

INTERNAL AUDIT REPORT
CONTRACTOR PRE-QUALIFICATION
PROCESS

JANUARY 2005



OFFICE OF MANAGEMENT AND COMPLIANCE AUDITS

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

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Dr. Robert B. Ingram, Vice Chair
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**INTERNAL AUDIT REPORT
CONTRACTOR PRE-QUALIFICATION
PROCESS**

**AUDIT COMMITTEE MEETING
January 25, 2005**

**SCHOOL BOARD MEETING
February 16, 2005**

OFFICE OF MANAGEMENT AND COMPLIANCE AUDIT



Miami-Dade County Public Schools

giving our students the world

Superintendent of Schools
Rudolph F. Crew, Ed.D.

Chief Auditor
Allen M. Vann, CPA

Miami-Dade County School Board
Mr. Frank J. Bolaños, Chair
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January 19, 2005

Members of The School Board of Miami-Dade County, Florida
Members of the School Board Audit Committee
Dr. Rudolph F. Crew, Superintendent of Schools

Ladies and Gentlemen:

In accordance with the Audit Plan for the 2004-05 fiscal year, we have performed an audit of contractor pre-qualifications process. The objectives of the audit were to determine whether adequate procedures and controls exist over the review and analysis of contractors' pre-qualification applications, protect the District's interests and limit risk by adequately screening qualified contractors, and comply with applicable laws, regulations, and rules. As of the beginning of the audit fieldwork during March 2004, there were approximately 160 contractors pre-qualified for a maximum of approximately \$1.9 billion in single contract values and approximately \$9.7 billion in aggregate contracts values. We applied our testing and analyses to contractor pre-qualification applications that went to the Board between the period of July 1, 2002 and December 31, 2003.

In our opinion, the contractor pre-qualification process needs improvement. For example, there needs to be clear evidence that the Pre-qualification Department is verifying the authenticity of contractor licenses, bonding company ratings, and pending and settled claims. Staff also could perform more extensive reviews for renewal applications. The District can also do a better job of accumulating and disseminating information relating to contractors' performance. Of most immediate concern is that the Department needs to fill vacancies to adequately address its workload. These issues are discussed in further detail in the remaining sections of the report. Our findings and recommendations and report contents were discussed in draft form with management. They provided input into the report's contents and provided written responses along with explanations needed to assure that the findings and recommendations will be properly addressed.

We would like to thank the administration for their cooperation and assistance during this audit. This report will be presented to the Audit Committee at its January 25, 2005 meeting and to the School Board at its February 16, 2005 meeting.

Sincerely,

Allen M. Vann, CPA
Chief Auditor
Office of Management and Compliance Audits

AMV:tlw

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EXECUTIVE SUMMARY

We found that the recent revisions to the School Board rule on contractor pre-qualification and the forms used to evaluate applications are positive improvements. However, procedural processes can be enhanced to adequately document the pre-qualification of contractors. There needs to be clear evidence that the Department is verifying the authenticity of contractors' licenses, bonding company ratings, and pending and settled claims.

Staff is currently performing the annual renewal process in accordance with the rules. However, in our opinion, staff could strengthen the process by performing more extensive reviews for renewal applications by verifying all information required under the original pre-qualification certification. The District can also do a better job of accumulating and disseminating information related to contractor performance. More effective communications need to be established between the Pre-qualification staff and Facilities Operations Maintenance and Planning staff to adequately identify poor performing contractors. In general, we found the information sharing process relating to contractors' performance appears to be inadequate. We have initiated a separate audit on the evaluation process.

While the composition of the Review Committees appears to be appropriate, staff needs to maintain the resumes detailing the experience and background of participants. Also, Review Committee meetings are not well documented, minutes have not been prepared, and the basis for decisions are not always adequately documented.

The Department does not have a written procedures manual, which would likely provide the Department with consistent direction in how to perform their jobs. Finally, we found that the Department has been significantly understaffed since July and we recommend filling the vacancies as soon as possible.

The immediate managers currently in charge of this function have had this responsibility since the beginning of the fourth quarter of 2002; thus, some of the observations cited did not occur under their administration. Based on our observations, we made 12 recommendations. We received a response from the Deputy Superintendent of Business Operations, Finance, and Construction. Management accepted the recommendations and provided implementation dates. Our detailed findings and recommendations start on page 6.

BACKGROUND

In 1994, the Florida Department of Education (DOE) issued State Requirements for Educational Facilities (SREF) to enumerate the requirements for contractor pre-qualification, that a school board may, at its option, adopt. Later, in 1998, a Florida statute was enacted which required school boards to pre-qualify contractors prior to their bidding on construction or capital improvement projects of educational facilities. This statute, along with the 1999 version of SREF 4.1(8), gave rise to Board Rule 6Gx13-7D-1.05, in which the District created the Contractor Pre-qualifications Department (Contractor Pre-qualification) and the Contractor Pre-qualification Review Committee (Review Committee) to comply with the pre-qualification legislation.

