

**Business and Fiscal Affairs  
DRAFT as of 3/22/13**

**Recommended deletion of this document as APs 6330 & 6345 address the issues**

**AP 6340 FORMAL BIDS AND CONTRACTS**

**References:**

Education Code Sections 81641 et seq.;

Public Contract Code Sections 20103.7, 20112, 20650 et seq., and 22000 et seq.;

Labor Code Sections 1770 et seq.

**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 will require documented quotes.
- 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.

***NOTE:*** *The bid minimums are annually readjusted by the Board of Governors as required by Public Contract Code Section 20651(d); the 1/1/07 adjustment increased the minimum for materials or supplies to \$69,000. The current bid minimum can be found at <http://www.cde.ca.gov/fg/ac/co/>*

**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 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. The District may accept a bid that was submitted either electronically or on paper.

Bid and contract forms shall be prepared and maintained by the Vice Chancellor, Business Services or designee. All applicable statutory provisions and board policies shall be observed in preparation of the forms.

The Vice Chancellor, Business Services or designee 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 Labor Code Sections 1775 and 1776 governing payment of prevailing wages and 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 Vice Chancellor, Business Services 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.

The Vice Chancellor, Business Services 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 that contractor plan room.

When permitted, 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**

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.
- All bids shall be opened publicly and bidder 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.

### **Purchase without Advertising for Bids**

The Vice Chancellor, Business Services or designee is authorized to make purchases from firms holding county contracts without calling for bids where it appears advantageous to do so.

The Vice Chancellor, Business Services or designee may, without advertising for bids within the same [county, city, town or district], purchase or lease from other public agencies materials or services by authorization of contract or purchase order.

The Vice Chancellor, Business Services or designee may make purchases through the State of California Cooperative Purchasing Program operated by the Department of General Services.

### **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 are not to exceed three years.

### **Emergency Repair Contracts without Bid**

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

### **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.

***NOTE:** The following sections apply if funds from the Kindergarten-University Public Education Facilities Bond Acts of 2002, 2004, or 2006 are used for a public works project.*

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

For projects funded by 2002, 2004, or 2006 Bond Funds, the Vice Chancellor, Business Services or designee 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:

- 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 Vice Chancellor, Business Services or 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 Vice Chancellor, Business Services 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.

The formal bidding opportunities are posted on the District's Business Services/Purchasing website under the Bidding Opportunities header.

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**NOTE:** The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and their legal counsel. The language in **blue ink** was added by Business Services on February 6, 2013 and March 22, 2013.

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**Date Approved:**

*(This is a new procedure recommended by the Policy and Procedure Service)*