

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

TO: Chief Procurement Officer  
FROM: Chief Court Administrator, First Circuit Court

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:  
Purchase chilled water, and related services, for the Air Conditioning Systems at the Circuit Court and District Court Buildings.

2. Vendor/Contractor/Service Provider:  
Honolulu Seawater Air Conditioning LLC 220 South King Street, Suite 1501 Honolulu, Hawaii 96813

3. Amount of Request:  
See attached

4. Term of Contract From: To:  
20 years

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:  
See attached

7. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider:  
See attached

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	email address
Dee Dee Letts	Coordinator, Office of Project Mgmt	538-5990	deedee.d.letts@courts.hawaii.gov

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.

/s/ Dee Dee Letts

9/17/2019

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, 6<sup>th</sup> Floor  
Honolulu, Hawaii 96813-2807

Chief Procurement Officer (CPO) Comments:

Approved

Disapproved

No Action Required

Chief Procurement Officer Signature

Date

3. **Amount of Request:** The estimated cost for the first year of service is approximately \$785,000 per month. This is based on a Capacity Charge Rate (starting at \$80/ton of cooling x 520 tons of capacity) and an Operating Charge Rate (which is the sum of the Non-Energy Operating Charge Rate (\$0.04 x 520 tons of capacity x 350 hours/mth) and the Energy Operating Charge (which is calculated from the tons-hours used x a rate determined from HECO's rates). The above monthly estimated cost should be entirely offset by reductions in currently monthly costs, primarily in electrical costs.

6. **Explain in detail why it is not practicable or not advantageous for the Program/Division to procure by competitive means:** HSWAC LLC has been working on developing a "district cooling system" for more than ten years and has executed contracts with more than 26 buildings (that have a total demand of approximately 9,000 Tons of cooling) to supply "cold water" for their air conditioning systems. HSWAC's system has a total design capacity of 28,000 tons of cooling which could supply most of the downtown office buildings and they are close to being able to begin construction of the necessary improvements. Given how long it has taken HSWAC to get to this point, and the fact that their system will be able to supply most of the downtown buildings with "cold water", it is extremely unlikely that another vendor would be able to develop a separate system, within a reasonable time period, nor is there sufficient demand to make it economically viable for a second vendor to provide similar services.

7. **Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider:** To reduce the Judiciary's consumption of energy (and therefore also reduce Hawaii's dependence on imported oil) alternative ways to obtain cold water to run the air conditioning systems for the two downtown courthouse buildings were researched. A review of public documents, and/or phone conversations with employees of other agencies, determined the following information;

a. In May 2015, DAGS posted a RFP (No. 62-10-0796) to provide a "cooling system" for 11 downtown State owned buildings. The RFP was written very "generically" to allow for the use of a number of options to meet the criteria. Only one proposal (from HSWAC LLC) was received. A Service Agreement was subsequently executed between DAGS and HSWAC LL on October 5, 2018.

b. The University of Hawaii ("UH") executed an agreement with the Board of Water Supply ("BWS") to provide "cold water" for the air conditioning system at the James A. Burns School of Medicine (JABSOM) from deep wells near the shoreline. However after the wells were drilled it was found that the temperature of the water from the deep wells was too high to work for the air conditioning system. Subsequently, in April 2017, the UH filed a Notice of Exemption from Chapter 103D, HRS to purchase "chilled seawater" from HSWAC LLC. A Service Agreement between the UH and HSWAC LLC has also been executed.

c. The U.S. General Services Administration (GSA) executed an agreement with HSWAC LLC to provide cold water for the air conditioning systems at the Federal Complex at 300 Ala Moana Boulevard. It was reported that the agreement was awarded as a utility contract, "where it was considered as a sole source procurement due to the uniqueness of the requirement."

d. The City and County of Honolulu (the "City") is pursuing a "district cooling" system to replace the existing individual air conditioning equipment for their downtown buildings. They filed a Notice & Request for Sole Source in April 2018 requesting approval to purchase "chilled water air conditioning services" from HSWAC LLC. The City is currently in the process of negotiating a Service Agreement with HSWAC LLC.

e. HWSAC LLC has been working for over 10 years to design, permit and implement a "district" cooling system using cold water from the ocean. In addition to DAGS, UH, GSA and the City, HWSAC has executed Service Agreements with 7 other downtown buildings (including Alakea Corporate Tower, Central Pacific

Plaza, Finance Factors, First Hawaiian Center, One Waterfront Towers, Queens Medical Center and Remington College).

f. After reviewing the various processes undertaken by DAGS, UH, GSA and the City it appears clear that HSWAC LLC is the only viable provider of "cold water" that could be used at Circuit and District Court Buildings in downtown Honolulu.

g. We therefore request approval of an exemption from HRS Chapter 103D to pursue using HSWAC LLC as the vendor to provide "cold water" to run the air conditioning systems at the Circuit and District Court Buildings. If approved, we will negotiate directly with HSWAC LLC with the objective of executing a Service Agreement for "goods and services", using the same form as the DAGS agreement.