

POST

*** NOTICE OF PUBLIC MEETING ***

BOARD OF EXAMINERS

LOCATION: Capitol Building
The Guinn Room
101 N. Carson Street
Carson City, Nevada

DATE AND TIME: July 25, 2012 at 3:00 p.m.

Below is an agenda of all items to be considered. **Action will be taken on items preceded by an asterisk (*).** Items on the agenda may be taken out of the order presented, items may be combined for consideration by the public body; and items may be pulled or removed from the agenda at any time at the discretion of the Chairperson.

AGENDA

1. PUBLIC COMMENTS

*2. FOR POSSIBLE ACTION – CONTRACT

BOE #	DEPT #	STATE AGENCY	CONTRACTOR	FUNDING SOURCE	AMOUNT	EXCEPTIONS FOR SOLICITATIONS AND/OR EMPLOYEES
1.	960	SILVER STATE HEALTH INSURANCE EXCHANGE - SILVER STATE HEALTH INSURANCE EXCHANGE ADMINISTRATION	XEROX STATE HEALTHCARE, LLC	OTHER: FUNDING BREAKDOWN IN ATTACHED MEMO	\$71,963,299	
	Contract Description:	This is a new contract to provide a Business Operation Solution (BOS), in the form of a Software as a Service, to support the information technology and business function of the Silver State Health Insurance Exchange in order to begin enrolling people in health insurance by October 1, 2013. As part of the BOS, the vendor must also provide a call center that will provide assistance to individuals, employers, employees, and brokers prior to an individual's enrollment in commercial health insurance coverage offered through the Exchange.				
		Term of Contract:	Upon Approval - 12/31/2016	Contract # 13561		

3. BOARD MEMBERS' COMMENTS/PUBLIC COMMENTS

***4. FOR POSSIBLE ACTION – ADJOURNMENT**

Notice of this meeting was posted in the following locations:

Blasdel Building, 209 E. Musser St., Carson City, NV

Capitol Building, 101 N. Carson St., Carson City, NV

Legislative Building, 401 N. Carson St., Carson City, NV

Nevada State Library and Archives, 100 Stewart Street, Carson City, NV

Notice of this meeting was emailed for posting to the following location:

Capitol Police, Grant Sawyer State Office Building, 555 E. Washington Ave, Las Vegas, NV

Brad Carson bcarson@dps.state.nv.us

Notice of this meeting was posted on the following website:

<http://budget.nv.gov/Meetings>

We are pleased to make reasonable accommodations for members of the public who are disabled and would like to attend the meeting. If special arrangements for the meeting are required, please notify the Department of Administration at least one working day before the meeting at (775) 684-0222 or you can fax your request to (775) 684-0260.

DETAILED AGENDA

July 25, 2012

1. PUBLIC COMMENTS

Comments:

*2. FOR POSSIBLE ACTION – CONTRACT

One independent contract was submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: _____ **Seconded By:** _____ **Vote:** _____

Comments:

3. BOARD MEMBERS' COMMENTS/PUBLIC COMMENTS

Comments:

*4. FOR POSSIBLE ACTION – ADJOURNMENT

Motion By: _____ **Seconded By:** _____ **Vote:** _____

CONTRACT SUMMARY

(This form must accompany all contracts submitted to the Board of Examiners (BOE) for review and approval)

I. DESCRIPTION OF CONTRACT1. Contract Number: **13561**

Agency Name:	SILVER STATE HEALTH INSURANCE EXCHANGE	Legal Entity Name:	Xerox State Healthcare, LLC
Agency Code:	960	Contractor Name:	Xerox State Healthcare, LLC
Appropriation Unit:	1400-70	Address:	8260 Willow Oaks Corporate Drive Suite 600
Is budget authority available?:	No	City/State/Zip:	Fairfax, VA 22031
If "No" please explain: This contract will be funded partially from the current grant and partially from a grant expected to be awarded around August 15.		Contact/Phone:	Will Saunders, President 281-382-7751

Vendor No.:
NV Business ID: NV20021090239

To what State Fiscal Year(s) will the contract be charged? **2013-2017**

What is the source of funds that will be used to pay the contractor? Indicate the percentage of each funding source if the contractor will be paid by multiple funding sources.

General Funds	0.00 %	Fees	0.00 %
Federal Funds	0.00 %	Bonds	0.00 %
Highway Funds	0.00 %	X Other funding	100.00 % Funding breakdown in attached memo.

