

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

1. TO: Chief Procurement Officer  
2. FROM: Department of Land and Natural Resources  
(CWRM)  
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:  
Court Reporting Services.

4. Name of Vendor: McManus Court Reporters  
Address: 47-314 Lulani Street  
Kaneohe, Hawaii 96744

5. Price:  
Varies  
Est. \$ 40,000 CA

6. Term of Contract: From: 2/11/08 CA  
See attached. To:

7. Prior Exemption Ref. No.

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

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:

The selection of the vendor shall be made based on the following qualifications:

- 1) experience with the the Commission on Water Resource Management's (Commission) work;
- 2) experience with contested case hearings;
- 3) experience with quasi-judicial proceedings, involving technical land use and water allocation issues; and
- 4) quality of reporting and timely submittal of transcripts.

10. A description of the agency's internal controls and approval requirements for the exempted procurement:  
As part of the agency's internal controls, a summary report of court reporting services will be prepared at the end of the fiscal year. The report will include all expenditures for court reporter services by individual hearings or other quasi-judicial proceedings conducted by the Commission.

**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
Ken C. Kawahara	Deputy Director	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Edwin T. Sakoda	Hydrologic Program Managaer	<input checked="" type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration

13. Direct inquiries to: Department: Land and Natural Resources / (CWRM)  
 Contact Name: Edwin Sakoda  
 Phone Number: 808.587.0234  
 Fax Number: 808.587.0219

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

2/11/08  
 \_\_\_\_\_  
 Date

**Reserved for SPO Use Only**

15. Date Notice Posted 2/12/08

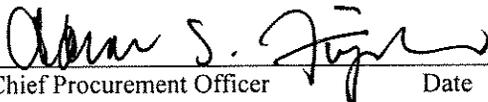
The Chief Procurement Officer is in the process of reviewing this request for exemption from Chapter 103D, HRS. Submit written objections to this notice to issue an exemption from Chapter 103D, HRS, within seven calendar days or as otherwise allowed from the above posted date to:

Chief Procurement Officer  
 State Procurement Office  
 P.O. Box 119  
 Honolulu, Hawaii 96810-0119

Chief Procurement Officer's comments:

The DLNR should complete the current contested case utilizing their professional services contract for court reporter services. If determined to be appropriate, the DLNR may request an exemption from HRS Chapter 103D for future court reporting services.

16.  APPROVED  DISAPPROVED  NO ACTION REQUIRED

  
 \_\_\_\_\_  
 Chief Procurement Officer Date 2/19/08

6. Term of Contract: The term of the contract will be for the remainder the Iao Ground Water Management Area High-Level Source Water Use Permit Applications and Petitions to Amend Interim Instream Flow Standards of Waihee, Waiehu, Iao, and Waikapu Streams Contested Case Hearing (Na Wai Eha CCH).

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

On February 6, 1996 court reporting services were procured under "Contract No. 40124" to allow for court reporting services for any administrative proceedings before the Commission on Water Resource Management (Commission).

The Commission is currently addressing the Na Wai Eha CCH. Staff estimated that the contested case hearing would conclude in December 2007, and that the remainder of the funds within the contract would be expended and the contract terminated upon receipt of a final invoice. The number of witnesses and the length of the witnesses' testimonies and cross-examinations were greater than anticipated and the hearing continued through January 2008. Due to the hearings officer's deadlines, the multiple parties involved and the witnesses' availability, it was not feasible to stop the hearing in December 2007. As a result, additional funds for court reporting services already performed will be required.

The hearings officer has already scheduled four (4) additional days of hearings in February 2008, and closing arguments before the hearings officer and final oral arguments before the full Commission will each take one (1) day. The hearings will include recalling previous witnesses for further cross-examination, previous rebuttal witnesses, and new expert and "kuleana (related to appurtenant rights)" witnesses.

In this particular contested case, the Commission believes the court reporting firm provides a unique service in terms of its prior experience with the Commission's contested cases and the technical, scientific, and legal terminology and testimony related to water resources and water rights.

For these reasons we respectfully request an exemption from the procurement process for the Commission's use of the court reporting firm for the services already performed and the remainder of the hearing including but not limited to the already scheduled hearing dates.