



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

08-046-C

1. TO: Chief Procurement Officer  
2. FROM: Department of the Attorney General

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 Department of the Attorney General, on behalf of the Department of Health ("DOH"), requires the following legal services from Janice Futa of Hisaka Yoshida & Cosgrove. Ms. Futa shall represent the Director of Health as Movant in Conditional Release applications for the Hawaii State Hospital ("HSH") forensic patients pursuant to Hawaii Revised Statutes ("HRS") section 704-412; Motions for Findings and Fitness to Proceed to trial pursuant to section 704-406, HRS; Motions for Authorizations for Release on Conditions While Still Unfit; Motions for Involuntary Medication; and Motions for Authorized Absence pursuant to section 334-75, HRS.

4. Name of Vendor: Hisaka Yoshida & Cosgrove  
Address: 737 Bishop Street, Suite 3000, Honolulu, HI 96813

5. Price:  
\$ 150,000.00

6. Term of Contract: *upon CPO Approval*  
From: ~~December 1, 2007~~ To: November 30, 2009

7. Prior Exemption Ref. No.

8. Explanation describing how procurement by competitive means is either not practicable nor advantageous to the State:

Janice Futa of Hisaka Yoshida & Cosgrove was selected as a special deputy attorney general pursuant to section 103D-304, HRS, procurement of professional services. Ms. Futa was selected by a selection committee to represent the Director of Health in conditional release applications for HSH forensic patients pursuant to section 704-412, HRS, motions for findings of fitness to proceed to trial pursuant to section 704-406, HRS, motions for involuntary medication, and motions for authorized absence pursuant to section 334-75, HRS. Ms. Futa's contract for special deputy services was from September 1, 2005 through August 31, 2007. Prior to that, Ms. Futa held the same special deputy position from December 2002 to May 2004. ~~She had been selected by a selection committee pursuant to section 103D-304, HRS. (See Attachment A)~~

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

See Section 8, above.

8. Explanation describing how procurement by competitive means is either not practicable nor advantageous to the State: (Continued)

Ms. Futa's background in criminal law and familiarity with conditional release applications and fitness to proceed matters are very important factors when looking at a potential contractor's qualifications. That combined with her extensive experience working as the special deputy representing the Director of Health, Department of Health, support Ms. Futa and her firm to provide the continued contracted services on behalf of the Department of the Attorney General.

It would not be practicable nor advantageous to the State to procure these services by competitive means at this time. The Department of Health, the funding agency, seeks to retain the services of Janice Futa for another two-year period because she is an experienced attorney in the substantive areas of law. She is familiar with the process and has been the most efficient deputy in successfully discharging patients on conditional release from HSH. Continuity of legal services in the areas of releases and discharges from HSH is a priority for the DOH. One of Ms. Futa's primary responsibilities as a special deputy includes filing applications for conditional release of patients from HSH. Based on past experience, it takes on average six months to train a new qualified attorney in this area of law. To compound the current situation, HSH is dealing with support staff shortages. Recently, the HSH staff person tasked with coordinating all the cases for conditional release and fitness to proceed matters terminated her employment with HSH. Engaging a new attorney at this time would disrupt the process and would inevitably lead to significant delays in releases and discharges of patients from HSH and even higher census numbers at the hospital. The State could only benefit in keeping Janice Futa as a special deputy for another two-year period.

Attachment A

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

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

The Department of the Attorney General normally follows standard procedures for hiring special deputies pursuant to the Attorney General's authority under section 28-8, HRS. For the procurement of special deputy services pursuant to section 103D-304, HRS, prospective special deputies are those that respond to the Attorney General's request for statements of interest in providing legal services to the State. Generally, three to five names from the list of interested attorneys will be submitted for consideration by a hiring committee designated for that purpose. However, this is an unusual situation involving retention of an experienced attorney with a high degree of familiarity with the complex issues and details of the process for, among other things, conditional release and fitness to proceed. Therefore, use of the normal hiring committee process would not be fruitful.

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	
Mark J. Bennett	Attorney General	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Heidi M. Rian	Supervising Deputy Attorney Gene	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Michelle E. Nakata	Deputy Attorney General	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Chiyome L. Fukino	Director of Health	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Mark Fridovich	Administrator HSH	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
		<input type="checkbox"/> Approval	<input type="checkbox"/> Administration

13. Direct inquiries to: Department: Department of the Attorney General  
 Contact Name: Michelle E. Nakata, DAG  
 Phone Number: 587-3058  
 Fax Number: 587-3077

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

11/27/07  
 Date

**Reserved for SPO Use Only**

15. Date Notice Posted 11/28/07

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

