

## Notes on meeting re: Reauthorization Bill and JOC Statute

May 13, 2020

Attending: Tom DiGangi (Gordian Group), Randy Horn (Gordian Group), Fernando Peña (Gordian Group), Linda Shilley (Pierce Transit, Chair of JOC Committee), Quinn Dolan (Centennial, Vice-Chair JOC Committee), Rebecca City (City of Seattle – WA Cities Rep CPARB, Chair Reauthorization Committee)

On April 27, 2020, Rebecca circulated the Summary of Status and Next Steps for JOC Statute proposals from Gordian, along with draft of proposed changes to statute that are still open. Rebecca discussed policy framework that Reauthorization Committee has favored in terms of statutory frame and flexibility to be filled in through best practices and asked if there was any discussion or questions about process for reauthorization and next steps. Hearing none, the group moved to discussion of the proposals and open items.

1. Proposed definition of “Coefficient” – Resolution: Gordian agrees with definition
2. Proposed definition of “Unit Price Book” – discussion of Gordian’s rationale for proposal to change the ‘may’ to a ‘shall’. Discussion of JOC Committee’s rationale for keeping a ‘may’. Issues include flexibility for owners regarding which elements of the unit book to use for pricing and which elements to include for bid as part of the coefficient and discussion of Gordian’s concerns about using estimates in price book for overhead and profit and getting large variances on the coefficient. Resolution: Gordian agrees that this definition is acceptable with the understanding that the JOC committee will include robust discussion and inclusion in best practices of different ways to use the price book in conjunction with the coefficient.
3. RCW 39.10.430 (3)(d) – discussion of highlighted language below re: which requirements for what is included in the RFP.

(d) The identity of the specific unit price book to be used; and a description of which elements shall be included in the coefficient as necessary to establish a firm fixed price on work orders to be awarded under the job order contract.

Resolution: Group agrees on intent that RFP needs to be clear on what elements are in coefficient and that additional guidance and discussion should be part of best practices. Gordian considering use of word ‘elements’ and may propose different wording.

4. RCW 39.10.430 (4) – Discussion of language the highlighted language that is in statute now that was deleted in proposal: (4) A public body shall establish a

committee to evaluate the proposals. After the committee has selected the most qualified finalists, the finalists shall submit sealed bid including but not limited to coefficient(s), including final proposals, including sealed bids based upon the identified unit price book .

Gordian's concern is that the coefficient has to be based on the portions of unit price book listed in RFP. Discussion of other elements that may be bid (ex. Of unit price not currently in books). Resolution: not necessary to include the language because the new language in RCWR 39.10.430 (3)(d) requires the RFP to state what elements go in coefficient. Gordian to consider and confirm.

5. Discussion of the two Gordian issues not included in the statute revisions:
  - 1) certification of work orders. Rebecca noted that WA law already has provisions applicable to public bodies regarding authentication of contractual payments and Gordian noted that the point with JOC is that the contractor who puts together work order have public body verify payment consistent with JOC contract. Resolution: No change to statute needed – rely on combo of the existing legal requirements for payment and the Best Practices guidelines for how to review and approve payments.
  - 2) Conflict of interest – JOC and RA Committees believe this is covered by existing law and differing agency procurement policies and procedures about how to address conflict of interest if public body seeks industry expertise when putting together proposals. Expressed concern that the proposed language was open to future interpretation. Resolution: Gordian agrees this leaving this proposal out.

Next Steps: Gordian to provide final feedback on draft attached with these notes. JOC Committee and RA Committee to review and hopefully accept for incorporation into Reauthorization bill.