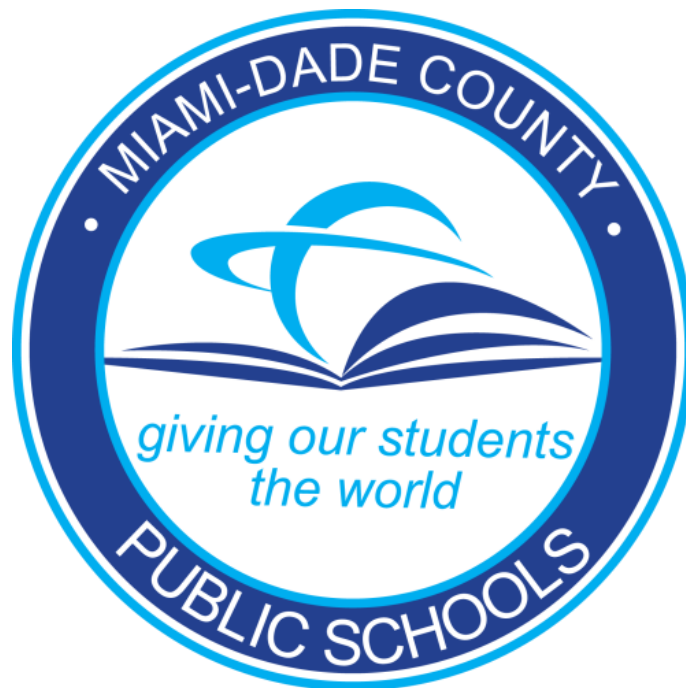


# Office of Economic Opportunity Administrative Procedures Manual



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Revised 6/20/2018

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## I. INTRODUCTION

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

The Office of Economic Opportunity (OEO) Administrative Procedures Manual (Procedures) was created to supplement Policy [6320.02](#). The purpose of the OEO Procedures is to provide key elements for the implementation of all initiatives and objectives of the programs. The Procedures further detail the certification and re-certification process, contractor prequalification, compliance, identifying Small/Micro Business Enterprise (S/MBE), Minority/Women Business Enterprise (M/WBE) or Veteran Business Enterprise (VBE) business assistance opportunities and other affirmative procurement initiatives. The original Procedures was brought to the May 7, 2014, School Board Meeting for approval.

## II. PURPOSE

This document constitutes the Procedures for the implementation of goals and objectives as set forth in the current adopted Policy [6320.02](#) *Small/Micro, Minority/Women-Owned, and Veteran Business Enterprise Programs* (Programs).

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

The purpose of the Programs is to: (1) stimulate the local economy by providing equitable and expanded contracting opportunities for local businesses within the area served by M-DCPS; (2) increase the capacity of S/MBE, M/WBE and VBE firms in the community by affording the opportunity to grow in size and become more competitive with more established businesses; (3) remove barriers within the District's control that affects 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; and, (4) maximize the participation of underutilized groups, as identified in the most recent disparity studies.

OEO may amend or provide additional Procedures as required in accordance with Policies [6320.02](#) and [6334](#) *Prequalification of Contractors for Educational Facilities Construction*.

**A. 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.”

**B. OEO Mission Statement**

In keeping with Policy [6320.02](#) and the District’s mission and values, OEO promotes the formation, economic inclusion, and growth of S/MBEs, M/WBEs, and VBEs. 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. The OEO strives to ensure that local SBEs, MBEs, M/WBEs, and VBEs have the maximum opportunity to do business with the School Board of Miami-Dade County, Florida, and provide equal opportunity for all segments of the contracting community. The OEO currently operates under Policy [6320.02](#).

**III. SCOPE/OBJECTIVES**

Unless precluded by applicable State or local procurement laws or by limitations imposed by the dollar thresholds identified therein, the provisions of these Programs shall apply to the procurement of construction, architecture & engineering (A&E) professional services, non-A/E professional services, and goods and other non-professional services. Procurements subject to a S/MBE, M/WBE and VBE sheltered market (formerly called set-asides) are not exempt from the other requirements of Policy [6320.02](#).

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

1. Increase the participation of S/MBE, M/WBE and VBE in contracting with M-DCPS;
2. Annually evaluate the progress and effectiveness of the various Programs using accumulated availability and utilization data to identify specific program provisions



and Affirmative Procurement Initiatives (APIs) that require modification, expansion, and/or curtailment;

3. Maintain a Goal Setting Committee (GSC) to establish the Programs annual goals and/or contract-specific goals. The purpose of the GSC is to apply the 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 (9) members. The GSC is to be chaired by the OEO Program Administrator or designee. Members of the GSC may include staff from various District departments including Procurement, Capital Construction, A/E Selection, Maintenance, School Operations, Audit and staff from other District departments impacted by this program as described in Policy [6320.02](#); and,
4. Maintaining a S/MBE, M/WBE, and VBE Advisory Committee to provide guidance on the implementation and/or modification of the Programs, and to promote participation and use of these businesses in the procurement activities of M-DCPS. The S/MBE, M/WBE, and VBE Advisory Committee shall have representation from stakeholders in the local, small, micro, and general business community based organizations, and local government entities which may include professional construction, trade businesses and socio-economic organizations.

#### **IV. RESPONSIBILITIES AND DUTIES**

##### **A. Office of Economic Opportunity (OEO)**

The OEO is responsible for general oversight, management, and coordination of all aspects of the administration of the Programs pursuant to Policy [6320.02](#) that are engaged in the procurement of goods and services, construction, non-A/E professional service, and A/E professional services.

##### **B. Economic Equity and Diversity Compliance Officer**

The OEO is the Superintendent's designee to administer the Programs, and shall serve as the Program Administrator. The responsibilities of the Program Administrator are identified in and are in accordance with Policy [6320.02](#).

##### **C. Certification Administrator**

The Certification Administrator is responsible for the implementation and evaluation of businesses seeking certification status for participation in the OEO Programs. The

Certification Administrator shall review and evaluate every certification application submitted through the Online Diversity Compliance System or directly to the District. The Certification Administrator shall also be responsible for periodically re-evaluating the certification status of firms in accordance with Policy [6320.02](#), or upon formal request regarding changed circumstances that may have affected a firm's size, industry designation, ownership, or control. The Certification Administrator shall ensure that firms are certified, re-certified, or de-certified in accordance with the relevant eligibility standards set forth in Policy [6320.02](#).

**D. Compliance Administrator**

The Compliance Administrator is responsible for monitoring the level of S/MBE, M/WBE, and VBE utilization, and over all compliance by vendors with applicable goals as it applies to bid solicitations, and in subsequent terms of awarded contracts and subcontracts.

**E. 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 a firm meets the criteria for prequalification eligibility as set forth in State Requirements for Educational Facilities 2014 ([SREF](#)) Chapter 4.1 and relevant Policies.

**F. Outreach Administrator**

The 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 OEO. The Outreach Administrator will manage the outreach efforts with collaborating agencies and community boards, and provide technical assistance to the businesses in accordance with Policy [6320.02](#).

**V. TERMS AND DEFINITIONS**

**Actual Place of Business**– Business whose physical office is located in the relevant Metropolitan Statistical Area.

**Affiliate** – Business concerns, organizations, or individuals that directly or indirectly, (a) are 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 VBE 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*** –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 VBE 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.

***Certificate of Compliance*** – Certificate and/or letter indicating the firm has complied with all relevant M-DCPS policies.

***Certificate of Compliance Renewal*** – Application submitted by the firm indicating the firm has complied with all relevant M-DCPS policies.

***Certification*** – Process by which OEO determines a business meets the criteria for classification as S/MBE, M/WBE and/or VBE according to Policy [6320.02](#).

***Close Out Exit Conference*** – Meeting with the firm officials to discuss the tentative findings of the compliance evaluation, propose recommendations, and to determine the firm’s compliance with all relevant M-DCPS policies.

***Commercially Useful Function*** –S/MBE, M/WBE or VBE 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 VBE 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.

**Community Outreach** – Activities and targeted events to increase awareness of M-DCPS' procurement and contracting opportunities for Small and Micro, M/WBE and VBE participation.

**Conciliation Agreement** – 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.

**Conditional Certificate of Compliance** - Certificate and/or letter indicating the firm has conditionally complied with all relevant M-DCPS policies.

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

**Contractor**- 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.

**Contract Compliance Review** – Analysis and evaluation of the firm's policies & procedures and any supporting documentation verifying compliance with M-DCPS policies.

**Contractor Disciplinary Review Committee (CDRC)** –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.

**Contractor Prequalification Appeals Committee (CPAC)** – Committee responsible for hearing all appeal requests from companies that are denied contractor prequalification.

**Contractor Prequalification Review Committee (CPRC)** – Committee responsible for reviewing and evaluating Contractor Prequalification Applications determining eligibility and recommending that contractors be prequalified or not, to bid on construction projects of a specific scope, type, and dollar value.

**Control** –A person or business owner authorized to sign responses to solicitations and contracts, make price negotiation decisions, sell or liquidate the business, and have the primary

authority to direct the day-to-day management and operation of a business enterprise without interference from others.

**Corrective Action Plan** –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.

**Desk Audit** – Comprehensive analysis utilizing the M-DCPS On-line Diversity Compliance System of the firm’s contracts, policies & procedures, small/micro & minority/women business utilization & goals, local workforce hiring utilization & goals and any supporting documentation to determine whether a firm is compliant.

**Economic Inclusion** – Efforts to promote and maximize commercial transactions within, between, and among all segments of the business population, regardless of race or gender, within the relevant marketplace.

**Findings & Recommendations** – Identification of any discrepancies, and/or violations and any recommendations necessary to resolve the identified findings with a corrective action plan or conciliation agreement.

**Front** – Business which purports to be a certified firm for the purpose of obtaining District contracts, but which is actually owned, controlled, and/or operated in a manner that is inconsistent with certification procedures, the performance of a commercially useful function and/or that does not comply with the District’s procurement, professional services and construction contracts.

**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** – Committee established by the Superintendent and chaired by the OEO Program Administrator to determine S/MBE, M/WBE, and/or VBE project goals, workforce

goals, and select appropriate S/MBE, M/WBE, and/or VBE Affirmative Procurement Initiatives to be applied to each contract.

**Good Faith Efforts** – Documentation (evidence) of the Bidder’s intent to comply with S/MBE, M/WBE, and/or VBE 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, M/WBE, and/or VBE Program goals as established by the Goal Setting Committee for a particular contract; or (2) documentation of efforts made towards achieving the S/MBE, M/WBE, and/or VBE 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 Miami-Dade County Public Schools (M-DCPS) web site; solicitations of bids from all qualified S/MBE, M/WBE, and/or VBE firms listed in the District’s Certification Directory of certified S/MBE and/or M/WBE firms; correspondence from qualified S/MBE, M/WBE, and/or VBE firms documenting their unavailability to perform contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to enhance opportunities for S/MBE, M/WBE, and/or VBE firms to perform; documentation of efforts to assist S/MBE, M/WBE and/or VBE 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, M/WBE, and/or VBE subcontractors).

**Goods and Services** – Refers to all items, supplies, materials and general support services, except consulting services and capital 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.

**Graduation** – Firm whose gross revenue exceeds the eligibility certification thresholds and as a result moves to the next tier of eligibility within a program; ascends to a higher tier within another program; or progression out of all programs.

**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, M/WBE, or VBE 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.”

**Interlocal Agreement** – Partnership with a public agency and M-DCPS to expedite and increase participation with S/MBE, M/WBE, and VBE firms.

**Joint Venture** - 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.

**M-DCPS Board Item Reviews for Compliance and Certification** – Formal review process 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** – Formal review process of all potential vendors to determine compliance with S/MBE, M/WBE, and VBE established goals for Construction, Professional Services, Non-A/E Professional Services and Goods & Services.

**Metropolitan Statistical Area (MSA)** – Geographical region within the relevant geographic market of the Miami-Dade Metropolitan Statistical Area (Miami-Dade/Broward/Palm Beach Counties).

**Micro-Business Enterprise** - Any contractor, subcontractor, manufacturer or service firm (a) that has been doing business under the same ownership or management and has maintained its actual place of business in the MSA 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 firm. 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:

- **Sole Proprietorship** – sole proprietor must be a minority person or woman.
- **Partnership**- minority/woman individual’s interest must include at least fifty-one (51%) of the ownership, profit/loss, voting control, and capital of the partnership.
- **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.
- **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** – 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:

- **An African American**, person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin. (The African diaspora refers to the communities throughout the world that have resulted from the movement in historic times of people from Africa, predominantly to the Americas and among other areas around the globe. The term has been historically applied in particular to the descendants of West and Central Africans between the 16th and 19th centuries, with their largest populations in Brazil, the United States, and Haiti. For purposes of this category, African diaspora populations include: African Americans, Black Caribbeans and Black Canadians (descendants of West Africans brought to the United States, the Caribbean, and South America, Zanj (descendants from Southeast Africa, primarily the Swahili Coast, whose ancestors were brought to Western Asia



and other parts of Asia) and Siddis (descendants from Southeast Africa, primarily the Swahili Coast, whose ancestors were brought to the Indian subcontinent (Pakistan and India)).

- A **Hispanic American**, person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, not of the African Diaspora.
- An **Asian American**, person having origins of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands before 1778.
- A **Native American**, 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.
- A **Woman**, an American born or naturalized non-minority woman.

**Minority/Women Business Enterprise (M/WBE)** – Any contractor, subcontractor, manufacturer or service company (a) that has been doing business under the same ownership or management and has maintained its actual place of business in the MSA for a period of at least one(1) year immediately prior to the date of application for certification under this section, and (b) 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.

**Naturalization** –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).

**Non-Compliance** – Company’s failure to adhere to the conditions set out in M-DCPS policy and/or failure to correct deficiencies and/or violations.

**Non-Discriminatory Employment** – Prohibit discrimination against and harassment of any employee because of race, color, national or ethnic origin, age, religion and any other protected classes.

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

**On-Site Workforce Visit Review** – Visit to a project site by OEO Staff to analyze, observe and record if the workforce reported through the Online Diversity Compliance System is accurate and in compliance.

**Permanent Resident** – Person who has been granted permanent resident status in the United States and has (or is pending receipt of) a Permanent Residence Card.

**Post On-site Workforce Visit Review** – Summary of the observation and findings from the on-site workforce visit by OEO Staff determine the contractor's compliance.

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

**Pre-Onsite Workforce Visit Review Report** – Desk audit review utilizing the M-DCPS On-Line Diversity Compliance System to evaluate the company's workforce reports; including information on employees and subcontractors, to determine the contractor's compliance.

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

**Professional Services A/E** – 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.

**Responsive** - 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** – 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** – Affirmative Procurement Initiative designed to set aside an M-DCPS contract/project exclusively among S/MBE M/WBE and/or VBE firms.

**Small Business Enterprise (SBE)** - Contractor, subcontractor, manufacturer or service company (a) that has been doing business under the same ownership or management and has maintained its actual place of business in the MSA 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.

**Strategic Partnership Agreement** – Partnership with a public agency or private organization and M-DCPS to expedite and increase participation with S/MBE, M/WBE, and VBE firms.

**Surety Letter of Intent** – 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.

**Veteran Business Enterprise** – The management, ownership, control and daily business operations of a veteran business owner(s), as defined in Florida Statute 295.187.

## **VI. SMALL/MICRO BUSINESS ENTERPRISE PROGRAM<sup>1</sup>**

S/MBE Program is a race and gender-neutral program that provides 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. To be eligible for certification as a S/MBE, a business must submit all required supporting documents referenced in ODCS.

A business is eligible for a S/MBE certification, pursuant to 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;

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<sup>1</sup> Nonprofit/Not-for-profit organizations 501(c)(3) are **NOT** eligible for certification.

2. The business must have an actual place of business in the MSA for at least one (1) year preceding the application and be registered as a vendor with the District.;
3. The business must be established for a least one (1) year or the principals of the business have at least three (3) years of relevant experience (collectively and/or individually) prior to forming or joining the business;
4. The business has an applicable local business tax receipt in the MSA and all required licenses;
5. An owner of the business must have the required professional license(s); and,
6. The Board may honor a valid Small Business Enterprise (SBE) Certification and/or Micro Business Enterprise (MBE) Certification granted by another agency if the agency's requirements are consistent with the District's S/MBE certification criteria.

**A. Non-Affiliation Rule**

Ownership of the S/MBE must be direct, independent, and by individuals only. Any license or permit required for the business must be held personally by an owner. The S/MBE firm cannot be a subsidiary of another firm. The day to day management of the S/MBE firm must be direct and independent of the influence of any other business that cannot itself qualify under the S/MBE eligibility requirements.

**B. Revenue Threshold for Small/Micro Business Enterprise**

A firm seeking a S/MBE certificate must meet the revenue thresholds pursuant to Policy [6320.02](#). The Certification Administrator shall ensure that the application does not exceed the revenue Tier threshold by adhering to the procedures below.

A business entity is certified as a S/MBE based on the revenue generated for the preceding three (3) years before the firm has applied for the certification or recertification. The revenue threshold is based upon the standards as defined in Policy [6320.02](#) at the time of the publication of this manual. Please note that the thresholds published in Policy [6320.02](#) will be used to guide eligibility requirements. The OEO shall only certify a business who meets the following thresholds:

1. Micro Business Enterprise (MBE)

**Professional Services A/E:** The annual gross revenue averaged over the previous three (3) years shall not exceed \$300,000 (Tier 1) or \$500,000 (Tier 2).

**Professional Services Non-A/E:** The annual gross revenue averaged over the previous three (3) years shall not exceed \$300,000 (Tier 1) or \$1,000,000 (Tier 2).

**Good and Services (Procurement Program):** The annual gross revenue averaged over the previous three (3) year period shall not exceed \$300,000 (Tier 1) or \$1,000,000 (Tier 2).

**Construction and Construction-Related Specialty Trades:** The annual gross revenue averaged over the previous three (3) years shall not exceed \$300,000 (Tier 1) or \$1,000,000 (Tier 2).

2. Small Business Enterprise (SBE)

**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).

**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 (Tier 1) or \$4,000,000 (Tier 2).

**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).

**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).

**C. Determining Gross Revenue<sup>2</sup>**

The Certification Administrator shall be responsible for determining if a business qualifies as a S/MBE, pursuant to the revenue thresholds established in Policy [6320.02](#).

Gross revenues are determined by the average of the last three (3) year's tax returns.

**D. Formula to Determine Revenue**

Example: ABC Construction Company submits an application for certification as a S/MBE along with three (3) years of tax returns: 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 = \$2,333,333 (\$7 million ÷ 3). ABC is eligible for certification as a Tier 1 SBE based upon the average annual gross revenue of \$2,333,333.

**E. If Firm Meets Revenue Threshold**

If the Certification Administrator calculates the firms' revenue and determines that the firm meets and does not exceed the revenue threshold, the Certification Administrator shall proceed with processing the application.

**F. If Firm Exceeds Revenue Threshold**

If the Certification Administrator determines that the firm's revenue has exceeded the revenue threshold for S/MBE, the Certification Administrator shall deny the firms certification as a S/MBE. The Certification Administrator shall proceed with the rejection procedures as prescribed in this manual and shall provide written notification to the firm of the denial.

**G. Annual Eligibility Affidavit**

The OEO will require business entities to submit an Annual Eligibility Affidavit. The affidavit will ensure that the certified entity is compliant with the eligibility criteria of 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 suspension from the program.

If the Certification Administrator determines that the business entity is not eligible, the Certification Administrator shall notify the business.

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<sup>2</sup> If a business has existed less than three (3) years, the average annual gross revenue shall be based upon the gross revenue over the existence of the business.

