



POLICY 6.14

4-C I recommend the Board adopt the proposed revised Policy 6.14, entitled "Purchasing Department," and also adopt the repeal of Policies 2.51 and 6.145, the substance of which is incorporated in this revision.

[Contact: Sharon Swan, 434-8214.]

Development

CONSENT ITEM

- The Board approved this revision, with minor amendments, at the first reading on April 19. Lines 55-59 now clarify that purchases based on low bid or low quote above \$15,000 will require the approval of the Superintendent or Chief Operating Officer and must be reported to the Board quarterly. Sections G and H of the table in Exhibit A now reflect that clarification.
- This proposed revision includes provisions required by a State Board of Education Rule and includes provisions for online and electronic procurement.
- The proposal also raises the threshold for certain competitive procurements to \$25,000, consistent with statute.
- This revision incorporates the substance of, and calls for the repeal of, Policies 2.51 and 6.145. Fla. Stat. § 120.74(1)(c) requires agencies to review their rules (policies) and "delete obsolete or unnecessary rules." Both Policies 2.51 and 6.145 should be repealed because they will be rendered obsolete and unnecessary by the proposed revision to Policy 6.14. The repeal of Policies 2.51 and 6.145 will be timed to occur when the revision of Policy 6.14 is adopted.
- This revision expands and clarifies the bid protest procedures in Section (4), consistent with state law.
- Section (4)(e)(iii) clarifies that construction purchasing is separately governed by Policy 7.10 and different bid-protest bond standards apply.
- For the Board's convenience, a table (Exhibit A) listing the proposed delegations of purchasing/contracting authority appears on the following page. Much of the table's substance is the same as in the current Policy; the proposed changes are reflected in strikeouts and double underlining in the table.

EXHIBIT A

DELEGATION OF THE BOARD'S PURCHASING/CONTRACTING AUTHORITY			
	Item	Method	Who Can Approve?
A	Contractual services up to \$2,500	Any	<u>Department Heads</u> , Principals, Superintendent/designee
B	Contractual services between \$2,500 and \$10,000 (except consultant contracts)	Any	Principals
C	Contractual services between \$2,500 and \$15,000 (except consultant contracts)	Any	Superintendent/designee
D	Consultant agreements between \$2,500 and \$10,000	Any	Superintendent/designee
E	Consultant agreements above \$10,000	Any appropriate	School Board only
F	Commodities up to \$15,000	(Quotes required above \$10,000)	Principals or Superintendent/designee
G	Commodities above \$15,000	Quotes (but bids are required above \$45,000 <u>25,000</u>)	Superintendent/ <u>COO</u> , <u>without regard to dollar amount, if the method is by low bid or quote</u> with Board ratification if between \$15,000 and \$50,000; but only with prior Board approval if over \$50,000 <u>and such purchases over \$15,000 shall be reported to the Board quarterly</u>
H	Contractual services above \$15,000: price-based quotes or bids	Quotes (but bids are required above \$45,000 <u>25,000</u>)	Superintendent/ <u>COO</u> , <u>without regard to dollar amount, if the method is by low bid or quote</u> with Board ratification if between \$15,000 and \$50,000; but only with prior Board approval if over \$50,000 <u>and such purchases over \$15,000 shall be reported to the Board quarterly</u>
I	Contractual services above \$15,000: when the method is RFP, etc. (methods other than price-based quotes or bids)	RFP (or other non-price-based-quote/non-price-based-bid methods)	Only the School Board Superintendent/designee, with Board ratification if between \$15,000 and \$50,000; but only with prior Board approval if over \$50,000
J	Exceptional purchases (i.e., <u>exempt</u> from bid requirements under SBER 6A-1.012 or other applicable law)	Any appropriate	Superintendent/designee, <i>without regard to dollar amount</i> (apart from any dollar limitation imposed by the exemption itself, such as \$150,000 for SNAPS)

POLICY 6.14

PURCHASING DEPARTMENT

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5 1. Delegation of Authority.-- As set forth below, the School Board has delegated
6 authority to The Director of Purchasing the Superintendent or his/her designee to
7 be is responsible for the purchase of the commodities material, equipment and
8 contractual services for the District in compliance with Florida Statutes, State Board
9 of Education Rules, and Board Policy. The Board has also delegated limited
10 purchasing authority to Department heads and school principals, as set forth
11 below. Any purchases not delegated to department heads, principals, or the
12 Superintendent/designee, must be approved in advance by the School Board.

