

County of Santa Clara
Facilities and Fleet Department



109854

DATE: March 17, 2022
TO: Finance and Government Operations Committee
FROM: Jeffrey D Draper, Director, Facilities and Fleet
SUBJECT: Report on Best Value Job Order Contracting

RECOMMENDED ACTION

Receive report from the Facilities and Fleet Department relating to Job Order Contracting. (Referral from April 7, 2020, Board of Supervisors meeting, Item No. 61)

FISCAL IMPLICATIONS

There is no impact to the General Fund related to receiving this report.

REASONS FOR RECOMMENDATION

At the April 7, 2020 Board of Supervisors (Board) meeting (Item No. 61), the Board directed the Administration to use the best value pilot program for job order contracts (JOC). Furthermore, the Board also requested that the Administration report back through the Finance and Government Operations Committee (FGOC) relating to the Best Value JOC Pilot Program, specifically, whether the value of contracted work has improved as result of the County contracting best value JOC.

Since April 7, 2020, FAF has awarded four best value JOCs; County of Santa Clara Health System (CSCHS) Facilities has awarded two best value JOCs; and Roads and Airports has awarded one best value JOC. It should also be noted that although the best value pilot program may be used for standalone construction projects over \$1 million, the Administration has not yet solicited a project on that basis.

Finding of Best Value Solicitation

Under the best value pilot program, Public Contract Code section 20155.3(a) requires the County to make a written finding that awarding the contract based on best value—instead of lowest bid price—will accomplish one or more of the following objectives: reduce project costs, expedite completion of the project, or provide features not achievable through awarding the contract on the basis of low bid. Below is input from Administration regarding use of the best value pilot program in the JOC context.

Following Public Contract Code section 20155.3(c), the County is required to prequalify contractors pursuant to Public Contract Code section 20101. For FAF/CSCHS facilities, the prequalification process required extra resources and took up to three months to support the annual prequalification efforts. Should a contractor miss the prequalification deadline, they would miss the opportunity to participate in the process, thereby eliminating them from the bidding pool, which in turn, limits potential candidates. Section 20101 also provides for the option of prequalifying contractors on a quarterly basis, but the burden of engaging in prequalification more frequently outweighs the benefits, especially considering the rate that JOCs are awarded, and the term lengths of best value JOCs (up to three years).

In addition, the solicitation of the best value proposals took as long as the prequalification process. The process was difficult for some of the contractors as the decision is based on multiple criteria (demonstrated management competency, financial condition, labor compliance, qualifications, relevant experience, and safety record) instead of the less complicated low bid proposals. This further limits the bidding pool.

On average, FAF/CSCHS facilities received three proposals per solicitation, which is the minimum required to award a contract. One CSCHS Facilities solicitation had to be cancelled due to low participation (two proposals received) and a new solicitation had to be advertised, resulting in a delay. For FAF/CSCHS Facilities, the awards tended to favor the same contractor. As of today, four best value JOC contracts have been awarded by FAF/CSCHS Facilities, all to the same contractor. Contractors have informally cited mandatory use of the Project Labor Agreement (PLA) as a reason for the lack of interest. In addition, the limitation of \$3 million per contract has required the department to spend more time on additional solicitations (while the pilot program allows the contracts to be amended for two subsequent annual terms, with an additional \$6 million over the subsequent terms, FAF and CSCHS Facilities are exhausting the initial \$3 million limit quickly into the initial terms).

Roads and Airports

Roads and Airports (Roads) has solicited and awarded one best value JOC. That solicitation yielded six proposals. The awarded best value contractor, as well as the second-place proposer, have both been awarded JOCs in the past. The awarded best value contractor also proposed higher adjustment factors than the second-place proposer, but still ranked first based on their criteria scoring. Roads has had no issues with the quality of work, whereas, before the County was added to the best value pilot program, there were instances where the quality of work was lacking. In response, Roads began conducting prequalification for its JOCs, which remedied the quality issues.

It is still unknown whether the best value solicitation method provides more value than a low bid solicitation. Roads can still prequalify contractors even if the solicitation is on a low bid basis. The best value process also took approximately 72 hours of administrative time to review and score proposals and contact references. However, the best value process does allow further investigation into criteria factors, which Roads occasionally finds useful.

Parks and Recreation

Parks and Recreation (Parks) typically administers one active JOC, except for the past year where it has had no JOC in place. Parks has not utilized the best value method as Parks' JOC work is not complex, and the bar for qualification is low. Therefore, the administrative resources to conduct prequalification and a best value solicitation would likely outweigh the benefit. Parks would prefer to solicit JOCs using the lowest responsive, responsible bidder method rather than utilize best value, or have the discretion to use either solicitation method.

Summary

In conclusion, the Administration prefers the flexibility to either utilize the best value pilot program for JOCs or award to the lowest responsive, responsible bidder. For FAF/CSCHS facilities, the best value process has produced limited interest from contractors and provided the County with a smaller pool of bidders, thus reducing competition. While Roads did not have the same experience as FAF/CSCHS Facilities, it would still prefer the flexibility to award either on a best value or low bid basis. Parks preference is to award on a low bid basis or have the discretion to use either solicitation method.

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.

BACKGROUND

County Departments that engage in the construction and maintenance of facilities and real property, namely FAF, Roads, Parks, and CSCHS Facilities, utilize JOCs to execute planned maintenance and repair work at County facilities and to address emergency repair needs. These departments also engage in large value standalone projects which have construction costs greater than \$1 million. For certain projects and JOC's there may be circumstances where using the best value procurement process, rather than the traditional lowest responsive, responsible bid method of procurement, is advantageous to the County.

CONSEQUENCES OF NEGATIVE ACTION

The report would not be received at this time.

ATTACHMENTS:

- Item 17 - Best Value JOCs PPT (PDF)