

**CLACKAMAS 800 RADIO GROUP LOCAL
CONTRACT REVIEW BOARD HEARING**

July 12, 2017

**REVIEW FINDINGS OF FACT FOR USE OF DESIGN-BUILD FOR
CONSTRUCTION, REPAIR AND RENOVATION PROJECTS INCLUDING
STRUCTURAL UPGRADES, HVAC UPGRADES, SAFETY AND SECURITY
UPGRADES, BUILDING SYSTEM IMPROVEMENTS AND OTHER
RENOVATIONS AT ALL CLACKAMAS 800 RADIO GROUP BUILDINGS AND
SITES.**

SITUATION

After a thorough evaluation of the work required on the twelve existing communication sites, the management team has determined that the Design-Build process would be the desired method to construct those projects.

Historically, public construction projects are competitively bid and awarded to the responsible low bidder. During recent project coordination meetings, the Design-Build contracting method has been discussed. This process involves the selection of a Design- Build firm or firms during the pre-design phase to involve a contractor's expertise to purchase/coordinate the design phase and hire contractors required to complete the construction phase of the projects. The Design-Build method has been successfully implemented by numerous public agencies:

ORS 279C.335 permits the Local Contract Review Board, which for C800 is the Board of Directors, to exempt specific projects from the requirements of ORS 279C. In doing so, the statute specifically says that the Local Contract Review Board shall: *"where appropriate, direct the use of alternative contracting and purchasing practices that take account of market realities and modern or innovative contracting and purchasing methods, which are also consistent with the public policy of encouraging competition."*

Oregon law and a duly adopted resolution of C800 permits the Board of Directors, acting as the Local Contract Review Board, to consider and approve specific findings that lead to the exemption of certain contracts/projects from traditional competitive public bidding. Selection of the Design-Build firms for these projects will utilize a Request for Proposal. The Request for Proposal will identify specific criteria to be utilized for the selection.

ORS 279C.335(4) requires C800 to hold a public hearing of the Local Contract Review Board to allow comments on the C800 draft findings. Notice of this public hearing must be advertised in at least one trade newspaper of general statewide circulation not less than 14 days prior to the hearing.

Notice of public hearing was advertised in the Business Tribune on June 27, 2017.

FINDINGS OF FACT

1. Project Description

C800 is currently in the pre-design phase for the construction of the Projects. The Projects will require tight schedule adherence to resolve issues that could impact timely completion. The time required to complete the design, obtain bids from qualified contractors, and order the equipment/materials required will compress the time available for construction. The management team believe the design / bidding and construction should be the responsibility of the Design-Build firm or firms.

Scope of work considerations for use of Design-Build may include foundation upgrades, safety and security upgrades, electrical systems, emergency generators, HVAC upgrades, roof repair, structural repair, site improvements, for the following C800 sites:

Mount Scott	Polivka	Lenhart Butte	Redland Road
Mountain View	View Acres	Timberline	Goat Mtn
Pete's Mtn	Brightwood	Day Hill	Sawtell

2. Responsibilities of the Design-Build Firm or Firms

a) Design Phase

The Design-Build firm or firms will provide the design and construction documents required to obtain permits and competitive bids, development of construction schedules, bid packaging, cost estimating, and the review of design documents from the standpoint of value, long lead procurements, design feasibility, constructability and establishing a negotiated cost or bid for the work prior to the start of the construction phase.

b) Bid Process

The Design-Build firm or firms will coordinate the competitive bid process and material procurement process for all work with full oversight and participation by C800istrict. The Design-Build firms will provide a written recommendation to C800 for each subcontract. Upon approval from C800 the Design-Build firms will execute a contract with the approved subcontractor or subcontractors.

c) Construction Phase

The Design-Build firm or firms will be responsible for the construction of the Project, including scheduling of materials procurement, delivery and all the work completed by their employees and by subcontractors. The Design-Build firms are responsible to complete the project on schedule, within budget and at, or above, the quality defined in the specifications prepared by C800.

3. Potential Benefits of Design-Build Process

a) Reduced Design Effort and Cost for C800

Instead of retaining an architect or engineer to prepare 100% complete plans and specifications, C800 prepares performance-type specifications establishing the scope

of the project including information that adequately describes the C800's needs.

b) Innovative Solutions to Construction Challenges

Construction documents suitable for competitive bidding under Design-Bid-Build need to address all construction issues in detail. This method and results may not always be the most advantageous to C800. Using the Design-Build process, during completing the construction documents, the Design-Build firm may arrive at a better solution. This flexibility also means C800 must define its expectations clearly and monitor the design development closely to ensure that it meets the project requirements.

c) Improve Project Delivery Schedule

The initial design phase may be reduced because the C800 does not prepare construction documents required for Design-Bid-Build projects. Using the Design-Build process, the Design-Build firm may be able to complete the design more quickly. Subject to permitting procedures, a Design-Build firm may be able to begin construction before final plans for entire project are complete. For example, grading, site work, foundations and work that does not require a permit can be underway before design for interior finishes, mechanical systems, and special systems is finalized.

d) Define Cost Early in the Process

The price of a fully designed project is not known until the owner opens bids. At that time, C800 may discover that it cannot afford to build the project as designed. The rapid cost escalation of some construction materials has made cost forecasting even more difficult. Cost-reduction changes delay construction and increase design costs. Price escalation during the delay makes the budget a moving target. With Design-Build, C800 knows what the building will cost when it awards the contract provided there are no material changes to the project or unforeseen conditions.

e) Allows C800 to consider factors other than price in selecting the Design-Build Firm.

