

**State Board of Education & Early Development
Tentative Agenda
September 18, 2019
Atwood Conference Center, William Egan Room 106
550 West Seventh Avenue
Anchorage, AK 99501**

Mission Statement: *An excellent education for every student every day.*

Board – Professional Development

September 18, 2019

Board members will be participating in the 2019 Alaska School Safety & Well-Being Summit at the Egan Center in the morning.

1:00 PM

Call to OrderJames Fields, Chair

Pledge of AllegianceJames Fields, Chair

1:05 PM

1. Committee Meetings (Standards and Assessments, Tribal Compacting, Regulations, Funding Formula)Dr. Michael Johnson, Commissioner
 - i. 1:05-1:55 First Session
 - ii. 1:55 Transition
 - iii. 2:00-2:55 Second Session
 - iv. 2:55 Transition

3:00 PM

2. CTE ShowcaseDr. Michael Johnson, Commissioner
.....Deb Riddle, Division Operations Manager

3:30 PM BREAK

3:45 PM

3. Board Development: Roles & ResponsibilitiesDr. Michael Johnson, Commissioner

4:15 PM

4. Budget Development ProcessDr. Michael Johnson, Commissioner
.....Neil Steininger, Administrative Services Director

4:45 PM

5. Board Wrap UpDr. Michael Johnson, Commissioner
..... James Fields, Chair

5:00 PM ADJOURN

**State Board of Education & Early Development
Tentative Agenda
September 19, 2019
Atwood Conference Center, William Egan Room 106
550 West Seventh Avenue
Anchorage, AK 99501**

Mission Statement: *An excellent education for every student every day.*

September 19, 2019

8:30 AM

Call to Order and Roll CallJames Fields, Chair
Pledge of AllegianceJames Fields, Chair
Adoption of Agenda for September 19, 2019.....James Fields, Chair
Disclosures of potential conflicts of interest.....James Fields, Chair

8:40 AM

Public Comment

Public comment is open on agenda and non-agenda items. Comment at this oral hearing is limited to three minutes per person and five minutes per group. The public comment period is an opportunity for the board to hear the public's concerns. The board will not engage in discussions with members of the public during the comment period.

Public comment can be made for this meeting, during this time only, by calling 1-844-586-9085 if you are outside of Juneau or Anchorage. For participation from Juneau, call 586-9085. For participation from Anchorage, call 563-9085. This meeting will be streamed through the Legislative Information Office over [AK Legislature TV](#) beginning at 8:30 am on September 19, 2019. Click on the meeting name to listen to the proceedings. When public comment is over, the meeting will continue to be broadcast at the above web site.

In the event there are more than two hours of public comment, the board may move to amend the agenda to extend the oral hearing to accommodate those present before 8:30 am who did not have an opportunity to comment. The board also reserves the right to adjourn at a later time.

Work Session

9:40 AM

1. Legislative UpdateDr. Michael Johnson, Commissioner
.....Erin Hardin, Special Assistant
.....Neil Steininger, Administrative Services Director

9:50 AM

2. FY2020 Budget UpdateDr. Michael Johnson, Commissioner
.....Neil Steininger, Administrative Services Director

10:00 AM

3. MEHS Update on Graduation Requirements.....Dr. Michael Johnson, Commissioner
..... Janelle Vanasse, Superintendent

10:10 AM

4. UAS School of Education Accreditation Update.....Dr. Michael Johnson, Commissioner
.....Dr. Steve Atwater, Executive Dean of the Alaska College of Education
.....Tamara Van Wyhe, Director of Innovation and Education Excellence

10:30 AM

5. State Board Committee Reports James Fields, Chair
5A. Standards and Assessments.....Sally Stockhausen, Committee Chair
5B. Tribal CompactingSandra Kowalski, Committee Chair
5C. RegulationsLorri Van Diest, Committee Chair
5D. Funding Formula.....Tiffany Scott, Committee Chair

10:50 AM

6. Adoption of Proposed RegulationsDr. Michael Johnson, Commissioner
6A. School Facility Planning and Construction..... Tim Mearig, Facilities Manager
.....Luann Weyhrauch, Assistant Attorney General

6B. School Facility Commissioning Tim Mearig, Facilities Manager
.....Luann Weyhrauch, Assistant Attorney General

11:00 AM BREAK

Business Meeting

11:15 AM

- 7. Adoption of Proposed RegulationsDr. Michael Johnson, Commissioner
 - 7A. School Facility Planning and Construction..... Tim Mearig, Facilities Manager
..... Luann Weyhrauch, Assistant Attorney General
 - 7B. School Facility Commissioning Tim Mearig, Facilities Manager
..... Luann Weyhrauch, Assistant Attorney General

11:20 AM

- 8. Questions Regarding DEED Standing ReportsDr. Michael Johnson, Commissioner
 - 8A. Innovation and Education ExcellenceTamara Van Wyhe, Director
 - 8B. Mt. Edgecumbe High SchoolJanelle Vanasse, Superintendent
 - 8C. Libraries, Archives & Museums Patience Frederiksen, Director
 - 8D. Attorney GeneralSusan Sonneborn, Assistant Attorney General

11:30 AM

- 9. Commissioner’s Report Dr. Michael Johnson, Commissioner

11:40 AM

- 10. Approve Special Assistant to the Commissioner.....Dr. Michael Johnson, Commissioner

11:45 AM

- 11. Consent Agenda James Fields, Chair
 - 11A. Approve the meeting minutes for the June 7, 2019 board meeting
 - 11B. Approve the meeting minutes for the July 24, 2019 work session
 - 11C. Approve the meeting minutes for the August 21, 2019 work session

11:50 AM

- 12. Executive Session: FY2021 Budget Discussion
.....James Fields, Chair
.....Dr. Michael Johnson, Commissioner

12:30 PM Board Comments

12:45 PM ADJOURN

Board members will be participating in the 2019 Alaska School Safety & Well-Being Summit at the Egan Center after the conclusion of their meeting.

**To: Members of the State Board of
Education & Early Development**

September 19, 2019

From: Dr. Michael Johnson, Commissioner

Agenda Item: 1

◆ ISSUE

This is a standing report to the board regarding legislation.

◆ BACKGROUND

- The board will be briefed on education related legislation that passed during the 2019 legislative regular and special sessions.
- Behind this cover memo is a document covering:
 - 2019 Legislative Session – passed education related legislation
 - Additional legislation DEED is following
- Erin Hardin, Special Assistant, will be present to brief the board.

◆ OPTIONS

This is an information update. No action is required.

**2019 Legislative Regular and Special Sessions –
Summary of Passed Education Related Legislation:**

Bill Number	Short Title	Prime Sponsor(s)	Description	Status
HB 39	Approp: Operating Budget/Loans/Funds	House Rules by request of the Governor	FY2020 Operating Budget legislation	Signed June 28, 2019
HB 40	Approp: Mental Health Budget	House Rules by request of the Governor	FY2020 Mental Health Budget	Signed June 28, 2019
HB 126	Alaska Native Heritage Month	House Tribal Affairs	An Act establishing November as Alaska Native Heritage Month	Awaiting Transmittal
HB 2001	Approp: Era/Operating/Funds/Other	House Rules	FY2020 Additional Operating Budget legislation	Transmitted August 7, 2019
SB 19	Approp: Capital Budget; Supplemental	Rules by request of the Governor	FY2020 Capital Budget legislation	Signed July 8, 2019
SB 38	Approp: Supp; Cap; Disaster Relief	Senate Rules by request of the Governor	Supplemental Disaster Relief legislation	Signed April 5, 2019
SB 40	Black History Month	Gray-Jackson	An Act establishing February as Black History Month	Awaiting Transmittal
SB 2002	Approp: Capital; Supp; Other Approp	Senate Rules by request of the Governor	FY2020 Additional Capital Budget legislation	Signed August 8, 2019

Additional legislation DEED is following:

House Bill Number/Title	Current Committee	Senate Bill Number/Title	Current Committee
HB 7 - Sex Education	(H) EDC	SB 6 - Pre-Elementary Programs/Funding	(S) EDC
HB 24 - Limited Teacher Certificates; Languages	(H) L&C	SB 30 - College Credit for High School Students	(S) FIN
HB 66 - Repeal State Debt Reimburse for Schools	(H) CRA	SB 31 - University Curricula; Transfer Credits	(S) EDC
HB 67 - Dept of Labor: Technical Ed. Programs	(H) EDC	SB 45 - School Board Term Limits; Municipalities	(S) EDC

House Bill Number/Title	Current Committee	Senate Bill Number/Title	Current Committee
HB 70 - Mand Phys Activity Schools; PLAAY Day	(H) CRA	SB 46 - Teachers & Pub Employee Retirement Plans	(S) CRA
HB 75/SB 74 - Internet for Schools; Funding	(H) FIN	SB 49 – Energy Efficiency of Public Buildings	(S) CRA
HB 106 - School Bond Debt Reimbursement	(S) FIN	SB 50 – Employment Tax for Education Facilities	(S) L&C
HB 108 - School District Reading Program	(H) EDC	SB 53 – University Reporting Requirements	(S) FIN
HB 109 - Military Children School Residency Waiver	(H) RLS	SB 56 - Mand Phys Activity Schools; PLAAY Day	(S) EDC
HB 128 - Teachers: National Board Certification	(H) CRA	SB 64 - Repeal State Debt Reimburse for Schools	(S) FIN
HB 136 - Public Schools: Social/Emotional Learning	(H) EDC	SB 65 - Dept of Labor: Technical Ed Programs	(S) FIN
HB 153 - Pre-Elementary Programs/Funding	(H) EDC	SB 79 - Virtual Ed/Teacher Exam/Course Exam	(S) EDC
HB 155 - AK Performance Scholarship; Eligibility	(H) EDC	SB 97 - Art in Public Buildings & Facilities	(S) STA
HB 156 - Public School/ University Health Insurance	(H) EDC	SB 102 - RIP for Public Employees/Teachers	(S) STA
HB 159 - Medical Education Program	(H) FIN	SB 113 - Teachers: National Board Certification	(S) EDC
HB 170 - Repeal Art in Public Places Requirement	(H) STA	SB 114 - Virtual Ed; Coll Cr for HS; Misc Ed Admin	(S) EDC
		SB 125 - Student Transportation Planning	(S) EDC
		SB 126 - School District Consolidation	(S) EDC
		SJR 9 - Const Am: Approp Bill for Publ Education	(S) FIN

**To: Members of the State Board of
Education & Early Development**

September 19, 2019

From: Dr. Michael Johnson, Commissioner

Agenda Item: 2

◆ ISSUE

This is a standing report to the board regarding the budget.

◆ BACKGROUND

- The board will be briefed on the status of the department's FY2020 operating and capital budgets.
- Behind this cover memo is: 1) FY2020 Conference Committee vs. FY2020 Management Plan Document.
- Neil Steininger, Administrative Services Director, will be present via teleconference to brief the board.

◆ OPTIONS

This is an information update. No action is required.

Formula Programs (in thousands)

Formula Programs Component	FY2020 Conference Committee	FY2020 Management Plan	Difference
Foundation Program	\$1,214,932.3	\$1,214,932.3	\$0.0
Pupil Transportation	\$77,214.6	\$77,214.6	\$0.0
Additional Foundation Funding*	\$488.2	\$488.2	\$0.0
Boarding Home Grants	\$7,453.2	\$7,453.2	\$0.0
Youth in Detention	\$1,100.0	\$1,100.0	\$0.0
Special Schools	\$3,540.9	\$3,540.9	\$0.0

*Additional Foundation Funding of \$30 million from the general fund is currently pending litigation. \$488,200 is statutorily designated program receipts from 50% of the donations received under AS 43.23.230(b).

Non-Formula Programs (in thousands)

Non-Formula Programs Component	FY2020 Conference Committee	FY2020 Management Plan	Difference	Notes
Executive Administration	\$860.9	\$852.6	-\$8.3	Travel reduction
Administrative Services	\$1,820.3	\$1,820.3	\$0.0	
Information Services	\$1,025.4	\$1,024.7	-\$0.7	Travel reduction
School Finance & Facilities	\$2,291.7	\$2,481.7	\$190.0	Transferred in Division Director from Student & School Achievement
Child Nutrition	\$77,120.7	\$77,081.5	-\$39.2	Travel reduction
Student & School Achievement	\$163,617.8	\$163,160.7	-\$457.1	Transferred Curriculum Program (SB104) to State System of Support; Transferred Division Director to School Finance & Facilities
State System of Support	\$1,814.7	\$2,164.8	\$350.1	Added Curriculum Program (SB104)
Teacher Certification	\$943.3	\$934.4	-\$8.9	Travel reduction
Early Learning Coordination	\$9,622.9	\$761.5	-\$8,861.4	Vetoed all early learning grant programs
Pre-Kindergarten Grants	\$2,000.0	\$6,200.00	\$4,200.0	Estimated carryforward for additional support for Pre-Kindergarten grant program
Alaska State Council on the Arts	\$3,869.6	\$0.0	-\$3,869.6	Vetoed Arts Council
Professional Teaching Practices Commission	\$259.5	\$253.4	-\$6.1	Travel reduction
Mt. Edgecumbe Boarding School	\$11,522.9	\$11,458.5	-\$64.4	Travel reduction

Non-Formula Programs Component	FY2020 Conference Committee	FY2020 Management Plan	Difference	Notes
Mt. Edgecumbe Boarding School Facilities Maintenance	\$1,444.5	\$1,194.5	-\$250.0	Vetoed receipt authorization for pool
DEED State Facilities Rent	\$1,068.2	\$1,068.2	\$0.0	
Library Operations	\$7,426.8	\$7,413.1	-\$13.7	Travel reduction
Archives	\$1,316.7	\$1,316.2	-\$0.5	Travel reduction
Museum Operations	\$1,778.3	\$1,775.3	-\$3.0	Travel reduction
Online with Libraries (OWL)	\$670.9	\$0.0	-\$670.9	Vetoed OWL program
Live Homework Help (LHH)	\$138.2	\$0.0	-\$138.2	Vetoed LHH program
Andrew P. Kashevaroff Facilities Maintenance	\$1,245.1	\$1,245.1	\$0.0	
ACPE Program Administration & Operations	\$17,868.3	\$17,773.9	-\$94.4	Travel reduction and position deletion
WWAMI Medical Education	\$3,173.7	\$3,173.7	\$0.0	
Alaska Performance Scholarship	\$11,750.0	\$11,750.0	\$0.0	

Capital (in thousands)

Capital Appropriation	FY2020 Conference Committee	FY2020 Management Plan	Difference
K-12 Major Maintenance** Barnette Magnet School Renovation Phase IV	\$7,400.0	\$7,400.0	\$0.0

**Please note that this capital appropriation is not funded by the Major Maintenance Grant Fund (AS 14.11.007) and any remaining balance is subject to re-appropriation by the legislature.

Other Notable Items

- The above numbers do not include HB2001, which is pending signature as of publication. This act would restore funding for Alaska State Council on the Arts, early learning grants, and the Online with Libraries (OWL) and Live Homework Help programs. It also includes supplemental funding for the MEHS pool facilities maintenance and K-12 foundation forward funding.

**To: Members of the State Board of
Education and Early Development**

September 19, 2019

From: Dr. Michael Johnson, Commissioner

Agenda Item: 3

◆ ISSUE

- Mt. Edgecumbe High School current graduation requirements include mention of passing the HSGQE (High School Graduation Qualifying Exam) and thus required revision. They also include a flexible requirement and a specific requirement for a Pacific Rim Studies course.

- Mt. Edgecumbe High School Superintendent and Advisory Board recommend the passing of a new set of graduation requirements that with only a few adjustments from the current set:
 - Remove any mention of HSGQE
 - Replace the flexible credit choice with paths aligned with the Alaska Performance Scholarship two pathways for meeting course requirements.
 - Replace the specific Pacific Rim studies requirement World History/Studies class. A Pacific Rim studies class would meet this requirement, but it also allows a World History or Global Studies course.

- Reasons include: 1. The switch to the APS (Alaska Performance Scholarship) pathways align with the messaging of the school that students should plan to take the APS required coursework as soon as they enter high school. 2. The switch to broader options for the World History recognizes the needs of our current global society. When the Pacific Rim Studies course was first made a requirement, the economic thinking of the time was that the Pacific Rim would lead world economics. Twenty plus years later, we recognize the reality is a much broader and complex global economic system.

- This change went through a two-meeting process at the Advisory Board level, first as a discussion and then as an action item in May 2019. The Advisory Board passed the proposed recommendations on May 9, 2019 and wish the State Board to first consider as a discussion item and then place on the agenda as an action item for the following meeting.

◆ OPTIONS

This is an information update. No action is required.

Graduation Requirement Recommendations

Advisory Board approved 5-08-19

In order to graduate from Mt. Edgecumbe High School, a student must earn 24 units of credit that include all state requirements in 4AAC 06.075. The total credits for graduation must include the classes in one of the following paths. All students are encouraged to select one of the more rigorous Alaska Performance Scholarship eligible pathways

Meeting the APS coursework requirements will be denoted on the diploma.

	Minimum (Not APS)	LA/Social Studies (meets APS)	Math/ Science (meets APS)	MEHS Credit restrictions:
English/ Language Arts	4 credits	4 credits	4 credits	APS approved Must include American Lit
Social Studies	4 credits	4 credits	4 credits	Must include: (All APS) Alaska Studies US History World Studies/History/PACRim Government
Science	3 credits	3 credits	4 credits	APS approved
Math	3 credits**	3 credits	4 credits	APS approved must include geometry
Health/PE	2 credits	2 credits	2 credits	1 credit must include health
World Language	1 credit	2 credits*	1 credit	* Must be a sequence of 2 credits of the same language
Technology	2 credits	2 credits	2 credits	
Electives	5 credits	4 credits	3 credits	
Total	24 credits	24 credits	24 credits	

** Academic Counselor may approve pre-algebra (non-APS approved) for graduation

Courses may be set with pre-requisites, requiring a sequence of courses.

Transfer students:

Equivalent courses may be approved to meet core course requirements or pre-requisites. For students transferring with at least 13 credits from another school, alternative courses may be approved to meet technology, world language, and elective requirements, including a reduction of elective credit requirements if prior school offered less than 7 credits/year.

Current MEHS Graduation Requirements

4.6 Graduation Requirements

In order to graduate from Mt. Edgecumbe High School a student must earn 24 units of credit; meet the minimum state graduation requirements set out in 4 AAC 06.075 (including, beginning January 1, 2009, meeting an Alaska History requirement); and pass the High School Graduation Qualifying Examination.

The 24 total required credits for graduation from Mt. Edgecumbe High School include:

4 credits - English

4 credits - Social Studies (including 1 credit Alaska History and 1 credit Pacific Rim Studies)

3 credits – Science

3 credits – Math (including Geometry)

1 credit of a Social Studies or advanced Science or Math beyond the required

2 credits – Computer Technology

2 credits – Wellness (includes Health/PE)

1 credit – World Language

4 credits – Electives

Graduation Requirements for Transfer Students

Students entering Mt. Edgecumbe High School as:

Sophomores are required to earn 23 credits for graduation.

Juniors are required to earn 22 credits for graduation.

Seniors are required to earn 21 credits for graduation.

Transcript evaluations of transfer credits will be at the discretion of the Academic Principal.

Credits earned at schools other than Mt. Edgecumbe High School will be counted as credit toward graduation from Mt. Edgecumbe High School at the discretion of the Academic Principal.

Definition of Unit of Credit

The term “unit of credit” shall have the definition given in 4 AAC 06.075(e): the credit a student is awarded for achieving a passing grade in a course of study by meeting the performance standards for a course of study prescribed by Mt. Edgecumbe High School and approved by the State Board under Policy 5.2 of this manual.

**To: Members of the State Board of
Education and Early Development**

September 19, 2019

From: James Fields, Chair

Agenda Item: 4

◆ ISSUE

The Board will receive an update on the University of Alaska Southeast School of Education accreditation.

◆ BACKGROUND

Dr. Steve Atwater, Executive Dean of the Alaska College of Education, and Tamara Van Whye, Director of Innovation and Education Excellence, will be present to brief the board.

◆ OPTIONS

This is an information update. No action is required.

**To: Members of the State Board of
Education & Early Development**

September 19, 2019

From: James Fields, Chair

Agenda Item: 5

◆ ISSUE

This is a report to the board regarding the committee work of the State Board of Education and Early Development.

◆ BACKGROUND

- The board will be briefed on current committee work from the four committee chairs:
 - Standards and Assessments, Sally Stockhausen
 - Tribal Compacting, Sandra Kowalski
 - Regulations, Lorri Van Diest
 - Funding Formula, Tiffany Scott

◆ OPTIONS

This is an information update. No action is required.

◆ **ISSUE**

The board is being asked to adopt proposed amendments to regulation 4 AAC 31 School Facility Planning and Construction. The amendments accomplish needed clean-up work in several areas (e.g., citations for updated publications, etc.), codify current work practices, propose improvements to the capital project administration process, and propose limits on funding.

◆ **BACKGROUND**

- The last significant clean-up of 4 AAC 31 occurred in 2010. In the eight years since that time, elements of the school facility planning and construction process have changed, have been updated, and have been improved or altered. Codifying these elements in an update to the regulation is necessary.
- Proposed amendments to 4 AAC 31.022(b), 31.026(d), 31.030(a), 31.040(a), 31.060(i), and 31.220 are clean-up in nature and do not revise current procedures.
- Proposed amendments to 4 AAC 31.013, 31.016, 31.020(d), 31.021(f), 31.023(c), 31.061(b)(2), and 31.085(a) are those needed to conform to current department practices and do not revise current procedures.
- Proposed amendments to 4 AAC 31.020(a), 31.080(f), and 31.900(2) update references to current versions of department publications *Guidelines for School Equipment Purchases* (2016 edition), *Site Selection Criteria and Evaluation Handbook* (2011 edition), and *Project Delivery Method Handbook* (2017 edition). Updates to these publications were reviewed and approved by the statutory Bond Reimbursement & Grant Review Committee.
- Proposed amendments to 4 AAC 31.021(e) and (g), portions of 31.030(a) and 31.040(a), 31.064, 31.065(a), and 31.080(b) and (g) are intended to improve the process of capital improvement project (CIP) requests and the administration of capital project funding by clarifying requirements at a greater level of detail than currently provided. These proposals are not intended to change or limit project eligibility or funding.
- Proposed amendments to 4 AAC 31.023(c)(7) and (e) serve to limit funding of indirect and administrative costs that are based on a percentage rate and not supported with detailed accounting.
- Proposed amendments to 4 AAC 31.065(d), 31.080(e), and 31.080(i) serve to limit funding of professional services, construction, and purchase or lease of existing facilities if requirements in the respective sections are not complied with.
- Proposed amendments to 4 AAC 31.900(21) would increase the minimum project amount (cost) from \$25,000 to \$50,000 before a project would become eligible for state aid as a school capital project.
- The proposed regulations amendments, a summary document of the identified regulation amendments, public comment received, department response to public

comments, and the three updated department publications can be found behind this cover memo.

- Tim Mearig, Facilities Manager, will brief the board.

◆ **OPTIONS**

This is a work session item. Action will take place under Agenda Item 7A.

2018 Summary of Changes: 4 AAC 31 Regulations

Prepared by Department of Education and Early Development
Finance & Support Services / Facilities

June 6, 2018

Regulation	Summary of Change	Reason for Change
4 AAC 31.013(e)	Reorganize section and refine language to parallel flow of process.	Reorganized language provides more clarity to the timeline of the determination process.
4 AAC 31.013(f)	Provide method for department and a district to postpone on-site inspections if district does not seek a compliant PM program.	Current language does not provide the dept. or a district a way to ‘opt-out’ of the on-site inspection process on the occasion of a district that does not desire to qualify for CIP funding. This will potentially save the department operational costs.
4 AAC 31.013(h) (new)	Add language defining department’s current practice of “provisional compliance”.	In the past 10 years, the department has issued determinations of “provisional compliance” to districts that have the capacity to meet PM standards but lack documentation of maintaining the program (e.g., being able to provide a full 12 months of reporting data).
4 AAC 31.016(i) (new)	Provide guidance on when to include or exclude attendance area enrollment when housed in leased facilities.	Formalize dept. practice of excluding enrollment of leased-facility schools in attendance areas when determining space eligibility, unless single-site, and include clause for termination of leased space creating unhoused students.
4 AAC 31.020(a)	Update publication titles and editions.	Conform to new dept. publication editions; update publication title formatting.
4 AAC 31.020(d)	Provide department flexibility to reduce or not reduce a project budget before the end of the design phase.	Current regulation reads to require a budget reduction if enrollment declines during design process; however, fluctuations can cause significant design changes and incur additional design costs. Dept. practice typically holds a project harmless once a grant agreement is signed and design is underway; however, there could be circumstances where a later adjustment is appropriate.
4 AAC 31.021(e)	Allow “completed projects” to reuse priority ranking for 5 years after original application.	Enable districts to save costs of re-submitting a new application for projects that were completed and do not have any new information to present.

Regulation	Summary of Change	Reason for Change
4 AAC 31.021(f)	Remove requirement to provide inflation/escalation to elements of the project that will be completed prior to a grant being issued.	Adding the required escalation to projects with previously completed scope unnecessarily increases ranked project costs, resulting in lapsing balances in appropriations and tying up resources that could be used to fund additional projects.
4 AAC 31.021(g)	Adds language on how to treat appeals on projects reused in years 2-6.	Required to conform existing language to the additional years of reuse beyond year one.
4 AAC 31.022(b)	Changes primary purpose type “E” projects from school construction to major maintenance.	Conforms to 2010 statute change.
4 AAC 31.023(c)	Specify that application costs are allowable project costs. Define that the 36/120 month limit for reimbursable costs begins with initial application.	More clarity is need for when the “36 months” and “120 months” begin for reimbursable allowable project and land costs in a AS 14.11 grant or reimbursement.
4 AAC 31.023(c)	Adds language limiting amount of grant that can be used for district indirect administrative costs to specified percentage.	Provide more uniformity in treatment of indirect costs; reduces the obligation of the department to fund administrative costs not closely tied to a project with state aid.
4 AAC 31.023(e)	Provides definitions to support changes regarding indirect administrative costs.	Provide clarity for new terms “indirect administrative costs” and “construction costs” used in subsection.
4 AAC 31.026(d)	Changes who appoints a hearing officer for CIP process appeals.	Conforms to 2004 statute change.
4 AAC 31.030(a)	Changes statute reference from AS 14.11.020 to more common “grant funded under” AS 14.11.011. Specify that elements of a plan for DEED review must be submitted prior to solicitation of a construction contract.	Conform statute reference to statute providing grant funding. Language reinforces that plan must be provided for dept. review prior to construction contract solicitation, as some projects have been being submitted after contract award.

Regulation	Summary of Change	Reason for Change
4 AAC 31.040(a)	Change statute reference from AS 14.11.020 to more common AS 14.11.011. Specify that DEED review and approval must be submitted prior to solicitation of a construction contract, as inferred from timeline requirements in (a)(1)-(3).	Conform statute reference to statute providing grant funding. Language reinforces that project documents must be provided for dept. review prior to construction contract solicitation, as some projects have been being submitted after contract award.
4 AAC 31.060(i)	Change dollar value of reimbursement project costs \$200,000.	Conform value to statute. Current \$25,000 value is reflective of grant minimum project cost, not debt reimbursement.
4 AAC 31.061(b)(2)	Repeal language related to applications submitted before 1/1/1996.	Removal of non-applicable language.
4 AAC 31.064	Clarify when remaining bond proceeds can be redirected.	Clarity is needed for when “construction” of a project is considered complete: when design, construction, and equipment contracts are terminated.
4 AAC 31.065(a)	Allow solicitation of contracts for design and construction management consultants using qualifying Internet websites in lieu of newspapers.	Online publishing of solicitations via the world wide web has become equal or more effective than traditional newspaper publishing. (Note: State procurement regulations now allow these types of solicitation options.)
4 AAC 31.065 (new)	Allow DEED discretion to deny/limit participation in costs of design and construction management for grants and debt reimbursement projects that did not comply with this section	Provide consistency in department treatment of participation in construction and consultant contracts.
4 AAC 31.080(b)	Allow solicitation of construction contracts using qualifying Internet websites in lieu of newspapers.	Online publishing of solicitations via the world wide web has become equal or more effective than traditional newspaper publishing. (Note: State procurement regulations now allow these types of solicitation options.)
4 AAC 31.080(e)	Allow DEED discretion to deny/limit participation in costs of construction for grants that did not comply with this section; currently DEED may not allow payment for construction contract costs.	Provide consistency between grant and debt programs in dept. discretion to deny construction funding.

Regulation	Summary of Change	Reason for Change
4 AAC 31.080(f)	Update publication edition reference.	Conform to new dept. publication edition and update publication title formatting.
4 AAC 31.080(g)	Add “lease” and “donated” to methods a school district may acquire facilities with prior department approval.	Expand methods of school district acquisition of property that require dept. approval; works in conjunction with new subsection (j) to potentially limit AS 14.11 funding for property that was not in the best interest of the state for a district to acquire [note -- most leased facilities are already not eligible for AS 14.11 funding]
4 AAC 31.080(i) (new)	Allow denial or limiting of participation cost of school construction for facilities acquired under specific circumstances.	Provide dept. process for overview of district acquisition of land or facilities in instances where the dept. may be asked to provide financial support for major maintenance or restoration.
4 AAC 31.085(a)	Specify that a school district is still responsible for liabilities caused by its use of the property.	Reinforce that district liabilities and responsibilities that are the result of the district’s use and operation of the property continue beyond the use permit and one-year wind-down period (see also 4 AAC 31.090(h)).
4 AAC 31.220	Change date districts shall provide a certificate of insurance to DEED from July 1 to July 15.	Date extension requested by districts and insurance carriers. Certificates not always issued before July 1.
4 AAC 31.900(2)	Update publication edition reference.	Conform to new dept. publication edition and update publication title formatting.
4 AAC 31.900(21)	Change minimum value of “school capital project” to \$50,000.	Adjust dollar value in line with inflation to maintain intent of original regulation that projects are “capital” expenses and not “operational”. This value is consistent with inflation.

4 AAC 31.013(e) is amended to read:

(e) [ON AN ANNUAL BASIS, THE] **The** department **will make a determination of a district's** [SHALL PROVIDE A PRELIMINARY NOTICE TO EACH DISTRICT REGARDING ITS] compliance with each element required in (a) of this section, based on evidence of a program [THAT WAS PREVIOUSLY PROVIDED TO] **acquired by** the department, [OR THAT WAS] **including information** gathered by the department during an on-site visit conducted under (f) of this section. **The department may change a determination at any time during the year based on new evidence. For purposes of eligibility for an application submitted under AS 14.11.011, on** [ON] or before June 1, the department will provide [ITS] preliminary notice **of its determination.** [THE DEPARTMENT MAY CHANGE A DETERMINATION OF NON-COMPLIANCE AT ANY TIME DURING THE YEAR BASED ON NEW EVIDENCE.] Districts that are not in full compliance must provide evidence of compliance to the department by August 1. On or before August 15, the department will notify districts of its final determination regarding compliance. The department will deny a grant application submitted under AS 14.11.011 by a district that has received a final determination from the department that the district is out of compliance with this section.

4 AAC 31.013(f) is amended to read:

(f) The department **will** [SHALL] conduct **an** on-site **inspection** [INSPECTIONS] of a school district preventive maintenance and facility management **program** [PROGRAMS] at least once every five years; **however, if the department issues a finding of noncompliance under (e) of this section and the district does not provide adequate evidence of compliance, the department may postpone an on-site visit beyond the five-year period.** The department

may make additional inspections as it **determines** [DEEMS] necessary. The department may change its determination of compliance based on information obtained during **an** [THE] on-site **inspection** [INSPECTIONS].

4 AAC 31.013 is amended by adding a new subsection to read:

(h) Notwithstanding (e) and (f) of this section, the department may make a determination of provisional compliance for a district that provides evidence of a plan that meets all required elements identified in (a) of this section but does not provide documentation of adherence to that plan. A determination of provisional compliance will allow a district to be eligible for state aid until a final determination of compliance or noncompliance is provided. (Eff. 5/24/2001, Register 158; am 12/19/2002, Register 164; am 12/15/2004, Register 172; am 6/17/2010, Register 194; am ___/___/___, Register ____)

Authority: AS 14.07.020 AS 14.11.011 AS 14.11.132
AS 14.07.060

4 AAC 31.016 is amended by adding a new subsection to read:

(i) The enrollment calculated for students in leased space will be excluded from use in calculating eligibility for additional square footage for facilities unless

- (1) that enrollment is in an attendance area comprised of a single school; or
- (2) the lease is due to terminate within two years and district submits an

application for a capital improvement project under AS 14.11 for new school construction to house the student population of the terminating lease space. (Eff. 7/13/2000, Register 155; am 12/19/2002, Register 164; am ___/___/___, Register ____)

Authority: AS 14.07.060 AS 14.11.015 AS 14.11.100
AS 14.11.011 AS 14.11.017 AS 14.11.132
AS 14.11.013

4 AAC 31.020(a) is amended to read:

(a) The following are the basic guides for educational facility planning **adopted by reference:**

(1) for a school capital project application submitted to the department, *Creating Connections: The CEFPI Guide for Educational Facility Planning*, 2004 **edition** [EDITION], as published by the Council of Educational Facilities Planners International;

(2) repealed 4/17/98;

(3) repealed 4/17/98;

(4) *Guidelines for School Equipment Purchases*, as published by the Alaska Department of Education and Early Development, **2016 edition** [1997 EDITION];

(5) deleted 8/31/90;

(6) repealed 4/17/98;

(7) *Swimming Pool Guidelines*, as published by the Alaska Department of Education and Early Development, 1997 edition; and

(8) **Site Selection Criteria and Evaluation Handbook** [SITE SELECTION CRITERIA AND EVALUATION GUIDELINE], as published by the Alaska Department of Education and Early Development, **2011 edition** [1997 EDITION].

4 AAC 31.020(d) is amended to read:

(d) The department **will** [SHALL] reduce a project budget in proportion to the amount that the project's design exceeds the square feet allowable as determined under (c) of this section[.THIS SUBSECTION APPLIES TO A PROJECT], **until an agreement, as described in 4 AAC 31.023(c), is fully executed** [THAT HAS NOT RECEIVED A GRANT UNDER AS 14.11, A PROJECT THAT HAS RECEIVED MONEY FROM THE DEPARTMENT FOR PLANNING]. **The department may proportionally reduce the project budget under this subsection if** [, AND] a project [THAT] has not secured the approval of the commissioner under 4 AAC 31.040 [THIS SUBSECTION DOES NOT APPLY TO A PROJECT THAT HAS SECURED THE APPROVAL OF THE COMMISSIONER UNDER 4 AAC 31.040].
 (Eff. 3/1/78, Register 65; am 6/9/83, Register 86; am 12/2/83, Register 88; am 8/31/90, Register 115; am 10/7/95, Register 136; am 4/17/98, Register 146; am 2/18/99, Register 149; am 7/13/2000, Register 155; am 8/23/2001, Register 159; am 12/20/2002, Register 164; am 6/17/2010, Register 194; am ___/___/___, Register ___)

Authority:	AS 14.07.020	AS 14.11.011	AS 14.11.100
	AS 14.07.060	AS 14.11.020	AS 14.11.132

4 AAC 31.021(e) is repealed and readopted to read:

(e) Using the criteria set out in 4 AAC 31.022(b), the department will score each application and use the score to assign a priority ranking to the projects approved for eligibility. The department may annually approve a school district's request to reuse an original application and its score for up to five additional years after the year the original application is submitted, if, for a school capital project listed in the district's six-year capital improvement plan,

(1) the school district identifies, in a letter accompanying the six-year plan, the specific application for which the district requests consideration beyond the initial application period;

(2) the chief school administrator certifies in writing that the district's eligibility for any additional square footage associated with the project has not decreased; and

(3) for requests to reuse the application and score

(A) for the first additional year,

(i) the physical condition of a facility included in the project has not deteriorated so as to increase the project's cost to exceed the amount determined by application of the inflation factor under (f) of this section; and

(ii) health and life safety conditions and code conditions have not changed so as to affect the project's score under 4 AAC 31.022(b); or

(B) in years two through five after the year of the original application, the project construction is substantially complete at the time of the original application; an inflation factor under (f) of this section will not be added to the project cost when an application is reused under this subparagraph.

4 AAC 31.021(f) is repealed and readopted to read:

(f) If, under (e) of this section, the department approves a district's reuse of its previous year's application and score for one additional year after the year the original application is filed, the department will add an inflation factor based on an industry-accepted method to costs anticipated to occur after the award of the grant.

4 AAC 31.021(g) is repealed and readopted to read:

(g) If, under (e) of this section, a district reuses its original application and score for one or more additional years after the year the original application is filed, the district may not appeal its priority ranking in any of the additional years.

4 AAC 31.021(h) is repealed and readopted to read:

(h) A grant application must include certification that insurance or a program of self-insurance exists under 4 AAC 31.200 – 4 AAC 31.225 and will be revised, if necessary, to include the proposed facility. (Eff. 8/31/90, Register 115; am 8/12/93, Register 127; am 3/10/96, Register 137; am 4/17/98, Register 146; am 7/13/2000, Register 155; am 12/19/2002, Register 164; am 6/17/2010, Register 194; am ___/___/___, Register ___)

Authority: AS 14.07.060 AS 14.11.011 AS 14.11.132
AS 14.11.008 AS 14.11.013

4 AAC 31.022(b) is amended to read:

(b) When reviewing the six-year capital improvement plans and the grant applications submitted by school districts, department staff shall separately rank projects in the following classifications in the first year of the plan, in descending order of priority, as serves the state's best interests, where[:]

(1) school construction projects are those projects the primary purpose of which is to accomplish work under the categories established in **AS 14.11.013(a)(1)(A), (B), (F), and (G)** [AS 14.11.013(a)(1)(A), (a)(1)(B), AND (a)(1)(E) - (a)(1)(G)]; and

(2) major maintenance projects are those projects the primary purpose of which is to accomplish work under the categories established in AS 14.11.013(a)(1)(C) - (E) [AS 14.11.013(a)(1)(C) AND (D)], except that a major maintenance project may not include additional or replacement square footage.

(Eff. 8/31/90, Register 115; am 8/12/93, Register 127; am 10/7/95, Register 136; am 4/17/98, Register 146; am 7/13/2000, Register 155; am 12/19/2002, Register 164; am 6/17/2010, Register 194; am ___/___/___, Register ___)

Authority: AS 14.07.060 AS 14.11.013 AS 14.11.132
AS 14.11.011

4 AAC 31.023(c) is amended to read:

(c) The department will, before the disbursement of a grant or allocations of other financial assistance [MONEY] to a school district, require the execution of a grant or other financial assistance agreement, on a form prescribed by the commissioner, that contains the following conditions:

(1) the project will be constructed and equipped under the requirements of 4 AAC 31.020(a), within the project budget determined under 4 AAC 31.022(e);

(2) money will be disbursed as the parties agree to allow the accomplishment of stages in the project, such as site acquisition; design and construction; and to reimburse the district for money actually and necessarily spent, before the award of the grant or allocation of other financial assistance,

(A) for **application costs**, planning costs, design costs, and construction costs incurred not more than 36 months before the **initial** submission of the grant **or other financial assistance** application **with a substantially identical scope**; and

(B) site acquisition costs incurred not more than 120 months before the **initial submission of the** grant or other financial assistance application **with a substantially identical scope** for which the department has given its approval under 4 AAC 31.025;

(3) the district's performance under the grant or other financial assistance is subject to financial audit at any time; the cost of an audit required by the state is an allowable cost of school construction;

(4) the site for the school facility is approved under 4 AAC 31.025;

(5) designers, **commissioning agents, and construction managers** of the facility shall be selected under 4 AAC 31.065; [AND]

(6) construction shall be performed by contracts awarded under 4 AAC 31.080;

and

(7) unless a district provides documented evidence of project-specific indirect administrative costs in excess of these limits, indirect administrative costs may not exceed

(A) three percent of construction costs, if construction costs are \$500,000 or less;

(B) the greater of \$15,000 or two percent of construction costs, if construction costs are over \$500,000 but less than \$5,000,000;

(C) the greater of \$100,000 or one percent of construction costs, if construction costs are \$5,000,000 or more.

4 AAC 31.023 is amended by adding a new subsection to read:

(e) In (c) of this section,

(1) “indirect administrative costs” means an allocable portion of administrative and operating expenses; and

(2) “construction costs” means the cost of contracted work as well as force account for facility construction, site preparation, site improvements, and utilities. (Eff. 8/31/90, Register 115; am 8/12/93, Register 127; am 4/17/98, Register 146; am 2/18/99, Register 149; am ___/___/___, Register ___)

Authority: AS 14.11.013 AS 14.11.017 AS 14.11.132
AS 14.11.015 AS 14.11.100

4 AAC 31.026(d) is amended to read:

(d) Within 10 working days after the filing of an appeal under (c) of this section, the **chief administrative law judge of the office of administrative hearings (AS 44.64.010)** [COMMISSIONER] shall appoint a hearing officer to hear the case. The hearing officer shall consider the issues raised in the appeal on the basis of

(1) the school district's updated capital improvement plan submitted under 4 AAC 31.011;

(2) the grant application, and supporting documentation submitted by the school district under 4 AAC 31.020(c);

(3) the comments received at the public hearing conducted under (a) of this section;

(4) the decision rendered by the department on the request for reconsideration under (b) of this section; and

(5) the appeal filed by the school district under (c) of this section.

(Eff. 8/31/90, Register 115; am 8/12/93, Register 127; am 4/17/98, Register 146; am __/__/__, Register ____)

Authority: AS 14.11.013 **AS 14.11.016** AS 14.11.132
AS 14.11.015

4 AAC 31.030(a) is amended to read:

(a) A school district shall submit [THE ELEMENTS OF] a plan for **a school capital project, including** new construction, additions, demolitions, and rehabilitations, to be undertaken by the school district that **is** [ARE] to be funded under **AS 14.11.011** [AS 14.11.020] or for which reimbursement is to be sought under AS 14.11.100. The elements of the plan must be submitted to the commissioner for the commissioner's review and approval as the elements are developed and before any **construction contract solicitation or** construction activity is initiated.

(Eff. 3/1/78, Register 65; am 12/2/83, Register 88; am 10/7/95, Register 136; am 4/17/98, Register 146; am __/__/__, Register ____)

Authority: AS 14.07.020 AS 14.11.011 AS 14.11.020
AS 14.07.060 AS 14.11.013 AS 14.11.100

4 AAC 31.040(a) is amended to read:

(a) Before commencing **construction contract solicitation or** construction activity under **AS 14.11.011** [AS 14.11.020] or **construction contract solicitation or** construction activity for which reimbursement will be sought under AS 14.11.100, a school district or a regional school board shall secure the approval of the commissioner of the documents for the project as follows:

(1) the school district or regional school board shall submit to the commissioner 95 percent construction documents at least 20 work days before a bid invitation is made;

(2) if construction contract bids are to be invited for the project, the school district or regional school board shall submit the construction bid documents, excluding the construction plans and specifications if the 95 percent construction documents submitted under (1) of this subsection were stamped and signed by the professionals in responsible charge, to the commissioner at least five work days before the bid invitation is made;

(3) if the project will not be advertised for bids, the school district or regional school board shall submit the final stamped and signed construction documents to the commissioner no later than 15 work days before commencing each construction phase; and

(4) a municipality or a school district may request, in writing, a waiver to the construction document approval process set out in (1) - (3) of this subsection for a project based on the ability of the municipality or school district to provide a thorough and complete independent review.

(Eff. 3/1/78, Register 65; am 12/2/83, Register 88; am 4/17/98, Register 146; am ___/___/___, Register ___)

Authority: AS 14.07.020

AS 14.11.011

AS 14.11.100

AS 14.07.060

AS 14.11.020

4 AAC 31.060(i) is amended to read:

(i) Reimbursement for rehabilitation costs under AS 14.11.100 is limited to projects exceeding **\$200,000** [\$25,000].

(Eff. 3/1/78, Register 65; am 2/24/83, Register 85; am 12/2/83, Register 88; am 9/12/85, Register 96; am 2/8/86, Register 97; am 5/30/90, Register 114; am 4/17/98, Register 146; am 7/13/2000, Register 155; am 6/17/2010, Register 194; am ___/___/___, Register ___)

Authority:	AS 14.07.020	AS 14.11.020	AS 14.11.102
	AS 14.07.060	AS 14.11.100	AS 14.11.132
	AS 14.11.011		

4 AAC 31.061(b)(2) is repealed:

(2) repealed ___/___/___;

(Eff. 9/12/85, Register 96; am 2/8/86, Register 97; am 5/30/90, Register 114; am 9/29/90, Register 115; am 10/7/95, Register 136; am 4/17/98, Register 146; am ___/___/___, Register ___)

Authority:	AS 14.07.020	AS 14.11.020	AS 14.11.102
	AS 14.07.060	AS 14.11.100	AS 14.11.132

4 AAC 31.064 is amended to read:

4 AAC 31.064. Redirection of bond proceeds. If a municipality has bond proceeds remaining after **termination of all design, construction, and equipment contracts for** [THE CONSTRUCTION OF] a project approved by the department for debt retirement under 4 AAC

31.060 and by local voters under AS 14.11.100(j), and the municipality seeks to construct a project different from the one approved by the department, the municipality may only receive reimbursement for the project if the new project is approved by the department and

(1) the bond proposition originally approved by the local voters authorized the use of any excess money for school capital projects such as the new project; or

(2) the municipality meets the requirements of AS 14.11.100(j), including the requirement for a municipal election to approve the new use of the money. (Eff. 5/30/90,

Register 114; am ___/___/___, Register ___)

Authority: AS 14.07.060 AS 14.11.100 AS 14.11.132

4 AAC 31.065(a) is amended to read:

(a) If a school district determines that it is necessary to engage the services of a private consultant to **provide design, commissioning, or [PROVIDE] construction management services** for an educational facility with money provided under AS 14.11.011 - AS 14.11.020, or for a project approved for reimbursement of costs under AS 14.11.100, and the estimated cost of the contract is more than \$50,000, **the contract shall be awarded to the most qualified proposer after evaluating proposals submitted in response to an approved solicitation.** The selection of the consultant shall be accomplished by soliciting written proposals by advertising **at least 21 days before the proposals are due by providing notice through publication** in a newspaper of general circulation. **The department may approve an alternate means of notice through publication on the Internet if the website has the express purpose of advertising similar solicitations, has unrestricted public access, and is equally likely to reach prospective proposers.** [AT LEAST 21 DAYS BEFORE THE PROPOSALS ARE DUE. THE

CONTRACT SHALL BE AWARDED TO THE MOST QUALIFIED OFFEROR, AFTER EVALUATING THE PROPOSALS SUBMITTED.]

