

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

DATE: August 10, 2009

REGULATION NUMBER AND TITLE: 14.002, Definitions

SUMMARY: The 2009 legislative session yielded Senate Bill 2666, which made changes to various components of the construction program language. The bill increased the threshold for individual projects under a construction contract, from \$1 million to \$2 million. For study activity, the threshold increased from \$50,000 to \$200,000.

The contents of the proposed regulation amendment reflects the aforementioned changes, by offering a clear distinction between the definitions of a "Continuing Contract for Professional Services" and that of a "Continuing Contract for Construction Management Services." The regulation amendment also provides enhanced clarity to the existing language.

The proposed language was developed in conjunction with university staff. No adverse impact has been identified by adoption of these regulations.

FULL TEXT OF THE REGULATION IS INCLUDED WITH THIS NOTICE.

AUTHORITY TO AMEND 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 AMENDMENT TO THE REGULATION: Chris Kinsley, Director, Finance & Facilities

COMMENTS REGARDING THE PROPOSED AMENDMENT 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.

14.002 Definitions

(1) "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.

(2) "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.

(3) "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.

(4) "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.

(5) "Construction budget" shall mean that amount which is announced after the deadline for the receipt of bids, but prior to the opening of bids.

~~(6) A "Campus Service Agreement" is a contract entered into in accordance with this regulation between the university and a firm whereby the firm provides professional services for projects of a specified nature for a specific period of time~~

~~under a continuing contract.~~

(6) A "Continuing Contract for Professional Services, also referred to as Campus Service Agreements, is 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 \$2,000,000, for study activity if the fee for professional services for each individual study under the contract does not exceed \$200,000, 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) A "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.

(8) "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.

(9) "Chancellor" means the Chancellor of the State University System, or designee.

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

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

(12) "Board of Trustees" means the university board of trustees.

Authority: Section 7(d), Art. IX, Fla. Const., History-Formerly 6C-14.002, Amended 1-13-99, Amended and Renumbered as 14.002, 3-27-08