

UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING PROCEDURES

BIDS

The district has adopted the California Uniform Public Construction Cost Account Act procedures under Public Contract Code 22000 et. seq.

"Public project" includes construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition and repair work involving a district owned, leased or operated facility. (Public Contract Code 22002)

Contractors List

A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.

Public Works Projects

Procedures for awarding contracts for public works projects shall be determined on the basis of the amount of the project, as follows:

1. Public projects of \$60,000 or less may be performed by district employees by force account, negotiated contract, or purchase order. (Public Contract Code 22032)
 - a. School building repairs, alterations, additions
 - b. Painting, repainting or decorating of school buildings
 - c. Repair or building of apparatus or equipment
 - d. Improvements on school grounds
 - e. Maintenance work

Informal Bids

2. Contracts for public projects of \$200,000 or less may be awarded through the following informal procedures: (Public Contract Code 22032, 22034, 22038)
 1. The Superintendent or designee shall prepare a notice inviting informal bids which describes the project in general terms, explains how to obtain further information about

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the project, and states the time and place for the submission of bids. This notice shall be disseminated by mail, fax, or email to either or both of the following:

- a. All contractors on a list of qualified contractors maintained by the district for the category of work being bid, unless the product or service is proprietary, at least 10 calendar days before bids are due.
- b. All construction trade journals identified pursuant to Public Contract Code 22036.
- c. Bid documents will be available on the district website.

- 2. The district shall review the informal bids that were submitted and award the contract, except that:

- a. If all bids received through the informal process are in excess of \$200,000, the contract may be awarded to the lowest responsible bidder, provided that the Governing Board adopts a resolution with a four-fifths vote to award the contract at \$212,500 or less and the Board determines the district's cost estimate is reasonable.
- b. If no bids are received through the informal bid procedure, the project may be performed by district employees by force account or negotiated contract.

Formal Bids

- 3. Public projects of more than \$200,000 shall, except as otherwise provided by law, be subject to formal bidding procedures, as follows: (Public Contract Code 22032, 22037, 22038)

- 1. Notice inviting formal bids shall state the time and place for receiving and opening sealed bids and distinctly describe the project. The notice shall be disseminated in both of the following ways:

- a. Through publication in a newspaper of general circulation in the district's jurisdiction or, if there is no such newspaper, then by posting the notice in at least three places designated by the district as places for posting its notices. Such notice shall be published at least 14 calendar days before the date that bids will be opened.
- b. All construction trade journals identified pursuant to Public Contract Code 22036. Such notice shall be sent at least 15 calendar days before the date that bids will be opened.

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- c. All contractors on a list of qualified contractors maintained by the district for the category of work being bid, unless the product or service is proprietary, at least 14 calendar days before bids are due.
- d. Bid documents will be available on the district website.

In addition to the notice required above, the district may give such other notice as it deems proper.

- 2. The district shall award the contract as follows:
 - a. The contract shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the district may accept the one it chooses.
 - b. At its discretion, the district may reject all bids presented and declare that the project can be more economically performed by district employees, provided that the district notifies an apparent low bidder, in writing, of the district's intention to reject the bid. Such notice shall be mailed at least two business days prior to the hearing at which the district intends to reject the bid.
 - c. If no bids are received through the formal bid procedure, the project may be performed by district employees by force account or negotiated contract.

Competitive Bids

Competitive bids shall be sought through advertisement for contracts exceeding \$92,600, for the following: (Public Contract Code 20111; Government Code 53060). The amount by which contracts shall be competitively bid shall escalate automatically based upon the annual adjustment by the Superintendent of Public Instruction.

- 1. The purchase of equipment, material or supplies to be furnished, sold or leased to the district.
- 2. Services, not including construction services, or special services and advice such as accounting, financial, legal or administrative matters.
- 3. Repairs, including maintenance that is not a public project
 - a. "Maintenance" means routine, recurring and usual work for preserving, protecting and keeping a district facility operating in a safe, efficient and continually usable condition for the intended purpose for which it was designed, improved, constructed, altered or repaired.

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- b. "Maintenance" includes, but is not limited to, carpentry, electrical, plumbing, glazing and other craft work designed to preserve the facility as well as repairs, cleaning and other operations on machinery and other permanently attached equipment. This definition does not include, among other types of work, janitorial or custodial services and protection provided by security forces, nor does it include painting, repainting or decorating other than touchup. (Public Contract Code 20115).

Unless otherwise authorized by law, contracts shall be accorded to the lowest responsible bidder who shall give such security as the Governing Board requires, or else all bids shall be rejected. (Public Contract Code 20111)

1. When according a contract for the procurement and/or maintenance of electronic data processing systems and supporting software, the Board may contract with any one of the three lowest responsible bidders. (Public Contract Code 20118.1)

No work, project, service or purchase shall be split or separated into smaller work orders or projects for the purpose of evading the legal requirements of Public Contract Code 20111- 20118.4 for contracting after competitive bidding. (Public Contract Code 20116)

Bid Instructions and Procedures

The Superintendent or designee shall call for bids by advertising in a local newspaper of general circulation published in the district, circulated in the county, or if no such paper exists then in some newspaper of general circulation, at least once a week for two weeks. The notice shall state the work to be done or materials or supplies to be furnished and the time and place where bids will be opened. (Public Contract Code 20112)

The notice shall contain the time, date and location of any mandatory pre-bid conference, site visit or meeting. The notice shall also detail when and where project documents, including final plan and specifications, are available. Any such mandatory visit or meeting shall not occur within a minimum of five calendar days of the publication of the initial notice. (Public Contract Code 6610)

Bid instructions and specifications shall include the following requirements and information:

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1. All bidders shall certify the minimum, if not exact, percentage of post-consumer materials in products, materials, goods, or supplies offered or sold. (Public Contract Code 22152)

2. All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security: (Public Contract Code 20107, 20111)

- a. Cash
- b. A cashier's check made payable to the district
- c. A certified check made payable to the district
- d. A bidder's bond executed by an admitted surety insurer and made payable to the District

The security of unsuccessful bidders shall be returned in a reasonable period of time, in no event any later than 60 days after the bid is awarded. (Public Contract Code 20111)

3. Bids shall not be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time. (Public Contract Code 20112)

4. When two or more identical lowest or highest bids are received, the Board may determine by lot which bid shall be accepted. (Public Contract Code 20117)

5. If the district requires that the bid include prices for items that may be added to or deducted from the scope of work in the contract, depending on the availability of funds, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. In the absence of such a specification, only the method provided in item #a, below, will be used: (Public Contract Code 20103.8)

6. Any subsequent change or alteration of a contract shall be governed by the provisions of Public Contract Code 20118.4.

7. After being opened, all submitted bids become public records pursuant to Government Code 6252 and shall be made available for review pursuant to law, Board policy, and administrative regulation.

(cf. 1340 - Access to District Records)

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Bids Not Required

Upon a determination that it is in the best interest of the district, the Board may authorize the purchase, lease or contract for data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors and other personal property through a public corporation or agency ("piggyback") without advertising for bids. (Public Contract Code 20118)

(cf. 3300 - Purchasing Procedures)

Supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals may be purchased in any amount without taking estimates or advertising for bids. (Public Contract Code 20118.3)

Perishable foodstuffs and seasonal commodities needed in the operations of cafeterias may be purchased through bid or on the open market. (Education Code 38083)

(cf. 3551 - Food Service Operations/Cafeteria Fund)

In an emergency when any repairs, alterations, work or improvement to any school facility is necessary to permit the continuance of existing school classes, or to avoid danger to life or property, the Board, by unanimous vote and with the approval of the County Superintendent of Schools, may contract for labor and materials or supplies without advertising for or inviting bids. (Public Contract Code 20113)

(cf. 9323.2 - Actions by the Board)

Bids shall also not be required for day labor under circumstances specified in law. Day labor shall include the use of maintenance personnel employed on a permanent or temporary basis. (Public Contract Code 20114)

Prequalification Procedure

For any contract for which bids are legally required, the Board may require that each prospective bidder complete and submit a standardized questionnaire and financial statement. For this purpose, the Superintendent or designee shall supply a form or online portal which requires a complete statement of the bidder's financial ability and experience in performing public works. Prospective bidders shall submit the questionnaire and financial statement at least five days

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before the date fixed for public opening of sealed bids. The information shall be verified under oath in the manner in which civil law pleadings are verified. The questionnaires and financial statements shall not be public records and shall not be open to public inspection. (Public Contract Code 20111.5) The Superintendent or designee shall establish a uniform system for rating bidders on the basis of completed questionnaires and financial statements in order to determine the size of contracts on which each bidder is qualified to bid. Bidders must be deemed prequalified by the district at least one day before the fixed bid-opening date. (Public Contract Code 20111.5)

The Superintendent or designee shall furnish each qualified bidder with a standardized proposal form. Bids not presented on the standard form shall be disregarded. (Public Contract Code 20111.5)

The district may establish a procedure for prequalifying bidders on a quarterly basis and may authorize that prequalification be considered valid for up to one calendar year following the date of the initial prequalification. (Public Contract Code 20111.5)

For any contract awarded after January 1, 2014, using funds from the Leroy F. Greene School Facilities Act of 1998 or from any future state school bond if the project has projected expenditures of one million dollars or more, the District must prequalify all bidders. (Public Contract Code 20111.6) The District shall comply with all requirements of the PCC 20111.6 until its expiration on January 1, 2019.

