



Request for Proposals (RFP) For Building Condition Survey Services

For:

Rockland Board of Cooperative Educational Services (Rockland BOCES)

April 2, 2019

SECTION I

INVITATION TO SUBMIT PROPOSALS FOR BUILDING CONDITION SURVEY SERVICES
AS REQUIRED BY TITLE 8 NYCRR, SUBCHAPTER J, PART 155

The Board of Cooperative Educational Services, Rockland County, popularly known as Rockland BOCES (in accordance with Section 104b of Article 5-A of the General Municipal Law), hereby invites the submission of sealed Proposals for the following:

Building Condition Survey Services – RFP #2019/20-06

By Qualified Architectural/Engineering Firms

Proposals will be received until Tuesday, April 16, 2019 at 11:00 AM by the PURCHASING OFFICE at:

PURCHASING DEPARTMENT - BUILDING #4
Rockland Board Of Cooperative Educational Services (BOCES)
65 Parrott Road
West Nyack, NY 10994-0607

at which time and place all proposals will be publicly opened at 11:00 AM on the above date. Conditions, Specifications, Forms and instructions for submitting proposals may be downloaded from our website at <http://www.rocklandboces.org> or from the Purchasing Office. Vendors are requested to carefully review the instructions contained therein.

ROCKLAND BOCES IS NOT RESPONSIBLE FOR PROPOSALS OPENED PRIOR TO THE PROPOSAL OPENING IF PROPOSAL NUMBER AND OPENING DATE DO NOT APPEAR ON THE OUTSIDE OF THE ENVELOPE. PROPOSALS OPENED PRIOR TO THE DATE AND TIME INDICATED ARE INVALID.

THE PROPOSER ASSUMES THE RISK OF ANY DELAY IN THE MAIL OR IN THE HANDLING OF THE MAIL BY EMPLOYEES OF ROCKLAND BOCES, AS WELL AS IMPROPER HAND DELIVERY. Please refer to the General Information/Conditions for details.

The Rockland County Board of Cooperative Educational Services reserves the right to waive any informalities in the proposals, or to reject all proposals, or to accept any proposal which in the opinion of the Board will be to their best interest.

Board of Cooperative Educational Services
Sole Supervisory District
65 Parrott Road
West Nyack, NY 10994-0607

By: Jackie Cinquemani, Purchasing Agent

SECTION II

INTRODUCTION

The Rockland BOCES is requesting proposals for Building Condition Survey Services as required by Title 8 NYCRR, Subchapter J, Part 155 of the NYS Commissioner of Education's regulations.

It is the BOCES' intention to determine the lowest responsible bidder through evaluation of various criteria including, but not limited to, price and overall cost of services to be rendered, strength and reputation, depth of experience, quality and team approach.

The successful Architectural/Engineering firm will provide necessary leadership, coordination and cooperation to assure that plans and services responsive to needs of the BOCES and that service goals are consistent with state requirements and all applicable laws.

It is understood that the BOCES Board reserves the right to reject any or all proposals, or waive any informality in a proposal: and, it is expressly contemplated that no contract exists on the part of the BOCES until formal written notice has been given or until a contract is executed.

In this instance of request for several proposals, it is understood that the BOCES Board reserves the right to award a contract for the proposal in the manner deemed to be in the best interest of the BOCES.

CONDITIONS AND INSTRUCTIONS FOR SUBMITTING PROPOSALS

1. You are invited to submit a proposal to perform Building Condition Survey Services for the Rockland BOCES.
2. Sealed proposals will be received up to 11:00 AM, Tuesday, April 16, 2019, at 65 Parrott Road, Bldg. 4 West Nyack, NY at which time they will be publicly opened.
3. All envelopes containing proposals are to be clearly marked "PROPOSAL FOR BUILDING CONDITION SURVEY SERVICES". The envelope itself is to be addressed as follows:

Rockland BOCES
Attn: PURCHASING DEPARTMENT
65 Parrott Road Building #4
West Nyack, NY 10994-0607

4. **Number of Proposals**

Each firm shall submit four (4) copies of their proposal for review.

5. Response Date

In order to be considered for selection, proposals must be received by the school district by 11:00 AM, Tuesday, April 16, 2019. LATE PROPOSALS WILL NOT BE CONSIDERED.

6. Economy of Preparation

Proposals should be prepared simply and economically, providing a straightforward concise description of the Architectural/Engineering contract management firm's capabilities to satisfy the requirement of the request for proposal. Special bindings, colored displays, promotional materials, etc., may be included. Emphasis should be on completeness and clarity of content.

7. Save Harmless

Proposer shall protect, indemnify, defend and save the BOCES harmless from and against any damage, cost on liability, including reasonable attorney's fees, for any or all injuries to persons or property arising from acts or omissions of the Architectural/Engineering firm, or its employees.

8. Rejecting of Proposals

The BOCES reserves the right to reject any and all proposals received as a result of this request.

The BOCES Board does not intend to award a contract solely on the basis of any response made to this request or otherwise pay for the information solicited or obtained. Subsequent procurement, if any, will be in accordance with the BOCES Board contractual action; Non-compliance with the conditions of the proposal may result in disqualification of the Architectural/Engineering Firm.

