



# Santa Ana Unified School District

ADMINISTRATIVE REGULATION NO: 3311

SUBJECT: Bids

CATEGORY: Business and Non-Instructional Operations

EFFECTIVE: 05/20/2019

RESPONSIBLE OFFICE(S): Business Services, Purchasing

REVIEWED: 05/03/2019

## **SCOPE:**

To establish a process for competitive solicitation of services and materials.

## **PROCEDURES AND GENERAL INFORMATION:**

### **Advertised Bids:**

The District shall seek competitive bids through advertisement for contracts involving an expenditure of \$200,000 or more for a public project.

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

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 the allowable limit established in Public Contract Code 20111 for the following:

1. The purchase of equipment, material or supplies to be furnished, sold or leased to the District.
2. Services, not including construction services, or special services and advice such as accounting, financial, legal or administrative matters.
3. Repairs, including maintenance that is not a public project.

"Maintenance" 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 touch-up.

Unless otherwise authorized by law, contracts shall be let to the lowest responsible bidder who shall give such security as the Governing Board requires, or else all bids shall be rejected.

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 pursuant to Public Contract Code 20111 and 20112 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.



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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 20118.4 for contracting after competitive bidding.

## Instructions and Procedures for Advertised Bids:

The Superintendent or designee shall call for bids by advertising in a local newspaper of general circulation published in the District, circulated in the county, or if no such paper exists then in some newspaper of general circulation, 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. The notice shall also be placed in the following locations:

- District website
- Online bid portals
- Trade listings, association postings, or public plan rooms

The notice shall contain the time, date and location of any pre-bid conference, site visit or meeting. The notice shall also detail when and where project documents, including final plan and specifications, are available. Any such visit or meeting shall not occur within a minimum of five calendar days of the publication of the initial notice

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 paper products offered, and both the postconsumer and secondary waste content.
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:
  - 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.

3. Bids shall not be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time.
4. When two or more identical lowest or highest bids are received, the Board may determine by lot which bid shall be accepted.



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5. 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, depending on the availability of funds, 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 #a, below, will be used:
  - a. The lowest bid shall be the lowest bid price 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 taken in order from a specifically identified list of those items, depending on available funds as identified in the solicitation.
  - d. The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders from being revealed to the public before the ranking of all bidders from lowest to highest has been determined.
6. Any subsequent change or alteration of a contract shall be governed by the provisions of Public Contract Code 20118.4.
7. After being opened, all submitted bids become public records pursuant to Government Code 6252 and shall be made available for review pursuant to law, Board policy, and administrative regulation. (cf. 1340 Access to District Records)

## **Bids Not Required:**

Public projects of \$60,000 or less may be performed by district employees by force account, negotiated contract, or purchase order.

Contracts for public projects of \$200,000 or less may be awarded through the following informal procedures:

1. The Superintendent or designee shall prepare a notice inviting informal bids which describes the project in general terms, explains how to obtain further information about the project, and states the time and place for the submission of bids. This notice shall be disseminated by mail, fax, or email to either or both of the following:
  - a. All contractors on a list of qualified contractors maintained by the district for the category of work being bid, unless the product or service is proprietary, at least 10 calendar days before bids are due
  - b. All construction trade journals identified pursuant to Public Contract Code 22036



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2. The district shall review the informal bids that were submitted and award the contract, except that:
  - a. If all bids received through the informal process are in excess of \$200,000, the contract may be awarded to the lowest responsible bidder, provided that the Governing Board adopts a resolution with a four-fifths vote to award the contract at \$212,500 or less and the Board determines the district's cost estimate is reasonable.
  - b. If no bids are received through the informal bid procedure, the project may be performed by district employees by force account or negotiated contract.

Upon a determination that it is in the best interest of the District, the Board may authorize the purchase, lease or contract for data processing equipment, purchase materials, supplies, and/or equipment, through a public corporation or agency ("piggyback") without advertising for bids.

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

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.

The district may, upon a case-by-case determination of the Board, purchase, lease or contract for equipment and supplies through a public corporation without advertised bids to the extent permitted by state law.

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

In an emergency when any repairs, alterations, work or improvement to any school facility is necessary to permit 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.

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.

Whenever the total number of hours on the job does not exceed 350 hours, day labor may be used to erect new buildings. Whenever the total number of hours on the job does not exceed 750 hours or when the cost of material does not exceed \$21,000, day labor may be used for the following purposes:

1. School building repairs, alterations, additions.
2. Painting, repainting or decorating of school buildings.



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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 or utility 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:

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 or trade 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.



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## Alternative Competitive Solicitation Process:

The District may use competitive negotiation for professional services when it deems appropriate. The competitive negotiation process shall include, but not be limited to, the following requirements:

1. The Superintendent or designee shall prepare a request for proposals (RFP). Notice of the RFP shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals as well as in the following places:
  - District website
  - Online bid portals
  - Trade listings, association postings, or public plan rooms
2. The Superintendent or designee shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the RFP is received.
3. The RFP shall identify all significant evaluation factors, including price, and their relative importance as well as establish a standardized quantitative initial scoring method for each RFP.
4. The Superintendent or designee shall provide reasonable procedures for the technical evaluation of the RFPs received, the identification of qualified sources, and the selection for the award of the contract. If the annual value of the contract to be awarded is estimated to be less than \$100,000 then the evaluation panel will consist of a minimum of one external evaluator and two internal evaluators with subject matter expertise. If the annual value of the contract to be awarded is estimated to be greater than \$100,000 then the evaluation panel will consist of a minimum of two external evaluators and two internal evaluators with subject matter expertise.
5. The Board shall award the contract to the qualified bidder whose proposal meets the evaluation standards and will be most advantageous to the district with price and all other factors considered.
6. If the Board does not award the contract to the bidder whose proposal contains the lowest price, then the Board shall make a finding setting forth the basis for the award to another bidder.
7. The Board, at its discretion, may reject all proposals and request new RFPs.



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## 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.

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.

The Superintendent or designee shall furnish each qualified bidder with a standardized proposal form. Bids not presented on the standard form shall be disregarded.

The District may establish a procedure for prequalifying bidders on a quarterly basis and may authorize that prequalification to be considered valid for up to one calendar year following the date of the initial prequalification.

## Protests by Bidders:

A bidder may protest a bid award if he/she believes that the award was inconsistent with Board policy, or the bid's specifications or was 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. The Board's decision shall be final.



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## **IMPLEMENTATION GUIDELINES AND ASSOCIATED DOCUMENTS:**

### **District Policies and Procedures:**

BP 3311 – Bids

BP 3551 – Food Service Operations/Cafeteria Fund

BB 9323.3 – Actions by the Board

### **Legal Reference:**

#### **Education Code:**

38083

39802

#### **Government Code:**

53060

4217.12

#### **Public Contract Code:**

6610

20103.8

20107

20111-20118.4

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