

William S. Hart Union HSD

Administrative Regulation

Business and Noninstructional Operations

AR 3311

Bids

~~Advertised/Competitive Bids~~

~~The district shall advertise for competitive bids to let any public project contract involving an expenditure of \$15,000 or more. Public project means construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition, and repair work involving a district owned, leased, or operated facility. (Public Contract Code 20111, 22002)~~

~~The district shall also seek competitive bids through advertisement for contracts exceeding \$60,000, for any of the following:~~

- ~~1. The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district~~
- ~~2. Services, not including construction services or special services and advice in accounting, financial, legal, or administrative matters~~
- ~~3. Repairs that are not a public project, including maintenance~~

~~Maintenance means routine, recurring, and usual work for preserving, protecting, and keeping a district facility operating in a safe, efficient, and continually usable condition for the intended purpose for which it was designed, improved, constructed, altered, or repaired. Maintenance includes, but is not limited to, carpentry, electrical, plumbing, glazing, and other craft work designed to preserve the facility, as well as repairs, cleaning, and other operations on machinery and other permanently attached equipment, but does not include painting, repainting, or decorating other than touchup, or among other types of work, janitorial or custodial services and protection provided by security forces. (Public Contract Code 20115)~~

~~Instructions and Procedures for Advertised Bids~~

~~The Superintendent or designee shall call for bids by placing a notice at least once a week for two weeks in a local newspaper of general circulation published in the district, or if no such newspaper exists, then in some newspaper of general circulation circulated in the county. The Superintendent or designee also may post the notice on the district's web site or through an electronic portal. The notice shall state the work to be done or materials or supplies to be furnished and the time and place and web site where bids will be opened. The district may accept a bid that has been submitted electronically or on paper. (Public Contract Code 20112)~~

~~The notice shall contain the time, date, and location of any mandatory prebid conference, site visit, or meeting. The notice shall also detail when and where project documents, including the final plan and specifications, are available. Any such mandatory visit or meeting shall occur not less than five calendar days after the publication of the initial notice. (Public Contract Code 6610)~~

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

~~1. All bidders shall certify the minimum, if not exact, percentage of post-consumer materials in products, materials, goods, or supplies offered or sold. (Public Contract Code 22152)~~

~~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: (Public Contract Code 20107, 20111)~~

~~a. Cash~~

~~b. A cashier's check made payable to the district~~

~~c. A certified check made payable to the district~~

~~d. A bidder's bond executed by an admitted surety insurer and made payable to the district~~

~~The security of unsuccessful bidders shall be returned in a reasonable period of time, but in no event later than 60 days after the bid is awarded. (Public Contract Code 20111)~~

~~3. When a standardized proposal form is provided by the District, bids not presented on the standard form shall be disregarded. (Public Contract Code 20111.5)~~

~~4. Bids shall not be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time. (Public Contract Code 20112)~~

~~5. When two or more identical lowest or highest bids are received, the Governing Board may determine by lot which bid shall be accepted. (Public Contract Code 20117)~~

~~6. If the district requires that the bid include prices for items that may be added to or deducted from the scope of work in the contract, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. In the absence of such a specification, only the method provided in item "a" below shall be used. (Public Contract Code 20103.8)~~

~~a. The lowest bid shall be the lowest total of the bid prices on the base contract without consideration of the prices on the additive or deductive items.~~

~~b. The lowest bid shall be the lowest total of the bid prices on the base contract and those~~

additive or deductive items that were specifically identified in the bid solicitation 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 contract and those additive or deductive items that, when taken in order from a specifically identified list of those items in the solicitation, and added to or subtracted from the base contract, are less than or equal to a funding amount publicly disclosed by the district before the first bid is opened.~~

~~The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders or proposed subcontractors or suppliers from being revealed to the district before the ranking of all bidders from lowest to highest has been determined. (Public Contract Code 20103.8)~~

~~7. — Any subsequent change or alteration in an awarded contract shall be governed by the provisions of Public Contract Code 20118.4.~~

~~8. — After being opened, all submitted bids become public records pursuant to Government Code 6252 and shall be made available for public review pursuant to law, Board policy, and administrative regulation.~~

~~9. — When a bid is disqualified as nonresponsive based on district investigation or other information not obtained from the submitted bid, the Superintendent or designee shall notify the bidder prior to the award and give him/her an opportunity to respond to the information.~~

Prequalification

~~Beginning January 1, 2014, the Board shall require that prospective bidders submit a standardized prequalification questionnaire and financial statement, verified under oath, for any construction contract meeting the following criteria (Public Contract Code 20111.6):~~

~~1. — The project is a "public project," as defined by Public Contract Code 22002(c).~~

~~2. — The project is one for which the district uses, in whole or in part, funds received through the Leroy F. Greene School Facilities Act of 1998 (Education Code 17070.10-17079.30) or any future California State bonds ("State Bonds").~~

~~3. — The project involves a projected expenditure of one million dollars (\$1,000,000) or more.~~

~~Public Contract Code 20111.6 defines "bidders" as all general contractors and, if utilized, all electrical, mechanical, and plumbing subcontractors.~~

~~The questionnaires and financial statements shall not be public records and shall not be open to public inspection. The district shall accept standardized prequalification questionnaires and financial statements on a quarterly basis, between the following dates:~~

~~1. — January 1 through January 10;~~

2. ~~April 1 through April 10;~~
3. ~~July 1 through July 10; and~~
4. ~~October 1 through October 10.~~

~~Once approved, the prequalification shall be valid for one calendar year following the date of initial prequalification.~~

~~Prospective bidders shall submit the questionnaire and financial statement at least ten business days before the date fixed for public opening of sealed bids. Prospective bidders must be deemed prequalified at least five business days before the fixed bid opening date.~~

~~The Board shall adopt a standardized prequalification questionnaire and adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements. The Board authorizes Superintendent or designee to establish the district's standardized prequalification questionnaire and adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements. The Board further requires Superintendent or designee to create and maintain a list of prequalified general contractors and electrical, mechanical, and plumbing subcontractors, to be made available to all bidders at least five business days before the date fixed for the public opening of sealed bids. Finally, the Superintendent or designee shall furnish each qualified bidder with a standardized proposal form. Bids not presented on the standard form shall be disregarded.~~

~~For any other contract for which bids are legally required, the Board may require that each prospective bidder complete and submit a standardized questionnaire and financial statement in accordance with the provisions of Public Contract Code 20111.5.~~

~~Award of Contract~~

~~The district shall award each contract to the lowest responsible bidder except 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. ~~For any transportation service contract involving an expenditure of more than \$10,000, which the Board contemplates may be made with a person or corporation other than a common carrier, municipally owned transit system, or a parent/guardian of students who are 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 minority, women, or disabled veteran business enterprises in-~~

~~accordance with Public Contract Code 2000-2001, in which case the Board may contract with the lowest responsible bidder who complies or makes a good faith effort to comply with the goals and requirements. (Public Contract Code 2000-2002)~~

~~4. — For competitively bid contracts not exceeding \$250,000, and as authorized by Public Contract Code Section 2002, the Board has elected to grant a preference to small businesses for purposes of determining the bidder, if any, entitled to the award of a contract. The preference will be calculated at 5% of the lowest responsive bid unless the lowest responsive bidder is also a small business. The preference shall be applied solely for purposes of determining the lowest responsive bid and to whom the district shall award a contract. The bid amount shall not be revised. Any contract awarded shall be for the actual amount specified in that bidder's bid.~~

~~If, after deducting the 5% preference from the bid, any one or more small businesses has submitted a net bid amount that is equal to or less than the lowest bid, the district will award the contract, if at all, to the small business that submitted the lowest of such net bid amounts or, if two or more of such small businesses have the same net bid amount (i.e., equal bids), the district will award the contract, if at all, to one of those small businesses selected by lot as authorized by Public Contract Code 20117.~~

~~In order to qualify as a small business for purposes of such 5% preference, the bidder must either (1) be certified by the California Department of General Services as a "small business enterprise" in accordance with Government Code Section 14835 et seq. or (2) satisfy the following requirements: (i) it must be independently owned and operated (i.e., not an affiliate or subsidiary of another company); (ii) its principal office must be located in California; (iii) its owners (or, if it is a corporation, its officers) must be domiciled in California; and (iv) it must have 50 or fewer employees.~~

~~Each bidder submitting a bid for a contract of \$250,000 or less must certify whether it is a small business for purposes of such preference by completing, signing and submitting, with its bid, the Small Business Status Certification form included in the Bid Forms. Each bidder must submit the executed certification form regardless of whether the bidder qualifies as a small business for purposes of the 5% preference.~~

~~Protests by Bidders~~

~~A bidder may protest a bid award if he/she believes that the award is not in compliance with law, Board policy, or the bid specification. A protest must be filed in writing with the Superintendent, the Chief Financial Officer, or the Chief Operations Officer by the fifth business day following the opening of bids and shall include all documents supporting or justifying the protest. A bidder's failure to file the protest and documents 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 protest and documents submitted with the bidder's claims and render a decision in writing. 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 reasonable notice to the bidder of the date and time for Board consideration of the protest. The Board's decision shall be final.~~

Alternative Bid Procedures for Technological Supplies and Equipment

~~Rather than seek competitive bids, the district may use competitive negotiation when the Board makes a finding that a district procurement is for computers, software, telecommunications equipment, microwave equipment, or other related electronic equipment and apparatus. Competitive negotiation shall not be used to contract for construction or for the procurement of any product that is available in substantial quantities to the general public. (Public Contract Code 20118.2)~~

~~The competitive negotiation process shall include, but not be limited to, the following requirements: (Public Contract Code 20118.2)~~

- ~~1. The Superintendent or designee shall prepare a request for proposals (RFP) that shall be submitted to an adequate number of qualified sources, as determined by the district, to permit reasonable competition consistent with the nature and requirement of the procurement.~~
- ~~2. Notice of the RFP shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.~~
- ~~3. The Superintendent or designee 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 RFP is received.~~
- ~~4. The RFP shall identify all significant evaluation factors, including price, and their relative importance for selection.~~
- ~~5. The Superintendent or designee shall provide reasonable procedures for the technical evaluation of the RFPs received, the identification of qualified sources, and the selection for the award of the contract.~~
- ~~6. The Board shall award the contract to the qualified person/entity whose proposal meets the evaluation standards and will be most advantageous to the District with price and all other factors considered.~~
- ~~7. If the Board does not award the contract to the person/entity whose proposal contains the lowest price, then the Board shall make a finding setting forth the basis for the award.~~
- ~~8. The Board, at its discretion, may reject all proposals and request new RFPs.~~
- ~~9. Provisions in any contract concerning utilization of small business enterprises that are in accordance with the RFP shall not be subject to negotiation with the successful proposer.~~

Sole Sourcing

~~In any contract for the construction, alteration, or repair of school facilities, the Superintendent or designee shall not draft the bid specification in a manner that: (Public Contract Code 3400)~~

- ~~1. Directly or indirectly limits bidding to any one specific concern.~~
- ~~2. Calls for a designated material, product, thing, or service by a 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.~~

~~In any such case, the bid specification shall provide a time period, before and/or after the award of the contract, for the contractor to submit data substantiating the request for substituting the designated material, product, thing, or service. If no such time period is specified, the contractor may submit the data within 35 days after the award of the contract.~~

~~When the bid is for a roof project, a material, product, thing, or service is considered "equal" to that designated if it is equal in quality, durability, design, and appearance; will perform the intended function equally well; and conforms substantially to the detailed requirements in the bid specification. (Public Contract Code 3002)~~

~~However, the Superintendent or designee may designate a specific material, product, thing, or service by brand or trade name (sole sourcing), if the Board has made a finding, described in the invitation for bids or RFP, that a particular material, product, thing, or service is designated for any of the following purposes: (Public Contract Code 3400)~~

- ~~1. To conduct a field test or experiment to determine its suitability for future use~~
- ~~2. To match others in use on a particular public improvement that has been completed or is in the course of completion~~
- ~~3. To obtain a necessary item that is only available from one source~~
- ~~4. To respond to the Board's declaration of an emergency, as long as the declaration has been approved by four fifths of the Board when issuing the invitation for bid or RFP~~

Bids Not Required

~~Any contract not required to be bid under Public Contract Code Section 20111, or any other applicable law, may be entered into as provided in the Purchasing Procedures as set forth on Exhibit 3310, as approved ("Purchasing Procedures"). Any such contract shall be reviewed by the Board within sixty (60) days. (Education Code 17605)~~

