



DATE: September 29, 2015

TO: Programs and Administration Committee

FROM: Gary Wolff, Executive Director

BY: Pat Cabrera, Administrative Services Director

SUBJECT: Uniform Public Construction Cost Accounting Act

BACKGROUND

The Authority is currently required by the state Public Contract Code to competitively public bid contracts for public projects, such as construction, repair, demolition, and painting (other than maintenance) of public facilities, that are estimated to cost more than \$4,000. The Agency owns its office building, the modular building at the Davis St. Transfer Station, and property in eastern Alameda County.

A full bidding process for services costing less than \$4,000 is not an efficient use of public resources, and is not required under our purchasing policy (Attachment C). The Authority may adopt alternate contracting procedures established by the Uniform Public Construction Cost Accounting Act (UPCCAA) that would streamline the Authority's public project bidding process as discussed below.

DISCUSSION

The UPCCAA allows public projects estimated to cost \$45,000 or less (rather than \$4,000 or less), to be performed without a formal or informal bidding process and to use the informal bidding process for projects costing between \$45,001 to \$175,000. For projects over \$175,000 the UPCCAA requires competitive bidding. Therefore, if adopted, the UPCCAA would replace the burdensome contracting standards that currently apply to the Authority with an understandable set of rules to follow in contracting decisions.

Should the Authority chose to participate in this contracting procedure it must take the following steps: 1) The Authority Board must adopt an ordinance (attached), approving the informal contracting procedures provided for in the UPCCAA. (Note: Agencies can set dollar levels and approval levels at less than the maximum levels contained in the Act); 2) The Authority Board must also adopt by resolution (also attached), a public construction cost

accounting procedures promulgated under the UPCCAA; and (3) inform the State Controller. As shown on the attached draft ordinance the informal bidding process for public contracts is still quite rigorous. In addition, consistent with the Agency's general purchasing policy the draft ordinance requires Board approval (in non emergency situations) for individual contracts totaling more than \$50,000 per fiscal year.

If the Authority elects to become subject to the UPCCAA, the Authority's contracting for public projects, under some circumstances, would become subject to review by the California Uniform Public Construction Cost Accounting Commission established by the Act at the request of any interested party. This requirement is not anticipated to be burdensome. In addition, the Agency's external auditor stated that there would be no changes to our financial reporting requirement should the Authority participate in the UPCCAA.

As previously mentioned, provisions of the UPCCAA would apply primarily to work performed on Authority property, although there could be some instances where program work could benefit from these provisions as well. Though no major construction activities are planned for FY15/16, most general repairs that would occur throughout the year can easily cost more than the \$4,000 state Public Contract Code limit. Therefore, adopting the UPCCAA would allow us to address these issues in a timely manner. In addition, a quick review of the Member Agencies' public contracting policies indicates that at least eight jurisdictions have adopted the UPCCAA.

Consistent with the Agency's general purchasing policy for goods and services (attachment C), staff would still exercise due diligence for expenditures under \$45,000. Given that most repairs need to be completed in a timely manner in addition to the Agency's commitment to green building practices, adoption of the Act provides flexibility and allows discretion in vendor/contractor selection.

RECOMMENDATION

Staff recommends that the Programs and Administration Committee recommend that the Authority Board at its meeting on October 28: 1) waive reading of the full draft ordinance provided as Attachment A and schedule it for consideration of adoption at the November 18 WMA meeting, and 2) adopt the Resolution provided in Attachment B.

Attachment A: Draft Ordinance

Attachment B: Draft Resolution

Attachment C: Authority Purchasing Policy

ATTACHMENT A

ORDINANCE #2015 -

**AN ORDINANCE
TO PROVIDE FOR INFORMAL BIDDING PROCEDURES
UNDER THE
UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT
(CALIFORNIA PUBLIC CONTRACT CODE § 22000 ET SEQ.)**

The Board of the Alameda County Waste Management Authority ordains as follows:

SECTION 1 (Enactment)

The Board of the Authority does hereby enact this ordinance in full consisting of Section 1 through Section 6.

SECTION 2 (Informal Bid Procedures)

Public projects, as defined by section 22002 of the California Public Contract Code (“Code”), and in accordance with the terms of section 22032 of the Code, may be let to contract by informal procedures as set forth in sections 22032-22035 of the Code.

SECTION 3 (Contractors List)

The Authority shall develop and maintain a list of contractors identified according to categories of work in accordance with section 22034 of the Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission (“Commission”).

