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STATE OF HAWAII

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REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS

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

TO: Chief Procurement Officer
FROM: Land and Natural Resources/Forestry and Wildlife
(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:
Provide expert services for the State of Hawaii to collaborate with Partnership Endangered Bird Recovery Program. Services provided to include operation of the endangered bird captive propagation project at the Maui Bird Conservation Center (MBCC), Olinda, Maui, all aspects of avicultural care and breeding of endangered and surrogate birds, operations and maintenance of captive propagation facilities, veterinary care of captive birds, assistance with field collections and releases of birds, work with cooperating agencies to integrate the captive propagation program with other aspects of endangered bird management and recovery, public outreach, and contribution of no less than \$235,000 in cash or in-kind services over the two year contract to provide the match for the federal funds that contribute to this project.

Name of Vendor: Zoological Society of San Diego (ZSSD) Address: P.O. Box 120551, San Diego, CA 92112	Cost: \$370,000 Yr 1 \$330,000 Yr 2
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Term of Contract: 2 yrs.	From: 1 Jul 2004	To: 30 Jun 2006	Prior Exemption Ref. No. (if applicable): 02-55-J
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Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:
See Attached Explanation on Page 3.

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

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

The Division of Forestry and Wildlife will oversee the project implementation to ensure it is in compliance with performance standards of the federal grant program, the 5-year and annual work plans, and the contract scope of work developed by the Division. The project requires weekly, monthly and annual performance reports. These reports and a project description are made available to the public via the Division's web page.

Once the purchase of services is approved, the scope of work will be developed and incorporated into a contract, the contract will be submitted for approval by the Division of Forestry and Wildlife Administrator and the Chairperson of DLNR.

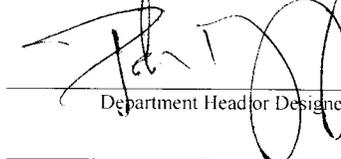
A list of agency personnel, by position title, who will be involved in the approval process and administration of the contract:

Board of Land and Natural Resources - Approval to authorize the DLNR Chairperson to authorize the contract
 Deputy Attorney General - Contract approval
 Peter T. Young, Chairperson DLNR - Contract approval and contract administration/performance
 Michael G. Buck, DOFAW Administrator - Contract approval and contract administration/performance
 Paul J. Conry, DOFAW Wildlife Program Manager - Contract approval and contract administration/performance
 Scott Fretz, DOFAW Wildlife Biologist - Contract preparation and contract administration/performance

Direct questions to:	Paul J. Conry, Wildlife Program Manager	Phone Number:	587-4176
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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.


 Department Head or Designee _____ Date MAY 19 2004
 Title (If other than Department Head) _____

Chief Procurement Officer's Comments:

Please ensure adherence to applicable administrative requirements.

APPROVED DISAPPROVED


 Chief Procurement Officer _____ Date 6/16/04

cc: Administrator,
 State Procurement Office

Attachment 1. (Continued from page 1)

Explanation describing how procurement by competitive means is neither practicable nor advantageous to the State:

The captive propagation program for which ZSSD currently provides goods and services is part of an interagency collaboration with the US Fish and Wildlife Service (FWS). ZSSD operates two separate facilities (one on Maui and one on Hawaii) as a single integrated program. DLNR and FWS share costs of the program, with DLNR funds available from Section 6 of the Federal Endangered Species Act. Maintenance of separate facilities, but administered by one organization, is a key component of the program which has several advantages: 1) rapid exchange of genetic material (birds) between facilities, 2) common protocols for complex avicultural procedures (incubation, neonatal care, etc) that reduces the risk of individual/species loss or morbidity, 3) cross-training of personnel, 4) ability to put labor where it is most needed on a season by season basis, 5) ability to move personnel between facilities and field efforts. Overall, the two facilities-one administration approach provides for collaboration with FWS, and maximizes the potential and minimizes the investment while ensuring the most return in terms of propagation and recovery of endangered species.

Prior to the establishment of this program, no institution or entity had demonstrated the ability to breed endangered Hawaiian passerines in captivity. The current operator continues to be the only such institution worldwide. Although this program was previously carried out under the supervision of The Peregrine Fund (TPF), no change in management or operations occurred at the time of transfer to ZSSD. The current operator now has acquired years of unique experience and established a 10-year record of unprecedented and accelerating success in the operations of this program. Procurement by competitive means would be neither advantageous to the State or practicable because: (1) All other vendors would not have the expertise and accumulated experience of the current vendor and would not bring the demonstrated success in the ability to breed endangered Hawaiian forest birds. This poses a risk of failure and loss of critically endangered species, and program setback, resulting in a loss of public support and funding for the program. (2) Transfer of the funds and contract to another vendor would impose severe practical and logistic difficulties associated with the current collaboration in which a single vendor operates the facilities as a mega-population. (3) Transfer of the funds and contract to another vendor would impose practical difficulties for the collaboration which must deal with complex technical issues to ensure the efficient and effective maintenance of the program and the adherence of the program to established objectives and priorities determined by interagency and partnership consensus. (4) Operation of this program is a highly specialized endeavor.

In order to be successful the program requires unique expertise and years of experience. Shifting to a new vendor would introduce an element of risk, which if accompanied by average or poor performance, would result in poor production in the captive propagation program and even cause harm or death of irreplaceable captive endangered birds. This

risk is especially acute for the Alala and Poouli, both of which are critically endangered and now entirely dependent on the captive program to prevent their extinction.

The current operator has a nationally recognized and award-winning program that is currently caring for and breeding the last 40 alala left in the world, and the only endangered Hawaiian forest birds in a captive propagation program. The operator is currently maintaining: 40 'Alala (19 males, 21 females), 31 Puaiohi (12 males, 11 females), 14 Palila (5 males, 9 females), 10 Hawai'i Creeper (4 males, 6 females), 1 'Akohekohe (1 female), 10 Maui Parrotbill (3 male, 7 female), 2 'Elepaio (1 males, 1 female), and 10 'Akepa (5 males, 5 females). The operator may soon have the responsibility to captive manage the only 3 Poouli left in the world if captured for propagation purposes. A mishap in the care and breeding of these endangered birds during a transition of operations could have dire consequences. It is not advantageous for the State to shift operation of this program at its current critical stage of development and implementation.

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 Land and Natural Resources for exemption from Chapter 103D, HRS, for the following goods, services, or construction:

Provide expert services for the State of Hawaii to operate the endangered bird captive propagation project at the Maui Bird Conservation Center (MBCC), Olinda, Maui and the Keauhou Bird Conservation Center at Keauhou, Hawaii, in collaboration with the DLNR/FWS captive propagation program. Services provided to include all aspects of avicultural care and breeding of endangered and surrogate birds, operations and maintenance of captive propagation facilities, veterinary care of captive birds, assistance with field collections and releases of birds, work with cooperating agencies to integrate the captive propagation program with other aspects of endangered bird management and recovery, public outreach, and contribution of no less than \$130,000 in cash or in-kind services annually to provide the match for the federal funds that contribute to this project.

Vendor: Zoological Society of San Diego (ZSSD)

Address: P.O. Box 120551, San Diego, CA 92112

Term of Contract: From: 1 July 2004 To: 30 Jun 2006 **Cost:** \$700,000

Direct any inquiries to:

Department: Land and Natural Resources, Division of Forestry and Wildlife

Contact Name/Title: Paul J. Conry, Wildlife Program Manager

Phone Number: 587-4176

Address: 1151 Punchbowl Street, Room 325
Honolulu, Hawaii 96813

Fax Number: 587-0160

Date Notice Posted:

MAY 21, 2004

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 this notice was posted to:

Chief Procurement Officer
Office/Agency: State Procurement Office
Address: 1151 Punchbowl Street, Room 416
Honolulu, Hawaii 96813