

Summary of Recommended Policy Changes

Date: May 28, 2003
Policy #: 3320
Policy Title: Purchasing Policies

Page Item #	Recommended Change	Rationale
Page 1 Preamble	Delete Preamble.	1. Information previously contained in Preamble should be addressed in specific policy section for purposes of referencing. Therefore, Rule (d) below has been added to incorporate information previously contained in Preamble.
Page 1 Part I Section (b)	Purchases from \$5,000 to less than the amount established herein which requires bids that are not available from a contract awarded or approved for use by the School Board requires a minimum of three written quotations, <u>unless an exemption to this requirement is established herein</u> . A Requisition 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. The award will be based on the lowest and best quotation obtained. When necessary, a confirming Purchase Order shall only be placed with the vendor by the Purchasing Department after receiving an approved Requisition. The Superintendent, <u>or designee may waive the will exempt the price quotations requirement under this section.</u>	1. Add language that allows for possible exceptions to the requirement that are contained within the policy.

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Page 1 Part I Section (c)	Purchases in the amount established herein which requires bids shall be by Requisition to the Purchasing Department where the Purchasing Department will bid—release a <u>solicitation for</u> the purchase being requested, <u>unless an exemption is established herein</u> . A Requisition shall be submitted for purchases of goods or services against a contract awarded or approved for use by the School Board, and for any expenditure approved by an Agenda Item. When necessary, a confirming Purchase Order shall only be placed with the vendor by the Purchasing Department after receiving an approved Requisition.	1. Change “bid” to more appropriate term “solicitation”. “Solicitation includes all forms of procurement documents, such as Invitation to Bid (ITB), Request for Proposal (RFP), etc. whereas “bid” only refers to one type of solicitation. 2. Add language that allows for possible exceptions to the requirement that are contained within the policy.
Page Part I NEW Rule (d)	Purchases in excess of \$150,000 require prior School Board approval unless otherwise established herein. The Superintendent shall furnish the School Board a list monthly of all awards which do not require prior School Board approval.	1. Formalizes language previously contained in the Preamble section.
Page 2 Part I Rule (e)	A Check Request <u>or Procurement Card (P-card)</u> 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. Payments for bid exempt items may be, but are not limited to, copyrighted materials, legal advertising, memberships, professional services, payroll, transfers, registrations, withholdings, taxes, investments, postage, judgments, penalties, insurance, licenses, and utility bills.	1. Acknowledges the use of the P-card as a legitimate payment method and removes unnecessary language.
Page 2 Part I Rule (f)	Whenever possible, like purchases should be combined and bid by the Purchasing Department. <u>Multiple orders or split invoicing shall not be used to circumvent the rules established herein.</u>	1. Combines former (g) with this section. Both statement are complimentary and should be listed together.

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Page 2 Part I Rule (g)	<p>The Superintendent may authorize the bidding and purchase of <u>any</u> commodity or service in excess of \$150,000 if it is determined that an emergency exists and that the delay caused by waiting for prior Board approval would be detrimental to the interests of the school system. <u>The Superintendent may determine, in writing, that an immediate danger to the public health, safety, or welfare of students and staff or other substantial loss to the district requires emergency action. After the Superintendent makes such a written determination, the district may proceed with the procurement of commodities or contractual services necessitated by the immediate danger. However, such emergency procurement shall be made by obtaining quotations from at least two prospective vendors (as available), The Superintendent determines that the time required to obtain quotations will increase the immediate danger to the public health, safety, or welfare of students and staff or other substantial loss. In this case, prices will only be required from one vendor. At the next School Board meeting subsequent to the event, the purchase shall be submitted to the School Board for post approval.</u></p>	<ol style="list-style-type: none"> 1. Former language did not provide clear mechanism for handling emergency purchases <u>under</u> \$150,000. 2. Clarifies handling of emergency situation.

