

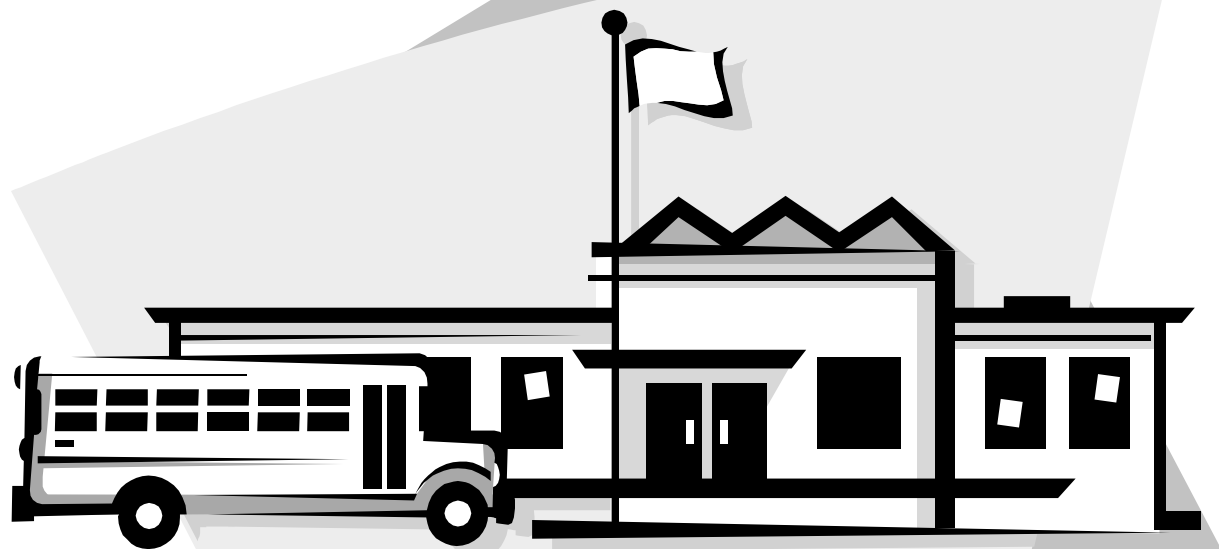


2003  
CASH ANNUAL CONFERENCE  
“HOW TO SURVIVE PUBLIC BIDDING  
IN DIFFICULT TIMES”

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# “The Other Side”









# Prequalification of Bidders

## ■ Pros

- Allows the district to screen bidders based on prior experience
- Reduces problems after bid due to lack of financial capacity

# Prequalification of Bidders (continued)

## ■ Cons

- Bidders may not bid due to additional paperwork and time
- Additional time for District to hire a consultant
- May not omit “problem” bidders



# Establish Bidding Procedures at Outset

- Job Walks
- Submission of questions
- Bid submission



# Call In The Experts When You Need Them

- Architect
- Attorney
- Construction Manager

# Advertising for and Opening Bids

- Publish bid in newspaper of general circulation within district (if none, then in county where district located)
- Once per week for two weeks (PCC 20112)
- Use clear bid delivery instructions
  - Delivery cut-off time
  - Identify bid clock
  - Precise delivery location

# Evaluating Bids

- Cannot weigh relative superiority of bidders
- Must select lowest responsible bidder submitting a responsive bid (PCC 20111)
- Purpose is to prevent favoritism or subjective factors from influencing contract award process

# Responsive Bid

- All necessary licensing requirements included
- All dollar amounts noted
- Signed
- Notarized where necessary
- All subcontractors listed
- All addenda acknowledged
- All information called for by bid documents included
- For construction work - - submitted under sealed cover with bidder security (PCC 20107, 20111)
- Clerical irregularities can be waived at District's discretion

# Responsible Bidder

- Trustworthiness
- Quality of Work
- Fitness
- Capacity
- Ability to do Work
- Must evaluate
  - Experience
  - Bonding history
  - Financial stability
  - Claims history

# Bid Addenda

If a “material change” made to bid resulting in substantial cost impact to total bid, must make change 72 hours before original bid deadline or extend bid deadline by no less than 72 hours. (PCC 4104.5)



# District's Discretion

- May reject all bids
- Rebid same project
- Redesign then rebid project
- Abandon project

# Pre-Bid Conferences

- If made mandatory by notice inviting bids, notice must include:
  - Time
  - Date
  - Location of mandatory pre-bid site conference
  - Location where project documents are available for review (PCC 6610)
- Pre-bid conference must take place more than 5 calendar days after publication of initial notice
- Making the pre-bid conference mandatory may disqualify a good contractor
- Consider video or audio taping the job walk

# Bidding Alternates

- District must specify in notice inviting bids the method by which low bidder will be selected. (PCC 20103.8)
- Four Choices are:
  1. Base bid
  2. Base bid + specific alternates
  3. Base bid + alternates from a list in order of preference that are equal to or less than a disclosed budget
  4. Blind bid
    - Identity of bidder not known until low bidder selected
- If method not specified, low bidder determined solely on basis of base bid.

# Duty of District to Verify Surety Insurer

- A public agency approving a bond on a public works contract has the duty to verify the bond was executed by an admitted surety insurer  
(Civ. Pro. 995.311; Rankin v. City of Murrieta (2000) 84 Cal.App.4<sup>th</sup> 605)
- District may fulfill duty by attaching to bond a verifying printout from Department of Insurance website ([www.insurance.ca.gov](http://www.insurance.ca.gov)) or a certificate from county clerk.

# AB 1506

If Proposition 47 funds are utilized for a school project, District must certify that a labor compliance program (LCP) has been approved by Department of Industrial Relations (DIR) and will be enforced before funds will be released.  
(Labor Code 1771.7)

# AB 1506 Applies to:

- Projects funded by Proposition 47
- Construction commenced on or after April 1, 2003
  - “Commencing construction” =  
date notice to proceed issued



# Labor Compliance Program

- All bid invitations must set forth the LCP requirement
- Must hold pre-job conference (not pre-bid) for all contractors and subcontractors to discuss federal and state labor law requirements



# How To Improve Bids

- Have a realistic construction time frame
- Select bid dates that do not conflict with those of other districts
- Open bids midweek in the mid/late afternoon
- Simplify bid



# How To Handle ‘Or Equals’ And Substitutions

- Public contract code requires “or equal” language (PCC 10129)
- Board can approve unique products when appropriate
- Allow no “or equal” substitutions after bid
- Product substitution after bid should be handled as a change order

# Tips For Successful Bidding

- Avoid making bid over complicated
  - Make bid form simple
  - Avoid numerous alternates/substitutions
  - Avoid asking for superfluous information (like unit pricing) in bids



# Tips for Successful Bidding (continued)

- Avoid numerous addenda
- Be responsive to bidders questions
- Have realistic construction timeframe
- Don't bid without DSA approved plans
- Confirm bidders
- Produce an accurate target budget range
- Always change scope for re-bid unless poor coverage to begin with



# Tips For Attracting Bidders

- Look at packaging projects together to attract more bidders
- Look for an appropriate bid window – contact other districts and CM's