


Date: March 27, 2019**To:** Board of Directors**From:** Doug Kelsey **Subject:** **RESOLUTION 19-03-17 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A THIRD-PARTY ADMINISTRATOR CONTRACT WITH THE REEDGROUP FOR FEDERAL FAMILY MEDICAL LEAVE ACT (FMLA), OREGON FAMILY LEAVE ACT (OFLA), AND WORKER'S COMPENSATION LEAVE TRACKING SERVICES****1. Purpose of Item**

The purpose of this item is to request that the TriMet Board of Directors (Board) authorize the General Manager to execute a third-party administrator contract with The ReedGroup (ReedGroup) for Federal Family Medical Leave Act (FMLA), Oregon Family Leave Act (OFLA), and Worker's Compensation leave Tracking Services (Services).

2. Type of Agenda Item

- Initial Contract
 Contract Modification
 Other _____

3. Reason for Board Action

Board authorization is required for personal services contracts obligating TriMet to pay in excess of \$500,000.00.

4. Type of Action

- Resolution
 Ordinance 1st Reading
 Ordinance 2nd Reading
 Other _____

5. Background

The primary purpose of this procurement is to outsource the administration of FMLA, OFLA and Worker's Compensation leave tracking in accordance with the current and amended statutes, and TriMet leave policies. Although Corvel is TriMet's third party administrator for Workers Compensation claims, it is important to track Workers Compensation leave in conjunction with leave available to our employees under FMLA and OFLA.

The FMLA and OFLA laws provide eligible employees with important rights to job protection for absences, due to the birth or adoption of a child, for the serious health condition of the employee or a qualifying family member, to care for injured service members, and because of a qualifying exigency arising from the active military duty of a covered family member, or notice of an impending call to active duty status in support of a

contingency operation. Additionally, OFLA provides protection for leave of absence to care for a child with a non-serious health condition and for bereavement.

The approximate FMLA/OFLA call volume experienced by TriMet is 11,400 calls annually, although the FMLA/OFLA requests that actually are submitted and processed (approved, pending and/or denied) is approximately 5,000 annually.

Under the proposed contract, the third-party administrator must timely and accurately process all leave requests for approximately 3,200 represented and non-represented TriMet employees, so TriMet can remain in compliance with all statutes and regulations. The third-party administrator must provide timely information regarding the status of all leave requests to meet TriMet's requirements for supervisors or managers and the Human Resources (HR) department, as applicable. The third-party administrator also is required to have a complete understanding of OFLA.

6. Procurement Process

On January 23, 2019, TriMet issued an RFP for the Services. The RFP was posted on TriMet's public solicitation website (TriPS), and the notice was emailed directly to 104 contacts registered with TriMet to provide these Services. Thirteen firms elected to download the solicitation.

On February 15, 2019, two proposals were submitted to TriMet by The ReedGroup and Broadspire Services, Inc. (Broadspire).

A Source Evaluation Committee (SEC) comprised of staff from TriMet's HR department was appointed to review and evaluate the proposals. The evaluation criteria in the RFP included: (1) technical proposal, which included an introduction, references, proposer qualifications, staffing, diversity, and the understanding of the work; and (2) price proposal. After evaluating both technical proposals, ReedGroup was shortlisted to the competitive range.

The SEC then opened ReedGroup's price proposal and determined that ReedGroup would be considered for award. ReedGroup was asked to submit a Best and Final Offer (BAFO) to clarify proposal areas, and to revise pricing.

Final scores of the firms (plus ReedGroup after its BAFO submission) are summarized in the table below:

	Possible Points	ReedGroup	Broadspire
<i>Evaluation Criteria</i>			
Qualifications of Proposer, Staff and Diversity	30	24.3	20.8
Understanding of the Work	40	36.3	29.5
Price Proposal	30	30.0	0.0
Total Score . . .	100	90.5	50.3
Total BAFO Pricing . . .		\$1,411,200.00	Not Applicable

The SEC determined that ReedGroup demonstrated the highest level of technical experience, qualifications, and a strong understanding of the work. Therefore, the SEC recommended it for award.

The proposed contract with ReedGroup will be for a five-year term, with TriMet's unilateral option to terminate for convenience if necessary, for any reason, during the contract period. Labor rates shall be eligible for up to four annual adjustments commencing on the second year of the contract period. In no event shall any price adjustment be greater than the percentage listed in the yearly percentage change in the Consumer Price Index – All Urban Wage Earners and Clerical Workers (CPI-W), for the Western Region, Pacific Division-Class A. The applicable CPI-W shall be the most recently published figure as of the anniversary date of the execution of the contract.

The attached Resolution authorizes TriMet to contract with The ReedGroup for the Services in the not-to-exceed amount of \$1,411,200, over the five-year period. The actual amount of money spent during the five-year contract will be based on actual agency requirements during the contract term.

7. Diversity

ReedGroup's workforce diversity is 72.2% female and 41.7% minority. The total employee count of the firm is 1,423. ReedGroup intends to self-perform the Services.

8. Financial/Budget Impact

The Services are budgeted for in the Labor Relations and Human Resources department's operating budget for FY2019 and beyond.

9. Impact if Not Approved

Should the Board choose to not approve this contract, it could direct TriMet's HR department to provide these services by hiring additional staff. The cost to process FMLA/OFLA leave requests and manage the FMLA/OFLA program internally is estimated at \$5.28 per employee per month (based on FY2008 expenditures when TriMet managed its own program, plus escalation at 3% compounded annually), or an annualized cost of \$202,752 based on the current headcount of 3,200 active employees; and would increase annually.

Further, TriMet is not currently staffed and/or equipped to perform these services, and doing so would mean that TriMet would have to obtain additional funds to hire enough staff to perform the functions as solicited, costs of software to maintain a leave program, supplies, postage, and finding/leasing additional filing storage space; which would be at a greater cost than the proposed contract. This amount does not include the cost of legal risks associated with potential failure to properly administer TriMet's FMLA/OFLA program internally, which while unknown, could be significant.

RESOLUTION 19-03-17

RESOLUTION OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A THIRD-PARTY ADMINISTRATOR CONTRACT WITH THE REEDGROUP FOR FEDERAL FAMILY MEDICAL LEAVE ACT (FMLA), OREGON FAMILY LEAVE ACT (OFLA), AND WORKER'S COMPENSATION LEAVE TRACKING SERVICES

WHEREAS, TriMet has authority under ORS 267.200 to enter into a third-party administrator Contract with The ReedGroup, for FMLA, OFLA, and Worker's Compensation Leave Tracking services (Contract); and

WHEREAS, the total amount of the Contract exceeds \$500,000; and

WHEREAS, the TriMet Board of Directors (Board), by Resolution dated October 25, 2017, adopted a Statement of Policies requiring the Board to authorize personal services contracts obligating TriMet to pay in excess of \$500,000;

NOW, THEREFORE, BE IT RESOLVED:

1. That the Contract shall conform to applicable laws.
2. That the General Manager or his designee is authorized to execute the Contract for a not-to-exceed amount of \$1,411,200, over the five-year term of the Contract.

Dated: March 27, 2019

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency:



Legal Department