9. Incurring Costs

The Rockland BOCES, is not liable for any cost incurred by the Architectural/Engineering firms prior to issuance of the agreement, contract or purchase orders.

10. Assignment

No contract or order or interest therein shall be transferred or subcontracted by the Architectural/Engineering firm, to whom such contract or order is given, to any other party without the express written permission of the school district. Additionally all Proposers shall include a list with their proposal of all anticipated subcontractors that are anticipated to be used. Any subcontractor whose services are utilized in this project MUST be used throughout the project so as to maintain the integrity of the project.

11. Strength and Reputation of the Architectural/Engineering firm

The Rockland BOCES will place a very high priority in the selection process on the strength and reputation of the Architectural/Engineering firms who would be conducting Building Condition Survey Services. To this end ALL persons and or firms responding to this solicitation must supply a completed copy of the attached bidder qualification form. Failure to comply with this requirement shall be grounds for disqualification from consideration

12. Disclosure of Proposal Contents:

To the extent permitted by law, applicants' proposals will not be disclosed, except for purposes of evaluation. All material submitted becomes the property of Rockland BOCES and may be returned or retained at the BOCES' discretion. Submitted proposals may be reviewed and evaluated by any person, other than one associated with a competing applicant, as designated by the BOCES. The BOCES reserves the right to use any and all ideas presented in any response to the RFP. Selection or rejection of a proposal does not affect this right. If a vendor believes that any information in its proposal constitutes a trade secret and wishes such information not be disclosed if requested by a member of the public pursuant to the State Freedom of Information Law, Article 6 of the Public Officers Law, the vendor shall submit with its proposal a letter specifically identifying the page number, line or other appropriate designation that information which is a trade secret and explain in detail why such information is a trade secret. Failure by a vendor to submit such a letter with its proposal identifying trade secrets shall constitute a waiver by the applicant of any rights it may have under Section 89 (Subdivision 5) of the Public Officers Law relating to protection of trade secrets.

13. Contract Terms:

These specifications will become part of any "contract" forms that may be required and will take precedence over any other terms or conditions submitted by the Architectural/Engineering firm.

No subcontracting is permitted without the express written permission of the school district.

Any agreement resulting from this RFP shall be governed by and construed under the laws of the State of New York.

14. Insurance Requirements:

Applicants shall submit to the BOCES Certificates of Insurance properly executed by an authorized representative of the insurance carrier for the following:

- Workers Compensation as required by New York State Law for all employees and required subcontractors.
- Professional Liability (Professional Errors-Omission)
Limits: \$1M each occurrence/\$2M aggregate

If coverage is written on a claims-made basis, the retroactive date must be before the starting date of this contract.

- Commercial General Liability (coverage to be provided by applicant):
 - \$1,000,000 each occurrence
 - \$2,000,000 general and products & complete operations aggregates
 - \$1,000,000 personal & advertising injury liability
 - \$50,000 fire damage legal liability
 - \$5,000 medical payments
- Disability Insurance as required by New York State Law for all employees and required subcontractors.
- Automobile Liability:
 - \$1M combined single limit.

The required insurance shall name the Rockland BOCES, as named insured and shall be issued by a company authorized to write insurance in New York State with the exception of Workers Compensation and Professional Errors & Omissions Insurance.

Insurance policies shall state thirty (30) days notice prior to any material change, cancellation or non-renewal of the responsible insurance.

Certificates must be delivered to Rockland BOCES, prior to the commencement of work.

15. Evaluation of Proposals:

The BOCES reserves the right to negotiate with any applicant whose proposal is within the competitive range and includes the rights to:

- reject any and all proposals/received in response to this RFP
- select a proposal other than the proposal offering the lowest price
- waive or modify irregularities in proposals received, after prior notification to the applicant.

16. Questions regarding this proposal shall be directed in writing to:

Jackie Cinquemani, Purchasing Agent
Rockland BOCES
65 Parrott Road Building #4
West Nyack, NY 10994-0607
(845) 627-4746

SECTION III

SUBMISSION BY ARCHITECTS/ENGINEERS

The submitted proposals must state and/or include responses to the following specifications; such responses must be keyed or indexed to each specification.

Provide a letter of transmittal containing the prospective Architectural/Engineering firm's understanding of the work to be performed.

- A. Provide names and resumes of personnel to be assigned to this engagement, including the principal(s) in charge. (Form A)
- B. Provide the names of individuals in the firm who will be available throughout the term of the agreement for continuing advice and counsel. (Form A)
- C. Provide indication that the Architectural/Engineering firm is local, regional or national. An affirmation that the firm is licensed to practice in New York State should be made. Indicate the firm's experience in dealing with Federal and New York State government agencies and departments. (Form A)
- D. Provide the address of the office that will assume responsibility for the duties associated with the engagement. (Form A)
- E. Provide assurance that there are no conflicts of interest between the Architectural/Engineering firm and the Board of Cooperative Educational Services of Rockland County. (Form A)
- F. Identify any litigation brought against your firm during the past ten (10) years. Explain any pending litigation that may have a financial impact on your firm. (Form A)
- G. Provide the names of all current and all former school district and BOCES clients with information on the number of years of service to each, along with the names and telephone numbers of contact persons in each such school district or BOCES. (Form B)
- H. Provide an outline of the project phases and an estimated schedule of completion.

