

**Policy Committee Meeting
February 16, 2010
6:00 p.m.**

MINUTES

Attendance: Commissioner Cruz (Chair); Commissioners Campos and Powell (joined at 6:08PM).

District Staff: Chuck Johnson, Tom Keysa, Gary Smith and Gladys Pedraza Burgos

Board Staff: Shanai Lee and Debra Flanagan

Commissioner Cruz convened the meeting at 6:02 p.m.

I. Review and Approval of Minutes from January 26, 2010 Policy Committee Meeting

Motion by Commissioner Campos to approve the minutes of the January 26, 2010 Policy Committee meeting. **Adopted 2-0.**

II. Report on Status of Review of Legally Mandated Policies

Chuck Johnson briefed the Committee on the current status of reviewing mandated policies as part of the effort to update the Policy Manual. He reported that revisions to the following policies have been addressed in the last month: Responsible Bidders' policy; Attendance policy; School Naming policy; and Purchasing policy, based on the Buy American Act. Mr. Johnson also noted that Superintendent regulations are being developed for the Code of Ethics and for Acceptable Use of District Equipment. He referred to the status report provided to Committee members, stating that six policies have been completed or deemed unnecessary, four policies are in progress, and nine policies remain to be done.

III. Report on Proposed Amendment to Responsible Bidder Policy

Shanai Lee referred to a Powerpoint presentation given to the Policy Committee last year regarding the essential elements of the amendment to Responsible Bidder policy to establish an internal qualified bidders' list. She requested additional time to collaborate with Administration to finalize the policy amendment, indicating that the final proposal would be presented in the March Policy Committee meeting and in the March Board Business meeting as an information item.

Ms. Lee discussed developing a prequalification application for prospective contractors, who would remain on the qualified bidders' list for two years if able to document their qualifications

based on predetermined criteria. The criteria for qualification would be: availability of qualified staff, past performance, knowledge and experience, capacity, financial condition, and demonstrated ability to work with minority- and women-owned business enterprises (M/WBE). Ms. Lee also proposed criteria for suspension and removal from the qualified bidders' list, and conducting an annual review of contractor performance. Performance would be evaluated by a Contractor Evaluation Committee comprised of representatives from the Facilities, Purchasing, and Law departments.

Action Item: Board staff will include the proposed amendment to Responsible Bidder policy on the agenda for the March 16, 2010 Policy Committee meeting.

Chuck Johnson explained that the law requires a minimum of five contractors in each area (i.e. general, electrical, plumbing, HVAC) for the District to be able to utilize the internal qualified bidders' list. If fewer than five contractors are indicated in any one area on the internal list, then the District must undertake the competitive bidding process.

Commissioner Powell pointed out that the impetus for establishing an internal qualified bidders' list was due to concern for the declining number of M/WBE firms contracted by RCSD. She explained that this proposal enables the District to build a prequalified list with contractors that have a demonstrated track record of working with M/WBE firms, thereby increasing M/WBE participation.

Ms. Lee referred to the copy of the prequalification application that has been used in New York City for the last ten years, indicating that this is a useful example for gauging M/WBE participation as well as other qualifications as a responsible bidder.

Commissioner Powell inquired as to the rationale for the two-year prequalification period, noting that this may become burdensome to the District and to prospective contractors. She suggested establishing a three-year prequalification period. Ms. Lee replied that the District can determine the prequalification period, but her primary concern is to monitor contractor performance on an annual basis.

Mr. Johnson stated that the law requires the list of qualified bidders to be published annually, but the prequalification period would determine how often the process would be open to new prospective contractors.

Commissioner Cruz suggested the possibility of creating a three-year prequalification period with an annual "booster" to verify ongoing ability to meet the established criteria. He noted that an internal qualified bidders' list would ultimately save time and effort for the District in not having to seek qualified contractors for each project.

Commissioner Powell asked whether prospective contractors would have to meet a fixed deadline or simply provide documentation of qualifications "on demand". Ms. Lee replied that a fixed deadline is planned by which prospective contractors would have to submit prequalification applications and corresponding documentation regarding their ability to meet the criteria.

Commissioner Powell cautioned that any deadline must correspond to the timeline for public works projects. She emphasized the importance of not establishing arbitrary deadlines or of appearing to be exclusionary in this process.

Commissioner Cruz pointed out that these concerns can be addressed by the methods used to distribute information regarding the qualified bidders' list, criteria, documentation required, and deadlines. He suggested that these methods be incorporated into the process and policy amendment.

