Comments/Testimonies Received on
HAR Chapter 3-120, Exhibit A, Procurements Exempt from HRS 103D

DEPT/AGENCY	NAME	TITLE
City & County of Honolulu	Waterhouse, Mary Pat	Finance Director
Corporation Counsel, County of Hawaii	Kamelamela, Joseph K.	Deputy Corporation Counsel
County of Hawaii	Knowles, Scott	Risk Mgt Officer
Parks & Recreation, County of Hawaii	Mizuno, Pam	
Maui County Council	Hokama, Riki	Chair
Agriculture, State of Hawaii	Kunimoto, Sandra Lee	Chairperson
Commerce and Consumer Affairs, State of Hawaii	Reifurth, Lawrence	Director
Defense, State of Hawaii	Moriyasu, Tom	Fiscal Officer
Hawaii Health Systems Corporation, State of Hawaii	Evanoff, Joe	
Labor and Industrial Relations, State of Hawaii	Sakai, Gerilyn W.	Secretary to the Business Management Officer
Land and Natural Resources, State of Hawaii	Thielen, Laura H.	Chairperson
Public Safety, State of Hawaii	Yamamoto, Mark	Departmental Contract Specialist
Transportation, State of Hawaii	Keeno, Francis Paul	Deputy Director
Office of Procurement and Real Property Management, University of Hawaii	Won, Gwen	Associate Director

City and County of Honolulu

DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAII 96813
PHONE: (808) 768-3900 • FAX: (808) 768-3179 • INTERNET: www.honolulu.gov

MUFI HANNEMANN
MAYOR

MARY PATRICIA WATERHOUSE
DIRECTOR

MARK K. OTO
DEPUTY DIRECTOR

June 3, 2008

Mr. Aaron Fujioka, Administrator
State of Hawaii
State Procurement Office
P.O. Box 119
Honolulu, Hawaii 96810-4703

Dear Mr. Fujioka:

Subject: Proposed Amendments for HAR 3-120, Exhibit A
Procurements Exempt from HRS Chapter 103D

The City and County of Honolulu is opposed to making any changes to Exemption No. 6 relating to the purchase of insurance and insurance broker services.

The proposed change would preserve the exemption for insurance but delete the exemption for insurance broker services. We believe that it is impractical, and not in the City's best interest to separate the services from the product, especially since such broker services are paid by the insurance company in the form of commission.

HAR 3-120 allows the SPO to identify and establish exemptions from Chapter 103-D. HAR goes on to encourage the use of some form of competition in procuring such exempt goods or services. The City and County has been and remains committed to the intent of Chapter 103-D, and utilizes a form of competitive procurement that is a blend of the RFQ and the RFP. This approach has worked well over the past 20 years and accommodates the fluctuating cycles of hard and soft insurance markets and maximizes the City's ability to obtain the most advantageous insurance AND services in terms of insurance coverage and pricing.

Each of the Counties and other public entities subject to Chapter 103-D have their own unique insurance and broker services requirements. Preserving the language of Exemption No. 6 provides these entities the flexibility to employ a competitive structure that best suits their respective requirements.

The City does not support the proposed changes to Exemption No. 6.

Sincerely,

Mary Pat Waterhouse, Director
Budget and Fiscal Services

Corporation Counsel
County of Hawaii

"Kamelamela, Joseph"
<JKAMELAMELA@co.hawaii.hi.us>

06/04/2008 06:01 PM

To procurement.policy.board@hawaii.gov

cc "Masuda, Craig" <CMASUDA@co.hawaii.hi.us>, "Ashida, Lincoln" <LASHIDA@co.hawaii.hi.us>, "Bancroft, Brooks" <bbancroft@co.hawaii.hi.us>, "Brilhante, William"

bcc

Subject Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

Aloha, to the members of the Procurement Policy Board,

We support retaining exemptions 1, 3 and 10 for the same reasons already stated by others who have already commented.

In addition, for exemption 3, even if the substance of some training, such as computer training, may seem fungible and suitable for bidding, the teacher can make all the difference, for good or bad. This same rationale is applicable to other exemptions that allow agencies to freely select the trainer of their choice for all subjects.

Take care,

JOSEPH K. KAMELAMELA
Deputy Corporation Counsel
Office of the Corporation Counsel
County of Hawai`i
101 Aupuni Street, Suite 325
Hilo, Hawai`i 96720
Phone: (808) 961-8251
e-mail: jkamela@co.hawaii.hi.us

County of Hawaii

Aaron Fujioka
Administrator

May 29th, 2008

RE: Insurance Exemption (No. 6)

Dear Mr. Fujioka,

After further consideration there are several additional comments I have regarding the above proposed amendment and I would request you attach this letter to my previous submittal dated May 14, 2008.

In the event the proposed amendment (deletion) is approved it will be necessary to do one of two options:

1. Conduct an RFP for one broker to handle all insurance procurement; or
2. Conduct an RFP for each of our 5 policies.

I will address each separately, although some issues apply to both.

At the present time , Hawaii County has 5 policies effected by this proposal which involve 3 different brokers. Some of these brokers have competed against one another for a particular policy and the low quote prevailed. If a single broker had been awarded RFP for the entire insurance procurement the County would have lost money as a different broker would have provided a lower competitive bid. This is usually made possible by relationships that each broker has with their nest of carriers; and the carriers recognize this as well.

So, in order to get the best quote it would seem option 2 would be necessary. In order to get an RFP prepared and handled properly, including contract administration, the bids would have to be received well in advance of renewal date in order to be timely. This cannot happen in this situation. Generally quotes are not received until the week of renewal in order to get the current quote analysis as underwriters do not like to issue quotes too far in advance. If quotes are received in that time frame it would be impossible to administer the contract.

As you can see flexibility is the key advantage of the current exception as it presently exists and the proposed deletion of "broker" language would be detrimental to the long standing and beneficial process in place. As well as the obvious time and expense associated with the RFP process.

Again County of Hawaii Purchasing Agent, Gilbert Benevides, fully concurs with this letter.

If you have any questions don't hesitate to contact me.

Scott T. Knowles
Risk Management Officer
County of Hawai'i
891 Ululani St., Room 118
Hilo, HI 96720
808-961-8068 (v)
808-345-9610 (c)
808-961-8248 (f)
sknowles@co.hawaii.hi.us

Parks & Recreation
County of Hawaii

"Pam Mizuno"
<pmizuno@co.hawaii.hi.us>

05/30/2008 02:57 PM

Please respond to
<pmizuno@co.hawaii.hi.us>

To <procurement.policy.board@hawaii.gov>, <aaron.fujioka@hawaii.gov>

cc "Schoen, Renee" <rschoen@co.hawaii.hi.us>, "Benevides, Gilbert" <gil_benevides@co.hawaii.hi.us>, "Takiue, Darren" <dtakiue@co.hawaii.hi.us>

bcc

Subject Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

To the Procurement Policy Board and Aaron Fujioka:

Attached are comments relating to the proposed amendment of exemption 7 and elimination of exemption 9. Please feel free to contact me if you have any questions.

Pam Mizuno
County of Hawaii
Dept of Parks & Recreation

(808) 961-8542 Procurements Exempt From Chapter 103D.pdf

Procurements Exempt From Chapter 103D, HRS

Comments:

EXEMPTION NO. 7
ANIMALS AND PLANTS

Retain this exemption as is without the SPO recommended amendments

Justification:

Competition is not feasible due to the unique nature, quality, visual appearance, or health of one animal or plant from another. As an example, specifications and pricing cannot determine the selection of all animals and plants. Many times, as in the case of zoo animals or rare plants, the availability may be in short supply or with short notice.

However, the SPO recommends the amendment on restrictions because unless the animals and plants are rare or exotic such as zoo animals or are needed for research purposes, most other animals and plants may be subject to competition.

Who is to determine what animal or plant species are considered to be rare or exotic? Short supply and short notice do not only affect animals and plants that are rare and exotic, or animals and plants for research purposes. Not all zoo animals and plants are rare and exotic. Many times it is difficult to locate suitable petting zoo livestock or plant material for landscape projects. In either case, there is no feasible consistent formula to weigh the value of two live animals or plants as the variables of color, markings, size, vigor and age are such that competitive comparisons can't be made. It is simply not practical or advantageous to procure live animals or plants through competitive bidding.

Livestock for slaughter and consumption may be competitively purchased based on hoof weight. They can be scaled and purchased based on weight of the animal and age. Nothing else would matter in this case as the animal would be slaughtered and turned into meat.

On the other hand, the zoo may need to purchase replacement livestock for the petting zoo. In this case, the aesthetic and hereditary factors (conformation, color, markings, coat length and texture, size, parentage and pedigree for breeding stock) may need to be considered and compared. In addition, type of training, socialization and temperament would be a large factor in the value of the animal to be acquired.

For example: Two 6 month old Nubian Goats from two different farms can't be considered equal except for price. One may have more spots than the other, one may have longer ears, one may have more white in its markings, one may have a shorter back, and one may be much tamer. Would we be forced to purchase the less expensive of the two because goats are not a rare or exotic animal?

When purchasing plant material for landscape projects, availability and plant vigor are important determinations. One vendor may have 9 foot Macarthur Palms in 15 gallon pots with 3 inch caliper for $100, another vendor may have 8 foot Macarthur Palms in 15 gallon pots with 3 ½ inch caliper for $100, and still another vendor may have 10 foot Macarthur Palms in 20 gallon pots with 2 ½ inch caliper for $110. How do you make a competitive determination on which of these vendors should be selected? Which is the best value based on the factors above? Part of the selection would be to determine the ability to dig a larger deeper hole.

When purchasing even common landscape plants, three different vendors may have the same tree in the same size pot and all three of the same height, for varied prices. Upon inspection of the trees, two have slightly yellow leaves with some brown spots, one is greener and fuller with a greater amount of lateral branches than the other two. This third tree is obviously more vigorous and has been fertilized and cared for properly, but is the most expensive of the three. If the exemption is amended, would the less expensive tree that is not as good have to be purchased?

If an amendment to this exemption is necessary, at the very least the amendment should include animals and plants for exhibition and education purposes.

EXEMPTION NO. 9
FOOD AND FODDER FOR ANIMALS

Justification:

The initial language of this exemption was limited to "Food and Fodder for animals in a zoo" and subsequently amended to "Food and fodder for animals" to be more generic.

However, these items are competitive. The purchasing agency may seek a CPO exemption if warranted on a case-by case basis.

Retain this exemption as is or amend back to the initial language and retain exemption

Many feeds that are consumed by zoo animals are manufactured to be species specific and vary in nutritional content, ingredients and protein source. How can you measure two different brands of Monkey biscuit as equal when they have different percentages of protein, carbohydrates and fat, and the sources of those components are varied? In the case of animal food and fodder (other than fresh meats and produce), quality in manufacturing and ingredients are critical to the health and welfare of the animals consuming the product.

A good example of this is the many recent recalls of dog and cat foods. In this case, the higher end more expensive foods that did not include foreign ingredients and were manufactured under greater levels of scrutiny and quality control were safe. All animal

feeds are not created equally. Should this exemption be deleted and we be forced to purchase animal food and fodder as a competitive purchase, we would surely be putting the health and well being of valuable zoo animals at risk. At a minimum, there should be an exemption for "Food and fodder for animals in a zoo".

The complications of shipping and freight to Hawai'i make it difficult enough to provide quality care for zoo animals. The need for a CPO exemption on a case-by case basis may cause a detrimental delay in animals receiving proper nutrition.

Maui County Council

Council Chair
G. Riki Hokama

Vice-Chair
Danny A. Mateo

Council Members
Michelle Anderson
Gladys C. Baisa
Jo Anne Johnson
Bill Kauakea Medeiros
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Michael P. Victorino

COUNTY COUNCIL
COUNTY OF MAUI
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WAILUKU, MAUI, HAWAII 96793
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Director of Council Services
Ken Fukuoka

June 4, 2008

Mr. Gregory King, Chairperson
and Members of the Procurement Policy Board
State of Hawaii
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawaii 96813

Dear Mr. King and Board Members:

SUBJECT: **PROPOSED AMENDMENTS TO CHAPTER 3-120, HAWAII ADMINISTRATIVE RULES, RELATING TO PROCUREMENT EXEMPTIONS** (PAF 08-027)

Thank you for the opportunity to provide comments on the proposed amendments to Chapter 3-120, Hawaii Administrative Rules, Exhibit A, Procurements Exempt from Chapter 103D, Hawaii Revised Statutes (HRS), which will be considered by the Procurement Policy Board on June 19, 2008.

The Maui County Council has not had the opportunity to take a formal position on the exemptions and proposed amendments. Therefore, I am providing these comments in my capacity as an individual member of the Maui County Council.

I offer the following comments relating to certain existing and proposed exemptions that are relevant to the County of Maui's legislative branch:

1. I support retaining Exemption No. 3 (Services of lecturers, speakers, trainers, and scriptwriters) and oppose the proposed new language that would qualify and weaken the exemption. Maui County Council members are members of the Hawaii State Association of Counties (HSAC). The Maui County Council regularly hosts HSAC conferences, and in that capacity, must retain the services of lecturers, speakers, and trainers. Conference topics include specialized areas of interest to local governments. It would not be feasible to procure for the services of lecturers, speakers, and trainers for these conferences without an exemption from HRS Chapter 103D. I oppose the proposed amended language because it requires a subjective determination as to whether an individual possesses specialized training methods, thus creating the opportunity for conflict.

2. I support Exemption No. 4 (Services of legal counsel) and take no position on the proposed amended language.

3. I support Exemption No. 10 (Facility costs for conferences, meetings, and training sessions) and would oppose its repeal. When planning for an HSAC conference, the Council must locate an appropriate facility, usually a hotel, to accommodate conference participants. It can be difficult to find acceptable facilities that are available on the dates needed and fit the conference's specifications. The Council must negotiate dates, times, and costs with any available or potential location.

4. I support Exemption No. 11 (Advertisements in specialized, trade, or professional publications), with the proposed grammatical correction. As stated in the exemption summary provided by State Procurement Office staff: "It is not feasible to competitively solicit certain types of advertisements when agencies are required to address or reach a specific audience through a limited source of specialized publications."

5. I support the addition of Exemption No. 17 (Subscription costs and registration or workshop fees for conferences or training). The selection of educational and professional subscriptions, workshops, and conferences is appropriately made on the basis of an agency's work requirements.

6. I support the addition of Exemption No. 18 (Court reporter services, when the services are for a particular case or reporting incident). In legal and other time-sensitive matters, flexibility is needed to meet the court reporting needs of each particular situation.

Thank you for your consideration of my comments. Should you have any questions, please contact me at (808) 270-7768.

Sincerely,

G. RIKI HOKAMA, Chair
Maui County Council

paf:kmh:08-027b

Agriculture
State of Hawaii

LINDA LINGLE
Governor

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 Fax: (808) 973-9613

June 4, 2008

MDB-08-173

Procurement Policy Board
State Procurement Office
Honolulu, HI 96810

Subject: Testimony in Support of Retaining Procurement Exemption No. 5, Chapter 3-120, HAR

The Hawaii Department of Agriculture strongly recommends that the exemption from 103D exemption number 5 "Fresh meats and produce" be retained.

The exemption supports local ranchers and farmers and provides for quality meats and produce to be procured by the Department of Education for school food service programs. These commodities are perishable and when the need is unexpected, it is more practicable to have the exemption to allow purchase in a timely manner.

Culinary schools can use local fresh meats and produce for their training, which encourages future purchasing and promotion of Hawaii fresh commodities for commercial use.

It is important that our state institutions support our local agricultural industry as it contributes to maintaining Hawaii's ability to continue to provide some of its essential food supply.

The flexibility afforded under the exemption supports local ranchers and farmers, provides quality fresh meats and produce for school food service programs and encourages future purchasing and promotion of Hawaii fresh commodities for commercial use.

Sincerely,

Sandra Lee Kunimoto
Chairperson, Board of Agriculture

LINDA LINGLE
Governor

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

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'08 JUN -3 A11:30
ADMINISTRATION
STATE PROCUREMENT OFFICE

May 30, 2008

Procurement Policy Board
State Procurement Office
Honolulu, HI 96810

Subject: Testimony in Support of Retaining Procurement Exemption No. 9, Chapter 3-120, HAR

The Hawaii Department of Agriculture strongly recommends that the exemption from 103D exemption number 9 "Food and Fodder for Animals" be retained for dog and cat foods

In response to comments from Procurement Policy Board members at the meeting on May 15, 2008, the Department has requested a determination from the State Procurement Office on whether Restricted Specification Requests for various dog and cat food products is feasible. However, the Department opposes deleting exemption 103D No. 9, Food and Fodder for Animals as it has not been determined that restrictive specifications are a viable alternative.

The Animal Quarantine Station (Station) feeds several types of dog and cat foods. In addition to maintenance diets for each species, the Station also feeds several specialty diets designed to assist and treat common conditions in kenneled animals such as gastrointestinal disease, inappetance and weight loss. In addition, there are additional specialty foods that the Station does not currently use but may be needed in the future. Optimum pet care dictates that different foods may be utilized for different animals and conditions.

Flexibility afforded under the exemption for dog and cat food allows the Station to rapidly procure different diets to address existing or emergent animal health situations in the population.

Sincerely,

Sandra Lee Kunimoto
Chairperson, Board of Agriculture

Attachments

c: Animal Industry
Elaine Abe, ASO

LINDA LINGLE
Governor

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 Fax: (808) 973-9613

May 12, 2008

Procurement Policy Board
State Procurement Office
Honolulu, HI 96810

Subject: Testimony to Procurement Exemption No. 9, Chapter 3-120, HAR

The Hawaii Department of Agriculture requests that the 103D exemption number 9 "Food and Fodder for Animals" be retained for dog and cat foods. It is likely the Department will be the primary agency affected by this provision and its elimination will have adverse effects on the Animal Quarantine Station.

The Department manages and operates the Animal Quarantine Station and Airport Animal Quarantine Holding Facility that inspects, processes and quarantines dogs and cats transiting through and entering Hawaii. I have attached a letter dated December 11, 2006 from Dr. James Foppoli, Administrator, Division of Animal Industry to Mr. Aaron Fujioka, Administrator, State Procurement Office. Dr. Foppoli's letter contains the concerns with the elimination of this exemption from a technical perspective. In addition, the Division's past experience with feeding different foods is explained. As detailed in his letter, labeled analyses for different dog and cat foods does not quantify certain factors such as palatability and other qualities that may not be measured or specified in a procurement solicitation. For example, because feeding trials are not required to evaluate all pet foods, label analyses may not accurately reflect a diet's performance when fed.

Therefore, flexibility afforded under the exemption for dog and cat food optimizes animal care while minimizing animal health issues and pet owner complaints. Furthermore, requesting exemption on a case by case basis from the Chief Procurement Officer is cumbersome and may not be timely in certain circumstances.

It is strongly recommended that the exemption from 103D regarding the procurement of foods for dogs and cats at the Animal Quarantine Station and Airport Animal Quarantine Holding Facility be retained.

Sincerely,

Sandra Lee Kunimoto
Chairperson, Board of Agriculture

Attachment

c: Animal Industry
Elaine Abe, ASO

LINDA LINGLE
Governor

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
Animal Industry Division
99-941 Halawa Valley Street
Aiea, HI 96701-5602
Phone: (808) 483-7151 Fax: (808) 483-7100

December 11, 2006

TO: Aaron S. Fujioka, Administrator
State Procurement Office

SUBJECT: Exemption for Dog and Cat Foods

We request that the 103D exemption be retained and not eliminated for dog and cat foods.

Although the labeled analyses for different dog and cat foods may appear identical, there are other factors and product qualities that cannot be quantified by label analysis or objectively specified in a procurement solicitation. Therein lies some of the problems created by removing all food and fodder from exemption.

The Association of American Feed Control officials (AAFCO) develops recommended standards for the nutrient content of dog and cat foods. Manufacturers can show their food meets AAFCO standards for nutritional adequacy by calculations or by feeding trials (Bren, 2001). However, previous studies have demonstrated that AAFCO approved feeding trials are valid to assess pet food quality whereas chemical analysis or calculated values may not be (Huber et al., 1991). In other words, guaranteed labeled chemical analysis is not as meaningful as results of feeding tests.

One of the major qualities of a dog or cat food product is palatability. It is common for different foods to have identical or relatively similar labels yet have vastly different qualities of acceptance by animals. Conversely, a food may be highly palatable but be undesirable due to its ingredients although the nutritional analyses are similar. Nonetheless, palatability cannot be, and is not, quantified on pet food labels. In a quarantine situation where animals may be confined for up to four months, adding an unpalatable diet as an additional stressor is undesirable and will have adverse effects.

Digestibility is another quality that is not easily determined without actual feeding trials. Depending on the biological availability of the ingredients, the digestibility of products can vary (Earl et al., 1998). For example, cooked carbohydrates (starches) are generally more easily digested than uncooked starch (ISU, AnS320). The bioavailability of other nutrients such as protein is similarly affected by the source. Due to this, less digestible nutrients may pass through the digestive tract without being absorbed and consequently larger volumes of food are required. This in turn creates larger volumes of animal waste to clean and increases potential for gastrointestinal upset. Pet food industry labeling standards do not adequately address digestibility and bioavailability (Michel, 2001).

Food additives such as dyes, colorants and preservative may affect the solid waste produced by an animal. Since the Animal Quarantine Station dog kennel floors are constructed of concrete, certain foods fed in the past have caused staining of the floor that was not easily removed. Those dog foods are no longer used for that reason. This aspect is also difficult to specify and confirm without actually feeding the product.

In addition, the Station has the need to purchase specific specialized veterinary diets to meet the health or medical issues of dogs and cats at the Station. These issues include cardiac, metabolic, gastrointestinal and others. Highly digestible and high caloric foods are two examples used to treat animals with intestinal disease and weight loss respectively. Although the program can require the owner to provide the food, experience has shown that many pet owners do not and the program needs the capability to purchase and provide these and other specialized diets within 24 hours or less.

It is recommended that the selection of foods for the dogs and cats at the Animal Quarantine Station remain flexible by keeping the exemption from 103D to minimize animal health and operational problems and minimize pet owner complaints.

Please contact Dr. Isaac Maeda, Animal Quarantine Branch Manager, at (808) 483-7144 with any questions.

James Foppoli

James Foppoli, DVM, PhD, Administrator
Division of Animal Industry

c: Elaine Abe, ASO
Dr. Isaac Maeda, AQB ✓

References

Bren, L., (2001). FDA, Center for Veterinary Medicine, Pet food: the Lowdown on labels, May-June 2001.

Huber, T.L., Laflamme, D.P., Medleau, L., Comer, K.M. & Rakich, P.M., (1991) CVM, UGA, Comparison for assessing adequacy of dog foods, *JAVMA, Sept. 15, 199(6):731-4.*

Iowa State University, Animal Science Lab; AnS320 presentation, Pet food labels.

Earle, K. E., Kienzle, E., Opitz, B., Smith, P.M. & Maskell, I.E., Fiber affects digestibility of organic matter and energy in pet foods, *Journal of Nutrition, 128;12/2798.*

Michel, K., (2001). World Small Animal Veterinary Association, WC Vancouver 2001, Pet food labels: What reading a label will and won't tell you about the food.

Commerce and Consumer Affairs
State of Hawaii

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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LAWRENCE M. REIFURTH
DIRECTOR

RONALD BOYER
DEPUTY DIRECTOR

TO THE PROCUREMENT POLICY BOARD

Thursday, June 19, 2008

WRITTEN TESTIMONY ONLY

TESTIMONY ON THE REQUEST BY MEMBER DARRYL BARDUSCH TO ELIMINATE EXEMPTION NUMBERS 1, 3, 5, 7, 9, 10, 14, and 15 FROM HAR CHAPTER 3-120, EXHIBIT A, PROCUREMENTS EXEMPT FROM HRS CHAPTER 103D.

TO THE MEMBERS OF THE PROCUREMENT POLICY BOARD:

My name is Lawrence Reifurth, and I am the Director of Commerce and Consumer Affairs ("Department"). The Department appreciates the opportunity to provide comments in strong support of maintaining Exemption No. 1.

Exemption No. 1 relates to research, reference, and educational materials including books, maps, periodicals, and pamphlets, which are published or available in print, video, audio, magnetic, or electronic form, including web-based databases.

Among other things, the Department regulates and enforces laws relating to a number of unique and specialized industries and areas, including financial institutions (e.g., State-chartered banks and credit unions, escrow depositories, and money transmitters), insurance, securities, unfair or deceptive acts and practices, cable television, and professional licensing. In those specialized and technical areas, keeping abreast of the latest information and trends is critical. Those industries and areas are

constantly evolving and undergoing dramatic changes in their structures, products, delivery systems, and are subject to extensive federal and state laws. The Department depends on reference materials and publications. Those materials vary widely in the depth and breadth of content and frequency of issuances and updates. We need the most current, most thorough, and the most accurate resources, and procuring those resources by competitive means would be impractical and seriously curtail our efforts and abilities to protect the public.

If the Department has to procure those resources, we may be placed in situations where we would have to subscribe to the *New York Times* instead of the *Wall Street Journal*, *Consumer Insight Magazine* instead of *Consumer Reports,* Lexis instead of Westlaw, and inferior consumer law treaties instead of the universally accepted and cited National Consumer Law Center series. This will not benefit the consumers, whose interest we are required to protect.

We note that section 103D-102(b)(4)(C), HRS, provides exemptions similar to Exemption No. 1. Exemption No. 1 appears to extend the exemption to web-based databases. Many resources that used to be accessed in "print" form have migrated to online formats. The same rationale that exempts printed materials by statute should also apply to online versions. Also, while many online databases are reliable and have adequate user safeguards, the quality of those resources varies significantly and it is important that the Department have sufficient discretion to select online resources based on more subjective factors such as track record, user safeguards, and quality and reliability of data, rather than on price.

Defense
State of Hawaii

Ruth E Yamaguchi/dags
06/02/2008 07:50 AM

To "Thomas Moriyasu" <tmoriyasu@dod.hawaii.gov>@STATEHIUS
cc Justin JL Fo/dags@dags, Cheryl S Oho/dags@dags
bcc
Subject RE: Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

Tom -
Thank you for your comments.
All comments will be compiled and provided to the PPB at its next scheduled meeting.

Ruth

"Thomas Moriyasu" <tmoriyasu@dod.hawaii.gov>

"Thomas Moriyasu" <tmoriyasu@dod.hawaii.gov>

05/30/2008 07:02 AM

To <ruth.yamaguchi@hawaii.gov>
cc
Subject RE: Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

Aloha Ruth,
The DOD supports the SPO recommendations to continue the following exemptions as follows:
3) Services of lecturers, ... - Various and unique training situations make it essential for Civil Defense and the National Guard to have this exemption.
10) Facility Costs for conferences, meetings and training sessions – DOD's international involvement which require certain security measures to be met makes it difficult to select low bidders.
17) Subscriptions costs and registration or workshop fees for conferences and training – The costs for these items does not lend to competitive bidding.
Mahalo for the opportunity to input/.
Tom

From: ruth.yamaguchi@hawaii.gov [mailto:ruth.yamaguchi@hawaii.gov]
Sent: Wednesday, May 28, 2008 9:51 AM
To: Dawn.Matsumura@hawaii.gov; EKHarada@dbedt.hawaii.gov; Kay.M.Okimoto@dcca.hawaii.gov; Thomas Moriyasu; James.Pao@hawaii.gov; Glen.WY.Chock@dcca.hawaii.gov; Patti.K.Kodama@dcca.hawaii.gov; Laureen.K.Wong@dcca.hawaii.gov; Marc.S.Yamamoto@hawaii.gov; barbara.arashiro@hcdch.hawaii.gov; Lynn.S.Naito@hawaii.gov; Wanda.N.Kimura@hawaii.gov; David.T.Moore@hawaii.gov; kerry.k.yoneshige@hawaii.gov; jon@librarieshawaii.org; May.Y.Price@hawaii.gov; edk@imail.librarieshawaii.org; audrey.uto@hawaii.gov; Francis Keeno; Lisa.Dau@hawaii.gov; Cindy.L.Yee@hawaii.gov; Leanne_N._Nakamura%DOHEXCH@hawaii.gov; SKawamoto@dhs.hawaii.gov; Patrick.S.Fukuki@hawaii.gov; Gerilyn.W.Sakai@hawaii.gov; Shelli.Oye@hawaii.gov; Cynthia.Afuso@hawaii.gov; Michelle.Macias@hawaii.gov; Elaine.T.Abe@hawaii.gov; Unebasami@HawaiiTourismAuthority.ORG; MaryAnn.K.Teshima@hawaii.gov; Juliet.Kazanjian@hawaii.gov; suzanne.m.efhan@hawaii.gov; emuraoka@kauaigov.com; ErnieK@OHA.org; jonathan.h.wong@courts.state.hi.us; adele@capitol.hawaii.gov; cwong@co.honolulu.hi.us; pnakamura@kauaigov.com; cshimabukuro@hawaiidws.org; cremigio@kauaiwater.org; ken.bissen@co.maui.hi.us; nitta@capitol.hawaii.gov; auditors@auditor.state.hi.us;

ethics@hawaiiethics.org; complaints@ombudsman.hawaii.gov; mhiu@honolulu.gov; gil_benevides@co.hawaii.hi.us; wimamura@honolulu.gov; l.johnston@capitol.hawaii.gov; KKanemori@hbws.org; fkakuda@kauaigov.com; gwon@hawaii.edu; Andrell_Beppu/ADMINSVC/HIDOE@notes.k12.hi.us; Tammy_Keller/PROCURE/HIDOE@notes.k12.hi.us; Louise_Yasuda/PROCURE/HIDOE@notes.k12.hi.us; kracuya-markrich@auditor.state.hi.us; ssuzawa@honolulu.gov; ltanaka2@honolulu.gov; CButt@hhsc.org; jevanoff@hhsc.org
Cc: aaron.fujioka@hawaii.gov
Subject: Fw: Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

Executive Departments and CPO Agencies -

The Procurement Policy Board (PPB), at its 5/15/08 monthly meeting, deferred action on the Exhibit A agenda item to further review the issues.
This agenda item will be placed back on the PPB agenda at its 6/19/08 meeting.

Your input/comments on the attached SPO recommendations to the exemption listing may be submitted by June 4th.

Ruth Yamaguchi
State Procurement Office
Ph 808 586-0554

----- Forwarded by Ruth E Yamaguchi/dags on 05/28/2008 09:26 AM -----

Procurement Policy Board/dags
Sent by: Aaron S Fujioka/dags

05/27/2008
05:57 PM

Tothomas.r.keller@courts.state.hi.us, senhanabusa@capitol.hawaii.gov, repsay@capitol.hawaii.gov, haunania@oha.org, patricia_hamamoto@notes.k12.hi.us, mcclain@hawaii.edu, mpwaterhouse@honolulu.gov, wtakaba@co.hawaii.hi.us, kalbert.young@co.maui.hi.us, wrezentes@kauai.gov, bmarshall@honolulu.gov, phoffmann@co.hawaii.hi.us, riki.hokama@mauicounty.us, cokcouncil@kauai.gov, clum@hbws.org, dws@hawaiidws.org, wushigome@kauaiwater.org, tdriskill@hhsc.org, Linda Lingle/Gov/StateHiUS@StateHiUS, ltgov@hawaii.gov, Russ K Saito/dags@dags, Sandra Kunimoto/DOA/StateHiUS@StateHiUS, Mark J Bennett/AG/StateHiUS@StateHiUS, Georgina K Kawamura/DBF/StateHiUS@StateHiUS, Theodore E Liu/DBEDT@DBEDT, bob.lee2@us.army.mil, Micah A Kane/DHHL/StateHiUS@StateHiUS, Chiyome L Fukino/DOH/StateHiUS@StateHiUS, Marie C Laderta/DHRD/StateHiUS@StateHiUS, Lillian B Koller/DHS/StateHiUS@StateHiUS, Kurt K Kawafuchi/TAX/StateHiUS@StateHiUS, Jo Ann Schindler/HSPLS/StateHiUS@StateHiUS, Lawrence M Reifurth/DCCA@DCCA, Clayton A Frank/PSD/StateHiUS@StateHiUS, Darwin Ching/DLIR/StateHiUS@StateHiUS, Laura H Thielen/DLNR/StateHiUS@StateHiUS, Brennon Morioka/ADMIN/HIDOT@HIDOT

ccgil_benevides@co.hawaii.hi.us, cmasuda@co.hawaii.hi.us, ncrawford@co.hawaii.hi.us, greg.king@co.maui.hi.us, janell.m.kim@courts.state.hi.us, ETanihiro@kauaiwater.org, ken.fukuoka@mauicounty.us, roy.hiraga@mauicounty.us, ddegele@hawaiidws.org, duff@hawaii.edu, clyden@oha.org, james_brese@notes.k12.hi.us, Michelle Macias/Gov/StateHiUS@StateHiUS, Mary Ann K Teshima/DHRD/StateHiUS@StateHiUS, Elaine T Abe/DOA/StateHiUS@StateHiUS, Ken Kitamura/DBEDT@DBEDT, Suzanne M Efhan/TAX/StateHiUS@StateHiUS, Sandra L Yahiro/TAX/StateHiUS@StateHiUS, Juliet Kazanjian/DLNR/StateHiUS@StateHiUS, LeNora N Wee/DBF/StateHiUS@StateHiUS, Rex Johnson/HTA/DBEDT@DBEDT, Lloyd Unebasami/HTA/DBEDT@DBEDT, skawamoto@dhs.hawaii.gov, James Pao/DHHL/StateHiUS@StateHiUS, Gerilyn.W.Sakai@hawaii.gov, Patrick S Fukuki/DLIR/StateHiUS@StateHiUS, Patricia T Ohara/AG/StateHiUS@StateHiUS, Cindy S Inouye/DHRD/StateHiUS@StateHiUS, Ruth E Yamaguchi/dags@dags

Subject: Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

To Chief Procurement Officers and Executive Department Heads:

The Procurement Policy Board at its June 19th Meeting will be addressing proposed amendments for HAR Chapter 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D. Part of the review includes a request from a board member to eliminate exemption numbers 1, 3, 5, 7, 9, 10, 14 and 15.

Below is SPO's recommendations. We are seeking your input/comments on the reasons to support or repeal any or all of the exemptions. Please submit your responses to SPO by June 4th so that we may consolidate and summarize the comments prior to the board meeting. Your comments should be emailed to procurement.policy.board@hawaii.gov. If you have any questions please contact me at aaron.fujioka@hawaii.gov or 587-4700 or your staff may contact Ruth Yamaguchi at ruth.yamaguchi@hawaii.gov or 586-0554. Thank you.

Aaron Fujioka

Hawaii Health Systems Corporation

Ruth E Yamaguchi/dags
06/06/2008 01:04 PM

To "Joe Evanoff" <jevanoff@hhsc.org>@STATEHIUS
cc Justin JL Fo/dags@dags, Cheryl S Oho/dags@dags
bcc
Subject RE: Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

Joe -
Confirming receipt of this HHSC email, and will be provided to the Procurement Policy Board

Ruth Yamaguchi
Assistant Administrator
State Procurement Office
Ph 808 586-0554

"Joe Evanoff" <jevanoff@hhsc.org>

"Joe Evanoff" <jevanoff@hhsc.org>
06/04/2008 07:22 PM

To "Joe Evanoff" <jevanoff@hhsc.org>, <ruth.yamaguchi@hawaii.gov>
cc
Subject RE: Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

Sorry Ruth, I would like to add an item that that was accidently delete when I sent my response to you - the additional item is reinserted in red below.

Thank you,
Joe
808-884-5722

From: Joe Evanoff
Sent: Wednesday, June 04, 2008 7:10 PM
To: 'ruth.yamaguchi@hawaii.gov'
Subject: RE: Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

Hi Ruth:
I am responding to the email notification you sent below pertaining to the Procurement Policy Board meeting scheduled for June 19th, with written testimony due today. This email response is our written testimony in support or recommendation of changes to the Procurement Policy Board Annual Review of HAR Chapter 3-120, Exhibit A, Procurements Exempt for HRS Chapter 103D. I already provided my testimony in a previous email dated May 13th but want to add a few more responses as noted below.

Who can attend the Policy Board Meetings? Do you know if insurance brokers will be there?

HHSC Response:

1) HHSC would like to maintain the continuation of the Interpreter Services Exemption [Item #13] for the same reasons as noted by the Dept of Human Services.

2) HHSC would like to retain the Insurance Exemption as previously written.

3) HHSC agrees with the inclusion of new Exemption Item 17 - Subscription Costs and Registration or Workshop Fees for Conferences or Training.

Thanks Ruth and if you need additional information please let me know.

From: ruth.yamaguchi@hawaii.gov [mailto:ruth.yamaguchi@hawaii.gov]
Sent: Wednesday, May 28, 2008 9:51 AM
To: Dawn.Matsumura@hawaii.gov; EKHarada@dbedt.hawaii.gov; Kay.M.Okimoto@dcca.hawaii.gov; tmoriyasu@dod.hawaii.gov; James.Pao@hawaii.gov; Glen.WY.Chock@dcca.hawaii.gov; Patti.K.Kodama@dcca.hawaii.gov; Laureen.K.Wong@dcca.hawaii.gov; Marc.S.Yamamoto@hawaii.gov; barbara.arashiro@hcdch.hawaii.gov; Lynn.S.Naito@hawaii.gov; Wanda.N.Kimura@hawaii.gov; David.T.Moore@hawaii.gov; kerry.k.yoneshige@hawaii.gov; jon@librarieshawaii.org; May.Y.Price@hawaii.gov; edk@imail.librarieshawaii.org; audrey.uto@hawaii.gov; Francis.Keeno@hawaii.gov; Lisa.Dau@hawaii.gov; Cindy.L.Yee@hawaii.gov; Leanne_N._Nakamura%DOHEXCH@hawaii.gov; SKawamoto@dhs.hawaii.gov; Patrick.S.Fukuki@hawaii.gov; Gerilyn.W.Sakai@hawaii.gov; Shelli.Oye@hawaii.gov; Cynthia.Afuso@hawaii.gov; Michelle.Macias@hawaii.gov; Elaine.T.Abe@hawaii.gov; Unebasami@HawaiiTourismAuthority.ORG; MaryAnn.K.Teshima@hawaii.gov; Juliet.Kazanjian@hawaii.gov; Suzanne.M.Efhan@hawaii.gov; emuraoka@kauaigov.com; ErnieK@OHA.org; jonathan.h.wong@courts.state.hi.us; adele@capitol.hawaii.gov; cwong@co.honolulu.hi.us; pnakamura@kauaigov.com; cshimabukuro@hawaiidws.org; cremigio@kauaiwater.org; ken.bissen@co.maui.hi.us; nitta@capitol.hawaii.gov; auditors@auditor.state.hi.us; ethics@hawaiiethics.org; complaints@ombudsman.hawaii.gov; mhiu@honolulu.gov; gil_benevides@co.hawaii.hi.us; wimamura@honolulu.gov; l.johnston@capitol.hawaii.gov; KKanemori@hbws.org; fkakuda@kauaigov.com; gwon@hawaii.edu; Andrell_Beppu/ADMINSVC/HIDOE@notes.k12.hi.us; Tammy_Keller/PROCURE/HIDOE@notes.k12.hi.us; Louise_Yasuda/PROCURE/HIDOE@notes.k12.hi.us; kracuya-markrich@auditor.state.hi.us; ssuzawa@honolulu.gov; ltanaka2@honolulu.gov; Christian Butt; Joe Evanoff
Cc: aaron.fujioka@hawaii.gov
Subject: Fw: Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

Executive Departments and CPO Agencies -

The Procurement Policy Board (PPB), at its 5/15/08 monthly meeting, deferred action on the Exhibit A agenda item to further review the issues.
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Your input/comments on the attached SPO recommendations to the exemption listing may be submitted by June 4th.

Ruth Yamaguchi
State Procurement Office
Ph 808 586-0554

----- Forwarded by Ruth E Yamaguchi/dags on 05/28/2008 09:26 AM -----

Procurement Policy Board/dags
Sent by: Aaron S Fujioka/dags

05/27/2008
05:57 PM

To thomas.r.keller@courts.state.hi.us, senhanabusa@capitol.hawaii.gov, repsay@capitol.hawaii.gov, haunania@oha.org, patricia_hamamoto@notes.k12.hi.us, mcclain@hawaii.edu, mpwaterhouse@honolulu.gov, wtakaba@co.hawaii.hi.us, kalbert.young@co.maui.hi.us, wrezentes@kauai.gov, bmarshall@honolulu.gov, phoffmann@co.hawaii.hi.us, riki.hokama@mauicounty.us, cokcouncil@kauai.gov, clum@hbws.org, dws@hawaiidws.org, wushigome@kauaiwater.org, tdriskill@hhsc.org, Linda Lingle/Gov/StateHiUS@StateHiUS, ltgov@hawaii.gov, Russ K Saito/dags@dags, Sandra Kunimoto/DOA/StateHiUS@StateHiUS, Mark J Bennett/AG/StateHiUS@StateHiUS, Georgina K Kawamura/DBF/StateHiUS@StateHiUS, Theodore E Liu/DBEDT@DBEDT, bob.lee2@us.army.mil, Micah A Kane/DHHL/StateHiUS@StateHiUS, Chiyome L Fukino/DOH/StateHiUS@StateHiUS, Marie C Laderta/DHRD/StateHiUS@StateHiUS, Lillian B Koller/DHS/StateHiUS@StateHiUS, Kurt K Kawafuchi/TAX/StateHiUS@StateHiUS, Jo Ann Schindler/HSPLS/StateHiUS@StateHiUS, Lawrence M Reifurth/DCCA@DCCA, Clayton A Frank/PSD/StateHiUS@StateHiUS, Darwin Ching/DLIR/StateHiUS@StateHiUS, Laura H Thielen/DLNR/StateHiUS@StateHiUS, Brennon Morioka/ADMIN/HIDOT@HIDOT

cc gil_benevides@co.hawaii.hi.us, cmasuda@co.hawaii.hi.us, ncrawford@co.hawaii.hi.us, greg.king@co.maui.hi.us, janell.m.kim@courts.state.hi.us, ETanihiro@kauaiwater.org, ken.fukuoka@mauicounty.us, roy.hiraga@mauicounty.us, ddegele@hawaiidws.org, duff@hawaii.edu, clyden@oha.org, james_brese@notes.k12.hi.us, Michelle Macias/Gov/StateHiUS@StateHiUS, Mary Ann K Teshima/DHRD/StateHiUS@StateHiUS, Elaine T Abe/DOA/StateHiUS@StateHiUS, Ken Kitamura/DBEDT@DBEDT, Suzanne M Efhan/TAX/StateHiUS@StateHiUS, Sandra L Yahiro/TAX/StateHiUS@StateHiUS, Juliet Kazanjian/DLNR/StateHiUS@StateHiUS, LeNora N Wee/DBF/StateHiUS@StateHiUS, Rex Johnson/HTA/DBEDT@DBEDT, Lloyd Unebasami/HTA/DBEDT@DBEDT, skawamoto@dhs.hawaii.gov, James Pao/DHHL/StateHiUS@StateHiUS, Gerilyn.W.Sakai@hawaii.gov, Patrick S Fukuki/DLIR/StateHiUS@StateHiUS, Patricia T Ohara/AG/StateHiUS@StateHiUS, Cindy S Inouye/DHRD/StateHiUS@StateHiUS, Ruth E Yamaguchi/dags@dags

Subject: Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

To Chief Procurement Officers and Executive Department Heads:

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Aaron Fujioka

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Labor and Industrial Relations
State of Hawaii

Gerilyn.W.Sakai@hawaii.gov
06/02/2008 10:43 AM

To procurement.policy.board@hawaii.gov
cc Linda.M.Yen@hawaii.gov
bcc
Subject Re: Fw: Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

The DLIR has no comments or recommendations.

Mahalo!

Gerilyn W. Sakai
Secretary to the Business Management Officer
Department of Labor and Industrial Relations
Administrative Services Offices
830 Punchbowl Street, Room 309
Honolulu, HI 96813
Phone: (808) 586-8888
Fax: (808) 586-8899
E-Mail: gerilyn.w.sakai@hawaii.gov

----- Forwarded by Patrick S Fukuki/DLIR/StateHiUS on 05/27/2008 07:41 PM -----

Procurement Policy Board/dags@DAGS
Sent by: Aaron S Fujioka/dags@DAGS

05/27/2008
05:58 PM

To thomas.r.keller@courts.state.hi.us, senhanabusa@capitol.hawaii.gov, repsay@capitol.hawaii.gov, haunania@oha.org, patricia_hamamoto@notes.k12.hi.us, mcclain@hawaii.edu, mpwaterhouse@honolulu.gov, wtakaba@co.hawaii.hi.us, kalbert.young@co.maui.hi.us, wrezentes@kauai.gov, bmarshall@honolulu.gov, phoffmann@co.hawaii.hi.us, riki.hokama@mauicounty.us, cokcouncil@kauai.gov, clum@hbws.org, dws@hawaiidws.org, wushigome@kauaiwater.org, tdriskill@hhsc.org, Linda Lingle/Gov/StateHiUS@StateHiUS, ltgov@hawaii.gov, Russ K Saito/dags@dags, Sandra Kunimoto/DOA/StateHiUS@StateHiUS, Mark J Bennett/AG/StateHiUS@StateHiUS, Georgina K Kawamura/DBF/StateHiUS@StateHiUS, Theodore E Liu/DBEDT@DBEDT, bob.lee2@us.army.mil, Micah A Kane/DHHL/StateHiUS@StateHiUS, Chiyome L Fukino/DOH/StateHiUS@StateHiUS, Marie C Laderta/DHRD/StateHiUS@StateHiUS, Lillian B Koller/DHS/StateHiUS@StateHiUS, Kurt K Kawafuchi/TAX/StateHiUS@StateHiUS, Jo Ann Schindler/HSPLS/StateHiUS@StateHiUS, Lawrence M Reifurth/DCCA@DCCA, Clayton A Frank/PSD/StateHiUS@StateHiUS, Darwin Ching/DLIR/StateHiUS@StateHiUS, Laura H Thielen/DLNR/StateHiUS@StateHiUS, Brennon Morioka/ADMIN/HIDOT@HIDOT

cc gil_benevides@co.hawaii.hi.us, cmasuda@co.hawaii.hi.us, ncrawford@co.hawaii.hi.us, greg.king@co.maui.hi.us, janell.m.kim@courts.state.hi.us, ETanihiro@kauaiwater.org, ken.fukuoka@mauicounty.us, roy.hiraga@mauicounty.us, ddegele@hawaiidws.org, duff@hawaii.edu, clyden@oha.org, james_brese@notes.k12.hi.us, Michelle Macias/Gov/StateHiUS@StateHiUS, Mary Ann K Teshima/DHRD/StateHiUS@StateHiUS, Elaine T Abe/DOA/StateHiUS@StateHiUS, Ken Kitamura/DBEDT@DBEDT, Suzanne M Efhan/TAX/StateHiUS@StateHiUS, Sandra L Yahiro/TAX/StateHiUS@StateHiUS, Juliet Kazanjian/DLNR/StateHiUS@StateHiUS, LeNora N Wee/DBF/StateHiUS@StateHiUS, Rex Johnson/HTA/DBEDT@DBEDT, Lloyd Unebasami/HTA/DBEDT@DBEDT, skawamoto@dhs.hawaii.gov, James Pao/DHHL/StateHiUS@StateHiUS, Gerilyn.W.Sakai@hawaii.gov, Patrick S Fukuki/DLIR/StateHiUS@StateHiUS, Patricia T Ohara/AG/StateHiUS@StateHiUS, Cindy S Inouye/DHRD/StateHiUS@StateHiUS, Ruth E Yamaguchi/dags@dags

Subject Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

To Chief Procurement Officers and Executive Department Heads:

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Aaron Fujioka

SUMMARY OF 103D EXEMPTIONS 05-27-08.doc

Land and Natural Resources
State of Hawaii

DEPARTMENT OF LAND AND NATURAL RESOURCES

TESTIMONY IN SUPPORT OF CONTINUATION OF PROCUREMENT EXEMPTIONS FROM *CHAPTER 3-120, HAWAII ADMINISTRATIVE RULES, "EXHIBIT A," PROCUREMENTS EXEMPT FROM CHAPTER 103D, HRS*

DLNR strongly supports the continuation of the existing procurement exemptions that are used to facilitate the procurement of certain activities. Listed below are additional comments regarding Exemptions 1, 3 and 10:

Commission on Water Resource Management

Procurement Exemption 1: Research, reference, and educational materials including books, maps, periodicals, and pamphlets, which are published or available in print, video, audio, magnetic, or electronic form, including web-based databases.

Justification of exemption: It is crucial that the Commission on Water Resource Management maintains the highest quality of water resource research, effective information dissemination, and efficient database standards in order to provide the best available information to the public and to make informed decisions on critical water management issues. As a result, the Commission may require the procurement of specific research, reference, or educational materials that are highly specialized in the hydrological and hydrogeological sciences. Some materials may also be specific to Hawaiian hydrologic conditions. In addition, the Commission may target certain audiences with specific water-related messages (e.g., drought planning, water conservation, etc.). It is vital that the Commission retains the option of choosing the materials that best fit its needs, regardless of vendor.

Procurement Exemption 3: Services of lecturers, speakers, trainers, and scriptwriters; ***when the individuals possess specialized training methods that although are not a sole source, procurement by competitive means is either not practicable or not advantageous to the State.***

Justification of exemption, with added language in bold font: The Commission has specialized needs, often related to hydrology, which sometimes can only be met by a single individual. It is essential for the Commission to have the freedom to select lecturers, speakers, trainers, and scriptwriters who have the requisite hydrology-related knowledge and expertise.

Procurement Exemption 10: Facility costs for conferences, meetings, and training sessions.

Justification of exemption: The Commission staff conducts public information meetings and other sessions targeting a specific community. The Commission has an obligation to the public to conduct such meetings in a location within easy access of the target community. In rural areas, options for facilities may be extremely limited, yet is imperative to utilize a local facility in order to foster community involvement.

Division of Aquatic Resources

The Division of Aquatic Resources uses/has used all of the above three exemptions in conjunction with its marine and freshwater work, when they have held conferences/meetings, etc., and will want to continue to be able to use them in the future.

Procurement Exemption 3: Services of lecturers, speakers, trainers, and scriptwriters

It is requested that the word "facilitators" be included, to read "...trainers, facilitators, and script writers..."

Procurement Exemption 10: Facility costs for conferences, meetings, and training sessions.

Because the Division has encountered problems paying for break-out rooms in the past, a possible suggestion would be to add wording to cover break-out rooms; e.g., to read "Facility costs, including break-out rooms, for conferences..." or "All facility costs needed for conferences..." (so that these rooms would be covered).

Public Safety
State of Hawaii

Ruth E Yamaguchi/dags
06/02/2008 07:35 AM

To Marc S Yamamoto/PSD/StateHiUS@STATEHIUS
cc Justin JL Fo/dags@dags, Cheryl S Oho/dags@dags
bcc
Subject Re: Fw: Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

Marc -
Thank you for your comments.
All comments will be compiled and provided to the PPB at its next scheduled meeting.

Ruth

Marc S Yamamoto/PSD/StateHiUS@STATEHIUS

Marc S Yamamoto/PSD/StateHiUS@STATEHIUS
05/28/2008 11:21 AM

To Ruth E Yamaguchi/dags@DAGS
cc May.Y.Price@hawaii.gov, David.F.Festerling@hawaii.gov, May I Andrade/PSD/StateHiUS@StateHiUS, Clayton A Frank/PSD/StateHiUS@StateHiUS
Subject Re: Fw: Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

Ruth,

While PSD supports the recommendation of SPO for exemption number 3, we wish to have alternative wording to have as one of the criteria in addition to presentation style, expertise in the subject matter or is expertise in the subject matter understood as an underlying qualifier for a trainer, lecturer, etc.?

Marc S. Yamamoto
State of Hawaii
Department of Public Safety
Administrative Services Office - Purchasing and Contracts
919 Ala Moana Boulevard, Room 413
Honolulu, Hawaii 96814

Telephone: (808) 587-1215
Facsimile: (808) 587-1244
e-mail: marc.s.yamamoto@hawaii.gov
Ruth E Yamaguchi/dags@DAGS

Ruth E Yamaguchi/dags@DAGS
05/28/2008 09:51 AM

To Dawn E Matsumura/LtGov/StateHiUS@StateHiUS, Eileen Harada/DBEDT@DBEDT, Kay M Okimoto/DCCA@DCCA, tmoriyasu@dod.hawaii.gov, James Pao/DHHL/StateHiUS@StateHiUS, Glen WY Chock/DCCA@DCCA, Patti K Kodama/DCCA@DCCA, Laureen K Wong/DCCA@DCCA, Marc S Yamamoto/PSD/StateHiUS@StateHiUS, Barbara E Arashiro/DHS/StateHiUS@hcdch, Lynn S

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cc Aaron S Fujioka/dags@dags

Subject Fw: Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

Executive Departments and CPO Agencies -

The Procurement Policy Board (PPB), at its 5/15/08 monthly meeting, deferred action on the Exhibit A agenda item to further review the issues.
This agenda item will be placed back on the PPB agenda at its 6/19/08 meeting.

Your input/comments on the attached SPO recommendations to the exemption listing may be submitted by June 4th.

Ruth Yamaguchi
State Procurement Office
Ph 808 586-0554

----- Forwarded by Ruth E Yamaguchi/dags on 05/28/2008 09:26 AM -----

Procurement Policy Board/dags
Sent by: Aaron S Fujioka/dags

05/27/2008 05:57 PM

To thomas.r.keller@courts.state.hi.us, senhanabusa@capitol.hawaii.gov, repsay@capitol.hawaii.gov, haunania@oha.org, patricia_hamamoto@notes.k12.hi.us, mcclain@hawaii.edu, mpwaterhouse@honolulu.gov, wtakaba@co.hawaii.hi.us, kalbert.young@co.maui.hi.us, wrezentes@kauai.gov, bmarshall@honolulu.gov, phoffmann@co.hawaii.hi.us, riki.hokama@mauicounty.us, cokcouncil@kauai.gov, clum@hbws.org, dws@hawaiidws.org, wushigome@kauaiwater.org, tdriskill@hhsc.org, Linda Lingle/Gov/StateHiUS@StateHiUS, ltgov@hawaii.gov, Russ K Saito/dags@dags, Sandra Kunimoto/DOA/StateHiUS@StateHiUS, Mark J Bennett/AG/StateHiUS@StateHiUS, Georgina K Kawamura/DBF/StateHiUS@StateHiUS, Theodore E Liu/DBEDT@DBEDT, bob.lee2@us.army.mil, Micah A Kane/DHHL/StateHiUS@StateHiUS, Chiyome L Fukino/DOH/StateHiUS@StateHiUS, Marie C Laderta/DHRD/StateHiUS@StateHiUS, Lillian B Koller/DHS/StateHiUS@StateHiUS, Kurt K Kawafuchi/TAX/StateHiUS@StateHiUS, Jo Ann Schindler/HSPLS/StateHiUS@StateHiUS, Lawrence M Reifurth/DCCA@DCCA, Clayton A Frank/PSD/StateHiUS@StateHiUS, Darwin Ching/DLIR/StateHiUS@StateHiUS, Laura H Thielen/DLNR/StateHiUS@StateHiUS, Brennon Morioka/ADMIN/HIDOT@HIDOT

cc gil_benevides@co.hawaii.hi.us, cmasuda@co.hawaii.hi.us, ncrawford@co.hawaii.hi.us, greg.king@co.maui.hi.us, janell.m.kim@courts.state.hi.us, ETanihiro@kauaiwater.org, ken.fukuoka@mauicounty.us, roy.hiraga@mauicounty.us, ddegele@hawaiidws.org, duff@hawaii.edu, clyden@oha.org, james_brese@notes.k12.hi.us, Michelle Macias/Gov/StateHiUS@StateHiUS, Mary Ann K Teshima/DHRD/StateHiUS@StateHiUS, Elaine T Abe/DOA/StateHiUS@StateHiUS, Ken Kitamura/DBEDT@DBEDT, Suzanne M Efhan/TAX/StateHiUS@StateHiUS, Sandra L Yahiro/TAX/StateHiUS@StateHiUS, Juliet Kazanjian/DLNR/StateHiUS@StateHiUS, LeNora N Wee/DBF/StateHiUS@StateHiUS, Rex Johnson/HTA/DBEDT@DBEDT, Lloyd Unebasami/HTA/DBEDT@DBEDT, skawamoto@dhs.hawaii.gov, James Pao/DHHL/StateHiUS@StateHiUS, Gerilyn.W.Sakai@hawaii.gov, Patrick S Fukuki/DLIR/StateHiUS@StateHiUS, Patricia T Ohara/AG/StateHiUS@StateHiUS, Cindy S Inouye/DHRD/StateHiUS@StateHiUS, Ruth E Yamaguchi/dags@dags

Subject Proposed Amendments for HAR 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D

To Chief Procurement Officers and Executive Department Heads:

The Procurement Policy Board at its June 19th Meeting will be addressing proposed amendments for

HAR Chapter 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D. Part of the review includes a request from a board member to eliminate exemption numbers 1, 3, 5, 7, 9, 10, 14 and 15.

Below is SPO's recommendations. We are seeking your input/comments on the reasons to support or repeal any or all of the exemptions. Please submit your responses to SPO by June 4th so that we may consolidate and summarize the comments prior to the board meeting. Your comments should be emailed to procurement.policy.board@hawaii.gov. If you have any questions please contact me at aaron.fujioka@hawaii.gov or 587-4700 or your staff may contact Ruth Yamaguchi at ruth.yamaguchi@hawaii.gov or 586-0554. Thank you.

Aaron Fujioka

SUMMARY OF 103D EXEMPTIONS 05-27-08.doc

Transportation
State of Hawaii

LINDA LINGLE
GOVERNOR

BRENNON T. MORIOKA
DIRECTOR

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

DEP-S 08.030

May 28, 2008

Mr. Gregory King
Chairperson
Procurement Policy Board
c/o Department of Accounting & General Services
P.O. Box 119
Honolulu, HI 96810

Re: PPB Member Darryl Bardusch's Request to Eliminate Certain Exemptions

Dear Chairperson King:

We understand that at the May 15, 2008 Procurement Policy Board meeting, member Darryl Bardusch made a request to eliminate eight (8) existing Procurement Exemptions. He requested that Exemption Nos. 1, 3, 5, 7, 9, 10, 14, and 15 from HAR Chapter 3-120, be eliminated. The Department of Transportation hereby respectfully submits this testimony in response to Mr. Bardusch's request.

The Department of Transportation has no comments to the elimination of Exemption Nos. 5, 7, 9, and 15.

However, the Department of Transportation has strong objections to the elimination of Exemption Nos. 1, 3, 10, and 14.

Exemption No. 1. The Department uses this Exemption to get trade periodicals, and training and testing materials for all the various functions of the Department. For example, the Department uses this Exemption to purchase materials from MUTCO, ASTM, and AASHTO Geometric Design. It should be noted that the SPO is recommending the continuation of this Exemption.

Exemption No. 3. The Department uses this Exemption to secure speakers, trainers, and lecturers. Selection is made based on the subject matter and the experience of the speaker. It should be noted that the SPO is recommending the continuation of this Exemption.

Exemption No. 10. The Department uses this Exemption to secure conference rooms for the various conferences that the Department hosts. This Exemption is usually used in conjunction with Exemption No. 3. It should be noted that the SPO is recommending the continuation of this Exemption.

Exemption No. 14. The Department uses this Exemption quite frequently. Many times the dismantling of equipment is necessary in order to assess the problem. This is especially true for our heavy and specialized equipment. It should be noted that the SPO is recommending the continuation of this Exemption.

Thank you for the opportunity to submit our testimony on this very important matter. We hope we can count on your support and favorable consideration.

Very truly yours,

Francis Paul Keeno

Francis Paul Keeno
Deputy Director

c: Russ Saito
Comptroller
Aaron Fujioka
State Procurement Officer

Office of Procurement and Real Property Management
University of Hawaii

Gwen Won
<gwon@hawaii.edu>
06/03/2008 04:25 PM

To procurement.policy.board@hawaii.gov
cc Duff Zwald <duff@hawaii.edu>, Gwen Won <gwon@hawaii.edu>
bcc
Subject Procurements Exempt from Chapter 103D, HRS

History: This message has been forwarded.

This is in response to Aaron Fujioka's e-mail of May 28, 2008, requesting input/comments on proposed amendments to HAR Chapter 3-120, Exhibit A, Procurements Exempt from HRS Chapter 103D. The University of Hawaii's comments are as shown in blue on the attached documents.

If you have any questions, please contact Gwen Won at 956-8687 or gwon@hawaii.edu.

Thank you,

Gwen Won
Associate Director
Office of Procurement and Real Property Management
University of Hawaii
1400 Lower Campus Road, Room 15
Honolulu, Hawaii 96822
Tel: (808) 956-8687
Fax: (808) 956-2093

gwon@hawaii.edu SUMMARY OF 103D EXEMPTIONS 05-27-081.doc 103D Exemptions 6-19-08 UH Comments.doc

UNIVERSITY OF HAWAII COMMENTS
PROPOSED AMENDMENTS TO HAR 3-120, EXHIBIT A, PROCUREMENTS EXEMPT FROM CHAPTER 103D,HRS

6. Insurance [~~to include insurance broker services~~] to include insurance broker services;

(As a research and educational institution, the University of Hawaii is composed of the University of Hawaii at Manoa, and Hilo, West Oahu College and seven community colleges over four islands. The unique geographic and cultural advantages of the University of Hawai'i System foster expertise in a wide range of fields in the arts, humanities, sciences and professions. From accounting to zoology, professional development to vocational training, individualized programs empower all students, both young and adult, to achieve their educational goals. Because of this wide range of research and educational opportunities, the exposure of the University system is many and diverse.

We have purchased student professional liability coverages (using student funds) for nursing, dental, EMT, psychology, and social work students from various insurance agencies, insurance companies, and professional organizations. The selection of source is based on what provides the best coverage for the student and the university at a reasonable price to the student.

On occasion, we have been instructed to purchase coverage from a specific source. For example, traveling art exhibits have required the University to purchase coverage from a specific carrier who insures the traveling exhibit.

Also, for our employees that work on certain federal grants overseas, we are required to purchase workers compensation coverage through a brokerage specified by the granting agency.

In the past, we have issued RFQ's to purchase medical malpractice coverage for the John A. Burns School of Medicine and D&O, EPL and EL coverage for the university system. Based on the existing exemption, we were able to acquire coverage from insurance companies, through insurance brokers, and professional organizations. The university feels that the

exemption as presently stated is adequate to meet the needs of openness and transparency. We have the option of obtaining RFQ's for brokers or obtaining coverage at a reasonable price for our various and many coverage needs. It allows the agencies to meet the needs of their clients in a timely manner and allows for last minute or emergency circumstances. It avoids the "frustration of business."

Based on past experience, we feel that one broker cannot fulfill all our coverage requirements. If the exemption is removed, the University will be dealing with only one broker, who may not be able to provide all coverages we require. This will require the University to obtain an exemption to the procurement procedures resulting in the University unable to obtain coverage in a timely manner.

In summary, the exemption as presently construed provides flexibility to meet the needs of the department as well as meeting the needs of openness and transparency.)

9. Food and fodder for animals;

(For research purposes, the University maintains various animals, e.g., dairy cows, sheep, mice, rabbits, rats, hamsters, monkeys, etc., on its farms and in its laboratories, and must purchase food and fodder for these animals.

For University farm animals, animal feed is primarily an animal welfare issue. Animals must have feed at all times, and flexibility is needed to adjust in a timely manner to animal needs in terms of either quantity or quality of feed. Examples might be having to dispose of and immediately replace moldy feed, or needing a medicated feed in response to a disease outbreak.

Animal feed is a perishable product with a limited shelf life. In Hawaii, a maximum shelf life of 4 weeks is a reasonable estimate unless air conditioned storage is available [Air conditioned feed storage buildings are not available on the farms where livestock research is conducted.] This limited shelf life limits the size of batches that can be purchased.

From the time an order is placed, it takes at least 2 weeks to mill and ship animal feed from the mainland. If there is only 4 weeks of feed on hand, any delay in the ordering process can have severe animal welfare consequences.

Flexibility is needed to develop special feed for research purposes, by mixing special ingredients either on the farm or at the mill on the mainland. Animals are very sensitive to changes in feed composition and palatability. Feed changes can severely compromise on-going research trials.

The best feed is not the lowest cost feed, but the feed that provides the best animal performance per feed dollar. Performance cannot be predicted based on lists of ingredients and nutrient analyses alone, because less well understood factors such as palatability can play an important role. The best feed can ultimately be determined only by animal performance trials with the available feeds. Because feed trials are time-consuming and take resources away from research and instruction, it is not practical to repeat them on a regular basis. The most cost effective solution is to develop a list of feeds/feed companies that provide satisfactory performance and to limit purchases to those companies.

For laboratory animals, the University is required to feed palatable, non-contaminated and nutritionally adequate food to its research animals in accordance with "The Guide for the Care and Use of Laboratory Animals [The Guide]". The University must keep its feed source for laboratory animals standardized to reduce any variability that may adversely affect research. We must have a reliable source of laboratory diets that have specific dietary compositions designed for rodents in various physiologic states, as well as monkeys.

For the above reasons, the University must continue to have the flexibility allowed by the exemption to acquire the required animal feed for its farm and laboratory animals.)

16. Radio and television airtime and advertising space in print and other media when selection ~~of station~~ is [~~to be made~~] by [~~current~~] the targeted audience [~~demographics~~] (i.e. ethnic or age group, gender, etc)[~~.~~]; and

(Some examples of the print and other media in which the University has advertised include Pacific Business News, national magazines with special university/college editions, and movie screen advertising.)

SUMMARY
PROCUREMENTS EXEMPT FROM CHAPTER 103D, HRS
HAR §3-120-4

No.	EXEMPTION	JUSTIFICATION	SPO RECOMMENDATION	COMMENTS RECEIVED 5/15/08 PPB Meeting
1	Research, reference, and "educational materials" including books, maps, periodicals, and pamphlets, which are published "or available" in print, video, audio, magnetic, or electronic form, "including web-based databases".	Requested by the Dept. of Education, Hawaii State Public Libraries Systems, University of Hawaii, and Dept. of Public Safety Flexibility is essential to facilitate innovativeness or matching of teaching material to the environment and people involved; to get the latest books and related materials to the public in the best possible manner. Publishing companies as an industry norm do not sell to jobbers for resale. A similar exemption in HRS §103D-102(b) (4)(C) lacks sufficient coverage; this HAR exemption is more inclusive (added "educational materials" and "web-based databases").	This exemption is supported by law, and provides clarity with the added language. Recommend the continuation of this exemption.	B&F, EUTF – support of SPO recommendations DOE–support of SPO recommendations DOH,HHSC – support of SPO recommendations C&C of Honolulu –retain exemption UH – retain exemption
2	Services of printers, rating agencies, support "facility providers", fiscal and paying agents, and registrars for the issuance and sale of the State's or counties' bonds.	Requested by the Dept. of Budget and Finance. The nature of the types of procurements and time constraints involved, prevent agencies from using the competitive process. When the approval to issue a bond is received, the services of agents, rating agencies, printers, etc. need to be expedited to get the bond out on the market. A similar exemption in HRS §103D-102(b)(4)(I), refers to "support facilities". The definition of a "support facility" is an irrevocable letter of credit, surety bond or agreement issued by one or more support facility providers. The definition of "support facility provider" is a bank, trust company, banking association, etc. The exemption in HAR has the correct language.	This exemption is supported by law, and provides clarity with the added language. Recommend the continuation of this exemption.	
3	Services of lecturers, speakers, trainers, and script writers; **when the individuals possess specialized training methods that although are not a sole source, procurement by competitive means is either not practicable or not advantageous to the**	Competition is not feasible due to the numerous unique methods of training, speaking, and writing styles of individuals and the skills and intangibles of individuals that cannot be quantified. The amended wording is necessary because some types of training services are competitive. As an example, the State Procurement Office competitively solicits computer training services.	Recommend the continuation of the exemption, with the added language to restrict training services that are competitive.	Public Safety – support of SPO recommendations DOH,HHSC – support of SPO recommendations DHRD – support of SPO recommendations, with alternate wording C&C of Honolulu –retain exemption

