

SOLICITING BIDS (BIDS AND QUOTATIONS)

ADVERTISED/COMPETITIVE BIDS

The District shall advertise any of the following:

A contract that exceeds the amount specified in law, as annually adjusted by the Superintendent of Public Instruction, for any of 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.

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.

The Board shall secure bids 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.

INSTRUCTIONS AND PROCEDURES FOR ADVERTISED BIDS

The Superintendent or designee shall call for bids by placing a notice at least once a week for two weeks in a local newspaper of general circulation published in the District, or if no such newspaper exists, then in some newspaper of general circulation that is circulated in the county. The Superintendent or designee also may post the notice on the District's website or through an electronic portal. The notice shall state the work to be done or materials or supplies to be furnished and the time and place and website where bids will be opened.

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

1. All bidders may be requested to certify in writing the minimum, if not exact, percentage of post-consumer materials in products, materials, goods, or supplies offered or sold.
2. All bids for construction work shall be presented under sealed cover. The District may accept a bid that has been submitted electronically or on paper. The bid shall be accompanied by a form of bidder's security, including either cash, a cashier's check payable to the District, a certified check made payable to the District, or a bidder's bond executed by an admitted surety insurer and made payable to the District.
3. The security of unsuccessful bidders shall be returned in a reasonable period of time, but in no event any later than 60 days after the bid is awarded.
4. When a standardized proposal form is provided by the District, bids not presented on the standard form shall be disregarded.
5. Under no condition shall bids be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time.
6. When two or more identical bids are received, the Board may determine by lot which bid shall be accepted.

7. 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 6a below shall be used.
 - 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.

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.

8. In determining the lowest bid, the District shall consider only responsive bids that conform to bid specifications and are submitted by responsible bidders who have demonstrated trustworthiness, quality fitness, capacity, and experience to satisfactorily perform the public works contract.
 - a. When a bid is determined to be nonresponsive, the Superintendent or designee shall notify the bidder and give him/her an opportunity to respond to the determination.
 - b. When the lowest bidder is determined to be non-responsible, the Superintendent or designee shall notify the bidder of his/her right to present evidence of his/her responsibility at a hearing before the Board.
9. After being opened, all submitted bids shall be made available for review by all interested parties pursuant to Government Code 6252, but at no time be taken from the Department conducting the bid.

PREQUALIFICATION

When required by law or the Board, the Superintendent or designee shall establish a uniform system for rating bidders on the basis of completed standardized prequalification questionnaires and financial statements in order to determine the size of contracts on which each bidder is qualified to bid. For this purpose, the Superintendent or designee shall furnish prospective bidders a standardize prequalification questionnaire form which, when completed, shall indicate a bidder's statement of financial ability and experience in performing public works. The bidder's information shall be verified as prescribed by law. The questionnaires and financial statements shall not be public records and shall not be open to public inspection.

When any public project involves an expenditure of \$1,000,000 or more and is funded or reimbursed wholly or partly by the State School Facilities Program funds or other future state school bond, the District shall prequalify prospective bidders either quarterly or annually. The prequalification shall be valid for one year and the following requirements shall apply:

1. Prospective bidders, including, but not limited to, prime, general engineering, and general building contractors and electrical, mechanical, and plumbing subcontractors, as defined in the Public Contract Code 4113 or Business and Profession Code 7506, or 7057, as applicable, shall submit a standardized questionnaire and financial statement 10 or more business days, as determined by the District, before the date fixed for the public opening of sealed bids.
2. Prospective bidders shall be prequalified by the District five or more business days, as determined by the District, before the date fixed for the public opening of sealed bids.

If the project includes electrical, mechanical, or plumbing components that will be performed by electrical, mechanical, or plumbing contractors, the Superintendent or designee shall make available to all bidders a list of prequalified general contractors and electrical, mechanical, and plumbing subcontractors five or more business days, as determined by the District, before the date fixed for the public opening of sealed bids.

For all other contracts requiring competitive bidding, 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. Prospective bidders for such contracts shall submit the questionnaire and financial statement at least five days before the date fixed for public opening of sealed bids and shall be prequalified by the District at least one day before the fixed bid-opening date.

AWARD OF CONTRACT

The District shall award each contract to the lowest responsible bidder except in the following circumstances:

1. When the contract is for the procurement and/or maintenance of electronic data processing systems and supporting software, in which case the Board may contract with any one of the three lowest responsible bidders.
2. When the contract is for any transportation service which involves an expenditure of more than \$10,000 and which will be made with any person or corporation other than a common carrier, municipally owned transit system, or a parent/guardian of a student who is to be transported, in which case, the Board may contract with other than the lowest bidder.
3. When the contract is one for which the Board has established goals and requirements relating to participation of disabled veteran or small business enterprises in accordance with Public Contract Code 2000-2002, in which case the Board may contract with the lowest responsible bidder who submits a responsive bid and complies or makes a good faith effort to comply with the goals and requirements.
4. When procuring a lease-leaseback contract, in which case the Board shall award the contract based on objective criteria for determining the best combination of price and qualifications in accordance with Education Code 17400 and 17406 (cf. 3311.2 – Lease-Leaseback Contract).
5. When procuring a design-build contract for a public works project in excess of \$1,000,000 in accordance with Education Code 17250.20, in which case the Board may award the contract to either the low bid or the best value to the District, taking into consideration, at a minimum, price, technical design and construction expertise, and life-cycle costs per Education Code 17250.20, 17250.25 (cf. 3311.3 – Design-Build Contracts).

PROTESTS BY BIDDERS

A bidder may protest a bid award if he/she believes that the award is not in compliance with law, Board policy, or the bid specification. A protest must be filed in writing with the Superintendent or designee within five working days after receipt of notification of the contract award and shall include 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 notice to the bidder of the date and time for Board consideration of the protest at least three business days before the Board meeting. The Board's decision shall be final.

LIMITATION OF USE OF SOLE SOURCING

In any contract for the construction, alteration, or repair of school facilities, the Superintendent or designee shall ensure that the bid specification:

1. Does not directly or indirectly limit bidding to any one specific concern.
2. Does not call for a designated material, product, thing, or service by a specific brand or trade name, unless the specification is followed by the words "or equal," so that bidders may furnish any equal material, product, thing, or service.

In any such case, the bid specification shall provide a time period, before and/or after the award of the contract, for the contractor to submit data substantiating the request for substituting the designated material, product, thing, or service. If no such time period is specified, the contractor may submit the data within 35 days after the award of the contract.

When the bid is for a roof project, a material, product, thing, or service is considered "equal" to that designated if it is equal in quality, durability, design, and appearance; will perform the intended function equally well; and conforms substantially to the detailed requirements in the bid specification.

However, the Superintendent or designee may designate a specific material, product, thing, or service by brand or trade name (sole sourcing) if the Board has made a finding, described in the invitation for bids or request for proposal (RFP), that a particular material, product, thing, or service is designated for any of the following purposes:

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 when issuing the invitation for bid or RFP.

PURCHASE WITHOUT QUOTATIONS OR BIDS

Without advertising for bids and upon a determination that it is in the best interest of the District, the Board may authorize another public corporation or agency, by contract, lease, requisition, or purchase order, to lease data-processing equipment or to purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the District in the manner that the other public corporation or agency is authorized to make the leases or purchases from a vendor (“piggyback”). Alternatively, if the public corporation or agency has an existing contract with a vendor for the lease or purchase of personal property, the District may authorize the lease or purchase of personal property directly from the vendor and make payments under the same terms that are available to the public corporation or agency under the contract.

Without advertising for bids, the Board may enter into an energy service contract and any related facility ground lease, when it determines that the terms of the contract and lease are in the best interest of the District and meet the cost effectiveness requirements specified in Government Code 4217.12. The Board’s determination shall be made at a regularly scheduled public hearing of which notice is given to the public at least two weeks in advance and shall be based on cost and savings comparison findings specified in Government Code 4217.12.

Supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals may be purchased in any amount without taking estimates or advertising for bids.

Perishable foodstuffs and seasonal commodities needed in the operations of cafeterias may be purchased through bid or on the open market.

The District may purchase any surplus property from the federal government or any of its agencies in any quantity needed for the operation of its schools without taking estimates or advertising for bids.

RIGHTS OF THE BOARD CONCERNING BIDS

The Board of Trustees shall reserve the right to reject any and all bids and waive any irregularities or informalities in any bid or in the bidding.

LEGAL REFERENCE**EDUCATION CODE**

17250.10-17250.55 Design-Build Contracts17400
17400 Leases and Agreements related to Real Property and Buildings
17406 Lease-Leaseback Contracts
17602 Purchase of Surplus Property from Federal Agencies
38083 Purchase of Perishable Foodstuffs and Seasonable Commodities
39802 Transportation Services

GOVERNMENT CODE

4217.10-4217.18 Energy Conservation Contracts
6252 Definition of Public Record

PUBLIC CONTRACT CODE

1102 Emergencies
2000-2002 Responsive Bidders
3000-3010 Roofing Projects
3400 Bids, Specifications by Brand or Trade Name Not Permitted
4113 Prime Contractor; Subcontractor
6610 Bid Visits
20103.8 Award of Contracts
20111-20118.4 Local Agency Public Construction Act; School Districts
22152 Recycled Product Procurement

BUSSINESS AND PROFESSIONS CODE

7056 General Engineering Contractor
7057 General Building Contractor

CODE OF CIVIL PROCEDURE

446 Verification of Pleadings