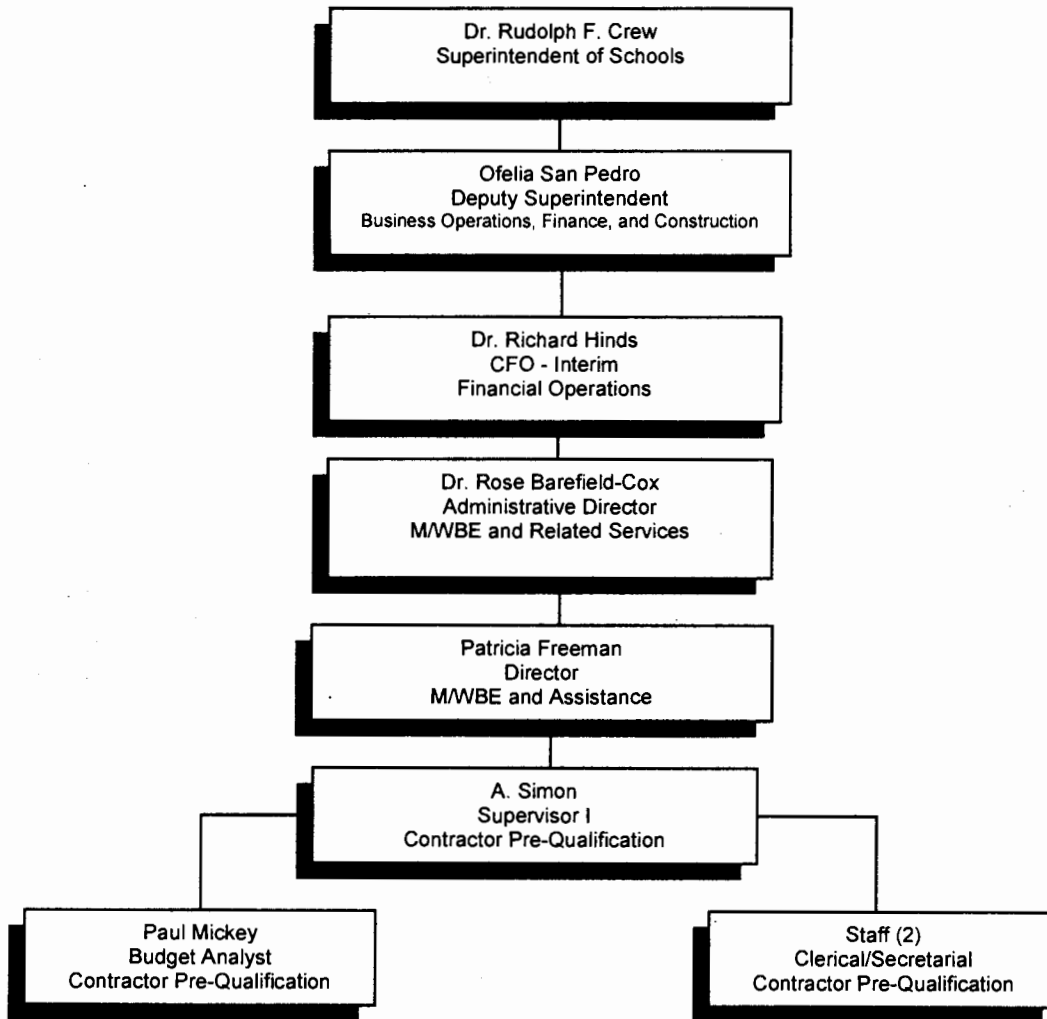
SREF has various requirements that contractors must satisfy before they can be pre-qualified. These requirements include but are not limited to proper licenses, adequate financial capacity, satisfactory experience consisting of the successful completion of at least two similar-sized projects within the last five years, and an explanation and successful resolution of legal claims within the last five years. Contractor Pre-qualification will request evaluations from the owners of the applicant's projects completed within the last five years. Contractor Pre-qualification requests information regarding a project's cost and description, as well as the completion date and the applicant's timeliness, workmanship, adherence to contract terms and applicable regulations, cooperation, and professionalism. SREF also has provisions to suspend or revoke a contractor's pre-qualification certificate or to declare a contractor delinquent.

The process begins with Contractor Pre-qualification advertising that they will be receiving contractor pre-qualification applications during one week in the near future. Once an application is received, Contractor Pre-qualification will review the application and submitted information and document its review on an application checklist. If all the information is presented, and the application is deemed complete, a 60-day window period established by SREF to process the application commences. If not, Contractor Pre-qualification will provide the contractor with a list of missing information required before the application is deemed complete.

Afterwards, Contractor Pre-qualification will generate a summary sheet which lists the contractor's name, type of certification, bonding capacity, recommended award amount, and a list of completed projects with evaluations. The Review Committee will receive a summary sheet at their meeting along with copies of the evaluations. The Review Committee uses this information to assist its members to make a decision of accepting or denying a contractor's application for pre-qualification. After an applicant is approved, the contractor is awarded a one-year pre-qualification certificate listing the type of work that can be bid on and the maximum dollar value for single and aggregate contracts. Until a recent revision to the Board rule, the Review Committee also reviewed appeals for previous denials of contractors' applications. Currently, a separate appeal review committee performs this function. We believe this change is an improvement to the process, to the Department's credit.

Currently, an applicant renewing their pre-qualification certificate must only provide Contractor Pre-qualification information on their financial capacity. Contractors' most recent performance is not evaluated. Prior to the middle of 2003, Contractor Pre-qualification required them to submit the same information as new applicants.

**CONTRACTOR PRE-QUALIFICATION
PARTIAL ORGANIZATIONAL CHART
(July 2004)**



NOTE: As of the beginning of August 2004 both the supervisor and one of the clerk positions are vacant.

The administrators currently in-charge of this function has had this responsibility since the beginning of the fourth quarter of 2002. As of the end of July 2004, the supervisor and one of the clerical positions for Contractor Pre-qualification were vacant.

OBJECTIVES, SCOPE AND METHODOLOGY

In accordance with the Audit Plan for the 2004-2005 fiscal year, we have performed an audit of the contractor pre-qualification function. The objectives of the audit were to determine whether the process:

- is appropriately administered;
- establishes adequate procedures and controls over the review and analysis of contractors' applications for pre-qualification;
- protects the District's interests and limits risk by adequately screening qualified contractors; and
- complies with applicable laws, regulations, and rules.

