



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

1. TO: Chief Procurement Officer

2. FROM: Attorney General

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:

Legal services in connection with preparing and presenting the State's defense against any and all tort claims, including wrongful death, personal injury and property loss claims, made against the State of Hawaii in connection with or resulting from the breach of the Kaloko Reservoir/Dam on the island of Kauai on March 14, 2006.

4. Name of Vendor: Robbins & Associates (Kenneth Robbins, Esq.)

Address: 841 Bishop Street, Suite 2200

Honolulu, Hawaii 96813

5. Price:

\$500,000.00

6.

Term of Contract:

From: 1/1/08

To: last appeal

7. Prior Exemption Ref. No.

8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:

Robbins & Associates was originally retained by the Attorney General under contract dated June 8, 2006, which procurement complied with the requirements of §103D-304, HRS. The original contract provided that it was not to expire until the end of the last appeal period. However, the contract was closed. Procurement of a new contract for the above-described legal services by competitive means is not practicable nor advantageous to the State because Robbins & Associates has spent several years in familiarizing itself with the claims, facts, legal defenses, witnesses, etc. There is no other firm as familiar with the facts, relevant law, and legal issues. To have to go through the procurement process at this time when the original contract was intended to extend to the last appeal period, merely because the contract was closed through inadvertence, would unduly delay any proceedings and result in increased costs.

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

Robbins & Associates was originally procured through the process described in §103D-304, HRS. In this particular instance, because of Robbins & Associates' familiarity with the case, a new contract would be entered into at the same hourly rate and under the same terms and conditions as the original contract.

REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS (Cont.)

10. A description of the agency's internal controls and approval requirements for the exempted procurement:
 The First Deputy Attorney General must approve this exempted procurement. The supervising deputy attorney general and the deputy attorney general assigned to the case will monitor Robbins & Associates' work.

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	
Lisa M. Ginoza	First Deputy Attorney General	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Caron Inagaki	Supervising Deputy Atty. Gen.	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Dennis Ferm	Deputy Attorney General	<input 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

13. Direct inquiries to: Department: Attorney General
 Contact Name: Dennis Ferm, Deputy Atty. Gen.
 Phone Number: (808) 586-1300
 Fax Number: (808) 586-1369

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 Lisa M. Ginoza
 Department Head

5/30/08
 Date

Reserved for SPO Use Only

15. Date Notice Posted 6/03/08

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

REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS (Cont.)

Chief Procurement Officer's comments:

Based on the agency's memo to withdraw this exemption, the request is returned with no action required.

16.

APPROVED

DISAPPROVED

NO ACTION REQUIRED

Adrian S. Figueira 6/08/08
Chief Procurement Officer Date



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DISAPPROVED

NO ACTION REQUIRED

Adam S. Fujita 6/18/08
Chief Procurement Officer Date

LINDA LINGLE
GOVERNOR



MARK J. BENNETT
ATTORNEY GENERAL

LISA M. GINOZA
FIRST DEPUTY ATTORNEY GENERAL

**STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL**

TORT LITIGATION DIVISION
425 QUEEN STREET
HONOLULU, HAWAII 96813
(808) 586-1300
FAX (808) 586-1369

June 2, 2008

MEMORANDUM

TO: Honorable Aaron Fujioka
Chief Procurement Officer
Department of Accounting and
General Services

FROM: Caron M. Inagaki *Caron*
Supervising Deputy Attorney General

RE: Request for Exemption from Chapter 103D, HRS

We recommend and request your approval to request approval from the State Procurement Office (SPO) for an exemption from Chapter 103D, Hawaii Revised Statutes (HRS), to contract directly with Robbins & Associates for a period ending with the last appeal from any claims against the State for wrongful death, personal injury or property damage resulting or arising from the breach of Kaloko Reservoir/Dam in March 2006.

Robbins & Associates was originally hired by the Attorney General by contract dated June 8, 2006 for this purpose. For the original engagement Robbins & Associates was selected by a selection committee pursuant to HRS § 103D-304, procurement of professional services. The original contract provided that it would expire only upon completion of the last appeal. Nevertheless, the contract was closed. However, continuing services are required and will be required until all claims have been resolved through the last appeal period.

Attached is a proposed Notice of and Request for Exemption from Chapter 103D, HRS, SPO Form 07.

ADMINISTRATION
JUN -2 11:51
08

Honorable Aaron Fujioka

Re: Request for Exemption from Chapter 103D, HRS

June 2, 2008

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Upon approval, please contact Dennis Ferm or Karen Yee at
586-1300. *6-1322*