



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

15 OCT -2 P3:38

TO: Chief Procurement Officer

FROM: Dept Land and Natural Resources/ Division of Forestry and Wildlife
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 and/or services:
Provide expert services for the State of Hawaii. Services provided include research and analysis of seabird population, location, abundance, and sustainability; and development of a Habitat Conservation Plan to provide mitigation for permitted take of species regulated by the the State of Hawai'i Federal Endangered Species Act.

2/1/18

2. Vendor/Contractor/Service Provider:	Kauai Island Utility Cooperative	3. Amount of Request:	\$ 287,098.00
4. Term of Contract From:	To:	5. Prior SPO-007, Procurement Exemption (PE):	
<i>10/2/2015</i>	<i>Jan 31, 2018</i>		

6. Explain in detail, why it is not practicable or not advantageous for the department to procure by competitive means:
This procurement is supported by a Federal UF Fish and Wildlife (USFWS) grant that has for many years been awarded to the State to develop a Habitat Conservation Plan (HCP) for impact ("take") to Kauai seabirds that are listed by the Endangered Species Act. The largest sources of permitted impacts to seabirds are 1) direct collision with power-lines, for which the primary responsible party is Kauai Island Utility Cooperative (KIUC), and 2) light-induced "fall-out" of juvenile birds that become disoriented by night-time lighting, for which there are many responsible parties each with their own calculated level of take. In 2015, DLNR/DOFAW realized that the significant differences in level and mechanism of take are better managed by developing two (2) HCPS, one for KIUC's line collision, and the other for light induced fallout. The grant is therefore expected to be split between the ongoing Kauai Seabird HCP and the new KIUC HCP. Since KIUC is the party responsible for developing the line-collision HCP, have been in constant communication with the USFWS regarding the use of their portion of the grant, and are able to provide the Match (approximately \$104,000) required, DLNR/DOFAW requests an exemption from the procurement process so that the line-collision portion of the grant can be transferred directly to KIUC for development of their HCP. (for more information please see attachment)

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

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
James Cogswell	DOFAW	808-587-4187	james.m.cogswell@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.

SSM ok



 Department Head Signature

9/30/15

 Date

For Chief Procurement Officer Use Only

Date Notice Posted: 10/6/15

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 granted for the period 10/2/2015 to 1/31/2018 with the understanding that the department has determined it is not advantageous to conduct a competitive procurement based on the vendors' s knowledge obtained developing a short –term HCP and implementing numerous actions and programs to rescue, rehabilitate and release back to the wild seabirds grounded by light attraction and or collisions, monitors trends in the number and locations of downed seabirds, conducted extensive field research on seabird breeding colony locations and opportunities for habitat management, etc.

In addition, James Cogswell, shall take Workshop 125, Exemptions from HRS Chapter 103D, to meet the requirements of Procurement Delegation No. 2010-01 and Amendment 1, and Procurement Circular No. 2010-05, Statewide Procurement Training, as appropriate. The SPO has no record of attendance at the Workshop 125, Exemptions from HRS Chapter 103D, for individual, Mr. Cogswell, named in no. 8. In order to get the most current information on SPO training, Mr. Cogswell is advised to review Procurement Circular 2014-13, Update to SPO training.

Approval is for the solicitation process only, HRS section 103D-310(c) and HAR section 3-122-112, shall apply (i.e. vendor is required to be compliant on the Hawaii Compliance Express) and award is required to be posted on the Awards Reporting System. Copies of the HCE certificate and awards posting are required to be documented in the procurement/ contract file.

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

11/2/15

 Date

Attachment 1: Explanation describing how procurement by competitive means is neither practicable nor advantageous to the State:

The Hawaiian Island of Kaua'i is home to the Hawaiian petrel (*Pterodroma sandwichensis*, endangered), Newell's shearwater (*Puffinus newelli*, threatened), and band-rumped storm petrel (*Oceanodroma castro*, a federal candidate for listing). Threats to the persistence and recovery of these species include incidental take due to attraction to artificial lights and utility line collisions, for which a Habitat Conservation Plan (HCP) is required to demonstrate an offset to the permitted take. Today 90% of the world's remaining Newell's shearwater population breeds on Kaua'i where the population has declined 75% since the early 1990s.

