



Board Report

File #: 2017-0730, **File Type:** Program

Agenda Number: 44.

**REVISED
EXECUTIVE MANAGEMENT COMMITTEE
MAY 17, 2018**

**SUBJECT: STREAMLINING AUDITS FOR SMALL AND
DISADVANTAGED BUSINESSES**

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

- A. RECEIVING AND FILING report on streamlining audits for small businesses; and
- B. APPROVING the establishment of an Indirect Cost Rate Pilot Program for Small and Disadvantaged Businesses on eligible contracts.

ISSUE

At the September 2017 Board meeting Director Dupont-Walker requested that staff report back on efforts for streamlining audits for small businesses. Specifically, she requested recommendations and/or results on A) simplifying indirect cost rates; B) reducing the number of multiple audits annually; C) implementing a centralized database; D) list of metrics to measure improvements; and E) toolbox for Small Business Enterprise (SBE) and Disadvantaged Business Enterprise (DBE) to provide feedback.

DISCUSSION

Metro recognizes that the SBE/DBE firms may have challenges including limited knowledge to comply with the requirements of Federal Acquisition Regulations (FAR) Part 31, Contract Cost Principles and Procedures which are included in all Metro contracts and limited resources to support the audit efforts. Vendor Contract Management's (V/CM) objective is to provide a level playing field to all suppliers. V/CM will continue to work with Management Audit Services (MAS) to assist, educate and train the SBE/DBE community on all Metro contract requirements, including audit requirements.

A. Simplifying Indirect Cost Rates and Flow-Downs

V/CM Efforts

As part of V/CM's procurement streamlining initiative, V/CM will be improving its RFP contract templates and instructions in the following identified areas specific to audits:

1. Eliminating the use of Form 60 for non-cost type contracts as Form 60 provides detailed costing information which may not be required on all contracts. Non-cost type contracts are fixed price contracts that are not based on time and material rates. Eliminating the form when not required will simplify RFP response submission for SBE/DBEs.
2. V/CM is working with MAS on an Indirect Cost Rate (ICR) pilot program for FTA approval that will establish a "conditional rate" of 115% when a firm does not have relevant cost history, or does not have a previously accepted ICR from a cognizant agency. This conditional rate is consistent with other pilot programs previously accepted by the FTA and was developed by auditors from the American Association of State Highway and Transportation Officials (AASHTO). Further, the 115% represents an average of Metro's audited rates of certified small businesses and as a result, increases the likelihood of FTA approval.
3. The program will apply to the first year for Home Office rates. The pilot will be implemented September 2018 which should provide adequate time to conduct training and update V/CM templates and forms.
4. V/CM will continue to work with County Counsel to clarify and improve flow down requirements. Metro's contract templates already identify those contract provisions that Metro requires the prime to flow down to its subcontractors. Many primes choose to flow down all provisions of the contract which Metro cannot explicitly prohibit.
5. Should a SBE/DBE disagree with the MAS ICR findings, the SBE/DBE has the right to appeal to a neutral third party (arbitrator) to make the final decision. The neutral party should have experience as an auditor (FTA/FHWA). The ICR is a voluntary pilot program for the certified small business. They can opt-in to the program prior to contract execution.

MAS Efforts

Below are MAS' efforts to streamline the audit process:

1. MAS partnered with V/CM to put together a series of educational training programs for SBE/DBEs to better understand contract and audit requirements including FAR Part 31 cost allowability, audit process, adequate accounting system and the different types of contract audits (e.g. pre-award, incurred cost, close out, etc.) including the associated level of audit support and effort that goes with each type. Training programs include speaking at Metro sponsored events such as How to Do Business with Metro Workshop, Transportation Business Advisory Council (TBAC), and other training programs dedicated for SBE/DBEs. Beginning February 2018, MAS conducted three workshops (February, March and April) at Metro's Headquarters and trained approximately 200 attendees. Attendees had the opportunities to ask their audit and contract questions to the MAS and V/CM executives during these events.
2. MAS offered its services to V/CM to be a resource during V/CM's kick off meetings with contractors for newly awarded contracts to assist in conducting informational trainings with the individual contractors. This will provide MAS with the opportunity to reinforce audit requirements and provide insight on the type of documentation required during an audit. It

also provides the contractor with the opportunity to pose questions to audit staff in a smaller group setting.

