



San Bernardino County

Legislation Text

File #: 3009, Agenda Item #: 7

REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION

October 6, 2020

FROM

WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center

SUBJECT

Agreement with Medical Quality and Peer Review, LLC for Risk Management External Expert Review Services

RECOMMENDATION(S)

1. Rescind Agreement No. 20-678 with MD Review for risk management external expert review services in the amount not to exceed \$719,040, for the contract period of August 26, 2020 through August 25, 2025.
2. Approve Agreement with Medical Quality and Peer Review, LLC for risk management external expert review in the amount not to exceed \$719,040 for the contract period of October 7, 2020 through October 6, 2025.

(Presenter: William L. Gilbert, Director, 580-6150)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Provide for the Safety, Health and Social Service Needs of County Residents.

Operate in a Fiscally-Responsible and Business-Like Manner.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The additional cost not to exceed \$719,040 is funded by State Medi-Cal, Federal Medicare, private insurances, and other departmental revenue. Funding sources may change in the future pending any legislative activity related to the repeal and/or replacement of the Affordable Care Act. Adequate appropriation and revenue have been included in the Arrowhead Regional Medical Center (ARMC) 2020-21 budget and will be included in future recommended budgets.

Services conducted under this agreement will be paid according to the following schedule:

Year	Service	Estimated Annual Cost
Year 1	RM External Review	\$143,808
Year 2	RM External Review	\$143,808
Year 3	RM External Review	\$143,808
Year 4	RM External Review	\$143,808
Year 5	RM External Review	\$143,808
Total		\$719,040

BACKGROUND INFORMATION

Approval of the recommendation will allow ARMC to utilize a consultant for external, expert reviews of complex healthcare-related risk management claims/cases. Medical Quality and Peer Review's (Consultant's) independent, external review will allow for the mitigation of risk, provide education to healthcare providers, and assist in the determination of operational decisions that impact the potential fiscal output for adverse cases. The consultant will enable ARMC Risk Management and Patient Safety to provide more comprehensive information to legal counsel to reduce liability and provide the framework for education and training to assist clinicians in risk reduction. Independent, external reviews are an industry standard for healthcare facilities with a robust and effective Risk Management Program.

On August 25, 2020 (Item 10), the Board approved Contract No. 20-678 with MD Review in the amount not to exceed \$719,040, for risk management external expert review for the contract period of August 26, 2020 through August 25, 2025. However, after the approval was given, ARMC was informed by the company that their legal name is Medical Quality and Peer Review, LLC. and they do business as (dba) MD Review in jurisdictions outside the State of California. Furthermore, the vendor has not registered the dba name in the State of California. Therefore, the agreement under the name MD Review must be rescinded, and a new agreement entered into using their legal name as registered with the State of California - Medical Quality and Peer Review, LLC.

The Agreement with the consultant is based on the County's standard contract, negotiated by the parties, with indemnification provisions that differ from the standard County contract provision as follows:

Indemnification

Both parties are contractually obligated to defend and indemnify each other in proportion to and to the extent liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the indemnifying party.

- The County's standard contract requires the vendor to indemnify the County regardless of cause and regardless of whether the County is partially at fault. The County's standard contract also does not require the County to indemnify the vendor under any circumstances.
- **Potential Impact:** By agreeing to indemnify the consultant, the County could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred against the County, time limited, or expense limited could be brought against the consultant without such limitations and the County would be responsible to defend and reimburse the consultant for costs, expenses, and damages, which could exceed the total contract amount. Also, the consultant would only be contractually obligated to defend and indemnify the County for any claims in proportion to the consultant's fault in causing the injury/damages.

ARMC recommends approval of the agreement with the consultant as the consultant has specialty providers in all clinical areas and has knowledge of County policies and processes as well as federal requirements. The consultant will enable the County to operate in a fiscally responsible and business-like manner by allowing ARMC Risk Management and Patient Safety to provide more comprehensive information for claims to legal counsel to reduce liability and use as the framework for education and training to assist clinicians in risk reduction.

PROCUREMENT

This non-competitive procurement approved by the Purchasing Department is based on Consultant's specialized Risk Management expertise. The consultant offers experts who are credentialed with specialty-specific training in healthcare. The consultant also has knowledge of County and hospital-specific rules, regulations and policies.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Charles Phan, County Counsel, 387-5455) on September 14, 2020; Purchasing Department (Ariel Gill, Buyer, 777-0722) on August 11, 2020; ARMC Finance (Chen Wu, Finance and Budget Officer, 580-3165) on September 15, 2020; Finance (Yael Verduzco, Administrative Analyst, 387-5285) on September 16, 2020; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on September 20, 2020.