#### **H. Material Change in Firm**

Certified S/MBE shall provide written notice to the OEO of any change(s) that impact 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 review the requested change and determine if the firm is still eligible to continue as a certified S/MBE in the program. OEO shall notify other internal departments of any material changes to certified firms.

#### **I. SBE/MBE Program Graduation**

##### **1. MBE to SBE Graduation**

Pursuant to Policy [6320.02](#), when a MBE exceeds the three (3) year annual gross revenue Tier threshold, the firm shall graduate to the following graduation designation of SBE.

Upon an MBE graduating to a SBE, the Administrator must provide the impacted business a written notification via the S/MBE Graduation Form Letter, which includes the basis of graduation, within fifteen (15) days of the Administrator determining the firm has exceeded the MBE eligibility revenue Tier threshold and falls within the revenue Tier threshold of a SBE. The OEO will also notify internal departments of graduation of firms from the micro to small business designation.

##### **2. SBE Graduation**

When an SBE exceeds the three (3) year annual gross revenue Tier threshold for their designated industry; the firm will automatically graduate out of the S/MBE program. The Administrator must provide the impacted business with written notification via S/MBE Graduation Form Letter within seven (7) days of graduating out of the S/MBE program.

Upon graduating out of the S/MBE program, the SBE shall be ineligible to re-apply for the SBE program for a period of one (1) year. Upon re-applying for certification, the business entity will be subject to the criteria as provided in Policy [6320.02](#). The OEO will also notify internal departments of graduation of SBE firms.

### 3. SBE Permanent Graduation

Pursuant to Policy [6320.02](#), a SBE shall be permanently graduated after its three (3) year annual average gross revenue exceeds \$6 million for construction and construction-related specialty trades, \$4 million for goods and services, \$2 million for professional services (architectural and engineering), and \$4 million for professional services (non-architectural and non-engineering). The OEO will also notify internal departments of permanent graduation of firms.

## VII. MINORITY/WOMEN BUSINESS ENTERPRISE<sup>3</sup>

M/WBE Program is established to enhance the bidding and selection opportunities for M/WBE on certain contracts and to address findings in the [2014 Disparity Study on construction and construction-related professional services](#) and [2015 Subcontractor Disparity Study](#) pursuant to this policy and as provided in Policy [6610 Internal Funds](#) and Policy [6320.06](#).

The OEO shall certify a firm as a M/WBE if it meets the following eligibility requirements:

1. The firm must be a minority person born or naturalized in the United States, as defined in Policy [6320.02](#);
2. 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;
3. For sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments;
4. It is owned and controlled by at least fifty-one (51%) by a minority or minorities who are members 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 M/WBE may primarily involve the practice of a profession;

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<sup>3</sup> NOTE: Nonprofit/Not-for-profit organizations 501(c)(3) are **NOT** eligible for certification.



5. The business must have an actual place of business in the MSA for at least one (1) year preceding the application and be registered as a vendor with the District;
6. The business has an applicable local business tax receipt in the MSA and all required licenses; and,
7. An owner of the business must have the required professional license(s).

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

- Whether M/WBE 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 M/WBE owner shares commensurately with ownership interests in all the risks of business, including, but not limited to, third party agreements, bonding and financial arrangements.
- 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. The term “related immediate family group” means one (1) or more children under sixteen (16) years of age and a parent of such children or the spouse of such parent residing in the same house or living unit. Florida Statute [288.703](#).
- M/WBE owners must also demonstrate control over the affairs, management, and operations of the business. The discretion of the M/WBE 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 M/WBE owners’ independent managerial and operational control.

**A. Required Documentation for M/WBE Program**

Requirements for certification eligibility into the M/WBE is determined by OEO after review of the required supporting documents have been submitted by the firm. A list of

the required supporting documents for certification eligibility into the M/WBE Program can be found in the ODCS M/WBE application.

**B. Determining a Firm's Net Worth**

All firms who seek certification as M/WBE 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 in accordance with Policy [6320.02](#).

The Certification Administrator is responsible for verifying that a firm or a sole proprietorship's net worth does not exceed \$5 million.

**C. Non-Affiliation Rule**

Ownership of the M/WBE must be direct, independent, and by individuals only. Any license or permit required for the business must be held personally by an owner of the firm. The M/WBE firm cannot be a subsidiary of another firm. The day to day management of the M/WBE firm must be direct and independent of the influence of any other business that cannot itself qualify under the M/WBE certification eligibility requirements of the Program.

**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 M/WBE owner control and prohibits him/her from making decisions.

The M/WBE owner 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 M/WBE owner's authority to control a company are not allowed.

An M/WBE owner shall control or supervise the hiring, firing, and supervision of employees, and establishment of employment policies, wages, benefits, and other employment conditions.

An M/WBE owner shall have knowledge and control of all financial matters of the business.

The firm shall submit a verified declaration that the information provided for certification and re-certification is truthful and accurate. Any firm who knowingly makes a false statement on the application and/or in writing with the intent to mislead the OEO and/or its representatives in the performance of their official duties of reviewing and/or approving an application is guilty of a second-degree misdemeanor under Florida Statute [837.06](#). In addition, anyone who knowingly makes a false verified declaration is guilty of perjury, a third-degree felony under Florida Statute [92.525](#).

Upon receipt of M/WBE certification or re-certification applications, the OEO shall review all enclosed forms, affidavits and documentation, and determine whether the firm satisfies the eligibility requirements. All firms shall be notified in writing of the status of eligibility or ineligibility into the M/WBE Program. Firms determined ineligible shall not be eligible to submit a new application for at least one (1) year after the date of the notice of ineligibility.

All certified M/WBEs will be included in the ODCS and available to school sites and the general public.

M/WBE certification shall be valid for a three (3) year period. Certified M/WBEs shall not request a change in their M/WBE designation, to another minority designation during the certification period, unless changes are due to extenuating circumstances.

The OEO may honor a valid M/WBE certification granted by another agency if the agency's requirements are consistent with the District's M/WBE certification criteria.

An M/WBE must apply for recertification at least thirty (30) days prior to the certification expiration. If certification has expired, the M/WBE shall submit a new application on the ODCS. Pursuant to Policy [6320.02](#), a business must submit their recertification application at least thirty (30) days before the expiration date of certification.

An M/WBE may be de-certified if the firm no longer meets the certification requirements such as failure to comply with the M/WBE Policies and Procedures regarding ownership, control, or operation of the business, and failure to submit a complete M/WBE re-certification application.

## **VIII. VETERAN BUSINESS ENTERPRISE PROGRAM<sup>4</sup>**

The VBE Program is a race and gender-neutral program designed to benefit all veteran businesses. The OEO shall certify VBE businesses in accordance with State guidelines and law. Any veteran of the armed services who received an honorable discharge may apply and seek certification under the VBE Program pursuant to Florida Statute [§295.187](#).

A VBE as defined in Board Policy [6320.02](#) means a veteran who is a permanent Florida resident including those who may have a service-connected disability as determined by the United States Department of Defense or the United States Department of Veteran Affairs.

### **A. VBE Eligibility Criteria**

According to Florida Statute [§295.187](#) - VBE means an independently owned and operated business that:

1. Employs 200 or fewer permanent full-time employees;
2. 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;
3. Is organized to engage in commercial transactions;
4. Is domiciled in this state; and,
5. Is at least fifty-one (51%) owned and controlled by one or more veterans.
6. The business must have an actual place of business in the MSA for at least one (1) year preceding the application and be registered as a vendor with the District;
7. The business has an applicable local business tax receipt in the MSA and all required licenses; and,
8. An owner of the business must have the required professional license(s).
9. A business must submit a [DD-214](#) form issued by the United States Department of Veteran Affairs or the United States Department of Defense or evidence of veteran status.

### **B. Non-Affiliation Rule**

Ownership of the VBE must be direct, independent, and by individuals only. Any license or permit required for the business must be held personally by an owner. The VBE firm cannot be a subsidiary of another firm. The day to day management of the VBE firm

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<sup>4</sup> NOTE: Nonprofit/Not-for-profit organizations 501(c)(3) are NOT eligible for certification.

must be direct and independent of the influence of any other business that cannot itself qualify under the VBE eligibility requirements.

## **IX. VIOLATIONS, SANCTIONS AND PENALTIES**

### **A. Decertification (Ineligibility or Suspension)**

Pursuant to Policy [6320.02](#) the Office of Economic Opportunity (OEO) may decertify a S/MBE, M/WBE and VBE by deeming a firm ineligible to participate in the program or suspended from the program for any of the following reasons:

1. Changes in the S/MBE, M/WBE and VBE firm's circumstances that render the firm unable to meet the eligibility standards;
2. A change in the certification standards or requirements of M-DCPS since the certification of the firm;
3. 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;
4. Concealed or misrepresented information by the firm as it pertains to the certification application or review conducted by the OEO; and/or,
5. Suspension – Temporary action pending final decision from the CDRC. The CDRC makes determination on whether to sustain the suspension or to permanently revoke the certification.

Prior to taking formal action to de-certify a firm, M-DCPS shall provide the firm with a written notice (via U.S. Mail and/or email notification) of the de-certification intent listing the reasons and facts leading to the de-certification intent. The firm shall then have thirty (30) days after issuance of the Notice of Intent to De-Certify to request a hearing and/or to present such evidence and arguments in opposition to the Notice to De-Certify. 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 De-certify, or issue a Final Notice of De-Certification to the owner of the firm by certified mail. If the OEO de-certifies a firm currently working on an M-DCPS contract, the de-certified firm's participation on the contract will not be counted toward the fulfillment of M-DCPS firm's goals for the duration of the contract. The OEO shall maintain a list of all de-certified firms with the facts leading to de-certification and shall provide internal departments notification of this action within five (5) business days. For those instances when the OEO de-certifies a firm 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 API, or, in the alternative, to exercise good faith efforts in attempting to replace the de-certified firm with a qualified certified firm. When the OEO de-certifies a firm after bid opening, but prior to contract award, the prime contractor shall be required to substitute the de-certified firm with the next certified qualified responsible responsive bidding firm.

