



The

Spring 2022

COMMUNIQUE

...plus more!

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The
COMMUNIQUE
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Directors Association

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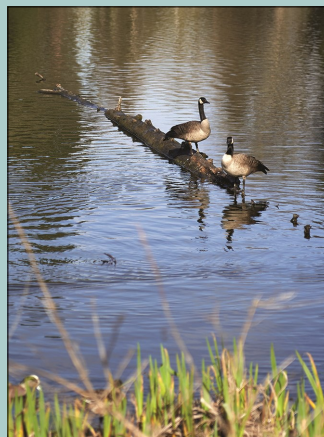
To serve and strengthen through the provision and coordination of timely information, education, and legislation.

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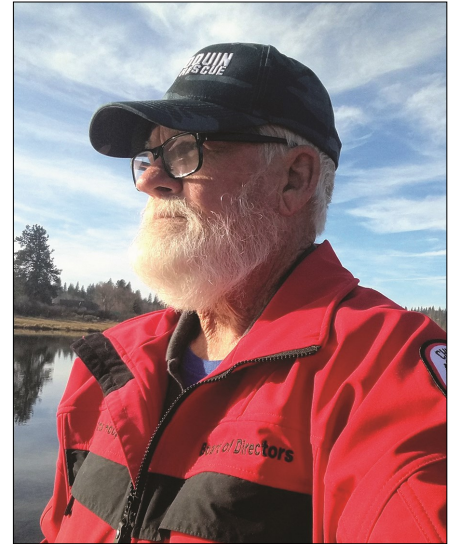
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PRESIDENT'S MESSAGE

by Curtis Hoopes
OFDDA President

As serving OFDDA president, I want to take this opportunity to commend fire district directors statewide who serve on district boards. Your service and dedication support fire service first-responders, providing needed public services to those in need in their districts. Thank you!

OFDDA Board and staff continue to provide timely information and training to members. Through partnership with SDIS/SDAO, OFDDA offers continual board training opportunities throughout the year. The OFDDA Fire Directors Academy and annual Fire Service Conference are examples of this dedication. OFDDA continues to be a strong voice in Salem, representing fire districts' interests in legislative matters.



The OFDDA Board and Conference Committee are currently in the planning stages for the annual Fire Service Conference scheduled for this fall in Hood River. Speakers are being scheduled and sessions are being set. The annual conference provides attendees with the opportunity to gain a wealth of knowledge in one place as well as networking with colleagues and meeting with vendors. I hope members will put the conference on their calendar and plan to join us in Hood River.

As always, OFDDA's mission to "serve and strengthen through provision and coordination of timely information, education, and legislation" remains my highest priority, with a commitment to provide the best service to members.

Thank you, fire district directors!

Oregon Fire Chief's Association Annual Spring Conference

May 4–6, 2022

Bend, OR

Register for the Oregon Fire Chief's Association (OFCA) Annual Spring Conference!

Join Fire Chiefs and Chief Officers from across the state for two and a half days of training, updates from important fire organizations, connection with fire service partners, and networking. After navigating the challenges of the COVID-19 pandemic for two full years, we look forward to reconnecting and supporting you and your agency as we move *forward together*.



For registration, speaker information, exhibiting opportunities and more, visit ofca.org/annual-conference.

OREGON Fire Marshals ASSOCIATION

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MAY 23-26, 2022

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BOARD ELECTIONS
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Visit our website for more information and registration options.

www.ofma.net

2022 Legislative Session Recap

By Genoa Ingram, OFDDA Executive Director

The 2022 legislative “short session” convened on Tuesday, February 1, and adjourned *sine die* on Friday, March 4. The following Tuesday, March 8, was the deadline for candidates to file for legislative office. While a record number of legislators will not be returning and will not appear on the November ballot, 34 candidates filed for Governor.

One of the last bills to be considered was HB 4002 which provides for overtime pay for agricultural workers and tax credits to employers. The bill was extremely contentious and passed on a straight party line vote in both Chambers.

Click [HERE](#) for the most recent Bill Tracking Report. Following is the outcome of some of the bills of particular interest to OFDDA:

Ethics Expansion

[HB 4140](#) would have expanded the duties of the Oregon Government Ethics Commission (OGE) to conduct investigations, make findings, and impose penalties for violations of public meetings laws. The bill was meant to address confusion over which body has oversight for enforcement of public meetings statutes. Both the Special Districts Association of Oregon (SDAO) and OFDDA opposed HB 4140 because it would have increased the assessments on fire districts and other local government bodies to compensate the OGE for these new responsibilities. OFDDA did not object to oversight of public meetings laws by the OGE. The bill received a hearing on February 10 before the House Rules Committee but did not advance. It is anticipated that the bill will be brought back during the 2023 session.

Annexation by Fire Districts

[SB 1582](#) would have allowed the *Board of Directors of a rural fire protection district* to annex into the district any lands that are either within seven road miles of a district fire station or that are brought within seven miles of a station by a new road, and that are not subject to RFPD tax assessment. The bill was introduced at the request of Sen. Lew Frederick (D-Portland) and was similar to [SB 605](#), which he introduced during the 2021 session. That bill would have required county commissioners, upon request by a rural fire protection district, to annex such lands. Chief Rob Bullock, Douglas County Fire

District No. 2, requested both bills and provided supporting testimony in 2021 and 2022. The bill passed the Senate on February 17 by a vote of 18-8 with four not present, but it faced opposition in the House Revenue Committee. [Consensus amendments](#) were prepared in anticipation of a March 2 hearing, but the required revenue impact statement was not prepared in time and the vote was not held. Senator Frederick has indicated that he will take immediate action to file the bill for the 2023 legislative session.

Click [HERE](#) to see all written testimony, for and against, submitted for the record. Many thanks to those districts that submitted supporting testimony.

Tax Credit for Volunteer Firefighters

[HB 4097](#) would have enacted a limited time \$1,000 tax credit for volunteer firefighters under criteria based on a specific level of participation as overseen by the Chief. The credit would be applicable for tax years 2023-2028 and then be reevaluated. OFDDA supported the bill as a mechanism to attract and retain volunteer firefighters, which is a much-needed resource throughout all parts of Oregon, particularly our rural areas. OFDDA and the Oregon Volunteer Firefighters Association presented [joint testimony in support](#).

The bill stalled in the House Revenue Committee when legislators were told that the credit would be taxable income that would count against volunteer firefighters' tax obligation. OFDDA and OVFA countered, and the information and the bill's Staff Measure Analysis was corrected. However, the clock ran out before the bill could be brought back for a final committee vote. Legislators have vowed to bring the bill back in 2023.

Cancer Presumption

[HB 4113](#), the broad expansion of cancers that would be presumed to be a result of firefighting activities under the workers compensation law, was signed by the Governor on March 2, having easily cleared both Chambers. Both the Oregon Fire District Directors Association and the Special Districts Association of Oregon initially opposed the bill before the Management-Labor Advisory Committee (MLAC), but once MLAC voted to support the bill, both associations modified their stance to “neutral.”

To CM/GC or Not to CM/GC (or to Design Build)

By Carrie Connelly
Local Government Law Group P.C.

The alternative contracting methods of Construction Manager/General Contractor (CM/GC) and Design Build have been used for seismic upgrades and other district projects throughout the state. However, I continue to see entities confused or not gaining the benefits of these methods. Small entities often forge ahead on the advice of consultants, only to find themselves without the proper expertise to manage unnecessarily costly and time-consuming projects.

Before blithely heading down the primrose path, be aware that these methods are not only substantively but also procedurally more complicated than a standard design-bid-build process. In summary, each alternative contracting approach requires an initial exemption, supported by specific findings, adopted after notice and a Board hearing. Your district needs to weigh its options and associated pros and cons before choosing which construction process is appropriate for its project.

WHAT IS “CM/GC”?

Without an exemption, construction must follow a design-bid-build approach. That involves a retained architect designing a structure, then putting those drawings out for bid, with award made to the lowest responsible bidder. In contrast, a CM/GC allows a contractor to be chosen before or during the design process. The CM/GC contractor then joins the architect (under a separate contract with the public contracting entity) in the design process. The “team’s” goal is to obtain value engineering cost savings and often phased construction benefits. Once design is complete, an addendum is executed setting a “guaranteed maximum price” (GMP) for the construction.



