



'06 FEB 13 A9:01

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

1. TO: Chief Procurement Officer  
2. FROM: Mark J. Bennett, Department of the Attorney General

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:

3. Description of goods, services or construction:

Services of Russell K. Van Vleet, to (1) monitor the State of Hawaii's implementation of and compliance with the Memorandum of Agreement Between the United States and the State of Hawaii ("MOA"), see Attachment A, and (2) on request, provide the Governor, the Director of Human Services, the Superintendent of Education, the Director of the Office of Youth Services, the Hawaii Youth Correctional Facility's Administrator, and their successors, with technical assistance to effectuate the MOA's terms, and, if necessary, (3) mediate any dispute for which the United States issues a notice of its intent to reinstate the lawsuit that the MOA settles.

4. Name of Vendor: Russell K. Van Vleet

Address: 2193 Hugo Avenue  
Salt Lake City, Utah 84117

5. Price:

\$112,500/yr

6. Term of Contract: From: 2/9/06

To: 2/9/09

7. Prior Exemption Ref. No.  
N/A

8. Explanation describing how procurement by competitive means is either not practicable nor advantageous to the State:

As the attached MOA indicates, the United States Department of Justice ("DOJ") investigated, issued a findings letter, and sued the State of Hawaii, and the state officials listed in item 3 above, to correct certain conditions at the Hawaii Youth Correctional Facility that allegedly violated the constitutional and federal statutory rights of the youth confined there. See MOA paras. I(A), (C), (D); and Attachment B, USA v. State of Hawaii, et al., CV06-00075SPK/LEK (U.S.D.Haw.). Thereafter, the State and the DOJ entered into the MOA as a means of resolving the DOJ's claims against the State by alternative means.

Continued on Attachment C.

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

As the MOA indicates, see MOA para. VI(55), the Monitor is required to be, and has been selected jointly by the DOJ and the State.

In the course of negotiating the terms of the MOA, the DOJ presented the State with the names of three individuals who it believed were competent and available to serve as Monitor under the MOA. Mr. Van Vleet was one of the three individuals nominated by the DOJ.

**REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS (Cont.)**

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

The Department will use the standard form Contract for Goods and Services for procurements exempt from the Procurement Code (AG/SPO Form-K(2)(1/01), including the General Conditions (Form AG2-GC(12/04). Among other things, the contract will provide that its annual compensation and cost cap can be exceeded only if the Monitor secures prior written approval of the Attorney General and the contract is so modified. The contract will also set out a detailed process for presenting and paying invoices for services rendered, require the Attorney General's prior approval before any duties or responsibilities may be assigned or subcontracted, limit transportation and per diem reimbursements to coach class air travel, intermediate car rentals, and per diem as authorized by the Governor's Executive Order for excluded employees, and require all contract modifications to be in writing to be effective.

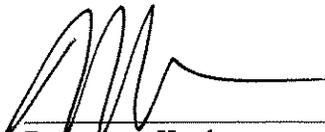
12. A list of agency personnel, by position, who will be involved in the approval process and administration of the contract:

Name	Position	Involvement in Process	
Mark J. Bennett	Attorney General	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Lisa Ginoza	First Deputy Attorney General	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Heidi Rian	Deputy Attorney General	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
		<input type="checkbox"/> Approval	<input type="checkbox"/> Administration
		<input type="checkbox"/> Approval	<input type="checkbox"/> Administration
		<input type="checkbox"/> Approval	<input type="checkbox"/> Administration

13. Direct inquiries to: Department: Attorney General  
 Contact Name: Charleen M. Aina  
 Phone Number: 586-1286  
 Fax Number: 586-1239

Agency shall ensure adherence to applicable administrative and statutory requirements

14. *I certify that the information provided above is, to the best of my knowledge, true and correct.*

  
 Department Head

FEB 10 2006

Date

**Reserved for SPO Use Only**

15. Date Notice Posted 2/13/06

The Chief Procurement Officer is in the process of reviewing this request for exemption from Chapter 103D, HRS. Submit written objections to this notice to issue an exemption from Chapter 103D, HRS, within seven calendar days or as otherwise allowed from the above posted date to:

Chief Procurement Officer  
 State Procurement Office  
 P.O. Box 119  
 Honolulu, Hawaii 96810-0119

REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS (Cont.)

Chief Procurement Officer's comments:

16.

APPROVED  DISAPPROVED

Adam S. Figher 2/23/06  
Chief Procurement Officer Date