AP 6340    BIDS AND CONTRACTS

References:
Education Code, Sections 81641 et seq.;
Labor Code, Sections 1770 et seq.;
Public Contract Code, Sections 20103.7, 20112, 20650 et seq., and 22000 et seq.;
ACCJC Accreditation Standard III.D.16

The President/Superintendent delegates the authority to the Vice President of Business Services to manage the District’s processes for procuring bids and securing contracts.

Overview
The Vice President of Business Services shall be responsible for the coordination of the planning and programming of new construction, District-initiated new construction, additions to existing plants, alterations, leasing of facilities, and repairs of existing plants, buildings, and grounds.

The Vice President of Business Services shall be responsible for the coordination of the preparation of drawings and specifications for new buildings, leased facilities, additions, major alterations, and improvements to buildings and grounds together with estimates of costs.

When applicable, the working drawings, specifications, and revised cost estimates, if any, will be submitted for approval to the California Community Colleges Chancellor’s Office and the State Department of General Services as required by statute in the name of the Board of Trustees.

The letting of contracts for construction shall comply with procedures of the District regarding contracts that exceed the statutory minimums for competitive bidding. Such contracts for construction shall be submitted to the Board of Trustees for approval and authorization.

General Bidding Dollar Limits
In general, contracts exceeding specified dollar amounts (as set out in the Public Contract Code) require documented bids. The specified dollar limits vary by type of contract (e.g. goods, equipment, services, or construction). In addition, certain types of contracts are exceptions to these general rules on bid processes (e.g. certain electronic systems, personal services, energy saving products).

Bids shall be secured as may be necessary to obtain the lowest possible prices as follows:
Purchase of goods, equipment, or services in excess of the limits set out in the Public Contract Code, Section 20651(d) shall require formal advertised bids. Current Code specifies $69,000.00 as the bid threshold. The bid minimums are annually readjusted by the Board of Governors as required by Public Contract Code, Section 20651(d); The current bid minimum can be found at http://www.cde.ca.gov/fg/ac/co/bidthreshold.asp.

Construction contracts for $15,000.00 or more shall require formal advertised bids.

Contracts involving expenditures that require competitive bidding require approval by the Board of Trustees prior to award.

**Bid Specifications**
Bid specifications shall include a definite, complete statement of what is required and, insofar as practical, 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.

**Notice Calling for Formal Advertised Bids**
The District shall publish at least once a week for two weeks in a newspaper of general circulation published within the District or if there is no such paper, then in some newspaper of general circulation, circulated in the county, and may post on the District's web site or through an electronic portal, a notice calling for bids or proposals, stating the work to be done or materials or supplies to be furnished and the time and place when bids will be opened. The District may accept a bid that was submitted either electronically or on paper.

Bid and contract forms shall be prepared and maintained by the Office of Business Services. All applicable statutory provisions and Board Policies shall be observed in preparation of the forms.

The Vice President of Business Services shall be responsible for insuring that the bid specifications are sufficiently broad to encourage and promote open competitive bidding.

All bid notices for work to be done shall contain an affirmative statement requiring compliance with California Labor Code, Sections 1775 and 1776 governing payment of prevailing wages and California Labor Code, Section 1777.5 governing employment of apprentices. All bid submissions shall contain all documents necessary to assure compliance with these California Labor Code Sections. Failure to provide such documentation shall cause any such bid to be deemed incomplete.

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 contract and furnish the required contract bonds. When no longer required for the protection of the District, any certified or cashier's check received shall be returned to the respective bidder.
The Office of Business Services 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 materiel personnel may examine the specifications and drawings.

The Office of Business Services shall provide an electronic copy of the plans and specifications and other contract documents to a contractor plan room service at no charge upon request from that contractor plan room.

When permitted, a deposit for sets of plans and specifications may be required and may be refunded when such documents are returned.

Awarding of Bids and Contracts Awards
The awarding of bids and contracts shall be subject to the following conditions:

- Any and all bids and contract proposals may be rejected by the District.
- All bids shall be opened publicly and bidder shall be given the opportunity to make record of the bids received.
- Bid and contract award recommendations to the Board of Trustees shall show a tabulation of the bids received in reasonable detail.
- Bid and contract awards shall be made to the lowest responsible bidder substantially meeting the requirements of the specifications. The District reserves the right to make its selection of materials or services purchased based on its best judgment as to which bid substantially complies with the quality required by the specifications.

Purchase without Advertising for Bids
The Vice President of Business Services is authorized to make purchases from firms holding any California public agency contract without calling for bids where it appears advantageous to do so and when and where provided by law.

The Vice President of Business Services may, without calling for bids, make purchases through the Cooperative Purchasing Programs.

The Vice President of Business Services may, without calling for bids, make piggy-back purchases on other public agency contracts when and where provided by law.

Duration of Continuing Contracts for Services and Supplies
Continuing contracts for work or services furnished to the District are not to exceed five years.

Contracts for materials and supplies are not to exceed three years.

Emergency Repair Contracts without Bid
When emergency repairs or alterations are necessary to continue existing classes or to avoid danger of life or property, the Vice President of Business Services may make a contract on behalf of the District for labor, materials, and supplies without advertising for
or inviting bids, subject to ratification by the Board of Trustees and approval by the Los Angeles County Office of Education (LACOE). Specific resolutions declaring the emergency are required from the District Board of Trustees as well as approval by the Los Angeles County Office of Education (LACOE).

**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.

**Prequalification of Bidders**

(Public Contract Code, Section 20651.5)

Each contractor wishing to bid as a prime contractor for projects at Cerritos College must fully complete the District’s required questionnaire and provide all materials requested herein. The contractor’s pre-qualification status will remain current for 12 months from the notice of qualification, and its public works rating, or financial rating may be updated at any time. The contractor will receive advance notice from the District of upcoming projects for which it has been deemed prequalified to bid and may choose to bid any or all of the projects for which it is prequalified.

Answers to questions contained in the questionnaire and Financial Statement are required, including a complete statement of prospective bidder’s financial ability and experience in performing public works. These documents will be the basis of rating bidders in respect to the size and scope of contracts upon which each bidder is qualified to bid. The District reserves the right to check other sources available.

In addition to disqualification for failure to meet the District’s criteria, a contractor may be automatically disqualified for any one of the following: (1) omission of requested information; (2) falsification of information; (3) excessive stop notices and/or prevailing wage violations; (4) debarment from the Division of Labor Standards Enforcement.

The questionnaire responses and financial statements are not public records and are not open to public inspection. All information provided will be kept confidential to the extent permitted by law. The District reserves the right to reject any and all prequalification questionnaires and to waive any non-material irregularities in the information contained therein.

Each questionnaire must be signed under penalty of perjury by an individual who has the legal authority to bind the contractor on whose behalf that person is signing. If any information provided by a contractor becomes inaccurate, the contractor must immediately notify the awarding body and provide updated accurate information in writing and under penalty of perjury.

In addition, each contractor wishing to bid must mail or deliver the questionnaire along with the following):

- Reviewed or Audited Financial Statement (Projects less than $10,000,000),
• Audited Financial Statement (Projects $10,000,000 or greater),
• Letter of Bondability,
• Certificate of Insurance issued to the District,
• Accountant's Release Letter, and
• Letter of Credit (optional).

Further, prospective bidders shall be required to:
• Submit as the prime contractor;
• Be appropriately licensed, insured, and bondable;
• Have an audited or reviewed financial statement, (as appropriate), that is less than 14 months old;
• Completed at least two public works building projects within the last five years (Public Works is defined as facilities built for government agencies including school districts, special districts, local, county, state and federal agencies requiring prevailing wage rates paid to workers); and
• Be eligible to bid a Public Works Contract as per Section 1777.1 of the Labor Code.

Alternate Bidding Procedure
To comply with the Public Contract Code, whenever the District is required to competitively bid a project and additive or deductive items are included in the bid form, the Notice of Contractors Calling for Bids shall specify one of the four methods described below which the District will use to determine the lowest bid. In the absence of such a specification, the lowest bid shall be the lowest bid price on the base bid without consideration of the prices on the additive or deductive items.

Methods for Determining the Lowest Bid
If alternate bids are called for, the Notice to Contractors Calling for Bids shall specify which one of the following methods will be used to determine the lowest bid.

a. The lowest bid shall be the lowest bid price on the base bid without consideration of the prices on the additive or deductive items;

b. The lowest bid shall be the lowest total bid prices on the base bid and those additive or deductive items that are specifically identified in the Notice To Contractors Calling For Bids 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 bid and those additive or deductive items taken in order from the specifically identified list of those items, depending upon available funds as identified in the Notice To Contractors Calling For Bids; or

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 District before the ranking of all bidders from lowest to highest has been determined.

In the event the District selects method (d) above, the procedure set forth below shall be followed:
Designated Employee – The Director of Purchasing and Contract Administration or his/her designee shall designate an employee to perform the clerical functions described hereinafter. Said designated employee shall not be involved or participate in the decision making process of determining the low apparent bidder based upon the base bid and selected additive and/or deductive alternate bids.

Receipt of Bids – The following procedure shall be followed by the designated employee when receiving bids:

- As each bid is received, the designated employee shall write an assigned number on the front top right corner of the bid envelope and inform the bidder of his/her assigned number.
- As the designated employee opens each bid, the assigned number shall be written in the top right hand corner of the page(s) of the Bid Form that contain the bid amount.
- After all bids have been opened, the designated employee shall read each bid by assigned number, without reference to the name of the bidder.
- After reading all bids, the designated employee shall either (1) prepare a separate tabulation of each bid, to include only the assigned number and amounts of the base bid and all alternate bids, or (2) photocopy the page(s) of each Bid Form which include the base bid and alternate bid amounts, and excise any reference to the name of such bidder.
- The designated employee shall re-insert the original Bid Forms into the corresponding bid envelopes and shall retain custody of the bid envelopes in a secure area at the District until the low apparent bidder has been determined.
- Once the bid opening has been completed, the designated employee shall give to the Director of Purchasing and Contract Administration or his/her designee either the bid tabulation or the photocopied pages from the Bid Form containing the base bid and alternate bid amounts.

