

AP 6340.2 Contracts—Electronic Systems and Materials (Computers)

Reference: ***Education Code Section 81651; 81641 et seq; Public Contract Code Section 20650 et seq, 3400, 20118.2; State Board of Equalization Regulation 1546; State Board of Equalization Regulation 1502; GCCCD Board Policy 6330 and 6340***

Date Issued: February 12, 2007 Updated: July 8, 2008

The District may contract with any vendor who has submitted one of the three lowest responsive, responsible competitive 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.

| The Vice Chancellor—Business Services or designee shall establish criteria to determine what constitutes a responsive bid for electronic data processing equipment.

Instructional software and supplemental instructional software packages may be purchased without taking estimates or advertising for bids.

The District may, by direct sale or otherwise, sell to a purchaser any electronic data-processing equipment or other major items of equipment owned by, or to be owned by, the District, if the purchaser agrees to lease the equipment back to the District for use by the District following the sale. The approval by the Governing Board of the sale and leaseback shall be given only if the Governing Board finds, by resolution, that the equipment is data-processing equipment or another major item of equipment and that the sale and leaseback is the most economical means for providing electronic data-processing equipment or other major items of equipment to the District.

| 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.

If computer equipment purchased by the District has an “optional maintenance contract” purchased for the equipment, and the fee charged for such maintenance contract indicates an optional lump sum payment providing for the furnishing of parts, materials, and labor necessary to maintain the property, the repairer is regarded as the consumer of the parts and materials furnished and therefore is responsible for the payment of sales tax to the State Board of Equalization.

For software purchases commencing on or after January 1, 2003, if the purchase of the maintenance contract is optional with the purchaser, and there is a single lump sum charge for the maintenance contract, 50 percent of the lump sum charge for the maintenance contract is for the sale of tangible personal property and tax applies to that amount; the remaining 50 percent of the lump sum charge is nontaxable charges for repair.

Except as otherwise stated, bids shall be solicited and contracts shall be awarded in accordance with AP 6340 Bids and Contracts.