



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

(Revised: 6/9/2014)

APPROVED: MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-3 DATE 3/3/16
MARINA BAKER, ASST BOARD CLERK

Board Clerk Use Only

Meeting Date: 3/3/16
Agenda Item #: R.3
Est. Start Time: 10:15 am approx.
Date Submitted: 2/19/16

Agenda

Title: **Approval for use of a Job Order Contracting solicitation process as an Alternative Contracting Method**

Note: Title should not be more than 2 lines but sufficient to describe the action requested. Title on APR must match title on Ordinance, Resolution, Order or Proclamation.

Requested

Meeting Date: March 3, 2016 Time Needed: 20 Minutes

Department: DCM/DCA Division: Central Purchasing/DCA Hub

Contact(s): Brian Smith

Phone: 87546 Ext. n/a I/O Address: 503/4/Purchasing

Presenter

Name(s) &

Title(s): Brian Smith, Purchasing Manager & Henry Alaman, Facilities Manager

General Information

1. What action are you requesting from the Board?

The Board, acting as the Public Contract Review Board, is asked to approve the Use of an Alternative Contracting Method, in accordance with PCRB 49-0620, *Use of Other Contracting Methods*, and more specifically the approval of a Job Order Contract or JOC (pronounced "Jay-Oh-See") process for first time employment in the County.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

Under the proposed job order arrangement, a single, *competitively* selected Contractor will assume responsibility to contract for and have on hand a team of sub-contractors to take on a significant level of the County's Facility Maintenance, Repair and Operations (MRO) work at the intermediate level (below \$150,000 per project). This new approach to meeting MRO needs would substantially relieve the County; including Central Purchasing, the DCA Hub and Facilities & Property Management (FPM) of significant low dollar, high volume transactional work by shifting it to the successful JOC Provider. Once the JOC Provider is selected, they will immediately begin to build a "stable" of available MRO sub-contractors on a requirements basis skilled in every trade and skill area necessary to meet Multnomah County's Facility

MRO needs.

This planned transfer of tasks to the JOC Provider will eliminate a significant County workload of conducting approximately 50-60 intermediate level procurement processes, over 20 formal procurement processes and all the associated work: the required negotiations; solicitation and contract document generation; and ongoing day to day Contract Administration workload including oversight and payments. The two-year period requested was selected to ensure adequate time to obtain Board permission to proceed with the JOC concept, issue a formal solicitation, select and negotiate a JOC contract, and allow the successful JOC Provider time to build their local infrastructure, recruit MRO sub-contractors and train County Facilities personnel on how to best employ the JOC process.

Assuming success with this process, the proposed Request For Solicitations includes annual extension options as well as options to extend the process to other County areas, including Department of County Human Services Weatherization Program and the Department of County Services Transportation Division. None of these options would be exercised without returning to the Board and providing a full disclosure on how the process worked for Facility MRO activities, where it is most often employed and has the largest dollar impact.

In anticipation of using the JOC process, we have a separate item before the Board to seek temporary special procurement relief by extending most of our current MRO contractors, eliminating unnecessary procurement and contracting activity that would only be valid for a short time until the JOC Provider is in place and begins the process of building their own in-house capability. National JOC Providers have reported needing approximately 8-12 months after selection to find and contract with enough trades to be able to meet the County's expected MRO requirements.

3. Explain the fiscal impact (current year and ongoing).

There should be little fiscal impact to the County with the use of this alternative contracting approach. We are not undertaking this pilot project with the primary intent of saving money, but rather to significantly reduce low value transactional activity by Facilities, DCA-Hub, Central Purchasing and Finance (with associated non-cash releasing savings) and to promote a contracting process that prominently secures MWESB participation. Costs should be relatively stable or slightly higher – and will be more than offset by the transactional savings of shifting this high volume, low value workload to the JOC Provider.

4. Explain any legal and/or policy issues involved.

The PCRB rules allow the Board to approve the use of innovative procurement techniques which differ from the rules and but that have specific justification. Our legal research has determined that ORS 279C.335, which we incorporated by reference into our PCRB 49-0620, outlines the process and necessary findings for a local contract review board to justify an exemption at subsection (2). The local contract review board may exempt a public improvement contract or class of public improvement contracts and as an alternative to the finding described in paragraph (b) of the subsection, when a contracting agency or state agency seeks an exemption that would allow the use of an alternate contracting method that the agency has not previously used and the agency may make a finding that identifies the project as a pilot project. We are not seeking exemption from a competitive process, rather permission to undertake this new contracting approach. We intend to award the JOC contract through a competitive procurement process.

