

Chapter 16K-1, F.A.C.
November 18, 1975 - May 11, 1976

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16CA-0.01 Policy, Objectives and Implementation Date. These regulations are promulgated, established and published by the Central and Southern Florida Flood Control District to effectuate its powers, duties and functions under the Florida Water Resources Act of 1972, Chapter 373, Florida Statutes and Chapter 25270, Laws of Florida, 1949. The purpose of the regulations is to effect the maximum utilization of the waters in the District by managing, regulating, and controlling the uses of such waters. The Governing Board of the District finds and declares these regulations reasonable and necessary to achieve that purpose. The implementation date of these regulations is March 1, 1974. General Authority ch. 25270, Laws of Florida, as amended; §20, part 1, ch. 72-299 (373.113 FS). Law Implemented §2, part 1, ch. 72-299 (373.016 FS); §20, part 1, ch. 72-299 (373.113 FS); §28, part 1, ch. 72-299 (373.149 FS). History-New 12-14-73.

16CA-~~1~~.02 Scope of Jurisdiction. The District shall regulate and control all ground and surface water, including the use of such water and the construction, alteration, maintenance, and operation of all water wells, dams, impoundments, reservoirs, appurtenant works, and works within the geographical boundaries of the District, as defined in Section 373.069, Florida Statutes, unless such use, construction, alteration, maintenance, or operation is specifically exempted from regulation or control by general law or special act.

General Authority 378.151 FS (373.044 FS); §20, part 1, ch. 72-299 (373.113 FS). Law implemented 378.17 FS (373.085 FS); §4, part 1, ch. 72-299 (373.023 FS); §12, part 1, ch. 72-299 (373.069 FS); §6, ch. 73-190 (373.069 FS). History-New 12-14-73.

16K-1.03 Powers and Duties.

Specific Authority Chapter 26270, Laws of Florida, as amended; 373.044, 373.113 FS. Law Implemented Chapter 26270, Laws of Florida, as amended; 373.086, 373.083(1), 373.103(2), (3), (4), (7) FS. History—New 8-2-74, Repealed 11-18-75.

16CA-~~p~~.04 Appropriation of Funds. The District reserves the right to discontinue any or all of the regulatory procedures established herein if, in the opinion of the Board, the Department of Natural Resources does not allocate to the District such funds as are necessary to defray the costs of administering these regulations.

General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented §11, part I, ch. 72-299 (373.501 FS); §5 ch. 73-190 (373.501 FS). History-New 12-14-73.

16K-1.05 Definitions.

(1) "Act" means the Florida Water Resources Act of 1972, Chapter 373, Florida Statutes, and any amendments thereto that may be made from time to time.

(2) "Artificial recharge" means the intentional introduction of any fluid substance into any underground formation. This definition includes fluid substances from facilities such as injection wells, percolation ponds, land spreading, but does not include fluid substances from septic tanks for residential use.

(3) "District" or "Water Management District" means the Central and Southern Florida Flood Control District or its successor agency.

(4) "Emergency due to water shortage" means that situation when an emergency exists due to a water shortage and the powers exercisable under Section 373.246(1), Florida Statutes, are not sufficient to protect the public health, safety, or welfare, or the health of animals, fish or aquatic life, or a public water supply, or recreational, commercial, industrial, agricultural, or other reasonable uses.

(5) "Executive Director" means the Executive Director of the District.

(6) "Governing Board" or "Board" means the Governing Board of the District.

(7) "Project Works" means all natural or artificial surface watercourses, impoundments, levees, dikes, dams, floodways, pumping stations, bridges, highways and other works and facilities owned, operated or adopted by the Board.

(8) "Surface watercourse" means water upon the surface of the earth, whether contained in bounds created naturally or artificially, which usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted.

(9) "Underground formation" means a unit of earth material with distinct physical and chemical characteristics, including the stratigraphic extensions over voids and cavities.

(10) "Water shortage" means that situation within all or part of the District when insufficient water is available to meet the requirements of the permit system, or when conditions are such as to require temporary reduction in total use within the area to protect water resources from serious harm.

(11) "Coastal zone" means that area of land and water from the territorial limits landward to the most inland extent of maritime influences.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.086, 373.106, 373.113, 373 (parts II, III, IV) FS. History—New 3-2-74. Amended 7-20-74, 11-18-75.

16K-1.06 Permits Required. Except as provided by law or District rule no person shall, without obtaining a permit from the Board:

(1) use, divert, or withdraw any water in the District;

(2) construct, alter, operate, or abandon any dam, impoundment, reservoir, appurtenant work or works in the District;

(3) begin construction on any project involving artificial recharge or the intentional introduction of water into any underground formation in the District;

(4) discharge into the waters in the District;

(5) connect to, place structures in or across project works or otherwise make use of project works or lands of the District;

(6) perform any other act in the District for which a permit from the Board may be required by law or District rule.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373(parts II, III, IV) FS. History -New 3-2-74, Amended 11-18-75.

liability insurance be maintained as a condition of the continued validity of the permit.
Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.219, 373.413, 373.416 FS. History—New 12-20-74.

16K-1.061 Bond.

(1) The Board may require the applicant for a permit to furnish a bond made payable to the District and its successors, with a reputable bonding corporation authorized to do business in this State as surety, conditioned upon full compliance with terms of the permit, including the proper construction, operation, and maintenance of the facility by the applicant so it will not be detrimental to the operation and maintenance of works of the District existing or planned. The amount of the bond shall be in such amount as the Board shall determine to be adequate.

(2) In the alternative to subsection (1), the Board may require liability insurance in such amount as the Board shall determine endorsed in favor of the District or a hold harmless agreement satisfactory to the Board.

(3) The Board may require that such bond or

16K-1.062 Reapplying for Permits. When an application for a permit has been denied by the District, a new application for permit shall not be re-submitted within six (6) months of such denial unless the applicant can show a substantial change in conditions or unless the permit applied for is substantially modified and in compliance with the District's reasons for denial. General Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.219, 373.413, 373.416 FS. History - New 12-13-74.

16K-1.07 Power to Enforce.
Specific Authority 373.113 FS. Law Implemented 373.603
FS. History--New 3-2-74. Itpealed 11-18-75.

16K-1.08 General Permit Procedure.

(1) Procedures for permit applications shall be in accordance with the provisions of Chapter 120, Florida Statutes, and these rules. The Board shall determine, subject to appropriate review, whether any act requires a permit as specified in Rule 16K-1.06.

(2) Applications for permits shall be:

(a) filed with the District on the appropriate form provided by the Board; and

(b) accompanied by the appropriate fee in accordance with the schedule of fees if established by the Board. The failure of any person to pay the required fee(s) shall be grounds for denial or revocation of his permit.

(3) The District shall notify the applicant if an application is incomplete and inform the applicant of what additional information is required to make the application complete. If the additional information is not supplied within ten (10) days the incomplete application will be returned to the applicant. Extension to this time may be granted by the District upon request by the applicant upon a good faith showing by him that effort is being made to provide the additional information and that added time is required. A defective application may be rejected without prejudice to the applicant's right to file a new application under subsection (2) of this section.

(4) Prior to acting on an application for a permit required by this chapter, the Board shall give notice to persons whose substantial interests are affected by the requested Board action that they may request a hearing or file written objections by a certain date (at least fourteen (14) days after the first notice). After the applicant has filed a complete permit application, the Board at its discretion may request further information from either the applicant or the objectors. Failure to provide the requested information may be grounds for denial of the permit or dismissal of the objection.

(5) Upon receipt of an application of the type referred to in subsection (2) above, the Board, where required by law, shall cause a notice thereof to be published within the affected area in a newspaper having general circulation as defined in Chapter 50, Florida Statutes. The notice shall be published as required by law. In addition, the Board shall send a copy of such notice to any person who has filed a written request for notification of any pending applications affecting the particular designated area. This notification shall be sent by regular mail prior to the date of last publication.

(6) The Board shall hold a hearing on each application for a permit when required by law, when any person whose substantial interests are affected makes a timely request for a hearing, or at the discretion of the Board.

(7) In the event a hearing is required, such a hearing shall be conducted in accordance with these rules and Chapter 120, Florida Statutes.

(8) Should an application be denied, the Board shall state the grounds for denial.

(9) The Board will consider the water quality and quantity impact and the land use implications of the application, the Declaration of Policy in Section 373.016, Florida Statutes, and other matters required by law.

Specific Authority 120.53(1), 373.113 FS. Law Implemented 120.57, 373.106, 373.109, 373.413, 373.416, 373.426 FS. History--New 3-2-74, Amended 12-20-74, 11-18-75.

16CA-1.07 Filing of Citizen Objections or Complaints

(1) Objections:--All objections to the issuance of any permit applied for under the provisions of Chapters 16CA-2 and 16CA-4 of these regulations shall be filed in writing with the District. All such objections must particularly specify the grounds for objection and must be filed by the date specified in the notice of application. All objections must be signed by the objector or his agent. Upon request the Board shall provide the applicant a copy of all objections to his application filed under this subsection. The Board may, in its discretion, require the objector to furnish any additional information reasonably necessary to ascertain the nature of the objections and shall provide a reasonable time for the furnishing thereof.

(2) Complaints:--All complaints under the provisions of Regulation 16CA-2.03(2) that a person is making a diversion withdrawal, impoundment, or use of water not expressly exempted by the Act and without a permit to do so shall be filed in writing with the District. Such complaint shall specify, to the best of complainant's knowledge, the identity of the alleged violator, the location of the alleged violation, and the nature of the alleged violation. All complaints must be signed by the complainant or his agent. The Board may, in its discretion, require the complainant to furnish any additional information reasonably necessary to aid in the investigation of the complaint.

General Authority § 20, part I, ch. 72-299 (373.113 FS). Law Implemented § 2(2), part II, ch. 72-299 (373.219(2) FS); § 5(2), part II, ch. 72-299 (373.223(2) FS). History-New 12-14-73.

**16K-1.10 Administrative Enforcement
Procedures.**

Specific Authority 373.113 FS. Law Implemented 373.119
FS. History- New 3-2-74. Repealed 11-18-75.

(1) The presiding officer, who shall be the Chairman of the Board, a member thereof, or a hearing officer, shall call the hearing to order and state the nature and purpose of the hearing.

(2) The presiding officer shall record appearances of the parties or their representatives. Persons who wish to make a statement but not be a party will be recorded.

(3) The presiding officer shall call for the presentation of evidence. The presentation of evidence at a hearing for a permit from the District shall be in the following order:

(a) Applicant

(b) Intervenors who are proponents of the application

(c) Members of the general public not parties to the proceeding

(d) Intervenors who are opponents of the application

(e) Rebuttal by the applicant and intervenors

(f) District staff

(4) The presentation of evidence at a hearing at which the initial pleading is either a complaint initiated by the Executive Director pursuant to Section 373.119, Florida Statutes, or a notice of intent to revoke a permit shall be in the following order:

(a) District staff

(b) Intervenors in support of the District staff

(c) Respondents

(d) Intervenors in support of Respondents

(e) Rebuttal.

(5) The presentation of evidence at a hearing at which the initial pleading is a complaint initiated pursuant to Rule 16K-1.09 shall be in the following order:

(a) Complainants

(b) Intervenors in support of complaints

(c) Defendants

(d) Intervenors in support of defendants

(e) District Staff

(f) Rebuttal.

(6) All persons testifying must be sworn and subject to direct or cross-examination by all parties of record.

(7) The presiding officer may grant a continuance of a hearing.

(8) The Florida Rules of Civil Procedure shall be applicable to the extent that they are not inconsistent with Chapter 120, Florida Statutes, or these rules.

(9) The Chairman of the Board or hearing officer may require the production of books, papers, or other documents and issue subpoenas to compel the attendance and testimony of witnesses.

(10) Unless extenuating circumstances arise, the hearing officer shall, within thirty (30) days after the conclusion of a hearing, or if a transcript of the hearing is requested, within thirty (30) days following receipt of the transcript, transfer his entire case file to the Board and file with the Board a written report consisting of his finding of facts, conclusions of law, interpretation of administrative rules and recommended order. The District will send copies of the hearing officer's report to all parties of record and allow each party at least ten (10) days to submit written exceptions to the report.

16K-1.11 Quasi-judicial Hearings Before the Board. All fact finding hearings before the Board concerning the issuance, modification, or revocation of permits, ordering of remedial work, or enforcement of any provision of Section 373.119, Florida Statutes, shall be conducted in accordance with Chapter 120, Florida Statutes. The Board or hearing officer may exercise powers enumerated in Sections 373.126 and 120.08 (1) (b), Florida Statutes. Hearings shall be conducted as follows:

(11) After giving parties an opportunity to make written exceptions to the hearing officer's report, the Board will consider the report at a regularly scheduled meeting after giving notice to all parties. After considering the hearing officer's report, written exceptions, and oral arguments, if allowed, the Board will issue its order which shall be final.

Specific Authority 120.63(1), 373.113 FS. Law Implemented 120.63, 120.67, 120.68(1), 373.126 FS. History—New 3-2-74, Revised 12-20-74, Amended 11-18-75.

16K-1.111 Parties to Proceedings.

(1) Parties in fact finding proceedings are designated as applicants, petitioners, complainants, defendants, respondents, or intervenors according to the Notices of the Proceeding and the relationship of the respective parties.

(2) Parties are defined as follows:

(a) Applicants and Petitioners: Persons filing formal written requests with the District for some right, privilege or authority within the jurisdiction of the District to grant.

(b) Complainants: Persons who complain of acts or things done or omitted to be done in violation of some law, regulation or order administered or issued by the District.

(c) Defendants: Persons against whom a complaint is filed.

(d) Respondents: Persons named in a complaint served by the District pursuant to Section 373.119, Florida Statutes.

(e) Intervenors: Persons, other than the original parties to a pending proceeding, who have an interest therein and who desire to become parties thereto and who petition the Board for leave to intervene. Intervention may be filed at any time with the Board or hearing officer up to the recording of appearances of parties at the hearing. An intervenor may support or oppose the original parties, but must declare his position and allege sufficient facts in support thereof at the time of requesting intervention.

(3) Only parties of record shall be entitled to receive pleadings.

(4) For the purposes of the rules in this chapter, the term "Party" or "Parties" shall be construed to include the District. District staff shall appear on behalf of the general public interest. Their duty is to reasonably insure that all facts touching upon the general public interest are clearly brought before the agency.

(5) An individual or a designated representative may appear on behalf of himself. Any member of a partnership which is a party to a proceeding may appear for such partnership upon adequate identification. An officer of a corporation or association, or a full-time employee of an individual, corporation, or association may appear on behalf of such corporation, association, or individual. A person also may be represented by an attorney or other qualified representative.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1) FS. History—New 12-20-74, Amended 11-18-75.

either be a notice of revocation of permit or a complaint initiated pursuant to Rule 16K-1.09 or Section 378.119, Florida Statutes.

(2) All pleadings shall be typewritten on white legal size paper and the lines shall be double spaced.

(3) All pleadings shall show the correct name and post office address of each party by and for whom the particular pleading is filed, and the name and post office address of the attorney, if any. Pleadings shall also contain a full and clear statement of facts that the party or parties are prepared to prove by competent evidence at a hearing, the proof of which will warrant the relief sought and a statement of the specific relief sought, and the legal basis for such relief.

(4) Any notice, motion, pleading or other document or paper shall be filed with the Board or hearing officer and served on the respective parties in the same manner as prescribed by the Florida Rules of Civil Procedure. When service is made by United States Mail, service of filing shall be deemed complete when a true copy of such paper or document properly addressed and stamped is deposited in the United States Mail and the postmark date shall be the date of service of filing.

(5) Whenever any party has the right or is required to file a responsive pleading and the time for filing the same is not specifically fixed by a particular law or District rule, such responsive pleading shall be filed with the chairman of the Board or hearing officer and served on all parties within fifteen (15) days after service of the notice or pleading to which the response is being made. Other pleadings and motions may be made at any time with leave of the chairman of the Board or the hearing officer.

Specific Authority 120.53(1)(b) FS. Law Implemented 120.53(1)(b) FS. History—New 12-20-74, Amended 11-18-76.

16K-1.112 Pleadings.

(1) The initial pleading for an application for a permit required by the District shall be the public notice of application. All other initial pleadings shall

16K-1.113 Witness Fees.
Specific Authority 373.113 FS. Law Implemented
373.126(3) FS. History—New 12-20-74, Repealed 11-18-75.

16K-1.12 Request for Hearing. Where any action has been taken by the Board without a hearing, the affected person shall have the right to request a hearing; provided that such request must be made within fourteen (14) days after notice of the action taken by the Board.

Specific Authority 120.53, 373.113 FS. Law Implemented 120.53, 120.57, 120.60 FS. History—New 3-2-74, Amended 12-20-74.

16K-1.13 Petitions for Declaratory Statements.

(1) Any person may petition the Board for a declaratory statement as to the applicability to the petitioner of any District rule or order or statutory provision enforced by the District.

(2) Within ten (10) days after receipt, the petition will be placed on the agenda of the next Board meeting for which an agenda has not been finalized.

(3) The Board shall issue an order following consideration of the petition and oral testimony at the Board meeting. The order shall only be applicable to the petitioner.

Specific Authority 120.56(5) FS. Law Implemented 120.56(5) FS. History—New 12-20-74, Amended 11-18-75.

Specific Authority 120.53(1), 373.113 FS. Law Implemented 120.53(1), 120.54 FS. History—New 12-20-74, Amended 11-18-75.

16K-1.14 Administrative Determination of Validity of Regulation.

Specific Authority 120.53 FS. Law Implemented 120.56(2) FS. History—New 12-20-74, Repealed 11-18-75.

16K-1.15 Procedure for Adoption of Rules.

(1) Rules shall be adopted in accordance with the procedure in Section 120.54, Florida Statutes.

(2) Hearings on proposed rules shall be presided over by a member of the Governing Board. The District will present evidence to indicate the purpose of the proposed rules at the hearing. Members of the public will be given the opportunity to present written or oral comments on the proposed rules. The District may also accept written statements by a specified date after the hearing.

(3) A copy of any and all rules (as defined by Section 120.52(13), Florida Statutes,) adopted by the District, may be obtained at no cost by making a written request to the Regulation Division of the District.

16K-1.16 Description of Organization.

(1) The District was created by Chapter 25270, Laws of Florida, 1949 as a public corporation. The District operates under and is governed by Chapter 373, Florida Statutes, and Chapters 25214 and 25270, Laws of Florida, 1949, as amended by Chapters 55-30542, 55-31139, 59-534, 59-838, 59-1004, 61-1576, 65-906, 65-1100, 67-698, Laws of Florida. The District is governed by a nine member Board appointed by the Governor. The Board employs an Executive Director to administer the District, organize its staff with Board approval, and employ the necessary staff.

(2) The District staff is composed of the Executive Office and four (4) Departments: (1) Resource Planning—which is concerned with all matters dealing with natural resource use and planning; (2) Field Services—which is concerned with maintenance and operation of all district facilities; (3) Administration—which is the support function for the

other departments; (4) Resource Management—which is concerned with construction of facilities in the District.

(3) The District has been delegated authority by the Department of Natural Resources to perform certain of the responsibilities of the Florida Water Resources Act (Chapter 373, Florida Statutes). That delegation is general to the District and can be found in the minutes of the meetings of the Department of Natural Resources of April 4, 1973 and August 20, 1974.

(4) The public may obtain information from the District or make submissions or requests by writing to the Executive Director, Central and Southern Florida Flood Control District, Post Office Box "V", West Palm Beach, Florida 33402. The District offices are located at 3301 Gun Club Road, West Palm Beach and the office hours are 8:00 A.M. to 5:00 P.M., Monday through Friday.

(5) Employment application forms can be obtained from the Department of Administration at the offices of the District.

(6) Information concerning franchises, permits, licenses or privileges can be obtained from the

Regulation Division of the District.

(7) Records of the District are public information and may be inspected upon 48 hour notice at the offices of the District. If copies of any part of the records are requested, the District shall provide them for fifteen cents (15¢) for each page.

(8) The District shall maintain mailing lists for distribution of agendas of Board meetings and notices of proposed rules. Requests to be on the mailing lists should be made in writing as provided in subsection (4).

Specific Authority 120.53(1)(a) FS. Law Implemented 120.53(1)(a) FS. History—New 12-20-74.

16K-1.17 Agendas and Scheduling of Meetings and Workshops.

(1) Except in cases of emergencies, the District shall give at least ten (10) days notice of any meeting by mailing notice thereof to the newspapers of general circulation in the District; said notice shall state the date, time and place of the meeting and advise where a copy of the agenda of the official meeting may be obtained.

(2) At least seven (7) days prior to an official

meeting, the District shall prepare and make available an agenda for distribution to any interested person and persons who have requested to be on the mailing list for distribution of agendas.

(3) The agenda shall list the items in the order they are to be considered. For good cause stated in the record, items on the agenda may be considered out of their stated order with the approval of the presiding officer.

(4) The agenda shall be specific as to items to

be considered. All matters involving the exercise of District discretion and policy-making shall be listed on the agenda. Agenda items such as "old business," "new business," or "other business" or "other matters which may come before the District" or similar terms shall be used for consideration of solely ministerial or internal-administrative matters which do not affect the interests of the public generally. The District may utilize the following form in preparing its agenda:

CENTRAL AND SOUTHERN FLORIDA FLOOD CONTROL DISTRICT
FINAL AGENDA
GOVERNING BOARD MEETING — Open to the Public

DATE

TIME

PLACE

Invocation
Pledge of Allegiance to the Flag to the United States of America

Executive Office

(1) Specific items

(2) Personnel matters

Department of Administration

Specific items

Department of Resource Management

Specific items

Department of Field Services

Specific items

Department of Resource Planning

Specific items

Office of Counsel

Specific items

(5) Specific additions may be made to the agenda by the District after it has been made available for distribution only for good cause as determined for the record by the officer of the District presiding at the meeting.

(6) The agenda shall provide that the meeting shall be open to the public and subject to the Sunshine law, unless specifically provided otherwise by law.

(7) The District may hold an emergency meeting for the purpose of acting upon internal-administrative and ministerial matters, and matters of immediate concern to the public health, safety and welfare. Whenever an emergency meeting is scheduled to be held, the District shall notify, as soon as possible, at least four major newspapers of general circulation in the area where the meeting will take place and also all major wire services of the time, date, place and purpose of the meeting.

(8) Workshop Meetings:

(a) The District shall hold such workshop meetings as it deems necessary, however, no official action shall be taken at the meetings.

(b) Except in case of emergencies, the District shall give at least nine (9) days notice of all workshop meetings by mailing notice thereof to the

newspapers of general circulation in the District; said notice shall state the date, time and place of the meeting, advise that the meeting is open to the public, and that an agenda will be available seven (7) days prior to the meeting.

(c) Workshop agendas will be prepared by the District seven (7) days in advance of the meeting. Specific additions can be made to the agenda for good cause as determined by the officer of the District presiding.

