

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

**SUBJECT: FINAL READING: PROPOSED AMENDMENT TO POLICY 6320.05,
VENDOR AND EMPLOYMENT PREFERENCES**

COMMITTEE: FISCAL ACCOUNTABILITY & GOVERNMENT RELATIONS

LINK TO STRATEGIC

BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES

This item requests that the Board authorize the Superintendent to amend Policy 6320.05, *Vendor and Employment Preferences* to correct language in the evaluation of Request for Proposals, to include in the total scoring criteria, the granting of five (5) local preference points for businesses located in Miami-Dade County, Florida.

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

The Notice of Intended Action was published in the *Miami Daily Business Review* on June 22, 2020, and posted in various places for public information and mailed to various organizations representing persons affected by the amended Policies and to individuals requesting notification. The time to request a hearing or protest the adoption of this amendment has elapsed.

Authorization of the Board is requested for the Superintendent in accordance with the adoption of proposed amendments to School Board Policy 6320.05, *Vendor and Employment Preferences*.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, adopt the proposed amendments to Policy 6320.05, *Vendor and Employment Preferences*, and authorize the Superintendent to file the amended Policy with The School Board of Miami-Dade County, Florida, to be effective August 12, 2020.

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NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on June 17, 2020 its intention to amend Board Policy 6320.05, *Vendor and Employment Preferences*, at its regular meeting on August 12, 2020.

PURPOSE AND EFFECT: Amendments are proposed to Policy 6320.05, *Vendor and Employment Preferences*, to correct language in the evaluation of Request for Proposals to include in the total scoring criteria, the granting of five (5) local preference points to businesses located in Miami-Dade County, Florida.

SUMMARY: Policy 6320.05, *Vendor and Employment Preferences*, is proposed to be amended to correct language in the evaluation of Request for Proposals, to include in the total scoring criteria, the granting of five (5) local preference points for businesses located in Miami-Dade County, Florida.

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

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

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING of August 12, 2020, which begins at 1:00 p.m., in the School Board Administration Building, School Board Auditorium, 1450 N. E. Second Avenue, Miami, Florida 33132. Persons requesting such a hearing or who wish to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by Section 120.541(1), F.S., must do so in writing by July 14, 2020 to the Superintendent of Schools, Room 912, at the same address.

ANY PERSON-WHO DECIDES TO APPEAL THE DECISION made by The School Board of Miami-Dade County, Florida, with respect to this action will need to ensure the preparation of a verbatim record of the proceedings including the testimony and evidence upon which the appeal is to be based. Section 286.0105, F.S.

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



Book	Policy Manual
Section	August 12, 2020 - <u>Final</u> Reading
Title	VENDOR AND EMPLOYMENT PREFERENCES
Code	6320.05
Status	<u>Final</u> Reading
Adopted	October 19, 2011
Last Revised	October 14, 2015

6320.05 - **VENDOR AND EMPLOYMENT PREFERENCES**

The School Board provides bidding and award preferences in certain contracts for State and local businesses and employment preferences for State residents as required by law.

Definitions

Competitive Solicitation - an invitation to bid, a request for proposals, request for qualifications, or an invitation to negotiate which are defined in Policy 6320, Policy 6320.03, Policy 6330, and Policy 6331.

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

Local Business - a vendor or business that has a valid local business tax receipt, issued by a jurisdiction located in Miami-Dade County that has either (1) its headquarters, manufacturing facility, or locally-owned franchise located within the legal boundaries of Miami-Dade County for at least twelve (12) months; or (2) has an office with a street address within the boundaries of Miami-Dade County for at least twenty-four (24) months calculated from the bid or proposal opening date. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In order to be considered for local preference, vendors must provide a copy of their local business tax receipt and the local business affidavit of eligibility with their bid or proposal.

State-Appropriated Funds - all funds appropriated in the General Appropriations Act, excluding Federal funds. This does not include funds that derive from local sources, including but not limited to, general obligation bond funds for capital construction or funds raised through local capital outlay millage and local sales taxes.

