

BIDS

Advertised Bids

The district shall seek competitive bids through advertisement for contracts involving an expenditure exceeding, \$90,200 (January 2018) pursuant to Public Contract Codes 20111 and 20651, for the following:

1. The purchase of equipment, materials or supplies to be furnished, sold, or leased to the district
2. Services, not including construction services, or special services and advice in accounting, financial, legal, or administrative matters
3. Repairs, including maintenance, that are not public projects.

The amount by which contracts shall be competitively bid shall escalate automatically based upon the annual adjustment by the Superintendent of Public Instruction.

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. 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 let to the lowest responsible bidder who shall give such security as the Governing Board requires, or else all bids shall be rejected.

When the contract is for any transportation services which involves an expenditure of more than \$10,000 and which will be made with any person or corporation other than a common carrier, municipally owned transit system, or a parent/guardian of a student who is to be transported, in which case the District may contract with other than the lowest bidder (Education Code 39802).

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 competitive bid contracting.

When letting 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).

Instructions and Procedures for Advertised Bids

The Superintendent or designee shall call for bids by advertising in a local newspaper of general circulation published in the district, or if no such paper exists then in some newspaper of general circulation, circulated in the county at least once a week for two weeks. The district may also post the notice on the district's web site or other electronic portal and may accept a bid submitted electronically or on paper. 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:

1. All bidders shall certify the minimum, if not exact, percentage of post-consumer materials in the products, materials, goods, or supplies offered or sold (Public Contract Code 22152).
2. All bids for construction work shall be presented under sealed cover. The district may accept a bid that has been submitted electronically or on paper. The bid shall be accompanied by one of the following forms of bidder's security:
 - 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, but in no event later than 60 days after the bid is awarded (Public Contract Code 20111, 20112).

3. Bids shall not be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time.
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, 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):
 - a. The lowest bid shall be the lowest total of the bid prices on the base contract without consideration of the prices on the additive or deductive items.
 - b. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used for the purpose of determining the lowest bid price.
 - c. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that, when taken in order from a specifically identified list of those items in the solicitation, and added to or subtracted from the base contract, are less than or equal to a funding amount publicly disclosed by the district before the first bid is opened.
 - d. The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders or proposed subcontractors or suppliers from being revealed to the district before the ranking of all bidders from lowest to highest has been determined (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.

Alternative Bid Procedures for Technological Supplies and Equipment

Upon a finding by the Board that a particular procurement qualifies for the alternative procedure, the district may acquire computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus through competitive negotiation. This procedure shall not apply to contracts for construction or for the procurement of any product that is available in substantial quantities to the general public.

The competitive negotiation shall include, but not be limited to, the following requirements:

1. The Superintendent or designee shall prepare a request for proposals that shall be submitted to an adequate number of qualified sources, as determined by the district, to permit reasonable competition consistent with the nature and requirement of the procurement.
2. Notice of the request for proposals shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.
3. The district shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the request for proposals is received.
4. The request for proposals shall identify all significant evaluation factors, including price, and their relative importance.
5. The district shall provide reasonable procedures for the technical evaluation of the proposals received, the identification of qualified sources, and the selection for the award of the contract.
6. An award shall be made to the qualified bidder whose proposal meets the evaluation standards and will be most advantageous to the district with price and all other factors considered.
7. If an award is not made to the bidder whose proposal contains the lowest price, then the district shall make a finding setting forth the basis for the award.
8. The district, at its discretion, may reject all proposals and request new proposals.
9. Provisions in any contract concerning utilization of small business enterprises that are in accordance with the request for proposals shall not be subject to negotiation with the successful proposer.

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. Alternatively, if the public corporation or agency has an existing contract with a vendor for the lease or purchase of personal property, the district may authorize the lease or purchase of personal property directly from the vendor and make payments

under the same terms that are available to the public corporation or agency under the contract (Public Contract Code 20118).

Without advertising for bids, the District may enter into an energy service contract and any related facility ground lease, when it determines that the terms of the contract and lease are in the best interest of the district and meet the cost effectiveness requirements specified in Government Code 4217.12. The Board's determination shall be made at regularly scheduled public hearing of which notice is given to the public at least two weeks in advance and shall be based on cost and savings comparison findings specified in Government Code 4217.12.

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 commodities, such as foodstuffs, needed in the operations of cafeterias may be purchased through bid or on the open market (Education Code 38083).

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 may, by unanimous vote and with the approval of the County Superintendent of Schools, contract for labor and materials or supplies without advertising for or inviting bids (Public Contract Code 1102, 20113).

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

The district may purchase any surplus property from the federal government or any of its agencies in any quantity needed for the operation of its schools without taking estimates or advertising for bids (Education Code 17602).

Sole Sourcing

Specifications for contracts for construction, alteration, or repair of school facilities may not limit bidding, either directly or indirectly, to any one specific concern. Specifications designating a particular brand name shall follow the description with the words "or equal" so that bidders may furnish any equal material, product, thing, or service.