RESOURCES AVAILABLE

All existing building plans and previous facilities/energy studies will be made available. Additionally, the Facilities Manager and other staff from the BOCES will be available to provide additional information, if needed, at mutually agreeable times.

ELEMENTS OF STUDY

SCOPE OF SURVEY

The following section of this proposal shall serve as a guide to the various building components and systems as outlined in the regulations. This list in no way is to be considered as complete and shall not inhibit the architect or engineer in his/her professional expertise when performing this service, and shall not be cause for additional expense.

The Architectural/Engineering firm shall provide the Rockland BOCES with a visual building and facilities condition survey as required under Title 8 NYCRR, Part 155, Sections 155.1-155.15. The firm shall provide written results of this survey in a standardized format that provides all of the information that is required to be report to the State Education Department. The Survey team shall visually inspect all district facilities and property as outlined in the regulations, paying special attention but not limited to the following areas:

A. Playgrounds and Site Work including but not limited to

Playground Equipment*

Bleachers

Press Boxes

Dugouts

Tennis Courts

Tracks

Fencing

Paving

Sidewalks

Walkways

Parking Lots

Canopies

Signage

*To be conducted by a CPSI

B. Roofing

Membranes

Flashings

Misc. Sheet Metal

Skylights

Roof Drains

Pitch Pockets

Masonry Work (i.e.: Chimneys, penthouses, and parapets)

Expansion Joints

Insulation

C. Building Exterior

Walls

Doors

Windows

Fire Escapes

SCOPE OF SURVEY (continued)

D. Structural Components

- Columns
- Footings
- Foundations
- Beams
- Slabs

E. Building Interiors

- Doors
- Hardware
- Ceilings
- Flooring
- Wall Treatments
- Fixed Furniture and Cabinetry
- Stairways/Stairwells/Steps
- Bathroom Accessories
- Handrails/Banisters/Grip Rails
- Stage Curtains
- Bleachers
- Lockers
- Fixed Play and Sports Equipment (i.e.: Backboards/Wall Padding/Climbing Equipment)
- Auditorium Seating
- Kitchen Equipment (i.e.: Refrigerators/Freezers/Counters)

F. Electrical Systems*

- Measure Peak Building Loads
- Meters
- Transformers (including PCB assessments)
- Switch Gears
- Breaker Panels
- Generators and Transfer Switches
- Stage Lighting
- Breaker Schedules
- Exterior Lighting
- Interior Lighting
- Lighting Systems
- Occupancy Sensors
- Site Lighting
- Photoelectric Cells
- Technology Systems and Controls
- Buses and Busway Systems

*To be performed by electrical engineer

SCOPE OF SURVEY (continued)

G. Plumbing

Mains and Shut off Valves
Meters
Catch Basins
Septic Systems
Leech Fields
Sewage Lift Stations
Irrigation Systems
Reduced Pressure Zone (RPZ) and Backflow Preventers
Fixtures
Chemical Neutralization systems
Pool Treatment Systems
Water Softeners
Deionization Units
Wash Bays
Oil Separators
Dry Wells
Grease Traps
All Domestic Water Systems

H. Heating and Cooling

Burners
Oil/Gas Supply Systems
Insulation
Compressors
Thermostats
Control Systems
Steam Traps
Mixing Valves
Shut Off valves
Fin Tubes
Heating Coils
Unit Ventilators
Corrosion Treatment Systems
Boilers
Expansion Tanks
Line Dryers
Refrigerated Aftercoolers

SCOPE OF SURVEY (continued)

I. Ventilation

Ductwork
Mixing Chambers
Intakes
Filter Rooms
Cooling Towers
Fan Rooms
Fans
Bearings
Control Systems
Exhaust Fans
Hoods
Spray Booths
Dust Collection Systems
Roof Trap Domes
Fan Schedules
HVAC Centralized Zone Units

J. Air Conditioning Systems

Insulation
Thermostats and Controls
Compressors
Chillers
Cooling Towers
Window Units
Heat Pumps

K. Special Systems and Equipment

Elevators
Escalators
Chair Lifts
Chemical Storage Areas
Chemical treatment Areas
Filter Systems
Steam Rooms/Saunas
Gas Dispensing Equipment
Aboveground Storage Tanks
Chemical Bulk Storage
Chemical Waste Storage
Manlifts and Materials Lifts
Dumbwaiters
Material Rack Systems
Vaults and Safes

SCOPE OF SURVEY (continued)

Clock/Bell Systems
Conveyor Belts
Public Address Systems
Telephone Systems
Computer Systems
Radio Systems

L. Fire Protection/Security Systems

Sprinklers
Dry and Wet Chemical Systems
Hood Systems
Halon Systems
Pull Stations
Detectors
Annunciators
Alarm Panels
Box Systems
Burglar Alarm Systems

M. Environmental Features

Appearance
Cleanliness
Acoustics
Lighting Quality
Thermal Comfort
Humidity
Ventilation
Space Adequacy

All Proposer firms shall provide quotation for developing a five year capital asset plan in coordination with the BOCES and shall specifically address the points identified in Section 155.1(4) (i) items (d) (e) and (f) and Section 155.3 items (c) (d) and (e) of attached Commissioner's Regulations (9-pages).

All proposals shall be provided on a Building Square Foot basis. The following page contain square footage estimates for Rockland BOCES.

ESTIMATED SQUARE FOOTAGE TOTALS

Rockland BOCES	Address	Sqft
Building #1	65 Parrott Road, West Nyack, NY 10994	19,000
Building #2	65 Parrott Road, West Nyack, NY 10994	23,746
Building #3	65 Parrott Road, West Nyack, NY 10994	39,786
Building #4	65 Parrott Road, West Nyack, NY 10994	9,405
Building #5	65 Parrott Road, West Nyack, NY 10994	8,050
Building #6	65 Parrott Road, West Nyack, NY 10994	8,670
Building #7	65 Parrott Road, West Nyack, NY 10994	2,523
Building #8	65 Parrott Road, West Nyack, NY 10994	3,072
Building #9	65 Parrott Road, West Nyack, NY 10994	74,434
Building #10	65 Parrott Road, West Nyack, NY 10994	12,192
Building #11	65 Parrott Road, West Nyack, NY 10994	1,800
Building #12	65 Parrott Road, West Nyack, NY 10994	3,100
Total		205,778

Final Price Proposal

All firms shall provide a final proposal that includes ALL costs and expenses including but not limited to telephone calls, mileage, tolls, clerical support, meals and other incidentals.

The cost for this proposal for the Rockland BOCES, is:

\$_____ per Square Foot

Rockland BOCES \$_____ Lump Sum

Proposal includes five year plan _____

(Initial)

Evaluation Criteria

All proposals shall be evaluated using a standardized evaluation process so as to ensure that all proposals are fairly evaluated and that the best value is obtained for the BOCES. The evaluation team shall consist various representatives of the Rockland BOCES. The evaluation team shall evaluate all of the Proposers on the following criteria.

Firm history

Completeness of Submission

Technical Capabilities of Firm

Project Schedule

Cost

References from Previous Work addressing the following points

- Accuracy and Quality of work
- Cost overages and underages
- Completion in accordance with schedules

Workers Compensation Experience Rating

Insurance Limits

Licensure and Certification in New York State

Proposing Firm Name

Authorized Signature

Date

BID PROPOSAL CERTIFICATIONS

Firm Name _____ Telephone No . _____

Business Address _____ Fax No. _____

I. General Bid Certification

The bidder certifies that he will furnish, at the prices herein quoted, the materials, equipment and/or services as proposed on this bid.

II. Non-Collusive Bidding Certification

By submission of this bid proposal, the bidder certifies that he is complying with Section 103-d of the General Municipal Law as follows:

Statement of non-collusion in bids and proposals to political subdivision of the state or any public department, agency or official thereof where competitive bidding is required by statute, rule, regulation, or local law, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under the penalties of perjury: Non-collusive bidding certification.

"(a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

(1) The prices in this bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition as to any matter relating to such prices with any other bidder or with any competitor.

(2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

(3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition."

(b) A bid shall not be considered for award nor shall any award be made where (b) (1) (2) and (3) above have not been complied with; provided, however, that if in any case the bidder cannot make the foregoing certification the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where (a) (1) (2) and (3) above have not been complied with, the bid shall not be considered for award. Nor shall any award be made unless the head of the purchasing unit of the political subdivision, public department, agency or official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder (a) has published price lists, rates, or tariffs covering items being procured (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning subparagraph one (a).

2. Any bid hereafter made to any political subdivision of the state or any public department, agency or official thereof by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in subdivision one of the section, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

Signature (Authorized)

Title

Date

FORM-A

VENDOR IDENTIFICATION

Name of Organization: _____

Address of Organization: _____

Contact Person and Title: _____

Phone: () _____

Fax: () _____

E-Mail: _____

Are you incorporated: () Yes () No

a) If yes, in what State are you incorporated? _____

b) If you are not incorporated in New York State, are you authorized to do business in New York? _____

If you are not incorporated, you are a (n):

- _____ Partnership
- _____ Sole Proprietorship
- _____ Unincorporated association
- _____ Other (please specify)

	<u>Firmwide Totals</u>	<u>Responsible Office</u>
No. of Shareholders	_____	_____
No. of Principals	_____	_____
No. of Managers	_____	_____
No. of Staff	_____	_____
No. of Support Staff	_____	_____

Architectural/Engineering Firm is:

Local _____

Regional _____

National _____

This form, together with the Bid Proposal Certification, must be returned with your bid

FORM-A

VENDOR IDENTIFICATION (continued)

List all Principals of the bidding firm:

List all individuals who will be available throughout the term of the agreement for continuing advice and counsel.

