

BIDS

I. Public Projects.

A. Public Projects: Informal Bidding Procedures

The District will use the informal bidding procedures as defined by the Act to award public projects between thirty-thousand dollars (\$30,000) and one hundred twenty-five thousand dollars (\$125,000). (Public Contract Code 22000 et seq.)

Public projects of thirty-thousand dollars (\$30,000) or less may be performed by the District by force account, by negotiated contract, or by purchase order. (Public Contract Code 22032.)

Public projects of one hundred twenty-five thousand dollars (\$125,000) or less may be let to contract by informal procedures as set forth in this section. (Public Contract Code 22032.)

Public projects of more than one hundred twenty-five thousand dollars (\$125,000) shall be let to contract by formal bidding procedures pursuant to Section 2 below. (Public Contract Code 22032.)

“Public project” means construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition and repair work involving a District owned, leased, or operated facility. (Public Contract Code 22002.)

1. *Informal Bidding Resolution and Requirements*

Pursuant to Public Contract Code 22032(b), the District has enacted an informal bidding resolution to govern the selection of contractors to perform public projects between thirty-thousand dollars (\$30,000) and one hundred twenty-five thousand dollars (\$125,000).

The District shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractors will be determined by the Commission. (Public Contract Code 22034(a).)

“Commission” means the California Uniform Construction Cost Accounting Commission created by Division 2, Part 3, Chapter 2, Article 2 of the California Public Contracts Code (commencing at Section 22010.)

All contractors on the list for the category of work being bid or all construction trade journals specified in Public Contract Code section 22036, or both all contractors on the list for the category of work being bid and all construction trade journals specified in section 22036, shall be mailed a notice inviting informal bids unless the product or service is proprietary. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting formal bids may be sent exclusively to such contractor or contractors. (Public Contract Code 22034(b).)

BIDS (continued)

All mailing of notices to contractors and construction trade journals shall be completed not less than 10 calendar days before bids are due. (Public Contract Code 22034(c).)

The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for submission of bids. (Public Contract Code 22034(d).) The notice inviting informal bids shall also include the information set forth below in section II (A) (1), (2), (4), (6), and any other provisions required by law.

The District may delegate the authority to award informal contracts to the Superintendent or his/her designee subject to ratification by the Board of Trustees of the District pursuant to District policy. (Public Contract Code 22034(e).)

If all bids received are in excess of one hundred twenty-five thousand dollars (\$125,000) the District may, by adopting of a resolution by four-fifths vote, award the contract, at one hundred thirty-seven thousand five hundred dollars (\$137,500) or less, to the lowest responsible bidder, if it determines the cost estimate of the District was reasonable. If the contract would exceed one hundred twenty-five thousand dollars (\$125,000), the District must formally bid the contract pursuant to Public Contract Code section 22032. (Public Contract Code 22034(f).)

B. Formal Bids**1. Notice Inviting Formal Bids**

Public projects of more than one hundred twenty-five thousand dollars (\$125,000) may be let to contract by formal bidding procedures. (Public Contract Code 22032.)

Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. (Public Contract Code 22037.)

The notice shall be published at least 14 calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the jurisdiction of the District. If there is no newspaper of general circulation which is circulated within the jurisdiction of the District, notice shall be published in a newspaper of general circulation which is circulated within the jurisdiction of the District. If there is no newspaper which is circulated within the jurisdiction of the District, the notice shall be published by posting the notice in at least three places within the jurisdiction of the District as places for the posting of District notices. (Public Contract Code 22037.)

The notice inviting formal bids shall also be mailed to all construction trade journals specified in Public Contract Code section 22036. (Public Contract Code 22037.) The notice shall be mailed at least 30 calendar days before the date of opening the bids. (Public Contract Code 22037.) The notice inviting formal bids shall also include the information set forth below in section II (A) (1), (2), (4), (6), and any other provisions required by law.

BIDS (continued)

The District may reject any bids presented and declare that the project can be more economically performed by employees of the District pursuant to the procedures set forth below.

C. Rejection of Bids/ Award of Bids for Formal and Informal Bidding

- (1) The notice shall inform the bidder of the District's intention to reject the bid and shall be mailed at least two (2) business days prior to the hearing at which the District intends to reject the bid. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the District shall have the option of either of the following (Public Contract Code 22038):
 - (i) Abandoning the project or re-advertising for bids in the manner described in this section.
 - (ii) Completing the project done by force account without further complying with this section, if the District, by passage of a resolution by a four-fifths vote of the District's governing body declares that the project can be performed more economically by the employees of the District.
- (2) If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the District may accept the one it chooses. (Public Contract Code 22038.)
- (3) If no bids are received through the formal or informal procedure, the project may be performed by the employees of the District by force account, or negotiated contract without further complying with this section. (Public Contract Code 22038.)

II. Non-Public Project: Competitive Bids.

Competitive bids shall be sought through advertisement for contracts exceeding \$78,500 for the following:

- (1) The purchase of equipment, materials or supplies to be furnished, sold, or leased to the District;
- (2) Services, not including construction services, or special services and advice in accounting, financial, legal, or administrative matters;
- (3) Repairs, including maintenance that is not a public project.

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(Public Contract Code 20111; Government Code 53060.) The amount by which such non-public contracts shall be competitively bid shall escalate automatically based upon the annual adjustment by the Superintendent of Public Instruction. 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.) Facility means any plant, building, structure, ground facility, utility system, real property, streets and highways, or other public work improvement. (Public Contract Code 22002.)

Unless otherwise authorized by law, contracts shall be let to the lowest responsible bidder who shall give such security as the Governing Board requires, or else all bids shall be rejected. (Public Contract Code 20111.)

The Board 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. The Board 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.)

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

A. 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. (Public Contract Code 20112.)

The District may also post the notice on the District's web site or other electronic portal and may accept a bid submitted electronically or on paper. 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.)

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The notice shall contain the time, date, and location of any mandatory prebid conference, site visit, or meeting. The notice shall also detail when and where project documents, including final plan and specifications, are available. Any mandatory visit or meeting shall not occur within a minimum of five calendar days of publication of the initial notice. (Public Contract Code 6610.)

Bid instructions and specifications shall include the following requirements and information:

- (1) All bidders shall certify the minimum, if not exact, percentage of post consumer materials in products, materials, goods, or supplies offered or sold. (Public Contract Code 22152.)
- (2) 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 4104.5, 20112.)
- (3) 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.)
- (4) 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, 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 total of the bid prices 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 that, when taken in order from a specifically identified list of those items in the solicitation, and added to or subtracted from the base contract, are less than or equal to a funding amount publicly disclosed by the District before the first bid is opened.
 - (d) The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders or proposed subcontractors or suppliers from being revealed to the District before the ranking of all bidders from lowest to highest has been determined.
- (5) Any subsequent change or alteration of a contract shall be governed by the provisions of Public Contract Code 20118.4.
- (6) 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 (continued)**III. Alternative Bid Procedures for Technological Supplies and Equipment.**

Upon a finding by the Board that a particular procurement qualifies for the alternative procedure, the District may acquire computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus through competitive negotiation. This procedure shall not apply to contracts for construction or for the procurement of any product that is available in substantial quantities to the general public. (Public Contract Code 20118.2.)

The competitive negotiation shall include, but not be limited to, the following requirements:

- (1) The Superintendent or designee shall prepare a request for proposals that shall be 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.
- (2) Notice of the 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.
- (3) The District shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the request for proposals is received.
- (4) The request for proposals shall identify all significant evaluation factors, including price, and their relative importance.
- (5) The District shall provide reasonable procedures for the technical evaluation of the proposals received, the identification of qualified sources, and the selection for the award of the contract.
- (6) An award shall be made to the qualified bidder whose proposal meets the evaluation standards and will be most advantageous to the District with price and all other factors considered.
- (7) If an award is not made to the bidder whose proposal contains the lowest price, then the District shall make a finding setting forth the basis for the award.
- (8) The District, at its discretion, may reject all proposals and request new proposals.
- (9) Provisions in any contract concerning utilization of small business enterprises, that are in accordance with the request for proposals, shall not be subject to negotiation with the successful proposer. (Public Contract Code 20118.1.)

BIDS (continued)**IV. Bids Not Required.**

Upon a determination that it is in the best interest of the District, the Board of the District 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 in any amount needed for the operation of the schools of the District, may be purchased in any amount without taking estimates or advertising for bids. (Public Contract Code 20118.3.)

Perishable commodities, such as foodstuffs, needed in the operations of cafeterias may be purchased through bid or on the open market. (Education Code 38083.)

(cf. 3551 - Food Service Operations/Cafeteria Fund)

In an emergency when any repairs, alterations, work, or improvement to any school facility is necessary to permit the continuance of existing school classes, or to avoid danger to life or property, the Board may, by unanimous vote and with the approval of the County Superintendent of Schools, contract for labor and materials or supplies without 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 Public Contract Code 20114. Day labor shall include the use of maintenance personnel employed on a permanent or temporary basis. (Public Contract Code 20114.)

V. Sole Sourcing.

Specifications for contracts for construction, alteration, or repair of school facilities may not limit bidding, either directly or indirectly, to any one specific concern. Specifications designating a particular brand name shall follow the description with the words “or equal” so that bidders may furnish any equal material, product, thing, or service. (Public Contract Code 3400.)

Specifications for contracts may designate a product by brand or trade name (sole sourcing) if the District has made a finding, described in the invitation for bids or request for proposals, that a particular material, product, thing, or service is designated for any of the following purposes: (Public Contract Code 3400.)

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- (1) To conduct a field test or experiment to determine its suitability for future use
- (2) To match others in use on a particular public improvement that has been completed or is in the course of completion
- (3) To obtain a necessary item that is only available from one source
- (4) To respond to the Board's declaration of an emergency, as long as the declaration has been approved by four-fifths of the Board that issued the invitation for bid or request for proposals

VI. Prequalification Procedure.

For any contract for which bids are legally required, the Board 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. (Public Contract Code 20111.5.)

Prospective bidders shall submit the questionnaire and financial statement at least five 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 prequalified 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 prequalifying 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.)

VII. Protests by Bidders.

A bidder may protest a bid award if he/she believes that the award was inconsistent with Board policy, the bid's specifications, or was not in compliance with law.

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A protest must be filed in writing with the Superintendent or designee within five 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 file the protest documents in a timely manner 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 working days. The Superintendent or designee may also 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. The Superintendent or designee shall provide reasonable notice to the bidder of the time for Board consideration of the contract award. The Board's decision shall be final.