



## **POLICY 6.14**

**4-A** I recommend that the Board adopt the proposed revised Policy 6.14, entitled "Purchasing Department."

[Contact: Mike Burke, Sharon Swan, PX 48214.]

### **Adoption**

### **CONSENT ITEM**

1. The Policy was discussed at the January 16, 2013 School Board Meeting. The School Board directed staff to bring back the Policy in thirty (30) days and to make the following revisions:
  - Revise the delegation of authority to the Superintendent to \$250,000, per vendor per fiscal year, for Invitations to Bid, Requests for Proposals, Invitations to Negotiate and certain purchases that are exempt from competitive solicitation [Lines 257-258, 325, 367, and 405-406]. In the current Policy, the Superintendent has unlimited delegation of authority to approve purchases using Invitation to Bids and non-competed items and no authority for award of Requests for Proposals;
  - Permit the Superintendent to only delegate authority to the Chief Operating Officer and the Director of Purchasing to make certain purchases up to \$50,000 [Line 281].
2. In addition, the Policy was discussed with the Principals' Leadership Group again. Based upon such discussions, the Policy has been revised to provide:
  - Principals and Department Heads have authority to make purchases for contractual services, including Professional Services, in an amount not to exceed \$5,000, per vendor per fiscal year [Lines 142, 164, and 255].
  - Principals, when using internal funds, are delegated authority to purchase commodities when the total amount does not exceed \$15,000, per vendor per fiscal year [Line 178].

(Please note that Principals have unlimited authority to purchase commodities and services using monies from internal

accounts for the following:

graduation supplies and yearbooks in accordance with Policy 6.19; class rings; prom; homecoming; dances; Project Graduation; fundraising projects; and activities meeting the requirements of Policy 2.16 (i.e. marathon fundraisers, student sales of goods, etc.) [Line 180].

3. The recommendation for requiring authorized purchasers to obtain three or more quotes has been raised from \$2,500 to \$5,000 [Lines 195 and 447]. The current policy provides that quotes are needed for purchases above \$10,000.

## POLICY 6.14

### PURCHASING DEPARTMENT

#### 1. Purpose

The Purpose of this Purchasing Policy is to provide for a uniform and systematic method for purchasing in an efficient, cost-effective manner in accordance with and as permitted by applicable federal and state laws, Florida State Board of Education Rules, School Board Policies, and administrative rules, procedures, and guidelines that promote transparency and accountability in the expenditure of public funds and the use of public resources. The goal of this Policy is to assist School Board members and School District of Palm Beach County employees in protecting the integrity of the contract award and procurement process, inspiring public confidence in the process used to acquire commodities and contractual services, and promoting fair, open, and non-discriminatory competition in a manner that protects the School District's assets and ensures that the School District receives the maximum value and quality when expending public dollars for a public purpose.

#### 2. Applicability

This Policy shall govern the purchase of commodities and contractual services for the School Board through the use of a competitive solicitation, where required by law or as determined to be in the best interest of the School District, and purchases which are specifically exempted by law from competitive solicitation, when those commodities and contractual services are purchased using School Board funds, grant proceeds, or internal account funds held by individual schools. In addition, the procedures set forth in this Policy, with the exception of Section 5 below, shall apply to purchases made pursuant to Policies 7.051 and 7.10.

#### 3. Definitions

- a. "Competitive solicitation" shall be defined to include purchases made through the issuance of an invitation to bid (ITB), request for proposals (RFP), or invitation to negotiate (ITN).
- b. "Cone of Silence" shall refer to the period of time between the posting of the contents of a competitive solicitation and the posting of a Decision or Intended Decision with regard to that competitive solicitation.
- c. "Contract procurement process" has the same meaning as "contract solicitation or award process" as used in section 120.57(3), Florida Statutes. This phrase includes procurements by ITB, RFP, ITN, approval of a single source procurement, or other solicitation documents as permitted by law.

- 37 d. "Decision or Intended Decision" as used in this Policy shall have the same  
38 meaning as in Uniform Rule 28-110.002(2), Florida Administrative Code, and  
39 shall mean:
- 40 i. the notice of posting of the contents of a solicitation, including addenda;
- 41 ii. a determination that a specified procurement can be made only from a  
42 single source;
- 43 iii. rejection of a response or all responses to a solicitation; or
- 44 iv. intention to award a contract as indicated by a posted solicitation  
45 tabulation or other written notice.
- 46 e. "Environmentally Preferable Purchasing" (EPP), often referred to as "green  
47 purchasing" means commodities and services that have a lesser or reduced  
48 effect or harm health and the environment when compared with competing  
49 commodities or services that serve the same purpose. EPP may be used in  
50 the selection and acquisition of commodities and contractual services when  
51 such methods are generally used throughout the industry for procuring the  
52 particular commodity or contractual service, for evaluating the product to  
53 determine if the product meets the District's needs, for educational purposes,  
54 or when it has been determined by the Director of Purchasing that EPP will  
55 provide the District with a lower cost of ownership over the life of the School  
56 Board's use of the product or service. The goal of EPP is to procure  
57 commodities and contractual services that most effectively minimize waste  
58 and negative environmental impact by evaluating criteria such as the vendor's  
59 method of manufacturing; use of recycled content; use of less harmful and  
60 non-toxic materials and processes; use of energy and water efficient products  
61 and processes; use of fuel efficient vehicles and equipment; use of natural  
62 resource and landscaping management; use of renewable products,  
63 packaging, and delivery practices; and reduces disposal cost.
- 64 f. In proceedings involving bid protests of a Decision or Intended Decision  
65 arising out of the contract solicitation or award process, the terms "file" or  
66 "filing" shall mean received by the Director of Purchasing during normal  
67 business hours. Filing of a notice of protest or formal written protest petition is  
68 permitted via regular US mail, hand delivery, electronic mail, or facsimile  
69 transmission. A protestor who files a notice of protest or formal petition by  
70 electronic mail or facsimile transmission represents that the original physically  
71 signed document will be mailed to the Director of Purchasing immediately  
72 upon submission of the notice of protest or formal petition via facsimile or  
73 electronic mail. Any protestor who elects to file any document by electronic  
74 mail or facsimile transmission shall be responsible for any delay, disruption, or  
75 interruption of the signals and accepts the full risk that the document may not

be properly filed with the Director of Purchasing, as a result. The filing date for a document transmitted by electronic mail or facsimile shall be the date the Director of Purchasing receives the complete document. The bond, however, cannot be transmitted via electronic mail or facsimile, but must be timely filed with the Director of Purchasing as required by this Policy.

- g. "Information technology" shall have the same meaning as set forth in section 282.0041(14), Florida Statutes.
- h. "Invitation to bid" shall be defined as a written solicitation for competitive sealed bids. The invitation to bid is used when the School Board or designee is capable of specifically defining the scope of work for which a contractual service is required and/or when the School Board or designee is capable of establishing precise specifications defining the actual commodity or group of commodities required. A written solicitation includes a solicitation that is publicly posted.
- i. "Invitation to negotiate" shall be defined as a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. The invitation to negotiate is used when the School Board or designee determines that negotiations may be necessary for it to receive the best value. A written solicitation includes a solicitation that is publicly posted.
- j. "Professional Services" shall be defined, for the purpose of procuring commodities and non-construction related contractual services, to include, without limitation, artistic services; academic program reviews; lectures by individuals; auditing services not subject to section 218.391, Florida Statutes; legal services, including attorney, paralegal, expert witness, court reporting, appraisal, or mediator services; and health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration. The term "Professional Services," as used in this Policy, does not include those services procured pursuant to section 287.055, Florida Statutes.
- k. "Proposer" includes those vendors submitting bids, proposals, or replies to a competitive solicitation.
- l. "Request for proposals" shall be defined as a written solicitation for competitive sealed proposals. The request for proposals is used when it is not practicable for the School Board or designee to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required; or the purchase is complex in nature and the School Board or designee is requesting that a responsive, responsible vendor offers a solution which will be evaluated by a set criteria set forth in the solicitation document. A written solicitation includes a solicitation that is publicly posted.

4. **Delegation of Authority**

As set forth below, the School Board has delegated limited authority to the Superintendent or his/her designee, the Director of Purchasing, Department Heads or Directors, and School Principals relating to the purchase of commodities and contractual services for the School District in compliance with applicable federal and state laws, Florida State Board of Education Rules, School Board Policies, and administrative rules, procedures, and guidelines. In addition, the School Board has delegated certain authority to the Superintendent, Director of Purchasing, and the General Counsel with regard to handling matters relating to Chapter 120, Florida Statutes.

Any purchases not specifically delegated to the Superintendent or his/her designee, the Purchasing Director, Department Heads or Directors, or School Principals must be approved in advance by the School Board. No person, unless specifically authorized to purchase commodities or contractual services under School Board policies, may make any purchase or enter into any contract involving the use of school or School District funds. Payment for any unauthorized purchase may be the responsibility of the person placing the order.

a. **Department Heads or Directors**

i. Department Heads or Directors shall use bid-awarded vendors approved by the School Board or designee, where available unless otherwise approved by the Director of Purchasing. Department Heads or Directors are encouraged to purchase commodities or services from industry-certified School District Career and Professional Academies where available.

ii. Authority is delegated to the Department Head or Director of each department to purchase:

A. contractual services, including Professional Services, in an amount not to exceed ~~five thousand~~ five hundred dollars (\$25,000) per vendor per fiscal year per department, and

B. commodities in an amount not to exceed one thousand dollars (\$1,000) per vendor per day or for travel as authorized by Policy 6.01 when utilizing the School District issued Purchasing Card ("P-Card"), with total monthly charges to the P-Card not exceeding the amount authorized by the Superintendent or designee. The Director of Purchasing may approve the issuance of multiple P-Cards to certain departments. Department Heads or Directors may delegate authority to use such additional P-Cards to specific users within their departments up to the limits set forth above.

- iii. Department Heads or Directors may not divide the procurement of commodities or contractual services so as to avoid the delegated monetary threshold requirement.

b. **School Principals**

- i. Principals shall use bid-awarded vendors approved by the School Board or designee, where available unless otherwise approved by the Director of Purchasing. Principals are encouraged to purchase commodities or services from industry-certified School District Career and Professional Academies where available.

- ii. Authority is delegated to the Principal of each school center to purchase:

- A. contractual services, including Professional Services, in an amount not to exceed ~~two~~ **five** thousand five hundred dollars (\$~~2,500~~**5,000**) per vendor per fiscal year per school;

- B. commodities in an amount not to exceed one thousand dollars (\$1,000) per vendor per day or for travel as authorized by Policy 6.01 when utilizing the School District issued P-Card, with total monthly charges to the P-Card not exceeding the amount authorized by the Superintendent or designee. The Director of Purchasing may approve the issuance of multiple P-Cards to certain Principals, and Principals may delegate authority to use such additional P-Cards to specific users within their school centers up to the limits set forth above;

- C. additional commodities and contractual services which are to be paid from the internal funds of the school as follows:

- I. commodities when the total amount purchased does not exceed ~~ten~~ **fifteen** thousand dollars (\$~~10,000~~**15,000**) per vendor per fiscal year; and

- II. commodities and contractual services, without limitation as to the amount, for the following:

- a. graduation supplies and yearbooks in accordance with Policy 6.19;

- b. class pictures;

- c. class rings;

- d. prom;