List all Business Names, Corporate or otherwise, used by the above listed Principals over the past ten (10) years:

Have any of the projects represented by the above resulted in litigation? _____
If yes, please explain:

Do you have knowledge of any conflict of interest between the Architectural/Engineering Firm and the Rockland Board of Cooperative Education Services? _____

If yes, please explain:

I, _____, _____ as Principal of the bidding firm, hereby
(print name) (print title)

certify that the above listed information is complete, true and accurate. _____
(signature)

This form, together with the Bid Proposal Certification, must be returned with your bid

FORM B

CUSTOMER REFERENCE LIST

BOCES or School District	No. of Years as client	Contact Person	Phone

This form, together with the Bid Proposal Certification, must be returned with your bid

Rockland BOCES
65 Parrott Road, West Nyack, NY 10994-0607

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date, at which time it will be posted on the OGS website.

By submitting a Request for Proposal (RFP) in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Proposer/Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Proposer/Contractor is advised that once the list is posted on the OGS website, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to the solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should the Rockland BOCES receive information that a person is in violation of the above-referenced certification, Rockland BOCES will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then Rockland BOCES shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

Rockland BOCES reserves the right to reject any proposal or request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

Signature: _____ Date: _____

Print Name: _____ Title: _____

Company Name: _____

This form, together with the Bid Proposal Certification, must be returned with your bid

BOARD OF COOPERATIVE EDUCATIONAL SERVICES
65 PARROTT ROAD, WEST NYACK, NY 10994-0607

NON-PROPOSER'S RESPONSE

The Rockland County Board of Cooperative Educational Services is interested in the reasons why prospective Proposers fail to submit proposals. Failure to submit a proposal without explanation may result in removal of your firm from our Proposers' list. If you are NOT submitting a proposal, please indicate the reason(s) by checking off one or more of the items below and return this form to us.

1. Unable to propose at this time, but would like to receive future RFPs.
2. Insufficient time allowed for preparation and submission of Proposal.
3. Other reasons _____

You may remove our name from the RFP List for:

This Service Class

All Proposals

Company Name: _____

Address: _____

Phone: _____ Fax: _____

Email: _____ Website: _____

Authorized Signature _____

Printed Name _____

Date _____



**OFFICIAL COMPILATION OF CODES, RULES AND
REGULATIONS OF THE STATE OF NEW YORK
TITLE 8. EDUCATION DEPARTMENT
CHAPTER II. REGULATIONS OF THE COMMISSIONER
SUBCHAPTER J. BUILDINGS AND TRANSPORTATION
PART 155. EDUCATIONAL FACILITIES**

April 2, 2019

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 8. EDUCATION DEPARTMENT

CHAPTER II. REGULATIONS OF THE COMMISSIONER

SUBCHAPTER J. BUILDINGS AND TRANSPORTATION

PART 155. EDUCATIONAL FACILITIES

Section 155.1 Educational facilities

Each school district shall provide suitable and adequate facilities to accommodate the programs of such district.

(a) Each school district shall develop and keep on file a comprehensive long-range plan pertaining to educational facilities. Such plan shall be reevaluated and made current at least annually, and shall include appraisal of the following: the educational philosophy of the district, with resulting administrative organization and program requirements; present and projected pupil enrollments; space use and State-rated pupil capacity of existing facilities; the allocation of instructional space to meet the current and future special education program and service needs, and to serve students with disabilities in settings with nondisabled peers; priority of need of maintenance, repair or modernization of existing facilities, including consideration of the obsolescence and retirement of certain facilities; and the provision of additional facilities.

(1) The numbers, types, space requirements and pupil capacities of facilities shall be in relation to the present and projected needs of the school district programs, including mandated educational requirements and the current and future special education program and service space needed to serve all students with disabilities.

(2) Pupil enrollment projections shall be based on a school district census projection of each grade level.

Elementary grade enrollments, kindergarten through sixth grade, shall be projected a maximum of five years.

Secondary grade enrollments, seventh through twelfth grade, shall be projected a maximum of 10 years.

(3) Educational specifications for the erection, enlargement, remodeling or initial use of educational facilities shall be submitted to the commissioner. Such specifications shall be based on the comprehensive long-range plan of the district and shall include the educational philosophy of the project, description of educational program, including activities to be conducted and related space and facilities requirements; and description of innovative or experimental concepts or features which may be included.

(4) Each school district shall prepare a five-year capital facilities plan no later than July 1, 2001, and shall update such plan annually. Such plan shall be prepared in a manner and in a format prescribed by the commissioner and copies of such plan shall be submitted to the commissioner upon request. Such plan shall include, but shall not be limited to:

(i) a breakdown for each of the five years of the plan of the estimated expenses for the following:

(a) current or proposed new construction ranked in priority order;

