



POLICY 6.14

5-A I recommend the Board approve development of the proposed **revised** Policy 6.14, entitled “Purchasing Department.”

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

Development

CONSENT ITEM

- This Policy has been revised to:
 - Update the policy to incorporate revisions to Florida Statutes and the State Board of Education Rules for Purchasing by School Boards. These revisions, among other things, include raising the threshold for purchases requiring competitive solicitation from \$25,000 to the amount established in State Board of Education Rule 6A-1.012(7) (currently \$50,000) and amending the time period from 10 to 30 days for when sealed bids, proposals, or replies received in response to a competitive solicitation become public information.
 - Add delegated authority for the Director of Purchasing in order to document the operational duties of this position.
 - Revise delegated authority as follows:
 - Clarifies the delegation of authority to staff to use the p-cards for certain purchases;
 - Clarifies the delegation of authority to principals for purchases using school internal funds;
 - Revises the delegation of authority to the Superintendent of Schools to \$500,000 for Invitations to Bid, Requests for Proposals, Invitations to Negotiate and certain purchases that are exempt from competitive solicitation. 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; and
 - Adds ability to purchase from School Academies.
 - Expand the provision relating to suspension/debarment of vendors.
 - Clarify the option to use Environmentally Preferred Purchasing criteria in purchasing decisions.

POLICY 6.14

PURCHASING DEPARTMENT

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3 1. **Purpose**

4 The Purpose of this Purchasing Policy is to provide for a uniform and systematic
5 method for acquiring and procuring commodities, such as products, supplies,
6 materials, and equipment, and contractual services, including Professional
7 Services, in an efficient, cost effective manner in accordance with and as permitted
8 by applicable federal and state laws, Florida State Board of Education Rules,
9 School Board Policies, and administrative rules, procedures, and guidelines that
10 promote transparency and accountability in the expenditure of public funds and the
11 use of public resources. The goal of this Policy is to assist School Board members
12 and School District of Palm Beach County employees in protecting the integrity of
13 the contract award and procurement process, inspiring public confidence in the
14 process used to acquire commodities and contractual services, and promoting fair,
15 open, and non-discriminatory competition in a manner that protects the School
16 District's assets and ensures that the School District receives the maximum value
17 and quality when expending public dollars for a public purpose.

18 2. **Applicability**

19 This Policy shall govern the purchase of commodities and contractual services for
20 the School Board through the use of a competitive solicitation, where required by
21 law or as determined to be in the best interest of the School District, and purchases
22 which are specifically exempted by law from competitive solicitation, when those
23 commodities and contractual services are purchased using School Board general
24 funds, grant proceeds, or internal account funds held by individual schools. In
25 addition, the procedures set forth in Sections 4 and 8-12 below shall apply to
26 purchases made pursuant to Policies 7.051 and 7.10.

27 3. **Definitions**

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

- 37 source procurement, or other solicitation documents as permitted by law.
- 38 d. "Decision or Intended Decision" as used in this Policy shall have the same
39 meaning as in Uniform Rule 28-110.002(2), Florida Administrative Code, and
40 shall mean:
- 41 i. the notice of posting of the contents of a solicitation, including addenda;
- 42 ii. a determination that a specified procurement can be made only from a
43 single source;
- 44 iii. rejection of a response or all responses to a solicitation; or
- 45 iv. intention to award a contract as indicated by a posted solicitation
46 tabulation or other written notice.
- 47 e. "Environmental Preferable Purchasing (EPP), often referred to as "green
48 purchasing", may be used in the selection and acquisition of commodities and
49 contractual services. The goal of EPP is to procure commodities and
50 contractual services that most effectively minimize negative environmental
51 impact by evaluating criteria such as the vendor's method of manufacturing,
52 use of recycled content in products; use of less harmful and non-toxic
53 materials and processes; use of energy and water efficient products and
54 processes; use of fuel efficient vehicles and equipment; use of natural
55 resource and landscaping management; and use of renewable products,
56 packaging and delivery practices
- 57 f. In proceedings involving bid protests of a Decision or Intended Decision
58 arising out of the contract solicitation or award process, the terms "file" or
59 "filing" shall mean received by the Director of Purchasing during normal
60 business hours. Filing of a notice of protest or formal written protest petition is
61 permitted via regular US mail, hand delivery, electronic mail, or facsimile
62 transmission. A protestor who files a notice of protest or formal petition by
63 electronic mail or facsimile transmission represents that the original physically
64 signed document will be mailed to the Director of Purchasing immediately
65 upon submission of the notice of protest or formal petition via facsimile or
66 electronic mail. Any protestor who elects to file any document by electronic
67 mail or facsimile transmission shall be responsible for any delay, disruption, or
68 interruption of the signals and accepts the full risk that the document may not
69 be properly filed with the Director of Purchasing, as a result. The filing date for
70 a document transmitted by electronic mail or facsimile shall be the date the
71 Director of Purchasing receives the complete document. The bond, however,
72 cannot be transmitted via electronic mail or facsimile but must be timely filed
73 with the Director of Purchasing as required by this Policy.
- 74 g. "Information technology" shall have the same meaning as set forth in Section

75 282.0041(14), Florida Statutes.

76 h. “Invitation to bid” shall be defined as a written solicitation for competitive
77 sealed bids. The invitation to bid is used when the School Board or designee
78 is capable of specifically defining the scope of work for which a contractual
79 service is required and/or when the School Board or designee is capable of
80 establishing precise specifications defining the actual commodity or group of
81 commodities required. A written solicitation includes a solicitation that is
82 publicly posted.

83 i. “Invitation to negotiate” shall be defined as a written solicitation for competitive
84 sealed replies to select one or more vendors with which to commence
85 negotiations for the procurement of commodities or contractual services. The
86 invitation to negotiate is used when the School Board or designee determines
87 that negotiations may be necessary for it to receive the best value. A written
88 solicitation includes a solicitation that is publicly posted.

89 j. “Professional Services” shall be defined, for the purpose of procuring
90 commodities and non-construction related contractual services, to include,
91 without limitation, artistic services; academic program reviews; lectures by
92 individuals; auditing services not subject to Section 218.391, Florida Statutes;
93 legal services, including attorney, paralegal, expert witness, court reporting,
94 appraisal or mediator services; and health services involving examination,
95 diagnosis, treatment, prevention, medical consultation or administration. For
96 the purposes of this Policy, Professional Services does not include those
97 services procured pursuant to section 287.055, Florida Statutes.

98 k. “Proposer” includes those vendors submitting bids, proposals, or replies to a
99 competitive solicitation.

100 l. “Request for proposals” shall be defined as a written solicitation for
101 competitive sealed proposals. The request for proposals is used when it is not
102 practicable for the School Board or designee to specifically define the scope of
103 work for which the commodity, group of commodities, or contractual service is
104 required or the purchase is complex in nature and the School Board or
105 designee is requesting that a responsive, responsible vendor offers a solution
106 which will be evaluated by a set criteria set forth in the solicitation document.
107 A written solicitation includes a solicitation that is publicly posted.

108 4. **Delegation of Authority**

109 As set forth below, the School Board has delegated limited authority to the
110 Superintendent or his/her designee, the Director of Purchasing, Department Heads
111 or Directors, and School Principals relating to the purchase of the commodities and
112 contractual services for the School District in compliance with applicable federal
113 and state laws, Florida State Board of Education Rules, School Board Policies and

114 administrative rules, procedures, and guidelines. In addition, the School Board has
115 delegated certain authority to the Superintendent, Director of Purchasing and the
116 General Counsel or his/her designee with regard to handling matters relating to
117 Chapter 120, Florida Statutes. Any purchases not specifically delegated to the
118 Superintendent or his/her designee, the Purchasing Director, Department Heads or
119 Directors, or School Principals must be approved in advance by the School Board.
120 No person, unless specifically authorized to purchase commodities or contractual
121 services under School Board policies, may make any purchase or enter into any
122 contract involving the use of school or School District funds. Payment for any
123 unauthorized purchase may be the responsibility of the person placing the order.

124 a. **Department Heads or Directors**

125 i. Department Heads or Directors shall use bid awarded vendors approved
126 by the School Board or designee, where available unless otherwise
127 approved by the Director of Purchasing. Department Heads or Directors
128 may purchase commodities or services from School District academies
129 where available.

131 ii. Authority is delegated to the Department Head or Director of each
132 department to contract for:

133 A. contractual services, including Professional Services, in an amount
134 not to exceed two thousand-five hundred dollars (\$2,500) per vendor
135 per fiscal year.

137 B. commodities in an amount not to exceed one thousand dollars
138 (\$1,000) per vendor per day or for travel as authorized by Policy 6.01
139 when utilizing the School District issued Purchasing Card ("P-Card"),
140 with total monthly charges to the P-Card not exceeding the amount
141 authorized by the Director of Purchasing. The Director of Purchasing
142 may approve the issuance of multiple P-Cards to certain
143 departments, and Department Heads or Directors may delegate
144 authority to use such additional P-Cards to specific users within their
145 departments up to the limits set forth above.

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

149 b. **School Principals**

150 i. Principals shall use bid awarded vendors approved by the School Board
151 or designee, where available unless otherwise approved by the Director

152 of Purchasing. Principals may purchase commodities or services from
153 School District academies where available.

154 ii. Authority is delegated to the Principal of each school center to contract
155 for:

156 A. contractual services, including Professional Services, in an amount
157 not to exceed two thousand five hundred dollars (\$2,500) per vendor
158 per fiscal year.

159 B. commodities in an amount not to exceed one thousand dollars
160 (\$1,000) per vendor per day or for travel as authorized by Policy 6.01
161 when utilizing the School District issued P-Card, with total monthly
162 charges to the P-Card not exceeding the amount authorized by the
163 Superintendent or designee. The Director of Purchasing may
164 approve the issuance of multiple P-Cards to certain Principals, and
165 Principals may delegate authority to use such additional P-Cards to
166 specific users within their school centers up to the limits set forth
167 above;

168 C. In addition to the authority delegated above, the Principal shall also
169 have authority to purchase commodities and contractual services
170 which are to be paid from the internal funds of the school as follows:

171 I. for commodities when the total amount purchased does not
172 exceed ten thousand dollars (\$10,000) per fiscal year; and

173 II. for commodities and contractual services without limitation for
174 the following:

175 a. graduation supplies and yearbooks in accordance with
176 Policy 6.19

177 b. class pictures

178 c. class rings

179 d. prom

180 e. homecoming

181 f. dances

182 g. Project Graduation

183 h. fundraising projects and activities meeting the requirements

184 of Policy 2.16 (i.e. marathon fundraisers, student sales of
185 goods, etc.)

- 186 iii. In such cases where the School Board or designee has not approved a
187 vendor for the commodities or contractual services needed, the Principal
188 shall make purchases exceeding \$2,500, to the extent authority has been
189 delegated above, using competitive quotes, except for Professional
190 Services, educational services and copyrighted materials as set forth in
191 State Board of Education Rule 6A-1.012 or other applicable laws. Quotes
192 shall be based upon lowest price quote or selection criteria developed by
193 the Principal.
- 194
- 195 iv. Principals may not divide the procurement of commodities or contractual
196 services so as to avoid the delegated monetary threshold.

197

198 c. **Director of Purchasing**

- 199 i. The School Board designates the Purchasing Department as the School
200 District's official purchasing agent, and accordingly, authority is delegated
201 to the Director of Purchasing to:
- 202 A. determine the appropriate and most cost effective purchasing
203 method of contract procurement, including competitive solicitations,
204 direct negotiations, and/or methods that allow the School District to
205 take advantage of value discounts and special pricing agreements,
206 where appropriate;
- 207 B. approve the evaluation criteria for procuring commodities and
208 contractual services, including any preference required or allowable
209 by law or School Board policy;
- 210 C. oversee the competitive solicitation process in collaboration with the
211 School District end-user to include receiving formal information
212 through Requests for Information when needed, creating the
213 competitive solicitation document, approving the specifications,
214 terms and conditions which may include using Environmentally
215 Preferable Purchasing methods, selecting members of the evaluation
216 committee/team, and receiving, opening, tabulating, and evaluating
217 proposals, responses, bids, and replies in accordance with the
218 provisions of this Policy;
- 219 D. receive and process any and all notices of protest and formal written
220 protests for the purpose of determining whether the notices or written
221 protests are timely and have a timely and properly posted bond;
222 hold the informal resolution meeting as required by Chapter 120,

223 dismiss any invalid bid protests as determined by the Office of
224 General Counsel; and report any valid bid protests to the School
225 Board at least quarterly;

226 E. approve and issue purchase orders for purchases made in
227 accordance with this Policy;

228 F. track ITB, ITN, RFPs, and other Board awarded contracts to ensure
229 that the amount of purchase orders released does not exceed the
230 budgeted funds approved by the School Board;

231 G. oversee negotiations with vendors when appropriate;

232 H. oversee the P-Card Program;

233 I. provide purchasing oversight of the Supply and Redistribution
234 Warehouse and Mailroom;

235 J. prepare and execute Certificates of Entitlements for the purpose of
236 tax savings as required by section 212.086(6), Florida Statutes and
237 Rule 12A-1.094, Florida Administrative Code; and

238 K. approve and issue purchase orders for Direct Material Purchases for
239 the purpose of tax savings as allowed by section 212.086(6), Florida
240 Statutes and Rule 12A-1.094, Florida Administrative Code.

241 d. **Superintendent/Designee**

242 i. Authority is delegated to the Superintendent or his/her designee to:

243 A. approve contracts for departments and schools for Professional
244 Services in an amount in excess of two thousand five hundred
245 dollars (\$2,500) and up to ten thousand dollars (\$10,000);

246 B. approve contracts for commodities and contractual services, not
247 including Professional Services, up to five-hundred thousand dollars
248 (\$500,000) per vendor per fiscal year, except where specifically set
249 forth herein. A monthly report of such purchases must be provided to
250 the School Board.

251 C. reject any or all proposals, responses, bids or replies to any
252 competitive solicitation and re-compete or purchase the required
253 commodities or contractual services in any manner authorized by
254 this policy.

255 D. approve purchases of the following commodities and contractual

- 256 services without limitation as to the amount:
- 257 I. emergency purchases as defined in this policy;
- 258 II. regulated utilities or government-franchised services;
- 259 III. media advertisements (newspaper, radio, television, etc.);
- 260 IV. subscription services;
- 261 V. professional association fees or membership dues for
262 educational or non-profit organizations that serve the needs of
263 the School District;
- 264 VI. Florida Department of Law Enforcement for Level II screenings
265 of employees and vendors;
- 266 VII. travel expenditures and reimbursements in compliance with
267 Policy 6.01 and Chapter 112, Florida Statutes;
- 268 VIII. postage.
- 269 ii. Authority is delegated to the Superintendent to handle matters relating to
270 Chapter 120, Florida Statutes, Administrative Proceedings, including
271 administrative hearings:
- 272 A. ruling on motions to extend the deadline for filing a formal written
273 protest or other petitions for administrative hearing;
- 274 B. conducting or otherwise arrange for the conducting of informal
275 proceedings;
- 276 C. referral of formal written protests or other petitions for administrative
277 hearings pursuant to Section 120.57(3), Florida Statutes, to the
278 Division of Administrative Hearings (D.O.A.H.);
- 279 D. entry of orders determining whether a formal written protest, or other
280 petition for administrative hearing is timely and appropriately filed or
281 meets required pleading requirements;
- 282 E. entry of final orders approving or rejecting administrative actions
283 related to settlements, withdrawn petitions, voluntary case closures,
284 and other undisputed procedural matters associated with the
285 initiation or closure of administrative proceedings;
- 286 F. execute final orders following Governing Board action.

- 287 e. **General Counsel/Designee**
- 288 i. Authority is delegated to the General Counsel or his/her designee for the
289 following matters relating to Chapter 120, Florida Statutes, Administrative
290 Proceedings, including administrative hearings:
- 291 A. ruling on motions to extend the deadline for filing a formal written
292 protest or other petitions for administrative hearing;
- 293 B. conducting or otherwise arrange for the conducting of informal
294 proceedings;
- 295 C. referring of formal written protests or other petitions for administrative
296 hearings pursuant to section 120.57(3), Florida Statutes, to the
297 Division of Administrative Hearings (D.O.A.H.);
- 298 D. entering of orders determining whether a formal written protest, or
299 other petition for administrative hearing is timely and appropriately
300 filed or meets required pleading requirements;
- 301 E. entering of final orders approving or rejecting administrative actions
302 related to settlements, withdrawn petitions, voluntary case closures,
303 and other undisputed procedural matters associated with the
304 initiation or closure of administrative proceedings;
- 305 F. executing final orders following School Board action.
- 306 5. **Purchasing Methods.** The School Board or its designee shall purchase
307 commodities and contractual services as set forth below. Such purchases shall not
308 exceed the applicable appropriation in the School Board budget for each fiscal year
309 and the funds for such purchases shall not be otherwise encumbered.
- 310 a. **Competitive Solicitation.** The School Board or its authorized designee may
311 approve contracts resulting from competitive solicitations where required by
312 law or when in the best interest of the School District. Such contracts in
313 excess of five hundred thousand dollars (\$500,000) per fiscal year must be
314 submitted to the School Board for approval.
- 315 i. **Request for Proposals (RFP).** Except as authorized by law or rule,
316 proposals shall be requested from three (3) or more sources for
317 commodities and contractual services exceeding the amount established
318 in 6A-1.012(7) F.A.C. The contract may not be divided so as to avoid this
319 monetary threshold. In awarding to a Proposer pursuant to a Request for
320 Proposals, the School Board or its authorized designee may award to one
321 or more responsive, responsible Proposers in accordance with the
322 selection criteria published in the Request for Proposals.

323 ii. Invitation to Bid (ITB). Except as authorized by law or rule, ITBs or
324 reverse auctioning bids shall be requested from three (3) or more sources
325 for commodities and contractual services when requisitioning any item or
326 group of similar items exceeding the amount established in 6A-1.012(7)
327 F.A.C. The contract may not be divided so as to avoid this monetary
328 threshold. In acceptance of responses to ITBs or bids through reverse
329 auctioning, the School Board or its authorized designee shall accept the
330 lowest bid from a responsive and responsible bidder meeting all
331 specifications, terms and conditions published in the ITB. In the
332 alternative, the School Board or its authorized designee may award to the
333 responsive, responsible bidder offering the lowest cost as the primary
334 awardee and the next responsive, responsible bidder offering the next
335 lowest cost as an alternate awardee(s) meeting all specifications, terms
336 and conditions. Nothing herein is meant to prevent multiple awards to the
337 responsive and responsible bidders when such multiple awards are
338 clearly stated in the bid solicitation documents.

339 iii. Invitation to Negotiate (ITN). When procurement for commodities and
340 contractual services exceeding the amount established in 6A-1.012(7)
341 F.A.C. is not practicable by an ITB or an RFP, the Superintendent or
342 his/her designee may solicit competitive sealed replies to determine the
343 best method for achieving specific goals or solving a particular problem
344 and select one or more vendors with which the School Board's authorized
345 designee may negotiate a contract in order to receive the best value
346 based upon objective factors that may include, but are not limited to,
347 price, quality, design and workmanship.

348 b. Alternate Source Contracting. The School Board or its designee may
349 purchase commodities or contractual services from contracts that have been
350 awarded by another governmental agency, by a group of governmental
351 agencies or as a participant of a group of governmental agencies as allowed
352 by law and when in the best interest of the School District. Such contracts in
353 excess of five hundred thousand dollars (\$500,000) per fiscal year must be
354 submitted to the School Board for approval.

355 i. Department of Management Services. As required by Section
356 1001.42(12)(j), Florida Statutes, the School Board or its authorized
357 designee shall receive and give consideration to the prices available to it
358 under rules of the Department of Management Services, Division of
359 Purchasing. The School Board or its designee may use prices established
360 by the Division of Purchasing through its state purchasing agreement
361 price schedule under the same conditions for use imposed on state
362 agencies;

363 ii. Other Agency or group of Agencies. The School Board or its

364 authorized designee may make purchases at or below the specified
365 prices from contracts awarded by other city or county governmental
366 agencies, other district school boards, community colleges, federal
367 agencies, public or governmental agencies of any state, state university
368 systems, or from cooperative, interlocal, or pooled bid agreements, when
369 the Proposer will permit purchases by the School Board at the same
370 terms, conditions, and prices (or below such prices) awarded in such
371 contract, and such purchases are to the economic advantage of the
372 School Board;

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

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

384 c. **Direct Negotiation**

385 i. The School Board or its authorized designee may approve contracts
386 using direct negotiations where allowed by law and when in the best
387 interest of the School District. An Invitation to Negotiate (ITN) may be
388 used to determine the vendor or vendors with which to begin negotiations.
389 Such contracts in excess of five hundred thousand dollars (\$500,000) per
390 fiscal year must be submitted to the School Board for approval with the
391 exception of emergency purchases which will be ratified as indicated
392 herein and regulated utilities or government-franchised services.

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

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

402 II. if less than two responsive proposals for commodity or

403 contractual services are received, the Director of Purchasing,
404 may negotiate on the best terms and conditions or decide to
405 reject all proposals. The Director of Purchasing shall document
406 the reasons that negotiating terms and conditions with a
407 particular Proposer is in the best interest of the School District in
408 lieu of re-soliciting proposals.

409 ii. **Competitive Solicitation Waived or Not Required.** As provided in State
410 Board of Education Rule 6A-1.012, Florida Administrative Code; section
411 1010.04(4)(a), Florida Statutes; or other laws, in addition to the methods
412 described above, the School Board or its authorized designee may
413 purchase commodities and contractual services without soliciting three or
414 more sources, as set forth below:

415 A. **Less than the amount established in 6A-1.012(7) F.A.C. of Funds**
416 **Expended.** For purchases where less than the amount established
417 in 6A-1.012(7) F.A.C. of Funds will be expended, the School Board,
418 the Superintendent or his/her designee, Department Heads or
419 Directors, and/or School Principals may make and/or approve
420 purchases of the commodities and contractual services in
421 compliance with applicable federal and state laws, Florida Board of
422 Education Rules, School Board Policies; administrative rules,
423 procedures, and guidelines; and this Policy.

424 Competitive quotes shall be requested from three (3) or more
425 sources for commodities and contractual services when
426 requisitioning any item or group of similar items exceeding two
427 thousand five hundred dollars (\$2,500) except as exempted by State
428 Board of Education Rule 6A-1.012 or other applicable laws.

429 B. **Information Technology.** The School Board, when acquiring,
430 whether by purchase, lease, lease with option to purchase, rental or
431 otherwise, information technology, as defined in section
432 282.0041(14), Florida Statutes, may make any acquisition through
433 the competitive solicitation process as described herein or by direct
434 negotiation and contract with a vendor or supplier, as best fits the
435 needs of the School District as determined by the Director of
436 Purchasing. The Director of Purchasing shall document in writing
437 the reasoning for concluding that direct negotiation instead of
438 competitive solicitation is in the best interest of the School District.

439 C. **Risk Management.** The School Board may, except as otherwise
440 required by law, enter into direct negotiations and contract with a
441 vendor or supplier that best meets the needs of the School District
442 when acquiring insurance, entering risk management programs, or

443 contracting with third party administrators. An exception to this option
444 is for employee group insurance that must be competitively selected
445 in accordance with section 112.08, Florida Statutes.

446 D. **Educational Services/ Copyrighted Materials.** The School Board
447 or its authorized designee may purchase educational services and
448 any type of copyrighted materials including, educational tests,
449 textbooks, printed instructional materials, computer software, films,
450 filmstrips, videotapes, dvds, disc or tape recordings, digital
451 recordings, or similar audio-visual materials, and for library and
452 reference books, and printed library cards where such materials are
453 purchased directly from the producer or publisher, the owner of the
454 copyright, an exclusive agent within the state, a governmental
455 agency or a recognized educational institution.

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

461 F. **Regulated Utilities.** The School Board or its authorized designee
462 may contract for regulated utilities or government-franchise services.

463 G. **Grant or Law.** The School Board or its authorized designee may
464 enter into a contract where state or federal law, a grant, or state or
465 federal agency contract prescribes with whom the School Board
466 must contract or if the rate of payment is established during the
467 annual appropriation process.

468 H. **Professional Services.** The School Board or its authorized
469 designee may purchase Professional Services as set forth herein.

