

**THE JUDICIARY, STATE OF HAWAII
NOTICE OF REQUEST FOR EXEMPTION
FROM HRS CHAPTER 103D**

TO: Chief Procurement Officer

FROM: _____
Name of Requesting Division/Program

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

1. Describe the goods, services or construction:	
2. Vendor/Contractor/Service Provider:	3. Amount of Request:
4. Term of Contract From: To:	5. Prior Judiciary Procurement Exemption No. (if applicable):
6. Explain in detail why it is not practicable or not advantageous for the Program/Division to procure by competitive means:	
7. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider:	

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/Program	Phone Number	

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

Department/Division/Program Head Signature

Date

For Chief Procurement Officer Use Only

Date Notice Posted: _____

Inquiries about this request shall be directed to the contact named in Item 8. Submit written objection to this NOTICE OF REQUEST FOR EXEMPTION within seven (7) calendar days, or as otherwise allowed, from the Date Notice Posted to:

Chief Procurement Officer – The Judiciary
Financial Services Department
Contracts & Purchasing Office
1111 Alakea Street, 6th Floor
Honolulu, Hawaii 96813-2807

Chief Procurement Officer (CPO) Comments:

Approved

Disapproved

No Action Required

Chief Procurement Officer Signature

Date

August 1, 2013

To : Rodney A. Maile
Administrator Director of the Courts

Thru : Lori Ann M Okita
Chief Court Administrator

Thru : Paul Kaneshiro
Court Administrative Service Officer

From : Wayne Taniguchi
Facilities Manager

Re : Approval To Renew Kapuaiwa Building Elevator Maintenance Contract
(Exception from 103D)

The First Circuit Court requests your approval to renew the existing Otis Elevator Company contract, J04129, for elevator maintenance located at the Kapuaiwa Building, 625 Queen Street. The current contract expired on 07/31/13. The vendor was contacted several times from 04/15/13 to provide a new contract which was received on 07/31/13. A procurement exemption is being requested pursuant to Section 103D-102(b)(4), HRS, and Chapter 3-120.

The following is an explanation describing how procurement by competitive means is either not practical nor advantageous to the Judiciary. Since the passage of the State Procurement Code, much discussion has occurred on whether the repair and maintenance of State owned elevators should be competitively bid or handled through manufacturer's maintenance. After extensive investigation by DAGS Central Services Division, it was determined that manufacturer's maintenance affords the best liability protection and value for the State. There are significant points to justify this decision.

(1) Liability

Liability is a critical issue for the State. Elevators are expected to reliably transport building occupants and users without fail. Given the usage of elevator at Kapuaiwa Building, protecting the Judiciary's exposure to liability is our priority.

In this request, manufacturer's maintenance assures accountability by placing a clear audit trail of work with one vendor. Problems, failures and continuing performance issues are clearly attributable to one source and resolution is expedient when compared to situations of shared responsibility.

(2) Cost and Availability of Parts

The manufacturer has access to original plans, specifications, parts, and engineering support necessary to perform repairs and maintenance work as well as modifications to their equipment. The procurement advantage relative to cost and availability of outdated parts lies clearly with the Original Equipment Manufacturer (OEM), not the third party contractor.

To elaborate, the non-OEM contractor does not control delivery for replacement OEM parts, and there is a costly markup on parts acquired from the manufacturer.

Given that the proposed elevator contract is for full maintenance, there is no incentive for the non-OEM contractor to replace worn parts unless absolutely necessary. Generic parts used by non-OEM often have limited warranties or may not be reflective of current product technology. In order to address this concern, regular elevator inspections will be required of non-OEM contractors which would prove to be a costly option. Without inspections, neglect can cause excessive wear on elevator components, which shortens the overall life of elevators. When a proprietary tool is needed by a third party contractor, the Judiciary, not the contractor, will have to purchase the OEM's diagnostic equipment.

(3) Factory Training

The manufacturer's technicians are factory trained and receive periodic retraining. Third party contractors may have technicians that previously worked for manufacturers but there is no way for these individuals to receive further factory training or access to the manufacturer's technical library.

(4) Safe and Reliable Elevators

Elevators are utilized to service the public and its employees. Support in the case of an emergency and frequent downtime are also critical considerations. Certainly, from the standpoint of liability, it would be prudent to select the manufacturer, who has the technical expertise and ready access to the proper parts.

(5) Monitoring of Third Party Contractors

It is our understanding that in over the many years of manufacturers maintenance for DAGS and Judiciary facilities, there has never been a documented case of a serious elevator accident or "close call." This indicates that the manufacturer is maintaining its elevators at proper level. On the other hand, the low bid process will require hiring an elevator consultant to review the work of the non-OEM contractor. Such action is necessary for the Judiciary to exercise due diligence and to protect itself from exposure to liability.

(6) Contractors do not have a Solid History of Non-OEM Repairs

Through consolidation, only the "big" four major elevator manufacturers remain in the State. Presently, each company offers third party maintenance to some extent. However, from the State's prospective, there is no proven track record among any company that clearly demonstrates the ability to maintain a high volume of third party elevators. Certainly, because of the stated liability risks, and for the welfare of our elevator occupants, until a proven track record of competence emerges within the local industry, competitive bidding should not be considered.

(7) Majority Opt for Manufacturers Maintenance

DAGS Central Services Division conducted a survey in 1999 of elevator maintenance on Oahu which indicated a strong preference for most large private and State facilities to select manufacturers maintenance. The basic rationale as conveyed, included reliability, cost savings through proper maintenance, less exposure to litigation and peace of mind.

In view of the foregoing and the fact that public safety is at stake, it is recommended that the inspection, maintenance and repair of the Kapuaiwa Building elevator continue to be maintained by the manufacturer. The contract is necessary to maintain the daily operation of the elevator as it is used regularly by the public and employees.

Attached is the contract addendum renewing the existing contract for another five years, 08/01/13 – 07/31/18. Also attached is a copy of the initial contract and first addendum . The monthly cost will be \$ 493.15 plus applicable tax costing an estimated \$ 29,589.00 plus applicable tax for the five year period.

Funding will be provided by the First Circuit Court general fund appropriation. Any questions may be directed to Wayne Taniguchi at 539-4005. Your consideration on this matter is appreciated.

Funds are available through appropriation G-007-J-1410.