Marin Community College District Procedure

No. 6350

Business and Fiscal Affairs

AP 6350 CONTRACTS – CONSTRUCTION

References:

Education Code Sections 81800 and 81147;
Public Contract Code Sections 20650 et seq. and 22000 et seq.

Limits

The District shall enter into construction contracts as necessary to the efficient operation of the District in accordance with Board Policies, state laws, and other pertinent regulations, with limits as follows:

- Informal procurement ($15,000 or less or as revised in Public Contract Code): The District shall solicit bids from at least three independent vendors and the Chief Business Officer may sign the contract.
- Formal bids (more than $15,000 or as revised in Public Contract Code): The District shall require the solicitation of formal bids (Public Contract Code Section 20651), as described below.

The Chief Business Officer or designee shall be responsible for the planning and programming of new construction, alterations and repairs of existing plants, and leasing of facilities that require state approval. This includes the planning and programming of District-initiated new construction, additions to existing plants, and major alterations and repairs of buildings and grounds.

The Chief Business Officer or designee shall be responsible for preparation of drawings and specifications for new buildings, leased facilities, additions, major alterations, and improvements of buildings and grounds together with estimates of costs.

The preliminary drawings, which shall cover all proposed facilities together with construction cost estimates, shall be submitted to the Board of Trustees for approval and authorization to proceed with the working drawings and specifications. Upon completion, the working drawings, specifications, and revised cost estimates, if any, will be submitted for approval to the Division of the State Architect and State Chancellor's Office, if applicable and as required by statute in the name of the Board of Trustees.

The final working drawings and specifications, approved by the Division of the State Architect and State Chancellor's Office, if applicable together with revised estimates, if any, shall then be submitted to the Board of Trustees for adoption.

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 weeks in a newspaper of general circulation circulated within the District or if there is no such paper, then in some newspaper of general circulation, circulated in the county, and may post the information on the District's web site or through an electronic portal, a notice calling for bids or proposals, stating the materials or supplies to be furnished and the time and place when bids will be opened. The 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 Business Officer or designee. All applicable statutory provisions and board policies shall be observed in preparation of the forms.
The Chief Business Officer or designee 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 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 Business Officer or designee 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.

A deposit for sets of plans and specifications may be required and may be refunded when such documents are returned.

**Awarding of Contracts**

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

- Any and all bids may be rejected by the District for any reason.
- All bids shall be opened publicly and bidder shall be given the opportunity to make record of the bids received.
- Contract award recommendations to the Board of Trustees shall show a tabulation of the bids received in reasonable detail.

Contract awards shall be made to the lowest responsible, responsive bidder meeting the requirements of the specifications.

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

For projects funded by State Bond Funds, the Chief Business Officer or designee 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 state and federal 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 Business Officer, designee, 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 Business Officer or designee 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.

**Unlawful to Split Bids**
It is unlawful to split or separate into smaller contracts any construction project for the purpose of evading the provisions of the Public Contract Code requiring work to be done by contract after competitive bidding.

Office of Primary Responsibility: College Operations

**Date Approved:** December 9, 2008  
(Replaces College of Marin Policies 8.0022 and 8.0023)

**Date Revised:** March 12, 2009 (Revised by College Council)