

## PSMCSD Public Works Ordinance No. 07-01-24

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#### **##.01 Purpose.**

This chapter is enacted for the purpose of implementing the Uniform Public Construction Cost Accounting Act (Public Contracts Sections 22000 et seq.) and to provide for bidding procedures in undertaking public works.

#### **##.02 Bid limitations.**

The following bid limitations shall apply:

- (a) If the project expense is the same or less than the amount specified in subdivision (a) of California Public Contract Code § [22032](#), it may be performed by District employees by force account, by negotiated contract, or by purchase order;
- (b) Public projects of less than the amount set forth in subdivision (b) of California Public Contract Code Section [22032](#) to be let to contract by informal procedure as set forth in this chapter and promulgated by the State Controller; and

- (c) Public projects exceeding the amount set forth in subdivision (b) of California Public Contract Code Section [22032](#), except as otherwise provided by State legislation, the project shall be let to contract by the formal bidding procedure of this ordinance.

**##.03 Informal bidding.**

Public works projects of an estimated value less than the amount set forth in subdivision (c) of California Public Contract Code Section [22032](#), may be awarded by the General Manager as follows:

- (a) Minimum Number of Bids. The award of bids, whenever possible, shall be based on at least three (3) bids and shall be awarded to the lowest responsible bidder.
- (b) Notices Inviting Bids: Contractors. The General Manager shall solicit bids by written requests to contractors licensed and experienced for the type of public work to be performed.
- (c) The General Manager shall maintain a list of qualified contractors, identified according to categories of work. The minimum criteria for the development and maintenance of the contractors' lists shall be determined by the California Uniform Construction Cost Accounting Commission (CUCCAC). All qualified contractors on the list for the category of work to be performed and/or all construction trade journals specified by the CUCCAC shall be mailed a notice inviting informal bids, unless the product or service is proprietary. All mailings of notices to such qualified contractors and construction trade journals shall be completed not less than ten (10) calendar days before the bids are due to be opened and awarded.
- (d) Notices Inviting Bids: Forms. The notice inviting informal bids shall be uniform and shall describe the project in general terms, describe how to obtain more detailed information concerning the project, and state the time and place for the submission of bids.
- (d) Written Bids. Sealed written bids to be opened at the time specified shall be submitted to the General Manager who shall keep a record of all informal bids for a period of one year after the submission of the bids or the awarding of the contract. Such record, while so kept, shall be opened to public inspection.
- (e) Award of Bids. The award of bids shall be made to the lowest responsible bidder, and the General Manager is authorized to execute the construction contract provided the bid does not exceed the budgeted amount for the project and the contractor has posted the required bonds and insurance as established by resolution by the Board of Directors for all informal bids. If the lowest responsible bid exceeds the budgeted amount for the project, the General Manager shall obtain authority by resolution of the Board of Directors to award the bid, together with the additional budget allocation. The General Manager shall report to the Board of Directors the results of the bidding procedure.
- (f) Award of Bids: All bids exceeding the amount set forth in subdivision (b) of California Public Contract Code Section [22032](#). If all bids received exceed the amount set forth in subdivision (b) of California Public Contract Code Section [22032](#), the Board of Directors

may by adoption of a resolution by a four-fifths (4/5) vote, award the contract, up to the highest amount set forth in subdivision (d) of California Public Contract Code Section [22034](#), to the lowest responsible bidder, if it determines the cost estimate of the project was reasonable.

**##.04 Maintenance of contractors' lists.**

During November of each year, the General Manager shall mail a written notice to all construction trade journals designated by the CUCCAC, inviting all licensed contractors to submit the names of their firms to the General Manager for inclusion on the list of qualified bidders for the following calendar year according to category. The notice shall require that the contractor provide the name and address to which a notice to contractors or proposal should be mailed, a telephone number at which the contractor may be reached, the type or category of work in which the contractor is interested and currently licensed to do, together with the class of the contractor's license or licenses held and the contractor's license number or numbers. The General Manager shall create a new contractors' list starting January 1 of each year which shall include at a minimum all contractors who submitted one or more valid bids to the District during the preceding calendar year and all contractors who have properly provided the General Manager with the information required to be added to the list. A contractor may be added to the list at any time by providing the required information.

**##.05 Public projects included.**

The following public projects may be performed under the [Uniform Public Construction Cost Accounting Act](#):

- (a) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility or within any public street, land, or property; and
- (b) Painting or repainting any publicly owned, leased, or operated facility.

**##06 Public projects excluded.**

The following public projects shall be excluded under the [Uniform Public Construction Cost Accounting Act](#):

- (a) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes;
- (b) Minor re-painting;
- (c) Resurfacing of streets and highways at less than one inch;
- (d) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems; and
- (e) Work performed to keep, operate, and maintain publicly owned buildings and facilities.

**##.07 Rejection of or no informal bids.**

- (a) The District reserves the right to reject any and all bids presented. If, after the first invitation for informal bids, all bids are rejected, the General Manager shall have the option, after reevaluating the project cost estimates, to do one of the following:
  - (1) Abandon the project or re-advertise for bids in the manner described in this chapter;
  - (2) By adoption of a resolution by a four-fifths (4/5) majority of the Board of Directors, declare that the project can be performed more economically by District employees, and the District may then have the project constructed by force account.
- (b) If no bids are received, the project may be performed by District employees by force account or the General Manager may re-advertise for bids in the manner described in this chapter.

**##.08 Formal bidding.**

Formal bidding of an estimated value in an amount exceeding the amount set forth in subdivision (b) of California Public Contract Code Section [22032](#) shall be made as follows:

- (a) Authorization to Call for Bids. The Board of Directors shall adopt by resolution the plans, specifications, and working details for all public projects subject to formal bidding.
- (b) Notices Inviting Bids. The General Manager shall solicit bids by written requests to prospective contractors. The notice inviting formal bids shall state the time and place for receiving and opening sealed bids and distinctly describe the project. The notice shall be published at least fourteen (14) calendar days before the date of opening in a newspaper of general circulation printed and published in the District. The notice inviting bids shall also be mailed to all construction trade journals specified by the CUCCAC. The notice shall be mailed at least fifteen (15) calendar days before the date of opening the bids.
- (c) Written Bids. All bids shall be accompanied by either a certified or cashier's check or a bidder's bond, executed by a corporate surety authorized to engage in such business in the State, made payable to the District. Such security shall be in an amount not less than that specified in the notice inviting bids or in the specifications referred to therein or, if no amount is so specified, then in an amount not less than ten (10%) percent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract within the time specified in the notice inviting bids or specifications referred to therein, the amount of the bidder's security may be declared forfeited to the District and may be collected and paid into its District's Treasury, and all bonds so forfeited shall be prosecuted in the amount thereof collected and paid into the Treasury. The bid shall also be accompanied by a certificate of insurance or endorsement, together with any and all bonds required by resolution of the Board of Directors.

- (d) Award of Bids. All bids shall be sealed and be filed with the General Manager no later than the opening time specified in the notice inviting bids. The General Manager shall receive and be the custodian of such bids and keep the bids confidential until they are opened and declared. All bids shall be publicly opened and declared at the time and at the place fixed in the notice inviting bids. The bids shall be tabulated and analyzed by the General Manager who shall submit them, together with recommendations thereon, to the General Manager. The General Manager shall review the bids and submit them to the Board of Directors with appropriate recommendations at the next regular Board of Directors meeting. The Board of Directors shall have the right to waive any informality or minor irregularity in a bid. The Board of Directors may award the bid to the lowest responsible bidder by the adoption of a resolution.

**##.09 Rejection of or no formal bids.**

- (a) The District reserves the right to reject any and all bids presented. If, after the first invitation for formal bids, all bids are rejected, the Board of Directors shall have the option, after reevaluating the project cost estimates, to do one of the following:
- (1) Abandon the project or readvertise for bids in the manner described in this chapter;
  - (2) By adoption of a resolution by a four-fifths ( 4/5) majority of the Board of Directors, declare that the project can be performed more economically by District employees, and the District may then have the project constructed by force amount.
- (b) If no bids are received, the Board of Directors shall have the option to do one of the following:
- (1) Have the project performed by District employees by force account after the adoption of a resolution by at least five (5) affirmative votes;
  - (2) Use the informal bidding procedures set forth in this chapter without further complying with this chapter; or
  - (3) Abandon the project or re-advertise for bids in the manner described in this chapter.

**##.10 Tie bids.**

If two (2) or more bids received are for the same total amount and the lowest, unit price, quality, and service being equal, the Board of Directors may accept the bid it chooses.

**##.11 Performance bonds.**

The Board of Directors shall have the authority to require a performance bond or labor and material bond in such amount as the Board of Directors shall establish by resolution to protect the best interests of the District before entering into a contract. If the Board of

Directors requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids.