CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Rick Bruneau

SUBJECT: **SEE BELOW**

DATE: May 15, 2023

Approved

Date 5/25/23

SUBJECT: REPORT ON REQUEST FOR PROPOSAL FOR CERTIFIED PAYROLL LABOR COMPLIANCE AND WORKFORCE MANAGEMENT SYSTEM

RECOMMENDATION

Accept the report on the Request for Proposal and adopt a resolution authorizing the City Manager to:

(a) Negotiate and execute an agreement with eComply Solutions LLC (Bellevue, WA) for a Certified Payroll Labor Compliance and Workforce Management System with an initial three-year term beginning on or about June 7, 2023 and ending July 31, 2026, or as may be adjusted to align with the software renewal term, with a maximum compensation not to exceed $250,000 for the initial term, subject to the appropriation of funds;

(b) Negotiate and execute amendments and change orders for unanticipated changes in requirements for a contingency amount not to exceed $50,000 during the initial three-year term, subject to the appropriation of funds; and

(c) Exercise up to seven one-year options to extend the term of the agreement through July 31, 2033, or as may be adjusted to align with the software renewal term, subject to the appropriation of funds.

SUMMARY AND OUTCOME

Authorizing the City Manager to take this action provides the Department of Public Works Office of Equality Assurance (OEA) with a data platform to more efficiently and accurately monitor and track City contractor compliance with applicable wage and labor laws. The new system will also (1) expand OEA capacity for field-based enforcement and community outreach, (2) improve reporting and analysis of enforcement activity, and (3) serve as a foundation for current and ongoing policy initiatives for which OEA enforcement and workforce data are relevant.

BACKGROUND

The City OEA is tasked with implementing various wage policies enacted by City Council for the benefit of the workforce. The OEA administers and oversees enforcement of the City Wage Theft Prevention Policy, as well as all City construction contracts and purchase agreements subject to living and prevailing wage requirements. The OEA responds to and investigates minimum wage complaints from workers in San José and performs this enforcement work for other South Bay cities on a contract basis. OEA also leads the development and implementation of policy and program initiatives that impact labor, construction, and workers' rights.

Historically, OEA has relied on a combination of on-site worker interviews and manual review of certified payroll reports to verify accuracy of worker hours, classifications, and benefits. As enforcement responsibilities have expanded over time due to increased construction volume and added worker protections, OEA has prioritized certified payroll report review. Though manual review of these documents provides a baseline of labor compliance, new technologies exist that can automate much of that workflow.

In 2020, OEA participated in a pilot program to develop a proprietary system for managing payroll accuracy verification. Though this system showed initial signs of success, cost increases and ongoing implementation and maintenance challenges led department leadership to end the pilot program in June 2021. Instead, the department decided to pursue a competitive procurement for a commercially available, off-the-shelf product and secured budget for the new system in June 2022.

ANALYSIS

In August 2022, the Finance Department released a Request for Proposal (RFP) on behalf of the Department of Public Works for a Certified Payroll Labor Compliance and Workforce Management System through the City e-procurement system, Biddingo. Over 6,900 vendors were notified of the bid opportunity, and 19 companies accessed and reviewed the RFP prior to bid closing. Three vendors submitted proposal responses prior to the submittal deadline.

Evaluation Process: Proposals were evaluated and scored independently, in accordance with the evaluation criteria set forth in the RFP, by a three-member evaluation team comprised of representatives from the Department of Public Works. Following the initial scoring of proposal responses by the evaluation team, staff conducted oral interviews/system demonstrations with the three respondents. The two highest scoring vendors following oral interview/system demonstrations participated in a Best and Final Offer. Scores for the two finalists are as follows:

Evaluation Criteria	Maximum Points	eComply Solutions LLC	Elation Systems, Inc.
General Requirements	10	8	8
Experience and Qualifications	5	4	3
Project Approach/Schedule	5	5	3
Technical Capabilities	10	7	6
Cost Proposal (Best and Final Offer)	25	25	7
Oral Interview/System Demonstration	35	27	23
Local Business Enterprise	5	0	0
Small Business Enterprise	5	0	0
TOTAL SCORE	**100**	**76**	**50**

Local and Small Business Enterprise Preference: In accordance with City of San José Municipal Code, Section 4.12.320, 10 percent of the total evaluation points were reserved for the local and small business preference. None of the proposers requested the local business preference or small business preference.

