



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

NOTIFICATION
OF REQUEST FOR EXEMPTION

TO: Chief Procurement Officer
FROM: Department of Public Safety / Corrections 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:
Interstate Telephone Services for Inmates Statewide

2. Vendor/Contractor/Service Provider Hawaiian Telcom, Inc. 3. Amount of Request:
\$ applicable to inmate usage

4. Term of Contract From: 10/13/2014 To: 10/12/2015 *or until contract is awarded 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:
Please see attached.

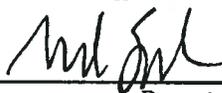
7. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider:

Currently Sprint is the vendor offering the services for Interstate calls. In a letter dated July 15, 2014, Sprint stated they will discontinue their services effective October 13, 2014 to the State of Hawaii Department of Public Safety. The telephone lines are currently run and owned by Hawaiian Telcom, Inc. (Sprint is a third party user of the lines), and they emailed PSD that they would be able to maintain and pick up services from Sprint. Synergy Telecom Service Co., Inc. also expressed to PSD interest in providing services in the interim as Sprint wanted to discontinue. On October 2, PSD electronically solicited pricing, start up information, and other factors from vendor Hawaiian Telcom, Inc., and Synergy. On October 8, 2014, the determination was made based on price per minute charged to inmates from \$0.24 versus \$0.25 a minute, to award interim services to Hawaiian Telcom, Inc. (The current FCC ruling is that the price charged to inmate cannot exceed \$0.25 per minute.) The Hawaii Compliance Express certificates for Hawaiian Telcom, Inc. dated October 8, 2014 was reflecting "compliant," and Synergy Telecom Co., Inc. was reflecting "Not compliant." Synergy Telecom Co., Inc., also expressed that because Hawaiian Telcom, Inc. owns the telephone lines, it is possible that as the owners, they can charge Synergy costs to utilize the lines which would be passed to PSD. Hawaiian Telcom, Inc. expressed to PSD that they would not pass any additional phone line charges to PSD.

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
Marc Yamamoto ^{WJK} _{PS}	PSD/ASO-PC	(808)587-1215	marc.s.yamamoto@hawaii.gov
Teresita V. Fernandez *	PSD/ASO	(808)587-1239	teresita.v.fernandez@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

10/10/14

Date

For Chief Procurement Officer Use Only

Date Notice Posted:

10/17/2014

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:

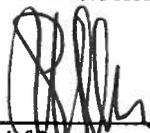
This request is **disapproved** because the department was aware they were in procurement violation without a contract from 4/30/12. Department shall submit form SPO-016, *Report of Procurement Violation: Findings and Corrective Actions and/or Request for After-the-Fact Payment Approval* for any goods/services provided after contract expired on 4/29/12. Department shall use applicable procurement method or resubmit form SPO-007, *Request for Exemption*, for reconsideration if the department can justify why it is not practical or advantageous to competitively re-procure.

If there are any questions, please contact Stanton Mato at 586-0566, or email stanton.d.mato@hawaii.gov.

Approved

Disapproved

No Action Required



Chief Procurement Officer Signature

10/31/14

Date

Form SPO-007

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

The Department of Public Safety is currently in the process of procuring these services for Inmate Telephones with RFP no. PSD 10-COR-09. This is in accordance to a Federal case in the 9th Circuit Court of Appeals, No. 98-55302, stating inmates have a First Amendment right to telephone access. We are requesting this exemption for interim services for interstate phone services for inmates in anticipation of contract awarding for this RFP. The need for interim services is to prevent interruption or restrict access of telephone services to inmates who utilize interstate calls. Also, PSD does not want to appear to discriminate between inmates who can utilize the interstate phone services and the inmates who use local and intrastate (interisland calls). The RFP was originally awarded to Synergy Telecom Service Co., Inc. on July 10, 2013. However due to delays in awaiting FCC rulings in late 2013, regarding rates and commissions charged for inmates, the contract issuance after award notice was delayed. Hawaiian Telcom, Inc. after receiving their notice of non-award, issued a Request for Information, and filed a protest. The result of the protest is that the award was rescinded from Synergy Telecom Service Co., Inc., and the submitted bids shall be re-evaluated on certain factors that Hawaiian Telcom, Inc., felt they were not taken into consideration. Currently the situation is that the RFP no. PSD 10-COR-09 is not awarded, and the time needed for the evaluation committee which comprises of three PSD employees, and two employees of other departments - UH & DAGS, to reconvene & rescore five proposals submitted. PSD does not know how long it will take to complete award, complete contract issuance, and anticipated protest period time due to legal counsel inquiries from Synergy Telecom Service Co., Inc. The period of time requested is from October 13, 2014, the date the current contractor Sprint will be withdrawing their services to route interstate calls, until a new contract can be awarded under PSD 10-COR-09.

PEIS-0175