

STATE OF HAWAII REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS

TO: Chief Procurement Officer

FROM: Department of Human Services/Office of Youth Services
(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:

Description of goods, services, or construction:

Consulting services by a specialist in the field of juvenile corrections programs and staff management to support the Hawaii Youth Correctional Facility (HYCF) for a 9 month period to address anticipated finding that will be reported by the Department of Justice.

Between November 2004 through January 2005, Mrs. Nancy Emmert provided the Department of Human Services (DHS) for the HYCF staff with training in the areas of observation and assessment, case management, grievance procedures, and the behavior management of troubled youths. This training was tailored to address critical issues needing improvement at the HYCF based on a current U.S. Department of Justice investigation.

The Department of Justice, Civil Rights of Institutionalized Persons Act (CRIPA) investigation of HYCF began in October, 2004. A report of the findings will be forthcoming to the Governor and the Attorney General, at which time the state will have a very short window of time (generally 49 days) to reach a negotiated settlement on the report's findings of HYCF.

Mrs. Emmert's knowledge of juvenile corrections is of great value to this Office and the State in helping to accelerate the improvements needed in the facility's operations. Having been with the Texas Youth Commission during a similar experience years ago, Mrs. Emmert worked to implement program change through improved management and policy implementation. Her knowledge of the HYCF administration and staff in specific areas such as employee training, juvenile corrections security systems, documentation of incidents and reporting, standards for juvenile programs, employee performance accountability, the revision of parole procedures, facility management, and quality assurance reviews, are invaluable to the state at this critical time. By having Mrs. Emmert as a long term consultant, the state's aggressive efforts to improve the operations management will reduce the likelihood of litigation over the conditions at HYCF.

Mrs. Emmert is uniquely qualified to deliver immediate assistance at a broader level than any other consultant, because of her practical knowledge in running juvenile corrections programs and her training experience at HYCF.

Name of Vendor:

Nancy Winborn Emmert

Address:

17503 Hamilton Pool Road
Austin, Texas 78738

Cost: \$91,900.00/initial period

Term of Contract: From: Upon CPO Approval

To: 9 months from start date

Anticipated report date: Monthly

Prior Exemption Ref. No. (if applicable)

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

In August 2003, the American Civil Liberties Union (ACLU) issued a report on their findings of the conditions at the Hawaii Youth Correctional Facility (HYCF). Governor Lingle released the report and given the serious nature of the allegations, called for the re-assignment of management at the HYCF. The ACLU report triggered a federal investigation of the HYCF that may result a federal court case ending in a consent decree. Unless the OYS and HYCF can prove that they are able to address the necessary improvements that will bring the facility up to constitutional standards, the state will be faced with multi-millions of dollars in mandated improvements directed by the federal government but paid by the State.

1. As the DOJ investigation report of HYCF is expected to be issued any day now and the short window of time (generally 49 days) to reach a negotiated settlement on the report's findings, it would be an advantage to the state to have Mrs. Emmert participate in discussions between the State and the DOJ regarding findings/issues brought up in the report.

- Mrs. Emmert is well versed in the complex nature of the youth correctional facility, the employment patterns, union grievances, and population profiles from all of her previous experience and has some knowledge of HYCF after doing training at the facility.
2. No other consultant allows us to leverage the existing expenditures of funds for staff training that has already occurred by Mrs. Emmert.
 3. Mrs. Emmert can offer consulting services on day-to-day juvenile facility operations.
 4. We do not feel there is any consultant available who could come in with the knowledge needed to make rapid improvements that will be required once the DOJ report is issued.

Details of the process or procedure to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:

We are seeking this procurement exception because by using Mrs. Emmert as a consultant in the specific areas needing improvement allows the state to leverage the investment of time and training made by the DHS to assist HYCF in improvements. As the DOJ report is expected to be issued any day now and the short window to time (generally 49 days) to reach a negotiated settle on the report's findings, hiring Mrs. Emmert given her expertise and understanding of HYCF would be an advantage to the state. Each day improvement is delayed will cost the state in increased settlement costs.

It is difficult given the complex nature of the youth correctional facility, the employment patterns, union grievances, and population profiles to find a consultant with the depth of knowledge that is needed to achieve rapid progress.

HYCF needs to obtain approval for this Request for Exemption from Chapter 103D, HRS and the Governor's approval to proceed.

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

A staff member under the direction of the Executive Director of Office of Youth Services will review the consultant's work at the HYCF and will work with the HYCF Administrator to implement improvements at HYCF based upon recommendations by Mrs. Emmert in conjunction with the forthcoming DOJ report.

A list of agency personnel, by position title, who will be involved in the approval process and administration of the contract:

Sharon L. Agnew, Executive Director, Office of Youth Services; Kaleve Tufono-Iosefa, Youth Facility Administrator, Hawaii Youth Correctional Facility; Etene Taimalelagi, Project Director, Office of Youth Services, Winifred Doi, ATSO, Office of Youth Services,

Direct questions to:
 Sharon L. Agnew, Executive Director, Office of Youth Services 584-5706
 Winifred Doi, Administrative & Technical Services Officer | Phone Number: 587-5714

This exemption should be considered for list of exemptions attached to Chapter 3-120, HAR: Yes No

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS, TO THE BEST OF MY KNOWLEDGE, TRUE AND CORRECT.


 Department Head or Designee
 Title (If other than Department Head)

MAR 09 2005
 Date

Chief Procurement Officer's Comments:

While the contractor has worked with the DHS in the past and appears to have experience in this field, this is not sufficient justification to not issue a solicitation to seek other qualified persons. Since there is potential that other vendors may be equally qualified to provide the service, and other vendors may be needed in the future, a competitive solicitation should be issued.

Please ensure adherence to applicable administrative requirements.

APPROVED DISAPPROVED

cc: Administrator,
 State Procurement Office


 Chief Procurement Officer
 Date 3/16/05