

Report on RFP for Financial Services (Banking Services) and Related Actions

Finance Department
Purchasing Division

March 19, 2019

Item 3.7

Background

- Comprehensive banking services are critical to financial operations of the City
 - Vendor Payments;
 - Payroll Transactions;
 - Debt payments;
 - Investment wire transactions;
 - Revenue collections; etc.
- Wells Fargo providing banking/financial services since June 1, 2009 and agreements expire on June 30, 2019.

City's RFP for Financial Services

- RFP issued in May 2018, for Financial Services consisting of four packages, contemplating “unbundling” of services
 - **Package A, General Banking and Lockbox Services** (5 proposals received)
 - **Package B, Merchant Card Services** (8 proposals received)
 - **Package C, Bill Print Services** (1 proposal received)
 - **Package D, Securities Custodial Services** (3 proposals received)
- Each package evaluated separately, with intent to award each package to the highest scoring proposer

City's RFP for Financial Services (cont.)

- Summarized RFP Results:
 - **Package A, General Banking & Lockbox Services:** Wells Fargo scored highest, with JP Morgan as the second viable candidate
 - **Package B, Merchant Card Services:** Wells Fargo scored highest, with JP Morgan as the second viable candidate
 - **Package C, Bill Print Services:** No responsible proposals
 - **Package D, Securities Custodial Services:** Wells Fargo scored highest. No other viable candidates
- Staff encountering challenges in issuing Notice of Intent to Award

City's Wage Theft Prevention Policy

- Council Policy 0-44 (adopted in 2016)
 - Requires all potential proposers disclose wage theft violations
 - Staff may only exercise discretion if only one (1) violation in the past five (5) years
 - Policy requires disqualification if more than one (1) violation in the past five (5) years
- No central depository to validate “wage theft” violations

Wage Theft Disclosures in the RFP

- During the Q&A phase of the RFP, the City received an anonymous question from a proposer asking if a waiver of the wage theft prevention policy was possible. The City responded that it was unable to grant a waiver before an evaluation was completed.
- Other than JP Morgan, no other proposers disclosed wage theft issues in their proposal submission to the City

Wage Theft Disclosures in the RFP (cont.)

- JP Morgan Disclosures:
 - No final court judgment or administrative action in its commercial banking line; 20 wage and hour judgments involving its other lines of business, all paid and satisfied
 - Staff reviewed the judgments award amounts ranged from \$253 to \$38,254
- Wells Fargo Disclosures:
 - Did not disclose any wage and hour violations in proposal
 - Staff uncovered 10 final judgments ranging in award from \$840 to \$116,536 from PRA request to California Labor Commission
 - Staff follow-up with Wells Fargo resulted in general disclosures, nothing specific to wage theft orders or judgments
 - Wells Fargo disagreed that any of the claims constituted wage theft

Analysis

- Proposers qualified to respond are largely from the banking industry, where wage theft is a challenge and a well-publicized issue.
 - Many banks operate numerous retail branches across the country, whereby disputes over wages or commissions have occurred.
- Low probability that a new RFP will produce a different result.
- Low probability that the City will find a bank with the institutional resources needed to provide the level of banking services required by the City and collateralization required by state law and not have similar levels of wage theft challenges.

Recommendations

A. Adopt a resolution authorizing the City Manager to take one of the following actions:

1. Reject all proposals for RFP 17-18-05, and

i. Issue a new RFP for banking services; or

ii. Explore the feasibility of an alternative delivery model for banking services and report back to the City Council prior to issuing a new RFP based on a new model on or before June 30, 2020, or

- City could explore alternative service delivery models before re-issuing the RFP
 - Staff is aware of two California cities who have explored alternative models -- City of Berkeley and City of Los Angeles

Recommendations (cont.)

2. As an alternative to rejecting all proposals, waive Wage Theft Prevention for procurement and agreements to provide banking, lockbox, merchant card, and securities custodial services, issue a Notice of Intent to award to JPMorgan Chase Bank for general banking and lockbox services, and merchant card services, and proceed with the next steps in the procurement process.

- If Council does not direct the rejection of all proposals, and waives the Wage Theft Prevention Policy, staff recommends award of Package A and B to JPMorgan;
- Wells Fargo could be disqualified for failing to disclose a material fact during the evaluation process under Resolution 77135, “Procurement and Contract Process Integrity and Conflict of Interest”, Section 7.

Recommendations (cont.)

B. Adopt a resolution authorizing the City Manager to negotiate and execute amendments to extend the term of the current agreements with Wells Fargo for general banking and lockbox services, merchant card services, and securities custodial services through June 30, 2021 (to cover the period necessary to either issue a new RFP, or explore the feasibility of an alternative delivery model and transition services following a new RFP, or to allow sufficient time for implementation with JP Morgan Chase), subject to the appropriation of funds.

Challenges and Considerations

- Current model must work for the intermediate timeframe due to the ramp-up time needed to reissue RFP and implement alternative recommendations
- Challenges with issuing new RFP with alternate service delivery model further “unbundling” of financial services
 - Multiple smaller banks providing same level of service (collectively) could result in more expensive banking program with need for additional staffing resources (Finance and IT)
 - State collateralization requirements may make engaging with smaller banks not viable
 - Cybersecurity will be more challenging with integration of services between banks, merchant card service providers and lockbox service providers

Challenges and Considerations (cont.)

- Study for alternative delivery methods
 - Need to define objectives of alternative service delivery models
 - No staffing capacity or resources to conduct City of San Jose specific study of public bank – would require referral to priority setting
 - Alternative option prior to directing exploration of San Jose public bank, direct staff to provide summary of work performed to date by other local agencies on exploration of public bank (San Francisco; Seattle; Oakland in coordination with Berkeley, Richmond, County of Alameda; and State of California, as preliminary list)
 - Studying alternative delivery methods, likely to be longest duration of all options presented today and requires continued contractual relationship with Wells Fargo

Questions

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