



Board Report

File #: 2019-0139, File Type: Contract

Agenda Number: 35.

EXECUTIVE MANAGEMENT COMMITTEE APRIL 18, 2019

SUBJECT: LABOR COMPLIANCE MONITORING BENCH

ACTION: APPROVE CONTRACT MODIFICATION

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to:

- A. EXECUTE Modification No. 3 to the Labor Compliance Bench (the Bench) Contract Numbers PS-21307700 A-J, for labor compliance monitoring services, to exercise the fourth and fifth year options, extending the contract term from July 1, 2019 to June 30, 2021, and increasing the total authorized not-to-exceed amount by \$4,000,000 (\$2,000,000 for each option year) from \$19,056,648 to \$23,056,648; and
- B. AWARD AND EXECUTE task orders for a not-to-exceed total authorized amount of \$23,056,648.

ISSUE

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 to the attached list of consultants (Attachment B), for a period of five years, with five, one-year options. The expiration date for the base period and the first through third year options is June 30, 2019.

Over the last eight years, the Labor Compliance Monitoring Bench (Bench) continues to be an effective compliance tool for Metro. The Bench consultants monitor and enforce public works projects by ensuring the payment of prevailing wages. Their expertise and extensive knowledge of the California Labor Code and Federal Davis Bacon and Related Acts, coupled with investigative and auditing skills, have helped to prevent wage violations and in other cases, collect back wages due to workers.

Board authorization is requested to exercise the fourth and fifth year options. The approval of this action is required to continue monitoring labor compliance services to ensure that workers on Metro projects are being paid the correct prevailing wage rates.

DISCUSSION

The California Labor Code and Davis Bacon and Related Acts require Metro to ensure that all construction workers employed to work on Metro funded construction projects are compensated according to the state and federal prevailing wage laws and regulations. The consultants on the labor compliance monitoring bench are responsible for evaluating, monitoring and 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 any other duties in accordance with applicable laws and regulations governing public works projects.

Since the inception of the Bench, Vendor/Contract Management has awarded 72 task orders (See Attachment B) totaling \$18,015,934. The Bench has been an effective tool, specifically on Metro's mega high-profile projects. Metro's Small Business Enterprise (SBE) program, Small Business Prime program and Disadvantaged Business Enterprise (DBE) program are applied to the task order solicitations based on funding sources and estimated task order value. Currently, nine of the ten prime Bench consultants are certified as DBEs and SBEs and have been awarded \$17,240,403 of the \$18,015,936 awarded to date, approximately 96% of the total awarded value.

As new capital projects are approved by the Board, 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 and professional service contracts (new and continued) identified during the FY20 budget process. The not-to-exceed amount does not cover Measure M and/or mega projects; those will be brought to the Board for consideration and approval individually.

The Bench has been successful in providing 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 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 life of project (LOP) budget for new projects from inception.

Impact to Budget

A not-to-exceed amount of \$2,000,000.00 has been budgeted for FY20 for new task orders. Funding for this contract will parallel the funding sources for various major construction projects to be charged during the life of the contract. This may include a mixture of Federal, State and local sources, some of which are eligible for bus and rail operations and/or capital.

IMPLEMENTATION OF 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 delivering prevailing wage compliance more effectively.

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 \$775,994 per year. 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

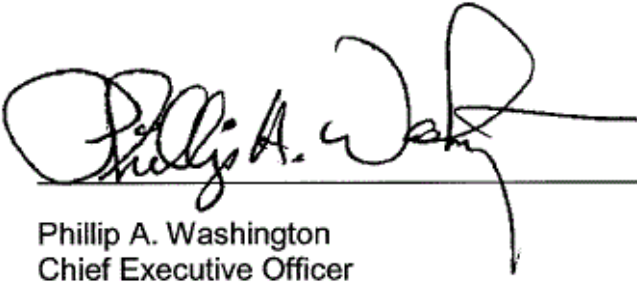
- Upon approval by the Board, staff will execute modifications to the bench contracts and continue to award individual task orders for prevailing wage compliance monitoring.
- Staff will continue to provide oversight on the active task orders that will remain under existing bench contracts.
- Staff will begin the procurement process to issue a new solicitation for Labor Compliance Monitoring Services. The process for the new solicitation will begin in the first quarter of FY21

ATTACHMENTS

Attachment A - Procurement Summary
Attachment B - Labor Compliance Bench Monitoring Consultants and Life of Project Values
Attachment C - Contract Modification / Change Order Log
Attachment D - DEOD Summary

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