

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING)	RESOLUTION NO. 92-1676
CONTRACT FOR PERFORMANCE AUDIT)	
SERVICES)	Introduced by Jim Gardner,
)	Presiding Officer

WHEREAS, The contract for Performance Audit Services has been designated as an "A" type and is for a multi-year period thus requiring Council approval;

WHEREAS, The Council adopted Resolution No. 92-1653 on July 23, 1992 approving and authorizing the release of a Request for Proposals for Performance Audit Services;

WHEREAS, Seven responses to the RFP were received and a selection committee was established to review the written proposals and interview selected proposers; and

WHEREAS, The selection committee recommends that Talbot, Korvola and Warwick be retained to be the District's performance auditors for FY 1992-93 through FY 1994-95; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District approves the contract with Talbot, Korvola and Warwick to provide performance services attached as Exhibit A to this Resolution.

ADOPTED by the Council of the Metropolitan Service District
this 24th day of September, 1992.



Jim Gardner, Presiding Officer

mgs\FIN\R92-1676.LEG

Project _____
Contract No. _____

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation organized under ORS Chapter 268, referred to herein as "Metro," located at 2000 S.W. First Avenue, Portland, OR 97201-5398, and _____, referred to herein as "Contractor," located at _____.

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 _____ and shall remain in effect until and including _____, 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 maximum sum of _____ AND _____/100THS DOLLARS (\$ _____), in the manner and at the time specified in the Scope of Work.

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 personal 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, \$250,000 per person, and \$50,000 property damage. 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 are subject employers under the Oregon Workers' Compensation Law and 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.

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.

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, with any patent infringement 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. 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.

13. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor five 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.

14. 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.

15. Modification. This Agreement is the entire agreement between the parties, and may only be modified in writing, signed by both parties.

CONTRACTOR

METROPOLITAN SERVICE DISTRICT

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

SCOPE OF WORK

Complete one performance audit in each of the three fiscal years of the contract, FY 1992-93 through 1994-95. The subject of each year's audit will be determined early in the fiscal year, following consultation among Councilors, Council Department staff, and the performance auditor. Each performance audit will be divided into three phases, as follows:

Phase One

Conduct a survey of functions relevant to the subject of the audit, to identify issues for in-depth analysis in Phase Two, make recommendations for immediate improvements that may have been identified in the survey phase, and develop a work plan to audit in greater depth all or any combination of the functions surveyed in Phase One.

Phase Two

1. Conduct the performance audit(s) on the functions recommended in Phase One, making sure to:
 - a. Ascertain the policy basis for providing these functions
 - b. Ascertain how effectively these functions are being provided.
 - c. Ascertain how efficiently these functions are being provided.
2. Make recommendations for improving the delivery of the functions studied. Those recommendations should include, as applicable:
 - a. Changes to existing policies and procedures or introduction of new policies and procedures to improve the efficiency and effectiveness of such functions;
 - b. Development of standard performance measures or indicators to assist in future evaluation of performance;
 - c. Any organizational changes to improve the efficiency and effectiveness of such functions;
 - d. Funding levels for providing these functions in an efficient and cost effective manner; and

- e. Any other factors which should be taken into consideration.

Phase Three

Six months following presentation of the completed audit to the Council or appropriate standing committee of the Council, perform a review to determine how the recommendations are being implemented.

FINANCE COMMITTEE REPORT

RESOLUTION NO. 92-1676, APPROVING A CONTRACT FOR PERFORMANCE AUDIT SERVICES

Date: September 22, 1992 Presented by: Councilor Van Bergen

COMMITTEE RECOMMENDATION: At its September 17, 1992 meeting the Finance Committee voted 4-0 to recommend Council adoption of Resolution No. 92-1676. Voting were Councilors Van Bergen, Devlin, Hansen, and Wyers. Councilor Gardner was absent.

COMMITTEE DISCUSSION/ISSUES: Council Analyst Casey Short presented the staff report. He advised the committee of the process for selecting a contractor for performance audit services, and said the selection committee recommended the firm of Talbot, Korvola and Warwick be awarded the contract. (See Don Carlson's September 14 memo to the Finance Committee, attached.) He said Mr. Jack Talbot and Mr. Brad Rafish of the firm were at the meeting, and were available to answer questions.

Councilor Hansen asked if the proposed Charter contained anything regarding performance auditing. Councilor Devlin said that if the Charter passes the Council will continue to do performance auditing until 1995, when an Auditor will be separately elected; one of the Auditor's duties under the Charter will be performance auditing. Councilor Hansen asked if passage of the Charter would affect the standing of this contract. Mr. Short said he didn't know, but would find out. (General Counsel Dan Cooper has subsequently advised Council staff that the Auditor would become responsible for administration of the contract upon taking office, if the contract were still in effect. The contract contains a termination clause allowing Metro to terminate it with five days' notice. In short, the Council would have the following options in FY 1994-95: end the contract; do a six-month performance audit; start an audit and let the Auditor complete it; or leave the contract in force but not direct any work to be done, allowing the Auditor to determine how to handle it in 1995.)



METRO

Memorandum

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Date: September 14, 1992
To: Finance Committee
From: Donald E. Carlson, Council Administrator
Re: Resolution No. 92-1676 Approving a Contract for Performance Audit Services

The purpose of this memo is to provide information to the Finance Committee on the selection process for Resolution No. 92-1676 which is on the Committee's September 17, 1992 agenda. Background information on this proposed contract is as follows:

1. The Council's prior three year performance audit contract with KPMG Peat Marwick expired on June 30, 1992. On July 23, 1992 the Council adopted Resolution No. 92-1653 approving and releasing an RFP for performance audit services. Seven written responses to the RFP were received by August 17, 1992 from the following firms: Coopers & Lybrand; David M. Griffith and Associates, LTD.; KPMG Peat Marwick; Moss Adams; P. Maxwell Group; Public Knowledge; and Talbot, Korvola & Warwick.
2. A Screening Panel made up of Don Carlson, Council Administrator; Dick Engstrom, Deputy Executive Officer; Casey Short, Council Analyst; and Dick Tracy, City of Portland Audit Manager; reviewed and rated the proposals according to the evaluation factors shown on Exhibit A. The panel met on September 2, 1992 and selected the following top three rated firms for oral interviews: KPMG Peat Marwick; Talbot, Korvola & Warwick; and Coopers & Lybrand. Councilor Van Bergen attended the meeting but did not participate in the rating process.
3. An Interview Panel met on September 10, 1992 with representatives of the three firms mentioned above in separate interviews. Members of this Panel included the four persons on the Screening Panel plus Jim Gardner, Presiding Officer and George Van Bergen, Finance Committee Chair. Each firm was asked the same set of questions as shown on Exhibit B plus follow-up questions as appropriate. Based upon the interviews and the previous written responses the Interview Panel recommends Talbot, Korvola & Warwick be awarded the performance audit contract. The Panel was impressed with 1) Talbot's knowledge of and experience with performance audits; 2) the quality of recent work performed for the District in

developing a records management system for the Solid Waste Department and an accounting procedures manual and 3) the fact that it is a local firm with a competitive fee structure.

Council Staff recommends that Resolution No. 92-1676 be amended by the Finance Committee to insert the name of Talbot, Korvola & Warwick in the appropriate places. Staff will meet with representatives of the firm in the week following Council action on this resolution to start the process of determining this years performance audit work. This process will include discussions with Finance Committee members and the Executive Officer. Any revision to the Scope of Work resulting from these discussions will be brought back to the Finance Committee and Council as appropriate.

cc: Metro Council
Rena Cusma
Dick Engstrom
Jack Talbot

92-1676.memo

Evaluator: _____

PERFORMANCE AUDIT SERVICES
METRO COUNCIL
EVALUATION FORM

Name of Proposing Firm: _____

1. Effectiveness of approach to conducting a performance audit.
(Up to 30 points)

Comments: _____

POINTS: _____

2. Quality of proposed staff. (Up to 30 points)

Comments: _____

POINTS: _____

3. Qualifications and experience in conducting performance audits. (Up to 30 points)

Comments: _____

POINTS: _____

4. Cost Proposal (Up to 10 points)

Comments: _____

POINTS: _____

TOTAL POINTS (100 possible) _____

Evaluator

/

Proposer

PERFORMANCE AUDIT INTERVIEW QUESTIONS

1. As you know, we are interviewing three qualified firms for this job, what distinguishes your firm from the other two?

2. Metro provides a number of different functions or services. In your judgment, which of these will show potential for payback if audited (savings, increased revenues, efficiencies).

3. Metro has a "separation of powers" structure. How does this system impact your work as performance auditors?

4. What is your approach to dealing with audit subjects?

5. Who in your firm will work on these audits during the term of the engagement?

6. What questions do you have of us?