Efficiency in Procurement

When you need to make a Choice, make the Right Choice...
Choice Partners follows all state and federal laws governing public procurement, including EDGAR for school districts. HUB, MWBE, SBA and other vendor certifications are requested on each RFP.
## Legal Requirements - Texas

**Choice Partners provides legally-procured contracts**

### Local Government Code 271 - Purchasing & Contracting Authority of Municipalities, Counties, other Government

### Education Code Ch. 44 -Procurement (All construction, with the exception of Performance Contracts, is in Code 2269)

### Government Code 791 – Interlocal Cooperative Contracts

- **Government Code 2269**
  - Construction Procurement for all government (except Higher Ed.)

- **Local Gov’t Code 252/262**
  - Purchasing & Contracting Authority of Municipalities, Counties, other Government

- **24 CFR 85.36**
  - Housing and Urban Development

**Additional Resources**

- **EDGAR/Uniform Guidance 2 CFR 200**
- **HB 1295**
- **TEC 51.9335**
  - Higher Education
Choice Partners Contracts

Educational | Facility Services | Food/Cafeteria Supplies | Supplies and Services | Technology

The Right Resources. Right now.

Choice Partners Cooperative Serving
Schools | Colleges | Universities | Counties | Municipalities | NonProfits
HCDE-CP JOC/IDIQ Contracting:
What you need to know to stay Legal & Compliant

BY: Stephen Kendrick, Sr. Manager of Facilities Planning
Objectives

- Concepts & Terminology of Job Order Contracting (JOC)
- Maintenance vs. Construction
- Trade JOC vs. JOC
- Quoting vs. Bidding
Why Job Order Contracting (JOC)

• “Time & Materials”

   If providing “construction services”
   • Only method allowed to select contractors for future, undefined projects
   • TEC 44.031, TEC 51, LGC 252.043, LGC 262.023, LGC 271.054
• **Maintenance VS. Construction**

Factors to Consider

- “Like for like” – NOT new or upgraded
- Scale and complexity of project
- Physical size of object being worked on

- **JOC contract**
  (TGC 2269)

- **Maintenance Contract**
  (TEC 44.031)

OSHA Letter to Raymond Knobb (11.18.2003)
What is Job Order Contracting?

• “A procurement method used for maintenance, repair, alteration, renovation remediation, or minor construction” of facilities “when the work is of a recurring nature but the delivery times, types, and quantities of work required are indefinite.”

TEX. GOV’T CODE § 2269.401
Using JOCs procured by Purchasing Cooperatives

• Gov’t Entity selects vendor without having to use its own competitive procurement process
• ONLY satisfies the procurement requirement, NOT the contracting requirement
• Statute requires a written and signed job order between the vendor and the Gov’t Entity
• Only construction method that allows for use of a cooperative in lieu of self-procurement
• Only method allowed to select contractors for future, undefined projects or tasks
What Cannot Be Done Under a JOC Contract?

- Engineering and Architectural Services
- Ground up construction of a new building
- A related type of project associated with civil engineering construction
- A building or structure that is incidental to a project that is primarily a civil engineering construction project

Texas Government Code 2269.402, 2269.408
What is the Unit Price Book?

- The contract specified UPB is a published maintenance or construction unit price book (RS Means or National Construction Estimator by Craftsman).
- Contains a list of tasks with an assigned cost for each task representing labor, material, and equipment cost.
What is a JOC/IDIQ Estimate?

• A line item assessment utilizing the Unit Price Book (UPB)
• Contains the tasks necessary to complete scope of work
• “Localized” by applying a City Cost Index (CCI) assigned to various cities
• Reduced by legally bid coefficient
• Contains contract number
• Subcontractor pricing must be estimated using the UPB for ALL scope of work
What is the Unit Cost?

• Includes all costs related to labor, materials, and equipment
• “Localized” by applying a City Cost Index (CCI) assigned to various cities
What is a Coefficient?

• Establishes a competitively bid cost adjustment or multiplier to the UPB pricing
• Includes contractor’s overhead and profit.
• Represented as a baseline of 1.0.
## Vendor Name

Job Description

Choice Partners Contract #17/038CG-XX

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### Data Release: Year 2017 Quarter 2

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<th>Line Number</th>
<th>Description</th>
<th>Unit</th>
<th>Ext. Total O&amp;P</th>
<th>Labor Type</th>
<th>Data Release</th>
<th>CCI Location</th>
<th>Notes</th>
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<td>TEXAS / HOUSTON (770-772)</td>
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<td>Gravel stop, galvanized steel, plain, with continuous cleat, 4&quot; leg, 6&quot; face height, 24 gauge</td>
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| RS Means Unit Cost Total                                      | $42,732.55 |
| Total with Coefficient (.84 x RS Means Total)                | $35,895.34 |
| 2% Bond (Any additional Pass-Through Costs)                  | $717.91    |
| **Total Project Quote**                                      | **$36,613.25** |
Review the JOC Quote!

- CCI location
- Coefficient
- O & P Pricing
- Data release (most recent)
- Non pre-priced items
- Attempts to pass-through co-op fee

Division 1
Adjustment Factors
The Relationships

Gov’t Entity

Interlocal Agreement

Co-Op

Awarded Contract

Vendor

Job Order And/or Contracted Services Agreement
Use A Master Job Order Contract!

