

SOLE SOURCE PURCHASE REPORT

To: Purchasing Officer

From: Peter Auh, General Counsel

Date: 4/18/2019

1. Name and address and contact information of supplier:
Modrall Sperling Roehl Harris & Sisk, P.A.,
500 Fourth St. NW #1000,
P.O. Box 2168,
Albuquerque, NM 87103-2168.
(505) 848-1800
2. Goods and/or services to be purchased: Legal representation in administrative proceeding initiated by City of Albuquerque, Environmental Health Department, pursuant to Clean Air Act.
3. Estimated total dollar amount of expenditures pursuant to this request: \$ 231,603.60
4. Term for which goods and/or services will be purchased pursuant to this request (mark only the option which applies):
 - a. 3 years Years/Months/Weeks/Days (circle one)
 - b. This is a one-time sole source purchase, to be completed within the next fiscal year.
5. Identify the specific circumstances that require a sole source purchase of the goods and/or services requested:

This administrative proceeding has been ongoing since January 2017, and the Modrall Law Firm has been involved in representing the Water Authority's interests in it since July, 2017. There have been numerous exchanges with the City's legal counsel, experts have been retained and several hearings have been held before the assigned hearing officer. Due to the Modrall Law Firm's extensive involvement in this technically complicated case, it is uniquely qualified to continue representing the Water Authority.

- a. Brief description of the purpose of the goods or services to be purchased:
Legal services in a litigation context, including engaging with opposing counsel, formulating legal strategy, preparing legal briefs, providing guidance to retained technical experts, arguing motions at hearings, conducting settlement negotiations and representing the Water Authority at final hearing on the merits.
- b. Reasons for need of goods and/or services from the specific supplier. Any one reason, by itself, does not necessarily justify a sole source purchase (mark all that apply):
 - i. A diligent inquiry failed to identify any source for the same or similar goods and/or services that will substantially accomplish the same or similar functions to those provided by the source identified above. If so, identify which of the following steps were taken to establish a good-faith review of available alternative sources and provide written justification verifying the actions below were taken (mark all that apply):
 1. Contacted various suppliers of similar goods to discuss alternative options;
 2. Performed product research for potential alternative sources;

SOLE SOURCE PURCHASE REPORT

3. Consulted with subject matter experts to identify potential alternative sources;
4. Other (specifically describe any actions taken, attach additional sheets if necessary):

(Inability to locate other sources via internet search will not suffice as acceptable due diligence.)

- ii. The goods and/or services offered are unique or proprietary in form, fit, and function. If so, describe the unique or proprietary qualities of the goods and/or services; if available, provide documentation of their unique or proprietary nature, e.g. evidence of patent/copyright/secret processes/limited rights in data (attach additional sheets if necessary):
- iii. Use of goods and/or services from sources other than an Original Equipment Manufacturer will require substantial modification to equipment or systems currently in use, resulting in substantial duplication in cost to the Water Authority that is not expected to be recovered through competition and/or unacceptable delays in fulfilling the Water Authority's requirements. If so, describe the modifications, potential costs, and/or delays associated with making substitute goods and/or services compatible with current equipment or systems (attach additional sheets if necessary):
- iv. The procurement requires a specific supplier of goods or services. If so, identify one or more of the following reasons and provide written justification verifying that the statement below is true:
 1. Limited availability of goods or services;
 2. Proven quality, accuracy, and/or dependability;
 3. Compatibility considerations;
 4. Safety considerations;
 5. Warranty issues or guarantee of parts performance;
 6. During the system design process, several alternatives were evaluated and the current proprietary process was selected;
 7. Other (specifically describe any other reasons, attach additional sheets if necessary):

Due to the nature of legal services in the context of an attorney-client relationship in an ongoing litigation matter, it is infeasible to seek services from a different source. A new attorney or law firm will not have the familiarity with proceedings and developments to date, nor would there be any realistic likelihood that a new law firm would be able to comply with established deadlines for case progress.

- v. The goods and/or services cannot be purchased by the Water Authority from any other supplier, e.g. the supplier has a protected territory established by the original producer of the goods or services. If so, attach written documentation from the original producer verifying the availability of sources for goods and/or services.

6. Describe the reasons the purchase is in the public's interest (attach additional sheets if necessary):

The allegations contained in the Notice of Violation, which the Water Authority has vigorously denied, would require additional reporting requirements which are onerous and expensive. It is in the ratepayers' best interest to continue to defend against these allegations, especially in view of the fact that the Water Authority believes them to be demonstrably wrong.

SOLE SOURCE PURCHASE REPORT

- 7. Attach negotiated cost or fee schedule, as applicable, along with evidence confirming that the price is most advantageous to the Water Authority.

Requirement:

At least fifteen days before a sole source contract is awarded, the Central Purchasing Office shall post this notice of intent to award any sole source contracts for goods, services, or construction, on its website.

Any qualified potential contractor may protest an intent to award a sole source procurement to the Central Purchasing Office. The protest shall be submitted in writing within fifteen calendar days of the notice of intent to award a contract being posted by the Central Purchasing Office.

The signature below certifies that this justification is accurate and complete to the best knowledge and belief of the individuals signing:


Requestor's Signature:

 4/18/19
Title: General Counsel Date

Signature Acknowledgement from the Division Manager:

Division Manager Date

Review and Verification by Purchasing Officer:

 4/19/19
Purchasing Officer Date

SHAREHOLDER RATE: \$240.00 PER HOUR

ASSOCIATE RATE: \$160.00 PER HOUR

PARALEGAL RATE: \$110.00 PER HOUR