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OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND

AGENDA REPORT 2005 DEC -1 PM 6:46

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Public Works Agency
DATE: December 13, 2005

RE: A STATUS REPORT ANALYZING THE LOW NUMBER OF BIDDER RESPONSES TO CERTAIN PUBLIC WORKS PROJECTS AND PRESENTING PROCEDURAL CHANGES AND ACTIONS TO ENHANCE THE BIDDING PROCESS

SUMMARY

A status report was presented to the City Council Public Works Committee on May 25, 2004 regarding progress on the Committee's request for an analysis as to why a low number of bids are received on certain public works projects in Oakland. The report recommended a focused outreach to contractors listed with the City, Port, and the East Bay Municipal Utility District to determine the volume and type of work performed, bidding activities, compliance status, and their experiences and opinions of Oakland's contracting process and requirements. The intent was to render specific recommendations to supplement or enhance the bidding environment in Oakland.

To answer these questions, staff conducted one direct mail survey and three follow-up telephone surveys with contractors and local business advocate groups. This report is a summary of findings and recommendations.

In general, the results of the outreach survey and the follow-up phone surveys were broad and inconclusive. Relative to other cities with local requirements, nothing specific was found that should deter bidders' participation.

Public Works officials from other California cities who are active members of the California Benchmarking Study were also contacted to determine whether there were any common problems with attracting bidders and to seek methods that might enhance Oakland's efforts. Their response indicates a downtrend in the number of bids due to an abundance of both private and public contracting opportunities in a healthy economy.

It also appears that the relative size of a city's capital improvement program has an impact on the level of bidding interest in that city's projects. In the Bay Area, the cities of San Jose and San Francisco have significantly larger capital improvement program budgets that tend to attract bidders away from Oakland. Finally, several contractors commented that the logistical issues

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that result from increasing traffic congestion in the area further deter some of the peninsula and south bay contractors from seeking work in Oakland.

While many of the findings from the survey point to market forces over which there is little control, staff has developed several recommendations that may increase bidding participation when implemented. These changes are listed in the Recommendation and Rationale portion of this report.

FISCAL IMPACT

No direct fiscal impact is identified. However, some of the recommendations for future consideration may have a fiscal impact, the exact magnitude of which cannot be determined at this time. The overall program changes may ultimately improve the bidding environment, attract more bidders per project, promote a better competitive market, and potentially reduce overall project costs.

BACKGROUND

In 2004, several sanitary sewer construction contracts were presented to the Council Public Works Committee with recommendation for award that had attracted only one or two bidders. The Committee directed staff to survey the local contractors to determine the reason for this small pool of bidders.

In response to this request, staff developed a comprehensive questionnaire that was mailed out to contractors and conducted three follow-up telephone interviews to seek answers to these questions. These surveys were conducted over a period of fifteen months.

KEY ISSUES AND IMPACTS

Low bidder response to public works projects reflects a lack of market competition and ultimately may cause higher construction costs. Staff has developed a series of improvements to the bidding process to help promote an increased interest in bidding on Oakland construction contracts. At the same time, a “Fairness in Contracting” study (the “Crosen” Study) has been initiated that will obtain significant detailed information that may also address some of these questions.

PROJECT DESCRIPTION

The following is a description of the surveys and analysis that staff conducted in preparing this report:

Construction Contract Survey and Analysis

1. Questionnaire Soliciting Feedback from Contractors. A three-page questionnaire was designed in collaboration with City staff from Contract Compliance, Contract Administration, and Public Works Engineering (**Attachment No. 1, Instrument of Survey**). Contract Compliance and Contract Administration provided a list including 1,100 contractors to whom these surveys were mailed. The City received 50 responses (representing approximately a 5% response) to the written questionnaire from a broad range of local and non-local contractors, professional service providers, construction services, and suppliers of goods. While this level of response was relatively inadequate to make any firm determinations, some information was obtained that was useful in developing follow-up questions.

2. Follow-up Telephone Survey. Following the written questionnaire, staff conducted telephone surveys with 38 contractors to discuss their responses in greater detail. The results of these discussions served to confirm some of the information obtained in the written survey and helped craft the questions in a follow-up survey.

3. Analysis of Contractors' Written Response and Feedback. Many of the survey responses were received from non-local contractors, professional service providers, construction services and suppliers of goods. Staff from the City Administrator's Office of Contract Compliance and Public Works Agency's Contract Administration, Engineering and Project Delivery Divisions reviewed the results and found some of the results to be inconclusive. Accordingly, after a discussion with the City Administrator's Office, staff moved to conduct additional, focused telephone interviews with contractors who actively participate in bidding on public works projects in the Bay Area to discover the reasons for their lack of participation in Oakland's projects.

4. Additional Telephone Interviews. The second round of telephone interviews were conducted in Summer 2005 with both Oakland and non-Oakland contractors that have historically bid on Oakland's streets and sidewalk, storm drain, and sanitary sewer projects. A questionnaire for these interviews was developed (**Attachment No. 2, Phone Survey**) and thirteen firms were called. Seven of the firms agreed to participate, as noted in Attachment 3.

5. Interviews with additional local business groups. In order to assure that all potentially affected stakeholders were included, staff contacted local business groups including the East Bay Small Business Council, Oakland Citizens Committee for Urban Renewal, and Chinatown Chamber of Commerce to make sure that all their members were included in the initial survey and that their concerns were properly addressed in this report.

Findings

The results of the written survey and three rounds of follow-up phone surveys over the past 15 months did not reveal any significant single reason why some projects seem to attract relatively

few bidders and found nothing in Oakland's practices that should deter contractors from bidding. The following is a summary of the most frequent comments and key findings.

Contract Language and Procedures:

The majority of contractors interviewed stated that Oakland's contracting language, requirements, and contracting process do not present an obstacle to bidding on Oakland projects.

Relative Size of Oakland's Capital Improvement Program (CIP):

The responses from several contractors who have traditionally bid on Oakland projects indicate that the relative size of a city's Capital Improvement Program (CIP) may be a factor in a contractor's decision to bid on projects from a given city. Contractors stated that they make business decisions as to where to focus their effort based upon where they will find the most work. The following is a summary of the Capital Improvement Programs for the three major cities in the Bay Area:

San Jose	\$1,800,000,000*
San Francisco	\$ 535,000,000
Oakland	\$ 77,800,000

* San Jose includes appropriations for Airport improvements.

Comments from several contractors indicate that this basic market force is a significant influence in deciding where to focus their bidding efforts.

Experience of Major California Cities:

The California Multi-Agency Benchmarking Project is an effort by the public works agencies of the seven largest cities in California to benchmark their relative performance and to develop best management practices that enhance project delivery. It is an excellent forum in which to discuss issues such as Oakland's low-bidder response, and staff presented this problem to the participants for discussion. Participating agencies reviewed their own bidding history. General comments suggest that other cities are seeing a similar drop in the number of bids received for construction projects and many pointed to the general economic climate as a contributing factor. The significant recent increases in construction costs, currently significantly greater than the overall rate of inflation, seem to support this overall increase in construction activity that creates a "bidders' market".

Specific responses received from Sacramento, San Jose, and Long Beach indicate the decreasing number of bids received exists due to the abundance of public and private projects in a healthy economy. These cities have taken steps to improve their processes to make bid information quickly available to prospective bidders. Staff believes that implementing some of their methods in Oakland could produce quick results.

Traffic Congestion:

Bay Area traffic congestion was cited as a growing concern among contractors from outside Oakland. Unpredictable traffic patterns often cause contractors from the peninsula and south bay to be delayed in reaching Oakland with their crews and equipment, causing significant unproductive downtime in their workday.

Communication:

A majority of the contractors expressed an interest in using the Internet for project notification, information transfer, and feedback. This helps advertise the City's effort in an open setting in which contractors, subcontractors, and suppliers can communicate quickly regarding upcoming projects. This tool will help augment communication efforts.

Bonding Assistance Program:

Some public agencies have selected third party assistance to provide limited bonding for capital projects. The City and County of San Francisco utilizes a third party surety bond program for projects which covers the lesser of \$750,000.00 or 40% of the bid amount. The third party program provider assists contractors with financial statements, bid bond, payment bond, and performance bond. San Francisco dedicates up to four million dollars per year as a guaranteed pool of funding reserve to support bonding and financial assistance. The fee for the third party program provider for the City of San Francisco is about \$500,000.00 per year.