No.	EXEMPTION	JUSTIFICATION	SPO RECOMMENDATION	COMMENTS RECEIVED 5/15/08 PPB Meeting
	State.			UH – retain exemption
4	Services of legal counsel, guardian ad litem, psychiatrists, [~~and~~] psychologists, **receivers and masters** when required by court order[~~, or by the Rules of Court in the case of interpreters, in criminal and civil proceedings~~].	Requested by the Judiciary and Dept. of Commerce and Consumer Affairs (DCCA). The DCCA requested the addition of receivers and masters when appointed by the court. Receivers and masters generally are required to conduct reviews, operate businesses, etc. and report directly to the court. The DCCA also recommended the deletion of "interpreters" since they are already covered by exemption item no. 13. The computation rates for these services are fixed by law, judicial rule, or operational policy, which render the requirement for price comparisons moot. The circumstances regarding such proceedings also make it impracticable and unreasonable to comply with HRS chapter 103D.	Recommend the continuation of the exemption with the proposed amendments.	
5	Fresh meats and produce.	Requested by the Dept. of Education and University of Hawaii. The highly perishable nature of fresh meat and produce, and unstable and frequent fluctuations in their pricing necessitate this exemption. The volatile nature of the industry, unexpected requirements, and frequent fluctuations in pricing for fresh meats and produce is not practicable or not advantageous to compete these requirements. The school food service programs often times must determine what to purchase or select menus based on what's available, the quality, unexpected requirements and best pricing at the markets or food distributors. To require firm pricing for fresh meats and produce for any extended period presents an unfair situation for the agencies and vendors.	Recommend the continuation of this exemption.	DOE–support of SPO recommendations DOH,HHSC – support of SPO recommendations C&C of Honolulu –retain exemption UH – retain exemption
6	Insurance [~~to include insurance broker services~~].	Low price alone cannot be used for the selection of an insurance provider and many preferred providers or insurance companies will not respond to competitive solicitations. However, the SPO recommends the deletion of insurance broker services as this service is competitive. The SPO and DAGS Risk Management conducted an RFP for insurance broker services that was determined to be successful. On a case-by-case basis, if an agency believes it is impractical for them to solicit insurance broker services, they may submit an exemption request to the CPO.	Recommend the continuation of the exemption, with the deletion of insurance broker services.	B&F, EUTF – support of SPO recommendations Hawaii County, Risk Mgt UH – see attached comments

No.	EXEMPTION	JUSTIFICATION	SPO RECOMMENDATION	COMMENTS RECEIVED 5/15/08 PPB Meeting
7	[~~Animals~~] **Rare or exotic animals** and plants, **and animals and plants for research purposes**.	Requested by the City and County of Honolulu and University of Hawaii. Competition is not feasible due to the unique nature, quality, visual appearance, or health of one animal or plant from another. As an example, specifications and pricing cannot determine the selection of all animals and plants. Many times, as in the case of zoo animals or rare plants, the availability may be in short supply or with short notice. However, the SPO recommends the amendment on restrictions because unless the animals and plants are rare or exotic such as zoo animals or are needed for research purposes, most other animals and plants may be subject to competition.	Recommend the continuation of the exemption, with the amendment to restrict the exemption to only certain animals and plants.	C&C of Honolulu –retain exemption UH – retain exemption
8	New or used items which are advantageous and available on short notice through an auction, bankruptcy, foreclosure, etc.	The exemption is essential for commodities available on short notice or subject to quick sale or acquisition, therefore making the competitive process not feasible.	Recommend the continuation of this exemption.	
9	[~~Food and fodder for animals.~~]	The initial language of this exemption was limited to "Food and fodder for animals in a zoo", and subsequently amended to "Food and fodder for animals" to be more generic. However, these items are competitive. The purchasing agency may seek a CPO exemption if warranted on a case-by-case basis.	Recommend the deletion of this exemption.	Agriculture – retained for dog and cat foods for Animal Quarantine C&C of Honolulu –retain exemption UH – retain exemptions (see attached comments)
10	Facility costs for conferences, meetings, and training sessions.	Agencies have specific requirements such as large meeting and break out rooms for their conferences or meetings. The desired types of facilities and hotels frequently are not available on the required dates for the conferences and meetings, necessitating agencies to negotiate dates, times and costs with any available or potential location.	Recommend the continuation of this exemption.	B&F, EUTF – support of SPO recommendations DOH,HHSC – support of SPO recommendations C&C of Honolulu –retain exemption UH – retain exemption

No.	EXEMPTION	JUSTIFICATION	SPO RECOMMENDATION	COMMENTS RECEIVED 5/15/08 PPB Meeting
11	Advertisements in specialized publications, such as in ethnic or foreign language publications, trade publications, **or** professional publications.	It is not feasible to competitively solicit certain types of advertisements when agencies are required to address or reach a specific audience through a limited source of specialized publications.	Recommend the continuation of this exemption, with the typo clarification.	
12	[~~Professional consultant services as required under Chapter 658, HRS~~] **Arbitrator and mediator services**.	Requested by the Dept. of Agriculture, Dept. of Land and Natural Resources, Dept of Labor and Industrial Relations, and various other State departments. Arbitrators or mediators are periodically required to settle controversies between agencies and the public. HRS Chapter 658 (Arbitration and Awards) provides for a neutral third party to settle differences between parties. Selection of a neutral third party arbitrator or mediator makes the competitive procurement process impractical. HRS Chapter 658 has been repealed and replaced with HRS Chapter 658A (Uniform Arbitration Act) which is basically the same. Rather than changing the reference from Chapter 658 to Chapter 658A, the SPO recommends the exemption be amended to simply refer to arbitrator and mediator services.	Recommend the continuation of the exemption with the proposed amendment.	
13	Interpreter services.	Requested by the University of Hawaii and Dept. of Human Services. When purchasing sign language and oral interpreter services, the UH must abide by the Hawaii State Coordinating Council of Deafness Administrative Rules, Chapter 11-218, which requires the UH to hire a hearing impaired person's preferred interpreter when possible or use the interpreter determined by the Hawaii Services on Deafness- the only interpreter referral agency in the State. The Dept. of Human Services requires this exemption for hiring a vision impaired, hearing impaired, or non-English speaking person's preferred interpreter.	Recommend the continuation of this exemption.	
14	Procurement of repair services when dismantling is required to assess the extent of [illegible]	Requested by the City and County of Honolulu, Dept. of Transportation, Dept. of Public Safety, and various other State departments. Competitive procurement of repair services is impractical when the item is required to be disassembled to determine the extent of the work required. An	Recommend the continuation of this exemption.	DOH,HHSC – support of SPO recommendations C&C of Honolulu –retain exemption

No.	EXEMPTION	JUSTIFICATION	SPO RECOMMENDATION	COMMENTS RECEIVED 5/15/08 PPB Meeting
	repairs.	example is the repair of vehicles where the problem or extent of the repairs is not known until the vehicle has been disassembled. It is not practical or reasonable to require agencies to ask repair shops to disassemble and reassemble vehicles to obtain repair pricing.		exemption UH –retain exemption
15	Burial services consisting of mortuary, crematory, cemetery, and other essential services for deceased indigent persons or unclaimed corpses.	Requested by Dept. of Human Services. Pursuant to HRS Section 346-15, the Department of Human Services may pay for the burial costs of deceased medical or financial assistance recipients or unclaimed corpses to any licensed provider of mortuary and crematory services, with a maximum limit of $400. The law further specifies that when the decedent is survived by relatives, the relatives shall also be permitted to make their own arrangements for the burial or cremation of their deceased relative.	Recommend the continuation of this exemption.	DOH,HHSC – support of SPO recommendations C&C of Honolulu –retain exemption DHS – supports continuation of this exemption
16	Radio and television airtime when selection of station is [~~to be made~~] by [~~current~~] **the targeted** audience [~~demographics~~] **(i.e. ethnic or age group, gender, etc**.	Requested by the Dept. of Transportation, Dept. of Health, and City and County of Honolulu. It is not practical to competitively procure certain types of radio or television airtime. Factors such as type, size of listening audience, or programming time to reach a targeted audience may make competitive procurement impractical. Because the meaning of audience demographics is not clear, the SPO proposes the amendment to provide examples of a targeted audience (i.e. ethnic or age group, gender, etc.).	Recommend the continuation of the exemption with the proposed amendment.	UH – retain exemption (see attached comments)
17	**Subscription costs and registration or workshop fees for conferences or training.**	Particular subscriptions, conferences or training workshops are very limited, specialized, and selection is generally determined by the agency's work requirements. For that reason, it is not practical to competitively procure these expenditures.	Recommend the approval of this exemption.	B&F, EUTF – support of SPO recommendations
18	**Court reporter services, when the services are for a particular case or reporting incident.**	Requested by the Attorney General's Office, Dept. of Budget and Finance, and the Public Utilities Commission. HRS Section 606.13.6 prohibits the contracting for private court reporter services unless for a particular case or reporting incident. Court reporters violating this section shall be subject to discipline, censure, suspension or revocation of their license. In any litigation, flexibility is needed to meet the court reporting needs of each particular case. When court reporting services are identified for a 'particular case or reporting incident', unknown factors such as how long each deposition	Recommend the approval of this exemption.	B&F, EUTF – support of SPO recommendations UH – support of exemption

No.	EXEMPTION	JUSTIFICATION	SPO RECOMMENDATION	COMMENTS RECEIVED 5/15/08 PPB Meeting
		will take, location, number of parties involved make it not practicable to define the requirements. The unpredictability of litigation that requires the services of a court reporter may initiate as a small purchase, but escalate to amounts in excess of $25,000 or more. Court reporters provide a unique service. The quality of individual services, as well as the various types of services, varies from reporter to reporter, and from firm to firm. HRS 606-13.6 prohibits entering into contracts of there is no specific case or 'reporting incident', therefore an establish list of court reporter services is not allowable. When a 'particular case or reporting incident' comes up it is impracticable to competitive solicit for services due to lack of time to meet the immediate needs of the agency.		
19	**Referees, umpires, and officials for athletic contests**	**UH - Acquisition of these services cannot be accommodated by any of the source selection methods of the procurement code.**		
20	**Services of manuscript and copy editors, proofreaders, cover and page designers, and typesetters for the publication of scholarly and educational books and journals**	**UH – It is not possible for the University of Hawaii Press to predetermine all of the services that they will require to publish books, journals and catalogs. Each book, journal or catalog has unique requirements and only after a decision is made by the UH Press to publish a book, journal or catalog will they know what services, if any, they will require of a freelance professional or a full-service vendor. In addition, the cost for all of these services cannot be established in advance but must be negotiated on a case-by-case basis depending on the parameters, i.e., length, complexity, time schedule, format, number of illustrations, etc. for each project.**		