4 AAC 31.065 is amended by adding a new subsection to read:

(d) The department may deny or limit its participation in the costs of design, commissioning, or construction management for a project eligible for grant funding under AS 14.11.011 or for reimbursement under AS 14.11.100 if the school district does not comply with the requirements of this section. (Eff. 12/2/83, Register 88; am 8/31/90, Register 115; am ___/___/___, Register ___)

Authority: AS 14.11.017 AS 14.11.020 AS 14.11.132

4 AAC 31.080(b) is amended to read:

(b) The school district shall **publish** [PROVIDE] **the first** notice of its solicitation **at least 21 days** [BY ADVERTISEMENT IN A NEWSPAPER OF GENERAL CIRCULATION IN THIS STATE AT LEAST THREE TIMES] before the opening of the offers. [THE FIRST PRINTING OF THE ADVERTISEMENT MUST OCCUR AT LEAST 21 DAYS BEFORE OPENING THE OFFERS.] The department may approve a solicitation period shorter than 21 days when written justification submitted by the school district demonstrates that a shorter solicitation period is advantageous for a particular **project** [OFFER] and will result in an adequate number of responses. A school district may provide additional notice by mailing its solicitation to contractors on any list it maintains, and any other means reasonably calculated to provide notice to prospective offerors. **The district shall provide notice of its solicitation by publication at least three times in a newspaper of general circulation in the state. The**

department may approve an alternate means of notice through publication on the Internet if the website has the express purpose of advertising similar solicitations, has unrestricted public access, and is equally likely to reach prospective offerors.

4 AAC 31.080(e) is amended to read:

(e) The department may deny or limit its participation in the costs of construction for a project eligible **for grant funding under AS 14.11.011 or** for reimbursement under AS 14.11.100 if the school district does not comply with the requirements of this section. [A SCHOOL DISTRICT THAT ENTERS INTO A CONSTRUCTION CONTRACT FOR A PROJECT AUTHORIZED FOR CONSTRUCTION UNDER AS 14.11.020 THAT WAS AWARDED WITHOUT COMPETITIVE SELECTION UNDER THIS SECTION MAY NOT RECEIVE MONEY UNDER ITS PROJECT AGREEMENT FOR THE CONSTRUCTION PHASE OF THE PROJECT.]

4 AAC 31.080(f) is amended to read:

(f) Nothing in this section precludes a school district from using an alternative construction delivery method as defined and described in the **Project Delivery Method Handbook** [PROJECT DELIVERY METHOD HANDBOOK], **2nd edition, September 2017** [NOVEMBER, 2004], adopted by reference, if the department approves the method in advance of any solicitation, the proposed method is in the state's best interest, and the school district concurs in any directives the department makes concerning the type of selection and award of the contract. The department may deny or suspend use of an alternative construction delivery method by a school district if the department concludes, based on substantial evidence, that use

or repeated use of a delivery method by the school district has resulted or will result in limited competition or higher costs.

4 AAC 31.080(g) is amended to read:

(g) A school district may, with prior approval by the department, **enter into a lease or purchase agreement for, or accept a donation of,** an existing facility **or land** for use as an education-related facility if

(1) **for the purchase, lease, or accepted donation of an existing facility,** a cost saving over new construction is achieved;

(2) the purchase **or lease** price is arrived at through impartial negotiation and is supported by a real estate appraisal that meets accepted standards; and

(3) the purchase, **lease, or donation** is in the best interests of the state and the school district.

4 AAC 31.080 is amended by adding a new subsection to read:

(i) The department may deny or limit its participation in the costs of a school capital project if the real property for the project is acquired by a school district through purchase, lease, or donation without the approval of the department under (g) of this section. (Eff. 12/2/83, Register 88; am 8/31/90, Register 115; am 4/17/98, Register 146; am 11/20/2005, Register 176; am ___/___/___, Register ___)

Authority: AS 14.07.060

AS 14.11.020

AS 14.11.132

4 AAC 31.085(a) is amended to read:

(a) The department may dispose of state-owned school buildings and other facilities under this section if it determines that the buildings or facilities are no longer needed to provide the educational program in the community in which they are located. The determination will be made in writing after consultation with the regional educational attendance area (REAA) in which the property is located, and the reasons for the determination will be documented. The department will not make a determination under this section unless the regional school board that was given a use permit under 4 AAC 31.090 for the property provides, in support of the determination, a resolution requesting termination of the use permit and declaring that the property, both land and buildings, is no longer needed for the purpose of providing education services. In addition, the regional school board must give notice of its excess property on a form provided by the department, and must agree that the conditions and responsibilities contained under 4 AAC 31.090 in the use permit will remain valid for a one-year period after the date of the notice or the date of last occupancy, whichever is later, unless the department, in writing, relieves the regional school board of responsibility in whole or in part. **Nothing in this section relieves a regional school board of its ongoing responsibilities or liabilities arising out of its interest in or use or operation of the property.**

(Eff. 10/4/90, Register 115; am 4/17/98, Register 146; am 12/19/2002, Register 164; am 6/17/2010, Register 194; am ___/___/___, Register ___)

Authority: AS 14.07.030 AS 14.07.060

4 AAC 31.220 is amended to read:

4 AAC 31.220. Proof of insurance. Except for a district that has an authorized self-insurance program under 4 AAC 31.205, each school district shall provide to the department a certificate of insurance, by **July 15** [JULY 1] of each year, that provides notice of the per occurrence and aggregate limits of coverage, and shall provide for 45 days' notice to the department of cancellation, termination, or any material change in policy conditions. (Eff. 8/31/90, Register 115; am ___/___/___, Register ___)

Authority: AS 14.03.150 AS 14.07.060

4 AAC 31.900(2) is amended to read:

(2) "capital equipment" means built-in and movable equipment used to furnish a newly constructed or rehabilitated space; it includes first-time purchase of library books, reference material, and media to furnish a new or renovated library; it does not include supply items such as textbooks and expendable commodities; the term is further defined in the *Guidelines for School Equipment Purchases, **2016 edition, adopted by reference in***

4 AAC 31.020 [1997 EDITION];

4 AAC 31.900(21) is amended to read:

(21) "school capital project" means a school construction or major maintenance project for which state aid is requested or provided when the costs of the construction or **major** maintenance exceed **\$50,000** [\$25,000];

4 AAC 31.900 is amended by adding a new paragraph to read:

(33) “construction manager” means a private consultant contracted by the school district during any phase of a school capital project to manage the project’s scope, quality, and budget. (Eff. 3/1/78, Register 65; am 6/9/83, Register 86; am 12/2/83, Register 88; am 9/12/85, Register 96; am 8/31/90, Register 115; am 9/29/90, Register 115; am 10/7/95, Register 136; am 4/17/98, Register 146; am 2/18/99, Register 149; am 7/13/2000, Register 155; am 8/23/2001, Register 159; am 12/19/2002, Register 164; am 12/20/2002, Register 164; am 6/17/2010, Register 194; am ___/___/___, Register ___)

Authority: AS 14.07.020 AS 14.11.020 AS 14.11.102
AS 14.07.060 AS 14.11.100 AS 14.11.132
AS 14.11.011



Guidelines for School Equipment Purchases

**PRIMARY
AUTHOR**

Tim Mearig, Architect
Alaska Department of Education & Early Development
Juneau, Alaska

CONTRIBUTORS

Facilities Staff
Alaska Department of Education & Early Development
Juneau, Alaska

ACKNOWLEDGEMENTS

Thanks to the Bond Reimbursement and Grant Review Committee members who reviewed the publication in its draft form and to those in the Department of Education & Early Development who were responsible for the predecessors to this document.

This publication may not be reproduced for sale by individuals or entities other than the:

State of Alaska
Department of Education & Early Development
Juneau, Alaska

Originally published in 1988 by the State of Alaska, Department of Education as *Guidelines for School Equipment Purchases* and updated in 1997 and 2005 under the same name.

Table of Contents

SECTION	Page
Introduction	2
Overview	2
Authority	2
Identifying Needed Equipment	4
Educational Specifications	4
Technology Items	4
Furnishing & Equipment Items	4
Distinguishing Between Supply & Equipment Items	5
School Equipment Budgets	7
Quantities	7
Overall Budgets	7
Summary	8
Accounting for Equipment Purchases	9
Installed Equipment	9
Fixed Asset Inventory	9
Equipment Control	9
Appendix A - Definitions	10

Introduction

Overview

Regulations governing the use of state aid from debt reimbursement and grant funding provide for the use of capital project funds for the purpose of equipping new or rehabilitated school facilities. In addition, statutes prohibit the granting of capital project funds to districts unless districts account for all school equipment through an auditable fixed asset inventory system. The purpose of this Department of Education & Early Development guideline is to assist school districts and municipal entities in purchasing equipment in compliance with school construction statutes and the regulations which implement them. The guideline provides direction in three major areas: identifying the needed equipment, equipment budgets and accounting for the equipment.

Authority

AS 14.17.190(b)

(b) Each district shall maintain complete financial records of receipt and disbursement of public school foundation money, money acquired from local effort, and other money received by the district. The records must be in the form required by the department and are subject to audit by the department at any time.

AS 14.11.011(b)

(b) For a municipality that is a school district or a regional educational attendance area to be eligible for a grant under this chapter, the district shall submit

(1) a six-year capital improvement plan that includes a description of the district's fixed asset inventory system and preventive maintenance program no later than September 1 of the fiscal year before the fiscal year for which the request is made; the six-year plan must contain for each proposed project a detailed scope of work, a project budget, and documentation of conditions justifying the project;

AS 14.11.017(a)(3)

(a) The department shall require in the grant agreement that a municipality that is a school district or a regional educational attendance area . . .

(3) agree to limit equipment purchases to that required for the approved project plan submitted under (5) of this subsection and account for all equipment purchased for the project under a fixed asset inventory system approved by the department,

AS 14.14.060(h)

(h) School boards within the borough may determine their own policy separate from the borough for the purchase of supplies and equipment.

AS 14.11.135(3)

(3) "costs of school construction" means the cost of acquiring, constructing, enlarging, repairing, remodeling, equipping, or furnishing of public elementary and

secondary schools that are owned or operated by the state, a municipality, or a district and includes the sum total of all costs of financing and carrying out the project; these include the costs of all necessary studies, surveys, plans and specifications, architectural, engineering, or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction, and improvement of real property and the acquisition of machinery and equipment that may be necessary in connection with the project. . . .

4 AAC 31.900 defines school equipment as follows:

(2) “capital equipment” means built-in and movable equipment used to furnish a newly constructed or rehabilitated space; it includes the first-time purchase of library books, reference material, and media to furnish a new or renovated library; it does not include supply items such as textbooks and expendable commodities; the term is further defined in the Department of Education & Early Development’s *Guidelines for School Equipment Purchases*, 1997 edition;

Identifying Needed Equipment

Educational Specifications

The general scope of necessary equipment purchases, as defined in 4 AAC 31.900(2) and this guide, should be a part of the educational specification developed for the project. Paragraph (7) of 4 AAC 31.010 Educational Specifications, indicates that the educational specifications should include, “the educational spaces needed, their approximate sizes in square feet, *their recommended equipment requirements*, and their space relationships to other facility elements.” Educational specifications for projects incorporating state funding are reviewed and approved by the Department of Education & Early Development prior to contract award. Good educational specifications include, in tabular form, a listing of necessary equipment for the project. The listing should be based on the Activity Setting Descriptions identified in the department’s guide “A Handbook to Writing Educational Specifications”, current edition. If the project architect’s professional services include responsibilities for preparing furnishing, fixtures, and equipment (often referred to as FF&E) documents, these listings become an invaluable tool in communicating district needs to ensure their inclusion in the project. The project’s design documents should identify types and quantities of equipment which conform to the district’s established standards. The actual selection and purchase of this equipment is normally the responsibility of the school district in which the school facility is located unless otherwise agreed when a municipality is the project manager.

Technology Items

A key component of any equipment budget is the provision of technology items such as computers, computer peripherals and software, audio-visual and vocational-technical equipment. Technology incorporates a wide spectrum of equipment items and has become an integral part of education. Technology can both be taught as a subject area and used as a delivery system in the teaching/learning process across all subject areas. In other words, most schools include both technology education and educational technology. They do this to differing degrees depending on the objectives and culture of the school district or individual school. The definitions included in Appendix A indicate that technology is best thought of in the broad sense of those equipment items used to process or create electronic data which are integrated into a system. Under this definition, typical technology equipment at the publication of this guide would be, computers, printers (2D/3D), monitors, video projectors, interactive whiteboards, scanners (2D/3D), video cameras, digital cameras, large format displays, video recorders/players, image processors, robotics, calculators, electronic test equipment, voice over IP, digital telephone, etc. Most of these items are dependent on both the software and wiring/cabling connections to make them functional for specific purposes. An initial copy of software can be purchased as technology equipment. Typically, the wiring and cabling will be included as part of the construction budget.

Furnishing & Equipment Items

The remaining components of an equipment budget include furnishings and the equipment necessary to provide for the administration, operations and instructional programs of the school.

The identification of furnishings for administrative and instructional use is a relatively straightforward process. The items are typically large and are used daily. This serves to keep them in the forefront of people's minds when being asked to develop school equipment lists. The identification of instructional equipment presents additional challenges and requires intentional planning and even research on the part of the school district's project design team. Probably the most overlooked items are those that pertain to the maintenance and operation of the new or renovated school. Items in this category include custodial care equipment, personnel lifts, mowers, snow blowers, and similar items that are appropriately sized and are dedicated to the use and operation of that specific facility. Maintenance items such as testing equipment, any type of construction equipment, or vehicle that can be used at multiple school locations are not appropriate purchases under the capital equipment associated with the school facility being constructed or rehabilitated.

Distinguishing Between Supply & Equipment Items

An item can be classified as **supply** if it meets one or more of the following criteria:

1. It is consumed, worn out, or deteriorated as it is used, to the point of being not useful or not available for its principal purpose, and under normal conditions of use, it reaches this state of being not useful or not available for its principal purpose typically within one (1) but not more than two (2) years.
2. Its original shape, appearance, and/or character changes with use.
3. It loses its identity through fabrication or incorporation into a different or more complex unit or substance.
4. It is expendable, that is, if the item is damaged or some of its parts are lost or worn out, it is usually more feasible to replace the item with an entirely new unit rather than repair it. Examples are paper, pencils, cleaning supplies, etc.

An item can be classified as **equipment** if it is an instrument, machine, apparatus, or set of articles which meets *all* of the following criteria:

1. It retains its original shape, appearance, and/or character with use.
2. It does not lose its identity through fabrication, or incorporation into a different or more complex unit or substance.
3. It is non-expendable; that is, if the item is damaged or some of its parts are lost or worn out, it is usually more feasible to repair the item rather than to replace it with an entirely new unit.
4. Under normal conditions of use, including reasonable care and maintenance, it can be expected to serve its principal purpose for more than one (1) year.

Equipment items are normally of significant value, usually over \$5000, or the value that the local school district has established in its capitalization policy. However, smaller value items, often

needed in quantity or available as sets, which meet the above conditions also qualify as equipment. Examples include, a) office equipment such as punches and staplers, classroom flags, and waste cans, b) maintenance and career technology equipment such as hand tools and diagnostic equipment, and c) food service equipment such as utensils, pot/pans, shelving, and portable work surfaces.

Items which are obviously “supply” in nature may be purchased only if they are an integral part of an equipment package purchase such as with a computer (operating system software) or teaching machine or other device meeting the criteria of an equipment item.

For supply/equipment decision flow chart, see the department’s Uniform Chart of Accounts, current edition.

School Equipment Budgets

Quantities

Equipment items should be purchased only as needed to support the individual school project or program which is authorized. Numbers of desks, computers, calculators, video players, video display panels, etc., should be--when added to those already available to be moved from any older facility which formerly housed the program--a total of no more than those appropriate to adequately provide for the educational program served by the school construction project named in the funding application or project agreement. The Department of Education & Early Development will approve the general types and quantities of equipment purchases as it approves the educational specifications submitted by the school district. It is the responsibility of the school district to actually purchase the equipment and to make specific cost-benefit value decisions and product selections.

Overall Budgets

The portion of each school construction or major maintenance project budget used for the purchase of school equipment should respond to the district's instructional program, the type of equipment needed to deliver the program, the grade levels being served, the availability of satisfactory existing equipment and the cost and quantities of new equipment. Traditionally, school equipment budgets have been thought of as a percentage of the facility construction cost. Current experience is showing percentages ranging as high as eight percent. This figure is for new construction; a lesser amount often is sufficient in renovations due to the availability of existing equipment items. For projects funded by appropriations made to the Department of Education & Early Development, total equipment budgets (i.e. conventional equipment plus technology items) have been limited to 7% unless a detailed justification is provided which shows the correlation between a school board-approved instructional program and the need for additional equipment.

While budgeting for equipment as a percentage of construction cost has some merit, state-wide equity is difficult to achieve due to the widely varying cost per square foot of Alaska schools. Whereas the cost of acquiring a constructed facility involves labor costs, material costs, and substantial premiums to access and serve remote sites, the cost of acquiring school equipment is more likely to be similar among districts regardless of location. Some small increases can be expected for shipping, lack of quantity discounts, as well as the services required to install more elaborate systems.

The department has established two parameters with which to evaluate school equipment budgets. The first will be the percentage-of-construction method with the standard limitation remaining at 7%. The second budget parameter is established on a per-student basis as shown in the tables on the following page:

Elementary Students Served	Technology Equipment	All Other Equipment
10 - 100 students	\$1,400	\$1,700
101 - 250 students	\$1,300	\$1,700
251 - 500 students	\$1,000	\$1,500
over 500 students	\$900	\$1,400

Secondary Students Served	Technology Equipment	All Other Equipment
10 - 100 students	\$1,700	\$2,100
101 - 250 students	\$1,500	\$2,000
251 - 500 students	\$1,300	\$1,900
over 500 students	\$1,200	\$1,700

Note: for schools with a mix of elementary (K-6) and secondary students (7-12), the aggregate number of students will determine which per-student allotment is used. Example: A K-12 school with 86 students in grades K-6 and 59 students in grades 7-12 would use figures from the 101-250 category (\$1,300 and \$1,700 for elementary and \$1,500 and \$2,000 for secondary). These would be applied to the specific numbers of students in each grade grouping.

Schools in regions with a geographic area cost factor greater than 110.00, as established in the department's current Program Demand Cost Model for Alaskan Schools, will be allowed an additional amount to account for estimated shipping and installation costs. For these schools, equipment budgets calculated using the per-student table may be increased an amount equal to one-fifth of their geographic area cost factor. Example: A school with a geographic factor is 140.91, may increase their per-student-based equipment budget by 8.18 percent. ($40.91 / 5 = 8.18$)

Summary

For projects funded under AS 14.11, total school equipment budgets will be limited to the lesser of the amounts generated by the percentage of construction cost formula at 7%, and the per-student formula shown above. The opportunity to provide detailed justification which shows the need for additional funding of equipment remains in effect.

For projects providing new facilities or projects constructing space for new media programs which do not replace another facility, the initial purchase of library media is appropriate for inclusion in the equipment budget.

Accounting for Equipment Purchases

Installed Equipment

Built-in equipment or furnishings or those pieces of equipment which are an integral part of a building system are normally included in the construction documents and are not considered capital equipment for the purposes of a fixed asset inventory. Installed equipment is instead accounted for as part of the building cost.

Fixed Asset Inventory

Procedures and requirements for establishing and maintaining a property accounting system can be found in various industry, state, and federal publications. Equipment purchased as part of a school construction project will be recorded in a district's approved fixed asset inventory system, as required. It is impractical for every individual item purchased as school equipment to be recorded. Therefore, a minimum cost should be established above which an asset will be entered into the fixed asset records. The Alaska Department of Education & Early Development Uniform Chart of Accounts, current edition, establishes that minimum at \$5000 or the school district's/municipality's capitalization threshold for equipment, whichever is lower. The cost established as the threshold should be stated in the fixed asset portion of the annual audit submitted for department review under 4 AAC 09.130. In establishing the appropriate management of school equipment within a fixed asset system, cost thresholds and financial accounting are one consideration. Another consideration of similar importance is level of control or physical control. Often, these two considerations—fiscal control and physical control—work in conjunction within a fixed asset inventory.

Equipment Control

The tracking and control of physical resources by school districts is a matter of responsible stewardship. In devising methods for carrying out this responsibility, selecting an appropriate level of control is important. Three broad categories of control have been suggested as applicable to school equipment purchases: little or no control, group control, and individual control. Two of these, group control and individual control intersect with the district's fixed asset system. The individual control category, in which discrete equipment items are tracked based on their relatively high value, has been adequately covered in the preceding paragraph. Group control, as a category, offers a mechanism for school districts to include equipment items with lower individual dollar values in their fixed asset inventory. Items in this category, when taken as a group, are valuable enough to justify the cost of providing some type of control over their safety, use, location, and condition. Examples of such items include classroom equipment group, or administration equipment group. These groups would consist of furnishings, computers/peripherals and appliances assigned to a room, suite, or wing of the school facility. Best practices for school equipment accounting would include such groups as fixed assets.

Appendix A - Definitions

Construction Equipment: Any type of bulldozer, front end loader, fork lift, or other type of equipment that is typically used in construction activities that may or may not be legal for use on a public way, that can move under its own power, and is controlled by an operator that is located on or in the equipment.

Installed Equipment: Built-in equipment or furnishings or those pieces of equipment which are an integral part of a building system.

Fixed Assets: An account grouping used to track the balance of expenditures and revenues associated with owned property.

Property: Physical assets including land, buildings, and equipment.

Supplies: Items which are consumed during normal use or are more feasible to replace with an entirely new unit rather than repair it. Supplies are not part of the fixed asset account group.

Technology: An integrated system of electronic and mechanical equipment, associated software and peripherals which creates and/or process information to support a school's educational program.

Vehicle: Any tracked, two, or four wheeled motorized means of conveyance that carries an operator, that may or may not carry a passenger, and that may or may not be legal for use on a public way.



Project Delivery Method Handbook

2nd Edition
September 2017

**PRIMARY
AUTHOR**

Tim Mearig
Facilities Manager
Alaska Department of Education & Early Development
Juneau, Alaska

CONTRIBUTORS

Alaska Chapter CEFPI
Working Group on Alternative Project Delivery

Facilities Staff
Alaska Department of Education & Early Development
Juneau, Alaska

State of Alaska
Bond Reimbursement & Grant Review Committee

ACKNOWLEDGEMENTS

A majority of this publication was modeled on the documents prepared and published by the Georgia State Financing and Investment Commission in Volumes 1 and 2 of their Project Delivery Options – Recommended Guidelines. In addition, the department is indebted to efforts by Mike Kenig, Holder Construction, in facilitating a workshop for stakeholders involved in school capital projects in Alaska having state aid. His expertise and consensus direction for the Department of Education & Early Development’s administration of project delivery options is reflected throughout the document.

This publication may not be reproduced for sale by individuals or entities other than the following:

State of Alaska
Department of Education & Early Development
Juneau, Alaska

Table of Contents

SECTION	Page
INTRODUCTION	2
ABILITY TO USE ALTERNATIVE PROJECT DELIVERY	5
Introduction	
Alaska Statutes & Administrative Code	
OVERVIEW OF PROJECT DELIVERY OPTIONS	8
Introduction	
Selection Method Factors	
Contract Type Factors	
The Matrix: Selection Type and Contract Type	
DELIVERY METHOD SELECTION CRITERIA & PROCESSES..	19
Introduction	
The Project Environment	
Establishing Determining Factors	
Selecting a Delivery Method	
IMPLEMENTING PROJECT DELIVERY METHODS	32
Introduction	
Considerations for Alternative Delivery Option Approval	
CONCLUSION.....	35
SOURCES	36
APPENDICES	
APPENDIX A.....	37
Glossary	
APPENDIX B	40
Approval Flowchart	
APPENDIX C	41
Sample Evaluation Criteria	
APPENDIX D.....	43
DEED Approval and Procurement Review Checklists	
APPENDIX E	45
Sample Document: Project Delivery Options Analysis	

Introduction

In 1978, the Department of Education & Early Development (DEED) began regulating school capital projects following passage of legislation amending then existing statutes to include a requirement to:

. . . review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and . . . determine and approve the extent of eligibility for state aid of a school construction project [AS 14.07.020(11)]

By 1981, DEED had taken over full responsibility for administering state aid for school capital projects from the Department of Transportation & Public Facilities. One of the key components in administering capital funding was to establish procedures for the procurement of construction services. By statute, political subdivisions of the state, including school districts in unorganized areas of the state, are exempt from the state's procurement code (ref. AS 14.08.101). Accordingly, and under its powers, DEED established some minimum provisions for the procurement of construction by regulation in 1983 (ref. 4 AAC 31.080).

These provisions reflect key elements of the state's procurement code, including:

- competitive sealed bids;
- minimum advertising and notice periods;
- processes for aggrieved bidders; and
- award to the low responsible bidder.

Although adequately advertised competitive sealed bids awarded to the low offeror form the basis of DEED's process, regulations included a provision to allow a school district to use a design/build contracting method with DEED approval and district compliance with any DEED directives.

DEED began to see an increasing interest in alternative construction delivery methods beginning with a project funded in July 1998 for an addition/renovation project in Buckland. Following that date and through mid-2003, the department acted on several requests for alternative construction delivery. In each case, under the provisions of regulations, DEED approved a request for a non-traditional delivery method with varying stipulations and under various titles such as CM/Multiple Prime, and Design Assist.

Prior to that time period, there was a series of design-build efforts in the Bering Strait School District. Primarily, these were accomplished on schools damaged or destroyed by fire and did not have direct state aid but were funded with insurance proceeds.

In addition to the Bering Strait experience, the Anchorage School District also has experience using the design-build delivery method on school projects. These projects include an elementary constructed with state aid (Williwaw Elementary - 1993) and several projects without any state aid (ABC Elementary, Russian Jack Elementary, and Government Hill Elementary).

The procurement results from solicitations of projects approved for alternative delivery methods raised significant questions regarding procedures, competition, and prices. This led the Facilities staff at DEED to seek a “moratorium” on alternative construction delivery. The moratorium, ultimately not implemented, was intended to provide time for DEED and its constituents to sort out issues, apply lessons learned and develop a more coordinated, defensible and effective approach to alternative delivery methods and their approval.

Following is a list of concerns brought to light over the course of the prior years of activity:

- DEED had approval authority for design-build but had granted approval ad-hoc for other construction delivery variants, some not recognizable within industry norms.
- Design-build approvals had been granted for projects where design completion ranged from 50% to 99% complete.
- Design-build criteria packages establishing an *Owner's* performance requirements were noticeably absent; partially complete detailed designs were the substitute document.
- Design-build approvals had been granted for projects in which the *Owner* directed the use of a specific team of design professionals.
- Bid solicitations on comparable projects had resulted in no fewer than four and as many as eight offerors, however, three projects approved for design-build had only two offerors; the same two for each project.
- Bid solicitations on comparable projects in the same time periods had resulted in construction awards up to 35% below (approx. 12% average) the estimated construction cost; however, projects approved for design-build had typically used all available design and construction funds.
- A project was approved for CM/GC where the proposed total construction cost was not a factor in the selection process.
- Factors not germane to the lowest cost to the state, or at best difficult to measure, were heavily influencing alternative project delivery procurement; primarily this related to the incorporation of local hire initiatives.
- Alternative delivery methods approved, which incorporated multiple prime contracts and *Owner*-procured materials, were fraught with expensive “corrections”.

A 2003 workshop jointly conducted by DEED and the Alaska chapter of the Association For Learning Environments (A4LE—previously CEFPI) laid the groundwork for this publication. In the public sector, the central issue in moving from a low-bid process to any of the alternative project delivery methods is the shift in influence that the public entity wields in the selection process. In the low-bid process, where the only significant factor differentiating between offerors is price, the *Owner* is essentially “blind” to factors of experience, capacity, personnel, political ties, etc. While this can occasionally result in selection of a less desirable contractor, it always provides an arms-length separation between the *Owner* and contractor selection. It essentially removes the possibility of undue influence. A secondary effect of the exclusive focus on price is that offerors are forced to become price-competitive. This generally serves to drive the initial cost to the *Owner* to the lowest level.

A move to alternative project delivery methods is a move toward *Owner* influence and subjectivity in the procurement of construction. It also provides conditions in which the cost of the work is secondary and therefore potentially higher. However, the benefits to the *Owner* are numerous and are best summarized with the term “best value”. All factors considered—cost, quality, experience, schedule, etc.—*Owners* are more likely to receive a product that meets all of their objectives using a project delivery method that incorporates both qualifications and cost.

For DEED, and other public entities, the need is to establish the proper balance between complete control of *Owners* to choose a “most favored” contractor and the complete lack of control by *Owners* with the choice made for them based on lowest initial cost. This handbook provides the guidance and provisions to meet those standards of care.

Ability to Use Alternative Project Delivery

Introduction

The Alaska Department of Education & Early Development strongly supports full and open competition among general and specialty contractors and their suppliers and service providers. The construction industry's health and integrity depends on every qualified firm having an equal opportunity to compete for work. Public owners must be diligent in honoring the public trust while searching for the most efficient and cost effective approaches to delivering construction projects. These efficiencies and cost effective methods are increasingly requiring innovation and flexibility. The public owners who choose alternative project delivery options must ensure the method chosen is properly and fairly used to serve the public interest and provides quality, cost-effective and timely construction. Whatever option is utilized, the selection process for both design services and construction should be consistent, open and competitive.

Of the delivery options discussed in this Handbook, none is prohibited by the laws of Alaska. However, given current state policy and statutory requirements, the "traditional" method of Design-Bid-Build will continue to be the method by which most construction will be performed in Alaska's school districts. This section of the handbook suggests that alternative project delivery options are appropriate for the public sector if the selection process is as open, fair, objective, cost-effective, and free of political influence as the traditional competitive bid method. Specific approval may be required for the use of an alternative delivery method on school projects incorporating state-aid. For instructions on how to get the necessary approvals, contact your agency procurement professionals or the State of Alaska, Department of Education & Early Development.

Alaska Statutes and Administrative Code

Alaska Statutes

Alaska statutes provide for innovative procurements under the state procurement code and include the provisions that such procurements be competitive and that they test best value.

AS 36.30.308. Innovative procurements.

(a) A contract may be awarded for supplies, services, professional services, or construction using an innovative procurement process, with or without competitive sealed bidding or competitive sealed proposals, in accordance with regulations adopted by the commissioner. A contract may be awarded under this section only when the chief procurement officer, or, for construction contracts or procurements of the state equipment fleet, the commissioner of transportation and public facilities, determines in writing that it is advantageous to the state to use an innovative **competitive procurement** process in the procurement of new or unique requirements of the state, new technologies, or to achieve **best value**.

Statutes acknowledge that all school districts, whether in political subdivisions of the state or in regional education attendance areas, are exempt from the state's procurement code (excepting a few areas such as prevailing wage requirements) and may develop their own procurement policies.

AS 14.08.101. Powers. A regional school board may . . .

(3) determine its own fiscal procedures, including but not limited to policies and procedures for the purchase of supplies and equipment; the regional school boards are exempt from AS 37.05 (Fiscal Procedures Act) and AS 36.30 (State Procurement Code)

Alaska Administrative Code

Notwithstanding that recipient entities of funding administered under AS 14.11 are exempt from the state procurement code, DEED has provided, through regulation, requirements for construction procurement. These requirements are based on those factors of procurement that are critical to a competitive process (e.g., advertising periods, bid protest periods, etc.). The regulations also establish that competitive sealed bids will be the normal procurement method but provide for other alternatives.

4 AAC 31.080. Construction and acquisition of public school facilities.

(a) A school district shall construct a public educational facility with money provided through a grant under AS 14.11.011 - AS 14.11.020 or shall construct a public educational facility that is eligible for reimbursement under AS 14.11.100 under a written contract awarded on the basis of competitive sealed bids. If the estimated construction cost is less than \$100,000 or if it is in the best interests of the state, the school district may, with the approval of the commissioner, construct the educational facility itself using its own employees.

(b) The school district shall provide notice of its solicitation by advertisement in a newspaper of general circulation in this state at least three times before the opening of the offers. The first printing of the advertisement must occur at least 21 days before opening the offers. The department may approve a solicitation period shorter than 21 days when written justification submitted by the school district demonstrates that a shorter solicitation period is advantageous for a particular offer and will result in an adequate number of responses. A school district may provide additional notice by mailing its solicitation to contractors on any list it maintains, and any other means reasonably calculated to provide notice to prospective offerors.

(c) The school district shall provide for the administrative review of a complaint filed by an aggrieved offeror that allows the offeror to file a bid protest, within 10 days after notice is provided of intent to award the contract, requesting a hearing for a determination and award of the contract in accordance with the law. The school district shall provide notice to all interested parties of the filing of the bid protest.

(d) The award of a contract for the construction of an educational facility under this section must be made without regard to municipal ordinances or school board resolutions granting a preference to local offerors.

(e) The department may deny or limit its participation in the costs of construction for a project eligible for reimbursement under AS 14.11.100 if the school district does not comply with the requirements of this section. A school district that enters into a

construction contract for a project authorized for construction under AS 14.11.020 that was awarded without competitive selection under this section may not receive money under its project agreement for the construction phase of the project.

(f) Nothing in this section precludes a school district from using an alternative construction delivery method as defined and described in the Project Delivery Method Handbook, current edition, adopted by reference, if the department approves the method in advance of any solicitation, the proposed method is in the state's best interest, and the school district concurs in any directives the department makes concerning the type of selection and award of the contract. The department may deny or suspend use of an alternative construction delivery method by a school district if the department concludes, based on substantial evidence, that use or repeated use of a delivery method by the school district has resulted or will result in limited competition or higher costs.

(g) A school district may, with prior approval by the department, purchase an existing facility for use as an education-related facility if

(1) a cost saving over new construction is achieved;

(2) the purchase price is arrived at through impartial negotiation and is supported by a real estate appraisal that meets accepted standards; and

(3) the purchase is in the best interests of the state and the school district.

(h) Notwithstanding (a) of this section, a school district may use any competitive procurement methodology for its solicitation for a public educational facility that is practicable under the circumstances to procure construction services that are estimated not to exceed \$100,000, inclusive of labor and materials. A school district may not artificially divide or fragment a procurement so as to constitute a purchase under this subsection or to circumvent the selection procedures otherwise required by this section.

Overview of Project Delivery Options

Introduction

The purpose of this section is to establish a framework for understanding and selecting the appropriate project delivery option. It is critical to have consensus on a list of project delivery options and on the definition of each of the delivery options. Definitions of the options are discussed in this section and reiterated for quick reference in Appendix A. Understanding the differences in project delivery options requires an awareness of two independent factors, the structure of the *Owner's* prime contract(s) for the project and the provisions under which the selection of the project delivery entities (i.e., *Designer* and *Constructor*) are made. Each project delivery option is defined by a unique combination of *contract type* and *selection method*. Embedded in the definitions of each project delivery option, there are two basic terms that are used as selection-method differentiators for the alternative project delivery methods. These terms are *total construction cost* and *construction cost of work* (see sidebar).

This handbook uses the definition of a “project delivery option” as a method of procurement by which the *Owner's* assignment of “delivery” risk and performance for design and construction has been transferred to another party or parties. These parties typically are a *Design* entity that takes responsibility for the design, and a *Construction* entity that takes responsibility for performance of construction. However, a key principle of alternative project delivery is that benefits are available to *Owners* when these traditionally distinct entities are strategically aligned or even merged. It is when these benefits outweigh the risks that an alternative project delivery method becomes advisable. The relationship between these parties and the *Owner* is the second determinant in establishing a project delivery option. While no further attempt to define the terms *designer* and *contractor* are necessary—the terms being well understood within the industry—the terms used to describe the alignment or merging of these entities is unique to the project delivery discourse. These terms (*Design-Build*, *CM/GC*, etc.) often become points of significant distraction when attempting to “debate” the merits of alternative project delivery. Fortunately, for the purposes of this handbook, the sole understanding of these terms need only occur within the context of how an *Owner* chooses to contract with the *Designer* and *Constructor* (see sidebar).

Selection Differentiators

Construction Cost of Work is one of the three factors that comprise the Total Construction Cost:

Construction Cost of Work
+ General Conditions
+ Contractor's Fee

Total Construction Cost

It represents the “fixed” costs of labor and materials as provided for in the project scope. In addition to the Construction Cost of Work, the Total Construction Cost includes the contractor's General Conditions (i.e., its overhead—the cost of doing business) and the Contractor's Fee (i.e., its profit).

Contract Differentiators

Owner holds one contract for both Design & Construction = *Design-Build*
Owner holds separate contracts for Design & Construction = *CM/GC* or *Traditional*

Selection Method Factors

Another key aspect related to the use of any project delivery option is the procurement and selection process to be followed, particularly as it relates to the construction services. There are two basic public procurement processes: competitive sealed bid and competitive sealed proposal. Under *competitive sealed bids*, the selection is made solely based on price (which must be clearly defined), with the award going to the responsible and responsive bidder submitting the lowest price. *Competitive sealed proposals* on the other hand require the use of evaluation factors that may or may not include price elements (i.e., cost, fee, etc.) as part of the evaluation criteria.

Under the two basic procurement processes, there are three selection methods that may be followed with proposals and one for bids.

For proposals:

- Qualifications (excluding any cost factors)
- Qualifications and Costs Factors (excluding the *Construction Cost of Work*)
- Qualifications and *Construction Cost of Work*

For bids:

- *Total Construction Cost* (excluding any qualifications)

Contract Type Factors

The contract type component of the project delivery options is related to the number of primary contracts for design and construction, and the basic services provided.

The three primary contract types are defined with their distinguishing characteristics as follows:

- *Designer & General Contractor* (two prime contracts, one with each entity, *Designer* and *Constructor* with the GC contract after design is complete).
- *Designer & Construction Manager/General Contractor* (two prime contracts, *CM/GC* contract may provide for design related management services (e.g., cost estimating, constructability review, etc.) prior to construction).
- *Designer/Constructor* (single contract for design and construction with one entity).

The Matrix: Selection Method and Contract Type

Conceivably, any contract type can be implemented with any selection method. However, some combinations may not be practical, desirable, or prudent in most circumstances. The dual decisions to (a) use a particular contractual arrangement, and (b) use any of the four selection methods should be made concurrently. As discussed in the following section, **Project Delivery Method Selection**

A Word About “Price”

To appreciate the explanation of the difference between Competitive Sealed Bids and the two types of Competitive Sealed Proposals (cost and qualifications), it is helpful to have an understanding of the Total Project Cost.

$$\begin{array}{r} \textit{Total Construction Cost} \\ + \textit{Design Fees} \\ \hline \textit{Total Design \& Construction Cost} \\ + \textit{Balance of Project Costs} \\ \hline \textit{Total Project Cost} \end{array}$$

It is recommended that caution be used any time the word “price” is used and further clarification be offered to better determine which of the element(s) of the Total Project Cost is being referred to when the word price is mentioned.

Criteria & Processes, the decision must also consider several *Owner* and project related critical factors such as:

- The desired contractual and working relationship between the parties
- The timing and scope of services to be provided
- The timing and extent of detailed project information available to support the procurement/selection process.

Given the above, the balance of this section of the handbook discusses those combinations of contract type and selection method that yield project delivery methods suitable for the public procurement arena and that are accepted by the Alaska Department of Education & Early Development. Also, for the sake of simplicity, titles for each project delivery option are introduced that most closely align industry terminology with the department's goals for each of the delivery options. For example, the traditional public sector delivery method of having separate design and construction contracts, and where the contractor is selected by evaluating the lowest *total construction cost* offered, is most commonly referred to as **Design-Bid-Build**.

The complete list of project delivery options treated in this handbook, along with the corresponding selection method is:

1. **Design-Bid-Build** – competitive sealed bids (D-B-B)
2. **Construction Management/General Contractor** – competitive best value of cost and qualifications (CM/GC BV)
3. **Construction Management/General Contractor** – competitive qualifications (CM/GC QBS)
4. **Design-Build** – competitive best value of cost and qualifications (D-B BV)
5. **Design-Build** – competitive qualifications (D-B QBS)
6. **Design-Build** – competitive sealed bids or proposals (D-B Bid)

Many who are primarily familiar with Design-Bid-Build think of Design-Build as the only “alternative” delivery option. Several states’ attempts at legislating alternative project delivery have been very successful in adding one or two options to the traditional list of one (Design-Bid-Build). Few it seems, however, have included all the options very clearly.

Again, since there are no industry standard definitions, everyone has chosen a slightly different set of characteristics to define various delivery options. The **Project Delivery Option Matrix** (see following page) takes this to its simplest form and identifies the characteristics that this handbook uses to uniquely define each option. Each individual can take any delivery option, test it against these criteria, insert their own names and they will be able to align the name of their method with the names chosen for use by DEED for review and approval of project delivery options listed in the matrix. If a contract type and selection method cannot be categorized as a version of these six basic options, the reader is encouraged to contact DEED/Facilities for clarification and assistance.

The following discussion provides the definitions chosen for each of the project delivery options. In order to have a definition that works in as many situations as possible, DEED limited the number of characteristics used to define each option to three unique variables. By having a unique combination of these three defining variables, each delivery option is “uniquely” defined.

There are many “other” characteristics that apply to each of these options. Some of these “other” characteristics are typical characteristics of a particular delivery option but are not used in this handbook as a “unique” defining characteristic. The following example explains why:

Pre-construction Services—work provided by a *Constructor* prior to construction start—are typically provided with the CM/GC project delivery option. Are preconstruction services essential to the definition of this delivery option? Could one use CM/GC, hiring a contractor based on criteria other than low price, after the design is already complete and the need for preconstruction services no longer required? Would this still be CM/GC? Based on the definition used in this handbook, the answer is yes.

If pre-construction services were a “unique” characteristic, then you would have to have two types of CM/GC, one with and one without preconstruction services. This would not be right or wrong. The challenge would be where to stop. The more characteristics used to define a delivery option, the more “unique” combinations and thus, the more delivery options you would end up with on your list.

The goal was to keep the definitions used in this handbook as broad, as essential, as possible so they will work with most industry accepted definitions. Therefore, for purposes of this handbook, characteristics such as preconstruction services are considered to be one of the “other” characteristics (though typical) of CM/GC, but not a “unique” defining characteristic of CM/GC.

Finally, before describing in detail the consensus delivery methods being made available for school capital projects through this handbook, it is appropriate to acknowledge three other project variants. The first, Force Account, is an alternate delivery methods sometimes seen in Alaskan projects. The second, Multiple Prime Contracts, is a project strategy which, ultimately, will use one or more of the project delivery options described in this handbook. The third, Construction Management, has two common variations and is a project or program management strategy.

Force Account, sometimes referred to as In-House on projects with small scopes, is a project delivery method in which there is neither a solicitation nor a contract between parties performing design and construction. Under this delivery method, the *Owner* serves as the *Constructor* and uses labor from its own forces—or direct-hired to supplement its forces—to complete the work. Since, under this delivery method, all risk is borne by the *Owner*, it is best used only on low-risk projects. DEED regulations provide for approval of Force Account or In-House project execution if the estimated cost is less than \$100,000, or if it is determined to be in the best interest of the state (ref. 4 AAC 31.080(a)).

Multiple Prime Contracts is a project strategy that, in response to issues in the project environment, divides a project into discrete project elements or project phases and uses separate solicitations and contracts for each. Care must be taken to coordinate these contracts well. This project strategy can result in increased risk to the *Owner* when the work of one *Designer* or *Constructor* must be relied on by another to perform their work. DEED has no regulations prohibiting this project strategy but each work element must be procured in compliance with regulations. (See page 28 for additional discussion of this strategy.)

Construction Management is a project or program management strategy. Construction Management professionals—often also Architects and Engineers—serve Owners in managing individual projects or entire capital project programs. The two most common contract structures for construction management services are CM-Advisor and CM-At Risk. A CM-Advisor serves as the Owner’s principal agent to advise or manage all process over the life of the project regardless of the delivery method used. Alaska statutes (AS 14.11.020) provide for construction management activity on school capital projects with state-aid and implement some restrictions on the cost of this service as a portion of the project’s appropriation. Under a CM-At Risk contract, the Owner not only uses a construction manager in the project development phases but also assigns that CM a construction performance role—essentially making that CM the legal equivalent of a general contractor or *Constructor*. There is inadequate statutory and regulatory authorization for awarding a CM-At Risk contract that ensures fair, open, and competitive selection for construction elements of a school project or projects. **As such, CM-At Risk contracts are not permitted for use on projects with funding under AS 14.11.**

There are three Yes/No toggles in the delivery option determination matrix, three questions that when answered in the affirmative or negative, provide the project delivery options from which an Owner may select. The combination of factors combines to create six, and only six, options under which a school capital project may be delivered. The three questions are these—

1. Are the *Designer* and *Constructor* contracts combined (or separate)?
2. Is the *Construction Cost of Work* a selection criteria?
3. Is the *Total Construction Cost* the sole selection criteria?

The resulting delivery options are as shown in the following **Project Delivery Options Matrix**.

