



Board Report

File #: 2019-0139, **File Type:** Contract

Agenda Number: 35.

**EXECUTIVE MANAGEMENT COMMITTEE
APRIL 18, 2019**

SUBJECT: LABOR COMPLIANCE MONITORING BENCH

ACTION: APPROVE CONTRACT MODIFICATION

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to:

- A. EXECUTE Modification No. 3 to the Labor Compliance Bench (the Bench) Contract Numbers PS-21307700 A-J, for labor compliance monitoring services, to exercise the fourth and fifth year options, extending the contract term from July 1, 2019 to June 30, 2021, and increasing the total authorized not-to-exceed amount by \$4,000,000 (\$2,000,000 for each option year) from \$19,056,648 to \$23,056,648; and
- B. AWARD AND EXECUTE task orders for a not-to-exceed total authorized amount of \$23,056,648.

ISSUE

On June 16, 2011, the Board of Directors authorized the Chief Executive Officer to establish a qualified list of firms to perform labor compliance monitoring activities for Metro construction projects under RFIQ PS-2130-7700 to the attached list of consultants (Attachment B), for a period of five years, with five, one-year options. The expiration date for the base period and the first through third year options is June 30, 2019.

Over the last eight years, the Labor Compliance Monitoring Bench (Bench) continues to be an effective compliance tool for Metro. The Bench consultants monitor and enforce public works projects by ensuring the payment of prevailing wages. Their expertise and extensive knowledge of the California Labor Code and Federal Davis Bacon and Related Acts, coupled with investigative and auditing skills, have helped to prevent wage violations and in other cases, collect back wages due to workers.

Board authorization is requested to exercise the fourth and fifth year options. The approval of this action is required to continue monitoring labor compliance services to ensure that workers on Metro projects are being paid the correct prevailing wage rates.

DISCUSSION

The California Labor Code and Davis Bacon and Related Acts require Metro to ensure that all construction workers employed to work on Metro funded construction projects are compensated according to the state and federal prevailing wage laws and regulations. The consultants on the labor compliance monitoring bench are responsible for evaluating, monitoring and enforcing prevailing wage requirements on assigned construction projects. This includes maintaining all required records, providing assistance to field personnel, conducting field interviews and investigations, and any other duties in accordance with applicable laws and regulations governing public works projects.

Since the inception of the Bench, Vendor/Contract Management has awarded 72 task orders (See Attachment B) totaling \$18,015,934. The Bench has been an effective tool, specifically on Metro's mega high-profile projects. Metro's Small Business Enterprise (SBE) program, Small Business Prime program and Disadvantaged Business Enterprise (DBE) program are applied to the task order solicitations based on funding sources and estimated task order value. Currently, nine of the ten prime Bench consultants are certified as DBEs and SBEs and have been awarded \$17,240,403 of the \$18,015,936 awarded to date, approximately 96% of the total awarded value.

As new capital projects are approved by the Board, the funds for labor compliance monitoring are included in the approved life-of-project budgets for each capital project. The not-to-exceed amounts cover the project's construction and professional service contracts (new and continued) identified during the FY20 budget process. The not-to-exceed amount does not cover Measure M and/or mega projects; those will be brought to the Board for consideration and approval individually.

The Bench has been successful in providing DBE/SBE opportunities, meeting established goals, maintaining effective monitoring based on state and federal regulations and ensuring that workers on Metro's projects are being paid the correct prevailing wage rates.

DETERMINATION OF SAFETY IMPACT

The approval of this recommended action will not have any direct impact on the safety of our customers and employees.

FINANCIAL IMPACT

Labor Compliance funding for capital projects have been included in the life of project (LOP) budget for new projects from inception.

Impact to Budget

A not-to-exceed amount of \$2,000,000.00 has been budgeted for FY20 for new task orders. Funding for this contract will parallel the funding sources for various major construction projects to be charged during the life of the contract. This may include a mixture of Federal, State and local sources, some of which are eligible for bus and rail operations and/or capital.

IMPLEMENTATION OF PLAN GOALS

Approval of this item supports the following Metro Strategic Goal 5.4: Application of prudent commercial business functions to create a more effective agency. The Labor Compliance monitoring bench provides a tool for delivering prevailing wage compliance more effectively.

