

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

STATE PROCUREMENT OFFICE STATE PROCUREMENT OFFICE
STATE OF HAWAII STATE OF HAWAII

TO: Chief Procurement Officer

FROM: Department of Public Safety/Corrections 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:

Description of goods, services, or construction:

Commissary services for inmates

Name of Vendor: Aramark Correctional Services, Inc. Address: 18732- 34th Avenue SE Bothell, WA 98012	Cost: \$0.00
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Term of Contract: From: June 1, 2004 To: May 31, 2005	Prior Exemption Ref. No. (if applicable) not applicable
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Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:

The Department of Public Safety must provide the services immediately, and is unable to provide commissary services to inmates without an exemption. See Attachment 1 for further details.

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

Although not advertised, the Department asked for proposals from a wide variety of entities. The entities were selected based upon the Department's good faith belief that these entities were most likely to be interested in the contract. Five proposals were received and reviewed. Based upon best value, The Department chose Aramark Correctional Services, Inc. See Attachment 1 for further details.

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

A selection committee of three reviewed the proposals. These three individuals are from three different facilities and have experience and knowledge regarding prison commissary services. See Attachment 1 for further details.

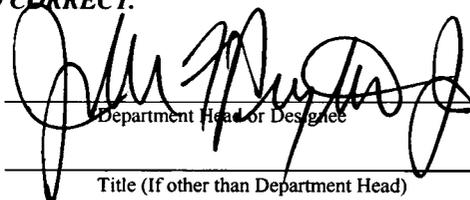
A list of agency personnel, by position title, who will be involved in the approval process and administration of the contract:

Mr. Tommy Herring, Special Assistant to the Director
 Mr. Walter Zaharevitz, Business Manager, Waiawa Correctional Facility

Direct questions to:	Phone Number:
Mr. Tommy Herring, Special Assistant to the Director	587-1367

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

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

 4/22/04
 Department Head or Designee Date
 Title (If other than Department Head)

Chief Procurement Officer's Comments:

Agency shall submit a SPO Form 16 – Procurement Violation: Report of Findings and Corrective Actions; Request for After-the-Fact Payment Approval for the above services from the expiration date of the past contract up to September 30, 2004 or sooner upon the execution of a new contract.

Please ensure adherence to applicable administrative requirements.

APPROVED

DISAPPROVED

 5/18/04
 Chief Procurement Officer Date

cc: Administrator,
 State Procurement Office

ATTACHMENT 1

In 1999, the Department of Public Safety went out to bid on a contract for commissary services to inmates. When a procurement dispute arose, the Procurement Office under the law at that time opined that chapter 103D, Hawaii Revised Statutes, did not apply because no state moneys were involved. The 1999 contract expired in 2003.

Since then, section 103D-102 was amended to include a broader applicability section. But department staff continued to use the vendor chosen in 1999 without going through a procurement process. At this time, therefore, it appears that the current commissary services are being provided in violation of procurement requirements.

In October 2003, the Department of Public Safety issued an informal Request for Proposal that was sent to various vendors whom the Department of Public Safety believed would be interested in providing commissary services to inmates. A copy of the informal RFP is attached. Based upon a concept of best value to the inmate, the Department of Public Safety picked Aramark Correctional Services, Inc. ("Aramark")

The informal RFP process admittedly did not comply with chapter 103D because the request was not published and because the five criteria (though listed) were not weighted in a numerical formula in the RFP. At the time, the Department of Public Safety still believed that the matter was not subject to chapter 103D. Accordingly, the staff honestly and in good faith tried to mirror those chapter 103D requirements that would be helpful to a fair and cost-effective procurement. Publication was deemed to be

unnecessary as a practical matter because a wide variety of companies were individually solicited to submit an offer. The lack of the numerical criteria was an oversight. The criteria were listed. The numerical weight of each criteria was simply not included, even though the eventual weight was based upon 50% price and ten percent for each of the five listed criteria.

Aramark was chosen as the vendor that could provide the best value. In fact, based upon the average basket of commissary items sold in any given month, Aramark's offer is approximately \$15,600 less than the current contract, an important savings for our inmates who do not have large amounts of disposable income.

The Department of Public Safety needs to provide commissary services to inmates. It currently does not do so under the procurement rules. It will go through a formal procurement process, but needs to provide services till then. Aramark can do so at a price lower than currently being paid with additional quality assurance methods.

In order to make the proposal economically feasible, Aramark requires a minimum one-year commitment. Aramark intends to rent additional warehouse space, but must know that its lease will be needed for at least a year. This time commitment is less than the four-year commitment under the proposed contract. Aramark also asked for two to three years under this procurement exception. After further negotiation, however, Aramark was willing to enter into a one-year contract. The Department of Public Safety

has made a genuine effort not to ask for an excessive period of time. But the lower price and higher quality of service requires that a minimum one-year commitment be made.

Accordingly, commissary services are needed immediately. Additional time is needed to conduct a formal procurement, and a one-year procurement exemption is necessary in order to obtain a higher quality of service at a lower price.

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

The Chief Procurement Officer is in the process of reviewing the request from the Department of Public Safety for exemption from Chapter 103D, HRS, for the following goods, services, or construction:

Commissary services for inmates

Vendor: Aramark Correctional Services, Inc.

Address: 18732 - 34th Avenue SE
Bothell, WA 98012

Term of Contract: From: June 1, 2004 To: May 31, 2005 | **Cost:** \$0.00

Direct any inquiries to:

Department: Department of Public Safety

Contact Name/Title: Mr. Tommy Herring, Special Assistant to the
Director

Address: 919 Ala Moana Boulevard
Room 400
Honolulu, HI 96814

Phone Number: 587-1367

Fax Number: 587-1282



Date Posted: 4/29/04

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 action.

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 State Procurement Office
Address 1151 Punchbowl Street
Honolulu, Hawaii 96813