



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

1. TO: Chief Procurement Officer
2. FROM: Micah A. Kane, Chair, Department of Hawaiian Home Lands

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: See attachment 1.	
4. Name of Vendor: TBA Address: TBA	5. Price: \$ TBA
6. Term of Contract: From: TBA To: TBA	7. Prior Exemption Ref. No. NA
8. Explanation describing how procurement by competitive means is either not practicable nor advantageous to the State: See attachment 2.	
9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable: DHHL staff will solicit three organizations for proposals to complete unbonded homes that could not be completed by Fredco, Inc. on the island of Hawaii. In addition, DHHL staff will obtain written confirmation from each organization of their interest or disinterest in proposing for this project. The award for this service will take into consideration price, quality, warranty, and delivery and will be made to the most advantageous offer to the State.	
10. A description of the agency's internal controls and approval requirements for the exempted procurement: 1. Exemption procurement approved by the Chief Procurement Officer. 2. Staff to solicit 3 organizations for proposals 3. Proposals are opened and evaluated by qualified DHHL Staff. 4. Contract awarded to proposal that is responsive, responsible, and advantageous to DHHL. 5. Contract is drafted and approved by AG. 6. Contract signed by Contractor 7. Contract signed by DHHL Chair.	

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	
Micah A. Kane	Chair	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Ben Henderson	Deputy	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Kamana'o Mills	Special Assistant	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Larry Sumida	LDD Administrator	<input checked="" type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Kamuela Cobb-Adams	Hmst. Dev. Coordinator	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration

13. Direct inquiries to:	Department: Hawaiian Home Lands Contact Name: Kamana'o Mills Phone Number: 586-3822 Fax Number: 586-3899
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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.*

 Department Head Date

Reserved for SPO Use Only	
	15. Date Notice Posted <u>12/24/07</u>
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: <p align="center"> Chief Procurement Officer State Procurement Office P.O. Box 119 Honolulu, Hawaii 96810-0119 </p>	
Chief Procurement Officer's comments: 	

16. APPROVED DISAPPROVED

 Chief Procurement Officer Date

Attachment 1

State Procurement Office

Notice of and request for Exemption from Chapter 103D, HRS

3. Description of goods, services or construction:

The Department of Hawaiian Home Lands is seeking a developer to complete homes on select projects on the island of Hawaii in accordance with approved plans and specification at previously agreed-to prices. The selected developer shall acquire, facilitate, coordinate, and manage the following activities for select projects on the island of Hawaii as needed.

1. General Contractor services to build single family homes in accordance with specified plans and specifications. Contractor to provide all materials and labor to complete the homes and shall also provide the necessary interim construction financing for the completion of the homes.

2. Vendors to supply materials for the completion of the homes, including establishments such as Hardware Hawaii, HONSADOR, Hawaii Planning Mill, and other such businesses that provide house plans that can be readily used in the construction of homes.

3. Surveyor services to provide location of property corners as well as elevations of existing lot grades.

4. Construction Managers to ensure that the homes are being built according to the approved plans, specifications, and schedule.

5. Architect services to provide construction plans, specifications and/or required stamps and certifications necessary to obtain building permits.

6. Structural Engineers to provide necessary stamps and certifications to comply with building codes and requirements.

7. Geo-Technical Engineer (Soils Engineer) to provide necessary soils/foundation compaction inspections and approvals.

8. Legal services to review any contracts, bonds, and other related documents. Also, to prepare any documents related to the sale of the homes.

Attachment 2

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

This procurement exemption has been prepared to finance and build homes directly impacted from Fredco, Inc. inability to complete the construction of homes on Hawaiian Home Lands.

Over the past few years, Fredco, Inc. was in the process of building homes on three islands, Lanai, Kauai and Hawaii. On Monday, November 26, 2007 Fredco, Inc. notified the Department of Hawaiian Home Lands (DHHL) they would not be able to complete the houses it was contracted to build. On Friday, November 30, 2007, Fredco, Inc. notified the bonding company, Hardware Hawaii, Inc., of the same.

For those lessees with a "performance" bond, Hardware Hawaii will complete the construction of those homes in accordance with the construction contract. DHHL will be working alongside beneficiaries to assure the bonding company fulfills their construction obligations. If there is a discrepancy between the bonding company and the beneficiary, DHHL will evaluate whether or not DHHL should intervene.

For those lessees without a "performance" bond, Hardware Hawaii is not obligated to complete these homes. Therefore DHHL, as an option, desires to build the lessees' homes at the amount of the lessees' construction contracts. In addition, DHHL will treat this project like our master plan community projects where the builder is obligated to DHHL and the "performance" bond and interim financing obligations are between DHHL and the contractor. The lessees will have no legal or financial obligation until the homes are completed.

Given that some lessees have already waited over two years for their home, any extension of the project using normal procurement methods will result in families having to wait even longer for their homes to be completed.

Purpose: Select an organization (escrow services) to arrange and pay loan-related penalties and interest to various lenders, and/or reimburse DHHL lessees, and/or other parties for any loan-related penalties and interest incurred as a direct result of the Fredco, Inc. situation.

Procurement Type: Small Purchase, (or contract amendment if placed under an existing contract.)

Amount: Unknown at this time. Services estimated at \$15,000. Unfortunately, no escrow companies responded to our HePS posting. As a result, we are looking to use an existing service provider under DHHL's HOAP program (Consumer Credit Counseling of Hawaii) to perform these services.

Justification: As a direct result of the Fredco, Inc. situation, lessees are accruing and/or paying penalties, interest, and other costs for a home in which construction has halted. DHHL feels it is our obligation to our beneficiaries to pay lenders and/or reimburse DHHL lessees for costs incurred from this situation which the lessees cannot control.

We estimate approximately 75 transactions taking place per month. (The actual number of transactions may be more or less than 75 transactions per month.)

Once procured, DHHL will provide the service provider a list of DHHL lessees in which to service.

DHHL will also provide the service provider the name of each lessees' financial institution, the lessees' loan amount, any accrued penalties and interest on each loan, and any other pertinent information the escrow service provider requires to perform (and limited to) these aforementioned services.

DHHL will establish an account within DHHL which the service provider may draw monies from to pay a lender's penalties and interest on behalf of each lessee.

The time period to perform these services: December 20, 2007 - March 31, 2007.

Other Concerns: Staff is unsure whether or not DHHL can perform these services, as it may be perceived as a grant or "gift" to select DHHL beneficiaries.

This may also be seen as a reportable form of income to select DHHL beneficiaries.

Purpose: Select an organization / contractor to build/complete the homes for unbonded lessees.

Procurement Type: Three procurement exemptions. (Hawaii, Kauai, Lanai)

Amount: Unknown at this time. Estimated in the millions.

Justification: Over the past few years, Fredco, Inc. was in the process of building homes on three islands, Lanai, Kauai and Hawaii. On Monday, November 26, 2007 Fredco, Inc. notified the Department of Hawaiian Home Lands (DHHL) they would not be able to complete the houses it was contracted to build. On Friday, November 30, 2007, Fredco, Inc. notified the bonding company, Hardware Hawaii, Inc., of the same.

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