

Office of Superintendent of Schools
Board Meeting of May 17, 2000

May 2, 2000

Management and Accountability
Carol Cortes, Deputy Superintendent

**SUBJECT: PROPOSED AMENDMENT OF SCHOOL BOARD RULE: FINAL
READING 6Gx13- 7D-1.05, PREQUALIFICATION OF CONTRACTORS
FOR EDUCATIONAL FACILITIES CONSTRUCTION**

The School Board of Miami-Dade County, Florida, announced on April 12, 2000, its intention to amend School Board Rule 6Gx13- 7D-1.05, Prequalification of Contractors for Educational Facilities Construction, at the meeting of May 17, 2000.

The Notice of Intended Action was published in the *Miami Daily Business Review* on April 17, 2000, 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 Procedure 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 copies of 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 School Board Rule 6Gx13- 7D-1.05, Prequalification of Contractors for Educational Facilities Construction, and authorize the Superintendent to file the rule with The School Board of Miami-Dade County, Florida, to be effective May 17, 2000.

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NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on April 12, 2000, its intention to amend Board Rule 6Gx13- 7D-1.05, Prequalification of Contractors for Educational Facilities Construction, at its meeting of May 17, 2000.

PURPOSE AND EFFECT: To amend the rule in order to reflect a change in the State Requirements for Educational Facilities (1999) which came into effect January 5, 2000, and to clarify the definition of Construction Contractor.

SUMMARY: This rule implements the intent of the School Board to comply with state requirements for prequalification of contractors for educational facilities construction.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 230.22(2); 230.23(20); 230.23005(4); 235.31 F.S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 230.22(1); 230.23005(4); 235.31(2), 489.105(3),(4),(5),(6); 489.113; 489.522; 715.12 F.S.; Chapter 6A-2, F.A.C., Section 4.1.(8), SREF (1999)

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF May 17, 2000, 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 May 8, 2000, 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. Rudy L. Gonzalez
Supervisor: Ms. Carol Cortes
Date: March 22, 2000

**PREQUALIFICATION OF CONTRACTORS FOR EDUCATIONAL FACILITIES
CONSTRUCTION**

1. INTRODUCTION

- A. In accordance with Section 235.31 of the Florida Statutes, and State Requirements for Educational Facilities (~~1997~~ 1999), this rule is adopted for the purpose of establishing procedures and criteria for prequalifying responsible and responsive contractors on school construction projects for The School Board of Miami-Dade County, Florida (Board).
- B. The application ("Statement of Contractor's Qualification"), properly and accurately executed, must be submitted to and approved for acceptance by the Board prior to submitting any bid on any construction project.
- C. No bid for a school construction project shall be accepted from a contractor who does not have a valid, prequalification Certificate, as hereinafter prescribed, nor shall any bid be accepted from a contractor whose certificate has been revoked, suspended or declared delinquent.
- D. Prequalified contractors must be capable of fulfilling specific project requirements for bonding, insurance, staffing, completion dates, and work quality.

2. ACCEPTANCE OF CONTRACTOR'S QUALIFICATIONS

- A. The Superintendent will appoint a Contractor Prequalification Review Committee to evaluate the applicant's "Statement of Contractor's Qualification." After examination and evaluation of the submitted applications, the Committee shall recommend to the Board the acceptance or rejection of each applicant. The Board shall act upon the application for prequalification within sixty (60) days after the application is received.
- B. The Contractor Prequalification Review Committee shall be composed of the following members, and/or their designees:

1. one (1) representative from the contracting community at large;
2. one (1) representative from the architectural or engineering community at large;
3. one (1) representative from PTA / PTSA;
4. one (1) representative from School Operations;
5. one (1) representative from the Department of Business Development and assistance;
6. one (1) representative from the Office of Facilities Planning & Construction;
7. one (1) representative from the Division of Educational Facilities Compliance to serve as chairperson for the committee; and,
8. one (1) representative from the Office of Management and Compliance Audits (non-voting).

The committee will evaluate all applications and make recommendations for type of project, dollar volume and limits allowed within the scope of the prequalification.

- C. Contractors shall be prequalified by the Board on the basis of the following criteria:
 1. Proof that the contractor holds a contractor's license which authorizes the contractor to supervise the work within the scope of the construction project. A construction contractor is hereby defined as the company that is qualified by a contractor, or the qualifier who holds a contractors license. For the purpose of determining the experience required of a contractor when applying for pre-qualification, the experience of the company, or that of the primary or secondary qualifier, gained while in the role of qualifier, may be considered.

