



Suspension of Competition Acquisition Request

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1. Fully describe the product(s) and/or service(s) being requested.
Hosted web-based customized HIPAA training and Learning Management System with reporting capability.
2. Identify the selected vendor and contact person; include the address, phone number and e-mail address for each.
Terranova Worldwide Corporation whose address is 1545 boul. Del'Avenir, Laval, Quebec, Canada, H7S 2N5; general phone number is 1-866-889-5806; our representative is the Regional Sales Director, Cherisse Lapoint #514-489-5806 ext. 222 and her email is cherisse.lapoint@terrnovasecurity.com
3. What is the total cost of the acquisition? If an agreement, state the total cost of the initial term and the amounts for potential renewal terms.
Initial 3-year term (\$58,800.00) with 2 additional 12-month periods with approval of both parties and satisfactory performance (\$39,200.00); and additional optional customization per County's request at \$125 per hour with 40 hour maximum customization allowable (\$5,000). Total for five years is \$103,000.00.
4. Identify the unique qualities and/or capabilities of the service(s) and/or product(s) that qualify this as a Suspension of Competition acquisition.
Terranova is the County's current contracted provider of HIPAA Training Services and the current contract expires on 1/25/2021. The County's established web-based environment already contains the County's user accounts and customized courses. Terranova migrated to a new Learning Management System (LMS) in June 2020. The new LMS provides greater reporting and county staff management capabilities and provides new training content that will keep the training updated and fresh for users. In addition, the new LMS contains nano-learning modules, which will allow for small, short videos to be distributed on HIPAA-related topics that can be sent to users during the year to reinforce proper HIPAA confidentiality behaviors with the goal of decreasing HIPAA breaches. The County's Privacy Officer is eagerly anticipating the updated options available to the County with Terranova's new LMS. If the County were to establish a new contractor for these services, the customization process would take approximately nine months under normal conditions, from the point of an executed agreement to a pilot training; however, due to the unanticipated and continuing Federal and local declared COVID-19 Emergency, Department and County staff continue to be redirected from normal working duties and conditions to COVID-19 specific duties and conditions. It is anticipated that the customization process would take much longer if a new vendor were to be established.
5. Identify from Administrative Policy #34 what circumstances constitute a Suspension of Competition.
 - In an emergency when goods or services are immediately necessary for the preservation of the public health, welfare, or safety, or for the protection of County property.
 - When the contract is with a federal, state, or local governmental agency.
 - When the department head, with the concurrence of the Purchasing Agent, finds that the cost of preparing and administering a competitive bidding process in a particular case will equal or exceed the estimated contract amount or \$2,500 whichever is more.
 - When a contract provides only for payment of per diem and travel expenses and there is to be no payment for services rendered.
 - When obtaining the services of expert witnesses for litigation or special counsel to assist the County.
 - When in unusual or extraordinary circumstances, the Board of Supervisors or the Purchasing Agent/Purchasing Manager determines that the best interests of the County would be served by not securing competitive bids or issuing a request for proposal.
6. Explain why the unique qualities and/or capabilities described above are essential to your department.
The Department of Public Health houses the Privacy Office for the Fresno County HIPAA Covered Entities (CE). The Privacy Office manages the County's CE HIPAA Training, which is required by 45 Code of Federal Regulations (CFR) and by the County's HIPAA Management Directives (MD).
7. Provide a comprehensive explanation of the research done to verify that the recommended vendor is the only vendor with the unique qualities and/or capabilities stated above. Include a list of all other vendors contacted, what they were asked, and their responses.
There are several products that consist of videos and trainings that are very general in scope and not tailored to the Fresno County HIPAA MDs, which would not meet the 45 CFR requirement for HIPAA Training. 45 CFR 164.530 (b)(1) states, "Standard: Training. A covered entity must train all members of its workforce on the policies and procedures with respect to protected health information...". This requirement is interpreted to mean that the HIPAA Training provided to County CE staff must reflect the County's HIPAA MDs specifically, which requires a great deal of customization to any HIPAA Training product used. Terranova already has customized training content to reflect Fresno County's HIPAA MDs. Establishment of a new contractor, and subsequent customization

of a HIPAA training system to specifically reflect the County's HIPAA Management Directives would be inefficient and not in the best interest of the County at this time.

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Requested By:

Staff Analyst

Title

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I approve this request to suspend competition for the service(s) and/or product(s) identified herein.

dpomaville 8/10/2020 1:33:10 PM

Department Head Signature

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Purchasing Manager Signature

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