



POLICY 6.14

5-C I recommend the Board approve development of the proposed **revised** Policy 6.14, entitled "Purchasing Department."

[Contact: Sharon Swan, PX 48214.]

Development

CONSENT ITEM

This Policy has been revised to:

- Add definitions
- Clarify when Professional Services Contracts will be used
- Update the policy to incorporate changes to Florida Statutes and the State Board of Education Rules for Purchasing
- Revise delegations of authority
- Limit delegations of authority for ITB, piggybank purchases, and purchases that do not require competition
- Add delegated authority for the Director of Purchasing
- Expand the provision relating to suspension/debarment of vendors
- Add Environmentally Preferred Purchasing

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 greatest possible
17 value 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 11-14 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"), 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.
- 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. In proceedings involving bid protests of a Decision or Intended Decision
48 arising out of the contract solicitation or award process, the terms "file" or
49 "filing" shall mean received by the Director of Purchasing during normal
50 business hours. Filing of a notice of protest or formal protest petition is
51 permitted via regular US mail, hand delivery, electronic mail, or facsimile
52 transmission. A protestor who files a notice of protest or formal petition by
53 electronic mail or facsimile transmission represents that the original physically
54 signed document will be mailed to the Director of Purchasing immediately
55 upon submission of the notice of protest or formal petition via facsimile or
56 electronic mail. Any protestor who elects to file any document by electronic
57 mail or facsimile transmission shall be responsible for any delay, disruption, or
58 interruption of the signals and accepts the full risk that the document may not
59 be properly filed with the Director of Purchasing, as a result. The filing date for
60 a document transmitted by electronic mail or facsimile shall be the date the
61 Director of Purchasing receives the complete document.
- 62 f. "Information technology" shall have the same meaning as set forth in Section
63 282.0041(14), Florida Statutes.
- 64 g. "Invitation to bid" shall be defined as a written solicitation for competitive
65 sealed bids. The invitation to bid is used when the School Board or designee
66 is capable of specifically defining the scope of work for which a contractual
67 service is required and/or when the School Board or designee is capable of
68 establishing precise specifications defining the actual commodity or group of
69 commodities required. A written solicitation includes a solicitation that is
70 publicly posted.
- 71 h. "Invitation to negotiate" shall be defined as a written solicitation for competitive
72 sealed replies to select one or more vendors with which to commence
73 negotiations for the procurement of commodities or contractual services. The

74 invitation to negotiate is used when the School Board or designee determines
75 that negotiations may be necessary for it to receive the best value. A written
76 solicitation includes a solicitation that is publicly posted.

77 i. “Professional Services” shall be defined, for the purpose of procuring
78 commodities and non-construction related contractual services, to include,
79 without limitation, artistic services; academic program reviews; lectures by
80 individuals; auditing services not subject to Section 218.391, Florida Statutes;
81 legal services, including attorney, paralegal, expert witness, court reporting,
82 appraisal or mediator services; and health services involving examination,
83 diagnosis, treatment, prevention, medical consultation or administration. For
84 the purposes of this Policy, Professional Services does not include those
85 services procured pursuant to Section 287.055, Florida Statutes.

86 j. “Proposer” includes those vendors submitting bids, proposals, or replies to a
87 competitive solicitation.

88 k. “Request for proposals” shall be defined as a written solicitation for
89 competitive sealed proposals. The request for proposals is used when it is not
90 practicable for the School Board or designee to specifically define the scope of
91 work for which the commodity, group of commodities, or contractual service is
92 required or the purchase is complex in nature and the School Board or
93 designee is requesting that a responsive, responsible vendor offers a solution
94 which will be evaluated by a set criteria set forth in the solicitation document.
95 A written solicitation includes a solicitation that is publicly posted.

96 4. Delegation of Authority

97 As set forth below, the School Board has delegated limited authority to the
98 Superintendent or his/her designee, the Director of Purchasing, Department Heads
99 or Directors, and School Principals relating to the purchase of the commodities and
100 contractual services for the School District in compliance with applicable federal
101 and state laws, Florida State Board of Education Rules, School Board Policies and
102 administrative rules, procedures, and guidelines. Such purchases shall not exceed
103 the applicable appropriation in the School Board budget for each fiscal year and
104 the funds for such purchases shall not be otherwise encumbered. ~~to be~~
105 ~~responsible for the purchase of the commodities and contractual services for the~~
106 ~~District in compliance with Florida Statutes, State Board of Education Rules, and~~
107 ~~Board Policy. The Board has also delegated limited purchasing authority to~~
108 ~~Department heads and school principals, as set forth below. Any purchases not~~
109 specifically ~~delegated to~~ the Superintendent or his/her designee, the Purchasing
110 Director, Department Heads or Directors, or School Principals ~~department heads,~~
111 ~~principals, or the Superintendent/designee,~~ must be approved in advance by the
112 School Board. No person, unless specifically authorized to purchase commodities
113 or contractual services under School Board policies, may make any purchase or

114 enter into any contract involving the use of school or School District funds,
115 Payment for any unauthorized purchase may be the responsibility of the person
116 placing the order.

117 a. **Department Heads or Directors**

118 i. Authority is ~~vested in~~ delegated to the Department Head or Director of
119 each department to contract for: ~~contractual services in an amount not to~~
120 ~~exceed two thousand five hundred dollars (\$2,500). (Other purchases of~~
121 ~~contractual services and all purchases of commodities are subject to~~
122 ~~subsection (1)(c) below.)~~

123 1. Commodities in an amount not to exceed one thousand dollars
124 (\$1,000) per vendor per day when utilizing the School District
125 issued Purchasing Card ("P-Card"), with total monthly charges
126 to the P-Card not exceeding the amount authorized by the
127 Director of Purchasing. The Director of Purchasing may
128 approve the issuance of multiple P-Cards to certain
129 departments, and Department Heads or Directors may
130 delegate authority to use such additional P-Cards to specific
131 users within their departments up to the limits set forth above;

132 2. Contractual services, including Professional Services, in an
133 amount not to exceed two thousand-five hundred dollars
134 (\$2,500) per vendor per fiscal year. Department Heads or
135 Directors may not divide the procurement of contractual
136 services so as to avoid this monetary threshold requirement;

137 ii. Department Heads or Directors shall use bid awarded vendors approved
138 by the School Board or designee, where applicable.

139 b. **School Principals**

140 i. Authority is ~~vested in~~ delegated to the Principal of each school center to
141 contract for:

142 1. Commodities in an amount not to exceed one thousand dollars
143 (\$1,000) per vendor per day when utilizing the School District
144 issued P-Card, with total monthly charges to the P-Card not
145 exceeding the amount authorized by the Director of
146 Purchasing. The Director of Purchasing may approve the
147 issuance of multiple P-Cards to certain Principals, and
148 Principals may delegate authority to use such additional P-
149 Cards to specific users within their school centers up to the
150 limits set forth above;

151 2. ~~Principals may also approve purchases of~~ Commodities which
152 are to be paid from the internal funds of the school when the
153 total amount of ~~each~~ purchased from a vendor does not
154 exceed ~~ten~~ fifteen thousand dollars (~~\$10,000~~ 15,000) per fiscal
155 year. Principals may not divide the procurement of
156 commodities so as to avoid this monetary threshold
157 requirement.

