



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

1. TO: Chief Procurement Officer
 2. FROM: DBEDT/NELHA/CEROS

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:
 Concept development and demonstration of ocean technologies and applied ocean sciences for military maritime purposes under the National Defense Center of Excellence for Research in Ocean Sciences (CEROS). This program is funded solely by federal funds under a Cooperative Agreement with the Defense Advanced Research Projects Agency (DARPA). No State general funds are utilized in this program. See Attachment A, Sections 1: Introduction; and Section 2: Funding Source for additional details.

4. Name of Vendor: Various - to be determined Address:	5. Price: \$Up to \$10M
6. Term of Contract: From: April 2008 To: Sept 2009	7. Prior Exemption Ref. No. 07-044-J

8. Explanation describing how procurement by competitive means is either not practicable nor advantageous to the State: Project procurements are to be conducted competitively in accordance with: (1) terms and conditions of the CEROS/DARPA Cooperative Agreement; (2) CEROS Operational Plan, Feb 2002; and (3) CEROS Procurement Plan, Mar 2002. The CEROS Procurement Plan, prepared by CEROS and approved by DARPA as a condition of contract funding, establishes the solicitation process and project awards for the FY08 program. Procurement methods, though NOT meeting Chapter 103D, HRS requirements, still ensure competition and fairness. Furthermore, DARPA has been satisfied with CEROS competitive process since 1993. Procurement under 103D, HRS cannot satisfy the terms of the CEROS/DARPA Cooperative Agreement, and CEROS funding is jeopardized unless the program receives the requested exemption. See Attachment A, Sections 3-4 for additional details.

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:
 See Attachment A, Section 3: Stakeholders and Oversight; and Section 6: Selection Process.

10. A description of the agency's internal controls and approval requirements for the exempted procurement:
 The procurement will be conducted in accordance with the CEROS/DARPA Cooperative Agreement. The solicitation will be prepared by CEROS and approved by DARPA. The CEROS Research Advisory Board (RAB) will recommend projects for funding and DARPA will provide approval. The NELHA Board of Directors will be briefed of the RAB/DARPA recommendations and will authorize CEROS to enter into negotiations and, if successful, enter into State contracts for the recommended projects. See Attachment A, Section 3: Stakeholders and Oversight; and Section 6: Selection Process for additional details.

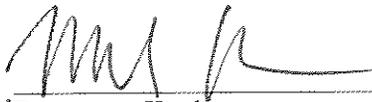
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12. A list of agency personnel, by position, who will be involved in the approval process and administration of the contract:		
Name	Position	Involvement in Process
NELHA	Board of Directors	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Bryan Yee	Deputy Attorney General	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Donna Mau	CEROS Contracts & Grants Admin	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Richard Hess	CEROS Technical Director	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Leland Fausak	CEROS Research Administrator	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration

13. Direct inquiries to:	Department: DBEDT/NELHA/CEROS Contact Name: Donna Mau Phone Number: 587-5500 Fax Number: 587-5505
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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.*



DEC 24 2007

Department Head

Date

Reserved for SPO Use Only	
	15. Date Notice Posted <u>12/27/07</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: <ul style="list-style-type: none"> Chief Procurement Officer State Procurement Office P.O. Box 119 Honolulu, Hawaii 96810-0119 	
Chief Procurement Officer's comments: <p align="center">This approval is for the solicitation process only, HRS section 103D-310(c), and HAR sections 3-122-112, shall apply.</p>	

16. APPROVED DISAPPROVED NO ACTION REQUIRED



 Chief Procurement Officer Date 1/2/08

Attachment A to Request for Exemption from Chapter 103D, HRS (SPO Form-7)

EXECUTIVE SUMMARY: CEROS has received approval to expend approx. \$10M in FY08 Federal Defense Appropriations funds and has an active DARPA-CEROS Cooperative Agreement that is expected to be updated in early 2008. The 'Exemption from Chapter 103D' is required to set in motion actions required to meet possible FY08 contractual obligations in the Spring/Summer of 2008. This request provides support documentation for 'Exemption From Chapter 103D' with: descriptions of the background, funding source, stakeholders, mission, business approach, unique aspects of the CEROS program, the limitations of the CEROS/DARPA cooperative agreement, selection process and project management process.

