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: To be determined* Address: To be determined * *Solicitation of vendors to commence once procurement exemption is approved.	5. Price: $ To be determined *
6. Term of Contract: From: To be determined * To: To be determined *	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 development and construction organizations for proposals to complete unbonded homes that could not be completed by Menehune Development Company in Kaumana (1) on the island of Hawaii. The solicitation will also leave as an option the ability for the vendor to complete construction on disputed bonded homes near Kaumana (1) on the island of Hawaiii (Explained in Attachment 1, Page 3). 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 organizations for proposals. (Using Attachment 3)
3. Proposals are opened and evaluated by qualified DHHL Staff. (Using Attachment 4)
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.

 11. P.E. No. 08-0681

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	☒ Approval	☐ Administration
Kamana'o Mills	Special Assistant	☐ Approval	☒ Administration
Larry Sumida	LDD Administrator	☒ Approval	☒ Administration
Royden Ishii	HHL Engineer	☐ Approval	☒ Administration

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

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 12/27/07

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 for the solicitation process only, HRS section 103D-310(c), and HAR section 3-122-112, shall apply.

16. ☒ APPROVED ☐ DISAPPROVED

Chief Procurement Officer Date 1/3/08

11. P.E. No. 08-068-J

Attachment 1

REQUEST FOR PROPOSAL
DEPARTMENT OF HAWAIIAN HOME LANDS
KAUMANA LOTS (1)

Purpose Of This Request For Proposal

The purpose of this Request for Proposal (RFP) is to select a contractor (Contractor) for the construction of 3 homes in the area of Kaumana, Hilo, Hawaii. A firm known as FREDCO, Inc., thru Menehune Development Co., Inc., issued proposals or entered into construction contracts with beneficiaries of the Department of Hawaiian Home Lands (DHHL). These firms have since declared bankruptcy and are unable to complete its obligations. DHHL is now engaged in this situation and will contract directly with the selected Contractor to build the homes.

In order to expedite this selection process, DHHL is requesting prices for constructing certain models of homes, proposed building schedules and evidence that the entity responding to this RFP (Responder) has the necessary financing arrangement to build the homes. Based on these criteria, DHHL will rate the proposals submitted in numerical order with the highest rated proposal as number 1. DHHL shall then enter into negotiations with the entity that submitted that proposal. During these negotiations, specific prices will be requested for certain additional items of work. This items include, but are not limited to, grading, individual wastewater systems, building permits, governmental approvals, certain upgrades or options, plotting of homes, slab on grade foundations, fine grading, permit and approval fees, and any other cost associated to complete the home in a turnkey basis. Interim financing costs are also to be negotiated. In the event that DHHL determines that these specific prices and/or costs are not acceptable, DHHL will then stop negotiations with this entity and proceed to negotiate with the next highest rated entity.

Project Location

This RFP is for lots located in Kaumana, Hilo, Hawaii. Currently there are 15 vacant lots on which homes are to be built. However, this RFP covers only 3 lots. The other 12 lots are covered under separate RFP's. See attached location map for specific lots. The lots are further identified by the following TMK numbers:

1. (3) 2-5-04: 29
2. (3) 2-5-04: 30
3. (3) 2-5-04: 43

General Requirements Of Proposal And Intent Of DHHL

Responders shall submit prices to complete the homes according to the plans and specifications which are a part of this RFP. Prices shall include all materials and labor to complete the homes in accordance with a construction schedule, which shall also be submitted as a part of the proposal. However, for the purposes of this RFP, prices shall NOT include the Responder obtaining any necessary county and state approvals, including but not limited to, building permits and Department of Health approvals. The homes are to be completed in a turnkey fashion to DHHL with the Responder providing the interim construction financing. However, for the purposes of this RFP, the prices of the homes submitted shall NOT include

any interim financing costs. The purpose of NOT including these prices of permits and financing costs is to allow DHHL to evaluate building prices of the basic homes only. As noted above, the permit prices and financing costs are to be negotiated.

It is the intent of DHHL to sell the homes while under, or before, construction, to beneficiaries of the Hawaiian Homes Commission. It shall be the responsibility of the beneficiaries to obtain loan commitments or make other financial arrangements to pay the agreed to price of the home to DHHL thru escrow. The net proceeds of each sale shall be used by DHHL to pay the Contractor the cost of construction of the home sold and closed in escrow. The amount necessary to be paid to the Contractor for each fully completed home so all of the materials and labor used in the construction of the home can be paid and a Notice of Completion can be published for that home, shall be called the Release Price. In the event that the net proceeds are not adequate to cover the Release Price, DHHL shall add funds to escrow to meet the Release Price. Approximately 2 weeks before the completion of each home, the Contractor and DHHL shall do a walk thru of the home to do a punch list of any deficient items. The Contractor shall make the necessary repairs and then allow the beneficiary who purchased the home to do a walk thru to do a punch list upon the completion of the home. The Contractor shall then allow DHHL two weeks from the completion of the home for the payment of the Release Price. In the event the Release Price is not paid to the Contractor within this two week period, the Contractor may begin adding interest to the Release Price at an agreed to interest rate. DHHL shall pay the Release Price plus interest to the Contractor within 6 months from the completion of the home although the DHHL may not have a beneficiary to purchase the home. During this 6 month period, however, DHHL shall be given access to the home so it can show the home to any prospective buyers.

Models Of Homes To Be Priced And Projected Number Of Each Model To Be Built

1. Kealohi 2 each
2. Aulii 1 each

Plans for these models are attached.