158 ~~(Other purchases of goods are subject to subsection (1)(c) below).~~

159 3. Contractual services, including Professional Services, in an
160 amount not to exceed two thousand-five hundred dollars
161 (\$2,500) per vendor per fiscal year. Principals may not divide
162 the procurement of contractual services so as to avoid this
163 monetary threshold requirement; ~~(Other purchases of~~
164 ~~contractual services are subject to subsection (1)(c) below.)~~

165
166 4. graduation supplies and yearbooks, in accordance with Policy
167 6.19; class pictures; school uniforms; class rings; and products
168 for vending machines or other fundraising activities (ie.,
169 marathon fundraisers, student sales of goods, etc.), without
170 limitation as to amount, when such contracts do not require
171 the expenditure of budgeted funds by the School or the School
172 District; and

173
174 5. commodities and contractual services relating to the field day,
175 prom, homecoming, dances, project graduation, or other
176 school-based activities, without limitation as to amount, when
177 such contracts do not require the expenditure of budgeted
178 funds by the School or the School District;

179
180 ii. Principals shall use bid awarded vendors approved by the School Board
181 or designee, where applicable. In such cases where the School Board or
182 designee has not approved a bid-awarded vendor for the commodities
183 needed, the Principal shall make purchases of commodities above
184 \$2,500, which are to be paid from the internal funds of the school, using
185 competitive quotes based upon lowest quote from one of at least three
186 responsible and responsive vendors meeting all specifications, terms, and
187 conditions. Similarly, in such cases where the School Board or designee
188 has not approved a bid-awarded vendor for contractual services needed,
189 the Principal shall make purchases of contractual services above \$2,500,
190 which do not require the expenditure of budgeted funds, in accordance
191 with selection criteria developed by the Principal.

192
193 c. Director of Purchasing

194 The School Board designates the Purchasing Department as the School
195 District's official purchasing agent, and accordingly, authority is delegated to
196 the Director of Purchasing to:

197 i. determine the appropriate and most cost effective purchasing method of
198 contract procurement, including competitive solicitations, direct
199 negotiations, and/or methods that allow the School District to take
200 advantage of value discounts and special pricing agreements, where
201 appropriate;

202 ii. approve the evaluation criteria for procuring commodities and contractual
203 services, including utilizing Environmentally Preferable Purchasing or any
204 preference required or allowable by law or School Board policy;

205 iii. oversee the competitive solicitation process, to include selecting
206 members of the evaluation committee/team and receiving, opening,
207 tabulating, and evaluating proposals, responses, bids, and replies in
208 accordance with the provisions of this Policy;

209 iv. receive notices of protest and formal protest petitions and report any valid
210 bid protest, as determined by the Office of the General Counsel, to the
211 School Board at least quarterly;

212 v. approve and issue purchase orders for purchases made in accordance
213 with this Policy;

214 vi. track ITB, ITN, RFPs, and other Board awarded contracts to ensure that
215 the amount of purchase orders released does not exceed the budgeted
216 funds approved by the School Board;

217 vii. oversee negotiations with vendors when appropriate;

218 viii. oversee the P-Card Program and approve P-Card purchases over \$1,000
219 per day per vendor by Department Heads, Directors, and Principals;

220 ix. provide purchasing oversight of the Supply and Redistribution Warehouse
221 and Mailroom and to purchase postage as part of the centralize mail
222 system, without limitation as to amount; and

223 x. prepare and execute Certificates of Entitlements for the purpose of tax
224 savings as required by section 212.086(6), Florida Statutes and Rule
225 12A-1.094, Florida Administrative Code.

226 d. **Superintendent/Designee**

227 i. Authority is vested in delegated to the Superintendent or his/her designee

228 to approve ~~;~~ consultant agreements between two thousand five hundred
229 dollars (\$2,500) and ten thousand dollars (\$10,000). However, when the
230 contract amount will exceed \$10,000 for any one fiscal year utilizing
231 budgeted funds, the consultant agreement must be approved by the
232 School Board prior to services being provided.

233 A. Approve contracts for departments and schools for Professional
234 Services in an amount in excess of two thousand five hundred
235 dollars (\$2,500) and up to ten thousand dollars (\$10,000):

236 contracts for commodities or contractual services, not including
237 Professional Services, that exceed the authority of the Principal or
238 Department Head/Director in an amount up to fifty thousand dollars
239 (\$50,000). A monthly report of such purchases must be provided to
240 the School Board; not exceeding fifteen thousand dollars (\$15,000);

241 B. Authorize contracts for commodities and contractual services, not
242 including Professional Services, up to five-hundred thousand dollars
243 (\$500,000) per vendor per fiscal year, except where specifically set
244 forth herein. A monthly report of such purchases must be provided to
245 the School Board.

246 C. Approve emergency purchases of commodities and contractual
247 services, without limitation as to the amount;

248 D. Approve payment for regulated utilities or government-franchised
249 services, without limitation as to the amount;

250 E. Approve payments for media advertisements (newspaper, radio,
251 television, etc.), subscriptions, and professional association fees or
252 membership dues for educational or non-profit organizations that
253 serve the needs of the School District, without limitation as to the
254 amount;

255 F. Approve payments to Florida Department of Law Enforcement for
256 Level II screenings of employees and vendors without limitation as to
257 the amount;

258 G. Reject any and all proposals, bids, or replies to any competitive
259 solicitation;

260 H. Approve travel expenditures and reimbursements, without limitation
261 as to the amount, so long as such expenditures are in compliance
262 with Policy 6.01 and Chapter 112, Florida Statutes; and

263 I. Approve food purchases in accordance with Rule 5P-1.003(2)(i),

264 Florida Administrative Code and Policy 6.17.

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

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

281 5. **Maximum Value**

282 The Superintendent or his/her designee shall, after study of the feasibility of a
283 contract, recommend to the School Board or approve, in accordance with his/her
284 delegated authority, contracts having desirable terms, conditions, and
285 specifications for commodities or contractual services. The Superintendent shall
286 see that the commodities and contractual services are provided according to the
287 contract and shall take such steps as necessary to see that the maximum value is
288 being received for any public money expended for a public purpose.

289 Pursuant to Fla. Stat. § 1001.51(11)(i), the Superintendent of Schools or his/her
290 designee shall, insofar as possible, propose standards and specifications. He or
291 she shall see that the purchase or contract conforms to those standards and
292 specifications, and shall take such other steps as are necessary to see that the
293 maximum value is being received for any money expended. Insofar as practicable,
294 all purchases shall be based on requisitions, and the Superintendent/designee
295 shall certify that funds to cover the expenditures under the requisitions are
296 authorized by the budget and have not been encumbered.

297 6. Purchasing Methods. The School Board or its designee shall purchase
298 commodities and contractual services as set forth below.

