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Owner: *Business & Fiscal Services*
Business & Fiscal Services
Policy Area: *Chapter 6 General Institution*
References: *Legally Required*

AP 6340 Bids and Contracts

GENERAL CONTRACT PROCEDURES

General contract procedures (parts A through G) are applicable to all types of contracts and agreements – including contracts for goods and non-professional services, professional services, and construction and public works projects.

A. Authority to Contract

The authority to sign and execute contracts on behalf of the District is vested in the Board of Trustees. The Board delegates authority to sign and execute contracts less than the formal bid limits set in Public Contract Code, to the named agents on the authorized signature list. The authority to contract includes the amendments, extensions or addendums. Contracts and/or agreements signed by any individual other than those authorized by the Board are not valid or binding on SBCCD. All contracts are between the San Bernardino Community College District and the contracting agency. Individual colleges, programs or departments may not directly enter into a contract or agreement.

B. Board Approval

The following contracts require approval by the Board of Trustees to constitute an enforceable agreement:

- Any contract to procure goods or services (excluding construction and public works) which meets or exceeds the formal bid limit set annually by the Board of Governors. The formal bid limit for the current year is published on the Business Services webpage.
- Any contract for construction or public works project which is over the formal bid limit for public works projects.

Contracts under the formal bid limits require approval by one of the authorized district officers, and does not require approval by the Board to be legally enforceable.

C. Contract Review

All contracts are reviewed and processed by Business Services. All contracts are subject to the requirements of federal and state codes and regulations. Contracts may require additional legal review. Review procedures must be completed before any contract is executed by an authorized signatory. Any unauthorized individual who signs a contract or agreement will be personally responsible for the value of the contract.

D. Supporting Documentation

Contracts submitted for consideration should be accompanied by a purchase requisition if appropriate. Contracts for construction, transportation, or large scale maintenance may require a certificate of liability insurance, certificate of Workers' Compensation coverage, permits, licenses, or bonds.

E. Contract Format/Negotiations

Business Services can provide assistance in developing a contract. Contracts must be prepared with great care and protect SBCCD in its dealings. Some contracts require negotiations as to the terms and conditions of the contract between SBCCD and the contracting agency. Many vendors use their own contract format that is always subject to review and/or modification by either party prior to execution.

F. Subsequent Changes to Contracts

Any change or alteration of a contract will be done in writing and the cost agreed upon between SBCCD and the contractor. SBCCD may authorize the contractor to proceed with performance of the change or alteration without the formality of securing bids, if the cost so agreed upon does not exceed the greater of the amount specified in Public Contract Code Section 20651 or 20655, whichever is applicable to the original contract, or ten percent (10%) of the original contract price.

G. Duration of Continuing Contracts for Services and Supplies

Continuing contracts for work or services furnished to SBCCD are not to exceed five (5) years. Contracts for materials and supplies are not to exceed three (3) years.

BID REQUIREMENTS – GOODS & NON-PROFESSIONAL SERVICES

I. Applicable Contracts

The bidding requirements in **Section I** to **IX** of this Administrative Procedure are only applicable to contracts for goods and non-professional services. This includes:

- (i.) Equipment, materials, or supplies to be furnished, sold, or leased to SBCCD;
- (ii.) Services (excluding construction services, professional services, insurance services, and work done by day labor or by force account pursuant to PCC Section 20655); and
- (iii.) Repairs, including maintenance as defined in PCC Section 20656, that are not public projects as defined in PCC Section 22002(c).

II. Bid Limits

If a contemplated expenditure is less than the formal bid limit set annually by the Board of Governors, please refer the purchasing procedures in **AP 6330** titled **Purchasing**.

If a contemplated expenditure meets or exceeds the formal bid limit set annually by the Board of Governors, a formal bid, request for proposal, or other formal solicitation process must be utilized.

NOTE: *The formal bid limit is annually adjusted by the Board of Governors as required by PCC Section 20651(d);*

III. Bid Specifications

Bid specifications shall include a definite, complete statement of what is required and, insofar as practical, shall include pertinent details of size, composition, construction, and/or texture of what is specified, and minimum standards of efficiency, durability, and/or utility required of what is specified.

IV. Notice Calling for Formal Advertised Bids

Pursuant to PCC Section 20112, SBCCD shall publish at least once a week for two weeks in a newspaper of general circulation published within SBCCD or if there is no such paper, then in some newspaper of general circulation, circulated in the county, and may post on SBCCD's web site or through an electronic portal, a notice calling for bids or proposals, stating the work to be done or materials or supplies to be furnished and the time and place when bids will be opened. Whether or not bids are opened exactly at the time fixed in the public notice for opening bids, a bid shall not be received after that time. SBCCD may accept a bid that was submitted either electronically or on paper.

Bid and contract forms shall be prepared and maintained by Business Services. All applicable statutory provisions and board policies shall be observed in preparation of the forms.

Business Services shall be responsible for insuring that the bid specifications are sufficiently broad to encourage and promote open competitive bidding.