3. MAS worked with V/CM to better understand their audit request needs to determine appropriate timing and frequency of the indirect cost rate audits. MAS reviews the audit requests regularly to maximize opportunities to request the contractor's information or use previously obtained information that may satisfy multiple audit requests. This will substantially increase the likelihood that a certified small business is audited only once a year.
4. MAS developed a monitoring database to minimize frequencies of the audits and explored opportunities to reduce the information request per SBE/DBE from one contract to another contract.
5. MAS identified certain high risk accounts that are more prone to be challenging for SBE/DBEs indirect cost rate submission. These accounts will be included during the pre-award audits to prompt the SBE/DBEs sooner in implementing actions to be compliant with the contract terms and FAR requirements.

B. Reducing the Number of Multiple Audits Annually

With the implementation of Item C below, database of audited overhead rates, V/CM will be better able to track completed audits annually and reduce the number of audit requests. V/CM will use current audit data, and will not request audits more than once a year for a specific firm. The exception to this practice is when the firm had to undergo both a pre-award audit for its new cost proposal submission to Metro and an incurred cost audit for the firm's existing cost reimbursable contract with Metro. When this happens the firm may be audited both for its existing contract and for its proposal for another potential contract on the same year.

C. Implementing Centralized Database

In September 2017, MAS provided V/CM with a database of all contractors' audited overhead rates dating back as far as 2008. The database is to assist contract administrators in determining whether an indirect cost rate audit is needed for contractors. The database includes any home, field or project office rates audited by either Metro auditors or other external auditors. MAS will update the database on a quarterly basis. Effective November 2017, the database was made accessible to V/CM via a SharePoint site.

D. Metrics to Measure Improvements

In order to measure our progress towards streamlining the audit process and simplifying it for the SBE/DBE community, we have developed several metrics that we will continuously track. Metrics include:

1. Number of total audits for all SBE/DBEs per year and number of audits per each SBE/DBE per year. We will also be doing a yearly comparison of these numbers.
2. Number of findings accepted by the contractor to get rate of acceptance. In January 2018 we developed a tracking system to monitor contractors' acceptance of recommendations for audits issued dating back to July 2017.
3. Number of contractors who responded positively and negatively to the audit experience relative to the number of contractors audited for the period. See Section E, item 1 for additional information related to the survey.

4. Number of training/outreach opportunities participated by MAS and/or V/CM in educating SBE/DBEs about audit process and requirements for the period. Trainings started in February 2018. Feedback about the training will also be collected and used to refine future training materials.
5. Number of attendees who positively responded to the educational experience to gauge effectiveness of the trainings provided, relative to the number of total attendees. Trainings started in February 2018.

E. Toolbox for SBE/DBE to Provide Feedback

We recognize the important role SBE/DBEs play in shaping Los Angeles County and need their input to improve our processes. The following tools will be used to obtain/receive feedback:

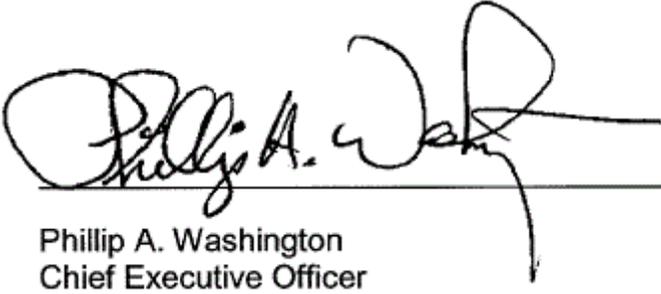
1. Beginning in November 2017, MAS started sending out surveys to all contractors at the conclusion of each audit to obtain feedback on their overall experience. In addition, to baseline our progress, surveys were also sent to 21 contractors for whom audit reports were issued between May to October 2017 to monitor contractors overall experience with the audit process. Of the 21 contractors surveyed, 10 responded of which 9 responded positively and one responded negatively to the audit experience. ~~See Attachment A for the survey questions and Attachment B for the survey responses.~~
2. Starting in November 2017, V/CM, MAS and DEOD began partnering to schedule bi-annual half day workshops for SBE/DBEs to train them on contract and audit requirements. The first training was held Tuesday, February 13, 2018 during DEOD's monthly How To Do Business With Metro Workshop. In addition, we held a half day workshop on March 26, 2018 and April 25, 2018 at Metro Headquarters.
3. Beginning in December 2017, during kick off meetings for newly awarded contracts, MAS has made itself available to assist V/CM in conducting informational trainings with the contractors on audit requirements. The Department of Diversity and Economic Opportunity will continue to be the liaison with the small business community. This will provide the contractor with the opportunity to pose questions to audit staff in a smaller group setting.

NEXT STEPS

In six months, V/CM and MAS will report back to the Board on the status of all improvement opportunities.

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