

Professional Services and Construction Techniques. The board shall consider appropriate design and construction techniques that will deliver facilities in a timely and economical manner. Boards shall provide the Office a brief description of the facilities procurement process for each project over ~~\$200~~\$300,000, prior to implementation. The description shall include the names of the architects and engineers of record for design, the plan review entity, the contractor/construction manager/design-build or program management entity, building inspector, and threshold inspector using the Project Implementation Information form (OEF Form 110A). Upon completion, the board shall provide the Office with a signed Certificate of Occupancy (OEF Form 110B) and a signed Certificate of Final Inspection (OEF Form 209) for all projects over ~~\$200~~\$300,000.

(1) When a board chooses to accomplish capital improvement projects of \$300,000 or more using their own services, labor or equipment the procedures outlined in Section 255.20(1)(c)9, Florida Statutes, shall be followed.

(2) Prequalification of Contractors for Educational Facilities Construction. A board shall prequalify contractors for a one- (1) year period or for a specific project. This section prescribes uniform and consistent requirements for prequalification of all construction services contractors. This section is applicable to bids, construction management, design-build, and any other construction services application.

(a) **Criteria.** Contractors shall be prequalified by a board on the basis of the following criteria and such other criteria as the local board adopts:

1. Proof that the contractor holds a valid contractor's license that authorizes the contractor to supervise the work within the scope of the construction project.
2. Evidence that the applicant has financial resources to start up and follow through on projects and to respond to damages in case of default as shown by written verification of bonding capacity equal to or exceeding the amount of any project for which the contractor seeks prequalification. The written verification must be submitted by a licensed surety company rated excellent ("A-" or better) in the current A.M. Best Guide and qualified to do business within the State. In the absence of such written verification, the board can require the applicant to submit any audited financial information necessary to evaluate an applicant's financial ability to perform the project and to respond to damages in the event of default.
3. Evidence of experience with construction techniques, trade standards, quality workmanship, project scheduling, cost control, management of projects, and building codes for similar or less cost or scope projects as shown by the successful completion within the past five (5) years of at least two (2) other projects of similar size.
4. Evidence of satisfactory resolution of claims filed by or against the contractor asserted on projects of the same or similar size within the five (5) years preceding the submission of the application. Any claim against a contractor shall be deemed to have been satisfactorily resolved if final judgment is rendered in favor of the contractor or any final judgment rendered against the contractor is satisfied within ninety (90) days of the date the judgment becomes final.
5. Type of work for which the contractor is licensed.

(b) **Procedures.** A board shall comply with the following:

1. Hold a public hearing to discuss its intent to prequalify contractors and the proposed policy, procedures, and rules. Publish two (2) notices of hearings in a local newspaper having general circulation throughout the district at least thirty (30) days prior to the hearing and again seven (7) days prior to the hearing. The notice shall contain the purpose, date, time, and place of the hearing, at a minimum.
2. Adopt procedures, pursuant to Chapter 120, F.S., and in compliance with this section, for prequalification of contractors.

- a. Prescribe procedures that will not restrict competition, prevent the submission of a bid, or prohibit the consideration of a bid submitted by a prequalified contractor.
 - b. Prescribe procedures that will allow prequalification of any responsible contractor who meets the uniform criteria established in this section, whether resident or non-resident within the geographic area served by the board.
 - c. Prescribe procedures governing the submission of financial information by contractors.
 - d. Prescribe procedures for reviewing and evaluating applications and making recommendations for type of project, dollar volume, and limits allowed within the scope of the prequalification.
 - e. Prescribe procedures that will not supersede any small business, woman-owned, or minority-owned business-enterprise preference program adopted by the board.
 - f. Adopt procedures by which the board can reject applications that contain inaccurate information, declare a contractor delinquent, and suspend or revoke a prequalification certificate.
3. The board shall receive and either approve or reject each application for prequalification within sixty (60) days after receipt by the board's administrator. Approval shall be based upon the criteria established in this section.
- (c) Application.** In order to allow the board to apply the uniform criteria in subsection (a), a board shall require each contractor, firm, or person requesting prequalification to submit separate applications that include the following:
1. Detailed information on board-prescribed forms setting forth the applicant's competence, past performance, experience, financial resources, and capability, including a Public Entity Crime statement and references.
 2. Audited financial information current within the past twelve (12) months, such as a balance sheet and statement of operations, and bonding capacity. The requirement for financial information may be satisfied by the contractor providing written verification of the contractor's bonding capacity.
 3. General information about the contractor company, its principals, and its history including state and date of incorporation.
 4. Contractor trade categories and information regarding the state and local licenses and license numbers held by the applicant.
 5. A list of projects completed within the past five (5) years, including dates, client, approximate dollar value, and size.
 6. Certificates of insurance confirming current worker's compensation, public liability, and property damage insurance as required by law.
 7. A list of all pending litigation and all litigation within the past five (5) years, including an explanation of each. Litigation initiated by the contractor to protect the contractor's legal rights shall not be used as a basis for rejecting prequalification.
 8. The completed application and financial information shall be attested to and signed by an authorized officer of the company, the owner, or sole proprietor, as appropriate, and the signature shall be notarized.
 9. Exception: When two (2) or more prequalified contractors wish to combine their assets for a specific project, they can do so by filing an affidavit of joint venture on board-prescribed forms. Such affidavit shall be valid only for that specific project.
- (d) Issuance of Certificate.** The board shall issue a certificate valid for one (1) year or the duration of the specific project. The certificate shall include:
1. A statement indicating that the contractor is authorized to bid for projects during the time period

