

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

IKON OFFICE SOLUTIONS, INC.,            )  
  )  
      Petitioner,                            )  
  )  
vs.    )     Case Nos. 07-1266RU  
  )  
PINELLAS COUNTY SCHOOL BOARD,        )  
  )  
      Respondent,                         )  
  )  
and    )  
  )  
XEROX CORPORATION,                     )  
  )  
      Intervenor.                         )  
\_\_\_\_\_  
  )

FINAL ORDER

Pursuant to notice, a formal hearing was held in this case on April 18, 2007, in Tampa, Florida, before Lawrence P. Stevenson, a duly-designated Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

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STATEMENT OF THE ISSUE

The issues in this proceeding are whether the Pinellas County School Board ("PCS") acted pursuant to an unadopted, unwritten and unpromulgated rule in violation of Subsections 120.54(1)(a), 120.52(15) and 120.57(3)(f), Florida Statutes (2006),<sup>1</sup> by allowing Xerox Corporation ("Xerox") to withdraw portions of its proposal after bid opening, after evaluation, and after a Notice of Intent to protest had been filed, and whether Petitioner IKON Office Solutions, Inc. ("IKON") waived its right to challenge the rule by failing to timely file its protest.

PRELIMINARY STATEMENT

On December 15, 2006, Respondent Pinellas County School Board ("PCS") issued Request for Proposals No. 07-015-040-RFP (the "2007 RFP") to procure copier service for the Pinellas County School District. The 2007 RFP followed a previous RFP, No. 06-015-117-RFP (the "2006 RFP"), in which all bids were rejected. On January 18, 2007, bids were submitted by Intervenor, Xerox Corporation ("Xerox"), and Petitioner, IKON Office Solutions, Inc. ("IKON"), among other potential vendors, for consideration in the 2007 RFP. The bid was to be awarded according to a two-step procedure. The proposals would first be substantively scored by an evaluation committee or "focus group" composed of principals, teachers and other employees of the Pinellas County School District. Those proposals receiving a minimum of 80 points would qualify for the second step, in which the cost proposals would be opened. The contract would be awarded to the lowest cost proposal among the qualifying vendors, regardless of their scores in step one.

IKON and Xerox were among four vendors obtaining the minimum qualifying score of 80 points, allowing their cost proposals to be considered. The cost proposals were opened on January 26, 2007. On January 30, PCS posted a bid tabulation indicating that Xerox was the low bidder and presumptive awardee of the contract. IKON's bid was the second lowest. On

February 1, 2007, IKON filed a Notice of Intent to Protest with PCS. On February 5, 2007, PCS posted the Notice of Intent to Award the contract to Xerox. IKON filed an Amended Formal Written Protest and Petition on February 7, 2007. The case was forwarded to the Division of Administrative Hearings ("DOAH") by notice on March 1, 2007, though the actual protest documents were not received by DOAH until March 6, 2007. The case was given DOAH Case No. 07-1055BID. On March 9, 2007, Xerox filed a Petition to Intervene which was granted by Order dated March 13, 2007.

On March 16, 2007, IKON filed a Petition Seeking an Administrative Determination of the Invalidity of an Agency Statement Defined as a Rule (the "Petition"), alleging that the procedure followed by PCS in awarding the contract pursuant to the 2007 RFP violated the rulemaking requirements of Subsection 120.54(1), Florida Statutes, because PCS has not adopted that procedure as a rule. That case was given DOAH Case No. 07-1266RU. The bid protest and rule challenge were consolidated by Order dated March 27, 2007. PCS moved to dismiss Case No. 07-1266RU on March 28, 2007. This motion was denied by Order dated April 5, 2007. On April 3, 2007, Xerox filed a Response to PCS's Motion to Dismiss and/or Motion to Dismiss IKON's Petition in Case No. 07-1266RU. IKON filed a Motion to Strike that Response on the ground that Xerox had not formally moved to

intervene in the rule challenge proceeding. IKON's Motion to Strike and Xerox's Motion to Dismiss were both denied at the outset of the final hearing.

After one continuance, the consolidated cases were heard on April 18, 2007. At the final hearing, IKON presented the testimony of Mark Lindemann, the purchasing director for PCS. Xerox presented the testimony of Mr. Lindemann and Geri Pomerantz, the major account contract manager for public sector operations for Xerox. Xerox also entered without objection the deposition testimony of Brian Chepren, the supervisor of central printing for PCS. PCS presented the testimony of Mr. Lindemann and Colin Castle, a productions systems specialist for IKON. The parties stipulated to Joint Exhibits 1 through 53, which were received into evidence.

An expedited Transcript was received by the undersigned via electronic mail from the court reporter on April 18 and 19, 2007. The official Transcript was filed at DOAH on April 26, 2007. Pursuant to stipulation, the parties filed their Proposed Final Orders in Case No. 07-1266RU on April 26, 2007. The parties' submissions have been considered in the preparation of this Final Order.

FINDINGS OF FACT

Based on the oral and documentary evidence presented at the final hearing and on the entire record of the proceeding, the following findings of fact are made:

1. PCS is an agency within the meaning of Subsection 120.52(1)(b)7, Florida Statutes, and has been granted rulemaking authority by the Florida Legislature. Pursuant to Florida Administrative Code Rule 6A-1.012, the Florida Department of Education requires PCS to adopt purchasing rules governing its acquisition of products and services. In accordance with this requirement, on or about February 25, 2003, PCS adopted Part A of its Purchasing Handbook as a rule pursuant to Section 120.54, Florida Statutes. This duly adopted PCS rule consists of the General Terms and Conditions which were included in the Request for Proposals ("RFP") at issue in these consolidated cases.

2. On December 15, 2006, PCS issued the 2007 RFP, entitled "Copier Program--Request for Proposals." The 2007 RFP was intended to provide a comprehensive copier program for the entire Pinellas County School District from the award date of the bid, then anticipated to be February 20, 2007, through June 30, 2012. The purpose of the 2007 RFP was stated as follows in Section 3.1 of the General Information section:

[PCS] requests proposals from experienced and qualified vendors to provide a comprehensive copier program countywide

which fulfills the priorities and needs expressed by district focus groups. PCS wishes to partner with a qualified vendor who will continue to improve information sharing, right size number of assets, and reduce the number of device types while lowering the district's cost. Vendors may propose whatever program they feel best meets the district's needs and are not restricted in any way other than to meet the basic equipment specifications, terms and conditions outlined in this bid. . . . [Emphasis added]

3. A statement of the 2007 RFP's "scope" set forth in the Special Conditions similarly provided:

[PCS] requests proposals from experienced and qualified vendors to provide a comprehensive copier program countywide which fulfills the priorities and needs expressed by district focus groups. Vendors may propose whatever program they feel best meets these needs and a district evaluation committee made up of participants from the focus groups will evaluate proposals and make the selection it feels best meets these needs based upon a set of criteria published in this document. . . . [Emphasis added]

4. The 2007 RFP provided for proposals to be received no later than January 18, 2007, at 3:00 p.m.

5. The 2007 RFP contained General Terms and Conditions, setting forth the standard boilerplate terms common to all PCS procurements, and Section 1 of "Special Conditions" particular to this contract.<sup>2</sup> These were followed by: Section 2, "Personnel Matrix"; Section 3, "General Information"; Section 4, "Program Specifications"; Section 5, "Equipment Specifications";

Section 6, "Cost Proposal"; and Section 7, "Contractor Response."

6. Paragraph 3 of the General Terms and Conditions, "Acceptance and Withdrawal of Bids," provided:

A bid (or amendment thereto) will not be accepted by the purchasing department after the time and date specified for the bid opening, nor may a bid (or amendment thereto) which has already been opened in public be withdrawn by the bidder for a period of sixty (60) calendar days after the bid opening date and time, unless authorized by the purchasing department. By written request to the purchasing department, the bidder may withdraw from the bid process and ask to have their sealed bid proposal returned at any time prior to the closing date and time for the receipt of bid proposals.

7. Paragraph 14 of the General Terms and Conditions, "Variance to Bid Documents," provided:

For the purpose of bid evaluation, bidders must clearly stipulate any or all variances to the bid documents or specifications, no matter how slight. If variations are not stated in the bidder's proposal, it shall be construed that the bid proposal submitted fully complies in every respect with our bid documents.