- (b) current or proposed additions to school facilities ranked in priority order;
 - (c) current or proposed alterations or reconstruction of school facilities ranked in priority order;
 - (d) major repairs ranked in priority order;
 - (e) major system replacement and repairs, and maintenance ranked in priority order; and
 - (f) energy consumption;
- (ii) a districtwide building inventory which shall include, but shall not be limited to:
- (a) the number and type of facilities owned, operated or leased by the district;
 - (b) the age, enrollment, rated capacity, use, size and the safety rating of such buildings as determined pursuant to the provisions of section 155.4(c) of this Part;
 - (c) the energy sources for such buildings;
 - (d) probable useful life of each building and its major subsystems;
 - (e) need for major system replacement and repairs, and maintenance;
 - (f) summary of the triennial asbestos reports required pursuant to the Asbestos Hazard Emergency Response Act (AHERA) regulations, 40 CFR part 763 (Code of Federal Regulations, 1998 Edition, Superintendent of Public Documents, U.S. Government Printing Office, Washington, DC 20402; 1998; available at Office of Facilities Planning, Education Building Annex, Room 1060, State Education Department, Albany, NY 12234); and
 - (g) any other information which may be deemed necessary by the commissioner to evaluate safety and health conditions in school facilities.
- (b) Facilities shall be designed and constructed to provide for the health and safety of occupants, with consideration of educational and planning efficiency, conservation of natural resources, practicality, and initial and long-range economy, and shall support an environment within the facility which is conducive to learning.
- (1) Design of a facility shall provide space layouts and number, size and arrangement of exit facilities that will insure prompt escape of occupants from a hazard to life safety.
- (2) Visual environment of a facility.
- (i) Adequate levels of illumination, consistent with efficient energy consumption, shall be provided in each area of a facility for the tasks being performed.
- (ii) Natural and artificial lighting shall produce a controlled environment of balanced brightness, free from objectionable glare.
- (iii) Teaching areas shall have fenestration which permits a view of the exterior, unless otherwise approved by the commissioner.
- (iv) Teaching spaces shall be properly proportioned as to size and shape of room, including ceiling height.
- (v) Color, finishes, lighting, furnishings and related items shall reasonably be combined to provide an aesthetic learning environment.

(vi) A report that new installations and replacements of mercury vapor or metal halide lamps are of a fail-safe type which self-extinguish if the shielding of the lamp is broken, cracked or removed shall be included in the annual fire inspection report filed pursuant to Education Law, section 807-a. If such fail-safe type lamps are unavailable, the report shall state that an ultraviolet radiation-absorbing shield has been provided for each new or replacement mercury vapor or metal halide lamp, in accordance with the provisions of section 409-b of the Education Law.

(3) Thermal environment of a facility.

(i) Controlled heating and ventilation shall be provided and maintained in all areas to produce conditions suitable for the varying activities that take place in the various areas by systems providing efficient consumption of energy.

(ii) Each teaching space shall be provided with a controlled supply of fresh air and shall have sufficient air changes to produce healthful conditions and avoid odors or build-up or concentrations of toxic substances or dust particles.

(iii) When teaching spaces cannot be provided with an adequate thermal environment by ventilation as determined by the commissioner, provision for cooling may be required by the commissioner.

(4) Sanitation.

(i) Water shall be safe and potable, from an approved source, and shall be dispensed within a facility from sanitary drinking fountains.

(ii) Toilet rooms shall have an adequate number of proper fixtures.

(iii) Sanitary sewers shall be connected to a municipal sewage system or an approved onsite disposal system.

(c) Sites for the erection or enlargement of facilities shall be approved by the commissioner, provided they have been selected with reasonable consideration of the following factors:

(1) size and location of a site shall be consistent with the long-term building plans of the district;

(2) sites shall be educationally adaptable with consideration for situation of building and development of the grounds for outdoor educational program and related activities, without excessive initial or development costs, and shall provide the following minimum usable acres, unless otherwise approved by the commissioner:

(i) elementary schools (kindergarten through sixth grade): three acres base plus one acre for each 100 pupils or fraction thereof;

(ii) secondary schools (7th through 12th grade): 10 acres base plus one acre for each 100 pupils or fraction thereof;

(3) sites shall be developed to conserve natural resources and avoid environmental problems within the limits of the educational program. Care shall be taken to insure that the site and facilities thereon are consistent with and contribute to the school and community environment and provide for the health and safety of occupants.

(d) Inspection of facilities.

(1) Structural safety inspections. Structural safety inspections occurring on or before October 7, 1999 shall be conducted pursuant to the provisions of this subdivision. To insure that all facilities occupied by students are properly maintained and preserved and provide a suitable educational setting, the board of education of each school district shall cause such facilities owned by the district to be inspected in accordance with section 409-d of the Education Law and this paragraph. A visual inspection of structural elements of all school buildings occupied by students shall be conducted annually.

(i)

(a) In districts other than city school districts in cities having 125,000 inhabitants or more, annual structural inspections:

(1) shall include, but not be limited to, inspection of exterior wall components, doors, windows, retaining walls, roofs and interior building components for evidence of movement, deterioration and structural failure;

(2) shall be conducted by a team which is composed of at least the director of facilities, the building custodian and a code enforcement official; and

(3) shall be made prior to the 30th day of June of each school year.

(b) In city school districts in cities having 125,000 inhabitants or more, the visual structural inspection shall be conducted in accordance with standards established by the board of education of such city school district and submitted to the commissioner for approval.

(c) Annual visual safety inspections shall be made prior to the 30th day of June of each school year. Reports of such inspections shall be retained in district files for six years after the building no longer exists, but not less than 21 years, whichever is longer. Such reports shall be available to the public on request.

(ii) When a visual structural inspection discloses evidence of a possible defective structural condition, a licensed architect or licensed professional engineer shall be retained immediately to inspect the condition and ascertain if structural modifications are necessary. The architect or engineer shall present a written report of all findings to the board of education, which shall act to correct any defective structural conditions.

