

**HAWAII HEALTH SYSTEMS CORPORATION
NOTICE OF AND REQUEST FOR EXEMPTION
FROM CHAPTER 103D, HRS**

EX -093

1. TO: Chief Procurement Officer

2. FROM: Anne Lopez, General Counsel

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: Various Specialized Legal Services.

4. Name and Address of Vendor: Multiple Vendors-See Section 8

5. Price: Estimated combined Aggregate \$2,000,000.00 per year.

6. Term of Contract: From: September 19, 2017 To: September 18, 2021

7. Prior Exemption Ref. No: None

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

HHSC seeks a partial Exemption of Step 2 in the two-step Professional Services (PS) procurement method pertaining to numerically ranking qualified Professional Services providers solely related to unique or highly specialized legal services. Prior to each fiscal year HHSC publically posts its PS Notice, including its anticipated requirements for legal services, inviting law firms to respond with their Letter of Interest and Statement of Qualifications (SOQ's). Law firm submissions in response to this annual invitation are then evaluated and if deemed to be qualified, firms or individual attorneys are placed on HHSC's PS List of approved vendors in Step 1 of the process.

Step 2 of the PS process requires a numeric ranking of three(3) or more individual law firms from the approved PS List. It is not advantageous or practicable for HHSC to rank firms for specialized legal services; therefore, HHSC is seeking exemption from Step 2; the ranking process. This Exemption is justified by HHSC's need to make multiple awards for a wide range of legal expertise. All law firms qualified through the Step 1 process to be on the PS List may be awarded a contract based on their areas of legal expertise. HHSC legal requirements may include labor and employment law, construction arbitration, investigations, administrative proceedings, conservatorships, guarantorships, guardianships, certificates of need, medical malpractice, medical staff bylaws, medical staff policies, medical staff issues including membership, credentialing, privileging, corrective action, medical litigation for matters not covered by insurance such as subpoenas and Temporary Restraining Orders, corporate and contracts law, physician financial arrangements (PFA's), Starke Law and Anti-Kickback Statutes, fair market value for PFA's and medical practice leases, EMTALA, HIPAA, the Affordable Care Act and HITECH.

Because all law firms who are qualified through the Step 1 phase may receive a contract award tailored to their areas of expertise, it is a redundant process to rank all the law firms for their expertise in all of the above areas of legal expertise. It is not advantageous for HHSC to rank a law firm that is identified as having expertise in construction contracting against criteria for law firms that are recognized as having expertise in medical staff bylaws. Throughout the calendar year HHSC publicly posts its Notice inviting law firms and attorneys to make application for the HHSC PS List, and continuously reviews all applicants using the PS Step 1 evaluation of Letters of Interest and SOQ's.

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable: Direct negotiation with each legal firm or attorney on the HHSC PS List as the need may arise. Prior to the beginning of each fiscal year and then possibly throughout the calendar year, HHSC reviews the list of qualified firms/attorneys and if necessary HHSC will posts its PS Notice seeking additional Letters of Interest and SOQ's.

10. A description of the agency's internal controls and approval requirements for the exempted procurement:
This exemption shall be from HRS, Section 103D-303 "Ranking" three (3) or more specialized legal services. All other guidelines, rules and policies under chapter 103D shall be upheld. HHSC policies and procedures will be followed and periodic reviews of contract action will be performed.