SECTION 4 (Notice Inviting Informal Bids)

(a) Where a public project subject to the informal bid procedures pursuant to Section 2 is to be performed, a notice inviting informal bids shall be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 3 not less than 10 calendar days before bids are due. The notice inviting informal bids shall describe the project in general terms, how to obtain more detailed information about the project, and state the time and place for the submission of bids.

(b) If there is no list of qualified contractors maintained by the Authority for the particular category of work to be performed, the notice inviting bids shall be sent to all construction trade journals as specified by the Commission in accordance with Section 22036 of the Code.

(c) If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

SECTION 5 (Award of Contracts)

The Executive Director is authorized to award informal contracts pursuant to this Ordinance for contracts that do not exceed \$175,000. Expenditures in non emergency situations that exceed \$50,000 per vendor/contractor per fiscal year also require Board approval. If all bids received are in excess of one hundred seventy-five thousand dollars (\$175,000), the Authority Board may, by adoption of a resolution by a four-fifths vote, award the contract, at one hundred eighty-seven thousand five hundred dollars (\$187,500) or less, to the lowest responsible bidder, if the Board determines the cost estimate of the Authority staff was reasonable.

SECTION 6 (Notice and Effective Date)

This ordinance was introduced and first reading waived on October 28, 2015 and adopted on November 18, 2015. It shall be posted at the Authority Office for at least thirty (30) days after its adoption by the Board and shall become effective thirty (30) days after the adoption.

Passed and adopted this __ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

I certify that this is a full, true and correct copy of ORDINANCE NO. 2015-XX which is on file in the Authority Office and that it was passed and adopted on the date indicated above.

**GARY WOLFF
EXECUTIVE DIRECTOR**

ATTACHMENT B

ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY

RESOLUTION #WMA 2015 –

MOVED:

SECONDED:

AT THE MEETING HELD OCTOBER 28, 2015

ELECTION OF

UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING PROCEDURES

WHEREAS, the Uniform Public Construction Cost Accounting Act (“Act”), Pub. Contract Code § 22000 *et seq.*, establishes a uniform cost accounting standard for construction work performed or contracted for by local public agencies; and

WHEREAS, the Commission established under the Act has developed uniform public construction cost accounting procedures for implementation by local public agencies in the performance of or in the contracting for construction of public projects; and

WHEREAS, the Act provides a set of streamlined contracting rules for local public agencies that elect to be governed by the Act’s uniform construction cost accounting standard; and

WHEREAS, the Alameda County Waste Management Authority (Authority) would benefit from the application of those contracting rules and the uniform construction cost accounting standard;

NOW THEREFORE, BE IT RESOLVED, that the Authority hereby elects under Public Contract Code section 22030 to become subject to the uniform public construction cost accounting procedures set forth in the Act and to the Commission’s policies and procedures manual and cost accounting review procedures, as they may each from time to time be amended, and directs that the Executive Director notify the State Controller forthwith of this election; and

BE IT FURTHER RESOLVED, that this Resolution shall take effect upon the effective date of Ordinance 2015-XX TO PROVIDE FOR INFORMAL BIDDING PROCEDURES UNDER THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gary Wolff, Executive Director

ATTACHMENT C

ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY

RESOLUTION #WMA 2009-05

MOVED: Wile
SECONDED: Henson

AT THE MEETING HELD NOVEMBER 18, 2009

**THE AUTHORITY AUTHORIZES A REVISION TO THE POLICY REGARDING
PURCHASING APPROVALS AND REVISIONS TO THE LOCAL PREFERENCE
POLICY**

WHEREAS, resolution 98-9 established a purchasing policy; and,

WHEREAS, this purchasing policy required certain bid procedures; and,

WHEREAS, this policy also established an expenditure approval limit for the Executive Director by which he or she can approve expenditures without Board approval; and,

WHEREAS, this limit has not been raised since 1998; and,

WHEREAS, this limit is low compared to several member agencies and similar regional agencies; and,

WHEREAS, raising this limit would create more operational efficiency by reducing excess and unnecessary paperwork; and,

WHEREAS, this revision was approved by the Administration and Organization Committee at its meeting held October 7, 2009; and

WHEREAS, this policy now supersedes Resolution No. 98-9.