The scope of our audit covered an examination of the current operations of Contractor Pre-qualification. We applied our testing and analyses to contractor pre-qualification applications that went to the Board during the period of July 1, 2002 to December 31, 2003. As of March 2004, there were approximately 160 contractors pre-qualified for a maximum of approximately \$1.9 billion in potential single contracts and approximately \$9.7 billion in potential aggregate contracts.

The procedures performed, on a selective basis, to satisfy the audit objectives were as follows:

- interviewed Contractor Pre-qualification supervisor and staff;
- reviewed the organizational structure for this function;
- reviewed the department's unwritten operating procedures;
- examined a sample of contractor application files and Review Committee meeting files;
- reviewed the composition of the Review Committee;
- contacted other Florida school districts to ascertain how they pre-qualify contractors; and
- performed various other audit procedures deemed necessary.

Our audit was conducted in accordance with generally accepted governmental auditing standards applicable to performance audits contained in Government Auditing Standards issued by the Comptroller General of the United States of America. This audit included an assessment of applicable internal controls and compliance with requirements of policies, procedures, School Board Rules, and Florida Statutes, to satisfy the audit objectives.

FINDINGS AND RECOMMENDATIONS

1. AUTHENTICATION OF CONTRACTOR INFORMATION NOT ALWAYS EVIDENT

The District requires contractors that are submitting applications for pre-qualification to include, among other things, information about the projects they have completed over the preceding five years; information about the companies' bonding capacity, along with a Letter of Intent from the surety company; and information about the licenses the company hold, along with a copy of those licenses. The information on the application are representations of the company and the supporting documents are not originals.

We sampled 31 contractor pre-qualification files. For the most part, staff adequately documented the process that was followed in the application approval process. However, we found several cases, where the files did not contain clear evidence that contractors' licenses, bonding company rating, and certain project information were verified. For example:

- In 24 of the cases, the Contractor Pre-qualification staff independently verified that photocopied licenses provided by contractors were authentic, active, and current. However in seven cases we could not find the documentation to support their verification of the licenses..
- In 13 cases, we found evidence on file that the Contractor Pre-qualification staff verified performance ratings of the surety companies listed in the contractors' notarized Letter of Intent.² However, in 18 cases the evidence was lacking.
- In one case the Review Committee approved a contractor's request for an increase in its pre-qualification single project limit, increasing the contractor's maximum dollar value for a single project by \$2 million. The document submitted by the contractor appeared questionable and the applicant's pre-qualification file contained information concerning past allegations of falsifying documents related to a former affiliated company. Staff could have done more to verify the document.
- In general, application folders did not contain documented evidence that a review of an applicant's pending and settled claims history had been performed as required by SREF 4.1(8) (a) 4.

However, our inquiries and independent tests of these exceptions did not disclose any instances where any of the contractor information submitted was not valid.

¹¹ The Letter of Intent, Form #5896, is submitted with the contractors' applications for pre-qualification.

We also found a number of unsigned performance evaluations of pre-qualification applicants in files processed primarily between July 2002 and August 2003. The performance evaluations are used to satisfy the requirements of SREF 4.1(8) (a) 3, which require that evidence of the contractor's experience in construction and ability to successfully complete at least two projects of similar size within the past five years be obtained. In the past, the evaluations were done by telephone, with the Contractor Pre-qualification staff documenting the individual contacted and his/her telephone number on the evaluation form. To their credit, during the latter part of 2003, management changed this procedure and began accepting only signed evaluations that were mailed or faxed. Another sign of improvement in this area is noted by the recently revised contractor evaluation form, which now provides more specific relevant contractor-related performance information.

The lack of consistency in processing applications may be attributed to the need for more detailed checklists and formal procedures that staff could follow. The Contractor Pre-qualification Department does not have a written procedures manual or written directives used to carryout its daily operations. Sound internal controls dictate that procedures manuals be maintained. A procedures manual should be detailed enough to provide direction in most, if not all, facets of the operations, and in Contractor Pre-qualification's case could include procedures for:

1. advertising for pre-qualification applications,
2. documenting verifications on the application checklist,
3. processing applications,
4. preparing documents and summary information for Review Committee meetings,
5. recording and approving Review Committee minutes,
6. presenting Contractor Pre-qualification decisions on Board items,
7. documenting the review of an applicant's pending and settled claims, and
8. depicting the various forms used by the department.

RECOMMENDATION

- 1.1 The Contractor Pre-qualification Department should include in each contractor's application files documentary evidence of all contractor-provided submittals and evidence of review and verification.**

Responsible Department: Contractor Pre-qualification Department

Management Response:

Desk audits are performed on each application to determine whether required documents are attached, thereto, and to verify information, therein. As for licenses, it is practice for staff to always verify license information and surety ratings through websites of the Florida Department of Professional Regulations and A.M. Best Company, respectively. When information is verified by administrative staff, the items are marked on a check-list, and if information is

verified by subordinates, then verification dates, identification numbers, etc., are noted next to each applicable item.

According to the audit "a number of unsigned performance evaluations" were found in applicants' files. The audit also states that in the past, the evaluations were done by telephone. However, administration recognized that the practice of collecting performance information by telephone, among other things, was not prudent, and issued a directive, during the month of May 2003, to collect the information in writing. Prior to that time, all evaluations were collected (by the consultant and staff) from organizations outside of the District, by telephone, and, therefore, could not have been signed. Please note that the evaluation tool has been revised.

To satisfy the recommendation as it relates to license and bond rating verification the following will be implemented:

- a. specific details (dates, print screens, etc.) regarding information that is collected through the verification process will be noted in and/or attached to a desk-audit form and maintained in the file of each applicant, and
- b. reports, memoranda, and other documentation (litigation/claims reports) will be attached to each applicant's file.

URGENCY OF CORRECTIVE ACTION

- Critical
- Important
- Desirable

IMPLEMENTATION SCHEDULE

- Immediately (Short Term)
- By February 2005
- Contingent upon Funding

- 1.2 The "Contractor's Notarized Letter of Intent" (Form FM-5896) should be modified to include the surety company's A.M. Best identification number.

Responsible Department: Contractor Pre-qualification Department

Management Response:

As stated in the management response to the recommendation for audit finding 1.1, ratings for sureties are verified by staff through the A.M. Best Co. website; however, to increase efficiency and to augment the verification process, the Surety Letter of Intent has been revised to include an A.M. Best rating identification number.

URGENCY OF CORRECTIVE ACTION

- Critical
- Important
- Desirable

IMPLEMENTATION SCHEDULE

- Immediately (Short Term)
- By Completed
- Contingent upon Funding

1.3 The Department should review its checklists and develop and maintain written procedures manual.

Responsible Department: Contractor Pre-qualification Department

Management Response:

The contractor prequalification process is driven by SREF and Board Rule, and while a comprehensive procedure manual has not been developed, staff was also guided by and made reference to practices and protocols, developed by a consultant, until May 2003. Prior to the consultant's termination, staff developed a document (PREQUALIFICATION OF CONTRACTORS LIST OF ACTIVITIES) that delineates steps for reviewing Contractor Prequalification Certification Applications (Statement of Contractor Qualifications), collecting evaluation information, etc.

However, upon determining that changes were needed to ensure compliance and to strengthen the contractor prequalification review process, memoranda have been issued and served as reminders to staff of directives to reinforce policy, business practices related to contractor prequalification, and of revisions to processes.

The application review process will be delineated in either a "written procedure manual" or through process mapping, as soon as possible.

URGENCY OF CORRECTIVE ACTION

- Critical
- Important
- Desirable

IMPLEMENTATION SCHEDULE

- Immediately (Short Term)
- By June 30, 2005
- Contingent upon Funding

2. PERFORM MORE EXTENSIVE REVIEWS FOR RENEWALS

The contractor pre-qualification's staff currently evaluates renewals in accordance with the recently revised Contractor Pre-qualification rule, 6Gx13- 7D-1.05. However, more could be done; currently, staff does not review and analyze contractors' recent performance or licenses at the time of the annual contractors' pre-qualification certificate renewal. The Contractor Pre-qualification staff only requires contractors to provide evidence of bonding capacity or financial statements and any changes in ownership and directorship, because they believe that the District does not have the authority to modify or go beyond the requirements of SREF 4.1(8) (e) – Renewal of Certificate, which they believe require that a contractor only needs to provide financial statements or written verification of bonding capacity in order to have its pre-qualification certificate renewed. In fact, the limited renewal procedures are, in our opinion, not very strong business practice, which could potentially result in recertifying poorly-performing contractors.

The current version of SREF 4.1(8) (e) – Renewal of Certificate, states that, "*Certificates not for a specific project shall be renewed annually.* It goes on to say in part at subsection 4.1(8) (e) 1. that, "*Financial statements or written verification of bonding capacity on file with the board shall be updated annually.*" We noted that the 1997 version of SREF 4.1(8) said that "*a board may not modify or supplement the pre-qualification criteria adopted by this section.*" However, the 1999 and most current version of SREF 4.1(8) removed that statement prohibiting modifications or supplementation to the SREF requirements and has revised subsection 4.1(8) (a) – Criteria, to state "*Contractors shall be pre-qualified by a board on the basis of the following criteria and such other criteria as the local board may adopt.*" – (Underline added by us for emphasis.)

In our efforts to obtain a clear understanding of the rule, its intent, and application, we contacted the DOE. The DOE representative, to whom we were referred as being versed in the rule, indicated to us that it was not the intent of the rule to disregard past performance and other criteria at certification renewal, as this would not be in the District's best interest. The representative also indicated that this is the general interpretation of the rule by those at the DOE. Additional correspondence from the DOE's legal counsel affirmed this understanding of the rule.

The recently approved School Board Rule 6Gx13- 7D-1.05 on pre-qualification of contractors for educational facilities construction established guidelines by which the Construction Department may suspend or find a contractor working on an M-DCPS project delinquent. We believe this and other changes to the rule are positive and needed improvements, for which the Department should be credited. However, the rule also allows renewed certificate to be issued for four consecutive years based solely, as earlier mentioned, on the basis of evidence of bonding capacity or financial statements. This appears to be a very long period of time between administrative reviews of contractors' performance, licenses, and other qualitative criteria. Changes during a

lengthy four year period could adversely impact a contractor's ability to deliver a quality product. In conclusion, the school district is at risk, due to the limited review performed for recertification and the length of the recertification period.

RECOMMENDATION

- 2.1 Further amend Board Rule 6Gx13-7D-1.05 to permit more extensive review requirements for all renewal applications and verification of all the criteria used to pre-qualify a contractor, at least annually.

Responsible Department: Department of Contractor Pre-qualification

Management Response:

We recognize the importance of insuring that our renewal procedures protect the School Board and District by identifying contractors who are no longer judged capable of performing adequately. At the same time, we need to be sure that we operate in full compliance with both Board Rules and applicable statutes. We will pursue conversations with the Board's attorney's office on changes to the renewal process that could increase our discretion under the current statutes.