299 a. **Competitive Solicitation.** The School Board or its authorized designee may
300 approve contracts using competitive solicitations where required by law or
301 when in the best interest of the School District. Such contracts, including all
302 renewal periods may not exceed five (5) years. Notwithstanding the foregoing,

303 the contract may be extended for additional one-year terms in extenuating
304 circumstances (ie. extraordinary market conditions or natural disasters that
305 impact the School Board's ability to receive the maximum value for the
306 commodities or contractual services procured) as set forth in writing by the
307 Director of Purchasing. The length of the renewal period must be set forth in
308 the ITB, RFP, or ITN. Renewals shall be contingent upon satisfactory
309 performance evaluations by the Purchasing Department and subject to the
310 availability of funds. Such contracts in excess of five hundred thousand dollars
311 (\$500,000) per vendor per fiscal year must be submitted to the School Board
312 for approval.

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

- 318 i. **Request for Proposals.** Except as authorized by law or rule, proposals
319 shall be requested from three (3) or more sources for commodities and
320 contractual services exceeding fifty thousand dollars (\$50,000). The
321 contract may not be divided so as to avoid this monetary threshold. In
322 awarding to a Proposer pursuant to a Request for Proposal, the School
323 Board or its authorized designee may award to one or more responsive,
324 responsible Proposers in accordance with the selection criteria published
325 in the Request for Proposal. However, for the purchase of items covered
326 under the Federal Assistance Programs, the threshold shall be ten
327 thousand dollars (\$10,000) or as otherwise required under federal
328 regulations.

329 The Superintendent or his/her designee shall have the authority to reject
330 any or all responses to any competitive solicitation and request new
331 proposals or purchase the required commodities or contractual services
332 in any manner authorized by law.

- 333 ii. **Invitation to Bid (ITB). Bids/Proposals** Except as authorized by law or
334 rule, ITBs or reverse auctioning bids shall be requested from three (3) or
335 more sources for commodities and contractual services when
336 requisitioning any item or group of similar items exceeding fifty thousand
337 dollars (\$50,000). The contract may not be divided so as to avoid this
338 monetary threshold. However, for the purchase of items covered under
339 the Federal Assistance Programs, the threshold shall be ten thousand
340 dollars (\$10,000) or as otherwise required under federal regulations.

341 In acceptance of responses to ITBs or bids through reverse auctioning,
342 the School Board or its authorized designee shall accept the lowest bid

343 from a responsive and responsible bidder meeting all specifications,
344 terms and conditions published in the ITB. In the alternative, the School
345 Board or its authorized designee may award to the responsive,
346 responsible bidder offering the lowest cost as the primary awardee and
347 the next responsive, responsible bidder offering the next lowest cost as
348 an alternate awardee(s) meeting all specifications, terms and conditions.
349 Nothing herein is meant to prevent multiple awards to the responsive and
350 responsible bidder when such multiple awards are clearly stated in the bid
351 solicitation documents.

352 The Superintendent or his/her designee shall have the authority to reject
353 any or all bids to any competitive solicitation and request new bids or
354 purchase the required commodities or contractual services in any manner
355 authorized by law.

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

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

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

370 **iii. Invitations to Negotiate.** When procurement for commodities and
371 contractual services exceeding fifty thousand dollars (\$50,000) is not
372 practicable by an invitation to bid or a request for proposal, the
373 Superintendent or his/her designee may solicit competitive sealed replies to
374 determine the best method for achieving specific goals or solving a particular
375 problem and select one or more vendors with which the School Board's
376 authorized designee may negotiate in order to receive the best value based
377 on objective factors that include, but are not limited to, price, quality, design,
378 and workmanship.

379 **b. Direct Negotiation**

380 **i. Information Technology.** The School Board, when acquiring, whether
381 by purchase, lease, lease with option to purchase, rental or otherwise,

382 information technology, as defined in Section 282.0041(14), Florida
383 Statutes, may make any acquisition through the competitive solicitation
384 process as described herein or by direct negotiation and contract with a
385 vendor or supplier, as best fits the needs of the School District as
386 determined by the Director of Purchasing. The Director of Purchasing
387 shall document in writing the reasoning for concluding that direct
388 negotiation instead of competitive solicitation is in the best interest of the
389 School District. Such contracts in excess of five hundred thousand
390 dollars (\$500,000) per vendor per fiscal year must be submitted to the
391 School Board for approval.

392 ii. **Risk Management.** The School Board may, except as otherwise
393 required by law, enter into direct negotiations and contract with a vendor
394 or supplier that best meets the needs of the School District when
395 acquiring insurance, entering risk management programs, or contracting
396 with third party administrators. An exception to this option is for employee
397 group insurance that must be competitively selected in accordance with
398 section 112.08, Florida Statutes. Such contracts in excess of five
399 hundred thousand dollars (\$500,000) per vendor per fiscal year must be
400 submitted to the School Board for approval.

401 iii. **Finding of No Valid or Acceptable Firm Proposal.** Where competitive
402 solicitations have been requested in the manner prescribed by this Policy,
403 and the School Board, through the Director of Purchasing, makes a
404 specific finding in writing that no valid or acceptable firm proposal has
405 been received within the prescribed time, the Director of Purchasing may
406 enter into negotiations with suppliers of such commodities and contractual
407 services. Such contracts in excess of \$500,000 per vendor per fiscal year
408 must be submitted to the School Board for approval.

409 iv. **Less than Two Responsive Proposals.** If less than two responsive
410 proposals for commodity or contractual services are received, the Director
411 of Purchasing, may negotiate on the best terms and conditions or decide
412 to reject all proposals. The Director of Purchasing shall document the
413 reasons that negotiating terms and conditions with a particular Proposer
414 is in the best interest of the School District in lieu of resoliciting proposals.
415 Such contracts in excess of \$500,000 per vendor per fiscal year must be
416 submitted to the School Board for approval.

417 c. **Competitive Solicitation Waived or Not Required:** As provided in State
418 Board of Education Rule 6A-1.012, Florida Administrative Code; section
419 1010.04(4)(a), Florida Statutes; or other laws, in addition to the methods
420 described above, the School Board or its authorized designee may purchase
421 commodities and contractual services without soliciting three or more sources,
422 as set forth below:

- 423 i. Less than \$50,000 of Budgeted Funds Expended- For purchases
424 where less than \$50,000 of School District Budgeted Funds will be
425 expended, the School Board, the Superintendent or his/her designee,
426 Department Heads or Directors, and/or School Principals may make
427 and/or approve purchases of the commodities and contractual services in
428 compliance with applicable federal and state laws, Florida Board of
429 Education Rules, School Board Policies; administrative rules, procedures,
430 and guidelines; and this Policy. Competitive quotes shall be requested
431 from three (3) or more sources for commodities and contractual services
432 when requisitioning any item or group of similar items exceeding ten
433 thousand dollars (\$10,000) except as exempted by State Board of
434 Education Rule 6A-1.012 or other applicable laws.
- 435 ii. PRIDE/RESPECT. The School Board or its authorized designee may
436 purchase commodities and contractual services from PRIDE (Prison
437 Rehabilitative Industries and Diversified Enterprises, Inc.) or RESPECT
438 (Florida's preferential purchasing program for individuals with disabilities),
439 as authorized by Florida Statutes. Such contracts in excess of \$500,000
440 per vendor per fiscal year must be submitted to the School Board for
441 approval;
- 442 iii. Utilities. The School Board or its authorized designee may contract for
443 regulated utilities or government-franchise services;
- 444 iv. Grant or Law. The School Board or its authorized designee may enter
445 into a contract where state or federal law, a grant, or state or federal
446 agency contract prescribes with whom the School Board must contract or
447 if the rate of payment is established during the annual appropriation
448 process. Such contracts in excess of \$500,000 per vendor per fiscal year
449 must be submitted to the School Board for approval;
- 450 v. Department of Management Services. As required by Section
451 1001.42(12)(j), Florida Statutes, the School Board or its designee shall
452 receive and give consideration to the prices available to it under rules of
453 the Department of Management Services, Division of Purchasing. The
454 School Board or its designee may use prices established by the Division
455 of Purchasing through its state purchasing agreement price schedule
456 under the same conditions for use imposed on state agencies. Such
457 contracts in excess of \$500,000 per vendor per fiscal year must be
458 submitted to the School Board for approval;
- 459 vi. Piggyback. The School Board or its authorized designee may make
460 purchases at or below the specified prices from contracts awarded by
461 other city or county governmental agencies, other district school boards,
462 community colleges, federal agencies, public or governmental agencies

