

Financial Services
Mr. Ron Y. Steiger, Chief Financial Officer

**SUBJECT: INITIAL READING: PROPOSED AMENDMENT TO POLICY 6320,
 PURCHASING**

COMMITTEE: FISCAL ACCOUNTABILITY & GOVERNMENT RELATIONS

**LINK TO STRATEGIC
BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES**

At its meeting of January 17, 2018, the Board approved Revised (2) Agenda Item H-5, sponsored by Dr. Steve Gallon III, Board Member, and co-sponsored by Ms. Maria Teresa Rojas, Board Member, directing the Superintendent to initiate rulemaking procedures to require that written notification of purchases be made to the Board of specific competitive bidding purchasing exemptions provided in Policy 6320 that exceed \$100,000, including date of purchase, vendor, amount, funding source, and purchasing authority.

This item requests that the Board approve authorizing the Superintendent to initiate rulemaking proceedings to amend Policy 6320, *Purchasing*, to add this notification requirement.

Attached are the Notice of Intended Action and the Policy amendments. Changes are indicated by underscoring words to be added and ~~striking through~~-words to be deleted.

RECOMMENDED: That The School Board of Miami-Dade County, Florida direct the Superintendent to initiate rulemaking proceedings for Initial reading in accordance with the Administrative Procedures Act to amend School Board Policy 6320, *Purchasing*.

E-144

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on March 21, 2018 its intention to amend Board Policy 6320, *Purchasing*, at its regular meeting on April 25, 2018.

PURPOSE AND EFFECT: Amendments are proposed to Policy 6320, *Purchasing*, to require that written notification of purchases be made to the Board of specific competitive bidding purchasing exemptions provided in Policy 6320 that exceed \$100,000, including date of purchase, vendor, amount, funding source, and purchasing authority.

SUMMARY: Policy 6320, *Purchasing*, is proposed to be amended to require that written notification of purchases be made to the Board of specific competitive bidding purchasing exemptions provided in Policy 6320 that exceed \$100,000, including date of purchase, vendor, amount, funding source, and purchasing authority.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41(1), (2); (4); 1001.43(2)F.S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 1001.41(12), F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING of, April 25, 2018, which begins at 1:00 p.m., in the School Board Administration Building, 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 April 16, 2018 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, F.S.

A COPY OF THE PROPOSED AMENDED POLICY is available at cost to the public for inspection and copying in the Citizen Information Center, Room 102, 1450 Northeast Second Avenue, Miami, Florida 33132.

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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 **Definitions**

15 A. *Competitive Solicitation* - purchasing made through the issuance of
16 an invitation to bid, request for proposals, and invitation to
17 negotiate.

18 B. *Construction Services* - all labor, services, and materials provided in
19 connection with the construction, alterations, repair, demolition,
20 reconstruction, or any other improvements to real property.

21 C. *Cooperative Purchasing* - action taken when two (2) or more entities
22 combine their requirements to obtain advantages of volume
23 purchases including administrative savings and other benefits.
24 Cooperative procurement efforts may result in contracts that other
25 entities may "piggyback".

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- 1 D. *Invitation to Bid* - a written solicitation for competitive sealed bids
2 used when the Board is capable of specifically defining the scope of
3 work for which a contractual service is required or when the Board
4 is capable of establishing precise specifications defining the actual
5 commodity or group of commodities required.
- 6 E. *Invitation to Negotiate* - a written solicitation for competitive sealed
7 replies to select one (1) or more vendors with which to negotiate for
8 the procurement of commodities or contractual services used when
9 the Board determines that negotiations may be necessary to receive
10 the best value.
- 11 F. *Originating Department* - the department requesting informal and/or
12 formal solicitations. This department is responsible for the product
13 and/or services sought and for monitoring vendor performance.
- 14 G. *PCards* - a payment method in which School District requisitioners
15 purchase directly from a vendor using a credit card; a
16 pre-established credit limit is generally established for each card
17 issued.
- 18 H. *Proposer* - vendors submitting bids or responses to a competitive
19 solicitation.
- 20 I. *Request for Information* - a non-binding method whereby a
21 jurisdiction publishes via newspaper, internet, or direct mail its
22 need for input from interested parties for an upcoming solicitation.
23 A procurement practice used to obtain comments, feedback, or
24 reactions from potential suppliers (contractors) prior to issuing of a
25 solicitation. Generally price or cost is not required. Feedback may
26 include best practices, industry standards, technology issues, etc.

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- 1 J. *Request for Proposals* - a written solicitation for competitive sealed
2 proposals used when it is not practicable for the Board to
3 specifically define the scope of work for which the commodity, group
4 of commodities, or contractual service is required and when the
5 Board is requesting that a responsible vendor propose a commodity,
6 group of commodities, or contractual service to meet the
7 specifications of the solicitation document.

