



'09 SEP 22 A10:33

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

1. TO: Chief Procurement Officer

2. FROM: Carlito P. Caliboso, B&F, Public Utilities Commission *for*  
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:  
The Dept. of Business, Economic Development, and Tourism (DBEDT) has received and anticipates receiving American Recovery and Reinvestment Act of 2009 (ARRA) grant funds from the U.S. Dept. of Energy (USDOE). The purposes of ARRA are "to preserve and create jobs and promote economic recovery; to assist those most impacted by the recession; to provide investments needed to increase economic efficiency by spurring technological advances in science and health; to invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and, to stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases." State Energy Program (SEP) ARRA Formula Grants; Funding Opportunity Number: DE-FOA-0000052; Announcement Type: 002; CFDA Number: 81.041, State Energy Program.) (SEP/FOA)  
  
DBEDT has requested, via a Memorandum of Agreement executed by DBEDT and the Public Utilities Commission (Commission) on August 19, 2009, that the Commission assist DBEDT in distributing certain ARRA grants and funding programs pursuant to ARRA purposes, requirements, and conditions. The Commission plans on identifying James Flanagan Associates (JFA) as its designee to receive a portion of the ARRA grant funds described herein.  
  
See attached.

4. Name of Vendor: James Flanagan Associates (JFA) Address: 124 Lower Terrace San Francisco, CA 94114	5. Price: \$~85K
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6. Term of Contract: From: CPO approval To: 4/30/12	7. Prior Exemption Ref. No.
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8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:  
Procurement by competitive means is not practicable or advantageous to the State because 1) the objectives and requirements of the SEP ARRA grant funds align with the current scope of work in the Commission's current contract with JFA; 2) the Commission's current contract with JFA was recently procured for via competitive means, i.e., under Chapter 103D, Hawaii Revised Statutes (HRS), as indicated by its November 5, 2008 effective date; and 3) the Commission could not predict the recent notice and availability of the SEP ARRA grant funding opportunity. Given the reasons mentioned, procurement by competitive means will result in the duplication of effort and prevent the maximization of funds to meet the goals set forth by the ARRA and the USDOE.

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

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BUDGET & FINANCE  
STATE OF HAWAII

The Honorable Chief Procurement Officer  
September 15, 2009  
SPO-07, JFA

No. 3 Continued

The Commission recently executed a contract with JFA pursuant to Chapter 269, Part VII, HRS, to be the Commission's Contract Manager for the Hawaii Energy Efficiency Program (HEEP), a.k.a., Public Benefits Fee (PBF), to, among other things, facilitate the Commission's relationship with the Third Party Administrator, Science Applications International Corporation (SAIC), and to perform all administrative and management tasks necessary to execute and oversee the Commission's contract with the Third Party Administrator.

The goals established for the SEP are as follows:

1. Increase energy efficiency to reduce energy costs and consumption for consumers, businesses and government;
2. Reduce reliance on imported energy;
3. Improve the reliability of electricity and fuel supply and the delivery of energy services; and
4. Reduce the impacts of energy production and use on the environment.

ARRA funds for the SEP are for the purpose of:

1. Stimulating the creation or increased retention of jobs;
2. Saving energy (kWh/therms/gallons/BTUs/etc.);
3. Increasing energy generation from renewable sources; and
4. Reducing greenhouse gas emissions

DBEDT intends to allocate SEP grant funding to the Commission or its designee in an amount not to exceed \$6.2 million as approved by the USDOE for SEP programs for Hawaii. Of the \$6.2 million, approximately \$6.1 million is planned to be allocated to SAIC, approximately \$85 thousand is planned to be allocated to JFA, and approximately \$35 thousand is planned to be allocated to the Commission's PBF Fiscal Agent.

**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 Commission utilizes the Attorney General's template contracts. Therefore, the existing internal controls, vendor compliance document requirements, and approval process required for execution of Forms AG-002 Rev 07/24/2006, Contract for Goods and Services: Exempt, Small Purchase, Sole Source, or Emergency and AG-005 Rev 05/29/2009, Supplemental Contract, will be adhered to.

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	
Carlito Caliboso	Chairman	<input checked="" type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
John Cole	Commissioner	<input checked="" type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Brooke Kane	Administrative Director	<input checked="" type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Wendy Takanishi	Acting Chief Researcher	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Phyllis Paik	Administrative Assistant	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
		<input type="checkbox"/> Approval	<input type="checkbox"/> Administration

13. Direct inquiries to: Department: Budget & Finance  
 Contact Name: Brooke Kane  
 Phone Number: 808-586-2020  
 Fax Number: 808-586-2066

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.*

  
 Department Head

9/18/09  
 Date

**Reserved for SPO Use Only**

15. Date Notice Posted 10-8-09

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:

16.

APPROVED

DISAPPROVED

NO ACTION REQUIRED

Alan S. Fujita 11/20/09  
Chief Procurement Officer Date