Specifications for contracts may designate a product by brand or trade name (sole sourcing) if the district has made a finding, described in the invitation for bids or request for proposals, that a particular material, product, thing, or service is designated for any of the following purposes (Public Contract Code 3400):

1. To conduct a field test or experiment to determine its suitability for future use

2. To match others in use on a particular public improvement that has been completed or is in the course of completion
3. To obtain a necessary item that is only available from one source
4. To respond to the Board's declaration of an emergency, as long as the declaration has been approved by four-fifths of the Board that issued the invitation for bid or request for proposals

Prequalification Procedure

For any contract for which bids are legally required, the Superintendent or designee 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 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 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 (Code of Civil Procedure 446, Public Contract Code 20111.5, 20111.6).

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 pre-qualified 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 20112).

The district may establish a procedure for pre-qualifying 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).

Protests by Bidders

A bidder may protest a bid award if he/she believes that the award was inconsistent with Board policy, 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 file the protest documents in a timely manner shall constitute a waiver of his/her right to protest the award of the contract.

The Superintendent or designee shall review the documents submitted with the bidder's claims and render a decision in writing within 30 working days. The Superintendent or designee may also convene a meeting with the bidder in order to attempt to resolve the problem.

SCHOOL FACILITIES AND NEW CONSTRUCTION

California Uniform Public Construction Cost Accounting Act

Procedures for awarding contracts for public projects shall be determined on the basis of the amount of the project, as specified under the California Uniform Public Construction Cost Accounting Act ("CUPCCAA"), Public Contract Code 22000 et seq., and indicated below. In the event of a conflict with any other provision of law relative to bidding procedures, CUPCCAA shall apply. (Public Contract Code 22030). The Board's approval authority remains the same under CUPCCAA. District facility project, its purchase order and professional service require the Board approval.

1. Public projects of \$45,000 in the aggregate or less, may be performed by district employees by force account, negotiated contract, or purchase order. (Public Contract Code 22032)
 - a. The Superintendent or designee shall solicit a minimum of three (3) proposals from the list of qualified contractors maintained by the District pursuant to Paragraph 2.b. below for the category or categories of work required.
 - b. Each such solicitation shall identify all significant evaluation factors, including price, and their relative importance.
 - c. An award shall be made to the qualified contractor whose proposal meets the evaluation standards and will be most advantageous to the district with price and all other factors considered.
 - d. If an award is not made to the proposer whose proposal contains the lowest price, then the district shall make a finding setting forth the basis for the award.
 - e. The district, in its discretion, may reject all proposals and request new proposals.
2. Contracts for public projects of \$175,000 or less may be awarded through the

following informal bidding procedures: (Public Contract Code 22032, 22034, 22038)

- a. The Superintendent or designee shall maintain a list of qualified contractors, identified according to categories of work.
- b. The Superintendent or designee shall prepare a notice inviting informal bids which describes the project in general terms, explains how to obtain more information about the project, and states the time and place for submission of bids. The notice shall be disseminated by one or both of the following alternatives, not less than ten calendar days before bids are due: (i) by mail, fax, or email to all contractors on the district's list of qualified contractors for the category of work being informally bid, unless the product or service is proprietary in nature, such that it can be obtained only from a certain contractor or contractors, in which case the notice inviting informal bids may be sent exclusively to such contractor or contractors; and/or (ii) by mail, fax, or email to all construction trade journals identified pursuant to Public Contract Code 22036.

Additional contractors and/or construction trade journals may be notified at the district's discretion.

- c. The district shall review the informal bids and may award the contract. However, if all bids received through the informal process are in excess of \$175,000, the contract may be awarded to the lowest responsible bidder if the Governing Board adopts a resolution with a four-fifths vote to award the contract at \$187,500 or less and the Board determines the district's cost estimate is reasonable.
3. Public projects of more than \$175,000 shall be subject to formal bidding procedures, as modified by CUPCCAA, as follows: (Public Contract Code 22032, 22037, 22038)
 - a. 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:
 - (1) Through publication in a newspaper of general circulation printed and published in the district's jurisdiction or, if there is no such newspaper, in a newspaper of general circulation that is circulated in the district's jurisdiction or, if there is no such newspaper, then by posting the notice in at least three places within the district's jurisdiction designated by district resolution or regulation as places for posting its notices. Such notice shall be published at least 14 calendar days before the date that bids will be opened.

- (2) By mail and electronically, if available, by either fax or email, to 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.

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

4. The district shall award the contract as follows:

- (a) The contract shall be awarded, if at all, 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 any bids presented if the district, prior to rejecting all bids and declaring that the project can be more economically performed by district employees, 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 after the first invitation of bids all bids are rejected, after reevaluating its cost estimates for the project, the district shall have the option of either of the following:
 - (i) Abandoning the project or readvertising for bids in the manner described by CUPCCAA.
 - (ii) By passage of a resolution by a four-fifths vote of the Board declaring that the project can be performed more economically by district employees, may have the project done by force account without further compliance with Public Contract Code 22030 et seq.
- (d) If no bids are received through the formal or informal bid procedure, the project may be performed by district employees by force account or negotiated contract.

Adopted: August 22, 2018