- 8 K. *State Appropriated Funds* - funds appropriated in the Florida
9 General Appropriations Act, excluding Federal funds; does not
10 include general obligation bond funds for capital construction or
11 funds raised through local capital outlay millage.

- 12 L. *Vendor File* - accumulated record of a vendor maintained by
13 Procurement Management Services, including information on the
14 vendor's relationship with the Board, application for inclusion on
15 the bidder's list, record of performance under contracts, and
16 correspondence.

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Purchase Approval and Competitive Bidding Process Requirements

Responsibilities

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

A. The Superintendent may be authorized to purchase commodities or contractual services where the total amount does not exceed an amount prescribed by the Board, and does not exceed the applicable appropriation in the District budget. The Superintendent may also be authorized to purchase commodities or is exempt by statute or Florida Administrative Code, or contractual services under Department of Management Services State term contracts. The Superintendent may authorize designated staff to perform these purchasing tasks.

B. Where the purchasing agent for any public agency is authorized by law to make purchases for the benefit of other governmental agencies within the county, the Board shall have the option to purchase under the current contracts as established for these public agencies at or below the stated unit price, if the purchase is economically advantageous to the Board, and the items purchased conform to the standards and specifications prescribed by the Superintendent.

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- 1 C. As required by F.S. 1001.42(12)(j), the Board shall receive and
2 consider available prices according to the rules of the Department of
3 Management Services, Division of Purchasing. The Board may use
4 prices established by the Division of Purchasing through its State
5 purchasing agreement price schedule. If Board policy provides for
6 purchasing under this State purchasing program, the conditions for
7 use shall be those imposed on State agencies.
- 8 D. In lieu of requesting competitive solicitations from three (3) or more
9 sources, the Board may make purchases at or below the specified
10 prices from contracts awarded by other city or county governmental
11 agencies, other school boards, community colleges, Federal
12 agencies, the public or governmental agencies of any state, or from
13 State university system cooperative bid agreements, when the
14 proposer awarded a contract by another entity permits purchases by
15 a school board on the same terms, conditions, and prices (or below
16 such prices) awarded in the contract, and the purchases are
17 economically advantageous to the Board.
- 18 E. Except as authorized by law or rule, competitive solicitations shall
19 be requested from three (3) or more sources for any authorized
20 commodities or contractual services exceeding \$50,000.
- 21 F. The requirement for requesting competitive solicitations for
22 commodities or contractual services from three (3) or more sources
23 is waived pursuant to F.S. 1010.04(4)(a), for:
- 24 1. the purchase by the Board of professional services which
25 shall include artistic services, academic program reviews,
26 lectures by individuals, auditing services not subject to
27 F.S. 218.391, legal services, including attorney, paralegal,
28 expert witness, court reporting, appraisal or mediator
29 services; and health services involving examination,
30 diagnosis, treatment, prevention, medical consultation or
31 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. The purchase of food products except milk, required for the School
16 Food Service Program and other ancillary food operations are
17 exempt from the bid requirements pursuant to State Board of
18 Education Rule F.A.C. 6A-7.0411(2)(i)2.
- 19 I. Additional exemptions authorized under certain conditions:
20 The requirements for requesting competitive solicitations and
21 making purchases for commodities and contractual services are
22 waived pursuant to F.S. 1010.04(4)(a), when the following conditions
23 have been met by the Board:
 - 24 1. competitive solicitations have been requested in the manner
25 prescribed by this rule, and
 - 26 2. the Board has made a finding that no valid or acceptable firm
27 proposal has been received within the prescribed time.

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

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

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

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- 1 K. The Board may dispense with requirements for competitive
2 solicitations for the emergency purchase of commodities or
3 contractual services when the Superintendent determines in writing
4 that an immediate danger to the public health, safety, or welfare or
5 other substantial loss to the School District requires emergency
6 action. After the Superintendent makes such a written
7 determination, the Board may procure commodities or contractual
8 services necessitated by the immediate danger, without requesting
9 competitive solicitations. However, such an emergency purchase
10 shall be made by obtaining pricing information from at least two (2)
11 prospective vendors, which must be retained in the contract file,
12 unless the Superintendent determines in writing that the time
13 required to obtain pricing information will increase the immediate
14 danger to the public health, safety, or welfare or other substantial
15 loss to the District.
- 16 L. A contract for commodities or contractual services may be awarded
17 without competitive solicitations if State or Federal law, a grant or a
18 State or Federal agency contract prescribes with whom the Board
19 must contract or if the rate of payment is established during the
20 appropriations process.
- 21 M. A contract for regulated utilities or government-franchised services
22 may be awarded without competitive solicitations.
- 23 N. As much as practicable, all purchases shall be based on contracts,
24 purchasing card systems, electronic procurements, or purchase
25 orders.
- 26 O. The Board, when acquiring, whether by purchase, lease, lease with
27 option to purchase, rental or otherwise, information technology, as
28 defined in F.S. 282.0041(15), may make acquisitions through the
29 competitive solicitation process or by direct negotiation and contract
30 with a vendor or supplier, as fits the needs of the School District as
31 determined by the Board.

