



Board Office Use: Legislative File Info.	
File Number	17-1727
Introduction Date	9/27/17
Enactment Number	17-1359
Enactment Date	9/27/17 <i>JA</i>

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Vernon Hal, Senior Business Officer *VH*
Susan Beltz, Chief Technology Officer *SB*

Board Meeting Date August 23, 2017

Subject Ratification of Services Agreement between Oakland Unified School District and Gartner, Inc.

Action Requested Ratification of Services Agreement between Oakland Unified School District and Gartner, Inc. beginning July 1, 2017 through June 30, 2018 in the amount of \$29,490.00.

Background The Technology Services department has successfully used Gartner for information technology research and advisory services for 2016-17 and is using this firm going forward for the same services as previously provided.

Discussion The Technology Services department is responsible for recommending, purchasing, implementing and maintaining technology software and hardware across the Oakland Unified School District (OUSD) in an efficient and cost-effective manner. Successful decision-making in this area requires keeping pace with an ever-changing landscape of



OAKLAND UNIFIED
SCHOOL DISTRICT

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technology solutions and vendors. Gartner provides objective, rigorous research and expert analysts in virtually all areas of information technology. Ratification of this Agreement will enable OUSD to continue using this service to help ensure continued success on mission-critical technology priorities.

Recommendation	Ratification of Services Agreement between Oakland Unified School District and Gartner, Inc. beginning July 1, 2017 through June 30, 2018 in the amount of \$29,490.00.
Fiscal Impact	\$29,400 from Funding Resource 9999994701: General Purpose (GP) Software Licensing
Attachments	Approved contract between Oakland Unified School District and Gartner, Inc.



CONTRACT JUSTIFICATION FORM
This Form Shall Be Submitted to the Board Office
With Every Consent Agenda Contract.

Legislative File ID No. 17-1727

Department: Technology Services

Vendor Name: Gartner

Contract Term: Start Date: July 1, 2017 End Date: June 30, 2018

Annual Cost: \$ \$29,400

Approved by: Susan Beltz,

Is Vendor a local Oakland business? Yes No

Why was this Vendor selected?

Gartner is a leading provider of information technology research and advisory services. The Technology Services department has successfully used Gartner for information technology research and advisory services for 2016-17 and is using this firm going forward for the same services as previously provided.

Summarize the services this Vendor will be providing.

Gartner will provide industry research through the Gartner online portal, webinars, and live analyst discussions about technology topics that are relevant to the Oakland Unified School District.

Was this contract competitively bid? Yes No

If No, answer the following:

1) How did you determine the price is competitive?

Comparison with competing sites which charge up to \$500 per report, as well as standard rates for high-level technology consultants which are typically above \$150/hour, whereas this service provides unlimited access to a large amount of research as well as advisory services.

2) Please check the competitive bid exception relied upon:

- Educational Materials**
- Special Services** contracts for financial, economic, accounting, legal or administrative services
- CUPCCAA exception** (Uniform Public Construction Cost Accounting Act)
- Professional Service Agreements** of less than \$87,800 (increases a small amount on January 1 of each year)
- Construction related Professional Services** such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)
- Energy** conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternate energy supply sources)
- Emergency** contracts [requires Board resolution declaring an emergency]
- Technology** contracts
 - electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$87,800 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected
 - contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process
 - Western States Contracting Alliance Contracts (WSCA)
 - California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]
- "Piggyback" Contracts** with other governmental entities
- Perishable Food**
- Sole Source**
- Change Order for Material and Supplies** if the cost agreed upon in writing does not exceed ten percent of the original contract price
- Other, please provide specific exception**

Gartner, Inc. Service Agreement for OAKLAND UNIFIED SCHOOL DISTRICT ("Client")

This Service Agreement ("SA"), including the General Terms and all applicable Service Descriptions, constitutes the complete agreement between Gartner, Inc. of 56 Top Gallant Road, Stamford, CT 06904 ("Gartner") and Client of 750 International Boulevard, Oakland, CA 94606-2902 ("Client") for the Services (as defined below). Client agrees to subscribe to the following Services for the term and fees set forth below.

1. DEFINITIONS AND ORDER SCHEDULE:

Services are the subscription-based research and related services purchased by Client in the Order Schedule below and described in the Service Descriptions. Service Names and Levels of Access are defined in the Service Descriptions. Gartner may periodically update the names and the deliverables for each Service. If Client adds Services or upgrades the level of service or access, an additional Service Agreement will be required.

Service Descriptions describe each Service purchased, specify the deliverables for each Service, and set forth any additional terms unique to a specific Service. Service Descriptions for the Services purchased in this SA may be viewed and downloaded through the hyperlinks listed in Section 2 below or may be attached to this SA in hard copy, and are incorporated by reference into this SA.

<u>Service Name</u>	<u>Level of Access</u>	<u>Quantity</u>	<u>Name of User to be Licensed</u>	<u>Contract Term Start Date</u>	<u>Contract Term End Date</u>	<u>Annual Fee USD</u>	<u>Total Fee USD</u>
Gartner for IT Leaders	Advisor	1	Susan Beltz	01-JUL 2017	30 JUN 2018		
				Term Total	(Excluding applicable taxes)		\$29,490.00
				Total Services:	(Excluding applicable taxes)		\$29,490.00

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The pricing above is for purchase of more than one license resulting in an annualized saving of \$9,810.00 which is a promotional price available to this Client on a one-time only basis. If additional licenses are not purchased by Client with any subsequent renewal, the pricing of the Gartner for IT Leaders Advisor shall be at the then current single-user license price.

2. SERVICE DESCRIPTIONS:

<u>Service Name/ Level of Access</u>	<u>Service Description URL</u>
Gartner for IT Leaders Advisor	http://www.gartner.com/it/s&s&itl_advisor.pdf

3. PAYMENT TERMS

Gartner will invoice Client annually in advance for all Services. Payment is due 30 days from the invoice date. Client shall pay any sales, use, value-added, or other tax or charge imposed or assessed by any governmental entity upon the sale, use or receipt of Services, with the exception of any taxes imposed on the net income of Gartner.

Please attach any required Purchase Order ("PO") to this SA and enter the PO number below. If an annual PO is required for multi-year contracts, Client will issue the new PO at least 30 days prior to the beginning of each subsequent contract year. Any pre-printed or additional contract terms included on the PO shall be inapplicable and of no force or effect. All PO's are to be sent to purchaseorders@gartner.com. This SA may be signed in counterparts.

4. CLIENT BILLING INFORMATION

Purchase Order Number _____

Billing Address _____

Invoice Recipient Name _____

Invoice Recipient Email _____

Invoice Recipient Tel. No. _____

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5. AUTHORIZATION

Client:
OAKLAND UNIFIED SCHOOL DISTRICT

Susan E. Bette 7/20/17
Signature Date

Susan Bette, CTO
Print Name and Title

Gartner, Inc.

Melissa McKay 7/19/2017
Signature Date

Melissa McKay
Print Name and Title
Melissa McKay
Sr. Contracts Specialist
Gartner

IF USING A DIGITAL SIGNATURE,
PLEASE CONFIRM THE FOLLOWING
AS A CONDITION OF CONTRACT
EXECUTION:

By ticking this box, I agree that by affixing my digital signature hereunder I am attesting that: (i) this is my own personal legal signature; and (ii) I am a duly authorized signatory for my company. My signature verifies that the information provided to Gartner hereunder is subscribed by me, under penalty of false statement and material breach of contract.

OAKLAND UNIFIED SCHOOL DISTRICT
Office of General Counsel
APPROVED FOR FORM & SUBSTANCE

By: *James Harris*
Attorney at Law

James Harris
James Harris
President, Board of Education

Kyla R. Johnson-Trammell
Kyla R. Johnson-Trammell
Secretary, Board of Education

Gartner
C. Dep.

General Terms

1. This SA for subscription-based research and related services (the "**Services**") is non-cancelable, and may be terminated only for material breach by either party, upon 30 days prior written notice, if the breach is not cured within the notice period.

2. **Ownership and Use of the Services** Gartner owns and retains all rights to the Services not expressly granted to Client. Only the individuals named in this SA (each a "**Licensed User**") may access the Services. Each Licensed User will be issued a unique password, which may not be shared. Client agrees to review and comply with the *Gartner Usage Policy*, which is accessible to all Licensed Users via the "Policies" section of gartner.com. Among other things, the *Gartner Usage Policy* describes how Client may substitute Licensed Users, excerpt from and/or share Gartner research documents within the Client organization, and quote or excerpt from the Services externally.

3. **DISCLAIMER OF WARRANTIES.** THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND GARTNER EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR AS TO ACCURACY, COMPLETENESS OR ADEQUACY OF INFORMATION. CLIENT RECOGNIZES THE UNCERTAINTIES INHERENT IN ANY ANALYSIS OR INFORMATION THAT MAY BE PROVIDED AS PART OF THE SERVICES, AND ACKNOWLEDGES THAT THE SERVICES ARE NOT A SUBSTITUTE FOR ITS OWN INDEPENDENT EVALUATION AND ANALYSIS AND SHOULD NOT BE CONSIDERED A RECOMMENDATION TO PURSUE ANY COURSE OF ACTION. GARTNER SHALL NOT BE LIABLE FOR ANY ACTIONS OR DECISIONS THAT CLIENT MAY TAKE BASED ON THE SERVICES OR ANY INFORMATION OR DATA CONTAINED THEREIN. CLIENT UNDERSTANDS THAT IT ASSUMES THE ENTIRE RISK WITH RESPECT TO THE USE OF THE SERVICES.

4. **Client Confidential Information.** Gartner agrees to keep confidential any Client-specific information communicated by Client to Gartner in connection with this SA that is (i) clearly marked confidential if provided in written form, or (ii) preceded by a statement that such information is confidential, if provided in oral form, and such statement is confirmed in writing within 15 days of its initial disclosure. This obligation of confidence shall not apply to any information that: (1) is in the public domain at the time of its communication; (2) is independently developed by Gartner; (3) entered the public domain through no fault of Gartner subsequent to Client's communication to Gartner; (4) is in Gartner's possession free of any obligation of confidence at the time of Client's communication to Gartner; or (5) is communicated by the Client to a third party free of any obligation of confidence. Additionally, Gartner may disclose such information to the extent required by legal process.

5. **Data Protection.** In performing its obligations under this SA, Gartner and Client will each comply with all applicable data privacy legislation. Without limitation to this, Client shall ensure that any disclosure of personal data, whether in relation to Client's employees or otherwise, made to Gartner by Client or on its behalf is made with the data subject's consent or is otherwise lawful. In so far as any disclosure relates to Client's own employee or subcontractor, Client shall notify that employee or subcontractor that Gartner and its affiliates may: (a) use the personal data to provide Client with the Services; (b) disclose the personal data to third parties to provide the Services; and (c) inform Client about other products or services that Gartner believes may be of interest. If any person does not wish to receive such Gartner communications, they may contact Gartner at privacy@gartner.com.

6. Miscellaneous

(a) **Assignability.** This SA and the rights granted to Client hereunder may not be assigned, sublicensed or transferred, in whole or in part, by either party without the prior written consent of the other party, except to a successor to substantially all of the business or assets of a party by merger or acquisition. Where consent is required, it will not be unreasonably withheld.

(b) **Arbitration.** Any unresolved dispute under this SA shall be decided by arbitration conducted in California before a single arbitrator under the administration of JAMS, in accordance with JAMS' Streamlined Arbitration Rules and Procedures. The decision of the arbitrator shall be final and binding, and the award may be entered in any court having jurisdiction. The prevailing party in any arbitration shall be entitled to an award of its reasonable attorneys' fees and costs, in addition to any award of damages or other relief.

(c) **Applicable Law.** This SA shall be governed by and construed in accordance with the procedural and substantive laws of the State of California, without reference to its conflict of law principles.

(d) **Use of Name, Trademark, and Logo.** Absent the prior written consent of the other party, neither party shall use the name, trademarks, or logo of the other in promotional materials, publicity releases, advertising, or any other similar publications or communications.

(e) **No Third Party Beneficiaries.** This SA is for the benefit of the parties only.

(f) **Surviving Clauses.** Sections 3, 4, 5 and 6 (b), (c), (d), (e) and (f) shall survive the termination of this SA.

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Entity Overview

Entity Registration Summary

Name: GARTNER, INC.
Business Type: Business or Organization
Last Updated By: gregory parrington
Registration Status: Active
Activation Date: 07/16/2017
Expiration Date: 07/16/2018

Exclusion Summary

Active Exclusion Records? No



Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Based on a search conducted on September 5, 2017, neither Gartner, Inc. nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, District certifies that this vendor does not appear on the Excluded Parties List (<https://www.sam.gov/>).