

School Improvement Bond Committee
Meeting
Thursday, March 4, 2021 4:30 PM

Virtual

Agenda

1. 4:30 pm - Introductions, Acknowledgment of Previous Minutes, and Public Comment

*To sign-up for public comment email
PublicComment@pps.net or call
Kara Bradshaw at 503-916-3906

2. 4:40 pm - Technology Scope Overview
3. 5:00 pm - Curriculum Scope Overview
4. 5:20 pm - Bond Accountability Committee Charter Discussion
5. 5:40 pm - Roosevelt Phase 4 Procurement
6. 6:00 pm - Adjourn



SCHOOL IMPROVEMENT BON COMMITTEE MEETING INFORMAL MINUTES

The purpose of this document is to provide an overview of the reports to and actions taken by the School Board. In accordance with ORS 192.650, the District's official School Board Meeting Minutes are maintained via video recording and may be viewed at <https://www.youtube.com/playlist?list=PL8CC942A46270A16E>

A Meeting of the Board of Education's School Improvement Bond Committee came to order at 4:37 pm at the call of the Committee Chair Michelle DePass. This meeting was held virtually due to Covid-19 and streamed live at <https://www.youtube.com/user/ppscotts/videos>

There were present:

Committee Members

Directors DePass (Committee Chair), Kohnstamm, and Scott

Staff and Other Attendees

Scott Bailey – Board Director
Kara Bradshaw – Executive Assistant, Board of Education
Julia Brim-Edwards – Board Director
Payton Chapman – Principal, Lincoln
Marina Cresswell – Senior Director of School Modernization
Erick Gerding – Senior Project Manager, Lincoln
Aurora Hemy – Senior Director, College & Career Readiness
Derrick Henderson – Program Manager, Office of School Modernization
Claire Hertz – Deputy Superintendent of Business and Operations
Dan Jung – Chief Operation Officer
David Mayne – Communications and Public Affairs
Jan Osborn – Director, Career and Technical Readiness
Jaya Probasco Mitchell – District Student Council Representative
Rosanne Powell – Senior Board Manager
Jill Ross – Lincoln High School Business Manager
David Roy – Interim Senior Director, Communications
Nathaniel Shue – Board Student Representative
Dr. Luis Valentino – Chief Academic Officer
Karen Werstein – Public Information Officer

Pre-meeting

The virtual meeting opened for attendees to arrive at 4:15pm. No deliberation or decisions were made prior to the start of the meeting.

Discussion: Committee Work Plan

Time Started: 4:40 pm

Director DePass shared that the work plan is a fluid document that reflects the planned work. Director Kohnstamm requested to add contracting processes and best practices. Director DePass noted that the committee would look at it next month. Dan Jung described the steps for adding an item to the agenda, noting that the committee can handle about four topics per meeting. There was discussion regarding adding educational specification conversations, how frequently they should be discussed, and what should be looked at. Director Kohnstamm requested that the committee start looking at the engagement process for Jefferson and The Center for Black Excellence, and the next steps for the modernization of Ida B Wells-Barnett and Cleveland. Director Brim-Edwards requested that the committee look at middle school capacity and the potential of opening another middle school in Southeast.

Update: Lincoln CTE

February 04, 2021

Time Started: 4:59 pm

Marina Cresswell stated that an audio engineering program has been added to the Lincoln Career and Technical Education (CTE) program, adding that the change to the Educational Specifications are not enough to need board approval. There was discussion regarding the audio programs Standard Occupational Classification (SOC) and the possible opportunities for students who participate in the program.

Discussion: Bond Accountability Committee Chair

Time Started: 5:05 pm

Director DePass shared that there are two people interested in co-chairing the committee. Director DePass provided an overview of the new BAC members.

Discussion: Program Management

Time Started: 5:09 pm

Marina Cresswell provided an overview of the updated Office of School Modernization (OSM) organization chart. She noted that the chart is considered a draft because not all positions have not been posted and hired for yet. She stated that the District had been contracting operational services and that when the contract ended and they brought in the work and hired new staff. She added that the department will continue to utilize outside consultants for brainstorming and feedback and contract with specialized construction managers. There was discussion about the pros and cons of hiring versus contracting project managers. Ms. Cresswell provided an overview of the contracted services in place for non-modernization services, noting that they tend to be short-term, on-call services to provide more flexibility. Ms. Creswell provided an overview of active recruitments, noting that they expect to be conducting ongoing interviews and recruitments.

Public Comment

None

Adjourned

Committee Chair Michelle DePass adjourned the meeting at 5:32 pm.

