

Policy 3311: Bids

Status: DRAFT

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The Governing Board is committed to promoting public accountability and ensuring prudent use of public funds. When leasing, purchasing, or contracting for equipment, materials, supplies, or services for the district, including when contracting for public projects involving district facilities, the Board shall explore lawful opportunities to obtain the greatest possible value for its expenditure of public funds. When required by law, or if the Board determines that it is in the best interest of the district, such contracts shall be made using competitive bidding.

No work, project, service, or purchase shall be split or separated into smaller work orders or projects for the purpose of evading legal requirements for competitive bidding. (Public Contract Code 20116)

The Superintendent or designee shall establish comprehensive bidding procedures for the district in accordance with law. Government Code 54202, and that meet the requirements for bidding procedures specified in law. The procedures shall include a process for advertising bids, instructions and timelines for submitting and opening bids, and other relevant requirements.

For award of contracts which, by law or Board policy, require prequalification, the procedures shall identify a uniform system for rating bidders on the basis of a completed questionnaire and financial statements.

When calling for bids, the Superintendent or designee shall ensure that the bid specifications clearly describe in appropriate detail the quality, delivery, and service required, and include all information of which the district knows, or has in its possession, that is relevant to the work to be performed or that may impact the cost of performing the work.

Award of Contract

Except as authorized by law, c Contracts shall be let to the lowest responsible bidder who shall give such security as the Board requires, or else all bids shall be rejected. (Public Contract Code 20111)

However, the Board may let contracts to other than only the lowest responsible bidder 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 (Public Contract Code 20118.1)
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 (Education Code 39802)
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 (Public Contract Codes 2000-2002)
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 Codes 17400 and 17406
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 (Education Codes 17250.20 and 17250.25)
6. When procuring an alternative design-build contract for a public works project in excess of \$5,000,000 in accordance with Education Code 17250.62, in which case the Board may award the contract to either the low bid or the best value, taking into consideration, at a minimum, design cost, general conditions, overhead, and

profit as a component of the project price; technical design and construction expertise; and life-cycle costs (Education Codes 17250.61 and 17250.62)

Protests by Bidders

If the bidder believes that the award is not in compliance with law, Board policy, administrative regulation, or the bid specification, the bidder may protest the award. 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 protests. A bidder's failure to file the protested documents in a timely manner shall constitute a waiver of the 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 protests at least three business days before the Board meeting. The Board's decision shall be final.

Bids Not Required

When the Board has determined that it is in the best interest of the district, the district may piggyback onto the contract of another public agency or corporation to lease or purchase any personal property, ~~to the extent authorized by law.~~ including the lease of data-processing equipment or the purchase of 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. (Public Contract Code 20118)

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. (Public Contract Code 20118)

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 a cost and savings comparison finding specified in Government Code 4217.12. (Government Code 4217.12)

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 may, by unanimous vote and with the approval of the County Superintendent of Schools, contract for labor and materials or supplies without advertising for or inviting bids or may authorize the use of day labor or force account for the emergency purpose. (Public Contract Code 1102, 20113)