DEED Project Delivery Option Matrix		
SELECTION	CONTRACT TYPES	
	DESIGNER & CONSTRUCTOR (w/SEPARATE CONTRACTS)	DESIGNER/CONSTRUCTOR (ONE CONTRACT)
Competitive Sealed Bid (Low Bid) <i>Total Construction Cost is <u>sole</u> criteria for selection</i>	Design-Bid-Build	Design-Build-Bid
Competitive Cost Proposal (Best Value) <i>Total Construction Cost weighted with other factors for selection</i>	CM/GC Best Value (BV)	Design-Build Best Value (BV)
Competitive Qualifications Proposal (Qualifications Based Selection) <i>Total Construction Cost is <u>not</u> a factor for selection</i>	CM/GC QBS	Design-Build QBS

In the following discussion, the unique combination of characteristics is listed for each project delivery option along with some “other” characteristics that are typical of each option but not defining. An overview of the typical phases of each delivery option is also covered.

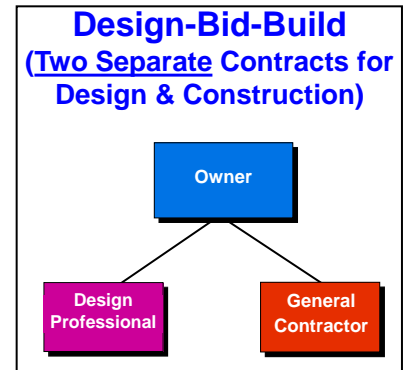
Defining Design-Bid-Build – Unique Characteristics of (D-B-B)

Design-Bid-Build is the most common project delivery option. It is often referred to as the “traditional” method. For school projects in Alaska with a state contribution, Design-Bid-Build is the default delivery method. All other project delivery options require a specified approval.

There are three prime players: *Owner*, *Designer*, and *Constructor* (general contractor)

The three-question test has the following result:

- Are the *Designer* and *Constructor* contracts combined? **NO**
- Is the *Construction Cost of Work* a selection criteria? **YES**
- Is the *Total Construction Cost* the sole selection criteria? **YES**



Contractor selection: Based on *Total Construction Cost* with the award going to the lowest responsible and responsive bidder.

Design-Bid-Build – Other Characteristics

- Relationship of Phases: linear sequencing of each of the project phases
- Ability to Bring *Constructor* on Board During Design: **No**
- Risk Allocation: Design risk (quality) allocated to *Designer*; Construction risk (cost and schedule) allocated to general contractor after design is complete and completion of bid and award phase; *Owner* is responsible for adequacy and completeness of design.

Phases – Design-Bid-Build

- Planning – The scope of the project and expectations of quality are established by the *Owner* and any consultants it may need. A delivery option is selected and corresponding budget and schedule are also established.
- Design – When the Planning has been completed, the *Owner* selects and engages the design team for the design and preparation of construction documents.
- Award – When design documents are complete, they are used for construction bidding. A *Constructor* is selected based on the lowest responsible and responsive price and construction cost commitments are made.
- Construction – The *Owner* contracts for construction with the general contractor and the project is built.
- Occupancy – After the construction of the entire project has been completed, the *Constructor* leaves the site to allow for move-in (installation of *Owner*-furnished equipment and furnishings) and occupancy. If arrangements are made in advance, certain areas of the project (partial occupancy) can be occupied prior to the completion of the entire project.

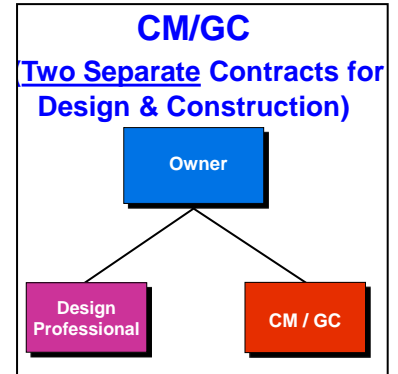
Defining Construction Manager/General Contractor Best Value – Unique Characteristics of CM/GC BV

There are three prime players: *Owner*, *Designer* and *Constructor* (manager-general contractor)

The three-question test has the following result:

- | | |
|--|-----|
| Are the <i>Designer</i> and <i>Constructor</i> contracts combined? | NO |
| Is the <i>Construction Cost of Work</i> a selection criteria? | YES |
| Is the <i>Total Construction Cost</i> the sole selection criteria? | NO |

CM/GC selection: Based on a best value weighting of *Total Construction Cost* with other factors; the award goes to the CM/GC that best meets the predefined qualifications and cost selection criteria.



CM/GC Best Value – Other Characteristics

- Relationship of Phases: can accommodate overlapping of each of the project phases
- Ability to Bring Constructor on Board During Design: **Yes**
- Risk Allocation: Design risk (quality) allocated to *Designer*; Construction risk (cost and schedule) allocated to CM/GC at the time of selection based on the design documents at the point in time of the selection. *Owner* is responsible for adequacy and completeness of design.

Phases – CM/GC Best Value

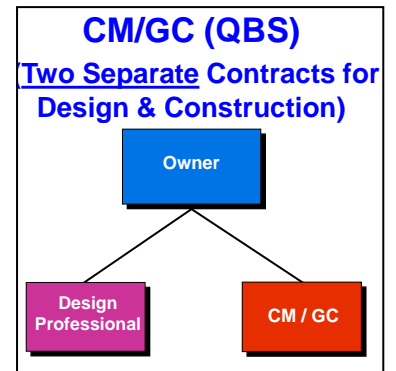
- Planning – The scope of the project and expectations of quality are established by the *Owner* and any consultants it may need. A delivery option is selected and corresponding budget and schedule are also established.
- Design – When the Planning has been completed, the *Owner* selects and engages the design team for the design and preparation of construction documents.
- Award – Generally prior to the completion of design documents, a CM/GC is selected based on a combination of price and qualifications and a guaranteed maximum price for construction is established at selection.
- Construction – The *Owner* contracts for construction with the CM/GC who then contracts with the various trade contractors using cost as the primary selection criteria. The CM/GC can be available during the final design phase to assist in constructability and budget reviews. Work can begin as soon as phased construction documents are completed.
- Occupancy – After the construction of the entire project has been completed, the *Constructor* leaves the site to allow for move-in (installation of *Owner*-furnished equipment and furnishings) and occupancy. If arrangements are made in advance, certain areas of the project (partial occupancy) can be occupied prior to the completion of the entire project.

Defining Construction Manager/General Contractor Qualifications Based Selection – Unique Characteristics of CM/GC QBS

There are three prime players: *Owner*, *Designer* and *Constructor* (manager-general contractor)

The three-question test has the following result:

- | | |
|--|----|
| Are the <i>Designer</i> and <i>Constructor</i> contracts combined? | NO |
| Is the <i>Construction Cost of Work</i> a selection criteria? | NO |
| Is the <i>Total Construction Cost</i> the sole selection criteria? | NO |



CM/GC selection: Qualifications based; does not incorporate any weighting for the *Construction Cost of Work*. Rather, selection is based on weighting of predefined criteria with the award going to the offeror that best meets the predefined criteria; selection criteria must include weighting of some cost factors at 50% unless otherwise approved by DEED. Typically these include *General Conditions* or *Fee* costs.

CM/GC QBS – Other Characteristics

- Relationship of Phases: can accommodate overlapping of each of the project phases
- Ability to Bring *Constructor* on Board During Design: **Yes**
- Risk Allocation: Design risk (quality) allocated to *Designer*; Construction risk (cost and schedule) allocated to CM/GC after design is complete enough to allow all parties to mutually agree. *Owner* is responsible for adequacy and completeness of design.

Phases – CM/GC QBS

- Planning – The scope of the project and expectations of quality are established by the *Owner* and any consultants it may need. A delivery option is selected and a corresponding budget and schedule are also established.
- Design - When the Planning has been completed, the *Owner* engages the design team for the design and preparation of construction documents for the project.
- Award – Generally prior to the completion of the design documents, a CM/GC is selected based on the qualifications of the CM/GC. The cost of the CM/GC's *Fee* and *General Conditions* may also be a consideration.
- Construction – The *Owner* contracts for construction with the CM/GC who then contracts with the various trade contractors based on selection criteria agreed upon by the *Owner*. The CM/GC can be available during the final design phase to assist in constructability and budget reviews. Work can begin as soon as phased construction documents are completed. The establishment of the Guaranteed Maximum Price or Lump Sum can be postponed until more complete design and cost information is available.
- Occupancy – After the construction of the entire project has been completed, the *Constructor* leaves the site to allow for move-in (installation of *Owner*-furnished equipment and furnishings) and occupancy. If arrangements are made in advance, certain areas of the project (partial occupancy) can be occupied prior to the completion of the entire project.

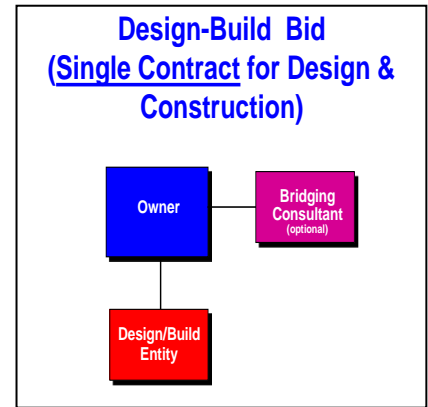
Defining Design-Build Bid – Unique Characteristics

There are two prime players: The *Owner* and the *Design-Builder*. [The *Designer* (architect) and the *Constructor* (general contractor) are combined into one entity.]

The three-question test has the following result:

- Are the *Designer* and *Constructor* contracts combined? **YES**
- Is the *Construction Cost of Work* a selection criteria? **YES**
- Is the *Total Construction Cost* the sole selection criteria? **YES**

Design-Builder selection: Based on *Total Design and Construction Cost* with the award going to the lowest responsible and responsive bidder.



D-B Bid – Other Characteristics

- Relationship of Phases: Can accommodate overlapping of each of the project phases
- Ability to Bring *Constructor* on Board During Design: **Yes**
- Risk Allocation: Design risk (quality) and Construction risk (cost and schedule) allocated to *Design-Builder* at the time of selection based on design criteria at the point in time of the selection. *Design-Builder* is responsible for adequacy and completeness of design and subsequently the entire project; *Owner* is responsible for adequacy of design criteria.

Phases – D-B Bid

- Planning – The scope of the project and expectations of quality are established by the *Owner* and any consultants it may need. A delivery option is selected and a corresponding budget and schedule are also established.
- Bridging - Hiring a consultant (optional) to assist in developing the design to some point without completing the final design, and then allowing another firm, usually a design-build entity, to complete the design is referred to as bridging. The initial design firm is often referred to as the “bridging architect” and the firm completing the design is the architect of record and assumes the liability for the design.
- Design – Based on a set of design criteria provided by the *Owner* (which should be extensive if using this option), *Design-Builder* prepares phased construction documents. *Constructor* component of the *Design-Builder* is available during this period for constructability and budget reviews.
- Award – Concurrent award of both the design and construction phases. Lump Sum is established at selection.
- Construction – *Design-Builder* selects trade contractors, usually with cost as the primary selection criteria. Construction can begin as soon as phased construction documents are available.
- Occupancy – After the construction of the entire project has been completed, the *Constructor* leaves the site to allow for move-in (installation of *Owner*-furnished equipment and furnishings) and occupancy. If arrangements are made in advance, certain areas of the project (partial occupancy) can be occupied prior to the completion of the entire project.

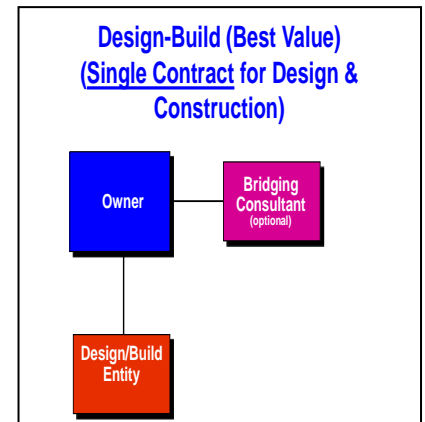
Defining Design-Build Best Value – Unique Characteristics of D-B BV

There are two prime players: The *Owner* and the *Design-Builder*. [The *Designer* (architect) and the *Constructor* (general contractor) are combined into one entity.]

The three-question test has the following result:

- Are the *Designer* and *Constructor* contracts combined? **YES**
- Is the *Construction Cost of Work* a selection criteria? **YES**
- Is the *Total Construction Cost* the sole selection criteria? **NO**

Design-Builder selection is based on some weighting of *Total Construction Cost* including the *Construction Cost of Work* with the award going to the *Design/Builder* that best meets the predefined qualifications and cost selection criteria.



Design-Build BV – Other Characteristics

- Relationship of Phases: Can accommodate overlapping of the project phases
- Ability to Bring *Constructor* on Board During Design: **Yes**
- Risk Allocation: Design risk (quality) and Construction risk (cost and schedule) allocated to *Design-Builder* at the time of selection based on design criteria and building requirements at the point in time of the selection. *Design-Builder* is responsible for adequacy and completeness of design and subsequently the entire project; *Owner* is responsible for adequacy of design criteria.

Phases – Design-Build BV

- Planning – The scope of the project and expectations of quality are established by the *Owner* and any consultants it may need. A delivery option is selected and a corresponding budget and schedule are also established.
- Bridging – Hiring a consultant (optional) to assist in developing the design to some point without completing the final design is referred to as bridging. The initial design firm is often referred to as the “bridging architect” and the firm completing the design is the architect of record and assumes the liability for the design.
- Design – Based on a set of design criteria provided by the *Owner*, *Design-Builder* prepares phased construction documents. *Constructor* component of the *Design-Builder* is available during this period for constructability and budget reviews.
- Award – Concurrent award of both the design and construction phases. Guaranteed Maximum Price is usually established at selection.
- Construction – *Design-Builder* selects trade contractors, usually with cost as the primary selection criteria. Construction can begin as soon as phased construction documents are available.
- Occupancy – After the construction of the entire project has been completed, the *Constructor* leaves the site to allow for move-in (installation of *Owner*-furnished equipment and furnishings) and occupancy. If arrangements are made in advance, certain areas of the project (partial occupancy) can be occupied prior to the completion of the entire project.

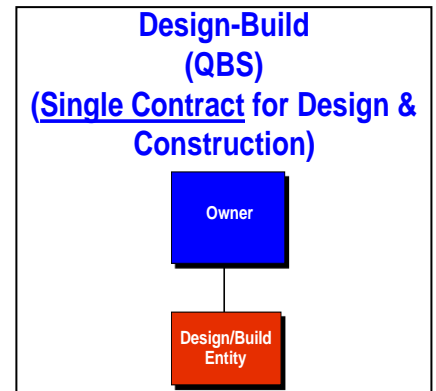
Defining Design-Build Qualifications Based Selection – Unique Characteristics of D-B QBS

There are two prime players: The *Owner* and the *Design-Builder*. [The *Designer* (architect) and the *Constructor* (general contractor) are combined into one entity.]

The three-question test has the following result:

Are the <i>Designer</i> and <i>Constructor</i> contracts combined?	YES
Is the <i>Construction Cost of Work</i> a selection criteria?	NO
Is the <i>Total Construction Cost</i> the sole selection criteria?	NO

Design-Builder selection is not based on any weighting of the *Construction Cost of Work*. Rather selection is based on weighting of predefined criteria, with the award going to the *Design-Builder* that best meets the predefined selection criteria. Selection criteria may include some weighing of *General Conditions Costs* and/or *Fee*.



Design/Build QBS – Other Characteristics

- Relationship of Phases: Can accommodate overlapping of the project phases.
- Ability to Bring *Constructor* on Board During Design: **Yes**
- Design risk (quality) and Construction risk (cost and schedule) allocated to *Design-Builder* at the time of selection based on design criteria and building requirements at the point in time of the selection. *Design-Builder* is responsible for adequacy and completeness of design and subsequently the entire project; *Owner* is responsible for adequacy of design criteria.

Phases – Design-Build QBS

- Planning – The scope of the project and expectations of quality are established by the *Owner* and any consultants it may need. A corresponding budget and schedule are also established.
- Design – Based on a set of design criteria provided by the *Owner*, *Design-Builder* prepares phased construction documents. *Constructor* component of the *Design-Builder* is available during this period for constructability and budget reviews. *Owner* and review agencies can participate in the process.
- Award – Concurrent award of both the design and construction phases. Establishment of Guaranteed Maximum Price or Lump Sum can be postponed until more accurate scope and cost information are available.
- Construction – *Design-Builder* selects trade contractors, usually with *Owner* input. Construction can begin as soon as phased construction documents are available.
- Occupancy – After the construction of the entire project has been completed, the *Constructor* leaves the site to allow for move-in (installation of *Owner*-furnished equipment and furnishings) and occupancy. If arrangements are made in advance, certain areas of the project (partial occupancy) can be occupied prior to the completion of the entire project.

Delivery Method Selection Criteria & Processes

Introduction

Having established a project delivery method vocabulary, the next step is to determine which of the options is most appropriate for a particular project. While no project delivery option is perfect, one option may be better suited than another based on the unique requirements for a particular project. This handbook does not assume there is only one acceptable option for project delivery. The requirements for each project should be evaluated to determine which of the various options would most likely produce the best outcome for the state and the school district or municipality/borough.

Prior to starting the process to select the most appropriate project delivery method it would be advisable to review again, your entities' ability to choose among those listed in the previous section. Administrative code or policy within a given entity may also determine which project delivery options may be used. A review of pertinent laws, rules, regulations and policies early in the life of a project is also strongly recommended in order to allow time to obtain approval for use of an alternative project delivery method.

For example, regulations promulgated by the Department of Education & Early Development require that all contracts over \$100,000 be awarded based on competitive sealed bids unless an alternative construction delivery method is approved and the department concurs in advance of any solicitation the proposed delivery method is in the state's best interest.

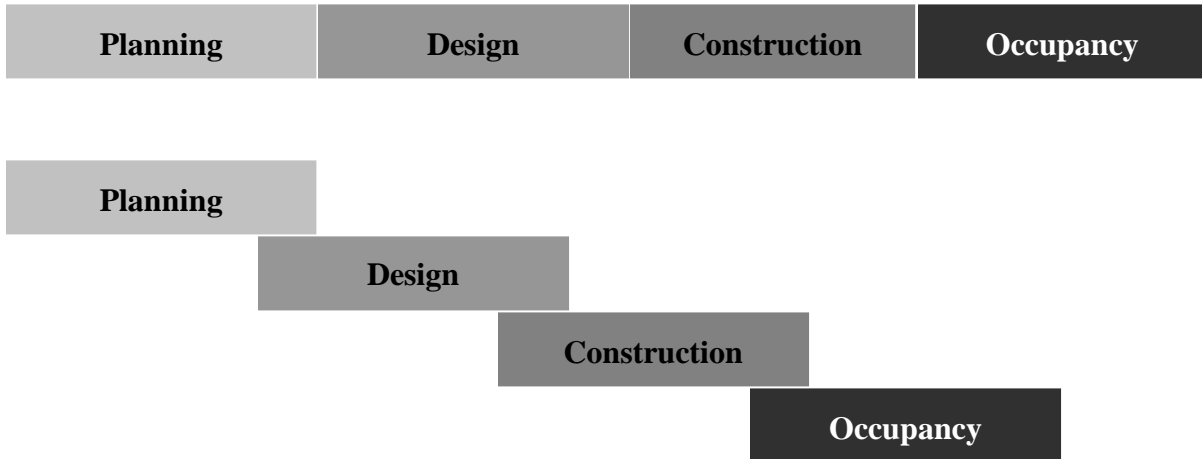
To be able to recommend the most appropriate option, experience in going through the thought-process of applying the factors outlined in this section is essential. It is even better, and widely considered to be good practice, to use the counsel of a group of trusted advisors who can help to ensure that all the factors and their interrelationships can be as fully evaluated as possible.

Trusted advisors should be experienced not only in going through the thought-process of applying the major factors, but ideally would be experienced with implementing all of the different delivery options. Everyone is biased based on his or her individual experiences. An advisor should be able to admit his or her prejudices based on their experiences and then set them aside to help evaluate which delivery option is in the best interest of a particular project.

The Project Environment

The recipient entity of state aid for school construction through DEED should consider the environment in which the project is taking place. It should assess the major factors influencing the project in question and then consider the requirements of the project in light of the unique characteristics of each of the identified project delivery options. By properly assessing these influences, the entity requesting approval from the department will not only be able request a specific delivery option, but will also be able to answer the question, "Why am I recommending this particular delivery option?"

Every project occurs in the context of a unique environment, an environment consisting of a variety of both physical and philosophical factors. This environment bears greatly on the successful maturation of a project. That maturation occurs in four typical phases: planning, design, construction and occupancy. These can occur sequentially or may be overlapped (see illustration).



The main characteristics of a project's environment consist of: its schedule, the need and ability to establish and define its scope, the resources available to the project, the risks associated with the project, and the external constraints placed on the project.

Part of the project environment is the associated risks. The risks associated with the design and construction process are generally not affected by the chosen project delivery method. However, the timing and the allocation of the risk does vary depending on the project delivery method. Therefore, each delivery option provides a different approach to allocating the risks and typically will result in timing differences in transferring the various risks. Any first time user of any project delivery option is cautioned to be sure they understand these differences.

The degree of risk assumed by the *Designer* and/or *Constructor* should be directly proportional to the cost associated with the project. The risk(s) associated with a construction project should be allocated to the party with the best ability to control and manage that risk. The purchase and the requirement for purchase of insurance coverage is just one way in which *Owners, Designers,* and *Constructors* try to allocate and controls some of the risk.

In selecting the appropriate delivery method, a thorough review of the potential risks and their allocation should be performed. The *Owner* should evaluate its ability and willingness to assume the risk inherent to the option selected. To accomplish this, each of the relevant major factors should be reviewed and considered.

Although identifying and coping with the factors in a project's environment is both complex and an ongoing task until completion is achieved, the focus of this handbook is primarily project initiation not project execution. We will use the luxury of this focus to narrow our determination of primary factors from the overall project environment to those that bear most directly on

determining the “best” project delivery method. We are further assisted in this effort by one of the external factors for school construction projects receiving state aid. This external factor is that the Design-Bid-Build project delivery option is the standard project delivery method for school construction projects. However, we can recognize there are some primary factors affecting particular projects that might eliminate this delivery method or make it untenable without significantly increasing risk.

Establishing Determining Factors

This handbook groups the *Primary Factors* into five categories as shown in the table below:

Need Factors		Success Factors		
Schedule/ Necessity to Overlap Phases	Ability to Define the Project Scope/Potential for Changes	Owner’s Internal Resources & Philosophy	Desire for a Single Contract or Separate Contracts	Regulatory/ Legal or Funding Constraints
Tight Project Milestones or Deadlines	Scope Definition	Ability or Desire to Define and Verify Program & Design Content/Quality	Ability or Desire to Take Responsibility for Managing the Design	Regulatory and Statutory Requirements
Amount of Overlap of Design & Construction Phases	Potential for Changes During Construction	Experience with the Particular Delivery Method & Forms of Contracts	Ability or Desire to Eliminate Responsibility for Disputes Between Designer and Builder	State Budget and Funding Cycles
	Need/Desire for the Contractor’s Input During Design	Ability to Participate in Multiple Trade Contractor/Supplier Evaluations		
	Flexibility to Make Design Changes After Construction Cost Commitments	Desired Contractual Relationship and Ability to Recoup Savings		

These are certainly not all that need to be considered but addressing these *Primary Factors* will guide the selection of the most appropriate delivery option. Furthermore, addressing these early in the project cycle will increase the chances for a successful project.

The first two categories are grouped as *Need Factors*. These factors determine the need to move away from the Design-Bid-Build delivery method established as the standard delivery method for projects administered by DEED. Entities requesting approval for an alternative project delivery method must “prove out” in these categories regardless of their desire or preference for a delivery method other than Design-Bid-Build. The remaining three categories are grouped as *Success Factors*. These are the elements of the project environment that can determine how likely a project is to succeed in using an alternative project delivery method and which of the delivery options is most appropriate. Many of these are tied to the *Owner’s* ability to execute the project in a non-traditional method. Following an acceptance by DEED that a need to move away from the

a non-traditional method. Following an acceptance by DEED that a need to move away from the department's standard delivery method has been established, the requesting entity must demonstrate it both has chosen and that it has the ability to manage the factors of the project environment aligned with the successful implementation of the alternative delivery option being considered.

Selecting a Delivery Method

Although there are a number of factors in making a decision concerning which project delivery option to recommend, by the time a few *primary factors* are applied, it becomes apparent which options are least appropriate. By the process of elimination, the most appropriate option(s) can be determined.

For each factor, there is a *Critical Question* that should be considered. Grouped within the five categories, each *primary factor* is listed along with its critical question, appropriate commentary and the ramifications associated with the answer. *Need factors* are addressed first.

NEED FACTOR: Schedule/Necessity to Overlap Phases

Primary Factor: *Tight Project Milestones or Deadlines*

Critical Question: *Is overlap of design and construction phases necessary to meet schedule requirements?*

Discussion: Schedule is always a consideration on construction projects and will often drive the selection of the project delivery option. During the planning phase, a preliminary schedule should be developed. This master schedule will include an estimated duration for each phase of the project: needs assessment, project identification, planning, design, award, construction, and occupancy.

Simultaneously, the school district entity should evaluate their required date for occupancy. Comparing this date to the date generated from early versions of the preliminary master schedule will indicate whether any acceleration or overlapping of any of the phases may be required. "Traditional" Design-Bid-Build is inherently a linear, sequential process as opposed to Design-Build or CM/GC, each of which is capable of overlapping of the phases in the design and construction process.

Ramifications: If the project requires a schedule that can only be maintained by overlapping of the design and construction phases, then one of the alternative delivery options should be considered.

Primary Factor: *Amount of Overlap of Design and Construction Phases*

Critical Question: *Is there time to complete the Design Development stage of the design prior to starting construction?*

Discussion: Assuming it has already been determined that a traditional linear approach to the design and construction phases will not work, and some overlapping of the two phases is necessary, the next question is, “How much overlap of the design and construction is required?” If the construction start date is dictated by the construction completion date, and is required to be very early in the design process (e.g., during the Schematic or early Design Development stages), then the *Owner* should understand the additional responsibility and risk it may be taking by retaining the design responsibility and holding the design contract.

Other factors such as available resources to manage the design, experience with managing the aggressive decision making that will be required, and the possibility of being placed in between the *Designer* and the *Constructor* would all be closely related to the evaluation of this factor.

Ramifications: If the project requires that construction start early in the design process, then who is taking responsibility for managing the design and the timely completion of the design needs to be considered. Transferring the design risk to the party responsible for construction may be a reason to consider using Design-Build in lieu of CM/GC.

NEED FACTOR: Ability to Define the Project Scope/Potential for Changes

Primary Factor: Scope Definition

Critical Question: Is the scope of work difficult to define?

Discussion: Each District/Municipality is unique and will have special requirements that could have a major impact on determining the proper method of delivery. Similarly, the complexity of the project and the ability to fully define the scope, early in the process, could also have an impact on determining the appropriate project delivery option.

The three points in any project where the need to define the scope become critical are:

1. Prior to selection of a constructor
2. After selection of a constructor but prior to establishing quality, cost, and schedule
3. After establishing quality, cost, and schedule

Each delivery option will require different levels of scope definition at each of these critical points. The inability to fully define scope early in the process will have a direct impact upon the *Owner's* ability to manage scope and cost increases later in the project.

Ramifications: If it would be difficult to produce a set of drawings and specifications that will fully describe the work in question (e.g., a renovation of an existing building), then one of the qualifications based selection options should be considered.

Primary Factor: *Potential for Changes During Construction*

Critical Question: *Is there a significant potential for changes during the construction phase?*

Discussion: Whenever the scope is difficult to define or other issues tend to indicate that there is a high potential for changes during the construction phase, careful consideration should be given on how this will be handled. If one of the competitive cost delivery options (D-B-B, CM/GC BV, D-B BV) is used, as much of the work as possible should be quantified before a lump sum cost is agreed upon. In an environment of high uncertainty, one of the competitive qualifications options (CM/GC QBS, D-B QBS) should be considered.

Ramifications: If the scope of the project is likely to change during construction, then one of the qualifications based delivery options may be more appropriate. An example might be a project where the tenants are unknown or likely to change. In this example, the identification of the tenants may be a cause for required changes throughout all phases of the project including during the construction phase.

Primary Factor: *Need/Desire for the Contractor's Input During Design*

Critical Question: *Is input from a Constructor during design required or desired?*

Discussion: Throughout a project, the *Owner* will make decisions based on their definition of value. What varies from one project delivery option to another is who (which team member) is providing the information and when are they providing it during the project sequence.

This handbook looks at two broad types of information provided: 1) Design Solution and 2) Constructability (including cost and schedule review of design solutions). What differs with each delivery option is who is providing the information and when are they brought on board. Also, when the information is being provided, and whether the information is intended to be provided at specific points in time or continuously throughout the process will depend on which delivery option is chosen.

There are many times when the demands of the project are unique or difficult to quantify. In these instances, the option of having the *Constructor* on board during the design phase can be of value. The *Constructor* can assist in schedule development and monitoring, in constructability and budget reviews, in factoring in current market conditions, and in locating and procuring long lead equipment items and trade contractors necessary for the work.

If there are significant schedule, budget or constructability issues, it can be helpful for the decision maker to review these issues during the design phase. Many times the *Designer* does not have the range of experience in the actual construction of a project to adequately address these issues. However, it should be noted that it is possible to hire a consultant to perform these tasks that will leave the agency open to all of the delivery methods and enable management and development of the scheme prior to commitment to a *Constructor*.

Ramifications: If the assistance of the *Constructor* is desired during the design phase to assist in defining the scope, constructability reviews, schedule determination, or budget confirmation, then one of the alternative delivery options should be considered.

Primary Factor: *Flexibility to Make Design Changes After Construction Cost Commitments*

Critical Question: *Are your design and scope requirements fully defined?*

Discussion: The cost of making changes throughout a construction project increases as the project develops. In the worst case this would include needing to make changes to work already in place. In an ideal situation, the design should be developed to the point where the scope of works is known and the amount of changes can be reasonably predicted before commitment to a *Constructor*.

Where the design is used as the basis for selection of the *Constructor* in a competitive cost environment, its completeness will be a key factor in the successful cost management of the project once a commitment has been made to a contractor, regardless of whether construction has started.

Ramifications: It is important when selecting your project delivery method to consider how tightly the scope of work can be defined and review whether design flexibility is required during the construction process. If a significant amount of flexibility is required after commitment to a contractor, then a qualifications based selection method might be more appropriate than one of the competitive cost methods.

SUCCESS FACTOR: Owner's Internal Resources & Philosophy

Primary Factor: *Ability or Desire to Define and Verify Program and Design Content/Quality*

Critical Question: *Will the Owner utilize outside resources to verify quality?*

Discussion: The *Owner's* assurance that there is a responsible person designated to verify quality during construction will relate directly to the *Owner's* in-house resource availability, and to what party the *Owner* assigns the role of project management on each specific project. How much direct influence an *Owner* has on how the quality is defined and verified will be affected by the decision of which option is chosen.

The *Owner's* definition of quality must be identified and communicated for the record early in the process. The quality of a construction project can be characterized by the following:

- *Functional quality* – the ability of the facility space to meet the *Owner's* program requirements (as well as code and safety requirements)
- *Systems quality* – the ability of the various building systems to meet the *Owner's* defined needs
- *Aesthetic (scope) quality* – the level of design and finish as defined in the design documents
- *Workmanship quality* – the physical execution of the design

All of these are closely related. How they are defined and verified should be considered when determining which project delivery option to use.

In the standard Design-Bid-Build delivery option, the definition of quality is heavily dependent upon the architect's ability to understand and translate the *Owner's* needs. In the CM/GC delivery options, this task is still assigned to the architect, though with assistance from the contractor. In Design-Build the *Design-Builder* assumes these duties. Production of quality during the construction phase is, in every option, the primary responsibility of the *Constructor*, but the verification of that quality will vary between the options. The architect, as the *Owner's* representative, is responsible in Design-Bid-Build and CM/GC. The *Owner* assumes this role in Design-Build.

Ramifications: If in-house resources are not available, extra caution should be taken when using Design-Build. If Design-Build is desired and in-house resources are not available, outside resources should be engaged to assist in verifying that the quality desired by the *Owner* is incorporated.

Primary Factor: *Experience with the Particular Delivery Method and Forms of Contracts*

Critical Question: *Are agency in-house personnel experienced in alternative delivery options or, if not, will in-house personnel be augmented by other agency or contracted personnel?*

Discussion: The responsibility for success on every school construction project ultimately rests with the entity executing the project. Thus, the responsibility for overseeing and managing the entire process resides with the *Owner*. A "project manager" typically handles the process, whether formalized or not. For a typical school project, this responsibility can be fulfilled in one of several ways including:

1. In-house resources
2. Another state agency (i.e., DOT/PF)
3. A third-party consultant

One factor to consider is the level of expertise and experience of the *Owner* embarking on the construction project. In deciding which project delivery option and form of contract to recommend, the availability of *Owner* staff resources and experience is a major consideration. Some entities perform construction routinely and have capable and available staff to manage all phases of the project. Others seldom involve themselves in construction and thus will need to obtain experienced assistance.

Obtaining assistance for the *Owner* from a third party project or program manager in certain circumstances may be considered. There are unique requirements for the school construction process. This should be taken into consideration when evaluating the use of third-party resources.

Ramifications: Regardless of the delivery option selected, if the *Owner* is inexperienced in management of a capital outlay program, assistance should be obtained by contracting with an experienced professional or by making arrangements for assistance from another state agency that has that experience.

Primary Factor: *Ability to Participate in Multiple Trade Contractor/Supplier Evaluations*

Critical Question: *Does the Owner need the ability to participate in the selection and evaluation of trade contractors or suppliers?*

Discussion: There may be instances where the *Owner* has a direct interest in the selection and evaluation of subcontractors or suppliers for a portion or the majority of the work. For example, the *Owner* may have a complex security system within a building that will require development with a particular subcontractor.

Instances may also occur where many elements of the project scope require development, particularly in a fast track environment, and a relationship is required that offers a high degree of flexibility in choice and cost transparency from the subcontractor via the contractor.

Ramifications: Where the input required is limited to specific trades or suppliers it is important to ensure the *Owner's* bid documents are structured in such a way to allow control over individual elements, in which case any of the delivery options could suit the *Owner's* requirements. However, if the *Owner* requires a high degree of flexibility across many elements of the project, or the level of control is anticipated but unknown, then a competitive qualifications selection option will afford the *Owner* greater control and cost transparency.

Primary Factor: *Desired Contractual Relationship and Ability to Recoup Savings*

Critical Question: *Does the Owner wish to have a complete and timely access to all of the Contractor's Information?*

Discussion: How the *Owner* selects the construction entity and the resulting contractual relationship created will affect what information is required to be provided and when. For

example, whether or not the recipient entity and their consultants are participants in the specialty contractor and vendor selection process and the information shared during this process, will be a direct result of the contractual relationship created. Access to all available information may or may not be necessary or desired. The *Owner* should be aware that the selection of a project delivery option and the resulting contractual relationship would likely affect the manner in which information may be required to be provided.

Legally, a fiduciary relationship arises automatically in several situations, however the specific form of fiduciary relationship contemplated in this document is the one arising when a person or firm has a duty to act for another on matters falling within a contractual relationship. More specifically, a person or entity acting in a fiduciary relationship to the *Owner* owes the *Owner* the duties of good faith, trust, confidence, and candor, and must exercise a high standard of care in managing money and property.

A *Constructor* selection based solely on *Total Construction Cost* will generally result in a contractual relationship that is not a fiduciary one. This will affect the timing of the availability of information and the ability of the *Owner* to make use of that information. If the construction entity is not on board during the design (typical in Design-Bid-Build when cost is the only consideration), collaboration at this stage is not an issue. If, however, some contractor involvement during the design phase is needed, a *best value* selection that includes considerations other than *Total Construction Cost*, can be used in selecting the *CM/GC* or the *Design-Builder*. Nonetheless, the contractual relationship developed is generally very similar to Design-Bid-Build concerning access to information.

A *qualifications based selection* (i.e., the *Construction Cost of Work* not a factor at the time of selection) will create a fiduciary relationship. This also allows complete and timely access to the contractor's information. If the project scope is difficult to define, or matching the scope to the project budget is anticipated to be difficult, then having a collaborative process could prove to be advantageous. In such situations, a qualifications-based selection might be more appropriate.

Ramifications: If the project necessitates an open, collaborative relationship among the parties, then a *qualifications based selection* should be considered.

SUCCESS FACTOR: Desire for a Single Contract or Separate Contracts

Primary Factor: *Ability or Desire to Take Responsibility for Managing the Design*

Critical Question: *Does the Owner have in-house design resources qualified to oversee design professionals, and does the Owner have the ability to commit sufficient resources to design management?*

Discussion: Some recipient entities may have professional staff capable of providing quality oversight of design professionals for the *Owner*. The *Owner* must make an honest self-assessment, taking into account factors regarding complexity of the project and competing

obligations of in-house staff, to determine realistically whether the agency is capable of design management.

Given self-assurance in agency ability, the agency can then consider the practicality of any desire to take on the responsibility for providing design management. If the project is of such unique function that the *Owner* has greater knowledge of its design intent than the agency thinks could be translated reliably into a design without intimate involvement of the district or municipality's own staff, then the *Owner* should consider holding a separate contract with the design professional. However, if the desire exists, the *Owner* must consider its commitment to provide the necessary resources.

Ramifications: Ability and desire to manage the design of a project are both reasons to consider holding separate contracts for design and construction, and argue against Design-Build.

Primary Factor: *Ability or Desire to Eliminate Responsibility for Disputes Between Designer and Builder*

Critical Question: *Does the Owner desire to hold a single entity responsible for coordination, collaboration, and productivity for the entire project?*

Discussion: A completed project is the result of extensive coordination of talent and resources. The skill sets of the *Designer* are not the same as those of the *Constructor*. Viewpoints and interpretations differ, as do personalities, agendas, ethics, and levels of responsibility.

Although holding separate contracts allows the *Owner* to manage the project through the leverage of direct legal relationships with the *Designer* and with the *Constructor*, the *Owner* takes on the responsibility for resolving disputes between the other two parties. If the *Owner* has the greater desire to transfer that responsibility than to use his contractual leverage, its tool is the single contract with an integrated contractual delivery method—Design-Build.

Ramifications: The integrated nature of Design-Build, with its single contract, allows the *Owner* to hold a single entity responsible for the project and keeps disputes between the *Designer* and the *Constructor* in-house with the *Design-Builder*. The trade-off is the loss of *Owner* leverage penetrating separately to the differing skill sets and corresponding work products.

SUCCESS FACTOR: Regulatory/Legal or Funding Constraints

Primary Factor: *Regulatory and Statutory Requirements*

Critical Question: *Do laws, rules, regulations, etc., permit the use of an alternative project delivery method?*

Discussion: The statutory and regulatory basis for use of alternative project delivery methods on school construction projects has already been set out in an earlier portion of this publication.

The local requirements, under which a District/Municipal entity undertaking a project operates, may ultimately be the deciding factor in selecting the project delivery option. While the statutes, regulations and policies of the Departments of Administration (DOA) and Transportation & Public Facilities (DOT/PF) govern the procurement process for most State agencies, political subdivisions of the state may adopt their own laws, rules, regulations, and policies. While it is generally safe to say that the “standard” method of *Design-Bid-Build* is an acceptable method for all District/ Municipal entities, a review of the pertinent laws, rules, regulations, and policies early in the life of the project is strongly recommended in order to allow time to obtain approval for use of an alternative project delivery option. Regulations within a given locality may also determine which project delivery option can be used.

For school capital projects that incorporate state aid through the Department of Education & Early Development, regulations require that all contracts be awarded based on competitive sealed bids unless an alternative delivery option is approved by the commissioner. The commissioner will base a decision on the rationale provided by the requesting agency and the factors discussed in this handbook.

Ramifications: The decision on what delivery option is most appropriate must be made early in the planning phase of the project and properly documented so that sufficient time and justification can be prepared to gain approval for an alternative delivery option if that option is most appropriate.

Primary Factor: *State Budget and Funding Cycles*

Critical Question: *Is funding available for construction at initiation of design?*

Discussion: The State’s budget and funding cycle could have an impact on the timing, sequencing and a subsequent recommendation of a project delivery option. There are three funding combinations for design and construction addressed by this handbook. One is complete project funding that would include design and construction funding all at one time. The second is phased project funding, which is one funding for design, and a second separate funding for construction. The third, is phased construction funding which is one funding for design and then funding of multiple components of construction each funded separately.

Ramifications: While any of the options will work with complete project funding, any phasing of the funding can have a major impact on the decision of which option to select. For example, without complete project funding, Design-Build is not feasible.

Summary

With a list of options and list of major factors to consider, the goal is to determine through a process of elimination, “Which project delivery options are least appropriate to recommend on my project?”

The order in which the *primary factors* are applied by DEED in the review and approval process is illustrated in the ***DEED Alternative Project Delivery Approval Flowchart*** shown in Appendix B. An assessment of the *Need Factors* is applied to the project, any one of which may drive the need to use an alternate project delivery method. Next, the *Success Factors* are applied. These factors reflect judgments that must be made regarding the ability of *Owners* to be successful in implementing a particular delivery method. You should consider the input of several advisers who have experience going through this process. This experience will enable the *Owner* to understand the consequences of managing the project under the various delivery options.

For example, the need to accelerate the schedule may be cited as one of the primary reasons Design-Bid-Build is not the best option. There are circumstances, however, where breaking the project into multiple prime bid packages, each being design-bid-build, is a perfectly reasonable option. Having someone with the experience and understanding of how to manage such a process, and the risks associated with it, could offer valuable guidance as to many of the pros and cons of delivering a specific project using the multiple prime contractor variant of the Design-Bid-Build project delivery method.

As the factors are considered, how they relate to the ***DEED Project Delivery Option Matrix*** (p. 12) demonstrates which options have been eliminated. Since every project is unique, which factors apply and the weight they need to be given is also unique on every project. A group of trusted advisers should be able to use the benefit of their experience to assist the *Owner* in determining which factors should carry the most weight and ultimately which of these six options is most appropriate for each particular project.

Implementing Project Delivery Methods

Introduction

Just selecting the “right” delivery option is not enough. There are numerous details to be addressed in order to ensure the desired results are achieved. Requests For Proposals (RFPs) that clearly spell out expectations and match the right selection criteria with the right project delivery option are examples of the type of issues that must be addressed when implementing any project delivery method. Entities looking for assistance with these issues will benefit from the following information.

Considerations for Solicitation and Award

Using the *DEED Project Delivery Options Matrix*, *Primary Factors* and *DEED Alternative Project Delivery Approval Flowchart*, entities requesting an approval of an alternative delivery method under 4 AAC 31.080(f) will need to provide the following evidence and supporting documents.

Concurrence Items (Required prior to approval of alternative project delivery method)

- Provide a resolution from the municipal/borough entity or school board authorizing the requested alternative project delivery method; if municipal/borough code allows the use of the requested delivery method, a copy of that code can substitute for a dedicated resolution.
- Provide a document supporting the requested alternative project delivery method as being in the best interest of the state; address:
 - How the alternative delivery method effort will result in lower project costs/increased value to the state (be specific);
 - How quality standards will be maintained; and
 - How unknown conditions will be accounted for.
- Provide the name and qualifications of the *Owner’s* project manager for the alternative delivery method process (list specific experience in the requested delivery method).
- Describe the basic process leading up to the award of the alternative delivery method contract (establish how competitive selection will be achieved).

Upon approval of an alternative delivery method under 4 AAC 31.080(f), directives will be issued by the department applicable to each individual project. These directives will be based on the following factors, some of which are required and will be applied to each project approved for an alternative delivery method and some of which are discretionary and will be applied as needed by the department to either increase the likelihood of a successful project or establish a stronger determination of “best interest” for the state:

Required Alternative Project Delivery Directives

- The alternative project delivery solicitation will occur under competitive, sealed proposals or, in the case of Design-Build-Bid, sealed bids.
- The RFP must contain the following information:
 - The aggrieved offeror protest provision meeting requirements of 4 AAC 31.080(c);
 - Identification of project bonding, insurance, and prevailing wage requirements; and
 - Identifications of the required project warranty period.

- The solicitation RFP and supporting documents including, but not limited to 1) a cost estimate based on the RFP documents and prepared by a qualified cost estimator showing the anticipated construction cost to be at or below the budgeted amount, 2) the proposed scoring criteria, 3) positions held by evaluation team members, and 4) a copy of the agreement by which the work is to be undertaken, including any general conditions, supplementary conditions, and other project documents that the agreement will incorporate by reference must be approved by the department prior to advertising.
- The RFP evaluation team will include maximum of five members and must include a Facilities staff member from DEED if determined to be appropriate by the DEED Facilities Manager.
- Evaluation team meetings may be in person or by telephone.
- A majority of the evaluation team must be experienced facilities professionals; the non-majority may consist of educators, board members or other elected/appointed officials, or other interested parties.
- The contract awarded must either be a *guaranteed maximum price* (GMP) or fixed price contract (allowances for cost savings may be incorporated).
- Sealed cost proposals will be provided separate from the responses to remaining proposal items and will be reviewed only after all other evaluation elements are finalized.
- Provisions for local hire as an evaluation criteria or contract performance requirement are excluded (ref. State of Alaska Attorney General advice dated February 18, 2004).

Additional Alternative Project Delivery Directives

- The RFP will require a guaranteed maximum price (GMP) from each offeror with a breakdown of costs by DEED Cost Format, Level 2.
- For Best-Value selections, consideration of cost as a selection criterion will incorporate an evaluation of both the GMP and an evaluation of the offeror's *General Conditions* and *Fees*. The GMP will constitute at least 50% of the possible scoring with all cost factors constituting at least 60% of the possible scoring.
- For QBS selections, the RFP will require objectively calculated cost factors to include the *Pre-construction* cost, *General Conditions* costs and the constructor's *Fee* to combine for at least 50% of the available points.
- An independent cost estimator will be retained and a cost estimate will be prepared for the work prior to negotiation of the lump-sum contract.
- A separate scoring factor will be included in the evaluation criteria to evaluate the offeror's plans/abilities to incorporate the resulting facility into a preventive maintenance and facility management program.
- Prior to solicitation, designs will be completed to a sufficient detail (approximately 35% or greater) to provide clarity to the scope of the project and will contain: design standards, necessary drawings, material specifications, performance specifications, project constraints, and other information relevant to the project. (Note: this directive will become required for any request for Design-Build.)
- Identification of project documentation (i.e. software, manufacturer's literature, product warranties, product operating handbooks, inventory of installed equipment, maintenance

cycles, etc.) required to establish an effective preventative maintenance and facility management program as defined by AS 14.11.011(b)(4) will be included in the RFP.

