



SOUTHWESTERN COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD

TIM NADER, GOVERNING BOARD PRESIDENT
NORMA L. HERNANDEZ, GOVERNING BOARD VICE PRESIDENT
NICK AGUILAR, GOVERNING BOARD MEMBER
JEAN ROESCH, ED.D., GOVERNING BOARD MEMBER
TERRI VALLADOLID, GOVERNING BOARD MEMBER
MANUEL R. LOPEZ, JR., STUDENT GOVERNING BOARD MEMBER
DENISE WHITTAKER, INTERIM SUPERINTENDENT/PRESIDENT

SUGGESTED ORDER OF BUSINESS
SPECIAL MEETING OF THE GOVERNING BOARD
POLICY COMMITTEE

NICK AGUILAR, GOVERNING BOARD MEMBER & COMMITTEE CHAIR
JEAN ROESCH, ED.D., GOVERNING BOARD MEMBER

Written notice is hereby given in accordance with Government Code Section 54956 that a special meeting of the Governing Board of the Southwestern Community College District will be held as noted below:

DATE: Wednesday, March 16, 2011
TIME: 10:00 a.m.
LOCATION: Southwestern College
Building 100, Conference Room A
900 Otay Lakes Road
Chula Vista, CA 91910

Compliance with Americans With Disabilities Act

Southwestern Community College District, in compliance with the American Disabilities Act (ADA), requests individuals who may need special accommodation to access, attend, and/or participate in Board meetings to contact Mary Ganio at (619) 482-6301 in advance of the meeting for information on such accommodation.

	ITEM
Call to Order	1. CALL TO ORDER (Aguilar) Building 100, Conference Room A Attendance at this special meeting (Board members arriving after meeting commences will be noted as "present" at point in this suggested order of business at which they arrive). Present:
Oral Communication	2. ORAL COMMUNICATION Persons wishing to address the Governing Board under this item should fill out a yellow request card (available at the reception table) and indicate on the card if they wish to be called under Oral Communication, or when a specific agenda item is considered. An oral presentation to the Board does <i>not</i> constitute an open discussion on the presentation topic, unless that topic is on the posted agenda. Pursuant to the Brown Act (Government Code Section 54954.2(a)): "No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may <i>briefly</i> respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3."
Action	3. APPROVAL OF MINUTES (ENCLOSURE) (Aguilar) Policy Committee Meeting, February 16, 2011

	ITEM
	4. AMENDMENT OF EXISTING POLICIES (Aguilar) The Policy Committee will review and discuss proposed amendments to the following policies: 4A. Policy No. 2340 – Agendas (ENCLOSURE) • Revision amending responsibility for developing Board agendas to Board President in consultation with Superintendent/President • Revision re Governing Board members placing items on agenda • Pursuant to discussion at 2/16/11 meeting this item will go to May Board for first reading 4B. Policy No. 2210 – Officers (ENCLOSURE) • Revision to reflect amended responsibilities for developing Board agenda • Will go to May Board for first reading 4C. Policy & Procedure No. 2715 - Code of Ethics (ENCLOSURE) • Current Policy & Procedure • WASC Recommendation 5. PROPOSED AGENDA INPUT (Aguilar) 5A. Process of Operations – Agenda Input Granting Authority to Superintendent/President (ENCLOSURE) • Education Code section 81656 • Public Contract Code section 20651 • San Diego County Office of Education <i>Bulletin</i> dated December 15, 2010 “Pursuant to Education Code section 81656 and Public Contract Code section 20651, recommend the Governing Board grant authority to the Superintendent/President to enter into contracts on behalf of the College District for the lease or purchase of equipment materials, supplies or services in an amount not to exceed \$78,900 per contract. A list of all purchases and/or contracts made pursuant to this authority shall be submitted for review by the Governing Board as an <i>Information</i> item on the monthly Governing Board agenda. The amount of authority is subject to changes made by the San Diego County Office of Education in its ‘Annual Adjustment to Bid Threshold.’ Such authority shall be granted through June 30, 2012, and shall be resubmitted for annual approval thereafter.” 6. DRAFT INDEPENDENT CONTRACTOR AGREEMENT (ENCLOSURE) (Aguilar) Consultant Contract drafted pursuant to committee discussions regarding the establishment of general legal counsel hired by and reporting directly to the Governing Board. 7. ESTABLISHMENT OF POLICIES (Aguilar) The Policy Committee will discuss establishment of the following policies: 7A. Policy Regarding preference for local businesses, vendors, contractors. 8. ADJOURNMENT (Aguilar)

