



06 MAY 31 P2:59

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

1. TO: Chief Procurement Officer

2. FROM: Anthony Baldomero, Jr., Associate Director, Campaign Spending Commission *Anthony J. Baldomero, Jr.*
5/26/06

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:

The Campaign Spending Commission is in urgent need of a hearings officer to preside over matters relating to a Petition for Declaratory Relief and/or Advisory Opinion that was filed recently with the Commission. The hearings officer is to: (1) review the pleadings and papers filed by the parties in the declaratory relief action, Nagamine Okawa Engineers, Inc., et al. v. State of Hawaii Campaign Spending Commission, et al., Case No./Docket No. 06-01; (2) preside over the oral argument or, if necessary, the contested case hearing to be set in this matter; and (3) issue proposed Findings of Fact and Conclusions of Law.

4. Name of Vendor: Not known at this time, but the intent is to select one from the Attorney General's current list of pre-approved hearings officer applicants.

Address:

5. Price:
unknown at this time but likely to exceed \$25,000.00 hence this request

6. Term of Contract: From: approx. *30 upon* *May* *2006* *APPD* To: approx. July 2006

7. Prior Exemption Ref. No.
N/A

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

A Petition For Declaratory Relief And/Or Advisory Opinion was filed with the Campaign Spending Commission by Nagamine Okawa Engineers, Inc. and Dwight M. Okawa on March 8, 2006. The Petition was simultaneously served on the Attorney General's Office. Due to a misunderstanding as to the procedural format for the administrative hearing for the Petition for Declaratory Relief, a request for exemption was not submitted earlier. Pursuant to Haw. Admin. R. § 2-14.2-48, the Campaign Spending Commission must set the petition for oral argument or assign the matter to a hearings officer for further proceedings "as expeditiously as possible". As a result of the time that has elapsed, and the need to proceed as soon as possible and comply with the time constraints of Haw. Admin. R. § 2-14.2-48, the Campaign Spending Commission cannot afford the time to now solicit interested persons for the hearings officer contract to submit statements of interest and qualification, review and evaluate the submittals, and prepare a list of qualified persons, then form a selection committee to review the findings of the review committee and make a recommendation to the head of the Commission who would then negotiate a contract with the first ranked person. In addition, while the final amount of any contract is not known, given the nature of the factual and legal issues raised and the positions that may be taken by the Petitioners, the Commission concluded it would not be appropriate for the Commission to select a hearings officer through the small purchase procurement process when it is likely that the total cost of the hearings officer's services will exceed \$25,000.00.

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

To save some time and still adhere to the Procurement Process, the Commission is requesting this Exemption so that it may select from the Attorney General's list of pre-qualified hearings officers. By using the Attorney General's list, the Commission will save time. The Procurement Code's selection process under HRS §103D-304 then would be followed as the Commission intends to form a selection committee to review and evaluate the submittals using the criteria of HRS §103D-304(e), and rank the top three persons and send such ranking to the Chair of the Commission of the Commission who shall negotiate a contract with the first ranked person. The selection committee would include representatives from the Attorney General's office and from the Campaign Spending Commission.

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 contract for services will be conducted under the oversight of the Commission and subject to its approval. The hearings officer will be required to submit monthly invoices for payment in a form prescribed by the Campaign Spending Commission. The invoices will be reviewed by the Commission's Associate Director for reasonableness and upon his recommendation for payment, given final review and approval by the Campaign Spending Commission.

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	
Paul Kuramoto, C.P.A.	Chairman, Campaign Spending Comm.	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Anthony Baldomero, Jr.	Associate Director, Campaign Spending Comm.	<input checked="" type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Robyn Chun, Esq.	Deputy Attorney General for the Campaign Spending Comm.	<input checked="" type="checkbox"/> Approval	<input 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: Campaign Spending Commission
 Contact Name: Anthony Baldomero, Jr., Associate Director
 Phone Number: 586-0285
 Fax Number: 586-0288

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

5/29/06
 Date

Reserved for SPO Use Only

15. Date Notice Posted 6/2/06

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.)

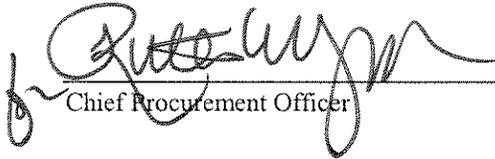
Chief Procurement Officer's comments:

This approval is granted based on CSC's representation of a miscommunication between the AG's Office and the need to address the filed petition. Also, this approval is for the solicitation process only, HRS section 103D-310(c), and HAR section 3-122-112, shall apply.

16.

APPROVED

DISAPPROVED



Chief Procurement Officer

6/9/06

Date