**ALTERNATIVE BID PROCEDURES CONSTRUCTION PROJECTS**

1. Introduction. School and community college districts can opt for increased flexibility in bidding public projects by adopting a set of accounting rules known as the Uniform Public Construction Cost Accounting Procedures published by the California Uniform Construction Cost Accounting Commission (an agency within the State Controller's

office).1 In order to adopt the procedures, the district's governing board would need to

pass a resolution to that effect, adopting an informal bidding resolution, and notify the State Controller of its election to do so. (Public Contract Code Sections 22000 and following.)

This packet contains a sample resolution and informal bidding procedure. Some districts adopted the procedures several years ago, with a specific dollar limitation which has since been increased. If your district wishes to increase the dollar amounts within which the alternative procedures can be used, we have separately posted a sample resolution for this purpose.

The Commission's Cost Accounting Policies and Procedures Manual (“Procedures Manual”) can be accessed through its website, located at [https://www.sco.ca.gov/Files-ARD-Local/CUCCAC\_**Manual**.**pdf**](https://www.sco.ca.gov/Files-ARD-Local/CUCCAC_Manual.pdf)[.](http://www.sco.ca.gov/Files-ARD-Local/cuccac_cuccac_man.pdf) The Procedures Manual should be carefully reviewed to make sure the district is comfortable in its ability to implement the procedures before they are adopted.

1. Bid Limits. Once a district adopts the Uniform Public Construction Cost Accounting Procedures, the bid limits for public projects are increased as follows:

* Public projects of $60,000 or less (rather than the usual $15,000) may be performed by negotiated contract or purchase order; in other words, without competitive bidding. They may also be performed by "force account" (by the agency's own employees). Force account work would otherwise be subject to a 350 hour limitation.
* Public projects of $200,000 or less may be awarded using "informal procedures," discussed below.

1 "Public project" is specifically defined at Public Contract Code Section 22002 to include construction, reconstruction, erection, alteration, renovation, improvement, demolition, repair work, painting, or repainting (except "minor repainting") involving any publicly owned, leased, or operated facility, but excluding maintenance work, defined to include "routine, recurring and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes," "resurfacing of streets and highways at less than one inch ”, minor repainting, and landscape

maintenance (including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems). “Facility" means any plant, building, structure, ground facility, utility system with certain limitations, real property, streets and highways, or other public work improvement.

* Public projects of more than $200,000 must be awarded using formal competitive bidding procedures which are for the most part identical to the regular competitive bidding procedures. Some of the distinctions are discussed below. (See Public Contract Code Section 22037.)

1. Informal Procedures. For projects between $60,000 and $200,000, informal bidding procedures may be used. These require the following:

* The district must maintain a list of "qualified contractors," identified according to categories of work. The statute says that the Commission will determine criteria for development and maintenance of the list; the criteria are listed at Page 7 of the Procedures Manual. Basically, districts are required to mail a written notice to designated construction trade journals for the area each year inviting licensed contractors to submit their names to be included on the district's list of qualified bidders for the following year. The Procedures Manual recommends that districts automatically include the names of all contractors who have submitted a valid bid to the district during the preceding year.
* When the district is ready to go out to bid, it must mail a notice inviting "informal bids" at least 10 days prior to the due date to either (1) all contractors on the list for the category of work being bid, (2) all construction trade journals specified by the Commission on a county-by-county basis, or

(3) both. The usual publication requirements do not apply. The notice inviting informal bids must describe the project in general terms, and how to obtain more information about it, and state the time and place for submitting bids. The Procedures Manual discusses the trade journals beginning at Page 8.

* As with formal competitive bidding, the contract must be awarded to the lowest responsible bidder. However, where two low bids are identical, the public agency is not required to select among them by lot, but may accept whichever bid it chooses.
* If no bids are received (even if the amount is over $200,000), the project can be performed by force account, or a contract may be awarded without further bidding. Specific statutory authority to do this is not provided for projects let under the normal bid procedures.

The district is required to adopt an informal bidding procedure in accordance with the above requirements. (Public Contract Code Section 22034)

1. Formal Procedures. For projects exceeding $200,000, formal bidding procedures must be used. These are similar to the normal competitive bidding rules found at Public Contract Code Section 20111 (K-12 districts) and 20651 (community college districts), but note the following differences:

* The notice inviting formal bids must be published at least 14 calendar days before bid opening. (The normal rules [Sections 20112 and 20652] require advertising "once a week for two weeks.") Unlike the normal rules, if there is no newspaper of general circulation printed, published, or circulated within the district's jurisdiction, the notice can be posted in at least three places within the district.
* The notice inviting formal bids must be mailed to the designated trade journals at least 15 days prior to bid opening.
* If the bids come in over $200,000, the governing board may, by a four-fifths vote, award the contract at $212,500 or less, to the lowest responsible bidder if it determines the district's cost estimate was reasonable.

The provision has its own slightly different procedures concerning the letting of contracts in emergency situations. (Public Contract Code Section 22035)

Any interested party can present evidence that work undertaken by a district (1) is to be performed by the district after rejecting bids, claiming the district can do the work less expensively, (2) exceeds the force account limits, or (3) has been improperly classified as maintenance. The Commission has the power to investigate the district's accounting procedures. Where the claim is that the agency performed the work after rejecting bids, the agency may not proceed with the project until a final decision is made. The Commission may require the district to either abandon the project or award it to the lowest bidder. For the other claims, the Commission may require the district to present the Commission's findings to the district's governing board and hold a public hearing on the findings within 30 days. (Public Contract Code Section 22044)

The most common pitfalls our office observes are failure to annually advertise and update the list of qualified contractors and failure to observe the different requirements for formal competitive bidding.

Note that the bid threshold amounts are periodically adjusted by the State Controller's Office.