

PROPOSED FINDINGS SUPPORTING AN EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS AND USE OF THE DESIGN / BUILD PROJECT MANAGEMENT METHOD OF PROCUREMENT FOR THE ILLINOIS VALLEY HIGH SCHOOL AND HIDDEN VALLEY HIGH SCHOOL SEISMIC REHABILITATION PROJECTS

Before the Local Contract Review Board,

In the Matter of Exemption)	FINDINGS OF FACT
Request of)	
Three Rivers School District)	
Illinois Valley High School Seismic Rehabilitation)	
Hidden Valley High School Seismic Rehabilitation)		

ORS 279C.335 (1) requires, with certain exceptions, that all Public Improvement contracts be based on competitive bids and, under ORS 279C.375, awarded to the lowest responsive and responsible bidder. ORS 279C.335 (2) permits the Local Contract Review Board, which in this case is the Three Rivers School District School Board, to grant, under certain conditions, specific exemptions from the requirement for competitive bidding upon the approval of specified findings.

OAR 137-049-0620 (1), allows the Local Contract Review Board to exempt a Public Improvement contract from the requirements to be competitively bid, provided written findings supporting the use of non-competitive bid process show compliance with OAR 137-049-0600 to 137-049-0690 and applicable statutes.

The hearing for review of these findings will be at the regularly scheduled Three Rivers School District Board Meeting on September 18, 2019 at 6:00 p.m., held at the Three Rivers School District Board Room, 8550 New Hope Road, Grants Pass, OR 97527, as published in the public notice section of the Grants Pass Daily Courier and the Daily Journal of Commerce.

I
BACKGROUND

The Three Rivers School District received grants through Oregon’s Seismic Rehabilitation Grant program for a total value of \$1,373,979 and \$1,493,953 for Illinois Valley High School and Hidden Valley High School respectively. The purpose of the grant is to seismically retrofit the buildings to meet or exceed the code requirements outlined in ACSE41-13 “Seismic Evaluation and Retrofit of Existing Buildings”. All renovated areas will increase Life and Safety elements.

This project is limited to the funding outlined in the grant package, additional funding is not available. The current budgets do not reflect a contingency typically allotted for projects of this size and scope. It is the recommendation of the School District to procure the projects using the Design/Build project management methodology. ORS 279C.332 (3) identifies the Design/Build procurement methodology as an alternative contracting method and ORS 279C.335 (3) requires that the public agency develop findings that the alternative procurement process is unlikely to encourage favoritism or substantially diminish competition and that the project will result in substantial cost savings to the public agency.

For public improvement projects, agency findings must address certain additional factors, defined by ORS 279.330. These include, but are not limited to the following:

- 1) Operational, budget and financial data;
- 2) Public benefits;
- 3) Value engineering;
- 4) Specialized expertise required;
- 5) Public safety
- 6) Market conditions;
- 7) Technical complexity;
- 8) Funding sources

The Three Rivers School District proposes utilizing the Design/Build contract delivery methodology to obtain proposals for Illinois Valley High School and Hidden Valley High School Seismic Rehabilitation Projects.

II

FINDINGS REGARDING PROCUREMENT OF DESIGN/BUILD CONTRACTOR SERVICES

A. Findings Regarding Competition

ORS 279C.335 (2) (a) requires an agency to find that; *"It is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts"*

The Three Rivers School District finds that selecting the contractor through an exempted competitive proposal selection process in accordance with OAR 125-249-0620 and 125-249-0630 will not inhibit competition or encourage favoritism. This finding is supported by the following facts:

- 1) The proposed Design/Build alternative contract delivery methodology is a competitive proposal process that allows the Three Rivers School District to take steps to ensure maximum competition and fair opportunity for this project that include public advertisement in the print edition of the Grants Pass Daily Courier, the Medford Mail Tribune and Daily Journal of Commerce. In addition, an independent evaluation committee made up of board members and others, will be appointed to objectively review and select the proposer with the greatest value.
- 2) By allowing design-project manager contractors to present their experience, the negotiated procurement process will encourage more qualified design-project managers to compete for this project than would otherwise occur in a low bid process.
- 3) A negotiated procurement will also allow the District to identify a design/project manager prior to award of any construction subcontracts, so that TRSD is able to work with the design-build project manager to maximize opportunities for participation by small/emerging, local, and minority and women-owned business. As such, competition among subcontractors, particularly small local contractors, will be increased.

A. Findings Regarding Significant Cost Savings

ORS 279C.335 (2) (b) requires an agency to find that *“Awarding a public improvement contract under the exemption will result in substantial cost savings to the public contracting agency.”*

This finding is supported by the following facts in each area:

1. **Operational, Budget, and Financial Data:** It is imperative that design and construction activities have a minimal impact on the daily operation and administration to ensure response time of critical school occupant safety and operations services.

Finding: Having the design-build project manager involvement early in the planning for the construction will allow TRSD to work with the entire team to develop a design and construction plan that will minimize impacts to operation and administration, as well as recognize construction efficiencies important to meeting the tight budget and time constraints.

