

SPO 125 – Exemptions from HRS Chapter 103D

Good afternoon, my name is Kevin Takaesu and I work for the State Procurement Office and I'm doing the workshop for procurement exemptions from HRS Chapter 103D. This is workshop number 125. And references for exemptions would be HRS 103D-102. That's the law that governs exemptions and administrative rules is HAR 3-120. You can find the HARs on our State Procurement website, on hawaii.gov/spo.

Anyway, let me cover this area here before we cover exemptions, I do want to cover delegations of authority. We do cover this in every workshop but it is very important for the executive branch pursuant to the procurement delegation 2010-01. This delegation is allowing the Chief Procurement Officer to further delegate authority to designate procurement officers into further delegate to personnel, such as you so there is an update on this delegation. It's a procurement delegation 2010-02 and referring specifically to the procurement officers. Anyway, you can see on the ...As far as pertaining to procurement exemptions, that's covered on page 2, paragraph 2 for request for procurement exemptions via SPO form 07 and this workshop is a good deal or part of it has to do with submittal of the SPO form 7. That's a request from the agency to the Chief Procurement Officer for a exempt contract. So in order to submit a request the person participating or writing the exemption needs to take this training. This workshop 125. They do not need delegation in order to write it. It's because the procurement exemptions is not one of the procurement methods in the procurement code. So you don't need to have procurement delegation for participating and writing the exemption request but you do need the training and that's workshop 125, which you're taking now.

What is the definition of procurement exempt from HRS 103D? It's a situation where the procurement of a good or service by competitive means is not practical or not advantageous. Those are keywords: Not practical and not advantageous. You should note here, I should mention this, that even though an exemption may be granted, it is important to keep in mind that agencies are encouraged to adopt and use provisions under the procurement code and to implement rules as applicable. The reason I say that is because the code has been established over time. It's time tested, it's fair, it's reliable set of rules and processes for awarding contracts. The competitive procurement process of the code basically is to ensure all the potential providers are afforded the opportunity to compete for the required services. So that's the code. You want them to be fair as far in an even playing field. And when you have an exemption it actually well, what we're saying is, even if it's exemption to keep in mind and encourage that you adopt some of the provisions within the 103D.

Where are procurements exempt from chapter 103D, where are they currently listed? You can get to view the procurement exemptions. You can obtain it three ways. You can get it by statute which is covered under 103D-102, by rules which is the HARs under 3-120, and by the Chief Procurement Officer, which is allowed by the statute. Which is 103D-102 subparagraph L. Okay, for the first bullet under HRS 103D-102, it can be broken down into possibly 26 exemptions. I will mention each exemptions but I will not go in great details in it because if it applies to you then you could do research and find out more about that exemption or you can give me a call if you have questions on it. But under 102, the exemptions are broken down primarily in these categories. One, where government disbursement of government funds; two, it's procurements from government body. You will see that maybe in this example. Molokai is exempt from purchases of food. As far as Molokai, meaning Kalaupapa. Three would be the exemption by law or by statute. As far as the second bullet point, you find that in chapter 3-120, exhibit A. Now this is a list of exemptions that the procurement policy board has established and some of these exemptions listed under 3-120 have been amended from actually some of those

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exemptions listed in 103D-102 and to give more clarity and flexibility. You'll see that in the upcoming slides because I will underline the additional words that it's use. Again, that is to provide more clarity and flexibility. Now the third bullet pursuant to 103D-102b.4.L, it gives you the procurement policy board and the Chief Procurement Officer the authority to approve exemptions that lends itself as not practical and advantageous to compete out. So that's the third way. And that is where the Chief Procurement Officer through the SPO form 7. That's the form to use for executive branch to submit to the Administrator here at the State Procurement Office and the staff here would review it for approval.

Okay, these are upcoming 26 or so exemptions. It's covered under the 103D-102. The first one here is grants as defined in 42F. That's the awarding of the state funds by legislature and it's an appropriation to a specified recipient. That's the key there. The leg. has appropriated the funds and they have specified and designated already the recipient or company that will provide the services for the department or the community. Number two, is making payments to the public officers and employee salaries, benefits, professional fees, and reimbursement. Therefore, as I mention earlier, both 1 and 2 bullets will be considered as the disbursement of government funding.

Number 3 and 4, 3 obligations that the State is required to pay by law: fees, settlement, subsidies, or other claims; and as far as entitlement programs, to provide assistance to unemployment or workers' compensation programs that's also considered disbursement of government funds. Again, that's reason for exemptions.

5, dues and fees of organizations. Again that's disbursement of funds. 6, for deposits, investments, and safekeeping including expenses related to them. 7, awards to the government bodies of the State.

8, payment of loans. 9, 103F, the health and human services. The reason for that is because there are health and human services statutes and also HARs. So they have their own. 10, goods, services, or constructions from a government body. These are known as government to government contracts where an agency is providing the direct service to another agency and so this type of contracting is exempt from the code. The UH bookstore is excluded from this because it's considered like a retail outlet. An example of number 10, let's say government to government. Let's say that DBEDT HDDC. Let's say they want to put out a PSD correctional services, such as weeding, weed whacking and things like that. They may contract with the PSD and they would make a MOU - memorandum of understanding - and this would be considered, government to government contract. And again, this is exempt type of contract.

Alright moving on. 11, expert witness. 12, works of arts. Research and reference materials. You can see here. You can imagine if you had to award expert witness or works or art to the lowest bidder. Really what kind of criteria you would use especially specifications you would use to make your decisions. That's one of the reasons. It's very subjective and therefore not practical to compete out. 13, would be research and reference materials. Why? That would be because a lot of the books, the resources, the professors or the teachers would want to make sure that type of book meets their standards and they're not all created equal. It wouldn't be, I guess comparing apples to apples in that sense. So it makes sense to exempt those.

Alright moving on. 14, here's where I mentioned earlier about the meats or foodstuffs that is exempt from Kalaupapa settlement and that's primarily due to its remoteness. Only commercial air that I know that flies to Kalaupapa commercially would be Pacific Wing. So obviously, it's not at this moment to

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compete out. 15, opponents for athletic contests. 16, referring to the PUC. 17, performances, speeches and cultural or artistic presentations. I guess like works of arts and expert witness and entertainment speeches. They're really artistic presentations. They're very subjective. It wouldn't make sense to procure out. 18, goods or services from a commercial resale by the State. An example of commercial resale, I would say City and County of Honolulu selling T-shirts at their satellite city hall or store. I'm not sure if they still do that. They used to and that's an example of commercial resale.

19, for the various services listed for issuance in sale of the state and county bonds. 20, contracting with attorneys in a matter of arising under laws of another state or foreign country. So if you look at 20, it is conditioned though because it is to provide legal services on matters arising under another state's laws or foreign country. So it's real specific in that sense because procuring an attorney or special console, you can use professional services method and you can also use the request for proposal method. But this one is real specific and that's the reason why it's exempt.

21, financial agreements under chapter 37D. If you look at 37D for financial agreements, it means any lease purchase agreement, installments, sale agreement, loan agreement, or line of credit. Or acquisition of real or personal property that is or will be owned by the State Departments. So that's an exempt contract under 37D. 22, would be the trade agreements under the Uruguay Round General Agreement on Tariffs and Trade. This agreement led to the creation of the World Trade Organization (WTO). Basically this organization is responsible for monitoring national trade policies, handling trade disputes, and enforcing the GATT agreements which are designed to reduce barriers or tariffs to international trade. If you have further questions, I do have a binder. Hawaii has been a part of the World Trade Organization for quite some time, I believe since 1987, and so if you have questions you may call me on that.

Ok, here we are at the second place you could find exemptions from the procurement code. And that is under HARs 3-120. So the next several slides I will be covering the exemptions found under Exhibit A.

