

## Responses to Questions, Requests for Clarifications, and/or Suggestions for 583-2011-010-RFP “Exercise and Development of Continuity of Operations (COOP) Plans”

1. Does each agency participating currently have a COOP?

Answer: All agencies that may participate have a COOP. However, COOP plans may be out-of-date, though none would be older than 2005.

1 a. Was COOP guidance provided for state agencies during the development of their individual COOP? If so, what form of guidance was provided – training; standardized templates for documentation, assistance during Plan development, etc.

Answer: COOP guidance and a COOP plan template were provided for state agencies in 2005. After all executive branch agencies submitted a plan based on the template, some agencies have updated their plans and have put information into LDRPS.

2. Were completed Plans reviewed by the state to ensure each contained the required components?

Answer: Completed Plans were submitted to the Iowa Homeland Security and Emergency Management Division (HSEMD), and reviewed, but no evaluation was made of the plans submitted.

3. Are state agencies required to participate in periodic COOP review and exercises? If so, how often?

Answer: Executive Order 40, issued in 2005, mandated that each agency complete a COOP plan, and that the plan itself must outline the agency’s strategies for ensuring readiness through a training and exercise program. However, there has been no entity given the charge to enforce the strategies that each individual agency may have stipulated for themselves for exercises. The guidance was that exercises be held at least annually.

4. Does state oversight exist, and is the state mandating agencies participate?

Answer: HSEMD provides guidance relative to COOP planning, and will provide project oversight. There is no mandate that any agency participate.

5. Is there an anticipated timeline for agencies to commit to the COOP review, update and exercise process?

Answer: No, except that the entire project should be completed by the end of July. Only if HSEMD receives an extension on the performance period for the grant funding this project could that be extended.

6. Can state agencies participate in the Plan review and update, but opt out of the exercise process? If they do opt out, how does this affect the calculation that will be used for reimbursement under the 1-5 agency pricing structure?

Answer: Due to any number of unforeseen events, agencies may have to opt out of the exercise before it is actually conducted. However, payment will be provided for the development of any and all exercise plans so long as the exercise plans are completed and delivered (even if the exercise does not take place), and provided that the consulting vendor has proposed a fee for the completion and delivery of an exercise plan. Also, the vendor may propose any other compensation arrangements for such an instance where an agency does not go through with an exercise after committing to do so. For instance, the vendor may propose that there would be some minimum compensation if, through no fault of the vendor, an agency does not proceed with the exercise. Such proposed fees or compensation should be stated in the vendor’s submitted proposal.

7. Can any of the required exercise meetings/conferences or COOP assistance be accomplished by conference calls and/or webinars?

Answer: Yes. Only the assistance with inputting COOP plan information into LDRPS would have to be conducted at a state facility or in the actual presence of a state employee.

8. Can one exercise be used for all agencies, or will an exercise be required for each agency?

Answer: One exercise can be used for all agencies, so long as it meets the objectives that each participating agency has for the exercise.

9. Will all participating agencies participate in the same exercise (at the same time/location), or will agencies be able to participate "on their own", or will a separate exercise be required for each?

Answer: Most likely all agencies will not participate at the same time and location, though if the consultant wants to try to arrange having two or more agencies participate in the same exercise (at the same time and place), they are welcome to.

10. What is the "not to exceed" number of participants that will attend each exercise?

Answer: Approximately 8 to 15 players would likely participate in each exercise. The prospective vendor may indicate a fee per player participating, or indicate a base fee and an additional fee that will be incurred if the number of players exceeds some certain number, or propose any other method of fees in their submitted proposal.

11. Will the government be supplying all room logistics, A/V equipment, and refreshments?

Answer: The state will make location logistical arrangements, such as reserving a room for the exercise and securing necessary wireless or wired internet access. The state will also provide a projector, electrical cords and laptop if requested. However, in no case will the State provide food for any exercise.

12. Does the government anticipate having observers attend the exercises? How many?

Answer: At least one HSEMD staff person (most likely the project officer) will observe every exercise. HSEMD will also provide at least one evaluator for each exercise. In addition, there may be one or two other observers who attend each exercise.

13. Were there previous COOP plans or exercises produced in whole or in part by another contractor? If so by who?

Answer: Continuity Tech helped different state agencies in the past with COOP plans and some limited exercise development. CCI Worldwide provided some COOP planning assistance to one Iowa state agency who may or may not participate in the proposed exercises.

14. Are there any current continuity contracts in place? If so, with who?

Answer: Currently, Rose International has a contract with the Iowa Department of Administrative Services to provide some continuity planning services.

15. Do all of the participating agencies have experience in LDRPS? Answer: No

a. What is their level of competency/experience? Answer: Varies from none to much

b. Will they require some training?

