



LINCOLN PUBLIC SCHOOLS

BUCKNER M. CREEL
ADMINISTRATOR FOR BUSINESS AND FINANCE

April 28, 2021

To: Becky McFall, Superintendent
School Committee
From: Buckner Creel

Subject: Request for Proposal (RFP) for Disposal of the Modular Facility

Background and General Considerations On May 8, 2019, the School Committee entered into an agreement, in the form of an amended contract price, with Consigli Construction to provide a 29-classroom temporary modular facility to house the Lincoln School K-4 program during the duration of the Lincoln School revitalization project. In July 2019 the 37 trailers comprising the modular facility were moved from the Hanscom Campus to their current location, on the center field of the Ballfield Road campus, and work began to create the temporary, modular facility. The facility was completed in March 2020, and occupied by the Lincoln School K-4 program in August 2020. The modular facility will be used as a school until two days after the end of school in June, 2020. The value of the modular facility exceeds \$35,000, so a formal advertised RFP solicitation process must be followed to comply with M.G.L. c. 30B § 16.

Declaration of Excess, Identification of Use Restrictions. MGL c. 40 § 3 contains the following paragraph:

“Notwithstanding the provisions of this section, a city or town, with the approval of the school committee, may rent or lease any school building not in actual use and, with the approval of the commissioner of education, surplus space in a school building in actual use to any one or more public or private profit-making businesses or nonprofit organizations; provided, however, that joint occupancy of a school building in actual use as such shall not interfere with educational programs being conducted in said building. The terms of any such rental or lease shall be as approved by the school committee; provided, however, that no school building not in actual use shall be rented or leased for an initial term longer than ten years, but with renewal options if approved by the school committee.”

For example, the School Committee has voted in the past that it desires the surplus space in the Hartwell Building be used for programs with an educational purpose (such as a licensed child care program, professional development center or other uses) harmonious with the proper functioning of the adjacent Lincoln Pre-School.

By implication, the School Committee could, if it wanted to, impose use restrictions to accompany the disposal of the modular facility. However, the Administration recommends that no use restrictions be imposed upon this surplus action.

Real property transactions under Massachusetts procurement laws are somewhat flexible within the framework set by the enabling legislature, M.G.L. c. 30B § 16, which requires several actions:

“Section 16. (a) If a governmental body duly authorized by general or special law to engage in such transaction determines that it shall rent, convey, or otherwise dispose of real property, **the governmental body shall declare the property available for disposition and shall specify the restrictions, if any, that it will place on the subsequent use of the property.** (emphasis added)

(b) The governmental body shall determine the value of the property through procedures customarily accepted by the appraising profession as valid.

(c) A governmental body shall solicit proposals prior to:

(1) acquiring by purchase or rental real property or an interest therein from any person at a cost exceeding twenty-five thousand dollars; or

(2) disposing of, by sale or rental to any person, real property or any interest therein, determined in accordance with paragraph (b) to exceed \$35,000 in value

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(g) If the governmental body decides to dispose of property at a price less than the value as determined pursuant to paragraph (b), the governmental body shall publish notice of its decision in the central register, explaining the reasons for its decision and disclosing the difference between such value and the price to be received.”

The **Chapter 30B Manual** published by the Office of the Inspector General contains additional information about real property dispositions at less than the market price. In short, the School Committee is permitted to establish use restrictions to promote public purposes.

In light of all of this, before the sale of the modular facility can be advertised, MGL c. 40 § 3 requires the School Committee to take several actions:

- affirm by public vote that the temporary modular facility currently occupied by the Lincoln School K-4 program will be surplus to school operations and available for sale within two days after the end of school in June 2022.
- affirm by public vote that it imposes no use restrictions in this disposal action.

The text of the motion proposed for School Committee consideration is below. The Administration requests that the School Committee take a formal vote at their meeting on May 6, 2021.

MOVE...that the School Committee declares that the temporary modular facility currently located on the center field on the Ballfield Road campus will be surplus to school operation needs two days after the last day of school in June 2022, and directs the Administration to solicit proposals for sale of the facility, without use restrictions, in compliance with Massachusetts General Law.