

File No. 140575

Committee Item No. 12

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date June 16, 2014

Board of Supervisors Meeting _____

Date _____

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Completed by: Linda Wong Date June 13, 2014
 Completed by: _____ Date _____

MEMORANDUM

Date: June 16, 2014

To: Members Board of Supervisors

From: Angela Calvillo, Clerk of the Board

Subject: **Recommendation for a 3 percent COLA Increase to the Contract for Budget and Legislative Analyst Services**

SUMMARY

The Budget and Legislative Analyst has requested a 3.5 percent COLA increase to their billing rates in FY 2014/15. After a review of the contract and various inflationary factors, I recommend a COLA increase of 3 percent (valued at \$60,000), timing to be decided by the Board. While I consider a 3.5 percent COLA increase a reasonable request, I cannot support the full request because the contract language limits the increase to the Contractor's hourly rate to no more than the COLA rate set by law for employees of the City, State or Federal Government, whichever is highest. The Budget and Legislative Analyst made the request for a 3.5 percent COLA increase prior to completion of the Memorandums of Understandings between the City and various employee unions. These agreements generally increase wages by 3 percent in FY 2014/15.

BACKGROUND

- Section 2.117 of the City's Charter authorizes the Board of Supervisors to appoint a Budget Analyst solely on the basis of education, training and experience.
- The current contract for budget and legislative analyst services was awarded to Harvey M. Rose Associates, LLC, Debra A. Newman, and Louie & Wong, LLP, A Joint Venture, based on the outcome of a competitive request for proposal process (RFP) that began on May 24, 2013.
- The Board of Supervisors entered into a four-year agreement with the Budget Analyst to provide these services effective January 1, 2014 through December 31, 2017 for a not-to-exceed amount of \$2M per year. ¹ Per the terms of the contract, the contract may be

¹ The agreement includes two options to renew the contract, each for an additional two year, through December 31, 2019 and December 31, 2021, respectively.

increased, if the Board of Supervisors adopts a motion enacting a cost of living adjustment (COLA).

- The current contract allows the Budget Analyst to request an increase in billing rates. In a letter dated February 10, 2014, the Budget and Legislative Analyst Joint Venture Partnership formally requested a 3.5 percent COLA to their FY 2014/15 billing rates. If a 3.5 percent COLA were approved, this would result in a \$70,000 increase to the current \$2M contract.
- I will present my recommendation for a 3 percent COLA increase at the Budget & Finance Committee on June 16, as part of our presentation on the Board's Budget.
- I seek guidance from the Board of Supervisors to determine how best to implement the Board's wishes:
 1. If it is the Board's intent to effectuate the COLA increase in FY 14/15, on June 16th, the Budget and Finance Committee could report out of Committee, a motion to the Full Board, directing the amount of the COLA, and timing of its implementation for the budget year.
 2. If it is the Board's intent is to effectuate the COLA increase in FY 15/16, a majority of the Board could direct me to include the COLA in the department's budget for consideration in December for FY 2015/16. A motion would still have to be approved at a later date.

FINDINGS

Historical Contract Funding

- **Contract increase tied to Local 21.** Over the past ten fiscal years, the Budget Analyst's contract has ranged from a high of \$2.5M to the current low of \$2M. Prior to FY 2009/10, there was a practice to increase the annual contract amount by the same percentage of the wage increase received in the Local 21 Memorandum of Understanding (MOU).
- **The Budget Analyst contract has not been increased since FY 2008/09.** In FY 2009/10, the new contract for Budget and Legislative Analyst services decoupled the contractual increase from the percentage wage increase that Local 21 members received. Since FY 2008/09, by mutual agreement, the contract has not increased to keep pace with the Consumer Price Index (CPI) for the San Francisco Bay Area. The below table shows historical funding for the Budget Analyst contract from FY 2003/04 through FY

2013/14. If the contract had grown by the CPI from FY 2003/04 to FY 2013/14, the contract amount would be \$2,148,196, or \$148,196 more than the current agreement.

