



## ADMINISTRATIVE MEMORANDUM COUNTY OF SAN MATEO

NUMBER: B-21

**SUBJECT:** Selection of Construction Contractors

**RESPONSIBLE DEPARTMENT:** County Manager/Clerk of the Board

**APPROVED:** (signature of file in the County Manager's Office)  
County Manager

**DATE:** 3/14/06

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### **PURPOSE**

The purpose of this new memorandum is to establish policies and procedures, in addition to the requirements of Administrative Memorandum B-1 Selection of Independent Contractors, to be followed in contracting for construction<sup>1</sup> work on County facilities. If there is a question whether work constitutes construction work, the County Counsel's office should be contacted.

The Public Contract Code allows the County to have construction projects performed under three categories:

1. Contracts under \$6,500 which do not require formal bidding;
2. Contract between \$6,501 and \$100,000 which can be done by informal bidding procedures conducted by Public Works (DPW);
3. Contracts \$100,001 and over which require action by the Board of Supervisors and bidding procedures must be performed by DPW or the County Manager's Office Capital Projects staff.

DPW potentially has two roles in construction projects. They can either manage the job and/or perform the work themselves.

### **I. CONSTRUCTION CONTRACTS FOR \$6,500 OR LESS**

In determining whether the contract will be for \$6,500 or less, the cost of materials or supplies to be used in the construction or repair and estimated as costing not more than \$3,500, which are purchased by the Purchasing Agent, need not be included in the estimate of the cost of construction.

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<sup>1</sup> A public construction project as defined by the Public Contract Code, includes construction, reconstruction, erection, alteration, renovation, improvement, demolitions, and repair work, painting or repainting. It does not include maintenance work such as routine, recurring and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes, minor repainting, landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement plants and servicing of irrigation and sprinkler systems.

For contracts of \$6,500 or less, departments have two options.

Option 1. Department Manages Project. The department may secure a contractor and manage its own construction project costing less than \$6,500 provided that the following procedures and policies are followed:

a. Contracts may be let by negotiated contract or by purchase order. It is recommended that the department obtain three quotes.

b. Internal procedures must be established to ensure that the selection process is fair, does not promote favoritism, is consistent with County policies and procedures, that contractors are qualified and the cost is competitive. Departments must document how and why each contractor was selected.

c. All contractors performing construction work, regardless of contract amount, must pay prevailing wages. Information on prevailing wages may be obtained from DPW.

d. (1) County Owned and Public Works Maintained Facilities

DPW and ISD must be notified and approve the work in advance of issuing a contract or purchase order. This includes any work that may impact electrical, telephone or computer network lines and cabling. DPW and ISD must review the project for purposes of determining if the work to be done will negatively impact future maintenance of the facility or will impact building safety and security. DPW and ISD review and approval of the work does not constitute an approval of the contractor selected or the quality of the work to be performed. DPW and ISD will charge the department for the time needed to review and inspect department projects. Upon completion of construction work performed on a DPW maintained facility, the department must notify DPW in order to conduct a final inspection of the work performed to determine that the modifications, additions or repairs conform to County standards. DPW may identify workmanship that could have a negative impact on future maintenance. Substandard work may result in non-maintenance of the improvements or require corrective modifications at the department's expense.

(2) County Owned Facilities NOT Maintained by Public Works

The department is responsible for complying with applicable codes and ensuring that the work will not impact future maintenance of the facility or will adversely impact building safety and security. The department will also be responsible for inclusion of ISD for any necessary technological review.

e. Construction contracts of \$6,500 or less must be approved and signed by the department head. Department heads are responsible for ensuring the selection process has been followed and the receipt of Certificates of Insurance for each contractor or the receipt of the waiver of insurance requirements from Risk Management. The departments will be reviewed periodically by the County Manager's Office and the Controller's Office Internal Audit Division to ensure compliance with this process.

f. Departments should use the standard County of San Mateo Agreement with Independent Contractor form. Attachment A to the form must, at a minimum, include a detailed scope of work, the schedule for the work, the payment amount, process and schedule, identification of conditions that will affect the contractor's work (e.g. continuing operations of the department in the space, other contractors etc.), the identification of the person responsible for requesting and approving changes as well as a statement that the contractor is warned from making changes in the work not approved in writing with a description of the work and the price therefore.

Option 2. Public Works Manages Project. The department may submit a request to DPW to manage the project. The department will be responsible for providing DPW with a description of the work to be done and for reimbursing DPW for costs incurred in managing the project. DPW will assume responsibility for ensuring that any modifications, additions or repairs made to the facility conform to all applicable building codes and County standards. DPW will also notify ISD of the work to be performed and obtain their approval for the technological portion of the project.

## **II. CONSTRUCTION CONTRACTS BETWEEN \$6,501 - \$100,000**

The Public Contract Code provides that an informal bid process or a formal bid process may bid construction within these limits. Construction projects, which are estimated to cost over \$25,000, shall be included in the Capital Improvement Project budget for the fiscal year. DPW and the County Manager will prioritize the projects in order to provide departments with information on the time when proposed projects will be constructed.

County Owned and DPW Maintained Facilities

DPW must manage these projects and follow the procedures outlined in I. Option 2 above.

County Owned Facilities NOT Maintained by DPW

For facilities that are not maintained by DPW, DPW will carry the project through the bid process and the department may manage the project from that point forward. The department is responsible for having acceptable plans and technical specifications prepared and DPW will prepare the necessary documents to bring the project through the bid process. The department will be responsible for administering the contract with its own forces, through a contract with a consultant or through agreement with DPW. The department will also be responsible for inclusion of ISD for any necessary technological review.

The requesting department has the responsibility for reimbursing DPW for all costs associated with the project as agreed to before work is started. DPW may perform the actual construction work if under \$25,000 as discussed below. The requesting department will also be responsible for the costs for changes that the department wants after the work is begun and paying all costs for changes for unforeseen or unknown conditions. Departments must identify the person responsible for approving changes and DPW will perform no changes other than as ordered by that person. The work will be stopped until a method of paying for unforeseen or unknown conditions has been determined.

**III. CONSTRUCTION CONTRACTS \$100,001 AND GREATER**

DPW or County Manager's Office Capital Projects (CMOCP) staff must manage these projects regardless if the facility is maintained by DPW. These projects will go through a formal bid process and must be approved by the Board of Supervisors and comply with other applicable sections of the Public Contract Code.

**IV. PUBLIC WORKS CONSTRUCTS IMPROVEMENTS**

In addition to the categories enumerated, Public Works is authorized to do construction up to \$25,000 without going out to bid. The department is responsible for providing acceptable plans of the work proposed and can request that DPW do the work. If DPW is agreeable, DPW will assume responsibility for ensuring that any modifications, additions or repairs made to the facility conform to all applicable building codes and County standards if they are retained to do the work as well as notifying ISD of the work to be performed and obtain their approval for the technological portion of the project. DPW will provide an estimate when the work can be performed.

## **GENERAL PROVISIONS FOR ALL CONSTRUCTION CONTRACTS**

A. Local Preference in the Selection of Independent Contractors. In accordance with the County Charter, when the combination of price, quality and terms and conditions are substantially equal, the County shall give preference to contractors whose businesses are located in San Mateo County.

B. Solicitation of Contractors. Departments must establish procedures that will ensure the broadest possible participation by contractors in the contracting process. Departments should exercise their best efforts to obtain quotes or request proposals from all qualified contractors. The selection process should be implemented to encourage the largest number of contractors possible to submit quotes. Specific efforts should be made to solicit proposals from small businesses, women and minority owned businesses.

C. Term of Contract. A construction project is usually specified work, with a date specified for completion. The contract is therefore a lump sum contract. The contract should specify the time within which the contractor should finish the work required by the contract. If the contract is for work that will continue for a specified period of time, rather than a specific project, the term of the contract should be specified and should be for the period of time the services are needed, but no longer than three years. The County Manager's Office must approve contracts that are longer than three years.

D. Insurance Requirements. All contractors must have \$1 million general liability insurance, \$1 million auto insurance, and \$1 million workers compensation insurance. Contractors must provide original Certificates of Insurance evidencing their insurance coverage. Risk Management must approve any waiver of these insurance requirements in writing and, where appropriate, a copy of the waiver must be included with the memo to the County Manager's Office when seeking the Manager's approval.

E. Contract Administration. The department head is responsible for contract administration. He or she will monitor contract performance and payment schedule to ensure full compliance with the terms and conditions of the contract.

F. Maximum Amount Payable. Each contract should specify the maximum amount payable under the contract.

G. Prevailing Wages. Each contract shall include the following prevailing wage language when contract amount is greater than \$1,000:

**Prevailing Wage**

***When applicable, the Contractor hereby agrees to pay not less than the prevailing rates of wages and be responsible for compliance with all the provisions of the California Labor Code, Article 2-Wages, Chapter 1, Part 7, Division 2, Section 1770 et seq. A copy of the prevailing wage scale established by the Department of Industrial Relations is on file in the office of the Director of Public Works, and available at [www.dir.ca.gov/DLSR](http://www.dir.ca.gov/DLSR) or by phone at 415-703-4774.***

***California Labor Code Section 1776(a) requires each contractor and subcontractor to keep accurate payroll records of trades workers on all public works projects and to submit copies of certified payroll records upon request.***