



# Oregon

John A. Kitzhaber, M.D., Governor

## Department of Transportation Interoffice Memo

February 25, 2005

TO: Bruce Warner, P.E.  
Director of Transportation

File Code:

FROM: Michael D. Wolfe, Manager, Statewide Project Delivery  
Office of Project Delivery

RE: Pioneer Mt to Eddyville, Corvallis-Newport Highway (US 20) – Design-Build  
Project Key # 13225  
Project Exemption #2004-52

I request your signature for Exemption #2004-52 from low (Competitive) bid contracting (ORS 279) to use Best-Value Design-Build contracting to design and construct the Pioneer Mt to Eddyville (US 20) Project.

The Pioneer Mt – Eddyville project will improve existing highway sections and replace part of the existing highway with a new section built to modern safety and design standards. Widening the highway will allow most interstate trucks to use this route unimpeded. New passing lanes for trucks and recreational vehicles, wider bridges, and separating the railroad crossing from the highway are among the many safety improvements resulting from the project. The project is anticipated to cost between \$95 and \$110 million, with an anticipated significant direct cost savings amounting to over \$4.759 million. The use of design-build procurement is expected to gain one year of time compared to the traditional design-bid-build method.

Date that the project was adopted into the STIP: October 29, 2004.

Hearing Advertisement date: October 21, 2004, published in: *Daily Journal of Commerce*. (Posted on ODOT Contracting Page October 21, 2004).

Findings of Fact hearing date: November 4, 2004, Public Comments received on Draft Findings of Fact: zero (0).

Findings of Fact signature date by DOJ: February 15, 2005

Project pre-advertisement on ODOT Contracting Web Page on: August 23, 2004.

This Project was Advertised on: August 23, 2004, published in: *Daily Journal of Commerce*.

Requests for Qualification were released on: August 20, 2004.

Requests for Qualification were received on: September 28, 2004, four (4) Statements of Qualification were received.

This project released Requests for Proposals on November 22, 2004

This project is anticipated to have Technical and Price Proposals received on March 25, 2005.

Pioneer Mtn to Eddyville (U.S. 20) Design-Build  
Exemption No. 2004-52  
Page 2 of 2

This project is a Qualified Project (23 CFR 636.103), therefore no SEP-14 was required.

Your signature on the enclosed Finding of Fact will execute the project bid exemption, developed in conjunction with the Associated General Contractors.

cc:    Technical Services Manager (w FOF)  
          Executive Deputy Directory (w/o FOF)  
          Region Manager (w/o FOF)  
          Hearings Officer (w FOF)

# Exemption Number 2004- 52

## FINDINGS AND ORDER SUPPORTING AN EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS AND THE USE OF THE DESIGN-BUILD ALTERNATIVE CONTRACTING METHOD

Before the Director of Transportation  
Of the State of Oregon

In the Matter of the Exemption Request for the Pioneer Mountain - Eddyville Project of the Corvallis-Newport Highway (U.S. 20)	)	FINDINGS OF FACT,
Lincoln County	)	CONCLUSIONS OF LAW
by the Oregon Department of Transportation	)	AND ORDER
	)	(For a Public Improvement)
	)	

ORS 279.015 (1) requires, with certain exceptions, that all public contracts be based on competitive bidding and, under ORS 279.029, be awarded to the lowest responsive and responsible bidder. ORS 279.015(2), as amended by the 2002 First Special Session, Oregon Laws 2002, Chapter 3 (HB 4010), permits the Director of Transportation to grant exemptions to the Oregon Department of Transportation (ODOT) from the requirement for competitive bidding for certain public improvement contracts, as described in ORS 279.712(2)(c), upon the approval of specified findings. ORS 279.011(5) defines "Findings" and identifies specific information to be provided as part of the agency justification. Under ORS 279.015(3), a public hearing must be held before the findings are adopted, for a public improvement contract, allowing an opportunity for interested parties to comment on the draft findings.

This request for exemption was advertised in the *Daily Journal of Commerce* on October 21, 2004. It was also posted on the ODOT web site at: [http://www.odot.state.or.us/techserv/progrsrv/contract on October 21, 2004](http://www.odot.state.or.us/techserv/progrsrv/contract%20on%20October%2021,2004).

