



THE SCHOOL DISTRICT OF LEE COUNTY

2855 COLONIAL BLVD. ♦ FORT MYERS, FLORIDA 33966-1012 ♦ (239) 334-1102 ♦ WWW.LEESCHOOLS.NET

Heather W. Hawkins
Attorney, School Support
3308 Canal Street
Ft. Myers, FL 33916
(239) 479-4208 / (239) 332-5502 Fax

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DIVISION OF
ADMINISTRATIVE
HEARINGS

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BOARD ATTORNEY

January 13, 2011

Division of Administrative Hearings
Clerk of the Division
The Desoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

RE: *Humana Dental Insurance Company/Comp Benefits Company v. The School Board of Lee County, Florida – Case No.10-0094846BID*

Dear Clerk:

Attached for filing please find the Final Order of the School Board of Lee County in the above matter.

If you have any questions please contact me.

Sincerely,

Heather W. Hawkins
Attorney, School Support

BEFORE THE SCHOOL BOARD OF LEE COUNTY, FLORIDA

HUMANA DENTAL INSURANCE COMPANY/
COMP BENEFITS COMPANY

Petitioner,

vs.

CASE NO. 10-0094846BID

THE SCHOOL BOARD OF LEE COUNTY,
FLORIDA

Respondent.

FINAL ORDER

Preliminary Statement

On September 24, 2010, after review of the process and procedures followed in determining the recommended award under RFP R106885GM for Group Dental Insurance ("the RFP"), the School Board, through its Superintendent, issued a Notice of Intention to Reject All Proposals, rescinding a Notice of Intent to Award previously issued to Humana Dental Insurance Company/Comp Benefits Company ("Humana"), citing procedural error. Humana timely filed Notice of Intent to Protest on September 27, 2010. On October 7, 2010 Humana timely filed a formal Protest and deposit as required by School Board Policy 6.08.

The parties held an informal meeting to attempt to resolve the bid protest on October 18, 2010. No resolution was reached.

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On October 19, 2010, the matter was referred to the Division of Administrative Hearings. A hearing was held in this case before Susan Harrell, a duly-designated Administrative Law Judge of the Division of Administrative Hearings (DOAH) on November 15, 2010 in Fort Myers, Florida. A Recommended Order was issued December 2, 2010 recommending that a final order be entered by the School Board finding that the rejection of all proposals was not fraudulent, illegal, dishonest, or arbitrary and dismissing Humana's protest.

Standard of Review

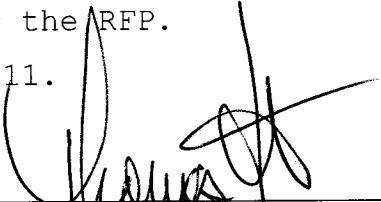
The School Board's standard of review in this case is set forth by statute at Section 120.57 (1)(1):

The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusion of law or interpretation of administrative rule, the agency must state with particularity its reasons for rejecting or modifying such conclusion of law or interpretation of administrative rule and must make a finding that its substituted conclusion of law or interpretation of administrative rule is as or more reasonable than that which was rejected or modified. Rejection or modification of conclusions of law may not form the basis for rejection or modification of findings of fact. The agency may not reject or modify the findings of fact unless the agency first determines from a review of the entire record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept the recommended penalty in a recommended order, but may not reduce it or increase it without a review of the complete record and without stating with particularity its reasons therefor in the

order, by citing to the record in justifying the action.

The School Board of Lee County, Florida hereby adopts in full the Recommended Order as its Final Order, finding that the intended rejection of all proposals was not fraudulent, illegal, dishonest, or arbitrary, dismissing Humana's protest and rejecting all of the proposals under the RFP.


Done and Ordered January 11, 2011.



Thomas Scott
Chairman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Robert Shimberg, Esq. and T. Bennett Acuff, Esq., PO Box 2231, Tampa, Florida 33601 this 13th day of January, 2011.



Heather W. Hawkins
School Board of Lee County,
Florida
3308 Canal Street
Fort Myers, FL 33916
(239) 479-4208
Florida Bar No. 0068195