

LEASE-LEASEBACK CONTRACTS

~~In addition, upon a determination that it is in the best interest of the district and without advertising for bids, t~~The Board may lease currently owned district property to any person, firm, or corporation for a minimum rental of \$1 per year, as long as the lease requires the person, firm, or corporation to construct a building or buildings on the property for the district's use during the term of the lease and the property and title to the building(s) will vest in the district at the expiration of the lease term ("lease-leaseback"). Prior to entering into a lease-leaseback agreement, the Superintendent or designee shall have on file the contractor's enforceable commitment that the contractor and its subcontractors at-of every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeship occupation in the building and construction trades. (Education Code 17406, 17407.5)

The lease-leaseback agreement shall be awarded based on a competitive solicitation process to the proposer providing the best value to the district, taking into consideration the proposer's demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required. Prior to awarding the lease-leaseback agreement, the Board must adopt and publish required procedures and guidelines for evaluating the qualifications of proposers that ensure the best value selections by the district are conducted in a fair and impartial manner and the district shall follow these procedures and guidelines when awarding the lease-leaseback agreement. The required procedures shall include, at a minimum, the following: (Public Contract Code 17400, 17406)

1. The Superintendent or designee shall prepare a request for sealed proposals (RFP) from qualified proposers, which proposals shall include an estimate of price of the project; a clear, precise description of any preconstruction services that may be required and the facilities to be constructed; the key elements of the lease-leaseback agreement to be awarded; a description of the format that proposals shall follow and the elements they shall contain; the standards the district will use in evaluating proposals; the date on which proposals are due; and the timetable the district will follow in reviewing and evaluating proposals.
2. The Superintendent or designee shall give notice of the RFP by placing a notice at least once a week for two weeks in a local newspaper of general circulation published in the district and in a trade paper of general circulation published in Los Angeles County, with the latest notice published at least ten days before the date for receipt of the proposals. The Superintendent or designee may post the notice on the district's web site or through an electronic portal. The notice shall state the work to be done or materials or supplies to be furnished and the time and place and web site where proposals will be opened. The district may accept a proposal that has been submitted electronically or on paper.
3. A proposer shall be prequalified in accordance with Public Contract Code 20111.6 in order to submit a proposal (see above Prequalification Procedure). The prequalification requirements shall be included in the lease-leaseback agreement.

4. The RFP shall identify all criteria that the district will consider in evaluating the proposals and qualifications of the proposers, including relevant experience, safety record, price proposal, and other factors specified by the district. The price proposal shall include, at the district's discretion, either a lump-sum price for the lease-leaseback agreement to be awarded or the proposer's proposed fee to perform the services requested, including the proposer's proposed fee to perform preconstruction services or any other work related to the facilities to be constructed, as requested by the district. The RFP shall specify whether each criterion will be evaluated pass-fail or will be scored as part of the best value score, and whether proposers must achieve any minimum qualification score for award of the lease-leaseback agreement.
5. For each scored criterion, the district shall identify the methodology and rating or weighting system that will be used by the district in evaluating the criterion, including the weight assigned to the criterion and any minimum acceptable score.
6. The Superintendent or designee shall evaluate all proposals and the lease-leaseback agreement shall be awarded in the following manner:
 - a. All proposals received shall be reviewed to determine those that meet the format requirements and the standards specified in the RFP.
 - b. The district shall evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the RFP, and shall assign a best value score to each proposal. Once the evaluation is complete, all responsive proposals shall be ranked from the highest best value to the lowest best value to the district.
 - c. The Board shall award the lease-leaseback agreement to the responsive proposer whose proposal is determined, in writing by the Board, to be the best value to the district.
 - d. If the selected proposer refuses or fails to execute the lease-leaseback agreement, the Board may award the lease-leaseback agreement to the proposer with the second highest best value score if the Board deems it to be for the best interest of the district. If the second selected proposer refuses or fails to execute the lease-leaseback agreement, the Board may award the lease-leaseback agreement to the proposer with the third highest best value score if the Board deems it to be for the best interest of the district.
 - e. Upon issuance of an award of the lease-leaseback agreement, the school district shall publicly announce its award, identifying the entity to which the award is made, along with a statement regarding the basis of the award. The statement regarding the district's award of the lease-leaseback agreement and the lease-leaseback agreement file shall provide sufficient information to satisfy an external audit.
7. The Board, at its discretion, may reject all proposals and request new proposals.

~~Any~~The lease-leaseback agreement shall include a lease term that specifies the district's occupancy of the building or improved property and a financing component as may be determined on a case-by-case basis.

Following the award of a lease-leaseback agreement, if the price proposal is not a lump sum amount, the successful proposer shall provide the district with objectively verifiable information of its costs to perform the services requested and shall select subcontractors as set forth below. Once any preconstruction services are completed and subcontractors are selected, and upon approval of the plans and specifications for work on the site by the Division of the State

Architect (DSA), if required, the successful proposer and the district shall finalize the price for the services to be provided under the lease-leaseback agreement. The successful proposer shall provide the district with written rationale for the price, and the district shall approve or reject the final price at a public meeting before the successful proposer may proceed with any further work under the lease-leaseback agreement. The lease-leaseback agreement file shall include documentation sufficient to support the final price determination.

The Superintendent or designee may identify in the RFP specific types of subcontractors that must be included in the proposal. All subcontractors that are identified in the proposal shall be afforded the protections of the Subletting and Subcontracting Fair Practices Act (Public Contract Code 4100, et seq.).

Following the award of the lease-leaseback agreement, for subcontractors not identified in the proposal, the successful proposer shall proceed as follows in awarding construction subcontracts with a value exceeding one-half of one percent of the price allocable to construction work:

1. Provide public notice of availability of work to be subcontracted by placing a notice at least once a week for two weeks in a local newspaper of general circulation published in the district and in a trade paper of general circulation published in Los Angeles County, with the latest notice published at least ten days before the date for receipt of bids. The notice shall state the work to be done or materials or supplies to be furnished and a fixed date and time on which qualifications statements, bids, or proposals will be due.
2. Establish reasonable qualification criteria and standards.
3. Award the subcontract either on a best value basis or to the lowest responsible bidder. The process may include prequalification or short-listing. The process shall not apply to subcontractors listed in the original proposal. Subcontractors awarded construction subcontracts pursuant to these provisions shall be afforded all the protections of the Subletting and Subcontracting Fair Practices Act (Public Contract Code 4100, et seq.).

Alternatively, the Superintendent or designee may segregate the RFP into a request for qualifications (RFQ), followed by an RFP with price information from the proposers deemed most qualified by the district, provided that the foregoing procedures are otherwise followed.

Where utilizing preconstruction services, the district may enter into a lease-leaseback agreement before written approval by DSA only if the lease-leaseback agreement provides that no work for which a contractor is required to be licensed and for which DSA approval is required can be performed before receipt of the required DSA approval.

Regardless of the funding source, when any lease-leaseback agreement is for a public project, involves an expenditure of \$1,000,000 or more, and meets other criteria in Public Contract Code 20111.6, the prequalification requirements specified in the "Prequalification Procedure" section above shall be followed. (Education Code 17406)