- Evaluation criteria and weighting as selected from Appendix C may be mandated by DEED to ensure selection criteria is responsive to the project environment.
- Restrictions on the use of a multi-step selection process. A multi-step selection process is any solicitation which evaluates offerors using sequential criteria. Typical first-step criteria includes qualifications/experience, technical capability, capacity, etc. and usually results in a short-list of qualified offerors continuing to subsequent steps and contract award.
- Legal review of the RFP by the entity's attorney or an independent counsel experienced in construction solicitations and familiar with the entities local codes and structure.
- For projects including site as a criteria, provide site parameters and site selection criteria.
- In accordance with 4 AAC 31.025, sufficient interest via a deed or lease will be established for the proposed site prior to advertising.
- *Owner* representation must be provided by one of the following methods:
 - The *Owner* must provide a dedicated project manager with suitable experience and credentials to establish criteria, perform inspections and enforce *Owner* requirements;
 - The *Owner* must contract for project management/*Owner* representation by consultant (subject to the provisions of statutory limitations on fees – AS 14.11.020, and professional services procurement requirements – 4 AAC 31.065); or
 - The design team is to be retained by the district under a separate contract from that of the general contractor and will act on the *Owner's* behalf.
- All construction materials that are to be installed by the contractor are to be purchased by the contractor; the recipient (i.e. municipality/borough/school district) shall not purchase and/or stock pile materials that are to be utilized by the contractor as part of the project construction.
- The price component will be factored such that the difference between the lowest cost proposal and other proposals grows at a rate of twice the proportionate differential between offers (a sample of that formula is depicted below).

$$\text{Total GMP Points} = 300 \times (\text{Lowest Received GMP} / \text{Proposer's GMP}) - 200$$

[where 100 is the maximum points available for the GMP]

Conclusion

The environment in which a project is initiated may necessitate an *Owner* to take specific, intentional steps toward setting its course in order to achieve a successful project. Those steps include assessing the project delivery method most likely to result in a project that meets scope, schedule and budget constraints.

This handbook builds on an analysis of historic use of alternative project delivery methods on school projects in Alaska. It provides both a framework for clear discussion of the options and a process of evaluation whereby an *Owner* may, in conjunction with trusted advisers, determine the appropriateness of using an alternative delivery method.

Stipulations and directives for various delivery methods are included for use once a best-interest determination has been made in favor of an alternative method. These directives are intended to keep the process of selecting construction entities for public capital projects funded with state aid through the Department of Education & Early Development open and fair.

Sources

1. *Project Delivery Options – Understanding Your Options*; Atlanta, GA; Georgia State Financing and Investment Commission, 2003.
2. *Project Delivery Options – Selecting the Appropriate Project Delivery Option*; Atlanta, GA; Georgia State Financing and Investment Commission, 2003.

Glossary

CM/GC Best Value

This is the construction manager as general contractor (at-risk) method. This method is defined by the use of separate design and construction contracts where the cost of the work is a selection criteria and the total construction cost is not the sole selection criteria.

CM/GC QBS

This is the construction manager as general contractor (at-risk) method with a variation of the selection process. This method is defined by the use of separate design and construction contracts where the cost of the work is not a selection criteria nor is the total construction cost the sole selection criteria.

Competitive Sealed Bid

A standard solicitation provision whereby an offeror's price proposal is transmitted in a sealed envelope for consideration at a bid opening for comparison with other offerors. This solicitation method is the default method under DEED regulation.

Competitive Sealed Proposal

An alternative solicitation process whereby factors other than, or in addition to price are solicited for consideration. Offeror's are usually scored by a selection panel. This solicitation method is allowed under DEED regulation when supported as being in the state's best interest.

Constructor

The entity in a capital project responsible for the construction of a facility or infrastructure project (as differentiated from "contractor", which can be any entity providing a product or service).

Constructor's Fees

The component of a Constructor's Total Construction Cost that are above its direct and indirect costs (i.e., its profit); usually expressed as a percentage of those costs.

Construction Cost of Work

The fixed costs of labor and materials as provided for in the project scope.

Contract Type

The type of contractual arrangement between *Owners*, *Designers* and *Constructors*. Contract Type is one of the two determinants, Selection Method being the other, of a project delivery method.

Critical Question

The central question for each Primary Factor in the decision making process related to selection of the most beneficial project delivery method. Answers to critical questions are used to move through the *Alternative Project Delivery Approval Flowchart* to determine delivery options that best match a project's environment.

Designer

The entity in a capital project responsible for the design of a facility or infrastructure project and the documentation of that design for use by the Constructor.

Design-Bid-Build

Often referred to as the “traditional” project delivery method. This method is defined by the use of separate design and construction contracts where the cost of the work is a selection criteria and the total construction cost is the sole selection criteria.

Design-Build Best Value

This is normal design-build. This method is defined by the use of a combined design and construction contract where the cost of the work is a selection criteria and the total construction cost is not the sole selection criteria.

Design-Builder

A term used to identify the entity contractually responsible to the *Owner* for both the Design and Construction of a capital project.

Design-Build Low Bid

This is a specific variation of the design-build project delivery method. This method is defined by the use of a combined design and construction contract where the cost of the work is a selection criteria and the total construction cost is the sole selection criteria.

Design-Build QBS

This is normal design-build with a variation on the selection process. This method is defined by the use of a combined design and construction contract where the cost of the work is not a selection criteria nor is the total construction cost is the sole selection criteria.

General Conditions

The component of a Constructor’s Total Construction Cost that account for its cost of doing business that are not direct costs for materials and labor on a capital project (i.e., its overhead); usually itemized by category such as “home office”, insurance, etc. but can be expressed as a percentage of direct costs.

General Contractor

The contractual entity responsible to an *Owner* for the delivery (execution) of a facility or infrastructure project. Subcontractors work under the authority of the General Contractor but do not have a direct contractual relationship with the *Owner*.

Need Factors

The subset of Primary Factors that drive an *Owner’s* need to explore and/or use alternative project delivery methods. These factors pertain to challenges related to a projects schedule and scope definition.

Owner

The entity in a facility or infrastructure project that will issue contracts and direct work related to the design and construction and make payments following performance; the *Owner* is normally also the end user of the project.

Pre-construction Services

Services provided by a Constructor to support of the Designer in finalizing a project’s design prior to the commencement of construction. Typical services include cost estimating, constructability reviews, schedule analysis, value analysis, phased construction, etc.

Primary Factors

The group of key factors of a project's environment that test both the need to move from Design-Bid-Build delivery and the *Owner's* likelihood of success using an alternative project delivery option.

Project Delivery Options Matrix

The matrix of basic options for the delivery of construction projects which results from the combination of selection methods (3 possible) and contract types (2 possible). This matrix yields six unique combinations understood to encompass all project delivery methods and their variants.

Qualifications Based Selection

A method of selecting a Constructor where the Total Construction Cost is not a factor for selection. Under this method, constructors are primarily evaluated based on the qualifications they have that would indicate their ability to succeed on a particular project.

Selection Method

The method by which an *Owners* will select the Constructor for a capital project. Differentiation of Selection Methods hinges on the role of the Total Construction Cost in the selection process. Selection Method is one of the two determinants, Contract Type being the other, of a project delivery method.

Success Factors

The subset of Primary Factors that drive assess an *Owner's* ability use alternative project delivery methods. These factors pertain to challenges related to resources, philosophy and legal constraints.

Total Construction Cost

A Constructor's price for the execution of a facility or infrastructure project inclusive of the Construction Cost of Work (direct costs), General Conditions (overhead) and Fee (profit). Often solicited by *Owner's* as a lump sum or guaranteed maximum price.

Total Design and Construction Cost

The combination of Total Construction Cost and design fees for which an *Owner* is responsible on a capital project.

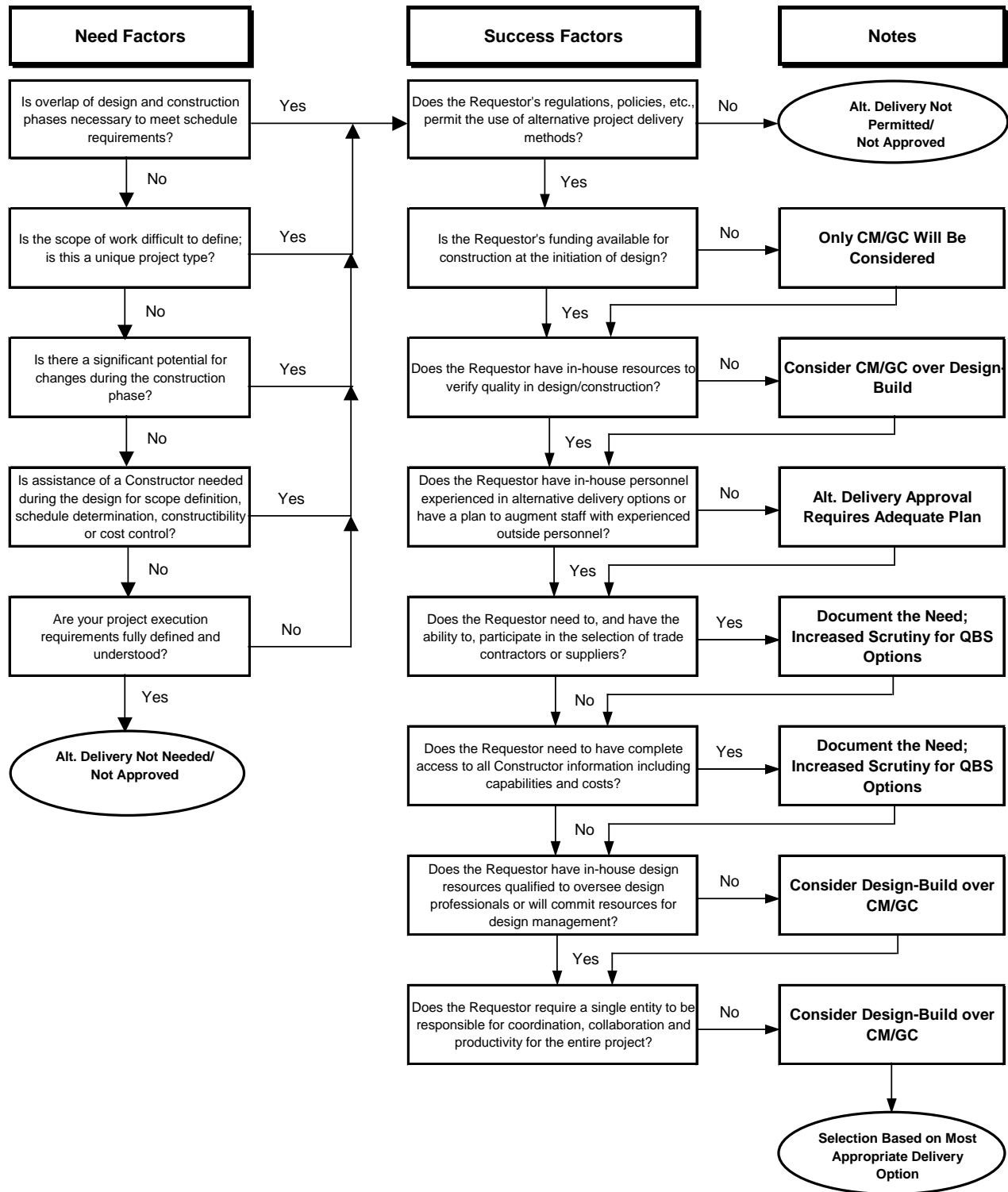
Traditional Method

A term synonymous with the Design-Bid-Build project delivery method; also known as low bid.

Unique Characteristics

The features of a project delivery option that set it apart from all other options. Unique Characteristics result from assessing the Contract Type and Selection Method of a project delivery method.

DEED Alternative Project Delivery Approval Flowchart



Sample Evaluation Criteria

Preconstruction Services Experience	Range: 5-10%
-------------------------------------	--------------

Describe your firm's approach to the following preconstruction responsibilities: Design review and commentary, document coordination, constructability review and commentary, cost estimating, value engineering, site logistics, and subcontract preparation and packaging. Provide two or more examples of the range of pre-construction services your firm has provided on previous design-assist projects or projects with a guaranteed maximum price (GMP Projects). Describe the manner in which pricing and constructability services will be provided for areas of work normally subcontracted by the proposer.

Value Engineering/Project Estimating	Range: 5-10%
--------------------------------------	--------------

Describe your value engineering process and how you work with the design team to help reduce construction and life cycle facility costs. Explain your method of estimating the costs of construction during the design process before design documents are complete.

Design Assist/GMP Experience	Range: 10-15%
------------------------------	---------------

Provide a summary of projects of this type completed in the last 5 years. Describe your experience, providing details regarding your firms' specific contractual roles and responsibilities. Include the names, addresses, and phone numbers of *Owner* and Architect references for each project. Describe your experience working on a team approach with the *Owner*, Architect and other consultants to achieve the best facility possible within the established time frame and budget.

School Construction Experience	Range: 10-30%
--------------------------------	---------------

Identify all of the school construction projects performed by the Proposer in the last 5 years where the Proposer has acted as a constructor (either as a General Contractor or a Design/ Builder). Provide names, addresses and phone numbers of *Owner* and Architectural references on projects listed. Highlight [*sub-arctic*] experience.

Project Team	Range: 5-15%
--------------	--------------

Describe the proposed Contractor's team, including the specific roles and responsibilities of each member. An organization chart would be helpful. Include the staffing requirements and identification of key personnel. Provide separate lists for the preconstruction and construction phases. Provide qualifications for the key individuals including history of employment, education, experience, and any other information the selection committee might find useful in evaluating the project team.

Management Plan	Range: 10-30%
-----------------	---------------

Summarize how the proposer will staff and organize this particular project. Include information on the anticipated level of effort during the construction document design phase, estimating process, and construction quality control procedures. Outline work that will likely be accomplished via subcontract vs. proposer's own forces during the construction phase. Comment on the proposer's review of the attached proposed project schedule and their capacity to meet schedule. Address any significant scheduling issues and potential for partial completion/partial occupancy scenarios.

Quality Control	Range: 5-10%
-----------------	--------------

Provide a summary of your firm's approach to quality control during construction. Include a description of the quality control organization you plan to employ and the authority assigned to the different level of quality control responsibility.

Preconstruction Fee	Range: 5-10%
---------------------	--------------

Stipulated sum for all services to be provided until completion of Construction Document Phase.

GMP	Range: 50-65%
-----	---------------

The guaranteed maximum price (GMP) with a breakdown of costs by DEED Cost Format or Construction Specification Institute Division.

Overhead & Profit for Change Order Work	Range: 5-8%
---	-------------

The Overhead & Profit percentage that the contractor will apply to the cost of work directed by change order to arrive at the total cost of the change order work.

References	Range: 5-8%
------------	-------------

Include at least two *Owner* and two *A/E* references from similar projects included and described in the AIA Document 305– Contractor's Qualification Statement.

Contractor's Qualifications/Financial Capabilities	Range: 10-30%
--	---------------

Summarize the proposer's current and anticipated workload from _____ - _____. Include a description of projects, dollar values of construction for which the proposer is responsible, either as a prime or subcontractor, and bonding and insurance capacity available for the referenced period. Provide copy of contractor's State of Alaska Business License. Provide list of legal claims pending or settled over the past five years, either *Owner* or contractor initiated.

Maintenance and Management Plan	Range: 3-8%
---------------------------------	-------------

Provide information on proposer's experience and implementation of the preventative maintenance and facility management program required by AS 14.11.011(b)(4).

Current and Projected Workload	Range: 5-10%
--------------------------------	--------------

What has been your annual volume (in dollars) of construction for the past five years? What is your anticipated volume for the current year? What is your plan for the next two years?

Alternative Project Delivery Approval REVIEW CHECKLIST

District:

Project/School:

Project Delivery Option Requested:

Item	Requirement	Checked	Comments
------	-------------	---------	----------

<i>Need Factors</i>			
	Tight project milestones or deadlines	<input type="checkbox"/>	
	Amount of overlap of design and construction phases	<input type="checkbox"/>	
	Scope definition	<input type="checkbox"/>	
	Potential for changes during construction	<input type="checkbox"/>	
	Need/desire for the contractor's input during design	<input type="checkbox"/>	
	Flexibility to make design changes after construction cost commitments	<input type="checkbox"/>	
<i>Success Factors</i>			
	Ability or desire to define and verify program & design content/quality	<input type="checkbox"/>	
	Experience with the particular delivery method & forms of contracts	<input type="checkbox"/>	
	Ability to participate in multiple trade contractor/supplier evaluations	<input type="checkbox"/>	
	Desired contractual relationship and ability to recoup savings	<input type="checkbox"/>	
<i>Concurrence Items</i>			
	Provide a resolution supporting the requested project delivery method	<input type="checkbox"/>	
	Request must address how the alternative delivery method will result in lower project costs/increased value to the state	<input type="checkbox"/>	
	Request must address how quality standards will be maintained	<input type="checkbox"/>	
	Request must address how unknown conditions will be accounted for	<input type="checkbox"/>	
	Provide name and qualifications of the Owner's project manager for the alternative delivery method process (list specific experience)	<input type="checkbox"/>	
	Describe the basic process leading up to the award of the contract (establish how competitive selection will be achieved)	<input type="checkbox"/>	
<i>Possible Directives-see pages 31-33 of project delivery method handbook</i>			
	6 month approval expiration	<input type="checkbox"/>	

**Alternative Project Delivery Procurement
REVIEW CHECKLIST**

District:

School:

Project Name/Number:

Item	Requirement	Checked	Comments
RFP Review			
1	RFP incorporates design standards and project description items	<input type="checkbox"/>	
2	Evaluation criteria includes a fixed price (e.g., LS or GMP)	<input type="checkbox"/>	
3	Evaluation criteria clear and sets cost at 50% or greater weight	<input type="checkbox"/>	
4	Provisions for a PM plan are incorporated in evaluation criteria	<input type="checkbox"/>	
5	Owner representation clear; as either independent design team, qualified owner staff or consultant	<input type="checkbox"/>	
6	Contract agreements anticipated for use are included in RFP	<input type="checkbox"/>	
7	Advertising period of 21 days or longer	<input type="checkbox"/>	
8	At least three publishing dates	<input type="checkbox"/>	
9	Sealed proposals requested with award to most qualified offeror	<input type="checkbox"/>	
10	Provisions to negotiate final cost and move to other ranked offerors (QBS/ Pre-construction Services)	<input type="checkbox"/>	
11	Provisions for award protest within 10 days included	<input type="checkbox"/>	
12	Bid bonds provided for	<input type="checkbox"/>	
13	Performance/Payment bond provided for	<input type="checkbox"/>	
14	Notice that the project requires compliance with AS 36.05.070, prevailing wage rates	<input type="checkbox"/>	
15	Contractor's liability insurance included in agreement	<input type="checkbox"/>	
16	Notice that the project requires compliance with AS 36.15.010, use of local forest products required wherever practicable	<input type="checkbox"/>	
17	Local hire encouragement is not mentioned	<input type="checkbox"/>	
18	GMP will be submitted in a separate sealed envelope	<input type="checkbox"/>	

Printed: 08/09/17

Alt. Delivery RFP Checklist
Reviewed by: _____

Page 1 of 2

District
Logo

[Project Name]

Project Delivery Options Analysis

XYZ School District

Date: [Month, Day, Year]



**PROJECT
MANAGER**

[Name]
[Title]
XYZ School District
[City], Alaska

CONTRIBUTORS

[Name]
[Title]
XYZ School District

[Name]
[Company]
[City], Alaska

Table of Contents

SECTION	Page
EXECUTIVE SUMMARY.....	2
PROJECT DELIVERY OPTIONS.....	6
THE PROJECT ENVIRONMENT	7
DETERMINING FACTORS ANALYSIS	8
Establishing Determining Factors	
Evaluating Determining Factors	
DELIVERY METHOD SELECTION.....	16
APPENDICES	
APPENDIX A.....	1-3
Gantt Chart Schedules	
APPENDIX B.....	1
Delivery Methods Flow Chart	

Executive Summary

Background

In [Month, Year], the XYZ School District submitted a capital project to the Alaska Department of Education & Early Development for FYXX funding consideration. The project, entitled [Project Title], received funding through DEED and the district entered into a Project Agreement with the following final scope:

- ***[Copy from Project Agreement]***

Purpose

The purpose of this document is to evaluate project delivery method options available under Department of Education & Early Development provision and select the delivery method that had the greatest influence on the success of the [Project Name] project. This evaluation identified six alternative delivery methods as described in the DEED publication Project Delivery Methods Handbook but focuses primarily on [number] alternatives. These are summarized as follows [select from among those below as extracted from the DEED handbook]:

Design-Bid-Build

Design-Bid-Build is the most common project delivery option. It is often referred to as the “traditional” method. For school projects in Alaska with a state contribution, Design-Bid-Build is the default delivery method. All other project delivery options require a specified approval.

There are three prime players: *Owner*, *Designer* and *Constructor* (general contractor). The relationship of these parties is depicted in the graphic at the right.

Design-Bid-Build
(Two Separate Contracts for Design & Construction)



A standard three-question test can be applied to determine, from these relationships, whether a delivery option falls into the Design-Bid-Build category. Those three questions and their results are as follows:

- Are the *Designer* and *Constructor* contracts combined? **NO**
- Is the *Construction Cost of Work* a selection criteria? **YES**
- Is the *Total Construction Cost* the sole selection criteria? **YES**

Under this delivery method, selection of the *Constructor* is based on a *Total Construction Cost* with the award going to the lowest responsible and responsive bidder.

Construction Manager/General Contractor—Best Value

CM/GC—BV is the next most common project delivery option. It allows the *Owner* to maintain control throughout the design process but provides for the early involvement of a “best qualified” *Constructor*. For school projects in Alaska with a state contribution, CM/GC is an alternate delivery method and requires a specified approval by both school boards and DEED.

CM/GC
(Two Separate Contracts for Design & Construction)



There are three prime players: *Owner*, *Designer* and *Constructor* (general contractor). The relationship of these parties is depicted in the associated graphic.

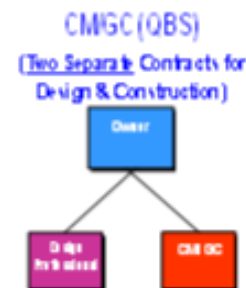
The standard three-question test can be applied to determine, from these relationships, whether a delivery option falls into the CM/GC category. Those three questions and their results are as follows:

- Are the *Designer* and *Constructor* contracts combined? **NO**
- Is the *Construction Cost of Work* a selection criteria? **YES**
- Is the *Total Construction Cost* the sole selection criteria? **NO**

Under this delivery method, selection of the *Constructor* is based on a best value weighting of *Total Construction Cost* with other factors; the award goes to the CM/GC that best meets the predefined qualifications and cost selection criteria.

Construction Manager/General Contractor – QBS

CM/GC—QBS is a lesser used project delivery option. It allows the *Owner* to maintain control throughout the design process while providing for the early involvement of a “best qualified” *Constructor* without regard to the construction cost of work. For school projects in Alaska with a state contribution, CM/GC–QBS requires that cost elements other than the *Cost of Work* provide 50% of the evaluation. CM/GC-QBS is an alternate delivery method and requires a specified approval by both the recipient entity and DEED.



There are three prime players: *Owner*, *Designer* and *Constructor* (manager-general contractor). The relationship of these parties is depicted in the graphic at the right.

The standard three-question test can be applied to determine, from these relationships, whether a delivery option falls into the CM/GC category. Those three questions and their results are as follows:

- Are the *Designer* and *Constructor* contracts combined? **NO**
- Is the *Construction Cost of Work* a selection criteria? **NO**
- Is the *Total Construction Cost* the sole selection criteria? **NO**

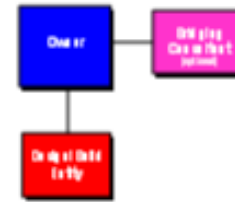
CM/GC selection: Qualifications based; does not incorporate any weighting for the *Construction Cost of Work*. Rather, selection is based on weighting of predefined criteria with the award going to the offeror that best meets the predefined criteria; selection criteria must include weighting of some cost factors at 50% unless otherwise approved. Typically these include *General Conditions* or *Fee* costs.

Design-Build Bid

Design-Build—Bid is a niche project delivery option. It requires a level of Owner sophistication to exercise quality control throughout the design and construction process. However, its simplicity is ideal for Owners with clearly documented standards but relatively few management resources. It also provides for the early involvement of a “best qualified” *Constructor/ Designer*. For school projects in Alaska with a state contribution, Design-Build is an alternate delivery method and requires a specified approval by both school boards and DEED.

There are two prime players: The *Owner* and the *Design-Builder*. [The *Designer* (architect) and the *Constructor* (general contractor) are combined into one entity.]

Design-Build Bid
(Single Contract for Design & Construction)



The three-question test has the following result:

- Are the Designer and Constructor contracts combined?** YES
- Is the Construction Cost of Work a selection criteria?** YES
- Is the Total Construction Cost the sole selection criteria?** YES

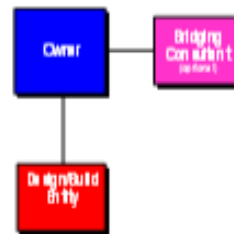
Design-Builder selection: Based on *Total Design and Construction Cost* with the award going to the lowest responsible and responsive bidder.

Design-Build—Best Value

Design-Build—BV is the least common of the three primary project delivery options. It requires a level of Owner sophistication to exercise quality control throughout the design and construction process. However, its simplicity is ideal for Owners with clearly documented standards but relatively few management resources. It also provides for the early involvement of a “best qualified” *Constructor/ Designer*. For school projects in Alaska with a state contribution, Design-Build is an alternate delivery method and requires a specified approval by both school boards and DEED.

There are three prime players: *Owner*, *Designer* and *Constructor* (general contractor). The relationship of these parties is depicted in the graphic at the right.

Design-Build (Best Value)
(Single Contract for Design & Construction)



The standard three-question test can be applied to determine, from these relationships, whether a delivery option falls into the Design-Build category. Those three questions and their results are as follows:

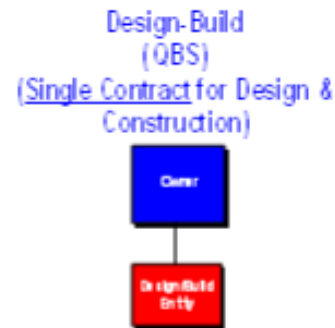
- Are the *Designer* and *Constructor* contracts combined? **YES**
- Is the *Construction Cost of Work* a selection criteria? **YES**
- Is the *Total Construction Cost* the sole selection criteria? **NO**

Under this delivery method, selection of the *Design/Builder* is based on some weighting of *Total Construction Cost* including the *Construction Cost of Work* with the award going to the *Design/Builder* that best meets the predefined qualifications and cost selection criteria.

Design-Build—QBS

Design-Build—QBS is a lesser used project delivery option. It requires a level of *Owner* sophistication to exercise quality control throughout the design and construction process. However, its simplicity is ideal for *Owners* with clearly documented standards but relatively few management resources. It also provides for the early involvement of a “best qualified” *Constructor/Designer*. For school projects in Alaska with a state contribution, Design-Build—QBS requires that cost elements other than the *Cost of Work* provide 50% of the evaluation. Design-Build—QBS is an alternate delivery method and requires a specified approval by both the recipient entity and DEED.

There are two prime players: The *Owner* and the *Design-Builder*. [The *Designer* (architect) and the *Constructor* (general contractor) are combined into one entity.]



The three-question test has the following result:

- Are the *Designer* and *Constructor* contracts combined?** **YES**
- Is the *Construction Cost of Work* a selection criteria?** **NO**
- Is the *Total Construction Cost* the sole selection criteria?** **NO**

Design-Builder selection is not based on any weighting of the *Construction Cost of Work*. Rather selection is based on weighting of predefined criteria, with the award going to the *Design-Builder* that best meets the predefined selection criteria. Selection criteria must include weighting of some cost factors at 50% unless otherwise approved. Typically these include *General Conditions* or *Fee* costs.

Delivery Options Evaluation Process

Using the Department of Education & Early Development's *Project Delivery Methods Handbook*, the district's project manager assessed a series of Determining Factors. These factors are established by DEED and include items related to a project's schedule, the ability of the district to define the scope of the project and potential for changes, the district's internal resources available to execute the project and its preference for structuring contracts and finally, any regulatory or legal constraints. Primary considerations under each of these categories were reviewed and evaluated, the results of which are included in the later sections of this document. [Optional: In an effort to confirm the basis of assumptions, particularly regarding possible project schedules and construction methods, the project manager also interviewed specialists with experience in these areas. These are listed in the contributor's section of the study's acknowledgements.]

Results

This analysis indicates the [Project Name] project has a high likelihood of success under the [enter method] project delivery method. However, the anticipated success of this method is dependent on the following factors:

- A. [List/discuss any schedule-related issues.]
- B. [List/discuss any budget-related issues.]
- C. [List/discuss any scope-related issues.]

Project Delivery Options

The XYZ School District reviewed the following matrix of project delivery options—each defined by a unique combination of *contract type* and *selection method*—discussed in the Department of Education & Early Development’s (DEED) *Project Delivery Methods Handbook*.

SELECTION METHOD	CONTRACT TYPES	
	DESIGNER & CONSTRUCTOR (w/SEPARATE CONTRACTS)	DESIGNER/CONSTRUCTOR (ONE CONTRACT)
Competitive Sealed Bid (Low Bid) Total Construction Cost is <u>sole</u> criteria for selection	Design-Bid-Build	Design-Build-Bid
Competitive Cost Proposal (Best Value) Total Construction Cost weighted with other factors for selection	CM/GC Best Value (BV)	Design-Build Best Value (BV)
Competitive Qualifications Proposal (Qualifications Based Selection) Total Construction Cost is <u>not</u> a factor for selection	CM/GC QBS	Design-Build QBS

The district recognizes that the default method established in regulation is the Design-Bid-Build delivery method, However, because it is a key principle of project management that benefits may be available to Owners when the traditionally distinct entities of the Designer and the Constructor are strategically aligned or even merged, XYZSD has undertaken to analyze the permissible alternative project delivery methods for possible use on it’s [Project Name] Project (DEED #XX-XXX). This document provides the results of that analysis.

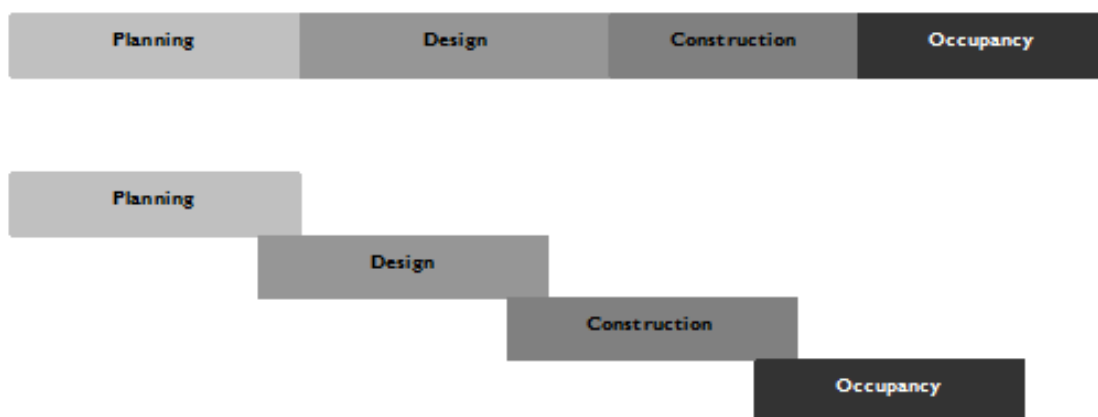
Having agreed to a set project delivery method options, the next step taken by XYZSD was to determine which of the options is most appropriate for the particular project under consideration. This analysis does not assume there is only one possible option for project delivery. However, while no one project delivery option is perfect, the district believes one option may be better suited than another based on the unique requirements for a particular project. The requirements for the [Project Name] project were evaluated to determine which of the various options would most likely produce the best outcome for the state and the school district.

As part of the analysis, the district implemented a variation of the DEED recommendation of establishing a “group of trusted advisors”. This effort primarily consisted of gathering some expertise in areas of [list field(s)]. That knowledge,

combined with in-house expertise regarding the work effort and timelines related to project design and the education process, was used to provide the needed reality check on the determinations made under each delivery option.

The Project Environment

Every project occurs in the context of a unique environment, an environment consisting of a variety of both physical and philosophical factors. This environment bears greatly on the successful maturation of a project. That maturation occurs in four typical phases: planning, design, construction and occupancy. These can occur sequentially or may be overlapped (see illustration).



The main characteristics of a project's environment consist of its schedule, the need and ability to establish and define its scope, the resources available to the project, the risks associated with the project and the external constraints placed on the project.

Although identifying and coping with the factors in a project's environment is both complex and an ongoing task until completion is achieved, the focus of this analysis is primarily project initiation not project execution. The district will use the luxury of this focus to narrow our determination of primary factors from the overall project environment to those that bear most directly on determining the "best" project delivery method. The district is further assisted in this effort by one of the external factors for school construction projects receiving state aid. This external factor is that the Design-Bid-Build project delivery option is the standard project delivery method for school construction projects. However, if we can recognize there are some primary factors affecting particular projects that might eliminate this delivery method or make it untenable without significantly increasing risk, an alternative is provided for.

Determining Factors Analysis

Establishing Determining Factors

Need Factors		Success Factors		
Schedule/Necessity to Overlap Phases	Ability to Define the Project Scope/Potential for Changes	Owner's Internal Resources & Philosophy	Desire for a Single Contract or Separate Contracts	Regulatory/Legal or Funding Constraints
Tight Project Milestones or Deadlines	Scope Definition	Ability or Desire to Define and Verify Program & Design Content/Quality	Ability or Desire to Take Responsibility for Managing the Design	Regulatory and Statutory Requirements
Amount of Overlap of Design & Construction Phases	Potential for Changes During Construction	Experience with the Particular Delivery Method & Forms of Contracts	Ability or Desire to Eliminate Responsibility for Disputes Between Designer and Builder	State Budget and Funding Cycles
	Need/Desire for the Contractor's Input During Design	Ability to Participate in Multiple Trade Contractor/Supplier Evaluations		
	Flexibility to Make Design Changes After Construction Cost Commitments	Desired Contractual Relationship and Ability to Recoup Savings		

The district's analysis groups the *Primary Factors* into five categories as shown in the table below, taken from the DEED Handbook:

By addressing these *Primary Factors*, the district was confident it could guide the selection of the most appropriate delivery option and increase the chances for a successful project.

The first two categories are grouped as *Need Factors*. These factors determine the need to move away from the Design-Bid-Build delivery method established as the standard delivery method for projects administered by DEED. In the following section, **Delivery Method Selection**, XYZSD will demonstrate how the project's environment establishes the need versus the desire or preference for a delivery method other than Design-Bid-Build. The remaining three categories are grouped as *Success Factors*. These are the elements of the project environment that can determine how likely a project is to succeed in using an alternative project delivery method and which of the delivery options is most appropriate. Many of these are tied to the XYZSD's ability to execute the project in a non-traditional method. Regardless of whether the project environment shows a need to move away from the department's standard delivery method or to apply the standard method, XYZSD will demonstrate it both has chosen and that it has the ability to manage the factors of the project

environment aligned with the successful implementation of the project delivery option selected.

Evaluating Determining Factors

For each factor, there is a *Critical Question* that should be considered. Grouped within the five categories, each *primary factor* is listed along with its critical question, appropriate commentary and the ramifications associated with the answer. *Need factors* are addressed first.

Need Factor #1: Schedule/Necessity to Overlap Phases

Primary Consideration: *Tight Project Milestones or Deadlines*

Critical Question: *Is overlap of design and construction phases necessary to meet schedule requirements?*

Discussion: [Enter information on project schedule.]

Schedules supporting the analysis offered can be reviewed in Appendix A.

Ramifications: [Summarize impacts of schedule discussion on this primary consideration.]

Primary Consideration: *Amount of Overlap of Design and Construction Phases*

Critical Question: *Is there time to complete the Design Development stage of the design prior to starting construction?*

Discussion: [Enter information on how overlap might address project schedule.]

Ramifications: Enter conclusions of schedule discussion on this Need Factor.]

Need Factor #2: Ability to Define the Project Scope/Potential for Changes

Primary Consideration: *Scope Definition*

Critical Question: *Is the scope of work difficult to define?*

Discussion: [Enter information on project scope definition.]

Ramifications: [Enter impacts of scope discussion on this primary consideration.]

Primary Consideration: *Potential for Changes During Construction*

Critical Question: *Is there a significant potential for changes during the construction phase?*

Discussion: [Enter information on project scope change potential.]

Ramifications: [Enter impacts of change discussion on this primary consideration.]

Primary Consideration: *Need/Desire for the Contractor's Input During Design*

Critical Question: *Is input from a Contractor during design required or desired?*

Discussion: [Enter information on how contractor input might address project scope issues.]

Ramifications: Enter conclusions of contractor input discussion on this primary consideration.]

Primary Consideration: *Flexibility to Make Design Changes After Construction Cost Commitments*

Critical Question: *Are your design and scope requirements fully defined?*

Discussion: [Enter information on how changes after cost commitments relate to project scope issues.]

Ramifications: [Enter conclusions of changes to scope discussion on this primary consideration.]

Success Factor #1: Owner's Internal Resources & Philosophy

Primary Consideration: *Ability or Desire to Define and Verify Program and Design Content/Quality*

Critical Question: *Will the Owner utilize outside resources to verify quality?*

Discussion: [Enter information on the qualifications and experience of the Owner's staff to establish and review quality issues. Discuss internal tools and resources and the need for any outside resources.]

Ramifications: [Enter conclusions related to in-house resources and experience, and any need for outside/additional resources.]

Primary Consideration: *Experience with the Particular Delivery Method and Forms of Contracts*

Critical Question: *Are agency in-house personnel experienced in alternative delivery options or, if not, will in-house personnel be augmented by other agency or contracted personnel?*

Discussion: [Enter information on how the qualifications and experience of the Owner's staff. Discuss internal tools and resources and the need for any outside resources (e.g., architects, engineers, project managers, construction inspectors, etc.) Note limitation for managing any delivery method.]

Ramifications: [Enter conclusions regarding Owner experience and any impact on the project.]

Primary Consideration: *Ability to Participate in Multiple Trade Contractor/Supplier Evaluations*

Critical Question: *Does the Owner need the ability to participate in the selection and evaluation of trade contractors or suppliers?*

Discussion: [Discussion should include project schedule options, Owner personnel knowledge and experience, and the need to participated in the selection of subs and lower tier specialties.]

Ramifications: [Enter conclusions regarding the need to participate in acquisition of lower-tier contractors and the Owner's internal or external resources.]

Primary Consideration: *Desired Contractual Relationship and Ability to Recoup Savings*

Critical Question: *Does the Owner wish to have a complete and timely access to all of the Contractor's Information?*

Discussion: [Enter information related to the level of involvement in the Contractor's information about the job.]

Ramifications: [Enter conclusions. Generally, if the Owner is not fully able to take advantage of an open, collaborative relationship among the parties for making financial decisions, then a *qualifications based selection* does not need to be considered under this factor.]

Success Factor #2: Desire for a Single Contract or Separate Contracts

Primary Consideration: *Ability or Desire to Take Responsibility for Managing the Design*

Critical Question: *Does the Owner have in-house design resources qualified to oversee design professionals, and does the Owner have the ability to commit sufficient resources to design management?*

Discussion: [Enter information about the Owner's in-house resources for managing or executing Design. What experience is there and does it need to be augmented?]

Ramifications: [Enter conclusions about the Owner's ability and desire to manage the design of the project or to assign that responsibility to another entity.]

Primary Consideration: *Ability or Desire to Eliminate Responsibility for Disputes Between Designer and Builder*

Critical Question: *Does the Owner desire to hold a single entity responsible for*

coordination, collaboration, and productivity for the entire project?

Discussion: [Enter information on the ability and experience of XYZSD' responsibility for resolving disputes between the Design and Construction entities.]

Ramifications: [Discuss the conclusions regarding the needs of the project to have Designer and Constructor entities integrated or the pros/cons of separation and the ability to manage such.]

Success Factor #3: Regulatory/Legal or Funding Constraints

Primary Consideration: *Regulatory and Statutory Requirements*

Critical Question: *Do laws, rules, regulations, etc., permit the use of an alternative project delivery method?*

Discussion: [Enter information about state (DEED) requirements for alternate delivery methods. Discuss the local requirements and allowances for alternative delivery methods.]

Ramifications: [Enter conclusions regarding law and regulatory issues. Consider timelines that may be needed.]

Primary Consideration: *State Budget and Funding Cycles*

Critical Question: *Is funding available for construction at initiation of design?*

Discussion: [Discuss the State's budget and funding cycle and how they may or may not have an impact on the timing, sequencing and a subsequent recommendation of a project delivery option.]

Ramifications: [Enter conclusions such as: "Any of the permitted delivery options will work with complete project funding," or other statement supporting the project environment.]

Delivery Method Selection

Although there are a number of factors in making a decision concerning which project delivery option to recommend, by the time a few *primary factors* are applied, it becomes apparent which options are least appropriate. By the process of elimination, the most appropriate option(s) can be determined.

Having used the DEED matrix of options and worked through its list of major factors to consider, the district is able to determine through a process of elimination, "Which project delivery options are least appropriate to recommend on this project?"

The order in which the *primary factors* have been applied in our analysis is driven by the approval process as illustrated in the **DEED Alternative Project Delivery Approval Flowchart** shown in Appendix B. An assessment of the *Need Factors* was applied to the project, any one of which may drive the need to use an alternate project delivery

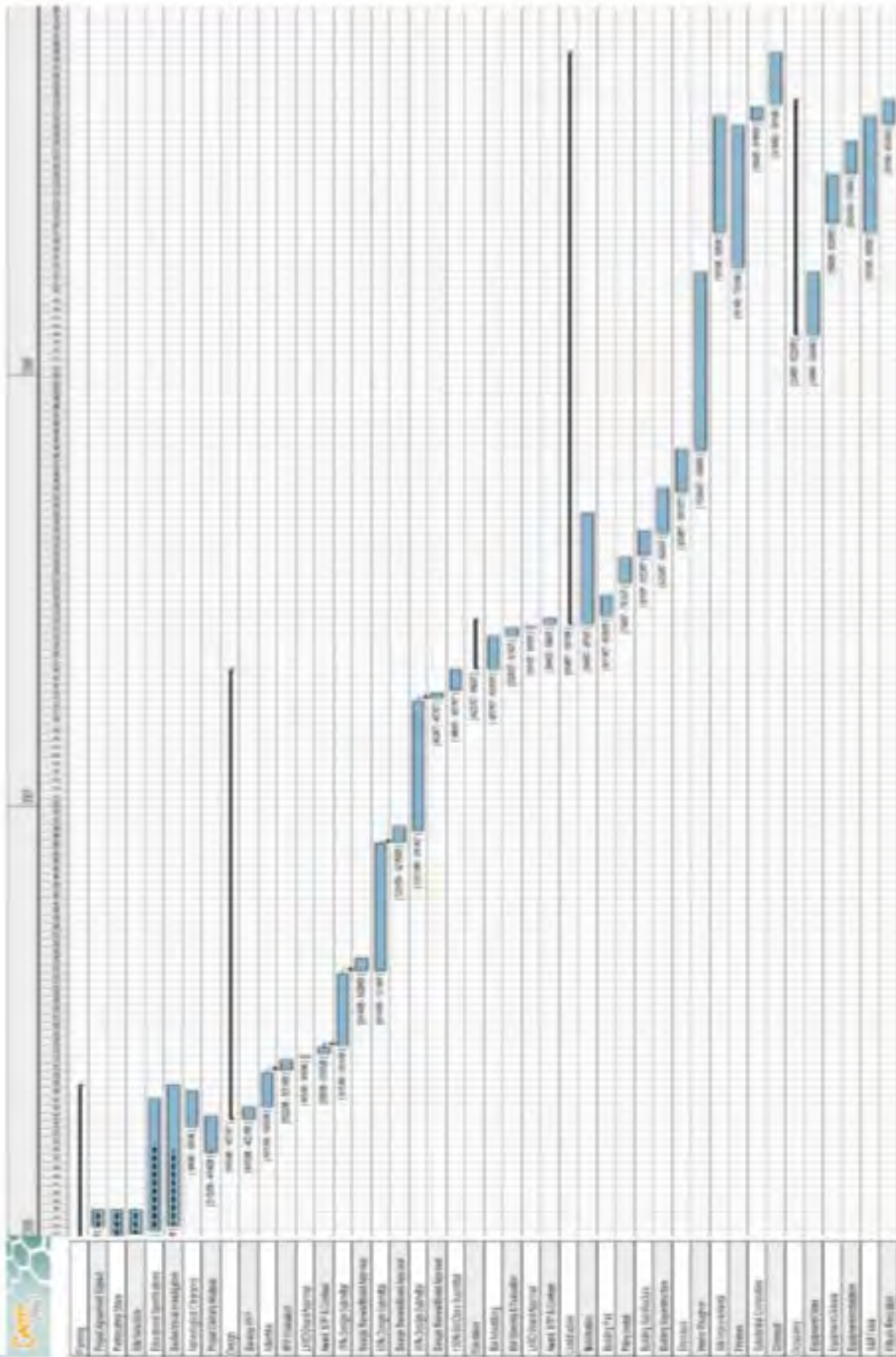
method. Next, the *Success Factors* were applied. These factors reflect judgments that were made regarding the district’s ability to be successful in implementing a particular delivery method.

