

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

TO: Chief Procurement Officer  
 FROM: 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:

<b>Description of goods, services, or construction:</b>			
Services of Special Deputy Attorney General to conduct civil investigation of Kaloko Reservoir Dam collapse			
<b>Name of Vendor:</b> Unknown			<b>Cost:</b> To be negotiated
<b>Address:</b>			
<b>Term of Contract:</b> Duration of investigation of Kaloko Reservoir Dam	<b>From:</b> Process to begin as soon as any approval of this request is given	<b>To:</b> Completion of investigation	<b>Prior Exemption Ref. No. (If applicable)</b> None
<b>Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:</b>			
As you know, House Concurrent Resolution 192 requests the Attorney General to appoint a special deputy attorney general to conduct a civil investigation of the collapse of the Kaloko Reservoir Dam. The House Concurrent Resolution requests the Attorney General to appoint such special deputy attorney general not according to HRS 28-8(b), but pursuant to the procedure described in HCR 192 and is as follows. HCR 192 established a Special Deputy Attorney General Committee to compile and submit a list of at least five well-qualified attorneys who are willing to serve, accept reasonable compensation, have no conflict of interest, and are not currently representing parties adverse to the State in litigation. If the candidate belongs to a law firm, then that firm must also have no conflict of interest and is not currently representing parties adverse to the State in litigation. The Attorney General is then to make a selection and appoint one of the persons on the list.			
<b>Details of the process or procedure to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:</b>			
HCR 192 only requests the Attorney General to appoint the special deputy from the list formed by the Committee. Unlike HRS 28-8(b), the usual appointment process, or 103D-304, the professional service procurement process, here, the candidates are not ranked, and the Attorney General is not limited to negotiating with the first ranked candidate. HCR 192 does not detail how selection and appointment of the special deputy are to be made, but clearly leaves the selection and appointment to the discretion and judgment of the Attorney General. Thus in order to ensure maximum fair and open competition to the extent practicable under these circumstances, it is proposed that the Attorney General personally interview all of the candidates on the list, make a determination as to which candidate is the most qualified based on the Attorney General's discretion and judgment, rank all of the candidates, negotiate with the first ranked candidate, and offer a contract with the first ranked candidate if negotiations are successful. If agreement cannot be reached with the first ranked candidate, the Attorney General will then negotiate with the second ranked candidate, and so on until a candidate from the list is selected.			

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

The contract for legal services will be conducted under the supervision of the Attorney General and is subject to his final approval.

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

The Attorney General will be involved in the selection and approval process, and administer the contract of the special deputy attorney general.

**Direct questions to:**

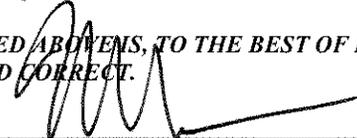
Mark J. Bennett, Attorney General

**Phone Number:**

(808) 586-1282

This exemption should be considered for list of exemptions attached to Chapter 3-120, HAR:      Yes:       No:

*I CERTIFY THAT THE INFORMATION PROVIDED ABOVE, TO THE BEST OF MY KNOWLEDGE, TRUE AND CORRECT.*

  
\_\_\_\_\_  
Department Head or Designee      Date  
  
\_\_\_\_\_  
Title (If other than Department Head)

**Chief Procurement Officer's Comments:**

[Empty box for Chief Procurement Officer's Comments]

Please ensure adherence to applicable administrative requirements.

APPROVED       DISAPPROVED

  
\_\_\_\_\_  
Chief Procurement Officer      Date  
6/30/06

cc: Administrator,  
State Procurement Office

**STATE OF HAWAII  
NOTICE OF EXEMPTION FROM CHAPTER 103D, HRS**

<p>The Chief Procurement Officer is in the process of reviewing the request form the Department of _____ Attorney General _____ for exemption from Chapter 103D, HRS, for the following goods, services, or construction:</p> <p>Services of Special Deputy Attorney General to conduct civil investigation of Kaloko Reservoir Dam collapse.</p>			
<p><b>Vendor:</b> Unknown</p> <p><b>Address:</b></p>			
<b>Term of Contract:</b>	<b>From:</b> Date of CPO Approval	<b>To:</b> Completion of investigation	<b>Cost:</b>
<b>Direct any inquiries to:</b>			
<b>Department:</b>	Attorney General	<b>Phone Number:</b>	586-1500
<b>Contact Name/Title:</b>	Mark J. Bennett Attorney General	<b>Fax Number:</b>	586-1239
<b>Address:</b>	425 Queen Street Honolulu, HI 96813		



Date Posted: 6/23/06

A copy of this notice of exemption from Chapter 103D, HRS, shall be posted by the Chief Procurement Officer and the purchasing agency in an area accessible to the public, at least seven (7) calendar days prior to any approval actions.

Submit written objections to this notice to issue an exemption from Chapter 103D, HRS, within seven (7) calendar days from the date posted to:

Chief Procurement Officer  
Office/Agency \_\_\_\_\_  
Address \_\_\_\_\_