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

HAR-ED 5751.08  
DATE: DECEMBER 31, 2007

1. TO: Chief Procurement Officer  
2. FROM: Brennon Morioka, Acting Director of Transportation

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:  
Provide daily harbor tug services at Kahului Harbor, Maui, including labor, equipment, fuel and material for tug services to support Hawaii Superferry's (HSF's) loading and unloading operations, and monitoring of the soft line mooring system during ferry operations by holding the barge steady against the pier. HSF personnel will provide line handlers during tug assist services. Estimated on-barge duration to hold it steady is 3-hours. Services commence as soon as possible to allow HSF to continue to operate, load and unload passengers and vehicles in a safe manner. Vendor shall provide weekly reports on hours used per day of service at the following intervals: 7, 14, 21 and 28 days with an additional 3 random reports.

4. Name of Vendor: <del>P&amp;M Marine Services, LLC</del> <i>Various</i> Address: P.O. Box 2851 Honolulu, HI 96803	5. Price: <p style="text-align: center;">\$350,000</p>
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6. Term of Contract: <del>1/18/08</del> <i>2/1/08</i> From: <del>immediately</del> <i>cr</i> To: 03/31/08	7. Prior Exemption Ref. No.
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8. Explanation describing how procurement by competitive means is either not practicable nor advantageous to the State:  
The State is obligated to provide uninterrupted daily tug assist service to allow HSF to provide service to Maui. The service has been procured and is currently being provided on a temporary emergency basis. Longer term service is required but it is not advantageous nor practical to procure the longer term services by competitive means due to its lengthy process, and also because only two vendors on-site are available to provide these services. Procuring through normal competitive means will result in the State having to continue to provide the service on an emergency basis for a longer period than intended, or otherwise temporarily terminate the emergency tug assist service and fail to meet the State's obligation to HSF which may result in a liquidated damages claim of up to \$18,0000 per day.

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:  
A written request for quote, including the scope of work will be sent to the current vendor provided the emergency tug assist service via fax and/or email. Upon receipt of the quote. Based on an approved purchase requisition, a purchase order will be made to the vendor.  
During recent Kahului harbor surge events the State owned barge required immediate stablization by a harbor tug. P&M Marine Services was 5 times lower than the other tug vendor Hawaiian Tug and Barge.

10. A description of the agency's internal controls and approval requirements for the exempted procurement:  
Ultimate agency approval to authorize funds and procure the service will be from the Deputy Director for Harbors. Staff will generate requests and/or recommendations that will be passed through the Engineering Program Manager and Harbors Administrator for concurrence before reaching the Deputy Director. Requests for payments for services rendered, along with the periodically submitted reports will be reviewed by staff for recommendation, and routed through the Program Manger to the agency's Fiscal Officer for payment.

**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
Michael Formby	Deputy Director for Harbors	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Davis Yogi	Administrator	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Frederick Nunes	Engineering Program Manager	<input checked="" type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Jean Oshita	Administrative Services Officer	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Marshall Ando	Design Engineer	<input checked="" type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration

13. Direct inquiries to: Department: Transportation, Harbors Division  
 Contact Name: Marshall Ando  
 Phone Number: 587-1961  
 Fax Number: 587-1864

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.*

for Francis Paul Keen 1/17/08  
 Department Head Date

**Reserved for SPO Use Only**

15. Date Notice Posted 1/18/08

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:

The DOT shall contact both tug companies identified in the request, as well as any additional companies that are interested, to solicit written quotations for providing the services based on two-week period increments commencing on February 1, 2008. The written quotations and reason(s) for the selection of the awarded vendor shall be documented on the SPO Form 10 and be included in the procurement file.

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

16.  APPROVED  DISAPPROVED  NO ACTION REQUIRED

Arnon S. Fujita 1/25/08  
 Chief Procurement Officer Date