8. Paragraph 30 of the General Terms and Conditions, "Errors and Omissions," provided:

In the event an error or obvious omission is discovered in a bidder's proposal, either by the purchasing department or the bidder, the bidder may have the opportunity of withdrawing their bid, provided they can produce sufficient evidence to document that



the error or omission was clerical in nature and unintentional . . . This privilege shall not extend to allowing a bidder to change any information contained in their bid proposal; however, in the event of a minor omission or oversight on the part of the bidder, the purchasing department (or designee) may request written clarification from a bidder in order to confirm the evaluator's interpretation of the bidder's response and to preclude the rejection of their bid, either in part or in whole. The purchasing department will have the authority to weigh the severity of the infraction and determine its acceptability.

9. Paragraph 31 of the General Terms and Conditions, "Basis of Award of Bids," provides: "A Bidder who substitutes its standard terms and conditions for the district's, or who qualifies its bid in such a manner as to nullify or limit its liability to the district will be considered nonresponsive."

10. The standard form cover sheet to the both the 2006 and 2007 RFPs contained a "Note to Bidder" that stated: "A signed bid submitted to the School Board obligates the bidder to all terms, conditions and specifications stated in this bid document, unless exceptions are taken and clearly stated in the bidder's proposal." (Emphasis added)

11. The Special Conditions of the 2007 RFP included a provision titled "Acceptance of Vendor Responses," which stated: "The purchasing department reserves the right to accept proposals from multiple vendors, and to accept or reject portions of a proposal based upon the information requested."

Vendors may be excluded from further consideration for failure to fully comply with the requirements of this RFP solely at the purchasing department's discretion." (Emphasis added)

12. The Special Conditions of the 2007 RFP also included a provision entitled "Integrity of Bid Documents," which stated:

Bidders shall use the original Bid Proposal Forms provided by the Purchasing Department and enter information only in the spaces where a response is requested. Bidders may use an attachment as an addendum to the Bid Proposal form if sufficient space is not available on the original form for the bidder to enter a complete response. Any modifications or alterations to the original bid documents by the bidder, whether intentional or otherwise, will constitute grounds for rejection of a bid. Any such modifications or alterations that a bidder wishes to propose must be clearly stated in the bidder's proposal response and presented in the form of an addendum to the original bid documents.

13. Both Xerox and IKON timely submitted proposals in response to the 2007 RFP. Evaluations of the responses to the RFP were based on a two-step procedure. First, a focus group of individuals from the Pinellas County School District would analyze the bids and award points based on the specifications and the Proposal Evaluation Form set forth in the RFP. The maximum award was 100 points, with 80 points constituting the threshold for further consideration. Second, those vendors which met the 80-point threshold would compete solely on price.

Those bidders who did not score 80 points in the first stage would not have their price bids opened.

14. By January 24, 2007, the focus group had finalized its evaluations, and the cost proposals were to be opened on January 26, 2007. Both IKON and Xerox scored above the 80-point level. IKON received a score of 87 points from the focus group and Xerox received a score of 81 points.

15. Xerox's proposal included, among 15 unnumbered appendices, an appendix titled "Xerox Clarification Addendum to the RFP." This Addendum contained four "clarifications" of portions of the General Terms and Conditions, seven "clarifications" regarding the Program Specifications portion of the Special Conditions, and 12 items under the heading "Other Xerox Service Terms" that purported to set forth contractual provisions regarding service, personnel, risk of loss, limitations on liability, payment schedules, and other standard contract terms.

16. These proposed "clarifications" are reviewed in detail in the Recommended Order for Case No. 07-1055BID, issued on May 10, 2007. The Recommended Order found that the Xerox Addendum materially deviated from the requirements of the 2007 RFP in several respects and that these deviations rendered the Xerox proposal nonresponsive.

17. PCS's purchasing department conducted a responsiveness review of the proposals prior to sending them to the focus group for substantive evaluation, but did not notice the Xerox Addendum. Mark Lindemann, the director of purchasing for PCS, testified that it is not customary for bidders to submit such an addendum, and therefore his staff was not looking for it when conducting their responsiveness review.

