



Small Construction Contracts: Opportunities to Save Money & Reduce Risks

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Executive Summary

King County uses work order contracts to deliver the majority of small construction projects that help maintain public facilities and ensure services for residents. Work order contracting is a project delivery method that, according to the State Auditor's Office, state law does not explicitly authorize. This method is fast and flexible but comes with a risk of increased construction costs. We identify opportunities for the County to strengthen its capabilities to use other contracting methods and to mitigate risks of paying more for construction when using work order contracts.

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Small Construction Contracts: Opportunities to Save Money & Reduce Risk

Report Highlights

July 14, 2015

Why This Audit Is Important

Each year King County awards on average \$20 million worth of contracts to deliver small construction projects, which are important for maintaining public facilities and ensuring county services for residents. Starting in fall 2015, the County Executive will initiate a second phase of procurement reform to increase efficiency and expand opportunities for small businesses. We examined how King County could strengthen contracting capabilities for delivering small construction projects in order to identify opportunities for advancing the goals of procurement reform.

What We Found

- King County delivers the majority of small construction projects using work order contracts, a contracting method the State Auditor's Office states is not explicitly authorized by state law.
- The County has often used work order contracts for small construction projects beyond those meeting urgent or unplanned needs. Factors contributing to heavy use of work order contracts include barriers to using other contracting methods and lack of decision guidance and monitoring.
- The County can better mitigate risks of overpaying for construction when using work order contracts.

What We Recommend

- The County Executive should monitor the use of work order contracts to comply with county policy and align with state law.
- The County should clarify the intended purpose of work order contracting and strengthen its procurement and administration.
- The County should provide decision guidance, remove barriers, and create incentives for departments and divisions to use other contracting methods rather than default to work order contracting.

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I. Delivery of Small Construction Projects

Section Summary

King County delivers the majority of small construction projects using work order contracting, a contracting method that the State Auditor's Office (SAO) states is not explicitly authorized by state law. Small construction projects are important for maintaining county operations and services. While the County uses a variety of contracting methods, it relies most heavily on work order contracting. The County's reliance on work order contracting could increase the risk of disruptions in county services and operations if this contracting method became unavailable.

King County uses contractors to deliver small construction projects

King County awards on average \$20 million worth of contracts every year to deliver small construction projects in order to maintain public facilities and keep services running. Examples of small construction projects include replacing a leaky roof of a public building, repairing pavement at a park and ride, and fixing a broken wastewater pipe. As in household maintenance or improvement, there are two basic ways to do a small project: do it yourself or contract it out. Washington state law allows local jurisdictions to deliver small construction projects in both ways (see Appendix I for state law related to delivering small construction projects).¹ Between 2007 and 2014, King County entered into contracts for over \$161 million, or an average \$20 million per year, in small construction projects. As shown in Exhibit A (see page 2), this represents 16 percent of the dollar value of all county construction contracts awarded during this period. In addition, some county divisions use their own staff to perform construction on small projects.²

Work order contracts are the most commonly used contracting method for small construction projects

Work order contracts (WOCs) are the most commonly used contracting method throughout King County for small construction projects.³ The County uses four contracting methods to deliver small projects: work order contracts, small works roster, standard competitive bid, and job order contracts.⁴ During 2007-2014, WOCs accounted for 73 percent of the dollar value of contracts awarded for small construction projects, as shown in Exhibit A.⁵ Under this type of contract, King County hires a contractor

¹ For purposes of this report and our analysis, we considered small construction projects to be those costing \$350,000 or less. This cutoff was established because it is the upper limit established in state law for individual projects using job order contracts, an alternative delivery method created for expediting small construction projects.

² Data on the amount of self-performed construction at King County is not sufficiently reliable to report a total amount.

³ Work order contracts are also sometimes referred to as on-call or task order contracts. King County uses a competitive bidding process to procure work order contracts based on estimated quantities and cost of future small projects that are not yet specifically defined.

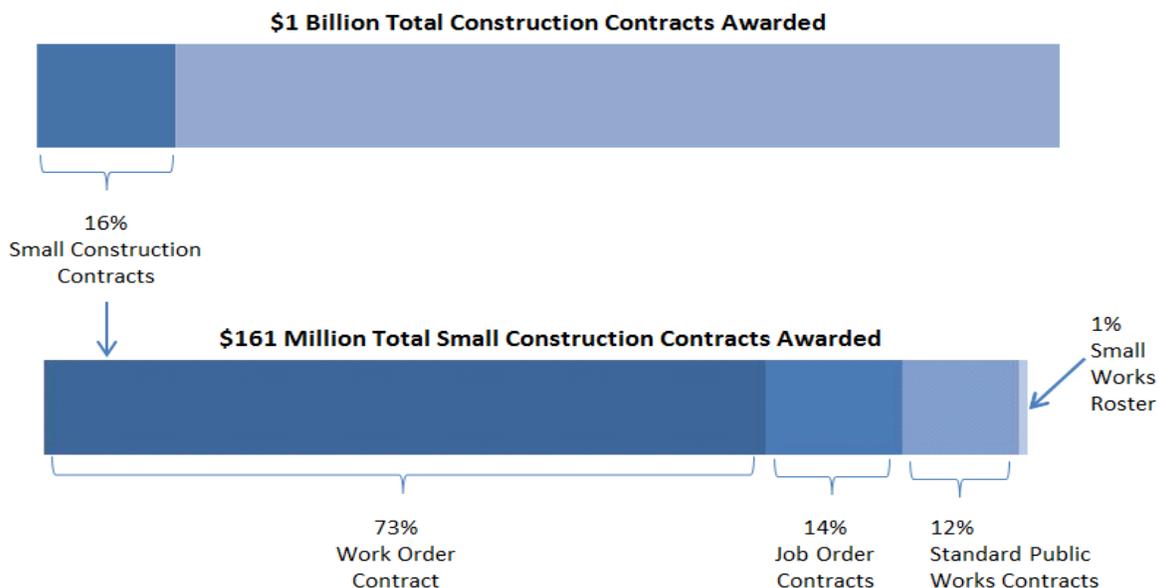
⁴ For purposes of this report, standard competitive bid refers to public works construction contracts that are competitively bid based on plans, specifications, and estimated cost of a specific project scope in a known time frame for completion, as described in RCW 36.32.235. King County began using job order contracting, an alternative contracting method described in RCW 39.10, as a means to deliver small construction projects in 2011.

⁵ For purpose of this analysis, we assumed all work order contracts were used for small construction projects. Note that between 2007 and 2014, at least three work order contracts were project-specific and allowed for individual work orders to exceed \$350,000.

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through a competitive bidding process for doing small construction projects on an as needed basis. In other words, a WOC allows a county agency to secure a contractor first without defining specific projects in the contract and then issue individual work orders to the contractor to perform specific projects as the need arises. Compared to going out to bid and entering into separate contracts for individual projects, work order contracting can be a faster and more flexible way to deliver small construction projects, because it saves time by not doing separate procurements. This is useful especially when projects are unanticipated and need immediate attention.

Exhibit A: King County awarded the majority of small construction contracts (for projects under \$350,000) through work order contracting between 2007 and 2014.



Source: King County Auditor's Office analysis of data from Finance and Business Operations Division's procurement database.

State Auditor's Office expressed concerns about work order contracting

According to SAO, Washington state law does not specifically authorize work order contracting. King County is one of several public agencies in Washington state that use work order contracting for repair, renovation, and maintenance of public facilities. In 2010, the state's Capital Projects Advisory Review Board (CPARB) received a complaint regarding the county's use of WOCs for potential noncompliance with state competitive bidding law. In the same year, the county's Ombudsman's Office also received a complaint, which alleged improper governmental action under the county's whistleblower code. The King County Finance and Business Operations Division (FBOD) director stated in official responses to both complaints that the county's bidding process for WOCs was consistent with

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state competitive bidding requirements. Based on review of information provided by the county, CPARB recommended no changes to the county. The county's Ombudsman determined there was not a basis to support the complainant's allegations.

In 2013, the SAO stated in a guidance document that WOCs are not explicitly authorized in state bid law and can result in noncompliance with state public works contracting statutes. Therefore, the SAO recommended that local agencies should establish policies, procedures, and internal controls for WOCs to ensure their contracting process is in compliance with relevant state statutes.⁶ After the publication of SAO recommendations, the County Executive issued the first official countywide policy (Con 7-19) to standardize the use of construction WOCs in October 2014. According to the director of FBOD, the County believes there is arguable support under existing state competitive bidding law for the County's longstanding use of work orders.

Absent clear legislative authorization, however, the County's reliance on WOCs may be at risk of an adverse finding from the SAO, or other legal challenge, in the future. Some local agencies began work to propose legislative changes to allow work order contracting. However, King County has not been part of that effort. According to the director of FBOD, the County is managing these risks by following its new policies and procedures. However, if the County's use of WOCs was found to be in noncompliance with relevant state statutes, the County would need to strengthen capabilities to use suitable alternative methods to accomplish small projects in a timely way. This will be critical to avoid service interruptions and degradation of infrastructure.

Recommendation I

The County Executive should develop and implement a plan to monitor the use of work order contracts by requiring agencies comply with construction work order contracts policy (CON 7-19) and align with state law.

⁶ "Basics of Bid Law," State Auditor's Office Local Government Performance Center.

2. Use of Contracting Methods

Section Summary

King County has relied on work order contracting beyond its historical purpose at the expense of developing capabilities to use other contracting methods. County agencies state that they value work order contracting, because it provides speed and flexibility in delivering projects.⁷ However, over-reliance on WOCs could prevent the county from delivering small construction projects efficiently and effectively if legal challenges or changes to state law ever eliminate work order contracting, requiring the county to reallocate all WOCs to other types of small construction contracts. Lack of decision guidance, lack of monitoring and data collection, and barriers to using other delivery methods all contribute to the county's heavy reliance on work order contracting. We identify opportunities for the County Executive's second-phase procurement reform to address this condition and strengthen capabilities to use other methods for delivering small construction projects.

County agencies prefer work order contracting to other contracting methods

County agencies prefer work order contracting to other contracting methods for small construction projects for two main reasons: speed and flexibility.

Speed: County agencies value WOCs because they can generally get construction underway with greater speed compared to other methods. Historically, the County developed work order contracting as a way to deliver small dollar value construction in a timely way, according to interviews with officials in FBOD and implementing agencies. Establishing a WOC in advance of actual work saves time, because it eliminates the need to conduct separate bidding processes for multiple small projects. Once a WOC is in place, it usually takes between one and five weeks for the contractor to proceed on an individual work order.⁸ This is faster than the amount of time it normally takes a contractor to proceed on similar work using small works roster or standard competitive bid. Officials in FBOD and implementing agencies consider this an important advantage that reduces the cost and time of procurement and contract administration.

Flexibility: Work order contracting provides flexibility to county agencies in dealing with unexpected or unplanned projects. The County developed work order contracting as a way to deal with unanticipated or unplanned construction needs. For example, a county agency may anticipate a need to

⁷ County agencies refer to departments and divisions that implement WOCs. In the County Executive's 2014 work order contracting policy, they are referred to as "implementing agencies."

⁸ King County competitively bids and awards construction WOCs based on state law requirements (RCW 36.35.235). FBOD's procurement data showed that construction WOCs take a similar amount of time to procure as standard competitive bids for public works under \$350,000 once an agency has completed 90 percent of designs and specifications for going out to bid.

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repair roof leaks over the next year or two, but the exact location and scope of the repair cannot be planned in advance. With a WOC in place, the agency can call on the selected contractor to respond to roof repair needs as they arise with the knowledge that the county has verified the contractor's qualifications, established contract terms, received performance bonds, and proof of insurance in advance. As we discuss in Section 3, the County will pay for the work based on previously established prices to the extent that actual work corresponds to the general scope of a WOC.

WOCs provide opportunities for small contractors and suppliers

The County has sought to use WOCs to help promote equity by expanding opportunities for small contractors and suppliers (SCS) as part of the county's first phase of procurement reform (2010-2012).

Among WOCs awarded between 2011 and 2014, SCS firms represented 28 percent of the bidders and won 27 percent of the executed contracts. The dollar value of WOCs awarded to SCS firms totaled more than \$12 million. Compared to small works roster or standard public works contracts, the bid success rates for SCS firms was higher on WOCs. These numbers demonstrate that the County attracts SCS firms as bidders and that they can successfully compete for WOCs in a competitive bidding process.

In 2012, the County added requirements that work order contracting prime contractors use SCS firms for a percentage of subcontracting and supplying materials. From 2012 through 2014, the county's SCS utilization requirements ranged from five percent to 20 percent and averaged to 10 percent.⁹ Through the end of 2014, SCS firms earned over \$1.4 million as subcontractors or suppliers with WOCs. According to FBOD officials, this was not as successful as hoped since many work order contractors were unable to meet the requirements for using SCS subcontractors and suppliers. FBOD officials explained that because the prime contractors were uncertain what types of materials and subcontractors they would need, it was difficult for prime contractors to identify SCS firms they intended to use in advance. The urgent nature of some work orders also might make it difficult for contractors to meet both the county's schedule and to seek out and create new business relationships with SCS firms. FBOD plans to reevaluate the approach to promoting SCS use with WOCs as part of the second phase of procurement reform.

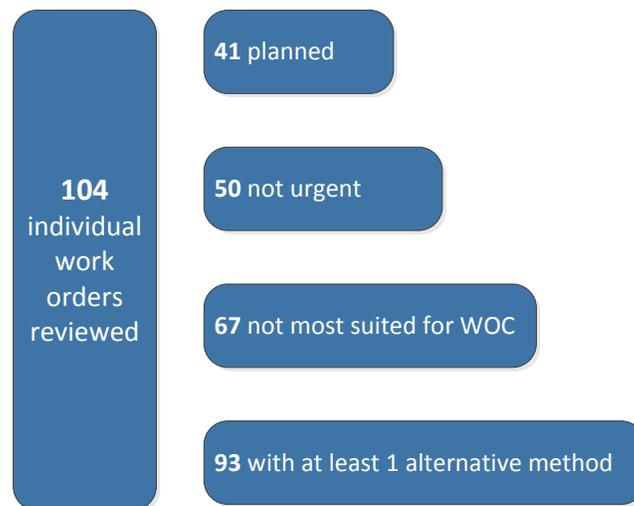
⁹ Note that the county applied these requirements to approximately half of the executed WOCs because SCS utilization was not considered applicable to all WOCs.

2. Use of Contracting Methods

WOCs often used for projects that are not urgent or unplanned

County agencies have often used WOCs beyond the historical purpose of dealing with small dollar value projects that are urgent and/or unplanned. We analyzed 104 individual small construction projects (or individual work orders) to determine the extent to which they were urgent and/or unplanned.¹⁰ Our analysis showed that nearly 50 percent of these work orders were not urgent; that is, the agency could wait for at least three months for a standard competitive bid before work began. Approximately 40 percent of these work orders were not for unplanned work; that is, the agency could have defined its scope at the time of contract execution. In addition, for more than 60 percent of the work orders, work order contracting did not appear to be the most suitable method compared to available alternatives. Overall, nearly 90 percent could have been done using at least one alternative delivery method based on documented scope, schedule, and cost estimates.

Exhibit B: County agencies have often used WOCs for small construction projects that were not urgent or unplanned or best suited for work orders.



Source: King County Auditor's Office analysis of 12 WOCs from four King County divisions.

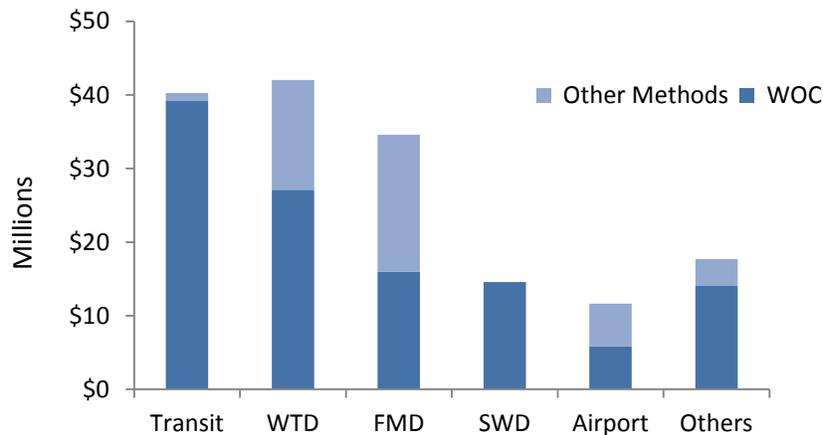
Heavy reliance on WOCs contributed to lower use of other methods and higher risk to the county

The County's heavy reliance on work order contracting has contributed to less investment in developing support and processes for other contracting methods. This condition could make it difficult for the county to accomplish necessary small projects efficiently and effectively if work order contracting were to become limited or unavailable in the future. As shown in Exhibit C (see Page 7), most implementing agencies executed a higher dollar volume of WOCs than all other methods combined between 2011 and 2014. While some agencies, such as King County Metro Transit

¹⁰These 104 projects were delivered through 12 WOCs across four county divisions. For details on how we designed and performed this analysis, see the Statement of Compliance, Scope, Objective and Methodology.

2. Use of Contracting Methods

Exhibit C: Most implementing agencies used more WOCs than all other options combined (2011-2014).



Source: King County Auditor’s Office analysis of FBOD contracts procurement database. Contracting methods represented by “Other Methods” include: small works roster, standard competitive bid, and job order contracts. Wastewater Treatment Division (WTD), Facilities Management Division (FMD), Solid Waste Division (SWD). Others include Water and Land Resources Division, Enterprise Services Section, Parks and Recreation Division, Code Enforcement, and Road Services Division.

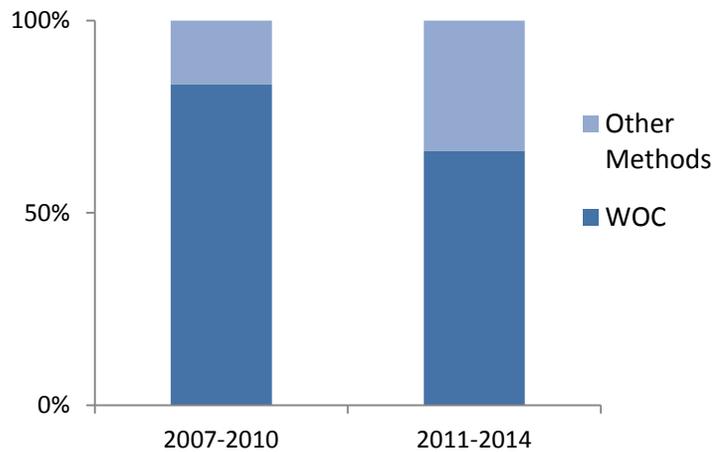
and the Wastewater Treatment Division, utilized WOCs more heavily than others, all implementing agencies have used WOCs. By contrast, these agencies rarely or never used some of the other available contracting methods, such as small works roster.

The County Executive’s first phase of procurement reform (2010-2012) began to address this issue by introducing job order contracts (JOCs), a contracting method explicitly authorized by state law. Based on analysis of construction procurement data since 2012 and interviews with division officials, we found that the use of JOCs has reduced the use of WOCs at the Facilities Management Division. However, the County cannot use JOCs to meet all of its small construction project needs because of state law limits and other barriers (discussed later in this section).¹¹ As a result, work order contracting remains the predominant method throughout the county for contracting small construction projects as shown in Exhibit D.

¹¹Washington state law limits the use of JOCs to two contracts at a given time for \$6 million each and renewable for up to three years.

2. Use of Contracting Methods

Exhibit D: WOCs continue to represent the majority of executed construction contract amount for delivering small construction projects after the 2010-2012 procurement reform.



Source: King County Auditor's Office analysis of FBOD procurement database.

According to the director of FBOD, it would not be administratively feasible for the county to reallocate all WOCs to other types of public works contracts, given the high demand to complete small construction projects and limited staff resources to conduct competitive bids. While FBOD believes the County is managing this risk by following new policies and procedures, the County could become more resilient to the risk by strengthening capabilities to use other contracting methods.

Three factors contribute to the county's heavy reliance on work order contracting

Three factors contribute to the county's heavy reliance and potential overuse of work order contracting:

1. The County has not developed formal guidance for divisions to decide the most suitable delivery method for small construction projects.
2. The County has limited data and monitoring mechanisms to track the usage and outcomes of WOCs that would help to make better use of procurement resources.
3. Divisions experience various barriers and lack incentives to using alternative delivery methods to WOCs.

The County Executive's second phase of procurement reform presents an opportunity to address these factors and strengthen the county's overall capacity to deliver small construction projects.

2. Use of Contracting Methods

1. Lack of formal decision guidance

The County has not developed formal decision guidance to help divisions select the most suitable delivery methods for small construction projects. According to officials from FBOD and four implementing agencies, no formal guidance currently exists at either the executive or department level for how to select the most suitable delivery method for small construction projects. As a result, agencies have taken a variety of approaches to decide whether and how to contract out small projects. Because divisions are not required to document the justification for their decisions, it is not clear what criteria are considered and at what level the decision authority exists. Agency staff stated during interviews that the decision to contract out work could be based mainly on maintenance crew recommendations. The decision about which contracting method to use could be based mainly on the estimated project costs. In the absence of formal decision guidance, work order contracting has practically become the default delivery method, because staff is most familiar with this method and perceives it has good results. Having formal decision guidance could help agency managers consider the pros and cons of all options for delivering a project rather than defaulting to WOCs.

Recommendation 2

Finance and Business Operations Division should develop, document, and disseminate decision-making guidance for divisions to use for selecting the optimal delivery method for small construction projects.

Formal decision guidance could also clarify the intended use of work order contracting and enable divisions to apply consistent criteria and document their justification for deciding to use a WOC. The County Executive’s 2014 construction WOCs policy (Con 7-19) provided improved guidance for standard use of work order contracting by defining the types of work done under such contracts, requiring independent estimates and specifying the dollar limit on individual work orders. According to the policy, construction WOCs are agreements “to be used...when the details of the actual work cannot be clearly defined prior to [contract] execution.”¹² This definition establishes a temporal constraint on use of work order contracting.

King County’s construction WOCs policy does not make a clear statement about the purpose of WOCs. However, county officials have made public statements that more specifically define the purpose of WOCs. The county’s public statements, including those made by FBOD and agency officials on

¹² We recognize that the county did not have a formal policy guiding the use of work order contracting until October 2014, and FBOD officials have been working closely with agencies to implement the new policy.

2. Use of Contracting Methods

this audit, describe the purpose of WOCs as a means to respond to small dollar value construction needs that arise unexpectedly and/or require a timely response. Such statements of intent are not included in the 2014 construction WOCs policy. Further clarifying the policy's intent and requiring documented justification for using work orders for specific projects could help the county achieve and maintain the appropriate use of WOCs.

Recommendation 3

The County Executive should update the construction work order contracts policy (CON 7-19) to clarify intended use of work order contracting and require agencies to document justification for each individual work order based on eligibility criteria established in the policy.

2. Lack of monitoring and data collection

FBOD does not centrally monitor actual usage of WOCs after the contract is signed. Without linking procurement and expenditure data on construction contracts, FBOD cannot make informed determination of reasonable contract size for future WOCs and apply procurement resources accordingly. In reviewing 20 closed WOCs from four divisions since 2011, we found these divisions expended an average 63 percent of the executed amount on each contract.

In one contract we reviewed, 50 percent of a \$500,000 WOC was used before the contract expired because a staff member managing the contract went on unexpected leave. This contract could have been extended for an additional year. In another case, only \$35,000 of \$1 million has been spent as of December 2014 on a WOC due to expire in August 2015. Unless the division has a surge in small projects before contract expiration, it will need to extend the contract for an allowable additional year to avoid losing its remaining contracting capacity and incurring costs for itself and FBOD to procure another WOC to meet the same anticipated need.

Even though individual agencies track expenditures for their own WOCs, FBOD cannot readily track utilization of all WOCs across agencies since its procurement database does not link to the county's financial system. With access to expenditure data for construction contracts, FBOD can make better informed decisions on size of future WOCs and use procurement resources more effectively.

Recommendation 4

Finance and Business Operations Division should develop mechanisms to monitor and document expenditure trends for work order contracts and use this information to inform decisions about the size of future work order contract procurements.

2. Use of Contracting Methods

3. Barriers and lack of incentives for using other methods

County agencies experience barriers to using other delivery methods and lack incentives to apply methods other than work order contracting.

Officials from multiple divisions reported barriers to using other delivery methods as an important reason for using work order contracting. Frequently cited barriers include:

- *Lack of staff to perform work* – All four divisions interviewed cited lack of in-house capacity to perform work as a reason for using contractors.
- *Lack of experience* – Few agency staff have experience with small works roster and job order contracts and no agency staff described experience in using limited public works.¹³ Agency staff expressed reluctance to try methods unknown to them or use methods where their limited experience had not been positive.
- *Lengthy procurement time before work can start compared to work order contracting* – Standard construction procurements take an average of three months before a contractor can begin work and small works roster contracts take an average of one month.¹⁴ In comparison, an individual work order can proceed in one to five weeks under an established WOC.
- *Lack of provision for using federal grants* – The county’s boilerplate language for JOCs and small works roster do not contain language required for use of federal funds. Divisions that rely heavily on federal funding cannot use these methods.¹⁵
- *Lack of qualified bidders* – Multiple divisions reported difficulty in attracting qualified bidders or any bidder from the county’s small works roster. Similarly, the County has a process for limited public works (LPW) but few firms have signed up for the LPW roster.

In addition, during our audit, we found no evidence of FBOD or the departments of the implementing agencies providing incentives to encourage agencies to gain experience and skills in using delivery methods other than WOCs. Because work order contracting has been in use throughout the county for a long time and is perceived to be a valuable tool, it may be difficult for agencies to opt out of using it without incentives to do so.

¹³ For projects under \$35,000, LPW requires three quotes, obtainable by phone or email before proceeding with a contract for the work.

¹⁴ According to FBOD’s procurement data, three months are the average amount of time for standard competitive bid to complete procurement from the time an agency has completed 90 percent of design and specifications to the time of contract execution. The same data indicate that one month is the average amount of time for small works roster to complete procurement from the time an agency has completed 90 percent of design and specifications to the time of contract execution.

¹⁵ At the time of the audit report, the county has begun piloting new boilerplate language consistent with federal fund requirements for a small public works roster contract at the Water and Land Resources Division.

2. Use of Contracting Methods

Agency officials recognized that in some cases other contracting methods could be more suitable than work order contracting. For example, job order contracts may be a better choice for multidisciplinary construction with an established general contractor coordinating the work. Small works roster may offer a more competitive price for a group of similar projects at multiple locations (such as paving similar parking lots) than doing them by negotiated price as separate work orders. Limited public works may significantly reduce procurement time for projects under \$35,000. This could be potentially beneficial to SCS firms since financing and insurance requirements can be waived. Removing the barriers and providing incentives to using these methods could help divisions gradually shift away from relying heavily on WOCs. (See Appendix 2 for information on advantages and barriers of alternative delivery methods for small construction projects to WOCs.)

Recommendation 5

Finance and Business Operations Division should use procurement reform phase II to remove the barriers, especially for the limited public works method, and provide incentives for implementing agencies to use methods other than work order contracting for small construction.

3. Construction Costs on Work Order Contracts

Section Summary

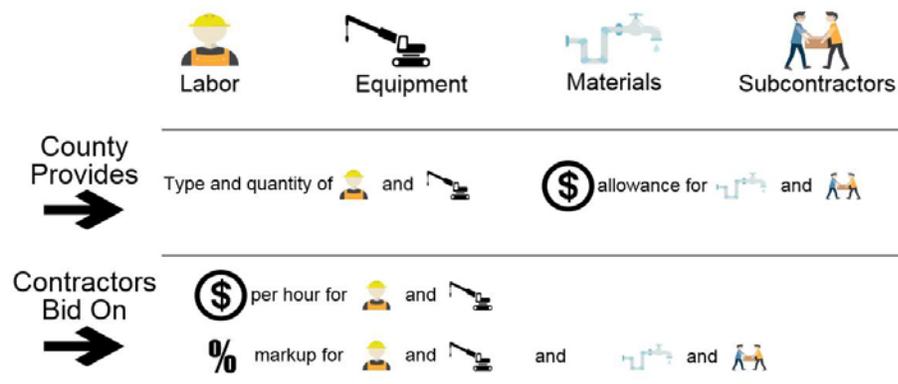
The County does not adequately mitigate risks of paying more for construction when using WOCs. Work order contracting could entail risks of paying a higher construction cost in exchange for speed and flexibility in performing construction. The risks can be mitigated to some extent by establishing appropriate controls for preparing bid documents, reviewing bids, and negotiating individual work orders. We found examples where both FBOD and county agencies do not have adequate controls in place to mitigate risks of overpaying for construction when using WOCs.

WOC may not always provide the best price for construction

The County may not always pay a competitive price for construction when using a WOC. As mentioned in earlier sections, the County uses the same competitive bidding process for WOCs as for standard public works contracts. A key component of this process is a list (also called “bidding schedule”) of items and quantities for a general type of construction work (such as roof repair) that the County anticipates it will need over a period of one or two years. As illustrated in Exhibit E, contractors compete for the work based on their unit prices and markups on this list of bid items and quantities.¹⁶

Exhibit E: Work order bidders typically compete based on unit prices and markups for labor and equipment, and markups for an allowance of material and subcontractor use.

Most work order contract bidding schedules contain:



Source: King County Auditor’s Office analysis of bidding schedules based on actual WOCs

Since the County awards a WOC to the lowest responsible bidder as required by state competitive bid law, the County could theoretically expect to pay a competitive, or lowest possible price for work done using the WOC. However, the contract does not guarantee that the county will pay the most competitive price for specific projects. The reason is that the actual work

¹⁶A markup is a percentage of the total price of labor and equipment and allowances for materials and subcontractors that is added to the contractor’s bid and compensation.

3. Construction Costs on Work Order Contracts

done under a WOC may differ considerably from anticipated work as represented by the list of items and quantities in the bidding schedule. WOCs are designed to address small construction projects, the needs for which arise unexpectedly and the scope of which cannot be precisely planned in advance. Given these uncertainties, there is an inherent risk that the bidding schedule may not be a representative or applicable basis for pricing actual work. As a result, the County may not always pay the lowest possible price for construction when using WOCs.

County practices may contribute to higher risk of overpaying

The county's current practices may increase the risk of not paying a competitive price for construction when using WOC. In addressing unplanned needs, the County may accept paying a premium to use WOC for construction in exchange for speed and flexibility that this contracting method provides. However, the county's procurement and contract administration practices are not sufficiently rigorous to ensure that competitive pricing obtained through the bidding process carries through to the pricing of actual work. As a result, the County may pay an unnecessary premium for construction on some WOCs.

We reviewed 14 of the 88 WOCs advertised for bid between 2011 and 2014, and found examples where inadequate controls might have contributed to the county paying more for construction (see examples in Exhibits F, G, and H). The County can strengthen three areas of controls in the procurement and administration of WOCs in order to increase the likelihood that the County will pay a competitive price for construction on work order projects:

- due diligence in preparing bidding schedules
- scrutiny of bid price imbalance, and
- effective negotiation of individual work orders.

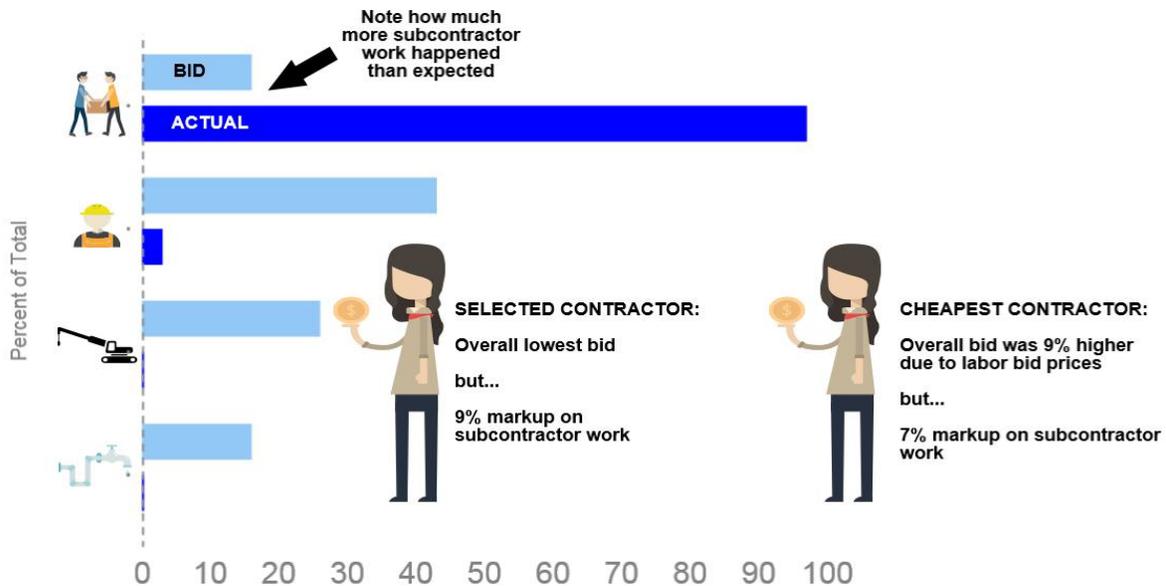
Flawed bidding schedules can contribute to the county overpaying for construction

Bidding schedules that use an unreasonably small percentage of materials and subcontractors can lead to the county overpaying for construction. In those situations, the County may not pay the lowest possible price for the work because a low bidder can bid a higher markup on underrepresented categories of work and be paid more than other bidders. In general, the better the proportion of bidding schedule categories predicts the proportion of these categories needed in actual work, the more likely the bidding schedule can serve as a basis for pricing actual work. Due diligence in preparing the bidding schedule helps increase the likelihood that the bidding schedule can be applied to pricing actual work so the county will pay a competitive price. It is technically challenging to develop a bidding schedule that closely predicts future work of unknown scope. However, use of professional judgment and analysis of proportions of categories and

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components used for actual work on past WOCs can help the county generate better-informed bidding schedules. Exhibit F illustrates an example of a WOC for mechanical work where the County could have paid less by hiring the second low bidder instead of the low bidder, because the bidding schedule underestimated the use of subcontractors.

Exhibit F: The County could have paid two percent less for the work if it had hired a bidder other than the low bidder, because the bidding schedule underestimated the use of subcontractors.



Source: King County Auditor's Office analysis based on actual work done on a WOC.

FBOD does not require agencies to review and analyze actual work done on past WOCs in developing proposals for new WOCs. Agency officials stated during interviews that they regularly use WOCs for specific trades or disciplines of construction (such as mechanical work) year after year. This means that information is available to show whether and the extent to which actual work done under past WOCs used the specific bid items, quantities, and allowances as anticipated in bidding schedules. Agencies could use the information to make bidding schedules for future WOCs more reflective of the items and quantities needed in actual work. Only one agency told us it conducts such an analysis, although we did not see evidence of this work. Without this due diligence agencies may not adequately mitigate the risk of having to negotiate a substantial amount of actual work not based on competitive pricing from the bidding schedule.

3. Construction Costs on Work Order Contracts

Recommendation 6

The County Executive should revise the construction work order contracts policy (CON 7-19) to require implementing agencies to document analysis to support the bid items and quantities for proposed work order contract bidding schedules. The policy should include a process for the Finance and Business Operations Division to verify an agency's analysis and evaluate its adequacy as conditions for starting procurement.

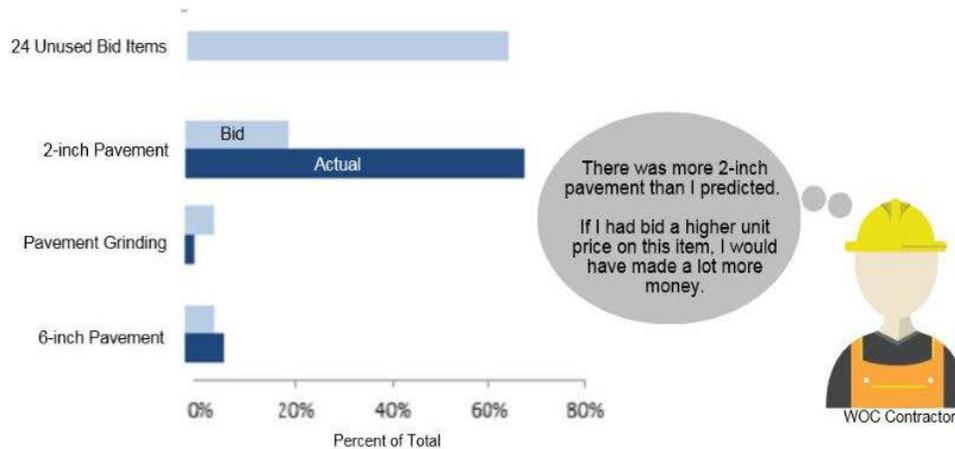
Inconsistent scrutiny on bid price imbalance could contribute to the county overpaying for construction

County agencies exercised inadequate and inconsistent scrutiny of instances of bid price imbalance, which could contribute to higher cost for construction on some WOCs. In 12 of the 14 WOCs we reviewed, the low bidder provided an imbalanced bid price on at least one bid item. An imbalanced bid price is one that varies significantly from the county's estimate of what an individual item should cost.¹⁷ Six cases showed no evidence of scrutiny on bid price imbalance. Five cases showed some evidence of review. In four cases, agencies documented meetings held to discuss a bidder's reasons for bidding substantially higher or lower on certain items and accepted the bidder's reasoning. However, in no case did we find evidence that agencies considered what options were available to mitigate the risks of awarding a WOC to a bidder who had imbalanced bid prices. Confirming that prices bid for individual items are balanced helps ensure fairness of the WOC competitive bidding process and reduce the risk to the county overpaying for construction. Exhibit G illustrates how a savvy bidder could have used imbalanced bid prices to gain an advantage in the competitive bidding process and result in the county paying more than necessary for construction.

¹⁷ For evaluating bid price imbalance, we used the Texas Department of Transportation criteria which considers a bid item price imbalanced and warranting additional review if the unit price bid is more than 50 percent lower or more than 100 percent higher than the engineer's estimate that is developed prior to the bidding process. Some King County officials reported using a more conservative 20 percent lower or higher than the engineer's estimate as the threshold for consideration of imbalance.

3. Construction Costs on Work Order Contracts

Exhibit G: Without careful scrutiny by county agencies, a savvy bidder could make a bigger profit by predicting some bid items would be used more than others, and unbalancing the bid with higher unit prices on those items.



Source: King County Auditor’s Office analysis based on actual work done on a work order contract.

According to contracting best practices, the first step after finding an imbalanced bid price is to verify the quantities in the bid schedule are accurate. Bidders could adjust their prices to gain a competitive advantage if they predict an item could likely be used more or less than shown in the bidding schedule. If quantities are inaccurate, the next step is to assess whether the imbalance creates a material difference in the overall bid, such that another bidder’s balanced prices would result in an overall lower cost. However, given the fact that quantities are usually uncertain in WOC, these steps may not be applicable. This makes it important for the County to exercise adequate and consistent scrutiny of whether the imbalance of bid prices has a high risk of the County paying more for construction by selecting the low bidder rather than another bidder with a more balanced bid.

Recommendation 7

Finance and Business Operations Division should provide training and guidance to implementing agencies on bid price review for work order contracts, including how to assess risk and consider actions to take when identifying imbalanced bid prices.

Recommendation 8

The County Executive should revise the construction work order contracts policy (CON 7-19) to require implementing agencies to conduct bid price review, assess risk of proceeding with award, and identify mitigating actions for Finance and Business Operations Division’s review and advice.