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1. INTRODUCTION

- a. Background: The National Defense Center of Excellence for Research in Ocean Sciences (CEROS) was established by federal legislation, which specified establishment within an attached agency of the State of Hawaii (the Natural Energy Laboratory of the Hawaiian Authority (NELHA)), and to be funded through the Defense Advanced Research Projects Agency (DARPA).
- b. Mission: The federal legislation further stipulated CEROS was to solicit and support innovative technologies for national maritime applications and sustained technology-based economic development in Hawai'i.
- c. Business Approach: From the start, CEROS was able to take advantage of the flexibility afforded by the attached agencies' exemption from chapter 103D, HRS to fulfill the conditions and intent of the enabling legislation. In accordance with the DARPA agreement, which provides annual federal funding, the CEROS program developed an approach to technical project selection and funding that addressed federal maritime military technical requirements while supporting sustained technology-based economic development in Hawai'i. A detailed outline of the CEROS procurement cycle follows.

2. **FUNDING SOURCE:** CEROS is annually funded by federal Defense Appropriations funds routed through a cooperative agreement with the Defense Advanced

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Research Project Agency (DARPA). In FY08 approx. \$10M has been allocated for CEROS. The active DARPA/CEROS Cooperative Agreement will be modified to accommodate FY08 funding.

3. **STAKEHOLDERS and OVERSIGHT:** CEROS receives guidance, direction, oversight, funding, technical priorities, R&D collaboration, project requirements, shared funding, project hand-off, project transition and administrative support from many groups:

Stakeholder	Guidance, direction	Technology Evaluation & Assessment	Over-sight	Funding	Set technical priorities	R&D collaboration	Project requirements & shared funding	Hand-off & project transition	Admin support
Office of Senator Dan Inouye	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>					
State of Hawaii Department of Business, Economic Development and Tourism	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
State of Hawaii Attorney General	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
The Natural Energy Laboratory of the Hawaii Authority Board of Directors	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
DARPA	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	
Military Commands & DoD Agencies							<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
CEROS Research Advisory Board		<input checked="" type="checkbox"/>							
Evaluation Team (contract & military)		<input checked="" type="checkbox"/>							
Hawaii High Technology community						<input checked="" type="checkbox"/>			

4. UNIQUE ASPECTS OF THE CEROS PROGRAM

- a. Project Selection: In accordance with the DARPA agreement, the vehicle through which the program is funded, the CEROS project selection process reflects the federal Department of Defense program development template for soliciting and selecting advanced science and technology projects for funding. Essentially, the federal process:
 - i. solicits within broad topic areas of interest to the Department of Defense,
 - ii. winnows responses through serial evaluations, and
 - iii. negotiates final contract terms and conditions.
- b. Process: Instead of selecting from many candidates for a specific, predetermined technical end product (as in the State's RFP process), CEROS:

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- i. issues a broad solicitation for innovation concepts within broad, non-specific topic areas
 - ii. employs a candidate selection process based on technical and military programmatic criteria rather than cost alone; and,
 - iii. negotiates the final technical scope and cost of projects funded.
- c. Process Summary: Under the CEROS program, initial responses to the solicitation proceed through a process of evaluation and selection which yields a group of specific projects that are candidates for final negotiations and funding. The key steps are:
- i. CEROS Research Advisory Board (RAB), an advisory panel, after reviewing technical evaluations and specific recommendations from the CEROS Core Evaluation Team and from Department of Defense Science & Technology (S&T) experts, recommends candidate projects.
 - ii. DARPA is consulted regarding the RAB recommendations; DARPA provides guidance on the technical value and uniqueness of candidate proposals, knowledge of similar previous or ongoing efforts, and provides feedback as needed. If necessary, the RAB is re-consulted with DARPA input.
 - iii. NELHA Board of Directors are briefed on the RAB/DARPA recommendations and requested to provide permission to negotiate and enter into contracts.
 - iv. The individual final technical statements of work and funding amount are negotiated by CEROS technical and administrative personnel for each recommended project until all available funding is committed.
 - v. CEROS personnel then administer contract development to assure timely contract execution and technical project initiation.

5. CEROS/DARPA COOPERATIVE AGREEMENT LIMITATIONS

- a. In 2007 CEROS negotiated a new Cooperative Agreement with DARPA. As with past agreements, the agreement is to be amended annually to fund the CEROS program in response to annual appropriations for the CEROS program in the Department of Defense budget.
 - i. In FY08 CEROS will continue to execute a program in the manner of the federal BAA process as a condition of continued funding under the 2007 agreement with NELHA.
 - ii. If the procurement process specified in the 2007 agreement with DARPA cannot be completed with an exemption from the State Procurement Code, FY08 funding for CEROS will be jeopardized.
- b. The CEROS procurement process was developed with guidance from DARPA to satisfy the intent of Congress. The process is timely and cost-effective and

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codified in the cooperative agreement between DARPA and NELHA. The proposed amended agreement is expected to be similar.