2. ⁴ Evidence that the applicant has financial resources to start up and follow through on projects and to respond to damages in case of default as shown by written verification of bonding capacity equal to or exceeding the amount of any project for which the contractor seeks prequalification. The written verification must be submitted by a licensed surety company rated "A" "A-" or better in the current A.M. Best Guide and qualified to do business within the State of Florida. In the absence of such written verification, the Board may require the applicant to submit any audited financial information necessary to evaluate an applicant's financial ability to perform the project and to respond to damages in the event of default.
 3. Evidence of experience with construction techniques, trade standards, quality workmanship, project scheduling, cost control, management of projects, and building codes for similar projects as shown by the successful completion of at least two (2) other projects of similar size within the past five (5) years.
 4. Evidence of satisfactory resolution of claims filed by or against the contractor asserted on projects of the same or similar size within the five (5) years preceding the submission of the application. Any claim against a contractor shall be deemed to have been satisfactorily resolved if final judgment is rendered in favor of the contractor or any final judgment rendered against the contractor is satisfied within ninety (90) days of the date the judgment becomes final.
 5. Type of work for which the contractor is licensed.
3. **Application and Joint Venture Exception:** Each contractor, firm or person requesting prequalification shall submit separate applications ("Statement of Contractor's Qualifications"). When two (2) or more prequalified contractors wish to combine their assets for a specific project, they may do so by filing an affidavit of joint venture on Board-prescribed forms. Such affidavit shall be valid only for that specific project.
 4. **Issuance of the certificate:** The Board shall issue a certificate valid for one (1) year. The certificate shall include:

- A. A statement indicating that the contractor may bid for projects during the time period specified.
 - B. A statement establishing the total dollar value of work the contractor will be permitted to have under contract with the Board at any one time will be determined by the contractor's bonding capacity or ten (10) times the net quick assets.
 - C. A statement establishing the maximum dollar value of each individual project the contractor will be permitted to have under contract with the Board at any one time. The maximum value of each project may be up to twice the value of the largest project previously completed but shall not exceed the contractor's bonding capacity or ten (10) times the net quick assets.
 - D. A statement establishing the type of work the contractor will be permitted to provide.
5. **Renewal of Certificate:** Certificates not for a specific project shall be renewed annually.
- A. Financial statements or written verification of bonding capacity on file with the Board shall be updated annually. Failure to submit a new statement or verification of bonding capacity, after at least thirty (30) days written notice by the Board, shall automatically revoke a prequalification certificate.
 - B. The Board may allow prequalified contractors to request a revision of their prequalification status at any time they believe that the dollar volume of work under contract or the size and complexity of projects should be increased if experience, staff size, staff qualifications, and other pertinent data justify the action.
6. **Delinquency:** The decision to declare a contractor delinquent may only be made by the Superintendent and must be ratified by the Board at its next regular meeting following such decision by the Superintendent.

Should a contractor be determined to be delinquent, after notice and an opportunity for a fair hearing, the Board shall notify the contractor and his surety, in writing, that the contractor is disqualified from bidding work with the Board as long as the delinquent status exists. A delinquent condition may be determined to be in effect when one (1) or more of the following conditions occur without justifiable cause:

- A. A substantial or repeated failure to comply with contract documents after written notice of such non-compliance.
- B. A substantial or repeated failure to provide qualified supervision and coordination of subcontractor's work after written notice of such failure.
- C. Substantial deviation from project time schedules after written notice of non-compliance.
- D. Substantial or repeated failure to pay subcontractors after the Board has paid the Contractor for the work performed by the subcontractors and in accordance with approved requisitions for payment.
- E. Substantial or repeated failure to provide the quality workmanship compatible with the trades standards for the community, after written notice of such failure.
- F. Substantial or repeated failure to comply with the warranty requirements of previous contracts after written notice of such failure.
- G. Failure to maintain the required insurance coverage after written notice of such failure.

7. **Suspension or Revocation:** The Board may, for good cause, suspend a contractor for a specified period of time or revoke the prequalification certificate. Causes for suspension or revocation shall include, but not be limited to, one or more of the following:

- A. Inaccurate or misleading statements included in the application ("Statement of Contractor's Qualification").

- B. Declared in default by the Board.
 - C. Adjudged to be bankrupt.
 - D. Performance, in connection with contract work, becomes unsatisfactory to the Board based on the Board asserting and recovering liquidated damages in an action against the contractor.
 - E. Payment record, in connection with the contract work, becomes unsatisfactory to the Board based on the contractor's failure to comply with the Construction Contract Prompt Payment Law Act (Section 715.12, F.S.).
 - F. Becomes delinquent on a construction project pursuant to section (6) above.
 - G. Contractor's license becomes suspended or is revoked.
 - H. No longer meets the uniform prequalification criteria established in section (2) above.
8. **Appeal:** A contractor whose application has been rejected or whose certificate has been suspended or revoked by the Board shall be given the benefit of reconsideration and appeal as follows:
- A. The aggrieved contractor may, within ten (10) days after receiving notification of such action, request reconsideration in writing. The contractor may submit additional information at the time of the appeal. The written request should be mailed to the Superintendent of Schools, Miami-Dade County Public Schools, 1450 N. E. Second Avenue, Miami, Florida 33132.
 - B. The Board shall act upon a contractor's request within thirty (30) calendar days after the filing and shall notify the contractor of its action to adhere to, modify, or reverse its original action. The Board may require additional information to justify the reconsideration.

Specific Authority: 230.22(2); 230.23(~~47~~)(20); 230.23005(4); ~~and~~ 235.31, F.S.
Law Implemented, Interpreted, or Made Specific: 230.22(1); 230.23005(4); 235.31(~~2~~);
489.105(3)(4)(5)(6); 489.113; 489.522; 715.12 F.S.; Chapter 6A-2, F.A.C., Section 4.1(8),
SREF (~~4997~~)(1999)

History

New: 12-9-98

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA