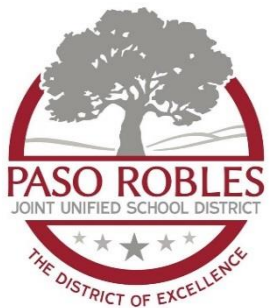


REVIEW OF CONSTRUCTION DELIVERY METHODS AVAILABLE TO CALIFORNIA SCHOOL DISTRICTS



Paso Robles Joint Unified School District

January 25, 2020

GOAL

- Identification of construction delivery methods
- Comparison of most used delivery methods PRJUSD has used for construction projects
- Summary of advantages and disadvantages of each construction delivery method



Identification of Construction Delivery Methods

Traditional Design, Bid, Build

Multi-Prime Construction Management

Lease-Leaseback (prior to January 1, 2017)

Best Value Lease-Leaseback (effective January 1, 2017)

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

TRADITIONAL DESIGN, BID, BUILD

- Used for most of the 20th Century
- Architect designs project without contractor involvement
- Architect/owner prepare formal bid documents
- Contractors submit competitive lump-sum bids
- Owner awards project to contractor submitting lowest responsible bid
- Owner, inspector, architect, monitor and administer construction

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

ADVANTAGES of Traditional Design, Bid, Build

- Familiar way to delivering a project
- Set standards through public contract code
- Architect works for, and represents owner
- Suitable for competitive bidding

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

DISADVANTAGES of Traditional Design, Bid, Build

- No builder participation in design
- Low bid obligation
- Conflicts between owner/architect and contractor
- Subject to cost overruns because of change orders
- Over-budget bids difficult to deal with
- Little control over qualifications for general and sub-contractors
- Possible involvement of 3rd party construction manager to oversee project at additional cost to district

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

MULTI-PRIME CONSTRUCTION MANAGEMENT

- District employs construction manager to serve as general contractor based on qualifications
- Construction manager/general contractor engaged early in design process
- Trade contracts are competitive and awarded to low bidder, using public contract code
- Each trade contractor must provide own bond and insurance
- Number of trades and bid packages vary by project scope
- School district liable for costs resulting from trade contractor failure
- District enters into contract with each trade contractor and administers multiple contracts during project construction

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

ADVANTAGES of Multi-Prime Construction Management

- More control by district
- Construction manager knowledgeable about project design
- Construction manager serves as general contractor (option)
- Eliminates need for 3rd party construction manager (option)
- Trade contracts procured through competitive bid process
- Over-budget trade packages can be re-bid without delaying project
- More flexibility of bidding and scheduling

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

ADVANTAGES of Multi-Prime Construction Management – *Cont'd*

- Construction manager is district's "advocate" during construction
- Avoids general contractor mark-up
- Risk of change orders reduced
- Litigation possibilities reduced

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

DISADVANTAGES of Multi-Prime Construction Management

- More contracts for the district to manage
- District accepts more risk through multiple contracts
- Total price not known until all trade contracts finalized
- Lack of single guaranteed bonded price for total project
- Possible overlaps or gaps in trade package scope
- Possible decrease in competition because of trade contractor reporting and bonding requirements
- Additional administrative responsibilities by district staff during construction

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

LEASE-LEASEBACK (LLB) (prior to January 1, 2017)

- Involves selecting a contractor to construct a new building or improve existing facilities through an RFP process rather than advertising for bids
- Involves execution of a site lease with the contractor and a facilities lease requiring the contractor to build the project as designed at a guaranteed maximum price (GMP)
- Upon completion of project, new building and/or improvements become property of district and site lease expires
- Initially used when contractor was financing project through construction (no longer used by most districts using this delivery method)

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

LEASE-LEASEBACK (LLB) (prior to January 1, 2017) – *Cont'd*

- Became controversial because of 5th District Appellate court decision (Davis) in 2015
- Davis decision did NOT rule method unconstitutional, but changes had to be made in lease-leaseback documents
 - Conflict of interest
 - Objective criteria in the RFP

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

ADVANTAGES of Lease-Leaseback (prior to January 1, 2017)

- Contractor hired based on qualifications
- Contractor participates in design and value engineering of project
- Contractor and district work together in selection of trade contractors to bid on trade packages
- Competitive bidding based on district requirements without being subject to public contract code requirements
- GMP includes construction, general conditions, overhead/profit, and contingency for owner directed changes

