

**MEMORANDUM  
PLACER COUNTY HEALTH AND HUMAN SERVICES  
Administration**

**TO:** Honorable Board of Supervisors

**FROM:** Richard J. Burton, M.D., M.P.H.  
Placer County Health Officer and Director of Health & Human Services  
Graham Knaus, Assistant Director of Health & Human Services

**DATE:** October 8, 2013

**SUBJECT:** Contract with Nixon Peabody, LLC for Health Insurance Portability and Accountability Act (HIPAA) Consulting Services

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**ACTION REQUESTED:**

1. Approve a contract with Nixon Peabody, LLC for Health Insurance Portability and Accountability Act (HIPAA) consulting services in an amount not to exceed \$60,000, and authorize the Director of Health and Human Services to sign the resulting contract and subsequent amendments up to a cumulative total of 10 percent of the original amount, consistent with the agreement's subject matter and scope of work.

**BACKGROUND:**

In 1996, the United States Congress passed HIPAA, including standards for the privacy and security of healthcare transactions. Modifications to the original Act were adopted in later years, including the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act) which contains provisions that significantly affected the HIPAA Privacy and Security Rules.

Most recently, the U.S. Department of Health and Human Services issued the final regulations encompassing the four HIPAA/HITECH rules on January 17, 2013. This includes changes to the Security Rule, Privacy Rule, Breach Notification Rule, and Enforcement Rule. These changes include more specific information to patients and clients about how their privacy is protected and the rights that they have under the law. In addition, these regulations significantly increased the amount of civil monetary penalties that can be imposed upon a HIPAA privacy or security breach. Penalties now range between \$100 and \$50,000 or more for each violation, with a total calendar year maximum penalty of \$1,500,000.

In order to ensure compliance with the HIPAA Rules and in light of the complexity and magnitude of changes to the Act, HHS is seeking approval to retain a consultant to provide a complete review of policies and procedures, assist in amendment or creation of policies and procedures, provide training resources and make a recommendation to maintain policies to be compliant in the future. This consultant will be working with the County's HIPAA Privacy Officer and HIPAA Security Officer to thoroughly review each component of these requirements.

Nixon Peabody is a legal firm that specializes in HIPAA/HITECH compliance including gap analysis, compliance plans, general privacy and security assessment, remediation efforts, and breach notification compliance. Six firms were contacted for proposals to perform this work. Of the firms that responded, Nixon Peabody was the only respondent to offer the full breadth of services requested by the County, at a cost that was lower than other proposers that did not offer full services, and within the budget that had been established for this project.

**FISCAL IMPACT:**

This contract is fully funded with federal and state revenue, and is included in the Department's FY 2013-14 Final Budget.

A copy of this contract is on file with Clerk of the Board for review.

439