The depiction of the DEED Project Delivery Options Matrix showing the project delivery options eliminated as a result of the districts analysis is included below.

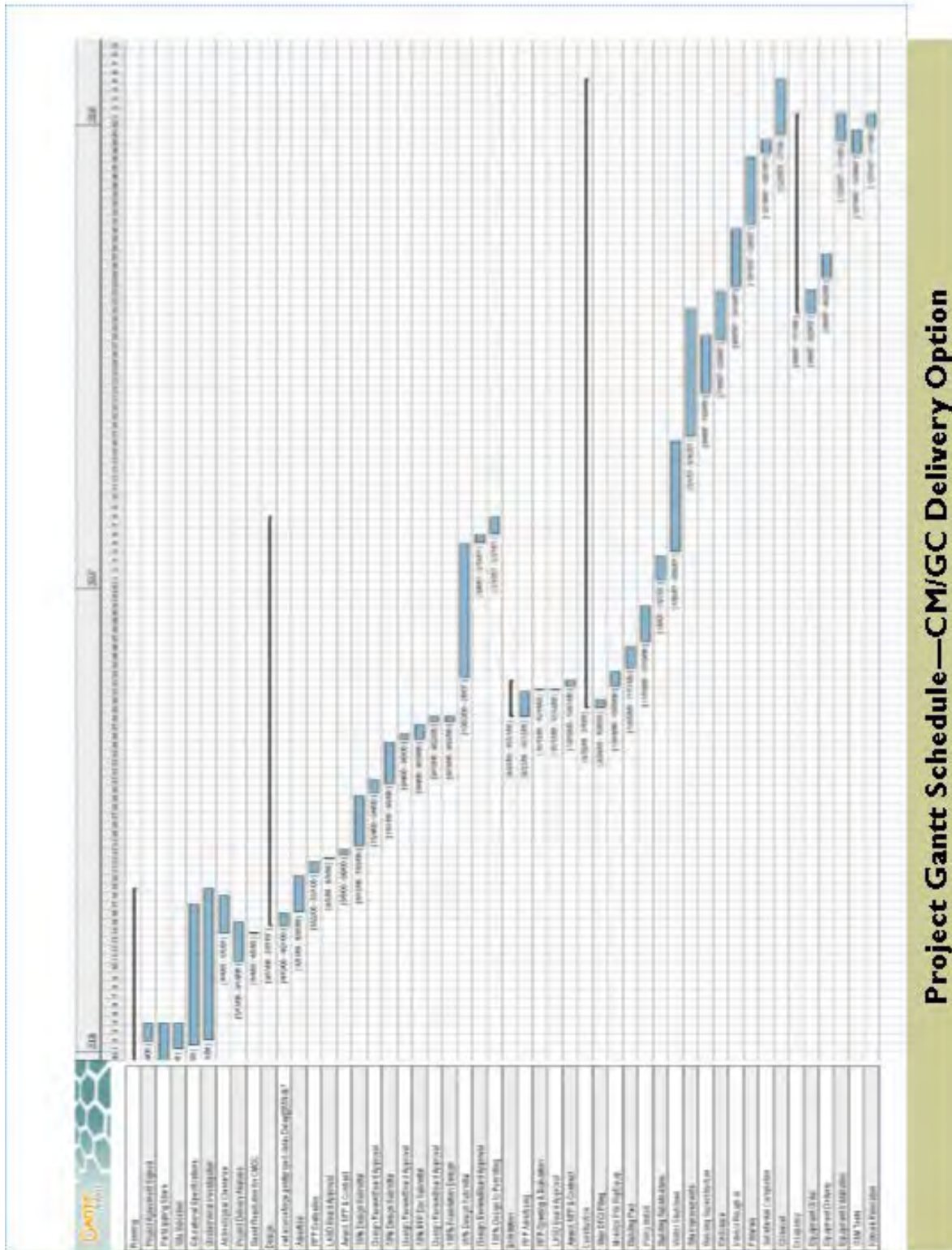
SELECTION METHOD	CONTRACT TYPES	
	DESIGNER & CONSTRUCTOR (w/SEPARATE CONTRACTS)	DESIGNER/CONSTRUCTOR (ONE CONTRACT)
Competitive Sealed Bid (Low Bid) Total Construction Cost is <u>sole</u> criteria for selection	Design-Bid-Build	Design-Build-Bid
Competitive Cost Proposal (Best Value) Total Construction Cost weighted with other factors for selection	M/C Best Value (BV)	Design-Build Best Value (BV)
Competitive Qualifications Proposal (Qualifications Based Selection) Total Construction Cost is <u>not</u> a factor for selection	M/C QS	Design-Build QS

[Note: Adjust markings above as required.]

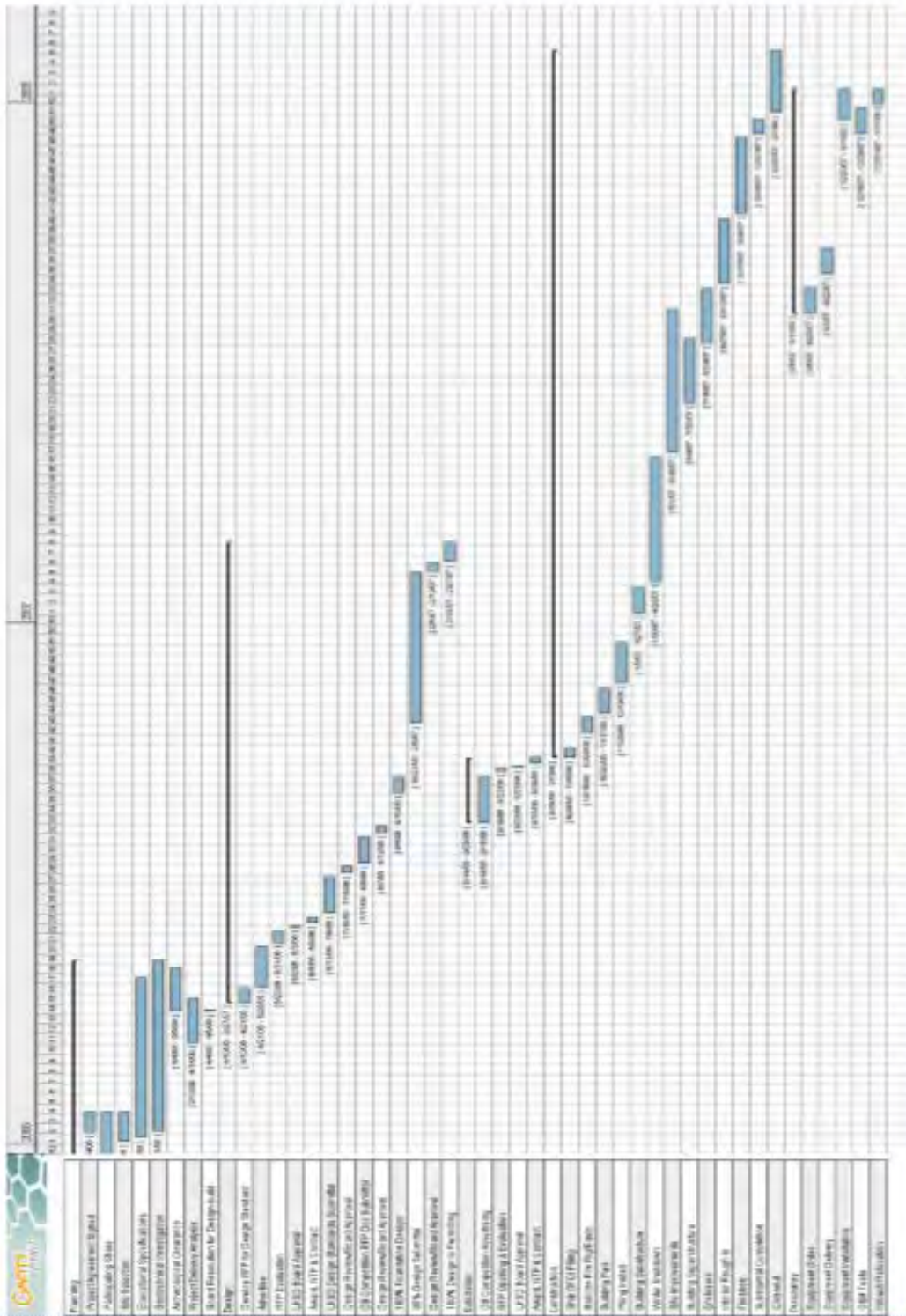
In summary, the XYZ School District is proposing to use the [Enter name] project delivery method for the [Project Name] project. [Add additional support narrative as needed OR alternative outcomes based on information yet to be finalized or determined.]



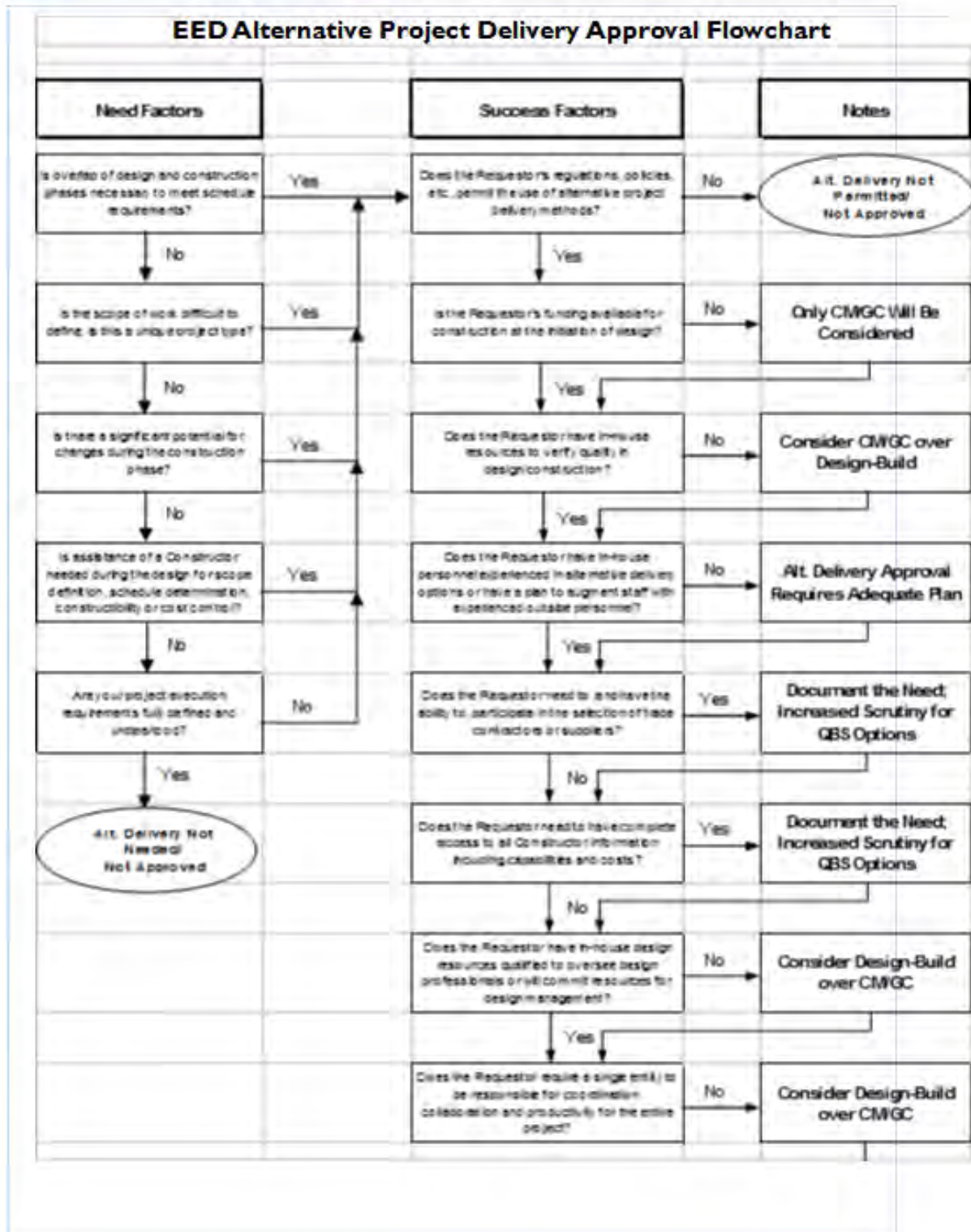
Project Gantt Schedule—Design-Bid-Build Delivery Option



Project Gantt Schedule—CM/GC Delivery Option



Project Gantt Schedule—Design-Build Delivery Option





Site Selection Criteria and Evaluation Handbook

CONTRIBUTORS

Sam Kito III, P.E.
Facilities Engineer
Alaska Department of Education and Early Development
Juneau, Alaska

Scott Thomas, P.E.
Alaska Department of Transportation and Public Facilities
Anchorage, Alaska

ACKNOWLEDGEMENTS

Thanks to the Bond Reimbursement and Grant Review Committee members who reviewed the publication in its draft form and to those at the Department of Transportation and Public Facilities, Division of Facility Procurement Policy Division who were responsible for the predecessor to this document. Special thanks to Tim Mearig, AIA, Edwin Crittenden, FAIA and Michael Morgan, PMP who shepherded earlier versions of this document through to completion

This publication may not be reproduced for sale by individuals or entities other than the:

State of Alaska
Department of Education
Juneau, Alaska

This publication was originally adapted from a November 1978 document published by the State of Alaska Department of Transportation and Public Facilities, Division of Facility Procurement Policy, entitled *Site Selection Criteria and Evaluation Guideline for Educational Facilities in Rural Alaska*.

SECTION	Page
INTRODUCTION.....	2
BASIC PROCEDURES	3
Site Selection Elements	
Weighting Factors	
Applying Ranking Criteria	
Tabulating and Analyzing Results	
RANKING CRITERIA ELEMENTS	5
THE EVALUATION REPORT	24
Introduction and Executive Summary	
Maps and Graphics	
Evaluation Matrix and Narratives	
APPENDICES	
APPENDIX A	25
Evaluation Matrix	
APPENDIX B	28
Sample Site Graphic Analysis	
APPENDIX C	29
Suburban School Layout	

Introduction

Overview

The perfect school site can be envisioned as generally level with some topographic interest, having complete utilities, stable, well drained soils, excellent road and pedestrian access, protection from excessive weather patterns, with ample space for school facilities, playground and sports fields. The site would be accessible to present and future populations and be free of any natural or environmental hazards. It would be removed from undesirable business, industry and traffic hazards but be convenient to important public facilities and recreational/outdoor learning areas. In most communities, however, the perfect site is elusive and difficult to find.

School siting is also a serious public policy decision. Land availability, land use, public sentiment and other community issues can have dramatic influence on site selection. In any site selection process, local involvement and judgments regarding the relative significance of selection criteria are important.

This Site Selection Criteria Handbook was developed with flexibility in mind, and can be used by school districts to perform a site selection analysis for any school facility by carefully selecting the appropriate criteria and weighting factors. Districts can use this guide for analysis of site opportunities for elementary schools, secondary schools, charter schools, alternative schools and special purpose facilities.

Finally, site selection for school facilities has a direct and lasting impact on the resources of the State of Alaska. Both the economic resources and the natural resources of the state are affected by the construction and operation of public schools. Primarily in response to these factors, the state recognizes the need for careful and thorough evaluation of school sites.

Authority

The guidelines incorporated in this handbook have been developed to give assistance and direction to Alaska school districts and communities in determining the suitability of various building sites for educational facilities planning. They are based upon AS 14.11.013 and 14.11.100, which provides for department review of projects to ensure they are in the best interest of the state. This provision is further developed by regulation 4 AAC 31.025 which requires approval of educational facility sites under paragraph (a) and investigations by the appropriate local governing body for suitability in paragraph (d). This handbook establishes the basic considerations for an adequate site selection process. Other products of similar detail may be used to fill the requirements laid out in statute and regulation.

Basic Procedures

Site Selection Elements

This handbook establishes a set of basic site selection elements and offers suggested evaluation criteria for rating the elements. Although the document does incorporate an internal weighting factor (it lists a few key ranking criteria elements which have high cost impacts in more than one sub-category) it does not prescribe the importance of most selection elements but rather, incorporates a weighting system whereby a district or community can assign a range of importance to each element. It is recognized that information for all the elements cannot always be determined nor are all elements applicable to every site. However, detail and rigor in addressing the elements is important for an effective evaluation.

The selection elements are grouped into three major categories as follows:

- 1. Social and Land Use Factors***
- 2. Construction Cost Factors***
 - a) Soils/Foundations*
 - b) Utilities*
 - c) Other*
- 3. Operations and Maintenance Cost Factors***

The site selection elements form the basis for an evaluation matrix which is shown in **Appendix A** and is available as a spreadsheet on the department's website. The first step in the process is to review the matrix elements for applicability to the project and sites being considered.

Weighting Factors (WF)

After identifying the site selection elements, the next step is to assign weighting factors to each element. Assignment of the weighting factors is the district/community's opportunity to apply its values to the evaluation process so that the final scores for each site reflect issues involved at the local level. This is often accomplished through community surveys, public meetings and other forums for developing consensus among the parties affected by the school project. A suggested model for the district/community weighting factors is shown below:

Weighting Factors

- 1 = not very important*
- 2 = somewhat important*
- 3 = important*
- 4 = very important*
- 5 = essential*

Applying Ranking Criteria

Following the assignment of the weighting factors, each selection element is evaluated according to established criteria and ranked on the simple five point scale from 0 to 4. The detailed ranking criteria to be used, which differentiates as needed between rural and urban sites, is described following this section on **Basic Procedures**. The table below gives a suggested definition of each ranking score:

Criteria Ranking Scores

0 = unacceptable (least desirable/least cost effective)

1 = poor

2 = fair

3 = good

4 = excellent (most desirable/most cost effective)

Tabulating and Analyzing Results

Using the Site Evaluation Matrix (Appendix A) enter the criteria ranking scores for each element. Compute the total score for each site by multiplying each criteria score by the weighting factor and sum them. An example of a portion of the Site Evaluation Matrix is shown below:

Maintenance and Operating Cost Factors									
Criteria	WF	Site 1	S1 x WF	Site 2	S2 x WF	Site 3	S3 x WF	Site 4	S4 x WF
Site Drainage	3	4	12	3	9	3	9	n/a	n/a
Flooding	4	4	16	4	16	2	8	n/a	n/a
Site Erosion	4	3	12	3	12	3	12	n/a	n/a
Sun Orientation	2	2	4	1	2	1	2	n/a	n/a
Protection from Elements	2	3	6	3	6	2	4	n/a	n/a
Proximity to Natural Hazards	4	0	0	3	12	4	16	n/a	n/a
Alternative Energy Sources	3	1	3	1	3	2	6	n/a	n/a
Air Inversions/Katabatic Winds	2	4	8	4	8	4	8	n/a	n/a
TOTALS			61		68		65		n/a

The total scores for each site represent a detailed analysis; the highest score should indicate the most desirable site. If the district or community, based on factors not captured by the evaluation, desires to choose a site other than the site receiving the highest score, a narrative justification of this position will need to be developed for inclusion in the site selection report.

Ranking Criteria Elements

The following ranking criteria elements provide specific guidance to school districts in establishing a score of each associated ranking element. If a particular district has a particular criteria that is not included in the ranking criteria listed below, but is important to the district in determining the acceptability of a school site, then the district can utilize the spreadsheet available on the department's website to add that criteria to the scoring matrix. Because the department reviews and approves site selection decisions made by a school district, the department will need to be consulted if additional criteria are proposed for a site selection analysis.

Size of Site

Criteria:

The specific criteria listed below have been adapted from the *Council of Educational Facility Planners International Creating Connections Guideline*.

Selection of a school site involves many variables, all of which cannot be captured in a basic metric such as the one shown below; however, the tool below can be helpful for identifying the approximate site size necessary to accommodate a district's proposed school facility. For assistance with estimating size for a particular use contact the department, or consult with a design professional.

Use	Typical Size	Actual Estimated Size
Building Footprint	Varies	
Service Area (3 dumpsters/recycling bins, loading and turning area for two trucks)	8,000 SF	
Bus Drop-off/Pick-up (including space for angled parking and driveways with appropriate turning radius)	5,500 SF/bus	
Bus Drop-off/Pick-up (parallel loading at sidewalk)	650 SF/bus	
Car Drop-off/Pick-up	250 SF/car	
Vehicle Parking	285 SF/space	
Paved Outdoor Play Area	4,500 SF (varies)	
K-2 Playground Equipment Area	3,200 SF (varies)	
3-5 Playground Equipment Area	3,200 SF (varies)	
Outdoor Learning Area	Varies	
Grassy/Natural Play Area	Varies	
Football Field	88,000 SF	
Football Field with track and field event space	225,000 SF	
Soccer	106,000 SF/field	
Total Net Square Footage		
Net to Gross Factor (10% for larger sites varying to 30% for small sites to accommodate walkways and buffers between activity areas)	10%-30% of net square footage	
Total Useable Area Required		
Number of Useable Acres Required (divide total useable area required by 43,560 SF/acre)		

See next page for evaluation criteria

Evaluation (for Site Size Criteria):	Scores:
Site size is within 30% of the calculated programmatic space requirements for the proposed facility	0
Site size is within 20% of the calculated programmatic space requirements for the proposed facility	1
Site size is within 10% of the calculated programmatic space requirements for the proposed facility	2
Site size is adequate to meet the calculated programmatic space requirements for the proposed facility	3
Site size exceeds the calculated programmatic space requirements for proposed facility and provides room for building expansion and/or activity use expansion	4

Proximity to Population to be Served

Criteria:

Ideally, all students served by the school would be in convenient, safe walking distance to the site. In communities with roads, convenient vehicle/bus travel is also important. Evaluate this criterion using the anticipated population distribution when the school is at capacity (i.e. 5 year post-occupancy). Use the following standard, evaluating for both elements and using the lowest score:

- 50% of students served are within reasonable walking distance (i.e. ¼ mile or less) and,
- 90% of students served are within a 15 minute vehicle/bus ride

Evaluation:	Scores:
Proximity of student population is 40% or more below standard	0
Proximity of student population is within 20% of standard	1
Proximity of student population is within 10% of standard	2
Proximity of student population is equal to standard	3
Proximity of student population is 10% or more above standard	4

Proximity to Future Expansion of Community

Criteria:

Occasionally, schools are constructed on sites that within 20 years are no longer adjacent to population centers and/or residential areas. This criterion assesses long-range planning and land use factors related to school sites. Use a subjective evaluation of how well the site corresponds to future expansion and land use in the community to score this criterion. Answer the question, “Is this a good long-term site for a school?”

Evaluation:	Scores:
Incompatible with future expansion	0
Significant variances with future expansion	1
Some variances with future expansion	2
Corresponds well with future expansion	3
Corresponds ideally with future expansion	4

Proximity to Important Existing Facilities

Criteria:

In some instances, a district/community can identify an existing facility (e.g. swimming pool, food service, etc.) which is shared between multiple schools and to which close proximity is essential or desired. If more than one facility is important, this criterion may have to be scored multiple times. In most cases the adjacency is important because it involves student transit. Use the following standard:

- students served are within a short walking distance to important existing facilities (i.e. 1/8 mile [660ft.] or less)

Evaluation:	Scores:
Proximity of school is 40% or more below standard	0
Proximity of school is within 20% of standard	1
Proximity of school is within 10% of standard	2
Proximity of school is equal to standard	3
Proximity of school is 10% or more above standard	4

Year-round Accessibility

Criteria:

Ideally, the site should be easily accessible during all times of the year regardless of weather and temperature effects on paths, walks or roads. In some communities, access may improve during winter due to frozen water/wetlands. In other communities, winter may cause the most difficult accessibility problems. Evaluate this criteria assuming standard amenities for site accessibility are provided (i.e. walks, roads, bridges, etc.). Costs for providing these amenities should be covered in other criteria.

Evaluation:	Scores:
Site is inaccessible during certain times of the year	0
Access is routinely interrupted by weather/temperature conditions	1
Access is periodically over swampy, unstable soils	2
Typically year-round well drained ground/road access	3
Fully accessible; only severe storms may temporarily hinder access	4

Site Topography

Criteria:

Ideally, the site should be fairly level with some topographic relief that can provide opportunities for learning area development. In some communities, choice of level property may not be available, so consideration should be given to the side that best meets the programmatic needs of the facility. Evaluate this criterion by considering the types of amenities required for the facility (i.e. playground/play area, soccer field, track, basketball court, etc.). Costs for providing these amenities should be covered in other criteria.

Evaluation:	Scores:
Site contains significant topographic relief, and cannot accommodate anticipated uses	0
Site is not level, and can only accommodate a limited number of anticipated uses	1
Site is not level, but can still accommodate all anticipated uses	2
Site is mostly level and can accommodate all anticipated uses	3
Site is level and can accommodate all anticipated uses	4

Traffic Impact, Access Needs:

The following five criteria relate to traffic and access issues that may affect a potential school site. A thoughtfully situated site will allow walking, busing and driving access while minimizing crash risk between those modes of travel as well as mainline traffic. The criteria address capital and maintenance needs for road function, sight distance, access and circulation, walking routes, school zones, turn lanes, and traffic signals. The following five criteria are especially important to consider in urban and suburban site selection processes where inadequately addressed traffic issues can result in safety concerns for students.

Road Access

Criteria:

Evaluate site access options. Access to the school site from minor arterials and collectors is more compatible than access from high speed or high volume road corridors or a low volume neighborhood residential street. Consider traffic speed and volume at the point of driveway access. Request DOT/PF or local agency assistance for roadway classification and traffic volume information.

Evaluation:	Scores:
Driveway access from National Highway System, Principal Arterial, or Interstate	0
Driveway access from a low volume internal residential-only street	1
Driveway access from a Major Arterial roadway	2
Driveway access from a Minor Arterial roadway	3
Driveway access from Local Road or Collector (not generally a low volume residential-only street)	4

Visibility, safety of driveways

Criteria:

Driveways have the potential to create conflicts when vehicles enter the roadway, particularly where slopes, curves or obstacles prevent good sight distance. The potential for conflicts can be reduced through provision of proper sight distance and traffic control devices. Evaluate sight distance at existing intersections and identify changes that may be required to provide adequate sight distance. Request DOT/PF or local agency assistance for minimum intersection sight distance.

Evaluation:	Scores:
Adequate intersection sight distance cannot be provided or is very difficult to provide.	0
n/a	1
Adequate intersection sight distance can be provided but requires clearing and/or earthwork.	2
n/a	3
Adequate intersection sight distance can be provided without any major work.	4

Driveway Conflicts and Internal Circulation

Criteria:

Driveway access options are limited by roadway frontage. The greater the frontage along a road, or along adjoining roads, the greater the likelihood that multiple driveways will provide options for internal site circulation of vehicular traffic (buses, visitors, students and faculty), pedestrians and bicycle traffic. Evaluate driveway access and internal circulation options. For information on driveway separation requirements, contact DOT/PF.

Evaluation:	Scores:
Road frontage limits access to one driveway; site restricts or limits internal site circulation, or driveways and access frontage is insufficient for multiple modes of access.	0
n/a	1
Road frontage limits driveway access options; site allows internal site circulation options. Frontage limits multiple modes of access.	2
n/a	3
Road frontage wide enough for multiple driveways and other modes of travel; site allows internal site circulation options.	4

Safe Routes to School for Pedestrians and Bicycles

Criteria:

Safe walking routes enable students within a short distance of the school the option to walk or ride bicycles. Minor collectors and local roads with easy access to the school are best for student pedestrians and bicycles. Roads with a significant amount of traffic act as barriers to students, will require traffic control devices (signs, signals, crossing guards) and can result in conflicts when students make poor crossing decisions. Evaluate the local walking conditions and changes necessary to improve safety for students.

Evaluation:	Scores:
No walking routes are available, nor can reasonable routes be constructed.	0
Walking routes can be constructed, but significant pathway work is required. Traffic control devices could be extensive, requiring tunnels, bridges, or signalization.	1
Walking routes can be constructed at-grade without major right-of-way or road work.	2
Existing walking routes are suitable for 1/4 to 1/2 mile travel. A school zone beacon system may be required.	3
Existing walking routes are suitable for 1/4 to 1/2 mile travel. No new traffic control devices are required.	4

Roadway Capacity, Safety Needs

Criteria:

Schools generate a significant amount of traffic. Increased vehicle trips to a school site may create congestion and delay for school and non-school related traffic. Turning movements create conflicts between vehicles and pedestrians. Major intersection safety improvements include adding through lanes, right-turn lanes, a significant length of road widening to accommodate left turn lanes, or a traffic signal or a roundabout. Evaluate how increased traffic volume and turning movements can be safely accommodated. Request DOT/PF or local government guidance and technical assistance regarding traffic impacts, safety improvements and permitting.

Evaluation:	Scores:
The roadway requires major intersection and road segment improvements for long distances. Requires a Traffic Impact Analysis (TIA) per 17 AAC 10.060 (required typically for site generated traffic volume greater than 100 vehicles per hour).	0
The roadway requires major intersection improvements. Requires a Traffic Impact Analysis (TIA) per 17 AAC 10.060 (required typically for site generated traffic volume greater than 100 vehicles per hour).	1
The roadway requires widening to provide turning lanes to accommodate turning traffic demand. Requires a limited Traffic Impact Analysis (TIA) to review turning demands.	2
No roadway improvements are required; signing changes are needed.	3
No roadway improvements are required; existing road capacity and traffic control devices are adequate.	4

<<<<END OF TRAFFIC AND ACCESS RELATED CRITERIA>>>>

Aesthetic Value

Criteria:

Sites can be assessed for the quality of their surroundings such as vegetation, topography, views and surroundings. Because aesthetic value is subjective, it is important that the local residents establish the aesthetic criteria considering each of the categories mentioned above. Use a subjective evaluation of the aesthetic merits of the site and answer the question, “What would it take to make this site aesthetically pleasing?”

Evaluation:	Scores:
Will never be aesthetic	0
Has few natural aesthetic features and little potential	1
Has some aesthetic features; potential for more with considerable effort	2
Could have many aesthetic features with minimal efforts	3
Has many aesthetic features naturally	4

Sun Orientation

Criteria:

The site should allow designs to take full advantage of available sun angles. Locating outside play areas to receive sunlight normally makes them a more desirable place for activity. A facility can benefit from the solar gain of winter sunlight. Large stands of trees, north-facing slopes and adjacent structures can be detrimental. Evaluate this criteria based on the year-round use of the facility.

Evaluation:	Scores:
Site is in constant shadow during fall, winter and spring months	0
Site is mostly in shadow during winter months with some fall/spring sun	1
Site is mostly exposed winter sun	2
Site is exposed to year-round sun with some obstructions	3
Site is exposed to full year-round sunlight; no obstructions	4

Protection from Elements**Criteria:**

The site should provide protection from prevailing winds which intensify cold temperatures, dust, driving rain and drifting snow. Topography, orientation and site vegetation relative to cold winter winds can be important both for indoor and outdoor educational activities. Sites with some type of wind protections are desirable over those exposed to harsh winds (this is especially critical in coastal areas). Evaluate this criteria based on natural features. Costs of compensating for inadequate protection should be covered in other criteria.

Evaluation:	Scores:
Site is fully exposed to prevailing winds; no obstructions	0
Site is mostly exposed to prevailing winds	1
Site is partially protected from prevailing winds; some natural barriers	2
Site is mostly protected from prevailing winds	3
Site offers full protection from prevailing winds	4

Site Drainage

Criteria:

Sites with good drainage are easier to develop and maintain. Good drainage reduces the chance of water or ice collecting around a facility which could cause undermining, decay and/or frost heave leading to structural damage. It could also make general use and occupancy of the site difficult. Evaluate this criteria based on natural features. Costs of compensating for inadequate drainage should be covered in other criteria.

Evaluation:	Scores:
Site is generally low; surrounding areas drain into it	0
Drainage collects in some areas within the site	1
Drainage collects in areas adjacent to the site	2
Site has positive drainage; water contribution from surrounding areas is easily accommodated	3
Site has positive drainage; no water contribution from surrounding areas	4

Proximity to Natural Hazards

Criteria:

Ideally, the site would have no susceptibility to damage (facilities, utilities, etc.) from natural disasters. These would include the results of "Force Majeure" such as earthquakes, avalanches/landslides, volcanic activity as well as health and safety hazards such as bluffs/steep cliffs, bodies of water and sewage/garbage disposal areas. Evaluate this criteria based on natural features and the historical occurrence of those hazards listed above. Costs of compensating for hazards should be covered in other criteria.

Evaluation:	Scores:
Site in proximity to five or more hazards	0
Site is in proximity to four or fewer hazards	1
Site is in proximity to three or fewer hazards	2
Site is in proximity to one hazard	3
Site free of any potential damage/injury from natural hazards	4

Zoning/Land Use

Criteria:

Current and projected zoning and land use should be compatible with the use of the site for a school. If local regulations do not currently permit educational facilities, it could be a lengthy process to obtain a change in zoning or a conditional use permit. Evaluate this criterion according to the difficulty and associated risk.

Evaluation:	Scores:
Present/future zoning does not permit use of the site for a school	0
Not zoned for schools but change or exemption can be requested	1
Current zoning will allow schools as conditional use	2
Currently zoned for schools; not likely to change	3
Present/future zoning permits schools or no zoning restrictions exist	4

Site Soils/Foundation Conditions

Criteria:

Ideal sites contain well graded, stable soils with high soil bearing pressure. Soil conditions should allow conventional, economical foundation systems which can meet or exceed a 50 year life expectancy with little maintenance. Soil conditions which can adversely affect construction include, discontinuous permafrost, silts and clays, substantial surface or sub-surface organic and high water contents (all susceptible to frost heave). Sites should be assessed for the quality of their soil based on known conditions or on-site investigations.

Evaluation:	Scores:
Unstable soils throughout; highly specialized foundation required	0
Mostly unstable soils; specialized foundation required	1
Isolated area of the site have unstable soils, some specialized foundation likely	2
Most areas of the site have stable soils; conventional foundation possible	3
Stable soils; conventional foundation system possible	4

Availability of Water Utilities

Criteria:

Connection into an existing, reliable water supply system with adequate capacity is preferred. Sites closest to the existing system would be rated highest. When considering adequacy, don't forget fire suppression system requirements. If a new water system is required for the site, then sites should be rated as to their potential to support/provide the system. For new systems, proximity to wells, lakes or rivers may be a factor. Evaluate this criteria based on known improvements and/or natural features as described above. Costs of providing water utility should be covered in other criteria.

Evaluation:	Scores:
No existing system; no known/potential water supply near site	0
No existing water system; potential water supply near site	1
No existing water system available; known water supply at site	2
Adequate, reliable water system is available adjacent to or near the site	3
Adequate, reliable water system is available within the site	4

Availability of Sewage Utilities

Criteria:

Connection into an existing, reliable waste/sewer system with adequate capacity is preferred. Sites closest to the existing system would be rated highest. If a new sewage system is required for the site, then sites should be rated as to their potential to support/provide the system. For new systems, perking soils, space for lagoons and availability of effluent outfalls may be a factor. Evaluate this criteria based on known improvements and/or natural features as described above.

Evaluation:	Scores:
No existing system; no known/potential waste handling area near site	0
No existing sewer system; potential locations for sewer system near site	1
No existing sewer system available; known location/method avail. on site	2
Adequate, reliable sewer system is available adjacent to or near the site	3
Adequate, reliable sewer system is available within the site	4

Availability of Electrical Power

Criteria:

Connection into an existing, reliable electrical system with adequate capacity is preferred. Sites closest to the existing system would be rated highest. If a new electrical system is required for the site, then sites should be rated as to their potential to support/provide the system. For new systems, space for generators, space for fuel storage and availability of fuel may be a factor. Evaluate this criteria based on known improvements and projected requirements.

Evaluation:	Scores:
No existing system; known difficulties for generation on site	0
No existing power system; good potential for power generation near site	1
No existing power system available; known power generation at site	2
Adequate, reliable power system is available adjacent to or near the site	3
Adequate, reliable power system is available within the site	4

Availability of Fuel Storage/Distribution

Criteria:

Connection into an existing, reliable fuel storage/distribution system with adequate capacity is preferred. Sites closest to the existing system would be rated highest. If a new fuel system is required for the site, then sites should be rated as to their potential to support/provide the system. For new systems, proximity to delivery points, available land for tankage, etc. may be a factor. Evaluate this criteria based on known improvements and/or natural features as described above. Costs of providing fuel utility should be covered in other criteria.

Evaluation:	Scores:
No existing system; known difficulties for fuel storage on site	0
No existing fuel system; good potential for fuel system near site	1
No existing fuel system available; known fuel system location on site	2
Adequate, reliable fuel system is available adjacent to or near the site	3
Fuel system is not required or is available on site	4

Proximity to Fire Response Equipment

Criteria:

This may or may not influence site selection in rural areas since many villages have no organized fire protection. In areas with fire hydrants and a continuous/reliable water supply and/or a fire station, sites may be rated by response time or whether a site is within the service area. In facility design, sprinkler systems may be specified which become part of the fire protection equipment which is independent of site location except as it relates to water supply. Use the following standard:

- site is within a service area and is in close proximity to a fire station (i.e. 4 miles or less)

Evaluation:	Scores:
Proximity of site is 40% or more below standard	0
Proximity of site is within 20% of standard	1
Proximity of site is within 10% of standard	2
Proximity of site is equal to standard	3
Proximity of site is 10% or more above standard	4

Ease of Transporting Construction Materials

Criteria:

Proximity to transportation routes which can support heavy equipment and loads can affect the usability of a site for construction. This criterion is not to measure the cost of getting construction materials to a community or geographic area but evaluates the local impact of transporting materials to the site. Sites closest to the transportation route will be most easily serviced. Evaluate based on the following:

Evaluation:	Scores:
Site is inaccessible	0
Transporting materials/equipment will be very difficult	1
Transporting materials will be difficult	2
Transporting will be fairly easy, routes will need upgrading	3
Transporting of equipment/materials will be simple; on established routes	4

Site Availability

Criteria:

Land status availability is one of the most fundamental criteria for locating capital improvements. The title to the site should be free of legal encumbrances, platted and surveyed with an accurate legal description and have a single owner. Evaluate as follows:

Evaluation:	Scores:
Clear or unclear title, owner/seller not interested	0
Uncertain title/boundaries; multiple owners	1
Some encumbrances/easements, etc., multiple owners	2
Clear title, recent survey, possibly available	3
Clear title, recent survey, definitely available	4

Site Cost

Criteria:

Land parcels should be available at an affordable cost. The most favorable situation is one in which the parcel is public land available at no cost to the district or available by donation from a private entity. Obviously, the cost of some parcels may be totally beyond the available funds. Evaluate as follows:

Evaluation:	Scores:
Site is cost prohibitive	0
Site is above fair market value but within reach	1
Site is available at fair market value	2
Site is available below fair market value	3
Site is available at no cost or has a nominal administrative fee	4

Alternative Energy Sources

Criteria:

In some cases it may become feasible/cost effective to use the waste heat from an electrical generation plant, or some other low-cost alternative energy source for heating the new facility. All other criteria being equal, this may become an important factor. Evaluate as follows:

Evaluation:	Scores:
Site has no possibilities for alternative energy systems	0
n/a	1
Site is adjacent to alternative energy systems; significant effort to develop	2
n/a	3
Site is adjacent to alternative energy systems; easily developed	4

Permafrost Stability

Criteria:

The best method in dealing with permafrost is to avoid it if possible. If the whole area is underlain with permafrost, then a site with well drained, non-frost-susceptible soils is preferred since there is less chance of encountering an ice wedge/lens, which, when melted will cause unstable soil conditions. Evaluate as follows:

Evaluation:	Scores:
No soils testing; obvious signs of discontinuous permafrost	0
Soils test silt and clay, known permafrost conditions	1
Undetermined soil conditions; no obvious signs of permafrost	2
Limited soils information; most of site free of permafrost	3
Site soils tested, no permafrost present	4

Flooding

Criteria:

Flooding potential from adjacent bodies of water should be considered. Ideally, the site would not be located within a flood plain or flood-prone area.

Evaluation:	Scores:
Site floods routinely	0
Site is within flood plain boundaries	1
Site is in close proximity to flood prone areas	2
Site is in proximity to bodies of water but well above flood plain	3
Site is not in flood plain; no nearby bodies of water	4

Site Erosion

Criteria:

Sites which border on eroding river banks and eroding sea spits should be evaluated on how much and how often erosion takes place to determine if a facility would be endangered. Slopes which have been cleared of vegetation can also erode due to heavy rain. Evaluate this criteria based on natural features and the historical occurrence of those hazards listed above. Costs of compensating for hazards should be covered in other criteria.

Evaluation:	Scores:
Known erosion potential	0
n/a	1
Moderate erosion potential; mostly during construction	2
n/a	3
No erosion potential; not near water or at toes of slopes	4

Air Inversions/Katabatic Winds

Criteria:

During winter under clear sky/no wind conditions, cold air flows down hillsides settling in low-lying areas. This causes temperatures to be colder at low-lying sites (especially in the Interior where there may be little wind). In regions where this occurs often during the winter, sites which are on a hillside are preferred over sites in low-lying areas. Evaluate as follows:

Evaluation:	Scores:
Site has continuous winter Katabatic accumulations	0
Site is routinely affected by Katabatic accumulation; annually	1
Site is in areas of occasional Katabatic wind; not every season	2
Site is adjacent to areas of known Katabatic accumulation	3
Site is on a hillside above cold air accumulation areas	4

Existing Site Development

Criteria:

Vacant, undeveloped land is preferable; if developed or currently used, alternative sites must be available for existing uses. Evaluate based on the magnitude of existing uses requiring relocation and/or demolition and the simplicity of the action.

Evaluation:	Scores:
Site has many existing uses; will all be problematic to relocate/demolish	0
n/a	1
Has 2000 square feet or less in existing uses; all relocatable/demo	2
n/a	3
Site has no existing uses	4

Access to Outdoor Recreation/Learning

Criteria:

Students benefit when complimentary park and recreation resources are located near public schools. Recreation and nature areas available by walking provide opportunities to use the outdoors as an extension of the classroom. Evaluate according to the following standard:

- site is contains or is adjacent to outdoor recreation/nature area (i.e. 1/8 mile or less)

Evaluation:	Scores:
Proximity of site is 40% or more below standard	0
Proximity of site is within 20% of standard	1
Proximity of site is within 10% of standard	2
Proximity of site is equal to standard	3
Proximity of site is 10% or more above standard	4

Noise

Criteria:

Incompatible noise such as from air traffic, vehicle traffic, industrial uses, etc. is detrimental to educational delivery. Evaluate this criteria based on actual or anticipated noise factors according to the following standard:

- sound decibel level is below 65db sustained and 75db peak
- Costs for mitigating these factors will be covered in other criteria.

Evaluation:	Scores:
Sound level of site is 40% or worse than standard	0
Sound level of site is within 20% of standard	1
Sound level of site is within 10% of standard	2
Sound level of site is equal to standard	3
Sound level of site is 10% or more better than standard	4

Wetlands

Criteria:

Wetlands should be avoided due to the adverse impact on cost and schedule. Evaluate as follows:

Evaluation:	Scores:
100% of site is classified as wetlands; significant impact to building	0
Most of the site is wetlands; considerable impact to building likely	1
Some of the site is classified as wetlands; some impact to building likely	2
Some of the site is classified as wetlands; little or no impact to building	3
Site has no wetlands	4

Potential for Hazardous Materials

Criteria:

The site should be free of evidence of past use by industrial functions, unregulated storage of items containing hazardous materials or know disposals of hazards. A site assessment may be required. Evaluate as follows:

Evaluation:	Scores:
100% of site has known hazmat; significant impact to building	0
Most of the site has known/probable hazmat; considerable impact likely	1
Some of the site has known/probable hazmat; some impact likely	2
Some of the site has known/probable hazmat; little or no impact likely	3
Site has no known/potential hazmat issues	4

There are many formats for reporting the results of a site investigation. Reports can range from basic tabulations and narratives with a few maps showing the sites being evaluated to high-powered multi-media presentations incorporating aerial photography, video footage, color graphics and detailed site plans. Appendices can range from a few simple support documents to detailed reports covering everything from archeology to zoning maps. Regardless of the visual and graphic development, a good site investigation report should include the following:

Introduction and Executive Summary

The introduction should describe the purpose and scope of the investigation listing the type and size of planned facilities which the site would need to support and a brief description of the sites. Toward the front of the report, a summary which indicates which site was selected and the basic rationale for the selection should be provided.

Maps and Graphics

Because of the type of information normally processed in a site investigation, graphic representations are essential. For instance, a metes and bounds narrative of the property may very well be an accurate description of the site's boundaries but a site plan with a graphic representation of those bearings and distances communicates more effectively, the shape and size of the site. Similarly, the sentence, "a stream crosses the property from the north to the south," offers a general description of a key site feature where the same stream drawn on a site plan offers an instant evaluation of its impact on placing a building on the site.

It is helpful not only to have graphic representation of each site and its immediate surroundings showing roadways, vegetation, adjacent structures, etc., but also a smaller scale map showing each of the potential sites and their relationship to one another as well as to key area landmarks. Appendix B shows an example of a site graphic for a rural village. On one simple sheet the following items are indicated: each site, bodies of water, compass directions, roads/paths, vegetation, topography, existing structures and site improvements, utility systems, prevailing winds, winter sun angles and natural and man-made hazards.

Aerial photographs, site cross-sections, and photographic panoramas are all useful and fairly standard graphic tools which assisting not only in describing the results of the site investigation but are often instrumental in making the evaluation itself.

Evaluation Matrix and Narratives

In addition to graphics, tabulated data is often one of the best ways to condense information and allow comparison across a specific category. The tabulations shown in Appendix A and/or the spreadsheet available on the department's website offer suggested formats for this type of information.

