

## UNIVERSITY OF HAWAII NOTICE OF EXEMPTION CHAPTER 103D, HRS

The President, University of Hawaii, is in the process of reviewing the request from  
Office of the President, University of Hawaii (Department/Campus)  
for exemption from Chapter 103D, HRS, for the following goods and services:  
Services for archaeological and cultural consulting services. This is a modification to an existing contract for an unresolved burial disturbance at Cape Kumukahi, Hawai'i Island, TMK (3) 1-4-002:092 requested by the Office of Hawaiian Affairs (OHA).

**Vendor:** ASM Affiliates  
(If known)  
**Address:**  
507A E. Lanikaula Street  
Hilo, Hawaii 96720

<b>Term of Contract:</b> (If known)	From: To be determined	To: To be determined	Cost: Up to \$20,000.00 (tax inclusive)
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<b>Direct any inquiries to:</b> Department: Office of Strategic Development & Partnership  Contact Name/Title: Michael Shibata, Director of Strategic Development & Partnership  Address: 1400 Lower Campus Road, Room 11 Honolulu, Hawaii 96822	Phone Number: (808) 956-4205  Fax Number: N/A
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Date Posted: August 24, 2021

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

**REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS**

**TO:** OFFICE OF PROCUREMENT MANAGEMENT

**FROM:** Office of the President  
(Department/Program)

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Pursuant to APM Section A8.220, the Department requests a procurement exemption to purchase the following:

Description of goods, services, or construction:  
See attached

Estimated Cost: \$ up to \$20,000 (tax inclusive)

(1) Explanation describing how procurement by standard competitive means is either not practicable or not advantageous to the University;  
See attached

(2) Details of the process or procedures to be followed in selecting the vendor to ensure as fair and open competition as practicable;  
See attached

(3) A description of the Department's internal controls and approval requirements for the exempted procurement; and

The Office of Procurement and Real Property Management will assist in reviewing and executing a modification for services with ASM. Expenditures will be subject to administrative review, approval, and processing in conformity with specifications of the proposal and University expenditure policies and procedures.

(4) A list of Department personnel, by position title, who will be involved in the approval process and administration of the contract:

Director of Strategic Development & Partnership, Michael Shibata  
Director of System Administrative Services, Blanche Fountain  
President, David Lassner  
Office of Procurement Management

Direct questions to: Blanche Fountain Phone: 956-5090

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TO THE BEST OF MY KNOWLEDGE, TRUE AND CORRECT.

Michael Shibata  
Full Name of Principal Investigator, Department Head, or Administrator

Michael Shibata Digitally signed by Michael Shibata  
Date: 2021.08.06 11:04:34 -10'00' 8/6/2021  
Signature Date

Blanche Fountain  
Full Name of Fiscal Administrator

Blanche Fountain Digitally signed by Blanche Fountain  
Date: 2021.08.06 11:27:59 -10'00' 8/6/21  
Signature Date

APPROVED:

David Lassner  
Full Name of Vice President or Chancellor

David Lassner Digitally signed by David Lassner  
Date: 2021.08.06 15:16:26 -10'00' 8/6/2021  
Signature Date

FOR OPM USE ONLY

OPM COMMENTS:

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APPROVED  DENIED

David Lassner Digitally signed by David Lassner  
Date: 2021.09.10 08:16:22 -10'00'  
PRESIDENT, UNIVERSITY OF HAWAII

9/10/21  
DATE

Request for Exemption from 103D, HRS  
(Archaeological and Cultural consulting services for the University of Hawai'i  
property at Cape Kumakahi)

Description of goods, services, or construction:

Services for archaeological and cultural consulting services. This is a modification to an existing contract for an unresolved burial disturbance at Cape Kumakahi, Hawai'i Island, TMK (3) 1-4-002:092 requested by the Office of Hawaiian Affairs (OHA).

(1) Explanation describing how procurement by standard competitive means is either not practicable or not advantageous to the University

The guidelines with respect to Native Hawaiian burial sites are set forth in Chapter 6E, Historic Preservation Program, Hawai'i Revised Statutes (HRS), and Chapter 13-300, Rules of Practice and Procedure Relating to Burial Sites and Human Remains, Hawai'i Administrative Rules (HAR). The process set forth therein requires a more collaborative process whereby the department, burial council, applicant, descendants, and Native Hawaiian groups interact regularly throughout the process with a goal of arriving at a result that is agreeable to all. In order to be compliant with Chapter 6E, HRS and Section 106 of the National Historic Preservation Act, the University is required to select a company to perform the services that meet the minimum standards for professional qualifications outlined in Chapter 13-281, HAR, State Historic Preservation Division Rules, Rules Governing Professional Qualifications. As required by Chapter 13-281, HAR, the State Historic Preservation Department (SHPD) has compiled a list of permitted archaeological firms for the Calendar Year 2021 that have met the required standards, and the University is required to hire from this qualified list.

Via a small purchase procurement, the University solicited quotations from archaeological firms on SHPD's qualified list that maintained offices on the Island of Hawai'i. The reason for selecting companies with offices on the Island of Hawaii was to assure timely services, accessibility to the site, and to avoid any travel restrictions due to COVID-19. Four companies were identified that met these requirements. Two firms declined to provide a quotation after reviewing the University's scope of work. Two quotations were received with ASM Associates (ASM) providing a complete and comprehensive quotation based on the University's scope of work.

The University contracted with ASM to provide services to identify if the specific registered historical sites were actually located on the University's Kumakahi Property and to perform a land survey of the site. If it is determined that the historical sites are located on the University's property, ASM is to advise the University as to whether or not the University would be required to comply with Hawai'i Revised Statute (HRS), and Hawai'i Administrative Rules (HAR) regarding preservation of cultural burial sites.

While performing the land survey of the site, ASM discovered other potential archaeological and culturally significant sites located on the University's property. Based on this discovery, ASM recommended that the University perform a comprehensive surface reconnaissance survey of the roughly 39-acre *kipuka* of TMK (3) 1-4-002:092, in addition to the survey. These additional services would provide the University with detailed information about the resources on the University's property and to record them to current standards in compliance with HRS and HAR preservation rules.

Since ASM is already conducting the survey from the original scope of work, and the services are ongoing, it would not be practicable or advantageous for the University to issue another solicitation for the additional work. ASM has already discovered additional potential archaeological and culturally significant sites and has already begun the collaborative consultation with the burial council, Native Hawaiian groups, and the descendants for the known sites in the original contract. Sensitivity to respect traditional Native Hawaiian dispute resolution process is imperative to reach agreement in a burial treatment plan and to have the University be in compliance with the HRS and HAR preservation rules.

- (2) Details of the process or procedures to be followed in selecting the vendor to ensure as fair and open competition as practicable

The University is proposing to amend the existing agreement with ASM for the additional scope of work. The University will obtain a cost proposal from ASM and perform a determination of cost or price reasonableness for the additional work to determine that the additional amount charged to the University is fair and reasonable.