Protest: The City RFP process included a 10-day protest period that began when the City issued the Notice of Intended Award on April 4, 2023. No protests were received.

Award Recommendation*:* Based on the results of the RFP, staff recommends award of contract to eComply Solutions LLC, whose proposal was scored as the best value proposal per the evaluation criteria and specifications set forth in the RFP. The vendor proposal was rated highly in the following key areas:

- Lowest overall total cost of ownership;
- Extensive experience providing the same or similar services and solutions for other public agencies; and
- Thorough project approach and schedule with detailed timelines.

References: Staff conducted reference checks with the Port of Long Beach (CA) and Sacramento Housing Redevelopment Agency (CA). Both references provided positive feedback.

Summary of Proposed Agreement: The agreement with eComply Solutions LLC will be executed based on the City's standard term and conditions and will include the following provisions:

- A detailed scope of work to ensure the provided services comply with City requirements;
- Project implementation plan/schedule;
- Fixed, not-to-exceed pricing for the initial three-year term; and
- Seven one-year options to extend the agreement through July 31, 2033, or as may be adjusted to align with the software renewal term, with vendor requests for price adjustments during the option terms to be considered by the City in accordance with Producer Price Index, but not to exceed three percent over the previous year.

EVALUATION AND FOLLOW-UP

This memorandum will not require any follow-up from staff.

COST SUMMARY/IMPLICATIONS

The agreement recommended in this memorandum will be funded by General Fund 001. The agreement includes an initial three-year term with fixed pricing and seven one-year options, with the ability for the vendor to submit requests for price adjustments during the option terms in accordance with the Producer Price Index but not to exceed three percent over the previous year.

1. AMOUNT OF RECOMMENDATION (Three-Year Initial Term)	**$250,000**
2. COST ELEMENTS:	
One-Time Implementation Services (Three-Year Initial Term)	
Planning and Analysis	$0
Configuration and Implementation	0
User Acceptance Testing and Refinement	0
Training and Documentation	0
Go-Live	0
Final Acceptance	0
Implementation Services (Three-Year Initial Term) Subtotal	**$0**
Additional Costs (Three-Year Initial Term)	
- Year One Annual Fee Based on Estimated Volume*	$50,000
- Year Two Annual Fee Based on Estimated Volume*	50,000
- Year Three Annual Fee Based on Estimated Volume*	50,000
- Support, Maintenance, Software Licenses/Subscriptions, 200 GB Data Storage, and Hosting	0
- Allowance for As-Required Professional Services (subject to executed work order)	100,000
Additional Costs (Three-Year Initial Term) Subtotal	**$250,000**
CONTRACT NOT-TO-EXCEED TOTAL (Three-Year Initial Term)	**$250,000**
Contingency (subject to an executed change order or amendment)	**50,000**
GRAND TOTAL NOT-TO-EXCEED TOTAL (Three-Year Initial Term)	**$300,000**

*Annual fee is estimated based on a not-to-exceed annual construction volume of $400 million. If annual construction volume exceeds $400 million, annual fee will be increased to $54,000 on a not-to-exceed annual construction volume of $600 million.

BUDGET REFERENCE

The table below identifies the fund and appropriations to fund the contract recommended as part of this memorandum and remaining project costs, including project delivery, construction, and contingency costs.

Fund #	Appn #	Appn. Name	Total Appn	Amt. for Contract	2022-2023 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
001	221V	Office of Equality Assurance Labor Compliance System	$1,400,000	$300,000	884	06/21/2022, Ord. No. 30790

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, City Manager's Budget Office, and Department of Public Works.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 6, 2023 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/
RICK BRUNEAU
Director of Finance

For procurement- and contract-related questions, please contact, Albie Udom, Deputy Director of Finance – Purchasing and Risk Management, at albie.udom@sanjoseca.gov. For program-related questions, please contact Matthew Loesch, Acting Director of Public Works, at matthew.loesch@sanjoseca.gov.