Feedback from Local Business Groups:

Some of the recommendation presented by the local business groups to increase local participation included the following:

- Expand subcontracting opportunities, which will in turn build capacity for small and local contracting community and provide a foundation for businesses to grow.
- Encourage a broader participation in public projects at all levels by trade providers, subcontractors, suppliers, and general contractors.
- Provide a forum for contractors to post information on their firm, types of work, size of projects, compliance status, project experience, availability, etc.
- Expand existing outreach venues such as minority press, DBE publications, and related media.
- Introduce the capital-access groups and service providers such as banks, bonding companies, lending institutions, and insurance companies to contractors and vice versa.

SUSTAINABLE OPPORTUNITIES

Economic: Supplementing the bidding environment and attracting more bidders to Oakland public works projects will have positive impacts and promote a more competitive market and potentially reduce overall project costs. This will also enhance growth of Oakland businesses.

Environmental: There is no direct impact or benefit to the environment.

Social: There is no direct social impact or benefit to Oakland other than those mentioned under “Economic”.

DISABILITY AND SENIOR CITIZEN ACCESS

There is no direct impact or benefit to seniors or people with disabilities.

RECOMMENDATION AND RATIONALE

The ultimate goal of this project was to determine why Oakland was receiving a low number of bids on certain public works projects. The results of the surveys conducted in this process indicate that the low turnout in the bidders on some public works projects is primarily due to a thriving construction economy and an abundance of private and public projects, which have produced a similar low bidding environment in cities throughout California. Other market forces such as the relative size of Oakland’s capital improvement program further affect the number of bids received. While a city has little or no control over these market forces, staff believes that there are steps that may be taken to enhance the bidding climate in Oakland.

Staff will implement the following initiatives to increase bidding participation in Oakland projects, which may be accomplished at no or minimal cost to the City:

1. Leverage the power of the internet for quick access to bidding information;
 - o Post the Notice Inviting Bids and Request for Proposals on the internet (target date: December 2005)
 - o Place plans & specifications on the web site or on-line bid services (target date: June 2006)
 - o Analyze the pros and cons of the web site or on-line services and contact other municipalities that have internet systems in-place (target date: June 2006)

These recommendations would also support expansion of subcontracting opportunities as recommended by the local business groups.

2. Hold open-house sessions every six months for local contractors to meet with staff and obtain information on how to do business with the City of Oakland. The main focus of the sessions will be to provide Contractors with a better understanding of City process

and upcoming construction contracting opportunities. Contract Administration and Contract Compliance will co-sponsor the Open-houses (target date: August 2006).

3. Invite local business advocates such as the East Bay Small Business Council, Oakland Citizens Committee for Urban Renewal, and Chinatown Chamber of Commerce to meet on a regular basis with City staff to discuss methods to increase participation among the small and local business enterprises (target date: August 2006). This could be done in conjunction with recommendation number 2, above.
4. Based on information gathered from active members of the California Benchmarking Study, a change in the bid opening date and longer bidding period are recommended to enhance participation. Staff is considering increasing the bidding period for construction contracts from 3 to 3.5 weeks for additional exposure and will change the bid opening dates from Monday to Wednesday. The new bid opening date could provide contractors with additional time to secure bid security and gather any additional quotes for bid items (target date: January 2006).
5. City staff's observation over the past years indicates reduced participation by prospective bidders in pre-bid meetings that are intended to educate contractors on City requirements and provide an open environment for discussions. Presently, participation in pre-bid meetings is optional. Staff intends to make it mandatory for contractors to attend these meetings and ensure an open environment to communicate with contractors and educate them on City requirements (target date: January 2006).


As noted in the findings above, some cities have established a bonding assistance program. Based on information gathered from other agencies such as San Francisco and the Port of Oakland, this program would have costs associated with it that are not determined at this time, but could be significant. A recommendation to pursue such a program would require a detailed cost/benefit analysis that is beyond the scope of this report and may entail coordination with Oakland's existing Business Retention and local Business Development programs.

Finally, the City of Oakland recently engaged Mason-Tillman Associates to conduct a study into whether there is disparity in the participation of contractors and consultants in projects awarded by the City of Oakland. This "Crosen" study will include focus surveys of contractors that may provide additional information to support the continued efforts to increase bidding interest in public contracts in Oakland.

ACTION REQUESTED OF THE CITY COUNCIL

No action is required by Council at this time.

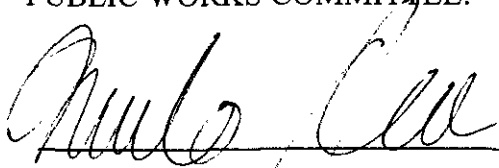
Respectfully submitted,


for **RAUL GODINEZ, P.E.**
Director, Public Works Agency

Reviewed by:
Michael Neary, P.E.
Assistant Director, Public Works Agency
Design & Construction Services Dept.

Prepared by:
Fuad Sweiss, PE
Manager, Engineering Design & ROW Division

APPROVED AND FORWARDED TO THE
PUBLIC WORKS COMMITTEE:



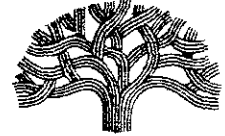
OFFICE OF THE CITY ADMINISTRATOR

Attachment 1

Instrument of Survey



CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, 4TH FLOOR • OAKLAND, CALIFORNIA 94612

Public Works Agency

(510) 238-3961
FAX (510) 238-2233
TTY (510) 238-7644

June 10, 2004

NOTICE TO CONSTRUCTION CONTRACTORS

The City of Oakland is interested in improving its business relationship with contractors who work with us or intend to bid on our projects. Specifically, the City is considering modifying some of its procedures to make it easier and more inviting for contractors to bid and work on our projects. We want to know how we are doing and where we might improve, and we're asking you to take this opportunity to tell us your contracting experience with the City of Oakland and/or other Bay Area jurisdictions. Your opinions and recommendations are extremely important to us.

Please take a few minutes to complete the attached questionnaire and mail it back to the address shown on the bottom of the questionnaire by June 21, 2004, or return via e-mail to Kevin Kashi at: kkashi@oaklandnet.com

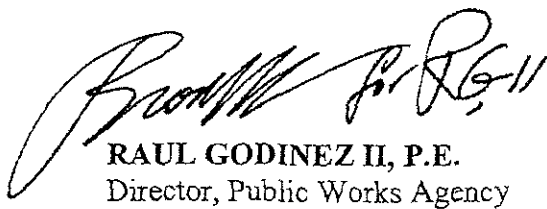
Also, we plan to assemble Focus Groups in July to bring City staff and decision makers together with contractors to discuss related issues and formulate recommendations to City Council.

The City appreciates your assistance in this matter. However, I would like to personally assure you that the information will be solely used for this purpose, maintained completely confidential, and will not be shared with any private or public entity.

Should you have questions or need additional information, please feel free to call Fuad Sweiss with the Public Works Agency at (510) 238-6607 or e-mail him at: fssweiss@oaklandnet.com

Thank you in advance for your help, and we look forward to your response.

Sincerely,



RAUL GODINEZ II, P.E.
Director, Public Works Agency

**City of Oakland
Public Works Agency
2004 Construction Contracts Survey**

The City of Oakland is requesting your feedback on City's construction contracts. Your opinions and recommendations are important to us in our decisions to encourage contracting with the City of Oakland. Please take a few minutes to complete this questionnaire and mail it to the address below by June 21, 2004.

Name of company: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Fax Number: _____

Contact person: _____ Title: _____

Email: _____

1. Type of work & volume of work (amount per year)
 - i. Storm Drainage & Sanitary Sewer \$ _____
 - ii. Streets and Sidewalk \$ _____
 - iii. Buildings and Other projects \$ _____

2. Have you considered contracting with the City of Oakland in the past year? Yes No

If yes, what projects did you submit a bid?

Projects	Time frame

If No, why not? _____

3. Is your firm certified in Oakland as Local Business Enterprise (LBE) Yes No or Small Local Business Enterprise (SLBE) Yes No
 - a. Are you aware of the City's recent change in the LBE & SLBE program? Yes No

NOTE: If NO, please call the City's LBE/SLBE Compliance Office, Deborah Barnes, at 510-238-7411 for information and qualification requirements.