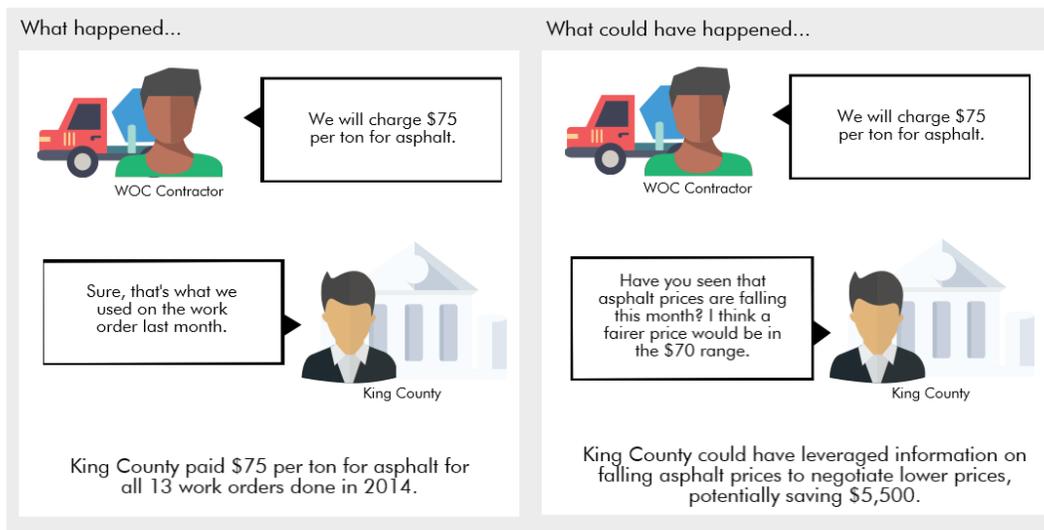
3. Construction Costs on Work Order Contracts

Unrigorous negotiation practices could contribute to the county overpaying for construction

Our review of 14 WOCs found that agencies had varying standards of preparation and documentation for negotiating individual work orders. Many individual work orders had little or no evidence of an independent engineer’s estimate in place before negotiation. The level of rigor applied in developing those estimates and in reviewing contractor cost proposals also varied. Effective negotiation of compensation for individual work orders is critical to ensure the county gets a reasonable price.

Negotiation of compensation is when the county and the contractor agree to a price for an individual work order, based on a scope of work defined by the county. In order for the county to obtain the lowest possible price through effective negotiation, a best practice is to develop an engineer’s estimate independently and in advance of the negotiation so that the county can effectively evaluate the contractor’s cost proposal. Exhibit H illustrates how more rigorous effort in preparation for negotiation could have helped an agency gain leverage in negotiation with the contractor and potentially save the county \$5,500 on materials during the first six months of a WOC.

Exhibit H: The County could potentially save \$5,500 on paying for asphalt during the first six months of a WOC by using up-to-date market information on asphalt prices as leverage in negotiating with the contractor.



Source: King County Auditor’s Office analysis based on actual work done on a WOC.

Consistent with best practice guidance, the County Executive’s 2014 WOC policy for construction (CON 7-19) requires that, going forward, agencies must conduct independent estimates or critical review of a contractor cost proposal before agreeing to a price for an individual work order. Following these requirements will be especially important when the county negotiates

3. Construction Costs on Work Order Contracts

paying the contractor a lump sum price for a work order, a practice we found used in 52 percent of the work orders we reviewed.¹⁸

Recommendation 9 Implementing agencies should update internal controls to ensure compliance with the construction work order contracts policy (CON 7-19) on the topics of conducting independent engineer’s estimates, review of contractor estimates proposals, and documentation of negotiation of individual work order agreements. Agencies should train relevant employees on the implementation of CON 7-19 and updated internal controls.

¹⁸ The county’s work order contracting language provides for three ways to structure work order compensation: time and materials, unit price, and lump sum. When using a time and materials form of compensation, the county closely monitors construction activity to document actual hours and types of labor and equipment used and reviews contractor invoices for actual costs for materials and subcontractors. When using a unit price form of compensation, the County inspects the project and documents the units of work completed, such as tons of asphalt installed. When using a lump sum form of compensation the county does not verify actual costs or measure the actual quantity of work done, but rather confirms the scope of work was completed and pays the lump sum negotiated price based on estimated quantities of items on the bidding schedule plus the negotiated total price of items not detailed on the bidding schedule, such as materials and subcontractor work.

Appendix I

State Law Related to Delivering Small Construction Projects

Method	Process Description	Dollar Limitations
County Employees Perform	Use county employees to perform work (see more in RCW 36.77.065).	Each project must be under \$45,000 if a single type of work, or \$90,000 if involving multiple trades, except for Road Services Division (RSD) projects; ¹⁹ annual limits for all work done by county employees are 10 percent of the annual construction budget; limits do not apply for maintenance activities or work done in response to declared emergency.
Emergency	Follow process to declare emergency and waive competitive bidding requirements. Select contractor for qualifications and availability to address the emergency situation (see more in RCW 39.04.280).	No limits
Standard Competitive Bids	Advertise for bids for specific project work in accordance with plans and specifications. Award contract to lowest responsible and responsive bidder (see more in RCW 36.32.235).	No limits
Small Works Roster	Solicit bids for a specific project from a minimum of five contractors on a roster for a particular discipline. Award contract to the lowest responsible bidder (see more in RCW 39.04.155).	\$300,000 or less
Limited Public Works	Obtain quotes from three contractors from the Small Works Roster. Enter into agreement with the contractor providing the lowest responsible quote (see more in RCW 39.04.155).	\$35,000 or less
Job Order Contracts	Advertise for proposals for general contractor to provide construction services on an on-call basis with payment based on a proposed markup percentage on items in an industry-accepted unit price book. Select and award contract to the contractor with the best overall proposal, which considers criteria other than markup prices (see more in RCW 39.10.420-450).	Max \$350,000 per individual job order; each jurisdiction is limited to two contracts at any given time; contracts can be a maximum of \$6 million per year for a maximum duration of 3 years.

Source: King County Auditor's Office compilation.

¹⁹ For RSD the annual limit for all construction work done by county employees is \$3.25 million. Individual RSD projects are only limited if they involve electrical work.

Appendix 2

Advantages vs. Barriers: Small Construction Projects Delivery Methods

Method	Advantages	Barriers
County Employees Perform	Can do work immediately. Do not need to know the full scope of work at the outset; can field direct work; saves staff resources spent on procurement and contract steps.	Most county divisions have little to no staff and equipment resources to do construction work; work may require specialized skills that county staff do not have.
Emergency	Can get contractor to work in a very short time frame; may be able to proceed before full project scope is known; saves staff resources spent on procurement.	County staff may not be familiar with the process to declare an emergency and may be reluctant to do so if other methods can be used; use of emergency procurement methods is constrained by policy and law.
Standard Competitive Bids	Competitive pricing; county staff is experienced in using this method; can require SCS use based on availability of Small Contractors and Suppliers (SCS) firms with expertise in specific project work.	Requires high-quality bidding documents to minimize claims for additional payment; can take an average of seven months to prepare contract documents and go through procurement process.
Small Works Roster	Competitive pricing albeit from limited number of contractors; state law allows for encouraging small contractors to participate; roster can be shared with other jurisdictions.	County's contract language not set up for using federal funds; can take an average of five months to prepare contract documents and go through procurement process; roster does not have enough qualified firms in all disciplines; when notified not enough firms from roster bid; firms may not be well qualified to do the work or experienced with county rules; county staff not experienced using this method.
Limited Public Works	Competitive pricing, albeit from only three contractors; state law allows for encouraging small contractors to participate; could be designed for expeditious procurement process perhaps within one or two months.	County does not have procedures to use this method; unless conducted at the agency level, quotation process for small projects could overwhelm Finance and Business Operations Division procurement resources.
Job Order Contracts (JOC)	Once JOC contract is in place, individual job orders can proceed within a few weeks; selection process considers other criteria (experience, SCS goals, references) in addition to proposed markup percentages presumably leading to a highly qualified general contractor; general contractor only performs 10 percent of work, so there are ample subcontracting opportunities.	County staff may not be experienced with this method; each contract is controlled by a lead division, who may consume the full contract capacity for its work, limiting the availability of this method for other county divisions; industry standard price books may not cover all types of county construction; some divisions have had unfavorable past experiences with this method and are reluctant to use; cost premium for this method may be considered too high for some divisions or types of work.

Source: King County Auditor's Office compilation of research on the delivery methods and interviews with county officials.

Executive Response



King County

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KING COUNTY AUDITOR
JUL 09 2015
RECEIVED

July 9, 2015

KyMBER Waltmunson
King County Auditor
Room 1033
COURTHOUSE

Dear Ms. Waltmunson:

Thank you for the opportunity to review and comment on the proposed final report dated July 14, 2015 on “Small Construction Contracts: Opportunities to Save Money and Reduce Risks.” We appreciate the collaborative approach your office has demonstrated in working with the Executive Branch agencies in completing this report. As indicated in the enclosed table, we concur or partially concur with the nine recommendations presented in the report.

