



San Bernardino County

Legislation Text

File #: 3681, Agenda Item #: 42

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

February 9, 2021

FROM

CORWIN PORTER, Director, Department of Public Health

SUBJECT

Agreement with Insight Management Systems, Inc.

RECOMMENDATION(S)

1. Approve an Agreement with Insight Management Systems, Inc., including the Software and Services Standard License Agreement, in an amount not to exceed a total of \$17,000 for a five-year period, for the license, maintenance, and support of Omnicare software used for recording medical data, appointment reminders, and reporting, for the period of March 1, 2021 through February 28, 2026.
 2. Designate the Director of Department of Public Health as the authorized official to approve and sign non-financial documents as they pertain to acceptance of the software, subject to review by County Counsel, so long as such documents do not increase the total contract amount or change the duration of the contract.
 3. Direct the Director of Department of Public Health to transmit copies of all documents in relation to this Contract to the Clerk of the Board of Supervisors within 30 days of execution.
- (Presenter: Corwin Porter, Director, 387-9146)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

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

FINANCIAL IMPACT

The item does not impact Discretionary General Funding (Net County Cost). The estimated cost of this software license and technical support is \$17,000 over the five-year term and will be 100% funded by the California Department of Health Care Services, Child Health and Disability Prevention (CHDP) program. Adequate appropriation and revenue have been included in the Department of Public Health's (DPH) 2020-21 budget and will be included in future recommended budgets.

BACKGROUND INFORMATION

DPH nursing and paraprofessional staff, funded via the state Child Health and Disability Prevention Program (CHDP), use Insight Management Systems, Inc. (Insight) OmniCare software (OmniCare) to enter and record data related to care coordination of children with health conditions that require diagnosis and treatment. OmniCare organizes and reports data in a manner that facilitates timely follow-up with the parents/guardians of the children to ensure care is initiated as soon as possible. The OmniCare software generates follow-up and reminder letters for the families of the children to assist them keep to their healthcare appointments. The

software also allows DPH to meet various reporting requirements of CHDP.

The recommended contract/agreement will renew the annual software licenses, technical support, and continued use of the proprietary software program to document and store care coordination activities for the benefit of children served and related correspondence to their families. DPH CHDP staff have utilized this OmniCare software since 2013.

The Insight Software and Services Standard License Agreement is its standard commercial contract, which includes terms that differ from the standard County contract and omits certain County standard contract terms. The non-standard and missing terms include the following:

1. The County is responsible and indemnifies and holds Insight harmless for any and all losses, liability or damages arising out of, or incurred in connection with, Licensee's use of the Software. Each of the Parties agrees to be liable for its own conduct in connection with this Business Associate Agreement (BAA) and to indemnify the other Party against any and all losses therefore. In addition, the County agrees to indemnify, defend and hold Insight harmless against all third party claims arising from or relating to the acts or omissions of the County in connection with the County's performance under the BAA.
 - The County standard contract does not include any indemnification or defense by the County of a Contractor.
 - Potential Impact: By agreeing to indemnify Insight, 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 Insight without such limitations and the County would be responsible to defend and reimburse Insight for costs, expenses, and damages, which could exceed the total contract amount.
2. Insight's liability for damages under the agreement shall not exceed the amount paid by the County for the Software.
 - The County standard contract does not include a limitation of liability.
 - Potential Impact: Insight caps its liability to the County at the amount paid by the County for all claims arising under the contract without exclusion. Claims could exceed the liability cap and the contract amount leaving the County financially liable for the excess. In addition, the County's liability under the contract is not similarly limited.

PROCUREMENT

Under the Purchasing Department's authority, the Purchasing Agent previously issued annual Purchase Orders with Insight under \$10,000 each beginning in 2013 for the non-competitive purchase of the requisite proprietary software licenses and technical support.

On April 19, 2016 (Item No. 44), the Board of Supervisors authorized the Purchasing Agent to issue a Purchase Order with Insight in an amount not to exceed a total of \$51,000 for a five-year period, for the annual renewal of software licenses and technical support through March 1, 2021. The recommended contract/agreement with Insight will not exceed \$17,000 for the five-year period of March 1, 2021 through February 28, 2026.

Purchasing supports the continued non-competitive procurement of Insight's Omnicare proprietary software licenses and technical support, based on compatibility and existing agreement, allowing continuity in use of this software and resulting in a significant cost savings.

REVIEW BY OTHERS

This item has been reviewed by Human Services Contracts (Jennifer Mulhall-Daudel, Contracts Manager, 388

-0241) on January 21, 2021; County Counsel (Bonnie Uphold, Deputy County Counsel, 387-5487) on January 26, 2021; Purchasing (Bruce Cole, Supervising Buyer, 387-2148) on January 26, 2021; Finance (Paul Garcia, Administrative Analyst, 386-8392) on January 22, 2021; and County Finance and Administration (Tanya Bratton, Deputy Executive Officer, 388-0332) on January 26, 2021.