BP 6340  CONTRACTS

References:
- Education Code Sections 81641 et seq.;
- Government Code Section 53060;
- Public Contract Code Sections 20650 et seq.

The Board of Trustees delegates to the Superintendent/President the authority to enter into contracts for goods (supplies, materials, apparatus, equipment), work to be done, or services to be performed on behalf of the District and to establish administrative procedures for contract awards and management, subject to the following:

- Contracts that exceed the amounts specified in Public Contract Code Section 20651 shall require prior approval by the Board.
- Contracts are not enforceable obligations until they are ratified by the Board.
- When bids are required according to Public Contract Code Section 20651, the Board of Trustees shall award each such contract to the lowest responsible, responsive bidder who meets the specifications published by the District and who shall give such security as the Board requires. The Board may reject all bids.

If the Superintendent/President 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 shall be conducted in accordance with procedures that provide for a uniform system of rating on the basis of a questionnaire and financial statements.

If the best interests of the District will be served by a contract, lease, requisition, or purchase order though any other public corporation or agency in accordance with Public Contract Code Section 20652, the Superintendent/President is authorized to proceed.

- From current College of Marin Policy 6.0013 titled Contracts

(GC 53060, PCC 20651)

The Board shall approve all contracts for services, activities or the receipt of funds, including but not limited to contracts for:
1. Agents of the Board
2. Auxiliary services programs
3. Construction, maintenance and alterations
4. Curriculum and instruction services
5. Full-time personnel
6. Off-campus facilities

1. Auditors
2. Permanent Personnel
3. Investment of idle funds
4. Employee compensation contracts and agreements
5. Non-bid contracts with financial obligations greater than $15,000
6. Off-campus facility lease

To facilitate the smooth and efficient operations of the District, the Board of Trustees authorizes the Superintendent/the President or designee, under the following specified conditions, to approve contracts and agreements that do not obligate the District to financial payment prior to presentation to the Board of Trustees: is authorized to approve contracts or agreements of a non-controversial nature that do not come within one or more of the above six categories.

Under the following specified conditions, the President or designee is authorized to sign as the District’s authorized agent for matters falling within categories one through six above, prior to presentation to the Board of Trustees:

1. Approval of the contract/agreement is required prior to the next scheduled Board meeting to assure no significant loss of one or both of the following:

   (a) educational opportunity
   (b) financial support

2. The subject of the contract/agreement is judged by the President of the Board of Trustees to be of a non-controversial nature.

Prior to signing any contract or agreement, the verbal approval of the Board of Trustees Officers is required. At the next regularly scheduled Board meeting, a copy of the signed agreement/contract shall be presented to the Board of Trustees for information.

Excluded from this policy are purchase orders (see Section 6.0015).

- From current College of Marin Policy 6.0018 titled Out-of-Contract Activities
No District contractor shall undertake out-of-contract activities for which it expects reimbursement without the prior approval of the Board of Trustees at a public meeting.

No payments shall be made to a contractor with the District for out-of-contract activities without specific approval of the Board of Trustees at a public meeting.

Office of Primary Responsibility: College Operations

NOTE: The bold underlined type signifies legally required language recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The wording in black ink is from current College of Marin Policies 6.0013 titled Contracts adopted on 9/30/81 and revised on 3/12/85 and 9/10/85 and 6.0018 titled Out-of-Contract Activities adopted on 6/26/84 and revised on 3/12/85. The information in underlined italics is language added by College Operations. The Policy and Procedure Task Force approved this policy on October 15, 2008.

Date Adopted:
(Replaces current College of Marin Policies 6.0013 and 6.0018)
Legal Citations for Policy/Procedure 6340 Contracts

Education Code Sections 81641 et seq.; Public Contract Code Sections 20112, 20650 et seq., and 22000 et. seq.

CALIFORNIA CODES EDUCATION CODE SECTIONS 81641 et seq.

81641. For the purpose of securing bids or proposals the community college board shall publish at least once a week for two weeks in some newspaper of general circulation published in the district, or if there is no such paper, then in some newspaper of general circulation, circulated in the county a notice calling for bids or proposals, stating the work to be done or materials or supplies to be furnished and the time when and the place where bids or proposals will be opened. Whether or not bids or proposals are opened exactly at the time fixed in the public notice for opening bids or proposals, a bid or proposal shall not be received after that time.

