



Item: AF: I-7

BOT AUDIT AND FINANCE COMMITTEE

April 25, 2007

SUBJECT: DISCUSSION OF FAU REGULATIONS AND CONTRACT AUTHORITY.

PROPOSED BOARD ACTION

Not Applicable.

BACKGROUND INFORMATION

The Chair of FAU's BOT Audit and Finance Committee has requested a review of FAU's current structure of delegated contracting authority. To facilitate a discussion of possible enhancements in FAU's structure, the Chair has also requested a review of other Florida state university contracting structures.

The requested information has been compiled as follows:

I. FAU's current contracting structure:

- FAU Regulation 6.002 authorizes the President to approve and execute contracts on behalf of the University as provided in Section 1001.75 F.S.
- BOT Policies and Procedures, Section 4.6, authorizes the President to execute all documents on behalf of the University and the BOT consistent with law, BOT policies and the best interests of the University.
- FAU Regulation 6.008(2) authorizes the President to delegate to the FAU Purchasing Department the powers and duties prescribed in Section 1001.75(5), F.S.
- The FAU Purchasing Manual contains presidential contracting delegations for purchasing and other contracting areas.
- FAU Facilities policies require BOT approval for certain leases (FAU as lessee), subleases (FAU as sublessor), and purchases of real property.
- Numerous employment benefits have been authorized pursuant to FAU personnel policies.

II. Canvas of other Florida state university contracting structures (in alphabetical order):

1. FAMU:

- Reg 6.005 provides for presidential authority to execute contracts for goods, equipment and services up to \$500,000 for any single contract.

2. FGCU:
 - Reg 6C10-6.014 delegates authority to the President to serve as the central procurement officer and execute agreements for commodities and contractual services, without limitation.
 - Reg 6C10-5.002 delegates authority from the President to certain vice presidents regarding various employment actions, including the approval of compensation.
 - Reg 6C10-5.005 sets parameters for multi-year employment contracts and appointments.
 - 4/20/04 BOT meeting: BOT delegated authority to the President to settle claims and lawsuits up to \$100,000.
3. FIU:
 - BOT Operating Procedures, Article I, discusses presidential powers in promoting, supporting and protecting the interests of the University and in managing and directing its affairs—no specific mention of contracting authority or limitations.
 - FIU Summary of Delegation for Purchasing Services states that the President has signature authority on all contracts – unlimited.
4. FSU:
 - BOT Operating Procedures, Section 403, denotes the President’s responsibilities and powers in accordance with state law. No specific mention of contracting authority or limitations.
 - Reg 6C2-2.015: Restates statutory authority of the President to execute contracts.
5. NCF:
 - Reg 1.06: Notes President’s authority to execute all contracts etc. and other documents regarding legal commitments (no limitations noted).
6. UCF:
 - BOT Bylaws, Section 4.5, contains presidential authority to execute all documents on behalf of the University and the BOT consistent with law, applicable BOG rules and policies and the best interests of the University.
 - Reg 6C7-7.205 requires BOT approval for leases in excess of \$1M.
7. UF:
 - BOT Resolution (9/7/01): Affirms the authority of the President, under current law, to enter into contracts on behalf of the UBOT. No limitations.
 - Reg 6C1-3.025 provides that all leases shall be executed by the President or his/her designee.
 - Internal Operating Memo dated 12/11/02 requires BOT approval for purchases and sales of real property.
8. UNF:
 - BOT Resolution on Presidential Authority delegates authority to the President to execute contracts (tracks statutory language found in 1001.75(5)).
 - Same BOT Resolution delegates authority to the President to settle lawsuits and claims up to \$100,00 (for claims between \$100,000 and \$250,000, consultation with the Finance and Audit Committee chair or the BOT chair is required; approval of the Finance and Audit Committee is required if over \$250,000).

9. USF:

- BOT Operating Procedures discuss presidential powers in promoting, supporting and protecting the interests of the University and in managing and directing its affairs—no specific mention of contracting authority or limitations.
- Reg 6C4-4.01203 permits President to execute leases for less than 21 days or for no or nominal consideration.
- 12/6/01 BOT meeting: Set President’s settlement authority with no dollar limits.

10. UWF:

- 3/20/07 BOT meeting: BOT delegated to the President the authority to operate and administer the University in accordance with applicable law and the resolution, regulations and policies of the BOG and the BOT.
- Reg 6.0058 provides that all bilateral agreements for services shall be signed by the President or designee
- 5/16/03 BOT meeting: Delegation of authority to the President to settle claims and lawsuits.

Further information from these or other sources will be provided to the committee as requested.

IMPLEMENTATION PLAN/DATE

Not Applicable.

FISCAL IMPLICATIONS

Not Applicable.

Supporting Documentation:

- (1) Relevant provisions of FAU contracting provisions, summary of employment benefits, and Florida Statutes Section 1001.75.
- (2) Relevant provisions of other SUS institutions’ contracting provisions

Presented by: David L. Kian, General Counsel

Phone: 561-297-3007

FAU

Florida Atlantic University

Regulation 6.002 Approval and Execution of Contracts.

(1) The President of the University may approve and execute contracts on behalf of the University as provided in Section 1001.75, F.S. and as delegated by the Board of Regents.

(2) No person, except as provided elsewhere by rule, or as otherwise delegated by the President, is authorized to enter into any agreement which purports to bind the University.

Specific Authority 240.227(1) FS. Law Implemented 240.227(12) FS. History—New 10-1-75, Amended 5-24-76, 7-17-83, Formerly 6C5-6.02, Amended 11-11-87. Formerly 6C5-6.002.



BOARD OF TRUSTEES
Florida Atlantic University

BOARD OPERATIONS
POLICIES AND PROCEDURES

Section 4.5

VICE CHAIR

The duty of the Vice Chair is to act as Chair during the absence or disability of the Chair.

Section 4.6

UNIVERSITY PRESIDENT AND CORPORATE SECRETARY

The University President shall serve as the Chief Executive Officer of the University. The University President shall be responsible for the operation and administration of the University, including efficient and effective budget and program administration, leading the University to accomplish its education missions and goals, monitoring educational and financial performance, consulting with the BOT in a timely manner on matters appropriate to its policy-making and fiduciary functions, and serving as the University's key spokesperson.

The President shall have the authority to execute all documents on behalf of the University and the BOT consistent with law, BOT policies, and the best interests of the University. The President shall exercise such powers as are appropriate to his/her position in promoting, supporting and protecting the interests of the University and in managing and directing its affairs. The specific statutory powers and duties of the President are enumerated in Section 1001.75, Florida Statutes. The President shall serve as the principal liaison officer and official contact between the BOT and the faculty, staff and students of the University. The President may issue directives and executive orders. Such directives and orders shall not violate existing BOT policies. The President shall serve as an ex-officio, non-voting member of all BOT Committees.

The University President shall serve as Corporate Secretary of the BOT, and in the capacity of Secretary, shall be responsible for giving notice of all meetings of the BOT and its committees, setting the Agenda and compiling the supporting documents for meetings of the BOT in consultation with the Chair, recording and maintaining the minutes of any BOT or committee meeting, including a record of all votes cast, in accordance with Section 286.011(2) of the Florida Statutes, executing or attesting to all documents which have been executed by the BOT, and acting as custodian of the Corporate Seal. The Secretary may designate an individual to assist him or her in this role.

Florida Atlantic University

Regulation 6.008 Purchasing.

(1) Definitions.

(a) Artistic Services – Services provided by an individual or group of individuals who profess and practice a skill in the area of music, dance, drama, folk art, creative writing, painting, sculpture, photography, graphic arts, web design, craft arts, industrial design, costume design, fashion design, motion pictures, television, radio or tape and sound recording or in any other related field.

(b) Commodity – Any of the various supplies, materials, goods, merchandise, food, equipment or other personal property, including a mobile home, trailer or other portable structure, which are purchased, leased, lease-purchased or otherwise contracted for by the University. Commodity also includes interest on deferred-payment contracts entered into by the University for the purchase of other commodities. Printing of publications, vehicles and software and license agreements shall be considered commodities.

(c) Competitive Bid/Proposal – The response submitted to an Invitation to Bid, Request for Proposal, or an Invitation to Negotiate by responsive and qualified bidders or offerors.

(d) Competitive Negotiation – The establishment of a contract through deliberation, discussion or conference on the specifications, terms and conditions of a proposed agreement.

(e) Competitive Solicitation – An Invitation to Bid, Request for Proposal or Invitation to Negotiate to competitively select a contractor.

(f) Contractor/Vendor – A person or firm who contracts to sell commodities or contractual services to the University.

(g) Contractual Service – The rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors. Contractual service does not include labor or materials for the construction, renovation, repair or demolition of facilities.

(h) Extension – An increase in the time allowed for the performance of the contract.

(i) Independent Contractor – A person or firm who provides a service to the University but does not have any employment or other relationship or connection with the University, except as provided in Section 112.313, F.S.

(j) Invitation to Bid – A written solicitation for competitive sealed bids, designating the title, date, and hour of the public bid opening and also defining the commodity, group of commodities or services.

(k) Invitation to Negotiate – An invitation extended to prospective contractors, whether by advertisement, written solicitation, electronic media or any other form of communication, to define the specifications, terms and conditions of a contract for commodities or contractual services.

(l) Public Entity Crime – A violation of any state or federal law by a person in the transaction of business with any public entity of any state or with the United States government involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.

(m) Purchase – An acquisition of commodities, services or licenses obtained by purchase order, contract or other authorized purchasing method, whether by rent, lease, installment, lease-purchase or outright purchase.

(n) Purchases for Resale – The purchase of commodities or contractual services acquired for the purpose of selling them for the benefit of the University.

(o) Renewal – Contracting for an additional period of time after the initial contract term, provided the original terms of the agreement specify an option to renew.

(p) Request for Proposal – A written solicitation for competitive proposals for commodities or contractual services designating the title, date, and hour of the public opening. The request for proposal is used when the scope of work is not clearly defined.

(q) Responsive and Qualified Bidder or Offeror – A contractor/vendor who has submitted a bid or proposal that conforms in all material respects to a competitive solicitation.

(r) Term Contract – An indefinite quantity contract for the purchase of commodities or contractual services during a prescribed period of time.

(s) Vehicles – Includes any automobile, truck, motorcycle, bicycle, golf cart, watercraft or other vehicle designed primarily for transporting persons as well as construction vehicles or farm equipment. Vehicles owned, leased or operated by the University shall be available for official University business only.

(2) Authority. The President shall delegate to the Purchasing Department the powers and duties prescribed in Section 1001.75(5), F.S., as appropriate. In addition, the Purchasing Department has the responsibility to:

(a) Canvass sources of supply and enter into contracts for the purchase of goods or services including installment or lease-purchase contracts.

(b) Evaluate the ability of any vendor to remain on a competitive vendor list, based on the Vendor's responsiveness to competitive solicitations, the Vendor's ability to fulfill the duties specified in contracts, or any disruptive or unprofessional conduct or conduct which is not conducive to the University environment on the part of the Vendor or its agents.

(c) Negotiate with Vendors.

(d) Develop an Annual Certification List to serve as a waiver of the competitive solicitation requirement for commodities/ services that are frequently purchased and are available from a single source.

(e) Evaluate and approve contracts let by the Federal Government, the State, other states, political subdivisions or entities, colleges, universities, educational cooperatives or educational consortia for the procurement of commodities and contractual services, when it is determined to be cost-effective and in the best interest of the University to make purchases under contracts let by such other entities.

(f) Elect as an alternative to the provisions of Section 120.57(3)(c), F.S., to proceed with a bid solicitation or contract award process when it is set forth, in writing, that the particular facts and circumstances which demonstrate that the delay due to staying the solicitation or contract award process would be detrimental to the interests of the University.

(g) Award contracts for commodities and contractual services. This includes the authority to make awards to multiple suppliers, awards in multiple year terms, or award contracts on behalf of multiple institutions or entities.

(h) Reject or cancel any or all competitive solicitations, in whole or in part, when determined to be in the best interest of the University.

(i) Purchase insurance as deemed necessary and appropriate for the operation and educational mission of the University.

(3) Competitive Solicitations.

(a) General.

1. The opportunity to bid on a University contract is a privilege, not a right.

2. All contracts for the purchase of commodities or contractual services exceeding \$50,000 shall be awarded pursuant to a competitive solicitation, unless otherwise set forth in this rule.

3. The purchase of commodities and contractual services shall not be divided to avoid the requirement of competitive solicitation.

4. In the event that no quotes, bids, proposals, or responses to Invitations to Negotiate are received in response to a competitive solicitation, the University shall negotiate the purchase at the best possible price.

5. When only one response is received to a competitive solicitation for commodities or contractual services exceeding \$50,000, the Purchasing Department shall review the solicitation response to determine if a second call for a competitive solicitation is in the best interest of the University. If it is determined by the Purchasing Department that a second call would not serve a useful purpose, the University will proceed with the acquisition.

6. When multiple responses that are equal in all respects are received to a competitive solicitation, the Purchasing Department shall give a preference to responses that include minority business enterprise participation, commodities manufactured in the State, Florida businesses, businesses with a drug-free workplace program, or foreign manufacturers located in the state, in determining the contract award. If these conditions do not exist, or are the equivalent between two or more responses, a coin toss will be used.

7. The intended award shall be publicly posted by the Purchasing Department for 72 hours which is interpreted as three working days excluding Saturdays, Sundays, and State and University Holidays.

8. Advertisements, Invitations to Bid, Requests for Proposal, and Invitations to Negotiate expected to be in excess of \$150,000 shall be advertised in the Florida Administrative Weekly, the Florida Communities Network (MyFlorida.com), or on the Purchasing Department's web site.

9. The contents of Requests for Proposal, Invitations to Bid and Invitations to Negotiate shall be kept confidential by the University until the date of award, or for up to 10 calendar days after the opening date, whichever is earlier, pursuant to Section 119.07(3)(m), F.S.

10. In the case of extension errors, the extended price (unit price multiplied by the quantity) will be based on the unit price as stated in the Vendor's Response.

(b) Purchasing actions that are not subject to the competitive solicitation process include:

1. Emergency Purchases. When the President or designee determines, in writing, that the delay due to the competitive solicitation process would cause an immediate danger to

the public health, safety or the welfare of person(s), animal(s), the preservation or protection of property, or the continuance of a vital University function, the Purchasing Department is permitted to proceed with the procurement of commodities or contractual services without a competitive solicitation. The emergency purchase shall be limited to the purchase of the type of items and quantities needed, or for a time period sufficient to meet the immediate threat, and shall not be used to meet long-term requirements.

2. Sole Source Purchases. The Purchasing Department shall certify in writing that a particular commodity or service is available from a single source and shall publicly post the certification for three working days.

3. Purchases from contracts and negotiated annual price agreements established by the Federal Government, the State, other states, political subdivisions or entities, colleges, universities, educational cooperatives or educational consortia are not subject to further competitive solicitation.

4. Construction Direct Purchase Program (Owner/Contractor Program). Commodities to be incorporated into any public work (as that term is defined in Rule 12A-1.094, F.A.C.), which are procured by the University in accordance with the requirements of the University's direct purchase program, are not subject to any further competitive solicitation.

(c) Commodities and contractual services that are not subject to the competitive solicitation process include:

1. Artistic services;

2. Academic reviews;

3. Lectures;

4. Auditing services;

5. Legal services, including attorney, paralegal, expert witness, appraisal, arbitrator or mediator services. Written approval from the Attorney General is not required for private attorney services acquired by the University, pursuant to Section 287.059, F.S.;

6. Health services involving examination, diagnosis, treatment, prevention, medical consultation or administration. Prescriptive assistive devices for medical, developmental or vocational rehabilitation including, but not limited to prosthetics, orthotics, and wheelchairs, provided the devices are purchased on the basis of an established fee schedule or by a method that ensures the best price, taking into consideration the needs of the client;

7. Services provided to persons with mental or physical disabilities by not-for-profit corporations organized under the provisions of s. 501(c)(3) of the Internal Revenue Code or services governed by the provisions of the Office of Management and Budget Circular A-122;

8. Medicaid services delivered to an eligible Medicaid recipient by a health care provider who has not previously applied for and received a Medicaid provider number from the Department of Children and Family Services. This exception will be valid for a period not to exceed 90 days after the date of delivery to the Medicaid recipient and shall not be renewed;

9. Family placement services;

10. Training and education services;

11. Advertising;

12. Services or commodities provided by the Federal Government, the State, other

states, political subdivisions or entities, colleges, and universities;

13. Continuing education events or programs that are offered to the general public for which fees have been collected to pay all expenses associated with the event or program;

14. Purchases from firms or individuals that are prescribed by state or federal law or specified by a granting agency;

15. Regulated utilities and government-franchised services;

16. Regulated public communications, except long distance telecommunication services or facilities;

17. Extension of an existing contract;

18. Renewal of an existing contract if the terms of the contract specify renewal option(s);

19. Purchases from the Annual Certification List developed by the University;

20. Purchases for resale;

21. Accountant Services;

22. Contracts or services provided by not-for-profit, direct support, health support and University affiliated organizations;

23. Implementation, programming, or training services available from the owner of copyrighted software or its agent; and

24. Purchases of materials, supplies, equipment, or services for research purposes when the Director of Sponsored Research or designee, certifies that, in a particular instance, it is necessary for the efficient or expeditious prosecution of a research project.

(4) Bonds.

(a) Bid Bonds. The University will require payment of a bid bond when the Purchasing Department determines that it is necessary based on the following factors: the size of the contract, the nature or scope of the project, the financial stability of the bidder or the ability of the bidder to fulfill the contract. The payment of the security shall be in the form of a certified, cashier's or treasurer's check, bank draft or bid bond.

(b) Payment and Performance Bonds. The University shall require a contractor to furnish a payment and performance bond, prior to the issuance of a contract, with good and sufficient securities, when the total contract amount is greater than \$200,000 and the Purchasing Department is uncertain about the contractor's ability to perform.

(c) Solicitation Protest Bond. Any contractor that files an action pursuant to Section 120.57(3)(b), F.S., protesting a decision or intended decision pertaining to a solicitation, shall at the time of filing of the formal protest, post with the University, a bond payable to the University in an amount equal to: 10% of the estimated value of the protestor's bid or proposal; 10% of the estimated expenditure during the contract term or \$10,000, whichever is less. The bond shall be conditioned upon the payment of all costs that can potentially be adjudged against the contractor filing the protest action. In lieu of a bond, the University will accept a cashier's check or money order in the amount of the bond. Failure of the protesting contractor to file the required bond, cashier's check or money order at the time of filing the formal protest shall result in the denial of the protest.

(5) Contracts.

(a) Contracts for commodities or contractual services or licenses shall consist of a purchase order or bilateral agreement signed by the President or designee prior to goods or services being rendered by the contractor.

(b) Any contract for the purchase of services or tangible personal property for a

period in excess of one fiscal year shall include the following statement: "The University's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Florida Legislature."

(c) Contract extensions, renewals, modifications to terms, conditions and scope, or amendments shall be permitted, shall be in writing, signed by all parties, and where applicable, are subject to annual appropriations by the Florida Legislature.

(d) The University will enter into deferred payment agreements utilizing the State of Florida Comptroller's Consolidated Equipment Financing Program when the Purchasing Department determines that it is financially favorable to the University to do so. No agreement shall establish a debt of the State or shall be a pledge of the faith and credit of the State; nor shall any agreement be a liability or obligation of the State except from appropriated funds.

(e) Contracts entered into by the University that limit the liability of the Vendor shall be consistent with Section 672.719, F.S.

(f) The total value of a contract shall be defined as the initial cost or revenue to the University for the maximum term of the contract including all options, extensions, and renewals.

(6) Purchases from Minority Business Enterprises.

(a) Purchasing from Minority Business Enterprises. The University is an equal opportunity institution and encourages procurement contracting with Minority Business Enterprises.

(b) Certifications of minority business enterprises granted by state and local entities, and business organizations are eligible for acceptance in the University's MBE Program. MBE certifications by the State of Florida will be accepted by the University.

(7) Standards of Conduct and Limitation on Participation.

(a) All individuals participating in the procurement process are bound by the State of Florida Code of Ethics for Public Employees, Chapter 112, Part 3, F.S., and Florida Atlantic University Regulation on University Ethics, Regulation 5.011.

(b) It shall be a breach of ethical standards for any employee of the University to accept, solicit, or agree to accept a gratuity of any kind for personal gain in connection with any contract for commodities or services. Current or potential contractors are prohibited from offering an employee of the University a gratuity of any kind for the employee's personal gain to influence the development of a contract or potential contract for commodities or services.

(c) All individuals taking part in the development or selection of criteria for evaluation, the evaluation process, and the contract award process in any purchase shall be independent of, and have no conflict of interest in the entities evaluated and selected.

(d) The University shall not accept a competitive solicitation from, or purchase commodities or contractual services from a person or affiliate who has been convicted of a public entity crime and has been placed on the State of Florida's convicted vendor list for a period of 36 months from the date the person or affiliate was added to the convicted vendor list.

(e) A person or firm who receives a contract to perform a feasibility study for potential implementation of a subsequent contract, participates in the drafting of a competitive solicitation, or develops a program for future implementation shall be ineligible to contract with the University dealing with the specific subject matter.

Specific Authority 1001.74(4) FS. Law Implemented 120.57(3)(b), 672.719, 1001.74(5), (17), (23), (29), 1001.75(5) FS. History—New 3-26-80, Amended 11-10-82, Formerly 6C5-6.08, Amended 11-11-87, 2-13-03. Formerly 6C5-6.008.

FAU

FLORIDA ATLANTIC
UNIVERSITY

PURCHASING MANUAL

BY:

FLORIDA ATLANTIC UNIVERSITY
PURCHASING DEPARTMENT
777 GLADES ROAD
BOCA RATON, FL 33431-0991

JULY 27, 2004

OBJECTIVE & PURPOSE

To establish to the extent possible and practical, uniform purchasing procedures for the acquisition of commodities, contractual services and construction.

AUTHORITY

Florida Statutes 1001.74(4), (5), (17), (23), (24), (29), (34), 1001.75(5), (16), (19); Florida Administrative Code, Chapter 6C5-6.008; Presidential Memorandum PM 71.

POLICY/POLICY REFERENCE:

Section 1001.74 (5), Florida Statutes, grants acquisition authority to the University Board of Trustees. Section 1001.75(5), Florida Statutes, delegates responsibility for the purchasing function to the University President or their designee(s). Florida Administrative Code, 6C5-6.008 establishes the Purchasing Rules for administration of a purchasing program at Florida Atlantic University.

The purpose of this document is to establish uniform policies and procedures consistent with the authority and responsibilities granted to the Florida Atlantic University Board of Trustees and the President towards the establishment of an effective purchasing program.

RULES:

Effective February 13, 2003, Florida Atlantic University promulgated its purchasing rule, Chapter 6C5-6.008, Florida Administrative Code, to serve as the replacement of s. 287, Florida Statutes, and the Board of Regents Rules for Administration of the Purchasing Program, Chapter 6C-18, Florida Administrative Code.

PROCEDURES

0.01 INTRODUCTION

Purchasing is an important function of the administrative management of the University. The purchasing function is assigned to the Purchasing Department. The Purchasing Department is a customer service organization which supports the students, the instructional and research efforts of the faculty and staff, as well as other University service departments such as the Physical Plant, the University Controller's office, Student Activities, and Information Resource Management and the direct-support organizations of the campus community.

Purchasing involves the acquisition of equipment, furnishings, supplies, construction services, maintenance services, professional services, contractual services, and the lease of space for the University within pre-established budgetary constraints. Purchasing functions also include

preparing budget estimates; preparing bid specifications; initiating formal quotations, proposals and bids; conducting public bid openings; evaluating bids; and negotiating and awarding contracts.

This manual, issued by the Director of Purchasing by direction of the University President, establishes uniform procedures relating to the purchase of commodities and services.

The manual reflects statutory requirements of the State of Florida, rules and directives established by the Department of Education, and standard practices in the public university system of Florida, as applicable. The requirements stated herein shall apply to all purchases of commodities and services whether funded by state appropriation, grants, or student fees.

Except as otherwise delegated herein, the Purchasing Department is the only University department authorized to commit funds for the acquisition of commodities or services and is the initial point of contact for service contracts and agreements prior to any obligation or commitment by the University.

0.02 DEFINITIONS

- A. Artistic Services - Services provided by an individual or group of individuals who profess and practice a skill in the area of music, dance, drama, folk art, creative writing, painting, sculpture, photography, graphic arts, web design, craft arts, industrial design, costume design, fashion design, motion pictures, television, radio or tape and sound recording or in any other related field.
- B. Business - Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity which has commodities and/or services available under specifications required by the University.
- C. Commodity - Any of the various supplies, materials, goods, merchandise, food, equipment or other personal property, including a mobile home, trailer or other portable structure, which are purchased, leased, lease-purchased or otherwise contracted for by the University. Commodity also includes interest on deferred-payment contracts entered into by the University for the purchase of other commodities. Printing of publications, vehicles and software and license agreements shall be considered commodities.
- D. Competitive Bid/Proposal - The response submitted to an Invitation to Bid, Request for Proposal, or an Invitation to Negotiate by responsive and qualified bidders or offerors.
- E. Competitive Negotiation - The establishment of a contract through deliberation, discussion or conference on the specifications, terms and conditions of a proposed agreement.
- F. Competitive Solicitation - An Invitation to Bid, Request for Proposal or Invitation to

1.0 GENERAL POLICIES AND PROCEDURES

This section contains the general procedures of the Purchasing Department.

DEFINITIONS

- A. **Purchasing Activity** - A University function delegated to the Purchasing Department by the University President, to develop descriptions/specifications, selection and solicitation of sources, and prepare award of contracts for commodities and services.
- B. **Purchasing Officer** - A person, delegated the authority by the University President, to enter into, award, modify or terminate contracts and make related determinations and findings. The term includes any authorized representatives of the purchasing officer acting within the limits of their authority.

1.1 STATUTORY AUTHORITY

Section 1001.74 (5), Florida Statutes, grants acquisition authority to University Board of Trustees. Section 1001.75(5), Florida Statutes, delegates responsibility for the purchasing function to the University President or their designee(s). Florida Administrative Code, 6C5-6.008 establishes the Purchasing Rules for administration of a purchasing program at Florida Atlantic University.

1.2 PURCHASING RESPONSIBILITY AND AUTHORITY - The University President is the Chief Executive Officer and is responsible for the operation and administration of the University. The President has delegated to the Purchasing Department the powers and duties prescribed in s. 1001.75(5), F.S.

1.3 DIRECTOR of PURCHASING - The Director of the University Purchasing Department serves as the Purchasing Officer for the University. The University President has delegated the following contracting duties to the Purchasing Department:

- A. Canvass all sources of supply and contract for the purchase, lease, or acquisition in any manner of all commodities, construction, installment, lease-purchase and services required by the University, under competitive bidding or contractual negotiation;
- B. To plan and coordinate purchases in volume and to competitively bid, negotiate and execute purchasing agreements and contracts for the recurring needs of the University;
- C. To prescribe the methods of securing bids or negotiating and awarding contracts;
- D. To negotiate on the best terms and conditions in the event no bids are received;

- E. To establish standards, formulate specifications, and determine the source of supply for any commodity or service requisitioned by any department of the University, except as specifically provided under Section 1.4, Contract Authority;
- F. To prescribe items and quantities to be purchased locally by departments;
- G. To execute contracts, whether by purchase order or other approved purchasing method, for commodities and services required by the University;
- H. To develop, distribute, and maintain the policies and procedures manual of the Purchasing Department in furtherance of FAC 6C5-6.008;
- I. Evaluate the ability of any vendor to remain on a competitive vendor list, based on the Vendor's responsiveness to competitive solicitations, the Vendor's ability to fulfill the duties specified in contracts, or any disruptive or unprofessional conduct or conduct which is not conducive to the University environment on the part of the Vendor or its agents;
- J. Develop an Annual Certification List to serve as a waiver of the competitive solicitation requirement for commodities/services that are frequently purchased and are available from a single source;
- K. Evaluate and approve contracts let by the Federal Government, the State, other states, political subdivisions or entities, colleges, universities, educational cooperatives or educational consortia for the procurement of commodities and contractual services, when it is determined to be in the best interest of the University to make purchases under contracts let by such other entities;
- L. Elect as an alternative to the provisions of s. 120.57 (3)(c) F.S., to proceed with a bid solicitation or contract award process when it is set forth, in writing, that the particular facts and circumstances which demonstrate that the delay due to staying the solicitation or contract award process would be detrimental to the interests of the University;
- M. Award contracts for commodities and contractual services. This includes the authority to make awards to multiple suppliers, awards in multiple year terms, or award contracts on behalf of multiple institutions or entities;
- N. Reject or cancel any or all competitive solicitations, in whole or in part, when determined to be in the best interest of the University;
- O. Purchase insurance as appropriate for the operation and educational mission of the University;

1.3.1 PURCHASING DEPARTMENT STAFF, DELEGATED AUTHORITY - The Purchasing Director has delegated signing authority to key Purchasing Staff with the following limitations:

Associate Director:	All contracts up to \$1,000,000
Assistant Director:	Purchase Orders up to \$500,000
Coordinators:	Purchase Orders up to \$12,500
Purchasing Agents:	Purchase Orders up to \$12,500
Office Manager:	Purchase Orders for Conference Registration
Senior Clerk:	Purchase Orders for Organizational Memberships

1.4 CONTRACTING AUTHORITY OTHER THAN PURCHASING - The President has delegated to the following University positions, not under the supervision of the Director of the Purchasing Department, the contracting duties as follows.

- A. Senior Vice President for Finance and Chief Operating Officer - to approve and execute contracts for the University, in the absence of the President.
- B. University Provost, Academic Affairs - to approve and execute all grants, donations, and research and instructional contracts received on behalf of the University and to recommend to the Director of Purchasing the use of the sponsored research exemption.
- C. Director of Library - to approve and execute purchase orders for the acquisition of copyrighted and single source instruction materials, tapes, publications, manuscripts, films and personal library collections acquired from library resource funds.
- D. Dean, Continuing Education - to approve and enter into agreements related to credit and non-credit activities and educational contract programs in accordance with university policies and procedures.
- E. Director, Sponsored Research - to approve and enter into agreements for activities and programs using sponsored research and grant funds in accordance with University policies and procedures.

1.5 CODE OF ETHICS AND STANDARD OF CONDUCT - All University personnel engaged in purchasing and related activities shall conduct business dealings in a manner above reproach in every respect. Transactions relating to expenditure of public funds require the highest degree of public trust to protect the interests of the University and the taxpayers of Florida. All University personnel engaged in the purchasing cycle, including the President, Vice Presidents, Deans, Chairpersons, Directors, budget committee members, initiators of requirements and their supervisors, receiving personnel, finance and accounting personnel, pCard holders, and all members of a purchasing activity are bound by the standard of conduct for public officers and employees set forth in Chapter 112, Part 3, Florida Statutes and Florida Atlantic University Rule on University Ethics, Rule 6C5-5.013, F.A.C



Office of Space Utilization & Analysis Policy & Procedure #7

TITLE: REAL PROPERTY LEASE PROCEDURES

OBJECTIVE AND PURPOSE: To establish procedures and provide guidance for leasing of real property.

DEFINITIONS:

LEASE: Space secured for the University's use, where control of the space resides exclusively with the University.

REAL PROPERTY: Any building, structure, facility or property, either developed or undeveloped, that is not owned or held in trust for the University by an agency of the State of Florida.

APPROVAL REQUIREMENT:

- ◆ All leases with Florida Atlantic University as lessee, for more than one year shall require Board of Trustees approval.
- ◆ Leases for more than 180 days but less than one (1) year require Presidents approval
- ◆ Leases of more than 90 days but 180 days or less require Executive Committee approval, providing the lease is no greater than \$10,000 and is being funded by the requesting division or department. Otherwise President's approval is required.
- ◆ Leases for 90 days or less require Cabinet approval, providing the lease is no greater than \$5,000 and is financed by the department. Otherwise Executive Committee approval is required.

RESPONSIBILITY **ACTION**

REQUESTOR

- ◆ Notify the Office of Space Utilization & Analysis (OSUA) of desire to lease space at least 60 days prior to required lease finalization date (excluding build-out time if any). Notification at minimum should include the following:
 - a. Requestor Information (name, department, division, telephone # etc.)
 - b. Necessity for lease
 - c. Funding Source for Lease
 - d. Type of Space required (lab, office etc)
 - e. Approximate net square footage required
 - f. Term of Lease
 - g. Date space must be available
 - h. Evidence of applicable level approval

Issued By: J. Singer	Date Issued: 8/2003	Date Revised:	Effective Date: 8/2003
APPROVED:	Vice President	Associate V.P.	Director

- ◆ If lease will be for 2,000 square feet or more of space the competitive bid process will apply except where such leases:
 - a. Are renewals of existing leases
 - b. Have a term of less than 120 consecutive days
 - c. Are for nominal or no consideration
 - d. Are for the purpose of providing care and living space for persons
 - e. Are extensions of an existing lease of 2,000 square feet or more, provided that such extensions are in the best interest of the state and are not for a period exceeding 11 months.
 - f. If at the end of the period granted by the extension(s), the time of such extension(s) equal(s) 11 months, the University shall solicit competitive bids, or
 - g. Are specialized educational facilities (excluding classrooms), if president certifies the facility is available from a single source and competitive bidding would be detrimental to the University.

- OSUA
- ◆ Upon receipt of request determine that suitable space is not available in a state-owned building within the same geographic region and renting this space is in the best interest of the University.
 - ◆ Advise both the Purchasing Department and the applicable member of the Executive Committee and the General Counsel, providing both a copy of the request and a contact name.
 - ◆ Within 10 days of receipt of the request, schedule a meeting with the requestor, purchasing department and applicable lease committee member to review request, purchasing procedures, State guidelines, etc.
 - ◆ The Lease Committee consists of the appropriate campus Vice President or their designee and additionally, includes representatives from the following areas:
 - a. Provost
 - b. Academic Affairs
 - c. Fiscal Affairs
 - d. V.P. Sponsored Research
 - e. V.P. University Advancement
 - f. V.P. University Architect

- PURCHASING DEPARTMENT
- ◆ Prepare an Invitation to Bid/Request for Proposal document, if required, and submit draft copy to OSUA. If not required skip to following OSUA/Purchasing Department Action.

- OSUA
- ◆ Distribute draft copy of Invitation to Bid/Request for Proposal to the Associate Vice President to the University Architect, Environmental Health and Safety, Facilities Planning and Physical Plant for review/comments. If not required, skip to next OSUA action.
 - ◆ Receive review comments, if any, and meet with Purchasing for inclusion in Invitation to Bid/Request for Proposal document.

- PURCHASING DEPARTMENT
- ◆ Once Bids/RFP's are received and evaluated advise OSUA of Low Bidder.

- OSUA
- ◆ Advise Facilities Planning of property to be leased and provide contact name/phone number for proposed property.

- FACILITIES PLANNING
- ◆ Arrange for a property inspection. Provide a Property Inspection Report to OSUA and the Purchasing Department.

- OSUA/PURCHASING DEPARTMENT
- ◆ Review Property inspection report. If as a result of the property inspection the property is deemed by the University to be undesirable, repeat property report process with the second low bidder (if bid process is used), continuing until an acceptable property is encountered.

- OSUA**
- ◆ Advise Facilities Planning if build-out is required, via Minor Project Request Form, for assignment of a project manager.
- PURCHASING**
- ◆ Prepare an FAU Lease Agreement, or obtain vendors lease agreement form, and submit draft of lease to OSUA for review. Include corrective work, if any, resulting from the property inspection.
- OSUA**
- ◆ Distribute draft copy of FAU Lease Agreement to the Associate Vice President to the University Architect, Environmental Health and Safety, Facilities Planning and Physical Plant, for review/comments.
 - ◆ Provide review comments to Purchasing Department for inclusion in lease document.
- PURCHASING DEPARTMENT**
- ◆ Incorporate review comments, if any, and forward to general counsel for review and approval.
- Upon receipt from general counsel incorporate review comments, if any, and execute lease agreement.
- REFERENCES**
- ◆ FAU Purchasing Manual
 - ◆ Section 255.25, 1001.74, 1013.15, 1013.171, F.S.
Florida Administrative Code Section 6C5-6.010



Office of Space Utilization & Analysis

Policy & Procedure #8

TITLE: PROCEDURES FOR SUBLEASING OF STATE OWNED PROPERTY

OBJECTIVE AND PURPOSE: To establish guidelines and criteria for subleasing state-owned property for the purpose of constructing facilities, to outline the minimum provisions that must be included in the sublease agreement, and to define the elements that should be included in a request for proposal for lease- purchasing a facility.

APPROVAL REQUIREMENTS All sub-leases of state-owned land shall require Board of Trustees (BOT) approval. A prior "conditional approval" is required by the Planning and Development Committee.

RESPONSIBILITY **ACTION**

- REQUESTOR**
- ◆ Determine the need to sublease the land and submit a request through the University Architect and Vice President including a Comprehensive study containing the following elements:
 - a. The relationship of the facility to the mission and academic goals of the institution;
 - b. The contribution the facility will make to the educational growth or satisfaction of student needs (statement of benefit to the university);
 - c. The degree to which a proposed facility is consistent with the goals of the institution, including an evaluation of the program to be housed, the specific academic needs to be served, and the contribution to the overall institutional mission;
 - d. The economic factors supporting the decision to grant a sublease to obtain a facility, such as the savings to be realized by the state;
 - e. The source of state funds that will be used to administer and operate the facility, as well as a copy of the legislative authorization to use general revenue funds for this purpose (if applicable); and,
 - f. The life cycle analysis conducted for the proposed facility.

- OFFICE OF THE UNIVERSITY ARCHITECT & VP**
- ◆ Obtain conditional approval from BOT
 - ◆ Once conditional approval is obtained forward copy of the Comprehensive study to the Office of Space Utilization & Analysis (OSUA) to initiate submittal process.
 - ◆ If terms of Sublease is greater than three (3) years, obtain at least one property appraisal by an appraiser approved pursuant to F.S. 253.025(6)(b).
 - ◆ In conjunction with FAU General Counsel, develop a Sublease Agreement incorporating the terms and conditions required by Florida Atlantic University's Board of Trustees (BOT) and the Board of Trustees of the Internal Improvement Trust Fund (BOTIITF) and the Department of Environmental Protection (DEP), and the policies

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APPROVED:	Vice President	Associate V.P.	Director

and procedures of the Florida Atlantic University Board of Trustees (BOT), as outlined below:

- a. The sublease shall contain the requirements of the FAU construction program, including: procedures, rules, and FAU Cost Containment Guidelines.
- b. The sublease shall comply with all applicable codes, i.e.: Florida Building Codes, NFPA Codes, State Fire Marshal requirements. The sublease shall contain a provision for the BOT to refuse construction work of a lower standard;
- c. The sublease shall conform to the current University Master Plan;
- d. The sublease shall provide for the sub lessee to follow the FAU architect/engineer selection procedures, including the FAU Professional Services Guide, FAU Cost Containment Guidelines, FAU permitting procedures and Bonding and Insurance Requirements.
- e. The sub lessee shall be required to furnish an affidavit from the architect or engineer of record and the contractor stating that no asbestos or lead based paint products were used (new construction) or found (existing building) in the facility;
- f. The sublease shall include insurance requirements for the construction period and for the term of the lease;
- g. The sublease shall contain a provision for monetary compensation, based on the status of the sub lessee (not-for-profit, for-profit or direct support organization);
- h. The term of the sublease, which cannot exceed 39 years or the term of the lease the BOT has with the BOTIITF, shall be included in the sublease;
- i. The sublease shall require the sub lessee to obtain all applicable tax certificates and exemptions and submit proof of such;
- j. The sublease will include a provision for the sub lessee to indemnify and hold harmless the Board of Education (BOE), the Florida Atlantic University, the BOT and the BOTIITF;
- k. The sublease must contain a provision for title to the facility to vest with the state upon completion of construction or expiration/termination of the sublease; or, if applicable, the sublease may include a requirement that the sub lessee remove the improvements and return the property to usable condition upon termination/expiration of the sublease and,
- l. The sublease will include all applicable provisions of Chancellor's Memorandum CM-B-01.00-02/97, Contracts and Agreements.

- | | |
|---|--|
| OFFICE OF THE ASSOCIATE VICE PRESIDENT | ◆ Simultaneously to the development of the Sublease, if required, develop a Facilities Program, in accordance with University program guidelines. Submit completed plan to OSUA. |
| REQUESTOR | ◆ Simultaneously to the development of the Sublease Agreement and Facilities Program, develop a Financial Plan which shall address operating costs associated with the increased cost for maintenance, parking, security, utilities, etc. If the facility to be constructed is to be revenue producing, a budget and operating statement must be provided (This may be included in the Comprehensive plan). |
| OSUA | ◆ Obtain two (2) certified surveys that comply with the minimum technical standards required by the Department of Environmental Protection.
◆ Prior to submission to the BOT and the FAU President, the comprehensive study and proposed Sublease Agreement shall be reviewed and approved by the following University departments: Facilities Planning, Office of General Counsel, Academic Affairs, Student Affairs, and Physical Plant |

- ◆ Upon review and approval of the various FAU departments prepare the submittal, to include The Comprehensive Plan, Financial Plan, proposed Sublease Agreement and Facilities Program

PURCHASING

- ◆ In the event the university determines that it would be cost effective for a private developer to construct a facility on state-owned property, ownership to which would come to the state through a lease- purchase arrangement, the university shall issue a request for proposal or invitation to bid upon approval by the BOT. The proposal/bid should include the following information:
 - a. The proposed scope of the project, based on the comprehensive plan;
 - b. The proposed Sublease Agreement;
 - c. The terms and conditions required by the State of Florida, as enumerated in Chancellor's Memorandum CM-B-01.00-02/97, Contracts and Agreements; and,
 - d. The requirements of the SUS construction program relating to the competitive selection of an architect/engineer and contractor.
- ◆ Prior to the release of the proposal, the proposal document must be reviewed and approved by the appropriate university departments and forwarded to the BOT for review. The proposal should then be advertised in a newspaper with a circulation of not less than 100,000 and in the Florida Administrative Weekly. Proposals shall be received and evaluated by the university in a manner consistent with Florida Statutes and competitive practices and the recommended award shall be forwarded to the Board Office for appropriate action by the BOE.

REFERENCES

- ◆ Chancellor's Memorandum: CM-B-10.00-02/97, and Chapter 253 and Sections 1001.74, 1013.15, 1013.171 F.S.



Office of Space Utilization & Analysis Policy & Procedure #9

TITLE: REAL PROPERTY PURCHASE PROCEDURES

OBJECTIVE AND PURPOSE: To establish procedures and provide guidance for purchasing of real property.

DEFINITIONS: **REAL PROPERTY:** Any building, structure, facility or property, either developed or undeveloped, that is not owned or held in trust for Florida Atlantic University by an agency of the State of Florida.

APPROVAL REQUIREMENT: All purchases of real property shall require Board of Trustees approval. A prior "conditional approval" is required by the Planning and Development Committee.

RESPONSIBILITY **ACTION**

REQUESTOR ♦ Determine the need to purchase the real property and submit a request through the University Architect and Vice President.

OFFICE OF THE UNIVERSITY ARCHITECT & VP ♦ Obtain conditional approval from BOT
♦ Forward copy of request to the Office of Space Utilization & Analysis (OSUA) to initiate acquisition process

OSUA ♦ Prior to initiating land acquisition, coordinate with the Division of State Lands to determine the availability of existing, suitable state-owned lands in the area and the public purpose for which the acquisition is being proposed. In the event suitable state-owned land is found to exist and is available, use of this state land will be pursued. In the event existing suitable state-owned land is not available the following process continues

- ♦ Obtain appraisal of the parcel from a member of an approved appraisal organization or by a state-certified appraiser, approved by the Division of State Lands, two (2) appraisals are required if value of first appraisal exceeds \$500,000. The Appraisal report shall meet the requirements of the Board of Trustees of the Internal Improvement Trust Fund (BOTIITF), as set forth by law and administrative rule.
- ♦ Obtain Certified Survey or appraisal map.
- ♦ Obtain Title Report
- ♦ Obtain Evidence of Marketability
- ♦ Obtain Condition of Title: All exceptions, reservations, encroachments or other adverse conditions which are disclosed in the course of preparing to negotiate, negotiating, contracting or closing shall be individually examined by the University and evaluated in writing as to possible adverse effect on the objectives of the agency in acquiring the property.
- ♦ Obtain Phase I Environmental Audit.

Issued By: J. Singer	Date Issued: 8/2003	Date Revised:	Effective Date: 8/2003
APPROVED:	Vice President	Associate V.P.	Director

- ◆ Obtain Property Inspection Report through Facilities Planning.
- ◆ Submit Appraisal, Survey, Title Report and Evidence of Marketability along with report on condition of Title to FAU attorney for review.
- ◆ Upon review of the FAU attorney, submit Appraisal, Survey, Title Report and Evidence of Marketability along with Report on Condition of Title through the Office of the Associate Vice President to the University Architect & Vice President (UA&VP).

**OFFICE OF THE
UNIVERSITY
ARCHITECT & VP**

- ◆ Submit Appraisal, Survey, Title Report and Evidence of Marketability along with report on Condition of Title to the Department of Environmental Protection (DEP).
- ◆ Upon approval by DEP initiate acquisition negotiations. The land owner must be notified in writing that final purchase approval is subject to affirmative action by the BOT/IITF.
- ◆ Prior to entering into a purchase instrument obtain all disclosures of beneficial interest required in Section 286.23 F.S.
- ◆ Final negotiated purchase shall be in the form of a written purchase instrument, signed by the Owner and approved by the BOT.

OSUA

- ◆ Within ten (10) days after the execution of the purchase instrument submit the following to the DEP:
 - a. The original of the purchase instrument.
 - b. A copy of the Owner's Disclosure Form under Section 286.23, F.S.
 - c. Evidence of the marketability of the Title. The Division may agree to defer submittal and approval of the Title opinion or Title Policy until after the BOT approval of the purchase instrument. In such case the Division must approve the opinion or policy prior to closing.
 - d. The approved appraisal reports.
 - e. A letter from the acquiring agency stating that the inventory of existing State-owned lands was examined and contains no suitable available land for the agency's use, or that the property proposed for purchase is within a project on the Conservation and Recreation Lands (CARL), Save Our Coast (SOC) or Land Acquisition Trust Fund (LATF) lists.
 - f. A written statement by the acquiring agency outlining the public purpose for which the acquisition is being made, citing statutory authority, or stating that the property proposed for purchase is within a project on the CARL, SOC or LATF lists.
 - g. A written statement signed by the Owner confirming the Owner's relationship with his agent.
 - h. A written confirmation by the acquiring agency of the source and availability of funding for the acquisition.
 - i. A copy of the current certified survey or appraisal map, approved by the Division in accordance with this rule.
 - j. The details pertinent to the acquisition not included in this list or in the purchase instrument.
- ◆ No later than 10 days prior to the time the purchase is to be considered by the Board, the owner shall file the following with the Division:
 - a) All disclosures required by subsections 375.031(1) and 380.08(2), F.S.
 - b) A statement identifying any expenditure made in the categories set forth in paragraphs (2)(a), (b) or (c) of Rule 18-1.012, F.A.C.
 - c) A statement providing a good faith estimate of any additional expenditures in the categories set forth in paragraphs (2)(a), (b) or (c) of Rule 18-1.012, F.A.C.
- ◆ Complete the closing, recording of all legal documents, and payment of required fees.
- ◆ Submit all original documents to DEP including recorded documents, within 30 days after receipt from the county clerk or closing agent. All such documents shall be accompanied by a written signed statement indicating that all documents have been approved as to form and legality by the attorney for the University.

REFERENCES

- ◆ Sections 253.025, 286.23, 1001.74, 1013.14, 1013.171, F.S.

- ◆ Supplemental Appraisal Standards for Board of Trustees Land Acquisitions
- ◆ Florida Administrative Code (FAC) 18-1

Florida Atlantic University Benefits

** This applies to Non-tenured or Non-permanent Status Faculty and All AMP not subject to the Collective Bargainin Agreement With the Following Exceptions: Acting, Temporary, Visiting, Appointed for Less Than One Academic Year, Multi-Year Contracts or Offer Letter With Specific End Date.

	Executive Service	** Administrative, Managerial and Professional (AMP)	Support Personnel (SP)	** Faculty (FAC)
Separation Notice	60 Calendar Days	12 Mo. Hired Before 8/29/01 With 2+ Yrs Employment Hired On/After 3/29/01 to 11/15/05 3 Mo. In 2nd Yr Employment 6 Mo. With 2+ Yrs Employment Hired On/After 11/15/05 1 Mo. In Yr 1 Employment 2 Mo. In Yr 2 Employment 3 Mo. With 2+ Yrs Employment	N/A	12 Mo. Hired Before 8/29/01 With 2+ Yrs Employment Hired On/After 3/29/01 to 11/15/05 3 Mo. In 2nd Yr Employment 6 Mo. With 2+ Yrs Employment Hired On/After 11/15/05 1 Mo. In Yr 1 Employment 2 Mo. In Yr 2 Employment 3 Mo. With 2+ Yrs Employment
Life Insurance	Employer Paid	Employer and Employee Paid	Employer and Employee Paid	Employer and Employee Paid
Long-term Disability Insurance	Employer Paid	Employee Paid	Employee Paid	Employee Paid
Florida Retirement System - Defined Benefits	Benefit 2 Percent per Year	Benefit 1.6 Percent per Year	Benefit 1.6 Percent per Year	Benefit 1.6 Percent per Year
Florida Retirement System - Investment	10.95 Percent of Gross Salary - Employer Contribution	9 Percent of Gross Salary - Employer Contribution	9 Percent of Gross Salary - Employer Contribution	9 Percent of Gross Salary - Employer Contribution
Optional Retirement System	10.43 Percent of Gross Salary - Employer Contribution	10.43 Percent of Gross Salary - Employer Contribution	N/A	10.43 Percent of Gross Salary - Employer Contribution
Annual Leave	9.20 Hours Bi-weekly with 480 Hours Allowed Carry Over	6.77 Hours Bi-weekly with 352 Hours Allowed Carry Over	Bi-weekly: 4.00 Hours: Years 1-4 5.00 Hours: Years 5-9 6.00 Hours: Years 10+ with 240 Hours Allowed Carry Over	6.77 Hours Bi-weekly with 352 Hours Allowed Carry Over
Sick Leave	5 Hours Bi-weekly	4 Hours Bi-Weekly	4 Hours Bi-Weekly	4 Hours Bi-Weekly



April 18, 2007

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The 2006 Florida Statutes

Title XLVIII
K-20 EDUCATION CODE

Chapter 1001
K-20 GOVERNANCE

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1001.75 University presidents; powers and duties.--The president is the chief executive officer of the state university, shall be corporate secretary of the university board of trustees, and is responsible for the operation and administration of the university. Each state university president shall:

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(1) Recommend the adoption of rules, as appropriate, to the university board of trustees to implement provisions of law governing the operation and administration of the university, which shall include the specific powers and duties enumerated in this section. Such rules shall be consistent with the mission of the university and the rules and policies of the State Board of Education.

(2) Prepare a budget request and an operating budget for approval by the university board of trustees.

(3) Establish and implement policies and procedures to recruit, appoint, transfer, promote, compensate, evaluate, reward, demote, discipline, and remove personnel, within law and rules of the State Board of Education and in accordance with rules or policies approved by the university board of trustees.

(4) Govern admissions, subject to law and rules or policies of the university board of trustees and the State Board of Education.

(5) Approve, execute, and administer contracts for and on behalf of the university board of trustees for licenses; the acquisition or provision of commodities, goods, equipment, and services; leases of real and personal property; and planning and construction to be rendered to or by the university, provided such contracts are within law and rules of the State Board of Education and in conformance with policies of the university board of trustees, and are for the implementation of approved programs of the university. University presidents shall comply with the provisions of s. 287.055 for the procurement of professional services and may approve and execute all contracts on behalf of the board of trustees for planning, construction, and equipment. For the purposes of a university president's contracting authority, a "continuing contract" for professional services under the provisions of s. 287.055 is one in which construction costs do not exceed \$1 million or the fee for study activity does not exceed \$100,000.

(6) Act for the university board of trustees as custodian of all university property.

(7) Establish the internal academic calendar of the university within general guidelines of the State Board of Education.

(8) Administer the university's program of intercollegiate athletics.

(9) Recommend to the board of trustees the establishment and termination of undergraduate and master's-level degree programs within the approved role and scope of the university.

(10) Award degrees.

(11) Recommend to the board of trustees a schedule of tuition and fees to be charged by the university, within law and rules of the State Board of Education.

- (12) Organize the university to efficiently and effectively achieve the goals of the university.
- (13) Review periodically the operations of the university in order to determine how effectively and efficiently the university is being administered and whether it is meeting the goals of its strategic plan adopted by the State Board of Education.
- (14) Enter into agreements for student exchange programs that involve students at the university and students in other postsecondary educational institutions.
- (15) Provide purchasing, contracting, and budgetary review processes for student government organizations.
- (16) Ensure compliance with federal and state laws, rules, regulations, and other requirements that are applicable to the university.
- (17) Maintain all data and information pertaining to the operation of the university, and report on the attainment by the university of institutional and statewide performance accountability goals.
- (18) Adjust property records and dispose of state-owned tangible personal property in the university's custody in accordance with procedures established by the university board of trustees. Notwithstanding the provisions of s. 273.055(5), all moneys received from the disposition of state-owned tangible personal property shall be retained by the university and disbursed for the acquisition of tangible personal property and for all necessary operating expenditures. The university shall maintain records of the accounts into which such moneys are deposited.
- (19) Have vested with the president or the president's designee the powers, duties, and authority that is vested with the university.

History.--s. 87, ch. 2002-387.

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FAMU

**Regulations of
Florida A&M University**



6.005 Procurement Organization.

As the Chief Administrative Officer of the University, the President has the authority to approve and execute contracts for goods, equipment and services to be rendered to the University provided such contracts are made pursuant to the provisions of Part I of Chapter 287, F.S., as applicable, are for the implementation of approved programs at the University and to not require expenditures in excess of \$500,000.00 for any single contract.

Specific Authority 120.53(1)(a), 240.225, 240.227(1), (15), 287.042(13) FS. Law Implemented 120.53(1)(a), 240.225, 240.227(1), (15), 287.057, 287.042 FS. History—New 2-17-81, Formerly 6C3-6.05.

FGCU

(8) Contractual Service – The rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors. “Contractual service” does not include labor or materials or selection of professional services for the construction, renovation, repair or demolition of facilities entered into pursuant to Chapter 255, Florida Statutes.

(9) Direct Owner Purchase – The purchase of materials or equipment by the University that were originally included in a construction manager, contractor or subcontractor bid, proposal or reply for a University construction project.

(10) Extension – An increase in the time allowed for the contract.

(11) Governmental Entities – The State of Florida including its local governments and political subdivisions, the federal government, and other public or private educational institutions, cooperatives or consortia.

(12) Independent Contractor – A person or firm who provides a service to the University, but does not have any employment or other relationship or connection with that University, except as provided in Section 112.313, Florida Statutes.

(13) Informal Quotation – A written or oral quotation not requiring a formal competitive solicitation. Written evidence of oral quotations shall be maintained. Informal quotations shall be used for those services or commodities that are not on state or University contract and that meet or exceed \$5,000 but are less than the competitive solicitations requirement in Rule 6C10-6.015, F.A.C.

(14) Invitation to Bid – A written solicitation for competitive bids with the title, date, and hour of the public bid opening designated and the commodity, group of commodities or contractual services defined, for which bids are sought.

(15) Invitation to Negotiate – A written solicitation to define the specifications, terms and conditions of a contract for commodities or contractual services. Cost may or may not be a consideration in the initial stages of negotiating.

(16) Minor Irregularity – A variation from the terms and conditions of a competitive solicitation that does not affect the price of the commodities or services, give the vendor an advantage or benefit not enjoyed by other vendors, or adversely impact the interests of the University.

(17) Minority Business Enterprise – A business concern as defined in Section 288.703(2), Florida Statutes.

(18) President – The chief executive officer of the University, responsible for the operation and administration of the University.

(19) Proposal – A competitive sealed response received from a vendor pursuant to the issuance of a request for proposal.

(20) Public Entity Crime – A violation of any state or federal law by a person in the transaction of business with any public entity of any state or with the United States government involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.

(21) Purchase – An acquisition of commodities, licenses or contractual services obtained by contracting in any manner, whether by rent, lease, installment- or lease-purchase or outright purchase.

(22) Purchase Order – A University document formalizing a purchase transaction with a vendor and authorizing the vendor to deliver goods or services.

(23) Purchases for Resale – The purchase of commodities or contractual services acquired for the purpose of selling them for the benefit of the University.

(24) Renewal – Contracting with the same contractor for an additional period of time after the initial contract term, provided the original terms of the agreement specify an option to renew.

(25) Reply – A competitive sealed response received from a vendor pursuant to the issuance of an Invitation to Negotiate.

(26) Request for Proposal – A written solicitation for competitive proposals for commodities or contractual services with the title, date, and hour of the public opening designated. The request for proposal may be used when the scope of work is not clearly defined.

(27) Responsive and Qualified Bidder or Offeror – A contractor/vendor who has submitted a bid, reply or proposal that conforms in all material respects to a competitive solicitation.

(28) Term Contract – An indefinite quantity contract for the purchase of commodities or contractual services during a prescribed period of time.

Specific Authority 1001.74(4), 1010.04 FS. Law Implemented 287.09451, 288.703(2), 1001.74(5) FS. History—New 9-30-99. Amended 7-10-03.

6C10-6.014 Purchasing Authority of the University.

The President or designee is delegated authority to serve as the central procurement officer for the University and has the duty to:

(1) Canvass sources of supply and contracting for the purchase or lease of all commodities and contractual services for the University, in any manner, including purchase by installment- or lease-purchase contracts. Installment- or lease-purchase contracts may provide for the payment of interest on unpaid portions of the purchase price.

(2) Remove any contractor from the University's competitive vendor list that fails to fulfill any of its duties specified in a contract with the University or governmental entity.

(3) Plan and coordinate purchases in volume and negotiating and executing agreements and contracts for commodities and contractual services under which the University may make purchases.

(4) Evaluate and approve contracts let by governmental entities for the procurement of commodities and contractual services, when it is determined to be cost-effective and in the best interests of the University to make purchases under contracts let by such other entities.

(5) Elect as an alternative to any provision in Section 120.57(3)(c), Florida Statutes, to proceed with a competitive solicitation or contract award process when it is set forth, in writing, that the particular facts and circumstances which demonstrate that the delay due to staying the solicitation or contract award process would be detrimental to the interests of the University. After the award of contract resulting from a competitive solicitation in which a timely protest was received and in which the University did not prevail, the contract will be cancelled and re-awarded to the prevailing party unless the final order or settlement between the parties provides otherwise.

(6) Award contracts for commodities and contractual services to one or multiple suppliers, if it is determined to be in the best interest of the University. Such awards may be made on behalf of the University or a consortia of the University and other governmental entities, and the contracts may be for multiple years.

(7) Reject or cancel any or all competitive solicitations when determined to be in the best interests of the University.

(8) Reserve the right to waive any minor irregularities in an otherwise valid bid, proposal or reply. Variations that are not minor cannot be waived.

Specific Authority 1001.74(4), 1010.04 FS. Law Implemented 120.57(3), 1001.74(5), (17), (29), 1001.75(5), 1010.04 FS. History—New 9-30-99, Amended 7-10-03.

6C10-6.015 Competitive Solicitations Requirement.

(1) All purchase orders or contracts for the purchase of commodities or contractual services exceeding \$50,000 shall be awarded pursuant to a competitive solicitation, unless otherwise authorized in Chapter 6C10-6, F.A.C. The purchase of commodities and contractual services shall not be divided to avoid the requirement of competitive solicitation.

(2) The University shall require vendors to submit a solicitation security with their response to a competitive solicitation when the contract amount is expected to be greater than \$100,000 and it is in the University's best interests to require the security. The solicitation security shall be in the form of a bid bond, certified, treasurer's or cashier's check or bank draft and the required amount shall be no greater than ten percent (10%) of the estimated value of the response value. The failure to submit such security with the response shall result in disqualification of the response.

(3) Competitive solicitations for purchases that are expected to be in excess of \$50,000 shall be advertised in the Florida Administrative Weekly, a newspaper of general circulation, or electronically posted on the www.myflorida.com website (Florida Communities Network). All competitive solicitations will be electronically posted on the University's www.fgeu.edu/ website (Purchasing Department). The President or designee shall waive the advertisement requirement when the number of potential responders is limited and can otherwise be solicited, when the availability of funding so requires, or when delivery is urgent.

(4) When only one response is received to a competitive solicitation for commodities or contractual services exceeding \$50,000, the University will review the solicitation response and circumstances surrounding the solicitation to determine if a second call for a competitive solicitation will yield the same results. If it is determined that a second call is not in the University's best interests or would yield the same results, then the University will proceed with the acquisition.

(5) When multiple responses that are equal in all respects are received to an invitation to bid, the University will give preference, in the following order of priority, to bids that include commodities manufactured in the State of Florida, Florida businesses, businesses with a drug-free workplace program, or foreign manufacturers located in the state, to determine the contract award. If use of these preferences does not determine a contract award, the toss of the coin shall be used to award the contract.

(6) In the case of extension errors in a response to a competitive solicitation, the unit price will prevail.

(7) A Contractor may withdraw a competitive solicitation response, in writing, within seventy-two (72) hours of the response opening, excluding Saturdays, Sundays and University holidays, or at any time thereafter with the written consent of the President or designee when the University's interests will not be adversely affected by the withdrawal.

(8) Notices of Intent to Award competitive solicitations shall be publicly posted at the Purchasing Department for a minimum of seventy-two (72) hours excluding Saturdays, Sundays and University holidays.

Specific Authority 1001.74(4), 1010.04 FS. Law Implemented 1001.74(5), (17), (29), 1001.75(5), 1010.04 FS. History—New 9-30-99, Amended 7-10-03.

6C10-6.016 Purchase of Commodities or Contractual Services.

(1) Purchase of Private Attorney Services. Written approval from the Attorney General is not required for private attorney services acquired by the University.

(2) Purchase of Insurance. The University has the authority to purchase insurance as deemed necessary and appropriate for the operation and educational mission of the University. Examples of insurance coverage that may be acquired by the University include:

- (a) Physical damage on vehicles and boats;
- (b) Inland marine on property owned, leased, or loaned to or by the University;
- (c) Building and property damage;

(h) Non-unit positions which have been designated by the Public Employee Relations Commission as being excluded from a recognized bargaining unit which are not represented by a bargaining agent.

(i) FTE -- a designation which connotes a regular full-time position or its equivalent.

(j) Volunteer -- a person who provides services to the University with no expectation of monetary or other material compensation or consideration, or as part of a court-ordered program on a continuous, occasional, or one-time basis.

Specific Authority 240.227(1) FS. Law Implemented 110.131, 110.501, 240.227(5) FS. History--New 4-17-97.

6C10-5.002 Delegation of Authority.

(1) The President delegates to the Vice President for Academic Affairs, the Vice President of Administrative Services, and the Vice President for University Relations and Development the authority to do and take the following action:

(a) Appoint all personnel within the area for which he/she is responsible, provided that the appointment and removal of permanent Associate Vice Presidents, Assistant Vice Presidents, Directors, Deans, and Chairpersons of Academic Departments shall be subject to the prior approval of the President.

(b) Fix compensation for all personnel in accordance with the appropriate classification and pay plan and within the budget allocated to the area for which he/she is responsible.

(c) Approve change of status for University personnel in the administrative area for which he/she is responsible.

(d) Approve travel for University personnel within the administrative area for which he/she is responsible.

(e) Accept the resignations of University personnel within the administrative area for which he/she is responsible.

(f) Approve disciplinary actions affecting University personnel within the administrative area for which he/she is responsible, to be exercised in conjunction with the approval of the hiring official regarding the suspension and termination of any USPS and A & P employee.

(g) Approve compensated and uncompensated leaves of absence for all personnel within the administrative area for which he/she is responsible.

(2) Policies and procedures relating to the appointment and renewal of multi-year appointments, awarding of tenure for faculty and the designation of permanent status for USPS employees shall be administered in accordance with BOR Rule 6C-5.940, F.A.C., University Rules 6C10-5.005, .009, F.A.C., and applicable bargaining agreements.

Specific Authority 110.201(2), 240.227(1) FS. Law Implemented 240.227(5) FS. History--New 4-17-97.

6C10-5.003 Employee Debt Collection.

(1) The University will exert every effort to collect delinquent accounts -- other than educational loans collectable pursuant to Section 112.175, F.S., owed to the University by its employees.

(2) The University has responsibility for collection of the following kinds of employee debts: accounts receivable; registration fees; returned checks; traffic and parking fines; library fines; educational resources fine/sales; graduation fees; health services; rental fees; housing; physical education equipment; travel advance reimbursements; disallowed revolving fund reimbursements; overpayments to employees, and other miscellaneous charges.

(3) Accounts Receivable Other than Returned Checks.

(a) Collection Procedures. Amounts due from an employee shall be placed in the University's Accounts Receivable billing system after routine attempts by the department to obtain payment of any accounts receivable are unsuccessful. If the University does not receive payment within three (3) months of the date of the first billing or suitable payment arrangements have not been made, the employee shall be notified that set-off procedures shall be implemented with respect to his/her debt. An employee who accepts or continues employment after the adoption of this rule will be deemed to have agreed to the procedures set forth in this rule.

(b) Set-Off Procedures. The employee shall be notified by certified letter, return receipt requested, that he/she has ten (10) calendar days from receipt of the letter to either pay all sums due, make satisfactory payment arrangements, submit documentary evidence disputing his/her debt, or request administrative review of the decision to set-off his/her debt through a deduction of funds from the employee's paycheck. The notice shall further advise the employee that the set-off of wages shall commence without further notice following the expiration of the ten (10) day notice period unless the employee has taken appropriate action and shall include the amount and duration of the deductions which shall be made from his/her salary warrant.

(c) Calculation of Payroll Deduction.

1. In the event that the total amount of the debt is less than ten percent (10%) of the employee's biweekly gross salary, the full amount of the employee's debt shall be deducted in the first or second pay period following the expiration of the ten (10) day notice period given to the employee.

2. If the amount of the debt is greater than ten percent (10%) of the employee's biweekly gross salary, the amount deducted each pay period shall not exceed ten percent (10%) of the employee's gross salary.

3. In the event that an employee-debtor is terminated or voluntarily leaves the University's employ, the entire amount of the debt shall be deducted from the employee's final paycheck.

4. Accounts Receivable -- Returned Checks.

a. Collection Procedures, Set-Off Procedures. When a check written by an employee to the University is returned uncollected, the employee shall be notified by certified letter, return receipt requested, of the returned check, and the employee shall be required to make full payment of the check and return check charge within ten (10) calendar days from receipt of the letter. The notice shall further advise the employee that if the check is not redeemed within the ten (10) day period, the check and return check charge amount shall be forwarded to the Payroll Office for payroll deduction without further notice.

b. Calculation of Payroll Deduction. The full amount of the returned check and return check charge shall be deducted in the first or second pay period following referral of the account to the Payroll Office.

Specific Authority 240.227(1) FS. Law Implemented 240.291 FS. History—New 4-17-97.

6C10-5.004 University Police Department.

(1) General. The Florida Gulf Coast University Office of Police & Public Safety provides general police services to the University including protection of its population, buildings, grounds and equipment, and the maintenance of peace and order within the University community, and at its functions. The Office of Police and Public Safety is authorized to enforce the laws of the State of Florida, the ordinances of Lee County, and the rules and regulations of Florida Gulf Coast University, including all traffic and parking rules.

(2) University police shall meet the minimum standards established by the Criminal Justice Standards and Training Commission and Chapter 943, F.S., and the rules and regulations promulgated thereunder in addition to any other criteria established by state law, these rules, the rules of the Board of Regents or by the terms of a collective bargaining agreement.

Specific Authority 240.227(1), (5) FS. Law Implemented 240.268 FS. History—New 4-17-97.

6C10-5.005 Recruitment, Selection, and Appointment.

(1) General. Florida Gulf Coast University is an equal opportunity/equal access employer. The recruitment, selection and appointment criteria set forth in these rules are designed to promote, attract and retain a diverse workforce which possesses the highest caliber of skills and competency.

(2) Recruitment, selection, and appointment shall be conducted in accordance with Rule 6C-5.910, F.A.C.

(3) Minors seeking employment with the University must be at least sixteen (16) years of age, but may be fourteen (14) years of age when enrolled and participating in a career education program approved by the Jobs and Benefits Division of the State Department of Labor and Employment Security.

(4) Former employees seeking re-employment will apply to and be processed by the Office of Human Resources in the same manner as new applicants. Former employees who were terminated due to unsatisfactory performance, job abandonment, or misconduct are ineligible for rehire.

(5) Faculty appointed as academic administrators serve in their appointments at the pleasure of the President or President's designee and are subject to reassignment or reclassification to other faculty or administrative duties upon notice. The reclassification and reassignment of Academic Administrators shall not affect the tenure status of tenured faculty, the multi-year appointment status, or the permanent status of employees who have such status; however the salary rate and appointment period may be adjusted to reflect a change in responsibilities.

(6) Multi-year Appointments.

(a) Multi-year employment contracts for Faculty and A & P employees shall contain the statement required by Section 287.0582, F.S.

(b) Multi-year appointment provides employment for a fixed period of years. It may include the prospect of non-renewal at the end of the multi-year term, an offer of a successive multi-year appointment or crediting the time worked at the University toward tenure.

(c) A multi-year appointment is non-tenure earning and may range from two (2) to five (5) years in duration determined by the needs of the University.

(d) Multi-year appointments for faculty shall designate academic rank and/or a concurrent assignment of independent administrative responsibilities for academic appointments, such as serving as the chairperson for a department.

(e) An annual performance plan shall be developed by the faculty or A & P employee and the appropriate University administrator and an evaluation shall be conducted each year prior to the final year of the multi-year appointment.

(f) The failure of a faculty or A & P employee and the University to reach agreement on a successive multi-year appointment shall not confer any rights or expectation of employment to the faculty or A & P employee as the term of employment expires at the end of the existing contract.

(g) The University may dismiss or discipline a faculty or A & P employee for cause during the term of any multi-year appointment.

(h) The University may, with the agreement of the faculty member, convert a multi-year appointment to a tenure-earning track appointment or a tenure-track appointment to a multi-year appointment. If a multi-year appointment is later converted to a tenure track appointment, the University may, with the agreement of the faculty member, credit some or all of the multi-year time served toward tenure.

(i) Multi-year appointment use, terms, and conditions shall be within the provisions of the Collective Bargaining Agreement for bargaining unit employees.

(7) Volunteer Program. Each college, department, and operational unit is authorized and encouraged to utilize volunteers to assist in carrying out its activities.

Specific Authority: 240.227(1), (5) FS. Law Implemented 240.227(1), (5) FS. History--New 4-17-97.

6C10-5.006 Employee Security and Background Checks.

(1) Applicants for certain positions of employment are subject to security and background checks, which may include fingerprinting, as a condition of employment and continued employment. The Director of Human Resources shall designate in writing the positions which require security and background checks based on the special trust, responsibility or location of the positions.

(2) For the purposes of this rule, security background investigations shall include, but not be limited to, employment history checks, checks of references, criminal records checks through law enforcement agencies, fingerprinting for all purposes required by Florida Statutes. Background investigations shall be conducted at the expense of the University.

Specific Authority 240.227(1) FS. Law Implemented 110.1127, 240.227(5), (19) FS. History--New 4-17-97.

6C10-5.007 Employee Recognition Program.

(1) The Florida Gulf Coast University Employee Recognition Program shall provide for recognition of eligible employees.

(2) The University is authorized to expend state funds for recognition and awards to employees in compliance with this rule. Any award is contingent upon the availability of funds and shall not exceed the maximum expenditures established in Section 240.2111, F.S., and must be approved by the President. This rule does not apply to expenditure of private funds to which the University may have access.

(3) The awards shall acknowledge employee achievement in the following components:

(a) A superior accomplishment component to recognize employees who have contributed exemplary and meritorious service in their respective fields, including exceptional contributions to efficiency, economy, or other improvement contributing to the mission of Florida Gulf Coast University.

(b) A satisfactory service component to recognize employees who have achieved increments of five (5) continuous years of satisfactory service to the University in appreciation and recognition of such service.

(4) In addition to the components specified above, the University may recognize retiring employees whose service with the University has been satisfactory and appointed members of state boards or commissions whose service to the State University System or the University has been satisfactory, upon the expiration of the member's final term in such position.

(5) The Office of Human Resources shall be responsible for regular monitoring of departments in order to gather data regarding the number of individual employees recognized under any component of this program and the monetary impact of such recognition.

Specific Authority 240.2111, 240.227(1) FS. Law Implemented 240.2111, 240.227(1) FS. History--New 4-17-97.

6C10-5.008 Personnel Exchange Program.

(1) General. Full-time employees filling positions in the General Faculty and A & P classification plans are eligible to participate in the personnel exchange program established by this rule. The personnel exchange program allows University employees to be exchanged with those of the Federal Government, of another state, of agencies of government, both state and local, or public institutions of higher education outside the State University System.

(2) Guidelines for Selection.

(a) An eligible employee who wishes to be considered for a personnel exchange shall initiate a written request through his or her vice president to the President. The request shall clearly state the expected benefits to the employee and the University.

(b) The President shall consider the following criteria in the selection of applicants:

1. Whether the employee is in an essential position.
2. Whether the exchange will have a direct benefit to the department, division, or University.
3. Whether the exchange will have a tangible benefit to the University.

(c) Terms of Exchange Program are governed by Sections 112.24 through 112.31, F.S.

Specific Authority 240.227(11) FS. Law Implemented 112.27, 240.227(11) FS. History--New 4-17-97.

6C10-5.010 Nepotism.

(1) Definitions.

**Florida Gulf Coast University Board of Trustees
April 20, 2004**

SUBJECT: Settlement of Lawsuits and Claims

PROPOSED BOARD ACTION

Authorize the President or designee, after receiving the advice of the General Counsel, to approve the settlement of any lawsuit or claim involving the University, its officers, employees, agents or representatives in an amount not to exceed \$100,000, when so doing is in the best interests of the University. In determining the settlement amount, all consideration paid or received must be valued except that amounts paid by University insurance policies shall not be included.

BACKGROUND INFORMATION

Section 1001.72(1), Florida Statutes, designates the FGCU Board of Trustees as a public body corporate "with all of the powers of a body corporate including the power . . . to sue and be sued, and to plead and be impleaded in all courts of law or equity." To protect the interests of the University, it may be necessary or desirable from time to time to settle lawsuits and claims in the name of the FGCU Board of Trustees. Most lawsuits and claims initiated against a university are routine in nature, and time generally is of the essence with these matters.

The FGCU Board of Trustees has the authority to approve this delegation, and doing so will expedite the handling of important legal matters and alleviate the need to schedule emergency meetings of the Board. By giving the President or designee the authority to initiate and settle these matters, legal issues can be resolved swiftly and with a minimum of public ado, thereby preserving the integrity of settlement negotiations.

Supporting Documentation Included: A Brief Word About Insurance

Prepared by: Wendy S. Morris, General Counsel

Legal Review by: N/A

Submitted by: Wendy Morris, General Counsel

Chair Lutgert. Motion was seconded by Trustee Faramo. Motion carried unanimously.

- Student Affairs Rules (Appendix F) Motion was made by Trustee Faramo to approve the Student Affairs Rules. Motion was seconded by Trustee Lutgert. Motion carried unanimously.
- Student-Athlete Out-of-State-Waivers (Appendix G) Motion was made by Trustee Cobb to approve the Student Athlete Out-of – State Waivers. Motion was seconded by Chair Lutgert. Motion carried unanimously.

10. Finance & Administration Committee Meeting – Committee Chair David Lucas

Chair Lutgert introduced Chair of the Finance & Administration Committee David Lucas who introduced Dr. Shepard. Dr. Shepard introduced Ms. Linda Moore, Director of Internal Audit & Compliance. Ms. Moore presented an overview of the Internal Audit & Compliance Review Program.

Dr. Shepard presented the Quarterly Budget Statement (Appendix H) to trustees for their review.

Dr. Shepard presented three action items to trustees for consideration:

- Student Housing Rentals (Appendix I) Motion was made by Trustee Lee to approve the Student Housing Rentals. Motion was seconded by Trustee Lester. Motion carried unanimously.
- Settlement of Lawsuits and Claims (Appendix J) Motion was made by Trustee Moon to approve the request to settle lawsuits and claims as recommended. Motion was seconded by Trustee Lee. Motion carried unanimously.
- Commencement of Legal Proceedings or Appeal of Adverse Rulings (Appendix K). A motion was made to approve the recommendation regarding Legal Proceedings or Appeal of Adverse Rulings by Trustee Lee. Motion was seconded by Trustee Morton. Motion carried unanimously.

11. Old Business – Chair Scott Lutgert

Chair Lutgert announced his appointment of Trustee Hart to represent the Board on the Awards Review Committee for the Celebration of Excellence and Trustee Hart accepted this appointment.

12. New Business – Chair Scott Lutgert

Chair Lutgert set the April 2005 Board meeting date for Tuesday April 19, 2005. A motion was made to approve the April 19 Board meeting date by Trustee Price Henry. Motion was seconded by Trustee Lee. Motion carried unanimously.

FIU

Chair/Vice Chair:

The Chair shall preside at all meetings of the Board, call special meetings of the Board when necessary, attest to actions of the Board and notify the Governor in writing whenever a Board member fails to attend three consecutive meetings in any fiscal year, which failure shall be grounds for removal. The Vice-Chair shall act as Chair during the absence or disability of the Chair.

Treasurer:

The Treasurer shall be responsible for oversight of all policies relating to the financial affairs of the University; may present a financial report to the Trustees at each meeting of the Board; and perform such other duties as may be assigned to him/her by the Chair, or the Board.

Executive Officer/Corporate Secretary:

The University President, as Executive Officer and Corporate Secretary, shall be responsible to the Board for all operations of the University and for setting the agenda for meetings of the Board in consultation with the Chair.

As Executive Officer, the President shall serve as the principal liaison officer and official contact between the Board and the faculty, staff and students of the University. The President shall exercise such powers as are appropriate to his/her position in promoting, supporting and protecting the interests of the University and in managing and directing its affairs. The President may issue directives and executive orders consistent with existing Board policies and law. The President shall be responsible for all educational, financial, business and administrative functions of the University consistent with the policies established by the Board and shall exercise such other powers, duties and responsibilities as are delegated or assigned by the Board.

ARTICLE II MEETINGS

Regular meetings: The Board will meet no fewer than four times per fiscal year, at a time and place designated by the Chair. Meetings of the Board are open to the public and all official acts will be taken at public meetings. The schedule of meetings is to be available on the University website at <http://www.fiu.edu/trustees>.

The Director of Internal Audit shall present a report on the financial condition of the University to the full Board once every fiscal year at the November meeting.

A Trustee cannot participate in a regular board meeting via telephone or other communications media technology or video conferencing, unless such a meeting is conducted only via electronic means as provided below.

Meetings by Means of Telephone Conference Calls and other Communications Media Technology:

Committees may at the discretion of their Chairs use telephone conference calls and other communications media technology to conduct Board business in the same manner as if the proceeding were held in person.

Signature Authority:

President has signature authority on all contracts – unlimited.

Provost Ron Berkman has signature authority on all contracts up to \$1 million.

Tonja Moore, Associate Vice President of Academic Affairs has signature authority on contracts up to \$100,000. This was delegated to her by the Provost. Tonja Moore has been signing most of our contracts.

Stephen Millsbaugh, Director of Purchasing, has signature authority on purchase orders and purchasing contracts for up to \$100,000.

Ivon Foster, Associate Vice President for Information Technology, has signature authority up to \$100,000. over that, needs signature of both Ivon Foster and Vivian Sanchez.

Members of the President's Executive Committee have signature authority on all contracts up to \$500,000.

These persons are:

Rosa Jones, VP Student Affairs

Cristina Mendoza, General Counsel

Marcos Perez, Vice President Administration - Athletics, Facilities, Auxiliary

Vivian Sanchez, Business and Finance

Ron Berkman (\$1,000,000) Provost

Software License – send copy to VP of IT to review and approve.

Revised 8/8/06

FSU



FSU Web Sites

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Next meeting
May 10 & 11, 2007

- Agenda for Next Meeting

[Board of Trustees > Organization - Operating Procedures](#)

Meetings

A complete listing of future and archived Board of Trustees meetings including agendas, minutes & webcasts

Organization

- Committees
- Ethics Policy
- Operating Procedures
- Trustees Directory

Links

More information about FSU, Florida education and other educational organizations

Operating Procedures

Introduction

The laws of the State of Florida establish The Florida State University Board of Trustees (hereinafter Board).

Article I - Membership

Section 101 - Governing Law

The membership of the Board shall be determined in accordance with State of Florida law.

Section 102 - Board Officers and Executive Officer/Corporate Secretary

(a) The Board shall have a Chair and a Vice Chair. The Board will elect a Chair and a Vice Chair every two years at the first regular meeting held in January, or at such other time as deemed necessary by a majority vote of the Board to fill a vacancy.

(b) The Chair of the Board shall preside at meetings of the Board, call special and emergency meetings, sign and execute all documents and instruments on behalf of the Board, and perform such other duties as may be required by law or directed by the Board. The Chair may delegate the authority to sign and execute documents and instruments on behalf of the Board to the Corporate Secretary.

(c) The Vice Chair of the Board shall have the powers and perform such duties as may be delegated to that individual by the Board and in the event of the death, absence or inability of the Chair to act, perform such duties and exercise the powers of the chair.

(d) The University President is the Executive Officer and Corporate Secretary of the Board, and shall be responsible for keeping the minutes of all regular meetings of the Board. The Secretary shall attest to the signature of other officers of the Board when required or necessary and shall affix the seal of the Board when necessary. The Secretary shall perform the duties customarily performed by the secretary to a public body corporate as well as such other duties as may be prescribed by the Board. As Executive Officer, the University President shall serve as the principal liaison and official contact between the Board and the faculty, staff and students of the university. The President shall exercise such powers as are appropriate to that position in promoting, supporting and protecting the interests of the University and in managing and directing its affairs. The President shall be responsible for all management functions of the University consistent with the policies established by the Board and shall exercise such other powers, duties and responsibilities as are delegated or assigned by the Board and Florida statutes.

Article II -- Meetings

Section 201 - Scheduling of Meetings

(a) There shall be an organizational meeting of the Board every two (2) years for the election of the Chair, Vice Chair, and such other additional officers as

Section 308 - Applicability of Robert's Rules of Order

Robert's Rules of Order Newly Revised shall be used to conduct meetings of the Board, except where these internal operating procedures specifically provide otherwise.

Article IV - Powers and Duties**Section 401 - General Powers and Duties**

(a) The Board is vested with the authority to govern and set policy for The Florida State University as necessary to provide proper governance and improvement of the University in accordance with law and rules of the Florida Board of Governors.

(b) The Board may adopt rules and policies consistent with the University's mission, with law, and with rules of the Florida Board of Governors.

Section 402 - Other Powers and Duties

The Board shall have such other powers and duties, not inconsistent with applicable provisions of State law, as presently or as shall be defined and delegated by the Florida Board of Governors.

Section 403 - Duties of the President

(a) The President is responsible for the operation and administration of the University.

(b) The President shall exercise powers and assume responsibilities in accordance with State law.

Article V - Committees**Section 501 - Committees**

(a) The Chair of the Board shall have the power to establish committees and appoint members, subject to the approval of the Board. Standing committees are charged specifically with the immediate care and supervision of the subject matters assigned to them.

(b) Ex Officio Members: The Chair of the Board of Trustees, or in the Chair's absence the Vice Chair of the Board, shall be ex officio members of all standing committees and subcommittees.

Section 502 - Notice and Records

The Secretary of the Board shall notice meetings of standing, special, and ad hoc Committees in the same manner as for meetings of the Board of Trustees. The Secretary shall not maintain minutes of these meetings, but will ensure that the meeting is audiotaped and kept publicly available.

Article VI - Conflict of Interest**Section 601-- Disclosure of Potential Conflict of Interest by Members of the Board of Trustees:**

Members of the Board shall disclose and resolve potential conflicts of interest and ethical concerns in accordance with Chapter 112, Part III, Florida Statutes.

Article VII - Adoption, Amendment and Rescission of Internal Operating Practices and Procedures

Following initial adoption, the Internal Operating Procedures may be amended or rescinded at any regular meeting of the Board by a two-thirds vote of the total voting membership of the Board, provided that written notice containing the wording of each procedure to be adopted, amended, or rescinded shall have been presented at the preceding regular meeting of the Board.

Adopted January 24, 2003

Amended June 9, 2006

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Specific Authority 228.0081(2) FS. Law Implemented 228.0081(2)(r) FS. History—New 5-9-02.

6C2-2.014 Identification Cards.

(1) "Validation" is an imprint that is placed on the clear edge of an ID card to show that the card is effective during the imprinted period.

(2) University ID cards, guest cards, and alumni association membership cards provide a convenient means for identifying individuals who are entitled to utilize the facilities, activities, and services of the Florida State University. An ID card is nontransferable and is only for use by the individual whose name appears on the card. Misuse of an ID card may result in revocation of the card and disciplinary action. The ID Card Committee reviews and recommends policies for the issuance of ID cards.

(3) Issuance of Identification Cards. Different types of ID cards are issued to members of the University community depending on the nature of their affiliation with the University. By accepting and using an ID card, an individual agrees to abide by any rules and regulations that pertain to the use of University facilities, activities, or services. Possession of an ID card does not relieve the holder from paying any admission fees or service charges that may apply to a given facility, activity, or service.

(a) Students. Students who have been issued cards at a prior registration are to retain their cards and have them validated at subsequent registrations by the Bureau. When a student withdraws from the University, the Counseling Center removes the validation for that quarter from the student's ID card. Students who withdraw are allowed to retain their ID cards in case they are readmitted at a later date.

(b) High School Students. High School students who enroll in classes at Florida State University without payment of registration fees will be charged a \$5.00 fee for their student ID cards. To further identify the high school student, the name of the student's high school will be typed above the student's name when the card is issued.

(c) Faculty/Staff. Faculty and staff ID cards are issued to permanent full-time and part-time faculty and staff. Graduate students who are employed temporarily as part-time instructors will not be issued faculty ID cards, but will use their student ID cards.

Specific Authority 240.227(1) FS. Law Implemented 240.227(1) FS. History—New 9-30-75, Formerly 6C2-2.14.

6C2-2.015 Purchasing and Procurement.

(1) Statement of Intent. It is the intent of the University to acquire quality goods and services as economically as possible, within reasonable or required time frames, while promoting fair and open competition in the public procurement process. This rule establishes effective management oversight of the University's procurement process in order to reduce the appearance and opportunity for favoritism and to preserve the integrity of University purchasing and contracting.

(2) Purpose. These rules implement the University's delegated authority from the University Board of Trustees with respect to the powers, duties and functions of the institution's purchasing jurisdiction as provided in Sections 1001.74(5) and 1001.75(5), F.S.

(3) Application. These rules shall apply to all expenditures of University funds involving a purchase, irrespective of their source, including federal assistance monies, except as otherwise specified herein, and will be applied to transactions that do not involve a purchase such as food service or vending contract.

(4) Procurement Organization.

(a) The University Board of Trustees. By this rule, the Board of Trustees exercises their statutory authority to establish a system process to coordinate procurement policies, procedures, and practices to be used in acquiring commodities and contractual services required by the University.

(b) The University President. As chief administrative officer of the University, the President has the responsibility to implement the University's procurement authority as consistent with the rules of the State Board of Education and University Board of Trustees. The President has statutory authority to approve, execute and administer contracts for and on behalf of the University Board of Trustees for licenses; the acquisition or provision of commodities, goods, equipment and services; leases of real estate and personal property and planning and construction to be rendered to or by the University provided such contracts are within the law and the rules and policies of the State Board of Education and the University Board of Trustees. The President may delegate all or any portion of such authority, which is not required by law or rule to be exercised personally, to any employee of the University in the interest of the efficient and effective operation of the University.

(c) Delegation of Purchasing Authority.

1. Duties and Powers. The Director of Purchasing is delegated authority to serve as the central procurement officer for the University, and shall exercise the powers, duties and functions pertaining to the procurement of commodities and contractual services. The Director may delegate to the Purchasing Department staff such portions of those powers, duties and functions as deemed appropriate.

2. Small and Disadvantaged Business Enterprise Assistance Officer. The Director of Purchasing, or a designee, shall serve as the Small and Disadvantaged Business Enterprise Assistance Officer for the University, responsible for overseeing the small and disadvantaged utilization activities in the procurement of commodities and services. The University is an equal opportunity institution and encourages procurement contracting with small and disadvantaged business which includes minority business enterprises.

NCF

petition, the BOT shall have the burden of proving that regulation development is not feasible. Regulation development shall be presumed feasible unless:

- 1. The university has not had sufficient time to acquire the knowledge and experience reasonably necessary to address a statement by regulation development; or
- 2. Related matters are not sufficiently resolved to enable the university to address a statement by regulation development.

(b) Within 30 days after the hearing, the hearing officer shall issue a recommended order directed to the BOT, which may determine that all or part of a statement should have been promulgated as a regulation under procedures set forth in this regulation. The decision shall be published on the NCF internet website and all reliance on the statement or any substantially similar statement as a basis for action shall be discontinued.

(c) If, prior to a recommended order of a hearing officer, the BOT begins regulation development under this procedure to address the statement, a presumption is created that the BOT is acting expeditiously and in good faith to adopt regulation(s) that address the statement, and reliance upon the statement or any substantially similar statement as a basis for action shall be permitted.

(d) If the BOT fails to approve regulations that address the statement within 180 days after publishing notice of proposed regulation(s), for the purposes of the regulation challenge proceeding, a presumption is created that NCF is not acting expeditiously and in good faith to adopt regulation, and the case should proceed to a final hearing.

(3) Challenges to Emergency Regulations. Within 7 days after receiving a petition from a substantially affected person challenging an emergency regulation, if the petition complies with the requirements of paragraph (1) of this Regulation, the BOT shall assign a hearing officer. The hearing officer shall conduct a hearing in compliance with paragraph (1) (d) of this regulation within 20 days, unless the petition is withdrawn. Within 10 days of the hearing, the hearing officer shall issue a recommended order directed to the BOT, which shall timely issue a final decision.

(4) Appeals. Final decisions of the BOT may be challenged in a court of law pursuant to certiorari review under Florida Rule of Appellate Procedure 9.030(b)(2) only after exhausting the available administrative remedies under this procedure.

1.06 Authority to Sign Contracts.

(1) Authority of the President. The President has the authority to approve and execute all contracts, agreements, letters of understanding, and other documents regarding legal assurances, commitments, and obligations on behalf of the BOT.

(2) Submission to General Counsel. All contracts, agreements, letters of understanding, and other documents regarding legal assurances, commitments, and obligations shall be submitted to the General Counsel for review and approval as to form and legality.

(3) Delegation of Authority. The President may delegate to the Provost and Vice-Presidents (and their designee(s) in certain circumstances) the authority to sign described contracts and other documents.

(4) Authority Limited to President and Persons Expressly Delegated. NCF employees must not sign any contract, agreement, letter of understanding, or other document regarding legal assurances, commitments, and obligations unless they have been expressly delegated the authority to do so. Employees should contact the General Counsel for information and advice regarding authority to execute documents.

1.07 Public Meetings.

NCF is subject to constitutional and statutory requirements to conduct public meetings as open meetings in accordance with Section 286.011, *Florida Statutes*.

(1) Meetings Subject to Requirements. NCF shall conduct the following meetings as open meetings in accordance with Section 286.011, *Florida Statutes*:

(a) All meetings of the Board of Trustees, except meetings that are statutorily exempt from the requirements of Section 286.011, *Florida Statutes*.

(b) All meetings of Committees of the BOT, except meetings that are statutorily exempt from the requirements of Section 286.011, *Florida Statutes*.

(c) All meetings of any committee appointed by the BOT or the President that has authority to make recommendations to the BOT or to the President, except meetings that are statutorily exempt from the requirements of Section 286.011, *Florida Statutes*. Committees subject to the requirements include search committees established to make recommendations regarding hiring new personnel, and evaluation or selection committees established to make recommendations regarding purchasing of materials, contracting for goods or services, or selection of consultants.

(d) Any gathering of two or more members of a committee subject to open meetings requirements at which a matter which will foreseeably come before the committee is discussed.

(2) Requirements for Open Meetings. All meetings subject to open meetings requirements as described in Paragraph (1) of this Regulation shall be conducted as follows:

(a) Reasonable Notice. Reasonable notice shall be given of all such meetings. Normally, at least seven (7) days notice should be given for any such meeting. Reasonable notice shall be satisfied by publication of notice on the NCF internet web site, and distribution of the notice to faculty, staff and students of

UCF

University of Central Florida Board of Trustees

First Amended and Restated Bylaws

November 30, 2004

Section 3.2 VACANCIES – Vacancies shall be filled by appointing authority subject to confirmation by the Senate of the State of Florida.

Section 3.3 COMPENSATION – Trustees shall receive no compensation but may be reimbursed upon request for travel and per diem expenses.

ARTICLE IV

OFFICERS OF THE BOARD

Section 4.1 OFFICERS – The officers of the Board shall be the Chair, Vice Chair, Corporate Secretary, and the Associate Corporate Secretary. The Chair and Vice Chair shall be trustees, but no other Board officers shall be members of the Board.

Section 4.2 SELECTION – The Board shall elect its chair and vice chair from the appointed members at its first regular meeting after July 1st. The chair shall serve for two years and may be reelected for one additional consecutive term.

Section 4.3 CHAIR – The duties of the chair shall include presiding at all meetings of the Board, calling special meetings of the Board, appointing committee chairs, determining the composition of all Board committees, attesting to actions of the Board, serving as spokesperson for the Board, and fulfilling other duties as assigned by the Board. The chair shall perform such duties in consultation with the university president.

Section 4.4 VICE CHAIR – The duty of the vice chair is to act as chair during the absence or disability of the chair. The vice chair may or may not be nominated to succeed the chair when a vacancy occurs.

Section 4.5 UNIVERSITY PRESIDENT – The university president shall serve as the chief executive officer of the university. The university president shall be responsible for the operation of the university, including efficient and effective budget and program administration, leading the university to accomplish its educational missions and goals, monitoring educational and financial performance, consulting with the Board in a timely manner on matters appropriate to its policy-making and fiduciary functions, and serving as the university's key spokesperson. The president shall have the authority to execute all documents on behalf of the university and the Board consistent with law, applicable Board of Governors' rules and policies, and the best interests of the university.

Section 4.6 Corporate SECRETARY – The university president shall serve as corporate secretary of the Board, and in the capacity of secretary, shall be responsible for giving notice of all meetings of the Board and its committees, setting the agenda and compiling the supporting documents for meetings of the Board in consultation with the chair, recording and maintaining the minutes of any Board meeting, including a record of all votes cast, in accordance with section 286.011(2), Florida Statutes, executing or attesting to all documents that have been executed by the Board, and shall be custodian of the corporate seal.

Section 4.7 Associate Corporate SECRETARY - The secretary may designate an individual to serve as associate corporate secretary to the Board.

6C7-7.205 Approval of Real Property Leases.

(1) General – Before leasing a building or any part thereof and occupying such space, lease agreements shall be approved by the University Attorney and the President or Vice President for Administration and Finance or the President's designee. All lease agreements in excess of \$1,000,000 shall be approved also by the Board of Trustees or their designee.

(2) Nothing in this rule shall be interpreted as circumventing the provisions of Section 255.21, F.S.

Authority: BOG Resolution dated January 7, 2003. History—Formerly 6C7-4.052(3), F.A.C., Renumbered, Retitled and Amended 8-4-82, Amended 6-22-83, 3-16-03.

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UNIVERSITY OF FLORIDA

BOARD OF TRUSTEES RESOLUTION

Number: R01-1

Subject: Presidential Authority

Date: September 7, 2001

The University of Florida Board of Trustees hereby resolves:

(1) That the authority of the President of the University of Florida under current law, including the authority to enter into contracts on behalf of the University Board of Trustees, is hereby affirmed; and

(2) That the President is hereby authorized to approve travel under Section 112.061, F.S., and to take routine administrative actions on behalf of the University of Florida Board of Trustees under the Florida Administrative Procedures Act, Chapter 120, F.S., which shall not include the approval of University rules.

The President is authorized to further delegate to University personnel the authority described as long as such delegation is in writing and a copy is filed in the General Counsel's Office.

This affirmation and authorization is effective as of July 1, 2001.

RULES OF
UNIVERSITY OF FLORIDA

6C1-3.025 Finance and Administration: Lease of Space

(1) Purpose. This rule implements the authority given to the University of Florida to lease real property for the purpose of implementing approved programs of the University.

(2) Definitions. For purposes of this rule, a lease is a document containing the terms and conditions establishing the relationship of landlord and tenant for real property, including land and any improvements thereon.

(3) Approval. All leases shall be prepared in accordance with this rule and executed by ~~the President or the President's designee.~~

(4) Standard Lease. The University uses a standard lease, Form BCM 4054 (R5-01), approved by the University's Office of the Vice President and General Counsel and incorporated herein by reference. The standard lease may be obtained from the Purchasing Division, Elmore Hall, Room 102, University of Florida. The University's lease form may be changed by deleting, adding to or revising its terms, which shall remain consistent with the requirements of this rule as far as practical given the circumstances of the lease, with the prior approval of the University's Office of the Vice President and General Counsel.

(5) Escalation Clauses Prohibited. A lease shall not contain a rental escalation clause or an open rental rate that permits an adjustment in the amount paid by the University based on the happening of a future event, such as a change in the Consumer Price Index or other economic indicator, without also including a ceiling on the total amount the rent may increase. Any such

University of Florida Internal Operating Memorandum

Number: 02-5
Date: December 11, 2002
Subject: Real Property Management
Authority: Sections 1001.74(5), 1001.74(31), 1001.75(5), 1004.28, 1013.14, 1013.15, 1013.28, 1013.78 F.S.
Purpose: To provide guidelines for real property management.

A. Introduction.

The Board of Trustees has the authority to buy, sell, exchange, lease-purchase and otherwise transfer interests in real property on behalf of the University, except to the extent that authority is vested in the President. The President has the authority to enter into lease agreements and easements on behalf of the University. All of these agreements and transactions will be consistent with the University's objectives and missions and with any relevant master plan.

When a college, department or unit desire for the Board of Trustees to buy, sell, exchange, lease-purchase or otherwise transfer or acquire real property, then that college, department or unit shall make a recommendation to the President or President's designee and, upon the approval of the President or designee, the college, department or unit shall present the proposed transaction to the Board of Trustees for its approval. The college, department or unit should provide a summary of all relevant information at the time approval is requested. Please also note that certain improved property acquisitions may require legislative approval, in addition to Board of Trustees approval, if operations and maintenance funding from the state will be necessary to operate and maintain the real property. In connection with approved transactions, the President will execute all appropriate documents on behalf of the Board of Trustees.

Should a college, unit or department desire for the University to enter into a lease or an easement agreement, the college, unit or department will submit the same to the President or designee for approval as described below.

B. Specific Types of Transactions.

More specific information regarding the various types of real estate transactions which may occur at the University is set forth below. This list is not intended to be an exclusive list of real estate transactions that may occur at the University, but rather a list of the types of real estate transactions that might occur at the University.

1. Gifts.

Gifts of land are managed by the University of Florida Foundation, Inc. (UFF) in accordance with UFF's policies and procedures. If a University programmatic purpose is determined for any UFF-owned real property, then UFF may either transfer or lease the real property to the University, as appropriate. The Board of Trustees will approve the acquisition of any real property interest from UFF to the University and the President or designee will approve any leases of the real property from UFF to the University.

2. Purchase of Real Property.

If, based on the recommendation of a college, department, unit or otherwise, the Board of Trustees decides to purchase (including lease-purchase) real property, the Board of Trustees will authorize the President or designee to negotiate a purchase contract on its behalf. In accordance with Florida Statutes, the Board of Trustees will set the maximum purchase price that will be paid by the Board of Trustees and any other terms of the purchase the Board of Trustees may require. In accordance with Florida Statutes, the Board of Trustees may authorize the President or designee to enter into an option contract for the property prior to determining the purchase price for the property.

Title to all real property acquired by the Board of Trustees will be held in the name of the Board of Trustees, unless the real property is acquired with funds appropriated by the Legislature, in which event the real property will be vested in the Board of Trustees of the Internal Improvement Trust Fund (BTIITF). If the real property will be owned by the BTIITF, the Board of Trustees will follow any additional BTIITF rules and procedures applicable to real property acquisitions.

3. Intergovernmental Transfers.

Transfers of real property to or from other governmental entities must be approved by the Board of Trustees.

4. Dispositions.

Dispositions of real property will be approved by the Board of Trustees. Real property dedicated to the use of the University and which is owned by the BTIITF will be disposed of by the BTIITF upon the recommendation of the Board of Trustees. Any real property to be conveyed by the Board of Trustees will be conveyed by special warranty deed.

5. Leases.

Leases of real property to and from the University (other than lease purchase transactions) will be approved by the President or designee. When the University

is leasing real property from third parties (other than leases for no consideration). the leases shall be made in accordance with the University's lease of space rule.

6. **Easements.**

The President or designee will grant and accept typical easements on behalf of the Board of Trustees and recommend to the BTITTF that easements on real property owned by the BTITTF for the benefit of the University be granted.

C. **Due Diligence Requirements.**

Before the University will accept ownership of, or a long term ground lease in, any real property, other than UFF-owned property, the following due diligence items must be provided to the Office of the Vice President for Finance and Administration. That office, in conjunction with the Office of the Vice President and General Counsel, will review and approve such materials. Additional information and documentation may be required if there are special considerations related to a specific piece of real property or if the real property will be owned by the BTITTF.

1. Current title search and commitment.
2. Current Phase 1 Environmental Assessment Report. A Phase 2 Environmental Assessment Report may be required if appropriate.
3. Current Survey.
4. Owner's Affidavit on the University's standard form.
5. Zoning and other applicable land use restrictions encumbering the real property, if the property will not be part of the University's master plan.
6. Summary of operating expenses, if the operating expenses will not be funded through the University's operations and maintenance budget. **Please note that if operations and maintenance funding is desired, and the acquisition price is in excess of \$1,000,000.00 or the building's square footage exceeds or will exceed 10,000 gross square feet once constructed or renovations completed, there must be prior legislative approval for the facility.**
7. Funding commitment letter for operating expenses, if applicable, from the college, department or unit.
8. Physical inspection report prepared by the University's Environmental Health and Safety Department or, in the case of real property located outside of Alachua County, another person or entity designated by the University's Environmental Health and Safety Department.

All real estate contracts, easements, leases and other documents must be in accordance with applicable laws, rules and regulations and will be approved for form and legality by the Office of the Vice President and General Counsel prior to execution by the President or designee.

History: New 12-11-2002

UNF

Resolution on Presidential Authority

The University of North Florida Board of Trustees recognizes that, beginning in the year 2000, in response to the 1998 Blue Ribbon Committee on Education Governance and subsequently with a state constitutional amendment effective January 7, 2003, there have been significant, sweeping changes in the governance structure for Florida's state universities.

Previous attempts to conform state law to the present day governance structure have been unsuccessful and as a result, the sources for legal authority for the university boards of trustees are convoluted and confusing. Moreover, a legal action to clarify the powers of the state legislature and the constitutionally-created Florida Board of Governors is currently pending.

The efforts of the University of North Florida in preparing for reaffirmation of accreditation in 2009 by the Commission on Colleges of the Southern Association of Colleges and Schools (SACS) have demonstrated the need for the UNF Board of Trustees to reaffirm in the form of a comprehensive resolution, the specific authority it has delegated to the University President pursuant to current state statutes and resolution of the Florida Board of Governors, approved on January 7, 2003, and by specific delegations of authority to the President from the University of North Florida Board of Trustees.

WHEREFORE, be it resolved:

The UNF Board of Trustees hereby delegates to John A. Delaney, as University President, Chief Executive Officer and Corporate Secretary of the Board of Trustees, responsible for the operation and administration of the University of North Florida, the following authority and duties:

- (1) To recommend the adoption of regulations, as appropriate, to the UNF Board of Trustees to implement provisions of law governing the operation and administration of the University. Such regulations shall be consistent with the mission of the University and the regulations and policies of the Florida Board of Governors.
- (2) To prepare a budget request and an operating budget for approval by the UNF Board of Trustees.
- (3) To establish and implement policies and procedures to recruit, appoint, transfer, promote, compensate, evaluate, reward, demote, discipline, and remove personnel, in accordance with regulations or policies approved by the UNF Board of Trustees.
- (4) To govern admissions, subject to law and regulations or policies of the UNF Board of Trustees.
- (5) To approve, execute, and administer contracts for and on behalf of the UNF Board of Trustees for licenses; the acquisition or provision of commodities, goods, equipment, and services; **leases of real and personal property**; and planning and construction to be rendered to or by the University, provided such contracts are in conformance with regulations or policies of the UNF Board of Trustees and are for the implementation of approved programs of the University. The president must comply with the provisions of s. 287.055, F.S. for the procurement of professional services and may approve and execute all contracts on behalf of the UNF Board of Trustees for planning, construction, and equipment. For the purposes of the president's

contracting authority, a "continuing contract" for professional services under the provisions of s. 287.055, F.S. is one in which construction costs do not exceed \$1 million or the fee for study activity does not exceed \$100,000.

(5)(a) To transfer funds from one depository to another, within a depository, to another institution, or from another institution to a depository for investment purposes and may transfer funds in a similar manner when the transfer does not represent an expenditure, advance, or reduction of cash assets in accordance with s. 1011.42(6), F.S. and Delegation of Authority approved April 20, 2006. All budget transfers related to this delegation will be reported as part of the quarterly report to the Board of Trustees.

(5)(b) To authorize budget transfers from reserve accounts (other than the President's reserves over which the President shall exercise full discretion) in amounts not exceeding \$200,000. Budget transfers in amounts exceeding \$200,000 but less than \$500,000 require the approval of the Chair of the UNF Board of Trustees Finance and Audit Committee; amounts exceeding \$500,000 require prior approval of the UNF Board of Trustees.

(5)(c) To sign checks to pay legal obligations of the University in accordance with s. 1011.42(7), F.S. and Delegation of Authority approved April 20, 2006.

(5)(d) To perform banking transactions, which authority shall also be delegated to the Vice President and Assistant Vice President for Administration and Finance, the University Controller and Associate Controller, and the University Treasurer.

(6) To act for the UNF Board of Trustees as custodian of all University property.

(7) To establish the internal academic calendar of the University within general guidelines of the Board of Governors.

(8) To administer the University's program of intercollegiate athletics.

(9) To recommend to the UNF Board of Trustees the establishment and termination of undergraduate and master's-level degree programs within the approved role and scope of the University.

(10) To award degrees.

(11) To recommend to the UNF Board of Trustees a schedule of tuition and fees to be charged by the University, within law and regulations of the Florida Board of Governors.

(11)(a) Pursuant to provisions of the September 18, 2003 Delegation of Authority, the President may set the amounts for the various "Miscellaneous University Fees" as described in s. 1009.24(12)-(14), F.S. Any changes to these fees will be made as authorized by law and in accordance with policy and procedures approved by the UNF Board of Trustees.

(12) To organize the University to efficiently and effectively achieve the goals of the University.

(13) To review periodically the operations of the University in order to determine how effectively and efficiently the University is being administered and whether it is meeting the goals of its strategic plan adopted by the Florida Board of Governors.

- (14) To enter into agreements for student exchange programs which involve students at the University and students in other postsecondary educational institutions.
- (15) To provide purchasing, contracting, and budgetary review processes for student government organizations.
- (16) To ensure compliance with federal and state laws, rules, regulations, and other requirements which are applicable to the University.
- (17) To maintain all data and information pertaining to the operation of the University, and report on the attainment by the University of institutional and statewide performance accountability goals.
- (18) To adjust property records and dispose of state-owned tangible personal property in the University's custody in accordance with procedures established by the UNF Board of Trustees. Notwithstanding the provisions of s. 273.055(5), F.S., all moneys received from the disposition of state-owned tangible personal property shall be retained by the University and disbursed for the acquisition of tangible personal property and for all necessary operating expenditures. The University shall maintain records of the accounts into which such moneys are deposited.
- (19) To have vested with the University President or the President's designee the powers, duties, and authority that is vested with the University.
- (20) To take charge of any lost or abandoned personal property found on the University campus or on premises owned or controlled by the University or any direct support organization thereof, and if the property is not claimed by the owner within a reasonable period of time as designated by the president or designee, to order it sold at public outcry after giving notice of the time and place of sale in a publication of general circulation on the campus. In accordance with the provisions of s. 703.18, F.S., all moneys realized from such sale shall be placed in an appropriate fund and used solely for student scholarship and loan purposes.
- (21) In accordance with s. 1004.22, F.S., to negotiate, enter into, and execute research contracts; to solicit and accept research grants and donations; and to fix and collect fees, other payments, and donations that may accrue by reason thereof. The President or his or her designee may negotiate, enter into, and execute contracts on a cost-reimbursement basis and may provide temporary financing of such costs prior to reimbursement from moneys on deposit in a sponsored research development fund, except as may be prohibited elsewhere by law.
- (22) To perform all things necessary to secure letters of patent, copyrights, and trademarks on any work products and to enforce the University's rights therein in accordance with s. 1004.23, F.S.
- (23) In accordance with the provisions of s. 1004.28, F.S., to serve, or to appoint a designee to serve on the board of directors and the executive committee of any direct-support organization established to benefit the University and to receive annual budgets and reports of such organizations, including the federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).
- (24) In accordance with the provisions of s. 1011.40, F.S., to prepare and implement the operating budget of the University as prescribed by law, regulations of the Board of Governors, policies of the UNF Board of Trustees, and provisions of the General Appropriations Act. The proposed

expenditures, plus transfers, and balances shall not exceed the estimated income, transfers, and balances. The budget and each part thereof shall balance. If at any time the unencumbered balance in the education and general fund of the UNF Board of Trustees approved operating budget goes below 5 percent, the President shall provide written notification to the Board of Governors.

(25) To submit an annual equity report to the Chancellor of the State University System by April 1st of each year in accordance with the provisions of s. 1012.95, F.S.

(26) To certify to the Board of Governors or Department of Education, as requested, a project's compliance with the requirements for expenditure of PECO funds for prior to release of funds in accordance with ch. 1013, F.S.

(27) To ensure that all plans for the construction, renovation, remodeling, or demolition of any educational or ancillary plants conform to the requirements of the Florida Building Code and the Florida Fire Prevention Code. The University President is authorized to submit documents to the Board of Governors or Department of Education, as appropriate, and to award contracts subsequent to and consistent with Board approval of the scope, timeframes, funding source, and budget of a survey-recommended project.

(28) To approve the establishment of an educational research center for child development in accordance with the provisions of s. 1011.48, F.S.

(29) To exercise the authority and duties presently delegated by the UNF Board of Trustees to the President in accordance with University regulations, policies and conditions contained in the UNF Board of Trustees written delegations of authority, including:

(a) Approving travel under Section 112.061, F.S.

(b) Taking routine administrative actions on behalf of the University of North Florida Board of Trustees actions related to the development, adoption, amendment or repeal of University regulations, or any action required under the Florida Administrative Procedures Act, Chapter 120, F.S. This authority does not include the final approval of University regulations.

(c) Closing all or portions of the University campus and cease normal operations and services in the event of an emergency, when, in the president's judgment, such action would protect the safety, health and welfare of the University faculty, students and staff, and the University facilities and grounds. In exercising this authority, the president is authorized to determine and assign those employees who are required to provide essential services.

(d) In accordance with the provisions of s. 1013.48, F.S., approving change orders in the name of the UNF Board of Trustees for amounts not exceeding \$100,000 in accordance with the provisions of the UNF Board of Trustees delegation of authority approved January 26, 2006. All such approvals shall be for the purpose of expediting the work in progress and shall be exercised in accordance with the University President's further delegation of change order approval authority to the Office of Administration and Finance. Change orders for an amount exceeding \$100,000 may be made by the President or designee after consultation and approval of the chair of the Finance and Audit Committee. Change orders exceeding \$1 million require the prior approval of the Finance and Audit Committee. All change orders shall be reported to the Board and entered in to the official minutes as soon as practicable at a regular meeting of the Board.