Bid Protests
Any bidder submitting a bid proposal to the District may file a protest of the District’s intent to award the contract provided that each and all of the following are complied with:

- The bid protest is in writing;
- The bid protest is filed and received by the Vice President of Business Services not more than five calendar days following the date of issuance of the District’s Notice of Intent to Award the Contract; and
- The written bid protest sets forth, in detail, all grounds for the bid protest, including without limitation all facts, supporting documentation, legal authorities and argument in support of the grounds for the bid protest; any matters not set forth in the written bid protest shall be deemed waived. All factual contentions must be supported by competent, admissible and creditable evidence. Any bid protest not conforming with the foregoing shall be rejected by the District as invalid. Provided that a bid protest is filed in strict conformity with the foregoing, the Vice President of Business Services or designee shall review and evaluate the basis of the bid protest. The Vice President of Business Services or designee shall provide the bidder submitting the bid protest with a written statement concurring with or
denying the bid protest. The Board of Trustees will render a final determination and disposition of a bid protest by taking action to adopt, modify or reject the disposition of a bid protest as reflected in the written statement of the Vice President of Business Services, or his/her designee. Action by the Board of Trustees relative to a bid protest shall be final and not subject to appeal or reconsideration by the Vice President of Business Services, any other employee or officer of the District, or the Board of Trustees. The rendition of a written statement by the Vice President of Business Services or designee and action by the Board of Trustees to adopt, modify, or reject the disposition of the bid protest reflected in such written statement shall be the expressed conditions precedent to the institution of any legal or equitable proceedings relative to the bidding process, the District’s award of the contract, the District’s disposition of any bid protest or the District’s decision to reject all bid proposals. In the event that any such legal or equitable proceedings are instituted and the District is named as a party thereto, the prevailing party(ies) shall recover from the other party(ies), as costs, all attorneys’ fees and costs incurred in connection with any such proceeding, including any appeal arising therefrom.

Adoption of Standards for Materials, Products, Things, and Services for Use in Public Works of Improvement

From time to time the Cerritos Community College District lets contracts for the construction, alteration, or repair of public works of improvement and, in connection therewith, drafts or causes to be drafted specifications for bids for such construction, alteration, or repair of public works of improvement.

Public Contract Code, Section 3400 (b)(2) provides that such specifications shall not call for a designated material, product, thing, or service 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, except when the awarding authority, or its designee, makes a finding that is described in the invitation for bids or request for proposals that a particular material, product, thing, or service is designated by specific brand or trade name in order to match other products in use on a particular public improvement either completed or in the course of completion.

District staff determines that it is necessary to adopt standards for materials, products, things, and services for use in public works of improvement, to promote the integrity, functionality, operation, maintenance, and/or use of existing systems and/or structures which constitute all or part of a particular public improvement either completed or in the course of completion by the District.

In order to promote the integrity, functionality, operation, maintenance, and/or use of existing systems and/or structures which constitute all or part of a particular public improvement either completed or in the course of completion by the Cerritos Community College District, the Board of Trustees finds it necessary and proper that the District adopt standards for materials, products, things, and services for use in public works of improvement.
The Board of Trustees designates the President/Superintendent, the Vice President of Business Services, and the Director of Physical Plant and Construction Services to collectively and/or individually develop said standards and make findings as may be required from time to time and to implement such findings with regard to the adoption of standards for materials, products, things, and services for use in public works of improvement, and for designation in specifications for bids for construction, alteration, or repair of public works of improvement.

**Potential Exceptions to Bid Rules**

Certain types of contracts are exceptions to these general rules on bid processes. The following are some common examples:

**Electronic Data-Processing**

The District may contract with any vendor who has submitted one of the three lowest responsible competitive proposals or competitive bids for the purchase or maintenance of electronic data-processing systems and equipment, electronic telecommunication equipment, supporting software, and related material, goods and services.

Except as otherwise stated here, bids shall be solicited and contracts shall be awarded in accordance with Procedure 6340 titled Bids and Contracts.

Criteria to determine what constitutes a responsive bid shall be established by the Office of Business Services.

Supplemental instructional software packages may be purchased without taking estimates or advertising for bids.

Sale and leaseback of data-processing equipment or another major item of equipment is permissible if the purchaser agrees to lease the item back to the District for use by the District following the sale. The Board of Trustees shall first adopt a resolution finding that the sale or leaseback is the most economical means for providing electronic data-processing equipment or other major items of equipment to the District.

**Professional Experts**

Contracts for the services of persons who qualify as professional experts may be let without competitive bidding. Professional experts are persons specially qualified to provide services and advise in financial, economic, accounting, engineering, legal, or administrative matters. They must be specially trained, experienced, and competent to perform the services required. Compensation for special services and advice from professional experts may be paid from available funds in the amounts deemed proper for the services rendered.

**Energy Conservation Contracts**

Contracts for services, product installations, equipment and/or fixtures may be let without competitive bidding. Government Code Sections define the processes to be followed.