



PUBLIC WORKS CONTRACTORS' GUIDEBOOK



DISCLAIMER: Nothing contained in this guidebook is to be construed as legal advice. It is highly recommended that contractors that are not familiar with a procedure or law obtain information directly from the agency responsible for enforcement or seek legal counsel.

Christina Becker, Director of Facilities, 619-258-2323

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INTRODUCTION

The Uniform Public Construction Cost Accounting Act enacted in 1983 under Public Contract Code Section 22000 et seq. The intent was to “promote uniformity of the cost accounting standards and bidding procedures on construction work performed or contracted by public entities in the state.” CUPCCAA authorizes alternate bidding procedures by establishing higher threshold amounts for force-account and work required to be formally bid. In addition, it sets limits between the force-account and formal bid thresholds.

CUPCCAC BID LIMITS

Projects of \$60,000 or Less:

Public projects of forty-five thousand dollars (\$60,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.

Projects of \$60,001 to \$200,000:

An informal bidding process is required for public projects exceeding \$60,000, but falling below \$200,000.

Public Projects in Excess of \$200,000:

A formal bidding process is required for all contracts estimated to exceed \$200,000:

1. A Notice Calling for bids must be published in a paper of general circulation not less than fourteen (14) days prior to opening of bids.
2. The Notice must also be send to the specified construction trade journals for your locality not less than **fifteen (15)** days prior to opening of bids.

CONTRACT REQUIREMENTS

The Santee School District would like to inform all contractors that under Public Contract Code Section 22002, subdivision, all contracts for public works of \$60,000 or more must be competitively bid. Construction contracts **greater than \$15,000** are subject to public works regulations including prevailing wage. Therefore, it is imperative that no construction, alterations, repairs, improvements, or renovations be performed on any property or facility owned, leased, or operated by the Santee School District without an executed agreement signed by an authorized signatory of the District.

The Board of Education for the Santee School District has given signatory authority for capital improvement contracts to the following:

Dr. Kristin Baranski, Superintendent
Karl Christensen, Assistant Superintendent, Business Services
Christina Becker, Director Facilities

Public works contracts require additional documentation prior to construction including, but not limited to, certificates of insurance; certifications of compliance with fingerprinting, drug free workplace, and asbestos regulations; workers' compensation certificate; non-collusion affidavit; performance bond. A payment bond is required by law for any public works project in excess of \$25,000.

All contracts require approval by the Board of Education to make them valid. Any contract signed by anyone other than the aforementioned, may be considered null and void. It is the responsibility of the contractor to be familiar with Public Contract Code, Labor Code, Civil Code and all other codes or regulations governing public works contracts. Any contractor who performs services without meeting the requirements of those of the District is working under an invalid contract and is at risk of non-payment.

Public Contract Code and codes governing bidding may be viewed at: <http://www.leginfo.ca.gov>

It is in your best interests to contact the Purchasing Department at 619-258-2329 to verify that you are in compliance with contracting procedures prior to commencing any work at any of the Santee School District sites.

FINGERPRINTING PROCEDURES

Fingerprinting

Contractors may obtain an ORI number by completing the process to become an applicant agency. Information is available at the Department of Justice website: (<http://ag.ca.gov/fingerprints/agencies>). All LiveScan offices require an ORI number to obtain FBI Background Checks and DOJ clearances. Any person who is to be fingerprinted must be able to provide the Request for Livescan Form, ORI number, their name, valid California identification such as a driver's license (out-of-state ID requires a Social Security Card), and payment in the form of a money order, cashier's check, Visa or Mastercard.

Contractors/Independent Consultants who will not have contact with students will not need to be fingerprinted unless requested to do so by the Santee School District.

Construction Contractor Procedures

Upon completion of fingerprinting, the Contractor shall provide the District with a written, **employer-certified** list of DOJ CLEARED employees and RESTRICTED employees (non-fingerprinted) at least five (5) working days prior to commencement of work on a project. The list shall have the full name of the employee and for identification purposes, their California Driver's License number or the last four digits of their Social Security Number should the employee not have a CDL.

