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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/Division of Aquatic Resources/Fisheries Disaster Relief Program

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 Hawaii Fisheries Disaster Appropriation is a federal law that provided funds as a form of economic assistance to certain affected fishers based in Hawaii but did not require the State to receive any goods or services in exchange for these funds. Affected means any commercial fisher in five specifically regulated fisheries or fishing communities that were negatively impacted by a federal regulation. Because of the State's role as a "pass-through" agent in the disbursal of these funds, the State does not procure any goods or services for the benefit of the state, and may not fall into the normal sense of procurement as defined in chapter 103D. Fishers may have already purchased or may purchase fishing equipment in the future that would enable them to comply with existing federal fishing requirements. There were also some costs associated with switching to another fishery or leaving the fishery that would be reimbursable by these funds. Also, because there may not be sufficient funds provided to individual fishers to completely purchase such equipment, the fisher may not be able to purchase the equipment until enough funds are available. These examples illustrate that the fishing equipment, while arguably goods, would be retained by the fisher and not the State. Likewise, any compliance actions by the fishers in the form of "services" would benefit the fisher and not the State. Again, the use of "goods" and "services" in this situation does not appear to be the normal usage of these terms as defined in chapter 103D.

4. Name of Vendor: See attached list

Address:

5. Price:

\$

6. Term of Contract: From: To:

7. Prior Exemption Ref. No.

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

8. Explanation describing how procurement by competitive means is either not practicable nor advantageous to the State: The U.S. 108th Congress approved the Hawaii Fisheries Disaster Appropriation, 2003 (PL 108-7), which provided \$5-million to the State of Hawaii for economic assistance to fisheries affected by Federal closures or fishing restrictions. The State of Hawaii submitted a grant application and received federal approval for the funds. A major objective of the Fisheries Disaster Relief Program (FDRP) is to provide economic assistance to commercial fishermen and fishing communities affected by Federal closures or federally imposed fishing restrictions. The affected fisheries are Hawaii-based pelagic fisheries, Northwestern Hawaiian Islands bottomfish fisheries, Northwestern Hawaiian Islands lobster fisheries, and precious coral fisheries managed by the Western Pacific Regional Fishery Management Council. \$1.6M of the \$5M has been designated for Direct Assistance to eligible fishermen. Only commercial fishermen who have or had permits in the affected fisheries at the time federal actions were imposed are eligible to receive funds. The FDRP Coordinator under the Division of Aquatic Resources (DAR), Department of Land and Natural Resources (DLNR), State of Hawaii requested proposals from eligible commercial fishermen for federal FDRP Direct Assistance funding for fiscal year 2006.

We are claiming exemption to the provisions of chapter 103D based on the statutory exemption provided in sections 103D-102(b)(2)(A) and 103D-102(b)(2)(D). Specifically, 102(b)(2)(A) provides an exemption under a grant to the State. Section 103D-102(b)(2)(D) provides an exemption for entitlement programs for public assistance established by federal law. It is our opinion that the FDRP qualifies as both a grant and as an entitlement program and PL 108-7 qualifies as a federal law.

We believe that 1) there are only a limited number of persons that would qualify for these funds, 2) none would be expected to be aware of the State procurement requirements, and 3) none would be aware that the notice would appear on the State procurement website. Because the intent of the website requirement is presumably to ensure adequate notice to potential applicants, we chose to use more direct, industry-based, communication routes to notify qualified fishers. The State procurement website was neither practical nor advantageous to the State to adequately notify qualified fishers of the assistance opportunity. Fishers are not normally "vendors" as defined in chapter 103D and would likely be intimidated by the procurement process.

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

Legal Notices were posted during September 2005 soliciting letters of interest in all the daily newspapers on Oahu, Hawaii, Maui and Kauai. The notice was also posted on the DLNR/DAR website and the Western Pacific Regional Fishery Management Council's website and in the Hawaiian Fishing News. The Hawaii Longline Association (a fishing industry based group) was contacted directly to ensure their members were aware of the call for letters of interest. Forty-eight letters of interest were received. Legal Notices were posted during February 2006 soliciting proposals for Direct Assistance projects in all the daily newspapers. The notice was also posted on the DLNR/DAR website and the Western Pacific Regional Fishery Management Council's website. All of the individuals who submitted letters of interest, with three exceptions, were contacted and informed of the solicitation for proposals. (Two letters of interest did not have any contact information and one letter was returned as undeliverable). The DLNR Chairperson submitted an article to the daily newspapers discussing the ongoing solicitation. The original deadline of March 31, 2006 was extended to April 30, 2006 at the request of fishermen voiced through the Western Pacific Regional Fishery Management Council. Legal notices to that effect were published and posted on the websites. The project coordinator conducted workshops on Oahu, Maui, Kauai and Hawaii during March - April 2006 to assist any fishermen who required assistance in preparing a proposal.

