

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

'04 SEP 15 A8:12

TO: Chief Procurement Officer

STATE PROCUREMENT OFFICE
STATE OF HAWAII

FROM: State Comptroller
(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:

Compensation of landowner/developer (Maui Lani Partners) for planning and preliminary design services conducted in preparation for the design and construction of a new Maui Lani Elementary School. Services undertaken by Maui Lani Partners (MLP) include project management, project related professional services, site investigations, work associated with the dedication of land for the school to the State/DOE, and miscellaneous expenses. Services rendered are as negotiated and agreed upon in the DOE Education Contribution Agreement (a draft of the Agreement is attached). The "Agreement Regarding Maui Lani Elementary School" and "Agreement" are inclusive of the Education Contribution Agreement.

Name of Vendor:	Maui Lani Partners	Cost: \$297,825
Address:	1100 Alakea Street, Suite 2200 Honolulu, HI 96813	
Term of Contract:	From: August 2004 FROM DATE OF APPROVAL	To: December 2004
		Prior Exemption Ref. No. (if applicable)

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

This request for exemption from Chapter 103D, HRS, requirements is submitted to allow DAGS (as expending agency for the DOE) to execute a contract with MLP to fulfill a condition (Item 11) of the "Agreement Regarding Maui Lani Elementary School" (which is a part of the Education Contribution Agreement), and make payment(s) to MLP.

Maui Lani Elementary School was originally to be planned, designed and constructed by the landowner/developer (MLP) using a "certificate of performance" (COP) type of development agreement with the DOE. The negotiations for the COP agreement came to an impasse and the DOE and MLP decided to plan, design and construct the school using standard DAGS methods. MLP had already begun the planning and design work when the COP negotiations were suspended.

MLP is obligated to provide the land for the new school. The Education Contribution Agreement is one of several elements associated with the land transaction. As noted above, a condition of the Education Contribution Agreement requires the DOE to compensate MLP for the work previously done. The DOE was agreeable to this condition so that the work could continue (under DAGS Job Nos. 15-16-4252 and 15-16-4434) from where MLP left off, saving a considerable amount of time.

Failure to execute a contract with MLP would mean that one of the conditions of the Education Contribution Agreement cannot be met, jeopardizing the land transaction. This would mean that the work for the new school would have to start again from the very beginning, and would not be completed in time for the desired July, 2006, opening.

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

MLP is uniquely qualified for this project because of their involvement in the Maui Lani development and familiarity with the Maui community. And as explained above, execution of a contract with MLP is a condition of the Education Contribution Agreement.

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

DAGS has been briefed and will continue to work with all relevant agencies, including the Departments of Budget and Finance and the Attorney General, to review all documents before signature.

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

Russ K. Saito
Comptroller

Ernest Y. W. Lau
Public Works Administrator

Ralph I. Morita
Chief, Planning Branch

Joseph M. Earing
Section Head, Planning Branch

Lance Y. Maja
Project Engineer, Planning Branch

Direct questions to:	Phone Number:
Russ K. Saito Comptroller	(808)586-0400

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.

Russ K Saito 9/13/04

 Department Head or Designee Date
 Comptroller

 Title (If other than Department Head)

Chief Procurement Officer's Comments:

Please ensure adherence to applicable administrative requirements.

APPROVED DISAPPROVED

Adam S. Fyfe 9/24/04

 Chief Procurement Officer Date

cc: Administrator,
State Procurement Office