

PURCHASING PROCEDURES

FILE: DJB

TITLE: **Purpose, Applicability, and Definitions**

POLICY:

- (1) Purpose.

The purpose of this policy is to provide for a uniform and systematic method for procurements in an efficient, cost-effective manner in accordance with, and as permitted by, applicable federal and state laws, Florida State Board of Education Rules, School Board policies, and administrative rules, procedures, and guidelines which promote transparency and accountability in the expenditure of public funds and the use of public resources. The goal of this policy is to assist The School Board of Orange County, Florida (“Board” or “district”) and its employees in protecting the integrity of the contract award and procurement process, inspiring public confidence in the process used to acquire commodities and contractual services, and promoting fair, open, and non-discriminatory competition in a manner that protects the Board’s assets and ensures that the Board receives the maximum value and quality when expending public dollars for a public purpose.

- (2) Applicability.

This policy shall govern the procurement of commodities, contractual services (including construction) for the Board through the use of a competitive solicitation, where required by law or as determined to be in the best interest of the Board, and procurements which are specifically exempted by law from the competitive solicitation process, when those commodities and contractual services are procured using Board funds, grant proceeds, or internal account funds held by individual schools. This policy also includes revenue generating contracts and transactions made by third party providers in which the district may not expend funds, but maintains a relationship with said third party providers who derive revenue from such agreements.

- (3) Multi-Year Agreements.

While multi-year agreements are encouraged where it is determined to be advantageous to the district, only the Board has the authority to enter into multi-year agreements, regardless of value, and to obligate funds based on budget appropriation approval. All multi-year agreements must contain a provision that allows the district to terminate the obligation with thirty (30) days’ advance notice based on a limitation of funding availability, unless otherwise determined to be in the best interest of the district.

- (4) Definitions. For the purposes of this policy, the following definitions shall apply:

- (a) “Best interests of the State/City/County/Board” is a term frequently used in granting a procurement official the authority to use his/her discretion to

take whatever action he/she feels is most advantageous to the government. The term is used when it is impossible to anticipate adequately the circumstances that may arise so that more specific directions could be delineated by the law or regulation.

- (b) "Bidder", "Proposer", or "Respondent" includes those vendors submitting bids, proposals, or replies to a competitive solicitation.
- (c) "Commodities and Contractual Services" for purposes of this policy shall have the same general determination inclusive of references within the Florida Statutes and applicable administrative codes. The term refers to general goods and services and is inclusive of construction services.
- (d) "Competitive bidding" is the process by which two or more vendors vie to secure business by offering the most favorable terms as to price, quality, and service; the offer of prices by individuals or firms competing for a contract, privilege, or right to supply specified commodities or contractual services.
- (e) "Contract procurement process" has the same meaning as "contract solicitation or award process" as used in Section 120.57(3), Florida Statutes. This phrase includes procurements by Invitation to Bid (ITB), Request for Proposals (RFP), Invitation to Negotiate (ITN), approval of a single source procurement, or other solicitation documents as permitted by law.
- (f) "Decision" or "Intended Decision" as used in this policy shall have the same meaning as in Rule 28-110.002(2), Florida Administrative Code, and shall mean:
 - (i) the notice of posting of the contents of a solicitation, including addenda;
 - (ii) a determination that a specified procurement can be made only from a single source;
 - (iii) rejection of a response or all responses to a solicitation; or
 - (iv) intention to award a contract as indicated by a posted solicitation tabulation or other written notice.
- (g) "File" or "Filing." In proceedings involving bid protests of a Decision or Intended Decision arising out of the contract solicitation or award process, the terms "file" or "filing" shall mean received by the Senior Director of Procurement Services or designee during normal business hours. Filing of a notice of protest or formal written protest petition is permitted via regular U.S. mail, hand delivery, electronic mail, or facsimile transmission. A protestor who files a notice of protest or formal petition by electronic mail or facsimile transmission represents that the original physically signed document will be mailed to the Senior Director of Procurement

Services or designee immediately upon submission of the notice of protest or formal petition via facsimile or electronic mail. Any protestor who elects to file any document by electronic mail or facsimile transmission shall be responsible for any delay, disruption, or interruption of the signals and accepts the full risk that the document may not be properly filed with the Senior Director of Procurement Services or designee as a result. The filing date for a document transmitted by electronic mail or facsimile shall be the date the Senior Director of Procurement Services or designee receives the complete document. The bond, however, cannot be transmitted via electronic mail or facsimile, but must be timely filed with the Senior Director of Procurement Services or designee as required by this policy.