13 a. Department Heads.-- Authority is vested in the Director of each department to
14 contract for contractual services in an amount not to exceed two thousand five
15 hundred dollars (\$2,500). (Other purchases of contractual services and all
16 purchases of commodities are subject to subsection (1)(c) below.)

17 ~~Purchases Authority is vested in the Director of Purchasing to approve or~~
18 ~~reject purchase requisitions and to authorize purchase of supplies, equipment,~~
19 ~~and services when the total amount of each purchase does not exceed fifteen~~
20 ~~thousand dollars (\$15,000).~~

21 b. School Principals

22 i. Authority is vested in the Principal of each school center to contract for
23 educational or student activity contractual services in an amount not to
24 exceed two thousand five hundred dollars (\$2,500). (Other purchases of
25 contractual services are subject to subsection (1)(c) below.)

26 ii. Principals may also, and to approve purchases of commodities goods
27 which are to be paid from the internal funds of the school when the total
28 amount of each purchase does not exceed fifteen thousand dollars
29 (\$15,000). (Other purchases of goods are subject to subsection (1)(c)
30 below).

31 c. Superintendent/Designee

32 i. Authority is vested in the Superintendent or his/her designee to approve
33 consultant agreements between two thousand five hundred dollars
34 (\$2,500) and ten thousand dollars (\$10,000). However, when the
35 contract amount will exceed \$10,000 for any one fiscal year utilizing
36 budgeted funds, the consultant agreement must be approved by the
37 School Board prior to services being provided.

38 ii. Apart from the consultant agreements mentioned in paragraph (1)(c)(i),
39 above, (for which the threshold is \$10,000), authority is also vested in the
40 Superintendent or his/her designee to:

41 e. ~~Purchases in excess of fifteen thousand dollars (\$15,000), except as exempt~~
42 ~~by State Board of Education Rule 6A-1.012, shall be approved by the Board as~~
43 ~~follows:~~

44 A. ~~The Director of Purchasing may authorize purchases and award~~
45 ~~contracts for commodities or contractual services not exceeding~~
46 ~~fifteen thousand dollars (\$15,000) between fifteen thousand dollars~~
47 ~~(\$15,000) and fifty thousand dollars (\$50,000). Such purchases shall~~
48 ~~be presented to the Board within the scheduled deadlines for the~~
49 ~~next Board Meeting for ratification. Purchases over fifty thousand~~
50 ~~dollars (\$50,000) shall require prior approval by the Board.;~~

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

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

67 2. Maximum Value.-- Pursuant to Fla. Stat. § 1001.51(11)(i), the Superintendent of
68 Schools or his/her designee shall, insofar as possible, propose standards and
69 specifications. He or she shall see that the purchase or contract conforms to those
70 standards and specifications, and shall take such other steps as are necessary to
71 see that the maximum value is being received for any money expended. Insofar as
72 practicable, all purchases shall be based on requisitions, and the
73 Superintendent/designee shall certify that funds to cover the expenditures under
74 the requisitions are authorized by the budget and have not been encumbered.

75 a. Competitive Quotes.-- Competitive quotes shall be requested from three (3)
76 or more sources for commodities and contractual services when requisitioning
77 any item or group of similar items exceeding ten thousand dollars (\$10,000)

78 except as exempted by State Board of Education Rule 6A-1.012 or other
79 applicable laws.

