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

STATE PROCUREMENT OFFICE
STATE OF HAWAII

TO: Chief Procurement Officer
FROM: Natural Energy Laboratory of Hawaii Authority (NELHA) / CEROS
(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:

Concept development and demonstration of ocean technologies and applied ocean sciences for military maritime purposes under the National Defense Center of Excellence for Research in Ocean Sciences (CEROS). This program is funded solely by federal funds under Cooperative Agreement MDA972-02-2-0002. No State general funds are utilized in this program.

Name of Vendor: Address: Various – To be determined	Cost: Up to \$7 million
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Term of Contract: From: June 2006 To: November 2007 Includes FY06 federal funding	Prior Exemption Ref. No. (if applicable) 05-90-C
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Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:

Procurement of concept development and demonstration of ocean technologies and applied ocean sciences projects is to be conducted competitively in accordance with the terms and conditions of Cooperative Agreement MDA972-02-2-0002 between NELHA and the Defense Advanced Research Projects Agency (DARPA), the CEROS Operational Plan dated February 2002, and the CEROS Procurement Plan revised March 2002. The Procurement Plan, which was prepared by CEROS and approved by DARPA as a condition for grant funding, established the process for solicitation and award of projects for the FY06 CEROS program. Attachment A provides additional information. The method of procurement, though it does not meet the requirements of chapter 103D, HRS, still ensures competition and fairness. Furthermore, DARPA has been satisfied with the competition under this method since the CEROS program was initiated in 1993. Procurement under chapter 103D, HRS cannot satisfy the terms of the Cooperative Agreement, and CEROS funding is jeopardized unless the program receives an exemption.

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

Attachment B provides complete details of the CEROS selection process to be followed. The process ensures maximum fair and open competition.

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

The procurement will be in accordance with the Cooperative Agreement with DARPA. The solicitation will be prepared by CEROS and approved by DARPA. The CEROS Research Advisory Board (RAB) will recommend projects for funding. DARPA will be informed of the RAB recommendations. The NELHA Board of Directors will also be briefed on the RAB recommendations and will authorize CEROS to enter into negotiations and, if successful, enter into State contracts for the recommended projects.

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

Contracts approved by the NELHA Board of Directors.
William Friedl, Acting CEROS Technical Director
Leland Fausak, CEROS Research Administrator
Donna Mau, CEROS Contracts & Grants Administrator

Direct questions to:

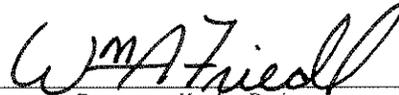
William Friedl, Acting CEROS Technical Director

Phone Number:

(808) 327-4310

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.



Department Head or Designee

9/2/05

Date

Acting CEROS Technical Director

Title (If other than Department Head)

Chief Procurement Officer's Comments:

This approval is based on the DBEDT's representation that the implementation of this program under chapter 103D, HRS, will jeopardize federal funding of the program and that they will utilize the CEROS selection process attached to this request.

Please ensure adherence to applicable administrative requirements.

APPROVED

DISAPPROVED



Chief Procurement Officer

9/14/05

Date

cc: Administrator,
State Procurement Office

Introduction. The CEROS program was established by federal legislation which specified establishment of a Center of Excellence for Research in Ocean Sciences (CEROS) within an attached agency of the State of Hawaii (initially HTDC then NELHA) to be funded through the Defense Advanced Research Projects Agency (DARPA). The federal legislation further stipulated that the purpose of the CEROS program was to solicit and support innovative technologies for national maritime applications and sustained technology-based economic development in Hawai'i. From the start, the CEROS program was able to take advantage of the flexibility afforded by the attached agencies' exemption from chapter 103D, HRS to fulfill the conditions and intent of the enabling legislation. In accordance with the DARPA agreement, which provides annual federal funding, the CEROS program developed an exceptional approach to technical project selection and funding that addressed federal maritime military technical requirements while supporting sustained technology-based economic development in Hawai'i. A detailed outline of the CEROS procurement cycle is attached.

Unique Aspects of the CEROS Program. In accordance with the DARPA agreement that funds the program, the CEROS project selection process reflects the federal Department of Defense program development template for soliciting and selecting advanced science and technology projects for funding. Essentially, the federal process solicits broadly, winnows responses through serial evaluations, and negotiates final contract terms and conditions. Instead of selecting from many candidates for a specific, predetermined technical end product (as in the State's RFP process), CEROS issues a broad solicitation with selection of candidates for funding based on technical and military programmatic criteria rather than cost alone; the final technical scope and cost of projects funded under the CEROS program are negotiated. Under the CEROS program, initial responses to the solicitation proceed through a two-step process of evaluation and selection which yields a group of 20 to 30 specific projects that are candidates for final negotiations and funding. An advisory panel (the CEROS Research Advisory Board) recommends candidate projects at each step according to technical evaluations and specific recommendations from Department of Defense science and technology experts. The final technical statement of work and funding amount are negotiated by CEROS personnel for each recommended project until all available funding is committed. CEROS personnel then administer contract development to assure timely contract execution and technical project initiation.

Limitations from the Cooperative Agreement with DARPA. The CEROS procurement process was developed with guidance from DARPA to satisfy the intent of Congress; the process is timely and cost-effective and codified in the cooperative agreement between DARPA and NELHA. The agreement specifies project solicitations analogous to federal Broad Agency Announcements (BAA) and selection criteria emphasizing near-term, tangible technical results and deliverables. The agreement provides guideline criteria for project selection and states that "The CEROS Research Advisory Board will oversee the review, evaluation and selection of proposed work submitted to CEROS." These provisions assure high quality technical products and overall program breadth. The current agreement (MDA972-02-2-0002) was executed in 2002 and provides for Core technical project procurement on a 9-month cycle. The agreement is amended annually to fund the CEROS program in response to annual appropriations for the CEROS program in the Department of Defense budget. Recent discussions with DARPA indicate that the agency expects CEROS to continue to execute a program in the manner of the federal BAA process as a condition of continued funding under the cooperative agreement with NELHA. If the procurement process specified in the current agreement with DARPA cannot be completed with an exemption from the State Procurement Code, FY06 funding for CEROS will be jeopardized.