- 187 e. homecoming;
- 188 f. dances;
- 189 g. Project Graduation; and
- 190 h. fundraising projects and activities meeting the requirements  
191 of Policy 2.16 (i.e. marathon fundraisers, student sales of  
192 goods, etc.).
- 193 iii. In such cases where the School Board or designee has not approved a  
194 vendor for the commodities or contractual services needed, the Principal  
195 shall make purchases exceeding ~~two~~ five thousand five hundred dollars  
196 (\$2,5,000), to the extent authority has been delegated above, using a  
197 minimum of three (3) competitive quotes, when feasible except for  
198 Professional Services, professional memberships, educational services,  
199 and copyrighted materials, as set forth in State Board of Education Rule  
200 6A-1.012 or other applicable laws. The purchase shall be based upon  
201 lowest price quote or selection criteria developed by the Principal.
- 202 iv. Principals may not divide the procurement of commodities or contractual  
203 service so as to avoid the delegated monetary threshold.
- 204 c. **Director of Purchasing**
- 205 i. The School Board designates the Purchasing Department as the School  
206 District's official purchasing agent, and accordingly, authority is delegated  
207 to the Director of Purchasing to:
- 208 A. determine the appropriate and most cost-effective purchasing  
209 method of contract procurement, including competitive solicitations,  
210 direct negotiations, and/or methods that allow the School District to  
211 take advantage of value discounts and special pricing agreements,  
212 where appropriate;
- 213 B. approve the evaluation criteria for procuring commodities and  
214 contractual services, including any preference required or allowable  
215 by law or School Board policy;
- 216 C. oversee the competitive solicitation process in collaboration with the  
217 School District end-user to include receiving formal information  
218 through Requests for Information when needed; create the  
219 competitive solicitation document; approve the specifications, terms,  
220 and conditions, which may include using EPP methods; select  
221 members of the evaluation committee/team; and receive, open,  
222 tabulate, and evaluate proposals, responses, bids, and replies in



- 223 accordance with the provisions of this Policy:
- 224 D. receive and process any and all notices of protest and formal written  
225 protests for the purpose of determining whether the notices or written  
226 protests are timely and have a timely and properly posted bond;.  
227 hold the informal resolution meeting as required by Chapter 120,  
228 Florida Statutes, dismiss any invalid bid protests as determined by  
229 the Office of General Counsel; and report any valid bid protests to  
230 the School Board at least quarterly;
- 231 E. approve and issue purchase orders for purchases made in  
232 accordance with this Policy;
- 233 F. track ITB, ITN, RFPs, and other Board-awarded contracts to ensure  
234 that the amount of funds encumbered by purchase orders does not  
235 exceed the budgeted funds approved by the School Board;
- 236 G. oversee negotiations with vendors when appropriate;
- 237 H. oversee the P-Card Program;
- 238 I. provide purchasing oversight of the Supply and Redistribution  
239 Warehouse and Mailroom;
- 240 J. prepare and execute Certificates of Entitlements for the purpose of  
241 tax savings as required by section 212.086(6), Florida Statutes and  
242 Rule 12A-1.094, Florida Administrative Code; and
- 243 K. approve and issue purchase orders for Direct Material Purchases for  
244 the purpose of tax savings as allowed by section 212.086(6), Florida  
245 Statutes and Rule 12A-1.094, Florida Administrative Code.
- 246 ii. The Director of Purchasing shall provide prior notice to the Office of the  
247 Inspector General, in writing, of any evaluation committee/team meeting  
248 where any matter relating to commodities or contractual services will be  
249 discussed.
- 250 d. **Superintendent/Designee**
- 251 i. Authority is delegated to the Superintendent or his/her designee (Chief  
252 Operating Officer or Director of Purchasing only) to:
- 253 A. approve purchases for departments and schools for Professional  
254 Services in an amount in excess of ~~two~~ five thousand five hundred  
255 dollars (\$2,5,000) and up to ten thousand dollars (\$10,000);

- 256 B. approve purchases for commodities and contractual services, not  
257 including Professional Services, up to ~~two hundred fifty thousand~~  
258 ~~(\$250,000) five hundred thousand dollars (\$500,000) per vendor per~~  
259 fiscal year, except where specifically set forth herein. A monthly  
260 report of such purchases must be provided to the School Board;
- 261 C. reject any or all proposals, responses, bids, or replies to any  
262 competitive solicitation and re-compete or purchase the required  
263 commodities or contractual services in any manner authorized by  
264 this Policy; and
- 265 D. approve purchases of the following commodities and contractual  
266 services without limitation as to the amount:
- 267 I. emergency purchases as defined in this Policy;
- 268 II. regulated utilities or government-franchised services;
- 269 III. media advertisements (newspaper, radio, television, etc.);
- 270 IV. subscription services;
- 271 V. professional association fees or membership dues for  
272 educational or non-profit organizations that serve the needs of  
273 the School District;
- 274 VI. Florida Department of Law Enforcement for Level II screenings  
275 of employees and vendors;
- 276 VII. travel expenditures and reimbursements in compliance with  
277 Policy 6.01 and Chapter 112, Florida Statutes; and
- 278 VIII. postage.
- 279 ii. The Superintendent's authorization to delegate purchasing authority to  
280 the Chief Operating Officer or Director of Purchasing as permitted in  
281 sections 4(d)(i)(B) or 4(d)(i)(D) above, shall be limited to \$50,000 per  
282 purchase.
- 283 iii. Authority is delegated to the Superintendent to handle matters relating to  
284 Chapter 120, Florida Statutes, Administrative Proceedings, including  
285 administrative hearings;
- 286 A. ruling on motions to extend the deadline for filing a formal written  
287 protest or other petitions for administrative hearing;

- 288 B. referring formal written protests or other petitions for administrative  
289 hearings pursuant to section 120.57(3), Florida Statutes, to the  
290 Division of Administrative Hearings;
- 291 C. entering orders determining whether a formal written protest, or other  
292 petition for administrative hearing is timely and appropriately filed or  
293 meets required pleading requirements;
- 294 D. entering final orders approving or rejecting administrative actions  
295 related to settlements, withdrawn petitions, voluntary case closures,  
296 and other undisputed procedural matters associated with the  
297 initiation or closure of administrative proceedings; and
- 298 E. executing final orders following School Board action.

