



FINDINGS DOCUMENT UMPQUA COMMUNITY COLLEGE

Exemption From Competitive Bidding for a Public Improvement Contract (i.e., Alternative Contracting Method) Design-Build or Design-Build Progressive Solicitation Process for Medical Careers Hub and Welcome Center

1. GENERAL

ORS 279.335 (2) permits a local contract review board to exempt contracts from traditional competitive bidding upon approval of findings of fact showing that an alternative contracting process is unlikely to encourage favoritism or diminish competition and that the process will result in substantial cost savings to the public College. Umpqua Community College District ("College"), through its Board of Education, acts as the Local Contract Review Board ("LCRB") for the College.

ORS 279C.400 – ORS 279.410 describes the Request for Proposals method of solicitation as an alternative to traditional competitive bidding. Pursuant to ORS 279C.410 (8), a public college using the Request for Proposals method may award a contract to the responsible proposer "whose proposal is determined in writing to be the most advantageous to the contracting college based on the evaluation factors set forth in the request for proposals, and when applicable, the outcome of any negotiations authorized by the request for proposals."

ORS 279C.370 defines "Findings" and identifies specific information to be provided as part of the College's justification. Under ORS 279C.335(5)(a) a public hearing may be held before the findings are adopted.

PURPOSE OF THESE FINDINGS: Umpqua Community College District may hold a public hearing as required by ORS 279C. 335 and makes the following findings with respect to the issue of whether the new Medical Careers Hub and Welcome Center Project ("Project"), as defined herein, should be exempt from competitive bidding. The College seeks to utilize the Design Build / Design Build Progressive method of alternative methods of contracting. The Findings of Facts apply to the DB/DBP method of public improvement projects described below, in accordance with ORS 279C.335 (2).

2. BACKGROUND

The findings herein support a resolution authorizing the Umpqua Community College ("College") Board of Education (board), acting as the Local Contract Review Board, to exempt the new construction of a Medical Careers Hub and Welcome Center from the competitive bid process and instead use an alternative contracting method consisting of a Request for Proposals ("RFP") for the selection of Design-Build method. The Design-Build Company (DB Company) includes but not limited to, architect, contractor, trade partner teams, mechanical and electrical consultants, along with the College will determine the best way to plan and execute the Project to minimize any adverse impact to the community and campus.

The selection process will include an evaluation of potential design and construction teams through the issuance of an RFP. The proposals received in response to that RFP will be evaluated based upon the criteria stated in the RFP. The criteria to be evaluated may include, but not be limited to: proposer's pricing proposal; labor rates; equipment rates and charges; overhead; profit, fee and mark-ups; proposer's experience with the construction of higher education student-focused first stop centers and medical education lab space, as well as key personnel experienced with Design-Build process, for projects of similar complexity; references; success with value engineering; the performance history of the contractor and key personnel demonstrating an ability to deliver projects on time and within budget; demonstrated ability of the contractor and key personnel to work in a harmonious and non-adversarial manner with the College and stakeholders, including neighbors, utilities, local governments and regulators; ability to maintain a drug-free workplace; compliance with environmental regulations; and ability to maintain a safe, healthful and accident-free workplace.

**FINDINGS OF FACT
SUMMARY FINDINGS**

Use of the Design-Build or Design-Build Progressive (“DB/DBP”) contracting method for the Umpqua Community College Medical Careers Hub and Welcome Center complies with the criteria outlined in ORS 279C.335 (2):

1. It is unlikely the exemption will encourage favoritism or substantially diminish competition. The selection process will be fair and open to all interested proposers as established by the findings below.
2. The exemption will result in substantial cost savings to the College. Also, value will be added to the Project that could not otherwise be obtained.

SPECIFIC FINDINGS which substantiate the summary findings are as follows:

1. The DB Company will be selected through a competitive process in accordance with the qualifications-based selection process authorized by the College. Therefore, it is unlikely that the awarding of the design and construction contract for the Project will encourage favoritism or substantially diminish competition. This finding is supported by the following:

- A. SOLICITATION PROCESS:** Pursuant to ORS 279C.360, the DB/DBP solicitation will be advertised on the State of Oregon’s procurement page (Oregon Buys) and the College’s procurement page.
- B. FULL DISCLOSURE:** To ensure full disclosure of all information, the Request for Proposals solicitation package will include:
 - a. Detailed Description of the Project
 - b. Contractual Terms and Conditions
 - c. Selection Process
 - d. Evaluation Criteria
 - e. Role of Evaluation Committee
 - f. Provisions for Comments
 - g. Complaint Process and Remedies Available
- C. COMPETITION:** As outlined below, the College will follow processes which maintain competition in the procurement of a design-build company.
 - a. The College anticipates that competition for this contract will be similar to that experienced in other projects of this type. The competition will remain open to all qualifying proposers.
 - b. The evaluation and solicitation process employed will be open and impartial. Selection will be made on the basis of final proposal scores derived from price and other components, which expand the ground of competition beyond price alone to include experience, quality, innovation factors, etc.

- c. The competitive process used to award subcontracts for all competitively bid construction work will be specified in the contract and will be monitored by the College. The College will also designate in the contract that self-performed work by the DB Company must be competitively bid under the same process.