Contractor **SHALL NOT** permit any employee who does not have clearance to enter school premises without supervision or be on any Santee School District jobsite. Submission of a list of DOJ cleared employees shall constitute acknowledgment by the Contractor that the employees listed are eligible to provide supervision services for non-cleared employees on a school site campus.

Fingerprinting and Department of Justice clearance is the responsibility of the awarded contractor as noted in the Fingerprinting Certifications submitted with your bid documents.

Questions regarding the above can be referred to the Dept. of Justice, 916-227-9508.

INSURANCE REQUIREMENTS

Insurance Requirements. Before the commencement of the Work, the Prime Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in California as admitted carriers with a financial rating of at least A- status as rated in the most recent edition of Best's Insurance Reports such insurance as will protect the District from claims set forth below, which may arise out of or result from the Prime Contractor's operations under the Contract and for which the Prime Contractor may be legally liable, whether such operations are by the Prime Contractor, by a Subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

For Contracts up to \$500,000 the following limits apply:	Contractor	Subcontractor
Comprehensive General Liability Insurance with a combined single limit per occurrence of not less than:	\$ 1,000,000.00	\$ 1,000,000.00
Project Specific Aggregate (for this project only)	\$ 2,000,000.00	\$ 2,000,000.00
OR		
Commercial General Liability and Property Damage Insurance (including automobile insurance) which provides limits of not less than:		
(a) Per occurrence (combined single limit)	\$ 1,000,000.00	\$ 1,000,000.00
(b) Project Specific Aggregate (for this project only)	\$ 2,000,000.00	\$ 2,000,000.00
(c) Products/Completed Operations	\$ 1,000,000.00	\$ 1,000,000.00
(d) Personal & Advertising Injury limit	\$ 1,000,000.00	\$ 1,000,000.00
For Contracts from \$500,000 - \$1 Million the following limits apply:	Contractor	Subcontractor
Comprehensive General Liability Insurance with a combined single limit per occurrence of not less than:	\$ 2,000,000.00	\$ 2,000,000.00
Project Specific Aggregate (for this project only)	\$ 3,000,000.00	\$ 3,000,000.00
OR		
Commercial General Liability and Property Damage Insurance (including automobile insurance) which provides limits of not less than:		
(a) Per occurrence (combined single limit)	\$ 2,000,000.00	\$ 2,000,000.00
(b) Project Specific Aggregate (for this project only)	\$ 3,000,000.00	\$ 3,000,000.00
(c) Products/Completed Operations	\$ 2,000,000.00	\$ 2,000,000.00
(d) Personal & Advertising Injury limit	\$ 2,000,000.00	\$ 2,000,000.00

For Contracts greater than \$1 Million the following limits apply:	Contractor	Subcontractor
Comprehensive General Liability Insurance with a combined single limit per occurrence of not less than:	\$ 3,000,000.00	\$ 3,000,000.00
Project Specific Aggregate (for this project only)	\$ 5,000,000.00	\$ 5,000,000.00
OR		
Commercial General Liability and Property Damage Insurance (including automobile insurance) which provides limits of not less than:		
(a) Per occurrence (combined single limit)	\$ 3,000,000.00	\$ 3,000,000.00
(b) Project Specific Aggregate (for this project only)	\$ 5,000,000.00	\$ 5,000,000.00
(c) Products/Completed Operations	\$ 3,000,000.00	\$ 3,000,000.00
(d) Personal & Advertising Injury limit	\$ 3,000,000.00	\$ 3,000,000.00

Certificate Holder: Certificate Holder shall be Santee School District and _____, [Construction Manager](#).

Insurance Covering Special Hazards: Following special hazards shall be covered by riders or riders to above-mentioned commercial liability insurance or property damage insurance policy or policies of insurance, or by special policies of insurance, in amounts as follows:

- a. Automotive and truck where operated in amounts as above
- b. Material hoist where used in amounts as above

Additional Insured Endorsement: Any general liability policy provided by Contractor hereunder shall contain an endorsement which applies its coverage to District, members of District's Board of Education, and the officers, agents, employees and volunteers of District, the State Allocation Board, if applicable, Construction Manager, the Construction Manager's consultants, Architect, and the Architect's consultants, individually and collectively, as additional insured's. (see General Conditions).

PAYMENT & PERFORMANCE BONDS

Contractors will be required to provide both a payment bond and a performance bond, each in an amount equal to 100% of the total contract amount. The forms of the bonds are set forth in the Contract Documents and cannot be altered in any way. Bonds must be issued by a California-admitted surety as defined in California Code of Civil Procedure Section 995.120

Payment Bond: Pursuant to Civil Code 3247 and 3248, payment bonds are required when the expenditure for public work **exceeds \$25,000**. The purpose of the bond is to insure that payment will be made for labor and material claims against the contractor and subcontractors.

Performance Bond: Construction bonds usually involve a type of bond called a surety bond. A surety bond is not an insurance policy. A surety bond is a guarantee, in which the surety guarantees that the contractor, called the “principal” in the bond, will perform the “obligation” stated in the bond. For example, the “obligation” stated in a bid bond is that the principal will honor its bid; the “obligation” in a performance bond is that the principal will complete the project; and the “obligation.” Both the principal and the surety are jointly and severally liable for completion of the work. The purpose of the performance bond is to protect the district from default by a contractor or subcontractor on a public works project.

ESCROW ACCOUNTS

California Public Contract Code 10263 provides that any invitation for bid allow the substitution of securities for monies held (retention) by the public agency. The contractor may request that payments be made directly to the escrow agent. Upon satisfactory completion of the contract, the contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the owner, pursuant to the terms of this section. (See PCC 10263 for complete code).

ESCROW ACCOUNT INSTRUCTIONS

When using the option of having retentions deposited into an escrow account, please execute three (3) copies of the Escrow Account Forms. Once the Contractor and the Bank have signed the agreements, forward all three copies to:

Nancy Stasch
Senior Buyer
Santee School District
9625 Cuyamaca Street
Santee, CA 92071

The Assistant Superintendent, Business Services will sign the three originals and will forward the Bank's and Contractor's copy to the Bank and Contractor and retain one for the District's records.

Contractor shall submit separate payment requests for retention. Payments will be forwarded directly to the bank for deposit to the escrow account.

RELEASE OF ESCROW RETENTION: Upon completion of a project, please forward a letter requesting release of the Escrow Account funds to the above address. Include the name of your bank contact and your Escrow Account Number. The District will send a request for release to the Bank not less than 35 calendar days following the filing of the Notice of Completion.

PROTESTS BY BIDDERS

FILING OF BID PROTESTS

Bidders have the right to protest as described below. Whether concerns are about a Request for Proposal (RFP), Request for Quotation or Qualification (RFQ) or an Invitation for Bid (IFB), the following shall apply. The term "Bids" shall refer to either an RFP/Q or an IFB process.

Inquiry or Intention does not constitute a Protest: Notice of an intention to protest does not substitute for filing of a protest following the form and content required within the deadlines stated. Further, casual inquiry or complaint that does not specifically identify the purpose as a protest, and does not comply with the form, content and deadlines herein, are also not considered or acted upon as a protest action.

Certain **concerns must be filed as a protest before bids are due.** Any matter known - or that should have been known - before the bid deadline, must be brought to the Facilities Department Director, in writing at least three (3) business days before the bid deadline. Such matters include, but are not limited to:

- 1) Complaints about events or decisions made before the solicitation deadline,
- 2) Complaints that the solicitation unduly constrains competition through improper minimum qualifications or specifications,
- 3) Complaints that the pre-bid conference was not fair or accessible,
- 4) Complaints that questions were not fully or properly addressed by the District.
- 5) Complaints that the RFP/Q or IFB did not provide adequate information or contained an improper criteria;
- 6) Other matters known or that should have been known, to interested bidders by reading the solicitation document.

Protest on items known after bid deadline:

After the bid deadline, **only** vendors that submitted a bid are eligible to protest.

Grounds for Protest and Protest Form: A written, formal protest must contain the following to be considered. Failure to provide the following information could result in rejection of the protest.

