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**Kern Community College District  
Board Policy**  
Chapter 6 – Business and Fiscal Affairs

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**BP 6340 BIDS AND CONTRACTS**

**References:**

Education Code Sections 81641 et seq.:  
Public Contract Code Sections 20650 et seq.:  
Government Code Section 53060:  
WASC/ACCJC Accreditation Standard III.D.16  
2 Code of Federal Regulations Part 200.318

**NOTE:** *This policy is **legally required**. The language in current KCCD Policy 3A4A-3A4F is consistent with the language reflected in the Policy & Procedure Service's template.*

**❖ From current KCCD Policy 3A4A-3A4L titled Purchasing (Contracts)**

~~3A4A~~ The Board of Trustees delegates to the District Chancellor or Chief Financial Officer the authority to enter into contracts on behalf of the District and to establish administrative procedures for contract awards and management, subject to the following:

- ~~3A4B~~ Contracts are not enforceable obligations until they are approved or ratified by the Board.
- ~~3A4C~~ Contracts for work to be done, services to be performed or for goods, equipment, or supplies to be furnished or sold to the District that exceed the amounts specified in Public Contract Code Section 20651 shall require prior approval by the Board.
- ~~3A4D~~ When bids are required according to Public Contract Code Section 20651, the Board shall award each such contract to the lowest responsible bidder who meets the specifications published by the District and who shall give such security as the Board requires, or reject all bids.

~~3A4E~~ If the District Chancellor, or Chief Financial Officer ~~or designee~~ concludes that the best interests of the District will be served by pre-qualification of bidders in accordance with Public Contract Code Section 20651.5, pre-qualification may be conducted in

accordance with procedures that provide for a uniform system of rating on the basis of a questionnaire and financial statements.

~~3A4F~~ If the best interests of the District will be served by a contract, lease, requisition, or purchase order through any other public corporation or agency in accordance with Public Contract Code Section 20652, the District Chancellor, or Chief Financial Officer ~~or designee~~ is authorized to proceed with a contract.

**NOTE:** *The language in current KCCD Policy 3A4G is policy language that is unique to the KCCD, but it is fine to retain it in this new BP 6340 as it addresses the Board's awarding and ratification related to bids and contracts.*

~~3A4G~~ Purchases, services, or leases under published notice calling for bids shall be awarded by the Board. Other transactions shall be submitted for Board ratification through approval of the warrant list.

**NOTE:** *The language in current KCCD Policy 3A4H-3A4L is shown as struck because of the prescriptive details contained therein. This language is reflected in new AP 6330 titled Purchasing.*

~~3A4H~~ To accommodate emergency purchases, a revolving cash fund is provided. This fund will be maintained by College and District Accounting Managers or Chief Financial Officer and will be subject to normal audit procedures.

~~3A4I~~ The Chief Financial Officer shall approve all purchase orders which are prepared within the line-staff organization of the College, or District operations including reasonable expenditures of District funds to;

- ~~1) purchase food and beverages as refreshments for attendees at District sponsored events which further the legitimate purposes of the District,~~
- ~~2) purchase commemorative awards and gifts in recognition of service to the District by non-employees when the purpose is to promote services to the District; and~~
- ~~3) purchase awards for students, excluding gift cards. Gift cards are considered to be the equivalent of cash and therefore are not allowed to be used as awards or payments for goods or services.~~

~~3A4J~~ Materials may not be purchased nor District-wide obligations be incurred without an approved purchase order. The District reserves the right to refuse payment of any invoices covering materials not listed on a District purchase order. Such invoices then become the personal obligation of the requisitioner. Goods must be ordered exactly as the items appear on the order unless an item is to be cancelled, in which case Business Services should be immediately notified. The requisitioner is responsible for the exact order, certification, and receipts of goods. Shipping and receiving or designated departments should electronically approve receipt of goods. This will certify that the

~~invoice covering the order is ready for payment by Business Services. Request for Purchase Request forms and related procedures are included in Procedure 3A4G of this Manual.~~

~~3A4K All postage stamps and envelopes shall be used for official College business only. Such materials shall be under the supervision of the College administration.~~

~~3A4L Bids and Contracts. [See Procedure 3A4 (a-b) of this Manual for the procedures for bids and contracts and the Independent Contract or Checklist]~~

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Kern Community College District  
**Administrative Procedure**  
Chapter 6 – Business and Fiscal Affairs

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**AP 6340 BIDS AND CONTRACTS**

**References:**

Education Code Sections 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.:

WASC/ACCJC Accreditation Standard III.D.16

**NOTE:** Procedures on bids and contracting are **legally required**. Local practice may be inserted. The following language in red ink is typical and complies with the legal requirements. However, please note that districts which, by proper resolution and notification to the Controller, have elected to adopt the Uniform Public Construction Cost Accounting Act (UPCCAA), are subject to an alternative set of procedures, described in detail in Public Contract Code Sections 22000 et seq. (See AP 6345 which is the Bids and Contracts Option using UPCCAA)

The language in current KCCD Procedure 3A4A is similar to the language reflected in the Policy & Procedure Service's template.

**❖ From current KCCD Procedure 3A4A titled Bids and Contracts**

Limits

Bids or quotations shall be secured as may be necessary to obtain the lowest possible prices as follows:

1. Purchase of goods or services up to the limits set out in the Public Contracts Code will require documented quotes.
2. Purchase of goods or services in excess of the limits set out in the Public Contracts Code will require formal advertised bids.
- ~~3. Construction services shall be limited to the bid limits outlined in the Cost Accounting Policies Manual of the California Uniform Public Construction Cost~~

~~Accounting Mission.—Contracts involving expenditures that require competitive bidding require approval by the Board of Trustees prior to award.~~

**NOTE:** *The bid minimums are annually readjusted by the Board of Governors as required by Public Contract Code Section 20651(d); the 1/1/07 adjustment increased the minimum for materials or supplies to \$69,000. The current bid minimum can be found at <http://www.cde.ca.gov/fg/ac/co/>*

### 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.

### Notice Calling for Formal Advertised Bids

The District shall publish at least once a week for two ~~(2)~~ weeks in a newspaper of general circulation ~~circulated~~ published within the District, or if there is no such paper, then in some newspaper of general circulation, circulated in the county, and may post on ~~Kern Community College~~ the District's website 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. ~~The Kern Community College District~~ may accept a bid that was submitted either electronically or on paper.

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

The Chief Financial Officer 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 California Labor Code Sections 1775 and 1776 governing payment of prevailing wages and California 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 the District, any certified or cashier's check received shall be returned to the respective bidder.

The Chief Financial Officer 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 materiel personnel may examine the specifications and drawings.

Chief Financial Officer 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.

### Awarding of Bids and Contracts Awards

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

1. Any and all bids and contract proposals may be rejected by the District for good and sufficient reason.
2. All bids shall be opened publicly and bidder shall be given the opportunity to make record of the bids received.
3. Bid and contract award recommendations to the Board shall show a tabulation of the bids received in reasonable detail.
4. Bid and contract awards shall be made to the lowest responsible bidder substantially meeting the requirements of the specifications. The District 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.
5. 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.
6. "Best value" means the most advantageous balance of price, quality, service, performance, and other elements, as defined by the Board, 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.

### Purchase without Advertising for Bids

The Chief Financial Officer or designee is authorized to make purchases from firms holding ~~county~~ public agency contracts without calling for bids where it appears advantageous to do so.

The Chief Financial Officer or designee may, without advertising for bids within all California counties, cities, towns, or districts, purchase or lease from other public agencies materials or services by authorization of contract or purchase order.

The Chief Financial Officer or designee may make purchases through the State of California Cooperative Purchasing Program operated by the Department of General Services.

### Duration of Continuing Contracts for Services and Supplies

1. Continuing contracts for work or services furnished to the District are not to exceed five ~~(5)~~ years.
2. Contracts for materials and supplies are not to exceed three ~~(3)~~ years.

### 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 Chief Financial Officer may make a contract in behalf of the District for labor, materials, and supplies without advertising for or inviting bids, subject to ratification by the Board.~~

### Unlawful to Split Bids

It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of the Public Contract Code requiring work to be done by contract after competitive bidding.

**NOTE:** *The following sections apply if funds from the Kindergarten-University Public Education Facilities Bond Acts of 2002, 2004, or 2006 are used for a public works project.*

### **Kindergarten-University Public Education Bond Act Projects**

*For projects funded by 2002, 2004, or 2006 Bond Funds, the Chief Financial Officer will initiate and enforce, or contract with a third party to initiate and enforce, a labor compliance program for that project under Labor Code Section 1771.7. The program will include:*

- *Appropriate language concerning the wage requirements of Labor Code Sections 1720 et seq. in all bid invitations and public works contracts.*

- A pre-job conference with the contractor and subcontractors to discuss applicable federal and state labor law requirements.
- Project contractors and subcontractors shall be required to maintain and, at designated times, furnish certified copies of weekly payroll containing a statement of compliance signed under penalty of perjury.
- The District shall review, and if appropriate audit, the payroll records of the employees of the contractor and/or subcontractor. The review and audit shall be conducted by the Chief Financial Officer or an independent third party, but not the third party with whom the District contracts to initiate and enforce a labor compliance program under Labor Code Section 1771.7.
- If an investigation establishes that an underpayment of wages has occurred, the District shall withhold any contract payments, equal to the amount of underpayment and any applicable penalties.
- The Chief Financial Officer shall transmit a written finding that the District has initiated and enforced, or has contracted with a third party to initiate and enforce, the required labor compliance program, to the Director of the Department of Industrial Relations or any successor agency that is responsible for the oversight of employee wage and work hour laws.



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**Kern Community College District**  
**Administrative Procedure**  
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**AP 6345 BIDS AND CONTRACTS – UPCCAA**

**References:**

Education Code Sections 81641 et seq.:

Labor Code Sections 1770 et seq.:

Public Contract Code Sections 20110 et seq., 20650 et seq., 22000 et seq.  
(Uniform Public Construction Cost Accounting Act (Act))

**NOTE:** *Procedures on bids and contracting are **legally required**. Local practice may be inserted. Districts which, by proper resolution and notification to the Controller, have elected to adopt the Uniform Public Construction Cost Accounting Act, are subject to the procedures described in detail in Public Contract Code Sections 22000 et seq. **The following template is only for use by districts that have adopted such a resolution.***

**Informal and Formal Bidding Procedures under the Uniform Public Construction Cost Accounting Act, adopted by resolution by the Board of Trustees**

Public Projects are defined in Public Contract Code (PCC) Section 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. Public projects estimated to cost up to \$175,000<sup>1</sup> shall be let to contract by procedures described below.

It is unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of the this procedure requiring work to be done by contract after 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 must contain all documents necessary to assure compliance with these Labor Code sections. Failure to provide such documentation shall cause any such bid to be deemed incomplete.

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<sup>1</sup> The California Uniform Construction Cost Accounting Commission (Commission) may recommend that the State Controller amend these amounts. Public Contract Code section 22032 authorizes public projects of \$45,000 or less to be performed by District employees by force account, by negotiated contract, or by purchase order. Public projects up to \$175,000 may be let to contract by informal procedures. Public projects in excess of \$175,000, with limited exceptions, shall be let to contract by formal bidding procedure. PCC 22032.

Public Projects funded by the Kindergarten-University Public Education Bond Acts of 2002 and 2004 and any future State Bond funds require that the District initiate and enforce a labor compliance program pursuant to Labor Code Section 1771.5.

**Procedures Not Covered by this AP**

When this procedure does not establish a process for bidding Public Projects, the procedures described in AP 6430 titled Bids and Contracts shall govern.

**Contractors List**

Lists of contractors shall be developed and maintained.

**NOTE:** The bid minimums are annually readjusted by the Board of Governors as required by Public Contract Code Section 20651(d); the 1/1/07 adjustment increased the minimum for materials or supplies to \$69,000. The current bid minimum can be found at <http://www.cde.ca.gov/fg/ac/co/>

**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.

**Notice Calling for Formal Advertised Bids**

The District shall publish at least once a week for two (2) weeks in a newspaper of general circulation ~~circulated~~ published within the District, or if there is no such paper, then in some newspaper of general circulation, circulated in the county, and may post on ~~Kern Community College~~ the District's website 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. The ~~Kern Community College~~ District may accept a bid that was submitted either electronically or on paper.

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

The Chief Financial Officer 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 California Labor Code Sections 1775 and 1776 governing payment of prevailing wages and California 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 the District, any certified or cashier's check received shall be returned to the respective bidder.

The Chief Financial Officer 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 materiel personnel may examine the specifications and drawings.

*Chief Financial Officer 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.

#### Awarding of Bids and Contracts Awards

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

1. Any and all bids and contract proposals may be rejected by the District for good and sufficient reason.
2. All bids shall be opened publicly and bidder shall be given the opportunity to make record of the bids received.
3. Bid and contract award recommendations to the Board shall show a tabulation of the bids received in reasonable detail.
4. Bid and contract awards shall be made to the lowest responsible bidder substantially meeting the requirements of the specifications. *If* the District 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.
5. *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.*
6. *"Best value" means the most advantageous balance of price, quality, service, performance, and other elements, as defined by the Board, 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.

### **Award to Low Bidder; 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. When no bids are received, the District may perform Public Projects with District employees or through a negotiated contract without further complying with this procedure.

### **Notice Inviting Informal Bids**

When a Public Project anticipated to cost less than \$175,000 is to be performed, the District shall prepare a notice of the opportunity to bid. The notice must describe the project in general terms, state the time and place for the submission of bids and describe how to obtain more detailed information about the Project. The District shall mail the notice to all contractors for the category of work to be bid, as shown on the Contractors List. The District may also mail the notice to all construction trade journals. Other contractors and/or construction trade journals may also be notified at the discretion of the department soliciting bids. Mailing shall be completed at least ten days before bids are due.

### **Award of Informally-Bid Contracts**

The District Chancellor or designee is authorized to award informal contracts (defined as contracts for less than \$175,000.00), except those contracts described below.

### **Bids Exceed Informal Bidding Limit**

If all informal bids received exceed \$175,000, and the District determines that the cost estimate was reasonable, the District may award the contract at up to \$187,500 to the lowest responsible bidder. The contract must be approved by Resolution receiving a four-fifths (4/5) vote of the Board of Trustees.

### **Bid Documents for Formal Bids**

The District Chancellor or designee, will see that plans, specifications and working details for all Public Projects estimated to cost more than \$175,000 are adopted.

### **Notice Inviting Formal Bids**

When a Public Project, which is anticipated to cost in excess of \$175,000 is to be performed, the District shall publish a notice inviting formal bids in a newspaper of general circulation. The notice shall be published at least 14 calendar days before the date of bid opening. The notice shall also be sent electronically, if available, by facsimile or electronic mail and mailed to all construction trade journals. The notice to construction trade journals shall be sent at least 15 calendar days before the date of bid opening. Other contractors and/or construction trade journals may also be notified, at the discretion of the department soliciting bids. Mailing shall be completed at least 30 days before the date of bid opening.

### **When Contractors List Has Not Been Prepared: Proprietary Product or Service**

Notwithstanding the above:

- If the District has not prepared a list of contractors for the particular category of work to be performed, the notice inviting bids shall be sent to each of the construction trade journals.
- If the product or service is proprietary in nature, such that it can be legally obtained only from a certain contractor(s) pursuant to Public Contract Code Section 3400, the notice inviting informal bids may be sent exclusively to such contractors.

### **Contracts for Maintenance Work**

Contracts for Maintenance Work may be bid pursuant to the Informal Bidding Procedures described above. Maintenance Work is routine, recurring work done for the preservation or protection of a public facility; minor repainting; landscape maintenance including mowing, watering, trimming, pruning, planting or replacement of plants, and servicing of irrigation systems; work performed to keep, operate, or maintain publicly owned water, power, or waste disposal systems.

### **Rejection of Bids; Re-solicitation; Use of District Employees**

If the District intends to reject all bids, it must mail the apparent low bidder a written notice of the District's intent to reject the bid at least two business days prior to the hearing at which the bids will be considered.

After rejecting all bids, the District may:

- abandon the project;
- re-advertise the project; or
- perform the work with District employees, after passing a resolution by a four-fifths (4/5) majority of the Board of Trustees declaring that the project can be performed more economically by District employees.

### **Emergency Procedures**

When an emergency necessitates repair or replacement, contracts shall be awarded pursuant to the procedures described in AP 6340 titled Bids and Contracts.

**NOTE:** The following sections apply if funds from the Kindergarten-University Public Education Facilities Bond Acts of 2002, 2004, or 2006 are used for a public works project.

### **Kindergarten-University Public Education Bond Act Projects**

For projects funded by 2002, 2004, or 2006 Bond Funds, the Chief Financial Officer will initiate and enforce, or contract with a third party to initiate and enforce, a labor compliance program for that project under Labor Code Section 1771.7. The program will include:

- Appropriate language concerning the wage requirements of Labor Code Sections 1720 et seq. in all bid invitations and public works contracts.
- A pre-job conference with the contractor and subcontractors to discuss applicable federal and state labor law requirements.

- Project contractors and subcontractors shall be required to maintain and, at designated times, furnish certified copies of weekly payroll containing a statement of compliance signed under penalty of perjury.
- The District shall review, and if appropriate audit, the payroll records of the employees of the contractor and/or subcontractor. The review and audit shall be conducted by the Chief Financial Officer or an independent third party, but not the third party with whom the District contracts to initiate and enforce a labor compliance program under Labor Code Section 1771.7.
- If an investigation establishes that an underpayment of wages has occurred, the District shall withhold any contract payments, equal to the amount of underpayment and any applicable penalties.
- The Chief Financial Officer shall transmit a written finding that the District has initiated and enforced, or has contracted with a third party to initiate and enforce, the required labor compliance program, to the Director of the Department of Industrial Relations or any successor agency that is responsible for the oversight of employee wage and work hour laws.