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

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

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

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

1. Emergency Purchase Request (Form B FM-3739) estimated expenditure \$50,000 and under requires the signature of the initiating administrator, recommended by Director or above and approval by the Assistant Superintendent or above.
2. Emergency Purchase Request (Form A FM-2333) estimated expenditure over \$50,000 requires the signature of the initiating administrator, recommended by the Assistant Superintendent or above, or his/her designee(s) and approval by Superintendent or designee. Emergency purchases over \$50,000 shall be reported to the Board.

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1 R. Competitive bidding is waived for purchases of maintenance and/or
2 service contracts, on various types of technical equipment, that are
3 offered and/or supplied only by the original manufacturer or its
4 representative, or that are required to maintain the integrity of the
5 manufacturer's warranty, or that are part of the manufacturer's
6 rental/lease/lease purchase agreements terms and conditions.

7 S. Non-Purchase Order Invoice Funds Reservation Purchases are
8 purchases for goods and services, expenditures, fund transfers, etc.,
9 where a professional service contract is not required, or a bid is in
10 place and that are not appropriate for normal competitive
11 purchasing procedures. Only the expenditures listed below will be
12 authorized and processed as Non-Purchase Order Invoice Funds
13 Reservation Purchases. Non-Purchase Order Invoice Funds
14 Reservation purchases require the same financial authorization and
15 approval process as purchase requisitions and shopping carts.
16 Those purchases for goods and services, expenditures, fund
17 transfers, etc., that are authorized for Non-Purchase Order Invoice
18 Funds Reservation Purchases are limited to include various types of
19 fund advances, services, reimbursements and purchases, and/or
20 payment for goods and services, which are not appropriate for
21 normal competitive purchasing procedures:

22 1. additional services where a professional service contract is
23 not required or there is no bid in place (polygraph,
24 transcribing, etc.)

25 2. employee related admission/registration fees to workshops
26 and conferences that are not expensed to out-of-county travel
27 (all out-of-county travel must be entered through and
28 approved by the travel system process)

29 3. association fees, professional association dues, academy
30 certification requirements and District membership to
31 organizations

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- 1 4. internal distribution of funds to school athletic programs,
2 vending machine commissions, diplomas, and savings
3 programs
- 4 5. District rental/lease of facilities
- 5 6. all utility service, connection charges, and fees
- 6 7. graduation program fees (non-employees, union charges,
7 etc.), including facility rental, equipment requirements,
8 foliage rental, non-employees, and union charges
- 9 8. student related field trips that are not handled through a tour
10 company or travel agency, tickets, and admissions to parks,
11 registration fees for competitions, and hotel accommodations
- 12 9. groceries and supplies for educational use in alternative
13 programs or academic requirements
- 14 10. insurance policies payments/reimbursements, State fees
15 (retirement, unemployment compensation, etc.), tax related
16 payments, legal settlement payments and bonds, license fees
17 and agreements, permit fees, property loss payment
- 18 11. media advertising (newspaper, radio, television, banners,
19 brochures, pamphlets, etc.)
- 20 12. grant authorized workshop reimbursements including
21 refreshments
- 22 13. petty cash replenishment
- 23 14. postage requisitions
- 24 15. toll charges for authorized District departments
- 25 16. travel reimbursement for non-employees

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1 T. In accordance with State law and Policy 6327, Public-Private
2 Partnerships and Unsolicited Proposals, the Superintendent may
3 submit proposed public-private partnership agreements for
4 qualifying projects, including those resulting from unsolicited
5 proposals, to the Board for consideration. The Superintendent and
6 Board shall evaluate and consider all proposed public-private
7 partnership agreements according to the guidelines in F.S. 255.065
8 and Policy 6327.
9

10 U. Procurement Management Services staff will provide the Board a
11 quarterly written expenditure report of purchases made using the
12 exemptions above and that exceed \$100,000.00. The report shall
13 include date of purchase, vendor, amount, funding source and
14 purchasing authority.
15

16 Competitive Bidding Requirement

17 A. Written or Electronic Quotations (Request for Quotes)

18 For each purchase of \$50,000 or less and over the minimum
19 quotation threshold established by Procurement Management
20 Services, staff shall obtain written, telephone, or electronic
21 quotations from three (3) or more sources. If possible, vendors
22 contacted shall include M/WBE vendor participation. If only one (1)
23 of those sources respond with prices, two (2) additional sources, if
24 available, may be contacted for pricing, including, if possible, an
25 M/WBE vendor. If no additional prices are obtained from those
26 sources, the award shall be made to the vendor who submitted the
27 lowest and best price quotation. If all three (3) of the vendors first
28 contacted for prices respond with valid price quotations, the award
29 shall be made to the vendor who submitted the lowest price
30 quotation meeting the bid specifications, with no additional requests
31 from other vendors required.