Specifications

Specifications are attached.

Detailed Requirements Of Proposal

1. Contractor to submit the following:

   A. Construction price for each house model to include (for the purposes of this RFP, Contractor to assume a level lot with minimal grading and a 25 feet concrete driveway with a water lateral to the property line and connection to electrical power):

      1. All new materials, equipment, tools, utilities, transportation, facilities, services and labor to complete the home in accordance with the plans and specifications plans presented in the RFP.
      2. Supervision on the part of the Contractor to direct the construction of each home.

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3. Delivery, handling storage and installation of materials in accordance with the manufacturer's instructions.
4. The necessary power and "J" boxes and connections for service by Sandwich Isle Corporation.

Note: Price at this time to NOT include any financing costs.

B. Evidence of financing - A letter from a recognized lender in the State of Hawaii stating that the lender will provide the Contractor the necessary interim construction financing for the building of 3 homes with the understanding of the DHHL intent for the payoff of the Release Price as described above. As an alternative, a letter from one of the major construction material houses in the State of Hawaii stating that it is willing and able to finance the contractor for the 3 homes with the understanding of the DHHL intent for the payoff of the Release Price as describe above.

C. The proposed interest rate to be charged as described above.

D. Any proposed substitutions of materials, changes in specifications, or proposed method of construction provided the proposed substitutions, changes and methods will result in a product "equal to or better" than the original.

E. A proposed construction schedule for the building of the homes. Said proposed schedule to at least show the major milestones in the building of the homes which would include the following:

1. Start of the foundation
2. Completion of wall and roof framing
3. Roofing material install
4. Drywall installed and taped
5. Completion of home

Additional Work That May Be Included Under This RFP

Some of the homes in the Kaumana area have been started by FREDCO, Inc., and are bonded through Hardware Hawaii. In the event that a dispute should arise in the completion of the homes that are bonded, the Contractor may be requested to do work on these bonded homes. In this case such work shall be under a time and material basis.

Additionally, there may be vacant lots which have not been tied to beneficiaries in the Kaumana area and the DHHL has no obligation to build any homes on these lots. The DHHL however, may elect to sell these lots with turnkey homes to new beneficiaries and in which case, the DHHL shall negotiate construction prices with the Contractor using the prices submitted in this RFP as a basis for negotiations.

How The Submitted Proposals Will Be Rated

See attached Rating Sheet.

Informational Conference

It is mandatory that all Responders attend an informational conference on _____, 2008 at _____ at _____ regarding this solicitation. Responders may submit written inquiries to be answered at the informational conference by 2 workdays prior to the informational conference. Oral questions will be allowed during the informational conference, if time permits, and spontaneous answers to these questions will be provided by DHHL. However, prospective Responders must understand that responses to the oral question will not be binding on DHHL

If a prospective Responder wishes to receive a formal answer to oral questions arising from discussion at the informational conference, the prospective Responder must submit such questions to the contact person by _____. All official responses will be provided in writing to all that attend the informational conference.

Contact Person

The Contact Person for this RFP is Royden I. Ishii and the contact information for this person is: Phone (808) 586-3923 Emai address royden.i.ishii@hawaii.gov

Deadline For Submitting Proposal

The deadline for submitting proposals is 2:00 pm on January 10, 2008. Any proposal submitted after this deadline will not be accepted.

Proposal Submittal Form

The PROPOSAL SUBMITTAL FORM which is included in the RFP must be used and the proposal must include the items listed on the form.

Locations That PROPOSAL SUBMITTAL FORM Must Be Submitted

Proposals must be submitted by the deadline to one of the following locations:

1. Department of Hawaiian Home Lands
   1099 Alakea Street 12th Floor
   Honolulu, Hawaii 96813

2. Department of Hawaiian Home Lands
   East Hawaii District Office
   160 Baker Avenue
   Hilo, Hawaii 96720

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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 Menehune Development Company's inability to complete the construction of homes on Hawaiian Home Lands.

Over the past few years, the Menehune Development Company was in the process of building homes on three islands, Lanai, Kauai and Hawaii. On Monday, November 26, 2007 the Menehune Development Company 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, the Menehune Development Company 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 <u>not</u> 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.

Attachment 3

PROPOSAL SUBMITTAL SHEET
KAUMANA (1)

Name of entity submitting Proposal:_____

Address of entity:_____

Contact person and contact information:_____

_____

Date of submittal:_____

The undersigned, authorized to sign on behalf of the above stated entity, hereby submits the following proposal in response to the RFP issued by the Department of Hawaiian Home Lands for the Kaumana (1) lots:

1. Prices

   A. Kealohi model - $_____

   B. Aulii Model - $_____

2. Evidence of financing – Please attach

3. Proposed interest rate to be charged: _____

4. Proposed substitutions of materials, changes in specifications, or proposed method of construction provided the proposed substitutions, changes and methods result in a product "equal to or better" than the original – If applicable, please attach list

5. Construction schedule – Please attach

Signature:_____

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Attachment 4

REQUEST FOR PROPOSALS
DEPARTMENT OF HAWAIIAN HOME LANDS
KAUMANA (1)
RATING SHEET

Entity submitting proposal _____

DHHL staff preparing Rating Sheet _____

Date _____

CRITERIA

1.	Prices submitted	Max 50 points	_____
2.	Evidence of financing	Max 25 points	_____
3.	Const. Schedule	Max 25 points	_____
		Total points	_____

Signature of DHHL staff preparing this rating sheet _____

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