



JUN 12 2008

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

- 1. TO: Chief Procurement Officer
- 2. FROM: Health/FHSD/Women, Infants and Children Services Branch

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:

Special infant formula and medical foods determined medically necessary for individual WIC Clients.

List of requested formulas:

Nutren Jr. No Fiber RTU, 8.45 oz

Nutren Jr. w/Fiber RTU, 8.45 oz

Peptamen Jr. RTU, 8.45 oz

Resource Beneprotein Pwd, 8oz

Vivonex Pediatric Pwd, 1.7oz

4. Name of Vendor: Nestle HealthCare Nutrition, Inc.

Address: 10801 Red Circle Dr.

Minnetonka, Minnesota 55343

5. Price:

SMTA

Est. @ 200,000

6. Term of Contract: From: 06/30/2008 To: 01/30/2012

7. Prior Exemption Ref. No.

8. Explanation describing how procurement by competitive means is either not practicable nor advantageous to the State: Procurement by competitive means was determined by the SPO to be advantageous to the State, and RFP number 07-095-SW was posted. Nestle Nutrition and Novartis Nutrition Corporation both submitted an offer and were sent a notice of award dated December 17, 2007. Since that time, Nestle Nutrition and Novartis Nutrition Corporation have merged into one company dba Nestle HealthCare Nutrition, Inc. This business merger has resulted in a delay in the State's receipt of compliance documents for the merged corporation.

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable: SPO conducted RFP No. 07-095-SW, "Sealed Proposals and Pricing for Furnishing and Delivering Special Formulas, Exempt Infant Formulas and Medical Foods for the Department of Health, Women, Infants and Children (WIC) Program". Open competition was ensured by the SPO's HePS solicitation.

Vendor requires additional time to become compliant, and the WIC Services Branch requests to purchase these formulas through the contracted distributor until DOH can obtain signatures on contract documents, and issue a Notice to Proceed.

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

10. A description of the agency's internal controls and approval requirements for the exempted procurement:  
 Special infant formulas and medical foods are determined to be medically necessary by a physician; a Formula Request form (WIC Form FD 941.1A) is reviewed by WIC nutritionists and once approved, individual orders are prescribed by WIC Food Instrument. Special infant formulas and medical foods are delivered to the client's home by the WIC distributor, and payment is made to the WIC distributor by redemption of the WIC Food Instrument. The WIC Services Branch requests continuity in this method of purchasing special infant formulas and medical foods through WIC distributor in order to provide uninterrupted home delivery service to WIC clients.

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	
Linda Chock	Chief, WIC Services Branch	<input checked="" type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Iris Takahashi	Chief, Clinic Operations	<input checked="" type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Andrea Takemoto	PHAO V	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Daniel Eineker	Accountant IV	<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

13. Direct inquiries to: Department: Health/WIC Services Branch  
 Contact Name: Susan Kanour  
 Phone Number: 586-4774  
 Fax Number: 586-8189

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.*

*[Signature]*  
 Department Head

6/9/08  
 Date

**Reserved for SPO Use Only**

15. Date Notice Posted 6/16/08

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

