

**Mountain View Whisman School District
Business and Noninstructional Operations
Administrative Regulation No. 3311, Bids
Regulation Revised: November 7, 2024**

**Bids
Advertised/Competitive Bids**

The district shall seek competitive bids through advertisement for any of the following: (Public Contract Code 20111)

1. A public project contract that currently involves an expenditure of \$15,000 or more and as that amount may be changed by the legislature in the future. 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 20111, 22002)

2. A contract that exceeds the amount specified in law, and as annually adjusted by the Superintendent of Public Instruction, for any of the following: (Public Contract Code 20111)

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. (Public Contract Code 20115)

Pursuant to Public Contract Code 20111, a contract required to be put out to bid must be awarded to the responsible bidder submitting the lowest responsive bid. A responsible bidder possesses the quality, fitness and capacity to satisfactorily perform the proposed work. A responsive bid conforms to the district's specification. Before determining a bidder is not responsible or a bid is not responsive, legal counsel should be consulted, as appropriate.

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 paper newspaper exists then in some newspaper that is circulated in the county. The Superintendent or designee also may post the notice on the district's website or through an electronic portal. The notice shall state the work to be done or materials or supplies to be furnished and the time, place and website 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 and details when and where project documents, including final plans and specifications, are available. Any such mandatory visit or meeting shall not occur not less than five calendar days after the publication of the initial notice. (Public Contract Code 6610)

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

1. All bidders shall certify in writing the minimum, if not exact, percentage of post consumer materials in the products, materials, goods or supplies offered or sold. (Public Contract Code 22152)

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. (Public Contract Code 20111, 20112)

3. The bid shall be accompanied by a form of bidder's security, including either cash, a cashier's check 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. The security of unsuccessful bidders shall be returned in a reasonable period of time, but in no event later than 60 days after the bid is awarded. (Public Contract Code 20111, 20112)

4. When a standardized proposal form is provided by the district, bids not presented on the standard form shall be disregarded. (Public Contract Code 20111.5)

5. 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)

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

7. 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 #7a, below, shall be used: (Public Contract Code 20103.8)

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.

d. 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. (Public Contract Code 20103.8)

8. 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 determination.

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.

9. After being opened, all submitted bids become public records pursuant to Government Code 7920.000, et seq., 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 questionnaires and financial statements in order to determine the size of contracts on which each bidder is qualified to bid. The Board shall approve that system. For this purpose, the Superintendent or designee shall furnish prospective bidders a standardized prequalification questionnaire and financial record which, when completed, shall indicate bidder's 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. (Code of Civil Procedure 446; Public Contract Code 20111.5, 20111.6)

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. The prequalification shall be valid for one year and the following requirements shall apply: (Education Code 17406, 17407; Public Contract Code 20111.6)

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 as required by Public Contract Code 20111.6.

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 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)

3. These provisions and the processes in this Administrative Regulation are not required for procurements under the lease-leaseback provisions in Education Code 17406, the design-build provisions in Education Codes 17250.10 and 17250.20, the energy services provisions in Government Code 4217.10, or other statutory or common-law methods of procurement, allowable to California public school districts for the purchase of goods and services.

Protests by Bidders

Any bid protest by a bidder regarding any a bid must be submitted in writing to the district, as indicated in the bid documents and, if no time frame or process is indicated, then within three (3) business days of the bid opening and pursuant to the following requirements.

1. A bidder may protest a bid award if he/she believes that the award is not in compliance with law, Board policy, or the bid specifications.

2. The protest must contain a complete statement of any and all bases for the protest.

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. The party filing the protest must concurrently transmit a copy of the protest and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other bidders or proposers who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.

Limitations on Sole Sourcing

In any contract for the construction, alteration, or repair of school facilities, the Superintendent or designee shall ensure the bid specifications: (Public Contract Code 3002, 3400)

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 specification 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.

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. (Public Contract Code 3002)

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 request for proposals (RFP), that a particular material, product, thing, or service is designated for any of the following purposes: (Public Contract Code 3400)

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

Bids are not required if an exception is authorized by statute and law, including, but not limited to, the below:

If the Board has acted to have the District follow the California Uniform Public Construction Cost Accounting Act, projects currently of \$60,000 or less, and as that amount may be changed by the legislature in the future, may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order under CUPCCA. (Public Contract Code 22032)

Without advertising for bids and upon a determination that it is in the best interest of the district, the Board may authorize another public corporation or agency by contract, lease, requisition, or purchase order, another public corporation or agency 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") (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 by contract, lease, requisition, or purchase order 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 4217.10, et seq. 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 and savings comparison findings specified in Government Code 4217.12. (Government Code 4217.12)

Upon a finding by the Board that a particular procurement is for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, and not a contract for construction or for the procurement of any product that is available in substantial quantities to the general public, through a competitive negotiation process which shall comply with the requirements of Public Contract Code 20118.2, including, without limitation, publishing the notice of the request for proposals at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals

(Public Contract Code 20118.2)

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 foodstuffs and seasonal commodities needed in the operations of cafeterias may be purchased through bid or on the open market. (Education Code 38083)

Unless the District has chosen to follow the CUPCCAA program (which has different force account requirements), Bids shall not be required for force account/day labor under circumstances specified in Public Contract Code 20114. Day labor shall include the use of district personnel employed on a permanent or temporary basis. (Public Contract Code 20114)

Unless the District has chosen to follow the CUPCCAA program (which has different emergency requirements), 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, may 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)

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. (Education Code 17602)

Purchase of items may be negotiated for by price list, telephone, written or verbal quotes when the cost of items is below legal bid requirements.

Any subsequent change or alteration of a contract governed Education Code 17595-17606 shall be governed by the provisions of Public Contract Code 20118.4.

Uniform Public Construction Cost Accounting Procedures

Procedures for awarding contracts for public works projects through CUPCCAA shall be subject to the cost accounting procedures established by CUPCCAA and awarded on the basis of the amount of the project, as follows:

1. Public projects of \$60,000 or less may be performed by district employees by force account, negotiated contract, or purchase order. (Public Contract Code 22032)
2. Contracts for public projects of \$200,000 or less may be awarded through the informal bidding procedures set forth in CUPCCAA. (Public Contract Code 22032, 22034, 22038)
3. Public projects of more than \$200,000 shall, except as otherwise provided by law, be

subject to formal bidding procedures. (Public Contract Code 22032, 22037, 22038)

The monetary thresholds for CUPCAA are increased by the Legislature as recommended by the California Uniform Construction Cost Accounting Commission (Commission) through the State Controller.

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 Commission.

Purchasing Processes and Procedures for Services, Equipment, Materials and Supplies

Purchasing processes and procedures will be reviewed periodically by the board. Any substantial changes will be brought to the board for approval.