Adjournment

Nick Aguilar
Policy Committee Chair

ITEM # 3

Approval of Minutes



SOUTHWESTERN COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD

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DENISE WHITTAKER, INTERIM SUPERINTENDENT/PRESIDENT

MINUTES

**SPECIAL MEETING OF THE GOVERNING BOARD
POLICY COMMITTEE**

NICK AGUILAR, GOVERNING BOARD MEMBER & COMMITTEE CHAIR
JEAN ROESCH, ED.D., GOVERNING BOARD MEMBER

Written notice is hereby given in accordance with Government Code Section 54956 that a special meeting of the Governing Board of the Southwestern Community College District will be held as noted below:

DATE: Thursday, February 17, 2011
TIME: 9:00 a.m.
LOCATION: Southwestern College
Building 100, Conference Room A
900 Otay Lakes Road
Chula Vista, CA 91910

Compliance with Americans With Disabilities Act

Southwestern Community College District, in compliance with the American Disabilities Act (ADA), requests individuals who may need special accommodation to access, attend, and/or participate in Board meetings to contact Mary Ganio at (619) 482-6301 in advance of the meeting for information on such accommodation.

	ITEM
Call to Order	1. CALL TO ORDER (Aguilar) 9:05 a.m., Building 100, Conference Room A Attendance at this special meeting (Board members arriving after meeting commences will be noted as "present" at point in this suggested order of business at which they arrive). Members Present: <i>Nick Aguilar</i> Members Absent: <i>Jean Roesch</i> Staff Present: <i>Denise Whittaker, Michael Kerns, Patti Blevins</i> Others Present: <i>Robert Corniculus, Angelina Stuart</i>
Oral Communication	2. ORAL COMMUNICATION Persons wishing to address the Governing Board under this item should fill out a yellow request card (available at the reception table) and indicate on the card if they wish to be called under Oral Communication, or when a specific agenda item is considered. An oral presentation to the Board does <i>not</i> constitute an open discussion on the presentation topic, unless that topic is on the posted agenda. Pursuant to the Brown Act (Government Code Section 54954.2(a)): "No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may <i>briefly</i> respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3." <i>No speakers.</i>

	ITEM
Action	3. APPROVAL OF MINUTES (ENCLOSURE) (Aguilar) Policy Committee Meeting, January 21, 2011 <i>The minutes were accepted with no objections. Aguilar announced additions to agenda items 4E and 4F.</i> 4. AMENDMENT OF EXISTING POLICIES (Aguilar) The Policy Committee will review and discuss proposed amendments to the following policies: 4A. Policy No. 2340 – Agendas (ENCLOSURE) • Education Code and Accreditation Standard • Sample “Agenda” policies from other California community colleges • Revision amending responsibility for developing Board agendas to Board President in consultation with Superintendent/President <i>Aguilar discussed proposed revisions to the agenda to reflect that the Governing Board President determines the agenda, in consultation with the Superintendent/President, and the Superintendent/President prepares the agenda. Aguilar distributed related supplemental information from Roberts Rules of Order and Policy No. 2355 Decorum.</i> <i>After discussion, it was determined that the policy would be forwarded to the Governing Board in May for first reading to consider the proposed revisions to include it shall be the responsibility of the Governing Board President in consultation with Superintendent/President to develop the agenda, and it shall be the responsibility of the Superintendent/President to prepare the agenda.</i> 4B. Policy No. 2210 – Officers (ENCLOSURE) • Revision to reflect amended responsibilities for developing Board agenda <i>The policy was revised to conform to statute. The policy with revisions will be submitted for the May Board agenda for first reading.</i> 4C. Policy No. 2430 - Delegation of Authority to the Superintendent/President (ENCLOSURE) • Current Policy • Public Contract Code • Legal opinion from Best Best & Krieger • Draft Policy & Procedure 6330 Purchasing • Draft Policy & Procedure 6340 Contracts <i>Aguilar discussed reserving Board agendas for policy and required items and reducing the number of unnecessary administrative routine items. It was determined that the Superintendent/President already has the authority to approve certain expenditures pursuant to statute to a certain amount, and those items could be submitted to the Board as information items rather than items to be approved by the Board.</i> <i>After discussion, it was determined that the delegation of authority to the Superintendent/President to approve expenditures to a specified amount be proposed in policy for the Board to consider in April or May. It was also determined that Whittaker would mention to the Board in March that these items will be brought forward to the Board as information items beginning with the April Board agenda.</i> 4D. Policy No. 2330 – Quorum and Voting (ENCLOSURE) • Revision giving all board members opportunity to speak to an item before vote is taken • Revision giving Board Members the right to separate compound items for separate vote

