California Uniform Public Construction Cost Accounting Act

SAMPLE DOCUMENTS

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CASBO
San Diego-Imperial Section Purchasing Professional Council
April 4, 2013

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Topic:

Adoption of Resolution (2004-11)

Issue:

Public projects contracts that exceed $15,000 in cost have traditionally been awarded by the District through the formal bidding process as outlined in Public Contract Code Section 20111. However, another option exists for award of public projects by public agencies for expenditures up to $100,000. Public Contract Code Section 22001 provides for the development of cost accounting standards and an alternative method for the bidding of public projects by public entities. This alternative method is known as the “Uniform Public Construction Cost Accounting Act”. This is a completely voluntary method and an option for awarding these contracts. The only contracts that can be awarded under this Act are public projects and not maintenance work, as defined in Public Contract Code Section 22002. Election to participate in this program does not require that the formal bid process cannot be utilized for contracts up to $100,000. The District will evaluate each project to determine if it is cost effective and in the best interest of the District to follow the traditional bid process or the alternative process.

Plan:

The adoption of resolution (2004-11) will provide the necessary authorization for the District to notify the State Controller’s Office of the District's intent to participate and to enact an informal bidding ordinance to govern the selection of contractors to perform public projects. It will further provide authorization to waive the formal bid process, where applicable, for public projects up to $100,000.

Fiscal Impact:

There is no impact to the general fund in adopting this resolution. Where feasible, a cost savings of staff time will occur when the formal bid process does not have to be utilized for awarding of public projects.

Recommended Action:

Adoption of Resolution (2004-11) Authorizing Election Under Public Contract Code Section 22030 To Become Subject To Uniform Public Construction Cost Accounting Procedures; and Authorization for Superintendent or Designee to Execute Same

Originating Department:
Purchasing
Resolution No. 2004-11

RESOLUTION AUTHORIZING ELECTION UNDER )
PUBLIC CONTRACT CODE SECTION 22030 )
TO BECOME SUBJECT TO UNIFORM PUBLIC )
CONSTRUCTION COST ACCOUNTING PROCEDURES )

ON MOTION OF Member_____________________, seconded by Member_________________, the following resolution is adopted:

WHEREAS, prior to the passage of Assembly Bill No. 1666, Chap. 1054, Stats. 1983, which added Chapter 2, commencing with Section 22000, to Part 3 of Division 2 of the Public Contract Code, existing law did not provide a uniform cost accounting standard for construction work performed or contracted by local public agencies; and

WHEREAS, Public Contract Code Section 22000 et seq., the Uniform Public Construction Cost Accounting Act, establishes such a uniform cost accounting standard; and

WHEREAS, the Commission established under the Act has developed uniform public construction cost accounting procedures for implementation by local public agencies in the performance of or in the contracting for construction of public projects; and

WHEREAS, the Grossmont Union High School District desires to elect and become subject to Uniform Public Construction Cost Accounting Procedures for the purpose of awarding public project contracts as appropriate under these procedures; and

WHEREAS, the Grossmont Union High School District finds that utilizing the procedures outlined by the Uniform Public Construction Cost Accounting Act may save administrative time and expense and will be in the best interest of the District; and

NOW THEREFORE BE IT RESOLVED, ORDERED, AND DECLARED that this Board finds that utilizing the procedures outlined by the Uniform Public Construction Cost Accounting Act may save administrative time and expense and will be in the best interest of the District; and

BE IT FURTHER RESOLVED, ORDERED, AND DECLARED that the Governing Board of the Grossmont Union High School District hereby elects under Public Contract Code Section 22030 to become subject to the uniform public construction cost accounting procedures set forth in the Act and to the Commission’s policies and procedures manual and cost accounting review procedures, as they may each from time to time be amended, and directs that the Assistant Superintendent, Business Services, and the Director, Purchasing, notify the State Controller forthwith of this election.

PASSED AND ADOPTED by the Governing Board of the Grossmont Union High School District at El Cajon, California, on this 29th day of April, 2004, by the following vote:

AYES: ___________________________
NOES: __________________________
ABSENT: ________________________
ABSTAIN: _______________________
BP 3300

Note: Education Code 17605 authorizes the Board to adopt a rule delegating authority to purchase services and materials and prescribing time, money, and subject matter limits to this authority. The amount delegated may not be in excess of the amount specified in Public Contract Code 20111 and 22000 et seq. Pursuant to SB 429 (Ch. 897, Statutes of 1995), these limits are currently $45,000 for facilities projects and $50,000 for other expenditures. The amount shall escalate automatically based upon the annual adjustment by the Superintendent of Public Instruction. Expenditures over these amounts must be competitively bid; see 3311 - Bids. The district may revise the following paragraph to specify financial limits equal to or lower than amounts specified in law, and to specify time limits as desired.

The Superintendent or designee may purchase supplies, materials, equipment, and services up to the amounts specified in Public Contract Code 20111 and/or 22000 et seq., beyond which a competitive bidding process is required.

(cf. 3310 - Purchasing Procedures)

(cf. 3311 - Bids)

(cf. 3312 - Contracts)

The Superintendent or designee may authorize an expenditure which exceeds the budget classification allowance against which the expenditure is the proper charge only if an amount sufficient to cover the purchase is available in the budget for transfer by the Governing Board.

(cf. 3100 - Budget)

(cf. 3110 - Transfer of Funds)

All transactions entered into by the Superintendent or designee on behalf of the Board shall be reviewed by the Board every 60 days. (Education Code 17605)

No district funds shall be expended for the purchase of alcoholic beverages. (Education Code 32435)

The Board shall not recognize obligations incurred contrary to Board policy and administrative regulations.

Note: Education Code 17605 states that the district officer invested by the Board with the power to contract is personally liable for all district funds paid out as a result of malfeasance of office.

Legal Reference:

EDUCATION CODE

17604 Delegation of powers to agents; liability of agents
17605 Delegation of authority to purchase supplies and equipment
32435 Prohibited use of public funds
Policy GROSSMONT UNION HIGH SCHOOL DISTRICT

Adopted: September 4, 1997 La Mesa, California
Revised: October 11, 2012
Grossmont Union High

Administrative Regulation

AR 3311

Business and Noninstructional Operations

Bids

The district has adopted the California Uniform Public Construction Cost Account Act procedures under Public Contract Code 22000 et. seq.

Informal Bids:

Public projects, as defined by the Act and in accordance with the limits listed in Section 22032 of the Public Contract Code, may be let to contract by informal procedures as set forth in Section 22032, et seq., of the Public Contract Code.

Contractors List:

A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission

Advertised Bids

The district shall seek competitive bids through advertisement for contracts involving an expenditure of greater than $175,000 for a public project, informally bid contracts involving an expenditure of less than $175,000, and seek quotes, when feasible, for projects involving an expenditure of $30,000 or less.

"Public project" includes construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition and repair work involving a district owned, leased or operated facility. (Public Contract Code 22002)

Competitive bids shall be sought through advertisement for contracts exceeding $50,000, for the following: (Public Contract Code 20111; Government Code 53060). The amount by which contracts shall be competitively bid shall escalate automatically based upon the annual adjustment by the Superintendent of Public Instruction.

1. The purchase of equipment, material or supplies to be furnished, sold or leased to the district

2. Services, not including construction services, or special services and advice such as accounting, financial, legal or administrative matters

3. Repairs, including maintenance that is not a public project
"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. This definition does not include, among other types of work, janitorial or custodial services and protection provided by security forces, nor does it include painting, repainting or decorating other than touchup. (Public Contract Code 20115)

Unless otherwise authorized by law, contracts shall be let to the lowest responsible bidder who shall give such security as the Governing Board requires, or else all bids shall be rejected. (Public Contract Code 20111)

When letting a contract for the procurement and/or maintenance of electronic data processing systems and supporting software, the Board may contract with any one of the three lowest responsible bidders. (Public Contract Code 20118.1)

The Board shall secure bids pursuant to Public Contract Code 20111 and 20112 for any transportation service expenditure of more than $10,000 when contemplating that such a contract 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. The Board may let this contract to other than the lowest bidder. (Education Code 39802)

No work, project, service or purchase shall be split or separated into smaller work orders or projects for the purpose of evading the legal requirements of Public Contract Code 20111-20118.4 for contracting after competitive bidding. (Public Contract Code 20116)

Instructions and Procedures for Advertised Bids

The Superintendent or designee shall call for bids by advertising in a local newspaper of general circulation published in the district, circulated in the county, or if no such paper exists then in some newspaper of general circulation, at least once a week for two weeks. The notice shall state the work to be done or materials or supplies to be furnished and the time and place where bids will be opened. (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 final plan and specifications, are available. Any such mandatory visit or meeting shall not occur within a minimum of five calendar days of the publication of the initial notice. (Public Contract Code 6610)

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

1. Recycled Content and Recycled Products (Public Contract Code 22150 et seq.)

   a. All bidders, including bidders for printing contracts, shall specify the minimum, if not exact, percentage of recycled product in the paper products offered, and both the postconsumer and secondary waste content.
b. Fitness and quality being equal, the District shall purchase recycled products whenever available at no more than the total cost of non-recycled products.

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, in no event any later than 60 days after the bid is awarded. (Public Contract Code 20111)

2. 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)

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

4. 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, depending on the availability of funds, 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, will be used: (Public Contract Code 20103.8)

   a. The lowest bid shall be the lowest bid price 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 the lowest total of the bid prices on the base contract and those additive or deductive items taken in order from a specifically identified list of those items, depending on available funds as identified in the solicitation.
   
   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 public entity before the ranking of all bidders from lowest to highest has been determined.

5. Any subsequent change or alteration of a contract shall be governed by the provisions of Public Contract Code 20118.4.
6. After being opened, all submitted bids become public records pursuant to Government Code 6252 and shall be made available for review pursuant to law, Board policy, and administrative regulation.

(cf. 1340 - Access to District Records)

Bids Not Required

Upon a determination that it is in the best interest of the district, the Board may authorize the purchase, lease or contract for data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors and other personal property through a public corporation or agency ("piggyback") without advertising for bids. (Public Contract Code 20118)

(cf. 3310 - Purchasing Procedures)

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 commodities such as foodstuffs may be purchased through bid or on the open market, depending on district preference. (Education Code 38083)

(cf. 3551 - Food Service Operations/Cafeteria Fund)

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, by unanimous vote and with the approval of the County Superintendent of Schools, may contract for labor and materials or supplies without advertising for or inviting bids. (Public Contract Code 20113)

(cf. 9323.2 - Actions by the Board)

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

Public projects of thirty thousand dollars ($30,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order. (Public Contract Code 22032)

1. School building repairs, alterations, additions

2. Painting, repainting or decorating of school buildings

3. Repair or building of apparatus or equipment

4. Improvements on school grounds

5. Maintenance work as defined above
Sole Sourcing Brand Names

Specifications for contracts for construction, alteration or repair of school facilities may not limit bidding to any one product or supplier. Specifications designating a particular brand name shall list at least two brands of comparable quality or utility and follow the description with the words “or equal.” (Public Contract Code 3400)

Specifications for contracts may designate a product by brand or trade name (sole sourcing) when one or more of the following conditions apply: (Public Contract Code 3400)

1. The product is designated to match others in use on a particular public improvement that has been completed or is in the course of completion.

2. One product has a unique application required to be used in the public interest.

3. Only one brand or trade name is known (Sole Source).

4. Upon resolution of the Board, the The Board or its designee makes a finding that the item sought is the subject of a field test to determine its suitability for future use.

5. In order to respond to an emergency declared by a local agency and approved by a four-fifths vote of the Governing Board issuing the bid or request for proposals.

Prequalification Procedure

For any contract for which bids are legally required, the Board may require that each prospective bidder complete and submit a standardized questionnaire and financial statement. For this purpose, the Superintendent or designee shall supply a form which requires a complete statement of the bidder’s financial ability and experience in performing public works. Prospective bidders shall submit the questionnaire and financial statement at least fourteen (14) days before the date fixed for public opening of sealed bids. The 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. (Public Contract Code 20111.5)

The Superintendent or designee shall establish a uniform system for rating bidders on the basis of completed questionnaires and financial statements in order to determine the size of contracts on which each bidder is qualified to bid. Bidders must be deemed prequalified by the district at least one day before the fixed bid-opening date. (Public Contract Code 20111.5)

The Superintendent or designee shall furnish each qualified bidder with a standardized proposal form. Bids not presented on the standard form shall be disregarded. (Public Contract Code 20111.5)

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. (Public Contract Code 20111.5)
Appeal Procedures

Contractors will be allowed to appeal a negative pre-qualification determination in accordance with California Public Contract Code §20101.d. There is no appeal from a refusal for an incomplete or late application. Without a timely appeal, the Contractor waives any and all rights to challenge the decision of the District, whether by administrative process, judicial process or any other legal process or proceeding.

In conjunction with this Pre-Qualification Policy, the District hereby establishes a Bidder Pre-Qualification Appeals Panel (“Appeals Panel”), consisting of the following three members, or their designee(s):

The District’s Executive Director Facilities Management
The District’s Director of Purchasing
A member of an outside agency.

The sole issue before the Appeals Panel shall be the scoring of a Contractor. The decision of the Appeals Panel shall be the District’s final administrative decision.

The date for submission and opening of bids for a specific project will not be delayed or postponed to allow for completion of an appeal process.

Process:

1) Prior to disqualifying a contractor, the District shall serve written notice on the contractor:
   a. Setting forth the reasons for the disqualification.
   b. Indicating that the contractor will be afforded an opportunity to appeal the disqualification as outlined below. Effective notice shall be accomplished by certified mail, return receipt requested, to the last known address of the contractor, or the contractor's agent for service of process, or any of its principal officers, partners, owners or affiliated.

2) The contractor shall submit his appeal in writing with the Executive Director Facilities Management no later than 4:00 p.m. of the FIFTH business day following the day on which the notice of rejection was mailed to the contractor.

3) The District shall act upon properly filed requests within ten calendar days from the date of receipt of such request. If, after review, the District again rejects the contractor's application, the contractor may request an administrative hearing with the panel.

4) At the hearing, the contractor may present oral testimony concerning the contractor's capability and responsibility. The District shall notify the contractor of his decision within five business days following the hearing. The decision of the panel is final.

5) A contractor, who is denied prequalification, shall be disqualified in the same type of work or category of value for a period of one year thereafter.

Protests by Bidders

A bidder may protest a bid award if he/she believes that the award was inconsistent with Board policy or the bid’s specifications or was not in compliance with law.
A protest must be filed in writing with the Superintendent or designee within five business days after opening of bids. The bidder shall submit all documents supporting or justifying the protest. A bidder’s failure to timely file a protest shall constitute a waiver of his/her right to protest the award of the contract.

Any bidder submitting a Bid Proposal may file a protest of the District’s intent to award the Contract provided that each and all of the following conditions are met:

1. The protest must be submitted in writing to the District (e-mail is not acceptable), before 4 p.m. of the FIFTH business day following bid opening.
2. The initial protest document must contain a complete statement of any and all bases for the 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.
3. The protest must refer to the specific portions of all documents which form the bases for the protest.
4. The protest must include the name, address and telephone number of the person representing the protesting party.
5. Any bid protest not conforming to the foregoing shall be rejected by the District as invalid. Provided that a bid protest is filed in strict conformity with the foregoing, the District’s Deputy Superintendent, Business Services, or such individual(s) as may be designated by him/her, shall review and evaluate the basis of the bid protest. Either the District’s Deputy Superintendent, Business Services or other individual designated by him/her shall provide the bidder submitting the bid protest with a written statement concurring with or denying the bid protest. The District’s Governing Board will render a final determination and disposition of a bid protest by taking action to adopt, modify or reject the disposition of a bid award as reflected in the written statement of the Deputy Superintendent, Business Services or his/her designee. Action by the District’s Governing Board relative to a bid award shall be final and not subject to appeal or reconsideration by the District, any employee or officer of the District or the District’s Governing Board. The rendition of a written statement by the Deputy Superintendent, Business Services (or his/her designee) and action by the District’s Governing Board to adopt, modify or reject the disposition of the bid award reflected in such written statement shall be express conditions precedent to the institution of any legal or equitable proceedings relative to the bidding process, the District’s intent to award the Contract, the District’s disposition of any bid protest or the District’s decision to reject all Bid Proposals.
6. The procedure and time limits set forth in this paragraph are mandatory and are the Bidder's sole and exclusive remedy in the event of bid protest. Failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code Claim or legal proceedings.

Regulation GROSSMONT UNION HIGH SCHOOL DISTRICT

Approved: January 1, 2001 La Mesa, California
Revised: May 20, 2011
CONTRACTOR REGISTRATION APPLICATION
California Uniform Public Construction Cost Accounting Act

The Grossmont Union High School District has elected to become subject to the California Uniform Public Construction Cost Accounting Procedures. The District is inviting all licensed contractors to submit information for inclusion on the District's list of qualified bidders for the 2012 calendar year.

This notice requires contractors to provide the following information:
1) Company name
2) Contact name and mailing address
3) Contact phone number, fax number, and email address
4) Type of work contractor is interested in performing
5) Type of work contractor is licensed to perform
6) Contractor's license class and number

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Phone No.</th>
<th>Fax No.</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Address</th>
<th>Contact Name:</th>
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<tbody>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>City, State, Zip</th>
<th>Email Address</th>
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</thead>
<tbody>
<tr>
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</table>

<table>
<thead>
<tr>
<th>Type of Work</th>
<th>License Classification(s)</th>
<th>License No.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Information should be sent to:

Guiselle Carreon, Director of Purchasing
Grossmont Union High School District
PO Box 1043, La Mesa, CA 91944-1043
Fax: 619-460-0963
E-mail: gcarreon@sdcoe.net

Questions? Call Guiselle at 619-644-8051

The Grossmont Union High School District may create a new contractors list effective January 1st of each year and may include any contractor's name it desires on the contractors list, but must include, at a minimum, all contractors who have properly provided the School District with the required information, either during the calendar year in which the list is valid or during November or December of the prior year. The list will automatically include all contractors who submitted one or more bids to the School District during the preceding year. A contractor may have their firm added to the School District's contractors list at any time by providing the required information.
Sample Completed Force Account Worksheet:

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<thead>
<tr>
<th>Description</th>
<th>Date</th>
<th>Reference</th>
<th>Labor &amp; Overhead</th>
<th>Materials, Supplies &amp; Subcontracts</th>
<th>Equipment</th>
<th>Total Cost</th>
<th>Total Estimate</th>
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<td>5,956</td>
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<td>Carpeting</td>
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<td>1,500</td>
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<td>Drywall</td>
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<td>102</td>
</tr>
</tbody>
</table>

1 Amount was rounded to the nearest whole dollar.

- Labor is calculated based on the employees hourly rate at x's 1 for straight time, x's 1.5 for overtime, x's 2 for Sundays (7th day) and holidays.
- Materials are charged at direct cost.
- Inventory items from warehouse are to be costed out based on weighted average. Because of the nature of public purchasing, it is easier to direct purchase materials and supplies for a Force Account project.
- Equipment cost accounting is more complex. Please refer to the manual for an example of how to calculate hourly rates.
- Overhead for school districts is 30% at this time.