



County of Fresno

Hall of Records, Rm. 301
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Fresno, California
93721-2198

Legislation Text

File #: 19-1290, **Version:** 1

DATE: October 22, 2019
TO: Board of Supervisors
SUBMITTED BY: Margaret Mims, Sheriff
SUBJECT: Retroactive Microsoft Enterprise Services Agreement

RECOMMENDED ACTION(S):

- 1. Make a finding that it is in the best interest of the County to waive the competitive bidding process under Administrative Policy No. 34 due to unusual or extraordinary circumstances, as Microsoft Corporation is the support provider for its licensed products; and**
- 2. Approve and authorize the Chairman to execute a sole source retroactive Agreement with Microsoft Corporation (Microsoft) for maintenance and technical support of Microsoft products used by the Sheriff's Office effective October 2, 2019 through October 1, 2020 (\$121,851).**

There is no increase in Net County Cost associated with the recommended actions. Approval of the recommended actions will allow Microsoft to continue providing maintenance and technical support for the Microsoft products used by the Sheriff's Office servers, databases and over 700 personal computers. Estimated support requirements are determined in advance based on historical usage and planned implementations. This item is countywide.

ALTERNATIVE ACTION(S):

There is no viable alternative action. Should your Board not approve the recommended actions, Microsoft will terminate their maintenance and technical support and Sheriff's staff will be without technical on-line and phone support, diagnostics, problem resolution, software updates, critical fixes, and configuration assistance for its Microsoft software installed base.

SUSPENSION OF COMPETITION/SOLE SOURCE CONTRACT:

The Sheriff's Office requests the Board waive the competitive bidding process consistent with Administrative Policy No. 34 as Microsoft is the only provider of maintenance and support services for the Microsoft products used by the Sheriff's Office.

RETROACTIVE AGREEMENT:

The Sheriff's Office requested a quote for the services in May 2019. Microsoft informed the Department that due to upcoming changes in their program they would not be able to provide a quote until July 2019. Once the program changes were complete, there were additional discussions and approvals needed by Microsoft before the Sheriff's Office could finalize the cost for the services required. The complete information was not available with sufficient time for Board review of the agreement prior to the expiration date of October 1, 2019. As a result, this request is retroactive to the start date of the services on October 2, 2019.

FISCAL IMPACT:

There is no additional Net County Cost associated with the recommended actions. Funding for this agreement is included in the adopted FY 2019-20 Sheriff-Coroner-Public Administrator's Org 3111 Budget. Funding will also be included in future departmental budget requests. The one-year cost is priced at \$121,851.

DISCUSSION:

The County has successfully contracted with Microsoft for Premier Support Services for software product support for the past 18 years. The service has been used for the design and implementation of multiple software installations, supporting several departmental applications, data and infrastructure requirements. On September 11, 2012, your Board approved a three-year agreement with Microsoft that expired October 1, 2015. The Sheriff's Office executed a one year Purchase Order with Microsoft which expired October 1, 2016 due to evolving information technology projects and because the need for specific longer term support was not identifiable. During this one year, the Sheriff's Office worked with Microsoft to better estimate upgrade schedules and services the Sheriff would benefit the most from over the next three years based on software utilization. On September 13, 2016, your Board approved a three-year agreement with Microsoft for continued annual support, training and implementation of new Microsoft systems. That agreement expired October 1, 2019. Microsoft no longer offers a multi-year agreement structure for the services used by the Sheriff's Office. As a result, this renewal is for a one-year agreement to be renewed annually. Some of the key terms of the one-year agreement, such as specific proactive and reactive support service definitions, are not found within the body of the agreement but instead must be accessed via a link on page 2 of the agreement, which may be updated from time to time. The Sheriff's Office will monitor this link to keep up to date with the terms of the agreement.

The Sheriff's Office utilizes Microsoft products for several of its server, workstation and database software components, including workstation office products and e-mail services. Microsoft's Premier Support provides ongoing technical services via phone and on-site support, for the Sheriff's Microsoft software install base. Diagnostics and problem resolution, software updates, critical fixes and configuration assistance/reviews are also part of the Premier Service.

There is indemnification language requiring the Sheriff's Office to hold Microsoft harmless from any claims, lawsuits, etc. that arise from the Sheriff's Office running afoul of its non-exclusive right to use Microsoft's "sample code", which is common in service agreements such as these. There are no indemnification provisions or other insurance provisions that are in favor of the Sheriff's Office, which is also common in service agreements such as these. Risk Management has reviewed the proposed agreement and has found the document acceptable.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Sole Source Acquisition Request
On file with Clerk - Agreement with Microsoft

CAO ANALYST:

Jeannie Z. Figueroa