

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

644



FROM: Riverside County Information Technology (RCIT)

SUBMITTAL DATE:
December 9, 2014

SUBJECT: Ratify Amendment #1 to the Agreement with Modern Compliance Solutions for HIPAA Security Risk Analysis awarded with only one response received, All Districts; [\$27,461]; RCIT Operating Budget

RECOMMENDED MOTION: That the Board of Supervisors:
1. Ratify and Approve Amendment #1 to the agreement with Modern Compliance Solutions to increase the amount from \$25,000 to \$27,461.

BACKGROUND:
Summary

Organizations which bill for medical services are required by federal law to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). A major requirement of HIPAA which helps ensure the protection of Electronic Protected Health Information (ePHI) is to perform a Security Risk Assessment of systems that contain ePHI. (Continued Page 2)

Christopher M. Hans
Interim Chief Information Officer

| FINANCIAL DATA | Current Fiscal Year: | Next Fiscal Year: | Total Cost: | Ongoing Cost: | POLICY/CONSENT (per Exec. Office) |
|-----------------|----------------------|-------------------|-------------|---------------|---|
| COST | \$ 27,461 | \$ 0 | \$ 27,461 | \$ 0 | Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/> |
| NET COUNTY COST | \$ | \$ | \$ | \$ | |

SOURCE OF FUNDS: RCIT Operating Budget
Budget Adjustment: No
For Fiscal Year: 14/15

C.E.O. RECOMMENDATION: APPROVE
BY:
County Executive Office Signature Jennifer L. Sargent

MINUTES OF THE BOARD OF SUPERVISORS

PURCHASING & FLEET SERVICES
Lisa Brandl, Director

Departmental Concurrence

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.: | District: ALL | Agenda Number:

3-31

BACKGROUND:

Summary (continued)

In an effort to comply with federal law, RCIT engaged a 3rd party contractor, Modern Compliance Solutions (MCS) which specializes in HIPAA Security Assessments, with MCS possessing the expertise in the field of HIPAA compliance. Initially, the contract was not to exceed \$25,000; however, after MCS assessment of the County's HIPAA Security Assessment became apparent that more work would be required for additional research to create customized reports for HIPAA compliance to mitigate any potential issues for the County. MCS agreed to complete this additional work for 10% of the original contract cost of 25,000 or \$2,461, bringing the new contract cost to \$27,461. At the direction of the Information Security Office, this work has already been completed by MCS. The work was completed to ensure that Riverside County reported the HIPAA Security Assessment results in a timely manner.

Impact on Residents and Businesses

There is no negative impact on the citizens or businesses in the County of Riverside.

Contract History and Price Reasonableness

Purchasing released a Request for Quote (RFQ ITARC-269) on behalf of the Information Security Office on May 22, 2014 for HIPAA security risk analysis services. The RFQ closed on June 5, 2014 with only one response received. The quote was evaluated and found to be responsive to the request. In order to proceed, RCIT requested a Sole Source Justification for a not to exceed amount of \$25,000 which covered the services required at the time. SSJ #15-078 was approved on July 8, 2014 and an agreement was signed with Modern Compliance Solutions to proceed with the analysis.

During the analysis, it was found that additional services in the amount of \$2,461 were needed and as such will cause the maximum agreement amount to be exceeded as well as the Purchasing Agents authority to approve sole source procurements up to \$25,000. By amending the agreement, the final services can be paid in full.

**COUNTY OF RIVERSIDE
AMENDMENT NUMBER 1 TO THE AGREEMENT
WITH
MODERN COMPLIANCE SOLUTIONS**

Effective Date of Amendment: 10/27/2014
Original Agreement Amount: \$25,000
Amended Agreement Amount: \$27,461

The Agreement between Riverside County, herein referred to as COUNTY and Modern Compliance Solutions, herein referred to as CONTRACTOR, is amended as follows:

1. On page 3 of the Agreement, amend Section 3.1 the "Compensation":
The COUNTY agrees to pay CONTRACTOR for services performed at an amended not to exceed cost of twenty seven thousand four hundred sixty-one dollars (\$27,461). \$25,000 has already been paid in full for services rendered. As the ammended work has already been delivered and duties performed, the additional \$2,461 will be paid immediately, including all expenses, based on the availability of fiscal funding.
2. Amend Sole Source #15-078 - Attachment 1 as approved on 7/8/2014 for this service to increase compensation amount from \$25,000 to \$27,461.
3. All other terms and conditions of the Agreement are to remain unchanged.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Amendment.

County

County of Riverside
Board of Supervisors
4080 Lemon Street
Riverside, CA 92501

By: _____
Name: Marion Ashley
Title: Chairman of the Board of Supervisors
Date: _____

Contractor

Modern Compliance Solutions
69 S. 1200 E
Lindon, UT 84042

By: Steve Marco
Name: Steve Marco
Title: President
Date: Nov 19, 2014

Concurrence to Amend SSJ #15-078:

Purchasing and Fleet Services
2980 Washington Street
Riverside, CA 92504

By: Lisa Brandl
Name: Lisa Brandl, Director of Purchasing
Date: 12/18/14



KEVIN K CRAWFORD
Chief Information Officer

MEMORANDUM

COLBY CATALDI
Asst. Chief Information Officer, DSH
G. BRIAN KOVALSKY
Asst. Chief Information Officer, BSH
TOM MULLEN II
Asst. Chief Information Officer, ICH
WESLEY P. COLVIN
Asst. Chief Information Officer, HSH

To: Mark Seiler, Asst. Purchasing Director **Date:** 7/7/2014

Via: Melissa Etter, Procurement Contract Specialist

From: Kevin K Crawford, Chief Information Officer

Subject: Sole Source Procurement for HIPAA Security Risk Analysis Services.

The below information is provided in support of my Department requesting approval for a sole source. Outside of a duly declared emergency, the time to develop a statement of work or specifications is not in itself justification for sole source.

1. Supply/Service being requested:

HIPAA Security Risk Analysis for Riverside County Regional Medical Center (RCRMC)

2. Supplier being requested:

Modern Compliance Solutions

3. Alternative suppliers that can or might be able to provide supply/service:

Clearwater Compliance, Compliance Resource Group, Inc., Healthcare Compliance Technologies, Clifton Larson Allen LLP and other providers of HIPAA security assessments and software may be able to provide these services.

4. Extent of market search conducted:

A formal Request for Quote was issued, RFQ #ITARC-269. It was advertised on Public Purchase and sent to 130 consultants that may provide this service. At the close of the RFQ on 6/5/2014, only Modern Compliance Solutions had submitted a proposal.

5. Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide:

Based on research of lack of response, it was discovered that Clearwater Compliance could not provide a quote without a clear inventory of the applications and processes. Having the consultant do an inventory was one requirement of the RFQ. Healthcare Compliance did not have the expertise required for the project as requested and Clifton Larson Allen, LLP does not provide the software component of the request. Modern Compliance Solutions proposed a clear solution for all aspects of the project, including software, onsite organization, audit of system and the requested reports for infrastructure vulnerability.

6. **Reasons why my department requires these unique features and what benefit will accrue to the county:** The "Health Information Technology for Economic and Clinical Health Act" or the "HITECH Act." authorizes incentive payments to eligible care providers who use the capabilities in their certified electronic health record (EHR) technology to achieve benchmarks that demonstrate use of the technology that can lead to improved patient care. It also imposes financial penalties, or payment adjustments to the Physician Fee Schedule under the Medicare program on those who fail to meet those benchmarks. The statute gives CMS discretion in issuing regulations and defining the reporting requirements providers must achieve to reach "meaningful use." CMS established a framework for meaningful use consisting of a set of "objectives" which must be met, as evidenced by compliance with a corresponding "measure." One of the core measures which must be met is a HIPAA Security Risk Analysis in accordance with CFR 164.308(a)(v 1). The completion of a comprehensive Security Risk Analysis will meet this specific core measure requirement. Failure to comply with HIPAA can result in civil and criminal penalties (42 USC § 1320d-5). The Secretary of the Department of Health and Human Services (HHS) has discretion in determining the amount of the penalty based on the nature and extent of the violation. Without a HIPAA Security Risk Analysis, the Riverside County Regional Medical Center and the County of Riverside will be out of compliance with HIPAA and may incur a financial penalty in excess of 1.5 million dollars.

Recent penalty incurred by other public agency:

\$1.7 million - Alaska Department of Health and Human Services - June 2012

Individuals affected: 501 – An unencrypted USB hard drive containing patient information was stolen from a DHSS employee's car. After conducting an investigation, OCR officials discovered that DHSS had failed to complete a risk analysis, implement adequate security measures and neglected to have security training for its employees and address device encryption.

7. **Price Reasonableness including purchase price and any ongoing maintenance or ancillary costs from the supplier:**

Price reasonableness is based on the total project estimate of two consultants for 160 hours at \$154.00/hr to conduct the HIPAA Security Risk Analysis including identifying risk, providing reports, installing and training staff on the software to continue the risk monitoring and providing a final report overview to include suggestions to mitigate future risk. In addition, penalties assessed due to inadequate security measures such as the one noted above may be substantial.

8. **Does moving forward on this product or service further obligate the county to future similar contractual arrangements or any ongoing costs affiliated with this sole source? (Maintenance, support, or upgrades, if so, please explain)?**

No, RCIT would like to award just the HIPAA Risk Analysis portion of the RFQ and revisit the future needs for privacy rules and breach assessment at a later time.

PAGE 2
SOLE SOURCE PROCUREMENT


9. Period of Performance:

One time project cost not to exceed \$25,000 for the total HIPAA Risk Analysis project.
Payment provisions will be PO for project scheduling and milestone progress payments based on mutually acceptable terms or Net 30 at project completion.


Kevin K Crawford, Chief Information Officer Date 8 Jul 14

Purchasing Department Comments:

Approve Approve with Condition/s Disapprove
Not to exceed: \$ 25,000 One time Annual Amount through 6-30-15


Mark Seiler, Asst. Purchasing Director Date 7-8-14 Approval Number 15-078