

Dr. Steve Gallon III, Vice Chair

**SUBJECT: REVIEW OF COMPLIANCE WITH PROCUREMENT POLICIES
FOR COVID RELATED GOODS AND SERVICES**

COMMITTEE: FISCAL ACCOUNTABILITY & GOVERNMENT RELATIONS

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

The School Board of Miami-Dade County remains committed to promoting and maintaining a high level of accountability, integrity, and transparency in the operation of the school district, including those that involves expenditures, procurement, and related financial matters. In fact, School Board Policy 6320, *Purchasing*, provides guidelines, procedures, and protocols for *“procurement of supplies department under the general supervision of the Chief Procurement Officer and shall be made in accordance with all applicable State statutes, Florida State Board of Education Rules, School Board policies, and administrative procedures.”*

School Board Policy 6320 further stipulates that *“No person may make any purchase with Board funds unless authorized to do so by Board policy or by administrative directive, or manuals approved by the Superintendent, that the agency designated for making purchases with Board funds is the Board's Procurement Management Services, and that payment for any unauthorized purchase(s) may be the responsibility of the person placing the order.”*

The advent of the COVID-19 pandemic has caused not only a great degree of anxiety and sense of urgency in the development of programs for students and employees, but also in the procurement of related goods and services to ensure that health, safety, and wellness remain a priority in M-DCPS' schools and district offices. In doing so, School Board Policies provide for some level of flexibility and latitude in the procurement of goods and services and for the use of Board property by third-party organizations through provisions outlined in sections K and L governing emergency purchases and the waiving of certain competitive bidding processes. Provisions for such waivers shall only be utilized as outlined:

“The Board may dispense with requirements for competitive solicitations for the emergency purchase of commodities or contractual services when the Superintendent determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the School District requires emergency action, pursuant to F.A.C. 6A-1.012(12)(e). After the Superintendent makes such written determination, the Board may procure commodities or contractual services necessitated by the immediate danger, without requesting competitive solicitations.

However, such an emergency purchase shall be made by obtaining pricing information from at least two (2) prospective vendors, which must be retained in the contract file, unless the Superintendent determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the District.

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.”*

School Board Policy also states that the Superintendent may approve or reject purchase requisitions when the total amount does not exceed \$50,000.00 or current threshold set by statute and that purchases exceeding \$50,000.00 or the current threshold set by statute shall be approved by the School Board except for those delineated.

Recently, there have been increased concerns and much public discourse regarding the procurement of goods and services, the use of District-controlled facilities by third-party vendors, and related utilization of procedures and compliance with School Board Policy. In fact, an issue was addressed under New Business of the School Board's Fiscal Accountability and Government Relations Committee meeting of October 14, 2020, relating to the procurement of COVID-19 testing services. The discussion was based on a previous correspondence and a set of comments and questions stemming from representations made at the September 21, 2020, Special Board Meeting, where it was stated that the service was procured via an RFQ and that it was pending in the Office of Economic Opportunity (OEO).

Previously, at the School Board meeting of August 12, 2020, Agenda Item H-5 Revised Financial, Legal, and Operational Feasibility of Establishing Temporary COVID-19 Testing Sites for Miami-Dade County Public Schools (M-DCPS) Employees and their Immediate Families, proffered by School Board Member Ms. Mari Tere Rojas and approved by the Board, the Superintendent of Schools was directed *“in collaboration with the School Board Attorney to research and analyze the financial, legal, and operational feasibility of establishing temporary COVID-19 testing sites for M-DCPS employees and their immediate families, within the current M-DCPS insurance program and any other private, state, or federal health insurance programs available to the insured, and report back to the Board by September 9, 2020.”*

The approved action of the School Board was fully intended to provide for improved health, safety, and wellness of employees in the school district. However, it also stipulated and expected that all legal, policy, contractual and procedural requirements are complied with and not abdicated. However, based on a review of this matter, several findings reveal significant noncompliance with several School Board Policies and related procedures governing the procurement of goods and services, the use of District facilities by third-party vendors, as well as the review and establishment of contractual agreements with business entities regarding the same. Some of these deficiencies not only involve gaps in procedural requirements, but in areas that may jeopardize the health, safety, and wellness of employees, as well as exposure for and liability to the School Board. Such requires that the School Board replies with both diligence and deliberation in ensuring that both the integrity of the procurement, contractual and related processes are maintained, and the employee and public health is protected.

Therefore, this item seeks to direct the Superintendent, in consultation with the School Board Attorney and Chief Auditor, to review all COVID-19 related procurement purchases between March 1, 2020 and October 20, 2020, to ensure compliance with all required applicable State statutes, Florida State Board of Education Rules, School Board policies, and administrative procedures, and provide an update to the School Board at its Fiscal Accountability and Government Relations Committee meeting of December 2, 2020.

Good cause exists to vary from the established agenda because issues of policy and contractual compliance were recently brought to the attention of the Board by the Chief Auditor, and the health, safety and wellness of employees and students, as well as liability protections for the Board require immediate attention.

This item has been reviewed by the School Board Attorney for legal sufficiency.

**ACTION PROPOSED BY
DR. STEVE GALLON III:**

That The School Board of Miami-Dade County, Florida, direct the Superintendent to:

1. review and identify all COVID-19 related procurement purchases of goods and services since March 1, 2020, in order to ensure compliance with all required applicable State statutes, Florida State Board of Education Rules, School Board policies, and administrative procedures; and
2. indicate which purchases of products or services and any uses of District property by third-parties have been secured through a contractual agreement that meets the requirements of School Board Policies; and
3. report back to the School Board at the Fiscal Accountability and Government Relations Committee meeting of December 2, 2020, regarding paragraphs 1 and 2.