Nearly a decade ago, the legislature attempted to dissuade local contracting agencies from using CM/GCs. Legislation preempted all prior public entity rules governing CM/GC contracts and directed the Attorney General (AG) to replace those locally adopted rules with model rules (See, Oregon Administrative Rule (OAR) 137-049-0690). We all believed that was the end of CM/GCs, but CM/GCs continued in use, subject to stringent procedural hoops. Whether it is advisable to jump through those hoops depends on the construction project at issue.

A CM/GC’s “phase one” role involves reviewing and analyzing the design as it develops and proposes materials in order to minimize errors, delays, unexpected costs, and other issues during construction. Benefits also can include improved safety, reliability, and efficiency at a reduced price within a shorter construction window. Once design is completed, the cost of construction, materials, labor, and other expenses are distilled into a GMP. The GMP is agreed upon by amendment, triggering construction pursuant to the completed designs.

Despite potential benefits, the CM/GC arrangement is a “technically complex project delivery system” (OAR 137-049-0690(1)). Contracting agencies should use it only with the assistance of knowledgeable staff or consultants who have a demonstrated capability of managing the CM/GC

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process and have expertise in engineering, construction scheduling and cost control, accounting, legal, public contracting, and project management. Fire districts generally do not have expertise in all these areas, which is why architects and contractors are placed in the forefront on these projects.

WHAT IS “DESIGN BUILD”?

Design Build is a public improvement contract in which the construction contractor also provides all required design services (OAR 137-049-0610(6)). The project team consists of the Design Builder and district. In other words, a single contractor is responsible for providing your district with all professional design services and construction labor necessary to design and construct your project.

As with CM/GC's, Design Build contracts have “not readily apparent” technical complexities (OAR 137-049-0670). Similar to CM/GCs, your district may only use Design Build contracting methods with the assistance of knowledgeable and experienced staff or consultants. You must reasonably be able to anticipate benefits such as a need for a single point of responsibility, value engineering, and construction commencing prior to completion of a “buildable design.” The goal is to reduce contract claims while shortening the project time.

EXEMPTION PROCESS

An exemption required for a CM/GC or Design Build involves findings that the chosen method will not encourage favoritism, nor diminish competition, and will result in substantial cost savings. Findings must also identify anticipated time savings and the technical complexity of project construction. For example, construction that must overlap with ongoing fire operations can satisfy this last requirement. Prior to adopting an exemption resolution, at least 14 days' notice must be provided by publishing in a newspaper of statewide circulation (e.g., the Daily Journal of Commerce) and in as many others as desired by your district. After the exemption's adoption,

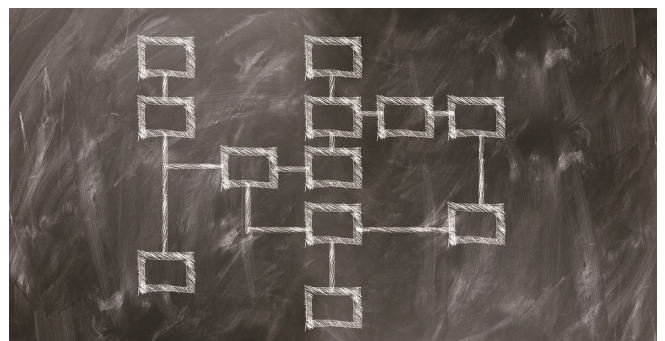
your district will issue its solicitation (likely a request for proposals), advertise statewide, and evaluate and rank proposers before finally awarding a contract.

Upon project completion, exempt contracting methods require a post-project evaluation. Essentially, the evaluation answers whether it was in your district's best interest to conduct the CM/GC or Design Build process. Findings must address financial information, successes and failures of the process, and conclude with an objective assessment of use of the process. The evaluation must be completed and submitted to your district local contract review board (i.e., your district board) within 30 days of project acceptance.

BENEFITS/DRAWBACKS

Districts often pursue alternative contracting methods based upon consultant advice that it will help address time/cost constraints. The ability to overlap design with construction can eliminate the need for later change orders, keep projects on schedule, and result in a sound product at a lower cost. In other cases, hoops are jumped through and the project completed, all for about the same cost and within the same timeframe as if a standard design-bid-build process had been followed.