80 b. **Bids/Proposals.--** Bids/RFPsproposals shall be requested from three (3) or
81 more sources for commodities and contractual services supplies, services,
82 and equipment when requisitioning any item or group of similar items
83 exceeding fifteen thousand dollars (\$15,000) twenty-five thousand dollars
84 (\$25,000) or as otherwise set by the threshold amount in Fla. Stat. § 287.017
85 for Category Two, except as exempt by State Board of Education Rule 6A-
86 1.012 or other applicable laws. However, for the purchase of items covered
87 under the Federal Assistance Programs, the threshold for such items shall
88 be ten thousand dollars (\$10,000) or as otherwise required under federal
89 regulations.

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

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

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

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

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

114 iii. may, without requesting bids, purchase school buses, equipment, and
115 related contractual needs and supplies through the pool-purchase
116 provisions of Fla. Stat. § 1006.27;

- 117 iv. shall receive and give consideration to the prices available to it under
118 state contracts, pursuant to the rules of the Department of Management
119 Services, State Division of Purchasing state contracts and may purchase
120 from these contracts without requesting bids;
- 121 v. may use prices established by the State Division of Purchasing through
122 its state negotiated price schedule (SNAPS) (or similar successor State
123 program), provided such use will be limited to \$150,000 (or the prescribed
124 limit of similar successor State program);
- 125 vi. may waive the requirements for competitive quotes or requesting bids for
126 the purchase of professional or educational services, educational tests,
127 textbooks, printed instructional materials, computer software, films,
128 filmstrips, videotapes, disc or tape recordings, or similar audio-visual
129 materials, and for library and reference books, and printed library cards
130 where such materials are purchased directly from the producer or
131 publisher, the owner of the copyright, an exclusive agent within the state,
132 a governmental agency or a recognized educational institution;
- 133 vii. may enter into negotiations with suppliers of commodities and contractual
134 services and execute contracts under terms and conditions as determined
135 to be in the best interests of the school system, when bids have been
136 requested in the manner prescribed and no valid or acceptable firm bid
137 has been received within the prescribed time;
- 138 viii. may, except as otherwise required by statute, enter into direct
139 negotiations and contract with a vendor or supplier that best meets the
140 needs of the School District when acquiring insurance, entering risk
141 management programs, or contracting with third party administrators. An
142 exception to this option is for employee group insurance that must be
143 competitively selected;
- 144 ix. may, when acquiring information technology resources pursuant to Fla.
145 Admin. Code Rule 6A-1.012(10) by purchase, lease, lease with option to
146 purchase, rental or otherwise, make the technology acquisition either
147 through competitive bids or by direct negotiation with a vendor or supplier,
148 as best fits the needs of the District as determined by the Board; or
- 149 x. may purchase commodities and contractual services available only from a
150 single source if it is determined that such commodities or services are
151 available only from a single source and such determination is
152 documented pursuant to Fla. Stat. § 287.057(5)(c).

153 d. Online and Electronic Procurement

- 154 i. The Superintendent or his/her designee will receive and give

- 155 consideration to the prices available through the use of the program for
156 online procurement of commodities and contractual services under the
157 rules of the Department of Management Services, Division of Purchasing,
158 as well as other opportunities for online procurement as may be available,
159 such as reverse auctioning.
- 160 ii. The Superintendent or his/her designee may utilize any appropriate
161 electronic methods, such as procurement cards, to purchase commodities
162 and contractual services as deemed to be in the best interest of the
163 District and consistent with the other parts of this Policy. Selected staff
164 will be eligible to use a District purchasing card upon approval by the
165 Superintendent/designee of the prospective user's signed Purchasing
166 Card Application (PBSD 2076) and Cardholder Acceptance Guidelines
167 and Contract (PBSD 2077), which contain the appropriate-use standards
168 and procedures. Pursuant to form PBSD 2077, each user shall
169 acknowledge, by signing the Application and Acceptance Guidelines and
170 Contract, that the user must reimburse the District for any misuse of the
171 purchasing card and that a violation of those standards and procedures
172 will be cause for discipline up to and including termination.
- 173 iii. The Superintendent shall develop procedures for any online and
174 electronic purchasing methods utilized. Such procedures may be
175 disseminated through a Bulletin and a summary of the standards and
176 guidelines should be included in a future revision of this Policy.
- 177 e. **Advance Payments.--** With adequate safeguards to ensure that the
178 commodities or contractual services will be provided, the Board, or the
179 Superintendent/designee pursuant to the Board's delegation of authority in
180 Section (1) above, may make advance payments:
- 181 i. pursuant to Fla. Stat. § 216.181(16)(b) under certain contracts with other
182 governmental agencies or not-for-profit corporations;
- 183 ii. consistent with Fla. Stat. § 215.422(14) for maintenance agreements,
184 software license agreements, subscriptions, contracts to reserve space,
185 and certain other commodities, when advance payment will result in a
186 savings to the District equal to or greater than the amount the District
187 would earn by investing the funds and paying in arrears, or where those
188 items are essential to the operation of the District and are available only if
189 advance payment is made; or
- 190 iii. in accordance with Policy 6.01 regarding certain employee travel
191 expenses.
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193 **3. Integrity of the Award Process**