(iii) Building aid computed pursuant to paragraph (d) of subdivision 6 of section 3602 of the Education Law is available for inspections by a licensed architect or engineer which result from the annual visual structural inspection of a building if no claim for building aid for such an inspection in such building has been filed in the previous five years. The apportionment of such building aid for each school building so inspected by a school district in the base year shall not exceed the lesser of: the product of the building aid ratio and the actual cost, or the structural inspection aid ceiling computed by the commissioner. For aid payable in the 1993-94 school year and thereafter, the structural inspection aid ceiling shall be the sum of \$10,000 plus an additional amount computed as follows:

(a) The monthly indices for the costs of labor and material determined by the New York State Department of Labor, adjusted for the base month of July 1993, shall be used to compute such additional amount. The commissioner shall compute an index number which shall equal the positive remainder resulting when one is subtracted from the quotient of the Department of Labor Index for July of the current year divided by the Department of Labor index for July 1993.

(b) The additional amount shall be the positive result of the product of \$10,000 and the index number computed pursuant to clause (a) of this subparagraph for the month of July in the current year.

(iv) Reports of structural inspections by the licensed architect or engineer shall be submitted to the commissioner together with any claim for building aid. For districts other than city school districts in cities having 125,000 inhabitants or more, copies of the reports shall also be submitted to the appropriate district superintendent of schools. A claim for building aid shall be made, in a form prescribed by the commissioner, within six months of the date of the architect's or engineer's report, for aid payable in the following school year.

Section 155.2 Construction and remodeling of school district facilities

(a) All plans, specifications and work regarding the erection, enlargement, repair, replacement, maintenance or remodeling of occupied facilities of school districts and of boards of cooperative educational services shall comply with the Uniform Safety Standards for School Construction and Maintenance Projects as set forth in section 155.5 of this Part. Such uniform safety standards shall include but not be limited to: pre-construction testing and planning, exiting and ventilation, pre-construction notification, asbestos and lead protocols, control of dust, gases and fumes, protection from falling debris, and general safety and security.

(b) Plans and specifications for the erection, enlargement, repair or remodeling of facilities of school districts, other than in city school districts in cities having one million inhabitants or more, and of boards of cooperative educational services, shall be submitted to the commissioner when the contemplated construction costs of such work are \$10,000 or more, and for all projects affecting the health and safety of pupils.

(1) Documentation in such quantity and format as prescribed by the commissioner, including plans and specifications, addenda and change orders, shall be submitted to the commissioner for approval in accordance with procedures set forth by the commissioner. When approved, such documentation shall be retained by the department. A commissioner's approval letter referencing such documentation shall be sent to school authorities. School authorities shall maintain approved documentation, including copies of approved plans and specifications, addenda, change orders, and the associated commissioner's approval letter, for permanent filing.

(i) Plans and specifications shall conform to the State Uniform Fire Prevention and Building Code (9 NYCRR Parts 600 through 1250) and to this Part, and shall show in detail requirements of design and construction, space layout, circulation and exiting facilities, smoke and fire control, accident protection, visual and thermal environment and related electrical and mechanical work, and sanitation and related plumbing work which insure the health, safety and comfort of occupants of the facility.

(ii) Materials, equipment and types of construction which may endanger the health, safety and comfort of occupants shall not be used.

(iii) Construction materials, details and workmanship shall conform to generally accepted standards as determined by the commissioner.

(iv) Specifications for construction shall allow for equivalencies and shall not require the base bid to be based only on the materials or products specified.

(v) Specifications for construction shall require that contractors or suppliers furnishing mechanical equipment shall instruct the governing body of the school district or board of cooperative educational services or its representative in the proper operation and service of all such equipment at the time of completion and before acceptance of the building by such governing body.

(vi) Should accounting, tabulation or computer equipment be requested as original equipment, the plans and specifications shall conspicuously identify the areas or spaces for the installation of such equipment. Such plans and specifications shall contain a description of the equipment, its estimated costs, the need for and purpose of such equipment, a description of the space required to house the equipment, including the proposed pupil capacity of such space, and a description of the integral relationship between the construction work and the equipment. Such equipment shall not be approved for purposes of building aid computed pursuant to section 3602(6) of the Education Law, when located outside the constructed or reconstructed space or when not shown to have a direct integral relationship to the construction work.

(2) Plans and specifications for portions of facilities which require approval by other departments of the State shall be approved by the appropriate agencies having jurisdiction as a condition of commissioner's approval of plans and specifications of a facility. All plans and specifications for the creation of new instructional space must be accompanied by commissioner approval, on a form prescribed by the commissioner, that ensures that such plans and specifications are consistent with the needs of participating students with disabilities for placement in the least restrictive environment and for the stability and continuity of their program placements.

(3) Decisions regarding compliance of plans and specifications with this section shall be determined by the commissioner.

(4) Plans and specifications submitted to the commissioner shall bear the signature and seal of an architect or engineer licensed to practice in the State of New York. The architect or engineer who sealed the plans and

specifications shall also certify that the plans and specifications conform to the standards set forth in the State Uniform Fire Prevention and Building Code (9 NYCRR Parts 600 through 1250) and the State Energy Conservation Construction Code (9 NYCRR Parts 7810 through 7816).

