

0150-10329-0000

TRANSMITTAL

TO The Council	DATE JAN 26 2015	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT	

Authority for the Director of Finance to execute a contract with MuniServices, LLC for Utility Users' Tax Discovery, Audit and Tax Compliance Review Services.

Transmitted for your consideration. See the City Administrative Officer report attached.


MAYOR


0150-10329-0000

TRANSMITTAL

TO The Mayor	DATE 01-23-15	COUNCIL FILE NO.
FROM The City Administrative Officer		COUNCIL DISTRICT

Authority for the Director of Finance to execute a contract with MuniServices, LLC for Utility Users' Tax Discovery, Audit and Tax Compliance Review Services.

Transmitted for your consideration. See the City Administrative Officer report attached.



Miguel A. Santana
City Administrative Officer

MAS:JL:01150038c

Report From
OFFICE OF THE CITY ADMINISTRATIVE OFFICER
Analysis of Proposed Contract
(\$25,000 or Greater and Longer than Three Months)

To: The Mayor	Date: 01-23-15	C.D. No.	CAO File No.: 0150-10329-0000
Contracting Department/Bureau: Office of Finance		Contact: Ken White	
Reference: Transmittal from the Office of Finance dated December 19, 2014			
Purpose of Contract: Utility Users Tax Discovery, Audit, and Tax Compliance Review Services			
Type of Contract: (X) New contract () Amendment		Contract Term Dates: Three years, plus two additional one year renewal options	
Contract/Amendment Amount: 22.5 percent of net revenues collected between \$0 to \$700,000 and nine percent of net revenues collected for collections over \$700,000.			
Source of funds: 22.5 percent or nine percent of utility users tax revenues received by the City as a result of MuniServices tax compliance audit, discovery and review services.			
Name of Contractor: MuniServices, LLC			
Address: 7625 North Palm Avenue, Suite 108, Fresno, California 93711			
	Yes	No	N/A*
1. Council has approved the purpose			X
2. Appropriated funds are available			X
3. Charter Section 1022 findings completed	X		
4. Proposals have been requested	X		
5. Risk Management review completed	X		
6. Standard Provisions for City Contracts included	X		
7. Workforce that resides in the City: 1%			
*N/A = not applicable ** Contracts over \$100,000			

COMMENTS

The Office of Finance (Finance) requests approval to execute the attached three-year contract, with two, one-year extension options with MuniServices, LLC (MuniServices) for Utility Users' Tax (UUT) discovery services, audit and tax compliance review. This would also include services related to the collection of the City's Communications Users' Tax, where applicable.

The UUT discovery, audit and compliance service was previously provided by a contract with MuniServices, which expired on January 17, 2011. Finance released a Request for Proposal (RFP) on May 31, 2011 for this service. MuniServices was the only company to respond to the RFP. Upon review by Finance staff, Finance determined that MuniServices met all the requirements of the RFP and possessed the appropriate level of skill and expertise in this field. Finance encountered delays during this process due to legal issues involving specific language in the contract. Once those issues were resolved, the City Attorney reviewed and approved the contract as to form and content.

This contract supports the Utility Users Tax Enhancement Program and seeks to ensure that the City receives the UUT revenue to which it is entitled. MuniServices will identify telecommunications service providers that are doing business within the State of California who are subject to the City's UUT ordinance. This information is provided to Finance to identify and bill those utility service

 JL	Analyst	01150038c	 Assistant CAO	 City Administrative Officer
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providers that are not registered with the City or have underpaid the UUT. With the approval of the City, MuniServices conducts audits of UUT payments to verify accuracy and provides the City with findings and supporting information in order to collect revenues that are rightfully owed to the City. MuniServices is also responsible for attending appeals hearings to support billings resulting from their findings and maintaining the confidential database to analyze, monitor, and detect abnormalities in UUT payments made by utility service providers.

Under this new contract, MuniServices will be able to file claims for UUT review and audit compliance as far back as three years and as far back as two years for communications discovery. Furthermore, the Los Angeles Municipal Code Section 21.19 allows the City to go back as far as eight years for newly discovered businesses. Therefore, the City will still be able to collect any identified revenues during the time period when the UUT contract was not in place.

In addition, corollary legal services are provided to the City at no additional cost through the employment of an independent law firm as part of this contract. These services include monitoring various regulatory proceedings (e.g. California Public Utilities Commission and Federal Commerce Commission) and proposed state and federal legislation; conducting periodic reviews and recommendations for the City's UUT ordinance; and, providing additional advice related to UUT issues, as needed.

MuniServices will be compensated on a contingency basis where 22.5 percent of the revenue collected between \$0 to \$700,000 is provided to the contractor. For collections above \$700,000, the contractor is compensated at nine percent of the collected amount. This is a reduction to the previous contract where MuniServices was compensated 25 percent of the revenue collected between \$0 to \$700,000 and 10 percent of the revenue collected above \$700,000.

