



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 4/17/2012
Agenda Placement: 9C
Set Time: 10:00 AM
Estimated Report Time: 30 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Lederer, Steven - Interim Director
Public Works
REPORT BY: Juan Arias, ENGINEERING MANAGER PUBLIC WORKS - 259-8374
SUBJECT: Prequalification of Bidders for County Construction Projects

RECOMMENDATION

Interim Director of Public Works requests the following:

1. Authorization for the Director of Public Works, at his or her discretion, to approve the prequalification of projects estimated at \$1,000,000 or more that meet certain criteria including, but not limited to:
 - a. Are of a complex technical and project management nature;
 - b. Require many subcontractors; and
 - c. Have a construction duration of more than four months.
2. Approval of the prequalification packet for County construction projects;
3. Authorization for the Director of Public Works to revise the packet to address individual projects when appropriate; and
4. Authorization for the Director of Public Works to name an appeals panel whenever a prequalification score is challenged.

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

EXECUTIVE SUMMARY

The County of Napa (County) is allowed but not required to pre-qualify contractors bidding on public works projects. (Public Contract Code Section 20101.) In the past, the County has utilized the standard questionnaire created by the State Department of Industrial Relations (DIR) to pre-qualify contractors on major County public works projects such as the Juvenile Justice Center, the Sheriff's Facility, and the Fifth Street Parking Garage.

Upon direction from the Board, staff solicited input from interested parties including local labor unions and

contractors on potential revisions to the DIR's prequalification packet. Based on this input, staff has prepared a revised prequalification packet that has incorporated recommendations from these communities where staff believes the revisions strengthen the packet and provide increased protection to the County.

Staff is requesting the Board approve the prequalification packet as presented, authorize the Director of Public Works to revise the packet to address individual projects when appropriate, and authorize the Director of Public Works to name an appeals panel to whenever a prequalification score is challenged.

PROCEDURAL REQUIREMENTS FOR RECOMMENDED ACTION

1. Staff reports.
2. Public comments.
3. Motion, second, discussion and vote on the item.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

A. Background

Napa County (County) is allowed but not required to pre-qualify contractors bidding on public works projects. The County may pre-qualify contractors in accordance with Public Contract Code Section 20101.

The State of California Department of Industrial Relations (DIR), in collaboration with affected agencies and interested parties, has developed model guidelines for rating bidders, and has drafted a standardized questionnaire, that may be used by public entities for pre-qualifying contractors. DIR, in developing the standardized questionnaire, has consulted with affected public agencies, cities and counties, the construction industry, the surety industry, and other interested parties.

The County has utilized the standard questionnaire entitled "Pre-qualification of Contractors Seeking to Bid on Public Projects: The 1999 State Legislation and the Model Forms Created by the Department of Industrial Relations" to pre-qualify contractors on past major County public works projects such as the Juvenile Justice Center, the Sheriff's Facility, and the Fifth Street Parking Garage.

On September 21, 2010 as part of the approval by the Board of the implementation of procedures for the award of contracts for public works projects as authorized by the California Uniform Public Construction Cost Accounting Act (CUPCAA) for Napa County Public Works Projects, staff presented recommendations regarding the pre-qualification of contractors and representatives from organized labor (Labor), and the contracting community provided input regarding these recommendations. Based on this information, the Board approved the

implementation of CUPCCAA and asked staff to work with the labor union and contracting communities to further consider the input provided regarding pre-qualification of contractors.

Subsequently staff has been working with Labor and the contracting community as well as County Counsel in the consideration of the input regarding the proposed pre-qualification process.

In the process of working with Labor and the contracting community, staff requested specific input on the pre-qualification package and process. This input has been reviewed and incorporated where staff and County Counsel agreed the suggestions would strengthen the pre-qualification packet. These changes were incorporated into the attached prequalification packet that staff recommends as the baseline for future pre-qualification packages.

B. Policy Issues and Staff Recommendations

1. Pre-qualification on a yearly or project-by-project basis?

State law allows the County to establish two different kinds of pre-qualification procedures for public works projects - a procedure linked to a single project (Public Contract Code Section 20101[d]) and a procedure by which a contractor may qualify to bid on all applicable projects that go out to bid for a period of one year after the date of initial pre-qualification (Public Contract Code Section 20101[c]).

