

PURCHASING POLICIES

THERE IS A SEPARATE POLICY FOR BUILDING RENTALS OR LEASES (SEE POLICY 2314).

AUTHORITY: F.S. 1001.41

STATE BOARD OF EDUCATION ADMINISTRATIVE RULES, CHAPTER #6A-1.

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5/6/14

RULES

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I. PURCHASING POLICIES – DEFINITIONS

A. Definitions:

1. The term “competitive solicitation” shall be defined for the purposes of this rule to include purchasing made through the issuance of an invitation to bid, request for proposals and invitation to negotiate. Competitive solicitations are not required for purchases made through the pool purchase provisions of Section 1006.27, Florida Statutes.
2. “Invitation to bid” shall be defined for the purposes of this rule as a written solicitation for competitive sealed bids. The invitation to bid is used when the district school board is capable of specifically defining the scope of work for which a

contractual service is required or when the district school board is capable of establishing precise specifications defining the actual commodity or group of commodities required. A written solicitation includes a solicitation that is publicly posted.

3. "Invitation to negotiate" shall be defined for the purposes of this rule as a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. The invitation to negotiate is used when the district school board determines that negotiations may be necessary for it to receive the best value. A written solicitation includes a solicitation that is publicly posted.
4. The term "proposer" shall be defined for the purposes of this rule to include those vendors submitting bids or responses to a competitive solicitation.
5. "Request for proposals" shall be defined for the purposes of this rule as a written solicitation for competitive sealed proposals. The request for proposals is used when it is not practicable for the district school board to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required and when the district school board is requesting that a responsible vendor propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. A written solicitation includes a solicitation that is publicly posted.
6. The term "superintendent" shall be defined for the purposes of this rule to mean "superintendent or designee."

II. PURCHASING POLICIES – GENERAL PROVISIONS

- A. The School Board shall authorize the Superintendent to establish procedures and to designate the authority to staff in order to implement this Policy.
- B. Purchases under \$5,000 that are not available from a contract awarded or approved for use by The School Board do not require quotations or solicitations. A requisition or Purchasing Card (P-Card) shall be utilized for purchases of goods or services included in a contract awarded or approved for use by The School Board and for any expenditure approved by an agenda item. Vendors of catalog goods shall be requested in

competitive solicitations to permit individual district schools or departments to make purchases of any awarded goods at a lower price from other vendors if the individual school/department's total purchase order is less than \$5,000. When necessary, a confirming Purchase Order shall only be placed with a vendor by the Supply Management & Logistics Department after receiving an approved requisition. Minority/Women's Business Enterprise (M/WBE) vendor participation will be strongly encouraged in this category of purchases.

- C. Purchases from \$5,000 to \$50,000 which require written solicitations that are not available from a contract awarded or approved for use by The School Board require a minimum of three written quotations, unless an exemption to this requirement is established herein. A requisition or an approved active P-Card shall be utilized for purchases of goods or services included in a contract awarded or approved for use by The School Board and for any expenditure approved by an agenda item. At least three suppliers shall be contacted for written quotations. At least two certified Minority/Women's Business Enterprise (M/WBE) vendors will be contacted where certified M/WBE vendors have been identified by The School Board as offering the product or service being purchased. When necessary, a confirming Purchase Order shall only be placed with the vendor by the Supply Management & Logistics Department after receiving an approved requisition. Only the Superintendent may waive this requirement unless the Superintendent is absent and has named a predetermined designee to include the Chief of Staff and/or Chief Strategy & Operations Officer. At that time, the Chief of Staff and/or Chief Strategy & Operations Officer may waive the quotations requirements under this section. The School Board authorizes the Superintendent or his predetermined designee the authority to execute agreements, which have been reviewed and approved for legal form and content by The School Board's Attorney for purchases up to \$50,000; execute amendments to agreements for purchases up to \$50,000 which do not materially change the original scope, execute agreements for parent reimbursement instead of providing transportation as required in special needs circumstances when in the best interest of the district considering vendor performance, market conditions, CPI/PPI evaluation and other procurement alternatives. The Board approval process for contract renewals will be presented to the Board at least two Board meetings prior to contract expiration to ensure the District is not without a contract in place. All contract renewals require Board approval. Before the contract expenditures reach the approved award amount, the contract will be brought back for Board approval to increase the award amount.

- D. Except as authorized by law or rule, competitive solicitations shall be requested from three (3) or more sources for any authorized commodities or contractual services to the amount established in 6A-1.012(7) F.A.C. [This amount is currently \$50,000.] The procurement of commodities or contractual services may not be divided so as to avoid this monetary threshold requirement. Any application of the exemptions to competitive solicitations allowed herein will be considered if determined to be in the best interest of the School Board.
1. The School Board shall have the authority to reject any or all proposals submitted in response to any competitive solicitation and request new proposals or purchase the required commodities or contractual services in any other manner authorized by 6A-1.012(F.A.C.).
 2. In acceptance of responses to invitations to bid, The School Board may accept the proposal of the lowest responsive, responsible proposer. In the alternative, The School Board may also choose to award contracts to the lowest responsive, responsible bidder as the primary awardee of a contract and to the next lowest responsive, responsible bidder (s) as alternate awardees, from whom commodities or contractual services would be purchased should the primary awardee become unable to provide all of the commodities or contractual services required by The School Board during the term of the contract. When a bid has both a primary and alternate awardee, and the primary awardee is unable to perform during the term of the contract, Supply Management & Logistics will negotiate with the alternate awardee for the same or lower unit prices as those submitted by the primary awardee. Nothing herein is meant to prevent multiple awards to the lowest responsive and responsible bidders when such multiple awards are clearly stated in the bid solicitation documents.
 3. In acceptance of responses to requests for proposals, The School Board may award contracts to one or more responsive, responsible proposers in accordance with the selection criteria published in the request for proposal. The School Board is not required to request proposals for purchases made from contracts of the Department of Management Services as referenced in subsections (2) and (5) of 6A-1.012(F.A.C.).
- E. The requirements for requesting competitive solicitations and making purchases for commodities and contractual services as set forth in this section, are hereby waived as authorized by Section 1010.04(4)(a), Florida Statutes, when the following conditions have been met by The School Board:

1. Competitive solicitations have been requested in the manner prescribed by this rule, and,
 2. The School Board has made a finding that no valid or acceptable firm proposal has been received within the prescribed time. When such a finding has been officially made, The School Board may enter into negotiations with suppliers of such commodities and contractual services and shall have the authority to execute contracts with such vendors under whatever terms and conditions as The School Board determines to be in its best interests;
- F. The requirement for requesting solicitations or prior School Board approval is hereby waived for instructional materials purchased from state-authorized book depository or for instructional materials purchased for resale to students. The School Board may implement an adoptive instructional materials program pursuant to Florida Statute 1006.283. The School Board is not required to requisition instructional materials from the publisher's depository. The Superintendent will furnish The School Board a list monthly of all purchases under this category that exceed \$500,000.
- G. The requirement for requesting competitive solicitations or prior School Board approval is hereby waived as authorized by chapter 6A-1.012,(F.A.C.) State Board of Education Administrative rules, for the purchase of professional services which shall include, without limitation, artistic services; academic program reviews; lectures by individuals; auditing services not subject to s218.391; legal services, including attorney, paralegal, expert witness, court reporting, appraisal or mediator services; and health services involving examination, diagnosis, treatment, prevention, medical consultation or administration. Purchases in excess of \$50,000 for commodities or services which competitive solicitations have been waived require School Board approval.
- H. The requirement of requesting competitive solicitations from three or more sources is hereby waived as authorized by chapter 6A-1.012 (F.A.C.) State Board of Education Administrative rules for the purchase of educational services and any type of copyrighted materials including, without limitation, educational tests, textbooks, printed instructional materials, computer software, films, filmstrips, videotapes, DVDs, disc or tape recordings, digital recordings, or similar audio-visual materials, and for library and reference books, and printed library cards where such materials are purchased directly from the producer or publisher, the owner of the copyright, and exclusive agent within the state, a governmental agency, or a recognized educational institution. Purchases in

excess of \$50,000 for commodities or services, which competitive solicitations have been waived, require School Board approval.

- I. Commodities or contractual services available only from a single source are exempt from the competitive solicitation requirements. When The School Board believes that commodities or contractual services are available only from a single source, unless an exemption is established herein, the Supply Management & Logistics Department shall electronically or otherwise publicly post a description of the commodities or contractual services sought for a period of at least 7 business days. The description must include a request that prospective vendors provide information regarding their ability to supply the commodities or contractual services described. If it is determined in writing by the district school board, after reviewing any information received from prospective vendors, that the commodities or contractual services are available only from a single source, the district school board shall provide notice of its intended decision to enter a single source contract in the manner specified in Section 120.57(3), Florida Statutes, and may negotiate on the best terms and conditions with the single-source vendor. Purchases in excess of \$50,000 for commodities or services, which competitive solicitations have been waived, require School Board approval.

- J. If less than two responsive proposals for a commodity or contractual services are received, the school district may negotiate on the best terms and conditions or decide to reject all proposals. The school district shall document the reasons that negotiating terms and conditions with the sole proposer is in the best interest of the school district in lieu of re-soliciting proposals;

- K. Copyrighted materials purchased for resale to students are exempt from School Board approval and bidding requirements.

