



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

12 DEC 19 AM 11:26

STATE PROCUREMENT OFFICE
STATE OF HAWAII

TO: Chief Procurement Officer

FROM: Hermina Morita, Chair, Public Utilities Commission, Dept. of B&F *Hermina Morita*
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:
The Public Utilities Commission (HPUC) intervened in a Federal Energy Regulatory Commission (FERC) docket, CP12-498, which was initiated by The Gas Company, LLC, dba HawaiiGas (HawaiiGas). HawaiiGas, also regulated by the HPUC, pursuant to Chapter 269, Hawaii Revised Statutes (HRS), applied to FERC seeking authorization to operate a Liquefied Natural Gas (LNG) terminal in the State of Hawaii. Since the HPUC is charged under HRS § 269-1 with the responsibility to regulate "the production, conveyance, transmission, delivery, or furnishing of . . . gas. . ." the HPUC desires to actively participate in the FERC proceeding to ensure that regulatory authority is appropriately exercised and Hawaii's public interest is served. See attached for more information.

2. Vendor/Contractor/Service Provider	Thomas C. Gorak, Gorak & Bay, L.L.C.	3. Amount of Request: \$ up to 95,000
4. Term of Contract From: CPO approval	To: Jun-14 <i>6/30/14</i>	5. Prior SPO-007, Procurement Exemption (PE): <i>per email 1/16/13 Brook Kane</i>

6. Explain in detail, why it is not practicable or not advantageous for the department to procure by competitive means:
HawaiiGas filed its application with FERC in August 2012. Given that the proceeding is already under way, and in recognition that the responses filed by other intervenors reveal that discussion of a wide range of issues in the FERC proceeding will be necessary, immediate expert assistance is needed. The FERC will proceed using its own procedural steps and rules for completing its docket. Time is of the essence and immediate assistance is required by the HPUC from someone expert in representation of persons before FERC and of gas regulation.

7. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider:
The HPUC contacted those attorneys who are known to practice in the area of gas regulation and who have the necessary FERC expertise. The HPUC also requested whether the attorneys had any known conflicts of interest resulting from previous representation of other parties involved in the FERC proceeding. The proposed contractor had no known conflicts of interest, clearly had the most relevant experience, and stood out as the candidate who could best represent the HPUC before the FERC.

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
Hermina Morita, Chair	Hawaii Public Utilities Commission	808-586-2020	Hermina.M.Morita@hawaii.gov
*Brooke K. Kane, Administrative Director	Hawaii Public Utilities Commission	808-586-2020	Brooke.K.Kane@hawaii.gov
Catherine P. Awakuni, Chief Counsel	Hawaii Public Utilities Commission	808-586-2020	Catherine.P.Awakuni@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

Dec. 17, 2012
Date

For Chief Procurement Officer Use Only

Date Notice Posted: 12/21/12

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:

This approval is contingent upon the contractor being compliant with HRS §103D-310(c) and HAR §3-122-112 (i.e. contractor is required to be compliant on the Hawaii Compliance Express) and award is required to be posted on the Awards Reporting System. When processing payment to contractor the department is required to attach a current compliant HCE certificate with the invoice for payment.

If there are any questions, please contact Kevin Takaesu at 586-0568, or kevin.s.takaesu@hawaii.gov.

Approved Disapproved No Action Required


Chief Procurement Officer Signature 1/14/2013
Date

No. 1, Continued

Because FERC's jurisdiction in Hawaii is very limited, the HPUC's familiarity and experience with FERC's processes and rules is also limited. The HPUC desires to contract with legal counsel familiar with FERC's rules, processes, and gas regulation to represent the HPUC before FERC in the HawaiiGas proceeding. Given that the time table for the FERC proceeding is not within the HPUC's control and procedural steps are already under way, the HPUC needs immediate assistance. The HPUC identified a seasoned attorney expert not only in appearing before FERC, but also in gas regulation, and seeks through this Notice and Request for Exemption, to contract with this attorney to assist in representing the HPUC before the FERC.

The HPUC anticipates that after many jurisdictional questions are resolved at the FERC, one or more dockets will need to be opened at the HPUC. These will include issues relating to LNG generally or to HawaiiGas' request to commit funds to accomplish its LNG plans, among other possibilities. If and when the HPUC opened such new docket(s), the HPUC plans to utilize the procurement exemption allowed under HRS § 103D-102(b)(4)(A) to retain the same counsel utilized for the FERC proceeding to assist in addressing the policy matters that will arise in the State review of HawaiiGas' LNG plans.

PE 13-045K