

County of Santa Clara
Facilities and Fleet Department



24-4597

DATE: February 27, 2024 (Item No. 70)
TO: Board of Supervisors
FROM: Jeff Draper, Director, Facilities and Fleet Department
SUBJECT: Report on Best Value Job Order Contracts

RECOMMENDED ACTION

Consider recommendations relating to the best value process.

Possible action:

- a. Receive report from the Facilities and Fleet Department and Roads and Airports Department relating to the best value process.
- b. Approve submission of report before March 1, 2024, to the appropriate policy committees of the Legislature, as determined by the Office of Intergovernmental Relations, and the Joint Legislative Budget Committee, per Public Contract Code section 20155.7.
- c. Approve delegation of authority to the County Executive, or designee, to submit the report to the appropriate policy committees of the Legislature, as determined by the Office of Intergovernmental Relations, and the Joint Legislative Budget Committee, and to take all necessary related actions, following approval by County Counsel as to form and legality, and approval by the Office of the County Executive. Delegation of authority shall expire on March 30, 2024.

FISCAL IMPLICATIONS

There are no fiscal implications associated with receiving this report.

REASONS FOR RECOMMENDATION AND BACKGROUND

The County is a participating county under the best value pilot program for public works projects, codified in Public Contract Code section 20155, et seq. The pilot program authorizes the County to award certain public works projects on a best value basis—rather than competitive low bid—as set forth in the statutory scheme. Public Contract Code section 20155.7(a) requires the board of supervisors of a participating county to submit a report to the appropriate policy committees of the Legislature and the Joint Legislative Budget Committee before March 1, 2024, relating to the best value pilot program. The report is to include the following information:

- (1) A description of the projects awarded using the best value pilot program.
- (2) The contract award amounts.
- (3) The best value contractors awarded the projects.
- (4) A description of any written protests concerning any aspect of the solicitation, bid, or award of the best value contracts, including the resolution of the protests.
- (5) A description of the prequalification process.
- (6) The criteria used to evaluate the bids, including the weighting of the criteria and an assessment of the effectiveness of the methodology.
- (7) If a project awarded under this article has been completed, an assessment of the project performance, to include a summary of any delays or cost increases.

This report provides the Santa Clara County Board of Supervisors (Board) with the information required to submit a report to the appropriate policy committees of the Legislature and the Joint Legislative Budget Committee.

Contracts Awarded Using Best Value Pilot Program

The following actions summarize the contracts awarded using the best value pilot program, the contract award amounts, and the awarded contractors. To date the County has only awarded job order contracts (JOCs) under the pilot program. JOCs are indefinite quantity, indefinite scope contracts where work is pre-priced according to a construction task catalog. Under the JOC structure, the County issues Job Orders to the contractor and the contractor submits Job Order Proposals using the construction task catalog as the basis for their pricing, augmented by adjustment factors which the contractors submit at the time of bid. Under the statute, JOCs are limited to “repair, remodeling, or other repetitive work” whereby here Job Orders were issued to address the Facilities and Fleet Department’s (FAF) deferred maintenance backlog.

FAF has awarded five JOCs, and the Roads and Airports Department (RDA) has awarded one JOC (used for road repair). RDA’s JOC is captured in the data below.

JOC Award Date	JOC Award Amount	Best Value Contractor
December 15, 2020	Minimum contract amount of \$50,000, a maximum contract amount of \$3,000,000, and a maximum contract duration of one year, with an options to extend for two subsequent annual terms, with a maximum contract value of \$6,000,000 over the two subsequent terms, per Public Contract Code section 20155.	SBAY Construction, Inc.
December 15, 2020	Same as above.	SBAY Construction, Inc.
April 6, 2021	Same as above.	SBAY Construction, Inc.

August 17, 2021	Same as above.	SBAY Construction, Inc.
September 28, 2021	Same as above.	SBAY Construction, Inc.

Description of Bid Protests and Resolution of Same

Public Contract Code section 20155.7(a)(4) asks for a description of any written protests concerning any aspect of the solicitation, bid, or award of the best value contracts, including the resolution of the protests.

To date, there have been no protests.

Description of the Prequalification Process

Under Public Contract Code section 20155.3(c), the County is required to prequalify contractors pursuant to Public Contract Code section 20101. Public Contract Code section 20101 is a statute that authorizes the County to engage in prequalification generally. Under Board Policy Manual section 5.7.5.3, the Administration is required to receive approval from the Board before engaging in prequalification. The Administration sought approval from the Board to engage in prequalification at the same time it sought approval of the contract documents and authorization to solicit same.

As noted in Public Contract Code section 20101, prequalification can be utilized via a standard questionnaire template developed by the California Department of Industrial Relations (DIR). Under the best value pilot program, the Administration took its standardized questionnaire used in prior capital projects (which is based on a DIR template) and tailored it to JOCs. The questionnaire asks information relating to the prospective bidder's: company structure; DIR and Contractors State License Board registration and status; financial status; ability to satisfy the County's insurance and bonding requirements; history of past litigation; history of labor and environmental compliance/violations, terminations, suspensions, and/or debarments; past experience in certain work settings (e.g., custodial, medical); and, client references. The questionnaires are scored by an evaluation committee and prospective bidders are issued qualification determinations. Pursuant to both Public Contract Code sections 20101 and 20155.3(c), the County is required to establish an appeal procedure for prospective bidders who wish to dispute their determination that they are "not qualified." To date no one has disputed their qualification determination.

Criteria Used to Evaluate Bids Including Weighting of Criteria and Effectiveness of Methodology

The County determines awarding best value JOCs based on criteria outlined in Public Contract Code section 20155, et seq., which includes: demonstrated management competency, financial condition, labor compliance, relevant experience, and the safety record of the prospective contractor. The Administration utilized these statutory criteria and typically weighted them as follows, depending on whether the JOC was going to be performed at medical facilities which are under the jurisdiction of the California Department of Health Care Access and Information (HCAI).

Criteria	% Weighting (Non-HCAI)	% Weighting (HCAI)
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Demonstrated management competency	30	25
Financial condition	10	10
Labor compliance	10	10
Qualifications	10	10
Relevant experience	25	30
Safety record	15	15

The reporting requirement also requires an assessment of the methodology's effectiveness. While the Administration has not assessed the effectiveness of the particular criteria, on March 17, 2022, Item No. 17, the Administration submitted a report to the Finance and Government Operations Committee setting forth its experience with utilizing the best value pilot program. A copy of that legislative file is attached for reference and will be included in this report to the Legislature.

Assessment of Project Performance

Several Job Orders issued under best value JOCs have been completed successfully with minimal delays, with such delays typically attributed to unforeseen site conditions, supply chain issues, or user changes. Additionally, cost increases were effectively minimized, due to an updated construction task catalog accompanying each JOC, providing unit pricing for most construction cost items. Further, all Job Orders issued under a JOC must be within the maximum contract value, which is established in Public Contract Code section 20155. Given that the scope of JOC work is limited to "repair, remodeling, or other repetitive work," Administration has utilized the JOCs to address the deferred maintenance backlog (and for RDA, road repair). The Administration has no significant findings to report regarding delays or cost increases. All projects have been completed with acceptable performance by the contractors.

CHILD IMPACT

The recommended action will have no/neutral impact on children and youth.

SENIOR IMPACT

The recommended action will have no/neutral impact on seniors.

SUSTAINABILITY IMPLICATIONS

The recommended action will have no/neutral sustainability implications.

CONSEQUENCES OF NEGATIVE ACTION

The report will not be received.

STEPS FOLLOWING APPROVAL

The Administration will work with the Clerk of the Board of Supervisors and the Office of Intergovernmental Relations to submit the report to the Legislature as required by Public

Contract Code section 20155.7.

ATTACHMENTS:

- Report to FGOC March 17, 2022, Item Number 17