

NOTICE OF AMENDMENT TO EXEMPTION FROM CHAPTER
103D, HRS, CONTRACT

Attachment

5. Description of goods, services, or construction:

Contractor shall serve as special deputy attorney general and lead counsel to represent and defend the State of Hawaii, Department of Education (DOE) in the following cases: Mark H., et al. v. Hamamoto, et al., Civil No. 00-00282MLR; Stephen L., et al. v. Hamamoto, et al., Civil No. 00-00338MLR; Patricia N., et al. v. Hamamoto, et al., Civil No. 00-00252MLR (collectively "the Cases"). The Contractor shall prepare, coordinate and supervise the defense of the DOE; appear at all meetings, briefings, and hearings held in conjunction with the Cases, and serve as lead counsel at the trial of each of the Cases in the United States District Court (USDC); exercise best efforts to coordinate the defenses in the Cases to avoid duplication and share resources and work products among the three cases; to the greatest extent possible, utilize deputy attorneys general and legal assistants of the Department of the Attorney General to assist; provide reports on the progress of the litigation to the Attorney General, as requested; and provide any and all other legal or related services requested to complete all proceedings in the three cases in the USDC.

7. Reason: This / These amendment(s) are necessary because:

The State's potential exposure in these cases is in the millions of dollars per child. Due to some unexpected costs, including the need to retain mainland experts in each of the three cases, an increase in the contract amount is needed. Plaintiffs have also retained a number of mainland experts. The DOE was initially granted summary judgment in one of the three cases. Plaintiffs appealed to the 9th Circuit Court of Appeal and the case was remanded back to the USDC. Although we have a firm trial date for only one of the cases, the Judge has imposed the same discovery deadlines for all three cases. The discovery process will require a number of depositions to be taken on the mainland. And while some of the work on the legal issues can be coordinated, due to the difference in the facts of each of the cases, individual work on each of the cases is required.