The ORS allows agencies to award projects based upon "best value and other criteria" such as technical design, construction expertise and life cycle costs.

4. Rationale to Utilize Design-Build Method

a) Competition

It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts as the Design-Build firms will be selected through an open, competitive process among qualified contractors. C800 will receive written proposals from Design-Build firms with the experience and staff required to complete the project. The process will include Request for Proposals that will be publicly advertised and C800 may interview the firms before recommending a firm to the Board.

b) Multiple Construction Packages

The construction may be completed in phases and may require early bid or procurement packages. Completing the project in phases should result in cost savings.

c) Procurement of Long Lead Items

The Design-Build method will allow the early procurement of long lead material/equipment. Examples include mechanical equipment, electrical equipment. Early procurement should result in cost savings.

d) Schedule Complexity

The Projects will face tight construction schedules to achieve timely occupancy. By phasing the completion of construction documents, bid, award and construction, the schedule efficiency required can be achieved. The Design-Build process allows the phasing that will be required.

e) Change Order Cost Control

Change orders cost should be controlled in two ways:

i) By utilizing a Design-Build firm to provide cost analysis, construction feasibility reviews and long lead procurement, the final number of change orders should be reduced. Reduction of change orders should result in cost savings.

ii) By proposing a fixed fee for overhead and profit, the Design-Build firm's fixed fee is added to the actual cost of the change. It is expected this will be less than the standard fee added to change orders on projects awarded to a bondable, low bidder. Reduction of overhead and profit on change order should result in cost savings.

f) Acceleration

Utilizing the Design-Build approach will reduce the risk of acceleration expense to complete the Projects on time. Reduction or elimination of the cost to accelerate construction to complete the Projects on time should result in cost savings.

g) Improved Cost Management

The financial track record of Design-Build projects is impressive. The North Clackamas School District and Beaverton School District have used the Design-Build method to complete many construction projects with significant success considering timeliness of the project completions, cost savings and adherence to budget limitations.

h) Subcontractor Bidding and Selection

The Design-Build firms will have adequate time to prepare bid packages and review/analyze bids received from subcontractors. The work subcontracted will be awarded to the lowest responsive bidder. This bid process will not result in favoritism. Utilizing qualified subcontractors should result in better quality and cost savings.

i) Market Conditions

Many general contractors and subcontractors are being impacted by the quantity of bids for funded projects in the next four years. Currently the cost of materials and labor is adjusting to the market conditions. Ordering materials and equipment may take longer now as the manufacturers and distributors are not keeping large amounts of inventory in stock. The Design-Build firms will order the materials and equipment in a timely manner from manufactures and distributors that can deliver the material and equipment on-time and avoid delays caused by late shipments.

j) Awareness and involvement by local Contractors and Suppliers

The Design-Build firms selected will be required to identify local contractors and suppliers prior to starting the Bid Process. The project management team and the Design-Build firms will schedule meetings with local contractors and suppliers to review the scopes of work and bid dates. This process allows for local contractor and supplier participation in the projects.

k) Qualified Management

The project management team working on this project is well equipped to manage the complexities of a Design-Build construction process, with experienced and qualified district staff and external project managers with successful Design-Build experience.

5. Operational, Budget and Financial Data:

The projects will result in efficient mechanical and electrical systems thus minimizing operational costs. Generally the method of construction will have little effect on the operational budget. However, the Design-Build process may further reduce operational cost through the use of life cycle analysis to assist in the selection of systems, finishes and equipment.

6. Public Benefits:

The primary public benefit is more expeditious and cost effective completion of the Projects. The Design-Build process provides for better collaboration to ensure the Projects will be completed on time, on budget and at, or above, the quality described in the construction documents. It provides better opportunities for reducing construction time by fast tracking construction where beneficial.

7. Value Engineering:

Because the Design-Build firm is responsible for the design, the Design-Build firm will identify and implement design solutions and possible cost savings. This process allows the project team to evaluate quality materials, equipment and life cycle costs, thereby helping to reduce operating costs.

8. Specialized Expertise Required:

Completing a complicated project on time, on budget and at or above the quality expected requires the Design-Build firms to dedicate a qualified team with the experience and expertise to work with C800 and the project manager.

With such experience, mistakes are likely fewer and disruptions are likely to be minimized. The request for proposals process used to select the Design-Build firm will enable C800 to select the best contractor for the Projects.

9. Public Safety:

The Design-Build firms will prepare a construction safety plan for the project. The construction safety plan will help ensure projects are built safely and will minimize risks to neighborhoods and projects.

10. Technical Complexity:

Completing a fast track construction project on an operating public safety radio site is complex. The process C800 has elected to use will address the technical complexity and should save time and reduce the final cost.

11. Funding Sources:

These projects will be paid for as part of 2016 Capital Improvement Bond. The Design-Build process will better enable C800 to manage resources available to complete projects.

The Design-Build process will provide C800 the following advantages:

- Cost savings, as described above.
- Reduction of schedule risk typically associated with complex construction Project.
- Opportunity to select qualified Design-Build firms versus award project to any bondable low bidder.
- Accurate cost data for project decisions.
- Greatest assurance of project completions.
- Higher confidence in completing quality construction.

RECOMMENDATION

Staff recommends the Board of Directors, acting in the capacity of the Local Contract Review Board, review and approve the Findings of Fact supporting the use of the Design-Build process when the project management team believes it is in the best interest of C800.