



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.

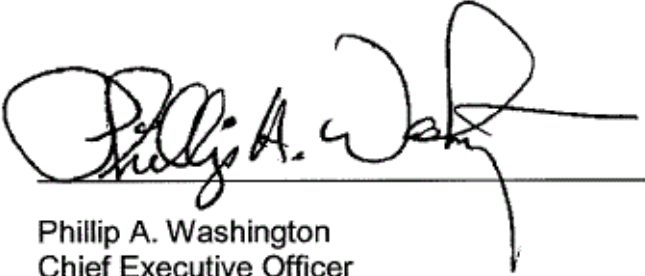
ATTACHMENTS

Attachment A - Procurement Summary

Attachment B - DEOD Summary

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Phillip A. Washington
Chief Executive Officer

**PROCUREMENT SUMMARY
TRANSACTION AND USE TAX REVENUE FORECAST AND RECOVERY SERVICES
PS63897000**

1.	Contract Number: PS63897000	
2.	Recommended Vendor: MuniServices, LLC	
3.	Type of Procurement (check one): <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP <input type="checkbox"/> RFP-A&E <input type="checkbox"/> Non-Competitive <input type="checkbox"/> Modification <input type="checkbox"/> Task Order	
4.	Procurement Dates:	
	A. Issued: July 10, 2019	
	B. Advertised/Publicized: July 10, 2019	
	C. Pre-Proposal Conference: Not Applicable	
	D. Proposals Due: July 29, 2019	
	E. Pre-Qualification Completed: September 22, 2019	
	F. Conflict of Interest Form Submitted to Ethics: August 12, 2019	
	G. Protest Period End Date: October 22, 2019	
5.	Solicitations Picked up/Downloaded: 9	Bids/Proposals Received: 2
6.	Contract Administrator: James A. Nolan	Telephone Number: (213) 922-7312
7.	Project Manager: Jin Yan	Telephone Number: (213) 922-2127

A. Procurement Background

This Board Action is to approve the award of Contract No. PS63897000 to MuniServices, LLC in support of Metro Treasury Department to provide transaction and use tax revenue forecast and recovery services beginning January 1, 2020. The current contract expires on December 31, 2019. Board approval of contract awards are subject to resolution of any properly submitted protest.

On July 10, 2019, Request for Proposal (RFP) PS63897 was issued in accordance with Metro's Acquisition Policy. The contract type is a firm fixed price for the transaction and use tax revenue forecasting services, and a percentage fee of actual revenue recovered amount for the transaction and use tax revenue recovery services.

No amendments were issued during the solicitation phase of this RFP.

Two proposals were received on the due date of July 29, 2019 from the firms listed below in alphabetical order:

1. HdL Companies
2. MuniServices, LLC

B. Evaluation of Proposals

A Proposal Evaluation Team (PET) consisting of staff from Metro's Treasury and Office of Management and Budget (OMB) was convened and conducted a comprehensive technical evaluation of the proposals received.

The proposals were evaluated based on the following evaluation criteria and weights:

- Qualification of the Firm 25%
- Qualification of Staff 15%
- Work Plan and Project Organization 30%
- Price/Fees: 30%

The evaluation criteria are appropriate for this procurement and are consistent with criteria developed for similar procurements. Several factors were considered when developing these weights, giving the greatest importance to work plan and project organization, as well as, pricing.

During the week of July 29, 2019, the PET met and evaluated the proposals in accordance with the evaluation criteria as published in the RFP.

The two proposals received were determined to be within the competitive range.

Qualifications Summary of Firms:

MUNISERVICES, LLC

MuniServices, LLC (MuniServices/an Avenu Insights & Analytic Company) is the incumbent contractor providing transaction and use tax audit recovery and forecasting services to Metro. They are headquartered in Fresno, CA and have a local office in Los Angeles County. MuniServices has experience in providing audit recovery and forecasting services for over 150 large and small government and transportation agencies.

HdL COMPANIES

HdL Companies (Hinderliter, de Llamas and Associates) was founded in 1983 and provides revenue management services to local governments, transaction tax districts and special districts. HdL maintains a staff of over 150 specialists in performing audits, analysis and software support. HdL currently serves over 500 local government agencies in six states. HdL provides audit and management services to 167 transaction tax districts.

The following is a summary of the PET's evaluation scores:

1	Firm	Average Score	Factor Weight	Weighted Average Score	Rank
2	MuniServices, LLC				
3	Qualification of the Firm	91.60	25.00%	22.90	
4	Qualification of Staff	94.67	15.00%	14.20	
5	Work Plan and Project Organization	96.00	30.00%	28.80	
6	Price/Fees	98.30	30.00%	29.49	
7	Total		100.00%	95.39	1
8	HDL Companies				
9	Qualification of the Firm	78.40	25.00%	19.60	
10	Qualification of the Staff	94.00	15.00%	14.10	
11	Work Plan and Project Organization	76.00	30.00%	22.80	
12	Price/Fees	80.00	30.00%	24.00	
13	Total		100.00%	80.50	2

C. Cost/Price Analysis

The recommended price has been determined to be fair and reasonable based upon adequate competition, comparative price analysis of the competing proposal, independent cost estimate (ICE), and technical evaluation.

(a) Forecasting Fee	Proposer Name	Proposal Amount	Metro ICE	NTE amount
1.	MuniServices, LLC	\$100,000	\$150,000	\$100,000
2.	HDL Companies	\$90,000	\$150,000	

(b) Recovery Fee	Proposer Name	Proposal Amount *	Fee Basis	Amount
1.	MuniServices, LLC	\$1,700,000	Contingency based and will be deducted from the actual revenues when	\$1,700,000

			realized	
2.	HDL Companies	\$2,250,000	Contingency based and will be deducted from the actual revenues when realized	\$2,250,000

* Assuming a total of \$20 million revenue recovery for the 5-year term. Recovery fees are contingency based and will be deducted from actual recovered gross revenues when realized.

D. Background on Recommended Contractor

The recommended firm, MuniServices, LLC, headquartered in Fresno, CA with offices in Los Angeles, has been in business since 1978. This firm employs about 800 people and is a leader in the field of compliance auditing, tax and license administration, IT management solutions and tax revenue audit and recovery. MuniServices has provided its services to state and local government jurisdictions and municipalities in California, Florida, Georgia, Nevada, Pennsylvania, Texas and the District of Columbia. This firm has provided services to Metro for over 19 years, and is the incumbent contactor. In that time, MuniServices has recovered over \$42 million dollars for Metro.

DEOD SUMMARY

TRANSACTION AND USE TAX REVENUE FORECAST AND RECOVERY SERVICES
CONTRACT NO. PS63897000

A. Small Business Participation

The Diversity & Economic Opportunity Department (DEOD) did not establish a Small Business Enterprise/Disabled Veteran Business Enterprise (SBE/DVBE) participation goal for this procurement based on the lack of subcontracting opportunities. According to the Project Manager, the nature of the work and the requirements for strict control of the information gathered does not allow Metro to split off part of the work or allow a prime contractor to accept work provided by another vendor. MuniServices will perform the listed work with its own workforces.

B. Living Wage and Service Contract Worker Retention Policy Applicability

The Living Wage and Service Contract Worker Retention Policy is not applicable to this contract.

C. Prevailing Wage Applicability

Prevailing wage is not applicable to this contract.

D. Project Labor Agreement/Construction Careers Policy

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract. Project Labor Agreement/Construction Careers Policy is applicable only to construction contracts that have a construction contract value in excess of \$2.5 million.