Appendix A Site Evaluation Matrix

Social and Land Use Factors

Criteria	WF	Site 1	S1 xWF	Site 2	S2 xWF	Site 3	S3 xWF	Site 4	S4 xWF
Size of Site									
Proximity to Population to be Served									
Proximity to Future Expansion of Community									
Proximity to Important Existing Facilities									
•									
•									
<i>Year-round Accessibility</i>									
Site Topography									
Road Access									
Visibility, Safety of Driveways									
<i>Driveway Conflicts and Internal Circulation</i>									
<i>Safe Routes to School for Pedestrians and Bicycles</i>									
<i>Roadway Capacity, Safety Needs</i>									
Aesthetic Value									
<i>Sun Orientation</i>									
<i>Protection from Elements</i>									
<i>Site Drainage</i>									
<i>Proximity to Natural Hazards</i>									
Zoning/Land Use									
Proximity to Fire Response Equipment									
<i>Flooding</i>									
<i>Existing Site Development</i>									
Access to Outdoor Recreation/Learning									
Noise									
<i>Wetlands</i>									
<i>Potential for Hazardous Materials</i>									

TOTALS

Note: Italicized Items are also evaluated in either Construction Cost Factors or Maintenance and Operating Cost Factors

Construction Cost Factors

Criteria	WF	Site 1	S1 xWF	Site 2	S2 xWF	Site 3	S3 xWF	Site 4	S4 xWF
Soils/Foundation Conditions									
Permafrost Stability									
Availability of Water Utilities									
Availability of Sewer Utilities									
Availability of Electric Power									
Availability of Fuel Storage/Distribution									
Year-round Accessibility									
Driveway Conflicts and Internal Circulation									
<i>Safe Routes to School for Pedestrians and Bicycles</i>									
Roadway Capacity, Safety Needs									
Ease of Transporting Construction Materials									
Site Availability									
Site Cost									
<i>Site Drainage</i>									
<i>Proximity to Natural Hazards</i>									
<i>Site Erosion</i>									
Existing Site Development									
Wetlands									
Potential for Hazardous Materials									

TOTALS

Note: Italicized Items are also evaluated in Maintenance and Operating Cost Factors

Maintenance and Operating Cost Factors

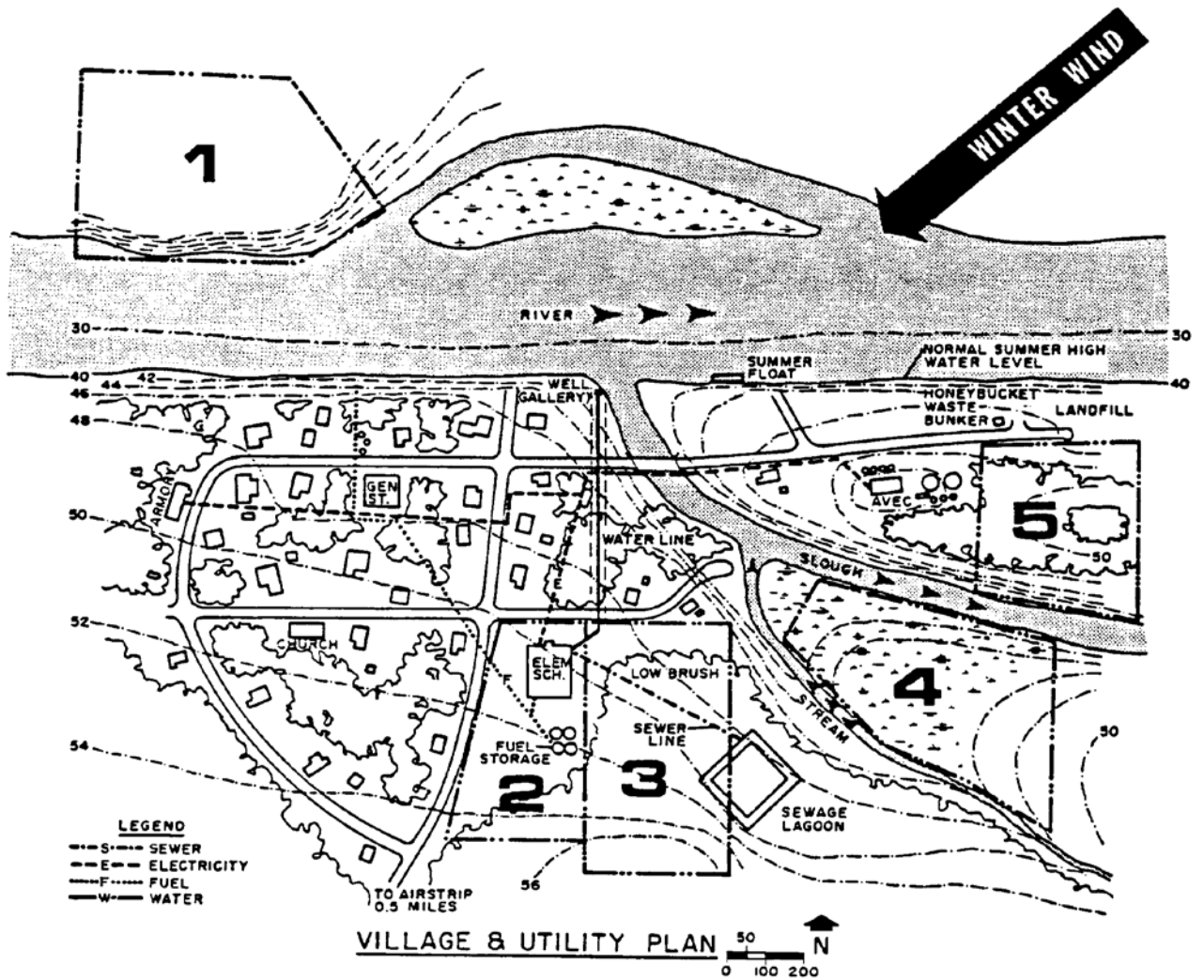
Criteria	WF	Site 1	S1 xWF	Site 2	S2 xWF	Site 3	S3 xWF	Site 4	S4 xWF
Safe Routes to School for Pedestrians and Bicycles									
Site Drainage									
Flooding									
Site Erosion									
Sun Orientation									
Protection from Elements									
Proximity to Natural Hazards									
Alternative Energy Sources									
Air Inversions/Katabatic Winds									

TOTALS

Site Evaluation Summary Table

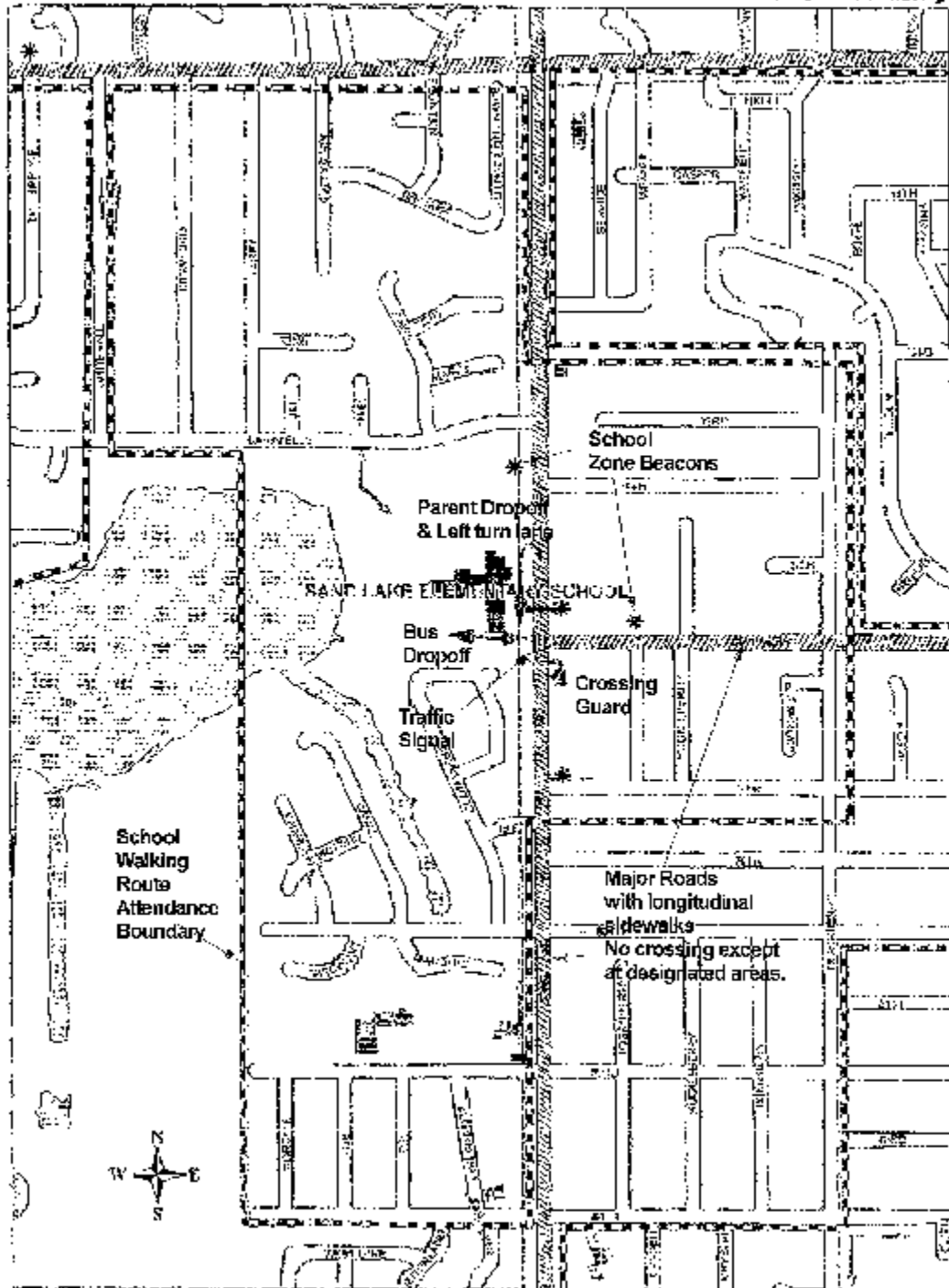
Criteria	Site 1	Site 2	Site 3	Site 4
Social and Land Use Factors				
Construction Cost Factors				
Maintenance and Operating Cost Factors				

GRAND TOTALS



SAMPLE

Sand Lake Elementary



SAMPLE

PROJECT RESOURCES

November 12, 2018

Melissa McCormick
Department of Education & Early Development
801 W. 10th Street, Suite 200
P.O. Box 110500
Juneau, AK 99811-0500

Re: Comments on Proposed School Facility Planning Regulations

Dear Ms. McCormick:

The following are my comments on the proposed changes to the DEED School Facility Planning and Construction Regulations.

4 AAC 31.080 (i). What will be the effective date? Commissioning was not included in budget for FY 2019 and 2020 grants. Is this a design cost and will the % limit for A/E services be raised?

4 AAC 31.020 (a) (1) suggest deleting this reference as the CEFPI document is no longer current and CEFPI is now A4LE.

4 AAC 31.022(b) (1) The proposed regulation change is not affected, but Category G has not been included on the DEED grant application form.

4 AAC 31.030(a) Is not clear what constitutes "elements of plan" and at what stage of development is to be addressed?

4 AAC 31.040(a) (3) suggest rewording this section for clarification as final documents or the entire project may not be complete before commencing with phased work.

Thank you for the opportunity to comment on the proposed changes.

Sincerely,

Kathy J. Christy

5172 E. 98th ANCHORAGE, ALASKA 99507
PHONE: (907)868-3498 FAX: (907)868-2887

Comments on Proposed School Facility Planning Regulations by Kathy J. Christy, Project Resources

Received November 12, 2018

COMMENT: 4 AAC 31.080 (i). What will be the effective date? Commissioning was not included in budget for FY 2019 and 2020 grants. Is this a design cost and will the % limit for A/E services be raised?

DEPT RESPONSE: The effective date will be the effective date of the regulations as determined by the Lt. Governor's office. The regulations will not be applied to funded projects. Future allocations of state aid for school capital projects will be reviewed to ensure funds are adequate for required commissioning. The Bond Reimbursement & Grant Review Committee will review the application to determine whether the current design services budget, as an allowable percentage of construction cost, needs modification.

COMMENT: 4 AAC 31.020 (a) (1) suggest deleting this reference as the CEFPI document is no longer current and CEFPI is now A4LE.

DEPT RESPONSE: The referenced document is the most current document on developing educational specifications provided by the organization now named A4LE. At such time as a new handbook is developed, the department will propose a regulation to update the reference.

COMMENT: 4 AAC 31.022(b) (1) The proposed regulation change is not affected, but Category G has not been included on the DEED grant application form.

DEPT RESPONSE: Statute sets out Category G (AS 14.11.013(a)(1)(G)) as a project required to "meet an educational need not specified in (A) — (F) of this paragraph, identified by the department". The department has not identified a need that warrants inclusion of this category in the application.

COMMENT: 4 AAC 31.030(a) Is not clear what constitutes "elements of [the] plan" and at what stage of development is to be addressed?

DEPT RESPONSE: This is clarified in the following subsection, 4 AAC 31.030(b); it was not listed in the proposed regulation because it was not amended.

COMMENT: 4 AAC 31.040(a) (3) suggest rewording this section for clarification as final documents or the entire project may not be complete before commencing with phased work.

DEPT RESPONSE: The revised regulations do not address this particular subsection. We agree the subsection may need some clarification and will mark it for future work.

Comments on Proposed School Facility Planning Regulations by the Bond Reimbursement & Grant Review Committee

Received October 17, 2018

COMMENT: 4 AAC 31.023(e) adds a definition for “construction costs” as used within the 31.023 section. That definition includes the phrase, “or forced account work”; force account should be defined. At DOT this is a common term but there is another technical name for this type of construction; even though we know what it is, it should be defined well enough legally, so it can be implemented.

DEPT RESPONSE: We concur the term ‘force account’ has a variety of definitions in the construction industry. We describe Force Account as a project delivery method in the DEED publication *Project Delivery Method Handbook, 2017*. This publication has the force of regulation and the term ‘force account’ as used in this section will be as described in that handbook.

COMMENT: 4 AAC 31.023(c)(2)(A) is amended to include ‘application costs’. The regulations to not provide a definition for application costs – it might be important to be clear on what are considered “application costs” because the department could end up in a situation where a district files for reimbursement of an entire building survey, when the project activity only involves a portion of it.

DEPT RESPONSE: We concur that the term ‘application costs’ is not a defined term and that it could consist of a variety of internal and contracted expenditures. Adding the term was intentional and is intended to cover this broad spectrum of costs as allowable pre-award expenditures. Necessary clarity as to the limit of applicability is provided by the addition of clarifications in subsection (B), which limit the expenditures to those supporting the initial submission of the grant or other financial assistance application which has a substantially identical scope approved under 4 AAC 31.025. In the above example, it should be possible to differentiate between expenditures supporting the scope and those not supporting the scope of the project.

**To: Members of the State Board of
Education & Early Development**

September 19, 2019

From: Dr. Michael Johnson, Commissioner

Agenda Item: 6B

◆ **ISSUE**

The board is being asked to adopt amendments to regulation 4 AAC 31 School Facility Planning and Construction. The amendments add a new subsection 4 AAC 31.080(i) and amend other related sections to implement requirements for commissioning on certain school capital projects.

◆ **BACKGROUND**

- Facility commissioning has become an accepted best-practice for today's complex, "smart" buildings. As defined in these regulations, commissioning means functional testing of building systems to ensure that a facility operates as intended and that prepares an owner to efficiently operate its systems and equipment. Both empirical and anecdotal evidence is available demonstrating the value of commissioning in ensuring cost effective building operation following the completion of construction.
- Proposed amendments to 4 AAC 31.080 establish the requirement for commissioning based on the type, size, and complexity of the school capital project and identify five key building systems that would most benefit from the commissioning process.
- Proposed amendments to 4 AAC 31.065 serve to identify commissioning as a professional service subject to requirements for open, competitive selection when above the \$50,000 threshold.
- Proposed amendments to 4 AAC 31.013 acknowledge the value of periodically commissioning existing facilities and make it a criteria of a qualifying energy management plan.
- Amendments to 4 AAC 31.900 introduce necessary definitions of the terms 'commissioning' and 'commissioning agent'.
- The proposed amended regulations were the result of an appointed subcommittee of the statutory Bond Reimbursement & Grant Review Committee and have been reviewed and approved by that body.
- Proposed amendment changes can be found behind this cover memo.
- Tim Mearig, Facilities Manager, will brief the board.

◆ **OPTIONS**

This is a work session item. Action will take place under Agenda Item 7B.

4 AAC 31.013(a) is amended to read:

(a) For a district to be eligible for state aid under AS 14.11.011 **or AS 14.11.100**, the district must have a facility management program that addresses the following five elements of facility and maintenance management:

(1) a formal maintenance management program that records maintenance activities on a work order basis, and tracks the timing and cost, including labor and materials, of maintenance activities in sufficient detail to produce reports of planned and completed work;

(2) an energy management plan that includes

(A) the recording of energy consumption for all utilities on a monthly basis for each building; for facilities constructed before December 15, 2004, a district may record energy consumption for utilities on a monthly basis when multiple buildings are served by one utility plant; **and**

(B) regular evaluation of the effectiveness of and need for commissioning existing buildings;

(3) a custodial program that includes a schedule of custodial activities for each building based on type of work and scope of effort;

(4) a maintenance training program that specifies training for custodial and maintenance staff and records training received by each person; and

(5) a renewal and replacement schedule that, for each school facility of permanent construction over 1,000 gross square feet, identifies the construction cost of major building systems, including electrical, mechanical, structural and other components; evaluates and

establishes the life-expectancy of those systems; compares life-expectancy to the age and condition of the systems; and uses the data to forecast a renewal and replacement year and cost for each system.

(Eff. 5/24/2001, Register 158; am 12/19/2002, Register 164; am 12/15/2004, Register 172; am 6/17/2010, Register 194; am __/__/__, Register ____)

Authority: AS 14.07.020 AS 14.11.011 AS 14.11.132
AS 14.07.060 AS 14.11.100

4 AAC 31.065(a) is amended to read:

(a) If a school district determines that it is necessary to engage the services of a private consultant to **provide** design, [OR PROVIDE] **commissioning, or** construction management **services** for an educational facility with money provided under AS 14.11.011 - AS 14.11.020, or for a project approved for reimbursement of costs under AS 14.11.100, and the estimated cost of the contract is more than \$50,000, the selection of the consultant shall be accomplished by soliciting written proposals by advertising in a newspaper of general circulation at least 21 days before the proposals are due. The contract shall be awarded to the most qualified offeror, after evaluating the proposals submitted.

(Eff. 12/2/83, Register 88; am 8/31/90, Register 115; am __/__/__, Register ____)

Authority: AS 14.11.017 AS 14.11.020 AS 14.11.132

4 AAC 31.080 is amended by adding a new subsection to read:

(i) A school district shall perform commissioning of the systems included in a school capital project if the school capital project is an addition of over 5,000 square feet or new construction of an education-related facility that is over 5,000 square feet. If the school capital project is a rehabilitation of an education-related facility over 10,000 square feet, a school district shall perform commissioning of each system substantially upgraded in the school capital project. A school district may perform commissioning for a rehabilitation of an education-related facility for each system impacted by the project but not substantially upgraded in the rehabilitation. Commissioning required under this subsection must include the services of a commissioning agent. Commissioning permitted under this subsection for a system that is impacted by a rehabilitation project but not substantially upgraded in the rehabilitation may use the services of a commissioning agent or may use a qualified facility professional, including a school district employee. The cost of commissioning, including the cost of a commissioning agent, required or permitted under this subsection is an allowable cost of school construction. (Eff. 12/2/83, Register 88; am 8/31/90, Register 115; am 4/17/98, Register 146; am 11/20/2005, Register 176; am __/__/__, Register __)

Authority: AS 14.07.060 AS 14.11.020 AS 14.11.132

4 AAC 31.900 is amended by adding new paragraphs to read:

(31) “commissioning” means functional testing activities for a mechanical, electrical, fuel oil, controls, or building envelope system to ensure that a facility or a system operates as the owner and designers intended and that prepares an owner to efficiently operate its systems and equipment;

(32) “commissioning agent” means an individual who is certified with a recognized standards organization approved by the department to provide commissioning services, who may be an employee of the school district or an independent design consultant hired on behalf of the school district to

(A) create a commissioning plan, checklists, and functional performance tests for each commissioned system;

(B) coordinate the commissioning team for the mechanical, electrical, fuel oil, controls, and building envelope systems;

(C) coordinate the work of the construction contractor, school district, and design team as it pertains to the commissioning process;

(D) witness the functional performance testing;

(E) assist in resolution of issues found during commissioning; and

(F) verify the training of owner maintenance personnel on commissioned systems. (Eff. 3/1/78, Register 65; am 6/9/83, Register 86; am 12/2/83, Register 88; am 9/12/85, Register 96; am 8/31/90, Register 115; am 9/29/90, Register 115; am 10/7/95, Register 136; am 4/17/98, Register 146; am 2/18/99, Register 149; am 7/13/2000, Register 155; am 8/23/2001, Register 159; am 12/19/2002, Register 164; am 12/20/2002, Register 164; am 6/17/2010, Register 194; am ___/___/___, Register ___)

Authority: AS 14.07.020 AS 14.11.020 AS 14.11.102
AS 14.07.060 AS 14.11.100 AS 14.11.132
AS 14.11.011

◆ **ISSUE**

The board is being asked to adopt proposed amendments to regulation 4 AAC 31 School Facility Planning and Construction. The amendments accomplish needed clean-up work in several areas (e.g., citations for updated publications, etc.), codify current work practices, propose improvements to the capital project administration process, and propose limits on funding.

◆ **BACKGROUND**

- The last significant clean-up of 4 AAC 31 occurred in 2010. In the eight years since that time, elements of the school facility planning and construction process have changed, have been updated, and have been improved or altered. Codifying these elements in an update to the regulation is necessary.
- Proposed amendments to 4 AAC 31.022(b), 31.026(d), 31.030(a), 31.040(a), 31.060(i), and 31.220 are clean-up in nature and do not revise current procedures.
- Proposed amendments to 4 AAC 31.013, 31.016, 31.020(d), 31.021(f), 31.023(c), 31.061(b)(2), and 31.085(a) are those needed to conform to current department practices and do not revise current procedures.
- Proposed amendments to 4 AAC 31.020(a), 31.080(f), and 31.900(2) update references to current versions of department publications *Guidelines for School Equipment Purchases* (2016 edition), *Site Selection Criteria and Evaluation Handbook* (2011 edition), and *Project Delivery Method Handbook* (2017 edition). Updates to these publications were reviewed and approved by the statutory Bond Reimbursement & Grant Review Committee.
- Proposed amendments to 4 AAC 31.021(e) and (g), portions of 31.030(a) and 31.040(a), 31.064, 31.065(a), and 31.080(b) and (g) are intended to improve the process of capital improvement project (CIP) requests and the administration of capital project funding by clarifying requirements at a greater level of detail than currently provided. These proposals are not intended to change or limit project eligibility or funding.
- Proposed amendments to 4 AAC 31.023(c)(7) and (e) serve to limit funding of indirect and administrative costs that are based on a percentage rate and not supported with detailed accounting.
- Proposed amendments to 4 AAC 31.065(d), 31.080(e), and 31.080(i) serve to limit funding of professional services, construction, and purchase or lease of existing facilities if requirements in the respective sections are not complied with.
- Proposed amendments to 4 AAC 31.900(21) would increase the minimum project amount (cost) from \$25,000 to \$50,000 before a project would become eligible for state aid as a school capital project.
- The proposed regulations amendments, a summary document of the identified regulation amendments, public comment received, department response to public

comments, and the three updated department publications can be found behind this cover memo.

- Tim Mearig, Facilities Manager, will brief the board.

◆ **OPTIONS**

Adopt the proposed regulations.

Amend the proposed regulations and adopt the amended regulations.

Open a second period of public comment.

Seek more information.

◆ **ADMINISTRATION'S RECOMMENDATION**

Adopt the proposed regulations.

◆ **SUGGESTED MOTION**

I move the State Board of Education & Early Development adopt amendments to 4 AAC 31 School Facility Planning and Construction to implement administrative, process improvement, and resource limitation elements.

2018 Summary of Changes: 4 AAC 31 Regulations

Prepared by Department of Education and Early Development
Finance & Support Services / Facilities

June 6, 2018

Regulation	Summary of Change	Reason for Change
4 AAC 31.013(e)	Reorganize section and refine language to parallel flow of process.	Reorganized language provides more clarity to the timeline of the determination process.
4 AAC 31.013(f)	Provide method for department and a district to postpone on-site inspections if district does not seek a compliant PM program.	Current language does not provide the dept. or a district a way to ‘opt-out’ of the on-site inspection process on the occasion of a district that does not desire to qualify for CIP funding. This will potentially save the department operational costs.
4 AAC 31.013(h) (new)	Add language defining department’s current practice of “provisional compliance”.	In the past 10 years, the department has issued determinations of “provisional compliance” to districts that have the capacity to meet PM standards but lack documentation of maintaining the program (e.g., being able to provide a full 12 months of reporting data).
4 AAC 31.016(i) (new)	Provide guidance on when to include or exclude attendance area enrollment when housed in leased facilities.	Formalize dept. practice of excluding enrollment of leased-facility schools in attendance areas when determining space eligibility, unless single-site, and include clause for termination of leased space creating unhoused students.
4 AAC 31.020(a)	Update publication titles and editions.	Conform to new dept. publication editions; update publication title formatting.
4 AAC 31.020(d)	Provide department flexibility to reduce or not reduce a project budget before the end of the design phase.	Current regulation reads to require a budget reduction if enrollment declines during design process; however, fluctuations can cause significant design changes and incur additional design costs. Dept. practice typically holds a project harmless once a grant agreement is signed and design is underway; however, there could be circumstances where a later adjustment is appropriate.
4 AAC 31.021(e)	Allow “completed projects” to reuse priority ranking for 5 years after original application.	Enable districts to save costs of re-submitting a new application for projects that were completed and do not have any new information to present.

Regulation	Summary of Change	Reason for Change
4 AAC 31.021(f)	Remove requirement to provide inflation/escalation to elements of the project that will be completed prior to a grant being issued.	Adding the required escalation to projects with previously completed scope unnecessarily increases ranked project costs, resulting in lapsing balances in appropriations and tying up resources that could be used to fund additional projects.
4 AAC 31.021(g)	Adds language on how to treat appeals on projects reused in years 2-6.	Required to conform existing language to the additional years of reuse beyond year one.
4 AAC 31.022(b)	Changes primary purpose type “E” projects from school construction to major maintenance.	Conforms to 2010 statute change.
4 AAC 31.023(c)	Specify that application costs are allowable project costs. Define that the 36/120 month limit for reimbursable costs begins with initial application.	More clarity is need for when the “36 months” and “120 months” begin for reimbursable allowable project and land costs in a AS 14.11 grant or reimbursement.
4 AAC 31.023(c)	Adds language limiting amount of grant that can be used for district indirect administrative costs to specified percentage.	Provide more uniformity in treatment of indirect costs; reduces the obligation of the department to fund administrative costs not closely tied to a project with state aid.
4 AAC 31.023(e)	Provides definitions to support changes regarding indirect administrative costs.	Provide clarity for new terms “indirect administrative costs” and “construction costs” used in subsection.
4 AAC 31.026(d)	Changes who appoints a hearing officer for CIP process appeals.	Conforms to 2004 statute change.
4 AAC 31.030(a)	Changes statute reference from AS 14.11.020 to more common “grant funded under” AS 14.11.011. Specify that elements of a plan for DEED review must be submitted prior to solicitation of a construction contract.	Conform statute reference to statute providing grant funding. Language reinforces that plan must be provided for dept. review prior to construction contract solicitation, as some projects have been being submitted after contract award.

Regulation	Summary of Change	Reason for Change
4 AAC 31.040(a)	Change statute reference from AS 14.11.020 to more common AS 14.11.011. Specify that DEED review and approval must be submitted prior to solicitation of a construction contract, as inferred from timeline requirements in (a)(1)-(3).	Conform statute reference to statute providing grant funding. Language reinforces that project documents must be provided for dept. review prior to construction contract solicitation, as some projects have been being submitted after contract award.
4 AAC 31.060(i)	Change dollar value of reimbursement project costs \$200,000.	Conform value to statute. Current \$25,000 value is reflective of grant minimum project cost, not debt reimbursement.
4 AAC 31.061(b)(2)	Repeal language related to applications submitted before 1/1/1996.	Removal of non-applicable language.
4 AAC 31.064	Clarify when remaining bond proceeds can be redirected.	Clarity is needed for when “construction” of a project is considered complete: when design, construction, and equipment contracts are terminated.
4 AAC 31.065(a)	Allow solicitation of contracts for design and construction management consultants using qualifying Internet websites in lieu of newspapers.	Online publishing of solicitations via the world wide web has become equal or more effective than traditional newspaper publishing. (Note: State procurement regulations now allow these types of solicitation options.)
4 AAC 31.065 (new)	Allow DEED discretion to deny/limit participation in costs of design and construction management for grants and debt reimbursement projects that did not comply with this section	Provide consistency in department treatment of participation in construction and consultant contracts.
4 AAC 31.080(b)	Allow solicitation of construction contracts using qualifying Internet websites in lieu of newspapers.	Online publishing of solicitations via the world wide web has become equal or more effective than traditional newspaper publishing. (Note: State procurement regulations now allow these types of solicitation options.)
4 AAC 31.080(e)	Allow DEED discretion to deny/limit participation in costs of construction for grants that did not comply with this section; currently DEED may not allow payment for construction contract costs.	Provide consistency between grant and debt programs in dept. discretion to deny construction funding.

Regulation	Summary of Change	Reason for Change
4 AAC 31.080(f)	Update publication edition reference.	Conform to new dept. publication edition and update publication title formatting.
4 AAC 31.080(g)	Add “lease” and “donated” to methods a school district may acquire facilities with prior department approval.	Expand methods of school district acquisition of property that require dept. approval; works in conjunction with new subsection (j) to potentially limit AS 14.11 funding for property that was not in the best interest of the state for a district to acquire [note -- most leased facilities are already not eligible for AS 14.11 funding]
4 AAC 31.080(i) (new)	Allow denial or limiting of participation cost of school construction for facilities acquired under specific circumstances.	Provide dept. process for overview of district acquisition of land or facilities in instances where the dept. may be asked to provide financial support for major maintenance or restoration.
4 AAC 31.085(a)	Specify that a school district is still responsible for liabilities caused by its use of the property.	Reinforce that district liabilities and responsibilities that are the result of the district’s use and operation of the property continue beyond the use permit and one-year wind-down period (see also 4 AAC 31.090(h)).
4 AAC 31.220	Change date districts shall provide a certificate of insurance to DEED from July 1 to July 15.	Date extension requested by districts and insurance carriers. Certificates not always issued before July 1.
4 AAC 31.900(2)	Update publication edition reference.	Conform to new dept. publication edition and update publication title formatting.
4 AAC 31.900(21)	Change minimum value of “school capital project” to \$50,000.	Adjust dollar value in line with inflation to maintain intent of original regulation that projects are “capital” expenses and not “operational”. This value is consistent with inflation.

4 AAC 31.013(e) is amended to read:

(e) [ON AN ANNUAL BASIS, THE] **The** department **will make a determination of a district's** [SHALL PROVIDE A PRELIMINARY NOTICE TO EACH DISTRICT REGARDING ITS] compliance with each element required in (a) of this section, based on evidence of a program [THAT WAS PREVIOUSLY PROVIDED TO] **acquired by** the department, [OR THAT WAS] **including information** gathered by the department during an on-site visit conducted under (f) of this section. **The department may change a determination at any time during the year based on new evidence. For purposes of eligibility for an application submitted under AS 14.11.011, on** [ON] or before June 1, the department will provide [ITS] preliminary notice **of its determination.** [THE DEPARTMENT MAY CHANGE A DETERMINATION OF NON-COMPLIANCE AT ANY TIME DURING THE YEAR BASED ON NEW EVIDENCE.] Districts that are not in full compliance must provide evidence of compliance to the department by August 1. On or before August 15, the department will notify districts of its final determination regarding compliance. The department will deny a grant application submitted under AS 14.11.011 by a district that has received a final determination from the department that the district is out of compliance with this section.

4 AAC 31.013(f) is amended to read:

(f) The department **will** [SHALL] conduct **an** on-site **inspection** [INSPECTIONS] of a school district preventive maintenance and facility management **program** [PROGRAMS] at least once every five years; **however, if the department issues a finding of noncompliance under (e) of this section and the district does not provide adequate evidence of compliance, the department may postpone an on-site visit beyond the five-year period.** The department

may make additional inspections as it **determines** [DEEMS] necessary. The department may change its determination of compliance based on information obtained during **an** [THE] on-site **inspection** [INSPECTIONS].

4 AAC 31.013 is amended by adding a new subsection to read:

(h) Notwithstanding (e) and (f) of this section, the department may make a determination of provisional compliance for a district that provides evidence of a plan that meets all required elements identified in (a) of this section but does not provide documentation of adherence to that plan. A determination of provisional compliance will allow a district to be eligible for state aid until a final determination of compliance or noncompliance is provided. (Eff. 5/24/2001, Register 158; am 12/19/2002, Register 164; am 12/15/2004, Register 172; am 6/17/2010, Register 194; am ___/___/___, Register ____)

Authority: AS 14.07.020 AS 14.11.011 AS 14.11.132
AS 14.07.060

4 AAC 31.016 is amended by adding a new subsection to read:

(i) The enrollment calculated for students in leased space will be excluded from use in calculating eligibility for additional square footage for facilities unless

- (1) that enrollment is in an attendance area comprised of a single school; or
- (2) the lease is due to terminate within two years and district submits an

application for a capital improvement project under AS 14.11 for new school construction to house the student population of the terminating lease space. (Eff. 7/13/2000, Register 155; am 12/19/2002, Register 164; am ___/___/___, Register ____)

Authority: AS 14.07.060 AS 14.11.015 AS 14.11.100
AS 14.11.011 AS 14.11.017 AS 14.11.132
AS 14.11.013

4 AAC 31.020(a) is amended to read:

(a) The following are the basic guides for educational facility planning **adopted by reference:**

(1) for a school capital project application submitted to the department, *Creating Connections: The CEFPI Guide for Educational Facility Planning*, 2004 **edition** [EDITION], as published by the Council of Educational Facilities Planners International;

(2) repealed 4/17/98;

(3) repealed 4/17/98;

(4) *Guidelines for School Equipment Purchases*, as published by the Alaska Department of Education and Early Development, **2016 edition** [1997 EDITION];

(5) deleted 8/31/90;

(6) repealed 4/17/98;

(7) *Swimming Pool Guidelines*, as published by the Alaska Department of Education and Early Development, 1997 edition; and

(8) **Site Selection Criteria and Evaluation Handbook** [SITE SELECTION CRITERIA AND EVALUATION GUIDELINE], as published by the Alaska Department of Education and Early Development, **2011 edition** [1997 EDITION].

4 AAC 31.020(d) is amended to read:

(d) The department **will** [SHALL] reduce a project budget in proportion to the amount that the project's design exceeds the square feet allowable as determined under (c) of this section[.THIS SUBSECTION APPLIES TO A PROJECT], **until an agreement, as described in 4 AAC 31.023(c), is fully executed** [THAT HAS NOT RECEIVED A GRANT UNDER AS 14.11, A PROJECT THAT HAS RECEIVED MONEY FROM THE DEPARTMENT FOR PLANNING]. **The department may proportionally reduce the project budget under this subsection if** [, AND] a project [THAT] has not secured the approval of the commissioner under 4 AAC 31.040 [THIS SUBSECTION DOES NOT APPLY TO A PROJECT THAT HAS SECURED THE APPROVAL OF THE COMMISSIONER UNDER 4 AAC 31.040].
 (Eff. 3/1/78, Register 65; am 6/9/83, Register 86; am 12/2/83, Register 88; am 8/31/90, Register 115; am 10/7/95, Register 136; am 4/17/98, Register 146; am 2/18/99, Register 149; am 7/13/2000, Register 155; am 8/23/2001, Register 159; am 12/20/2002, Register 164; am 6/17/2010, Register 194; am ___/___/___, Register ___)

Authority:	AS 14.07.020	AS 14.11.011	AS 14.11.100
	AS 14.07.060	AS 14.11.020	AS 14.11.132

4 AAC 31.021(e) is repealed and readopted to read:

(e) Using the criteria set out in 4 AAC 31.022(b), the department will score each application and use the score to assign a priority ranking to the projects approved for eligibility. The department may annually approve a school district's request to reuse an original application and its score for up to five additional years after the year the original application is submitted, if, for a school capital project listed in the district's six-year capital improvement plan,

(1) the school district identifies, in a letter accompanying the six-year plan, the specific application for which the district requests consideration beyond the initial application period;

(2) the chief school administrator certifies in writing that the district's eligibility for any additional square footage associated with the project has not decreased; and

(3) for requests to reuse the application and score

(A) for the first additional year,

(i) the physical condition of a facility included in the project has not deteriorated so as to increase the project's cost to exceed the amount determined by application of the inflation factor under (f) of this section; and

(ii) health and life safety conditions and code conditions have not changed so as to affect the project's score under 4 AAC 31.022(b); or

(B) in years two through five after the year of the original application, the project construction is substantially complete at the time of the original application; an inflation factor under (f) of this section will not be added to the project cost when an application is reused under this subparagraph.

4 AAC 31.021(f) is repealed and readopted to read:

(f) If, under (e) of this section, the department approves a district's reuse of its previous year's application and score for one additional year after the year the original application is filed, the department will add an inflation factor based on an industry-accepted method to costs anticipated to occur after the award of the grant.

4 AAC 31.021(g) is repealed and readopted to read:

(g) If, under (e) of this section, a district reuses its original application and score for one or more additional years after the year the original application is filed, the district may not appeal its priority ranking in any of the additional years.

4 AAC 31.021(h) is repealed and readopted to read:

(h) A grant application must include certification that insurance or a program of self-insurance exists under 4 AAC 31.200 – 4 AAC 31.225 and will be revised, if necessary, to include the proposed facility. (Eff. 8/31/90, Register 115; am 8/12/93, Register 127; am 3/10/96, Register 137; am 4/17/98, Register 146; am 7/13/2000, Register 155; am 12/19/2002, Register 164; am 6/17/2010, Register 194; am ___/___/___, Register ___)

Authority: AS 14.07.060 AS 14.11.011 AS 14.11.132
AS 14.11.008 AS 14.11.013

4 AAC 31.022(b) is amended to read:

(b) When reviewing the six-year capital improvement plans and the grant applications submitted by school districts, department staff shall separately rank projects in the following classifications in the first year of the plan, in descending order of priority, as serves the state's best interests, where[:]

(1) school construction projects are those projects the primary purpose of which is to accomplish work under the categories established in **AS 14.11.013(a)(1)(A), (B), (F), and (G)** [AS 14.11.013(a)(1)(A), (a)(1)(B), AND (a)(1)(E) - (a)(1)(G)]; and

(2) major maintenance projects are those projects the primary purpose of which is to accomplish work under the categories established in AS 14.11.013(a)(1)(C) - (E) [AS 14.11.013(a)(1)(C) AND (D)], except that a major maintenance project may not include additional or replacement square footage.

(Eff. 8/31/90, Register 115; am 8/12/93, Register 127; am 10/7/95, Register 136; am 4/17/98, Register 146; am 7/13/2000, Register 155; am 12/19/2002, Register 164; am 6/17/2010, Register 194; am ___/___/___, Register ___)

Authority: AS 14.07.060 AS 14.11.013 AS 14.11.132
AS 14.11.011

4 AAC 31.023(c) is amended to read:

(c) The department will, before the disbursement of a grant or allocations of other financial assistance [MONEY] to a school district, require the execution of a grant or other financial assistance agreement, on a form prescribed by the commissioner, that contains the following conditions:

(1) the project will be constructed and equipped under the requirements of 4 AAC 31.020(a), within the project budget determined under 4 AAC 31.022(e);

(2) money will be disbursed as the parties agree to allow the accomplishment of stages in the project, such as site acquisition; design and construction; and to reimburse the district for money actually and necessarily spent, before the award of the grant or allocation of other financial assistance,

(A) for **application costs**, planning costs, design costs, and construction costs incurred not more than 36 months before the **initial** submission of the grant **or other financial assistance** application **with a substantially identical scope**; and

(B) site acquisition costs incurred not more than 120 months before the **initial submission of the** grant or other financial assistance application **with a substantially identical scope** for which the department has given its approval under 4 AAC 31.025;

(3) the district's performance under the grant or other financial assistance is subject to financial audit at any time; the cost of an audit required by the state is an allowable cost of school construction;

(4) the site for the school facility is approved under 4 AAC 31.025;

(5) designers, **commissioning agents, and construction managers** of the facility shall be selected under 4 AAC 31.065; [AND]

(6) construction shall be performed by contracts awarded under 4 AAC 31.080;

and

(7) unless a district provides documented evidence of project-specific indirect administrative costs in excess of these limits, indirect administrative costs may not exceed

(A) three percent of construction costs, if construction costs are \$500,000 or less;

(B) the greater of \$15,000 or two percent of construction costs, if construction costs are over \$500,000 but less than \$5,000,000;

(C) the greater of \$100,000 or one percent of construction costs, if construction costs are \$5,000,000 or more.

4 AAC 31.023 is amended by adding a new subsection to read:

(e) In (c) of this section,

(1) “indirect administrative costs” means an allocable portion of administrative and operating expenses; and

(2) “construction costs” means the cost of contracted work as well as force account for facility construction, site preparation, site improvements, and utilities. (Eff. 8/31/90, Register 115; am 8/12/93, Register 127; am 4/17/98, Register 146; am 2/18/99, Register 149; am ___/___/___, Register ___)

Authority: AS 14.11.013 AS 14.11.017 AS 14.11.132
AS 14.11.015 AS 14.11.100

4 AAC 31.026(d) is amended to read:

(d) Within 10 working days after the filing of an appeal under (c) of this section, the **chief administrative law judge of the office of administrative hearings (AS 44.64.010)** [COMMISSIONER] shall appoint a hearing officer to hear the case. The hearing officer shall consider the issues raised in the appeal on the basis of

(1) the school district's updated capital improvement plan submitted under 4 AAC 31.011;

(2) the grant application, and supporting documentation submitted by the school district under 4 AAC 31.020(c);

(3) the comments received at the public hearing conducted under (a) of this section;

(4) the decision rendered by the department on the request for reconsideration under (b) of this section; and

(5) the appeal filed by the school district under (c) of this section.

(Eff. 8/31/90, Register 115; am 8/12/93, Register 127; am 4/17/98, Register 146; am __/__/__, Register ____)

Authority: AS 14.11.013 **AS 14.11.016** AS 14.11.132
AS 14.11.015

4 AAC 31.030(a) is amended to read:

(a) A school district shall submit [THE ELEMENTS OF] a plan for **a school capital project, including** new construction, additions, demolitions, and rehabilitations, to be undertaken by the school district that **is** [ARE] to be funded under **AS 14.11.011** [AS 14.11.020] or for which reimbursement is to be sought under AS 14.11.100. The elements of the plan must be submitted to the commissioner for the commissioner's review and approval as the elements are developed and before any **construction contract solicitation or** construction activity is initiated.

(Eff. 3/1/78, Register 65; am 12/2/83, Register 88; am 10/7/95, Register 136; am 4/17/98, Register 146; am __/__/__, Register ____)

Authority: AS 14.07.020 AS 14.11.011 AS 14.11.020
AS 14.07.060 AS 14.11.013 AS 14.11.100

4 AAC 31.040(a) is amended to read:

(a) Before commencing **construction contract solicitation or** construction activity under **AS 14.11.011** [AS 14.11.020] or **construction contract solicitation or** construction activity for which reimbursement will be sought under AS 14.11.100, a school district or a regional school board shall secure the approval of the commissioner of the documents for the project as follows:

(1) the school district or regional school board shall submit to the commissioner 95 percent construction documents at least 20 work days before a bid invitation is made;

(2) if construction contract bids are to be invited for the project, the school district or regional school board shall submit the construction bid documents, excluding the construction plans and specifications if the 95 percent construction documents submitted under (1) of this subsection were stamped and signed by the professionals in responsible charge, to the commissioner at least five work days before the bid invitation is made;

(3) if the project will not be advertised for bids, the school district or regional school board shall submit the final stamped and signed construction documents to the commissioner no later than 15 work days before commencing each construction phase; and

(4) a municipality or a school district may request, in writing, a waiver to the construction document approval process set out in (1) - (3) of this subsection for a project based on the ability of the municipality or school district to provide a thorough and complete independent review.

(Eff. 3/1/78, Register 65; am 12/2/83, Register 88; am 4/17/98, Register 146; am ___/___/___, Register ___)

Authority: AS 14.07.020

AS 14.11.011

AS 14.11.100

AS 14.07.060

AS 14.11.020

4 AAC 31.060(i) is amended to read:

(i) Reimbursement for rehabilitation costs under AS 14.11.100 is limited to projects exceeding **\$200,000** [\$25,000].

