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TO: Supervisor Mark Ridley-Thomas, Chairman  
Supervisor Hilda L. Solis  
Supervisor Sheila Kuehl  
Supervisor Janice Hahn  
Supervisor Kathryn Barger

FROM: John Naimo   
Auditor-Controller

SUBJECT: **COUNTY DEPARTMENTS' USE OF JOB ORDER CONTRACTS REVIEW  
(June 14, 2016, Board Agenda Item 2)**

On June 14, 2016, due to concerns raised in a May 25, 2016 Job Order Contracts (JOC) report issued by the City of Long Beach, the Board of Supervisors (Board) instructed the Chief Executive Officer (CEO), in conjunction with the Auditor-Controller (A-C) and all departments that utilize JOC, to report back on:

- The frequency with which contractors made unreasonably low bids for JOCs, and whether the County was warned about these low bids by The Gordian Group (Gordian), with whom the County contracts to help administer JOCs;
- The percent of JOCs over the last year that exceeded the initial work order project costs due to change orders (i.e., supplemental work orders (SWOs)) or fees for specialty items not listed in the price book (i.e., non-catalog or non-prepriced (NPP) items);
- The process by which departments evaluate requests by JOC contractors for SWOs and NPP items; and
- A thorough review of the concerns raised in the audit released by the City of Long Beach's Auditor in May 2016, and identification if similar concerns exist within the County's use of JOCs, with recommended corrective actions if any similarities are found.

Our review included interviews with the three County departments and the one County agency, respectively, that utilize JOC: the Department of Public Works (DPW), the Department of Parks and Recreation (DPR), the Internal Services Department (ISD), and the Community Development Commission (CDC), hereinafter, County departments or County management; interviews with Gordian management and staff; discussions with County Counsel regarding legal interpretations of various County and State requirements; an evaluation of documentation supporting a sample of contractor proposals; a review of the increases in initial work order project costs due to SWOs; a review of the departments' bid factors for Fiscal Years 2013-14 through 2015-16; an evaluation of the departments' JOC policies and procedures; and an analysis of Gordian systems data for a three-year period in order to effectively respond to the Board's request. Our attached report includes a detailed discussion of the areas reviewed. However, for purposes of this Board letter, we focused on those issues deemed to be of greater significance.

### **Background**

JOCs are awarded through a single, competitive solicitation process. The selected JOC contractors remain on call to perform individual projects (or work orders) for repair, remodeling, or other repetitive work as needed throughout the life of the JOC. Having contractors on call allows the County to expedite projects, as the JOC process provides the opportunity for a large number of projects to be completed under a single, competitively bid contract, rather than going through the lengthier procurement process for each project.

As part of the JOC solicitation, the County includes a Construction Task Catalog (catalog) that contains individual tasks, materials/supplies, equipment, and labor that may be needed to complete JOC projects. Each item has a description and a corresponding unit price based on local market rates. The County requests contractors to bid on the contractors' ability to perform work as a percentage of the prices listed in the catalog. For example, contractors who bid .90 (bid factor) are obligated to perform (future) work at 90% of the unit prices listed in the catalog. The catalog was developed and is maintained by Gordian.

When a project is assigned to a JOC contractor, the contractor prepares a price proposal by detailing the tasks, materials/supplies, equipment, quantity of items, etc., needed to complete the project, and calculates the proposal cost by multiplying the catalog prices for these items by the contractor's bid factor.

### **Summary of Findings**

Based on our review, County management needs to significantly increase its oversight of the County's JOC program. We noted serious deficiencies in the departments' controls over the review and approval of contractor proposals. These deficiencies may have resulted in projects costing more than what the County should have paid, and appear to

be the result of a culture or environment where expediency and/or convenience takes precedence over proper controls. These deficiencies may also be contributing to/encouraging other serious issues noted during our review (i.e., contractors padding and/or inflating cost proposals to compensate for low bids). Therefore, to strengthen the County's JOC program, we have recommended the County form a work group, comprised of management from the CEO and each department that utilizes JOC, to coordinate and expedite corrective actions to address this report's findings/recommendations.

The following are examples of the deficiencies noted during our review:

- **Negotiated Price Proposals** - Project managers at all four departments indicated that JOC contractors regularly pad/inflate price proposals to compensate for bidding low, by including excessive items or quantities that are not needed to complete the project. For example, in one DPR project, we noted the project manager notated many items in the contractor's proposal as "not needed" or "unnecessary," and marked other costs/quantities as "excessive." Instead of resolving these issues, the project manager ultimately agreed to a project cost of approximately \$1.47 million, without verifying if the price proposal accurately reflected the products and services needed to complete the project, as required. When project costs are negotiated, it undermines the intent of the JOC program to obtain a competitive bid based on catalog pricing.

*The Departments' attached responses indicate that they do not negotiate project costs (CDC and ISD), or they do not currently allow project cost negotiations (DPR). In addition, DPW, CDC, and DPR indicated that they will reinforce the price proposal review processes and monitor for compliance. ISD indicated that they will continue to utilize their seven levels of review to monitor for compliance.*

*A-C's Response: We noted instances of negotiated price proposals at all four JOC departments. For example, in some cases as noted below, project negotiations occurred when project managers knowingly approved price proposals that did not include the required information to support how the contractor arrived at the proposed project costs (e.g., product details and quantities, measurements, etc.). Therefore, all JOC departments should reinforce price proposal review processes and monitor for compliance.*

- **Issues with Non-Catalog Items** - In some cases, a contractor may need to perform certain tasks or purchase specialized materials to complete a job, but the tasks/materials are not in the catalog (i.e., NPP items). At the time of our review, NPP items were generally paid at 100% of cost, or 100% of cost plus a 5% to 15% mark-up (i.e., the bid factor was not applied). Therefore, project managers need to closely scrutinize NPP items to ensure the items are necessary/appropriate. Specifically, we noted the following:

- Manipulation of Non-Catalog Items - For many of the NPP items in our sample, Gordian was unable to price the items through the catalog because the service/product descriptions were too vague, and/or multiple services/products were bundled onto one line item in the proposals and not separately itemized, as required. For example, we noted one DPR work order where the proposal contained one line item totaling \$787,750, or 86% of the total work order cost, and the NPP description read, “all plumbing and plastering” for three swimming pools. We also noted one ISD work order where the proposal contained only one line item totaling \$166,005, or 100% of the total work order cost, and the description for the NPP item read, “paint parking structure.”

When project managers knowingly approve price proposals that lack required details, project managers encourage an environment where these practices are allowed. In addition, there is no guarantee that the project cost accurately reflects the actual services/supplies needed to complete the project.

- Inappropriate/Incorrect Use of Mark-Up on Non-Catalog Items - We noted that departments do not always apply the correct mark-up on NPP items. For example, DPW management indicated that they had eliminated the 10% mark-up on NPP items. However, we noted three DPW work orders that included \$84,833 in mark-up fees. Because NPP items are paid at full cost and may include additional mark-up fees, there is an increased risk for contractors to use these items to manipulate proposal costs. Therefore, to mitigate the excessive use of NPPs and to discourage contractors from submitting low bids, departments should require contractors to apply their bid factor percentage to NPP items.

*ISD's and DPW's attached responses indicate that they have implemented the “Live Book” method where NPP items are added to the catalog when they are needed for a project. This method requires contractors to use their bid factor for new catalog items thereby eliminating or reducing the use of NPP items. DPR and CDC indicated that, during the period covered by our review, they began applying the bid factor percentage to NPP items. In addition, per DPR's and CDC's attached responses, they will enhance their procedures and/or provide additional training to ensure price proposals include required details for all non-catalog tasks and services needed to complete the project. In addition, CDC will consider the feasibility of utilizing the Live Book method, and DPR will implement the Live Book method for future JOCs. Regardless of which method is used, project managers still need to closely review price proposals to ensure materials and quantities are necessary/appropriate.*

- **Questionable SWOs** - During a project, SWOs may be needed to address unforeseen circumstances or changes to the original project scope. However, we noted one ISD SWO totaling \$166,005 that did not appear to be an appropriate SWO. Specifically, the original project scope indicated that the contractor was to replace an air-conditioning system. However, the SWO required the contractor to paint a parking



structure, which was not related to the original scope. Also, for four additional ISD SWOs totaling \$576,355, we were unable to determine why the SWOs were necessary due to the lack of documentation, and ISD could not explain why the SWOs were needed.

*The Departments' attached responses indicate that they will evaluate/update their policies and procedures and/or train staff to ensure the necessary project documentation is maintained to support the need for SWOs. In addition, ISD indicated that they are exploring ways to minimize the use of SWOs for additional work not related to the original scope on a case by case basis.*

*A-C's Response: When SWOs are issued for work not related to the original scope the total project costs no longer reflect the true cost of the original project. Therefore, to establish accountability of project costs, ISD should ensure SWOs are only executed for additional work that is related to the original project scope.*

- **Circumventing SWO Approvals** - We noted one DPW project that included 70 SWOs, totaling \$923,679, or a 13% increase to the initial project cost. For 55 (79%) of the 70 SWOs, the SWO amounts were below the department's \$10,000 threshold above which a secondary manager's approval would be required. Within the 55 SWOs, we noted multiple pairs with the same SWO date, which appears to be an indication that some of these SWOs should have been combined rather than splitting them into multiple smaller dollar SWOs. In addition, because the 55 SWOs were within the project manager's approval authority, we question if the SWOs were split to circumvent management's review/approval.

*The Department's attached response indicates that they reviewed the SWOs noted above and did not find that the approval process was circumvented in these instances. However, DPW will reinforce its policy and monitor for compliance.*

*A-C's Response: The SWO dates indicate that the work was discussed/planned/approved on the same date. Therefore, we continue to question if these SWOs were split to circumvent management's review/approval.*

- **Contractor Performance Not Considered When Selecting JOC Contractors** - Currently, departments consider some factors, but not all, when determining contractor responsibility. Specifically, departments do not consider the contractor's performance on County contracts when determining contractor responsibility, as provided for in California Public Contract Code (PCC) Section 1103, and place a greater emphasis on the contractor's cost when making JOC award decisions. However, given the issues noted during our review (i.e., contractors padding and/or inflating cost proposals), the County needs to ensure criteria (i.e., performance), as currently provided in PCC Section 1103, is considered when making contractor responsibility determinations for the purposes of awarding a JOC.

*The Departments' attached responses indicate that they will participate in the work group, in collaboration with County Counsel, to implement agreed upon corrective actions regarding the development and implementation of a standard approach for monitoring, evaluating, and documenting contractor performance and a method for incorporating these and other departments' experiences when determining contractor responsibility.*

- **Restructure Payment Terms in JOC Consultant Services Contracts** - Gordian's fees are currently based on a percentage of total project costs. Therefore, Gordian directly benefits when proposal costs are higher (or inflated), including instances when contractors use products outside the catalog which can also result in higher project costs. To reduce the appearance of a conflict of interest and to ensure contractor proposal costs are appropriate, the Countywide work group, in conjunction with County Counsel and the JOC consultant, should consider restructuring payment terms for JOC consultant services to ensure the County's interests are protected.

*The Departments' attached responses indicate that they will participate in the work group to consider restructuring the JOC consultant's payment terms.*

- **Develop and/or Enhance JOC Policies and Procedures** - We noted that CDC does not have formal JOC policies and procedures, but has a training and reference manual that Gordian prepared for CDC; DPW has formal policies and procedures that were approved by management; and DPR and ISD have draft procedures that have not been approved by management. We reviewed the policies and procedures for DPW, DPR, and ISD, and noted that the procedures did not always include key controls or clearly defined responsibilities. In addition, we noted the procedures were not consistent among the departments. For example, DPR's and DPW's procedures indicate that SWOs should be reviewed and evaluated for reasonableness by the project manager. However, ISD's procedures do not indicate who is responsible for performing this task.

*The Departments' attached responses indicate that they will participate in the work group to enhance JOC policies and procedures.*

- **JOC Project Delegated Authority not Consistent with the PCC** - According to the PCC, individual JOC projects that fall under the purview of the PCC require Board approval. The Board may delegate to County departments the authority, by ordinance, to approve these individual JOC projects up to \$75,000. However, each JOC project exceeding that amount must be approved by the Board. During our review, we noted practices that were not consistent with the PCC. For example, DPW has delegated authority to issue JOC projects below \$75,000. However, DPW does not always seek Board approval for JOC projects that exceed \$75,000. We selected ten JOC projects under the purview of the PCC, and which exceeded \$75,000, and

noted that the Board did not approve eight (80%) projects, totaling approximately \$1.9 million.

*The Departments' attached responses indicate that they will align or have already aligned their practices to be consistent with the PCC (e.g., seek Board approval for projects that fall under the purview of the PCC that exceed \$75,000, etc.).*

Details of these and other findings and recommendations are included in Attachment I.

### **Review of Report**

We discussed our report with each of the four JOC departments and the CEO. The departments' responses (Attachments II through VI) indicate general agreement with our findings and recommendations.

It should be noted that in the JOC projects we sampled, we noted discrepancies in some, but not all, of the projects we reviewed. Therefore, some of our recommendations are directed at the specific department(s) where we identified the discrepancy. However, County management from all departments that utilize JOC should review their operations to ensure proper procedures and controls are in place to address all recommendations in this report.

We thank management and staff from each department for their cooperation and assistance during our review. If you have any questions please call me, or your staff may contact Robert Smythe at (213) 253-0100.

JN:AB:PH:RS:TK

#### Attachments

c: Sachi A. Hamai, Chief Executive Officer  
Mark Pestrella, Director, Department of Public Works  
Scott Minnix, Director, Internal Services Department  
Sean Rogan, Executive Director, Community Development Commission  
John Wicker, Director, Department of Parks and Recreation  
Mary C. Wickham, County Counsel  
Lori Glasgow, Executive Officer, Board of Supervisors  
Public Information Office  
Audit Committee

## JOB ORDER CONTRACTS REVIEW

### Background

A Job Order Contract (JOC) is a contract for a fixed term or maximum dollar value, whichever occurs first, in which a contractor is selected based on a competitive bid to perform various projects (or work orders) in the future, during the life of the JOC. Having contractors “on call” allows the County to expedite projects, as the JOC process provides the opportunity for a large number of projects to be completed under a single, competitively bid contract rather than going through the lengthier procurement process for each individual project.