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Page 2 Part I Rule (h)	<p>The requirement for requesting bids <u>solicitations or prior School Board approval</u> is hereby waived as authorized by Section 237.02, Florida Statutes Chapter 6A-1.012, State Board of Education Administrative Rules, for the purchase of professional or educational services, educational tests, textbooks, printed instructional materials, computer software, films, filmstrips, video tapes, disc or tape 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, an exclusive agent within the state, a governmental agency or a recognized educational institution. <u>The requirement for requesting solicitations or prior School Board approval is hereby waived for instructional materials purchased from a state-authorized book depository or for instructional materials purchased for resale to students. The Superintendent will furnish the School Board a list monthly of all purchases under this category that exceed \$150,000.</u></p>	<ol style="list-style-type: none"> 1. "Solicitation includes all forms of procurement documents, such as Invitation to Bid (ITB), Request for Proposal (RFP), etc. whereas "bid" only refers to one type of solicitation. 2. Clarifies that prior School Board approval is not required for certain exempt instructional materials and establishes a "post-approval" method of notifying the School Board of purchases within this category that exceed \$150,000. 3. Combines related language that was previously woven into other disconnected sections.
Page 2 Part I Rule (k)	<p>The Superintendent, <u>or designee</u>, may be authorized to purchase products or services or to enter into temporary employment contracts where the total amount does not exceed an amount prescribed by the School Board, and does not exceed the applicable appropriation in the district budget. The Superintendent may also be authorized to purchase instructional materials under state contract. Assistants functioning under the Superintendent's direction may be authorized to perform these purchasing tasks. No person, unless authorized to do so under 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.</p>	<ol style="list-style-type: none"> 1. Removes unnecessary language addressed in Rule (h) and makes language consistent with other policy language.

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Page 3 Part I Rule (m)	Specifications may be limited to a specific brand or product when necessary to supplement existing installations or for purposes of standardization. <u>However, specifications which exceed industry standards for the intended use of the product, as determined by the Director of Purchasing, must be justified in writing by the requestor and authorized by the appropriate Area or Associate/Deputy Superintendent. When drafting specifications for public bidding or considering renewal of an existing contract, the Purchasing Department will request input and assistance from the requestor in order to insure that specifications best meet the needs of the requestor. However, in the event that input and assistance is not received in a timely manner, the Purchasing Department may take action in the best interest of the district, including, but not limited to, releasing an ITB or renewing an existing contract without the consent of the requestor.</u>	2. Establishes process for addressing requests for specifications which exceed industry standards.
Page 6 Part I Rule (x)	Whenever there is an opportunity in the marketplace to obtain additional cost savings from contracts currently awarded or approved by the Board, then the Purchasing Department will pursue additional cost savings from vendors awarded those contracts by requesting special pricing or additional educational discounts. Whenever additional cost savings are identified by this process, the Superintendent will present the potential additional cost savings to the School Board for <u>post</u> approval.	2. Allows cost savings on existing contracts to be presented to the School Board on post-approval notice.
Page 7 Part II Rule (a)	All additions, modifications, and alterations to School Board properties shall conform with the State Requirement for Educational Facilities (SREF), <u>Florida Building Code (FBC)</u> and the laws of the State of Florida. School Board administrators shall obtain assistance in preparing bid specifications <u>and applicable building permit(s)</u> from the Facilities and Construction Management Division for these items.	1. Adds Florida Building Code and applicable permits to list of requirements.

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Page 7 Part II Rule (b)	<p><u>The Board may structure contracts to avoid sales tax on public works project materials by purchasing those materials directly from the 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 Operations Officer (COO) 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.</u></p> <ul style="list-style-type: none"> i. <u>The District will issue its own purchase order directly to the suppliers.</u> ii. <u>The District will provide the supplier with a copy of the District's sales tax exemption certificate.</u> iii. <u>The supplier's invoices will be addressed to the District, not the contractor.</u> iv. <u>Payments will be made by the District directly to the supplier.</u> v. <u>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.</u> vi. <u>The District rather than the contractor will bear the risk of loss of the materials as established through contract provisions concerning casualty insurance.</u> <p>The Board hereby authorizes the purchase of building materials and equipment through the direct purchase program contracts rather than from other contracts the Board may have with other suppliers for these items.</p>	<p>1. Authorizes the Direct Purchase Program, previously authorized by statute, which will save the School Board the tax dollars that General Contractors must pay for goods purchased for School Board projects.</p>

