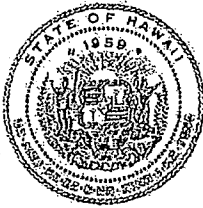


209



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**


No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR

January 15, 2008

TO: Aaron Fujioka, Administrator
State Procurement Office

FROM: Theodore E. Liu 

SUBJECT: Hydrogen Investment Capital Special Fund and Renewable Hydrogen Program
Management Services; Solicitation RFP-07-11-SID

This responds to your request for further clarification on why further action on the hydrogen fund are pending decisions by the U.S. Department of Energy regarding its proposed partnership with Hawaii. This is the "change in circumstance" referred to in my previous memoranda. As previously reported to you, every corrective action required by the State Procurement Office except for any revised award has been completed.

Section 196-10, HRS, codifies Act 240, SLH 2006, and establishes the Hawaii renewable hydrogen program within and to be managed by DBEDT. The purposes of the program are enumerated in Sections 196-10 (1) through (9), and include the department's mandate to design, implement and administer activities of strategic partnerships for the research, development, testing and deployment of the promotion of Hawaii's renewable hydrogen resources to potential partners and investors and the development of short- and long-term implementation plans. The department takes seriously its obligation of the proper management of the renewable hydrogen program to meet these overarching legislatively mandated objectives.

The hydrogen investment capital fund is established by Section 211F-5.7, HRS, and is intended to "provide seed capital and venture capital investments in private sector and federal projects ... and for any other purpose deemed necessary to carry out the purposes of Section 196-10." To deploy this fund to achieve the objectives of the renewable hydrogen program, the department decided to undertake a request for proposals (RFP) to solicit the best ideas from potential private sector partners. To be clear, the department was not obligated to seek management partners for the hydrogen investment capital fund through a RFP.¹ The department also intended that the management and deployment of the hydrogen capital investment fund was always subject to the ~~overarching objectives of the state's renewable hydrogen program.~~

¹ The hydrogen investment capital special fund was legislatively placed within the Hawaii Strategic Development Corporation (HSDC). ~~HSDC is not required to solicit its fund managers through RFPs.~~ Although not required to do so, the department intentionally decided to issue a RFP to obtain the best ideas from the private sector.

30108

As stated by the terms of the RFP, the department intended that the solicitation was for "~~all or a portion~~"² of the fund, that the solicitation was for three components of the state's renewable hydrogen program³ and that each component would be negotiated through separate contracts⁴. Also, per the stated terms of the RFP, the three components of the solicitation are intended to be integrated to the fullest extent possible. Each of the three agreements or contracts to be negotiated depends, to a large extent, on the scope and content of the others. For example, the scope, including the amount of the total fund dedicated thereto of the "cost-share" component depends on the overall hydrogen program management contract which, in turn, determines the scope of the "seed or venture capital" component and amount of the total fund dedicated to it.

When the opportunity of a federal partnership arose, the department recognized that this partnership would work toward meeting many of the legislatively mandated overarching objectives of the renewable hydrogen program. Furthermore, the department determined that attracting federal renewable energy projects and funding to Hawaii was one of the legislature's intentions underlying the establishing the hydrogen capital investment fund. Therefore, the department's judgment was that the state's and the renewable hydrogen program's best interest was to await the result of this federal partnership.

The department also determined that the nature, extent and content of this federal partnership could impact all three components of the RFP intended for negotiations with the selected contractor. As an example, the scope of federal activities and funding could impact and determine the scope of the contractor's hydrogen program management contract and the amount of funding available and allocated to the contractor's cost match and seed and venture capital contracts. Again, the department's judgment was that the state's and the renewable hydrogen program's best interest was to await the result of this federal partnership.

As I stated in our most recent conversation, this decision to wait is not about one contractor or another. The emergence of the federal partnership opportunity was a "change in circumstance" that would have impacted negotiations with any potential contractor.

Upon the determination of the nature, scope and funding opportunities of the federal partnership, if it comes to fruition, the department intends to determine the scope and funding of the three components of the RFP and proceed with any award to and negotiations with the selected contractor.

As discussed, I hereby request until the end of January, 2008 (revised from the end of the 1st quarter, as previously reported), by which time the details of the federal partnership are expected to emerge. I also attach a summary of the proposed federal partnership. I

² Page 4, RFP

³ 1. assistance to establish and manage the Hawaii Renewable Hydrogen Program; 2. to seek cost share investments to attract federal and private sector activities; and 3. to provide seed capital and investment capital for emerging Hawaii-based advanced energy technology companies.

⁴ Page 9, RFP; see also notice to H2Energy (since rescinded).

Memo to Aaron Fujioka
January 15, 2008
Page 3

again request that you keep these communications with you as ~~sensitive until the end of~~
~~January, 2008.~~

Finally, I have not seen the multiple-page complaint from one of the proposers to which you referred. As I mentioned, since the issue of my selection of the RFP contractor arose, none of the proposers has inasmuch as contacted me for a meeting or update. Had any done so, I would gladly have met and discussed, to the extent I could, the possibility of the federal partnership and its impact on the RFP process. I have felt constrained from contacting any of the proposers, given that one of the principals has indicated that past contact from me was construed as "intimidation".

I trust that this is responsive to your questions. Please feel free to let me know if I can provide any additional information.

Attachment

30110