- (h) "Information technology" shall have the same meaning as set forth in Section 282.0041(14), Florida Statutes.
- (i) "Invitation to Bid" or "ITB" is a written solicitation for competitive sealed bids. The Invitation to Bid is used when the Board is capable of specifically defining the scope of work for which a contractual service is required and/or when the Board is capable of establishing precise specifications defining the actual commodity or group of commodities required.
- (j) "Invitation to Negotiate" or "ITN" is a written solicitation for competitive sealed replies to select one or more vendors with which to negotiate for the procurement of commodities or contractual services. The Invitation to Negotiate is used when the Board determines that negotiations may be necessary for it to receive the best value.
- (k) "Lowest responsive and responsible bidder" or "lowest responsive and responsible respondent" shall mean the vendor who is awarded a contract because its bid in unit price, total cost of operation, or value per dollar is lower than any of the vendors whose reputation, past performance, and business and financial capabilities are such that they would be judged by the Board to be capable of satisfying its needs for the specific contract. These phrases may be used interchangeably with similar terms in the industry such as "lowest and best bid," "lowest responsive and responsible bidder," and "most advantageous bid, price and other factors considered."
- (l) "No-Contact Period" shall refer to the period of time between the posting of the contents of a competitive solicitation and the actual award of a contract with regard to that competitive solicitation. All communications regarding the solicitation shall be directed to the designated Procurement Services Department staff member. Any proposer or Lobbyist, as defined in Policy KCE, who violates this provision may cause a proposal to be considered not responsive and, therefore, ineligible for award.
- (m) "Professional Services" shall be defined, for the purpose of procuring commodities and non-construction related contractual services, to

include, without limitation, artistic services; academic program reviews; lectures by individuals; auditing services not subject to Section 218.391, Florida Statutes; 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. The term "Professional Services," as used in this policy, does not include those services procured pursuant to Section 287.055, Florida Statutes.

- (n) "Request for Proposal" or "RFP" is a written solicitation for competitive sealed proposals. The Request for Proposals is used when it is not practicable for the Board to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required; or the procurement is complex in nature and the Board is requesting that a responsive, responsible vendor offers a solution which will be evaluated by a set criteria set forth in the solicitation document.
- (o) "Request for Qualifications" shall mean the establishment of a list of vendors to be utilized on an as-needed basis or the selection of vendor(s) for a specific project, who have met a set of defined qualifications to provide defined commodities and/or contractual services.
- (p) "Request for Quotation" represents a simplified acquisition process for obtaining pricing for specific commodities or contractual services.
- (q) "Single Source" shall mean an award for a specific commodity or contractual service that can only be procured from one vendor because of its specialized or unique characteristics. This is also referred to as "single sourcing" in the industry.
- (r) "Sole-Source" shall mean an award for a specific commodity or contractual service to the only known capable vendor, occasioned by the unique nature of the requirement, the vendor, or market conditions.
- (s) "Supplier" or "Vendor" shall mean a business or individual that provides a particular type of commodity or contractual service, or who may have a contractual relationship with the district.

TITLE: Procurement of Commodities and Contractual Services

- (1) Procurement of Commodities or Contractual Services up to Five Thousand Dollars (\$5,000.00).
 - (a) Procurements of commodities and contractual services in an amount up to five thousand dollars (\$5,000.00) do not require competition.
- (2) Procurement of Commodities or Contractual Services Exceeding Five Thousand Dollars (\$5,000.00) but Less than Fifty Thousand Dollars (\$50,000.00).