32 Quotations obtained shall be attached to or included with the
33 purchase order by written notations or electronic reference
34 indicating quotation prices and sources, certification by signature or
35 facsimile. The requisition shall be approved for purchase as

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- 1 authorized by the Superintendent. All internal fund purchases shall
- 2 comply with Policy 6610.

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1 B. Invitation to Bid

2 1. The Board may accept the proposal of the lowest responsive,
3 responsible proposer. Alternatively, the Board may award
4 contracts to the lowest responsive, responsible bidder as the
5 primary awardee of a contract and to the next lowest
6 responsive, responsible bidder(s) as alternate awardee(s) from
7 whom commodities or contractual services would be
8 purchased should the primary awardee becomes unable to
9 provide all of the commodities or contractual services
10 required by the Board during the term of the contract.
11 Multiple awards to the lowest responsive and responsible
12 bidders are permitted when multiple awards are clearly
13 allowed by the bid solicitation documents.

14 2. When the determination is made that a bid is appropriate, the
15 performance specifications and standard requirements shall
16 be stated in detail and shall be furnished to Procurement
17 Management Services. After review, Procurement
18 Management Services shall issue the invitation to bids,
19 including all general and special conditions, and evaluate the
20 bids submitted. The requirements for solicitation and review
21 of bids by the Goal Setting Committee (GSC) shall be followed
22 in all cases. Board approval is required for contracts
23 recommended for award.

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3. For each purchase of more than \$50,000, bids shall be requested from three (3) or more sources. Notices of bids shall be electronically posted or may be sent to all vendors on the active vendor mailing list for that category of goods or services. This list shall include all minority/women business enterprises (M/WBE) vendors, identified by the Board in accordance with Policy 6320.02, for that particular category of goods or services, as well as organizations involved in assisting M/WBEs. Notices of bids shall be advertised in one (1) or more major local newspapers or electronically posted at least seven (7) days prior to the bid opening date. This may include, as necessary, major newspapers having circulation representative of the various relevant minority classifications or electronic posting. Tabulations of current bids shall be retained in bid files and shall be available for reference. Standard bid forms used shall be those approved by the Superintendent and the Board attorney's office.

C. Development of Specifications, Determination of Quantities, and Standardization of Supplies and Equipment

1. To achieve both quality control and the price advantages of quantity purchasing, the administration shall:
 - a. establish specifications for goods and services as needed;
 - b. identify several existing, commercially available "standard brands" that meet the specifications acceptable as examples; and
 - c. invite vendors to bid on the standard brands identified or their equivalent.

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2. All bid quantities and specifications shall be transmitted to Procurement Management Services by the originating department in writing. The originating department shall also certify to Procurement Management Services in writing that the specifications for an existing bid (to be rebid) are still appropriate before issuance of the bid. Specifications originated by Procurement Management Services shall follow similar certification procedures.
3. All increases to quantities specified in an existing term bid requiring a supplemental bid award shall be requested in writing by the originating department, countersigned by an administrator reporting directly to the Superintendent, and identifying the reason why the increase in quantities was unavoidable. If an adequate reason cannot be identified, then the corrective action to be taken by the originating department to prevent a future underestimate of quantities shall be described. A similar procedure will be followed for term bids originated by Procurement Management Services.
4. All changes to specifications for an existing bid (to be rebid) or similar bid shall be identified in writing, including the reason for the change, by the originating department or Procurement Management Services if it is the originator.
5. The chief procurement officer of Procurement Management Services shall identify specifications which appear to limit the bidding process to a single vendor. In the event that the chief procurement officer has identified such a set of specifications, the originating department shall be required to justify in writing the specifications which appear to favor a single vendor. This documentation shall be countersigned by an administrator reporting directly to the Superintendent.

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D. Request for Proposals (RFP)

The Board may award contracts to one (1) or more responsive, responsible proposers in accordance with the selection criteria published in the request for proposal. The Board is not required to request proposals for purchases made from contracts of the Department of Management Services.

