

ADMINISTRATIVE PROCEDURE

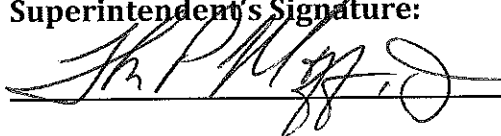
Type of Procedure: Personnel

Title: Purchasing and Contracting for Goods and Services

Authority: F.S. 120.57(3), 218.391, 282.0041, 287.057, 287.057(23)(a), 1001.41, 1001.42(10)(j), 1001.43, 1010.01, 1010.04, 1010.04(4)(a), 1011.01 F.A.C. 6A-1.012, 6A-1.013, 6A-1.091

Date: March 6, 2014

Superintendent's Signature:



The School Board is committed to the active pursuit and solicitation of maximum vendor response and participation in the acquisition of materials, supplies, and services. The essence of this statement of purchasing policy is to foster a structured system of open competition that will enable the District to purchase needed materials, supplies, and services of the appropriate levels of quality at the lowest possible cost.

Any Board employee who has purchasing authority shall consider first the interests of the Board in all purchases and seek to obtain the maximum value for each dollar expended; not solicit or accept any gifts or gratuities from present or potential suppliers which might influence or appear to influence purchasing decisions; and refrain from any private business or professional activity that might present a conflict of interest in making purchasing decisions on behalf of the Board.

Scope

This policy shall generally apply to the District's purchase of products and services, except it shall not apply to:

- A. employment contracts;
- B. acquisition of architectural, engineering, landscape architectural, construction management at risk, registered surveying and mapping, or other services pursuant to policies related to the acquisition of professional architectural, engineering, landscape architectural, or land surveying services;
- C. acquisition of auditing services pursuant to F.S. 218.391;
- D. acquisition of professional consultant services, including but not limited to services

of lawyers, accountants, financial consultants and other business or operational consultants;

- E. contracts that are exempted, in whole or in part, from this policy's requirements, as set forth below.

DEFINITIONS

- A. The term "competitive solicitation" shall be defined for the purposes of this policy to include purchases made through the issuance of an invitation to bid, request for proposals, and invitations to negotiate.
- B. "Invitation to Bid (ITB)" shall be defined for the purposes of this policy as a written solicitation for competitive sealed bids. The invitation to bid is used when the District is capable of specifically defining the scope of work for which a contractual service is required or when the District 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.
- C. "Request for Proposals (RFP)" shall be defined for the purposes of this policy as a written solicitation for competitive sealed proposals. The request for proposal is used when it is not practicable for the District to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required and when the District 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.
- D. "Invitation to Negotiate (ITN)" shall be defined for the purposes of this policy as a written solicitation for competitive sealed replies to select one (1) 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 determines that negotiations may be necessary for it to receive the best value. A written solicitation includes a solicitation that is publicly posted.
- E. The term "proposer" shall be defined for the purposes of this policy to include those vendors submitting bids or responses to a competitive solicitation.
- F. "Superintendent" means the "Superintendent or designee."
- G. "Request for Quotations" means an informal process to solicit three (3) or more price quotes on items, commodities or services with standard specifications and valued under the threshold requiring formal competitive solicitations. Quotations may be obtained verbally or via facsimile or e-mail.

PURCHASING POLICIES - GENERAL PROVISIONS

- A. Staff functioning under the Superintendent's direction may be authorized to perform these purchasing tasks. No person, unless authorized to do so under the policies of the Board, may make any purchase or enter into any contract involving the use of District and/or school funds. No expenditures for any such unauthorized purchase or contract shall be approved by the Board. The payment for any unauthorized purchase or contract shall be the sole responsibility of the person placing the order or entering into such contract.
- B. The Business Services Director shall, under the direction of the Superintendent, advertise competitive solicitations as provided in the applicable statutes and State Board of Education administrative regulations, for materials, supplies, or services whose total cost is more than \$25,000. These bids shall be presented to the Board for approval before any funds are encumbered or expended. The procurement of commodities or contractual services may not be divided so as to avoid this monetary threshold requirement. Any application of the exceptions to competitive solicitations allowed herein will be considered if determined to be in the best interest of the Board.
 - 1. The 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 manner authorized by Florida Administrative Code.
 - 2. In acceptance of responses to invitations to bid, the Board may accept the proposal of the lowest responsive, responsible proposer. In the alternative the 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 Board during the term of the contract. 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. For a bidder to be considered responsive, the proposal must respond to all bid specifications in all material respects and contain no irregularities or deviations from the bid specifications that would affect the amount of the bid or otherwise provide a competitive advantage.

For a bidder to be deemed responsible, the Board may request evidence from the bidder concerning:

- a. the experience (type of product or service being purchased, etc.) of the bidder;
- b. the financial condition;
- c. the conduct and performance on previous contracts (with the District or other agencies);
- d. the bidder's facilities;
- e. management skills;
- f. the ability to execute the contract properly;

Award of a bid by the Board shall only represent an indication by the Board that a bid represents the lowest responsive bid from a responsible and responsive bidder meeting the requirements and criteria set forth in the invitation to bid. Award of a bid shall not create a binding obligation on the Board, and no obligation shall be created or imposed on the District until such time as a purchase order has been issued for the commodities or services.

The following standards for the procurement of commodities and contractual services will be established by the District at the following dollar limits.

The authority to make purchases and to expend monies that are properly budgeted for materials, supplies, and services not on established State contract and not otherwise exempt from bidding by State law and/or State Board of Education regulations, shall be vested in the Purchasing Director under the direction of the Superintendent for those materials, supplies, and services whose total cost is not more than \$25,000, provided:

- 1. The Business Services Director has secured competitive written, sealed quotes for items or a group of like items whose total cost is more than \$15,000, but less than \$25,000. These bids do not require Board approval.
- 2. The Business Services Director has secured informal competitive written quotes for items or group of like items whose total cost is more than \$8,000, but less than \$15,000. These bids do not require Board approval.

D. Exceptions to Competitive Solicitations

The Board may waive the requirements for competitive quotes or solicitations for the purchase or acquisition of commodities or contractual services stated

below, and/or in the following circumstances:

1. As required by State law the Board shall receive and give consideration to the prices available to it under rules of the Department of Management Services, Division of Purchasing. The Board may use prices established by the Division of Purchasing through its State purchasing agreement price schedule.
2. Pool purchases made as provided in F.S. 1006.27.
3. 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 Board requires emergency action. After the Superintendent makes such a determination, the School District may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without requesting competitive solicitations. However, when practicable, such an emergency purchase shall be made by obtaining pricing information from at least two (2) 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. Emergency purchases in excess of \$25,000 for which competitive solicitations have been waived shall be submitted to the Board for ratification.
4. Commodities or contractual services available from a single source are exempt from the competitive solicitation requirements. When the Board believes that commodities or contractual services are available only from a single source, unless an exemption is established herein, the Purchasing Department 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 District, after reviewing any information received from prospective vendors, that the commodities or contractual services are available only from a single source, the District shall provide notice of its intended decision to enter a single source contract in the manner specified in F.S. 120.57(3), and may negotiate on the best terms and conditions with the single source vendor. Purchases in excess of \$25,000 for commodities or services for which competitive solicitations have been waived require Board approval.
5. The requirement for requesting competitive solicitations and making purchases for commodities and contractual services are hereby waived as authorized by F.S. 1010.04(4)(a), when the following conditions have been

met by the Board:

- a. Competitive solicitations have been requested in the manner prescribed by this policy, and,
 - b. The 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 Board may enter into negotiations with supplies of such commodities and contractual services and shall have the authority to execute contracts with such vendors under whatever terms and conditions as the Board determines to be in its best interests.
6. If fewer than two (2) responsive proposals for a commodity or contractual services are received, the Board may negotiate on the best terms and conditions or decide to reject all proposals. The Board shall document the reasons that negotiating terms and conditions with the sole proposer is in the best interest of the Board in lieu of resoliciting proposals.
 7. The 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 Board. Authority for such purchases shall be vested in the Purchasing Director, under the direction of the Superintendent. Any purchases made under this authority are not subject to Board approval.
 8. The purchase of professional services, which shall include, without limitation, artistic services; academic program reviews; lectures by individuals; auditing services not subject to F.S. 218.391; 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; provided nothing herein shall be deemed to authorize the Superintendent to acquire professional consultant services without Board approval as required by Board Policy.
 9. 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, an exclusive agent within the State, a governmental agency, or a recognized educational institution.

