
Note: For additional legal requirements applicable to purchases with federal funds, see CBB.

“Competitive bidding” is a procurement method by which an ESC contracts with a contractor for the construction, alteration, rehabilitation, or repair of a facility by awarding the contract to the lowest responsible bidder.

Except as otherwise provided by Government Code Chapter 2269 or other law, an ESC may contract for the construction, alteration, rehabilitation, or repair of a facility only after the ESC advertises for bids for the contract in a manner prescribed by law, receives competitive bids, and awards the contract to the lowest responsible bidder.

Gov’t Code 2269.101

The competitive bidding process is governed by the process outlined below. An ESC must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CU(LEGAL)], which include the following steps:

1. Giving public notice of the project;
2. Publishing contract selection criteria;
3. Making evaluations public after the contract is awarded; and
4. Providing for inspection, verification, and testing necessary for acceptance of the facility by the ESC.

Education Code 44.031(g); Gov’t Code 2269.052, .055, .056(c), .058, .105

Preparation of Request

The ESC shall prepare a request for competitive bids that includes construction documents, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to submit a bid. *Gov’t Code 2269.103*

Use of Architect or Engineer

The ESC shall select or designate an architect or engineer in accordance with Occupations Code Chapter 1051 or 1001, as applicable, to prepare the construction documents required for a project to be awarded by competitive bidding. [See CU] *Gov’t Code 2269.102*

Opening Bids

The ESC shall receive, publicly open, and read aloud the names of the offerors and their bids. Bids shall be opened only by the board at a public meeting or by an officer or employee of the ESC at or in an office of the ESC. A bid that has been opened may not be

changed for the purpose of correcting an error in the bid price.

Gov't Code 2269.104; Gov't Code 271.026

A board shall have the right to reject any and all bids. *Gov't Code 271.027(a)*

Safety Record

In determining who is a responsible bidder, a board may take into account the safety record of the bidder, firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such firm, corporation, partnership, or institution, provided that the board has:

1. Adopted a written definition and criteria for accurately determining the safety record of the bidder.
2. Given notice in the bid specifications that the safety record of a bidder may be considered in determining the bidder's responsibility.
3. Ascertained that such determination is not arbitrary and capricious.

Gov't Code 271.0275

Conflict of Laws

Except as otherwise specifically provided in this policy, Government Code Chapter 271, Subchapter B does not apply to the competitive bidding process. *Gov't Code 2269.106*