

AP 6345 BIDS AND CONTRACTS UNDER THE UPCCAA

References:

Education Code Sections 81641 et seq.;
Labor Code Sections 1770 et seq.;
Public Contract Code Sections 20110 et seq., 20650 et seq., 22000 et seq.
(Uniform Public Construction Cost Accounting Act (Act))

- I. Informal and Formal Bidding Procedures under the Uniform Public Construction Cost Accounting Act, adopted by resolution by the Board of Trustees

Public Projects are defined in Public Contract Code (PCC) section 22002(c) as construction, reconstruction, erection, alteration, renovation, improvement, demolition, repair work, or painting or repainting of or involving any publicly owned, leased or operated facility. Public projects estimated to cost up to \$175,000¹ shall be let to contract by procedures described in Sections E and F below.

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.

¹ The California Uniform Construction Cost Accounting Commission (Commission) may recommend that the State Controller amend these amounts. Public Contract Code section 22032 authorizes public projects of \$45,000 or less to be performed by District employees by force account, by negotiated contract, or by purchase order. Public projects up to \$175,000 may be let to contract by informal procedures. Public projects in excess of \$175,000, with limited exceptions, shall be let to contract by formal bidding procedure. PCC 22032.

It is unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of the this Procedure requiring work to be done by contract after 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 must contain all documents necessary to assure compliance with these Labor Code sections. Failure to provide such documentation shall cause any such bid to be deemed incomplete.

Public Projects funded by the Kindergarten-University Public Education Bond Acts of 2002 and 2004 and any future State Bond funds require that the District initiate and enforce a labor compliance program pursuant to Labor Code section 1771.5.

II. Procedures Not Covered by this AP

When this Procedure does not establish a process for bidding Public Projects, the procedures described in AP 6340 shall govern.

III. Contractors List

Lists of public project contractors shall be developed and maintained by the Purchasing Department in consultation with the District Facilities, Planning, Design and Construction Department and the College Facilities Department.

IV. Award to Low Bidder; No Bids

All contracts must be awarded to the lowest responsible bidders. If two (2) or more bids are the same and lowest, the District Facilities, Planning, Design and Construction Department or the College Vice President of Business Services may accept the one it chooses. When no bids are received, the District may perform Public Projects with District employees or through a negotiated contract without further complying with this Procedure.

V. Contracts Under \$45,000

For contracts up to \$45,000, the College Facilities Department will obtain three (3) informal price quotes. Any of the three (3) quotes may be chosen to perform the work, however, the Department shall create documentation indicating the reasons for the quote chosen.

VI. Notice Inviting Informal Bids

When a Public Project anticipated to cost between \$45,000 and \$175,000 is to be performed, the District Purchasing Department shall prepare a notice of the opportunity

to bid, with information supplied by the College Facilities Department or the District Facilities, Planning, Design and Construction Department. The notice must describe the project in general terms, state the time and place for the submission of bids and describe how to obtain more detailed information about the Project. The District shall mail, or send by email, the Notice of Invitation to Bid to the list of qualified contractors for the particular category of work to be performed, and to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code. Other contractors and/or construction trade journals may also be notified at the discretion of the department soliciting bids. Mailing shall be completed at least ten (10) days before bids are due.

VII. Award of Informally-Bid Contracts

The College Presidents and the Vice Chancellor, Business and Financial Services, are authorized to award informal contracts (defined as contracts for less than \$175,000) except those contracts described below. For those contracts requiring Board approval, said approval shall be obtained before commencing work on the project, except in the case of a qualifying emergency pursuant to Administrative Procedure 6340.

VIII. Bids Exceed Informal Bidding Limit

If all informal bids received exceed \$175,000, and the Associate Vice Chancellor, Facilities, Planning, Design and Construction or the College Vice President of Business Services determines that the cost estimate was reasonable, the District may award the contract at up to \$187,500 to the lowest responsible bidder. The contract must be approved by Resolution receiving a four-fifths (4/5) vote of the Board of Trustees.

IX. Bid Documents for Formal Bids

The Chancellor, or designee, will see that plans, specifications and working details for all Public Projects estimated to cost more than \$175,000 are in compliance with all applicable District policies, procedures as well as all local, state and/or federal regulations.

X. Notice Inviting Formal Bids

When a Public Project, which is anticipated to cost in excess of \$175,000 is to be performed, the Purchasing Department shall publish a notice inviting formal bids in a newspaper of general circulation. The notice shall be published at least fourteen (14) calendar days before the date of bid opening. The notice shall also be sent electronically, if available, by facsimile or electronic mail and mailed/emailed to the required construction trade journals. The notice to construction trade journals shall be sent at least fifteen (15) calendar days before the date of bid opening. Other contractors and/or construction trade journals may also be notified, at the discretion of the department soliciting bids. Mailing/emailing shall be completed at least thirty (30) days before the date of bid opening.

XI. When Contractors List Has Not Been Prepared: Proprietary Product or Service notwithstanding Sections E and I:

- A. If the District has not prepared a list of contractors for the particular category of work to be performed, the notice inviting bids shall be sent to each of the construction trade journals.
- B. If the product or service is proprietary in nature, such that it can be legally obtained only from a certain contractor(s) pursuant to PCC section 3400, the notice inviting informal bids may be sent exclusively to such contractors.

XII. Contracts for Maintenance Work

Contracts for Maintenance Work may be bid pursuant to the Informal Bidding Procedures described in Section E, above. Maintenance Work is routine, recurring work done for the preservation or protection of a public facility; minor repainting; landscape maintenance including mowing, watering, trimming, pruning, planting or replacement of plants, and servicing of irrigation systems; work performed to keep, operate, or maintain publicly owned water, power, or waste disposal systems.

XIII. Rejection of Bids; Re-solicitation; Use of District Employees

If the District intends to reject all bids, Purchasing Department or Construction manager must notify the apparent low bidder by written notice in the U.S. mail or by email, of the District's intent to reject the bid at least two (2) business days prior to the hearing at which the bids will be considered.

After rejecting all bids, the District may:

- A. Abandon the project;
- B. Re-advertise the project; or
- C. Perform the work with District employees, after passing a resolution by a four-fifths (4/5) majority of the Board of Trustees declaring that the project can be performed more economically by District employees.

XIV. Emergency Procedures

When an emergency necessitates repair or replacement, contracts shall be awarded pursuant to the procedures described in AP 6340.

XV. 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

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