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**SUBJECT: OFFICE OF ECONOMIC OPPORTUNITY
ADMINISTRATIVE PROCEDURES MANUAL**

COMMITTEE: FISCAL ACCOUNTABILITY & GOVERNMENT RELATIONS

**LINK TO STRATEGIC
BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES**

The School Board of Miami-Dade County, Florida originally adopted policy 6320.02 Small, Micro Business Enterprise (S/MBE) Program in November 2012 to provide expanded and equitable participation by small and micro businesses in School Board procurement of goods and services, construction, and professional services. At the November 2014 and the September 2015 School Board meeting, School Board Policy 6320.02 was updated to include Minority and Women-owned Business Enterprise (M/WBE) Program.

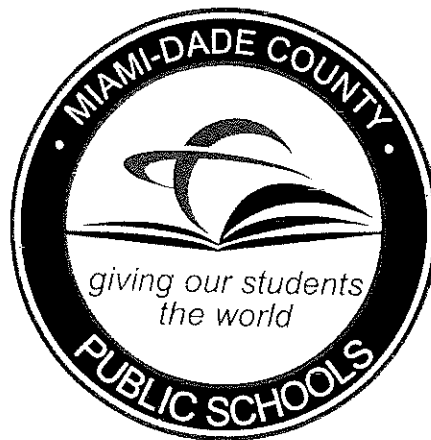
To supplement School Board Policy 6320.02, the OEO Administrative Procedures Manual provides the details on the implementation of the District's S/MBE and M/WBE program. The OEO Administrative Procedures Manual provides step-by-step procedures for implementation of all initiatives including outlining the objectives of the program, detailing the certification and recertification process, contractor prequalification, compliance, identifying S/MBE, M/WBE or Service-Disabled Veteran Business Enterprise business assistance opportunities and other affirmative procurement initiatives, and the contractor prequalification process. The original procedures detailing the implementation of the S/MBE Program were brought to the May 2014 School Board Meeting.

The Small/Micro and Minority/Women-Owned Business Enterprise Advisory Committee held a meeting on January 18, 2018 to review the updated manual based on revisions submitted by the administration, School Board Attorney's Office, and an outside consultant. Feedback from the committee members was requested and integrated as appropriate within the final product being considered by the Board.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, approve the Office of Economic Opportunity Administrative Procedures Manual.

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Office of Economic Opportunity Administrative Procedures Manual



- Small & Micro Business Enterprise Program
- Minority & Women Business Enterprise Program
- Service Disabled Veteran Business Enterprise Program
- Certification
- Compliance
- Contractor Prequalification

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INTRODUCTION

Miami-Dade County Public Schools is the fourth largest school district in the country. The School Board of Miami-Dade County, Florida originally adopted policy 6320.02 Small, Micro Business Enterprise (S/MBE) Program in November 2012 to provide expanded and equitable participation by small and micro businesses in School Board procurement of goods and services, construction, and professional services. At the November 2014 and the September 2015 School Board meeting, School Board Policy 6320.02 was updated to include Minority and Women-Owned Business Enterprise (M/WBE) Program.

To supplement School Board Policy 6320.02, the Office of Economic Opportunity (OEO) Administrative Procedures Manual provides the details on the implementation of the program. The purpose of the OEO Procedures Manual provides step-by-step procedures for implementation of all initiatives including outlining the objectives of the program, detailing the certification and re-certification process, contractor prequalification, compliance, identifying S/MBE, Micro, M/WBE or Service-Disabled Veteran Business Enterprise business assistance opportunities and other affirmative procurement initiatives. The original procedures with detailing the implementation of the S/MBE Program were brought to the May 2014 School Board Meeting for consideration and were subsequently approved by the Board on June 8, 2014.

I. PURPOSE

The procedures stated in this document constitute Miami-Dade County Public Schools (M-DCPS) procedures (the Procedures) for implementing the goals and objectives set forth in the School Board of Miami-Dade County, Florida's (Board) adopted policy 6320.02.

These procedures establish rules and guidelines for the application of various affirmative procurement initiatives by expanding the availability of contracting opportunities for S/MBE, M/WBE and SDVBE and removing barriers to doing business with M-DCPS. These Affirmative Procurement Initiatives (APIs) include but are not limited to sheltered markets, mandatory subcontracting goals, evaluation preferences, bonding assistance, and mentor-protégé programs.

The purpose of the Program is: (1) to stimulate the local economy by providing equitable and expanded contracting opportunities for local businesses within the area served by M-DCPS; (2) to increase the capacity of S/MBE, M/WBE and SDVBE firms in the community to grow in size and become more competitive with larger, more established businesses; and (3) to remove the effects of any barriers that may be adversely affecting the formation, growth, and equitable participation of minority and women business enterprises in Board contracts through both a race/gender neutral and race/gender conscious means.

The Office of Economic Opportunity may amend this Administrative Procedures Manual as needed and/or issue additional Procedures Manuals to provide rules for the

implementation of other programs and policies authorized under School Board Policy 6320.02 and 6334.

M-DCPS Diversity Statement: - *School Board Policy 6320.06 - Diversity, Equity and Inclusion in Business Operations and Practices*, states in part, "The School Board encourages and fosters an environment of diversity, equity, and inclusion in all of its business operations and practices. Inherent in this policy is the Board's commitment to ensuring that the rich tapestry of diversity, inclusion of varying ideas, backgrounds, and perspectives, if collectively recognized, creates cultural value and endorses the Board's obligation to eliminating perceived, artificial, or actual barriers to business engagements with the District and flourish without the impediments or barriers of discrimination."

OEO Mission Statement: In keeping with the Board's stated policy that values the diversity and inclusion for all segments of the community served by the District, the Office of Economic Opportunity (OEO) promotes the formation, economic inclusion, and growth of S/MBE and M/WBE through its certification procedures and standards, business outreach programs, application of various APIs to its procurement and contracting processes, contract compliance and monitoring activities. Moreover, OEO engages in ongoing collaboration with other municipal agencies, quasi-public agencies, and private sector stakeholders to promote a more vibrant and inclusive local marketplace that maximizes future economic opportunities for District students and their families. The OEO strives to ensure that local SBE's, MBE's and M/WBE's have the maximum opportunity to do business with the School Board of Miami-Dade County, Florida and to provide equal opportunity for all segments of the contracting community. The OEO currently operates under School Board Policy 6320.02.

II. SCOPE/OBJECTIVES

Unless precluded by applicable State or local procurement law or by limitations imposed by the dollar thresholds identified therein, the provisions of these Programs shall apply to the procurement of construction, A&E professional services, non-A/E professional services, and goods and other non-professional services, procured by the Board. Procurements subject to a S/MBE, M/WBE and SDVBE sheltered market (set-aside) are not exempt from the other requirements of School Board Policy 6320.02.

To meet the objectives of this Program, the Board is committed to:

- Increasing the participation of S/MBE, M/WBE and SDVBE in contracting, and, on M-DCPS contracts.
- Annually evaluating the progress and effectiveness of the various Programs using accumulated availability and utilization data to identify specific program provisions and APIs that require modification, expansion, and/or curtailment.
- Maintaining a Goal Setting Committee (GSC) to establish S/MBE, M/WBE and SDVBE Program annual goals and/or contract-specific goals, and for purposes of

the application of appropriate APIs to specific Board contracts based upon industry categories, vendor availability, and other project-specific characteristics identified under these Procedures. The Superintendent shall approve the size and composition of the GSC, not to exceed nine persons. The GSC is to be chaired by the OEO Economic Development Officer or designee. Members of the GSC may include staff from the Board's Procurement department, Capital Construction department, A/E Selection department, Maintenance department, Business Operations department, Audit Department and personnel from other Board departments affected by this program.

- Maintaining a S/MBE and M/WBE Advisory Committee to provide guidance on the implementation and / or modification of the S/MBE and M/WBE program, and to promote participation and use of these businesses in the procurement activities of M-DCPS. The S/MBE and M/WBE Advisory Committee shall have representation from local, small, micro, and majority business interest organizations, community based organizations and local government entities which may include professional construction and trade businesses and socio-economic organizations.

III. RESPONSIBILITIES AND DUTIES

Office of Economic Opportunity (OEO) – the OEO is responsible for general oversight, management, and coordination of all aspects of the administration the Small Business Enterprise, Micro Business Enterprise, Minority Business Enterprise, Women Business Enterprise, Mentor-Protégé, and the Service Disabled Veteran Enterprise Programs pursuant to Board Policy 6320.02 with other District agencies and departments that are engaged in the procurement of goods and services on behalf of the District.

Economic Equity and Diversity Compliance Officer in the Office of Economic Opportunity is the Superintendent's designee to administer the Small Business Enterprise Program and shall serve as the Program Administrator. The responsibilities of the Program Administrator in administering the Program shall be in accordance with Board Policy 6320.02.

Certification Administrator is responsible for the implementation and evaluation of businesses seeking certification status for participation in these OEO Programs as Micro Business Enterprises, Small Business Enterprises, Minority/Women Business Enterprises, and/or Service Disabled Veteran Business Enterprises. The Certification Administrator shall review and evaluate every certification application submitted directly to the District or through the Online Diversity Compliance System. The Certification Administrator shall also be responsible for periodically re-evaluating the certification status of firms in accordance with Board Policy, or upon formal inquiry regarding changed circumstances that may have affected a firm's size, industry designations, ownership, or control. The Administrator shall ensure that applicants are certified, re-

certified, or de-certified in accordance with the relevant eligibility standards set forth in Board Policy 6320.02.

Compliance Administrator is responsible for monitoring the level of S/MBE and M/WBE utilization by vendors with applicable goals and to determine if a company is in compliance with the OEO policies and procedures outlined in Board Policy 6320.02, as applied to bid solicitations, and in subsequent terms of awarded contracts and subcontracts.

Contractor Prequalification Administrator is responsible for obtaining complete Contractor Prequalification Application, and all other information that is deemed necessary to determine whether an applicant meets the criteria for eligibility as set forth in State Requirements for Educational Facilities 2014 (SREF) Chapter 4.1 and relevant Board policy.

Outreach Administrator is responsible for facilitating engagement with community organizations and vendors seeking certification, prequalification and general information as it relates to M-DCPS bid solicitations and contract opportunities, procurement policies and practices, and policies and practices of the Office of Economic Opportunity. The administrator will manage the outreach efforts with collaborating agencies and community boards. The administrator will provide technical assistance to the businesses as per Board Policy 6320.02.

Small/Micro and Minority/Women-Owned Business Enterprise Advisory Committee --Consistent with School Board Policy 6320.02, the Small-Business Enterprise Advisory Committee (SBEAC) shall:

- A. provide guidance on the implementation of the S/MBE and M/WBE Program and to promote the participation and use of small and micro businesses in the procurement activities of the Board;
- B. identify and evaluate issues related to economic opportunities within the Board for small, micro and minority/women owned businesses;
- C. provide recommendations to the Board to improve the S/MBE, M/WBE program;
- D. annually evaluate and report to the Board on the effectiveness of the S/MBE and M/WBE program in increasing minority and women owned business participation in the Board's procurement process;
- E. monitor any disparity study that may be conducted by the Board and make recommendations based on the results of any such study.

The Board and Superintendent shall each appoint a community member and alternate member who is not employed by the Board and does not have any direct or indirect

business relationship with the Board. The term of each Board appointee shall be coterminous with the appointing Board member and the term of the Superintendent's appointees shall be at the will and discretion of the Superintendent. All appointments must comply with *Board Policy 9140, Citizen Advisory Committees*. The Committee shall annually elect a chair and vice-chair, meet at least six (6) times per year, and be governed by the latest edition of *Robert's Rules of Order*. The committee may adopt bylaws, to be recommended by the Superintendent to the Board for approval, to facilitate the operation of the committee. OEO will provide staff support for this committee.

IV. DEFINITIONS

Affiliate – business concerns, organizations, or individuals that directly or indirectly, (a) is controlled by another entity or either controls or has the power to control the other, or (b) third-party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a business entity that has been organized by a delinquent entity, individual, or affiliate, following a contractor being declared delinquent that has the same or similar management, ownership, or principal employees as the delinquent contractor.

Affirmative Procurement Initiatives – refers to any procurement tool to enhance contracting opportunities for S/MBE, M/WBE and SDVBE firms including: bonding / insurance waivers, bid incentives, price preferences, sheltered market, mandatory subcontracting, S/MBE and M/WBE evaluation preference points in the scoring of proposal evaluations.

Award – the final selection of a bidder or offeror for a specified prime contract or subcontract dollar amount. Awards are made by the School Board to prime contractors or by vendors or by prime contractors to subcontractors or sub-vendors, usually pursuant to an open invitation to bid (ITB) or request for proposal (RFP) process. (Contract awards are to be distinguished from contract payments in that they only reflect the anticipated dollar value of a contract instead of the actual dollar amounts that have been paid to a bidder or offeror under an awarded contract.)

Bid Incentives – additional inducements or enhancements in the bidding process that are designed to increase the chances for the selection of S/MBE, M/WBE and SDVBE firms in competition with other firms. These bid incentives may be applied to all solicitations, contracts, and letter agreements for the purchase of Construction, Professional Services, and Goods and Services, including change orders and amendments.

Certification – process by which OEO determines a business meets the criteria for classification as S/MBE, M/WBE and/or SDVBE according to the criteria established in *School Board Policy 6320.02*.

Commercially Useful Function – a S/MBE, M/WBE or SDVBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by performing, managing, and supervising the work involved. To perform a commercially useful function, the S/MBE, M/WBE or SDVBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a S/MBE, M/WBE or SDVBE is performing a commercially useful function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the S/MBE, M/WBE or SDVBE firm is to be paid under the contract is commensurate with the work it is performing and with the S/MBE, M/WBE or SDVBE credit claimed for its performance of the work, and other relevant factors. Specifically, a S/M/MWBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed to obtain the appearance of meaningful and useful S/MBE, M/WBE or SDVBE participation, when in similar transactions in which S/MBE, M/WBE or SDVBE firms do not participate, there is no such role performed. Whenever a firm is not performing a commercially useful function, no credit for the firm's participation on a contract or subcontract as a certified S/MBE, M/WBE or SDVBE shall be given when considering compliance with the Affirmative Procurement Initiatives as applied to that contract.

