



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
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STAFF SUBMITTAL

for the meeting of the
COMMISSION ON WATER RESOURCE MANAGEMENT

April 18, 2007
Honolulu, Oahu

Request to Enter Into a Contract for Professional Services to Conduct a Comprehensive 20-Year Review to Determine Compliance With Conditions on Water Use Permits Issued by The Commission on Water Resource Management

SUMMARY OF REQUEST:

Staff is requesting that the Commission on Water Resource Management (Commission) authorize the Chairperson to enter into a contract or contracts for professional services to conduct a comprehensive review to determine compliance with conditions on Water Use Permits issued by the Commission.

LOCATION: Statewide application

BACKGROUND:

This request is to conduct field investigations for all water use permits in designated water management areas to verify compliance with the conditions of current active water use permits. This compliance review is mandated under §174C-56, Hawaii Revised Statutes (HRS), which states:

"At least once every twenty years, the commission shall conduct a comprehensive study of all permits issued under this chapter to determine whether the conditions on such permits are being complied with. The commission shall prepare a formal report to the legislature which shall be available to the public [L 1987, c 45, pt of §2]"

A standard set of permit conditions are attached to all water use permits issued under Chapter 174C, HRS. These standard conditions limit the quantity, type, and location of the water use. The standard conditions also require the installation of flowmeters, the monthly reporting of water use, and the submittal of an individual water shortage plan. Finally, the standard

conditions require the use to be reasonable and beneficial (efficient and absence of any practical alternative), in the public interest, and non-interfering with other existing legal use, including Department of Hawaiian Home Lands water rights. The Commission normally adds special conditions to water use permits to address specific concerns on a case-by-case basis.

This request is critical at this time because Chapter 174C, HRS, was enacted in June 1987 and the Administrative Rules effectuating this Chapter were adopted in May 1988. The Commission’s interpretation of §174C-56, HRS, is that the statutory deadline to complete a compliance review is twenty years from the date of the Administrative Rules adoption, or May 2008.

SCOPE OF SERVICES:

1. The Nature And Description Of Services To Be Provided:

A. Review and document all active water use permit conditions.

The breakdown of the water use permits and associated water sources by island is as follows (many water use permits include more than a single source and all sources must be investigated as part of this compliance review):

| Island | # Water Use Permits | # Water Sources |
|---------|---------------------|-----------------|
| Oahu | 307 | 587 |
| Molokai | 49 | 54 |
| Maui | 1 | 1 |
| Totals | 357 | 642 |

B. Schedule and conduct field investigations for each permit and document standard and special conditions compliance based on such verification.

The following conditions of use shall be documented for each water use permit:

- Current type of water use
- Actual quantity of pumpage from water use permit sources supplying end uses
- Location of water use and water source (determination of Global Positioning System coordinates and mapping)
- Flowmeter installation
- Efficiency of use (document any apparent wasting of water and lack of appropriate water conservation measures)
- Absence of any practical alternative

C. Preparing individual field reports for each water use permit including photographs and maps (United States Geological Survey and tax map key) documenting the above conditions of use.

D. Preparing a report to the Legislature.

Based upon 307 water use permits on Oahu, at an estimated cost of approximately \$500 per water use permit and a total of 49 water use permits on Molokai and Maui, at an estimated cost of approximately \$800 per water use permit (includes travel cost estimates), the total projected cost for consultant services would be approximately \$200,000 to complete the statewide compliance review.

2. The Outcome/Benefit/Product To Be Realized From The Services:

The information and data collected during the completion of the twenty-year permit review will help determine whether or not the conditions, circumstances, and assumptions made during the issuance of the water use permits are currently valid. This will enable an evaluation of the actual water uses compared with the permitted water uses in a water management area and will help the Commission's Ground-Water Regulation Branch determine whether or not the water use permits need to be amended or revoked.

This project will also help the Commission to enforce permit conditions, including the requirement that water use permit holders submit monthly water use reports. The report to the Legislature will fulfill the Commission's statutory requirement under §174C-56, HRS.

3. The Relationship Of The Outcome/Benefit/Product On The Program's Activities And Objectives:

A twenty-year review of water use permits is consistent with the program objectives of the Ground-Water Regulation Branch under §174C-56, HRS, and Hawaii Administrative Rule §13-171-22, which requires such a compliance review. This request also supports §174C-48 to 54, and §174C-62, HRS, and related administrative rules, which sets forth the requirements for water use permit requirements, processing and approval.

This request also relates to future updates of the *Water Resource Protection Plan* component of the Hawaii Water Plan, authorized under §174C-31, HRS, which requires an inventory of current water uses statewide. The Hawaii Water Plan fulfills Functional Plan mandates to set forth policies, statewide guidelines, and priorities on water resources of the State.

4. How The Contract Will Be Monitored:

The Commission's Ground-Water Regulation Branch will monitor the contract through the use of well-defined deliverables, which correspond to the various elements of the scope of work. Payment to the consultant will be processed upon approval of each deliverable.

5. Why The Services Cannot Be Performed Internally (Include Information On Numbers And Types Of Positions In The Program):

The requirements of §174C-56, HRS, cannot be effectively completed within a reasonable timeframe due to limited staffing and funding. Completing the work described above will require site visits for the purposes of verifying compliance with the conditions of permitted end uses. Such a comprehensive and extensive investigation will require a significant amount of time and resources to schedule and investigate each permitted water source and end use. Neighbor island investigations will have additional associated travel time and expense. Such an extensive investigative effort is outside of the scope of normal staff activities and the Commission is requesting to hire a consultant to conduct a thorough compliance review.

The Ground-Water Regulation Branch consists of the following personnel: Hydrologic Program Manager, Information Technology Specialist III, 2-Hydrologist VI, Engineer IV, and Engineering Technician VI. The current workload consists of the following ongoing tasks: 1) Process petitions for designation of ground water management areas; 2) Process water use permit applications in designated ground-water management areas including contested case hearings; 3) Enforce the water use reporting requirement for large users in designated ground-water management areas; 4) Enforce the requirement for the submittal of water shortage plans; 5) Process water use, well construction, and pump installation permit applications and maintain the statewide existing well inventory; 6) Enforce the compliance of well constructions and pump installations with the Hawaii Well Construction and Pump Installation Standards and other permit conditions; 7) Respond to public inquiries about the status of ground-water related applications, permits, water sources and end uses; 8) Resolve ground-water-related complaints and disputes; 9) Assist the Stream Protection and Management Branch and Planning Branch; 10) Manage the inventory for the entire Commission staff; and 11) Provide cartographic and geographic information services for the entire Commission staff.

FUNDING:

The \$200,000 will be provided through the Department's LNR 404 Water Resources Program budget funding as follows: 1) \$10,000 in Fiscal Year (FY) 07 general funds; 2) \$90,000 in FY 07 special funds; and 3) \$100,000 in FY 08 special funds.

The general funds for this contract have recently become available as a result of the deferment of certain budgeted FY 07 expenditures. The FY 07 special funds were previously reserved for cost-sharing or for covering reimbursable-costs associated with any grant opportunities. However, the Commission was not successful in securing any grants within this fiscal year. The FY 08 special funds will become available assuming the spending ceiling remains the same. There are no foreseeable future cost implications beyond the contract period.

RECOMMENDATION:

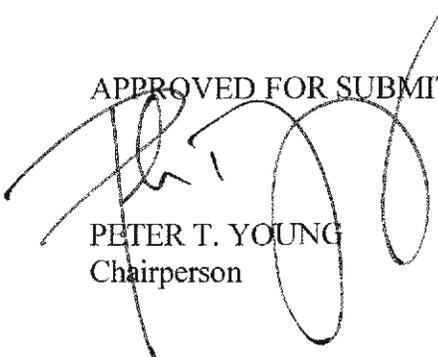
Staff recommends that the Commission authorize the Chairperson to enter into a contract or contracts for professional services to conduct a comprehensive review to determine compliance with conditions on Water Use Permits issued by the Commission on Water Resource Management. The terms of this contract(s) will be subject to the approval of the Chairperson and the Department's Deputy Attorney General. Contract execution will be done in accordance with Chapter 103D, HRS, and Chapter 3-122, Hawaii Administrative Rules.

Respectfully submitted,



W. ROY HARDY
Hydrologic Program Manager

APPROVED FOR SUBMITTAL:



PETER T. YOUNG
Chairperson