

Office of School Board Attorney
Johnny Brown, Board Attorney

SUBJECT: APPROVAL OF SETTLEMENT
BEST WHOLESALE, INC./ APRICOT OFFICE SUPPLIES & FURNITURE,
INC. v. THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA
DOAH CASE NOS.: 05-369BID/05-370BID
(Associated with Agenda Item G-6, School Board Meeting of May 18, 2005)

On or about January 7, 2005, The School Board of Miami-Dade County, Florida (SCHOOL BOARD) posted its notice of intent to award Bid No. 014-EE05 Office Supplies Catalog discount. Best Wholesale, Inc. (BEST) and Apricot Office Supplies and Furniture Inc. (APRICOT) both filed protests to the District's intended award of the bid. Accordingly, the award process was halted pending an administrative hearing on same.

On April 18, 2005, an evidentiary hearing was held before Administrative Law Judge Stuart M. Lerner of the Division of Administrative hearings. Subsequently, a proposed settlement agreement was reached between the parties which provides resolution of all outstanding issues for the District. The proposed settlement provides for the following in light of the present circumstances. The proposed settlement is subject to the following terms and conditions as well as SCHOOL BOARD approval:

- 1) A recommendation will be made to the SCHOOL BOARD to award Bid No. 014-EE05-Office Supplies, Catalog Discount to the responsive bidders at its next regularly scheduled meeting of May 18, 2005 (See related Agenda Item E-163).
- 2) BEST and APRICOT agree to withdraw their respective protests in DOAH Case Nos. 05-369BID/05-370BID so long as the SCHOOL BOARD awards Bid 014-EE05 as outlined in the above paragraph, at its next regularly scheduled meeting of May 18, 2005.
- 3) Upon the SCHOOL BOARD'S award of Bid No. 014-EE05, and upon acceptance of this Agreement by the SCHOOL BOARD, BEST and APRICOT agree to file a stipulation of dismissal with prejudice in DOAH Case Nos. 05-369BID/05-370BID and further agree to file a motion to relinquish jurisdiction in the above styled causes.

- 4) BEST and APRICOT agree to release, satisfy, discharge, and covenant not to sue or file litigation against the SCHOOL BOARD, of and from, any and all claims and demands which BEST and APRICOT ever had, now has, or in the future may have, against the SCHOOL BOARD by reason of any matter, cause or thing whatsoever pertaining or related to the SCHOOL BOARD's January 7, 2005 intended award of Bid No. 014-EE05, Office Supplies Catalog Discount and any matters litigated in DOAH Case Nos.: 05-369BID/05-370BID including, but not limited to, all claims, known or unknown but subsequently discovered, which were actually asserted or might have been asserted by BEST or APRICOT in this matter.

This office recommends that the Settlement Agreement be accepted in its entirety. Administration concurs with this recommendation. Acceptance and approval of the Settlement Agreement will obviate the need for further litigation by the SCHOOL BOARD.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida accept and approve the Settlement Agreement between BEST WHOLESALE, INC., APRICOT OFFICE SUPPLIES & FURNITURE, INC. and the SCHOOL BOARD to resolve in their entirety DOAH Case Nos. 05-369BID/05-370BID.