Attachment B to Request for Exemption from Chapter 103D, HRS (SPO Form-7)

CEROS SELECTION PROCESS

- Identify technical needs and potential project concepts of interest to DoD commands (July – September)
- CEROS Informational Briefing (September)
 - DoD commands and CEROS Technical Director present information in preparation for the upcoming solicitation
- CEROS issues solicitation (Posted on online at: www2.hawaii.gov/bidapps/ and www.ceros.org - October)
- Offerors submit 5-page project abstracts on a secure server (Project Concept White Papers – early November)
 - 80 – 100 submissions by deadline in recent years
 - Typically, total request for funding is 5 to 10 times anticipated funds available
 - Each proposed project has a unique result
- Abstracts are evaluated by paid technical consultants (Server-based evaluations for technical quality and military relevance - ~ 4 weeks)
 - Winnow the best and most appropriate concepts from the less suitable submissions
 - Paid technical evaluators recommend either Invite Full Proposal or Do Not Invite Full Proposal based on criteria in the solicitation
 - DoD evaluators recommend and rank projects for full proposal according to the relevance and importance of the proposed work to specific command technical needs
- CEROS Research Advisory Board (RAB) meets to review evaluations and select projects for full proposals (December)
 - The RAB considers both the technical evaluations and recommendations and the DoD recommendations and rankings to identify the most technically promising and militarily relevant submissions
 - The RAB recommends a roster of projects for invitation to submit full technical proposals
 - No preset limit on number of projects or total funding requested by selected projects but typically, the RAB Recommends 20 – 30 projects for full proposals with a total request for funding around 2 times the anticipated funds available
 - CEROS notifies each principal investigator of the RAB recommendation (Yes/No) and provides instructions for preparation and submission of full technical and cost proposals for recommended projects
 - Projects not recommended for a full technical proposal receive no further consideration for funding under the solicitation
- Full technical proposals are submitted (Technical Project Summary, Technical Project Description and Justification, and Detailed Cost proposal (Mid-January)
 - Proposal provides technical detail to justify the project's technical claims, methods and costs
 - Each proposal has 3 parts: Project Summary (2 pages); Technical Summary (25 pages); and Cost Summary
 - The Technical Summary consists of a cover page and sections describing the project's technical objectives, technical rationale, expected results, approach to the technical problem, and Background and a Discussion section to establish the context for the project and justify its importance
 - The Cost Summary consists of a Cover Page and additional pages that provide breakdowns for the following basic cost elements by task, as applicable for a firm fixed-price level of effort contract: Materials and services, Direct Labor, Indirect Costs, Other Costs, Facilities Capital Cost of Money, and Profit or fee

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- The Cost Summary also includes letters of agreement or intent from principal subcontractors, technical consultants, or planned collaborators who may play key roles in executing the proposed effort.
- Proposed work should have a base period of performance of 6 to 12 months.
- Options to extend the period of performance for up to 12 additional months may be included in proposals
- CEROS does not provide feedback, comments or recommendations from the abstract review to the companies preparing full proposals
- Submit both printed original and compact disk file to CEROS office by specified deadline
- Proposal are evaluated by paid technical consultants (~ 5 weeks)
 - Server-based evaluations for technical quality and overall value
 - Paid evaluators have military technical expertise and high-level technical program management experience
 - Technical evaluation for maritime military technical quality, for relevance and importance, for approach and capabilities, for anticipated benefits and transition potential, and for cost and budget
 - Technical quality factor is 40% of score
 - Approach, benefits and cost factors are 20% each
 - Each review contains specific recommendation for action:
 - Fund essentially as proposed
 - Fund with suggested limitations or modifications
 - Reconsider for funding if additional funding becomes available
 - Do not consider for funding – Reject
 - Each review also contains comments on each evaluation criterion and summary comments on the overall evaluation and recommendation
- CEROS RAB meets to review proposal evaluations, recommend projects for funding, and set technical and cost negotiation targets (Early March)
 - The RAB may recommend all, part or none of a particular proposal for funding based on reviewers' evaluations, recommendations and comments
 - The RAB recommends a Core technical program that maximizes technical return from the proposed projects by identifying "best value" for the funding available
 - CEROS Technical Director informs DARPA of the RAB recommendations
- NELHA BoD authorizes negotiations with selected offerors (Mid-March)
 - CEROS Technical Director briefs the NELHA Board of Directors on the RAB recommendations
 - Briefing concludes with request for approval to enter into negotiations and, if successful, into contracts for the recommended projects
 - CEROS notifies each principal investigator of the RAB recommendation (Proceed to negotiations or not recommended)
 - CEROS provides instructions for negotiations and requests that recommended offerors schedule a date for negotiations
 - Projects not recommended for negotiations or funding can request a telephone debriefing on their proposal
 - Telephone debriefings are conducted after contracts are executed
- CEROS Technical Director and Contracts and Grants Administrator negotiate scope and funding and Terms & Conditions for recommended projects (Late March - Mid-April)
- CEROS Contracts & Grants Administrator prepares contracts, coordinates review and execution, and submits for encumbrance (Mid-April – Mid-May)
- Project Work Begins (June)