(Eff. 3/1/78, Register 65; am 2/24/83, Register 85; am 12/2/83, Register 88; am 9/12/85, Register 96; am 2/8/86, Register 97; am 5/30/90, Register 114; am 4/17/98, Register 146; am 7/13/2000, Register 155; am 6/17/2010, Register 194; am ___/___/___, Register ___)

Authority:	AS 14.07.020	AS 14.11.020	AS 14.11.102
	AS 14.07.060	AS 14.11.100	AS 14.11.132
	AS 14.11.011		

4 AAC 31.061(b)(2) is repealed:

(2) repealed ___/___/___;

(Eff. 9/12/85, Register 96; am 2/8/86, Register 97; am 5/30/90, Register 114; am 9/29/90, Register 115; am 10/7/95, Register 136; am 4/17/98, Register 146; am ___/___/___, Register ___)

Authority:	AS 14.07.020	AS 14.11.020	AS 14.11.102
	AS 14.07.060	AS 14.11.100	AS 14.11.132

4 AAC 31.064 is amended to read:

4 AAC 31.064. Redirection of bond proceeds. If a municipality has bond proceeds remaining after **termination of all design, construction, and equipment contracts for** [THE CONSTRUCTION OF] a project approved by the department for debt retirement under 4 AAC

31.060 and by local voters under AS 14.11.100(j), and the municipality seeks to construct a project different from the one approved by the department, the municipality may only receive reimbursement for the project if the new project is approved by the department and

(1) the bond proposition originally approved by the local voters authorized the use of any excess money for school capital projects such as the new project; or

(2) the municipality meets the requirements of AS 14.11.100(j), including the requirement for a municipal election to approve the new use of the money. (Eff. 5/30/90,

Register 114; am ___/___/___, Register ___)

Authority: AS 14.07.060 AS 14.11.100 AS 14.11.132

4 AAC 31.065(a) is amended to read:

(a) If a school district determines that it is necessary to engage the services of a private consultant to **provide design, commissioning, or [PROVIDE] construction management services** for an educational facility with money provided under AS 14.11.011 - AS 14.11.020, or for a project approved for reimbursement of costs under AS 14.11.100, and the estimated cost of the contract is more than \$50,000, **the contract shall be awarded to the most qualified proposer after evaluating proposals submitted in response to an approved solicitation.** The selection of the consultant shall be accomplished by soliciting written proposals by advertising **at least 21 days before the proposals are due by providing notice through publication** in a newspaper of general circulation. **The department may approve an alternate means of notice through publication on the Internet if the website has the express purpose of advertising similar solicitations, has unrestricted public access, and is equally likely to reach prospective proposers.** [AT LEAST 21 DAYS BEFORE THE PROPOSALS ARE DUE. THE

CONTRACT SHALL BE AWARDED TO THE MOST QUALIFIED OFFEROR, AFTER EVALUATING THE PROPOSALS SUBMITTED.]

4 AAC 31.065 is amended by adding a new subsection to read:

(d) The department may deny or limit its participation in the costs of design, commissioning, or construction management for a project eligible for grant funding under AS 14.11.011 or for reimbursement under AS 14.11.100 if the school district does not comply with the requirements of this section. (Eff. 12/2/83, Register 88; am 8/31/90, Register 115; am ___/___/___, Register ___)

Authority: AS 14.11.017 AS 14.11.020 AS 14.11.132

4 AAC 31.080(b) is amended to read:

(b) The school district shall **publish** [PROVIDE] **the first** notice of its solicitation **at least 21 days** [BY ADVERTISEMENT IN A NEWSPAPER OF GENERAL CIRCULATION IN THIS STATE AT LEAST THREE TIMES] before the opening of the offers. [THE FIRST PRINTING OF THE ADVERTISEMENT MUST OCCUR AT LEAST 21 DAYS BEFORE OPENING THE OFFERS.] The department may approve a solicitation period shorter than 21 days when written justification submitted by the school district demonstrates that a shorter solicitation period is advantageous for a particular **project** [OFFER] and will result in an adequate number of responses. A school district may provide additional notice by mailing its solicitation to contractors on any list it maintains, and any other means reasonably calculated to provide notice to prospective offerors. **The district shall provide notice of its solicitation by publication at least three times in a newspaper of general circulation in the state. The**

department may approve an alternate means of notice through publication on the Internet if the website has the express purpose of advertising similar solicitations, has unrestricted public access, and is equally likely to reach prospective offerors.

4 AAC 31.080(e) is amended to read:

(e) The department may deny or limit its participation in the costs of construction for a project eligible **for grant funding under AS 14.11.011 or** for reimbursement under AS 14.11.100 if the school district does not comply with the requirements of this section. [A SCHOOL DISTRICT THAT ENTERS INTO A CONSTRUCTION CONTRACT FOR A PROJECT AUTHORIZED FOR CONSTRUCTION UNDER AS 14.11.020 THAT WAS AWARDED WITHOUT COMPETITIVE SELECTION UNDER THIS SECTION MAY NOT RECEIVE MONEY UNDER ITS PROJECT AGREEMENT FOR THE CONSTRUCTION PHASE OF THE PROJECT.]

4 AAC 31.080(f) is amended to read:

(f) Nothing in this section precludes a school district from using an alternative construction delivery method as defined and described in the **Project Delivery Method Handbook** [PROJECT DELIVERY METHOD HANDBOOK], **2nd edition, September 2017** [NOVEMBER, 2004], adopted by reference, if the department approves the method in advance of any solicitation, the proposed method is in the state's best interest, and the school district concurs in any directives the department makes concerning the type of selection and award of the contract. The department may deny or suspend use of an alternative construction delivery method by a school district if the department concludes, based on substantial evidence, that use

or repeated use of a delivery method by the school district has resulted or will result in limited competition or higher costs.

4 AAC 31.080(g) is amended to read:

(g) A school district may, with prior approval by the department, **enter into a lease or purchase agreement for, or accept a donation of,** an existing facility **or land** for use as an education-related facility if

(1) **for the purchase, lease, or accepted donation of an existing facility,** a cost saving over new construction is achieved;

(2) the purchase **or lease** price is arrived at through impartial negotiation and is supported by a real estate appraisal that meets accepted standards; and

(3) the purchase, **lease, or donation** is in the best interests of the state and the school district.

4 AAC 31.080 is amended by adding a new subsection to read:

(i) The department may deny or limit its participation in the costs of a school capital project if the real property for the project is acquired by a school district through purchase, lease, or donation without the approval of the department under (g) of this section. (Eff. 12/2/83, Register 88; am 8/31/90, Register 115; am 4/17/98, Register 146; am 11/20/2005, Register 176; am ___/___/___, Register ___)

Authority: AS 14.07.060

AS 14.11.020

AS 14.11.132

4 AAC 31.085(a) is amended to read:

(a) The department may dispose of state-owned school buildings and other facilities under this section if it determines that the buildings or facilities are no longer needed to provide the educational program in the community in which they are located. The determination will be made in writing after consultation with the regional educational attendance area (REAA) in which the property is located, and the reasons for the determination will be documented. The department will not make a determination under this section unless the regional school board that was given a use permit under 4 AAC 31.090 for the property provides, in support of the determination, a resolution requesting termination of the use permit and declaring that the property, both land and buildings, is no longer needed for the purpose of providing education services. In addition, the regional school board must give notice of its excess property on a form provided by the department, and must agree that the conditions and responsibilities contained under 4 AAC 31.090 in the use permit will remain valid for a one-year period after the date of the notice or the date of last occupancy, whichever is later, unless the department, in writing, relieves the regional school board of responsibility in whole or in part. **Nothing in this section relieves a regional school board of its ongoing responsibilities or liabilities arising out of its interest in or use or operation of the property.**

(Eff. 10/4/90, Register 115; am 4/17/98, Register 146; am 12/19/2002, Register 164; am 6/17/2010, Register 194; am ___/___/___, Register ___)

Authority: AS 14.07.030 AS 14.07.060

4 AAC 31.220 is amended to read:

4 AAC 31.220. Proof of insurance. Except for a district that has an authorized self-insurance program under 4 AAC 31.205, each school district shall provide to the department a certificate of insurance, by **July 15** [JULY 1] of each year, that provides notice of the per occurrence and aggregate limits of coverage, and shall provide for 45 days' notice to the department of cancellation, termination, or any material change in policy conditions. (Eff.

8/31/90, Register 115; am ___/___/___, Register ___)

Authority: AS 14.03.150 AS 14.07.060

4 AAC 31.900(2) is amended to read:

(2) "capital equipment" means built-in and movable equipment used to furnish a newly constructed or rehabilitated space; it includes first-time purchase of library books, reference material, and media to furnish a new or renovated library; it does not include supply items such as textbooks and expendable commodities; the term is further defined in the *Guidelines for School Equipment Purchases, 2016 edition, adopted by reference in*

4 AAC 31.020 [1997 EDITION];

4 AAC 31.900(21) is amended to read:

(21) "school capital project" means a school construction or major maintenance project for which state aid is requested or provided when the costs of the construction or **major** maintenance exceed **\$50,000** [\$25,000];

4 AAC 31.900 is amended by adding a new paragraph to read:

(33) “construction manager” means a private consultant contracted by the school district during any phase of a school capital project to manage the project’s scope, quality, and budget. (Eff. 3/1/78, Register 65; am 6/9/83, Register 86; am 12/2/83, Register 88; am 9/12/85, Register 96; am 8/31/90, Register 115; am 9/29/90, Register 115; am 10/7/95, Register 136; am 4/17/98, Register 146; am 2/18/99, Register 149; am 7/13/2000, Register 155; am 8/23/2001, Register 159; am 12/19/2002, Register 164; am 12/20/2002, Register 164; am 6/17/2010, Register 194; am ___/___/___, Register ___)

Authority: AS 14.07.020 AS 14.11.020 AS 14.11.102
AS 14.07.060 AS 14.11.100 AS 14.11.132
AS 14.11.011

**To: Members of the State Board of
Education & Early Development**

September 19, 2019

From: Dr. Michael Johnson, Commissioner

Agenda Item: 7B

◆ **ISSUE**

The board is being asked to adopt amendments to regulation 4 AAC 31 School Facility Planning and Construction. The amendments add a new subsection 4 AAC 31.080(i) and amend other related sections to implement requirements for commissioning on certain school capital projects.

◆ **BACKGROUND**

- Facility commissioning has become an accepted best-practice for today's complex, "smart" buildings. As defined in these regulations, commissioning means functional testing of building systems to ensure that a facility operates as intended and that prepares an owner to efficiently operate its systems and equipment. Both empirical and anecdotal evidence is available demonstrating the value of commissioning in ensuring cost effective building operation following the completion of construction.
- Proposed amendments to 4 AAC 31.080 establish the requirement for commissioning based on the type, size, and complexity of the school capital project and identify five key building systems that would most benefit from the commissioning process.
- Proposed amendments to 4 AAC 31.065 serve to identify commissioning as a professional service subject to requirements for open, competitive selection when above the \$50,000 threshold.
- Proposed amendments to 4 AAC 31.013 acknowledge the value of periodically commissioning existing facilities and make it a criteria of a qualifying energy management plan.
- Amendments to 4 AAC 31.900 introduce necessary definitions of the terms 'commissioning' and 'commissioning agent'.
- The proposed amended regulations were the result of a special subcommittee of the statutory Bond Reimbursement & Grant Review Committee and have been reviewed and approved by that body.
- No public comment was received by the time the board packet was finalized. Any public comment received since then will be distributed at the board meeting.
- Proposed amendment changes can be found behind this cover memo.
- Tim Mearig, Facilities Manager, will brief the board.

◆ **OPTIONS**

Adopt the proposed regulations.

Amend the proposed regulations and adopt the amended regulations.

Open a second period of public comment.

Seek more information.

◆ **ADMINISTRATION'S RECOMMENDATION**

Adopt the proposed regulations.

◆ **SUGGESTED MOTION**

I move the State Board of Education & Early Development adopt the proposed amendments to 4 AAC 31 School Facility Planning and Construction to implement requirements for commissioning on certain school capital projects.

4 AAC 31.013(a) is amended to read:

(a) For a district to be eligible for state aid under AS 14.11.011 **or AS 14.11.100**, the district must have a facility management program that addresses the following five elements of facility and maintenance management:

(1) a formal maintenance management program that records maintenance activities on a work order basis, and tracks the timing and cost, including labor and materials, of maintenance activities in sufficient detail to produce reports of planned and completed work;

(2) an energy management plan that includes

(A) the recording of energy consumption for all utilities on a monthly basis for each building; for facilities constructed before December 15, 2004, a district may record energy consumption for utilities on a monthly basis when multiple buildings are served by one utility plant; **and**

(B) regular evaluation of the effectiveness of and need for commissioning existing buildings;

(3) a custodial program that includes a schedule of custodial activities for each building based on type of work and scope of effort;

(4) a maintenance training program that specifies training for custodial and maintenance staff and records training received by each person; and

(5) a renewal and replacement schedule that, for each school facility of permanent construction over 1,000 gross square feet, identifies the construction cost of major building systems, including electrical, mechanical, structural and other components; evaluates and

establishes the life-expectancy of those systems; compares life-expectancy to the age and condition of the systems; and uses the data to forecast a renewal and replacement year and cost for each system.

(Eff. 5/24/2001, Register 158; am 12/19/2002, Register 164; am 12/15/2004, Register 172; am 6/17/2010, Register 194; am __/__/__, Register ____)

Authority: AS 14.07.020 AS 14.11.011 AS 14.11.132
AS 14.07.060 AS 14.11.100

4 AAC 31.065(a) is amended to read:

(a) If a school district determines that it is necessary to engage the services of a private consultant to **provide** design, [OR PROVIDE] **commissioning, or** construction management **services** for an educational facility with money provided under AS 14.11.011 - AS 14.11.020, or for a project approved for reimbursement of costs under AS 14.11.100, and the estimated cost of the contract is more than \$50,000, the selection of the consultant shall be accomplished by soliciting written proposals by advertising in a newspaper of general circulation at least 21 days before the proposals are due. The contract shall be awarded to the most qualified offeror, after evaluating the proposals submitted.

(Eff. 12/2/83, Register 88; am 8/31/90, Register 115; am __/__/__, Register ____)

Authority: AS 14.11.017 AS 14.11.020 AS 14.11.132

4 AAC 31.080 is amended by adding a new subsection to read:

(i) A school district shall perform commissioning of the systems included in a school capital project if the school capital project is an addition of over 5,000 square feet or new construction of an education-related facility that is over 5,000 square feet. If the school capital project is a rehabilitation of an education-related facility over 10,000 square feet, a school district shall perform commissioning of each system substantially upgraded in the school capital project. A school district may perform commissioning for a rehabilitation of an education-related facility for each system impacted by the project but not substantially upgraded in the rehabilitation. Commissioning required under this subsection must include the services of a commissioning agent. Commissioning permitted under this subsection for a system that is impacted by a rehabilitation project but not substantially upgraded in the rehabilitation may use the services of a commissioning agent or may use a qualified facility professional, including a school district employee. The cost of commissioning, including the cost of a commissioning agent, required or permitted under this subsection is an allowable cost of school construction. (Eff. 12/2/83, Register 88; am 8/31/90, Register 115; am 4/17/98, Register 146; am 11/20/2005, Register 176; am __/__/__, Register __)

Authority: AS 14.07.060 AS 14.11.020 AS 14.11.132

4 AAC 31.900 is amended by adding new paragraphs to read:

(31) “commissioning” means functional testing activities for a mechanical, electrical, fuel oil, controls, or building envelope system to ensure that a facility or a system operates as the owner and designers intended and that prepares an owner to efficiently operate its systems and equipment;

(32) “commissioning agent” means an individual who is certified with a recognized standards organization approved by the department to provide commissioning services, who may be an employee of the school district or an independent design consultant hired on behalf of the school district to

(A) create a commissioning plan, checklists, and functional performance tests for each commissioned system;

(B) coordinate the commissioning team for the mechanical, electrical, fuel oil, controls, and building envelope systems;

(C) coordinate the work of the construction contractor, school district, and design team as it pertains to the commissioning process;

(D) witness the functional performance testing;

(E) assist in resolution of issues found during commissioning; and

(F) verify the training of owner maintenance personnel on commissioned systems. (Eff. 3/1/78, Register 65; am 6/9/83, Register 86; am 12/2/83, Register 88; am 9/12/85, Register 96; am 8/31/90, Register 115; am 9/29/90, Register 115; am 10/7/95, Register 136; am 4/17/98, Register 146; am 2/18/99, Register 149; am 7/13/2000, Register 155; am 8/23/2001, Register 159; am 12/19/2002, Register 164; am 12/20/2002, Register 164; am 6/17/2010, Register 194; am ___/___/___, Register ___)

Authority:	AS 14.07.020	AS 14.11.020	AS 14.11.102
	AS 14.07.060	AS 14.11.100	AS 14.11.132
	AS 14.11.011		



MEMORANDUM

To: State Board of Education & Early Development
Date: August 12, 2019

Thru: Commissioner Michael Johnson
Telephone: (907) 465-2857

From: Director Tamara Van Wyhe
Subject: 8A. Division Updates

Assessments

- On June 11 and June 12, 2019, the assessments team and division leadership met with the Technical Advisory Committee (TAC) to receive feedback, consultation, and advice concerning Alaska's assessment program from national educational measurement experts.
- PEAKS
 - In conjunction with the TAC meeting, a planning meeting with the test vendor (DRC) took place from June 13 to June 14, 2019. The purpose of this meeting was to plan for the 2019 – 2020 administrations of the PEAKS and Alaska Science Assessments.
 - Prior to the release of assessment results to districts, the assessments team prepared resources for districts including Parent Guides to reports, Educator Guides to Reports, and FAQs and quick-guides on understanding reports and results.
 - On July 29, 2019, the assessments team participated in the Superintendent Fly-in meeting to communicate general information about the assessment program and specific information about the upcoming release of PEAKS and Alaska Science Assessment results.
 - On July 31, 2019, districts received student-, school, and district-level results for the PEAKS and Alaska Science Assessments. Reports and district data files were made available through the eDirect test management platform. Hard copies of reports were mailed to districts.

- The public release of statewide results for PEAKS will occur on September 5, 2019. The assessments team is currently preparing training and communication materials to assist districts and for various stakeholder groups.
- The assessment window for the 2019-2020 administration of PEAKS and the Alaska Science Assessments will take place from March 30 – May 1, 2020.
- WIDA
 - On June 6, 2019, data from the 2019 administration of the ACCESS for ELLs assessment was received by the assessments team.
 - The assessment window for the 2019-2020 administration of the ACCESS for ELLs assessment will take place from February 3 – March 31, 2020.
- Alternate Assessment for students with the most significant cognitive disabilities
 - In June, the assessments team and special education teams received the results from the 2019 administration of the Dynamic Learning Maps (DLM) assessment.
 - The assessment window for the 2019-2020 administration of DLM will take place from March 16 – May 1, 2020.
- NAEP
 - On June 17, 2019 assessments welcomed a new NAEP State Coordinator, Raina Moulian, to the team.
 - In 2019 – 2020 NAEP will conduct the Long Term Trend assessment in select schools in the Anchorage and Matanuska-Susitna School Districts.
- Alaska Developmental Profile (ADP)
 - On August 6, training for district staff such as principals who will be training educators on implementation of the ADP took place.
 - The ADP will be administered from September 17 – November 1, 2019 for kindergarten students (and first grade students who have not completed the ADP) throughout the state.
- In preparation for the upcoming school year, the assessments team has begun to prepare trainings for new District Test Coordinators to take place September 25, 2019 and for all District test coordinators to take place on October 10, 2019.

Career and Technical Education program

- The Office of Career, Technical, and Adult Education (OCTAE) approved the State CTE Transition Plan.
 - Webinars are scheduled to cover key components of the final Alaska CTE State Plan, which is due in April 2020.
 - The Comprehensive Local Need Assessment and the 4-Year Local Plan draft documents are in the final phases of editing and will be available for stakeholder feedback in the September State Plan webinar.

- October meetings and webinars will incorporate district input and feedback regarding student performance levels on a variety of academic and CTE related targets within the state plan.
- For the 2019-2020 school year, 41 districts applied for and were granted Carl D. Perkins funds. Four additional districts have expressed interest and are working with CTE program managers to build Perkins CTE programs in their schools.
- DEED/CTE awarded eight (8) competitive Perkins grant to districts and postsecondary partners for a 3-year period (FY20-FY22). Five grants are to postsecondary partners providing access to dual-credit opportunities for secondary CTE students in key workforce areas. Three grants are to districts or postsecondary partners to provide access and equity to underrepresented genders in Non-Traditional Occupations (NTO).
- DEED/CTE continues to support secondary/postsecondary alignment and dual-credit projects in high-demand sectors of the state economy, such as the Alaska Area Health Education Center (AHEC) Behavioral Health program and the Mariner Credentialing program at AVTEC.

Child Nutrition

- Waivers:
 - Child Nutrition Programs (CNP) was approved for a waiver from USDA to extend the Administrative Review cycle from 3-years to 5-years based on risk assessments for school districts and other program operators; additional waiver requests have been submitted to extend the review cycle from 3-years to 5-years for school districts sponsoring additional USDA programs such as Summer Meal Programs and At-Risk Meals to maintain alignment of monitoring across district run programs.
 - CNP was approved for an air quality waiver for the Summer Food Service Program to allow programs operating in outdoor park locations to serve meals in a non-congregate manner when air quality is deemed very unhealthy or dangerous.
 - CNP was approved for a non-congregate feeding waiver for disaster feeding conducted by the Anchorage School District and Matanuska-Susitna School District after the November 30, 2018 earthquake. Initially denied, this waiver was resubmitted after the presidential declaration of disaster in February, 2019. Cumulatively the two districts served over 7,500 meals and received nearly \$40,000 in federal reimbursement as a result of this waiver.
- Update to USDA's Trade Mitigation Program: Child Nutrition Programs is working with USDA to distribute allocated commodities to Food Banks and pantries operating the Emergency Food Assistance Program (TEFAP) in Alaska. Currently in phase 4, to date we have received/scheduled to receive \$2,714,496 in commodities value through trade mitigation for TEFAP programs and \$128,495 in additional commodities for school programs for SY19-20 to date. These numbers are subject to change depending on successful procurement by USDA and additional funding at a later date. Trade mitigation provided additional administrative funding we were able to provide to food banks in Alaska. Operating funds in the amount of \$54,000 have been received and disbursed to Food Banks to manage the increased inventory.
- For the past first years Child Nutrition Programs (CNP) has requested and received grant funding from USDA to support the Farm-to-School Program at the Department of Natural Resources,

Division of Agriculture; due to budget vetoes at DNR/Ag, this funding will be retained at DEED and the Farm-to-School initiative will be administered by CNP.

Data and Accountability

- Data team hiring update: The data team has filled all vacancies and is now fully staffed.
 - Colton Christian has joined the data team as the Data Manager. Colton comes to DEED from the Department of Health and Social Services. His first day was July 31, 2019.
- The data team is currently working on public data requests, as well as internal data requests related to the release of the assessment data at the beginning of September.
- The team has completed the Summer OASIS data collection, which includes data that drive the ESSA accountability system, the System for School Success.
- Final preparations and calculations for the 2019 school designations are underway. As part of the requirements of the Every Student Succeeds Act (ESSA), states are required to assign school designations outlined in the state's approved ESSA State Plan. Data from the 2018-2019 are being used to calculate an index score for each school. School designations include
 - Comprehensive Intervention and support for the lowest 5% of Title I Schools (CSI 5%),
 - Comprehensive Support and Improvement for high schools with a graduation rate lower than 22 2/3% (CSI Grad Rate),
 - Targeted Intervention and Support for schools with subgroups performing below the threshold determined by the CSI 5%, and
 - Universal Support for all other schools.
- School designation information will be made available to districts on September 15, 2020
- Final school designation information will be made public on September 30, 2020.
- Continued work on documentation on all primary tasks is underway to create a guide for all data related work for the team.

Educator Preparation Program (EPP) Accreditation

- In November, the University of Alaska Southeast (UAS) is scheduled for a site visit for accreditation with the Council for the Accreditation of Educator Preparation (CAEP). UAS's site visit will be November 3rd through November 6th.
- In preparation for the site visit, UAS has conducted an in-depth self-study. The self-study required the examination of the program's alignment to the CAEP standards and the presentation of evidence to substantiate that alignment.
- Sondra Meredith, Administrator for Teacher Education and Certification, and Tamara Van Wyhe, Director of Innovation and Educational Excellence will participate in the site visit. A representative from the National Education Association of Alaska (NEA-AK) will be asked to be in attendance as well.
- The CAEP accreditation report will be finalized in April and presented to the State Board at its June meeting.

ESEA/ESSA Federal Programs

- The results of the May 2018 Performance Review by the US Department of Education have been [posted on the US ED website](#). DEED was informed on June 18, 2019 that all “action required” areas identified in its review regarding implementation of fiscal and certain programmatic requirements associated with Title I-A, Title II-A, Title III-A, and School Improvement Grant programs have been resolved.
- The ESEA Federal Programs team conducted a risk assessment and notified the 13 districts who will be monitored in FY2020. Historically DEED has monitored school districts on a 5 year cycle for ESEA Federal Programs. However, in order to comply with Uniform Grant Guidance, specifically 2 CFR 200.331(b), DEED has updated its policies, and will be conducting a risk assessment of all 54 school districts annually.
 - FY2020 compliance monitoring includes the following districts: Aleutians East, Anchorage, Annette Island, Bristol Bay, Chatham, Delta Greely, Ketchikan, Lake and Peninsula, Lower Yukon, Southeast Island, Unalaska, Valdez, and Yukon-Koyukuk.
- The Title I, Part C Migrant Education Program is currently conducting their annual statewide training on the identification and recruitment of migratory children to school district staff. Trainings will be held in Juneau, Anchorage, and Fairbanks during the months of August and September.
- The 21st CCLC Program is continuing preparations for the Alaska Afterschool Conference, the annual conference it hosts in partnership with the Alaska Afterschool Network. The conference is designed to support 21st CCLC programs and other afterschool providers in providing quality programming that increases student academic achievement and positive youth development outside of the regular school day. The conference will be held in Juneau this year, November 6 - 8, and aims to serve 200 participants from around the state. Similar to past years, the event will include a pre-conference workshop and site visits, followed by two full days that offer approximately 40 unique workshops, with no more than 40 participants per workshop to allow for hands-on, participatory sessions. While the conference will continue its tradition of offering multiple STEM workshops, this year it also hopes to offer training in Marijuana use prevention, the Weikart Center’s Program Quality Assessment tool, and elementary reading support.
- The department is holding to Educator Quality Data workshop in Juneau on September 11 and 12, 2019. The audience of the workshop is district staff that are data stewards, users and distributors. The goal is to effectively gather and utilize high-quality educator data for improved decision-making in Alaska.

Health and Safety Programs

- Upcoming Statewide Trainings:
 - The Health and Safety Team will be offering a second School Safety & Well-Being Summit this fall (Sept. 18-20, 2019 at the Egan center in Anchorage). Registration opened July 26. Educational leaders, key staff, and strategic stakeholders, including representation from every available district across the state will convene to improve school safety in Alaska by both learning and sharing methods to: promote healthy development through trauma-engaged and restorative practices, improve school climate, and be better prepared for any possible school crisis. The Summit will have three nationally recognized speakers: David Osher, Josh

Arvidson, and Nick Hansen. The Summit learning objectives advance the Alaska Education Challenge and include the following: build a shared understanding of comprehensive school safety and well being and build peer connections, identify community resources, and exchange ideas and information that ensure awareness of school mental health and wellness.

- The team is partnering with the Department of Health and Social Services to co-sponsor the 14th annual School Health and Wellness Institute (SHWI). The SHWI is Alaska’s single largest gathering of educators and other professionals focused solely on school health. It brings together more than 150 school personnel including teachers, counselors, school nurses, school administrators and others to provide 3 days of professional development and address new and emerging school health topics. This year’s SHWI will be focused around the Whole School, Whole Community, Whole Child (WSCC) Model and will include sessions on trauma-engaged school practices, resilience and mindfulness, youth substance use, suicide prevention and many more. This year’s SHWI will be October 28th - 30th in Anchorage at the BP Center.
- eLearning Program Updates:
 - The Health and Safety Team created a new collection of micro eLearning courses. Trauma-Engaged Educators: *Classroom Practices, Emotional Intelligence, Mind-Body Connections, and Self-Regulation*. These courses provide educators with tools and techniques for using trauma-engaged practices in schools as well as opportunities to practice in situations similar to those you might find in your daily work. Two more courses will be released shortly focusing on Childhood Traumatic Grief and Family Partnerships. For more information, visit the [eLearning website](#).
 - Our team completed annual updates to DEED’s most frequently utilized courses—many of these updates reflect new state and national statistics as well as newly available educational resources.
 - The team updated the eLearning user guides for both individual eLearners and for district administrators
- Other Major Team Activities:
 - ⊖ The Health and Safety Team in collaboration with AASB over the summer has been working on the development of an implementation “toolkit” to go with our newly released resource entitled *Transforming Schools: A Framework for Trauma-Engaged Practice in Alaska*. There will be several sessions at the summit related to the Framework and the development of the toolkit.
 - ⊖ Our team has been partnering with the Fairbanks North Star School Borough and the Alaska Child Trauma Center on a Trauma Recovery Demonstration Grant application. This US Department of Education grant opportunity has a life of 5 years and would provide approximately \$ 1 million in funding annually. The grant would enable DEED to support Fairbank’s development and delivery of vital trauma-specific mental health services to students whose academic success is being impeded by adverse childhood experiences. Additionally, the project would also assist DEED in creating a model for streamlined partnerships between districts and community mental health providers that could be replicated more broadly across the state

School Improvement

- An overview of the developing Continuous Improvement Model was presented to superintendents and district leaders at the annual ASA/DEED Summer Fly-In meeting in Juneau on July 29, 2019. Feedback from attendees was positive, with appreciation expressed for the department's focus on collaborative leadership and tiered support.
- State System of Support coaches met for their Fall training on August 22-23, 2019, in Anchorage. SSOS coaches are already actively engaged in back-to-school planning and support activities with CSI Lowest 5% schools.
- School Improvement Staffing Update:
 - Three positions from the Standards team have merged with the School Improvement team. This increased capacity will allow the School Improvement team to better support schools and districts in the continuous improvement model.
 - School Improvement Team member Scot Fiscus resigned his position as DEED, effective August 1, 2019, to pursue an opportunity with the Juneau School District. We appreciate Scot's hard work in supporting school improvement efforts at DEED and wish him well in his new position. Recruitment to fill the open position on the School Improvement team is underway.

Teacher Certification Information

- The Teacher Certification has successfully converted all of its application and forms to an accessible format. Work is ongoing to fine tune the applications and forms; as well as, update the website.
- The following are the types and numbers of certificates that were active as of 8/12/2019:

Certificate Type	# of Active Certificates
Associate Teachers	2
B: Administrative	1666
C: Special Services	1229
C: Special Services Advanced	170
C: Special Services Emergency	15
Early Childhood	6
M: Limited Type M AK Culture	71
M: Limited Type M CTE	104
M: Limited Type M ROTC	26
Retired	1810
Special Education Waiver	14
STA: Student Teacher	81
T: Initial Teaching	2158
T: Master Teaching	107

Certificate Type	# of Active Certificates
T: Professional Teaching	11168
W: Limited Type W World Language	4
Total	18631

Mt. Edgecumbe High School

8B. State Board of Education Report

September 2019

Prepared by: Janelle Vanasse, Superintendent/Director



Note from the Superintendent

Mt. Edgecumbe High School is gearing up for another great year. We had a great turn out of applications and will be accepting over 160 new students and welcoming back over 270. We continue to work on our continuous school improvement and will be going through a process to update our strategic plan this year. With the guidance of our Advisory Board, we will be structuring and aligning our planning with the Alaska Educator Challenge. We will also use the feedback from our recently completed accreditation process.

As part of our commitment to improvement, MEHS will focus on sustaining recent program adjustments in the Student Academic Resource Center (supplemental tutoring and support) and freshman success components. We will also be adding Advanced Placement courses this year and will pilot a dual credit option through a partnership with University of Alaska Southeast.

We are busy preparing for the first weeks of school. Students are coming from all around our state, about 120 different communities. We start the first week with three days of rotating sessions to orientate students, build community, and complete necessary tests and screenings. Edgescamp is exhausting and fun for both students and staff and a great way to gear up for another great year of learning.

Current Enrollment/Admissions Information

At the time of this report, students have not yet landed for the first day of school.

* Number represents all accepted as of 8-12-19; typically a few drop before start of school

Grade	Return			New			Total*			Applications			Acceptance
	F	M	ALL	F	M	ALL	F	M		F	M	ALL	Rate
9				69	53	122	69	53		82	69	151	81%
10	60	32	92	15	8	23	75	40		22	14	36	64%
11	48	40	88	6	5	13	56	45		23	17	40	33%
12	57	36	93	4	3	7	61	39		8	8	16	44%
total	165	108	273	96	69	165	261	117		135	108	243	68%

340 Initial Applications submitted online (358 last year)

243 Applications Completed (with required documents) by July 15 (229 last year)

70% of accepted applicants are from home schools with less than 100 students (30% <25 students)

13% from home schools with 500 students or more

Class of 2019

Last May, MEHS celebrated the Class of 2019. Families from all over the state joined the MEHS staff in celebrating the accomplishments of these young Alaskans.

82 Graduates

12 Eligible for Alaska Performance Scholarship Collegiate; 5 APS Vocational; 14 non-duplicated 17%

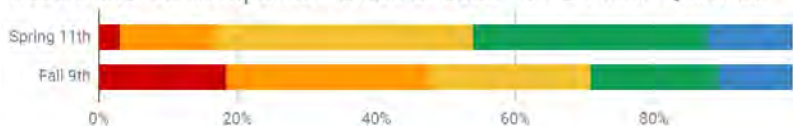


Data Highlight

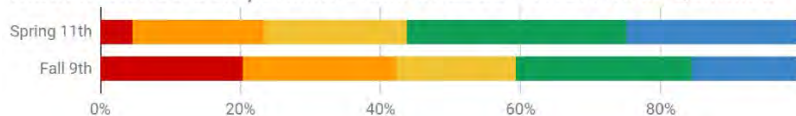
MEHS continues to focus improvement efforts around four goal areas: Academic Growth, Academic Achievement, Post Secondary Goals & Readiness; and Healthy Living and Leadership Skills. Tracking growth through the NWEA Measure of Academic Progress assessment has allowed both staff and students to recognize significant growth each year. This past spring, staff looked at a matched group of 11th grade students to compare their scores from when they entered in the fall 9th grade until spring 11th grade. Only students who were at MEHS for that full time were placed in a comparison group. The data was looked at by national quintiles. Consistent growth over multiple years should result in a shift in student's placement. Comparing the Quintile profiles from Fall 9th grade to Spring 11th grade show results of this compounded growth.

Both Reading and Math results show a shift of students out of lower quintiles into higher quintiles including a shift for those starting in the average and above average quintiles

Read Matched Comparison Class of 2020- NWEA-MAP Quintiles



Math Matched Comparison Class of 2020- NWEA-MAP Quintiles



Focus Areas for 2019-20

Staff will be working through “10 Mindframes for Visible Learning” by John Hattie as a year-long professional development plan. Some areas of focus include: Continued attention on student involvement in monitoring learning and post secondary planning, exploring John Hattie’s work in visible learning and how it may be implemented, continued curriculum work, “in the pit” learning for everyone-keeping all students challenged, continued focus on integrated services between the residential and academic settings.



MEMORANDUM

To: State Board of Education
Date: August 12, 2019
Thru: Commissioner Michael Johnson
Telephone: 907-465-2911
From: Patience Frederiksen
Division of Libraries, Archives and
Museums
Subject: 8C. Report to the State Board of
Education & Early Development
Covering May to July 2019

Staffing:

- Janey Thompson left her position as the librarian for the Alaska Newspaper Digitization Project in the Historical Collections.
- Gregory Philson left his position in the Archives' Imaging and Microfilm Services unit.
- Bailey Springmeyer has been hired as a Museum Assistant.

Division News:

The Alaska State Museum kicked off a busy summer season with the opening of the Ray Troll and Kirk Johnson exhibit *Cruisin' the Fossil Coastline*. About 570 people attended the First Friday opening on May 3. His lecture opening night drew 160 people and his youth art workshop the next morning packed in 40 kids, all eager to learn how to draw big pictures of dinosaurs on black paper under Ray's guidance. On June 29, 25 children attended a Fossil Fun youth activity with local geologists Sonia Nagorski and Cathy Connor. They journeyed into geologic time, had hands-on fun with fossils and dinosaur bones, and used clues to imagine prehistoric animals and their habitats.



Artist Ray Troll with youth displaying the artwork made during the Drawing Dinosaurs workshop.

Aaron Elmore and Jackie Manning from the Exhibits unit of the State Museum staff fabricated a walrus tusk stand for Governor Dunleavy's office in May. Aaron made a beautiful exhibit mount from steel and brass with a cherry plywood base that matched the office's furniture. Governor Dunleavy walked in during installation and thanked Aaron and Jackie for their work.



Walrus tusks on stand in Office of the Governor.

The Historical Collections arranged and uploaded two fascinating collections onto Alaska's Digital Archives. The Ed Nunn Collection (PCA 602), 50 images from Valdez in 1907-1909, was digitized by Damon Steuben from glass plate negatives. Nearly 100 images covering the Japanese-American Internment of Juneau Families (MS 286) were added to the Digital Archives.

Historical Collections staff Sandy Johnson, Jacki Swearingen and Connie Hamann began adding 1,200 finding aids for manuscript and photo collections to ArchivesSpace in order to make these materials available to the public in an accessible format on the internet.

On May 4, the APK hosted its first ever glittery prom for Thunder Mountain High School. So far, APK has hosted a prom, a bar mitzvah, weddings, and memorial services.

The Alaska State Archives now owns a Presidential Signatures Collection of documents signed by United States presidents from George Washington thru John F. Kennedy (1788-1964). The

documents have opened a window to patrons and staff on the daily life of civil service at the local, state and federal level of government.

For the June First Fishy Friday, Historical Collections staff displayed cannery maps, fish trap blueprints, stereographs, books, photographs, salmon cans and labels, scrapbooks, and other ephemera and ran a historic film of cannery workings on the TV. The Friends added to the fishiness theme with a salmon-themed cake, salmon spread, and goldfish. Anjuli Grantham did a talk on her new book *Tin Can Country: Southeast Alaska's Historic Salmon Canneries* and Bob King discussed his chapter on a colorful entrepreneur in Alaska's cannery history to 90 people.



Display of salmon can labels from Karen's Hofstad's collection and cover image of book *Tin Can Country*.

On June 17, Steve Henrikson and Addison Field guided Russian Ambassador Anatoly Antonov and his entourage through the State Museum, with special attention paid to the Alaska Native displays and the exhibits on the European exploration of Alaska and Russian America. The Ambassador was very engaged with the watercraft, possession plate, and double headed eagle plaque. In the WWII exhibit, when told we had nothing in our collection about the role played by Russian "lend-lease" pilots, the Ambassador offered to ask his friend the Russian Secretary of Defense for a pilot uniform that could be added to our display.

On June 22, Emily L. Moore, author of *Proud Raven, Panting Wolf: Carving Alaska's New Deal Totem Parks*, did a talk on the complex origins of the totem parks at Saxman, Totem Bight, Wrangell, and Prince of Wales Island. Built as part of a Civilian Conservation Corps (CCC), Alaska's totem parks arose out of a controversial set of compromises between New Deal efforts to preserve "American heritage" and Tlingit and Haida efforts to assert their own heritage and claims to the Tongass National Forest.

On July 22, the Chilkat Dye Working Group demonstrated how to dye wool with natural dyes on the plaza in front of the APK. Chilkat robes, aprons, and leggings in museum collections usually feature blue/green, yellow, and brown/black dyes. Commercial dyes have been used for generations, but natural dye use continues and promotes connection to the land and ancestors of the Tlingit, Haida, and Tsimshian people.

Moon Week of July 15 – 20 was a blast at the APK! In commemoration of the Apollo 11 moon landing on July 20, 1969, the Division provided a series of programs for young and old:

- A brown bag lunch webcast viewing of a guided re-creation of Apollo 11's journey;
- A lecture by Curator of Collections Steve Henrikson on *The Case for Tranquility Base: Proving the Apollo 11 Moon Landing* about how the State of Alaska reclaimed title to a missing moon rock collected on the Apollo 11 moon mission;
- A showing of a 1989 NASA film for the 20th anniversary of the moon landing;

- A presentation on lunar geology by Dr. Cathy Connor on how the moon formed, the similarities between moon and earth rocks, the geology of the Apollo missions, and what we have learned since then about our nearest neighbor in space; and
- Space activities for 53 children - can you say phases of the moon with Oreos?



Phases of the moon activity using Oreos

Training and Workshops:

From May 6 – 9, Julie Niederhauser coordinated the Small Library Institute of Continuing Education (SLICE) in which eleven rural public library directors learned about: leading with emotional intelligence and with social intelligence; communicating the positive impact and value of the library; developing library programs and partnerships that align with community goals; and anticipating and leading change.

Amy Carney provided training on how to make materials accessible on the web, with a workshop for DEC on Making PDFs Accessible and one for UAS on Accessible Digital Documents.

On May 10, three school groups explored the resources available in the Research Center. A Russian class explored Russian materials with Anastasia Tarmann and Janey Thompson helped students interested in several Douglas Island fires find newspaper articles about the disasters.

Leah Geibel talked to 60 teachers about resources at the APK, Alaska History Day, class visits, and staff availability to come into classrooms to talk about primary resources.

Jennifer Treadway taught the basics of records management to librarians, archivists, and curators who want to preserve the records of their institutions as part of the multi-topic statewide workshop on Alaska Digital Stewardship.

Karen Gray, State Archivist, taught a workshop for 70 attendees from the National Governors Association titled Governor's Office Records Management: Best Practices for Year One and Beyond. She spoke on good record keeping, retention schedules, privileged and confidential information, and Disaster Preparedness.

Karen Gray also taught a workshop to 30 attendees from the Council of State Archivists, on Emergency Preparedness. Karen talked about the earthquake in Alaska in November 2018 and how her office participated in activating the state response network and coordinated services for cultural heritage institutions impacted by the earthquake.

MEMORANDUM

State of Alaska Department of Law

TO: Members, State Board of Education and Early Development

THRU: Michael Johnson, Commissioner
Department of Education and Early Development

FROM: Luann Weyhrauch
Susan Sonneborn
Assistant Attorneys General
Labor & State Affairs Section
Department of Law

DATE: August 6, 2019

FILE NO.: JU2015200003

TEL. NO.: (907) 465-3600

FAX NO.: (907) 465-2520

SUBJECT: 8D. Attorney
General's Report

This memorandum describes the status of current litigation involving the Department of Education and Early Development.

1. *DEC Enforcement Matter related to Contamination at Joe Parent Vocational Education Center in Aniak.* The Alaska Department of Environmental Conservation (DEC) identified DEED, DOT&PF, and the Kuspuk School District, as well as the federal government, AT&T Alascom, Lockheed Martin Corporation, and Exelis-Arctic Services, Inc., as potentially responsible parties (PRPs) for polychlorinated biphenyls (PCBs) and trichloroethylene (TCE) contamination at the site of the Aniak Middle School. The contamination dates back to the use of the site by the U.S. Air Force as a White Alice Communications System site from 1958 to 1979.

At a mediation in September 2013, the PRPs agreed to the allocations (percentages of responsibility) that each party would bear in an agreement to share past and future clean-up costs for PCB and TCE contamination, although not all issues relating to TCE contamination could be resolved. In 2015, the PRPs executed an agreement (which remains in effect) to share the cost of the sub-slab-depressurization system and the TCE monitoring program at the site.

In February 2016, the Consent Decree (a settlement agreement in the form of a court order) was fully executed and DEC filed a complaint in federal district court for the purpose of establishing a forum for a court-ordered resolution. The Consent Decree was signed by the court in March 2016. In the summer of 2017, DOT&PF retained contractors who conducted PCB clean-up work. The TCE remedial investigation report was issued May 24, 2018, and the TCE feasibility study, dated March 2019, was approved by DEC on April 11, 2019. The feasibility study includes a recommended alternative for addressing TCE at the site. DEC now seeks a project schedule to implement the recommended alternative.

2. *North Slope Borough (NSB) & North Slope Borough School District v. State of Alaska, Department of Education and Early Development.* This is a judicial appeal of the department's denial of debt reimbursement on five NSB bonds. In 2015, the department determined that the bonds were ineligible for school construction debt reimbursement under AS 14.11.100(j)(3) because they did not conform to the statutory requirement that bonds be repaid in approximately equal principal and interest payments over a period of at least 10 years. NSB filed an administrative appeal to the Commissioner. In September 2016, the Commissioner issued a final decision affirming the decision to deny reimbursement. NSB appealed the decision to the superior court. NSB then moved for a trial de novo; that motion was denied, and NSB's Petition for Review challenging the denial of trial de novo was rejected by the Alaska Supreme Court. Superior Court Judge Kevin Saxby issued a favorable decision on July 12, 2019, affirming the department's decision. NSB has 30 days to file a notice of appeal with the Alaska Supreme Court. Chief AAG Janell Hafner in the Labor & State Affairs section has primary responsibility for this appeal.

3(a). *Illuminations Childcare and Educational Center (Illuminations) Appeal of Department Action taken under Child and Adult Care Food Program (CACFP). Appeal within Department.* In 2015, Illuminations submitted a request for an administrative review of the department's notice suspending the participation of Illuminations in the CACFP program, proposing to terminate Illumination's agreement, proposing to disqualify Illuminations, and proposing to disqualify its owner and administrator. This notice, required under CACFP federal regulations, was sent because of action taken by the state Child Care Program Office to suspend the child care license of Illuminations based on serious health or safety violations. A review official issued a determination upholding the agency's action.

3(b). *Illuminations, LLC, d/b/a Illuminations Childcare and Educational Center, Brenda J. Fuller, and Kimberly J. Danford v. Alaska Department of Education and Early Development. Appeal to court.* In June 2015, Illuminations, *et al.*, filed an appeal in the superior court, and their opening brief was filed in December 2015. The appellants continue to agree to the postponement of the department's brief deadline (currently October 21, 2019) based initially on the discussion of settlement and claim documentation. In light of appellants' waning interest in pursuing their claims, the case is evolving into dormancy. This is likely to lead to an agreed-upon dismissal of the matter.

