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STATE OF HAWAII
REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS

TO: Chief Procurement Officer

STATE PROCUREMENT OFFICE
STATE OF HAWAII

FROM: DHS/Med-QUEST Division
(Department/Division/Agency)

Pursuant to § 103D-102(b)(4), HRS, and Chapter 3-120, HAR, the Department requests a procurement exemption to purchase the following:

Description of goods, services, or construction:	
Refer to attachment.	

Name of Vendor: FourThought Group, Inc. Address: 112 North Central Ave., Suite 700 Phoenix, Arizona 85004	Cost: \$1.8 million
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Term of Contract: From: July, 2004 To: June, 2006	Prior Exemption Ref. No. (if applicable) 02-28-R (See copy attached)
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Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:
Refer to attachment.

Details of the process or procedure to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:
Refer to attachment.

REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS (Cont.)

A description of the agency's internal controls and approval requirements for the exempted procurement:

The contract will be negotiated with FourThought Group, Inc. by the DHS HIPAA Project Director in consultation with the Med-QUEST Division. The contract will be reviewed and signed by the DHS Director. The HIPAA Project Director, with supervision by the DHS Deputy Director, will have responsibility for working directly with the contractor to ensure the scope of work is performed.

A list of agency personnel, by position title, who will be involved in the approval process and administration of the contract:

Lillian B. Koller, Esq., Director (approve and sign contract)
 Henry Oliva, Deputy Director (will supervise the HIPAA Project Director to monitor the contract)
 Andrea J. Armitage, HIPAA Project Director (will serve as primary contact for the contractor and will negotiate and monitor the contract)
 Steven Kawada, Med-QUEST Division Assistant Administrator and Randy Chau, Med-QUEST Division Systems Officer (will consult with HIPAA Project Director on the budgeting and scope of the contract).

Direct questions to: Andrea J. Armitage	Phone Number: 586-4954
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This exemption should be considered for list of exemptions attached to Chapter 3-120, HAR: Yes No

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS, TO THE BEST OF MY KNOWLEDGE, TRUE AND CORRECT.


 Department Head or Designee

JUN 04 200
 Date

Title (If other than Department Head)

Chief Procurement Officer's Comments:

Please ensure adherence to applicable administrative requirements.

APPROVED DISAPPROVED

cc: Administrator,
State Procurement Office


 Chief Procurement Officer

6/17/04
 Date

**RESPONSE TO
REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS**

Description of goods, services, or construction:

HIPAA Security Rule analysis and consulting services. As the state Medicaid agency, the Department of Human Services (DHS) is required to comply with the administrative simplification requirements of the Health Insurance Portability and Accountability Act (HIPAA). The federal law affects most health care providers, all health plans (the DHS meets the definition of a health plan) and clearinghouses. The law has several components with different implementation dates. These components are the Privacy Rule, the Transactions and Code Sets Rule, and the Security Rule. The implementation date for compliance with the Privacy Rule was April 14, 2003, and for the Transactions and Code Sets Rule the implementation date was October 16, 2003. The implementation deadline for the Security Rule, which was finalized in April, 2003, is April 20, 2005.

The HIPAA Security Rule will greatly affect how medical information will be received, used, shared, stored and destroyed. This affects information systems, processes and procedures and potentially, facility layouts. Most organizations need the assistance of experts to examine, assess, and remediate its operations. The DHS is no different.

The contract would be performed in two parts over a two year period. In the first part the consultant would review the HIPAA Security Risk Assessment that was previously completed, and then use that information to assist the DHS to complete the Security Analysis and Risk Management Plan, and a Contingency Plan. The consultant would give the DHS recommendations for appropriate, cost-effective remediation and advice on how to maximize the federal matching funds allowable. The consultant would also assist the DHS to draft justifications for any addressable implementation specifications not complied with. [The Rule states that implementation specifications are either required or addressable; if the entity does not comply with an addressable specification then it must document its justification for the noncompliance.] The first part would also include assisting the DHS Security Team to draft policies and procedures and to provide Security policy awareness training for DHS staff as required by the Rule. In the second part the consultant would conduct an audit of the implementation done in the first part, and would assist the DHS with creating and implementing procedures for on-going auditing of Security Rule compliance, given the constant changes to the DHS network infrastructure, network threats, and available software/hardware. The consultant would further assist the DHS with corrective measures based on the results of those audits. The consultant would give the DHS the tools necessary to conduct on-going training updates and reminders as required by the Rule. The second part of the contract would also require the consultant to develop a protocol for a Standardized Enterprise Architecture for the DHS' information technology systems.

Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:

Procurement by competitive means is not advantageous to the State. When the Transactions and Code Sets Rules were in draft form, the DHS made the decision to comply with these Rules through an interstate agreement with the Arizona Medicaid agency, Arizona Health Care Cost Containment System (AHCCCS). AHCCCS is processing the Medicaid claims for both the Med-QUEST (MQD) and Social Services (SSD) Divisions through its claims processing system which is referred to in Hawaii as the Hawaii Prepaid Medicaid Management Information System (HPMMIS). In order to prepare for those changes, the DHS and AHCCCS both contracted with FourThought Group, Inc., (FourThought) of Phoenix, Arizona, to complete the HIPAA transaction analyses and remediation, and assist with their Privacy and Security Rule compliance efforts.

The DHS entered into a sole source contract with FourThought in June, 2002 to assist with its compliance with the HIPAA Privacy and Security Rules. This contract expired on January 31, 2004.

