaii.

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GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
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EXHIBIT "A" - PROPOSED HYBRID PROCUREMENT PROCESS

1. **Notice:** At a minimum, before the beginning of each fiscal year, the Land Division ("Purchasing Agency") publishes a notice inviting persons engaged in providing appraisal services which the division anticipates needing in the next fiscal year, to submit current statements of qualifications and expressions of interest ("Notice to Providers of Appraisal Services").
2. **Selection and Function of the Appraisal Review Committee and Appraisal Selection Committee:**
Selection of Consultant:
 - a. A review committee consisting of a minimum of three (3) persons (including the Purchasing Agency's procurement chief or designee) reviews the statements of qualifications from individuals or firms received ("Appraisal Review Committee") in response to the Notice to Providers of Appraisal Services. This committee performs a one-time review of the statements of qualifications received and recommends a list of qualified individuals or firms that are pre-approved to perform appraisal services when needed during the fiscal year ("Pre-Approved Consultant List") from which to solicit quotes (approximately 12-15 consultants). Such selected individuals or firms on the Pre-Approved Consultant List include qualified consultants from the neighbor islands and are not ranked.
 - b. Upon the request for appraisal services as needed for acquisitions, disposition of easements or remnants, rent determination for various types of property, or real estate consulting services subsequent to approval by the BLNR, the Purchasing Agency solicits quotes from the Pre-Approved Consultant List only based upon pre-determined criteria in relation to the specific job and request for appraisal services. There is a three (3) day deadline from and after the date of solicitation for the Pre-Approved Consultant List to submit quotes. Based upon the number of responses and quotes received from the Pre-Approved Consultant List during the competitive bidding process, a selection committee consisting of a minimum of three (3) persons, evaluates and ranks the responses and quotes received based upon pre-determined criteria in relation to the specific job and request for appraisal services ("Appraisal Selection Committee"). Such ranking of the responses and quotes received from the Pre-Approved Consultant List are based upon price and additional selection criteria (e.g., quality, performance, reputation/history of the vendor, timing/delivery of services and pricing) in an effort to determine the "best value" for the State of Hawaii. Written determination and justification of such ranking are placed in the procurement file, and Chair approval is obtained. An SPO Form 10 is prepared documenting the award to the first ranked consultant and the overall ranking of all of the quotes received, with such form signed by the Purchasing Agency's Administrator and Assistant Administrator. The award to the first ranked consultant and all other quotes received for all appraisal services are posted to the SPO website.
3. **Contract with the First Ranked Consultant:** The Purchasing Agency contracts with the first ranked consultant and the firm quote received, and issues a Notice to Proceed. The consultant is given six (6) weeks from the date of receipt of the Notice to Proceed by the consultant to perform the appraisal services (i.e., deliver the appraisal report to the Purchasing Agency).