

**FLORIDA BOARD OF GOVERNORS
NOTICE OF APPROVED REGULATION AND AMENDMENTS**

Date: February 6, 2008

REGULATION TITLES AND NUMBERS: 14.007 for Competitive Negotiation

SUMMARY: 14.007 Competitive Negotiation regulation is amended to update references to governance. The regulation is amended to reference the Department of Management Services approved fee schedule as a guideline for contract negotiations instead of the State University System approved fee schedule, which is no longer maintained.

FULL TEXT OF THE REGULATION: The full text of the proposed amended regulation is posted on BOG's Website at www.flbog.org. The full text of the existing regulation is posted on BOG's Web site at www.flbog.org/BOG_regs. In addition, the full text of the regulation is available upon request to the Office of the Chancellor, which can be contacted at (850) 245-0466.

AUTHORITY TO ADOPT/ AMEND/ REPEAL REGULATION: Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006.

**BOARD OF GOVERNORS' OFFICIAL INITIATING ADOPTION/ AMENDMENT/
REPEAL OF REGULATIONS:**

Chris Kinsley, Director, Finance and Facilities

**COMMENTS REGARDING ADOPTION/ AMENDMENT/ REPEAL OF REGULATIONS
SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO
THE CONTACT PERSON IDENTIFIED BELOW.** The comments must identify the regulation(s) on which you are commenting.

**THE PERSON TO BE CONTACTED REGARDING ADOPTION/ AMENDMENT/
REPEAL OF REGULATION IS:** Vikki R. Shirley, General Counsel, Board of Governors,
State University System 325 W. Gaines Street, Tallahassee, Florida 32399, (850) 245-
0466 (phone), (850) 245-9685 (fax), generalcounsel@flbog.org.

6C-14.007 Competitive Negotiation

(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 ~~State University System~~ 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 ~~basis~~ 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 ~~Rule-Regulation 6C-14.005, F.A.C.~~, 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), Article IX, Florida Constitution ~~Formerly Implemented~~
~~F.S. 240.209(1), (3)(p), (q), 287.055.~~ History - Formerly 6C-14.0. New 12-30-79,
Amended 8-18-80, 7-22-87, 1-24-89, 10-17-89, 5-17-95, 1-13-99.