

Policy 3311: Bids

Status: Revised 10/15/25

Original Adopted Date: 3/9/94 | Last Revised Date: 3/10/10

The Governing Board is committed to promoting public accountability and ensuring prudent use of public funds. When leasing, purchasing, or contracting for equipment, materials, supplies, or services for the district, including when contracting for public projects involving district facilities, the Board shall explore lawful opportunities to obtain the greatest possible value for its expenditure of public funds. When required by law, or if the Board determines that it is in the best interest of the district, such contracts shall be made using competitive bidding.

No work, project, service, or purchase shall be split or separated into smaller work orders or projects for the purpose of evading legal requirements for competitive bidding. (Public Contract Code 20116)

The Superintendent or Assistant Superintendent Business Services shall establish comprehensive bidding procedures for the district in accordance with Government Code 54202, and that meet the requirements for bidding procedures specified in law. The procedures shall include a process for advertising bids, instructions and timelines for submitting and opening bids, and other relevant requirements.

Pursuant to Public Contract Code 20111.5, the district is permitted, but not required, to establish prequalification procedures for any contract for which bids are legally required; see "Prequalification Procedure" in the accompanying administrative regulation. However, pursuant to Public Contract Code 20111.6, a district with average daily attendance of 2,500 or greater is required to prequalify all general contractors and electrical, mechanical, and plumbing subcontractors for public projects of \$1,000,000 or more, when the project uses state general funds, School Facilities Program funds (Education Code 17070.10-17079.30), or uses or is reimbursed from future state school bonds. A model prequalification questionnaire is available on the Department of Industrial Relations' website.

For award of contracts which, by law or Board policy, require prequalification, the procedures shall identify a uniform system for rating bidders on the basis of a completed questionnaire and financial statements.

When calling for bids, the Superintendent or Assistant Superintendent Business Services shall ensure that the bid specifications clearly describe in appropriate detail the quality, delivery, service required, and include all information of which the district knows, or has in its possession, that is relevant to the work to be performed or that may impact the cost of performing the work.

Award of Contract

Pursuant to Public Contract Code 20111, a contract required to be put out to bid must be awarded to the lowest responsible bidder. As defined in Public Contract Code 1103, a "responsible bidder" is one who has demonstrated the attribute of trustworthiness and possesses the quality, fitness, capacity, and experience to satisfactorily perform the proposed work.

However, a bid may be awarded other than to only the lowest responsible bidder when conditions specified in law exist.

Additionally, pursuant to Public Contract Code 6102, a contract is voidable if entered into in violation of a state or federal crime relating to bribery of a public official, including, but not limited to, a violation of Penal Code 68 or 86. Contracts shall be let to the lowest responsible bidder who shall give such security as the Board requires, or else all bids shall be rejected. (Public Contract Code 20111)

However, the Board may let contracts to other than only the lowest responsible bidder 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. When the contract is for any transportation service which involves an expenditure of more than \$10,000 and which will be made with any person or corporation other than a common carrier, municipally owned transit system, or a parent/guardian of a student who is to be transported, in which case the Board may contract with other than the lowest bidder (Education Code 39802)

Pursuant to Public Contract Code 2000-2002, a district is permitted to establish bidding requirements that facilitate the participation of minority, women, disabled veterans, and small business enterprises in contracts. Though minorities and women are included in Public Contract Code 2000, Article 1, Section 31(a) of the California Constitution prohibits the granting of preferences based on race, sex, color, ethnicity, or national origin in state employment and contracting. It is recommended that the district consult CSBA's District and County Office of Education Legal Services or district legal counsel with questions about the granting of preferences to any such business.

3. When the contract is one for which the Board has established goals and requirements relating to participation of disabled veteran or small business enterprises in accordance with Public Contract Code 2000-2002, in which case the Board may contract with the lowest responsible bidder who submits a responsive bid and complies or makes a good faith effort to comply with the goals and requirements (Public Contract Code 20002002)
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

Districts may, in accordance with Education Code 17250.25, utilize the design-build method of construction delivery. The repeal of Education Code 17250.55, pursuant to SB 956 (Ch. 177, Statutes of 2024), has the effect of indefinitely extending the authorization for districts to use such method of construction delivery, which otherwise would have become inoperative January 1, 2025. Pursuant to Education Code 17250.15, "design-build" means a project delivery process in which both the design and construction of a project are procured from a single entity.

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 costs (Education Code 17250.20, 17250.25)

Pursuant to Education Code 17250.60-17250.69, the district may, until January 1, 2029, utilize alternative design-build contracts for public works projects in excess of \$5,000,000. Pursuant to Education Code 17250.60, "alternative design-build" means a project delivery process in which both the design and construction of a project are procured from a single design-build entity based on its proposed design cost, general conditions, overhead, and profit as a component of the project price.

A contract for an alternative design-build project must be awarded to either the low bidder or the best value, and is subject to further negotiation and amendment pursuant to Education Code 17250.65. Alternative design-build subcontracts are subject to an open book evaluation by the district and the district sets the price based on this open book evaluation. The alternative design-build contract may be subject to further negotiation or amendment, and if the district and the

design-build entity are unable to reach an agreement, the district may terminate the contract. A district that utilizes the alternative design-build procurement method is required to submit, by January 1, 2028, a report to the Legislature, as specified in Education Code 17250.67. See AR 3311.3 - Design-Build Contracts for more information specific to design-build and alternative design-build projects.

6. When procuring an alternative design-build contract for a public works project in excess of \$5,000,000 in accordance with Education Code 17250.62, in which case the Board may award the contract to either the low bid or the best value, taking into consideration, at a minimum, design cost, general conditions, overhead, and profit as a component of the project price; technical design and construction expertise; and life-cycle costs (Education Code 17250.61, 17250.62)

Protests by Bidders

If the bidder believes that the award is not in compliance with law, Board policy, administrative regulation, or the bid specification, the bidder may protest the award. A protest must be filed in writing with the Superintendent or Assistant Superintendent Business Services within five working days after receipt of notification of the contract award and shall include all documents supporting or justifying the protest. A bidder's failure to file the protested documents in a timely manner shall constitute a waiver of the right to protest the award of the contract.

The Superintendent or Assistant Superintendent Business Services shall review the documents submitted with the bidder's claims and render a decision in writing within 30 working days. The Superintendent or Assistant Superintendent Business Services may also convene a meeting with the bidder in order to attempt to resolve the problem.

Bids Not Required

Pursuant to Public Contract Code 20118, districts may be exempt from the bidding requirements and may "piggyback" onto the bid of any public corporation or agency for specific items when the Board determines it is in the best interest of the district.

The Attorney General opined, in 89 Ops.Cal.Atty.Gen. 1, 2006, that a district may not rely on the piggyback exception to contract for the acquisition and installation of factory-built modular building components (i.e., roofs and walls) for installation on a permanent foundation. This opinion does not clearly address whether the piggyback exception applies to typical portable or relocatable single-classroom buildings that lack a permanent foundation. However, in 2022 the State Allocation Board (SAB) notified districts that permanent modular school facilities must be competitively bid and districts that use piggyback contracts for permanent modular facilities are ineligible for state funding from SAB administered programs. It is recommended that districts considering using the piggyback process for modular facilities which are relocatable, portable, or temporary consult CSBA's District and County Office of Education Legal Services or district legal counsel.

When the Board has determined that it is in the best interest of the district, the district may piggyback onto the contract of another public agency or corporation to lease or purchase any personal property, including the lease of data-processing equipment or the purchase of 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. (Public Contract Code 20118)

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)

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 and meet the cost effectiveness requirements specified in Government Code 4217.12. 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 a cost and saving comparison finding specified in Government Code 4217.12. (Government Code 4217.12)

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 1102, 20113)

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
Bus. Code 7056	General engineering contractor
Bus. Code 7057	General building contractor
CA Constitution, Article 2, Section 31(a)	Prohibition of discrimination in operation of public education
Code of Civil Procedure 446	Verification of pleadings
Ed. Code 17070.10-17079.30	Leroy F. Greene School Facilities Act
Ed. Code 17250.10-17250.52	Design-build contracts
Ed. Code 17250.60-17250.69	Alternative design-build contracts
Ed. Code 17400	Leasing Property
Ed. Code 17406	Lease-leaseback contract
Ed. Code 17595	Purchase of supplies through Department of General Services
Ed. Code 17602	Purchase of surplus property from federal agencies
Ed. Code 38083	Purchase of perishable foodstuffs and seasonal commodities
Ed. Code 38110-38120	Apparatus and supplies
Ed. Code 39802	Transportation services
Gov. Code 4217.10-4217.18	Energy conservation contracts
Gov. Code 4330-4334	California made materials
Gov. Code 53060	Special services and advice
Gov. Code 54201-54205	Purchase of supplies and equipment by local agencies
Gov. Code 7920.530	Public record; definition
Pub. Cont. Code 1102	Emergency; definition
Pub. Cont. Code 1103	Responsible bidder; definition
Pub. Cont. Code 12200	Recycled goods, materials and supplies; definition
Pub. Cont. Code 2000-2002	Responsive bidders

	Description
State	
Pub. Cont. Code 20101-20103.7	Public construction projects; requirements for bidding
Pub. Cont. Code 20103.8	Award of contracts
Pub. Cont. Code 20110-20118.4	Local Agency Public Construction Act; school districts
Pub. Cont. Code 20189	Bidder's security; earthquake relief
Pub. Cont. Code 22000-22045	Uniform Public Construction Cost Accounting Act
Pub. Cont. Code 22152	Recycled product procurement
Pub. Cont. Code 3000-3010	Roofing projects
Pub. Cont. Code 3400	Bid specifications
Pub. Cont. Code 3410	U.S. produce and processed foods
Pub. Cont. Code 4113	Prime contractor; subcontractor
Pub. Cont. Code 6102	Bribery of public official; voidable contract
Pub. Cont. Code 6610	Bid visits
Management Resources	Description
Attorney General Opinion	89 Ops.Cal.Atty.Gen. 1 (2006)
CA Department of General Services Publication	Office of Public School Construction, Piggyback Contracts
	Office of Public School Construction Notification to School Districts
CA Department of General Services Publication	Regarding Use of Piggyback Contracts for SAB-Administered Programs, July 2022
CA Department of Industrial Relations Publication	Model Prequalification Questionnaire
	City of Inglewood-Los Angeles County Civic Center Authority v. Superior Court (1972) 7 Cal.3d 861
Court Decision	
	Great West Contractors Inc. v. Irvine Unified School District (2010) 187 Cal.App.4th 1425
Court Decision	
	Konica Business Machines v. Regents of the University of California (1988) 206 Cal.App.3d 449
Court Decision	
	Los Angeles Unified School District v. Great American Insurance Co. (2010) 49 Cal.4th 739
Court Decision	
	Marshall v. Pasadena Unified School District (2004) 119 Cal.App.4th 1241
Website	CSBA District and County Office of Education Legal Services
Website	California Department of General Services
Website	CSBA
Website	California Department of Education
Website	California Association of School Business Officials
Cross References	Description
0410	Nondiscrimination In District Programs And Activities
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1340	Access To District Records

	Description
1340	Access To District Records
3000	Concepts And Roles
Cross References	
3230	Federal Grant Funds
3230	Federal Grant Funds
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3300	Expenditures And Purchases
3311.1	Uniform Public Construction Cost Accounting Procedures
3311.1	Uniform Public Construction Cost Accounting Procedures
3311.2	Lease-Leaseback Contracts
3311.3	Design-Build Contracts
3311.4	Procurement Of Technological Equipment
3312	Contracts
3314	Payment For Goods And Services
3314	Payment For Goods And Services
3510	Green School Operations
3511	Energy And Water Management
3511	Energy And Water Management
3511.1	Integrated Waste Management
3511.1	Integrated Waste Management
3512	Equipment
3512-E(1)	Equipment
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
3540	Transportation
3551	Food Service Operations/Cafeteria Fund
3551	Food Service Operations/Cafeteria Fund
3580	District Records
3580	District Records
3600	Consultants
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
6161.1-E(1)	Selection And Evaluation Of Instructional Materials
6161.11	Supplementary Instructional Materials
6163.1	Library Media Centers
7000	Concepts And Roles
7140	Architectural And Engineering Services
7140	Architectural And Engineering Services

	Description
9270	<u>Conflict Of Interest</u>
9270-E(1)	<u>Conflict Of Interest</u>
9320	<u>Meetings And Notices</u>
9323.2	<u>Actions By The Board</u>
Cross References	
9323.2-E(1)	<u>Actions By The Board</u>