- L. As required by Section 1001.42(12)(j), Florida Statutes, the School Board shall receive and give consideration to the prices available to it under rules of the Department of Management Services, Division of Purchasing. The School Board may use prices established by the Division of Purchasing through its state purchasing agreement price schedule. School board policy provides for purchasing under this program of state purchasing agreements. The conditions for use shall be those imposed on state agencies. Purchases of \$500,000 or more under this section must have prior Board approval.

- M. In lieu of requesting competitive solicitations from three (3) or more sources, The School Board may make purchases at or below the specified prices from contracts awarded by other city or county governmental agencies, other district school boards, community colleges, federal agencies, the public or governmental agencies of any state, or from state university system cooperative bid agreements. When the proposer awarded a contract by another entity defined herein will permit purchases by a district school board at the same terms, conditions and prices (or below such prices) awarded in such contract, and such purchases are to the economic advantage of the district school board. Purchases of \$500,000 or more under this section must have prior Board approval.
- N. A contract for commodities or contractual services may be awarded, without competitive solicitations, if state or federal law, a grant or a state or federal agency contract prescribes with whom The School Board must contract or if the rate of payment is established during the appropriations process.
- O. A contract for regulated utilities or government franchised services may be awarded without competitive solicitations.
- P. The Superintendent is authorized to purchase commodities or contractual services where the total amount does not exceed \$500,000 and does not exceed the applicable appropriation in the district budget. The Superintendent is also authorized to purchase commodities or contractual services under the Department of Management Services state term contracts. Assistants functioning under the Superintendent's direction may be authorized to perform these purchasing tasks. No person, unless authorized to do so under the rules of The School Board, may make any purchase or enter into any contract involving the use of school funds. No expenditures for any such unauthorized purchase or contract shall be approved by The School Board. The requirement for competitive solicitations for the emergency purchase of commodities or contractual services is waived when the Superintendent determines, in writing, that an immediate danger to the public health safety, or welfare or other substantial loss to the school district requires emergency action. After the Superintendent makes such a written determination, the school district may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without requesting competitive solicitations. However, such an emergency purchase shall be made by obtaining pricing information from at least two prospective vendors, which must be

retained in the contract file, unless the Superintendent determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health safety or welfare or other substantial loss to the school district. Subsequent to the emergency circumstances, the purchase shall be submitted to The School Board for post approval. Section P will not be used for late grant purchases without a letter of explanation to the Superintendent from the requestor.

- Q. Before making any purchase of commodities or contractual services for which the Superintendent is authorized by The School Board to make or before recommending any purchase to The School Board, the Superintendent shall, insofar as possible, propose standards and specifications. He or she shall see that the purchase or contract conforms to those standards and specifications, and shall take such other steps as are necessary to see that the maximum value is being received for any money expended.
- R. Specifications may be limited to a specific brand or product when necessary to supplement existing installations or for purposes of standardization. However, specifications which exceed industry standards for the intended use of the product, as determined by the Director of Supply Management & Logistics, must be justified in writing by the requestor and authorized by the Superintendent's direct reports. When drafting specifications for public bidding or considering renewal of an existing contract, the Supply Management & Logistics Department will request input and assistance from the requestor and the department's director in order to insure that specifications best meet the needs of the requestor. A customer satisfaction survey will be sent to the end users before renewing any contracts. However, in the event that input and assistance is not received in a timely manner, the Supply Management & Logistics Department may take action in the best interest of the district, including, but not limited to, releasing a solicitation or renewing an existing contract without the consent of the requestor.
- S. If the requested spending authorization for purchases from contracts or exemptions described herein is less than \$500,000, then the Superintendent is authorized to make purchases from the contract without prior School Board approval. The Superintendent will furnish The School Board a list monthly of all contracts or exemptions described herein above having estimated spend between \$50,000 to less than \$500,000.
- T. Purchases in excess of \$500,000 require prior School Board approval except in an emergency. The Superintendent shall furnish The School Board a list monthly of all awards which do not require prior School Board approval.

- U. Check Request or P-Card may be used when a Purchase Order is not required or for items exempt from bidding as designated herein or by the Superintendent or State Board Rules.
- V. Whenever possible, like purchases should be combined and bid by the Supply Management & Logistics Department. Multiple orders or split invoicing shall not be used to circumvent the rules established herein.
- W. If an item to be purchased is the same as or is similar to one stocked in The School Board's warehouse, the item from the warehouse must be purchased. If an item or service to be purchased is the same or of a similar nature as an item currently on contract, the item on contract must be purchased from the approved vendor. Any deviation from this procedure must be fully justified and documented by the principal or department head as to the reason for the exception, pre-approved by the Superintendent, and the documentation must be maintained for audit purposes. This rule applies to purchases made through all funds, including internal funds.
- X. The School Board authorizes the Superintendent to prepare and distribute any forms which are necessary to carry out the provisions of this policy. Such forms shall be considered as an official component of The School Board's purchasing procedure.
- Y. In a procurement utilizing a competitive solicitation, when identical prices are received from two or more vendors and all other factors are equal, priority for award shall be given to vendors in the following sequence:
 1. A business that certifies that it has implemented a drug-free work place program shall be given preference in accordance with the provisions of 287.087, Florida Statutes;
 2. The Broward County Certified Minority/Women Business Enterprise Vendor;
 3. The Palm Beach or Dade County Certified Minority/Women Business Enterprise vendor;
 4. The Florida Certified Minority/Women Business Enterprise Vendor;
 5. The Broward County vendor, other than a Minority/Women Business Enterprise Vendor;
 6. The Palm Beach or Dade County vendor, other than a Minority/Women Business Enterprise Vendor;
 7. The Florida Vendor, other than a Minority/Women Business Enterprise Vendor;

8. If application of the above criteria does not indicate a priority for award, the award will be decided by a coin toss. The coin toss shall be held publicly at the location where the bids were opened; the tie low bid vendors will be invited to be present as witnesses.

Z. In a competitive procurement utilizing a Request For Proposals (“RFP”) process, when an evaluation committee assigns points to the proposals received resulting in two or more proposals receiving identical points and all other factors are equal, priority for award shall be given to vendors in the following sequence:

1. A business that certifies that it has implemented a drug-free work place program shall be given preference in accordance with the provisions of 287.087, Florida Statutes;
2. The Broward County Certified Minority/Women Business Enterprise Vendor;
3. The Palm Beach or Dade County Certified Minority/Women Business Enterprise Vendor;
4. The Florida Certified Minority/Women Business Enterprise Vendor;
5. The Broward County Vendor, other than a Minority/Women Business Enterprise Vendor;
6. The Palm Beach or Dade County vendor, other than a Minority/Women Business Enterprise Vendor;
7. The Florida Vendor, other than a Minority/Women Business Enterprise Vendor;
8. If application of the above criteria does not indicate a priority for award, the award will be decided by a coin toss. The coin toss shall be held publicly as part of the meeting of the evaluation committee.

AA. In each district in which the purchasing agent for any public agency of the state is authorized by law to make purchases for the benefit of other governmental agencies within the county, The School Board shall have the option to purchase under the current contracts as may be established for any of the public agencies as set forth above at the unit price stated therein, if such purchase is to the economic advantage of The School Board, subject to conformance of the items of purchase to the standards and specifications prescribed by the Superintendent.

BB. Insofar as practicable, all purchases shall be based on contracts, purchasing card systems, electronic procurements or purchase orders. The Superintendent shall be authorized to approve purchases under rules of the district school board; provided that

in so doing, he or she shall certify that funds to cover the expenditures are authorized by the budget and have not been encumbered.

- CC. Whenever there is an opportunity in the marketplace to obtain additional cost savings from contracts currently awarded or approved by The School Board, the Supply Management & Logistics Department will pursue additional cost savings from vendors awarded those contracts by requesting special pricing or additional educational discounts.
- DD. Whenever The School Board finds a vendor to be in default of a contract which the vendor has been previously awarded, then the vendor will be removed for a period of two years, from all bid lists and will not be considered for any new awards during this period. At the end of this period, the vendor may re-apply for inclusion on bid lists and may be considered for any new awards.
- EE. The Superintendent shall furnish The School Board annually a report of P-Card transactions.
- FF. Any leasing or rental of tangible personal property (equipment and vehicles) shall be established based upon both the total combined expenditure for the District and the requirements established by rule herein for requesting either written quotations or bids. Agreements for an amount established herein for bids and resulting from a bid recommendation shall be placed on The School Board agenda by the Director of Supply Management & Logistics. Agreements for an amount established herein for bids and not resulting from a bid recommendation shall be placed on The School Board agenda by the respective division/department head. A copy of all Agreements approved by The School Board shall be retained by Official School Board Records.
- GG. **CONE OF SILENCE:** Any proposer, or lobbyist for a proposer, is prohibited from having any communications (except as provided in this rule) concerning any solicitation for a competitive procurement with any School Board member, the Superintendent, any Evaluation Committee Member, or any other School District employee after the Supply Management & Logistics Department releases a solicitation to the General Public. All communications regarding the solicitation shall be directed to the designated staff member unless so notified by the Supply Management & Logistics Department. This “Cone of Silence” period shall go into effect and shall remain in effect from the time of release of the solicitation until the contract is awarded by the School Board. **Any**

proposer or lobbyist who violates this provision shall cause their proposal (or that of their principal) to be considered non-responsive and therefore be ineligible for award.

HH. CODE OF ETHICS FOR PERSONNEL AUTHORIZED TO PURCHASE

1. Comply with the Code of Ethics for Public Officers and Employees to the extent applicable to the school district's purchasing personnel.
2. Grant all vendors equal consideration insofar as state and federal laws and The School Board of Broward County, Florida's policies permit.
3. Strive to obtain the maximum value for each dollar of expenditure.
4. Decline personal gifts or gratuities in exchange for favorable consideration.
5. Conduct business with potential and current suppliers in an atmosphere of good faith, devoid of intentional misrepresentation.
6. Demand honesty in sales representation whether offered through the medium of a verbal or written statement, an advertisement, or a sample of the product.
7. Strive consistently to increase the knowledge about the goods and services purchased.
8. Make every reasonable effort to obtain an equitable and mutually agreeable settlement of any controversy with a vendor, insofar as applicable law and The School Board of Broward County, Florida's policies permit.
9. Accord a prompt and courteous reception, insofar as conditions permit, to all who communicate with the school district on legitimate business missions, whether by letter or e-mail, by telephone, or in person.
10. Cooperate with professional associations and governmental agencies for the purposes of promoting and developing sound business practices.

III. PURCHASING POLICIES – OFFICE OF FACILITIES & CONSTRUCTION

- A. All additions, modifications, and alterations to School Board properties shall conform with the State Requirement for Educational Facilities (SREF), Florida Building Code (FBC) and the laws of the State of Florida. School Board administrators shall obtain assistance in preparing bid specifications and applicable building permit(s) from the Facilities & Construction Office for these items.
- B. The School Board may structure contracts to avoid sales tax on public works project materials by purchasing those materials directly from the supplier rather than having the contractor make those purchases. A direct purchase program avoids the sales tax on materials incorporated into a public project. Section 212.08(6), F.S., contains the following basic requirements to qualify for the direct purchase program and the Board authorizes the Chief Financial Officer (CFO) to establish procedures and contracts

complying with the basic requirements and submission of an application for approval of the District's direct purchase program to the Department of Revenue.

1. The District will issue its own purchase order directly to the suppliers.
2. The District will provide the supplier with a copy of the District's sales tax exemption certificate.
3. The supplier's invoices will be addressed to the district, not the contractor.
4. Payments will be made by the district directly to the supplier.
5. The District will take title of the building materials and equipment directly from the supplier upon delivery rather than from the contractor after the project is completed.
6. The District rather than the contractor will bear the risk of loss of the materials as established through contract provisions concerning casualty insurance.

The School Board hereby authorizes the purchase of building materials and equipment through the direct purchase program contracts, rather than from other contracts The School Board may have with other suppliers for these items.

IV. PURCHASING POLICIES – FOOD AND NUTRITION SERVICES

- A. Groceries, canned goods, frozen foods, meats, and dairy products shall be purchased for the Food and Nutrition Services operation and vocational centers on bids. The Superintendent may exempt these items from bid requirements (except milk) during periods of fluctuating market conditions, and under terms and conditions to be in the best interest of the school system. Milk may be exempt from this procedure under the following conditions:

1. The School Board has made a finding that no valid or acceptable firm bid has been received within the prescribed time; or
2. The School Board has made a finding that an emergency situation exists and may enter into negotiations with suppliers of milk and shall have the authority to execute contracts under whatever terms and conditions as the Board determines to be in the best interest of the school system.

Purchasing procedures for all items exempt from bid requirements to be purchased by the Food and Nutrition Services Department shall be coordinated with and approved by the Director of Supply Management & Logistics.

- B. Seasonal fresh fruits and vegetables shall be bid-exempt and shall be purchased by the individual school food service departments under terms and conditions determined to be in the best interest of the school system.
- C. In order to effect an orderly and efficient operation, the Food and Nutrition Services Department shall be exempt from the requisitioning process; encumbering and use of purchase orders for the purchase of food items in accordance with State Board Administrative Rules.
- D. All food purchases shall conform to the Federal Food, Drug and Cosmetic Act, the Federal Meat Inspection Act, and the Meat Inspection Law of Florida, and any other federal or state safeguards relating to the wholesomeness of specific items being purchased.

