

**FLORIDA BOARD OF GOVERNORS  
NOTICE OF PROPOSED REPEALED REGULATION**

**DATE:** June 23, 2023

**REGULATION NUMBER AND TITLE:** 14.007, Competitive Negotiations

**SUMMARY:**

The governing provisions in Regulation 14.007 are effectively addressed in the proposed new Regulation 14.006 (Educational Facilities Contracting and Construction Techniques) and the amendments to 14.005, which reiterates that procedures for competitive negotiations are at the discretion of the universities as prescribed by their boards of trustees. As such, this regulation is no longer necessary and proposed for repeal.

**FULL TEXT OF THE REGULATION IS INCLUDED WITH THIS NOTICE.**

**AUTHORITY TO PROPOSE REGULATION(S):** Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006.

**THE BOARD OF GOVERNORS' OFFICIAL INITIATING THE PROPOSED REGULATION:** Kevin Pichard, Director, Finance and Facilities

**COMMENTS REGARDING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW.** The comments must identify the regulation on which you are commenting:

General Counsel, Board of Governors, State University System, 200 W. College Avenue, Suite 216, Tallahassee, Florida 32301, (850) 245-0466 (phone), (850) 245-9685 (fax), or [generalcounsel@flbog.edu](mailto:generalcounsel@flbog.edu).

## ~~14.007 Competitive Negotiations~~

~~(1) The president shall negotiate a contract with the approved firm in the following manner:~~

- ~~(a) For professional services, the contract shall be negotiated using the Department of Management Services approved fee schedule as a guideline for individual projects or maximum hourly rates for Campus Service Agreements and design criteria agreements. The fee schedule to be used shall be negotiated based on the level of complexity and the scope of the services required and shall be based on historic fee data. The basic fee schedule shall relate the fees to the complexity and size of the project and provide a guideline for negotiation of a fair, competitive, and reasonable fee for the services to be provided.~~
- ~~(b) For construction management services and for design-build services selected based on qualifications, the contract shall be negotiated to provide for preconstruction fees based on hourly rates, and construction related services to include profit, overhead, direct management costs, and establishing a guaranteed maximum price.~~
- ~~(c) For design-build services selected based on a design-build proposal, the contract shall be negotiated based on the design-build proposal, to provide for a guaranteed maximum price for all professional services and construction costs which shall include reimbursable costs plus fees for design, project management, overhead and profit.~~

~~(2) Should the president be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the president determines to be fair, competitive, and reasonable, the president shall terminate negotiations with that firm. The president shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the president shall terminate negotiations with that firm and shall then undertake negotiations with the third most qualified firm.~~

~~(3) Should the president be unable to negotiate a satisfactory contract with any of the selected firms, additional firms may be selected in accordance with Regulation 14.005 or negotiations may be reinstated following the original order of priority. Negotiations may, in the president's sole discretion, continue in accordance with this Chapter until an agreement is reached.~~

~~(4) Construction Direct Purchase Program (Owner/Contractor Program). Commodities to be incorporated into any public work, which are procured by the University in accordance with the requirements of the University's direct purchase program, are not subject to any further competitive solicitation. "Public work" is defined as projects for public use or enjoyment, financed and owned by the government, in which private persons undertake the obligation to do a specific piece of work that involves installing~~

~~tangible personal property in such a manner that it becomes a part of a public facility, including land, improvement to land, building, structure, or other fixed site and related infrastructure thereon owned or operated by a governmental entity where governmental or public activities are conducted. The term "public work" is not restricted to the repair, alteration, improvement, or construction of real property and fixed works, although such projects are included within the term.~~

~~Authority: Section 7(d), Art. IX, Fla. Const., History Formerly 6C-14.007, 12-30-79, Amended 8-18-80, 7-22-87, 1-24-89, 10-17-89, 5-17-95, 1-13-99, Amended and Renumbered as 14.007, 3-27-08, Repealed xx-xx-23.~~