

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

Date: February 6, 2008

REGULATION TITLES AND NUMBERS: 18.002 Notice and Protest Procedures

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

18.002 Notice and Protest Procedures.

(1) Notification.

(a) Bid Solicitation - The university shall provide notice of any information relating to a bid solicitation by advertising for bids or by distribution of bidding documents.

(b) Contract Award - The university shall provide notice of a decision or intended decision concerning a solicitation, contract award, or exceptional purchase by electronic posting. This notice shall contain the following statement: "Failure to file a protest in accordance with BOG regulation 18.002, or failure to post the bond or other security as required in BOG regulation 18.002, shall constitute a waiver of protest proceedings.

(2) Protest.

(a) Any qualified bidder who is adversely affected by the university's decision may file a written notice of protest within 72 hours after receipt of the notice with the president. The protesting firm must reduce its complaint to written petition and file it with the president within ten (10) days from registration of the original complaint. If the bid documents require the posting of a bond with the protest, the bond shall be included with the protest.

(b) Failure to file a notice of protest or the written petition shall constitute a waiver of the right to protest proceedings.

(3) Upon receipt of the formal written petition filed in accordance with this regulation, the president or designee shall delay the execution of the contract until the protest is resolved by mutual agreement between the parties or by final presidential action, unless the president shall make a finding and declares that such delay would cause serious danger to the public health, safety or welfare.

(4) Petitions involving disputed issues of material fact shall be referred for a quasi-judicial hearing. The president shall designate an administrative law judge to conduct a hearing in accordance with university procedures. At the conclusion of the hearing, the administrative law judge shall submit a written recommended order to the president. The president shall then issue a preliminary order for final action and notify the firm of such order. The preliminary order of the president shall be final, unless the firm under consideration takes exception to such order; in which event, it may file with the president such exceptions within twenty-one (21) days of receipt of notice of the preliminary order. At the end of the period for filing exceptions, the president will review the preliminary order and any exceptions that have been filed, and

will render the final order. The decision of the president is final. Appellate review of the final order shall be in accordance with the requirements of Rule 9.190(b) (3), Florida Rules of Appellate Procedure.

Authority - Section 7(d), Article IX, Florida Constitution