
OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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City Council Date: January 22, 2008

Item Number: 333

Agreement with Actuarial Service Company, P.C. for Actuarial Services

OVERVIEW

On Tuesday, January 22, 2008, the City Council will consider a new contract with Actuarial Service Company, P.C. The City has engaged the company for actuarial services in the past and that agreement was last amended by the City Council in May 2007. At that time, there were a number of issues with the contract and the process. The IBA will revisit many of those issues in this report as well as comment on the new agreement and funding.

FISCAL/POLICY DISCUSSION

In May 2007, this contract was brought forward to the City Council for amendment. The contract was originally executed on June 19, 2006 by a City Manager action, as the amount was \$210,000. However, since that time (and as described in our attached IBA Memo 07-6), services had been rendered significantly in excess of the original contract and the vendor was owed over \$400,000 for which there was no funding authorized. The IBA and the City Council did request, but did not receive, a list of the services provided that amounted to over \$400,000. While the City Council ultimately approved payment for the services already provided, no funding for future services was authorized and all parties agreed that the agreement would return for amendment and further discussion soon.

The IBA is disappointed that not only has it taken eight months to return to Council with a new agreement, but that services were again rendered in the interim, without an agreement in place and without funding. As was discussed in May at the City Council, at the Audit Committee on May 14, 2007, and back at City Council on November 13, 2007 with regard to the contract with disclosure counsel, it is inappropriate to use the services of a contractor without a valid contract and funding in place. In May, the IBA suggested that:

“[I]n the case of future overexpenditures, the City department receiving the benefit of the work should be required to absorb those costs into their normal operating budget, unless extraordinary circumstances exist. It is not consistent with the need for accountability to return to withdraw funds from the reserves of the General Fund and Enterprise Funds throughout the year for routine expenses.” (IBA Memo 07-6, p. 2, attached)

This office and the City Council have continued to express displeasure and even refusal to approve payment for work that was neither funded nor authorized. We understand that there were projects for which the services of the actuary has been needed since May 2007, but have no information as to why the contract wasn't promptly returned for amendment. There do not appear to be any extraordinary circumstances given that it has been known for eight months that this contract needed to return to the City Council. Therefore, the IBA suggests that it would be appropriate to have the benefiting department absorb the nearly \$62,000 worth of unauthorized services within their department operating budget. Based on the 1472 submitted, it appears that the services were provided to the Office of the City Attorney. No information has been provided as to what services were rendered for the \$62,000, but as with the prior action in May, the IBA suggests that staff provide this information.

Additionally, the IBA questions the amount requested for the contract. The contract does include a scope of work, and we have been told that the \$400,000 is an estimate by the contractor to perform the entire series of services detailed. Yet, the scope of work is very broad and in some cases vague, and it does not break down or estimate the amounts that may be utilized on any of the individual projects. We suggest that any detail the contractor may have as to the itemized projected costs and what comprises the \$400,000 should be provided to better understand how the funds are expected to be spent.

In the proposed agreement, Section 1. Scope of Services, it is delineated that actuarial consulting and/or calculations may be provided to the Mayor, the City Attorney, the City Council and the Independent Budget Analyst.

The funding source for the contract is listed as the Appropriated Reserve. However, the IBA notes that the FY 2007 Year-End Adjustments, approved by the City Council on June 25, 2007, included an appropriation of \$280,000 in Citywide Program Expenditures for this purpose (with the promise that a contract amendment would be brought forward

for authorization) (see Report to the City Council 07-105, p. 6). Based on the information provided in the supporting documents for this action, it does not appear that these funds have been spent. This is appropriate since there was no contract authorizing their expenditure. The IBA suggests that staff respond as to the status of the \$280,000 appropriation so that, if this new contract is approved, this funding may be utilized prior to turning to the Appropriated Reserve.

A final note on the funding request is that funding is requested solely from the General Fund Appropriated Reserve, which is a departure from past practices. In the previous contract, as well as its amendment, funding was split between the General Fund (71.31%) and the Enterprise Funds (28.69%) per the allocation formula. Based on information provided to the IBA, the allocation formula should be used for this action and thus the IBA suggests that staff recalculate the amount, if any, that is necessary to be transferred from the Appropriated Reserve as well as the necessary contributions from the Enterprise Funds.

With regard to the contract specifications, the IBA is concerned with Section 1.B.(1) (p. 2 of the contract). This provides that services will be performed under the direction of the COO or the City Attorney's Office. However, when any authorized individual requests work of the actuary, that individual:

“shall be responsible for (i) ensuring the task is clearly identified, and (ii) that a budget therefor is established prior to the Consultant commencing work on the project; and (iii) available funds remain under this Agreement necessary to complete this project.”

The IBA appreciates the introduction of this control that will attempt to prevent future cost overruns. However, we remain skeptical of the efficacy of this control. Given that several officials and staff may request the services of the actuary, one might imagine that, at any given time, several projects may be ongoing and/or planned. Some services may have been invoiced and paid, some may have been invoiced but not paid and some services rendered may not yet have been invoiced when an individual desires to engage the actuary on a new project. Thus, we do not believe that that person would be able to adequately ensure funds are still available. We believe that a central clearinghouse is required in order to maintain accountability and ensure proper and consistent administration of the contract. Additionally, there is no agreement as to how priority will be established for the vendor should several services be requested at once. We suggest that staff speak to these issues and suggest successful administration strategies for this contract.

Effective contract administration and monitoring continues to be a challenge for this organization with expenditures being accrued without authorized funding. This is unacceptable and must be discontinued.

CONCLUSION

The IBA has a number of concerns with this action that we believe should be addressed prior to City Council approval. We first suggest that staff further outline a successful contract administration strategy that will prevent funding overruns.

With regard to funding, the requested \$400,000 should be further itemized. The IBA further suggests that the \$62,000 in unauthorized work be absorbed in the City Attorney's operating budget. The remaining funding requested should be split between the General Fund and the Enterprise Funds according to the established allocation formula. For the General Fund portion of this, the \$280,000 appropriated in the Year-End Adjustments last year (if available) should be utilized prior to the Appropriated Reserves.

The IBA recommends that the City Council not approve this contract until the issues raised herein can be fully resolved.

[SIGNED]

Penni Takade
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[SIGNED]

APPROVED: Andrea Tevlin
Independent Budget Analyst

Attachment: IBA Memo 07-6