The hearing for review of these findings was held at 3:00 PM on Thursday, November 4, 2004, at the Department of Transportation office at 355 Capitol St. NE, Salem, Oregon. There were no comments from the public, either oral or written, during this hearing or during the time for comments.

ORS 184.610 to 184.733 describes the ODOT and the responsibilities of the Oregon Transportation Commission (OTC), the Director of Transportation and managers. ORS 366.400 authorizes the ODOT to enter into all contracts deemed necessary for the construction, operation, maintenance, improvement, or betterment of highways. ORS 279.712(2)(c) provides ODOT with independent contracting authority for public improvement contracts relating to maintenance or construction of highways, bridges, parks or other transportation facilities. ORS 366.505 describes the composition and use of the Highway Fund, including federal funds.

## FINDINGS OF FACT

### A. BACKGROUND

1. **Project Description:** Pioneer Mountain – Eddyville, (U.S. 20) Project, Lincoln County.

ODOT proposes to enter into a Design-Build contract on or about March 10, 2005. The purpose of the project addressed by this document is to replace the existing roadway with a completely new section built to modern safety and design standards. Widening the highway will allow most interstate trucks to use this route unimpeded. New passing lanes for trucks and recreational vehicles, wider bridges, and separating the railroad crossing from the highway are among the many safety improvements resulting from the project. The section is located on the Corvallis-Newport Highway (U.S. 20).

This section of the Corvallis-Newport Highway is an undivided, two-lane highway through rolling terrain. Highway grades range from 1 percent to 4 percent. The highway also has many sharp curves, which restrict the size of commercial trucks allowed to travel between Interstate 5 and the central coast. The rolling vertical grades limit sight distance and reduce travel speeds. About 90 percent of this highway section is marked for "No Passing." Combined with growing traffic volumes, the physical characteristics of the highway contribute to traffic congestion, slow travel speeds and serious safety problems. A portion of the route is part of a designated state Highway Safety Corridor. Safety Corridors are stretches of state and local highway with an incidence of traffic crashes higher than the statewide average for that type of roadway.

The work under this Design-Build Contract consists of design, construction, contract administration and support needed to complete construction.

The project will require the Design-Build Contractor to provide an extensive level of environmental awareness and commitment in both the design and construction phases, including the obtaining of all required permits. The work will be done in accordance with ODOT approved geometric design standards, performance requirements, and specifications. The estimated value of the contract is between \$95 and \$110 million dollars. The project is to be funded with a combination of funds provided by the Federal Highway Administration, the state, and local agencies.

In its solicitation, ODOT may reserve the right to include additional related work within the general project vicinity or to delete work once scoping decisions have been made.

It is essential that the work be vigorously initiated, pursued and completed, with a minimal impact to the traveling public. U.S. 20 is a major route connecting the Willamette Valley with the central Oregon coast. It is an important commercial and recreational travel corridor. Commercial truckers and tourists heavily use the highway, and it provides local access for residents of rural Lincoln County. The wood products industries rely on the highway to bring their products from forest to mill to market. This is the last significant unimproved section of U.S. 20 between Newport and the Willamette Valley. It is critical this project be completed with as little interference as possible to traffic flow while assuring safety to the traveling public.

2. **Agency Considerations:**

ODOT has been contracting for road improvement projects since 1914. In recent years, the average number of projects per year has been approximately 150 to 200, at a cost of approximately \$200 to \$300 million. With the advent of the Oregon Transportation Investment Act (OTIA) I, II, and III funding sources, it is expected that the agency may expend up to \$600 million annually over the next ten years. The OTC is mandated to "encompass economic efficiency" (ORS 184.618), and therefore ODOT strives to continually improve its procurement and project delivery approaches. One of those efficiency improvements is appropriate use of the Design-Build project delivery method.