- (a) Procurements of commodities and contractual services which exceed five thousand dollars (\$5,000.00) but are less than fifty thousand dollars (\$50,000.00) shall be competitively quoted by or facilitated through Procurement Services, unless otherwise provided herein or unless authorized by emergency procurement procedures approved by the Superintendent or designee, the Chief Operations Officer or designee, or the Senior Director of Procurement Services or designee. Although the formal competitive process is not required by law for this dollar threshold, it may be deemed appropriate based on the complexity or nature of the requirement as determined by the Senior Director of Procurement Services or designee.
- (3) Procurement of Commodities and Contractual Services Exceeding Fifty Thousand Dollars (\$50,000.00).
 - (a) Unless otherwise provided herein, procurements of commodities and contractual services whose cumulative total value over a fiscal year exceeds fifty thousand dollars (\$50,000.00) shall be competitively bid using one of the following procurement methods:
 - (i) Invitation to Bid;
 - (ii) Request for Proposal;
 - (iii) Invitation to Negotiate;
 - (iv) Request for Qualifications; or
 - (v) Any and all other means allowable by State law, rule, or regulation.
 - (b) Funding for all procurements exceeding fifty thousand dollars (\$50,000.00) shall be approved by the Board prior to execution of the contract and/or purchase order unless otherwise provided herein or unless authorized by the Superintendent, the Chief Operations Officer, or the Senior Director of Procurement Services or designee.

TITLE: Procurement Methods

POLICY:

The Board or designee shall procure commodities and contractual services as set forth below. Such procurements shall not exceed the applicable appropriation in the Board budget for each fiscal year and the funds for such procurements shall not be otherwise encumbered.

- (1) Competitive Solicitations. The Board or designee may approve contracts resulting from competitive solicitations where required by law or when in the best interest of the Board. Such contracts in excess of fifty thousand dollars

(\$50,000.00) per fiscal year for like commodities or contractual services must be submitted to the Board for approval. The Board reserves the right to reject any or all bids, to waive irregularities and informalities, and to award the bid which serves the best interest of the district. The Procurement Services Department shall determine responsiveness and responsibility.

- (a) Invitation to Bid (ITB). Except as authorized by law or rule, ITBs or reverse auctioning bids shall be requested from three (3) or more sources for commodities and contractual services when requisitioning any item or group of similar items exceeding the amount established in Rule 6A-1.012(7), Florida Administrative Code. Award through this process is based solely on price and is not subject to negotiation following bid opening. The contract may not be divided so as to avoid this monetary threshold. An ITB must include a detailed description of the commodities or contractual services sought; the time and date for the receipt of bids and of the public opening; and all contractual terms and conditions applicable to the procurement, including the criteria to be used in determining acceptability of the bid. If the Board contemplates renewal of the contract, that fact must be stated in the ITB. In acceptance of responses to ITBs or bids through reverse auctioning, the Board or designee shall open publicly and accept the lowest bid from a responsive and responsible bidder meeting all specifications, terms, and conditions published in the ITB. In the alternative, the Board or designee may award to the responsive, responsible bidder offering the lowest cost as the primary awardee and the next responsive, responsible bidder offering the next lowest cost as an alternate awardee(s) meeting all specifications, terms, and conditions. Nothing herein is meant to prevent multiple awards to the responsive and responsible bidders when such multiple awards are clearly stated in the bid solicitation documents. In the case of identical responsive and responsible bids, the decision as to the winning bid(s) must be made in accordance with the terms contained in the competitive solicitation.

- (b) Request for Proposals (RFP). Except as authorized by law or rule, proposals shall be requested from three (3) or more sources for commodities and contractual services exceeding the amount established in Rule 6A-1.012(7), Florida Administrative Code. Utilization of this process is applicable where a solution may be variable and negotiation is permitted following solicitation opening. A best value decision may result from this process where price is not the sole determinant for award. The contract may not be divided so as to avoid the monetary threshold. In contrast to an ITB which describes the solution, an RFP describes the problem or sets forth a solution in which qualifications or other factors require evaluation. In order to procure commodities or contractual services through an RFP, the Procurement Services Department must first determine, in writing, that the use of an ITB is not practicable. The RFP must include a statement of the commodities or contractual services sought; the relative importance of price and other evaluation criteria; the time and date for the receipt of proposals and of the public opening; and all contractual terms and conditions applicable to the procurement,

including the criteria to be used in determining responsiveness and acceptability of the proposal. In awarding to a vendor pursuant to an RFP, the Board or designee may award to one or more responsive, responsible vendor in accordance with the selection criteria published in the RFP.

- (c) Invitation to Negotiate (ITN). When procurement for commodities and contractual services exceeding the amount established in Rule 6A-1.012(7), Florida Administrative Code, is not practicable by an ITB or an RFP, the Board or its designee may solicit competitive sealed replies through the use of an ITN. As part of that written determination, the Procurement Services Department must specify reasons that explain why negotiation with one or more firms may be necessary in order for it to achieve specific goals or solve a particular problem and select one or more vendors with which the Board or designee may negotiate a contract in order to receive the best value based upon objective factors that may include, but are not limited to, price, quality, design, and workmanship. The ITN must include a statement of the commodities or contractual services sought; the time and date for the receipt of replies and of the public meeting; and all terms and conditions applicable to the procurement, including the criteria to be used in determining the acceptability of the reply. Typically, price is not an evaluation criterion and is not addressed until the negotiation phase of the procurement.
- (d) Request for Qualification (RFQ). When a need for commodities or contractual services is anticipated, the establishment of a list of responsive and responsible vendors to be utilized on an as-needed basis, or the selection of vendor(s) for a specific project, who have met a set of defined qualifications to provide specific commodities and/or contractual services will be solicited and awarded either as a continuing contract or in a project/task specific agreement.
- (e) Secondary Competition. When commodities or contractual services are obtained through the utilization of a Term Service Agreement or "Bench Contract," the Procurement Services Department will solicit or facilitate written Requests for Quotation from all approved vendors for a particular commodity or contractual service. This is referred to as secondary competition and provides the district the opportunity to receive further competitive pricing based on specific criteria or requirements.
- (f) Consultants' Competitive Negotiation Act (CCNA). Pursuant to Section 287.055, Florida Statutes, the CCNA process sets forth the appropriate administration of registration, public announcement and qualification procedures, competitive selection, and competitive negotiation to be employed when the district determines it requires a person or entity to provide professional services within the scope of the practice of architecture, professional engineering, landscape architecture, or surveying and mapping or construction services, including design-build, construction management, and program management.

- (g) Any other means allowable by state law or rule.
- (2) Alternate Source Contracting. The Board or designee may procure commodities or contractual services from contracts that have been awarded by another governmental agency, by a group of governmental agencies, or as a participant of a group of governmental agencies as allowed by law and when in the best interest of the Board. Such contracts in excess of fifty thousand dollars (\$50,000.00) per fiscal year must be submitted to the Board for approval.
- (a) Department of Management Services. As required by Section 1001.42(12)(j), Florida Statutes, the Board or designee shall receive and give consideration to the prices available to it under rules of the Department of Management Services (DMS), Division of Purchasing. Section 287.042(2)(a), Florida Statutes, authorizes DMS to procure state term contracts for commodities and contractual services on behalf of eligible users, which include school districts. The Board or designee may use prices established by DMS through its state term purchasing agreement price schedule under the same conditions for use imposed on state agencies. Upon approval, expenditures may be approved without further Board approval utilizing state term contract pricing for the duration of the contract.
 - (b) Piggy-back Purchasing from Other Agency or Group of Agencies. The Board or designee may make procurements at or below the specified prices from contracts awarded by other city or county governmental agencies, other district school boards, community colleges, federal agencies, public or governmental agencies of any state, state university systems, or from cooperative, interlocal, or pooled bid agreements, when the proposer will permit procurements by the Board at the same terms, conditions, and prices (or below such prices) awarded in such contract, and such procurements are to the economic advantage of the Board. Upon approval, expenditures may be approved without further Board approval utilizing piggy-back term contract pricing for the duration of the contract.
 - (c) Pool Purchases. The Board or designee may procure school buses, equipment, and related contractual needs and supplies through the pool-purchase provisions of Section 1006.27, Florida Statutes. Upon approval, expenditures may be approved without further Board approval utilizing the pool purchase term contract pricing for the duration of the contract.
 - (d) Purchasing Consortium. The Board may enter into interlocal agreements as provided in Section 163.01, Florida Statutes, to establish a consortium and maximize procurement power for commodities and contractual services. A consortium may be nationwide, statewide, or regional as appropriate to achieve the lowest cost.
- (3) Direct Negotiation.