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

10. A description of the agency's internal controls and approval requirements for the exempted procurement:
 All the proposals listed in the attached list were reviewed and scored by a Technical Working Group (TWG) on their content and merit. The TWG is chaired by a member of the DAR staff and comprised of fishermen, fishing industry representatives, social and fisheries scientists, and members from the Western Pacific Regional fishery Management Council. One member is from the island of Hawaii and another is from the island of Kauai. The name of the applicant and any fishing vessel's name were removed (with the exception of group submissions) from the proposals during the review by the TWG to maintain anonymity. An Executive Steering Committee (ESC) approves the awards proposed in the attached list. The ESC is chaired by the DAR Administrator and the members are the Executive Director Western Pacific Regional Fishery Management Council; the Administrator Pacific Islands Regional Office (National Marine Fisheries Service, Federal Department of Commerce); the Director of the Pacific Islands Fisheries Science Center; the Manager of the Pelagic Fisheries Research Program, University of Hawaii at Manoa, and a commercial fisherwoman. The FDRP Coordinator will prepare a report to the federal funding agency on how the funds were expended, what they were expended for, and any significant results.

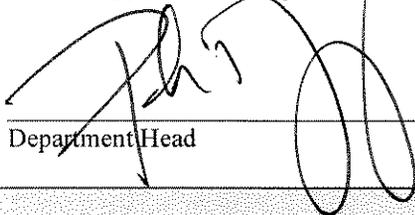
12. A list of agency personnel, by position, who will be involved in the approval process and administration of the contract:

Name	Position	Involvement in Process	
Dr. Dan Polhemus	DAR Administrator	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Mr. Francis Oishi	Fisheries Program Manager	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Mr. Alton Miyasaka	Technical Working Group Chair	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Mr. Earl Miyamoto	FDRP Coordinator	<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

13. Direct inquiries to: Department: DLNR
 Contact Name: Mr. Earl Miyamoto
 Phone Number: 832-5017
 Fax Number: 832-5018

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

8/7/2006
 Date

Reserved for SPO Use Only

15. Date Notice Posted 8/11/06

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

Chief Procurement Officer

Date

Name/Company	Address	Requested \$
Stephen Gates	4038 W. Madison Pl, Springfield, MO 65802	\$10,626
Richard L. Hanson	92-411 Kaiaulu St., Kapolei, HI 96707	\$50,230
Christine Tran	215 N. King St., Apt. #2003, Honolulu, HI 96817	\$125,000
Quang Nguyen	3213 W. 134th St., Hawthorne, CA 90250	\$43,417
An Liet Lu	901 River St., #708, Honolulu, HI 96817	\$32,000
Thiet John Nguyen	901 River St., #708, Honolulu, HI 96817	\$32,000
Sang Yeol Kim	217 Prospect St., #A3, Honolulu, HI 96813	\$32,000
W. James Wang	2232 Kapiolani Blvd., #401, Honolulu HI 96826	\$32,000
Kim Lu	91-1045 Kaihohonu St., Ewa Beach, HI 96706	\$36,150
Si Nguyen	1615 Liholiho St., #402 Honolulu HI 96822	\$32,000
B. Michael You	55 South Kukui St., #1403, Honolulu, HI 96813	\$32,000
Tuan Huynh	1312 Hone Lane, Honolulu, HI 96817	\$42,000
Nancy Nguyen	94-1046 Hanauna St., Waipahu, HI 96797	(\$60-\$100K)
Reagan Nguyen	94-1046 Hanauna St., Waipahu, HI 96797	(\$60-\$100K)
Vui-Vui II	1565 Hanai Lp., Honolulu, HI 96817	\$40,000
Vui-Vui Inc	1565 Hanai Lp., Honolulu, HI 96817	\$40,000
Sea Diamond II	2244 Jennie St., Honolulu, HI 96819	\$40,000
Crystal LLC	2244 Jennie St., Honolulu, HI 96819	\$35,000
Independence LLC	2244 Jennie St., Honolulu, HI 96819	\$35,000
Capt Kevin T&V LLC	4144 Keaka Dr., Honolulu, HI 96818	\$40,000
Lucky I	c/o HiSea Fishing, Pier 20, Honolulu, HI 96817	\$40,000
Bronson Ha	1811 Hart St., Honolulu, HI 96819	\$50,000
Gary Dill	828-A Judd, Honolulu, HI 96817	\$8,400
Imua Fish and & Trading Corp	2738 Waiomao Rd., Honolulu, HI 96816	\$32,000
William C. Wakefield	P.O. Box 1454, Kealakekua, HI 96750	\$36,600
Gary Dill	828-A Judd, Honolulu, HI 96817	\$3,000
Jonathan Hurd	P.O. Pox 188, Eleele, HI 96705	\$30,513
Errol K. Lanning Sr.	P.O. Box 676, Hanapepe, HI 96716	\$80,000
Dale Leverone	73-1186 Ahikaua St., Kailua-Kona, HI 96740	\$8,500
John Myking	309 Ilihau St., Kailua, HI 96734	\$46,678
Jerry Ray	P.O. Box 8462, Honolulu, HI 96830	\$295,500
Gary Beals	140 Kuakolu Pl, Hilo, HI 96720	\$314,000
Hawaii Longline Assoc	45-519 Mokulele Dr., Kaneohe, HI 96744	\$1,473,155
Leeward Bottomfishing Hui	828-A Judd St., Honolulu, HI 96817	\$70,000
Leeward Bottomfishing Hui	828-A Judd St., Honolulu, HI 96817	\$395,200