

**BUSINESS AND NONINSTRUCTIONAL OPERATIONS**

## ADVERTISED BIDS

The District shall seek competitive bids through advertisement for contracts involving an expenditure of \$15,000 or more for a public project. (Public Contract Code 20111) "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)

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

Competitive bids shall be sought through advertisement for contracts exceeding the limit as indexed annually under the Public Contract Code for the following: (Public Contract Code 20111; Government Code 53060)

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.

"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 Board of Trustees requires, or else all bids shall be rejected. (Public Contract Code 20111)

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

The Board of Trustees shall secure bids pursuant to Public Contract Code 20111 and 20112 for any transportation service expenditure of more than \$10,000 when contemplating that such a contract may be made with a person or corporation other than a common carrier, municipally owned transit system, or a parent/guardian of students who are to be transported.

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The Board of Trustees may let this contract to 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 contracting after competitive bidding. (Public Contract Code 20116)

#### 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 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, including bidders for printing contracts, shall specify the minimum, if not exact, percentage of recycled product in the paper products offered, and both the post-consumer and secondary waste content. (Public Contract Code 12169, 12213)
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
3. 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)
4. 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)
5. 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)

6. 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)
  - a. The lowest bid shall be the lowest bid price 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 taken in order from a specifically identified list of those items, depending on available funds as identified in the solicitation.
  - d. The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders from being revealed to the public entity before the ranking of all bidders from lowest to highest has been determined.
7. Any subsequent change or alteration of a contract shall be governed by the provisions of Public Contract Code 20118.4.
8. 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)

#### BIDS NOT REQUIRED

Upon a determination that it is in the best interest of the District, the Board of Trustees 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. 3310 – 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 commodities such as foodstuffs may be purchased through bid or on the open market, depending on District preference. (Education Code 38083) (cf. 3551 – Food Service Operations/Cafeteria Fund)

In an emergency when any repairs, alterations, work, or improvement to any District facility is necessary to permit the continuance of existing school classes, or to avoid danger to life or property, the Board of Trustees, by unanimous vote and with the approval of the County Superintendent of Schools, may contract for labor and materials or supplies without

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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)

Whenever the total number of hours on the job does not exceed 350 hours, day labor may be used to erect new buildings and for the following purposes. (Public Contract Code 20114)

### SOLE SOURCING

Specifications for contracts for construction, alteration, or repair of District facilities may not limit bidding to any one product or supplier. Specifications designating a particular brand name shall list at least two brands of comparable quality or utility and follow the description with the words "or equal." (Public Contract Code 3400)

Specifications for contracts may designate a product by brand or trade name (sole sourcing) when one or more of the following conditions apply: (Public Contract Code 3400)

1. The product is designated to match others in use on a particular public improvement that has been completed or is in the course of completion.
2. One product has a unique application required to be used in the public interest.
3. Only one brand or trade name is known.
4. Upon resolution of the Board of Trustees, the Board makes a finding that the item sought is the subject of a field test to determine its suitability for future use.

### PREQUALIFICATION PROCEDURE

For any contract for which bids are legally required, the Board of Trustees 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 (5) 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. (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 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 20111.5)

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 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 (5) 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 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 days. The Superintendent or designee also may convene a meeting with the bidder in order to attempt to resolve the problem.

The bidder may appeal the Superintendent or designee's decision to the Board of Trustees. The Superintendent or designee shall provide reasonable notice to the bidder of the time for Board consideration of the contract award. The Board of Trustees' decision shall be final.

Reference: Education Code Sections 3514, 35170, 35250, 42103, 44031, 44839, 49060-49079, 49091.10, 52015, 52015.5, 52850, and 54722; Government Code 3547, 5250-6270, 5275-6276.48, 53262, 54957.2, 54957.5, 81008; Code of Regulations, Title 5, 430-438; and Attorney General Opinions 71, Ops. Cal. Atty. Gen. 234 (1988), 64 Ops. Cal. Atty. Gen. 235 (1988), and 64 Ops. Cal. Atty. Gen 186 (1981)

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