Construction Contactor – the company that is qualified by a contractor, or the qualifier who holds a contractor's license.

Contractor – the person, firm or corporation that is authorized to do business in the State of Florida and that is properly licensed or registered for the work to be performed with whom a contract may be made for the performance of Board work.

Contractor Prequalification Appeals Committee (CPAC) – the committee established under this policy that is responsible for hearing all appeal requests from companies that are denied contractor prequalification.

Contractor Prequalification Review Committee (CPRC) – the committee established under this policy that is responsible for reviewing and evaluating Contractor Prequalification Applications determining the eligibility, thereof, and recommending that contractors be prequalified or not, to bid on construction projects of a particular scope, type, and dollar value.

Construction and Construction-related Specialty Trades – all labor, services, and materials provided relating to the construction, alteration, repair, demolition, reconstruction, or any other improvements to real property.

Contractor Disciplinary Review Committee (CDRC) – the committee established under Policy 6320.04, Contractor Discipline, that is responsible for making

recommendations for contractor suspension, prequalification certificate suspension and revocation, debarment, and other disciplinary actions.

Goal – The level of contract participation or proportion of contract dollars that is anticipated to be spent on an annual basis or on a specific contract with a specified segment of the total population of Ready, Willing, and Able (RWA) firms (e.g., S/MBE firms). These goals are based upon availability analysis derived from a database established by the OEO and Purchasing. Upon completion of availability analysis, such goals for specific contract participation may, under certain circumstances, be set and narrowly tailored by race, gender, and industry codes. Annual goals are intended as an administrative guide only to assist the District in its annual policy review to evaluate the effectiveness of OEO policies and procedures, and to determine whether the use of more aggressive or less aggressive remedies are warranted in the future. Annual goals shall not be routinely applied to specific contracts absent independent availability analysis demonstrating that they are appropriate for application to a specific contract

Goal Setting Committee – a committee established by the Superintendent of Schools and chaired by the OEO Program Manager that establishes S/MBE and/or M/WBE program goals along with workforce goals and selects appropriate S/MBE and/or M/WBE Affirmative Procurement Initiatives to be applied to each contract for the M-DCPS based upon industry categories, vendor availability, and project-specific characteristics.

Good Faith Efforts – documentation of the Bidder's intent to comply with S/MBE and/or M/WBE Program goals and procedures, including, but not limited to the following: (1) documentation within a bid submission or proposal reflecting the Bidder's commitment to comply with S/MBE and/or M/WBE Program goals as established by the OEO or a Goal Setting Committee for a particular contract; or (2) documentation of efforts made towards achieving the S/MBE and/or M/WBE Program goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of S/MBE and/or M/WBE subcontract opportunities on the M-DCPS web site; solicitations of bids from all qualified S/MBE and/or M/WBE firms listed in the District's Certification Directory of certified S/MBE and/or M/WBE firms; correspondence from qualified S/MBE and/or M/WBE firms documenting their unavailability to perform S/MBE and/or M/WBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to enhance opportunities for S/MBE and/or M/WBE firms to perform; documentation of efforts to assist S/MBE and/or M/WBE firms with obtaining financing, bonding, or insurance required by the bidder; and documentation of consultations with trade associations and consultants that represent the interests of small and local businesses in order to identify qualified and available S/MBE and/or M/WBE subcontractors.)

Goods and Services – all items, supplies, materials and general support services, except consulting services and infrastructure projects, which may be needed in the transaction of public business or in the pursuit of any government undertaking, project or activity. The term refers to, among other subjects, equipment, furniture, food,

information technology, materials for construction, or personal property of any kind, including non-personal or contractual services such as the repair and maintenance of equipment and furniture. It also refers to transportation or hauling of goods or commodities, janitorial, security, and related services as well as procurement of material and supplies provided by the Procuring Entity for such services. The term "related" shall include but not be limited to, lease or purchase of office space, media advertisements, health maintenance services, and other services essential to the operation of the Procuring Entity.

Gross Revenue – all revenue obtained in whatever form received or accrued from whatever source as compensation for goods and services sold including sales of products or services, interest, dividends, rents, royalties, fees or commissions, reduced by returns and allowances. Gross revenue does not include proceeds from sales of capital assets, and investments, proceeds from transaction between a firm and its domestic and foreign affiliates.

Independently Owned, Managed, and Operated – ownership of an S/MBE, or M/WBE firm must be direct, independent, and by individuals only. Business firms that are owned by other businesses or by the principals or owners of other businesses that cannot themselves qualify under the eligibility requirements of these programs shall not be eligible to participate in the program. The day-to-day management of the firm must also be direct and independent of the influence of any other businesses that cannot themselves qualify under the eligibility requirements.

Industry Categories – procurement groupings for M-DCPS contracts for purposes of the administration of APIs shall be inclusive of Architectural & Engineering, Construction, Professional Services, Goods and Services, and Commodities procurements. Industry Categories may also be referred to as "business categories."

Joint Venture - an association of two or more persons or businesses carrying out a single business enterprise for which purpose they combine their capital, efforts, skills, knowledge and/or property. Joint ventures must be established by written agreement. Joint Ventures may be certified on a contract-by-contract basis for purposes of qualifying for treatment as S/MBE firms.

Miami – Dade County Public Schools (M-DCPS) – the public-school district in Miami-Dade County whose School Board has adopted Policy No. 6320.02 to enhance contracting opportunities for S/MBE, M/WBE and SDVBE firms.

Micro-Business Enterprise - any contractor, subcontractor, manufacturer or service company (a) that has been doing business under the same ownership or management and has maintained its principal place of business in Miami-Dade County, Florida, for a period of at least one (1) year immediately prior to the date of application for certification under this section, (b) that had annual gross revenues not exceeding the thresholds for a Micro-Business Enterprise as identified in this policy for each industry, and (c) at least fifty-one percent (51%) of the ownership of which is held by a person or persons who

exercise operational authority over the daily affairs of the business and have the power to direct the management and policies and receive the beneficial interests of the company. Representations regarding average gross revenue and payroll are subject to audit. If a business has not existed for three (3) years, the employment and gross revenue limits shall be applied based upon the annual averages over the course of the existence of the business.

Minority ownership means that for:

- a. Sole Proprietorship – a sole proprietor must be a minority person or woman.
- b. Partnership- a minority/woman individual's interest must include at least fifty-one (51%) of the ownership, profit/loss, voting control, and capital of the partnership.
- c. Corporation – minority/women must own at least fifty-one percent (51%) of all voting stock, issued by a corporation. No stock held in trust, or by any guardian for a minor, shall be considered held by the minority/woman individual, in determining ownership and control.
- d. Limited Liability Company (LLC) - minority/women must control the management and operations, as well as hold at least fifty-one (51%) of the company's ownership interest.

Minority person – is a naturalized citizen or person born in the United States. Resident aliens and holders of permanent visas are not considered to be citizens. The following groups are considered:

- a. An **African American**, a person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin.
- b. A **Hispanic American**, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race.
- c. An **Asian American**, a person having origins of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands before 1778.
- d. A **Native American**, a person who has origins in any of the Indian Tribes of North America before 1835, upon presentation of proper documentation as established by rule of the Department of Management Services.
- e. A **Woman** is an American born or naturalized woman; however, for purposes of M/WBE certification a woman is considered a non-minority American born or naturalized woman.

Minority/Women Business Enterprise (M/WBE) – any contractor, subcontractor, manufacturer or service company that:

- a. that has been doing business under the same ownership or management and has maintained its principal place of business in Miami-Dade County, Florida, for a period of at least one(1) year immediately prior to the date of application for certification under this section,
- b. that had annual gross revenue not exceeding the thresholds for a Micro-Business Enterprise as identified in this policy for each industry, and

- c. at least fifty-one percent (51%) of the ownership of which is held by a minority or woman person or persons who exercise operational authority over the management and control of the daily affairs of the business and have the unfettered power to make key decisions about the business, and that share in financial benefits and liabilities of the company commensurately with the percentage of overall ownership interests that they hold in the company.

Representation regarding average gross revenue and payroll are subject to audit. If a business has not existed for three (3) years, the employment and gross revenue limits shall be applied based upon the annual averages over the course of the existence of the business.

Naturalization – is the process by which U.S. citizenship is granted to a foreign citizen or national after he or she fulfills the requirements established by Congress in the Immigration and Nationality Act (INA). (www.uscis.gov/us-citizenship/citizenship-through-naturalization)

Permanent Resident – is a person who has been granted permanent resident status in the United States and has (or is waiting for) a Permanent Residence Card. (www.uscis.gov/sites/default/files/files/article/chapter8.pdf)

Preference Points – the quantitative assignment of value for specific evaluation criteria in the selection process for contracts wherein factors other than price are considered

Prime Contractor – The vendor or contractor to whom a purchase order or contract is awarded by the M-DCPS for purposes of providing goods or services to the District.

Professional Services A/E – those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper relating to his or her professional employment or practice;

Professional Services Non-A/E - Job Order Contracting Consultants, Asbestos Consultants, Program Management, Geotechnical, Construction Materials Testing and Environmental Assessment Services.

Online Diversity Compliance System (ODCS) - a web-based software application used by the M-DCPS to track and monitor S/MBE and M/WBE availability and utilization (i.e., "Spend" or "Payments") on school district contracts.

Responsive - a firm's bid or proposal conforms in all material respects to the invitation to bid or request for proposal and shall include compliance Small, Micro and M/WBE Program requirements.

Service Disabled Veteran – a veteran who is a permanent Florida resident with a service connected disability as determined by the United States Department of Veteran Affairs or who has been terminated from military service by reason of disability by the United States Department of Defense.

Sheltered Market – An Affirmative Procurement Initiative designed to set aside an M-DCPS contract bid for bidding exclusively among S/MBE M/WBE and/or SDVBE firms.

Small Business Enterprise (SBE) – any contractor, subcontractor, manufacturer or service company that:

- a. has been doing business under the same ownership or management and has maintained its principal place of business in Miami-Dade County, Florida, for a period of at least one (1) year immediately prior to the date of application for certification under this section,
- b. that had annual gross revenues not exceeding the thresholds identified in this policy for each industry, and
- c. at least fifty-one percent (51%) of the ownership of which is held by a person or persons who exercise operational authority over the daily affairs of the business and have the power to direct the management and policies and receive the beneficial interests of the company.

Representations regarding average gross revenue and payroll are subject to audit. If a business has not existed for three (3) years, the employment and gross revenue limits shall be applied based upon the annual averages over the course of the existence of the business.

Statement of Contractor's Qualification – the Contractor Prequalification Application.

Subcontractor any vendor or contractor that is providing goods or services to a prime contractor in furtherance of the prime contractor's performance under a contract or purchase order with the Board.

Surety Letter of Intent – a statement from a surety, certifying the surety will issue a bond to a contractor for projects that are valued up to the limits for which the company is seeking contractor prequalification.

V. CERTIFICATION PROGRAMS

M-DCPS affords business entities the opportunity to be certified as a S/MBE, M/WBE, and SDVE, subject to the eligibility requirements as set forth in Board Policy 6320.02.

What is Certification?

Certification is the process by which the Office of Economic Opportunity evaluates an applicant business according to the criteria as prescribed in Board Policy 6320.02 and upon proper vetting, certifies an applicant business as a S/MBE, M/WBE, and/or a SDVE.

Non-profits Organizations

Nonprofit/Not-for-profit organizations (501(c)(3) or franchises have no ownership and therefore are **NOT** eligible for certification as a S/MBE, M/WBE, or a SDVE.

Provisional Certification

OEO shall **NOT** issue a provisional (short-term) certificate of certification to any business entity who applies for the S/MBE, M/WBE, or SDVS certification program. An application shall only be reviewed and evaluated for certification when a complete and accurate application, along with the requisite documentation has been submitted. **No entity shall be provisionally certified.**

APPLICANT CERTIFICATION PROCESS

M-DCPS Registered Vendor Status – A prospective business who desires to be certified as a S/MBE, M/WBE, or SDVE shall be registered vendors with M-DCPS Office of Procurement Management Services (PMS). Information related to becoming a vendor for M-DCPS can be obtained at the following website: <http://procurement.dadeschools.net>. *Note: PMS will provide a list of new vendors, monthly, to OEO, who have not been certified with the District. This provides an additional pool of available firms to become certified.*

As a condition precedent to certification, prospective vendor must then register and create a profile with the ODCS at www.miamidade.diversitycompliance.com. Upon accessing the website, the applicant should create an account by:

1. Clicking "Apply for Certification";
2. Click "Create Account" under New Certification;

The applicant shall complete the registration application. After registering, the prospective business will be able to access and complete a certification application for the designated program in which they seek certification.

Applications

An applicant, who seeks certification as a S/MBE, My/WBE, or SDVE, shall fill out one of the three applications available on ODCS. All applicants are required to submit complete and accurate information, as well as the requisite documents as specified in Board Policy 6320.02. If an applicant has any technical questions they should call the Office of Economic Opportunity Certification Administrator at 305-995-1307, or email at oeo@dadeschools.net.

Online Diversity Compliance System Registration

An applicant will have 3 months (i.e. 12/8/17 to 3/8/18) to complete an application prior to deletion of the application. The date is also printed on the application for the vendor. This timeframe begins from the time an application is started on ODCS to submit an application. If an applicant has not submitted an application before the prescribed period, the application is administratively dismissed.

M-DCPS offers the following certification applications: *New Certification Application*, *Renewal Certification Application*, and *Interlocal/Partnership Certification Recognition Application*.

- A **new certification application** – shall be completed by an applicant who is a first-time applicant who has never been certified by M-DCPS as an S/MBE, M/WBE, or SDVE, an applicant company who has previously been rejected for certification, or an applicant whose certification has lapsed and they desire to seek certification.
- An **Interlocal/Partnership Certification Recognition Application** – shall be completed by a business that is certified with Miami-Dade County Small Business Development Division as a Small Business Enterprise, or an applicant business that is certified with the State of Florida or the Florida State Minority Supplier Development Council as a Minority/Women Business Enterprise and they seek certification with M-DCPS as their corresponding designation with the reciprocating entity.
- A **renewal certification application** shall be completed by an applicant who is presently certified with M-DCPS as an S/MBE and/or M/WBE and who seeks to be recertified for another three (3) year period with M-DCPS in the previous certification designation. Certified firms will be informed three months in advance of certification expiration.