During the contract, FourThought assisted the DHS with determining its covered entity status in the first phase; conducted a Privacy Rule Gap Analysis in the second phase, and in the third phase assisted the DHS with drafting required Privacy policies and procedures, both at the Department and Division levels, conducted HIPAA Privacy training for all covered component staff on Oahu and on the Neighbor Islands, and conducted HIPAA training for some non-covered component staff. Also in phase three, FourThought, with its Honolulu-based subcontractor, Secure Technology Hawaii, Inc., conducted and documented a HIPAA Security Rule Risk Assessment which the DHS received in January 2004. Because of the lack of availability of funds, time constraints, and the delayed finalization of the final HIPAA Security Rule (February, 2003 instead of the anticipated October, 2002), all of the security requirements and assessments were not completed.

The implementation date of April 20, 2005 for the HIPAA security requirements gives the DHS only eleven months to perform all tasks required by the Security Rule (analysis, evaluation of alternatives, and implementation, technical, physical and administrative). Given the short time frame available, it is necessary to contract with a consultant that is knowledgeable of:

- HIPAA Transactions and Code Sets, Privacy, and Security Rules – It is imperative that the consultant have expertise in all three HIPAA rules. They are interrelated and interdependent. Knowledge of general information technology security protocols only, would be unacceptable.
- The Medicaid Program – There are many consultants knowledgeable of HIPAA, but the DHS is seeking a consultant that has specific knowledge of Medicaid and public programs. Typically, Medicaid programs interface with a number of other

state and federal programs. There are interfaces with the Department of Health (DOH), Department of Education (DOE), and the Department of Public Safety (PSD). The Medicaid program reimburses for services rendered by various divisions within the DOH and soon the DOE. The DHS processes claims for PSD. Internally, the DHS must assess and make decisions on interfaces between MQD, SSD, Vocational Rehabilitation Division (VRD) and the Benefit, Employment and Support Services Division (BESSD). Expertise with public programs and specific knowledge of Medicaid payments is required to understand how to apply HIPAA regulations. Finally, knowledge of the Medicaid program is essential to assisting the DHS in maximizing federal reimbursement for system and procedural changes.

- AHCCCS and DHS Operations – While both programs are Medicaid programs and are similar, there are differences and it is critical for the consultant to understand the similarities and differences. HPMMIS is jointly shared by Hawaii and Arizona. Any policy changes affecting the HPMMIS information system must be consistent with both states, as these policies are written to protect the information in the same system. Consistency will minimize system modifications and reduce costs. AHCCCS utilized the expertise of FourThought for its Transactions and Code Sets and Privacy Rules implementations.

AHCCCS is currently using FourThought Group, Inc. exclusively to assist in its Security Rule implementation and remediation efforts. The scope of AHCCCS contracts includes:

- Development of a Risk Analysis and Risk Management Plan
- Development of HIPAA Security Policies and Procedures
- Developing a method of distributing Security reminders to staff
- Integrating Security training into current Privacy training program
- Developing a method of conducting and recording a HIPAA Security evaluation audit
- Developing Security guidelines for new system application software
- Developing justifications for noncompliant Addressable implementation specifications

These are the same deliverables that the DHS will be requesting in this contract. Awarding a sole source contract with FourThought will allow the DHS to leverage the work that consultant has already done and is currently completing for AHCCCS, at a reduced cost.

- DHS Operations – After having worked with the DHS from June 2002 through January 2004 on the DHS' Transactions and Codes Sets, Privacy and Security Rules implementations, FourThought is familiar with the business processes that are unique to the DHS, as well as with respect to its relationships with other state agencies and AHCCCS. In January 2004, FourThought completed a detailed and complex administrative and technical Security Risk Assessment of the DHS' current status with the Security Rule requirements. They also made recommendations to the DHS on how to proceed with Security Rule compliance

efforts. It is essential that this proposed contract be a continuation of the earlier contract, adding Phases Four and Five of the Security Rule compliance efforts. This would provide continuity of our current strategy. Other consultants would be at a severe disadvantage, as they would not know the intricacies of the DHS' business processes, nor what HIPAA implementations efforts the DHS has conducted to date. This would clearly cost further time and money.

- The DHS HIPAA Security Risk Assessment -- The HIPAA Security Risk Assessment performed and documented by FourThought last January is an extremely sensitive and confidential document. It contains detailed technical information about all the vulnerabilities with the DHS' current information technology systems and networks, including the DHS' connectivity to other State of Hawaii departments (such as the Department of Accounting and General Services, Information and Communication Services Division) and AHCCCS through HPMMIS. Prospective bidders pursuant to an RFP would not be allowed to see this document unless and until the DHS actually had a contract with them. However, it would be essential for any consultant bidding on this contract to know this information for the consultant to make an informed proposal on the scope of the project. Without it, the proposal would be purely guesswork. FourThought did the assessment and wrote the document. They are intimately familiar with the scope of the work that remains on our HIPAA Security project.

In summary, the DHS has been working with FourThought on HIPAA implementation for two years, and AHCCCS currently is working exclusively with FourThought to complete its Security Rule implementation. There are currently only a small number of consultants with expertise in both HIPAA and Medicaid programs. In order to effectively and efficiently implement phases four and five of the DHS' HIPAA Project, expertise in HIPAA and Medicaid, familiarity with AHCCCS and the DHS operations and informational systems, and knowledge of the results of the Security Risk Assessment are critical. Only FourThought will meet all of these requirements.

