

**Metro**Los Angeles County
Metropolitan Transportation AuthorityOne Gateway Plaza
Los Angeles, CA 90012-2952213.922.1
metro.net**FINANCE & BUDGET COMMITTEE
JULY 20, 2011****SUBJECT: GENERAL LIABILITY CLAIMS ADMINISTRATION SERVICES****ACTION: AWARD CONTRACT****RECOMMENDATION**

- A. Authorize the Chief Executive Officer to award a 10-year and 2-month fixed-price contract, PS05312717, to Carl Warren & Company ("CWC") for general liability claims administration services, in an amount not to exceed \$25,896,641 for all ten years inclusive of two (2) three-year options, effective September 1, 2011, subject to the resolution of protests, if any.
- B. Authorize a 20% of incentive-based recovery fee for any subrogation or property damage cross-complaint recoveries obtained by CWC.

ISSUE

Consistent with practice of many other public agencies including the County of Los Angeles, the Los Angeles Unified School District and others, we use the services of a third-party administrator ("TPA") to investigate, evaluate and resolve all general liability claims, primarily bus accidents, valued at \$50,000 or less. More than 95% of claims received are valued at less than \$50,000, including minor property damage and bodily injury claims. In 1998, we assumed responsibility for claims administration in-house for claims valued at \$50,000 and greater, thereby, reducing contract costs and allowing for better control of high value claims by our executive management and better coordination with counsel. The TPA provides staff to support our in-house adjustment of claims such as 1099 and W-9 processing, initial claim data entry as well as investigation services.

Subrogation of losses against a responsible third party is also part of the services provided by the TPA. Over the last three years, we received gross recoveries of more than \$1 million annually from subrogation or cross complaints and the TPA receives a 25% incentive fee on subrogated cash receipts. Contract incentives for subrogation

recoveries are consistent with industry best practice since they encourage the TPA to recover as much as possible from third parties.

In fiscal year 2009 we received 3,080 claims, in fiscal year 2010 we received 2,647 claims and we are projecting claims received in fiscal year 2011 at roughly 2,900. The open general liability claim inventory on May 31, 2011 was 2,305 claims. Processing claims with an inventory of this size requires the issuance of approximately 800 payments monthly to claimants, attorneys, experts and others along with processing approximately 2,000 incoming and 1,000 outgoing pieces of mail. The expertise and infrastructure of a professional TPA in resolving these claims and litigation is essential for structuring a competitive and cost-effective program.

DISCUSSION

We are currently under contract to Hertz Claim Management (“HCM”) for TPA services. HCM has provided acceptable claims administration services to us since 1987 (as demonstrated by external and internal audits) and has been the successful proposer on many solicitations since that time, including a solicitation for TPA services in 2006. We have available options under the current HCM contract through August 2016, but have elected not to exercise them to determine if we could take advantage of current market pricing. Staff outreach to TPA providers nationwide indicates that there is a high degree of interest in doing business with us and there is an opportunity to lower the 25% subrogation recovery fee of our current contract with HCM.

The leasing of our own claims system and departmental staff reductions over the last several years have opened up the possibility of providing space in the Gateway building for our TPA. Hosting our TPA physically at Gateway was expected to reduce their leasing costs since HCM includes space rental in Pasadena. Co-location is also expected to have significant coordination and communication benefits in our TPA's dealings with Operations and Risk Management staff.

For this procurement, we required contractors to use our leased claims system and to be housed at the Gateway building on the 10th floor with Risk Management. In addition, we required proposers to zero-base their staffing plans in order to demonstrate that their staffing needs were derived from our actual claims experience and an efficient use of resources. We also required proposers to demonstrate their command of internal controls by providing documentation of their internal processes and a copy of their most recent Service Organization Audit Standard Report on Controls Placed in Operation and Test of Operating Effectiveness Statement on Auditing Standards (“SAS 70 audit”). We asked proposers to identify ways to continue our migration from paper processing to a more paperless environment and to participate in the implementation, over the next 24 months, of a computer legal bill review system. For all proposers, we fixed the subrogation fee at 20%. This is less than the 25% under the current contract and is considered the middle of the industry practice range.

Consistent with our expectation of a competitive environment, we received eight proposals from responsive and responsible firms. This is a substantially greater industry response than in our 2006 solicitation when we only received two proposals. The window for completing proposals from RFP issuance was ten weeks, sufficient time to allow for an iterative question answering process with the source selection committee, and a deliberative response by proposers.

The recommended vendor, CWC, was both the highest scoring proposer using the weighted values defined in the RFP document and the lowest priced proposer. CWC has been in the claims industry for 67 years and has handled claims for such clients as Long Beach Transit, Gardena Transit, the County of Los Angeles, the California Joint Powers Insurance Authority, and has recently signed new agreements with the Santa Clara Valley Transportation Authority (VTA) and the San Mateo County Transit District.

In addition to CWC’s public entity, California tort and transit experience, CWC has sufficient size and capability to assist in complicated information technology projects and to have documented and audited internal control processes. CWC is of sufficient financial size to provide substantial financial guarantees in support of the broad indemnity and warranty protections required by us under the new contract.

The award to CWC will reduce costs by approximately \$2.5 million through 2016 as indicated in Figure 1 below. Subrogation recovery fee savings would add approximately another \$200,000. Offsetting costs for the hosting arrangement include mail delivery, computer equipment, and office supplies for CWC. These costs are not expected to exceed \$30,000 annually.

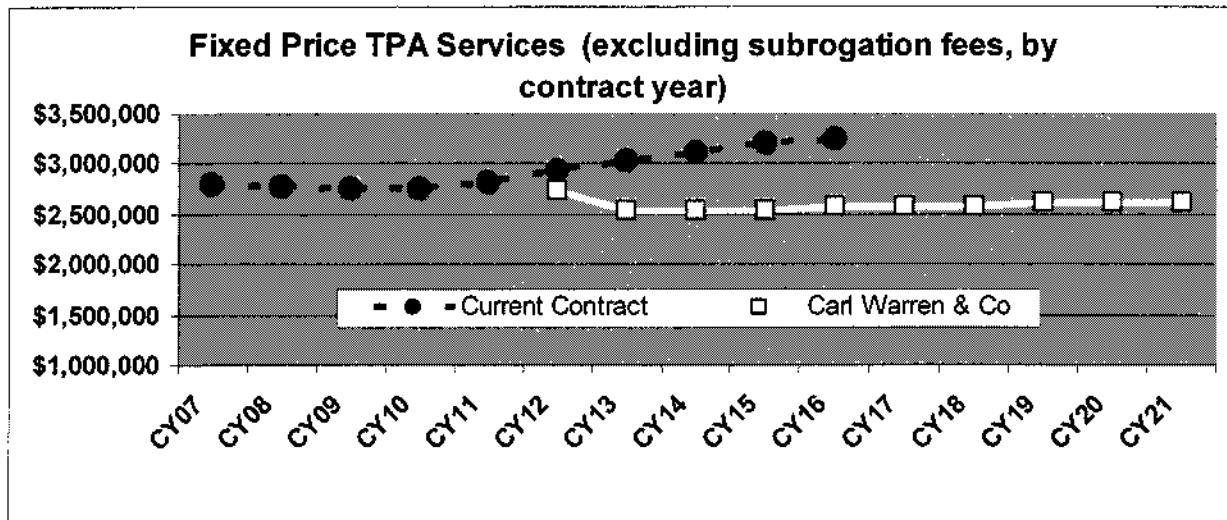


Figure 1

FINANCIAL IMPACT

The funding of \$1.9 million for ten months of this service is included in the fiscal year 2012 budget in cost center 0531, Risk Management – Non Departmental Costs, under project 300003 – PLPD. Subrogation recovery fees are included in Account 26001 and are included in the FY 2012 budget. Since this is a multi-year contract, the Executive Officer of Risk Management will be accountable for budgeting the cost in future years, including any option exercised. In FY11, \$2.8 million was expensed on this item

Impact to Budget

TPA funding will come from the Enterprise Fund. No other sources of funds were considered for this activity because TPA services almost exclusively support bus and rail operations. Including estimated reductions in subrogation fees and the increases in postage and office supplies costs, this action will decrease operating costs for fiscal year 2012 by approximately \$84,000 and by \$479,000 in fiscal year 2013.

ALTERNATIVES CONSIDERED

We could elect to continue under the current contract with the incumbent TPA using existing options. This alternative is not recommended as the savings associated with the new contract would not be realized.

We could self-administer the claim inventory which would require approximately another 30 FTEs. CWC will be providing 28 dedicated claims staff/investigators as well as additional off-site non-dedicated staff for such activities as information technology, audit and other corporate resources. Costs for self-administration, although not known with certainty, would be similar to the costs of contracting for this service, with greater risk.

