

Common Pitfalls in Construction Related Procurement Practices

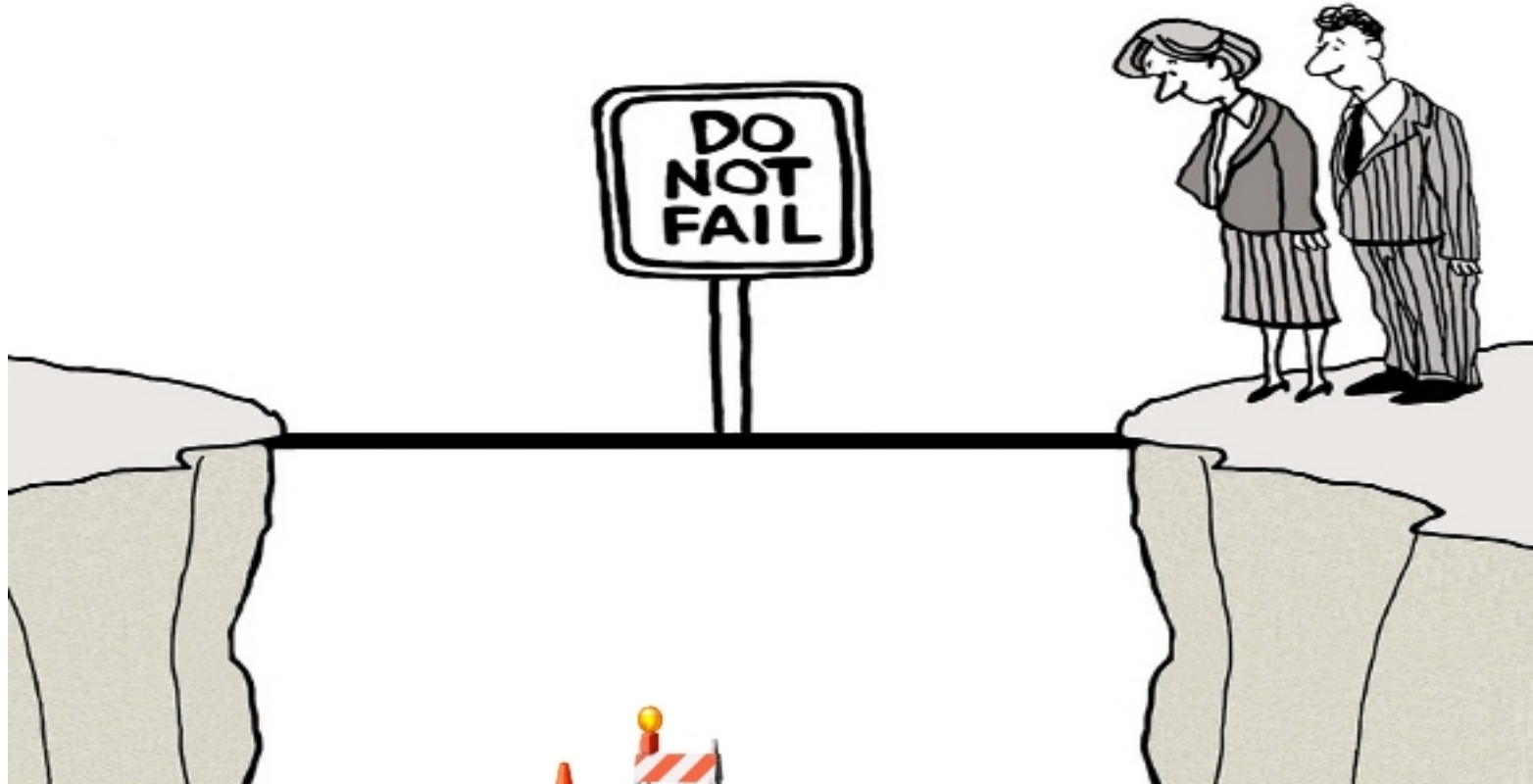
Russ Allen



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Your District wants to Implement Capital Construction Plan



And You
Want To
Avoid The
Pitfalls!



The Boring Stuff

Governing Statutes and Administrative Rules

ORS 279C Public Improvements

OAR 137-047 Goods and Services

OAR 137-048 Consultant Services

OAR 137-049 Construction Services



What Now?

Who do I hire first?

Architect

Project Manager

Professional Services

Pitfall #1: Of Course I Can
Ask The Cost, Duh!



Professional Services - Selection Process



Design services are QBS selection you can't ask how much






Related services RFP selection qualifications and price



RFP should include architects contract. Good OPM & Construction Attorney



Professional Services - Project Consultants

-  Direct Appointment under \$100K
-  Informal process between \$100K & \$250K
RFP to 5 or more firms
-  Formal process over \$250K



Direct Appointment OAR 137-048-0200







The District may directly contract with consultant if the estimated value of the consultant contract is less than \$100,000

ORS 279C.110, ORS 279C.115, and OAR 137-048-0200



Informal Selection Process OAR 137-048-0210

-  Send QBS RFP to a minimum of 5 firms
-  Advertisement is not required
-  For design firms enter fee negotiations with highest ranking firm
-  If not successful, declare impasse and begin negotiations with next highest ranking firm



Pitfall #2: If I Have To Advertise, My Website and Local Newspaper Is Peachy!



