

MEMORANDUM

TO: Governing Board Members

FROM: Sandra Close Turnquest, Deputy Executive Director, Corporate Resources

DATE: January 14, 2010

SUBJECT: Authorize publication of the Notice of Rule Development in the Florida Administrative Weekly (FAW) to add new rules to Chapter 40E-7, Part II, Florida Administrative Code, regarding the procurement of goods and services for the South Florida Water Management District

Background:

The Joint Administrative Procedures Committee (JAPC) has determined that there is a need to codify those aspects of Procurement policy and procedure that impact the public's substantial interests, and meets the definition of a rule in Chapter 120, Florida Statutes.

For many years the District has followed both the competitive concepts of Chapter 287, F.S., administered by the Department of Management Services for state agencies, as well as our own Governing Board policies pertaining to the procurement of goods and services. Additionally, the District had procurement rules in the past that followed the competitive concepts of Chapter 287, F.S. until Governor Chiles directed all agencies to repeal rules unless the agencies had specific statutory authority for the rule(s).

While the District follows 'general procurement law', JAPC has placed the District on Notice that it needs to undergo rulemaking.

Entering into rule development allows the District to determine what has to be included in a rule. On the one hand the District will basically be codifying what it has been doing for years in accordance with generally accepted Procurement practices and what is also considered "general procurement case law", however, the District will have a number of workshops to ensure public participation.

How does this help meet the District's 10-year Strategic Plan?

Procurement is an essential support component of everything that the District does. Rules help the public understand how District actions impact them. A transparent rule making process along with the ability to say that the District consistently follows its procurement rules will help both the public and the District.

Funding source:

The Procurement rulemaking effort will be funded primarily by the Procurement Department, but the effort is done in conjunction with the Office of Counsel which is also responsible for some of the funding.

This Board item impacts what areas of the District (both resource areas and geography)?

This rulemaking effort impacts all District resource areas as well as all of the District's geographic areas. Procurement rules will impact how the public interacts with the District in the procurement arena; therefore, many public workshops will be held.

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What concerns could this Board item raise?

The District has followed the competitive concepts in Chapter 287, F.S. (for state agencies), generally accepted Procurement practices, as well as Florida case law and Governing Board policies. Since the District is basically codifying what we do, the rules themselves should not be controversial at all.

Why Should the Board approve this item?

The rulemaking effort will protect the District from a rule challenge regarding our procurement processes. Additionally, rulemaking will clarify for both the public and the District the rules that we must follow.

If you have any questions, please do not hesitate to call me at ext.6351

SCT/fh