



SCHOOL & COLLEGE LEGAL SERVICES
OF CALIFORNIA

Piggyback Contracts

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Presented by:

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- "Piggybacking" is an arrangement to purchase or lease materials, supplies, equipment, vehicles, and other personal property acquired by another public agency in accordance with applicable laws.
- Pursuant to Public Contract Code Section 20118, the governing board of a school district may, without advertising for bids, if the board has determined it to be in the best interests of the district, authorize by contract, lease, requisition or purchase order, any public corporation or agency to lease data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors and other personal property for the district.
- The Public Contract Code does not authorize districts to “piggyback” on other public agency’s service contracts.

- In 2005, the California Attorney General issued an opinion which addressed Public Contract Code Section 20118 and its applicability to the purchase of modular buildings. The Opinion concluded that “[a] school district may not, without advertising for bids, contract with another public agency to acquire factory-built modular building components for installation on a permanent foundation.”

(Opinion No. 05-405)

- The Opinion does not appear to extend to piggyback contracts for factory-built modular building components when the contract does not include installation on a permanent foundation (e.g., the manufacturer delivers the components to the site and installation is procured by a separate, competitively bid construction contract). In addition, the Opinion does not extend to “typical ‘portable’ and ‘relocatable’ single-classroom buildings” that are not installed on permanent foundations.

- As such, it is our legal opinion that the District may enter into a piggyback contract for the purchase of a self-contained modular building with a floor without having to go out to bid or issue an RFP.

- Prior to entering into a piggyback contract, it is recommended that District's legal counsel review the contract to ensure the following:
 - The contract expressly allows the District to “piggyback” on it.
 - The pricing and contract terms are honored
 - The piggyback contract has complied with the bidding requirements and is still valid.
 - The contract is limited to personal property only.
- It is recommended that a “wrap-around” contract be used in addition to the piggyback contract/P.O.
- The District will still be required to bid all labor associated with the installation of the modular buildings.

Next Steps

- District staff identify possible modular building piggyback contracts.
- District staff and legal counsel review the selected piggyback contract.
- Governing Board adopt a resolution determining that the piggyback method is in the best interest of the District and approve the selected piggyback contract and wrap-around contract.

Questions?



Information in this presentation, including but not limited to PowerPoint handouts and presenters' comments, is summary only and not legal advice. We advise you consult with legal counsel to determine how this information may apply to your specific facts and circumstances.

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