SBE, MBE AND M/WBE Certification Designations

For the M/WBE certification, the 51% M/WBE ownership requirement must be in one specific minority or WBE category; however, an applicant may be eligible for certification in more than one category. For example, an African American woman who owns a small business enterprise may be certified as a Small Business Enterprise and a Minority Business Enterprise, as long as the business meets the criteria in Board Policy 6320.02 for the respective programs the applicant has applied for. Similarly, an African American woman who owns a business may be certified as a Minority Business Enterprise, but not a Women Owned Business Enterprise.

The Administrator should ensure that the company's profile on ODCS accurately reflects the company's correct certification designations for which they have been certified.

Applicant Submitting a New Certification Application

An applicant submitting a New Certification Application for S/MBE, M/WBE, and/or SDVE must complete ALL four sections of the applications, as well as upload and submit all required/mandatory documents. The applicant must complete the application completely and accurately. The applicant must complete the following information which includes, but not limited to, the following:

Section 1 - Certification Information – Business Contact Information

Required information includes: Company name, Trade Name/Doing Business as (D/B/A), MDCPS Vendor number, Address, Mailing Address, Contact Person, Majority Owner Name, Office Phone, Business Cell Phone, Fax Number, Email address, Website address.

Section 2 – Certification Information – History

Required information includes: Date firm was established, Federal Tax ID no., Company Type, Date Incorporated, State of Incorporation, is the company a franchise, subsidiary or affiliate of another company, type of business, the services provided, work performed and/or products sold, Primary NIGP code (the applicant can list 6 additional codes), Number of Employees (full time, part-time, contract personnel), is principal owner a citizen of U.S., Minority Status, certification applying for, gender status, firms certification history with other agencies, Has firm been denied certification, decertified, suspended, or challenged as a small, micro, minority, or disadvantaged business enterprise (DBE) by any agency or institution.

Section 3 - Ownership

Corporation Information.

Section 4 - Control

Indicate Firm's Office Space, Number of years at current location, Name of Landlord, address, indicate firms storage space, list current licenses/permits held by any owner and/or employer of your firm (e.g. contractor, engineer, architect, etc.), Duties of Owners, Officers, Directors, Managers, and Key Personnel, Identify individuals who are responsible for day to day management and policy decision, gross receipts, bonding information.

Mandatory Documents

The applicant shall submit any required documents required for the specific certification designation(s) they seek, as required by the OEO.

Time period for processing an application

A complete application should be processed within **thirty (30) days** of receipt by the OEO, subject to an extension at the discretion of the OEO Economic Development Officer. An application is considered complete when all applicable questions have been answered and all mandatory documents have been submitted.

Administrator Processing an Application

The Office of Economic Opportunity is responsible for receiving, evaluating, and processing every application from an applicant business who seeks certification as a S/MBE, M/WBE, or SDVE with M-DCPS.

Evaluating Application for Program Designation

The Administrator shall determine what certification designation(s) the applicant seeks, as to make sure the applicant meets the eligibility standards as established in Board Policy 6320.02, which are articulated in this manual below under the corresponding certification programs.

To begin the certification review and evaluation process after a new application has been submitted on ODCS, the Administrator shall access the application on ODCS by selecting "View" of the submitted application.

The Administrator shall use the *ODCS Online Application Instructions* to ensure that the application is complete and all mandatory documents have been submitted. The instructions will help the administrator ensure that all required documents have been submitted with an application.

In considering certification or re-certification status of any firm, the OEO shall periodically conduct audits and inspect the office, job site, records, and documents of the firm, and shall interview the firm's employees, subcontractors, and vendors as reasonably necessary to ensure that all eligibility standards are satisfied and that the integrity of this program is maintained. An administrator shall not process an application until all information and documents have been received in its entirety. An applicant shall not be allowed to submit a paper application or submit an application if any mandatory documents have not been submitted.

The administrator shall review every question for completeness and accuracy, verify that every question has been answered, if applicable, and all mandatory documents have been submitted. The Administrator shall review the applicant's application to determine which program designation(s) the applicant seeks.

Incomplete Application/Supplemental Information/Flagged Questions

If an application is incomplete, or needs supplemental information, the Administrator shall notify the applicant through ODCS of the incomplete application. The applicant will have **fifteen (15) days** to provide the requested information to complete the application. The Administrator should notify the applicant to call the Office of Economic Opportunity for assistance.

If an applicant does not submit the requested information in the time period set forth, the application will be considered administratively dismissed. The Administrator shall return and reject the application in ODCS.

Any applicant who has an application dismissed will be unable to access the old application and will have to begin a new application if they wish to apply for certification at a later date.

Program Criteria and Eligibility Standards

The Administrator shall review the application and evaluate the requirements and criteria pursuant to School Board Policy 6320.02 for the designated program certification(s) the applicant seeks. For example, an applicant may be certified as a Small Business Enterprise and a Minority Business Enterprise, as long as the applicant has met the criteria for both programs as established in School Board Policy 6230.02.

SMALL/MICRO BUSINESS ENTERPRISE PROGRAM

The Small/Micro Business Enterprise Program is a race and gender-neutral program to provide greater S/MBE availability, capacity development and contract participation in Board contracts, to advance the Board's compelling interest in ensuring that it is neither an active nor passive participant in private sector marketplace discrimination, and to promote equal opportunity for all segments of the contracting community to participate in Board contracts.

A business is eligible for a Small/Micro Business Enterprise certification, pursuant to Board Policy 6320.02 if it meets the following criteria:

1. Is an independently owned and operated business that is not dominant in its field of operation and is performing a commercially useful function.
2. The business must have an actual place of business in Miami-Dade County for at least one (1) year preceding the application and be registered as a vendor with the District.
3. The business has been established for at least one (1) year or the principals of the business have at least three (3) years of relevant experience prior to forming or joining the business.
4. The business has an applicable local business tax receipt (Miami-Dade County) and all required professional licenses, contractor qualifier licenses, and/or Certificate of Competency.
5. The owner of the business must have the required professional and contractor qualification license.
6. The Board may honor a valid Small Business Enterprise Certification and/or Micro Business Enterprise Certification granted by another agency if the agency's requirements are consistent with the District's SBE/MBE certification criteria.

Non-Affiliation Rule: Ownership of the Small and Micro Business Enterprise must be direct, independent, and by individuals only. The Small/Micro firm cannot be a subsidiary of another firm. The day-to-day management of the Small/Micro firm must be direct and independent of the influence of any other business that cannot itself qualify under the Small/Micro eligibility requirements.

Revenue Threshold for Small/Micro Business Enterprise

An applicant seeking a Small/Micro Business Enterprise certificate must meet the revenue thresholds pursuant to Board Policy 6320.02. The certification administrator

shall ensure that the application does not exceed the revenue threshold by adhering to the procedures below.

Small/Micro Business Enterprise Revenue Tier Levels

A business entity is certified as a Small Business Enterprise or Micro Business Enterprise based on the revenue generated for the preceding three (3) years before the applicant has applied for the certification or recertification. The revenue threshold is based upon the standards as articulated in Board Policy 6320.02 at the time of the publication of this manual. Please note that the thresholds published in the most current version of Board Policy 6320.02 will be the used to guide eligibility requirements. The Office of Economic Opportunity shall only certify a business who meets the following thresholds:

Small Business Enterprise

1. *Professional Services A/E*: The annual gross revenue averaged over the previous three (3) years shall be greater than \$500,000 and not exceed \$1,000,000 (Tier 1) or \$2,000,000 (Tier 2).
2. *Professional Services Non-A/E*: The annual gross revenue averaged over the previous three (3) years shall be greater than \$1,000,000 and not exceed \$2,000,000 or \$4,000,000 (Tier 2).
3. *Goods and Services (Procurement Program)*: The annual gross revenue averaged over the previous three (3) year period shall be greater than \$1,000,000 and not exceed \$2,000,000 (Tier 1) or \$ 4,000,000 (Tier 2).
4. *Construction and Construction-Related Specialty Trades*: The annual gross revenue averaged over the previous three (3) years shall be greater than \$1,000,000 and not exceed \$3,000,000 (Tier 1) or \$6,000,000 (Tier 2).

Micro Business Enterprise

1. *Professional Services A/E*: The annual gross revenue averaged over the previous three (3) years shall not exceed \$500,000.
2. *Professional Services Non-A/E*: The annual gross revenue averaged over the previous three (3) years shall not exceed \$1,000,000.
3. *Good and Services (Procurement Program)*: The annual gross revenue averaged over the previous three (3) year period shall not exceed \$1,000,000.
4. *Construction and Construction-Related Specialty Trades*: The annual gross revenue averaged over the previous three (3) years shall not exceed \$1,000,000.

Determining Gross Revenue

The Administrator shall be responsible for determining if a business qualifies as a Small Business Enterprise or Micro Business Enterprise, pursuant to the revenue threshold established in Board Policy 6320.02.

To determine the gross revenue for the applicant company the administrator should ascertain the revenue from the applicants' submitted three previous year's tax returns. The administrator shall review the overall gross receipts or sales from all sources or

Gross Revenue. The administrator should then add the total *Gross Revenue* from the three years' worth of business tax returns submitted by the applicant. The Administrator shall then divide the total of the three years of revenue and then divide the total gross revenue by three to obtain the applicants' 3-year average of gross revenue average.

Formula to Determine Revenue – Example: ABC Construction Company has submitted an application for certification as a Small/Micro Business Enterprise and submitted three years of tax returns as required per School Board Policy 6320.02. Year 1 revenue was \$2 million; Year 2 revenue was \$4 million; Year 3 Revenue was \$1 million. Total gross revenue for the 3-year period is \$7 million. The average revenue for the period is $(\$7 \text{ million} \div 3) = \$2,333,333$ is the applicant average revenue. This business is eligible for certification as a Small Business Enterprise based upon the gross revenue average of \$2.3 million.)

If Applicant Meets Revenue Threshold

If the Administrator calculates the applicant's revenue and determines that the applicant company meets/does not exceed the revenue threshold, the Administrator should proceed with processing the application.

If Applicant Exceeds Revenue Threshold

If the Administrator determines that the applicant revenue has exceeded the revenue threshold standard as set forth in School Board Policy 6320.02, the Administrator shall deny the applicant certification as a Small/Micro Business Enterprise Program. The administrator should ensure that the firm is informed of the denial. The Administrator shall notify the applicant that their application has been rejected. The Administrator should proceed with the rejection procedures as prescribed in this manual.

Note: If a business has not existed for three (3) years, the annual gross revenue shall be based upon the revenue of the filed tax returns over the existence of the business. A business who submits a tax extension ONLY shall not be certified, as their revenue threshold cannot be determined; therefore, the business must be denied certification.

Required Documentation for S/MBE Programs

In order to be eligible and certified as a S/MBE, the OEO requires that a business submit required certain supporting documents, if applicable. An applicant seeking certification as an S/MBE shall submit documents referenced in the *ODCS Online Application Instructions*.

MINORITY/WOMEN BUSINESS ENTERPRISE ELIGIBILITY

The Minority/Women Business Enterprise (M/WBE) program is established to enhance the bidding and selection opportunities for Minority and Women-owned Business Enterprises on certain contracts and to address findings in the 2014 Disparity Study and 2015 Subcontractor Disparity Study pursuant to this policy and as provided in Board Policy 6610 and Board Policy 6320.06.

The Office of Economic Opportunity shall certify a company as a Minority/Women Business Enterprise if it meets the following eligibility requirements:

- The applicant must be a minority person born or naturalized in the United States, as defined in Board Policy 6320.02;
 - It submits a signed affidavit it employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million; for sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.
- It is owned and controlled by at least fifty-one (51%) by a minority person's who are member of an insular group that is of a specific racial, ethnic, or gender makeup or national origin which has been subjected historically to disparate treatment due to identification in and with that group resulting in an underrepresentation of commercial enterprises under the group's control, and whose management and daily operations are controlled by such persons. A minority business enterprise may primarily involve the practice of a profession;
- The business must have an actual place of business in Miami-Dade County for at least one (1) year preceding the application and be registered as a vendor with the District;
- The business has an occupational license and all required professional licenses and/or contractor qualifier licenses;
- The owner of the business must have the required professional license(s) and contractor qualification license.

The Certification Administrator will consider the following factors when an applicant has more than one owner to satisfy the minority ownership threshold:

- Whether minority/women owners are entitled to share in the profits of the business, through salaries, bonuses, profit sharing, dividends, and all other benefits, commensurate their ownership.
- Whether each minority/women owner shares commensurately with ownership interests in all the risks of business, including, but not limited to, third party agreements, bonding and financial arrangements.
- Whether ownership by a minority person does not include ownership that is the result of a transfer from a non-minority person to a minority person within a related immediate family group if the combined total net asset value of all members of such family group exceeds \$1 million.
- Minority/Women owners must also demonstrate control over the affairs, management, and operations of the business. The discretion of the minority/women owners shall not be subject to any formal or informal restrictions (including, but not limited to, bylaw provisions, partnership agreements, trust agreements, or requirements for cumulative voting) that would impact or usurp the minority/women owners' independent managerial and operational control.

Documents that establish control include but are not limited to: corporate bylaws, operating agreements, partnership agreements, management agreements, or other agreements. Such documents should be free of restrictive language which dilutes a minority/woman owner(s) control and prohibits him/her from making decisions.

- The minority/woman owner(s) must submit documentation demonstrating control through the authority and responsibility to sign company checks, for all bank accounts, and letters of credit, negotiate contracts on behalf of the business, signature responsibility for insurance, bid bonds, and performance and payment bonds, negotiate bank transactions, and guarantee all instruments which indebted the business;
- Unless a business is a franchise, agreements for contractual support services that usurp a minority/woman owner's authority to control a company are not allowed;
- Minority/Women owners shall control or supervise the hiring, firing, and supervision of employees, and establishment of employment policies, wages, benefits, and other employment conditions;
- Minority/Women owners shall have knowledge and control of all financial matters of the business.
- At least one minority/woman owner holds the highest office of the firm and is compensated accordingly (i.e. salary and/or bonus distributions).

Required Documentation for M/WBE Program

To be eligible and certified as a Minority/Women-Owned Business Enterprise Program, the OEO requires that a business submit certain required supporting documents. Required documents for M/WBE Program are referenced in *ODCS Online Application Instructions – Appendix 1*

Determining Applicant's Net Worth

All applicants who seek certification as Minority/Women Business Enterprise must employ 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million and for sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments according to Board Policy 6320.02.

