

Toledo JR/SR High Construction of an Auditorium

Lincoln County School District

Findings in Support of Exemptions from Competitive Bidding

1. General

ORS 279C.335 (2) permits a local contract review board to exempt contracts from traditional competitive bidding upon approval of findings of fact showing that an alternative contracting process is unlikely to encourage favoritism or diminish competition, and that the process will result in substantial cost savings to the public agency.

ORS 279C.400 – ORS 279C.410 describe the Request for Proposals method of solicitation as an alternative to traditional competitive bidding. Pursuant to ORS 279C.410 (8), a public agency using the Request for Proposals method may award a contract to the responsible proposer “whose proposal is determined in writing to be the most advantageous to the contracting agency based on the evaluation factors set forth in the request for proposals and, when applicable, the outcome of any negotiations authorized by the request for proposals.”

2. Background

The Lincoln County School District (LCSD) desires to perform construction of a auditorium at Toledo JR/SR High School. Contemplated renovation and expansion work includes:

- Excavation and drainage
- Construction of an auditorium

LCSD expects to complete the project by September 1, 2027. A final schedule will be determined through the project development process.

LCSD proposes to undertake construction of auditorium using the Construction Management / General Contractor (CM/GC) method of contracting with a proposer selected through the Request for Proposals method of solicitation. The CM/GC contractor will assist with construction planning and design for the project.

3. Findings - Information

(A) Market Conditions

It is expected that there will be several competitors available to propose as general contractors on this project.

(B) Operational, Budget and Financial Data

The preliminary construction budget for the work to be performed is approximately \$9,700,000.

(C) Public Benefit

The public will benefit from improvements to the Toledo JR/SR High School facilities. The construction of an auditorium will allow LCSD to provide an auditorium for the students, physical education, assemblies, and school/parent meetings.

Use of CM/GC process will allow LCSD to accomplish these important goals with a schedule and construction process that will cause minimal disruption to continuing use of the facilities.

(D) Value Engineering

The negotiated contract approach gives the contractor an increased opportunity to engage in value engineering (the process of identifying construction economies that can be achieved through incorporation of design revisions/refinements), which increases the likelihood of cost savings to LCSD.

(E) Specialized Expertise

As discussed below in subsection (F), the project will require special knowledge and experience due to the schedule and process constraints of construction and the unique environmental considerations of construction on the Oregon Coast. Any additional costs associated with this requirement of specialized knowledge and experience will be offset by the savings from having the work performed in such a way that it can withstand the particular climactic and geographic issues on the Oregon Coast and will not need to be repaired or rebuilt in the near future.

Construction will consist of construction of an auditorium at Toledo JR/SR High School. Contractor experience with construction of this type would benefit the district.

(F) Public Safety

All work will be performed in accordance with OR-OSHA safety regulations. LCSD and the contractor will work with the public to minimize hazards related to construction. The project will lead to improved public safety by modernizing facilities and improving the state of repair at Toledo JR/SR High School.

(G) Reduction of Risks

Granting an exemption to the competitive bidding for this project will reduce risks to LCSD and to the public by improving the usefulness of Toledo JR/SR High School, thereby reducing the risk of damage to the building and its occupants in the case of a seismic event.

(H) Affect on Funding

The project will be funded by 2025 Bond fund through Federal Government. Exempting the project from the competitive bidding process will not affect the source of the funding.

(I) Control of Impact from Market Conditions

The nature of the project requires construction to occur within a tight schedule, with the need to complete work by September 1, 2027. The continued use of parts of the facilities during construction, and the possible intervention of weather will limit the number of days available for completion of this project. The CM/GC process will permit the project to be completed more quickly than would be possible through traditional contracting methods, resulting in greater safety and utility to LCSD and to the general public.

LCSD has a projected budget for this project, and intends to adhere to that budget as closely as possible. Early reliable pricing provided by the CM/GC contractor during the design phase will reduce the potential for time delays due to later discovery of higher-than-anticipated costs and consequent changes of direction.

Use of experienced contractors in the CM/GC process will allow LCSD to avoid potential labor fluctuations or scarcities resulting from schedule demands, weather events, or labor fluctuations or scarcities. The CM/GC process will allow LCSD to allocate the risk of unexpected problems and construction defects in a manner likely to result in long-term cost savings, and will allow LCSD to benefit from value engineering in the construction process.

(J) Technical Complexity

The various technical complexities of the project are best addressed by a collaborative team effort of LCSD and a CM/GC contractor:

- 1) LCSD's established overall auditorium budget need to be adhered to. It is important to maintain the highest level of project management throughout all phases of design and construction. Value engineering and constructability evaluations performed by the CM/GC are vital to the success of this project. The establishment of a guaranteed maximum price at the earliest possible date will be of great benefit to the District, and is only possible under a CM/GC approach.
- 2) The schedule for this project is critical. LCSD will work with the CM/GC to have no displaced students. New facilities should be complete and fully operational to allow occupancy by September 1, 2027.
- 3) Existing school operations will continue during the construction period. Critical issues will include maintaining a safe school environment for students and staff, delivery and staging of construction materials with minimum impact on school operations, and the continuity of mechanical and electrical services during construction.
- 4) Construction on the Oregon Coast requires unique skills and experience to avoid water intrusion, wind damage, schedule delays, and unexpected cost overruns due to inclement weather. The impact of severe winter storms with torrential wind-driven rains offers unique construction challenges. The CM/GC contractor's input regarding maintaining facility operations during construction and avoiding potential delays to construction date will ensure that the project is completed with a minimum of disruption or delay to students or staff.

(K) New Construction

This project is intended to be a new auditorium at Toledo JR/SR High School. Hiring a contractor familiar with this type of project would result in better quality of work.

(L) Occupied or Unoccupied

As noted in paragraph (J), it is expected that school operations will continue during the construction period. Accordingly, the contractor must be able to minimize safety risks to students, staff and the public during construction.

(M) Phases

Due to the uncertainties involved with weather and working with an operating school, it is likely that the project will be built in several phases as circumstances permit. It is necessary to have a contractor who has the willingness and flexibility to accommodate these needs.

(N) Expertise in Alternative Contracting Methods

LCSD's personnel have handled previous projects involving alternative contracting methods and exemptions from the bidding process. They have the necessary expertise and substantial experience to undertake this contracting process. LCSD has also retained legal counsel with the necessary expertise and experience to help negotiate, administer and enforce the terms of the public improvement contract.

4. Findings – Competition and Cost Savings

Use of the proposed alternative contracting method is unlikely to encourage favoritism or diminish competition and will result in substantial cost savings to LCSD.

(A) Unlikely to Encourage Favoritism or Diminish Competition

Favoritism will not play a role in the selection of a contractor for this project. The selection will be conducted through an open and advertised Request for Proposal process. All qualified firms will be invited to submit proposals. LCSD will publish a legal notice in the Daily Journal of Commerce and OregonBuys.gov in order to provide project information to all interested contractors. LCSD will also publicly advertise the RFP to prospective bidders in any other manner it thinks appropriate to obtain solicitations from as many qualified and interested proposers as is feasible.

All qualified firms will be able to participate in an open, competitive selection process. Contractor selection will be based upon criteria relating to price, quality of performance, and other factors specified in the RFP documents or developed through discussions with competitive proposers. The RFP will provide an opportunity for bidders to protest the District's awards.

(B) Will Result in Substantial Cost Savings

Use of the CM/GC process will lead to substantial cost savings by reducing the time of construction and permitting increased use of the school facilities and by encouraging the development of cost-saving construction processes.

Time Savings

The nature of the project requires construction to occur within a tight schedule; as noted above, with the need to complete work by September 1, 2027. The continued use of parts of the facilities during construction, and the possible intervention of weather will limit the number of days available for completion of this project. The CM/GC process will permit the project to be completed more quickly than would be possible through traditional contracting methods, resulting in greater safety and utility to LCSD and to the general public.

LCSD has a projected budget for this project, and intends to adhere to that budget as closely as possible. Early reliable pricing provided by the CM/GC contractor during the design phase will reduce the potential for time delays due to later discovery of higher-than-anticipated costs and consequent changes of direction.

Cost Savings

The Request for Proposal method and the use of a CM/GC will permit LCSD to choose a contractor based upon considerations of quality of construction, expertise useful to handling the technical challenges of the project, and other qualities that will lead to substantial cost savings over the lifespan of the improvement.

Use of experienced contractors in the CM/GC process will allow LCSD to avoid potential labor fluctuations or scarcities resulting from schedule demands, weather events, or labor fluctuations or scarcities. The CM/GC process will allow LCSD to allocate the risk of unexpected problems and construction defects in a manner likely to result in long-term cost savings, and will allow LCSD to benefit from value engineering in the construction process.