ODOT established a goal to commence construction of this project in the spring of 2005. An extensive evaluation of internal delivery of this project determined that there was unacceptable risk that the goal would not be met. An extensive evaluation of Design-Build delivery of the project determined a high probability of meeting the goal. It should be noted that the cost associated with the earthwork for this project presents a notable risk for Design-Build delivery. The risk associated with the costs of earthwork (large volumes and potentially variable materials) will require particular attention, but are being mitigated through advanced exploration and sampling.

### 3. Procurement Process:

This is a request to the Director of Transportation, on behalf of ODOT, for a contract-specific exemption from competitive bidding requirements. The exemption would allow ODOT to solicit proposals for the design and construction of the project described above using the Design-Build alternative contracting method. The procurement "Selection Process Description and Objectives" to be implemented under the ODOT Design-Build Program is described in Attachment A. The contractor selected will be responsible for both design and construction of the project. The selection will involve a prequalification round to determine the two to four most qualified firms or teams. Those two to four (or more in case of a tie) teams will be asked to each provide a technical proposal and a price proposal. The process will culminate in award of a lump sum contract (with progress payment provisions) for the project under this exemption. The contract will be awarded to the contractor submitting the proposal determined to be most favorable in light of previously announced evaluation factors. Those will consist of the proposal price (likely including demolition, removal, design, environmental management, and construction costs), and technical factors (likely including experience, personnel, schedule aggressiveness, capabilities and plans in areas such as quality, maintainability, reliability, environmental impact, traffic disruption, project staging, staffing and organization.)

#### B. FINDINGS REGARDING REQUIRED INFORMATION

ORS 279.011(5) states that: "*Findings*" means the justification for an agency conclusion that includes, but is not limited to, information regarding: (a) Operational, budget and financial data, (b) Public benefits, (c) Value Engineering, (d) Specialized expertise required, (e) Public safety, (f) Market conditions, (g) Technical complexity, (h) Funding sources.

Many of these criteria support the use of the Design-Build contracting process. This finding is supported by the following facts:

1. **Operational, Budget and Financial Data:** ODOT currently has funding obligated for the west end of the project and funding identified in the draft 2004-2007 Statewide Transportation Improvement Program (STIP) to design the east end of the project. ODOT has asked for special federal funding for the project. ODOT and the Cascades West Area Commission on Transportation both consider completing this project a high priority. The total project design and construction cost, including an assumed amount of \$110 million for the Design-Build contract, is estimated to be between \$130 million and \$135 million.

Based on ODOT's experience, the Design-Build method of contracting is the quickest method of getting this project underway and completed, while ensuring that ODOT will not incur additional costs beyond those budgeted. The Design-Build method of contracting is a recognized method of minimizing construction time and ensuring that critical scheduling is met. As outlined below, it is anticipated there will be a cost saving to ODOT as well as the public by using this method of contracting on this project.

2. **Public Benefits:** The greatest benefits to the public due to Design-Build will come with the more rapid improvement to the transportation system to allow safe and efficient movement of existing and future traffic volumes. It will help meet the goals and objectives of the 1999 Oregon Highway

Plan by providing a safe efficient route linking major tourist destinations, a deep water port and urban areas to the interstate system. It will complete the U.S. 20 link between the Willamette Valley and central Oregon coast. The project will improve safety, traffic flow and improve passing opportunities. It will integrate this segment of roadway into other recent improvements to provide a consistent corridor; accommodate increases in traffic generated by inter and intra-regional transport of goods, services, and people; support regional and statewide economies and ensure that transportation facilities are consistent with land use plans.

3. **Value Engineering:** Value Engineering (VE) is encouraged on all projects by ODOT and has resulted in both initial savings as well as long term savings for other ODOT projects. ODOT conducted an initial VE study for this project, dated March 28, 2003. A second VE study for this project was conducted on August 9-13, 2004. The Design-Build method of contracting is anticipated to result in earlier, more reliable and higher quality VE proposals produced for the project. Since a good deal of the project design and planning will be accomplished during the proposal phase, ODOT can expect to realize benefits in the initial contract price.

4. **Specialized Expertise Required:** This project involves work on a high-speed highway. Safe traffic flow must be maintained while construction proceeds. It is crucial that all work be coordinated between work sites to avoid unnecessary delay and safety risks to the traveling public, and to ensure efficiency in construction.

