'06 MAY 30 P3:26

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

1. TO: Chief Procurement Officer

2. FROM: Department of Land and Natural Resources, Engineering (DLNR)

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:
Complete construction of improvements required to correct deficiencies and to upgrade the Waimanalo Wastewater Treatment Plant (WWTP) to handle peak flow conditions. The improvements are intended to prevent wastewater spills that compromise the environment and the health and safety of residents and visitors. Improvements to be constructed include dissolved air flotation thickener, effluent filter, injection wells, equalization basin and one final clarifier. It should be noted that these items were removed from the original scope when bids received on May 5, 2005 exceeded the available funds of $19,590,000.

4. Name of Vendor: Robison Construction, Inc. Address: 3049 Ualena Street, #902 Honolulu, Hawaii 96819	5. Price: $10,000,000
6. Term of Contract: From: To be determined To: To be determined	7. Prior Exemption Ref. No. n/a

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

SEE PAGE 3.

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:
The vendor, Robison Construction, Inc. (RCI) was selected based on the sealed competitive bid process. Due to a shortfall in available funds, the scope was reduced by the items listed in item 3. DLNR requested and received an additional $10,000,000 from the 2006 Legislature to complete the improvements to meet the State Department of Health (DOH) water quality standards. The completed improvements will eliminate unacceptable ratings from the DOH in its annual inspections due to overcapacity, outdated wastewater treatment processes and ineffective effluent disposal system.

We are requesting exemption from bidding and permission to negotiate with the vendor to complete all required improvements.

10. A description of the agency's internal controls and approval requirements for the exempted procurement:
RCI was awarded the contract as the low bidder in the sealed competitive bid process. The low bid was higher than the available funds. The DLNR opted to proceed with a reduced scope contract deleting items for the tail end of the treatment process and negotiated cost with RCI utilizing the bid items as a basis. In restoring these deleted line items now, the original bid line item cost will similarly serve as a basis of comparison. Changes/increases in prices will also be compared to industry standards.

11. P.E. No. 06-079-T

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

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	
Gordon Chong	Project Engineer – Design Section	☒ Approval	☐ Administration
Hiram Young	Design Section Head	☒ Approval	☐ Administration
Roger Masuoka	Acting Inspection Section Head	☒ Approval	☐ Administration
Dickey Lee	Acting Branch Head	☐ Approval	☒ Administration
Eric Hirano	Chief Engineer	☐ Approval	☒ Administration
		☐ Approval	☐ Administration

13. Direct inquiries to:
Department: DLNR, Engineering
Contact Name: Eric Hirano
Phone Number: 587-0230
Fax Number: 587-0283

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 PETER T. YOUNG, CHAIRPERSON — Date: MAY 26 2006

Reserved for SPO Use Only

15. Date Notice Posted 6/05/06

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

Chief Procurement Officer's comments:

Please see attached CPO Comments

16. ☒ **APPROVED** ☐ **DISAPPROVED**

Chief Procurement Officer — Date: 6/13/06

Attachment to Approved Request for Exemption from Chapter 103D, HRS
Waimanalo Wastewater Treatment Plant, DLNR
PE-06-079-J
6/13/2006

CPO Comments:

Approval of this procurement exemption request is based upon the following information provided by the DLNR.