The RFP shall be used when the purposes and uses for which the commodity, group of commodities, or contractual service being sought can be specifically defined and the agency is capable of identifying necessary deliverables. Various combinations or versions of commodities or contractual services may be proposed by a responsive vendor to meet the specifications of the solicitation document. A written solicitation includes a solicitation that is electronically posted.

The following process shall be followed for an RFP:

1. For contracts estimated to be more than \$50,000 annually:
 - a. Prior to issuing the RFP and in accordance with Board Policy 6320.02, the GSC shall review the RFP to determine Small Business Enterprise (SBE), Micro Business Enterprise (MBE), M/WBE participation in the project.
 - b. The RFP shall be advertised to solicit maximum vendor participation. To enhance M/WBE participation, advertisements must be published and announced in major publications that serve minority communities.
2. For contracts estimated to cost less than \$50,000 annually:
 - a. There must be evidence that at least three (3) vendors were contacted in writing, and if possible, at least one (1) of these vendors shall be a M/WBE.

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1 b. If only one (1) potential vendor is known, an
2 advertisement shall be placed in an appropriate
3 publication that is widely distributed. If no responses
4 are received, the contract can be developed with the
5 one (1) known vendor in accordance with other
6 established procedures.

7 3. The RFP shall include an implementation schedule consisting
8 of the following:

- 9 a. GSC meetings,
10 b. mailing/posting date,
11 c. pre-proposal conference (if required),
12 d. opening date and time evaluation criteria,
13 e. interview schedule (if required),
14 f. award process.

15 4. The evaluation criteria shall include, but are not limited to:

- 16 a. conformance to the proposal requirements experience,
17 b. past performance,
18 c. price,
19 d. M/WBE participation, and
20 e. other instructions specific to RFP.

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1 E. Invitation to Negotiate

2 The Invitation to Negotiate (ITN) shall be used when a written
3 solicitation obtains competitive sealed proposals and the evaluation
4 committee recommends selecting one (1) or more vendors with
5 which to negotiate for the procurement of commodities or
6 contractual services and when the Board determines that
7 negotiations may be necessary to receive the best value.

8 Invitations to Negotiate shall follow the process noted above for
9 RFPs.

10 F. Evaluation Committee Meetings

11 1. The committee shall consist of at least: 1) two (2) individuals
12 from the originating department; however, not more than
13 one (1) of these individuals can be from the requesting
14 department bureau; 2) two (2) individuals from outside the
15 requesting department; 3) one (1) individual from the Office of
16 Economic Opportunity; and 4) one (1) individual from
17 Procurement Management Services (non-voting). Additional
18 members may be appointed at the discretion of the
19 Superintendent. The committee shall to the extent possible,
20 be ethnically and gender representative.

21 2. These meetings are subject to F.S. Chapter 286 except for
22 meetings in which the vendors will be making oral
23 presentations and answering questions as part of the
24 solicitation process which shall be closed to the public in
25 accordance with F.S. 286.0113(2)(b)(1).

26 3. When committees are established to evaluate a RFP, the
27 Procurement Management Services staff will conduct the
28 meetings, and ensure that: 1) minutes are recorded, and
29 2) proper documentation and records of committee actions
30 are maintained.

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1 4. The evaluation committee's written recommendation must
2 include the following for inclusion in the master file within
3 Procurement Management Services:

4 a. clear objective of the RFP,

5 b. identification of the committee members,

6 c. committee meeting dates and brief synopsis of the
7 general discussion,

8 d. dates of any or all interviews,

9 e. name and location of the offeror(s),

10 f. evaluation criteria,

11 g. explanation of the basis for selection,

12 h. recommendation of acceptance of the offeror(s)
13 proposal,

14 i. committee member votes.

15 G. When the committee evaluation process is complete, the
16 Superintendent will forward the recommendations to the Board for
17 approval before any contract will be issued.

18 H. The following exceptions to this rule apply:

19 1. Contracts for legal services by the Board attorney and the
20 attorneys supervised by the Board attorney, contracted
21 third-party claims administration, nonpublic school
22 placements and other services/goods for which selection
23 procedures are provided by State statute, State Board rule, or
24 other Board policy.

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2. The Professional Services Contract Committee (PSCC) may consider requests for exceptions. The committee shall be comprised of three (3) representatives from senior staff, two (2) representatives from education and curriculum, one (1) representative from the GSC, one (1) representative from the Office of Economic Opportunity (OEO), and nonvoting representatives, from Procurement Management Services, Board attorney's office, and Management and Compliance Audits. Exceptions may be granted for sole source contracts, contractors having specific expertise, or as otherwise determined by the committee to be in the best interest of the Board. For contracts with an annual estimated cost of more than \$50,000, exceptions recommended by the committee must be approved by the Board.

