

BP 6340 BIDS AND CONTRACTS**References:**

Education Code Sections 81641 et seq.;
Public Contract Code Sections 20650 et seq., and 22030 et seq.
Government Code Section 53060;
ACCJC Accreditation Standard III.D.16

Pursuant to Resolution No. 35-09/10 the Board of Trustees has elected to become subject to the Uniform Public Construction Cost Accounting procedures, commencing with Public Contract Code 22010, and delegates to the Chancellor, or designee, the authority to enter into contracts on behalf of the District and to establish administrative procedures for contract awards and management, subject to the following:

- Contracts are not enforceable obligations until they are ratified by the Board.
- Contracts for work to be done, services to be performed or for goods, equipment or supplies to be furnished or sold to the District that exceed the amounts specified in Public Contract Code Section 20651 shall require prior approval by the Board of Trustees.
- When bids are required according to Public Contract Code Section 22032 (c), the Board of Trustees shall award each such contract to the lowest responsible bidder who meets the specifications published by the District and who shall give such security as the Board requires, or rejects all bids.

If the Chancellor, or designee, concludes that the best interests of the District will be served by pre-qualification of bidders in accordance with Public Contract Code Section 20651.5, pre-qualification may be conducted in accordance with procedures that provide for a uniform system of rating on the basis of a questionnaire and financial statements.

If the best interests of the District will be served by a contract, lease, requisition, or purchase order through any other public corporation or agency in accordance with Public Contract Code Section 20652, the Chancellor is authorized to proceed with a contract.

The District will include in its public works contracts the prevailing wage rates for public works as determined by the Director of the Department of Industrial Relations, State of California.

Date Adopted: February 26, 2008

(Replaces Policy 7050)

Revised: May 18, 2010

Revised: September 2, 2014 (references only)

Revised: June 16, 2015 (References only)

AP 6340 BIDS AND CONTRACTS

References:

Education Code Sections 81641 et seq.;
Labor Code Sections 1770 et seq.;
Public Contract Code Sections 20103.7, 20112 et seq., 20650 et seq., and 22000 et seq.
Government Code Section 53060; ACCJC Accreditation Standard III.D.16

I. Limits

Bids or quotations shall be secured, as may be necessary, to obtain the lowest possible prices as follows:

- A. Purchase of goods or services up to the limits set out in the Public Contract Code will require quotes.
 - 1. For contracts between \$1,000 and \$10,000 three (3) verbal quotes must be obtained.
 - 2. For contracts between \$10,001 and the bid limits set forth in Public Contract Code 20651, three (3) written quotes must be obtained. Copies of all written quotes are to be sent to Purchasing. If the quote chosen by the department is not the lowest quote, a written justification must be provided to Purchasing.
- B. Purchase of goods or services in excess of the (limits set out in the Public Contract Code) will require formal advertised bids.

Contracts involving expenditures that require competitive bidding require approval by the Board of Trustees prior to award.

Any District vendors engaging in a public works project with a value of \$1,000 or more must register with the California Department of Industrial Relations (DIR) and meet the following requirements of Labor Code 1725.5:

- Pay an annual fee of \$300
- Provide evidence of all of the following:
 - Workers' Compensation Insurance

- A contractor's license
- The contractor does not have any delinquent liability to an employee or state for any assessment of back wages or related damages
- The contractor is not currently debarred
- The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered within the preceding 12 months or since March 1, 2015, whichever is earlier

Vendors will be prohibited from proceeding with public works projects unless registered with DIR.

II. Bid Specifications

Bid specifications, and drawings where applicable, 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.

III. Notice Calling for Formal Advertised Bids

The District shall publish at least once a week for two weeks in a newspaper of general circulation 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 web site or through an electronic portal, a notice calling for bids or proposals, stating the work to be done or materials or supplies to be furnished and the time and place when bids will be opened. Bid or proposals will NOT be accepted after the time stated on the notice for bids – no exceptions.

The District may accept a bid that was submitted either electronically, where permitted by statute, or on paper.

Bid and contract forms shall be prepared and maintained by the Purchasing Department. All applicable statutory provisions and Board Policies shall be observed in preparation of the forms. Templates for all bid and contract forms will be created and/or updated by the General Counsel, as the law or District processes require.

