

Office of Superintendent of Schools
Board Meeting of October 11, 2017

September 27, 2017

Office of School Board Attorney
Walter J. Harvey, School Board Attorney

**SUBJECT: INITIAL READING: PROPOSED AMENDMENTS TO BOARD POLICIES
9140, CITIZEN'S ADVISORY COMMITTEES; 6320.02, SMALL/MICRO
AND MINORITY/WOMEN-OWNED BUSINESS ENTERPRISE
PROGRAMS; AND 6840, AUDIT AND BUDGET ADVISORY
COMMITTEE**

COMMITTEE: PERSONNEL SERVICES AND STUDENT AND SCHOOL SUPPORT

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At its meeting of September 6, 2017, the Board approved Revised Agenda Item H-10 (Advisory Committee Alternates/Term Limits), sponsored by Ms. Maria Teresa Rojas, Board Member, and co-sponsored by Board Members Dr. Steve Gallon III, and Ms. Lubby Navarro. The item authorized the Superintendent to initiate rulemaking to amend applicable Board policies to allow School Board members to appoint alternates to advisory committees to "ensure greater community involvement, continuity of services, input, and influences" and to increase the likelihood of advisory committees achieving a quorum. The item specified that alternate members must be notified and invited to attend committee meetings and will serve as the voting member in the absence of the appointed representative. The item was amended at the meeting to include the elimination of term limits for Board member appointees to advisory committees.

This item requests that Policy 9140, *Citizen Advisory Committees*, be amended to allow Board members to appoint alternates to advisory committees and to prohibit term limits for Board member appointees on advisory committees. Amendments are proposed to Policies 6320.02, *Small/Micro and Minority/Women-Owned Business Enterprise Programs*, and 6840, *Audit and Budget Advisory Committee*, to conform to the new proposed amendments to Policy 9140.

Attached are the Notice of Intended Action and the proposed bylaw amendments. Changes 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 to amend Board Policies 9140, *Citizen Advisory Committees*, 6320.02, *Small/Micro and Minority/Women-Owned Business Enterprise Programs*, and 6840, *Audit and Budget Advisory Committee*.

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 Policies 9140, *Citizen Advisory Committees*, 6320.02, *Small/Micro and Minority/Women-Owned Business Enterprise Programs*, and 6840, *Audit and Budget Advisory Committee*.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on October 11, 2017, its intention to amend Board Policies 9140, *Citizen Advisory Committees*, 6320.02, *Small/Micro and Minority/Women-Owned Business Enterprise Programs*, and 6840, *Audit and Budget Advisory Committee*; at its regular meeting on November 15, 2017.

PURPOSE AND EFFECT: Policy 9140, *Citizen Advisory Committees*, is proposed to be amended to allow Board members to appoint alternates to advisory committees and to prohibit term limits for Board member appointees on advisory committees. Amendments are proposed to Policies 6320.02, *Small/Micro and Minority/Women-Owned Business Enterprise Programs*, and 6840, *Audit and Budget Advisory Committee*, to conform to the new proposed amendments to Policy 9140.

SUMMARY: To amend applicable Board policies to allow Board members to appoint alternates to advisory committees and to eliminate term limits for Board member appointees to advisory committees.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41(1), 1001.43(10), F.S.

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: 1001.43(10), F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE SCHOOL BOARD MEETING on November 15, 2017, 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 information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided in Section 120.54(1), F.S., must do so in writing by November 6, 2017, 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, F.S.

COPIES OF THE PROPOSED AMENDED POLICIES are available at cost to the public for inspection and copying in the Citizen Information Center, Room 102, 1450 N.E. Second Avenue, Miami, Florida 33132.

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CITIZENS' ADVISORY COMMITTEES

2 The School Board may establish citizen advisory committees when there is a definite
3 function to be performed.

4 A. The structure, organization, and appointment of an advisory
5 committee shall be appropriate to the assignment or as specified in
6 the policy creating the committee.

7 B. Advisory committees shall be encouraged to draw upon a wide
8 variety of resources both inside and outside the School District.

9 C. Each committee shall be encouraged to include other local residents
10 and to recommend to the Board the official appointment of any such
11 additional member(s) as the committee may desire.

12 D. The Miami-Dade Council of PTAs/PTSAs may appoint a member and
13 an alternate to each committee that is:

14 1. specifically created by Board policy and in which each Board
15 member and the Superintendent appoint a member; and,

16 2. any other committee as deemed appropriate by the Board.

17 E. As required by F.S. Chapter 112, a registered lobbyist, as defined in
18 Policy 8150, *Lobbyists*, serving on an advisory committee and who
19 holds any employment or contractual relationship that will create a
20 continuing or frequently recurring conflict between his/her private
21 interests and the performance of his/her public duties, must
22 immediately resign from the committee. In addition, a registered
23 lobbyist must abstain from voting or participating on committee
24 recommendations that directly impact a client's interest for which
25 the lobbyist was retained.

F. Advisory committees shall not have term limits for Board member appointees.

G. Advisory committees shall allow for the appointment of alternates by Board members. Alternates must be notified of all advisory committee meetings, invited to attend the meetings, and provided with all materials in the same manner as appointed representatives. The alternate shall serve as a voting member of the committee only in the absence of the appointed representative.

1 **Criteria for School Board Appointees**

2 Advisory committee members appointed by the Board and individual Board
3 members shall meet the following criteria:

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A. Residency

All appointees shall be permanent Miami-Dade County residents and have reputations for integrity and community service. A member of an advisory committee who ceases to be a Miami-Dade County resident must resign from the committee.

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B. Conflict of Interest

All advisory committee members must comply with the Code of Ethics of Public Officers and Employees in F.S. Chapter 112, as it applies to employees, and certify in writing that they will comply with applicable ethical guidelines. In addition, the following requirements shall apply.

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1. No person shall be appointed if, at the time of appointment, the person has filed a lawsuit against the Board that is pending and/or a challenge to a Board policy.

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2. Appointees shall not serve on a committee that regulates or monitors their livelihood.

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3. If an appointee qualifies as a candidate for elective political office during the appointed term, the qualification shall be deemed a resignation from the committee.

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4. No person shall be appointed in violation of State or Federal law, or Board policies.

1 C. Multiple Appointments

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No person shall be appointed by the Board or an individual Board member to serve simultaneously on more than two (2) advisory committees. A person may be appointed to serve simultaneously on more than two (2) committees if appointed by different Board members.

8 These requirements apply to Board appointments to all advisory committees unless
9 there are alternate criteria provided in Board policies that establish a specific
10 advisory committee. These requirements, however, do not apply to Board
11 appointments of Board members to District advisory committees.

12 **Expenditures**

13 Expenditure of District funds by an advisory committee shall be made only upon the
14 prior approval of the Superintendent. Supplies, equipment, and personnel from
15 within the School District may be obtained through the appointed staff resource
16 person.

17 **Communication**

18 Correspondence between the Board and its committees shall ordinarily be conducted
19 by the Superintendent.

20 The Superintendent should transmit the contents of any communication or report
21 from a committee to the Board, as appropriate.

22 **Board Authority**

23 The Board shall have the sole power to dissolve any of its advisory committees and
24 shall reserve the right to exercise this power at any time during the life of any
25 committee.

26 Board members shall have the right to attend and may participate in any District or
27 Board advisory committee.

28 F.S. 1001.41(1), (2), (5), 1001.42(25), 1001.43(10)

29 Revised 10/19/11

30 Revised 4/18/12

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1 SMALL/MICRO AND MINORITY/WOMEN-OWNED BUSINESS ENTERPRISE
2 PROGRAMS

3 In 1985 and 1990, the School Board determined through its own statistical analysis
4 of current contracting expenditures and evaluation of economic and sociological
5 studies, that a disparity existed in contract awards to Minority/Women-Owned
6 Business Enterprises (M/WBE) and that the disparity was a result of past
7 discriminatory practices. In order to comply with the United States Supreme Court
8 holding in *City of Richmond v. J.A. Croson*, 109 S. Ct. 706 (1989), that all race
9 conscious programs would require direct evidence of past discrimination, the Board
10 then commissioned a disparity study.

11 The 1990 study concluded that market area industry practices in construction,
12 construction support services, professional services, and commodities and services
13 were discriminatory toward M/WBEs and that the School District had been a
14 passive participant in discrimination against M/WBEs. Based on the results of that
15 study, the Board modified its existing Business Development and Assistance
16 Program to establish incentives that would increase opportunities specifically for
17 M/WBEs contracting with the Board. The Board also implemented several race and
18 gender-neutral initiatives in an effort to eliminate disparities in the utilization of
19 M/WBE firms such as bond waivers, establishing insurance requirements that
20 provided appropriate protection but did not discourage M/WBE firms from
21 competing for contracts, enhancing technical assistance programs, and increasing
22 outreach efforts to M/WBEs.

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1 On November 21, 2012, the Board determined that a new disparity study would
2 need to be conducted in order to continue its M/WBE program. The Board repealed
3 its Business Development and Assistance Program Policy with the understanding
4 that it would develop a new M/WBE Program if supported by the results of a newly
5 commissioned disparity study. At the same time, the Board approved the
6 Small/Micro Business Enterprise (SMBE) Program and the continuation of the
7 MWBE Certification Program to provide legally permissible race and gender neutral
8 participation by small and micro businesses in Board procurement of goods and
9 services, construction, and professional services and to allow M/WBEs to participate
10 in Board contracting as small and micro business enterprises while the study was
11 being conducted. The program continued to certify M/WBEs, to include aspirational
12 goals for M/WBEs in contracts, and to track and monitor the utilization of M/WBEs
13 through the SMBE Program.

14 In February 2013, the Board contracted with MGT of America, a Tallahassee
15 consulting firm, to conduct Phase I of a Comprehensive Disparity Study (Disparity
16 Study) to provide data regarding the Board's design and construction-related
17 professional services procurement activity and race- and gender-neutral remedial
18 efforts for the study period between July 1, 2006 through June 30, 2012. The
19 purpose of the Disparity Study was to analyze the utilization of minority and
20 women-owned business enterprises (M/WBEs) in the Board's procurement of capital
21 construction and design and construction related professional services. The
22 Disparity Study was accepted by the Board on November 19, 2014. In February
23 2015, the Board commissioned Euquant, Inc., to provide further disparity analysis
24 of the Board's utilization of African-American subcontractors in construction
25 (Subcontractor Disparity Study). The Subcontractor Disparity Study was accepted
26 by the Board on September 9, 2015. The Disparity Study and the Subcontractor
27 Disparity Study are both incorporated by reference and made a part of this policy.

28 The Disparity Study addressed (1) whether there is a disparity in the utilization of
29 M/WBEs in the District's procurement of construction and professional services,
30 (2) whether any disparity is the product or result of past discrimination or other
31 factors related to race or gender based discrimination, (3) whether any disparity can
32 be effectively ameliorated through race and gender neutral programs, and (4) if the
33 appropriate remedy is a race- or gender-conscious program, how the program
34 should be narrowly tailored to remedy the current effects of past discrimination and
35 conform to constitutional guidelines.

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1 The Disparity Study and the subsequent Subcontractor Disparity Study reported
2 findings that within the relevant geographic market of the Miami-Dade Metropolitan
3 Statistical Area (Miami/Broward/Palm Beach) there are statistically significant
4 disparities in the District's utilization of ready, willing, and able M/WBEs in the
5 following categories of contracts and business owners:

6 A. Prime Construction Contracts (African-American, Asian-American,
7 Native-American, and Non-Minority Women)

8 B. Construction Subcontracts (African-American, Asian-American, and
9 Native-American)

10 C. Prime Design and Construction-Related Professional Services
11 (African-American, Asian-American, Native-American, and
12 Non-Minority Women)

13 D. Design and Construction-Related Professional Services Subcontracts
14 (African-American, Asian-American, Native-American, and
15 Non-Minority Women)

16 Other significant findings in the Disparity Study report include, but are not limited
17 to, the following:

18 A. Non-minority firms received the majority of the public sector
19 construction permits for prime contracts.

20 B. Non-minority firms received an even larger percentage of
21 construction building permits for private sector commercial
22 construction and subcontracts. MBE primes received only two
23 percent (2%) of building permits and certified non-minority
24 women-owned businesses received zero. Of the .27% of
25 subcontractors who received building permits, nearly all went to
26 Hispanic-American owned businesses.

27 C. There are significant disparities for entry into self-employment for
28 African-Americans, Hispanic Americans, Asian Americans, and
29 Non-minority Women.

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- 1 D. There is a statistically significant positive relationship between the
2 probability of commercial bank loan denial and African American
3 business ownership. About fifteen percent (15%) of M/WBE loan
4 applicants reported being denied commercial bank loans, compared
5 to 64.7% of African American applicants, 21.6% of Hispanic
6 American applicants, 0% of Asian American-owned firms, 0% of
7 Native American applicants, and twenty percent (20%) of
8 non-minority women applicants.
- 9 E. Interviews with District staff and M/WBE firms identified various
10 discriminatory barriers affecting the relevant job market including
11 unequal access to bonding, finance, and insurance, having to
12 unfairly compete against large firms in the selection process,
13 unnecessarily restrictive contract requirements, an informal network
14 that precluded M/WBE firms from obtaining work in the private
15 sector, seldom or never being solicited where there were no M/WBE
16 goals, being dropped from a project after being included to satisfy
17 good faith effort requirements, contract bundling, slow or
18 non-payment by contractors, limited time to prepare bid packages,
19 difficulty obtaining notification of contract/bid opportunities, and
20 discriminatory experiences in dealing with the District and prime
21 contractors.
- 22 F. The implementation of numerous race and gender-neutral
23 assistance efforts and programs throughout the relevant market
24 over the past two (2) decades have been unsuccessful in eliminating
25 these persistent and significant disparities in the District's ready,
26 willing and able M/WBE firms. The efforts have included technical
27 assistance, loan guarantee assistance, bonding assistance, business
28 development assistance, financial assistance, and mentoring
29 programs.
- 30 Together, these District and private sector disparities currently establish an
31 inference of discrimination that is adversely affecting the Board's utilization of ready,
32 willing, and able minority- and women-owned firms.

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1 Based upon the totality of the evidence gathered and presented to the Board since
2 1990, the Board has concluded that there is a strong evidentiary basis establishing
3 that the District has a compelling interest in remedying the ongoing effects of
4 discrimination that is occurring in the broader relevant market and adversely affects
5 the District's utilization of ready, willing and able minority- and women-owned firms
6 in District construction and construction-related contracts. The Board also
7 concludes that it needs to take action to avoid becoming a passive participant in
8 private sector discrimination.

9 The Board has further concluded that race- and gender-neutral remedies, in and of
10 themselves, may not be sufficient to eliminate the effects of the identified forms of
11 discrimination, and that a narrowly tailored combination of race- and
12 gender-neutral and race and gender-conscious remedies are warranted.
13 Accordingly, this policy specifically authorizes the establishment of a narrowly
14 tailored combination of race and gender-neutral and race and gender-conscious
15 programs that address discrimination in the Board's procurement processes and
16 business operations.

17 General Policy

18 A. The District shall resort to the use of race- and gender-conscious
19 means for addressing disparities only when it is apparent that the
20 use of neutral means alone will likely be insufficient to remedy the
21 effects of identified discrimination. The determination of when to
22 use race conscious measures will be made on a project-by-project or
23 contract-by-contract basis pursuant to this policy.

24 B. Having found that it has a compelling governmental interest to
25 remedy the effects of identified discrimination in the procurement of
26 construction and professional services contracts, the Board directs
27 and authorizes the Superintendent to establish procedures and
28 implement remedies that are consistent with this policy and are
29 narrowly tailored to the findings and conclusions of the Disparity
30 Study.

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- 1 C. In addition, the Board shall take all necessary, reasonable, and legal
2 action to prevent discrimination and to ensure that all businesses,
3 including M/WBEs, are afforded the maximum equitable
4 opportunity to participate in the District's procurement process.
- 5 D. The District shall take all necessary and reasonable steps
6 permissible by law to ensure full equitable participation by M/WBEs
7 in the procurement of construction and professional services for the
8 District, including:
- 9 1. developing programs and services as described in this policy
10 that will achieve the Board's diversity objectives in business
11 practices and operations in a manner that is consistent with
12 this objective;
- 13 2. publicizing and enforcing the Board's commercial
14 anti-discrimination provisions in Policy 6465 and Policy 6320
15 to ensure that District employees and companies doing
16 business with the Board do not discriminate in the
17 solicitation, selection, or treatment of subcontractors,
18 suppliers, vendors, or commercial customers on race, color,
19 ethnic or national origin, religion, marital status, disability,
20 genetic information, age, political beliefs, sexual orientation,
21 gender, gender identification, social and family background,
22 linguistic preference, pregnancy, and any other legally
23 prohibited basis;
- 24 3. developing additional Board policies, administrative
25 programs, procedures and affirmative procurement initiatives
26 consistent with Policy 6320.06 to directly address inequities
27 and disparities related to the underutilization of M/WBE
28 subcontractors on Board construction projects;

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- 1 4. ensuring that the Office of Economic Opportunity (OEO) is
2 included on all selection committees for bids, contracts and
3 professional services; and
- 4 The OEO shall review contract specifications to ensure that
5 they are not unnecessarily restricting the availability and
6 participation of SDBEs and M/WBE firms in the procurement
7 and contracting process.
- 8 5. evaluating the levels of availability and utilization in SDBE
9 and M/WBE participation and adjusting the implementation
10 of this policy according to changing needs and circumstances
11 to ensure that appropriate utilization objectives are
12 established and maintained.

13 Office of Economic Opportunity (OEO)

14 The OEO shall administer and implement the SDBE and M/WBE Business
15 Enterprise Program including certification, technical assistance, and compliance,
16 and:

- 17 A. enforce the Board's commercial anti-discrimination Policy 6465 in
18 the award of contracts for construction projects, procurement of
19 goods and services, and professional services and implement the
20 measures developed pursuant to Policy 6320.06 to increase
21 diversity, equity and inclusion in business practices and operations;
- 22 B. provide maximum legally permissible opportunities for SDBEs and
23 M/WBEs to participate in the award and performance of all Board
24 contracts, including construction, professional services including
25 A/E and non-A/E, and goods and services;
- 26 C. monitor, track, and certify small/micro businesses and
27 minority/women business enterprises;

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- 1 D. to develop procedures and processes to enforce compliance with this
2 policy for all Board vendors, including construction, professional
3 A/E and non-A/E services, and goods and services and when
4 applicable, to recommend appropriate sanctions;
- 5 E. develop and implement necessary administrative procedures to fully
6 implement these programs;
- 7 F. establish insurance requirements which, although providing
8 appropriate protection, are not more restrictive than necessary to
9 protect the public's interest;
- 10 G. establish economic incentives that encourage the waiver of bonds,
11 and enhance the bonding technical assistance program;
- 12 H. establish administrative procedures to expeditiously resolve
13 monetary disputes and motivate prime contractors to make timely
14 payments;
- 15 I. establish a comprehensive contract reporting and monitoring system
16 to evaluate the effectiveness of these programs in increasing
17 contracting opportunities for small/micro and
18 minority/women-owned businesses;
- 19 J. serve as chair of the Goal-Setting Committee and staff liaison to the
20 Small/Micro and Minority/Women-Owned Business Enterprise
21 Advisory Committee;
- 22 K. monitor, coordinate, and provide support for any disparity study
23 that may be conducted regarding minority/women-owned business
24 participation in Board procurement for construction, professional
25 A/E and non-A/E services, and goods and services;
- 26 L. develop and coordinate any recommendations as a result of any
27 such disparity study findings;

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- 1 M. maintain, distribute, and publish a directory of certified SBE, MBE,
2 and M/WBE firms;
- 3 N. report annually through the Superintendent to the Board regarding
4 the effectiveness of these programs; and
- 5 O. monitor local workforce development initiatives and/or goals
6 through community based agreements with reputable and reliable
7 referral agencies for Board construction, professional A/E and
8 non-A/E services, and goods and services.

9 **Small/Micro and Minority/Women-Owned Business Enterprise Advisory**
10 **Committee**

11 The Small/Micro and Minority/Women-Owned Business Enterprise Advisory
12 Committee shall be established to:

- 13 A. provide guidance on the implementation of the SMBE and MWBE
14 Programs and to promote the participation and use of SBEs/MBEs
15 and M/WBEs in all procurement activities of the Board;
- 16 B. identify and evaluate issues related to economic opportunities within
17 the Board for small, micro and minority/women owned businesses;
- 18 C. provide recommendations to the Board to improve the SMBE/MWBE
19 programs;
- 20 D. annually evaluate and report to the Board on the effectiveness of the
21 SMBE/MWBE programs in increasing minority and women owned
22 business participation in the Board's procurement process;
- 23 E. monitor any disparity study that may be conducted by the Board
24 and make recommendations based on the results of any such study.