All bid notices for work to be done shall contain an affirmative statement requiring compliance with Labor Code Sections 1775 and 1776 governing payment of prevailing wages and Labor Code Section 1777.5 governing employment of apprentices. All bid submissions shall contain all documents necessary to assure compliance with these California Labor Code Sections. Failure to provide such documentation shall cause any such bid to be deemed incomplete.

When required or determined to be appropriate, bids shall be accompanied by a certified or cashier's check, or bid bond, in the amount specified in the bid form, as a guarantee that the bidder will enter into contract and furnish the required contract bonds. When no longer required for the protection of SBCCD, any certified or cashier's check received shall be returned to the respective bidder.

Business Services shall make available to the prospective bidders bid forms with sets of specifications and drawings and shall provide a convenient place where bidders, subcontractors, and material personnel may examine the specifications and drawings.

Business Services shall provide an electronic copy of the plans and specifications and other contract documents to a contractor plan room service at no charge upon request from that contractor plan room. When permitted, a deposit for sets of plans and specifications may be required and may be refunded when such documents are returned.

V. **Awarding of Bids and Contracts**

The awarding of bids and contracts shall be subject to the following conditions:

- Any and all bids and contract proposals may be rejected by SBCCD.
- All bids shall be opened publicly and bidder shall be given the opportunity to make record of the bids received.
- Solicitations using a Request for Proposal (RFP), Request for Qualifications (RFQ), and Request for Information (RFI) are based on best value and not based solely on lowest priced proposal.
- When formal bidding is required, the award of bid shall be presented to the Board along with a tabulation of the bids received in reasonable detail.
- Bid and contract awards shall be made to the lowest responsible bidder substantially meeting the requirements of the specifications. SBCCD reserves the right to make its selection of materials or services purchased based on its best judgment as to which bid substantially complies with the quality required by the specifications.
- For the purposes of bid evaluation and selection when the District determines that it can expect long-term savings through the use of life-cycle cost methodology, the use of more sustainable goods and materials, and reduced administrative costs, the District may provide for the selection of the lowest responsible bidder on the basis of best value pursuant to policies and procedures adopted by the governing board in accordance with this section.
- "Best value" means the most advantageous balance of price, quality, service, performance, and other elements, as defined by the Board of Trustees, achieved through methods in accordance with this section and determined by objective performance criteria that may include price, features, long-term functionality, life-cycle costs, overall sustainability, and required services.
- Conflict of Interest. Board members and employees of SBCCD are prohibited from participating in the bid evaluation and selection process if he or she has a relationship with or financial interest in any of the bidders. When a Bid Evaluation & Selection Committee is established, all members of the committee will be required to complete a disclosure form prior to participation in the bid evaluation and selection process. The Business Manager will collect and review all disclosure forms for potential conflicts of interest.

VI. Purchase without Advertising for Bids

The Business Manager is authorized to make purchases from firms holding public agency contracts without calling for bids where it appears advantageous to do so. The Business Manager may, without advertising for bids, purchase or lease from other public agencies materials or services by authorization of contract or purchase order. The Business Manager may make purchases through the State of California Cooperative Purchasing Program operated by the Department of General Services, California Multiple Award Schedule (CMAS), Western States Contracting Alliance (WSCA) with California endorsement, Foundation for California Community Colleges (FCCC) and other approved purchasing cooperatives, for goods and services as listed in the approved agreements.

VII. Emergency Repair Contracts without Bid

When emergency repairs or alterations are necessary to continue existing classes or to avoid danger of life or property, the Business Manager may make a contract on behalf of SBCCD for labor, materials and supplies without advertising for or inviting bids, subject to ratification by the Board.

VIII. Unlawful to Split Bids

Pursuant to PCC Section 20657, it shall be unlawful to split or separate into smaller work orders, purchase orders, contracts, or projects any work, project, service, or purchase for the purpose of evading the provisions of the Public Contract Code requiring work to be done by contract after competitive bidding.

IX. Employees as Independent Contractors

An individual cannot be both an SBCCD employee and an independent contractor with SBCCD at the same time unless it can be clearly demonstrated that the work being performed as an independent contractor has no relationship to work being performed as an employee of SBCCD and such work cannot be construed as falling within the broad definition of the individual's job description or classification as an employee. Any SBCCD employee engaged as an independent contractor is considered an "employee" for payroll purposes and payment for services is subject to appropriate tax withholding.

References: Education Code Sections 88003.1, 81641 et seq.;

Government Code Section 53060;

Public Contract Code Sections 20103.7, 20112, 20650 et seq., and 22000 et seq.;

Labor Code Sections 1770 et seq.

ACCJC Accreditation Standard III.D.16

Approved: 3/17/11	
Revised:	

Attachments

- [AP 6340 Bids & Contracts.docx](#)
- [AP 6340 Bids and Contracts - Comments](#)
- [AP 6340 Bids and Contracts - Legal Citations](#)



Approval Signatures

Step Description	Approver	Date
	Stacey Nikac: Administrator	07/2018
	Stacey Nikac: Administrator	07/2018
	Stacey Nikac: Administrator	07/2018
	Stacey Nikac: Administrator	07/2018
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