

MOTION BY SUPERVISOR SHEILA KUEHL

December 20, 2016

Under another item in today’s agenda, the Board of Supervisors will consider adopting a new Job Order Contract (JOC) Task Catalog and delegating authority to the Director of Internal Services to advertise for bids and to award twelve Job Order Contract construction master agreements for 2017. The total authorized spending across the twelve Internal Services Department (ISD) Job Order Contracts will be \$45.7 million.

Job Order Contracts, authorized by the State Public Contract Code, allow the County to quickly and easily procure building repair, remodeling and other repetitive work at set unit prices from private construction firms, without conducting a full solicitation process for each project. Under the Job Order Contract model, the County conducts a single up-front solicitation and utilizes the Job Order Contract construction master agreements awarded under that solicitation to issue individual work orders for building rehabilitation, repair and remodel services throughout the following year. Job Order Contract work orders vary in size, but they cannot be used for new construction.

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Authorized Countywide Job Order Contract spending is more than \$110 million per year, primarily through the Internal Services Department, with \$45.7 million in authority, and the Department of Public Works, with \$68 million in authority. The Community Development Commission has additional, but lesser, Job Order Contract authority. Administration of Job Order Contracts varies by department, and a construction firm's poor performance with one department does not necessarily impact their ability to contract with another department.

Job Order Contracts are efficient from a time and solicitation perspective, but require active management throughout the solicitation and construction planning, implementation and closeout lifecycle. For example, because Job Order Contract construction firms are selected at the start of the contract year based on the "lowest responsive and responsible bid" standard, as required under State law, the County is restricted in its ability to assign (or to deduct) points for a Job Order Contract proposal based on quality considerations. From time to time, this results in awards of contracts to construction firms whose work demonstrates a lack of care, customer service and quality assurance, to the detriment of County departments and their clients. In extreme cases, work performed by Job Order Contractors can be of such poor quality that the County must hire secondary construction firms to re-do the work, at considerable public expense.

On June 14, 2016, the Board of Supervisors directed the Auditor-Controller to examine the use of Job Order Contracts, with a primary focus on change-orders, fees for specialty items and unreasonably low bids by JOC bidders. This report is expected to be completed in March of 2017. In conjunction with this ongoing review by the

Auditor-Controller, the County needs to develop a standardized protocol for active management of the solicitation, bid review, construction firm evaluation and quality assurance in Job Order Contracts, to ensure quality and consistency in projects completed and to provide for standardized feedback to construction firms and departments on the quality of work performed.

I, THEREFORE, MOVE that the Board of Supervisors direct the Director of Internal Services, working in cooperation with the Chief Executive Officer, the Director of Public Works, the Executive Director of the Community Development Commission and County Counsel, to submit a report by March 31, 2017, with recommendations on:

1. A standardized protocol for active management of the initial solicitation process for Job Order Contracts, including the review of bids, evaluation of construction firms' experience and performance on Job Order Contracts issued by other County departments and/or other public agencies and evaluation of Contractor Non-Responsibility.
2. A uniform approach to managing and evaluating work orders issued under Job Order Contracts, including quality assurance / quality control, development of bid and project scoping documents, timely project completion, corrective actions, enforcement mechanisms and documentation of contractor performance.
3. Policy changes to the County's overall approach to Job Order Contracting that would enhance the County's ability to evaluate contractors based on quality and/or performance criteria, such as prequalification of prospective bidders.

4. Any necessary modifications to the Internal Services Department's County Contract Database protocol, based on the recommendations above.

S:KK/JOC