The Certification Administrator is responsible for verifying that an applicant company and its affiliate's net worth does not exceed \$5 million. The Administrator shall review the applicants sworn net-worth affidavit attesting that the applicant's company, with its affiliates, has a net worth of not more than \$5 million, or if a sole proprietorship, the applicant personal and business investments net worth are not more than \$5 million.

INTERLOCAL/PARTNERSHIP CERTIFICATION RECOGNITION APPLICATION

Any business certified by the State of Florida Office of Supplier Diversity as a Minority/Women Business Enterprise, or certified as a Small/Micro Business Enterprise by Miami-Dade County may apply for certification with M-DCPS. The prospective vendor should obtain a vendor number with the Procurement Department and register with the ODCS.

The applicant must fill out an interlocal application on ODCS along with submitting the required documents for the respective certification the applicant seeks.

After receipt of the application, the Administrator should verify that the application is complete and all required documents have been uploaded to ODCS. The Administrator should reference the Interlocal requirements to ensure that all requisite items have been submitted with the application. The administration should indicate "submitted" on the checklist for the respective documents. If the Administrator determines that the applicant has not completed the application, the Administrator should notice the applicant in the ODCS system, apprising the applicant that they have fifteen (15) days to supply any missing information or documents.

Required Documentation for Interlocal/Partnership Certification Applications

To be eligible and certified through an Interlocal/Partnership Certification, the OEO requires that a business submit certain required supporting documents, if applicable. An applicant seeking certification as an S/MBE shall submit documents as requested.

SERVICE DISABLED VETERAN ENTERPRISE PROGRAM

The Service Disabled Veteran Enterprise (SDVE) Program is a race and gender-neutral program designed to benefit service disabled veteran businesses. The OEO shall certify SDVE businesses in accordance with State guidelines and law. Any veteran of the armed services who received an honorable discharge and who has a disability that is service connected may apply and seek certification under the Service Disabled Veteran Enterprise Program pursuant to Fla Stat. § 295.187.

A **service-disabled veteran** as defined in Board Policy 6320.02 means a veteran who is a permanent Florida resident with a service-connected disability as determined by the United State Department of Veteran Affairs or who has been terminated from military service by reason of disability by the United States Department of Defense.

Service Disabled Veteran Enterprise Eligibility Criteria

According to Fla. Stat. § 295.187 - Florida Veteran Business Enterprise Opportunity Veteran Business Enterprise means an independently owned and operated business that:

- Employs 200 or fewer permanent full-time employees;
- Together with its affiliates has a net worth of \$5 million or less or, if a sole proprietorship, has a net worth of \$5 million or less including both personal and business investments;
- Is organized to engage in commercial transactions;
- Is domiciled in this state; and
- Is at least 51 percent owned and controlled by one or more service disabled veterans.

Required Documentation for SDVE

In addition to the applicant providing the mandatory documents as required as an applicant for M/WBE certification, an applicant for the Service Disabled Veteran Enterprise Program must also submit the following document a DD-214 form issued by

the United States Department of Veteran Affairs or the United States Department of Defense.

CERTIFICATION DECISION

Upon conclusion of evaluation of an applicant application pursuant to the criteria as established in Board Policy 6320.02, the Certificate Administrator shall either **approve or deny** the application for certification within thirty (30) days of a completed application being submitted to the OEO. If the applicant is approved, the Administrator shall follow the procedures as listed in the "approval" section below. If an applicant is denied, the Administrator shall follow the procedures listed under the "denial" section below. Decision timeframe can be extended at the discretion of the Program Administrator.

Approval of Application

If an applicant has submitted a complete application and requisite documents through ODCS and met the criteria as established in Board Policy 6320.02, the Administrator shall approve and certify the applicant in the designated program(s).

An applicant's certification shall be valid for three (3) years from the date the application was approved by the OEO Administrator, subject to Board Policy 6320.02 – Contractor Discipline.

Issuance of Certificate

After an application has been approved for certification the designated certification designation, a certificate shall be issued. The Administrator should issue all approved applicants certificates that indicate that the applicant business is certified as a Small or Micro Business Enterprise, and a Minority and/or Women Business Enterprise. The certificate shall be valid for **three (3) years** from the date of approval. The applicant is subject to *School Board Policy 6320.04, Contractor Discipline*, which governing discipline of certified businesses. The certificates should include the following:

- business name;
- program designation;
- certificate issue date;
- certificate expiration period;
- the applicant's vendor number; and
- the signature of the OEO Program Administrator.

Creation of Applicant File

After an applicant is approved for certification the Administrator shall create a certification file for the newly approved business on the OEO "T-drive". The Administrator should print out the certification certificate and the application should be saved under the current month and year the certification was issued. The Administrator shall make a new folder on the "T-Drive" in the approved company's name. The certificate should then be scanned and inserted into the applicant's folder on the T-drive.

Denial of Application

If after evaluation of a completed application, including requisite documents, the Administrator determines that the applicant has not met the criteria as established in Board Policy 6320.02, the Administrator shall deny the application for certification.

The Administrator shall notify the applicant of the denial via written notification of the adverse decision. Notification should state the basis of denial, a statement that the applicant may not re-apply for certification for **one (1) year** from the date of denial pursuant to Board Policy 6320.02 and a statement apprising the applicant of the ability to submit a written request of appeal to the OEO decision within fifteen (15) business days after receipt of the denial letter.

The Administrator shall reject/deny the applicant's company in ODCS. The Administrator shall login in to the ODCS, access the applicant company application and formally deny the application, as they have not met the criteria and eligibility as articulated in School Board Policy 6320.02.

RECERTIFICATION PROCESS

Approximately **sixty (60) days** before the expiration of a business' certification certificate, the applicant shall receive electronic notification from ODCS that the business' certification will expire in sixty (60) days. When a business makes timely and sufficient application for the renewal of certification application, the existing certificate shall not expire until the application for renewal has been finally acted upon.

Pursuant to Board Policy 6320.02, a business must submit their recertification application at least thirty (30) days before the expiration date of certification. A recertification application may be submitted **ONLY** if an S/MBE or M/WBE certificate has not expired and no material changes have occurred in the ownership and control of the S/MBE or M/WBE.

When the Certification Administrator receives an application for re-certification the Certification Administrator should ensure that the applicant has submitted a complete application, as well as, submitted the required documents needed for the re-certification of the applicant's current certification designation. When an entity submits an application for re-certification, the applicant shall submit the documents as required.

Upon receipt of the recertification application, the Administrator shall review the application pursuant to the eligibility requirements pursuant to Board Policy 6320.02. If the applicant meets the eligibility requirement for the designated certification program, the administrator should approve the entity.

If the entity does not meet the eligibility requirements pursuant to Board Policy 6320.02, the Administrator shall initiate the denial process as described above in this procedures manual.

DECERTIFICATION (INELIGIBILITY OR SUSPENSION)

Pursuant to Board Policy 6320.02 the Office of Economic Opportunity (OEO) may decertify a Small and Micro Business Enterprise or Minority/Women Business enterprise by deeming a firm ineligible to participate in the program or suspended from the program for any of the following reasons:

- a) Changes in the Small and Micro business enterprise firm's circumstances that render the firm unable to meet the eligibility standards;
- b) A change in the certification standards or requirements of M-DCPS since the certification of the firm;
- c) Information or evidence that was not available to the OEO at the time the firm was certified that, if available, would have resulted in the denial of certification;
- d) Information that was concealed or misrepresented by the firm in connection with the certification application or review conducted by the OEO; and/or

Suspension – Temporary action pending final decision from the Contract Disciplinary Review Committee (CDRC). The CDRC makes determination on whether to sustain the suspension or to permanently revoke the certification.

Prior to taking formal action to decertify a S/MBE or M/WBE, M-DCPS shall provide the business with written notice (via U.S. mail and/or email notification) of the proposed decertification that summarizes the reasons and facts leading to the **proposed** decertification. The S/MBE or M/WBE firm shall then have thirty (30) days after issuance of the Notice of Intent to Decertify to request a hearing and/or to present such evidence and arguments in opposition to the Notice to Decertify. Following any requested hearing, and upon completion of its review of all such evidence and arguments presented, the OEO may either rescind the Notice of Intent to Decertify, or issue a Final Notice of Decertification to the Small and Micro Business Enterprise owner by certified mail.

If the OEO decertifies a S/MBE or M/WBE currently working on a M-DCPS contract, the decertified S/MBE participation on the contract will not be counted toward the fulfillment of M-DCPS' Small and Micro Business Enterprise goals for the duration of the contract. The OEO shall maintain a list of all decertified firms with the facts leading to decertification and shall provide internal departments notification of this action within 5 business days. For those instances when the OEO decertifies an S/MBE after contract award but prior to the issuance of a Notice to Proceed, the prime contractor or bidder shall be required to seek a waiver of the application of the Affirmative Procurement Initiative, or, in the alternative, to exercise Good Faith Efforts in attempting to replace the decertified firm with a qualified certified S/MBE firm. When the OEO decertifies an S/MBE after bid opening but prior to contract award, those bidders or offerors having proposed satisfying S/MBE participation requirements on the contract in part through the participation of the newly decertified firm shall be required to either substitute, or exercise Good Faith Efforts to substitute, another qualified certified S/MBE firm within fourteen (14) days of notification, or have their bids rejected for failure to be responsive.

Appeals

- Denial of Certification as a S/MBE or M/WBE – upon denial of certification as a S/MBE or M/WBE, the OEO shall notify the affected party in writing, via certified mail, setting forth the reasons for the denial of certification.
- Time for filing a Notice of Appeal - a S/MBE or M/WBE may appeal a Denial of Certification and/or a Notice of Decertification to the Superintendent's identified designee within fourteen (14) business days of receipt of the Denial of Certification and/or Notice of Certification. If the S/MBE or M/WBE owner fails to appeal the denial of Certification and/or Notice of Decertification within the period set forth in this section, the decertification shall be final and take effect immediately. Upon receipt of a timely notice of appeal, the Superintendent's identified designee shall conduct an informal hearing within 30 business days. At the hearing, all parties including staff and the business owner(s) shall be provided an opportunity to produce any and all evidence in either party's possession concerning the denial of certification and/or decertification as a Small and Micro Business Enterprise.
- Decision regarding Appeal – within fourteen (14) business days after the conclusion of the hearing regarding an appeal, the OEO shall issue a written notice of the decision on the appeal. The notice of the decision shall be sent to all parties by certified U.S. mail and shall set forth the reasons for the decision. The decision of the Superintendent's identified designee, serving as the hearing officer shall be binding and final.

GRADUATION FROM THE PROGRAM

MBE to SBE Graduation

Pursuant to Board Policy 6320.02, when a MBE exceeds the three-year fiscal year gross revenue eligibility threshold for their designated industry, it shall automatically graduate to the SBE designation.

Upon an MBE graduating to a SBE, the Administrator must provide the affected business written notification via *the S/MBE Graduation Form Letter*, which includes the basis of graduation, within 15 days of the Administrator determining the company has exceeded the MBE eligibility revenue threshold, but has not exceeded the revenue threshold for Small Business Enterprise.

The Administrator shall ensure that the certification status is changed in ODACS and that the appropriate certificate is uploaded to the businesses' folder on the OEO T-Drive.

SBE Graduation

When an SBE exceeds the three-year fiscal year gross revenue threshold for their designated industry; it shall automatically graduate out of the program. The Administrator must provide the affected business written notification via *S/MBE Graduation Form Letter* for the basis for graduation within seven (7) days.

The SBE shall be ineligible to re-apply for the SBE program for a period of (1) year. Upon re-applying for certification, the business entity will be subject to the criteria as articulated in *Board Policy 6320.02*

SBE Permanent Graduation

Pursuant to Board Policy 6320.02, a Small Business Enterprise shall be permanently graduated after its three (3) year fiscal year average gross revenue exceeds \$9 million for construction and construction-related specialty trades, \$7 million for goods and services, \$5 million for professional services (architectural and engineering), and \$7 million for professional services (non-architectural and non-engineering).

Continuing Eligibility Affidavit

The OEO will provide business entities with an annual *Continuing Eligibility Affidavit*. The affidavit will ensure that the certified entity is in compliance with eligibility criteria for the respective certification requirements. The affidavit must be signed by an authorized agent of the business, as well as notarized. The affidavit should be returned within thirty (30) days of the date of the notice. Failure to submit the affidavit will subject the entity to possible suspension from the program.

Upon receipt of the completed affidavit, the Administrator shall review the affidavit to ascertain that business is in compliance with the requirements for the certification held.

If the Administrator determines that the business entity is not eligible pursuant to the affidavit, the Administrator shall administer the proper procedures as listed in these guidelines.

Material Change in Company

Certified Small and Micro Business Enterprise shall provide written notice to the OEO of any change(s) that affect its eligibility as an S/MBE, including, but not limited to, changes that affect address change, ownership, management, or control of the S/MBE. Within fifteen (15) calendar days of the effective date of such changes, S/MBE shall provide notice to the OEO by written correspondence via U.S. Mail and/or electronic mail, including any supporting documentation, that describes the nature of the change(s) and that states the effective date of the change(s). OEO will determine the firm's eligibility based on the material change provided.

VI. S/MBE AND M/WBE BUSINESSES ASSISTANCE

The Office of Economic Opportunity (OEO) shall act as a resource for information on S/MBE and M/WBE. The OEO shall provide the following assistance to these businesses:

- **Community Outreach** - OEO, in collaboration with the Office of Procurement Management Services (PMS) will conduct targeted outreach programs and events to communicate M-DCPS' procurement opportunities and increase and maximize participation in the Program. The OEO may use the services and

expertise of third party consultants to conduct the community outreach and perform the services described below:

- Outreach efforts will include publishing in print and electronic media regarding upcoming small business events, forums, workshops, trainings and special events;
 - The OEO website and online directory will be used for outreach. Upcoming events as well as other useful Small, Micro and M/WBE information will be posted on the OEO's website for access by vendors;
 - *Certified Small, Micro and M/WBE Directory* – M-DCPS will create and maintain an online Small, Micro and M/WBE Business Enterprise Directory that lists these businesses by types of firms and trade codes to facilitate identifying businesses with capabilities relevant to a particular specification. Each business listing will contain the business name, contact person, mailing address, email address, website address, and phone number. The National Institute of Government Purchasing (NIGP) Commodity Codes may be identified for each Small, Micro, M/WBE or Service-Disabled Veteran Business Enterprise. The OEO will continuously update and maintain the directory on its website at www.oeo.dadeschools.net. In compiling this directory, the OEO will identify and certify as many firms as possible that perform the types of work and/or supplies needed by M-DCPS;
 - The OEO will work closely with Community/Trade Organizations to identify and promote procurement opportunities with M-DCPS and provide this information to Small, Micro and M/WBE business enterprises;
 - The OEO will collaborate with other municipal agencies to sponsor events ensuring maximum outreach to Small, Micro and M/WBEs;
 - Sponsor matchmaking conferences to connect Small, Micro and M/WBEs with buyers and procurement officials that are seeking to purchase the specific kinds of goods and services offered by these businesses.
- **Technical Assistance** - the OEO shall also undertake special measures, in collaboration with the Office of Procurement Management Services, to assist S/MBE and M/WBE Business Enterprises in overcoming barriers to participation on M-DCPS solicitations. This assistance will be offered by M-DCPS, as well as by other assistance agencies and entities within OEO's technical assistance referral network that provide assistance with participation in similarly established S/MBE and M/WBE Business Enterprise developmental programs in other jurisdictions including the Florida Small Business Development Center Network and U.S. Small Business Administration. In addition, the OEO will maintain and distribute information regarding available technical assistance providers in the Miami-Dade County market area. The Office of Economic Opportunity may use the services and expertise of third party consultants to assess technical assistance needs of S/MBE and M/WBE business enterprises, to refer such firms to appropriate resources, or to provide the technical assistance and other services, including, but not limited, to those described below.

- a. Host, in collaboration with the Office of Procurement Management Services, small business networking forums where small businesses can obtain information about how to do business with M-DCPS;
- b. Working with the Office of Procurement Management Services, provide counseling and training sessions for S/MBE and M/WBE business enterprises. M-DCPS Procurement Management Services' staff will be available to explain instructions for preparation of bid specifications, M-DCPS' procurement policies, procedures and general bid requirements;
- c. Sponsor intensive group workshops and one-on-one training sessions on identified S/MBE problem areas, such as bookkeeping, bonding and insurance requirements, selecting and appropriately using legal and accounting services professionals, commercial lines of credit, marketing, project management, payment requisitions, payroll management and billing and collections;
- d. Collaborate with construction industry trade associations, small business development centers, community colleges, and others to establish low-cost intensive "contractor college" programs to train M-DCPS S/MBE contractors on all aspects of estimating, bidding, licenses and permits, accounting, financing, bonding, contract terms, payroll management, tax requirements, project management, OSHA and EEO compliance, billing, collections, and other aspects required for performing construction contracts on behalf of M-DCPS.

VII. MENTOR-PROTÉGÉ PROGRAM

The OEO shall establish a workgroup which will include selected members of M-DCPS staff, the S/MBE and M/WBE Advisory Committee, representatives of the surety industry, government officials and representatives of local construction trade associations to research "best practices" in Mentor-Protégé Program models and to then recommend to the OEO the establishment of a Small and Micro Business Enterprise Mentor Protégé Program and, at a minimum, this workgroup shall consider inclusion of the following elements for this program;

- Establishment of program guidelines and a final process for teaming of more-established and successful construction firm owners and managers with less-established S/MBE construction firms to provide management guidance and training in such areas as office procedures, estimating and bidding, bookkeeping and accounting, management of funds, project management, supplier relationships, bonding and insurance, etc.;
- Submission of written Mentor-Protégé team plans outlining the expectations and responsibilities of each team member;
- Consideration of Solicitation Incentives for OEO-approved Mentor-Protégé teams.
- Periodic reports from Mentors and Protégés regarding progress in achieving objectives and elements of Mentor-Protégé plans.

VIII. GOAL SETTING COMMITTEE

School Board Policy 6320.02 permits industry-specific programs to be established and implemented to effectively increase S/MBE, M/WBE and SDV participation on School Board Contracts.

The Superintendent shall determine the size of the Goal Setting Committee (GSC) that is to be chaired by the Office of Economic Opportunity (OEO) who shall serve as a voting member. The Superintendent shall also appoint the remaining members of the GSC from the Board's procurement personnel and other Board departments affected by this program. The GSC shall meet as often as it determines necessary, but not less than twice annually, to develop the goal setting methodologies to be implemented by the OEO on a project-by-project or contract-by-contract basis, and monitor and support the implementation of this policy.

IX. AFFIRMATIVE PROCUREMENT INITIATIVES

Affirmative Procurement Initiatives may be used in awarding Board contracts to SBE, MBEs, M/WBEs or SDVs according to the industry-specific programs identified in this policy. However, pursuant to State law and Policy 6320.05, no local vendor or employment preference for SBE, MBEs, M/WBEs or SDVs may be applied to competitive solicitations for construction services in which fifty percent (50%) or more of the cost will be paid from State-appropriated funds which have been appropriated at the time of the competitive solicitation. The solicitation documents for construction services in this event must disclose that no SBE, MBE, M/WBE or SDV will be awarded based upon the State restriction regarding the utilization of local vendor preference.

Subcontracting/Subconsultant Goals

(This will be applicable to Construction, Construction related Professional Services, Non-Professional Services, Maintenance, Goods & Services and any other area under Procurement).

The Goal Setting Committee (GSC) will evaluate and utilize the M-DCPS Online Diversity Compliance System (ODCS) for each solicitation where SBE, MBE, M/WBE and SDV goals may be applicable. The M-DCPS ODCS will generate a recommended goal for the individual solicitation. The OEO will then present the recommendation to the GSC and the GSC will review and examine all the evidence applicable to determine what adjustment, if any should be made to the recommended goal.

- There are many types of evidence that must be considered when adjusting the recommended goal. These include:
 - a. The current capacity of [certified firms] to perform work in your contracting program, as measured by the volume of work [certified firms] have performed in recent years;

- b. Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your recommended goal; and
 - c. If your recommended goal is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.
- If available, you must consider evidence from related fields that affect the opportunities for [certified firms] to form, grow and compete. These include, but are not limited to:
 - a. Statistical disparities in the ability of [certified firms] to get the financing, bonding and insurance required to participate in your program;
 - b. Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for [certified firms] to perform in your program.

Sheltered Markets (Set-Aside Contracts)

The OEO and GSC may select certain contracts for award to a SBE, MBE, MWBE or SDV or a joint venture with a SBE, MBE, MWBE or SDV through the Sheltered Market Program.

In determining whether a particular contract is eligible for the Sheltered Market Program, the OEO and GSC shall consider whether there are at least three (3) SBEs, MBEs, MWBEs or SDVs that are capable and available to participate in the Sheltered Market Program for that contract; the degree of underutilization of the SBE, MBE, MWBE or SDV prime contractors in the specific industry categories; and the extent to which the Board's SBE, MBE, MWBE or SDV prime contractor utilization goals are being achieved.

If a responsive and responsible bid or response is not received for a contract that has been designated for the Sheltered Market Program, or the apparent low bid is determined to be too high in price, the contract shall be removed from the Sheltered Market Program.

In addition, the GSC will evaluate and consider the following information with respect to each solicitation where Sheltered Markets (Set-Asides) shall be approved:

- **Scope of Services** - The scope of services for the solicitation shall be examined to determine the areas where SBE/MBE participation is possible.
- **Budget** - The dollar value of the solicitation or cost for services/product being procured.
- **Availability** - The availability of SBE, MBE, M/WBE and SDV firms in the commodity/scope which is being solicited. The GSC will also consider the number of vendors currently registered under the specific commodity code with the Office of Procurement and Management Services.
- **Capacity** - *If available the current capacity of SBE, MBE, M/WBE or SDV firms in the commodity/scope which is being solicited.

- **Complexity of Scope/Services** - The complexity or specialized nature of the services will be reviewed to determine the ability of SBE, MBE, M/WBE or SDV firms to complete the work.

S/MBE, M/WBE or SDV Bid Preference Points

Bid Preference: Specific goals for each project or contract may be adopted on a project-by-project, or contract-by-contract basis, in which the contract award shall be made to the lowest responsive, responsible bidder meeting the SBE, MBE, MWBE or SDV subcontracting goals for the contract/project, when that bidder's price does not exceed the lowest bidder's price by an amount greater than the dollar or percentage amount set by the Goal Setting Committee.

The Goal Setting Committee (GSC) will utilize the M-DCPS ODCS for each solicitation where SBE, MBE, M/WBE and SDV goals may be applicable. The M-DCPS ODCS will generate a recommended goal for the individual solicitation. The OEO will then present the recommendation to the GSC and the GSC will review and examine all the evidence applicable to determine what adjustment, if any should be made to the recommended goal.

- 1) There are many types of evidence that must be considered when adjusting the recommended goal. These include:
 - a. The current capacity of certified firms to perform work in your contracting program, as measured by the volume of work certified firms have performed in recent years;
 - b. Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; and
 - c. If your recommended goal is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.
- 2) If available, you must consider evidence from related fields that affect the opportunities for [certified firms] to form, grow and compete. These include, but are not limited to:
 - a. Statistical disparities in the ability of [certified firms] to get the financing, bonding and insurance required to participate in your program; and
 - b. Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for [certified firms] to perform in your program.

Local Workforce

In an effort to increase the number of local M-DCPS jobs and to reconnect local residents to the economically important labor market, local hiring can have a powerful effect on improving employment opportunities for people who desperately need jobs.

M-DCPS will use zip codes, targeted boundaries and county boundaries to stipulate which residents qualify as local residents. The goal is to help reduce local unemployment by increasing jobs for local residents.

X. DISPUTE RESOLUTION

The Board expects all parties involved in the procurement process, including District staff and vendors/contractors, to act in good faith in all aspects of process. If any vendor or contractor has a concern or complaint related to the application of the Small and Micro Business Enterprise Policy, whether by District staff or a contractor, that party is expected to seek cooperative voluntary resolution with all parties. If the affected parties are unable to resolve their dispute, the offended party shall report their concerns to the contracting department for the project/bid; if the complaint involves the performance of a Small and Micro Business Enterprise prime or sub-contractor, the contracting department shall immediately notify the Office of Economic Opportunity for appropriate action.

The OEO will initiate an investigation of the complaint. Except in indisputable cases, the parties will be encouraged to mediate their dispute; the OEO may facilitate mediation or recommend mediators. Prime vendors must have dispute resolutions in place to address disputed payments to subcontractors.

XI. SMALL AND MICRO BUSINESS ENTERPRISE PROGRAM RECORDS AND MONITORING

SMALL AND MICRO BUSINESS ENTERPRISE PROGRAM PERFORMANCE REVIEW

The OEO shall monitor the implementation of this policy through on-going compliance and monitoring initiatives as outlined by OEO procedures. On an annual basis, the OEO shall report to the Superintendent and Board on the progress of achieving the goals and objectives established for awards to certified Small and Micro Business Enterprise firms, reporting both dollars awarded and expended. In addition, the OEO shall report on the progress in achieving the program objectives, including but not limited to, enhancing competition, establishing and building new business capacity and removing barriers to and eliminating disparities in utilization of available Small and Micro Business Enterprise firms on Board contracts.

The Board shall annually review the Small and Micro Business Enterprise program to determine whether the various contracting opportunities used to enhance Small and Micro Business Enterprise contract participation needs to be adjusted or used more or less aggressively in future years to achieve the state program objectives.

XII. S/MBE AND M/WBE COMPLIANCE MONITORING, UTILIZATION AND PENALTIES

The Office of Economic Opportunity shall monitor the level of S/MBE and M/WBE utilization by vendors with applicable goals as established by the Goal Setting Committee. If a vendor is having difficulties meeting the contractual Small, Micro and

M/WBE targets, the OEO shall help the vendor identify additional potential Small, Micro and M/WBE sub-contractors and/or suppliers.

Compliance Reviews & On-Site Workforce Monitoring

The OEO reserves the right to perform compliance reviews and on-site workforce monitoring reviews on M-DCPS projects. This does not exclude contract monitoring expected by other M-DCPS staff responsible for the project in the performance of their regular duties. Compliance Reviews shall include, but not be limited to:

- Desk Audit – A comprehensive analysis utilizing the M-DCPS ODCS of the company's contracts, policies & procedures, small/micro & minority/women business utilization & goals, local workforce hiring utilization & goals and any supporting documentation to determine whether a company is complying with all relevant provisions of M-DCPS Board Policy 6320.02.
- Contract Company Review – An analysis and evaluation of the company's policy & procedures and any supporting documentation verifying compliance with M-DCPS Policy 6320.01.
- On-Site Workforce Reviews – A review utilizing the M-DCPS On-Line Diversity Compliance System to review the company's M-DCPS workforce reports and to verify data and information on employees, subcontractors, and to determine the contractor's compliance with M-DCPS Policy 6320.02.
- Findings & Recommendations – Identification of any findings, discrepancies, and/or violations and any recommendations necessary to resolve the identified findings with a corrective action plan or conciliation agreement.
- Close Out Exit Conference – A meeting with the company officials to discuss the tentative findings of the compliance evaluation, propose recommendations, and to determine the company's compliance with all relevant M-DCPS policies.
- Corrective Action Plan – A written agreement between a contractor and M-DCPS that details specific contractor commitments, actions, or both to correct the deficiencies and/or violations identified during the compliance review.
- Conciliation Agreement – A binding written agreement between a contractor and M-DCPS that details specific contractor commitments, actions, or both to resolve the violations set forth in the agreement.
- Certificate of Compliance – A certificate and/or letter indicating the company has complied with all relevant M-DCPS policies, including 6320.02.
- Non-Compliance – A company's failure to adhere to the conditions set out in M-DCPS Board Policy 6320.02 and/or failure to correct deficiencies and/or violations.
- Certificate of Compliance/Renewal – application submitted by the company indicating the company has complied with all relevant M-DCPS policies, including 6320.02.
- M-DCPS Board Item Reviews for Compliance and Certification – the formal review process by the OEO Compliance Department of all compliance-related and certification data included in all board items including construction, professional services, non-A/E professional services and goods and services.

- M-DCPS Internal Goal Compliance and Contracting Reviews – for Construction, Professional Services, non-A/E Professional Services and Goods & Services - the formal review process by the OEO Compliance Department of all potential, contractual and/or aspirational goals on contracts.

CONTRACT COMPLIANCE REVIEW

The purpose of a contract compliance review is to determine if a company is in compliance with School Board Policy 6320.02, maintains nondiscriminatory employment and contracting practices, promotes equal opportunity for all segments of the contracting community and to issue a valid Certificate of Compliance.

A Contract Compliance Review includes a detailed analysis utilizing the ODCS. The contract compliance review consists of desk audits, on-site workforce reviews & on-site project visits, contract utilization analysis, findings and recommendations, close-out conferences, and if needed, corrective action plans, including any follow up actions needed to address identified deficiencies. The contract compliance review is an ongoing process and will result in the issuance of a certificate of compliance.

The OEO will select and schedule a company for a contract compliance review when notified that the company has been selected for award on a district contract for construction, goods and services and professional services, or at the discretion of the OEO Office.

The desk audit consists of a comprehensive compliance analysis of the company's contracts, policy & procedures, local workforce hiring utilization & goals, small, micro and minority & women business utilization & goals and any supporting documentation to determine compliance with the OEO policies and procedures outlined in School Board Policy 6320.02, including all reporting requirements.

If the company's desk audit, on-site workforce review and on-site project visits indicate the company is maintaining nondiscriminatory employment and contracting practices, meeting the established contract & local workforce project goals, and are in compliance with the OEO policies and procedures, the OEO will issue their findings and recommendations, conduct a close-out exit conference with the company and issue a Certificate of Compliance.

The on-site workforce review and on-site project visits will include a verification and evaluation of the company's workforce, on existing M-DCPS project sites. On-site workforce project visits may be scheduled or unscheduled.

The company shall provide at the request of the OEO, all records and supporting documentation pertaining to employment and contracting on M-DCPS projects. The OEO Compliance staff may request additional information be submitted after the contract compliance review.

If the comprehensive analysis of the company's policies, procedures and practices, discovered during the desk audit and on-site project reviews indicate the company is not maintaining nondiscriminatory employment and contracting practices, not meeting the established SBE, MBE, or MWBE goals, and/or not complying with the policies and procedures outlined in School Board Policy 6320.02, the OEO will enter into a corrective action plan or conciliation agreement with the company. After agreeing and entering into a corrective action plan or conciliation agreement, the company will be issued a 3 to 6 month Conditional Certificate of Compliance.

The timeframe of the Conditional Certificate of Compliance will depend on the size, complexity and duration of the contract, as well as employment and contracting opportunities, and the terms of any corrective action plan or conciliation agreement.

Notice of a contract compliance review will be provided in writing at least 10 business days prior to the contract compliance review. Within 10 business days of the completion of contract compliance review, the OEO compliance staff shall submit a report to the OEO Program Administrator consisting of findings and recommendations, including compliance deficiencies, if any, found in the company's employment and/or contracting practices.

Upon completion of the contract compliance review, the OEO compliance staff will schedule & conduct a close-out meeting with the company to review the finding of the compliance review and to initiate any recommendations and necessary corrective action plans. A written account of the discussions and any agreed upon corrective action plans will be provided to the company.

The corrective action plan and the conciliation agreement shall include the company's specific commitment, in writing, to correct any deficiencies found during the compliance review. The commitment must include the action to be taken and the target dates for accomplishment. The time allotted shall be no longer than the minimum agreed upon period necessary to correct the deficiencies. Upon approval of the OEO Program Administrator, the company may be considered in conditional compliance with the OEO policies and procedures outlined in School Board Policy 6320.02, on condition that the company implements and enforces the commitments outlined in the corrective action plan or conciliation agreement.

Where the company disagrees with the findings and recommendations of the compliance review or is unable to comply with the agreed upon corrective action plan, further meetings will be scheduled at the company's request with the OEO Program Administrator to enter into a conciliation agreement prior to the issuance of a letter of noncompliance.

Where a compliance review indicates a company may not be exerting good faith efforts to accomplish the goals of maintaining non-discriminatory employment and contracting practices and the company is not achieving the established project goals, if an acceptable corrective action plan cannot be reached, the OEO shall provide the

company with an opportunity to submit a conciliation agreement prior to an issuance of non-compliance with the School Board Policy 6320.02.

If the company is issued a conciliation agreement, which includes the company's specific commitments in writing to correct the deficiencies, and the company does not comply with the terms of the conciliation agreement, the company is found in non-compliance and may be fined, disciplined, and/or debarred from performing future M-DCPS projects.

WORKFORCE SITE REVIEW PROCEDURES

The following procedures should be used as guidelines for performing Workforce On-Site Reviews of Construction Projects.

Pre-Workforce On-Site Review

The Compliance Administrator shall visit select school construction projects according to the project workforce site schedule. Site visit will be based on workforce utilization and the status of completion of the project. Each Compliance Administrator should complete at least (6) project worksite reviews per week.

The Compliance Administrator shall conduct a workforce desk audit using the ODCS before scheduling an on-site workforce project review. The Compliance Administrator can access ODCS at miamidadeschools.diversitycompliance.com

The workforce audit should be reviewed for each prime and subcontractor on the project. The Compliance Administrator must access the "workforce employee-list" tab in ODCS to access the workforce employee list for the prime contractor and subcontractors working on the school construction project. The Compliance Administrator shall be responsible for:

- a. ensuring that a workforce employee report is generated before visiting a project site;
- b. printing out a workforce summary report to take out on the construction site as a reference; and
- c. noting any preliminary findings that should be investigated while at the site visits.

On-Site Workforce Review

To conduct an on-site workforce review, the following must be considered:

- a. The Compliance Administrator shall be required to wear a M-DCPS identification badge, hard hat, protective eyewear, appropriate shoe wear (steel toe shoes suggested) when performing on-site work reviews.
- b. Upon reaching the work-site to conduct a site review, the Compliance Administrator should check in with the prime contractor's Superintendent or foreman on site.
- c. The Compliance Administrator should identify themselves and inform the Superintendent/foreman of the visit. (note: *The Compliance Administrator shall take all steps as to not to impede workers on the construction site.*)

- d. The Compliance Administrator should walk around the construction site and take pictures of the construction site, as well as take pictures of the workforce. The Manager shall ensure that pictures are clear. The Manager should work with the site manager to review daily work logs and relevant payroll documents.
- e. The Manager shall interview subcontractors using the *Employee On-Site Questionnaire*. (note: The Compliance Administrator shall document whether each vendor has on a vendor identification badge issued by M-DCPS.)
- f. The Compliance Administrator should interview at least one employee from each subcontractor on site.
- g. The interviewed subcontractor's employee on-site should be cross referenced with the Workforce Employee List that was generated from ODCS to ensure that the worker is listed. The Compliance Administrator should make any notation of workers who have been verified to be working on-site but are not listed on the Workforce Employee List.
- h. The Compliance Administrator shall insure that the questionnaire is legible and completely filled out.
- i. After the interview, the Compliance Administrator should take a picture of the interviewed worker.

Post On-Site Workforce Review

Upon returning from the onsite review, the Compliance Administrator shall:

- a. upload the "Employee On-Site Questionnaire" from each workforce site visit into ODCS;
- b. ensure that a "Workforce Site Review Report" is completed for each project site visited. The Compliance Administrator shall ensure that pictures are attached to the Workforce Site Review Report; and
- c. save the Report to the Office of Economic Opportunity T-Drive under "Compliance" -->Workforce----> School Site Visits----Name of School Site-School Site Visit- Date of Visit (i.e. MDCPS High School-School Site Visit- date of visit).

DATA REPORTING PROCEDURES

Process for Reporting Payment Data to Stakeholders

The OEO shall report payment data from the Office of Financial Services (Accounts Payable Department) while conducting compliance/certification reviews when providing this information to internal and external stakeholders. The OEO shall provide payment data on Small, Micro and M/WBE certified firms. When reporting payment data, the OEO shall report based on the certification designation. If reporting on the three various program distinctions, the OEO shall highlight if a firm is a Micro, Small or M/WBE firm. Regarding M/WBE certification designations, the OEO shall use the definition per Board Policy 6320.02 when reporting compliance data.

ONLINE DIVERSITY COMPLIANCE SYSTEM

Cross Departmental Monthly Data Processing

The following internal work flows will be adhered to in uploading monthly data on the Online Diversity Compliance System

Contract Header Data

- The Gordian Group provides Information Technology Services (ITS) with a JOC Contract header-data file.
- ITS combines information from the Gordian Group file and the Capital Payment System (CPS) to create a draft contract header file containing contracts created and/or changed during the previous calendar month.
- An Excel version of the file is provided to Maintenance Operations and Capital Construction Budget for review and validation.
- ITS researches and responds to any questions and/or concerns resulting from the review.
- ITS creates a final contract header file and transmits it to ODCS.
- After the data is loaded by ODCS, ITS reviews the data import log and addresses any documents that failed to load.

Contract and PO Payment Data

- ITS extracts payment details for the previous calendar month from SAP.
- ITS combines information from the Gordian Group file, the Capital Payment System, and SAP to create two payment exception files for review.
 - General contractor related payments that did not programmatically match to a contract.
 - Other payments containing WBS elements that did not programmatically match to a contract.
- The exception reports are provided to Maintenance Operations and Capital Construction Budget for review and validation.
- ITS researches and responds to any questions and/or concerns resulting from the review.
- ITS confirms the total payment value extracted from SAP matches the total payment value included in the contract payment and PO payment files.
- ITS creates final contract payment and PO payment files and transmits them to ODCS.
- After the data is loaded by ODCS on to the ODCS, ITS reviews the data import log and addresses any documents that failed to load.

P-Card Payment Data

- Accounts Payable downloads the P-Card payment data for the previous calendar month from the credit card bank.
- Accounts Payable converts the data into the ODCS specified data format.
- Accounts Payable transmits the P-Card payment file to ODCS.

- After the data is loaded by ODCS, ITS reviews the ODCS data import log and addresses any documents that failed to load.

OEO STAFF MONTHLY CONTRACT DATA REVIEW PROCESS

Once the District data is uploaded, OEO will address the following items monthly with all vendors:

- Review uploaded department data files & lock-in contract data.
- Review Contract Record for Accuracy – (Contract Title; Contract Number; Prime Contractor; Award/Start Date; Projected End Date; Contract Value).
- Edit & Save Contract Record – 9 Areas to review/confirm/change. These areas include:
 - a. Contract Settings –12 settings - (Department; Add Organization Contacts-Buyer/Project Manager; Diversity Goals; Workforce Goals; Contract Type; Contract Category; Contract Location; Region; Board Member District; Funding Source; Sheltered Market).
 - b. Compliance Audit Settings – 11 settings to review/confirm/change (Compliance Audit Period; Compliance Officer; Payments to Prime Contractors; Payments to subcontractors; Confirmation by subcontractors; Subcontractor Zero Payment Auto-confirmation; Prompt Payment Tracking; Require reporting of sub work performed; collect retainage information; rapid reporting active).
 - c. Workforce/Prevailing Wage-Settings – 7 settings to review/confirm/change (Workforce Audit; Workforce Compliance Officer; Workforce Data Reporting; Prime can view Subcontractor Audits; Prime approves Subcontractor Audits; Auto-Accept Workforce Audit Reports; Residency Tracking).
 - d. Contract Summary – 3 settings to review/add (Commodity; Contract Summary; Special Notes to the contract).
 - e. Contract Files – Upload Documents (Contract Document; Master Agreement; Pricing Agreement; Terms & Conditions; General Attached files).
 - f. Add/ Manage Subcontractors on the contract.
 - g. Create Task Orders.
 - h. Review/Approve Contract Change Orders.
 - i. Review/Approve Contract Extensions.
 - j. Other Functions - Delete Contract; Archive Contract; Copy Contract.

Vendor Process for Reporting to M-DCPS:

Vendors with Small, Micro and M/WBE participation must submit a monthly report, and in a form and manner prescribed by the OEO. Most reporting is submitted via the ODCS, but additional specific forms with district form numbers are:

- **Form Title:** Best Faith Effort Non-Compliance Documentation – FM-7539*
- **Form Title:** Business Complaint Form – FM-7540*
- **Form Title:** Business Feedback Form – FM-7541*

- **Form Title:** Participation Letter of Intent - FM-7542*
- **Form Title:** Subcontractor Participation Best Faith Effort – FM-7543*

Note: All executed originals of the compliance forms must be submitted by vendors to the Office of Economic Opportunity via email at compliance1@dadeschools.net.

A penalty of one percent (1%) of the contract amount or one thousand dollars (\$1,000) per day (whichever is less) may be applied if reporting requirements are not provided within the specified time. A financial penalty will not halt construction on a project, unless non-compliance is continuous over a period of time.

If non-compliance is not cured in a reasonable amount of time with the OEO, the District shall deem non-reporting a breach of contract, in which case the District may terminate the contract.

Breach of Contract – If a vendor's Small, Micro and M/WBE participation falls below that provided for in their contract, then the vendor could be in breach of their contract. The Board Attorney's Office, in conjunction with the OEO and Chief Auditor may investigate whether it appears a breach of contract has occurred.

Suspension, Debarment and Repeated Violations – Where a vendor is found to be in breach of contract, as set forth in paragraph D above, the OEO, in consultation with both the Board Attorney's Office and Chief Auditor's Office, shall consider a series of corrective actions, consequences and penalties including, but not limited to, debarment pursuant to School Board Policy 6320.04. This information shall be considered by future selection and evaluation committees.

Subcontractor or Subconsultant Payment – Upon award of the prime contract to a vendor, the Prime Contractor shall be required to submit accurate progress payment information with each invoice on the OEO prescribed form regarding each of its Subcontractors or Subconsultants, including Small, Micro and M/WBE Subcontractors. (Refer to the small, Micro and M/WBE Compliance Monitoring, Utilization and Penalties Section). The OEO shall monitor and/or verify 100% of the reported payments to Subcontractors, to ensure that the Prime Contractor's reported subcontract participation is accurate.

