

MEMORANDUM

TO: Governing Board Members

FROM: Sandra Close Turnquest, Deputy Executive Director, Corporate Resources

DATE: May 15, 2008

SUBJECT: Authorize Rule Development to amend Rule 40E-7, Part II, Florida Administrative Code, of the South Florida Water Management District's Suspension and Debarment Rules

Recommendation:

Authorize publication of the Notice of Rule Development in the Florida Administrative Weekly (FAW) to amend Chapter 40E-7 Part II, of the Fla. Admin Code, Suspension and Debarment Rules to expand the scope of the rule to include the pre-award phase and to clarify other provisions relating to the District's Suspension and Debarment Rule.

Background:

On April 1, 2003, the District's Suspension and Debarment Rules for Contractors became effective. Since the implementation of the Suspension and Debarment Rules, the District has identified the need to expand the scope of the Rules to include the pre-award phase of contracting. Specifically, the District has found instances of vendors making statements in proposals and bids that at a minimum amount to statements of misrepresentation, and in some instances could be considered collusion.

Presently, the Suspension and Debarment Rules only allow the District to suspend or debar a contractor that has materially breached its contract. The District needs to expand the Rules to capture instances of misrepresentation, fraud, collusion and other acts of malfeasance at any time after a bid or proposal is submitted to the District and at any time such actions are discovered by the District.

The primary purpose of public procurement statutes and rules is to protect the public by ensuring the public that contract awards are free from collusion and favoritism. If a vendor tries to impermissibly gain an economic advantage over other bidders, the District needs to be able to effectively determine whether such a vendor should be suspended or permanently debarred from engaging in procurement with the District. The proposed rule development to amend the Suspension and Debarment Rules will allow the District's Governing Board to protect the public procurement process and by doing so to protect the public.