

**RECOMMENDATION OF AWARD/NO AWARD FORM
PROFESSIONAL SERVICES**

1/19/2018

Date

TO: **Department of Water**

VIA: **MANAGER & CHIEF ENGINEER, DOW CPO**

FROM: County Attorney /
(Dept or Agency) (Div)

SUBMITTED BY: M. Krafft

CONTACT PERSON AND TELEPHONE #: Mahealani Krafft/ 245-5457

RE: Procurement of Special Counsel to provide environmental, land use, and regularoty compliance litigation and related services.

Project Title

PROF SVCS No. : 2018-PROF-1, A.1.

**PART I. COMPLETE IF UNABLE TO RANK THREE (3)
PERSONS/RESUMES AND AWARD CANNOT BE RECOMMENDED:**

A. A minimum of three (3) resumes were not received or not ranked. Therefore a request is made to:

1. Re-solicit for resumes
2. Broaden the Scope of Work and re-solicit for resumes
3. With the exception for Design Services (HRS 464), use another method of procurement described as follows:
 - a. Competitive Sealed Bids
 - b. Competitive Sealed Proposals
 - c. Sole Source
 - d. Small Purchase
 - e. Other. Please describe: _____
4. End procurement activity

B. If applicable, the following documentation is attached in regards to this solicitation:

1. Copy of approved Request for approval of Review and Selection Committee members, and contract negotiator; inclusive of affidavit for non-employees
2. Copy of Review Committee evaluation sheets
3. Copy of Review Committee Listing of Qualified Respondents
4. Copy of Selection Committee Evaluation sheets and Master Scoring sheet
5. Other:

PART II: COMPLETE IF AWARD IS RECOMMENDED.

A. Pursuant to Act 190 SLH 2011, all recommended awardee(s) are compliant with HRS 103D-310(c) requirements:

FEIN/SSN (last four digits): 4178

Date Confirmed: 1/19/2018

Name of Vendor above is the Entity Name or dba/Trade Name on HCE

B. **Recommendation is to award to the following:**

1. Legal business(es) name and complete mailing and email address of the responsive, responsible contractor(s):

ASHFORD & WRISTON
P.O. BOX 131
HONOLULU, HAWAII 96810

999 BISHOP STREET, SUITE 1400
HONOLULU, HAWAII 96813

RFAZIO@AWLAW.COM

2. Name and title of the Contractor(s) Officer or Owner to whom the award and contract document should be directed to:

ROSEMARY FAZIO, PARTNER

3. The project title and a brief description of the good, service, or construction awarded:

PROCUREMENT OF SPECIAL COUNSEL TO PROVIDE ENVIRONMENTAL, LAND USE, AND REGULATORY COMPLIANCE LITIGATION AND RELATED SERVICES FOR THE DEPARTMENT OF WATER.

4. The dollar amount of the contract, inclusive of terms and conditions for payment(s):

Contract not to exceed \$25,000.00.

A. Special Counsel shall be compensated at the rate of no more than \$375 per hour for partners, and a lesser rate for associates, for any and all legal professional services.

B. That Special Counsel shall bill the County for all reasonable out-of-pocket expenses, including but not limited to postage, telephone and telegraph communications, courier or messenger services, copying or printing of all records, and travel expenses. Special Counsel shall, as a condition of such reimbursement, present copies of all invoices and/or receipts for such out-of-pocket expenses. Reimbursement or payment for any "out-of-pocket" expenses shall be deducted from the amount of funds set aside for this Agreement. For copying costs, Special Counsel shall charge the County no more than 10 cents per page. The County shall pay Special Counsel one dollar (\$1) per page for outgoing facsimile charges, and Special Counsel shall not bill the County for incoming facsimiles received by Special Counsel.

For all air travel, the County will only reimburse Special Counsel the cost of an "economy" or "coach" class airline ticket.

The County is not obligated to pay any "per diem" expenses of Special Counsel. The County shall reimburse Special Counsel for any meals at reasonable cost.

Special Counsel shall be limited to billing no more than three (3) hours for interisland travel time, for any round trip from their respective office to Līhu'e, Hawai'i. A one-way interisland trip shall be limited to being billed for one and one-half (1½) hour only. Travel time shall include any time spent by air and/or automobile or any other manner of transportation. The County reserves the right to be notified of and to approve of any travel for more than one person from Special Counsel's law firm.

For any hotel or off island accommodation, the County is only obligated to pay the room rate for a single occupancy, non-smoking room. The County is not obligated to reimburse Special Counsel for any expenses associated with his family members.

For any car rental costs, Special Counsel shall only bill the County for no more than a compact, four-door, automatic transmission car at the lowest available price. Special Counsel shall verify that any car rental costs meet the above requirement. Any rental car shall only be used by the above named Special Counsel and NOT by any family members, friends, acquaintances or employees of Special Counsel's business or law firm.

Special Counsel is personally responsible for any fines, sanctions, violation of law, court rules or orders incurred during the performance of this agreement for Special Counsel.

5. The term of contract and extension option:

DURATION OF CASE

6. The approved requisition number for the contract amount:

(DOW TO ENTER)

7. Review and Selection Committee meeting(s) date, time, and place:

12/1/2017 @ 8AM, OFFICE OF THE COUNTY ATTORNEY CONFERENCE ROOM.

Selection Committee was same date, time, and place as Review Committee:

8. The ranking and names of a minimum of the top three (3) persons or organizations ranked by the Selection Committee for negotiation of a contract

a. O'CONNOR PLAYDON GUBEN & INOUE

b. ASHFORD & WRISTON

c. GOODSILL ANDERSON QUINN & STIFEL

d. SHERRY P. BRODER

e. KOBAYASHI SUGITA & GODA

9. The names of the **Selection Committee members**:

- a. Name, Title, and relevant experience or qualifications:

JODI HIGUCHI SAYEGUSA, DEPUTY COUNTY ATTORNEY, HI LICENSED ATTORNEY, LITIGATION EXPERIENCE, FAMILIAR WITH FACTS OF THE CASE.

- b. Name, Title, and relevant experience or qualifications:

PETER MORIMOTO, DEPUTY COUNTY ATTORNEY, HI LICENSED ATTORNEY, LITIGATION EXPERIENCE, FAMILIAR WITH FACTS OF THE CASE.

- c. Name, Title, and relevant experience or qualifications:

MAHEALANI KRAFFT, DEPUTY COUNTY ATTORNEY, HI

LICENSED ATTORNEY, LITIGATION EXPERIENCE, FAMILIAR
WITH FACTS OF THE CASE.

d. Name, Title, and relevant experience or qualifications:

e. Name, Title, and relevant experience or qualifications:

10. Describe the relationship of any of the principals to any of the persons making the recommendation of award and to any persons making the award:

a. DIRECTOR OF FINANCE (AUTHORITY TO AWARD): None if nothing follows:

b.

c.

11. Other salient terms and conditions that should be clearly presented as part of the award: (Check all applicable boxes)

- Insurance
- Performance Bond
- Payment Bond
- Other: _____

C. **Reason or Justification For Recommending Award (COMPLETE APPLICABLE SECTION ONLY):**

1. **PROFESSIONAL SERVICES:**

a. Copy of approved Request for approval of Review and Selection Committee members, and contract negotiator; inclusive of affidavit for non-employees

b. **For Professional Services where the names of three (3) or more qualified persons are submitted:**

- (1) The recommended awardee was ranked the highest by the Selection Committee;
- (2) Negotiated contract terms are fair and reasonable, subject to approval and award;
- (3) The price submitted is fair and reasonable;

Describe the cost or price analysis utilized determining that the price submitted is fair and reasonable:

The contractor's hourly rate range is consistent in prevailing rates in the state of Hawai'i. The current negotiated cost of \$375.00/hr are lower than his current rates and are reasonable based on previous and similar worked incurred by the same contractor.

c. **Additional Requirements**

- (1) Copy of Review Committee evaluation sheets
- (2) Copy of Review Committee Listing of Qualified Respondents
- (3) Copy of Selection Committee Evaluation sheets and Master Scoring sheet
- (4) Documentation & justification to support selection of other than first ranked respondent, if applicable
- (5) Selection Committee ranking memo approved by DOF.
- (6) Other:

The undersigned certifies that the information contained herein is true and correct to the best my knowledge and is submitted as a result of reasonable and diligent research and investigation.

(Department/Division/Agency)

Date

PART III: FINANCE/PURCHASING REVIEW AND EVALUATION SECTION.

SPACE BELOW RESERVED FOR DEPARTMENT OF WATER COMMENTS

Recommendation of Award is **approved**; **denied**.

Recommendation for "No Award" is **approved**; **denied**.

Staff Initials: _____

Comments:

MANAGER & CHIEF ENGINEER, DOW CPO

Date