



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.

Guiselle Carreon, Director of Purchasing, 619-644-8051

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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.

CUPCCAA BID LIMITS

Projects of \$45,000 or Less:

Public projects of thirty thousand dollars (\$30,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.

Projects of \$45,001 to \$175,000:

An informal bidding process is required for public projects exceeding \$30,000, but falling below \$125,000.

Public Projects in Excess of \$175,000:

A formal bidding process is required for all contracts estimated to exceed \$125,000:

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 Grossmont Union High School District would like to inform all contractors that under Public Contract Code Section 22002, subdivision, all contracts for public works of \$30,000 or more must be competitively bid. Construction contracts **greater than \$1,000** 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 Grossmont Union High School District without an executed agreement signed by an authorized signatory of the District.

The Governing Board of the Grossmont Union High School District has given signatory authority for capital improvement contracts to the following:

Ralf Swenson, Superintendent
Scott Patterson, Deputy Superintendent, Business Services
Bob Kiesling, Executive Director School 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; and a payment bond for projects in excess of \$25,000.

All contracts require approval by the Governing Board 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 the PCC or 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 619-644-8051 to verify that you are in compliance with contracting procedures prior to commencing any work at any of the Grossmont Union High School District sites.

FINGERPRINTING & BADGING PROCEDURES

Fingerprinting

The District will only fingerprint a contractor or a contractor's employees if that contractor has an ORI Number (origination number). 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.htm>). 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.

Consultant/Independent Contractor Badge Procedures

In order to be issued a badge, Consultants/Independent Contractors shall complete a Contractor Certification certifying that they are in compliance with Education 45125.1. Contractors/Independent Consultants who will not have contact with students will not need to be fingerprinted unless requested to do so by the Grossmont Union High School District.

Construction Contractor Badge Procedures

Upon completion of fingerprinting, the Contractor shall provide the District or the Construction Manager (for CM projects) 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. Red I. D. Badges for cleared employees and orange badges (Restricted Access) for non-cleared employees will be issued.

Contractor **SHALL NOT** permit any employee who does not have a badge to enter school premises or be on any Grossmont Union High 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.

Sample certification and badge request letters are available at www.guhsd.net under the Purchasing Department.

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

General Conditions: Section 11.1.1 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 or as otherwise set forth in the **Special Conditions**. Limits may vary by contract. See Special Conditions for applicable limits for General/Prime Contractors and Subcontractors.

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 Grossmont Union High 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 Governing Board, 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 insureds. (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:

Guiselle Carreon
Director of Purchasing
Grossmont Union High School District
PO Box 1043
La Mesa, CA 91944-1043

The Deputy 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

A bidder may protest a bid award if he/she believes that the award was inconsistent with Board policy or the bid's specifications or was not in compliance with law.

A protest must be filed in writing with the Superintendent or designee within five working days after receipt of notification of the contract award. The bidder shall submit all documents supporting or justifying the protest. A bidder's failure to timely file a protest shall constitute a waiver of his/her right to protest the award of the contract.

Any bidder submitting a Bid Proposal may file a protest of the District's intent to award the Contract provided that each and all of the following conditions are met:

1. The protest must be submitted in writing to the District (e-mail is not acceptable), before 4 p.m. of the FIFTH business day following bid opening.
2. The initial protest document must contain a complete statement of any and all bases for the protest, including without limitation all facts, supporting documentation, legal authorities and argument in support of the grounds for the bid protest; any matters not set forth in the written bid protest shall be deemed waived. All factual contentions must be supported by competent, admissible and creditable evidence
3. The protest must refer to the specific portions of all documents which form the bases for the protest.
4. The protest must include the name, address and telephone number of the person representing the protesting party.
5. Any bid protest not conforming to the foregoing shall be rejected by the District as invalid. Provided that a bid protest is filed in strict conformity with the foregoing, the District's Deputy Superintendent, Business Services, or such individual(s) as may be designated by him/her, shall review and evaluate the basis of the bid protest. Either the District's Deputy Superintendent, Business Services or other individual designated by him/her shall provide the bidder submitting the bid protest with a written statement concurring with or denying the bid protest. The District's Governing Board will render a final determination and disposition of a bid protest by taking action to adopt, modify or reject the disposition of a bid award as reflected in the written statement of the Deputy Superintendent, Business Services or his/her designee. Action by the District's Governing Board relative to a bid award shall be final and not subject to appeal or reconsideration by the District, any employee or officer of the District or the District's Governing Board. The rendition of a written statement by the Deputy Superintendent, Business Services (or his/her designee) and action by the District's Governing Board to adopt, modify or reject the disposition of the bid award reflected in such written statement shall be express conditions precedent to the institution of any legal or equitable proceedings relative to the bidding process, the District's intent to award the Contract, the District's disposition of any bid protest or the District's decision to reject all Bid Proposals.
6. The procedure and time limits set forth in this paragraph are mandatory and are the Bidder's sole and exclusive remedy in the event of bid protest. Failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code Claim or legal proceedings.

STOP NOTICES

If a lien or stop 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 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 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 Notice, contractors/suppliers must be sent the notice to:

Guiselle Carreon
Director of Purchasing
Grossmont Union High School District
1100 Murray Drive,
El Cajon, CA 92020

Filing a Stop 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 notice cannot sue for 10 days after service and must file suit within 90 days of the period that the stop 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 3196. 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 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.

CHANGE ORDERS

General Conditions:

A Change Order is a written instrument prepared by the Architect and signed by the District (as authorized by the Governing Board), the Prime Contractor, the Construction Manager, the Architect, 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

Labor Code section 1771.5 authorizes the establishment of Labor Compliance Programs ("LCPs") to enforce prevailing wage requirements on public works construction projects. LCPs enforce prevailing wage laws on behalf of the public agencies that award public works contracts (known as "awarding bodies") and serve as an alternative to the traditional enforcement role of the Division of Labor Standards Enforcement.

LCPs are required, among other things, to inform contractors about their prevailing wage obligations, to monitor compliance by obtaining and reviewing certified payroll reports, to investigate complaints and other suspected violations, and to take appropriate enforcement action when violations are found.

PREVAILING WAGE

Prevailing wage statutes ensure that workers are paid "the generally prevailing rate" of wages for their work where performed and to maintain public construction quality when agencies are required by law to contract with the lowest responsible competitive bidder. In most of California, the published prevailing wage rates are the union wage rates for commercial and engineering construction work for public works projects. In 2001, the DIR redefined "public work" to include work "paid for in whole or in part out of public funds."

Prevailing wage determinations are administered by the Department of Industrial Relations and information can be found at:

<http://www.dir.ca.gov/dlsr/pwd/>

DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION PROGRAM

The Grossmont Union High 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, which can be found at:

<http://www.bidsync.com/DPXBisCASB>