If you remember earlier I mentioned exemptions determined by the Procurement Policy Board is the second way of obtaining procurement exemptions. The first bullet here: the Procurement Policy Board has authority to create a list of exemptions of services and goods that are available by multiple vendors and they deemed it as not practical or not advantageous to compete out. The second bullet explains that the list can be amended on an annual basis. The question of how to get more exemptions added to the list or actually some taken away, the agency needs to write to the Procurement Policy Board and have the item reviewed by the board. Once that's done, the State Procurement Office would in turn research the request. We would look at the validity of the exemption and its systemic use statewide. What I mean by systemic use is how many different agencies would benefit or would utilize that exemption. Not just from one agency or department. Also if the exemption is mainly for just the requesting agency. If that is the case it would probably not, we would recommend not approval because if it is where it's just due to the requesting agency if you look at the third bullet on the previous slide you can get an exemption request through the Chief Procurement Officer. So that's another mechanism so why would you go through the Procurement Policy Board in that sense when you can actually address it or request it through the Chief Procurement Officer.

Here we go with the exemptions under 3-120. The Procurement Policy Board, they will review the list annually. Second bullet, when using the exemption writing on the Procurement Officer or the contract what you need to do you need to write down the exemption number. So when you write the purchase

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order make sure you notate the exemption number and make sure you file it in your procurement file. Now even though it doesn't mention that under 103D-102, I would recommend the same thing - that you write down the exemption number under 103D-102 and make sure you put it on the purchase order and keep it in the file.

What kinds of procurement exemptions are listed on Exhibit A?

1. Research and reference, education materials, well rather than reading all that, those underlining words there is actually added in from the exemption that was covered in 103D-102. And again that was to add some clarity, some flexibility.
2. Would be services of printers, rating agencies, support facility providers. So providers is the word that was added in.
3. Contracting with lecturers, speakers, trainers, facilitators, scriptwriters, when we have specialized - the word the State Procurement Office wants to emphasize is that these lecturers have specialized training and techniques or expertise. Here competition is not feasible due to the numerous unique methods of training or speaking and writing styles that individuals possess. So very subjective here in nature.
4. Contracting of legal counsel, guardian, psychiatrists, psychologists, etc. that is required by court order. This was recommended by the Judiciary as well as DCCA.
5. That is no longer an exemption. It used to be prior to 2009, but Act 175 actually took that exemption off the list. That's for fresh meats and produce.
6. Insurance to include insurance broker services. This was recommended by DAGS, Risk Management.
7. Animals and plants. That was taken off from the list from Act 175. That removed it.
8. New and used items which are advantageous and available on short notice either through an auction bankruptcy or foreclosure.
9. Food and fodder. What fodder is is actually feed for animals.
10. The facility costs for conferences, meetings and training sessions. Because many of the hotels or meeting halls may require the user agency to use their audio-visual set up or they may require them to use the stage or the electric wiring be done by that contractor so that's the reason for this exemption.
11. Advertisement in special publications such as ethnic or foreign language, trade or professional publications.
12. Arbitrators and mediator services.
13. Interpreter services. This exemption for interpreter services was requested by the University of Hawaii and Department of Human Services where was for hiring sign language and oral interpreter services of non-English speaking persons.
14. Procurement of repair services where dismantling is necessary in order to get to the root of the problem where they could find out what actually is causing the problem and to do that they need to dismantle it. I get calls periodically, can you explain that, and to me the easiest way to explain that is if

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you had a serious car problem and the mechanic had to really dismantle the engine just to locate the problem and once they did find the defective part, it wouldn't make sense to then put out a solicitation. It would make more sense to have that person repair it.

15. For burial services and that's pursuant to the statute HRS 346-15 where the Department of Human Services would pay the burial cost for unclaimed corpses. I believe the limit is \$400.

16. The radio and television airtime when the selection would be based on ethnic or specific groups. Basically the target audience.

