

**ALAMEDA COUNTY
BOARD OF SUPERVISORS'
PROCUREMENT AND CONTRACTING POLICY COMMITTEE**

Monday, October 3, 2011

2:00 pm

Location: **Board of Supervisors' Chamber – Room 512 – 5th Floor**

County Administration Building

1221 Oak Street, Oakland, CA 94612

Supervisor Nate Miley, Chair

Supervisor Keith Carson

Summary Action Minutes

I. Update on Bonding Assistance Program

Barbara Lubben, Director of Risk Management, County Administrator's Office and Bernida Reagan, Director of Community and Client Relations, Merriwether & Williams Insurance Services presented a PowerPoint presentation, to update the Committee on the Contractor Bonding Assistance Program (CBAP). Sharron Drake with Merriwether and Williams Insurance Services is the Program Manager for CBAP. [\\Acclus01\cbs-data\\$\BOS-COMM\Procure-Contract 2011\PCP Comm - October 2011\CBAP 10 3 11 Procurement.pptx](\\Acclus01\cbs-data$\BOS-COMM\Procure-Contract 2011\PCP Comm - October 2011\CBAP 10 3 11 Procurement.pptx)

Questions/Discussion in response to Bonding Assistance Presentation

Keith Carson: Identify two things that need to change, or need additional support to move the program more quickly.

Bernida Reagan: Increased collaboration between CBAP, GSA, PWA and the primary contractors. Phasing projects over a period of time works well and can be used as collateral for more work. CBAP will continue to strengthen and increase communication.

A real challenge for the contractors is credit; poor credit history and access to credit are barriers to the contractors. To have capital available prior to contractors doing the work is critical, as it may take some time before payments are made.

Keith Carson: In reference to phasing projects, what has been the conversation with the General Services and Public Works Agencies?

Bernida Reagan: The Agencies are trying to look at the levels of contracting; the job order contract started at \$1.3 million and the Acute Care Tower has various contracting levels. The Public Works Agency's challenge is some of the contractors do not have the specialty equipment required or knowledge needed for some of their contracts. Both agencies are open and receptive in communicating with CBAP.

Barbara Lubben: A challenge regarding the job order contracting; it appears that it is four (4) contracts totaling \$2 million at \$500K capacity, but the contractors bonding capacity needed to be \$2 million, which the contractors working with CBAP were unable to meet.

Keith Carson: With respect to credit, are there any creative ways where institutions have been able to assist in the credit aspect?

Bernida Reagan: Mechanics Banks has been helpful in looking at credit worthiness and looking at upcoming projects as collateral for lines of credit they may extend.

Questions/Discussion (continued)

Barbara Lubben: Some of the Merriwether & Williams programs have a financing component, whereas CPAB does not have that. A financing component for CBAP would require additional funding from the County and there may be some legal concerns.

Barbara Lubben: One of the challenges has been accessing all of the different contracting opportunities in the County. To access these opportunities in an efficient manner would be helpful to the program

Keith Carson: Has there ever been a County presence when CPAB talks with the banks, in terms of credit?

Bernida Reagan: No, but that is something that could be incorporated into the program, and look into the County's relationships to expand credit accessibility to CBAP clients.

Keith Carson: On the issue of communication with the County, is there anything that could assist you with that communication?

Bernida Reagan: Whenever information is received from the County, Merriwether and Williams distributes it to the contractors.

Barbara Lubben: One of the challenges: The contracting opportunities are not in one centralized location, if the County could consolidate the opportunities for PWA, CDA, GSA and RDA they would be easier to locate.

Nate Miley requested clarification on assistance contractors received through CBAP:
Since last report:

- 104 contractors received technical assistance;
- 14 contractors participated in program
- 6 contractors have completed \$5.1 million in contracting work
- 17 contractors determined to be bondable for \$7.8 million

Nate Miley: How much did BOS set aside for this program?

Barbara Lubben: \$5 million dollars

Speakers

Doug Blackshear: Stated that his company, AMG Construction, company benefitted from the CBAP program. He was able to hire laborers and journeymen as a result of extending his bonding capacity. Clark Construction has been outstanding as well as Aki Nakao, Ann Ludwig, David Wilson and Andrea Lowe.

Ed Cannon, CAS Financial and Construction Services: Stated that he went through the CBAP program and is now at a bonding capacity of \$250,000. He is working to increase the bonding; he has a contract at Highland Elementary School and has also hired an administrative person through AC Hire. Mr. Cannon has completed the Clark Construction School of Management, has obtained A, B, C-42 and flooring licensing. CAS has obtained a remodeling contract with Home Depot, all as a result of the CPAB program.

Eleanor Ramsey, Tillman and Associates, stated that the program is progressive and offered some suggestions to improve capital access: 1) direct purchasing – this option would allow the County to purchase materials and supplies; funds would be spelled out in the bid, but separated out from the dollar amount subject to bond; 2) Review the Prompt Payment Model of Dallas-Fort Worth Airport to pay subcontractors after 5 days;

Speakers (continued)

3) Portland, OR model pays prime contractors every Friday evening; 4) Phasing contracting work, to reduce the amount of the bid that is subject to bond; 5) Release subcontractors from the bond when their work is completed, in an effort to improve access to capital.

Jose Duenas, CEO, Hispanic Chamber of Commerce: Stated that minorities are still getting minimal amounts of contracts. He has contacted County staff, but has yet to receive a response; will create and submit to the Committee a detailed report of what the program is lacking.

Direction from Procurement Committee: Supervisor Nate Miley directed County staff to work with CBAP to come up with a component to the program to access greater opportunities for lines of credit. Supervisor Keith Caron directed staff to review the Portland, Oregon and Dallas-Fort Worth models.

II. Bid Protest Working Group

Supervisor Nate Miley together with the Auditor-Controller's Office and the General Services Agency have convened an internal working group to review the County's bid protest procedures and will have an update at a future meeting. After the internal review is complete there will be a report furnished and then a decision will be made on whether to include a larger external stakeholder group.

The Auditor's staff is looking at neighboring counties that have these procedures and gathering information from entities that include: Los Angeles, San Diego, some cities within the County and the Port of Oakland. In addition, the State of California and Federal processes are being reviewed. The Auditor will draft report GSA and summarize all of the information gathered and present some recommendations to the Committee.

III. Uniform Procurement Manual Update

Aki Nakao, Director, General Services Agency, reported that the Uniform Procurement Manual was made available to the public after the last meeting of this Committee; The UPM was established as a guideline for County departments when performing procurement duties.

After some review and receiving some feedback, it was evident that this was an internal document and needed some revision. The UPM is no longer available to the public and is currently being revised, should be available to the public by Spring 2012.

IV. Quarterly Auditor-Controller Procurement Contracting Report

Patrick O'Connell, Auditor-Controller, Auditor-Controller Agency, provided a summary and PowerPoint presentation of the Procurement and Contracting Quarterly report.
[\\Acclus01\cbs-data\\$\BOS-COMM\Procure-Contract 2011\PCP Comm - October 2011\CountyProcurementReport2011-10-03.pdf](\\Acclus01\cbs-data$\BOS-COMM\Procure-Contract 2011\PCP Comm - October 2011\CountyProcurementReport2011-10-03.pdf)

The report covers the period from July 1, 2005 through June 30, 2008 and July 1, 2008 through June 30, 2011, with side by side comparisons of the data for the various categories.

Speakers

Gurdeep Singh: Representative of Laser Link, (SLEB), in 2007 Laser Link was awarded a County contract for toner and ink cartridges for the entire county for three (3) years. In the year 2010 the contract was not extended and the company was informed that a rebid would be

Speakers

implemented within three (3) months. It has now been 15 months and he is unclear why it is taking so long to open up the formal bid process. Also told that for procurements below \$3,000 departments can procure directly from vendors. However, because of past experience, this type of procurement costs about \$1 million per year. And that is why a formal bid should be made.

Jose Duenas: Stated that if you look beyond the figures, women and minorities are not getting an adequate amount of the contracts. Mr. Duenas hopes that the Committee is not misled by the numbers in the report. He feels a lot more work needs to be done.

Eleanor Ramsey: Commended staff for creating report that is very helpful in terms of the comparison data. Ms. Ramsey requested that the department create a report to indicate bidding practices and availability of businesses to determine why minority firms are receiving less contracts and in lower amounts.

Norman Budman: Stated that he appreciates the quality of the procurement report. Additional comments: 1) "How can we tell if this is a quality program?" 2) Disappointed that the bid protest procedures haven't gotten any specific feedback; 3) It was helpful to meet with Pat O'Connell; 4) Noted there was some ambiguity and disparity in some of the procedures for bid protests;

Supervisors Comments:

Supervisor Carson noted that the program was being critiqued and not any individual person.

Responses

Aki Nakao: GSA's contracting group has been working on several procurements and the procurement that Mr. Singh spoke about is on the list for solicitation for a contract. in the next two (2) quarters.

Pat O'Connell: In response to the low numbers for minority contracts, the County is working to increase those numbers.

Pat O'Connell: In response to the availability of business, Mr. O'Connell referred the Committee to the Vendor Pool in the report, which totals over 18,000 businesses.

Aki Nakao Goods and Services come thru GSA and through RFP's. With hard bids, price is the determining factor.

The Committee agreed to convene a smaller working group with stake holders to review the availability of minority vendors and the amount of contracts awarded to same.

V. Update on Highland Hospital Project

Anne Ludwig, Senior Project Manager, presented an oral report on Highland Hospital's Acute Tower Replacement, as it relates to contractors.

- Satellite Specialty Care Building – completion date February 2013
- Acute Care Tower – two (2) out of five (5) permits received from the State, all permits should be complete by the summer of 2012 and construction complete by 2015
- As of September 2011, the design-build subcontractors included eighteen (18) SLEBS and forty-one (41) ECOP's
- Workforce Utilization - – as of August 2011, there were 465 construction laborers and 35% are from Alameda County.

Questions/Discussion

Keith Carson: How is the residency verified?

Ann Ludwig: Through payroll; workers' resident addresses are recorded, report generated by zip code.

Keith Carson: What if workers are simply using a County address but commute from outside the County?

Ann Ludwig: The Labor Compliance Program Manger conducts an audit at certified payroll.

Nate Miley: Are there any workforce utilization goals in the contract or in Alameda County?

Ann Ludwig: No.

Nate Miley: Can the County legally establish ethnicity, gender and residency goals?

Brian Washington: For ethnicity and gender, Proposition 209 bars the County from establishing such goals, for residency goals, County Counsel will report out at the next meeting.

PUBLIC COMMENT

None

The meeting was adjourned to December 5, 2011

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