

Business Operations  
Ofelia San Pedro, Deputy Superintendent

**SUBJECT:                    PROPOSED PROMULGATION OF NEW SCHOOL BOARD  
RULE: FINAL READING 6GX13- 3F-1.025, MIAMI-DADE  
COUNTY PUBLIC SCHOOLS BUSINESS CODE OF ETHICS**

**COMMITTEE:                INNOVATION, EFFICIENCY & GOVERNMENTAL RELATIONS**

**LINK TO DISTRICT  
STRATEGIC PLAN:        EVALUATE AND REDESIGN INTERNAL BUSINESS  
OPERATIONS**

The School Board of Miami-Dade County, Florida, announced on July 11, 2007, its intention to promulgate new School Board Rule 6Gx13- 3F-1.025, Miami-Dade County Public Schools Business Code of Ethics. The purpose of the proposed new Board Rule is to:

- Provide a uniform statement of expected conduct, governing all contractors, lobbyists and consultants who are under contract with The School Board of Miami-Dade County, Florida.
- To report, investigate and resolve violations of the Code.
- To supersede all prior written ethics policies.

The Notice of Intended Action was published in the *Miami Daily Business Review* on July 16, 2007, posted in various places for public information, and mailed to various organizations representing persons affected by the new rule and to individuals requesting notification.

The time to request a hearing or protest the adoption of this new rule has elapsed.

In accordance with the provisions of the Administrative Procedure Act, this new rule is presented to The School Board of Miami-Dade County, Florida, for adoption and authorization to file the rule in the official records of The School Board of Miami-Dade County, Florida.

Attached are the Notice of Intended Action and the proposed new Board Rule.

**RECOMMENDED:** That The School Board of Miami-Dade County, Florida, adopt new School Board Rule 6Gx13- 3F-1.025, Miami-Dade County Public Schools Business Code of Ethics, and authorize the Superintendent to file the new rule with The School Board of Miami-Dade County, Florida, to be effective September 5, 2007.

OSP:cr1

## NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on July 11, 2007, its intention to promulgate new School Board Rule 6Gx13- 3F-1.025, Miami-Dade County Public Schools Business Code of Ethics, at its meeting of September 5, 2007.

**PURPOSE AND EFFECT:** The new School Board Rule governs the conduct of all contractors, lobbyists, and consultants who are under contract with the School Board of Miami-Dade County, Florida. These standards of conduct will supersede all prior written ethics policies duly adopted by the School Board, which may be in conflict with these standards.

**SUMMARY:** The rule sets forth procedures to protect the integrity of the school district's procurement process by providing a uniform statement of expected conduct for consultants and contractors doing business with the School Board.

**SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED:** 1001.41(1)(2); 1001.42(23); 1001.43(10) F.S.

**LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC:** 287.057 F.S.; 6A-1.012 FAC.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF September 5, 2007, which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida 33132. Persons requesting such a hearing or who wish to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by Section 120.541(1), F.S., must do so in writing by August 6, 2007, to the Superintendent of Schools, Room 912, at the same address.

ANY PERSON WHO DECIDES TO APPEAL THE DECISION made by The School Board of Miami-Dade County, Florida, with respect to this action, will need to ensure the preparation of a verbatim record of the proceedings, including the testimony and evidence upon which the appeal is to be based (Section 286.0105, Florida Statutes).

A COPY OF THE PROPOSED NEW RULE is available at cost to the public for inspection and copying in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

Originator: Mr. Joseph A. Gomez  
Supervisor: Ms. Ofelia San Pedro  
Date: July 2, 2007

**CONTRACTS AND DOCUMENTS****MIAMI-DADE COUNTY PUBLIC SCHOOLS BUSINESS CODE OF ETHICS****I. APPLICATION**

This Business Code of Ethics ("Code") shall govern the conduct of all contractors, lobbyists, and consultants who are under contract with the School Board of Miami-Dade County, Florida ("School Board"). These standards of conduct supersede all prior written ethics policies duly adopted by the School Board, which may be in conflict with these standards. These standards of conduct are to be read in conjunction with the latest applicable School Board contracting and procurement policies and procedures. All contractors shall ensure that their subcontractors comply with this Code. The School Board will accept bids and proposals for contracts and procurement of goods or services only from firms or entities which agree to comply with this Code and all applicable School Board contracting and procurement policies and procedures.

**II. DEFINITIONS:**

- A. Consultant - an individual providing information and advice in his or her area of expertise, pursuant to a contract with the Board. This may include, but is not limited to, real estate brokers, developers, and experts in their field.
- B. Contractor – an individual, company, joint venture, or other corporate entity who has entered into a contract to provide goods or services to the School Board in accordance with an invitation to bid, a request for proposal, or otherwise by the approval of the School Board.
- C. Lobbyist – any individual, firm, or corporation compensated by or who contracts for economic consideration from any principal person or organization for the purpose of lobbying. Please see the provisions of School Board Rule 6Gx13-8C-1.21 Lobbyists for a more complete definition.

**III. INTENT AND PURPOSE**

The purpose of this Code is:

1. To protect the integrity of the school district's procurement process;

2. To provide a uniform statement of expected conduct for consultants and contractors doing business with the School Board in an effort to ensure a fair and ethical environment throughout the procurement process.

#### **IV. CODE IS NOT EXHAUSTIVE/NON-EXCLUSIVE**

This Rule does not address all ethical issues that may arise through the school district's procurement process. Nonetheless, each person or entity is expected to act in an ethical manner at all times while engaging in business with the School Board.

#### **V. ENFORCEMENT OF CODE OF CONDUCT**

Violations of any provisions of this Code may be investigated by the School Board's Inspector General or by any other appropriate enforcement authority. The School Board may reject any bid or proposal, or impose other sanctions against any person, contractor, or entity, that has not complied with the requirements of this Code in accordance with applicable State laws or Board Rules.

#### **VI. PROHIBITED CONDUCT**

No bidder, proposer, contractor, or subcontractor shall fraudulently deceive or attempt to deceive any school district official with regard to any material fact pertinent to any pending or proposed School Board contract. Nor shall an individual, company, or other entity engage in conduct with the purpose or intent of placing any school district employee, official, or agent under personal obligation to the bidder, proposer, contractor or subcontractor by engaging in, but not limited to, the following acts or conduct: providing gifts or monetary compensation to a School Board employee or promising gifts, or other compensation in return for a contract, or any other conduct that would place the employee in violation of the prohibitions contained in § 112.313, Fla.Stat (2006).

#### **VII. AVOIDANCE OF THE APPEARANCE OF IMPROPRIETY**

All contractors shall refrain from conduct which they know or reasonably should know is likely to create in the minds of reasonable, objective, fair-minded observers an appearance of impropriety.

**VIII. LOBBYIST REGISTRATION**

All consultants and contractors must ensure that any lobbyist working on their behalf comply with the requirements under School Board Rule 6GX13-8C-1.21, *Lobbyist*.

**IX. GIFTS AND OFFERS OF EMPLOYMENT TO SCHOOL PERSONNEL**

No consultant, bidder, proposer, or contractor shall offer, give, or promise to offer or give directly or indirectly, any money, gift or gratuity to any School Board employee whose duties involve authorizing and/or procuring contracts for goods and services for the school district. The provisions of School Board Rule 6GX13 – 1C-1.08, *Gifts to School Personnel*, are incorporated by this Rule.

Similarly, no person or entity covered by this Code, including, but not limited to, consultant, bidder, proposer, or contractor shall offer, or promise to offer, either directly or indirectly, any future employment or business opportunity to any School Board employee or consultant, their immediate family, spouse, significant other, or business associates of such persons, if such offer of employment is conditioned expressly or implicitly on the awarding of a present or future contract, or preference in the awarding of a contract to anyone at any time by the School Board.

**X. DISCLOSURE OF EMPLOYMENT OF FORMER SCHOOL BOARD EMPLOYEES**

To prevent current or former School Board employees from using their relationship with the School Board from improperly influencing procurement decision-making, all bidders, proposers, consultants, and contractors are required to disclose the names of any of their employees who serve as agents or principals for the bidder, proposer or contractor, and who within the last two years, have been or are employees of the School Board. Such disclosures will be in accordance with current School Board rules, but will include, at a minimum, the name of the former School Board employee, a list of the positions the employee held in the last two years of his or her employment with the School Board, and the dates the employee held those positions.

In addition, the School Board will not contract with any bidder, proposer, consultant, or contractor that compensates any former School Board employee or consultant to influence any action on a matter pending with the School Board if that employee, within the

last twelve (12) months, held a School Board position in which they personally and substantially participated in the matter.

The School Board will not contract with any bidder, proposer, contractor or sub-contractor that employs a former School Board employee or consultant who, while serving in a School Board position within the last two (2) years, substantially participated in the development of the invitation to bid or request for proposal's requirements or specifications, or who took part in contracting process for the specific goods or services being solicited by the School Board. The Superintendent or his/her designee, for good cause, may waive this prohibition in writing with notification to the Board prior to awarding the contract. Good cause may be shown in circumstances where awarding the contract to another party will not be in the best interest of the School Board.

**XI. PRECLUSION FROM CONTRACTING FOR INDIVIDUALS OR FIRMS INVOLVED IN THE DEVELOPMENT OF THE BID, PROPOSAL, OR CONTRACT SPECIFICATIONS**

No contractor or consultant who participates in the development of the scope of work, solicitation documents, contractual instruments, or of the technical specifications on behalf of the school district may participate as a proposer or sub-proposer or perform any work associated with that particular procurement. The Superintendent or his/her designee upon, for good cause, may waive this prohibition in writing prior to the award of the contract.

**XII. CONFLICTS OF INTEREST**

All individuals, firms, contractors, and consultants, must take steps to avoid conflicts of interest, for example, but not limited to, those conflicts delineated in School Board Rule 6Gx13-4A-1.212, *Conflict of Interest*. The Superintendent or his/her designee, in consultation with legal counsel, shall determine whether a conflict of interest exists and recommend appropriate action that will resolve the conflict. If it is determined that an actual or apparent conflict of interest exists, the Superintendent or his/her designee shall notify the contractor in writing of this finding and the actions that will be recommended to the School Board in order to resolve the conflict of interest.

**XIII. NON-RETALIATION POLICY**

The School Board encourages good faith reporting of all suspected violations of this Code. Accordingly, anyone making a good faith

report of a suspected violation of this Code shall not be subjected to any adverse action by the School Board, nor shall anyone or any company, accused of violating this Code and subsequently found not to have committed a violation of this Code, be subjected to any adverse sanctions or penalties by the School Board. The identity of any persons reporting violations of this Code shall be kept confidential to the extent permitted by law.

All suspected violations shall be reported to the Office of the Inspector General for investigation. If the Inspector General determines that the allegations have merit, the matter will be referred to the appropriate authorities. If the Inspector General determines that the matter should be investigated by another department or by an outside entity, the Inspector General may refer the matter to the other department or outside entity for investigation or final disposition.

#### **XIV. RESOLVING VIOLATIONS OF THE CODE**

If it is determined that a violation of this Code has taken place, the School Board may take one or more of the following actions:

- a. Meeting with the consultant or contractor to discuss the violation, and any and all possible resolutions to the violation(s);
- b. Suspending the consultant or contractor in accordance with the provisions of the contract in question, or by initiating debarment procedures as established by School Board Rule 6Gx13-3F-1.023, *Contractor Debarment Procedures*;
- c. Directing the prime contractor to remove a subcontractor who has been shown to have intentionally violated the Code from the project;
- d. Rescinding, voiding, or terminating the contract as may be permitted by law, School Board rules, or the relevant contract; and/or
- e. Any other reasonable sanction deemed appropriate, and which is permitted by law, School Board rules, and by the provisions of the impacted contract.

**XV. PROSPECTIVE APPLICATION**

This Code will not be applicable to contracts or written agreements which were in existence at the time this Code was enacted, nor to solicitations that had been published at the time this Code was enacted. This Code will be incorporated into all formal bid solicitations, vendor applications, and to any Request for Proposals issued by the School Board upon enactment of this Rule.

Specific Authority: 1001.41(1)(2); 1001.42(23); 1001.43(10) F.S.  
Law Implemented, Interpreted, or Made Specific: 112.313, F.S.

History  
New:

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA