



PORTLAND PUBLIC SCHOOLS
OFFICE OF SCHOOL MODERNIZATION

501 North Dixon Street / Portland, OR 97227
Telephone: (503) 916-2222/ Fax: (503) 916-3253
Mailing Address: P. O. Box 3107 / 97208-3107

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To: Board of Education

From: Marina Cresswell
Senior Director, Office of School Modernization

Subject: Draft Findings in Support of Alternative Contracting Method and Use of Request for Proposals Solicitation for the Roosevelt High School, Phase 4 Project

REQUEST: Staff requests that the Board of Education (“Board”), acting as the Local Contract Review Authority for the Portland Public School District (“District”), grant an exemption from the traditional Design-Bid-Build low-bid procurement process and approve the use of an Alternative Contracting Method for the construction of Roosevelt High School, Phase 4 (the “Project”). Specifically, staff seeks to use a Request for Proposal (RFP) solicitation process: Staff will issue an RFP that will include both qualifications criteria and a lump sum cost proposal to select the contractor for the Project.

PROJECT SCOPE: The Project includes, but is not limited to, construction of a new classroom and Career & Technical Education (CTE) addition to the recently modernized Roosevelt High School. Total project budget is approximately \$5M, from the 2012 voter approved bond funds. The cost of construction is estimated to be approximately \$3.7M of the overall budget. The Project schedule has targeted September 1, 2020 as the contract start date for construction.

CONSTRUCTION PLAN: The Project will create an addition to the recently modernized Roosevelt High School. The Project team has engaged with the Roosevelt High School community to solicit feedback on the planning and design of this addition to include new STEM, CTE and flexible classroom spaces.

The conventional design-bid-build contracting methodology (“DBB”) that represents the basis of public improvement contracting in the State of Oregon would expose the District to a significant amount of risk based on the parameters of this project. DBB, which only considers the lowest priced bid that conforms to the bidding requirements, does not allow the District to consider any of the following qualities when selecting the most appropriate contractor:

- Relevant expertise in constructing high school STEM and CTE facilities – these types of facilities require a higher degree of technical and/or specialized expertise;
- Utilization of staging and construction approaches that are sensitive to the occupied school facility, site and surrounding residential neighborhood – much of the construction work will be occurring in an occupied school site, while school is in session;
- Company and staff skills and experience with projects of this size, scope and complexity – relevant project experience lowers the risk of cost and schedule overruns due to better understanding of project needs, availability of appropriate company resources for size and complexity;
- Project history of on-time delivery – the facilities to be developed by the project must be delivered in a timely manner due to program and enrollment needs; and
- Experience working with Oregon public contracting requirements – time is of the essence on this project, and prior experience with these requirements will allow for quicker start-up and delivery of the construction.

PPS-49-0620 and ORS 279C.335 permit the PPS Board of Education to exempt specific projects from the standard design-bid-build competitive bidding requirements of PPS Public Contracting Rules and Oregon Revised Statute (ORS) 279C. To appropriately manage the critical needs within this project, PPS staff recommend use of an open and competitive Request for Proposals methodology. Through this selection process, an RFP will be issued for the project utilizing both qualitative and cost criteria for selecting a qualified contractor. Qualitative criteria may include experience on similar projects, adequacy of equipment and physical plant, sources of supply, availability of key personnel, financial capacity, past performance, safety records, project understanding, proposed methods of construction, proposed milestone dates, references, service, and other matters that affect cost or quality. Cost criteria will be addressed by submission of a lump sum cost proposal as part of the RFP response. The RFP process will be a publicly noticed, competitive process allowing all interested contractors to submit proposals. A contractor will be selected based on the evaluation of their qualifications and cost proposal.

Following are the staff's draft findings for the Board's consideration.

These findings are supported by the following factors outlined in ORS 279C.335:

1. **Finding Related to Favoritism and Competition:** It is unlikely that the requested exemption will encourage favoritism or substantially diminish competition. The District will utilize an RFP procurement process. The procurement will be formally advertised with public notice, and competition will be encouraged. The general contracting market is familiar with the RFP process and generally accepts it as a standard delivery method. Many general contractors prefer and seek out an RFP process as it assures that quality is a recognized component of proposed cost. Proposers are evaluated based upon multiple selection criteria identified in the RFP, and are afforded an opportunity to protest the process and the award.

Staff therefore finds that the RFP process does not create favoritism nor limit

competition.

2. **Finding Related to Cost Savings:** Through the use of the RFP process to ensure that the successful proposer is experienced with the scope, scale and unique qualities of the Project, the District limits its risk of changes to the final contract amount due to incomplete or inaccurate bid estimates.

Staff therefore finds that the RFP procurement will improve the potential for cost savings.

3. In approving findings under ORS 279C.335, the Board shall consider the type, cost and amount of the contract, and to the extent applicable to the particular public improvement contract, the following:
 - **How many persons are available to bid.** The number of bidders will be determined by the number of qualified respondents to the RFP. The RFP process will not restrict the number of qualified persons available to bid the project.
 - **The construction budget and the projected operating costs for the completed public improvement.** The construction budget for the Project is \$3.7 M and the projected operating costs are yet to be determined.
 - **Public benefits that may result from granting the exemption.** Selecting contracting firms with the highest qualifications ensures that the successful proposer has the ability and performance history to successfully complete a project of this scope and complexity. This results in better utilization of voter approved funding and demonstrates good stewardship of public funds by PPS.
 - **Whether value engineering techniques may decrease the cost of public improvement.** The use of the RFP process will not limit any opportunities for value engineering of the project.
 - **The cost and availability of specialized expertise that is necessary for the public improvement.** The RFP process will attract the specialized expertise that is necessary for the project, while still utilizing a cost criteria to ensure competitive pricing.
 - **Any likely increase in public safety.** The Roosevelt Phase 4 addition will be constructed on an occupied site, with members of the school community and broader public moving near construction activity. Utilizing safety and security protocols as a selection criterion will enhance the District's ability to provide a safe and secure construction site during the course of work.

- **Whether granting the exemption may reduce risks to the District or the public that are related to the public improvement.** The experience of other public contracting agencies in utilizing the RFP process has shown that it alleviates financial risk by minimizing delay and ensuring proper coordination and planning by ensuring selection of a qualified firm with a proven track record on similar projects.
- **Whether granting the exemption will affect the sources of funding for the public improvement.** The project is funded by the 2012 Bond Program. Granting the exemption will not affect the source of funding for the project.
- **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.** The current market conditions have shown a dramatic increase in costs and amount of work available to contractors. The exemption will allow the District to engage the contracting community in advance of the bidding period to evaluate contractors' qualifications in managing schedule and procuring competitive sub-contractor bids in a highly active market.
- **Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement.** Due to the staging requirements of this project, careful coordination and scheduling will be essential so as not to impact the project milestones throughout the construction duration. The ability to carefully screen the contractor's successful performance history with this kind of project will significantly affect the project outcome as it relates to the schedule and cost of the project.
- **Whether the public improvement involves new construction or renovates or remodels an existing structure.** The project consists of a new construction addition to an existing structure.
- **Whether the public improvement will be occupied or unoccupied during construction.** The improvement will not be occupied during construction, but it is an addition to an occupied structure, and construction will occur within an occupied site.
- **Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions.** The public improvement may require multiple phases of work. The exemption will allow the district to evaluate contractor's qualifications in successfully delivering multiple phased projects.

- **Whether the contracting agency has, or has retained under contract, and will use contracting agency, 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.** The District's staff, consultants and legal counsel have substantial experience in developing and administering projects using the Request for Proposals process.