194 a. Once the bid or RFP is released, no bidder or individuals acting on behalf of
195 the bidder or offeror shall lobby District personnel or School Board members.
196 Lobbying School Board members or District personnel will result in
197 rejection/disqualification of said bids or RFPs. For purposes of this Policy,
198 "lobbying" is defined as "any action taken by an individual, firm, association,
199 joint venture, partnership, syndicate, corporation and all other groups who
200 seek to influence the governmental decision of a Board member or District
201 personnel after the release of the bid or RFP and prior to time that an award
202 recommendation is posted."

203 b. After the award is posted, any persons including bidders, or those acting on
204 behalf of the bidders may discuss with any Board Member the merits of any
205 bid or RFP on which Board action may be taken. Board members shall
206 disclose any ex-parte communications in accordance with Fla. Stat. §
207 286.0115., Fla. Stat. Such disclosure shall be made before or during the public
208 meeting at which time a vote will be taken on the award of a contract. This will
209 allow persons who may have opinions contrary to those expressed during any
210 ex-parte communications to have a reasonable opportunity to respond to
211 those communications.

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

214 a. **Definitions**

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

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

219 B. a determination that a specified procurement can be made only from
220 a single source;

221 C. the approval of procurement by negotiation;

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

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

226 ii. As used in this Section, the term "contract procurement process" has the
227 same meaning as "contract bidding process" as used in Fla. Stat. §
228 120.57(3). This phrase includes procurements by invitation to bid (ITB),

229 request for proposal (RFP), single source approval, and negotiation
230 approval.

231 b. **District's Notice of Decision or Intended Decision.--** Pursuant to Fla. Stat.
232 § 120.57(3), the District shall provide notice of a decision or intended decision
233 concerning a solicitation, contract award, or exceptional purchase by
234 electronic posting. This notice shall contain the following statement: "Failure to
235 file a protest within the time prescribed in section 120.57(3), Florida Statutes,
236 shall constitute a waiver of proceedings under chapter 120, Florida Statutes."

237 c. **Notice of Protest.--** In a contract procurement process, Aany bidder or offerer
238 person who is adversely affected by the agency decision or intended decision
239 and intends to protest the decision or intended decision, must file a notice of
240 protest in writing within seventy-two (72) hours after the posting of the notice
241 of decision or intended decision ~~the actual or proposed award of contract or~~
242 ~~the specifications contained in an invitation to bid or in a request for proposal~~
243 ~~may file a notice of protest, in writing, within seventy-two (72) hours after the~~
244 ~~posting of the bid tabulation or within seventy-two (72) hours after the receipt~~
245 ~~of specifications in an invitation to bid or request for proposals and shall file a~~
246 ~~formal written protest within ten (10) days after filing the notice of protest. With~~
247 ~~respect to a protest of the terms, conditions, and specifications contained in a~~
248 ~~solicitation, including any provisions governing the methods for ranking bids,~~
249 ~~proposals, or replies, awarding contracts, reserving rights of further~~
250 ~~negotiation, or modifying or amending any contract, the notice of protest shall~~
251 ~~be filed in writing within seventy-two (72) hours after the posting of the~~
252 ~~solicitation.~~

253 i. All notices of protest shall be directed to the Director of Purchasing.

