



## Board Report

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File #: 2019-0450, File Type: Contract

Agenda Number: 40.

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**EXECUTIVE MANAGEMENT COMMITTEE  
SEPTEMBER 19, 2019**

**SUBJECT: METRO DRUG AND ALCOHOL OVERSIGHT PROGRAM**

**ACTION: APPROVE CONTRACT AWARD**

### **RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to award a five-year, firm fixed unit rate Contract No. PS60199000 to LPM Consulting, Inc. for a Drug and Alcohol Oversight Program, in an amount not-to-exceed \$472,102 for the three-year base term, \$189,877 for the first option year, and \$189,877 for the second option year, for a combined total not-to-exceed amount of \$851,856 inclusive of two, one year options, effective October 1, 2019, subject to resolution of protest(s), if any.

### **ISSUE**

In order to comply with Federal Transit Administration (FTA) regulations 49 CFR Part 40 "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" and 49 CFR Part 655 "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," the services of an independent third-party consultant is necessary to administer Metro's Drug and Alcohol Oversight Program to ensure that subrecipients and contractors performing safety-sensitive functions (covered contractors) are in compliance with the regulations. The continuation of these oversight services is necessary to ensure future FTA funding.

### **BACKGROUND**

FTA regulations 49 CFR Part 655.81 state that "a recipient shall ensure that a subrecipient or contractor who receives 49 U.S.C 5307, 5309, or 5311 funds directly from the recipient complies with this part." Therefore, Metro, as the direct recipient of these FTA funds, is required to ensure that all subrecipients and contractors performing safety-sensitive functions (covered contractors) are compliant with FTA regulations 49 CFR Part 40 Procedures for Transportation Workplace Drug and Alcohol Testing Programs and 49 CFR Part 655 Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.

## **DISCUSSION**

On an annual basis, Metro, as the direct recipient of FTA funds, must certify to FTA Regional Office that their subrecipients and covered contractors are in compliance with FTA regulations 49 CFR Part 40 and 655.81 requirements.

In addition to the annual certification, Metro must submit to FTA an annual Drug and Alcohol Management Information System Report for each subrecipient and covered contractor. Further, Metro's subrecipients and contractor oversight contracts are subject to FTA's Triennial Review, FTA's Drug & Alcohol Program audit, and other audits that may be required. Failure to achieve subrecipient and covered contractor sufficient oversight, would result in findings and/or suspension of FTA funding.

Currently, Metro's Grants Management and Oversight oversees 28 subrecipients that are subject to these FTA regulations. Also, Metro's Talent Acquisition's Drug and Alcohol Program currently oversees 21 covered contractors that are performing safety-sensitive duties (as defined in 49 CFR Part 655.4). Further, approximately five solicitations are currently in procurement process that involve the performance of safety-sensitive functions. Additional procurements are anticipated to be released in the coming years that will increase the number of covered contractors requiring such oversight.

In order to ensure compliance with FTA Part 40 & 655, a work plan was established that will allow the recommended contractor to focus on eight areas of significant concern with the administration and management of FTA Drug and Alcohol Testing Program for Metro's subrecipients and covered contractors.

1. Random selection of employees by job category,
2. Scheduling of the drug and alcohol testing,
3. Record keeping by the transportation/maintenance provider,
4. Roles and responsibilities of the collection sites,
5. DOT-qualified Substance Abuse Professionals (SAP's)
6. Medical Review Officers (MRO's),
7. Training of covered employees, supervisors and other personnel involved in these processes,
8. Annual reporting to FTA/Volpe through the Drug and Alcohol Management Information System (DAMIS).

## **DETERMINATION OF SAFETY IMPACT**

Award of this contract will ensure that Metro meets FTA regulations and requirements related to safety of our employees and patrons.

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## **FINANCIAL IMPACT**

The funding of \$71,000 for this service is included in the FY20 budget in cost center 4440 (Grants Management and Oversight) under project 500002, Regional Grantee - FTA, and funding of \$100,000 is included in cost center 6240 (Talent Acquisition), under project 100001, General Overhead.

Since this is a multi-year, multi-department contract, the cost center managers and Chief Human Capital & Development Officer and Chief Planning Officer will be accountable for budgeting the cost in future years, including any option exercised.

### **Impact to Budget**

The source of funds for project 500002 is local funds eligible for the administration of FTA subrecipient oversight, while project 100001 is comprised of state and local funds that are eligible for operations.

## **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

Recommendation supports Metro's Strategic Plan Goal 5 to provide responsive, accountable and trustworthy governance within the Metro Organization and will foster and maintain a strong safety culture. The award of this contract will ensure that all subrecipients and covered contractors performing safety-sensitive functions for Metro are compliant with federal regulations 49 CFR Part 40 Procedures for Transportation Workplace Drug and Alcohol Testing Programs and 49 CFR Part 655 Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.

## **ALTERNATIVES CONSIDERED**

Two alternatives were considered:

1. Utilize in-house Metro resources to perform this work. This alternative is not recommended as Metro does not have sufficient resources or subject matter experts available to perform the work. Most transit agencies contract this function out.
2. The Board may choose not to approve the recommendation. This alternative is not recommended as the award of this Contract is critical to the ongoing compliance with FTA regulations 49 CFR Parts 40 & 655.

## **NEXT STEPS**

Upon Board approval, staff will execute Contract No. PS60199000 with LPM Consulting, Inc., effective October 1, 2019, to support Metro's Drug and Alcohol Oversight Program services.

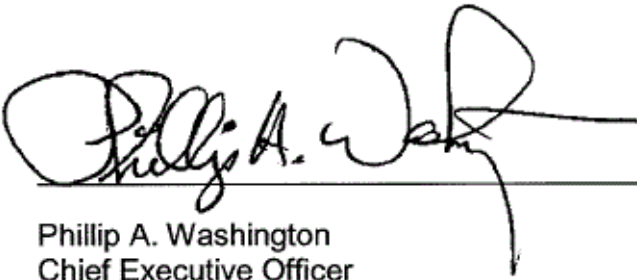
## **ATTACHMENTS**

Attachment A - Procurement Summary

Attachment B - DEOD Summary

Prepared by: Patrice McElroy, Executive Officer, Talent Management  
(213) 418-3171  
Anne Flores, Sr. Manager, Transportation Planning  
(213) 922-4894

Reviewed by: Joanne Peterson, Chief Human Capital & Development Officer,  
(213) 418-3088  
Debra Avila, Chief Vendor/Contract Management  
(213) 418-3051



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Phillip A. Washington  
Chief Executive Officer