Prompt Payment – District Contracts shall include clauses requiring Prime Contractors to pay Subcontractors and Subconsultants in compliance with Florida Statutes § 218 (Prompt Payment Act), and such clauses shall mandate that in the event of Prime Contractor non-compliance regarding such payments, no final retainage on the Prime Contract shall be released to the Prime Contractor or vendor, and no new District Contracts will be issued to the Prime Contractor or vendor until the audit of previous subcontract payments is complete and payments are verified in accordance with the specifications of the contract.

XIII. CONTRACTOR PREQUALIFICATION PROCEDURES

Responsibilities and Duties

Contractor Prequalification Administrator

The Contractor Prequalification Administrator is responsible for obtaining complete Contractor Prequalification Applications, and all other information that is deemed necessary to determine whether an applicant meets the criteria for eligibility as set forth in SREF Chapter 4.1 and relevant Board policy.

Contractor Prequalification Review Committee

The Contractor Prequalification Review Committee (CPRC) is responsible for evaluating applications for contractor prequalification and then recommending acceptance or rejection to the District Administrator who will forward the recommendation to the Superintendent. The Superintendent will forward the recommendation to the Board for ratification. The CPRC shall review completed new applications, renewal application, requests for single bid limit, revisions, and adjustments to aggregate bid limits.

District Administrator

The District Administrator is responsible for the overall implementation, reporting, and monitoring of contractor prequalification activities, as well as serving as staff to the Contractor Prequalification Appeal Committee and Contractor Prequalification Review Committee. The Office of Economic Opportunity Economic Development Officer shall be the District Administrator for purposes of this section.

Contractor Prequalification Application

A prospective contractor must obtain a vendor number through the Miami-Dade County Public Schools Procurement Management Services Department. Prospective contractors can access the vendor application at <http://procurement.dadeschools.net/avendorsvif.asp>

Upon assignment of a vendor number through M-DCPS Procurement Management Services Department, the Contractor may then submit a Contractor Prequalification Application through the Online Diversity Compliance Online System.

After assignment of an M-DCPS vendor number, a prospective contractor must register and submit a complete Contractor Prequalification Application ("Statement of Contractor's Qualifications") to Miami-Dade County Public Schools by accessing the ODCS at www.miamidadeschools.diversitycompliance.com.

Contractors may call the Office of Economic Opportunity for technical assistance, or use the online support supports. Only applications submitted through the ODCS will be accepted. Any applications submitted in paper form will be returned to the applicant.

The following information shall be included in a submitted Contractor Prequalification Application:

- Information that demonstrates the applicant's competence, past performance, experience, financial resources, and capability including a Public Entity Crime Statement and references;
- Evidence that the contactor has the financial ability to successfully complete Board construction work of a particular scope and complexity. In order to demonstrate that the company is financially capable of successfully completing Board work, applicants shall provide either;
 - Audited financial statements on the company that includes an income statement, balance sheet, statement of cash flows, and all schedules and notes, for a reporting that ended not more than twelve (12) months prior to the date of the company's application date; or
 - A Surety Letter of Intent to verify that in the event the contractor successfully bids Board work the surety will issue the contractor a performance and payment bond for the work;
- The maximum bid limits for a prequalified contractor will be determined by the contractor's bonding capacity or ten (10) times the contract's net quick assets as determined from the contractor's audited financial statements;
- Information about the organization, ownership, and management of the applicant company;
- Information regarding all state and local licenses that are held by the applicant company;
- Information related to projects that the applicant company has completed within the past (5) years. The information shall include, but not limited to, project dates, delivery methods, locations, construction costs, scope, contract and actual completion dates as well as whether there were delays and whether liquidated damages were assessed against the applicant;
- Information that demonstrates that the applicant company has the insurance that is required to perform Board work, including current worker's compensation as well as public liability and property damage insurance;
- Information regarding all claims and/or litigation to which the company has been a party for the past five (5) years, including an explanation of each. Claims or litigation that were or have been initiated by the contractor to protect the contractor's legal rights shall not be used as a basis for rejecting the contractor's; and
- A notarized affidavit that attests to the completeness and accuracy of the information that is included in a Contractor Prequalification Application. The affidavit shall be attested to and signed by an authorized officer, owner, or agent of the company, as appropriate, and shall be notarized.

Note 1: The submission of a contractor's prequalification application does not authorize the contractor to submit any proposals or bid until its application has been approved by the Board.

Note 2: A contractor applicant will have 75 days from the start date of their ODCS prequalification application to submit a complete application. If a contractor's prequalification application is not completed within 75 days, the application is administratively dismissed and

deleted from the system. An applicant will not be able to retrieve any information from an application that has been deleted. If a prospective contractor applies for prequalification contractor status at a later date, a new application will have to be completed.

Joint Venture

When two (2) or more prequalified contractors wish to combine their assets for a specific project, they each must be prequalified and must file an Affidavit of Joint Venture on a Board prescribed form and meet any and all other requirements, including, but not limited to the requirements established by Florida Administrative Code 61 G4-15.0022. Prequalification certificates will be issued to joint ventures for a specific project once they have complied with all requirements for prequalification.

The Contractor Prequalification Application for joint venture includes the following required documentation:

- MDCPS Joint Venture Affidavit (must list the project description and project number);
- Joint Venture Agreement filed with the State of Florida;
- Valid MDCPS Prequalification Certificates by each vendor;
- Surety Letter of Intent listing the Joint Venture entity name;
- Power of Attorney (provided by the surety company);
- Certificate of Insurance listing Joint Venture entity name;
- State License listing joint ventures company discipline seeking to be prequalified for, company name, address and qualifier name;
- Local Business Tax Receipt License listing joint venture of the company's name, discipline seeking to be prequalified for, and address;
- Copies of two of the highest completed projects of either company within the past five years of similar scope and size to determine the Single Bid Limit set by the Board; and
- Project Evaluation forms for each project.

PERIODIC CHECK OF SUBMITTED PREQUALIFICATION APPLICATIONS

All Contractor Prequalification Applications will be submitted through the ODCS. The Prequalification Administrator will periodically check ODCS throughout the work day to ascertain whether a new Prequalification Application has been submitted. To determine whether an application has been submitted through the portal, the Administrator will:

- Access the System dashboard through ODCS at www.miamidadeschools.diversitycompliance.com;
- Login by entering the user name and password;
- The Administrator shall review the categories of "Incomplete, pending submission", and "submitted, pending review" by clicking the corresponding number next to the aforementioned category to determine the submission of a new application.

Upon determining that a new application has been submitted, the Administrator shall review the contractor's application to verify the application has been completed according to the following procedures.

PREQUALIFICATION CHECKLIST

The Prequalification Administrator shall ensure that every prequalification application submitted through ODCS is thoroughly complete and the requisite documents have been submitted. To accomplish this objective, the Contractor Prequalification Application should be verified against the New Contractor Prequalification Application Checklist. The Administrator shall fill out the checklist in its entirety. Where applicable, the Administrator shall indicate if the applicant has produced the required item by marking "accepted". If the applicant has not produced the required item it shall be indicated by marking "need".

The Administrator should take the following steps to complete a checklist:

- Fill in the information in the section titled "Vendor Information".
- Fill in the information in step 1 and check the applicable box, "Accepted" or "Need".
- Fill in the information in step 2, and check the applicable box, "Accepted", or "Need".
- Fill in the information in step 3 and check the applicable box.
- Fill in the information in step 4 and enter the bid amounts using the formulas as described below.

Single Bid Limit Formula – For projects \$200,000.00 or more, applicants must submit two (2) of their highest completed projects within the past five years with their prequalification application. The 1st largest project is doubled (2x) and must be lower or equal to the Single Bid limit amount indicated on the applicant's Surety Letter of Intent. However, for projects \$200,000 or less, applicants must provide an Audited Financial Statement in lieu of a Surety Letter of Intent and the Single Bid Limit formula is ten times (10x) the Applicant's net quick assets (applicants must still submit two (2) of their highest completed projects within the past five years with their prequalification application for experience).

Note: The CPRC may approve a single bid limit in excess of (2x) the largest project, not to exceed the amount indicated on the applicant's Surety Letter of Intent. The contractor, however, must document and show substantive experience and familiarity with Educational Facilities projects.

Aggregate Bid Limit Formula – For projects \$200,000 or more, applicants must submit either a Surety Letter of Intent or an Audited Financial Statement for the previous 12 months of the date of their application. The Aggregate Bid Limit must be equal to the Aggregate Bid Limit indicated on the Applicant's Surety Letter of Intent. However, for projects \$200,000 or less, an Audited Financial Statement must be provided in lieu of a Surety Letter of Intent and the Aggregate Bid Limit is automatically set at \$200,000.

Submission of an Incomplete Application

Every Contractor Prequalification Application submitted should contain complete and accurate information. If an Administrator concludes that a contractor's application contains inadequate or inaccurate information, the Administrator shall flag the corresponding question or document.

To flag an item the Prequalification Administrator will:

1. Access the ODCS at www.miamidadeschools.diversitycompliance.com
2. Search for the company profile and click "Review";
3. Proceed to the question the Administrator has concluded contains incomplete or inadequate information and click the "flag" to the right of the question(s) and/or document(s) in question;
4. In the comment box, provide an explanation for the flagged item and request that the applicant contact the Administrator at 305-995-1307 for further clarification;
5. Click "Add Flag"; and
6. Click "Save Flag".

The applicant company will receive email notification from ODCS that a question or document has been flagged. The applicant must contact the Administrator at 305-995-1307 for further clarification.

An applicant will have ten (10) working days to comply with the request or the company's application will be denied. Upon the resubmission of a flagged application, the Administrator will review the application to confirm all information is complete and the requisite documents are included.

Conversion of Application to PDF File

Once an application has been verified as complete, the Prequalification Administrator must print the application through ODCS. The Administrator will scroll to the bottom of the application screen and click "Print PDF File".

The Administrator will convert the application, including the requisite documents and checklist into a single PDF file. The name of the PDF File should be the applicant's company name.

The applicant's PDF file will be saved to the "T-Drive" prequalification folder (access the T-Drive --> "Prequalification/Applications/ 20XX New Apps/File Name).

The Administrator should then submit a hard copy of the entire file to the OEO Program Administrator for review and approval.

Submission of Application to CPRC

Upon review and approval by the OEO Development Officer, the Prequalification Administrator will upload the application to the M-DCPS portal for distribution to CPRC members. To upload the application the Administrator will:

1. Access Miami-Dade County Public Schools website at www.dadeschools.net;
2. Click the "Employees" link;
3. Click "Log in to Employee Portal";
4. Input username and password and click "login";
5. Click "Apps| Services| Sites";
6. Click "Attachment Manager";
7. Click "Browse" and attach the appropriate file;
8. Click "Open" to attach the file; and
9. Click "Upload Files".

Upon uploading the file to Attachment Manager, a summary link is generated. The Administrator will email each CPRC member as listed on the CPRC Committee sheet an application Summary Sheet and link of applicant files at least **seven (7) days** prior to the next scheduled CPRC meeting. The Summary Sheet should include:

1. the name of the applicant;
2. the single and aggregate surety bonding capacity;
3. the M-DCPS single bid limit;
4. the name of management; and
5. a link to the file.

Committee members may email any questions they have regarding an applicant to the Administrator. The Administrator may answer questions received from committee members at the next scheduled CPRC meeting.

CONTRACTOR PREQUALIFICATION REVIEW COMMITTEE (CPRC)

The purpose of the CPRC is to:

- Evaluate applications for contractor prequalification and then recommending acceptance or rejection to the District Administrator who will forward the recommendation to the Superintendent who will forward to the Board for ratification.
- Determine denial, delinquency, suspension, or revocation of a contractor prequalification certificate and then recommend such action to the Contract Prequalification Appeals Committee;
- Recommend contractors for prequalification based on the criteria set forth by State Requirements for Educational Facilities (SREF) Chapter 4.1 and Board Policy 6334; and
- Provide recommendations to the Board to improve the Prequalification Program

CPRC Membership – The Contractor Prequalification Review Committee (CPRC) membership is composed of seven (7) voting members and two (2) non-voting members as follows:

- one (1) representative from the construction industry or an architectural/engineering organization that are not, currently or have not within the past five (5) years, contracted with the Board;
- one (1) representative from PTA/PTSA;
- one (1) representative from the community-at-large appointed by the Superintendent;
- one (1) representative from Facilities Operations, Maintenance;
- one (1) representative from School Operations;
- two (2) representatives from Office of School Facilities;
- one (1) representative from the Office of Management and Compliance Audits (non-voting) designated by the department director; and
- one (1) representative from the Office of Procurement Management Services (non-voting).

Bylaws - The CPRC is governed by the Contractor Prequalification Review Committee bylaws in effect.

Scheduling of CPRC Meeting - The Contractor Prequalification Review Committee (CPRC) is tentatively scheduled for the third (3rd) Monday of every month. A special meeting may be scheduled on an as needed basis if the Office of Economic Opportunity Program Administrator deems it necessary. The Prequalification Administrator will poll CPRC members at least ten (10) days before a scheduled meeting to ensure a voting quorum as required by CPRC bylaws. The Administrator shall note the attendance status of each CPRC member for the upcoming meeting.

Quorum - A quorum must be present for the Committee to vote on a Contractor Prequalification Application. A voting quorum shall consist of at least four (4) voting members being present. If a quorum for a meeting does not convene within half hour (30 minutes) of the posted time for the meeting, then the meeting may not be held and may be rescheduled.

Submission of Agenda - The Contractor Prequalification Administrator shall submit the meeting agenda and attachments via email seven (7) days prior to the meeting to all committee members as well as alternate voting members.

Cancellation of a Scheduled Meeting - It is the responsibility of the Prequalification Administrator to cancel a CPRC meeting as needed.

CPRC MEETING

Role of the Chairperson

The Chairman shall preside over CPRC meetings, represent the Committee and approve each final meeting agenda. The Chairperson shall also have the discretion to place time limits on agenda items.

Role of the Prequalification Administrator

During a CPRC meeting the Prequalification Administrator shall be responsible for:

- Ensuring that all CPRC members have signed the attendance roster;
- Distributing and collecting "No Conflict of Interest" forms;
- Recording the meeting through the use of an audio recorder;
- Providing a hard copy of a company's prequalification application to CPRC members;
- Recording and tallying the votes of CPRC members;
- Bringing forth any concerns or questions the Office of Economic Opportunity Development Officer may have; and
- Recording the minutes.

Commencement of CPRC Meeting

The Chairperson shall call the meeting to order. The meeting shall be governed by Robert's Rule of Order and the Contractor Prequalification Review Committee Bylaws. The Administrator shall ensure that the meeting is recorded by audio recorder.

EVALUATION OF CONTRACTOR PREQUALIFICATION APPLICATION

Upon commencement of a meeting, the CPRC shall review and evaluate every prequalification application and make recommendations to prequalify contractors for type of project, dollar volume, and limits allowed within the scope of the prequalification. The CPRC shall review each applicant on the basis of the following criteria:

- Proof that the contractor holds a valid Florida contractor's license, as defined by the Florida Department of Business and Professional Regulation that authorizes the contractor to supervise the work within the scope of a construction project. If a state license does not exist for a discipline, a local license may be considered depending on the discipline being considered.
- Evidence that the applicant has financial resources to start up and follow through on projects and to respond to damages in case of default. Evidence must be provided in the form of written verification of bonding capacity that equals or exceeds the amount of any project for which the contractor seeks prequalification. The written verification must be submitted by a licensed surety company that is rated excellent "A-" or better in the current A.M. Best Guide, or as may be amended by Florida Statute and/or SREF. The surety must be qualified within the State of Florida and the A.M. Best rating must be included on the Surety Letter of Intent. In the absence of such written verification, the Board may require any applicant to submit audited financial statements, for a reporting period that ended not more than twelve (12) months prior to the date of the company's application date, to validate its (applicant's) financial ability to perform a project(s) and to respond to damages in the event of default.
- 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) projects, within the past five (5) years, that are similar to the size or

scope of the largest project that the company is requesting prequalification to bid. For the purpose of determining experience for an applicant company, the experience of the company or that of the applicant company's primary or secondary qualifier may be considered, so long as the applicant presents evidence of successful completion of two (2) projects as described herein.

- Evidence of satisfactory resolution of claims and litigation that was initiated by or against the contractor which was asserted on a project of the same or similar size within the last 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.

Note: The CPRC may approve a single bid limit in excess of (2x) the largest project, not to exceed the amount indicated on the applicant's Surety Letter of Intent. However, the contractor must document and show substantive experience and familiarity with Educational Facilities projects.

Supplement Information Required by CPRC

Upon review by the CPRC, if it is determined that an application contains outdated information, or more information is needed then the applicant will have a ten (10) day grace period to provide the requested information. The Administrator shall notify the Applicant through the ODCS notification system of the request for additional information. The Administrator shall return the company's application through the ODCS application for correction.

CPRC Decision

After review of a Contractor's Prequalification Application based on the criteria as set forth in *School Board Policy 6334*, each committee member should cast their vote to accept, reject, or hold an application pending a request for additional information. A majority vote shall rule.

Approval of a Contractor's Prequalification Application

Upon an affirmative vote by the CPRC on a prequalification application, the decision is forwarded to the recommendation to the Prequalification Administrator. The Administrator is responsible for updating the applicant company's prequalified checklist, preparing an F-80 Agenda item, and updating the ODCS status of the applicant after School Board approval.

To update the applicant's prequalification application checklist, the Administrator shall:

- Input the date of the CPRC meeting;
- Check "Yes" to indicate that the application was approved;
- Fill out the "summary" section; and
- Obtain the OEO Program Administrator signature.

The Prequalification Administrator shall be responsible for preparing an F-80 Agenda Item for recommended Board approval for the following month's Board meeting. To

prepare an F-80 Agenda Item, the Administrator will prepare a holder for the F-80 Agenda Item. The OEO Program Administrator will then transmit the holder to the appropriate M-DCPS Cabinet Member.

The Agenda item is then drafted and submitted for final submittal to the Cabinet Member for Superintendent and Board approval.

Board Approval Process

The Board will vote on the F-80 Agenda Item as prepared by the Prequalification Administrator at the monthly Board Meeting. Upon the Board's acceptance and approval of the Agenda Item, the Administrator shall be responsible for preparing the contractor prequalification certificate.

Note: The Board shall approve or reject applications for prequalification within sixty (60) days after a complete application is received by the District.

Issuance of Contractor Prequalification Certificate

The Board shall issue an approved prequalification applicant a contractor prequalification certification that is valid for **one (1) year** or is project specific. The Contractor Prequalification Certificate shall include:

- A statement that a contractor is authorized to bid for projects during a specific time period.
- A statement establishing the maximum dollar values (single and aggregate) of work that a contractor will be permitted to have under contract with the Board at any one time.
- A statement establishing the maximum dollar value of each individual project that a contractor will be permitted to have under contract with the Board at any one time. The District single bid limit may be up to twice the value of the largest project that was previously completed or written verification of bonding capacity equal to the single limit. This shall not exceed the contractor's aggregate bonding capacity or ten (10) times the net quick assets.
- A statement establishing the type of work that a contractor will be permitted to provide.
- The expiration date of the contractor's prequalification certificate.
- The signature of the Office of Economic Opportunity Officer.

Specific Work Designation – If an applicant possesses a general contractor license, but has only listed specific area of work completed (e.g. demolition services), the CPRC may request that the prequalification certificate specify that the prequalified applicant is only allowed to engage in a specific area work (e.g. demolition work).

The prequalification administrator should prepare a hard copy certificate for the OEO Executive Director's signature. The hard copy certificate shall be scanned and attached to the applicant's file located on the T-Drive. The entire file will be sent to the applicant via email and the originals will be sent via U.S. mail.

The administrator will then access the ODCS and generate a Contractor Prequalification certificate. A copy of the certificate and board item shall be placed in an applicant's file.

Contractor Prequalification Report

Upon Board approval of a prequalification application, the OEO Administrator shall be responsible for updating the Contractor Prequalification Report with the newly prequalified company's information. The Prequalification Report information should include:

- the type of firm prequalified (if applicable, SBE, MBE, or M/WBE);
- an updated Prequalification status;
- the Company's discipline;
- the Firm name;
- the expiration date of the certificate;
- the Board approved single and aggregate limits; and
- company email.

The Contractor Prequalification report can be accessed at <http://prequalification.dadeschools.net/pdf/ContractorPrequalificationRpt.pdf>

Dissemination of Information

The Prequalification Administrator is responsible for providing prequalified contractor's status to interdepartmental staff upon request according to bids received by discipline and single/aggregate bid limits. The Administrator shall also update and provide the SBE Advisory Committee of the number of prequalified S/MBE, M/WBE and non-minority contractors on a monthly basis.

Rejection of a Prequalification Application

Within seven (7) business days of the CPRC or Board denying a prequalification application, the Prequalification Administrator shall notify the applicant via written notification that their Contractor Prequalification Application has been rejected. The notification shall include at least:

- the basis for denial for the applicant's prequalification application;
- a statement notifying the applicant that they may not re-apply for prequalification with M-DCPS for a period of **six (6) months** after the written notice of denial; and
- a statement the applicant may request an appeal to the Contractor Prequalification Appeals Committee (CPAC) by submitting a request within 10 days of the written notice of denial for prequalification.

The Prequalification Administrator shall also reject the company's profile in ODCS.

Appeal Procedures for a Rejected Prequalification Application

A contractor whose prequalification application has been rejected by the CPRC Review Committee may appeal to the Contractor Prequalification Appeals Committee (CPAC). A contractor may submit an appeal pursuant to procedures established by the CPAC. The CPAC will recommend that the Board uphold or overturn a decision to deny a

company's prequalification after a hearing. The CPAC shall be governed as set forth in Board Policy 6334.

Renewal of a Prequalification Certificate

A Contractor Prequalification Certificate is valid for **one (1) year** from the effective date listed on the certificate or valid for the duration of a specific project. A prequalified contractor who wants to remain a prequalified contractor with M-DCPS must renew their prequalification certificate annually before the expiration of their certificate.

A prequalified company will receive a renewal notice through the ODCS email notification system 90, 60 and 30 days before the expiration of their current certificate. The company will receive an email with a link to a renewal form. The applicant company must complete the Contractor Prequalification Renewal Application and provide updated financial statements or written verification of bonding capacity.

For a renewal application, the contractor shall submit:

1. A Contractor Prequalification Renewal Application;
2. Updated financial statements or written verification of bonding capacity;
3. Power of Attorney
4. Certificate of insurance;
5. Disclosure of litigation;
6. Public Entity Crime Statement; and
7. Affidavit attesting to the truthfulness of the information submitted.

The Prequalification Administrator shall verify that the licensed surety company is rated "A- "or better in the current A.M. Best Guide. The administrator may access www.ambest.com to verify the grade of the surety company. The applicant's professional license shall also be verified by performing a search at www.myfloridalicense.com. The Administrator should search by the applicant's license number to verify an active license.

The Prequalification Administrator will upload the renewal application to attachment manager on District's Website and send a summary link to each CPRC member.

A renewal application will be voted upon by CPRC members during their monthly meeting. Upon an approval of a renewal application the effective date listed on the certificate shall be the date of CPRC approval. This item shall only go before the Board for informational purposes.

Note 1: Failure to submit a current audited financial statement or verification of bonding capacity after at least thirty (30) days written notice by the Contractor Prequalification Administrator, OEO shall automatically revoke a contractor's prequalification certificate.

Note 2: As provided in F.S. 120.60 (4) Licensing, when a prequalified contractor makes timely and sufficient application for the renewal of a prequalification certificate, the existing certificate shall not expire until the contractor's application for renewal has been finally acted upon. If a

renewal application is submitted after the expiration date, the applicant must submit a new application.

Note 3: A contractor who has been declared delinquent and its certification has been suspended or revoked is ineligible to apply for renewal during the suspension or revocation period

Prequalified Company Seeking a Bid Increase

A prequalified contractor may seek an increase of their single bid limit and/or aggregate bid limit by submitting a renewal prequalification application. To affect a change in the company's bid limit before their renewal period they must come to the M-DCPS Office of Economic Opportunity to request the requisite forms. Otherwise a prequalified contractor may seek an increase of their bid limit during their scheduled prequalification renewal period. All contractors seeking an increase to their single bid limit or aggregate bid limit must have their application reviewed and approved by the CPRC as stated by the procedures noted in this manual.

- **Single Bid Increase** – When a prequalified contractor seeks an increase in their single bid limit they must submit their two most recent highest projects along with a Surety Letter of Intent. A Power of Attorney must accompany the surety letter. An increase in a company's single bid increase must be approved by the Board through the Board approval procedures.
- **Aggregate Bid Increase** – When a prequalified contractor seeks an increase in their aggregate bid limit they must submit a Surety Letter of Intent that indicates their new aggregate bid limit. When there is a modification to a contractor's aggregate bid limit, this information shall be disclosed to the Board for informational purposes only.

Note: An approval of an increase in a company's bid limit will renew the company's prequalification time period.

Updating of Company Information

A contractor shall notify the Prequalification Administrator within fifteen (15 days) of any changes that occur in the company's ownership, management, or financial condition. The Contractor shall provide a notarized statement to the Office of Economic Opportunity stating the basis of the change. The Administrator shall be responsible for updating the contractor's information and determining whether the pronounced changes affect the contractor's prequalification status.

RECOMMENDED CONTINUING EDUCATION FOR STAFF

Annual Training – Public Records Law “Florida Sunshine Law”

The State of Florida has created a constitutional right for any member of the public to request the public records of any state, county, or municipal, subject to certain exemptions. In order to ensure compliance with any open records request, the Office of Economic Opportunity shall ensure that staff maintains professional proficiency through

continuing education and training. All OEO employees are encouraged to participate in an annual training on the public records ("Sunshine Law") law, pursuant to F.S. 119.

Annual Training - State Requirements for Educational Facilities

In order to ensure compliance and professional proficiency with the most recent and up to date State Requirements for Educational Facilities (SREF), OEO employees shall receive annual training on SREF, Section 4.1.

F.S. 119
F.A.C. 61 G4-15.0022
Section 4.1, SREF

XIV. PROCEDURES FOR CHANGING LISTED SUBCONTRACTORS

Per Board Policy 6320.02, a prime contractor is required to notify and obtain written approval from the Office of School Facilities – Capital Improvement Projects in advance of any reduction in subcontract scope, termination, or substitution for a designated non-certified Subcontractor, Certified SMBE or M/WBE Subcontractor. Failure to do so shall constitute a material breach of its contract with the Board.

If at any time after submission of a solicitation response, the apparent successful Respondent or at any time after award of a contract the Contractor, determines that a non-certified Sub-contractor or certified S/MBE and/or M/WBE sub-contractor listed on the participation schedule has become or will become unavailable, then the apparent successful Respondent or Contractor shall immediately notify the Office of School Facilities – Capital Improvement Projects.

Any desired change in the S/MBE and/or M/WBE participation schedule shall be approved in advance first by the Office of Facilities – Capital Projects and confirmed by the OEO and shall indicate the Prime Contractor's Good Faith Efforts to substitute another certified S/MBE and/or M/WBE Subcontractor (as appropriate) to perform the work. Any desired changes (including substitutions or termination and self-performance) must be approved in writing advance by the OEO.

Contractors requesting to change the subcontractors must use Forms FM7686 and provide documentation for justification of their request for a change or substitution.

Prior to submitting the request to the Office of Economic Opportunity, the Contractor must first be approved by the Assistant Superintendent of Construction Management designated by the Office of School Facilities. After properly submitting a request to change a listed subcontractor, OEO will notify the apparent successful Respondent or Contractor if one or more of the firms proposed qualify as a Certified S/MBE and/or M/WBE Firm. The apparent successful Respondent or Contractor will be requested, within five (5) days of notification, to provide a new Certified S/MBE and/or M/WBE Firm. This does not imply that the Contractor cannot utilize the proposed firm, only that doing so will not be considered toward fulfilling the goals.

The apparent successful Respondent or Contractor agrees to exercise diligence to achieve S/MBE and/or M/WBE Firm Utilization Goals. In order to qualify for a waiver of any of the goals, the apparent successful Respondent or Contractor must demonstrate a good faith effort to obtain certified S/MBE and/or M/WBE subcontractors and material suppliers. In determining whether apparent successful Respondent or Contractor has made a good faith effort to meet the utilization goal requirements, the OEO will consider all efforts to comply with the goals as well as the intensity of those efforts.

Please note that the notice requirement stated in this section does not satisfy the contractors notice and approval requirements for substitution of subcontractors as stated in the General Conditions for Contracts for Construction.