



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

15 MAY 20 08:09

STATE PROCUREMENT OFFICE
STATE OF HAWAII

TO: Chief Procurement Officer
FROM: Human Services
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:
See attached.

2. Vendor/Contractor/Service Provider	Public Consulting Group (PCG)	3. Amount of Request:
		\$ 800,000 state and federal funds

4. Term of Contract From: 5/1/2015 To: 12/31/2016	5. Prior SPO-007, Procurement Exemption (PE):
<i>5/29/15 KJ</i>	<i>per email 5/29/15 Hiramata</i>

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 an existing contract with Public Consulting Group (PCG) to perform independent verification and validation (IV&V) work to monitor the implementation and assess security compliance of the integrated eligibility system. PCG was awarded the work that was competitively bid in 2012 with a termination date of December 31, 2015.

The Department seeks an exemption from State procurement requirements to contract with PCG. The Department intends to negotiate a fixed price contract based on deliverables, as this presents the lowest risk to the state to meet the required timeframe and to limit the cost to the state.

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
Leslie Tawata	Med-QUEST Division	692-8052	ltawata@medicaid.dhs.state.hi.us
Aileen Hiramatsu*	DHS	375-8685	ahiramatsu@medicaid.dhs.state.hi.us

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

5/19/15

 Date

For Chief Procurement Officer Use Only

Date Notice Posted: 5/21/15

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 granted for the period 5/20/2015 to 12/31/2016 and is for the solicitation process only and with the understanding that the department has determined that it would not be advantageous and not practicable to conduct a competitive procurement prior to the next open enrollment period, November 2015. All other requirements per the Procurement code remain valid through the remainder of the contract life.

The following actions will be required to substantiate the good standing of this contract going forward:

- Create a contract in writing as a separate contract vehicle detailing the exemption description, period of performance and additional requirements thereto;
- Ensure any new monies over \$100,000 attached to the contract need to be associated with an evaluated proposal which shall include documented evidence of cost and pricing analysis to determine a fair and reasonable price is received by the State;
- Process a 'new' or 'change to current exemption' request if there is any change in scope;
- Align Payment and Program management against a set of milestones and deliverables;
- Develop an additional contract agreement between all parties (DHS KOLEA Team, Connector Team, CIO, KPMG, Deloitte, PCG) with a Relationship Charter clearly spelling out the roles and responsibilities, communications, and the process of dealing with DRs, disagreements, or any new challenges as they arise;
- Clearly document any Deviation from the plan with reasoning;
- Develop a life-cycle plan for managing the system as from November 2015 and forward. This exemption is a short term approval. How and who will be maintaining the system in the future?
- 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 the 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.
- Assure the contracting actions are managed by an authorized procurement specialist who has obtained the required delegation authority and training in compliance with Procurement Delegation No. 2010-01 and Amendment 1, and Procurement Circular No. 2010-05, Statewide Procurement Training. The SPO does not have a record of attendance at the appropriate mandatory procurement training for individual, Aileen Hiramatsu, named in no. 8 and no record of procurement delegation for Leslie Tawata and Ms. Hiramatsu.

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

6/2/15

Date

1) Describe the goods, services or construction:

The federal Centers for Medicare & Medicaid Services (CMS) issued a demand that the Hawaii Health Connector (HHC) develop a Corrective Action Plan (CAP) that includes using the Federally Facilitated Marketplace (FFM) as the platform for processing applications for Advance Premium Tax Credits (APTC) and Cost Share Reductions (CSR) in time for the next Open Enrollment period in November 2015. By using the FFM, the State will transition from a state-based exchange to a Supported State Based Marketplace (SSBM). The CAP was submitted on May 11, 2015. Even though the requirement is on the HHC to become compliant with the federal ACA requirements, the Department, as the state's Medicaid agency, is being required by CMS to implement system changes within the same timeframe to enable the State to transition to a SSBM.

The transition requires a contractor to conduct required Independent Verification and Validation (IV&V) and security assessment activities to support the state's transition to a Supported State Based Marketplace (SSBM). The scope of work includes reviewing all vendor documents created during the design, development, and implementation (DD&I) of a two-way transfer of applicant files, also referred to as Account Transfer (AT). In addition, the IV&V must attest to the new MEC D1H31 transaction that must be built between the Medicaid program and the FFM. Throughout the implementation, the IV&V vendor must also attest that the required activities were completed, conduct a security assessment, and prepare required reports to CMS. These functionalities must be in place and validated before the next Open Enrollment period in November 2015 in order to be compliant as a state-based exchange. The State believes PCG is the best qualified vendor to perform this unique work to conduct the IV&V activities in support of the State's transition to a SSBM.