463 of any state, state university systems, or from cooperative, interlocal, or
464 pooled bid agreements, when the Proposer will permit purchases by the
465 School Board at the same terms, conditions, and prices (or below such
466 prices) awarded in such contract, and such purchases are to the
467 economic advantage of the School Board. Such contracts in excess of
468 \$500,000 per vendor per fiscal year must be submitted to the School
469 Board for approval;

470 vii. **Pool Purchases.** The School Board or its authorized designee may
471 purchase school buses, equipment, and related contractual needs and
472 supplies through the pool-purchase provisions of section 1006.27, Florida
473 Statutes. Such contracts in excess of \$500,000 per vendor per fiscal year
474 must be submitted to the School Board for approval;

475 viii. **Professional Services.** The School Board or its authorized designee
476 may purchase Professional Services as set forth herein;

477 ix. **Educational Services/ Copyrighted Materials.** The School Board or its
478 authorized designee may purchase educational services and any type of
479 copyrighted materials including, educational tests, textbooks, printed
480 instructional materials, computer software, films, filmstrips, videotapes,
481 dvds, disc or tape recordings, digital recordings, or similar audio-visual
482 materials, and for library and reference books, and printed library cards
483 where such materials are purchased directly from the producer or
484 publisher, the owner of the copyright, an exclusive agent within the state,
485 a governmental agency or a recognized educational institution. Such
486 contracts in excess of \$500,000 per vendor per fiscal year must be
487 submitted to the School Board for approval;

488 x. **Sole Source.** When School District's Director of Purchasing believes that
489 commodities or contractual services are available only from a single
490 source, the Director of Purchasing shall electronically or otherwise
491 publicly post a description of the commodities or contractual services
492 sought for a period of at least 7 business days. The description must
493 include a request that prospective vendors provide information regarding
494 their ability to supply the commodities or contractual services described. If
495 it is determined in writing by the Director of Purchasing, after reviewing
496 any information received from prospective vendors, that the commodities
497 or contractual services are available only from a single source, the
498 Director of Purchasing shall provide notice of the Decision or Intended
499 Decision to enter a single source contract in the manner specified in
500 Section 120.57(3), Florida Statutes, and may negotiate on the best terms
501 and conditions with the single source vendor. Such contracts in excess of
502 \$500,000 per vendor per fiscal year must be submitted to the School
503 Board for approval.

- 504 xi. **Emergency Purchases.** The School Board or its designee may
505 dispense with requirements for competitive solicitations for the
506 emergency purchase of commodities or contractual services when the
507 Superintendent determines in writing that an immediate danger to the
508 public health, safety, or welfare or other substantial loss to the school
509 district requires emergency action. After the Superintendent makes such
510 a written determination, the Director of Purchasing may proceed with the
511 procurement of commodities or contractual services necessitated by the
512 immediate danger, without requesting competitive solicitations. However,
513 such an emergency purchase shall be made by obtaining pricing
514 information from at least two prospective vendors, which must be retained
515 in the contract file, unless the Superintendent determines in writing that
516 the time required to obtain pricing information will increase the immediate
517 danger to the public health, safety, or welfare or other substantial loss to
518 the school district. The Superintendent shall seek ratification of this
519 purchase by the School Board at the next regularly scheduled business
520 meeting;
- 521 xii. **Purchasing Consortium.** The School Board shall enter into interlocal
522 agreements as provided in section 163.01, Florida Statutes, to establish
523 school district consortium and maximize purchasing power for
524 commodities and contractual services. A consortium may be nationwide,
525 statewide or regional, as appropriate to achieve the lowest cost. The
526 Director of Purchasing shall provide the School Board with a monthly
527 report of any purchases made through a Purchasing Consortium;
- 528 xiii. **Food Service-** In compliance with Rule 5P-1.003, F.A.C. and Policy 6.17,
529 the School Board may exempt food products, except milk from the bid
530 requirements of Rule 6A-1.012, F.A.C. Milk may be exempt under the
531 following conditions:
- 532 A. The Superintendent or designee has made a finding that no valid or
533 acceptable firm bid has been received within the prescribed time; or
- 534 B. The Superintendent or designee has made a finding that an
535 emergency situation exists and may enter into negotiations with
536 suppliers of milk and shall have the authority to execute contracts
537 under whatever terms and conditions as the Superintendent or
538 designee determines to be in the best interest of the school system.
- 539 xiv. **Maintenance/Service/Warranty.** The School Board or its designee may
540 award contracts for maintenance and/or service contracts, on various
541 types of technical equipment, that are offered and/or supplied only by the
542 original manufacturer or its representative, or that are required to
543 maintain the integrity of the manufacturer's warranty, or that are part of

544 the manufacturer's rental/lease/lease purchase agreement terms and
545 conditions. Such contracts in excess of \$500,000 per vendor per fiscal
546 year must be submitted to the School Board for approval.

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

551 shall have the option to purchase under the current contracts as may be
552 established for any state agency whose purchasing agents are authorized
553 to make purchases for the benefit of other government agencies within
554 the county, at the prices stated therein (piggybacking), if such purchase is
555 to the economic advantage of the School Board, subject to conformance
556 of the items of purchase to the standards and specifications prescribed by
557 the Superintendent or his/her designee;

558 may, in lieu of requesting bids from three (3) or more sources, make
559 purchases at the unit prices in contracts awarded by other city or county
560 governmental agencies, school boards, community colleges, or state
561 university system cooperative agreements, when the bidder/awardee of
562 these contracts will permit purchases by the School Board at the same
563 terms, conditions, and unit prices awarded in such agency contract, and
564 such purchases would be to the economic advantage of the Board;

565 may, without requesting bids, purchase school buses, equipment, and
566 related contractual needs and supplies through the pool-purchase
567 provisions of Fla. Stat. § 1006.27;

568 shall receive and give consideration to the prices available to it under
569 state contracts, pursuant to the rules of the Department of Management
570 Services, State Division of Purchasing state contracts and may purchase
571 from these contracts without requesting bids;