- (a) The Board or designee may approve contracts using direct negotiations where allowed by law. The Senior Director of Procurement Services or designee shall maintain adequate documentation commensurate with the value of the contract reflecting the rationale for using direct negotiation as the procurement method and the basis for determining that the resulting contract is in the best interest of the district. Contracts in excess of fifty thousand dollars (\$50,000.00) per vendor per fiscal year shall be submitted to the Board for approval, with the exception of emergency procurements which will be ratified as indicated herein, and regulated utilities or government-franchised services.
- (b) Finding of No Acceptable Firm Proposal or Less than Two Responsive Proposals. Where competitive solicitations have been requested in the manner prescribed by this policy, and the Board, through the Senior Director of Procurement Services or designee, makes a specific finding in writing that:
 - (i) No valid or acceptable firm proposal has been received within the prescribed time, the Senior Director of Procurement Services or designee may enter into negotiations with suppliers of such commodities and contractual services. The Senior Director of Procurement Services or designee shall document that a re-solicitation is not likely to generate sufficient competition or has been determined to not be in the best interest of the district, and that it has been appropriately sourced to allow for competition.
 - (ii) Less than two (2) responsive proposals for commodity or contractual services were received, the Senior Director of Procurement Services or designee may negotiate on the best terms and conditions or decide to reject all proposals. The Senior Director of Procurement Services or designee shall document the reasons that negotiating terms and conditions with a particular proposer is in the best interest of the Board in lieu of re-soliciting proposals.
- (4) Competitive Solicitation Waived or Not Required. As provided in Rule 6A-1.012, Florida Administrative Code, Section 1010.04(4)(a), Florida Statutes, or other laws, in addition to the methods described above, the Board or designee may procure commodities and contractual services without requesting competitive proposals, bids, or replies from three (3) or more sources, as set forth below:
 - (a) Competition is favored even though a law may allow an exemption. Exempt procurements that exceed fifty thousand dollars (\$50,000.00) shall be subject to the competitive process whenever possible, unless otherwise approved by the Senior Director of Procurement Services or designee. Such exemptions shall be submitted as a formal request from the Executive Cabinet member and include a detailed justification for the exemption. The Procurement Services Department may establish procedures that support competitive processes regardless of the exemption status.

