



09-028-C

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

1. TO: Chief Procurement Officer
2. FROM: Micah A. Kane, Chairman, 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 Lalamilo Project - To service home buyers on the Department of Hawaiian Home Lands project located in Lalamilo, Hawaii

4. Name of Vendor: James Kometani, Inc.

Address: 1259 South Beretania Street, Suite 5
Honolulu, Hawaii 96814

5. Price:

~~\$190,000.00~~

Est. 650,000 CA

6. Term of Contract:

From: ~~10/1/08~~ ^{10/23/08} CA To: 4/30/10

7. Prior Exemption Ref. No.

8. Explanation describing how procurement by competitive means is either not practicable or not 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 Lalamilo development. Because of the problems created by the bankruptcy of Menhune 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.

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	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Kamanao Mills	Special Assistant	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Larry Sumida	LDD Administrator	<input checked="" type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Chris Fairbairn	Special Assistant to HHL Housing	<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: Hawaiian Home Lands Contact Name: Kamanao Mills Phone Number: 620-9508 Fax Number: 620-9529
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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.*



10/22/08

Department Head

Date

Reserved for SPO Use Only
15. Date Notice Posted <u>10/27/08</u>
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: <p align="center"> Chief Procurement Officer State Procurement Office P.O. Box 119 Honolulu, Hawaii 96810-0119 </p>
Chief Procurement Officer's comments: <p align="center"> This approval is based on the DHHL's representation that it is not practicable to replace the current real estate agent that has been working with and providing services to all of the homeowners of the Lalamilo development. </p> <p align="center"> This approval is for the solicitation process only, HRS section 103D-310(c) and HAR section 3-122-112, shall apply. </p>

16. APPROVED DISAPPROVED NO ACTION REQUIRED


11/3/08
 Chief Procurement Officer Date

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 not 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 homes, 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 Lalamilo Project, Menehune Development Company hired subcontractors to perform specific work at Lalamilo. These subcontractors were in the midst of performing work at Lalamilo when Menehune Development Company filed bankruptcy. DHHL anticipates that all 31 houses plus a possible 6 self help houses should all be completed by the end of April 2010. James Kometani, Inc. Realtors has been meeting with the potential home buyers from the beginning of the project and has established a relationship with them therefore we would like to request that a procurement exemption be approved to allow James Kometani, Inc. to continue on until all houses have been constructed and loans have been closed, which we anticipate to take us to April 30, 2010.