



MEMORANDUM

Date: March 17, 2017

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator 

Re: **Clarification of Master Agreements**

During the March 7, 2017 Board of Supervisors meeting, there was discussion regarding the Job Order Master Agreement process. The attached March 15, 2017 memorandum was provided by the Procurement Director in response, and it discusses the process in detail.

Job Order contracting arises from Arizona Revised Statutes that were generally designed to accelerate and make more efficient the implementation of routine projects.

Most of the discussion arose regarding the internally established cost limits, which are typically established by a department based on their knowledge of probable demand and funding availability of the particular program. In this case, the need was sewer conveyance rehabilitation. Based on previous conditions and inventories conducted by the Regional Wastewater Reclamation Department, there was a need to make consistent investments in conveyance system rehabilitation in the amount of \$15 million per year. This amount was estimated by the department as a sustainable and fundable program annual investment.

There was also the impression that contracts were not competitively selected, nor competitively bid. The first step in Job Order Master Agreement Contracts is to select contractors from a qualification-based selection process where typically a number of qualified contractors are classified as eligible to bid on a specific project and enter into a contract awarded by the Board. Once plans and specifications are developed by a department, individual job orders are issued, which means the selected qualified Job Order Master Agreement contractors bid on a specific project. Typically, the lowest bid is issued an order to proceed under the contract previously awarded. The Engineers' and/or Architects' Estimate is always a factor in determining the quality of the bids received from qualified Job Order Master Agreement contractors. The contractors are always subject to all of the terms and conditions in the standard contract and/or special provisions of the agreement. In addition, any unusual bidding is evaluated in detail by the Procurement Department and the user department.

The Honorable Chair and Members, Pima County Board of Supervisors

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It should be noted that the difference between the County and the Arizona Department of Transportation (ADOT) in the contracting process is that ADOT does not use Job Order Master Agreements because federal rules preclude such. Hence, one would expect that nearly all ADOT work would proceed through the traditional design/bid/build process.

The Procurement Director has agreed to conduct additional procurement process training sessions if you or your staff desire. Please contact me if you or your staff would like to take advantage of these training opportunities.

CHH/anc

Attachment

c: Tom Burke, Deputy County Administrator for Administration
Mary Jo Furphy, Director, Procurement



PIMA COUNTY

PROCUREMENT

MEMORANDUM

Date: March 15, 2017
To: Chuck Huckelberry, County Administrator
Through: Tom Burke, Deputy County Administrator
From: Mary Jo Furphy, Procurement Director
Re: Master Agreements

Tom Burke
Mary Jo Furphy

At the March 7, 2017 Board of Supervisors meeting, there was discussion about the Job Order Master Agreement process. The information below provides an explanation about how Pima County uses Master Agreements, which are often referred to as “term contracts” in the procurement industry.

Master Agreements

A Master Agreement for goods and services allows Pima County to competitively select suppliers for specific commodities, such as janitorial services, at a predetermined unit price. Departments can then use the MA from time to time to purchase the specific items on an as needed basis using the MA procured by the Procurement Department without having to do a separate procurement process. At the time of the procurement, the exact number of the supplies needed for a year is impossible to determine, so the dollar amount of the MA is based on estimates of the amount of items the various departments would likely need during the term of the contract.

A Master Agreement for construction is used to competitively select multiple contractors who can provide design or construction services, generally for smaller routine projects which are usually not yet fully developed or designed. The contractors are selected based on qualifications. At the time of the procurement, the exact projects are not always known. The MA is set up to permit small projects to be awarded to one of the qualifying contractors and to require quotes from multiple contractors to competitively select for larger projects. Generally, the largest project that can use a MA can be no more than \$500,000. Essentially, the Procurement Department develops an MA to provide flexible job ordering for the many small projects that come up during the year. When a department knows exactly what supplies or goods are needed for a particular use, Procurement obtains a contract for the specific number of items.

Amendments to the MA are brought to the Board of Supervisors for approvals when departments experience more need for the supplies and services than originally estimated or, in the case of an MA for design and construction, when a department has more smaller projects than originally anticipated.

State Statutes and Pima County Procurement Code Provisions

The Arizona Revised Statutes (A.R.S.), the Pima County Code, and Board of Supervisors Policies all authorize the use of this type of contracts we call Master Agreements.

For procurement of materials and services, the County adopted the formal bid threshold as defined in A.R.S. §41-2535, which is currently \$100,000. The Board of Supervisors codified this threshold in Pima County Code §11.12.040.

For procurement of construction and architectural/engineering (A&E) services, the County must follow the requirements of A.R.S. Title 34. For larger projects, Pima County primarily uses the design-bid-build method or the Construction Manager at Risk (CMAR) method for selecting contractors to construct a project. Those contracts have set pricing which require Board of Supervisors approval before work begins. For small, more routine projects, the County uses Job Order Master Agreements for "job-order-contracting" which State statutes allow. In those situations, after Procurement has obtained the contract with multiple contractors, a department can utilize one of the contractors to perform a specific job once the need arises. The authority for this type of construction contract is further defined in Section F, Paragraph IV of Board of Supervisors Policy D 29.1.

Purpose of Master Agreements

The primary purpose of a using a Master Agreement is to establish a source with qualified contractors. These contracts also improve efficiency when there are needs for large and repetitive purchases by having Procurement establish one contract that sets the terms, conditions, and prices, and allows multiple departments to order specific items as needed. This avoids unleveraged spend through a multitude of small non-contract buys, reduces the need to hold inventory, avoids emergency procurements, reduces risk and liability, and improves staff efficiencies at all levels of the process from procurement through payment.

When an award is made for these contracts, the award is based on historic usage and estimated future usage. A not-to-exceed award amount is not required by statute, but Pima County self imposes not-to-exceed amounts.

Professional procurement certification organizations recognize the establishment of term contracts to be a best practice. One of the criterion of The Achievement of Excellence in Procurement certification process is the "Use of requirements contracts (annual or term also known as blanket orders) for at least 30% of total dollar commodity and services purchases. The purpose of this criterion is to demonstrate that the agency has leveraged spend through establishing annual requirement contracts for at least 30% of the total procurement spend. Requirements contracts improve efficiency and provide opportunity to save through negotiated pricing contracts." Pima County does an exceptional job of using term contracts. Our materials and services term contract spend in Fiscal Year 2014/15 was 95% of the materials and services procurement spend.

Construction term contracts are called job order contracts. This is a collaborative construction project delivery method that enables the County to procure numerous, commonly-encountered construction projects quickly and efficiently through indefinite delivery, indefinite quantity multi-year contracts. This process reduces unnecessary levels of engineering, design, and contract procurement time along with construction project procurement costs by awarding long-term contracts for a wide variety of renovation, repair and construction projects. With an emphasis on partnering and teamwork between the County and contractors, job order contracting provides the methodology to execute a wide variety of construction, renovation, repair and maintenance projects for facilities and infrastructures via multiple simultaneous job orders. The contractor may provide "on call" construction services from concept to close-out. Job order contracts are about performance, reliability, dependability and quality. At the same time, job order contracts are about results and working within budget and time constraints.

Pima County's Master Agreements

As previously stated, Pima County refers to term contracts as Master Agreements. There is a distinction between materials and services Master Agreements and construction Job Order Master Agreements. Master Agreements do not encumber any funds but rather establish the sources and pricing for future orders yet to be fully specified. Departments' use of Master Agreements and potentially how many jobs they can complete are essentially controlled by the individual departmental budgets approved by the Board of Supervisors.

Materials and services Master Agreements are established with qualified contractors at defined unit prices through a competitive quote, bid or proposal process. After a materials and services Master Agreement is established, departments may place orders with a qualified contracted vendor at defined unit prices. The County's standard process is to establish the Master Agreement for a one-year term with four one-year renewal options. An annual award amount is set as a not-to-exceed amount. Upon renewal of the Master Agreement, any amount up to the approved annual award amount is added to the Master Agreement based on anticipated needs for the next year. If the anticipated amount needed is higher than the approved annual award amount, a request to increase the annual award amount is processed to the Board of Supervisors.

Job Order Master Agreement contractors are competitively selected based on qualifications, as authorized by statute. After a Job Order Master Agreement is established, award of individual job orders using plans and specifications are determined based on price book and/or competition thresholds to determine the lowest responsive and responsible contractor. The standard process is to establish the Master Agreement for a one-year term with four one-year renewal options. Job Order Master Agreements have traditionally been awarded by the Board of Supervisors on an annual basis with a new not-to-exceed amount. The intent is for the Master Agreements to be renewed annually and a new not-to exceed amount established based on the anticipated needs for the next year.

Process Improvements

Arizona Department of Transportation (ADOT) Process

There was some discussion of following ADOT's practices as a means of improving the County's procurement process. For transportation projects, the Pima County Department of Transportation and the Procurement Department do follow ADOT

requirements and processes as Pima County must comply with them on federally funded projects. Pima County is actually an ADOT certified agency to self-perform projects, including contract management, using federal funds as documented by a Certification Acceptance Agreement for Federal and Highway Program Projects (CTN-TR-17-30) which was approved by the Board of Supervisors on September 6, 2016. Pima County underwent a stringent process with ADOT to thoroughly vet Pima County's procurement and contract processes.

Any contracts processed under the above ADOT rules are fixed price contracts. Job Order Master Agreements are not equivalent to a fixed price contract and there is no fixed contractual amount. Master Agreements have a not-to-exceed amount which Pima County has self-imposed although it is not required by statute. Job Order Master Agreements cannot be used to spend federal funds, therefore even though the State of Arizona does use job order contracting, there would be limited use by ADOT. It is also important to note that some portions of ADOT are exempt from the State Procurement Code and only comply with A.R.S. Title 28 – Transportation.

Justification and Explanation

Providing a justification or better explanation of why the award amount needs to be increased is a practical improvement. The justification provided by the administering department should include the past spend patterns, including quantity and price, and anticipated future needs, which may include budget capacity and/or a list of planned projects. This proposed process will be immediately implemented.

Summary

The Procurement Department takes pride in providing and monitoring an excellent job order contract program and providing an extensive selection of materials and services Master Agreements and strives for continuous improvement. The Procurement Department offers several standard trainings. In addition, they are willing and happy to provide custom one on one training if desired. Custom training can be arranged by contacting the Procurement Director.