

**UNIVERSITY OF HAWAII
NOTICE OF EXEMPTION FROM CHAPTER 103D, HRS**

The President, University of Hawaii, is in the process of reviewing the request from Department of Music, University of Hawaii at Manoa (Department/Campus) for exemption from Chapter 103D, HRS, for the following goods, services, or construction:

To provide sound, lights, and staging services/backstage workers for the University of Hawaii Symphony Orchestra and Choir rehearsal and concert to be held at the Neal S. Blaisdell Concert Hall on April 29 and 30, 2014, respectively.

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

Term of Contract: (If known)	From: April 29, 2014	To: April 30, 2014	Cost: \$4,000 - \$7,000 (est.)
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Direct any inquiries to: Department: College of Arts and Humanities Contact Name/Title: Colleen Young, Administrative Officer Address: 2500 Campus Road, Hawaii Hall 302 Honolulu, Hawaii 96822	Phone Number: (808) 956-4049 Fax Number: (808) 956-9685
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Date Posted: January 29, 2014

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 and Real Property Management
1400 Lower Campus Road, Room 15
Honolulu, Hawai'i 96822

REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS

TO: OFFICE OF PROCUREMENT AND REAL PROPERTY MANAGEMENT

FROM: Department of Music
(Department/Program)

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

Description of goods, services, or construction:
To provide sound, lights, and staging services/backstage workers for the University of Hawaii Symphony Orchestra and Choir rehearsal and concert to be held at the Neal S. Blaisdell Concert Hall on April 29 and 30, 2014, respectively.

Estimated Cost: \$ 4,000 - \$7,000

(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
See attached.


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

Cindy Nakashima, Office Assistant
Laurence Paxton, Music Department Chair
Judy Simpson, Administrative Officer
Colleen Young, Administrative Officer

Direct questions to: Colleen Young Phone: 956-4049

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


Laurence Paxton
Full Name of Principal Investigator, Department Head, or Administrator

 1/14/14
Signature Date

Judy Simpson
Full Name of Fiscal Officer


 1/17/14
Signature Date

Peter Arnade, Dean

 1/17/14
Signature Date

APPROVED:

Full Name of Vice President or Chancellor

 1/24/14
Signature Date

Arnade 1/21/14

FOR OPRPM USE ONLY

OPRPM COMMENTS:

APPROVED DENIED


PRESIDENT, UNIVERSITY OF HAWAII

FEB 28 2014

DATE

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

Department of Enterprise Services (DES), City and County of Honolulu, does not provide any of the backstage technical workers required for events held at the Neal S. Blaisdell Concert Hall but they do require that the University use International Alliance of Theatrical Stage Employees (IATSE) Union, Local 665, workers whenever events are held there. In the past, the workers were paid as independent contractors but in 2009, we were contacted by the IATSE and asked to stop paying them as independent contractors. IATSE felt that the workers should be hired as UH employees and upon checking with the University General Counsel (UGC), we were told that the State could only hire employees in accordance with applicable state statutes, and because the state does not recognize the IATSE union as one of the public labor unions, we would not be able to hire IATSE workers as State employees.

IATSE then referred us to two companies that would hire the IATSE workers as their own employees: JS Services and In-House Production, a Las Vegas based company. It was determined by UGC that JS Services would not be appropriate since they were a payroll services company and the workers would still be considered UH employees where they would be required to claim any unemployment and workers compensation from UH. With In-House, however, the workers would be strictly In-House employees and any claims for worker's compensation and unemployment would fall under their responsibility.

We used In-House until they notified us in February 2012 that they were terminating their contract with IATSE Local 665 union, and were suspending all operations in Hawaii. Since then, we have not used the Blaisdell Concert Hall because the Music Department and IATSE could not find another company that was not a payroll services company to hire the workers.

At this time, the only way to find a company that will hire IATSE workers is to contact the IATSE union representative and then to review the vendor's agreement to determine if they are a payroll services company and whether or not the University can agree to their terms and conditions.

After many years of working with DES and IATSE, we have found that it would not be practicable or advantageous to the University to procure these services through competitive means because of the timing that is required to:

- 1) obtain the dates for use of the facility;
- 2) obtain approval from the various offices for approval of indemnification of the City & County (Chancellor, Risk Management Director, UGC, State Attorney General, DAGS Comptroller, Governor) ;
- 3) Superquote services of IATSE backstage workers then have vendor agreements reviewed by UGC to determine if they are a payroll services company and if so, whether they would agree to changes being made to their agreement terms; and
- 4) obtain Statement of Self-Insurance all within a 4 month period.

DES will only approve facility use dates six months in advance and allow cancellation two months prior to the event. However, if the Music Department were to cancel the use of the Concert Hall two months

prior to the event, it would be very difficult to find another venue at such short notice, and if they do find one, the venue's agreement would have to be reviewed by OPRPM and/or OGC depending on their terms and conditions. A Statement of Self-Insurance may need to be obtained if the venue requires it and there may be an additional cost to reprint the program, to print tickets and re-advertise the location of the new venue all within a two months span.

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

It has been determined that IATSE, Local 665, is the authority on providing vendors that employ Local 665 backstage carpenters, flymen, sound technicians and electricians because they deal with and have established relationships with these vendors.

Upon request by the Music Department, IATSE will provide the name of as many non-payroll services vendors as it can and ensure that the vendor pay employee pay rates in accordance with IATSE union pay rates for each type of worker (head of department or assistant), and established tax rates and fringe benefit rates, including fees, worker's compensation, general liability insurance and any required pension or other contributions. The vendor would charge a reasonable mark-up for providing this service.

Upon receipt of the names of the vendor(s), the Music Department will contact each vendor and provide the dates of the rehearsal and concert, the hours of rehearsal and concert, and determine the types of technical services required in order to determine the cost. The vendor with the lowest cost and UGC approved agreement will be selected.

If IATSE is able to provide only one vendor, the Form 95, Determination of Cost or Price Reasonableness shall also be completed by the Department of Music.

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

The Department of Music will contact the IATSE union representative for the names of the vendors, then contact each vendor for pricing and agreement review by UGC, if necessary. Once a vendor has been selected, the department will complete a requisition for review, approval and processing by the College of Arts & Humanities Business Office.