LODI UNIFIED SCHOOL DISTRICT

Business and Non-Instructional Operations **Rule 3311**

Bids

Advertised/Competitive Bids

The District shall advertise for any of the following:

1. A public project contract that involves an expenditure of $15,000 or more, including a contract for construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition, or repair work involving a district owned, leased, or operated facility

2. A contract that exceeds the amount specified in law, as annually adjusted by the Superintendent of Public Instruction, for any of the following:

    a. The purchase of equipment, materials or supplies to be furnished, sold, or leased to the district
    b. Services, not including construction services, or special services and advice in accounting, financial, legal or administrative matters
    c. 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. Maintenance 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.

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 that is 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 notice shall contain the time, date and location of any mandatory prebid conference, site visit or meeting and details regarding when and where project documents, including the final plan and specification are available. Any such mandatory visit or meeting shall occur not less than five calendar days after the publication of the initial notice.

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

1. All bidders shall certify the minimum, if not exact, percentage of postconsumer materials in products, materials, goods or supplies offered or sold;

2. All bids for construction work shall be presented under sealed cover. The district may accept a bid that has been submitted electronically or on paper. The bid shall be accompanied by a form of bidder's security including either cash, a cashier's check made payable to the district, a certified check made payable to the district, or a bidder's bond executed by an admitted surety insurer and made payable to the district.

3. When a standardized proposal form is provided by the district, bids not presented on the standard form shall be disregarded;

4. Bids shall not be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time;

5. When two or more identical lowest or highest bids are received, the Board of Education may determine by lot which bids shall be accepted;

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 #6a below shall be used.
   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

7. In determining the lowest bid, the district shall consider only responsive bids that conform to bid specifications and are submitted by responsible bidders who have demonstrated trustworthiness, quality, fitness, capacity, and experience to satisfactorily perform the public works contract.

a. When a bid is determined to be nonresponsive the superintendent or designee shall notify the bidder and give him/her an opportunity to respond to the information.

b. When the lowest bidder is determined to be nonresponsible, the

Superintendent or designee shall notify the bidder of his/her right to present evidence of his/her responsibility at a hearing before the Board.

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.

Prequalification Procedure

When required by law or the Board, the Superintendent or designee shall establish a uniform system for rating bidders on the basis of completed questionnaire and financial statement in order to determine the size of contracts on which each bidder is qualified to bid. For this purpose, the superintendent or designee shall furnish prospective bidders a standardized prequalification questionnaire and financial record which, when completed, shall indicate a bidder's statement financial ability and experience in performing public works. The bidder's 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.

When any public project involves an expenditure of $1,000,000 or more and is funded or reimbursed wholly or partly by the School Facilities Program funds or other future state school bond, the district shall prequalify prospective bidders either quarterly or annually. The prequalification shall be valid for one year and the following requirements shall apply:

1. Prospective bidders, including, but not limited to, prime, general engineering, and general building contractors and electrical, mechanical, and plumbing subcontractors, as defined in Public Contract Code 4113 or Business and Professions Code 7056 or 7057, as applicable, shall submit a standardized questionnaire and financial statement 10 or more business days, as determined by the district, before the date fixed for the public opening of sealed bids.

2. Prospective bidders shall submit the questionnaire and financial statement at least five days before the date fixed for public opening of sealed bids.

If the project includes electrical, mechanical, or plumbing components that will be performed by electrical, mechanical, or plumbing contractors, the Superintendent or

designee shall make available to all bidders a list of prequalified general contractors and electrical, mechanical, and plumbing subcontractors five or more business days, as determined by the district, before the date fixed for the public opening of sealed bids.

For all other contracts requiring competitive bidding, the district may establish a procedure for prequalifying bidders on a quarterly basis and may authorize that prequalification be considered valid for up to one calendar year following the date of the initial prequalification. Prospective bidders for such contracts shall submit the questionnaire and financial statement at least five days before the date fixed for public opening of sealed bids and shall be prequalified by the district at least one day before the fixed bid-opening date.

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 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

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

3. When the contract is one for which the Board has established goals and requirements relating to participation of minority, women, disabled veterans, or small business enterprises in accordance with Public Contract Code 20002002, 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.

4. When procuring a lease-leaseback contract, in which case the 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 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.

Protest by Bidder

A bidder may protest a bid award if he/she believes that the award is not in compliance with law, policy, or the bid specifications. A protest must be filed in writing with the superintendent or designee within five working days of receipt of notification of the contract award and shall include all documents supporting or justifying the protest. A bidder's fail to file the 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 render a decision in writing within 30 working days. The superintendent or designee may also convene a meeting with the bidders 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 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 Board's decision shall be final.

Limitation on Use of Sole Sourcing

In any contract for construction, alteration or repair of school facilities, the superintendent or designee shall not draft the bid specifications in a manner that:

1. Does not directly or indirectly limit bidding to any one specific concern;
2. Does not call 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 specifications 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.

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 or any of the following purposes:

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

Without advertising for bids and upon a determination that it is in the best interests 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.

Without advertising for bids, the Board may enter into an energy service contract and any related facility grounds 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.

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.

Perishable foodstuffs and seasonal commodities needed in the operations of cafeterias may be purchased through bid or on the open market.

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.

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.

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.

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