Answer: They may, but not from the contractor chosen for the RFP project. The state's Department of Administrative Services (DAS) will be responsible to provide them any training they may need on LDRPS. DAS has contracted with Rose International, a consulting firm, to provide such training and LDRPS administration. The contractor chosen for the RFP project may do the actual input of information into LDRPS on behalf of the agency so that the agency does not have to. DAS, and their contracted consulting firm, would also be available to answer any contractor questions relative to relevant state agency use of LDRPS.

16. Is it required that the contractor be a resident of the state? Answer: No

a. Is it required that the contractor have an office in the state? Answer: No

17. In the 2d unnumbered paragraph of section 1.1, August 1, 2012 is set out as the contract end date; however, Contract Section 2.9 sets the end date as July 30, 2012. Please reconcile.

**Answer:** When a contractor is selected, the final contract will be negotiated and include a contract end date that is no earlier than August 1, but it may specify that the due date for all deliverables be July 30, 2012 (and no earlier). Either the contract end date or the deliverables due date may be pushed back to a later date.

18. In the 3d unnumbered paragraph of section 1.1, HSEMD reserves the right to exercise "an option to renew an agreement...in subsequent years." Does this mean an extension of the proposed contract, an entirely new contract without competition, but with essentially the same scope and Ts&Cs, or something else? Since this is an option, when could it be exercised, and with how much notice? Will that option be included in the proposed contract?

**Answer:** Any renewal of the agreement will essentially include the same scope of work and terms and conditions. This could be done through an amendment or an entirely new contract (without competition). This would be exercised upon negotiation with the selected vendor. Such an option should be included in the proposed contract.

19. In the 2d bullet of section 1.3, you refer to a license to the Federal Government. Is the Federal government a third party beneficiary of the proposed contract, or is this just information for the competitors that HSEMD is bound to provide the license to whatever Intellectual property it acquires through the contract?

**Answer:** The Federal Government is not a third party. The funds for the project come from a federal Homeland Security Grant. This is just information for the prospective vendors.

20. In reference to section 2.19, there is a difference between allowing proposals to be copied for evaluation purposes and the totally separate concept set forth in the last sentence, that HSEMD can take proposers' copyright ideas without compensation. Is that what you mean?

**Answer:** Once the proposals are opened, they become public record and as such are open to all parties, as would be any other public record document, and would be subject to the same laws as any other public record. What is most important is that in submitting a proposal, the vendor must agree to allow such proposal to be copied for the purpose of distributing for review and evaluation so that reviewers can judge all the proposals and select one.

21. In reference to section 3.2 of the RFP and contract section 8.5, would HSEMD consider alternative approaches to ownership of IP? For example, the Vendor retains ownership and title to all IP provided or developed under the contract, but: 1) obtains no rights to any IP owned by HSEMD or its partner agencies or other affiliated organizations, and 2) Vendor grants HSEMD an irrevocable, perpetual, royalty-free license to use and sublicense the IP provided or developed under the contract for its internal use and the internal use of its partner agencies and the Federal Department of Homeland Security?

**Answer:** No, HSEMD will not consider alternative approaches to ownership of intellectual property.

22. In reference to sections 3.3.1.4 and 3.3.1.8: hourly rate work under these paragraphs is limited to specified hours of "assistance". Does that mean that the Vendor will not be responsible for a completed deliverable other than providing the "assistance" for up to the stated time limit?

**Answer:** The vendor will not be responsible for a deliverable, per se, for 3.3.1.4 and 3.3.1.8, but only for providing the hours of assistance as described in 3.3.1.4 and 3.3.1.8.

23. In reference to sections 2.1 and 2.2 of the proposed services contract, when, and in what manner, will Acceptance Tests and Acceptance Criteria be provided?

**Answer:** Primarily, acceptance tests and criteria will be the standards and criteria of HSEEP and the National Incident Management System, and of course the stated scope of work of the RFP. It should go without saying that common standards of punctuation, grammar, spelling and so forth would likewise be part of the acceptance criteria.

24. In reference to section 2.4.4 of the proposed services contract, should the provision read, "...of the receiving party"?

Answer: No, a "disclosing party" is a party that discloses information, whether it be the party that creates the information or receives the information from the party that creates it.

25. In reference to section 2.4.7 of the proposed services contract, please explain the inclusion of professional standards as imposing a compulsion to involuntarily disclose another party's confidential or proprietary information. Generally, only a forum of competent jurisdiction can compel such disclosure, and then with limitations.

Answer: The State is under obligation of state law to adhere to all provisions of open records laws, and the intent of this provision is meant to address such laws and make sure the vendor understands them prior to entering into a contract.

