

Business and Non-Instructional Operations Administrative Regulation 3311(a)

SOLICITING PRICES

Soliciting Prices for Public Projects

"Public project" includes construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition and repair work involving an Office of Education owned, leased or operated facility.

Formal Bids

Except as specified below, the Office of Education shall seek competitive bids through advertisement for contracts involving an expenditure of \$100,000 or more for a public project. The amount by which public project contracts shall be competitively bid shall escalate automatically based upon the annual adjustment by the Controller of the State of California.

No work, project, service or purchase shall be split or separated into smaller work orders or projects for the purpose of evading the provisions of the Public Contract Code which require work to be done by contract after competitive bidding.

Instructions and Procedures for Formal Bids

At least two weeks prior to the bid opening, 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 distinctly describe the project and the time and place where bids will be received and opened.

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

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

1. All bidders shall specify the minimum, if not exact, percentage of recycled product in the 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 Humboldt County Office of Education
 - c. A certified check made payable to the Humboldt County Office of Education

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- d. A bidder's bond executed by an admitted surety insurer and made payable to the Humboldt County Office of Education.

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. Under no condition shall bids 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 bids are received, the Board of Education may determine by lot which bid shall be accepted.
5. Any subsequent change or alteration of a contract shall be specified in writing and the cost agreed upon between the Superintendent/designee and the contractor. The Superintendent/designee may authorize the contractor to proceed with performance of the change or alteration without the formality of securing bids, if the cost so agreed upon does not exceed the greater of \$100,000 or ten percent of the original contract price.
6. After being opened, all submitted bids shall be made available for review by all interested parties.

Informal Bids

Public projects of \$100,000 or less may be let to contract by informal bidding procedures as described below.

The Office of Education will maintain a list of qualified contractors, identified according to categories of work.

All contractors on the list for the category of work being bid and the construction trade journal(s) specified in Public Contract Code shall be mailed a notice inviting informal bids unless the product or service is proprietary. The mailing of the notices shall be completed not less than 10 calendar days before bids are due.

The notice shall describe the project in general terms and how to obtain more detailed information about the project. It shall also state the time and place for the submission of bids.

The Superintendent/designee shall have the authority to award informal contracts.

If all bids received are in excess of \$100,000, the Board of Education may, by adoption of a resolution by a four-fifths vote, award the contract at \$110,000 or less to the lowest responsible bidder, if it determines that the Office of Education's cost estimate was reasonable.

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Emergencies

In cases of great emergency, as determined by the Board of Education, including but not limited to state of emergency defined in Government Code section 8558, when repair or replacements are necessary to permit the continued conduct of the operation or services of the Office of Education, or to avoid danger to life or property, the Board of Education, by majority vote, may proceed at once to replace or repair any facility without giving notice for bids to let contracts. The work may be done by day labor, by contract, or by a combination of the two.

By majority vote, the Board of Education may delegate to the Superintendent the power to declare a public emergency, subject to confirmation by a four-fifths vote, at its next meeting.

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 or trade name shall list at least two brand names or trade names of comparable quality and follow the description with the words "or equal."

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 name or trade name is known, or
4. Upon resolution of the Board of Education, the board makes a finding that the item sought is the subject of a field test to determine its suitability for future use.

If it is determined that a contract should specify a sole source, the rationale for designating the product brand or trade name shall be documented and attached to the contract.

Prequalification Procedure

For any contract for which bids are legally required, the Board of Education 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

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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 at least one day before the fixed bid-opening date. Prequalified bidders must submit their bids on standardized proposal forms provided by the Superintendent/designee. Bids not presented on the standard form shall be disregarded.

Protests by Bidders

A bidder may protest a bid award if he/she believes that the award was inconsistent with Board of Education 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 file a protest in a timely manner 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 may convene a meeting with the bidder in order to attempt to resolve the problem. If the bidder's protest cannot be resolved, the contract award may be appealed to the Board of Education. The Board of Education will consider the appeal within 30 days of receipt of the bidder's protest. All bidders shall receive advance notice of the time for the board's consideration of the appeal and the nature of the protest.

Bids Not Required

Bids shall not be required under circumstances specified in law.

Whenever the estimated cost of the job does not exceed \$25,000, day labor may be used to erect new buildings and for the following purposes:

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

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4. Improvements on school grounds
5. Maintenance work as defined above

Day labor shall include the use of maintenance personnel employed on a permanent or temporary basis.

Request for Proposals (RFP)

A request for proposals for public projects may be used in those situations where it has been authorized by law or when formal competitive bidding is not required by statute. The Office of Education need not choose the low monetary bidder, but may evaluate proposals based upon its needs and its determination of the best quality, services, functions, suitability, etc., for the price.

Soliciting Prices for Non-public Projects: Equipment, Material, Supplies, and Services

Advertised Bids

Competitive bids shall be sought through advertisement for contracts exceeding \$50,000 in the categories listed below. The amount by which these contracts shall be competitively bid shall escalate automatically based upon the annual adjustment by the Superintendent of Public Instruction.

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, as defined by Public Contract Code Section 20115 that are not a public project.

Unless otherwise authorized by law, contracts shall be let to the lowest responsible bidder who shall give such security as the Board of Education 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 of Education may contract with any one of the three lowest responsible bidders. However, if the procurement qualifies under Public Contract Code 20118.2, the competitive negotiation process described in this regulation under Alternate Procedure for Procuring Bids for Acquisition of Technological Supplies, Equipment and Services may be used.

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.

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Instructions and Procedures for Advertised Bids

At least two weeks prior to the bid opening, the Superintendent or designee shall call for bids by advertising in a local newspaper at least once a week for two weeks. Advertisements shall be spaced at least 5 days apart. 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 Superintendent or designee shall furnish each bidder with a standardized proposal form. Bids not presented on the standard form shall be disregarded.

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.
2. Under no condition shall bids be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time.
3. When two or more identical bids are received, the Board of Education may determine by lot which bid shall be accepted.
4. After being opened, all submitted bids shall be made available for review by all interested parties.

Alternate Procedure for Procuring Bids for Acquisition of Technological Supplies, Equipment and Services

After the Board of Education has made a finding that a procurement qualifies under Public Contract Code 20118.2, the Office of Education may utilize alternative competitive negotiations for the acquisition of computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus. This procedure may not be used for construction or for the procurement of any product that is available in substantial quantities to the general public.

The competitive negotiation process shall include, but is not limited to, the following:

1. A request for proposals shall be prepared and submitted to an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirement of the procurement.
2. Notice of the request for proposals shall be published at least twice in a newspaper for general circulation at least 10 days before the date for receipt of the proposals.

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3. The Office of Education 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 request for proposals is received.
4. The request for proposals shall identify all significant evaluation factors, including price, and their relative importance.
5. The Office of Education shall provide reasonable procedures for the technical evaluation of the proposals received, the identification of qualified sources, and the selection of the award for the contract.
6. The award shall be made to the qualified bidder whose proposal meets the evaluation standards and will be most advantageous to the Office of Education with price and all other factors considered.
7. If the award is not made to the bidder whose proposal contains the lowest price, the Office of Education shall make a finding setting forth the basis for the award.
8. The Office of Education, at its discretion, may reject all proposals and request new proposals.

Provisions in any contract concerning utilization of small business enterprises, that are in accordance with the request for proposals, shall not be subject to negotiation with the successful proposer.

Bids Not Required

Upon a case-by-case determination that it is in the best interests of the Office of Education and to the extent permitted by law, the Board of Education may authorize the purchase, lease or contract for equipment and supplies without advertising for bids.

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.

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

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.

The Superintendent of Schools shall make an initial or replacement purchase of a motor vehicle, trailer, or other item of automotive equipment involving an

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expenditure of more than three thousand five hundred dollars (\$3,500) through the county purchasing agent or he shall make the purchase directly from the vendor only after having secured in writing from responsible vendors at least three estimates of the cost. The Superintendent shall purchase the equipment at the estimated cost from the vendor who submits the lowest estimate meeting the prescribed specifications, or shall reject all estimates.

Sole Sourcing

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 name is known, or
4. Upon resolution of the Board of Education, the board makes a finding that the item sought is the subject of a field test to determine its suitability for future use.

If it is determined that a contract should specify a sole source, the rationale for designating the product brand or trade name shall be documented and attached to the purchase order.

Prequalification Procedure

For any contract for which bids are legally required, the Board of Education 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 providing the equipment, material, supplies, and services required. 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 at least one day before the fixed bid-opening date. Prequalified bidders must submit their bids on standardized

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proposal forms provided by the Superintendent/designee. Bids not presented on the standard form shall be disregarded.

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 file a protest in a timely manner 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 may convene a meeting with the bidder in order to attempt to resolve the problem.