17. Subscription costs particularly for conferences or training workshops.

18. Court reporter services.

And that's it as far as the second star, as far as the Exemptions from 103D for the HARs of 3-120 Exhibit A. So let me move on here. Now we come to the third star and that's the third way of a contract being exempted. And if you read the screen that in order to be approved for the Executive Branch you would have to submit the SPO form 7, which would be found on our State Procurement Office website and where each of the 20 Chief Procurement Officers depending on the jurisdiction you're in would approve the procurement exemptions. And for the Executive Branch it would be the State Procurement Office that you would submit the SPO form 7.

When is the Chief Procurement Officer approved exemption from HRS Chapter 103D necessary? If it is not covered under 103D-102 or 3-120 then the agency needs to request the exemption to the CPO and he/she will determine if the request is justified. Again the key words here is not practicable or not advantageous as we define in slide 2, but later in the slides are examples of procurement exemptions and there are instances when the Chief Procurement Officer may choose not to, or may choose no action required rather than approval or disapproval. One of the reasons why no action required would be indicated is because the request may fall in either under the list from 103D-102 or it may be one of the listed at the 3-120 Exhibit A. So it may be already in there and so there's no need for have it being submitted to the State Procurement Office and therefore the no action required may be marked on the request.

How does an agency obtain a CPO approval exemption from Chapter 103D. I mentioned about SPO form 7. It is located under our quick links under forms for the State Procurement State agencies. Please download the most current. And when you review the form please do not ask us for words to use to write it. We can explain the questions but do not ask us to write it for you. So we cannot give you the words to use, but we can advise you what do we look for. Now if the space provided on the form is insufficient for full explanation, please submit attachments to make sure that enough detail is given so that we do not have to go back and forth trying to seek the information needed. Now for the Executive Branch, SPO will post it on our website. That's the second bullet. The Chief Procurement Officer must post the request SPO Form 7 on our website for 7 calendar days. I do want to mention though that if it is awarded please make sure you post it, you post the award. I think some agencies get a little confused that yes, the State Procurement Office will post the request, but once the request is posted, when it's approved, the agency has a responsibility to when they award to a vendor a contract that's exempted, they are responsible for posting that award on the State Procurement Office reporting site.

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Continuing on with the SPO Form 7. These bullets are covered in 3-120-4 of the HARs and also 3-120-5 in the HAR. For transparency purposes, the public can review the request, they can object to the request, but they need to write their objection for that exemption within 7 days of the State Procurement Office posting it. So once we post it, the State Procurement Office, the public can object but they need to do it within 7 days and the Chief Procurement Officer can take those objections into consideration whether to grant approval. Now if it's lacking justification then the CPO can disapprove the request. He/she doesn't have to wait for the 7 days to disapprove. Not like the approval, they would wait 7 days. Now these exemptions are not taken lightly because of transparency and posting on the website and the public can see exactly what the exemption is about and knowing that exemption is basically restricting competition because you're putting out a bid, or a small purchase, or an RFP, or a professional services. It's being exempted where the agency has designated a vendor to provide the services so therefore SPO takes a real hard look at these requests, very seriously, and so the agency needs to supply detailed information and data that supports an exemption. Cannot be more clear than that because if you think, take a chance, just submit it, you never know what you may get, well, I'll tell you there's a lot of work that would be involved in justifying it.

When is an amendment to a Chief Procurement Officer approval exemption from Chapter 103D, HRD, necessary? One, these bullet points, they're covered in the HAR 3-120-5 sub-paragraph d. What this is saying is when an amendment to an exemption is necessary and that is to fill out the SPO Form 7B when it affects the original scope of work. Example, if the cost is being increased, this is the form to use is the 7B form. It does require the posting of the amendment just like the original SPO Form 7. It needs to be posted for 7 days as well. Now the next slide gives examples of some exemption requests submitted to the State Procurement Office.

Previously the agency got a waiver to hire outside counsel to negotiate and drafting of an Option Agreement for various parcels of land located at Kapolei. The vendor was hired through professional services method. The contract has expired but now the leasee is requesting to amend the option agreement and also revise the draft general lease document. The agency believes it's more advantageous to use a different legal counsel since their fees are too high and they felt that they were times where the attorney was non-responsive. The agency therefore wants to hire a new legal counsel one that they have experience working with, they have knowledge of the ACT and HRS Chapter 171 and they feel that they would need little time to get up to speed and to re-negotiate.

This request has been withdrawn by the agency and they can do that. They don't have to wait for approval or if they feel that it's a good chance it's not going to be approved they may rather see a disapproval on that request and so they see it as hey maybe we should just procure it out and so they did withdraw, made a withdraw by the department. The reason is the explanation that was given in the request and there were emails also that did not support the need to exempt the hiring of outside legal counsel. Pretty much it was more based on convenience between the agency and the selected vendor. They also did not indicate no lost revenue projections and it wouldn't have changed really the estimated time savings. They could have still reprocure it as a professional services and still select the legal counsel all within the timeframe. And if they did not withdraw it most have likely would have been a disapproval. I do want to advise the agency not to wait until the last minute to submit these procurement exemptions. Rather submit it as soon as possible because you don't want to wait until the last minute and find out State Procurement Office they're not going to approve this request and so what

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am I going to do now. Well again that would be a basis of poor planning. So we're advising submit it timely.

Here's another example. The patient protection and affordable act, signed by President Obama on March 23, 2010. It was effective in June that same year and it contained provisions to benefit Early Retirees. Now the new law provided about \$5 billion to assist employers with providing health coverage for their retirees. The application for this process you had to submit it to the Federal government and it was expected to be available on June 1, 2010 or shortly after and it was critical that the information be accurate and complete. And the applications were going to be processed in the order that it came in. And so the agency wanted to request that the current benefits consultant (AON) be contracted with to submit the applications for EUTF. Now according to the EUTF, applications that are submitted early have the best chance to receive funds and the later you submit it would have the least chance of being funded. And the agency felt that if they did submit it they would receive about \$15 million for that plan in 2010.

Here the request was approved. And the reason would be meeting the application date or shortly after is critical in the process of receiving the funding. The incumbent or the current insurance company, they already through time working with the agency they developed an understanding and knowledge of the various procedures, information systems, analysis and so forth. And so because of the critical time that it needed to be submitted and that if they don't they would lose the money, then it justified basically the need for that exemption.

Here's another example. Let's say an agency is requesting exemption to purchase the specific Abbott test strips through Abbott Laboratories, Diagnostic Division. This was done in 2005. The agency wanted to standardize their glucose meters statewide. They ultimately wanted the Abbott Precision Xtra Meters, but they didn't do a solicitation. And then the vendor wanted to supply the meters for free. So they accepted that. Now these meters that they acquired can only read their brand name and test strips and the Abbott Labs will not compete with their distributors and the agency would pay double the local prices for the same test strips from others. The agency has been purchasing the test strips for several years now. That's the situation.

This request was disapproved because the purchasing test strips were not done under competitive process. They made the decision that that's what they wanted but they just chose that vendor. Yes, it was given for free but through the agreement with agency staff, applying it for free, that's like a realization as far as the meters but yet once they have given them the meters they were already tied in that from then on they would have to purchase the strips through them. Anyway getting equipment as realizations is covered under 103D-102 where we see realizations as the State Department benefits either tangibly from them, the equipment, and if the vendor benefits as well, tangible or intangible, then we see that as a realization. An example of a realization I'm not sure if you're familiar with it but several years back I believe the City accepted free services for tinting the Blaisdell Center. It was done free but the company that provided that service, they took pictures and they put it on their business cards or basically their advertising and the benefit there, or intangible benefit there, would be that hey we're a large company that can handle this type of structures and therefore you know give us the business. So anyway those types of services or products we would see as like a realization and then the procurement code would apply there.