According to California Public Contract Code (PCC) Section 20128.5, the Board of Supervisors (Board) may award individual annual JOCs up to a current maximum of \$4.6 million per JOC. The maximum annual JOC amount is subject to change based on the Consumer Price Index. The PCC also states that JOCs may be used for repair, remodeling, or other repetitive work, but may not be used for new construction, or for design or contract drawings.

To establish a JOC, the County issues an Invitation for Bids (IFB). The IFB includes a Construction Task Catalog (catalog) that contains individual tasks, materials/supplies, equipment, and labor that may be needed to complete JOC projects. Each item has a description and a corresponding unit price based on local market rates (e.g., local labor rates, material and equipment prices, etc.). The County requests contractors to bid on the contractors’ ability to perform work as a percentage of the prices listed in the catalog. For example, contractors who bid .90 (bid factor) are obligated to perform the work at 90% of the unit prices listed in the catalog. The selected contractor remains on-call to perform JOC projects as needed throughout the annual term of the JOC, up to the maximum JOC amount (i.e., \$4.6 million). When a project is assigned to a JOC contractor, the contractor prepares a detailed price proposal and calculates the project cost by applying their bid factor to the unit prices for each task needed to complete the project.

The catalog was developed and is maintained by the County’s JOC consultant, The Gordian Group (Gordian), a firm that provides JOC consulting services to public and private agencies. Gordian’s services under its three contracts with the County also include access to and training for Gordian’s proprietary software (i.e., eGordian) that departments use to manage JOC projects. During Fiscal Year (FY) 2015-16, the County paid Gordian approximately \$1.8 million for its services.

There are three County departments and one County agency, respectively, that utilize JOC: the Department of Public Works (DPW), the Department of Parks and Recreation (DPR), the Internal Services Department (ISD), and the Community Development Commission (CDC). Because CDC is not a County department, they are not always subject to the same policies/requirements as the County. Therefore, where applicable, we will separately recommend improvements for CDC when different than the County. In



addition, for ease of reporting, we will refer to the four entities as “County departments” or “departments,” except as otherwise noted. During FY 2015-16, the departments utilized JOC to enter into agreements, totaling over \$80 million, for JOC related projects, including maintenance, repair, and/or remodeling of County parks, libraries, and buildings.

### **Scope**

On June 14, 2016, due to concerns raised in a May 25, 2016 JOC report issued by the City of Long Beach, the Board instructed the Chief Executive Officer (CEO), in conjunction with the Auditor-Controller and all departments that utilize JOC, to report back on:

- The frequency with which contractors made unreasonably low bids for JOCs, and whether the County was warned about these low bids by Gordian, with whom the County contracts to help administer JOCs;
- The percent of JOCs over the last year that exceeded the initial work order project costs due to change orders (i.e., supplemental work orders (SWOs)) or fees for specialty items not listed in the price book (i.e., non-catalog or non-prepriced (NPP) items);
- The process by which departments evaluate requests by JOC contractors for SWOs and NPP items; and
- A thorough review of the concerns raised in the audit released by the City of Long Beach’s Auditor in May 2016, and identification if similar concerns exist within the County’s use of JOCs, with recommended corrective actions if any similarities are found.

In response to the Board’s motion, we performed one comprehensive review of the County departments that utilize JOC, as opposed to completing four separate audits. The benefits of this approach include audit efficiencies gained from testing/evaluating the same or similar issues concurrently; insights and perspectives gained from four departments as opposed to one; and accelerating the identification of department specific as well as program specific (or common) control weaknesses.

Our review included interviews with DPW<sup>1</sup>, DPR, ISD, CDC, and Gordian management and staff; discussions with County Counsel regarding legal interpretations of various County and State requirements; an evaluation of documentation supporting a sample of contractor proposals; a review of the increases in initial work order project costs due to SWOs; and a review of the departments’ bid factors for FYs 2013-14 through 2015-16.

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<sup>1</sup> DPW manages two JOC programs: one program is managed through Gordian and is used for building repair, remodel, maintenance, etc.; and the other program is managed internally by DPW staff, and is used for more routine projects such as road/concrete maintenance, guard rail replacement, etc. The in-house program, according to DPW, represents approximately 13% of the department’s JOC work during FY 2015-16. Therefore, due to materiality, we limited our scope for DPW to those projects managed through Gordian.

We also evaluated the departments' policies and procedures, and analyzed eGordian data for a three-year period in order to effectively respond to the Board's request. Due to the extensive scope of the Long Beach report, our review focused only on those audit areas deemed to be of greater significance.

### **Increased Management Oversight**

County management needs to significantly increase its oversight of the County's JOC program. Specifically, we noted serious deficiencies in the departments' controls over the review and approval of contractor proposals. These deficiencies may have resulted in projects costing more than what the County should have paid had staff required contractors to submit proposals based on catalog pricing (e.g., individual tasks, supplies, quantities, measurements, etc.), as required. In addition, although County departments indicated widespread support for the JOC program due to the ability to complete projects quickly, the deficiencies we noted appear to be the result of a culture or environment where expediency and/or convenience takes precedence over proper controls.

For example, we noted one project where the program manager notated many items in the contractor's proposal as "not needed" or "unnecessary," and marked other costs/quantities as "excessive." Instead of resolving these issues, the project manager ultimately agreed to a project cost of approximately \$1.47 million, without verifying if the price proposal accurately reflected the products and services needed to complete the project. In other instances, we noted contractors submitted proposals where the item descriptions were vague, and/or the services/products were not separately itemized, as required, yet project managers approved the proposals. For example, one proposal contained one line item totaling \$166,005, and the description only read "paint parking structure." When project costs are approved in this manner, it undermines the intent of the JOC program to obtain a competitive proposal based on the contractor's bid factor and catalog pricing. In addition, when project managers knowingly approve price proposals that lack required details, project managers are encouraging an environment where these practices are allowed.

We also noted that County management needs to develop standardized processes for evaluating criteria, such as performance, when determining contractor responsibility and making JOC award decisions, pursuant to California law. Currently, departments do not consider contractor performance, and place a greater emphasis on the contractor's cost when awarding contracts. However, given the issues noted during our review (i.e., contractors padding and/or inflating cost proposals to compensate for low bids), the County needs to ensure criteria (i.e., performance), as currently provided in legislation, is considered when making contractor responsibility determinations for the purpose of awarding a JOC.

Finally, County management needs to consider restructuring its payment terms for JOC consulting services to ensure the County's interests are protected, and develop exception reports to assist County managers in identifying and timely correcting the types of deficiencies noted in our review. In addition, we noted departments do not always seek

Board approval of JOC projects, pursuant to the PCC, and some departments lack appropriate procedures for their JOC programs which may have contributed to the serious deficiencies noted throughout our review.

We recommend the County form a work group, comprised of management from the CEO and each department that utilizes JOC, to coordinate and expedite corrective actions to address this report’s findings/recommendations.

**Recommendation**

- 1. Chief Executive Office management, in conjunction with each department that utilizes Job Order Contracts, form a Countywide work group to expedite corrective actions to address this report’s findings/recommendations.**

**Procurement of JOC Contracts**

As previously noted, JOC contracts are awarded through a single, competitive solicitation process. The selected JOC contractors can then be selected for individual work orders for repair, remodeling, or other repetitive work as needed throughout the following year.

As part of the JOC solicitation, the County requests each contractor to bid on their respective ability to perform work as a percentage of the unit prices listed in the catalog. Unit prices, as previously noted, include the direct costs of labor, materials, and equipment needed to perform specific tasks. Therefore, when a contractor bids a factor of .90, the contractor is obligated to perform the work at 90% of the unit prices listed in the catalog. When a project is assigned to a JOC contractor, the contractor prepares a proposal and applies their bid factor to the unit prices for the tasks needed to complete the project. The excerpt below is an example of a task in the Gordian catalog which delineates the unit price (i.e., labor, equipment, and material charges) for installing a door of a specific type, size, etc.

<b>Gordian Catalog Excerpt</b>	
<b>08 14 16 00-0000</b>	<b>Flush Wood Doors</b>
<b>08 14 16 00-0001</b>	<b>Hollow Core Doors, 1-3/8" Thick</b>
<b>08 14 16 00-0002</b>	<b>Birch Faced</b>
08 14 16 00-0006	EA 3' x 7' x 1-3/8" Hollow Core, Birch Faced Door
	<b>Install: \$220.75   Demo: \$32.64</b>
<b>Labor: \$64.64 Equipment: \$0.64 Material: \$155.47</b>	

**JOC Bid Factors**

In the Long Beach report, it was noted that the City accepted bid factors from JOC contractors that were characterized as too low and unrealistic (i.e., from .50 to .71), and that it was unlikely contractors could earn a profit using these low percentages. Long Beach’s report concluded that contractors would bid low to secure the contract, but would

submit proposals for individual projects that included additional quantities and/or services that may exceed amounts needed to complete the project. This “practice,” according to the Long Beach report, was used by contractors to ensure they did not incur losses on jobs for which they submitted low bids.

The Board’s June 2016 motion requested that we evaluate the frequency with which contractors made unreasonably low bids for JOCs, and whether the County was warned by Gordian about these low bids. To address these concerns, we evaluated the JOC bids received and awarded by departments during the three-year period ended June 30, 2016, and noted that annual bid factors ranged from an average of .56 (DPR) to .86 (DPW), with a three-year average ranging from between .56 (DPR) and .69 (CDC) (see Table 1). While bid factors for the three years appear to be rising, the most recent two-year averages still appear low, ranging from between .56 (DPR) and .79 (DPW).

**Table 1**

Department	FY 2013-14		FY 2014-15		FY 2015-16		All FYs	
	# of JOCs	Average Bid Factor	# of JOCs	Average Bid Factor	# of JOCs	Average Bid Factor	# of JOCs	Average Bid Factor
DPR	(1)	(1)	(1)	(1)	2	.56	2	.56
ISD	10	.57	20	.59	10	.69	40	.61
DPW	23	.58	11	.73	5	.86	39	.66
CDC	10	.68	4	.68	3	.73	17	.69

(1) DPR did not award any JOCs during this FY.

We also evaluated the frequency with which contractors made low bids, and noted that for the 98 JOC bids received and awarded during the three-year review period, 83 (85%) JOCs had a bid factor of .80 or below, 67 (68%) had a bid factor of .70 or below, and 48 (49%) had a bid factor of .60 or below. Gordian considers low bids to be at a factor of .80 or below, and has indicated that contractors may be unable to make a profit with a bid factor at that level.

**Gordian Monitoring**

Gordian indicated that they monitor bid factors and will notify a department if a bid factor appears unreasonably low. During the three-year review period, Gordian provided two letters to DPW (in January and July 2015) indicating that the bids were too low (i.e., below .80) and provided suggestions on how DPW could mitigate low bids. In subsequent sections of this report, we discuss steps DPW has taken to address low bids.

We asked Gordian why they did not send additional warning letters during the review period to the other County departments that received low bids. Gordian indicated that the decision to deliver formal letters only to DPW was based on the following: (1) DPW was an early adopter of the County’s JOC program and the other departments’ programs were in some way modeled after DPW’s program. Therefore, it was Gordian’s belief that



changes at DPW would be mirrored by the other departments. (2) DPW's JOC program was, on average, approximately 60% of the total JOC volume for the County representing a high concentration of risk that required an increased level of attention. However, Gordian indicated that they continued to meet with the other departments, as needed, to discuss low bids.

We reviewed the County's contracts with Gordian to determine Gordian's responsibilities for monitoring bids. Although this requirement was not specifically provided for in the contracts, we noted that Gordian's contracts with DPW and ISD state that Gordian will "monitor the overall program." This statement is not in Gordian's contract with CDC. While not specifically related to bid factors, it would appear the intent of this language is to provide the departments with assistance or other information that would improve the County's JOC program. As noted in a later section of this report, we identified other instances where the County/Gordian contracts are vague; lack consistency among all County contracts; and do not always clearly delineate the services to be provided.

In the sections that follow, we evaluated a sample of contractor proposals to determine if low bids appear to have had an impact on the quality of contractor proposals, and/or if concerns similar to those noted in the Long Beach report (i.e., padding/inflating proposals) exist within the County.

### **Review of JOC Work Orders/SWOs**

When departments are ready to begin a project (or work order), they assign one of their Board-approved JOC contractors to perform the work. The County's project manager assigned to oversee the project prepares a detailed scope of work (project scope) that serves as a basis for the contractor's price proposal. The contractor prepares the proposal by detailing the tasks, supplies/equipment, quantity of items, etc., needed to complete the project, and calculates the proposal cost by multiplying the catalog prices for these items by the contractor's bid factor. In some cases, a contractor may need to perform certain tasks or purchase specialized materials to complete a job, but the tasks/materials are not in the catalog (i.e., non-catalog or NPP). At the time of our review, NPP items were generally paid at 100% of cost, or 100% of cost plus a mark-up (i.e., the bid factor is not applied). The cost of NPP items is determined by the lowest of three quotes that the contractor provides to the department.

Throughout the project, there may also be a need to execute SWOs due to unforeseen circumstances or changes to the original project scope that would warrant additional work and an increase in project costs. For example, additional work may be required to repair water damage discovered after a contractor removes a wall. Project managers are responsible for reviewing proposals for both the initial and any SWOs to ensure proposed project costs and items are commensurate with the project requirements.

The Board's June 2016 motion requested that we (1) determine the percent of JOC projects that exceeded the initial work order project costs due to SWOs; (2) assess the process used by departments to evaluate requests by JOC contractors for SWOs and



NPP items; and (3) perform a thorough review of all concerns raised in the Long Beach report to identify if similar concerns exist within the County. However, due to the extent of the Long Beach report, we limited our review to those areas deemed to be of greater significance.

In Table 2, we address the Board’s request to evaluate the percent of JOC projects that exceeded the initial work order project costs due to SWOs. Specifically, for the three-year period ended June 30, 2016, we noted that SWOs increased the initial work order project costs for ISD, CDC, and DPW by 62%, 55%, and 49%, respectively.

**Table 2**

<b>Percentage Increase in Initial Work Order Project Costs Due to SWOs (2)</b>				
<b>Department</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>All FYs</b>
<b>ISD</b>	<b>59%</b>	<b>52%</b>	<b>71%</b>	<b>62%</b>
<b>CDC</b>	<b>120%</b>	<b>52%</b>	<b>43%</b>	<b>55%</b>
<b>DPW</b>	<b>33%</b>	<b>53%</b>	<b>99%</b>	<b>49%</b>
<b>DPR</b>	<b>58%</b>	<b>7%</b>	<b>5%</b>	<b>16%</b>

(2) As noted in a subsequent section of this report, some departments use SWOs for different phases of a project. Using SWOs in this manner may have contributed to the percentage increase in initial work order project costs due to SWOs.