Your board is in the best position to evaluate the technical complexities of your district's project and the value of using a CM/GC or Design Build contract. Involving your attorney early will ensure that all applicable requirements are addressed *before* a contract is awarded.



SDIS Best Practices Program

by Jennifer Quisenberry,
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Administrators for SDIS, OPPA, and PACE
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Did you know that by participating in the SDIS Best Practices Program, you can earn up to 10% credit on your district's general liability, auto liability, and property insurance contributions for the following year? We offer five opportunities to earn credit, which are each worth 2%. It's very easy to participate. In fact, you may already be doing the requirements. This year's program focus is board duties and responsibilities, and credits are available in the following categories:

- Maintain a membership with an SDAO/SDIS affiliate organization (***Your OFDDA membership qualifies!***)
- Implement a board duties and responsibilities policy
- Complete the board duties and responsibilities checklist within the Best Practices survey
- Have all your board directors watch or attend an SDAO/SDIS training
- Have at least two board directors enroll in the SDAO/OFDDA Fire District Directors Academy

All participating districts must complete the Best Practices survey to receive credit. **Credits cannot be awarded unless the survey is submitted.** Please visit www.sdis.org, sign in, select insurance on the left, click on Best Practices, and then select Take Survey.

SDAO Awards Program Recipients

Each year, the SDAO Awards Program gives recognition to member districts for accomplishments that allow them to provide better service to the public and honors individuals who have greatly contributed to the success of their organization. These awards celebrate the ingenuity, creativity, and diversity of our members. Within this program are two special recognition awards: the Outstanding Special District Program award and the Outstanding Special District Service award.

At the 2022 SDAO Annual Conference, we presented awards to three districts, four individuals with special districts, a retired fire chief, and an SDAO staff member. The fire service was well represented in our group of recipients and included the following:

Howard Terpenning Lifetime Achievement Award

The Howard Terpenning Lifetime Achievement Award is presented to an individual who has shown an outstanding commitment to Oregon special districts and to SDAO.

- **George Dunkel**, Retired Fire Chief and SDAO Senior Consultant

Outstanding Special District Program Award

Special districts are recognized for innovative projects and programs, outstanding safety, public information, public involvement in a district decision-making process, and outstanding achievement.

- **5 or fewer Employees:** Mist-Birkenfeld RFPD
- **26 or More Employees:** Lebanon Fire District

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Outstanding Special District Service Award

This category recognizes an individual who has contributed substantially to the improvement and successful operation of his or her district.

- **Board Member:** Trudi Sthen, Ophir RFPD
- **Volunteer:** Thomas Maddock, McKenzie Fire & Rescue

For a list of all recipients, award videos, and more information about the program, please visit www.sdao.com/sdao-awards-program.

SDAO Internship Grant

We are now accepting applications for the 2022 SDAO Internship Grant Program! This program is available to SDAO members to assist in meeting or improving loss control and best practices, ultimately benefiting both the district and the intern. This grant is not intended to fund routine maintenance needs or normal staffing requirements, but to help with project needs.

Interns must be hired by the district as temporary employees to be in compliance with wage and hour laws relative to compensating student interns. A freshman- through junior college-level student will need to be hired to qualify for funding of this grant. The maximum grant per district is \$3,000; the funding must be matched by the district by 50%. For example, you may be eligible to receive up to \$3,000 on your request for a project that will cost your district \$6,000 or more. You may be eligible to receive up to a maximum of \$2,100 on your request for a project that will cost your district \$4,200. SDAO may not fund all grant requests.

The deadline to submit your application is **April 15, 2022**. The SDAO Awards Committee will review each application to determine which projects are eligible to receive funding. Funds will be disbursed before July 1.

Learn more on our website at www.sdao.com/internship-grant-program.



**A special *Thank You* to
SDAO, title sponsor of
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Ashland, Oregon!**



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2022 Oregon Fire Service Conference planning is underway!

The OFDDA Conference Planning Committee has been hard at work planning an exciting, informative schedule for our 2022 conference to be held in the beautiful Columbia River Gorge. You won't want to miss the educational and networking opportunities—not to mention the amazing views from our venue, Best Western Plus Hood River Inn!. Open up your calendar and set a placeholder for November 3-5, and watch your email, our website, and future newsletters for more information.

Thank you once more to our 2021 sponsors for the tremendous support you provided:

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