King County has a longstanding practice of procuring on-call construction services through competitive bidding for one or more discrete categories of work such as plumbing, mechanical, electrical, and environmental abatement work. This process results in an award to the contractor submitting the lowest responsible bid. The County issues work orders from that contract to address specific agency needs as they arise. This process has been very effective in addressing agency needs for small construction projects in a timely manner.

The audit expresses a concern that there is not clear legislative authority for work order contracting under current state law. While it is acknowledged that state’s competitive bidding law for public works projects (RCW 39.04) does not explicitly mention the term “work order” contracts, we believe there is arguable support under this state law for the County’s longstanding and effective use of work order contracts.

We have further mitigated this concern by following the 2013 guidance of the State Auditor’s Office that recommended local agencies establish policies for ensuring work order contracts are in compliance with state bidding laws. We have developed a new countywide policy that went into effect in October 2014. The policy was the result of collaborative efforts by the Finance and Business Operations Division (FBOD) and implementing agencies and is intended to guide agencies in the appropriate use of work order contracts. The work order contracts that will be subject to this new policy have just recently been executed starting in the first quarter of 2015.



*King County is an Equal Opportunity/Affirmative Action Employer
and complies with the Americans with Disabilities Act*

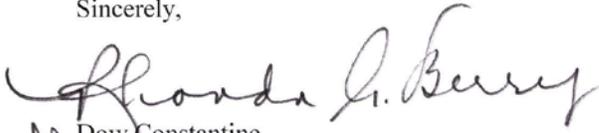
Executive Response (continued)

KyMBER Waltmunson
July 9, 2015
Page 2

The work order contracts that the Auditor reviewed for this report are contracts that were executed when King County did not have a policy on the procurement and use of construction work orders. While we will be considering changes to the policy as recommended by the Council Auditor, we also want to allow adequate time to evaluate results based on the new policy. The results of our evaluation will be used to clarify or refocus specific aspects of the policy. FBOD will continue to work closely with implementing agencies on the execution of the new policy and ensure training for agency staff.

We value the work of the King County Auditor's Office and will use the recommendation in the report to continue improving our processes and internal controls for small construction projects. If you have any questions regarding our audit response, please contact Ken Guy, Director, Finance and Business Operations Division, at 206-263-9254.

Sincerely,



Rhonda Berry
Dow Constantine
King County Executive

Enclosure

cc: Fred Jarrett, Deputy County Executive, King County Executive Office (KCEO)
Rhonda Berry, Chief of Operations, KCEO
Dwight Dively, Director, Office of Performance, Strategy and Budget
Caroline Whalen, County Administrative Officer, Department of Executive Services (DES)
Ken Guy, Director, Finance and Business Operations Division, DES
Anthony Wright, Director, Facilities Management Division, DES
Harold Taniguchi, Director, Department of Transportation (DOT)
Kevin Desmond, Director, Transit Division, DOT
Robert Burke, Director, King County International Airport Division, DOT
Christie True, Director, Department of Natural Resources and Parks (DNRP)
Pam Elardo, Director, Wastewater Treatment Division, DNRP
Amy Calderwood, Ombudsman, King County Ombudsman's Office

Executive Response (continued)

Attachment

Executive Response to King County Auditor Report: *Small Construction Contracts: Opportunities to Save Money and Reduce Risks*

Recommendation	Agency Position	Schedule for Implementation	Comments
<p>Recommendation #1 The King County Executive should develop and implement a plan to monitor the use of work order contracts by implementing agencies to comply with the construction work order contracts policy (CON 7-19) and align with state law.</p>	Partially Concur	4 th Quarter 2015	<p>The new policy involving construction work orders (CON 7-19) went into effect October 2014. The Finance Project Control Officer (PCO) will monitor the use of work order contracts as part of the existing quarterly review process of construction contracts. The intent is to have the Finance PCO review a recent construction work order, if applicable, from each implementing agency. We have indicated partial concurrence with this recommendation because procurement policies for construction contracting are already in alignment with state law. While it is acknowledged that State law (RCW 39.04) does not explicitly mention the term “work order” contract, we believe there is arguable support under existing state competitive bidding law for the County’s longstanding use of work order contracting.</p>
<p>Recommendation #2 Finance and Business Operations Division (FBOD) should develop, document and disseminate decision-making guidance for divisions to use for selecting the optimal delivery method for small construction projects.</p>	Concur	4 th Quarter 2015	<p>FBOD will work with implementing agencies to create a decision tree document. This work will be completed by a work group assembled from the existing Interdepartmental Forum for construction projects.</p>

A-1

Executive Response (continued)

Attachment

Recommendation	Agency Position	Schedule for Implementation	Comments
<p>Recommendation #3 The County Executive should update the construction work order contracts policy (CON 7-19) to clarify intended use of work order contracting and require agencies to document justification for each individual work order based on eligibility criteria established in the policy.</p>	Concur	2 nd Quarter 2016	<p>FBOD will review the construction work order policy (CON 7-19) to make necessary changes to clarify intent. Changes will be made to clarify the intended use of the work order contract. Documentation requirements regarding the decision-making process will be implemented via standard procedures.</p>
<p>Recommendation #4 Finance and Business Operations Division should develop mechanisms to monitor and document expenditure trends on work order contracts and use this information to inform decisions about size of future work order contract procurement.</p>	Concur	4 th Quarter 2016	<p>Implementation of this recommendation will likely require systems work. A scope, schedule and budget for the systems work will need to be developed prior to implementation. Therefore the implementation schedule has been pushed to the end of 2016.</p>
<p>Recommendation #5 Finance and Business Operations Division should use procurement reform phase II to remove the barriers, especially for the limited public works method, and provide incentives for implementing agencies to use methods other than work order contracting for small construction.</p>	Partially Concur	1 st Quarter 2016	<p>FBOD already extensively uses two Job Order Contracting (JOC) for small construction projects under \$350,000 and is currently streamlining and improving the management of the small works roster process. Major changes in the small works roster should be in place by the end of the 1st quarter of 2016. The limited public works method is a sub-element of the small works roster process. After improvements are made to the small works roster process, FBOD will consider the possible benefits of adding the limited public works method.</p>

A-2

Executive Response (continued)

Attachment

Recommendation	Agency Position	Schedule for Implementation	Comments
<p>Recommendation #6 The County Executive should revise the construction work order contracts policy (CON 7-19) to require implementing agencies to document analysis to support the bid items and quantities for proposed work order contract bidding schedules. The policy should include a process for Finance and Business Operations Division to verify an agency's analysis and evaluate its adequacy as conditions for starting procurement.</p>	<p>Concur</p>	<p>4th Quarter 2015: Best Practices review complete and standard work completed.</p> <p>2nd Quarter 2016: Release of updated policy.</p>	<p>FBOD will work with implementing agencies and contact other public agencies to arrive at best business practices and procedures for developing procurement documents involving construction work order bid documents. FBOD will review the policy and make changes as previously identified. However, requirements for documentation of analysis will be handled via implementation of standard procedures rather than by policy.</p>
<p>Recommendation #7 Finance and Business Operations Division should provide training and guidance to implementing agencies on bid price review for work order contracts, including how to assess risk and consider actions to take when identifying imbalanced bid prices.</p>	<p>Concur</p>	<p>4th Quarter 2015</p>	

A-3

Executive Response (continued)

Attachment

Recommendation	Agency Position	Schedule for Implementation	Comments
<p>Recommendation #8 Finance and Business Operations Division should revise the construction work order contracts policy (CON 7-19) to require implementing agencies to document the bid price review, their assessment of risk of proceeding with award, and identify mitigating actions for Finance and Business Operations Division’s review and advice.</p>	Concur	2 nd Quarter 2016	<p>FBOD will review the policy and make changes as previously identified. However, this recommendation will be implemented via developing standard procedures for implementing agencies and FBOD.</p>
<p>Recommendation #9 Implementing agencies should update internal controls to ensure compliance with the construction work order contracts policy (CON 7-19) on the topics of conducting independent engineer’s estimates, review of contractor estimates proposals, and documentation of negotiation of individual work order agreements. Agencies should train relevant employees on the implementation of CON 7-19 and updated internal controls.</p>	Concur	4 th Quarter 2015	

A-4

Statement of Compliance, Scope, Objective & Methodology

Statement of Compliance with Government Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Scope and Objectives

Washington state law allows counties to use six project delivery methods for small construction projects (or projects that cost up to \$350,000). Four of the six methods are contracting procedures that expedite the standard public works procurement process. This audit examines the methods King County uses to deliver small construction projects with a focus on a contracting method known as construction work order contracting during the period 2007-2014. The objectives of the audit were to:

- determine the extent to which King County uses expedited contracting methods for small construction projects
- identify and evaluate the benefits and risks of construction work order contracting, and
- determine the extent to which processes are in place to optimize benefits and mitigate risks of construction work order contracting.

Methodology

To achieve the objectives listed above, the King County Auditor's Office interviewed management and key staff from the Finance and Business Operations Division (FBOD), the Facilities Management Division (FMD), the Transit Division (Transit), King County International Airport (KCIA), Wastewater Treatment Division (WTD), and the Water and Land Resources Division (WLRD). We also interviewed staff at the State Auditor's Office, King County Prosecuting Attorney's Office, and King County Ombudsman's Office. Interviews focused on how supervisors, project managers, contract specialists, and management at King County departments and divisions understood their practices and procedures used in procuring and administering construction work order contracts (WOC), and how they perceived the benefits and risks of using construction work order contracting relative to other available alternative project delivery methods for small construction projects. We also performed analyses of data from FBOD regarding amount of executed contracts by various contracting methods. In addition, we surveyed relevant literature, including the Revised Code of Washington and King County policy and procedures, to identify requirements and best practices in contracting for small public works construction projects.

To assess the risks and benefits of work order contracting, we selected four divisions – Transit, KCIA, FMD, and WTD – and conducted detailed review of their procurement and administration of WOCs. Based on ranking by division of the total executed WOCs between 2007 and 2014, Transit and WTD were the two largest users of WOC, FMD was a mid-size user, and KCIA was one of the smallest users.

Statement of Compliance, Scope, Objective & Methodology (continued)

Based on criteria including data availability, contract size, and contract type, we selected 14 WOCs executed during 2011-2014 from these divisions to review.

- *Review of WOC procurement:* We reviewed the bidding schedules and bid summary of all 14 selected WOCs. Our review focused on the composition of the bidding schedules across different divisions and types of work and the extent to which divisions check for and act on bid item imbalance when the imbalance is material. Where applicable, we requested and reviewed additional information from FBOD to assess processes used to conduct bid reviews.
- *Review of WOC administration:* We reviewed available documentation on a total of 104 individual work orders from 12 of the 14 selected WOCs. For eight of these contracts, we reviewed all individual work orders under a given contract. For the other four contracts where there were a large number of individual work orders (e.g., >20), we reviewed at least half of the individual work orders. Our review collected information on the date of project initiation; the scope, specifications, and any design documentation of the project; the dates and amounts of the engineer's estimate, the contractor proposal, the agreement amount, and form of compensation (lump sum, time and materials, unit price) and any amendments. We applied and documented consistent definitions and used our professional judgment to determine whether each individual work order reviewed was urgent, unplanned, and could have been done using one or two alternative delivery methods.
- *Comparison of bidding schedules to actual work:* We selected two WOCs per division and analyzed how the actual work compared to the bidding schedule by category if the bidding schedule was comprised of labor, equipment, materials, and subcontractors or by bid item if the bidding schedule was comprised of items with unit prices. We also analyzed whether the next one or two higher overall bids would result in a lower cost to the county than the low bid by applying the unit prices and markups from those bids to the actual quantities of work.

Scope of Work on Internal Controls

We assessed internal controls relevant to the audit objectives. This included review of selected policies, plans, processes, and reports, as well as interviews with officials and staff. In performing our audit work, we identified concerns related to the quality of available data on procurement and administration of small construction contracts. We tested the reliability of the available data using a variety of techniques relevant to the type data, its source, its use, and our potential purposes. We determined that some data were not available or reliable for purposes of analytical conclusion, and included findings and recommendations related to improving the sufficiency and reliability of this data. In cases where data are presented in the report, we determined that these data were sufficiently reliable for our purposes.

List of Recommendations & Implementation Schedule

Recommendation 1: The County Executive should develop and implement a plan to monitor the use of work order contracts by requiring agencies comply with construction work order contracts policy (CON 7-19) and align with state law.

Implementation Date: 4th Quarter 2015

Estimate of Impact: Developing and implementing a plan to monitor the use of work order contracts will enable King County to better define standard use of WOCs, enforce compliance with county policy, and have necessary documentation in place for future review.

Recommendation 2: Finance and Business Operations Division should develop, document, and disseminate decision-making guidance for divisions to use for selecting the optimal delivery method for small construction projects.

Implementation Date: 4th Quarter 2015

Estimate of Impact: Decision-making guidance from FBOD will help implementing agencies make deliberate and documented decisions regarding contract method selection based on application of consistent criteria and consideration of pros and cons of each method.

Recommendation 3: The County Executive should update the construction work order contracts policy (CON 7-19) to clarify intended use of work order contracting and require agencies to document justification for each individual work order based on eligibility criteria established in the policy.

Implementation Date: 2nd Quarter 2016

Estimate of Impact: Further clarifying the intended use of work order contracts and requiring documented justification for using work orders for specific projects based on standard definition and criteria will help the county achieve and maintain the appropriate use of this method.

Recommendation 4: Finance and Business Operations Division should develop mechanisms to monitor and document expenditure trends for work order contracts and use this information to inform decisions about the size of future work order contract procurements.

Implementation Date: 4th Quarter 2016

Estimate of Impact: With access to expenditure data for construction contracts, FBOD can make better informed decisions on size of future WOCs and use procurement resources more effectively.

List of Recommendations & Implementation Schedule (continued)

Recommendation 5: Finance and Business Operations Division should use procurement reform phase II to remove the barriers, especially for the limited public works method, and provide incentives for implementing agencies to use methods other than work order contracting for small construction.

Implementation Date: 1st Quarter 2016

Estimate of Impact: By reducing barriers and creating incentives, King County can build a more robust toolkit for delivering small construction projects. In particular, greater utilization of the limited public works method could enhance King County's goal of equity and social justice by offering opportunities to small contractors and suppliers.

Recommendation 6: The County Executive should revise the construction work order contracts policy (CON 7-19) to require implementing agencies to document analysis to support the bid items and quantities for proposed work order contract bidding schedules. The policy should include a process for the Finance and Business Operations Division to verify an agency's analysis and evaluate its adequacy as conditions for starting procurement.

Implementation Date: 4th Quarter 2015: Best Practices review complete and standard work completed. 2nd Quarter 2016: Release of updated policy.

Estimate of Impact: Using historical information to design bidding schedules for future WOCs can help agencies ensure a fair bidding process and mitigate the risk of unnecessarily paying more for construction. FBOD is well placed in the organization to provide guidance and feedback and share best practices across agencies.

Recommendation 7: Finance and Business Operations Division should provide training and guidance to implementing agencies on bid price review for work order contracts, including how to assess risk and consider actions to take when identifying imbalanced bid prices.

Implementation Date: 4 Quarter 2015

Estimate of Impact: Guidance and training from FBOD on bid price review will improve agencies' ability to evaluate bid price imbalance and make deliberate decisions about how to manage the risk posed by imbalanced prices.

List of Recommendations & Implementation Schedule (continued)

Recommendation 8: The County Executive should revise the construction work order contracts policy (CON 7-19) to require implementing agencies to conduct bid price review, assess risk of proceeding with award, and identify mitigating actions for Finance and Business Operations Division's review and advice.

Implementation Date: 2nd Quarter 2016

Estimate of Impact: Requiring implementing agencies to conduct bid price review and identify risk management actions if bid imbalance is found will help King County ensure fairness of the competitive bidding process and increase the likelihood that the County will pay a reasonable price for work orders.

Recommendation 9: Implementing agencies should update internal controls to ensure compliance with the construction work order contracts policy (CON 7-19) on the topics of conducting independent engineer's estimates, review of contractor estimates proposals, and documentation of negotiation of individual work order agreements. Agencies should train relevant employees on the implementation of CON 7-19 and updated internal controls.

Implementation Date: 4th Quarter 2015

Estimate of Impact: Improving internal controls at implementing agencies in accordance with countywide policy will provide greater accountability in negotiation of work orders.