572 may use prices established by the State Division of Purchasing through
573 its state negotiated price schedule (SNAPS) (or similar successor State
574 program), provided such use will be limited to \$150,000 (or the prescribed
575 limit of similar successor State program);

576 may waive the requirements for competitive quotes or requesting bids for
577 the purchase of professional or educational services, educational tests,
578 textbooks, printed instructional materials, computer software, films,
579 filmstrips, videotapes, disc or tape recordings, or similar audio-visual
580 materials, and for library and reference books, and printed library cards
581 where such materials are purchased directly from the producer or
582 publisher, the owner of the copyright, an exclusive agent within the state,

583 a governmental agency or a recognized educational institution;

584 ~~may enter into negotiations with suppliers of commodities and contractual~~
585 ~~services and execute contracts under terms and conditions as determined~~
586 ~~to be in the best interests of the school system, when bids have been~~
587 ~~requested in the manner prescribed and no valid or acceptable firm bid~~
588 ~~has been received within the prescribed time;~~

589 ~~may, except as otherwise required by statute, enter into direct~~
590 ~~negotiations and contract with a vendor or supplier that best meets the~~
591 ~~needs of the School District when acquiring insurance, entering risk~~
592 ~~management programs, or contracting with third party administrators. An~~
593 ~~exception to this option is for employee group insurance that must be~~
594 ~~competitively selected;~~

595 ~~may, when acquiring information technology resources pursuant to SBER~~
596 ~~6A-1.012(10) by purchase, lease, lease with option to purchase, rental or~~
597 ~~otherwise, make the technology acquisition either through competitive~~
598 ~~bids or by direct negotiation with a vendor or supplier, as best fits the~~
599 ~~needs of the District as determined by the Board; or~~

600 ~~may purchase commodities and contractual services available only from a~~
601 ~~single source if it is determined that such commodities or services are~~
602 ~~available only from a single source and such determination is~~
603 ~~documented pursuant to Fla. Stat. § 287.057(5)(c).~~

604 7. Environmentally Preferable Purchasing (EPP). When practical and in the best
605 interest of the School District, the Director of Purchasing may consider
606 Environmentally Preferable Purchasing (EPP), often referred to as “green
607 purchasing,” in the selection and acquisition of products and contractual services.
608 The goal of EPP is to procure goods and contractual services that most effectively
609 minimize negative environmental impact by evaluating criteria such as the vendor’s
610 method of manufacturing, use of recycled content in products; use of less harmful
611 and non-toxic materials and processes; use of energy and water efficient products
612 and processes; use of fuel efficient vehicles and equipment; use of natural
613 resource and landscaping management; and use of renewable products,
614 packaging and delivery practices.

615 8. Online and Electronic Procurement and Notice

616 i. On-line Solicitations. The Director of Purchasing may utilize a third party
617 on-line system to post solicitations, including addenda, and notices of
618 Decisions or Intended Decisions and to receive responses, bids, and
619 replies from Proposers.

620 ii. Purchasing Card. The Superintendent or his/her designee may utilize

621 procurement cards, to purchase commodities and contractual services as
622 deemed to be in the best interest of the District and consistent with
623 School Board Policy. Selected staff will be eligible to use a P-
624 Card upon approval by the Superintendent/designee of the prospective
625 user's signed Purchasing Card Application (PBSD 2076) and Cardholder
626 Acceptance Guidelines and Contract (PBSD 2077), which contain the
627 appropriate-use standards and procedures. Pursuant to PBSD 2077,
628 each user shall acknowledge, by signing the Application and Acceptance
629 Guidelines and Contract, that the user must reimburse the District for any
630 misuse of the purchasing card and that a violation of those standards and
631 procedures will be cause for discipline up to and including termination.

632 iii. ~~The Superintendent or his/her designee will receive and give~~
633 ~~consideration to the prices available through the use of the program for~~
634 ~~online procurement of commodities and contractual services under the~~
635 ~~rules of the Department of Management Services, Division of Purchasing,~~
636 ~~as well as other opportunities for online procurement as may be available,~~
637 ~~such as reverse auctioning.~~

638 iv. ~~The Superintendent or his/her designee may utilize any appropriate~~
639 ~~electronic methods, such as procurement cards, to purchase commodities~~
640 ~~and contractual services as deemed to be in the best interest of the~~
641 ~~District and consistent with the other parts of this Policy. Selected staff~~
642 ~~will be eligible to use a District purchasing card upon approval by the~~
643 ~~Superintendent/designee of the prospective user's signed Purchasing~~
644 ~~Card Application (PBSD 2076) and Cardholder Acceptance Guidelines~~
645 ~~and Contract (PBSD 2077), which contain the appropriate-use standards~~
646 ~~and procedures. Pursuant to form PBSD 2077, each user shall~~
647 ~~acknowledge, by signing the Application and Acceptance Guidelines and~~
648 ~~Contract, that the user must reimburse the District for any misuse of the~~
649 ~~purchasing card and that a violation of those standards and procedures~~
650 ~~will be cause for discipline up to and including termination.~~

651 v. ~~The Superintendent shall develop procedures for any online and~~
652 ~~electronic purchasing methods utilized. Such procedures may be~~
653 ~~disseminated through a Bulletin and a summary of the standards and~~
654 ~~guidelines should be included in a future revision of this Policy.~~

655 9. **Advance Payments.** To ensure adequate protection to the School District that
656 goods and contractual services will be provided, advanced payment for goods and
657 contractual services is discouraged. With adequate safeguards, however, to
658 ensure that the commodities or contractual services will be provided, the School
659 Board may approve advance payments for contracts requiring School Board
660 approval; the Superintendent or his/her designee may approve advance payments
661 for contracts requiring his/her approval; and the Director of Purchasing may

662 approve advance payments for all other contracts: ~~With adequate safeguards to~~
663 ~~ensure that the commodities or contractual services will be provided, the Board, or~~
664 ~~the Superintendent/designee pursuant to the Board's delegation of authority in~~
665 ~~Section (1) above, may make advance payments:~~

666 i. ~~consistent with Fla. Stat. § 215.422(14) for maintenance agreements,~~
667 ~~software license agreements, subscriptions, contracts to reserve space,~~
668 ~~and certain other commodities, when advance payment will result in a~~
669 ~~savings to the School District equal to or greater than the amount the~~
670 ~~School District would earn by investing the funds and paying in arrears, or~~
671 ~~where those items are essential to the operation of the School District and~~
672 ~~are available only if advance payment is made; or~~

673 ~~pursuant to Fla. Stat. § 216.181(16)(b) under certain contracts with other~~
674 ~~governmental agencies or not-for-profit corporations;~~

675 ii. in accordance with Policy 6.01 regarding certain employee travel
676 expenses.

