STATE PROCUREMENT OFFICE
NOTICE OF AMENDMENT TO EXEMPTION FROM CHAPTER 103D, HRS, CONTRACT

1. TO: Chief Procurement Officer

2. FROM: Department of Commerce & Consumer Affairs/CATV
Department/Division/Agency

3. Name of Contractor:

4. P.E. Reference No. 06-064-J

5. Description of goods, services, or construction:
Cable Television Public, Educational, and Governmental (PEG) Access Services

6. Scope of work for the contract is revised as follows:
Procurement exemption approved and extended to December 31, 2007, further extended to July 15, 2008.

Original Contract Price: $$0.00 Amended Contract Price: $

7. Reason: This / These amendment(s) are necessary because:
see Attachment to Amendment to PEG-06-064-J.

8. Direct questions to: Clyde S. Sonobe, CATV Phone: 586-2620

Agency shall ensure adherence to applicable administrative and statutory requirements.

9. ***Pursuant to § 103D-102, HRS, and § 3-120-5, HAR, I certify that the information provided above is, to the best of my knowledge, true and correct***

Lawrence M Reifurth 12/4/07
Department Head Date

Reserved for SPO Use Only

10. Date Posted: 12/5/07

11. Submit written objections to this notice of intent to amend a procurement exemption contract 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 granted in order to follow a Maui Court's suggestion that the DCCA promulgate rules to specify the method DCCA will use to designate and select a PEG access organization.

12. [X] APPROVED [ ] DISAPPROVED [ ] NO ACTION REQUIRED

Aaron S. Fujioka 12/13/07
Chief Procurement Officer Date

13. P.E. No. 06-064-J

SPO-07B (Rev. 08/01/2006)

ATTACHMENT to Amendment to PE-06-064-J

7. Reason: This / These amendments(s) are necessary because:

The RFP for PEG access services was issued on July 30, 2007. Protests were filed, and the RFP was subsequently postponed on or about August 14, 2007 until further notice.

On August 3, 2007, Akaku: Maui Community Television ("**Akaku**") filed three (3) lawsuits against DCCA in Maui regarding the RFP. In one of the lawsuits, Akaku v. Lawrence Reifurth, et al., Civil No. 07-1-0278(1) in the Circuit Court of the Second Circuit, Akaku argued that the method DCCA uses to designate and select a PEG access organization is a "rule" and that DCCA's RFP was invalid because DCCA failed to follow the rulemaking requirements of HRS chapter 91.

Akaku subsequently filed a Motion for Preliminary Injunction against DCCA which was heard by the Honorable Joel E. August on October 4, 2007. In his November 15, 2007 Order, Judge August denied Akaku's Motion for Preliminary Injunction. However, Judge August also stated his belief that DCCA needed to adopt a rule that specifies the method DCCA will use to designate and select a PEG access organization, and the factors or criteria DCCA will use to designate and select a PEG access organization. Judge August further suggested that if DCCA proceeded to designate and select a PEG access organization under the Code without such a rule, then in all likelihood, the Court would grant any renewed request that Akaku might make for a preliminary injunction against DCCA.

Accordingly, to comply with Judge August's suggestions, DCCA is promulgating such a proposed rule. DCCA anticipates that the rule-making procedure, subsequent issuance of the RFP and award of contracts will go beyond the current extension period of December 31, 2007, which was granted by the Chief Procurement Officer on March 27, 2007.

DCCA is requesting a procurement exemption extension to July 15, 2008.