470 I. **Sole Source.** When School District's Director of Purchasing believes
471 that commodities or contractual services are available only from a
472 single source, the Director of Purchasing shall electronically or
473 otherwise publicly post a description of the commodities or
474 contractual services sought for a period of at least 7 business days.
475 The description must include a request that prospective vendors
476 provide information regarding their ability to supply the commodities
477 or contractual services described. If it is determined in writing by the
478 Director of Purchasing, after reviewing any information received from
479 prospective vendors, that the commodities or contractual services
480 are available only from a single source, the Director of Purchasing
481 shall provide notice of the Decision or Intended Decision to enter a

482 single source contract in the manner specified in section 120.57(3),
483 Florida Statutes, and may negotiate on the best terms and conditions
484 with the single source vendor.

485 J. **Emergency Purchases.** The School Board or its designee may
486 dispense with requirements for competitive solicitations for the
487 emergency purchase of commodities or contractual services when
488 the Superintendent determines in writing that an immediate danger
489 to the public health, safety, or welfare or other substantial loss to the
490 school district requires emergency action. After the Superintendent
491 makes such a written determination, the Director of Purchasing may
492 proceed with the procurement of commodities or contractual services
493 necessitated by the immediate danger, without requesting
494 competitive solicitations. However, such an emergency purchase
495 shall be made by obtaining pricing information from at least two
496 prospective vendors, which must be retained in the contract file,
497 unless the Superintendent determines in writing that the time
498 required to obtain pricing information will increase the immediate
499 danger to the public health, safety, or welfare or other substantial
500 loss to the school district. The Superintendent shall seek ratification
501 of this purchase by the School Board at the next regularly scheduled
502 business meeting.

503 K. **Food Service.** In compliance with Rule 5P-1.003, F.A.C. and Policy
504 6.17, the School Board may exempt food products, except milk from
505 the bid requirements of Rule 6A-1.012, F.A.C. Milk may be exempt
506 under the following conditions:

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

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

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

522 purchase agreement terms and conditions.

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

524 a. **On-line Solicitations.** The Director of Purchasing may utilize a third party on-
525 line system to post solicitations, including addenda, and notices of Decisions
526 or Intended Decisions and to receive responses, bids, and replies from
527 Proposers.

528 b. **Purchasing Card.** The Superintendent or his/her designee may utilize
529 procurement cards, to purchase commodities and contractual services as
530 deemed to be in the best interest of the District and consistent with School
531 Board Policy. Selected staff will be eligible to use a P-
532 Card upon approval by the Superintendent/designee of the prospective user's
533 signed Purchasing Card Application (PBSD 2076) and Cardholder Acceptance
534 Guidelines and Contract (PBSD 2077), which contain the appropriate-use
535 standards and procedures. Pursuant to PBSD 2077, each user shall
536 acknowledge, by signing the Application and Acceptance Guidelines and
537 Contract, that the user must reimburse the District for any misuse of the
538 purchasing card and that a violation of those standards and procedures will be
539 cause for discipline up to and including termination.

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

548 a. for maintenance agreements, software license agreements, subscriptions,
549 contracts to reserve space, and certain other commodities, when advance
550 payment will result in a savings to the School District equal to or greater than
551 the amount the School District would earn by investing the funds and paying in
552 arrears, or where those items are essential to the operation of the School
553 District and are available only if advance payment is made; or

554 b. in accordance with Policy 6.01 regarding certain employee travel expenses.

555 8. **Integrity of the Award Process**

556 a. From the time the ITB, RFP, ITN, or other competitive solicitation is posted
557 and the time a Decision or Intended Decision is posted, potential Proposers
558 and employees, representatives, partners, director, officers, or other
559 individuals acting on behalf of the Proposer, shall be prohibited from lobbying

560 any School District employee, Member of the School Board, Member of a
561 School District Advisory Committee that may evaluate the awarded contract,
562 or person selected to evaluate or recommend selection of the awarded
563 Proposer. Lobbying in violation of this Policy or the School Board's Lobbying
564 Policy during the Cone of Silence shall result in rejection/disqualification of the
565 Proposer from award of a contract arising out of the ITB, RFP, ITN, or other
566 competitive solicitation. Further, in order to protect the integrity of the award
567 process, all questions regarding the ITN, RFP, ITB, or other competitive
568 solicitation must be directed to the Purchasing Department staff who will
569 respond in writing and post such response for all vendors to receive the same
570 information during the Cone of Silence.

571 b. After the Decision or Intended Decision is posted, any persons including
572 Proposers, or those acting on behalf of the Proposers, may discuss with any
573 Board Member the merits of any ITB, RFP, ITN, or other competitive
574 solicitation on which School Board action may be taken. Members of the
575 School Board shall disclose any ex-parte communications in accordance with
576 section 286.0115, Florida Statutes. Such disclosure shall be made before or
577 during the public meeting at which time a vote will be taken on the award of a
578 contract.

579 c. Sealed bids, proposals, or replies received in response to a competitive
580 solicitation are exempt from section 119.07(1), Florida Statutes and section
581 24(a), Article I of the State Constitution until such time as the School Board or
582 authorized designee provides notice of a Decision or Intended Decision or until
583 thirty (30) days after opening the bids, proposals, or final replies, whichever is
584 earlier.

585 d. Any portion of a meeting at which a negotiation with a Proposer is conducted
586 pursuant to a competitive solicitation, at which a Proposer makes an oral
587 presentation as part of a competitive solicitation, or at which a Proposer
588 answers questions as part of a competitive solicitation is exempt from section
589 286.011, Florida Statutes, and s. 24(b), Art. I of the State Constitution. Any
590 portion of an evaluation committee meeting at which negotiation strategies are
591 discussed is exempt from section 286.011, Florida Statutes, and s. 24(b), Art. I
592 of the State Constitution. A complete recording shall be made of any portion
593 of an exempt meeting. No portion of the exempt meeting may be held off the
594 record.

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

598 a. **School District's Notice of Decision or Intended Decision.** Pursuant to
599 section 120.57(3), Florida Statutes, the Director of Purchasing shall post

600 notice of a Decision or Intended Decision concerning a solicitation or contract
601 award arising out of the contract solicitation or award process by electronic
602 posting. "Electronic posting" or "electronically post" means the noticing of
603 solicitations, agency decisions or intended decisions, or other matters relating
604 to procurement on a centralized Internet website designated for this purpose.
605 This notice shall contain the following statement: "Failure to file a protest
606 within the time prescribed in section 120.57(3), Florida Statutes, or failure to
607 post a bond or other security required by law within the time allowed for filing a
608 bond shall constitute a waiver of proceedings under Chapter 120, Florida
609 Statutes."

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

620 i. A notice of protest should not be filed before the 72-hour period begins.
621 The 72-hour period begins upon posting of the Decision or Intended
622 Decision.

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

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

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

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

- 639 A. states with particularity the facts and law upon which the protest is
640 based;
- 641 B. contains all the information specified in F.A.C. Rule 28-106.201(2),
642 and Rule 28-106.301(2),F.A.C.;
- 643 C. is substantially in the form of petition set forth in F.A.C. Rule 28-
644 110.004(2), naming "The School Board of Palm Beach County,
645 Florida" as the Respondent; and
- 646 D. should include a request for a hearing involving disputed issues of
647 material fact; or, if the relevant facts are not in dispute, the petition
648 should so allege and request a hearing not involving disputed issues
649 of material fact.
- 650 ii. Pursuant to F.A.C. Rule 28-110.004(1), if the formal written protest is filed
651 in proper form within the 72-hour period for filing a notice of protest, the
652 formal written protest will also constitute the notice of protest, and all time
653 limits applicable to a notice of protest are waived and the time limits
654 relative to formal written protests shall apply.
- 655 iii. **Posting the Bond.** The party protesting the bid specification or
656 recommended award shall be required to post a bond in a form consistent
657 with Rule 28-110.005(2), Florida Administrative Code and timely submit
658 that bond to the School District Purchasing Department.
- 659 iv. **Bond: Commodities (Other than Lease of Space) and Contractual**
660 **Services (Including Professional Services and Insurance).** Any
661 person who files an action protesting a Decision or Intended Decision
662 pertaining to a solicitation or contract award shall post with the Director of
663 Purchasing, at the time of filing the formal written protest, a bond secured
664 by an acceptable surety company in Florida, payable to "The School
665 Board of Palm Beach County, Florida" in an amount equal to one percent
666 (1%) of the School District's estimate of the dollar value of the proposed
667 contract.
- 668 A. The School District shall provide the estimated contract amount to
669 the protestor within seventy-two (72) hours (excluding Saturdays,
670 Sundays, and holidays when the School District administrative office
671 is closed) after the filing of the notice of protest. The estimated
672 contract amount is not subject to protest under this Policy or section
673 120.57(3), Florida Statutes. This information may be provided as part
674 of the Decision or Intended Decision documents. In lieu of a bond,
675 the Director of Purchasing may accept a cashier's check, official
676 bank check, or money order in the amount of the bond.

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

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

692 v. **Bond: Competitive Bids for Lease of Space.** Pursuant to section
693 255.25(3)(d), Florida Statutes, any person who files an action protesting a
694 Decision or Intended Decision pertaining to a competitive solicitation for
695 space to be leased by the School Board shall post with the Director of
696 Purchasing, at the time of filing the formal written protest, a bond payable
697 to "The School Board of Palm Beach County, Florida" in an amount equal
698 to one percent (1%) of the estimated total rental of the basic lease period
699 or \$5,000, whichever is greater.

700 A. Said bond shall be conditioned upon the payment of all costs which
701 may be adjudged against him or her in the administrative hearing in
702 which the action is brought and in any subsequent appellate court
703 proceeding.

704 B. If the School Board prevails after completion of the administrative
705 hearing process and any appellate court proceedings, it shall recover
706 all costs and charges which are included in the final order or
707 judgment, excluding attorney's fees. Upon payment of such costs
708 and charges by the person protesting the award, the bond shall be
709 returned to him or her.

710 C. If the person protesting the award prevails, the bond shall be
711 returned to that person and he or she shall recover from the Board
712 the costs and charges which are included in the final order or
713 judgment, excluding attorney's fees.

714 vi. **Bond: Construction Purchasing.** Construction purchasing is separately
715 governed by Policy 7.10, and protestors regarding competitive

716 procurement related to educational facilities shall be required to post a
717 bond in the amount specified in section 255.0516, Florida Statutes, which
718 also governs recovery of fees and costs including attorney's fees. With
719 respect to a protest of the terms, conditions, and specifications contained
720 in a solicitation, protestors shall post a bond in the amount of one percent
721 (1%) of the School District's estimate of the dollar value of the proposed
722 contract or \$5,000, whichever is greater.

723 d. **Staying the Procurement Process.** Upon timely receipt of the formal written
724 protest petition, the solicitation or contract award process shall be stopped
725 until the subject of the protest is resolved by final agency action, unless the
726 Superintendent sets forth in writing particular facts and circumstances which
727 require the continuance of the solicitation or contract award process without
728 delay in order to avoid an immediate and serious danger to the public health,
729 safety, or welfare.

730 e. **Informal Resolution Meeting.** The Director of Purchasing shall provide an
731 opportunity to resolve the protest by mutual agreement between the parties
732 within seven (7) days (excluding Saturdays, Sundays, and holidays when the
733 School District administrative office closed) of receipt of the formal written
734 protest. All affected parties shall be notified of the notice of protest.

735 i. **Hearing.** If the protest is not resolved by mutual agreement within seven
736 (7) days (excluding Saturdays, Sundays, and holidays when the School
737 District administrative office closed) after receipt of the formal written
738 protest:

739 ii. If there is no disputed issue of material fact, an informal proceeding shall
740 be conducted pursuant to section 120.57(2), Florida Statutes, and
741 applicable Board Policies and may be conducted before an impartial
742 hearing officer who is a member in good standing of The Florida Bar.

743 iii. If there is a disputed issue of material fact, in accordance with section
744 120.569, Florida Statutes, the protest shall be referred within fifteen (15)
745 days after the Director of Purchasing receives the Formal Written Protest
746 to the Department of Administrative Hearings (DOAH) for a formal
747 hearing under section 120.57(1), Florida Statutes.

748 iv. As stated in section 120.57(3)(f), Florida Statutes, the burden of proof
749 shall rest with the party protesting the proposed agency action.

750 A. In any bid-protest proceeding contesting an intended agency action
751 to reject all bids, proposals, or replies, the standard of review shall
752 be whether the School Board's intended action is illegal, arbitrary,
753 dishonest, or fraudulent.

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

762 10. Authority to Debar or Suspend

763 a. The School Board may suspend a vendor who fails to fulfill any of its duties in
764 a contract. The School Board may reinstate any such vendor when it is
765 satisfied that further instances of default will not occur.

766 b. The School Board shall have the authority to debar a vendor for cause from
767 consideration or award of future contracts or subcontracts. The debarment
768 shall be for a period commensurate with the seriousness of the causes,
769 generally not to exceed three (3) years. When the offense is willful or blatant,
770 a longer term of debarment may be imposed, up to an indefinite period. This
771 sanction shall be imposed only when it is in the best interest of the School
772 District and for protection of the public, and not for punishment.

773 c. Good cause for Debarment or Suspension include the following:

774 i. conviction or civil judgment for commission of a fraud or a criminal
775 offense as an incident to obtaining, attempting to obtain, performing, or
776 making a claim upon any public entity contract or subcontract, or a
777 contract funded in whole or in part with public funds;

778 ii. conviction or civil judgment for commission of a fraud or a criminal
779 offense as an incident to obtaining, attempting to obtain, performing, or
780 making a claim upon any private contractor subcontract,

781 iii. conviction or civil judgment under state or federal statutes of
782 embezzlement, theft, forgery, bribery, collusion, racketeering, public entity
783 crimes, dishonest services, falsification or destruction of records,
784 receiving stolen property, or any other offense indicating a lack of
785 business integrity or business honesty;

786 iv. conviction or civil judgment for violation of state or federal antitrust
787 statutes arising out of the submission of offers, bids, or proposals;

788 v. violation of the School Board's lobbying policy;

789 vi. conviction or civil judgment for violating any federal or state immigration,

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

- 825 ii. the length of time of the debarment.
- 826 f. Any vendor who is debarred or suspended shall have the right to file a petition
827 for Administrative Hearing pursuant to sections 120.569 and 120.57 Florida
828 Statutes.
- 829 11. **Beneficial Interest Form and Affidavit.** Vendors wishing to do business with the
830 School Board must execute PBSB 1997. At all times during the performance of the
831 contract for goods or contractual services, the vendor shall ensure that the
832 information disclosed on such form is current and correct.
- 833 12. **Administrative Procedures**
- 834 Wherever this Policy mentions procedures to be established or implemented by the
835 Superintendent, certain internal operational procedures and guidelines may be set
836 forth in manuals where appropriate. Other more formal procedures when
837 sufficiently developed and solidified, should be recommended to the School Board,
838 where appropriate, for adoption as Policy.
- 839
- 840 ~~13. **Delegation of Authority.**—As set forth below, the School Board has delegated authority to the Superintendent~~
841 ~~or his/her designee to be responsible for the purchase of the commodities and contractual services for the~~
842 ~~District in compliance with Florida Statutes, State Board of Education Rules, and Board Policy. The Board has~~
843 ~~also delegated limited purchasing authority to Department heads and school principals, as set forth below. Any~~
844 ~~purchases not delegated to department heads, principals, or the Superintendent/designee, must be approved~~
845 ~~in advance by the School Board.~~
- 846 a. ~~**Department Heads.**— Authority is vested in the Director of each department to contract for contractual~~
847 ~~services in an amount not to exceed two thousand five hundred dollars (\$2,500). (Other purchases of~~
848 ~~contractual services and all purchases of commodities are subject to subsection (1)(c) below.)~~
- 849 b. ~~**School Principals**~~
- 850 i. ~~Authority is vested in the Principal of each school center to contract for contractual services in an~~
851 ~~amount not to exceed two thousand five hundred dollars (\$2,500). (Other purchases of contractual~~
852 ~~services are subject to subsection (1)(c) below.)~~
- 853 ii. ~~Principals may also approve purchases of commodities which are to be paid from the internal~~
854 ~~funds of the school when the total amount of each purchase does not exceed fifteen thousand~~
855 ~~dollars (\$15,000). (Other purchases of goods are subject to subsection (1)(c) below).~~
- 856 c. ~~**Superintendent/Designee**~~
- 857 i. ~~Authority is vested in the Superintendent or his/her designee to approve consultant agreements~~
858 ~~between two thousand five hundred dollars (\$2,500) and ten thousand dollars (\$10,000). However,~~
859 ~~when the contract amount will exceed \$10,000 for any one fiscal year utilizing budgeted funds, the~~
860 ~~consultant agreement must be approved by the School Board prior to services being provided.~~
- 861 ii. ~~Apart from the consultant agreements mentioned in paragraph (1)(c)(i), above, (for which the~~
862 ~~threshold is \$10,000), authority is also vested in the Superintendent or his/her designee to:~~

863 A. ~~authorize purchases and award contracts for commodities or contractual services not~~
864 ~~exceeding fifteen thousand dollars (\$15,000);~~

865 B. ~~approve or reject purchase requisitions and authorize purchase of commodities and~~
866 ~~contractual services, without regard to dollar amount, when the method used is an Invitation~~
867 ~~to Bid or competitive quotes and the award is based upon lowest bid or quote from a~~
868 ~~responsive and responsible bidder meeting specifications (provided that, for purchases in~~
869 ~~this subparagraph B, prior approval of the Superintendent or Chief Operating Officer is~~
870 ~~required, and a quarterly report of such purchases over \$15,000 must be provided to the~~
871 ~~Board); or~~

872 C. ~~approve, and award contracts for, exceptional purchases without limitation as to dollar~~
873 ~~amount (apart from any dollar limitation specified in the exemption itself, such as in~~
874 ~~paragraph (2)(c)(v) below). "Exceptional purchases" refers to any purchase of commodities~~
875 ~~or contractual services excepted by law or rule, such as State Board of Education Rule 6A-~~
876 ~~1.012, from the requirements for competitive solicitation.~~

877 14. ~~**Maximum Value.** Pursuant to Fla. Stat. § 1001.51(11)(i), the Superintendent of Schools or his/her designee~~
878 ~~shall, insofar as possible, propose standards and specifications. He or she shall see that the purchase or~~
879 ~~contract conforms to those standards and specifications, and shall take such other steps as are necessary to~~
880 ~~see that the maximum value is being received for any money expended. Insofar as practicable, all purchases~~
881 ~~shall be based on requisitions, and the Superintendent/designee shall certify that funds to cover the~~
882 ~~expenditures under the requisitions are authorized by the budget and have not been encumbered.~~

883 a. ~~**Competitive Quotes.** Competitive quotes shall be requested from three (3) or more sources for~~
884 ~~commodities and contractual services when requisitioning any item or group of similar items exceeding~~
885 ~~ten thousand dollars (\$10,000) except as exempted by State Board of Education Rule 6A-1.012 or other~~
886 ~~applicable laws.~~

887 b. ~~**Bids/Proposals.** Bids/proposals shall be requested from three (3) or more sources for commodities~~
888 ~~and contractual services when requisitioning any item or group of similar items exceeding twenty five~~
889 ~~thousand dollars (\$25,000) or as otherwise set by the threshold amount in Fla. Stat. § 287.017 for~~
890 ~~Category Two, except as exempt by State Board of Education Rule 6A-1.012 or other applicable laws.~~
891 ~~However, for the purchase of items covered under the Federal Assistance Programs, the threshold shall~~
892 ~~be ten thousand dollars (\$10,000) or as otherwise required under federal regulations.~~

893 i. ~~In acceptance of bids, the School Board (or the Superintendent/designee, for purchases delegated~~
894 ~~to him or her) shall accept the lowest bid from a responsive and responsible bidder.~~

895 ii. ~~However, the School Board (and the Superintendent/designee, for purchases delegated to him or~~
896 ~~her) shall have the authority to reject any or all bids and request new bids.~~

897 c. ~~**Other Options.** As provided in State Board of Education Rule 6A-1.012 or other laws, in addition to the~~
898 ~~methods described in subsections (2)(a) and (b), the Board (or the Superintendent/designee, for~~
899 ~~purchases delegated by Section (1)):~~

900 i. ~~shall have the option to purchase under the current contracts as may be established for any state~~
901 ~~agency whose purchasing agents are authorized to make purchases for the benefit of other~~
902 ~~government agencies within the county, at the prices stated therein (piggybacking), if such~~
903 ~~purchase is to the economic advantage of the School Board, subject to conformance of the items~~
904 ~~of purchase to the standards and specifications prescribed by the Superintendent or his/her~~
905 ~~designee;~~

906 ii. ~~may, in lieu of requesting bids from three (3) or more sources, make purchases at the unit prices~~
907 ~~in contracts awarded by other city or county governmental agencies, school boards, community~~
908 ~~colleges, or state university system cooperative agreements, when the bidder/awardee of those~~
909 ~~contracts will permit purchases by the School Board at the same terms, conditions, and unit prices~~
910 ~~awarded in such agency contract, and such purchases would be to the economic advantage of the~~

- 911 Board;
- 912 ~~iii. may, without requesting bids, purchase school buses, equipment, and related contractual needs~~
913 ~~and supplies through the pool-purchase provisions of Fla. Stat. § 1006.27;~~
- 914 ~~iv. shall receive and give consideration to the prices available to it under state contracts, pursuant to~~
915 ~~the rules of the Department of Management Services, State Division of Purchasing state contracts~~
916 ~~and may purchase from these contracts without requesting bids;~~
- 917 ~~v. may use prices established by the State Division of Purchasing through its state negotiated price~~
918 ~~schedule (SNAPS) (or similar successor State program), provided such use will be limited to~~
919 ~~\$150,000 (or the prescribed limit of similar successor State program);~~
- 920 ~~vi. may waive the requirements for competitive quotes or requesting bids for the purchase of~~
921 ~~professional or educational services, educational tests, textbooks, printed instructional materials,~~
922 ~~computer software, films, filmstrips, videotapes, disc or tape recordings, or similar audio-visual~~
923 ~~materials, and for library and reference books, and printed library cards where such materials are~~
924 ~~purchased directly from the producer or publisher, the owner of the copyright, an exclusive agent~~
925 ~~within the state, a governmental agency or a recognized educational institution;~~
- 926 ~~vii. may enter into negotiations with suppliers of commodities and contractual services and execute~~
927 ~~contracts under terms and conditions as determined to be in the best interests of the school~~
928 ~~system, when bids have been requested in the manner prescribed and no valid or acceptable firm~~
929 ~~bid has been received within the prescribed time;~~
- 930 ~~viii. may, except as otherwise required by statute, enter into direct negotiations and contract with a~~
931 ~~vendor or supplier that best meets the needs of the School District when acquiring insurance,~~
932 ~~entering risk management programs, or contracting with third party administrators. An exception to~~
933 ~~this option is for employee group insurance that must be competitively selected;~~
- 934 ~~ix. may, when acquiring information technology resources pursuant to SBER 6A 1.012(10) by~~
935 ~~purchase, lease, lease with option to purchase, rental or otherwise, make the technology~~
936 ~~acquisition either through competitive bids or by direct negotiation with a vendor or supplier, as~~
937 ~~best fits the needs of the District as determined by the Board; or~~
- 938 ~~x. may purchase commodities and contractual services available only from a single source if it is~~
939 ~~determined that such commodities or services are available only from a single source and such~~
940 ~~determination is documented pursuant to Fla. Stat. § 287.057(5)(e).~~

941 ~~d. Online and Electronic Procurement~~

- 942 ~~i. The Superintendent or his/her designee will receive and give consideration to the prices available~~
943 ~~through the use of the program for online procurement of commodities and contractual services~~
944 ~~under the rules of the Department of Management Services, Division of Purchasing, as well as~~
945 ~~other opportunities for online procurement as may be available, such as reverse auctioning.~~
- 946 ~~ii. The Superintendent or his/her designee may utilize any appropriate electronic methods, such as~~
947 ~~procurement cards, to purchase commodities and contractual services as deemed to be in the~~
948 ~~best interest of the District and consistent with the other parts of this Policy. Selected staff will be~~
949 ~~eligible to use a District purchasing card upon approval by the Superintendent/designee of the~~
950 ~~prospective user's signed Purchasing Card Application (PBSD 2076) and Cardholder Acceptance~~
951 ~~Guidelines and Contract (PBSD 2077), which contain the appropriate use standards and~~
952 ~~procedures. Pursuant to form PBSD 2077, each user shall acknowledge, by signing the~~
953 ~~Application and Acceptance Guidelines and Contract, that the user must reimburse the District for~~
954 ~~any misuse of the purchasing card and that a violation of those standards and procedures will be~~
955 ~~cause for discipline up to and including termination.~~
- 956 ~~iii. The Superintendent shall develop procedures for any online and electronic purchasing methods~~
957 ~~utilized. Such procedures may be disseminated through a Bulletin and a summary of the~~
958 ~~standards and guidelines should be included in a future revision of this Policy.~~

959 e. ~~**Advance Payments.** With adequate safeguards to ensure that the commodities or contractual services~~
960 ~~will be provided, the Board, or the Superintendent/designee pursuant to the Board's delegation of~~
961 ~~authority in Section (1) above, may make advance payments:~~

- 962 i. ~~pursuant to Fla. Stat. § 216.181(16)(b) under certain contracts with other governmental agencies~~
963 ~~or not-for-profit corporations;~~
- 964 ii. ~~consistent with Fla. Stat. § 215.422(14) for maintenance agreements, software license~~
965 ~~agreements, subscriptions, contracts to reserve space, and certain other commodities, when~~
966 ~~advance payment will result in a savings to the District equal to or greater than the amount the~~
967 ~~District would earn by investing the funds and paying in arrears, or where those items are~~
968 ~~essential to the operation of the District and are available only if advance payment is made; or~~
969 iii. ~~in accordance with Policy 6.01 regarding certain employee travel expenses.~~

970 15. ~~**Integrity of the Award Process**~~

- 971 a. ~~Once the bid or RFP is released, no bidder or individuals acting on behalf of the bidder or offeror shall~~
972 ~~lobby District personnel or School Board members. Lobbying School Board members or District~~
973 ~~personnel will result in rejection/disqualification of said bids or RFPs. For purposes of this Policy,~~
974 ~~"lobbying" is defined as any action taken by an individual, firm, association, joint venture, partnership,~~
975 ~~syndicate, corporation and all other groups whose seek to influence the governmental decision of a Board~~
976 ~~member or District personnel after the release of the bid or RFP and prior to time that an award~~
977 ~~recommendation is posted.~~
- 978 b. ~~After the award is posted, any persons including bidders, or those acting on behalf of the bidders may~~
979 ~~discuss with any Board Member the merits of any bid or RFP on which Board action may be taken.~~
980 ~~Board members shall disclose any ex parte communications in accordance with Fla. Stat. §~~
981 ~~286.0115. Such disclosure shall be made before or during the public meeting at which time a vote will be~~
982 ~~taken on the award of a contract. This will allow persons who may have opinions contrary to those~~
983 ~~expressed during any ex parte communications to have a reasonable opportunity to respond to those~~
984 ~~communications.~~

985 16. ~~**Protests Arising from the Contract Solicitation or Award Process.** This section implements Fla. Stat. §~~
986 ~~120.57(3) and Fla. Admin. Code Chapter 28-110.~~

987 a. ~~**Definitions**~~

988 i. ~~As used in this Section, the term "decision or intended decision" includes, pursuant to F.A.C. Rule~~
989 ~~28-110.002(2):~~

- 990 A. ~~the notice of posting of the contents of an ITB or an RFP or other specifications, including~~
991 ~~addenda;~~
- 992 B. ~~a determination that a specified procurement can be made only from a single source;~~
- 993 C. ~~the approval of procurement by negotiation;~~
- 994 D. ~~the rejection of a bid or proposal, or all bids or proposals, or a request to approve a single~~
995 ~~source or negotiation; or~~
- 996 E. ~~the intention to award a contract as indicated by a posted bid or proposal tabulation or other~~
997 ~~written notice.~~

998 ii. ~~As used in this Section, the term "contract procurement process" has the same meaning as~~
999 ~~"contract bidding process" as used in Fla. Stat. § 120.57(3). This phrase includes procurements by~~
1000 ~~invitation to bid (ITB), request for proposal (RFP), single source approval, and negotiation~~
1001 ~~approval.~~

1002 b. ~~**District's Notice of Decision or Intended Decision.** Pursuant to Fla. Stat. § 120.57(3), the District~~
1003 ~~shall provide notice of a decision or intended decision concerning a solicitation, contract award, or~~
1004 ~~exceptional purchase by electronic posting. This notice shall contain the following statement: "Failure to~~
1005 ~~file a protest within the time prescribed in section 120.57(3), Florida Statutes, shall constitute a waiver of~~
1006 ~~proceedings under chapter 120, Florida Statutes."~~

1007 c. ~~**Notice of Protest.** In a contract procurement process, any person who is adversely affected by the~~

1008 agency decision or intended decision and intends to protest the decision or intended decision, must file a
1009 notice of protest in writing within seventy two (72) hours after the posting of the notice of decision or
1010 intended decision. With respect to a protest of the terms, conditions, and specifications contained in a
1011 solicitation, including any provisions governing the methods for ranking bids, proposals, or replies,
1012 awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the
1013 notice of protest shall be filed in writing within seventy two (72) hours after the posting of the solicitation.

1014 i. All notices of protest shall be directed to the Director of Purchasing.
1015 ii. A notice of protest should not be filed before the 72-hour period begins. The 72-hour period begins
1016 upon receipt of a copy of the ITB or RFP; when notice of a single source approval or disapproval
1017 or negotiation approval or disapproval is posted, or otherwise received if not posted; when a bid or
1018 proposal tabulation is posted; or when notice is otherwise received if not posted.
1019 iii. The notice of protest must be actually received by the Purchasing Department before the 72-hour
1020 period expires. The 72-hour period excludes Saturdays, Sundays, and holidays when the District
1021 administrative office is closed. The 72-hour period is not extended by service of the notice of
1022 protest by mail. Failure to timely file a notice of protest shall constitute a waiver of proceedings
1023 under this Section and Fla. Stat. § 120.57(3).
1024 iv. The notice of protest shall identify the procurement by number and title or any other language that
1025 will clearly enable the District to identify it; and it shall state that the person intends to protest the
1026 decision.

1027 d. **Formal Written Protest.** The protestor shall file a formal written protest within ten (10) days after the
1028 date the notice of protest is filed. Failure to timely file the formal written protest shall constitute a waiver
1029 of proceedings under this Section and Fla. Stat. § 120.57(3). The 10-day period for filing the petition is
1030 not extended by service of the petition by mail.

1031 i. The formal written protest shall be a petition that:
1032 A. states with particularity the facts and law upon which the protest is based;
1033 B. contains all the information specified in F.A.C. Rule 28-106.201(2);
1034 C. is substantially in the form of petition set forth in F.A.C. Rule 28-110.004(2), naming "The
1035 School Board of Palm Beach County, Florida" as the Respondent; and
1036 D. should include a request for a hearing involving disputed issues of material fact; or, if the
1037 relevant facts are not in dispute, the petition should so allege and request a hearing not
1038 involving disputed issues of material fact.

1039 ii. Pursuant to F.A.C. Rule 28-110.004(1), if the formal written protest is filed in proper form within the
1040 72-hour period for filing a notice of protest, the formal written protest will also constitute the notice
1041 of protest, and all time limits applicable to a notice of protest are waived and the time limits relative
1042 to formal written protests shall apply.

1043 e. **Posting the Bond.** The protesting party shall be required to post a bond in a form consistent with
1044 F.A.C. Rule 28-110.005(2). A notice of decision or intended decision shall contain this statement:
1045 "Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post
1046 the bond or other security required by law within the time allowed for filing a bond shall constitute a
1047 waiver of proceedings under Chapter 120, Florida Statutes."

1048 i. **Bond: Commodities (Other than Lease of Space) and Contractual Services (Including**
1049 **Professional Services and Insurance).** Pursuant to Fla. Stat. § 287.042(2)(c), any person who
1050 files an action protesting a decision or intended decision pertaining to a solicitation or contract
1051 award shall post with the Board, at the time of filing the formal written protest, a bond secured by
1052 an acceptable surety company in Florida, payable to The School Board of Palm Beach County in
1053 an amount equal to one percent (1%) of the District's estimate of the dollar value of the proposed
1054 contract.

1055 A. The District shall provide the estimated contract amount to the protestor within seventy two
1056 (72) hours (excluding Saturdays, Sundays, and holidays when the District administrative
1057 office is closed) after the filing of the notice of protest. The estimated contract amount is not

1058 subject to protest under this Policy or Fla. Stat. s. 120.57(3). In lieu of a bond, the Board
1059 may accept a cashier's check, official bank check, or money order in the amount of the
1060 bond.
1061 B. The bond shall be conditioned upon the payment of all costs and charges which may be
1062 adjudged against the protestor in the administrative hearing in which the action is brought
1063 and in any subsequent appellate court proceeding.
1064 C. Pursuant to Fla. Stat. § 287.042(2)(c), if, after completion of the administrative hearing
1065 process and any appellate court proceedings the Board prevails, it shall be entitled to
1066 recover all costs and charges which are included in the final order or judgment, excluding
1067 attorney's fees. Upon payment of such costs and charges by the person protesting the
1068 decision or intended decision or contract award, the bond, cashier's check, official bank
1069 check, or money order shall be returned to the protestor. If, after the completion of the
1070 administrative hearing process and any appellate court proceedings, the protestor prevails,
1071 the protestor may recover from the Board the costs and charges which are included in the
1072 final order or judgment, excluding attorney's fees.

1073 ii. **Bond: Competitive Bids for Lease of Space.** Pursuant to Fla. Stat. § 255.25(3)(c), any person
1074 who files an action protesting a decision or intended decision pertaining to a competitive bid for
1075 space to be leased by the Board shall post with the Board, at the time of filing the formal written
1076 protest, a bond payable to The School Board of Palm Beach County in an amount equal to 1
1077 percent of the estimated total rental of the basic lease period or \$5,000, whichever is greater,
1078 which bond shall be conditioned upon the payment of all costs which may be adjudged against
1079 him or her in the administrative hearing in which the action is brought and in any subsequent
1080 appellate court proceeding. If the Board prevails after completion of the administrative hearing
1081 process and any appellate court proceedings, it shall recover all costs and charges which are
1082 included in the final order or judgment, excluding attorney's fees. Upon payment of such costs and
1083 charges by the person protesting the award, the bond shall be returned to him or her. If the person
1084 protesting the award prevails, the bond shall be returned to that person and he or she shall
1085 recover from the Board the costs and charges which are included in the final order or judgment,
1086 excluding attorney's fees.
1087 iii. **Bond: Construction Purchasing.** Construction purchasing is separately governed by Policy
1088 7.10, and protestors regarding competitive procurement related to educational facilities shall be
1089 required to post a bond in the amount specified in Fla. Stat. § 255.0516, which also governs
1090 recovery of fees and costs including attorney's fees.

1091 f. **Staying the Procurement Process.** Upon timely receipt of the formal written protest petition, the
1092 solicitation or contract award process shall be stopped until the subject of the protest is resolved by final
1093 agency action, unless the School Board sets forth in writing particular facts and circumstances which
1094 require the continuance of the solicitation or contract award process without delay in order to avoid an
1095 immediate and serious danger to the public health, safety, or welfare.
1096 g. **Informal Resolution.** The Director of Purchasing shall provide an opportunity to resolve the protest by
1097 mutual agreement between the parties within seven (7) days (excluding Saturdays, Sundays, and
1098 holidays when the District administrative office closed) of receipt of the formal written protest. All affected
1099 parties shall be notified of the notice of protest.
1100 h. **Hearing.** If the protest is not resolved informally under subsection (4)(g), the aggrieved party may file a
1101 formal written request for an administrative hearing (if such request was not already included in the
1102 formal written protest). All procedures as delineated in Fla. Stat. § 120.57(3)(d)-(f) and F.A.C. Chapter
1103 28-110 shall be followed.

1104 i. If there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant
1105 to Fla. Stat. § 120.57(2) and applicable Board Policies and may be conducted before an impartial
1106 hearing officer who is a member in good standing of The Florida Bar.
1107 ii. If there is a disputed issue of material fact, the Board will refer the protest to DOAH for a formal
1108 hearing under Fla. Stat. § 120.57(1).
1109 iii. As stated in Fla. Stat. § 120.57(3)(f), the burden of proof shall rest with the party protesting the
1110 proposed agency action.

1111 A. ~~In any bid protest proceeding contesting an intended agency action to reject all bids,~~
1112 ~~proposals, or replies, the standard of review shall be whether the agency's intended action~~
1113 ~~is illegal, arbitrary, dishonest, or fraudulent.~~
1114 B. ~~In competitive procurement protests other than those contesting an intended agency action~~
1115 ~~to reject all bids, proposals, or replies, the hearing officer or administrative law judge will~~
1116 ~~conduct a de novo proceeding to determine whether the Board's proposed action is contrary~~
1117 ~~to the governing statutes, the Board's Policies, or the solicitation specifications. The~~
1118 ~~standard of proof for such proceedings shall be whether the proposed agency action was~~
1119 ~~clearly erroneous, contrary to competition, arbitrary, or capricious.~~

1120 iv. ~~Valid bid protests, as determined by the Office of the Chief Counsel, shall be reported to the Board~~
1121 ~~at least quarterly.~~

1122 17. ~~**Debarment.** Pursuant to Fla. Stat. §§ 1001.32(2) and 1001.41(1), and similar to § 287.042(1)(b), the Board~~
1123 ~~shall have the authority to debar a person/company for cause from consideration or award of future contracts.~~
1124 ~~The debarment shall be for a period commensurate with the seriousness of the causes, generally not to exceed~~
1125 ~~three (3) years. When the offense is willful or blatant, a longer term of debarment may be imposed, up to an~~
1126 ~~indefinite period.~~

1127 18. ~~**Emergency Purchases.** Requests for emergency purchases, as defined in Fla. Stat. § 287.057(5)(a), require~~
1128 ~~the signatures of the initiating administrator and his/her Area/Assistant/Associate Superintendent or Division~~
1129 ~~Head, and approval by the Superintendent or designee(s). Emergency purchases over twenty five thousand~~
1130 ~~dollars (\$25,000) will be reported to the Board at its next business meeting. The vendor and purchase order~~
1131 ~~number will be assigned by the Purchasing Department.~~

1132 19. ~~**Tracking**~~

1133 a. ~~The Director of Purchasing is responsible for tracking of bids/RFPs and other Board awarded contracts~~
1134 ~~to ensure that the amount of purchase orders released does not exceed the budgeted funds approved by~~
1135 ~~the Board.~~

1136 b. ~~Additionally, purchases of various goods and services made under State Board of Education Rule 6A-~~
1137 ~~1.012(4) (State Contracts) and those made by contracts awarded under Rule 6A-1.012(3) (Piggy Back~~
1138 ~~Bids) shall be tracked and reported to the Board on a quarterly basis.~~

1139 ~~**Definitions.** Unless otherwise defined herein, the procurement terms used in this Policy have the meanings set~~
1140 ~~forth in Fla. Stat. § 287.012 where the context allows.~~

1141

1142 STATUTORY AUTHORITY: Fla. Stat. §§ 1001.41(2); 1001.42 (26)(22) 1001.43(2)
1143 LAWS IMPLEMENTED: Fla. Stat. §§ 119.07(3)(m); 120.57(3); 255.0516;
1144 255.25(3)(d)(e); 286.0115; 287.017(1)(b); 287.042(2)(c); 287.057(5)(a), (5)(c);
1145 1001.32(2); 1001.41(1), (4), (5); 1001.42(10)(i), (j); 1001.51(11)(i); 1006.27; 1010.04;
1146 1011.06

1147 STATE BOARD OF EDUCATION RULE SUPPLEMENTED: Fla. Admin. Code Rule
1148 6A-1.012

1149 ADMINISTRATIVE PROCEDURE ACT RULES SUPPLEMENTED: Fla. Admin.
1150 Code Chapter 28-110

1151 PROCUREMENT GUIDELINES FOR FEDERAL ASSISTANCE PROGRAMS: OMB
1152 Circular A-102; 7 C.F.R. §3016; 7 C.F.R. § 210.21; 7 C.F.R. § 220.16; 7 C.F.R. §
1153 215.14a; 7 C.F.R. § 225.17

1154 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;
1155 5/17/00; 5/24/2004; ___/___2012

Legal Signoff:

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



Attorney

Date 11-1-12