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Page 11 Part VI Rules (a)	<p>The School Board shall provide notice of its decision or intended decision concerning a bid solicitation or a contract award as follows:</p> <ol style="list-style-type: none"> 1. For a bid solicitation, notice of a decision or intended decision shall be given by United States mail, by hand delivery <u>or by electronic posting.</u> 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, <u>or by electronic posting.</u> <p>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."</p>	<ol style="list-style-type: none"> 1. Adds language authorizing "electronic postings" that has been included in statutory revisions. 2. Changes "legal holidays" to more appropriate term "days during which school district administration is closed."
Page 11 Part VI Rules (b)	<p>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 <u>or by electronic posting</u> 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 legal holidays <u>days during which the School Board administration is closed</u>, subsequent to the date that the notification is given.</p>	<ol style="list-style-type: none"> 1. Adds language authorizing "electronic postings" that has been included in statutory revisions. 2. Changes "legal holidays" to more appropriate term "days during which school district administration is closed."

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Page 11 Part VI Rules (c)	<p>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 <u>by electronic posting</u>. 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 legal holidays <u>days during which the School Board administration is closed</u> shall be excluded in the computation of the 72-hour time period provided by this Rule.</p>	<ol style="list-style-type: none"> 1. Adds language authorizing “electronic postings” that has been included in statutory revisions. 2. Changes “legal holidays” to more appropriate term “days during which school district administration is closed.”

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Page 11 Part VI Rules (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 legal holidays <u>days during which the School Board administration is closed</u> shall be excluded in the computation of the 72-hour time periods provided by this Rule.	1. Changes “legal holidays” to more appropriate term “days during which school district administration is closed.”
Page 12 Part VI Rules (g)	If the tenth day in which to file a formal written protest falls on a Saturday, Sunday, or legal holidays <u>days during which the School Board administration is closed</u> , the formal written protest must be filed the next 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.	1. Changes “legal holidays” to more appropriate term “days during which school district administration is closed.”

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Page 12 Part VI Rules (j)	The School Board shall provide an opportunity to resolve the protest by mutual agreement between the parties within seven days, excluding Saturdays, Sundays, legal holidays <u>days during which the School Board administration is closed</u> during which the School Board administration is closed, after receipt of a formal written protest.	1. Changes “legal holidays” to more appropriate term “days during which school district administration is closed.”
Page 12 Part VI Rules (k)	If the subject of a protest is not resolved by mutual agreement within seven days, excluding Saturdays, Sundays, and legal holidays <u>days during which the School Board administration is closed</u> , 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.	1. Changes “legal holidays” to more appropriate term “days during which school district administration is closed.”
Page Part VI Rules (l)	If the subject of a protest is not resolved by mutual agreement within seven days, excluding Saturdays, Sundays, and legal holidays <u>days during which the School Board administration is closed</u> , after receipt of the formal written protest, and if there is a disputed issue of material fact, the School 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 legal holidays <u>days during which the School Board administration is closed</u> , after the attempt to resolve the protest by mutual agreement.	1. Changes “legal holidays” to more appropriate term “days during which school district administration is closed.”

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Page 13 Part VI Rule (n)	<p>Any person who files a written request that the protest be referred to the Division of Administrative Hearings <u>formal written protest</u> 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 Board's estimate of the total volume of the contract or \$5,000, whichever is less. <u>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 Board administration is closed.</u> 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 an Administrative Hearing in which the action is brought and in any subsequent appellate court proceeding. <u>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.</u> 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 the protestant prevails, then the protestant shall recover from the Board all costs and charges which shall be included in the Final Order or judgment, excluding attorney's fees.</p>	<p>1. Incorporates revisions to statutes regarding handling of vendor protests.</p>