

Energy - Docket Optical System

From: Rhonda Bacot [rbacot@lvusd.org]
Sent: Friday, October 25, 2013 11:46 AM
To: Energy - Docket Optical System
Cc: Rhonda Bacot; Karen Kimmel; Pedro Avila; henry.stern@sen.ca.gov; Dan Stepenosky; Tyler Girtman
Subject: Comments to Prop 39- Docket Number 13-CCEJA-1
Attachments: CA Codes (pcc3400-3410).htm
Categories: Ready to Docket

California Energy Commission

DOCKETED
13-CCEJA-01

TN 72197

OCT. 25 2013

On Behalf of the Las Virgenes Unified School District, here in Calabasas California,

I would like to provide comment on the draft guidelines which will be presented at the Energy Commission Business Meeting on December 19, 2013. My comments are related to page 29 in the Draft.

The Las Virgenes Unified School District has an ADA of 11,120 students and 1676 total staff members. We cover 80 square miles, have 8 elementary, 3 middle and 2 high school campuses with a District office, Warehouse and Maintenance and Operations facility areas located at one central complex. We also just added two new Performing Arts Educations Centers; each building is over 66,000 sq. ft..

The PAEC's are located at each of our high school campuses and compliment our growth in expandable energy management systems. Both are on sites where big Prop 39 projects will be proposed. The same equipment and energy management system technology has also gone into several other sites and each system communicates to, and is managed from our centrally located Maintenance office.

Our Maintenance and Operations office includes 24 department-based employees including myself, and 1.75 office clerks. This number does not include district-wide staff. However, we have only 2 heating, ventilation, air conditioning, and refrigeration technicians (HVACR) to manage our multiple district sites and needs. The majority of work we plan to perform with Prop 39 funding involves the work areas our two HVACR staff members are responsible for.

As a school district with limited staff and resources I am concerned with an issue related to contracts. Bullet number three on page 29 of the current draft document indicates that "LEA's shall not use a sole-source process to award grant proceeds. LEA's may use best-value criteria as defined in paragraph (1) of subdivision (c) of Section 20133 of the Public Contract Code to award funds. Public Resource section 26235(c), refers to the "Clean Energy Bill codes".

My concern is that this rule will limit our ability to utilize equipment and energy management control systems already in place throughout our district from previous installations which our staff is trained on and have worked with for many years. Not to mention, in order to stream-line our efforts, specific global applications that new equipment would include may be lost with the requirement to use any vendor that provides us the lowest bid, as well as "any product" may not provide the proven high quality that we have grown accustomed to and rely on.

Section 20133 of the public contract code appears to be written for County construction applications where funding will certainly exceed the Prop 39 funding levels that a district of our size would receive even over the 5 year period of funding availability. In section 3400 of the public contract code are guidelines surrounding "Preference for Materials and Substitutions" when bidding. In section (b); the subdivision states that "Subdivision (a) is not applicable if the awarding authority, or its designee, makes a finding that is described in the invitation for bids or request for proposals that a particular material, product, thing, or service is

designated by a specific brand or trade for any of the following purposes; which is stated in section (2), *"In order to match other products in use on a particular public improvement either completed or in the course of completion."*

I believe the direction to use a "best-value criteria" does not specifically apply to us because of the code section I have listed above, and using a "best-value criteria" should not control our decisions regarding the applications we are familiar with and desire to continue to have within our district to work with. This direction is limiting and will end in multiple types of equipment and systems, and added inability to reliably control our work activities with our very limited staff.

Thank you for the opportunity to provide comments on this draft. I look forward to continued communications regarding my concerns. I have attached the 3400 public code sections for your review.

Respectfully submitted,

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Las Virgenes Unified School District:

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PUBLIC CONTRACT CODE

SECTION 3400-3410

3400. (a) The Legislature finds and declares that it is the intent of this section to encourage contractors and manufacturers to develop and implement new and ingenious materials, products, and services that function as well, in all essential respects, as materials, products, and services that are required by a contract, but at a lower cost to taxpayers.

(b) No agency of the state, nor any political subdivision, municipal corporation, or district, nor any public officer or person charged with the letting of contracts for the construction, alteration, or repair of public works, shall draft or cause to be drafted specifications for bids, in connection with the construction, alteration, or repair of public works, (1) in a manner that limits the bidding, directly or indirectly, to any one specific concern, or (2) calling for a designated material, product, thing, or service by specific brand or trade name unless the specification is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service. In applying this section, the specifying agency shall, if aware of an equal product manufactured in this state, name that product in the specification. Specifications shall provide a period of time prior to or after, or prior to and after, the award of the contract for submission of data substantiating a request for a substitution of "an equal" item. If no time period is specified, data may be submitted any time within 35 days after the award of the contract.

(c) Subdivision (b) is not applicable if the awarding authority, or its designee, makes a finding that is described in the invitation for bids or request for proposals that a particular material, product, thing, or service is designated by specific brand or trade name for any of the following purposes:

(1) In order that a field test or experiment may be made to determine the product's suitability for future use.

(2) In order to match other products in use on a particular public improvement either completed or in the course of completion.

(3) In order to obtain a necessary item that is only available from one source.

(4) (A) In order to respond to an emergency declared by a local agency, but only if the declaration is approved by a four-fifths vote of the governing board of the local agency issuing the invitation for bid or request for proposals.

(B) In order to respond to an emergency declared by the state, a state agency, or political subdivision of the state, but only if the facts setting forth the reasons for the finding of the emergency are contained in the public records of the authority issuing the invitation for bid or request for proposals.

3410. Any public entity, as defined in Section 1100, including any school district or community college district, when purchasing food,

shall give preference to United States-grown produce and United States-processed foods when there is a choice and it is economically feasible to do so. For purposes of this section, the determination of "economically feasible" shall be made by the purchasing public entity, considering the total cost, quantity, and quality of the food and the budget and policies of the entity.