Although SWOs are appropriate when unforeseen circumstances and/or changes to the original project scope are needed, the percentage increase in project costs due to SWOs raises concern about the appropriate use of SWOs. In the sections that follow, we sampled projects from all four departments to address these and other concerns from the June 2016 Board motion. Specifically, we reviewed the projects to determine if SWOs are initiated for appropriate reasons; to evaluate contractors’ use of NPPs, as well as other areas of concern noted in the Long Beach report (e.g., negotiating price proposals, clarity of project scopes, etc.); and to assess the processes used by departments to evaluate and approve contractor price proposals.

**Project Scopes and Proposal Reviews**

We reviewed a sample of 13 projects from the four departments, consisting of 13 initial work orders and 30 SWOs, totaling approximately \$19.2 million, and noted the following:

- **Negotiated Price Proposals** - Project managers at all four departments indicated that JOC contractors regularly pad/inflate price proposals to compensate for bidding low, by including excessive items or quantities that are not needed to complete the project. In addition, DPR indicated that contractors would submit low bid factors to secure the contract, and pad and submit proposals near project deadlines containing unnecessary quantities and/or NPP items in hopes that project managers would overlook these items because they are under pressure to complete the project on time. As a result, DPR indicated that they spend an excessive amount of time “scrubbing”/reviewing proposals to remove or reduce unnecessary costs/quantities.

For example, for one of the three DPR projects reviewed, the project manager notated many line items in the initial work order's draft proposal as "not needed" or "unnecessary," and marked many other line items with question marks and circled quantities/subtotal costs with notes indicating those line items as "excessive." Instead of resolving these issues, the project manager ultimately negotiated and approved an overall project cost of \$1.47 million, instead of using catalog pricing, as required. When project costs are negotiated, it undermines the intent of the JOC program to obtain a competitive bid based on catalog pricing. In addition, there is no guarantee that the negotiated project cost accurately reflects the catalog pricing or actual services/supplies needed to complete a project. As a result, projects may be costing the County more than what they would had catalog pricing and the contractor's bid factor been considered when determining project costs.

In the NPP section that follows, we also noted instances where it appears project managers negotiated project costs by approving price proposals that lacked the required details to support the work to be performed. Therefore, County management needs to instruct staff to immediately discontinue negotiating project costs, monitor for compliance, and take disciplinary action where appropriate. In addition, County management should provide training to staff on how to properly review and approve price proposals.

- **Use of Independent Estimators** - In some cases, a department may use an independent estimator to review price proposals, in addition to the project manager's review. We noted that CDC, DPR, and DPW either do not use independent estimators or allow project managers to determine when estimators should be used for reviewing price proposals. ISD requires an independent estimator to review price proposals for work orders that exceed \$20,000. However, we noted that for 12 (86%) of the 14 ISD work orders totaling approximately \$6 million, the Department did not have documentation supporting the use of an estimator. An independent estimator's review provides an objective assessment of whether the contractor's proposed materials and quantities are appropriate. Although not a requirement, all departments would benefit from utilizing independent estimators for proposal reviews. Therefore, County management should develop Countywide guidelines that include thresholds for requiring departments to obtain an independent estimator's (i.e., third party or in-house) review of price proposals, where appropriate.
- **Project Scope Not Clear** - We noted instances where project scopes lacked detailed descriptions that would enable contractors to prepare an accurate and thorough proposal. For one DPW work order totaling \$15,874, the project scope provided a general description of the work to be performed, but included the following language, "not limited to." This language allowed the contractor an opportunity to manipulate or inflate their price proposal by adding supplies and/or services that may not have been needed. In this case, DPW confirmed that the contractor performed additional work not outlined in the project scope.

For the same price proposal, we also noted excessive quantities that the Department could not adequately explain. For example, the project scope indicated the removal of four trees. However, the contractor's proposal included "stump grinding" for 60 trees. We also noted five ISD work orders totaling approximately \$1.2 million, where the project scope contained conflicting information or lacked detailed project descriptions. For example, one of the project scopes indicated the replacement of 281 thermostats, but the quantity of thermostats detailed for each location totaled 258, a discrepancy of 23 thermostats.

- **Inappropriate Use of JOC to Purchase a Commodity** - According to the PCC, JOC may be used for repair, remodeling, or other repetitive work. However, we noted that ISD executed a project using JOC to purchase 300 noise canceling headsets, totaling \$42,995, at their client department's request. ISD indicated that the headsets would be used by client call-center staff. As a result, we question whether ISD circumvented the County's procurement process by using JOC for this purchase, since the headsets appear to be office equipment that should have been purchased through the standard procurement process.
- **Circumventing SWO Approvals** - We noted one DPW project that included 70 SWOs, totaling \$923,679, or a 13% increase to the initial project cost. We reviewed four (6%) SWOs, and according to the project files, the SWOs appear to be due to unforeseen circumstances or client requested changes. However, we noted that for 55 (79%) of the 70 SWOs, the SWO amounts were below the department's \$10,000 threshold above which a secondary manager's approval would be required. Within the 55 SWOs, we noted multiple pairs with the same SWO date, which appears to be an indication that some of these SWOs should have been combined rather than splitting them into multiple smaller dollar SWOs. In addition, because the 55 SWOs were within the project manager's approval authority, we question if the SWOs were split to circumvent management's review/approval.
- **Using SWOs for Project Phases** - According to Gordian, SWOs are issued to add/delete work on projects to address unforeseen circumstances, client requested changes, etc. However, we noted that CDC, DPW, and ISD executed SWOs to initiate different phases of a project. For example, to remodel a ten-story building, a department may issue an initial work order to remodel the first two floors, and issue SWOs to remodel the remaining floors. We also noted that departments use the same numbering sequence in eGordian for phasing projects as when SWOs are issued to add/delete work on a project. As a result, it is difficult to differentiate between the two types of SWOs in eGordian. In order to effectively monitor the source of increased project costs due to SWOs, the Countywide work group should develop alternative methods for identifying SWOs that are initiated for project phases.
- **Questionable SWOs** - As noted above, SWOs are warranted due to unforeseen circumstances or changes to the original project scope. However, we noted one ISD SWO totaling \$166,005 that did not appear to be an appropriate SWO. Specifically, the original project scope indicated that the contractor was to replace an air-

conditioning system. However, the SWO required the contractor to paint a parking structure, which was not related to the original project scope. Also, for four additional ISD SWOs totaling \$576,355, we were unable to determine why the SWOs were necessary due to the lack of documentation, and the Department was unable to provide an explanation for why the SWOs were needed.

- **Lack of Documentation Supporting SWOs** - For 12 (40%) of the 30 SWOs reviewed totaling approximately \$1.7 million, the project managers at all four departments explained why the SWOs were needed, but justifications were not documented in project files. To increase transparency and ensure sufficient support for increased project costs, County management should require project managers to maintain documentation in project files to support the need for all SWOs.

As noted in Table 2, SWOs during our three-year review period appear to have significantly increased the initial work order project costs for most departments. However, we noted that concerns over increased project costs also exist among initial work orders, as described above (i.e., excessive items/quantities and NPP items in proposals, unclear project scopes creating an opportunity for contractors to manipulate/inflate proposals, etc.). To address these concerns, County management should implement the recommendations below to ensure that proposed project costs and items for initial and SWOs are commensurate with project requirements.

### **Recommendations**

#### **County management:**

2. **Instruct staff to immediately discontinue negotiating project costs, monitor for compliance, and take disciplinary action, where appropriate.**
3. **Provide training to staff on how to properly review and approve price proposals.**
4. **Require project managers to maintain documentation in project files to support the need for all supplemental work orders.**

#### **Countywide work group:**

5. **Develop Countywide guidelines that include thresholds requiring departments to obtain an independent estimator's (i.e., third party or in-house) review of price proposals, where appropriate.**
6. **Develop alternative methods for identifying supplemental work orders that are initiated for project phases.**



**Internal Services Department and Department of Public Works management:**

7. **Ensure project scopes are specific and clearly delineate project requirements, and contain accurate measurements, quantity of items needed, etc.**

**Internal Services Department management:**

8. **Ensure Job Order Contracting is properly used for completing work as defined in the California Public Contract Code, and that projects are not executed as a means to circumvent the County's procurement process.**
9. **Ensure supplemental work orders are only executed for additional work that is related to the original project scope.**

**Department of Public Works management:**

10. **Ensure supplemental work orders are not split to circumvent management approval.**

**Non-Catalog or NPP**

As previously noted, a contractor may need to perform certain tasks or purchase specialized materials that are not in the catalog (i.e., non-catalog or NPP). In the Long Beach report, it was noted that the City allowed their contractors to price NPP items at 100% of cost plus a 10% mark-up fee. For example, a \$10,000 item priced through the catalog at a bid factor of 0.60 would cost \$6,000, as compared to \$11,000 when billed as NPP. The Long Beach report noted that a substantial number of projects during their review period consisted of 100% NPP items, and the City paid significantly more for these projects than if the items were priced through the catalog.

Of the 13 projects sampled in the previous section, we noted that 11 projects, consisting of 22 initial and SWOs, included 48 NPP items totaling approximately \$4.3 million. We reviewed the NPP items and noted the following:

- **Manipulation of Non-Catalog Items** - For many of the NPP items in our sample, Gordian was unable to price the items through the catalog because the service/product descriptions were too vague, and/or multiple services/products were bundled onto one line item in the proposals and not separately itemized, as required. For example, we noted one DPR work order where the proposal contained one line item totaling \$787,750, or 86% of the total work order cost, and the description read, "all plumbing and plastering" for three swimming pools. We also noted one ISD work order where the proposal contained only one line item totaling \$166,005, or 100% of the total work order cost, and the description for the NPP item read, "paint parking structure."



In these instances, it appears department staff negotiated the project costs, which undermines the intent of the JOC program to obtain a competitive bid. "Negotiate," in these cases, means project managers knowingly approved price proposals that did not include the required information to support how they arrived at the proposed project costs (e.g., product details and quantities, measurements, etc.). When contractors bundle multiple services/products onto one line item or provide vague descriptions of the work to be performed, it is difficult to evaluate if the proposal costs are competitive and accurately reflect the work needed to complete the project. As a result, projects may be costing the County more than reasonably anticipated.

In addition, we noted similar issues at the remaining two departments where NPP line items were vague and/or multiple services/products were bundled onto one line item. Therefore, County management should ensure staff do not approve proposals that lack required details (e.g., measurements, product descriptions, etc.) or sufficient breakdown of all NPP tasks and services needed to complete the project.

We also noted that the average bid factor for the two DPR projects (above) was 0.44. Because bid factors were low and Gordian has indicated that a contractor may be unable to make a profit with a bid factor of 0.80 or below, the potential exists for contractors to attempt to inflate or manipulate their proposals to compensate for bidding low. In addition, the contractor used for one of the two projects is the same contractor mentioned in the Long Beach report where a former City project manager alleged that the contractor was padding proposals by manipulating the catalog and quantities to inflate proposal costs.

- **Questionable Use of Non-Catalog Items** - For one CDC work order, Gordian was able to locate and price two (29%) of the seven NPP items in the catalog. The Department would have saved approximately \$2,100, or 44%, if they had properly used the catalog to price those products and services. Because Gordian was able to price these items using the catalog, it appears that CDC did not adequately review the contractor's proposal to verify whether NPP items could be priced through the catalog. In other instances, Gordian was able to identify some NPP items in the catalog for one CDC and one ISD work order, but was unable to provide the catalog pricing due to a lack of details (i.e., measurements, square footage, etc.) in the proposals.
- **Inappropriate/Incorrect Use of Mark-Up on Non-Catalog Items** - For the projects we sampled, we noted that DPR, DPW, and ISD paid their contractors at full cost plus a 5% to 15% mark-up fee for NPP items, and CDC paid their contractors at full cost with no mark-up. We noted that departments do not always apply the correct mark-up percentage on NPP items. For example, DPW management indicated that they had eliminated the 10% mark-up on NPP items. However, we noted three DPW work orders that included \$84,833 in mark-up fees. We also noted one DPR work order where the Department incorrectly included the installation fee as an additional mark-up on top of the 5% mark-up for NPP items. In addition, we noted that DPR management paid the installation fee, totaling \$384, although not included on the

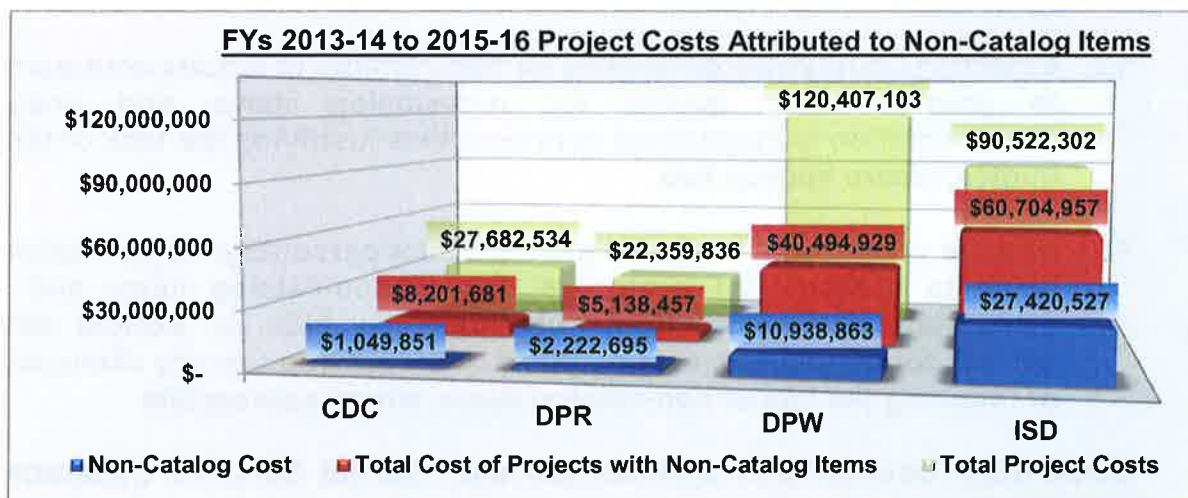
vendor's quote. DPR also indicated that they did not verify if the installation could have been priced through the catalog.

Because NPP items are paid at full cost and may include additional mark-up fees, there is an increased risk for contractors to use these items to manipulate proposal costs. As previously noted, contractors may bid low to secure the contract, but use NPPs to compensate for bidding low. Some departments indicated that in recent JOCs, they now require contractors to apply the bid factor to NPP items. However, to mitigate the excessive use of NPPs and to discourage contractors from submitting low bids, all departments should require contractors to apply their bid factor percentage to NPP items.

- **No Limits and Exceeding Limits on Non-Catalog Items** - We noted that CDC, DPR, and ISD do not place a cap or limit on NPP items used in individual projects. DPW indicated that they limit NPP items to 10% of the total work order amount. However, we noted instances where DPW exceeded their cap. For example, for three DPW work orders the NPP items consisted of an average of 91% of the work order amounts. Because NPP items can be more expensive (e.g., paid at full cost) and may include additional mark-up fees, establishing a limit mitigates the excessive use of these items. The Countywide work group should establish criteria that includes a limit on NPP items that can be used in individual JOC projects, and a supervisory review process to clarify when NPP items are allowed to exceed the limit, where appropriate.
- **Lack of Three Quotes** - For 20 (91%) of the 22 work orders reviewed, we noted that the four departments did not always require the contractor to provide three quotes or maintain documentation to justify why three quotes were not obtained for NPP items totaling approximately \$3.5 million. While not a requirement, to ensure the County receives the most competitive price for NPP tasks and materials, the Countywide work group should establish Countywide guidelines for departments to require contractors to provide three quotes for all NPP items and ensure documentation is maintained in project files justifying the lack of three quotes, where appropriate.
- **Not Selecting the Lowest Quote for NPP Items** - For one DPR work order, we noted that the Department did not select the lowest quote for the NPP items, and instead selected a higher quote. As a result, DPR could have saved at least \$21,208, or 9%, if the Department had selected the lowest quote. DPR indicated that the higher quote was selected because the vendor was the only one that could supply the materials needed to complete the job. However, based on the other two quotes, it appears that there were other vendors that could provide the same/similar material.

Due to the issues noted above, we reviewed NPP items for the initial and SWOs during our three-year review period and noted that the County paid approximately \$41.6 million, or 16% of total project costs, for non-catalog items (see Table 3). For ISD, approximately 30% (or \$27 million) of the department's total project costs are for NPP items, or 66% of the total NPP cost for all four departments.

Table 3



Because NPP items generally result in higher project costs, County management should implement the recommendations below, including exploring other options for adding non-catalog items to the catalog thereby eliminating or reducing the use of non-catalog items, to ensure proper controls over project costs.

Just prior to and subsequent to our review period, DPW and ISD, respectively, implemented the “Live Book,” a method intended to reduce or eliminate non-catalog items and mitigate the types of NPP concerns noted throughout our review. Specifically, if a non-catalog item is needed to complete a project, Gordian will research the item’s local market price and add the item to the catalog. The contractor must then apply their bid factor to the new catalog item. Some departments are still evaluating whether to use Live Book, due to possible delays in researching/adding an item to the catalog. Therefore, the Countywide work group should evaluate ways in which to implement our recommendations related to NPP items (below), considering that departments may be using Live Book, NPP, or a combination of both.

**Recommendations**

**County management:**

- 11. **Ensure staff do not approve proposals that lack required details (e.g., measurements, product descriptions, etc.) or sufficient breakdown of all non-catalog tasks and services needed to complete the project.**

**Countywide work group:**

- 12. **Establish criteria that includes a limit (i.e., a percentage of total work order amount) for non-catalog items that can be used in individual Job Order Contract projects, and a supervisory review process to clarify**

when non-catalog items are allowed to exceed the limit, where appropriate.

13. Establish Countywide guidelines for departments to require contractors to provide three quotes for non-catalog items and ensure documentation is maintained in project files justifying the lack of three quotes, where appropriate.
14. Require contractors to apply their bid factor percentage to non-catalog items to mitigate the excessive use of non-catalog items and to discourage contractors from submitting low bids, or explore other options for adding non-catalog items to the catalog thereby eliminating or reducing the use of non-catalog items, where appropriate.

**Community Development Commission and Internal Services Department management:**

15. Ensure staff verify that all non-catalog items and materials cannot be priced through the Job Order Contract consultant's catalog before using non-catalog pricing.

**Department of Parks and Recreation management:**

16. Require contractors to select the lowest quote for non-catalog items and materials, where appropriate.
17. Ensure vendor quotes specify the costs for all non-catalog items and materials.

#### **Contractor Selection/Contractor Responsibility**

We noted in previous sections of this report that bid factors were low, averaging from between .56 and .69 during the three-year period reviewed. We also noted significant deficiencies in our review of contractor proposals (i.e., contractors padding/inflating price proposals, using NPPs inappropriately, etc.). These practices may be the result of contractors trying to compensate for low bids. Because of these concerns, we evaluated the process used to select JOC contractors to determine if there are ways to improve the quality of bids and/or the quality of contractors.

Under California law, a JOC shall be competitively bid and awarded to the "lowest responsive and responsible" bidder. A bid is responsive if it meets the technical requirements of the bid instructions (e.g., providing copies of required licenses, etc.) and promises to do what the bidding instructions demand. A responsible bidder, according to PCC Section 1103, is defined as a bidder who has demonstrated the attributes of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the contract.



In pursuing a finding of non-responsibility against a bidder, the departments must comply with the procedures set forth in County Code Chapter 2.202. The County Code also includes a number of factors for determining contractor non-responsibility for purposes of making contract award decisions. Such factors may include whether the contractor has committed labor law violations, has been debarred from bidding on County contracts, or has made false claims. Contractor responsibility can also be established through a review of the contractor's documented performance on any County contracts.

During our review, we noted that departments review bids for responsiveness and contractor responsibility. However, departments use some of the factors, but not all, when determining contractor responsibility. Specifically, departments indicated that they conduct a review to determine if the contractors have committed labor law violations, been debarred, or made false claims. If none of these issues exist, the department deems the contractors responsible and awards the contract to the lowest responsive bidder. However, departments do not consider the contractor's performance on County contracts when determining responsibility. One department indicated that in order to deem a contractor not responsible based on performance it would require department staff to spend a significant amount of time monitoring the contractor, documenting performance issues, and participating in possible administrative and/or appeal processes.

Due to the significant deficiencies noted in our review, County departments should begin documenting and reporting contractor performance issues. This documentation may be used to establish a performance record for demonstrating the quality of a contractor's work, as well as providing a record of the department's experience with a contractor. These records, as well as those from other County departments, should be used to determine if a contractor is responsible for the purpose of awarding a contract. Documenting performance issues could also impact the quality of future bids, contractor performance, etc., as contractors become aware that performance will be used in determining responsibility in connection with contract award decisions.

Therefore, the Countywide work group, in conjunction with County Counsel, needs to develop and implement a standard approach, including consistent criteria and procedures, for monitoring, evaluating, and documenting contractor performance, and a method for departments to incorporate these and other departments' experiences when determining contractor responsibility. When developing the standard approach, the Countywide work group should determine how the County's Contractor Alert Reporting Database (CARD), a centralized online database for departments to share and track significant contractor non-compliance, will be used in determining contractor responsibility. In the meanwhile, JOC departments should immediately begin using existing CARD criteria (e.g., contractor has experienced administrative issues that affect their ability to comply with contract requirements, such as loss of licenses, contractor has not corrected significant contract noncompliance issues, etc.) for placing contractors in CARD and alerting County departments of poorly performing contractors. All departments with County contracts are required to use CARD to report and track poorly performing contractors.



**Recommendations**

**Countywide work group:**

- 18. In conjunction with County Counsel, develop and implement a standard approach, including consistent criteria and procedures, for monitoring, evaluating, and documenting contractor performance, and a method for departments to incorporate these and other departments’ experiences, including issues noted in the County’s Contractor Alert Reporting Database, when determining contractor responsibility.**
- 19. Utilize the County’s Contractor Alert Reporting Database for alerting County departments of poorly performing contractors.**

**County Contracts with Gordian**

DPW, ISD, and CDC each have a contract with Gordian. During our review, we noted the following areas where the County can improve its JOC consultant contracts.

**JOC Consultant Payment Mechanism** - Currently, Gordian’s fees are based on a percentage of total project costs. Therefore, Gordian directly benefits when proposal costs are higher (or inflated), including instances when contractors use products outside the catalog which can also result in higher project costs. To reduce the appearance of a conflict of interest and to ensure contractor proposal costs are appropriate, the Countywide work group, in conjunction with County Counsel and the JOC consultant, should consider restructuring payment terms for JOC consultant services to ensure the County’s interests are protected. When considering the new payment terms, include an evaluation of whether JOC consultants should continue to be paid a percentage of project costs for items outside of the consultant’s catalog (NPP items).

In addition, Gordian’s fee percentage is currently determined by each department’s project volume. As noted in the example below, the fee percentage decreases as the department’s project volume increases. The County’s use of three separate contracts with Gordian does not maximize the volume price discounts that would be available with one consolidated agreement. If JOC consultant’s fees continue to be based on a percentage of total project costs, the Countywide work group, in conjunction with County Counsel, should work with the JOC consultant to negotiate better pricing for the County based on the combined project volume for all County departments.

<b>Project Volume</b>	<b>Fee Percentage</b>
<b>\$0-\$10,000,000</b>	<b>1.95%</b>
<b>&gt;\$10,000,000 - \$25,000,000</b>	<b>1.50%</b>
<b>&gt;\$25,000,000</b>	<b>1.25%</b>

**Inconsistencies among County JOC Consulting Contracts** - Gordian has indicated that they provide the same basic level of service to all three County departments (i.e., a custom catalog, access to the Gordian system, and training). However, DPW’s contract appears to provide for additional services such as assisting with price proposal reviews (as requested), and researching recurring NPP items to develop new catalog tasks. In addition, as noted above, Gordian’s fees are currently based on a percentage of total project costs, and the percentage decreases as the volume of projects increases. However, the rate at which the percentage decreases varies from department to department as noted in the fee excerpts below.

Department 1		Department 2	
Project Volume	Fee Percentage	Project Volume	Fee Percentage
\$0-\$5,000,000	1.95%	\$0-\$5,000,000	1.95%
>\$5,000,000 - \$10,000,000	1.76%	>\$5,000,000 - \$7,000,000	1.76%
>\$10,000,000 - \$13,000,000	1.70%	>\$7,000,000 - \$10,000,000	1.74%

Although the fee structure and payment mechanisms may change based on our recommendations above, the Countywide work group, in conjunction with County Counsel and the JOC consultant, should ensure County contracts for JOC consulting services contain standardized language.

**JOC Consulting Contracts Lack Specificity** - During our review, we noted instances where the County contracts with Gordian lacked specificity. For example, regarding JOC program training, one contract indicated “all aspects of the program are to be covered in the training.” However, the contract did not address the specific required training topics (e.g., price proposal review, scope development, etc.). Another contract indicated Gordian was to “conduct as many training courses as are required to ensure that County staff is fully prepared to execute the JOC system.” In these instances, the contractor is left to determine which training topics to cover and the frequency, while the departments may have other expectations.

We also noted other examples where contracts provide for Gordian to assist in the “development and execution of work orders” or to provide “complete technical and marketing support.” However, it is not clear what services Gordian is expected to provide in these instances. When contracts lack specificity, they allow for various interpretations of contract requirements. Therefore, the Countywide work group should ensure JOC consulting contracts describe in detail the services that are required of the JOC consultant.

**Recommendations**

**Countywide work group:**

- 20. In conjunction with County Counsel and the Job Order Contract consultant, consider restructuring payment terms for the consultant’s services to ensure the County’s interests are protected.**

21. In conjunction with County Counsel, work with the Job Order Contract consultant to negotiate better pricing for the County based on the combined project volume for all County departments, if the consultant's fees continue to be based on a percentage of total project costs.
22. In conjunction with County Counsel and the Job Order Contract consultant, ensure County contracts with the consultant contain standardized language for Job Order Contract consulting service contracts.
23. Ensure Job Order Contract consulting service contracts describe in detail the services that are required of the Job Order Contract consultant.

### JOC Policies and Procedures

We reviewed the departments' procedures related to the review and approval of proposals for SWOs and NPP items. We noted that CDC does not have formal JOC policies and procedures, but has a training and reference manual that Gordian prepared for CDC. For the remaining three departments, DPW has formal policies and procedures that were approved by management, while DPR and ISD have draft procedures that have not been finalized or approved by their management. We reviewed the JOC policies and procedures for DPW, DPR, and ISD, and noted that the procedures did not always include key controls or clearly defined responsibilities needed to effectively manage their JOC programs. In addition, we noted that not all the procedures are consistent among the departments. Specifically, we noted the following:

- DPR and DPW's procedures indicate that SWOs should be reviewed and evaluated for reasonableness by the project manager. However, ISD's procedures do not indicate who is responsible for performing this task.
- DPW's procedures indicate that three price quotes are required for NPP items and that the lowest quote must be selected. The procedures also indicate that staff must document/justify if they are unable to obtain three quotes. DPR and ISD's procedures do not include these requirements.
- DPR and DPW's procedures do not indicate a 10% limit or cap is required on NPP items that can be used for each project. ISD indicated that this requirement is not feasible due to the nature of their JOC projects. It should also be noted that the departments' practice for limiting NPP items is not always documented or consistent with their procedures. For example, as noted in a previous section of this report, DPW indicated that they limit non-catalog items in practice, but we noted instances where DPW exceeded their limits.
- DPR, DPW, and ISD's procedures do not indicate whether NPP items are paid using the contractor's bid factor percentage, or if NPPs are paid at cost plus a mark-up fee

(i.e., 100% of cost plus a mark-up percentage). During our review, for example, DPW indicated that they require contractors to bill using the bid factor percentage, while ISD indicated that they allow contractors to bill for NPPs at 100% cost plus a mark-up fee. In a previous section of this report, we noted instances where DPW continued to apply a mark-up fee on NPP items even though that practice was eliminated.

- DPR and DPW's procedures indicate that JOC is designed for repair and refurbishment projects. However, the procedures do not clearly define what constitutes repair or refurbishment projects. We also noted that ISD's procedures do not indicate the types of projects allowed under the JOC program. In addition, as noted in the Other Issues section of this report, the procedures do not clearly define the size of the projects that are allowed under JOC.