677 10. Integrity of the Award Process

678 a. From the time the ITB, RFP, ITN, or other competitive solicitation is posted
679 and the time a Decision or Intended Decision is posted, potential Proposers
680 and employees, representatives, partners, director, officers, or other
681 individuals acting on behalf of the Proposer, shall be prohibited from lobbying
682 any School District employee, Member of the School Board, Member of a
683 School District Advisory Committee that may evaluate the awarded contract,
684 or person selected to evaluate or recommend selection of the awarded
685 Proposer. Lobbying in violation of this Policy or the School Board's Lobbying
686 Policy during the Cone of Silence shall result in rejection/disqualification of the
687 Proposer from award of a contract arising out of the ITB, RFP, ITN, or other
688 competitive solicitation. Further, in order to protect the integrity of the award
689 process, all questions regarding the ITN, RFP, ITB, or other competitive
690 solicitation must be directed to the Purchasing Department staff who will
691 respond in writing and post such response for all vendors to receive the same
692 information during the Cone of Silence. For purposes of this Policy, "lobbying"
693 is defined as any action taken by an individual, firm, association, joint venture,
694 partnership, syndicate, corporation and all other groups who seek to influence
695 the governmental decision of a Board member or School District personnel
696 after the release of the bid or RFP and prior to time that an award
697 recommendation is posted.

698 b. After the Decision or Intended Decision is posted, any persons including
699 Proposers, or those acting on behalf of the Proposers, may discuss with any
700 Board Member the merits of any ITB, RFP, ITN, or other competitive

701 solicitation on which School Board action may be taken. Members of the
702 School Board shall disclose any ex-parte communications in accordance with
703 section 286.0115, Florida Statutes. Such disclosure shall be made before or
704 during the public meeting at which time a vote will be taken on the award of a
705 contract. ~~This will allow persons who may have opinions contrary to those~~
706 ~~expressed during any ex-parte communications to have a reasonable~~
707 ~~opportunity to respond to those communications.~~

708 ~~Once the bid or RFP is released, no bidder or individuals acting on behalf of~~
709 ~~the bidder or offeror shall lobby District personnel or School Board members.~~
710 ~~Lobbying School Board members or District personnel will result in~~
711 ~~rejection/disqualification of said bids or RFPs. For purposes of this Policy,~~
712 ~~"lobbying" is defined as any action taken by an individual, firm, association,~~
713 ~~joint venture, partnership, syndicate, corporation and all other groups whose~~
714 ~~to influence the governmental decision of a Board member or District~~
715 ~~personnel after the release of the bid or RFP and prior to time that an award~~
716 ~~recommendation is posted.~~

717 ~~After the award is posted, any persons including bidders, or those acting on~~
718 ~~behalf of the bidders may discuss with any Board Member the merits of any~~
719 ~~bid or RFP on which Board action may be taken. Board members shall~~
720 ~~disclose any ex-parte communications in accordance with Fla. Stat §~~
721 ~~286.0115. Such disclosure shall be made before or during the public meeting~~
722 ~~at which time a vote will be taken on the award of a contract. This will allow~~
723 ~~persons who may have opinions contrary to those expressed during any ex-~~
724 ~~parte communications to have a reasonable opportunity to respond to those~~
725 ~~communications.~~

726 c. Sealed bids, proposals, or replies received in response to a competitive
727 solicitation are exempt from section 119.07(1), Florida Statutes and section
728 24(a), Article I of the State Constitution until such time as the School Board or
729 authorized designee provides notice of a Decision or Intended Decision or until
730 thirty (30) days after opening the bids, proposals, or final replies, whichever is
731 earlier.

732 d. Any portion of a meeting at which a negotiation with a Proposer is conducted
733 pursuant to a competitive solicitation, at which a Proposer makes an oral
734 presentation as part of a competitive solicitation, or at which a Proposer
735 answers questions as part of a competitive solicitation is exempt from section
736 286.011, Florida Statutes, and s. 24(b), Art. I of the State Constitution. Any
737 portion of an evaluation committee meeting at which negotiation strategies are
738 discussed is exempt from section 286.011, Florida Statutes, and s. 24(b), Art. I
739 of the State Constitution. A complete recording shall be made of any portion
740 of an exempt meeting. No portion of the exempt meeting may be held off the
741 record.

742

743 11. **Protests Arising from the Contract Solicitation or Award Process.** This
744 section implements Fla. Stat. section 120.57(3), Florida Statutes and Fla. Admin.
745 Code Chapter 28-110.

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

758 **Definitions**

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

761 A. the notice of posting of the contents of an ITB or an RFP or other
762 specifications, including addenda;

763 B. a determination that a specified procurement can be made only from
764 a single source;

765 C. the approval of procurement by negotiation;

766 D. the rejection of a bid or proposal, or all bids or proposals, or a
767 request to approve a single source or negotiation; or

768 E. the intention to award a contract as indicated by a posted bid or
769 proposal tabulation or other written notice.

770 ii. As used in this Section, the term "contract procurement process" has the
771 same meaning as "contract bidding process" as used in Fla. Stat. §
772 120.57(3). This phrase includes procurements by invitation to bid (ITB),
773 request for proposal (RFP), single source approval, and negotiation
774 approval.

775 **District's Notice of Decision or Intended Decision.--** Pursuant to Fla. Stat.
776 § 120.57(3), the District shall provide notice of a decision or intended decision

777 ~~concerning a solicitation, contract award, or exceptional purchase by~~
778 ~~electronic posting. This notice shall contain the following statement: "Failure to~~
779 ~~file a protest within the time prescribed in section 120.57(3), Florida Statutes,~~
780 ~~shall constitute a waiver of proceedings under chapter 120, Florida Statutes."~~

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

791 ~~All notices of protest shall be directed to the Director of Purchasing.~~

792 i. A notice of protest should not be filed before the 72-hour period begins.
793 The 72-hour period begins upon posting of the Decision or Intended
794 Decision, ~~receipt of a copy of the ITB or RFP; when notice of a single~~
795 ~~source approval or disapproval or negotiation approval or disapproval is~~
796 ~~posted, or otherwise received if not posted; when a bid or proposal~~
797 ~~tabulation is posted; or when notice is otherwise received if not posted.~~

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

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

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

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

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

- 815 based;
- 816 B. contains all the information specified in F.A.C. Rule 28-106.201(2),
817 and Rule 28-106.301(2), F.A.C.;
- 818 C. is substantially in the form of petition set forth in F.A.C. Rule 28-
819 110.004(2), naming "The School Board of Palm Beach County,
820 Florida" as the Respondent; and
- 821 D. should include a request for a hearing involving disputed issues of
822 material fact; or, if the relevant facts are not in dispute, the petition
823 should so allege and request a hearing not involving disputed issues
824 of material fact.
- 825 ii. Pursuant to F.A.C. Rule 28-110.004(1), if the formal written protest is filed
826 in proper form within the 72-hour period for filing a notice of protest, the
827 formal written protest will also constitute the notice of protest, and all time
828 limits applicable to a notice of protest are waived and the time limits
829 relative to formal written protests shall apply.
- 830 d. **Posting the Bond.** The party protesting the bid specification or
831 recommended award shall be required to post a bond in a form consistent with
832 Rule 28-110.005(2), Florida Administrative Code and timely submit that bond
833 to the School District Purchasing Department. ~~The protesting party shall be~~
834 ~~required to post a bond in a form consistent with F.A.C. Rule 28-110.005(2). A~~
835 ~~notice of decision or intended decision shall contain this statement: "Failure to~~
836 ~~file a protest within the time prescribed in Section 120.57(3), Florida Statutes,~~
837 ~~or failure to post the bond or other security required by law within the time~~
838 ~~allowed for filing a bond shall constitute a waiver of proceedings under~~
839 ~~Chapter 120, Florida Statutes."~~
- 840 i. **Bond: Commodities (Other than Lease of Space) and Contractual**
841 **Services (Including Professional Services and Insurance).** Pursuant
842 to ~~section 287.042, Florida Statutes.~~ Any person who files an action
843 protesting a Decision or Intended Decision pertaining to a solicitation or
844 contract award shall post with the Board Director of Purchasing, at the
845 time of filing the formal written protest, a bond secured by an acceptable
846 surety company in Florida, payable to "The School Board of Palm Beach
847 County, Florida" in an amount equal to one percent (1%) of the School
848 District's estimate of the dollar value of the proposed contract.
- 849 A. The School District shall provide the estimated contract amount to
850 the protestor within seventy-two (72) hours (excluding Saturdays,
851 Sundays, and holidays when the School District administrative office
852 is closed) after the filing of the notice of protest. The estimated
853 contract amount is not subject to protest under this Policy or Fla

