



**APPROVAL OF ALTERNATE CONSTRUCTION CONTRACTING PROCEDURE,
DESIGN-BUILD, FOR DISTRICT-WIDE SECURITY UPGRADES****POLICY ISSUE/SITUATION**

OAR 137-49-0620 and ORS 279C.335 permits the Beaverton School District Board of Directors to exempt specific projects from the competitive bidding requirements of ORS 279. District staff is proposing to use the Design- Build procurement method for the District-Wide Security Upgrades. This solicitation would involve a Request for Proposals (RFP) to select the contractor that best meets the needs of the District. The selection criteria will be included in the RFP and will grade their experience, capabilities, qualifications, and price. This process will allow the District to receive competitive pricing for this work while ensuring that we are contracting with capable contractors.

BACKGROUND INFORMATION

The 2014 Bond included physical facility improvement upgrades to enhance security at all schools. Work has been completed on this project during the summers of 2015, 2016, and 2017. Based on lessons learned during execution of those contracts, staff finds that there will be significant efficiencies to work directly with a design-build team to design and install these upgrades on all remaining schools.

Because of the highly technical nature of the project, it is important that the construction is carefully planned with the General Contractor. The use of the Design-Build process during planning, design, construction, staging, and general site coordination will aid in the success of this project. The time available to construct these improvements as well as current market conditions requires the use of an alternate procurement process for the construction.

Pursuant to ORS 279C.335(5), the District advertised a minimum of 14 days in advance and held a Public Hearing on October 26, 2017 to provide an opportunity for any interested party to appear and comment on the findings (Attachment A). No interested parties chose to attend the Hearing other than District staff and no comments were offered.

The School Board, acting as the Local Contract Review Board, must approve particular

District Goal: WE Empower all students to achieve post-high school success.

The Beaverton School District recognizes the diversity and worth of all individuals and groups. It is the policy of the Beaverton School District that there will be no discrimination or harassment of individuals or groups based on race, color, religion, gender, sexual orientation, gender identity, gender expression, national origin, marital status, age, veterans' status, genetic information or disability in any educational programs, activities, or employment.

findings supporting the use of this construction contracting procedure, pursuant to ORS 279C.335.

RECOMMENDATION

It is recommended that the School Board approve exemption of the District Wide Security Upgrades Project from the competitive bidding requirement of 279C.335(1), and approves use of the proposed Design-Build contracting procedure. Board approval to award the contract will be requested after receipt of the proposals.

BE IT RESOLVED that the Beaverton School Board of Directors (i) adopts and approves the findings of Attachment A, (ii) grants a specific exemption from competitive bidding requirements of ORS 279C.335(1), and approves and directs the use of the Design-Build Construction Contract process, for and (iii) requires that the procurement be in accordance with the Attorney General Model Rules adopted under ORS 279A.065.

ATTACHMENT A

FINDINGS ALTERNATE CONTRACTING PROCEDURE DESIGN-BUILD CONSTRUCTION CONTRACT DISTRICT-WIDE SECURITY UPGRADES

- (a) *BSD Staff finds that this alternate contracting procedure is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.*

The Design-Builder will be selected through a competitive process in accordance with a Request for Proposals authorized by the Board of Directors. Pursuant to ORS 279C.360, a Design-Build solicitation will be advertised in the Daily Journal of Commerce, the Oregon Procurement Information Network, and the Beaverton School District procurement webpage in order to attract competitive proposals. The Design-Build proposals and interviews will be rated based on a predetermined list of criteria as required by ORS 279C.337 and the Attorney General's Model Contract Rules. The District will enter into a contract with the highest-ranking firm.

- (b) *BSD Staff finds that awarding a public improvement contract for this project through the CM/GC method will likely result in substantial cost savings and other substantial benefits to the District.*

In making this finding, staff have considered the type, cost, and amount of the contract and, to the extent applicable to the contract, the following:

- A. Findings related to how many persons are available to bid:** Staff finds that granting this alternate contracting procedure will not unreasonably limit the number of firms available to bid, since procurement will be through a publicly-advertised request for proposals.
- B. Findings related to the construction budget and the projected operating costs for the completed public improvement:** Staff finds that the ability to select firms based on the firm's performance history will positively affect the project outcome as it relates to cost. With the construction contractor and the design team working together throughout the entire project, there will be contractor input during all phases of design making constructability and sequencing recommendations that will reduce construction costs. After the design is completed, the Design-Build contract allows the District to initiate construction without a lapse in Project timelines. It also integrates the design firm with the contractor to consider alternative means and methods of construction and optimize cost savings. The Design-Builder will be able to guarantee a maximum price the District will pay to construct the project. , which will result in any savings accruing to the District.

