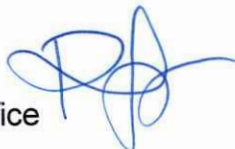


**BOARD OF WATER SUPPLY
CITY AND COUNTY OF HONOLULU
REQUEST FOR EXEMPTION FROM
CHAPTER 103D**

DATE: August 2, 2021

TO: Ernest Y.W. Lau, P.E.
Manager and Chief Engineer

FROM: Raelynn Nakabayashi 
Executive Assistant I
Executive Support Office

RE: REQUEST FOR EXEMPTION FROM CHAPTER 103D FOR A
LITIGATION ATTORNEY

Pursuant to §103D-102(b)(4)(L), Hawaii Revised Statutes (HRS) and §3-120-5, Hawaii Administrative Rules (HAR), I am recommending that an exemption be granted from the source selection process under the provisions of Chapter 103D, HRS, to select a law firm with expertise in representing governments and municipalities in complex contractual, construction litigation and procurement matters to provide legal services to the Board of Water Supply (BWS).

Vendor Name & address:

McCorriston Miller Mukai MacKinnon LLP
Five Waterfront Plaza, 4th floor
500 Ala Moana Boulevard
Honolulu, Hawaii 96813

Amount of the contract: Time and Materials not to exceed \$50,000

Prior exemption contract numbers: None

A. Background:

BWS desires to retain a qualified law firm with expertise and experience in representing government municipalities to provide legal services to the BWS which include but are not limited to representing the BWS in legal and administrative proceedings, assist with research, filings and other related services in the areas of complex contractual, construction litigation and procurement matters.

Describe how procurement by competitive means is neither practicable nor advantageous to the Board of Water Supply (BWS)

On June 1, 2021, pursuant to §103D-304(b), HRS, the BWS posted its Annual Notice to Providers of Professional Services inviting professional firms to submit statements of qualification to provide services to the BWS for its anticipated professional service needs for Fiscal Year 2022 (Annual Notice). The Annual Notice stated that submittals received by June 30, 2021 would be eligible for consideration for the entire Fiscal 2022 year. Submittals received between July 1, 2021 and September 30, 2021 will be eligible for consideration beginning October 1, 2021. As of July 27, 2021, the BWS has not received the minimum number of qualified submittals for Project Category 22-02ESO Legal Services for Complex Contractual and Construction Litigation Matters, to be able to award a contract for legal services pursuant to §103D-304, HRS.

The BWS requires the services of an experienced litigation attorney to assist with complex contractual, construction litigation and procurement matters that may require an appeal, to preserve the legal rights and remedies afforded to the BWS under the law, and timely comply with the rules and filing deadlines imposed by the Hawaii Rules of Civil Procedure and the Rules of the Circuit Courts of the State of Hawaii. Given the potential complexity of the matters, the knowledge and resources required, and the immediate need for services, it is not in the BWS's best interest to wait till October 2021 to see if additional submittals are received to allow selection of a firm through the professional service source selection method. Additionally, it is not practicable select a firm to represent the BWS in this matter using a competitive sealed bidding, small purchase, or competitive sealed proposal source selection method.

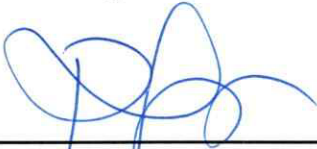
Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable

Other law firms have had the opportunity to submit qualifications in response to the BWS FY22 Annual Ad and have until 9/30/2021 to submit qualifications to be considered for selection to provide legal services to the BWS as future needs arise. McCorrison Miller Mukai MacKinnon LLP (M4), is an established Hawaii based law firm with resources and expertise to provide legal services to the BWS on complex contractual, construction litigation and procurement matters and has successfully represented other government agencies with these types of issues.


Accordingly, I recommend your approval to award a contract to McCorrison Miller Mukai MacKinnon LLP, to provide litigation attorney services and represent the Board of Water Supply on matters involving complex contractual, construction litigation and procurement matters. The exemption only applies to the source selection provisions of Chapter 103D, HRS. §103D-310(c), HRS, and §3-122-12, HAR (Responsibility of Offerors) shall apply to the contract awarded. The application of this

exemption will be limited to these facts and circumstances and may not be used as precedence to award any other contracts.

I certify that the information provided above is to the best of my knowledge, true, and correct.



Requestor



Division Head

8/2/2021

Date


8/2/2021

Date

Direct Questions to: Raelynn Nakabayashi Phone: [REDACTED]

Date of Public Notice posting: AUG 04 2021 to AUG 12 2021

APPROVED AS RECOMMENDED / NOT APPROVED



ERNEST Y.W. LAU, P.E.
Manager and Chief Engineer

8/12/2021

Date RN

APPROVED AS TO AVAILABILITY OF FUNDS 2022-820-3021 (C22511001)
(5110.4270)



FINANCE *MM 8/4/21*

8/4/2021

Date

REVIEWED AS TO PROCUREMENT FORM



PROCUREMENT OFFICE *PRM*

8/12/2021

Date



STATE OF HAWAII
STATE PROCUREMENT OFFICE

CERTIFICATE OF VENDOR COMPLIANCE

This document presents the compliance status of the vendor identified below on the issue date with respect to certificates required from the Hawaii Department of Taxation (DOTAX), the Internal Revenue Service, the Hawaii Department of Labor and Industrial Relations (DLIR), and the Hawaii Department of Commerce and Consumer Affairs

Vendor Name: MCCORRISTON MILLER MUKAI MACKINNON A LIMITED LIABILITY LAW PARTNERSHIP LLP

DBA/Trade Name: MCCORRISTON MILLER MUKAI MACKINNON A LIMITED LIABILITY LAW PARTNERSHIP LLP

Issue Date: 08/04/2021

Status: Compliant

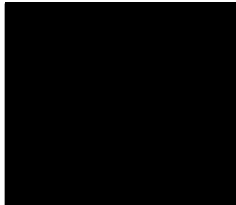
Hawaii Tax#:

New Hawaii Tax#:

FEIN/SSN#:

UI#:

DCCA FILE#:



Status of Compliance for this Vendor on issue date:

Form	Department(s)	Status
A-6	Hawaii Department of Taxation	Compliant
8821	Internal Revenue Service	Compliant
COGS	Hawaii Department of Commerce & Consumer Affairs	Compliant
LIR27	Hawaii Department of Labor & Industrial Relations	Compliant

Status Legend:

Status	Description
Exempt	The entity is exempt from this requirement
Compliant	The entity is compliant with this requirement or the entity is in agreement with agency and actively working towards compliance
Pending	A status determination has not yet been made
Submitted	The entity has applied for the certificate but it is awaiting approval
Not Compliant	The entity is not in compliance with the requirement and should contact the issuing agency for more information