



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

1. TO: Chief Procurement Officer  
2. FROM: Mark J. Bennett, Department of the 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:

Services of Russell K. Van Vleet, to (1) monitor the State of Hawaii's implementation of and compliance with the Settlement Agreement Between the United States and the State of Hawaii, see Attachment B, (2) provide the State with technical assistance to effectuate the Settlement Agreement's terms, (3) if necessary, mediate any dispute for which the United States issues a notice of its intent to reinstate the lawsuit that the Settlement Agreement settles, (4) provide any other service as Monitor called for under the terms of the Settlement Agreement.

4. Name of Vendor: Russell K. Van Vleet  
Address: 2193 Hugo Avenue  
Salt Lake City, Utah 84117

5. Price:  
\$112,500/year

6. Term of Contract: From: Upon CPO approval To: 6/30/12

7. Prior Exemption Ref. No.  
0

8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:  
As the attached Settlement Agreement indicates, the United States Department of Justice ("DOJ") investigated, issued a findings letter and sued the State of Hawaii and state officials to correct certain conditions regarding mental health care at the Oahu Community Correctional Center ("OCCC") that allegedly violated the constitutional rights of OCCC detainees. See Settlement Agreement, part of Attachment B, paras. 1, 4, 5 and Attachment A, Complaint in USA v. The State of Hawaii, et al.; Civil No. 08-00585 JMS/KSC (U.S.D.Haw.). Simultaneous with the filing of the Complaint, a Joint Motion was filed by the DOJ and the State to dismiss the action according to the terms of the Settlement Agreement. See Attachment B. On 12/30/08, the Court granted the Joint Motion, See Attachment C. The Settlement calls for Russell Van Vleet to serve as Monitor.

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

As the Settlement Agreement indicates, see Settlement Agreement para. 44, the DOJ and the State jointly selected Russell Van Vleet as the Monitor. Mr. Van Vleet currently serves as the Monitor for a Memorandum of Agreement between the DOJ and the State pertaining to the Hawaii Youth Correctional Facility (HYCF). DOJ and the State agreed that he should serve as Monitor in the OCCC matter as well.

**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 Department will use the standard form Contract for Goods and Services for procurements exempt from the Procurement Code (AG Form 002), including the General Conditions (AG Form 008). Among other things, the contract will provide that its annual compensation and cost cap can be exceeded only if the Monitor secures prior written approval of the Attorney General and the contract is so modified. The contract will also set out a detailed process for presenting and paying invoices for services rendered, require the Attorney General's prior approval before any duties or responsibilities may be assigned or subcontracted, limit transportation and per diem reimbursements to coach class air travel, intermediate car rentals, and per diem as authorized by the Governor's Executive Order for excluded employees, and require all contract modifications to be in writing to be effective.

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	
Mark J. Bennett	Attorney General	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Lisa Ginoza	First Deputy Attorney General	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Diane Taira	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: Lisa M. Ginoza  
 Phone Number: 586-1292  
 Fax Number: 586-1239

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.*

*Guill King*  
 for Department Head

*1/13/09*  
 Date

**Reserved for SPO Use Only**

15. Date Notice Posted *1/14/09*

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:

Approval is based on AG's representation that Russell K. Van Vleet was jointly selected as the Monitor for a Memorandum of Agreement between the Department of Justice and the State of Hawaii.

16.

APPROVED     DISAPPROVED     NO ACTION REQUIRED

Alan S. Fyfe    1/22/09  
Chief Procurement Officer    Date