

ADMINISTRATIVE REGULATION 6345

SOUTH ORANGE COUNTY
COMMUNITY COLLEGE DISTRICT

BUSINESS AND FISCAL AFFAIRS

BIDS AND CONTRACTS UTILIZING CUPCCAA

Informal and formal bidding procedures under the California Uniform Public Construction Cost Accounting Act (CUPCCAA), were adopted by Resolution by the Board with Resolution 18-30. Furthermore, Resolution 18-31 adopted by the Board delegates authority to the Chancellor or emergency designee to take emergency actions without bidding.

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 \$220,000 shall be let to contract by procedures described in the Notice Inviting Informal Bids.

It is unlawful to split or separate into smaller work orders or any project for the purpose of evading the provisions of this regulation 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 ensure compliance with these Labor Code Sections. Failure to provide such documentation shall cause any such bid to be deemed incomplete.

The California Uniform Construction Cost Accounting Commission may recommend that the State Controller increase the dollar limits upon amendments to Public Contract Code Section 22000 for public works contracts subject to CUPCCAA.

Public Contract Code Section 22032 authorizes public projects of \$75,000 or less to be performed by District employees by force account, by negotiated contract, or by purchase order. Public projects up to \$220,000 may be let to contract by informal procedures. Public projects in excess of \$220,000, with limited exceptions, shall be let to contract by formal bidding procedure. These amounts may be increased as code permits.

Public projects funded by the Kindergarten-University Public Education Bond Acts of 2002, 2004, or 2006 and any future State Bond funds require that the District initiate and enforce a labor compliance program pursuant to 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;

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- 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 Executive Director of Facilities Planning 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; and
- The Executive Director of Facilities Planning 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.

PROCEDURES NOT COVERED BY THIS REGULATION

When this procedure does not establish a process for bidding public projects, the procedures described in Administrative Regulation 6340 – *Purchasing, Contracts, and Bids* shall govern.

CONTRACTORS LIST

The Executive Director of Procurement, Central Services, and Risk Management shall develop and maintain an approved contractor list. The approved contractor list is maintained in the District's PlanetBids portal.

AWARD TO LOW BIDDER; NO BIDS

All contracts must be awarded to the lowest responsive and responsible bidder. If two or more bids are the same and lowest, the District 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.

NOTICE INVITING INFORMAL BIDS

When a public project anticipated to cost less than \$220,000 is to be performed, the District shall prepare a notice of the opportunity to bid. 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 send the notice to all contractors for the category of work to be bid, as shown on the Contractors List. The District may also send the notice to all construction trade journals. Other contractors and/or construction trade journals may also be notified at the discretion of the department soliciting bids. Notice shall be sent at least ten days before bids are due.

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AWARD OF INFORMALLY-BID CONTRACTS

The Vice Chancellor, Business Services or designee is authorized to award informal contracts (defined as contracts for less than \$220,000 unless amended by code), except those contracts described below.

BIDS EXCEED INFORMAL BIDDING LIMIT

If all informal bids received exceed \$220,000 and the District determines that the cost estimate was reasonable, the District may award the contract at up to \$235,000 to the lowest responsive and responsible bidder. The contract must be preapproved by resolution receiving a four-fifths (4/5) vote of the Board.

BID DOCUMENTS FOR FORMAL BIDS

The Vice Chancellor, Business Services or designee, will see that plans, specifications, and working details for all public projects estimated to cost more than \$220,000 are adopted.

NOTICE INVITING FORMAL BIDS

When a public project, which is anticipated to cost in excess of \$220,000 is to be performed, the District shall publish a notice inviting formal bids in a newspaper of general circulation. The notice shall be published at least 14 calendar days before the date of bid opening. The notice shall also be sent electronically, if available, by facsimile or electronic mail and sent to all construction trade journals. The notice to construction trade journals shall be sent at least 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. Notice shall be sent at least 30 days before the date of bid opening.

WHEN CONTRACTORS LIST HAS NOT BEEN PREPARED: PROPRIETARY PRODUCT OR SERVICE

Notwithstanding the above:

- 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.
- If the product or service is proprietary in nature, such that it can be legally obtained only from a certain contractor(s) pursuant to Public Contract Code Section 3400, the notice inviting informal bids may be sent exclusively to such contractors.

CONTRACTS FOR MAINTENANCE WORK

Contracts for maintenance work may be bid pursuant to the informal bidding procedures described above. Maintenance work is defined as work that 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; or performed to keep, operate, or maintain publicly owned water, power, or waste disposal systems.

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REJECTION OF BIDS; RE-SOLICITATION; USE OF DISTRICT EMPLOYEES

If the District intends to reject all bids, it must send the apparent low bidder a written notice of the District's intent to reject the bid at least two business days prior to the hearing at which the bids will be considered.

After rejecting all bids, the District may:

- abandon the project;
- re-advertise the project; or
- perform the work with District employees, after passing a resolution by a four-fifths (4/5) majority of the Board declaring that the project can be performed more economically by District employees.

EMERGENCY PROCEDURES

When an emergency necessitates repair or replacement, contracts shall be awarded pursuant to the procedures described in Administrative Regulation 6340 – *Purchasing, Contracts, and Bids* and Board Resolution 18-30.

LIMITS SUBJECT TO INCREASE

The dollar limits described herein will be increased upon amendments to Public Contract Code Section 22000 for public works contracts subject to CUPCCAA.

References:

Education Code Sections 81641 et seq.

Labor Code Sections 1770 et seq.

Public Contract Code Sections 20110 et seq., 20650 et seq., and 22000 et seq. (Uniform Public Construction Cost Accounting Act)