18.001 Procurement

(1) Authority of the Institutions.
Each university Board of Trustees shall adopt regulations establishing basic criteria related to procurement, including procedures and practices to be used in acquiring commodities and contractual services, as follows:

(a) Removing any contractor from the University's competitive vendor list that fails to fulfill any of its duties specified in a contract with the University(s) and to reinstate any such contractor when satisfied that further instances of default will not occur.

(b) Planning and coordinating purchases in volume and negotiating and executing agreements and contracts for commodities and contractual services under which the University may make purchases.

(c) Where practical and available, implementing the use of existing State University System (SUS) Shared Initiatives contracts; unless the Director of Procurement/Chief Procurement Officer or designee documents that such use is not in the best interest of the university.

(d) Evaluating, approving, and utilizing contracts that are entered into after a public and open competitive solicitation by any State of Florida agency, department, Florida state college or university, the Federal Government, other states, political subdivisions, cooperatives or consortia, or any independent college or university for the procurement of commodities and contractual services, when it is determined to be cost-effective and in the best interest of the University, to make purchases under contracts let by such entities. Universities must maintain appropriate justification for the use of services contract adoption. Universities shall review existing consortia and cooperative contracts to identify potential savings and, if there is the potential for savings, enter into new consortia and cooperative contracts to achieve the savings, with the goal of achieving a five-percent savings on existing contract prices.

(e) Awarding contracts for commodities and contractual services to multiple suppliers, if it is determined to be in the best interest of the University. Such awards may be on a university, regional or State University System-wide basis and the contracts may be for multiple years.

(f) Rejecting or canceling any or all competitive solicitations when determined to be in the best interest of the University.

(g) Barring any vendor from doing business with the University for demonstrated cause, including previous unsatisfactory performance.

(h) Prohibiting University employees and University direct support organization employees participating on a procurement selection committee for commodities or services from soliciting donations from responding vendors during the selection process, except for donations or other benefits expressly stated in the procurement document.

(i) Permitting the extension(s) of a contract, entered into as a result of a competitive solicitation, for up to twelve (12) months or until completion of the competitive solicitation and award or protest, whichever is longer.

(j) Permitting the renewal(s) of a contract, entered into as a result of a competitive solicitation, for a period that may not exceed 5 years or twice the term of the original contract, whichever is longer. This provision is not intended to apply retroactively; existing contracts entered into prior to January 1, 2017, including any specified renewal period(s) may continue in accordance with the existing contract terms.

(2) Competitive Solicitation Threshold.

Each university Board of Trustees shall establish a competitive solicitation threshold not greater than $150,000 (the "Competitive Solicitation Threshold") for the purchase of commodities or contractual services. Starting in January 2024, the competitive solicitation threshold will be reviewed every three years using the Consumer Price Index for All Urban Consumers (CPI-U), to determine if an adjustment should be recommended to the threshold.

(a) When only one response is received to the competitive solicitation for commodities or contractual services that exceed the Competitive Solicitation Threshold, the University may review the solicitation responses to determine if a second call for a competitive solicitation is in the best interest of the University. If it is determined that a second call would not serve a useful purpose, the University may proceed with the acquisition.

(b) The purchase of commodities and contractual services shall not be divided to avoid the requirement of competitive solicitation.

(3) Preferences for Florida-Based Vendors.

(a) Preferences for Personal Property. When a University awards a contract to purchase personal property, other than printing, by competitive solicitation pursuant to paragraph (2) of this regulation, a preference shall be provided to vendors with a principal place of business in Florida (such vendors hereinafter referred to as "Resident Vendors") as follows:

1. If the responsible and responsive vendor that submits the lowest bid, the most advantageous proposal, or the best value reply is one whose principal place of business is outside of Florida and is in a state or political subdivision thereof that grants a preference for the same purchase to a vendor in such state or political subdivision, as applicable, then the University shall grant the same preference to the responsible and responsive Resident Vendor with the lowest bid received pursuant to an Invitation to Bid, the most advantageous proposal received pursuant to a Request for Proposals, or the best value reply received pursuant to an Invitation to Negotiate.
2. With respect to Invitations to Bid, if the lowest responsible and responsive bid is from a vendor whose principal place of business is in a state that does not

grant a preference for the purchase to a vendor in such state, then the University shall grant a preference in the amount of five percent (5%) to the lowest responsible and responsive Resident Vendor.

3. For vendors whose principal place of business is outside of Florida, such vendors must, at the time of submitting its bid, proposal or reply, provide a written opinion from a licensed attorney in its state specifying: (a) the preferences(s) granted by the state or political subdivision, as applicable, under the laws of that state to vendors whose principal place of business is in that state or political subdivision; and (b) how the preference is calculated. The failure to submit the written opinion may be waived as non-material if all vendors responding to the solicitation have principal places of business outside of Florida.
4. The vendor's principal place of business, as represented by the vendor in its bid or reply, may be relied upon by the University without further inquiry. If the University determines that a vendor has misrepresented its principal place of business, the vendor's bid, proposal or reply shall be rejected.
5. For the purpose of paragraph (3)(a), "personal property" shall be defined as goods and commodities, but not real estate, intellectual property or services.

(b) Preferences for Printing. When a University purchases printed materials by competitive solicitation pursuant to paragraph (2) of this regulation, a preference shall be provided Resident Vendors as follows:

1. If the lowest responsible and responsive bid received pursuant to an Invitation to Bid is from a vendor whose principal place of business is outside of Florida, then the University shall grant a preference to the lowest responsible and responsive Resident Vendor in the amount of five percent (5%) if the University has determined that the printing can be performed by the Resident Vendors at a level of quality comparable to that obtainable from the vendor submitting the lowest bid whose principal place of business is outside of Florida.
2. For purposes of subparagraph 3(b)(1), the level of quality shall be determined by whether a vendor satisfies the minimum specification requirements as set forth in the Invitation to Bid.

(c) Method of Calculating Five Percent Preference.

1. If the competitive solicitation is an Invitation to Bid, then an amount equal to five percent (5%) of the total base bid and any alternates shall be deducted from the base bid and alternates, as applicable, of the lowest responsible and responsive Resident Vendor's bid.

(d) Determining a Vendor's Principal Place of Business. A vendor's "principal place of business" is determined as follows:

1. If the vendor is an individual or a sole proprietorship, then its "principal place of business" is in the state where the vendor's primary residence is located.

2. If the vendor is a business organization, then its "principal place of business" is in the state where the majority of the vendor's executive officers direct the management of the vendor's business affairs.

(e) Federally Funded Projects. Purchases made to perform specific obligations under federally funded projects shall not be subject to this preference requirement to the extent the application of a preference is not allowed under applicable federal law or regulation.

(4) Exceptional Purchases.

Each university is authorized to make exceptional purchases of commodities or contractual services as follows:

(a) Purchase of Products with Recycled Content. Each University may establish a program to encourage the purchase and use of products and materials with recycled content and postconsumer recovered material.

(b) Purchase of Private Attorney Services. Written approval from the Attorney General is not required for private attorney services acquired by the University.

(c) Purchase of Insurance. Each University shall have the authority to purchase insurance as deemed necessary and appropriate for the operation and educational mission of the University.

(d) Purchase of Printing. However, if a University determines that it is in the best interests of the University to purchase printed materials through a competitive solicitation process, the preference provision in paragraph (3)(b) shall apply.

(5) Purchases from Contractors Convicted of Public Entity Crimes.

A University shall not accept a competitive solicitation from or purchase commodities or contractual services from a person or affiliate who has been convicted of a public entity crime and has been placed on the State of Florida's convicted vendor list for a period of 36 months from the date of being added to the convicted vendor list.

(6) Competitive Solicitation Exceptions.

The following types of purchasing actions, and commodities and contractual services purchases are not subject to the competitive solicitation process:

(a) ~~(a)~~ Emergency Purchases. When a university president or his/her designee determines, in writing, that the delay due to the competitive solicitation process is an immediate danger to the public health or safety or the welfare of the University, including University tangible and/or intangible assets; or would otherwise cause significant injury or harm not in the best interest of the University, the University may proceed with the procurement of commodities or contractual services without a competitive solicitation.

~~(a)~~(b) Supply Chain Shortages/Disruptions. The Chief Procurement Officer may, during documented supply chain shortages, declare the right to directly negotiate to secure supplies as needed.

