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:
Real Estate Agent for the Lālāmilo Project– To service home buyers on the Department of Hawaiian Home Lands project located in Lālāmilo, Hawaii.

4. Name of Vendor: ~~James Kometani, Inc. Realtors~~

Address: To be determined *

*Solicitation of vendors to commence once procurement exemption is approved.

5. Price:
$ ~~To be determined *~~
$50,000 approx. JH

6. Term of Contract: From: ~~To be determined *~~ 4/01/08 JH To: ~~To be determined *~~ 9/30/08 JH

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 1.

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:
The Department of Hawaiian Home Lands will hire James Kometani, Inc. Realtors. (Kometani) to perform the work.

Kometani has been meeting with DHHL beneficiaries who are potential home buyers within this Lālāmilo development. Because of the problems created by the bankruptcy of Menehune Development, it is important to continue the efforts that Kometani has with the home buyers to ensure there is no interruption in service to our beneficiaries.

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. Contract awarded to Kometani.
3. Contract is drafted and approved by AG.
4. Contract signed by Contractor.
5. Contract signed by DHHL Chair.

11. P.E. No. 08-091-J

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 2/20/08

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:

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 2/29/08

11. P.E. No. 08-091-1

Attachment 1

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.

Regarding the Lālāmilo Project, Menehune Development Company hired subcontractors to perform specific work at Lālāmilo. These subcontractors were in the midst of performing work at Lālāmilo when Menehune Development Company filed bankruptcy. DHHL therefore recommends that DHHL enter into direct contractual agreements with these aforementioned subcontractors to complete work already performed at Lālāmilo.