2. **Value Engineering:** Design-build project manager input during design will enhance the value engineering process. Options can be considered while the design is being finalized without issuance of a change order during construction.

Finding: Design-build project manager can provide input during design which enhances the value engineering process. Options can be considered while the design is being finalized and without issuance of a change order during construction. The design-build project manager procurement method allows the contractor to work with the team and to incorporate value engineering ideas in the timeliest manner to maximize savings.

3. **Market Conditions:** Market conditions in the Southern Oregon area are not favorable for inducing a large number of contractors to a hard bid. The area is scarce of qualified, bondable contractors to participate in a hard bid who have the specific seismic rehabilitation design-build experience.

Finding: By having a design-project manager involved early, they can generate interest from a variety of small contractors to perform portions of the work that otherwise could not bid the project independently. Local participation would therefore be increased. Additionally, the shortened schedule will allow for an earlier start to construction, reducing future cost escalation, and avoiding additional costs associated with pushing the schedule into adverse winter weather season.

4. **Technical Complexity:** Coordinating the technical aspects of the seismic renovation with the ongoing operational needs of the essential school facility are critical to the project's success.

Finding: Having the design-build project manager involved in the project early will allow TRSD to have input into the way the work is staged and constructed, and to verify ongoing operations are not impacted. The negotiated procurement allows the District to evaluate a design-build project manager's experience in similar technical seismic renovation work.

5. **Funding Sources:** This project is funded through grants with finite funding which will expire if timelines are not met. Therefore, it is critical the budget and schedule are met, or the project would be in jeopardy.

Finding: A negotiated procurement allows TRSD the means to achieve necessary cost control. Having an integrated design and construction team will leverage the dollars available to their fullest ensuring the grant requirements are met.

6. **Cost Savings:**

Finding: TRSD finds that low bid contracting for work of this nature is likely to result in numerous change orders and increased costs through claims. The negotiated procurement process will allow the District to select a design-build project manager based on qualifications. It allows selection of a design-build project manager whose proven experience matches the nature of the required work.

Finally, by using a design-build project manager, TRSD has the capacity to obtain real time pricing information. This pricing will facilitate a more accurate assessment of design options and maximize opportunities for value engineering.

7. **Public Benefits:** For this project, the public benefits directly from the shorter construction schedule and the ability to take advantage of favorable construction pricing. The earlier start/completion reduces TRSD's costs for construction, reducing the risks of cost overruns with the tight, finite budget presented by the grant. The public also benefits from the expedited design-to-construction schedule allowing for an earlier date of completion and reduced potential for interruption of critical services.

Finding: A negotiated procurement is the best method for TRSD to identify a design-build project manager who has proven experience and can accelerate the work to meet critical deadlines.

8. **Specialized Expertise Required:** It is recognized the nature of the design and construction is unique in that it involves invasive structural renovation of an occupied essential facility.

Finding: A negotiated procurement is the best method for TRSD to evaluate the design-build project manager in these areas and will allow the District to work with the design-build project manager early in the process to successfully address these issues.

9. **Public Safety:**

Finding: By ensuring the design and construction team are working in concert, critical construction milestones and deadlines such as bidding and permitting can be phased to ensure the shortest overall project duration. This will ensure the integrity of the facility to respond to school and emergency needs.

III
CRITICAL FACTORS

As an emergency shelter for structural performance to meet Life Safety and Immediate Occupancy facility of the Three Rivers School District, design and construction must be executed in a manner that does not adversely impact operations and administration, while strictly adhering to a number of requirements of the grant dictating quantity, quality, time and cost.

There are a number of unique difficulties to the project, primarily the highly invasive nature and technical complexity inherent with a seismic renovation. The very design of the work must be closely coordinated with construction staff to enable proper phasing and staging of the eventual construction. Additionally, the limited time allowed by grant, impending school calendar, and wet weather schedule constraints, and harsh construction conditions present additional project challenges.

Design-Build Project Management is the choice that best allows for consideration of the critical factors that will make this project a success. With a design-build project management contractor as part of the team, the likelihood of a successful construction process is enhanced. In addition, having the design-build project manager involved early will allow for quick start of construction when permits are issued. A fast track construction project allows for early occupancy.

IV
Summary

Use of the Design-Build method of contracting for the Illinois Valley High School and Hidden Valley High School Seismic Rehabilitation projects is an appropriate use of the alternative contracting method under OAR 137-049-0620. Additionally, an exemption from competitive bidding requirements is justified under the criteria outlined in ORS 279C.330, findings have developed in compliance with ORS 279C.335 (2), and the Three Rivers School District will perform the post-project evaluation required by ORS 279C.355. Based upon previously listed finding, the Three Rivers School District specifically concludes that:

- 1) It is unlikely the exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts;
- 2) The exemption will result in substantial cost savings to the affected Three Rivers School District for the services provided.

The Three Rivers School District submits that this request meets all of the criteria above and requests approval of this exemption. If you have any questions, please call Lisa Cross at 541.862.3111 ext.: 5260.



Lisa Cross
Accounting Manager

7/15/19
Date



Reviewed by Legal Counsel

7/15/19
Date