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MANAGER

PURCHASING DIVISION

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

September 10, 2015

Board of County Commissioners
Clackamas County

Members of the Board:

**Request For An Exemption And Authorization To Use The Request For Proposals Method
for the Membrane Roofing System and HVAC Replacement at the
Clackamas County Jail Facility Project.**

In order to use the Request for Proposals method to solicit for Public Improvement projects the Board of County Commissioners must approve, acting as the Local Contract Review Board, Findings of Fact that justify the granting of an exemption from the requirement of public contract rules and regulations which require competitively bidding the project.

The Local Contract Review Board Rule C049-0620 and ORS 279C.335 require the following process for exemptions of this nature.

Before final adoption of the findings exempting a contract for a public improvement from the requirement of competitive bidding, a public agency shall hold a public hearing. Notification of the public hearing shall be published in at least one trade newspaper of general statewide circulation a minimum of 14 days prior to the hearing.

The notice shall state that the public hearing is for the purpose of taking comments on the agency's draft findings for an exemption from the competitive bidding requirement. At the time of the notice, copies of the draft findings shall be made available to the public. At the option of the public agency the notice may describe the process by which the findings are finally adopted and may indicate the opportunity for public comment.

At the public hearing the agency shall offer an opportunity for any interested party to appear and present comment.

To meet these requirements this draft of the finding is being presented to the Board for the exemption from the competitive bidding requirement.

The Purchasing Manager caused an advertisement to be placed in the Daily Journal of Commerce on **August 26, 2015** notifying interested parties of the draft findings. The advertisement states that the draft findings are available at the Office of the Purchasing Manager and that a Public Hearing will be held on **September 10, 2015**. This meeting will be the last opportunity for receiving comments. If no comments are received that result in a revision of the draft findings the Board of Commissioners may, at its discretion, adopt these draft findings as the final findings for the exemption at the public hearing.

PROPOSED FINDINGS:

A. Nature of the Project:

The County has desired to replace the roofing material on the County Jail for over two years. The roof replacement, along with replacement of multiple rooftop HVAC units arrayed over the jail area, was funded in the 2013-14 Fiscal Year budget. The project specifications were developed by the County Sheriff's in-house jail maintenance staff and Facilities Management. These specifications were provided to the Purchasing Division in July 2014, and the project was advertised as a traditional design bid build project to the bidding community in July, 2014.

The bid opening was held in December, 2014. Four responsible bids were received. Subsequently it was determined that the estimate was not equal to the lowest bid and the project budget was amended in the County's Capital Improvements Fund. This provided for an adequate contingency based on the low bid of \$1.034 million.

Award recommendation to contract with Hydro-Temp Mechanical Inc. and the subsequent contract was processed and submitted to the BCC for approval in March 2015 business meeting. Notice to proceed was issued to the Contractor in March 2015.

In June 2015 a letter from Hydro-Temp questioned whether the underlying existing roof would structurally withstand a mechanical fastening of new roofing material. The letter requested an increase in the contract of \$93,432, and stated that if the increase was not approved the contractor suggested that the contract be terminated with no financial impact to either party.

This information served to highlight the unique nature of the facility due to the fact that the structure was built in multiple phases over a period of 50 years. Additionally, the need to reevaluate the project to allow for a solicitation process that considers the contractors approach, qualification, experience and references to seamlessly coordinate the multiple facets of the work thereby accelerating project completion and minimizing disruptions to the ongoing operations.

On June 25, 2015 a team including County Counsel Stephen Madkour, Chief Deputy Sheriff Kevin Layng, Marc Gonzales, Finance Director, Jeff Jorgensen, Facilities Manager and Lane Miller, Purchasing Manager discussed the situation.

Through a comprehensive conversation the group concluded that because of the complex nature of the work, the unique and complicated structure of the Jail facility, and the need to complete the project in a timely manner at the Jail, it would be in the best interest of all parties to terminate the contract and issue a Request for Proposals for the project.

The Request for Proposal process will allow the County to consider elements in addition to cost of the project to determine the most advantageous offer. These elements will include qualifications, experience with similar projects, project understanding and approach including a detailed project schedule, construction methods and sequencing and references. Each of these elements will be assigned a weighted value to be assigned to the proposals by an evaluation committee to determine the highest rated proposer.

B. Estimated Cost of the Project:

The current budget for the project is \$1,000,000 for construction services.

C. Narrative Description of Anticipated Cost Savings from Exemption to use the Request for Proposals for the Membrane Roofing System and HVAC Replacement at the Clackamas County Jail Facility Project.

A number of factors make this project unique and present an opportunity for cost savings from the use of the Request for Proposal process

1. This project is complex owing to the continuing operation of the facility during the project.
2. The selection of construction methods and sequencing will benefit significantly by involving a single contracting entity both the membrane roofing and the HVAC portions of the work.
3. The experience of the proposed contractors can be evaluated as a part of the selection process, thereby minimizing the chance of change orders which raise the cost of the project.
4. Project costs may be lower because of the close working relationship between the County and contractor. This may lead to incorporation of more economical design features and the application of cost-saving construction methods.
5. The County's administrative burden and time for completion for the project is reduced by conducting one solicitation for the project, as opposed to conducting multiple solicitations for the roofing and HVAC projects. Establishing a single source of responsibility construction in accordance with a performance-based specification helps ensure the County that the facility will perform as specified.

