

## HARTNELL COMMUNITY COLLEGE DISTRICT

### AP 6350      **Contracts - Construction**

**References:** Education Code Section 81800; Public Contracts Code Sections 20650 et seq., 22000 et seq.

The superintendent/president or designee shall be responsible for the planning and programming of new construction, alterations and repairs of existing plants, and leasing of facilities that require state approval. This includes the planning and programming of college initiated new construction, additions to existing plants, and major alterations and repairs of buildings and grounds.

The superintendent/president or designee shall be responsible for coordinating the drawings and specifications for new buildings, leased facilities, additions, major alterations and improvements of buildings and grounds together with estimates of costs.

The preliminary drawings, which shall cover all proposed facilities together with construction cost estimates, shall be submitted to the Board of Trustees for approval and authorization to proceed with the working drawings and specifications.

The final working drawings and specifications, approved by the State Department of General Services and the CCC Chancellor's Office, together with revised estimates, if any, shall then be submitted to the Board of Trustees for adoption. The letting of contracts for construction shall comply with procedures of the District regarding contracts that exceed the statutory minimums for competitive bidding (see AP 6340 titled Bids and Contracts).

#### Adoption of Uniform Public Construction Cost Accounting Act

The District has adopted the Uniform Public Construction Cost Accounting Act (the "Act") as set forth in Public Contract Code Section 22000 *et seq.* The Act provides for the development of cost accounting standards and an alternative method for the bidding of public projects, as defined in Public Contract Code (PCC) Section 22002, subdivision (c), by public entities, including community college districts. A public entity that has adopted the Act may also utilize the bidding procedures set out in PCC Section 22030 *et seq.* when contracting for maintenance work, as defined in PCC Section 22002, or when contracting for any other work which does not fall within the definition of "public project" as defined in PCC Section 22002.

District staff shall implement the provisions of the Act, as amended from time to time.

#### Bids and Contracts Not Covered by this Administrative Procedure

Procedures governing bids and contracts for goods and services not subject to the Act are set forth in Administrative Procedure (AP) 6340.

### Informal and Formal Bidding Procedures under the Act

“Public projects” are defined in PCC Section 22002(c) as construction, reconstruction, erection, alteration, renovation, improvement, demolition, repair work, or painting or repainting of or involving any publicly owned, leased or operated facility. “Public project” does not include “maintenance work” as defined in PCC Section 22002.

### Limits

Public Contract Code Section 22032 authorizes public projects of \$75,000 or less to be performed by District employees by force account, by negotiated contract, or by purchase order.

Public projects estimated to cost up to \$75,001 to \$220,000 is informal bidding and shall be let to contract by procedures described below.

Public projects in excess of \$220,000 or larger is formal bidding, with limited exceptions, shall be let to contract by formal bidding procedures described below.

The above bid limits shall be adjusted as amended by the State Controller.

### Compliance with Prevailing Wage Law

If a contract calls for labor requiring the payment of prevailing wages, then bid notices shall contain an affirmative statement requiring compliance with Labor Code (LC) Sections 1775 and 1776 governing payment of prevailing wages and LC Section 1777.5 governing employment of apprentices. The bid notice shall also provide that such work is subject to compliance monitoring and that pursuant to LC Section 1725.5, contractors must be registered and qualified to perform public work. All bid submissions shall contain all documents necessary to assure compliance with these Labor Code Sections. Failure to provide such documentation shall cause any such bid to be deemed incomplete.

### Contractors List

A list of contractors identified by according to categories of work shall be developed and maintained by the facilities department in consultation with the District’s Chief Business Officer. Criteria for development and maintenance of the contractors list shall comply with requirements established by the California Uniform Construction Accounting Commission (Commission.)

### Bidder Questionnaire and Financial Statement; Pre-Qualification; Proposal Form

The District may, in its discretion, require each prospective bidder for a contract, as described under the Act, to complete and submit to the District a standardized questionnaire and financial statement in a form specified by the District, including a complete statement of the prospective bidder’s financial ability and experience in performing public works. The questionnaire and financial statement shall be verified under oath by the bidder in the manner in which civil pleadings in civil actions are verified. The questionnaire responses of prospective

bidders and their financial statements shall not be deemed public records and shall not be open to public inspection.

Should the Board of Trustees require prospective bidders to complete and submit questionnaires and financial statements, as described above, the District shall adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements, in order to determine the size of the contracts upon which each bidder shall be deemed financially qualified to bid. The prequalification of a prospective bidder shall neither limit nor preclude the District's subsequent consideration of a prequalified bidder's responsibility on factors other than the prospective bidder's financial qualifications.

The District shall furnish each prospective bidder on any contract described under the Act that is subject to this section, with a standardized proposal form that, when completed and executed, shall be submitted as his or her bid. Bids not presented on the forms so furnished shall be deemed non-responsive and shall be rejected. A proposal form shall not be accepted from any person who, or other entity which, is required to submit a completed questionnaire and financial statement for prequalification as described above, but who or which has not done so at least five days prior to the date fixed for the public opening of sealed bids and has not been prequalified, pursuant to subdivision (b), at least one day prior to that date.

#### Notice Inviting Informal Bids

When a public project is anticipated to cost between \$75,000 and \$220,000, the District's facilities department shall prepare a notice of the opportunity to bid. The notice shall describe the project in general terms, state the time and place for submission of bids and describe how to obtain more detailed information about the project. The District shall mail, or send by email, the notice to all contractors for the category of work to be bid, as shown on the contractors list developed in accordance with this Procedure, unless the product or service is proprietary, as defined below. The District may also publish at the builder's exchange or mail the notice to all construction trade journals as determined by the Commission pursuant to PCC Section 22036. Other contractors and/or construction trade journals may also be notified at the discretion of the District department soliciting bids. Mailing shall be completed at least ten (10) days before bids are due.

#### Award of Informally-Bid Contracts

The Chief Business Officer or designee is authorized to award informal contracts (defined as contracts for less than \$1,000), except those contracts described below.

#### Bids Exceed Informal Bidding Limit

If all informal bids received exceed \$75,001 but do not exceed-\$220,000 and the District determines that the cost estimate was reasonable, the District may award the contract at up to \$220,000, to the lowest responsible bidder. In such case, the contract must be approved by Resolution receiving a four-fifths (4/5) vote of the Board.

### Bid Documents for Formal Bids

The Chief Business Officer or designee, shall be responsible for ensuring that plans, specifications and working details for all public projects estimated to cost more than \$175,000 are approved by the Board of Trustees and pertinent jurisdictions (DSA, city, county, etc.).

### Notice Inviting Formal Bids; Publication

When a public project is anticipated to cost in excess of \$175,000, the District shall publish a notice inviting formal bids that states the time and place for the receiving and opening of sealed bids and distinctly describes the project. The notice shall be published in a newspaper printed and published within the jurisdiction of the District, or if there is no such newspaper, in a newspaper of general circulation which is circulated within the District's jurisdiction at least fourteen (14) calendar days before the date of bid opening. If there is no newspaper of general circulation that is circulated within the District's jurisdiction, the notice shall be posted in three places within the District that have been designated for such posting by District ordinance or policy.

The notice shall also be sent electronically, if available, by facsimile or electronic mail and mailed to all construction trade journals as determined by the Commission pursuant to PCC Section 22036. The notice to construction trade journals shall be sent at least fifteen (15) calendar days before the date of bid opening. Other contractors and/or construction trade journals may also be notified, at the discretion of the District department soliciting bids.

### Award to Low Bidder; No Bids

All contracts must be awarded to the lowest responsible bidders. If two (2) or more bids are the same and lowest, the District may accept the one it chooses. When no bids are received through the informal or formal procedure, the District may perform public projects with District employees or through a negotiated contract without further compliance with the Act.

### Rejection of Bids; Re-solicitation; Use of District Employees

In its discretion, the District may reject any bids presented and declare that a project can be more economically performed by District employees, if, prior to rejecting all bids and making such a declaration, the District mails the apparent low bidder a written notice of the District's intent to reject the bid at least two (2) business days prior to the hearing at which the bids will be considered.

After rejecting all bids, the District may: (1) abandon the project; (2) re-advertise the project; or (3) perform the work with District employees (force account), after passing a resolution by a four-fifths (4/5) majority of the Board of Trustees declaring that the project can be performed more economically by District employees.

### Unlawful to Split Bids

It is unlawful to split or separate into smaller work orders or projects or any project for the purpose of evading the provisions of the Act requiring work to be done by contract after competitive bidding.

### Contracts for Maintenance Work

Contracts for maintenance work may be bid pursuant to the Informal Bidding Procedures described above. "Maintenance work" is routine, recurring work done for the preservation or protection of a public facility; minor repainting; landscape maintenance including mowing, watering, trimming, pruning, planting or replacement of plants, and servicing of irrigation systems; or work performed to keep, operate, or maintain publicly owned water, power, or waste disposal systems.

### 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.

Continuing contracts for work to be done, services to be performed, or for apparatus or equipment to be furnished, sold, built, installed, or repaired for the District, or for materials or supplies to be furnished or sold to the District may be made with an accepted vendor as follows: for work or services, or for apparatus or equipment, not to exceed five years; for materials or supplies, not to exceed three years.

### Emergency Repair Contracts without Bid

Consistent with PCC Section 22035, in cases of emergency when repair or replacements are necessary, the Board of Trustees may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the Board, by contractor, or by any combination of the two. In case of an emergency, if notice for bids to let contracts will not be given, the District shall comply with PCC Section 22050.

### Contractor Registration

In accordance with the provisions of Labor Code Section 1725.5, a contractor shall be registered in order to be listed in a bid proposal or engage in the performance of any public works project subject to the requirements of Labor Code Section 1720 et seq.

*Note: The following sections apply if funds from the Kindergarten-University Public Education Facilities Bond Acts of 2024 are used for a public works project.*

### Kindergarten-University Public Education Bond Act Projects

In accordance with Labor Code Section 1771.7, for projects funded by 2024 Bond Funds, the Chief Business Officer will initiate and enforce, or contract with a third party to initiate and enforce, a labor compliance program for that project under Labor Code 1771.5. The program will include:

- Appropriate language concerning the wage requirements of Labor Code 1720 et seq. in all bid invitations and public works contracts.
- A pre-job conference with the contractor and subcontractors to discuss applicable federal and state labor law requirements.

- Project contractors and subcontractors shall be required to maintain and, at designated times, furnish certified copies of weekly payroll containing a statement of compliance signed under penalty of perjury.
- The District shall review, and if appropriate audit the payroll records of the employees of the contractor and/or subcontractor. The review and audit shall be conducted by the Chief Business Officer or designee or an independent third party, but not the third party with whom the Districts contracts to initiate and enforce a labor compliance program under Labor Code section 1771.7.
- If an investigation establishes that an underpayment of wages has occurred, the District shall withhold any contract payments, equal to the amount of underpayment and any applicable penalties.
- The District shall comply with any other prevailing wage monitoring and enforcement activities that are required to be conducted by labor compliance programs by the Department of Industrial Relations.

The Chief Business Officer shall transmit a written finding that the District has initiated and enforced, or has contracted with a third party to initiate and enforce the required labor compliance program to the Director of the Department of Industrial Relations, or any successor agency that is responsible for the oversight of employee wage and work.

Approved by Superintendent/President: November 25, 2014

Revised: April 7, 2026

See Board Policy 6300

See Administrative Procedures 6300, 6340