



Board Report

File #: 2016-0437, File Type: Contract

Agenda Number: 38

**EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
JUNE 23, 2016**
SUBJECT: LABOR COMPLIANCE MONITORING BENCH**ACTION: APPROVE LABOR COMPLIANCE MONITORING BENCH CONTRACT(S)****RECOMMENDATION**

CONSIDER:

- A. AUTHORIZING the Chief Executive Officer to execute Contract Modification No.1 to the **Labor Compliance Bench (The Bench)** Contract Numbers PS-21307700 A-J, for labor compliance monitoring services, to exercise the first one-year option and extend the contract term from June 30, 2016 to June 30, 2017 increasing the total authorized not-to-exceed amount by \$1,578,584 from \$13,478,064 to \$15,056,648;
- B. AUTHORIZING the award of a task order with Padilla & Associates, Inc. for Contract No. PS-21307700-E to perform labor compliance monitoring services on the South Western Light-Rail Vehicle Yard Project for a fixed price of \$772,575.87, increasing the total contract amount from \$78,413.23 to \$850,989.87;
- C. APPROVING Labor Compliance Monitoring Services task orders for the I-405 Sepulveda Pass Widening Project with Parsons Corporation (Task Order #1) for the fixed price amount of \$1,640,930.76; for the Crenshaw/LAX Project with the Solis Group (Task Order #32) for the fixed price amount of \$3,646,745; for the Regional Connector Transit Corridor Project with Perceptive Enterprises, Inc. (Task Order #45) for the fixed price amount of \$2,915,465.43; and for the Westside Subway Extension Section 1 Design/Build Project with Metro Compliance Services, JV (Task Order #48R) for the fixed price amount of \$3,952,560.03; and
- D. AUTHORIZING the Chief Executive Officer to award and execute task orders with the total authorized amount of \$15,056,648.

ISSUE

On June 16, 2011, the Board of Directors authorized the Chief Executive Officer (CEO) to establish a qualified list of candidates to perform labor compliance monitoring services for Metro construction projects under RFIQ PS-2130-7700 to the recommended consultants (Attachment A), for a period of five years with five, one year options. The expiration date for the base five year period for the Labor Compliance Monitoring Bench is June 30, 2016. Staff is seeking approval to exercise the first of five, one year options in order to meet the requirements of the California Labor Code, Davis Bacon and related Acts that require Metro to ensure all construction workers employed to work on Metro

funded construction projects are compensated according to the state and federal prevailing wage laws and regulations.

Task orders have been issued for various amounts (see Attachment A) on the premise that the funding for Labor Compliance Monitoring services was authorized within the Board of Directors approved life of project (LOP) budgets for the various capital projects. The Board Report in June 2011 stated all costs will be included in the approved LOP budgets for each capital project.

Staff, with the end of the contract term approaching, reviewed the initial Board Report and contracts in order to exercise the first of the five, one year options. Upon review of all relevant documentation it was determined the June 2011 Board Report had not:

1. Provided for specific authorization to the CEO to execute task orders under the individual Bench Contracts within a specified amount; and
2. Establish a total not-to-exceed amount for the Bench.

Although the Board authorized award of the bench contracts, the board action did not specifically include funding authority. The CEO, pursuant to his Board delegated authority, authorized award and execution of task orders up to \$500,000 per contract. Staff needed to obtain Board approval of task orders that exceed the limit of \$500,000 per contract. Staff issued a total of 48 task orders under the ten bench contracts. However, staff inadvertently exceeded their authority on four of the contracts by awarding task orders in excess of the \$500,000 contract limit. Item C of this recommendation is a request for ratification of those four task orders.

Vendor/Contract Management (V/CM) engaged in a review of all bench contracts and single contracts where task orders are issued to determine if any other task orders had been issued exceeding Board approved authorizations. V/CM reviewed these contracts and found they were compliant and consistent with Board approved authority.

V/CM has proceeded with corrective action to ensure such incidents do not happen in the future. In the short term, by June 30, 2016, V/CM will receive a daily report generated in the Contract Information Management System (CIMS) listing all bench contracts and the task order amounts awarded-to-date. This report will provide the V/CM team, Contract Administrators, Buyers and management, daily awarded balances for all active bench contracts to manually compare against the Board approved funding amounts.

In the long term, V/CM will work with the Information Technology (IT) department to program and implement a solution of systematic controls through a detailed bench contract tracking application, to be completed within six months (November 2016). The application will provide daily tracking of bench contract awards, and electronically reconcile the contract awards to the authorized contract

limit, and create warning notifications to the Project Manager and V/CM management when the approved bench value reaches 75 percent of authorized contract limit. This solution has already been developed in concept, within the capabilities of CIMS, but the actual program coding needs to be developed.

DISCUSSION

The California Labor Code, and the Davis Bacon Act and related Acts require Metro to ensure that all construction workers employed to work on Metro funded construction projects are compensated according to state and federal prevailing wage laws and regulations. The Consultants on the Bench are responsible for evaluating, monitoring, and advising Metro on enforcing prevailing wage requirements on assigned construction projects. This includes maintaining all required records, providing assistance to field personnel, conducting field interviews and investigations and other duties in accordance with applicable laws and regulations governing public works projects.

Since the inception of the Bench, 48 task orders have been issued to date (See Attachment A), totaling \$13,478,063.38. The Bench has been an effective tool, specifically on Metro's mega, high profile projects. Currently, nine of the ten prime Bench consultants are certified as DBE's and SBE's. SBE's and DBE's have been awarded \$12,702,523 of the \$13,478,063 awarded to date (approximately 94% of the total awarded value). Metro's Small Business Enterprise (SBE) Program, Small Business Prime Program, or Disadvantaged Business Enterprise (DBE) Program are applied to the task order solicitations based on funding sources and estimated task order value.

As new capital projects have been approved by the Board, the funds for Labor Compliance monitoring services have been included in the approved LOP budgets for each capital project. The process to issue task orders on approved capital projects is as follows:

- An independent cost estimate and Scope of Work are developed by the Diversity & Economic Opportunity Department (DEOD) Project Manager.
- A requisition is developed by the DEOD finance unit and approved by the Project Manager for the capital project. DEOD submits the approved requisition, scope of work and information sheet to the Contract Administrator (CA) to issue a written request for a proposal from the members of the Bench.
- The CA receives proposal(s) and distributes them to the evaluation committee.
- The evaluation committee evaluate the proposals, the quality of work on previous task orders, demonstrated capabilities, the quality of deliverables, existing workload, cost control, price and other relevant factors (small business utilization, staff availability and hours proposed)
- The DEOD Project Manager prepares a recommendation memo and submits to CA, who determines the price is fair and reasonable.
- The CA issues a Notice of Intent to Award to inform the entire Bench of contractor selection and issues a Firm Fixed Price task order to the selected firm. Concurrently, the awardee submits a payment schedule to be approved by the DEOD Project Manager.

The Labor Compliance Monitoring Bench has been successful in providing DBE/SBE opportunities, meeting established goals, effective monitoring based on state and federal regulations and ensuring that workers on Metro's project are being paid the correct prevailing wage rates.

DETERMINATION OF SAFETY IMPACT

The approval of this recommended action will not have any direct impact on the safety of our customers and employees.

FINANCIAL IMPACT

Labor Compliance funding for capital projects have been included in the various budgets for new projects in FY17, which in most instances, is transferred to Cost Center 2130 (DEOD) and spent from there; if the funds remain in the Construction Cost Centers, DEOD staff is included in the approval hierarchy.

A total of \$1,578,584 has been estimated for FY17 for current task orders and issuing new task orders. The \$772,575.87 for the task order award listed in Recommendation B (Southwestern Light-Rail Vehicle Yard Project) is included in the total estimated amount for FY17. The remaining \$806,009 will be used to issue new task orders on various anticipated capital projects.

Capital project funding will be the source of funding for the Labor Compliance Monitoring task orders. DEOD will continue to work with Project Managers and cost center managers to budget cost in current and future years.

Impact to Budget

Capital project funding including federal, state, sales tax and grant funds is the source of funding for the Labor Compliance Monitoring task orders. Labor Compliance is built into the LOP and/or operating project budgets charged under the contracts identified in this report.

ALTERNATIVES CONSIDERED

An alternative is to perform labor compliance monitoring services using only Metro staff by adding additional FTEs. This alternative is not recommended because the volume of capital construction work is constantly changing making this activity subject to peak periods alternating with periods of low activity.

NEXT STEPS

Upon approval of the requested recommendations, staff will continue to award individual task orders for prevailing wage compliance monitoring services within the total Board approved funds, using funds included in the approved life of project budgets for capital projects in FY17.

Staff will continue to provide oversight on the active task orders under the existing Bench contracts.

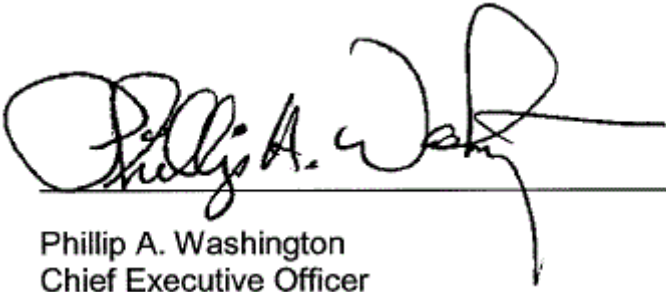
ATTACHMENTS

- A. Procurement Summary
- B. List of Consultants & Awarded Task Orders
- C. DEOD Summary
- D. Board Report EMAC8

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