

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING AN)
EXEMPTION TO METRO CODE CHAPTER)
2.04.054(c), COMPETITIVE BIDDING)
EXEMPTIONS, AND AUTHORIZING A)
SOLE-SOURCE CONTRACT WITH)
INFORMATION SYSTEMS, INC. FOR)
CONSULTING SERVICES FOR WEIGHT)
SYSTEMS SOFTWARE AT SOLID WASTE)
DISPOSAL FACILITIES)

RESOLUTION NO. 00-2944

Introduced by: Mike Burton,
Executive Officer

WHEREAS, Metro has a policy of weighing all solid waste loads at its solid waste transfer stations to determine customer disposal charges; and

WHEREAS, Metro utilizes a Weigh-Master computer system to prepare tickets for customers, record solid waste loads and prepare summary reports of scalehouse activities; and

WHEREAS, Information Systems, Inc. designed and installed the Weigh-Master computer system and currently services the programs and software used to weigh, prepare tickets for, and record solid waste loads at Metro disposal facilities; and

WHEREAS, Metro's contract with Information Systems, Inc. for providing consulting services for weight system software at Metro's solid waste disposal facilities will expire June 30, 2000; and

WHEREAS, Metro has need of consulting services to maintain and service weight system software at existing solid waste disposal sites; and

WHEREAS, Information Systems' Weigh-Master computer system is copyrighted and cannot be used or serviced by other vendors; and

WHEREAS, The Executive Officer has reviewed the contract with Information Systems, Inc. to provide consulting services for weight system software at solid waste disposal facilities and hereby forwards the Agreement to the Council for approval; now, therefore

BE IT RESOLVED, That the Metro Council hereby exempts the attached contract (Exhibit "A" hereto) with Information Systems, Inc. from the competitive bidding requirement pursuant to Metro Code Chapter 2.04.062, because the Council finds Information Systems, Inc. to be the sole provider of the required services.

ADOPTED by the Metro Council this _____ day of _____, 2000.

David Bragdon, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

RB:gbc

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EXECUTIVE SUMMARY

PROPOSED ACTION

Adoption of Resolution No. 00-2944, authorizes a sole source contract with Information Systems, Inc. for weight systems software at Metro's transfer stations.

WHY NECESSARY

Metro utilizes a Weigh-Master Computer System to prepare tickets for thousands of customers and to record solid waste loads at its transfer stations. The system is also used to prepare summary reports of scalehouse activity. The existing system support contract with Information Systems, Inc. (ISI) expires June 30, 2000.

ISSUES/CONCERNS

The Weigh-Master Computer System was designed, installed and is being serviced by Information Systems, Inc. (ISI). A sole source support contract with ISI is proposed because the Weigh-Master Computer System is a proprietary product of ISI. It is copyrighted and cannot be used or serviced by other vendors. To contract with another vendor to design, install and service a comparable computer system would likely cost more than the proposed \$7,000 per year to support the existing system. The initial system cost Metro over \$50,000 in 1986. In addition, a new system would likely require a lengthy period of time to design, install, test, and to be functioning properly.

BUDGET IMPACT

Estimated cost for FY 2000-2001 is \$7,000. The FY 2000-20001 Budget provides \$7,000 for the proposed contract.

STAFF REPORT

Consideration of Resolution No. 00-2944 for the purpose of authorizing an exemption to Metro Code Chapter 2.04.054 (c), Competitive Bidding Exemptions, and authorizing a sole source contract with Information Systems, Inc., for consulting services for weight systems software at solid waste disposal facilities.

Date: May 17, 2000

Presented by: Terry Petersen

BRIEF DESCRIPTION OF RESOLUTION

This resolution is meant to authorize an exemption to competitive bidding procedures, and authorize the execution of a personal services contract for computer software services at Metro's solid waste disposal facilities.

EXISTING LAW

Metro Code Chapter 2.04.062, Sole Source, states:

“If there is only one qualified provider of the service required, the initiating department need not solicit and document proposals. The initiating department must document that there is only one qualified provider of the service required. Sole source contracts may not exceed \$2,500 unless the board shall have specifically exempted the contract from the public bidding or applicable alternative procurement procedure.”

Metro Code Chapter 2.04.054(c), Competitive Bidding Exemptions, Board Resolution, states:

“Specific contracts, not within the classes exempted in subsections (a) and (b) above, may be exempted by the board by resolution subject to the requirements of ORS 279.015 (2) and ORS 279.015 (5). The board shall, where appropriate, direct the use of alternate contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods, which are consistent with the public policy of encouraging competition.”

BACKGROUND

Metro utilizes a Weigh-Master computer system to prepare tickets for thousands of customers and record solid waste loads at its transfer stations. The system is also used to prepare summary reports of scalehouse activity. The Weigh-Master computer system was designed, installed and is being serviced by Information Systems, Inc. (ISI). The personal services contract between Metro and ISI expires June 30, 2000.

It is proposed that Metro enter into a new computer software services contract with ISI for the weighing systems at the scalehouses at Metro South and Metro Central transfer stations. The proposed contract provides unlimited telephone support for Metro's questions; programming and training support; routine enhancements to the system; and access to major improvements, additions or other custom programming to the Weigh-Master system. The length of the contract is two years. The total cost of the contract is \$14,000. Metro has found ISI to be experienced, competent and very responsive. Their services have been excellent.

The Weigh-Master Computer System is a proprietary product of ISI. It is copyrighted and cannot be used or serviced by other vendors. Metro paid over \$50,000 to have the system designed and installed in 1986. It is believed that to contract with another vendor to design, install and service a comparable computer system would cost more than the proposed \$7,000 per year to support the existing system.

BUDGET IMPACT

A total of \$7,000 is budgeted for the proposed contract in FY 2000-01. Estimated costs for FY 2000-01 are summarized as follows:

Software Support Plan	\$ 3,300
◆ Metro South Station	
◆ Metro Central Station	
Data Processing Services	3,700
◆ Systems Analyst	
◆ Programmer/Analyst	
◆ Travel Costs	
◆ Per Diem Charges	
TOTAL	\$7,000

OUTSTANDING QUESTIONS

None

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 00-2944.

CONTRACT TRANSMITTAL SUMMARY

600 Northeast Grand Avenue | Portland, Oregon 97232-2736
 Tel (503) 797-1717 | FAX (503) 797-1796



METRO

To: Risk and Contract Management

From:

Department REM

Division E.S.

Name Ray Barker

Title Management Asst.

Extension 1694

Date April 28, 2000

Subject

Bid Contract

RFP Other

Purpose

Consulting for Weight Systems Software

Information Systems, Inc.

Vendor 803 Gleneagles Court Suite #400

Baltimore, MD 21286

Vendor No. _____

Contract No. _____

Expense

Procurement Personal/professional services Services (LM) Construction IGA

Revenue

Contract

Grant

Other

Budget code(s) _____

Price basis

Unit prices, NTE

Per task

Total/lump sum

Contract Term

Completion

Annual

Multi-year**

This project is listed in the 1999 - ~~199~~ 2000 budget

Yes No S/I

Payment required

Lump sum Progress payments

July 1, 2000
Beginning date

June 30, 2002
Ending date

Total commitment

Amount

\$ 14,000.00

A. Amount of contract to be spent fiscal year 2000-2001

\$ 7,000.00

B. Amount budgeted for contract _____

\$ _____

C. Uncommitted/discretionary funds remaining as of _____

\$ _____ ***

Jim Wathm
Division Manager

Department Director

Fiscal

Legal

Risk Manager

Budget Manager

PLEASE ATTACH QUOTES OR PROPOSALS, AS APPLICABLE

** If multi-year, attach schedule of expenditures. *** If A or B is greater than C, and other line item(s) used, attach explanation/justification

Contract No. _____

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, located at 600 NE Grand Avenue, Portland, OR 97232-2736, and Information Systems, Inc., referred to herein as "Contractor," located at 803 Gleneagles Court, Suite 400, Baltimore, MD 21286.

In exchange for the promises and other consideration set forth below, the parties agree as follows:

1. Duration. This personal services agreement shall be effective July 1, 2000 and shall remain in effect until and including June 30, 2002, unless terminated or extended as provided in this Agreement.
2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A — Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.
3. Payment. Metro shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the attached "Exhibit B – Schedule of Fees" for a maximum sum not to exceed FOURTEEN THOUSAND AND NO/100THS DOLLARS (\$14,000.00).
4. Insurance.
 - a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:
 - (1) Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
 - (2) Automobile bodily injury and property damage liability insurance.
 - b. Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.

c. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.

d. Contractor, its subcontractors, if any, and all employers working under this Agreement that are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Contractor has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached, as Exhibit B, in lieu of the certificate showing current Workers' Compensation.

e. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and 30 days' advance notice of material change or cancellation.

f. Contractor shall provide Metro with a certificate of insurance complying with this article and naming Metro as an additional insured within fifteen (15) days of execution of this Contract or twenty-four (24) hours before services under this Contract commence, whichever date is earlier.

5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, or with any patent infringement or copyright claims arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.

6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after Metro makes final payment and all other pending matters are closed.

7. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

8. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

10. Right to Withhold Payments. Metro shall have the right to withhold from payments due to Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage, or claim which may result from Contractor's performance or failure to perform under this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.

11. State and Federal Law Constraints. Both parties shall comply with the public contracting provisions of ORS chapter 279, and the recycling provisions of ORS 279.545 - 279.650, to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations including those of the Americans with Disabilities Act.

12. Situs. The situs of this Agreement is Portland, Oregon. Any litigation over this agreement shall be governed by the laws of the State of Oregon and shall be conducted in the Circuit Court of the state of Oregon for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

13. Assignment. This Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstance, be assigned or transferred by either party.

14. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor seven days prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Termination shall not excuse payment for expenses

properly incurred prior to notice of termination, but neither party shall be liable for indirect or consequential damages arising from termination under this section.

15. No Waiver of Claims. The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

16. Modification. Notwithstanding and succeeding any and all prior agreement(s) or practice(s), this Agreement constitutes the entire Agreement between the parties, and may only be expressly modified in writing(s), signed by both parties.

INFORMATION SYSTEMS, INC.

METRO

By _____

By _____

Title _____

Title _____

Date _____

Date _____

EXHIBIT "A"
SCOPE OF WORK

1. Contractor shall provide computer consulting services for the Weigh Master computer system at the following Metro solid waste disposal sites:

Metro South Station
2001 Washington Street
Oregon City, OR 97045

Metro Central Station
6161 NW 61st Avenue
Portland, OR 97210

2. Contractor shall provide unlimited telephone support for Metro's questions concerning the Weigh Master computer system.
3. Contractor shall provide programming and training support for the term of the Contract.
4. Contractor shall provide access to routine enhancements to the Weigh Master system at no charge.
5. Contractor shall provide access to major improvements, additions or other custom programming to the Weight Master system at or below the then-current price of such improvements, additions, or custom programming.
6. Contractor shall provide additional consulting services, including on-site services, if necessary, not within the scope of service described above, upon written request from Metro at current rate sheet prices.
7. Contractor shall maintain in concert with Metro, the confidentiality of the program and software systems, and to not knowingly or negligently sell, grant, convey, make available, or in any other manner disclose the software or programs provided to a third party.

EXHIBIT "B"
SCHEDULE OF FEES

Site Licenses - Computer Software (Weigh Master System)

- Additional sites (if required by Metro) \$ 5,000/each

Support Plan - Weigh Master System Computer Software \$ 3,300/year

- Metro South Station
- Metro Central Station
- Additional Sites (if required by Metro) \$ 500/year

Data Processing Services

Data processing services for computer software shall be on a time and materials basis as follows:

- Systems Analyst \$ 110/hour
- Programmer/Analyst \$ 95/hour
- Clerical \$ 35/hour

NOTE: Hours are calculated at the next nearest tenth of an hour

Travel Costs (coach class) Actual cost

Travel Time

For on-site visits, travel time will be billed as eight hours (one way), unless advance arrangements are made expressly in writing.

Per Diem Charges - (185) Actual cost

- Meals (per diem \$25) Actual cost
- Auto Rental (per diem \$60) Actual cost
- Lodging (per diem \$100) Actual cost

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