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Here's an example of a landscape maintenance request, came in, and here specifically on cutting the grass at the Kakaako Waterfront Park and other parks as well. The agency was notified that the contractor filed for bankruptcy, it lost the landscaping contractor's license and no longer maintains liability insurance. Therefore the agency needed to terminate the contract. What they did was they also requested from other agencies that if they could assist in maintaining the schedule and I guess they contacted the DAGS Central Services as well and the end result is no one could assist. And therefore to avoid increase in insects or vector infestation that exists if you don't cut the grass within so many days, they get really tall. So anyway they came in with a request for exemption and they did get 8 contractors that were contacted and they submitted some quotes and they wanted to request for \$61,000.

Their request was approved until a new contract could be started. In fact this was tied into other contracts like trash pickup, tree trimming, which they did all separately. And so I dis-advised them. If the contract had this scope, there's no need to separate it out. Same vendor, you can fill out one form.

Here's an example of a monthly advertising space. An agency, I believe the Department of Health, requesting for an exemption, and for monthly advertising space. Three standing kiosks in high volume and geographic shopping centers and malls throughout the state. The vendor, Hawaii Malls, solely represents the various malls that they wanted to advertise in. There are no other vendors for this services for those specific malls. The program manager investigated the various sites effectiveness in reaching the largest number of the target consumers. To negotiate directly with the vendor.

The request was approved. It says the department has determined that the audience can be best reached by these posters being advertised in these various kiosks. Let me move on here. Another question that came up previously, why is this not a sole source request then? And the reason why it's not a sole source is because the service is really advertising and as you know there's many forms of advertising your service or product or the message you want to get across and so we don't see it as a sole source, we see it as an exemption. Because the sole source would be specifically only that company or manufacturer can provide that service and so we saw it as advertising as the overall service and yes even though they wanted to advertise at a certain mall, which therefore you needed to go through this vendor, advertising overall, that's what the reason for the exemption was, basically for advertising. Because like I said there's many forms. In fact if you remember back in your 3-120 Exhibit A it mentions about exempt services for advertising on radio stations of that nature and it's due to the target audiences.

I believe this is the last of the examples. Title sponsorship for a Hawaii Venture Capital Association Think Tech community event on 5/24/2012 at the Plaza Club to discuss and raise awareness on broadband. And the sponsorship includes speaker positions at the event, posting of HBI video of the thinktechhawaii.com website, posting of HBI videos on thinktechhawaii TV spots. Basically it was the agency to promote broadband initiatives alone and that is to reach a wide range of the population and they wouldn't have enough staff to do it otherwise.

And so the request was approved. Little tricky here because prior to this one the agency submitted a blanket exemption and that was basically for event sponsorships and the State Procurement Office pointed out that hey you know sponsorships, there's many companies out there qualified that want to do sponsorships that they could provide services to the agency as sponsorship like conferences where the department can benefit from that and so we told them hey why don't you create a hybrid type of

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RFP between, like an RFP, where they would advertise what their missions are and that companies out there that could provide those type of services for that mission. That they would apply for those sponsorships and that is to be done before the fiscal year starts. It's kind of like the professional services where they would put out a notice. And so that was worked on and that was eventually approved. But this one that came in, the example that you see here, actually came in after they were creating the RFP hybrid and so because it fell in between the cracks, we approved it because really there was no time to wait on that.

Let me move on here. How is procurement transparency achieved in this process? Now the SPO Form 7's and 7B's are posted. That's transparency on the State Procurement public website. And the documents submitted shall be kept in the respective exemption file and it will be public information after the CPO action, either approve or disapprove, unless it's not allowed under Chapter 92F.

So what must be posted then? I mentioned earlier about awards. Just because you have the exemption request approved and posted, the agencies are responsible for posting the awards. And here you can see the chart where for exempt contracts under 103D if the contract is worth \$2,500 and more. So that's what you need to do, you need to post that. The next couple slides will show this. I do want to advise you to also review the procurement circular no. 2010-01 and that is regarding posting procurement awards, we call it PANS, for those of you who are posting to take the State Procurement Office workshop for PANS. I believe that's workshop 140. This is the website that you can view other exemption awards. That's the arrow on the top. You can also view the exemptions that your office has submitted and to see what the status is.