NOW, THEREFORE, BE IT RESOLVED, that the Alameda County Waste Management Authority approves the following policy for implementation as of November 18, 2009:

1. The Executive Director (or designee) is authorized to approve annual expenditures from agency funds authorized in the budget up to \$50,000. Annual expenditures in excess of \$50,000 must be approved by the Board. Annual expenditures are defined as cumulative expenditures per vendor or contractor per fiscal year.
2. Annual expenditures less than \$3,000 require no bidding process.
3. Annual expenditures between \$3,000 to \$15,000 normally require three informal bids. However with acceptable justification, a source sole vendor or contractor may be approved by the Executive Director for these amounts.

4. Annual expenditures greater than \$15,000 normally require a formal bid process. However, with acceptable justification, a sole source vendor or contractor may be approved by the Executive Director for an amount greater than \$15,000 up to \$50,000.
5. In an emergency situation, such as a natural disaster, the Executive Director is authorized to approve expenditures up to \$100,000 and to bypass bid requirements in order to expedite the acquisition of necessary goods and services, the lease of office space, equipment, etc. These emergency expenditures do not have to be within the original budget allotment at the time they were secured. However, the Executive Director must advise the Board of these expenditures and any budgetary impacts within a reasonable time period.
6. In the event that applicable state and/or federal laws mandate a different bidding process, those laws shall prevail.
7. The attached local preference policy has been revised to reflect the change in the Executive Director's signing authority only. All other provisions of the Authority's local preference policy remain intact.

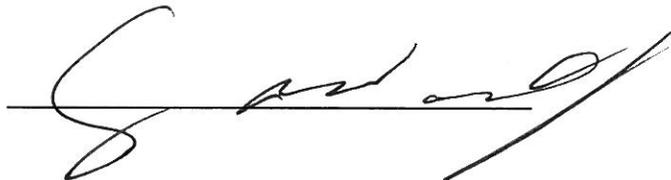
ADOPTED BY THE FOLLOWING VOTE:

AYES: Biddle, Freitas, Green, Henson, Keating, Landis, Leider, Natarajan, Quan, Souza, Sullivan, Waespi, Wile, Wozniak

NOES: None

ABSTAIN: None

ABSENT: Carson, Fricke, Johnson

A handwritten signature in black ink, appearing to read "Gary Wolff", is written over a horizontal line. The signature is fluid and cursive.

Gary Wolff, Executive Director

Alameda County Waste Management Authority
Local Preference Purchasing Policy

- I. The Agency will give a 2.5% vendor bid preference to a local business for goods, materials and general services provided that the goods, materials and/or general services meet the standards set forth in the Agency's Environmentally Preferable Purchasing Policy (EPP). The Agency will give an additional 2.5% vendor bid preference to a local business that is also a certified small or emerging business for goods, materials and general services provided that the goods, materials and/or general services meet the standards set forth in the Agency's Environmentally Preferable Purchasing Policy (EPP).
 - A. General services are defined as basic operational services such as printers, gardeners, janitors, etc. General services differ from professional services, with professional services requiring a specialized expertise or skill set. Example, a gardener is considered general services, whereas a landscape designer would fall under professional services. The Executive Director, Administrative Director or designee will determine whether a contractor falls under the general services or professional services category.
 - B. A small or emerging business must be certified by the Alameda County Small Local & Emerging Business Program (SLEB).
 - C. A local business must be in operation in Alameda County for at least six (6) months to qualify for the local preference.
 1. The business must have a verifiable address in Alameda County and must be able to prove that the business has been in operation in Alameda County for at least six months.
 2. The business must have a valid business license with the local jurisdiction in which the business resides.

- II. The Agency will calculate the bid preference as follows:
 - A. The local vendor's bid will be reduced by 2.5% when comparing to other bids. Assuming all elements of the bid are equal (e.g., quality, timeliness of delivery, adherence to the EPP, etc) upon calculation of the 2.5% preference, if the local vendor has the lowest bid, it will receive the contract subject to the Executive Director's or, if over \$50,000, the Board's approval.
 - B. The local and certified small and emerging vendor's bid will be reduced by 5.0% when comparing to other bids. Assuming all elements of the bid are equal (e.g., quality of goods, timeliness of delivery, adherence to the EPP, etc) upon calculation of the 5.0 % preference, if the local and small or emerging vendor has the lowest bid, it will receive the contract subject to the Executive Director's or, if over \$50,000, the Board's approval.

- III. The Executive Director or designee may waive this preference and the bid process as a whole in the event of an emergency or if the operational effectiveness of the Agency would be seriously threatened if the purchase of goods or services was not made immediately.

IV. Professional services contracts are exempt from the local vendor preference. However, when issuing a RFP or RFQ the Agency will pursue outreach of Alameda County contractors using available vendor information such as the Alameda County's vendor list.