10. When acquiring, whether by purchase, lease, lease with option to purchase, rental or otherwise, information technology, as defined in F.S. 282.0041(15), the Board 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 District as determined by the Board.
11. Except as otherwise required by State law, the 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.
12. Purchases made from funds handled in trust for individuals such as purchases of class jewelry, school annuals, cards and invitations, insignia, caps and gowns, etc., shall be exempt from the requirements relative to purchasing; however, all such funds shall be deposited in the internal funds and shall be subject to the regular individual school audit.
13. Purchases of food products, required by the Board's food service program and other ancillary food operations, which are exempt pursuant to F.A.C. 6A-7-0411(2)(i)(2).
14. Direct purchases of construction project material by the District, on behalf of the awarded construction contractor/manager, directly from vendors to take advantage of the District's sales tax- exempt status.
15. 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 Board must contract or if the rate of payment is established during the appropriations process.
16. A contract for regulated utilities or government franchised services may be awarded without competitive solicitations.
17. Services or commodities provided by governmental agencies.

Debarment

The Director of Business Services shall have the authority to debar a person/corporation, for cause, from consideration or award of further contracts. The debarment shall be for a period commensurate with the seriousness of the

cause, generally not to exceed three (3) years. If suspension precedes a debarment, the suspension period shall not be considered in determining the debarment period. When the offense is willful or blatant, a longer term of debarment may be imposed, up to an indefinite period.

A. Cause of Debarment

The term "debar" or "debarment" means to remove a vendor from bidding on District work. Causes for debarment include, but are not limited to the following:

1. conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or sub-contract, or in performance of such contract;
2. conviction under State or Federal statutes for embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property, or any other offense indicating lack of business integrity or business honesty that currently, seriously, and directly affects responsibility as a vendor;
3. conviction under State or Federal anti-trust statutes arising out of submission of bids or proposals;
4. violation of contract provisions, including:
 - a. deliberate failure, without good cause, to perform in accordance with specifications or within the time limits provided in the contract(s); and
 - b. a recent record of failure to perform, or of unsatisfactory performance, in accordance with the terms of one (1) or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
5. refutation of an offer by failure to provide bonds, insurance or other required certificates within the time period as specified in bid/RFP response;
6. refusal to accept a purchase order, agreement, or contract, or to perform thereon, provided such order was issued timely and in conformance with the offer received;
7. presence of principals or corporate officers in the business of concern who were principals within another business at the time when the other business was suspended within the last three (3) years under the provisions of this section;

8. violation of the ethical standards set forth in State law;
 9. providing or offering to provide anything of value, including, but not limited to, a gift, loan, reward, promise of future employment, favor or service to any employee to influence the award of contract or purchase items from a contractor;
 10. existence of unresolved disputes between the contractor and the District arising out of or relating to prior contracts between the District and the contractor, work performed by the contractor, or services or products delivered.
 11. any other cause the Director of Business Services determines to be so serious and compelling as to affect credibility as a District vendor, including debarment by another governmental entity for any cause listed in this policy.
- B. For purposes of quality control, procedures for evaluating products obtained and for compiling information about purchases of substandard or unsatisfactory goods and services shall be established. Vendors who fail to provide satisfactory goods or services may be removed from the bidders' list by the Superintendent. Such vendors may also be returned to the bidders' list at the discretion of the Superintendent.
- C. As required by State law, the Board shall receive and give consideration to the prices available to it through the use of program for on-line procurement of commodities and contractual services under F.S. 287.057(23)(a), under the rules of the Department of Management Services, Division of Purchasing.
- D. **Committee Recommendations**
1. All Requests for Qualifications (RFQ), Requests for Proposals (RFP), or other Professional-Technical Services Agreements (PTSA) of \$500,000 or more shall be reviewed by a committee appointed by the Superintendent with at least one (1) member appointed by the Board Chair.
 2. Review committees for RFQs, RFPs, and PTSAs shall include appropriate staff and community members with appropriate knowledge, background, or expertise. The Purchasing Department shall notify all Board members at least two (2) weeks before a selection committee is formed to allow individual Board members to recommend citizens for consideration by the Board Chair or Superintendent.