Fiscal Year	Contract Amount	% Change	Actual CPI -U
2003/04	\$1,703,291	-	
2004/05	\$2,003,291	17.6%	1.7%
2005/06	\$2,203,291	10.0%	2.7%
2006/07	\$2,323,129	5.4%	3.3%
2007/08	\$2,387,956	2.8%	3.2%
2008/09	\$2,531,684	6.0%	1.8%
2009/10	\$2,107,842	-16.7%	1.2%
2010/11	\$2,050,000	-2.7%	1.7%
2011/12	\$2,050,000	0.0%	2.8%
2012/13	\$2,000,000	-2.4%	2.6%
2013/14*	\$2,000,000	0.0%	2.5%

*Actual FY 13/14 CPI-U projected by the California Department of Finance

Scope of Services

- **As the Budget Analyst’s contract has decreased or stayed stagnant, the scope of services provided to the Board has increased.** The scope of services for the current Budget Analyst contract includes:
 - Review and analysis of the City’s annual budget and salary ordinances;
 - Evaluation of legislation pending before the Board and Board Committees;
 - Policy analysis and evaluation of legislative initiatives of interest to the majority of the Board;
 - Policy analysis and follow up support to the Government Audit and Oversight Committee regarding Civil Grand Jury Reports; and,
 - Performance management audits of City Departments and Programs.

Key Contractual Provisions

- **Appendix B. Calculation of Charges.** The contract establishes hourly billing rates for various Budget Analyst staff and allocates contract hours amongst those staff for the purposes of monthly invoicing. According to the contract, these rates are all inclusive, meaning that no additional amounts will be charged to the City for other expenses required to perform the scope of service.

Staff Level	Rate	Contract Hours	Contract Amount
Principal Analyst	\$165	4,174 ²	\$688,775
Senior Analyst	\$125	4,845	\$605,625
Analyst	\$90	7,840	\$705,600
		16,859	\$2,000,000

- **Section 5. Compensation.** Section 5 of the contract pertaining to compensation contains language that limits the increase to the Contractor’s hourly rate to “no more than the COLA rate set by statute or ordinance for government employees by the City, State or Federal Government, whichever is highest.” The spirit of the compensation provision, while not binding on the Board, acknowledges that contractors should not receive more of an annual increase than public employees working for the City, State or Federal governments.

Methodology

As part of this review and in an effort to provide the Board with some context regarding the Budget Analyst’s proposed 3.5 percent COLA request, my office reviewed:

- **Various City Inflationary Factors** including the CPI for the San Francisco Bay area as calculated by the California State Department of Finance and the Annual and 2-year Average Fee CPI as calculated by the Controller’s Office;³
- **The Projected Increase on Non-Personnel Operating Costs** as reflected in the City’s Five Year Financial Plan; and,

² Adjusted to match contract, but actual amount based on \$165 x 4,174 should be \$688,710.

³ Using fee CPIs to determine the appropriate COLA for a private contractor may not be entirely appropriate as fees are supposed to exclusively recover the costs associated with providing a service. The nature of a professional services contract assumes the contractor is realizing some level of profitability and is not an apples to apples comparison.

- **The Percentage Wage Increase for Federal, State and City Employees** as required by Section 5 of the current contract. My staff reviewed the negotiated wage increases for members of Local 21 as a benchmark for all City employees. The percentage wage increase for State and Federal employees were obtained from the State Legislative Analyst’s Office and the U.S. Office of Personnel Management, respectively.

FY 13/14 Contract Amount: \$2M	FY 2014/15			FY 2015/16			
	Inflation Factor	Percentage Increase	Dollar Increase	TOTAL FY 14/15 Contract Amount*	Percentage Increase	Dollar Increase	TOTAL FY 15/16 Contract Amount**
	CPI-U for San Francisco ⁴	2.09%	\$41,800	\$2,041,800	2.21%	\$45,124	\$2,086,924
	Calculated Annual Fee CPI ⁵	2.58%	\$51,600	\$2,051,600	3.10%	\$63,600	\$2,115,200
	2-Year Average Fee CPI ⁶	2.40%	\$48,000	\$2,048,000	2.84%	\$58,163	\$2,106,163
	Non-Personnel Operating Costs ⁷	0.00%	\$0	\$2,000,000	2.21%	\$44,200	\$2,044,200
	State Workers: Salary Increases ⁸	2.00%	\$40,000	\$2,040,000	2.00%***	\$40,800	\$2,080,800
	Federal Workers: Salary Increases ⁹	1.00%	\$20,000	\$2,020,000	1.00%***	\$20,200	\$2,040,200
	IFPTE Local 21: Salary Increases ¹⁰	3.00%	\$60,000	\$2,060,000	3.25%	\$66,950	\$2,126,950

* Increase based on FY 13/14 Contract Amount

** Increase based on FY 14/15 Contract Amount

*** FY 15/16 actual percentage increase unknown, but assumes FY 14/15 percentage increase for the purposes of analysis

The above table reflects the application of various inflation factors to the current \$2M contract amount. For FY 2015/16, the rates were applied to the increased FY 2014/15 contract as a compound increase.

⁴ California State Department of Finance, Consumer Price Index – Urban Area, Consolidated Metropolitan Statistical Area (CMSA) includes the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma, Updated November 2013.

⁵ Controller’s Office of Budget and Analysis. Rates confirmed via email on April 29, 2014.

⁶ Ibid.

⁷ Five Year Financial Plan Update for General Fund Supported Operations, FY 2014/15 through FY 2017/18, Joint Report by the Controller’s Office, Mayor’s Office and Board of Supervisor’s Budget Analyst, March 6, 2014.

⁸ State Legislative Analyst’s Office, The 2014/15 Budget: State Worker Salary, Health Benefit and Pension Costs, March 4, 2014.

⁹ U.S. Office of Personnel Management, January 2014 Pay Adjustments, December 23, 2013

¹⁰ Professional, Technical & Administrative Employees, Local 21 IFPTE Special Edition Bargaining 2014 Newsletter, May 1, 2014.

Key Considerations

There are several key considerations that helped to inform my recommendation on this issue:

- The Current Contract Amount is Lower than the CPI-adjusted FY 2003/04 Contract Amount, although, the Scope of Service is Larger.** As shown in the table below, the current contract amount is \$148K lower than the FY 2003/04 contract amount adjusted for cost of living increases. However, the scope of the contractors' services has increased to include legislative analysis and Civil Grand Jury work. The existing rate was set through contract negotiations following a competitive selection process. However, the historical information shows that the contractor is earning less while performing more work which makes the COLA request of 3.5 percent reasonable.

Fiscal	Contract	%	Actual	Contract Amount
Year	Amount	Change	CPI -U	If with CPI
2003/04	\$1,703,291			
		-		
2004/05	\$2,003,291	17.60%	1.70%	\$1,732,247
2005/06	\$2,203,291	10.00%	2.70%	\$1,779,018
2006/07	\$2,323,129	5.40%	3.30%	\$1,837,725
2007/08	\$2,387,956	2.80%	3.20%	\$1,896,532
2008/09	\$2,531,684	6.00%	1.80%	\$1,930,670
2009/10	\$2,107,842	-16.70%	1.20%	\$1,953,838
2010/11	\$2,050,000	-2.70%	1.70%	\$1,987,053
2011/12	\$2,050,000	0.00%	2.80%	\$2,042,691
2012/13	\$2,000,000	-2.40%	2.60%	\$2,095,801
2013/14*	\$2,000,000	0.00%	2.50%	\$2,148,196

- Controller's Prop J Certification.** The Board passed Resolution No. 238-13 on July 16, 2013 concurring with the Controller's certification that Budget Analyst services could be performed by a private contractor at a lower cost than similar work performed by City employees. At that time, the FY 2014/15 high cost for the Budget Analyst contract was listed as \$2,019,565, which did not include the cost of the proposed COLA. This

analysis has since been updated to reflect a high cost of \$2,016,795 which will be considered by the Budget and Finance Committee within the next week.

- **Honoring the Terms of the Current Contract Regarding Compensation; Wage Increases for Public Employees.** As I stated earlier, Section 5 of the current contract limits the increase to the Contractor's hourly rate by no more than the COLA rate set by law for employees of the City, State or Federal Government, whichever is highest. The Budget and Legislative Analyst Joint Venture Partnership's 3.5 percent COLA request, while reasonable, is currently higher than the projected wage increase for Federal (1 percent), State (2 percent) and City employees (Local 21: 3 percent & 3.25 percent) in FY 2014/15 and FY 2015/16.

- **Balancing the COLA Request with Other Increases to the Board's Budget in FY 2014/15.** The Board's FY 2014/15 budget may include additional funding for the broadcast radio RFQ, translation services, outreach advertising, and other items not currently reflected in our initial budget submission. The Budget and Finance Committee will need to prioritize these budget changes.

RECOMMENDATION

After considering all of the information available, I recommend that the Board of Supervisors consider providing a 3 percent COLA increase to the contract for Budget and Legislative Analyst Services effective in either FY 2014/15 or FY 2015/16, at the discretion of the Board. As stated above, the recommended 3 percent COLA increase will result in a \$60,000 increase to the current \$2M contract for a total FY 2014/15 or FY 2015/16 contract amount of \$2,060,000, depending on the desired implementation.

Board Motion Needed to Enact the COLA & Additional Action Required to Fund the COLA in the Board's Budget. Finally, the contract requires the Board of Supervisors to adopt a motion to enact a cost of living adjustment to the Budget Analyst's contract. Additionally, the Board would need to take further action to add these funds to the Department's budget as they were not included as part of our initial budget submission.

Prepared by: Ambi Bohannon Jones
Administration and Finance Manager *for*

Angela Calvillo
Clerk of the Board of Supervisors

City & County of San Francisco