Expertise and innovation is required in managing and coordinating both design and construction in a "fast track" Design-Build model, implementing performance specifications, providing value engineering and constructability reviews, scheduling and estimating, assessing risk, and providing a complete project as a single point of responsibility. As is typical for Design-Build contracts, qualified engineering design services are required along with general contractor construction services.

5. **Public Safety:** As the project is staged, the contractor may be required to design and build temporary traffic detours. Any detour must meet the requirements of the FHWA Manual on Uniform Traffic Control Devices.

The integrated relationship between the designer and the constructor in the Design-Build method of contracting should assure coordination of work, resulting in shorter lane closures and detour times, providing for safer travel. In addition, Design-Build contracting of this project will ensure all is being done as quickly as possible to minimize delays that often result in aggressive, unsafe driving.

6. **Market Conditions:** Unemployment rates in Oregon have been much higher than the National Average over the past two years. Oregon's unemployment ranking has been among the top five states in the nation since February of 2001, and ranked the highest in the nation more than 12 months during that period. The Governor and the Legislature have strongly encouraged ODOT to contract projects quickly to both take advantage of lower bid prices in the current market and to improve local employment. Economic studies by the Federal Highway Administration have shown that highway construction projects nationally create over 40 jobs per million dollars spent. ODOT conservatively estimates that during the life of a highway construction project 19 jobs are created in Oregon per million dollars of project cost. This project could therefore generate approximately 1045 local jobs ( $(\$110 \text{ million} \times 19 \text{ jobs/million}) / 2 \text{ year job life} = 1045 \text{ job years}$ ), assuming a \$110 million value for purposes of this calculation and others in the Cost Savings section below. Furthermore, since use of the Design-Build contract model on this project is expected to accelerate construction by at least one year, such a jump start would make those jobs available that much sooner.

7. **Technical Complexity:** Technical expertise will be required for environmental management, quality management, roadway and structural design (including geotechnical and seismic design), traffic control, and construction. ~~This project also presents unique challenges related to the geotechnical design and construction of the embankments.~~ However, the project will draw upon existing skills and capabilities available in the design and construction community, and presents overall challenges similar to those faced on many ODOT projects.
8. **Funding Sources:** As mentioned earlier, ODOT has obligated front end funding for this project in the Statewide Transportation Improvement Program. Remaining funding for the project is planned to come from a combination of federal, state, and local funds.

### C. FINDINGS ADDRESSING COMPETITION

ORS 279.015(2) requires that an agency make certain findings as a part of exempting public contracts or classes of public contracts from competitive bidding. ORS 279.015(2)(a) requires an agency to find that: *It is unlikely that such an exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts.* ODOT finds that selecting a contractor through the Design-Build alternative contracting method will not inhibit competition or encourage favoritism. This finding is supported by the following;

As outlined below, ODOT anticipates that competition will be similar to that experienced in other ODOT projects of this type, ODOT has early indications of interest and intent to participate in this procurement, and ODOT processes for procurement of a Design-Build contractor have been developed with maintenance of competition in mind.

1. The competition remains open to all currently qualified bidders. There are over 150 firms who have directly expressed interest in pursuing ODOT Design-Build projects. Over 20 firms have expressed interest in this project. These firms should be able to locate needed complementary skills to form viable Design-Build teams to pursue this project and other Design-Build projects. The six projects ODOT currently has under Design-Build contract had solid participation in the Qualification stage with several teams submitting for each project. The Proposal stage for each of these projects was very competitive.
2. ODOT has been communicating regularly with both the construction contracting community and the engineering consulting community about Design-Build and other non-traditional contracting methods. The project was also presented to the Cascades West Area Commission on Transportation and the Commission concurred with ODOT's corridor approach.
3. The Design-Build evaluation and selection process ODOT intends to employ is summarized in Attachment A hereto. It is open and impartial; all requirements for both the Qualification and Proposal stage will be determined by and reflective of the significant work elements of this type of project. Contractor selection will be made on the basis of final scores derived from proposed prices and technical proposals, as described in Attachment A hereto, which expands the grounds of competition beyond price alone to include quality and innovation factors. While it is not clear this induces increased competition, ODOT's experience, literature search and discussions with other jurisdictions indicate competition has remained strong.