81644. Continuing contracts for work to be done, services to be performed, or for apparatus or equipment to be furnished, sold, built, installed, or repaired for the district, or for materials or supplies to be furnished or sold to the district may be made with an accepted vendor as follows: for work or services, or for apparatus or equipment, not to exceed five years; for materials or supplies, not to exceed three years.

81645. The governing board of any community college district may contract with a party who has submitted one of the three lowest responsible competitive proposals or competitive bids, for the acquisition, procurement, or maintenance of electronic data-processing systems and equipment, electronic telecommunication equipment, supporting software, and related materials, goods, and services, in accordance with procedures and criteria established by the governing board.

81645.5. In addition to utilizing the procedures specified in Article 9 (commencing with Section 81450) of Chapter 2, any community college district may, by direct sale or otherwise, sell to a purchaser any electronic data-processing equipment or other major items of equipment owned by, or to be owned by, the district, if the purchaser agrees to lease the equipment back to the district for use by the district following the sale.

The approval by the governing board of the district of the sale and leaseback shall be given only if the governing board finds, by resolution, that the equipment is data-processing equipment or another major item of equipment within the meaning of this section and that the sale and leaseback is the most economical means for providing electronic data-processing equipment or other major items of equipment to the district.

81651. The governing board of any community college district may purchase supplementary textbooks, library books, and educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.
CALIFORNIA CODES PUBLIC CONTRACT CODE SECTION 20112

20112. For the purpose of securing bids the governing board of a school district shall publish at least once a week for two weeks in some newspaper of general circulation published in the district, or if there is no such paper, then in some newspaper of general circulation, circulated in the county, and may post on the district's Web site or through an electronic portal, a notice calling for bids, stating the work to be done or materials or supplies to be furnished and the time when and the place and the Web site where 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. The governing board of the district may accept a bid that was submitted either electronically or on paper.

CALIFORNIA CODES PUBLIC CONTRACT CODE SECTIONS 20650 et seq.

20650. The provisions of this article shall apply to contracts by community college districts as provided for in Part 49 (commencing with Section 81000) of the Education Code.

20651. (a) The governing board of any community college district shall let any contracts involving an expenditure of more than fifty thousand dollars ($50,000) for any of the following:
   (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 20656, 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.
   (b) The governing board shall let any contract for a public project, as defined in subdivision (c) of Section 22002, involving an expenditure of fifteen thousand dollars ($15,000) or more to the lowest responsible bidder who shall give security as the board requires, or else reject all bids. All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:
      (1) Cash.
      (2) A cashier's check made payable to the community college district.
      (3) A certified check made payable to the community college district.
      (4) A bidder's bond executed by an admitted surety insurer, made payable to the community college district.
      Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the district beyond 60 days from the time the award is made.
   (c) This section applies to all equipment, materials, or supplies, whether patented or otherwise. This section shall not apply to professional services or advice, insurance services, or any other purchase or service otherwise exempt from this section, or to any works done by day labor or by force account pursuant to Section 20655.
   (d) Commencing January 1, 1997, the Board of Governors of the California Community Colleges shall annually adjust the dollar amounts specified in subdivision (a) to reflect the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States
Department of Commerce for the 12-month period ending in the prior fiscal year. The annual adjustments shall be rounded to the nearest one hundred dollars ($100).

20651.5. (a) The governing board of any community college district may require each prospective bidder for a contract, as described under Section 20651, to complete and submit to the district a standardized questionnaire and financial statement in a form specified by the district, including a complete statement of the prospective bidder's financial ability and experience in performing public works. The questionnaire and financial statement shall be verified under oath by the bidder in the manner in which civil pleadings in civil actions are verified. The questionnaire responses of prospective bidders and their financial statements shall not be deemed public records and shall not be open to public inspection.

(b) Any community college district requiring prospective bidders to complete and submit questionnaires and financial statements, as described in subdivision (a), shall adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements, in order to determine the size of the contracts upon which each bidder shall be deemed financially qualified to bid.

The prequalification of a prospective bidder shall neither limit nor preclude a district's subsequent consideration of a prequalified bidder's responsibility on factors other than the prospective bidder's financial qualifications.

(c) Each prospective bidder on any contract described under Section 20651 that is subject to this section shall be furnished, by the community college district letting the contract, with a standardized proposal form that, when completed and executed, shall be submitted as his or her bid. Bids not presented on the forms so furnished shall be deemed nonresponsive and shall be rejected. A proposal form shall not be accepted from any person who, or other entity which, is required to submit a completed questionnaire and financial statement for prequalification pursuant to subdivision (a), but who or which has not done so at least five days prior to the date fixed for the public opening of sealed bids and has not been prequalified, pursuant to subdivision (b), at least one day prior to that date.