26. In reference to section 2.6 of the proposed services contract, vendor may not possess all rights and title to some Deliverables provided under the contract; they may be licensed from a third party. Is a sublicense under those circumstances satisfy HSEMD's requirements?

Answer: No

27. In reference to section 3.1 of the proposed services contract, should the 1st sentence be changed to read, "...2011, Vendor's proposal submitted in response...."?

Answer: Both HSEMD's Request for Proposal (583-2011-010-RFP) and the vendor's proposal submitted in response to the RFP are meant to be incorporated into the contract agreement.

28. In reference to sections 4.4, 4.5, and 12.26.3 of the proposed services contract, would HSEMD consider changing the obligation of Vendor to exercise "good faith efforts" rather than the more absolute "best efforts"?

Answer: No

29. In reference to section 4.6 of the proposed services contract, may one assume that any changes requested or required by participating agencies will be channeled exclusively through the Contracting Officer?

Answer: Any such requests will be channeled through a project officer at HSEMD and, as stated, it would be HSEMD that would request any meetings or conference calls of the vendor. However, through the course of the project, other state agency staff may indicate possible changes they would like. This provision in the contract is simply to let the vendor know such may be the case and to try to be cooperative. Any suggested changes that may require a change in the scope of work would be channeled through HSEMD's project officer.

30. In reference to sentence 9 of sections 8.5 and 12.36 of the proposed services contract, the proscription against using any IP delivered to HSEMD for any other purpose without permission or payment of royalties effectively renders the Vendor non-competitive or otherwise unable to pursue its profession. Is that really HSEMD's intent?

Answer: No. Please keep in mind that all materials will become public information anyway, unless they must be kept confidential for security reasons.

31. Please explain the intent of the second sentence of sections 12.9 of the proposed services contract?

Answer: The intent is that the vendor can not add any other agreement to a deliverable and effectively change or add provisions at the time of providing the deliverable. Any requested changes should be through a negotiated process, and with a separate legal document (not one attached to, or "wrapped" with, a deliverable).

32. In reference to section 12.31 of the proposed services contract, would HSEMD consider making this provision reciprocal, so that Vendor is understood to offer similar services to other customers?

Answer: HSEMD understands that the vendor can offer similar services to other customers. HSEMD feels the provision as stated does not preclude the vendor from doing so. If the vendor still has concerns, the vendor may suggest different language for this provision for HSEMD to consider for the final contract.

33. Regarding the statement about capped expenses (found in Schedule A "Scope of Work" attached to the proposed services contract): Does this include all costs, for example: Travel, Labor, Printing and Supporting Materials?

Answer: Yes.

34. There was a question about the requirement that the vendor must have credentials and/or experience with Living Disaster Recovery Planning System (LDRPS), a continuity planning application made and sold by SunGard. A prospective vendor questioned this requirement, stating that this "requirement and the associated evaluation criterion provide a specific and significant advantage to award of the contract to Sungard, the vendor of LDRPS."

HSEMD does not feel that this criteria necessarily provides an advantage solely to SunGard. There are many consulting companies who have staff with experience with LDRPS. Indeed, in just the last 6 months, three agencies of the State of Iowa have contracted with three different companies who, as a part of their contracts, completed work for the State in LDRPS. All of those companies were completely separate and independent of SunGard.

The prospective vendor also doubted that state agencies "would be amenable to turning over control of data entry to a consultant." Again, with the three state agencies referenced above, some data entry into LDRPS was turned over to the consultant.

The prospective vendor, in his question, further proposed that the LDRPS requirement be changed such that a vendor would be considered qualified if the vendor had experience in the "use of continuity planning databases," whether that be LDRPS or some other database program. Such a change to the RFP would not meet the objectives of the project. The State of Iowa has made a significant investment in LDRPS. It is available to state agencies to use in storing and maintaining their continuity and IT disaster recovery plans. Some agencies have input a lot of data into LDRPS and others have not. Whether or not they have, it is expected that in preparing for the exercise these agencies may need to make some updates to their plans. Plus, after the exercise, they should have to update their plans. The project put forth by HSEMD envisions helping state agencies complete these updates, and as LDRPS is the continuity planning application that is being used by the state, these updates should be made in LDRPS. An essential element of the project is to help agencies do this so that they do not need to redirect their own staff to do so – thereby giving them extra incentive to participate in the exercise and update their plans. Any proposal that proposes to eliminate, or has the effect of eliminating, this assistance of inputting plan information using LDRPS would have to be considered a material change to the terms and requirements of the RFP and would be deemed non-responsive and would likely result in the disqualification of the vendor's proposal.