	ITEM
	<i>Aguilar provided proposed revisions to the policy. After discussion, it was determined that the proposed revised policy would be forwarded to the Board in March or April for first reading.</i> 4E. Policy No. 1100 – The Southwestern Community College District (ENCLOSURE) • Reference materials • <u>Proposed Revision</u> <i>Aguilar provided proposed revisions to the policy reflecting that the Southwestern Community College District shall be referred to as “Southwestern College” rather than “District” in all documents, policies, procedures, and correspondence or all other forms of communication.</i> <i>After discussion, it was determined that a revised policy would be forwarded to the Board in March to replace reference of “district” with “college/district.” Whittaker noted that the transition of publications would require a transition period of one year. She further noted that it would be effective for future publications and existing publications would not be revised.</i> 4F. Policy No. 2320 – Special & Emergency Meetings of the Governing Board (ENCLOSURE) • Reference materials • <u>Proposed Revision</u> <i>Aguilar provided proposed revisions to the policy to conform to statute. It was determined that the proposed revised policy would be forwarded to the Governing Board in March for first reading.</i> 5. ESTABLISHMENT OF POLICIES (Aguilar) The Policy Committee will review and discuss establishment of the following policies: 5A. Policy Regarding the Establishment of General Legal Counsel Hired by and Reporting Directly to the Governing Board (ENCLOSURE) • Results of research regarding California community colleges which employ an attorney as general counsel • Draft policy proposed by Trustee Aguilar <i>Aguilar discussed establishing a policy to make clear that legal counsel reports to, with clear direction, from the Governing Board rather than the Superintendent/President, and proposed establishing a campus counsel to direct and monitor the need for requests for legal services. There was discussion of options including a campus counsel to be hired as an employee of the college reporting to the Board, as well as a consultant to serve in this capacity.</i> <i>After discussion, this item was deferred to the Superintendent/president and staff to bring recommendations forward at the next Policy Committee meeting.</i> 5B. Policy Regarding the Development of an Official College Seal <i>Whittaker reported that this item has been referred to the Shared Consultation Council for discussion.</i> 6. ADJOURNMENT 11:16 a.m. (Aguilar)

Adjournment

Nick Aguilar
Policy Committee Chair

ITEM # 4A

Policy No. 2340 – Agendas

AGENDAS

References: Education Code Sections 72121 and 72121.5;
Government Code Sections 6250 et seq. and 54954 et seq.

It shall be the responsibility of the Governing Board President, in consultation with the Superintendent/President, to identify the agenda items for each regular and special meeting, in accordance with Robert Rules of Order, pursuant to Policy No. 2355, "Decorum." It shall be the responsibility of the Superintendent/ President, in consultation with the Governing Board President, to develop and prepare an agenda containing the items of business to come before the Governing Board at each regular and special meeting, consistent with District Policy & Procedure No. 2510, "Shared Planning & Decision Making," and No. 2515 "Academic Senate: 10+1."

Any Board member may put items pertinent to the subject matter jurisdiction of the Governing Board on the agenda. Members of the Governing Board who wish to introduce an item for action at the public Board meeting at which that item is first considered should file such item for inclusion on the agenda with the Governing Board President and the Superintendent/President five working days preceding the next Board meeting for agenda items that do not require any preparation and seven working days preceding for agenda items that require review and preparation.

The agenda shall be posted adjacent to the place of meeting at least 72 hours prior to the meeting time for regular meetings. The agenda shall include a brief description of each item of business to be transacted or discussed at the meeting, and specify the date, time and location of the meeting. If requested, the agenda shall be provided in appropriate alternative formats so as to be accessible to persons with a disability. The Superintendent/ President shall establish administrative procedures that provide for public access to agenda information and reasonable annual fees for the service.

