

THE JUDICIARY, STATE OF HAWAII
NOTICE OF REQUEST TO AMEND AN EXEMPTION
FROM HRS CHAPTER 103D CONTRACT

TO: Chief Procurement Officer

FROM: DWI Court Program, District Court of the First Circuit
(Name of Requesting Division/Program)

Pursuant to HRS § 103D -102 (b)(4) and HAR Chapter 3-120, The Judiciary requests to amend an exempt contract as follows:

1. Exemption Reference (JE) number:
JE19-50

2. Vendor/Contractor/Service Provider Name:
Alcohol Monitoring Systems, Inc.

3. Describe the goods and/or services:
CONTINUOUS ALCOHOL MONITORING SERVICES - transdermal 24/7 alcohol monitoring services

4. Explain in detail what is being amended:

Amendment requested to extend exemption period. Term of Contract to be from 10/01/2022 to 09/30/2023.

Section 3.1.5 Annual Price Adjustment added. After the first twelve (12) months of the Initial Term, AMS reserves the right to increase the pricing specified on the accompanying Product and Services Schedule by the yearly percentage increase in the Consumer Price Index for all urban consumers as issued by the Bureau of Labor Statistics of the U.S. Department of Labor ("CPI") as reported for each September (as measured by the increase in the CPI from September of the prior year) ("Annual Price Adjustment"). AMS will notify the Judiciary of any such Annual Price Adjustment for the following calendar year by October 1 of the prior year, and such percentage increase will become effective as of January 1 of the following year.

Section 6.4 Research Studies added. The Judiciary agrees that prior to using the Equipment for a research study or publishing any results from such a study, the Judiciary will obtain AMS' prior written approval of the study and additional written approval of any intent to publish the research results. AMS may, at its sole discretion, withhold any such approval. The Judiciary's breach of this Section 6.4 will be a material breach of the Agreement.

Section 11 Allocation of Liability amended to read: Each party agrees, to the extent allowed by law, to defend, indemnify and hold the other party and its officers, directors, shareholders, employees and third party suppliers (collectively, the "Indemnified Parties") harmless from and against all losses, damages and expenses, including reasonable attorneys' fees, in connection with any claims against the Indemnified Parties arising out of or related to the negligence or willful misconduct of the other party's employees or agents. Further, Agency shall indemnify and hold harmless AMS and its officers, directors, shareholders, employees and third-party suppliers against the acts of any Client assigned to wear the Equipment, including claims for personal, injury property damage or death. An indemnifying party shall have the foregoing obligation only if the other party provides: (i) a prompt written request for indemnification and defense in such claim or action; (ii) sole control of the defense and settlement thereof; and (iii) all available information, assistance and authority reasonably necessary to settle and defend any such claim or action.

EXCEPT AS ALLOWED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL A PARTY TO THIS AGREEMENT BE LIABLE TO THE OTHER PARTY OR ANY OTHER THIRD PARTY FOR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, PROFITS, DATA, (OR USE THEREOF), OR BUSINESS INTERRUPTION ARISING OUT OF ANY ACTS OR FAILURES TO ACT, WHETHER SUCH DAMAGES ARE LABELED IN STRICT LIABILITY, TORT, CONTRACT OR OTHERWISE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

AMS HAS NO RESPONSIBILITY OR LIABILITY FOR ACTS THAT MAY BE COMMITTED BY INDIVIDUALS WHILE THEY ARE CLIENTS. EXCEPT AS LIMITED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL THE TOTAL LIABILITY OF AMS FOR ALL CLAIMS OF ANY KIND WHATSOEVER, AND UNDER ANY THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT PAID BY AGENCY TO AMS DURING THE TWELVE MONTHS IMMEDIATELY PRECEDING THE EARLIEST EVENT GIVING RISE TO THE CLAIM.

The limitations set forth in this Section 11 shall apply even if any exclusive remedy in this Agreement fails of its essential purpose. The allocation of liability in this Section 11 represents the agreed and bargained for understanding of the parties and each party's compensation hereunder reflects such allocations.

5. Amended contract price for this request:

Not to exceed \$10,800, contingent upon confirmation of grant funding.

6. Explain in detail why the amendment(s) are necessary:

In 2012, University Health Partners of Hawaii, formerly University Clinical Education and Research Associates (UCERA), was contracted by the Judiciary to provide case management and research services for the DWI Court Program. During this year, UCERA purchased 20 Secure Continuous Remote Alcohol Monitor (SCRAM) Continuous Alcohol Monitoring (CAM) bracelet and modem sets to monitor DWI Court Program participants at a cost of \$1,500 per set. While UCERA no longer provides services to the Judiciary, the program retained all inventory purchased with grant funds, including the SCRAM CAM equipment. The current price quote to turn on SCRAM CAM bracelets to monitor a client is \$4.27 per day, with optional additional services at an additional cost.

It would not be practicable or advantageous for the program to use another vendor, as the rate would be more expensive since we would have to rent or purchase their equipment in addition to the cost of daily monitoring. Also, the DWI Court Program has used the SCRAM CAM device since 2013 and it uniquely meets the monitoring needs for our target population, who need to be monitored for alcohol use. SCRAM CAM is the only evidential instrument on the market that utilizes the proven science of transdermal testing to measure alcohol consumption. It is the only transdermal alcohol testing system that employs an active controlled sample delivery system using the industry-validated Dräger fuel cell. As a result, SCRAM CAM technology produces a quantifiable Transdermal Alcohol Concentration curve that is able to distinguish consumed alcohol from topical or environmental sources of alcohol.

7. 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/Program	Phone Number	email address
*Iris Lim	DWI Court Program	538-5134	Iris.M.Lim@courts.hawaii.gov

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

/s/ Iris Lim

Department/Division/Program Head Signature

9/6/2022

Date

For Chief Procurement Officer Use Only

Date Notice Posted: _____

Inquiries about this request shall be directed to the contact named in Item 8. Submit written objection to this NOTICE OF REQUEST FOR EXEMPTION within seven (7) calendar days, or as otherwise allowed, from the Date Notice Posted to:

Chief Procurement Officer – The Judiciary
Financial Services Department
Contracts & Purchasing Office
1111 Alakea Street, 6th Floor
Honolulu, Hawaii 96813-2807

Chief Procurement Officer (CPO) Comments:

☐

Approved

☐

Disapproved

☐

No Action Required

Chief Procurement Officer Signature

Date