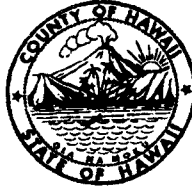


Harry Kim  
Mayor



Lincoln S.T. Ashida  
Corporation Counsel

Gerald Takase  
Assistant Corporation Counsel

**COUNTY OF HAWAII**  
**OFFICE OF THE CORPORATION COUNSEL**  
101 Aupuni Street, Suite 325 · Hilo, Hawaii 96720-4262 · (808) 961-8251 · Fax (808) 961-8622

January 17, 2006

**PRIVILEGED AND CONFIDENTIAL COMMUNICATION**  
**ATTORNEY-CLIENT COMMUNICATION AND/OR**  
**ATTORNEY WORK PRODUCT--NOT A PUBLIC RECORD**  
**DO NOT RELEASE THIS MESSAGE**  
**WITHOUT CONSULTING THE AUTHOR**

William Takaba, Finance Director  
County of Hawaii  
25 Aupuni Street  
Hilo, Hawaii 96720

Attn: Bill Gray, Purchasing Agent

Dear Mr. Takaba:

Re: Professional Services Solicitation

We have been recently informed by the State Procurement Office that while the County's practice in interpreting what constitutes "professional services" under § 103D-304, Hawaii Revised Statutes (HRS) is commonly done throughout the State, it is not in strict compliance with § 103D-304, HRS. The State Procurement Office advised that only those professional services as defined by § 103D-104, HRS,<sup>1</sup> be solicited in the annual Notice To Providers Of Professional Services. Section 103D-104, HRS, lists various professions directly and also provides for "any other practice defined as professional by the laws of this State or the professional and scientific occupation series contained in the United States Office of Personnel Management's Qualifications Standards Handbook." As with any law, the list of professional services can change throughout the year.

Present listed professional services are:

Section 103D-104--Architecture, landscape architecture, professional engineering, land surveying, real property appraisal, law, medicine, accounting, dentistry, public finance bond underwriting, and public finance bond investment banking.

Section 415A-2--Chiropractic, Dentistry, Medical, Naturopathy, Nursing, Optometry, Osteopathy, Pharmacy, Podiatry, Psychology, Accounting, Veterinary, Attorney, Trustee, and Trust Accountant.

United States Office of Personnel Management's Qualifications Standards Handbook--  
see attached.

The annual notice should therefore tie the requested service to one of these listed professions. For example, instead of just calling for "Grant Management," the solicitation should read "Accounting (Grant Management)." Another example would be instead of calling for "Landfill Closure/Fire Control Consulting" the solicitation would read "General Engineering/Fire Protection Engineering (Landfill Closure/Fire Control Consulting)." There are some requests that cannot be placed with a listed profession, such as the Department of Environmental Management's request for "Environmental Outreach & Education." In that instance, it would be difficult to justify that service as professional, and another method of procurement would have been more appropriate.

It is recommended that a Director of Finance directive be issued directing the departments to tie their requests for professional services solicitation to a professional service listed under either HRS §§ 103D-104, 415A-2, United States Office of Personnel Management's Qualifications Standards Handbook, or any other State law, if they can find one. A draft of such a directive is attached.

Should you have any questions or comments, please call me.

Sincerely,



CRAIG T. MASUDA  
Deputy Corporation Counsel

CTM:de

Enc.

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<sup>1</sup> "Professional services" means those services within the scope of the practice of architecture, landscape architecture, professional engineering, land surveying, real property appraisal, law, medicine, accounting, dentistry, public finance bond underwriting, public finance bond investment banking, or any other practice defined as professional by the laws of this State or the professional and scientific occupation series contained in the United States Office of Personnel Management's Qualifications Standards Handbook.