854 section 120.57(3), Florida Statutes. In lieu of a bond, the ~~Board~~
855 Director of Purchasing may accept a cashier's check, official bank
856 check, or money order in the amount of the bond.

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

861 C. ~~Pursuant to Fla. Stat. § 287.042(2)(c)~~, If, after completion of the
862 administrative hearing process and any appellate court proceedings
863 the School Board prevails, it shall be entitled to recover all costs and
864 charges which are included in the final order or judgment, excluding
865 attorney's fees. Upon payment of such costs and charges by the
866 person protesting the Decision or Intended Decision or contract
867 award, the bond, cashier's check, official bank check, or money order
868 shall be returned to the protestor. If, after the completion of the
869 administrative hearing process and any appellate court proceedings,
870 the protestor prevails, the protestor may recover from the Board the
871 costs and charges which are included in the final order or judgment,
872 excluding attorney's fees.

873 ii. **Bond: Competitive Bids for Lease of Space.** Pursuant to ~~Fla. Stat. §~~
874 section 255.25(3)(e)(d), Florida Statutes, any person who files an action
875 protesting a Decision or Intended Decision pertaining to a competitive bid
876 solicitation for space to be leased by the School Board shall post with the
877 ~~Board~~ Director of Purchasing, at the time of filing the formal written
878 protest, a bond payable to "The School Board of Palm Beach County,
879 Florida" in an amount equal to ~~4 percent~~ one percent (1%) of the
880 estimated total rental of the basic lease period or \$5,000, whichever is
881 greater, which bond shall be conditioned upon the payment of all costs
882 which may be adjudged against him or her in the administrative hearing in
883 which the action is brought and in any subsequent appellate court
884 proceeding. If the School Board prevails after completion of the
885 administrative hearing process and any appellate court proceedings, it
886 shall recover all costs and charges which are included in the final order or
887 judgment, excluding attorney's fees. Upon payment of such costs and
888 charges by the person protesting the award, the bond shall be returned to
889 him or her. If the person protesting the award prevails, the bond shall be
890 returned to that person and he or she shall recover from the Board the
891 costs and charges which are included in the final order or judgment,
892 excluding attorney's fees.

893 iii. **Bond: Construction Purchasing.** Construction purchasing is separately
894 governed by Policy 7.10, and protestors regarding competitive

895 procurement related to educational facilities shall be required to post a
896 bond in the amount specified in Fla. Stat. § section 255.0516, Florida
897 Statutes, which also governs recovery of fees and costs including
898 attorney's fees. With respect to a protest of the terms, conditions, and
899 specifications contained in a solicitation, protestors shall post a bond in
900 the amount of one percent (1%) of the School District's estimate of the
901 dollar value of the proposed contract or \$5,000, whichever is greater.

902 e. **Staying the Procurement Process.** Upon timely receipt of the formal written
903 protest petition, the solicitation or contract award process shall be stopped
904 until the subject of the protest is resolved by final agency action, unless the
905 School Board Superintendent sets forth in writing particular facts and
906 circumstances which require the continuance of the solicitation or contract
907 award process without delay in order to avoid an immediate and serious
908 danger to the public health, safety, or welfare.

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

914 g. **Hearing.** If the protest is not resolved by mutual agreement within seven (7)
915 days (excluding Saturdays, Sundays, and holidays when the School District
916 administrative office closed) after receipt of the formal written protest: ~~If the~~
917 ~~protest is not resolved informally under subsection (4)(g), the aggrieved party~~
918 ~~may file a formal written request for an administrative hearing (if such request~~
919 ~~was not already included in the formal written protest). All procedures as~~
920 ~~delineated in Fla. Stat. § 120.57(3)(d)-(f) and F.A.C. Chapter 28-110 shall be~~
921 ~~followed.~~

922 i. If there is no disputed issue of material fact, an informal proceeding shall
923 be conducted pursuant to Fla. Stat. § section 120.57(2), Florida Statutes,
924 and applicable Board Policies and may be conducted before an impartial
925 hearing officer who is a member in good standing of The Florida Bar.

926 ii. If there is a disputed issue of material fact, in accordance with section
927 120.569, Florida Statutes, the protest shall be referred within fifteen (15)
928 days after the Director of Purchasing receives the Formal Written Protest
929 to the Department of Administrative Hearings (DOAH) for a formal
930 hearing under section 120.57(1), Florida Statutes. If there is a disputed
931 issue of material fact, the Board will refer the protest to DOAH for a formal
932 hearing under Fla. Stat. § section 120.57(1), Florida Statutes.

933 iii. As stated in Fla. Stat. § section 120.57(3)(f), Florida Statutes, the burden

- 934 of proof shall rest with the party protesting the proposed agency action.
- 935 A. In any bid-protest proceeding contesting an intended agency action
936 to reject all bids, proposals, or replies, the standard of review shall
937 be whether ~~the agency's~~ the School Board's intended action is
938 illegal, arbitrary, dishonest, or fraudulent.
- 939 B. In competitive-procurement protests other than those contesting an
940 intended agency action to reject all bids, proposals, or replies, the
941 hearing officer or administrative law judge will conduct a de novo
942 proceeding to determine whether the School Board's proposed
943 action is contrary to the governing statutes, the School Board's
944 Policies, or the solicitation specifications. The standard of proof for
945 such proceedings shall be whether the proposed agency action was
946 clearly erroneous, contrary to competition, arbitrary, or capricious.
- 947 iv. Valid bid protests, as determined by the Office of General the Chief
948 Counsel, shall be reported to the Board by the Director of Purchasing
949 monthly at least quarterly.