No business may be acted on or discussed which is not on the agenda, except when one or more of the following apply:

- a majority decides there is an "emergency situation" as defined for emergency meetings;
- two-thirds of the members (or all members if less than two-thirds are present) determine there is a need for immediate action and the need to take action came to the attention of the Board subsequent to the agenda being posted;
- an item appeared on the agenda of and was continued from a meeting held not more than five days earlier.

Southwestern Community College District Policy

No. 2340

Governing Board

Agenda items initiated by members of the public, pursuant to District Procedure No. 2340, shall be placed on the Governing Board's agenda following the items of business initiated by the Governing Board and by staff. An agenda item submitted by a member of the public and heard at a public meeting may not be resubmitted within 90 days of the initial submission.

The order of business may be changed by consent of the Governing Board.

ITEM # 4B

Policy No. 2210 – Officers

OFFICERS

Reference: Education Code Section 72000(c)(1)

At the annual organizational meeting, the Governing Board shall elect from among its members a President and Vice President.

Election to office shall be by a majority vote of the entire Governing Board. Officers shall serve for one year. An officer may be removed from office by a majority vote of the entire Governing Board for refusing to perform the duties of the office imposed by law or by this policy.

The Superintendent/President shall serve as Secretary to the Governing Board.

The duties of the President of the Governing Board are:

- Preside over all meetings of the Governing Board;
- Call emergency and special meetings of the Governing Board as required by law;
- Develop Governing Board meeting agendas in consultation with the Superintendent/President; ~~Consult with the Superintendent/President on Governing Board meeting agendas;~~
- Communicate with individual Governing Board members about their responsibilities;
- Participate in the orientation process for new Governing Board members;
- Assure Board compliance with policies on Governing Board education, self-evaluation, and Superintendent/President evaluation;
- Represent the Governing Board at official events or ensure Governing Board representation.

The duties of the Vice President of the Governing Board are:

- In the absence, disability or disqualification of the President, the Vice President shall preside over meetings and perform the duties of the President.

The duties of the Secretary of the Governing Board are:

- Notify members of the Governing Board of regular, special, emergency and adjourned meetings;
- Consult with Board President to develop Governing Board meeting agendas;

- Prepare and post Governing Board meeting agendas;
- Have prepared for adoption minutes of Governing Board meetings;
- Attend all Governing Board meetings and closed sessions, unless excused, and in such cases to assign a designee;
- Conduct the official correspondence of the Governing Board;
- Certify as legally required all Governing Board actions;
- Sign, when authorized by law or by Governing Board action, any documents that would otherwise require the signature of the Secretary or the Clerk of the Governing Board.

ITEM # 4C

Policy & Procedure No. 2715 – Code of Ethics

CODE OF ETHICS

References: *Accreditation Standard IV.B.1.a, e, and h*

The Governing Board of Southwestern Community College District is committed to serving the educational needs of all residents of the District community and to carrying out its duties and responsibilities in accordance with the highest standards of ethical conduct.

District Policy and Procedure No. 2715, "Code of Ethics," together with District Policy No. 3015, "Institutional Code of Ethics," shall constitute the ethical standard for its members in both the conduct of policy and in its relationships with the administration, staff, students, and the District community.

Within this ethical context and the Board's obligation to the District's primary mission, each member of the Board is responsible to adhere to the standards of practice set forth below. The process for addressing alleged violations of this policy are set forth in District Procedure No. 2715.

1. Practice good citizenship in community and state affairs;
2. Accept the legal and ethical commitments and responsibilities of the Governing Board to residents of the District, to the staff, to the taxpayers, and, most important, to the students served;
3. Dedicate themselves to the highest ideals of honor and integrity in all public and personal relationships;
4. Not accept or solicit loans or gifts from employees of the Southwestern Community College District or their family members;
5. Recognize that a Governing Board member has no legal authority as an individual, that decisions can be made only by a majority vote of the entire Board at a Board meeting, and that no individual Governing Board member has authority to direct staff or programs at the District;
6. Render all decisions regarding the issues at hand based on the available facts and independent judgment, and to refuse to surrender that judgment to any other individual or special interest group;
7. Be aware of the cultural and economic make-up, and the geographic distribution of the members of our community, and to make responsible decisions to meet the educational goals of a diverse population;

CODE OF ETHICS

8. Encourage the free expression of opinion by all Governing Board members and to seek systematic communications between the Board and students, staff and all elements of the community;
9. Abide by majority decisions of the Governing Board, while retaining the right to seek changes in decisions through ethical and constructive channels;
10. Keep confidential all information and discussions conducted during closed sessions of the Governing Board;
11. Bring direct and indirect credit to the District through personal effort in business, social, professional, and personal relationships;
12. Avoid any conflict of interest or the appearance of impropriety that could result because of their position as Governing Board members, and to not intentionally use Board membership, the goodwill or name of the College or District for personal gain or prestige;
13. Fulfill the responsibilities of their commission without regard to prejudice, provinciality, partisanship, or animosity;
14. Recognize that the District is a major employer and that the Governing Board's actions will affect the capacity of many people to practice the profession or trade in which they have so much personal investment;
15. Refrain from using District time, personnel, supplies, and equipment for non-District activities;
16. Work with other Governing Board members to establish effective Board policies and to delegate authority for the administration of the District to the Superintendent/President;
17. Ensure public input into Governing Board deliberations and adhere to the law and spirit of the open meeting laws and regulations;
18. Be informed and educated about the District, educational issues and the responsibilities of trusteeship and devote adequate time to perform the work of the Governing Board.

CODE OF ETHICS

Reference: Accreditation Standard IV.B.1.a, e, and h

The Governing Board is committed to serving the educational needs of all residents of the Southwestern Community College District, and to carrying out its duties in accordance with the highest standards of ethical behavior. The Governing Board shall foster awareness of ethical expectations by:

- Providing the Code of Ethics policy and procedure to all trustees and having them available at Board meetings;
- Including a review of the Code of Ethics when orienting new Board members;
- Assuring the vitality of the Code of Ethics by reviewing, reading and signing the Code of Ethics at its annual retreat;
- Using the Code of Ethics as criteria in the Board self-evaluation process.

The Governing Board has responsibility for monitoring itself, and ensuring that laws and policies are followed. Addressing alleged violations of the Code of Ethics is the responsibility of the Board President or other members identified by the Board. Any response to such allegations must uphold the public trust.

Possible violations of the Code of Ethics include, but are not limited to, the following:

- Verbal attacks against any person at a public meeting;
- Publicly advocating against Board decisions after they are made;
- Sabotaging the work of the Board;
- Attempting to administer, rather than govern the District;
- Advocating a single interest instead of the common public good;
- Appearing to be the agent of a union, specific community group, or business interest.

The Governing Board will promptly address any alleged violation by a Board member or Board members of the Code of Ethics in the following manner:

The Superintendent/President and Board President are authorized to consult with legal counsel when they become aware of or are informed about actual or perceived violations of Policy No. 2715, "Code of Ethics." Violations of law may be referred to the District Attorney or Attorney General as provided for in law.

Violations of Board Policy No. 2715, "Code of Ethics," will be addressed by the Board President, who will first discuss the alleged violation with the Board member. If resolution is not achieved and further action is deemed necessary, the President will appoint a two-member ad hoc committee. The committee will initiate a thorough fact-finding process regarding the alleged violation, including interviews with the person making the allegation and the member in question. The committee will recommend further courses of action to the Board. The Board will consider the committee's findings. If the Board determines that

CODE OF ETHICS

the member has not violated Policy No. 2715, the process shall be concluded. If the Board determines that a violation has occurred, sanctions will be determined by the Board. If the Board President is perceived to have committed the violation, the Vice President of the Board is authorized to pursue resolution.

WASC Accreditation Recommendations & Corresponding District Policies

March 23, 2010

No.	Accreditation Recommendation	Corresponding District Policy
1	As previously identified in the 2003 ACCJC/WASC Accreditation Report, the team recommends that the college systematically and regularly evaluate and update the mission statement; assure that it defines the college educational purposes, its intended student population, and its commitment to student learning; and use it to guide institutional decisions and improvement goals (Standards I.A.3, I.B.2, and II.A.1)	No. 1200 – District Mission
10	The team recommends that the Governing Board establish and implement a formal procedure for handling potential conflict of interest and ethics policy violations and document adherence to the protocol (Standard IV.B.1.h and IV.b.1.i)	No. 2710 – Conflict of Interest No. 2715 – Code of Ethics
8	The team recommends that the college set as a priority fostering an environment of trust and respect for all employees and students that allows the college community to promote administrative stability and to work together for the good of the college. The team further recommends that the college establish and follow a written process and structure providing faculty, staff, and students a substantial voice in decision-making processes. (Standards IV.A, IV.B.2.b, and III.A.4.c) With regard to Recommendation 8 above, the Commission requires that Southwestern College develop and implement written definitions of an effective decision-making process by the time of the first Follow-Up Report and visit in October 2010.	No. 2510 – Participation in Decision Making (Shared Governance)
9	As previously identified in the 2003 ACCJC/WASC Accreditation Report, the team recommends the Governing Board adhere to its role as a policy-making body and not interfere with the authority and responsibility of the Superintendent/President for college operations. The team further recommends that the Governing Board act as a whole once it reaches a decision and as an advocate for the college (Standards IV.B.1 and IV.B.1.j)	No. 2432 – Selection of Vice Presidents

ITEM # 5A

Proposed Agenda Input – Process of Operations

EDUCATION CODE

SECTION 81656

81656. The governing board by majority vote may adopt a rule, delegating to any officer or employee of the district as the board may designate, the authority to purchase supplies, materials, apparatus, equipment, and services. No such rule shall 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. The rule shall prescribe the limits of the delegation as to time, money, and subject matter. All transactions entered into by the officer or employee shall be reviewed by the governing board every 60 days.

In the event of malfeasance in office, the community college district officer or employee invested by the governing board with the power to contract shall be personally liable for any and all moneys of the district paid out as a result of the malfeasance.

PUBLIC CONTRACT CODE

SECTION 20651

20651. (a) The governing board of any community college district shall let any contracts involving an expenditure of more than fifty thousand dollars (\$50,000) for any of the following:

(1) The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district.

(2) Services, except construction services.

(3) Repairs, including maintenance as defined in Section 20656, that are not a public project as defined in subdivision (c) of Section 22002.

The **contract** shall be let to the lowest responsible bidder who shall give security as the board requires, or else reject all bids.

(b) The governing board shall let any **contract** for a public project, as defined in subdivision (c) of Section 22002, involving an expenditure of fifteen thousand dollars (\$15,000) or more to the lowest responsible bidder who shall give security as the board requires, or else reject all bids. 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:

(1) Cash.

(2) A cashier's check made payable to the community college district.

(3) A certified check made payable to the community college district.

(4) A bidder's bond executed by an admitted surety insurer, made payable to the community college 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.

(c) This section applies to all equipment, materials, or supplies, whether patented or otherwise. This section shall not apply to professional services or advice, insurance services, or any other purchase or service otherwise exempt from this section, or to any works done by day labor or by force account pursuant to Section 20655.

(d) Commencing January 1, 1997, the Board of Governors of the California Community Colleges shall annually adjust the dollar amounts specified in subdivision (a) to reflect the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the prior fiscal year. The annual adjustments shall be rounded to the nearest one hundred dollars (\$100).



SAN DIEGO COUNTY OFFICE OF EDUCATION

6401 LINDA VISTA ROAD, SAN DIEGO, CALIFORNIA 92111-7399 (858) 292-3500

Superintendent of Schools

Randolph E. Ward, Ed.D.

Bulletin

Topic: Annual Adjustment to Bid Threshold

Date: December 15, 2010 10-13

To: Chief Administrative Officers
Chief Business Officials
Purchasing Officers

From: Linda Visnick
Executive Director
District Financial Services

Attached is a memorandum from the California Department of Education regarding the annual adjustment of the competitive bid limit for school districts and community college districts authorized by Public Contract Code section 20111(a) and 20651(d), respectively.

School districts and community colleges may use the adjusted amount of **\$78,900** effective January 1, 2011 for the lease or purchase of equipment, materials, supplies, or services which do not constitute a "public project." The bid limit for public projects and construction services is not adjustable. Public projects must be bid if the total expenditure (labor and materials) is \$15,000 and above under Public Contract Code sections 20111(b) and 20651(b).

A bid limit chart is attached for your reference. If you have any questions about this information, please contact Sandie Thompson-Nobile, Business Advisory Services Specialist, at (858) 292-3602.

Attachments

Board of Education

Mark C. Anderson Susan Hartley Sharon C. Jones Jerry R. Rindone John Wirt

SERVICE AND LEADERSHIP



CALIFORNIA
DEPARTMENT OF
EDUCATION

JACK O'CONNELL

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

December 1, 2010

Dear County and District Superintendents, Chief Business Officials, and Charter School Administrators:

**ANNUAL ADJUSTMENT TO BID THRESHOLD FOR CONTRACTS
AWARDED BY SCHOOL DISTRICTS**

Public Contract Code Section 20111(a) (Outside Source) requires school district governing boards to competitively bid and award any contracts involving an expenditure of more than \$50,000, adjusted for inflation, to the lowest responsible bidder. Contracts subject to competitive bidding include:

1. Purchase of equipment, materials, or supplies to be furnished, sold, or leased to the school district.
2. Services that are not construction services.
3. Repairs, including maintenance as defined in Section 20115, that are not public projects as defined in Section 22002 (c).

The State Superintendent of Public Instruction (SSPI) is required to annually adjust the \$50,000 amount specified in Section 20111(a) to reflect the percentage change in the annual average value of the Implicit Price Deflator (IPD) for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce, for the 12-month period ending in the prior fiscal year. The inflation amount is rounded to the nearest one hundred dollars (\$100).

Pursuant to the above calculation, and effective January 1, 2011, the SSPI has determined that the inflation adjusted bid threshold will increase by \$400, from \$78,500 to \$78,900. Shown below are the inflation adjusted bid thresholds for the current and two prior years.

Calendar Year	Bid Threshold	Percentage Change in Implicit Price Deflator
2009	\$76,700	5.89%
2010	\$78,500	2.31%
2011	\$78,900	.572%

Also note that public projects as defined in *Public Contract Code* Section 22002(c), such as construction or reconstruction of publicly owned facilities, have a lower bid threshold of \$15,000 that is not adjusted for inflation. For more information on bidding requirements for all projects, refer to *Public Contract Code* sections 20110 to 20118.4.

Please note that this letter (with links to the *Public Contract Code* sections cited above) is posted on the Office of Financial Accountability and Information Services Web page at <http://www.cde.ca.gov/fg/ac/co/>.

If you have questions regarding this subject, please contact the Office of Financial Accountability and Information Services by telephone at 916-322-1770 or by e-mail at sacsinfo@cde.ca.gov.

Sincerely,

Scott Hannan, Director
School Fiscal Services Division

California Department of Education
1430 N Street
Sacramento, CA 95814

Last Reviewed: Wednesday, December 08, 2010

BID LIMITS
(Senate Bill 429 - Chapter 897, Statutes of 1995)

Component (Definition)	Bid Limits As of 1/1/11
EQUIPMENT, MATERIALS, SUPPLIES <u>20111(a)(1); 20651(a)(1)</u> Exceptions: Supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks or periodicals. (PCC 20118.3) Perishable foodstuffs and seasonal commodities. (PCC 20660; Ed Code 38083) Surplus federal property. (Ed. Code 17602) Energy service and conservation contracts (Govt. Code 4217.12, 15814.10 et seq.) Purchase through other public agency (Ed. Code 17595; PCC 20118, 20652, 20653) Emergency repair contracts. (PCC 20113, 20654)	\$78,900
NON-CONSTRUCTION SERVICES <u>20111(a)(2); 20651(a)(2)</u> Exception: Special services and advice under Government Code section 53060. Includes: financial, economic, accounting, engineering, legal, or administrative matters if such persons are specially trained and experienced and competent to perform the special services required.	\$78,900
MAINTENANCE <u>20111(a)(3); 20651(a)(3); 20656</u> Routine, recurring and usual work for the preservation or protection of any publicly owned, publicly operated facility for its intended purpose. Includes minor and routine repairs, landscape, and minor repainting.	\$78,900
PUBLIC PROJECT WORK <u>20111(b); 20651(b)</u> Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and any repair work involving publicly owned, leased, or operated facilities.	\$15,000 Labor & Materials
FORCE ACCOUNT OR DAY LABOR <u>20114(a); 20655(a)</u> Work performed by the agency's day labor on any type of public project or maintenance work. Day labor includes the use of maintenance personnel employed on a permanent or temporary basis.	<35,000 ADA; <15,000 FTE's** No dollar threshold 350 work hours
All references are to Public Contract Code (PCC), except where noted **FTE's apply to community colleges	>35,000 ADA; >15,000 FTE's \$21,000 materials OR 750 work hours
TIME LIMITS ON CONTINUING CONTRACTS: (Education Code section 17596) Work, services, apparatus or equipment: 5 years Materials or supplies: 3 years	

