

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

The President, University of Hawaii, is in the process of reviewing the request from UHM Outreach College - International Programs (Department/Campus) for exemption from Chapter 103D, HRS, for the following goods, services, or construction:
Services of education agents to recruit international students for the New Intensive Courses in English (NICE) and University Preparation (UP) Programs.

Vendor: To be determined
(If known)
Address:

Term of Contract: (If known)	From:	To:	Cost: \$174,300.00 (est.)
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Direct any inquiries to: Department: UHM Outreach College-International Programs Contact Name/Title: Judy Ensing, Director Address: Sinclair Library 301 University of Hawaii at Manoa	Phone Number: 956-3414 Fax Number: 956-3421
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Date Posted: October 20, 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
Outreach College International Programs

FROM: _____
(Department/Program)

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: \$ see attached

(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:
See attached

Direct questions to: Judy Ensing Phone: 956-3414

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

Judy Ensing
Full Name of Principal Investigator, Department Head, or Administrator

Judy Ensing 10/1/14
Signature Date

Jo-Ann Choy
Full Name of Fiscal Officer

Jo-Ann Choy OCT - 2 2014
Signature Date

APPROVED:
Robert Bley-Vroman
Full Name of Vice President or Chancellor
10/10/14

Robert Bley-Vroman 10/14/14
Signature Date

FOR OPRPM USE ONLY

OPRPM COMMENTS:

APPROVED DENIED
David Low
PRESIDENT, UNIVERSITY OF HAWAII DATE

**ATTACHMENT TO FORM 138
REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS**

Description of goods, services, or construction:

The International Programs division of Outreach College (IPOC) intends to enlist the services of education agents, or recruiting representatives, located overseas and in the United States to recruit international students for two educational programs, the New Intensive Courses in English (NICE) and the University Preparation Program (UP).

The education agents whose services would be enlisted are individuals, companies, or organizations that provide educational advising, support, and placement to prospective international students who are interested in studying in the United States. They function as referral agents and study abroad advisors with a focus on education. Some specialize in a certain type of program or destination, while others offer general information about study abroad opportunities throughout the world.

International, U.S. mainland, and local agents vary somewhat in terms of the type of assistance they offer to prospective international students. Their services include, but are not limited to the following: providing information about the college and its programs, advising students to ensure that the program they select is appropriate for achieving their educational goals, assisting students with the application and visa process, helping students find housing, providing information about the geographical area, assisting with transportation, and assisting in communicating with the school's offices (e.g. providing translation services). In some cases, agents actively promote the programs in targeted local student media, distribute promotional materials at student fairs and exhibitions, and/or promote programs online.

IPOC intends to invite interested agents to apply to be accepted into a pool of agents for a one-year period. A maximum of 30 agencies will be contracted with a limited number of agencies from different countries/regions of the world:

1. Japan: up to 8 agencies
2. Korea: up to 5 agencies
3. China: up to 5 agencies
4. Other Asian countries: up to 6 agencies
5. Latin America: up to 2 agencies
6. Other (Europe, Middle East): up to 4 agencies

Estimated Cost: Agents will be paid a commission of 15% of the program fee paid by each recruited student that successfully registers in NICE or UP. For NICE, each agent will be limited to a maximum of \$10,125 per year in commission fees, which equates to a maximum 25 recruited students. On average, NICE expects to receive

no more than 60 students through agents per year, resulting in an estimated maximum annual cost of \$24,300 in commission fees.

For UP, each agency will be limited to a maximum of \$105,000 per year in commission fees, which equates to a maximum of 35 recruited students. UP expects to receive a maximum of approximately 50 students through agents per year, resulting in an estimated maximum annual cost of \$150,000 in commission fees. The total estimated annual cost for agent services for the combined programs is \$174,300.

Table 1

	Max. annual # students per agent	Max. annual commission per agent	Est. annual total # students through agents	Est. annual total in commission fees
NICE	25	\$10,125	60	\$24,300
UP	35	\$105,000	50	\$150,000
			Total	\$174,300

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

The procurement of services to recruit international students by standard competitive means is not practicable for the following reasons:

- a) Most of the potential providers of services to recruit international students are located in a variety of foreign countries and are not familiar with the University’s traditional competitive bidding process. In addition to the multiple languages used by prospective service providers, the diverse geographical locations of these providers make the use of a single traditional solicitation document such as an RFP extremely difficult and challenging.
- b) Whereas traditional competitive bidding is designed to determine the most competitive price among potential service providers, a standard commission rate will be set and applied to all providers of recruiting services in accordance with standard industry practice. Although methods of determining compensation (i.e. paying commission) vary from institution to institution, a commission rate of 15% of the program fee is a common average for programs such as the University’s IPOC.
- c) The selection of agents to provide international student recruiting services necessarily requires the consideration of many subjective factors such as:
 - 1. Stability and experience of the agent (e.g. length of time in student recruitment business and overall track record);
 - 2. Amount of experience and success with recruiting for similar programs in the U.S.;
 - 3. Services provided and appropriateness of fees charged (if any) to prospective students wishing to utilize such services;

4. Knowledge of Hawai'i and insights into marketing educational programs in Hawai'i;
5. Familiarity with U.S. Department of Homeland Security student visa regulations;
6. Willingness to abide by ethical standards applicable to international student recruitment;
7. Methods used to recruit students; and
8. Area and scope of recruitment efforts within the particular country.

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

IPOC will invite qualified education agents interested in recruiting international students for the NICE and UP programs to submit extensive applications and required supporting documentation in a format prepared by IPOC and distributed by a variety of means such as website announcements and email invitations.

Upon receipt, applications will be reviewed for completeness and references checked. The International Programs Marketing Committee will then review all application materials and select those agents expected to best represent NICE and/or UP using the criteria set forth in section 1 above.

Based upon the applications received, a pool of agents determined to be the most qualified based on the criteria set forth above will be selected to recruit students from the targeted countries for a one-year period.

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

There are a number of internal controls in place to ensure that the agents with whom we work with are reputable and that student needs are being successfully met.

These control procedures were created based on specific standards set by the main national English program accreditation agency, the Commission on English Language Program Accreditation (CEA). Below are the CEA standards that were used as a guide for creating our policies and procedures and which we are required to follow as an accredited institution:

Recruiting Standard 1:

All program or language institution personnel follow ethical standards for recruiting students and promoting programs, and they ensure that the program or language institution's policies and procedures are made clear to prospective students and/or student sponsors. In any recruitment transaction, the students' interests and well-being are paramount.

Recruiting Standard 2:

All written, electronic, and oral information used to recruit students is accurate and complete.

Recruiting Standard 3:

If a program or language institution has recruiting agreements or contracts with a third party, the program or institution ensures that it has complete information about the third party, assumes responsibility for monitoring the third party, and terminates the agreement if necessary.

These standards can also be found at: <http://cea-accredit.org/about-cea/standards>.

Application Process and Vetting of new Agents

As described in Section (2) above, agents will undergo an application and review process in order to be accepted as an official representative of our program. This due diligence process involves 1) verification and evaluation of all information provided on the application, 2) three positive references from U.S.-based programs similar to ours, and 3) a signed agreement to comply with the NAFSA Code of Ethics which addresses ethical standards to guide individuals working in international education.

Agreement and Monitoring of Compliance

A Service Agreement articulating our respective responsibilities will be prepared when the vetting process is complete. Our Service Agreement will be reviewed and signed by the authorized representative of the recruitment agency and by Outreach College's Dean and Administrative Officer and processed in compliance with all University procurement requirements. Once the agreement is executed, it is our responsibility to provide promotional materials and program information to the agent and to communicate with the agency about our student application process, method of payment, and program policies so that representatives have accurate and complete information to use in their recruitment efforts.

In order to monitor the conduct of the recruiting representative, all students referred by the agent are to be interviewed during their first term of enrollment to determine the quality and consistency of services provided by the agent. In addition, websites and other recruitment materials prepared by the agent are to be monitored for accuracy and completeness of information provided.

As indicated in the agreement, the agreement can be terminated if it has been determined that the agent is no longer in compliance with the terms of the agreement.

IPOC shall maintain records of students referred by each agent and any ethical concerns or incidents that arise so that an accurate and fair assessment of the agent's performance can be made at the end of the contracted year.

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

- Initiation of process with agent, vetting of agent, and development and monitoring of agreement: *Judy Ensing, Director of International Programs*
- Review and approval of agent contract: *Jo-Ann Choy, Administrative Officer*
- Review and approval of agent contract: *William Chismar, Dean*
- Monitoring of student referrals/applications and agent invoices: *Lisa Nakandakari, Student Services Coordinator*
- Processing of requisitions for agent payments by *Pancho Delos Santos, Educational Support Specialist*
- Processing of Purchase Orders and payments: *Elena Kadekawa, Administrative Officer*