



County of Los Angeles
CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

November 20, 2007

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

Dear Supervisors:

**DEPARTMENT OF TREASURER AND TAX COLLECTOR:
RECOMMENDATION TO APPROVE CONTRACT
WITH SUNGARD AVANTGARD LLC
FOR TREASURY SOFTWARE LICENSE AND SERVICES
(ALL DISTRICTS - 3 VOTES)**

**CIO RECOMMENDATION: (X) APPROVE () APPROVE WITH MODIFICATION
() DISAPPROVE**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and instruct the Chairman to sign the attached sole source Contract (Contract) with SunGard AvantGard LLC (SunGard), to provide continued licensing, professional services and on-going maintenance and support for SunGard's Resource IQ2 treasury software for the Treasurer and Tax Collector (TTC). The Contract is for a term of two years, with five additional one year extension periods, for a total of seven years commencing on December 24, 2007, or upon the date of Board approval, whichever is later, with a contract sum not to exceed \$497,957.73 plus applicable sales tax and cost of living adjustments;
2. Delegate authority to the TTC to execute future modifications to the Contract which (a) do not materially affect the scope of work, period of performance, payments or other terms and conditions of the Contract; (b) increase the contract sum during each year of the Contract by no more than 15 percent of the contract sum as of the effective date of the Contract; (c) elect to extend the term of the Contract for the five additional year extension periods; (d) consent to assignments and delegations under Section 38 of the Contract; and (e) add or change certain terms and conditions in the Contract as required by the Board of Supervisors or Chief Executive Officer.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

SunGard is a global leader in software and processing solutions for financial services, higher education and the public sector, serving more than 25,000 customers in more than 50 countries. Resource IQ2 is one of SunGard's core proprietary treasury management, accounting, compliance and reporting products.

TTC has been using Resource IQ2 for the past eight years during which time the software has performed as expected and support services were exemplary. The purchase order for the Resource IQ2 software was issued by County of Los Angeles (County) Internal Services Department (ISD). The purchase order process has specific statutory limitations pertaining to service contracting, which TTC has reached. TTC asks your Board to approve the Contract to provide for continued licensing, professional services and on-going maintenance and support for Resource IQ2.

Without Resource IQ2, many of TTC's automated accounting, cash management, compliance and reporting functions would have to be handled manually, which would result in processing backlogs and potential errors due to the sheer size and volume of our Treasury operation. In addition, without Resource IQ2, TTC's successful system of internal controls may also be compromised. Further, the amount of staff time that the TTC would need to dedicate to training on a new system would result in processing backlogs, non-compliance with certain statutorily required reporting deadlines, and would negatively impact County's liquidity.

As Resource IQ2 is proprietary to SunGard, SunGard is the only vendor that can provide licensing and comprehensive maintenance and support services for it.

Implementation of Strategic Plan Goals

Licensing, professional services and on-going maintenance and support of the Resource IQ2 software are in accordance with TTC's approved Business Automation Plan. Successful performance and support of the Resource IQ2 software will also meet the County's Strategic Plan Goals of Organizational Effectiveness and Service Excellence.

FISCAL IMPACT/FINANCING

The contract sum for the seven year term is \$497,957.73 and is subject to increase for sales tax and cost of living adjustments on maintenance and support fees in each of years two through seven. The daily and hourly rates for professional services are additionally subject to cost of living adjustments in each of years two through seven. Such cost of living adjustments will not result in an increase to the contract sum as

money has been allocated in the contract sum for as-needed professional services; as cost of living adjustments apply, such money will simply purchase less professional services days or hours. The cost of living adjustments are in accordance with Board policy.

Disbursement of funds will be (a) approximately \$155,090 allocated for a one-time perpetual license fee; (b) \$202,867.73 for annual maintenance and support fees; and (c) \$140,000 for as-needed professional services, such as training and additional software and custom programming. Funding for this Contract has been included in the 2007-2008 Adopted Budget, and will be included in TTC's budget requests for subsequent fiscal years.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Contract is required for the licensing, professional services, and the on-going maintenance and support of SunGard's Resource IQ2 software which the TTC has utilized for the last eight years for the management, accounting, reporting, and compliance monitoring of the Treasury's cash and investments. Specifically, the TTC utilizes the Resource IQ2 software to account for the approximately \$21 billion in investments in the Treasury Pool, as well as the specific purpose investment portfolios of some Pool participants. The software also allows for automated compliance monitoring ensuring the Treasury Pool is invested in compliance with the Treasurer's Investment Policy, annually adopted by your Board. In addition, the Resource IQ2 software allows for automated cash accounting, positioning, and reporting, which allows the TTC to invest the maximum funds possible each day, while still funding Auditor-Controller disbursements in a timely and efficient manner. On a monthly basis, the TTC records approximately \$3 to \$4 billion in cash receipts and funds a similar amount in disbursements.

