

UNIVERSITY OF HAWAI'I NOTICE OF EXEMPTION CHAPTER 103D, HRS

The Chief Procurement Officer, University of Hawai'i, is in the process of reviewing the request from University of Hawaii at Manoa, Department of Intercollegiate Athletics (Department/Campus) for exemption from Chapter 103D, HRS, for the following goods and services:
Solicitation of offers and award, and enter into an agreement or agreements with qualified vendors who can help the University of Hawaii at Manoa, Department of Intercollegiate Athletics ("UHMAD") establish and maintain a structure under which UHMAD may make School name, image and likeness ("NIL") payments directly to student athletics.

Vendor/Contractor: To be determined.
(If known)
Address:

Term of Contract: (If known)	From: July 2025	To: June 2030	Cost: \$1,250,000.00 over five years (est.)
----------------------------------------	-----------------	---------------	------------------------------------------------

Direct any inquiries to: Department: University of Hawaii at Manoa, Department of Intercollegiate Athletics Contact Name/Title: Jim Stein, Assistant Athletic Director for Administrative Services Address: 1337 Lower Campus Road Honolulu, Hawaii 96822	Phone Number: (808) 956-4508 Fax Number: (808) 956-4637
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------

Date Posted: April 30, 2025

Submit written objections to this notice to issue an exemption from Chapter 103D, HRS, within seven (7) calendar days from the date posted to:

Office of Procurement Management
1400 Lower Campus Road, Room 15
Honolulu, Hawai'i 96822
email: OPM@hawaii.edu

UNIVERSITY OF HAWAII
REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS

To: Kalbert K. Young, Vice President for Budget & Finance/CFO **Date:** April 15, 2025
Chief Procurement Officer, University of Hawai'i

Via: Office of Procurement Management

From: University of Hawaii at Manoa, Department of Intercollegiate Athletics
(Campus & Department/Program)

Vendor/Contractor: To be determined

Estimated Amount: \$1,250,000 over 5 years (estimated)

Term of Contract, if applicable: July 2025 through June 2030

Pursuant to University Administrative Procedure 8.220, and consistent with Hawaii Revised Statutes §103D-102(b)(4) and Hawaii Administrative Rules Chapter 3-120, the department requests a procurement exemption to purchase the following (attach additional sheets if necessary):

1. Description of the goods or services:

See attached.

2. Explain in detail, why it is not practicable or not advantageous for the University to procure by standard competitive means when multiple sources are available, or by other standard methods of source selection:

See attached.

3. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor:

See attached.

4. Provide a description of the department's internal controls and approval requirements for the exempt procurement:

See attached.

5. Provide a list of department personnel, by position title, who will be involved in the approval process and administration of the contract:

See attached.

6. Direct questions to: Jim Stein Email Address: jsrtein@hawaii.edu

Certification: I certify that the information provided herein is true and correct to the best of my knowledge.

Jim Stein, Asst. AD for Administrative Services
Full Name of Principal Investigator, Department Head, or Administrator

Jim Stein Digitally signed by Jim Stein
Date: 2025.04.23 13:26:09 -10'00'
Signature Date

Tiffany Kuraoka, Asst. AD for Business Op.
Full Name of Fiscal Administrator

Tiffany Kuraoka Digitally signed by Tiffany Kuraoka
Date: 2025.04.24 06:17:46 -10'00'
Signature Date

APPROVED:

Sandy French, Chief Business Officer, UHM
Full Name of Vice President or Chancellor

Alexandra French Digitally signed by Alexandra French
Date: 2025.04.27 16:06:37 -10'00'
Signature Date

FOR OPM USE ONLY

OPM COMMENTS:

APPROVED DENIED

Sarah Allen Digitally signed by Sarah Allen
Date: 2025.05.09 11:26:45 -10'00'
CHIEF PROCUREMENT OFFICER, UNIVERSITY OF HAWAII

05/09/25
DATE

**REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS
REVENUE SHARING AND NAME, IMAGE, AND LIKENESS SOLUTIONS AGREEMENTS
UNIVERSITY OF HAWAII AT MANOA, OFFICE OF INTERCOLLEGIATE ATHLETICS**

1. Description of the goods or services:

Collegiate athletics is expected to experience another seismic shift in how student athletes are compensated for their name, image and likeness (“NIL”). Very soon, a court decision is anticipated to permit universities to make NIL payments directly to the student athletes. This will be a new source of NIL revenues for the student athlete and will supplement and be in addition to the “traditional NIL” payments that the student athlete may receive. The traditional NIL payments occur as a result of transactions involving company or business sponsors, collectives, agents and the student athletes where payments are made to the student athlete directly by the sponsors or the collectives. The collectives are usually legal entities separate from the universities and whose primary purpose is to facilitate traditional NIL agreements directly with the student athletes, often with limited to no involvement by the universities.

