

From: [O'Malley, Willie B.](#)
To: [Rhodes, Michael .D.](#); [Armstrong, James R.](#); [Alger, Rachelle](#)
Cc: [Clark, Melanie A.](#); [Ribuffo, Stephen](#); [Daley, John C.](#); [Ovsepyan, Kimberly E](#); [Schimscheimer, Mark](#)
Subject: RE: AO No. 2023-108
Date: Thursday, November 9, 2023 12:15:19 PM
Attachments: [image001.png](#)

My 2 cents on this

I agree with all the other statements and will add the following for magnitude of impact to our projects which will equate to extending the duration by what I see as approx. 6 weeks and the cost of the human effort on the additional workflow. 4 weeks to get the CMAR professional service contract on the assembly agenda and 2 weeks for the process where purchasing needs to publish construction costs info for 7 days. Not sure how long the public hearing will add, this time will then be added to the 6 weeks. A potential way to increase assembly oversight or accomplish what the AO does would be to make it a requirement that all CMAR contracts be sent to the assembly as an informational memorandum regardless of cost on a monthly basis or no later than a month after the contract is executed and requiring that the CMAR RFP state the ROM construction cost (I have done this on my CMAR projects for the purpose of letting the contractors know the general magnitude of the project they will be proposing on). At this point if the assembly sees a red flag on the CMAR they can sound the alarms and eventually an amendment will come before the assembly for them to vote on which is another chance for the assembly to vote it down if need be.

Below shows where the ROM construction was placed on the CMAR RFP

Text Description automatically generated

From: Rhodes, Michael .D. <Michael.Rhodes2@anchorageak.gov>

Sent: Wednesday, November 8, 2023 2:20 PM

To: Armstrong, James R. <James.Armstrong@awwu.biz>; Alger, Rachelle <rachelle.alger@anchorageak.mail.onmicrosoft.com>

Cc: Clark, Melanie A. <melanie.clark@anchorageak.mail.onmicrosoft.com>; Ribuffo, Stephen <steve.ribuffo@anchorageak.mail.onmicrosoft.com>; Daley, John C. <john.daley@anchorageak.mail.onmicrosoft.com>; Ovsepyan, Kimberly E <ovsepyanke@ci.anchorage.ak.us>; O'Malley, Willie B. <Willie.O'Malley@awwu.biz>; Schimscheimer, Mark A. <Mark.Schimscheimer@awwu.biz>

Subject: RE: AO No. 2023-108

You don't often get email from michael.rhodes2@anchorageak.gov. [Learn why this is important](#)

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Rachelle,

We discussed the AO at the Port and we generally agree with James that the procurement process as it's currently described in Anchorage Municipal Code does provide oversight and transparency.

Based on reading the AO and AM it appears a concern that's leading to this proposed ordinance is that the preconstruction contract, which sometimes is below the \$150,000 assembly threshold, will increase by multimillions of dollars for a contractor that's selected prior to being presented to the assembly. I believe most or all CM/GC contracts include a clause that just because the Contractor is awarded the preconstruction phase or any subsequent work package phase of the project it doesn't guarantee award of future packages. My understanding is that the different work packages typically have defined scopes that don't overlap so that work doesn't commence on aspects of the project that are not yet agreed upon or incorporated into the contract. To James' point below, once the Owner decides to move forward with a work package that's been agreed upon, the cost of that work package in virtually all cases will be above the threshold for assembly approval. The Owner alternatively has the option to pull away the work from the Contractor for a work package for any reason and put it out as an ITB. AMC Title 7 currently provides the Assembly approval of that same work if it's awarded as an amendment to the original preconstruction contract or if it is alternatively put out as an ITB.

We agree with James that if changes are made to the process, further investigation into the published guidelines could be reviewed to ensure that changes are aligned with industry standards.

From: Armstrong, James R. <James.Armstrong@awwu.biz>

Sent: Wednesday, November 8, 2023 11:59 AM

To: Alger, Rachelle <Rachelle.Alger@anchorageak.gov>

Cc: Clark, Melanie A. <melanie.clark@anchorageak.gov>; Ribuffo, Stephen <steve.ribuffo@anchorageak.gov>; Daley, John C. <John.Daley@anchorageak.gov>; Ovsepyan, Kimberly E <Kimberly.Ovsepyan@anchorageak.gov>; Rhodes, Michael .D. <Michael.Rhodes2@anchorageak.gov>; O'Malley, Willie B. <Willie.O'Malley@awwu.biz>; Schimscheimer, Mark <wwmas1@awwu.mail.onmicrosoft.com>

Subject: AO No. 2023-108

Rachelle,

Thank you for the opportunity to meet, discuss, review and comment on the proposed AO.

The last paragraph prior to introduction of the AMC Title 7 modifications states that the purpose of ordinances is to "bring them within the purview of Assembly approval and reporting requirements" with them being the contract types of GM/GC (aka CMAR) and revenue generating contracts via use of municipal facilities. In my opinion, Title 7 if followed correctly, already satisfies the purported purpose of this AO for CMAR contracts.

In my position as a project manager who is utilizing two CMAR contracts, you asked for my input on this AO regarding the conditions placed upon the process and if this AO will cause any concerns in how CMAR contracts are used in the future.

For the most part it appears that this AO will modify Title 7 to reduce the threshold from \$150,000 to \$0.01 before Assembly approval of a CMAR contract is required. In addition, it will add one more additional step for the Purchasing Director to publish information on construction costs. I'm a bit confused if item 1.b.ii adds an additional Assembly hearing to the approval process or if that hearing is the normal hearing when the Assembly meets and approves awards for contracts. These additional steps will add time and cause projects execution times to increase.

My comment on this AO is more in how it seems to be trying to inform the Assembly about constructions costs at a time of substantial imprecision. In reality, it appears to cause delays and introduces the potential for future confusion and contention as scope, costs and impacts become better defined.

Under current AMC Title 7, for CMAR contracts that haven't been approved by the Assembly (under \$150k), any future increases to the contract without Assembly approval is limited to an additional 25% of the original contract value, which is less than \$37,500. This minimal amount of money would not be enough to forgo Assembly approval to add million-dollar plus construction services to the contract and thus the Assembly has a clearly defined point to investigate, research, analyze, accept and/or reject the contract if they so desired.

If it is the Assembly's desire to understand what construction costs their contract approvals lead to, then it shouldn't be limited to CMAR contracts. The reasoning here is best explained by providing an example such as when the Assembly approves a design contract for \$250,000, this often leads to a construction contract of \$1,000,000 or more. The Assembly isn't being asked to be made aware of the construction costs at the time of the award of the design contract, so why are they asking for it here at the start of design with a CMAR contractor? The addition of the construction costs at the time of the CMAR contract award is based upon a "municipal official" for a design that hasn't started and is not a bid and shouldn't be considered accurate. In my CMAR contract (PO 2023002536) with Frawner Corporation, we have already seen design change recommendations that have the potential to reduce the construction cost by \$1M or more and represents a better estimate than what a "municipal official" could provide at the CMAR award stage and we haven't even completed the first portion of the contract.

Generally speaking, this AO might be improved if more consideration was put forth to align with governmental and industry standards that are discussed at length in the [Associated General Contractor of America's published guidelines for CM/GC for Public Owners](#).

There are advantages to using CMAR contracts that are beneficial that cannot be adequately addressed in an email, but by putting barriers in places that won't achieve the stated results and that are duplicative, it will drive innovative contract mechanisms to the side and the MOA may suffer as a result.

Regards,



James Armstrong, P.E.

Project Manager – Engineering Division

Acting Capital Program Manager (10/30/23 – 11/19/23)

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