V. PURCHASING POLICIES – RISK MANAGEMENT AND BENEFITS DEPARTMENTS

- A. All Employee Benefit programs (Health, Life Insurance, etc.) shall be competitively bid as required in chapter 112.08, Florida Statutes. Once competitively bid, subsequent contract renewal(s) may be negotiated, and presented to The School Board for approval. Any plans for self-insurance or entering into a Risk Management consortium to provide such coverage's, must be presented to The School Board for approval and to the Department of Insurance.
- B. Except as otherwise required by statute, The School Board, when purchasing insurance, entering risk management programs, or contracting with third party administrators, may make any such acquisitions through the competitive solicitation process as described herein or by direct negotiations and contract.

VI. PURCHASING POLICIES - TECHNOLOGY

(DEFINITION)

- A. Policy 5306 envisions a fully integrated technology system covering, but not limited to, the following:
 - 1. Instructional and staff workstations (both desktop and portable), printers, scanners and other peripherals;
 - 2. Administrative staff workstations (both desktop and portable), printers, scanners and other peripherals;
 - 3. Campus and departmental local area networks (both wired and wireless), including wiring, hubs, routers, transmitters/receivers and other devices;
 - 4. Servers, including instructional lab servers, CD-ROM servers, video servers, file and print servers, database servers, and Internet proxy caching servers;
 - 5. A Wide Area Network linking all SBBC sites into one countywide Intranet;
 - 6. Telephone systems, including primary systems, integrated voice response/management systems, and automatic dialing systems;
 - 7. Learning resource management systems, including library automation systems;
 - 8. Distance learning systems;
 - 9. Video capturing, broadcast, receiving, and distribution systems;
 - 10. Teleconferencing systems;
 - 11. Application software packages which result in the creation and maintenance of an operational database;
 - 12. Energy management and security monitoring systems;

13. Radio systems;
14. Office copier, imaging, and document management systems;
15. Paging systems;
16. Intercom Systems;
17. Facsimile systems
18. Consultants;
19. Support or maintenance services;
20. Related Training;
21. Software applications;
22. Web based applications;
23. Classroom Technology; and
24. Subscriptions.

In order to acquire, install, operate, and maintain this technology system, the District will conduct a high level of technology procurement activities on an on-going basis.

VI. PURCHASING POLICIES – *TECHNOLOGY*

(RATIONALE)

- B. Policy 5306 prescribes specific guidelines which bear directly on the process for procurement of technology resources. Specific guidelines that influence technology procurement are as follows:
 1. There will be a single technology system encompassing teaching, learning, and management.
 2. System design will be based on vendor-independent open system standards.
 3. Networks will integrate voice, video, and data communications systems.
 4. The data architecture will be based on an enterprise-wide network using client-server technology.
 5. Database management software will be relational and be able to run on a variety of operating systems and hardware platforms.
 6. Information will be recorded once and validated at the source.
 7. All mainframe, personal and mini-computers and peripherals will be inter-connected through network hardware and software.
 8. Technology must be kept current, within available resources, and replaced or upgraded based upon a life-cycle process.

(IMPLEMENTATION)

- C. Based upon the above Definition and Rationale, when acquiring technology, the following provisions will apply:
1. Technology procurement will be designed to minimize the total cost of ownership over the intended useful life of five - seven years, which includes but not limited to; Purchase Options (Direct Purchase vs. Lease Purchased), Acquisitions Costs, Additional Work Space Requirements, Hardware, Software, Supplies, Ongoing Maintenance & Support, Staff (FTE), Additional Staff Requirements, Consulting Services, Professional Development, Peripheral Requirements, Upgrades, Software, Equipment Upgrades/Replacement, and Project Management.
 2. Technology procurement will be based upon standards and specifications developed through the Technology Standards and Guidelines Committee process, and shall include review by the Technology Advisory Committee prior to adoption of the standards by the administration.
 3. Procurement of volatile items will have a maximum contract period consistent with industry product development cycles. Volatile items are defined as those items with significant annual cost reductions and/or product life cycles equal to or less than SBBC project cycles.
 4. The School Board, when acquiring, whether by purchase, lease, lease with option to purchase, rental or otherwise, information technology as defined in section 282.0041(15), Florida Statutes, may make any acquisition through the process as described herein or by direct negotiation and contract with a vendor or supplier, as best fits the needs of the School District as determined by The School Board.
 5. Technology purchases requiring School Board approval will identify the District's Strategic Plan for technology by the objective which applies to the purchase. Technology procurements will be consistent with Policy 5306 and the District's Strategic Plan for Technology and will utilize one or more of the following options:
 - (a). Bid/Frequent Re-bid. Using this option, specifications, projected quantities, and special conditions are developed, and vendors submit bids which are evaluated so that award recommendations can be made to The School Board. The School Board approves an award(s) which results in a short term contract. Before that contract expires, the specifications, projected quantities, and special conditions are reviewed and revised if necessary, and a new bid is released. When properly synchronized, there would be no lapse in the availability of contract awards to support the education technology program since each new bid

produces a contract that becomes effective upon the lapse of the previous contract.

