



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

1. TO: Chief Procurement Officer
2. FROM: Barry A. Fukunaga, Director, Department of Transportation

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:

<p>3. Description of goods, services or construction: Under Project H.C. 90040, DOT competitively selected Belt Collins Hawaii, Ltd. to "provide environmental and planning services...necessary to prepare HRS Chapter 343 and/or NEPA environmental assessments and/or environmental impact statements (Environmental Documents), and other items necessary for the Statewide Inter-Island Ferry Environmental Services and Planning Project, Project, H.C. No. 90040 (Project." Subsequent to selection and prior to the actual award, Act 2 was passed by the Legislature requiring an Environmental Impact Statement pursuant to Act 2 and not Chapter 343. In addition, Executive Order 07-10 requires DOT perform a Rapid Risk Assessment regarding compliance with environmental mitigation measures. Finally, Judge August is concurrently requiring a supplemental environmental assessment of the Kahului 2025 Master Plan to incorporate Superferry. These additional requirements are consistent with environmental and planning services but are beyond the original scope of work specifically defined for Project H.C. No. 90040.</p>	
<p>4. Name of Vendor: Belt Collins Hawaii, Ltd. Address: 2153 North King Street, 2nd Floor, Honolulu, Hawaii 9</p>	<p>5. Price: \$1,000,000.00</p>
<p>6. Term of Contract: <i>Upm CPD Approval</i> From: <i>11/01/07</i> To: 12/31/08</p>	<p>7. Prior Exemption Ref. No.</p>
<p>8. Explanation describing how procurement by competitive means is either not practicable nor advantageous to the State: While the scope of work has expanded, it would not be advantageous to recompetete the project for the following reasons: 1) The content or substantive nature of the work required is the same. Act 2 EIS requirements mirror Chapter 343 with some additional reporting requirements, the Rapid Risk Assessment includes the collection of data which will form a part of the Act 2 EIS studies and the supplemental Kahului 2025 Master Plan EA will also be performed as a part of the Act 2 EIS; 2) DOT desires continuity of service, thus DOT's preference is that the additional scope of work be performed by the same contractor; and 3) The expanded scope of work was not reasonably foreseeable as DOT could not have anticipated the legislature would require an Act 2 EIS, the Governor's Executive Order would require a Rapid Risk Assessment or Judge August would require a <u>supplemental EA in Kahului after the legislature required a state-wide Act 2 EIS.</u></p>	
<p>9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable: DOT's preference is to revise the Scope of Work of Project H.C. 90040 prior to contract award to Belt Collins Hawaii, Ltd. to specifically include the Act 2 EIS, the Rapid Risk Assessment and the supplemental Kahului 2025 Master Plan EA, consistent with the prior requirement to "provide environmental and planning services."</p>	
<p>10. A description of the agency's internal controls and approval requirements for the exempted procurement: The decision to request an exemption for the expanded scope of work was coordinated through Harbors' Planning Department, the Deputy Director of Harbors and Director Barry Fukunaga.</p>	

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
Barry A. Fukunaga	Director	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Michael D. Formby	Deputy Director, Harbors	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Fred Pascua	Planning Engineer, Harbors	<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
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration

13. Direct inquiries to:	Department: DOT, Harbors Division Contact Name: Michael D. Formby Phone Number: 808-587-3651 Fax Number: 808-587-3652
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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.*


11/13/07

 Department Head Date

Reserved for SPO Use Only

15. Date Notice Posted 11/16/07

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

Chief Procurement Officer's comments:

This approval is based on DOT's representation that a delay in executing this contract may affect their ability to meet requirements of a court order and it is not practicable to hire another contractor since the additional services are directly related to the original scope. 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


11/23/07

 Chief Procurement Officer Date