

Notice of Intent to Certify Sole Source

To: Interested Parties
From: Craig P. Orgeron, Ph.D. ^{cpu}
CC: ITS Project Number 45130
Date: June 4, 2019
Re: Sole Source Certification Number 4216 for the ClearSight App for the Mississippi Department of Finance and Administration (DFA)
Contact Name: Paula Conn
Contact Phone Number: 601-432-8046
Contact E-mail Address: Paula.Conn@its.ms.gov

Sole Source Certification Award Details

Regarding Information Technology Services (ITS) Sole Source Certification Number 4216 for the ClearSight App for the Mississippi Department of Finance and Administration (DFA)/Mississippi Tort Claims Board (Board), please be advised that ITS intends to award to Riskconnect ClearSight LLC (Riskconnect) as the sole source provider through August 31, 2019. The total not-to-exceed cost of the project is \$14,625.00. For an explanation regarding Mississippi state law, policy and procedures for sole source procurements, refer to Attachment C: Sole Source Procurement Overview.

Sole Source Criteria

1. The product or services being purchased must perform a function for which no other product or source of services exist:

In 2009, DFA/MS Tort Claims Board (Board) purchased a software license and support for a risk management solution from CS Stars LLC, who later became Marsh USA Inc. Today the company goes by the name of Riskconnect ClearSight. The software serves as a critical component of the Board's ability to meet their State mandates. The ClearSight software provides DFA/MS Tort Claims Board 24 x 7 access to client data, the ability to submit and report of client claims, the ability to produce Tort Claims reports for DFA Executive Management and various other constituents, including the legislature. The desired App version of the software will allow Tort Claims staff members the flexibility to perform their constitutional duties while away from the office. The ability to remotely enter, track, and report against claims will save the staff time by providing the ability to enter the information in real time. Having the ability to access the information remotely, will also allow the staff the ability to provide better customer service to its constituents. The App version

will allow staff in the field to enter information and management back in the office the ability to access and report on said information in real-time. The customer's sole source certification request is included as Attachment A.

2. The purchaser must be able to show specific business objectives that can be met only through the unique product or services:

The App will seamlessly integrate with the desktop version of the software and provide DFA the ability to perform its responsibilities remotely. The App will provide real-time integration with the desktop version. The App will provide additional functionality that will allow the Board staff to perform their responsibilities in a more efficient and effective manner. Responsibilities of the Board include, but are not limited to, management of the tort claims fund; legal defense of litigated claims; establishment and maintenance of safety and loss control programs; and oversight of liability coverage plans of all political subdivisions. The customer's sole source certification request is included as Attachment A.

3. The product or services must be available only from the manufacturer and not through resellers who could submit competitive pricing for the product or services:

The Riskonnect ClearSight product offerings, including the ClearSight platform, is built upon a highly proprietary data model and source code exclusive to Riskonnect ClearSight. Riskonnect ClearSight's proprietary software, data model, and source code are protected by copyright, trade secret, and other intellectual property protections. The highly proprietary nature of the product offerings precludes the involvement of any third party in the various maintenance responsibilities for the software and client data housed by Riskonnect. The vendor's sole source certification letter is included as Attachment B.

Schedule

| Task | Date |
|----------------------------------|-------------------------------------|
| First Advertisement Date | 06/04/19 |
| Second Advertisement Date | 06/11/19 |
| Response Deadline From Objectors | 06/18/19, at 3:00 P.M. Central Time |
| Notice of Award/No Award Posted | Not before 06/19/19 |

Project Details

In 2009, the Mississippi Department of Finance/Mississippi Tort Claims Board (Board) purchased a software license along with support for a risk management solution from a cooperative purchase by using GSA Schedule 70 (U.S. General Services Administration Schedule 70 for General Purpose Commercial Information Technology Equipment, Software, and Services) in keeping with Mississippi Code Section 31-7-13 (m) (xxix). The risk management solution was purchased from CS Stars, LLC, and a Software License and Application Service Provider Agreement was executed. The Board has continued to use the system, renewing service and adding storage using the GSA Schedule 70. In October 2015, CS Stars LLC changed its name to Marsh ClearSight LLC. In October 2018, Marsh ClearSight LLC became Riskonnect ClearSight LLC.

