



B07:0924002

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

- 1. TO: Chief Procurement Officer
- 2. FROM: DBEDT / High Technology Development Corporation (HTDC)

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:
 Brief description of MEP Services:
 HTDC-Manufacturing Extension Partnership (MEP) is a federally-funded program that provides specialized business services to local firms. Its mission is to strengthen the competitive position and improve the profitability of Hawaii manufacturing businesses by providing high quality business consulting. All 50 states have a MEP Program. The MEP program has been in Hawaii for over nine years, and hosted by HTDC for the last four years.

MEP is a challenging program to administer in Hawaii for the following reasons: NIST enforces Minimally Acceptable Impact Measurements which are reviewed quarterly, and is primarily based on the revenue, investment and cost savings realized by our clients as a result of MEP services. These are very difficult program measurements to meet, and additionally, the bar continues to go up every year. Secondly, the 2:1 cash match is also a difficult requirement to meet, however the state has an advantage in that we can leverage the value of our agency's staff time and overhead expenses to the MEP program. Historically there have been other non-state organizations that have hosted this program, but they were unsuccessful primarily due to their inability to meet the cash match requirement.

(continues - see attached)

4. Name of Vendor: Various professional consultants requested by clients Address:	5. Price: <i>Estimated</i> \$405,000 Jto
6. Term of Contract: <u>Date of Approval</u> Jto From: <u>9/01/07</u> To: 6/30/09	7. Prior Exemption Ref. No. PE-07-029-J

Jto
10/12/07

8. Explanation describing how procurement by competitive means is either not practicable nor advantageous to the State:
 In order to receive federal funding under the MEP Program, the hosting agency is obligated to "conduct the tasks necessary to provide the services or complete [its] objectives and plans timely and responsively". Under its originating legislation, HTDC had an exemption from competitive bidding, therefore at the time that HTDC applied to host the MEP Program four years ago, HTDC was the logical State agency to house the MEP Program in Hawaii since much of a MEP center's services need to be contracted out. However, the loss of its exemption to 103D has put a strain on HTDC's ability to effectively provide MEP services via outsourcing/contracting. HTDC is continually in danger of being placed on probation by the U.S. Department of Commerce by not being able to comply with all the requirements of the program, particularly in not providing enough consulting to clients per quarter.

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:
 All small manufacturing companies in Hawaii can apply to the MEP Program for assistance. MEP staff assess and qualify the client companies' needs. Some of the client companies request designated consultant support (which is outside of the expertise of our MEP staff). The consultants' areas of expertise are varied, and because of this, it is not practical to set up MEP consultant vendor lists. The clients provide private funding to HTDC-MEP to hire the consultant that the client requested, and HTDC-MEP collects and expends the funds to the consultant as a value-add pass through (also providing project management services). After the services have been rendered to the satisfaction of the client, HTDC pays the consultant with funding obtained from the client (private funds, not State funds).

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

10. A description of the agency's internal controls and approval requirements for the exempted procurement:
 A project tracking system that documents the following:
 - HTDC-MEP makes assessment of the client's needs, and the client requests a consultant to assist them
 - HTDC-MEP qualifies the consultant selected by the client, negotiates the fee, drafts the contract Scope of Work on behalf of the client
 - HTDC's Contracts Administrator, Controller, CEO and the HTDC-MEP Center Director review and approve the Memorandum of Agreement between HTDC and the client company, and the Letter of Agreement between HTDC and the vendor/consultant (both agreements document the Scope of Services, deliverables, timetable, fees).
 - HTDC-MEP staff review the performance of the contracted consultant and ensure that contract deliverables are met.
 (continues)

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	
Yuka Nagashima	Executive Director & CEO	<input checked="" type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Janice Kato	HTDC-MEP Center Director	<input checked="" type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Steve Sakuda	Controller	<input checked="" type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Sylvia Bollmeier	Contracts Administrator	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Board for oversight	Federal Programs Committee	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
		<input type="checkbox"/> Approval	<input type="checkbox"/> Administration

13. Direct inquiries to: Department: High Technology Develop. Corp.
 Contact Name: Janice Kato
 Phone Number: 539-3814
 Fax Number: 539-3795

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

10/4/07
 Date

Reserved for SPO Use Only

15. Date Notice Posted 10/10/07

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:

This approval is for the solicitation process only, HRS section 103D-310(c) and HAR section 3-122-112, shall apply.

16.

APPROVED

DISAPPROVED

NO ACTION REQUIRED

Alan S. Taylor
Chief Procurement Officer

10/17/07
Date

3. (continued)

If the state does not continue to host the MEP program, it is unlikely that any other organization will be able to host it. Loss of this program will mean a loss of nearly half a million dollars a year in federally funded services to local small businesses, and this will reflect poorly on the state.

As specified in our federal contract with the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), HTDC-MEP is obligated to provide assistance to small businesses to access solutions to technical and managerial problems, and "conduct the tasks necessary to provide the services or complete [its] objectives and plans timely and responsively." To comply with these guidelines and provide needed assistance, HTDC uses both in-house staff and contracts professional consultants as *specifically requested by the companies* seeking assistance.

Because the MEP program has maintained a good track record in the responsible and appropriate use of its SPO exemption, HTDC requests that the current exemption request be in effect through the following fiscal year, ending June 30, 2009 as marked under Term of Contract on page one.

Service Delivery Model:

HTDC-MEP delivers its consulting services by: 1) accepting requests for MEP assistance openly and fairly from any small business manufacturing company in Hawaii; 2) assessing each individual company's needs as an appropriate fit for MEP services; 3) collecting payment from the client companies to receive consulting from the professional consultant of their choice, 4) providing project management over the scope of the project, 5) paying the consultant chosen by the client company with funds collected by the client company.

Fees and Payments:

Federal funding is provided to HTDC under an agreement with the U.S. Department of Commerce to staff the MEP program at HTDC. The staff provide assistance and consulting services to the manufacturing companies. However, often times a company will request a specific consultant outside HTDC, because the HTDC-MEP staff do not possess the particular skill set needed by the client. Under its MEP obligation, HTDC must seek the services of the specified consultant; and, in doing so the federal agreement requires that HTDC collect fees from the client for this additional service. HTDC utilizes in-house contracting staff (supported by federal funding) to hire the consultant specified by the client and fees for this service are paid by the client. *No State general funds are used in this process.* HTDC-MEP is required under the federal contract to generate revenues from its clients (billed as project fees). The fees that are collected from the clients are paid to HTDC, and HTDC in turn pays the consultant for professional services rendered, and completed with oversight by HTDC-MEP staff. The professional consultants that the MEP clients request are greatly varied, and it is common for MEP to contract a consultant with specific expertise just once or only for one client.

8. (continued)

All small manufacturing firms in Hawaii have fair and open access to MEP program assistance, which is provided by the federally-funded HTDC-MEP staff. However, to use the services of specific consultants beyond HTDC's in-house capabilities, the manufacturing client companies pay HTDC directly to contract with their requested consultants, and MEP provides the project management services. HTDC is obligated to meet individual company requests and is spending private funds provided by the companies to obtain the requested services. Under these circumstances, it would not be prudent for HTDC to be constrained by the competitive bidding process, as the client companies would not use the HTDC services and the federal funding for the MEP Program would be withdrawn.

10. (continued)

- Client pays HTDC at set delivery milestones; HTDC pays consultant only after client fees have been collected
- HTDC-MEP staff ensure that the final report and/or other deliverable(s) are completed
- As part of its federal reporting requirement, HTDC-MEP staff follow-up with the client over a minimum of 12 months to measure the client's progress.