

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

Date: February 6, 2008

REGULATION TITLES AND NUMBERS: 18.001 Purchasing Regulations

SUMMARY: Replaces existing Procurement Regulations with a simplified format that removes obsolete references.

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 Website 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.

New

18.001 Purchasing Regulations

(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) Evaluating and approving contracts let by any State of Florida agency or department, the Federal Government, other states, political subdivisions, not-for-profit cooperatives or consortiums, 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 other entities.

(d) 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.

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

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

(2) **Competitive Solicitation Threshold.** Each university Board of Trustees shall establish a competitive solicitation threshold not greater than \$75,000 for the purchase of commodities or contractual services.

(a) When only one response is received to the competitive solicitation threshold for commodities or contractual services exceeding \$75,000, 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) **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. Printing is not subject to Chapter 283, F.S.

(4) **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.

(5) **Competitive Solicitation Exceptions.** The following types of purchasing actions, and commodities and contractual services purchases are not subject to the competitive solicitation process:

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.

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

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) The following listed commodities and services are not subject to competitive solicitation:

1. Artistic services;
2. Academic reviews;

3. Lectures;
4. Auditing services;
5. Legal services, including attorney, paralegal, expert witness, appraisal, arbitrator or mediator services;
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. 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. 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. Family placement services;
10. Training and education services;
11. Advertising;
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. 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. Purchases from firms or individuals that are prescribed by state or federal law, or specified by a granting agency;
15. Regulated utilities and government franchised services;
16. Regulated public communications, except long distance telecommunication services or facilities;
17. Extension of an existing contract;
18. Renewal of an existing contract if the terms of the contract specify renewal option(s);
19. Purchases from an Annual Certification List developed by each

University;

20. Purchases for resale.
21. Accounting Services
22. 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
23. Implementation/programming/training services available from owner of copyrighted software or its contracted vendor
24. 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.

- (6) **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 for bids and/or requests for proposals shall be excluded from competing for such procurements.
- (7) **Standard of Conduct.** It shall be a breach of ethical standards for any employee of an 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.