

# Plant Establishment Minimum Bid Guidance

## November 03, 2016

### Summary

Historically, the Plant Establishment Work (PEW) item is underbid by Contractors because it is money that is paid late in the contract, and because it is a lump sum bid item that is easily adjusted late in the bidding process to increase the Contractors chances of winning the bid. In 2001, the Landscape Architecture Program developed special provisions to address this issue, which continued to be in effect until 2008, when they were cancelled due to changes in the Public Contract Code 7202 (SB 593).

After cancellation of the SSPs, underbidding of PEW and unbalancing of the bid was prevalent and severe on several awarded projects. Some of these construction contracts also had incomplete PEW when the contracts had to be terminated due to non-performance, requiring the Department to maintain planting that had a high risk for failure.

With feedback from District staff, a pilot program was created in 2013 to revisit the underbidding of the plant establishment and look at any harmful effects. It was found that there was a potential for the Contractor to poorly perform the work due to underbidding and allowing a small amount of funds to be paid out during this phase of the contract.

With data collected from the pilot program, new SSPs are now developed to address the problem of unbalancing the PEW bid item. The intent of the SSPs are to allow a new tool for the districts when they suspect the PEW will be underbid, **and the work represents a significant part of the contract.**

The District Office Engineer should check that the minimum bid amount has been met before recommending award to DES-OE. An instruction to check the minimum bid amount was added to the "Award Recommendation letter" that is utilized as a part of the award process in DES-OE.

### Implementation

Only contracts with **more than one year of plant establishment** should use these SSPs. This specification should only be used when the plant establishment bid item **represents 10 percent or more of the estimated total amount of the bid items.** The reason for at least a 10 percent representation is that the department should be able to justify that the item represents a real risk of it having to award an "unbalanced" contract if PEW is bid very low. This tool should not be used to set the amount of the bid on every PEW. That practice may be considered reducing bid competition as the Contractor will typically only bid whatever the department sets as a minimum.

It is important that the project designer conservatively and accurately estimate the amount PEW so that a correct amount of money is available to the RE to ensure completion of the work by the Contractor. It is recommended that the District Landscape Architect and District Construction representative review the value before advertisement of the contract to industry.

The three SSPs that are needed are as follows:

**SN-312** This is a special notice that will give notice to the contractor that a minimum bid will be required on that contract.

**2-1.09** The minimum amount required for the plant establishment to be performed is inserted on this SSP.

**20-4** The plant establishment SSP in which the designer chooses a paragraph to establish a minimum bid.