



City of San Antonio

Agenda Memorandum

File Number:21-4203

Agenda Item Number: 9.

Agenda Date: 6/17/2021

In Control: City Council A Session

DEPARTMENT: Finance

DEPARTMENT HEAD: Troy Elliott

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

Engagement of Professional Consultant to Provide Sales and Use Tax Audit Recovery Services

SUMMARY:

This ordinance authorizes the City to enter into a professional service contract with HdL Companies to provide sales and use tax audit recovery services to the City. Under this engagement, the consultant will review past and present state and City records to determine if:

1. All businesses operating within the City of San Antonio that are subject to city sales and use tax are in fact remitting the appropriate amount to the Texas Comptroller of Public Accounts (TCPA).
2. All internet sales that are subject to local City of San Antonio sales and use tax are in fact remitting to the TCPA.
3. The City of San Antonio is being correctly allocated all city sales and use tax due each month from the TCPA.

The Contractor will be required to coordinate with the TCPA's office to correct appropriate records to ensure the collection of any unrealized sales and use tax revenue to the City.

BACKGROUND INFORMATION:

Texas imposes a state sales tax on all retail sales, leases and rentals of most goods, as well as taxable services. Texas cities, counties, transit authorities and special purpose districts have the option of imposing an additional local sales tax for a combined state and local tax rate of up to 8.250% (.0825).

San Antonio's current sales tax rate is 8.250% and is presently distributed as follows: 1.000% City of San

Antonio; 0.125% dedicated to the City of San Antonio Ready to Work Initiative; 0.125% dedicated to the City of San Antonio Pre-K 4 SA initiative; 0.250% San Antonio ATD (Advanced Transportation District); 0.500% San Antonio MTA (Metropolitan Transit Authority); and 6.250% State of Texas.

The Finance Department desires to be proactive and identify potential additional revenue otherwise due to the City as a result of any sales and use tax omissions or errors. The City previously had a contract with HdL Companies for sales and use tax audit recovery services citywide which expired on May 31, 2021. Over the five year term of the contract, the contractor identified \$3,032,490.00 in additional sales tax collections resulting in a net revenue to the City in the amount of \$2,274,069.00. This contract will provide continuance of these needed services.

On March 17, 2021, the City released a Request for Proposal (RFP) for Sales and Use Tax Audit Recovery Services which was advertised in the San Antonio Express News, TVSA channel, the City's Bidding and Contracting Opportunities website, the San Antonio e-Procurement System (SAEPS) and an email notification was released to a list of potential Respondents. The City received three (3) responses on April 15, 2021 and all were deemed eligible for evaluation.

On May 7, 2021, a selection committee comprised of representatives from the Finance Department and the Office of Management and Budget evaluated and scored the firms based on the following criteria: Experience, Background, and Qualifications; Proposed Plan; Price Schedule; the Small Business Economic Development Advocacy Program; the Local Preference Program and the Veteran-Owned Small Business Preference Program.

Due diligence conducted for each of the respondents included a search of federal and state debarment lists, conflicts of interest, delinquent City/County taxes, outstanding payments to the City, payment of state franchise fees as well as a search of the internet for pertinent business information. No material findings were noted that would prevent the City from awarding to the selected vendor.

The Local Preference Program was applied in the evaluation of responses received for this contract; however, the highest ranked firm is not a local business.

The Veteran-Owned Small Business Preference Program was applied in the evaluation of responses received for this contract; however, the highest ranked firm was not a veteran-owned small business.

Based on this criteria, HdL Companies received the highest ranking and is recommended for contract award. This contract will allow the City to engage HdL Companies as a professional consultant to gather data from the TCPA analyzing it using their proprietary software to identify businesses which appear to be underreporting sales tax. HdL then works with the TCPA and businesses to correct any errors found. Typical recoveries are due to taxpayers reporting in the wrong local jurisdiction. In addition, HdL provides the City internal research reports and monthly sales tax analysis reports. In return for these services, the consultant retains a percentage of the sales tax collections for two years following HdL's correction of an issue and after the City has begun to receive payments of the recovered and/or new or increased sales and use tax. After the two-year commission period, the City continues to receive the improved revenue stream with no commission. Under this compensation arrangement, there is no risk to the City. The consultant only receives compensation if recoveries are realized by the City.

Under the prior contract with HdL, the commission rate was 25%. Under the new contract, the rate was reduced to 22.5% and commission from any one taxpayer is capped at \$100,000 during a contract year.

ISSUE:

City sales tax collections have averaged approximately \$286 million over the past five fiscal years. The adopted FY 21 budget for sales taxes is \$295.4 million. Given the volume and complexity of sales and use tax the City receives and the potential for errors or omissions, the City proposes to engage HdL Companies as a professional consultant to provide sales and use tax audit and recovery services.

The Goal Setting Committee applied the Small and Minority/ Women-Owned Business Enterprise Prime Contract (SBEDA) Program with five (5) SBE Prime Contract Program evaluation preference points awarded to a vendor if they are certified as SBE located within the San Antonio Metropolitan Statistical Area and five (5) M/WBE Prime Contract Program evaluation preference points awarded to a vendor if they are certified as M/WBE located within the San Antonio Metropolitan Statistical Area. However, HdL Companies was not eligible to receive any preference points.

ALTERNATIVES:

The City could choose not to accept this contract; however, the City would not have a process to identify and collect additional revenue resulting from sales and use tax errors or omissions.

The City could attempt to perform this function in-house; however, that would require a capital investment to develop analytic software and expert personnel to administer the system. The current contract allows HdL to spread that investment over more customers than just the City.

FISCAL IMPACT:

This ordinance authorizes a professional services contract with HdL Companies to provide sales and use tax audit services. As compensation under the contract, HdL Companies will receive (22.5%) of any recoveries achieved for the City as a result of the consultant's efforts for a period of two years. In addition, a commission attributable to any one taxpayer during any contract year shall be capped at and shall not exceed \$100,000.00. Funding for this contract is available in the FY 2021 General Fund Budget with funding for future years contingent upon City Council approval of the annual budget.

RECOMMENDATION:

Staff recommends the approval of the proposed professional services contract with HdL Companies to provide the Finance Department with sales and use tax audit recovery services for a period to commence July 1, 2021 and terminate June 30, 2024, with an option to extend the contract for two additional one-year periods under the same terms and conditions.

The contract was procured by means of a Request for Proposal and the Contracts Disclosure Form is required.