

Financial Services
Richard H. Hinds, Chief Financial Officer

**SUBJECT: PROPOSED AMENDMENT OF BOARD POLICY: INITIAL
READING POLICY 6320, PURCHASING**

COMMITTEE: INNOVATION, EFFICIENCY & GOVERNMENTAL RELATIONS

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

The purpose of this item is to provide the Board the proposed amendment to Board Policy 6320, Purchasing, to reflect the requirements set forth in the newly adopted Policy 6320.02, Small/Micro Business Enterprise Program and Minority/Women Enterprise Certification. The revised policy will enable the District to adhere to the programs and will allow the maximum legally permissible opportunities for small and minority/women business enterprises to participate in the award and performance of Board contracts. It will also provide the community information concerning contracting opportunities for small and minority/women businesses.

Attached are the Notice of Intended Action and the policy proposed for amendment. Changes to the current policy are indicated by underscoring words to be added and ~~striking through~~ words to be deleted.

Authorization of the Board is requested for the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act for the amendment of Board Policy 6320, Purchasing.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to amend Board Policy 6320, Purchasing.

E-200

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on February 13, 2013, its intention to amend Board Policy 6320, Purchasing, at its meeting of April 17, 2013.

PURPOSE AND EFFECT: It is recommended that Board Policy 6320 be amended to reflect the requirements set forth in the newly adopted policy 6320.02, Small/Micro Business Enterprise Program and Minority/Women Business Enterprise Certification. The revised policy will enable the District to adhere to the programs and will allow the maximum legally permissible opportunities for small and minority/women business enterprises to participate in the award and performance of Board contracts. It will also provide the community information concerning contracting opportunities for small and minority/women businesses.

SUMMARY: This amended policy will create greater opportunities for small and minority/women business participation in the awarding of Request for Proposals, Professional Goods and Services, Construction, Architecture/Engineering Services, Bids and other applicable procurement contracts. All procurement services shall comply with laws, rules, regulations and Board policies.

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

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 287.093; 1001.32(2); 1013.46(1)(b) F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF April 17, 2013, 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 March 12, 2013, 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 AMENDED 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. Barry S. Meltz
Supervisor: Dr. Richard H. Hinds
Date: January 30, 2013

1

PURCHASING

2 All procurement of supplies, materials, equipment, and services paid for from county
3 school funds shall be the responsibility of the procurement department under the
4 general supervision of the Chief Procurement Officer and shall be made in
5 accordance with all applicable State statutes, Florida State Board of Education
6 Rules, School Board policies, and administrative procedures.

7 No person may make any purchase with Board funds unless authorized to do so by
8 Board policy or by administrative directive, or manuals approved by the
9 Superintendent.

10 The agency designated for making purchases with Board funds is the Board's
11 Procurement Management Services.

12 Payment for any unauthorized purchase may be the responsibility of the person
13 placing the order.

14 **Purchase Approval and Competitive Bidding Process Requirements**

15 Responsibilities

16 The Superintendent shall be responsible for the procurement of supplies, materials,
17 equipment, and services paid for from Board funds. The several schools,
18 departments and agencies of the District under the jurisdiction of the Board shall
19 purchase their materials or commodities through the Division of Procurement, the
20 Board's official purchasing agency. All purchases shall comply with law, rules,
21 regulations and Board policies. The Superintendent may approve or reject purchase
22 requisitions when the total amount does not exceed \$50,000 or the current
23 threshold set by statute. Purchases in excess of \$50,000 or current threshold set by
24 statute shall be approved by the Board except for those delineated below:

25 A. The Superintendent may be authorized to purchase commodities or
26 contractual services where the total amount does not exceed an
27 amount prescribed by the Board, and does not exceed the applicable
28 appropriation in the District budget. The Superintendent may also
29 be authorized to purchase commodities or is exempt by statute or
30 Florida Administrative Code, or contractual services under
31 Department of Management Services State term contracts.
32 Assistants functioning under the Superintendent's direction may be
33 authorized to perform these purchasing tasks.

- 1 B. In each school district in which the purchasing agent for any public
2 agency is authorized by law to make purchases for the benefit of
3 other governmental agencies within the county, the Board shall have
4 the option to purchase under the current contracts as established
5 for these public agencies at or below the stated unit price, if the
6 purchase is economically advantageous to the Board, and the items
7 purchased conform to the standards and specifications prescribed
8 by the Superintendent.
- 9 C. As required by F.S. 1001.42(12)(j), the Board shall receive and
10 consider available prices according to the rules of the Department of
11 Management Services, Division of Purchasing. The Board may use
12 prices established by the Division of Purchasing through its State
13 purchasing agreement price schedule. If Board policy provides for
14 purchasing under this state purchasing program, the conditions for
15 use shall be those imposed on State agencies.
- 16 D. In lieu of requesting competitive solicitations from three (3) or more
17 sources, the Board may make purchases at or below the specified
18 prices from contracts awarded by other city or county governmental
19 agencies, other school boards, community colleges, federal agencies,
20 the public or governmental agencies of any state, or from state
21 university system cooperative bid agreements, when the proposer
22 awarded a contract by another entity permits purchases by a school
23 board on the same terms, conditions, and prices (or below such
24 prices) awarded in the contract, and the purchases are economically
25 advantageous to the Board.
- 26 E. Except as authorized by law or rule, competitive solicitations shall
27 be requested from three (3) or more sources for any authorized
28 commodities or contractual services exceeding \$50,000.
- 29 F. The requirement for requesting competitive solicitations for
30 commodities or contractual services from three or more sources is
31 waived pursuant to F.S. 1010.04(4)(a), for:
- 32 1. the purchase by the Board of professional services which
33 shall include artistic services, academic program reviews,
34 lectures by individuals, auditing services not subject to
35 F.S. 218.391, legal services, including attorney, paralegal,
36 expert witness, court reporting, appraisal or mediator
37 services; and health services involving examination,
38 diagnosis, treatment, prevention, medical consultation or
39 administration; and