Because of the issues noted above, the Countywide work group needs to develop and/or enhance formal written policies and procedures detailing all aspects of the County's JOC program, including but not limited to: supervisory review/approval process for SWOs; obtaining three quotes for NPPs and requiring documentation to justify the lack of three quotes; establishing a limit on NPPs, where appropriate; determining whether NPPs are subject to the bid factor percentage; and clearly defining the types and sizes of projects allowed under the JOC program. As noted throughout our report, there are other opportunities for improving and/or enhancing the County's JOC program. These areas should also be addressed in the JOC policies and procedures. For example, the Countywide work group should indicate if and when independent estimators should be used to determine the appropriateness of price proposals. In addition, JOC procedures should delineate the processes for evaluating contractor performance, documenting and communicating results to management, and using the results in determining each contractor's responsibility for purposes of awarding a JOC.

### **Recommendations**

- 24. Countywide work group develop and/or enhance formal written procedures detailing all aspects of the County's Job Order Contract program, including the areas discussed above and throughout this report.**
- 25. County management ensure Job Order Contract procedures are distributed to all staff with Job Order Contract responsibilities.**

### **Management Reporting**

We noted all four departments provide management with summary reports of JOC projects each month. The reports generally contain a list of active projects, and include various details such as job title/description, project budgets, etc. However, the reports do not always contain other pertinent project information (e.g., project start/due dates, estimated completion dates, project status, delays, etc.), or other critical information needed to effectively manage and monitor the JOC program. For example, throughout



our review, we noted a number of significant deficiencies related to the use of NPP items and contractor proposal costs. Having reports that detail, at a minimum, the following information may provide management with the tools needed to timely detect and correct problems:

- Percent increase in initial work order project costs due to SWOs - Highlighting initial work order project cost increases due to SWOs may indicate problems with projects (i.e., poorly designed scopes of work and/or contractors attempting to compensate for bidding low).
- Justification for SWOs - Requiring project managers to include a justification for why an SWO is needed (e.g., client requested change, unforeseen circumstance, etc.) may highlight trends with specific contractors and/or provide information about how projects are being managed.
- Percent of NPP items compared to total project costs - Because NPP items may be used by contractors to compensate for submitting low bids, a higher level of scrutiny is required to ensure NPP items are appropriate. The excessive use of NPP items may also indicate the need for the JOC consultant to update their catalog.
- Number and/or percentage of SWOs by project manager - The tracking of SWOs by project manager could facilitate the identification of individuals who are developing initial project scopes that do not adequately define the full extent of each project. Departments could then provide these project managers with additional training for developing detailed project scopes.

The Countywide work group needs to develop a standard approach for monitoring the JOC program. The approach should include, but not be limited to, the development of customized monthly JOC project summary reports that include the information noted above, as well as other key information needed to effectively monitor the JOC program and the performance of project managers. County management should review the reports monthly and take appropriate corrective action, where necessary.

### **Recommendations**

- 26. Countywide work group develop a standard approach for monitoring the Job Order Contract program. The approach should include, but not be limited to, the development of customized monthly project summary reports that include the information noted above, as well as other key information needed to effectively monitor the program.**
- 27. County management review the Job Order Contracting project summary reports monthly and take appropriate corrective action, where necessary.**

### Other Issues

During our review, we noted the following areas where County management may benefit from implementing additional procedures and/or controls. For example:

**JOC Project Delegated Authority not Consistent with PCC** - As previously noted, JOCs are annual contracts authorized by the Board in accordance with the PCC, and are used to issue JOC projects (i.e., for repair, remodeling, or other repetitive work) as needed throughout the year. The term "JOC projects" in this section refers to projects that fall under the purview of the PCC. According to the PCC, individual projects issued under JOCs also require Board approval. The Board may delegate to County departments the authority, by ordinance, to approve individual JOC projects up to \$75,000. Each JOC project exceeding that amount must be approved by the Board. We noted the following:

- DPW - County Code 2.18.040 provides DPW with the delegated authority to issue JOC projects below \$75,000. However, for projects that exceed \$75,000, it appears that when seeking Board approval of its annual JOCs, DPW believed it was receiving blanket authority from the Board to issue any JOC project up to the maximum JOC amount (i.e., \$4.6 million). However, DPW must seek Board approval for each JOC project that exceeds \$75,000. We selected ten JOC projects above \$75,000 and noted the Board did not approve eight (80%) projects, totaling approximately \$1.9 million.

For transparency, and to ensure consistency with the PCC, DPW needs to ensure they obtain Board approval for all JOC projects that exceed \$75,000, and specify in their JOC award Board requests that they will separately seek Board approval for each JOC project exceeding \$75,000.

- CDC - Since CDC is not a County department, the PCC only applies to County JOC projects and not CDC/Housing Authority (HA) JOC projects. Therefore, to be consistent with the PCC, CDC should obtain Board approval for all County JOC projects, or request delegated authority to issue County JOC projects below \$75,000. In addition, similar to DPW, we noted that when seeking Board approval of its annual JOCs, CDC requests blanket authority from the Board to issue any JOC project up to the maximum JOC amount (i.e., \$4.6 million). However, CDC should clarify in their JOC award Board requests that they will separately seek Board approval for each County JOC project that exceeds \$75,000 and clarify how Board approvals will be obtained for CDC/HA projects (i.e., request approval for each project, request delegated authority, etc.).
- ISD and DPR - Both departments have requested delegated authority to issue JOC projects below \$75,000 when seeking Board approval of their annual JOCs. However, ISD and DPR have not established an ordinance, pursuant to PCC Section 20145, to delineate the Board approved delegated authority for issuing JOC projects in an amount not to exceed \$75,000.

**No Memorandum of Understanding (MOU) or Written Agreement between DPW and DPR** - According to DPR, DPW conducts JOC solicitations on DPR's behalf, reviews bids, and provides technical and administrative support. Once the JOC contracts are awarded, DPR issues, administers, and manages the individual projects under the JOCs. DPR indicated that they have this arrangement because they lack the resources and expertise for soliciting JOCs. However, this arrangement, including fees for services and responsibilities of each department, are not documented in an MOU or other written agreement. DPW and DPR should work with County Counsel to create an MOU or other written agreement delineating the responsibilities of each department including fees associated with these services.

**JOC Project Eligibility/Limits** - During our review, we noted large projects ranging from between \$700,000 and approximately \$8.0 million that were completed through JOC. For example, we noted one project totaling \$7.9 million that was split and completed under two separate JOCs. Although the PCC does not provide for project limits, DPW's procedures indicate that JOC is designed to accomplish small to medium-sized projects, and DPR's procedures indicate that JOC is designed to accomplish minor repair and refurbishment projects. However, the procedures do not clearly define what constitutes small, medium, or minor, and are therefore subject to interpretation by the reader.

We noted in the Long Beach report that JOC projects are limited to \$500,000. While \$500,000 may not be an appropriate threshold for the County given its size, the County could benefit from establishing clearly defined project limits (Countywide and/or department specific, as well as project specific) for JOC projects. Regardless of the limits, all projects should be subject to management evaluation to ensure JOC, as opposed to more traditional procurement methods, is appropriate. In addition, when requesting Board approval for JOC projects, departments should indicate in their Board letter that the department has made the determination that JOC is the most appropriate procurement method.

**Gordian Underpayments by CDC** - A Notice to Proceed (NTP) or a Work Order Authorization (WOA) are formal authorizations for a contractor to begin work on a project issued under a JOC. Project managers enter NTP/WOA dates in eGordian which prompts Gordian to bill departments for their services. For CDC, we noted instances where NTP/WOA dates were not always entered in eGordian. As a result, we compared a list of completed CDC projects to Gordian's billing statements and noted eight projects that were not billed by Gordian, resulting in underpayments of approximately \$9,600. CDC indicated that the lack of NTP/WOA dates was an oversight, and that Gordian will submit a bill for these projects. CDC management should ensure all NTP/WOA dates are entered in eGordian.

**Recommendations****Department of Public Works management:**

28. Ensure Board approval is obtained for Job Order Contract projects exceeding \$75,000, and clarify in their Job Order Contract award Board requests that they will separately seek Board approval for each Job Order Contract project exceeding \$75,000.

**Community Development Commission management:**

29. Obtain Board approval for all County Job Order Contract projects, or request delegated authority to issue County Job Order Contract projects below \$75,000. In addition, clarify in the department's Job Order Contract award Board requests that the department will separately seek Board approval for each County Job Order Contract project that exceeds \$75,000 and clarify how Board approvals will be obtained for Community Development Commission/Housing Authority projects (e.g., request approval for each project, request delegated authority, etc.).
30. Ensure all Notice to Proceed/Work Order Authorization dates are entered in eGordian to ensure Gordian bills for all services rendered.

**Internal Services Department and the Department of Parks and Recreation management:**

31. Work with County Counsel to establish ordinances to reflect Board approved delegated authority to issue Job Order Contract projects in an amount not to exceed \$75,000.

**Department of Public Works and Department of Parks and Recreation management:**

32. Work with County Counsel to create a Memorandum of Understanding or other written agreement delineating the responsibilities of each department for the Job Order Contract services provided, including fees associated with these services.

**Countywide work group:**

33. Consider establishing project limits (Countywide and/or department specific, as well as project specific) for Job Order Contract projects. Regardless of the limits, all projects should be subject to management evaluation to ensure Job Order Contracting, as opposed to more traditional procurement methods, is appropriate. In addition, when



requesting Board approval for Job Order Contract projects, departments should indicate in their Board letter that the department has made the determination that Job Order Contracting is the most appropriate procurement method.




SACHI A. HAMAI  
Chief Executive Officer

County of Los Angeles  
**CHIEF EXECUTIVE OFFICE**

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 713, Los Angeles, California 90012  
(213) 974-1101  
<http://ceo.lacounty.gov>

April 4, 2017

To: John Naimo  
Auditor-Controller

From: Sachi A. Hamai   
Chief Executive Officer

Board of Supervisors  
HILDA L. SOLIS  
First District

MARK RIDLEY-THOMAS  
Second District

SHEILA KUEHL  
Third District

JANICE HAHN  
Fourth District

KATHRYN BARGER  
Fifth District

**JOB ORDER CONTRACTS REVIEW**

As part of your review of the use of Job Order Contracts requested by the Board on June 14, 2016, your first recommendation is that the Chief Executive Officer establish a Countywide work group that includes each County agency that utilizes Job Order Contracts. Because Job Order Contracts are an essential tool for the timely delivery of County projects, and because the overall review points to the need of consistent application of best management practices across all agencies which use Job Order Contracts, we concur with your recommendation, and will assign a Senior Manager to lead the work group.

If you have any questions, please contact Assistant Chief Executive Officer, David Howard, at (213) 893-2477.

SAH:JJ  
DPH:mda

*"To Enrich Lives Through Effective And Caring Service"*

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MARK PESTRELLA, Director

## COUNTY OF LOS ANGELES

### DEPARTMENT OF PUBLIC WORKS

*"To Enrich Lives Through Effective and Caring Service"*

900 SOUTH FREMONT AVENUE  
ALHAMBRA, CALIFORNIA 91803-1331  
Telephone: (626) 458-5100  
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ADDRESS ALL CORRESPONDENCE TO:  
P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE  
REFER TO FILE **A-0**

April 10, 2017

TO: John Naimo  
Auditor-Controller

FROM: Mark Pestrella   
for Director of Public Works

#### **RESPONSE TO JOB ORDER CONTRACTS REVIEW**

This memorandum is in response to the Job Order Contract (JOC) program review, conducted by the Auditor-Controller (AC). We appreciate this opportunity to address any findings and recommendations by the AC.

Public Works has continually implemented improvements in its policies and procedures to eliminate deficiencies and vulnerabilities in the JOC program. We welcome the opportunity to make further enhancements to the program within current constraints, and are open to spearheading legislative changes at the State level.

Brief responses and status of any possible corrective actions are provided below the recommendations. Public Works looks forward to working with the AC and other departments to strengthen the County JOC program.

#### **Recommendation 1:**

**Chief Executive Office Management, in conjunction with each department that utilizes JOCs, form a Countywide Work Group to expedite corrective actions to address this report's findings/recommendations.**

Agree. Public Works will participate in any future work groups created to address the recommendations of the JOC audit findings as approved by the Board.

John Naimo  
April 10, 2017  
Page 2

## **County Management**

### **Recommendation 2:**

**Instruct staff to immediately discontinue negotiating project costs, monitor for compliance, and take disciplinary action, where appropriate.**

Agree and implemented. Public Works staff is required to verify scope of work, line items, and that quantities are accurate and to notify the contractor to make appropriate revisions to accurately represent their proposals. Public Works will reinforce our policy and monitor for compliance.

### **Recommendation 3:**

**Provide training to staff on how to properly review and approve price proposals.**

Agree and implemented. Public Works will retrain its staff on how to properly review and approve proposals.

### **Recommendation 4:**

**Require project managers to maintain documentation in project files to support the need for all supplemental work orders.**

Agree and implemented. This is a current requirement. Public Works will update its JOC program policies and procedures and will train its staff to better define and maintain documentation necessary for a project.

## **Countywide Work Group**

### **Recommendation 5:**

**Develop Countywide guidelines that include thresholds requiring departments to obtain an independent estimator's (i.e., third-party or in-house) review of price proposals, where appropriate.**

Agree. Public Works will work with the Countywide Work Group to address this recommendation.

### **Recommendation 6:**

**Develop alternative methods for identifying supplemental work orders that are initiated for project phases.**



John Naimo  
April 10, 2017  
Page 3

Agree. Public Works will work with the Countywide Work Group to address this recommendation.

#### **Internal Services Department and Public Works Management**

##### **Recommendation 7:**

**Ensure project scopes are specific and clearly delineate project requirements, and contain accurate measurements, quantity of items needed, etc.**

Agree and implemented. Public Works will reinforce our policy department-wide.

#### **Public Works Management**

##### **Recommendation 10:**

**Ensure supplemental work orders are not split to circumvent management approval.**

Agree and implemented. Public Works has thoroughly reviewed related Supplemental Work Orders and finds that circumventing the approval process is not an issue in these cases. Public Works will reinforce this policy and monitor for compliance.