(9) Any request to place an item on an agenda at a meeting of the Board or a workshop meeting must be received by the District, in writing, not less than eight (8) days prior to the meeting, except as provided for in subsection (5).

Specific Authority 120.52(1)(d) F.S. Law Implemented 120.52(1)(d) F.S. History—New 12-20-74.

16K-1.18 Procedures under Consultants' Competitive Negotiations Act. In order to comply fully with the requirements of Section 287.055, Florida Statutes, ("Consultants' Competitive Negotiation Act") the following procedures in addition to those in Section 287.055, Florida Statutes, shall be followed in selecting firms to provide professional services and in negotiating contracts.

(1) Qualifying procedures: Firms desiring to provide professional services to the District must be certified by the District. Application for certification can be accomplished by the applicant filing Form No. 400(Rev) (Figure 1-1) with the District, which form will be furnished upon request. Incomplete forms will be returned to the applicant for completion before certification can be considered. Annual updates of Form No. 400 (Rev) (Figure 1-1) are required by the District for those firms desiring to maintain certification status with the District. All updates in any event shall have been furnished to the District not more than sixty (60) days prior to the date of the public announcement to which the firm intends to respond.

(2) competitive selection:

(a) For each District project requiring professional architectural, engineering or land surveying services the District will evaluate the current statements of qualifications and performance data on file with the District, together with such other qualification and performance data as may be submitted by other firms desiring to qualify for possible selection for competitive negotiation for the proposed project. The District may require public presentation by no less than three (3) firms regarding their qualifications, approach to the project and ability to furnish the required service.

(b) The District shall, following the review and/or the public presentation, select and list not less than three (3) firms, in order of preference determined by the District, which firms shall be deemed to be the most highly qualified to perform the required professional services, after considering

1. the ability of the professional personnel,
2. past performance,
3. willingness to meet time and budget requirements,
4. location of the firm in relation to the project,
5. recent, current and projected work loads of the firm, and
6. the volume of work previously awarded to the firms by the District, with the object of effecting an equitable distribution of contracts among qualified firms. The distribution shall not violate the principal of selection of the most highly qualified firm.

(c) The selection made will be presented, in writing, to the Executive Director who shall recommend to the Board that competitive negotiations be instituted with the selected firms in order of preference as listed.

(3) Competitive negotiations:

(a) After the Board has authorized the beginning of competitive negotiation, the Executive Director, or his designee, will begin such negotiation with the firm listed as most qualified and preferential to furnish and perform the requisite professional services for the project involved, in an attempt to arrive at an agreed compensation which is deemed to be fair, competitive and reasonable. A detailed analysis of the cost of the requisite professional services, considering the scope and complexity thereof, shall be done in making such a determination.

(b) In negotiating a lump sum or cost-plus-a-fixed-fee professional service contract for more than the sum of \$50,000.00, the firm receiving the award shall be required 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". In addition, 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 District determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs".

Any contract adjustment must be made within one (1) year following the termination of the contract.

(c) Should the Executive Director, or his designee, fail to negotiate satisfactorily with the firm determined to be the most qualified and preferential at a price deemed by the District to be fair, competitive and reasonable, negotiation with that firm shall be terminated and the Executive Director, or his designee, shall immediately thereafter begin negotiations with the second most qualified and preferential firm.

(d) Should the Executive Director, or his designee, fail to reach a satisfactory agreement with the second most qualified and preferential firm those negotiations shall be terminated by the Executive Director, or his designee, and negotiations with the third most qualified and preferential firm shall be undertaken.

(e) Should the Executive Director, or his designee, be unable to negotiate a satisfactory agreement with any of the selected firms, additional firms shall be selected by the District, in order of their competence and qualifications. This list of additional firms shall be submitted to the Executive Director, who shall order that negotiations shall continue beginning with the first named firm on the list, all in accordance with Section 287.055(5), Florida Statute. The negotiations shall continue until an agreement is reached.

Specific Authority 287.055(3) (d) FS. Law Implemented 287.055 FS. History—New 12-20-74.