- specified.
2. A statement establishing the total dollar value of work the contractor will be permitted to have under contract at any one time as determined by the contractor's bonding capacity or ten (10) times the net quick assets.
 3. A statement establishing the maximum dollar value of each individual project the contractor will be permitted to have under contract with the board at any one time. The maximum value of each project can be up to twice the value of the largest project previously completed but shall not exceed the contractor's bonding capacity or ten (10) times the net quick assets.
 4. A statement establishing the type of work the contractor will be permitted to provide.
 5. The expiration date of the certificate.
- (e) **Renewal of Certificate.** Certificates not for a specific project shall be renewed annually.
1. Financial statements or written verification of bonding capacity on file with the board shall be updated annually. Failure to submit a new statement or verification of bonding capacity, after at least thirty (30) days written notice by the board, shall automatically revoke a prequalification certificate.
 2. The board can allow prequalified contractors to request a revision of their prequalification status at any time they believe the dollar volume of work under contract or the size and complexity of projects should be increased if experience, staff size, staff qualifications, and other pertinent data justify the action.
- (f) **Delinquency.** The decision to declare a contractor delinquent can only be made by the superintendent or president and must be ratified by the board at its next regular meeting following such decision by the superintendent or president. If a contractor is determined to be delinquent, after notice and an opportunity for a fair hearing, the board shall notify the contractor and his surety, in writing, that the contractor is disqualified from bidding work with the board as long as the delinquent status exists. A delinquent condition can be determined to be in effect when one (1) or more of the following conditions occur without justifiable cause:
1. A substantial or repeated failure to comply with contract documents after written notice of such noncompliance.
 2. A substantial or repeated failure to provide supervision and coordination of subcontractor's work after written notice of such failure.
 3. Substantial deviation from project time schedules after written notice of noncompliance.
 4. Substantial or repeated failure to pay subcontractors after the board has paid the contractor for the work performed by the subcontractors and in accordance with approved requisitions for payment.
 5. Substantial or repeated failure to provide the quality of workmanship compatible with the trade standards for the community after written notice of such failure.
 6. Substantial or repeated failure to comply with the warranty requirements of previous contracts after written notice of such failure.
 7. Failure to maintain the required insurance coverage after written notice of such failure.
- (g) **Suspension or Revocation.** The board can, for good cause, suspend a contractor for a specified period of time or revoke the prequalification certificate. Causes for suspension or revocation shall include, but not be limited to, one or more of the following:
1. Inaccurate or misleading statements included in the contractor's application.
 2. Contractor declared in default by a board.
 3. Contractor adjudged to be bankrupt.
 4. Performance, in connection with contract work, becomes unsatisfactory to a board based on the board asserting and recovering liquidated damages in an action against the contractor.

5. Payment record, in connection with the contract work, becomes unsatisfactory to the board based on the contractor's failure to comply with the Construction Prompt Pay Law (Section 715.12, F.S.).
 6. Contractor becomes delinquent on a construction project pursuant to (f) above.
 7. Contractor's license becomes suspended or is revoked.
 8. Contractor no longer meets the uniform prequalification criteria established in this section.
- (h) Appeal.** A contractor whose application has been rejected or whose certificate has been suspended or revoked by a board shall be given the benefit of reconsideration and appeal as follows:
1. The aggrieved contractor can, within ten (10) days after receiving notification of such action, request reconsideration in writing. The contractor can submit additional information at the time of the appeal.
 2. A board shall act upon a contractor's request within thirty (30) calendar days after the filing and shall notify the contractor of its action to adhere to, modify, or reverse its original action. The board can require additional information to justify the reconsideration.

See Rule 6A-2.0010, Florida Administrative Code, and Sections [255.20](#), 1013.02, 1013.03, 1013.12, 1013.37, 1013.40, 1013.45, 1013.46, Florida Statutes.

General Contract Procedures. A board that undertakes construction, remodeling, renovation, lease, or lease-purchase of any educational plant or ancillary facility, or day labor project, regardless of cost or fund source, shall use contracts that comply with laws governing public facilities contract and construction requirements, SREF, Chapters 50 and 1013, F.S., and Sections 255.05, 255.20, 255.551 through 255.565, 287.0935, 287.133, 489.113(4)(c), and 553.60 through 553.64, F.S. Finance and facilities construction reports, as required by Chapter 1013, F.S., shall be provided to the Department for legislative information.

(1) Bonds and Insurance.

(a) Bonds. Bonds are required on projects costing ~~\$200~~\$300,000 or more. The board shall establish criteria for qualifying surety companies; however, when a bond is required on projects costing \$500,000 or less, surety companies meeting the criteria of Section 287.0935, F.S., shall be accepted by the board. The amount of the bonds shall equal the contract price except as provided in Section 255.05, F.S.

(b) Proof of Insurance. The board shall verify that the contractor has a valid license, as required by Chapter 489, F.S., and, through a Letter of Insurability or Certificate of Insurance, is maintaining the insurance coverages and limits as required by law. The board can deny contract approval on this basis, as permitted by Section 489.113(4)(c), F.S.

(2) Advertising, Bidding, and Awarding Contracts. Construction projects estimated to cost ~~\$200~~\$300,000 or more and electrical projects that are estimated to cost ~~\$50~~\$75,000 or more shall be advertised in conformance with the procedures outlined in this section. Projects estimated to cost less than ~~\$200~~\$300,000 that the board will complete using contracted services shall be advertised for a minimum of one week. Projects estimated to cost \$300,000 or more that the board will complete using day labor or their own labor or equipment shall follow the requirements of Section 4.1. Unless other authorized contract processes are used, the bidding process shall be used to award all construction projects of ~~\$200~~\$300,000 or more and electrical projects of ~~\$50~~\$75,000 or more, as required by Section 255.20, F.S.

(a) Legal Notice. The board shall publish legal notice in accordance with Chapter 50, F.S., providing at least the following information:

1. Project name and name of board.
2. Location of the project.
3. Brief statement describing the work.
4. Date, time, and place of bid opening.
5. From whom and when contract documents are available, including deposit or charge.
6. Other information for bidders: prequalification of bidders, notice of pre-bid conference, bid security, insurance, plan deposit, and board's intention to waive technicalities.

(b) Minimum Notice. This notice shall be published a minimum of once a week for three (3) consecutive weeks in a local newspaper with general circulation throughout the district. The last such notice shall appear at least seven (7) days prior to the date set for the bid opening.

1. Any correction or change in the advertisement shall be made at least seven (7) days prior to the date set for bid opening.
2. The original date set for bid opening can be changed and extended at any time within the final seven- (7) day period provided the notice to bidders is published again for one (1) time at least seven (7) days prior to the new bid date, and each known prospective bidder is notified in writing of the change.
3. Complete drawings and project manual shall be available to contractors on the date of the first legal advertisement.

(c) Invitation to Bid. In addition to publication of the notice, the board shall require that the invitation to bid be mailed or delivered to no fewer than three (3) prospective bidders or shall be distributed to area plan rooms.

- (d) **Include with Bid.** Contractors' bids shall include the following information, as required by law:
1. Public Entity Crime Law. Assurance of conformance with Public Entity Crime Law, Section 287.133(2)(a), F.S.
 2. Trench Safety Act. Reference to the trench safety standard, where relevant, and written assurance that the contractor will comply with the Trench Safety Act, Sections 553.60 through 553.64, F.S.
 3. Subcontractors listed in the bid shall not be replaced without cause, once the list has been opened and made public, in accordance with Section 255.0515, F.S.
- (e) **Bid Opening.** Bids shall be publicly opened, read, and tabulated at the designated time and place by an employee of the board or other appointed individual.
- (f) **Alternates.** Alternates listed in the bidding documents can be accepted at any time after the contract award by change order provided the contractor remains the low bidder on the combination of the base bid and the alternates selected.
- (g) **Waive Technicalities.** The board can reserve the right to waive minor technicalities, if so stated in the bid advertisement.
- (h) **Contract Award.** The board shall consider all bids received and either reject all bids or identify the apparent low bidder, considering base bid and accepted alternates, and award a contract for a fixed amount for the work. The contract shall include a time limit by which the construction is to be completed.
- (3) **Payments to Contractor and Project Close-Out.** Each board shall adopt policies and procedures to be followed for all construction contracts and for making payments to the contractor. Final payment shall not be made until an Occupancy Certificate has been issued, the project has been completed, and the board has accepted the project. The adopted policy and procedures shall be implemented in the contract documents.
- (4) **OEF Form 209 - Certificate of Final Inspection.** Submit one (1) copy to the Office for all projects over \$~~200~~300,000 after the project has been inspected for occupancy, signed by the architect or engineer of record, signed by the building official/inspector, and approved by the board.
- (5) **Change Order.** Changes to contracts shall be initiated by change order. Changes to the approved construction documents shall be reviewed for compliance with building code and life safety code as required. The board shall act to approve all changes in construction after award of the contract, or may develop policy to delegate approval as authorized in Section 1013.48, F.S.
- (6) **Toxic Substance Safety Precautions.** Boards shall develop policy and procedures to address toxic substances used during work on occupied facilities. Consideration should be given to the time required for the toxic substance to dissipate to safe levels and removal of occupants during the application phase as recommended by the material manufacturer.

See Rule 6A-2.0010, Florida Administrative Code; [255.20](#), 1001.42(9), 1013.02, 1013.37, 1013.40, 1013.46, 1013.47, Florida Statutes.

