

STATE OF HAWAII
REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS

'04 JUN 28 P12:13

TO: Chief Procurement Officer

STATE PROCUREMENT OFFICE
 STATE OF HAWAII

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:

Description of goods, services, or construction:

Legal services to identify and evaluate potential securities fraud claims that the Employees' Retirement System ("ERS") may have and to make recommendations to the Attorney General and the ERS as to specific legal action by the ERS with respect to such claims.

Name of Vendor: S. Gene Cauley, Esq.
 Address: 11001 Executive Center Drive, Suite 200
 Little Rock, Arkansas 72211

Cost: \$0

Term of Contract: One year; From: Upon CPO To: June 14, 2005 (June 14,
 option for State to extend for approval 2006, if option to extend is
 one additional year exercised by the State)

Prior Exemption Ref. No. (if applicable)

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

Vendor is a nationally recognized attorney in the field of securities fraud. (We wish to retain two such attorneys.) Although there are a few local attorneys who have experience in securities litigation or securities arbitration, none of them have the capability to provide the services sought in an efficient and cost effective manner. Vendor is able to provide the services for free because of economies of scale arising from vendor's firm's concentration in the area of securities litigation. We are aware of no Hawaii firm that is able to do the same.

During the 2002 legislative session, Hawaii Revised Statutes, chapter 103D, the State Procurement Code, was amended, and the amendment seems to require that contractors be registered to do business in Hawaii and have a division or office located in Hawaii that is capable of performing the services required by the contract. While the vendor's firm could obtain a certificate of good standing from its home state and could conceivably establish a local office, the local office could not perform the services required by the contract unless it is staffed by someone who is licensed to practice in Hawaii. This amendment would require the vendor himself to apply for, take, and pass the Hawaii bar examination and become licensed to practice law in Hawaii. Becoming licensed to practice law in Hawaii is costly and time consuming. Moreover, because the bar examination is given only twice a year, it is impractical to require nationally recognized securities counsel to be licensed in Hawaii. Not only would local staff have to be licensed to practice law in Hawaii, they would have to have securities fraud claims evaluation expertise and experience.

Because of the specialized nature of the services and our inability to obtain the services locally, it would not be practicable or advantageous to the State to obtain those services competitively.

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

The vendor was selected pursuant to § 103D-304(b) through (h), HRS.

A description of the agency's internal controls and approval requirements for the exempted procurement:

The contract for legal services will be conducted under the supervision of the Attorney General and will be subject to his final approval.

A list of agency personnel, by position title, who will be involved in the approval process and administration of the contract:

Attorney General

Direct questions to: Diane S. Kishimoto, Deputy Attorney General, or Russell A. Suzuki, Supervising Deputy Attorney General

Phone Number: 586-0618

This exemption should be considered for list of exemptions attached to Chapter 3-120, HAR: Yes No

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS, TO THE BEST OF MY KNOWLEDGE, TRUE AND CORRECT.

JUN 07 2004



Department Head or Designee Date

Title (If other than Department Head)

Chief Procurement Officer's Comments:

This exemption is for Chapter 103D-310(c)(1) and (c)(2) only.

Please ensure adherence to applicable administrative requirements.

APPROVED DISAPPROVED



Chief Procurement Officer Date

cc: Administrator,
State Procurement Office

4 JUN 28 10:15

STATE OF HAWAII
NOTICE OF EXEMPTION FROM CHAPTER 103D, HRS

ADMINISTRATION
STATE PROCUREMENT OFFICE
HAWAII

The Chief Procurement Officer is in the process of reviewing the request form the Department of Attorney General for exemption from Chapter 103D, HRS, for the following goods, services, or construction:

Vendor: S. Gene Cauley, Esq.
Address: 11001 Executive Center Drive, Suite 200
Little Rock, Arkansas 72211

Term of Contract:	From:	To:	Cost:
One year; option for State to extend for on additional year	Upon CPO Approval	June 14, 2005 (June 14, 2006, if option to extend is exercised by State)	\$0

Direct any inquiries to:

Department: Attorney General	Phone Number: 586-0618
Contact Name/Title: Diane Kishimoto	Fax Number: 586-1372
Address: 425 Queen Street Honolulu, Hawaii 96813	



Date Posted: June 28, 2004

A copy of this notice of exemption from Chapter 103D, HRS, shall be posted by the Chief Procurement Officer and the purchasing agency in an area accessible to the public, at least seven (7) calendar days prior to any approval actions.

Submit written objections to this notice to issue an exemption from Chapter 103D, HRS, within seven (7) calendar days from the date posted to:

Chief Procurement Officer
Office/Agency _____
Address _____