- c. The existing agreement specifies project solicitations analogous to federal Broad Agency Announcements (BAA) and selection criteria emphasizing near-term, tangible technical results and deliverables. The proposed amended agreement is expected to be similar.

6. **SELECTION PROCESS:** the following 20-steps describe the major events that must be completed to ensure a fair and unbiased process.

EVENT #	EVENT DESCRIPTION and REMARKS	AMOUNT OF TIME REQUIRED TO COMPLETE	APPROX. COMPLETION TIME
1	Identify technical needs and potential project concepts of interest to DoD commands.	Months	FALL
2	CEROS Informational Briefing: CEROS and DoD commands present programmatic information in preparation for the upcoming solicitation.	2-days	FALL
3	CEROS requests procurement exemption from the State Procurement Office (SPO)	TBD	FALL
4	CEROS issues solicitation posted on online at: www2.hawaii.gov/bidapps/ and www.ceros.org	Days	FALL <10 days after #3
5	Proposers submit Project Concept White Papers ¹ (5-page project abstracts) to a secure internet server.	4-Weeks	WINTER (approx. Jan)

¹ 80-100 submissions received by deadline in recent years; each proposed project has a unique result.. Typically, total funding request is five to ten times greater than funds available CEROS expects 100-125 abstracts in FY08

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EVENT #	EVENT DESCRIPTION and REMARKS	AMOUNT OF TIME REQUIRED TO COMPLETE	APPROX. COMPLETION TIME
6	Project Concept White Papers evaluated ² by: (1) independent technical consultants ³ and (2) DOD military and civilian personal experts ⁴ in technical fields addressed in proposals.	4-Weeks	WINTER (approx. Feb)
7	CEROS Research Advisory Board (RAB) reviews evaluations and recommends projects for full proposals ⁵ to CEROS Technical Director for action.	1-Day	WINTER (approx. Feb)
8	DARPA Consultations ⁶	2-3 Days	WINTER (approx. Feb)
9	CEROS notifies each principal investigator ⁷ of the RAB recommendation (Yes/No) and provides instructions for preparation and submission of full technical and cost proposals for recommended projects. Projects NOT recommended for a full technical proposal receive no further consideration for funding under the solicitation ⁸ .	2-3 Days	WINTER (approx. Feb)

² Evaluations, based on the following six KEY CRITERIA, are made to winnow the best and most appropriate concepts from the less suitable submissions: (1) Overall Scientific and Technical Merit; (2) Potential Contribution and Relevance to the CEROS/DARPA Mission; (3) Realism of Proposed Schedule; (4) Proposer's Capabilities and/or Related Experience; (5) Plans and Capability to Accomplish Technology Transition; and (6) Cost Realism. Each review contains a score and specific recommendation for action. Each review also contains comments on each evaluation criterion and summary comments on the overall evaluation and recommendation; tabulation and summaries are collected on a secure server with controlled access.

³ Independent technical evaluators, each with specific technical expertise and high-level program management experience, recommend either 'Invite Full Proposal' or 'Do Not Invite Full Proposal' based on criteria in the solicitation.

⁴ DoD/military expert evaluators recommend and rank projects for 'Full Proposal' according to relevance and importance of the proposed work to specific command technical needs.

⁵ RAB considers both the technical evaluations and the DoD/military expert recommendations and rankings to identify the most technically promising and militarily relevant submissions. RAB recommends a roster of projects for invitation to submit full technical proposals.

⁶ DARPA is consulted regarding the RAB recommendations and provides guidance on the technical worthiness of candidate proposals, knowledge of similar previous or ongoing efforts and feedback as needed. If necessary, the RAB is re-consulted with DARPA input.

⁷ There is NO predetermined limit on the number of projects or the total funding requested by selected projects. Historically, the RAB has recommended 20-30 projects for full proposals with a total request for funding around two times the anticipated funds available. Because of increased funding available for FY08, 40-50 projects could be invited to submit full proposals.

⁸ CEROS provides feedback, including comments and recommendations from the abstract review to both the companies preparing full proposals and, if requested, those not selected.