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- 1 2. the purchase by the Board of educational services and
2 copyrighted materials including educational tests, textbooks,
3 printed instructional materials, computer software, films,
4 filmstrips, videotapes, DVDs, disc or tape recordings, digital
5 recordings, or similar audio-visual materials, and for library
6 and reference books, and printed library cards where these
7 materials are purchased directly from the producer or
8 publisher, the owner of the copyright, an exclusive agent with
9 the State, a governmental agency or a recognized educational
10 institution.
- 11 G. The Board shall have the authority to reject any or all proposals
12 submitted in response to any competitive solicitation and to request
13 new proposals or purchase the required commodities or contractual
14 services in any other manner authorized by this section.
- 15 H. Regarding invitations to bid, the Board may accept the proposal of
16 the lowest responsive, responsible proposer. Alternatively, the
17 Board may also award contracts to the lowest responsive,
18 responsible bidder as the primary awardee of a contract and to the
19 next lowest responsive, responsible bidder(s) as alternate awardees
20 from whom commodities or contractual services would be purchased
21 should the primary awardee become unable to provide all of the
22 commodities or contractual services required by the Board during
23 the term of the contract. Multiple awards to the lowest responsive
24 and responsible bidders are permitted when multiple awards are
25 clearly allowed by the bid solicitation documents.
- 26 I. Regarding requests for proposals, the Board may award contracts to
27 one or more responsive, responsible proposers in accordance with
28 the selection criteria published in the request for proposal. The
29 Board is not required to request proposals for purchases made from
30 contracts of the Department of Management Services.
- 31 J. The purchase of food products except milk, required for the School
32 Food Service Program and other ancillary food operations are
33 exempt from the bid requirements pursuant to State Board of
34 Education Rule F.A.C. 6A-7.0411(2)(i)2.
- 35 K. Additional exemptions authorized under certain conditions:
- 36 The requirements for requesting competitive solicitations and
37 making purchases for commodities and contractual services are
38 waived pursuant to F.S. 1010.04(4)(a), when the following conditions
39 have been met by the Board:

- 1 1. competitive solicitations have been requested in the manner
2 prescribed by this rule, and
- 3 2. the Board has made a finding that no valid or acceptable firm
4 proposal has been received within the prescribed time.

5 When such a finding has been officially made, the Board may enter
6 into negotiations with suppliers of such commodities and
7 contractual services and shall have the authority to execute
8 contracts with such vendors under the terms and conditions the
9 Board determines are in its best interests.

10 If fewer than two (2) responsive proposals for commodity or
11 contractual services are received, the Board may negotiate the best
12 terms and conditions or decide to reject all proposals. The Board
13 shall document the reasons that negotiating terms and conditions
14 with the sole proposer is in the best interest of the School District in
15 lieu of soliciting new proposals.

- 16 L. Commodities or contractual services available from a single source
17 may be exempted from the competitive solicitation requirements.
18 When the Board believes that commodities or contractual services
19 are available only from a single source, the Board shall electronically
20 or otherwise publicly post a description of the commodities or
21 contractual services for a period of at least seven (7) business days.
22 The description must include a request that prospective vendors
23 provide information regarding their ability to supply the
24 commodities or contractual services described. If it is determined in
25 writing by the Board, after reviewing any information received from
26 prospective vendors, that the commodities or contractual services
27 are available only from a single source, the Board shall provide
28 notice of its intended decision to enter a single source contract in
29 the manner specified in F.S. 120.57(3), and may negotiate the best
30 terms and conditions with the single source vendor.

- 31 M. The Board may dispense with requirements for competitive
32 solicitations for the emergency purchase of commodities or
33 contractual services when the Superintendent determines in writing
34 that an immediate danger to the public health, safety, or welfare or
35 other substantial loss to the school district requires emergency
36 action. After the Superintendent makes such a written
37 determination, the Board may procure commodities or contractual
38 services necessitated by the immediate danger, without requesting
39 competitive solicitations. However, such an emergency purchase
40 shall be made by obtaining pricing information from at least two (2)
41 prospective vendors, which must be retained in the contract file,
42 unless the Superintendent determines in writing that the time

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1 required to obtain pricing information will increase the immediate
2 danger to the public health, safety, or welfare or other substantial
3 loss to the District.

4 N. A contract for commodities or contractual services may be awarded
5 without competitive solicitations if State or Federal law, a grant or a
6 State or Federal agency contract prescribes with whom the Board
7 must contract or if the rate of payment is established during the
8 appropriations process.

9 O. A contract for regulated utilities or government-franchised services
10 may be awarded without competitive solicitations.

11 P. As much as practicable, all purchases shall be based on contracts,
12 purchasing card systems, electronic procurements or purchase
13 orders.

14 Q. The Board, when acquiring, whether by purchase, lease, lease with
15 option to purchase, rental or otherwise, information technology, as
16 defined in F.S. 282.0041(15), may make acquisitions through the
17 competitive solicitation process or by direct negotiation and contract
18 with a vendor or supplier, as fits the needs of the School District as
19 determined by the Board.

20 R. Except as otherwise required by statute, the Board, when
21 purchasing insurance, entering risk management programs, or
22 contracting with third party administrators, may use the competitive
23 solicitation process or direct negotiations and contract.

24 S. Emergency purchases made and approved by the Superintendent or
25 the Superintendent's designated representative. The
26 Superintendent will report all emergency purchases to the Board, as
27 soon as possible.

28 When an emergency arises, circumstances contributing to such an
29 emergency shall be communicated to the proper department or
30 agency of the Board, which in turn will notify Procurement
31 Management, requesting the emergency purchase.

