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

1. TO: Thomas Driskill, Jr., Chief Procurement Officer
2. FROM: Orianna Skomoroch, Kauai Region CEO

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: Contract for the General Contractor to provide construction of new building and renovations to part of existing Kauai Veterans Memorial Hospital (KVMH) building located at West Kauai Medical Center. Contractor will provide services in preconstruction phase by assisting the Architect in finalizing the design documents and preparing the construction documents, in addition to other needed services. The contractor will also act as the General Contractor and will subcontract for construction and materials. An RFP method will be used to select the General Contractor; however, the exact process highly recommended by our project manager/architect does not fit precisely into the Hawaii Administrative Rules on construction RFPs. This RFP method is a two-step process that has been successfully utilized elsewhere in keeping down costs and providing the best value. Consequently, we are requesting permission to follow this amended process. See attached for a description of the process.

4. Name of Vendor: TBD
   Address: TBD

5. Price: $NTE 55,772,768.00 (estimated budget for fees & construction costs).

6. Term of Contract: From: upon execution To: upon completion (est: May 2010)

7. Prior Exemption Ref. No. N/a

8. Explanation describing how procurement by competitive means is either not practicable or advantageous to the State: Jonathan Bailey Design (JBD) has been contracted to provide architectural and project management services for the construction of a new building on the WKMC campus, and to provide the same services for renovation of part of the existing KVMH building. One of the services provided by JBD is assistance with the selection of the General Contractor. JBD, a world wide hospital design firm, strongly recommends that we follow the process outlined in the attachment because it will give us the best price for the construction costs by creating a team of the General Contractor and Architects. This process includes competition and all proposals submitted in a timely manner that are in compliance with the solicitation will be reviewed and scored. The final contract will involve negotiation with the top scored offeror. JBD has recommended innovative approach which is gaining popularity on the mainland, as having the most success in keeping prices down and selecting the best contractor because the general contractors fees do not increase with a higher total construction budget. The existing procurement rules do not allow enough flexibility for negotiation with the top priority offerors in order to achieve our goal of team building and best price for best value. In addition, the contract will not be the same as the form required by the administrative rules, as the final guaranteed maximum price for the actual construction will be determined at a later date utilizing a methodology set forth in the contract.

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable: See attached. An RFP and Qualification process will be utilized with a selection team and selection criteria. The RFP will have an estimated budget included. The budget for the project is set and the Guaranteed maximum price will not exceed that amount. The fees to be charged by the General Contractor will be a factor in the selection process, although not a controlling factor.

10. A description of the agency's internal controls and approval requirements for the exempted procurement:
Cora Shirai, Senior Contract Manager, and Alice Hall, Kauai Legal Counsel, will be involved with the RFP and contracting process, along with the JBD consultant. Other executives will also be involved, as outlined below.

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<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Involvement in Process</th>
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<tbody>
<tr>
<td>Mike Perl</td>
<td>CFO, Kauai Region</td>
<td>☒ Approval</td>
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<tr>
<td>Orianna Skomoroch</td>
<td>CEO, Kauai Region</td>
<td>☒ Approval</td>
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<tr>
<td>Name</td>
<td>Role</td>
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<tr>
<td>Cora Shirai</td>
<td>Sr. Contract Manager</td>
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<tr>
<td>Alice Hall</td>
<td>Regional Counsel</td>
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12. Direct inquiries to:
- Department: Contracts/Procurement
- Contact Name: Cora Shirai
- Phone Number: 808-338-9454
- Fax Number: 808-240-2747

13. This exemption should be considered for list of exemptions attached to Chapter 3-120, HAR. YES ☐ NO ☒

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: [Signature]
Date: 2-8-08

15. Date Notice Posted: 2-8-08

The Head of the Purchasing Agency 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 (7) calendar days or as otherwise allowed from the above posted date to:

Chief Procurement Officer

HHSC
3675 Kilauea Ave.
Honolulu, Hawaii 96816

Chief Procurement Officer’s comments:

Approved: [Signature]
Date: 02/15/08
ATTACHMENT TO EXEMPTION REQUEST

The following outline describes an overview of the proposed method in the selection of the General Contractor for the pre-construction and construction services for the West Kauai Medical Center (WKMC).

1. The project will be announced publicly via local paper, nationally in other publications, and directly to known interested vendors. Firms will access the Request For Qualification and Proposal (RFQ/P), and drawings with specifications via the internet on a Jonathan Bailey Design (JBD) based FTP site. The contractors will be allowed to ask questions within a specified amount of time. Only written responses will be given by way of addenda.

2. The responding construction firms will be evaluated and scored based on specified criteria from their answers to the RFQ/P questions. This is similar to a professional services list screening, with both the general qualifications and qualifications to perform this specific job included. Both design team consultants and WKMC employees will be on the selection team.

3. The RFQ/P will be formatted to allow respondents to provide information about previous healthcare projects, previous State of Hawaii experience, the proposed team for this project, financial stability, and several other criteria. In this selection process, the contractors will provide an estimate of their pre-construction fees as well as their construction phase service fees or general condition costs. A detailed explanation of the costs and fees will be required, including equipment costs, labor costs, overhead costs, insurance, etc. This estimate, the qualifications, and the proposed approach to the project will constitute the criteria for scoring and ranking of the offers.

4. The top ranked companies will be invited to prepare a presentation to the Selection Committee at the site. Two firms, the "Preferred" and the "Alternate" firms, will then be chosen from the interviewed contractors (priority offerors).

5. The Owner, with the assistance of JBD, will then negotiate the pre-construction and construction service fees with the top preferred firm. If the contract is not negotiated to the satisfaction of the Owner, the alternate firm will be approached for negotiation.

6. The firm that is selected from the above process will provide pre-construction services at a fixed fee for a lump sum to join the design team in the middle of the Design Development Phase. The contract with the general contractor will include a fee for the pre-construction services. The contract will also detail the process for determining the final Guaranteed Maximum Price (GMP) of the construction phase of the contract and the general contractor's fees for the construction and post construction phases of the project. Cost containment measures will be included in the contract to prevent the GMP from escalating beyond the budgeted amount.

7. After the completion of the Design Development Phase, the General Contractor will deliver to the Owner the GMP. The GMP must be satisfactory to the Owner, who will work with the General Contractor to ensure that the GMP is within budget. This price will be the construction cost for subcontractors and materials and the general contractor's contract will be amended to add this figure. The general contractor will enter into subcontracts to obtain the needed services and materials and, working with JBD, will ensure that the project is completed.