4. Pursuant to ORS 279.025, the solicitation was advertised in the *Daily Journal of Commerce*. In addition, the notice was advertised in *Washington State Civil Bulletin* and on the ODOT web site: <http://www.odot.state.or.us/techserv/progrsvr/contract>.

#### D. FINDINGS REGARDING SIGNIFICANT COST SAVINGS

ORS 279.015(2) requires that a public agency make certain findings as part of exempting public contracts or classes of public contracts from competitive bidding. ORS 279.015(2)(b) requires an agency to find that: *The awarding of public contracts pursuant to the exemption will result in substantial cost savings to the public contracting agency or the public for contracts for public improvements (such as this project) described in ORS 279.712(2)(c).* These findings therefore consider whether cost savings accrue directly to ODOT as the contracting agency or indirectly to the general public (particularly for highway users).

ODOT finds that on this project substantial cost savings will accrue both directly to ODOT and indirectly to the public (described below but not quantified) by using the described alternative contracting method.

This finding is supported by the following:

##### 1. Direct Contract Cost Saving:

- 1.1 Cost and Time – Indications from the experiences of other state DOT's are that, in general, initial contract prices are expected to be comparable between Design-Build and conventional contracting methodologies, but considerable time savings are reasonably anticipatable.

- A. Cost - The Construction Industry Institute (CII) found that Design-Build construction methods have an edge over others in limiting cost and schedule creep. The CII study reviewed 350 building construction projects (20% Construction Management (CM), 45% Design-Build and 35% Design-Bid-Build (DBB)). The DBB method showed the greatest median cost escalation at 4.84%, followed by CM at 3.34% and Design-Build at 2.37%. The CM and Design-Build projects experienced almost no delays, with DBB running an average of 4.44% longer. "Design-Build Has Cost, Time Edge" Engineering News Record, November 17, 1997.

If ODOT's experience on this project follows the results announced in the CII study, its use of the Design-Build contracting model could result in ODOT's avoidance of approximately \$2,717,000 in additional costs associated with schedule creep that it might otherwise incur under the traditional DBB mode ( $\$110,000,000 \times (4.84\% - 2.37\%) = \$2,717,000$ ).

- B. Time – A recent 2002 Survey by SAIC for the Illinois Department of Transportation on the current use of Design-Build Contracting cites responses from eleven states, Oregon was not a respondent, (<http://www.fhwa.dot.gov/programadmin/contracts/survey02.htm>). All respondents noted a time saving from the Design-Build method. Florida, for example, reported average time saving of 33% relative to conventional project delivery processes. Other states reported time savings of over two years for large projects. A separate Design-Build Practice Report in 2002 by Parsons Brinkerhoff Quade and Douglas for the New York State Department of Transportation included in-depth survey results that further support the time savings potential of the DB method (Oregon was not a respondent).

- 1.2 Contract Changes – Analyses by other transportation jurisdictions indicate that the number and cost of contract changes (change orders after bid opening which affect the work to be completed) decreases, and that changes may tend to result in modest *decreases* to contract price. For example, Florida has experienced a swing from +8.8% average contract cost growth using conventional DBB approaches to 2% average contract cost *reduction* for Design/Build projects (“Final Evaluation of the Florida Department of Transportation’s Pilot Design/Build Program”, Transportation Research Record No. 1351, 1992). This swing of over 10% may be attributable to the continual Value Engineering opportunities the Design-Build team has by working together from proposal preparation through project completion and delivery. The 2002 SAIC Design-Build survey previously noted contains response data that appears to substantiate the decrease in contract claims on Design-Build projects.

Applying Florida’s experience to Oregon’s situation, ODOT could see a shift from the +2.5% contract cost growth experienced by ODOT under its current conventional approaches to Florida’s 2% contract cost reduction, a 4.5% swing. For this project, such a 4.5% swing would equate to a savings of approximately \$4,950,000 (~~\$110,000,000 X 4.5%~~). (In Section 3 below, ODOT uses the more conservative figure of \$2,717,000 from Section 1.1A above in calculating Direct Cost Savings.)

