

STATE OF HAWAII
REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS

TO: Chief Procurement Officer

FROM: Human Services/Housing & Community Development Corporation of Hawaii/Dev. Br.
(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:
Provide needed repairs as identified by the Housing & Community Development Corporation of Hawaii (HCDCH) elevator consultant to return the condition of the elevators to safe working condition within three months of the award. Provide maintenance to the elevators for nine additional months to allow the HCDCH to prepare and bid a new elevator maintenance contract for the affected elevators.

Name of Vendor:	To be determined	Cost:	To be determined
Address:			

Term of Contract:	From: Date of Award	To: 6 months	Prior Exemption Ref. No. (if applicable)
	Upon CPO Approval		

Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:
Please see attached.

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

A description of the agency's internal controls and approval requirements for the exempted procurement:

HCDCH is unique, as the agency must follow both the State procurement laws and regulations and the Federal U.S. Department of Housing Urban Development (HUD) procurement laws and regulations. In general, HCDCH follows the State procedures, except where the Federal procedures are more stringent. All contracts exceeding \$25,000 must be approved by HUD prior to award.

The exemption for procurement will be submitted to HUD for approval prior to award.

A list of agency personnel, by position title, who will be involved in the approval process and administration of the contract:

Executive Director
 Executive Assistant
 Special Assistant to the Director
 Chief, Project Management and Maintenance Branch
 Chief Engineer, Construction Management Section

Direct questions to:	Phone Number:
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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.

Stephanie Aveiro

 Department Head or Designee Date

Executive Director

 Title (If other than Department Head)

Chief Procurement Officer's Comments: This approval is based on DHS-HCDCH's need to provide elevator services at their projects and covers only those elevators that were covered in the terminated contract. This approval is for 6-months and covers services necessary to restore the 18 elevators to normal operating working condition. It is not for services relating to any upgrades and/or replacement. This approval is for the solicitation process only, chapter 103D-310, HRS, shall apply.

Please ensure adherence to applicable administrative requirements.

APPROVED DISAPPROVED

[Signature]

 Chief Procurement Officer *9/2/05*
 Date

cc: Administrator,
 State Procurement Office

Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:

HCDCH has contracted an independent third party experienced in elevator maintenance to evaluate the current contractor's work. The evaluation revealed that the maintenance work is not satisfactory, and that significant systems relating to passenger safety have been ignored or "pieced together". The elevators are unsafe at this time, and may result in serious injuries or fatalities to the passengers.

Follow on evaluations and work needed to design and award the work to bring the elevators to a safe operating condition is required. In addition, work needed to prepare a new maintenance contract specification is required.

HCDCH has given the current elevator maintenance contractor a "notice to cure" on June _____, 2005. The contractor did not "cure" the defects. HCDCH has given the contractor a conditional notice of termination to "cure" the defects on July _____, 2005, and is awaiting the contractor's response. If there is no "cure" within the time given on the conditional notice, HCDCH intends to terminate the contract for cause.

If and when the current elevator maintenance contractor is terminated, the elevators must be restored to a safe operating condition. The elevators must also be maintained.

The State Office of the Attorney General has advised us to keep the proceedings confidential. We are not able to publicly bid this work, due to potential legal action, and are requesting exemption of bidding for this consultant and for a contractor to provide the repairs and interim maintenance for the elevators affected until the maintenance contract can be bid.

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

The elevator contractor and elevator maintenance contractor will be selected immediately after the current elevator maintenance contractor is terminated to assure the HCDCH of continuing the maintenance of the affected elevators. Since the elevators must be operational continuously, the selection of the contractors will be based on the following:

The work will not be advertised prior to the termination of the current maintenance contractor, due to the confidentiality. The contractor will be selected by contacting the contractor that had originally bid on Kuhio Park Terrace maintenance contract, as well as extending the invitation to other elevator contractors that did not respond to the maintenance contract after the current contractor has been terminated. Vendors will be asked to continue the maintenance services at the original contracted price, and to start the maintenance immediately the following day. If this is not possible, the vendor offering the best value (available soonest - 0 to 60 points, price within original

bid spread – 0 to 20 points, best management – 0 to 10 points, tax clearance – 0 to 10 points) will be selected. In any case, maintenance must be started within 48 hours.

In addition, the vendors will be informed that repair work for safe operation is needed and will be negotiated based on the contractor's evaluation of the need, his cost estimate, and the independent estimate of the proposed work prepared by the Eeevator consultant. If both parties cannot agree, the work will be awarded on a "not to exceed" cost, with the elevator consultant assigned to administer the work.