

PURCHASING, CONTRACTS, AND BIDS

PURCHASING AND CONTRACTING

The District has established a centralized Purchasing Department through which all required contracts for goods and services and all requests for purchases using District funds shall be routed for approval and processing.

The Purchasing Department shall comply with all applicable laws and regulations, federal and state statutes, administrative codes, court decisions, legal opinions, policies of the Board, and board-approved agreements when conducting purchasing and contracting activities on behalf of the District and shall adhere to generally-accepted purchasing standards, principles and practices in ensuring that a competitive environment exists. A competitive environment requires that, at certain price threshold, informal or formal quotes, Request for Proposal (RFP), informal bids, or formal bids be issued to an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirement of the procurement.

The objective of the purchasing program is to purchase from the lowest bidder considering each of the following requirements, and in accordance with the requirements of the law:

- a. Buy the proper product for the purpose required.
- b. Have the product available when needed.
- c. Buy in quantities appropriate for the rate of use.
- d. Pay the lowest price obtainable for the quantity required.
- e. Buy without favor or prejudice while considering the factors of quality and service, in addition to price.

Purchases of materials, supplies, equipment, or services shall not be made from any employee of the District unless all requirements under AR 4000.9 Conflict of Interest Code have been met.

The purchasing power of the District shall not be used to procure or to secure advantage in the purchase of any goods and services for employees, officers or any other individuals.

Recognizing that individual preferences have a high value to those requesting goods and services, nevertheless the Purchasing Department has a duty to seek opportunities to standardize on items when there are significant benefits in cost, quality, value or maintenance.

When feasible, the Purchasing Department will develop more than one source of supply to encourage competition, avoid charges of favoritism, and ensure deliveries.

BUSINESS DIVERSITY

The District is committed to increasing the participation of Minority-Owned Business Enterprises (MBE), Women-Owned Enterprises (WBE), and Disabled-Veteran-Owned Enterprises (DVBE) in the procurement activities of the District.

QUOTES AND BIDS

Quotations (formal or informal) or bids shall be secured as necessary to obtain the lowest possible prices using the following guidelines:

SUPPLIES, MATERIALS, EQUIPMENT, APPARATUS AND SERVICES

1. If a contemplated expenditure is less than \$15,000 a reasonable effort should be made to obtain three quotes in writing.
2. If a contemplated expenditure is between \$15,000 and *the formal bid limit* as specified in Public Contract Code 20651, et seq. at least three written quotes must be obtained unless special circumstances exist as determined by the Executive Director of Procurement, Central Services and Risk Management.
3. If a contemplated expenditure exceeds *the formal bid limits* as specified in Public Contract Code 20651, et seq. the Competitive Bidding Process must be utilized.

PUBLIC WORKS PROJECTS

Public Contract Code 1101 defines "Public Works Contract," as an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

1. If a contemplated expenditure is \$5,000 or below for work to be done, a reasonable effort must be made to obtain one quote in writing.
2. If a contemplated expenditure is over \$5,000 and below \$60,000 at least three written quotes must be obtained unless special circumstances exist as determined by the Executive Director of Procurement, Central Services and Risk Management. These amounts will be adjusted per amendments to the Public Contract Code.
3. If the contemplated expenditure exceeds \$60,000, the Competitive Bidding Process must be utilized. Refer to AR-3202 Bids and Contracts Utilizing CUPCCAA for the informal bid process for expenditures between \$60,000 and \$200,000. For expenditures over \$200,000, the formal bid process must be followed. These amounts will be adjusted per amendments to the Public Contract Code.

COMPETITIVE BIDDING PROCESS

The competitive bidding requirements and exceptions are contained in Public Contract Code Sections 20111-20651. The following is a general outline of those requirements, exceptions, and alternatives. Refer to AR-3202 Bids and Contracts Utilizing CUPCCAA for the informal bid process for public works projects.

Prepare Bid Specifications

The District shall prepare bid specifications that include a definite, complete statement of what is required and, insofar as practicable, 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.

As contained in Public Contract Code Section 3400(b), no specifications shall be called out by 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.

Further, if certain products, brands, and services have been determined by the District to have standards for which no equal would be allowed due to standardization and compatibility with existing District systems, then the District will adopt resolutions per Public Contract Code Section 20304 specifying such products, brands, and services that can be called out in bid specifications by specific brand or trade name without using the words “or equal”. Such resolutions will be effective until a revision is made and then will be evaluated by the Vice Chancellor of Business Services and a recommendation will be made to the Board to either re-adopt or discontinue the use of the designated products/brands.

1. Advertise Notice Calling for Formal Bids

The District shall publish at least once a week for two weeks in a newspaper of general circulation within the District’s service area, or if there is no such paper, then in some newspaper of general circulation within the county, post on the District’s website or through an electronic portal, a notice calling for bids or proposals, stating the materials, supplies, equipment or services to be furnished and the time and place when the bids will be opened. Whether or not bids or proposals are opened exactly at the time fixed in the public notice for opening bids or proposals, a bid or proposal shall not be received after that time. The stamped time from the date-time clock located at the bid collection point will be the official time for the bid opening. Bids received late will be time stamped and then returned to the bidder unopened.

Bid and contract forms shall be prepared and maintained by the Executive Director of Procurement, Central Services and Risk Management or designee. All applicable statutory provisions and Board Policies shall be observed in preparation of the forms.

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 a contract and furnish the required contract documents. When no longer required for the protection of the District, any bidder’s security received shall be returned to the respective bidder, but no later than 60 days after the bid opening.

All contracts for public works must require a bid bond in the amount of 10% of the total bid amount.

The Executive Director of Procurement, Central Services and Risk Management 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 material personnel may examine the specifications and drawings.

A deposit for sets of plan and specification may be required and may be refunded when such documents are returned.

2. Award Bids and Contracts

The awarding of bids and contracts shall be subject to the following conditions:

- The District reserves the right to reject all bids and contracts proposals.
- All formal, sealed bids shall be opened publicly and bidder shall be given the opportunity to make record of the bids received.
- Bid and contract awards shall be made to the lowest responsive, responsible bidder meeting all of the terms, conditions, and specifications. The District reserves the right to make its selection of materials, supplies, equipment, and services purchased based on its best judgment as to which bid complies with the quality required by the specifications.
- The successful bidder may be notified of the contract award pending Board approval. Work shall not begin nor services provided, however, until Board approval is obtained.
- The recommended bid and contract award shall be submitted to the Board showing a tabulation of the bids received in reasonable detail.
- For the purposes of bid evaluation and selection when the District determines that it can expect long-term savings through the use of more sustainable goods and materials, and reduced administrative costs, the District may provide for the selection of the lowest responsive and responsible bidder on the basis of best value pursuant to policies and procedures adopted by the Board in accordance with this section.
- “Best Value” means the most advantageous balance of price, quality, service, performance, and other elements, as defined by the Board, achieved through methods in accordance with this section and determined by objective performance criteria that may include price, features, long-term functionality, life cycle costs, overall sustainability, and required services.

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.

PRE-QUALIFICATION OF BIDDERS

If the Vice Chancellor of Business Services or the Executive Director of Procurement, Central Services and Risk Management, concludes that the best interests of the District will be served by pre-qualification of bidders in accordance with Public Contract Code Section 20651.5, pre-qualification may be conducted in accordance with procedures that provide for a uniform system of rating on the basis of a questionnaire and financial statements.

BLANKET PURCHASE ORDERS

Blanket purchase orders may be established with approval of the Executive Director of Procurement, Central Services and Risk Management with vendors who frequently supply items

whose purchase cannot be anticipated and stocked. The intent of using blanket orders is to allow for more efficient procurement of those goods or services that constitute high volume, low-cost purchases.

REIMBURSEMENT FOR PURCHASES

Employees purchasing items for the District from their own funds and expecting to be reimbursed do so at their own risk. Reimbursement will be made only if in the normal purchasing sequence, a purchase order would have been issued for the item or services purchased. All reimbursement purchases must be cleared and approved through the Procurement, Central Services and Risk Management department including emergency purchases prior to initiating the purchases. Examples of why a reimbursement might not be allowed are:

- Not an emergency
- Unsuitable or unsafe for its intended usage
- Not legally viable (e.g. a contractual obligation to purchase from another vendor)
- Product is not commercial or industrial grade and does not meet the required warranties and guarantees needed to support use in a College environment
- Insufficient budget funds
- Could have been purchased at a significantly lower price from another source
- Failure of the product to meet established District standards
- Repeated abuse and/or pattern of requests for reimbursement of unauthorized purchases.

Requests for reimbursement must be made by submitting a purchase request/requisition accompanied by an itemized original receipt or other valid proof of payment from the vendor. The appropriate budget manager and the Executive Director of Procurement, Central Services and Risk Management must approve the request. If the employee purchase is reimbursable, a Request for Payment will be issued and the employee will be reimbursed by commercial warrant.

EXCEPTIONS TO THE COMPETITIVE BIDDING PROCESS

1. Purchasing from Cooperative Contracts or Programs

The Executive Director of Procurement, Central Services and Risk Management is authorized to make purchases or enter into lease agreements for materials, supplies, equipment, vehicles, or other personal property with firms awarded cooperative contracts including any state, county, city, town, district, consortium, or professional organization, without calling for bids where it appears advantageous to do so, and by presenting to the Board a resolution authorizing such purchases.

The Executive Director of Procurement, Central Services and Risk Management may make purchases for materials, supplies, equipment, vehicles, or other personal property through the State of California Cooperative Purchasing Program operated by the Department of General Services (DGS) without calling for bids where it appears advantageous to do so, and by presenting to the Board a resolution authorizing such purchases.

The Executive Director of Procurement, Central Services and Risk Management may purchase supplementary textbooks, library books, and educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals in any amount needed for the operation of the colleges without taking estimates or advertising for bids.

2. Small Business and Disabled Veteran Business Enterprise Procurement and Contracting

In accordance with applicable legal codes, statutes, and regulations, the Executive Director of Procurement, Central Services and Risk Management may procure goods, services, or information technology that has an estimated value greater than \$5,000, but less than \$250,000, to a Certified Small Business, including Microbusiness, or to a Disabled Veteran Business Enterprise, if the District obtains price quotations from two or more Certified Small Businesses, including Microbusinesses, or from two more Disabled Veteran Business Enterprises, subject to the following:

- a. The District shall determine that the procurement is between \$5,000 and \$250,000 either through an independent cost estimate, market place pricing, historical averages, or other reasonable means.
- b. Award of contract shall be made to the lowest responsible certified Small Business (SB), including Microbusiness or DVBE who substantially meet the requirements of the specifications.
- c. Prior to award of contract the District shall verify SB/DVBE status through the Department of General Services, SB and DVBE.
- d. If any change or alteration of a contract awarded pursuant to this provision exceeds \$250,000, then the Board, by adoption of a resolution by majority vote, may authorize proceeding with the performance of the change or alteration.
- e. The procurement shall be awarded or ratified by the Board as required by law.

3. Purchasing Surplus Property

The Executive Director of Procurement, Central Services and Risk Management may purchase from the federal government or any agency thereof any surplus property, as defined in the Surplus Property Act of 1944, in any amount needed for the operations of the colleges without taking estimates or advertising for bids.

4. Purchasing Computers, Telecommunications and Related Products

As allowed under Public Contract Code Section 20118.2, due to the highly specialized and unique nature of technology, telecommunications, related equipment, software, and services, and factors such as standardization and compatibility of existing systems, the District may procure computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus through competitive negotiation rather than the formal bid process.