4. Would you consider your firm one that prefers working in the Public Sector or Private Sector

a. How could the City encourage more of your participation? _____

5. Do you receive notices of contracting/bid opportunities? Yes No

6. What form of bid-opportunity notification would you prefer?

- a. City of Oakland PWA Website
- b. Mail
- c. Newspaper
- d. Email
- e. Other _____

7. How can we best communicate the changes in the City of Oakland's contracting requirements?

- a. City of Oakland PWA Website
- b. Mail
- c. Newspaper
- d. Email
- e. Other _____

8. Have you participated in bidding opportunities for the following Cities over the past 12 months?

- a. San Leandro Number of projects _____
Size of contracts \$ _____ \$ _____ \$ _____
- b. Berkeley Number of projects _____
Size of contracts \$ _____ \$ _____ \$ _____
- c. Emeryville Number of projects _____
Size of contracts \$ _____ \$ _____ \$ _____
- d. Hayward Number of projects _____
Size of contracts \$ _____ \$ _____ \$ _____
- e. San Francisco Number of projects _____
Size of contracts \$ _____ \$ _____ \$ _____

9. What is your assessment of City of Oakland's contracting process, procedures, and language?

a. Is the City contract documents (Plans, Specifications, General & Special Requirements) clear?

Yes No

Please comment _____

b. Is the process (bidding and contracting) simple?

Yes No

Please comment _____

10. How do you assess and compare the City of Oakland's contracting process and language with other cities you work with?

a. Please, comment: _____

11. What suggestions (list no more than three) would you make to improve the City of Oakland's bid process.

a. Please, comment: _____

Thank you for participating in this survey. Your feedback is important to us!

City of Oakland – PWA, 250 Frank Ogawa Plaza, 4th Floor, Oakland, CA 94612
Attention: Kevin Kashi

Attachment 2

Phone Survey

**City of Oakland
Public Works Agency
Phone Survey**

Date: _____

Name of company: _____

City: _____

State: _____ Zip: _____

Phone Number: _____

Fax Number: _____

Contact person: _____

Title: _____

We are interested in improving our business relationship with contractors who currently work with us or plan to bid on Oakland's PW projects (Storm drain, sanitary sewer, streets and sidewalk).

We want to know how we are doing and where we might improve. We wonder if you can attend a focus group with other contractors and the City staff for a discussion (yes/no/reasons)

Would you spend a few minutes with us and answer a few questions.

1. Do you routinely bid on private or public projects? Primarily public

2. Would you prefer bidding on projects

- a. Up to \$.5 M _____
- b. \$.5M to \$1.5M _____
- c. \$1.5M and more _____

3. When bidding on projects in Oakland,

- a. Are bonding & insurance of concerns to you?
- b. How about the timely process of payments?
- c. What about job-site security?
- d. Is the escalating cost of construction is of concern to you?
- e. What about the quality of the plans and specifications?
- f. What about the quality of inspection and construction management?
- g. How was your past experiences with Oakland's sanitary & storm - streets & sidewalk projects?
- h. Is there anything you like to add?

Thank you for participation. Please, call me if you have anything else to add. My phone number is 238-7116, Kevin Kashi

Attachment 3

Summer 2005 Survey Participants

**List of contractors contacted in bidding on Oakland's PW
Streets and sidewalks, storm drain, and sanitary sewer projects**

Oakland Certified Contractors, A license

A	Beliveau Engineering Contractors	participated
A	McGuire and Hester	participated
A	Oliver DeSilva, Inc. dba Gallagher & Burk, Inc.	participated
A	Ray's Electric dba Gruendl Inc.	participated
A	Andes Construction, Inc.	did not participate
A	Peak Engineering	did not participate
A	Mosto Construction	did not participate

Oakland Certified Contractors, C-42 license

C-42	Emergency Rooter	did not participate
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Non-Oakland Contractors

	J. Flores Construction Comp.	participated
A	Ranger Pipeline	participated
A	O.C. Jones	participated
A	Granite Construction	did not participate
A	KJ Woods	did not participate