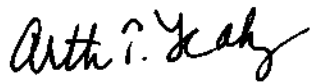
ATTACHMENTS

- A. Procurement Summary

Prepared by: Greg Kildare, Executive Officer, Risk Management



Terry Matsumoto
Chief Financial Services Officer and Treasurer



Arthur T. Leahy
Chief Executive Officer

PROCUREMENT SUMMARY

CONTRACT PS05312717 FOR GENERAL LIABILITY CLAIMS ADMINISTRATION SERVICES

1.	Contract Number: PS-0531-2717	
2.	Recommended Vendor: Carl Warren & Company	
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: February 9, 2011	
	B. Advertised/Publicized: February 12, 2011 & February 21, 2011	
	C. Pre-proposal/Pre-Bid Conference: February 16, 2011	
	D. Proposals/Bids Due: April 22, 2011	
	E. Pre-Qualification Completed: June 20, 2011	
	F. Conflict of Interest Form Submitted to Ethics: June 27, 2011	
	G. Protest Period End Date: July 26, 2011	
5.	Solicitations Picked up/Downloaded: 38	Bids/Proposals Received: 8
6.	Contract Administrator: Maria V. Lechuga	Telephone Number: (213) 922-7206
7.	Project Manager: Juanita Welch	Telephone Number: (213) 922-4956

A. Procurement Background

The procurement was a competitive standard Request for Proposal in compliance with our Procurement policies and procedures. A Pre-Proposal Conference was held on February 16, 2011. Eleven firms, both primes and subcontractors, were in attendance. During the procurement process, a total of 112 questions were received and responded to and two amendments were issued to the RFP. Amendment No. 1 incorporated additional requirements to the Statement of Work; Amendment No. 2 amended information provided regarding the number of pending claims.

A total of 8 proposals were received and evaluated by the source selection committee. One proposer did not meet the minimum qualifications and was thereby determined to be non-responsive. The remaining 7 proposers were evaluated according to the agreed upon evaluation criteria in the solicitation (described later in Procurement Summary) and a short list of four firms was established. Best and Final Offers (BAFO) were requested and received from those firms comprising the short list. Interviews were held and BAFO proposals were re-scored. The firm receiving the highest score was selected.

B. Background on Recommended Contractor

Carl Warren & Company (CWC) was founded in 1944. Its headquarters are in Placentia, California, and has 180 employees distributed in 22 locations in various states across the country. CWC has been in the claims industry for 67 years and has handled claims for such clients as Long Beach Transit, Gardena Transit, the County of Los Angeles, the California Joint Powers Insurance Authority, and has recently signed new agreements with the Santa Clara Valley Transportation Authority (VTA) and the San Mateo County Transit District. CWC administers claims for more than 175 cities and more than 350 public entities. They are the claims administrators for approximately 25% of the public entities in California.

C. Evaluation of Proposals/Bids

A best value – numerically scored procurement was utilized for the selection. Proposals were received from eight different companies.

Proposers were required to pass the minimum requirements in order to be further evaluated. Proposers that did not meet the stated minimum requirements were deemed as non-responsive. One proposer, Coronado Claims Services, was deemed non-responsive.

The source selection committee, consisting of two MTA staff members and two outside members, evaluated each proposal according to multiple pre-stated criteria. The following criteria were used to evaluate each proposal: Qualifications of the Firm/Personnel (20%), Internal Controls, processes (30%), Field Investigation Plan (10%) and Cost (40%). Scoring of proposers for this solicitation was conducted in two rounds. During the first round, proposals were scored for the purpose of determining a competitive range. Four proposers were found to be within the competitive range and invited to submit a best and final offer (BAFO). During the second round, the proposers were interviewed and the BAFO proposals scored against the evaluation criteria. As a result of the evaluation, the Source Selection Committee determined that CWC represents the best value to the Agency. CWC was the the lowest priced proposer and received the highest overall score.

	Bidder/Proposer Name	Bid/Proposal Amount	Best and Final Offer Amount	Note those that were disqualified as explained above:
1.	Carl Warren & Company	\$29,169,114	\$25,896,641	
2.	York Risk Services Group	\$32,407,306	\$29,963,699	
3.	Sedgwick CMS	\$30,586,529	\$30,164,578	
4.	Hertz Claim Management	\$28,621,506	\$28,621,506	
5.	Corvel Corporation	\$29,429,631	N/A	
6.	Gallagher Bassett Services, Inc.	\$38,469,344	N/A	

7.	Keenan & Associates	\$42,392,987	N/A	
8.	Coronado Claims Services		N/A	Non-Responsive

D. Cost/Price Analysis Explanation of Variances

The recommended price has been determined to be fair and reasonable based upon adequate price competition and comparison with the optional prices of the current contractor.

Bid/Proposal Amount	Staff Estimate	Recommended/Negotiated Amount
\$25,896,641	\$36,000,000	\$25,896,641

E. Small Business Participation

Small Business Goal	20%	Small Business Commitment	21.8%
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	Subcontractor	% Committed
1.	FuGen, Inc.	21.8%
	Total Commitment	21.8%