

AP 6340 Bids and Contracts

Reference: *Education Code Sections 81641, et seq. and 81550, et seq.; Public Contract Code Sections 3400, 20103.7, 20112, 20650, et seq., and 22000, et seq.; Government Code Section 12940; and Labor Code Sections 1770 et seq. and 1775, et seq.*

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Bid Limits

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

- If a contemplated expenditure is between \$5,000 and \$15,000 for supplies, materials, equipment, or services; or between \$3,000 and \$5,000 for work to be done, a reasonable effort must be made to obtain three quotes either by phone or in writing.
- If a contemplated expenditure is between \$15,001 and the formal bid limits set by the Board of Governors for supplies, materials, equipment, or services; or between \$5,001 and \$15,000 for work to be done, at least three written quotes must be obtained, unless special circumstances exist, determined by the Vice Chancellor-Business Services or designee.
- If a contemplated expenditure exceeds the formal bid limits set by the Board of Governors for supplies, materials, equipment, or services; or exceeds \$15,000 for work to be done, the sealed, formal bid process must be utilized.

Purchases or contracts involving expenditures that require the competitive bidding process require Governing Board approval prior to award.

Note: The bid thresholds are annually readjusted by the Board of Governors of the Community Colleges as required by Public Contract Code Section 20651(d). The District Purchasing & Contracts office will reflect the updated amount in the annual competitive bid process (for example, as of January 1, 2007, the competitive bid amount is \$69,000). The current bid minimum can be found at <http://www.cde.ca.gov/fg/ac/co/>.

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.

No specifications shall be called out by specific brand or trade name unless the specification is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service.

As allowed under Public Contracts Code Section 3400, when issuing bids for equipment and systems that will be installed into District buildings, if the District makes a finding that a particular material, product, thing, or service is designated by specific brand or trade name for the purpose of matching other products or systems in use on a particular public improvement either completed or in the course of completion or if the necessary material, product, thing, or service is only available from one source, the District is not required to use the words "or equal" in the bid specifications when calling out for said brand or trade name.

If certain products, brands, and services have been determined by the District to have standards for which no equal would be allowed due to standardization and compatibility with existing District systems, then the District will adopt resolutions specifying such products, brands, and services that can be called out in bid specifications by specific brand or trade name without using the words "or equal". Such resolutions will be effective until a revision is made and then will be evaluated by a District committee and a recommendation will be made to the Governing Board to either re-adopt or discontinue the use of the designated products/brands.

As allowed under Public Contracts Code Section 20118.2, due to the highly specialized and unique nature of technology, telecommunications, related equipment, software, and services, and factors such as standardization and compatibility of existing systems, the District may procure computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus through competitive negotiation rather than the formal bid process.

Competitive negotiation requires that a request for proposals shall be prepared and 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. The notice of 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.

Notice Calling for Formal Advertised Bids

The District shall publish at least once a week for two weeks in a newspaper of general circulation ~~circulated~~ 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 website or through an electronic portal], a notice calling for bids or proposals, stating the materials, supplies, equipment, ~~or~~ services to be furnished, or work to be done and the time and place when the bids will be opened. Whether or not bids or proposals are opened exactly at the time fixed in the public notice for opening bids or

proposals, a bid or proposal shall not be received after that time. The stamped time from the date-time clock located at the bid collection point will be the official time for the bid opening. Bids will be received up to and including 59 seconds after the hour. Bids received late will be time stamped and then returned to the bidder unopened.

Bid and contract forms shall be prepared and maintained by the Vice Chancellor-Business Services or designee. All applicable statutory provisions and board policies shall be observed in preparation of the forms.

The Vice Chancellor-Business Services or designee 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 and nonresponsive.

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 a contract and furnish the required contract documents. When no longer required for the protection of the District, any bidder's security received shall be returned to the respective bidder, but no later than 60 days after the bid opening.

All contracts for public works must require a bid bond in the amount of 10% of the total bid amount.

The Vice Chancellor-Business Services or designee shall make available to the prospective bidders bid forms with sets of specifications and drawings and shall provide a convenient place where bidders, subcontractors, and materiel personnel may examine the specifications and drawings.

Upon request from a contractor plan room service, the Vice Chancellor-Business Services or designee shall provide an electronic copy of a project's contract documents at no charge to that contractor plan room. (Public Contract Code Section 20103.7)

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 for good sufficient reason.
- All formal, sealed bids shall be opened publicly and bidder shall be given the opportunity to review the bids received.
- Bid and contract award recommendations to the Governing Board shall show a tabulation of the bids received in reasonable detail.
- Bid and contract awards shall be made to the lowest responsive, responsible bidder meeting all of the terms, conditions, and specifications. The District reserves the right to make its selection of materials, supplies, equipment, and services purchased based on its best judgment as to which bid complies with the quality required by the specifications.
- The District may contract with a party who has submitted one of the three lowest responsive, responsible proposals or bids, for the acquisition, procurement, or maintenance of electronic data-processing systems and equipment, electronic telecommunication equipment, supporting software, and related materials, goods, and services, in accordance with procedures and criteria established by the Governing Board.

Purchases and Contracts Without Advertising for Bids

The Vice Chancellor-Business Services or designee is authorized to make purchases or enter into lease agreements for materials, supplies, equipment, vehicles, or other personal property with firms awarded cooperative contracts including any state, county, city, town, district, consortium, or professional organization, without calling for bids where it appears advantageous to do so, and by presenting to the Governing Board a resolution authorizing such purchases.

The Vice Chancellor-Business Services or designee may make purchases for materials, supplies, equipment, vehicles, or other personal property through the State of California Cooperative Purchasing Program operated by the Department of General Services without calling for bids where it appears advantageous to do so, and by presenting to the Governing Board a resolution authorizing such purchases.

The Vice Chancellor-Business Services or designee may purchase supplementary textbooks, library books, and educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals in any amount needed for the operation of the colleges without taking estimates or advertising for bids.

The Vice Chancellor-Business Services or designee may purchase from the federal government or any agency thereof any surplus property, as defined in the Surplus Property Act of 1944, in any amount needed for the operation of the colleges without taking estimates or advertising for bids.

Duration of Continuing Contracts for Materials, Supplies, Equipment, and Services

Continuing contracts for work to be done, services to be performed, or for apparatus or equipment to be furnished, sold, built, installed, or repaired for the District are not to exceed five years.

Continuing contracts for materials and supplies are not to exceed three years.

Emergency Repair Contracts Without Advertising for Bids

In an emergency when any repairs, alterations, work, or improvement is necessary to permit the continuance of existing college classes, or to avoid danger to life or property, the Governing Board, by unanimous vote, with the approval of the County Superintendent of Schools, may do either of the following without advertising for or inviting bids, subject to ratification by the Governing Board:

- Make a contract in writing or otherwise on behalf of the District for the performance of labor and furnishing of materials, equipment, or supplies.
- Notwithstanding Section 20655 of the Public Contract Code, authorize the use of day labor or force account for the purpose.
- Nothing in this section shall eliminate the need for any bonds or security otherwise required by law.

Unlawful to Split Bids

It shall be unlawful to split or separate into smaller work orders, purchase orders, contracts, or projects any work, project, service, or purchase of materials, supplies, and equipment for the purpose of evading the provisions of the formal bid thresholds as required by the California Codes.

Alternate Bidding Procedures

The District may elect to adopt the Uniform Public Construction Cost Accounting Act for the bidding of public works projects including construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased or operated facility. This alternate procedure is not applicable to maintenance work as defined in Public Contract Code Section 22002(d).

The Governing Board must adopt a resolution and elect to become subject to the Uniform Public Construction Cost Accounting Act by written communication to the State Controller's Office and must follow the procedures as outlined in the procedure manual issued by the Controller's Office.

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 Vice Chancellor-Business Services 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.
- 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 the Vice Chancellor-Business Services 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 Vice Chancellor 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.