

**PORT OF SEATTLE**  
**MEMORANDUM**

**COMMISSION AGENDA**

Item No. 6c

Date of Meeting November 10, 2009

**DATE:** October 26, 2009

**TO:** Tay Yoshitani, Chief Executive Officer

**FROM:** Stephanie Jones Stebbins, Senior Manager, Seaport Environmental Programs  
David Kleiber, Seaport Environmental Finance Manager

**SUBJECT:** (a) Request the Port Commission to grant, in accordance with RCW 53.19.020 (5), an exemption from competition for semi-annual environmental liability support.

(b) Request Commission to authorize the Chief Executive Officer to enter into a sole source service agreement for Environmental Liability Support and Software Upgrade and Maintenance for three years and two one-year options for a total estimated cost not-to-exceed amount of \$750,000

**AMOUNT: \$750,000**

**SOURCE OF FUNDS: Seaport Environmental Reserve & Airport Development Fund**

**ACTION REQUESTED**

- (a) Request for port commission determination that competitive solicitation is not appropriate or cost-effective for procuring semi-annual environmental liability support, using ERCI Defender File or Pro Form software in accordance with the requirements of Chapter 53.19 RCW
- (b) Request commission to authorize the Chief Executive Officer to execute and administer a three year contract with two one-year options for semi-annual environmental liability support and software upgrade and maintenance. The contract will be for \$150,000 per year, the total not to exceed \$750,000

**BACKGROUND**

The Port of Seattle (Port) is obligated to follow the requirements of the Governmental Accounting Standards Board (GASB) Statement No. 49, *Accounting and Financial Reporting for Pollution Remediation Obligations*, to assure proper reporting and disclosure of the Port's pollution remediation obligations (PRO) which includes consistent cost estimating and reporting of environmental remediation sites. GASB 49 enhances the comparability of financial statements among governments by requiring all government agencies to account for PRO in a timely, comprehensive and consistent manner including required reporting of obligations that previously may not have been reported. We are required to measure our environmental remediation liabilities in accordance with GASB 49. Implementation of GASB 49 is required to conform to generally accepted accounting principles (GAAP).

## **COMMISSION AGENDA**

Tay Yoshitani, Chief Executive Officer

October 26, 2009

Page 2 of 4

To meet the requirements under GAAP, in October 2003, the port completed a competitive procurement to provide a software system for environmental cost forecasting, decision analysis, budgeting, reserving, and portfolio rollups using probabilistic cost estimating, along with support to manage the system and produce the required reports and portfolios. Environmental Risk Communication Inc. (ERCI) was awarded a five-year IDIQ contract in 2004.

ERCI has customized the summary of individual site liabilities (Portfolio rollup) to meet the Port's needs for completing GASB49 financial reporting for the Port's financial statements. A separate Portfolio is used to document the potential future liability. This information is critical for developing strategies to reduce the Port's environmental liability exposure. This information is also used for the Port's prospective financial statements so that the Port has the necessary financial resources to cover obligations. The Port's future environmental liabilities Portfolio affect the Port's financial position and bond covenant compliance. The PRO form also documents current and contingent liabilities, in compliance with GAAP, in a format consistent across the Portfolio. The PRO form provides an audit trail and historic reference for updating future calculations. Potential cost recoveries are also noted.

Each year we have had ERIC make changes to its Defender software tool and the corresponding business processes based on changes in GAAP and feedback from financial auditors, environmental staff, other Port managers and the Port's legal department.

Below are listed the key elements of the Contract being requested for award to ERCI. The first category falls clearly into the sole source category, as only ERCI can upgrade and maintain their software. The scope of this category has been approved by CDD. The second category below is the scope that falls under this request for exemption from competition (RCW 53.19.020 (5)).

### **I. Software - Upgrades**

- Revisions and upgrades to Defender Files and PRO forms and associated data manipulation and migration
- Development and update of code for reporting and Portfolio rollups
- Project management and oversight of software upgrades
- Documentation and development of user manuals
- Preparation and front-loading of tasks related to environmental liability updates

### **II. Services – Portfolio Rollups and Monte Carlo Modeling**

- Semi-annual or quarterly environmental liability support, planning and scheduling
- Monte Carlo modeling of \$100K+ line-items
- Running loop macros to add information to all files during update
- Accounting data transfer to reports (Q2 or yearend)
- Completing rollup and review of reports (rerunning reports, as needed)
- Reviewing Defender Files and PRO forms for completeness
- Formatting Portfolio liability matrix reports
- Management and oversight of the liability update process

## **COMMISSION AGENDA**

Tay Yoshitani, Chief Executive Officer

October 26, 2009

Page 3 of 4

### **EXEMPTION FROM COMPETITIVE SOLICITATION**

As noted above, the work included under software upgrades and software data migration can only be legally conducted by ECRI, as they own the copyright for this software. Under RCW 53.19.020, this work falls under “sole source” as ECRI is the only firm that can legally perform this work.

This is not the case for the third category: performing portfolio roll ups and other support activities during the liability updates, such as Monte Carlo modeling. This work is intertwined with the software updates and, although this work is a small part of the overall contract (about 25%), there are significant efficiencies gained when ECRI does this work. The support generally involves manipulating data that is already being hosted by ECRI. While it is technically possible for another firm to do this work, it would involve complicated transactions; it would also require another provider to learn the ECRI software.

Based on these issues, port staff members recommends that this work be granted a competition waiver under RCW 53.19.020 and included in the ECRI contract.

RCW 53.19.020 lists five exemptions from competitive solicitation. The fifth exemption is for “other specific contracts or classes or groups of contracts exempted from the competitive solicitation process by the commission when it has been determined that a competitive solicitation process is not appropriate or cost-effective.” As noted above, staff members believe that situation this meets the required standard.

This waiver is requested to mitigate the significant increase in cost and loss of efficiency by contracting a service provider other than ERCI, which hosts the data, to provide semi-annual liability support completing portfolio rollups, and conducting Monte Carlo modeling within Defender Files consistent with Port Policy AC-9 to evaluate risks associated with our environmental projects. While this modeling also could be performed by another provider, due to the need to learn and understand the ERCI software outputs, there would be a significant loss of efficiency and increase in cost. In addition, this portion of the scope of work is a small portion of the total.

### **ALTERNATIVES CONSIDERED/RECOMMENDED ACTION**

**Alternative 1:** Proceed without the use of a consultant. This would result in the port using ERCI Defender File and PROForm site files and portfolio as is for the fourth quarter update with no consultant support for six to 10 end-of-year liability rollups. However, we would require a third party to perform the Monte Carlo modeling for line items greater than \$100K. A normal review and rollup process requires a significant amount of time to complete the rollup, review and provide feedback. Historically, ERCI has provided compilation of the data and then transferred it back to the Port to finalize and complete the port’s legal and financial reviews. Port staff members would be required to perform all of these changes and updates semi-annual. *The Port does not have the staff resources to perform FY2009 year-end or FY2010 rollups.*

**Alternative 2:** Issue a contract to ERCI for the entire scope. The Port of Seattle has made a significant investment in the ERCI software in order to ensure that the risk exposure is quantified for GASB 49 and to implement strategic planning associated with environmental cleanup projects and compliance with GASB49. Because this is a new program, we are still building our knowledge base and software capabilities. Contracting with ECRI allows us to continue improving our process without interruption.

## **COMMISSION AGENDA**

Tay Yoshitani, Chief Executive Officer

October 26, 2009

Page 4 of 4

We can focus on incorporating improvements needed to respond to issues raised by financial auditors, port accounting, financial and environmental staff. **This is the preferred alternative.**

**Alternative 3:** ERCI would continue to provide the necessary updates to the software (generally every six months), and the semi-annual rollups and Monte Carlo modeling (Category III above) would be procured through a competitive process. To change consultants for the portfolio rollup portion of the work at this time would require a new consultant to learn the ERCI software, as well as the Port business processes prior to being able to generate any reports. There would be a steep and fast learning curve in order to provide continued protection of the Port from risk and liability. During that learning curve, in order to ensure continuity of the program, the port would need to use additional staff resources.

### **Cost Estimate**

The estimated cost for work is \$150,000 per year, with \$35,000 per year of that total for the Category III work. The estimated cost for the total contract, including the software upgrades and maintenance for a five-year period is \$750,000.

### **Source of Funds**

The Environmental Reserves account, which pays for the environmental cleanup projects, derives funding from two sources. The first is the port's Environmental Reserve, funded by tax levy dollars; the second is the airport's operating budget. All appropriate costs will be accounted for as environmental reserves and charged to expense in accordance with Port Policy AC-9.