- (b). Bid/RFP/Special Pricing. Using this option, a contract is used which establishes a percentage discount from manufacturers' published pricing over a longer term of award. During this term, SBBC may solicit "Best and Final Pricing" from all vendors awarded this contract. Staff evaluates the pricing received and recommends the supplier providing the greatest cost savings. The Superintendent will present the evaluation to The School Board for approval.
- (c). Direct Negotiation. Using this option, specifications, projected quantities and terms and conditions would be a basis for negotiation of a contract which best fits the needs of The School Board. The contract would be brought to The School Board for approval.
- (d). Use of Other Governmental Contracts. Using this option, contracts awarded by other governmental entities may be utilized as permitted herein.

VII. PURCHASING POLICIES – TITLE I AND HEAD START

The School Board shall permit the purchase of food refreshment for Title I and Head Start parent involvement activities as allowed by the funding source such as federal funding or grants for the purpose of parental involvement as authorized by F.S.1000.43 (2)(g)

VIII. PURCHASING POLICIES - PROTESTS ARISING FROM THE COMPETITIVE SOLICITATION PROCESS

- A. The School Board shall provide notice of its decision or intended decision concerning a bid solicitation or a contract award as follows:
 - 1. For a bid solicitation, notice of a decision or intended decision shall be given by United States mail, by hand delivery, or by electronic posting.
 - 2. For any other decision, notice of a decision or intended decision shall be given either by posting the bid tabulation at the location where the bids were opened, by certified United States mail, or other express delivery service, return receipt requested, or by electronic posting.

The notice required by this Rule shall contain the following statement: "Failure to file a protest within the time prescribed in s. 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

- B. The date and time of posting the bid tabulation may be established in the bid document. Bidders will be notified by certified United States mail, other express delivery service, return receipt requested or by electronic posting of the bid posting date and time if not included in the bid documents or request for proposals, or if there is change in the bid posting date and time previously established. Any notification shall advise bidders of date and time at which bid tabulation will be posted, which date shall be at least three days, excluding Saturdays, Sundays, and days during which The School Board administration is closed, subsequent to the date that the notification is given.
- C. In the event that The School Board takes action to award a bid in a manner which differs from the posted notice of intended decision, or the last notice of intended decision if more than one notice was provided, such award does not become final until seven calendar days after The School Board action. Within two working days of such School Board action, all bidders shall be notified of the action by certified United States mail or other express delivery service, return receipt requested or by electronic posting. A written notice of protest filed by a bidder within 72 hours after receipt of this letter shall stop the award process and invoke the procedures described herein. Saturdays, Sundays, and days during which The School Board administration is closed shall be excluded in the computation of the 72-hour time period provided by this Rule.
- D. Any person who is adversely affected by The School Board's decision or intended decision shall file with The School Board a notice of protest in writing within 72 hours after the posting of the bid tabulation or after receipt of the notice of The School Board's decision or intended decision, and shall file a formal written protest within 10 days after filing the notice of protest. With respect to a protest of the specifications contained in an invitation to bid or in a request for proposals, the notice of protest shall be filed in writing within 72 hours after the receipt of notice of the project plans and specifications or intended project plans and specifications in an invitation to bid or request for proposals, and the formal written protest shall be filed within 10 days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. The formal written protest shall state with particularity the facts and law upon which the protest is based. Saturdays, Sundays, and days during which The School Board administration is closed shall be excluded in the computation of the 72-hour time periods provided by this Rule.
- E. A written notice of decision or intended decision received in accordance with Chapter 119, Florida Statutes, or School Board Policy 1343, shall not be used as a basis for filing a notice of protest as described herein.