2. Contract start date:

a. Effective upon Board of Examiner's approval? **Yes** or b. other effective date: **NA**

Anticipated BOE meeting date 07/2012

Retroactive? **No**

If "Yes", please explain

Not Applicable3. Termination Date: **12/31/2016**Contract term: **4 years and 184 days**4. Type of contract: **Contract**Contract description: **BOS**

5. Purpose of contract:

This is a new contract to provide a Business Operation Solution (BOS), in the form of a Software as a Service, to support the information technology and business function of the Silver State Health Insurance Exchange in order to begin enrolling people in health insurance by October 1, 2013. As part of the BOS, the vendor must also provide a call center that will provide assistance to individuals, employers, employees, and brokers prior to an individuals enrollment in commercial health insurance coverage offered through the Exchange.

6. NEW CONTRACT

The maximum amount of the contract for the term of the contract is: **\$71,963,299.00**

Other basis for payment: upon approved invoice, within 30 days of signed off deliverable form

II. JUSTIFICATION

7. What conditions require that this work be done?

In March 2010, the Patient Protection and Affordable Care Act of 2010 (the PPACA) was enacted by Congress and signed into law by the President. The PPACA creates an opportunity to reform the health insurance marketplace in order to provide all Americans with quality, affordable health insurance coverage. The law mandates the creation of Health Benefit Exchanges that allow consumers to access and evaluate plans from commercial insurers and to apply for health subsidy programs (e.g., Medicaid, the Children's Health Insurance Program (CHIP), and subsidized commercial health insurance) that best meet their needs through an online marketplace. The contract, is contingent upon mandates, requirements and funds of the PPACA, which may be changed, discontinued, or revoked at any time.

8. Explain why State employees in your agency or other State agencies are not able to do this work:

State employees are not qualified to do this work.

9. Were quotes or proposals solicited? Yes

Was the solicitation (RFP) done by the Purchasing Division? Yes

a. List the names of vendors that were solicited to submit proposals (include at least three):

b. Solicitation Waiver: **Not Applicable**

c. Why was this contractor chosen in preference to other?

This vendor was chosen through a committee of state employees, through a selection process that was monitored by the Purchasing Division. This vendor was the highest scoring vendor.

d. Last bid date: 05/08/2012 Anticipated re-bid date: 05/01/2018

10. Does the contract contain any IT components? Yes

III. OTHER INFORMATION

11. a. Is the contractor a current employee of the State of Nevada or will the contracted services be performed by a current employee of the State of Nevada?

No

b. Was the contractor formerly employed by the State of Nevada within the last 24 months or will the contracted services be performed by someone formerly employed by the State of Nevada within the last 24 months?

No

c. Is the contractor employed by any of Nevada's political subdivisions or by any other government?

No If "Yes", please explain

Not Applicable

12. Has the contractor ever been engaged under contract by any State agency?

No If "Yes", specify when and for which agency and indicate if the quality of service provided to the identified agency has been verified as satisfactory:

Not Applicable

13. Is the contractor currently involved in litigation with the State of Nevada?

No If "Yes", please provide details of the litigation and facts supporting approval of the contract:

Not Applicable

14. The contractor is registered with the Nevada Secretary of State's Office as a:
Foreign Corporation

15. a. Is the Contractor Name the same as the legal Entity Name?

Yes

16. a. Does the contractor have a current Nevada State Business License (SBL)?

Yes

17. a. Is the legal entity active and in good standing with the Nevada Secretary of State's Office?

Yes

18. Agency Field Contract Monitor:

19. Contract Status:

Contract Approvals:

Approval Level	User	Signature Date
Budget Account Approval	sderouss	06/12/2012 10:18:39 AM
Division Approval	sderouss	06/12/2012 10:18:42 AM
Department Approval	sderouss	07/09/2012 15:49:45 PM
Contract Manager Approval	sderouss	07/09/2012 16:18:44 PM
DoIT Approval	ismolya1	07/10/2012 08:23:15 AM
Budget Analyst Approval	nhovden	07/10/2012 08:26:53 AM
BOE Agenda Approval	nhovden	07/10/2012 08:27:00 AM
BOE Final Approval	Pending	



Brian Sandoval
Governor

Barbara Smith Campbell
Chairwoman

Jon M. Hager
Executive Director

Silver State Health Insurance Exchange

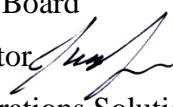
808 W. Nye Lane, Suite 204, Carson City, NV 89703 • T: 775-687-9939 F: 775-687-9932
exchange.nv.gov

Memorandum

DATE: July 9, 2012

TO: The Board of Examiners
Governor Brian Sandoval
Secretary of State Ross Miller
Attorney General Catherine Cortez Masto

CC: Jeff Mohlenkamp, Clerk of the Board

FROM: Jon M. Hager, Executive Director 

SUBJECT: Xerox-Exchange Business Operations Solution (BOS) Contract (RFP #2023)

PURPOSE

The purpose of this memo is to provide information regarding the funding and termination clauses of the Xerox-Exchange Business Operations Solution (BOS) Contract (RFP #2023) included in the July 13, 2012 Board of Examiners Agenda.