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1 The Board and Superintendent shall each appoint a community member who is not
2 employed by the Board and does not have any direct or indirect business
3 relationship with the Board. The committee shall have representation from local
4 small, micro, minority, women, and majority business interest organizations,
5 community based organizations and local government entities which may include
6 professional, construction and trade, business, and socio-economic organizations.
7 The Board and Superintendent shall approve a list of representative organizations
8 and the Superintendent shall appoint a member nominated by each recommended
9 organization from their membership. The term of each Board appointee shall be
10 coterminous with the appointing Board member and the term of the
11 Superintendent's appointees shall be at the will and discretion of the
12 Superintendent. ~~In no event shall any committee member serve more than four (4)~~
13 ~~consecutive years. Board members may appoint alternate members in accordance~~
14 ~~with Policy 9140, Citizen Advisory Committees.~~ All appointments must comply with
15 Policy 9140, Citizen Advisory Committees. The committee shall annually elect a
16 chair and vice-chair, meet at least six(6) times per year, and be governed by the
17 latest edition of *Robert's Rules of Order*. The committee may adopt bylaws, to be
18 recommended by the Superintendent to the Board for approval, to facilitate the
19 operation of the committee.

20 Terms and Definitions

- 21 A. **Affirmative Procurement Initiatives** – any procurement tool to
22 enhance contracting opportunities for SBE/MBE firms including:
23 bonding waivers, bid incentives, sheltered market, mandatory
24 subcontracting, competitive business development demonstration
25 projects, and SBE/MBE evaluation preference points in the scoring
26 of proposal evaluations.
- 27 B. **Available or Availability** – to have, prior to bid submission, the
28 ability to provide goods or services under a contract by having
29 (a) reasonably estimated, uncommitted capacity; (b) all necessary
30 licenses, permits, registrations and certification, including SMBE or
31 M/WBE certification to provide the type of goods or services being
32 purchased under the contract; (c) ability to obtain reasonably
33 required financing/insurance that is consistent with normal
34 industry practice; and (d) ability to otherwise meet bid
35 specifications.

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- 1 C. **Award** – final selection of a bidder or offer or for a specified
2 contract.
- 3 D. **Award Amount** – the dollar value of the contract when awarded.
- 4 E. **Bid** – quotation, proposal, letter of interest or offer by any bidder in
5 response to any kind of invitation, solicitation, request or public
6 announcement to submit such quotation, proposal, letter of interest
7 or offer for a contract.
- 8 F. **Bidder** – any person, partnership, corporation or other business
9 entity that submits a bid or proposal.
- 10 G. **Certification** – process by which the OEO determines that a
11 business meets the criteria for classification as a small/micro
12 business enterprise and/or a minority/women-owned business
13 enterprise.

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- 1 H. **Commercially Useful Function** – an SMBE or M/WBE performs a
2 commercially useful function when it is responsible for execution of
3 the work of the contract and is carrying out its responsibilities by
4 actually performing, managing, and supervising the work involved.
5 To perform a commercially useful function, the SMBE or M/WBE
6 must also be responsible for negotiating the price of contract
7 materials and supplies, determining the quantity and quality of
8 materials, ordering and installing materials if applicable, and paying
9 for the materials. To determine whether an SMBE or M/WBE is
10 performing a commercially useful function, an evaluation must be
11 performed of the amount of work subcontracted, normal industry
12 practices, whether the amount the SMBE or M/WBE is to be paid
13 under the contract is commensurate with the work it is actually
14 performing and the SMBE or M/WBE credit claimed for its
15 performance of the work, and other relevant factors. Specifically, an
16 SMBE or M/WBE does not perform a commercially useful function if
17 its role is limited to that of an extra participant in a transaction,
18 contract, or project through which funds are passed in order to
19 obtain the appearance of meaningful and useful SMBE or M/WBE
20 participation, when in similar transactions in which SMBE or
21 M/WBE firms do not participate, there is no such role performed.
- 22 I. **Construction Services and Specialty Trades** - means all labor,
23 services, and materials provided in connection with the
24 construction, alteration, repair, demolition, reconstruction, or any
25 other improvements to real property.
- 26 J. **Contract** – an agreement for purchase of goods or services,
27 including professional services and construction. It does not
28 include agreements to purchase, lease, or rent real property, or a
29 grant, license, permit, franchise, or concession.

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- 1 K. **Goal** - The annual or contract-specific goals for contract
2 participation that express the anticipated level or proportion of
3 contract dollars in a given time frame that would be expected to be
4 received by a particular segment of the total population of Ready,
5 Willing, and Able (RWA) firms. These goals are based upon
6 availability analysis derived from a database established by the OEO
7 and Purchasing. Upon completion of availability analysis, such
8 goals for specific contract participation may, under certain
9 circumstances, be set and narrowly tailored by race, gender, and
10 industry codes. Annual goals are intended as an administrative
11 guide only to assist the District in its annual policy review to
12 determine whether the use of more aggressive or less aggressive
13 remedies are warranted in the future. Annual goals shall not be
14 routinely applied to specific contracts absent independent
15 availability analysis demonstrating that they are appropriate for
16 application to a specific contract.
- 17 L. **Goal Setting Committee** - committee established by the
18 Superintendent that is chaired by the OEO and is responsible for
19 establishing SDBE and M/WBE Program goals and selecting
20 appropriate Affirmative Procurement Initiatives for application to
21 specific Board contracts based upon industry categories, vendor
22 availability, and project-specific characteristics.

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- 1 M. **Good Faith Efforts** - documentation of the bidder's intent to
2 comply with SMBE and M/WBE Program goals and procedures,
3 including, but not limited to the following: (1) documentation within
4 a bid submission or proposal reflecting the bidder's commitment to
5 comply with program goals as established by the Goal Setting
6 Committee for a particular contract; or (2) documentation of efforts
7 made towards achieving the program goals, including but not
8 limited to, timely posting of SMBE or M/WBE subcontract
9 opportunities on the Board web site; solicitations of bids from all
10 qualified SME or M/WBE firms listed in OEO's directory of certified
11 firms; correspondence from qualified SMBE or M/WBE firms
12 documenting their unavailability to perform SMBE or M/WBE
13 contracts; documentation of efforts to subdivide work into smaller
14 quantities for subcontracting purposes to SMBE or M/WBE firms;
15 documentation of efforts to assist SMBE and M/WBE firms with
16 obtaining financing, bonding, or insurance required by the bidder;
17 and documentation of consultations with trade associations and
18 consultants that represent the interests of small and local
19 businesses in order to identify qualified and available SMBE and
20 M/WBE subcontractors.
- 21 N. **Goods and Services** - all items, supplies, materials, and general
22 support services, except consulting services and infrastructure
23 projects, which may be needed in the transaction of public business
24 or in the pursuit of any government undertaking, project, or activity.
25 The term refers to, among other subjects, equipment, furniture,
26 food, information technology, materials for construction, or personal
27 property, or any kind, including non-personal or contractual
28 services such as the repair and maintenance of equipment and
29 furniture. It also refers to trucking, hauling, janitorial, security, and
30 related services as well as procurement of material and supplies
31 provided by the procuring entity for such services. The term
32 "related" shall include but not be limited to, lease or purchase of
33 office space, media advertisements, health maintenance services,
34 and other services essential to the operation of the procuring entity.

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- 1 O. **Gross Revenue** – all revenue in whatever form received or accrued
2 from whatever source, including sales of products or services,
3 interest, dividends, rents, royalties, fees or commissions, reduced by
4 returns and allowances. Gross revenue does not include proceeds
5 from sales of capital assets, and investments, proceeds from
6 transaction between a firm and its domestic and foreign affiliates.
- 7 P. **Independently Owned, Managed, and Operated** – ownership of
8 an S/MBE or M/WBE firm must be direct, independent, and by
9 individuals only. Business firms that are owned by other
10 businesses or by the principals or owners of other businesses that
11 cannot themselves qualify under the eligibility requirements shall
12 not be eligible to participate in the program. The day-to-day
13 management of the firm must also be direct and independent of the
14 influence of any other businesses that cannot themselves qualify
15 under the eligibility requirements.
- 16 Q. **Industry Categories** – procurement groupings of Board contracts
17 for administering the Affirmative Procurement Initiatives that shall
18 include construction, professional services, and goods and services
19 procurement. Industry categories may also be referred to as
20 “business categories”.
- 21 R. **Joint Venture** - an association of two (2) or more persons or
22 businesses under a contract conducting a single business enterprise
23 in which they combine capital, efforts, skills, knowledge and/or
24 property and share profits and losses equally. A joint venture
25 composed of qualified business organizations is itself a separate and
26 distinct organization that must be qualified according to Board
27 policies and F.S. 489.119(2)(c).

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- 1 S. **Micro-Business Enterprise (MBE)** - any contractor, subcontractor,
2 manufacturer or service company (a) that has been doing business
3 under the same ownership or management and has maintained its
4 principal place of business in Miami-Dade County, Florida, for a
5 period of at least one (1) year immediately prior to the date of
6 application for certification under this section, (b) that had annual
7 gross revenues not exceeding the thresholds for a Micro-Business
8 Enterprise as identified in this policy for each industry, and (c) at
9 least fifty-one percent (51%) of the ownership of which is held by a
10 person or persons who exercise operational authority over the daily
11 affairs of the business and have the power to direct the management
12 and policies and receive the beneficial interests of the company.
13 Representations regarding average gross revenue and payroll are
14 subject to audit. If a business has not existed for three (3) years,
15 the employment and gross revenue limits shall be applied based
16 upon the annual averages over the course of the existence of the
17 business.
- 18 T. **Minority/Women-Owned Business Enterprise (M/WBE)** – see the
19 definitions under the Minority/Women Business Enterprise Program
20 section of this policy.
- 21 U. **Points** – the quantitative assignment of value for specific evaluation
22 criteria in the vendor or consultant selection process.
- 23 V. **Prime Contractor** – the vendor or contractor to whom a purchase
24 order or contract is awarded by the Board for purposes of providing
25 goods or services to the Board.