Submitted by:

Kara Bradshaw
Kara Bradshaw, Executive Assistant
PPS Board of Education



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OTIS

Office of Technology & Information Services

Prepared for: School Improvement Bond Committee - March 04, 2021

Presented by: Don Wolff, Chief Technology Officer
Dr. Travis Paakki, Senior Director, Technical Operations



Bond 2020 Technology Plan

Overall components and budget allocations

- Infrastructure and Security - \$38,000,000
- Device Refresh and Replacement - \$31,000,000
- Classroom Modernization - \$25,000,000
- ERP Replacement Planning - \$11,000,000
- Program Administration - \$23,200,000
- **Total Bond Funding - \$128,200,000**



Infrastructure and Security

- Wireless upgrades
- Data center server refresh
- Phone system upgrade
- Security focused dashboard
- New handsets across district
- Security remediation
- Internal firewalls
- Security assessment
- School switch replacements
- Fiber interconnects upgrades
- Data center switch replacements

Device Refresh and Replacement

- Gr. 3-12 1:1 - 37,700
- Classroom teachers - 4,100
- Licensed staff - 800
- Support staff - 450
- Gr. Pk-2 & Asst. Tech.- 8,000
- Administrators - 350

Classroom Modernization

- Wireless access point
- Mounted projector
- Desktop computer
- Voice amplification
- Wireless display
- Projection surface

ERP Replacement

- Business process analysis
- Business requirements development
- Architecture development
- RFP development



Bond 2020 Technology Management

Project management and leadership

- OTIS - Don Wolff, CTO :: Travis Paakki, Sr. Director of Technical Ops :: Mark Lancaster, Director Network and Telecommunications
- OSM - Eric Naes, OSM Liaison for Technology
- NIS - Technical Project Management contractor
- Jennifer Clark, contracted project manager Device Replacement and Classroom Modernization
- Other project managers and contractors will be brought on more projects launch



Why is this investment needed?

Inquisitive Critical Thinkers with Deep Core Knowledge

They are also effective users of digital technology and the growing abundance artificial intelligence tools, technology-based devices that simulate human processes such as speech and pattern recognition, seeing, speaking, learning, and analyzing, to enhance human abilities to solve problems.



Inclusive and Collaborative Problem Solvers

Inquisitive Critical Thinkers with Deep Core Knowledge

Transformative Racial Equity Leaders

Resilient and Adaptable Lifelong Learners

Powerful and Effective Communicators

Positive, Confident, and Connected Sense of Self



Powerful and Effective Communicators

They can select and use multiple communication tools to convey ideas and information in writing and through video and audio recordings, digital technology, augmented reality, storytelling, debate, and other forms of expression such as individual and group performing arts and artistic compositions.



Optimistic, Future-Oriented Graduates

Reflective, Empathetic, and Empowering Graduates

Influential and Informed Global Stewards



Influential and Informed Global Stewards

Students know how to use technology to collaborate on project teams with diverse peers locally, nationally, and globally.





Pilot Process: Classroom Modernization and Infrastructure César Chávez and Boise-Eliot/Humboldt

- Complete full classroom modernization and infrastructure improvements
 - Project to begin in Late-Winter/Early-Spring 2021
 - Schools selected for their challenging construction make-up
 - Use lessons learned to inform larger roll-out
- Full schedule to align with District's theory of action
 - George MS and Lane MS will be leading the way after the pilot





Upcoming Investments

- Infrastructure and Security
 - Network switches and wireless access points (WAPs) - \$17,000,000*
 - Security Assessment - \$250,000
- Device Refresh and Replacement
 - Teacher laptops - \$3,500,000
 - Student devices - \$3,600,000
- Classroom Modernization
 - Classroom teaching cameras - \$1,500,000
- ERP Replacement
 - Business Readiness Assessment - \$75,000
- **Total Spend - \$26,000,000***

*Estimated dollar amount, bids closing on March 4, 2021



Projects on the Move

- Classroom Modernization and Infrastructure Pilot
 - Boise-Eliot and César Chávez - Full implementation of both project scopes
- Student Device Refresh
 - Student devices for Fall 2021
- Security Assessment -
 - Late-Winter/Early-Spring
- ERP Replacement
 - Kick-off Tuesday March, 2 with Multnomah County



Bond 2020 Technology Timeline

Completion times for projects:

- Infrastructure and Security - Fall 2025
- Device Refresh and Replacement - Winter of 2022
- Classroom Modernization - Fall of 2025
- ERP Replacement Planning - Fall of 2025

Instructional Resource Adoption

Prepared for: School Improvement Bond Committee, 3/4/2021

Presented by: Dr. Luis Valentino, Chief Academic Officer
Mary Wiener, Manager, Instructional Resource Adoption



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Why is Curriculum Important?

Curriculum is a critical factor in student academic success.

A teacher's or district's choice of curriculum can substantially impact student learning, and that—as a result—the paucity of evidence upon which sound instructional, purchasing, and policy decisions can be made is a matter of deep concern and urgent need. (Steiner, 2017)

New Curriculum Supports Implementation of Standards Based Education

Recent national surveys indicate that approximately three quarters of teachers made substantial changes (half or more of their materials) to their curriculum material use as a result of the Common Core State Standards, (Kane et al., 2016)

