



## Board Report

File #: 2024-0093, File Type: Contract

Agenda Number: 33.

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### OPERATIONS, SAFETY, AND CUSTOMER EXPERIENCE COMMITTEE MARCH 21, 2024

**SUBJECT: FAMILY MEDICAL LEAVE ACT/CALIFORNIA FAMILY RIGHTS ACT PROGRAM  
THIRD-PARTY ADMINISTRATOR SERVICES**

**ACTION: APPROVE CONTRACT AWARD**

#### **RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to award a firm fixed unit rate Contract No. PS112527000 to Total Administrative Services Corporation (TASC) to support the centralization of the management and administration of the Family Medical Leave Act and the California Family Rights Act (FMLA, CFRA or collectively, "FMLA/CFRA") in the not-to-exceed (NTE) amount of \$1,959,320 for the four-year base term, with two, two-year options in the amount of \$996,160 for each option, for a total NTE amount of \$3,951,640, effective May 1, 2024, subject to resolution of any properly submitted protest, if any.

#### **ISSUE**

Award of the contract provides the capability for Metro to move the complex functions associated with FMLA/CFRA leave management and administration from the divisions and departments and centralize it within the Short-Term Disability Compliance Team, through the use of a Third-Party Administrator. Doing so will allow Metro to properly navigate the rules and regulations governing state and federal FMLA/CFRA-protected leaves. The proper management and administration of FMLA/CFRA is critical to ensure Metro meets current state and federal requirements and to reduce overall absenteeism by actively monitoring for abuse of or inappropriate designation or use of such leaves.

#### **BACKGROUND**

Requests for leave under FMLA/CFRA, including a review of the medical certification and other eligibility criteria, are currently managed and administered by the employee's immediate division or departmental management team. This oversight also includes ensuring proper tracking in payroll and attendance systems, and verification that the employee is taking their approved leave in a manner that is consistent with what is prescribed and documented by their personal healthcare provider on the employee's medical certification form, as well as monitoring for signs of misuse and abuse, and requesting a re-certification when needed. Understandably, Metro's division and departmental

management teams are not properly trained on the complexities of the ever-changing FMLA/CFRA laws, which means that the current management and administration of these protected leaves is lacking a consistent application agency-wide, scrutiny, and enforcement, which in turn increases the agency's overall employee absenteeism rate. The complexities that these laws carry, and the work involved in properly administering such leaves is substantial and requires constant oversight and review.

In addition, not all FMLA/CFRA leaves are initiated by an employee submitting specific request forms. FMLA/CFRA designations could be initiated by the agency based off a pattern of sick time usage and other factors, which management may not be fully aware of. The lack of proper management and administration of these protected leaves creates vulnerability and subjects the agency to liability for potentially violating these state and federal statutes. Protected medical leaves are for an employee's serious health condition but can also expand to an employee's eligible family member. As of 2023, some protected leaves fall under both FMLA/CFRA, while other leaves, specific to an employee's extended family members, only fall under CFRA, further convoluting the proper administration.

## **DISCUSSION**

Data from FY20 through FY22 indicates that approximately 22.2% of Metro's workforce was absent on any given day. This is 18% higher than the national average for public sector employers. Additionally, Metro's lost work time rate averaged 7.99% from FY20 through FY22, compared to all U.S. workers over the age of 16, which was 2.1%.

As such, centralizing the management and administration of FMLA/CFRA leaves, through the use of a Third-Party Administrator, to the Chief People Office, specifically the Short-Term Disability Compliance Team within Well-Being Services, will provide improved and consistent support and service to Metro employees seeking protected medical leaves and help reduce potential liability and corresponding costs. Additionally, this project also intends to significantly reduce the administrative burden of FMLA/CFRA management and oversight practice currently in place at each work location/division/department cost center, as this ensures accurate and compliant administration of the FMLA/CFRA function and decreases absenteeism.

## **DETERMINATION OF SAFETY IMPACT**

This contract award will centralize the management and administration of FMLA/CFRA and will not impact the safety standards for Metro customers and employees. In addition, it will assist in avoiding staff shortages which will increase the reliability of service to our patrons.

## **FINANCIAL IMPACT**

The funding of \$300,000 is allocated in the FY24 Budget within cost center 2311, Helping Employees Access Resources & Well-Being Services Office under the Chief People Office, Account 50316, under Project 100001. The cost center manager and the Chief People Officer will be responsible for budgeting the cost in future years, including any options exercised.

### Impact to Budget

The source of funds for this contract is Project 100001 General Overhead funds, comprised of federal, state, and local funds, which include Operating eligible funds.

### EQUITY PLATFORM

The services provided by the contract will ensure Metro provides consistent application, oversight, management, and administration of state and federal leave enactment requirements by moving the management and administration of these leaves from the division and departmental level to the Chief People Office. This will allow for a centralized, consistent, and fair process for all Metro employees. This work will advance workplace equity by ensuring that Metro is reasonably accommodating employees with temporary or permanent disabilities as required by the Americans with Disabilities Act (ADA) and The California Fair Employment and Housing Act (FEHA), or employees who need leave to provide care for a qualifying family member, by providing them with job protected leave which allows them to maintain their livelihood.

The Diversity and Economic Opportunity Department (DEOD) did not establish a Disadvantaged Business Enterprise (DBE) goal for this solicitation due to lack of subcontracting opportunities.

### IMPLEMENTATION OF STRATEGIC PLAN GOALS

The Board action supports Strategic Goal 5: Provide responsive, accountable, and trustworthy governance within the Metro organization. Providing these services will ensure that Metro maintains and nurtures a diverse, inspired, and high-performance workforce.

### ALTERNATIVES CONSIDERED

The Board may not approve the contract and instead rely solely on Metro's internal division and departmental management teams to perform the services required. This is not recommended since the current management and administration of FMLA/CFRA subjects the agency to potential violation, liability, and litigation due to the inconsistent approach. Further the Chief People Office is not equipped to inherit the full centralization of FMLA/CFRA management administration without the tools, services, and support of a Third-Party Administrator.

### NEXT STEPS

Upon Board approval, staff will execute Contract No. PS112527000 with Total Administrative Services Corporation to support the centralization of Family Medical Leave Act and the California Family Rights Act within the Chief People Office, effective May 1, 2024.

### ATTACHMENTS

Attachment A - Procurement Summary  
Attachment B - DEOD Summary

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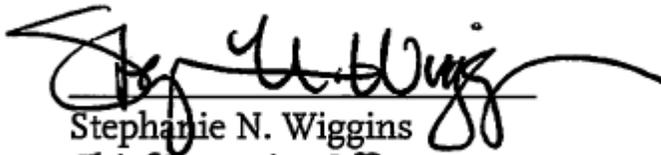
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