All of these services must be performed before the next Open Enrollment period in November 2015 in order for Hawaii to remain compliant as a State-Based Exchange. With only five months available to implement, the Department does not have adequate time to competitively bid for the work.

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

The Department considered the following factors when determining that a new procurement would not be practicable nor advantageous to the department:

- A. Cost and time for preparing, soliciting and evaluating competitive bids given federally imposed deadline of November 2015;
- B. Additional risk for working with a different contractor; and
- C. Financial risk to the state for not complying with CMS Medicaid regulations

These factors are discussed in greater detail below:

PE15-060K

A. Cost and time for preparing, soliciting and evaluating competitive bids given federally imposed deadline of November 2015

All work under this Contract must be complete in time for the next Open Enrollment period in November 2015. Given the short time frame for the implementation, there is insufficient time to prepare, solicit and evaluate competitive bids. The short timeframe is driven by the circumstances outside the control of the Department. The Hawaii Health Connector (Connector) has been required by the federal Center for Consumer Information and Insurance Oversight (CCIIO) to submit and implement a Corrective Action Plan (CAP) for the next Open Enrollment period which will occur in November 2015. CCIIO is the federal agency charged with ensuring the states meet the ACA requirements related to the health insurance exchanges. The Connector received a directive on March 30 from CCIIO requiring a CAP by April 8, 2015, but the State was provided additional time to submit a CAP by May 11, 2015. Part of the CAP requires Hawaii to transition to a Supported State-based Marketplace (SSBM). This means that the state will use the Federal Facilitated Marketplace (FFM) platform to accept and determine eligibility for Advance Premium Tax Credits (APTC) and Cost Share Reductions (CSR) and if eligible, conduct enrollments into Qualified Health Plans (QHPs). Although the CAP was the result of the Connector's non-compliance with federal requirements, the Department is being forced to make system changes within the same timeframe. The move to a SSBM requires the Department, as the State Medicaid Agency, to perform certain new functions and also connect to the FFM platform within the same timeframe.

The Department became aware of the CCIIO requirements only recently in March 2015 and has been participating on joint calls with the Governor's Office, the Connector, DCCA, CCIIO, and the Centers for Medicaid and CHIP Services (CMCS) which oversees the Medicaid program. The Department and the Governor's Office explored with CCIIO and CMCS the possibility of extending the deadline to transition to a SSBM to next year's Open Enrollment in November 2016 for plan enrollment in 2017. CMCS made clear that the state Medicaid agency must comply with the transition along with the Connector. Failure to comply places the state at risk for not meeting Medicaid requirements and losing federal Medicaid funding (See Section C).

Finally, even if the Department had sufficient time to competitively bid for the scope of work, the short time frame for the bid and the limited scope would not result in more bidders or competition. There are a limited number of companies that have provided IV&V services for ACA system implementations and thus, have the requisite experience to perform this scope of work. The cost of putting together a competitive bid is expensive and many companies will likely not choose to bid if there is high risk associated with the project and limited or no possibility for a larger scope of work. That is the case with this scope of work.

B. Additional risk for working with a different contractor

Given the short timeframe for implementation, the Department accepts more risk if another contractor is contracted to perform the additional IV&V work. In order to best meet the timeframe, the Department needs to work with the current contractor that is most familiar with the existing system processes, documentation and the current systems contractor. Additionally, the current IV&V contractor is knowledgeable and experienced with the CMCS

requirements, and has performed documentation reviews, security reviews and required CMS attestation of interfaces between the State and the Federal Data Services Hub.

C. Financial Risk to the state for not complying with CMS Medicaid regulations

As discussed earlier, the department is the State Medicaid Agency, and, as such, is required to remain compliant with federal Medicaid regulations. Failure to comply with Medicaid regulations, including the transition to the SSBM, potentially puts all federal Medicaid funding at risk. As the State Medicaid Agency, DHS is required to coordinate the Medicaid and CHIP programs with the exchange. The requirements are found at 42 CFR 435 Subpart M-Coordination of Eligibility and Enrollment Between Medicaid, CHIP, Exchanges and Other Insurance Affordability Programs. Failure to comply with any part of the Medicaid program could lead to the withholding of federal matching funds. The penalties are found in 42 CFR 430.35 Withholding of payment for failure to comply with Federal requirements. At risk is over \$1 billion in benefits to over 330,000 beneficiaries and enhanced federal match for systems work which currently covers 90% for development costs and 75% for maintenance and operations. Finally, if the Medicaid program fails to be compliant, the Department may not be able to draw down any enhanced funding for systems development and implementation for the Department's other programs such as TANF, SNAP, LIHEAP, etc.