

Office of Superintendent of Schools  
Board Meeting of August 25, 1999

August 16, 1999

Personnel Management and Services  
Nelson E. Diaz, Deputy Superintendent

**SUBJECT: PROPOSED AMENDMENT OF BOARD RULE: FINAL READING 6Gx13-3C-1.08, PERFORMANCE AND PAYMENT SECURITY, DECLINING A BID AWARD, AND BONDING COMPANY QUALIFICATIONS**

The School Board of Miami-Dade County, Florida announced on June 23, 1999, its intention to amend School Board Rule 6Gx13-3C-1.08, Performance and Payment Security, Declining a Bid Award, and Bonding Company Qualifications, at its meeting of August 25, 1999.

The Notice of Intended Action was published in the *Miami Daily Business Review* on June 28, 1999, posted in various places for public information, and mailed to various organizations representing persons affected by the amended rule and to individuals requesting notification.

The time to request a hearing or protest the adoption of this rule has elapsed.

In accordance with the provisions of the Administrative Procedures Act, this amended rule is presented to the School Board of Miami-Dade County, Florida, for adoption and authorization to file the rule in the official records of The School Board of Miami-Dade County, Florida.

Attached are the Notice of Intended Action and the amended rule. Changes from the current rule are indicated by underscoring words to be added and ~~striking through~~ words to be deleted.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, adopt amended Board Rule 6Gx13-3C-1.08, Performance and Payment Security, Declining a Bid Award, and Bonding Company Qualifications, and authorize the Superintendent to file the rule with the School Board of Miami-Dade County, Florida, to be effective August 25, 1999.

NED/tj

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## NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on June 23, 1999, its intention to amend Board Rule 6Gx13- 3C-1.08, Performance and Payment Security, Declining a Bid Award, and Bonding Company Qualifications, at its meeting of August 25, 1999.

**PURPOSE AND EFFECT:** To amend the rule to conform with requirements prescribed in the State Requirements for Educational Facilities (SREF); regarding bonding requirements for contractors doing business with Miami-Dade County School Board, as well as making this rule conform with School Board Rule 6Gx13- 7D-1.05, Prequalification of Contractors for Educational Facilities Construction.

**SUMMARY:** To change ratings for bonding companies provided by A.M. Best Co., to reflect state requirements of an "A" rating for contracts in excess of \$5,000,000.

**SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED:**  
230.22(2); 230.23(17) F.S.

**LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC:** 230.22(1); 230.23(10)(I); 230.23005(4); 235.31(1)(2); 235.32; 237.02; 255.05; 287.0935 F.S.; Chapter 6A-2, F.A.C.; Section 4.1(8), SREF (1997)

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF August 25, 1999, which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida 33132. Persons requesting such a hearing or who wish to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by Section 120.541(1), F.S., must do so in writing by July 19, 1999, to the Superintendent of Schools, Room 912, at the same address.

ANY PERSON WHO DECIDES TO APPEAL THE DECISION made by The School Board of Miami-Dade County, Florida with respect to this action will need to ensure the preparation of a verbatim record of the proceedings, including the testimony and evidence upon which the appeal is to be based. (Section 286.0105, Florida Statutes)

A COPY OF THE PROPOSED AMENDED RULE is available for inspection and copying at cost by the public in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

Originator: Mr. Scott B. Clark  
Supervisor: Mr. Nelson E. Diaz  
Date: June 9, 1999

Non-salaried Expenditures

**PERFORMANCE AND PAYMENT SECURITY, DECLINING A BID AWARD, AND BONDING COMPANY QUALIFICATIONS**

- I. Performance Security on Construction Bids and Awards
  - A. Bid Bond of five percent of the total bid amount is required.
  - B. Bid awards of \$200,000 or less shall be exempt from performance and payment security.
  - C. Bid awards exceeding \$200,000 require a 100 percent performance and payment security of the award amount.
  