Staff recommendation: Staff recommends pre-qualification on a project-by-project basis for the following reasons:

- Capital projects managed by the Department of Public Works are of a very diverse nature and it would be difficult to administer an annual pre-qualification process for applicable projects given the diversity of projects. The Department manages projects for the following County public facilities: airport, buildings, river restoration, roads and others. Creating a pre-qualification packet to address the broad array of contracting specialties potentially needed well in advance of having a specific project specifications in place would be difficult. Additionally, a quarterly pre-qualification process with pre-qualification good for one year would create significant administrative burdens in reviewing the qualifications of a vast array of contractors and subcontractors.
- It is recommended that a standard-form pre-qualification package be approved by the Board with authority granted to the Director of Public Works to tailor the packet on a project-by-project basis.
- A project-specific pre-qualification also allows staff to ask for information critical to evaluating the qualifications for the particular project.
- A project-specific pre-qualification also allows for prequalifying those sub-contractors whose work is most critical to the success of the project.
- A project-specific pre-qualification also allows staff to determine whether pre-qualification is warranted for certain projects or not; i.e. for roads capital projects, the County may want to pre-qualify contractors for a complex bridge replacement project but not necessarily for an asphalt overlay project.

2. When to pre-qualify on a project-by-project basis?

Once a decision is made on pre-qualifying on a project-by-project basis the next question is what criteria should be used to determine for which projects the County should prequalify.

Staff recommendation: Staff recommends the following criteria be considered when deciding for which projects to prequalify:

- Projects with an estimated construction cost of \$1,000,000 or greater and that also meet the following

criteria:

- Projects of a complex technical and project management nature; i.e. building construction and bridge construction;
- Projects requiring many subcontractors;
- Projects having a construction duration of more than four months

Examples of upcoming projects which may be candidates for pre-qualification of contractors include the Health and Human Services Campus Project, the Oakville Crossroad Bridge Replacement Project and the Devlin Road Extension/Fagan Creek Bridge Project. As the Director of Public Works considers projects for pre-qualification, it is important to note that there may be projects which may meet the criteria above but for which the Director of Public Works may not prequalify for due to scheduling, funding or legal requirements.

Staff recommends the Board authorize the Director of Public Works to utilize the attached pre-qualification packet for projects where the Director of Public Works deems pre-qualification appropriate, and further authorize the Director of Public Works to make those incidental revisions to the attached packet as may be required to add project-specific information into and/or revise the insurance limits. Should the staff deem it appropriate to alter the objective questions or scoring to address the specific needs of any future public works projects, staff shall bring a revised pre-qualification package to the Board for approval prior to going out to bid.

3. Pre-qualification package and Apprenticeship Policy

Labor provided input on how to encourage apprenticeships, including an example pre-qualification package used by the City of Vacaville, which they felt was a good example of how to approach this process. The Vacaville example pre-qualification package uses a very similar approach to apprenticeships as the County of Napa has already been using, by including objective questions regarding contractors' practices in this area.

Staff recommendation: Staff recommends continued inclusion of objective questions regarding apprentices, compatible with past Napa County practice, and as included in the City of Vacaville Contractor Pre-qualification Packet dated October 8, 2011 provided by Labor.

4. Pre-qualification package and Drug-Free Workforce Program Requirements Policy

Labor recommended that a Drug-Free Workforce Program Requirements Policy be included in the County's pre-qualification package when pre-qualifying contractors. The County of Napa has been following its own Drug and Alcohol Policy which was adopted in 1991, which addresses these same concerns.

Staff recommendation: Staff recommends continued use of the County of Napa Drug and Alcohol Policy adopted by resolution of the Board of Supervisors on June 25, 1991. This is the Policy contractors and subcontractors are required to abide by when working on a County construction project and compliance is required as part of contracting with the County.

5. Appeals Panel

To protect the due process rights of each contractor and/subcontractor seeking pre-qualification, Public Contract Code 20101(d) requires the County to "establish a process that will allow prospective bidders to dispute their proposed pre-qualification rating prior to the closing time for receipt of bids." The DIR packet provides for an appeals panel to hear these appeals and the attached pre-qualification package prepared by staff follows that procedure and ensures all of the rights required under Public Contract Code 20101(d) are provided.

Staff recommendation: Due to the tight timelines for the completion of many public works projects and the requirement in Public Contract Code 20101(d) to ensure the administrative appeals procedure is completed prior

to the closing time for receipt of bids, it is important that the appeals panel be selected at the staff level to ensure availability of individuals with the appropriate expertise. Accordingly, staff recommends the Board authorize the Director of Public Works to appoint an appeals panel whenever such appeals occur, with such appeals panel to consist of at least three people, one of which must be an engineer from the Department of Public Works and one of which must be a representative from the Auditor's Office.

The recommended pre-qualification package is attached.

SUPPORTING DOCUMENTS

A . Pre-qualification package

CEO Recommendation: Approve

Reviewed By: Molly Rattigan