IV. Buy American Act Policy Proposal

Debra Flanagan reported that Commissioner White was unable to attend the Policy Committee meeting this evening, and requested that consideration of this proposal be moved to a later meeting.

Commissioner Cruz suggested considering the Buy American Policy proposal in the April or May Policy Committee meeting.

Action Item: Board staff will include the policy proposal regarding the Buy American Act in the agenda for the April or May 2010 Policy Committee meeting.

V. Change Order Policy Proposal

Commissioner Powell explained that the proposal to amend the Financial Reporting & Resolutions policy had been discussed in the January 21st Finance Committee meeting, with minor language changes suggested by the Administration. She noted that the Board already receives quarterly reports of change orders, but does not accept, amend, or include them in the official record. By accepting the quarterly Change Order Report and the final project cost, changes in public works projects would be approved in a more timely fashion and there would be no need for final payment resolutions. In this way, Commissioner Powell stated that concerns could be addressed regarding the Board not monitoring changes on a timely basis, as cited in the State Comptroller's Audit Report.

Commissioner Cruz inquired as to the Administration's response to this policy proposal. Tom Keysa stated that if a requirement is established for the Board to approve each change order as it arises, it would completely halt operations on public works projects. He explained that this was the rationale for suggesting a revision to the proposed amendment to state that the Board would "accept" the quarterly Change Order Report rather than approve it.

Commissioner Powell emphasized that the policy must contain language stating that the Board is to approve the final amount for the project, and this would indicate approval of each change order after the fact.

Commissioner Cruz asked about the frequency with which change orders arise in excess of the project budget, inquiring whether at least 75% of projects are within budget. Mr. Keysa replied

that more than 75% of projects are within budget, particularly since the project budget includes the 10% contingency allowance.

Commissioner Powell clarified that the Board only has to approve the final payment if the change order has altered the final project cost. She contended that this could be done on a quarterly basis with the Change Order Report, thereby eliminating the need for final payment resolutions. Mr. Keysa asserted that a final payment resolution may still be needed if a change order is approved within a short time after the end of a quarter; he stated that contractors will not want to wait another 90 days prior to receiving payment.

Commissioner Cruz pointed out that there is still plenty of discussion regarding this policy proposal, requesting District staff to consider alternatives, Board staff to continue gathering information as to the way in which change orders are managed in other districts, and including this item on the agenda for the March 16th Policy Committee meeting.

Action Item: Board staff will gather information from other school districts regarding the way in which change orders are managed. Board staff will also include the Change Order policy proposal in the agenda for the March 16, 2010 Policy Committee meeting.

VI. Mechanisms for Ensuring that Board Policies and Superintendent Regulations are Followed

Commissioner Cruz asked about actions taken when Board policies are established and the way in which policies are implemented.

Commissioner Powell stated that a number of policies direct the Superintendent to formulate regulations, but regulations have still not been developed. She cited Attendance policy and Parent Involvement policy as examples. Commissioner Powell noted that there have also been occasions in which Superintendent regulations have been developed without the Board's knowledge, and Board members only learned of the regulation through calls from parents (e.g. field trips).

Mr. Johnson asserted that he will assume responsibility for providing information to Board staff whenever a new Superintendent regulation has been developed.

Commissioner Cruz suggested establishing a standard operating procedure to stipulate at the end of each Board policy whether Superintendent regulations are required for implementation. In this way, there is documentation to promote accountability. Commissioner Cruz contended that no policy is complete without an implementation plan, the expectation of which should be contained in the policy itself.

Mr. Johnson stated that he will ensure that language regarding development of Superintendent regulations is included in every policy proposal.

Action Item: Board staff will include discussion of mechanisms to ensure follow-through on Board policies in the agenda for the March 16, 2010 Policy Committee meeting.

VII. Recruitment of Parent Representatives to Serve on Board Committees

Commissioner Cruz requested that Shanai Lee explain some of the concerns that arose in considering the process of recruiting and selecting parent representatives to serve on Board Committees.

Ms. Lee stated that a number of concerns were identified in her discussion with Mr. Johnson: 1) parent representatives serve for one fiscal year rather than a calendar year, so that the entire school year would be included in their term; 2) only parents or legal guardians of children currently attending an RCSD school would be eligible to serve; 3) parent representatives cannot have any personal or financial interest in the decisions made by the Committee on which they serve.