20652. Notwithstanding any other provisions of Sections 81640 to 81654, inclusive, of the Education Code, or of Sections 20651 to 20659, inclusive, of this code, the governing board of any community college district without advertising for bids, and when that board has determined it to be in the best interests of the district, may authorize by contract, lease, requisition, or purchase order, any public corporation or agency, including any county, city, town, or district, to lease data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner in which the public corporation or agency is authorized by law to make the leases or purchases. Upon receipt of any such personal property, provided the property complies with the specifications set forth in the contract, lease, requisition, or purchase order, the community college district may draw a warrant in favor of the public corporation or agency for the amount of the approved invoice, including the reasonable costs to the public corporation or agency for furnishing the services incidental to the lease or purchase of the personal property.
20653. Nothing in this code shall preclude the governing board of any community college district from purchasing materials, equipment or supplies through the Department of General Services pursuant to Section 14814 of the Government Code.

20654. (a) In an emergency when any repairs, alterations, work, or improvement is necessary to any facility of the college, or to permit the continuance of existing college classes, or to avoid danger to life or property, the board may by unanimous vote, with the approval of the county superintendent of schools, do either of the following:

1. Make a contract in writing or otherwise on behalf of the district for the performance of labor and furnishing of materials or supplies for the purpose without advertising for or inviting bids.

2. Notwithstanding Section 20655, authorize the use of day labor or force account for the purpose.

(b) Nothing in this section shall eliminate the need for any bonds or security otherwise required by law.

20655. (a) In each community college district, the governing board may make repairs, alterations, additions, or painting, repainting, or decorating upon school buildings, repair or build apparatus or equipment, make improvements on the school grounds, erect new buildings, and perform maintenance as defined in Section 20656 by day labor, or by force account, whenever the total number of hours on the job does not exceed 350 hours. Moreover, in any district whose number of full-time equivalent students is 15,000 or greater, the governing board may, in addition, make repairs to school buildings, grounds, apparatus, or equipment, including painting or repainting, and perform maintenance, as defined in Section 20656, by day labor or by force account whenever the total number of hours on the job does not exceed 750 hours, or when the cost of materials does not exceed twenty-one thousand dollars ($21,000).

(b) For purposes of this section, day labor shall include the use of maintenance personnel employed on a permanent or temporary basis.

CALIFORNIA CODES PUBLIC CONTRACT CODE SECTIONS 22000-22003

22000. This chapter shall be known and may be cited as the "Uniform Public Construction Cost Accounting Act."

22001. The Legislature finds and declares that there is a statewide need to promote uniformity of the cost accounting standards and bidding procedures on construction work performed or contracted by public entities in the state. This chapter provides for the development of cost accounting standards and an alternative method for the bidding of public works projects by public entities.

22002. (a) "Public agency," for purposes of this chapter, means a city, county, city and county, including chartered cities and chartered counties, any special district, and any other agency of the state for the local performance of governmental or proprietary functions within limited boundaries. "Public agency" also includes a nonprofit transit corporation.
wholly owned by a public agency and formed to carry out the purposes of the public agency.

(b) "Representatives of the construction industry" for purposes of this chapter, means a general contractor, subcontractor, or labor representative with experience in the field of public works construction.

(c) "Public project" means any of the following:
   (1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
   (2) Painting or repainting of any publicly owned, leased, or operated facility.
   (3) In the case of a publicly owned utility system, "public project" shall include only the construction, erection, improvement, or repair of dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.
   (d) "Public project" does not include maintenance work. For purposes of this section, "maintenance work" includes all of the following:
      (1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
      (2) Minor repainting.
      (3) Resurfacing of streets and highways at less than one inch.
      (4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
      (5) Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.
   (e) For purposes of this chapter, "facility" means any plant, building, structure, ground facility, utility system, subject to the limitation found in paragraph (3) of subdivision (c), real property, streets and highways, or other public work improvement.

22003. A public agency which has, by resolution, elected to become subject to the uniform construction cost accounting procedures set forth in Article 2 (commencing with Section 22010), may utilize the bidding procedures set forth in Article 3 (commencing with Section 22030) when contracting for "maintenance work," as defined in Section 22002, or when contracting for any other work which does not fall within the definition of "public project," as defined in Section 22002.