- 1) Company name, mailing address, phone number, and name of company individual responsible for submission of the protest;
- 2) The Bid Number and title;
- 3) The specific action or decision protested to include;
 - a) a specific identification of the statutory or regulatory provision(s) that the action complained of is alleged to have violated;
 - b) a specific description of each act alleged to have violated the statutory or regulatory provision(s) identified in the above paragraph (a) of this subsection;
 - c) a precise statement of the relevant facts;
 - d) an identification of the issue or issues to be resolved; and

- e) argument and authorities in support of the protest.
- 4) Indicate what relief or corrective action you believe the District should make.
- 5) Demonstrate that every reasonable effort was made within the schedule provided, for you to resolve the basis of the protest during the process, including asking questions, seeking clarification, requesting addenda, and otherwise alerting the District to any perceived problems.
- 6) Signed by an authorized agent of the company.
- 7) Deliveries by hand, e-mail, or fax (must be followed up with a hard copy), in acceptable formats. The District is not responsible to assure the protest is received within the protest deadlines. If the District does not receive the protest within the specified deadline, the protest will be rejected. The follow up mailing address for all protests:

Santee School District
 Director of Maintenance, Operations & Facilities
 9880 Riverwalk Drive
 Santee, CA 92071

Protest Deadlines:

- 1) Protests must be received in the Facilities Office no later than 4:00 p.m. Pacific Time, five (5) business days after the date the RFP/Q or IFB is posted on the web page under "Bids". Webpage: www.santeesd.net
- 2) Protests received after the time specified are untimely and may be denied on that basis unless the District concludes that the issues raised by the protest involve fraud, gross abuse of the procurement process, or indicate substantial prejudice to the integrity of the procurement process.
- 3) The Facilities Department shall make efforts to distribute the recap to the affected bidder(s), such as posting on the District's website or faxing the notice to the affected bidder(s). However, it is the Bidder's responsibility to seek out and obtain the announcement from the District. The District is not responsible for assuring the Bidders have learned of the announcement in time to file a protest.

Protest Process and Appeals

- 1) The Director will review the protest. All available facts will be considered and the Director shall issue a decision. This decision shall be delivered in writing by e-mail or fax (will be followed up with a hard copy).
- 2) If the Protesting party believes the Director has failed to consider a fact and has made an error in the protest decision, the protesting bidder has a right to appeal that decision to the Governing Board of the District. The appeal is limited to only those matters brought forward to the District in the original protest. The appeal must clearly state why the Director's decision is in error.
- 3) The protesting bidder shall issue a Protest Appeal Statement by 4:00 PM (Pacific Standard Time) by the third (3rd) business day following issuance of the Director's decision. This appeal shall be delivered by the Protesting vendor, in writing through e-mail or fax (must be followed up with a hard copy).

- 4) The District's Legal Counsel will evaluate the appeal and issue a decision, which will be final.

NOTHING HEREIN SHALL DIMINISH THE AUTHORITY OF THE SANTEE SCHOOL DISTRICT TO ENTER INTO A CONTRACT, WHETHER A PROTEST ACTION OR INTENTION TO PROTEST HAS BEEN ISSUED.

STOP NOTICES

If a lien or stop payment notice of any nature should at any time be filed against the Work or any District property, by any entity which has supplied material or services at Prime Contractor's request, the Prime Contractor and its Surety shall promptly, on demand by District and at Prime Contractor's and Surety's own expense, take any and all action necessary to cause any such lien or stop payment notice to be released or discharged immediately therefrom.

If the Prime Contractor fails to furnish to the District within ten (10) calendar days after demand by the District, satisfactory evidence that a lien or stop payment notice has been so released, discharged, or secured, then District may discharge such indebtedness and deduct the amount required therefore, together with any and all losses, costs, damages, and attorney's fees and expense incurred or suffered by District from any sum payable to Prime Contractor under the Contract.

When filing a Stop Payment Notice, contractors/suppliers must send the notice to:

Nancy Stasch, Senior Buyer
Santee School District
9625 Cuyamaca Street
Santee, CA 92071

Filing a Stop payment notice:

NOTE: Effective July 1, 2012, significant changes to the Stop Notice procedures became effective. It is the responsibility of the subcontractor to use the proper forms and follow the proper codes when filing a stop payment notice.

A stop notice claimant who had no direct contractual relationship with the contractor must give a 20-day preliminary notice within 20 days of commencing work as a condition of filing the stop notice. California Civil Code Section 3098.