Competitive negotiation requires that a request for proposals shall be prepared and 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. The notice of

request for proposals shall be published at least twice in a newspaper of general circulation, at least ten (10) days before the date for receipt of the proposals.

5. Professional Service Contracts

Some purchases do not legally require a formal bid process no matter what the dollar amount. Those types of purchases are usually for intangible professional services referenced in Government Code Section 4525 et seq. such as consulting, attorneys, architects, inspectors and engineers. While professional services are not subject to bidding requirements all professional services contracts must be approved or ratified by the Board.

6. Issuing Emergency Repair Contracts

In an emergency when any repairs, alterations, work, or improvement is necessary to permit the continuance of existing college classes, or to avoid danger to life or property, the Board, by unanimous vote, with the approval of the County Superintendent of Schools, may do either of the following without advertising for or inviting bids, subject to ratification by the Board:

- a. Make a contract in writing or otherwise on behalf of the District for the performance of labor and furnishing of materials, equipment, or supplies.
- b. Notwithstanding Section 20655 of the Public Contract Code, authorize the use of day labor or force account for the purpose.
- c. Nothing in this section shall eliminate the need for any bonds or security otherwise required by law.

CONTRACTS

The Board delegates the authority to the Chancellor, Vice Chancellor of Business Services and the Executive Director of Procurement, Central Services and Risk Management to enter into contracts on behalf of the District, subject to the following:

- The District shall define “contract” to be a written agreement describing the mutual intent of the parties, the scope of work or product to be provided, the form and amount of consideration, and the requirement of mutual signatory acceptance of the parties. In accordance with Education Code 81655, all contracts must be either approved or ratified by the District Board.
- Contracts are not enforceable obligations until they are approved or ratified by the District Board.
- The District does not recognize and shall not be bound by verbal agreements. Similarly, the District does not recognize and shall not be bound by written agreements signed on behalf of the District by an individual not authorized to bind, encumber, or contract for the District with regard to the subject of the contract or agreement.
- Contracts for work to be done, services to be performed, or for goods, equipment, or supplies to be furnished or sold to the District that exceed the amounts specified in Public Contract Code Section 20651 shall require prior approval by the Board.
- When bids are required according to Public Contract Code Section 20651, the District’s Board shall award each such contract to the lowest responsive and responsible bidder who

meets the specifications published by the District and who shall give such security as the District's Board requires, or reject all bids.

- No matter what the expected dollar value of a contract for legal or public auditing services, such a contract will be presented to the Board for prior approval, unless it is determined by the Chancellor or the Vice Chancellor of Business Services, that time is of the essence, and that the District's best interests are best served by issuing a contract on an immediate basis. Any such contract issued under these circumstances shall be brought forward to the Board for formal approval at the next scheduled Board meeting.
- Contracts valued at less than the current Public Code bid level specified in Public Contract Code 20651 et seq. may be presented to the Board for ratification rather than prior to execution of the agreement by the Executive Director of Procurement, Central Services and Risk Management. All contracts ratified by the Board shall be deemed to be fully executed district commitments and may not be subsequently canceled, withheld, or amended unless determined by the Vice Chancellor of Business Services, to be a legally unenforceable obligation.
- Continuing contracts for work or services furnished to the District are not to exceed five (5) years. Contracts for materials and supplies are not to exceed three (3) years.

References:

Education Code Section 76060, 81190, 81450, 81526, 81641, et seq., 81550, et seq., 81655, 81656, 84674, 85420;
Public Contract Code Section 3400, 20100, et seq., 20103.7; 20112, 20113, 20118, 20650, 20651; 20652, et seq.; and 22000 et seq.;
Labor Code Section 1770, et seq., 1775, et seq.;
Government Code Section 12940, 53060;
ACCJC Accreditation Standard III.D.16;
2 Code of Federal Regulations Part 200.318 Civil Code 3248