URGENCY OF CORRECTIVE ACTION

- Critical
- Important
- Desirable

IMPLEMENTATION SCHEDULE

- Immediately (Short Term)
- By June 30, 2005
- Contingent upon Funding

3. DEVELOP FORMAL REQUIREMENTS FOR PREPARATION AND COMMUNICATION OF CONTRACTOR PERFORMANCE EVALUATIONS

Formal communications between the Facilities Operations, Maintenance, and Planning (FOMP) and Contractor Pre-qualification need to be established to better identify poorly-performing contractors. Article VI of School Board Rule 6Gx13-7D-1.05 delineates guidelines by which a poorly-performing contractor may be declared delinquent. It places the responsibility on FOMP to collect and compile a preponderance of project performance-related evidence that is sufficient to declare the contractor delinquent. While the responsibility for doing this is appropriately placed, the systems and data infrastructure do not appear to be in place to do this satisfactorily.

In July 2003 M/WBE and Related Services requested in a memo that the Review Committee be provided information regarding contractors' performance. The information requested would need to come from the various Facilities Planning and Construction departments. The information requested included at a minimum: inspections and plan reviews; punch lists; correspondence related to contractors' failure to meet schedules, quality standards, and contractual requirements, including warranty issues; and formally executed evaluations. It stated that the above referenced information should be collected continually, and provided to the Review Committee, as deemed appropriate. However, as of the conclusion of our audit fieldwork, this communication of data in useful form was not occurring. Presently, individuals from FOMP will complete a standard Contractor Pre-qualification evaluation form only when they are contacted by Contractor Pre-qualification.

We received a list of debarred and suspended contractors from Miami-Dade and Broward Counties, and found that none of the contractors debarred or suspended from doing business with them were pre-qualified by M-DCPS. However, a review and analysis of information we obtained from FOMP on M-DCPS project closeout revealed that three contractors that are currently pre-qualified by M-DCPS did not fully complete project punch lists items for which they were contractually obligated to complete. That work had to be assigned to different contractors to complete. This stresses the cogent need for adequate information sharing.

Additionally, we are not aware of the project managers receiving any specific training related to recognizing situations that could become evidential in delinquency proceedings, adequately documenting the facts and circumstances, or properly noticing those involved. Not having a formal systematic performance information infrastructure in place and project managers not being properly trained on documenting critical project issues, the District remains at risk of pre-qualifying poorly-performing contractors. We are currently initiating a more extensive audit of the contractor evaluation process.

RECOMMENDATIONS

- 3.1 Develop a formal systematic data feedback mechanism to collect and compile relevant and sufficient evidence of contractors' performance.

Responsible Department: Facilities Operations, Maintenance, and Planning

Management Response:

We are in agreement with the recommendation. The Office of Construction will work with its six Region Supervisors to develop a more formal feedback mechanism in order to have the project specific Project Managers collect and compile relevant and sufficient evidence of Contractors' performance. This will be done in conjunction with the formal quarterly Contractors' evaluation process and guidelines will be developed as to what scores and/or elements of the evaluation will trigger the collection, compilation, and feedback process.

URGENCY OF CORRECTIVE ACTION

- Critical
 Important
 Desirable

IMPLEMENTATION SCHEDULE

- Immediately (Short Term)
 By April 2005
 Contingent upon Funding

- 3.2 Facilities Operations, Maintenance, and Planning should provide the Contractor Pre-qualification Department adequate information, in good form, that will allow the Review Committee to effectively execute the contractor delinquency process, as permitted by School Board Rule.

Responsible Department: Facilities Operations, Maintenance, and Planning

Management Response:

We are in agreement with the recommendation, and fully realize that this needs to be a significantly more formal process than that needed for Recommendation No. 4.1. Toward that end we would like to establish an understanding of what constitutes "good form". Our intent is to provide, as needed, inspection and plan reviews; punch lists; correspondence regarding contractors' failure to meet schedules, to meet quality standards, and/or to comply with contractual requirements including warranty issues; and formally executed evaluations. Formally executed evaluations are now being performed on a quarterly basis.

URGENCY OF CORRECTIVE ACTION

- Critical
 Important
 Desirable

IMPLEMENTATION SCHEDULE

- Immediately (Short Term)
 By April 2005
 Contingent upon Funding

- 3.3 Provide adequate and sufficient training to construction project managers on documenting and compiling project performance-related evidence of non-compliance by contractors.**

**Responsible Department: Facilities Operations, Maintenance, and Planning
Capital Construction Compliance**

Management Response:

We are in agreement with the recommendation. The Office of Construction will work with Capital Construction Compliance to develop a formal training program on documenting and compiling project performance-related evidence of non-compliance by contractors. This also will be done in conjunction with the formal quarterly Contractors' evaluation process.

URGENCY OF CORRECTIVE ACTION

- Critical
- Important
- Desirable

IMPLEMENTATION SCHEDULE

- Immediately (Short Term)
- By June 2005
- Contingent upon Funding

4. REVIEW COMMITTEE MEETINGS NOT ADEQUATELY DOCUMENTED

Florida Sunshine Law, Chapter 286.011(2), F.S. requires that minutes of a meeting, such as the Review Committee meetings be kept. While Contractor Pre-qualification records the Review Committee meeting via audio cassette, those audio tapes are not promptly transcribed and presented to the committee members for review and approval at the next meeting. Good Business Practice dictates the accurate presentation of meeting minutes. The minutes' approvals represent that they accurately portray the issues and decisions deliberated at these meetings.

The meeting minutes from several past Review Committee meetings have not yet been prepared. Also, the completed Review Committee meeting minutes we reviewed do not document approvals of previous Review Committee meeting minutes. Also, we could not ascertain whether the information on several Board items agreed with the decisions made by the Review Committee.

In one instance the Review Committee reversed its unanimous decision to recommend denial of the contractor pre-qualification, with no evidential support for the reversal in the files. The applicant appealed the decision via a faxed notice of appeal which was not received by Contractor Pre-qualification Review Committee meeting within 10 days of the committee's denial, as required by SREF 4.1(8) (h) 1. The contractor was unanimously recommended for an award of \$50 million for a single contract and \$150 million aggregate for outstanding contracts. There is no evidence in the Review Committee meeting files or minutes to substantiate the reason for the Committee's change of decision. Sound business practices dictate that minutes should be taken and be sufficient to document major decisions and votes.

As an aside, we found that Contractor Pre-qualification does not have on file resumes or disclosure detailing the qualifications, experience, associations, and background of the members appointed to the Review Committee from the various organizations. According to School Board Rule 6Gx13- 7D-1.05 review Committee members must be free of any conflict of interest in order to vote on issues before them. The availability of resumes would help ensure that only knowledgeable individuals who are free of any conflict of interest are serving on the Review Committee.

RECOMMENDATION

- 4.1 Staff of the Contractor Pre-qualification Department should document major decisions made by the Contractor Pre-qualification Review Committee, especially its rationale to overturn a previous committee vote.**

Responsible Department: Contractor Pre-qualification Department

Management Response:

We believe that all major decisions have been documented but we will put procedures in place to insure that documentation is always timely and appropriate.

URGENCY OF CORRECTIVE ACTION IMPLEMENTATION SCHEDULE

- | | |
|---|--|
| <input type="checkbox"/> Critical | <input type="checkbox"/> Immediately (Short Term) |
| <input checked="" type="checkbox"/> Important | <input checked="" type="checkbox"/> By <u>Completed – May 2004</u> |
| <input type="checkbox"/> Desirable | <input type="checkbox"/> Contingent upon Funding |

- 4.2 The Contractor Pre-qualification Department should prepare Review Committee minutes shortly after meetings occur.**

Responsible Department: Contractor Pre-qualification Department

Management Response:

Minutes will be provided to the Committee as recommended.

URGENCY OF CORRECTIVE ACTION

- | |
|---|
| <input type="checkbox"/> Critical |
| <input type="checkbox"/> Important |
| <input checked="" type="checkbox"/> Desirable |

IMPLEMENTATION SCHEDULE

- | |
|--|
| <input checked="" type="checkbox"/> Immediately (Short Term) |
| <input type="checkbox"/> By |
| <input type="checkbox"/> Contingent upon Funding |

- 4.3 Additionally, Review Committee minutes should be approved at the next Review Committee meeting, with the approval documented in that subsequent Review Committee meeting's minutes.**

Responsible Department: Contractor Pre-qualification Department

Management Response:

Minutes will be submitted as recommended.

URGENCY OF CORRECTIVE ACTION IMPLEMENTATION SCHEDULE

- | | |
|---|--|
| <input type="checkbox"/> Critical | <input checked="" type="checkbox"/> Immediately (Short Term) |
| <input type="checkbox"/> Important | <input type="checkbox"/> By |
| <input checked="" type="checkbox"/> Desirable | <input type="checkbox"/> Contingent upon Funding |

- 4.4 The Contractor Pre-qualification Department should obtain and maintain on file resumes or disclosure detailing the qualifications, experience, associations, and background of the members appointed to the Review Committee.**

Responsible Department: Contractor Pre-qualification Department

Management Response:

Pursuant to the amended Board Rule, representatives from outside organizations who sit as members of the CPRC and CPAC are appointed by the Superintendent of Schools. The staff of this area has no role in the selection or approval of these individuals. We will seek to gather the recommended credentials, but will require the assistance and cooperation of the Superintendent's office.

URGENCY OF CORRECTIVE ACTION

- Critical
- Important
- Desirable

IMPLEMENTATION SCHEDULE

- Immediately (Short Term)
- By
- Contingent upon Funding

5. FILL VACANCIES IN THE DEPARTMENT OF CONTRACTOR PRE-QUALIFICATION

As of the date of this report, the Contractor Pre-qualification staff responsible for performing the daily functions of the department consisted of only two employees, a Budget Analyst and a Clerical/Secretarial staff member. In May 2004, one clerical staff resigned from her position and in July 2004, the supervisor likewise resigned from her position. These two positions remain vacant. In our opinion, this function is too critical to the District for it to remain staffed at its current level.

RECOMMENDATION

5.1 Fill vacancies in the Department of Contractor Pre-qualification.

Responsible Department: Contractor Pre-qualification Department

Management Response:

Waivers were sought to fill vacant positions in August of 2004.

URGENCY OF CORRECTIVE ACTION

- Critical
- Important
- Desirable


IMPLEMENTATION SCHEDULE

- Immediately (Short Term)
- By
- Contingent upon Funding

MEMORANDUM

January 19, 2005

TO: Mr. Allen M. Vann, Chief Auditor

FROM: Ms. Ofelia San Pedro, Deputy Superintendent Business Operations 

SUBJECT: INTERNAL AUDIT REPORT – CONTRACTOR PREQUALIFICATION
PROCESS

M/WBE and Related Services and Facilities have reviewed the above-referenced internal audit report and is providing the following responses, as requested:

RECOMMENDATIONS

- 1.1 **The Contractor Pre-qualification Department should include in each contractor's application files documentary evidence of all contractor-provided submittals and evidence of review and verification.**

Responsible Department: Contractor Pre-qualification Dept.

Management Response:

Desk audits are performed on each application to determine whether required documents are attached, thereto, and to verify information, therein. As for licenses, it is practice for staff to always verify license information and surety ratings through websites of the Florida Department of Professional Regulations and A.M. Best Company, respectively. When information is verified by administrative staff, the items are marked on a check-list, and if information is verified by subordinates, then verification dates, identification numbers, etc., are noted next to each applicable item.