The Personnel Department determined that City classifications that possess the appropriate expertise relative to public utilities with an emphasis on California telecommunications would be able to perform this type of work. However, this Office finds that the work can be performed more feasibly by a contractor due to the following: the services are of limited duration, require immediate staffing due to time constraints, and exceed staffing availability (see attached CAO Charter Section 1022 Determination).

Finance reports that from January 17, 2006 through January 17, 2011, MuniServices recovered approximately \$4,375,700 in additional revenues to the City and received compensation totaling \$1,029,250.

RECOMMENDATION

That the Mayor and Council authorize the Office of Finance to execute the attached three-year contract, with two one-year extension options with MuniServices, LLC to provide Utility Users' Tax Discovery, Audit, and Tax Compliance Review Services.

FISCAL IMPACT STATEMENT

The recommendation in this report is in compliance with the City's Financial Policies in that funding is provided on a contingency basis to the contractor and is paid out of additional General Fund revenues.

Attachments

Report From
OFFICE OF THE CITY ADMINISTRATIVE OFFICER
Charter Section 1022 Determination

TO: (Department/Bureau and Division) Office of Finance	Contact: Ken White	Phone: 213-978-1510	Date: 01/15/2014
Activity/Service to be Contracted: Utility Users' Tax Compliance, Review and Recovery Program		Type of Contract: (Check one) <input checked="" type="checkbox"/> NEW <input type="checkbox"/> AMEND Term: 3 years + 2, one-year renewal options	
Personnel Department Finding: CITY EMPLOYEES <u>HAVE</u> THE EXPERTISE TO PERFORM THE WORK. (Attach Personnel Department Contract Review Report).			

A. FEASIBILITY FINDINGS

This Office finds that, in accordance with Charter Section 1022, the work proposed to be contracted can be performed more feasibly by a contractor than by City employees for the following reason(s):	
<input checked="" type="checkbox"/>	There is insufficient existing City staff to perform the work proposed to be contracted and additional staff cannot be employed and trained in a timely manner to meet the department's needs.
<input checked="" type="checkbox"/>	The work is of limited scope or intermittent nature and it is unlikely that the City would be able to continue the employment of persons hired for this project.
<input type="checkbox"/>	Independent review is needed and/or the contractor has proprietary knowledge the City needs.
<input type="checkbox"/>	Council has declared an emergency pursuant to Charter Section 371 (e) (5) or (6), and neither existing nor additional staff is available in a timely manner to perform the work.
<input type="checkbox"/>	Other – see Comments Section below.

B. ECONOMIC FINDINGS


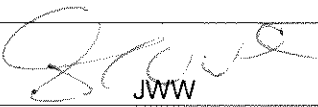
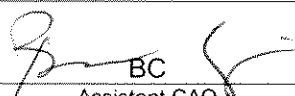
<input type="checkbox"/>	This Office finds that, in accordance with Charter Section 1022, the work proposed to be contracted can be performed more economically by a contractor than by City employees as summarized below. (Attach Contract Cost Analysis Form (CAO/ERD-2) completed by requesting department).				
	ESTIMATED COST OF CITY FORCES	TOTAL		PROPOSED CONTRACT COSTS	TOTAL
1	Cost of Civilian Positions		1	Proposed Contract Labor Costs	
2	Cost of Sworn Positions		2	Other Pertinent Contract Costs (if provided)	
3	Other Pertinent Costs (if applicable)		3	Civilian Department Contract Administration Costs	
			4	Sworn Department Contract Administration Costs	
	TOTALS	\$0		TOTALS	\$0

C. CONTRACTING IS NOT WARRANTED

<input type="checkbox"/>	This Office finds that, in accordance with Charter Section 1022, City employees have the expertise to perform the work proposed to be contracted, and it is not more feasible or economical to contract.
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D. COMMENTS

The Personnel Department has confirmed that there are various City classifications that can perform this work within the Finance Department and the Information Technology Agency. However, the proposed work requires special expertise in the field of Utility Users' Tax (UUT) laws and regulations as well as knowledge of the operation of various utilities (e.g. gas, electric, telephone). This would require extensive training for additional City staff. For example, Finance reports that it would take approximately three years to fully train a Tax Auditor. To hire new Auditors would delay the City's ability in collecting additional UUT revenue due to the lengthy training process. If existing City employees were to be placed in this program, Finance would need to ensure that they are properly trained and would be required to reassign them from other revenue generating tasks, including audits of the City's Business Tax. Furthermore, both the Information Technology Agency and Finance do not have the additional resources available to perform the proposed work, as they do not have the budgeted funding or position authority allocated for this purpose. The proposed work to be contracted is also intermittent in nature and does not warrant full-time staff. The Utility Users' Tax Compliance Review Recovery Program is expected to maintain and/or increase the City's General Fund revenue and supplements the work performed by Finance staff relative to UUT compliance and collection.

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Work Assignment Number	Analyst	Chief	Assistant CAO