



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

1. TO: Chief Procurement Officer
2. FROM: Transportation/Harbors Division

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:
Section 266-19.5, HRS, Private Financing of Harbor Improvements, allows a private party to construct improvements to DOT Harbors facilities, and be reimbursed when the DOT is able to appropriate funds through the regular budget process. Under the provisions of this Section, Young Brothers, Ltd. ("YB") will demolish the Wharf Street Shed (a.k.a. Ota Building) at Kahului Harbor on Maui and repave the project area for use as container storage/handling area. YB will competitively bid the construction of the Project, and will be reimbursed for the improvements (no profit allowed) when the DOT is able to appropriate funds for the Project.

4. Name of Vendor: Young Brothers, Ltd. Address: Pier 40 – P.O. Box 3288 Honolulu, Hawaii 96801-328	5. Price: \$2,000,000
---	--------------------------

6. Term of Contract: From: Date of Approval To: July 31, 2007	7. Prior Exemption Ref. No. <i>PE-04-27-W</i>
---	--

8. Explanation describing how procurement by competitive means is either not practicable nor advantageous to the State:
The Wharf Street Shed is primarily used by YB as part of their less than container load (LCL) operations. YB has requested approval from the PUC to eliminate LCL operations at Kahului Harbor. YB has a need for additional container yard space. If PUC approval is obtained to eliminate LCL operations, YB will no longer need the Wharf Street Shed and the area the shed currently covers can be converted for container yard storage. The improvements should be completed by April, 2007 to avoid coordination problems with the Superferry. Private financing will provide the improvements on a significantly timelier basis.

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:
YB will competitively bid the construction of the Project, and the Project will be awarded to the lowest responsive and responsible bidder.

10. A description of the agency's internal controls and approval requirements for the exempted procurement:
The Harbors Division will contract with YB to build the Project, and approvals will be reviewed by the Harbors Engineering Branch Manager and approved by its Administrator

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
Frederick Nunes	Engineering Branch Manager	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Glenn M. Okimoto	Harbors Administrator	<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
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration

13. Direct inquiries to:	Department: Transportation Contact Name: Barry Fukunaga Phone Number: 587-3651 Fax Number: 587-3652
--------------------------	--

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  Date 8/09/06

Reserved for SPO Use Only	
	15. Date Notice Posted <u>8/11/06</u>
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: <p align="center"> Chief Procurement Officer State Procurement Office P.O. Box 119 Honolulu, Hawaii 96810-0119 </p>	
Chief Procurement Officer's comments: <p align="center"> This approval is for the solicitation process only. HRS section 103D-310(c), and HAR section 3-122-112, shall apply. </p>	

16. APPROVED DISAPPROVED

 8/21/06
 Chief Procurement Officer Date

Attachment to the Request for Exemption From Chapter 103D, HRS-
Additional information for Item No. 8

The Wharf Street Shed is used exclusively by Young Brothers (YB) for their Maui operations at Kahului Harbor. In mid-July 2006, YB informed DOT that it no longer needs the Wharf Street Shed, but needs additional open area adjacent to the piers to accommodate growth in container traffic to and from Kahului Harbor. The project must be completed by April 2007, at which time YB will start space sharing of Pier 2 facilities with the Superferry in Kahului Harbor. The State did not have this project planned or budgeted for FY2007. Without an approved budget to finance this project, DOT cannot follow the normal procurement process and must look to private funding to accomplish this project. YB has a direct interest in completing this project in the shortest timeline and has offered to enter into a Capital Advancement Contract (CAC) to privately fund and perform this work.

The schedule to accomplish this project is extremely aggressive with design starting early September 2006 and being completed by then end of October 2006. The construction will be bid in November 2006 and awarded in December 2006. Work will start in January 2007 and be completed by April 2007. If DOT were to follow the normal procurement process to select a company to perform this project, a Request for Qualifications to perform this project would have to be issued. A selection committee would have to review the qualifications and then request a proposal from the qualified companies. These proposals would have be reviewed by a selection committee and a company selected. This process would add, at a minimum, two months to the project schedule. The deisign would be starting when it is scheduled to be completed, which would delay the start of construction and not support meeting the April 2007 completion date.