With the expected court approval of a nationwide settlement and the subsequent adjustment of the NCAA rules/requirements, universities have been planning to start programs under which the universities would make NIL payments directly to the student athletes in exchange for the right to use the student athlete’s name, image and likeness in connection with the student athlete’s participation in the universities’ athletic programs (“School NIL Program”). These direct NIL payments will supplement and be in addition to the NIL payments the student athlete receives under the traditional NIL agreements (collectively the “School NIL payments”).

For decades under NCAA rules, universities were prohibited from making direct cash payments to student athletes. The allowable form of financial assistance was primarily scholarships. Within the past few years, the NCAA has allowed student athletes to receive NIL payments from businesses and third parties as long as it was not a “pay for play” situation or an incentive to enroll at a specific university. Direct NIL payments to student athletes is a new and unprecedented concept and the University of Hawaii (UH) has no experience and has no employees who have performed any of the services necessary to implement a School NIL Program.

It is critical that a university athletic department or program be prepared to start making these direct School NIL payments to the student athletes at the moment such payments become authorized. The currently anticipated date is July 1, 2025. Universities are anticipating that these School NIL payments will quickly become one of the main factors influencing a student athlete recruit’s decision to attend the university.

The University of Hawai‘i at Mānoa Athletics Department (“UHMAD”) is requesting an exemption from Chapter §103D, Hawai‘i Revised Statutes, to solicit offers and award and enter into an agreement or agreements with qualified vendors who can help UHMAD establish and maintain a structure under which UHMAD may make School NIL payments directly to the student athletes. Such a structure would require the vendor or vendors to provide services to assist UHMAD in developing School NIL Program strategies, managing roster building, performing data and contract management, conducting athlete negotiations, processing student-athlete School NIL payments, providing the necessary forms and documents (such as furnishing IRS tax forms 1099 and 1042) to the student athletes, identifying revenue sources and generating revenue. The selected vendor or vendors are expected to play a pivotal role in developing a comprehensive, scalable, and compliant School NIL Program framework that

enhances student-athlete opportunities, strengthens recruiting efforts, and contributes significantly to the financial sustainability of the athletics program.

Vendors may each apply for one or more of the following solution areas, provided, however that UHMAD prefers to select one vendor who is best able to provide a combination of the following services:

- **Technology and Data Solutions** (e.g., roster management software, data and analytics, University and athlete contract management solution, student-athlete payment mechanism, and reporting infrastructure)
- **Student-Athlete Revenue Sharing Contract Solutions** (e.g., implement streamlined contract generation process utilizing a standardized UHMAD Student-Athlete NIL License Agreement template (“NIL License Agreements”), confirm student athlete eligibility to receive or obtain NIL payments and other consideration, establish integrated electronic workflow system to enable efficient internal University review, approval, and execution of NIL License Agreements and activate and operate a tracking system to manage, assess and evaluate the status of NIL License Agreements, including monitoring progress in performing obligations).
- **People Solutions** (e.g., establish ready access to NIL advisory and support services from qualified vendor staff specializing in NIL and dedicated to UH and UHMAD (collectively “NIL Staff”), with the NIL Staff performing support services such as: (1) providing UHMAD with ongoing strategic consultation and advice on evolving best practices, regulatory shifts and marketplace developments, (2) assisting UHMAD in interfacing with donors of funding and other consideration to UH for purposes of helping UHMAD satisfy UHMAD’s obligations under the NIL License Agreements, as well as interfacing with supportive business interests, collectives or similar organizations seeking to facilitate NIL payments to the student athletes, their agents or third party representatives of the student athletes and the student athletes themselves (such assistance may include conducting discussions or providing support at the direction of UHMAD), (3) assisting with NIL License Agreement negotiations, including tracking the progress, results and outcome of the negotiations and updating UHMAD on the status of the negotiations, (4) monitoring the implementation of the NIL License Agreements, including progress in meeting milestones and satisfying payment and other obligations, (5) confirming the continued eligibility of the student athletes to continue receiving NIL payments under the NIL License Agreement, including evaluating their academic, athletic and student conduct status, (6) handling the windup and termination of NIL License Agreements in the event student athletes are no longer athletically or academically eligible or elect to leave the UHMAD program (e.g., via the transfer portal) and (7) providing user support and training for technology and data solutions used by UHMAD to manage NIL activities and ensuring department personnel have the knowledge to effectively use vendor’s system).
- **Student-Athlete Payment Processing** (e.g., system for processing direct School NIL payments to student-athletes, ensuring compliance with University fiscal policies, fiscal approvals, IRS Form 1099 and 1042 issuance, and security protocols and producing reports confirming the extent to which the School NIL payments and/or other payments under the NIL License Agreements were made to the student athletes).

