

DISTRICT FINANCIAL SERVICES INSIGHTS

Using an RFP Process for Goods or Services & Complying with PCC 20111

Public Contract Code 20111 outlines the requirement for the competitive bidding as follows:

Expenditures of more than \$50,000 (adjusted annually) for:

- (1) The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district.
- (2) Services, *except construction services*.
- (3) Repairs, including maintenance as defined in Section 20115, that are not a public project as defined in subdivision (c) of Section 22002.

The contract shall be let to the **lowest** responsible bidder who shall give security as the board requires, or else reject all bids.

Recently, the CDE has outlined a process by which district may use the RFP process for goods and services. In simple terms, the process call for prequalification of vendors prior to allowing them to bid.

Below is an excerpt of the email that was sent out to all districts:

“Districts that use a competitive RFP process that does award to the lowest responsible bidder could meet the requirements of PCC 20111. An example of this is a competitive RFP process that scores the proposals objectively to *disqualify those bidders who are not considered “responsible,”* and then awards the contract to **the lowest remaining bidder**. Because the contract is awarded to the lowest responsible bidder, such an RFP process does meet the requirements of PCC 20111.

We also note that there are often factors other than price that are used to evaluate whether a bidder is responsible (e.g., ability to deliver on days needed, past performance, product quality). Both IFB and RFPs typically can be

structured to determine whether or not a bidder is “responsible.” For example, a school district may require

bidders receive at least 6 out of 10 “thumbs-up” in a blind taste test **before being allowed to proceed to the bid opening.**”

In the January 2017 DFS Insights, the issue of Responsibility vs. Responsive was discussed. Since then I have received requests on how to handle the process when issuing RFPs. The process would be similar to the prequalification process for public works projects.

Step 1: Determining Responsibility.

- a) Develop a standard questionnaire, scoring matrix, and procedures for qualifying vendors.
- b) The questionnaire should include all of the criteria for determining responsibility and may be adjusted to each scope of work as needed.
 - a. Experience
 - b. Ability to Deliver
 - c. References
 - d. Evaluation of Product (Sampling, e.g. taste test for food products)
 - e. Other criteria pertinent to the scope of the goods and services being requested.
- c) Issue a Request for Qualifications (RFQ) and incorporate the questionnaire.
- d) Clearly outline the scoring process in the RFQ
- e) Include the process for appealing a finding of Not Responsible
- f) Objectively score the qualifications
- g) Notify any vendor if they are Not Qualified
- h) Follow the appeals process including holding an administrative hearing
- i) Approve a list of qualified bidders

Step 2: Proposals

- a) Allow the qualified bidders to submit pricing for the goods or services required. (This process can be a separate RFP or part of an RFQ/RFP.)
- b) Review proposal for responsiveness
- c) Award to the lowest bidder.

Employees Selling Surplus Supplies

There are several websites that are touting the ability of teachers to sell their surplus supplies to others. It is important to keep the following in mind:

- a) Supplies purchased with district funds are the property of the district and cannot be sold by employees.
- b) Curriculum created on district time is also the property of the district.
- c) Education Code 17545 et seq. specifies the manner in which surplus personal property may be sold.

Proposed Changes to SB 854 – DIR Requirements

The proposed Trailer Bill changes would:

- Add penalties for the contractor to \$100 per day per violation up to \$8,000 in addition to the current penalty.
- Subject a contractor who hires any tier subcontractor that is unregistered to the following:
 - Loss of registration for current year.
 - Penalties of \$100 per day up to \$10,000
- Allows the Labor Commissioner to issue a Stop Order on work being performed by an unregistered contractor.
- Make failure to follow or enforce a Stop Order a misdemeanor (prison for up to 6 mos. and/or \$10,000 fine).
- Require filing of a PWC-100 by the awarding agency within 30 days of issuing a contract (currently 5 days).
- Make awarding agencies that hire an unregistered contractor subject to a fine of \$100 per day up to \$10,000.
 - Require an awarding agency to withhold final payment for not less than 30 days after submittal of all documentation required under SEC. 2. Subdivision (a) of Labor Code 1742.1.

- Allows the Labor Commissioner to determine whether an awarding agency has violated Section 1725.5.
- Makes two violation within a 12-month period basis for debarring the awarding agency from receiving state funds or financial assistance on public works projects.
- Debarment will last one-year.
- Increases the limit for enforcement from \$1,000 to:
 - \$25,000 for public works projects
 - \$15,000 for maintenance work

A notice will be sent out after the Trailer Bill has been signed by the Governor.

YEAR END CLOSING WORKSHOP

The Year-end Closing Workshop will be held on Wednesday, May 24th from 1:00 p.m. to 4:00 p.m. here at SDCOE in the JRTTC Communications Labs.

Register via the link below:

<http://sdcoe.k12oms.org/927-130357>

IMPORTANT / UPCOMING DATES AND DEADLINES

IMPORTANT DATES

June, 30 2017 School Calendars Due

WORKSHOPS

May 24, 2017 Year-end Workshop

June 6, 2017 Retirement Reporting Workshop

Sept. 8, 2017 Retirement Reporting Workshop

Oct. 30, 2017 2017 Year End Reporting & W-2 Workshop

Nov. 13, 2017 2017 W-2 Reportables Open Lab

FUTURE DEADLINES - PROP 39:

June 30, 2018 LEA's final encumbrance

August 1, 2018 Final Expenditure Plan Submission

June 30, 2020 Final date all projects must be complete