



Board Report

File #: 2019-0613, File Type: Contract

Agenda Number: 19.

FINANCE, BUDGET AND AUDIT COMMITTEE
OCTOBER 16, 2019

SUBJECT: TRANSACTION AND USE TAX REVENUE FORECAST AND RECOVERY SERVICES

ACTION: AWARD CONTRACT

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to award a five-year contract No.PS63897 to MuniServices, An Avenu Insights & Analytics Company (MuniServices) for the following:

- A. transaction and use tax forecasting at a firm fixed amount of \$20,000 a year, or \$100,000 for the full five-year period; and
- B. transaction and use tax recovery services on a contingency basis, paid only if revenues are recovered through a review of sales tax submissions to the California Department of Tax and Fee Administration (CDTFA), at the following rates:

<u>Recoveries</u>	<u>Fee %</u>
Under \$5M	9%
\$5M - 10M	9%
\$10M - \$15M	8%
Over \$15M	8%

ISSUE

The existing five-year transaction and use tax recovery and forecasting service contract with MuniServices will expire on December 31, 2019.

BACKGROUND

Los Angeles County Metropolitan Transportation Authority (Metro) requires transaction and use tax (sales tax) recovery services including the review of internet sales to insure the correct collection, allocation, and distribution of Propositions A and C and Measures R and M sales taxes to Metro. In order to recover transaction and use taxes incorrectly allocated to other jurisdictions, Metro must examine Los Angeles County businesses' quarterly sales tax reports and file claims with the California Department of Tax and Fee Administration (CDTFA) when errors are noted. Additionally, Metro will require increased emphasis on internet sales to realize the revenue generated from retailers located outside of California, who are now required to collect and pay taxes due to the

implementation of the Wayfair decision and California AB147.

MuniServices assists Metro in sales tax forecasting by identifying new sales permits and closed permits for a bottom up assessment of future sales activity in Los Angeles County. It is one of the major sales tax forecasting sources that Metro depends on when developing its short-term and long-term budget plans.

DISCUSSION

Findings

The current contract was awarded through a competitive procurement in November 2014 to MuniServices, the only firm that submitted a proposal. MuniServices has a well-established tax review program to help recover Metro's tax revenue. They identify and file claims on our behalf on sales tax reporting errors and deficiencies. Errors may be caused by a business incorrectly identifying the county on the CDTFA form, not applying the tax to all sales, or applying an incorrect tax rate. Deficiencies are usually identified by comparing the amount Metro received to the local tax allocations the city the business is located in received. Over the last 19 ½ years of contract work, MuniServices has recovered approximately \$42.9 million in revenues for Metro. Currently over 150 local governmental entities, including Bay Area Rapid Transit, Santa Clara Valley Transportation Authority and Riverside County Transportation Authority contract with MuniServices for transaction and use tax recovery or forecasting services.

DETERMINATION OF SAFETY IMPACT

Approval of this report will not impact the safety of our patrons or employees.

FINANCIAL IMPACT

The funding of \$20,000 for sales tax forecasting is included in the FY20 budget, in Treasury Department cost center #5210, project numbers 100002 (4%), 300076 (43%), and 610340 (53%). Since this is a multi-year contract, the cost center manager and Executive Officer will be accountable for budgeting the cost in future years. In FY19, \$20,000 was expended on forecasting services.

During the 19 ½ years under contract, MuniServices has earned contingency fees of approximately \$6.4 million. Fees for MuniServices revenue recovery services will be deducted from actual gross recovered revenues when realized. MuniServices has agreed to the following fee schedule: contingency fee compensation of 9% for the first \$5 million in recoveries, 9% for the next \$5 million, 8% for the next \$5 million and 8% for anything over \$15 million. Assuming \$20 million revenue recovered during the 5-year term, Metro saves \$850,000 under the new fee schedule compared to the existing contract.

IMPACT TO BUDGET

The funding for this service comes from a combination of General Fund - Prop A, C, TDA Admin, Enterprise Fund - Bus and Rail Operations Fund and Special Revenue Fund - Measure R and

Measure M Admin. Any recovered revenues from Propositions A and C and Measures R and M will increase Bus and Rail Operating Funds.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

This recommendation supports strategic plan goal #5.2 “Metro will exercise good public policy judgment and sound fiscal stewardship” by insuring the correct collection, allocation, and distribution of Propositions A and C and Measures R and M sales taxes to Metro.

ALTERNATIVES CONSIDERED

The alternative is to perform these services in-house. This is not recommended as Metro has neither the staff resources nor in-house expertise to monitor and review all aspects of sales tax transactions unique to transit districts. Metro benefits from the expertise of a specialized contractor as well as gaining an independent forecasting source to compliment other sources of data currently in use.

If Metro performed the function in-house, Metro risks losing transaction and use tax data and revenue.

NEXT STEPS

Upon Board approval, staff will execute Contract No.PS63897 to MuniServices effective January 1, 2020 to provide transaction and use tax recovery and forecasting services.

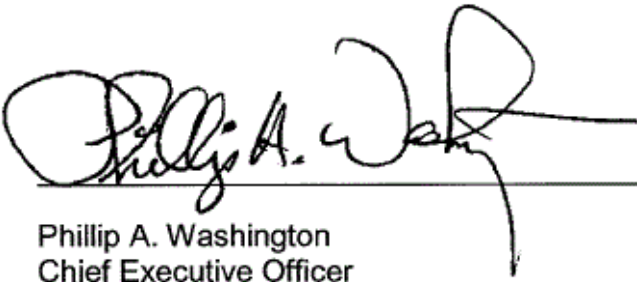
ATTACHMENTS

Attachment A - Procurement Summary

Attachment B - DEOD Summary

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