

Financial Services
Richard H. Hinds, Chief Financial Officer

SUBJECT: **PROPOSED PROMULGATION OF NEW BOARD POLICY:
FINAL READING: POLICY 6320.05, LOCAL-VENDOR
PREFERENCE**

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

**LINK TO STRATEGIC
FRAMEWORK:** **FINANCIAL EFFICIENCY/STABILITY**

The School Board of Miami-Dade County, Florida, announced on September 7, 2011, its intention to promulgate new Board Policy 6320.05, Local-Vendor Preference, at its meeting of October 19, 2011. The purpose of the proposed new Board Policy is to give local preference to businesses located in Miami-Dade County, Florida, when evaluating the lowest responsible, responsive bid or submittal for the purchase of goods and services, professional and construction-related services, in excess of \$50,000 dollars or the current formal bidding threshold set by statute.

The Notice of Intended Action was published in the *Miami Daily Business Review* on September 12, 2011, posted in various places for public information, and mailed to various organizations representing persons affected by the new policy and to individuals requesting notification.

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

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

RECOMMENDED: That The School Board of Miami-Dade County, Florida, adopt new Board Policy 6320.05, Local-Vendor Preference, and authorize the Superintendent to file the new policy with The School Board of Miami-Dade County, Florida, to be effective October 19, 2011.

RHH:crl

E-201

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on September 7, 2011, its intention to promulgate new Board Policy 6320.05, Local-Vendor Preference Policy, at its meeting of October 19, 2011.

PURPOSE AND EFFECT: The purpose of this new Board Policy is to give local preference to businesses located in Miami-Dade County, Florida, when evaluating the lowest responsible, responsive bid or submittal for the purchase of goods and services, professional and construction-related services, in excess of \$50,000 dollars or the current formal bidding threshold set by statute. The preference does not apply to goods or services exempted by statute as reflected in policy 6320, or prohibited by Federal or State law, or the funding source restrictions.

SUMMARY: For Competitive Bids, Request For Proposals and Professional Services, when a responsive responsible non-local business submits the lowest price bid, and the bid submitted by one or more responsive, responsible local businesses is within five percent of the price submitted by the non-local business, then each of the aforementioned local businesses shall have the opportunity to submit a best and final bid equal to or lower than the amount of the low responsible, responsive business submitting the lowest best and final bid.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41(1), (2); 1001.42(25); 1001.43(10); 287.055 F.S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 1001.32(2), 1001.41(1), (2), F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF October 19, 2011, 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 a proposal for a lower cost regulatory alternative as provided by Section 541(1), F.S. must do so in writing by October 3, 2011, to the Superintendent, 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 POLICY 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. Renier Díaz de la Portilla, Board Member
Date: August 23, 2011

6320.05 Local-Vendor Preference

Purpose: To give local preference to businesses located in Miami-Dade County, Florida, when evaluating the lowest responsible, responsive bid or submittal for the purchase of goods and services, professional and construction-related services, in excess of \$50,000 dollars or the current formal bidding threshold set by statute. The preference does not apply to goods or services exempted by statute as reflected in policy 6320, or prohibited by Federal or State law, or other funding source restrictions.

Definition: Local business means the vendor has a valid business license, issued by a jurisdiction located in Miami-Dade County, with its headquarters, manufacturing facility, or locally-owned franchise located within the legal boundaries of Miami-Dade County, for at least 12 months (or having a street address for at least 24 months), prior to the bid or proposal opening date. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In order to be considered for local preference, vendors must provide a copy of their business license and the local business affidavit of eligibility with their bid or proposal. A vendor who misrepresents the local preference status of its firm in a proposal or bid submitted to the Board will lose the privilege to claim local preference status, and shall lose eligibility to claim local preference status for a period of one year. The Superintendent may also recommend that the firm be referred for debarment in accordance with policy 6320.04.

Process:

Competitive Bid: When a responsive, responsible non-local business submits the lowest price bid, and the bid submitted by one or more responsive, responsible local businesses is within five percent of the price submitted by the non-local business, then each of the aforementioned local businesses shall have the opportunity to submit a best and final bid equal to or lower than the amount of the low responsible, responsive bid submitted by the non-local business. Contract award shall be made to the responsive, responsible business submitting the lowest best and final bid. In the case of a tie bid in the best and final bid between the local businesses, the tie shall be broken as delineated in policy 6320.

Request For Proposals: If following the completion of initial evaluations, a local firm has submitted a proposal and is competing with a non-local proposer(s), then the local vendor(s) shall have the opportunity to proceed to be considered for further evaluation provided the price is within five percent of the cost proposed by the non-local vendor, all other technical requirements being equal. In the case of a tie in the best and final proposal between a local business, the tie shall be broken as delineated in policy 6320.

Professional Services: Local preference policy shall apply to services of which is subject to the Consultants Competitive Negotiation Act, as delineated in Section 287.055, Florida Statutes. If two firms, one local and one non-local are within five percent of each other's total qualitative scores, and for design build solicitations, the adjusted low bid as defined in the corresponding implementing order, the local firm shall be ranked higher than the non-local firm in the final ranking. In case of a two-tiered evaluation process, the local preference shall also apply at the conclusion of the first tier to allow eligible local proposers within five percent of the points assigned to those recommended to participate in the second-tier evaluation.

The application of local preference to a particular purchase, contract, or category of contracts for which the School Board is awarding authority may be waived upon written justification and recommendation by the Superintendent.

The preference established in this policy does not prohibit the right of the School Board, or other authorized purchasing authority, from giving preference permitted by law in addition to the preference authorized in this policy.

The preference established in this policy does not prohibit the right of the School Board, or other authorized purchasing authority, to compare quality or fitness for use of supplies, materials, equipment and services proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals.