



AGENDA REPORT

Finance Department

DATE:	May 17, 2022
TO:	Mayor Butt and Members of the City Council
FROM:	Delmy Cuellar, Interim Director of Finance Antonio Banuelos, Accounting Manager Ofelia Alvarez, Senior Buyer
Subject:	Sanctuary City Contracting and Investment Policy Ordinance Update
FINANCIAL IMPACT:	No fiscal impact
PREVIOUS COUNCIL ACTION:	N/A
STATEMENT OF THE ISSUE:	On June 5, 2018, the City Council adopted a Sanctuary City Contracting and Investment Policy Ordinance which mandates that City staff provide a written update to the City Council.
RECOMMENDED ACTION:	RECEIVE a written update regarding the steps taken to ensure compliance with the Sanctuary City Contracting and Investment Policy Ordinance; and APPROVE waivers for Motorola as the only reasonable option, and Westlaw until their contract expires in July 2022 – Finance Department (Delmy Cuellar/Antonio Banuelos/Ofelia Alvarez 620-6699).

DISCUSSION:

As a Sanctuary City, the City of Richmond is committed to protecting all residents of our community. The goal of the adopted ordinance is to prohibit the City from contracting with any person or entity that provides the United States Immigration and Customs Enforcement (ICE) with any “Data Broker”, “Extreme Vetting” services unless the City Council makes a specific determination that no reasonable alternative exists. The ordinance also prohibits the City from investing in any of these companies and requires the City to include notice of these prohibitions in any Request for Proposals (RFPs), Requests for Qualifications (RFQs), and any construction or other contracting bids. The ordinance also requires that the City provide an annual report to the City Council on its enforcement.

The Finance Department is working with all the City departments on this project. All departments have both reviewed the "Sanctuary City Contracting Ordinance" (Attachment 1 - Ord. 12-18) and completed the Departmental Sanctuary City Compliance Statement (Attachment 2) declaring that their contracts are in compliance with the Ordinance. Any findings or requests for waivers were noted in the Departmental Sanctuary City Compliance Statement.

In addition, all public works, construction bids, requests for qualifications, requests for proposals, or any other solicitation issued by the City are required to include statement below:

SANCTUARY CITY CONTRACTING ORDINANCE COMPLIANCE STATEMENT

Contractor agrees to comply with the provisions of the Richmond Sanctuary City Contracting Ordinance (SCCO, Ordinance No. 12-18). Contractor must submit the Sanctuary City Compliance Statement included herein along with the bid or proposal prior to execution of the contract.

Furthermore, the City Attorney’s office is working to amend all the contract templates to add the statement below:

SANCTUARY CITY CONTRACTING ORDINANCE (SCCO)

The Richmond Sanctuary City Contracting Ordinance No. 12-18 prohibits the City from granting and or retaining contracts with any person or entity that provides Data Broker or Extreme Vetting services to the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security (“ICE”). Bidders/Proposers must submit the attached Sanctuary City Compliance Statement with their Bid or Proposal.

Updates should be completed by July.

Impacted Contracts

The contracting portion of this ordinance currently impact two existing contracts: one in the Fire and Police Department and one for the City Attorney's office.

The Fire and Police Department use Motorola brand portable and mobile radios. Radio communication is critical to providing emergency response services to the City of Richmond. Although Motorola is not a prohibited contractor, it recently purchased Vigilant Solutions which is a prohibited contractor. Terminating the contract with Motorola would have a large financial and public safety impact on the City.

The City of Richmond is a member agency of East Bay Regional Communications System Authority (EBRCSA). EBRCSA is a communications system manufactured by Motorola providing interoperability for emergency responders and others on the system in Alameda and Contra Costa counties. EBRCSA entered into agreement with Motorola in 2009 following an RFP conducted by Contra Costa County (#0904-018); and the agreement has been extended through 2017, 2020, and is currently in effect until July 6, 2023.

Red Cloud Inc. is Motorola's exclusive Manufacturer's Representative for all cities within Alameda, Contra Costa, San Mateo, and Marin Counties as well as the City and Country of San Francisco.

In order to remain operable, the Fire and Police Department will need to continue to procure Motorola brand equipment, such as radios, batteries, related equipment, and software updates. Depending on lowest available pricing, sometimes this may require procuring directly with Motorola, or Red Cloud, as their authorized representative for this region.

Thomas-Reuters is a prohibited contractor that owns Westlaw, the online legal research service for lawyers and legal professionals. Westlaw provides 40,000 databases of case law, state and federal statutes, administrative codes, law journals, law reviews, treatises, legal forms, and other information resources that the City Attorney's Office accesses on a regular basis.

Westlaw does have some competitors that may be able to provide a similar service. When the contract is due for renewal, in July 2022, the City Attorney's Office will evaluate whether to seek a renewal or seek a viable alternate contractor through an RFP process.

Prohibition on Investment

Implementation of the investment portion of the ordinance includes monitoring of the City's investments on a regular basis. The investment policy was revised to include the following restriction:

In accordance with the Sanctuary City Ordinance 12-18 N.S. Section 4 Prohibition on Investments effective June 5, 2018, the City shall not make any investments in stocks, bonds, securities, or other obligations issued by any provider of Data Broker or Extreme Vetting services to United States Immigration and Customs Enforcement (ICE).

The ordinance also requires the City to adopt a plan with respect to pension fund investments in order to avoid investments in such entities. The City employees are part of the California Public Employees' Retirement Systems (CalPERS). The City contacted CalPERS and encouraged them to avoid investing in such funds per the City ordinance and investment policy.

COMPLIANCE

City staff will continue to work with all departments to ensure that all their contracts comply with the ordinance. Additionally, City staff is monitoring the City's investments on a regular basis to confirm that these also conform with the ordinance. During the FY 2020-2021, two contracts were impacted by this ordinance. Although Motorola is not a prohibited contractor, it recently purchased Vigilant Solutions which is a prohibited contractor. As noted above, terminating the contract with Motorola would have a large financial and public safety impact on the City. The contract with Westlaw is due for renewal in July 2022, the City Attorney's Office will evaluate whether to seek a renewal or seek a viable alternate contractor through an RFP process. City staff recommends that the City Council make a finding that Motorola and Westlaw be granted a waiver given the specific circumstances surrounding each of their contracts with the City.

DOCUMENTS ATTACHED:

Attachment 1 – City of Richmond Ordinance 12-18 - Sanctuary City Contracting Ordinance

Attachment 2 – Departmental Sanctuary City Compliance Statement

Attachment 3 – Vendor Sanctuary City Compliance Statement