(5) Upon approval of plans and specifications, the commissioner will issue a building permit subject to the following qualifications:

(i) During construction, the project shall be properly supervised by a licensed architect or engineer.

(ii) The building permit may be revoked by the commissioner in the event of violations of the State Uniform Fire Prevention and Building Code (9 NYCRR Parts 600 through 1250), this Part or other safety standards imposed by law or regulation.

(6) Following completion of the project or a substantial portion thereof, the architect or engineer shall certify to the commissioner that the project was completed in conformance to the State Uniform Fire Prevention and Building Code (9 NYCRR Parts 600 through 1250), this Part, and plans and specifications for the project which were previously approved by the commissioner.

(c) For remodeling or construction projects costing \$5,000 or more, the governing body of a school district or a board of cooperative educational services shall assure compliance with the requirements of the State Uniform Fire Prevention and Building Code (9 NYCRR Parts 600 through 1250) and of this Part, and shall retain the services of an architect or engineer licensed to practice in New York State.

(d) For remodeling or construction projects costing less than \$5,000, the governing body of a school district or a board of cooperative educational services shall assure compliance with the requirements of the State Uniform Fire Prevention and Building Code (9 NYCRR Parts 600 through 1250) and of this Part.

(e)

(1) For each project for which a certificate of substantial completion is issued on or after April 1, 1995, all school districts, including a city school district having one million inhabitants or more and all boards of cooperative educational services, shall submit to the Commissioner a final cost report for the project by June 30 of the school year in which the certificate of substantial completion of the project is issued by the architect or engineer, or six months after issuance of such certificate, whichever is later. For projects for which a certificate of substantial completion is issued prior to April 1, 1995, the deadline for submission of a final cost report for the project shall be October 1, 1995.

(2) The commissioner may grant one or more extensions of the applicable deadline for submission of a final cost report pursuant to this section, upon a finding that the district is unable to complete the final cost report by the prescribed date because of circumstances beyond the control of the district. Each extension may be granted for a period of up to one year.

RESEARCH REFERENCES AND PRACTICE AIDS:

94 NY Jur 2d, Schools, Universities, and Colleges §§ 57, 369.

[FN1] When construction costs are \$10,000 or more, building construction aid, pursuant to Education Law, section 3602, is available for eligible capital outlays.

Section 155.3 Comprehensive Public School Safety Program

To ensure that all school facilities are properly maintained and preserved and provide suitable educational settings, the board of education of each school district and each board of cooperative educational services shall cause all occupied school facilities which are owned, operated or leased by the district or board to comply with the provisions of the Comprehensive Public School Safety Program as set forth in this section and the Uniform Code of Public School Building Inspections, Safety Rating and Monitoring, as prescribed in section 155.4 of this Part. For purposes of this section and sections 155.4 through 155.7 of this Part the term board of cooperative educational services shall be deemed to include a county vocational education and extension board. The Comprehensive Public School Safety Program shall consist of the following components:

(a) Building condition surveys.

The board of education of each school district and each board of cooperative educational services shall develop building condition surveys for each occupied school building in accordance with section 3641(4) of the Education Law and the provisions of section 155.4(b)(1) of this Part.

(b) Annual visual inspections.

The board of education of each school district and each board of cooperative educational services shall conduct annual visual inspections of each occupied school building in accordance with the provisions of section 155.4(b)(2) of this Part, provided that the board of education of each school district and each board of cooperative educational services shall implement a safety rating system for all occupied school buildings pursuant to section 155.4(c) of this Part.

(c) Five year capital facilities plan.

The board of education of each school district and each board of cooperative educational services shall develop a new five year capital facilities plan pursuant to section 155.1(a)(4) of this Part or amend its existing plan to comply with such section, provided that in the case of a city school district in a city having a population of one million inhabitants or more, such plan shall also comply with section 2590-p of the Education Law. Five year capital facilities plans shall be consistent with all district planning requirements including, but not limited to, the regional five year special education space requirements plan required by section 200.2(g) of this Title. Every school district and board of cooperative educational services shall use the safety rating of each occupied building in developing or amending its five year facilities plan. Such plan shall identify critical maintenance needs.

(d) Monitoring system.

The board of education of each school district and each board of cooperative educational services shall establish procedures to monitor the safety and condition of all occupied school buildings in accordance with the provisions of section 155.4(d) of this Part.

(e) Waivers.

The board of education of a school district or a board of cooperative educational services may apply to the commissioner for a waiver of the requirements of this section, or of any of the provisions of section 155.4 or 155.5 of this Part, upon a finding that such district had in existence on the effective date of this Part, school building safety inspection procedures which are in substantial compliance with such requirements. Such waiver requests shall include:

- (1) identification of the regulatory requirement from which a waiver is sought;
- (2) a copy of the building inspection procedures alleged to be in substantial compliance to such regulatory requirement, together with proof that such procedures were in effect on the effective date of this Part; and
- (3) the names and qualifications of the inspectors carrying out such procedures; copies of previous reports under such procedures; and records of actions taken to correct deficiencies identified using such procedures.