



PURCHASING, CONTRACTS AND THE LAW

"A REVIEW"

Board of Trustees Meeting

October 8, 2013

PUBLIC CONTRACTING AND THE LAW

There are **three (3)** Codes which govern the process for public purchasing and contracting in the State of California and its Community Colleges. They are:

- **Public Contract Code**
- **California Education Code**
- **Government Code**

Public Contract Code
Section 100

100. The Legislature finds and declares that placing all public contract law in one code will make that law clearer and easier to find. Further, it is the intent of the Legislature in enacting this code to achieve the following objectives: (a) To clarify the law with respect to competitive bidding requirements. (b) To ensure full compliance with competitive bidding statutes as a means of protecting the public from misuse of public funds. (c) To provide all qualified bidders with a fair opportunity to enter the bidding process, thereby stimulating competition in a manner conducive to sound fiscal practices. (d) To eliminate favoritism, fraud, and corruption in the awarding of public contracts. 101. California public contract law should be efficient and the product of the best of modern practice and research. 102. To encourage competition for public contracts and to aid public officials in the efficient administration of public contracting, to the maximum extent possible, for similar work performed for similar agencies, California's public contract law should be uniform.

PUBLIC CONTRACT CODE

“PURPOSE AND INTENT”

The California Public Contract (Section 100) provides:

“.....it is the intent of the Legislature by enacting this code in one law and to clarify the law with respect to competitive bidding requirements. To clarify the law with respect to competitive bidding statutes as a means of protecting the public from misuse of public funds. To eliminate favoritism, fraud, and corruption in the awarding of public contracts.”

**PUBLIC
CONTRACT CODE
SECTION 20650**

20650. The provisions of this article shall apply to contracts by community college districts as provided for in Part 49 (commencing with Section 81000) of the Education Code. Whereby, in accordance to Section 20651.7.h. The community college district shall ensure that all businesses have a fair and equitable opportunity to compete for, and participate in, district contracts and shall also ensure that discrimination, as described in subdivision (e) of Section 12751.3 of the Public Utilities Code, in the award and performance of contracts does not occur.

**PURPOSE AND INTENT
(continue)**

Further, PCC Code 20650
(Section 20651.7.h) provides:

“.....the community college district shall ensure that all businesses have a fair and equitable opportunity to compete for and participate in, district contracts to ensure that discrimination in accordance to Section 12751.3 (e) does not occur.”

CALIFORNIA EDUCATION CODE

The State of California Education Code Part 49, Section 81000 (**81656**) provides:

“The governing board by majority vote may adopt a rule, delegating to any officer employee of the district as the board may designate, the authority to purchase supplies, materials, apparatus, equipment, and services. No such rule may authorize any officer or employee to make any purchases involving an expenditure by the district in excess of the amount specified by **Section 20651 of the Public Contract Code.**”

CALIFORNIA GOVERNMENT CODE

The California Government Code is a direct restatement of the Public Contract Code and California Education Code. These Codes are unified and governs the purchasing and contracting process for public and local entities.

BOARD POLICY

The Board of Trustees of the Peralta Community College District have adopted policies in accordance to the Public Contract Code, California Education Code and Government Code to formulate Administrative Policies which are necessary for the operation of the colleges for the purchase of goods and services to obtain competitive prices, to guarantee fairness in the selection of vendors, and to minimize opportunities for corruption in the award of contracts.

Administrative Procedures 6630 and 6340

Whereby, the Chancellor of the Peralta Community College District has been given authority by the Board of Trustees to implement Administrative Procedures for the purchase of goods, services and contracts in accordance to Section 20650 of the Public Contract Code and Section 81641 and 81651 of the California Education Code to ensure an equitable, fair and competitive process in the procurement of District contracts.

Administrative Procedures (continue)

AP 6630 provides the framework in the purchase of supplies and services for the District, and establishes the procedure in which purchases are to be obtained.

AP 6340 provides the framework for operating procedures and authorizes the use of standard forms pertaining to the taking of bids and issuance of contracts (i.e., Quotes, Invitation to Bids (IFB) Request for Proposal (RFP)). Which also includes District Business Processes and Contract Types.

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QUESTIONS