



**STATE PROCUREMENT OFFICE  
NOTICE OF REQUEST FOR EXEMPTION  
FROM HRS CHAPTER 103D**

TO: Chief Procurement Officer

FROM: Lance Taguchi, County Auditor, Office of the County Auditor  
*Name of Requesting Department*

*Pursuant to HRS § 103D-102(b)(4) and HAR chapter 3-120, the Department requests a procurement exemption for the following:*

1. Describe the goods and/or services:  
Pursuant to Section 3-9.2(3) of the Revised Charter of the County of Maui (1983), the county auditor "shall have full, free, and unrestricted access to any county officer or employee and shall be authorized to examine and inspect any record of any agency or operation of the county, to administer oaths and subpoena witnesses, and compel the production of records pertinent thereto". Further, "the county auditor may, without council approval, retain special counsel to represent the county auditor in implementing these powers".

The retention of special counsel will assist the county auditor in reviewing matters related to three lots or less subdivision deferral agreements or other matters and, if appropriate, assist in carrying out audits of such matters.

The county auditor anticipates retaining an attorney for the purposes authorized and stated above for approximately one year.

|  |   |
|--|---|
| 2. Vendor/Contractor/Service Provider:   | 3. Amount of Request:<br>\$ 40,000 estimate |
| 4. Term of Contract From: 12/1/2018 To: 11/30/2019 5. Prior SPO-007, Procurement Exemption (PE): |   |

6. Explain in detail, why it is not practicable or not advantageous for the department to procure by competitive means:  
See attached for explanation.

7. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider:  
To the extent practicable, the professional services procurement method will be followed to select an attorney. The Office of the County Auditor published Solicitation Number 18-01OCA on June 26, 2018. Offers may be submitted until May 20, 2019. The county auditor (the head of the purchasing agency) shall designate a committee of persons with sufficient education, training and experience in government or auditing to review and evaluate all submissions and forward recommendations or comments to him. The county auditor will select an attorney and forward a recommendation to the Council Chair (the Chief Procurement Officer for the Legislative Branch of the County) for review and approval. The procurement, contract, and administration process will be documented and subject to the Uniform Information Practices Act (HRS Ch 92F). The procurement, if successful, will result in a contract that will be submitted to the Corporation Counsel for approval as to form and legality prior to execution.

8. Identify the primary responsible staff person(s) conducting and managing this procurement. (Appropriate delegated procurement authority and completion of mandatory training required).

\*Point of contact (Place asterisk after name of person to contact for additional information).

| Name   | Division/Agency | Phone Number | e-mail address               |
|--|-----------------|--------------|------------------------------|
| Lance Taguchi<br>(Head of Purchasing Agency) | County Auditor  | 808-463-3192 | county.auditor@mauicounty.us |
| Scott Kaneshina                              | County Auditor  | 808-463-3192 | county.auditor@mauicounty.us |
| Camille Sakamoto*                            | County Auditor  | 808-463-3192 | county.auditor@mauicounty.us |

**All requirements/approvals and internal controls for this expenditure is the responsibility of the department.  
I certify that the information provided above is, to the best of my knowledge, true and correct.**

Department Head Signature

10/17/18

Date

**For Chief Procurement Officer Use Only**

Date Notice Posted: 10/17/18

Inquiries about this request shall be directed to the contact named in No. 8. Submit written objection to this notice to issue an exempt contract within seven calendar days or as otherwise allowed from date notice posted to:

Chief Procurement Officer, c/o Office of the County Auditor, 2145 Wells Street, Suite 106, Wailuku, HI 96793

Chief Procurement Officer (CPO) Comments:

Approved

Disapproved

No Action Required

Chief Procurement Officer Signature

10/17/18

Date



*Box 6. Explain in detail, why it is not practicable or not advantageous for the department to procure by competitive means:*

This exemption is requested for the Office of the County Auditor (“OCA”) as it relates to State procurement regulations which require the county auditor (as head of the purchasing agency) to designate a review/selection committee consisting of a minimum of three persons with sufficient education, training, *and licenses or credentials* [emphasis added] in the area of professional services required (i.e., legal services).

The OCA consists of four employees: the County Auditor, two Senior Analysts, and an Administrative Officer. And, while OCA employees are sufficiently trained and hold various professional licenses and degrees which are directly related to the field of accounting, finance, and auditing, no OCA employee is a licensed attorney. As such, it is not practicable for the OCA to comply with HRS §103D-304 which requires the head of the purchasing agency to designate a committee of three persons licensed or credentialed in the field of legal services. The OCA simply does not have any attorneys on its staff.

The County Charter authorizes the county auditor to retain special counsel without the approval of the County Council. This protective language reduces the probability of conflicts of interests and allows the OCA to be more clearly independent in fact and appearance. Further, requiring the OCA to utilize attorneys of the executive branch (i.e., Corporation Counsel) or County Council (i.e., Office of Council Services) to serve on the OCA’s review/selection committee would usurp the county auditor’s authority to retain special counsel, encroach on the protective language in the County Charter, and reduce the OCA’s independence.

An exemption is needed because meeting the above requirement imposed by State procurement regulations is not practicable given the OCA’s limited staff and is in conflict with the Charter authority mandated to the county auditor.