

## **AP 6345 BIDS AND CONTRACTS – UPCCAA (ALTERNATIVE BID PROCEDURES (ALSO REFERRED TO AS “INFORMAL BIDS”))**

### **References:**

Labor Code Sections 1770 et seq.; Public Contract Code Sections 22000 et seq. (Uniform Public Construction Cost Accounting Act (Act))

**NOTE:** *Procedures for competitive bidding and contracting by public agencies are **governed by statute**. Local practice may be inserted only to the extent it does not conflict with statutory mandates. The District has, by proper resolution and notification to the Controller, adopted the Act, and may therefore use the informal bid procedures described in detail in Public Contract Code Sections 22000 et seq.*

### **UPCCAA Contracts Allowed Per PCC § 22032:**

- (a) Public projects of sixty thousand dollars (\$60,000) or less shall be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.
- (b) Public projects of two hundred thousand dollars (\$200,000) or less shall be let to contract by informal procedures as set forth in this article.
- (c) Public projects of more than two hundred thousand dollars (\$200,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

### **UPCCAA May be Used for Public Projects, Maintenance Work and Any Other Work**

Public Project is defined in PCC § 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. While maintenance work is expressly excluded in the “public project” definition, PCC § 22002(d), Section 22003 authorizes public agencies to utilize these bidding procedures “when contracting for ‘maintenance work,’ as defined in Section 22002.

**NOTE:** *It is unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the competitive bidding provisions. (PCC §22033)*

### **PCC § 22032(a) Contracts of \$60,000 or Less**

- No notice or competitive bid process is required - Work may be performed by District employees by force account, negotiated contract or purchase order.
- Prequalification of contractors not required
- Contract cannot exceed \$60,000.

## UPCCAA BIDDING PROCEDURES FOR INFORMAL AND FORMAL BIDS

### PCC § 22032(b) Contracts of \$200,000 or Less (Informal Bids)

- **Qualified Contractors.** District shall maintain a list of qualified contractors, identified according to categories of work. (§22034) The California Uniform Construction Cost Accounting Commission has developed and maintains minimum criteria for contractor prequalification. The District may, however, establish additional contractor qualification criteria.
- **Notice to Contractors.** Notice Inviting Informal Bids shall describe the project, in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids. (§22034(b))
  - Not less than ten (10) calendar days before bids are due, the District shall mail, fax or e-mail a notice inviting informal bids to all contractors on the list for the category of work being bid. (§ 22033(a)(1)).
  - The District may also elect to mail, fax or e-mail a notice of inviting informal bids to all construction trade journals specified by the Commission not less than ten (10) calendar days before bids are due. (§ 22033(a)(2)).
- **CEO Authority to Award Contracts.** The Board of Trustees has delegated to the CEO the authority to award and enter into contracts on behalf of the District; Contracts are not enforceable obligations until they are approved or ratified by the Board. (BP 6340)
  - If all bids received are in excess of \$200,000, the Board may, by adoption of resolution by a 4/5th vote determining that the District's estimate was reasonable, award the contract at \$212,500 or less to the lowest responsible bidder. (PCC § 22034(d)).

### PCC § 22032(c) Contracts More than \$200,000 (Formal Bids)

- **Notice to Contractors.** Notice Inviting Informal Bids shall describe the project, in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids. (§22037)
  - The Notice shall be published at least fourteen (14) calendar days before the date for bid opening in a newspaper of general circulation.
  - The Notice shall also be sent electronically (by fax or e-mail) and mailed to all construction trade journals specified by the Commission on a county-by-county basis not less than fifteen (15) calendar days before bids are due. (§ 22037).
  - The District may give such other notice as it deems proper.
- **Use District's Bid and Contract Documents prepared per PCC § 20651.**
- **Contract must be awarded by Board.**

### **Informal Bids and Formal Bids (under UPCCAA) Award of Contract; Rejection of Bids; No Bids.**

- All contracts must be awarded to the lowest responsible bidders. If two or more bids are the same and lowest, the District may accept the one it chooses.
- If no bids are received, the District may perform project with District employees or through a negotiated contract without further complying with this procedure. (PCC § 22038(c))
- The Board may reject all bids, if prior to rejecting all bids and declaring that the project can be more economically performed, the District furnishes a written notice to the apparent low bidder informing the bidder of the District's intention to reject all bids. The written notice shall be mailed at least two business days prior the hearing at which the District intends to reject the bids. (PCC § 22038)(a)) The District shall after, the Board's rejection of the bids, have the option to: (1) abandon the project or readvertise for bids in the manner described in § 22000, et seq.; or (2) by passage of a resolution by 4/5<sup>th</sup> vote declare that the project can be performed more economically by employees of the District and have the project done by force account without compliance with § 22000.

### **Other Statutory and Administrative Contract Requirements are Not Affected by UPCCAA Competitive Bidding Procedures.**

#### **Emergency Procedures per PCC § 22035**

In the event of an emergency and upon a four-fifths vote of the Governing Board, the District's Assistant Superintendent, Vice President, Facilities Planning, Operations & Construction is delegated authority under Public Contract Code 22050 to take directly related and immediate action required by the emergency to repair or replace a public facility without advertising for, or taking, bids. In such event, the Assistant Superintendent, Vice President, Facilities Planning, Operations & Construction shall report to the Governing Board in accordance with Public Contract Code 22050(c)(2) until the emergency action is completed.

**Revised 1-28-19**

**See Board Policy 6600**