

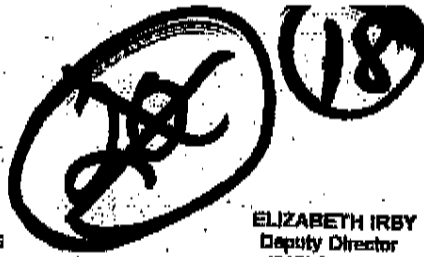
City of Detroit

CITY COUNCIL

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PHS
Referral

TO: The Honorable City Council

FROM: David Whitaker, Director
Research and Analysis Division Staff

DATE: October 22, 2012

RE: Detroit Water and Sewerage Contract No. 2870781 with EMA, Inc.¹

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DETROIT
CITY CLERK

City Council has been requested to consider and approve Contract No. 2870781 between EMA, Inc. and the City of Detroit, acting through its Board of Water Commissioners and its Water and Sewerage Department. Presentations on this contract have been made to City Council staff on Friday, October 12, and to the City Council's Public Health and Safety Committee on Monday, October 15, 2012. The Research and Analysis Division (RAD) was requested, at the Committee meeting, to review and provide its comments on this proposed contract.

VENDOR SELECTION

It has been indicated, in the presentations, by the Detroit Water and Sewerage Department (DWSD) that there was not a Request for Proposals or Qualifications to provide the proposed services. DWSD Administration made a determination that EMA, Inc. is the Sole Source that is able to provide the services. Contract 2870781 with EMA, Inc. was approved by the Board of Water Commissioners, after an extensive review of the company and the proposed scope of services and costs, on September 7, 2012.

EMA, Inc. was previously awarded a contract, for \$175,000, to conduct a study to review all operations of the Water and Sewerage Department. The report, from this study, was released in early August and recommended that employment could be reduced by 81% from a current employment of 1,978 to 374 department employees plus an additional 361 contractual employees. The proposed contract with EMA is for the services to assist the Department administration and Board of Water Commissioners to implement the recommendations from the previous contract.

¹ A separate Confidential and Privileged report is also being submitted by RAD regarding DWSD.

EMA, Inc., according to the company's website was incorporated in 1975 as Environmental Management Associates, Inc., the name was changed to EMA due to their expanding scope of services beyond "environmental management" issues. The company indicates their work with city, county and regional governments is "to identify and capture opportunities to save money, avoid privatization, and get the greatest return on [the government's] investment in people." EMA states they use best practices to improve the effectiveness of organizations, business practices and technology to improve the delivery of services in public works, health and human services. The company provides several examples of their work with government clients in water and sewerage that include: Greater Vancouver Regional District, Colorado Springs Utilities, Metropolitan Council Environmental Services for Minneapolis-St. Paul, San Diego Water Department, Orange County Utilities in Orlando, Florida, Massachusetts Water Resources Authority which serves Boston and surrounding area. There did not appear to be any previous contracts between the City of Detroit or its Water and Sewerage Department and EMA, Inc.

GENERAL OVERVIEW

The proposed contract 2870781 with EMA, Inc. is for a term of 5 years, following the issuance of a "Notice to Start Work" from the DWSD director, for a total amount not to exceed \$47,970,355.95, inclusive of all reimbursable expenses. Payment for services is contingent upon the receipt of invoices submitted by the contractor. The contract may be terminated without cause at least 5 business days before the date of termination; the contract may be terminated with cause at least 24 hours before the date of termination. Causes specified in the contract for termination include: Failure to fulfill contractor obligations in a timely and proper manner; Violation of any contractual covenants, agreements or stipulations; and Performance is substandard, unprofessional or faulty in the judgment of the City.

The presentations from the Department and the contract scope of services refer to four (4) phases of work; the first phase, Assessment and Alignment, appears to have been completed through the initial contract with EMA with the report and recommendations submitted to the Board of Water Commissioners this past August. The proposed contract, 2870781 is for the implementation of Phases II and III. Phase IV to address automation of systems is indicated to be deferred.

City Council may wish to inquire if the Automation Phase will be a separate contract or an extension/amendment to this proposed contract.

PHASE 11 - OUTSOURCING ACTIVITIES

Phase II addresses the "outsourcing of non-core activities, according to the Department presentation, however Phase II and Phase III activities may be carried out simultaneously. City Council may wish to inquire about the sequence for implementation of the Phases. The Services identify eight (8) areas that are identified to be non-core business functions. The identified non-core activities and their estimated annual cost include:

- Non-repetitive Laboratory functions - \$1,000,000;
- Rate-setting - \$150,000;
- Grounds maintenance - \$500,000;
- Facilities Maintenance - \$2,000,000;
- Office Cleaning and Garbage collection - \$500,000;
- Major/minor Fleet repairs - \$300,000;
- Payroll - \$40,000;
- Print shop - \$100,000.

The department currently has contracts for office cleaning and for vehicle repairs. It appears that including these functions refers to a more comprehensive scope than the current contracts now address. The total estimated annual cost for the 8 areas listed above is \$4,590,000. Nearly half of the contract cost (\$21,114,000) is budgeted for Outsourcing Contracts and Management.

The Department indicates that any outsourcing will have to achieve a minimum cost savings of 10% for a Request for Proposals to be issued. Procurement of bids/proposals are to focus on Detroit and "Customer-Based" businesses; provide opportunities for the union to submit bids, and provide employment to displaced DWSD employees. The contracts for outsourcing are to include a provision that the services may be returned to DWSD and the department employees.

City Council may wish to request clarification of "customer-based" businesses; and to receive more information on what criteria will be used to determine how outsourced services are returned to department employees. City Council may also wish to ask DWSD to clarify, for the record if it is required to comply with the Charter and City Code requirements regarding the privatization of city services (Sec. 18-5-103) to submit studies and reports to justify outsourcing/privatization for approval and to submit the contracts recommended to privatize these services for approval of the City Council.²

Contracting for these various functions will be through EMA, who will assist with preparation of the Request for Bids or Proposals, evaluation of the proposals and management of the contracts. The contractors for these services will work as sub-contractors to EMA. There will be a 15% subcontracting fee to EMA to manage the set-up, invoicing and performance of the sub-contracted services.

² The Court Order seems to specifically exempt DWSD from the privatization ordinance requirements. +

PHASE III PROGRAMS

Phase III includes the remaining seven (7) "program tracks" or service components of the proposed contract. These include the following:

- Program Management,
- Job Design and Business Practice Design,
- Information Technology Master Plan,
- Procurement of the Human Resources, Payroll and Timekeeping Systems,
- Computerized Maintenance Management System and Financial system updates,
- Development of Information Technology Systems, procurement and implementation of Systems for:
 - Document Management,
 - Hazardous Materials Management,
 - Learning Management, and
 - Performance Management Systems,
- Implementation of an Asset Management and Reliability Program.

The primary task of Phase III is indicated to be the job designs and classifications to be developed and implemented throughout DWSD. The other identified services or programs development of the Information Technology Master Plan, procurement of new technology for Human Resources, Computerized Maintenance and other systems will support the Job Design and Business Practice Design.

JOB DESIGN AND BUSINESS PROCESS DESIGN

The goal of the job design and classification program is the expansion of job descriptions and reduction of job classifications from the currently indicated 267 classifications to EMA's recommended 32 job classifications. The benefits of this program are indicated to include a more flexible workforce, increasing the skills and education of employees, opportunities for promotion and career development. DWSD Administration has stated their commitment to conduct a salary survey and market analysis, as part of this process, which may result in increased salary levels for employees. Conversely, there will be significantly less employment opportunities available with DWSD, particularly in the relatively high-wage, low-skilled job classifications that are slated for elimination as a result of this program.

The process to develop the job design and new job classifications will be through the organization of five (5) design teams comprised of 8 to 10 employee volunteers led and facilitated by an EMA Team Leader. The design teams are indicated to include: Water Operations, Wastewater Operations, Field Services Operations, Technology Support, and Finance, Administration and Customer Services. The teams will be charged with developing best practices through the re-organization, job classifications, employee training, and technology required to fulfill the required services for their area, and the process for implementation.

The contract scope of services states that, "Each work area integrates the new practices with enabling tools and technologies and integrates new organizational behaviors, skills and abilities. Contract services include providing the development and training to team members to work together as a team. The Job Design activities of the teams are indicated to require a time commitment of eight (8) "Uninterrupted weeks to complete the 'To-Be' work models." Design team activities are indicated will initially require daily meetings. The Job Design and Business Process Design program is estimated to be completed by the end of March 2013.

The success of the design teams is dependant of the involvement, commitment, expertise and skills of the employee volunteers to consider and understand new paradigms, new ways of working, and thinking "outside the box." In some cases, the employees may be asked to consider sacrificing their own jobs. The use of employee teams to develop recommendations for changing and improving the delivery of City services is not a new concept. A City-Wide program of Turn-Around Teams was initiated by Mayor Archer and have also been repeated, and to some extent, implemented in various forms by succeeding administrations, including the present administration.

City Council may wish to request more information on the development of the design teams, creative independence given to the teams, and ensuring that the work of the teams will not interfere with the ability of the employees to carry out their current jobs; this is a concern given that there may well be some anticipated reluctance for employees to willingly sacrifice their jobs in our present economy.

INFORMATION TECHNOLOGY MASTER PLAN

Information Technology Master Plan will be developed by EMA following a review of all existing systems. The Plan is to define how the existing applications can be consolidated into a manageable environment to support the DWSD business application. EMA to determine what functions and services are required, identify the security and access requirements, define the interactions and integration between applications, and define the application configuration to address the required functions. EMA will use workshops, questionnaires and interviews to ensure participation of key staff. The contract services will provide recommendations to define standards required by DWSD, the hardware and software required for all DWSD facilities. The recommendations will include upgrading the technology as well as consolidating applications.

PAYROLL, TIMEKEEPING AND HUMAN RESOURCES SYSTEMS

This program is to enable DWSD to operate these systems independently from the City. EMA will review the existing systems and develop the functional requirements for these systems. The payroll system requirements, analysis and procurement is indicated will be completed first to be implemented by March 15, 2013. Contract services to include an analysis of the vendors that may be candidates for outsourcing some or all of these systems. EMA will develop the specifications and procurement documents, respond to vendor questions and facilitate the evaluation of the vendors and their proposals. EMA will assist the Department in implementing and testing systems, providing support and training to system administrators and the end users or employees. According to the DWSD presentation, the Human Resources system may include a Learning Management Module.

City Council may wish to inquire if the cost for purchasing the Payroll, Timekeeping and Human Resources Systems is part of this contract's proposed costs, or will this be an additional cost.

INFORMATION TECHNOLOGY SYSTEM DESIGN REQUIREMENTS

EMA will develop the functional requirements and the business cases for four (4) systems, which include:

- Learning Management for scheduling and tracking training, course attendance and requirements for licensing;
- Hazardous Materials Management, Material Safety Data Sheet Management Systems;
- Document Management that will include data for Maintenance, Operations, Planning, include Geographic Information Systems, drawings, operations and maintenance manuals. This system includes access and training to staff that will eliminate the need to request documents from other personnel;
- Performance Management to collect data, automate reporting, and increase accountability with collected performance measures.

EMA to develop the specifications and procurement documents for these systems, support the purchasing process by responding to vendor questions and facilitate the evaluation of vendor proposals and costs. The contractor is to assist the Department to implement and test the systems, providing support and training to system administrators and end users.

City Council may wish to inquire if the cost for purchasing these four identified Systems is part of this contract's proposed costs, or will this be an additional cost.

COMPUTERIZED MAINTENANCE MANAGEMENT AND FINANCIAL SYSTEMS

According to the contract, DWSD is currently in the process of purchasing, and implementing the Oracle WAMS and JD Edwards Financial Systems by early 2013. However, as the contract points out, the current design and configuration of the Computerized Maintenance Management (CMMS) and Financial Systems is based on the existing operations, management and business model which is to change dramatically, through the development of new Job Designs and Business Process Designs. The proposals for streamlining purchasing activities, materials management and time keeping processes are indicated to have a significant impact on the way that Oracle WAMS will be used. Changes that will affect these systems also include the organizational structure and the greater emphasis on planning and scheduling.

EMA will facilitate workshops on the configuration of the Financial and WAMS system to include DWSD staff in the process for reconfiguration as well as provide training to the staff on new practices, new data to be available, improvements to the business processes that will be possible through these new systems. The contract scope of services refers to the Work and Asset Management Team and a Financial Team that are important to the development of these systems, to understand the systems, and to identify any missing components or reports that may be required from these systems. EMA's services will include at least 3 workshops to provide the team with a greater understanding of the system options and flexibility. The workshops will also enable EMA to understand the real life issues and challenges faced by employees so that EMA may provide some solutions to these specific needs.

It appears the contract contemplates a significant wholesale, fundamental change in the current systems. City Council may wish to request more information on the procedures to be implemented by DWSD and the contractor to transition from the older systems to the new systems, to ensure historical data and information continues to be available and processed, and employees are adequately trained, to ensure services to the citizens are not disrupted and to ensure compliance with all environmental regulations.

ASSET MANAGEMENT PROGRAM

EMA will assist DWSD to develop a responsible Asset Management Program for the Department plants and in-ground assets. Objectives of this program are in part to: Develop a vision for Asset Management; Identification of gaps with [EMA's definition of] "global-leading asset and reliability practices"; Develop a prioritization of asset groups the need reliability improvement; Presentation to DWSD leadership to obtain commitment for implementation of the Asset Management Program.

EMA consultants and the Asset Management Team will meet with various Department divisions or sections to explore and understand the current situation as part of an Asset Management Assessment. The outcomes from the assessment will be used to identify real and meaningful issues and create a framework for implementing the Asset Management Systems. The proposed Asset Management system appears to be based on the development and understanding of Reliability Centered Maintenance reporting to help guide the setting of maintenance priorities. The age of the asset, condition, performance and reliability, combined with a consequence rating is used to help define the remaining life of the asset and to help rank the priority of the renewal process.

The Asset Management Program is to assist with defining the coordination required between the Capital Program and the Maintenance Program, and to help determine high priority capital asset improvement projects.

BUDGETED COSTS

The total cost of the 5-year contract for \$47,970,355.95 is broken down by the specified tasks in the Scope of Services. These tasks and associated costs include:

Program Management of EMA Activities	\$2,186,817.00
Re-Organization Design and Implementation	4,200,000.00
Information Tech. Master Plan & Consolidation	1,000,000.00
Human Resources / Payroll System	1,178,780.00
Information Tech Systems	1,900,000.00
Computerized Maintenance Management and Finance Systems Updates	3,500,000.00
Reliability and Asset Management	1,750,000.00
Outsourcing Analysis and Procurement Assist.	1,050,000.00
EMA Professional Services	Total
	\$16,765,597.00
Outsourcing Contracts and Management Fee	\$21,114,000.00
Contingency (20% of sub-total)	7,575,919.40
Expenses (15% of Professional Services)	2,514,839.55

The Fee Schedule includes the maximum billable hourly rates for 23 EMA personnel that are anticipated to be involved with providing services through this contract. The hourly rates range from \$125 per hour for a Design Team Member to \$295 per hour for the Design Team Lead in Technology. The Fee Schedule provides that an escalation in the hourly rates may not exceed 3% after the first year of the contract, subject to approval of DWSD. All expenses will be indicated on the receipts and will be charged at cost (with no increase) for an amount not to exceed \$2,514,839.55 over the 5-year term of the contract.

CONCLUSION

The presentation by the DWSD Administration emphasized the purpose of this contract is to reduce the costs for DWSD operations and maintenance in order to at least limit the future increases in the Water and Sewerage rates. A great deal of emphasis was placed on making the services of DWSD more affordable to Detroit city residents than may be the case otherwise if these changes are not implemented. Another objective is to plan major capital expenditures as part of the budgeted expenditures and not accumulate more debt, which would also help reduce the rate increases required to pay the debt service. The complete implementation of the contract and the investment in new automation equipment (Phase IV) is estimated by DWSD to save the Department up to \$140 Million per year.

Data to verify this estimated annual savings is not entirely clear. The implementation of the measures proposed in this contract may result in significant savings, however the actual amount may change considerably, based on the results of the programs, level of outsourcing, final number of positions retained or eliminated, and the level of automation that is possible to safely operate the facilities.

DWSD Director Sue McCormick described one objective of this contract is to "create resources through job redesign." This statement indicates in part that the Department wishes to use savings realized through reclassifications of jobs and job-reduction to help finance required technological (IT) and capital improvements. Ms. McCormick acknowledges the significant impact of the contractor's preliminary recommendations that reduces job classifications to 32 and the number of employees from 1,978 to 374 department employees and 361 contractual employees. However, Director McCormick emphasizes that the focus is on going through this process; the final numbers of job classifications and number of employees may change.

Staffing is clearly a critical issue and ensures that Water and Sewerage facilities are managed and operated in a manner to comply with all federal and state environmental regulations. The department has been criticized in the past for understaffing in some critical areas. The Federal Environmental Protection Agency (EPA) in pleadings filed in Federal Court on October 12, 2012, has requested 45 days to review the proposed restructuring of the Detroit Water and Sewerage Department through the approval of this proposed contract with EMA. It is the recommendation of RAD that the City Council may consider waiting to receive the report from the EPA following their review before considering the proposed contract with EMA.

QUESTIONS

The following questions include those stated in the body of this report as well as additional questions that City Council may wish to submit to the Water and Sewerage Department for response.

1. How does this contract differ from previous contracts approved for the Water and Sewerage Department to institute Change Management and improve administrative and management services? What is unique about EMA and this contract?
2. Are there regular progress reports to be provided by EMA that can also be provided to the City Council, should the proposed contract be approved?
3. Will Phase IV for the installation of greater automation in DWSD facilities require a separate contract or will this be an extension/amendment to this proposed contract?
4. Will Phase II for Outsourcing and Phase III for Job Design, development and installation of systems be done in sequence or at the same time? Are there priorities that will dictate the work sequence?
5. Please clarify the term "customer-based" businesses that are targeted in contracting, and how does this differ from Detroit-based businesses, particularly given that the DWSD "customer base" extends considerably beyond the city limits?
6. What criteria will be used to determine that outsourced services should be returned to department employees? Who will conduct this evaluation, and will the workforce – perhaps through their union leadership – be involved in the evaluation process?
7. What positions are to be filled by the estimated 361 contractual employees, are these positions different or part of the services to be Outsourced?
8. Is DWSD required to comply with the Charter and City Code requirements regarding the privatization of city services (Sec. 18-5-103) to submit studies and reports to justify outsourcing/privatization for approval and to submit the contracts recommended to privatize these services for approval of the City Council? If not, can these reports be submitted to the City Council for review?
9. How will employees be selected to be part of Design Teams? How much latitude or creative independence is given to the teams to develop their ideas? How will the work of the Design teams be structured so to not interfere with the ability of the employees to carry out their current jobs?

10. Who will provide the on-going technical education services for employees, leading toward licensing, increasing professional capacity?
11. Is the cost for purchasing the new Payroll, Timekeeping and Human Resources Systems a part of this contract's proposed costs, or will they be acquired at an additional cost or through a separate contract?
12. Are the costs for the new Learning Management, Hazardous Materials Management, Document Management and Performance Management Systems part of this contract's proposed costs, or will they be acquired at an additional cost or through a separate contract?
13. What procedures will be implemented by DWSD and the contractor to transition from the older systems to new systems, to ensure historical data and information continues to be available and processed, and employees are adequately trained, to ensure that services to the citizens are not disrupted and to ensure compliance with environmental regulations?
14. The professional services contract describes the City as a municipal corp. acting by and through the Water Board and its Water Department . . . are there any discernible adverse interests between the entities collectively described as the City, particularly in light of the current posturing and on-going litigation? If so, can the Water Board act under the contract solely on behalf of the city?
15. Under sec. 1.06, if the City is managing this contract through the Board and the Board is not separate from the City proper, does the City's Auditor General have a right to audit the contractor's operations or performance under the contract?
16. Was Federal Judge Cox involved in the process of selecting EMA to provide these contract services or in the establishing the Scope of Services for EMA?
17. Did the Corporation Counsel's office play a role in drafting the proposed contract? If so, please explain that role in detail.
18. Under section 4.01, what safeguards will be in place to protect confidential personnel records from the contractor, given its independent contractor's status and the contractor's responsibility to make an assessment of the capacity and job performance of DWSD's personnel?
19. In addition to the concerns expressed in the preceding question above, what other confidential information do you anticipate might be turned over to this contractor in the course of this work?

20. Under 5.02 the City may terminate the contract for cause and under subsection (c) if the performance is "substandard..." are there any objective standards by which this contractor's performance will be measured that we can review in advance of City Council's consideration of this proposed contract?
21. At section 5.06, the terms in the 5th line - "becomes its sole and exclusive possession..." in reference to the Contractor's *work product* is somewhat confusing as written and could be interpreted to allow, at the City's option, the contractor to keep work product paid for by the City, which arguably should not be optional as it should seemly belong to the city out-right. The balance of the paragraph is helpful, but the city's ownership of the work product should be clearly stated, please comment relative to this interpretation.
22. Under section 13.01, it references " the Water and Sewerage Department of the City of Detroit, a municipal corporation..." does such an entity exist?