



## POLICY 6.141

**5-A** I recommend the Board approve development of the proposed **revised** Policy 6.141, entitled "School District Purchase of Construction-Related Materials."

[Contact: Sharon Swan, PX48214; Joseph Sanches, PX 47573.]

### Development

### CONSENT ITEM

- The proposed revised policy was reviewed in conjunction with other construction-related policies and to meet the statutory requirement for Board review as provided in Sec. 120.74, FS.
- The Construction Oversight and Review Committee (CORC) reviewed the proposed revised policy at its February 9, 2012 meeting. The committee made no changes to the revised policy as submitted by staff. The proposed revised policy was not reviewed by the Audit Committee, as it was unrelated to the 2011 construction audit reviewed and approved by the Audit Committee.
- Under 212.08(6), FS, the School Board, as a tax-exempt entity, may buy the materials directly from the materials vendor and pay no tax when certain conditions are met:
  - School District issues its purchase order and a copy of its exemption certificate, and makes payment directly to the materials vendor.
  - The vendor must directly invoice the School District.
  - School District takes title to the materials upon delivery to the jobsite; and assumes the risk of loss of the materials at the time of purchase.
  - The seller of the materials or supplies receives a purchase order and a copy of an exemption certificate issued directly from the School District before shipment or delivery.
- Effective January 2, 2011, governmental entities (excluding the federal government) were required to issue a Certificate of Entitlement to each vendor and contractor to purchase supplies and materials tax-exempt for use in public works contracts. The Certificate of Entitlement certifies that:
  - The materials and supplies purchased will become part of a public facility.
  - The School District will be liable for any tax, penalty, or interest due if the Department later determines that the items purchased do not qualify for exemption.
  - The criteria established in Rule 12A-1.094, F.A.C., are being followed.

POLICY 6.141

1 SCHOOL DISTRICT PURCHASE OF CONSTRUCTION-RELATED MATERIALS

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3 1. Purpose

4 The Palm Beach County School District (District) is a local political subdivision of  
5 the State of Florida and is a tax-exempt organization. As such, it is exempt from  
6 the payment of Sales and Use Tax on purchases of tangible property, materials,  
7 supplies, equipment, etc., necessary for the performance of work under  
8 construction contracts of the Palm Beach County School Board (Board), provided  
9 the District makes such purchases. This policy is to ensure such purchases are for  
10 the Board to take advantage of its tax-exempt status on the purchases and realize  
11 tax savings as a result.

12 2. Policy Statement

13 ~~Purpose:~~ The ~~Board District~~ hereby authorizes the utilization of ~~its~~ the District's tax-  
14 exempt status pursuant to § 212.08(6), Fla. Stat., with regard to materials,  
15 supplies, and equipment purchased for various construction projects of the Board.

16 a. The contract/subcontract amount shall be reduced by the net, discounted  
17 amount of the purchase orders, plus sales tax.

18 b. Issuance of the purchase orders by the District shall not relieve the  
19 contractor/subcontractor of any of his/her responsibilities regarding material  
20 purchases, or installation, with the exception of the payments for the materials  
21 so purchased and the risk of damage or loss at the time of purchase or  
22 delivery by the vendor. The contractor/subcontractor shall remain fully  
23 responsible for coordination, correct quantities ordered, submittal, protection,  
24 storage, scheduling, shipping, security, expediting, receiving, installation,  
25 cleaning and all applicable warranties.

26 c. The Director of Purchasing shall have authority to make such purchases as  
27 provided for under Sec. 212.08(6), Fla. Stat., when such material, supplies  
28 and equipment have been provided for in the various construction contracts  
29 approved by the Board and to sign all related documents required by the  
30 State.

31 3. 4. Inclusion in Bids

32 All valid bids shall include Florida state sales tax and other applicable taxes in the  
33 bid for material, supplies, and equipment. The ~~Board District~~ as Owner, being  
34 exempt from sales tax, reserves the right to make direct purchases of various

35 construction equipment, materials, or supplies included in the  
36 contractor's/subcontractor's bid and/or contract, substantially in accordance with its  
37 standard form of purchase order.

38 4. 2. Contract Requirements

39 Any materials, supplies, or equipment directly purchased by the District included in  
40 the contractor's/subcontractor's contract shall be referred to as District-Purchased  
41 Materials. The responsibilities of both District and subcontractor relating to such  
42 District-Purchased Materials shall be governed by the terms and conditions of this  
43 policy, and the procedures set forth in administrative procedures or directives as  
44 implemented by the Superintendent Directive 6.144.

45 5. Utilization of Change Orders for Direct-Purchased Materials

46 a. Adjustments to construction contracts for District-Purchased Materials shall be  
47 accomplished utilizing construction change orders, by way of a Construction  
48 Order Proposal Requests (COPR's), as provided in Policy 7.22.

49 b. The Superintendent, or designee, may approve all construction change orders  
50 for District-Purchased Materials.

51 c. Construction change orders for District-Purchased Materials shall be reported  
52 to the Board prior to or concurrent with the final closeout of a construction  
53 contract.

54 STATUTORY AUTHORITY: Fla. Stat. §§ ~~230.23(17); 230.23005~~ 100.41; 1001.42(25)

55 LAWS IMPLEMENTED: Fla. Stat. §§ 212.08(6)

56 STATE DEPARTMENT OF REVENUE: Rule 12A-1.094, FAC

57 HISTORY: 10/1/97; 11/18/98; \_\_/\_\_/2012

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**Cross References:**

Policy 7.22 *Construction Change Orders*

Policy 6.14 *Purchasing*

Policy 7.225 *Use of Contingency Funds for Construction Projects*

Legal Signoff:

The Legal Department has reviewed proposed Policy 6.141 and finds it legally sufficient for development by the Board.

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Attorney

Date