



San Bernardino County

Legislation Text

File #: 4903, Agenda Item #: 8

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

October 5, 2021

FROM

WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center

SUBJECT

Agreements with Siemens Healthineers for Blood Gas Laboratory Analyzers and Informatics Support Services

RECOMMENDATION(S)

1. Approve Purchase Agreement with Siemens Healthineers, for the purchase of three Blood Gas Laboratory Analyzers, in an amount not-to-exceed \$31,110 plus applicable taxes, including service maintenance at no additional cost, for the term of October 5, 2021 through October 4, 2026.
 2. Approve Informatics Support Agreement with Siemens Healthineers, for technical and remote support in an amount not-to-exceed \$15,400 for the term of October 5, 2021 through October 4, 2026.
- (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.

FINANCIAL IMPACT

Approval of the recommendation will not result in the use of Discretionary General Funding (Net County Cost). The not-to-exceed amount of \$46,510 plus applicable taxes 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. Sufficient appropriation and revenue are included in the Arrowhead Regional Medical Center (ARMC) 2021-22 budget and will be included in future recommended budgets.

Payments shall be made according to the following schedule:

Year	Blood Gas Analyzers	Informatics Support	Annual Costs
Year 1	\$31,110	\$2,200	\$33,310
Year 2		\$3,300	\$3,300
Year 3		\$3,300	\$3,300
Year 4		\$3,300	\$3,300
Year 5		\$3,300	\$3,300

Totals	\$31,110	\$15,400	\$46,510
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BACKGROUND INFORMATION

The existing Siemens Healthineers RapidPoint 500 blood gas analyzers and their operating system at ARMC are in need of replacement and upgrades. The ARMC Respiratory Care Service Department utilizes blood gas analyzers to measure combinations of pH, blood gas, electrolytes and metabolites parameters from patient blood samples to determine treatment. ARMC's existing analyzers use a Microsoft Windows Operating System that is no longer supported by Microsoft, which could create network security issues. The purchase of three upgraded analyzers will include a five-year service agreement at no additional cost to the County. Furthermore, the new analyzers will be equipped with the most current Microsoft Windows 10 Operating System offering improved network security, a firewall, and antivirus protection through the Informatics Support Agreement. The Informatics Support Agreement will also provide for technical phone support and remote support, disaster recovery and various interface capabilities.

The acquisition of the blood gas analyzers and the informatics support services will be based on the terms of the Vizient Group Purchasing Organization supplier agreement with Siemens Healthineers (Siemens). However, Siemens also requires that the County enter into a Purchase Agreement and Informatics Support Agreement.

These agreements include the following non-standard contract terms:

1. The payment terms are Net 30 days with late payment interest of 1.5% per month.
 - The County standard payment terms are Net 60 days with no interest or late payment penalties.
 - Potential Impact: County standard processing time is 60 days or more. Failing to pay in 30 days will result in a material breach of the contract, which would allow Siemens to terminate the contract and seek other legal remedies, including charging the County interest at a rate of 1.5% per month, which would exceed the contract amount.
2. Except for personal injury, negligence, product defect, and intentional misbehavior, Siemens limits its liability to the County up to the purchase price paid to Siemens for the services giving rise to the liability.
 - The County standard contract does not include a limitation of liability.
 - Potential Impact: Aside from the exceptions discussed above, Siemens caps its liability to the County at the purchase price paid by the County for all claims arising under the agreement. 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 agreement is not similarly limited.
3. The County is required to defend and indemnify Siemens against third-party claims that arise out of the County's negligent or wrongful acts or omission.
 - The County standard contract does not include any indemnification or defense by the County of a Contractor.
 - Potential Impact: By agreeing to indemnify Siemens, 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 Siemens without such limitations and the County would be responsible to defend and reimburse Siemens for costs, expenses, and damages, which could exceed the total contract amount. Siemens is similarly obligated to defend and indemnify the County for its negligent/wrongful acts or omissions.

ARMC recommends approval of these agreements, including the non-standard terms, as they will support the operations of the respiratory care services at ARMC to provide for the safety, health and social service needs of County residents.

PROCUREMENT

Purchasing supports this non-competitive procurement based on the proprietary nature of the equipment and software. The proprietary Siemens blood gas analyzers have system compatibility with the hospital's existing data manager software, Rapidcomm. Siemens is the sole manufacturer and only authorized seller of devices compatible with Rapidcomm.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Charles Phan, Deputy County Counsel, 387-5465) on August 20, 2021; Purchasing Department (Ariel Gill, Buyer, 777-0722) on September 21, 2021; ARMC Finance (Chen Wu, Finance and Budget Officer, 580-3165) on September 13, 2021; Finance (Yael Verduzco, Administrative Analyst, 387-5285) on September 16, 2021; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on September 19, 2021.