



Expo

Exposition Metro Line
Construction Authority


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DATE: JUNE 1, 2006

TO: BOARD OF DIRECTORS

FROM: RICHARD D. THORPE 
CHIEF EXECUTIVE OFFICER

ACTION: CONSIDER INCREASE TO HOURLY RATES FOR LEGAL SERVICES

RECOMMENDATION

Consider requests from Nossaman, Guthner, Knox & Elliott, General Counsel and Robinson & Pearman, Deputy General Counsel, for a 5% increase in their hourly rates for FY07.

SUMMARY

When the Exposition Metro Line Construction Authority (Authority) Board selected Nossaman, Guthner, Knox & Elliott (Nossaman) as General Counsel at its October 2005 Board Meeting, their proposal included a provision which called for yearly 5% rate increases starting in FY07. When the contract was awarded to Nossaman, the Board did not explicitly address this annual 5% rate increase. General Counsel asked that the 5% rate increase be included in their Legal Services Contract with the Authority, but staff felt that any increases in hourly rates should be subject to authorization by the Authority Board.

The Robinson & Pearman (Pearman) proposal did not include an automatic rate increase, but did suggest that rates could increase by 5% annually, after consultation with the Authority. Since both firms have requested a rate increase for FY07, staff informed both firms that the item would be brought before the Authority Board for approval.

DISCUSSION

Although the Nossaman proposal did include a 5% rate increase in hourly rates, the Board never discussed nor took specific action on this aspect of their proposal. As a result, the Legal Services Contract between Nossaman and the Authority dictates that any rate increases are subject to Board approval on an annual basis. Current Nossaman rates span from \$120 per hour for a paralegal to \$350 per hour for partners. These rates would increase by 5% for FY07.

When the Board appointed Robinson & Pearman, Deputy General Counsel, there was no specific discussion of any rate increases at that time. As a result, it was determined that any rate increase requests would come before the Authority Board for approval. Current rates range from \$95 per hour for law clerks to \$275 per hour for partners. If the Board approves a rate increase, these hourly rates would increase by 5% for FY07.

Also, the Board should further clarify that as Deputy General Counsel, Robinson & Pearman should support the Nossaman firm when needed, should be tasked with specific assignments, but should not duplicate the work performed by Nossaman. Thus, only one firm would need to review agenda items or work on specific legal issues, as it has been costly to have both firms review the items. Because the role of Deputy General Counsel was not clearly defined upon approval, this has led to some duplication and confusion of roles and responsibilities.

ALTERNATIVES

The Board can decide against approving a rate increase for FY07, but it is unclear whether these firms will continue to provide services for the Authority if they are not awarded a rate increase.

The Board can also decide to reissue an RFP for new Counsel services with a more specific rate structure. This would take at least one month and would be brought back to the Board for selection and approval.

The Board can hire an in-house attorney to provide Counsel services or can explore the possibility of hiring County Counsel, the department that provides Counsel services for the Metro.

FINANCIAL IMPACT

The Authority included \$385,000 for legal services in the FY07 budget. The 5% rate increase will have to be absorbed within that budget. At the current rate of expenditure, there should be sufficient funds to absorb the increase and provide all needed Counsel services.

NEXT STEPS

If the Board approves the 5% rate increase, Authority staff will implement that rate increase. If the Board disapproves the rate increase, the Authority staff will implement any of the other alternatives chosen by the Board.

ATTACHMENT(S)

None