Gladys Pedraza Burgos emphasized the importance of ensuring the integrity of the process and of the individual parent representatives. She explained that the selection process would require applications to be submitted by April 1st and her office would review the top candidates to verify that they are currently a parent or legal guardian of a child attending an RCSD school. Once the verification has been completed, Board staff would be notified and these candidates' applications would be submitted to the appropriate Board committee. Ms. Pedraza Burgos clarified that each Board committee could determine the selection process after this point.

Commissioner Campos suggested including a question on the application regarding the parent's professional role to obtain an indication as to their background.

Commissioner Cruz recommended requesting applicants to submit their resume in addition to the application form.

Commissioner Powell expressed concerns regarding the length of the timeframe for this process, noting that a term beginning on July 1st will not result in true participation until September 1st. She contended that the proposed process does not support the intent of this initiative to obtain parent representation in a timely fashion. Commissioner Powell noted that this is also a transitional process due to the fact that a functional districtwide parent organization is not currently in place. She also objected to apparent efforts to restrict or discourage parents from applying by requiring submission of resumes.

Commissioner Cruz agreed that this is a transitional measure due to lack of a functional districtwide parent structure or established process, but cautioned against hastily moving forward. He pointed out that one of the major complaints leveled against the District is that the same individuals are always involved and represented, so the process must be considered carefully to ensure fairness in recruitment and selection.

Ms. Pedraza Burgos stated that she has reviewed information about the many districtwide parent organizations that have been developed over the years, and recognized that the main problem has been a lack of infrastructure. She suggested that the proposed process for recruitment and selection of parent representatives for Board committees could also be used for the districtwide parent organization.

Commissioner Cruz recommended providing a full orientation for the selected parent representatives: not only of the functions of the Board committee upon which they serve, but of the full Board and District leadership. Ms. Pedraza Burgos described recent efforts in her division to develop an orientation program for parents volunteering in a variety of capacities. Commissioner Cruz suggested creating one orientation program for all volunteers with the District. Ms. Pedraza Burgos replied that a mechanism is currently in place through the leadership courses offered by the Parent University. Commissioner Powell pointed out that this also offers a potential pool of candidates of parents who have taken the leadership courses.

Commissioner Powell noted that the Board Governance Committee typically addresses internal issues affecting the Board and conducts the Superintendent's annual performance evaluation. She questioned whether this would be an appropriate committee for parent representation.

Commissioner Cruz recommended removing reference to the Board Governance Committee in the announcement and form to be distributed in recruiting parent representatives. He also urged Committee members to incorporate a Code of Ethics for parent representatives, which would be included in their orientation, to ensure that there is no abuse of their position or access to confidential information.

Commissioner Powell reiterated her concern regarding the time involved in the parent representative process, but stated that Committee Chairs are still able to make their own selection in their own way.

Ms. Pedraza Burgos offered to establish March 15th as the deadline for application submission to expedite the process. She reported that many parents will be attending the Superintendent's presentation on March 1st regarding the Strategic Plan and the Parent Advisory Council will be meeting on March 8th, which will present opportunities to publicize and distribute this information to parents.

Action Item: Board staff will modify the parent representative recruitment announcement and form to remove reference to the Board Governance Committee and to establish March 15th as the deadline for submission of applications and resumes.

Ms. Lee noted that the selected parent representatives for 2010 will have a 14-month term, beginning May 1, 2010 through June 30, 2011. Commissioner Powell suggested using the months of May and June as a transition time for parent representatives to overlap terms for training.

Commissioner Cruz directed Board staff to send the revised parent representative announcement and form to all of the Commissioners, noting that this will also be discussed in the February 25, 2010 Board Business meeting.

VIII. Policy Proposals submitted by Commissioners for Consideration by Policy Committee in 2010

Ms. Flanagan reported that she had not received any policy proposals from Commissioners for consideration by the Policy Committee in 2010.

Commissioner Campos stated that she had submitted a few policy proposals to Commissioner Cruz.

Commissioner Cruz directed Board staff to add the Code of Conduct and the policy proposals submitted by Commissioner Campos to the list of items to be considered by the Policy Committee in 2010.

Motion by Commissioner Powell to adjourn. Seconded by Commissioner Campos.
Adopted 3-0

Meeting adjourned at 7:31PM.

Next Meeting: March 16th at 5:30PM