STATE PROCUREMENT OFFICE
NOTICE OF AMENDMENT TO EXEMPTION FROM CHAPTER
103D, HRS, CONTRACT

1. TO:       Head of Purchasing Agency
2. FROM:    Alice Hall
       Department/Division/Agency
5. Description of goods, services, or construction: Electronic document scanning and archival system

6. Scope of work for the contract is revised as follows:
   Scope is not revised.

Original Contract Price: $97,500          Amended Contract Price: $No change

7. Reason: This / These amendment(s) are necessary because:
   Withdrawal of the exemption is appropriate since the exemption was not necessary. This was an action that was initiated prior to January 1, 2005, the date the procurement code became applicable to HHSC procurement.

8. Direct questions to: Alice Hall, Director of Contract Management
       Phone: 733-4168

Agency shall ensure adherence to applicable administrative and statutory requirements.

Pursuant to § 103D-102, HRS, and § 3-120-5, HAR, I certify that the information provided above is, to the best of my knowledge, true and correct

Alice Hall
3-23-06
Department Head

Date

Date Posted:

11. Submit written objections to this notice of intent to amend a procurement exemption contract within seven calendar days or as otherwise allowed from the above posted date to: Head of Purchasing Agency
       HHSC
       3675 Kilauea Ave.
       Honolulu, HI 96816

Head of Purchasing Agency’s Comments:

12. □ APPROVED □ DISAPPROVED

Head of Purchasing Agency

Date


SPO-07B (Rev. 09/30/2005)
STATE OF HAWAII
REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS

TO: Head of Procurement Agency

FROM: Dr. F. Williams

Pursuant to 103D-107B(4), HRS, and Chapter 3-128, HAW, the Department requests a procurement exemption as follows:

Description of goods, services, or construction:

E-Docs document scanning and archiving system.

Name of Vendor: E-Docs

Cost: $97,500.00

Address:

Term of Contract: From April 15, 2005

Exemption Ref. No.:

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

This was an action started in 2004, therefore, it is exempt for 103D, in accordance with Terry Tomatsu’s following statement (see Item 2, below):

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Kidalo/AI:

1. In my professional opinion, the exercise of the contract option in HHSC's current contract for legal services with Davis Wright Tremaine is consistent with Act 216 and in full compliance with the requirements of Ch. 103D, HRS. It is further my professional opinion that the exercise of the option is consistent with sound purchasing practices, so long as the CEO, HHSC determines that the rates to be paid pursuant to the option are "fair and reasonable" as would be required in any purchase of professional services under HRS 103D-304.

2. My opinion is based upon the following considerations:

a. Ch. 103D does not apply to the exercise of this option.

As was agreed in our coordination with Attorney General, HHSC contracts that were awarded prior to January 1, 2005 would not be covered by Chapter 103D, HRS. This interpretation is consistent with the

EX 05-018
withdrawn
legislative requirements of HRS that were applied when Ch. 103D went into effect on July 1, 2004.

The relevant terms of Ch. 103D provide:

"(b) . . . the chapter shall not apply to contracts by governmental bodies:

(1) Solicited or entered into before July 1, 1994, unless the parties agree to its application to a contract solicited or entered into prior to July 1, 1994."

HRS 103D-103(b)

Section 47 of Act 216 (2004) provided only that the Act "shall take effect on January 1, 2005." Because the legislature did not include in Act 216 any specific language identifying which contracts were to be covered was a result of Act 216, Mr. Fujikawa, as Chief Procurement Officer, gave oral authorization and agreement with HHSC's determination to apply the same standards of application as the legislature applied when it first instituted Ch. 103D. Accordingly, Ch. 103D would not apply to HHSC contracts that were "solicited or entered into before" January 1, 2005.

Because the legal services contract here was "solicited or entered into before" January 1, 2005, Ch. 103D does not apply to it. Further, because the exercise of an "option" is the exercise of a legal contract right presently existing in the contract, this is not a new solicitation, and HHSC may properly exercise its right to exercise the option for continued legal services without instituting solicitation procedures under Ch. 103D.

Details of the process or procedure to be followed in selecting the vendor to assure minimum life and open competition as practicable:

See above attorney's opinion.

REQUEST FOR EXEMPTION FROM CHAPTER 103D HRS

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

See above attorney's opinion.
A list of agency personnel, by position title, who will be involved in the approval process and administration of the concern:

Irane Nagemiri, HIM Department Director
Ed Brunerfield, IT Manager

Direct questions to:
Phone Number: Deborah Miller 906-322-6800

This exception should be considered for the exceptions stated in Chapter 3-120, HAF. Yes [ ] No [X]

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS, TO THE BEST OF MY KNOWLEDGE, TRUE AND CORRECT.

[Signature]
Name: [Signature]
Title: [Title]

Chief Procurement Officer's Certification:

[Signature]
Date: [Date]

APPROVED [ ] DISAPPROVED [X]

Head of Procurement Agency [Signature]
Date: [Date]