The Manager of the Department responsible for the project 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 California Labor Code Sections 1775 and 1776 governing payment of prevailing wages and California 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.

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 contract and furnish the required contract bonds. When no longer required for the protection of the District, any certified or cashier's check received shall be returned to the respective bidder.

The Purchasing Department, 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 material personnel may examine the specifications and drawings.

The Purchasing Department, or designee, shall provide an electronic copy of the plans and specifications and other contract documents to a contractor plan room service at no charge upon request from the contractor plan room.

A deposit for sets of plans and specifications may be required and may be refunded when such documents are returned.

IV. Awarding of Bids and Contracts

The awarding of bids and contracts shall be subject to the following conditions:

- A. Any and all bids and contract proposals may be rejected by the District.
- B. All bids shall be opened publicly and bidder shall be given the opportunity to make record of the bids received.
- C. Bid and contract award recommendations to the Board of Trustees shall show a tabulation of the bids received in reasonable detail.
- D. Bid and contract awards shall be made to the lowest responsive/responsible bidder substantially meeting the requirements of the specifications. The District reserves the right to make its selection of materials or services purchased based on its best judgment as to which bid substantially complies with the quality required by the specifications.
- E. For the purposes of bid evaluation and selection when the District determines that it can expect long-term savings through the use of a life-cycle cost methodology, the use of more sustainable goods and materials, and reduced administrative costs, the District may provide for the selection of the lowest responsible bidder on the basis governing board in accordance with this section.

F. "Best value" means the most advantageous balance of price, quality, service, performance, and other elements, as defined by the Board, achieved through methods in accordance with this section and determined by objective performance criteria that may include price, features, long-term functionality, life-cycle costs, overall sustainability, and required services.

V. Purchase Without Advertising for Bids

The Vice Chancellor, Business and Financial Services is authorized to make purchases from firms holding public agency contracts without calling for bids where it appears advantageous to do so.

The Vice Chancellor, Business and Financial Services may, without advertising for bids within the same District, award contracts for the acquisition of goods, services, or information technology that have an estimated value greater than \$5,000 and less than \$250,000 to a certified small business or a DVBE by obtaining price quotations from two or more certified small businesses or two or more DVBEs.

The Vice Chancellor, Business and Financial Services may, without advertising for bids within the same District, purchase or lease from other public agencies materials or services by authorization of contract or purchase order.

The Vice Chancellor, Business and Financial Services may make purchases by utilizing piggy-back contracts with other governmental agencies and purchase consortiums, such as CMAS, GSA, WSCA, & NJPA, etc.

VI. Duration of Continuing Contracts for Services

Continuing contracts for work or services furnished to the District are not to exceed five (5) years.

Contracts for materials and supplies are not to exceed three (3) years.

VII. Emergency Repair Contracts Without Bid

When emergency repairs or alterations are necessary to continue existing classes or to avoid danger to life or property, the Chancellor, or designee may make a contract on behalf of the District for labor, materials, and supplies without advertising for or inviting bids, subject to ratification by the Board of Trustees and approval by the County Superintendent of Schools.

VIII. Unlawful to Split Bids

It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of the Public Contract Code requiring work to be done by contract after competitive bidding.

IX. Kindergarten-University Public Education Bond Act Projects

For projects funded by 2002, 2004, or any future State Bond Funds, the Vice Chancellor, Business and Financial 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:

- A. Appropriate language concerning the wage requirements of Labor Code Sections 1720 et seq. in all bid invitations and public works contracts.
- B. A pre-job conference with the contractor and subcontractors to discuss applicable state and federal labor law requirements.
- C. 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.
- D. The District Facilities, Planning, Design and Construction Dept. or the College Vice President of Business Services 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 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.
- E. 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.
- F. The District Facilities, Planning, Design and Construction Dept. or the College Vice President of Business Services 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.

X. Beginning Work

Work is not to begin on any contract until all required paperwork has been provided by the vendor, the contract has been appropriately approved and signed by all parties, and an approved, signed purchase order has been issued by the District.

Office of Primary Responsibility: Vice Chancellor, Business and Financial Services

Administrative Approval: March 29, 2010

Revised: April 11, 2011

Revised: September 24, 2012

Revised: October 28, 2013

Revised: June 16, 2014

Revised: June 15, 2015