18. On January 30, 2007, after the focus group had performed its evaluation of all the bids, and the cost proposals had been opened and the bid tabulations had been posted on the PCS website, Colin Castle of IKON brought to the attention of the PCS purchasing department the presence of the Xerox Addendum.

19. After learning of the Xerox Addendum from Mr. Castle on January 30, 2007, PCS reviewed the Addendum and concluded that it included material deviations to the terms and conditions of the RFP solicitation and that either the Addendum or Xerox's bid must be withdrawn. Negotiations commenced between PCS and Xerox. On February 2, 2007, Xerox offered PCS a revised Addendum. PCS rejected the revised Addendum and informed Xerox that the Addendum must be withdrawn in its entirety. On February 5, 2007, Xerox notified PCS by letter that it was withdrawing the Addendum from its proposal. Also, on

February 5, 2007, PCS posted its notice of intent to award the contract to Xerox.

20. In its Petition, IKON alleges that PCS's decision to allow Xerox to withdraw the Addendum from its response to the RFP after the proposals were opened was based on an unwritten PCS policy. That alleged policy, generally applicable to all PCS procurements, allows potential vendors who submit procurement responses containing material deviations from the requirements of bid documents the option of either confirming their responses without the material deviations, or withdrawing their responses entirely even after PCS receives a notice of intent to protest under Subsection 120.57(3), Florida Statutes. IKON alleges that this policy is not contained in PCS procurement rules, has not been adopted by PCS as a rule, and is, in fact, contrary to many of the PCS's duly adopted rules.

21. PCS has freely stated its position that it has the authority to reject an addendum without rejecting the entire proposal, and that it has done so on at least one previous occasion, during the review of proposals submitted under the 2006 RFP. However, PCS insists that this position is based on its adopted rules, not on an unadopted rule as alleged by IKON. PCS argues that the withdrawal of the Xerox Addendum was entirely in keeping with its procurement rules as reflected in

paragraph 3 of the General Terms and Conditions, quoted in full above and relevant portion of which provides:

A bid (or amendment thereto) will not be accepted by the purchasing department after the time and date specified for the bid opening, nor may a bid (or amendment thereto) which has already been opened in public be withdrawn by the bidder for a period of sixty (60) calendar days after the bid opening date and time, unless authorized by the purchasing department. [Emphasis added]

22. PCS contends that the emphasized language grants the purchasing department authority to allow a bidder to withdraw a portion of its bid after the bids have been opened. PCS here equates the terms "amendment" and "addendum," assuming that the Xerox Addendum could be withdrawn as an "amendment" to the Xerox proposal. However, for reasons fully explained in the Recommended Order for Case No. 07-1055BID, the Xerox Addendum was not an amendment to the Xerox proposal, but an integral part of that proposal. The Addendum did not amend anything contained in the Xerox proposal; rather, it attempted to "amend" the terms of the 2007 RFP itself.

23. The underscored portion of paragraph 3 anticipates the late withdrawal of an entire bid or an amendment to a bid, not a wholesale grant of authority to the purchasing department to allow a bidder to save a nonresponsive proposal by withdrawing the objectionable provisions. IKON correctly notes that the

clauses of paragraph 3 are independent: the first clause provides that PCS cannot allow bids or amendments, thereto, to be submitted after the time and date for bid opening; the second clause provides that a bid or an amendment to a bid that has already been opened may not be withdrawn for at least 60 calendar days after the bid opening date and time, unless authorized by the purchasing department. In this case, Xerox's proposal was clearly amended after bid opening by the withdrawal of the Addendum, in violation of paragraph 3 of the General Terms and Conditions and in violation of Subsection 120.57(3)(f), Florida Statutes.

24. Subsection 120.57(3)(f), Florida Statutes, provides, in relevant part:

In a protest to an invitation to bid or request for proposals procurement, no submissions made after the bid or proposal opening which amend or supplement the bid or proposal shall be considered . . .

25. The PCS rules and RFP provisions, correctly understood, do not contravene this statutory requirement. They grant the purchasing department the flexibility to allow a bidder, under special circumstances, to withdraw from a given procurement after submitting a bid and they allow PCS to waive slight variations or minor irregularities in a bid. To the extent that PCS interprets its rules and RFP to allow Xerox to substantially amend its proposal after the opening, as occurred

in this procurement, then PCS has violated its governing statutes in a fashion that is clearly erroneous, contrary to competition, arbitrary, or capricious. PCS has not acted in accordance with an unadopted rule, but has misread and misapplied its adopted rules.

26. PCS is correct that the "Integrity of Bid Documents" paragraph of the Special Conditions of the 2007 RFP allows bidders to submit addenda that clearly state "modifications or alterations that a bidder wishes to propose." However, contrary to PCS's treatment of Xerox in this procurement, the RFP does not state that the bidder may propose modifications of the RFP terms without risk. The cited paragraph clearly warns bidders that proposed modifications or alterations constitute grounds for rejection of a bid. The paragraph does not, and under Subsection 120.57(3)(f), could not, state that bidders will be given the opportunity to withdraw those portions of their proposals deemed nonresponsive after bid opening.

27. PCS also emphasizes the first sentence of the "Acceptance of Vendor Responses" paragraph of the Special Conditions: "The purchasing department reserves the right to accept proposals from multiple vendors, and to accept or reject portions of a proposal based upon the information requested." However, the next sentence of that paragraph states that the remedy is not after-the-fact withdrawal of the rejected portion



of the proposal, but rejection of the proposal: "Vendors may be excluded from further consideration for failure to fully comply with the requirements of this RFP solely at the purchasing department's discretion."

28. In summary, the evidence presented at the hearing established that PCS engaged in a strained and ultimately untenable application of its duly adopted rules in connection with the evaluation of the proposals submitted under the 2007 RFP, not in the application of an unadopted rule. Subsection 120.57(3), Florida Statutes, provided IKON and any other adversely affected bidder with an adequate remedy for the agency's misapplication of its rules.

29. Contrary to the contentions of PCS and Xerox, IKON's Petition was timely filed. Regardless of the outcome of the case, the Petition on its face dealt with an alleged unwritten and unadopted rule, and, thus, was brought properly under Subsection 120.56(4), Florida Statutes. The 72-hour limit for filing a notice of protest, or the ten-day limit for filing a formal written protest set forth in the RFP, in PCS Policy 7.15(7),<sup>3</sup> and in Subsection 120.57(3)(b), Florida Statutes, is not applicable to the instant case, which is not a protest of the specifications contained in the RFP.<sup>4</sup>

CONCLUSIONS OF LAW

30. The Division of Administrative Hearings has jurisdiction over the parties to and subject matter of this proceeding pursuant to Subsection 120.56(4), Florida Statutes.

31. PCS is an "agency" within the meaning of Subsection 120.52(1)(b)7, Florida Statutes, and is, thus, subject to the rulemaking requirements of Section 120.54, Florida Statutes.

32. Subsection 120.52(15), Florida Statutes, defines a "rule" as follows:

"Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule. The term does not include:

(a) Internal management memoranda which do not affect either the private interests of any person or any plan or procedure important to the public and which have no application outside the agency issuing the memorandum.

(b) Legal memoranda or opinions issued to an agency by the Attorney General or agency legal opinions prior to their use in connection with an agency action.

(c) The preparation or modification of:

1. Agency budgets.

2. Statements, memoranda, or instructions to state agencies issued by the Chief Financial Officer or Comptroller as chief fiscal officer of the state and relating or pertaining to claims for payment submitted

by state agencies to the Chief Financial Officer or Comptroller.

3. Contractual provisions reached as a result of collective bargaining.

4. Memoranda issued by the Executive Office of the Governor relating to information resources management.

33. In the absence of a statutory directive to the contrary, IKON, as the Petitioner, has the burden of establishing by a preponderance of evidence that the agency statements challenged herein constitute unpromulgated rules. Dravo Basic Materials Co., Inc., v. Department of Transportation, 602 So. 2d 632 (Fla. 2d DCA 1992); Florida Department of Transportation v. J.W.C. Company, 396 So. 2d 778 (Fla. 1st DCA 1981).