32 A requisition for an emergency purchase shall be accompanied by
33 the appropriate Emergency Purchase Request Form, explaining the
34 circumstances creating the emergency and clarifying that immediate
35 action is required to protect the Board's interests. Emergency
36 purchases are divided into two (2) categories as follows:

37 1. Emergency Purchase Request (Form B FM-3739) Estimated
38 Expenditure -\$50,000 and under. Requires the signature of
39 the initiating administrator, recommended by Director or

- 1 above and approval by the Assistant Superintendent or
2 above.
- 3 2. Emergency Purchase Request (Form A FM-2333) -Estimated
4 Expenditure -over \$50,000. Requires the signature of the
5 initiating administrator, recommended by the Assistant
6 Superintendent or above, or his/her designee(s) and approval
7 by Superintendent or designee. Emergency purchases over
8 \$50,000 shall be reported to the Board.
- 9 T. Competitive bidding is waived for purchases of maintenance and/or
10 service contracts, on various types of technical equipment, that are
11 offered and/or supplied only by the original manufacturer or its
12 representative, or that are required to maintain the integrity of the
13 manufacturer's warranty, or that are part of the manufacturer's
14 rental/lease/lease purchase agreements terms and conditions.
- 15 U. Non-Purchase Order Invoice Funds Reservation Purchases are
16 purchases for goods and services, expenditures, fund transfers, etc.,
17 that are not appropriate for normal competitive purchasing
18 procedures. Only the expenditures listed will be authorized and
19 processed as Non-Purchase Order Invoice Funds Reservation
20 Purchases. Non-Purchase Order Invoice Funds Reservation
21 purchases require the same financial authorization and approval
22 process as purchase requisitions and shopping carts. Those
23 purchases for goods and services, expenditures, fund transfers, etc.,
24 that are authorized for Non-Purchase Order Invoice Funds
25 Reservation Purchases are limited to include various types of fund
26 advances, services, reimbursements and purchases, and/or
27 payment for goods and services, which are not appropriate for
28 normal competitive purchasing procedures:
- 29 1. Additional Contracted Services (polygraph, court reporting/
30 transcribing, etc.)
- 31 2. Admission Fees
- 32 3. Association Fees, Professional Association Dues and Charges
33 Distribution of Funds -Athletic Programs, Vending Machine
34 Commissions
- 35 4. Facilities Fees, Rentals/Leases and Utilities including
36 monthly utility charges, service and connection fees
- 37 5. Fees for Graduation Exercises (non-employees, union
38 charges, etc.)

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- 1 6. Field Trips
- 2 7. Tickets
- 3 8. Advance Registration
- 4 9. Hotel Accommodations
- 5 10. Groceries and Supplies for Home Economics Classes
- 6 11. Insurance Policies Reimbursements
- 7 12. Legal Settlement Payments and bonds
- 8 13. License Fees and Agreements
- 9 14. Media Advertising (newspaper, radio, television, etc.)
- 10 15. Media Programs, Refreshments, Reimbursement -Grant
11 Funds
- 12 16. Permit Fees
- 13 17. Petty Cash Replenishment
- 14 18. Postage Requisitions
- 15 19. Property Loss Payment
- 16 20. Registration Fees
- 17 21. State Fees (retirement, unemployment compensation, etc.)
- 18 22. Tax Related Payments
- 19 23. Toll Charges for Transportation, Maintenance, Stores and
20 Distribution, and other departments, as may be required
- 21 24. Travel Reimbursement for Non-Employees

1 **Purchase Requisitions**

2 District schools, departments, and agencies shall initiate a properly executed
3 purchase requisition, containing authorized approvals of the originating
4 administrator, principal, department or agency head, for the purchase of any and all
5 items desired, except where small purchases, transactions not in excess of
6 \$3,000.00 per requisition, and market difficulties, make the cost of some purchases
7 in this manner economically unsound. In those instances, administrative directives
8 or operating manuals may be issued, when deemed necessary, containing the
9 procedures to economically perform the purchasing function within the controls
10 required and authority provided by Florida statute, Florida Board of Education
11 Administrative Rules and Board policies.

12 Split requisitions, to bypass the approval requirements and/or the bidding process,
13 are specifically forbidden.

14 Requisitions must contain the appropriate authorized approvals as prescribed by
15 administrative procedures for the SAP system.

16 **Protests**

17 A bidder who wishes to file a bid protest, must file such notice and follow procedures
18 prescribed by F.S. 120.57(3), for resolution.

19 **Protest of Specifications**

20 Any notice of protest of the specifications contained in an Invitation To Bid (ITB) or
21 Request for Proposal (RFP) shall be filed in writing with the Clerk of The School
22 Board of Miami-Dade County, Florida, who shall maintain offices in the School
23 Board Administration Building.

24 For a protest of the specifications contained in an Invitation To Bid (ITB) or in a
25 Request For Proposals (RFP), the Notice of Protest shall be filed in writing within
26 seventy-two (72) hours after the posting of a solicitation. The Formal Written Protest
27 shall be filed within ten (10) calendar days after the date the notice of protest is filed.
28 Failure to file a Notice of Protest or failure to file a Formal Written Protest shall
29 constitute a waiver of proceedings under this rule. The Formal Written Protest shall
30 state with particularity the facts and law upon which the protest is based.
31 Saturdays, Sundays, and legal holidays shall be excluded in the computation of the
32 seventy-two (72) hour time period provided by this paragraph.

1 **Posting the Bond**

2 The protesting party shall post a bond in a form consistent with F.A.C.
3 Rule 28-110.005(2). A notice of decision or intended decision shall contain this
4 statement: "Failure to file a protest within the time prescribed in F.S. 120.57(3), or
5 failure to post the bond or other security required by law within the time allowed for
6 filing a bond shall constitute a waiver of proceeding under F.S. Chapter 120."

7 A. Bond: Commodities (Other than Lease of Space) and Contractual
8 Services (Including Professional Services and Insurance) – Pursuant
9 to F.S. 287.042(2)(c), any person who files an action protesting a
10 decision or intended decision pertaining to a solicitation or contract
11 award shall post with the Board, at the time of filing the formal
12 written protest, a bond secured by an acceptable surety company in
13 Florida, payable to the School Board of Miami-Dade County, Florida,
14 in an amount equal to one percent (1%) of the District's estimate of
15 the dollar value of the proposed contract.

16 1. The District shall provide the estimated contract amount to
17 the protestor within seventy-two (72) hours (excluding
18 Saturdays, Sundays, and holidays when the District
19 administrative office is closed) after the filing of the Notice of
20 Protest. The estimated contract amount is not subject to
21 protest under this policy or F.S. 120.57(3). In lieu of a bond,
22 the Board may accept a cashier's check or money order in the
23 amount of the bond.