I. RFP and Professional Service Contracts:

Professional service is any type of personal service to the District which requires as a condition precedent to the rendering of such service:

1. the obtaining of a license or other legal authorization; or
2. work which can only be performed by one (1) who has achieved a high level of training and proficiency in the work to be performed.

Where the contract is estimated to cost less than \$50,000, but more than the threshold established for quotations, and an exception for the procedure outlined above is sought, the contract is not required to be submitted to the Board for approval if the committee has granted an exception pursuant to this policy.

The Board may make further exceptions on a case-by-case basis upon recommendation of the Superintendent.

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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
18 procedures prescribed by F.S. 120.57(3) and Bylaw 0133, 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 accordance with Board Bylaw 0133.

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

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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,
14 Florida, in an amount equal to one percent (1%) of the District's
15 estimate of 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.

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1 3. Pursuant to F.S. 287.042(2)(c), if, the Board prevails in the
2 administrative hearing process and any appellate court
3 proceedings, it shall be entitled to recover all costs and
4 charges which are included in the final order or judgment,
5 excluding attorneys' fees. Upon payment of such costs and
6 charges by the person protesting the decision or intended
7 decision or contract award, the bond, cashier's check, or
8 money order shall be returned to the protestor. If the
9 protestor prevails, the protestor may recover from the Board
10 the costs and charges which are included in the final order or
11 judgment, excluding attorneys' fees.

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

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1 C. Bond: Construction Purchasing - Construction purchasing is
2 separately governed by Board policy, and persons protesting
3 competitive procurement related to educational facilities shall be
4 required to post a bond in the amount specified in F.S. 255.0516,
5 which also governs recovery of fees and costs including attorneys'
6 fees.

7 D. Staying the Procurement Process - Upon timely receipt of the formal
8 written protest petition, and posting of the bond, the solicitation or
9 contract award process shall be stayed until the protest is resolved
10 by final agency action, unless the Board sets forth, in writing,
11 particular facts and circumstances which require the continuance of
12 the solicitation or contract award process in order to avoid an
13 immediate and serious danger to the public health, safety, and
14 welfare.

Protest of Bid Award

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

18 Any person who is adversely affected by the agency decision or intended decision,
19 shall file with the agency a Notice of Protest in writing within seventy-two (72) hours
20 after the posting of the bid tabulation or after receipt of the notice of the agency
21 decision or intended decision and shall file a Formal Written Protest within ten (10)
22 calendar days after filing the Notice of Protest. The protesting bidder shall also be
23 required to post a bond, consistent with this rule. Failure to file a Notice of Protest
24 or failure to file a Formal Written Protest shall constitute a waiver of proceedings
25 under F.S. Chapter 120.57. The formal written protest shall state with particularity
26 the facts and law upon which the protest is based. Saturdays, Sundays, and legal
27 holidays shall be excluded in the computation of the seventy-two (72) hour time
28 period provided by this paragraph.

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The Formal Written Protest will be reviewed by Procurement Management Services, who will offer the protesting bidder the opportunity to meet and discuss the merits of the protest. If the protest is not resolved, the matter may be referred for proceedings, pursuant to F.S. 120.569 and 120.57. Petitions for hearing on protests pursuant to F.S. 120.569 and 120.57 must be filed in accordance with Board Bylaw 0133 on quasi-judicial proceedings.

Receiving and Opening of Bids

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

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

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

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

2. A person designated by the District Director, Procurement Management, to record the minutes of the bid opening, and such minutes shall be reported to the Board at the next regularly scheduled Board meeting.

3. The Executive Director, Project and Contract Management, or an administrator designated by the Executive Director.

4. Those additional administrators and support staff required for the efficient handling of this procedure.

C. All construction bids shall be opened and tabulated prior to bids being released by the recording secretary.

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D. All purchasing bids will be recorded at the time they are received, showing the bid number, bid title, and the names of the bidders submitting bid forms. The record shall be made prior to the release of the bid material by the recording secretary.

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

The Recording or Tabulation of Purchasing Bids

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

Rejection of Bids

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

Irregular or Deviating Bids

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

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1 **Award Recommendation**

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

5 **Official Award Date**

6 Awards become official when made, unless otherwise specified in the award
7 recommendation.

8 **Contract Renewals**

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

13 **Legal Basis for Procedures**

14 The procedures for the purchase of commodities and services, and construction of
15 facilities for the District shall comply with the Florida statutes and the Florida
16 Administrative Code.

17 **Bidding**

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

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1 Identical Prices/Points--Priorities for Award

2 When identical prices/points are received from two (2) or more vendors/firms and all
3 other factors are equal, priority for award shall be given to vendors/firms in the
4 following sequence:

- 5 A. A business that certifies that it has implemented a drug-free work
6 place program shall be given preference in accordance with the
7 provisions of F.S. 287.087;
- 8 B. Local vendor as defined by Board Policy 6320.05;
- 9 C. Certified service-disabled Veteran business;
- 10 D. A certified Minority/Women Business Enterprise vendor;
- 11 E. The Miami-Dade County SBE/Micro/Minority/Women Business
12 Enterprise vendor;
- 13 F. The Broward, Palm Beach or Monroe County
14 SBE/Micro/Minority/Women Business Enterprise vendor;
- 15 G. The Broward, Palm Beach or Monroe County vendor, other than the
16 SBE/Micro/Minority/Women Business Enterprise vendor;
- 17 H. The Florida vendor who is a SBE/Micro/Minority/Women Business
18 Enterprise vendor;
- 19 I. The Florida vendor, other than a Minority/Women Business
20 Enterprise vendor;
- 21 J. The Minority/Women Business Enterprise vendor, who, because of
22 lower prices, receives a larger dollar award for other items; and
- 23 K. The SBE/Micro/non-Minority/Women Business Enterprise vendor
24 who, because of lower prices, receives a larger dollar award for other
25 items.

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1 In accordance with Florida law, local preference shall not be applied to competitive
2 solicitations for construction services in which fifty percent (50%) or more of the cost
3 will be paid from state-appropriated funds which have been appropriated at the time
4 of the competitive solicitation. The solicitation documents for construction services
5 in this event must disclose that no local preference consideration will be applied.

6 If application of the above criteria does not indicate a priority for award or cannot be
7 applied by law, Board administration shall determine if the award is capable of being
8 split, and, if the vendors will agree to split the award. If the award cannot be split,
9 or the vendors do not agree to split the award, the award will be decided by the toss
10 of a coin. The toss of a coin shall be held publicly, with the tie low bid vendors
11 invited to be present as witnesses and participants. A staff member from the
12 Division of Procurement Management will preside over the coin toss and a member
13 from Internal Audits will observe.

14 **Vendor Preference for Certified Service-Disabled Veteran Business Enterprises**

15 The Board provides a vendor preference for certified service disabled veteran
16 businesses in accordance with Board Policy 6320.02 and State law.

17 In assessing priorities for award, when identical prices are received from two (2) or
18 more vendors and all other factors are equal, priority for award shall be given to a
19 certified service-disabled veteran business enterprise as defined by F.S. 295.187 and
20 Policy 6320.02. In the event there are two (2) or more certified-disabled veteran
21 business enterprises entitled to the preference, then the award shall be given to the
22 business having the smallest net worth.

23 The vendor preference for certified service-disabled veteran businesses shall be
24 subordinate only to the vendor preference for businesses implementing a drug-free
25 workplace.

26 The Board's goal for participation by service disabled veteran business enterprises
27 shall be established at three percent (3%) of the total value of all prime
28 contract/subcontract awards for each fiscal year.

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1 **Performance and Payment Security, Default and Bonding Company**
2 **Qualifications**

3 A. Performance Security on Construction Bids and Awards

4 1. Bid bond of five percent (5%) of the total bid amount is
5 required.

6 2. In order to encourage participation in construction,
7 remodeling, and renovation projects by small, woman owned,
8 and minority owned businesses, at the option of the Board,
9 no bid security or performance or payment bond shall be
10 required for bids in an amount less than \$200,000.

11 3. Bid awards exceeding \$200,000 require a 100% performance
12 and payment security of the award amount. For construction
13 projects costing \$200,000 or more, the accepted bidder must
14 deliver performance and payment bonds equal to the contract
15 price, no later than twenty (20) days after the date of award of
16 the contract or Approval of the Guaranteed Maximum Price
17 (GMP) Amendment by the Board. Bonds must be issued by
18 surety companies admitted to do business in the State of
19 Florida and listed in the Federal Register of the U.S.
20 Department of Treasury for Surety Companies Acceptable on
21 Federal Bonds.

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

25 Should the accepted bidder fail to furnish performance and
26 materials and payment bonds, the amount of the bid security
27 may be forfeited to the District.

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B. Performance Security on Awards Other than Construction

1. Bid awards of \$200,000 or less shall be exempt from performance and payment security.
2. Performance security shall not be required unless otherwise defined in the bid specification. Performance security shall equal 100% of the award amount.

C. Bonding Company Qualifications

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

1. Awards Greater than \$500,000

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

Contract Amount

**Minimum Rating by
A.M. Best**

\$200,000.00 to
\$5,000,000

A, No Minimum Class

\$5,000,000.01 to
\$10,000,000

A, Class IV

\$10,000,000.01 or more

A, Class V

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b. Current certificate of authority as acceptable surety on Federal Bonds in accordance with the latest edition of the United States Treasury Department Circular 570 entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" and shall be accepted for an amount not exceeding the underwriting limitation thereon.

