

Chairman Jason Ortity
Subcommittee on Government Operations
House State Government Committee
143A East Wing
P.O. Box 202046
Harrisburg, PA 17120-2046

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Tim Keller
Gordian
30 Patewood Drive, Suite 350
Greenville, SC 29615

RE: Job Order Contracting & Redevelopment Assistance Capital Program Funding

Chairman Ortity,

On behalf of Gordian, the nation’s leading provider of Job Order Contracting (JOC) data, software, and expertise I write to advocate for changes to the provisions within the Capital Facilities Debt Enabling Act that govern the procurement of construction for Redevelopment Assistance Capital Program (RACP) funded projects. Currently, the interpretation of the statute prohibits grant recipients from utilizing the Job Order Contracting (JOC) construction procurement method and competitively bid contracts in place through cooperative purchasing organizations available to public entities throughout the Commonwealth, both of which save taxpayer funds, reduce administrative burden, and increase efficiency.

About Gordian

Gordian is proud to have deep roots and longstanding relationships in Pennsylvania. We’re proud to employ dozens of employees in the Commonwealth. Across the country, Gordian is comprised of hundreds of experts on construction pricing, facility conditions, and efficient procurement methods. We operate in all 50 states where we serve thousands of government clients and public entities such as federal agencies, state and local governments, K-12 educational institutions, colleges and universities, public healthcare institutions, airports, transit agencies and many others.

Among Gordian’s thousands of clients at the local, state, and federal levels of government, are Pennsylvania’s Department of General Services (PADGS), Pennsylvania State University, Pennsylvania’s State System of Higher Education, Temple University Health Care, New York Department of Transportation (NYDOT), New Jersey Department of Transportation (NJDOT), Pennsylvania Turnpike Authority, Delaware River Port Authority, and hundreds of Pennsylvania localities and public entities served through the cooperative purchasing organization Keystone Purchasing Network (KPN).

About Job Order Contracting (JOC)

These entities, and countless like them across the country, utilize job order contracting to save time and money in completing straightforward construction tasks through JOC, a competitively bid, indefinite delivery, indefinite quantity (IDIQ) procurement process that leverages a unit price catalog as a basis for pricing. Contractors bid an adjustment factor to the roughly 275,000 construction tasks contained in the unit price book, which are inclusive of localized labor, material, and equipment costs. The contractor with the lowest adjustment factor then wins the opportunity to execute on-call projects derived from tasks in the competitively bid unit price book. JOC is an ideal construction procurement

method for straightforward new construction, repair, maintenance, and renovation projects to significantly reduce the time and administrative costs associated with bidding these projects individually.

Studies and internal reviews by numerous state and local governments, including NYDOT and NJDOT, have shown that using JOC provides savings in the direct cost of construction ranging from 5 to 15 percent. Independent audits, including by the New York State University Construction fund, found JOC can help achieve time savings as high as 80 percent compared to other procurement methods. In addition to the time and cost savings realized when utilizing JOC, this procurement method offers additional benefits to the Commonwealth as well. As briefly mentioned earlier, JOC provides unmatched transparency and accountability by providing price certainty through the unit price catalog. As a strategic sourcing program, JOC is proven to benefit small businesses by enabling them to compete for larger contracts by reducing barriers to entry and increasing efficiencies

In Pennsylvania, municipalities and public entities can access Job Order Contracting through the Keystone Purchasing Network. KPN advertises bidding opportunities through the publications included in the Mid-Atlantic Newspaper Services, Inc. as required by law. Multiple public pre-bid meetings are held throughout the Commonwealth to educate the state contracting community about JOC and the opportunity. Bids are publicly opened and read aloud immediately following the submission deadline. KPN then determines the lowest responsive and responsible bidder for the contract. Additionally, the contracts are structured to adhere to the requirements of the Separations Act, Pennsylvania Prevailing Wage Act, and Steel Products Procurement Act. Public entities are then able to access the awarded on-call contractors to execute projects without implementing their own “in-house” JOC program.

Capital Facilities Debt Enabling Act Issues & RACP Funding

Unlike mostly every other public construction procurement in the Commonwealth, the Capital Facilities Debt Enabling Act only establishes the lax requirement of needing “the solicitation of a minimum of three written bids for all contracted construction work” by funding recipients.

The Office of the Budget interprets this to require a “specific RACP” defined scope of work as a component of each solicitation for any project funded by RACP. A public entity receiving RACP funding, regardless of whether the entity implements their own JOC program (i.e. Temple Health Care) or those that utilize the KPN cooperative JOC contracts, would be prohibited from utilizing the JOC procurement process to save time and money. Their exclusion from this method is despite the exponentially more rigorous process of competitively bidding the JOC master contracts than the Capital Facilities Debt Enabling Act requirement of a mere “three solicitations.”

JOC achieves efficiency by competitively bidding a fixed, unit price book of tasks that are subject to the contractor’s bid adjustment factor. Multiple projects executed under JOC are derived solely from the competitively bid unit price book ensuring that every task of every project completed is subject to a competitive bid and adheres to state procurement law requirements.

The Commonwealth should be encouraging RACP recipients to utilize efficient processes that save taxpayer funds and resources while complying with all state and local procurement laws and regulations. JOC accomplishes both of these goals.

Enabling the Use of JOC for RACP Grant Recipients

To ensure that public entities with their own JOC programs and those smaller entities that utilize cooperatively procured JOC services can save taxpayer funds and resources on RACP funded projects, Gordian recommends amending Chapter 3

Section 318 of the Capital Facilities Debt Enabling Act to include a provision that clearly allows for the use of indefinite delivery indefinite quantity construction contracts that are bid in compliance with applicable state laws regulations. For the committee's convenience, a draft amendment is included with this testimony.

Thank you for the opportunity to offer this testimony and your consideration of this issue. Should you have any questions or concerns, please do not hesitate to contact me directly.

Respectfully,



Tim Keller
Government & Regulatory Affairs Manager
Gordian