ITS determined that the ClearSight App was not within the scope of the GSA Schedule 70 and as such is issuing this Sole Source Certification Number 4216. With this request, DFA/MS Tort Claims Board has spent to date \$621,429.91.

Submission Instructions and Format of Response from Objecting Parties

Interested parties who have reason to believe that acquisition of the ClearSight App should not be certified as a sole source should provide information in the following format for the state to use in determining whether or not to proceed with awarding the Sole Source contract to Riskconnect ClearSight, LLC.

- 1.1 Interested Party Information
 - 1.1.1 Contact Name, Phone Number and email address
 - 1.1.2 Company Website URL, if applicable
- 1.2 Objection to Sole Source Certification
 - 1.2.1 Interested parties must present specific objections to the Sole Source certification using the criteria listed above.
 - 1.2.2 A statement regarding the Interested Party's capabilities as related to this Sole Source Certification Request.
- 1.3 Comments will be accepted at any time prior to Tuesday, June 18, 2019, at 3:00 p.m. (Central Time) to Paula Conn at Paula.Conn@its.ms.gov or at the Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. Responses may be delivered by hand, via regular mail, overnight delivery, e-mail or by fax. Fax number is (601) 713-6380. ITS WILL NOT BE RESPONSIBLE FOR DELAYS IN THE DELIVERY OF RESPONSES. It is solely the responsibility of the Interested Parties that responses reach ITS on time. Interested Parties may contact Paula Conn to verify the receipt of their Responses. Responses received after the deadline will be rejected.
- 1.4 Interested Party responses should include the following information:

**SUBMITTED IN RESPONSE TO
Sole Source Certification No. 4216-45130
Accepted until June 18, 2019 @ 3:00 p.m.,
ATTENTION: Paula Conn**

If you have any questions concerning the information above or if we can be of further assistance, please contact Paula Conn at 601-432-8046 or via email at Paula.Conn@its.ms.gov.

Attachment A: Customer Sole Source Certification Request
Attachment B: Vendor Correspondence
Attachment C: Sole Source Procurement Overview



3771 Eastwood Drive
Jackson, Mississippi 39211
Phone 601-432-8000 Fax 601-713-6380

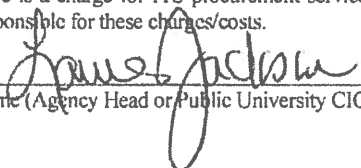
Sole Source Certification Request

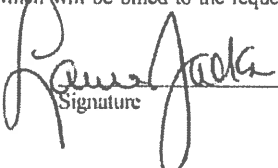
| | | | |
|--|----------------------|--|--|
| Project Title: ClearSight Application | | Stimulus (ARRA) Funds? Yes No <u>X</u> | |
| Customer Contact Information | | | |
| Agency/Public University: MS Dept. of Finance & Administration / MS Tort Claims Board Address: 501 N. West Street, Suite 1301 Jackson, MS 39201 | | Contact Person: Lea Ann McElroy Phone: 601-359-3627 Fax: Email Address: leaann.mcelroy@dfa.ms.gov | |
| MAGIC Customer Number (only required from state agencies): 7000000077 | | Division/Dept: MS Tort Claims Board Handmail: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | |
| <p>Project Summary Narrative Description of Project (include details of original acquisition if applicable): In 2009, DFA / Tort Claims Board (Board) purchased a software license and support for a risk management solution from Marsh USA Inc. Today the company goes by the name of Riskconnect ClearSight. The software serves as a critical component of the Board's ability to meet their State mandates.</p> <p>The Board provides administrative and technical support for equitable settlement and payment of claims for injury or damage arising out of the torts of governmental entities and their employees while acting within the course and scope of their employment. Responsibilities of the board include, but are not limited to:</p> <ul style="list-style-type: none"> • Management of the Tort Claims Fund • Legal defense of litigated claims • Establishment and maintenance of safety and loss control programs • Oversight of Liability coverage plans of all political subdivisions <p>Recently, Riskconnect ClearSight proposed upgrading the Board's licensed system to Riskconnect ClearSight's state of the art ClearSight platform. Included in the current upgraded proposal are the Policy Management, Program Management, Certificates, Claims Management, Claims Administration, Contacts and Location Managers components.</p> <p>A major advantage of the new platform is the App version of the software. The App version of the software will provide the Board the flexibility to perform their responsibilities away from the office. The App will provide the Board's staff the ability enter, review, and report on claims while at their respective clients.</p> <p>DFA respectively request approval of a one-time purchase of the App version of the implemented solution.</p> | | | |
| ITS Acquisition Approval (CP-1) should be effective through this date (Please allow time for all vendor invoices to be paid): 06/30/2021 | | | |
| Cost Estimates <i>Fiscal Year</i> | <i>Initial Costs</i> | <i>Ongoing Costs</i> | Time Constraints Item Needed by: Funds Expire: |
| FY19 | \$14,625.00 | | Discuss Funding (e.g. how much of needed funding is definite; total project budget; any matching or other non-state funds): |
| | | | |
| Total | \$14,625.00 | | |
| Anticipated Lifecycle of Products/System (i.e. estimated years of effective use): | | | |
| Acquisition Details | | | |
| Items Requested | Quantity | Description | Building Location(s) |
| ClearSight App Purchase | 1 | | Woolfolk |
| Describe platform & infrastructure (connectivity; software/hardware platforms; utilization of State Data Center resources: mainframe, eGovernment portal, payment engine, document management, hosting). For equipment or hosting outside the State Data Center, attach justification: The App will be an Application Service Provider (ASP) solution supported and maintained by the providing vendor. | | | |
| Progress to Date: What has been done related to this project, including any communication with ITS staff (data/voice/procurement/other)? ITS Procurement has researched the application purchase and indicated that it cannot be purchased against the current agreement. DFA has researched and determined the App, pending certification, would be a Sole Source purchase. | | | |
| Sole Source Certification Note: Certification must be renewed for each revision or continuation of previous Sole Source Approvals. | | | |
| Specific business requirements to be met by the requested products or services: The ClearSight software provides DFA / Tort Claims Board 24 x 7 access to client data, the ability to submit and report of client claims, the ability to produce Tort Claims reports for DFA Executive Management and various other constituents, including the legislature. The desired App version of the software will allow Tort Claims staff members the flexibility to perform their constitutional duties while away from the office. The ability to remotely enter, track, and report against claims will save the staff time by providing the ability to enter the information in real time. Having the ability to access the information remotely, will also allow the staff the ability to provide better customer service to its constituents. The App version will allow staff in the field to enter information and management back in the office the ability to access and report on said information in real-time. | | | |
| Explain why these products or services are the only ones that can meet your needs (include unique features/special functionality): | | | |

Attachment B: Vendor Correspondence

| | |
|--|---|
| <p>DFA has been using the desktop version of the ClearSight software since 2009. There are no other Apps available that will run the ClearSight software. The App will seamlessly integrate with the desktop version of the software and provide DFA the ability to perform its responsibilities remotely. The App will provide real-time integration with the desktop version. The App will provide additional functionality that will allow the Board staff to perform their responsibilities in a more efficient and effective manner.</p> | |
| <p>Explain why the source is the only entity that can provide the products or services (Include other products/vendors researched or evaluated): The Riskonnect ClearSight product offerings, including the ClearSight platform, is built upon a highly proprietary data model and source code exclusive to Riskonnect ClearSight. Riskonnect ClearSight's proprietary software, data model, and source code are protected by copyright, trade secret, and other intellectual property protections. The highly proprietary nature of the product offerings precludes the involvement of any third party in the various maintenance responsibilities for the software and client data housed by Riskonnect. No other companies are able to provide an App version of the Riskonnect ClearSight product offerings.</p> | |
| <p>Vendor's Certification of Sole Source attached: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Vendor's proposal submitted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> | |
| <p>MAGIC Vendor Code(s) Vendor must be in MAGIC before a CP-1 can be issued.</p> | |
| <p>Place Order To Vendor Name: Riskonnect ClearSight LLC Vendor Address: 1701 Barrett Lakes Blvd, Suite 500 Kennesaw, GA 30144</p> | <p>Remit To Vendor Name: same Vendor Address: same</p> |