950 12. Authority to Debar or Suspend ~~Debarment.~~—

- 951 a. The School Board may suspend a vendor who fails to fulfill any of its duties in
952 a contract. The School Board may reinstate any such vendor when it is
953 satisfied that further instances of default will not occur.
- 954 b. The School Board shall have the authority to debar a person/company for
955 cause from consideration or award of future contracts or subcontracts. The
956 debarment shall be for a period commensurate with the seriousness of the
957 causes, generally not to exceed three (3) years. When the offense is willful or
958 blatant, a longer term of debarment may be imposed, up to an indefinite
959 period. This sanction shall be imposed only when it is in the best interest of
960 the School District and for protection of the public, and not for punishment.
- 961 c. Good cause for Debarment or Suspension include the following:
- 962 i. Conviction or civil judgment for commission of a fraud or a criminal
963 offense as an incident to obtaining, attempting to obtain, performing, or
964 making a claim upon any public entity contract or subcontract, or a
965 contract funded in whole or in part with public funds;
- 966 ii. Conviction or civil judgment for commission of a fraud or a criminal
967 offense as an incident to obtaining, attempting to obtain, performing, or
968 making a claim upon any private contractor subcontract,
- 969 iii. Conviction or civil judgment under state or federal statutes of

- 970 embezzlement, theft, forgery, bribery, collusion, racketeering, public entity
971 crimes, dishonest services, falsification or destruction of records,
972 receiving stolen property, or any other offense indicating a lack of
973 business integrity or business honesty;
- 974 iv. Conviction or civil judgment for violation of state or federal antitrust
975 statutes arising out of the submission of offers, bids, or proposals;
- 976 v. Violation of the School Board's lobbying policy;
- 977 vi. Conviction or civil judgment for violating any federal or state immigration,
978 minimum wage, or any other applicable employment related law;
- 979 vii. Violation of contract provisions, as set forth below, of a character which is
980 regarded by the Director of Purchasing to be so serious as to justify
981 debarment action:
- 982 A. Failure without good cause to perform in accordance with the terms
983 or specifications of the contract, or within the time limit provided in
984 the contract; or
- 985 B. A record of failure to perform or of unsatisfactory performance in
986 accordance with the terms of one or more contracts; provided that
987 failure to perform or unsatisfactory performance caused by acts
988 beyond the control of the awarded Proposer or vendor doing
989 business with the School District shall not be considered to be a
990 basis for debarment;
- 991 viii. Filing a lawsuit against the School Board which a court of competent
992 jurisdiction determines to be frivolous or in bad faith;
- 993 ix. Any and all causes for Suspension or Revocation listed in State
994 Requirements for Educational Facilities 4.1(1)(g).
- 995 x. Providing anything of value, including but not limited to, a gift, loan,
996 reward, promise of future employment, favor or service to any School
997 District employee, Board member, or member of the evaluation
998 committee for the purpose of influencing the award of a contract or the
999 purchase of items from the vendor.
- 1000 xi. Any other cause the Director of Purchasing determines to be so serious
1001 and compelling as to affect responsibility as a Palm Beach County
1002 Schools awarded Proposer or vendor doing business with the School
1003 District, including debarment by another governmental entity for any
1004 cause.

- 1005 d. Decision – The Superintendent may make a recommendation to the School
1006 Board to debar or suspend. The School Board shall approve, reject, or modify
1007 this recommendation at a public meeting.
- 1008 e. Notice of Decision – A notice of the action taken by the School Board under
1009 this Paragraph shall be mailed or otherwise furnished immediately to the
1010 debarred or suspended person/company and any other party intervening. This
1011 notice shall include the following:
- 1012 i. The reasons for the action taken; and
- 1013 ii. The length of time of the debarment.
- 1014 f. ~~Pursuant to Fla. Stat. §§ 1001.32(2) and 1001.41(1), and similar to §~~
1015 ~~287.042(1)(b), the Board shall have the authority to debar a person/company~~
1016 ~~for cause from consideration or award of future contracts. The debarment shall~~
1017 ~~be for a period commensurate with the seriousness of the causes, generally~~
1018 ~~not to exceed three (3) years. When the offense is willful or blatant, a longer~~
1019 ~~term of debarment may be imposed, up to an indefinite period.~~
- 1020 13. Beneficial Interest Form and Affidavit. Vendors wishing to do business with the
1021 School Board must execute PBSB 1997. At all times during the performance of the
1022 contract for goods or contractual services, the vendor shall ensure that the
1023 information disclosed on such form is current and correct.
- 1024 14. Administrative Procedures
- 1025 Wherever this Policy mentions procedures to be established or implemented by the
1026 Superintendent, certain internal operational procedures and guidelines may be set
1027 forth in Bulletins where appropriate. Other more formal procedures when
1028 sufficiently developed and solidified, should be recommended to the School Board,
1029 where appropriate, for adoption as Policy.
- 1030 15. ~~**Emergency Purchases.**-- Requests for emergency purchases, as defined in Fla.~~
1031 ~~Stat. § 287.057(5)(a), require the signatures of the initiating administrator and~~
1032 ~~his/her Area/Assistant/Associate Superintendent or Division Head, and approval by~~
1033 ~~the Superintendent or designee(s). Emergency purchases over twenty-five~~
1034 ~~thousand dollars (\$25,000) will be reported to the Board at its next business~~
1035 ~~meeting. The vendor and purchase order number will be assigned by the~~
1036 ~~Purchasing Department.~~
- 1037 16. ~~**Tracking**~~
- 1038 a. ~~The Director of Purchasing is responsible for tracking of bids/RFPs and other~~
1039 ~~Board awarded contracts to ensure that the amount of purchase orders~~
1040 ~~released does not exceed the budgeted funds approved by the Board.~~

1041 b. ~~Additionally, purchases of various goods and services made under State~~
1042 ~~Board of Education Rule 6A-1.012(4) (State Contracts) and those made by~~
1043 ~~contracts awarded under Rule 6A-1.012(3) (Piggy-Back Bids) shall be tracked~~
1044 ~~and reported to the Board on a quarterly basis.~~

1045 17. ~~**Definitions.**—Unless otherwise defined herein, the procurement terms used in this~~
1046 ~~Policy have the meanings set forth in Fla. Stat. § 287.012 where the context allows.~~

1047 STATUTORY AUTHORITY: Fla. Stat. §§ Sections 1001.41(2); 1001.42(22)(26),
1048 1001.43(2), Florida Statutes

1049
1050 LAWS IMPLEMENTED: Fla. Stat. §§ Sections 119.07(3)(m) 112.08; 119.071(1)(b);
1051 120.569; 120.57(3); 163.01; 255.0516; 255.25(3)(de); 286.0113; 286.0115;
1052 ~~287.017(1)(b); 287.042(2)(c); 287.057(5)(a), (5)(c); 1001.32(2); 1001.41(1), (2), (4), (5);~~
1053 ~~1001.42(40)(i), (j); 1001.51(11)(i); 1006.27; 1010.04; 1011.06, Florida Statutes~~

State Board of Fla. Admin. Code Rule 6A-1.012
Education Rule
Supplemented:

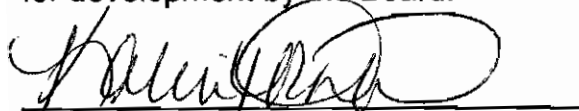
Administrative Fla. Admin. Code Chapter 28-110
Procedure Act Rules
Implemented:

Procurement OMB Circular A-102; 7 C.F.R. § 3015; 7 C.F.R. § 3016; 7
Guidelines for Federal C.F.R. § 210.21; 7 C.F.R. § 220.16; 7 C.F.R. § 215.14a; 7
Assistance Programs: C.F.R. § 225.17.

1054
1055 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;
1056 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

8/23/12

Date