#### **County Management**

##### **Recommendation 11:**

**Ensure staff do not approve proposals that lack required details (e.g., measurements, product descriptions, etc.) or sufficient breakdown of all non-catalog tasks and services needed to complete the project.**

Agree and implemented. Due to the implementation of the "live" JOC book in April 2016, non-prepriced items are no longer part of Public Works projects.

#### **Countywide Work Group**

##### **Recommendation 12:**

**Establish criteria that includes a limit (i.e., a percentage of total work order amount) for non-catalog items that can be used in individual JOC projects, and a supervisory review process to clarify when non-catalog items are allowed to exceed the limit, where appropriate.**

John Naimo  
April 10, 2017  
Page 4

Agree and implemented. Due to the implementation of the "live" JOC book in April 2016, non-prepriced items are no longer part of Public Works projects. Public Works will work with the Countywide Work Group to address this recommendation.

**Recommendation 13:**

**Establish Countywide guidelines for departments to require contractors to provide three quotes for non-catalog items and ensure documentation is maintained in project files justifying the lack of three quotes, where appropriate.**

Agree and implemented. Due to the implementation of the "live" JOC book in April 2016, non-prepriced items are no longer part of Public Works projects. Public Works will work with the Countywide Work Group to address this recommendation.

**Recommendation 14:**

**Require contractors to apply their bid factor percentage to non-catalog items to mitigate the excessive use of non-catalog items and to discourage contractors from submitting low bids, or explore other options for adding non-catalog items to the catalog thereby eliminating or reducing the use of non-catalog items, where appropriate.**

Agree and implemented. Due to the implementation of the "live" JOC book in April 2016, non-prepriced items are no longer part of Public Works projects. Public Works will work with the Countywide Work Group to address this recommendation.

**Recommendation 18:**

**In conjunction with County Counsel, develop and implement a standard approach, including consistent criteria and procedures, for monitoring, evaluating, and documenting contractor performance, and a method for departments to incorporate these and other departments' experiences when determining contractor responsibility.**

Agree. Public Works will work with the Countywide Work Group to address this recommendation.

**Recommendation 19:**

**Utilize the County's Contractor Alert Reporting Database for alerting County departments of poorly performing contractors.**

Agree. Public Works will work with the Countywide Work Group to address this recommendation.

John Naimo  
April 10, 2017  
Page 5

**Recommendation 20:**

**In conjunction with County Counsel and the JOC consultant, consider restructuring payment terms for the consultant's services to ensure the County's interests are protected.**

Agree. Public Works will work with the Countywide Work Group to address this recommendation.

**Recommendation 21:**

**In conjunction with County Counsel, work with the JOC consultant to negotiate better pricing for the County based on the combined project volume for all County departments, if the consultant's fees continue to be based on a percentage of total project costs.**

Agree. Public Works will work with the Countywide Work Group to address this recommendation.

**Recommendation 22:**

**In conjunction with County Counsel and the JOC consultant, ensure County contracts with the consultant contain standardized language for JOC consulting service contracts.**

Agree. Public Works will work with the Countywide Work Group to address this recommendation.

**Recommendation 23:**

**Ensure JOC consulting service contracts describe in detail the services that are required of the JOC consultant.**

Agree. Public Works will work with the Countywide Work Group to address this recommendation.

**Recommendation 24:**

**Develop and/or enhance formal written procedures detailing all aspects of the County's JOC program, including the areas discussed above and throughout this report.**

John Naimo  
April 10, 2017  
Page 6

Agree. Public Works will work with the Countywide Work Group to address this recommendation.

### **County Management**

#### **Recommendation 25:**

**Ensure JOC procedures are distributed to all staff with JOC responsibilities.**

Agree and implemented. Public Works will redistribute JOC procedures to all staff with JOC responsibilities.

### **Countywide Work Group**

#### **Recommendation 26:**

**Develop a standard approach for monitoring the JOC program. The approach should include, but not be limited to, the development of customized monthly project summary reports that include the information noted above, as well as other key information needed to effectively monitor the program.**

Agree. Public Works will work with the Countywide Work Group to strengthen its monthly summary reports.

### **Countywide Management**

#### **Recommendation 27:**

**Review the JOC project summary reports monthly and take appropriate action, where necessary.**

Agree and implemented. Public Works management reviews JOC project summary reports at least on a monthly basis and takes appropriate action where necessary.

### **Public Works Management**

#### **Recommendation 28:**

**Ensure Board approval is obtained for JOC projects exceeding \$75,000, and clarify in their JOC award Board requests that they will separately seek Board approval for each JOC project exceeding \$75,000.**

Agree and implemented. Public Works will seek Board authority for construction projects exceeding \$75,000 as governed by the Public Contract Code.



John Naimo  
April 10, 2017  
Page 7

**Public Works and Department of Parks and Recreation Management:**

**Recommendation 32:**

**Work with County Counsel to create a memorandum of understanding or other written agreement delineating the responsibilities of each department for the JOC services provided, including fees associated with these services.**

Agree. Public Works will delineate the responsibilities for JOC services provided to each client department in a format approved by County Counsel.

**Countywide Work Group**

**Recommendation 33:**

**Consider establishing various limits (Countywide and/or department specific, project specific, etc.) for projects to be completed under the JOC program, and require a management review process when there is a need to exceed the limits. Regardless of the limits, all projects should be subject to management evaluation to ensure JOC, as opposed to more traditional procurement methods, is appropriate. In addition, when requesting Board approval for JOC projects, departments should indicate in their Board letter that the department has made the determination that Job Order Contracting is most appropriate procurement method.**

Agree. Public Works will work with the Countywide Work Group to address this recommendation.

If you have any questions, please call me or your staff may contact Massood Eftekhari at (626) 458-4016.

ME:mg  
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SCOTT MINNIX  
Director

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**INTERNAL SERVICES DEPARTMENT**

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*"To enrich lives through effective and caring service"*

April 5, 2017

**To:** John Naimo  
Auditor-Controller

**From:** Scott Minnix *SM*  
Director

**RESPONSE TO JOB ORDER CONTRACT (JOC) REVIEW**

Thank you for the opportunity to review and respond to the JOC Audit Review, conducted by your department, of the policies and processes employed by the Internal Services Department (ISD), the Departments of Public Works (DPW) and Parks and Recreation (Parks) and the Community Development Commission (CDC).

Attached is ISD's response(s) to the findings and recommendations cited in the Audit Review.

Please know that ISD strives to effectively and efficiently manage our Job Order Contract processes, contractors, and work orders, and align practices consistent with the federal, State, and County mandates.

We appreciate and value the opportunity to update the processes of this critical countywide program. ISD utilizes JOC to augment our ability to effectively and efficiently maintain and repair County infrastructure and facilities, and to minimize the disruption of business operations of our customer departments and delivery of public services to the constituents of the County of Los Angeles. We thank your staff for providing guidance and assistance in these efforts, and will continue to work with the other departments to strengthen our JOC policies and processes.

For any additional questions, please contact me at: (323) 267-2101 or via email at: [sminnix@isd.lacounty.gov](mailto:sminnix@isd.lacounty.gov), or Dave Chittenden at (323) 267-2103 or via email at: [dchittenden@isd.lacounty.gov](mailto:dchittenden@isd.lacounty.gov).

SM:DC:JA:jp

Attachment

**RESPONSE TO JOB ORDER CONTRACT (JOC) REVIEW**

Recommendation

1. Chief Executive Office management, in conjunction with each department that utilizes Job Order Contracts, form a Countywide work group to expedite corrective actions to address this report's findings/recommendations.

ISD Response: Agreed.

ISD will participate in a Countywide work group established and led by the Chief Executive Officer (CEO) to identify and expedite corrective actions. Target implementation date to be determined by the work group. ISD has already taken action in this effort by leading an informal work group in response to the SD3 Motion of December 20, 2016, concerning County JOC programs. We will offer to transfer leadership of this work group to the CEO as a starting point.

**County Management:**

Recommendation

2. Instruct staff to immediately discontinue negotiating project costs, monitor for compliance, and take disciplinary action where appropriate.

ISD Response: Agreed and Implemented.

ISD does not negotiate project costs. JOC, by design, is a low bid indefinite quantity contracting method that requires verification of quantities per the job specifications during the request for proposal phase.

However, the following safeguards were implemented in March 2017 to protect against inflated price proposals by contractors: "Live Book" construction task catalog (CTC) process; Liquidated Damages; Unilateral Work Order process; required monthly meetings with JOC principals; and third party estimator review of work orders over \$20,000.

In terms of monitoring, ISD utilizes seven levels of review and approval for all work orders and supplemental work orders (SWOs) to monitor compliance. Each work order and SWO is reviewed by the Project Manager, JOC Administration, Planning and Administration, Estimator (as needed), Section Manager, Division Manager, and then the General Manager for authorization.

**RESPONSE TO JOB ORDER CONTRACT (JOC) REVIEW**

Recommendation

3. Provide training to staff on how to properly review and approve price proposals.

ISD Response: Agreed and In-progress.

ISD is updating our JOC program policies and procedures and is scheduling training sessions led by in-house managers, consultant, and JOC consultant; projected completion is July 2017. In the interim, the Section Manager continues to reemphasize the importance of the practice of properly reviewing and approving price proposals to his project managers through individual and team meetings.

For approvals and monitoring, ISD utilizes seven levels of review and approval for all work orders and SWOs to monitor compliance. Each work order and SWO is reviewed by the Project Manager, JOC Administration, Planning and Administration, Estimator (as needed), Section Manager, Division Manager, and then General Manager for authorization.

Recommendation

4. Require project managers to maintain documentation in project files to support the need for all supplemental work orders.

ISD Response: Agreed and Implemented.

This is a current requirement. ISD is updating our JOC program policies and procedures and is scheduling training sessions led by in-house managers, consultant, and JOC consultant for project managers to better define and maintain documentation necessary for a project. ISD instructed Gordian to develop a field in the eGordian system for project identification for a more granular definition of work order and SWO categories. Projected completion is July 2017. In the interim, the Section Manager continues to reemphasize the importance of proper documentation to his project managers through individual and team meetings.



**RESPONSE TO JOB ORDER CONTRACT (JOC) REVIEW**

**Countywide work group:**

Recommendation

5. Develop Countywide guidelines that include thresholds requiring departments to obtain an independent estimator's (i.e., third party or in-house) review of price proposals, where appropriate.

ISD Response: Agreed and Implemented.

Since 2011, ISD has established a threshold for an independent estimator's review of price proposals for all work orders and SWOs greater than \$20,000.

ISD plans to discuss this matter and develop recommendations with the work group. Target implementation date to be determined by the work group.

Recommendation

6. Develop alternative methods for identifying supplemental work orders that are initiated for project phases.

ISD Response: Agreed and In-progress.

ISD is in the process of evaluating the use of an alpha-numeric naming convention to identify categories of SWOs.

ISD plans to discuss this matter and develop recommendations with the work group. Target implementation date to be determined by the work group.

**Internal Services Department and Department of Public Works management:**

Recommendation

7. Ensure project scopes are specific and clearly delineate project requirements, and contain accurate measurements, quantity of items needed, etc.

ISD Response: Agreed and In-progress.

ISD is updating our JOC program policies and procedures and is scheduling training sessions led by in-house managers, consultant, and JOC consultant for project managers to define project requirements within the detailed scope of work for work orders. Projected completion is July 2017.

**RESPONSE TO JOB ORDER CONTRACT (JOC) REVIEW**

**Internal Services Department management:**

Recommendation

8. Ensure Job Order Contracting is properly used for completing work as defined in the Public Contract Code, and that projects are not executed as a means to circumvent the County's procurement process.

ISD Response: Agreed and In-progress.

ISD is updating our JOC program policies and procedures and is scheduling training sessions led by in-house managers; consultant, and JOC consultant for project managers to define appropriate usage of the JOC mechanism under Public Contract Code. Projected completion is July 2017.

For approvals and monitoring, ISD utilizes seven levels of review and approval for all work orders and SWOs to monitor compliance. Each work order and SWO is reviewed by the Project Manager, JOC Administration, Planning and Administration, Estimator (as needed), Section Manager, Division Manager, and the General Manager for authorization.

Recommendation

9. Ensure supplemental work orders are only executed for additional work that is related to the original project scope.

ISD Response: Agreed in concept and In-progress.

ISD is exploring minimizing the use of SWOs for work in addition to the original work order, on a case-by-case basis. ISD is also in the process of evaluating the use of an alpha-numeric naming convention to identify categories of SWOs.

ISD plans to discuss this matter and develop recommendations with the work group. Target implementation date to be determined by the work group.

**RESPONSE TO JOB ORDER CONTRACT (JOC) REVIEW**

**County management:**

Recommendation

11. Ensure staff do not approve proposals that lack pertinent details (e.g., measurements, product descriptions, etc.) or sufficient breakdown of all non-catalog tasks and services needed to complete the project.

ISD Response: Agreed and In-progress.

ISD is updating our JOC program policies and procedures and is scheduling training sessions led by in-house managers, consultant, and JOC consultant for project managers to ensure an accurate and consistent level of detail is provided in all detailed scope of work documents. Projected completion is July 2017.

Non-catalog items are now handled via the "Live Book" CTC process. If an item is not in the CTC, Gordian will add the item and its local market cost, which will convert it into a catalog item. The contractor must then apply their adjustment factor to the new catalog item.

**Countywide work group:**

Recommendation

12. Establish criteria that includes a limit (i.e., a percentage of total work order amount) for non-catalog items that can be used in individual Job Order Contract projects, and a supervisory review process to clarify when non-catalog items are allowed to exceed the limit, where appropriate.

ISD Response: Agreed and In-progress.

The new Live Book CTC process largely eliminates the use of non-catalog items.

For approvals and monitoring, ISD utilizes seven levels of review and approval for all work orders and SWOs to monitor compliance. Each work order and SWO are reviewed by the Project Manager, JOC Administration, Planning and Administration, Estimator (as needed), Section Manager, Division Manager, and the General Manager for authorization.

ISD plans to discuss this matter and develop recommendations with the work group. Target implementation date to be determined by the work group.

**RESPONSE TO JOB ORDER CONTRACT (JOC) REVIEW**

**Recommendation**

13. Establish countywide guidelines for departments to require contractors to provide three quotes for non-catalog items and ensure documentation is maintained in project files justifying the lack of three quotes, where appropriate.

**ISD Response: Agreed and In-progress.**

The new Live Book CTC process largely eliminates the use of non-catalog items.