BACKGROUND

The Affordable Care Act requires each state implement a state based exchange to be operational no later than October 1, 2013. Any state that fails to meet that deadline will default to either a state partnership exchange or federally facilitated exchange. The Centers for Medicare and Medicaid Services has indicated states that default to a partnership or federally facilitated exchange will pay fees to the federal government for operation of the exchange in an amount yet to be determined.

To implement the state based exchange, the Silver State Health Insurance Exchange released RFP #2023 for its Business Operations Solution (BOS). The BOS provides the end to end business functions of the Exchange including a web portal, premium aggregator, Small Business Health Options Program (SHOP) Exchange, transfer and aggregation of premiums and other financial functions and a call center. The RFP committee selected Xerox Health Care Solutions, LLC as the winning vendor.

Federal funding for the implementation and first year of operations through December 2014 has been requested but not yet been awarded. The Exchange has sufficient funding in its current grant awards and budget to fund the contract until the additional request is granted. Policy decisions regarding Exchange revenues after 2014 have not been determined and may not be made until the completion of the upcoming legislative session. This has caused concern regarding the risk to the state in entering a contract prior to the award of funds.

TERMINATION CLAUSES

The BOS contract has a number of termination clauses to mitigate the risk to the state should funding or spending authority be denied:

- Termination Without Cause - 365 days termination notice for full or partial termination.
- Frustration of Purpose - 60 days termination notice if changes occur in laws, regulations or mandates that make all or a part of the project unnecessary or that materially diminish the utility of the project to the State, and State and Contractor cannot come to an agreement on a change order.
- Defunding Clause - Immediate termination if for any reason the contracting Agency's funding from State and/or federal sources are not appropriated or are withdrawn, limited, or impaired.

The Exchange has applied for a grant through the Affordable Care Act to fund the Exchange and the BOS contract through December 31, 2014. Notice of Award is expected on or about August 15, 2012. In the unlikely event the Exchange does not receive this award or the Interim Finance Committee were to disallow the additional authority to accept and spend the grant funds, the Defunding Clause would apply, all work would immediately stop and the state would not be obligated to pay any expenses of the contract.

The Exchange is required to be self-sustaining after 2014. The policy decision regarding the potential funding source after 2014 has not yet been determined.

FUNDING

Through December 31, 2014, funding for the BOS contract is mainly through Federal Funds (99.16%: 0.21% CHIP; 3.95% Medicaid; 95.00% Affordable Care Act). The remaining 0.84% of funding is a State General Fund match.

After 2014, the Exchange is required to be self-sustaining; no Affordable Care Act funds will be used to fund the Exchange. The method of funding has not yet been determined. After 2014, based on Federal Cost Allocation requirements, Federal Funds will pay for 3.73% of the project (0.21% CHIP; 3.53% Medicaid); the State General Fund match is 1.27%; the remaining 95.00% will be through revenues yet to be determined.

The table on the following page provides the percentage paid by each revenue source through 2014, after 2014, and for the total duration of the contract.

Funding Source	Through 2014	After 2014	Cumulative
Funding Requirements	\$33,203,299	\$38,760,000	\$71,963,299
Title XIX - Medicaid	3.95%	3.53%	3.72%
Title XXI - CHIP	0.21%	0.21%	0.21%
ACA 1311 Funding	<u>95.00%</u>	<u>0.00%</u>	<u>43.83%</u>
Total Federal Funding	99.16%	3.73%	47.76%
State General Fund	0.84%	1.27%	1.07%
Exchange Revenue TBD	<u>0.00%</u>	<u>95.00%</u>	<u>51.17%</u>
Total Contract	100.00%	100.00%	100.00%

Of the contract maximum of \$71,963,229, 72.17% of the costs are variable per member per month costs paid on or after January 2014. Because this pricing is based on a per member per month basis, the vendor assumes the risk if actual enrollment is less than estimated enrollment.

CONCLUSION

Even without defunding or loss of spending authority, the state may, at any time, terminate the contract without cause with 365 days' notice. Should the state decide to terminate the contract without cause on or before December 31, 2013, with a termination date on or before December 31, 2014, the risk to the state is capped at the 0.84% General Fund match.

The Exchange recognizes that funding at various stages of this project are not guaranteed. However, the termination clauses provided in the contract shield the state from the risk associated with the loss of funding or spending authorization. Furthermore, the vendor is aware of these potential issues and is willing to accept those risks.

While it is tempting to delay a decision regarding this contract, **any delay** would seriously damage the implementation timeline and **would likely result in significant increases in cost, failure to meet the October 1, 2013 deadline and federal intervention.** The increases in future costs would be caused by requirements to pay fees to the federal government for the use of the federal exchange, delayed implementation expenses that may not be paid by Affordable Care Act funds and increases in costs for other state contracts.