



Board Report

File #: 2022-0837, File Type: Contract

Agenda Number: 28.

OPERATIONS, SAFETY, AND CUSTOMER EXPERIENCE COMMITTEE JANUARY 19, 2023

SUBJECT: DISABILITY INTERACTIVE PROCESS/REASONABLE ACCOMMODATION SERVICES

ACTION: APPROVE CONTRACT AWARD

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to award a four-year, firm fixed unit rate Contract No. PS92829000 to Shaw HR Consulting, Inc. to provide support with the administration of Metro's Disability Interactive Process for an amount not-to-exceed \$1,122,000 for the two-year base term, plus \$561,000 each for the two, one-year option terms, for a combined not-to-exceed amount of \$2,244,000, subject to the resolution of any timely protest(s), if any.

ISSUE

Approval of the contract award will allow disability compliance services for Metro employees, which support compliance with Title I of the Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA).

BACKGROUND

The internal Disability Compliance Team (DCT) manages the Disability Interactive Process for employees with work restrictions and/or leave needs and assists them by providing reasonable accommodations so they may return to work. Engaging with employees in the disability interactive process is a requirement of Title I of the ADA, as well as the California FEHA.

Between the years of 2008 and 2015, Metro sustained many adverse court judgements in disability discrimination lawsuits filed by employees. The agency was in need of immediate advice and assistance in resolving complex disability discrimination cases and guidance through the interactive process. Metro began contracting for administration of Metro's Disability Interactive Process in 2018 to mitigate further legal risk. The current agreement is set to expire on February 28, 2023.

DISCUSSION

Shaw has a commendable six-year history with Metro in providing support to the administration of

Metro's Disability Interactive Process on an ongoing basis. The utilization of Shaw over the past six years has greatly reduced disability compliance related litigation and saved Metro millions of dollars. Prior to 2017, Metro was spending approximately \$2 million per year on disability discrimination and failure to accommodate settlements/ verdicts at trial. However, between 2017 and 2022, Metro spent approximately \$1.6 million on settlements involving disability claims. All matters were settled, and none involved deficiencies in the new DCT process established by Shaw.

DETERMINATION OF SAFETY IMPACT

Award of the contract provides the capability for Metro to navigate the maze of rules and regulations governing state and federal leaves of absence, which interact in complex ways. The services are necessary to ensure Metro meets state and federal requirements pertaining to disability compliance, specifically Title I of the ADA as well as California's Fair Employment and Housing Act (FEHA), which promotes improved safety for our employees, patrons, and the public at large.

FINANCIAL IMPACT

The funding of \$400,000 is allocated in the FY23 Budget within cost center 2311, Helping Employees Access Resources (HEAR) & Well Being Services (WBS) 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 and is comprised of Federal, State, and local funds. These funds are eligible for these services.

EQUITY PLATFORM

The services provided by contract will ensure Metro meets state and federal requirements pertaining to disability compliance, specifically Title I of the ADA as well as California's FEHA, which promotes improved safety for our employees, patrons, and the public at large. The contract assists with the management of the disability interactive process for employees with work restrictions and assists them with providing reasonable accommodations so they may return to work. This work has advanced workplace equity by ensuring that Metro is reasonably accommodating employees with disabilities so that they can maintain their livelihood.

The Diversity and Economic Opportunity Department (DEOD) did not establish a Disadvantaged Business Enterprise (DBE) goal for this solicitation.

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. In addition, Strategic Goal 3: Enhance communities and lives through mobility and access to opportunity. Metro will work collaboratively with public and private sector partners to leverage its investments to catalyze communities and stabilize neighborhoods by advancing economic opportunities and benefits for communities in LA County by lifting local communities, Metro will create jobs and career pathways in transportation for the agency.

ALTERNATIVES CONSIDERED

The Board may decline to approve the contract and instead rely solely on Metro's internal staff to perform the services required. This is not recommended as this alternative would likely create an increase in litigation similar to that which Metro experienced from 2008 through 2015. During this timeframe, Metro sustained many adverse court judgments in disability discrimination lawsuits filed by employees.

NEXT STEPS

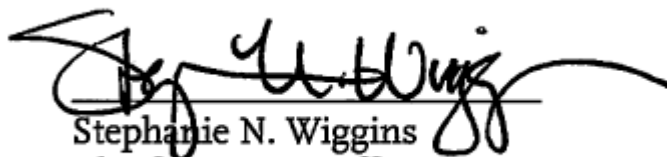
Upon approval by the Board, staff will execute Contract No. PS92829000 with Shaw HR Consulting, Inc. to provide disability interactive process/reasonable accommodation facilitation services.

ATTACHMENTS

Attachment A - Procurement Summary
Attachment B - DEOD Summary

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Stephanie N. Wiggins
Chief Executive Officer

PROCUREMENT SUMMARY

DISABILITY INTERACTIVE PROCESS/
REASONABLE ACCOMMODATION SERVICES/ PS92829000

1.	Contract Number: PS92829000	
2.	Recommended Vendor: Shaw HR Consulting, Inc.	
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: October 11, 2022	
	B. Advertised/Publicized: October 11, 2022	
	C. Pre-Proposal Conference: N/A	
	D. Proposals Due: November 8, 2022	
	E. Pre-Qualification Completed: December 1, 2022	
	F. Conflict of Interest Form Submitted to Ethics: November 8, 2022	
	G. Protest Period End Date: January 23, 2023	
5.	Solicitations Picked up/Downloaded: 5	Bids/Proposals Received: 1
6.	Contract Administrator: Manchi Yi	Telephone Number: (213) 418-3332
7.	Project Manager: Don Howey	Telephone Number: (213) 922-8867

A. Procurement Background

This Board Action is to approve Contract No. PS92829000 to Shaw HR Consulting, Inc. to provide Disability Interactive Process/Reasonable Accommodation facilitation services. Engaging with employees in the Disability Interactive Process is a requirement of Title 1 of the Americans with Disabilities Act, as well as the California Fair Employment & Housing Act. Board approval of contract awards are subject to resolution of any properly submitted protest.

Request for Proposal (RFP) No. PS92829 was issued in accordance with Metro's Acquisition Policy and the contract type is a firm fixed unit rate. The Diversity & Economic Opportunity Department did not recommend a DBE participation goal for this procurement.

The RFP was released on October 11, 2022, as a full and open competitive procurement. The solicitation was available for download from Metro's website. Advertisement was placed in the Los Angeles Daily News, on October 11, 2022, to notify potential proposers of this solicitation. Further, Metro notified potential prime contractors identified by the Project Office and other potential prime contractors from Metro's vendor database based on applicable North American Industry Classification System (NAICS) codes. A pre-proposal conference was not held for this solicitation.

A total of five firms downloaded the RFP and were included on the planholders list. No amendment was issued during the solicitation phase of this RFP. One

question was asked, and Metro’s response was released prior to the proposal due date. Metro did not receive any request for extension of the proposal due date. On November 8, 2022, a single proposal was received from Shaw HR Consulting, Inc. (Shaw).

Since only one proposal was received, Metro staff canvassed the potential proposers to determine why there were no other proposers. The following are the results of the market survey:

1. Potential proposer provides consulting services specific to assessment use and overall HR practices only. Its industrial-organizational (I/O) psychologists are not specifically trained to provide Disability Interactive Process/Reasonable Accommodation Services.
2. Potential proposer is interested in submitting a proposal. However, it did not have the necessary resources and time to pursue this procurement opportunity.

B. Evaluation of Proposals

A Proposal Evaluation Team (PET) consisting of staff from Metro’s HEAR and Wellness Program, Workforce Services and Transit Operations was convened and conducted a comprehensive technical evaluation of the one proposal received.

The proposal was evaluated based on the following evaluation criteria and weights:

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| • Experience and Qualifications of Contractor | 30% |
| • Experience and Qualifications of Proposed Personnel | 20% |
| • Contractor’s Proposed Process and Approach to Meet Metro’s Needs Efficiently | 30% |
| • Price Proposal | 20% |

Several factors were considered in developing these weights, giving the greatest importance to the experience and qualifications of contractor and contractor’s proposed process and approach to meet Metro’s needs efficiently.

The PET members independently evaluated and scored Shaw’s technical proposal and determined that it met the requirements of the RFP. Based on a thorough review of the proposal, the PET deemed Shaw to be technically qualified to perform the work.

The following is a summary of the PET scores:

1	Firm	Average Score	Factor Weight	Weighted Average Score	Rank
2	Shaw HR Consulting, Inc.				
3	Experience and Qualifications of Contractor	94.43	30%	28.33	
4	Experience and Qualifications of Proposed Personnel	100.00	20%	20.00	
5	Contractor's Proposed Process and Approach to Meet Metro's Needs Efficiently	96.67	30%	29.00	
6	Price Proposal	100.00	20%	20.00	
7	Total		100%	97.33	1

C. Cost/Price Analysis

The recommended price has been determined to be fair and reasonable based upon the Project Manager's technical analysis, the independent cost estimate (ICE), price analysis and fact finding. The recommended price is 3% lower than Metro's ICE.

Proposer Name	Proposal Amount	Metro ICE	Award Amount
Shaw HR Consulting, Inc.	\$2,244,000	\$2,303,610	\$2,244,000

D. Background on Recommended Contractor

The recommended firm, Shaw HR Consulting, Inc. (Shaw), located in Newbury Park, California, has been in business since 2011. It is a woman-owned, human resource consultancy firm specializing in risk management and federal disability laws. Shaw provides a fully range of disability compliance management services in support of compliance with Title I of the Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA). Existing public sector clientele include City of Costa Mesa, California State University, Long Beach, the County of Los Angeles, and Riverside Community College District. Shaw currently provides advice and assistance in resolving complex disability and interactive process issues to Metro and performance has been satisfactory.

Shaw's proposed principal consultant has more than 20 years of executive-level human resources experience.

DEOD SUMMARY

**DISABILITY INTERACTIVE PROCESS/REASONABLE ACCOMMODATION
SERVICES / PS92829000**

A. Small Business Participation

The Diversity and Economic Opportunity Department (DEOD) did not establish a Disadvantaged Business Enterprise (DBE) goal for this solicitation due to the lack of subcontracting opportunities. Shaw HR Consulting, Inc. did not make a DBE commitment.

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. PLA/CCP is applicable only to construction contracts that have a construction related value in excess of \$2.5 million.