24 2. The bond shall be conditioned upon the payment of all costs
25 and charges which may be levied against the protestor in the
26 administrative hearing in which the action is brought and in
27 any subsequent appellate court proceeding.

28 3. Pursuant to F.S. 287.042(2)(c), if, the Board prevails in the
29 administrative hearing process and any appellate court
30 proceedings, it shall be entitled to recover all costs and
31 charges which are included in the final order or judgment,
32 excluding attorneys' fees. Upon payment of such costs and
33 charges by the person protesting the decision or intended
34 decision or contract award, the bond, cashier's check or
35 money order shall be returned to the protestor. If the
36 protestor prevails, the protestor may recover from the Board
37 the costs and charges which are included in the final order or
38 judgment, excluding attorneys' fees.

1 B. Bond: Competitive Bids for Lease of Space --Pursuant to
2 F.S. 255.25(3)(c), any person who files an action protesting a
3 decision or intended decision pertaining to a competitive bid for
4 space to be leased by the Board shall post with the Board, at the
5 time of filing the formal written protest, a bond payable to the Board
6 in an amount equal to one percent (1%) of the estimated total rental
7 of the basic lease period or \$5,000, whichever is greater. The bond
8 shall be conditioned upon the payment of all costs which may be
9 levied against him or her in the administrative hearing in which the
10 action is brought and in any subsequent appellate court proceeding.
11 If the Board prevails in the administrative hearing process and any
12 appellate court proceedings, it shall recover all costs and charges,
13 which are included in the final order or judgment, excluding
14 attorneys' fees. Upon payment of such costs and charges by the
15 person protesting the award, the bond shall be returned to him/her.
16 If the person protesting the award prevails, the bond shall be
17 returned to that person and s/he shall recover from the Board the
18 costs and charges which are included in the final order or judgment,
19 excluding attorneys' fees.

20 C. Bond: Construction Purchasing - Construction purchasing is
21 separately governed by Board policy, and persons protesting
22 competitive procurement related to educational facilities shall be
23 required to post a bond in the amount specified in F.S. 255.0516,
24 which also governs recovery of fees and costs including attorneys'
25 fees.

26 D. Staying the Procurement Process - Upon timely receipt of the formal
27 written protest petition, and posting of the bond, the solicitation or
28 contract award process shall be stayed until the protest is resolved
29 by final agency action, unless the Board sets forth, in writing,
30 particular facts and circumstances which require the continuance of
31 the solicitation or contract award process in order to avoid an
32 immediate and serious danger to the public health, safety, and
33 welfare.

34 The Formal Written Protest will be reviewed by Procurement Management Services
35 who will offer the protesting bidder the opportunity to meet and discuss the merits
36 of the protest. If the protest is not resolved, the matter may be referred for
37 proceedings pursuant to F.S. 120.569 and 120.57. Petitions for hearing on protests
38 pursuant to F.S. 120.569 and 120.57, must be filed according to Board policy on
39 adjudicatory proceedings.

1 **Protest of Bid Award**

2 Any letters of protest of an intended award may be filed in writing with the Clerk of
3 the Board who shall maintain offices in the Board Administration Building.

4 Any person who is adversely affected by the agency decision or intended decision,
5 shall file with the agency a Notice of Protest in writing within seventy-two (72) hours
6 after the posting of the bid tabulation or after receipt of the notice of the agency
7 decision or intended decision and shall file a Formal Written Protest within ten (10)
8 calendar days after filing the Notice of Protest. The protesting bidder shall also be
9 required to post a bond, consistent with this rule. Failure to file a Notice of Protest
10 or failure to file a Formal Written Protest shall constitute a waiver of proceedings
11 under F.S. Chapter 120.57. The formal written protest shall state with particularity
12 the facts and law upon which the protest is based. Saturdays, Sundays, and legal
13 holidays shall be excluded in the computation of the seventy-two (72) hour time
14 periods provided by this paragraph.

15 The Formal Written Protest will be reviewed by Procurement Management Services,
16 who will offer the protesting bidder the opportunity to meet and discuss the merits
17 of the protest. If the protest is not resolved, the matter may be referred for
18 proceedings, pursuant to F.S. 120.569 and 120.57. Petitions for hearing on protests
19 pursuant to F.S. 120.569 and 120.57, must be filed in accordance with Board policy
20 on adjudicatory proceedings.

21 **Receiving and Opening of Bids**

22 The Superintendent, or an administrator designated by the Superintendent, shall
23 designate the time and place for receiving and opening of bids.

24 A. Bids are to be submitted to Procurement Management Services or
25 electronically up to the time and on the date specified in the bid
26 documents. Bids received after the date and hour specified in the
27 Bidder Qualification Form will not be considered.

28 B. The following persons shall participate in the bid opening function:

29 1. The District Director, Procurement Management, or an
30 administrator designated by the District Director shall serve
31 as chairperson.

- 1 2. A person designated by the District Director, Procurement
2 Management, to record the minutes of the bid opening, and
3 such minutes shall be reported to the Board at the next
4 regularly scheduled Board meeting.
- 5 3. The Executive Director, Project and Contract Management, or
6 an administrator designated by the Executive Director.
- 7 4. Those additional administrators and support staff required
8 for the efficient handling of this procedure.
- 9 C. All construction bids shall be opened and tabulated prior to bids
10 being released by the recording secretary.
- 11 D. All purchasing bids will be recorded at the time they are received,
12 showing the bid number, bid title, and the names of the bidders
13 submitting bid forms. The record shall be made prior to the release
14 of the bid material by the recording secretary.

15 The above guidelines for receiving bids do not apply to the awarding of bids at Board
16 meetings.

17 **The Recording or Tabulation of Purchasing Bids**

18 The names of bidders, the prices submitted, and such other pertinent data, will be
19 electronically available or entered on a tabulation sheet by Procurement
20 Management Services. This information shall be available as set forth in
21 F.S. 119.07.

22 **Rejection of Bids**

23 The right to reject any and all bids is reserved by the Board and such reservation
24 shall be indicated in all advertising and invitations. When bids are rejected and the
25 project or requirement is not abandoned, new bids may be issued. Bids which
26 contain any alterations or erasures may be rejected. Bids will be rejected for good
27 and sufficient cause, such as faulty specifications, excessive cost, and abandonment
28 of the requirements, insufficient funds, or other irregularities. Bids may be rejected
29 for failure by the bidder to comply with any requirement stated in the bid document,
30 the bid proposal form or any attachments which become part of the bid.

1 **Irregular or Deviating Bids**

2 In the event that Procurement Management Services wishes to make a
3 recommendation of an award of a bid to a bidder who has deviated from
4 specifications, or in which there is any irregularity, the report recommending such
5 an award should contain in detail: the manner in which the bid deviates from the
6 specifications or is irregular, the reasons for the recommendation of the award, and
7 approval by the Board Attorney.

8 **Award Recommendation**

9 Notice of Intended Action will be posted on the District's website for Procurement
10 bids no later than the Friday preceding the week when the award is scheduled to be
11 made by the Board or Superintendent.

12 **Official Award Date**

13 Awards become official when made, unless otherwise specified in the award
14 recommendation.

15 **Contract Renewals**

16 The Board shall have the authority to award bids and reject any or all bids. The
17 Superintendent shall have the authority to exercise, in subsequent years, any
18 renewal options included in a bid solicitation, provided terms and conditions are
19 favorable for the School District and subject to the availability of funds.

20 **Legal Basis for Procedures**

21 The procedures for the purchase of commodities and services, and construction of
22 facilities for the District shall comply with the Florida statutes and the Florida
23 Administrative Code.

24 **Bidding**

25 It is the policy of the Board that the Superintendent shall be responsible for
26 estimating needs for items in common use and making quantity purchases. All
27 items, or group of related items that cost in excess of the amount defined in
28 F.A.C. 6A-1.012(6), shall be purchased based on competitive bids, except as
29 otherwise authorized by Florida statutes and/or Florida Administrative Code.

1 **Competitive Bidding Requirements**

2 Definitions

3 A. The term "competitive solicitation" includes purchasing made
4 through the issuance of an Invitation To Bid, Request For Proposals
5 and Invitation To Negotiate. Competitive solicitations are not
6 required for purchases made through the pool purchase provisions
7 of F.S. 1006.27.

8 B. "Invitation To Bid" is a written solicitation for competitive sealed
9 bids. The Invitation To Bid is used when the Board is capable of
10 specifically defining the scope of work for which a contractual
11 service is required or when the Board is capable of establishing
12 precise specifications defining the actual commodity or group of
13 commodities required.

14 C. "Invitation To Negotiate" is a written solicitation for competitive
15 sealed replies to select one or more vendors with which to negotiate
16 for the procurement of commodities or contractual services. The
17 Invitation To Negotiate is used when the Board determines that
18 negotiations may be necessary for it to receive the best value.

19 D. "Request For Proposals" shall be defined for the purposes of this rule
20 as a written solicitation for competitive sealed proposals. The
21 Request For Proposals is used when it is not practicable for the
22 Board to specifically define the scope of work for which the
23 commodity, group of commodities, or contractual service is required
24 and when the Board is requesting that a responsible vendor propose
25 a commodity, group of commodities, or contractual service to meet
26 the specifications of the solicitation document.

27 E. The term "proposer" includes those vendors submitting bids or
28 responses to a competitive solicitation.

29 The major consideration given to bid evaluations is lowest price meeting
30 specifications.

1 When the determination is made that a bid is appropriate, the performance
2 specifications and standards requirements shall be spelled out in detail and shall be
3 furnished to Procurement Management. After review, Procurement Management
4 shall issue the Invitation For Bids, including all general and special conditions, and
5 evaluate the bids submitted. The requirements for solicitation and review of bids by
6 the ~~Procurement Contract Review~~ Goal Setting Committee (~~PCRC~~) (GSC) shall be
7 followed in all cases. Board approval is required for contracts recommended for
8 award.

9 For each purchase of more than \$50,000, bids shall be requested from three (3) or
10 more sources. Notices of bids shall be electronically posted or may be sent to all
11 vendors on the active vendor mailing list for that category of goods or services. This
12 list shall include all minority/women vendors identified with the Board for that
13 particular category of goods or services, as well as organizations involved in assisting
14 M/WBE firms, by posting and disseminating information regarding available
15 contracts. Notices of bids shall be advertised in one or more major, local
16 newspapers or electronically posted at least seven (7) days prior to the bid opening
17 date. This may include, as necessary, major newspapers having circulation
18 representative of the various relevant minority classifications or electronic posting.
19 Tabulations of current bids shall be retained in bid files and shall be available for
20 reference. Standard bid forms used shall be as approved by the Superintendent and
21 the Board Attorney.

22 A. Written, Telephone, or Electronic Quotations

23 For each purchase of \$50,000 or less and over the minimum
24 quotation threshold established by Procurement Management, staff
25 shall obtain written, telephone, or electronic quotations from
26 three (3) or more sources. If possible, vendors contacted shall
27 include M/WBE vendor participation. If only one of those sources
28 respond with prices, two (2) additional sources, if available, may be
29 contacted for pricing, including, if possible, an M/WBE vendor. If
30 no additional prices are obtained from those sources, the award
31 shall be made to the lowest and best price quotation. If all three (3)
32 of the vendors first contacted for prices respond with valid price
33 quotations, the award shall be made to the lowest price quotation
34 meeting specifications, with no additional requests from other
35 vendors required.

1 Quotations obtained shall be attached to the purchase order by
2 written notations or electronic reference indicating prices and
3 sources thereof, and certification of same by signature, electronic
4 signature, or facsimile. The requisition shall be approved for
5 purchase as authorized by the Superintendent.

6 B. Schools making internal fund purchases shall comply with
7 Policy 6610.

8 **Quantity Purchasing--Development of Specifications, Determination of**
9 **Quantities and Standardization of Supplies And Equipment**

10 A. To help achieve both quality control and the price advantages of
11 quantity purchasing, the administration is directed to:

- 12 1. set specifications for goods and services as needed;
- 13 2. cite several existing, commercially available "standard
14 brands" that meet those specifications acceptably as
15 examples; and
- 16 3. invite vendors to bid on those examples, or equal ones, which
17 the vendors believe to be acceptable according to the
18 specifications.

19 B. All bid quantities and specifications shall be transmitted to the
20 Division of Procurement Management by the originating department,
21 in writing. The originating department shall also certify to the
22 Division of Procurement Management, in writing, that the
23 specifications for an existing bid (to be rebid) are still appropriate
24 before issuance of the bid. If the specifications are originated by the
25 Division of Procurement Management, it shall follow similar
26 certification procedures.

- 1 C. All increases to quantities specified in an existing term bid requiring
2 a supplemental bid award shall be requested in writing by the
3 originating department, countersigned by an administrator reporting
4 directly to the Superintendent identifying the reason why the
5 increase in quantities was unavoidable. If an adequate reason
6 cannot be identified, then the corrective action to be taken by the
7 originating department to prevent a future underestimate of
8 quantities shall be described. A similar procedure will be followed
9 for term bids originated by the Division of Procurement
10 Management.

- 11 D. All changes to specifications for an existing bid (to be rebid) or
12 similar bid shall be identified in writing, including the reason for the
13 change, by the originating department or the Division of
14 Procurement Management, if originator.

- 15 E. The District Director, Division of Procurement Management, shall
16 initiate procedures to assure the identification of specifications
17 which appear to limit the bidding process to a single vendor. In the
18 event that the District Director has identified such a set of
19 specifications, the originating department shall be required to justify
20 in writing, those specifications which appear to favor a single
21 vendor. This documentation shall be countersigned by an
22 administrator reporting directly to the Superintendent.

23 **Request For Proposals and Professional Services Contracts**

24 For purposes of this rule, Professional Service is any type of personal service to the
25 District which requires as a condition precedent to the rendering of such service:

- 26 A. the obtaining of a license or other legal authorization; or
- 27 B. work which can only be performed by one who has achieved a high
28 level of training and proficiency in the work to be performed.

1 **Request For Proposals**

2 The Request For Proposal shall be used when seeking to contract for professional
3 services, and when it is not practicable for the agency to specifically define the scope
4 of work for which the commodity, group of commodities, or contractual service is
5 required and when the agency is requesting that a responsible vendor proposed a
6 commodity, group of commodities, or contractual service to meet the specifications
7 of the solicitation document. A written solicitation includes a solicitation that is
8 electronically posted.

9 The following process shall be followed for the Request For Proposal:

10 A. If the cost of the contract is estimated to be more than \$50,000
11 annually:

12 1. The evaluation committee shall be specified in the Request
13 For Proposal. The committee shall consist of at least:
14 (1) Two (2) individuals from the originating bureau/office,
15 however, not more than one (1) of these individuals can be
16 from the requesting department; (2) Two (2) individuals from
17 outside the bureau/office; (3) One (1) individual from the
18 Division of Business Development and Assistance; and
19 (4) one (1) individual from Procurement Management Services
20 (non-voting). Additional members may be appointed at the
21 discretion of the Superintendent or his/her designee. The
22 committee shall to the extent possible, be ethnically and
23 gender representative.

24 2. The ~~Procurement Contract Review~~ Goal Setting Committee
25 shall review the Request For Proposal to determine Small
26 Business Enterprise (SBE), Micro Business Enterprise (MBE),
27 Minority/Women Business Enterprise (M/WBE) minority
28 participation in the project, prior to issuing the Request For
29 Proposals.

30 3. The Request For Proposal shall be advertised to solicit
31 maximum vendor participation. To enhance Minority/Women
32 Business Enterprise (M/WBE) participation, it is
33 recommended that all advertisements be published and
34 announced in major ethnic publications and organizations, as
35 outlined in applicable Board policies.

36 4. Board approval of recommendations by the evaluation
37 committee shall be obtained after the evaluation process is
38 completed and prior to the issuance of the contract.

- 1 B. If the contract is estimated to cost less than \$50,000 annually:
- 2 1. There must be evidence that at least three vendors were
- 3 contacted in writing, and if possible, at least one of these
- 4 vendors shall be a Minority/Women Business Enterprise.
- 5 2. If only one potential vendor is known, an advertisement shall
- 6 be placed in an appropriate publication that is widely
- 7 distributed. If no responses are received, the contract can be
- 8 developed with the one known vendor, in accordance with
- 9 other established procedures.
- 10 C. The Request For Proposal shall include an implementation schedule
- 11 consisting of the following:
- 12 1. ~~Procurement Contract Review~~ Goal Setting Committee
- 13 2. Mailing/Posting Date
- 14 3. Pre-Proposal Conference (if required)
- 15 4. Opening Date and Time Evaluation Criteria
- 16 5. Interview Schedule (if required) Award Process
- 17 D. The evaluation criteria which shall serve as the basis for
- 18 recommendations by the evaluation committee shall include, but are
- 19 not limited to:
- 20 1. Conformance to the Proposal Requirements Experience
- 21 2. Past Performance
- 22 3. Price
- 23 4. M/WBE Participation
- 24 5. Other Instructions

- 1 E. Evaluation Committee Meetings
- 2 1. When committees are established to evaluate Request For
3 Proposals, the originating department (Chairperson) will
4 conduct the meetings, and ensure that: (1) minutes are
5 recorded; and (2) proper documentation and records of
6 committee actions are maintained. A copy of the minutes
7 shall be forwarded to Procurement Management Services for
8 inclusion in the master file.
- 9 2. Subsequent to required oral interviews, and discussions, the
10 evaluation committee will evaluate proposers and prepare a
11 recommendation. The written recommendation and all other
12 pertinent documentation shall be forwarded by the Chair of
13 the evaluation committee to Procurement Management
14 Services.
- 15 3. The evaluation committee=s written recommendation must
16 include the following for inclusion in the Master file within
17 Procurement Management Services:
- 18 a. Clear Objective of the Request For Proposal
- 19 b. Identification of the Committee Members
- 20 c. Dates of Committee Meetings and a Brief Synopsis of
21 the General Discussion
- 22 d. Dates of the Oral Interviews, if any
- 23 e. Name and Location of the Offeror(s)
- 24 f. The Evaluation Criteria
- 25 g. An Explanation for the Basis of Selection
- 26 h. Recommendation of Acceptance of the Offeror(s)
27 Proposal
- 28 i. Votes of Committee Members