299 e. **General Counsel**

- 300 i. Authority is delegated to the General Counsel for the following matters  
301 relating to Chapter 120, Florida Statutes, Administrative Proceedings,  
302 including administrative hearings:
  - 303 A. ruling on motions to extend the deadline for filing a formal written  
304 protest or other petitions for administrative hearing;
  - 305 B. conducting or otherwise arrange for the conducting of informal  
306 proceedings;
  - 307 C. referring formal written protests or other petitions for administrative  
308 hearings pursuant to section 120.57(3), Florida Statutes, to the  
309 Division of Administrative Hearings;
  - 310 D. entering orders determining whether a formal written protest, or other  
311 petition for administrative hearing is timely and appropriately filed or  
312 meets required pleading requirements;
  - 313 E. entering final orders approving or rejecting administrative actions  
314 related to settlements, withdrawn petitions, voluntary case closures,  
315 and other undisputed procedural matters associated with the  
316 initiation or closure of administrative proceedings; and
  - 317 F. executing final orders following School Board action.

- 318 5. **Purchasing Methods.** The School Board or its designee shall purchase  
319 commodities and contractual services as set forth below. Such purchases shall not  
320 exceed the applicable appropriation in the School Board budget for each fiscal year  
321 and the funds for such purchases shall not be otherwise encumbered.

- 322 a. **Competitive Solicitation.** The School Board or its authorized designee may  
323 approve contracts resulting from competitive solicitations where required by  
324 law or when in the best interest of the School District. Such contracts in excess  
325 of ~~two hundred fifty thousand dollars (\$250,000)~~ five hundred thousand dollars  
326 ~~(\$500,000)~~ per vendor per fiscal year must be submitted to the School Board  
327 for approval.
- 328 i. **Request for Proposals (RFP).** Except as authorized by law or rule,  
329 proposals shall be requested from three (3) or more sources for  
330 commodities and contractual services exceeding the amount established  
331 in Rule 6A-1.012(7), Florida Administrative Code. The contract may not  
332 be divided so as to avoid this monetary threshold. In awarding to a  
333 Proposer pursuant to a Request for Proposals, the School Board or its  
334 authorized designee may award to one or more responsive, responsible  
335 Proposers in accordance with the selection criteria published in the  
336 Request for Proposals.
- 337 ii. **Invitation to Bid (ITB).** Except as authorized by law or rule, ITBs or  
338 reverse auctioning bids shall be requested from three (3) or more sources  
339 for commodities and contractual services when requisitioning any item or  
340 group of similar items exceeding the amount established in Rule 6A-  
341 1.012(7), Florida Administrative Code. The contract may not be divided so  
342 as to avoid this monetary threshold. In acceptance of responses to ITBs  
343 or bids through reverse auctioning, the School Board or its authorized  
344 designee shall accept the lowest bid from a responsive and responsible  
345 bidder meeting all specifications, terms, and conditions published in the  
346 ITB. In the alternative, the School Board or its authorized designee may  
347 award to the responsive, responsible bidder offering the lowest cost as  
348 the primary awardee and the next responsive, responsible bidder offering  
349 the next lowest cost as an alternate awardee(s) meeting all specifications,  
350 terms, and conditions. Nothing herein is meant to prevent multiple awards  
351 to the responsive and responsible bidders when such multiple awards are  
352 clearly stated in the bid solicitation documents.
- 353 iii. **Invitation to Negotiate (ITN).** When procurement for commodities and  
354 contractual services exceeding the amount established in Rule 6A-  
355 1.012(7), Florida Administrative Code, is not practicable by an ITB or an  
356 RFP, the Superintendent or his/her designee may solicit competitive  
357 sealed replies to determine the best method for achieving specific goals  
358 or solving a particular problem and select one or more vendors with which  
359 the School Board's authorized designee may negotiate a contract in order  
360 to receive the best value based upon objective factors that may include,  
361 but are not limited to, price, quality, design, and workmanship.
- 362 b. **Alternate Source Contracting.** The School Board or its designee may

purchase commodities or contractual services from contracts that have been awarded by another governmental agency, by a group of governmental agencies, or as a participant of a group of governmental agencies as allowed by law and when in the best interest of the School District. Such contracts in excess of ~~two hundred fifty thousand (\$250,000)~~ five hundred thousand dollars (\$500,000) per fiscal year must be submitted to the School Board for approval.

i. **Department of Management Services.** As required by section 1001.42(12)(j), Florida Statutes, the School Board or its authorized designee shall receive and give consideration to the prices available to it under rules of the Department of Management Services, Division of Purchasing. The School Board or its designee may use prices established by the Division of Purchasing through its state purchasing agreement price schedule under the same conditions for use imposed on state agencies.

ii. **Other Agency or Group of Agencies.** The School Board or its authorized designee may make purchases at or below the specified prices from contracts awarded by other city or county governmental agencies, other district school boards, community colleges, federal agencies, public or governmental agencies of any state, state university systems, or from cooperative, interlocal, or pooled bid agreements, when the Proposer will permit purchases by the School Board at the same terms, conditions, and prices (or below such prices) awarded in such contract, and such purchases are to the economic advantage of the School Board.

iii. **Pool Purchases.** The School Board or its authorized designee may purchase school buses, equipment, and related contractual needs and supplies through the pool-purchase provisions of section 1006.27, Florida Statutes.

iv. **Purchasing Consortium.** The School Board shall enter into interlocal agreements as provided in section 163.01, Florida Statutes, to establish school district consortium and maximize purchasing power for commodities and contractual services. A consortium may be nationwide, statewide, or regional as appropriate to achieve the lowest cost. The Director of Purchasing shall provide the School Board with a monthly report of any purchases made through a Purchasing Consortium.

c. **Direct Negotiation**

i. The School Board or its authorized designee may approve contracts using direct negotiations where allowed by law, and when in the best interest of the School District. ~~The Director of Purchasing shall maintain~~

adequate documentation commensurate with the value of the contract reflecting (a) the rationale for using direct negotiation as the purchasing method and (b) the basis for determining that the resulting contract is in the best interest of the District. Such contracts in excess of two hundred fifty thousand (\$250,000) five hundred thousand dollars (\$500,000) per vendor per fiscal year shall be adequately documented to ensure the proposed contract is in the best interest of the School District and must be submitted to the School Board for approval, with the exception of emergency purchases which will be ratified as indicated herein, and regulated utilities or government-franchised services.

A. **Finding of No Acceptable Firm Proposal or Less than Two Responsive Proposals.** Where competitive solicitations have been requested in the manner prescribed by this Policy, and the School Board, through the Director of Purchasing, makes a specific finding in writing that:

I. no valid or acceptable firm proposal has been received within the prescribed time, the Director of Purchasing may enter into negotiations with suppliers of such commodities and contractual services; or

II. less than two responsive proposals for commodity or contractual services were received, the Director of Purchasing, may negotiate on the best terms and conditions or decide to reject all proposals. The Director of Purchasing shall document the reasons that negotiating terms and conditions with a particular Proposer is in the best interest of the School District in lieu of re-soliciting proposals.

ii. **Competitive Solicitation Waived or Not Required.** As provided in Rule 6A-1.012, Florida Administrative Code; section 1010.04(4)(a), Florida Statutes; or other laws, in addition to the methods described above, the School Board or its authorized designee may purchase commodities and contractual services without requesting competitive proposals, bids, or replies from three or more sources, as set forth below:

A. **Less than the amount established in Rule 6A-1.012(7), Florida Administrative Code of Funds Expended.** For purchases where less than the amount established in Rule 6A-1.012(7), Florida Administrative Code of Funds will be expended, the School Board, the Superintendent or his/her designee, Department Heads or Directors, and/or School Principals may make and/or approve purchases of the commodities and contractual services in compliance with applicable federal and state laws; Florida Board of

442 Education Rules; School Board Policies; administrative rules,  
443 procedures, and guidelines; and this Policy.

444 Competitive quotes shall be requested from three (3) or more  
445 sources for commodities and contractual services when  
446 requisitioning any item or group of similar items exceeding ~~two-five~~  
447 thousand five hundred dollars (\$2,5,000) except as exempted by  
448 Rule 6A-1.012, Florida Administrative Code or other applicable laws.

449 B. **Information Technology.** The School Board, when acquiring,  
450 whether by purchase, lease, lease with option to purchase, rental or  
451 otherwise, information technology, as defined in section  
452 282.0041(14), Florida Statutes, may make any acquisition through  
453 the competitive solicitation process as described herein or by direct  
454 negotiation and contract with a vendor or supplier, as best fits the  
455 needs of the School District as determined by the Director of  
456 Purchasing. The Director of Purchasing shall document in writing the  
457 reasoning for concluding that direct negotiation instead of  
458 competitive solicitation is in the best interest of the School District.

459 C. **Risk Management.** The School Board may, except as otherwise  
460 required by statute, utilize the competitive solicitation process or  
461 enter into direct negotiations and contract with a vendor or supplier  
462 that best meets the needs of the School District when acquiring  
463 insurance, entering risk management programs, or contracting with  
464 third party administrators. The purchase of employee group  
465 insurance must be competitively selected in accordance with section  
466 112.08, Florida Statutes.

467 D. **Educational Services/Copyrighted Materials.** The School Board or  
468 its authorized designee may purchase educational services and any  
469 type of copyrighted materials including, without limitation, educational  
470 tests, textbooks, printed instructional materials, computer software,  
471 films, filmstrips, videotapes, dvds, disc or tape recordings, digital  
472 recordings, or similar audio-visual materials, library and reference  
473 books, and printed library cards where such materials are purchased  
474 directly from the producer or publisher, the owner of the copyright, an  
475 exclusive agent within the state, a governmental agency, or a  
476 recognized educational institution.

477 E. **PRIDE/RESPECT.** The School Board or its authorized designee may  
478 purchase commodities and contractual services from PRIDE (Prison  
479 Rehabilitative Industries and Diversified Enterprises, Inc.) or  
480 RESPECT (Florida's preferential purchasing program for individuals  
481 with disabilities), as authorized by Florida Statutes.



- 482 F. **Regulated Utilities.** The School Board or its authorized designee  
483 may purchase regulated utilities or government-franchise services.
- 484 G. **Grant or Law.** The School Board or its authorized designee may  
485 enter into a contract where state or federal law, a grant, or state or  
486 federal agency contract prescribes with whom the School Board  
487 must contract or if the rate of payment is established during the  
488 annual appropriation process.
- 489 H. **Professional Services.** The School Board or its authorized  
490 designee may purchase Professional Services as set forth herein.
- 491 I. **Sole Source.** When School District's Director of Purchasing believes  
492 that commodities or contractual services are available only from a  
493 single source, the Director of Purchasing shall electronically or  
494 otherwise publicly post a description of the commodities or  
495 contractual services sought for a period of at least seven (7)  
496 business days. The description must include a request that  
497 prospective vendors provide information regarding their ability to  
498 supply the commodities or contractual services described. If it is  
499 determined in writing by the Director of Purchasing, after reviewing  
500 any information received from prospective vendors, that the  
501 commodities or contractual services are available only from a single  
502 source, the Director of Purchasing shall provide notice of the  
503 Decision or Intended Decision to enter a single source contract in the  
504 manner specified in section 120.57(3), Florida Statutes, and may  
505 negotiate on the best terms and conditions with the single source  
506 vendor.
- 507 J. **Emergency Purchases.** The School Board or its designee may  
508 dispense with requirements for competitive solicitations for the  
509 emergency purchase of commodities or contractual services when  
510 the Superintendent determines in writing that an immediate danger to  
511 the public health, safety, or welfare or other substantial loss to the  
512 school district requires emergency action. After the Superintendent  
513 makes such a written determination, the Director of Purchasing may  
514 proceed with the procurement of commodities or contractual services  
515 necessitated by the immediate danger, without requesting  
516 competitive solicitations. However, such an emergency purchase  
517 shall be made by obtaining pricing information from at least two  
518 prospective vendors, which must be retained in the contract file,  
519 unless the Superintendent determines in writing that the time  
520 required to obtain pricing information will increase the immediate  
521 danger to the public health, safety, or welfare or other substantial  
522 loss to the school district. The Superintendent shall seek ratification



of this purchase by the School Board at the next regularly scheduled business meeting.

