



POLICY & PROCEDURE SERVICE

AP 6340 Bids and Contracts

References:

Education Code Sections 81641 et seq.;

Public Contract Code Sections 20103.7, 20112, 20650 et seq., and 22000 et seq.;

Labor Code Sections 1770 et seq.;

Government Code Section 53060;

ACCJC Accreditation Standard III.D.16;

2 Code of Federal Regulations Part 200.318

NOTE: Procedures on bids and contracting are **legally required**. Local practice may be inserted. The following is typical and complies with the legal requirements. However, please note that districts which, by proper resolution and notification to the Controller, have elected to adopt the Uniform Public Construction Cost Accounting Act (UPCCAA), are subject to an alternative set of procedures, described in detail in Public Contract Code Sections 22000 et seq. (See AP 6345 which is the Bids and Contracts Option using UPCCAA)

Limits

Bids or quotations shall be secured as may be necessary to obtain the lowest possible prices as follows:

- Purchase of goods or services up to the [**limits set out in the Public Contract Code**] will require documented quotes.
- Purchase of goods or services in excess of the [**limits set out in the Public Contract Code**] will require formal advertised bids.

In securing bids or quotations, the District will avoid acquisition of unnecessary or duplicative items. Contracts involving expenditures that require competitive bidding require approval by the Board of Trustees prior to award.

NOTE: The bid minimums are annually readjusted by the Board of Governors as required by Public Contract Code Section 20651 subdivision (d); the 1/1/18 adjustment increased the minimum for materials or supplies to \$902,2600. The current bid minimum can be found at:

<https://www.cde.ca.gov/fg/ac/co/bidthreshold2019.aspx>http://extranet.cccco.edu/Portals/1/CFFP/Facilities/FPU_Memos/2017/FP%2017-27%202018%20Bid%20Threshold%20Adjustment.pdf.

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Bid Specifications

Bid specifications shall include a definite, complete statement of what is required and, insofar as practical, shall include pertinent details of size, composition, construction, and/or texture of what is specified, and minimum standards of efficiency, durability, and/or utility required of what is specified.

Notice Calling for Formal Advertised Bids

The District shall publish at least once a week for two weeks in a newspaper of general circulation published within the District or if there is no such paper, then in some newspaper of general circulation, circulated in the county, [**and may post on the District's web site or through an electronic portal,**] a notice calling for bids or proposals, stating the work to be done or materials or supplies to be furnished and the time and place when bids will be opened. The District may accept a bid that was submitted either electronically or on paper.

Bid and contract forms shall be prepared and maintained by [**insert designated office or position**]. All applicable statutory provisions and board policies shall be observed in preparation of the forms.

The [**insert designated position**] shall be responsible for insuring that the bid specifications are sufficiently broad to encourage and promote open competitive bidding.

All bid notices for work to be done shall contain an affirmative statement requiring compliance with Labor Code Sections 1775 and 1776 governing payment of prevailing wages and Labor Code Section 1777.5 governing employment of apprentices. All bid submissions shall contain all documents necessary to assure compliance with these California Labor Code Sections. Failure to provide such documentation shall cause any such bid to be deemed incomplete.

When required or determined to be appropriate, bids shall be accompanied by a certified or cashier's check, or bid bond, in the amount specified in the bid form, as a guarantee that the bidder will enter into contract and furnish the required contract bonds. When no longer required for the protection of the District, any certified or cashier's check received shall be returned to the respective bidder.

[**Designate position or office**] shall make available to the prospective bidders bid forms with sets of specifications and drawings and shall provide a convenient place

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where bidders, subcontractors, and materiel personnel may examine the specifications and drawings.

[**Designate position or office**] shall provide an electronic copy of the plans and specifications and other contract documents to a contractor plan room service at no charge upon request from that contractor plan room.

When permitted, a deposit for sets of plans and specifications may be required and may be refunded when such documents are returned.

Awarding of Bids and Contracts

The awarding of bids and contracts shall be subject to the following conditions:

- Any and all bids and contract proposals may be rejected by the District.
- All bids shall be opened publicly and bidder shall be given the opportunity to make record of the bids received.
- Bid and contract award recommendations to the Board shall show a tabulation of the bids received in reasonable detail.
- **Selection and Award to Lowest Responsible Bidder:**
 - Bid and contract awards shall be made to the lowest responsible bidder substantially meeting the requirements of the specifications. ~~The District reserves the right to make its selection of materials or services purchased based on its best judgment as to which bid substantially complies with the quality required by the specifications.~~
- **Selection and Award Based on Best Value:**
 - For the purposes of bid evaluation and selection when the District determines that it can expect long-term savings through the use of life-cycle cost methodology, the use of more sustainable goods and materials, and reduced administrative costs, the District may provide for the selection of the lowest responsible bidder on the basis of best value ~~pursuant to policies and procedures adopted by the governing board in accordance with this section.~~
 - "Best value" means the most advantageous balance of price, quality, service, performance, and other elements, as defined by the Board, achieved through methods in accordance with this section and determined by objective performance criteria that may include price, features, long-term functionality, life-cycle costs, overall sustainability, and required services.

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- The District will consider all of the following in a best value selection and award:
 - Price and service level proposals that reduce the District's overall operating costs, including end-of-life expenditures and impact.
 - Equipment, services, supplies, and materials standards that support the District's strategic acquisition and management program direction.
 - A procedure for protest and resolution in the request for proposal.
- The District may also consider any of the following in a best value selection and award:
 - The total cost to of its purchase, use, and consumption of equipment, supplies, and materials.
 - The operational cost or benefit incurred by the District.
 - The added value to the District, as defined in the request for proposal, of vendor-added services.
 - The quality and effectiveness of equipment, supplies, materials, and services.
 - The reliability of delivery and installation schedules.
 - The terms and conditions of product warranties and vendor guarantees.
 - The financial stability of the vendor.
 - The vendor's quality assurance program.
 - The vendor's experience with the provisions of equipment, supplies, materials, and services within the institutional marketplace.
 - The consistency of the vendor's proposed equipment, supplies, materials, and services with the District's overall supplies and materials procurement program.
 - The economic benefits to the local community, including, but not limited to, job creation and retention.
 - The environmental benefits to the local community.

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- The District will award a contract to the lowest responsible bidder, whose proposal offers the best value to the District based solely on the criteria set forth in the request for proposal. The District shall document its determination in writing.
- The District shall issue a written notice of intent to award supporting its contract award and stating in detail the basis of the award. The notice of the intent to award and the contract file must be sufficient to satisfy an external audit.
- The District shall publicly announce its award, identifying the bidder to which the award is made, the price proposal of the contractor awarded the contract, and the overall combined rating on the request for proposal evaluation factors. The announcement shall also include the ranking of the contractor awarded the contract in relation to all other responsive bidders and their respective price proposals and summary of the rationale for the contract award.
- The District shall ensure that all businesses have a fair and equitable opportunity to compete for, and participate in, district contracts and shall also ensure that discrimination on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, does not occur in the award and performance of contracts.

Purchase without Advertising for Bids

The [**Chief Business Officer or Chief Facilities Officer or designee**] is authorized to make purchases from firms holding public agency contracts without calling for bids where it appears advantageous to do so.

The [**Chief Business Officer or Chief Facilities Officer or designee**] may, without advertising for bids within the same [**county, city, town, or district**], purchase or lease from other public agencies materials or services by authorization of contract or purchase order.

The [**Chief Business Officer or Chief Facilities Officer or designee**] may make purchases through the State of California Cooperative Purchasing Program operated by the Department of General Services.

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The [**Chief Business Officer or Chief Facilities Officer or designee**] is authorized to make purchases with a value between \$5,000 and \$250,000 from a certified small business, microbusiness, or disabled veteran business enterprise.

Duration of Continuing Contracts for Services and Supplies

Continuing contracts for work or services furnished to the District are not to exceed five years. Contracts for materials and supplies are not to exceed three years.

Emergency Repair Contracts without Bid

When emergency repairs or alterations are necessary to continue existing classes or to avoid danger of life or property, the [**designate position**] may make a contract in behalf of the District for labor, materials and supplies without advertising for or inviting bids, subject to ratification by the Board.

Unlawful to Split Bids

It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of the Public Contract Code requiring work to be done by contract after competitive bidding.

Record Retention

The District will retain records sufficient to detail the history of procurement. These records include: rationale for the method of procurement, selection of contract type, contractor selection and rejection, and the basis for the contract price.

NOTE: *The following sections apply if funds from the Kindergarten-University Public Education Facilities Bond Acts of 2002, 2004, or 2006 are used for a public works project.*

Kindergarten-University Public Education Bond Act Projects

For projects funded by 2002, 2004, or 2006 Bond Funds, the [**designate position**] will initiate and enforce, or contract with a third party to initiate and enforce, a labor compliance program for that project under Labor Code Section 1771.7. The program will include:

- Appropriate language concerning the wage requirements of Labor Code Sections 1720 et seq. in all bid invitations and public works contracts.
- A pre-job conference with the contractor and subcontractors to discuss applicable federal and state labor law requirements.
- Project contractors and subcontractors shall be required to maintain and, at designated times, furnish certified copies of weekly payroll containing a statement of compliance signed under penalty of perjury.

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- The District shall review, and if appropriate audit, the payroll records of the employees of the contractor and/or subcontractor. The review and audit shall be conducted by [**designate position**] or an independent third party, but not the third party with whom the District contracts to initiate and enforce a labor compliance program under Labor Code Section 1771.7.
- If an investigation establishes that an underpayment of wages has occurred, the District shall withhold any contract payments, equal to the amount of underpayment and any applicable penalties.
- The [**designate position**] shall transmit a written finding that the District has initiated and enforced, or has contracted with a third party to initiate and enforce, the required labor compliance program, to the Director of the Department of Industrial Relations or any successor agency that is responsible for the oversight of employee wage and work hour laws.

Revised 2/05, 8/06, 2/07, 2/10, 2/11, 6/13, 4/14, 4/15, 10/16, 4/18, 3/19

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