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EVENT #	EVENT DESCRIPTION and REMARKS	AMOUNT OF TIME REQUIRED TO COMPLETE	APPROX. COMPLETION TIME
10	Full technical proposals containing: (1) Technical Project Summary; (2) Technical Project Description and Justification ⁹ and, (3) Detailed Cost Proposal ¹⁰ are submitted. Proposal provides technical detail to justify the project's technical claims, methods and costs.	4-weeks	WINTER (approx. Mar)
11	Proposal evaluated ¹¹ by technical consultants and DOD Military and Civilian Expert Team. Results are reported out to an automated Secure Server ¹² for tabulation, scoring, and future reference.	5-weeks	SPRING (approx Apr)
12	CEROS RAB reviews proposal evaluations, recommends projects for funding ¹³ , and sets technical and cost negotiation targets.	1-2 days	SPRING (approx Apr)
13	DARPA consultations ¹⁴	1-2 days	SPRING (approx Apr)
14	Proposer Oral Presentations	1-2 days	SPRING (approx Apr)

⁹ 'Technical Project Description' consists of a cover page and sections describing the project's technical objectives, background, technical rationale, expected results, approach to the technical problem, and a discussion section to establish the context for the project and justify its importance. Proposed work has a base period of performance of 6 to 12 months, but options to extend the period of performance for up to 12 additional months may be included in proposals.

¹⁰ 'Cost Summary' consists of a cover page and breakdowns of the following basic cost elements by task, as applicable for a firm fixed-price level of effort contract: materials and services, direct labor, indirect costs, travel, other costs, and facilities capital cost of money. The Cost Summary also includes letters of agreement or intent from principal subcontractors, technical consultants, or planned collaborators who may play key roles in executing the proposed effort. No fee or profit is permitted in CEROS contracts.

¹¹ Technical Evaluation is conducted for: (1) Overall Scientific and Technical Merit; (2) Potential Contribution and Relevance to the CEROS/DARPA Mission; (3) Realism of Proposed Schedule; (4) Proposer's Capabilities and/or Related Experience; (5) Plans and Capability to Accomplish Technology Transition; and (6) Cost Realism.

¹² Each review contains a score and specific recommendation for action: Fund essentially as proposed; or Fund with suggested limitations or modifications; or Reconsider for funding if additional funding becomes available; or Do not consider for funding – Reject. Each review also contains comments on each evaluation criterion and summary comments on the overall evaluation and recommendation.

¹³ RAB may recommend funding all, part, or none of a particular proposal based on reviewers' evaluations, recommendations, and comments. In the end, the RAB recommends a Core technical program that maximizes technical return from the proposed projects by identifying "best value" for the funding available.

¹⁴ DARPA is consulted regarding the RAB recommendations and provides guidance on the technical worthiness of candidate proposals, knowledge of similar previous or ongoing efforts and feedback as needed. If necessary, the RAB is re-consulted with DARPA input.

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EVENT #	EVENT DESCRIPTION and REMARKS	AMOUNT OF TIME REQUIRED TO COMPLETE	APPROX. COMPLETION TIME
15	CEROS Technical Director: (1) briefs the NELHA Board of Directors on the RAB/DARPA recommendations; and, (2) requests approval to enter into negotiations and into contracts for the recommended projects.	1-day	SPRING (approx May)
16	NELHA Board of Directors authorizes negotiations with selected offerors	1-day	SPRING (approx May)
17	CEROS notifies each principal investigator ¹⁵ of RAB/DARPA recommendations and NELHA BOD decision (<i>i.e.</i> , proceed to negotiations or not recommended).	1-2 days	SPRING (approx May)
18	CEROS Technical Director and Contracts and Grants Administrator negotiate: Scope and Funding; and, Terms and Conditions for recommended projects.	3-4 months	SUMMER (approx. Jun-Sep)
19	CEROS Contracts and Grants Administrator prepares contracts, coordinates review and execution, and submits for encumbrance	3-4 months	SUMMER (approx. Jun-Sep)
20	Project Work Begins	3-4 months	SUMMER (approx. Jun-Sep)

7. **MANAGEMENT PROCESS:** CEROS personnel administer contract development throughout the life of the contract to assure timely contract execution, oversight, and technical excellence. Efforts include, but are not limited to:
- a. Identification and inclusion of DoD and other government stakeholders as project mentors, collaborators, and transition partners
 - b. Conducting formal contract kick-off discussions, mid-project reviews, and final reviews
 - c. Conducting periodic inspection of industry partners facilities
 - d. Conducting periodic consultations with all stakeholders
 - e. Reviewing and approval of reports required for all tasks and products of the effort.

¹⁵ Following acceptance, CEROS provides instructions for the negotiation process and schedules a date for negotiations. Projects that are not recommended for negotiations or funding can request a debriefing on their proposal.