- C. Findings related to public benefits that may result from granting the exemption:** Staff finds that the ability to select firms based on the firm's performance history will significantly affect the project outcome as it relates to execution. It is intended that a large portion of this work will be executed while the school is occupied; because of this, it is imperative to have a construction partner who is flexible and able to focus on minimizing operational impacts. The Design-Build process allows the contractor to inform and recommend the best practices in sequencing of work and incorporate them into the design. The integration of the design team and the construction contractor under a single contract as the Design-Builder will result in a better product and safer access for students, staff and the general public during construction.
- D. Findings related to whether value engineering techniques may decrease the cost of the public improvement:** Staff finds that granting this alternate contracting procedure will provide the most comprehensive team evaluation of all factors that affect the cost, quality, and schedule of the project, which may decrease the ultimate cost of the improvement. The Design-Build process offers the opportunity for integrated design solutions between the designer and contractors that make up the Design-Build team based on the District's project requirements.
- E. Findings related to the cost and availability of specialized expertise that is necessary for the public improvement:** Staff finds that granting this alternate contracting procedure will significantly affect the project outcome as it relates to specialized expertise. Due to the highly technical interconnectedness of the access control system, intrusion alarm system, telephone system, door hardware, and network infrastructure, staff finds that it is critical to have a construction partner who is familiar with each of these systems and closely involved in the system design.
- F. Findings related to any likely increases in public safety:** Staff finds that the ability to select firms based on the firm's performance history and experience in working at an occupied site will allow the District to select a contractor with a demonstrated record of safety.
- G. Findings related to whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement:** Staff finds that granting this alternate contracting procedure will reduce safety risks by allowing early involvement of the contractor in planning for site usage and coordination of access to the existing buildings.
- H. Findings related to whether granting the exemption will affect the sources of funding for the public improvement:** Not applicable. Staff finds that granting this exemption will have no effect on funding sources for the project.

- I. Findings related to whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement:** With the multitude of construction market factors that exist today in Oregon (e.g. completion of other projects, environmental issues that limit construction materials, shortage of qualified craftsman, inflation, etc.), Staff finds that granting this exemption allows the School District to be more responsive to market conditions by structuring the project delivery method to allow for early procurement of goods and services where shortages, inflation, long lead times, or other market conditions could increase costs or impact the construction schedule under the traditional design-bid-build method.
- J. Findings related to whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement:** Staff finds that granting this exemption will allow the School District to most efficiently work with the small number of subcontractors involved to anticipate and resolve all of the technical challenges.
- K. Findings related to whether the public improvement involves new construction or renovates or remodels an existing structure:** This project involves renovation of existing structures that fits the Design-Build project delivery method well.
- L. Findings related to whether the public improvement will be occupied or unoccupied during construction:** This public improvement will occur in buildings that are occupied during construction. During the summers they will be partially occupied.
- M. Findings related to whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions:** This project will consist of security upgrades to many school buildings. With the contractor working with the design team, their combined experience and knowledge will be used to determine whether to sequence or phase the construction, and establish the most efficient construction plan to minimize the impact to each individual school.
- N. Findings related to whether the contracting agency has, or has retained under contract, and will use contracting agency personnel, consultants, and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency will use to award the public improvement contract and to help negotiate, administer, and enforce the terms of the public improvement contract:** Staff will rely on their own experience, having successfully used the Design-

Build method on many other projects in the current and prior bond programs. The District also relies upon outside legal counsel, appointed by the School Board to provide construction contracting legal advice. Using their combined expertise and experience, staff and counsel will oversee developing the alternative contracting method and its implementation, including negotiating, administering and enforcing the terms of the Design-Build contract.