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

ADVANTAGES of Lease-Leaseback (LLB) (prior to January 1, 2017) – *Cont'd*

- Remaining contingency returned to district at completion of project
- Open book policy where all aspects (finances, bid process, etc.) available for review and participation by district
- Process totally controlled by district

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

DISADVANTAGES of Lease-Leaseback (LLB) (prior to January 1, 2017)

- Controversy created by Davis decision
- Subject to contractor abuse if process not controlled by district
- Possible political issues because of no formal bid requirement
- Although hundreds of districts have adopted this construction delivery method, it is still a relatively new process
- Practices differ from district to district, and from attorney to attorney

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

BEST VALUE LEASE-LEASEBACK (LLB) (effective January 1, 2017)

- Enacted with passage of AB 2316
- Replaces former lease-leaseback delivery method
- Addresses issues raised in Davis decision
- Districts must conduct competitive process to select contractor who provides the “best value” to the district
- Districts required to adopt and publish required procedures and guidelines for evaluating proposals that ensure best value process is “fair and impartial”
- Will require districts to use scoring system for determining best value
- Districts with enrollment above 2,500 will still be required to prequalify general, mechanical, electrical, and plumbing contractors

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

BEST VALUE LEASE-LEASEBACK (LLB) (effective January 1, 2017) – *Cont'd*

- Districts have the option to issue one combined RFQ/RFP, or issue a separate RFQ followed by RFP for selected contractors
- RFQ/RFP or RFQ only must be publicly advertised under public contract code requirements (2 advertisements a week apart with opening a RFQ at least 10 days from last advertisement)
- Advertise in at least one local trade journal
- Successful contractor selected based on highest score using published criteria available to all contractors
- District has option to reject all proposals

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

BEST VALUE LEASE-LEASEBACK (LLB) (effective January 1, 2017) – *Cont'd*

- Districts have option to enter in LLB agreement, either before, or after, plans and specifications are approved by DSA
 - If before DSA approval: award based on best value including contractor fee for performing work (general conditions, contractor fee, bonds, insurance, etc.) subject to district approval or rejection of GMP at public meeting
 - If after DSA approval: award based on best value, including lump sum bid proposal by selected contractor
- Sub-contractor advertisements must comply with public contract code requirements

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

BEST VALUE LEASE-LEASEBACK (LLB) (effective January 1, 2017) – *Cont'd*

- District/contractor have option to select sub-contractors based on best value, or lowest responsible bidder
- District has option to terminate LLB contract if guaranteed maximum price (GMP) is unacceptable but must then consider the next highest best value contractor to determine if GMP can be agreed upon
- Listed sub-contractors cannot be removed prior to a public hearing on the proposed substitution, unless sub-contractor consents to substitution
- “Skilled workforce” requirements remain in place (30 percent in 2017, 40 percent in 2018, 50 percent in 2019, 60 percent in 2020)

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

ADVANTAGES of Best Value LLB (effective January 1, 2017)

- New legislation eliminates concerns created by Davis decision
- Contractor continues to be selected based on best value
- District has option to select contractor during pre-construction phase thus allowing contractor to participate in design and value engineering of project
- Contractor and district have option to continue to work together in selection of sub-contractors
- Conflict of issue eliminated with best value process districts must follow in selection of LLB contractor

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

ADVANTAGES of Best Value LLB (effective January 1, 2017) – *Cont'd*

- Competitive bidding is now a requirement with “best value” determined by published and scored criteria
- GMP includes general conditions, overhead/profit, bonds, insurance, as well as district and contractor contingencies
- Any remaining contingency returned to district at completion of project
- Process totally controlled by district

Comparison & Summary of Advantages & Disadvantages of Construction Delivery Methods

DISADVANTAGES of Best Value LLB (effective January 1, 2017)

- Development of RFQ's and RFP's still under development by legal counsels
- As is typical, the new law allows for interpretation
- Litigation is possible because of newness of Best Value LLB
- Possible political issues remain from the former LLB law
- Best practices will need to be established once districts start using delivery method
- More costly to implement than under former LLB process
- More time consuming to select successful contractor than under former LLB process