2. Awards of \$500,000 or less

Bonds shall be written with a surety company or corporation meeting the qualifications as set forth in Paragraph A.2 above or the qualifications set forth in F.S. 287.0935.

Default by Vendor

A bidder who declines an award shall either 1) pay liquidated damages of five percent (5%) of the unit price bid times the quantity, or \$10, whichever is greater, or 2) lose eligibility to transact new business with the Board for a period of fourteen (14) months from the date the Board acts on the withdrawn bid.

A bidder who accepts an award but fails to perform shall either (1) pay liquidated damages of ten percent (10%) of the unit price of the item(s) awarded times the quantity when no purchase order has been issued, ten percent (10%) of the purchase order when a purchase order has been issued or \$100, whichever is greater, or (2) lose eligibility to transact new business with the Board for a period of fourteen (14) months from date of termination of award by the Board. The ineligibility shall be applicable to the principals individually and the entity, as well as any other firm in which a principal of a defaulting firm is a principal. If an awardee fails to pay the liquidated damages within fifteen (15) days after it is invoked, the awardee shall lose eligibility to transact new business with the Board for a period of fourteen (14) months from the date of termination of award by the Board. Bidders that are determined ineligible may request a hearing pursuant to F.S. 120.57, Board Bylaw 0133. The Board reserves the right to waive liquidated damages/loss of eligibility.

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Reinstatement of vendors losing eligibility to transact new business with the Board will not be automatic and will be subject to review by the Contractor Disciplinary Review Committee (CDRC) as defined in Board Policy 6320.04. Vendors will be required to submit a request for reinstatement including, but not limited to, information as to their status as a responsible vendor and what steps have been taken to avoid such a situation which caused their suspension as a District vendor. The CDRC will notify the Board of all vendors denied reinstatement, and the reasons for denial.

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

Vendor suspension shall be governed by and accordance with Board Policy 6320.04.

Signatures of Superintendent and Designees

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

Purchasing Principles

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

- A. Consider, first, the interest of his/her company (the Board) in all transactions and to carry out and believe in its established policies.
- B. Be receptive to competent counsel from his/her colleagues and to be guided by such counsel without impairing the dignity and responsibility of his/her office.

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- 1 C. Buy without prejudice, seeking to obtain the maximum ultimate
2 value for each dollar of expenditure.
- 3 D. Strive consistently for knowledge of the materials and processes of
4 manufacture, and to establish practical methods for the conduct of
5 his/her office.
- 6 E. Subscribe to and work for honesty and truth in buying and selling,
7 and to denounce all forms and manifestations of commercial
8 bribery.
- 9 F. Accord a prompt and courteous reception, so far as conditions will
10 permit, to all who call on a legitimate business mission.
- 11 G. Respect his/her obligations and to require that obligations to
12 him/her and to his/her concern be respected, consistent with good
13 business practice.
- 14 H. Avoid sharp practice.
- 15 I. Counsel and assist fellow purchasing agents in the performance of
16 their duties, whenever occasion permits.
- 17 J. Cooperate with all organizations and individuals engaged in
18 activities designed to enhance the development and standing of
19 purchasing.
- 20 Ethics training on ethical standards that are no lower than those prescribed by the
21 State shall be provided to all employees involved in procurement activities for the
22 Board.

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1 Complaints alleging discrimination against any commercial enterprise doing
2 business with the Board must be filed and will be investigated and addressed in
3 accordance with Board Policy 6465.

4 F.S. 119.07
5 F.S. 120.569
6 F.S. 120.57
7 F.S. 120.57(3)
8 F.S. 255.0516
9 F.S. 255.065
10 F.S. 255.099
11 F.S. 255.0991
12 F.S. 255.25(3)(c)
13 F.S. 282.041(15)
14 F.S. 286.0113(2)(b)(1)
15 F.S. 287.017
16 F.S. 287.042(2)(c)
17 F.S. 287.056
18 F.S. 1001.41(1)(2)
19 F.S. 1001.42(12)(j)
20 F.S. 1001.42(26)
21 F.S. 1001.43(10)
22 F.S. 1006.27
23 F.S. 1010.04(2)
24 F.S. 1010.04(4)(a)
25 F.A.C. 6A-1.012
26 F.A.C. 6A-1.091
27 F.A.C. 6A-7.0411(2)(i)
28 F.A.C. 28-110.005(2)

29 Revised 8/7/13
30 Revised 11/19/14
31 Revised 3/9/16
32 | Revised 1/25/17