



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

13 SEP 13 AIO :49

STATE PROCUREMENT OFFICE  
STATE OF HAWAII

TO: Chief Procurement Officer

FROM: Transportation  
*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:  
Maintenance of the outbound Baggage Handling System (BHS) at Statewide Airports.

2. Vendor/Contractor/Service Provider:	Airlines Committee of Hawaii (ACH)	3. Amount of Request:
4. Term of Contract From:	1-Oct-13	To: perpetuity
5. Prior SPO-007, Procurement Exemption (PE):		\$ 6,000,000/year estimated

6. Explain in detail, why it is not practicable or not advantageous for the department to procure by competitive means:  
See attached supplemental sheet.

7. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider:  
See attached supplemental sheet.

**Notice of Request for Exemption from HRS Chapter 103D – Supplemental Sheet  
Maintenance of Outbound Baggage Handling Systems (BHS)**

**Question 6 Response**

Historically, members of the Airlines Committee of Hawaii (ACH) installed and maintained the outbound BHS at Statewide Airports. In 2006 the DOT Airports Division (DOTA) initiated the first of several projects to move Explosive Detection System (EDS) equipment from the public ticket lobbies to the back of the house baggage make up areas including integrating the EDS equipment into the BHS conveyors. One project was completed at the Honolulu International Airport (HNL) Interisland Terminal (Lobby 2) and one project was completed at Kahului Airport (OGG). The OGG project was awarded to Bodell Construction at a cost of \$15.7M at the end of 2004 and was completed in August 2008, although the BHS was completed in mid 2007. The HNL project was awarded to Western Engineering at a cost of \$16.9M in early 2006 and was completed in early 2009. Prior to this Aloha Airlines installed a system in HNL Lobby 3 at their own expense. After their bankruptcy this equipment became the property of the State at around the same time the HNL Lobby 2 BHS was completed.

Upon completion, the ACH assumed maintenance of the BHS on June 2007 at OGG and January 2009 at HNL for Lobbies 2 and 3 on behalf of their members as they normally did with other existing BHS. No formal approvals were obtained and no State staff permission was involved for ACH to provide this maintenance since ACH members provided maintenance on all other outbound BHS systems. Recently it was brought to DOTA's attention that this may be a procurement violation since maintenance of DOTA owned equipment should be procured via HRS Chapter 103D. The Attorney General confirmed this in a written opinion (attached) on December 13, 2013 and recommended a SPO exemption be requested to allow ACH to continue maintenance of the BHS.

The other lobbies at HNL (4 through 8) recently had EDS and BHS equipment installed under a Phase II HNL project which was awarded to Nan, Inc. in late 2009 at a cost of \$64M. This project was substantially complete about a year ago and the BHS is being maintained by Nan for one year as part of the installation contract. This maintenance by Nan will end on September 30, 2013.

ACH has contracted with Elite Line Services (ELS), a licensed BHS maintenance contractor, to maintain the BHS at HNL Lobbies 2 and 3 and OGG. ELS was the existing maintenance contractor performing as a subcontractor to the State procured general contractors for all the BHS installation contracts as listed above. Under the general contractor ELS provided the post installation one-year maintenance services required in the installation contract. After the one-year period was over, ACH retained ELS in a new private contract to insure a smooth transition for maintenance going forward. The maintenance for the rest of the HNL Lobbies 4 through 8 is still under the installation contract one year maintenance period and is being performed by ELS who is a subcontractor to Nan. The maintenance services include maintaining the conveyor equipment as recommended by the manufacturer and providing on call services to troubleshoot and repair the system when there are malfunctions. The amount spent by ACH for maintenance of HNL Lobbies 2 and 3 from January 2009 to September 2013 is \$4,509,168.96. The amount

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spent by ACH for maintenance of OGG from June 2007 to September 2013 is \$4,972,669.13. The total amount spent and current expenditures ending September 2013 by ACH is \$9,481,838.09.

DOTA is requesting an exemption to allow ACH to continue the maintenance of the outbound BHS from October 1, 2013 to perpetuity for the following reasons:

1. ACH will contract the maintenance at no cost to the State.
2. ACH will provide oversight of the contracted maintenance at no cost to the State
3. ACH can pro-rate charges for the contracted maintenance and oversight cost to their members based on BHS usage.
4. As sole users of the BHS equipment it is in ACH and DOTA's interest for ACH to provide contracted maintenance and oversight since ACH members have the best knowledge of contracted maintenance and oversight needs and can have full control of the maintenance. This scenario provides a single point of responsibility for 24/7 performance of the BHS and DOTA will not be responsible or liable for any interruption in the operation of the BHS. This is an important consideration because if the BHS breaks down luggage cannot be loaded on planes and the planes cannot depart.
5. If the DOTA contracted the maintenance and oversight services a formal solicitation using a HRS 103D procurement is required. Procuring and administering the contracts requires DOTA staff resources. DOTA has a shortage of staff resources. ACH procurement and administration of BHS maintenance and oversight contracts would relieve DOTA staff of this responsibility.
6. If the DOTA contracted the maintenance and oversight services these costs would be expensed in the DOTA financial statement as expenditures for routine maintenance and consultant services. These expenses are paid for by DOTA revenues which are comprised of concession fees, aeronautical rentals, airport landing fees, aviation fuel taxes, airport system support charges and interest income. These revenue sources would contribute to the payment of the maintenance and oversight contracts at the same ratio as their individual contribution to total revenues. In this scenario the maintenance and oversight contracts are not being paid for by the actual users and are not pro-rated to the actual users based on use. Conversely, ACH is able to pro-rate charges for the contracted maintenance and oversight costs to their members based on BHS usage if they procure the maintenance and oversight contracts.

#### **Question 7 Response**

In their letter of December 13, 2013, the Attorney General suggests a procurement exemption be requested to allow DOT and ACH to be able to enter into a contractual relationship for management of the BHS by which ACH would be given authority to contract directly with BHS maintenance and oversight contractors and pass those costs on to their members based on use.

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
Ford Fuchigami	DOT	838-8602	ford.fuchigami@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

SEP 12 2013  
Date

**For Chief Procurement Officer Use Only**

Date Notice Posted: 9.13.13

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

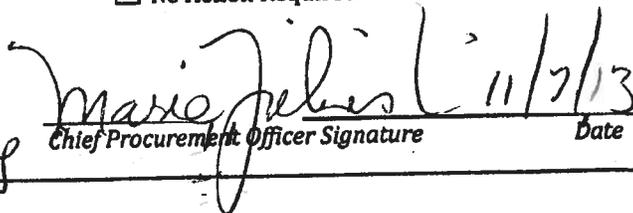
**Chief Procurement Officer (CPO) Comments:**

Request is disapproved as department did not comply with HRS Section 103D to select the vendor to provide maintenance and oversight services of the Baggage Handling System (BHS). In addition, vendor is not HCE compliant. Department shall withhold payments(s) until vendor is HCE compliant. If there are any questions, please contact Bonnie Kahakui at 587-4702, or bonnie.a.kahakui@hawaii.gov.

Approved

Disapproved

No Action Required

Acting   
 Chief Procurement Officer Signature      Date 11/7/13