Financial Services Richard H. Hinds, Chief Financial Officer

SUBJECT:

PROPOSED AMENDMENT OF BOARD POLICY: FINAL

READING: POLICY 6320.05, LOCAL-VENDOR PREFERENCE

COMMITTEE:

INNOVATION, EFFICIENCY & GOVERNMENTAL RELATIONS

LINK TO STRATEGIC

FRAMEWORK: STUDENT PARENT, AND COMMUNITY ENGAGEMENT

At the June 19, 2013 meeting, the Board approved Agenda Item H-10 proffered by Mr. Carlos L. Curbelo, School Board Member, requesting that the local vendor preference policy be revised to specifically include language for food commodities. The proposed amendments to Board Policy 6320.05, Local-Vendor Preference, were approved by the School Board on initial reading at its regular Board meeting of August 7, 2013. The amended policy would give local preference to businesses located in Miami-Dade County, Florida, when evaluating the lowest responsible, responsive bid or submittal for the purchase of food commodities and construction, unless prohibited by Federal or State law or other funding source restrictions.

The Notice of Intended Action was published in the Miami Daily Business Review on August 12, 2013, posted in various places for public information, and mailed to various organizations representing persons affected by the amended policy and to individuals requesting information.

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

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

Attached are the Notice of Intended Action and the proposed amended policy. Changes from the current Policy 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, adopt amended Board Policy 6320.05, Local-Vendor Preference, and authorize the Superintendent to file the policy with The School Board of Miami-Dade County, Florida, to be effective October 16. 2013.

RHH:ccw

E-201

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on August 7, 2013, its intention to amend Board Policy 6320.05, *Local-Vendor Preference*, at its meeting of October 16, 2013.

PURPOSE AND EFFECT: The purpose of this amendment is to clarify that local preference will be given to businesses located in Miami-Dade County, Florida, when evaluating the lowest responsible, responsive bid or submittal for the purchase of goods and services, including food and construction, unless otherwise prohibited by Federal or State law or other funding source restrictions.

SUMMARY: The amendment clarifies that the local vendor policy applies to Competitive Bids, Request For Proposals and Professional Services for food and construction, when a responsive responsible non-local business submits the lowest price bid, and the bid submitted by one or more responsive, responsible local businesses is within five percent of the price submitted by the local business.

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

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

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF October 16, 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 September 2, 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 AMENDMENT 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: July 23, 2013

LOCAL-VENDOR PREFERENCE

2 Purpose:

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- To give local preference to businesses located in Miami-Dade County, Florida, when evaluating the lowest responsible, responsive bid or submittal for the purchase of goods and services, professional and construction-related services, in excess of \$50,000 dollars or the current formal bidding threshold set by statute. The preference does not appliesy to all contracts for goods or services including food and construction, unless they are specifically exempted by statute as reflected in Policy 6320, or prohibited by Federal or State law, or restricted by other funding sources.
- 10 restrictions.

11 Definition:

- 12 Local business means the vendor has a valid business license, issued by a 13 jurisdiction located in Miami-Dade County, with its headquarters, manufacturing 14 facility, or locally-owned franchise located within the legal boundaries of 15 Miami-Dade County, for at least twelve (12) months (or having a street address for at 16 least twenty-four (24) months), prior to the bid or proposal opening date. Post office 17 boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In order to be considered for local preference, vendors must 18 19 provide a copy of their business license and the local business affidavit of eligibility with their bid or proposal. A vendor who misrepresents the local preference status 20 21 of its firm in a proposal or bid submitted to the School Board will lose the privilege 22 to claim local preference status, and shall lose eligibility to claim local preference 23 status for a period of one (1) year. The Superintendent may also recommend that
- 25 **PROCESS**:

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Competitive Bid:

When a responsive, responsible non-local business submits the lowest price bid, and

the firm be referred for debarment in accordance with Policy 6320.04.

- 28 the bid submitted by one or more responsive, responsible local businesses is within
- 29 five percent (5%) of the price submitted by the non-local business, then each of the
- 30 aforementioned local businesses shall have the opportunity to submit a best and
- final bid equal to or lower than the amount of the low responsible, responsive bid
- 32 submitted by the non-local business. Contract award shall be made to the
- responsive, responsible business submitting the lowest best and final bid. In the
- 34 case of a tie bid in the best and final bid between the local businesses, the tie shall
- 35 be broken as delineated in Policy 6320.

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1 Request For Proposals:

- 2 If following the completion of initial evaluations, a local firm has submitted a
- 3 proposal and is competing with a non-local proposer(s), then the local vendor(s) shall
- 4 have the opportunity to proceed to be considered for further evaluation provided the
- 5 price is within five percent (5%) of the cost proposed by the non-local vendor, all
- б other technical requirements being equal. In the case of a tie in the best and final 7
- proposal between a local business, the tie shall be broken as delineated in
- 8 Policy 6320.

9 **Professional Services:**

- 10 Local preference policy shall apply to services of which is subject to the Consultants
- Competitive Negotiation Act, as delineated in F.S. 287.055. If two (2) firms, one local 11
- and one non-local are within five percent (5%) of each other's total qualitative scores, 12
- 13 and for design build solicitations, the adjusted low bid as defined in the
- 14 corresponding implementing order, the local firm shall be ranked higher than the
- 15 non-local firm in the final ranking. In case of a two-tiered evaluation process, the 16
- local preference shall also apply at the conclusion of the first tier to allow eligible
- 17 local proposers within five percent (5%) of the points assigned to those
- 18 recommended to participate in the second-tier evaluation.
- 19 The application of local preference to a particular purchase, contract, or category of
- 20 contracts for which the Board is awarding authority may be waived upon written
- 21 justification and recommendation by the Superintendent.
- 22 The preference established in this policy does not prohibit the right of the Board, or
- 23 other authorized purchasing authority, from giving preference permitted by law in
- 24 addition to the preference authorized in this policy.
- 25 The preference established in this policy does not prohibit the right of the Board, or
- other authorized purchasing authority, to compare quality or fitness for use of 26
- 27 supplies, materials, equipment and services proposed for purchase and compare
- 28 qualifications, character, responsibility and fitness of all persons, firms or
- corporations submitting bids or proposals. 29
- 30 Adopted 10/19/11
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