(c) ~~(b)~~ Sole Source Purchases. Commodities or contractual services available from a single source may be exempted from the competitive solicitation process.

~~(b)~~(d) Economically feasible sole-source purchases. A procurement method used when only one supplier can reasonably provide a product or service, often due to unique compatibility, technical expertise, or patent restrictions. It is permitted when alternatives are not available or, despite existing competition, only one vendor is deemed economically viable due to compatibility or specialized, unique needs.

~~(c)~~(e) ~~(c)~~ Purchases from Contracts and Negotiated Annual Price Agreements established by the State of Florida, other governmental entities, other Universities in the State University System, or other independent colleges and universities are not subject to further competitive solicitation.

~~(d)~~(f) ~~(d)~~ The following listed commodities and services are not subject to competitive solicitation:

1. ~~1.~~ Artistic services;
2. ~~2.~~ Academic reviews;
3. ~~3.~~ Lectures;
4. ~~4.~~ Auditing services, including those services needed to address audit, financial, and fraud-related compliance, controls, and investigative matters, or such other related services;
5. ~~5.~~ Legal services, including attorney, paralegal, expert witness, appraisal, arbitrator, or mediator services;
6. ~~6.~~ Health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration. Prescriptive assistive devices for medical, developmental, or vocational rehabilitation, including, but not limited to, prosthetics, orthotics, wheelchairs, and other related equipment and supplies, provided they are purchased on the basis of an established fee schedule or by a method that ensures the best price, taking into consideration the needs of the client;
7. ~~7.~~ Services provided to persons with mental or physical disabilities by not-for-profit corporations organized under the provisions of s. 501(c)(3) of the Internal Revenue Code or services governed by the provisions of the Office of Management and Budget Circular A-122;
8. ~~8.~~ Medicaid services delivered to an eligible Medicaid recipient by a health care provider who has not previously applied for and received a Medicaid provider number from the Department of Children and Family Services. This exception will be valid for a period not to exceed 90 days after the date of delivery to the Medicaid recipient and shall not be renewed;
9. ~~9.~~ Family placement services;
10. ~~10.~~ Training and education services;
11. ~~11.~~ Advertising, except for media placement services;

12. ~~12.~~ Services or commodities provided by governmental agencies, another University in the State University System, direct support organizations of the university, political subdivisions, or other independent colleges and universities;
13. ~~13.~~ Programs, conferences, workshops, continuing education events or other university programs that are offered to the general public for which fees are collected to pay all expenses associated with the event or program;
14. ~~14.~~ Purchases from firms or individuals that are prescribed by state or federal law, or specified by a granting agency;
15. ~~15.~~ Regulated utilities and government franchised services;
16. ~~16.~~ Regulated public communications, except long distance telecommunication services or facilities;
17. ~~17.~~ Purchases from an Annual Certification List developed by each University;
18. ~~18.~~ Purchases for resale;
19. ~~19.~~ Accounting Services;
~~19.~~20. Investment Banking Advisory Services
~~20.~~21. ~~20.~~ Contracts or services provided by not-for-profit support and affiliate organizations of the University, direct support organizations, health support organizations and faculty practice plans;
~~21.~~22. ~~21.~~ Implementation/programming/training services available from owner of copyrighted software or its contracted vendor; or
~~22.~~23. ~~22.~~ Purchases of materials, supplies, equipment, or services for instructional or sponsored research purposes when a director of sponsored research or designee certifies that, in a particular instance, it is necessary for the efficient or expeditious prosecution of a research project in accordance with sponsored research procedures or to attain the instructional objective.

(7) Vendors Excluded from Competition.
In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, Invitations to Bid, Request for Proposals and/or Invitations to Negotiate shall be excluded from competing for such procurements.

(8) Standard of Conduct.
It shall be a breach of ethical standards for any employee of a University to accept, solicit, or agree to accept a gratuity of any kind, form or type in connection with any contract for commodities or services. It shall also be a breach of ethical standards for any potential contractor to offer an employee of a University a gratuity of any kind, form or type to influence the development of a contract or potential contract for commodities or services.

Authority: Section 7(d) Art. IX, Fla. Const.; History: New 3-27-08, Amended 3-28-13, 11-3-16, 9-16-20, 8-30-23, X-X-XX