

(Substantial rewording of Rule 6A-1.012 follows. See Florida Administrative Code for present text)

6A-1.012. Purchasing Policies. Each district school board shall establish purchasing rules which shall include but not be limited by the following:

(1) Definitions:

(a) 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.

(b) "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.

(c) "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.

(d) The term “proposer” shall be defined for the purposes of this rule to include those vendors submitting bids or responses to a competitive solicitation.

(e) "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.

(f) The term "superintendent" shall be defined for the purposes of this rule to mean "superintendent or designee".

(2) The superintendent may be authorized to purchase commodities or contractual services 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 commodities or contractual services under 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 district 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 district school board.

(3) Before making any purchase of commodities or contractual services which the superintendent is authorized by the district school board to make or before recommending any purchase to the district school board, the superintendent shall, insofar as possible, propose standards and specifications. He or she shall see that the commodities or contractual services

conform 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.

(4) In each school district in which the purchasing agent for any public agency is authorized by law to make purchases for the benefit of other governmental agencies within the county, the district 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 or below the unit price stated therein, if such purchase is to the economic advantage of the district school board, subject to conformance of the items of purchase to the standards and specifications prescribed by the superintendent for said district.

(5) As required by Section 1001.42(10)(j), Florida Statutes, the district school board shall receive and give consideration to the prices available to it under rules of the Department of Management Services, Division of Purchasing. District school boards may use prices established by the Division of Purchasing through its state purchasing agreement price schedule. If district school board policy provides for purchasing under this program of state purchasing agreements the conditions for use shall be those imposed on state agencies.

(6) In lieu of requesting competitive solicitations from three (3) or more sources, district school boards 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.

(7) 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 exceeding \$50,000. Districts may not divide the procurement of commodities or contractual services so as to avoid this monetary threshold requirement. District school boards, by rule, shall set this amount or a lesser amount and shall establish purchasing policy relative to purchases of a dollar value less than this formal monetary threshold.

(8) The district 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 this section.

(9) In acceptance of responses to invitations to bid, the district school board may accept the proposal of the lowest responsive, responsible proposer. In the alternative, the district 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 district school 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.

(10) In acceptance of responses to requests for proposals, district school boards may award contracts to one or more responsive, responsible proposers in accordance with the selection criteria published in the request for proposal. The district 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 this rule.

(11) The requirement for requesting competitive solicitations for commodities or contractual services from three or more sources is hereby waived as authorized by Section 1010.04(4)(a), Florida Statutes, for:

(a) the purchase by district school boards of professional services which shall include, without limitation, artistic services; academic program reviews; lectures by individuals; auditing services not subject to 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; and

(b) the purchase by district school boards 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; and

(12) Additional exemptions authorized under certain conditions;:

(a) 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 district school board:

1. Competitive solicitations have been requested in the manner prescribed by this rule,
and

2. The district school board has made a finding that no valid or acceptable firm bid proposal has been received within the prescribed time.

(b) When such a finding has been officially made, the district 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 district school board determines to be in its best interests;

(c) If less than two responsive proposals for commodity or contractual services are received, the district school board may negotiate on the best terms and conditions or decide to reject all proposals. The district school board 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 resoliciting proposals;

(d) Commodities or contractual services available only from a single source may be exempted from the competitive solicitation requirements. When a district school board believes that commodities or contractual services are available only from a single source, the district school board 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;

(e) District school boards may dispense with requirements for competitive solicitations for the emergency purchase of commodities or contractual services 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 district school board 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;

(f) 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 district school board must contract or if the rate of payment is established during the appropriations process;

(g) A contract for regulated utilities or government franchised services may be awarded without competitive solicitations; _____

(13) Insofar as practicable, all purchases shall be based on contracts, purchasing card systems, electronic procurements or purchase orders. Within limits prescribed by the district school board, 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.

(14) A district 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 ~~bid~~ competitive solicitation 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 district school board.

(15) Except as otherwise required by statute, a district 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.

Specific Authority: 1001.02(1), 1006.27, 1010.04 FS. Law Implemented: 1006.27, 1001.42(4)(j), 1010.04 FS. History – Amended: 12-17-65, 5-24-67, 9-17-72, 4-19-74, 9-19-74, Repromulgated: 12-5-74, Amended: 2-21-77, 3-10-85, Formerly 6A-1.12, Amended: 6-29-89, 7-5-90, 6-10-92, 6-29-93, 4-25-96, 4-14-97, 7-17-00,