K. **Food Service.** In compliance with Rule 5P-1.003, Florida Administrative Code and Policy 6.17, the School Board may exempt food products, except milk, from the bid requirements of Rule 6A-1.012, Florida Administrative Code. Milk may be exempt under the following conditions:

I. the Superintendent or designee has made a finding that no valid or acceptable firm bid has been received within the prescribed time; or

II. the Superintendent or designee has made a finding that an emergency situation exists and may enter into negotiations with suppliers of milk and shall have the authority to execute contracts under whatever terms and conditions as the Superintendent or designee determines to be in the best interest of the school system.

L. **Maintenance/Service/Warranty.** The School Board or its designee may award contracts for maintenance and/or service contracts, on various types of technical equipment, that are offered and/or supplied only by the original manufacturer or its representative, or that are required to maintain the integrity of the manufacturer's warranty, or that are part of the manufacturer's rental/lease/lease purchase agreement terms and conditions.

## 6. **Online and Electronic Procurement and Notice**

a. **On-line Solicitations.** The Director of Purchasing may utilize a third-party on-line system to post solicitations, including addenda; descriptions of commodities or contractual services believed to be available only from a single source; and notices of Decisions or Intended Decisions, and to receive responses, bids, and replies from Proposers.

b. **Purchasing Card.** The Superintendent or his/her designee may utilize procurement cards, to purchase commodities and contractual services as deemed to be in the best interest of the District and consistent with School Board Policy. Selected staff will be eligible to use a P-Card upon approval by the Superintendent or his/her designee of the prospective user's signed Purchasing Card Application (PBSD 2076) and Cardholder Acceptance Guidelines and Contract (PBSD 2077), which contain the appropriate-use standards and procedures. Pursuant to PBSD 2077, each user shall acknowledge, by signing the Application and Acceptance Guidelines and Contract, that the user must reimburse the District for any misuse of the

purchasing card and that a violation of those standards and procedures will be cause for discipline up to and including termination.

7. **Advance Payments.** To ensure adequate protection to the School District that goods and contractual services will be provided, advanced payment for goods and contractual services is discouraged. With adequate safeguards, however, the School Board may approve advance payments for contracts requiring School Board approval; the Superintendent or his/her designee may approve advance payments for contracts requiring his/her approval; and the Director of Purchasing may approve advance payments for all other contracts, as follows:

- a. for maintenance agreements, software license agreements, subscriptions, contracts to reserve space, and certain other commodities, when advance payment will result in a savings to the School District equal to or greater than the amount the School District would earn by investing the funds and paying in arrears, or where those items are essential to the operation of the School District and are available only if advance payment is made; or
- b. in accordance with Policy 6.01 regarding certain employee travel expenses.

8. **Integrity of the Award Process**

- a. From the time the ITB, RFP, ITN, or other competitive solicitation is posted and the time a Decision or Intended Decision is posted, potential Proposers and employees, representatives, partners, director, officers, or other individuals acting on behalf of the Proposer, shall be prohibited from lobbying any School District employee, Member of the School Board, Member of a School District Advisory Committee that may evaluate the awarded contract, or person selected to evaluate or recommend selection of the awarded Proposer. Lobbying in violation of this Policy or the School Board's Lobbying Policy during the Cone of Silence shall result in rejection/disqualification of the Proposer from award of a contract arising out of the ITB, RFP, ITN, or other competitive solicitation. Further, in order to protect the integrity of the award process, all questions regarding the ITN, RFP, ITB, or other competitive solicitation must be directed to the Purchasing Department who will respond in writing and post such response to ensure that all vendors receive the same information during the Cone of Silence.
- b. After the Decision or Intended Decision is posted, any persons including Proposers, or those acting on behalf of the Proposers, may discuss with any Board Member the merits of any ITB, RFP, ITN, or other competitive solicitation on which School Board action may be taken. Members of the School Board shall disclose any ex-parte communications in accordance with section 286.0115, Florida Statutes. Such disclosure shall be made before or during the public meeting at which time a vote will be taken on the award of a

contract.

c. Sealed bids, proposals, or replies received in response to a competitive solicitation are exempt from section 119.07(1), Florida Statutes and section 24(a), Article I of the State Constitution until such time as the School Board or authorized designee provides notice of a Decision or Intended Decision or until thirty (30) days after opening the bids, proposals, or final replies, whichever is earlier.

d. Any portion of a meeting at which a negotiation with a Proposer is conducted pursuant to a competitive solicitation, at which a Proposer makes an oral presentation as part of a competitive solicitation, or at which a Proposer answers questions as part of a competitive solicitation is exempt from section 286.011, Florida Statutes, and section 24(b), Art. I of the State Constitution. Any portion of an evaluation committee meeting at which negotiation strategies are discussed is exempt from section 286.011, Florida Statutes, and section 24(b), Art. I of the State Constitution. A complete recording shall be made of any portion of an exempt meeting. No portion of the exempt meeting may be held off the record.

9. **Protests Arising from the Contract Solicitation or Award Process.** This section implements section 120.57(3), Florida Statutes and Chapter 28-110, Florida Administrative Code.

a. **School District's Notice of Decision or Intended Decision.** Pursuant to section 120.57(3), Florida Statutes, the Director of Purchasing shall post notice of a Decision or Intended Decision concerning a solicitation or contract award arising out of the contract solicitation or award process by electronic posting. "Electronic posting" or "electronically post" means the noticing of solicitations, agency decisions or intended decisions, or other matters relating to procurement on a centralized Internet website designated for this purpose. This notice shall contain the following statement: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post a bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

b. **Notice of Protest.** In a contract procurement process, any person who is adversely affected by the agency Decision or Intended Decision and intends to protest the Decision or Intended Decision, shall file a notice of protest in writing with the Director of Purchasing within seventy-two (72) hours after the posting of the notice of Decision or Intended Decision. With respect to a protest of the terms, conditions, and specifications contained in a solicitation, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest shall be filed in writing within

seventy-two (72) hours after the posting of the solicitation.

i. A notice of protest should not be filed before the seventy-two (72) hour period begins. The seventy-two (72) hour period begins upon posting of the Decision or Intended Decision.

