

Book	Policy Manual
Section	Vol. 17, No. 2
Title	REVISED POLICY - VOL. 17, NO. 2 - ACQUISITION OF PROFESSIONAL ARCHITECTURAL, ENGINEERING, LANDSCAPE ARCHITECTURAL, OR LAND SURVEYING SERVICES
Number	po6330
Status	From Neola
Adopted	October 28, 2008

REVISED POLICY - VOL. 17, NO. 2

6330 - ACQUISITION OF PROFESSIONAL ARCHITECTURAL, ENGINEERING, LANDSCAPE ARCHITECTURAL, OR LAND SURVEYING SERVICES

The School Board is authorized to employ procedures to contract for the construction of new facilities, or for additions, remodeling, renovation, maintenance, or repairs to existing facilities by licensed professionals pursuant to F.S. 287.055, The Consultants' Competitive Negotiation Act ("CCNA").

A. Definitions

1. "Professional Services" means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered ~~land~~ surveying and mapping, as defined by the laws of the State, or those performed by any architect, professional engineer, landscape architect, or registered land surveyor and mapper in connection with his/her professional employment or practice.
2. "School Board" means The School Board of _____ County, Florida, and describes an agency as defined in State law.
3. "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, or ~~land~~-surveying and mapping in the State.
4. "Compensation" means the total amount paid by the Board for professional services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated.
5. "PSAC" shall mean the Professional Service Advisory Committee.
6. "Project" means that fixed capital outlay study or planning activity described in the public notice pursuant to Section C herein. The Board shall prescribe, in compliance with State law, procedures for the determination of a project under its jurisdiction. Such procedures may include:
 - a. determination of a project which constitutes a grouping of minor construction, rehabilitation, or renovation activities.
 - b. determination of a project which constitutes a grouping of substantially similar construction, rehabilitation, or renovation activities.
7. A "Continuing Contract" is a contract for professional services entered into in accordance with all the procedures of the CCNA between the Board and a firm whereby the firm provides professional services to the Board for projects in which the estimated construction cost of each individual project under the contract does not exceed \$2 million ~~construction costs do not exceed \$500,000~~; for study activity if when the fee for such professional services for each individual study under the contract does not exceed \$200,000 ~~does not exceed \$25,000~~; or for work of a specified nature as outlined in the contract required by the Board with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause. Firms providing professional services under continuing contracts shall not

be required to bid against one another.

8. A "design-build firm" means a partnership, corporation, or other legal entity that:
 - a. is certified under F.S. 489.119 to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or
 - b. is certified under F.S. 471.023 to practice or to offer to practice engineering; certified under F.S. 481.219 to practice or to offer to practice architecture; or certified under F.S. 481.319 to practice or to offer to practice landscape architecture.
9. A "design-build contract" means a single contract with a design-build firm for the design and construction of a public construction project.
10. A "design criteria package" means concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information to permit design-build firms to prepare a bid or a response to the Board's request for proposal, or to permit an agency to enter into a negotiated design-build contract. The design criteria package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project.
11. A "design criteria professional" means a firm who holds a current certificate of registration under F.S. Chapter 481, to practice architecture or landscape architecture or a firm who holds a current certificate as a registered engineer under F.S. Chapter 471, to practice engineering and who is employed by or under contract to the Board for professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.
12. "Negotiate" or any form of that word means to conduct legitimate, arms length discussions and conferences to reach an agreement on a term or price. For purposes of this policy, the term does not include presentation of flat-fee schedules with no alternatives or discussion.

B. Professional Service Advisory Committee

1. The PSAC shall be comprised of one (1) Board member, one (1) designee of the Superintendent, the Director of Facilities or his/her designee, one (1) representative from operation services, one (1) program/staff representative, as well as any additional members deemed appropriate by the Superintendent.
 - a. The Board shall annually appoint one (1) of its members to serve on the PSAC, and shall also designate one (1) of its members as an alternate, who shall attend PSAC meetings when and if the designated member cannot.
 - b. The Superintendent shall appoint his/her designee, the representative of operations services, the program/staff representative.
 - c. The Superintendent shall appoint additional members as s/he deems appropriate given a particular project.
2. The Director of Facilities, or his/her designee, shall chair the PSAC.

C. Public Announcement and Qualification Procedures

1. The Board shall publicly announce, in a uniform and consistent manner, each occasion when professional services are required to be purchased for a project the basic construction cost of which is estimated by the Board to exceed the maximum amount established in State law for CATEGORY FIVE, which is ~~\$325,000~~~~\$350,000~~, or for planning or study activity when the fee for professional services exceeds the maximum amount established in State law for CATEGORY TWO, which is \$35,000, except in cases of valid public emergencies so certified by the Board. The public notice shall include a general description of the project and shall indicate how interested consultants may apply for consideration.
2. Local contractors are encouraged to submit proposals, and contractors are encouraged to offer bidding opportunities to local subcontractors.

3. The Board shall encourage firms engaged in the lawful practice of their professions that desire to provide professional services to the Board to submit annually statements of qualifications and performance data. Failure to submit an RFQ (Request for Qualifications) shall not preclude the Board from purchasing services from any firm engaged in the lawful practice of its profession.
4. Any firm or individual desiring to provide professional services to the Board must first be certified by the Board as qualified pursuant to law and the regulations of the Board. The Board shall make a finding that the firm or individual to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm or individual.
5. The Superintendent shall develop administrative procedures for the evaluation of professional services, including, but not limited to, capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act of 1985, and such other factors as may be determined by the Board to be applicable to its particular requirements. When securing professional services, the Board shall endeavor to meet the minority business enterprise procurement goal set forth in F.S. 287.09451~~287.042~~.
6. The public shall not be excluded from these proceedings.