- F. A notice of protest or a formal written protest shall be filed with The School Board at the location described in the bid documents. A protest is filed when it is received in its entirety at the described location. It is the sole responsibility of the protestant filing the protest to be certain that the protest is properly and completely filed. The decision as to the time that the protest is filed in its entirety at the described location is solely that of The School Board. A protest may be filed by facsimile.
- G. If the tenth day in which to file a formal written protest falls on a Saturday, Sunday, or days during which the school district administration is closed, the formal written protest must be filed the next business day. For the method of computing the ten days in which a person has to file a formal written protest after the notice of protest is received, the day that the notice of protest is filed is not considered as one of the ten days.
- H. Upon receipt of the formal written protest which has been timely filed, The School Board shall stop the bid solicitation process or the contract award process until the subject of the protest is resolved by final School Board action, unless the Superintendent sets forth in writing particular facts and circumstances which require the continuance of the competitive solicitation process or the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare. When the Superintendent so notifies The School Board, then the Superintendent is authorized to continue the bid solicitation process or the contract award process and to release Purchase Orders for purchases regardless of the protest.
- I. When the contract award process is stopped due to the filing of a formal written protest, The School Board authorizes the extension of any existing contract for the goods or services contained in the bid or request for proposals being protested under whatever terms and conditions are determined by the Superintendent to be in the best interest of The School Board until such time as the new award under protest can be approved by The School Board.
- J. The School Board shall provide an opportunity to resolve the protest by mutual agreement between the parties within seven days, excluding Saturdays, Sundays, and days during which the school district administration is closed, after receipt of a formal written protest.
- K. If the subject of a protest is not resolved by mutual agreement within seven days, excluding Saturdays, Sundays, and days during which the school district administration is closed, after receipt of the formal written protest, and if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to Chapter 120.57(2), Florida Statutes, and applicable School Board rules before a person whose qualifications have been prescribed by rules of The School Board.

- L. If the subject of a protest is not resolved by mutual agreement within seven days, excluding Saturdays, Sundays, and days during which the school district administration is closed, after receipt of the formal written protest, and if there is a disputed issue of material fact, The Board shall refer the protest to the Division of Administrative Hearings for proceedings under Chapter 120.57(1), Florida Statutes, upon the written request of the protestant. This written request by the protestant shall be filed at the same place at which the formal written protest was filed within three days, excluding Saturdays, Sundays, and days during which the school district administration is closed, after the attempt to resolve the protest by mutual agreement.
- M. When attempting to resolve the subject of a protest by mutual agreement as described in Rule L., the persons representing The School Board shall be as follows:
 - 1. The Associate Superintendent, Human Resources, or designee;
 - 2. The Chief Financial Officer (CFO), or designee;
 - 3. The Superintendent's designee(s) from the affected division; and
 - 4. The School Board Attorney or designee shall serve solely as the legal advisor.

During the seven day period described in Rule L., these persons shall meet with the protestant in an effort to mutually resolve the protest. If the protest is mutually resolved, then no further action is required by either The School Board or the protestant. If the protest is not resolved, then the protestant shall file a written request for a hearing in accordance with Rule L.

- N. Any person who files a formal written protest shall post with The School Board, at the time of filing the formal written protest, a bond, payable to The School Board of Broward County, Florida, in an amount equal to one percent (1%) of the school district's estimate of the total volume of the contract. The School Board shall provide the estimated contract amount to the vendor within 72 hours, excluding Saturdays, Sundays and other days during which the school district administration is closed. The estimated contract amount is not subject to protest pursuant to Section 120.57(3), Florida Statutes. The bond shall be conditioned upon the payment of all costs which may be adjudged against the protestant in a formal administrative hearing in which the action is brought and in any subsequent appellate court proceeding. In lieu of a bond, The School Board may accept a cashier's check, official bank check or money order in the amount of the bond. If, after completion of the administrative hearing process and any appellate court proceedings, The School Board prevails, then The School Board shall recover all costs and charges which shall be included in the Final Order or judgment, including charges made by the Division of Administrative Hearings, but excluding attorney's fees. Upon payment of such costs and charges by the protestant, the bond shall be returned. If, after completion of the Administrative Hearing process and any appellate court proceedings, the protestant prevails, the protestant shall recover all costs and charges

incurred in those formal administrative proceedings and appellate proceedings, which shall be included in the Final Order or judgment, but excluding attorney's fees.

- O. Upon receipt by The School Board of a recommended order as the result of proceedings by the Division of Administrative Hearings due to the filing of a formal written protest, then The School Board has the final decision whether to accept or reject the protest. A final order shall be entered by The School Board within 30 days of the entry of a recommended order. The provisions of this Rule may be waived upon stipulation by all parties.

IX. PURCHASING POLICIES - *FIELD TRIPS*

- A. Expenditures for field trips, other than transportation, do not require bidding by the Supply Management & Logistics Department or Board approval.
- B. All field trips shall comply with School Board Policy 6303.

AUTHORITY: F.S. 1001.41,

STATE BOARD RULE #6A 1.012

RULES ADOPTED: 3/20/75

RULES AMENDED: 7/29/76; 4/14/77; 1/18/79;

10/4/79; 7/3/80; 1/22/81;

6/16/83; 4/10/84; 6/21/84;

2/7/85; 10/1/87; 10/3/89

Emergency Rule #90-91-2 Approved: 10/16/90

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