

PROPOSED POLICY 6.143

5-D I recommend the Board approve the proposed new Policy 6.143, to be entitled "Preference for Local Vendors."

[Contact: Sharon Swan, 434-8214; or Bill Malone, 434-8510.]

◆ **Further Development**

- At the first reading for development on June 17, the School Board approved the proposed Policy, with suggested amendments.
- Although Fla. Stat. § 287.087, requires giving a tie-breaking preference to vendors who certify that they have a drug-free workplace program, this amended text does not use "drug-free workplace" as a tie-breaker category in Section (5) because *all* District vendors are required to sign a drug-free workplace statement.
- On June 17, the Board discussed the proximity of some firms located in an adjoining county, immediately across the Palm Beach County boundary line. However, there was no clear direction for amending the proposed plan of giving a 4% preference to all vendors headquartered in the adjacent county. Due to the difficulty of artificially setting a line other than the official county boundary, it seems appropriate to retain the proposed 4% preference as is. Notably, the 4% preference for vendors in bordering counties is reasonably close in effect to the 5% preference for Palm Beach County vendors.
- A new paragraph (8)(b) has been added to clarify the relationship of this Policy to state statutes concerning construction procurement.
- The Legal Department recommended bringing back this amended text to the Board for further development.
- Upon approved on July 8, this Policy will be scheduled for final reading and recommendation for Adoption on August 19.

CONSENT ITEM

PROPOSED NEW POLICY 6.143

PREFERENCE FOR LOCAL VENDORS

- 1 1. **Local Preference Policy.**-- In a competitive procurement process other than
2 construction procurement, businesses that are certified as local vendors will be given a
3 preference as outlined in this Policy, consistent with Florida law and AGO 2001-65.
- 4 2. **Relation to Policies 6.14 and 6.142.**-- This Policy shall be applied in conjunction
5 with Board Policy 6.14, "Purchasing Department" and Policy 6.142, "Diversity in
6 Business Practices" for the procurement of goods and services.
- 7 3. **Certification.**-- Vendors interested in receiving local certification status shall register
8 with the Office of Diversity in Business Practices, subject to the following criteria:
 - 9 a. To be certified as a Palm Beach County local vendor, the company headquarters
10 must be located in Palm Beach County.
 - 11 b. To be certified as local to a bordering county, the company headquarters must be
12 located within that bordering county.
 - 13 c. To be certified as local to Florida, the company headquarters must be located
14 within the boundaries of the State of Florida, other than Palm Beach County or a
15 bordering county.
- 16 4. **Application of the Preference**
 - 17 a. **Invitation to Bid.**-- In a competitive procurement using an Invitation to Bid (ITB)
18 process, vendors who are certified by the District as a local vendor shall receive
19 the following preferences when evaluating the lowest and best bid:
 - 20 i. a five percent (5%) preference for firms certified as local to Palm Beach
21 County.
 - 22 ii. a four percent (4%) preference for firms certified as local to a county
23 bordering Palm Beach county.
 - 24 iii. a two percent (2%) preference for firms certified as local to Florida.
 - 25 b. **Request for Proposals.**-- In a competitive procurement process using a Request
26 for Proposals (RFP), "Location of Business" will be a category in the evaluation
27 process, ranging in point value from zero percent (0%) to five percent (5%) of the

- 28 overall points possible.
- 29 i. Proposers certified as local shall receive points in the "Location of Business"
30 category as follows:
- 31 A. vendors who are certified as a Palm Beach County local vendor shall
32 receive points equivalent to five percent (5%) of the overall points
33 possible.
- 34 B. vendors certified as local to a bordering county shall receive points
35 equivalent to four percent (4%) of the overall points possible.
- 36 C. vendors certified as local to Florida shall receive points equivalent to
37 two percent (2%) of the overall points possible.
- 38 ii. Vendors not certified as local to Palm Beach County, a bordering county, or
39 Florida, will not receive any points in the "Location of Business" category;
40 provided, however, that partial points may be awarded if a non-local vendor
41 sub-contracts with a certified local vendor for part of the engagement.
- 42 5. **Priority Sequence for Tied Results.**— When a tie exists in a competitive procurement
43 process, priority for award shall be given in the following sequence (which does not
44 list the drug-free workplace preference of § 287.087, Fla. Stat, because **all** District
45 vendors are required to certify a drug-free workplace):
- 46 a. a vendor that is 1) certified a local vendor by the District; 2) certified as a
47 minority/women business enterprise (M/WBE) firm by the District or the State of
48 Florida; and 3) a small business as defined by the Small Business Administration.
- 49 b. a vendor that is both 1) certified as a local vendor by the District and 2) certified
50 as a minority/women business enterprise (M/WBE) firm by the District or the State
51 of Florida.
- 52 c. a vendor certified as local to Palm Beach County.
- 53 d. a vendor certified as local to a county that borders Palm Beach County.
- 54 e. a vendor certified as local to Florida.
- 55 f. a vendor certified as a minority/women business enterprise (M/WBE) firm by the
56 District or the State of Florida.

57 6. **Alternate Method for Resolving a Tie.**-- If the application of the criteria in Section (5)
58 does not indicate a priority for award when the results are tied, the award shall be
59 decided as follows:

60 a. Tied bids will be decided by a coin toss. The coin toss shall be held in the
61 Purchasing Department, with the tied low-bid vendors invited to be present as
62 witnesses.

63 b. Tied proposals will be decided by the lowest price.

64 7. **Utilization for Non-Competitive Procurement.**-- All schools and departments will be
65 encouraged to utilize local vendors on all non-competitive procurement, when
66 possible.

67 8. **Exception to Application.**-- The preference system set forth in this Policy does not
68 apply to construction procurement.

69 a. For purposes of this Policy, the term "construction procurement" refers to
70 procurement of design professionals and other professionals used in construction-
71 related fields, as well as all procurement for new school and major
72 modernization construction projects with a budget of two hundred fifty thousand
73 dollars (\$250,000) or more.

74 b. Section (8) of this Policy is not intended to preclude giving a statewide preference
75 for construction contracting pursuant to § 255.04, Fla. Stat.; nor is it intended to
76 preclude considering "location," along with the other factors listed in §
77 287.055(4)(b), Fla. Stat., in determining whether an architect, engineer, design-
78 build firm, landscape architect, or surveying and mapping professional is
79 "qualified" in the qualifications phase of selection under the Consultants'
80 Competitive Negotiation Act (CCNA), pursuant to AGOs 2001-65 and 2002-03.

81 STATUTORY AUTHORITY: §§ 230.22(2); 230.23005(2), Fla. Stat.

82 LAW(S) IMPLEMENTED: §§ 230.22(1); 230.23005(2)(a); 235.31; 287.055(4)(b);
83 287.017(1)(e), Fla. Stat.

84 ATTORNEY GENERAL

85 OPINIONS CITED: 2001-65; 2002-03.

86 HISTORY: / /2002

Legal Signoff:

The Legal Department has reviewed proposed new Policy 6.143 and finds it legally sufficient for development by the Board.

Attorney

Date