

BIDS

The District shall purchase equipment, supplies and services using competitive bidding when required by law and in accordance with statutory requirements for bidding and bidding procedures. In addition, formal bids may be required whenever it appears to be in the best interest of the District.

To ensure that good value is received for funds expended, specifications shall be carefully designed and shall describe in detail the quality, delivery and service required.

To assist the District in determining whether bidders are responsible, the Board of Trustees may require prequalification procedures as allowed by law and specified in administrative regulation. A copy of any applicable administrative regulations shall be provided to bidders with all bid specifications.

(cf. 9270 - Conflict of Interest)

Legal Reference: (see next page)

BIDS (continued)

Legal Reference:

EDUCATION CODE

- 17595 *Purchases through Department of General Services*
- 38023 *Transportation bids and contracts for services*
- 38083 *Purchase of perishable foodstuffs and seasonable commodities*
- 38110 *Purchase of supplies through county superintendent*
- 38111 *Purchases by district governing board*
- 38112 *Purchases of necessary supplies*

GOVERNMENT CODE

- 4330-4334 *Preference of California-made materials*
- 6252 *Definitions for California Public Records Act*
- 53060 *Special services and advice*

PUBLIC CONTRACT CODE

- 2000-2001 *Responsive bidders*
- 3400 *Bids, specifications by brand or trade name not permitted*
- 3410 *United States produce and processed foods*
- 12161 *Definitions, recycled paper products*
- 12168 *Preference for purchase of recycled paper products*
- 12169 *Bidders to specify percentage of recycled paper product*
- 12200 *Definitions, recycled goods, materials and supplies*
- 12210 *Purchase of recycled products preferred*
- 12213 *Specification by bidder of recycled content*
- 20107 *Bidder's security*
- 20111-20118.4 *School districts especially:*
- 20111 *Contracts over \$50,000; contracts for construction; award to lowest responsible bidder*
- 20189 *Bidder's security, earthquake relief*
- 22002 *Definition of public project*
- 22030-22045 *Alternative procedures for public projects (UPCCAA), especially:*
- 22032 *Dollar amount limits for public projects*
- 22050 *Alternative emergency procedures*
- City of Inglewood-Los Angeles County Civic Center Authority v. Superior Court*, (1972) 7 Cal.3d 861
- Konica Business Machines v. Regents of the University of California*, (1988) 206 Cal.App.3d 449

BIDS

Advertised Bids

The District shall seek competitive bids through advertisement for contracts involving an expenditure of \$15,000 or more for a public project. (Public Contract Code 20111)

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

The amount by which contracts shall be competitively bid shall escalate automatically based upon the annual adjustment by the Superintendent of Public Instruction.

Competitive bids shall be sought through advertisement for contracts exceeding \$53,900 for the following: (Public Contract Code 20111)

1. The purchase, rent or lease of equipment, material or supplies
2. Services, not including construction services, professional services or advice, and insurance services.
3. Repairs, including maintenance that is not a public project

"Maintenance work" 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)

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

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)

BIDS (continued)

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. (Education Code 38023)

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 20111-20116 for contracting after competitive bidding. (Public Contract Code 20116)

Instructions and Procedures for Advertised Bids

The Superintendent or designee shall call for bids by advertising in a local newspaper at least once a week for two weeks. 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)

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

1. All bidders, including bidders for printing contracts, shall specify the minimum, if not exact, percentage of recycled product in the products offered, and both the postconsumer and secondary waste content. (Public Contract Code 12169, 12213)
2. All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security: (Public Contract Code 20107, 20111)
 - a. Cash
 - b. A cashier's check made payable to the District
 - c. A certified check made payable to the District
 - d. A bidder's bond executed by an admitted surety insurer and made payable to the District

The security of unsuccessful bidders shall be returned in a reasonable period of time, in no event any later than 60 days after the bid is awarded. (Public Contract Code 20111)

3. Under no condition shall bids be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time. (Public Contract Code 20112)

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BIDS (continued)

4. When two or more identical bids are received, the Board may determine by lot which bid shall be accepted. (Public Contract Code 20117)
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 shall be made available for review by all interested parties. (Government Code 6252)

(cf. 1340 - Access to District Records)

Bids Not Required

Upon a case-by-case determination that it is in the best interests of the District and to the extent permitted by law, the Board may authorize the purchase, lease or contract for equipment and supplies through a public corporation or agency without advertising for bids. (Public Contract Code 20118)

(cf. 3310 - Purchasing Procedures)

Supplementary textbooks, library books, periodicals, educational films, audiovisual materials, test materials, workbooks and instructional computer software packages may be purchased without taking estimates or advertising for bids. (Public Contract Code 20118.3)

Perishable commodities such as foodstuffs may be purchased through bid or on the open market, depending on District preference. (Education Code 38083)

In an emergency when repairs, alterations, work or improvement to any school facility is necessary for the continuance of existing school classes or to avoid danger to life or property, the Board, by unanimous vote and with the approval of the County Superintendent of Schools, may contract for labor and materials or supplies without advertising for or inviting bids. (Public Contract Code 20113)

Bids shall also not be required for day labor under circumstances specified in law. Day labor shall include the use of maintenance personnel employed on a permanent or temporary basis. (Public Contract Code 20114)

Whenever the total number of hours on the job does not exceed 350 hours, day labor may be used to erect new buildings and for the following purposes: (Public Contract Code 20114)

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BIDS (continued)

1. School building repairs, alterations, additions

2. Painting, repainting or decorating of school buildings
3. Repair or building of apparatus or equipment
4. Improvements on school grounds
5. Maintenance work as defined above

Sole Sourcing

Specifications for contracts for construction, alteration or repair of school facilities may not limit bidding to any one product or supplier. Specifications designating a particular brand name shall list at least two brands of comparable quality and follow the description with the words "or equal." (Public Contract Code 3400)

Specifications for contracts may designate a product by brand or trade name (sole sourcing) when one or more of the following conditions apply: (Public Contract Code 3400)

1. The product is designated to match others in use on a particular public improvement that has been completed or is in the course of completion
2. One product has a unique application required to be used in the public interest
3. Only one brand name is known, or
4. Upon resolution of the Board, the Board makes a finding that the item sought is the subject of a field test to determine its suitability for future use

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. 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)

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BIDS (continued)

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)

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 not in compliance with law.

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 timely file a protest 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 days. The Superintendent or designee also may 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.

Regulation
Approved: March 13, 2000

FORTUNA UNION HIGH SCHOOL DISTRICT
Fortuna, California