1. The items requested under this exemption are only those items that were deleted from the original IFB's scope of work for the Waimanalo Wastewater Treatment Plant (WWTP).
2. The contractor was only recently given the notice to proceed because of the time delay to reduce the scope of work (negotiations and spec changes and time to obtain Governor's approval for the reduction in scope). The contractor is currently on the job site and will take approximately 18-months to complete their work (Phase I).
3. Cost savings for interface, duplication, mobilization, and demobilization by using the current contractor can exceed $2 million. If the specified work as per this exemption (Phase II) did go out to bid again, the current contactor would probably be the low bidder due to the cost savings.
4. Time is of the essence to correct all deficiencies and upgrades to minimize wastewater failure spills and meet DOH standards. Bidding the work will delay the completion of the required project completion. With an exemption the current contractor can immediately begin working on and interfacing Phase I and Phase II of the project.
5. If the work is awarded to another contractor, the second contractor needs to wait approximately 18-months before they can begin the work (two contractors can not be on the same site together). The current contractor will be able to begin and interface all work requirements to complete the project sooner and avoid duplication and waste of work.
6. Phase I and Phase II of the work must all interface, the DLNR does not want to manage with two separate contractors.
7. The current Department of Health standards indicate that the current condition of the WWTP presents a health and safety risk to the public and needs to be addressed as soon as possible.
8. Obtaining new permits will incur additional delays and consultant costs.
9. The total cost benefit with this exemption is estimated to be $3.5 million and does not include factors associated with possible wastewater spills.

Continued from page 1 – This supplemental information is to clarify item 8.

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

CHRONOLOGY OF EVENTS:

The Waimanalo Wastewater Treatment Plant (WWTP) does not meet State Department of Health (DOH) water quality standards and has continually received unacceptable ratings from the DOH in its inspections due to overcapacity, outdated wastewater treatment processes and ineffective effluent disposal system. As a result, there have been numerous wastewater spills, effluent violations due to unstable biological treatment processes, and delays in various community developments.

To bring the plant up to water quality standards, bids were opened on May 5, 2005 for the construction of injection wells, backwash structure and filter cells, chlorine mixing and contact chamber, dissolved air flotation thickener, clarifier, pump station, flood proofing, equalization basin system upgrades and other related and incidental work. The two bids received exceeded the available funds of $19,590,000. Accordingly, we negotiated a reduced scope of work with the low bidder, RCI, in which the work items for the tail end of the treatment process – dissolved air flotation thickener, effluent filter, injection wells, equalization basin and one final clarifier – were deleted from the scope of work. The effect of this reduction in scope is that in the interim, the plant will be able to process only the average design flow, not peak flow (storm conditions) and minimally meet DOH water quality standards.

The contract with RCI has been executed and the Notice to Proceed issued and the contractor has started to mobilize at the project site.

The DLNR requested and received an additional $10,000,000 to complete the deleted work items as it was originally intended. In anticipation of receiving the additional $10,000,000, we are requesting your approval to utilize alternative procurement method by negotiating with the contractor, RCI.

JUSTIFICATION:

a. Cost Savings for Interface/Re-Work/Mobilization

Having to advertise and bid for this project will be costly as our Consultant will be required to revise the drawings and get approvals from City and State agencies. The City Building Department will require revised drawings delineating work of the project currently under construction.

Other costs include mobilization and demobilization costs, which can range between $1,000,000 to $2,000,000. These costs will not be duplicated if we are allowed to retain RCI for this project. Additionally, construction management costs of approximately $500,000 can be anticipated if we continue to separate these projects due to additional interface/re-work involved and prolonged construction period.

By reintegrating these projects into one project, we can benefit from economies of scale in purchasing, transportation logistics and installation of equipment, and construction materials, labor and overhead. We will not require stubouts and temporary piping facilitating construction of this project.

By granting an exemption (reintegrating the previously deleted portion of the original bid to the project currently under construction), the work process and sequencing can proceed without interruption and duplication, while also eliminating added costs. Further, coordination between disciplines, re-work, work-in-progress and accountability is minimized.

b. Project Time

Time is of the essence. The sooner the improvements are completed; the risks associated with wastewater treatment failure (spills) are minimized. Moreover, the potential for fines by the DOH will be lessened. Bidding this project will extend the schedule and delay the completion of the full project by additional design required for permitting,

bidding and contract processing. Consequently, all of these items will negatively impact the construction schedule because we cannot simultaneously have two contractors on site. Testing of the plant and training for overall plant operation will also increase the timeframe.