ITEM # 6

Draft Independent Contractor Agreement

**Independent Contractor Agreement
Between
The Governing Board of Southwestern Community College District
And**

DRAFT

WHEREAS, it is the desire of the Governing Board of the Southwestern Community College District (hereinafter referred to as "District" or "Client") to contract with _____ as an Independent Contractor (hereinafter referred to as "Contractor"); and whereas such service will assist the Governing Board in discharging its legal obligation to provide an adequate educational program; and whereas Government Code section 53060 authorizes the Governing Board to enter into contracts to obtain special services and advice in financial, economic, accounting, engineering, legal or administrative matters for the District; and

WHEREAS, Contractor has represented to the Governing Board that Contractor is knowledgeable and qualified, and covenants that Contractor is capable of performing the services required under this Agreement; and

WHEREAS, the Governing Board recognizes that Contractor is acting as an independent contractor in the performance of work under this Agreement, and that Contractor, to the extent required by law, shall be solely responsible for the payment of any and all claims for loss, personal injury, death, property damage, or otherwise, arising out of any act or omission of its employees or agents in connection with the performance of work under this Agreement; and

WHEREAS, Contractor understands that, for purposes of this Agreement, Contractor is not an employee of the District and does not qualify for employee benefits, including workers' compensation benefits;

NOW THEREFORE, the following is agreed:

I. SERVICES TO BE RENDERED BY THE INDEPENDENT CONTRACTOR.

Contractor agrees to undertake, carry out and complete for the Governing Board, in a satisfactory and competent manner:

All of the following services, solely at the request of the Governing Board, and for the benefit of the Governing Board:

- 1. Review and/or revise documents;**
- 2. Provide opinions and options;**
- 3. Provide guidance regarding use of outside legal firms.**

II. COMPENSATION, MAXIMUM COST AND PAYMENT

- (a) In consideration of the service to be rendered by Contractor as outlined in this Agreement, the Governing Board agrees to pay Contractor a total amount not to exceed \$_____ per hour for services and product delivery and subsequent receipt of invoice for services rendered and products delivered by Contractor.

- (b) Invoices shall be processed within thirty (30) days upon receipt and approval by Southwestern Community College District of an invoice, in triplicate, showing services rendered for the period covered by the invoice.

III. PERIOD OF PERFORMANCE

The period covered by this Agreement shall begin on **May 12, 2011** and shall terminate on **June 30, 2012**.

IV. CONFLICT OF INTEREST

Contractor is a "Consultant" and shall comply with all applicable Conflict of Interest laws, including filing of Statement of Economic Interests, pursuant to District Procedure No. 2712, "Conflict of Interest Code."

V. TAXES

Contractor acknowledges and agrees that it is the sole responsibility of Contractor to report as income its compensation received from District and to make the requisite tax filings and payments to the appropriate federal, state or local tax authority. No part of Contractor's compensation shall be subject to withholding by District for the payment of social security, unemployment, or disability insurance or any other similar state or federal tax obligation.

VI. INDEMNIFICATION

Contractor agrees to indemnify, defend, and hold harmless the District, its officers, agents, and employees from any and all liability claims and losses accruing or resulting to any and all contractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement and from any and all liability, claims, and losses accruing or resulting to any person, firm, or corporation who may be injured (including death) or damaged by the acts or omissions of the Contractor in the performance of this Agreement.

VII. TERMINATION OF AGREEMENT

The District may, at any time, with or without reason, terminate this Agreement upon thirty (30) days prior written notice to Contractor. In the event of termination, the Contractor shall be entitled to payment only for acceptable and allowable work performed under this Agreement through the date of termination.

VIII. ASSIGNMENT

This Agreement is not assignable by Contractor, either in whole or in part, nor shall the Contractor further contract for the performance of any of its obligations hereunder, without the prior written consent of the Governing Board.

IX. CONFIDENTIALITY

Contractor shall hold any confidential information in trust for the District, and shall not disclose same to any person.

X. GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws of the State of California.

Name of PERSON

Name:

SS#/Federal Tax ID:

Address:

City/State/Zip:

Telephone:

Fax:

Are you a District employee? ☐ Yes ☐ No

Is a Credential or Special License required for

this consultancy? ☐ Yes ☐ No

If yes, please specify and attach a copy of current License. _____

Signature: _____

Date: _____

Southwestern Community College District

Timothy Nader

Governing Board President

900 Otay Lakes Road

Chula Vista, CA 91910-7299

Telephone: 619 482-6301/Fax: 619 482-6413

Signature: _____

Date: _____

Originator:

Account No.: