

Emergency Repair Contract Requirements

In an emergency, award of a contract may be made without competitive bidding. The following are requirements necessary to permit our office to approve payments:

1. Adoption of an emergency resolution by the governing board (unanimous vote) and approval of the county superintendent of schools. Award of contract may occur pursuant to the Public Contract Code (PCC):PCC Section 20113 (school districts)

"(a) In an emergency when any repairs, alterations, work, or improvement is necessary to any facility of public schools to permit the continuance of existing school classes, or to avoid danger to life or property, the board may, by unanimous vote, with the approval of the county superintendent of schools, do either of the following:

(1) Make a contract in writing or otherwise on behalf of the district for the performance of labor and furnishing of materials or supplies for the purpose without advertising for or inviting bids.

(2) Notwithstanding Section 20114, authorize the use of day labor or force account for the purpose.

(b) Nothing in this section shall eliminate the need for any bonds or security otherwise required by law."

[See PCC Section 20654 for community college districts.] [SB 429, Chapter 897, Statutes of 1995, effective January 1, 1996.]

2. When the nature of the emergency is such that corrective action is required before the governing board meets, and the estimated costs exceed bid limits, you may secure the county office's conditional approval to proceed by submitting information relevant to the emergency to our office in letter form via FAX to xxx/xxx-xxxx. We will review the information and get back to you quickly. A copy of the formal resolution adopted by the board must still be sent to our office for required approval of the County Superintendent of Schools. The approved resolution will be returned to the district for processing payment.

3. Authorized Use of Day Labor or Force Account (District's Employees) Use of force account or day labor in an emergency (approved under PCC 20113 or 20654) is not subject to the hours limitation in Public Contract Code Section 20114 or 20655.

[See PCC Section 20114 for school districts or PCC Section 20655 for community college districts]

4. Payment Bond. A payment bond for public works is required if the contract is for a public work costing more than \$25,000. An emergency resolution does not relieve the district from bond requirements.

Excerpt from Civil Code (CC) Section 3247:

"(a) Every original contractor to whom is awarded a contract by a public entity, except as provided in subdivision (d) of Section 7103 of the Public Contract Code, involving an expenditure in excess of twenty-five thousand dollars (\$25,000) for any public work shall, before entering upon the performance of the work, file a payment bond with and

approved by the officer or public entity by whom the contract was awarded."

CC Section 3100 "Public work" means any work of improvement contracted by a public entity.

CC Section 3106 "Work of improvement" includes but is not restricted to the construction, alteration, addition to, or repair, in whole or in part, of any building, wharf, bridge, ditch, flume, aqueduct, well, tunnel, fence, machinery, railroad, or road, the seeding, sodding, or planting of any lot or tract of land for landscaping purposes, the filling, leveling, or grading of any lot or tract of land, the demolition of buildings, and the removal of buildings. Except as otherwise provided in this title, "work of improvement" means the entire structure or scheme of improvement as a whole.

If you have questions concerning the information provided, please contact Business Advisory Services.