• Contains Gov’t Entity project specific Scope of Work
• Includes Job Order & Prevailing Wage Rate as Attachments
• Liquidated Damages
• Retainage
• Terms & Conditions Specific to Gov’t Entity
• Signed by Gov’t Entity and Vendor

“An order for a job or project under a job order contract must be signed by the governmental entity's representative and the contractor.”

TEX. GOV’T CODE § 2269.410
The Job Order

• The **Job Order** is an attachment to the Job Order Contract (typically Attachment “A”):
  – Formally written
  – Project-specific
  – Owner authorization to provide a lump sum, fixed priced estimate
  – Based on the owner/contractor team’s defined scope of work.
  – Include Owner’s adopted prevailing wage rates as an attachment (required on all Public Works Projects) – Typically Attachment “B”
Public Works Bonds

• Performance bond required if contract is in excess of $100,000
  – Protects the Gov’t Entity from financial losses arising from default, material breach, termination or abandonment

• Payment bond required if:
  – A contract is in excess of $25,000 and Gov’t entity is not a municipality or joint board
  – A contract is in excess of $50,000 and the Gov’t entity is a municipality or joint board.
  • Protects the Gov’t Entity from claims for nonpayment of suppliers, subcontractors, and sub-subcontractors.

TEX. GOV’T CODE § 2253.021
JOCs and using an Architect or Engineer

• Gov’t Entity must independently hire A/E if services required
  TEX. GOV’T CODE § 791.011(j)

• Architect required for:
  – A new building having construction costs exceeding $100,000
  – An alteration or addition having construction costs exceeding $50,000
  TEX. OCC CODE § 1051.703

• Exceptions to Engineering Services:
  – An engineer is NOT required for a public work project if:
    • A project involving electrical or mechanical engineering will cost $8,000 or less
    • A project not involving electrical or mechanical engineering will cost $20,000 or less
      (i.e., structural or civil)
  TEX. OCC CODE § 1001.053
What Must Go To The Governing Body?

- Determination of construction services project delivery method (if other than CSP)
- Approval of competitive procurement results, where procurement is required
- Approval of all Interlocal Contracts for cooperatives
- Approval of the contract with any vendor
- Approval of all contract amendments or change orders
- All contract renewals and contract terminations
- For school districts, board may act to delegate all of the above powers (CH or CV Local)
- Job Orders (including cooperative purchases) in excess of $500,000
Trade JOC vs. JOC

Trade JOC:
• allows the use of one trade or division
• reduces overhead expenses when multiple trades are not needed to complete project

JOC:
• allows for the use of all divisions and is typically a general contractor
Bidding vs. Quoting

Bid / Proposal:
• formal
• written
• sealed response
• satisfies the state’s procurement requirements
• When using federal funds, must be 2 CFR Part 200 (EDGAR) compliant

Quote:
• job-specific price in writing
• based on vendor’s previously bid & awarded contract coefficient
• When using federal funds, one of three quotes must be from a minority-owned or woman-owned business
Takeaways

- Establish procurement method with your vendor prior to them quoting the job
- Include contract number on quote and PO
- Verify pricing by requesting the vendor’s line item estimate with legally bid coefficient
- If utilizing a coop, send a confirming copy of each JOC PO issued to Coop
- Not all Co-ops are created equal, are in State, or are 2 CFR Part 200 (EDGAR) compliant
- Board Approval
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Stephen Kendrick, CTSBS
Sr. Manager of Facilities Planning
6005 Westview Dr.
Houston, TX 77055
Office: 713-696-8252
Cell: 281-773-3036
ChoicePartners.org

Navigating Choice Partners website
- Requesting Login & password
- Logging in
- Searching contracts and vendors
- Investigating suppliers and documentation
Supply Catalog

- 1100 line items competitively bid every 2 years
- Single awards
- Catalog Discount Percentage also provided
- eCatalog system allows members to create draft orders
Looking forward to working with you!

www.choicepartners.org

Contact Choice Partners and get started!
Contact information

6005 Westview | Houston TX 77055
Tel 713-696-0786 OR 877-696-2122
www.choicepartners.org
Follow us
www.twitter.com/choice_partners
www.linkedin.com/company/choice-partners
Email: info@choicepartners.org
www.choicepartners.org/membership
Contacts

Billing
Arlita – supplyreporting@choicepartners.org
Kay – supplyreporting@choicepartners.org
Jan – facilityreporting@choicepartners.org
Joanna – facilityreporting@choicepartners.org
Doris – foodreporting@choicepartners.org

Sr. Manager of Facilities Planning(HCDE)
Stephen – skendrick@hcde-texas.org

Director
Jeff Drury – jeff@choicepartners.org

Contract Managers
Joann – joann@choicepartners.org
Karen – karen@choicepartners.org
Kristi – kristi@choicepartners.org
Michael – michael@choicepartners.org
Monique – monique@choicepartners.org
Trisha – trisha@choicepartners.org

Client Engagement
Janet – janet@choicepartners.org