This exemption will allow UHMAD to identify and contract with the most qualified vendor(s) who can help UHMAD establish, operate and maintain a School NIL Program, including a structure

under which UHMAD may make School NIL payments directly to its student athletes and continue to compete in a constantly evolving NIL and collegiate athletics landscape.

2. Explain in detail, why it is not practicable nor advantageous for the University to procure by standard competitive means when multiple sources are available, or by other standard methods of source selection:

It is neither practicable nor advantageous for UHMAD to procure these services through standard competitive means due to the following reasons:

- **Evolving NIL Landscape.** The NCAA lifted its prohibition on NIL activities effective July 1, 2021, and this change has caused a dramatic transformation within intercollegiate athletics. In less than four years, NIL has grown from a policy shift to a multibillion-dollar ecosystem involving student-athletes, universities, collectives, agents, businesses, attorneys, and third-party service providers. The current NIL landscape includes a wide range of services, such as education, compliance monitoring, marketplace facilitation, legal support, branding, and partnership development, none of which was necessary prior to July 2021. Currently, college athletics is facing an even greater dramatic shift, as evidenced by recent developments in the House v. NCAA settlement, which is anticipated to further reshape the collegiate athletics model, introducing the concept of universities making direct NIL payments to its student-athletes. The regulatory framework around NIL and best practices for providing NIL solutions to serve student-athletes is constantly evolving necessitating a nimble approach.
- **Highly Specialized Services and Multi-Faceted Vendor Capabilities.** NIL service providers are highly specialized due to the unique combination of expertise required across multiple areas, including but not limited to, expertise in NIL trends, legal considerations, financial structuring, student-athlete payment systems, contract facilitation, compliance, and data analytics. These providers must navigate complex and evolving NCAA, federal, and state frameworks while offering tailored solutions that align with institutional strategy and competitive recruiting needs. The multi-layered nature of these services makes it challenging to identify a single vendor through conventional procurement methods, as few possess the comprehensive capabilities needed to address all aspects effectively. The School NIL Program concept for universities which would allow universities to make NIL payments directly to its student athletes has only been discussed and has never been implemented, even on a pilot or test project basis. This was because such a concept was not permitted under the NCAA rules. This concept had been discussed for some time, usually in the context of the student athletes being recognized as employees of the universities. There have been past decisions by the National Labor Relations Board (“NLRB”) that have recognized student athletes right to organize a union and collectively bargain. One of the goals of a union consisting of the student athletes was to collectively bargain the extent to which the universities should share revenues generated by athletic events and operations with the student athletes. Such decisions were either not affirmed on appeal by the national NLRB or became moot because the petition to organize was withdrawn by the petitioners. As a result, universities are not yet being required to recognize or treat its student athletes as employees. While the School NIL Programs do not require universities to recognize or treat their student athletes as employees, the expectation is that there will continue to be movement in that direction. For now, the hope is that the School NIL Program structure will forestall a broader shift toward an employment model, with further optimism that congressional intervention could provide an antitrust exemption to solidify this distinction and preclude employee classification.

- **High Demand for Services Requires Procurement Flexibility.** Consequently, there do not appear to be many vendors who are able to represent that they have extensive experience in implementing the School NIL Program concept. As the School NIL Program concept for student athletes is expected to be approved shortly, university athletic departments across the country are rushing to implement their own version of a School NIL Program. This means there is a tremendous demand right now for services from a limited number of vendors to help implement School NIL Programs. The following pose significant challenges to UHMAD's ability to establish, operate and manage a School NIL Program: (a) a limited number of vendors who may be available to provide the requested services, (b) the tremendous demand for such vendors at this time, likely further reducing the number of available vendors, (c) the high level of specialization required, (d) the lack of real time experience within the industry in implementing School NIL Programs and (e) the urgency to establish a School NIL Program. Given this, UHMAD needs a flexible procurement approach to quickly establish a School NIL Program working with the most qualified and responsive vendors who can best help UHMAD establish, operate and manage a comprehensive School NIL Program that is able to process and monitor direct NIL payments to the student athletes.
- **Competitive Recruiting Environment:** The ability to implement a robust NIL program directly impacts the University's ability to attract and retain top athletic talent. Coaches are actively recruiting prospective student-athletes and having conversations with current student-athletes regarding their participation during the 2025–26 academic year and must be able to communicate clearly and confidently about the University's School NIL Program structure. In this environment, NIL opportunities are often a determining factor in a student-athlete's decision to commit to a program or remain with a program. Universities across the country are already finalizing arrangements for School NIL Program frameworks, many with the support of specialized third-party service providers. To remain competitive, the University must act very quickly to formalize and communicate its School NIL Program model. Any delay in engaging qualified vendors would hinder UHMAD's ability to respond to current/prospective student-athlete inquiries, finalize internal frameworks, obtain additional funding support and other resources and implement the measures and processes necessary to support a comprehensive School NIL Program.

For these reasons, UHMAD requests an exemption to proceed with a direct solicitation process to select and enter into agreements with one or more vendors that offer the resources, expertise and management systems that best align with UHMAD's immediate and long-term NIL strategy, including establishing and operating a School NIL Program.

3. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor:

In light of the urgent and complex needs surrounding the implementation of a competitive School NIL Program, UHMAD will engage in a structured yet expedited vendor selection process to identify and contract with one or more experienced vendors. This process is designed to enable UHMAD to move swiftly while still exercising care, transparency, and alignment with institutional policies.

- **Identification of Qualified Vendors**
Through discussions with a NIL consultant retained by UHMAD and the UHMAD coaches, UHMAD has identified about 5 vendors who appear prequalified, reputable and having some experience in the School NIL Program area.

- **Specification of Department Needs**

The University will provide each vendor with a written scope of services outlining UHMAD's comprehensive School NIL Program needs. This scope of services includes at least the following:

- a) Strategic planning and implementation support.
- b) Roster-building analysis to model equitable and competitive School NIL payments.
- c) Contract lifecycle and document management.
- d) Secure payment distribution and tracking.
- e) Revenue generation consulting and assistance.
- f) Reporting, audit support, and NCAA/state/University compliance compatibility.

Vendors will be asked to submit a proposal detailing their approach, relevant experience, system capabilities, and pricing structures.

- **Committee Evaluation**

To facilitate broad institutional input, a diverse committee will be convened to evaluate the proposals submitted by the vendors.

The committee will include:

- a) Senior athletics administrators with oversight of NIL and fiscal operations.
- b) Coaching staff representatives to provide program-specific insights.
- c) A representative from 'Ahahui Koa Ānuenue to align with booster engagement.
- d) A University of Hawai'i Foundation representative to address institutional fundraising coordination.
- e) A community supporter familiar with local NIL trends, preferably a person who has been involved with a collective that has been supporting UHMAD student athletes.

A consultant with specialized NIL experience will advise the committee and assist with the committee's evaluation of the proposals. Each member of the committee will independently review vendor proposals against the program needs outlined herein. Special consideration will be given to vendors who can offer an all-in-one platform, although the committee will remain open to selecting multiple vendors if necessary to meet the full scope of UHMAD's needs to establish, operate and manage a comprehensive School NIL Program.

The committee may recommend only one vendor if it is determined that such vendor is best qualified and experienced to assist UHMAD in establishing, operating and managing a School NIL Program for the student athletes. The committee may recommend more than one vendor be selected and each such vendor may be recommended to provide only certain specific services as part of or in support of UHMAD's comprehensive School NIL Program.

- **Interviews and Demonstrations**

Top rated vendors may be invited to present virtual or in-person demonstrations of their platforms and processes. This will allow committee members to ask specific questions, explore system flexibility, and assess responsiveness to UHMAD's immediate and long-term needs for the comprehensive School NIL Program.

- **Expedited Contract Negotiation and Execution**

Given the time-sensitive nature of this initiative, UHMAD with the support of the Office of Procurement Management, will initiate prompt contract negotiations with the selected vendor(s).

The goal is to enter into a finalized agreement(s) within a matter of weeks following selection to enable the following:

- a) Coaches have tools to communicate UHMAD's School NIL Program strategy to recruits currently being pursued for the 2025–26 academic year;
- b) School NIL Program systems can be implemented ahead of anticipated policy shifts; and
- c) The University remains competitive with peer institutions who are already implementing their School NIL Programs.

The University may solicit contracts with more than one vendor to implement UHMAD's School NIL Program.

4. Provide a description of the department's internal controls and approval requirements for the exempt procurement:

UHMAD's internal controls for this request for exemption include the following:

- A) Proposal Review and Evaluation. All proposals will be thoroughly reviewed and evaluated based on the criteria outlined above.
- B) Documentation. All stages of the procurement process will be documented.
- C) Agreement Review. The proposed agreement(s) for the selected NIL service vendor(s) will be reviewed by the Office of Procurement Management, in consultation with the University General Counsel's Office.
- D) Payment Approvals. the Assistant Athletics Director for Business Operations or fiscal office designee, will review and approve all payments to the service vendor and/or student-athletes.

5. Provide a list of department personnel, by position title, who will be involved in the approval process and administration of the contract.

Lois Manin, Acting Athletics Director
Vince Baldemor, Associate Athletics Director, External Operations
Tiffany Kuraoka, Assistant Athletics Director for Business Operations
Jim Stein, Assistant Athletics Director for Administrative Services

Office of Procurement Management.