

Findings and Conclusions

Subject: Permission sought from the Board to acquire and contract with several General Construction Contractors under 47-0285 Special Procurement and 49-0600 – Alternative Contracting Methods.

Notice Requirements: Per PCRB 49-0630(7)(a) notice of these findings and the public hearing has been published for 14 days in the Portland Tribune beginning September 20, 2022 .

Circumstance:

Multnomah County is planning to pilot a “General Contractor Services Pool” (GCSP) approach. The Department of County Assets, through its Facilities & Property Management and Business Services Divisions, intend to conduct a single Competitive Solicitation, awarding multiple contracts under the solicitation, for an initial period of three (3) years, with the ability to extend the procurement authority for an additional four (4) years upon subsequent Board approval. Under the GCSP approach, pools of competitively awarded contractors, in each of two classes (based upon project size), will deliver construction, remodeling, and other Facilities related services necessary to complete Facilities related projects.

Reason for the action:

Approval of the use of a General Contractor Services Pool as an Alternative Process under PCRB 47-0285 and 49-0600 will permit the immediate competitive solicitation for General Construction Services Pool to better support and provide for the completion of County Facilities projects.

- There are 50 to 100 new projects in the Facilities Capital Improvement Program that represent 3 funds each fiscal year. Many of these projects will require the services of a General Construction Contractor to supply goods and services to support capital improvements and tenant improvements across all departments and programs. Depending on the size and complexity of the project they can extend over multiple fiscal years so at any one time there are between 60-125 projects in various phases at once.
- It is typical for the County to conduct a solicitation and contract for a General Contractor and potentially each area of speciality for each project. Based upon the number of projects currently in the portfolio, this will require scores of individual solicitations and the development and execution of a similar number of contracts.

- This requested Special Procurement will allow the use of a pre-qualified pool of “on-call” General Contractors via the issuance of a single competitive solicitation with multiple awarded contracts. Future Construction projects which meet the requirements of this Special Procurement (see Description of Services) will be bid on by these pre-qualified Contractors, with each project being awarded following the allocation method described below.
- The County has been successfully using Procurements that qualify multiple suppliers for years. This provides consistency, administrative cost savings, and available capacity to meet the County’s requirement.
- The awarded contracts will act as “Master Services Agreements” for each awarded General Contractor, with a base contract using the County’s General Construction Services template, the terms and conditions being negotiated only once for each Awarded Contractor (as opposed to for each negotiating a Contract for each project). Each Master Services Agreement will govern all of the subsequent projects awarded to the respective Contractor under this program.

Findings Supporting this Action:

PCRB 49-0630 (2) (also see ORS 279C.330) and 47-0285 (3) both require findings in the following areas:

- (a) Be unlikely to encourage favoritism in the Awarding of Public Contracts or to substantially diminish Competition for Public Contracts; and
- (b) Result in substantial cost savings to the County or to the public; or
- (c) Otherwise substantially promote the public interest in a manner that could not practicably be realized without the benefit of this Special Procurement.

The plans and strategy for this Special Procurement have been carefully constructed to assure that the solicitation will be unlikely to encourage favoritism in the Awarding of Public Contracts or to substantially diminish Competition for Public Contracts. In addition, it is anticipated that this Special Procurement and the resulting contracts will provide for substantial administrative and construction cost savings to the County, while enhancing the County’s direct and indirect use of diverse contractors.

PCRB 49-0630 (2) (also see ORS 279C.330) require findings in the following additional areas:

Operational:

A number of factors have impacted the Facilities and Property Management Division in recent years, making the day-to-day operations more challenging and complex than ever before staff turnover, recent decisions to take on high dollar complex projects

either simultaneously or overlapping (Behavioral Health Resource Center, Southeast Health Center, Library Bond projects, etc.), coupled with positive budgets driving increased Departmental requests, as well as resource constraints in Central Purchasing, have all contributed to enormous pressure on the trades, and contracting and procurement staff to keep up with workload. In addition, the competition for contractors and other resources has been fierce, with many being booked out for months in advance. Various strategies have allowed FPM to continue to meet demand – including the consolidation of numerous smaller informal procurements/contracts into large Formal procurements/contracts, as well as the continued use of Cooperative Contracts.

Budget and Financial Data:

No additional funding has been requested to support this pilot use of the General Contractor Services Pool.

Public Benefits:

This request will provide several benefits to both the County and awarded Contractors, including but not limited to:

1. Improve the County’s ability to meet construction related needs by streamlining and providing improved consistency for the work and outcomes to deliver hundreds of “projects” necessary to meet the demands of the County for construction related needs. By using the General Contractors selected under the GCSP, the County would:
 1. Provide better consistency of contract terms and conditions (and fewer disparate (multiple) contracts to have to manage with the same Contractors).
 2. Save time in solicitations, and in drafting/negotiating contracts, significantly shortening the time required (by 2 or more months for each request) from initiation of the bidding process to contract execution, as work is needed.
 3. Reduce time required by Central Purchasing to oversee dozens of bids/solicitations, making more time available to conduct other County business.

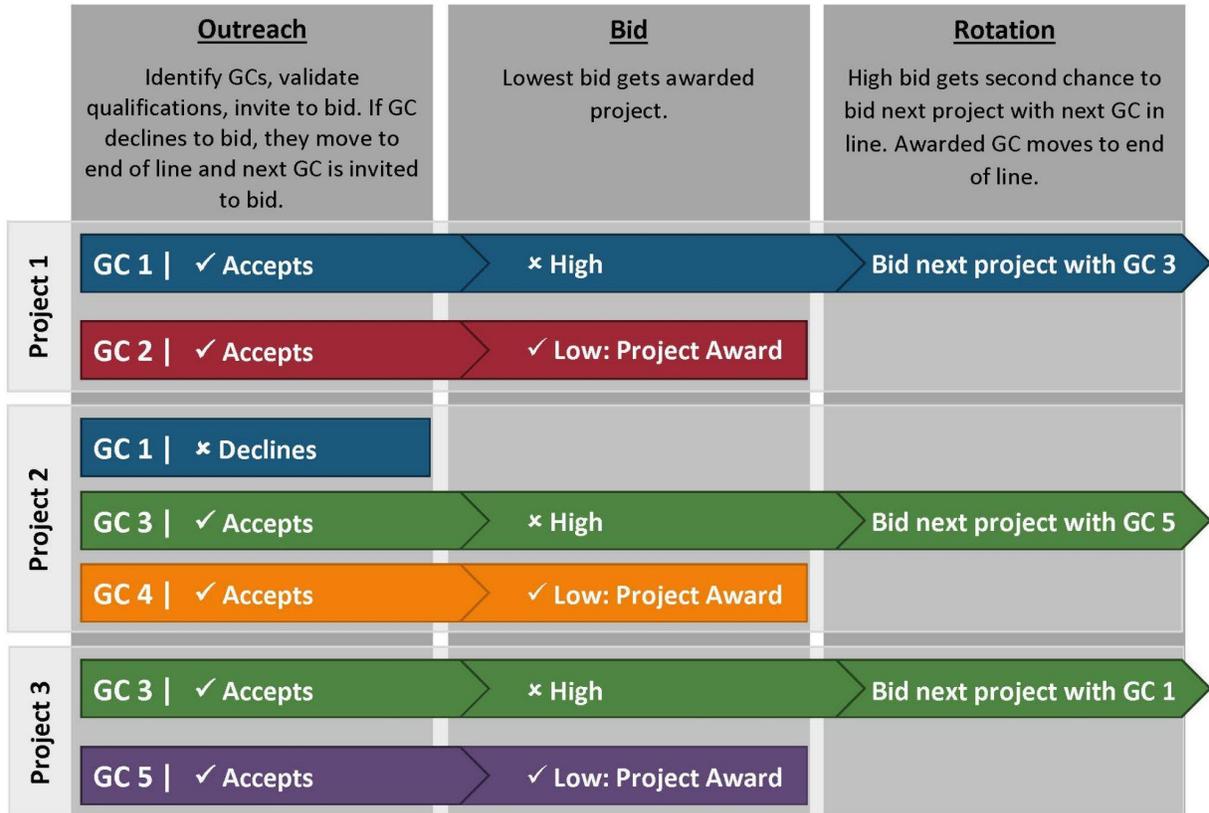
2. In addition to other standard County rules and programs that apply (including but not limited to FAC1), the following County programs would be required (as each rule is applicable):
 1. Workforce Training and Hiring (including apprenticeship and diverse workforce programs) for projects with an initial estimated direct construction cost of over \$200,000.
 2. Good Faith Efforts for diverse subcontractor participation for all projects with an initial estimated direct construction costs of \$150,000 or more.

3. Clean Air Construction (PUR-10) rules for all projects with an initial estimated direct construction cost of \$500,000 or more.
3. An approach to the engagement of a Diverse Workforce that is customized and specific to this type of Contract/Award process, improving the County's results in this area.
 1. The GCSP Contractors will focus on the use of diverse subcontractors through their Subcontractor Diversity Plan and the Good Faith Efforts to obtain diverse subcontractor's bids for project work.
 2. In the small project pool (\$400,000 or less) there is an expectation that some or all of the awarded contractors will be diverse firms with the desire to grow their capabilities. These firms would also focus on the use of diverse subcontractors, but with a less structured requirement for projects with an initial estimated direct construction cost of less than \$150,000.
4. The Procurement Term approval of an initial three (3) year pilot with a subsequent additional four (4) years (for a total of seven (7) years) will provide the opportunity for the County and the awarded Contractors to develop and implement the approach, and make ongoing improvements.
 1. Provides for a check-in with the Board during the third year, to confirm that the approach is working, or is adjusted to improve the results, before an extension is approved.
 2. The additional contract term extensions will allow the County to make adjustments to the program/approach after the first 3 years and then run with the updated approach for up to 4 additional years, or to abandon the approach and move on to an approach that better meets the County's and Contractor's needs.
5. Benefits of the proposed Bid/Project award method:
 1. A standard and repeatable allocation/selection method, request/contract structure, and approval/execution process to be used for each project/work activity.
 2. The creation of the two award pools will allow the County to award smaller projects to some smaller contractors that are either new or structured more to support the smaller projects. This two level approach will afford an opportunity for Diverse/COBID firms to grow and evolve in order to engage in larger projects in the future. This

strategy aligns with the County goals to facilitate a mentorship to firms that can benefit from a higher level of support and guidance.

3. The County will have the ability to terminate contracts with poorly performing Contractors, and qualify replacement Contractors on an as needed basis.

Project Award Process



6. The qualification of a predefined number of Contractors may appear to be a deterrent to smaller businesses or may appear as the loss of the future opportunity to work with the County for new projects.

These concerns/risks should be alleviated in the following three ways:

- a. The Diverse Subcontractor Participation requirements that will be in all of the Contracts will allow for ongoing inclusion of diverse sub-contractors by the Prime Contractors throughout the Contract life.

b. This special procurement of a “General Contractor” pool of contractors will give the County the ability to actually engage, mentor, and solicit a larger number of smaller businesses and subcontractors for capacity building over our current model.

c. Project scope and complexity will be evaluated based on specific criteria that would **exclude** projects from being addressed under this Special Procurement, including but not limited to:

i. projects that require a building or space change of use, structural seismic upgrades,

ii. projects where a Construction Manager/General Contractor (CMGC) would be more applicable,

iii. projects where a Project Labor Agreement would apply, and

iv. projects that would require Community Conservation Partnership Program engagement.

Contractor Experience with County Driving Consistency

The use of these Contractor Pools will allow County staff to familiarize the awarded contractors with, and improve adherence to and compliance with County programs such as the workforce and subcontractor tracking solutions, Certified Payroll and Good Faith Efforts to use diverse subcontractors.

Specialized Expertise Required:

The General Contractors and solicited subcontractors require licensing and specialized expertise and certifications in many areas specific to the work that they will perform. The competitive solicitation and subsequent project bidding process will allow the County to ensure that any licensure requirements and expertise levels are met.

Public Safety:

There are no Public Safety issues as a result of this action.

Market Conditions:

Having a series of General Contractors under master contract provides very similar advantages as the CM/GC methodology. The process enables the County to better manage the negative impact of inflationary market conditions in several ways:

- Facilitate the early purchase of certain project elements (such as large steel

fabrications, sheet metal, copper and other commodity items) if appropriate to take advantage of market prices.

- Start construction sooner due to the expedited bidding and contract rather than the traditional method of contracting;
- Deliver the project in a shorter overall time than by the traditional method, reducing overhead costs and administration time.

Technical Complexity:

Of the Work: Specialized expertise and/or licensing/certifications described above.

Of the Process: Introduction of the GCSP approach will be fairly simple for both County staff and the awarded Contractors. A robust overview of the background, limitations, and intended outcomes will be provided to both staff and Contractors. Internal training regarding the process, and the procedures for creating and evaluating Project Bid Requests, the Bidders Checklist, Contractor Diversity efforts, and the resulting Contractor Bids will be provided initially, and on an ongoing basis as new staff are hired. A standard and repeatable business process will take advantage of the County's Sourcing and Contracting tools to keep the process both consistent/auditable, and streamlined for optimal results.

Funding Sources:

FPM is funded annually by; the Capital Improvement Fund, County General Funds (CGF), Grants, and other County approved funding for construction related projects.