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- 1 W. **Professional Services** - those services within the scope of the
2 practice of architecture, professional engineering, landscape
3 architecture, or registered surveying and mapping, as defined by the
4 laws of the State, or those performed by any architect, professional
5 engineer, landscape architect, or registered surveyor and mapper in
6 connection with his/her professional employment or practice;
7 Professional Services A/E shall not include job order contracting
8 consultants, asbestos consultants, program management,
9 geotechnical, construction materials testing, and environmental
10 assessment services.
- 11 Professional services also includes services rendered by members of
12 a recognized profession or possessing a special skill. Such services
13 are generally acquired to obtain information, advice, training, or
14 direct assistance.
- 15 X. **Ready, Willing and Able** - any vendor who has registered an
16 interest in doing business with the Board and has the technical
17 expertise, training, and licenses to perform in accordance with the
18 contract document. SMBEs and M/WBEs must also be certified
19 pursuant to this policy.
- 20 Y. **Responsible** - means that a firm is capable in all respects of fully
21 performing the contract requirements and has the integrity and
22 reliability to assure good faith performance.
- 23 Z. **Responsive** - description of a firm's bid or proposal that conforms in
24 all material respects to the invitation to bid or request for proposal
25 and shall include compliance with SBE Program requirements.
- 26 AA. **School Board** - The School Board of Miami-Dade County, Florida,
27 which is the legal entity with authority to enter contracts on behalf
28 of the District school system under F.S. 1001.41(4).

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- 1 BB. **Service-Disabled Veteran** - a veteran who is a permanent Florida
2 resident with a service-connected disability as determined by the
3 United States Department of Veteran Affairs or who has been
4 terminated from military service by reason of disability by the United
5 States Department of Defense.
- 6 CC. **Sheltered Market** - an affirmative procurement initiative designed
7 to set aside a Board contract bid for bidding or selection exclusively
8 among SMBE/M/WBE firms.
- 9 DD. **Significant Employee Presence** - no less than twenty-five
10 percent (25%) of a firm's total number of employees are domiciled in
11 Miami-Dade County, Florida.
- 12 EE. **SMBE or M/WBE Directory** - listing of certified SMBEs and
13 M/WBEs.
- 14 FF. **State Appropriated Funds** - all funds appropriated in the General
15 Appropriations Act, excluding Federal funds. This does not include
16 funds that derive from local sources, including but not limited to,
17 general obligation bond funds for capital construction or funds
18 raised through local capital outlay millage and local sales taxes.

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- 1 GG. **Small Business Enterprise (SBE)** - any contractor, subcontractor,
2 manufacturer or service company (a) that has been doing business
3 under the same ownership or management and has maintained its
4 principal place of business in Miami-Dade County, Florida, for a
5 period of at least one (1) year immediately prior to the date of
6 application for certification under this section, (b) that had annual
7 gross revenues not exceeding the thresholds identified in this policy
8 for each industry, and (c) at least fifty-one percent (51%) of the
9 ownership of which is held by a person or persons who exercise
10 operational authority over the daily affairs of the business and have
11 the power to direct the management and policies and receive the
12 beneficial interests of the company. Representations regarding
13 average gross revenue and payroll are subject to audit. If a business
14 has not existed for three (3) years, the employment and gross
15 revenue limits shall be applied based upon the annual averages over
16 the course of the existence of the business.
- 17 HH. **Spend Dollars** - dollars actually paid to prime and/or
18 subcontractors and vendors for Board contracted goods and/or
19 services.
- 20 II. **Subcontractor** - any vendor or contractor that is providing goods or
21 services to a prime contractor in furtherance of the prime
22 contractor's performance under a contract or purchase order with
23 the Board.
- 24 JJ. **Subcontractor Goal** - a proportion of a total contract value stated
25 as a percentage to be subcontracted to SMBEs or M/WBEs to
26 perform a commercially useful function.
- 27 KK. **Suspension** - the temporary stoppage of an SBE or M/WBE firm's
28 participation in the Board's contracting process for a finite period of
29 time.

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1 **Application**

2 These programs apply to Board contracts funded in whole or in part by Board funds
3 except where Federal or State laws or regulations prohibit its application. The
4 Superintendent has the discretion to identify classes of contracts or parts of
5 contracts that are subject to either the SMBE or M/WBE program and are legally
6 permissible. The Superintendent shall also prepare necessary procedures, bid and
7 contract documents to implement these programs.

8 **Subcontractor Goals and Incentives**

9 Subcontractor goals may be applied to a contract based on estimates made prior to
10 bid advertisement of the quality, quantity, and type of subcontracting opportunities
11 provided by the contract and the availability of either SMBEs or M/WBEs to perform
12 the work. The Superintendent may also develop affirmative initiatives and/or
13 incentive programs that can be applied to identified contracts in the selection and
14 contract award process to increase the utilization of SMBE and M/WBE
15 subcontractors pursuant to Policy 6320.06.

16 **Goal Setting Committee**

17 The Superintendent shall create and staff a Goal Setting Committee (GSC) to
18 establish SMBE and M/WBE Program goals and select appropriate incentives to
19 apply to specific contracts based upon industry categories, vendor availability, and
20 project-specific characteristics. The Superintendent shall determine the size of the
21 GSC that is to be chaired by the OEO who shall serve as a voting member. The
22 Superintendent shall also appoint the remaining members of the GSC from the
23 Board's procurement personnel and other Board departments affected by this
24 program. The GSC shall meet as often as it determines necessary, but not less than
25 twice annually, to develop the goal setting methodologies to be implemented by the
26 OEO on a project-by-project or contract-by-contract basis, and monitor and support
27 the implementation of this policy.

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1 **Small/Micro Business Enterprise Program**

2 The SMBE Program is a race and gender-neutral program to provide greater SMBE
3 availability, capacity development and contract participation in Board contracts, to
4 advance the Board's compelling interest in ensuring that it is neither an active nor
5 passive participant in private sector marketplace discrimination, and to promote
6 equal opportunity for all segments of the contracting community to participate in
7 Board contracts.

8 **SMBE Eligibility and Certification**

9 A. The OEO shall certify a company or other business entity as a Small
10 Business Enterprise (SBE) or a Micro Business Enterprise (MBE)
11 upon its submission of a completed District required certification
12 form, supporting documentation, and a signed affidavit stating that
13 it meets all of the following criteria:

14 1. Is an independently owned and operated business that is not
15 dominant in its field of operation and is performing a
16 commercially useful function.

17 2. The business must have an actual place of business in
18 Miami-Dade County for at least one (1) year preceding the
19 application and be registered as a vendor with the District.

20 3. The business has been established for at least one (1) year or
21 the principals of the business have at least three (3) years of
22 relevant experience prior to forming or joining the business.

23 4. The business has an applicable local business tax receipt and
24 all required professional licenses, contractor qualifier
25 licenses, and/or Certificate of Competency.

26 5. The owner of the business must have the required
27 professional license(s) and contractor qualification license.

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- 1 6. The Board may honor a valid Small Business Enterprise
2 Certification and/or Micro Business Enterprise Certification
3 granted by another agency if the agency's requirements are
4 consistent with the District's SBE/MBE certification criteria.
5 The Superintendent shall develop procedures to implement
6 this policy.
- 7 B. Additionally, the requirements for SBE/MBE Program eligibility
8 based on industry are:
- 9 1. **Micro Business Enterprise**
- 10 a. **Professional Services A/E:** The annual gross revenue
11 averaged over the previous three (3) years shall not
12 exceed \$500,000.
- 13 b. **Professional Services non-A/E:** The annual gross
14 revenue averaged over the previous three (3) years
15 shall not exceed \$1,000,000.
- 16 c. **Goods and Services (Procurement Program):** The
17 annual gross revenue averaged over the previous
18 three (3) year period shall not exceed \$1,000,000.
- 19 d. **Construction and Construction-Related Specialty**
20 **Trades:** The annual gross revenue averaged over the
21 previous three (3) years shall not exceed \$1,000,000.
- 22 2. **Small Business Enterprise**
- 23 a. **Professional Services A/E:** The annual gross revenue
24 averaged over the previous three (3) years shall be
25 greater than \$500,000 and not exceed \$1,000,000 (Tier
26 1) or \$2,000,000 (Tier 2).

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- 1 b. **Professional Services non-A/E:** The annual gross
2 revenue averaged over the previous three (3) years
3 shall be greater than \$1,000,000 and not exceed
4 \$2,000,000 (Tier 1) or \$4,000,000 (Tier 2).
- 5 c. **Goods and Services (Procurement Program):** The
6 annual gross revenue averaged over the previous
7 three (3) year period shall be greater than \$1,000,000
8 and not exceed \$2,000,000 (Tier 1) or \$4,000,000 (Tier
9 2).
- 10 d. **Construction and Construction-Related Specialty**
11 **Trades:** The annual gross revenue averaged over the
12 previous three (3) years shall be greater than
13 \$1,000,000 and not exceed \$3,000,000 (Tier 1) or
14 \$6,000,000 (Tier 2).
- 15 C. The applicant shall submit a verified declaration that the
16 information provided for certification and re-certification is truthful
17 and accurate. Any applicant who knowingly makes a false
18 statement on the application and/or in writing with the intent to
19 mislead the OEO and/or its representatives in the performance of
20 their official duties of reviewing and/or approving an application is
21 guilty of a second degree misdemeanor under F.S. 837.06. In
22 addition, anyone who knowingly makes a false verified declaration is
23 guilty of perjury, a third degree felony under F.S. 92.525.
- 24 D. Upon receipt of a certification or re-certification application, the
25 OEO shall review all enclosed forms, affidavits, and documentation
26 and determine whether the applicant satisfies the eligibility
27 requirements. The OEO shall send a letter to ineligible applicants
28 stating the basis for the denial of eligibility. Applicants may appeal
29 an ineligibility determined in accordance with this policy.
30 Applicants determined ineligible shall not be eligible to submit a new
31 application for at least one (1) year after the date of the notice of
32 denial of eligibility.

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- 1 E. Applicants determined eligible to participate in the program shall
2 complete re-certification every three (3) years to the OEO for review
3 and continued certification. However, upon application for re-
4 certification, an SBE/MBE firm must be an independently owned
5 and operated business concern, and maintain its principal place of
6 business or have a significant employment presence in Miami-Dade
7 County in accordance with this policy. To qualify for re-certification,
8 a firm must comply with the thresholds established and published
9 in its *OEO Procedure Manual*.
- 10 F. SBE/MBEs must notify the OEO within fifteen (15) business days of
11 any material changes to the company's ownership and/or
12 management of the firm. Any misrepresentation by a company of its
13 MBE/SBE status shall be grounds for termination of any contract
14 awarded based on the misrepresentation and subject to signatories
15 to any other penalties provided by law and/or Board policies.
- 16 G. In considering certification or re-certification status of any firm, the
17 OEO shall periodically conduct audits and inspect the office, job
18 site, records, and documents of the firm, and shall interview the
19 firm's employees, subcontractors, and vendors as reasonably
20 necessary to ensure that all eligibility standards are satisfied and
21 that the integrity of this program is maintained.

22 SME/MBE Program Graduation

23 A bidder may not count towards its SBE/MBE participation the amount
24 subcontracted to an SBE/MBE firm that has graduated from the SBE/MBE program
25 as follows:

- 26 A. An SBE shall be permanently graduated after its three (3) fiscal year
27 average gross revenue exceeds \$9 million for construction and
28 construction-related specialty trades, \$7 million for goods and
29 services, \$5 million for professional services (architectural and
30 engineering), and \$7 million for professional services
31 (non-architectural and non-engineering).

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- 1 B. When an MBE exceeds the eligibility certification thresholds, it
2 automatically graduates and is subject to the small business criteria
3 and restrictions.
- 4 C. If an SBE exceeds the size standards for the Small Business
5 Program during any fiscal year, it shall be allowed to complete any
6 pending contractual obligation(s), and its participation can be
7 counted in the goals.
- 8 D. Upon graduation from the SBE/MBE program, the OEO shall
9 provide the SBE/MBE with written notice that includes the basis for
10 graduation.

11 **SBE/MBE Program Suspension, Certification Revocation, and/or Debarment**

- 12 A. The OEO may revoke SBE/MBE eligibility if it fails to perform a
13 commercially useful function under a contract, or if it allows its
14 SBE/MBE status to be fraudulently used for the benefit of a
15 non-SBE/MBE firm or the owners of a non-SBE/MBE firm so as to
16 provide the non-SBE/MBE firm or firm owners benefits from
17 Affirmative Procurement Initiatives for which the non-SBE/MBE
18 firm and its owners would not otherwise be entitled.
- 19 B. Upon suspension from the SBE/MBE program, the OEO shall
20 provide written notice to the SBE/MBE including specific findings
21 constituting the basis for suspension, certification revocation,
22 and/or debarment. The notice must also provide the applicable
23 sanctions and the process to appeal the decision.

24 **SBE/MBE Certification Appeals**

25 A business that is denied eligibility, whose eligibility is revoked, or who has been
26 denied a waiver request, may appeal the decision to the Superintendent. A written
27 notice of appeal must be received by the Superintendent within fifteen (15) business
28 days of the date of the written notice. Timely appeals will be reviewed pursuant to
29 procedures developed and implemented by the Superintendent. The Superintendent
30 shall make a recommendation on the appeal to the Board which shall make a final
31 determination.

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1 **Service Disabled Veteran Enterprise Program**

2 The Service Disabled Veteran Enterprise (SDVE) Program is a race and gender
3 neutral program designed to benefit service disabled veteran businesses. The OEO
4 shall certify SDVE businesses in accordance with State guidelines and law. Vendor
5 preferences for SDVEs are governed by Policy 6320. In addition, the Superintendent
6 is authorized to develop and implement affirmative procurement initiatives to
7 increase participation by SDVEs in all of the Board's procurement processes to the
8 extent allowed by law.

9 **Minority/Women Business Enterprise Program**

10 The Minority/Women Business Enterprise (M/WBE) Program is established to
11 enhance the bidding and selection opportunities for M/WBEs on certain contracts
12 and to address findings in the 2014 Disparity Study and 2015 Subcontractor
13 Disparity Study pursuant to this policy and as provided in Policy 6610 and
14 Policy 6320.06.

15 A. **Terms and Definitions**

16 1. ***Minority Ownership*** – minority ownership means that for:

17 a. Sole Proprietorship - a sole proprietor must be a
18 minority person or woman.

19 b. Partnership - a minority/woman individual's interest
20 must include at least fifty-one percent (51%) of the
21 ownership, profit/loss, voting control, and capital of
22 the partnership.

23 c. Corporation - minority/women must own at least
24 fifty-one percent (51%) of all voting stock, issued by a
25 corporation. No stock held in trust, or by any guardian
26 for a minor, shall be considered held by the
27 minority/woman individual, in determining ownership
28 and control.

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- 1 d. Limited Liability Company (LLC) – minority/women
2 must control the management and operations, as well
3 as hold at least fifty-one percent (51%) of the
4 company’s ownership interest.
- 5 A minority owner(s) also has voting rights to elect the board of
6 directors, chief executive officer, and all other management
7 personnel.
- 8 2. **Minority Person** - is a person born or naturalized in the
9 United States. Resident aliens and holders of permanent
10 visas are not considered to be citizens. The following groups
11 are considered:
- 12 a. An African American, a person having origins in any of
13 the black racial groups of the African Diaspora,
14 regardless of cultural origin.
- 15 b. A Hispanic American, a person of Spanish or
16 Portuguese culture with origins in Spain, Portugal,
17 Mexico, South America, Central America, or the
18 Caribbean, regardless of race.
- 19 c. An Asian American, a person having origins of the Far
20 East, Southeast Asia, the Indian Subcontinent, or the
21 Pacific Islands, including the Hawaiian Islands before
22 1778.
- 23 d. A Native American, a person who has origins in any of
24 the Indian Tribes of North America before 1835, upon
25 presentation of proper documentation as established
26 by rule of the Department of Management Services.
- 27 e. An American born or naturalized woman.

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- 1 c. the business must have an actual place of business in
2 the Miami-Dade Metropolitan Statistical Area
3 (Miami-Dade County, Broward County, and Palm
4 Beach County, Florida) for at least one (1) year
5 preceding the application and be registered as a vendor
6 with the District.
- 7 d. the business has an applicable local business tax
8 receipt and all required professional licenses,
9 contractor qualifier licenses, and/or Certificate of
10 Competency.
- 11 e. the owner of the business must have the required
12 professional license(s) and contractor qualification
13 license.
- 14 2. Other factors in determining ownership that will be
15 considered shall include, but are not limited to the following:
- 16 a. Whether minority/women owners are entitled to share
17 in the profits of the business, through salaries,
18 bonuses, profit sharing, dividends, and all other
19 benefits, commensurate their ownership.
- 20 b. Whether minority/women owners share in all the risks
21 of business, including, but not limited to, third party
22 agreements, bonding and financial arrangements.

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- 1 c. Ownership by a minority person does not include
2 ownership that is the result of a transfer from a
3 non-minority person to a minority person within a
4 related immediate family group if the combined total
5 net asset value of all members of such family group
6 exceeds \$1 million. The term "related immediate
7 family group" means one (1) or more children under
8 sixteen (16) years of age and a parent of such children
9 or the spouse of such parent residing in the same
10 house or living unit.
- 11 d. Minority/Women owners must also demonstrate
12 control over the affairs, management, and operations of
13 the business. The discretion of minority/women
14 owners shall not be subject to any formal or informal
15 restrictions (including, but not limited to, bylaw
16 provisions, partnership agreements, trust agreements,
17 or requirements for cumulative voting) that would
18 impact or usurp the minority/women owners'
19 managerial and operational discretion.

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- 1 Documents that establish control include but are not
2 limited to: corporate bylaws, operating agreements,
3 partnership agreements, management agreements, or
4 other agreements. Such documents should be free of
5 restrictive language which dilutes a minority/woman
6 owner(s)' control and prohibits him/her from making
7 decisions.
- 8 1) The minority/woman owner(s) must submit
9 documentation demonstrating control through
10 the authority and responsibility to sign company
11 checks, for all bank accounts, and letters of
12 credit, negotiate contracts on behalf of the
13 business, signature responsibility for insurance,
14 bid bonds, and performance and payment
15 bonds, negotiate bank transactions, and
16 guarantee all instruments which indebt the
17 business.
- 18 2) Unless a business is a franchise, agreements for
19 contractual support services that usurp a
20 minority/woman owner's authority to control a
21 company are not allowed.
- 22 3) Minority/Women owners shall control or
23 supervise the hiring, firing, and supervision of
24 employees, and establishment of employment
25 policies, wages, benefits, and other employment
26 conditions.
- 27 4) Minority/Women owners shall have knowledge
28 and control of all financial matters of the
29 business.

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- 1 3. Applicants shall submit a verified declaration that the
2 information provided for certification and re-certification is
3 truthful and accurate. Any applicant who knowingly makes a
4 false statement on the application and/or in writing with the
5 intent to mislead the OEO and/or its representatives in the
6 performance of their official duties of reviewing and/or
7 approving an application is guilty of a second degree
8 misdemeanor under F.S. 837.06. In addition, anyone who
9 knowingly makes a false verified declaration is guilty of
10 perjury, a third degree felony under F.S. 92.525.
- 11 4. Upon receipt of M/WBE certification or re-certification
12 applications, the OEO shall review all enclosed forms,
13 affidavits and documentation, and determine whether the
14 applicant satisfies the eligibility requirements. All applicants
15 shall be notified in writing as to whether they are eligible.
16 The OEO shall also provide to ineligible applicants in writing
17 the basis for the denial of eligibility and the right to request
18 an appeal in accordance with this policy. Applicants
19 determined ineligible shall not be eligible to submit a new
20 application for at least one (1) year after the date of the notice
21 of denial of eligibility.
- 22 5. All certified M/WBEs will be included in the District's M/WBE
23 Directory which will be regularly updated and provided to
24 school sites.
- 25 6. M/WBEs must notify the OEO within fifteen (15) business
26 days, of any material changes to the company's ownership
27 and/or management of the firm. Any misrepresentation by a
28 company of its M/WBE status shall be grounds for
29 termination of any contract awarded based on the
30 misrepresentation. Violations may also subject the
31 signatories to any other statutory penalties and Board
32 policies.