According to the audit "a number of unsigned performance evaluations" were found in applicants' files. The audit also states that in the past, the evaluations were done by telephone. However, administration recognized that the practice of collecting performance information by telephone, among other things, was not prudent, and issued a directive, during the month of May 2003, to collect the information in writing. Prior to that time, all evaluations were collected (by the consultant and staff) from organizations outside of the District, by telephone, and, therefore, could not have been signed. Please note that the evaluation tool has been revised.

To satisfy the recommendation as it relates to license and bond rating verification the following will be implemented:

- a. specific details (dates, print screens, etc.) regarding information that is collected through the verification process will be noted in and/or attached to a desk-audit form and maintained in the file of each applicant, and

- b. reports, memoranda, and other documentation (litigation/claims reports) will be attached to each applicant's file.

URGENCY OF CORRECTIVE ACTION

- Critical
 Important
 Desirable

IMPLEMENTATION SCHEDULE

- Immediately (Short Term)
 By February 2005
 Contingent upon Funding

- 1.2 The "Contractor's Notarized Letter of Intent" (Form FM-5896) should be modified to include the surety company's A.M. Best identification number.

Responsible Department: Contractor Pre-qualification Dept.

Management Response:

As stated in the management response to the recommendation for audit finding 1.1, ratings for sureties are verified by staff through the A.M. Best Co. website; however, to increase efficiency and to augment the verification process, the Surety Letter of Intent has been revised to include an A.M. Best rating identification number.

URGENCY OF CORRECTIVE ACTION

- Critical
 Important
 Desirable

IMPLEMENTATION SCHEDULE

- Immediately (Short Term)
 By Completed
 Contingent upon Funding

- 1.3 The Department should review its checklists and develop and maintain a written procedure manual.

Responsible Department: Contractor Pre-qualification Dept.

Management Response:

The contractor prequalification process is driven by SREF and Board Rule, and while a comprehensive procedure manual has not been developed, staff was also guided by and made reference to practices and protocols, developed by a consultant, until May 2003. Prior to the consultant's termination, staff developed a document (PREQUALIFICATION OF CONTRACTORS LIST OF ACTIVITIES) that delineates steps for reviewing Contractor Prequalification Certification Applications (Statement of Contractor Qualifications), collecting evaluation information, etc.

However, upon determining that changes were needed to ensure compliance and to strengthen the contractor prequalification review process, memoranda have been issued and served as reminders to staff of directives to reinforce policy, business practices related to contractor prequalification, and of revisions to processes.

The application review process will be delineated in either a "written procedure manual" or through process mapping, as soon as possible.

<u>URGENCY OF CORRECTIVE ACTION</u>	<u>IMPLEMENTATION SCHEDULE</u>
<input type="checkbox"/> Critical	<input type="checkbox"/> Immediately (Short Term)
<input type="checkbox"/> Important	<input checked="" type="checkbox"/> By <u>June 30, 2005</u>
<input checked="" type="checkbox"/> Desirable	<input type="checkbox"/> Contingent upon Funding

- 2.1 Further amend Board Rule 6Gx13-7D-1.05 to permit more extensive review requirements for all renewal applications and verification of all the criteria used to pre-qualify a contractor, at least annually.

Responsible Department: Contractor Pre-qualification Office

Management Response:

We recognize the importance of insuring that our renewal procedures protect the School Board and District by identifying contractors who are no longer judged capable of performing adequately. At the same time, we need to be sure that we operate in full compliance with both Board Rules and applicable statutes. We will pursue conversations with the Board's attorney's office on changes to the renewal process that could increase our discretion under the current statutes.

<u>URGENCY OF CORRECTIVE ACTION</u>	<u>IMPLEMENTATION SCHEDULE</u>
<input type="checkbox"/> Critical	<input type="checkbox"/> Immediately (Short Term)
<input type="checkbox"/> Important	<input checked="" type="checkbox"/> By <u>June 30, 2005</u>
<input checked="" type="checkbox"/> Desirable	<input type="checkbox"/> Contingent upon Funding

- 3.1 Develop a formal systematic data feedback mechanism to collect and compile relevant and sufficient evidence of contractors' performance.

Responsible Department: Facilities Operations, Maintenance, and Planning

Management Response:

We are in agreement with the recommendation. The Office of Construction will work with its six Region Supervisors to develop a more formal feedback mechanism in order to have the project specific Project Managers collect and compile relevant and sufficient evidence of Contractors' performance. This will be done in conjunction with the formal quarterly Contractors' evaluation process and guidelines will be developed as to what scores and/or elements of the evaluation will trigger the collection, compilation and feedback process.

<u>URGENCY OF CORRECTIVE ACTION SCHEDULE</u>	<u>IMPLEMENTATION SCHEDULE</u>
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<input type="checkbox"/> Critical <input checked="" type="checkbox"/> Important <input type="checkbox"/> Desirable	<input type="checkbox"/> Immediately (Short Term) <input checked="" type="checkbox"/> By <u>April 2005</u> <input type="checkbox"/> Contingent upon Funding
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- 3.2 **Facilities Operations, Maintenance, and Planning should provide the Contractor Pre-qualification Department adequate information, in good form, that will allow the Review Committee to effectively execute the contractor delinquency process, as permitted by School Board Rule.**

Responsible Department: Facilities Operations, Maintenance, and Planning

Management Response:

We are in agreement with the recommendation, and fully realize that this needs to be a significantly more formal process than that needed for Recommendation No. 4.1. Toward that end we would like to establish an understanding of what constitutes "good form". Our intent is to provide, as needed, inspection and plan reviews; punch lists; correspondence regarding contractors' failure to meet schedules, to meet quality standards, and/or to comply with contractual requirements including warranty issues; and formally executed evaluations. Formally executed evaluations are now being performed on a quarterly basis.

