



Contract Number: CTN-HD-13*241
Effective Date: 1-31-14
Term Date: 1-31-14
Cost: ☒
Revenue: ☒
Total: ☐ RFE
ACTION
Renewal By: 1-31-14
Firm
Reviewed by: 1-31-14

BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: Next Available

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

Pima County Health Department will contract with LexisNexis VitalChek to provide enhanced processing services to the County as an In-House Provider to be used during the remote ordering process for certified copies of records from Pima County Health Department.

CONTRACT NUMBER (If applicable): CTN 13000000000000000241

STAFF RECOMMENDATION(S): Approval

Procure Dept 05/20/13 PM0211

CORPORATE HEADQUARTERS: Six Cadillac Dr., Suite 400, Brentwood, TN 37024

Page 1 of 2

To: COB - 5-22-13
Agenda - 6-4-13
(1)

CLERK OF BOARD USE ONLY: BOS MTG. _____

ITEM NO. _____

PIMA COUNTY COST: \$0 and/or REVENUE TO PIMA COUNTY: \$ 0

FUNDING SOURCE(S): N/A

(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

Advertised Public Hearing:

☐

YES

☒

NO

Board of Supervisors District:

1	<input type="checkbox"/>	2	<input type="checkbox"/>	3	<input type="checkbox"/>	4	<input type="checkbox"/>	5	<input type="checkbox"/>	All	<input checked="" type="checkbox"/>
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IMPACT:

IF APPROVED: Pima County Health Department Vital Records will continue to provide enhanced processing services for certified copies of records.

IF DENIED: Pima County Health Department will not utilize LexisNexis VitalChek to provide enhanced processing services for certified copies of records.

DEPARTMENT NAME: Health Department

CONTACT PERSON: Denise Sauer TELEPHONE NO.: (520) 243-7947

CONTRACT	
NO. <u>CTN-HD-1300001 00000 00000</u> 241	
AMENDMENT NO. _____	
This number must appear on all invoices, correspondence and documents pertaining to this contract.	

**CONTRACT FOR SERVICES
PIMA COUNTY
FOR AND ON BEHALF OF
PIMA COUNTY HEALTH DEPARTMENT
3950 S. Country Club, Ste. 100, Tucson, Arizona 85714-2056**

- | | |
|--|---|
| 1. Contract No: _____ | 2. Contract Type: <u>Fee-For-Service</u> |
| 3. Contract Amount: <u>No Cost</u> | 4. Purpose: <u>Certificate Processing</u> |
| 5. Start Date: <u>February 1, 2013</u> | 6. Expiration Date: <u>January 31, 2014</u> |

This Contract is entered into by and between **LexisNexis VitalChek Network, Inc.** referred to hereinafter as Contractor, and Pima County. Whereas, Pima County, on behalf of Pima County Health Department, is required to use the same contractor as the Arizona Department of Health Services (ADHS) to assure revenues generated by ADHS on behalf of Pima County flow back to Pima County. The Contractor, for and in consideration of the covenants and conditions set forth herein, shall provide and perform the services as set forth below. All rights and obligations of the parties shall be governed by the terms of this document, its Exhibits, Attachments and Appendices, including any Subcontracts or Amendments as set forth herein and in:

Section I	-	General Provisions	Section III	-	Work Statement
Section II	-	Special Provisions	Section IV	-	Compensation

This Contract contains all the terms and conditions agreed to by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto. Nothing in this Contract shall be construed as a consent to any suit or waiver of any defense in suit brought against the State of Arizona, Pima County, or Contractor, in any State or Federal Court.

Legal notice under this Contract shall be given by personal delivery or by registered or certified mail to the addresses set forth below and shall be effective upon receipt by the party to whom addressed unless otherwise indicated in said notice.

Notice to Contractor: Billy T. Burns Phone: (800) 669-8313, Ext. 6806
Address: Six Cadillac Drive, Suite 400, Brentwood, TN 37027

Notice to Department: Director
Phone: (520) 243-7735
Address: 3950 S. Country Club, Ste. 100, Tucson, Arizona 85714-2056

IN WITNESS WHEREOF, the parties enter into this Contract:

CONTRACTOR

PIMA COUNTY BOARD OF SUPERVISORS

BY: _____
Signature Date

BY: _____
Chairman Date

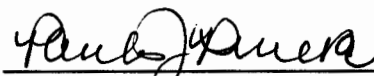
ATTEST

BY: _____
Clerk of the Board

APPROVED AS TO CONTENT

BY:  _____
Director, Pima County Health Department

APPROVED AS TO FORM

BY:  _____
Deputy County Attorney

SECTION I

GENERAL PROVISIONS

1. EFFECT

To the extent that the Special Provisions are in conflict with the General Provisions, the Special Provisions shall control. To the extent that the Work Statement(s) and the Special or General Provisions are in conflict, the Work Statement(s) shall control.

2. DEFINITIONS

As used throughout these GENERAL PROVISIONS, the following terms shall have the meanings set forth:

- A. Contract means this document and all attachments and amendments hereto.
- B. Contractor means the person, firm or organization listed on the Cover Page of this Contract.
- C. County means Pima County, Arizona.
- D. Department means the Pima County Health Department (PCHD).
- E. Director means the Director of the Department.
- F. Funding Source means any Federal, State, or Private Agency funding source which may impose conditions on the funding that will be passed on to the Contractor.

3. GENERAL REQUIREMENTS

- A. The terms of this Contract shall be construed in accordance with Arizona law. Any action thereon shall be brought in the appropriate court in the State of Arizona.
- B. The Contractor shall, without limitation, obtain and maintain all licenses, permits, and authority necessary to do business, render services, and perform work under this Contract, and shall comply with all laws regarding Unemployment Insurance, Disability Insurance, and Worker's Compensation.
- C. The Contractor is an independent Contractor in the performance of work and the provision of services under this Contract and is not to be considered an officer, employee, or agent of Pima County.

4. AMENDMENTS

All Amendments to this Contract must be in writing and signed by both parties.

5. RETENTION OF RECORDS

The Contractor agrees to retain all financial books, records, and other documents relevant to this Contract for five (5) years after final payment or until after the resolution of any audit questions which could be more than five (5) years, whichever is longer. The County or Federal or State auditors and any other persons duly authorized by County

shall, with reasonable advance notice, have full access to, and the right to examine copy and make use of any and all said materials. Client account information will be kept confidential by the County.

6. ASSIGNMENT / SUBCONTRACTING

No rights, liability, obligations or duties under this contract may be assigned, delegated or subcontracted without the prior written approval of County.

7. CONTRACT COMPLIANCE MONITORING

County shall monitor the Contractor's compliance with, and performance under, the terms and conditions of this Contract. On-site visits for Contract compliance monitoring may be made by County and/or its grantor agencies at any time during the Contractor's normal business hours, with reasonable advance notice. The Contractor shall make available for inspection and/or copying by County, all records and accounts of the work performed or the services provided under this Contract. Client account information will be kept confidential by the County.

8. CONTINGENCY RELATING TO OTHER CONTRACTS AND GRANTS

- A. County may request, and the Contractor shall provide within a reasonable time, a copy of any other contract or grant, when in the opinion of the Director, the award of the other contract or grant may affect the costs being paid or reimbursed by County under this Contract.
- B. If County determines that the award to the Contractor of such other Federal or State contract or grant has affected the costs being paid or reimbursed by County under this Contract, County shall prepare a Contract Amendment effecting a cost adjustment. If the Contractor protests the proposed cost adjustment, the protest shall be construed as a dispute within the meaning of the "Disputes" clause contained herein.

9. DEFAULT

County may suspend, propose to modify or terminate this Contract upon thirty (30) days written notice to Contractor in the event of a non-performance of stated objectives or other material breach of contractual obligations or upon the happening of any event which would jeopardize the ability of the Contractor to perform any of its contractual obligations; provided, however, that the County shall provide Contractor with a written thirty (30) day notice to cure and shall allow Contractor the specified time to cure the failure.

10. TERMINATION

- A. County or the Contractor may terminate this Contract at any time with at least sixty (60) days prior written notice to the other party. Such notice shall be given by personal delivery or by Registered or Certified Mail, return receipt requested.
- B. This Contract may be terminated by mutual written agreement of the parties specifying the termination date therein.

- C. County may terminate this Contract upon twenty-four (24) hours notice when County deems the health or welfare of a patient is endangered or Contractor non-compliance jeopardizes funding source financial participation. If not terminated by one of the above methods, this Contract will terminate upon the expiration date of this Contract as stated on the Cover Page.

11. SEVERABILITY

Any provision of this Contract which is determined to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof, and remaining provisions shall remain in full force and effect.

12. STRICT COMPLIANCE

Acceptance by County of performance not in strict compliance with the terms hereof shall not be deemed to waive the requirement of strict compliance for all future performance obligations. All changes in performance obligations under this Contract must be in writing.

13. NON-LIABILITY

Pima County and its officers and employees shall not be liable for any act or omission by the Contractor or any subcontractor, employee, officer, agent, or representative of Contractor or subcontractors occurring in the performance of this Contract, nor shall they be liable for purchases or Contracts made by the Contractor in anticipation of funding hereunder.

14. INDEMNITY

CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any act, omission, fault or negligence by the CONTRACTOR, its agents, employees or anyone under its direction or control or on its behalf in connection with performance of this Contract.

