



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

15 FEB 20 P3:20

TO: Chief Procurement Officer

FROM: Attorney General
Name of Requesting Department

ADMINISTRATION
STATE PROCUREMENT OFFICE
STATE OF HAWAII

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:
Legal services to review, analyze and provide advice and counsel to the State with respect to the proposed merger of Nextera and Hawaiian Electric Company, Inc., Maui Electric Company, and Hawaii Electric Light Company (PUC Docket 2015-0022), and intervention of the State in that docket; assist the State in conducting due diligence with respect to assessing the impact of the proposed merger on the State; drafting and filing pleadings with the Hawaii State Public Utilities Commission (PUC) and other appropriate tribunals in administrative and/or legal proceedings; advocating the State's position before the PUC and other tribunals in all administrative and/or legal proceedings; and assisting the State in proposing changes to the merger, if any, that would provide protection to the State.

2. Vendor/Contractor/Service Provider:	Scott Hempling, Attorney at Law LLC, 417 St. Lawrence Drive, Silver Spring MD 20901	3. Amount of Request:	\$ 100,000.00
4. Term of Contract From:	Upon SPO approval	To:	completion
		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:
See attached.

7. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider:
The Department has reviewed all of the relevant expressions of interest and statements of qualification submitted in response to its general notice, and it has reviewed the qualifications of all known attorneys in the State with relevant experience in complex PUC regulatory matters and large scale utility mergers. The Department has interviewed several individuals with established national reputations in this highly technical field using contacts and referrals. Final selection was based on breadth and depth of experience and expertise in large scale electric utility mergers and assisting governmental agencies in evaluating and responding to proposed mergers in the regulatory context; proposed fees; and current availability and willingness to perform the contract.

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	AG/ASO	(808) 586-1289	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. Sugi

 Department Head Signature

2-20-2015

 Date

For Chief Procurement Officer Use Only

Date Notice Posted: 2/20/2015

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:

Approval is based on the department's representation that Scott Hempling, Attorney at Law LLC is the most experienced source of specialized expertise that is qualified to advise and counsel the State in this large scale electric utility merger case. This approval is for the solicitation process only. Pursuant to HRS section 103D-310(c) and HAR section 3-122-112, the procuring officer shall verify compliance (i.e., vendor is required to provide proof of compliance) for all contracts awarded and award is required to be posted on the Awards Reporting System. Copies of the compliance and awards posting are required to be documented in the procurement/contract file.

If there are any questions, please contact Stacey Kauleinamoku at 586-0571, or stacey.l.kauleinamoku@hawaii.gov.

Approved

Disapproved

No Action Required

[Signature]

 Chief Procurement Officer Signature

3/9/15

 Date

6. It is not practicable to obtain legal services by competitive means in this situation because this is an exceedingly specialized practice area and there are no attorneys in the State with the necessary depth and breadth of expertise in the area. In addition because of the short time periods in the ongoing PUC merger docket, publishing a notice for expressions of interest from attorneys for this very technical subject matter expertise would not be practicable nor in the best interests of the State. The expertise is beyond the scope of the general practice area specified in the Department's request for expressions of interest. Thus, under chapter 103D, Hawaii Revised Statutes (HRS), the State would have to advertise and request expressions of interest. The notice of merger filed with the PUC triggers a very short time frame to prepare an analysis and intervene in the proceeding. The State had no advance knowledge that the notice of merger was going to be filed on January 29, 2015. Because the PUC proceeding has been triggered by the filing of the notice of merger, there is not adequate time for the State to advertise for attorneys to submit expressions of interest and statements of qualifications through the HRS § 103D-304 process. It is urgent that an attorney of Mr. Hempling's capabilities, qualifications and ability be engaged as soon as possible in the best interest of the State.

PE15-0395K