ALTERNATIVES CONSIDERED

- 1) One alternative is to perform the duties using Metro staff by adding additional FTEs. A minimum of five (5) FTEs are forecasted to perform prevailing wage monitoring. The cost for this option is estimated at \$775,994 per year. This alternative is not recommended because the volume of capital construction work is constantly changing making this activity subject to peak periods alternating with periods of low activity.
- 2) Another alternative is to utilize existing DEOD Labor, Wage and Retention Programs Unit staff to provide labor compliance monitoring on the currently active task orders in addition to their current workload. This alternative is not recommended as this will cause delays in services and compliance monitoring efforts.

NEXT STEPS

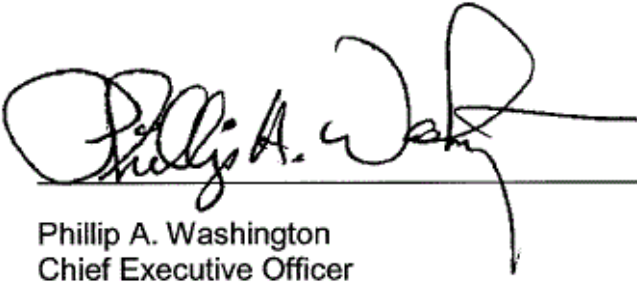
- Upon approval by the Board, staff will execute modifications to the bench contracts and continue to award individual task orders for prevailing wage compliance monitoring.
- Staff will continue to provide oversight on the active task orders that will remain under existing bench contracts.
- Staff will begin the procurement process to issue a new solicitation for Labor Compliance Monitoring Services. The process for the new solicitation will begin in the first quarter of FY21

ATTACHMENTS

Attachment A - Procurement Summary
Attachment B - Labor Compliance Bench Monitoring Consultants and Life of Project Values
Attachment C - Contract Modification / Change Order Log
Attachment D - DEOD Summary

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Phillip A. Washington
Chief Executive Officer

PROCUREMENT SUMMARY

LABOR COMPLIANCE MONITORING BENCH / PS21307700 A - J

1.	Contract Number: PS21307700 A-J		
2.	Contractor: Multiple Firms (See Attachment B – List of Consultants)		
3.	Mod. Work Description: Exercise Option Years 4 and 5		
4.	Contract Work Description: Conduct labor compliance monitoring services for all construction projects that require contractor to pay prevailing wages		
5.	The following data is current as of: March 14, 2019		
6.	Contract Completion Status		Financial Status
	Contract Awarded:	June 16, 2011	Contract Award Amount: \$13,478,064
	Notice to Proceed (NTP):	June 16, 2011	Total of Modifications Approved: \$5,578,584
	Original Complete Date:	June 30, 2019	Pending Modifications (including this action): \$4,000,000
	Current Est. Complete Date:	June 30, 2021	Current Contract Value (with this action): \$23,056,648
7.	Contract Administrator: Greg Baker		Telephone Number: (213) 922-7577
8.	Project Manager: Wendy White		Telephone Number: (213) 922-2648

A. Procurement Background

This Board Action is to approve Contract Modification No. 3, issued in support of exercising option years four and five, which extends the contract term from July 1, 2019 to June 30, 2021 for the Labor Compliance Bench (the Bench) contract numbers PS21307700 A-J, to perform labor compliance monitoring services.

This Contract Modification and future Task Orders will be processed in accordance with Metro's Acquisition Policy and the contract type is a firm fixed price.

On June 16, 2011, the Board of Directors authorized the Chief Executive Officer to establish a qualified list of firms (Attachment B) to perform labor compliance monitoring activities for Metro construction projects, for a period of five years with five, one-year options. The expiration date for the current Labor Compliance Monitoring Bench is June 30, 2019.

B. Cost/Price Analysis

The recommended price for all future task orders and modifications will be determined to be fair and reasonable in accordance with Metro's Acquisition Policy at the time of issuance and award.

LABOR COMPLIANCE BENCH MONITORING CONSULTANTS
AND LIFE OF PROJECT VALUES AS OF 01/31/2019

DBE/SBE Awards				
Contract No.	Consultant ID	Total Task Orders Awarded To Date	Task Order Award Amount	Amount Paid To Date
PS21307700A	Avant Garde, Inc.	10	\$370,423	\$ 346,498
PS21307700B	Casamar Group	4	\$243,917	\$243,917
PS21307700J	Gail Charles Consulting	1	\$30,848	\$30,848
PS21307700C	Metro Compliance Services	10	\$4,311,282	\$1,647,210
PS21307700D	Opportunity Marketing Group	0	\$0	\$0
PS21307700E	Padilla & Associates	7	\$847,506	\$803,460
PS21307700G	Perceptive	13	\$3,173,462	\$2,053,089
PS21307700I	The "G" Crew	22	\$719,258	\$501,108
PS21307700H	The Solis Group	4	\$6,678,309	\$3,440,200
Total Awarded Task Order Subtotal		71	\$16,375,005	\$9,066,330
Total Task Order Value				
Non-DBE/SBE Awards				
Contract No.	Consultant ID	Total Task Orders Awarded To Date	Task Order Award Amount	Amount Paid To Date
PS21307700F	Parsons	1	\$775,531	\$775,531
	<i>Parsons DBE/SBE Subconsultant Value</i>		\$865,400	\$865,400
Total Awarded Task Order Subtotal		1	\$1,640,931	\$1,640,931
Total Task Order Value				
Total Task Orders Awarded		72	Amount Awarded	Amount Paid to Date
DBE/SBE Task Order Value			\$17,240,405	\$9,931,730
Total Task Order Value			\$18,015,936	\$10,707,261

CONTRACT MODIFICATION/CHANGE ORDER LOG

LABOR COMPLIANCE MONITORING BENCH / PS21307700 A-J

Mod. No.	Description	Status (approved or pending)	Date	\$ Amount
1	Exercise Option No. 1 of the Labor Compliance Monitoring Bench from June 30, 2016 to June 30, 2017	Approved	06/23/2016	\$1,578,584
2	Exercise Options 2 & 3 increasing contract authorization and extending period of performance	Approved	05/25/2017	\$4,000,000
3	Exercise Options 4 & 5 increasing contract authorization and extending period of performance	Pending	04/25/2019	\$4,000,000
	Modification Total:			\$9,578,584
	Original Contract:			\$13,478,064
	Total:			\$23,056,648

DEOD SUMMARY

LABOR COMPLIANCE MONITORING BENCH / PS-2130-7700 A thru J

A. Small Business Participation

Nine of the ten Primes on the Bench are DBE/SBE certified and made a 100% DBE/SBE commitment. Eight of the Primes have current DBE participation of 100%. Parsons Constructors, Inc., the only non-DBE/SBE Prime, made a 35% DBE/SBE commitment and is exceeding its commitment with a current DBE/SBE participation of 47.92%.

1. Avant Garde, Inc.

DBE/SBE Prime	% Committed	Current Participation
Avant Garde, Inc.	100%	100%
Total	100%	100%

2. Casamar Group

DBE/SBE Prime	% Committed	Current Participation
Casamar Group	100%	100%
Total	100%	100%

3. Gail Charles Consulting

DBE/SBE Prime	% Committed	Current Participation
Gail Charles Consulting	100%	100%
Total	100%	100%

4. Metro Compliance Services

DBE/SBE Prime	% Committed	Current Participation
Metro Compliance Services	100%	100%
Total	100%	100%

5. Opportunity Marketing Group

DBE/SBE Prime	% Committed	Current Participation
Opportunity Marketing Group	100%	0.00%
Total	100%	0.00%

6. Padilla & Associates

DBE/SBE Prime	% Committed	Current Participation
Padilla & Associates	100%	100%

Total	100%	100%
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7. Perceptive

DBE/SBE Prime	% Committed	Current Participation
Perceptive	100%	100%
Total	100%	100%

8. The "G" Crew

DBE/SBE Prime	% Committed	Current Participation
The "G" Crew	100%	100%
Total	100%	100%

9. The Solis Group

DBE/SBE Prime	% Committed	Current Participation
The Solis Group	100%	100%
Total	100%	100%

10. Parsons Transportation Group

	DBE/SBE Subcontractors	% Committed	Current Participation
1.	CVL Consulting, LLC	N/A	34.90%
2.	Construction Planning & Management	N/A	13.02%
	Total	35%	47.92%

B. Living Wage and Service Contract Worker Retention Policy Applicability

The Living Wage and Service Contract Worker Retention Policy is not applicable to this contract.

C. Prevailing Wage Applicability

Prevailing wage is not applicable to this contract.

D. Project Labor Agreement/Construction Careers Policy

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract. Project Labor Agreement/Construction Careers Policy is applicable only to construction contracts that have a construction contract value in excess of \$2.5 million.