- 1.3 Bid Documents – There are areas of savings to be expected related to ODOT bid documentation preparation. For example, under current DBB, it is necessary for preliminary engineering design plans and specifications, adequate for identifying project performance, to be further formalized to standards appropriate for inclusion in formal Bid packages. By eliminating the separation between design and build phases of the project, formalization costs can be decreased. ODOT estimates that preliminary engineering will be reduced by as much as \$392,800 for this contract.
- 1.4 Maintenance – By contracting this project as Design-Build, ODOT estimates that the project construction can commence in the spring of 2005 with completion estimated 24 months earlier than if conducted under the traditional process. The difference is attributable to incremental completion of engineering allowing early start of some construction tasks, and shortened project performance time span. It includes a time saving due to the opportunity to complete the in-stream work in 2005, a one year earlier window than could be met under the conventional design-bid-build process. (There are environmental restrictions on in-stream work, which allow work to occur only at certain times of the year.)
- 1.5 Inflation – Recent construction costs have been relatively stable, showing little to no inflation. However, historic averages indicate that inflation has tracked at approximately 3% per year. Assuming that recent stability in contract prices will be short lived with an improving economy in the future, early contracting will lock in a lower price for the project. Taking advantage of this short-term opportunity amounts to approximately \$1,650,000 for this project, assuming the saving is over one year, and that half of the total contract price is expended during that year (3% X \$110,000,000 X 1/2=\$1,650,000).

2. **Indirect Savings:**

- 2.1 Cost – In the 2004-2007 draft STIP, ODOT projected construction to start in 2006, utilizing DBB. To start construction on this project one year early would allow early completion. A cost estimate of the possible savings to truck traffic has not been undertaken. It could be significant as traffic volumes are quite high.

Using the Design-Build alternative contracting method, construction can proceed prior to completion of all plans and specifications eliminating an estimated two-years for completion. This results in any detours being required for a shorter time period.

- 2.2 Time – There is wide agreement that Design-Build procurements reduce time to deliver a project. In addition to eliminating one procurement cycle; innovation, concurrent engineering, and incremental starting of material acquisition and fabrication, all contribute to reduce project duration. Innovation was the key to Oregon’s experiences with the I-5 Trunion Gear Replacement, the Mary’s River Bridge, and the Willamette River (Harrisburg) Bridge Re-decking, all of which realized significant time reductions.

By allowing and even encouraging innovation and aggressive program approaches, time saving can be expected, as much as two years. In Design-Build, given the in-house mix of design skills and construction capabilities, the contractor is encouraged to engineer and stage the project to optimize efficiency of construction. This typically leads to earlier construction start up and project completion, which combined translates into reduced costs.

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3. **Total Expected Savings:**

While there is some indication that initial contract prices will be reduced through the use of the Design-Build contracting model, it is difficult to estimate a probable amount. This is also the case with savings related to contract changes. However, using the conservative estimate of direct saving described in Subsection 1.1 above indicates a net savings amounting to approximately \$4.8 million (see table below).

Direct Contract Cost Savings Summary

Subsection	Approximate Savings
1.1 Cost and Time	\$2,717,000
1.2 Contract Changes	Value not used
1.3 Bid Documents	\$392,800
1.4 Maintenance	Value not used
1.5 Inflation	\$1,650,000
<b>Total</b>	<b>\$4,759,800</b>

These savings do not include projected indirect savings accrued to the trucking industry and its customers.

The total of both the direct and indirect (described above but not quantified) project cost savings is \$4,759,800.

4. **Evaluation Process**

This project will be evaluated in accordance with the requirements of ORS 279.103, including analysis of project cost and savings.

**CONCLUSIONS OF LAW**

An exemption from competitive bidding requirements is justified under the criteria outlined in ORS 279.011(5), findings have been developed in compliance with ORS 279.015(2) and 279.015(3), and ODOT will perform the post project evaluation required by ORS 279.103. Based upon the previously listed findings, ODOT concludes that:

1. Following the described selection process, an exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and
2. Award of a public contract pursuant to the exemption will result in a substantial cost savings to ODOT.

## ORDER OF DIRECTOR

An exemption from public competitive bidding requirements is hereby granted to the Oregon Department of Transportation to enter into a contract utilizing the Design-Build alternative contracting method as described in the preceding findings. This order is subject to the following conditions:

1. To the extent possible and consistent with this Exemption, this procurement will follow the provisions of ORS Chapter 279 and 291; OAR Chapter 731, Divisions 5 (ODOT Public Contract Rules) and Division 7 (ODOT Public Improvement Contracts).
2. ODOT, in concert with the Department of Justice (DOJ), shall establish and follow standards for evaluating proposals under this procurement.
3. ODOT shall work with DOJ to adapt standard contract language for the contract and shall incorporate into the contract such additional or substitute additional terms that DOJ may determine to be necessary for compliance with Oregon law.

THE FINDINGS OF FACT SUBMITTED IN SUPPORT OF THIS REQUEST ARE HEREBY APPROVED

2/25/05  
Date

  
Director, Department of Transportation

REVIEWED BY THE DEPARTMENT OF JUSTICE

2/15/05  
Date

/s/ Dana Anderson  
Assistant Attorney General

## Attachment A – Selection Process Description and Objectives

### ODOT Design-Build Program

Unless otherwise announced in a specific Request for Qualifications or Request for Proposals, the selection process that will be used for contract awards under the ODOT Design-Build Program consists of two steps:

(1) A Request For Qualifications (RFQ) for the project has been advertised industry wide, the same as with current conventional projects. The RFQ asked for the specific experience of proposers (Design-Build teams), key management personnel, past performance, and organizational information, which were compared to standards established for specific key elements of this project. The Statements of Qualifications (SOQ's) received were evaluated, and the three highest-scoring teams demonstrating that they meet the established minimum experience and organization requirements stated in the RFQ, were short-listed to advance to the proposal stage.

(2) A Request For Proposals (RFP) will be issued for the project to the short-listed teams, and Proposals will be submitted by the short-listed teams by a specified date. Due to the extremely tight funding limitation on this project, ODOT may include measures into this solicitation designed to assure that the proposal selected will not exceed the funds available. Any such measures will be contained in and discussed in the RFP. ODOT may elect to hold individual meetings with the proposers prior to submittal of proposals in order to review technical concepts in a manner that would not provide any unfair competitive advantage (e.g., issuance of any resultant addenda to all proposers). The purpose of these reviews would be to minimize the chance that a proposer's submitted concepts would be found to be unresponsive to the RFP requirements.

The Proposals submitted will be required to contain two components, a price component and a technical component.

The price component presents the total cost to ODOT for delivering the project. The technical component describes the proposer's understanding of the project, identifies key technical personnel to be committed to the project, and explains the proposer's approach to delivering project key elements described in the project RFP. The Proposal technical component score will be used in conjunction with the proposed price, resulting in a final overall score, as described in the RFP and evaluation and selection procedures.

The Statement of Qualifications (SOQ) and the technical component of the Proposal will be evaluated by a Selection Committee, consisting of three to eight ODOT people, with possibly additional non-ODOT member(s). Other non-voting members may participate.

The scoring of the SOQs and the Proposals' technical component will be completed and confirmed by the Selection Committee members. The scores for the Proposal technical component will be completed prior to the price component being opened.

~~Once the technical component scores are completed and compiled, the price component will be opened and the final score for comparison and award of the contract will be determined in accordance with the procedures set forth in the RFP and the evaluation and selection procedures.~~

The final scores and ranking will be determined and announced by ODOT.

The responsive and responsible proposer that provides the best value to ODOT will be selected for final contract negotiation and award. In the event that prior to contract execution the selected proposal is found to be non-responsive or the proposer not responsible, or contract negotiation proves unsuccessful, ODOT may, if it is in the public's best interest, select the proposer that offers the next best value for contract award.