



## **AP 6340 BIDS AND CONTRACTS**

Adopted: January 27, 2009

Last Revised: January 26, 2017

### **References:**

Education Code Sections 81641-81656  
Government Code Section 53060;  
Public Contract Code Sections 20103.7, 20650-20662, and 22000 et seq.;  
Labor Code Sections 1770 et seq.;  
WASC/ACCJC Accreditation Standard III.D.16  
2 Code of Federal Regulations Part 200.318

### **Limits**

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

- Purchase of goods or services up to the limits set out in the Public Contract Code shall require documented quotes.
- Purchase of goods or services in excess of the limits set out in the Public Contract Code shall require formal advertised bids.

In securing bids or quotations, the District will avoid acquisition of unnecessary or duplicative items. Contracts involving expenditures that require competitive bidding require approval by the Board of Trustees prior to award.

Contracted services shall not be split into two or more contracts within one fiscal year for the purpose of circumventing the bid limit.

Purchase orders exceeding the bid limit require approval by the Board of Trustees prior to payment. The Chief Business Officer or designee has authority to authorize all purchase orders up to the bid limit without prior Board approval, and all purchase orders exceeding the bid limit once approved by the Board.

All contracts not subject to prior Board of Trustees approval shall be presented to the Board for approval within 60 days of administrative authorization.

A District employee shall be personally liable for any monies of the District paid out as a result of malfeasance in office.

### **Contract Approval Authority**

Contracts exceeding the statutory bid limit require prior Board approval. Upon approval by the Board, contracts may be signed by the District Chancellor or Vice Chancellor.

Notwithstanding the statutory bid limit, any contract differing from the approved District form shall require the signature of the Chief Business Officer.

Contracts up to the statutory bid limit may be signed within the following hierarchy:

### **General Purpose Purchases**

- \$1 to \$10,000
- Business Services Supervisor
- Vice President of Administrative Services
- \$10,001 to Statutory Bid Limit (per Public Contract Code Section 20651(a) adjusted every calendar year per the California Community Colleges' Chancellor's Office
- College President
- Vice Chancellor
- District Chancellor

### **Public Project Purchases**

- \$1 to Statutory Bid Limit [per Public Contract Code Section 20651(b)]
- College President
- Vice Chancellor
- District Chancellor

### **Professional Services**

- \$1 to \$39,450
- Vice President of Administrative Services
- Vice Chancellor
- Chancellor
- \$39,451 to Statutory Bid Limit (per Public Contract Code Section 20651(a) adjusted every calendar year per the California Community Colleges' Chancellor's Office
- College President
- Vice Chancellor
- District Chancellor

Contracts shall not be implemented in any manner until the appropriate signature approval is received and a purchase order is established by the Purchasing Department in the District's Financial Management System.

### **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.

### **Notice Calling for Formal Advertised Bids**

The Chief Business Officer or designee shall publish at least once a week for two weeks in a newspaper of general circulation within the District; and shall through an electronic portal, publish a notice calling for bids or proposals, stating the materials or supplies to be furnished and the time and place where bids or proposals shall be opened. Bids submitted either electronically or on paper are acceptable.

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.

The Chief Business Officer or designee shall be responsible for ensuring 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 shall 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 Chief Business Officer 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.

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 Awards (Formal Bids)**

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 and sufficient reason.
- All bids shall be opened publicly and bidders shall be given the opportunity to make record of the bids received.
- Bid and contract award recommendations to the Board shall show a tabulation of the bids received in reasonable detail.
- Bid and contract awards shall be made to the lowest 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.
- Subject to the Board's subsequent action to adopt, modify or reject the disposition of a bid protest, the Chief Business Officer or designee is authorized to handle and dispose of bid protests arising out of the bidding of contracts.
- Except for bid protests arising during the bidding process, the Chief Business Officer or designee is authorized to handle and dispose of all other disputes or matters of controversy regarding the bidding of contracts without subsequent review, reconsideration or appeal of the decision to any other employee, officer of the District, or to the Board of Trustees or any member(s) thereof.

### **Purchase Without Advertising for Bids (Informal Bids)**

Informal bidding may be used for work, projects, services, or purchases that are below the statutory bid limit as annually set forth by the California Community Colleges'

Chancellor's Office. Such purchases shall follow the contract approval authority as defined above.

The Chief Business Officer or designee is authorized to make purchases from vendors holding Santa Clara County contracts without calling for bids where it appears to be advantageous and does not exceed the statutory bid limit. For those contracts exceeding the statutory bid limit, prior approval from the Board is required.

The Chief Business Officer or designee may, without advertising for bids, purchase or lease from other public agencies materials or services by authorization of contract or purchase order that do not exceed the statutory bid limit. For those purchases or leases exceeding the statutory bid limit, prior approval from the Board is required.

The Chief Business Officer or designee may make purchases of materials, equipment, or supplies through the State of California's Department of General Services if said purchases do not exceed the statutory bid limit. For those purchases exceeding the statutory bid limit, prior approval from the Board is required.

#### **Duration of Continuing Contracts for Services and Supplies**

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

Contracts for materials and supplies furnished to the District are not to exceed three years.

#### **Emergency Repair Contracts Without Bid**

When emergency repairs, alterations, work, or improvements are necessary to a District facility or to permit the continuance of existing classes or to avoid danger of life or property, the Chief Business Officer or designee shall seek approval of the Santa Clara County Office of Education Superintendent of Schools to proceed, and may make a contract in writing or otherwise on behalf of the District for labor and furnishing of materials or supplies for the purpose without advertising for or inviting bids and thereafter seek unanimous approval of the Board

#### **Unlawful to Split Bids**

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

#### **Record Retention**

The District will retain records sufficient to detail the history of procurement. These records include: rationale for the method of procurement, selection of contract type, contractor selection and rejection, and the basis for the contract price.

### **Purchases Without Taking Estimates or Bids**

The District may purchase supplementary textbooks, library books, educational films, audio visual materials, test materials, workbooks, instructional computer software packages, or periodicals in any amount needed for the operation of the Colleges of the District without taking estimates or advertising for bids.

### **Kindergarten-University Public Education Bond Act Projects**

For projects funded by 2002, 2004, or 2006 Bond Funds, the Chief Business Officer, or designee, shall 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 shall 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 Chief Business Officer, designee 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 Chief Business Officer, or designee, 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.