All Students Interact with Curriculum

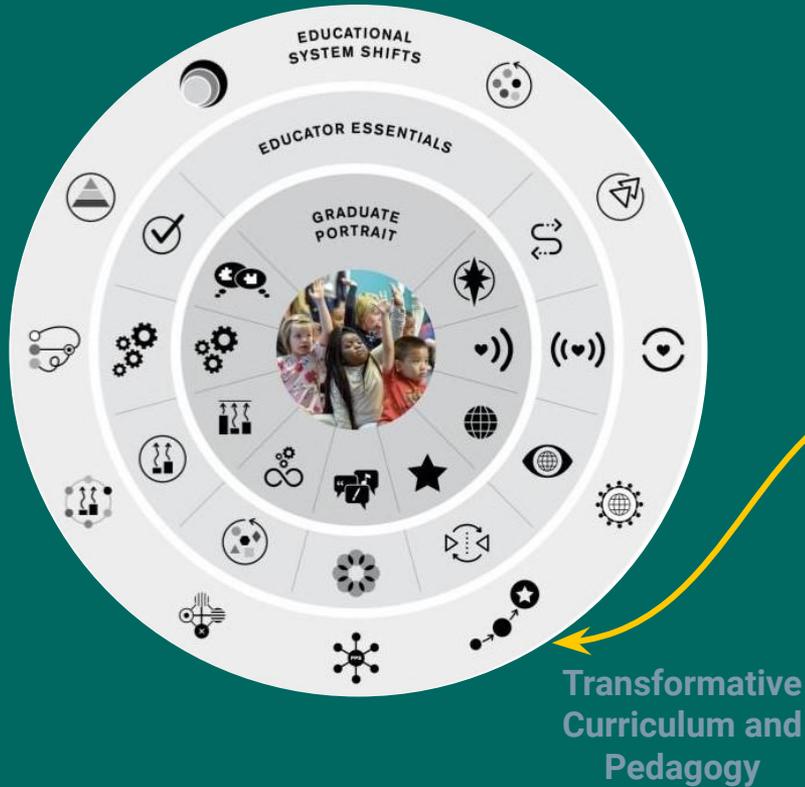
ATP data indicate 92% to 98% of teachers (depending on grade and subject) report using “materials developed and/or selected by [their] district.” The majority of these (51% to 74%) report using those materials at least weekly. (Opfer et al., 2016)



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Instructional Resources



Adoption Process

Definition

Instructional Resource Adoption is an ongoing process that provides a systematic means for making decisions about curriculum review, revision, development, and adoption of practices and instructional resources in content and program areas. This cycle includes four phases: Define, Select, Implement, and Evaluate.

Why?

- No recent formalized process
- Examination through Racial Equity & Social Justice Lens (RESJ)
- Shift in prioritized educational standards
- Adoption of educational standards
- Increased availability of digital resources
- Provide up-to-date culturally relevant materials
- Increased availability/access to instructional resources that allow for differentiated of instruction
- Availability of authentic and translated materials



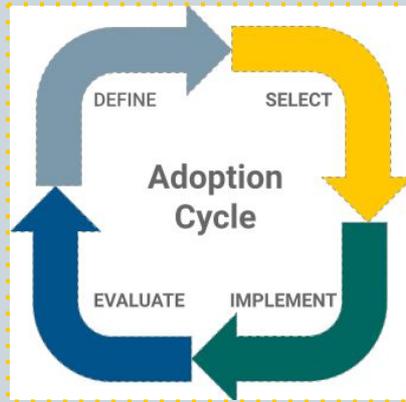
Adoption Process

DEFINE

- CMACC/AIR Committee and Selection
- Project Scoping
- Timeline/Budget
- Material Evaluation Rubric

EVALUATE

- Data Collection
- Disaggregated analysis of results
- Refine- Adjustments and Modifications



SELECT

- Vendor Solicitation
- Field Test Selection
- Field Test Professional Development
- Field Test
- Engagement
- Vendor Selection/Procurement

IMPLEMENT

- Instructional Resource Distribution
- Professional Development
- Educator Support



K-5 Math Adoption

DEFINE

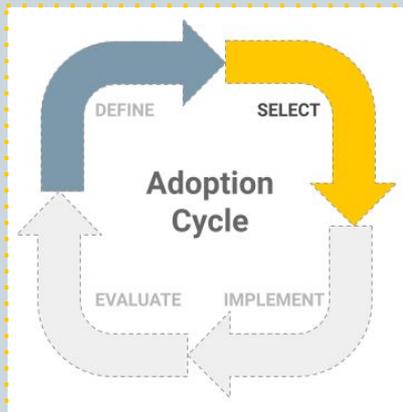
Fall/Winter 2020/2021

- CMACC/AIR Committee and Selection
- Project Scoping
- Timeline/Budget
- Material Evaluation Rubric

EVALUATE

2021/2022- On-Going

- Data Collection
- Disaggregated analysis of results
- Refine- Adjustments and Modifications



SELECT

Winter/Spring 2020/2021

- Vendor Solicitation
- Select 2 Vendor Finalists for Field Test
- Field Test
- Observations
- Community Engagement
- Select Vendor
- Procure Instructional Resources

IMPLEMENT

2021/2022

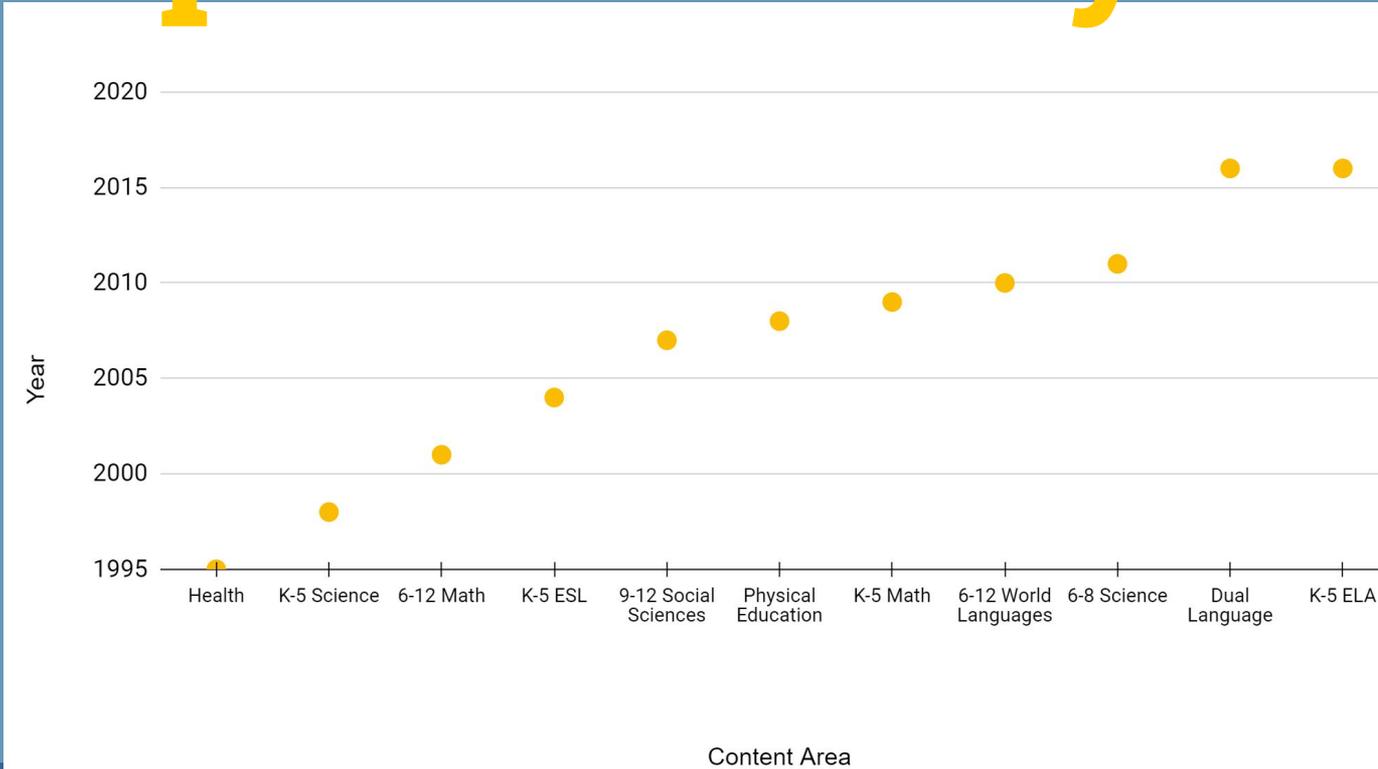
- Materials Delivered
- Summer PD on Program and Culturally Sustaining Pedagogies
- Makeup of Summer PD
- Embedded PD
- Just-in-time support
- Feedback
- PD for New Teachers, Additional PD and Differentiation Supports (2022-On-Going)