3. All recommendations from the Superintendent to the Board for contracts or purchases over \$100,000 shall include a list of reviewing staff members and appropriate evaluations along with a summary of the committee's rating by each evaluation criteria.
4. A follow-up report on major projects over \$1 million shall be provided to the Board that summarizes contractor performance related to the initial selection criteria.

E. Leases, Lease-Purchases, and Installment Sales Contracts

1. The Board shall approve, and the Board Chair shall sign, all lease and lease-purchase and installment sales contracts with private individuals, corporations, or governmental agencies for the acquisition of equipment and property items needed for educational purposes regardless of fund source. No lease, lease-purchase or installment sales contract shall be entered into without specific Board approval prior to issuance of a purchase order even if the item is a sole source item or is on State contract.
2. Lease, lease-purchase, or installment sales contracts shall be for periods not to exceed three (3) years with a specified yearly payment rate and interest rates not in excess of those authorized by law. All lease renewals must be approved by the Board. Schools or divisions requesting lease, lease-purchase, or installment sales contracts shall budget sufficient funds for the cost in the budget of each year of the contract and shall have the appropriate Divisional Director or Assistant Superintendent sign off prior to requesting Board approval.
3. Copiers - Rental leases only are allowable for copiers. Copiers shall not be purchased through a lease purchase agreement. Copier lease periods cannot exceed three (3) years. Copier equipment utilizing network capabilities is considered a computer equipment equivalent purchase and shall be subject to the same review process that is required for computer equipment.
4. Software - Lease purchases of software cannot exceed three (3) years. Multi-year lease purchases of educational software must be reviewed and approved by Management Information Services to ensure the software is compatible with the Hamilton County School Board Technology Plan and curriculum goals.
5. Computer/Equipment Hardware - Capital leases for computer hardware cannot exceed three (3) years. The computer equipment being acquired must be approved by Management Information Services to ensure the hardware is in compliance with the Hamilton

County School Board Technology Plan.

6. Refinancing of lease, lease-purchase agreements, or installment sales contracts is permitted to take advantage of a lower interest rate than that of the initial transaction and shall be approved in advance by the Board.

F. **Change Orders**

The Superintendent shall have the authority to approve change orders to contracts, for products or services totaling \$25,000 or less, provided that funds for securing such products or services have been properly budgeted within the project budget and that the total amount of all change orders so approved does not exceed one percent (1%) of the total amount originally budgeted for the project. Any such action shall be brought to the Board for ratification, at the Board's next regular meeting.

Change orders exceeding \$25,000 shall require Board approval initially.

G. **Acquisitions for Technology and Information Services**

1. Purchases of computer hardware, software, digital copiers, and technical services acquisitions must be in accordance with the Board-adopted Master Plan for Technology and Information Services.
 2. The Superintendent must review and approve all purchases of computer hardware, software, digital copiers, and technical services acquisitions exceeding \$1,000. That approval signifies agreement with the acquisition and that the objectives to be accomplished are in accord with the Board's long-range plans and promulgated standards.
- H. All purchases made using the Board's Visa Card will be in accordance with policy.
- I. A Hamilton County School Board Purchasing Manual will be disseminated to all schools and departments; setting forth detailed procedures and practices for implementing this policy.

All expenditures of the Board will be in accordance with this policy and the purchasing manual and in addition to these procedures an annual disclosure by Board members and decision-making members of the Hamilton County School District will be made regarding in potential conflict of interest.