

BALTIMORE COUNTY PUBLIC SCHOOLS

DATE: June 10, 2008

TO: **BOARD OF EDUCATION**

FROM: Dr. Joe A. Hairston, Superintendent

SUBJECT: **REPORT ON THE PROPOSED CHANGES TO BOARD OF EDUCATION POLICY 3240 – NON-INSTRUCTIONAL SERVICES: MODIFICATION OF AWARD OF CONTRACT**

ORIGINATOR: J. Robert Haines, Esq., Deputy Superintendent

RESOURCE PERSON(S): Barbara Burnopp, Chief Financial Officer

RECOMMENDATION

In accordance with Superintendent's Rule 8130, policy 3240 is scheduled for review in school year 2008. It is recommended that the Board of Education approve the revisions in Policy 3240 – NON-INSTRUCTIONAL SERVICES: Modification of Award of Contract. This is the first reading of this revised policy.

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- Attachment I – Policy Analysis 3240
- Attachment II – Policy 3240

**Policy Analysis for
Board of Education Policy 3240
Modification of Award of Contract**

Statement of Issues or Questions Addressed

Board of Education Policy 3240 was last updated in 1999 and the proposed revision clarifies the wording related to change order contingencies on capital construction projects. The policy also removed outmoded references to prior organizational structures.

Cost Analysis and Fiscal Impact on School System

The Board will not incur additional costs by amending Policy 3240.

Relationship to Other Board of Education Policies

There is no relationship of this policy with other Board of Education policies.

Legal Requirements

Annotated Code of Maryland, Education Article §5-112

Similar Policies Adopted by Other Local School Systems

1. Anne Arundel County, Policy DE 405, *Purchasing Authority*
2. Anne Arundel County, Policy DEA 405.01, *Purchasing Procedures*
3. Montgomery County, Policy DJA, *MCPS Procurement Practices*

Draft of Proposed Policy

Attached

Other Alternatives Considered by Staff

The policy was revised to clarify practice and organizational responsibility; therefore, no other alternatives were considered.

Timeline:

- First reading – June 10, 2008
- Public comment – July 8, 2008
- Third reading – August 12, 2008

NON-INSTRUCTIONAL SERVICES: Purchasing

Modification of Award of Contract

I. Following the execution of a contract, the Board of Education OF BALTIMORE COUNTY (BOARD) reserves the right to authorize modifications in the scope of work outlined in the contract documents. SUCH MODIFICATIONS ARE OR MAY BE known as: Rescission of a Contract, Extension of a Contract, or Issuance of Change Orders[.]. [they] MODIFICATIONS shall be subject to approval[: (1)] by the Board [of Education] if the [cost of same shall be] MODIFICATION IS equal to or exceedS the statutory bid limit, or if the [total] modification exceeds the CONTINGENCY allocation ORIGINALLY APPROVED. [for the project and (2)] MODIFICATIONS SHALL BE SUBJECT TO APPROVAL by the Superintendent [of Schools or designee] if the [cost of same shall be] MODIFICATION IS less than THE statutory bid limit [per modification as long] OR IF GREATER THAN THE STATUTORY BID LIMIT as LONG AS the CONTINGENCY allocation ORIGINALLY APPROVED [for the project] is not exceeded.

[1. *Rescission of a Contract* – shall be defined as the termination or withdrawal of an award bidder (contractor) from a contract previously approved by the Board. The rescission of the contract shall nullify the award (in whole or in part) pending resolution of potential damages or forfeit of designated surety (bid/performance/payment bond) to the school system.

2. *Extension of a Contract* – shall be defined as an increase in the award of the contract for a dollar value which meets or exceeds the statutory limit for bidding, or when the original specification grants the school system the option to adjust the term of the contract. In exercising such an option, the parties agree to honor the scope, responsibilities, terms, and conditions of the original specifications.

3. *Issuance of a Change Order* – shall be defined as a modification to an existing contract document (or purchase order) for a construction, renovation, or major maintenance project.]

[4].II. All modificationS of the award of contractS shall take into consideration the availability of funds (capital or operating budget) for the project or the purchase.

III. The Superintendent shall establish [administrative procedures] RULES for modification of contract documents in accordance with THIS POLICY[pertinent laws and regulations].

Legal Reference: *Annotated Code of Maryland*, Education Article, §5-112

Policy
Adopted: 1/11/74
Revised: 10/22/87
Revised: 7/13/99
REVISED: _____

Board of Education of Baltimore County