

FACILITIES CONSTRUCTION
COMPETITIVE BIDDING

CMA
(LEGAL)

“Competitive bidding” is a procurement method by which a governmental entity, including a college district, 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, a governmental entity may contract for the construction, alteration, rehabilitation, or repair of a facility only after the entity 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. The governmental entity must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CM(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 governmental entity.

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

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

Preparation of Request

The governmental entity 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 governmental entity 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. *Gov't Code 2269.102* [See CM]

Opening Bids

The governmental entity shall receive, publicly open, and read aloud the names of the offerors and their bids. Bids may be opened

only by the governing body of the governmental entity at a public meeting or by an officer or employee of the governmental entity at or in an office of the governmental entity. 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; Local Gov't Code 271.026*

The governmental entity is entitled to reject any and all bids. *Local Gov't Code 271.027(a)*

Safety Record

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

1. The governing body of the governmental entity has adopted a written definition and criteria for accurately determining the safety record of the bidder;
2. The governmental entity has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder; and
3. The determinations are not arbitrary and capricious.

Local Gov't Code 271.0275; Education Code 44.0351(b)

Conflict of Laws

Except as otherwise specifically provided in this policy, Local Government Code Chapter 271, Subchapter B, does not apply to the competitive bidding process. *Gov't Code 2269.106; Education Code 44.0351(b)*