- (b) For procurements of commodities and contractual services exceeding five thousand dollars (\$5,000.00) but not greater than fifty thousand dollars (\$50,000.00), competitive quotes shall be requested from three (3) or more sources except as exempted by Rule 6A-1.012, Florida Administrative Code, or other applicable laws.
- (c) Information Technology. In accordance with Rule 6A-1.012(14) of the Florida Administrative Code, the Board, when acquiring, whether by purchase, lease, lease with option to purchase, rental or otherwise, information technology, as defined in Section 282.0041(14), Florida Statutes, may make any acquisition through the competitive solicitation process as described herein or by direct negotiation and contract with a vendor or supplier, as best fits the needs of the Board as determined by the Senior Director of Procurement Services or designee. The Senior Director of Procurement Services or designee shall document in writing the reasoning for concluding that direct negotiation instead of competitive solicitation is in the best interest of the Board.
- (d) Risk Management. The Board may, except as otherwise required by statute, utilize the competitive solicitation process or enter into direct negotiations and contract with a vendor or supplier that best meets the needs of the Board when acquiring insurance, entering risk management programs, or contracting with third party administrators. The procurement of employee group insurance must be competitively selected in accordance with Section 112.08, Florida Statutes.
- (e) Educational Services/Copyrighted Materials. The Board or its authorized designee may procure 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, library and reference books, and printed library cards where such materials are procured directly from the producer or publisher, the owner of the copyright, an exclusive agent within the state, a governmental agency, or a recognized educational institution.
- (f) PRIDE/RESPECT. The Board or its authorized designee may procure commodities and contractual services from PRIDE (Prison Rehabilitative Industries and Diversified Enterprises, Inc.) or RESPECT (Florida's preferential purchasing program for individuals with disabilities), as authorized by Florida Statutes.
- (g) Regulated Utilities. The Board or its designee may procure regulated utilities or government-franchise services.
- (h) Grant or Law. The Board or its designee may enter into a contract where state or federal law, a grant, or state or federal agency contract prescribes with whom the Board must contract or if the rate of payment is established during the annual appropriation process.

- (i) Professional Services. The Board or its designee may procure Professional Services as set forth herein.
- (j) Single Source. When it is believed that commodities or contractual services are available only from a single source, the Senior Director of Procurement Services or designee shall electronically or otherwise publicly post a description of the commodities or contractual services sought for a period of at least seven (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 Senior Director of Procurement Services or designee, after reviewing any information received from prospective vendors, that the commodities or contractual services are available only from a single source, the Senior Director of Procurement Services or designee shall provide notice of the Decision or 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.
- (k) Emergency Purchases. Pursuant to Rule 6A-1.012 (12)(e), Florida Administrative Code, the Board or its designee may dispense with requirements for competitive solicitations for the emergency purchase of commodities or contractual services when the Superintendent or designee determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the Board requires emergency action. After the Superintendent or designee makes such a written determination, the Senior Director of Procurement Services or designee 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 or designee 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 Board. For emergency procurements that exceed fifty thousand dollars (\$50,000.00), the Superintendent or designee shall seek ratification by the Board at the next regularly scheduled meeting.
- (l) Food Service. In compliance with Rule 5P-1.003, Florida Administrative Code, the Board may exempt food products, except milk, from the competitive requirements of Rule 6A-1.012, Florida Administrative Code. Milk may be exempt under the following conditions:
 - (i) The Superintendent or designee has made a finding that no valid or acceptable firm response has been received within the prescribed time; or

- (ii) The Superintendent or designee 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 Superintendent or designee determines to be in the best interest of the district.
 - (m) Maintenance/Service/Warranty. The Board or its designee may award contracts for maintenance and/or service contracts, on various types of technical equipment, that are offered and/or supplied only by the original manufacturer or its representative, or that are required to maintain the integrity of the manufacturer's warranty, or that are part of the manufacturer's rental/lease/lease procurement agreement terms and conditions.
 - (n) Contracts for Professional or Educational Services. Pursuant to Rule 6A-1.012(11), Florida Administrative Code, the Superintendent or designee is authorized to enter into independent contracts with a person, any business organization as recognized by the state of Florida, or a sole proprietor of a business who provides a professional or educational service to the district where the total or cumulative amount for a fiscal year does not exceed the monetary limitations contained herein.
 - (o) Any other means allowable by state law or rule.
- (5) Purchasing Cards.
- (a) The Senior Director of Procurement Services or designee is authorized to administer a purchasing card program and to establish relevant procedures. The program shall include the establishment, communication, and maintenance procedures for the control and use of such cards including internal controls to monitor compliance with said program.
 - (b) The purchasing card procedures shall establish guidelines for the use and control of purchasing cards which will be assigned to and utilized by designated employees to procure commodities and contractual services, on behalf of the Board or when authorized by this policy.
 - (c) The Superintendent or designee may utilize purchasing cards to procure commodities and contractual services as deemed to be in the best interest of the district and consistent with Board policies.
 - (d) Selected staff will be eligible to use a purchasing card upon approval by the Superintendent or designee after completion of the relevant training and application procedures which contain the appropriate-use standards. Each user shall acknowledge, by signing the applicant agreement that the user must reimburse the Board for any misuse of the purchasing card and that a violation of those standards and procedures will be cause for discipline up to and including termination.