A. Vender Preferences

1. **State** - When the Board is required to make purchases of personal property through competitive solicitation and the lowest responsible and responsive bid, proposal, or

reply is by a vendor whose principal place of business is in a state or political subdivision thereof which grants a preference for the purchase of such personal property to a person whose principal place of business is in that state, Florida law requires that the Board shall award a preference to the lowest responsible and responsive vendor having a principal place of business within this State. This preference must be equal to the preference granted by the state or political subdivision thereof in which the lowest responsible and responsive vendor has its principal place of business. In a competitive solicitation in which the lowest bid is submitted by a vendor whose principal place of business is located outside the State and that state does not grant a preference in competitive solicitation to vendors having a principal place of business in that state, the preference to the lowest responsible and responsive vendor having a principal place of business in this State shall be five percent (5%).

A vendor whose principal place of business is outside this State must accompany any written bid, proposal, or reply documents with a written opinion of an attorney at law licensed to practice law in that foreign state as to the preferences, if any or none, granted by the law of that state to its own business entities whose principal places of business are in that foreign state in the letting of any or all public contracts.

A vendor whose principal place of business is in this State may not be precluded from being an authorized reseller of information technology commodities of a State contractor as long as the vendor demonstrates that it employs an internationally recognized quality management system, such as ISO 9001 or its equivalent, and provides a warranty on the information technology commodities which is, at a minimum, of equal scope and length as that of the contract.

2. **Small/Micro and Minority/Women-Owned Business Enterprise** - Preferences for small/micro and minority/women- owned business enterprises will be given in accordance with Policy 6320 and Policy 6320.02.
3. **Local** - Preference will be given to businesses located in Miami- Dade County, Florida, when evaluating the lowest responsible, responsive bid or submittal for the purchase of goods and services, professional and construction-related services, in excess of \$50,000 dollars or the current formal bidding threshold set by statute. The preference does not apply to purchases of goods or services exempted by statute as reflected in Policy 6320, or where prohibited by law, or other funding source restrictions.

4. **Application**

a. **Competitive Bid**

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

b. **Request for Proposals**

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

c. **Professional Services**

Local preference policy shall apply to services that are subject to the Consultants Competitive Negotiation Act, as delineated in F.S. 287.055. When a local firm that is not initially short-listed for interviews and has a score within five percent (5%) of the lowest-ranked short-listed firm's score, it will be added to the short-list if the lowest-ranked short-listed firm is non-local.

5. **Waivers and Exceptions**

The application of local vendor preference to a particular purchase, contract, or category of contracts for which the Board is awarding authority may be waived upon written justification and recommendation by the Superintendent.

The local vendor preference established in this policy does not prohibit the right of the Board, or other authorized purchasing authority, from giving preference permitted by law in addition to the preference authorized in this policy.

The preference established in this policy does not prohibit the Board, or other authorized purchasing authority, to compare quality or fitness for use of supplies, materials, equipment and services proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals.

6. **Restrictions**

Pursuant to Florida law, in addition to any other restrictions, no local vendor, employment, or subcontractor preference may be applied to competitive solicitations for construction services in which fifty percent (50%) or more of the cost will be paid from State-appropriated funds which have been appropriated at the time of the competitive solicitation. The solicitation documents for construction services in this event must disclose that no local vendor, employment, or subcontractor preference will be applied.

7. **Sanctions**

A vendor who misrepresents the local vendor preference status of its firm in a proposal or bid submitted to the Board will lose the privilege to claim local vendor preference status and shall lose eligibility to claim local vendor preference status for a period of one (1) year. The Superintendent may also recommend that the firm be referred for debarment in accordance with Policy 6320.04.

B. **Employment Preference for Florida Residents**

Florida law requires that each contract for construction that is funded by State appropriated funds must contain a provision requiring the contractor to give preference to the employment of State residents in the performance of the work on the project if State residents have substantially equal qualifications to those of nonresidents. A contract for construction funded

by local funds may contain such a provision.

As used in this section, the term "substantially equal qualifications" means the qualifications of two (2) or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are better suited for the position than the qualifications held by the other person or persons.

A contractor required to employ State residents must contact the Department of Economic Opportunity to post the contractor's employment needs in the state's job bank system.

No contract shall be let to any person refusing to execute an agreement containing the provisions required by this section. However, in work involving the expenditure of Federal aid funds, this section may not be enforced in such a manner as to conflict with or be contrary to Federal law prescribing a labor preference to honorably discharged soldiers, sailors, or marines, or prohibiting as unlawful any other preference or discrimination among the citizens of the United States.

Revised 10/16/13

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Legal

F.S. 255.0991, 255.099, 287.055, 287.084