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- 1 7. M/WBE certification shall be valid for a three (3) year period.
2 Certified M/WBEs shall not request a change in their
3 minority/woman designation, to another minority designation
4 during the certification period, unless changes are due to
5 extenuating circumstances.
- 6 8. The Board may honor a valid minority business certification
7 granted by another agency if the agency's requirements are
8 consistent with the District's M/WBE certification criteria.
9 The Superintendent may develop procedures to implement
10 this policy.
- 11 9. An M/WBE must apply for recertification at least thirty (30)
12 days prior to the certification expiration. A Board M/WBE
13 Recertification Form may be submitted only if an M/WBE's
14 certificate has not expired and no material changes have
15 occurred in the ownership and control of the M/WBE. If
16 certification has expired, the M/WBE must submit a new
17 application.
- 18 10. An M/WBE may be decertified if the firm no longer meets the
19 certification requirements; for failure to comply with the
20 Board's M/WBE policies and procedures regarding requests
21 for information or documents pertaining to ownership,
22 control, or operation of the business; failure to submit a
23 complete M/WBE Recertification Application; debarment; or
24 by written request from the firm's minority/women owners for
25 voluntary removal from the M/WBE Directory.

26 M/WBE Certification Appeals

27 Applicants denied certification or recertification as an M/WBE may appeal to the
28 Superintendent or his/her designee. A written request to appeal must be received
29 by the Superintendent within fifteen (15) business days of the date of the written
30 notice. Timely appeals will be reviewed pursuant to procedures developed and
31 implemented by the Superintendent. The Superintendent shall make a
32 recommendation on the appeal to the Board which shall make the final
33 determination.

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1 **Industry Specific Programs**

2 Remedial programs for the purpose of eliminating the disparities in M/WBE contract
3 participation in District and private contracts caused by discrimination will be
4 developed and implemented. The following industry-specific programs are to be
5 established and implemented in a narrowly tailored manner consistent with the
6 factual predicate established in the 2014 Disparity Study, the 2015 Subcontractor
7 Disparity Study, and consistent with the terms of this policy.

8 **A. Construction Programs**

- 9 1. A Small/Micro Business Enterprise Program permitting the
10 use of set asides of small prime contracts that are below
11 competitive dollar thresholds for bidding exclusively among
12 certified SBME firms and also establishing mandatory
13 subcontracting goals for the participation of certified SMBE
14 subcontractors or those construction contracts that are above
15 the competitive bidding threshold and that have commercially
16 useful subcontract opportunities.
- 17 2. A Minority/Women-Owned Business Enterprise Program
18 establishing bid preferences on certain construction and
19 construction-related contracts on behalf of certified M/WBE
20 African-American, Non-Minority Women Owned,
21 Asian-American and Native-American businesses, including
22 the use of contract-specific subcontracting goals on selected
23 contracts with genuine opportunities for commercially useful
24 subcontracting pursuant to this policy.

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1 **B. Non-Professional Services Program**

2 1. A Small/Micro Business Enterprise Program permitting the
3 use of set asides of small prime contracts that are below
4 competitive dollar thresholds for bidding exclusively among
5 certified SBME firms and also establishing mandatory
6 subcontracting goals for the participation of certified SMBE
7 subcontractors or those contracts that are above the
8 competitive bidding threshold and that have commercially
9 useful subcontract opportunities pursuant to this policy.

10 2. A Minority/Women Business Enterprise Program for
11 non-professional services contracts may be established if
12 future studies establish disparities that may be legally
13 addressed through such a program. If disparities are found,
14 this policy will be amended to allow a legally permissible
15 M/WBE program.

16 **C. Professional Services Program**

17 1. A Small/Micro Business Enterprise Program to establish bid
18 preferences, joint venture incentives, and evaluation
19 preferences on behalf of certified SMBE firms.

20 2. A Minority/Women Business Enterprise Program permitting
21 the use of bid preferences, joint venture incentives, and
22 evaluation preferences on construction-related professional
23 services contracts among certified M/WBE firms that are
24 owned by African-Americans, Asian-Americans, Native
25 Americans and Non-Minority Women and also establishing
26 contract-specific subcontracting goals for the participation of
27 certified M/WBE subcontractors on those
28 construction-related professional services contracts that are
29 above the competitive bidding thresholds and that have
30 commercially useful subcontract opportunities.

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- 1 3. M/WBE Availability – The proportion of overall availability of
2 the ready, willing, and able (RWA) vendors that are certified
3 within the M/WBE program, categorized by race, gender,
4 industry codes, and relevant market.
- 5 4. Race-Neutral SMBE Contract Goals – Availability analysis
6 shall be used to set contract participation goals on an annual
7 basis and on a contract-specific basis. The contract
8 participation goals shall be set based on the relevant
9 measures of SMBE availability as compared to all RWA
10 vendors within the specific industry code of the contract in
11 the relevant market.
- 12 5. M/WBE Contract Goals – Availability analysis shall be used
13 whenever setting contract participation goals on an annual
14 basis or on a contract-specific basis. The contract
15 participation goals shall be set based on the relevant
16 measures of M/WBE availability as compared to all RWA
17 vendors within the specific industry code of the contract in
18 the relevant market.
- 19 B. **Utilization Analysis**
- 20 The utilization analysis shall be based on the total dollar amount
21 paid in a given year to the vendors and contractors that were
22 registered in the automated and mandatory centralized bidder
23 registration system. This analysis reflects the proportion of contract
24 dollars that are spent, by industry code, and within SBME or
25 M/WBE vendor categories, as compared to the total contract dollars
26 spent with the overall vendor population within those industries.

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1 C. **Disparity Analysis**

2 1. The disparity analysis shall be based on the eighty
3 percent (80%) statistical significance rule adopted under
4 *Croson v. Richmond*, which is defined as two (2) standard
5 deviations between utilization and availability. Utilization of
6 RWA M/WBE firms that is eighty percent (80%) or less of the
7 level of availability or M/WBE firms in a particular market is
8 considered statistically significant under-utilization.
9 Utilization that is above 100% of the level of availability is
10 considered over-utilization.

11 2. Statistically significant underutilization creates an inference
12 of discrimination, and in combination with other factors,
13 permits consideration of the use of narrowly tailored race-
14 and gender-conscious remedies to ameliorate the effects of
15 such discrimination.

16 D. **Remedy Analysis**

17 1. If disparity is shown in the disparity analysis above, the
18 District shall review the findings and recommendations from
19 the 2014 Disparity Study, the 2015 Subcontractor Disparity
20 Study, or from the District's most recent independent
21 disparity study to determine the most appropriate and
22 effective remedies to apply to a given set of contracts to
23 eliminate barriers and overcome the effects of various forms
24 of discrimination identified through the 2014 Disparity Study,
25 the 2015 Subcontractor Disparity Study, or any subsequent
26 studies.

27 2. In selecting a remedial approach for any given contract, the
28 District shall seek to identify the remedy that is most likely to
29 be effective in promoting fair and equitable contract
30 participation by all segments of the relevant vendor
31 population, yet does not impose any undue burden on
32 innocent third parties.

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E. Periodic Review of Factual Predicate

1. At least once every four (4) years, the OEO and Superintendent shall recommend a contract with an independent disparity study consultant to the Board to conduct an updated review of the factual predicate for the District's M/WBE programs to determine whether there is any ongoing need for the use of race- and gender-conscious remedies.
2. Each successive disparity study update shall use methodologies and data sources that are preferred or consistent with the most recent controlling legal precedents.
3. Each successive disparity study update shall make specific findings and recommendations regarding the ongoing need for race- and gender- neutral and race- and gender-conscious remedies for certain categories of contracts. Study recommendations should also suggest appropriate modifications to existing District procurement procedures, SMBE programs, and M/WBE programs to promote fair and equitable participation in District contracting opportunities in the most effective but least restrictive and least burdensome manner.
4. In the event that the District determines that there is no ongoing need for any race- and gender-conscious remedies, the M/WBE programs shall be gradually phased out and shall sunset within two (2) years after such determination is made.

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1 Affirmative Procurement Initiatives

2 The following Affirmative Procurement Initiatives may be used in awarding Board
3 contracts to SBE/MBEs or M/WBEs according to the industry-specific programs
4 identified in this policy. However, pursuant to State law and Policy 6320.05, no
5 local vendor or employment preference for SBE/MBEs or M/WBEs may be applied
6 to competitive solicitations for construction services in which fifty percent (50%) or
7 more of the cost will be paid from State-appropriated funds which have been
8 appropriated at the time of the competitive solicitation. The solicitation documents
9 for construction services in this event must disclose that no SBE/MBE or M/WBE
10 will be awarded based upon the State restriction regarding the utilization of local
11 vendor preference.

12 A. **Bonding Waiver:** The District's Purchasing and OEO Directors are
13 authorized, in accordance with F.S. 255.05, to waive the
14 requirements for performance and payment bonds for projects
15 having a dollar value up to \$200,000 or less, at their discretion.
16 This exemption from bonding requirements may be made on a
17 project-by project or contract-by-contract basis depending on the
18 type of contract and whether the bonding requirements would deny
19 the SMBE or M/WBE an opportunity to perform the contract which
20 the SMBE or M/WBE has shown itself otherwise capable of
21 performing. If the exemption is granted, neither the Board, the
22 District, or its officers and officials shall be personally liable to
23 persons suffering loss because of granting this exemption.

24 B. **Bid Preferences:**

25 **Bid Preference:** Specific goals for each project or contract may be
26 adopted on a project-by-project, or contract-by contract basis, in
27 which the contract award shall be made to the lowest responsive,
28 responsible bidder meeting the SMBE or M/WBE subcontracting
29 goals for the contract/project, when that bidder's price does not
30 exceed the lowest bidder's price by an amount greater than the
31 dollar or percentage amount set by the Goal Setting Committee.

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1 **Evaluation Preference** – In ranking and evaluating proposals for
2 “best value” contracts in which factors other than price are relevant
3 to the selection process, the Board may award up to twenty
4 percent (20%) of the total points available to a SMBE or M/WBE or a
5 joint venture with an SMBE or M/WBE partner in response to a
6 request for proposal.

7 **Professional Services Evaluation**

- 8 1. In the selection process for the award of certain professional
9 services contracts, the District may include as one (1) of its
10 evaluation criteria the level of SBE or M/WBE participation
11 on the team or in subcontract participation. Under this
12 remedial approach, the maximum number of evaluation
13 points is available to an SMBE or M/WBE proposer.
- 14 2. A summary of any applicable SMBE or M/WBE Program
15 procedures shall be plainly stated in each solicitation. For
16 competitive professional services contracts, a point system of
17 evaluation will be used by an evaluation committee to
18 determine the recipient of the contract award
19 recommendation. Businesses submitting proposals to
20 provide professional services to the District will be eligible to
21 receive on a sliding scale a designated number of the total
22 possible points based upon their SMBE or M/WBE
23 participation. The distribution of points allocated to the
24 evaluation criteria shall be stated in the request for proposal.
25 SMBE or M/WBE participation shall be only one of several
26 criteria used to evaluate each proposal. Maximum points
27 shall be awarded when the proposer is a certified SMBE or
28 M/WBE. The provisions within this section pertaining to the
29 procurement of professional services are not intended to be
30 used to the exclusion of other provisions of this policy.

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- 1 C. **Mandatory Subcontracting:**
- 2 1. The GSC may at its discretion and on a contract-by-contract
- 3 basis, require that a predetermined percentage up to forty
- 4 percent (40%) of a specific contract be subcontracted to
- 5 eligible SMBEs or M/WBEs.
- 6 2. An SMBE or M/WBE prime contractor may not subcontract
- 7 more than forty-nine percent (49%) of the contract value to a
- 8 non-SMBE or M/WBE.
- 9 3. A prospective bidder on a Board contract shall submit at the
- 10 time of bid Form S providing the name of the SMBE or MWBE
- 11 subcontractor or subcontractors and describing both the
- 12 percentage of subcontracting by the SMBE or MWBE and the
- 13 work to be performed by the SMBE or M/WBE. A bidder may
- 14 request a full or partial waiver of this mandatory
- 15 subcontracting requirement from the OEO for good cause by
- 16 submitting the Unavailability Certification Form to the OEO
- 17 prior to bid opening. Under no circumstances shall a waiver
- 18 of a mandatory subcontracting requirement be granted
- 19 without submission of adequate documentation of good faith
- 20 efforts by the bidder and careful review by the OEO. The
- 21 OEO shall determine a waiver request upon the following
- 22 criteria:
- 23 a. whether the requestor of the waiver has made good
- 24 faith efforts to subcontract with qualified and available
- 25 SMBEs or M/WBEs;
- 26 b. whether subcontracting would be inappropriate and/or
- 27 not provide a "commercially useful function" under the
- 28 circumstances of the contract; or
- 29 c. whether there are no certified SMBEs or M/WBEs that
- 30 are qualified and available to provide the goods or
- 31 services required.

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- 1 4. In the absence of a waiver granted by the OEO, failure of a
2 prime contractor to commit in its bid or proposal to satisfying
3 the mandatory SMBE or M/WBE subcontracting goal shall
4 render its bid or proposal non-responsive.
- 5 5. In the absence of a waiver granted by the OEO, failure of a
6 prime contractor to attain a mandatory subcontracting goal
7 for SMBE or M/WBE participation in the performance of its
8 awarded contract shall be grounds for termination of existing
9 contracts with the Board, debarment from performing future
10 Board contracts, and/or any other remedies available under
11 the terms of its contract with the Board or under the law.
- 12 6. A prime contractor is required to notify and obtain written
13 approval from the OEO in advance of any reduction in
14 subcontract scope, termination, or substitution for a
15 designated SMBE or M/WBE Subcontractor. Failure to do so
16 shall constitute a material breach of its contract with the
17 Board.
- 18 D. **Sheltered Market:**
- 19 1. The OEO and GSC may select certain contracts for award to a
20 SMBE or M/WBE or a joint venture with a SMBE or M/WBE
21 through the Sheltered Market Program.
- 22 2. In determining whether a particular contract is eligible for the
23 Sheltered Market Program, the OEO and GSC shall consider
24 whether there are at least three (3) SMBEs or M/WBEs that
25 are capable and available to participate in the Sheltered
26 Market Program for that contract; the degree of
27 underutilization of the SMBE or M/WBE prime contractors in
28 the specific industry categories; and the extent to which the
29 Board's SMBE or M/WBE prime contractor utilization goals
30 are being achieved.

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- 1 3. If a responsive and responsible bid or response is not received
2 for a contract that has been designated for the Sheltered
3 Market Program, or the apparent low bid is determined to be
4 too high in price, the contract shall be removed from the
5 Sheltered Market Program.

6 **Contract Solicitation and Award**

- 7 A. The OEO shall preview all solicitations for construction,
8 procurement, and professional services prior to public dissemination
9 for compliance with the objectives stated in this policy and to ensure
10 that bid specifications do not unnecessarily restrict the ability of
11 SMBE and M/WBE firms to compete and bid. All District award
12 recommendations shall bear the review signature of the OEO
13 Director.
- 14 B. Disqualification/Rejection – The District and Board may reject any
15 proposals from bidders who have previously failed to perform
16 properly and who have done so by commission or omission of an act
17 of such serious and compelling nature that the act indicates a
18 serious lack of business integrity or honesty.
- 19 C. Contract Compliance – As the Superintendent’s designee, the OEO
20 will establish procedures for monitoring and evaluating program
21 performance and compliance.
- 22 D. The District and Board may reject any proposal deemed
23 non-responsive for failing to meet the diversity requirements.
- 24 E. A firm’s failure to comply with the contract may constitute a
25 violation of the anti-discrimination provisions of Policy 6465 and
26 result in suspension or debarment pursuant to Policy 6320.04.

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1 **Pre-Award Waiver**

2 At any time prior to the award of a contract for a purchase of goods and supplies,
3 the Superintendent or designee may grant a partial or complete waiver of diversity
4 requirements for reasons such as (1) emergency procurement; (2) where a
5 non-M/WBE is the sole source of the needed goods or services and there are no
6 apparent commercially useful functions available to be performed by ready, willing,
7 and able SDBE or M/WBE subcontractors; or (3) good faith efforts to meet the
8 contract goal have proven unsuccessful. The department making an emergency
9 procurement shall consider the availability of SDBEs or M/WBEs from which to
10 make the purchases. The Purchasing Director shall make available a report of
11 procurement activities, including at a minimum, project name, project number,
12 project description, awarded vendor, advertisement date, waivers, and reasons for
13 the waiver, and an estimated dollar value to include change orders.

14 **Fair Subcontracting Practices**

15 The Board is committed to promoting diversity, equity, and inclusion in the use of
16 subcontractors on Board contracts pursuant to Policy 6320.06. Bidders are
17 encouraged to adopt policies and procedures that (a) notify the broadest number of
18 local subcontractors of the opportunity to be awarded a subcontract, (2) invite local
19 subcontractors to submit bids in a practical, expedient manner, (3) provide local
20 subcontractors access to the information necessary to prepare and formulate a
21 subcontracting bid, (4) allow local subcontractors to meet with the bidder to discuss
22 the bidder's requirements, and (5) award subcontracts based on full and complete
23 consideration of all submitted proposals and in accordance with the bidder's stated
24 objectives.

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1 **Prompt Payment**

2 It is the Board's policy that payment for all purchases by the Board be made in a
3 timely manner. The Superintendent is authorized to develop and implement
4 administrative directives and procedures to provide that contractors and vendors
5 will receive prompt payment from the Board, upon receipt of proper documentation,
6 including an approved invoice for the amount due and confirmation that the goods
7 or services have been received and accepted by the appropriate District staff.
8 Prompt payment provisions may be waived or suspended if the Superintendent has
9 made a determination, after consultation with the Chief Financial Officer, that an
10 urgent situation, crisis, or other compelling condition exists that seriously impacts
11 normal business operations. The Board may also provide for expedited payments to
12 prime SMBE and M/WBEs. Late-penalty interest payments will only be made by the
13 Board pursuant to the Florida Prompt Payment Act, F.S. 218.735.

14 In addition, the Superintendent shall develop and include appropriate language in
15 Board contracts to require the prime vendor to issue prompt payment to SMBEs and
16 M/WBEs. Prime vendors must have dispute resolution procedures in place to
17 address disputed payments to subcontractors.

18 **Violations and Sanctions**

19 A. Violations of this policy, include but are not limited to:

- 20 1. fraudulently obtain, retain, or attempt to obtain, or aid
21 another in fraudulently obtaining, retaining, or attempting to
22 obtain or retain certification status as an SMBE or M/WBE
23 for purposes of this policy;
- 24 2. willfully falsify, conceal or cover up by a trick, scheme or
25 device, a material fact or make any false, fictitious or
26 fraudulent statements or representations, or make use of any
27 false writing or document, knowing it contains any false,
28 fictitious, or fraudulent statements or entry pursuant to this
29 policy;

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- 1 3. willfully obstruct, impede, or attempt to obstruct or impede
2 any authorized official or employee who is investigating the
3 qualifications of a business entity that has requested
4 certification as an SMBE or M/WBE;
- 5 4. fraudulently obtain, attempt to obtain or aid another person
6 fraudulently obtaining, or attempting to obtain public monies
7 to which the person is not entitled under this policy;
- 8 5. failing to cooperate in any investigation of violations of this
9 policy or Policy 6465;
- 10 6. making false statements to any entity that any other entity is
11 or is not certified as an SMBE or M/WBE for purposes of this
12 policy.
- 13 B. Sanctions – Any person or business entity that violates this policy
14 shall be subject to suspension, contract cancellation, or debarment
15 pursuant to Policy 6320 and Policy 6320.04 and any other penalty
16 provided by law.
- 17 C. The Superintendent shall apply appropriate sanctions for violations
18 of this policy upon recommendation of the OEO.

19 Anti-Discrimination Complaints

20 Complaints alleging discrimination maybe filed according to Policy 6465 against
21 employees and companies doing business with the Board in the solicitation,
22 selection or treatment of subcontractors, suppliers, vendors, or commercial
23 customers on the basis of race, color, ethnic or national origin, religion, marital
24 status, disability, genetic information, age, political beliefs, sexual orientation,
25 gender, gender identification, social and family background, linguistic preference,
26 pregnancy, and any other legally prohibited basis. The anti-discrimination
27 prohibitions must be included in every contract under this policy and each
28 contractor must certify that it will comply with anti-discrimination provisions. A
29 violation of this policy may constitute a violation of Policy 6465.

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1 **SMBE and M/WBE Program Performance Review**

2 A. The OEO shall monitor the implementation of this policy and the
3 progress of these programs. On an annual basis, the OEO shall
4 report to the Superintendent and Board on the progress of achieving
5 the goals and objectives established for awards to certified SMBE
6 and M/WBE firms, reporting both dollars awarded and expended.
7 In addition, the OEO shall annually report on the progress in
8 achieving the stated program objectives, including, but not limited
9 to, enhancing competition, establishing and building new business
10 capacity, and removing barriers to and eliminating disparities in the
11 utilization of available minority business enterprises and women
12 business enterprises on Board contracts.

13 B. The Board shall annually review these programs to determine
14 whether the various contracting procedures used to enhance SMBE
15 or M/WBE contract participation needs to be adjusted or used more
16 or less aggressively in future years to achieve the stated program
17 objectives.

18 **Policy Review**

19 As required by F.S. 120.74, the Board shall review and revise this policy as often as
20 necessary to ensure that it complies with legal requirements such as applicable
21 current standards of binding decisions of the Eleventh Circuit Court of Appeals and
22 the United State Supreme Court. In addition, at least every (4) years, the Board will
23 review the successes and failures of the M/WBE program and make a determination
24 as to the need for a continuing M/WBE program.

25 **Severability**

26 If any section, paragraph, sentence, clause, phrase, or word of this policy is for any
27 reason held by a court to be unconstitutional, inoperative, or void, it is intended that
28 to the maximum extent practicable, such holding shall not affect the remainder of
29 this policy.

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1 **Statutory Citations**

2 Citations in this policy refer to the statute in place at the time this policy is adopted
3 or as amended from time to time.

4 F.S. 218.735, 287.093, 607.11, 1001.41(2), 1013.46(1)(b)

5 Revised 11/21/12

6 Revised 1/16/13

7 Revised 9/3/13

8 Revised 6/18/14

9 Revised 1/14/15

10 Revised 10/14/15

11 Revised 3/9/16

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AUDIT AND BUDGET ADVISORY COMMITTEE

2 The general purpose of the Audit and Budget Advisory Committee is to review and
3 make recommendations to the School Board and Superintendent on fiscal
4 management matters presented to the committee by either the Board or the
5 Superintendent. The Audit and Budget Advisory Committee shall serve as the
6 principal advisory committee to assist the Board in fulfilling its fiduciary
7 responsibilities on budgeting, financial reporting and accounting and business
8 policies and practices and is the Board's principal agent in ensuring the
9 independence of the District's external and internal auditors.

10 The Audit and Budget Advisory Committee's goals are to assist in:

- 11 A. strengthening accountability for the stewardship and efficient and
12 effective use of School District funds;
- 13 B. maintaining transparency of the District's financial and business
14 operations; and
- 15 C. promoting an adequate system of internal control.

16 **Membership**

17 Members of the Audit and Budget Advisory Committee should reflect the Board's
18 commitment to diversity, have a basic understanding of finance and accounting and
19 be able to understand and interpret financial statements and audit reports.
20 Members should have a background in auditing, accounting, finance, business,
21 management consulting, or law.

22 The members of the Audit and Budget Advisory Committee are:

- 23 A. eleven (11) members and alternates from the community not
24 employed by the School District or having any direct or indirect
25 business dealings with the School District;
26
27 The nine (9) Board members will each select one (1) appointee and
28 alternate.
29
30 One (1) voting member and alternate appointed by the
31 Superintendent.
32
33 One (1) voting member and alternate appointed by the Miami-Dade
34 County Council of PTAs/PTSAs.

- 1 B. one (1) voting Board member and alternate appointed by the Chair
2 of the Board;
3
4 The Board member or alternate appointed to the Audit and Budget
5 Advisory Committee shall vote on all matters that come before the
6 Audit and Budget Advisory Committee.
- 7 C. one (1) non-voting member from the District to be appointed by the
8 Superintendent;
- 9 D. the Chief Auditor shall serve as the District's liaison and provide
10 administrative and logistical support to the Audit and Budget
11 Advisory Committee.

Alternates may only vote in the absence of the member.

12 The Audit and Budget Advisory Committee shall elect a chair and vice-chair from its
13 community members. An Audit and Budget Advisory Committee member may not
14 serve more than four (4) consecutive years as either chair or vice-chair.

15 **Term of Service**

16 The term of service is two (2) fiscal years. The terms of community members
17 nominated by Board members shall be consistent with the terms of their respective
18 nominating Board members. Newly appointed Board members shall have the
19 discretion to retain the former Board member's appointee or to nominate a new
20 committee member. A member's term may be extended beyond the two (2) year term
21 by nomination by any Board member. Community members may be removed
22 should they miss three (3) consecutive regular meetings without good cause upon a
23 majority vote of the audit committee.

24 **Meetings**

25 The Audit and Budget Advisory Committee will meet on a regular basis throughout
26 the fiscal year with the first meeting to be scheduled in early September and the last
27 meeting in late June. The committee will meet at least six (6) times during the fiscal
28 year, subject to any unforeseen circumstances such as natural disasters,
29 emergencies, etc.

30 When deemed necessary and appropriate, special meetings of the Audit and Budget
31 Advisory Committee may be called by the Chief Auditor or by the chair of the Audit
32 and Budget Advisory Committee. Such special meetings shall require at least
33 two (2) days prior public notice.

34 A majority of the voting members shall constitute a quorum for the committee in
35 order to conduct business.

1 All committee and subcommittee meetings are governed by the Florida's Government
2 in the Sunshine and Public Records Laws, F.S. Chapter 119 and 286.011. Meetings
3 will be held in open public sessions and all materials made or received by the Audit
4 and Budget Advisory Committee in connection with official business are available for
5 public inspection.

6 The Office of Management and Compliance Audits is responsible for providing
7 administrative support to the committee, including publishing meeting notices,
8 keeping its minutes, establishing the agenda in collaboration with the chair of the
9 Audit and Budget Advisory Committee, and gathering the supporting documentation
10 for distribution, and ensuring the smooth operation of the committee affairs.

11 **Authority**

12 The Audit and Budget Advisory Committee is advisory in nature. Its
13 recommendations regarding audit findings and exceptions, and other items will be
14 provided in writing to the Board and Superintendent. In its advisory role, the Audit
15 and Budget Advisory Committee is subject to the control and direction of the Board.

16 **Duties and Responsibilities**

17 The duties and responsibilities of the Audit and Budget Advisory Committee are:

18 A. with regard to the external auditor:

- 19 1. serve as the committee to select and recommend the hiring of
20 the external auditing firm to conduct the District's annual
21 audit according to Florida statutes and assist in the
22 development of the external audit contract;
- 23 2. oversee the work and evaluate the qualifications,
24 performance, and independence of the external auditor and
25 recommend the termination or replacement of the external
26 auditor;
- 27 3. review with the external auditor their annual audit plan;
- 28 4. review the Consolidated Annual Financial Report (CAFR),
29 Management Letter, and Single Audit Report with the external
30 auditor and District staff and make recommendations as
31 appropriate;
- 32 5. the Chief Auditor will provide administrative support to the
33 committee for all external audit contracts.

- 1 B. with regard to the District's budgeting and financial management:
- 2 1. with the Chief Financial Officer, review proposed annual
3 budgets, revenues, and expense forecasts and forecast
4 assumptions, and budget amendments;
- 5 2. receive periodic progress reports from the Chief Financial
6 Officer regarding the District administration's collection and
7 disbursement of financial resources pursuant to the District's
8 budget;
- 9 3. receive periodic reports from and consult with the Chief
10 Financial Officer on the adequacy of the District's budget and
11 tracking system;
- 12 4. make recommendations to the Superintendent and Board to
13 improve the quality and reliability of budgeting and
14 accounting for the results of financial operations and not
15 opine on the policy and programmatic implications of budget
16 proposals and amendments.
- 17 C. with regard to the Chief Auditor and the Office of Management and
18 Compliance Audits:
- 19 1. review the annual budget of the Office of Management and
20 Compliance Audits and make recommendations to the Board
21 and the Superintendent as to the sufficiency of the budget;
22
23 The budget shall make adequate provisions for external
24 auditing fees, staffing of the office, required continued
25 professional education/staff development, equipment, and
26 supplies. The committee should review the costs of the use of
27 outside professional services deemed necessary by the Chief
28 Auditor and make recommendations to the Board.
- 29 2. review, provide feedback and approve the annual Audit Plan
30 presented by the Chief Auditor;
31
32 Receive periodic updates on the progress in completing the
33 Audit Plan and confer with the Chief Auditor on any
34 significant changes in the required planned scope of the
35 annual Audit Plan.

- 1 3. review the operations and projects against the Audit Plan to
2 determine the progress made in the execution of the Audit
3 Plan;
- 4 4. review internal audit reports with the Chief Auditor and
5 District administration and make recommendations regarding
6 audit findings, recommendations, and management
7 responses;
- 8 5. serve as the committee, in consultation with the
9 Superintendent, to make recommendations to the Board on
10 the person to fill the position;
- 11
12 At the request of the Board, the committee will provide
13 recommendations on the contractual provisions for the
14 position of Chief Auditor. Prior to negotiation of the
15 employment contract, the Board shall conduct a workshop to
16 provide guidance to the Board's designated negotiator.
- 17 6. any recommendation for the removal or transfer of the Chief
18 Auditor not made by the Audit Committee and the reasons for
19 such removal or transfer shall be brought before the
20 committee to obtain its recommendation to the Board;
- 21 7. in conjunction with Board members and at each Board
22 member's sole discretion, review the Chief Auditor's
23 performance. Written evaluations will be kept on file.
- 24 D. review and make recommendations on the audited financial
25 statements of the District's charter schools, community-based
26 organizations, direct support organizations and audits of impact
27 fees, and any other relevant external audits brought before the
28 committee;
- 29 E. review and make recommendations on District-related audit reports
30 prepared by Federal and State auditors;
- 31 F. provide an effective communication link between the external and
32 internal auditors, the Board, and the Superintendent to accomplish
33 the following objectives:
- 34 1. completeness of audit coverage;

- 1 2. reduction of redundant efforts; and
- 2 3. effective use of audit resources.
- 3 G. receive and comment on periodic updates of selected audit follow-up
4 regarding corrective action(s) being taken by the administration to
5 implement audit recommendations;
- 6 H. submit periodic reports, at least annually, on the work of the Audit
7 and Budget Advisory Committee, to the Board and the
8 Superintendent;
- 9 I. review and make recommendations on any amendments to
10 Policy 6835, Policy 6840, and Policy 0157;
- 11
- 12 At the request of the Board, provide input to the Board with respect
13 to the selection of the Inspector General, and with regard to the
14 operation of the Inspector General as more specifically outlined in
15 Policy 0157.
- 16 J. receive and review reports from the Inspector General and receive,
17 review, and monitor corrective action plans and responses
18 submitted pursuant to Inspector General reports or
19 recommendations.

20 F.S. 119.07(3)(y), 286.011, 1001.32, 1001.41(1)(2), 1012.31

21 Revised 10/19/11
22 Revised 4/18/12
23 Revised 6/19/13
24 Revised 9/3/14

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