CONTRACTOR warrants that all products and services provided under this contract are non-infringing. CONTRACTOR will indemnify, defend and hold COUNTY harmless from any claim of infringement arising from services provided under this contract or from the provision, license, transfer or use for their intended purpose of any products provided under this Contract.

15. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty County may annul this contract without liability.

16. SAFEGUARDING OF CLIENT INFORMATION

The use or disclosure by any party of any information concerning an eligible individual served under this Contract is directly limited to the performance of this Contract, except as otherwise required to comply with applicable law, rule, regulation, or court order.

17. RIGHTS IN DATA

The parties hereto shall have the use of data and reports resulting from this Contract without cost or other restriction except as may otherwise be provided herein or by law or applicable regulation. Each party shall supply to the other party, upon request, any available information known to supplying party (except proprietary, confidential or privileged information) that is relevant to this Contract and to the performance hereunder.

18. NON-DISCRIMINATION

The Contractor, in connection with any service or other activity under this Contract, shall not in any way discriminate against any person on the grounds of race, color, religion, sex, national origin, age, or handicap. The Contractor shall include a clause to this effect in all Subcontracts inuring to the benefit of the Contractor or County.

19. EQUAL EMPLOYMENT OPPORTUNITY

The Contractor will not discriminate against any employee or applicant for employment because of race, age, handicap, color, religion, sex, or national origin. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, age, handicap, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor shall to the extent such provisions apply, comply with Title VI and VII of the Federal Civil Rights Act; the Federal Rehabilitation Act; the Age Discrimination in Employment Act; the Immigration Reform and Control Act of 1986 (IRCA) and Arizona Executive Order 99-4 which mandates that all persons shall have equal access to employment opportunities. The Contractor shall also comply with all applicable provisions of the Americans with Disabilities Act of 1990.

20. RIGHT OF PARTIAL CANCELLATION

If more than one activity is funded by this Contract, Pima County reserves the right to terminate this Contract or any part thereof in accordance with Section 13 herein based upon the Contractor's failure to perform any part of this Contract without impairing, invalidating or canceling the remaining Work Statement obligations.

21. RIGHT TO EXTEND CONTRACT

Subject to the availability of funds and acceptable Contractor performance, the Contractor hereby acknowledges and agrees that the County shall have the right to extend this contract every twelve months, for up to four (4) twelve month extensions or any portion thereof, unless either party provides sixty (60) days written notice prior to term end. Any extension of contract period must be mutually acceptable to the Department and the Contractor and signed by both parties in writing.

22. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

- A. The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:
- 1) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;
 - 2) have not within 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 3) are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
 - 4) have not within a 3-year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.
- B. Should the Contractor not be able to provide this certification, an explanation as to why should be attached to the Contract.
- C. The Contractor agrees to include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.

23. COUNTY COUNSEL REPRESENTATION

By signing this Agreement each party acknowledges that it is aware that the Civil Division of the Pima County Attorney's Office represents the County.

SECTION II

SPECIAL PROVISIONS

1. INSURANCE

CONTRACTOR shall obtain and maintain at its own expense, during the entire term of this Contract the following type(s) and amounts of insurance:

A. Commercial General Liability in the amount of \$1,000,000.00 combined, single limit Bodily Injury and Property Damage. Pima County is to be named as an additional insured for all operations performed within the scope of the Agreement between Pima County and Contractor;

B. Commercial or Business automobile liability coverage for owned, non-owned and hired vehicles used in the performance of this Agreement with limits in the amount of \$1,000,000.00 combined single limit or \$1,000,000.00 Bodily Injury, \$1,000,000.00 Property Damage;

C. If this Agreement involves professional services, professional liability insurance in the amount of \$1,000,000.00; and,

D. If required by law, workers' compensation coverage including employees' liability coverage.

CONTRACTOR shall provide COUNTY with current certificates of insurance. All certificates of insurance must include a statement confirming that should any of the above described policies be cancelled prior to the expiration date thereof, notice shall be delivered in accordance with the policy provisions.

2. LEGAL ARIZONA WORKERS ACT COMPLIANCE

Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor shall further ensure that each subcontractor who performs any work for Contractor under this contract likewise complies with the State and Federal Immigration Laws.

Pima County shall have the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, (subject to Pima County approval if MWBE preferences apply) as soon as possible so as not to delay project completion.

Contractor shall advise each subcontractor of Pima County's rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"SUBCONTRACTOR hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to SUBCONTRACTOR'S employees, and with the requirements of A.R.S. § 23-214 (A). SUBCONTRACTOR further agrees that Pima County may inspect the SUBCONTRACTOR'S books and records to insure that SUBCONTRACTOR is in compliance with these requirements. Any breach of this paragraph by SUBCONTRACTOR will be deemed to be a material breach of this contract subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of Contractor. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of Contractor's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which Contractor shall be entitled to an extension of time, but not costs."

3. **SCRUTINIZED BUSINESS OPERATIONS**

Pursuant to A.R.S. §§ 35-391.06 and 393.06, Contractor hereby certifies that it does not have scrutinized business operations in Iran or Sudan. The submission of a false certification by contractor may result in action up to and including termination of this Contract.

4. **CONFLICT OF INTEREST**

This Contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.

5. **NON-APPROPRIATION**

Notwithstanding any other provision in this Contract, this Contract may be terminated if for any reason, there are not sufficient appropriated and available monies for the purpose of maintaining Pima County or other public entity obligations under this Contract. In the event of such termination, COUNTY shall have no further obligation to Contractor, other than to pay for services rendered prior to termination.

SECTION III

WORK STATEMENT

SCOPE OF WORK:

VitalChek will provide enhanced processing services to the County as an In-House Provider to be used during the remote ordering process for certified copies of records from Pima County Health Department. VitalChek has two secure automated call centers processing these requests (Brentwood, TN and El Paso, TX).

All orders for VitalChek services at the Department will be data entered and authorized by VitalChek personnel who have been screened with extensive background checks.

The Department will place a message on their telephone greeting that persons interested in ordering a record over the telephone should call VitalChek at a toll-free number (to be determined), or that records may be ordered by facsimile, toll free, or by accessing VitalChek's Internet home page at www.vitalchek.com. Telephone orders will be answered either by a live operator or during peak hours or during non-business hours, by the IVR (Interactive Voice Response system).

At least once every business day, VitalChek will electronically transmit all orders (including entitlement documents) that have been data entered and authorized to the VitalChek system located at your agency. This will enable the Department staff to upload the transaction data, print combination search slips/mailling labels and to fulfill the orders. The Department staff will also close out the uploaded batch, print a closing report and payment check and notify us of any orders that require a credit to the customer because of any mistake or because of the inability to fulfill the order.

Any search information received by VitalChek will be held in the strictest of confidence and will not be divulged to any other person, firm or corporation without the Department's express written consent, except in compliance with law enforcement or federal, state or local laws, rules or regulations. VitalChek will consult with the Department on a regular basis, but no less than quarterly, as to the impact these new procedures have had in improving both the total numbers and the turn around time of orders processed. Where VitalChek deems appropriate, VitalChek will make procedural, hardware and/or software changes to further enhance the efficiency of order processing. Accordingly, VitalChek offers the following processing options, implementation timeframe and pricing:

PROCESSING OPTIONS AND CONFIGURATION

VitalChek utilizes a three-phase process to perform remote ordering as follows:

INTERNET: www.vitalchek.com

24 / 7 ordering capability using secure 128-bit SSL encrypted transmissions; orders are keyed by customers and seamlessly downloaded daily as scheduled

FACSIMILE: FAX-ON-DEMAND

24 / 7 ordering capability for customers who wish to make use of the Interactive Voice Response system that faxes the order form to a customer who then completes the form and faxes it to a VitalChek representative (or agency rep) who then keys the order into a VitalChek workstation for processing during normal business hours and after receiving entitlement documentation with order form.

SECTION III

WORKSTATEMENT

TELEPHONE: In-House Provider w/ toll free IVR

24 / 7 VitalChek In-House Provider; customers call a toll free order number, speak with a "live" operator during normal business hours or leave order info on our IVR (during non-business hours) to be transcribed by us and downloaded to you "ready for processing". VitalChek matches entitlement documents and FedEx a hard copy of entitlement data to the Department on a daily basis, until such time that VitalChek has completed the development of a more automated method of delivery.

The County acknowledges and agrees that from time to time access to some of the services may be unavailable or inoperable for various reasons, including but not limited to periodic maintenance procedures or repairs which VitalChek may undertake from time to time, equipment malfunctions, or other causes beyond the control of VitalChek or which are not reasonably foreseeable by VitalChek, including but not limited to interruption or failure of telecommunication or digital transmission links, network congestion, or other failures.

SECTION IV

COMPENSATION

VitalChek will provide these services to the Department free of charge. Consumer pricing is subject to change in future years based on transaction volumes, data costs and other market factors, however for the term of this contract the VitalChek fee (as stated below) will remain unchanged. At the time of execution of this Contract, Consumers will pay the following fees per order:

Agency Certificate and Official Record fees (if applicable)

VitalChek fee – \$10.00

UPS Rate - \$ 18.00* (when requested)

***Above rate is for priority next business morning delivery within the continental United States. Saturday and International delivery rates vary and all UPS charges are subject to change. For security purposes, signatures are required at time of delivery. The VitalChek fee includes Internet, toll-free phone & fax ordering.**