

## Policy 3311: 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 as specified in the district's administrative regulation. In those circumstances where the law does not require competitive bidding, the Governing Board may request that a contract be competitively bid if the Board determines that it is in the best interest of the district to do so.~~¶

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~~When the Board has determined that it is in the best interest of the district, the Board may piggyback onto the contract of another public agency or corporation to lease or purchase equipment or supplies to the extent authorized by law.~~¶

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~~To ensure that good value is received for funds expended, specifications shall be carefully designed and shall~~ 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 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.¶

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~~To assist the district in determining whether bidders are responsible, the Board may require prequalification procedures as allowed by law and specified in administrative regulation.~~¶

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## ~~The California Uniform Public Construction Cost Accounting Act (CUPCCAA)~~

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~~The California Uniform Public Construction Cost Accounting Act (CUPCCAA), Public Contract Code Section 22000 et seq., allows the District to follow its procedures to change both the dollar amount limitations and the advertising procedures ordinarily applicable in competitive bidding. Rather than the usual \$15,000 bid limit for public projects applicable to school districts, under CUPCCAA, public works projects may be performed as follows:~~

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~~Projects of \$60,000 or less may be performed by force account, negotiated contract, or purchase order.~~

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~~Projects of \$200,000 or less may be let to contract by so-called “informal bidding procedures” established in CUPCCAA. However, if all bids received are in excess \$200,000, 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**

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 **Governing** 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 **Governing** 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 **Governing** Board may contract with other than the lowest bidder (Education Code 39802)
3. When the contract is one for which the **Governing** 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 **Governing** 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 Code 2000-2002)

4. When procuring a lease-leaseback contract, in which case the **Governing** Board shall award the contract based on objective criteria for determining the best combination of price and qualifications in accordance with Education Code 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 **Governing** 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 Code 17250.20, 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 **Governing** 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 Code 17250.61, 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 protest. 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 **Governing** Board. The Superintendent or designee shall provide notice to the bidder of the date and time for Board consideration of the protest at least three business days before the Board meeting. The **Governing** Board's decision shall be final.

## Bids Not Required

When the **Governing** Board has determined that it is in the best interest of the district, the Board district may, by adoption of a resolution by a 4/5 vote, award the contract, at \$212,500 or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable. ¶

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Projects of more than \$200,000 remain subject to "formal bidding procedures" set forth in Public Contract Code Sections 22037 and 22038. ¶

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In electing to become subject to CUPCCAA, the district has implemented and will adhere to detailed notice and accounting systems published in the Cost Accounting Policies and Procedures Manual published by the California Uniform Public Construction Cost Accounting Commission. piggyback onto the contract of another public agency or corporation to lease or purchase any personal property, 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 **Governing** 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 **Governing** 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 saving 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 **Governing** 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)