



Board Report

File #: 2022-0189, File Type: Contract

Agenda Number: 18.

EXECUTIVE MANAGEMENT COMMITTEE SEPTEMBER 15, 2022

SUBJECT: LABOR COMPLIANCE MONITORING SERVICES BENCH

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to:

- A. AWARD ten-year bench Contract Nos. PS75942001 through PS75942009, with firms listed in Attachment B, for a not-to-exceed amount of \$20,000,000 for the five-year base term, effective November 1, 2022, through October 31, 2027, plus \$6,000,000 for the first, three-year option term and \$4,000,000 for the second, two-year option term, for a combined total not-to-exceed amount of \$30,000,000, subject to resolution of protest(s), if any;
- B. ADD qualified firms to the Bench, as necessary, prior to exercising option 1 through the issuance of a competitive solicitation; and
- C. EXECUTE individual task orders under these Contracts for up to \$5,000,000 per task order

ISSUE

Metro is required to monitor the payment of prevailing wages to workers performing on Public Works projects in accordance with the California Labor Code and the US Department of Labor, Davis-Bacon, and Related Acts. The issuance of this contract will assist Metro with ensuring workers on construction projects are paid the required State and/or Federal prevailing wage and fringe benefits; and will help to prevent wage violations.

BACKGROUND

On June 16, 2011, the Board of Directors authorized the Chief Executive Officer to establish a qualified list of firms to perform labor compliance monitoring activities for Metro construction projects under RFIQ PS-2130-7700. The initial Labor Compliance Bench contract expired June 30, 2021. Over the ten-year term of the past bench, the Labor Compliance consultants were an effective tool for Metro in providing labor compliance monitoring and enforcement of the California Labor Code and Federal labor Davis Bacon and Related Acts, on ninety (90) Metro construction projects.

DISCUSSION

The California Labor Code and Davis Bacon and Related Acts require Metro to ensure that all workers providing prevailing wage classification services on Metro projects are compensated according to the state and federal prevailing wage laws and regulations. The labor compliance monitoring bench consultants are responsible for evaluating, monitoring, and enforcing prevailing wage requirements on assigned projects. This includes maintaining all required records, providing assistance to field personnel, conducting field interviews and investigations, and other duties per applicable laws and regulations governing public works projects.

The previous Labor Compliance Monitoring Bench contract awarded ninety (90) task orders (See Attachment D) totaling \$21,053,318.96. The Bench has been an effective tool for Metro's mega high-profile projects. Metro's Small Business Enterprise (SBE) program, Small Business Prime program and Disadvantaged Business Enterprise (DBE) program were applied to the task order solicitations based on funding sources and estimated task order value. During the ten-year term of the last Bench contract, nine of the ten prime Bench consultants were certified as DBE's and SBE's and were awarded \$19,412,388.20 of the \$21,053,318.96, approximately 92% of the total value awarded.

As the Board approves new capital projects, the funds for labor compliance monitoring are included in the approved life-of-project budgets for each capital project. The not-to-exceed amounts cover the project's construction contracts (new) cost identified during the fiscal year budget process.

The previous bench successfully provided DBE/SBE opportunities, meeting established goals, maintaining effective monitoring based on state and federal regulations, and ensuring that workers on Metro's projects are being paid the correct prevailing wage rates.

DETERMINATION OF SAFETY IMPACT

The approval of this recommended action will not directly impact the safety of our customers and employees.

FINANCIAL IMPACT

Funding required in FY23 for Labor Compliance adherence is included in the respective capital projects utilizing the services provided by this contract.

Impact to Budget

Funding for this contract is included in the life-of-project budgets of various capital projects requiring this service. Many of these capital projects are funded with Federal grant, State grant, and local funding sources, which are eligible for bus and rail operations.

EQUITY PLATFORM

The Labor Wage and Retention Program unit is committed to ensuring pay equity by monitoring and enforcing prevailing wages, on Metro's Public Works projects. Prevailing wages are basic hourly rate of wages and benefits paid to workers in various trade classifications in several geographic areas. The prevailing wage requirements ensure a level playing field between the contractors bidding on the projects and those who work on the projects.

There are a total of nine (9) recommended firms (primes) on the Bench, eight (8) of whom are DBE and SBE certified. One prime is SBE certified only, and one prime is also DVBE certified.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

Approval of this item supports the following Metro Strategic Goal 5.4: Application of prudent commercial business functions to create a more effective agency. The Labor Compliance monitoring bench provides a tool for effectively delivering prevailing wage compliance.

ALTERNATIVES CONSIDERED

1. One alternative is to perform the duties using Metro staff by adding additional FTEs. A minimum of five (5) FTEs are forecasted to perform prevailing wage monitoring. The cost for this option is estimated at \$779,678 per year (based on minimum fully burdened hourly rates). 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.
2. Another alternative is to utilize existing DEOD Labor, Wage and Retention Programs Unit staff to provide labor compliance monitoring on the currently active task orders in addition to their current workload. This alternative is not recommended as this will cause delays in services and compliance monitoring efforts.

NEXT STEPS

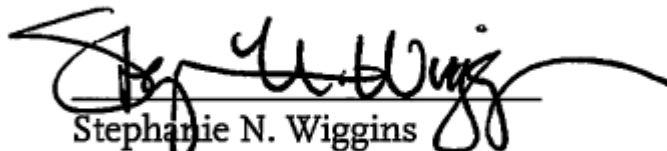
- Upon approval by the Board, staff will execute the bench contracts and begin to award individual task orders for prevailing wage compliance monitoring.
- Staff will continue to oversee the active task orders that will remain under existing bench contracts.
- Staff will begin issuing task orders for construction contracts with a total contract value of \$2,500,000 and below on a rotation basis; and complete all task orders for construction contracts with an estimated total contract value of over \$2,500,000 and/or Mega/Alternative Delivery projects.

ATTACHMENTS

Attachment A - Procurement Summary
Attachment B - List of Recommended Contractors
Attachment C - DEOD Summary
Attachment D - Labor Compliance Bench Monitoring Consultants and Life of Project Values

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