

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

DATE: April 3, 2009

REGULATION TITLE AND NUMBER: Lease Authority 17.001

SUMMARY: Chapter 17, Administration of Leasing Program, contains numerous out-of-date references, and refers to administrative practices discontinued for over twenty (20) years, when leases were centrally administered by the former Board of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 Additionally several sections were previously repealed, but the remaining sections were not renumbered.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 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: Chris Kinsley, Director of 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

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17.001 Lease Authority

(1) The Board of Trustees or designee may enter into leases for space in a building or any part of a building for use by a university or university direct-support organization, including those leases in a research and development park with which the university is affiliated. Leases subject to s. 1010.62 F.S. must be approved by the Board of Governors, in accordance with the Board of Governors Debt Management Guidelines.

(2) No university shall enter into a lease for 5,000 square feet or more of space in a privately owned building, 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 achieving the best leasing value for the University. Cost savings related to the University's procurement process are not sufficient justification for negotiation.

(a) Exceptions to Competitive Solicitation Requirements:

1. Competitive solicitations shall not be required for renewal of leases as provided in the original lease.
2. Competitive 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 shall not be required for any lease which is for nominal or no consideration.
4. Competitive solicitations shall not be required to extend an existing lease of 5,000 or more square feet, if the extension is determined to be in the best interest of the University and the total of the extension does not exceed 11 months. If at the end of the 11th month the University still needs space, it shall be procured by competitive solicitation. However, if the University determines it is in its best interest to remain in space it currently occupies, the University may negotiate a replacement lease with the landlord if an independent market analysis 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 solicitations 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.

(3) The measurement of leased space shall be based on the method of measurement used by the State University System for gross square feet as described in the current Physical Facilities Space File. A copy of this document is incorporated in this regulation by reference.

Authority: Section 7(d), Art. IX, Fla. Const., History–New 12-30-79, Amended 5-19-80, 8-11-85, Formerly 6C-17.003, 6C-17.009 and 6C-17.012, Amended 6-5-96