D. SELECTION PROCESS: Other highlights of the selection process will include:

- a. A pre-proposal vendor conference will be announced and held. This conference will be open to all interested parties. During this pre-proposal conference, as well as any time prior to at least ten (10) days before the close of the solicitation, interested parties will be able to ask questions, request clarifications and suggest changes in the solicitation documents if such parties believe that the terms and conditions of the solicitation are unclear, inconsistent with industry standards, or unfair and unnecessarily restrictive of competition.
- b. The evaluation process will determine whether a proposal meets the screening requirements of the RFP, and to what extent. The following process will be used:
 - Proposals will be evaluated for completeness and compliance with the screening requirements of the RFP. Those proposals that are materially incomplete or non-responsive will be rejected.
 - Proposals considered complete and responsive will be evaluated to determine if they meet and comply with the qualifying criteria of the RFP. If a proposal is unclear, the proposer may be asked to provide written clarification. Those proposals that do not meet all requirements will be rejected.
 - Proposals will independently be scored by the voting members of the Evaluation Committee. Scores will then be combined and assigned to the proposals.
 - The Evaluation Committee will convene to select from the highest-scoring proposers, a finalist(s) for formal interviews.
 - The Evaluation Committee will conduct the interviews.
 - The Evaluation Committee will use the interview to confirm the scoring of the proposal and to clarify any questions. Based upon the revised scoring, the Evaluation Committee will rank the proposers, and provide an award recommendation.
 - The College President, or their designee, will negotiate a contract with the top-ranked firm. If an agreement cannot be reached, the College will have the option to enter into an agreement with the second-ranked firm, and so forth.
- c. Competing proposers will be notified in writing of the selection of the apparent successful proposal and will be given seven (7) calendar days after receipt of the notice to review the RFP file and evaluation report at the College Office. Any questions, concerns, or protests about the selection process will be subject to the requirements of the OAR 125-249-0450, must be in writing, and must be delivered to the College Purchasing Manager within seven (7) calendar days after receipt of the selection

notice. No protest of the award selection shall be considered after this time period.

- d. The contract achieved through this process will require the DB Company to use an open competitive selection process to bid all components of the job. The DB Company's general conditions and fee will be evaluated as one of the scoring criteria. General Conditions, which includes supervision, bonding, insurance, and mobilization, must be within the industry standard range. The DB Company's fee must also be within the industry standard range.

2. FINDING: The awarding of the construction contract for the Project using the DB/DBP method will likely result in substantial cost savings to the College. This finding is supported by the following information required by ORS 279C.335 (2) (b) and ORS 279C.330.

A. OPERATIONAL, BUDGET, FINANCIAL DATA

- a. **BUDGET:** The College has a semi-fixed budget available for the Project that cannot be exceeded. The completion date cannot be exceeded. Early reliable pricing provided through this contracting method where the contractor is working with the design team during the design phase will reduce the potential for time delays due to later discovery of higher-than-anticipated costs and consequent changes of direction.
- b. **LONG TERM COSTS:** The Project will require expertise regarding the constructability and long-term cost/benefit analysis of innovative design. That knowledge is best obtained directly from the construction industry. Many decisions will be required during the design process that will encompass immediate feedback on constructability and pricing. Under the traditional general contractor/construction manager process, there is a high risk of increased change orders and schedule impacts for a project of this size and complexity. Since there are significant costs associated with delay, time is of the essence. The DB/DBP process will assist in providing a constructible design that best meets the requirements of the Project with significantly lower risk to the project costs. The involvement of a DB Company during the process will allow project risks to be addressed early and teamwork between the College, the design consultant, and the construction contractor to minimize those risks.
- c. **FEWER CHANGE ORDERS:** Fewer change orders occur during project construction with a DB Company, due to the contractor's understanding of the owner's needs and the architect's design intent. As a result, the project is more likely to be completed on time and within budget. In addition, fewer change orders reduce the administrative costs of project management for both the College and the contractor.
- d. **GMP CHANGE ORDERS COST LESS:** The fewer DB/DBP change orders discussed above will be processed at a lower cost under the GMP. Other construction method processes typically result in the contractor charging a range of markup percentages on construction change orders. The GMP method applies lower predetermined markup percentages.
- e. **SAVINGS:** Under the GMP method the College will enjoy the full savings if actual costs are below the GMP. When the DB Company completes the project, any savings between the GMP and the actual cost accrue to the College.

- f. **FUNDING SOURCE:** The Project shall be funded from several sources including but not limited to XI-G general obligation bond funds provided through the State, donor and capital funds.