**B. Appeals**

- Denial of Certification – upon denial of certification, re-certification or de-certification, 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 firm may appeal a Denial of Certification/Re-Certification and/or a Notice of De-Certification to the Program Administrator within fifteen (15) business days of receipt of the Denial of Certification. If the firm's owner fails to appeal the denial of certification/re-certification and/or de-certification within the period set forth in this section, the denial shall be final and take effect immediately. Upon receipt of a timely Notice of Appeal, the Program Administrator shall conduct an informal hearing within thirty (30) business days. At the hearing, all parties including staff and the business owner(s) shall be provided an opportunity to produce evidence in either party's possession concerning the denial of certification/re-certification and/or de-certification.
- Decision on Appeal – within fifteen (15) business days after the conclusion of the hearing regarding an appeal, the OEO shall issue a written notice of the decision on 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 Program Administrator serving as the hearing officer shall be binding and final.
- A penalty of 1% of the contract amount or one (\$1,000) thousand dollars 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.

- 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.

**C. Penalty for Non-Reporting**

Vendors with S/MBE, M/WBE, and VBE participation must submit monthly online reporting, in the M-DCPS online diversity system. The OEO designated forms shall include: Subcontractor Participation Best Faith Efforts, Participation Letter of Intent, Best Faith Efforts Non-Compliance Supplement, Business Feedback and Business Complaint forms. A penalty of 1% of the contract amount or one (\$1,000) thousand dollars 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. 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.

**D. Breach of Contract**

Failure of an S/MBE, M/WBE, and VBE to meet the requirements of the contract, will constitute a breach of contract.

**E. Suspension, Debarment and Repeated Violations**

Where a vendor is found to be in breach of contract, 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 Policy [6320.04 Contractor Discipline](#). This information shall be considered by future selection and evaluation committees.

**X. ONLINE CERTIFICATION PROCESS FOR ALL PROGRAMS**

**A. Online Diversity Compliance System Registration**

The firm shall obtain a vendor number with the Procurement Department and register with the ODCS. A firm will have ninety (90) days to complete an application prior to deletion of the application. The application process start date on ODCS is printed on the application for the vendor.

The firm, that seeks certification as a S/MBE, M/WBE, and VBE, shall complete the appropriate application(s) as provided for on ODCS. A firm may be eligible for multiple certifications. All firms are required to submit complete and accurate information, as

well as the required documents as specified in Policy [6320.02](#). M-DCPS offers the following certification applications:

1. Interlocal/Partnership Certification Recognition Application shall be completed by a firm that is certified with a recognized agency that has an interlocal agreement with M-DCPS.
2. New certification application shall be completed by a firm who is a first-time firm; that has never been certified by M-DCPS as an S/MBE, M/WBE, and VBE; that has previously been rejected for certification; or whose certification has lapsed and they desire to seek certification or seeking an additional certification designation.
3. Re-certification application shall be completed by the firm that is presently certified with M-DCPS as an S/MBE, M/WBE, and/or VBE that desires to be re-certified for another three (3) year period. Certified firms will be informed three (3) months in advance of certification expiration.

**B. [Interlocal/Partnership Certification Recognition Application](#)**

A firm that is certified with a recognized agency that has an interlocal agreement with M-DCPS may apply for certification with M-DCPS. The firm shall obtain a vendor number with the Procurement Department and register with the ODCS. The firm shall fill out an interlocal application on ODCS along with submitting the required documents for the respective certification.

After receipt of the application, the Certification Administrator shall verify that the application is complete and all required documents have been uploaded to ODCS. The Administrator shall refer to the Interlocal checklist to ensure that all required items have been submitted with the application. If the Administrator determines that the firm has not completed the application, the firm shall be notified via ODCS that they have fifteen (15) days to submit the pending document(s) as identified on the checklist.

**C. [Required Documentation for Interlocal/Partnership Certification Applications](#)**

To be eligible and certified through an Interlocal/Partnership Certification, the OEO requires that a firm submit required certain supporting documents, if applicable. A firm seeking certification as an S/MBE, M/WBE, and/or VBE shall submit documents as requested.



**D. New Certification Application**

A firm submitting a New Certification Application for S/MBE, M/WBE, and/or VBE shall complete the four sections of the application, and upload and submit all required/mandatory documents.

**Section 1 - Certification Information – Business Contact Information**

Required information includes: Firm 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., firm type, date incorporated, state of incorporation, is the firm a franchise, subsidiary or affiliate of another firm, type of business, the services provided, work performed and/or products sold, primary NIGP code (the firm can list 4 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, de-certified, suspended, or challenged as a small, micro, minority, or dis-advantaged business enterprise (DBE) by any agency or institution.

**Section 3 - Ownership**

Business Information

**Section 4 - Control**

Indicate firm’s office space, number of years at current location, name of landlord, address, indicate firm’s storage space, list current licenses/permits held by an owner of the 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.

**E. Administrative Processing of Certification Application**

A complete application shall be processed within thirty (30) days of receipt by the Certification Administrator. An application is considered complete when all applicable

questions have been answered and all mandatory documents have been uploaded in the ODCS. The firm shall not be allowed to submit a paper application.

A firm that has an application denied will be unable to access the old application and will have to begin a new application. A firm that is determined ineligible shall not be eligible to submit a new application for at least one (1) year after the date of the notice of denial of eligibility.

**F. Certification Process & On-Site Reviews**

The OEO shall conduct random certification onsite reviews; visit the firm's office, review job site records, applicable documents of the firm, and shall interview the firm's employees and/or subcontractors.

**G. Recertification Process**

Approximately ninety (90) days before the expiration of a business' certification certificate, the firm shall receive electronic notification from ODCS that the business' certification will expire in ninety (90) days.

Pursuant to Policy [6320.02](#), a firm must submit their re-certification application at least thirty (30) days before the expiration date of certification. A re-certification application may be submitted when a S/MBE, M/WBE, and/or VBE certificate has not expired and no material changes have occurred in the ownership and control of the firm.

The Certification Administrator shall review and approve the application if the re-certification application meets the eligibility requirements. If the application does not meet the eligibility requirements, the application shall be denied. Firms determined ineligible shall not be eligible to submit a new application for at least one (1) year after the date of the notice of denial of eligibility.

**XI. COMMUNITY OUTREACH AND TECHNICAL ASSISTANCE**

OEO shall provide community outreach and technical assistant to S/MBE, M/WBE and VBE firms. The OEO shall provide the following assistance to these businesses:

**A. Community Outreach**

OEO, in collaboration with the Office of Facilities and Office of Procurement Management Services, will conduct targeted outreach events to communicate M-DCPS S/MBE, M/WBE and VBE opportunities to increase and maximize participation the Programs. 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:
  - Any form of print and/or electronic media which may include upcoming forums, workshops, trainings, special events, and community/trade organizations including but not limited to the OEO website and ODCS;
  - Certified S/MBE, M/WBE, and/or VBE Directory – M-DCPS shall maintain an online S/MBE, M/WBE, and VBE 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 S/MBE, M/WBE, or VBE. The OEO will continuously update and maintain the directory on its website at <http://oed.dadeschools.net/>. In maintaining 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;
  - Sponsor matchmaking conferences to connect S/MBE, M/WBE and VBE that are seeking to procure with the District.

**B. Technical Assistance**

The OEO shall also assist, in collaboration with the Office of Facilities and Office of Procurement Management Services, S/MBE, M/WBE, and VBE with the District’s solicitation process. This assistance will be offered by M-DCPS, as well as by other agencies and entities within OEO’s technical assistance referral network. In addition, the OEO will maintain and distribute information regarding available technical assistance providers in the MSA. The OEO may use the services and expertise of Third Party Consultants to assess technical assistance needs of S/MBE, M/WBE and VBE referenced below:

- OEO will host small business networking forums to provide information on how to do business with M-DCPS;
- OEO will provide training sessions for S/MBE, M/WBE, and VBE business enterprises. Staff will be available to explain instructions for preparation of bid specifications, M-DCPS’ procurement policies, procedures and general bid requirements;

- OEO will sponsor intensive group workshops and one-on-one training sessions on identified problem areas, such as: bookkeeping, bonding and insurance requirements, selecting and appropriately using legal and accounting services, commercial lines of credit, marketing, project management, payment requisitions, payroll management and billing, and collections; and,
- OEO will 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 Small and MBE contractors on all aspects of estimating, bidding, licenses and permits, accounting, financing, bonding, contract terms, payroll management, tax requirements, project management, Occupational Safety and Health Administration (OSHA) and Equal Employment Opportunity (EEO) compliance, billing, collections, and other aspects required for performing construction contracts on behalf of M-DCPS.

## **XII. SMALL/MICRO, MINORITY/WOMEN-OWNED, AND VETERAN BUSINESS ENTERPRISE ADVISORY COMMITTEE**

Small/Micro, Minority/Women, and Veteran Business Enterprise Advisory Committee in accordance with Policy [6320.02](#), shall:

1. provide guidance on the implementation of the S/MBE, M/WBE, and VBE Program and to promote the participation and use of small and micro businesses in the procurement activities of the Board;
2. identify and evaluate issues related to economic opportunities for S/MBE, M/WBE, and VBE owned businesses;
3. provide recommendations to the Board to improve the S/MBE, M/WBE, and VBE program;
4. annually evaluate and report to the Board on the effectiveness of the S/MBE, M/WBE, and VBE program in increasing minority and women owned business participation in the Board’s procurement process; and,
5. monitor any disparity study and make recommendations.

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 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.

### **XIII. GOAL SETTING COMMITTEE**

The Goal Setting Committee ("GSC"), as described in Policy [6320.02](#) will recommend annual aspirational goals for S/MBE utilization, consistent with Policy [6320.02](#) based on the availability of S/MBE that can participate in projected subcontracting opportunities.

The Superintendent shall determine the size of the GSC that is to be chaired by the Program Administrator 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 (2) annually. The GSC shall utilize goal-setting methodology to be implemented by the District on a contract-by-contract basis, and to monitor and support the overall implementation of this policy.

1. To determine overall availability, the GSC will review the database to identify contractors in the local market who are prequalified, certified and available firms at the prime level and certified and available firms at the subcontractor level to perform on projects for which the District expects to solicit contractors or vendors in the coming year;
2. The GSC will have the discretion on a contract-by-contract basis to apply appropriate APIs, including, but not limited to, mandatory subcontracting goals for the participation of certified subcontractors on those general procurement contracts, nonprofessional services contracts, professional services contracts and construction contracts. The GSC shall review each contract and make every effort to apply the appropriate Tiers within each category. This may include but not limited to lower Tier 1 firms competing in open tier opportunities;

3. The GSC shall be responsible for recommending to the Superintendent new API methods by which annual aspirational goals for contract participation may be achieved;
4. The GSC shall monitor and support the implementation of the policy and procedures of the Program;
5. All recommendations made by the GSC shall be decided by simple majority vote. Decisions on appeal by the GSC regarding the APIs on a contract shall be forwarded to OEO for recommendation and final determination by the Superintendent; and,
6. The GSC consists of five (5) members. A quorum consists of three (3) members of the GSC.

#### **XIV. AFFIRMATIVE PROCUREMENT INITIATIVES**

API may be used in awarding Board contracts to S/MBE, M/WBE, and/or VBE 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 S/MBE, M/WBE, and/or VBE 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 at the time of the competitive solicitation. The solicitation documents for construction services in this event must disclose that no S/MBE, M/WBE, and/or VBE will be awarded based upon the State restriction regarding the utilization of local vendor preference.

##### **A. 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).*

GSC will evaluate and utilize the M-DCPS Online Diversity Compliance System (ODCS) for each solicitation where S/MBE, M/WBE and/or VBE goal may be applicable. The M-DCPS ODCS may generate a recommended goal for the individual solicitation and/or a requesting department could make a recommendation for consideration by the Goal Setting Committee. The OEO will then present the recommendations to the GSC along with the recommendations by the requesting department, if any. The GSC will review and examine all the evidence applicable to determine what adjustment should be made to the recommended goal.

There are many types of evidence that must be considered when considering and/or adjusting the recommended goal. These include:

1. The current capacity of certified firms to perform work in the program, as measured by the volume of work certified firms have performed in recent years;
2. Evidence from disparity studies conducted anywhere within the jurisdiction and/or MSA, to the extent it is not already accounted for in the recommended goal;
3. If a recommended goal is the goal of another recipient, it should be adjusted for differences in the local market and the contracting program; and,
4. If available, 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 it relates to the opportunities for certified firms to perform in the program.

**B. Sheltered Markets (Set-Aside Contracts)**

The OEO and GSC may select certain contracts for award to a S/MBE, MWBE or VBE or a joint venture with a S/MBE, MWBE or VBE 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: 1) at least three (3) S/MBEs, MWBEs or VBEs (or any combination thereof including by the various Tiers within a program) that are capable and available to participate in the Sheltered Market Program for that contract; 2) the degree of underutilization of the S/MBE, MWBE or VBE prime contractors in the specific industry categories; and 3) the extent to which the Board's S/MBE, MWBE or VBE 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 (formerly called 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 S/MBE, M/WBE and VBE 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 S/MBE, M/WBE or VBE 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 S/MBE, M/WBE or VBE firms to complete the work.
- **Tiers** – The availability and targeted approach to shelter contracts based on the size standard categories (if they exist) within a program.

#### **C. Bid Preference Points**

Specific goals for each project or contract may be adopted on a project-by-project, or contract-by-contract basis. The contract award shall be made to the lowest responsive responsible bidder meeting the S/MBE, M/WBE or VBE subcontracting goals on the contract 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 GSC.

The GSC will evaluate and utilize the ODCS for each solicitation where S/MBE, M/WBE, and/or VBE goal may be applicable. The ODCS may generate a recommended goal for the individual solicitation and/or a requesting department could make a recommendation for consideration by the Goal Setting Committee. The OEO will then present the recommendation to the GSC along with any recommendation by the requesting department. The GSC will review and examine all the evidence applicable to determine the adjustment, if any, should be made to the recommended goal.



Evidence considered when adjusting the recommended goals to include related fields that impact the opportunities for certified firms to perform, grow, and compete are:

1. The current capacity of certified firms to perform work in the program, as measured by the volume of work certified firms have performed in recent years;
2. Evidence from disparity studies conducted anywhere within the jurisdiction and/or MSA, to the extent it is not already accounted for in the recommended goal;
3. Statistical disparities in the ability of certified firms to get the financing, bonding and insurance required to participate in the programs;
4. Data on employment, self-employment, education, training and union apprenticeship programs, to the extent certified firms can relate it to the opportunities in the programs; and,
5. Tiers will be considered within each Program.

**D. Mentor-Protégé Program**

The OEO shall establish a workgroup which will include selected members of M-DCPS staff, the SBE 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 S/MBE 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/professional services/goods & services firm owners and managers with less-established S/MBE, M/WBE, and VBE 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.

## **XV. PROGRAM COMPLIANCE, REPORTING, AND MONITORING**

### **A. Compliance Monitoring and Utilization**

The OEO shall monitor the level of S/MBE, M/WBE, and VBE utilization by vendors with applicable goals as established by the GSC. If a vendor is having difficulties meeting the contractual S/MBE, M/WBE, and VBE targets, the OEO shall help the vendor identify additional potential S/MBE, M/WBE, and VBE sub-contractors and/or suppliers.

### **B. Board Item Review Process**

Pursuant to Policy [6320.02](#), the OEO is required to preview all solicitations for construction, procurement, and professional services prior to public dissemination for compliance with the objectives stated in this policy and to ensure that bid specifications do not unnecessarily restrict the ability of S/MBE, M/WBE, and VBE firms to participate in the District's procurement and contracting process. All District award recommendations (Board Items) shall bear the review signature of the Program Administrator.

Review includes:

- Compliance with established S/MBE, M/WBE, and VBE Goals as set by the GSC;
- Confirming and verifying the signed Letter of Intent for contract dollars awarded to S/MBE, M/WBE, and VBE Sub-contractors;
- Confirming and verifying signed Memorandum of Understanding contract dollars awarded to S/MBE, M/WBE, and VBE Sub-consultants; and,
- Confirming and verifying S/MBE, M/WBE, and VBE Prime, Sub-contractors/Sub-consultant Certificates.

### **C. Pre-Proposal Review**

Pursuant to Policy [6320.02](#), the OEO is required to preview all solicitations for construction, procurement, and professional services prior to public dissemination. The review ensures that the solicitation is compliant with the objectives stated in this policy and to ensure that bid specifications do not unnecessarily restrict the ability of S/MBE, M/WBE, and VBE firms to participate in the District's procurement and contracting process. All District award recommendations (Board Items) shall bear the review signature of the Economic Equity and Diversity Compliance Officer.

Review (scoring) includes:

- Compliance with established S/MBE, M/WBE, and VBE Goals as set by the GSC;
- Confirming S/MBE, M/WBE, and VBE Sub-contractors;
- Confirming and verifying signed Memorandum of Understanding contract dollars to be awarded to S/MBE, M/WBE, and VBE Sub-consultants;
- Confirming and verifying M-DCPS S/MBE, M/WBE, and VBE Prime, Sub-contractors/Sub-consultants Certificates;
- Confirming and verifying compliance with the M-DCPS ODCS;
- Confirming and verifying compliance available through OEO's Outreach division; and,
- Confirming and verifying Workforce Diversity within the firm's management and staff.

**D. Contract 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. To include but not limited to contract monitoring conducted by other M-DCPS staff responsible for the project.

**E. Reporting Requirements**

Vendors with S/MBE, M/WBE, and VBE participation must submit a monthly report, and in a form and manner prescribed by the OEO. In addition to the reporting submitted via the ODCS, there are additional specific forms<sup>5</sup> that may be required:

- **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:** Request for Sub-Contractor Substitution – FM-7686

**F. 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 ODCS on each of its Subcontractors or Subconsultants, including S/MBE, M/WBE, and VBE

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<sup>5</sup> All executed originals of the compliance forms listed above must be submitted by vendors to the OEO via email at: [compliance1@dadeschools.net](mailto:compliance1@dadeschools.net).

Subcontractors. (Refer to the S/MBE, M/WBE, and VBE 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.

## **XVI. CONTRACT COMPLIANCE REVIEW**

The purpose of a contract compliance review is to determine if a firm is compliant with Policy [6320.02](#), maintains non-discriminatory employment and contracting practices, and promotes equal opportunity for all segments of the contracting community. A valid Certificate of Compliance will be issued upon review completion.

The OEO will select and schedule a firm for a contract compliance review when notified that the firm has been selected for award on a district contract for construction, goods and services and professional services, or at the discretion of the OEO. 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 a 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 firm's employment and/or contracting practices.

A. A contract compliance review includes a detailed analysis utilizing the ODCS. The contract compliance review consists of:

- desk audits,
- on-site workforce review,
- on-site project visits,
- contract utilization analysis,
- findings and recommendations,
- close-out conference; and,
- corrective action plan (if required) including any follow up action needed to address identified deficiencies.

A certificate of compliance will be issued upon the satisfactory completion of the review.

B. The desk audit consists of a comprehensive compliance analysis of the firm's contracts, policy & procedures, local workforce hiring utilization & goals, S/MBE, M/WBE, and VBE utilization & goals and any supporting documentation to determine compliance with the OEO policies and procedures outlined in Policy [6320.02](#), including all reporting requirements.

1. If the firm's desk audit, on-site workforce review and on-site project visits indicate the firm 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 firm and issue a Certificate of Compliance.
  2. The firm 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.
  3. If the comprehensive analysis of the firm's policies, procedures and practices, discovered during the desk audit and on-site project reviews indicate the firm is not maintaining nondiscriminatory employment and contracting practices, not meeting the established S/MBE, M/WBE, and VBE goals, and/or not complying with the policies and procedures outlined in Policy [6320.02](#). The OEO will enter into a corrective action plan or conciliation agreement with the firm. After agreeing and entering into a corrective action plan or conciliation agreement, the firm will be issued a 3-6-month Conditional Certificate of Compliance.
  4. 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
- C. Upon completion of the contract compliance review, the OEO compliance staff will schedule & conduct a close-out meeting with the firm 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 firm.
1. If the firm 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 firm's request with the OEO Program

Administrator to enter into a conciliation agreement prior to the issuance of a letter of noncompliance.

2. The corrective action plan and the conciliation agreement shall include the firm'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 firm may be considered in conditional compliance with the OEO policies and procedures outlined in Policy [6320.02](#), on condition that the firm implements and enforces the commitments outlined in the corrective action plan or conciliation agreement.
3. A compliance review indicates a firm may not be exerting good faith efforts to accomplish the goals of maintaining non-discriminatory employment and contracting practices. Further if, the firm is not achieving the established project goals, when acceptable corrective action plan cannot be reached, the OEO shall provide the firm with an opportunity to submit a conciliation agreement prior to an issuance of non-compliance with the Policy [6320.02](#).
4. If the firm is issued a conciliation agreement, which includes the firm's specific commitments in writing to correct the deficiencies, and the firm does not comply with the terms of the conciliation agreement, the firm is found in non-compliance and may be fined, disciplined, and/or debarred from performing future M-DCPS projects.

## **XVII. LOCAL WORKFORCE**

Local workforce hiring can have a powerful impact on the local economy by improving employment opportunities for unemployed local residents. M-DCPS will use zip codes, targeted Miami-Dade County boundaries to identify which residents qualify as local-residents.

The purpose in creating local workforce participation goals is to target residents who are close to the project and who would likely benefit from the available construction opportunities. By using zip codes within 5 miles, 7 miles, 10 miles and/or countrywide for the project, the Goal Setting Committee will stipulate which zip codes within the approved radii qualify as local residents on a project-by-project basis.

All local hiring on M-DCPS projects must be in compliance with the Jessica Lunsford Act. Local workforce participation goals shall apply to all M-DCPS Capital Construction contracts and work orders for school facilities, as determined by the Goal Setting Committee.

The OEO will identify schools and community organizations as referral sources to assist with the recruitment of local workers. OEO Referral Sources will include but not limited to: Career Source of South Florida, Lindsey Hopkins Technical School, Miami-Lakes Technical School, Turner Technical High School, NAACP, Urban Construction Craft Academy, Associated Builders & Contractors, and others identified by local stakeholders and community organizations. Contractors may use OEO Referral Sources if their preferred method of local hiring is not sufficient.

## **XVIII. WORKFORCE SITE REVIEW PROCEDURES**

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

### **A. Pre-Workforce On-Site Review**

The Compliance Administrator and/or compliance team member shall visit 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. The Compliance Administrator and/or compliance team member shall usually complete at least (6) project worksite reviews per week.

The Compliance Administrator and/or compliance team member shall conduct a workforce desk audit using the ODCS before scheduling an on-site workforce project review. The Compliance Administrator can access ODCS at <https://miamidadeschools.diversitycompliance.com/>

The workforce audit should be reviewed for each prime and subcontractor on the project. The Compliance Administrator and/or compliance team member 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 and/or compliance team member shall be responsible for:

1. Ensuring that a workforce employee report is generated before visiting a project site;

2. Generate a workforce summary report; and,
3. Noting any findings that should be investigated while at the site visits.

**B. On-Site Workforce Review**

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

1. The Compliance Administrator and/or compliance team member 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;
2. Upon reaching the work-site to conduct a site review, the Compliance Administrator and/or compliance team member should check in with the prime contractor's Superintendent or foreman on site;
3. The Compliance Administrator and/or compliance team member should identify themselves and inform the Superintendent/foreman of the visit. *(The Compliance Administrator and/or compliance team member shall take all steps as to not to impede workers on the construction site.);*
4. The Compliance Administrator and/or compliance team member shall request the project schedule from the Construction Manager;
5. The Compliance Administrator and/or compliance team member should walk around the construction site and take clear pictures of the construction site, as well as take clear pictures of the workforce.
6. The Compliance Administrator and/or compliance team member shall request and photograph the daily work logs. The interviewed subcontractor's employee on-site, shall be cross-referenced with the daily work logs, and workforce employee list that was generated from ODCS to ensure that the worker is listed. The Compliance Administrator and/or compliance team member shall make any notation of workers who have been verified to be working on-site but are not listed on the workforce employee list;



7. The Compliance Administrator and/or compliance team member shall interview subcontractors using the Employee On-Site Questionnaire. (*The Compliance Administrator and/or compliance team member shall document whether each vendor has on appropriate vendor identification badge issued by M-DCPS.*);
8. The Compliance Administrator and/or compliance team member should interview at least one (1) employee from each subcontractor on site;
9. The Compliance Administrator and/or compliance team member shall insure that the questionnaire is legible and completely filled-out; and,
10. After the interview, the Compliance Administrator and/or compliance team member should take a clear picture of the work in progress by the interviewed worker.

**C. Post On-Site Workforce Review**

Upon returning from the onsite review, the Compliance Administrator and/or compliance team member shall:

1. Upload the “Employee On-Site Questionnaire” from each workforce site visit into ODCS.
2. Ensure that the standardized “Workforce Site Review Report” is completed with the appropriate pictures on each project site visited.
3. A copy of the Workforce Site Review Report will be made available online and accessible to the Office of Facilities and appropriate District staff.

**XIX. PROCEDURES FOR CHANGING LISTED SUBCONTRACTORS**

Per 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 S/MBE, M/WBE, and VBE subcontractor. Failure to do so shall constitute a material breach of contract.

If at any time after submission of a solicitation response, the apparent successful subcontractor or at any time after award of a contract, the contractor, determines that a non-certified Sub-

contractor or certified S/MBE, M/WBE, and VBE sub-contractor listed on the participation schedule has become or will become unavailable, then the apparent successful subcontractor or contractor shall immediately notify the Office of School Facilities – Capital Improvement Projects.

Any desired change in the S/MBE, M/WBE, and VBE 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, M/WBE, and VBE subcontractor (as appropriate) to perform the work. Any desired changes (including substitutions or termination and self-performance) must be approved in writing in 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 OEO, 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 subcontractor or contractor if one or more of the firms proposed qualify as a Certified S/MBE, M/WBE, and VBE firm. The apparent successful subcontractor or contractor will be requested, within five (5) days of notification, to provide a new Certified S/MBE, M/WBE, and VBE 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 subcontractor or contractor agrees to exercise diligence to achieve S/MBE, M/WBE, and VBE firm utilization goals. To qualify for a waiver of any of the goals, the apparent successful subcontractor or contractor must demonstrate a good faith effort to obtain certified S/MBE, M/WBE, and VBE subcontractors and material suppliers. In determining whether apparent successful subcontractor 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 of Contract for Construction.

## XX. CONTRACTOR PREQUALIFICATION

### A. Introduction

On July 1, 1998, the Florida legislature enacted Senate Bill [482](#)/HB [3063](#) requiring the local boards of education to prequalify bidders seeking to build educational facilities. Florida became one of two states that enacted such laws. Part of the process was to ensure that the contractors had the appropriate credentials and experience in building schools.

State Board of Education requirements adopted pursuant to Chapter [120](#), F.S., to implement the State Uniform Building Code for Public Educational Facilities Construction in Chapter [1013](#), F.S., are contained in Section [423](#) of the Florida Building Code and the Department of Education publication, "State Requirements for Educational Facilities 2014." All educational and ancillary facilities constructed by a school board or Florida college board shall comply with "State Requirements for Educational Facilities 2014."

In accordance with State Requirements for Educational Facilities ("[SREF](#)") Chapter 4.1, school boards are required to prequalify contractors on an annual basis prior to submitting bids to do business with the school board. The purpose of the prequalification process is to make a pool of qualified contractors available to local school districts to construct school projects and to avoid problems during the construction process by ensuring that contractors meet certain standards.

On December 9, 1998, The School Board of Miami-Dade County, Florida ("Board") adopted Board Rule [6Gx13-7D-1.05](#), *Prequalification of Contractors for Educational Facilities Construction*. This rule was created pursuant to Section [235.31](#) of Florida Statutes and State Requirement for Educational Facilities (1997). Since December 9, 1998, the Board has approved the prequalification of contractors on a yearly basis.

On July 1, 2011, Board Rule [6Gx13-7D-1.05](#), *Prequalification of Contractors for Educational Facilities Construction*, was repealed and Policy 6334, *Prequalification of Contractors for Educational Facilities Construction*, was adopted. Since the inception of the law, Policy [6334](#) has been through continual procedural changes to ensure compliance with SREF and, most importantly, the safety of the students as it pertains to the construction of educational facilities.

**B. Purpose and Mission of the Contractor Prequalification Program**

The purpose and mission of the Contractor Prequalification Program of The School Board of Miami-Dade County, Florida is to evaluate and determine if a firm is responsible to perform the construction services that meet the District's expectations for such services. Contractor Prequalification is open to all contractors who meet the District's requirements. The District, through pre-determined criteria, eliminates candidates who do not demonstrate that they have the necessary financial capacity, technical expertise, managerial ability, project success, and relevant experience for the project at hand. Prequalification also simplifies the award of the contract process by allowing only qualified contractors from a pool of available pre-qualified contractors to bid on a project.

The purpose of this program is to qualify rather than disqualify contractors. The program is based on qualitative/quantitative criteria. The program is authorized by SREF Chapter [4 §4.1](#) and Florida Statutes Chapter [120](#). It is important to note that prequalification does not guarantee bid selection it simply streamlines those contractors that meet the District's criteria during the bid selection process.

**C. About the Contractor Prequalification Program**

The contractor prequalification program is to evaluate and determine if a firm is responsible to perform the construction services that meet the District's expectations for such services. It is used in many different aspects in the business arena such as prequalifying for a home loan or a supplier prequalifying its products for purchase by a public agency. Streamlining responsible bidders who demonstrate the attribute of trust worthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public work contract.

**D. Elements of Contractor Prequalification**

The most common elements found in any contractor prequalification program are:

1. qualifying criteria,
2. standardized questionnaire,
3. system of scoring used to score the questionnaire (not utilized by the District),
4. an appeals process that is made available to contractors whose applications are denied; and,
5. rules applicable to the functioning of the program.

The criteria implemented by the District to prequalify contractors is derived from SREF Chapter [4 §4.1](#) and Chapter [120](#), Florida Statutes as with criteria 3, the purpose of the

District to use a standardized questionnaire is to ensure that all firms are treated in the same manner while in the process of prequalifying. Should an appeal arise after a denial, the standardized questionnaire will be utilized as the primary record for the Districts decision determination.

**E. Responsibilities and Duties**

Below are the designated officials charged with executing the various programs:

**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 Program Administrator shall be the District Administrator for purposes of this section.

**Contractor Prequalification Review Committee**

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

**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 a firm meets the criteria for eligibility as set forth in SREF [Chapter 4.1](#) and relevant Board policy.

**F. Contractor Prequalification Criteria**

The following information shall be included in a New Contractor Prequalification Application located in the ODCS:

- Information that demonstrates the firm’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 the construction work such as:
  - audited financial statements,
  - balance sheet,
  - income statement,
  - statement of cash flows;
  - all schedules and notes, on a reporting that ended not more than twelve (12) months prior to the date of the firm's application date;
  
  - 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 firm;
  
- Information regarding all state and local licenses that are held by the firm;
  
- Information related to projects that the firm has completed within the past five (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 firm;
  
- Qualifier/Qualifying Agent, a person(s) who submits an application for the firm seeking contractor prequalification certification approval, and provides a State of Florida contractor license in the specified construction category.
  
- Information that demonstrates that the firm has the appropriate insurances required by the District such as worker's compensation, public liability, and property damage insurance;

- Information regarding all claims and/or litigation to which the firm 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;
- A notarized affidavit that attests to the completeness and accuracy of the information. The affidavit shall be attested to, signed, and notarized by an authorized officer, owner, or agent of the firm,

**G. Submitted Prequalification Online Application**

A prospective contractor must be a registered vendor through the Miami-Dade County Public Schools Procurement Management Services Department:

[http://procurement.dadeschools.net/a\\_vendors\\_vif.asp](http://procurement.dadeschools.net/a_vendors_vif.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 ODCS at <https://miamidadeschools.diversitycompliance.com/>. The Prequalification Administrator periodically checks the ODCS throughout the work day to ascertain whether a new or renewal Prequalification Application has been submitted by accessing the System dashboard through ODCS. The Administrator shall review the categories of "incomplete, pending submission", and "submitted, pending review".

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

**H. 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.

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

A firm will have ten (10) working days to comply with the request or the firm'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.

**I. Joint Venture Prequalification Criteria**

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

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

- M-DCPS Joint Venture Affidavit (must list the project description and project number);
- Joint Venture Agreement filed with the State of Florida;
- Valid M-DCPS Contractor Prequalification Certificates by each vendor;
- Surety Letter of Intent listing the Joint Venture entity name;
- Power of Attorney (provided by the surety firm);
- Certificate of Insurance listing the Joint Venture entity name;
- State License listing joint ventures firm discipline seeking to be prequalified for, firm name, address and qualifier name;
- Local Business Tax Receipt License listing joint venture of the firm's name, discipline seeking to be prequalified for, and address;
- Copies of two of the highest completed projects of either firm 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.

**J. Submitted Contractor Prequalification Renewal Application**

The contractor prequalification renewal process is to substantiate whether a prequalified contractor remains eligible to bid on Board construction projects. Certificates not for a specific project shall be renewed annually. A prequalified contractor may apply to renew its certification if its certification is current. A contractor, whose certificate has expired, and has not submitted a renewal application must re-apply as a new contractor and electronically submit the standardized questionnaire and documentations. The contractor prequalification renewal process does not apply to certificates that are issued for a specific project. A contractor previously prequalified with the District is required to submit a RENEWAL application and attach the following documents:

- a) Affidavit (District Form [7544](#))
- b) Surety Letter of Intent (District Form [6696](#))
- c) Power of Attorney from surety company
- d) Audited notarized financial statement
- e) Contractor's license
- f) Local Business Tax Receipt
- g) Insurance: General, Auto, and Workers Compensation or Exemption Certificate if exempted from carrying Workers Compensation
- h) Disclosure of litigation letter on Company letterhead
- i) Corporate Certificate
- j) Joint Venture (if applicable)

The Board may 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.

**K. Contractor Prequalification Renewal Application for Increase to Bid Limits**

The contractor prequalification bid limit increase is a formal process to request an increase to the single and/or aggregate bid limit. This process has no impact on the existing prequalification certificate status. A new certificate will be reissued reflecting the requested increase upon recommendation by the CPRC to the Superintendent for Board approval. A contractor whose certificate has expired and is requesting an increase to the bid limits, must submit a new application and required documentation. The contractor prequalification increase process does not apply to certificates that are issued for a specific project. A contractor currently prequalified with the District

requesting to increase their single and/or aggregate bid limit must submit a renewal application and attach the following:

- a) Request for increase on company letterhead
- b) Affidavit (District Form [7544](#))
- c) Surety Letter of Intent (District Form [6696](#))
- d) Power of Attorney from surety company
- e) Contractor's license
- f) Local Business Tax Receipt
- g) Insurance: General, Auto, and Workers Compensation or Exemption Certificate if exempted from carrying Workers Compensation

Information related to two (2) of the highest projects that the applicant firm has completed within the past five (5) years. The information shall include, but not limited to, project dates, delivery methods, locations, construction costs, scope, actual completion dates, project evaluation forms.

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.

A firm will have seventy-five (75) days from the date of submission to submit a completed prequalification application. If a contractor's prequalification application is not completed within seventy-five (75) days, the application is administratively rejected and deleted from the system. A firm will not be able to retrieve any information from an application that has been deleted and a new application will have to be submitted.

#### **1. Single Bid Limit Formula**

Projects of \$200,000.00 or more, firms must submit two (2) of their highest completed projects within past-consecutive five (5) years. The first highest project is doubled (2x) and must be lower or equal to the Single Bid limit amount indicated on the firm's Surety Letter of Intent.

The contractor; however, must document and show experience and familiarity with commercial projects.

However, for projects \$200,000 or less, firms 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 firm's net liquid assets (firms must

still submit two (2) of their highest completed projects within past-consecutive five (5) years).

## **2. Aggregate Bid Limit Formula**

Projects \$200,000 or more, firms must submit either a Surety Letter of Intent or an Audited Financial Statement for the 12 month period prior to the application. The Aggregate Bid Limit must equally reflect the Firm's Surety Letter of Intent amount. 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 will be automatically set at \$200,000.

### **L. Dissemination of Application to CPRC members**

Once an application has been verified as complete, the Prequalification Administrator should then submit a hard copy of the entire file to the Program Administrator for review and approval. The Administrator will email the CPRC members an application summary sheet and link of firm files within seven (7) days prior to the next scheduled CPRC meeting.

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

### **M. Contractor Prequalification Review Committee**

CPRC is governed by the Contractor Prequalification Review Committee Bylaws.

The purpose of the CPRC is to:

- Evaluate applications for contractor prequalification;
- Recommend acceptance or rejection;
- Forward the recommendation to the Superintendent who will forward to the Board for approval;
- Determine denial, delinquency, suspension, or revocation of a contractor prequalification certificate and then recommend such action to the Superintendent for Board approval;
- Recommend contractors for prequalification based on the criteria set forth by SREF [Chapter 4.1](#) and Board Policy [6334](#); and,
- Provide recommendations to the Board to improve the Prequalification Program.

**N. CPRC Membership**

The CPRC membership is comprised of seven (7) voting members and two (2) non-voting members for a term of two (2) years:

- one (1) representative from the construction industry or an architectural/engineering organization that are not currently or has not done business within the past five (5) years;
- one (1) representative from PTA/PTSA;
- one (1) representative from the community-at-large appointed by the Superintendent;
- one (1) representative from the Office of Facilities Operations and 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).

Recommendation by the appropriate district personnel, community, and/or trade organization will be made to the Administrator. The Administrator will forward notification to the appropriate district personnel, community, and/or trade organizations of their appointment to the CPRC. The new appointees shall submit resumes.

**O. Scheduling of CPRC Meeting**

The CPRC meetings will be held monthly. A special meeting may be held if the District Administrator or Contract Prequalification Administrator deems it necessary. The Contractor Prequalification Administrator will poll CPRC members at least ten (10) days before a scheduled meeting to ensure a voting quorum. Attendance status of the CPRC members will be reflected in the meeting minutes.

**P. CPRC Meeting Quorum**

A quorum must be present to vote on a contractor prequalification application. A quorum shall consist of at least four (4) voting members present.

**Q. Submission of Agenda**

The agenda and attachments shall be submitted via email seven (7) days prior to the scheduled meeting to the CPRC members.

**R. 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.

**S. Prequalification Administrator**

During a CPRC meeting the Contractor Prequalification Administrator shall be responsible to:

- Ensure that all CPRC members have signed the attendance roster;
- Distribute and collect “No Conflict of Interest” forms;
- Record the meeting through the use of an audio recorder;
- Provide a hard copy of a firm’s prequalification application to CPRC members;
- Record and tally the votes of CPRC members;
- Raise concerns or questions to the Program Administrator; and,
- Record the minutes.

**XXI. CPRC DECISION MAKING PROCESS**

**A. Evaluation of Contractor Prequalification Application**

Upon commencement of a meeting, the CPRC shall review and evaluate every prequalification application. Upon review, recommendations shall be provided on the prequalified contractor on type of project, dollar volume, and bid limits. The CPRC shall review each firm on the basis of the following criteria:

- Proof that the contractor holds a valid Florida contractor’s license, as provided for 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 firm has financial resources to commence the project 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 firm to submit audited financial statements, for a reporting period that ended not more than twelve (12) months prior to the date of the firm's application date, to validate its (firm'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-consecutive five (5) years, that are similar in size or scope of the largest project that the firm is requesting prequalification to bid. For the purposes of determining experience for an applicant firm, the experience of the firm or that of the firm's primary or secondary qualifier may be considered, so long as the firm 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 satisfactory 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.

**B. 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 firm will have a ten (10) day grace period to provide the requested information. The Administrator shall notify the firm through the ODCS of the request for additional information. The Administrator shall return the firm's application through the ODCS application for correction.

**C. CPRC Decision**

After review of a Contractor's Prequalification Application based on the criteria as set forth in 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.

**D. CPRC Approval of a Contractor's Prequalification Application**

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

**E. Board Prequalification Application Approval Process**

The Board will vote on the Board 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.

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

**F. Issuance of Contractor Prequalification Certificate**

The Board shall issue an approved prequalification firm 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.
- If a firm provides experience in a specific area of work (general contractor, demolition services only), the CPRC may request that the prequalification certificate specify that the prequalified firm is only allowed to engage in that specific area of work.
- 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; and,
- The expiration date of the contractor's prequalification certificate.

**G. Contractor Prequalification Report**

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

- the type of firm prequalified (if applicable, S/MBE, M/WBE, and VBE);
- an updated prequalification status;
- the firm's discipline;
- the firm name;
- the expiration date of the certificate;
- the Board approved single and aggregate limits; and,
- firm email.

The Contractor Prequalification report can be accessed at:

<http://prequalification.dadeschools.net/pdf/ContractorPrequalificationRpt.pdf>

**H. Renewal of a Prequalification Certificate**

A Contractor Prequalification Certificate is valid for one (1) year from the effective date listed on the certificate or is 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.

**I. Renewal Notice**

At least sixty (60) days before prequalification certificates expire, the prequalified contractor will be notified via the ODCS of imminent expirations and of the need to



renew their certification. As provided for in SREF [4.1\(1\)\(e\)1](#), failure to submit a new statement or verification of bonding capacity after thirty (30) days written notice by the Board, the Board shall automatically revoke a prequalification certificate.

Upon receipt of the renewal notice, as stated above and prior to expiration of the contractor's current prequalification certificate, the firm contractor must complete a Renewal Application. The renewal application must provide the following updated documents:

1. A Contractor Prequalification Renewal Application;
2. Updated audited 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 Contractor Prequalification Administrator shall verify that the licensed surety firm is rated "A- "or better in the current A.M. Best Guide. The Administrator may access [www.ambest.com](http://www.ambest.com) to verify the grade of the surety company.

The firm's professional license shall also be verified by performing a search at [www.myfloridalicense.com](http://www.myfloridalicense.com).

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

A renewal application will be voted upon by CPRC members during their monthly meeting and forwarded to the Board for informational purposes only. The effective date listed on the certificate shall be the date of CPRC approval.

Failure to submit a current audited financial statement or surety letter of intent after thirty (30) days written notice by the Contractor Prequalification Administrator the contractor's prequalification certificate shall be revoked.

#### **J. Contractor Prequalification Bid Limit Increase**

A prequalified contractor may seek an increase at any time during their prequalification period of their single bid limit and/or aggregate bid limit by submitting a renewal

prequalification application. The application shall be reviewed and approved by the CPRC as stated by the procedures noted in the procedures. However, an approval of an increase in a firm's bid limit will not renew the firm's prequalification term period.

1. **Single Bid Limit Increase** - When a prequalified contractor seeks an increase in their single bid limit they must submit two (2) of their highest completed projects within the past-consecutive five (5) years along with a Surety Letter of Intent. A Power of Attorney must accompany the surety letter. An increase in a firm's single bid increase must be approved by the Board.
2. **Aggregate Bid Limit 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 provided to the Board for informational purposes only.

**K. Updating of Firm Information**

A contractor shall notify the Administrator within fifteen (15) days of any changes that occur in the firm's ownership, management, or financial condition. The contractor shall provide a notarized statement to the OEO 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.

**L. Rejection of a Contractor Prequalification Application**

Within seven (7) business days of the CPRC denying a prequalification application, the Administrator shall notify the firm via written notification that their contractor prequalification application has been rejected. The notification shall include at a minimum:

- the basis for denial of the firm's contractor prequalification application;
- a statement notifying the firm that they may not re-apply for contractor prequalification for a period of six (6) months after the written notice of denial; and,
- a statement that the firm 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 Administrator shall also reject the firm's profile in ODCS.

**M. Appeal Procedures for a Rejected Contractor Prequalification Application**

A statement shall be submitted by the firm requesting an appeal to the CPAC within ten (10) days of the written notice of denial. Upon receipt of the request for appeal to the CPAC, a hearing shall be scheduled to consider the application of the appellant firm and any supporting documentation. The CPAC shall then recommend that the Board uphold or overturn a decision to deny the firm's prequalification status. The CPAC shall be governed as set forth in Board Policy 6334.

The CPAC shall be comprised of individuals from the following District offices, and organizations as selected by the Superintendent, or their designees:

- a. one (1) representative from a construction or an architectural engineering organization that is not currently nor has within the past five (5) years contracted with the Board, and who is not currently serving as a member or designee on the CPRC;
- b. one (1) representative from the Office of Superintendent;
- c. Deputy Superintendent, School Operations;
- d. Chief Financial Officer, Financial Services;
- e. Inspections Officer, District Inspections, Operations and Emergency Management; and
- f. Chief Auditor, Office of Management and Compliance Audits (non-voting).

Voting members of the CPRC and CPAC must disclose any conflicts or potential conflicts of interest, and may not vote on the matter upon which there is a potential conflict. In addition, no individual may serve on the CPRC and the CPAC to review the request of a contractor to be prequalified and then hear the appeal of the same contractor.

**N. Duties and Responsibilities**

CPAC is responsible for hearing all appeals from contractors that are denied contractor prequalification certification by the CPRC. The CPAC is authorized to recommend that the Board uphold or overturn a decision to deny a company's prequalification, after a hearing and upon consideration of the firm's application and any supporting documents.

**O. Suspension or Revocation Period**

A contractor who has been declared delinquent and its contractor prequalification certification has been suspended or revoked, shall not apply for renewal during the six (6) months suspension or the revocation period.

**P. Dissemination of Information**

The Administrator is responsible for providing prequalified contractor's status to inter-departmental staff upon request according to bids received by discipline and single/aggregate bid limits.

**XXII. Reporting**

The OEO will:

1. Report annually to the Superintendent and Board on the progress of achieving the goals and objectives established for awards to certified firms, reporting both dollars awarded and expended. In addition, the OEO shall annually report on the progress in achieving the stated program objectives, including, but not limited to, enhancing competition, establishing and building new business capacity, program effectiveness removing barriers to and eliminating disparities in the utilization of available minority business enterprises and women business enterprises on Board contracts, recommendations and an assessment of the overall programs. The annual report shall also provide data by certification category and industry.
2. Provide regular updates and reports to the Small/Micro, Minority/Women, and Veteran Business Enterprise Advisory Committee along with other stakeholders. OEO regular updates and reports should include information on tracking, monitoring and reporting in all areas;
3. Conduct continuous program evaluations and assessment of programs and initiatives; and,
4. Publish or make readily available its listing of all certified firms by program and/or industry.

## Federal and State Laws

The School Board of Miami-Dade County, Florida, adheres to a policy of nondiscrimination in employment and educational programs/activities and programs/activities receiving Federal financial assistance from the Department of Education, and strives affirmatively to provide equal opportunity for all as required by:

**Title VI of the Civil Rights Act of 1964**— prohibits discrimination on the basis of race, color, religion, or national origin.

**Title VII of the Civil Rights Act of 1964** —as amended—prohibits discrimination on the basis of gender.

**Title IX of the Education Amendments of 1972**—prohibits discrimination on the basis of gender.

**Age Discrimination in Employment Act of 1967 (ADEA)** - as amended, prohibits discrimination on the basis of age with respect to individuals who are least 40.

**The Equal Pay Act of 1963**—as amended—prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment.

**Section 504 of the Rehabilitation Act of 1973**—prohibits discrimination against individuals with disabilities in employment, public service, public accommodations and telecommunications.

**American with Disabilities Act of 1990 (ADA)** - prohibits discrimination against the disabled.

**The Family and Medical Leave Act of 1993 (FMLA)** - requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to “eligible” employees for certain family and medical reasons.

**The Pregnancy Discrimination Act of 1978**—prohibits discrimination in employment on the basis of pregnancy, childbirth, or related medical conditions.

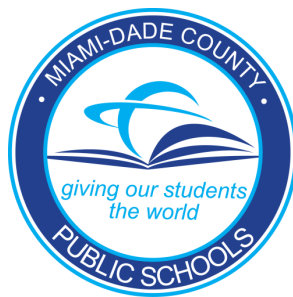
**Florida Educational Equity Action (FEEA)** - prohibits discrimination on the basis of race, gender, national origin, marital status, or handicap against a student or employee.

**Florida Civil Rights Act of 1992**—secures for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status.

**Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA)** – Prohibits discrimination against employees or applicants because of genetic information.

**School Board Policies 1362, 3362, 4362, and 5517** - prohibit harassment and/or discrimination against a student or employee on the basis of gender, race, color, religion, ethnic or national origin, political beliefs, marital status, age, sexual orientation, social and family background, linguistic preference, pregnancy, or disability.

*Veterans are provided re-employment rights in accordance with P.L. 93-508 (Federal Law) and Section 295.07 (Florida Statutes), which stipulate categorical preferences for employment.*



## **Office of Economic Opportunity**

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