- (e) Employing private attorney services pursuant to s. 287.059, F.S.
- (f) Entering into agreements for and accept credit card payments as compensation for goods, services, tuition and fees pursuant to s. 1001.74(24), F.S.
- (g) Securing comprehensive general liability insurance pursuant to ss. 1001.74(17) and 1004.24, F.S.
- (i) Providing for the payment of the cost of civil actions against officers, employees or agents of the UNF Board of Trustees pursuant to s. 1012.965, F.S.
- (j) Entering into articulation agreements pursuant to s. 1007.22, F.S.
- (k) Employing the services of collection agencies when deemed advisable in collecting delinquent accounts and to charge off and settle accounts for amounts not exceeding \$10,000 when uncollectible pursuant to s. 1010.03, F.S. and in accordance with the provisions of the UNF Board of Trustees delegation of authority approved January 26, 2006. The President will annually report the status of accounts receivable charge-offs to the Board.
- (l) Initiating and settling lawsuits and claims and appealing adverse rulings in accordance with the provisions of the UNF Board of Trustees Delegation of Authority approved June 20, 2006 when doing so would be in the best interests of the University.
 1. For claims up to \$100,000, the President or designee may take action.
 2. For claims greater than \$100,000, but less than \$250,000, the President or designee may take action after consultation with the Chair of the Finance and Audit Committee or the Chair of the Board of Trustees, as appropriate.
 3. For claims above \$250,000, the President will consult with and seek the approval of the members of the Finance and Audit committee. The President or designee shall report all actions above \$250,000 to the full Board.
- (m) Preparing a capital outlay budget as a part of the annual budget, based upon and in harmony with the University's capital outlay plan for approval by the UNF Board of Trustees. This budget shall designate the proposed capital outlay expenditures by project for the year from all fund sources in accordance with s. 1013.62, F.S.
- (n) Administering a program for the maintenance and construction of facilities pursuant to Chapter 1013, F.S.
- (o) Further delegating to divisional vice presidents and other appropriate University personnel the authority as described herein so long as such delegation is in writing, specifies whether the authority can be further delegated, and the conditions for same, and a copy of such delegation is filed in the Office of the General Counsel.

USF

**OPERATING PROCEDURES OF
THE UNIVERSITY OF SOUTH FLORIDA
BOARD OF TRUSTEES**

**ARTICLE I
ORGANIZATION**

A. Legal Status of Board of Trustees

The University of South Florida Board of Trustees ("Board of Trustees") is established as a body corporate, with all powers of a body corporate as provided by Florida law. The Board of Trustees is a corporation primarily acting as an instrumentality or agency of the state, pursuant to Florida Statutes §768.28(2), for purposes of sovereign immunity.

B. Members

The Board of Trustees shall be composed of thirteen persons, six members appointed by the Governor of the State of Florida and five members appointed by the Board of Governors. The other two members shall be the President of a University of South Florida Student Government Association and the President of the University of South Florida Faculty Senate.

Board of Trustees' members who are appointed by the Governor and Board of Governors shall be appointed for staggered 5-year terms.

Members may be reappointed for additional terms not to exceed ten (10) years of service. The President of a University of South Florida Student Government Association will serve a one-year (1) term, unless re-elected by the respective constituents and the President of the Faculty Senate will serve concurrent with the term of the President under the Faculty Senate bylaws.

Members of the Board of Trustees shall not serve on any other Board of the University system or its Direct Support Organizations during their appointed term(s). This does not apply to the president of the student body member and the faculty senate member of the Board, and does not include organizations of Boards with which the University has an affiliation agreement.

Members of the Board of Trustees shall serve without compensation but may be reimbursed for travel and per diem expenses in accordance with state law.

C. Officers

The officers of the Board of Trustees are the Chairperson, Vice-Chairperson and the Corporate Secretary. The Chairperson and Vice-Chairperson shall be elected by the Board of Trustees at its first regular meeting after July 1 and shall each

serve two-year terms to begin immediately upon election. The Chairperson and Vice-Chairperson shall be eligible for election for one additional consecutive term. The University President shall serve as Corporate Secretary of the Board of Trustees.

The officers shall have the following responsibilities:

1. Chairperson

a. The Chairperson serves as Chairperson of the Executive Committee, appoints the members thereof, serves as an ex officio voting member of all University Strategic Priority Workgroups, Standing Committees and Ad Hoc Committees of the Board, and appoints members thereof.

b. The Chairperson shall preside at all meetings of the Board of Trustees, call special meetings of the Board when necessary, and attest to actions of the Board.

2. Vice-Chairperson

The Vice-Chairperson shall act as Chairperson during the absence or disability of the Chairperson and, in that event, shall perform those duties of the Chairperson described hereinabove.

3. Corporate Secretary

a. The University President, as Corporate Secretary, shall be responsible to the Board for all operations and administration of the University system and for setting the agenda for meetings of the Board in consultation with the Chairperson. During the absence or disability of the University President, the Provost and Vice President for Academic Affairs will function as Corporate Secretary.

b. The President shall serve as the official contact between the Board and the faculty, staff, students and support organizations of the University system. The President shall exercise such powers as are appropriate to his/her position in promoting, supporting and protecting the interests of the University and in managing and directing its affairs. The President may issue directives and executive orders not in contravention of existing Board policies. The President shall be responsible for all educational, financial, business and administrative functions of the University, consistent with University policy, and shall exercise such other powers, duties and responsibilities as are delegated or established by the

Board. The President shall appoint the Director of Board Operations as Assistant Corporate Secretary to the Board.

D. Board of Trustees

The Board of Trustees shall be responsible for cost-effective policy decisions, implementing and maintaining high-quality education programs consistent with the university's mission, measuring University performance and providing input regarding compliance with state policy, budgeting and education standards. The Board of Trustees sets policy for the university and serves as its legal owner and final authority. As the "body corporate" for the university system, the Board holds the university's financial, physical and human assets and operations in trust and is responsible for efficient and effective use of resources. It must ensure the performance of all duties assigned by law and rules of the Florida Board of Governors. The Board may adopt rules and policies consistent with the university's mission, with law, and with rules of the Florida Board of Governors. Board members will establish policy and assess the implementation of Board policies. The specific statutory powers and duties of the Board are enumerated in Article 9, Section 7 of the Florida Constitution, Florida Statutes 1001.71, 1001.72, 1001.73, 1001.74.

ARTICLE II MEETINGS OF THE BOARD OF TRUSTEES

A. Regular Meetings – The Board will meet no fewer than four times per fiscal year, at a time and place designated by the Chairperson. Meetings of the Board are open to the public and all official acts will be taken at public meetings. The schedule of meetings is available on the University of South Florida website at <http://www.usf.edu>.

B. Special Meetings – The Board will meet in special meetings, including hearings and workshops, at such times and places designated by the Chairperson.

C. Emergency Meetings – An emergency meeting of the Board may be called by the Chairperson of the Board upon such notice as is fair under the circumstances whenever, in the opinion of the Chairperson, an issue requires immediate Board action. Whenever such emergency meeting is called, the Chairperson will notify the Corporate Secretary. The Corporate Secretary will immediately serve either verbal or written notice upon each member of the Board, stating the date, hour and place of the meeting and the purpose for which the meeting has been called. No other business will be transacted at the meeting unless additional emergency matters are agreed to by a majority of those Board members in attendance. The minutes of each emergency meeting will show the manner and method by which notice of such emergency meeting was given to each member of the Board.



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**OFFICE OF THE
GENERAL COUNSEL:**

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**University of South Florida Regulation
Regulation Number: 6C4-4.01203**

SUBJECT: APPROVAL LEASING

(1) General. Before leasing a building or any part thereof for other than nominal or no consideration, the University Space Committee shall certify the need for each space. Occupancy, lease terms and conditions shall be reviewed by the University Attorney and approved by the University President or a designee. **The University President or a designee shall execute all leases for less than 21 days or for nominal consideration or no consideration. All other lease agreements shall be executed by the Chancellor or a designee.**

(2) Nothing in Rules 6C4-4.012-6C4-4.01217 shall be interpreted as circumventing the provisions of Section 255.21, Florida Statutes.

Specific Authority 120.53(1)(a), 240.227(1), 255.249 (2) FS. Law Implemented 240.255, 240.227(1), (17), 255.25, 255.249(3) FS. History-New 6-4-80, Formerly 6C4-4.1203

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capabilities of USF in conjunction with area businesses. The second issue was implementing a hospitality program with local businesses. The third issue was the creation of a multi-year plan to ensure that shared facilities are secured.

New Business

Academic/Student Issues

AS 101 – Approval of University Process for Master's and bachelor's Program Proposal Approval

Dr. Kathleen Moore represented Provost David Stamps on this issue. Dr. Moore reviewed the internal process which provides for preparation of new degree programs by faculty groups and review by colleges. Reports are then submitted to the Provost for approval. A motion was made to accept AS 101. Motion seconded and passed.

Financial and Legal Issues

FL 101 – Approval of Presidential Authority for Initiating and Settling Lawsuits F.S. 229.008(2)

R. B. Friedlander, General Counsel, reviewed the process for review and promulgation of rules. Trustee Arnold requested that Board members be notified when a party brings a lawsuit against USF and when USF initiates a lawsuit. Friedlander agreed to notify Trustees accordingly. Trustee Burton asked if when a contract was created (between USF and an outside party) would the Board become a party to the contract. Friedlander responded, yes. Trustee Law noted that notice of lawsuits is important, and asked whether the Board should look at settlement proposals. Trustee Mack thought that the President (Genshaft) should determine when the Board needed to be notified of settlements. Trustee Burton asked whether there should be a dollar amount at which point the Board would be notified. Friedlander stated that she would like to have as much flexibility for the President as possible and suggested a limit of \$100,000 to \$150,000 as a settlement limit without Board action. After discussion, the Board upon motion and seconded, **voted to approve the President's settlement authority with no dollar limits, conditioned on notification of suits and settlement to the Board.**

New/Revised Rules (F.S. 120.54 (3)(a))

FL 102 – Approval Rule Change – Health Insurance for International Students and Research Scholars. Rule 6C4-6.0162

USF Board of Trustees

December 6, 2001

Issue: Initiating and settling lawsuits on behalf of the Board of Trustees.

Proposed action: Authorize the President/designee to initiate and settle lawsuits up to a determined dollar amount.

Background information: Pursuant to Florida Statutes section 229.008(2) the Board of Trustees has the power "to sue and be sued, to plead and be impleaded in all courts of law or equity." Therefore, there may be times when the University must file a lawsuit against another party (example: for breach of a contract) and such action must be filed within the applicable statute of limitations. Also, there may be times when the University is a party to a lawsuit (as a defendant or plaintiff) and there is the opportunity to settle the lawsuit; the University must be able to act quickly to respond to such an opportunity.

The Board of Trustees may delegate to the President/designee, as Secretary of the Board of Trustees, the authority to initiate or settle lawsuits to allow the University to operate efficiently and meet any applicable deadlines.

Supporting documentation: None

Prepared by: R.B. Friedlander
813-974-2131

UWF

UWF Board of Trustees Meeting
Executive Committee
March 20, 2007

Issue: Delegation of Authority to President to Operate the University

Proposed action: Approve

Background information:

On February 28, 2007, in a case filed by Floridians for Constitutional Integrity, Inc. against the State Board of Education and the Board of Governors, the judge declared 10 Florida statutes unconstitutional. One of the statutes declared unconstitutional was section 1001.75, Florida Statutes which provides powers and duties of university presidents. The Board of Trustees has the authority, as is explained below, to delegate authority to the University President to operate and administer the University.

The Board of Governors has constitutional authority over the state universities through the state constitution. By resolution dated January 7, 2003, the Board of Governors delegated to the Boards of Trustees of each university the authority to govern the university in accordance with law and the rules/regulations of the Board of Governors. The University West Florida Board of Trustees has delegated various specific duties and powers to the President of the University from time to time to augment those authorities provided to the President through section 1001.75, F.S. There has been no express broad delegation of authority from the Board of Trustees to the University President to operate the University. In the absence of section 1001.75, Florida Statutes, such delegation is now necessary.

Therefore, the following language, delegating such authority to the University of West Florida President is proposed:

The University of West Florida Board of Trustees hereby delegates to the President of the University of West Florida the authority to operate and administer the University in accordance with applicable law, and with the resolutions, regulations, and policies of the Board of Governors and of the University of West Florida Board of Trustees.

Recommendation: Approve delegation of authority to President to operate and administer the University

Implementation Plan: N/A

Fiscal Implications: N/A

Supporting documents: None

Prepared by: Anita Schonberger, General Counsel, 850 474-3420, aschonberger@uwf.edu

Facilitator/Presenter: Anita Schonberger

→ Approved per AS

**University of West Florida Regulations
UWF/REG-6.0058 Contracts.**

- (1) Contracts for commodities or contractual services or licenses shall consist of a purchase order or bilateral agreement signed by the University officials designated by Presidential authority prior to the goods or services being rendered by the contractor.
- (2) Any contract for the purchase of services or tangible personal property for a period in excess of one fiscal year shall include the following statement: "The State of Florida's and University's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature."
- (3) Extension of a contract without an expressed renewal option shall be in writing, shall be signed by both parties, and shall be subject to the approval of the Chief Procurement Officer and shall be subject to the same terms and conditions set forth in the initial contract.
- (4) A contract may contain provisions for renewal. The total value of the contract shall be the sum of the purchase price for the initial term plus all renewal costs. All contract renewals are subject to sufficient annual appropriations and a renewal shall be signed by both parties prior to the expiration of the initial contract.
- (5) The University may enter into deferred payment agreements utilizing the State of Florida Controller's Consolidated Equipment Financing Program or other financing program when deemed in the best interest of the University.
- (6) In order to promote cost-effective procurement of commodities, contractual services or licenses the University has the authority to enter into contracts that limit the liability of a vendor consistent with Section 672.719, F.S.
- (7) All bilateral agreements for services shall be written and:
 - (a) Provide dates of services;
 - (b) Provide payment terms;
 - (c) Indicate the University's ability to unilaterally cancel the contract;
 - (d) Provide renewal terms, if any;
 - (e) Reference the Travel statute in Chapter 112, F.S., if applicable;
 - (f) Provide units of deliverables;
 - (g) Require contractor to submit invoices in sufficient detail to allow for a proper pre-audit and post-audit;
 - (h) Provide that the University does not indemnify any person, party or entity; and
 - (i) Contain the signature of the President or designee and contractor.
- (8) In lieu of a written bilateral agreement for services, when the relationship of the parties is not complex and thereby necessitating a detailed contract, the University has the option to issue a purchase order that includes the above items (a)-(h).

Specific Authority 1001.74(4) FS. Law Implemented 1001.75(5), 1010.04(2) FS. History--New 9-23-03. Formerly 6C6-6.0058. Converted to UWF/REG 6.0058 - 7/21/05. Amended 1/5/07.

UWF Board of Trustees
May 16, 2003

Issue: Authority for UWF president, or designee, to settle claims and lawsuits and initiate lawsuits on behalf of the Board

Proposed action: Approve

Background information:

Occasionally settlement offers can be made or received regarding the settlement of claims or lawsuits; such offers need to be made or responded to in a timely manner. The schedule for the Board of Trustees meetings usually is such that these offers cannot be brought to the Board in a timely manner, thus requiring an emergency meeting of the Board or a meeting of the Executive Committee, thereby slowing the process and, perhaps, hindering the ability to settle the legal issue. By giving authority to the president to settle lawsuits and claims, the speed and integrity of negotiations are preserved, and legal issues can be settled more quickly.

Similarly, there may be times in which the university must file a lawsuit on behalf of the Board in order to protect the interests of the university. The university needs to be able to act in a timely manner on these matters as well as there may be problems with the statutes of limitations running on a claim.

While the Board of Trustees as the governing body has full authority in these matters, it also has authority to delegate responsibility for settling legal issues and initiating lawsuits. The president's responsibility would be to inform the board of all settlements entered into on behalf of the university and of all lawsuits filed on behalf of the university.

Supporting documentation: None

Prepared by: Gina Delulio
850-474-3420

It passed unanimously.

9. **Approve Delegation of authority to president to settle lawsuits.** A motion for this item was made and approved at the May 16, 2003 meeting. No changes occurred at this meeting.

Motion Clark

Second Hess Herrick

It passed unanimously.

10. Discuss naming opportunities and guidelines on the level of giving.

Executive Committee

Approve Presidential evaluation. Chair Merrill informed the board that due to university budget cuts that President Cavanaugh declined his raise.

Motion Clark

Second Morgan

It passed unanimously.

Governmental Relations

Chair Travis Bowden addressed the BOT expressing his appreciation for Janice Perkins-Gilley's work in Tallahassee on the universities behalf. Perkins-Gilley, Director of Government Relations briefed the BOT on legislative issues and said that among lobbyists as well as legislators, it was agreed this was the worst legislative session ever before. She said, although, our budget cuts were not as bad as anticipated and the IHMC bill is being forwarded to Governor Bush for signing, the universities budget was decreased.

IHMC report was given by Dr. Ken Ford.

Other business

Adopt Resolution 2003-7 honoring Dr. Parks Dimsdale's achievements & services.

Adopt Resolution 2003-8 honoring Dr. Klaus J. Meyer-Arendt for service to the BOT.

Adjournment occurred at 5:07 p.m.