

**REPORT/RECOMMENDATION TO THE BOARD OF GOVERNORS
OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO
AND RECORD OF ACTION**

November 5, 2019

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Agreement with Paycom Payroll, LLC for Payroll and Human Capital Management Software Services

RECOMMENDATION(S)

Approve **Agreement No. 19-716** with Paycom Payroll, LLC for payroll and human capital management software services, including the general terms and conditions, in an amount not to exceed \$45,901.58 for the first year of service and approximately \$39,523.95 annually thereafter plus possible fee increases not to exceed 5% per year.
(Presenter: Maria Razo, Executive Director, 332-6305)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Improve County Government Operations.

Operate in a Fiscally-Responsible and Business-Like Manner.

FINANCIAL IMPACT

This item will not result in the use of Discretionary General Funding (Net County Cost). The amount of this agreement is not expected to exceed \$45,901.58 which includes a one-time initial cost of \$6,377.63 for the first year of service and \$39,523.95 annually thereafter plus possible fee increases not to exceed 5% per year. The cost is included in the Housing Authority of the County of San Bernardino's (HACSB) FY 2019-2020 annual budget and will be included in future recommended budgets.

BACKGROUND INFORMATION

HACSB currently uses Automatic Data Processing, Inc. (ADP) for payroll and Human Resources (HR) tracking for approximately 135 employees. As technology has evolved, payroll providers have enhanced their online systems with increased streamlined functionality and efficiency. These enhanced services allow for employee to have additional self-accessible information, including self-service benefit enrollment; paperless e-file for employee personnel files; e-sign compliant; elimination of double data entry; and an enhanced timecard tracking mechanism to ensure HACSB is in continued compliance with applicable labor laws. Approval of the agreement with Paycom Payroll, LLC (Paycom) will allow HACSB to be more efficient in providing HR and payroll services to staff on one platform that will provide additional self-service access to employees. This agreement allows for ongoing services, but HACSB can terminate this agreement by providing Paycom with a 30-day notice.

The contract with Paycom contains the following non-standard contract terms:

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November 5, 2019**

1. Limitation of liability of each party to a maximum of the amount paid by HACSB to Paycom under the agreement for the service component, which is the subject of the alleged breach, during the twelve month period immediately preceding the alleged breach. The limitation of liability does not apply to (i) personal injury due to negligence, (ii) any matter that is illegal for a party to limit its liability, (iii) a parties gross negligence, willful misconduct, fraud, defamation or trade libel, (iv) breach of HACSB's indemnification obligation to Paycom, (v) HACSB's failure to provide fees or required funds to Paycom, and (vi) Paycom's failure to remit tax monies paid by HACSB to the applicable taxing authorities.
2. All disputes or claims under the agreement are subject to mandatory binding arbitration with the cost of arbitration paid equally by the parties. The prevailing party is entitled to recover attorneys' fees and costs.
3. The agreement is silent as to whether it is governed by Oklahoma Law (Paycom's location) or California law.

Potential impacts of these terms include:

1. The limitation of liability could leave HACSB financially liable for claims in excess of the cap on liability.
2. If a dispute arises HACSB must submit to binding arbitration with the cost paid equally by both parties. If HACSB is not the prevailing party, HACSB may be required to pay attorneys' fees and costs to Paycom.
3. What state law governs the agreement will be an issue for decision by the arbitrator, which may increase the cost of arbitration and/or require HACSB to obtain counsel licensed in Oklahoma.

HACSB staff recommends approval of the contract with these terms as Paycom was determined to be the most cost effective and responsive proposer for the services required by HACSB.

PROCUREMENT

A Request for Quotes (RFQ) was conducted and proposals were solicited from three vendors; Ascentis, Paylocity, and Paycom. Paycom provided the most cost effective and responsive proposal.

Quotes were received from the following organizations:	
<u>Organization's Name</u>	<u>Location</u>
Ascentis	Prairie, MN
Paylocity	Schaumburg, IL
Paycom	Oklahoma City, OK

Based on the responses for these services, which were solicited to an adequate number of sources, staff recommends approval of the agreement for payroll and human capital management software services with Paycom. The Procurement was done consistent with HACSB practices.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on October 16, 2019; Finance (Kathleen Gonzalez, Administrative Analyst, 387-5412) on October 16, 2019 and Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-4523) on October 21, 2019.

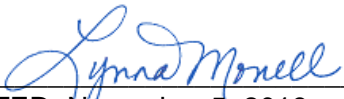
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Record of Action of the Board of Governors
Housing Authority of the County of San Bernardino

APPROVED (CONSENT CALENDAR)

Moved: Robert A. Lovingood Seconded: Sylvia Miller
Ayes: Josie Gonzales, Curt Hagman, Robert A. Lovingood, Sylvia Miller, Jessie Muñoz, Dawn
Rowe, Janice Rutherford

Lynna Monell, SECRETARY

BY 
DATED: November 5, 2019



cc: Housing Authority-Razo w/ agrees for sign
Contractor c/o Housing Authority w/ agree
File w/ agree
jll 11/5/2019