

STATE OF HAWAII  
REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS 1 A 8 :09

TO: Chief Procurement Officer

STATE PROCUREMENT OFFICE  
STATE OF HAWAII

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 management to support the Hawaii Youth Correctional Facility (HYCF) for a 3-month period to address an exigent need to improve operational elements in preparation for and in follow up to a forthcoming report by Department of Justice (DOJ), Civil Rights of Institutionalized Persons Act (CRIPA) investigation of the Hawaii Youth Correctional Facility.

An extensive DOJ CRIPA investigation began in October, 2004 and is ongoing. Upon the Governor's receipt of the final DOJ report, the state's Attorney General will have a short period of time (generally 49 days) to reach a negotiated settlement of the HYCF's progress in addressing institutional operations and practices or accept a consent decree. Unless the facility can demonstrate its ability to uphold 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. Each day improvement is delayed will cost the state in increased settlement costs.

Since the DOJ's investigation, the HYCF administration has worked diligently to address any recommendations made by the DOJ regarding the physical safety of the facility and improvement of daily operations, but did not fully consider that staff did not have the required expertise and the resultant need for a consultant and the procurement thereof, at that time.

Between November 2004 through January 2005, Mrs. Nancy Emmert provided the Department of Human Services (DHS) training for the HYCF staff 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 the current DOJ investigation.

At this time, HYCF requests hiring Mrs. Emmert's as a consultant while HYCF is given an opportunity to procure a longer term consultant. Mrs. Emmert's training experience at HYCF and her extensive knowledge in the area of juvenile corrections, staff management, and American Correctional Association standards will be used to support HYCF's efforts to make improvements to address the DOJ.

Name of Vendor:  
**Nancy Winborn Emmert**  
 Address:  
 17503 Hamilton Pool Road  
 Austin, Texas 78738 | Cost: | \$ 30,600.00

Term of Contract: From: Upon CPO Approval To: 3 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:  
 We are seeking this procurement exemption for a 3-month period to hire the consultant to assist HYCF in improvements prior to the DOJ report. A procurement will be conducted during this period for a longer term contract as required by law. Without an exemption approval, each day that improvements are delayed will adversely affect the State by resulting in increased settlement costs and multi-millions of dollars in mandated improvements.

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

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. Mrs. Emmert understands the current conditions at HYCF at the present time, has a clear understanding of the areas needing implementation, and has a broad knowledge base of juvenile corrections needed. She is well-qualified and able to provide immediate assistance.

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:

The Project Director 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;  
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 587-5706  
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.**



APR 07 2005

Department Head or Designee

Date

Title (If other than Department Head)

Chief Procurement Officer's Comments:

The DHS shall place an immediate and high priority in completing the competitive process to select their long term qualified contractor. Although the DHS had two years to initiate much need corrective action, managerial problems at the Facility prevented such action in a timely manner. The contractor should focus on the most serious issues and understand the limitations of completing the work in a period not to exceed 3 months. The DHS must take appropriate steps to ensure their procurement is done in a timely manner to prevent future exemption requests to use short-term contracts when a solicitation should have been issued.

Please ensure adherence to applicable administrative requirements

APPROVED

DISAPPROVED



4/27/05

Chief Procurement Officer

Date

cc: Administrator,  
State Procurement Office