5. Explain any citizen and/or other government participation that has or will take place.

The conceptualization and activity around designing a plan to introduce and pilot the Job Order Contracting process to the County has been ongoing for almost two years. Briefings and/or discussions have been held throughout the County stakeholder community as well as the initiation of ongoing consultations with select national JOC firms to determine if Multnomah County is a promising candidate for this nationally utilized, but revolutionary to us process. Central Purchasing, FPM and DCA Hub have been the most involved parties to date, as our implementation strategy features piloting this process into FPM first, while retaining options to expand it into several other areas in the County where there is a high volume of non-public works maintenance, repair and operations activity for relatively low dollars. These areas include the Department of County Human Services Weatherization Program and the Department of County Services Transportation Division, including the Bridge Shop. Leadership in both organizations have reviewed the proposed solicitation and approach and provided comments. The Union and the Minority, Woman-Owned, and Emerging Small Business Community have both been informed and/or consulted.

Required Signature

**Elected
Official or
Department
Director:**

DCA: Sherry Swackhamer, Director /s/
DCM: Marissa Madrigal, Director /s/

Dates: February 19, 2016

Note: Please submit electronically. Insert names of your approvers followed by /s/ - we no longer use actual signatures. Please insert date approved.

Findings

Subject: Permission sought from the Board to acquire a Job Order Contract Provider under 49-0600 – Alternative Contracting Methods.

Notice Requirements: Per PCRB 49-0630(7)(a) notice of these findings and the public hearing has been published for 14 days in the Daily Journal of Commerce beginning February 15, 2016.

Circumstance:

Multnomah County is planning to pilot a "Job Order Contracting" (JOC) approach; with Facilities as the first trial area (Weatherization and Transportation are also future candidates). Under the JOC approach, a single contractor competitively awarded will take on much of the Maintenance, Repair, and Operations (MRO) responsibilities for Facilities and will replace, over time, many procurement and contracting transactions currently performed by the DCA Hub and Central Purchasing. The contracts identified as most likely to be affected by this transition to the JOC approach have been identified and Board exemption under 47-0285 (Class Special Procurement) has been requested.

Reason for the action:

Approval of the use of Job Order Contracting as an Alternative Process under PCRB 49-0600 will permit the immediate competitive solicitation for a Job Order Contractor for the MRO work being done in the Facilities and Property Management Division.

Findings Supporting this Action:

PCRB 49-0630 (2) (also see ORS 279C.330) requires findings in the following areas

Operational:

A number of factors have impacted the Facilities and Property Management Division in recent years, making the day-to-day operations more challenging and complex than ever before. High staff turnover, recent budget decisions to take on high dollar complex acquisition projects either simultaneously or overlapping (East County Court House, Downtown Court House, HQ Health Building, and 122nd Street DCJ Complex are four CMGC's undertaken in the last five years), coupled with positive budgets driving increased Departmental requests and that have permitted the fast tracking of maintenance and repair of infrastructure that had been deferred in past budgets has put enormous pressure on the trades, and contracting and procurement staff to keep up. High value, high visibility projects demand priority attention, leaving fewer resources available to handle important but low dollar, high volume maintenance and repair work.

Through this period, the number of supporting staff has held steady as compared to 2008-2010 staffing. Only a number of temporary workarounds have allowed FPM to continue to meet demand – including the consolidation of numerous smaller informal procurements/contracts into large Formal procurements/contracts, as well as the growing use of Cooperative Contracts. Due to the complex requirements of the work that is required to be completed, Field supervisors and other trades subject matter experts have to engage in finding Contractors and obtaining quotes rather than performing their higher value functions in the field checking on work and planning for future projects. The current situation is not sustainable. We need to do something differently.

Budget and Financial Data:

No additional funding has been requested to support this pilot use of a JOC Provider – currently budgeted MRO funding will be moved from individual contractors to the JOC Provider as the JOC Provider develops their capacity to take on common MRO tasks. Presently we are spending approximately \$4M in annual MRO activities, spanning over 130 buildings and including heating and cooling, lighting, security, landscaping, and general maintenance and repair.

Public Benefits:

There are at least three major potential benefits that support the approval of this pilot process; including MWESB impacts, refocusing of FPM staff from procurement activities to their traditional trade-related management functions, and transactional work reductions.

Perhaps the most compelling reason to try the JOC approach is the positive impact it can have on our MWESB contracting program. In recent years, the consolidation of smaller Informal procurements/contracts into large Formal procurements/contracts, and the number of Cooperative Contracts used by Facilities to meet basic MRO activities has gone up dramatically. While the consolidation of smaller Informal contracts in lieu of Formal procurements is mandated by PCRB rules and County policy, and the use of Cooperative Contracts is permitted under PCRB 46, both can have a major negative impact on opportunities for MWESB contractors to successfully win contract awards. Traditionally, the majority of our MWESB contracting has come from Facilities MRO work – it is often low dollar and new or inexperienced trade vendors can take on the work without the need for large organizations, major subcontracting efforts or specialized equipment. The County has even promoted the use of MWESB's by creating a special contracting process (Public Works Agreement) that was designed with MWESBs in mind – it had low or waived "pay and performance bonds", could be used up to the formal procurement amount of \$150,000, and featured expedited processing. Unfortunately, this expedited contract still required we take time to conduct the intermediate procurement process. As available resources became constrained, the Facilities team began moving to using large Formal or Cooperative contracts (contracts already procured and put in place by other government agencies), thus reducing the