Since 2003, the Hawai'i Department of Land and Natural Resources (DLNR), in coordination with the US Fish and Wildlife Service (USFWS), has worked to develop the Kaua'i Seabird Habitat Conservation Program (KSHCP) to address incidental take due to seabird light attraction and utility line collisions. The HCP was expected to service multiple permits for light attraction take, and also serve to provide the incidental take authorization associated with power lines owned and operated by the Kauai Island Utility Cooperative (KIUC). This project has been generously supported by a series of HCP Planning Grants funded from Section 6 of the Federal Endangered Species Act.

In 2011 the USFWS approved the KIUC Short-term Seabird HCP and issued a 5-year Incidental Take Permit (ITP) to KIUC to provide coverage for seabird utility line collisions and light attraction. In late 2013, new data became available indicating that utility line collision take on the island of Kaua'i was significantly higher than previous estimates. For line collision and light attraction, the differences in both quantity of take and type (adult vs juvenile) led to a decision for each type of take to have a separate HCP to address unique mitigation needs, modeling efforts, and scale of conservation actions. On August 13, 2015, the USFWS awarded DOFAW with a new Section 6 HCP Planning grant to support the development of the HCPs for both light attraction and line collision. The existing KSHCP team will continue to develop the HCP for light attraction, and the Kauai Island Utility Cooperative (KIUC) will develop its own HCP for line collision. Each HCP will meet both State and Federal license/permit issuance criteria.

To be successful the HCP requires a high level of expertise, which can only be obtained through years of experience. KIUC has been working with the KSHCP team, USFWS, and DLNR for many years to develop the tools needed to provide baseline population information, and also conduct mitigation projects throughout the island. HCP development is usually the responsibility of the applicant. As the primary user and only applicant for the line collision HCP, KIUC is the only appropriate entity to receive the grant money intended to fund the planning process for their HCP. No other recipient or vendor is in a position to direct the planning process, which is funded by monies that are provided to the State in order to facilitate the KIUC HCP. The KSHCP team will work collaboratively to share knowledge and information with KIUC during the development of both HCPs.

The budget below shows the total expected Federal Section 6 grant (\$559,990), with \$301,598 for development of the KIUC HCP. KIUC will provide approximately \$104,051 in match for the award if provided the funding.

Budget Item	KSHCP program (8 mo.)	KIUC	Total	Original budget
Personnel and salaries	\$135,876	\$ 287,098	\$422,974	\$305,721
Contract for services (KSHCP & DEIS tech assistance; facilitation services)	\$30,000		\$ 30,000	\$ 60,000
Travel and training	\$13,160		\$ 13,160	\$ 29,610
Office, materials, and supplies	\$24,067		\$ 24,067	\$ 54,150
Vehicle Maintenance	\$0		\$0	\$ 1,500
Subtotal	\$203,103		\$490,201	\$450,981
<i>PCSU & RCUH administrative (21%)</i>	<i>\$36,351</i>		<i>\$ 36,351</i>	<i>\$ 70,572</i>
DOFAW Coordinator Staff Time (2 years)	\$5,000	\$ 14,500	\$ 19,500	\$ 19,500
<i>Subtotal</i>	<i>\$239,454</i>	<i>\$ 301,598</i>	<i>\$541,053</i>	<i>\$541,053</i>
<i>DLNR administrative (3.5%)</i>	<i>\$8,380</i>	<i>\$ 10,555</i>	<i>\$ 18,937</i>	<i>\$ 18,937</i>
Total Federal Request	\$247,835	\$ 312,154	\$559,990	\$559,990
<i>Annual State Assistance Match (25%)</i>	<i>\$82,611</i>	<i>\$ 104,051</i>	<i>\$186,663</i>	<i>\$186,663</i>
Project Total	\$330,447	\$ 416,205	\$746,653	\$746,653