(6) Advance Payments.

To ensure adequate protection to the Board that commodities and contractual services will be provided, advance payment for commodities and contractual services is discouraged. With adequate safeguards, however, the Board may approve advance payments for contracts requiring Board approval; the Superintendent or designee may approve advance payments for contracts requiring the Superintendent's approval; and the Senior Director of Procurement Services or designee may approve advance payments for all other contracts, as follows:

- (a) For maintenance agreements, software license agreements, subscriptions, contracts to reserve space, and certain other commodities, when advance payment will result in a savings to the Board equal to or greater than the amount the Board would earn by investing the funds and paying in arrears, or where those items are essential to the operation of the Board and are available only if advance payment is made; or
- (b) In accordance with the Board's travel policy.

(7) Integrity of the Competitive Solicitation Process; No-Contact Period; Public Records and Meetings.

- (a) From the time the ITB, RFP, ITN, or other competitive solicitation is posted until such time as the successful vendor is awarded a contract by the district, or at the time the requirement is cancelled by the district, Bidders/Proposers/Respondents and their employees, representatives, partners, directors, officers, or other individuals acting on their behalf shall be prohibited from lobbying any Board Member, Board employee, or person selected to evaluate or recommend selection of the awarded vendor. Lobbying in violation of this policy or Policy KCE, the Board's Ethics and Lobbying Policy, during the No-Contact Period shall result in rejection/disqualification from award of a contract arising out of the ITB, RFP, ITN, or other competitive solicitation. Further, in order to protect the integrity of the award process, all questions regarding the ITB, RFP, ITN, or other competitive solicitation must be directed to the Procurement Services Department who will respond in writing and post such response to ensure that all Proposers receive the same information during the No-Contact Period. The penalty for violating the No-Contact Period may include suspension not to exceed three (3) years.
- (b) Members of the Board shall disclose any and all unauthorized ex-parte communications in accordance with Section 286.0115, Florida Statutes. Such disclosure shall be made during the public meeting at which time a vote will be taken on the approval for funding for an award.
- (c) Sealed bids, proposals, or replies received in response to a competitive solicitation are exempt from Section 119.07(1), Florida Statutes, and Section 24(a), Article I of the State Constitution until such time as the Procurement Services Department provides notice of an intended

decision or until thirty (30) days after the opening of bids, proposals, or replies, whichever is earlier. If the Board rejects all bids, proposals, or replies submitted in response to a competitive solicitation, and concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt from Section 119.071(1), Florida Statutes, and Section 24(a), Article I of the State Constitution until such time as the Board provides notice of an intended decision concerning the reissued competitive solicitation or until the Board withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than twelve (12) months after the initial notice rejecting all bids, proposals, or replies.

- (d) Any portion of a meeting at which a negotiation with a respondent is conducted pursuant to a competitive solicitation, at which a respondent makes an oral presentation as part of a competitive solicitation, or at which a respondent answers questions as part of a competitive solicitation is exempt from Section 286.011, Florida Statutes, and Section 24(b), Article I of the State Constitution. Any portion of an evaluation committee meeting at which negotiation strategies are discussed is exempt from Section 286.011, Florida Statutes, and Section 24(b), Article I of the State Constitution. A complete recording shall be made of any portion of an exempt meeting. No portion of the exempt meeting may be held off the record.

(8) Vendor List.

- (a) The Procurement Services Department will have access to a variety of vendor lists, categorized by commodities or contractual services, for the purpose of soliciting responses to solicitations. The vendor list may supplement sources that respond to solicitations as a result of posting on a commercial website.
- (b) Notification of bid solicitation opportunities, except emergency bids as provided herein, shall be posted on the Procurement Services Department website or any other notification and posting method selected by the Procurement Services Department, and may be mailed, faxed, or sent electronically to vendors included on that list for that particular commodity or contractual service as well as to other known persons or firms which are capable of providing the commodity or contractual service solicited. Utilization of other contract sources such as consortiums, piggyback contracts, and any other existing contracts may be used to maximize the competitive process.
- (c) Vendors are responsible for checking the website or any other notification and posting method selected by the Procurement Services Department for current solicitation information and all addenda.

(9) Requisitions and Purchase Orders.

- (a) Procurements shall be based upon a requisition or an approved purchasing card transaction originating from the work location where the commodity or contractual service is to be used, except in extreme emergencies when the Superintendent, the Chief Operations Officer, or the Senior Director of Procurement Services, or designee may grant permission for such procurement. Each requisition, transaction, or contract shall be properly financed, budgeted, and encumbered prior to the issuance of a purchase order. The purchase order shall be approved by the Superintendent, the Chief Operations Officer, or the Senior Director of Procurement Services or designee. In no case shall the procurement precede the date of the requisition except as provided herein for emergency purposes.
 - (b) Ratifications occur when an unauthorized procurement action has occurred. While it is possible that the individual may be held personally liable for the action, a full explanation by the individual that made the transaction, coordinated by their supervisor and the cognizant chief will be presented to the Superintendent or designee for disposition. If the amount of the action being ratified exceeds the Superintendent's approval threshold of fifty thousand dollars (\$50,000.00), the action shall require approval of the ratification by the Board of the recommended disposition.
- (10) Direct Pay. Direct pay occurs when an invoiced service is paid directly to the vendor without evidence of receipt of a commodity or contracted service. An example of this would be payment of a utility. While acceptable, direct pay is not to be used to circumvent the procurement policy. The Procurement Services Department will monitor direct pay activity to ensure that direct pay actions are appropriate.
- (11) Multi-Year Agreements.
- (a) No obligation shall be created by contract, purchase order, maintenance agreement, lease-purchase agreement, lease agreement, or other instrument which exceeds a period of twelve (12) calendar months unless such agreement contains a statement permitting the Board to unconditionally terminate the obligation.
 - (b) The Superintendent or designee shall develop and prescribe a uniform clause giving the Board such option. The clause shall be incorporated in and made a part of any such multi-year obligation.
 - (c) In order to initiate any obligation which extends beyond a period of twelve (12) calendar months, sufficient funds must be encumbered at the inception of the obligation to cover a period of twelve (12) months.
 - (d) Any agreement containing a multi-year base term shall be presented to the Board for approval.
- (12) Purchases from Minority or Women Business Enterprises, Local Developing Businesses, Veteran Business Enterprises, or Local Vendors.

- (a) Commodities and contractual services shall be procured in accordance with applicable Board policies.

TITLE: Vendor Performance

The Board reserves the right to embed certain performance standards in contracts within the terms and conditions under which vendors must comply. The Procurement Services Department shall establish a method to assess, intervene, document, and analyze vendor performance.

TITLE: Authority to Suspend or Debar

The Board shall have the authority to suspend or debar a vendor for due cause. Such suspension or debarment shall eliminate vendors from consideration or award of future contracts or subcontracts. The suspension or debarment shall follow any applicable Board policies and/or procedures.

TITLE: Administrative Procedures

Wherever this policy mentions procedures to be established or implemented by the Superintendent or designee, certain internal operational procedures and guidelines may be set forth in manuals where appropriate.

SPECIFIC AUTHORITY: Sections 112.312; 119.07; 119.071; 120.53; 120.569, 120.57; 163.01; 218.391; 255.103; 282.0041; 283.35; 286.0115; 287.042; 287.055; 287.057; 287.087; 287.093; 288.703; 1001.42; 1001.43; 1001.51; 1006.27; 1010.01; 1010.04; 1011.01; 1013.45, Florida Statutes

5P-1.003; 6A-1.012; 6A-1.013; 28-110.002; 60A-1.021; Florida Administrative Code

ADOPTED: 10/26/93
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