The notice must be served upon the public entity responsible within 30 days of recording notice of completion or cessation, or 90 days after actual completion or cessation. The stop notice must be served personally or by certified mail on the contractor and the director of the department which let the contract for the state of California, or the public disbursing officer responsible to make payments under the contract, or with the body by whom the contract was awarded.

The claimant on the stop payment notice cannot sue for 10 days after service and must file suit within 90 days of the period that the stop payment notice could be filed, 30 days after recording of notice of completion or notice of acceptance, or 90 days after completion or cessation. If no timely suit is filed, there is a mandatory duty to release the funds. A claimant can file the notice before the payment due date. The claimant must give the public entity notice of commencing the action within five days, by personal service or certified mail.

If the claim is disputed, the contractor can file a 125 % release bond, enforceable against the contractor and surety, but not the entity. (CC 8510). The contractor can also file a summary

proceeding within 20 days to resolve the issue. If a release bond is filed, it makes the stop payment notice period moot, and releases the public entity. A suit on the release bond is against the contractor and surety, and is subject to a three-year statute of limitations.

When a subcontractor submits payment in the amount of \$10 in conjunction with the filing of a stop payment notice, the District shall notify the subcontractor within 10 days of recording the Notice of Completion.

CHANGE ORDERS

General Conditions:

A Change Order is a written instrument prepared by the Architect, if applicable, and signed by the District (as authorized by the Board of Education), the Prime Contractor, the Construction Manager, if applicable, the Architect, if applicable, and the DSA (if necessary), stating their agreement upon all of the following:

- (I) A description of a change in the **Work**;
- (ii) The amount of the adjustment in the Contract Price, if any; and
- (iii) The extent of the adjustment in the Contract Time, if any.

Once a bid is submitted and accepted by the District, the price is fixed for the life of the contract. Price escalations for fuel charges, increases in material costs, sales taxes, or other charges are not permitted and will not be considered a change in work.

LABOR COMPLIANCE PROGRAMS

The following information is from the Division of Industrial Relations website:
<https://www.dir.ca.gov/Public-Works/PublicWorks.html>

Every Public Works Project:

- Comply with all prevailing wage and other public works requirements, including but not limited to all relevant notice and posting requirements, keeping certified payroll records in accordance with Labor Code section 1776, and ensuring that subcontractors working under you comply with these requirements.

Project Subject to DIR Monitoring and Enforcement:

- Submit certified payroll records (CPRs) to the PWC100 and awarding body using the PWC100's electronic certified payroll system. CPRs must be submitted at least monthly, or more frequently if required by the public works contract.

DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION PROGRAM

The Santee School District participates in the DVBE program when projects involve state bond monies.

The Department of General Services outlines the DVBE Participation Program as follows:

The Disabled Veteran Business Enterprise (DVBE) Participation Program was established to acknowledge disabled veterans for their service and to further DVBE participation in state contracting, promote competition and encourage greater economic opportunity.

The state established a DVBE participation goal of at least three percent. The goal applies to the total contract dollars expended each year by an awarding department. Each state agency establishes their own method for attaining the goal and they have the discretion to include the program goal within individual contracts. Every year, state agencies must also report to the governor and the legislature their total DVBE contracting participation. If the minimum three percent goal is not met, the state agency must provide their reasons for not meeting the goal and an implementation plan for future DVBE participation improvement. They may also be required to stand before a legislative panel to further clarify their results and efforts.

Added DVBE Incentive, Effective 10/09/07

The Department of General Services (DGS) established a DVBE incentive pursuant to Senate Bill 115 chaptered October 3, 2005 and the Military and Veterans Code section 999.5(a). The new regulations apply to all competitive solicitations for public works, services, goods, and information technology goods and services posted or released after October 09, 2007. The DVBE incentive is required in solicitations that include DVBE program requirements and may be offered in other competitive solicitations.

The DVBE incentive offers state agencies a tool to increase their DVBE participation while still allowing the flexibility to exempt a contract from the participation requirement should the department deem it necessary. Each state agency should incorporate the use of the DVBE incentive into their plan or strategy to ensure achievement of at least three percent DVBE participation on their total contract dollars.

The DGS has a searchable database for DVBEs.