

Notice From Auditor's Office with Public Contract Code: Section 20680-20683

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**Sent:** Thursday, January 3, 2019, 09:29:08 AM PST

**Subject:** Government Codes & Community Service Districts

The Auditor's Office would like to take this opportunity to inform districts of some important Government Codes and how they relate to special districts.

Public Contract Code: Section 20680-20683. This code states that when a community service district purchases materials and supplies for the construction or completion of any building, structure, or improvements in the open market when the cost does exceeds twenty five thousand dollars (\$25,000), must go out for competitive bid. When your district submits a claim of this type and the total is \$25,000 or more, the Auditor's Office also requires that the district submit board minutes approving this expense and vendor, and a copy of the public notice.

**PUBLIC CONTRACT CODE - PCC**

**DIVISION 2. GENERAL PROVISIONS [1100 - 22355]**

*( Division 2 enacted by Stats. 1981, Ch. 306. )*

**PART 3. CONTRACTING BY LOCAL AGENCIES [20100 - 22178]**

*( Part 3 added by Stats. 1982, Ch. 465, Sec. 11. )*

**CHAPTER 1. Local Agency Public Construction Act [20100 - 20929]**

*( Chapter 1 added by Stats. 1982, Ch. 465, Sec. 11. )*

**ARTICLE 43. Community Services Districts [2750 - 2930]**

*( Heading of Article 43 amended by Stats. 1984, Ch. 1128, Sec. 51. )*

**20680.**

The provisions of this article shall apply to contracts by community services districts as provided for in the Community Services District Law pursuant to Division 3 (commencing with Section 61000) of the Government Code.

*(Added by Stats. 1983, Ch. 256, Sec. 86.)*

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**20682.**

- (a) A district may purchase materials and supplies for the construction or completion of any building, structure, or improvements in the open market when the cost does not exceed twenty-five thousand dollars (\$25,000).
- (b) Contracts for materials and supplies for the construction or completion of any building, structure, or improvement, when the cost exceeds twenty-five thousand dollars (\$25,000), shall be contracted for and let to the lowest responsible bidder after notice. If two or more bids are the same and the lowest, the district board may accept the one it chooses.
- (c) The district shall publish a notice inviting bids for any contract for which competitive bidding is required at least one time in a newspaper of general circulation in the district at least one week before the time specified for receiving bids. The notice inviting bids shall set a date for opening the bids and distinctly state the materials and supplies to be purchased.
- (d) If the general manager recommends and the board of directors determines that the publication of advertisements of the notice in trade journals and papers in lieu of publication pursuant to subdivision (c) will increase the number of business enterprises receiving that notice, the board of directors may by resolution declare that those notices shall be published in trade journals and papers at least 10 days prior to the time specified for receiving bids.
- (e) At its discretion, the board of directors may reject any bids presented and readvertise.
- (f) In the case of an emergency, the board of directors may act pursuant to Chapter 2.5 (commencing with Section 22050).
- (g) As an alternate to the procedures required by this section, a district may rely on the Uniform Public Construction Cost Accounting Act, Chapter 2 (commencing with Section 22000) of Part 3 of Division 2.  
*(Repealed and added by Stats. 2005, Ch. 249, Sec. 5. Effective January 1, 2006.)*

**20682.5.**

- (a) A district may construct or complete any building, structure, or improvement with its own forces or by contract without bidding when the cost does not exceed twenty-five thousand dollars (\$25,000).
- (b) All contracts for the construction or completion of any building, structure, or improvement, when the cost exceeds twenty-five thousand dollars (\$25,000), shall be contracted for and let to the lowest responsible

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bidder after notice. If two or more bids are the same and the lowest, the district board may accept the one it chooses.

(c) The district shall publish a notice inviting bids for any contract for which competitive bidding is required at least one time in a newspaper of general circulation in the district at least 10 days before the time specified for receiving bids. The notice inviting bids shall set a date for opening the bids and distinctly state the work to be done.

(d) If the general manager recommends and the board of directors determines that the publication of advertisements of the notice in trade journals and papers in lieu of publication pursuant to subdivision (c) will increase the number of business enterprises receiving that notice, the board of directors may by resolution declare that those notices shall be published in trade journals and papers at least 10 days prior to the time specified for receiving bids.

(e) If plans and specifications are prepared describing the work, all bidders shall be afforded an opportunity to examine the plans and specifications, and the plans and specifications shall be attached to and become part of the contract, if one is awarded.

(f) At its discretion, the board of directors may reject any bids presented and readvertise.

(g) In the case of an emergency, the board of directors may act pursuant to Chapter 2.5 (commencing with Section 22050).

(h) The board of directors may, subject to Chapter 5 (commencing with Section 9550) of Title 3 of Part 6 of Division 4 of the Civil Code, require the posting of those bonds it deems desirable as a condition to the filing of a bid or the letting of a contract.

(i) The district shall keep cost records of the work in the manner provided in Chapter 1 (commencing with Section 4000) of Division 5 of Title 1 of the Government Code.

(j) As an alternate to the procedures required by this section, a district may rely on the Uniform Public Construction Cost Accounting Act, Chapter 2 (commencing with Section 22000) of Part 3 of Division 2.

*(Amended by Stats. 2010, Ch. 697, Sec. 51. (SB 189) Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697.)*

**20683.**

All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:

(a) Cash.

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- (b) A cashier's check made payable to the district.
- (c) A certified check made payable to the district.
- (d) A bidder's bond executed by an admitted surety insurer, made payable to the district.

Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the district beyond 60 days from the time the award is made.

*(Added by renumbering Section 20685.5 by Stats. 2005, Ch. 249, Sec. 8. Effective January 1, 2006.)*

California Government Code: Section 53234-53235.2 requires **mandatory** ethics training for specified local agency officials. Local agency officials are: any member of a local agency legislative body or any elected local agency official who receives any type of compensation, salary, or stipend or reimbursement for actual necessary expenses incurred in the performance of official duties.

This training may consist of self-study material, in person training or an online course, website address <http://localethics.fppc.ca.gov/ab1234/>. When taking the ethics course you will be trained on other notable government codes, such as, Contractual Conflicts of Interest (Government Code 1090) and the Brown Act (Government Code 54950), codes that are critical to running a community service district.

California Government Code: Section 61110 requires that the board of directors adopt a final budget that conforms to generally accepted accounting and budgeting procedures for special districts on or before September 1.

The final budget is to be forwarded this office.

California Government Code: Section 61113 requires that on or before July 1 of each year, the board of directors shall adopt a resolution establishing its appropriations limit.

Our office provides your district the format of the resolution and the factors necessary to perform the calculations early in May each year.

As always, it is the Auditor's goal to ensure understanding and compliance of local, state, and federal laws in regards to financial activity. If you have any questions, please feel free to contact me.