

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

DATE: November 6, 2020

REGULATION NUMBER AND TITLE: 14.001, **Construction Program Definitions**

SUMMARY: In the 2020 Legislative session, House Bill 441 modified Section 255.103, F.S., Public Procurement of Services, increasing the maximum limits for continuing contracts for professional services. Specifically, it increased the per-project construction cost from \$2 million to \$4 million, and for study activities, the fee from \$200,000 to \$500,000. Board Regulation 14.001 is being amended to incorporate these changes.

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 & 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, 325 W. Gaines Street, Suite 1614, Tallahassee, Florida 32399, (850) 245-0466 (phone), (850) 245-9685 (fax), or generalcounsel@flbog.edu

14.001 Construction Program Definitions

- (1) "Board of Trustees" means the university board of trustees; where referenced in Chapter 14, trustee authorization may not be delegated unless otherwise specified.
- (2) "Chancellor" means the Chancellor of the State University System, or designee.
- (3) "Construction budget" means that amount which is announced after the deadline for the receipt of bids, but prior to the opening of bids.
- (4) "Construction Management Services" means those services whereby the construction manager is selected pursuant to Regulation 14.0055, to provide consulting services during the design phase; and management and contractual responsibility for the total construction project under a negotiated fee and guaranteed maximum price construction contracting method. A fee is negotiated for profit, overhead, and direct management costs. Trade contracts are awarded by the construction manager based on competitive bids received in response to invitations to bid issued by the construction manager. A guaranteed maximum price is provided by the construction manager, and the total price paid to the construction manager is either the fee plus the actual cost or the guaranteed maximum price, whichever is less.
- (5) "Continuing Contract for Construction Management Services" means a contract with a construction manager for work during a defined time period on construction projects described by type, which may or may not be identified at the time of entering into the contract, and under which the estimated construction cost of each individual project does not exceed ~~\$2 million~~ \$4 million.
- (6) "Continuing Contract for Professional Services," also referred to as Campus Service Agreements, means a contract for professional services entered into in accordance with all the procedures of Regulations 14.004 and 14.005 between a university and a firm whereby the firm provides professional services to the university for projects in which the estimated construction cost of each individual project under the contract does not exceed ~~\$2 million~~ \$4 million; for study activity, if the fee for professional services for each individual study under the contract does not exceed ~~\$200,000~~ \$500,000, or for work of a specified nature as outlined in the contract required by the university, with the contract being for a fixed term.
- (7) "Design-Build Services" means those services whereby one single legal entity selected, pursuant to Regulation 14.0055, is responsible for design and construction services under one contract. Where such services are within the scope of practice of architecture, or professional engineering as defined by law, they are to be performed by a registered architect or professional engineer, and where those services are within the scope of construction contracting as defined by law for construction, they are to be performed by a certified or registered contractor as applicable according to Florida Statute.

(8) "Fixed Capital Outlay Projects" (FCO Projects) means the construction, acquisition, or demolition of fixed assets or real property (land, land improvements, buildings including appurtenances, fixtures and equipment) including additions, replacements, major repairs, remodeling, and renovations to real property which materially extend the useful life or materially improve or change its functional use, including furniture and equipment necessary to furnish and operate a new or improved facility, provided all such projects meet at least one of the following criteria:

- a. Land, land improvements, or buildings with an expected useful life of 20 years or more, and in excess of \$100,000 or the university's dollar value capitalization threshold for the subject asset classes.
- b. Appropriated by the State as Fixed Capital Outlay.

(9) "Guaranteed Maximum Price" means the fixed amount in a negotiated contract within which the construction will be achieved. It includes both the fee and construction cost.

(10) "Maintenance and Repair" means those funds designated for the upkeep of university facilities, site and site improvements; including but not limited to, roof or roofing replacement short of complete replacement of membrane or structure; repainting of interior or exterior surfaces; resurfacing of floors; repair or replacement of glass; repair of hardware, furniture, equipment, electrical fixtures, and plumbing fixtures; and repair or resurfacing of parking lots, roads, and walkways are all examples of the types of expenses that could be charged to either.

(11) "President" means the university president, or designee.

(12) "Professional Services" means those services within the scope of the practice of architecture, professional engineering, or registered land surveying as defined by law or those performed by any architect, landscape architect, professional engineer, or registered land surveyor in connection with professional employment or practice or other professional services that may be required.

(13) "Project" means that fixed capital outlay construction project, study, or planning activity described in the Public Notice, including:

- a. Individual facilities;
- b. Grouping of substantially similar facilities, rehabilitation, and/or renovation activities; or
- c. Grouping of minor facilities, rehabilitation, and/or renovation activities.

(14) "Remodeling" means the changing of existing facilities by rearrangement of spaces and their use and includes, but is not limited to, the conversion of two classrooms to a science laboratory or the conversion of a closed plan arrangement to an open plan configuration.

(15) "Renovation" means the rejuvenating or upgrading of existing facilities by installation or replacement of materials and equipment and includes, but is not limited

to, interior or exterior reconditioning of facilities and spaces; air-conditioning, heating, or ventilating equipment; fire alarm systems; emergency lighting; electrical systems; and complete roofing or roof replacement, including replacement of membrane or structure; and upgrades and replacement of campus infrastructure, including, but not limited to roads, water, sewer, gas, steam, chilled water loops, and electrical systems.

(16) "The University Facilities Office" means any office at a university with authority for design and construction administration.

Authority: Section 7(d), Art. IX, Fla. Const., History—Replaces Formerly 6C-14.002, Amended 1-13-99, Amended and Renumbered as 14.002, 3-27-08, Amended 9-24-09, Amended and Renumbered as 14.001 5-5-20, Amended ____.