ii. The notice of protest must be actually received by the Purchasing Department before the seventy-two (72) hour period expires. The seventy-two (72) hour period excludes Saturdays, Sundays, and holidays when the School District administrative office is closed. The seventy-two (72) hour period is not extended by service of the notice of protest by mail. Failure to timely file a notice of protest shall constitute a waiver of proceedings under this section and section 120.57(3), Florida Statutes.

iii. The notice of protest shall identify the procurement by number and title or any other language that will clearly enable the School District to identify it; and it shall state that the person intends to protest the decision.

c. **Formal Written Protest.** The protestor shall file a formal written protest within ten (10) days after the date the notice of protest is filed. Failure to timely file the formal written protest shall constitute a waiver of proceedings under this Policy and section 120.57(3), Florida Statutes. The ten (10) day period for filing the petition is not extended by service of the petition by mail.

i. The formal written protest shall be a petition that:

A. states with particularity the facts and law upon which the protest is based;

B. contains all the information specified in Rule 28-106.201(2), Florida Administrative Code and Rule 28-106.301(2), Florida Administrative Code;

C. is substantially in the form of petition set forth in Rule 28-110.004(2), Florida Administrative Code, naming "The School Board of Palm Beach County, Florida" as the Respondent; and

D. should include a request for a hearing involving disputed issues of material fact; or, if the relevant facts are not in dispute, the petition should so allege and request a hearing not involving disputed issues of material fact.

ii. Pursuant to Rule 28-110.004(1), Florida Administrative Code, if the formal written protest is filed in proper form within the seventy-two (72) hour period for filing a notice of protest, the formal written protest will also constitute the notice of protest, and all time limits applicable to a notice of

protest are waived and the time limits relative to formal written protests shall apply.

- iii. **Posting the Bond.** The party protesting the bid specification or recommended award shall be required to post a bond in a form consistent with Rule 28-110.005(2), Florida Administrative Code and timely submit that bond to the School District Purchasing Department.

- iv. **Bond: Commodities (Other than Lease of Space) and Contractual Services (Including Professional Services and Insurance).** Any person who files an action protesting a Decision or Intended Decision pertaining to a solicitation or contract award shall post with the Director of Purchasing, at the time of filing the formal written protest, a bond secured by an acceptable surety company in Florida, payable to "The School Board of Palm Beach County, Florida" in an amount equal to one percent (1%) of the School District's estimate of the dollar value of the proposed contract.

- A. The School District shall provide the estimated contract amount to the protestor within seventy-two (72) hours (excluding Saturdays, Sundays, and holidays when the School District administrative office is closed) after the filing of the notice of protest. The estimated contract amount is not subject to protest under this Policy or section 120.57(3), Florida Statutes. This information may be provided as part of the Decision or Intended Decision documents. In lieu of a bond, the Director of Purchasing may accept a cashier's check, official bank check, or money order in the amount of the bond.

- B. The bond shall be conditioned upon the payment of all costs and charges which may be adjudged against the protestor in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding.

- C. If, after completion of the administrative hearing process and any appellate court proceedings, the School Board prevails, it shall be entitled to recover all costs and charges which are included in the final order or judgment, excluding attorney's fees. Upon payment of such costs and charges by the person protesting the Decision or Intended Decision or contract award, the bond, cashier's check, official bank check, or money order shall be returned to the protestor. If, after the completion of the administrative hearing process and any appellate court proceedings, the protestor prevails, the protestor may recover from the School Board the costs and charges which are included in the final order or judgment, excluding attorney's fees.

- v. **Bond: Construction Purchasing.** Bonds related to construction purchasing are separately governed by Policy 7.10, and protestors regarding competitive procurement related to educational facilities shall be required to post a bond in the amount specified in section 255.0516, Florida Statutes, which also governs recovery of fees and costs including attorney's fees. With respect to a protest of the terms, conditions, and specifications contained in a solicitation, protestors shall post a bond in the amount of one percent (1%) of the School District's estimate of the dollar value of the proposed contract or \$5,000, whichever is greater.
- d. **Staying the Procurement Process.** Upon timely receipt of the formal written protest petition, the solicitation or contract award process shall be stopped until the subject of the protest is resolved by final agency action, unless the Superintendent sets forth in writing particular facts and circumstances which require the continuance of the solicitation or contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.
- e. **Informal Resolution Meeting.** The Director of Purchasing shall provide an opportunity to resolve the protest by mutual agreement between the parties within seven (7) days (excluding Saturdays, Sundays, and holidays when the School District administrative offices are closed) of receipt of the formal written protest. All affected parties shall be notified of the notice of protest.
- i. **Hearing.** If the protest is not resolved by mutual agreement within seven (7) days (excluding Saturdays, Sundays, and holidays when the School District administrative offices are closed) after receipt of the formal written protest; and
- A. **if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to section 120.57(2), Florida Statutes and applicable Board Policies, and may be conducted before an impartial hearing officer who is a member in good standing of The Florida Bar; or**
- B. **if there is a disputed issue of material fact, in accordance with section 120.569, Florida Statutes, the protest shall be referred within fifteen (15) days after the Director of Purchasing receives the Formal Written Protest to the Division of Administrative Hearings for a formal hearing under section 120.57(1), Florida Statutes.**
- ii. **As stated in section 120.57(3)(f), Florida Statutes, the burden of proof shall rest with the party protesting the proposed agency action.**
- A. **In any bid-protest proceeding contesting an intended agency action to reject all bids, proposals, or replies, the standard of review shall**

755 be whether the School Board's intended action is illegal, arbitrary,  
756 dishonest, or fraudulent.

- 757 B. In competitive-procurement protests other than those contesting an  
758 intended agency action to reject all bids, proposals, or replies, the  
759 hearing officer or administrative law judge will conduct a de novo  
760 proceeding to determine whether the School Board's proposed  
761 action is contrary to the governing statutes, the School Board's  
762 Policies, or the solicitation documents. The standard of proof for such  
763 proceedings shall be whether the proposed agency action was  
764 clearly erroneous, contrary to competition, arbitrary, or capricious.

765 10. **Authority to Debar or Suspend**

- 766 a. The School Board may suspend a vendor who fails to fulfill any of its duties in  
767 a contract. The School Board may reinstate any such vendor when it is  
768 satisfied that further instances of default will not occur.
- 769 b. The School Board shall have the authority to debar a vendor for cause from  
770 consideration or award of future contracts or subcontracts. The debarment  
771 shall be for a period commensurate with the seriousness of the causes,  
772 generally not to exceed three (3) years. When the offense is willful or blatant,  
773 a longer term of debarment may be imposed, up to an indefinite period. This  
774 sanction shall be imposed only when it is in the best interest of the School  
775 District and for protection of the public, and not for punishment.
- 776 c. Good cause for Debarment or Suspension include the following:
- 777 i. conviction or civil judgment for commission of a fraud or a criminal  
778 offense as an incident to obtaining, attempting to obtain, performing, or  
779 making a claim upon any public entity contract or subcontract, or a  
780 contract funded in whole or in part with public funds;
- 781 ii. conviction or civil judgment for commission of a fraud or a criminal  
782 offense as an incident to obtaining, attempting to obtain, performing, or  
783 making a claim upon any private contractor subcontract;
- 784 iii. conviction or civil judgment under state or federal statutes of  
785 embezzlement, theft, forgery, bribery, collusion, racketeering, public entity  
786 crimes, dishonest services, falsification or destruction of records,  
787 receiving stolen property, or any other offense indicating a lack of  
788 business integrity or business honesty;
- 789 iv. conviction or civil judgment for violation of state or federal antitrust  
790 statutes arising out of the submission of offers, bids, or proposals;

- 791 v. violation of the School Board's Lobbying Policy;
- 792 vi. conviction or civil judgment for violating any federal or state immigration,  
793 minimum wage, or any other applicable employment related law;
- 794 vii. violation of contract provisions, as set forth below, of a character which is  
795 regarded by the Director of Purchasing to be so serious as to justify  
796 debarment action:
- 797 A. failure without good cause to perform in accordance with the terms  
798 or specifications of the contract, or within the time limit provided in  
799 the contract; or
- 800 B. a record of failure to perform or of unsatisfactory performance in  
801 accordance with the terms of one or more contracts; provided that  
802 failure to perform or unsatisfactory performance caused by acts  
803 beyond the control of the awarded Proposer or vendor doing  
804 business with the School District shall not be considered to be a  
805 basis for debarment;
- 806 viii. filing a lawsuit against the School Board which a court of competent  
807 jurisdiction determines to be frivolous or in bad faith;
- 808 ix. any and all causes for Suspension or Revocation listed in State  
809 Requirements for Educational Facilities 4.1(1)(g);
- 810 x. providing anything of value, including but not limited to, a gift, loan,  
811 reward, promise of future employment, favor or service to any School  
812 District employee, Board member, or member of the evaluation committee  
813 for the purpose of influencing the award of a contract or the purchase of  
814 items from the vendor; and
- 815 xi. any other cause the Director of Purchasing determines to be so serious  
816 and compelling as to affect responsibility as a Palm Beach County  
817 Schools awarded Proposer or vendor doing business with the School  
818 District, including debarment by another governmental entity for any  
819 cause.
- 820 d. Decision. The Superintendent may make a recommendation to the School  
821 Board to debar or suspend. The School Board shall approve, reject, or modify  
822 this recommendation at a public meeting.
- 823 e. Notice of Decision. A notice of the action taken by the School Board under this  
824 Section shall be mailed or otherwise furnished immediately to the debarred or  
825 suspended person/company and any other party intervening. This notice shall  
826 include the following:



i. the reasons for the action taken; and

ii. the length of time of the debarment.

f. Any vendor who is debarred or suspended shall have the right to file a petition for Administrative Hearing pursuant to sections 120.569 and 120.57, Florida Statutes.

**11. Beneficial Interest Form and Affidavit.**

Vendors wishing to do business with the School Board must execute PBSD 1997. At all times during the performance of the contract for goods or contractual services, the vendor shall ensure that the information disclosed on such form is current and correct.

**12. Office of the Inspector General.**

All vendors providing commodities or contractual services to the School Board pursuant to this Policy must agree to provide the School District's Office of the Inspector General with information needed to conduct an audit as permitted by Policy 1.092. All written contracts evidencing a purchase made in accordance with this Policy; every bid, proposal, and solicitation for contracts with outside contractors and subcontractors; and every application for certification of eligibility for a School Board contract or program shall contain a statement that the Inspector General shall have access to all financial and performance-related records, services, property, and equipment purchased in whole or in part with School Board funds, and that the individual, corporation, partnership, or organization understands and will abide by Policy 1.092, as applicable.

**13. Administrative Procedures**

Wherever this Policy mentions procedures to be established or implemented by the Superintendent, certain internal operational procedures and guidelines may be set forth in manuals where appropriate.

STATUTORY AUTHORITY: Fla. Stat. §§ 1001.41(2); 1001.42 (26); 1001.43(2)

LAWS IMPLEMENTED: Fla. Stat. §§ 119.071(1)(b); 120.57(3); 255.0516; 255.25(3)(d); 286.0113; 1001.32(2); 1001.41(1),(4),(5); 1001.42(12)(i),(j); 1001.51(11)(i); 1006.27; 1010.04; 1011.06; 1011.07

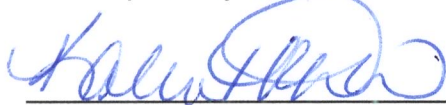
STATE BOARD OF EDUCATION RULE: Fla. Admin. Code Rule 6A-1.012

ADMINISTRATIVE PROCEDURE ACT RULES: Fla. Admin. Code Chapter 28-110

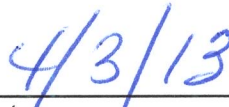
HISTORY: 3323, 9340.0, 2/18/72; 12/19/73; 4/6/83; 12/11/91; 11/21/95; 6/3/98; 9/22/99; 5/17/00; 5/24/2004; \_\_/\_\_/2013

Legal Signoff:

The Legal Department has reviewed proposed Policy 6.14 and finds it legally sufficient for adoption by the Board.



Attorney



Date