

**BOARD OF WATER SUPPLY  
CITY AND COUNTY OF HONOLULU  
REQUEST FOR EXEMPTION FROM  
CHAPTER 103D**

DATE: August 7, 2009

TO: Paul S. Kikuchi  
Chief Financial Officer

VIA: Procurement Office

FROM: Darwin Ching  
Capital Projects – Engineering Construction Branch

RE: Request for Exemption from Chapter 103D to Process a Change Order to the Pacific Heights Water System Improvements, Part I Project, Job No. 09-004 (Pacific Heights Project).

Pursuant to Subchapter 9, Chapter 3-120 of the Hawaii Administrative Rules (HAR), I am recommending that an exemption be granted from the provisions of Chapter 103D, Hawaii Revised Statutes (HRS), to process a change order for the Pacific Heights Project to meet the requirements under the 2009 American Recovery and Reinvestment Act (ARRA).

**Vendor Name & address:** Mira Image Construction  
1414 Dillingham Blvd, Suite 207  
Honolulu, Hawaii 96817

**Amount of the Change Order:** Approximately \$46,000

**Term of the Change Order:** No additional days are anticipated due to this change order.

**Prior exemption contract numbers:** None

**A. Background:**

In January of 2009 the Board of Water Supply (BWS) posted a public solicitation pursuant to Section 103D-302 for the Pacific Heights Project. Sealed bids were received up to February 11, 2009. On March 3, 2009 the BWS awarded a contract for the Pacific Heights Project to Mira Image Construction (Mira Image) as the lowest responsive responsible bidder. The solicitation for the Pacific Heights Project was done prior to the passage of ARRA and therefore did not contain the requirements of Section 1605 of the

ARRA. Section 1605 of the ARRA, in general, requires that none of the appropriated funds may be used for the construction, alternation, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project is produced in the United States (hereinafter referred to as the "Buy American Provision."). The BWS desires to process a change order to comply with the Buy American Provision in order to qualify the Pacific Heights Project to receive ARRA funds.

**B. Describe how procurement by competitive means is neither practicable nor advantageous to the Board of Water Supply and the City and County of Honolulu**

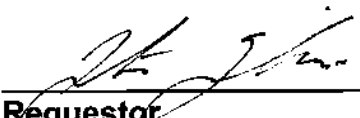
To utilize ARRA funds, time is of the essence to begin construction. The solicitation and award of the Pacific Heights Project contract to Mira Image were conducted in accordance with Section 103D-302, HRS. Allowing a change order to meet the Buy American Provision under ARRA does not provide an unfair advantage to Mira Image. It is in the BWS and public's best interest to take advantage of the ARRA and there is not sufficient time to post another solicitation for the Pacific Heights Project and still qualify for ARRA funds.

**C. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable**


A change order/modification will be processed for the current Pacific Heights Project contract with Mira Image for only the cost difference to comply with the Buy American Provision. At this time the BWS and Mira Image do not anticipate that there will be a need to extend the performance time period due to this change order. All of the terms and conditions of the original contract will apply to this change order.

**Accordingly, I recommend your approval to exempt from the provisions of Chapter 103D, HRS, the processing of a change order to the Pacific Heights Project to meet the Buy American Provisions of ARRA. The application of this exemption will be limited to these facts and circumstances and may not be used as precedence to process change orders for other contracts.**

**I certify that the information provided above is to the best of my knowledge, true, correct.**

  
Requestor

8/7/09  
Date

  
Division Head

8/7/09  
Date

Direct Questions to: Kathryn Kanemori

Phone: (808) 748-5078

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Date of Public Notice posting: August 7, 2009

REVIEWED AS TO PROCUREMENT FORM

  
\_\_\_\_\_  
KATHRYN KANEMORI  
PROCUREMENT & SPECIFICATIONS  
OFFICER

8/7/09  
\_\_\_\_\_  
Date

APPROVED AS TO AVAILABILITY OF FUNDS

  
\_\_\_\_\_  
LEIGH MIYASHIRO  
FINANCE DIVISION

8/7/09  
\_\_\_\_\_  
Date

APPROVED AS RECOMMENDED / NOT APPROVED

  
\_\_\_\_\_  
PAUL S. KIKUCHI  
CHIEF FINANCIAL OFFICER

8/20/09  
\_\_\_\_\_  
Date

**BOARD OF WATER SUPPLY  
CITY AND COUNTY OF HONOLULU**

August 7, 2009  
(Date Notice Posted)

**NOTICE OF REQUEST FOR EXEMPTION FROM  
CHAPTER 103D HAWAII REVISED STATUTES**

The Chief Procurement Officer is reviewing a request for exemption from Chapter 103D, Hawaii Revised Statutes to process a change order for the Pacific Heights Water System Improvements, Part I project, Job No. 09-004.

The award shall be made to:

Name of Vendor: Mira Image Construction  
Address of Vendor: 1414 Dillingham Blvd, Suite 207  
Honolulu, Hawaii 96817  
Cost: Approximately \$46,000  
Term of Contract: No additional days are anticipated due to this change order.

Direct any inquiries to: Kathryn Kanemori  
Address: Board of Water Supply  
Procurement Office  
630 S. Beretania St.  
Honolulu, HI 96843  
Telephone No.: (808) 748-5078  
Fax Telephone No.: (808) 550-9193

Submit written objection(s) to this Notice of Intent to Issue An Exemption from Chapter 103D, HRS within seven (7) calendar days from the date this notice was posted to:

Chief Procurement Officer  
Board of Water Supply  
630 S. Beretania St.  
Honolulu, HI 96843  
Telephone No. (808) 748-5078