

General Services Agency (GSA) Purchasing, Job Order Contracting (JOC)

REASON FOR INVESTIGATING

To review the Job Order Contract that replaces the competitive bid process and to determine how it affects local businesses.

BACKGROUND

The Job Order Contract (JOC) is a process used by the County for purchasing and maintenance to improve repair responsiveness to county departments, while continuing to provide a high quality of construction work at a lower cost.

The JOC is a competitively bid, firm price contract that is awarded for a multiple year period. Each JOC has a pre-established contract minimum. Work is accomplished by issuing a series of individual work orders to the contractor. Traditional procedures require that each job or project have a purchase requisition, with complete plans and specifications, so that Purchasing can initiate the competitive bid process. JOC differs from the traditional process in that it combines all kinds of construction and repair into one master contract resulting in substantial cost and time savings.

Prior to bidding a JOC, a unit price catalog containing more than 60,000 construction tasks is compiled. Each task includes a description, unit of measure, and a unit price. The unit price includes direct costs for material, equipment and labor for this geographical area. General Contractors submitting bids for a JOC bid only two adjustment factors: one for work performed during normal working hours and another for work performed during off-hours. These factors include profit and overhead costs, such as bonds, insurance, design, and contingencies. The General Contractor's adjustment factors apply to all items in the unit price catalog and are the only bid variations allowed. The contractor with lowest adjustment factor is awarded the Job Order Contract.

PROCEDURES FOLLOWED

- Reviewed the JOC specifications.
- Reviewed the bid received from successful out-of-state General Contractor.
- Reviewed the Contractor's License Law.
- Met with GSA Purchasing staff, the JOC consulting firm representative, and with County Counsel.
- Obtained information from the California State License Board (CSLB) in Sacramento.
- Conferred with other city and county agencies regarding JOC procedures.
- Reviewed letter to GSA from out-of-state contractor dated April 23, 1996, written by the Vice President of their corporation regarding the RME compliance issue.
- Reviewed the General Contractor's insurance certificate.

FINDINGS

- The JOC contract is a sole source contract. This means a project can be assigned to the JOC General Contractor without using the full purchasing cycle. This generally prevents local businesses from having the opportunity to bid on County projects.
- On April 1, 1996 a multiple year contract was awarded to an out-of-state General Contractor for \$3 million dollars per year with a four year county option (equals \$15 million dollars) to renew.
- The Purchasing Department believes that this type of contract would benefit local contractors by providing an umbrella for smaller local contractors who are unable to meet insurance requirements. However, the contract does not specifically state that the General Contractor must use local subcontractors or material suppliers. Ventura County businesses and sub-contractors may not benefit from this multi-million dollar contract.
- The contract was awarded to an out-of-state General Contractor. The state of California only licenses out-of-state contractors if they have a qualifying RME or RMO (Responsible Managing Officer). This corporation qualified for their license with a Responsible Managing Employee (RME) who had resided in California at the time he originally applied for his license. The out-of-state General Contractor has been licensed in the state of California since July 26, 1995. The General Contractor's license is in effect as long as they have the RME/RMO that qualified for the license employed with their company. Upon the RME/RMO leaving employment the General Contractor must notify the CSLB and provide documentation within 90 days to re-qualify with a new RME/RMO or their license will be revoked. The General Contractor's license number was verified that it was valid and active prior to award.
- The Purchasing Department was unaware the General Contractor had an RME. Section 7068 of the Contractors License Law requires that a Responsible Managing Employee (RME) be "an individual who is a bona fide employee of the applicant and is actively engaged in the classification of work for which that RME is the qualifying person in behalf of the applicant."
- The function of the RME is to "be responsible for exercising that direct supervision and control of his/her employer's or principal's construction operations as is necessary to secure full compliance with the provisions of this chapter and the rules and regulations of the Board relating to the construction operations." The Contractors State License Board (CSLB) Rules and Regulations #823 requires:
 - a. The RME be an employee who is permanently employed by the applicant and is actively engaged in the operation of the applicant's contracting business for at least 32 hours or 80% of the total hours per week such business is in operation, whichever is less.
 - b. The RME have "direct supervision and control" including any one or any combination of the following activities: supervising construction, managing construction activities by making technical and administrative decisions, checking jobs for proper workmanship or direct supervision on construction job sites.
- The letter submitted to Ventura County by the General Contractor to clarify the

compliance issue of the RME stated "To the best of my knowledge we are in full compliance with all requirements under contract number 3282". The letter did not address the issue of "Where are the RME(s)?".

- Other city and county agencies prefer the traditional bid advertising process because it allows the small local contractors to bid. In cases where the jobs are small, cities and counties are able to obtain better prices.

RECOMMENDATIONS

The 1995/96 Ventura County Grand Jury recommends:

1. Every effort should be made to keep Ventura County taxpayer's money working for citizens and businesses in this County.
2. The County should require that GSA deal directly with the RME(s) or the General Contractor should be able to provide documented proof regarding the RME(s) compliance with the laws of the State of California.
3. The County should request the Contractors State License Board (CSLB) to verify the payroll and workman's compensation records of the out-of-state General Contractor to make sure they are in compliance with the laws of the State of California.
4. When the contract is considered for renewal, a clause should be included that would require a greater percentage of the JOC's business in Ventura County be given to local companies. If it is not possible for the JOC to contract with a local company, it should be approved by Purchasing prior to contracting with an outside vendor.
5. The out-of-state General Contractor should be required to advertise locally to inform local vendors and suppliers of their procedure and how they can have the opportunity to obtain business from the County through the General Contractor.

RESPONSE REQUIRED

Board of Supervisors

General Services Agency