



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

12 OCT 22 P3:51

STATE PROCUREMENT OFFICE
STATE OF HAWAII

TO: Chief Procurement Officer

FROM: Department of the Attorney General
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:
Highly specialized legal services to: research and review project labor agreements (PLAs); provide comments and recommendations on PLAs; develop a model PLA for use by state departments and agencies; ensuring that the model PLA complies with the requirements of all applicable federal and State of Hawaii law and offers the greatest protection to the State of Hawaii; advising the Department on the use of PLAs; advising the Department on developments relating to PLAs specifically to issues that are unique to the departments and agencies of the State of Hawaii; and providing training on PLAs.

2. Vendor/Contractor/Service Provider:	Jeffrey S. Harris	3. Amount of Request: <i>\$34,000</i> <i>10/22</i>
		\$ 75,000 (for past & future fees)
4. Term of Contract From: 1-Jul-11 <i>10/22/12</i>	To: 3/31/2013	5. Prior SPO-007, Procurement Exemption (PE): None

6. Explain in detail, why it is not practicable or not advantageous for the department to procure by competitive means:
The Department is seeking to retain Mr. Harris to continue the work he began under a prior contract regarding PLAs. As stated in Form SPO-016 (submitted with this form), both parties continued work on this project in good faith despite the contract having expired. At this point, the project is nearly complete, and given the body of work already performed by Mr. Harris and that the project is nearly complete, the Department believes it would be more expedient and economical for the Department to continue with Mr. Harris than to begin anew with another attorney. Despite the work done to date by Mr. Harris, the project has not been completed and an exemption would afford Mr. Harris the requisite time to complete the project. The Administration has stressed to the Department the urgent need to develop and make available a model PLA for use by state departments and agencies. If the Department were to competitively seek attorney services to complete the project, it would set the project back, as the new attorney, if not Mr. Harris, would very likely need to spend some time getting up to speed at the expense of the Department.

7. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider:
The Department requests that it be allowed to retain Mr. Harris under an exemption so that he may complete the PLA project as described above in the description of services. Mr. Harris was originally retained under a small purchase contract for \$3,000 because the Department originally anticipated that Mr. Harris would review a single draft PLA and provide comments and recommendations on it. However, Mr. Harris found the PLA he was given to review to be unsatisfactory and insufficient for the state's needs. Also, during the course of Mr. Harris' agreement, the Department was informed that the PLA had become an important objective of the Administration. The Department, with good intentions to fulfill the objectives of the Administration, continued to work with Mr. Harris beyond the expiration of the original contract. There is currently \$41,904.30 owing to Mr. Harris, and under the legal theory of "quantum meruit," the State is obligated to pay. The remainder of the work necessary to complete the project plus the back pay is anticipated to be less than \$75,000.

8. Identify the primary responsible staff person(s) conducting and managing this procurement. (Appropriate delegated procurement authority and completion of mandatory training required).

*Point of contact (Place asterisk after name of person to contact for additional information).

Name	Division/Agency	Phone Number	e-mail address
David T. Moore	ASO	586-1292	david.t.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.

Russell A. Suzuki

Department Head Signature

10-22-12

Date

For Chief Procurement Officer Use Only

Date Notice Posted:

10/23/2012

Inquiries about this request shall be directed to the contact named in No. 8. 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:

Request has been withdrawn by the department.

Approved

Disapproved

No Action Required

David Fuji
 Chief Procurement Officer Signature

2/26/2013
 Date