By my signature, I certify that, to the best of my professional knowledge: the requested product or services are a sole source as outlined in the ITS Procurement Handbook, Rule 207.2:013-030 Procurement Types: Sole Source, and as outlined in Mississippi Code annotated Section 31-7-13. In addition, I acknowledge that there is a charge for ITS procurement services associated with this request which will be billed to the requestor by ITS and that my agency/public university is responsible for these charges/costs.


 Name (Agency Head or Public University CIO)/Title

 5/28/19
 Signature Date



May 1, 2019

VIA EMAIL: LeaAnn.McElroy@dfa.ms.gov

Mississippi Tort Claims Board
Attn: Lea Ann McElroy
501 North West Street, Suite 1301
Jackson, MS 39201

Re: Riskonnect ClearSight LLC is the Sole Source provider of the ClearSight Risk Management Information Systems platform

Dear Ms. McElroy:

As you know, the Mississippi Department of Information Technology Services as Contracting Agent for the Mississippi Tort Claims Board (the "Board") and Riskonnect ClearSight LLC ("Riskonnect ClearSight") are parties to that certain Software License and Application Provider Services Agreement, effective February 4, 2009 (as amended, the "Agreement"), for Riskonnect ClearSight's Enterprise Risk Management Information Systems software as a service platform and its associated services. Recently, Riskonnect ClearSight proposed upgrading the Board's licensed system to Riskonnect ClearSight's state of the art ClearSight platform. Included in the current upgrade proposal are the Policy Management, Program Management, Certificates, Claims Management, Claims Administration, Contacts and Location Managers and Dashboards apps that form a part of the ClearSight platform. Riskonnect ClearSight provides this letter to demonstrate it is the Sole Source Provider of the ClearSight platform.

Riskonnect ClearSight product offerings, including the ClearSight platform, are built upon a highly proprietary data model and source code exclusive to Riskonnect ClearSight. Riskonnect ClearSight's proprietary software, data model and source code are protected by copyright, trade secret and other intellectual property protections in the United States and elsewhere. The highly proprietary nature of Riskonnect ClearSight's product offerings precludes the involvement of any third party in the various maintenance responsibilities for the software and client data hosted on Riskonnect ClearSight's servers as no outside access to the source code exists except as may be authorized by Riskonnect ClearSight.





In addition, as between Riskconnect ClearSight and its clients, Riskconnect ClearSight is also the sole provider of the following combined services related to the ClearSight platform:

- development, monitoring, maintenance, and development of the Riskconnect ClearSight proprietary software (and related documentation) in an ASP environment from a Riskconnect ClearSight secured site that is subject to SOC 1 Type II audits
- 24 x 7 access to client data through an internet connection (except with respect to data hosted locally by authorized licensees of Riskconnect ClearSight)
- data warehousing, including transactions, claim notes and electronic file attachments, for ASP clients at a secured site that is subject to SOC 1 Type II audits
- creation of guidelines relating to access to ASP-hosted client data and Riskconnect ClearSight's and its agents servers established and maintained according to SOC 1 Type II controls
- data conversion services (except as may be conducted in-house by authorized licensees of Riskconnect ClearSight)
- data backup and disaster recovery for ASP/SaaS-hosted data handled according to Riskconnect ClearSight's and its agents' internal procedures, as updated from time to time
- development and maintenance of core Riskconnect ClearSight proprietary software and related documentation
- support services for Clients

Thus, Riskconnect ClearSight is the sole source for the risk management solutions, including, but not limited to, code corrections, product updates, technical support and services the Navajo Nation requires for successfully managing its risk. Additionally, no third party is currently authorized to provide additional capacity or hardware upgrades for STARS™ products in the United States.