The TTC procured the Resource IQ2 software from SunGard through a software licensing and services contract in 1999 executed through the purchasing authority of ISD. The purchase order process has specific statutory limitations pertaining to service contracting, and the authority to contract for services beyond a specific dollar threshold rests with your Board.

The County's Chief Information Officer concurs with TTC's recommendation (see attached analysis). The attached Contract has been reviewed and approved as to form by County Counsel. Except as identified below, the Contract contains the Board's required contract provisions, including those pertaining to compliance with County's Child Support Program and Jury Service requirements.

This is not a Proposition A Contract due to the technical nature of the services provided, therefore, not subject to the Living Wage Program (County Code Chapter 2.201). It has been determined that the services under this Contract do not impact Board Policy No. 5.030, "Low Cost Resource Program," because of the specialized training needed to perform the work.

CONTRACTING PROCESS

This is a sole source Contract. Resource IQ2 software is proprietary to SunGard which is the only vendor that can provide licensing and comprehensive maintenance and support services for it.

In some cases SunGard did not completely accept County's standard contract language. TTC was required to negotiate alternative language because TTC could only obtain the Resource IQ2 software and related services from SunGard. The terms and conditions rejected by SunGard, and the alternative language negotiated by TTC, are identified below. TTC believes that the negotiated alternative language is commercially reasonable and does not impose any unacceptable risks or burdens on County.

In addition, TTC staff and, where applicable, County Counsel staff discussed each of the insurance and indemnification exceptions taken by SunGard with the Chief Executive Office's Risk Management Operations staff.

The following are areas within the negotiated Contract that depart from the County's standard language:

1. Indemnification – SunGard's indemnification obligations extend to liability resulting from bodily injury, death, personal injury, or tangible property (excluding County's data contained on tapes or other media, including damage to SunGard's property). SunGard is not required to indemnify County for liability resulting from County's acts and omissions.
2. Limitation of Liability – If County brings a claim for damages, in most cases SunGard's monetary liability will be limited to County's initial license fees, or \$214,826. This limitation does not apply to SunGard's obligation to indemnify County for intellectual property infringement. In addition, SunGard will not be liable for lost revenues, lost profits, loss of business, or any indirect or consequential damages of any nature whether or not foreseeable.
3. Assignment and Delegation – The Contract contains language requiring County's prior approval of assignments and delegations; however, SunGard requires removal of paragraphs regarding sales of stock or membership interests by

shareholders or members of SunGard, as the case may be, and assumptions, takeovers, mergers and buyouts.

4. Notice to Employees Regarding the Federal Earned Income Credit – SunGard is only required to notify its employees, and require its subcontractors to notify their employees, that they may be eligible for the Federal Earned Income Tax Credit to the extent required by Internal Revenue Service Notice No. 1015.
5. Notification to County of 75 percent of Contract Sum – SunGard is not required to notify County when 75 percent of the contract sum under the Contract has been obligated.
6. Notification to County within Six Months of Expiration Term – SunGard is not required to notify County when the Contract is within six months of expiration.

IMPACT ON CURRENT SERVICES

There is no impact on current services. Approval of the Contract will ensure uninterrupted use of, and maintenance and support services for, the Resource IQ2 software for TTC's Treasury operations.

CONCLUSION

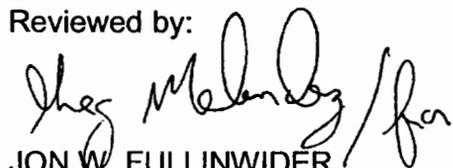
Instruct the Executive Officer/Clerk of the Board to return two signed originals of the Contract and one adopted stamped Board letter to TTC.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer

Reviewed by:



JON W. FULLINWIDER
Chief Information Officer

WTF:LN:MJS
GS:LM:dc

Attachments

c: Auditor-Controller
Chief Information Officer
County Counsel