~~As set forth in the Purchasing Procedures, district staff shall make a good faith effort to secure quotes for non bid work to be performed or supplies/materials to be purchased. In the event a proposed contract is not to be awarded to the person or entity submitting the lowest quote, it shall~~

~~be based on a written determination that to not do so is in the best interests of the district.~~

~~For any contract not required to be bid, the Board desires to grant a preference for local businesses otherwise qualified to perform the specific work or to provide the supplies/materials to be purchased. The preference will be calculated as 5% of the lowest quote unless the lowest quote is also a local business. If, after deducting the 5% preference from the quote amount, any one or more local business has submitted a net quote amount that is equal to or less than the lowest quote, the district will award the contract to the local business that submitted the lowest of such net quote amounts, unless the district has determined that it is not in the best interests of the district to award on such basis. Any determination not to award to the local business which has submitted the lowest net quote shall be reviewed and approved as set forth in the Purchasing Procedures. If two or more of such local businesses have the same net quote amount (i.e., equal quotes), the district will enter into the contract with one of those local businesses selected by lot or as otherwise determined to be in the district's best interests.~~

~~In order to qualify as a local business for purposes of such 5% preference, any person or entity seeking a local business preference must present the district with adequate proof, as determined acceptable by the district at the time of the submittal, that the business is headquartered or has its main office located within the boundaries of the district.~~

~~Without advertising for bids and upon a determination that it is in the best interest of the district, the Board may authorize another public corporation or agency, by contract, lease, requisition, or purchase order, to lease data processing equipment or to purchase 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 ("piggyback"). 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)~~

~~In addition, upon a determination that it is in the best interest of the district and without advertising for bids, the Board may lease currently owned district property to any person, firm, or corporation for a minimum of \$1 per year, as long the lease requires the person, firm, or corporation to construct a building or buildings on the property for the district's use during the lease and the property and building(s) will vest in the district at the expiration of the lease ("lease-leaseback"). (Education Code 17406)~~

~~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. 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 cost comparison findings specified in Government Code 4217.12. (Government Code 4217.12)~~

~~Supplementary textbooks, library books, educational films, audiovisual materials, test materials,~~

~~workbooks, instructional computer software packages, or periodicals may be purchased in any amount without taking estimates or advertising for bids.— (Public Contract Code 20118.3)~~

~~Perishable foodstuffs and seasonal commodities needed in the operations of cafeterias may be purchased through bid or on the open market.— (Education Code 38083)~~

~~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 20113)~~

~~Bids shall not be required for day labor under circumstances specified in Public Contract Code 20114. Day labor shall include the use of maintenance personnel employed on a permanent or temporary basis.— (Public Contract Code 20114)~~

~~The district may purchase any surplus property from the federal government or any of its agencies in any quantity needed for the operation of its schools without taking estimates or advertising for bids.— (Education Code 17602)~~

Conflicts of Interest

~~Members of the Board, district officials, and district employees shall not be financially interested in any contract made by them in their official capacity.— (Government Code 1090) Board Members, officials and employees shall not participate in any way to influence a governmental decision in which he/she knows or has reason to know that he/she has a financial interest or which creates an appearance of impropriety.— (Government Code 87100)~~

~~Members of the Board, district officials, or district employees are also prohibited from "making" any contracts with any person, business, or other entity with whom the Board Member, district official, or district employee has a personal relationship to avoid the appearance of impropriety.— The term "make" includes: (1) preliminary discussions; (2) negotiations; (3) compromises; (4) reasoning; (5) planning; (6) drawing of plans and specifications; and (7) influencing the contract's execution directly or indirectly to promote his or her personal interests.— The term "personal relationship" means relatives within the "third degree," as defined by the Probate Code. Relatives of the "third degree" include a Board Member's, district official's, or district employee's children, brothers/sisters, parents, grandparents, uncles/aunts, nieces/nephews, and great grandparents.— (See Probate Code Section 13.) The relatives described herein include adopted relatives and step relatives.— To the extent it is anticipated that the Board Member, district official, or district employee may have a personal relationship with a person or entity, such Board Member, district official, or district employee shall not be involved in any manner in the proposed contract.~~

Regulation WILLIAM S. HART UNION HIGH SCHOOL DISTRICT
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