1 F. The following exclusions to this rule apply:

2 1. Contracts for legal services by the Board Attorney and the
3 attorneys supervised by the Board Attorney, contracted third-
4 party claims administration, nonpublic school placements
5 and other services/goods for which selection procedures are
6 provided by State statute, State Board Rule or other Board
7 Policy.

8 2. The Professional Services Contract Committee shall be
9 comprised of a representative from Senior Staff, two
10 representatives from Education and Curriculum, one
11 representative from the Goal Setting Committee, and
12 nonvoting representatives, from Procurement Management
13 Services, Office of Board Attorney, and Management and
14 Compliance Audits shall meet to consider requests for further
15 exceptions to this rule. Such exceptions may be granted in
16 the case of sole sources, contractors having specific expertise
17 or as otherwise determined by the committee to be in the best
18 interest of the Board. Exceptions recommended by the
19 committee will be submitted to the Board for approval for
20 contracts with an annual estimated cost of more than
21 \$50,000.

22 In instances where the contract is estimated to cost less than \$50,000, but more
23 than the threshold established for quotations, and an exception for the procedure
24 outlined above is sought, the contract does not have to be submitted to the Board
25 for approval if the Committee has granted an exception pursuant to this policy.

26 The Board may make further exceptions to this policy on a case-by-case basis.

27 **Identical Prices--Priorities for Award**

28 When identical prices are received from two or more vendors and all other factors
29 are equal, priority for award shall be given to vendors in the following sequence:

30 A. A business that certifies that it has implemented a drug-free work
31 place program shall be given preference in accordance with the
32 provisions of F.S. 287.087.

33 B. Local Vendor Preference;

34
35 B. C. Certified service-disabled Veteran business;

- 1 ~~C. D.~~ The Miami-Dade County SBE/Micro/Minority/Women Business
2 Enterprise vendor;
- 3 ~~D.~~ ~~The Miami-Dade County vendor, other than the Minority/Women~~
4 ~~Business Enterprise vendor;~~
- 5 E. The Broward, Palm Beach or Monroe County
6 SBE/Micro/Minority/Women Business Enterprise vendor;
- 7 F. The Broward, Palm Beach or Monroe County vendor, other than the
8 SBE/Micro/Minority/Women Business Enterprise vendor;
- 9 G. The Florida vendor who is a SBE/Micro/Minority/Women Business
10 Enterprise vendor;
- 11 H. The Florida vendor, other than a Minority/Women Business
12 Enterprise vendor;
- 13 I. The Minority/Women Business Enterprise vendor, who, because of
14 lower prices, receives a larger dollar award for other items; and
- 15 J. The SBE/Micro/non-Minority/Women Business Enterprise vendor,
16 who, because of lower prices, receives a larger dollar award for other
17 items.

18 If application of the above criteria does not indicate a priority for award, Board
19 administration shall determine if the award is capable of being split, and, if the
20 vendors will agree to split the award. If the award cannot be split, or the vendors do
21 not agree to split the award, the award will be decided by the toss of a coin. The
22 toss of a coin shall be held publicly, with the tie low bid vendors invited to be
23 present as witnesses and participants. A staff member from the Division of
24 Procurement Management will preside over the coin toss and a member from
25 Internal Audits will observe.

26 **Vendor Preference For Certified Service-Disabled Veteran Business Enterprises**

27 The Board adopts the relevant portions of "The Florida Service-Disabled Veteran
28 Business Enterprise Opportunity Act," F.S. 295.187, which provides a vendor
29 preference in favor of certified service disabled veteran businesses. The state,
30 through its Department of Management Services, will develop a certification
31 procedure.

1 In assessing priorities for award, when identical prices are received from two or more
2 vendors and all other factors are equal, priority for award shall be given to a certified
3 service-disabled veteran business enterprise as defined by F.S. 295.187. In the event
4 there are two or more certified-disabled veteran business enterprises entitled to the
5 preference, then the award shall be given to the business having the smallest net
6 worth.

7 The vendor preference for certified service-disabled veteran businesses shall be
8 subordinate only to the vendor preference for businesses implementing a drug-free
9 workplace.

10 In adopting a major tenet of the Veterans Entrepreneurship and Small Business
11 Development Act of 1999, (Public Law 106-50), which applies to Federal agencies,
12 the Board goal for participation by service disabled veteran business enterprises
13 shall be established at three percent (3%) of the total value of all prime
14 contract/subcontract awards for each fiscal year.

15 To the extent that this policy is inconsistent with the provisions of any other Board
16 policy, the provisions of this policy shall supersede.

17 **Performance and Payment Security, Declining a Bid Award, Default and**
18 **Bonding Company Qualifications**

19 A. Performance Security on Construction Bids and Awards

20 1. Bid Bond of five percent (5%) of the total bid amount is
21 required.

22 2. In order to encourage participation in construction,
23 remodeling, and renovation projects by small, woman owned,
24 and minority owned businesses, at the option of the Board,
25 no bid security or performance or payment bond shall be
26 required for bids in an amount less than \$3200,000

27 3. Bid awards exceeding \$3200,000 require a 100% performance
28 and payment security of the award amount. For construction
29 projects costing \$200,000 or more, the accepted bidder must
30 deliver performance and payment bonds equal to the contract
31 price, no later than twenty (20) days after the date of Award of
32 the contract or Approval of the Guaranteed Maximum Price
33 (GMP) Amendment by the Board. Bonds must be issued by
34 surety companies admitted to do business in the State of
35 Florida and listed in the Federal Register of the U.S.
36 Department of Treasury for surety Companies Acceptable on
37 Federal Bonds.

1 Bid security shall be a certified check, cashier's check,
2 Treasurer's check, bank draft, or bid bond acceptable to the
3 Board in a form and manner that is acceptable to the Board.

4 Should the accepted bidder refuse to enter into the contract
5 or fail to furnish performance and materials and payment
6 bonds, the amount of the bid security may be forfeited to the
7 District.

8 B. Performance Security on Awards Other than Construction

9 1. Bid awards of \$3200,000 or less shall be exempt from
10 performance and payment security.

11 2. Performance security shall not be required unless otherwise
12 defined in the bid specification. Performance security shall
13 equal 100% of the award amount.

14 C. Bonding Company Qualifications

15 Bonds shall be written through a reputable and responsible surety
16 bond agency licensed to do business in the State of Florida and with
17 a surety company or corporation meeting both of the following
18 specifications:

19 1. Awards Greater than \$500,000

20 a. A minimum rating in the latest revision of Best's
21 Insurance Reports of:

22	Contract Amount	Minimum Rating by
23		A.M. Best
24	\$200,000.00 to	
25	\$5,000,000	A, No Minimum Class
26	\$5,000,000.01 to	
27	\$10,000,000	A, Class IV
28	\$10,000,000.01 or more	A, Class V

1 Reinstatement of vendors losing eligibility to transact new business with the Board
2 will not be automatic and will be subject to review by the Contractor's Responsibility
3 Committee. Vendors will be required to submit a request for reinstatement
4 including, but not limited to, information as to their status as a responsible vendor
5 and what steps have been taken to avoid such a situation which caused their
6 suspension as a District vendor. Procurement Management Services will notify the
7 Board of all vendors denied reinstatement, and the reasons for denial.

8 "Principal" is defined as an officer of a corporation, partner of a partnership, sole
9 proprietor of a sole proprietorship, trustee of a trust, or any other person with
10 similar supervisory functions with respect to any legally organized entity.

11 **Signatures of Superintendent and Designees**

12 The Board authorizes the use of signatures of the Superintendent and his/her
13 designees on behalf of the Board on all contracts, agreements and documents where
14 a signature of the Chair is not required by law or regulation of the Department of
15 Education. All contracts, agreements and documents must be based upon
16 approvals previously adopted and spread upon the minutes of the Board, unless
17 exempted by Board policy.

18 **Purchasing Principles**

19 Employees shall be guided by the following principles and standards adopted by the
20 National Association of Purchasing Management:

- 21 A. Consider, first, the interest of his/her company (the Board) in all
22 transactions and to carry out and believe in its established policies.
- 23 B. Be receptive to competent counsel from his/her colleagues and to be
24 guided by such counsel without impairing the dignity and
25 responsibility of his/her office.
- 26 C. Buy without prejudice, seeking to obtain the maximum ultimate
27 value for each dollar of expenditure.
- 28 D. Strive consistently for knowledge of the materials and processes of
29 manufacture, and to establish practical methods for the conduct of
30 his/her office.

- 1 E. Subscribe to and work for honesty and truth in buying and selling,
2 and to denounce all forms and manifestations of commercial
3 bribery.
- 4 F. Accord a prompt and courteous reception, so far as conditions will
5 permit, to all who call on a legitimate business mission.
- 6 G. Respect his/her obligations and to require that obligations to
7 him/her and to his/her concern be respected, consistent with good
8 business practice.
- 9 H. Avoid sharp practice.
- 10 I. Counsel and assist fellow purchasing agents in the performance of
11 their duties, whenever occasion permits.
- 12 J. Cooperate with all organizations and individuals engaged in
13 activities designed to enhance the development and standing of
14 purchasing.

15 **COMMERCIAL NONDISCRIMINATION PROGRAM**

- 16
- 17 A. Policy Statement: It is the policy of the School Board of Miami-Dade County to
18 promote full and equal business opportunities for all persons doing business
19 with the District by increasing the purchase of goods and services from small
20 businesses within the area of Miami-Dade County.
- 21
- 22 B. Promotion of Equal Opportunity: Discrimination against businesses based on
23 sex, race, color, ethnic or national origin, religion, marital status, disability,
24 genetic information, age, political beliefs, sexual orientation, gender, gender
25 identification, social and family background, linguistic preference, pregnancy,
26 and any other legally prohibited basis, is strictly prohibited. No person shall be
27 denied the benefit of, or otherwise discriminated against, on the grounds of sex,
28 race, color, ethnic or national origin, religion, marital status, disability, genetic
29 information, age, political beliefs, sexual orientation, gender, gender
30 identification, social and family background, linguistic preference, pregnancy,
31 and any other legally prohibited basis, in connection with the award and/or
32 performance of contracts or modification of a contract between a vendor or
33 contractor and the School Board of Miami-Dade County which contract is paid
34 for, in whole or in part, with monetary appropriations by the School Board.
- 35
- 36
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- 38
- 39

**THE SCHOOL BOARD OF
MIAMI-DADE COUNTY**

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C. Program Objectives: The objective of the Commercial Nondiscrimination Program ("the Program") is to promote and encourage full and open competition in Miami-Dade County Public Schools (MDCPS), procurement and purchasing; encourage all MDCPS personnel involved with procurement and contracting activities to maintain good faith efforts and appropriate purchasing procedures; to protect the Board from becoming a passive participant in any unlawful discrimination; and to otherwise spur economic development in the public and private sectors of the local economy.

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4 F.S. 119.07, 120.569, 120.57, 120.57(3), 255.0516, 255.25(3)(c), 282.041(15)
5 F.S. 287.017, 287.042(2)(c), 287.056, 1001.41(1)(2), 1001.42(12)(j), 1001.42(26)
6 F.S. 1001.43(10), 1006.27, 1010.04(4)(a)
7 F.A.C. 6A-1.012, 6A-1.091, 6A-7.0411(2)(i), 28-110.005(2)