frequency of or supplanting the need for our own procurement and featuring a much quicker contracting process. Since the majority of Cooperative arrangements are not with MWESBs (they often require broad expertise and high equipment and staffing requirements), every time a cooperative is used to do MRO work, it supplants the County's competitive procurement process which aggressively prioritizes MWESB participation for another agency's competitive procurement process which may not emphasize MWESB participation as strongly as we do. Using Cooperative Procurements is more efficient from a transactional perspective, but erodes the positive impact of our MWESB program over time. The proposed JOC approach will feature strong MWESB incentives – our aspirational goal will be over 30%. In addition, if our JOC contract is used cooperatively by other government agencies, we will retain 2% of the value of the work as a surcharge to the other government agency. Those surcharge funds will be paid as a premium to the JOC Provider only if they exceed our MWESB goals, and will be kept by the County if they fail to meet them – a novel way to incentivize high MWESB utilization.

Secondly, many of the mid and senior level FPM trade staff are required to identify vendors, contact them with specific project information, and obtain quotes for analysis and award. While they should be on the job inspecting and trouble shooting, they are in the office making calls and conducting processes which are not their primary duties. Using the JOC approach, our technical staff will be free to focus on activities more akin to their skill sets and levels of expertise. Additionally, this will also allow some Capital Improvement Project team members, who have been backfilling roles usually assigned to the trades, to re-focus on the many projects now in the system.

Finally, moving to a JOC concept will allow us to remain at existing staffing levels in DCA-Hub, Central Purchasing and finance as the transactional workload reduction will be sufficient to allow the existing staff to be freed up to focus on the high dollar/low volume projects without the distractions of low dollar/high volume MRO work. The transactional relief will be very significant as well. A low-dollar MRO contract often takes the same amount of resources and time as a multi-million dollar effort. The processes and levels of review are very similar. Over 60 contracts currently in place could potentially be eliminated by the JOC approach. That's 60 procurement processes, negotiations, contract generation and processing, legal review and ongoing payment activities that will be shifted to the JOC Provider. The JOC approach will offer a faster, more flexible response to MRO needs than can be achieved today with given resources.

Value Engineering:

Although we are not expecting any major breakthroughs in our daily MRO activities, it is possible that bringing in a national-level JOC Provider may allow them to provide Facilities Management a new perspective on how to do MRO and may lead to new approaches and techniques not currently utilized.

Specialized Expertise Required:

Introduction of the JOC approach will require some County staff to learn how to operate the Unit Price Book, a computerized pricing algorithm, recommended by the successful Proposer. This will allow them to review Job Orders proposed by the JOC Provider and check to make sure they have been priced correctly.

Public Safety:

There are no Public Safety issues as a result of this action. Currently vendors working in our secure facilities need to have security background checks – the JOC Provider and their sub-contractors will continue to meet the same high standards.

Market Conditions:

There are several national vendors that provide a full array of JOC services – we expect up to six could be interested in breaking into the NW area and responding to our solicitation. Up to now, there have only been a few JOC attempts in the Oregon, mostly in the construction/transportation areas. With the State of Washington's specific legalization last year, the national firms are finally looking to the Northwest as an area of expansion. The University System, with different procurement rules, has been doing a modified JOC approach for decades, but their model is very different – for example they put in place three or four carpentry contracts and then have them bid against each other on specific jobs. This works well in small communities but would be overly complex for us – we need thirty or forty specialties covered – we'd have to have over 100 contractors under contract, which is what we are trying to move away from. Both Metro and the Port of Portland have released JOC type procurements in recent months, but Metro's was much smaller in scope and POP's solicitation was almost entirely limited to concrete work for runways and aprons. What we are proposing is a much larger JOC approach, spanning nearly every MRO trade specialty.

Technical Complexity:

Introduction of the JOC approach should be fairly simple. The JOC approach is a long established and well understood contracting process originally developed by the Department of Defense in the 1980's. Today there are thousands of contracts going under the JOC name or its counterpart of delivery order contracting. JOC has steadily increased in usage and spread beyond the Federal realm and has been embraced by publically funded school systems, housing authorities, university systems and transportation agencies. Closer to home, the States of Washington and California have specifically legalized Job Order Contracting and even closer the Port of Portland and Metro have recently issued procurements that are forms of Job Order Contracting.

Funding Sources:

Not an issue with this approach. FPM is funded annually with primarily CGF to conduct MRO activities – and most of that funding is contracted out. The majority of this funding will now go to a single JOC Provider instead of going to a much larger number of individual MRO contractors.

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