

| HAWAII HEALTH SYSTEMS CORPORATION NOTICE OF AND REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS | | EX Number: EX12-003 |
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| 1. TO: | Chief Procurement Officer | |
| 2. FROM: | Annie Yonemoto | |
| 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: | | |
| Specialized legal services to represent HHSC Sole Community Hospital (SCH) facilities, Hilo, Kona and Maui as part of a Group Appeal to the Provider Reimbursement Review Board (PRRB) and district court to pursue the elimination of the 14 years of negative budget neutrality adjustment factor in the HSR Rebasing calculation. The impact to the Medicare payments is approximately \$1,400,000 per year based on FY 2010 and the benefits will be ongoing per year thereafter. | | |
| 4. Name and Address of Vendor: | McDermott Will & Emery LLP, 600 13 th Street, NW, Washington, D.C. 20005 Toyon Associates, Inc., 1800 Sutter St. Ste 600, Concord, CA, 94520 | 5. Price: 1) Fixed Fee at \$19,000 per facility plus additional cost if required filing with the court of appeals or 2) Contingency fee structure based on percentage of recovered funds; capped at \$100,000 system-wide, per fiscal year. |
| 6. Term of Contract: From: April 16, 2012 To: April 15, 2013 | 7. Prior Exemption Ref. No. None | |
| 8. Explanation describing how procurement by competitive means is either not practicable or advantageous to the State: | | |
| HHSC facilities Maui Memorial Medical Center, Hilo Medical Center and Kona Community Hospital require legal representation in order to join a Group Appeal; PRRB related to Budget Neutrality Adjustment Factor in HSR Rebasing Calculation. Nation-wide market research conducted by HHSC did not identify any legal firms specializing in this area and actively representing Group Appeals in this matter. HHSC then sought guidance from Plante & Moran LLLP, subject matter experts in this area, who were able to identify two legal firms engaged in this type of Group Appeal. McDermott is representing 62 hospitals in the PRRB Group Appeal. The second firm, Toyon and Associates, is able to provide support for the PRRB review and is currently representing 92 Sole Community Hospitals in their Group Appeal with PRRB. Due to the highly specialized nature of these requirements and the very limited market place offering these services it is neither practical nor advantageous to the State to issue a competitive procurement. | | |
| 9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable: | | |
| This exemption will be for the period of one-year. At the end of this period, if a requirement for other additional, highly specialized legal representation still exists, HHSC will again research the marketplace, however HHSC must continue to be represented by McDermott and or/ Toyon in this particular matter. This Exemption may be extended in one-year increments as required. | | |

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, and 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.

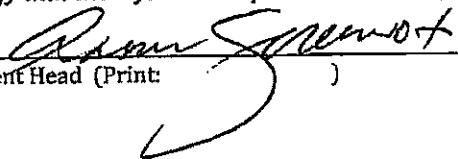
11. A list of agency personnel, by position, who will be involved in the approval process and administration of the contract:

| Name | Position | Involvement in Process | |
|-----------------|---|--|--|
| Edward N. Chu | Chief Financial Officer and HOPA | <input checked="" type="checkbox"/> Approval | <input type="checkbox"/> Administration |
| Annie Yonemoto | Director of Reimbursement and Budget | <input checked="" type="checkbox"/> Approval | <input type="checkbox"/> Administration |
| Joe Evanoff | Contracts/Materials Management Director | <input type="checkbox"/> Approval | <input checked="" type="checkbox"/> Administration |
| Alison Stransky | Corporate Contracts Manager | <input type="checkbox"/> Approval | <input checked="" type="checkbox"/> Administration |

12. Direct inquiries to:

Contact Name: Annie Yonemoto
Phone Number: 808-733-4155

Agency shall ensure adherence to applicable administrative and statutory requirements
13. I certify that the information provided above is, to the best of my knowledge, true and correct.

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Department Head (Print:) Date 4/12/12

Reserved for CPO/Delegated Use Only

14. Date Notice Posted: 4/12/12

The CPO 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
- DISAPPROVED:
- NO ACTION REQUIRED

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HHSC Chief Procurement Officer - Signature Date 4/18/12