D. Proposed Alternative Contracting and Purchasing Practices:

1. The County desires to select the vendor using the following competitive process:
 - a. Publicly advertise a Request for Proposal to contractors.
 - b. The contractor will be selected through an evaluation process that will consider the project understanding and approach, qualifications, construction team experience, references and the price proposal.

Project Understanding and Approach

- A brief understanding of the project.
- A positive commitment to complete the project within the time period specified and under the terms of the RFP.

- Assist with the administrative coordination, scheduling, as per specifications provided in the RFP. The specifications outline the performance requirements.
- Provide a critical timeline schedule for completion of the project.

Qualifications

- Provide a brief description of the firm's history and its capabilities.
- Provide the status of current work within the firm, in time and magnitude.
- Provide Bonding Capacities for:
 - a. Public Works Bond
 - b. Performance Bond
 - c. Payment Bond
- Provide insurances limits for general liability, additional commercial general, automotive, pollution and worker compensation.
- Construction Contractors Board registration and classification of license

Experience

- Detail the firms experience in with similar to the proposed project.
- Provide a discussion of the Key Personnel
 - Supervisor to employee ratio
 - Crew size
 - In-house capacity
 - Expected sub-contractors

References

The Contractor must provide a list of references that are similar in size and scope of the services, where the Contractor or its subcontractors have provided the requested design and construction services. The reference list shall include the agency name, address, telephone number and contact name. A survey of these references may be made to determine the success and satisfaction with the vendor's service. Each reference contacted will be asked the same questions regarding products and services, including but not limited to;

- quality of products
- delivery
- responsiveness to reported problems, including maintenance and billing
- how well the contractor met the terms of the contract
- whether the reference would choose to use the services of the contractor again

Financial

- Provide a lump sum cost of the completed project.

- c. The submitted proposals will be reviewed and scored by the Selection Committee. Points will be awarded based on the relative merit of the information provided in response to the solicitation. The highest rated response in each area will be given the highest number of points available. The County may ask proposers to make oral presentations to discuss and clarify the submitted proposal.

- d. The Selection Committee will provide a recommendation to the Board of Commissioners for their consideration.

E. Statutory Tests

1. Background:

ORS 279C.335 requires that the Local Contract Review Board make certain findings as a part of authorizing the use of an Alternative Contracting Method. Clackamas County desires to use a Request for Proposals solicitation method to select a contractor for this project. The Clackamas County Request for Proposals approach has been designed to fully comply with the tests of Oregon Public Contracts Statute ORS 279C.335 for alternative contracting methods:

- a. It is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; and,

- b. The awarding of public improvement contract under the exemption will result in a substantial cost savings to the contracting agency or the public.

2. Test:

a. Maximizing Competition:

The County will employ a competitive Request for Proposals process for selecting the vendor, where the cost of project (along with other factors) is one element of the selection criteria.

b. Minimizing Favoritism:

The Request for Proposals will be publicly advertised in the trade publication of greatest circulation in the area.

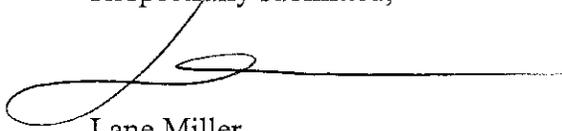
c. **Substantial Cost Savings:**

It is anticipated that the process of evaluating potential contractors experience with similar projects and soliciting cost proposals from those contractors will minimize the County's exposure to changes in cost.

Additionally, the RFP process provides that the contract will be awarded as soon as practicable to the responsible proposer whose proposal is determined to be the most advantageous to the County which will maximize cost savings. The project will be able to be completed more rapidly thereby minimizing the impact to the Jail operations.

RECOMMENDATION: Staff respectfully recommends that the Board, acting as the Local Contract Review Board, considers the comments received from the public on the proposed findings and direct staff to revise the findings, if necessary. If no revisions are to be made, staff recommends that the Board adopt the findings and grant the requested exemption.

Respectfully submitted,



Lane Miller,
Purchasing Manager

As set forth above, the Board of County Commissioners, acting as the Local Contract Review Board, by their signature below approves the Findings and Exemption.

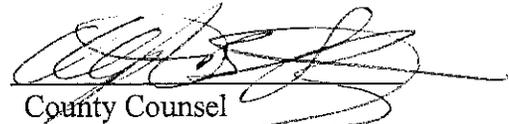
CLACKAMAS COUNTY BOARD OF
COUNTY COMMISSIONERS by

Chair

Recording Secretary

Date

APPROVED AS TO FORM



County Counsel

25 August 2015
Date