254 ii. A notice of protest should not be filed before the 72-hour period begins.
255 The 72-hour period begins upon receipt of a copy of the ITB or RFP;
256 when notice of a single source approval or disapproval or negotiation
257 approval or disapproval is posted, or otherwise received if not posted;
258 when a bid or proposal tabulation is posted; or when notice is otherwise
259 received if not posted.

260 iii. The notice of protest must be actually received by the Purchasing
261 Department before the 72-hour period expires. The 72-hour period
262 excludes Saturdays, Sundays, and holidays when the District
263 administrative office is closed. The 72-hour period is not extended by
264 service of the notice of protest by mail. Failure to timely file a notice of
265 protest shall constitute a waiver of proceedings under this Section and
266 Fla. Stat. § 120.57(3).

267 iv. The notice of protest shall identify the procurement by number and title or
268 any other language that will clearly enable the District to identify it; and it

- 269 shall state that the person intends to protest the decision.
- 270 d. **Formal Written Protest.--** The protestor shall file a formal written protest
271 within ten (10) days after the date the notice of protest is filed. Failure to timely
272 file the formal written protest shall constitute a waiver of proceedings under
273 this Section and Fla. Stat. § 120.57(3). The 10-day period for filing the petition
274 is not extended by service of the petition by mail.
- 275 i. The formal written protest shall be a petition that:
- 276 A. states with particularity the facts and law upon which the protest is
277 based;
- 278 B. contains all the information specified in Fla. Admin. Code Rule 28-
279 106.201(2);
- 280 C. is substantially in the form of petition set forth in Fla. Admin. Code
281 Rule 28-110.004(2), naming "The School Board of Palm Beach
282 County, Florida" as the Respondent; and
- 283 D. should include a request for a hearing involving disputed issues of
284 material fact; or, if the relevant facts are not in dispute, the petition
285 should so allege and request a hearing not involving disputed issues
286 of material fact.
- 287 ii. Pursuant to F.A.C. Rule 28-110.004(1), if the formal written protest is filed
288 in proper form within the 72-hour period for filing a notice of protest, the
289 formal written protest will also constitute the notice of protest, and all time
290 limits applicable to a notice of protest are waived and the time limits
291 relative to formal written protests shall apply.
- 292 e. **Posting the Bond.--** The protesting party shall be required to post a bond in a
293 form consistent with Fla. Admin. Code Rule 28-110.005(2). A notice of
294 decision or intended decision shall contain this statement: "Failure to file a
295 protest within the time prescribed in Section 120.57(3), Florida Statutes, or
296 failure to post the bond or other security required by law within the time
297 allowed for filing a bond shall constitute a waiver of proceedings under
298 Chapter 120, Florida Statutes."
- 299 i. **Bond: Commodities (Other than Lease of Space) and Contractual**
300 **Services (Including Professional Services and Insurance)--**
301 Pursuant to Fla. Stat. § 287.042(2)(c), Any person bidder or offeror who
302 files an action protesting a decision or intended decision pertaining to a
303 solicitation or contract award shall post with the Board District, at the time
304 of filing the formal written protest, a bond secured by an acceptable
305 surety company in Florida, payable to The School Board of Palm Beach
306 County the District in an amount equal to one percent (1%) of the

307 District's estimate of the dollar value of the proposed contract, ~~or five~~
308 ~~thousand dollars (\$5,000), whichever is less,~~

309 A. The District shall provide the estimated contract amount to the
310 protestor within seventy-two (72) hours (excluding Saturdays,
311 Sundays, and holidays when the District administrative office is
312 closed) after the filing of the notice of protest. The estimated contract
313 amount is not subject to protest under this Policy or Fla. Stat. s.
314 120.57(3). In lieu of a bond, the Board may accept a cashier's check,
315 official bank check, or money order in the amount of the bond.

316 B. The which bond shall be conditioned upon the payment of all costs
317 and charges which may be adjudged against the protestor bidder or
318 offerer in the administrative hearing in which the action is brought,
319 and in any subsequent appellate court proceeding.

320 C. Pursuant to Fla. Stat. § 287.042(2)(c), if-#f, after completion of the
321 administrative hearing process and any appellate court proceedings
322 the Board District prevails, it shall be entitled to recover all costs and
323 charges which shall be are included in the final order or judgment,
324 including excluding attorney's fees. Upon payment of such costs and
325 charges by the person protesting the decision or intended decision or
326 contract award, the bond, cashier's check, official bank check, or
327 money order shall be returned to the protestor firm. If, after the
328 completion of the administrative hearing process and any appellate
329 court proceedings, the protestor prevails, the protestor may recover
330 from the Board the costs and charges which are included in the final
331 order or judgment, excluding attorney's fees.

332 ii. **Bond: Competitive Bids for Lease of Space.**-- Pursuant to Fla. Stat. §
333 255.25(3)(c), any person who files an action protesting a decision or
334 intended decision pertaining to a competitive bid for space to be leased
335 by the Board shall post with the Board, at the time of filing the formal
336 written protest, a bond payable to The School Board of Palm Beach
337 County in an amount equal to 1 percent of the estimated total rental of the
338 basic lease period or \$5,000, whichever is greater, which bond shall be
339 conditioned upon the payment of all costs which may be adjudged against
340 him or her in the administrative hearing in which the action is brought and
341 in any subsequent appellate court proceeding. If the Board prevails after
342 completion of the administrative hearing process and any appellate court
343 proceedings, it shall recover all costs and charges which are included in
344 the final order or judgment, excluding attorney's fees. Upon payment of
345 such costs and charges by the person protesting the award, the bond
346 shall be returned to him or her. If the person protesting the award
347 prevails, the bond shall be returned to that person and he or she shall

348 recover from the Board the costs and charges which are included in the
349 final order or judgment, excluding attorney's fees.

350 iii. **Bond: Construction Purchasing.**-- Construction purchasing is
351 separately governed by Policy 7.10, and protestors regarding competitive
352 procurement related to educational facilities shall be required to post a
353 bond in the amount specified in Fla. Stat. § 255.0516, which also governs
354 recovery of fees and costs including attorney's fees.

355 f. **Staying the Procurement Process.**-- In the event a timely protest is filed
356 under this section, the Board shall not proceed further with the solicitation or
357 with the award of contract. Upon timely receipt of the formal written protest
358 petition, the solicitation or contract award process shall be stopped until the
359 subject of the protest is resolved by final agency action, unless the School
360 Board sets forth in writing particular facts and circumstances which require the
361 continuance of the solicitation or contract award process without delay in order
362 to avoid an immediate and serious danger to the public health, safety, or
363 welfare.

364 g. **Informal Resolution.**-- The Director of Purchasing shall provide an
365 opportunity to resolve the protest by mutual agreement between the parties
366 within seven (7) working days (excluding Saturdays, Sundays, and holidays
367 when the District administrative office closed) of receipt of the formal written
368 protest. All affected parties shall be notified of the notice of protest.

369 h. **Hearing.**-- If the protest is not resolved informally under subsection (4)(g), the
370 aggrieved party may file a formal written request for an administrative hearing
371 (if such request was not already included in the formal written protest). All
372 procedures as delineated in Fla. Stat. § 120.57(3)(d)-(f) 120.53(5)(a), Fla.
373 Stat., and Fla. Admin. Code Chapter 28-110 shall be followed.

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

378 ii. If there is a disputed issue of material fact, the Board will refer the protest
379 to DOAH for a formal hearing under Fla. Stat. § 120.57(1).

380 iii. As stated in Fla. Stat. § 120.57(3)(f), the burden of proof shall rest with
381 the party protesting the proposed agency action.

382 A. In any bid-protest proceeding contesting an intended agency action
383 to reject all bids, proposals, or replies, the standard of review shall
384 be whether the agency's intended action is illegal, arbitrary,
385 dishonest, or fraudulent.

386 B. In competitive-procurement protests other than those contesting an
387 intended agency action to reject all bids, proposals, or replies, the
388 hearing officer or administrative law judge will conduct a de novo
389 proceeding to determine whether the Board's proposed action is
390 contrary to the governing statutes, the Board's Policies, or the
391 solicitation specifications. The standard of proof for such
392 proceedings shall be whether the proposed agency action was
393 clearly erroneous, contrary to competition, arbitrary, or capricious.

394 ~~h. In the event a timely protest is filed under this section, the Board shall not~~
395 ~~proceed further with the solicitation or with the award of contract. Valid bid~~
396 ~~protests as determined by the Office of the General Counsel shall be reported~~
397 ~~to the Board no less than quarterly.~~

398 ~~Any bidder or offeror who files an action protesting a decision or intended~~
399 ~~decision pertaining to a solicitation or contract award shall post with the~~
400 ~~District, at the time of filing the formal written protest, a bond secured by an~~
401 ~~acceptable surety company in Florida, payable to the District in an amount~~
402 ~~equal to one percent (1%) of the District's estimate of the dollar value of the~~
403 ~~proposed contract, or five thousand dollars (\$5,000), whichever is less, which~~
404 ~~bond shall be conditioned upon the payment of all costs which may be~~
405 ~~adjudged against the bidder or offeror in the administrative hearing in which~~
406 ~~the action is brought, and in any subsequent appellate court proceeding. If,~~
407 ~~after completion of the administrative hearing process and any appellate court~~
408 ~~proceedings the District prevails, it shall be entitled to recover all costs and~~
409 ~~charges which shall be included in the final order or judgment, including~~
410 ~~attorney's fees. Upon payment of such costs and charges by the person~~
411 ~~protesting the decision or intended decision or contract award, the bond shall~~
412 ~~be returned to the firm.~~

413 i. Valid bid protests, as determined by the Office of the Chief Counsel, shall be
414 reported to the Board at least quarterly.

415 5. Debarment.-- Pursuant to Fla. Stat. §§ 1001.32(2) and 1001.41(1), and similar to
416 § 287.042(1)(b), ~~The~~ Board shall have the authority to debar a person/company
417 ~~corporation~~ for cause from ~~for~~ consideration or award of future contracts. The
418 debarment shall be for a period commensurate with the seriousness of the causes,
419 generally not to exceed three (3) years. When the offense is willful or blatant, a
420 longer term of debarment may be imposed, up to an indefinite period.

421 6. Emergency Purchases.-- Requests for emergency purchases, as defined in § Fla.
422 Stat. § 287.057(5)(3)(a), Fla. Stat., require the signatures of the initiating
423 administrator, and his/her Area/Assistant/Associate Superintendent or Division
424 Head, and approval by the Superintendent or designee(s). Emergency purchases
425 ~~over fifteen thousand dollars (\$15,000)~~ twenty-five thousand dollars (\$25,000) will

426 be reported to the Board at its next business meeting. The vendor and purchase
427 order number will be assigned by the Purchasing Department.

428 7. Tracking

429 a. The Director of Purchasing is responsible for tracking of bids/RFPs and other
430 Board awarded contracts to ensure that the amount of purchase orders
431 released does not exceed the ~~estimated amount~~ budgeted funds approved by
432 the Board, ~~by more than plus five percent (+5%) of the total or fifteen thousand~~
433 ~~dollars (\$15,000) whichever is less. If additional expenditure authorization is~~
434 ~~needed, a request for an additional estimated expenditure will be presented to~~
435 ~~the Board for approval.~~

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

440 8. Definitions.-- Unless otherwise defined herein, the procurement terms used in this
441 Policy have the meanings set forth in Fla. Stat. § 287.012 where the context allows.

442
443 STATUTORY AUTHORITY: ~~§§ 119.07(3)(m); 120.53(5); 1001.41(2); 230.22(2);~~
444 ~~1001.42(22) 230.23(10)(j) 1001.43(2), Fla. Stat.~~

445 LAWS IMPLEMENTED: ~~§§ 119.07(3)(m); 120.53(5); 120.57(3); 230.23(10)(j);~~
446 ~~237.02(1)(2); 255.0516; 255.25(3)(c); 286.0115; 287.017(1)(b); 287.042(2)(c);~~
447 ~~287.057(5)(a), (5)(c); 1001.32(2); 1001.41(1), (4), (5); 1001.42(10)(i), (j);~~
448 ~~1001.51(11)(i); 1006.27; 1010.04; 1011.06, Fla. Stat.~~

449 ~~SBER: State Board of Education Rule Supplemented: F.A.C. r. 6A-1.012~~

450 ~~Administrative Procedure Act Rules Implemented: F.A.C. Chapter 28-110~~

451 ~~Procurement Guidelines for Federal Assistance Programs; Procurement Circular: G-~~

452 ~~OMB Circular A-102; (6/99); 7 C.F.R. § 3015; 7 C.F.R. § 3016; 7 C.F.R. §~~
453 ~~210.21; 7 C.F.R. § 220.16; 7 C.F.R. § 215.14a; 7 C.F.R. § 225.17.~~

454 HISTORY: ~~3323, 9340.0, 2/18/72; 12/19/73; 4/6/83; 12/11/91; 11/21/95; 6/3/98;~~
455 ~~9/22/99; 5/17/00; ___/___/04~~

456

457 ***[AND, in conjunction, REPEAL Policies 2.51 and 6.145, as follows:]***

458 ***[REPEAL]***

459 **POLICY 2.51**

460 ~~CONTRACTS FOR PROFESSIONAL AND TECHNICAL CONSULTATIVE SERVICES~~

461 1. ~~It is the intent of the School Board to carry out in-service training activities for district~~
462 ~~employees on an annual basis and to provide for other professional and technical~~

463 services. Where appropriate, use of district personnel to conduct training activities is
464 encouraged. However, the Board recognizes that out-of-district professional and
465 technical consultants may be necessary to provide such training and staff
466 development activities. This policy is adopted in accordance with the Florida State
467 Board of Education Administrative Rule 6A-1.012.

468 ~~2. The Superintendent shall establish, by directive, a process by which professional
469 and technical consultants are retained for in-service training which contributes to the
470 district's educational program.~~

471 ~~3. The Superintendent is authorized to approve of and contract with consultants
472 recommended for such services in the amount of \$10,000 or less. Any consultant
473 whose fees for such in-service training will exceed \$10,000 must be approved by the
474 Board.~~

475 ~~4. In accordance with the District Minority/Women Business Enterprise Policy, the
476 Superintendent shall solicit proposals and retain consultants in compliance with the
477 M/WBE participation goals for the retention of professional services.~~

478

479 ~~Florida Statute(s) Authority: Florida Statute § 230.22~~

480 ~~Florida Statute(s) Implemented: Florida Statute § 211.613~~

481 ~~State Board of Education Rule: 6-A-1.012~~

482 ~~History: New: 2/21/79; Revised: 7/21/82; 2/17/93; 10/25/95; 12/18/96~~

483

484

[REPEAL]

485

POLICY 6.145

486

CONTRACTS FOR OTHER PROFESSIONAL AND TECHNICAL SERVICES

487 The School Board of Palm Beach County hereby authorizes the Superintendent or his
488 appointed agent to execute contracts for other Professional or Technical services prior
489 to formal action by the Board.

490 Authority: 120.53, FS

491 Implemented: 120.53, FS

492 History: New: 4/6/83

Legal Signoff:

The Legal Department has reviewed proposed Policy 6.14, along with the proposed repeal of Policies 2.51 and 6.145, and finds it legally sufficient for development.

Attorney

Date