Appeal Procedures

Contractors will be allowed to appeal a negative pre-qualification determination in accordance with California Public Contract Code §20101.d. There is no appeal from a refusal for an incomplete or late application. Without a timely appeal, the Contractor waives any and all rights to challenge the decision of the District, whether by administrative process, judicial process or any other legal process or proceeding.

The date for submission and opening of bids for a specific project will not be delayed or postponed to allow for completion of an appeal process:

1. Prior to disqualifying a contractor, the District shall serve written notice on the contractor:
 - a. Setting forth the reasons for the disqualification.

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- b. Indicating that the contractor will be afforded an opportunity to appeal the disqualification as outlined below. Effective notice shall be accomplished by e-mail to the e-mail address on file with the Quality Bidders' web-based pre-qualification system.
2. The contractor shall submit the appeal in writing to the Purchasing Specialist no later than 4:00 p.m. of the fifth (5th) business day following the day on which the notice of rejection was e-mailed to the contractor.
3. The District's review panel shall act upon properly filed requests within ten calendar days from the date of receipt of such request.

If, after review, the District again rejects the contractor's application, the contractor may request an administrative hearing with the appeals panel by submitting a written request no later than 4:00 p.m. on the fifth (5th) business day following the day on which the notice of initial appeal rejection was e-mailed to the contractor.

None of the appeal panel members shall have served on that contractor's review panel. The sole issue before the Appeals Panel shall be the scoring of a Contractor. The decision of the Appeals Panel shall be the District's final administrative decision.

The Bidder Prequalification Appeals Administrative Hearing Panel (" Appeals Panel ") shall consist of the following three members, or their designee(s):

- a. Chief Business Official
 - b. Manager of Facilities, Maintenance & Operations
 - c. Director of Fiscal Services
4. At the hearing, the contractor may present oral testimony concerning the contractor's qualifications, capability and responsibility. The District shall notify the contractor of its decision within five business days following the hearing. The decision of the appeals panel is final.
5. A contractor, who is denied prequalification, shall be disqualified in the same type of work or category of value for a period of one year thereafter.

Protests by Bidders

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A bidder may protest a bid award in accordance with California Public Contract Code §10345 if the bidder believes the award was inconsistent with Board policy or the bid's specifications or was not in compliance with law.

A protest must be filed in writing with the Superintendent or designee within five working days after receipt of notification of the contract award. The bidder shall submit all documents supporting or justifying the protest. A bidder's failure to timely file a protest shall constitute a waiver of the bidders right to protest the award of the contract.

Any bidder submitting a Bid Proposal may file a protest of the District's intent to award the Contract provided that each and all of the following conditions are met:

1. The protest must be submitted in writing to the District (e-mail is not acceptable), before 4 p.m. of the FIFTH business day following bid opening.
2. The initial protest document must contain a complete statement of any and all bases for the protest, including without limitation all facts, supporting documentation, legal authorities and argument in support of the grounds for the bid protest; any matters not set forth in the written bid protest shall be deemed waived. All factual contentions must be supported by competent, admissible and creditable evidence
3. The protest must refer to the specific portions of all documents which form the bases for the protest.
4. The protest must include the name, address and telephone number of the person representing the protesting party.
5. Any bid protest not conforming to the foregoing shall be rejected by the District as invalid. Provided that a bid protest is filed in strict conformity with the foregoing, the District's Chief Business Official, or such individual(s) as may be designated by him/her, shall review and evaluate the basis of the bid protest. Either the District's Chief Business Official or other individual designated by him/her shall provide the bidder submitting the bid protest with a written statement concurring with or denying the bid protest. The District's Governing Board will render a final determination and disposition of a bid protest by taking action to adopt, modify or reject the disposition of a bid award as reflected in the written statement of the Chief Business Official or his/her designee. Action by the District's Governing Board relative to a bid award shall be final and not subject to appeal or reconsideration by the District, any employee or officer of the District or the District's Governing Board. The rendition of a written statement by the Chief Business Official (or his/her designee) and action by

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the District's Governing Board to adopt, modify or reject the disposition of the bid award reflected in such written statement shall be express conditions precedent to the institution of any legal or equitable proceedings relative to the bidding process, the District's intent to award the Contract, the District's disposition of any bid protest or the District's decision to reject all Bid Proposals.

6. The procedure and time limits set forth in this paragraph are mandatory and are the Bidder's sole and exclusive remedy in the event of bid protest. Failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code Claim or legal proceedings.

(cf. 3311 - Bids)

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