

**STATE PROCUREMENT OFFICE  
NOTICE OF REQUEST FOR EXEMPTION  
FROM HRS CHAPTER 103D**

State Procurement Office  
Received: 03/28/2018

TO: Chief Procurement Officer

FROM: Defense  
*Name of Requesting Department*

Pursuant to HRS § 103D-102(b)(4) and HAR chapter 3-120, the Department requests a procurement exemption for the following:

1. Describe the goods and/or services:  
The purpose of the contract will be to establish a Private Public Partnership (PPP) with IHeart/KSSK Radio to do a joint public outreach program and create/establish programs to improve the state's ability to inform the public on state emergency messages through radio broadcasts. The state will contribute approximately \$250,000 in state funds and I-Heart Radio will contribute approximately \$1,150,000 in services, events, advertisement, radio announcements, etc. towards this joint public outreach program. I-Heart Radio is an affiliate of KSSK. KSSK has the designation as the "Local Primary 1 Radio Station" (LP-1). Note: The Federal Communications Commission (FCC) requires each State Emergency Communications Committee (SECC) to assign a "Local Primary 1 Radio Station" which must be monitored for emergency alert messages, and is also required to identify a secondary local primary alert state for redundancy (see attachments for additional details on the LP-1 designation, requirement and authorization-- Authorization Letter and attachment from #6 below).

2. Vendor/Contractor/Service Provider:	KSSK Radio / iHeart Radio	3. Amount of Request:
		\$ 250,000.00

4. Term of Contract From: ~June 2018 To: ~June 2019 (or as (w/ 5 yr ext).	5. Prior SPO-007, Procurement Exemption (PE):
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6. Explain in detail, why it is not practicable or not advantageous for the department to procure by competitive means:  
See attached.

7. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider:  
The process for selection of the IHeart Radio is based on the designation by the SECC naming IHeart Radio's affiliate KSSK the LP-1. The current EAS system remains a significant component of the larger more expansive IPAWS and is a hierarchical alert message distribution system. The national EAS delivery/transmission system is commonly referred to as a "daisy chain." At its initial level, it consists of various FEMA-designated broadcast stations – known as Primary Entry Point (PEP) stations – which are tasked with receiving and transmitting "Presidential Level" messages initiated by FEMA. As the entry point for national level EAS messages, these PEP stations are designated "National Primary" (NP) stations. At the next level (i.e., below the PEP stations), designated "State Primary" stations monitor specifically-designated PEP stations and re-transmit the Presidential-level alert, as well as state-level EAS messages originating from the Governor or a designated official at the Department of Defense's (DOD) State Emergency Operations Center (EOC). At the level below the State Primary stations, Local Primary (LP) stations monitor the State Primary and PEP stations and are monitored, in turn, by all other EAS Participants (radio and television broadcasters, cable TV service providers, etc.). KSSK is the Local Primary station (LP-1) for the State of Hawaii, by which all other stations receive information from

8. Identify the primary responsible staff person(s) conducting and managing this procurement. (Appropriate delegated procurement authority and completion of mandatory training required).  
\*Point of contact (Place asterisk after name of person to contact for additional information).

Name	Division/Agency	Phone Number	e-mail address
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*Colonel Neal S. Mitsuyoshi, P.E	Engineering Office	733-4250	neal.s.mitsuyoshi@hawaii.gov

*All requirements/approvals and internal controls for this expenditure is the responsibility of the department.  
I certify that the information provided above is, to the best of my knowledge, true and correct.*



Mar 27, 2018

Department Head Signature

Date

**For Chief Procurement Officer Use Only**

Date Notice Posted: 03/28/18

Inquiries about this request shall be directed to the contact named in No. 8. Submit written objection to this notice to issue an exempt contract within seven calendar days or as otherwise allowed from date notice posted to:

[state.procurement.office@hawaii.gov](mailto:state.procurement.office@hawaii.gov)

Chief Procurement Officer (CPO) Comments:

Approval is granted for the period June 1, 2018 – May 31, 2019, based on the department’s representation that it is not practical or advantageous to competitively procure for the services required. This approval is for the solicitation process only, HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e., vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) and the award is required to be posted on the Hawaii Awards & Notices Data System. Copies of compliance and the awards posting are required to be documented in the procurement/contract file.

If there are any questions, please contact Kevin Takaesu at 586-0568, or kevin.s.takaesu@hawaii.gov.

Approved

Disapproved

No Action Required



04/06/2018

Chief Procurement Officer Signature

Date

6. It is not possible, practical or advantageous to procure the required services through a competitive means because IHeart Radio and its affiliate KSSK are the only radio station in the state that have been designated the LP-1 by the SECC. It would not serve the purpose of improving the public outreach for the state to contract with another radio station to develop this program, other than the designated LP-1 station (i.e. KSSK). Furthermore, IHeart Radio/KSSK is willing to contribute approximately \$1,150,000 in related services, events, advertisements, radio announcements, etc. that will directly save the state money, improve public awareness, and improve the state warning program.

Background: In 2006, the Secretary of the U.S. Department of Homeland Security (DHS) directed FEMA to lead the DHS efforts to implement EO 13407 (Public Alert and Warning System directing the Department of Homeland Security that "... it is the policy of the United States to have an effective, reliable, integrated, flexible, and comprehensive system to alert and warn the American people .... and to ensure under all conditions the President can communicate with the American people, see <http://www.fas.org/irp/offdocs/eo/eo-13407.htm>) due to FEMA's long-standing leadership and direction of the EAS and National Alert and Warning Systems (NAWAS) programs, as well as the overarching Integrated Public Alert and Warning System (IPAWS) program (See FEMA's IPAWS web site for further details at <http://www.fema.gov/emergency/ipaws/>) initiatives that were established to meet the provisions of the executive order.

The Emergency Alert System (EAS) is a nationwide emergency alerting program that broadcasters, cable and wireless cable television systems, and other service providers identified by the Commission (as EAS Participants) must provide communications capability to the President to address the nation in national emergencies. EAS also is available at the state and local level to enable EAS Participants, on a voluntary basis, to transmit local or state emergency information, such as severe weather warnings and child abduction alerts ("Amber Alerts"). The Commission, in conjunction with the Federal Emergency Management Agency (FEMA) and the National Weather Service (NWS), implement EAS at the federal level.

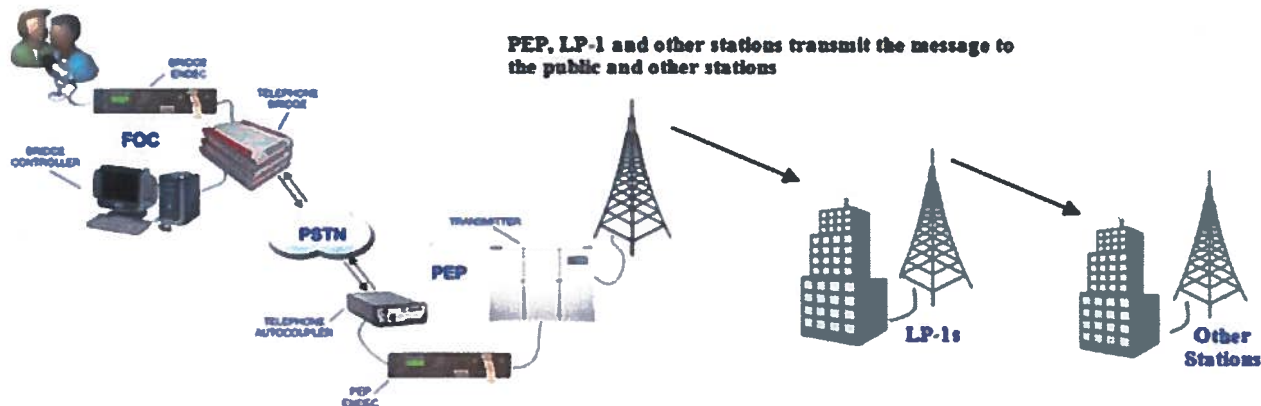
The current EAS system, established in 1997, is an evolution from the previous national alerting systems, the Control of Electromagnetic Radiation (CONELRAD) of the 1950's and the Emergency Broadcast System (EBS) of the 1960's, that grew out of the cold war era and the threat of nuclear warfare. More recently on June 26th of 2006, President Bush issued Executive Order 13407 (Public Alert and Warning

System) that directed to the Department of Homeland Security that "... it is the policy of the United States to have an effective, reliable, integrated, flexible, and comprehensive system to alert and warn the American people .... and to ensure under all conditions the President can communicate with the American people."<sup>2</sup> The Secretary of the U.S. Department of Homeland Security (DHS) directed FEMA to lead the DHS efforts to implement EO 13407 due to FEMA's long-standing leadership and direction of the EAS and National Alert and Warning Systems (NAWAS) programs as well as the overarching Integrated Public Alert and Warning System (IPAWS) program initiatives that were established to meet the provisions of the executive order.

The current EAS system remains a significant component of the larger more expansive IPAWS<sup>3</sup> and is a hierarchical alert message distribution system. The national EAS delivery/transmission system is commonly referred to as a "daisy chain." At its initial level, it consists of various FEMA-designated broadcast stations – known as Primary Entry Point (PEP) stations – which are tasked with receiving and transmitting "Presidential Level" messages initiated by FEMA. As the entry point for national level EAS messages, these PEP stations are designated "National Primary" (NP) stations.

At the next level (i.e., below the PEP stations), designated "State Primary" stations monitor specifically-designated PEP stations and re-transmit the Presidential-level alert, as well as state-level EAS messages originating from the Governor or a designated official at the State Emergency Operations Center (EOC). At the level below the State Primary stations, Local Primary (LP) stations monitor the State Primary and PEP stations and are monitored, in turn, by all other EAS Participants (radio and television broadcasters, cable TV service providers, etc.).

At present, the United States is divided into approximately 550 EAS local areas, each of which contains at least two Local Primary stations, designated "Local Primary One" (LP1), "Local Primary Two" (LP2), and so on. The LP stations must monitor at least two EAS sources for Presidential messages (including State Primary stations and in some cases a regional PEP station), and also can serve as the point of contact for state and local authorities and NWS to activate the EAS for localized events such as severe weather alerts. All other EAS Participants are designated Participating National (PN) stations and must monitor at least two EAS sources, including an LP1 and an LP2 station as specified in the state's EAS plan.



State and local emergency operations managers also can request activation of the EAS by utilizing state-designated EAS entry points, such as the State Primary (SP) stations or State Relay (SR) stations.<sup>4</sup> State Relay sources relay state-common emergency messages to local areas.<sup>5</sup> Local Primary sources are responsible for coordinating the carriage of common emergency messages from sources such as the NWS or local emergency management offices as specified in EAS local area plans.<sup>6</sup> State transmission systems vary from state to state, but can include “daisy chain” links between broadcast and other terrestrial communications facilities as well as satellite-based facilities.

Part 11 of the FCC’s rules contains the requirements for EAS Participants.<sup>7</sup> Generally, all analog radio and television stations, wired and wireless cable television systems, Direct Broadcast Satellite (DBS), Digital Television (DTV), Satellite Digital Audio Radio Service (SDARS), digital cable and Digital Audio Broadcasting (DAB), and wireline video systems operators are required under the FCC’s rules to comply with EAS rules.

Service providers opting to not participate in the EAS must receive an authorization letter from the FCC to that effect and must cease transmissions or programming on all channels during a national-level EAS message. These Non-participating National (NN) sources “are required to broadcast the EAS codes, Attention Signal, the sign-off announcement in the EAS Operating Handbook, and then stop operating.”<sup>8</sup>

In May 2007, the Commission adopted a Second Report and Order<sup>9</sup> in which it provided the groundwork for “Next Generation EAS” with four cornerstones: 1) maintain the existing EAS network; 2) utilize a common messaging protocol, the Common Alerting Protocol (CAP), to be implemented by all EAS Participants following its adoption by FEMA; 3) incorporate new authentication and security requirements; and 4) foster the deployment of new, redundant EAS delivery systems, including satellite,

Internet, and wireline networks. These new networks should support delivery of more targeted and detailed alert information to EAS Participants based on CAP to be developed by FEMA

The order required EAS Participants to be capable of accepting CAP messages no later than 180 days after FEMA announces its adoption of CAP standards.<sup>10</sup>CAP is an XML-based<sup>11</sup> protocol that will help enable the transmission of EAS alerts in a variety of formats (including text, audio and video) and via different transmission means (broadcast, cable, satellite, and other networks), as well as promote the development of Next Generation EAS. Adoption of CAP and the implementation of Next Generation EAS also will enable delivery of alerts to persons with disabilities and to non-English speakers. The Second Report and Order also expanded EAS to include wireline video providers, and required terrestrial EAS participants to transmit state and locally-targeted EAS alerts originated by governors or their designees following Commission review of revised state EAS plans.

There are several key features or attributes of EAS worthy of further comment:

- 1. A Presidential EAS Alert has never been issued – The EAS is a national alert and warning system that exists primarily to enable the President of the United States to issue warnings to the American public during emergencies. To date, however, neither the EAS nor its predecessor national alerting systems have been used to deliver a national Presidential alert. EAS has thus far been used solely for the voluntary transmission of state and local alerts, approximately 70 percent of which are severe weather alerts. On January 6, 2010, a live code test of the EAS was conducted from the White House to the state of Alaska as a first time “national-level” test.
- 2. State and local Alerts are delivered to the EAS pursuant to procedures described in State and Local Plans. State and local authorities must submit their plans for review by the FCC, which determines their consistency with federal obligations and requirements. Transition to CAP-based signaling and toward the Next Generation EAS architecture will require significant revisions to currently-filed state and local EAS plans that should encompass all of the potential alert mechanisms.
- 3. To help ensure EAS readiness, FCC-mandated EAS tests must be run on a weekly and monthly basis. The rules require certain “test” codes to be used for EAS testing purposes, as opposed to “live” event codes that would indicate an actual emergency. However, some states and the NWS have sought to conduct tests using “live” codes. EAS Participants who wish to participate in tests using “live” codes must receive a rule waiver from the FCC. The Public Safety and Homeland Security Bureau (PSHSB) has granted such waivers where proponents describe steps taken to prevent public

misinformation and panic. On the other hand, a more comprehensive live-code source-to-destination national test regime is needed and a national-level live code test is being planned in the wake of the January 6th test in Alaska.

- 4. FEMA has not yet developed the CAP standard for Next Generation EAS.<sup>12</sup> On October 13, 2009, the Organization for the Advancement of Structural Information Standards (OASIS) voted to approve the OASIS Common Alerting Protocol (CAP) v1.2 USA IPAWS Profile as a technical specification for public alert systems. The OASIS Common Alerting Protocol (CAP) v1.2 Standard provides a standard for emergency messages to the public. The OASIS CAP v1.2 IPAWS Profile is a subset of the CAP Standard to ensure interoperability with the existing and future emergency messaging systems including EAS and Next Generation EA; National Oceanic and Atmospheric Administration (NOAA), National Weather Radio (NWR), and HazCollect; and the forthcoming Commercial Mobile Alerting System (CMAS). FEMA has informed the communications industry along with its federal alert partners that it may adopt the technical standard as early as the third quarter of 2010. On November 20, 2009, FEMA IPAWS kicked off the Conformity Assessment Program at Eastern Kentucky University (EKU). The CA Program will evaluate vendor products and certify that they are compliant with the CAP v1.2 IPAWS Profile. Successful completion of the CA Program will result in a list of products with a Supplier's Declaration of Conformity and listing on the Responder Knowledge Base. Assessments will be conducted in two groups, the first from February through April 2010, and the second from May through June 2010.
- 5. FEMA's adoption of a particular CAP standard will necessitate a rewrite of current FCC rules. Unlike current analog/digital EAS signaling, CAP employs an XML language derived from HTML developed for use over the Internet. CAP is not, however, an Internet-based signaling technology.
- 6. The FCC may use CAP rollout as an incentive to encourage greater State participation in EAS. Following implementation of CAP, a state may submit a revised EAS State Plan describing how CAP-formatted gubernatorial EAS messages will be transmitted. Upon FCC review and approval, such messages will be carried on a mandatory basis on EAS within that state, subject only to Presidential pre-emption.

In a Further Notice of Proposed Rulemaking adopted concurrently with the Second Report and Order, the Commission sought comment about how best to deliver EAS alerts as well as broader emergency and public safety information to persons with disabilities and non-English speakers. The Further Notice

asked whether EAS Participants also should be required to deliver EAS alerts originated by local, county, tribal, or other state governmental entities.

In addition, the Further Notice sought comment on several possible means for assessing EAS operations, including additional testing, station certification, and post hoc assessments of how well the system worked after an EAS warning has been triggered. The Commission also specifically directed PSHSB to convene a meeting – or series of meetings – with stakeholders to explore how to promote the provision of emergency information to non-English speakers. PSHSB held two such meetings, in August and November 2007. Thereafter, broadcaster EAS stakeholders held conversations with proponents for multilingual messaging throughout the summer and fall of 2008 with inconclusive results.

Emergency alerts and warnings of this nature are a critical component of government efforts to inform the public of impending or ongoing emergencies and provide them with the information they need to take appropriate action to protect themselves and their families. It is essential that the EAS be tested at the state and local levels periodically to ensure operability and to identify any potential issues that may arise and develop solutions to address them on an ongoing basis. From time to time, it is essential to conduct a comprehensive evaluation of the EAS to determine the ability of the system to provide vital emergency messages to the public on a regional or nationwide basis.

To that end, in the summer of 2009, as part of an initial 30-day review by the Chairman, the FCC voiced a concern to the National Security Staff (NSS) that the EAS would not function reliably in the event of a Presidential activation. In addition, the Commission indicated that the testing of EAS is inadequate and the architecture and operation are at risk of failure since a test of “live-code alerting” of a Presidential message has never been done. As a result, the Commission is currently working with FEMA and the National Weather Service to initiate a three phase testing regime that will ultimately lead to a national-level live code test of the EAS.

In summary, the EAS and follow on Next Generation EAS are extremely important national alert and warning assets. As part of a potential larger alert and warning architecture, they play an important role in our nation’s well-being and in providing for the safety of our citizens.

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<sup>1</sup> The Policy Division of the Public Safety and Homeland Security Bureau was a major contributor to this article. We extend our sincere appreciation to the Division Chief, Mr. Tom Beers, for their assistance.



2 See <http://www.fas.org/irp/offdocs/eo/eo-13407.htm>

3 See FEMA's IPAWS web site for further details at <http://www.fema.gov/emergency/ipaws/>

4 The State Relay Network is composed of State Relay sources, leased common carrier communications facilities, or any other available communication facilities. In addition to EAS monitoring, satellites, microwave, FM subcarrier, or any other communications technology may be used to distribute state emergency messages. See 47 C.F.R. § 11.20.

5 47 C.F.R. § 11.18(d).

6 47 C.F.R. § 11.18(b).

7 C.F.R. Part 11 at [http://www.access.gpo.gov/nara/cfr/waisidx\\_08/47cfr11\\_08.html](http://www.access.gpo.gov/nara/cfr/waisidx_08/47cfr11_08.html).

8 See 47 C.F.R. Part 11.18 at [http://www.access.gpo.gov/nara/cfr/waisidx\\_08/47cfr11\\_08.html](http://www.access.gpo.gov/nara/cfr/waisidx_08/47cfr11_08.html)

9 See Review of the Emergency Alert System; Independent Spanish Broadcasters Association, the Office of Communication of the United Church of Christ, Inc. and the Minority Media and Telecommunications Council, Petition for Immediate Relief, EB Docket No. 04-296, Second Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 13275 (2007), as modified by Erratum (2007) at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-07-109A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-109A1.doc).

10 FEMA presently anticipates adopting CAP as early as the third quarter of 2010. See "FEMA Reaches Milestone with Integrated Public Alert & Warning System" available at <http://www.fema.gov/news/newsrelease.fema?id=49848>.

11 Extensible Markup Language (XML) is a form of Internet Protocol that allows the transmission of EAS information in multi-media formats similar to normal Internet or web pages.

See <http://www.w3.org/XML/> for more information on XML

12 See [http://groups.google.com/group/ecig-public/browse\\_thread/thread/5ef001fb7abc3ca5](http://groups.google.com/group/ecig-public/browse_thread/thread/5ef001fb7abc3ca5).

DAVID Y. IGE  
GOVERNOR



MAJOR GENERAL ARTHUR J. LOGAN  
DIRECTOR OF EMERGENCY MANAGEMENT

BRIGADIER GENERAL MOSES KAOIWI, JR.  
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**STATE OF HAWAII**  
DEPARTMENT OF DEFENSE  
OFFICE OF THE DIRECTOR OF EMERGENCY MANAGEMENT / CIVIL DEFENSE  
3949 DIAMOND HEAD ROAD  
HONOLULU, HAWAII 96816-4495

March 14, 2018

Chuck Cotton  
General Manager  
KSSK-AM Radio Station  
650 Iwilei Road, Suite 400  
Honolulu, Hawaii 96817

Dear Mr. Cotton:

Designation of Local Primary 1 Status of KSSK-AM Radio

The purpose of this Letter is to formally designate KSSK-AM 590 kHz Radio Station as the Oahu 1 Local Primary Radio Station in the State of Hawaii, Emergency Alert System Plan, dated June 12, 2003, with change 1 dated March 31, 2004, and change 2 dated October 26, 2006.

All participating stations and cable operators are required to monitor the digitally coded messages transmitted through the EAS network and alert their audiences accordingly. At a minimum, participating stations shall:

- A. As required by the FCC, be equipped with authorized EAS encoders and decoders properly configured to either store or automatically transmit EAS messages for each FCC specified event code. Assistance to initially configure EAS equipment is available upon request from the State Civil Defense Telecommunications Branch, phone 808-733-4301.
- B. Post copies of the EAS Operating Handbook (FCC publication) at normal duty positions where they shall be readily available for broadcast and cable personnel to refer to during national, state and local alerts and tests.
- C. Monitor at least two (2) specified EAS sources in the following priority, subject to reception capabilities:
  - 1) SCD dedicated land-line circuit
  - 2) Local Primary source
  - 3) NOAA Weather Radio (NWS)
  - 4) State and/or County Remote Program Unit (RPU)

Mr. Cotton  
March 14, 2018  
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As the Oahu 1 Local Primary Radio Station KSSK-AM shall conduct operations in accordance with the State EAS Plan during an emergency. State/local EAS participation shall not be deemed as a relinquishment of program control and shall not be deemed to prohibit a broadcast licensee from exercising his independent discretion and responsibility in any given situation. Broadcast stations and cable systems passing EAS emergency communications shall be deemed to have conferred rebroadcast authority.

Please contact George Burnett the Hawaii Emergency Management Agency, Telecommunications Branch Chief by phone at 808 733-4300 extension 530 if you have any questions.

Sincerely,



ARTHUR J. LOGAN.  
Major General  
Hawaii National Guard  
Adjutant General