34. Once the Petitioner establishes that the cited statements constitute rules, the burden then shifts to the agency to establish that rulemaking is not feasible and practicable under Subsection 120.54(1)(a), Florida Statutes. § 120.56(4)(b), Fla. Stat.

35. Subsection 120.54(1)(a), Florida Statutes, provides as follows:

- (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN EMERGENCY RULES.--
  - (a) Rulemaking is not a matter of agency discretion. Each agency statement defined as a rule by s. 120.52 shall be adopted by the rulemaking procedure provided by this section as soon as feasible and practicable.
    - 1. Rulemaking shall be presumed feasible unless the agency proves that:

- a. The agency has not had sufficient time to acquire the knowledge and experience reasonably necessary to address a statement by rulemaking;
  - b. Related matters are not sufficiently resolved to enable the agency to address a statement by rulemaking; or
  - c. The agency is currently using the rulemaking procedure expeditiously and in good faith to adopt rules which address the statement.
2. Rulemaking shall be presumed practicable to the extent necessary to provide fair notice to affected persons of relevant agency procedures and applicable principles, criteria, or standards for agency decisions unless the agency proves that:
- a. Detail or precision in the establishment of principles, criteria, or standards for agency decisions is not reasonable under the circumstances; or
  - b. The particular questions addressed are of such a narrow scope that more specific resolution of the matter is impractical outside of an adjudication to determine the substantial interests of a party based on individual circumstances.

36. An agency statement that is the equivalent of a rule must be adopted according to the rulemaking procedures of Chapter 120, Florida Statutes. Environmental Trust, Inc. v. Department of Environmental Protection, 714 So. 2d 493, 498 (Fla. 1st DCA 1998).

37. It is concluded that PCS gave vendors who submitted procurement responses containing material deviations from the RFP the option of either withdrawing the material deviations, or withdrawing their responses entirely after bid opening. This practice was conducted pursuant to a misapplication of PCS's

duly adopted rules, not pursuant to an unadopted rule.

Subsection 120.57(3), Florida Statutes, provided IKON, as an adversely affected bidder, with an adequate remedy for the agency's misapplication of its rules.

38. The Administrative Law Judge in Medimpact Healthcare Systems, Inc. v. Department of Management Services, Case No. 00-3553RU (DOAH November 21, 2000) aptly concluded:

12. In the final analysis, an agency must follow its own rules. Marrero v. Department of Professional Regulation, 622 So. 2d 1109, 1112 (Fla. 1st DCA 1993). Statements confirming the failure to do so do not constitute unpromulgated rules. The statements are not ones of general applicability. They are statements with no applicability.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law set forth herein, it is

ORDERED that:

IKON's Petition Seeking an Administrative Determination of the Invalidity of an Agency Statement Defined as a Rule is DISMISSED.

DONE AND ORDERED this 14th day of May, 2007, in  
Tallahassee, Leon County, Florida.

**S**

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LAWRENCE P. STEVENSON  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 14th day of May, 2007.

ENDNOTES

1/ Unless otherwise indicated, all references are to the 2006 edition of the Florida Statutes.

2/ The 2006 RFP contained the same General Terms and Conditions as the 2007 RFP.

3/ The cited policy adopts the timing provisions of Subsection 120.57(3), Florida Statutes, for bid protests. The PCS Policy Manual may be found at <http://www.pinellas.k12.fl.us/planning/html/chapters/toc.htm>

4/ PCS's position is that IKON knew that PCS interpreted its rules and RFP to allow the withdrawal of addenda, because PCS had allowed IKON to withdraw its own addenda during the 2006 RFP process. Thus, possessed of direct knowledge of PCS's interpretation, IKON should have protested the bid specifications at the time of their release. However, IKON contends that it emerged from the 2006 RFP process with the understanding that PCS would no longer allow addenda to be withdrawn. In any event, it would be fundamentally unfair to charge IKON with foreknowledge that PCS would continue to misread and misapply its rules and bid specifications.

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original Notice of Appeal with the agency clerk of the Division of Administrative Hearings and a copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The notice of appeal must be filed within 30 days of rendition of the order to be reviewed.