

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

**DATE:** April 7, 2009

**REGULATION NUMBER AND TITLE:** 6C-17.009 Leases of 3,000 Square Feet or More

**SUMMARY:** Chapter 17, Administration of Leasing Program, contains numerous out-of-date references, and refers to administrative practices discontinued for over twenty (20) years, when leases were centrally administered by the former Board of Regents. The State University System central office has no involvement in university leasing of space, contrary to the current regulation, which requires the Chancellor to approve all leases. Additionally several sections were previously repealed, but the remaining sections were not renumbered.

The proposed revision renumbers and consolidates existing critical sections, conveys required lease authority to the Boards of Trustees, eliminates seven (7) unneeded or duplicative sections of regulation, and incorporates recent changes in law, including the Board of Governors Debt Management Guidelines.

The proposed language was developed in conjunction with university staff, including most institutions general counsel's office. 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:

Chris Kinsley, Director, Finance & Facilities, Board of Governors, State University System, 325 W. Gaines Street, Suite 1652, Tallahassee, Florida 32399, (850) 245-9677 (phone), (850) 245-9685 (fax), or [Chris.Kinsley@flbog.edu](mailto:Chris.Kinsley@flbog.edu)

**~~6C-17.009 Leases of 3,000 5,000 Square Feet or More.~~**

~~(2) The Board Office~~ No university shall not enter into a lease for 3,000-5,000 square feet or more of space in a privately owned building, within any 12-month period, except upon advertisement for and receipt of competitive bids or proposals as determined by the University. In the case of invitations to bid, the award shall be made to the lowest responsible and responsive bidder. In the case of competitive proposals, the award shall be made to the responsive and responsible proposer whose proposal is determined to be the most advantageous to the University, taking into consideration the price and other criteria set forth in the request for proposals. If the University elects to enter into a negotiation with responding proposers, the President or designee must specify why negotiation will assist the University in is necessary in order to achieve the best leasing value for the University. Cost savings related to the University's procurement process are not sufficient justification for negotiation.

~~The award shall be made to the lowest responsive bidder meeting specifications and shall include the terms and conditions of the bid as submitted.~~

(a) Exceptions to Competitive Solicitation Bid Requirements:

1. Competitive solicitations bids shall not be required for renewal of leases as provided in the original lease.

2. Competitive bids-solicitations shall not be required for any lease having a term of less than 120 consecutive days which is for the purpose of securing a one-time special use of the leased property.

3. Competitive solicitations bids shall not be required for any lease which is for nominal or no consideration.

4. Competitive solicitations bids shall not be required to extend an existing lease of 5,000 -or more~~3,000~~ square feet ~~or more space~~, if the extension is determined to be in the best interest of the ~~State~~ University and the total of the extension does not exceed 11 months. If at the end of the 11<sup>th</sup> month the University still needs space, it shall be procured by competitive solicitation. However, if the University determines that a lease extension is in its best interest, the University may negotiate a replacement lease with the landlord. -if aAn independent market analysis must demonstrates that the lease rates offered are within market rates for the space and the cost of the new lease does not exceed the cost of a comparable lease plus documented moving costs. The term of such replacement lease may not exceed the base term of the expiring lease.

5. Competitive soliciations bids shall not be required when leasing educational facilities in a research and development park with which the university is affiliated. The university board of trustees or designee must certify in writing that the leasing of such educational facilities is in the best interests of the university and that the exemption from competitive bid requirements is not detrimental to the state, pursuant to s. 1013.17, F.S.

6. Competitive solicitations shall not be required when leasing specialized research, medical or educational facilities, if the President or the President's designee certifies in writing that said facility is available from a single source and that compliance with competitive bid requirements would be detrimental to the University.

7. Competitive solicitations shall not be required in an emergency, when leasing space is necessary because an existing state-owned or leased space is destroyed or rendered uninhabitable by an act of God, fire, malicious destruction, or structural failure, or by legal action, upon certification by the President or his designee that other University controlled space is not available and the term of any such lease does not exceed 18 months, provided the University may modify the lease to extend it on month to month basis for up to 6 additional months to allow completion of such construction or renovations.

8. Competitive solicitations shall not be required when leasing facilities in a hospital or other medical facilities, such as a medical office building, with which the University is affiliated.

~~(2) Negotiations following a bid shall not include the authority to alter or amend its provisions.~~

~~(3) The Board Office shall not enter into a lease agreement for space of 3,000 square feet or more in a privately owned building when suitable space is available in a state-owned building or publicly owned building located in the same geographic region unless the Chancellor or the Chancellor's designee determines that the space is required in order to fulfill the Board's statutory duties.~~

~~(4) Public Notice~~

~~(a) The Board Office shall give public notice of its need for space in excess of 3,000 square feet.~~

~~(b) Public notice shall include, at least, the following:~~

- ~~1. Approximate square footage;~~
- ~~2. General location;~~
- ~~3. Availability date;~~
- ~~4. Board Office contact person and address for specifications; and~~
- ~~5. Public opening date.~~

~~(5) Specifications~~

~~(a) Specifications shall be written in general terms. They shall not be written to benefit any specific location or lessor.~~

~~(b) Specifications shall include, at least, the following:~~

- ~~1. Approximate square footage measured in accordance with the State University System Standard Method of Space Measurement;~~
- ~~2. An approximate floor plan, outlining special and other physical requirements;~~
- ~~3. General location;~~
- ~~4. Availability date;~~
- ~~5. Terms and conditions of lease agreement; and~~
- ~~6. Services required.~~

- ~~(c) Specifications shall require the prospective lessor to:~~
- ~~1. Contract using the Board Office Standard Lease Agreement form;~~
  - ~~2. Provide a scaled floor plan of available rental space;~~
  - ~~3. Comply with Chapter 60D-1, Florida Administrative Code, Standards for Special Facilities for Physically Disabled;~~
  - ~~4. Be an Equal Opportunity Employer;~~
  - ~~5. Provide Full Disclosure Statements of Ownership;~~
  - ~~6. Guarantee the bid proposal for a minimum of thirty (30) days following the public opening date; and~~
  - ~~7. Propose a rental rate per square foot per year, including renovation and other special requirements, at the time of initial occupancy.~~

~~(6) Proposals~~

~~(a) The prospective lessor's bids or proposals may exceed the published specifications.~~

~~(b) Each bid on a proposal shall be signed by the owner(s), corporate officers, or legal representative(s). The corporate, trade, or partnership name must be either stamped, handwritten or typewritten beside the actual signature(s). If the bid on a proposal is signed by an agent, written evidence of his authority must accompany the proposal. If a corporation foreign to the State of Florida is the owner, evidence of authority to conduct business in Florida shall be presented.~~

~~(7) Evaluation~~

~~The Board Office shall evaluate all bids and proposals, on the basis of published criteria. The Board Office shall reserve the right to accept or reject any or all bids or proposals and shall give notice of results.~~

~~(8) Ownership Disclosure Statements~~

~~(a) The Board Office shall require a full disclosure statement from the prospective lessor in accordance with the provisions of Section 255.249(2)(h) and (i), Florida Statutes.~~

~~(b) Each transaction pertaining to a lease for which a Disclosure Statement has been provided, may be accompanied by a lessor's affidavit that the previous Disclosure Statement is still valid.~~

*Specific Authority 240.209(1), (3)(p), (r) FS. Law Implemented 240.205(6), 240.209(1), (3)(p), 255.249(2)(b), (h), (i), 255.25(3) FS. History New 12-30-79, Amended 8-11-85, Formerly 6C-17.09, Amended 6-5-96.*