D. Competitive Selection

1. For each proposed project, the PSAC shall evaluate current statements of qualifications and performance data on file, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with, and may require public presentations by, no fewer than three (3) firms, regarding their qualifications, approach to the project, and ability to furnish the required services.
2. The PSAC shall select in order of preference no fewer than three (3) firms deemed to be the most highly qualified to perform the required services. In determining whether a firm is qualified, the PSAC shall consider such factors as the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to each firm by the Board, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. The PSAC~~Committee~~ may request, accept, and consider proposals for the compensation to be paid under the contract only during competitive negotiations under section E below.
3. This section does not apply to a professional service contract for a project, the basic construction cost of which is estimated by the Board to be not in excess of \$325,000~~\$350,000~~ or for a planning or study activity when the fee for professional services is not in excess of \$35,000. These amounts shall increase along with the thresholds defined in F.S. 287.017 for CATEGORY FIVE and/or CATEGORY TWO. However, if, in using another procurement process, the majority of the compensation proposed by firms is in excess of the appropriate threshold amount, the Board shall reject all proposals and reinstate the procurement pursuant to statute. (F.S. 287.055(4)(c)).
4. The Board shall evaluate qualifications of a minimum of three (3) finalists by considering the written materials submitted by the applicants, performance data on file with the District, materials submitted by other firms or individuals, and the evaluation of the PSAC. Although the Board shall consider the evaluation of the PSAC, such evaluation shall not be binding on the Board. The Board retains the authority to re-rank the three (3) finalists.
5. Nothing in this rule shall be construed to prohibit a continuing contract between a firm and Board.

E. Competitive Negotiation

1. A tentative contract shall be negotiated with the most qualified firm for professional services at compensation which the Board's designee(s) determine(s) is fair, competitive, and reasonable. In making such determination, the Board's designee(s) shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity. For any lump-sum or cost-plus-a-fixed-fee professional service contract that exceeds the maximum amount established by State law for CATEGORY FOUR, which is \$195,000, the Board shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional service contract under which such a certificate is required shall contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the Board determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within (1) year following the end of the contract.

2. Should the Board's designee(s) be unable to negotiate a satisfactory tentative contract with the firm considered to be the most qualified at a price the Board's designee(s) determines to be fair, competitive, and reasonable negotiations with that firm shall be formally terminated. The Board's designee(s) shall then undertake negotiations with the second most qualified firm. Failing tentative accord with the second most qualified firm, the Board's designee(s) shall terminate negotiations. The Board's designee(s) shall then undertake negotiations with the third most qualified firm.
3. Should the Board's designee(s) be unable to negotiate a satisfactory tentative contract with any of the selected firms, the Board's designee(s) shall select additional firms in the order of their competence and qualification and continue negotiations in accordance with this subparagraph until a tentative agreement is reached or shall be readvertised.
4. When the Board's designee(s) successfully negotiates a tentative contract with a firm considered to be fully qualified at a price the Board's designee(s) determines to be fair, competitive, and reasonable, the tentative contract will be presented to the Superintendent for his/her review and recommendation to the Board. The Board shall either approve or disapprove the tentative contract. Upon Board approval, the approved contract shall be duly executed.

F. Prohibition Against Contingent Fees

Each contract entered into by the Board for professional services shall contain a prohibition against contingent fees as required by F.S. 287.055(6).

G. Design-Build Contracts

The Board will award design-build contracts by the use of a competitive proposal selection process as described in this section, or by the use of a qualifications-based selection process pursuant to sections C, D, and E above, for entering into a contract whereby the selected firm will, subsequent to competitive negotiations, establish a guaranteed maximum price and guaranteed completion date. If the Board elects the option of qualifications-based selection, during the selection of the design-build firm the Board will employ or retain a licensed design professional appropriate to the project to serve as the Board's representative.

Procedures for the use of a competitive proposal selection process must include as a minimum the following:

1. The preparation of a design criteria package for the design and construction of the public construction project.

The design criteria package must be prepared and sealed by a design criteria professional employed by or retained by the Board. If the Board elects to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional must be selected and contracted with under the requirements of sections D and E above. A design criteria professional who has been selected to prepare the design criteria package is not eligible to render services under a design-build contract executed pursuant to the design criteria package.
2. The qualification and selection of no fewer than three (3) design-build firms as the most qualified, based on the qualifications, availability, and past work of the firms, including the partners or members thereof.
3. The criteria, procedures, and standards for the evaluation of design-build contract proposals or bids, based on price, technical, and design aspects of the public construction project, weighted for the project.
4. The solicitation of competitive proposals, pursuant to a design criteria package, from those qualified design-build firms and the evaluation of the responses or bids submitted by those firms based on the evaluation criteria and procedures established prior to the solicitation of competitive proposals.
5. For consultation with the employed or retained design criteria professional concerning the evaluation of the responses or bids submitted by the design-build firms, the supervision or approval by the Board of the detailed working drawings of the project; and for evaluation of the compliance of the project construction with the design criteria package by the design criteria professional.
6. In the case of public emergencies, the Board may declare an emergency and authorize negotiations with the best qualified design-build firm available at that time.

H. Reuse of Existing Plans

Notwithstanding any other provisions of this policy, there shall be no public notice requirement or utilization of the selection process as provided in this policy for projects in which the Board is able to reuse existing plans from a prior project. However, public notice for any plans which are intended to be reused at some future time shall contain a statement which provides that the plans are subject to reuse in accordance with the provisions of F.S. 287.055(10).

I. **Protest Procedure**

The protest procedure will be as described in Policy 6326 - Bid Protests.

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Legal F.S. 287.055
 F.S. 1001.43
 F.S. 1013.46

Cross References po6326 - BID PROTESTS

Last Modified by Karen Hladik on June 5, 2018