For approvals and monitoring, ISD utilizes seven levels of review and approval for all work orders and SWOs to monitor compliance. Each work order and SWO are reviewed by the Project Manager, JOC Administration, Planning and Administration, Estimator (as needed), Section Manager, Division Manager, and the General Manager for authorization.

ISD plans to discuss this matter and develop recommendations with the work group. Target implementation date to be determined by the work group.

**Recommendation**

14. Require contractors to apply their bid factor percentage to non-catalog items to mitigate the excessive use of non-catalog items and to discourage contractors from submitting low bids, or explore other options for adding non-catalog items to the catalog thereby eliminating the use of non-catalog items.

**ISD Response: Agreed and Implemented**

The new Live Book CTC process largely eliminates the use of non-catalog items.

If an item is not in the Live Book, Gordian will add the item and its local market cost into the CTC, which will convert it into a catalog item. The contractor must then apply their adjustment factor to the new catalog item.

ISD plans to discuss this matter and develop recommendations with the work group. Target implementation date to be determined by the work group.

**RESPONSE TO JOB ORDER CONTRACT (JOC) REVIEW**

**Community Development Commission and Internal Services Department management:**

Recommendation

15. Ensure staff verify that all non-catalog tasks and materials cannot be priced through the JOC consultant's catalog before using non-catalog pricing.

ISD Response: Agreed and Implemented.

The assigned project manager works with Gordian to verify CTC items. If the item does not exist, Gordian will then add the item and its local market cost into the CTC, which will convert it into a catalog item. The contractor must then apply their adjustment factor to the new catalog item.

**Countywide work group:**

Recommendation

18. In conjunction with County Counsel, develop and implement a standard approach, including consistent criteria and procedures, for monitoring, evaluating, and documenting contractor performance, and a method for departments to incorporate these and other departments' experiences when determining contractor responsibility.

ISD Response: Agreed and In-progress.

ISD plans to discuss this matter and develop recommendations with the work group and County Counsel. Target implementation date to be determined by the work group.

Recommendation

19. Utilize the County's Contractor Alert Reporting Database for alerting County departments of poorly performing contractors.

ISD Response: Agreed in concept and In-progress.

This recommendation will require a detailed assessment for feasibility by multiple County stakeholders. This is a current discussion topic between ISD and Auditor-Controller Executive Management. ISD plans to discuss this matter and develop recommendations with the work group.



**RESPONSE TO JOB ORDER CONTRACT (JOC) REVIEW**

**Recommendation**

20. In conjunction with County Counsel and the JOC consultant, consider restructuring payment terms for the consultant's services to ensure the County's interests are protected.

**ISD Response: Agreed and In-progress.**

The work group is planning to review our respective contracts with Gordian, prior to their expiration dates, to identify the most beneficial payment terms for the County, and make recommendations.

**Recommendation**

21. In conjunction with County Counsel, work with the JOC consultant to negotiate better pricing for the County based on the combined project volume for all County departments, if consultant's fees continue to be based on a percentage of total project costs

**ISD Response: Agreed and In-progress.**

The work group is planning to review our respective contracts with Gordian, prior to their expiration dates, to identify the most beneficial payment terms for the County, and make recommendations.

**Recommendation**

22. In conjunction with County Counsel and the JOC consultant, ensure County contracts with the consultant contain standardized language for Job Order Contract consulting service contracts.

**ISD Response: Agreed and In-progress.**

The work group is planning to review our respective contracts with Gordian to ensure that the scope(s) of work clearly identifies the work/tasks expected from the contractor and is consistent across all departments and make recommendations.

**RESPONSE TO JOB ORDER CONTRACT (JOC) REVIEW**

Recommendation

23. Ensure Job Order Contract consulting service contracts describe in detail the services that are required of the Job Order Contract consultant.

ISD Response: Agreed and In-progress.

The work group plans to review our contracts with Gordian to ensure that the scope of work clearly identifies the work/tasks expected from the contractor, and is consistent across all departments and make recommendations.

Recommendation

24. Develop and/or enhance formal written procedures detailing all aspects of the County's Job Order Contract program, including the areas discussed above and throughout this report.

ISD Response: Agreed and In-progress.

ISD is updating our JOC program policies and procedures and is scheduling training sessions led by in-house managers, consultant, and JOC consultant.

ISD plans to discuss this matter and develop recommendations with the work group. Target implementation date to be determined by the work group.

**County management:**

Recommendation

25. Ensure Job Order Contract procedures are distributed to all staff with Job Order Contract responsibilities.

ISD Response: Agreed and In-progress.

ISD is updating our JOC program policies and procedures and is scheduling training sessions led by in-house managers, consultant, and JOC consultant for project managers.

**RESPONSE TO JOB ORDER CONTRACT (JOC) REVIEW**

**Countywide work group:**

Recommendation

26. Develop a standard approach for monitoring the Job Order Contract program. The approach should include, but not be limited to, the development of customized monthly project summary reports that include the information noted above, as well as other key information needed to effectively monitor the program.

ISD Response: Agreed and In-progress.

ISD has discussed this matter with Gordian and developed recommendations. To be consistent countywide, ISD will take the recommendations to the work group for consideration. The intent is to establish a common reporting structure within the Gordian system for monthly summary reports.

**County management:**

Recommendation

27. Review the Job Order Contracting project summary reports monthly and take appropriate action, where necessary.

ISD Response: Agreed and In-progress.

ISD has discussed this matter with Gordian and developed recommendations. The intent is to establish a common reporting structure within the Gordian system for monthly summary reports, and take corrective actions when variances appear.

**RESPONSE TO JOB ORDER CONTRACT (JOC) REVIEW**

**Internal Services Department and the Department of Parks and Recreation management:**

Recommendation

31. Work with County Counsel to establish ordinances to reflect Board approved delegated authority to issue Job Order Contract projects in an amount not to exceed \$75,000.

ISD Response: Agreed in concept.

ISD already obtains Board-approved delegated authority for issuing projects at the time the Board approves the Job Order Contract. ISD will work with County Counsel to develop an ordinance that will incorporate PCC requirements as it relates to JOC.

**Countywide work group:**

Recommendation

33. Consider establishing various limits (Countywide and/or department specific, project specific, etc.) for projects to be completed under the Job Order Contract program and require a management review process when there is a need to exceed the limits. Regardless of the limits, all projects should be subject to management evaluation to ensure Job Order Contracting, as opposed to more traditional procurement methods, is appropriate and is in the best interest of the County.

ISD Response: Agreed in concept.

ISD plans to discuss this matter and develop recommendations with the work group. Target implementation date to be determined by the work group.



COUNTY OF LOS ANGELES  
DEPARTMENT OF PARKS AND RECREATION

*"Parks Make Life Better!"*

John Wicker, Director

Norma E. Garcia, Chief Deputy Director

April 10, 2017

TO: John Naimo  
Auditor-Controller

FROM: John Wicker   
Director

SUBJECT: **DEPARTMENT OF PARKS AND RECREATION RESPONSE TO  
AUDITOR-CONTROLLER'S JOB ORDER CONTRACTS REVIEW**

Attached is the Department of Parks and Recreation's (DPR) response to the recommendations contained in the Auditor-Controller's (A-C) Job Order Contracts (JOC) Review. We concur with the findings and have provided corrective actions (see attached report) to address each of the A-C's recommendations for County management, Countywide work group and DPR. We appreciate the A-C's assistance and professionalism during this review.

We would like to take this opportunity to emphasize that the JOC program is essential to DPR's operations. It has provided a flexible and cost-effective method for the maintenance, repair, remodeling and refurbishment of DPR's more than 180 facilities.

Please let me know if you have any questions or require additional information. You may also have your staff contact Bob Maycumber, Administrative Deputy at (213) 368-5823 or Malou Rubio, Departmental Finance Manager II at (213) 738-3015.

JW:NEG:RM:MR:cm

Attachment

c: Parks and Recreation (N.E. Garcia, R. Maycumber, A. Bokde, M. Rubio, J. Smith)



**DEPARTMENT OF PARKS AND RECREATION**

**RESPONSE TO AUDITOR-CONTROLLER'S  
JOB ORDER CONTRACTS REVIEW**

The Department only responded to the recommendations addressed to County management, Countywide work group, and the Department of Parks and Recreation (DPR).

**Recommendation 1**

**Chief Executive Office management, in conjunction with each department that utilizes Job Order Contracts, form a Countywide work group to expedite corrective actions to address this report's findings/recommendations.**

**DPR Response to Recommendation 1: Agree**

DPR concurs with the recommendation to form a Countywide work group. DPR will participate in the work group and implement agreed upon corrective actions.

**County Management**

**Recommendation 2**

**Instruct staff to immediately discontinue negotiating project costs, monitor for compliance, and take disciplinary action, where appropriate.**

**DPR Response to Recommendation 2: Agree and partially implemented.**

DPR does not currently allow project cost negotiation in its JOC Program. DPR will strengthen its project cost proposal review and approval processes to monitor for compliance.

**Recommendation 3**

**Provide training to staff on how to properly review and approve price proposals.**

**DPR Response to Recommendation 3: Agree**

DPR will develop formal written policies and procedures and provide training to staff. DPR will also improve the quality of project detailed scope of work that supports the approval of price proposals.

**Recommendation 4**

**Require project managers to maintain documentation in project files to support the need for all supplemental work orders.**

**DPR Response to Recommendation 4:** Agree and implemented.

DPR currently requires project managers to maintain documentation in project files as part of its supplemental work order process. DPR will evaluate its existing process to determine if additional documentation is required.

**Countywide Work Group**

**Recommendation 5**

**Develop Countywide guidelines that include thresholds requiring departments to obtain an independent estimator's (i.e., third party or in-house) review of price proposals, where appropriate.**

**DPR Response to Recommendation 5:** Agree

DPR will participate in the Countywide work group and implement agreed upon corrective actions.

**Recommendation 6**

**Develop alternative methods for identifying supplemental work orders that are initiated for project phases.**

**DPR Response to Recommendation 6:** Agree

DPR will participate in the Countywide work group and implement agreed upon corrective actions.

**County Management**

**Recommendation 11**

**Ensure staff do not approve proposals that lack required details (e.g., measurements, product descriptions, etc.) or sufficient breakdown of all non-catalog tasks and services needed to complete the project.**

**DPR Response to Recommendation 11:** Agree and partially implemented

DPR will provide additional training to staff and will strengthen its project cost proposal review and approval processes to monitor for compliance.

**Countywide Work Group**

**Recommendation 12**

**Establish criteria that includes a limit (i.e., a percentage of total work order amount) for non-catalog items that can be used in individual Job Order Contract projects, and a supervisory review process to clarify when non-catalog items are allowed to exceed the limit, where appropriate.**

**DPR Response to Recommendation 12: Agree**

DPR will participate in the Countywide work group and implement agreed upon corrective actions.

**Recommendation 13**

**Establish Countywide guidelines for departments to require contractors to provide three quotes for non-catalog items and ensure documentation is maintained in project files justifying the lack of three quotes, where appropriate.**

**DPR Response to Recommendation 13: Agree**

DPR will participate in the Countywide work group and implement agreed upon corrective actions.

**Recommendation 14**

**Require contractors to apply their bid factor percentage to non-catalog items to mitigate the excessive use of non-catalog items and to discourage contractors from submitting low bids, or explore other options for adding non-catalog items to the catalog thereby eliminating or reducing the use of non-catalog items, where appropriate.**

**DPR Response to Recommendation 14: Agree**

DPR will participate in the Countywide work group and implement agreed upon corrective actions.

**DPR Management**

**Recommendation 16**

**Require contractors to select the lowest quote for non-catalog tasks and materials, where appropriate.**

**DPR Response to Recommendation 16: Agree**

DPR will implement the Live Book Method in the future to eliminate non-catalog tasks and materials.

**Recommendation 17**

**Ensure vendor quotes specify the costs for all non-catalog tasks and materials.**

**DPR Response to Recommendation 17: Agree and implemented.**

DPR will implement the Live Book Method in the future to eliminate non-catalog tasks and materials.

**Countywide Work Group**

**Recommendation 18**

**In conjunction with County Counsel, develop and implement a standard approach, including consistent criteria and procedures, for monitoring, evaluating, and documenting contractor performance, and a method for departments to incorporate these and other departments' experiences when determining contractor responsibility.**

**DPR Response to Recommendation 18: Agree**

DPR will participate in the Countywide work group and implement agreed upon corrective actions.

**Recommendation 19**

**Utilize the County's Contractor Alert Reporting Database for alerting County departments of poorly performing contractors.**

**DPR Response to Recommendation 19: Agree**

DPR will participate in the Countywide work group and implement agreed upon corrective actions.

**Recommendation 20**

**In conjunction with County Counsel and the Job Order Contract consultant, consider restructuring payment terms for the consultant's services to ensure the County's interests are protected.**

**DPR Response to Recommendation 20: Agree**

DPR will participate in the Countywide work group and implement agreed upon corrective actions.

**Recommendation 21**

**In conjunction with County Counsel, work with the Job Order Contract consultant to negotiate better pricing for the County based on the combined project volume for all County departments, if the consultant's fees continue to be based on a percentage of total project costs.**

**DPR Response to Recommendation 21: Agree**

DPR will participate in the Countywide work group and implement agreed upon corrective actions.

**Recommendation 22**

**In conjunction with County Counsel and the Job Order Contract consultant, ensure County contracts with the consultant contain standardized language for Job Order Contract consulting service contracts.**

**DPR Response to Recommendation 22: Agree**

DPR will participate in the Countywide work group and implement agreed upon corrective actions.

**Recommendation 23**

**Ensure Job Order Contract consulting service contracts describe in detail the services that are required of the Job Order Contract consultant.**

**DPR Response to Recommendation 23: Agree**

DPR will participate in the Countywide work group and implement agreed upon corrective actions.

**Recommendation 24**

**Develop and/or enhance formal written procedures detailing all aspects of the County's Job Order Contract program, including the areas discussed above and throughout this report.**



**DPR Response to Recommendation 24: Agree**

DPR will participate in the Countywide work group and implement agreed upon corrective actions.

**County Management**

**Recommendation 25**

**Ensure Job Order Contract procedures are distributed to all staff with Job Order Contract responsibilities.**

**DPR Response to Recommendation 25: Agree**

DPR will distribute Job Order Contract procedures to all staff with Job Order Contract responsibilities and conduct follow-up meetings to provide opportunities for clarification.