B. PUBLIC BENEFITS

- a. **TIME SAVINGS:** Use of DB/DBP or other alternative contracting methods will allow construction work to commence relatively rapidly on some portions of the work while design continues on the remaining portions. This will shorten the overall duration of the construction and provide for completion of the project by the due date. It becomes critical to maintain both the schedule and budget of this project.
- b. **COST SAVINGS:** The contractor and design-team provide value engineering and work with the concept designs and continuation throughout the project; assistance in evaluating the best and most cost-effective approach for new construction. The early involvement of the contractor and the "give and take" of the Design-Build process provides the best opportunity for "on-time and on-budget" delivery of the Project.
 - The contractor's input regarding the constructability and cost-effectiveness of various alternatives will guide the design toward the most economic choices.
 - Consideration of the specific equipment available to the contractor will allow the designer to implement solutions that utilize the capacity of that equipment.
 - The contractor will be able to provide current and reliable information regarding the cost of materials that are experiencing price volatility and the availability of scarce materials.
 - The contractor will also be able to order materials while design is being completed in order to avoid inflationary price increases and provide the lead-time that may be required for scarce materials.
- c. **GUARANTEED MAXIMUM PRICE (GMP) ESTABLISHES A MAXIMUM PRICE PRIOR TO COMPLETION OF DOCUMENTS:** GMP is set earlier in the process will allow the College to ensure that the project will fit within budget and maximize the efficiency of funds. Additionally, within the Design-Build process, the funding source can be flexible to enable acquiring funding at the most beneficial time in the project schedule. Under the Design-Build method, the College will benefit from savings if actual costs are below the GMP.

- C. **VALUE ENGINEERING:** Value engineering is the means used to determine the best project design that meets the needs and priorities of the College, within the College's budget. Value engineering is done most effectively by a team consisting of the College, architect, consultants, and the contractor. When the contractor participates, the team can render the most comprehensive analysis of all factors that affect the cost, quality, and schedule of the project.

The inherent flexibility and openness of the Design-Build process allows the College to more easily change the design and scope of work as necessary to meet the project budget before the

final design is fixed. This is not something that the traditional bid process offers.

- D. SPECIALIZED EXPERTISE:** Early selection of the DB Company creates more informed, better-quality decision making by the project construction and design team. A more efficient construction and design team saves the College money.

The construction project is complex because it involves student services and public access as well as medical educational labs. Use of a DB/DBP approach will result in a better coordinated project, speedy completion, and minimize disruption to operations. The DB/DBP method clarifies several critical variables valuable to project design. The DB/DBP: guarantees the maximum price (GMP) to complete the project; determines the construction schedule; establishes the sequence of work; is contractually bound to implement the final project design within the GMP; and participates as an essential member of the project design and construction team.

The DB/DBP method allows the vast majority of costs to be competitively bid under the umbrella of a pre-selected General Contractor. The Design-Build method allows the contractor to competitively bid out the vast majority of the cost of the project, providing the best value for the scope of work in the bidding packages.

Several benefits of participation by the DB Company on this project will be realized: developing the design documents to reflect the best work plan that accommodates the College, the design team, and contractor; the best grouping of the bid packages that will help insure better trade coverage; the most efficient construction staging area on campus; the most cost effective route through the campus and buildings for the various utilities; and to help in adjusting the work plan when the needs change along the way. This component cannot be addressed by the usual contracting method of construction because the usual method is skewed towards the lowest bidder.

- E. PUBLIC SAFETY:** All work must be coordinated to avoid safety risks to the public and to ensure efficiency in construction. The coordination between the College and the design build team will ensure coordination of work and consideration for the safety of vehicular and pedestrian paths crossed by the Project.
- F. MARKET CONDITIONS:** As well as the multitude of construction market factors that exist today in Oregon (e.g., competition of other projects, environmental issues that limit construction materials, variable bid market, high unemployment, etc.), the difficulty in establishing the best work sequence complicates our ability therefore, to accurately estimate the cost of this project. The economy today makes it necessary for many contractors to bid for jobs for which they might not be qualified. Alternative contracting methods will be more likely to result in a more experienced and better suited contractor for the particular project than the usual complete procurement. The complexities which need to be addressed to accomplish the tasks are not well served by the usual competitive procurement. The lowest bidder may not be the best suited for the particular project.
- G. TECHNICAL COMPLEXITY:** Technical expertise will be required for environmental management, quality management, scheduling, estimating, meeting sustainable facilities standards and guidelines, and ensuring energy efficiency. However, the Project will draw upon existing skills and capabilities available in the construction community, as the Project presents overall challenges like those faced on many public works projects. Specialized

skills will be required to negotiate and price multiple options and schedule complex tasks. A high level of coordination between the College and all the design and construction entities is required and facilitated by the DB/DBP approach.

- H. FUNDING SOURCES:** The College intends to fund the Project from several sources. The College is obligated to provide the best value not only to the District but to the State. Consequently, fund expenditures to achieve the lowest total life cycle cost for the best value is believed to be best achieved by using the DB/DBP construction method for the reasons that have been described in prior sections.

CONCLUSION

The benefits and characteristics required for the use of a Design-Build or Design-Build Progressive (DB/DBP) contract have been reasonably demonstrated in the discussion above. The DB/DBP with Guaranteed Maximum Price (GMP) is the option that best allows for consideration of the critical factors during design and construction. With a general contractor as part of the owner and designer team, the likelihood of successful construction implementation is enhanced. Having the contractor involved early will allow for a quick start of construction once permits are issued. Fast-tracking the design and construction allows for early occupancy, thereby meeting the public's expectations.