

CITY OF OAKLAND

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2015 APR 16 AM 1:54

AGENDA REPORT

TO: JOHN FLORES
INTERIM CITY ADMINISTRATOR

FROM: Sean Whent

SUBJECT: Elite Performance Assessment
Consultants, LLC Contract for
Law Enforcement Audit Services

DATE: March 26, 2015

City Administrator
Approval

Date

4/14/15

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff Recommends that the City Council approve a Resolution authorizing the City Administrator or designee to enter into a professional services contract with Elite Performance Assessment Consultants, LLC to provide as-needed law enforcement audit services for a one year period beginning May 8, 2015 and ending May 7, 2016 in an amount not to exceed fifty thousand dollars (\$50,000), with two (2) one-year options to extend the contract for a total amount not to exceed one-hundred and fifty thousand dollars (\$150,000).

OUTCOME

The approval of this professional services contract will allow the Oakland Police Department (OPD) to fulfill ongoing OPD and Negotiated Settlement Agreement (NSA) policy audit mandates.

BACKGROUND/LEGISLATIVE HISTORY

On January 22, 2003, the City entered into a five-year Negotiated Settlement Agreement to resolve allegations of police misconduct raised in the civil case of *Delphine Allen, et. al., v. City of Oakland, et. al.* The City entered into the NSA with the intent of promoting constitutional police practices, police officer integrity and professionalism within OPD. On March 19, 2007, the Court extended the NSA for two years, and on November 24, 2009, the Court allowed for the termination of the NSA and the adoption of a narrower Memorandum Of Understanding (MOU) from 2010 to 2012, under which the City was credited for the compliance achieved. In 2012 the MOU was terminated and a narrower 2-year Amended MOU (AMOU) was extended and approved by the Court.

Item: _____
Public Safety Committee
April 28, 2015

The NSA requires that the Police Department conduct six audits annually of NSA-related areas. The Office of Inspector General (OIG) is the Division responsible for conducting audits, and determines which NSA audits to conduct each year in collaboration with the Federal Monitor. In addition to NSA audits, OPD policies regarding confidential informants and search warrants require that the OIG conduct annual audits or reviews. Limited staffing within the OIG requires that external professional audit services be utilized to meet all of the NSA and policy audit mandates.

In September 2013 the Department entered into a contract with Elite Performance Assessment Consultants, LLC (EPAC) to provide as-needed law enforcement audit services in the amount of \$50,000 for the time period of September 13, 2013 through September 14, 2014. EPAC was chosen after a competitive bidding process and was approved by the Compliance Director, Chief Robert Warshaw. In February 2014 the Department amended the contract with EPAC, extending the time period to January 31, 2015, and increasing the amount by \$49,000, for a total contract amount of \$99,000. In January 2015 the Department amended the contract a second time, extending the time period to April 30, 2015, giving the Department and EPAC time to complete the final audit assigned under the contract. EPAC has completed seven audits under this contract, including audits of the following areas.

1. Management Level Liaison
2. Community Policing
3. Search warrants
4. Methods for Reviewing Citizen Complaints
5. Member's, Employee's, and Supervisor's Reviews
6. Internal Affairs Staffing and Resources
7. Oleoresin Capsicum Checkout Procedures

In December 2014 the Oakland Police Department initiated a new Request for Proposals (RFP) for law enforcement audit services. There were two responders, EPAC and Matrix Consulting Group. The Department recommended that EPAC continue providing law enforcement auditing services, and the Compliance Director approved EPAC as the Department's external audit consultant. The Department recommended EPAC because their hourly cost is lower and they have gained knowledge of Department policies and procedures during their prior auditing projects.

The Council allocated \$50,000 for police performance audit contract services during the Fiscal Year (FY) 2014-2015 Mid-Cycle Budget process via resolution number 85085 CMS. Funds were added to the Department's budget as an ongoing expense.

Item: _____

ANALYSIS

Approval of this resolution will authorize the City Administrator to enter into a contract with EPAC for a one year period beginning May 8, 2015 and ending May 7, 2016, in an amount not to exceed \$50,000 to provide law enforcement auditing services to the Oakland Police Department, with two (2) one-year options to extend the contract for a total not to exceed amount of one-hundred fifty thousand dollars (\$150,000). Sustainability of the reform efforts is contingent upon a robust internal oversight and auditing function. External audit consultants will increase the audit capacity of the Department to continue identifying where improvement is needed. The audit consultants will review select policies and practices to determine where there are deficiencies or inefficiencies.

PUBLIC. OUTREACH/INTEREST

The NSA reforms are critical to improving community-police relations. The Oakland Police Department has responded to the NSA by implementing procedures to promote constitutional police practices, police officer integrity, and professionalism. Assessment and internal oversight are necessary for ensuring the sustainability of implemented reforms. The OIG provides this internal oversight through auditing. Transparency related to police audit findings helps to build community trust and ensure that the Oakland Police Department continues to institute best practices in constitutional policing.

COORDINATION

The Contracts and Compliance Division, the Office of the City Attorney, and the Controller's Office were consulted in the preparation of this report.

COST SUMMARY/IMPLICATIONS

AMOUNT OF RECOMMENDATION/COST OF PROJECT:
\$150,000.00

SOURCE OF FUNDING:
Funds for this contract shall be drawn from General Fund (1010), Office of Inspector General Org (101130), Contract Services Account (54919), Agency Wide Administration Program (PS01).

Funds were added to the Department's budget as an ongoing expense via resolution number 85085.

Item: _____

FISCAL IMPACT

The NSA reforms implemented by the Oakland Police Department reflect the best practices and procedures for police management in the areas of supervision, use of force, professionalism, and accountability mechanisms. Over time, having a highly professional police organization that closely supervises and monitors its activities and holds persons accountable for law violations and serious misconduct increases public confidence, improves public relations with the community, and reduces financial liability and risk for the City.

SUSTAINABLE OPPORTUNITIES

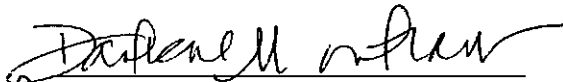
Economic: More economic opportunities will be available through lower crime rates, which can be achieved through more community trust and transparency with the Oakland Police Department.

Environmental: There are no environmental opportunities.

Social Equity: The police reforms the City is instituting will enhance OPD's ability to provide highly professional services in ensuring the public safety of the residents of Oakland.

For questions regarding this report, please contact Kristin Burgess-Medeiros, Police Auditor, at (510) 238-7097.

Respectfully submitted,

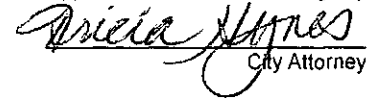


SEAN C. WHEENT
Chief of Police, Police Services Agency

Prepared by:
Kristin Burgess-Medeiros, Police Auditor
Office of Inspector General

Item: _____

Public Safety Committee
April 28, 2015



 Aricia Hynes
 City Attorney

 FILED
 OFFICE OF THE CITY CLERK
 OAKLAND

2015 APR 16 AM 1:54

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S. _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH ELITE PERFORMANCE ASSESSMENT CONSULTANTS, LLC TO PROVIDE AS-NEEDED LAW ENFORCEMENT AUDIT SERVICES FOR A ONE YEAR PERIOD BEGINNING MAY 8, 2015 AND ENDING MAY 7, 2016 IN AN AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS (\$50,000), WITH TWO (2) ONE-YEAR OPTIONS TO EXTEND THE CONTRACT FOR A TOTAL AMOUNT NOT TO EXCEED ONE-HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000)

WHEREAS, in 2000 plaintiffs filed *Delphine Allen et al. v. City of Oakland* (United States District Court Case no. C00-4599 TEH), commonly referred to as the “Riders Case,” alleging that Oakland police officers violated their civil rights by planting evidence, committing perjury and using excessive force; and

WHEREAS, the City terminated the officers and an arbitrator upheld the termination of the three officers who filed grievances because the officers’ testimony was found to be unreliable, and the Alameda County released a number of the plaintiffs who were in custody and previously facing criminal prosecution; and

WHEREAS, in 2003 the City Council approved the Negotiated Settlement Agreement (NSA) to resolve the Riders Case and the Court issued an order approving the NSA and retained jurisdiction to oversee compliance with the NSA; and

WHEREAS, the NSA requires that the City institute a number of reforms to assure compliance with constitutional standards, including a requirement that OPD conduct six audits annually of NSA-related areas; and

WHEREAS, OPD’s Office of Inspector General (OIG) is the Division responsible for conducting audits, and with limited staffing resources must utilize external audit services to comply with OPD and NSA audit policy mandates; and

WHEREAS, in June 2013, the Department issued a Request for Proposals for as-needed law enforcement services and entered into a contract with Elite Performance Assessment Consultants, LLC (EPAC) in September 2013 to provide as needed law enforcement audit

services in the amount of \$50,000; and

WHEREAS, in February 2014, the Department amended the contract with EPAC, extending the time period and increasing the amount by \$49,000, for a total contract amount of \$99,000; and

WHEREAS, in December 2014, the Department issued a new Request for Proposals, received two responses, and chose EPAC to continue providing as-needed law enforcement auditing services, with the Compliance Director's approval; and

WHEREAS, in January 2015, the Department amended the original contract a second time, extending the time period of the contract to April 30, 2015, allowing time to complete the final audit assigned under the contract; and

WHEREAS, the Department seeks to enter into a contract with EPAC for a one year period beginning May 8, 2015, for an amount not to exceed \$50,000, with two (2) one-year options to extend the contract for a total not to exceed amount of one-hundred fifty thousand dollars (\$150,000); and

WHEREAS, sufficient funds have been budgeted in FY 2014-2015: General Purpose Fund (1010), Office of the Inspector General (OIG) Org (101130), Contract Services Account (54919), Agency Wide Administration Program (PS01); now, therefore, be it

RESOLVED: That the City Administrator or designee is authorized to enter into a professional services contract with Elite Performance Assessment Consultants, LLC. for as-needed law enforcement auditing services for a one year period beginning May 8, 2015, in an amount not to exceed \$50,000, with two (2) one-year options to extend the contract for a total amount not to exceed amount of one-hundred and fifty thousand dollars (\$150,000); and be it

FURTHER RESOLVED: That sufficient funds have been budgeted in FY 2014-2015: General Purpose Fund (1010), Office of the Inspector General (OIG) Org (101130), Contract Services Account (54919), Agency Wide Administration Program (PS01); and be it

FURTHER RESOLVED: That the City Administrator or designee is authorized to carry out all administrative and financial actions, including negotiations, certifications, assurances, and related actions as necessary to execute, amend, or extend this contract, except for increases in the contract amount, without returning to the City Council; and be it

FURTHER RESOLVED: That in accordance with Article IV, section 401(6) of the City Charter, agreements authorized by this resolution shall be approved by the City Attorney for form and legality before execution and a copy of fully executed agreements shall be placed on file with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND PRESIDENT GIBSON MCELHANEY

NOES –
ABSENT –
ABSTENTION –

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the
Council of the City of Oakland, California