



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

HAR-ED 7508.09

1. TO: Chief Procurement Officer

Date: November 3, 2008

2. FROM: Director, Department of Transportation

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:

Provide materials, labor and equipment to repair, replace, and reinforce the Manaiakalani's (Kahului barge) internal frames and various structural components that have been over stressed, bent and damaged from the continuous and accumulated rough contact of the barge with the pier, in addition to the forces generated by tug support pushing onto the outboard side of the barge during ferry operations over the past year.

4. Name of Vendor: Healy Tibbitts Builders, Inc.

Address: 99-994 Iwaena Street, Suite A  
Aiea, HI 96701

5. Price:

\$414,284

6. Term of Contract: From: 11/12/08 To: 01/31/09

7. Prior Exemption Ref. No.  
0

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

See Attachment A dated 10-30-08 for complete information.

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

See Attachment A dated 10-30-08 for complete information.

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

See Attachment A dated 10-30-08 for complete information.



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

The Manaiakalani's mooring system was designed and built by the State's contractor, Healy Tibbitts Builders, Inc. (HTBI), through a design-build contract. The basis of the design of the barge and its mooring system utilized criteria that was derived from existing historical wave and surge conditions in and around Kahului Harbor. The mooring system that was designed and installed was a cable system to hold the barge steady against the pier and accommodate wave heights of up to 1.43 feet. In December 2007, unusually high storm surge and wave conditions were experienced in Kahului Harbor which appeared to exceed the 1.43 foot criteria and led to the instantaneous failure of the mooring system. The failure ultimately led to a US Coast Guard (USCG) imposed requirement for tug support to hold the barge against the pier throughout the duration of ferry loading/unloading operations. This modified mooring system, using tug support during ferry operations, allows the barge to "ride out" higher than 1.43 foot surge and waves similar to a typical vessel's mooring using soft lines (ie. rope) tied to the pier-side during non-ferry operations.

A survey of the barge hull interior, conducted in September 2008, revealed that the continuous pressure and force applied by the tug over the past nine months has resulted in significant interior damage to the hull structure in the area where the tug contacts the barge, and, more significantly, to areas of the hull where it contacts the pier on the opposite side of the barge. The continuous pressures and forces on the barge hull are exacerbated during the months of October through February when winter storm surge and waves are experienced at the barge's berth. The continued daily pushing of the barge against the pier by the tug since December 2007 has resulted in fairly significant interior damage to the barge.

Procurement by competitive means is not practicable for the following reasons:

- Immediate repairs to the barge must be accomplished before a potential disastrous and life threatening leak develops in the hull from the continued daily tug supported operations. The urgency to repair the barge is heightened during the winter storm months that are currently upon us.
- Utilization of an existing open contract to issue a change order will enable the State to accomplish the repairs earlier and with more expedience than if required to comply with the normal procurement requirements. As the cost of the repairs is significant, a non-exempt procurement would necessitate the development and preparation of repair designs and plans, advertising and bidding, awarding of contract, followed by repairs. The normal process is anticipated to take four months longer than to procure the services via an exempt procurement.

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

Harbors Division intends to negotiate the scope of work and price under the original contract with its design-build contractor, HTBI. Upon successful negotiation, a change order to the original contract will be issued to accomplish the repair work. As the original contractor who designed and built the Kahului barge, Manaiakalani, HTBI has the knowledge, workforce, design drawings and expertise required to complete the work expediently and efficiently. HTBI is also very familiar with surge and wave conditions within the harbor and at the pier, and, as the contractor who installed and moored the Manaiakalani at its current location, HTBI has first hand knowledge and experience in determining how the barge reacts to incoming surges and waves as the work is being completed. This knowledge and experience is essential toward the scheduling of work from day to day as the work for each frame of the barge must be fully completed prior to the daily arrival of the ferry in Kahului Harbor.

**10. A description of the agencies internal controls and approval requirements for the exempted procurement:**

Together with the Harbors Division's project manager, the consultant project manager will identify scope of work and negotiate a price with the contractor for the work to be accomplished. A change order will be prepared by the consultant project manager describing the agreed upon scope and price, including justification and supporting documentation for submittal as a recommendation to the Harbors Division's project manager for review. The Harbors Division's project manager will review the change order for compliance with all relative requirements including contractual, procurement, financing and funding, adequacy and completeness, and provide its recommendation for approval. The recommendation is then transmitted to the contractor for acceptance and signature and returned to the Harbors Division. The change order will then be submitted to the Harbors Division's Engineering Program Manager for review and concurrence, after which it is submitted as a recommendation to the Harbors Division's Administrator for final approval and signature. Upon approval, the change order will be issued to the contractor with a notice to proceed with the work.

**CPO Comments:**

Based on the information received from the DOT and considering objections provided by the public, the State Procurement Office has determined that the competitive procurement of the subject services is not practicable and not advantageous to the State. The following is a summary of the basis for the approval:

- In 2007, unusually high wave heights resulted in a failure of the mooring system. This failure led the U.S. Coast Guard to impose a requirement for a tug boat to “hold” the barge against the pier whenever waves exceeded 1.43 feet.
- The U.S. Coast Guard requirement led to constant pressure between the barge and tug and contact with the pier during harbor wave surges.
- The constant pressure between the barge and tug and contact with the pier during harbor wave surges led to structural damages to the barge.
- On October 2, 2008 the DOT was informed of the damages to the barge.
- The DOT determined that immediate repairs and modification were necessary to protect continued operations at Kahului Harbor.
- The DOT will be revising their mooring system to address the problems associated with the harbor surges and to eliminate the requirement of an assist tug.
- Required repairs are needed immediately to prevent further damage and to perform additional design specifications and repairs to restore the structural integrity of the barge until the DOT can complete the planning and work for a revised mooring system.
- Based on the situation and the potential serious consequences for Kahului Harbor and its users, the contractor that designed and built the barge possesses specialized knowledge and is capable to expedite the repairs and modifications on the barge to meet the DOT’s immediate requirements.

This approval is for the solicitation process only, HRS section 103D-310(c), and HAR section 3-122-112, shall apply.