

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

The President, University of Hawaii, is in the process of reviewing the request from Office of the Vice President for Legal Affairs and University General Counsel (Department/Campus) for exemption from Chapter 103D, HRS, for the following goods, services, or construction:

Retention of the law firm Shiramizu Loo & Nakamura, a Limited Liability Law Partnership, to assist the University in handling proceedings to rezone and reclassify the land comprising the Kaua'i Community College campus before the State of Hawai'i Land Use Commission (State LUC) and the County of Kaua'i, respectively.

Vendor: Shiramizu Loo & Nakamura, A Limited Liability Law Partnership
(If known)
Address: 4357 Rice Street, Suite 201
Lihue, Hawaii 96766

Term of Contract: (If known)	From: TBD	To: TBD	Cost: N/A
--	-----------	---------	--------------

Direct any inquiries to: Department: Office of the Vice President for Legal Affairs and University General Counsel Contact Name/Title: Bruce Y. Matsui, Associate General Counsel Address: 2444 Dole Street, Bachman Hall 110 Honolulu, Hawaii 96822	Phone Number: (808) 956-2211 Fax Number: (808) 956-2109
---	--

Date Posted: August 22, 2016

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: Office of Vice President for Legal Affairs and University General Counsel
(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 attachment.

Estimated Cost: \$ N/A

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

See attachment.

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

See attachment.

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

See attachment.

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

See attachment.

Direct questions to: Bruce Y. Matsui, Assoc Gen Counsel Phone: 956-2211

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

Bruce Y. Matsui
Full Name of Principal Investigator, Department Head, or Administrator

Bruce Y. Matsui
Signature

8/17/16
Date

Blanche Fountain
Full Name of Fiscal Officer

Blanche Fountain
Signature

8/17/16
Date

APPROVED:

Carrie K. S. Okinaga
Full Name of Vice President or Chancellor

Carrie K. S. Okinaga
Signature

8/17/16
Date

FOR OPRPM USE ONLY

OPRPM COMMENTS:

APPROVED DENIED

David O'Connell
PRESIDENT, UNIVERSITY OF HAWAII

9/6/16
DATE

Attachment to OPRPM Form 138
Request for Procurement Exemption
Retention of Shiramizu Loo & Nakamura, LLLP (attorneys)

Description of goods, services, and construction:

This request involves the University's retention of the law firm of Shiramizu Loo & Nakamura, a limited liability law partnership (SLN), to assist the University in handling proceedings to rezone and reclassify the lands comprising the Kaua'i Community College campus before the State of Hawai'i Land Use Commission (State LUC) and the County of Kaua'i, respectively. The legal services involve the preparation and filing of all necessary documents, primarily the petition for reclassification and application for rezoning and/or a planned review use approval and the handling of all administrative proceedings, including appearing and representing the University at any State LUC and County of Kaua'i hearings.

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

In 2009, the University retained the planning consultant firm of Wilson Okamoto Corporation (WOA) to assist the University in obtaining reclassification approval (State LUC) and rezoning/planned review use approval (County of Kaua'i) for the Kaua'i Community College (CC) campus, including the preparation of an environmental assessment. WOA reportedly retained (with University approval) the law firm of SLN to provide legal services in support of WOA's efforts. The University's Office of the Vice President for Legal Affairs and University General Counsel (OGC) was not involved in the WOA or SLN retention process. From a procurement perspective, OGC is primarily responsible for selecting outside counsel to represent the University in a broad range of legal matters. OGC has learned that the intent is to have SLN represent the University in administrative proceedings before the State LUC and the County of Kauai. While SLN is under contract with WOA to provide supporting legal services, there is a need to establish a direct attorney-client relationship between the University and SLN in order for SLN to represent the University (and to preserve confidentiality of any interactions). The University needs to enter into an agreement with SLN in order to establish such an attorney-client relationship. As SLN has been performing legal services for WOA in support of efforts to reclassify and rezone the Kaua'i CC campus for a number of years, it is neither practicable nor advantageous to the University to attempt to procure legal services in this matter using standard competitive means (i.e., to conduct the standard selection process for procuring legal services for the University).

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

WOA's retention of SLN took place approximately seven (7) years ago and WOA has apparently been working on this matter for quite some time. In that time, OGC has solidified its process for selecting and retaining outside counsel to represent the University. Such process is designed to comply with the State of Hawai'i and University of Hawai'i procurement requirements. For quite some time, OGC has been responding to requests from various campuses and the University system offices to retain outside counsel. Having established a process that appears to have been accepted within the University system, we believe that the direct retention of SLN in this case would be an isolated occurrence. OGC is not aware of any similar situation.

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

While OGC was not given an opportunity to evaluate SLN and its principal attorney in this matter, Laurel Loo, before SLN was retained by WOA, OGC has reviewed her background and experience and believe that she is qualified to perform the legal services needed to represent the University in efforts to obtain the desired land use approvals for the Kaua'i CC campus. SLN is willing to enter into a direct agreement with the University, using the University's standard legal services agreement template. Under this University agreement, SLN will be required to obtain OGC's approval for strategy and keep OGC apprised of SLN's progress in obtaining the land use approvals for the Kaua'i CC campus.

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

Carrie Okinaga, Vice President for Legal Affairs and University General Counsel and Gary Takeuchi, Associate Vice President for Legal Affairs and Deputy University General Counsel will be involved with managing and overseeing SLN's work under the agreement with the University. Bruce Matsui and Derek Mayeshiro, both Associate General Counsels, will be directly involved with the day to day management and oversight of SLN's work under the agreement.