Should you have any questions, or if I may be of any further assistance, please do not hesitate to contact me.

Sincerely,

Riskconnect ClearSight LLC

By: Timothy J. Mullens

Timothy J. Mullens
Counsel



The acquisition of information technology for all state agencies and institutions of higher learning (IHLs) is within the scope of the ITS law, found in Mississippi Code Section 25-53-1, et seq., and the policies and procedures established in accordance with this statute, found in the ITS Procurement Handbook posted on the ITS website (www.its.ms.gov).

ITS enabling legislation requires that information technology hardware, software and services be acquired in a manner that insures the maximum of competition among all manufacturers and suppliers of such equipment and services. Accordingly, ITS promotes full and open competition through the issuance of open specifications and the objective evaluation of Interested Party proposals to determine the lowest and best offering to meet an agency's or public university's business requirements. True competition protects the integrity and credibility of purchasing in the public sector and is essential in providing best value and adequate contractual protection for the purchasing entity. In certain limited situations, information technology acquisitions may be sole-sourced.

ITS utilizes the provisions of Public Purchasing Law for Sole Source and Emergency procurements of information technology. Mississippi Public Purchasing Law (Mississippi Code Section 31-7-13) specifies that noncompetitive items available from one source only be exempted from bid requirements (sole-sourced). ITS statute, in Section 25-53-5 (p), permits ITS to utilize provisions in Public Purchasing Law or regulations, when applicable.

Per Public Purchasing law, acquisitions must meet the following criteria to be authorized as sole source:

1. The product or services being purchased must perform a function for which no other product or source of services exists,
2. The purchaser must be able to show specific business objectives that can be met only through the unique product or services, AND
3. The product or services must be available only from the manufacturer and NOT through resellers who could submit competitive pricing for the product or services. The vendor's correspondence regarding this criterion for this project is included as Attachment B.

By policy as documented in the ITS Procurement Handbook, acquisitions of IT services must include the following information to be authorized as sole source:

1. An explanation about why the amount to be expended is reasonable, and
2. An explanation regarding the efforts by the purchaser to obtain the best possible price.

For state agencies, approval of all technology purchases with a lifecycle cost of \$5,000 or less, including sole source purchases, has been delegated to the agency. The ITS Procurement Limits Policies for Agencies (a section in the ITS Procurement Handbook) require a minimum of two competitive written bids or proposals for technology purchases with a lifecycle cost over \$5,000 but not over \$50,000 (not over \$25,000 for projects funded by the American Recovery and Reinvestment Act). Since, for single source items, the procuring agency will be unable to obtain two written bids, ITS must certify all sole source acquisitions of information technology with a lifecycle cost greater than \$5,000.

Institutions of Higher Learning (IHLs) or public universities have been delegated the authority to certify sole source procurements up to \$250,000 lifecycle cost under the ITS Procurement Limits Policies for IHLs (a section in the ITS Procurement Handbook). For the certification of sole source procurements delegated to the CIOs at public universities, the public university must follow ITS' Sole Source Procedure, including advertisement of the intent to award as sole source. Institutions certifying a sole source purchase must ensure the criteria listed above are met and documented in writing by the institution and the Interested Party prior to certifying a product or service as sole source. Sole source documentation must be reviewed and approved by the IHL's CIO for any sole-source certification above \$5,000. All sole source documentation should be retained in the public university's procurement file. Sole source requests above \$250,000 lifecycle cost require ITS approval.

Attachment C: Sole Source Procurement Overview

Other than the delegations outlined above, all sole source technology procurements must be certified by ITS. The customer's Sole Source Certification Request for this project is included as Attachment A.

ITS thoroughly reviews Sole Source Certification Requests, determining if competing products and/or services exist. If so, ITS conducts a competitive procurement. If ITS' review confirms the sole source, then a Sole Source advertisement is issued, giving other Interested Parties an opportunity to identify competing products and/or services. Based upon the results of the Sole Source advertisement, ITS will either certify the request as a sole source or conduct a competitive procurement.