c. Health and Safety

Delaying completion of the project will increase the possibility and frequency of wastewater spills, and consequently present hazardous conditions. The existing sand filter and injection wells have been the source of recent spills. Without the upgrades to the sand filter and injection wells, heavy rains could still jeopardize plant operations and lead to spills. On March 30, 2006, heavy rains caused a spill of at least 36,000 gallons of partially treated wastewater when the saturated ground at the injection wells was overwhelmed. Also, runoff from the heavy rainfall flooded the entrance of the plant and caused an unknown amount of raw sewage to escape from the plant inlet. A few days prior to that incident, on March 26, 2006, it was reported that approximately 1,000 gallons of untreated and treated wastewater was also spilled. This scenario is typical, recurring during periods of heavy rainfall. Wastewater spills are detrimental to the environment and poses health and safety risks to the community.

d. Permits

Maintaining the separation of this project will require obtaining new building and National Pollutant Discharge Elimination System (NPDES) permits. Processing of these permits are done by others whom we have no control and may be a lengthy process. As previously mentioned, obtaining new permits will also require new plans and possible including "as-built" drawings for the current construction incurring additional consultant costs.

e. Bid Savings

Bidding this project as a separate new project will require that the bid package, plans and specifications be revised and repackaged resulting in increased consultants' fees. Additional costs for scanning and printing of plans and specifications also will be incurred.

f. Operation and Start-up Savings

Required post construction services consists of the preparation of an Operation and Maintenance Manual, start-up training and certification of the improvements in accordance with the DOH Wastewater Branch requirements. Having two separate construction contracts will result in the duplication of these services and consequently additional costs.

g. Logistics

Maintaining two separate construction contracts may require the services of two construction managers overseeing each contract to determine that the construction is in accordance with each respective contract and in compliance with requirements, rules and regulations of governmental agencies.

h. Number of Bidders

There are only two or three contractors who are anticipated to bid on a similar project. Only two contractors submitted bids for the original project. It remains highly unlikely that a better price could be obtained by bidding.

Attached is a table with the estimated cost comparison if we were to bid this project or reintegrate this project with RCI, who was the successful bidder on the original bid and is currently constructing improvements to the WWTP. Based on our analysis, the cost benefit to the State is estimated at $3.5 million. This cost savings does not include intangible factors associated with the threat of or actual wastewater spill.

In summary, bidding this project will result in additional costs, increased risks of sewage spills and fines associated with a prolonged completion schedule. It is clear that the intent was for the original project, which low bid was competitively bid and opened on May 5, 2005, to be constructed in its entirety. However, due to funding, the scope of the original

project was reduced to correct some of this plant's deficiencies but not to handle peak flow in storm conditions. Due to the impacts of not funding all items of work, additional funds are being made available to reinstate the original scope of this work. Considering this history and the consequences, it is not practical or advantageous to the State to competitively bid this project again; hence, we are requesting your consideration in our request for exemption from Chapter 103D, HRS. The exemption will enable DLNR Engineering Division to negotiate with RCI, the low bidder in constructing improvement to the WWTP to restore reductions to the original scope and complete this project as it was originally intended without enduring additional rebidding costs, protracted construction schedule and threat of health and safety to the community.

COMPARATIVE COST ANALYSIS

Waimanalo Wastewater Sewage Treatment Plant

	Bid	Reintegration
Deleted Items	6,035,700	6,035,700
Other Miscellaneous Items Deleted	1,662,000	1,662,000
Escalation due to Increase in Labor and Fuel Costs	1,100,000	1,100,000
Mobiliation/Demobilization	2,000,000	Not Applicable
Possible Mixing of Equipment because new Contractor has different suppliers. Substitution requests leading to modifications.	500,000	Not Applicable
Cost of Materials due to Delay and Loss of Economies of Scale	500,000	Not Applicable
Design Costs	15,000	Not Applicable
Permitting Costs	15,000	Not Applicable
Construction Management	500,000	200,000
Plans and CD for Bidding	5,000	Not Applicable
DLNR Administrative Cost	50,000	15,000
Contingency	619,135	450,635
	13,001,835	9,463,335