4. *Burattin, et al. v. Chilkat Indian Village.* On June 20, 2019, several individuals purporting to represent a faction of the Frog House clan appealed the superior court's May 21, 2019 Order Denying Motions for Clarification, Preliminary Injunction, To Align Parties, and to Intervene. The underlying case involved a motion for a preliminary injunction to prevent the state museum from transferring certain artifacts to the Jilkaat Kwaan Cultural Center in Klukwan. The state museum had acted as a neutral temporary

custodian of the artifacts (four carved house posts and one replica screen) since 1978, based on an agreement and court order. In November 2018, the museum, through the Department of Law, gave notice that the museum intended to transfer the artifacts to the Jilkaat Kwaan Cultural Center in accordance with the 1978 order. Due to competing claims to custody of the artifacts, the court issued a temporary restraining order to prevent their transfer, but then lifted that temporary restraining order when it issued the May 21, 2019 order, now under appeal. The May 21 order required that the state “expeditiously coordinate with the Chilkat Indian Village the details of transport of the four (4) Frog House posts and replica screen to their home in Klukwan, Alaska...” The state museum complied with this order to transport the artifacts to the Jilkaat Kwan Heritage Center in Klukwan on May 29, 2019, and this appeal followed. The main issue on appeal is whether the superior court properly ordered that the artifacts be transported to Klukwan. The state did not take a position on the ownership of the artifacts in superior court and is not likely to assume a significant role in the appeal. The court has not yet issued a briefing schedule.

5. *Coalition for Education Equity v. Governor Dunleavy and Commissioner Johnson*. On May 1, 2019, the Coalition for Education Equity (CEE) filed suit against Governor Dunleavy and Commissioner Johnson, in their official capacities. The suit seeks an order declaring that the distribution on June 10, 2019, of the fiscal year 2019 \$20 million education appropriation (outside the foundation formula) violated Alaska law. The suit, filed in advance of the distribution, also requested an order directing the release of the funds. The state has filed a motion for judgment on the pleading, based on mootness. CEE disputes mootness and seeks to develop an evidentiary record to support a motion for summary judgment. These issues are not yet fully briefed. Chief AAG Margaret Paton Walsh in the Special Litigation Section is primarily responsible for this litigation.

6. *Alaska Legislative Council, on behalf of the Alaska Legislature v. Governor Dunleavy, Commissioner Tshibaka, and Commissioner Johnson*. On July 16, 2019, the Alaska Legislative Council on behalf of the legislature filed suit in superior court against Governor Dunleavy, Department of Administration Commissioner Tshibaka, and Commissioner Johnson, in their official capacities. The Council alleged in its complaint that the defendants failed to disburse the funds appropriated by the legislature in 2018 to public school districts for fiscal year 2020. The Attorney General issued a formal opinion prior to the lawsuit concluding that the legislature’s 2018 appropriation was unconstitutional because it sought to commit future revenues not on hand in the state treasury in fiscal year 2019 and a new appropriation was needed. The legislature did not pass a new appropriation. On July 16, 2019, based on the parties’ joint motion, the court entered an order requiring that education funds be disbursed while the lawsuit proceeds. In the joint motion, the parties indicated their intent to submit an expedited briefing schedule. Chief AAG Margaret Paton Walsh in the Special Litigation Section is primarily responsible for this litigation.

MEMORANDUM

State of Alaska Department of Law

TO: State Board of Education & Early Development

THRU: Dr. Michael Johnson
Commissioner
Department of Education & Early Development

FROM: Luann Weyhrauch
Assistant Attorney General
Labor & State Affairs Section

DATE: September 6, 2019

FILE NO.: 2019200250

TEL. NO.: (907) 465-3600

SUBJECT: Board's Role in Budget Development

I. Introduction and Summary

This memorandum provides guidance about the board's role in the development of the governor's budget during the fall. Last March, I prepared a memorandum that outlined the process under the Executive Budget Act (Act) for development of the governor's budget, legislative consideration of that budget, legislative determination of funding levels, and then budget implementation by the agencies in coordination with the governor's office. I have attached a copy of that March 27, 2019 memorandum.

This memorandum describes the Executive Budget Act process that occurs between September and December 15 each year. My earlier memorandum sought to reconcile the Executive Budget Act with the board's obligations under AS 14.07.150 – after the governor's budget had been submitted to the legislature. This memorandum provides guidance about the board's role under AS 14.07.150 in the fall when the governor's budget is being developed.

II. Budget Development Deliberative Process

A deliberative process between the Office of Management and Budget (OMB) (part of the governor's office) and the state agencies occurs between September and December 15. On December 15, the proposed budget and the bills reflecting that budget are released to the legislature and become publicly available. During the phase of deliberative give-and-take, OMB provides initial guidance to the agencies, considers the agencies' draft proposals, provides options and feedback, and considers further options

provided by agencies. After the deliberative process is complete, it is the governor's responsibility to determine the budget that will be submitted to the legislature. The department, through the state board and staff, develops a budget proposal for the consideration of the governor's office, but it is the governor's office that determines the department budget that will be submitted to the legislature.

III. AS 14.07.150

With that background, I turn to AS 14.07.150, which provides, "The commissioner has responsibility and authority for the preparation and execution of a budget and for the other fiscal affairs of the department, subject to the approval of the board."

To understand this statute, a little historical background may be helpful. This statute was enacted in 1966, four years before the Executive Budget Act was enacted. Under the 1966 statutes, the commissioner was appointed by the governor and was responsible for administering the department. The commissioner was also an ex-officio member of the board and could cast a tie-breaking vote.

In 1967, the roles of the board and commissioner were changed to the current arrangement; i.e., the board became the head of the department and the commissioner became appointed by the board with the approval of the governor. At that time, however, only one change was made in AS 14.07.150: The word "sole" was removed before "responsibility" in AS 14.07.150. The statute has not been changed in any other way since 1967.

IV. Reconciliation of AS 14.07.150 with Executive Budget Act

Alaska Statute 14.07.150 is bit of an anachronism in the sense that the Executive Budget Act came after and provides a comprehensive system for the development of the budgets of all state agencies. Nonetheless, as mentioned in my earlier memo, courts will aim to give effect to two apparently conflicting statutes by finding a way that the two statutes can be reconciled and thereby both given some effect. As also mentioned in the earlier memo, the Executive Budget Act contains a provision that it "will be construed as supplemental to other state laws," as long as the other laws are not in conflict with the Act. This means that other laws that conflict with the Act will yield to the Act's provisions.

Under AS 14.07.150, the authority of the board to approve the department budget must align with the budget development process required by the Executive Budget Act. During the deliberative process that occurs in the fall, the board, as the head of the

department, may, in its discretion, participate in budget deliberations with OMB in executive session.

Under the Act, draft proposals from agencies are confidential as pre-decisional and part of the deliberative process and executive communications privileges. Having the board's budget deliberations in executive session allows both the board and OMB to offer and discuss pre-decisional proposals; i.e., proposals that may be abandoned in later discussions. During this deliberative process, draft proposals are not public. For this reason, the board would not take action on the record to support a particular idea or draft. The executive session provides the opportunity for the board to hear from staff and provide guidance to staff about the department's proposed budget, to hear guidance from OMB, and to communicate the board's priorities to OMB. However, under the Executive Budget Act, even the department's final proposal will necessarily yield to the governor's authority to submit a proposed budget to the legislature.

LBW/ijg

Enclosure: March 27, 2019 Memorandum

MEMORANDUM

State of Alaska

Department of Law

TO: Dr. Michael Johnson
Commissioner
Department of Education and
Early Development

DATE: March 27, 2019

FILE NO.: 2019200250

TEL. NO.: (907) 465-3600

FROM: Luann Weyhrauch *LW*
Assistant Attorney General
Labor & State Affairs Section

SUBJECT: Budget Authority of
Commissioner of DEED
and State Board

I. Introduction and Summary

This memorandum addresses the responsibility and authority of the commissioner of the Department of Education and Early Development (DEED or the department) and the State Board of Education and Early Development (state board) in the development of DEED's budget. The memorandum documents and expands the verbal advice previously discussed with Commissioner Johnson on multiple occasions and with the state board at its February 14 meeting. The goal here is to identify, analyze, and reconcile the relevant provisions of the Alaska Constitution and Alaska Statutes in a document that can be shared with the legislature, as requested in recent hearings.

The budget authority of the commissioner and the state board under AS 14.07.150 is subject to the requirements of the Executive Budget Act and the governor's constitutional responsibility to submit a budget proposal to the legislature. The state board has discretion in deciding whether to take a symbolic vote to approve or disapprove the governor's budget.

II. The state constitution requires that the governor develop and submit a budget to the legislature.

The governor has a constitutional duty to submit a budget to the legislature for the following fiscal year with the date to be set by law.¹ The governor's budget must include all proposed expenditures and anticipated income of each department or other agency of the state.² All statutes, of course, must be consistent with this constitutional responsibility.

¹ Alaska Constitution, art. IX, § 12.

² *Id.*

III. The Executive Budget Act defines a comprehensive process for the development of the governor’s proposed budget.

The Executive Budget Act establishes a “comprehensive system for state program and financial management that furthers the capacity of the governor and the legislature to plan and finance the services that they determine the state will provide...”³ More specifically, the comprehensive system provided by the Act must include procedures for “the preparation, coordination, analysis, and enactment of a budget ... [focused] on the services provided by state agencies...”⁴ The Act then defines the responsibilities of the legislature,⁵ the governor,⁶ the office of management and budget (OMB)⁷ and state agencies⁸ in the development of the budget. The Act restates the governor’s constitutional responsibility “to prepare a budget for the succeeding fiscal year.”⁹ OMB has a duty to “assist the governor” in meeting this responsibility, including the coordination and analysis of agency budget requests¹⁰ and to “assist state agencies” in the preparation of their budget requests.¹¹

Each state agency is required to submit to OMB “the budget requested to carry out the agency’s proposed plans in the succeeding fiscal year.”¹² It is the governor’s responsibility to formulate the operating budget (along with related fiscal documents) to be recommended to the legislature and to provide to the legislature the governor’s

³ AS 37.07.010.

⁴ AS 37.07.010(3).

⁵ AS 37.07.014.

⁶ AS 37.07.016- 37.07.020.

⁷ AS 37.07.040.

⁸ AS 37.07.050.

⁹ AS 37.07.020; *see also* AS 44.19.015 (“The governor shall direct the preparation and administration of the state budget.”).

¹⁰ AS 37.07.040(1).

¹¹ AS 37 07.040(4).

¹² AS 37.07.050(a)(9).

operating program and budget recommendation for the succeeding fiscal year organized by agency.¹³

IV. The Act defines the process for legislative review of the governor’s proposed budget, the legislative determination of funding levels, and the implementation of final budgets by state agencies.

Under the Act, the legislature has a duty to consider the governor’s proposed operating program and determine the level of funding required to support authorized state services.¹⁴ The state agencies then have full authority to administer their program service assignments and have the responsibility for their proper management.¹⁵ This authority and responsibility is expressly subject to executive decisions of the governor, the mission statements and desired results issued by the legislature, appropriations by the legislature, and other provisions of law.¹⁶ The agencies must develop operations plans that meet these requirements, subject to the review and approval of OMB.¹⁷ In this way, the agencies implement their budgets, and on a quarterly basis OMB reports to the governor and the legislature on the operations of each agency.¹⁸

V. The responsibilities of the commissioner and the state board under AS 14.07.150 are subject to the Executive Budget Act.

Under AS 14.07.150, “The commissioner has responsibility and authority for the preparation and execution of a budget and for the other fiscal affairs of the department, subject to the approval of the board.” The responsibility and authority of the commissioner of DEED and the state board under AS 14.07.150 must be reconciled with the requirements of the Executive Budget Act described above. This statute might be read to say that the DEED budget is prepared by the commissioner outside the process defined by the Executive Budget Act – and perhaps also to be in conflict with the governor’s constitutional responsibility to prepare a budget. However, courts will aim to give effect to two apparently conflicting statutes by finding a way the two statutes can be reconciled and thereby both given effect.

¹³ AS 37.07.060(a) and AS 37.07.060(b)(2).

¹⁴ AS 37.07.070.

¹⁵ AS 37.07.080(a).

¹⁶ *Id.*

¹⁷ AS 37.07.080(b) and AS 37.07.080(c).

¹⁸ AS 37.07.080(f).

Under AS 37.07.110, the Act shall be construed as supplemental to other state laws, if those laws are not in conflict with the Act. The Act itself thus indicates that it supersedes conflicting state laws. AS 14.07.150 can be interpreted as subject to the Executive Budget Act and, of course, the constitution; i.e., the commissioner has responsibility and authority for the preparation and execution of a budget under the process defined in the Alaska Constitution and the Act. The process at the agency begins with the preparation of a budget request that is submitted to OMB. Then the agency budget request is used to assist the governor in preparing the budget proposal required by the Alaska Constitution. The process defined by the Executive Budget Act proceeds, as described above, through the time that the agency implements an operations plan in coordination with OMB under a final budget. This interpretation of AS 14.07.150 is consistent with the section of the Act addressing conflicts with other state laws.

VI. Nothing in AS 14.07.150 requires the state board to approve or disapprove the governor's budget.

The state board has authority under AS 14.07.150 to vote to approve or disapprove any fiscal matter of the department. The state board's authority under this statute is subject to the Alaska Constitution and the Executive Budget Act, as outlined above. In other words, neither the commissioner nor the state board may override the governor's constitutional responsibility to propose a budget to the legislature. Similarly, any vote by the state board related to approval of the budget would be subject to the budget development and review process required by the Executive Budget Act.

Under the Act and the Alaska Constitution, the creation of a budget proposal for submittal to the legislature is the responsibility of the governor, not the department or the state board. At the time the governor has prepared and submitted a budget to the legislature, the budget proposal is under the control of the governor, not the state board. The state board certainly has the authority (in its discretion) to take a vote approving or disapproving the governor's budget. Such a vote would be solely a symbolic statement, in light of the governor's responsibility under the Alaska Constitution and the Act.

LBW/ijg

**To: Members of the State Board of
Education and Early Development**

September 19, 2019

From: Dr. Michael Johnson, Commissioner

Agenda Item: 9

◆ ISSUE

This is a standing oral report to the board by the Commissioner.

◆ BACKGROUND

- The board will hear a report on the Commissioner's activities.
- Commissioner Johnson will be present to brief the board.

◆ OPTIONS

This is an information item. No action is required.

**To: Members of the State Board of
Education & Early Development**

September 19, 2019

From: Dr. Michael Johnson, Commissioner

Agenda Item: 10

◆ ISSUE

The board is being asked to approve Commissioner Johnson's appointment of Erin Hardin as Special Assistant to the Commissioner.

◆ BACKGROUND

- AS 14.07.145(e) states the Commissioner may employ and remove personnel in exempt or partially exempt service subject to approval of the board.
- Commissioner Johnson has appointed Erin Hardin as Special Assistant to the Commissioner.
- Behind this cover memo are: 1) a copy of AS 14.07.145(e), and 2) Erin Hardin's resume.

◆ OPTIONS

Approve the appointment.
Disapprove the appointment.
Seek additional information.

◆ ADMINISTRATION'S RECOMMENDATION

Approve the appointment.

◆ SUGGESTED MOTION

I move the State Board of Education & Early Development approve the Commissioner's appointment of Erin Hardin as Special Assistant to the Commissioner.

Sec. 14.07.145. Commissioner of education and early development.

(a) The board shall appoint the commissioner of education and early development subject to the approval of the governor. The commissioner shall be the principal executive officer of the department.

(b) The commissioner shall be appointed without regard to political affiliation and shall have at least a master's degree with five years' experience in the field of education since receiving it, with at least three of the five years in an exclusively administrative position.

(c) The commissioner serves at the pleasure of the board and may not be appointed by the board for a fixed term.

(d) The commissioner shall receive the salary set out in AS 39.20.080.

(e) The commissioner shall employ and remove all classified personnel in the department subject to AS 39.25 (State Personnel Act). The commissioner may employ and remove personnel in the exempt or partially exempt service subject to the approval of the board. Personnel in the exempt or partially exempt service have a right of appeal to the board if they are removed.

ERIN M. HARDIN

EDUCATION



BACHELOR OF ARTS 2006 - 2010
ST. OLAF COLLEGE
SOCIOLOGY/ANTHROPOLOGY &
AMERICAN STUDIES

ALPHA KAPPA DELTA HONORS MEMBER
LAMBDA ALPHA HONORS MEMBER

SKILLS



ADOBE ACROBAT DC
ADOBE INDESIGN
ADOBE PREMIERE ELEMENTS
ADOBE PREMIERE PRO
ADOBE SPARK
MICROSOFT EXCEL
MICROSOFT OUTLOOK
MICROSOFT POWERPOINT
MICROSOFT WORD
SMARTSHEET

REFERENCES



AVAILABLE UPON REQUEST

PROFILE

Knowledgeable communications professional with nine years of experience and a strong background in governmental affairs and community relations in Alaska. Dependable and organized team player. Skilled, creative, and innovative.

EXPERIENCE



INFORMATION OFFICER III

September 2017 - Present

DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT

Sole information officer for the department, and is responsible for producing public information in written and video formats, coordinating communications and social media, and responding to public information queries for the department. Serve as the department's liaison and spokesperson to the public, media, and partner organizations, and is a member of the Commissioner's leadership team.

INFORMATION OFFICER II

August 2016 - August 2017

DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT

Responsible for implementation and management of the department's social media communications and digital initiatives. Additionally responsible for researching, writing, and producing scripts and presentations for the Commissioner on a wide range of education topics. Supported the Commissioner's office in producing public information and coordinating communications on behalf of the department.

PROGRAM COORDINATOR I

January 2015 - July 2016

DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT

Responsible for coordination of the statewide administration of the college- and career-ready assessment programs (WorkKeys, SAT, and ACT), including communication and interactions with assessment vendors, parents, and school district personnel. Additionally responsible for public outreach and coordination of the Alaska Performance Scholarship (APS) program and the Advanced Placement (AP) program.

CONSTITUENT RELATIONS COORDINATOR

April 2014 - December 2014

OFFICE OF THE GOVERNOR

Responsible for organization, management, and proofing of all office correspondence in response to constituent inquiries on a wide-range of portfolios. Work included drafting and proofing high-priority correspondence, including confidential and sensitive materials. Communicated with constituents from across Alaska by phone and in writing. Provided daily leadership and supervision to the constituent relations office on Director's behalf.

MARKETING DIRECTOR/OFFICE ADMINISTRATOR

June 2012 - March 2014

JENSEN YORBA LOTT, INC.

Responsible for coordination and production of formal proposals promoting company's skills and experience in response to bids and requests for proposals. Work included conducting background research, drafting extensive written narratives, coordinating principals' technical statements and sub consultant materials, and graphic design and layout in Adobe InDesign. Increased company's RFP selection rate by 20 percent in first year of employment, and maintained that increase the second year.

CONSTITUENT RELATIONS ASSISTANT

July 2010 - May 2012

OFFICE OF THE GOVERNOR

Responsible for first editing of all correspondence signed by the Governor and staff, and drafting specialty correspondence such as proclamations and event letters. Managed and directed constituent relations office tasks, including assigning correspondence to fellow staff, and provided leadership and supervision on Director's behalf when absent.

**To: Members of the State Board of
Education and Early Development**

September 19, 2019

From: Dr. Michael Johnson, Commissioner

Agenda Item: 11

◆ ISSUE

The board is being asked to approve the minutes of its June 7, 2019 board meeting, the July 24, 2019 work session, and the August 21, 2019 work session.

◆ BACKGROUND

- Behind this cover memo are the unapproved minutes of the June 7, 2019 board meeting, the July 24, 2019 work session, and the August 21, 2019 work session.

◆ OPTIONS

Approve the meeting minutes as presented.

Amend the minutes and approve the amended meeting minutes.

Seek additional information.

◆ ADMINISTRATION'S RECOMMENDATION

Approve the meeting minutes as presented.

◆ SUGGESTED MOTION

I move the State Board of Education and Early Development approve the minutes of the June 7, 2019 board meeting, the July 24, 2019 work session, and the August 21, 2019 work session.

State Board of Education & Early Development
Unapproved Minutes
June 7, 2019
Anchorage School District Board Room
5530 East Northern Lights Boulevard
Anchorage, AK 99504

Friday, June 7, 2019

Chair Fields called the meeting to order at 9:03 am. Lt. Col Hammill, Member Mainard, and Member Lorrington were excused. After the pledge of allegiance, the board adopted the agenda for June 7, 2019. Second Vice Chair Van Diest moved to adopt the agenda and was seconded by First Vice Chair Hamilton. Member Scott disclosed a potential conflict of interest on agenda items 5D and 8B; her uncle is on the AdvancED Northwest board. She was recused from the discussion and vote on items 5D and 8B.

Public Comment

Public comment was opened at 9:07am

Steve Atwater- Executive Dean of AK College of Education provided an update on the UAA college system and the transition with the Board of Regents. June 25th is the goal to have their work completed for the beginning of the August term. He thanked the board for their leadership and assistance that they provided to UAA when they lost their accreditation. Graduated 238 teachers this spring. He took questions from the board regarding the transition and the work from the Board of Regents. The board requested that Dean Atwater attend the September meeting and present to the board.

Tim Walters- spoke in support of updated science standards and the process they went through. Science is a way of learning about the world through physical evidence, logic, and math. The new standards will offer a breadth and depth that will assist kids as they change grade levels and schools. He is looking forward standards to helping set up his new physics program and helping his students grow.

Ben Walker nationally board certified science teacher at Romig Middle School and the 2018 Alaska state teacher of the year. Testified in support of the new science standards. It will allow continuity in terms of schools changing. They are a necessary shift as we go through the changes in our society. He urged the board to approve the standards so that teachers and educators can begin to implement these standards for the students in Alaska.

Trisha Herminghaus testified in support of the science standards. The standards will help provide students with not only the practice of science but the critical concepts that are the tenants of scientific knowledge. She requested the SBOE accept the science standards.

Lisa Parady- Ex Director of Alaska Council of School Administrators. Provided the board with an update of their cohort (find official name) work. Expressed support of the computer science standards. Discussed the work that the board is doing on the subcommittees and requested that they be as transparent as possible. She encouraged the board to reach out and involve as many entities as possible in the work being done. The foundation for all of the efforts done is relationships and asked that teacher staffing be placed as a high priority as students cannot build relationships with students if there is no

certainty in budgeting. Implored the board to advocate for public school districts to get their funding as they are in peril.

Mary Claire Kretzschmar from Decoding Dyslexia Alaska provided an update on their work. She encouraged the board to read the forum guide to data ethics.

Poise Boggs from Alaska Reading Coalition provided an update to the board on their task force report. It is out and published and ready for the public to view. She offered the board their priorities from the report as well as some suggestions for implementation in the State of Alaska over time. The summary of the report is that in the United States and other countries, educational practices make it hard for children to succeed. Teachers aren't adequately prepared for the job. There is a reliance on external supports and someone in the home to do instruction. Access to the internet, software, learning centers, and tutors will help students. All of these cost money. This discriminates against low income families, and this problem is compounded if they are speakers of a nonstandard dialect. The policies of educational change are formidable. She expressed her hope that the board would implement the reading task force report and that the board would combat the barriers to reading.

Patti Brown advocated for the adoption of the new science standards. Science education must be three dimensional in its approach and these standards address these to expand students scientific literacy and to ask specific questions. Through effective science education, we teach students how to speak.

Rebecca Himschoot from Sitka testified in support of the science standards. There is no magic bullet to fix education but we can find things that work better than others and she encouraged the board to look at the PEAK's scores for science across the state. Sitka's science scores are higher because they use a different model. She advocated for the board to adopt the science standards and to look at the way that science is taught across the state

Sam Jordan Alaska Staff Development network testified in support of the digital science standards and the digital literacy standards.

Marnie Hartill Eagle River testified in support of the computer science and digital literacy standards. She thanked the board and the department for their work on the science standards and expressed her support for those standards. Students can be prepared for college and beyond with these new standards once they are adopted.

Public testimony closed at 9:57am

Work Session

Agenda Item 1. Legislative Update. Commissioner Johnson gave an introduction to the board and Director Heidi Teshner provided the update due to the fact that Brittany Hartmann, Chief of Staff is no longer with the department. June 14th is the 30th day of the special session.

Agenda Item 2. Budget Update. Heidi Teschner, Director, Finance and Support Services, provided an update to the board on the Senate budget. The three positions remain in the department budget 1:02- Governor Dunleavy does not plan to veto the positions that are included.

Agenda Item 3. Charter School Renewals

Agenda Item 3A. Watershed Charter School Renewal. Karen Melin Deputy Commissioner provided a summary of the application. Jerrod Decker and Abigail Paul answered questions from the board on the structure of the school and how they operate. They gave examples of their daily activities such as canoeing and rock climbing.

Agenda Item 3B. Ayaprun Charter School Renewal. Karen Melin Deputy Commissioner gave an update on what the board is being asked to do with their approval of this renewal. Clarence Daniel and Melanie Fredricks from Ayaprun Charter School presented to the board on their application and answered questions from the board. The minutes from the LKSD approval of the the Ayaprun Charter School were requested from the board. Mr. Daniel addressed the YKSD strategic thinking model for addressing the low PEAK score on English Language proficiency as requested by Member Griffin. Member Kowalski thanked the school for their work on revitalizing the Yupik language and culture in their region. Mr. Daniel gave examples of the student’s activities including harvesting pike and identifying berries in accordance with their culture.

Agenda Item 4. Mt. Edgecumbe Advisory Board Appointments. Janelle Vanasse, Mount Edgecumbe Superintendent updated the board on the process for their advisory board. The MEHS advisory board has two appointment positions open. Janelle explained the background of the applicants and their two recommendations for board approval. Janelle took questions from the board regarding the MEHS board makeup and term lengths. The board asked Superintendent Vanasse to look into appointed members versus members who are voted in.

Agenda Item 5. Adoption of Proposed Regulations

Agenda Item 5A. K-12 Science Standards. Deb Riddle, Division Operations Manager and Susan Sonneborn, Assistant Attorney General updated the board on the proposed K-12 science standards. Member Stockhausen asked if the standards will need to make adjustments to PEAKS. Deb replied that they will need to make adjustments, and that she has been working with the vendor to make those changes. Member Van Diest asked if when districts are developing their standards, they will be the ones selecting the concepts taught. Classroom teachers are working with their school districts to decide how the standards will be implemented. Member Van Diest highlighted the importance of reading science in the elementary school program and the way that schools could work toward teaching reading as is not separate from other subjects and that there is value in using science to teach children how to read.

Agenda Item 5B. Computer Science Standards regulations. Deb Riddle, Division Operations Manager and Susan Sonneborn, Assistant Attorney General updated the board on the proposed computer science standards and took questions from the board. Member Hamilton expressed his excitement for these standards and asked how we address the changes in technology and update the standards as it has been thirteen years since the standards were last updated. Commissioner Johnson suggested that the board look at how other states update their standards to look at how they review them. Member Van Diest asked how the standards would be implemented in the classroom for the younger age children.

Agenda Item 5C. Digital Literacy Standards. Deb Riddle, Division Operations Manager and Susan Sonneborn, Assistant Attorney General updated the board on the proposed digital literacy standards and took questions from the board. Member Van Diest commented that the work was important and was grateful that the committees didn’t start from scratch and worked with other agencies. She expressed her thanks to the writing teams and that they were able to pull together and finish these standards.

Agenda Item 5D. AdvancED Standards. Commissioner Johnson requested that the board adopt the proposed amendment amendment of the accreditation regulation that incorporates two new AdvancED published documents, *AdvancED Performance Standards for Schools* and *AdvancED Performance Standards for School Systems* in place of the outdated *Standards for Quality Schools* currently adopted by reference. Chair Fields thanked the staff for their work that has been done and is looking forward to this item being completed.

Agenda Item 6. State Board Committee Reports

Agenda Item 6A. Standards and Assessments. Member Stockhausen updated the board on the work of the Standards and Assessments committee. They have had three meetings. They want to look back in six months and say that they have looked at the State System for School Support and how it could be updated. They also want review the process for how the State Board reviews standards in general.

Agenda Item 6B. Tribal Compacting. Member Kowalski updated the board on the work of the Tribal Compacting Committee. They have had two meetings. They have discussed how Tribal Compacting has worked in other states and how it may work in Alaska. It is about building relationships and trust with the Alaska Native tribes in Alaska. Valerie Davidson presented to the committee and stressed the importance of setting a strong foundation or a master agreement for how to positively communicate and build trust between the state and the Alaska Native tribes. They are working to identify goals and to identify steps to continue that tribal compacting work.

Agenda Item 6C. Regulations. Member Van Diest updated the board their work on whether they want to keep, amend, or repeal the regulations that exist. They are actively working with staff to research regulations and are going through the certification of professional teacher's portion of regulations at the moment. Their next meeting is scheduled for June 13th.

Agenda Item 6D. Funding Formula. Member Scott updated the board on the Funding Formula committee work based off of the funding report drafted by the legislature in 2015. They directed the department to identify the top three items that they would like the Funding Formula committee to target in their work. Member Hamilton took over the discussion as Member Scott was not able to attend the most current meeting. The committee has directed DEED staff to identify what it costs for instruction as well as to identify the cost to live with regards to the district cost factors formula. They also discussed the term "correspondence" and that it is a term that should be updated to reflect the different avenues that we have today to instruct the students of Alaska.

Agenda Item 7. NAEP Discussion from Member Bob Griffin. Member Griffin provided a PowerPoint presentation regarding the NAEP test scores to the State Board of Education. Alaska reading scores are not keeping pace with the rest of the nation. He identified the positives that exist in our state but highlighted the fact that Alaska is 51st in NAEP 4th grade reading scores. NAEP is the Nation Assessment of Educational Progress, which is a large statistical sample that is taken every odd year. He detailed Florida's work as they have adopted many education reforms since 2002 and has since moved to the top of the 4th grade reading scores. He concluded by encouraging the board to celebrate our successes but to review the policy choices that put us in this place and to make changes to empower our students to read. Chair Fields stressed the importance of partnering with other stakeholders in the state to help with this issue in a time of budget constraints.

The board took an at ease for lunch at 12:15pm and Chair Fields announced that they would resume with Agenda Item 8, adoption of proposed regulations.

Business Meeting

Agenda Item 8. Adoption of Proposed Regulations

Agenda Item 8A. K-12 Science Standards, Computer Science Standards, and Digital Literacy Standards.

Member Stockhausen motioned and Member Van Diest seconded the following motion: I move the State Board of Education & Early Development adopt the amendments to 4 AAC 04.140 Content Standards to establish computer science standards and publish them as the *Alaska Computer Science Standards*, update the technology standards and rename and publish them as the *Alaska Digital Literacy Standards*, and update the science standards and rename and publish them as the *Science Standards for Alaska*. The motion passed unanimously in a roll call vote. Chair Fields thanked the department and the public comment. Hopes that it helps education students to be more successful

Agenda Item 8B. AdvancED Standards. Member Van Diest motioned and Member Kowalski seconded the following motion: I move the State Board of Education and Early Development adopt the amendments to 4 AAC 04.300, Standards for state accreditation of schools. The motion passed unanimously in a roll call vote. Member Scott was recused from this vote.

Agenda Item 9. Charter School Renewals

Agenda Item 9A..... Watershed Charter School Renewal. Member Kowalski motioned and Member Scott seconded the following motion: I move the State Board of Education & Early Development approve Watershed Charter School's application for a period of ten years, terminating on July 1, 2029. The motion passed unanimously in a roll call vote.

Agenda Item 9B. Ayaprun Charter School Renewal. Member Griffin motioned and Member Van Diest seconded the following motion: I move the State Board of Education & Early Development approve Ayaprun Elitnaurvik's application for a period of ten years, terminating on July 1, 2029. The motioned passed unanimously in a roll call vote. Member Griffin mentioned that he continues to learn from the board, he came today intending to request that the board look more closely and that he was looking at it more of a western lens and if you look at it from a different perspective, it becomes clear that the culture and language is at the forefront of this charter school. Member Scott thanked Member Griffin for his comments.

Agenda Item 10. Selection of officers. Chair Fields handed the gavel to Commissioner Johnson who opened the nominations for Chair of the Alaska State Board of Education and Early Development. Member Hamilton nominated James Fields as chair, and was seconded by Member Griffin. There were no other nominations or objections. Chair Fields was retained as the Chair of the Alaska State Board of Education and Early Development. Member Stockhausen nominated Dr. Keith Hamilton for first vice chair. Member Griffin seconded. There were no objections to the nomination. Member Griffin nominated Lorri Van Diest for second vice chair. Member Scott seconded. There were no objections to the nomination. Commissioner Johnson commented that the board did this a few months ago which helped with the selection of officers.

Agenda Item 11. Subcommittee Appointments. Chair Fields appointed members to seats on subcommittees. There was no discussion or objections to the appointments.

Agenda Item 12. Selection of meeting dates, locations, and topics. Member Scott motioned the following motion: I move the State Board of Education & Early Development adopt the following calendar and meeting locations for the 2019–2020 school year as presented in the board packet. Member Griffin seconded. Member Hamilton requested clarification on the bylaws regarding the location. Susan Sonneborn, Assistant Attorney General answered Member Hamilton’s question. Chair Fields requested that the Department of Education and Early Development look at maybe having a meeting on the road system (Fairbanks, Glennallen, etc). Member Hamilton requested that the board meet in Sitka to view Mount Edgecumbe High School. Member Van Diest noted that they had more in person public participation with the board being in Anchorage. The motioned passed unanimously in a roll call vote.

Agenda Item 13. Mt. Edgecumbe Advisory Board Appointments. Member Hamilton motioned and Member Griffin seconded the following motion: I move the State Board of Education and Early Development appoint Janet Woods to the Parent Representative Seat and Lois Rhodes as the Sitka Community Representative on the Mt. Edgecumbe High School Advisory Board. There was no discussion. The motioned passed unanimously in a roll call vote.

Agenda Item 14. Standing Reports. Written reports were provided from Student Learning & Educator and School Excellence; Mt. Edgecumbe High School; Libraries, Archives and Museums, and the Assistant Attorney Generals. Staff answered questions from the board regarding those reports. Member Van Diest expressed her excitement that the Mount Edgecumbe High School students are interested and excited about the pool. Member Kowalski expressed her excitement that students are taking responsibility for their own learning in analyzing the MAP data. Member Scott requested that Mount Edgecumbe High School present a PowerPoint presentation regarding the Alaska Education Challenge. Chair Fields is looking forward to the accreditation report and the comments included. Superintendent Vanasse is looking forward to the report to discover what they are doing well and what they can do differently going forward.

Agenda Item 15. Commissioner’s Report. Commissioner Johnson updated the board on the work of the department as well as showed a video of the Yupik Immersion and a video of the ASD Honors Cultural Diversity through Graduation Regalia from the Anchorage School District.

He expressed his thanks to the Anchorage School District for their use of the board room. They have been amazing hosts and we greatly appreciate it.

He updated the board on the Sitka Seaplane base. We have determined that DEED is the agency to execute that sale and work is ongoing. The City of Sitka has been working on the lease request. Although the board requested that any money be given back to Sitka but only the Legislature can actually appropriate funds.

Erin Hardin has put together professional development workshops for DEED staff. We will work to get information to the board so that they can be involved if they wish. Commissioner Johnson is working with the Office of Management and Budget to ensure that the board can be involved in the budget process and will keep them in the loop as they continue those discussions. The Superintendents fly-in will be an opportunity for superintendents to be involved wherever they are and not just to fly to

Juneau. The commissioner gave a shout out to Deb Riddle who is working to put together a literacy grant and has submitted it to the federal government for review. Commissioner Johnson also recognized teacher Karen Martin who has put together a rural teacher's network and we are looking forward to working with her. He wished Member Lorrington good luck in her future endeavors even though she is not here, as this was her last official meeting.

He showed two videos from the Anchorage School District. After the videos, Commissioner Johnson invited Mark Stock Deputy Superintendent of Anchorage School District and Starr Marsett Anchorage School Board President to speak to the videos and the work that Anchorage School District has been doing to advance cultural diversity.

Member Kowalski mentioned that allowing of them to wear their regalia will help student retention and graduation rates. Chair Fields thanked them for the video.

Agenda Item 16. Consent Agenda. Member Van Diest motioned and Member Hamilton seconded the following motion: I move the State Board of Education and Early Development approve the minutes of the March 29, 2019 board meeting and the April 24, 2019 work session. There was no discussion. The motioned passed unanimously in a roll call vote.

Agenda Item 17. Executive Session, Commissioner's Evaluation. Chair Fields motioned and Member Scott seconded the following motion: I move the State Board of Education and Early Development convene in executive session to evaluate the performance of the Commissioner of Education and Early Development. There was no discussion. The motioned passed unanimously in a roll call vote. The Alaska State Board of Education and Early Development went into executive session at 1:58pm.

At 3:40pm, Chair Fields moved to come out of executive Session. There was no objection to move back on the record out of executive session and back into the board meeting.

Board Comments

Member Scott- thanked the Anchorage School District (ASD) for the use of their space. She requested for Sept meeting Steve Atwater or UAA be on the agenda for an update.

Member Griffin- thanked ASD for letting us use the space. He mentioned that it had been a productive couple of days and excited for the in person meeting opportunity.

Member Kowalski- thanked the the public for their support of the standards. She noted that it was great to hear from teachers both written and verbal in their support.

Member Stockhausen- thanked the DEED staff and committees for the standards work. Thanked the board for their continued committee work. She enjoyed the CTE showcase and was excited for their future.

Member Van Diest- thanked ASD and enjoyed the CTE showcase. She also thanked the writing teams for their work on the standards. She is looking forward to the innovative ways that school districts will implement in person. She thanked the department for the ability to meet in person. Thanked Member Griffin for the NAEP slideshow to help the board see that early reading is important.

Member Hamilton- Thanked DEED staff for their work to prepare for the board meeting. He wished Member Lorrington the best in her future endeavors. He thanked Member Griffin, and the commissioner for their work at the board meeting.

Chair Fields- thanked ASD and the CTE showcase. Thanked the board members for taking the time away from their families to be here. Thanked the commissioner and the staff for their continued work with the board.

Meeting adjourned at 3:47pm.

Alaska State Board of Education & Early Development
Unapproved Minutes
July 24, 2019
Audio/Work session originating in Juneau, Alaska

Wednesday, July 24, 2019

Chair Fields called the meeting to order at 3:01 p.m. After the pledge of allegiance, the board adopted the agenda for April 24, 2019. Roll Call began at 3:04 p.m. First Vice Chair Hamilton was excused from the roll. Second Vice Chair Van Diest and Student Advisory Member Mainard were not present. There were no potential conflicts of interest identified.

Work Session

Agenda Item 1. Commissioner's Report. Commissioner Johnson welcomed the board to the call and explained the format for the day's meeting as a round table update with his directors.

Deputy Commissioner Karen Melin updated the board on the Anchorage service center and outreach office and explained that the purpose of this service center was to cut back on the commissioner's office travel and to better serve our stakeholders throughout the state. The goal is to be finished with the space and moved in by August first. Although there have been challenging delays, the department is looking forward to the ways the space can best serve the state. Commissioner Johnson encouraged the board to tour the space if they were in Anchorage and to contact us if they need a space to meet with educators while they are there.

Tammy Van Whye Director of Innovation & Education Excellence updated the board on the work that the department is doing to prepare for the department's portion of the superintendent fly-in that is being held in conjunction with the Alaska Council of School Administrators. This year we are excited to offer distance delivery for July 29th via WebEx and Zoom so that superintendents can participate from wherever they are. She encouraged the board to attend in person or to take advantage of the electronic options.

Commissioner Johnson informed the board that Erin Hardin, DEED's Public Information Officer, had accepted the Special Assistant to the Commissioner position and will be transitioning into that role on August 1st.

Erin Hardin, DEED Public Information Officer, updated the board on the internal school data portal that the department has been working on. As of this meeting's date, the website is still in the planning phase but the department is looking forward to receiving input from the board as this project progresses.

Deb Riddle, Division Operations Manager for Student Learning, CTE, Standards and Support updated the board on assessments and accountability release timelines. These documents will be made available to the public and the board will have an opportunity to review these documents as well. Support materials are also being compiled to assist districts on how to read and interpret their data.

Assistant Commissioner Niki Tshibaka updated the board on the School Safety Summit which will occur on September 18-20, 2019. The purpose of the summit is to promote healthy development of trauma

engaged schools and restorative practices while improving school climate and being better prepared for school crisis. There will be over twenty workshops which address a number of safety issues. Commissioner Johnson and other commissioners have been confirmed to speak. The department is expecting between three and four hundred people.

Neil Steininger, Director of Administrative Services updated the board of the status of DEED budget items. Administrative Services staff is working to close out FY19 so they can move forward to FY20 work. He provided the board with information regarding the two bills that are moving through the Alaska State Legislature and how they would affect the department.

Commissioner Johnson thanked the staff for their updates. He also informed the board that, due to budget constraints, the board will move from four to two in person board meetings per school calendar year. The Department of Education will continue to work with the board to find new and innovative ways to stay connected even though they cannot meet in person. The September 2019 and March 2020 meeting will be in person.

Patience Frederickson, Division Director of the Libraries, Archives, and Museums, provided an update on the library. They have opened the Andrew P. Kashevaroff building for a number of outside events including a prom and a wedding. Due to budget reductions, they have closed the Online With Libraries program and they are working through the impending closure of the live online homework help. They are waiting on the results of the reverse sweep as some of their programs are funded with the higher education investment fund.

Board Comments

Chair Fields thanked the department for their updates and their work. He encouraged the board to stay positive during these times of budget concerns and asked if the board had other comments.

There were no other board comments

The meeting adjourned at 3:41pm

Alaska State Board of Education & Early Development
Not Approved Minutes
August 21, 2019
Audio/Work session originating in Juneau, Alaska

Wednesday, August 21, 2019

Chair Fields called the meeting to order at 3:01 p.m. After the pledge of allegiance, the board adopted the agenda for April 24, 2019. Roll Call began at 3:02 p.m. First Vice Member Stockhausen was excused from the roll. Military Advisory Member Hammill was not present. Member Scott joined at 3:07pm. There were no potential conflicts of interest identified.

Work Session

Agenda Item 1. Commissioner's Report. Commissioner Johnson welcomed the board to the call, introduced the Department of Education and Early Development (DEED) staff in attendance, and informed the board that they would hear an update from the DEED Health & Safety Team. He also gave a brief update on the status of the fires in Mat-Su and Kenai. DEED staff is monitoring this issue and is ready to offer their support if needed. He then turned the call over to Sharon Fishel of the Health and Safety team to discuss the *Transforming Schools: A Framework for Trauma-Engaged Practice in Alaska* document.

Sharon gave an overview of her background and gave the board an update on the department's work on trauma engaged practices. She explained that it doesn't matter how many aces a child has, it matters how we come along and meet a child where they're at with regards to treating their trauma.

Pat Sidmore, the Data and System Coordinator from the Alaska Association of School Boards was also in attendance. He worked extensively with DEED staff to help them craft the trauma engaged framework. He provided his background as well as described his work to change trauma engagement from person driven to policy driven. He stated that he believes that the Alaska framework is the most comprehensive and works because it is Alaska specific.

Sharon mentioned that the framework document has been receiving national attention and that she hopes that it becomes more widely known as time goes on. The next step of this process is to draft and compile the implementation tool kit to go with the chapters within the framework. This tool kit will include assessment tools that schools can use so that they can track their progress.

Pat shared feedback from a teacher who said that once you know as a teacher about a student's trauma, there is no going back. It made them realize that the self-care segment for teachers has become front and center as they evaluate this framework document. They have decided that they will make the self-care segment an item of key focus going forward as they work through the framework.

Sharon walked the board through the e-learning modules as well as some of the micro courses that educators can take with students to be more engaged. The e-learning courses are available on the [DEED website](#). There will also be upcoming courses for educators to take. She expressed her excitement for the new courses as well as the hope that they may be adapting some of them for students to take. She

also reminded the board about the Alaska School Safety & Well-Being Summit which takes place on September 18-19 at the Egan Center in Anchorage.

Pat thanked the department for their work on the summit and said that their organization is looking forward to participating.

Board Comments

Lorri Van Diest expressed her excitement to see the focus on the framework and is looking forward to the tools and techniques that are going to be shared at the Safety & Well-Being Summit.

Chair Fields asked Sharon how many districts were participating and what the structure of the summit would look like. Sharon responded that they were looking forward to hosting approximately 360 people at this event. Chair Fields thanked the department work and their passion for this issue. He is looking forward to the summit.

Commissioner Johnson reminded the board that the department has economized the agenda so that board members have as much time as possible to attend the Safety Summit. He encouraged the board to take advantage of the time as it is one of the five priorities that they have identified in the Alaska Education Challenge. He thanked the board for calling in and wished Kake City Schools and Sitka School District a great day of school as their year starts on Thursday, August 22nd.

The meeting adjourned at 3:31pm.

**To: Members of the State Board of
Education & Early Development**

September 19, 2019

From: Dr. Michael Johnson, Commissioner

Agenda Item: 12

◆ ISSUE

- The board will consider convening in an executive session to discuss with the Office of Management and Budget (OMB) the FY 2021 budget priorities for the department.
- Neil Steininger, Administrative Services Director, will provide, in the public session, an overview of the statutory process followed by the department and OMB (part of the Office of the Governor) that leads to the release of the Governor’s proposed budget on December 15.
- The executive session is an opportunity for OMB to discuss its Guidance Memorandum (a confidential document) regarding the FY 2021 budget and for the board to discuss its FY 2021 budget priorities with OMB. Budget deliberations are confidential under the deliberative process and executive communications privileges. Under AS 37.07.020(a), “The budget for the succeeding fiscal year and each of the bills shall become public information on December 15....”

◆ BACKGROUND

- Under AS 44.62.310(c)(4) of the Open Meetings Act, the following subject may be considered in an executive session: “matters involving consideration of government records that by law are not subject to public disclosure.”
- The Governor’s draft budget is confidential under the deliberative process and executive communications privileges and AS 37.07.020(a).
- Under AS 44.62.310(b) of the Open Meetings Act, the question of holding an executive session to consider subjects listed in AS 44.62.310(c) must be determined by a majority vote of the board.

◆ SUGGESTED MOTION

I move the State Board of Education and Early Development convene in executive session to discuss OMB’s FY 2021 Guidance Memorandum and the FY 2021 budget priorities for the department. Under the Open Meetings Act, AS 44.62.310(c)(4), these are matters involving consideration of government records that by law are not subject to public disclosure.