Advertisements



Trade paper of statewide distribution
DJC



District Paper of Record







Allows for electronic if Board Adopts
resolution allowing such (ORPIN-free)

ORS 279C.360



Formal Selection Process OAR 137-048-0220

-  Advertise DJC, Paper of Record,
-  Criteria based scoring of most qualified firm
-  For design firms enter fee negotiations with highest ranking firm
-  If not successful, declare impasse and begin negotiations with next highest ranking firm



Pitfall #3: I Guess I Just Have To Accept The Architect's Price



Design Services Fee Ranges New Construction



Basic Services are Architectural, Civil, Structural, Mechanical, & Electrical



Fee range based upon Sq. Ft. is 7.0% - 8.5%



Other consultants, Theater, Kitchen, Acoustics, Interiors, FF&E are in addition basic services



Request copies of all sub-consultant fee proposals



Design Services Fee Ranges Remodels and Modernization



Basic Services are Architectural, Civil, Structural, Mechanical, & Electrical



Fee range based upon Sq. Ft. is 7.0% - 8.5%
X 1.5








Other consultants, Theater, Kitchen, Acoustics, Interiors. FF&E are in addition to Basic Services



Pitfall #4: Design, Bid, Build Is Always Preferable



Public Improvement Bidding

-  Hard Bid aka Design-Bid-Build
-  Alternative Contracting Methods
-  CM/GC Construction Manager/General Contractor
-  Design-Build
-  RFQ/ITB



True or False: I can use utilize an alternative contracting method in lieu of Design-Bid-Build



Alternative Contracting Methods



Require a Finding of Fact ORS 279C.335



Public Hearing



Advertise Public Hearing 14 days prior to meeting. Trade Journal of Statewide distribution



Hard Bid Design-Bid-Build



Award to low bidder



Typically no qualifications required









Determine whether bid is responsive



Determine whether bidder is responsible



Qualifications Submitted with Hard Bid

-  Public project references last 3 years
-  Name and contact information
-  Project description
-  Project location
-  Project date
-  Project value



Alternative to a hard bid RFQ/ITB



Finding of fact alternative contracting method



RFQ, Pre-qualify 4 contractors



Invitation to Bid

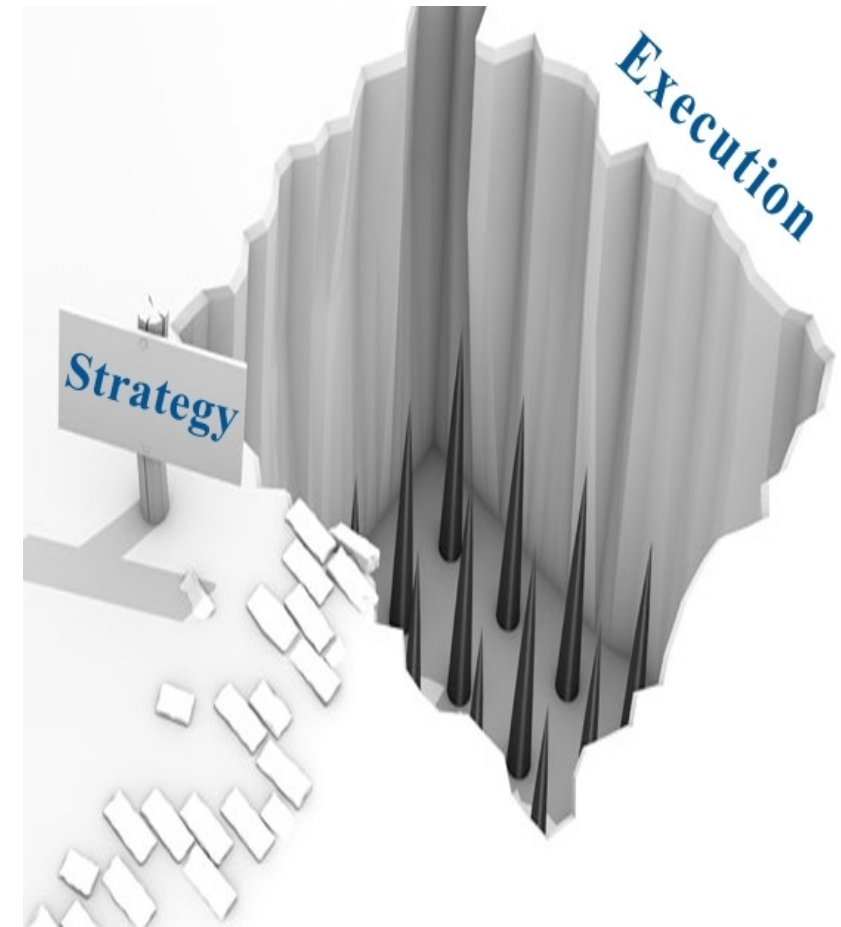


Award contract to responsive low bid



**True or False: BOLI only
applies to Formal Bids**

**True or False: The
Contractor is Responsible
for the Paperwork**



Prevailing Wage

 Projects over \$50K subject to Prevailing Wage

 Can't divide a project to avoid paying Prevailing Wage

 Required paperwork WH 39 & WH 81 and fee .01% of contract value



Prevailing Wage Bidding Requirements



Publish current public works wage booklet



Contractor and sub-contractors must have a public works bond



Require Certified Payroll



True or False: the AIA contracts are written to protect me?



Important Contract Language: Architect



Indemnification language



Insurance requirements



Claims/Dispute resolution



Review time for RFI's, Submittals



True or False: The standard AIA contract stipulates the Architects is responsible to design a project within budget? And, if the project bids are higher than budget to redesign the project within budget?



Important Contract Language: Architect



Responsibility to design project within budget



Deliverables required at each design phase



Reimbursable compensation



Insurance requirements



Dispute Resolution



Important Contract Language: Contractor



Liquidated damages



Indemnification



Insurance requirements







Claim notification



Dispute Resolution



Important Contract Language: Contractor

-  Schedules
-  Change order
-  Time extensions
-  Owners ability to occupy building prior to substantial completion



Important Contract Language: Contractor



Substantial completion



Final completion



Waiver of claims



Questions?



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