Here's the webpage for exemptions that were awarded to various agencies under 103D-102 or 3-120 and also if it was approved through the SPO Form 7. In order to get the information just click on the blue contract/PO No. and you'll get the information on who, what the amount was, who was the awarded, as well as the scope, and the contact person.

What's the status of my SPO Form, let's say that you submitted to the State Procurement Office, here's a way of checking. You can go to this website. If you are one to do the actual posting or is a backup to do the posting and you have the responsibility you should again take that workshop 140. I would like to remind you that if you do not post, as I mentioned earlier, that it is a violation, and we do check, you know when the exemptions come in to our office or a sole source comes to our office or the procurement violations, say it originated from another contract, we do check to see if it's posted and we do ask that the agency post those even though it's beyond the seven days, we ask them to post it because we want to make sure it's transparent to the public.

What contract forms to use. To contract with the vendor you should use the Attorney General's Standard Contract Form, and that's AG-002, which was revised in 2006. You can find that on the Hawaii Form Central website.

Where you can submit the form and again that is to State Procurement Office and this is for the Executive Branch. You can submit it through email form.

Here to access the SPO Form 7 or the 7B form, you can go to the website here and download it.

Alright here's a request for exemption. Please use the most recent form or revised form. If not it may be returned by our office. But what we do ask when we review these, we ask ourselves, did the agency

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have sufficient time to put out a competition or a bid? Did they wait to the last minute let's say? Was work done so far? Did the agency do its homework or research to find out if there are other vendors that can provide similar work. So we'll ask for documentation, we'll ask questions. Unless there is irrefutable reasons for this exemption, why would it not be practical to open it up for competition again if time is not a constraining factor for the funding. And also make sure you explain in detail the justification and if the space is not enough, provide attachments.

Okay, 6. Explain and describe how procurement by competitive means is not practical and not advantageous. 7. Detail the process and procedures to be followed in selecting the vendor. When you selected the vendor, how was it done fairly? Why are they most qualified? That again stems back from the justification. How you selected them. How they're most qualified. If you look at the bottom of the procurement exemption, you'll see a number. It says procurement exemption 12-0109. That's the number that the State Procurement Office assigns to it. So whenever we refer to this procurement exemption it is by that number. So when we contact the person, the agency's contact person, we refer to this number. If you want to find out who it was assigned to, you can call our office because you may want to know the information on when it's going to be approved or who's looking at it. That's the number our office would give you.

Please also fill out the form completely. Make sure that the contact person has taken the training class and they are well informed about the request. And also read the CPO comments. I find there are agencies out there that take the request but they don't read the comments. The comments are there for a purpose and that it is to say that it is just for the solicitation process only, that the rest of 103D actually applies, they need to be HCE compliant in that sense, and who to contact.

Here's the SPO Form 7B. That is to amend the original procurement exemption and it's pursuant to 3-120 and that is when you're amending the original SOW or statement of work. And these boxes, 1, 2, 3, are pretty self-explanatory. You can see that there.

This is the back portion of SPO Form 7B.

Here is the webpage that you can find information of procurement exemptions. You just click on Goods, Services, and Construction, and you'll find Exemptions. And you can click on that and you'll come to this page.

Anyway, close to finishing up here. This is a summary of, like a flowchart of, the exemption process. So you can see on the top three, you can get an exemption either through the 103D-102 or the HARS 3-120-4 Exhibit A. If it's listed in both of those, you do not need to submit it to the State Procurement Office. You can note it on your purchase order, the exemption numbers. But if it's not listed there, you can request for a CPO review. Executive Branch, it would come to the State Procurement Office. Moving down to the yellow mark. If you submit the request, it'd be the SPO Form 7. It will be posted for 7 days. If the action of the CPO is to approve, wait to 7 days. He/she will wait. And if it's not going to be approved, the CPO does not have to wait. If it is approved, then the agency can issue the contract or purchase order. If it isn't approved, then the agency needs to procure it in the methods outlined in the procurement code.

Okay that concludes it. Thank you very much for attending.