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Adoption History



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Adoptions

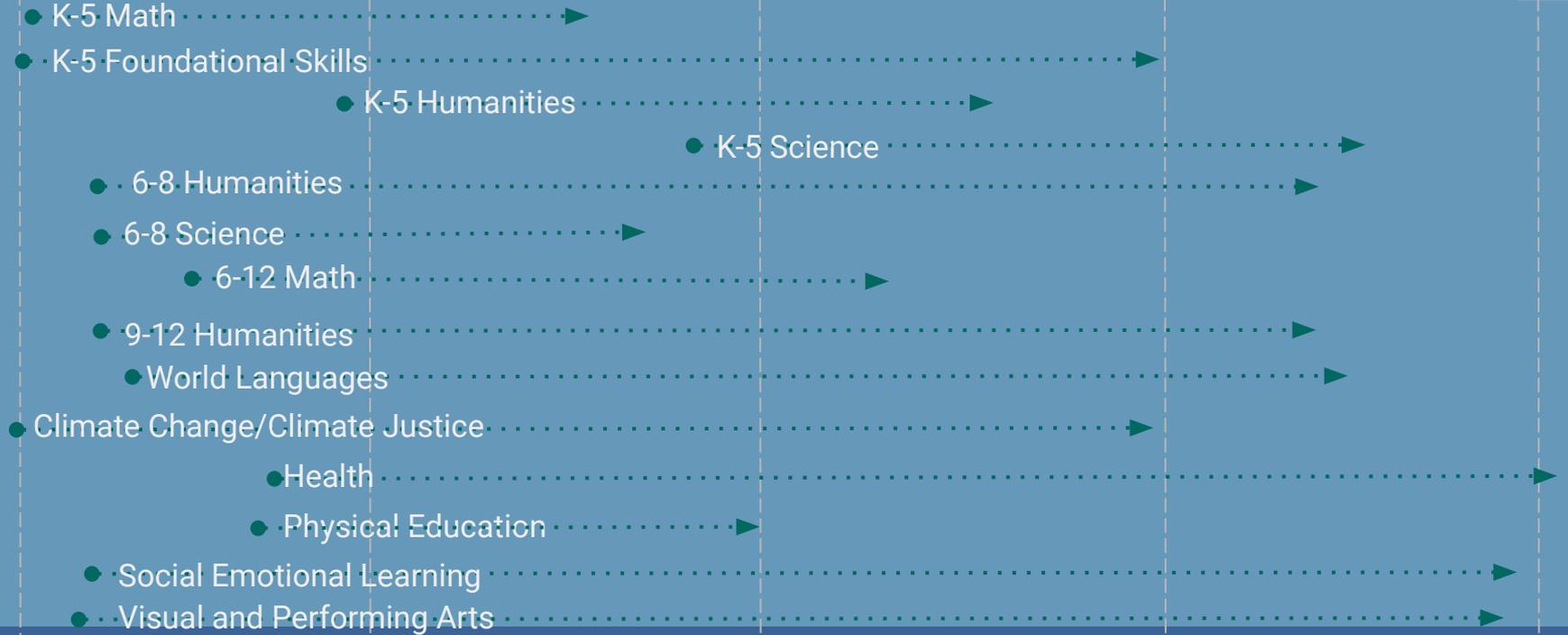
20/21

21/22

22/23

23/24

24/25



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Funding Picture

Adoption	Bond Funding	Non-Bond Funding Needed
K-5 Math	\$4,200,000.00	\$1,807,661.00
K-5 Foundational Skills/K-5 Humanities	\$8,000,000.00	\$550,151.00
K-5 Science	\$4,518,000.00	\$972,290.00
6-8 Humanities	\$2,250,000.00	\$563,550.00
6-8 Science	\$2,566,000.00	\$192,510.00
6-12 Math	\$2,600,000.00	\$564,014.00
9-12 Humanities	\$2,250,000.00	\$656,000.00
World Languages	\$1,000,000.00	\$347,000.00
Climate Change/Climate Justice	\$1,000,000.00	\$166,880.00
Physical Education	\$2,650,000.00	\$355,000.00
Health	\$1,350,000.00	\$645,000.00
Social Emotional Learning	\$1,110,000.00	\$344,600.00
Visual and Performing Arts	\$6,000,000.00	\$1,021,825.00
Learning Management System	\$800,000.00	0
Project Based Learning	\$750,000.00	\$1,800,000.00
Portfolio Management System	\$1,300,000.00	\$1,800,000.00
Middle School Redesign	\$10,500,000.00	\$5,940,000.00
Integrated Learning	\$600,000.00	\$350,000.00
TOTAL	\$53,444,000	\$18,076,481

Non-Compensable Adoption Expenses Include:

- Professional Development
- Field Test Materials
- Supplies
- Student Materials/Workbooks
- Professional Services
- Extended Hours for Teachers

School Year	Non-Bond Funding Needed
20/21	\$5,162,370.00
21/22	\$4,960,417.00
22/23	\$4,382,020.00
23/24	\$3,571,675.00



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Questions?



PORTLAND PUBLIC SCHOOLS OFFICES OF SCHOOL MODERNIZATION & PURCHASING & CONTRACTING

Date: December 18, 2020
To: School Board
From: Emily Courtnage, Director, Purchasing & Contracting
Marina Cresswell, Senior Director, School Modernization
Subject: Roosevelt Phase 4 Solicitation Process and Response to Assertions in NW Labor Press Article

This memo provides context and information about the Roosevelt Phase 4 Solicitation process and responds to factual inaccuracies in a December 2, 2020 article in the NW Labor Press (“High-bidding nonunion firm wins more Portland Public School Work”).

The Roosevelt Phase 4 project includes construction of a new classroom and Career & Technical Education addition to the modernized Roosevelt High School. The total project budget is approximately \$5 million.

The following key points are explained in detail below:

- This was a properly authorized, publicly advertised Request for Proposals process, in which price comprised only 40% of the written evaluation points.
- The District has converted each RFP evaluator’s raw point totals to ranks since 2014, at the formal recommendation of the auditors in the first Bond Performance Audit. The ranking process reduces the ability of one evaluator to skew results by employing wide point disparities.
- Todd Construction was the highest ranked proposer when written evaluation and presentation evaluation ranks were summed. It ranked first in the written evaluation and second in the presentation evaluation.
- The NW Labor Press article contained multiple misstatements of fact, detailed below.

The Roosevelt Phase IV Solicitation Process:

a. Use of Alternative Contracting Method (Request for Proposals)

On June 11, 2020, staff brought to the Board a request to use an alternative contracting process - a publicly advertised and fully competitive request for proposals (RFP) process - for solicitation of this Roosevelt Phase 4 construction contract. Oregon public contracting law authorizes public agencies to exempt certain public improvement contracts from the traditional design/bid/build competitive bidding (low bid) procurement process. In the past, staff has sought exemptions to procure by CMGC contracting method (used for all high school modernization projects) and a two step request for qualifications followed by low bid process open only to prequalified bidders (used for Faubion and Kellogg), among others. As required by statute and our public contracting rules, staff brought the exemption request and resolution to the Board after preparation of findings in support of the resolution and advertised public hearing. The Board approved the resolution.