**Countywide Work Group**

**Recommendation 26**

**Develop a standard approach for monitoring the Job Order Contract program. The approach should include, but not be limited to, the development of customized monthly project summary reports that include the information noted above, as well as other key information needed to effectively monitor the program.**

**DPR Response to Recommendation 26: Agree**

DPR will participate in the Countywide work group and implement agreed upon corrective actions.

**County Management**

**Recommendation 27**

**Review the Job Order Contracting project summary reports monthly and take appropriate corrective action, where necessary.**

**DPR Response to Recommendation 27: Agree**

DPR will require staff with Job Order Contract responsibilities to review the Job Order Contracting project summary monthly and will ensure that project managers address concerns timely and appropriately.

**Internal Services Department and DPR Management**

**Recommendation 31**

**Work with County Counsel to establish ordinances to reflect Board approved delegated authority to issue Job Order Contract projects in an amount not exceed \$75,000.**

**DPR Response to Recommendation 31: Agree**

DPR will work with County Counsel to establish an ordinance for the Board approved delegated authority to implement repair projects in an amount not to exceed \$75,000.

**DPW and DPR Management**

**Recommendation 32**

**Work with County Counsel to create a memorandum of understanding or other written agreement delineating the responsibilities of each department for the Job Order Contract services provided, including fees associated with these services.**

**DPR Response to Recommendation 32: Agree**

DPR will work with DPW to create a formal written document delineating the responsibilities of each department including fees associated with these services.

**Countywide Work Group**

**Recommendation 33**

**Consider establishing various limits (Countywide and/or department specific, as well as project specific) for Job Order Contract projects. Regardless of the limits, all projects should be subject to management evaluation to ensure Job Order Contracting, as opposed to more traditional procurement methods, is appropriate. In addition, when requesting Board approval for Job Order Contract projects, departments should indicate in their Board letter that the department has made the determination that Job Order Contracting is most appropriate procurement method.**

**DPR Response to Recommendation 33: Agree**

DPR will participate in the Countywide work group and implement agreed upon corrective actions.



**COMMUNITY DEVELOPMENT COMMISSION**  
**of the County of Los Angeles**

700 W. Main Street • Alhambra, CA 91801  
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**Hilda L. Solis**  
**Mark Ridley-Thomas**  
**Sheila Kuehl**  
**Janice Hahn**  
**Kathryn Barger**  
*Commissioners*

**Sean Rogan**  
*Executive Director*

April 5, 2017

John Naimo, Auditor-Controller  
Department of Auditor-Controller  
Kenneth Hahn Hall of Administration  
500 W. Temple Street, Room 525  
Los Angeles, CA 90012

Dear Mr. Naimo:

**RESPONSE TO AUDITOR-CONTROLLER'S REVIEW OF  
COUNTY DEPARTMENTS USE OF JOB ORDER CONTRACTS**

Please find attached the Community Development Commission's (Commission) response to the Auditor-Controller's recommendations contained in its Job Order Contracts Review – Final Draft (Review). The Commission's response is final unless material changes are made to the Review. If material changes are made to the Review, the Commission's response may also change.

We appreciate the opportunities afforded to the Commission to discuss the findings and recommendations in the Review. If you have any questions, please contact me at (626) 586-1500 or Scott Stevenson, Community Development Division Director, at (626) 586-1790.

Sincerely,

A handwritten signature in blue ink that reads "Sean Rogan".

**SEAN ROGAN**  
Executive Director

SR:GS:vu  
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Attachment

We Build Better Lives  
& Better Neighborhoods



**JOC Audit Recommendations - CDC Response**

Report Category & Recommendations	CDC Responses
<b><u>Increased Management Oversight</u></b>	
<b><u>Chief Executive Office:</u></b>	
<p>1. Chief Executive Office (CEO) management, in conjunction with each department that utilizes Job Order Contracts (JOC), form a Countywide work group to expedite corrective actions to address this report's findings/recommendations.</p>	<p>Agree. The Community Development Commission (CDC) will join the CEO in its formation of a Countywide Work Group (WG) to expedite corrective actions to address this report's findings/recommendations. The CDC is already working with the Internal Services Department (ISD), Department of Public Works (DPW), Department of Parks and Recreation (DPR), and County Counsel towards a common approach as instructed by the Third District in its 12/20/16 motion.</p>
<b><u>Project Scopes and Proposal Reviews</u></b>	
<b><u>County Management:</u></b>	
<p>2. Instruct staff to immediately discontinue negotiating project costs, and monitor for compliance and take disciplinary action, where appropriate.</p>	<p>Agree. CDC does not negotiate project costs with contractors. CDC will reinforce its proposal review process and monitor for compliance.</p>
<p>3. Provide training to staff on how to properly review and approve price proposals.</p>	<p>Agree. The CDC will work with the JOC consultant to enhance its training of CDC staff, particularly in the area of price proposal review and approval.</p>
<p>4. Require project managers to maintain documentation in project files to support the need for all supplemental work orders.</p>	<p>Agree. The CDC will implement this recommendation. The CDC is exploring the potential of an electronic file either in eGordian, its own project tracking software or in Laserfiche.</p>
<b><u>Countywide Work Group:</u></b>	
<p>5. Develop Countywide guidelines that include thresholds requiring departments to obtain an independent estimator's (i.e., third party or in-house) review of price proposals, where appropriate.</p>	<p>Agree. As a member of the WG, the CDC will collaborate in developing guidelines.</p>

## JOC Audit Recommendations - CDC Response

Report Category & Recommendations	CDC Responses
6. Develop alternative methods for identifying supplemental work orders that are initiated for project phases.	Agree. As a member of the WG, the CDC will collaborate in developing alternative methods.
<b><u>ISD &amp; DPW Management:</u></b>	
7. Ensure project scopes are specific and clearly delineate project requirements, and contain accurate measurements, quantity of items needed, etc.	N/A
<b><u>ISD Management:</u></b>	
8. Ensure Job Order Contracting is properly used for completing work as defined in the Public Contract Code, and that projects are not executed as a means to circumvent the County's procurement process.	N/A
9. Ensure supplemental work orders are only executed for additional work that is related to the original project scope.	N/A
<b><u>DPW Management:</u></b>	
10. Ensure supplemental work orders are not split to circumvent management approval.	N/A
<b><u>Review of Work Orders/Supplemental Work Orders - Non-Catalog or Non-Prepriced Items</u></b>	
<b><u>County Management</u></b>	
11. Ensure staff do not approve proposals that lack required details (e.g., measurements, product descriptions, etc.) or sufficient breakdown of all non-catalog tasks and services needed to complete the project.	Agree. The CDC will enhance its procedures to include multilevel review approval of proposals to ensure a proper level of pertinent detail, sufficient breakdowns of non-catalog tasks, and services.
<b><u>Countywide Work Group:</u></b>	
12. Establish criteria that includes a limit (i.e., a percentage of total work order amount) for non-catalog items that can be used in individual JOC projects, and a supervisory review process to clarify when non-catalog items are allowed to exceed the limit, where appropriate.	Agree. As a member of the WG, the CDC will collaborate in establishing appropriate criteria limiting non-catalog items and the appropriate level of supervisory review.



## JOC Audit Recommendations - CDC Response

Report Category & Recommendations	CDC Responses
13. Establish Countywide guidelines for departments to require contractors to provide three (3) quotes for non-catalog items and ensure documentation is maintained in project files justifying the lack of three (3) quotes, where appropriate.	Agree. As a member of the WG, the CDC will collaborate in establishing appropriate guidelines.
14. Require contractors to apply their bid factor percentage to non-catalog items to mitigate the excessive use of non-catalog items and to discourage contractors from submitting low bids or explore other options for adding non-catalog items to the catalog, thereby, eliminating the use of non-catalog items, where appropriate.	Agree and implemented during audited period. CDC already applies the bid factor to non-catalog items which has mitigated the excessive use of non-catalog items. The CDC will engage members of the WG using the live book method to determine its viability for the CDC.
<b>CDC &amp; ISD Management:</b>	
15. Ensure staff to verify that all non-catalog tasks and materials cannot be priced through the JOC consultant's catalog before using non-catalog pricing.	Agree. The CDC will engage the JOC consultant to verify that catalog items are not available before using non-catalog items.
<b>DPR Management:</b>	
16. Require contractors to select the lowest quote for non-catalog tasks and materials, where appropriate.	N/A
17. Ensure vendor quotes specify the costs for all non-catalog tasks and materials.	N/A
<b>Contractor Selection/Contractor Responsibility</b>	
<b>Countywide Work Group:</b>	
18. In conjunction with County Counsel, develop and implement a standard approach, including consistent criteria and procedures, for monitoring, evaluating, and documenting contractor performance, and a method for departments to incorporate these and other departments' experiences when determining contractor responsibility.	Agree. As a member of the WG and in conjunction with County Counsel, the CDC will collaborate in developing a standard approach in documenting contractor performance.

## JOC Audit Recommendations - CDC Response

Report Category & Recommendations	CDC Responses
19. Utilize the County's Contractor Alert Reporting Database for alerting County departments of poorly performing contractors.	Agree. As a member of the WG, the CDC will collaborate in utilizing the County's Contractor Reporting Database (CARD). The CDC is currently coordinating with ISD to gain CARD access.
<b>County Contracts with Gordian</b>	
<b>Countywide Work Group:</b>	
20. In conjunction with County Counsel and the JOC consultant, consider restructuring payment terms for the consultant's services to ensure the County's interests are protected.	Agree. In conjunction with County Counsel and as a member of the WG, the CDC will collaborate to consider restructuring the JOC consultant's payment terms.
21. In conjunction with County Counsel, work with the JOC consultant to negotiate better pricing for the County based on the combined project volume for all County departments, if the consultant's fees continue to be based on a percentage of total project costs.	Agree. In conjunction with County Counsel and as a member of the WG, the CDC will collaborate in negotiating better JOC consultant fee pricing.
22. In conjunction with County Counsel and the JOC consultant, ensure County contracts with the consultant contain standardized language for JOC consulting service contracts.	Agree. In conjunction with County Counsel and as a member of the WG, the CDC will collaborate in ensuring standard JOC consultant contract language.
23. Ensure JOC consulting service contracts describe in detail the services that are required of the JOC consultant.	Agree. As a member of the WG, the CDC will collaborate in developing detailed service descriptions in JOC consultant contracts.
<b>JOC Policies and Procedures</b>	
<b>Countywide Work Group:</b>	
24. Develop and/or enhance formal written procedures detailing all aspects of the County's JOC program, including the areas discussed above and throughout this report.	Agree. As a member of the WG, the CDC will collaborate in enhancing written JOC procedures.
<b>County Management:</b>	
25. Ensure JOC procedures are distributed to all staff with JOC responsibilities.	Agree. Once enhanced written procedures are developed, the CDC will distribute them to all staff with JOC responsibilities.

**JOC Audit Recommendations - CDC Response**

Report Category & Recommendations	CDC Responses
<b>Management Reporting</b>	
<p><b>Countywide Work Group:</b></p> <p>26. Develop a standard approach for monitoring the JOC program. The approach should include, but not be limited to, the development of customized monthly project summary reports that include the information noted above, as well as other key information needed to effectively monitor the program.</p>	<p>Agree. As a member of the WG, the CDC will collaborate in developing a standard approach for monitoring the JOC program.</p>
<b>County Management:</b>	
<p>27. Review the JOC project summary reports monthly and take appropriate action, where necessary.</p>	<p>Agree. As a member of the WG, the CDC will collaborate in developing a summary report that includes key information and, once developed, have management review it on a monthly basis.</p>
<b>Other Issues</b>	
<b>DPW Management:</b>	
<p>28. Ensure Board approval is obtained for JOC projects exceeding \$75,000, and clarify in their JOC award Board requests that they will separately seek Board approval for each JOC project exceeding \$75,000.</p>	<p>N/A</p>
<b>CDC Management:</b>	
<p>29. Obtain Board approval for all County JOC projects, or request delegated authority to issue County JOC projects below \$75,000. In addition, clarify in the department's JOC award Board requests that the department will separately seek Board approval for each County JOC project that exceeds \$75,000 and clarify how Board approvals will be obtained for CDC/Housing Authority projects (i.e., request approval for each project and delegated authority, etc.).</p>	<p>Agree and implemented. Board letters for CDC JOC's used for County facilities now include a recommendation giving the Executive Director, or his designee, the authority to issue work orders up to \$75,000 and another recommendation giving the Executive Director, or his designee, the authority to issue work orders for CDC projects up to the full amount of the JOC contract. It will also highlight in its policies that County facility projects over \$75,000 will require a separate Board action in accordance with the CA Public Contract Code, Sections 20128.5 and 20145.</p>

## JOC Audit Recommendations - CDC Response

Report Category & Recommendations	CDC Responses
<p>30. Ensures all Notice to Proceed/Work Order Authorization dates are entered in eGordian to ensure Gordian bills for all services rendered.</p>	<p>Agree and Implemented. Entry of Notice To Proceed (NTP) dates into eGordian will be checked at the weekly project management meetings. CDC has also requested that Gordian representative(s) who attends these weekly meetings to double check that these dates are entered into eGordian. In addition, the CDC will enhance its policies and procedures to highlight this required entry.</p>
<p><b><u>ISD &amp; DPR Management:</u></b></p>	
<p>31. Work with County Counsel to establish ordinances to reflect Board approved delegated authority to issue JOC projects in an amount not to exceed \$75,000.</p>	<p>N/A</p>
<p><b><u>DPW &amp; DPR Management:</u></b></p>	
<p>32. Work with County Counsel to create a memorandum of understanding or other written agreement delineating the responsibilities of each department for the JOC services provided, including fees associated with these services.</p>	<p>N/A</p>
<p><b><u>Countywide Work Group:</u></b></p>	
<p>33. Consider establishing various limits (Countywide and/or department specific, as well as project specific) for Job Order Contract projects. Regardless of the limits, all projects should be subject to management evaluation to ensure Job Order Contracting, as opposed to more traditional procurement methods, is appropriate. In addition, when requesting Board approval for Job Order Contract projects, departments should indicate in their Board letter that the department has made the determination that Job Order Contracting is most appropriate procurement method.</p>	<p>Agree. As a member of the WG, the CDC will collaborate in considering additional limits for JOC projects and an enhanced management review process when these limits are exceeded. It will also review and, if necessary, enhance its current management evaluation process for evaluating the appropriateness of using JOC and whether it is in the best interest of the County.</p>