<p><u>URGENCY OF CORRECTIVE ACTION SCHEDULE</u></p> <input type="checkbox"/> Critical <input checked="" type="checkbox"/> Important <input type="checkbox"/> Desirable	<p><u>IMPLEMENTATION</u></p> <input type="checkbox"/> Immediately (Short Term) <input checked="" type="checkbox"/> By <u>April 2005</u> <input type="checkbox"/> Contingent upon Funding
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- 3.3 **Provide adequate and sufficient training to construction project managers on documenting and compiling project performance-related evidence of non-compliance by contractors.**

Responsible Department: Facilities Operations, Maintenance, and Planning, Capital Construction Compliance

Management Response:

We are in agreement with the recommendation. The Office of Construction will work with Capital Construction Compliance to develop a formal training program on documenting and compiling project performance-related evidence of non-compliance by contractors. This also will be done in conjunction with the formal quarterly Contractors' evaluation process.

<p><u>URGENCY OF CORRECTIVE ACTION SCHEDULE</u></p>	<p><u>IMPLEMENTATION</u></p>
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<u> </u> Critical	<u> </u> Immediately (Short Term)
<u> X </u> Important	<u> X </u> By <u>June 2005</u>
<u> </u> Desirable	<u> </u> Contingent upon Funding

- 4.1 Staff of the Contractor Pre-qualification Department should document major decisions made by the Contractor Pre-qualification Review Committee, especially its rationale to overturn a previous committee vote.

Responsible Department: Contractor Pre-qualification Dept.

Management Response:

We believe that all major decisions have been documented but we will put procedures in place to insure that documentation is always timely and appropriate.

<u>URGENCY OF CORRECTIVE ACTION</u>	<u>IMPLEMENTATION SCHEDULE</u>
<input type="checkbox"/> Critical	<input type="checkbox"/> Immediately (Short Term)
<input checked="" type="checkbox"/> Important	<input checked="" type="checkbox"/> By <u>Completed May 2004</u>
<input type="checkbox"/> Desirable	<input type="checkbox"/> Contingent upon Funding

- 4.2 The Contractor Pre-qualification Department should prepare Review Committee minutes shortly after meetings occur.

Responsible Department: Contractor Pre-qualification Dept.

Management Response:

Minutes will be provided to the Committee as recommended.

<u>URGENCY OF CORRECTIVE ACTION</u>	<u>IMPLEMENTATION SCHEDULE</u>
<input type="checkbox"/> Critical	<input checked="" type="checkbox"/> Immediately (Short Term)
<input type="checkbox"/> Important	<input type="checkbox"/> By _____
<input checked="" type="checkbox"/> Desirable	<input type="checkbox"/> Contingent upon Funding

- 4.3.1 Additionally, Review Committee minutes should be approved at the next Review Committee meeting, with the approval documented in that subsequent Review Committee meeting's minutes.

Responsible Department: Contractor Pre-qualification Dept.

Management Response:

Minutes will be submitted as recommended.

<u>URGENCY OF CORRECTIVE ACTION</u>	<u>IMPLEMENTATION SCHEDULE</u>
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- | | |
|---|--|
| <input type="checkbox"/> Critical | <input checked="" type="checkbox"/> Immediately (Short Term) |
| <input type="checkbox"/> Important | <input type="checkbox"/> By _____ |
| <input checked="" type="checkbox"/> Desirable | <input type="checkbox"/> Contingent upon Funding |

4.4 Contractor Pre-qualification Department should obtain and maintain on file resumes or disclosure detailing the qualifications, experience, associations and background of the members appointed to the Review Committee.

Responsible Department: Contractor Pre-qualification Dept.

Management Response:

Pursuant to the amended Board Rule, representatives from outside organizations who sit as members of the CPRC and CPAC are appointed by the Superintendent of Schools. The staff of this area has no role in the selection or approval of these individuals. We will seek to gather the recommended credentials, but will require the assistance and cooperation of the Superintendent's office.

URGENCY OF CORRECTIVE ACTION

- Critical
 Important
 Desirable

IMPLEMENTATION SCHEDULE

- Immediately (Short Term)
 By _____
 Contingent upon Funding

5.1 Fill vacancies in the Department of Contractor Pre-qualification.

Responsible Department: Contractor Pre-qualification Dept.

Management Response:

Waivers were sought to fill vacant positions in August of 2004.

URGENCY OF CORRECTIVE ACTION

- Critical
 Important
 Desirable

IMPLEMENTATION SCHEDULE

- Immediately (Short Term)
 By _____
 Contingent upon Funding

Should you require additional information, please contact Mr. Martin A. Berkowitz, Chief Financial Officer, Office of Financial Operations, at (305) 995-1226 and/or, Ms. Rose Diamond Chief Facilities Officer, at (305) 995-1401.

cc: Dr. Rudolph F. Crew
 Ms. Carolyn Spaht
 Mr. Martin A. Berkowitz
 Ms. Rose Diamond
 Dr. Richard H. Hinds

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 in employment on the basis of race, color, religion, gender, or national origin.

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 at 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 the disabled.

Americans with Disabilities Act of 1990 (ADA) - prohibits discrimination against individuals with disabilities in employment, public service, public accommodations and telecommunications.

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 Act (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.

School Board Rules 6Gx13- 4A-1.01, 6Gx13- 4A-1.32, and 6Gx13- 5D-1.10 - 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.

Revised 5/9/03