As stated in the exemption request, the project was “not of the scale or complexity that would warrant the Construction Manager/General Contractor contracting method . . . but it is crucial that the selected contractor be highly qualified and experienced in completing a public improvement project of this size on a critical path schedule.” As further explained in the staff findings in support of the resolution, the traditional design/bid/build process which results in award to the lowest priced responsive bid would not have allowed the District to consider such factors as relevant expertise in construction STEM or CTE facilities; utilization of staging and construction approaches sensitive to the occupied school facility and surrounding neighborhood; experience with projects of this size, scope, or complexity; project history with on-time delivery; and efforts to engage Certified Business (MBE, WBE, or ESB) subcontractors. The Request for Proposals process is an evaluation process, allowing points to be scored both for

price and other categories including experience, skill, key personnel, staging plans, safety records, business equity practices, references, etc.

b. Request for Proposals Evaluation Criteria

Purchasing & Contracting issued an RFP for the Roosevelt Phase 4 (RFP No. 2020-2770) on September 15, 2020. Proposals were due October 6, 2020. The Written Evaluation Criteria is detailed extensively over two pages of the solicitation and includes the following categories: Experience (25 points), Project Understanding and Delivery (25 points), Certified Business Participation Strategy (10 points), and Price Proposal (40 points). In the written evaluation, there were 100 points possible, and price comprised only 40% of those points. Office of School Modernization project team members developed draft criteria and points distribution, which were then reviewed and finalized by the OSM Director of Construction and the Senior Director of OSM.

The RFP explained the evaluation process and ranking of proposals in detail. It explained that after written proposals were evaluated, a competitive range of one or more proposers would be established, and those proposers would be invited to participate in an interview with the evaluation committee. The Interview Evaluation Criteria was worth 100 points and included Key Personnel Experience (35 points), Risk Management (35 points), and Collaborative Approach (30 points). After scoring the Interview Evaluation Criteria, the District would determine the winner by “sum[ming] the weighted Tier 1 total written evaluation rankings and the weighted Tier 2 total interview evaluation rankings to achieve a total rank per proposal.”

Twelve proposers responded to the solicitation. Two of those proposers were deemed “non-responsive.” Of the remaining ten, three were invited to participate in the interview/presentation evaluation after scoring of the Written Evaluation Criteria: Todd Construction, P&C Construction, and Swinerton Builders. During both phases of evaluation, there were three evaluators, all from the Office of School Modernization.

Price scoring is completed not by evaluators, but by Purchasing & Contracting staff, because it is a purely objective process based on simple calculations: The lowest bid price is given the full maximum point amount for price, while the subsequent bid prices are given a percentage based on the percentage variation from the low bid. For example: The low bid is \$1000. The next lowest bid is \$1500. Assuming the point value for price is 10 points, the low bid would receive the full 10 points, while that next lowest bidder would receive 66.67% ($1000/1500=.6667$) of the point value, or 6.67 points.

District’s Use of Evaluator Rankings

The Roosevelt Phase 4 solicitation document explained how proposals would be ranked:

4.2.1 Ranking of Proposals

Evaluations will be scored by rank. The highest-ranked proposal will be determined as follows:

- a) Each evaluator will assign a ranking to each proposal, based on the total score he or she awarded each proposal based on the evaluation criteria points.
- b) The proposal to which the evaluator awarded the most points will receive an Evaluator Final Rank of 1. The proposal to which the evaluator awarded the second most points will receive an Evaluator Final Rank of 2, and so forth.
- c) The District will then sum the Evaluator Final Ranks for each proposal. The proposal with the lowest total final rank (the sum of all Evaluator Final Ranks) will be ranked first. The proposal with the second lowest final rank will be ranked second, and so on. The proposal with the highest final rank will be ranked last.

The District began converting raw scores to ranks in the RFP evaluation process in 2014, based on a recommendation in the first Bond Performance Audit (See Portland Public Schools Bond Construction Program: Performance Audit #1, June 2014, by Hirsh and Associates (“Audit”) - Recommendation #11). There, the auditors noted that use of raw points from each evaluator “does allow one rater to theoretically skew the total points assigned by giving no points to one firm and highest points to their preferred firm, potentially resulting in the selection of a firm that is not preferred by the majority. To eliminate this problem, various public agencies are using an alternative scoring methodology that results in ranking firms, by rater, in order of preference and assigning one point for the highest ranked firm and 2 points for the second highest firm and so on. The firm with the lowest total points would be selected.” (Audit at page 47) The District adopted this process immediately and has used it for all requests for

proposals, whether bond funded or not, since May 2014. The simple example below shows how ranking avoids skew that may result from evaluator bias:

		Company 1	Company 2	Company 3	Company 4
Evaluator A	points	80	85	95	75
	rank	3	2	1	4
Evaluator B	points	80	75	90	85
	rank	3	4	1	2
Evaluator C	points	70	80	85	80
	rank	4	2	1	2
Evaluator D	points	100	45	55	50
	rank	1	4	2	3
	Total points	330	285	325	290
	Total rank	11	12	5	11

In this example, Evaluator D has a bias or very strong preference for a particular company and employs very wide point spreads to get her favored result. When points are used to select the company, the result is that Evaluator D was able to single-handedly skew the results toward Company 1, which did not rank in the top two for any of the other three evaluators. When ranks are used to select the company, the result is that Company 3 is the highest ranked and the winner. Company 3 was ranked in the top two for all four evaluators and better represents the consensus view of the evaluators.

Results of Roosevelt Phase 4 RFP Evaluation

After written evaluation by three evaluators of ten proposers, the top three ranked proposers were selected for the presentation stage. Evaluator scores and rankings of the three top proposers were as follows:

		Todd Construction	Swinerton Builders	P&C Construction
Evaluator A	points	91.4	89.3	87.8
	rank	1	2	3
Evaluator B	points	85.4	88.3	87.3
	rank	3	1	2
Evaluator C	points	85.9	72.3	84.6
	rank	1	4	2
	Total points	262.7	249.9	259.7
	Total rank	5	7	7

Todd Construction was highest ranked as well as received the highest point total in the written evaluation. Evaluator scores and rankings for the interview/presentation stage were as follows:

		Todd Construction	Swinerton Builders	P&C Construction
Evaluator A	points	65	63.5	62
	rank	1	2	3
Evaluator B	points	70	50	90
	rank	2	3	1
Evaluator C	points	50	89.75	91.75
	rank	3	2	1
	Total points	185	203.25	243.75
	Total rank	6	7	5

P&C Construction ranked and scored highest in the presentation evaluation. The combined final evaluation scores are as follows:

	Todd Construction	Swinerton Builders	P&C Construction
Written Evaluation Points (300 points available)	262.8	249.8	259.7
Presentation Evaluation Points (300 points available)	185	203.2	243.7
Total Points	447.8	453.1	503.4
Written Evaluation Rank	5	7	7
Presentation Evaluation Rank	6	7	5
Written Eval Weighted Rank	2.5	3.5	3.5
Presentation Eval Weighted Rank	3	3.5	2.5
Total Weighted Ranking	5.5	7	6

Todd Construction narrowly outranked P&C Construction and was declared the winning proposer. Note that Swinerton Builders, the proposer referenced in the NW Labor Press article, would not have won the solicitation regardless of whether scores or ranks were used to select the winner.

It might be helpful to note that Swinerton Builders is a welcome partner to the District. Swinerton has performed other work for the Office of School Modernization, including a tenant improvement contract performed over Summer 2020 at Roosevelt as part of the Roosevelt Phase 4 project.

Additional Information Not Specific to the Solicitation

The NW Labor Press article also included comments regarding Todd Construction's compliance with prevailing wage rate laws.

It was stated in the article that Todd Construction has a previous prevailing wage rate violation and current Bureau of Labor and Industries (BOLI) investigations (some of which are investigations of separate subcontractor firms, not Todd Construction itself). Prevailing wage compliance investigations are a complaint-driven process, with complaints typically arising from individuals who believe they have been paid incorrectly, or from union representatives on behalf of an individual or group of individuals. BOLI does not publicly identify contractors under investigation or provide

violation information, even to other public agencies. While it is possible that there are ongoing investigations, the District has no means to verify the existence or merit of those investigations.

BOLI does publish on its website a list of contractors who are debarred from performing public works contracts. The list is reviewed on a regular basis by OSM, including prior to contract execution. The list does not include Todd Construction or the subcontractors from Todd Construction's current PPS project, the Kellogg Middle School Replacement project.

The District complies with all owner requirements of the prevailing wage rate laws, including the requirement that owners collect certified payroll reports. BOLI does not require owners to ensure that contractors are correctly paying prevailing wage rates. The Office of School Modernization does, however, review certified payrolls for prevailing wage payment issues and will report those issues to BOLI if found.

Responses to Specific NW Labor Press Assertions About this Solicitation

1. Assertion: "Todd's bid was the highest of those listed, \$280,000 higher than the bid submitted by union-signatory Swinerton Builders."

Response: This is partially incorrect as well as misleading. Todd's proposed price was not the highest price; several proposers proposed higher prices. Todd's price was the second lowest of the three firms selected for the presentation stage of evaluation: Swinerton (\$4,302,105), Todd (\$4,571,000), P&C (\$4,988,000). Further, this was an RFP process, not an Invitation to Bid (low bid, design/bid/build) process. Several other factors besides price were considered. Price comprised only 40% of the written evaluation points.

2. Assertion: "Of the three firms selected as finalists, not only was Todd the high bidder, but PPS evaluators had also given it the lowest rating."

Response: This is incorrect. Todd did not propose the highest price, as noted above. Todd had a rank of 1 in the written evaluation; it was the highest ranked proposer of the 10 responsive proposers.

3. Assertion: "How is this possibly legal? ... What happened to lowest responsible bidder?"

Response: This was a properly authorized and fully legal RFP process, not an Invitation to Bid (low bid, design/bid/build). The Board properly authorized an alternative contracting process on June 11, 2020 through an exemption process, findings, public hearing, and resolution. The exemption process is authorized by Oregon statute, the Attorney General's Model Rules, and PPS public contracting rules.

4. Assertion: "[In the presentation evaluation] each of the three evaluators thinks a different one of the three finalists is the best, and there's no consensus."

Response: This is incorrect. At the presentation evaluation, P&C Construction was ranked highest by two of the evaluators and Todd was ranked highest by one of the evaluators. Evaluators bring different expertise and perspectives to the evaluation and don't always agree. This is normal, and this is why we always have at least three evaluators.

5. Assertion: "When you combine rankings from a group of 10 bidders and rankings from a group of 3 bidders, a slightly less favorable ranking from a single evaluator in the first round can kill a bidder's chances."

Response: This is incorrect. The conversion from scores to rankings greatly reduces the ability for one evaluator to significantly skew the results.

6. Assertion: "Swinerton, for example, was hurt in the final calculation because Evaluator C rated it fourth in the first tier, below a bidder that was eliminated. PPS third graders know that you can't place fourth out of three contestants, but that's exactly the kind of result generated in the final stage of PPS' construction procurement process."

Response: While we believe it makes sense to leave first tier/written evaluation rankings intact in the final calculation (just as we'd leave scores intact if we used raw scores), the Purchasing & Contracting department years ago analyzed the effects of re-ranking the companies that make it to the second (presentation) stage so that each evaluators' ranks would be recalculated based only on the three companies selected for interview. (So, for example, Evaluator C's ranking of Swinerton as 4th best in the written evaluation would be converted to 3rd best). However, our analysis showed that it was extremely rare that doing so would influence the outcome. In fact, here, doing so would not have changed the outcome; Todd Construction would still have won.



Board of Education

Staff Report to the Board

Board Meeting Date: June 11, 2020

Executive Committee Lead:
Claire Hertz, Deputy Superintendent,
Business & Operations

Department: Finance

Presenter/Staff Lead:
Emily Courtnage,
Director, Purchasing & Contracting

SUBJECT: Roosevelt High School Phase IV Project: Exemption from Competitive Bidding and Authorization for Use of Request For Proposals (RFP) Alternative Contracting Method

BACKGROUND

ORS 279C.335(2) authorizes the Contract Review Board to exempt certain public improvement contracts or classes of contracts from the traditional design/bid/build competitive bidding (i.e., low bid) procurement process. Staff requests that the Board approve an exemption from low bid competitive bidding for the Roosevelt High School Phase IV Project and authorize staff to utilize a publicly advertised and fully competitive Request for Proposals (RFP) process.

An exemption request and approval to use an alternative contracting method must be supported by the following findings: (1) The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts, *and* (2) Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency or the public. See ORS 279C.335(2).

A detailed description of the Roosevelt High School Phase IV Project and draft Findings of Fact ("Draft Findings") supporting the exemption Resolution, as required by ORS 279C.335(2), are set forth in the attached Office of School Modernization staff memo. As reflected therein, staff recommends using the RFP alternative contracting method for the Roosevelt project, rather than the traditional single-step, low-bid procurement method. This project is not of the scale or complexity that would warrant the Construction Manager/General Contractor contracting method that the District has used for its high school modernizations, but it is crucial that the selected contractor be highly qualified and experienced in completing a public improvement project of this size on a critical schedule path.

RELATED POLICIES / BOARD GOALS AND PRIORITIES

District Policy 8.50.090-P designates the Board as the local government contract review board with authority to exempt certain public contracts or classes of contracts from the standard competitive bidding process otherwise required by the Public Contracting Rules, as per ORS 279C.335(2).

Adoption of the attached Resolution will not affect any other contract to which the District is a party nor effect any change in Public Contracting Rules or District policy.

PROCESS / COMMUNITY ENGAGEMENT

The Public Contracting Rules require that the District conduct a public hearing, providing interested parties an opportunity to appear and present comment, prior to adoption of a Resolution exempting a public improvement project from competitive bidding. PPS-49-0630(7). Notification of the public hearing must be published in a trade newspaper of general statewide circulation at least 14 days before the hearing. PPS-49-0145(4)(b). At the time of the Notice, copies of the Draft Findings must be made available to the public. PPS-49-0145(4)(c).

In compliance with these requirements, Purchasing & Contracting published a Notice of Public Hearing concerning the Roosevelt High School Phase IV exemption request on May 6, 2020 in the Business Tribune, the same Journal in which Purchasing & Contracting posts all required construction solicitation notices. Also on May 6, staff made the attached Draft Findings available to the public. Instructions for requesting copies of the Draft Findings were included in the Notice of Public Hearing.

A public hearing was held via teleconference on May 21, 2020. At that meeting, no attendees presented questions or comments.

ALIGNMENT WITH EQUITY POLICY IMPLEMENTATION PLAN

The RFP solicitation method will not affect the District's Equity in Public Purchasing & Contracting Policy or implementation path. The RFP will be open and publicly advertised. The selected contractor will be required to comply with the District's Workforce Equity and Career Learning requirements, as well as report on Certified Business subcontractor utilization during the course of the contract.

BUDGET / RESOURCE IMPLICATIONS

The RFP method allows the District to carefully screen firms to assure that the contractor chosen to work on the project has the necessary experience and qualifications, and proven track record, to successfully complete the project.

NEXT STEPS / TIMELINE / COMMUNICATION PLAN

If this Resolution is adopted, staff in Purchasing & Contracting and the Office of School Modernization will prepare solicitation documents and issue a Request for Proposal for a General Contractor for the Roosevelt High School Phase IV public improvement project.

ATTACHMENTS

- A. Resolution to Authorize Alternative Contracting Method**
- B. Office of School Modernization Staff Memo with Draft Findings**



**PORTLAND PUBLIC SCHOOLS
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Date: May 5, 2020

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.