

# oppaga

## Information Brief



April 2003

Report No. 03-28

### K-12 Textbook Approach Needs District Flexibility and Publisher Accountability

#### *at a glance*

- Florida's acquisition and distribution approach for its instructional materials process is similar to other high population and southeastern states except that Florida school districts cannot purchase used state-adopted materials.
- Giving districts the authority to buy used textbooks to supplement their existing inventories of state-adopted materials is cost-effective.
- Authorizing the sale of surplus state-adopted materials across district lines will improve utilization of materials purchased with state funds.
- Monitoring publisher offers for high value, free materials that accompany textbook purchases will help ensure that all school districts receive equal offers.
- Creating a penalty system for late delivery of state-adopted materials will improve publisher accountability and may decrease the frequency of back orders on the first day of school.

#### Scope

The Joint Legislature Auditing Committee directed OPPAGA to examine the availability of textbooks in Florida schools. Our review addressed two questions.

- How does Florida's system for acquiring and distributing textbooks compare to those used by other states?
- Can changes be made to Florida's process to reduce costs?

#### Background

Florida's school districts purchase large quantities of instructional materials each year.<sup>1</sup> In Fiscal Year 2002-03, the state provided over \$212 million to districts for instructional materials. This funding has substantially increased in recent years. As shown in Exhibit 1, appropriations for instructional materials have grown by \$121 million since Fiscal Year 1995-96. Districts can supplement this funding with other funds, but the amount of additional expenditures is not compiled on a statewide basis.

#### Exhibit 1 State Funding for Instructional Materials Has Increased Substantially in Recent Years

Fiscal Year	Instructional Materials Appropriations <sup>1</sup>	Annual Rate of Change (+ / -)
1995-96	\$ 90,947,040	Base Year
1996-97	128,995,265	42%
1997-98	145,139,475	13%
1998-99	170,438,638	17%
1999-00	178,191,807	5%
2000-01	177,091,807	(1%)
2001-02	198,538,584	12%
2002-03	212,939,157	7%
<b>7-Year Increase</b>	<b>\$ 121,992,117<sup>2</sup></b>	<b>134%<sup>2</sup></b>

<sup>1</sup> Does not include library media allocations.

<sup>2</sup> Difference between 2002-03 and 1995-96 funding.

Source: OPPAGA analysis.

<sup>1</sup> Instructional materials include textbooks, workbooks, laboratory materials, computer software, videos, and tapes. This does not include computers and assisted learning equipment.

Florida uses an adoption process for instructional materials that includes four steps.

1. **The Department of Education writes and publishes specifications for new instructional materials and solicits bids for these materials.** The department develops specifications for the “core curriculum areas” of mathematics, language arts, science, social studies, reading, and literature for K-12, as well as for foreign languages, computer education, health, arts and humanities, business, and driver’s education. These specifications require that submitted materials align with Florida’s Sunshine State curriculum standards.
2. **Publishers that respond to the bid submit samples of materials.** The submittal deadline is 24 months after the request for bids was published, which allows publishers time to develop new materials that meet the state specifications.
3. **The Commissioner of Education reviews the publisher submissions and selects (adopts) materials for each subject area.**<sup>2</sup> Multiple contracts are adopted each year. For example, the 2002 reading adoptions included six different programs for grades kindergarten through fifth grade. In contrast, the state-adopted mathematics materials for high schools include more than 40 titles for subjects ranging from general mathematics to advanced placement calculus. Publishers whose materials are adopted enter into a contract with the department to provide the materials for the six-year state adoption period.
4. **School districts review state-adopted materials and select those that they wish to use in their local schools.** The districts use their state instructional material allocations and other available funds to buy the materials.<sup>3</sup> Districts must purchase state-adopted materials through the publishers’ in-state warehouse, which is commonly the Florida School Book Depository.<sup>4</sup> Districts may purchase non-state-

adopted instructional materials directly from the publishers.

Florida is considered a major force in the national instructional materials market. Florida is also one of the few states that has developed mandatory curriculum standards for all instructional materials sold to public schools. This coupled with the large volume of materials that Florida districts buy each year (Florida is the third largest adoption state) means that publishers develop their textbooks and other materials specifically to meet the Sunshine State standards.

While Florida’s process for acquiring instructional materials has been relatively unchanged for many years, the education publishing industry is currently changing from many independent companies to a few large conglomerates. Long-standing publishers such as Harcourt, Scott Foresman, and Houghton Mifflin have, through mergers, become divisions within larger companies. This merger trend is due, in part, to the high costs of developing new textbooks; publishers noted that it costs up to \$60 million to prepare new textbook series. This industry consolidation has implications for Florida’s instructional materials adoption process as it reduces competition for the state contracts.

## Findings

### How does Florida’s system for acquiring and distributing textbooks compare to those used by other states?

**Florida’s system is similar to that of other large and southeastern states in three major areas—adoption of materials, guarantees for lowest prices and free materials, and in-state depositories.**<sup>5</sup> However, Florida differs from other comparison states because school districts may not buy used textbooks.

**Most comparison states use adoption process.** States generally follow one of two models for acquiring instructional materials. Florida, as with 8 of 10 states we examined, uses an adoption

<sup>2</sup> The 2000 Legislature transferred the authority to adopt materials from the Department of Education to the Commissioner of Education (Ch. 2000-291, *Laws of Florida*).

<sup>3</sup> Districts receive their annual allocation of state funds through a category of the Florida Education Finance program (FEFP).

<sup>4</sup> The Florida School Book Depository is a private for-profit company that maintains a 300,000 square foot warehouse in Jacksonville, Florida and an inventory of 21,000 items including state-adopted and non-adopted materials.

<sup>5</sup> We compared Florida’s instructional materials processes to those of California, Texas, New York, Illinois, Alabama, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee.

process in which a central entity selects and adopts instructional materials. The advantage of this system is that states that adopt materials can require a more uniform curriculum throughout the state and can stipulate that materials align to the state standards such as Florida’s Sunshine State Standards.

In contrast, some other states, including New York and Illinois, leave this decision to officials on the local level. These states are known as open territory states where each school may solicit bids, evaluate materials, and select their own materials. Although an open territory state maximizes local control, the state loses the ability to align instructional materials with state standards.

**Most comparison states use “most-favored-nation” requirement.** Florida, like most of the states we examined, uses a “most-favored-nation” requirement in its instructional materials contracts. This provision requires publishers to provide Florida with the best offers made to any state or school district in the United States.<sup>6</sup> In addition to the initial guarantee of lowest price, the states require the publisher to automatically reduce prices if lower prices are offered elsewhere. Eight of the 10 states we examined have a similar requirement.<sup>7</sup>

However, most-favored-nation requirements do not ensure that all states receive identical prices for instructional materials because the requirement governs prices in the year that the contract is initially established. Publishers typically raise prices each year. Thus, most-favored-nation clauses provide comparable prices when states adopt identical materials at the same time.<sup>8</sup> For example, the 2003 prices for Florida’s state-adopted math materials would be comparable with identical materials in Alabama and North Carolina; but price comparisons for California or Texas would not be

valid since these states adopted materials in a different year (see Exhibit 2).

**Exhibit 2  
Most-Favored-Nation Requirements Provide Comparable Prices When States Adopt Materials in the Same Year**

	2001	2002	2003	2004	2005	2006
Alabama			K-12			
California		K-8				K-8
<i>Florida</i>			K-12			
Georgia						K-12
Mississippi						K-12
N. Carolina			K-12			
S. Carolina	K-8	9-12				
Tennessee				K-12		
Texas					K-5	6-12

Source: National Association of State Textbook Administrators.

Florida’s most-favored-nation clause also requires publishers to provide comparable free materials to Florida’s school districts.<sup>9</sup> Five of the 10 states we examined have a similar contract provision.<sup>10</sup>

**Comparison states are mixed in using textbook depositories.** States are mixed in whether they use a central instructional materials depository. Florida and 5 of the 10 states we examined require publishers to maintain an in-state depository or warehouse for state-adopted materials.<sup>11</sup> The rationale for a state depository is to help ensure that materials are easily accessible. A state depository also is convenient for districts, since they do not have to contact multiple publishers.

Seven states we contacted allow local schools to purchase materials directly from publishers.<sup>12</sup> This option increases purchasing burdens for districts, but avoids additional shipping and handling charges. Florida pays for shipping and handling twice—once to get materials from the publisher to the Florida School Book Depository which is included in the state contract price, and a second

<sup>6</sup> State law requires publishers to “[f]urnish the instructional materials offered by them at a price in the state which, including all costs of transportation to their depositories, shall not exceed the lowest price at which they offer such instructional materials for adoption or sale to any state or school district in the United States” (s. 1006.38(5), *F.S.*). Publishers must also “[r]educe automatically the price of the instructional materials to any district school board to the extent that reductions are made elsewhere in the United States” (s. 1006.38(6), *F.S.*).

<sup>7</sup> Alabama, California, Georgia, Illinois, North Carolina, South Carolina, Tennessee, and Texas.

<sup>8</sup> The publisher’s “bid shall state the lowest wholesale price at which the materials will be furnished, at the time of the adoption period provided in the contract begins, delivered f.o.b. to the Florida depository of the publisher, manufacturer, or bidder.” (s. 1006.33(2), *F.S.*)

<sup>9</sup> The publisher shall “[p]rovide any instructional materials free of charge in the state to the same extent as they are provided free of charge to any state or school district in the United States.” (s. 1006.38(7), *F.S.*)

<sup>10</sup> Alabama, California, South Carolina, Tennessee, and Texas.

<sup>11</sup> Georgia, Mississippi, North Carolina, South Carolina, and Texas.

<sup>12</sup> California, Georgia, Illinois, Mississippi, New York, Tennessee, and Texas.

time to get materials from the depository to the school.

## **Can changes be made to Florida's instructional materials purchasing process to reduce costs?**

The Legislature could take five actions to cut costs: (1) authorize district-to-district sales of instructional materials; (2) authorize districts to purchase used state-adopted materials; (3) authorize districts to have the option to buy materials directly from publishers; (4) require the Department of Education to improve monitoring of publisher distribution of free materials to some districts; and (5) establish penalties for publishers that fail to deliver materials in a timely manner. The option of requiring publishers to reduce prices for older materials would likely not result in net cost savings.

### ***Authorizing district-to-district sales would extend state resources***

Current state law stipulates that districts must buy state-adopted materials only from the publisher's in-state depository.<sup>13</sup> Districts are authorized to donate surplus materials to other districts, students, charitable organizations, government agencies, or private schools, and they may sell the materials to used book dealers or other private corporations. However, districts are not authorized to either buy or sell materials to another district.<sup>14</sup>

Allowing districts to purchase materials from each other would reduce costs, because districts may have excess textbooks and instructional materials that they no longer need. For example, a school could decide to implement a new reading program, meaning that it no longer would need the materials used to support the program. Another district that still used the materials could buy them at a reduced price, producing savings for the purchasing district and revenues for the selling district.

If districts were authorized to make such purchases, the Department of Education could establish a user-friendly website where districts could post notices of available materials and their asking prices and shipping terms. This website could be part of the department's main website or provided through the existing electronic bulletin board service maintained by the Florida Association of District Instructional Materials Administrators.<sup>15</sup>

### ***Authorizing districts to purchase used books would reduce costs***

Current law also prohibits districts from purchasing used state-adopted materials. Instead, districts are required to purchase new materials from the state depository.<sup>16</sup> This prohibits districts from buying used materials since the depository provides only new, not used, materials. However, the majority of districts reported that they are interested in being able to buy used state-adopted materials after the first two years of the adoption cycle.<sup>17</sup> Seven of the 10 states we examined allow schools to purchase used materials.<sup>18</sup>

Our analysis of prices for new and used materials found that districts could attain substantial savings by purchasing used materials. We examined the prices offered by used book vendors for 30 randomly selected, state-adopted, older textbooks.<sup>19</sup> The used book vendors offered lower prices for 28 of the 30 books. The average discount for used books was 24%. Based on this discount and the average \$40 price of textbooks, a district could save \$960 on the purchase of 100 books, allowing it to buy 31 additional copies.

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<sup>15</sup> The department formerly supported a process for exchanging materials between districts, but this system was discontinued in 2000 due to problems with timely notices and inventory controls. These problems would be avoided by posting the offers and sales on a timely basis and providing technical assistance to the districts.

<sup>16</sup> "The district school superintendent shall requisition adopted instructional materials from the depository of the publisher with whom a contract has been made." (s. 1006.37, *F.S.*)

<sup>17</sup> Eighty percent of the responding instructional materials administrators reported that they either would recommend (38%) or may recommend (42%) that the district purchase used state-adopted materials after the first two years of the adoption cycle.

<sup>18</sup> California, Texas, New York, Georgia, Illinois, Mississippi, and Alabama. Alabama allows schools to purchase used materials using funds collected from students/parents for lost or damaged textbooks and local monies.

<sup>19</sup> We compared prices of the Academic Book Services, Adams Book Co., and Follett Educational Services.

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<sup>13</sup> "The district school superintendent shall requisition adopted instructional materials from the depository of the publisher with whom a contract has been made." (s. 1006.37(1), *F.S.*)

<sup>14</sup> Section 1006.41, *F.S.*

The potential disadvantage of allowing districts to purchase used books is that districts could, if they were not careful, buy books that are older editions or sample editions that may contain errors. Also, the supply of used Florida-specific materials may be limited. For example, the available quantity for the 30 state-adopted textbooks we examined ranged from 0 to 3,845. A used book vendor we contacted indicated that most orders could be filled if districts gave sufficient lead time, which could range up to six to seven months.

### ***Authorizing districts to purchase materials directly from publishers could reduce costs***

Currently, Florida pays for shipping and handling of instructional materials twice—once to get materials into the state depository and a second time to get materials from the depository to the schools. Florida schools could reduce these costs if they were authorized to buy directly from publishers.

Seven of the 10 states we examined allow schools to buy directly from publishers.<sup>20</sup> The option to buy directly gives the district the opportunity to explore possible cost-savings or to continue paying the additional shipping from the depository.

The Florida School Book Depository advises customers to estimate the cost of shipping at 5% of the cost of materials. However, based on a sample of invoices provided by the depository, the average actual cost of shipping from the depository to school districts between March 2002 and March 2003 was less than 1% (or \$1.4 million for \$156.4 million in materials). The OPPAGA analysis of depository invoices found a broad range of percentages (0.35% to 24.4%) and a broad range of costs (\$3.23 to \$1,100.74). The broad ranges of actual shipping percentages and costs indicate that it would be difficult to provide customers with a realistic estimate prior to shipping. Therefore, the use of a cost estimate that is higher than the average actual cost is appropriate.

Districts report that the potential drawback of direct purchase is that it may not be efficient for the district. Two school districts conveyed that it would not be cost-effective for them because of the additional time and resources spent on ordering materials from multiple publishers rather than from

one depository.<sup>21</sup> Accordingly, the option of purchasing materials directly from publishers should be an option available to districts rather than mandated.

### ***Ensuring that all districts receive the same free materials could increase availability***

Although Florida law requires publishers to provide the same free materials to all districts, the department does not monitor compliance with this requirement, and it appears to be violated regularly. Twelve Florida school districts reported they were able to negotiate a better deal for free materials than what was listed in the state catalog.<sup>22</sup> A special deal that is inconsistent with the state contract may appear to be favorable to the district, but it ultimately harms the other 66 districts that were not privy to the offer.<sup>23</sup> It also can create the appearance of improper deal-making in that it can give one publisher an advantage in marketing their materials to districts compared to other publishers who comply with the law and do not provide special free materials.

Publisher special deals to certain districts are a nationwide issue. In 2002, the California State Auditor reported that some publishers were not equitably providing free materials to Los Angeles area schools.<sup>24</sup> This concern is relevant due to the increasing value of free materials that can exceed the cost of the student textbooks (see Exhibit 3). The California State Auditor estimated that the monetary value of the free materials furnished the district ranged from \$346 to \$430 million.<sup>25</sup> This is significantly different from the perception that free instructional materials are inexpensive extras.

<sup>21</sup> OPPAGA survey of school districts, August 2002.

<sup>22</sup> OPPAGA survey of school districts, August 2002.

<sup>23</sup> In order to determine whether it is a violation, each special deal or offer would need to be examined on a case-by-case basis. For example, an offer to exchange one set of free materials for a different set of free materials may not be a violation if the materials are of equal value.

<sup>24</sup> California State Auditor, Los Angeles Unified School District; Report No. 2001-124, June 2002. Note: The Association of American Publishers did not analyze or respond to the study.

<sup>25</sup> When applied to Florida's state appropriation of \$212,939,157 for instructional materials in 2002-03, the value of free materials ranges from \$151,186,801 to \$187,386,458.

<sup>20</sup> California, Georgia, Illinois, Mississippi, New York, Tennessee, and Texas.

**Exhibit 3**  
**Value of Free Materials Can Exceed the Cost of the Student Textbooks**

Materials	Price	Value	Percentage of Textbook Price
23 Sets of First Grade Reading Textbooks	\$2,472.50		
<b>Free Materials:</b>			
Teacher's Editions, Manipulations Kit, Book Collections, and Intervention Kit	Free	\$3,310.53 <sup>1</sup>	134%
<b>Total Cost</b>	<b>\$ 2,472.50</b>		

<sup>1</sup> Includes a basic package worth \$1,312.63 plus the highest value options. Source: 2002 Florida School Book Depository Catalog.

***Penalties should be established for late deliveries of instructional materials***

Although it is important for schools to receive textbooks and other instructional materials before school begins, Florida does not penalize publishers for late deliveries. The absence of instructional materials can disrupt students' education and is inefficient in time and money.

Sixteen school districts reported that the Florida School Book Depository failed to inventory a sufficient amount of state-adopted materials over the past two years, and five districts reported that newly adopted reading materials were not available for their first days of school in 2002. These districts reported that it took anywhere from one week to four months to fill the back orders.<sup>26</sup>

In contrast, other states, including Texas and California, may impose penalties when publishers fail to deliver materials in a timely manner. The Texas State Board of Education may impose reasonable administrative penalties for failure to deliver materials before the opening day of school. The board determines the amount of the penalty after considering factors such as the seriousness of the violation and whether the delay is an ongoing problem for the publisher. California allows school districts to impose a daily penalty when a delivery is delayed beyond 60 days after the order was placed. The penalty is \$500 per working day with a maximum of \$20,000 per order.

Establishing a similar penalty system for Florida may encourage publishers to make timely deliveries. The Association of American Publishers does not oppose a reasonable and fair penalty system.<sup>27</sup>

***Requiring publishers to reduce prices for older materials would likely result in higher prices for new materials and no net savings***

We assessed the option of requiring publishers to reduce prices for materials after the initial years of an adoption period, but concluded that this would not result in net savings. By this option, publishers would be required to offer two sets of prices for instructional materials—a higher price for the initial years of an adoption period (such as the first three years of the six-year period) and lower prices in succeeding years. The rationale for this option would be to mandate lower prices for older materials that could be coming out of date.

Although this approach would reduce prices for older materials, it would also likely result in higher prices for new materials since publishers would likely increase their initial price to ensure profitability. Publishing representatives we contacted asserted that mandatory price reductions after the initial years of an adoption cycle would diminish publisher earnings and these companies' ability to recover the costs of developing new materials. As mentioned in the background section of this report, the publishing industry is undergoing a consolidation of small independent publishers into a few larger companies. These mergers reduce the competition for state contracts and give more leverage to fewer companies. Publishers likely would increase their prices for the initial years of an adoption period to compensate for lower prices in later years, resulting in no overall net savings.

<sup>27</sup> The association also conveyed that the penalty should only be for late delivery of state adopted core materials during the first two years of a state adoption. In addition, the penalty should only be assessed if the district places its order by the first of April prior to the next school year.

<sup>26</sup> OPPAGA survey of school districts, August 2002.

## Conclusions and Recommendations

Florida's approach to adopting instructional materials is similar to that used by many other states and enhances Florida's ability to align instructional materials with the Florida Sunshine State Standards. This is important as it helps teachers prepare students for annual state assessments.

However, the Legislature could take several steps to reduce costs and improve district's ability to obtain needed instructional materials in an efficient manner. Specifically, we recommend that the Legislature take the actions described below.

- Amend ss. 1006.37 and 1006.41, *Florida Statutes*, to authorize the sale and purchase of state-adopted materials across district lines to improve utilization of instructional materials. To implement this recommendation the Department of Education should provide the districts with a website to accommodate notices and responses for district-to-district sales of surplus materials.
- Amend s. 1006.37, *Florida Statutes*, to give districts the option to buy used state-adopted materials to replace or expand their existing inventory of materials after the first two years of an adoption period.
- Amend s. 1006.37, *Florida Statutes*, to give districts the option to buy state-adopted materials directly from publishers. This would enable districts that wish to do so to reduce shipping and handling costs incurred when purchasing through a state depository. However, districts should continue to have the option to purchase materials from the depository should they chose to do so.

- Require implementation of a penalty system for publishers of instructional materials who fail to deliver materials on time. The Legislature should give the Department of Education rule-making authority to implement a penalty system. Specifically, a penalty should be assessed for every work day that a delivery of newly adopted materials arrives at the school more than 60 days after the order is submitted, unless a later delivery date is agreed upon. A 30-day deadline should be established for older state-adopted materials. The amount of the penalty could be similar to that imposed by California, \$500 per work day, up to \$20,000 total per purchase order.

We also recommend that the Department of Education monitor offers of free instructional materials that accompany textbook purchases to ensure that publishers comply with Florida's most-favored-nation clause and to ensure that all districts receive equal offers.

## Agency Response

In accordance with the provisions of s. 11.513, *Florida Statutes*, a draft of our report was submitted to the Commissioner of Education for his review and response. The Commissioner's written response is reprinted herein (see Appendix A, pages 8-12). In his response, the Commissioner refers to two attachments (Exhibits A and B) that are not included in the report, but they are available on our website.

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OPPAGA provides objective, independent, professional analyses of state policies and services to assist the Florida Legislature in decision making, to ensure government accountability, and to recommend the best use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021 or 800/531-2477), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475).

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# Appendix A

## FLORIDA DEPARTMENT OF EDUCATION



JIM HORNE  
Commissioner of Education



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March 26, 2003

John W. Turcotte, Director  
Office of Program Policy and  
Government Accountability  
111 West Madison Street  
Tallahassee, Florida 32399

Dear Mr. Turcotte:

The Department of Education is pleased to have the opportunity to respond to the report: **K-12 Textbook Approach Needs District Flexibility and Publisher Accountability.**

While the Department of Education embraces all efforts to refine practices and increase flexibility to school districts, it must do so in such a manner that will not place Florida's curricular objectives in jeopardy. That being said, the Department's rejoinder contains supportive responses as well as information and documentation not currently reflected in the findings of OPPAGA's draft report. We are most eager to work with your staff in coming to resolution on these issues.

Again, thank you for the opportunity to respond.

Sincerely,

/s/

Jim Horne

JH:ecs



## Department of Education Response

### **Authorizing district-to-district sales would extend state resources.**

Current state law stipulates that districts must buy state-adopted materials only from the publisher's in-state depository. Districts are authorized to donate surplus materials to other districts, students, charitable organizations, government agencies, or private schools, and they may sell the materials to used book dealers or other private corporations. However, districts are not authorized to either buy or sell materials to another district.

Department of Education Response:

Based on provisions of 1006.41, school districts can, in fact, sell unserviceable or surplus materials, but only those materials that are no longer on state contract. Although district surplus of state adopted instructional materials would be rare, the Department of Education would support district to district sales if this were to occur. However, Section 1006.37(1) would need to be amended to allow for this provision.

The Florida Association of Instructional Materials Administrators (FADIMA) has an existing and well-utilized Listserve that could easily be used by districts to post notices of surplus material. Requiring the Department of Education to develop an additional website would be duplicative both in services and cost.

### **Authorizing districts to purchase used books would reduce costs**

Current law also prohibits districts from purchasing used materials. Instead, districts are required to purchase new materials from the state depository. This prohibits districts from buying used materials since the depository provides only new, not used, materials. However, the majority of districts reported that they are interested in being able to buy used state-adopted materials after the first two years of the adoption cycle. Seven of the 10 states we examined allow schools to purchase used materials.

Department of Education Response:

Current law only prohibits districts from purchasing state-adopted materials, whether new or used, from a supplier other than a Florida depository. Districts are free to purchase non-adopted material from any vendor of their choosing.

While districts may incur some cost savings if purchasing state-adopted materials from a secondary vendor, districts may also incur unforeseen disadvantages.

- Used-book vendors often have little or no access to essential Teacher Editions and ancillary items that have been developed to complete a program's curricular design.
- Used-book vendors often have access to first printings, which Florida will not adopt because of a propensity toward errors in first printings.

One used-book vendor contacted by OPPAGA stated that they would be able to fill most orders *if given sufficient lead-time of six-to-seven months*. One of the great advantages of Florida's adoption process is the contractual language between the publisher and the state, which requires them to maintain sufficient inventory to fill orders. The Department does not believe that waiting six to seven months to fill a textbook order would be in the best interest of the school districts.

**Authorizing districts to purchase materials directly from publishers could reduce costs.**

Currently, Florida pays for shipping and handling of instructional materials twice—once to get materials into the state depository and a second time to get materials from the depository to the schools. Florida schools could reduce these costs if they were authorized to buy directly from publishers.

Department of Education Response:

The Department contends that Florida pays shipping costs only once, not twice. Because of the Most Favored Nations (MFN) clause, the contracted cost of state adopted instructional materials is at least equal to the lowest price offered anywhere nationwide (at the time of bidding), regardless of whether those materials are shipped directly to a school, a school district, or a depository.

The Department of Education also contends that districts pay on average 0.89% for shipping from the Florida School Book Depository as opposed to the 5% cited in the OPPAGA report (Exhibit A). Many districts have commented that the time and staff required to purchase from multiple vendors would be cost prohibitive. One district (Dade) stated that their present cost in shipping for non-state adopted titles not carried through the FSBD is at least 10%.

**OPPAGA Comment**

Based on additional documentation provided by the depository, OPPAGA has edited its discussion of shipping costs.

**Ensuring all districts receive the same free materials could increase availability.**

Although Florida law requires publishers to provide the same free materials to all districts, the department does not monitor compliance with this requirement, and it appears to be regularly violated. Twelve Florida school districts reported they were able to negotiate a better deal for free materials than what was listed in the state catalog. A special deal that is inconsistent with the state contract may appear to be a good deal for the district but it ultimately harms the other 66 districts that were not privy to the offer. It can also create the appearance of improper deal-making in that it can give one publisher an advantage in marketing their materials to districts compared to other publishers who comply with the law and do not provide special free materials.

## Department of Education Response

Department of Education Response:

The Department of Education, while attempting to ensure equity and fairness in the access to free materials, welcomes this charge of encouragement from OPPAGA. Existing contracts between the state and publishers contain clear provisions for free items provided when "cost" items are purchased. In the event a school district "negotiates" additional or more advantageous offers of free materials or services, the publisher would legally be required to offer the same to all school districts.

The Department of Education will re-address these requirements and make clear in pre-bidding forms and procedures that these requirements, if not met, will result in the cancellation of the contract.

### **Penalties should be established for late deliveries of instructional materials.**

Although it is important for schools to receive textbooks and other instructional materials before school begins, Florida does not penalize publishers for late deliveries. The absence of instructional materials can disrupt students' education and is inefficient in time and money.

Department of Education Response:

The Department agrees with OPPAGA's assertion that penalties for late deliveries should be established, however, only if administered equitably and under certain conditions, i.e., if the fault is found to be that of the publisher.

The Department asserts that the following should be taken into consideration:

1. [WWW.FIMWeb.com](http://WWW.FIMWeb.com) was developed in response to several sections of statutes. The first, section 1006. 28(2)(b) requires school districts to submit planned purchases (for the ensuing school year) no later than April 1 to ensure that schools have necessary materials *prior* to the opening of school in the fall. Section 1006. 40(2)(a) requires districts to provide current instructional materials and to provide a textbook or major tool of instruction for every child in the core subject areas. The Legislature has fully funded the instructional materials categorical for the past ten years, and FIMWeb's reporting procedures determine at some level if districts are complying with the law.

If a district does not submit planned purchases on FIMWeb.com, it is difficult for publishers and/or the FSBD to forecast sufficient inventory. The Department runs a report in early April, notifies non-compliant districts, and then runs a final

report May 1. A district's non-compliance should be taken into consideration if they experience backorders on these very orders.

2. The Department of Education notifies districts of approved materials at the completion of each subject area adoption meeting conducted in the fall to give districts sufficient lead time to determine planned purchases (Exhibit B). Florida statutes also allow districts to issue purchase orders (provisionally) as early as February 1 for materials for the following school year.
3. A reasonable timeframe/deadline for districts to submit purchase orders (possibly three weeks prior to August opening of school) should be determined. If a district adheres to this deadline and experiences backorders, penalties should be assessed against the publisher.

**Requiring publishers to reduce prices for older materials would likely result in higher prices for new materials and no net savings.**

We assessed the option of requiring publishers to reduce prices for materials after the initial years of an adoption period, but concluded that this would not result in net savings. By this option, publishers would be required to offer two sets of prices for instructional materials—a higher price for the initial years of an adoption period (such as the first three years of the six-year period) and lower prices in succeeding years. The rationale for this option would be to mandate lower prices for older materials that could be coming out of date

Department of Education Response:

Florida statutes previously allowed for provisional price increases after the third year of an adoption. The Department of Education would like to pursue 1) requesting that the publishers *decrease* prices after the third year of the adoption and 2) adjusting statutes to allow purchase from secondary vendors in the 4th through 6th years of the adoption, thus possibly reducing costs of adopted materials and making prices overall more competitive.

**Exhibit A**

**FLORIDA SCHOOL BOOK DEPOSITORY**

**Transportation Cost By District**

(As a percent of merchandise)

<b>DISTRICT</b>	<b>4/1/01-3/31/02</b>	<b>4/1/02-2/27/03</b>
ALACHUA	0.62%	0.67%
BAKER	1.05%	1.11%
BAY	1.56%	1.83%
BRADFORD	0.00%	0.01%
BREVARD	1.01%	1.38%
BROWARD	0.88%	0.93%
CALHOUN	1.90%	3.09%
CHARLOTTE	1.36%	1.54%
CITRUS	1.09%	1.24%
CLAY	0.00%	0.00%
COLLIER	1.07%	1.36%
COLUMBIA	0.77%	0.86%
DADE	0.34%	0.58%
DESOTO	1.06%	1.30%
DIXIE	2.03%	1.49%
DUVAL	0.00%	0.00%
ESCAMBIA	1.34%	1.27%
FLAGLER	1.12%	1.05%
FRANKLIN	1.24%	1.13%
GADSDEN	0.96%	0.93%
GILCHRIST	0.50%	0.13%
GLADES	1.46%	1.48%
GULF	1.43%	1.42%
HAMILTON	1.15%	1.25%
HARDEE	1.14%	1.22%
HENDRY	1.55%	1.34%
HERNANDO	1.41%	1.34%
HIGHLANDS	1.32%	1.35%
HILLSBOROUGH	0.90%	1.02%
HOLMES	2.21%	1.24%
INDIAN RIVER	1.17%	1.34%
JACKSON	1.62%	1.40%
JEFFERSON	0.77%	0.46%
LAFAYETTE	0.95%	1.51%
LAKE	0.98%	0.94%
LEE	1.65%	1.58%

<b>Exhibit A</b>
------------------

**FLORIDA SCHOOL BOOK DEPOSITORY**

**Transportation Cost By District**

**(As a percent of merchandise)**

<b>DISTRICT</b>	<b>4/1/01-3/31/02</b>	<b>4/1/02-2/27/03</b>
LEON	1.38%	1.17%
LEVY	1.67%	1.67%
LIBERTY	2.21%	2.07%
MADISON	0.81%	0.81%
MANATEE	1.17%	1.21%
MARION	1.15%	1.02%
MARTIN	1.51%	1.92%
MONROE	1.99%	2.22%
NASSAU	0.00%	0.00%
OKALOOSA	1.29%	1.49%
OKEECHOBEE	1.52%	1.40%
ORANGE	1.00%	1.02%
OSCEOLA	0.92%	1.18%
PALM BEACH	0.55%	0.86%
PASCO	1.02%	1.26%
PINELLAS	0.92%	0.77%
POLK	0.48%	0.65%
PUTNAM	0.83%	0.87%
SANTA ROSA	1.58%	0.94%
SARASOTA	0.50%	1.11%
SEMINOLE	0.43%	1.80%
ST. JOHNS	0.70%	0.66%
ST. LUCIE	1.26%	0.64%
SUMTER	0.97%	1.01%
SUWANNEE	0.89%	0.74%
TAYLOR	1.01%	0.49%
UNION	0.55%	0.90%
VOLUSIA	0.94%	1.10%
WAKULLA	1.00%	0.94%
WALTON	1.21%	1.05%
WASHINGTON	1.99%	1.68%
	<hr/> 0.77%	<hr/> 0.89%

## Exhibit B

-----Original Message-----

**From:** FDOE [mailto:manuelc@MAIL.DOE.STATE.FL.US]

**Sent:** Friday, December 20, 2002 3:48 PM

**To:** Charlie.carraway@FLDOE.ORG

**Subject:** Approved Instructional Materials for Literature, Grades 6-12

The Department of Education has issued the following memorandum and attachments regarding the Approved Instructional Materials for Literature, Grades 6-12. The memorandum may be viewed at:

**Memo:**

<http://info.firn.edu/dscgi/ds.py/Get/File-789/Literature.pdf>

**Bid List:**

**Part 1:** [http://info.firn.edu/dscgi/ds.py/Get/File-793/Lit\\_Bid.pdf](http://info.firn.edu/dscgi/ds.py/Get/File-793/Lit_Bid.pdf)

**Part 2:** [http://info.firn.edu/dscgi/ds.py/Get/File-797/Lit\\_Bid\\_First\\_Cont.pdf](http://info.firn.edu/dscgi/ds.py/Get/File-797/Lit_Bid_First_Cont.pdf)

**Part 3:** [http://info.firn.edu/dscgi/ds.py/Get/File-798/Lit\\_Bid\\_Sec\\_Continuation.pdf](http://info.firn.edu/dscgi/ds.py/Get/File-798/Lit_Bid_Sec_Continuation.pdf)

**Matrix:**

[http://info.firn.edu/dscgi/ds.py/Get/File-788/Literature\\_Matrix.pdf](http://info.firn.edu/dscgi/ds.py/Get/File-788/Literature_Matrix.pdf)

Please do not reply to this message. If you have questions regarding the content of this message, please contact Charlie Carraway at [Charlie.Carraway@fldoe.org](mailto:Charlie.Carraway@fldoe.org)

**Sent to:** K12 Curriculum

**K12 ESE Exceptional Student Education**

**K12 Non-Public Schools**

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-----Original Message-----

**From:** FDOE [mailto:yeagerc@MAIL.DOE.STATE.FL.US]

**Sent:** Tuesday, December 17, 2002 8:49 AM

**To:** carrawayc@MAIL.DOE.STATE.FL.US

**Subject:** Approved Instructional Materials for Integrated Science, Grades 9-12

The Department of Education has issued the following memorandum regarding Approved Instructional Materials for Integrated Science, Grades 9-12.

The memorandum may be viewed at:

[http://info.firn.edu/dscgi/ds.py/Get/File-778/Memo\\_Science\\_9-12.pdf](http://info.firn.edu/dscgi/ds.py/Get/File-778/Memo_Science_9-12.pdf)

Attachments may be viewed at:

[http://info.firn.edu/dscgi/ds.py/Get/File-777/Science\\_Adoptions.pdf](http://info.firn.edu/dscgi/ds.py/Get/File-777/Science_Adoptions.pdf)

[http://info.firn.edu/dscgi/ds.py/Get/File-779/Science\\_9-12\\_Matrix.pdf](http://info.firn.edu/dscgi/ds.py/Get/File-779/Science_9-12_Matrix.pdf)

## Exhibit B

Please do not reply to this message. If you have questions regarding the content of this message, please contact:

<mailto:charlie.carraway@fldoe.org>

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-----Original Message-----

From: FDOE [<mailto:yeagerc@MAIL.DOE.STATE.FL.US>]

Sent: Tuesday, December 10, 2002 12:15 PM

To: [carrawayc@MAIL.DOE.STATE.FL.US](mailto:carrawayc@MAIL.DOE.STATE.FL.US)

Subject: Approved Instructional Materials for Music, Grades K-5

The Department of Education has issued the following memorandum regarding Approved Instructional Materials for Music, Grades K-5. The memorandum may be viewed at:

[http://info.firn.edu/dscgi/ds.py/Get/File-761/Memo\\_Music\\_Grades\\_K-5.pdf](http://info.firn.edu/dscgi/ds.py/Get/File-761/Memo_Music_Grades_K-5.pdf)

Attachments may be viewed at:

<http://info.firn.edu/dscgi/ds.py/Get/File-762/MusicAdoptions.pdf>

[http://info.firn.edu/dscgi/ds.py/Get/File-763/MusicK-12\\_Music\\_Matrix.pdf](http://info.firn.edu/dscgi/ds.py/Get/File-763/MusicK-12_Music_Matrix.pdf)

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<mailto:charlie.carraway@fldoe.org>

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-----Original Message-----

From: FDOE [<mailto:jacksot@MAIL.DOE.STATE.FL.US>]

Sent: Tuesday, October 29, 2002 4:04 PM

To: [charlie.carraway@FLDOE.ORG](mailto:charlie.carraway@FLDOE.ORG)

Subject: Approved Bid Lists for Agriscience and Natural Resources and Safety and Driver Education



## Exhibit B

The Department of Education has issued the following memorandum regarding the Approved Bid Lists for Agriscience and Natural Resources and Safety and Driver Education. The memorandum and attachments may be viewed at:

[http://info.firn.edu/dscgi/ds.py/Get/File-640/Approved\\_Bid\\_List\\_Memo.pdf](http://info.firn.edu/dscgi/ds.py/Get/File-640/Approved_Bid_List_Memo.pdf)

[http://info.firn.edu/dscgi/ds.py/Get/File-641/Drivers\\_Ed.pdf](http://info.firn.edu/dscgi/ds.py/Get/File-641/Drivers_Ed.pdf)

[http://info.firn.edu/dscgi/ds.py/Get/File-642/Agriscience\\_Matrix.pdf](http://info.firn.edu/dscgi/ds.py/Get/File-642/Agriscience_Matrix.pdf)

[http://info.firn.edu/dscgi/ds.py/Get/File-643/Agribusiness\\_Agribusiness.pdf](http://info.firn.edu/dscgi/ds.py/Get/File-643/Agribusiness_Agribusiness.pdf)

[http://info.firn.edu/dscgi/ds.py/Get/File-644/Safety\\_Driver\\_Ed\\_Matrix.pdf](http://info.firn.edu/dscgi/ds.py/Get/File-644/Safety_Driver_Ed_Matrix.pdf)

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<mailto:Charlie.Carraway@fldoe.org>

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