- II. Performance Security on Awards Other than Construction
  - A. Bid awards of \$200,000 or less shall be exempt from performance and payment security.
  - B. Performance security shall not be required unless otherwise defined in the bid specification. Performance security shall equal 100 percent of the award amount.

Bid Security is not required. However, a bidder who declines an award shall either (1) pay liquidated damages of five percent of the unit price bid times the quantity, or \$10, whichever is greater, or (2) lose eligibility to transact new business with the Board for a period of 14 months from the date the Board acts on the withdrawn bid.

A bidder who accepts an award but fails to perform shall either (1) pay liquidated damages of 10 percent of the unit price of the item(s) awarded times the quantity when no purchase order has been issued, 10 percent of the purchase order when a purchase order has been issued or \$100, whichever is greater, or (2) lose eligibility to transact new business with the Board for a period of 14 months from the date of termination or award by the Board. The ineligibility shall be applicable to the principals individually and the entity, as well as any other firm in which a principal of a defaulting firm is a principal. If an awardee fails to pay the liquidated damages within 15 days after it is invoked, the awardee shall lose eligibility to transact new business with the Board for a period of 14 months from the date of termination of award by the Board. Bidders that are determined ineligible may request a hearing pursuant to 120.57, Fla. Stat., and School Board Rule 6Gx13-8C-1.064, Adjudatory Proceedings. The Board reserves the right to waive liquidated

damages/loss of eligibility.

Reinstatement of vendors losing eligibility to transact new business with the Board will not be automatic and will be subject to review by the Contractor's Responsibility Committee. Vendors will be required to submit a request for reinstatement including, but not limited to, information as to their status as a responsible vendor and what steps have been taken to avoid such a situation which as caused their suspension as a Miami-Dade County Public Schools vendor. The Office of Procurement and Materials Management will notify the Board of all vendors denied reinstatement, and the reasons for denial.

For purposes of this rule, principal is defined as an officer of a corporation, partner of a partnership, sole proprietor of a sole proprietorship, trustee of a trust, or any other person with similar supervisory functions with respect to any legally organized entity.

III . Bonding Company Qualifications

Bonds shall be written through a reputable and responsive surety bond agency licensed to do business in the State of Florida and with a surety company or corporation meeting both of the following specifications:

A. Awards Greater than \$500,000

1. A minimum rating in the latest revision of Best's Insurance Reports of:

Contract Amount	Minimum Rating by A.M. Best
<del>\$ 500,000.01 to \$ 2,500,000</del>	None
<del>\$ 2,500,000.01 to \$ 5,000,000</del>	B+ or NA-3
<del>\$ 5,000,000.01 to \$ 10,000,000</del>	No Minimum Class
<del>\$ 10,000,000.01 or more</del>	A-Class IV
	A-Class V
<u>\$ 200,000.00 to \$ 5,000,000</u>	<u>A, No Minimum Class</u>
<u>\$ 5,000,000.01 to \$ 10,000,000</u>	<u>A, Class IV</u>
<u>\$ 10,000,000.01 or more</u>	<u>A, Class V</u>

2. Current certificate of authority as acceptable surety on Federal Bonds in accordance with the latest edition of the United States Treasury Department Circular 570 entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" shall be

accepted for an amount not exceeding the underwriting limitation thereon.

B. Awards of \$500,000 or less

Bonds shall be written with a surety company or corporation meeting the qualifications as set forth in Paragraph A.2 above or the qualifications set forth in Section 287.0935, Florida Statutes:

Specific Authority: 230.22(2); 230.23(17) F.S.

Law Implemented, Interpreted, or Made Specific: 230.22(1); 230.23(10)(l); 230.23005(4); 235.31(1)(2); 235.32; 237.02; 255.05; 287.0935 F.S.; Chapter 6A-2, F.A.C.; Section 4.1(8), SREF (1997)

History

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

Repromulgated: 12-11-74

Amended: 7-6-83; 2-8-84; 2-20-85; 8-21-85; 10-2-85; 8-19-87; 1-20-93; 7-12-95; 7-10-96; 1-8-97