



School Business Law Update

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UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING INFORMAL BID LIMIT INCREASE

As you may recall, if adopted, the UPCCA rules allow a district to take advantage of a higher bid threshold and engage in certain “informal”—but still mandatory—bidding practices (such as publishing bid notices to a predetermined list of contractors rather than in the newspaper) in exchange for observing special accounting and other rules. California State Controller John Chiang announced on April 25, 2011, that the informal bid limits have been raised for districts that have adopted the alternative bidding rules under Uniform Public Construction Cost Accounting. A copy of the letter is attached.

The informal bidding limit of Public Contract Code Section 22032 is being raised from the current amount of \$125,000 to a new limit of \$175,000. There is no change at this time to the no-bid limit of that same section, currently set at \$30,000, although there is a bill pending in the legislature to raise that limit to \$45,000 (AB 720, which is advancing). We also note that the change announced by the Controller does not, by itself, change the language of Section 22032, although another bill is pending to change that section (AB 943).

Due to the announced change only referencing Section 22032, there is some uncertainty as to the additional limits on informal bidding contained in Section 22034(f). Under that subsection a contract could be awarded after informal bidding, for an amount not to exceed \$137,500, if all bids came in over the \$125,000 limit but the governing board makes referenced findings. If the recent adjustment does not also apply to the \$125,000 figure in Section 22034, that specific exception to the informal limits has been eliminated. The pending bill, AB 943, also amends the language of Section 22034(f) to increase the limits to \$175,000 and up to \$187,500 under the specific conditions listed in that section.

In the meantime, the increase becomes effective July 1, 2011, but we recommend not using the exception provided in Section 22034(f) until the Legislature clarifies the Code language.

If you have any questions concerning these changes, please to do not hesitate to contact our office.

— William A. Hornback

School Business Law Updates are intended to alert clients to developments in legislation, opinions of courts and administrative bodies and related matters. They are not intended as legal advice in any specific situation. Please consult legal counsel as to how the issue presented may affect your particular circumstances.