

THE UNIVERSITY OF WEST FLORIDA
NOTICE OF PROPOSED EMERGENCY AMENDMENT TO REGULATION

DATE: September 1, 2020

REGULATION TITLE AND NUMBER: UWF REGULATION 6.0055 - *Procurement Actions Not Subject to Competitive Solicitation Process*.

PURPOSE AND EFFECT: On July 23, 2020, the SUS Board of Governors updated BOG 18.001 - *Procurement*. Substantive revisions and updates to UWF Regulation 6.0055 - *Procurement Actions Not Subject to Competitive Solicitation Process* are proposed to comply with the recent amendments.

SUMMARY: The proposed amendments to this regulation are as follows:

Article III

- Added the following to “auditing services” in (7)(d): “including those services needed to address audit, financial, and fraud-related compliance, controls, and investigative matters, or such other related services.
- Corrected punctuation in (7)(e).
- Deleted (7)(w): “Programs, conferences or events that have been specified by a grant, can include, but not limited to items such as lodging, meeting rooms, services and food.”

History Section

- Will be updated to reflect applicable changes.

AUTHORITY TO AMEND THE REGULATION: Article IX of the Florida Constitution; Fla. Stat. § 1010.04(2); Florida Board of Governors Regulation 18.001.

NAME OF UNIVERSITY OFFICIAL INITIATING PROPOSED EMERGENCY REGULATION AMENDMENT: Betsy Bowers, Vice President for Finance and Administration.

COMMENTS CONCERNING THE PROPOSED REGULATION AMENDMENT SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. In response, the University may solicit additional written comments, schedule a public hearing, withdraw or modify the proposed regulation amendment in whole or in part after notice, or proceed with adopting the regulation amendment. The comments must identify the regulation(s) on which you are commenting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED EMERGENCY AMENDMENT TO THE REGULATION OR CHALLENGE: Pamela E. Langham, Esquire, General Counsel, Office of the General Counsel at plangham@uwf.edu or grozier@uwf.edu, or 850-474-3420 or Office of the General Counsel, Building 10, 11000 University Parkway, Pensacola, Florida 32514.

THE FULL TEXT OF THE REGULATION: The full text of the proposed amendment to the regulation is attached below this Notice. The full text of the proposed amendment and existing regulation is also posted on UWF's website:

<https://uwf.edu/offices/board-of-trustees/regulations/>

In addition, the full text of the proposed emergency amendment to the regulation and current regulation are available upon request to the Office of the General Counsel, which can be contacted at 1.850.474.3420 or grozier@uwf.edu



Regulations

Number: UWF/REG – 6.0055
Title: Procurement Actions Not Subject to Competitive Solicitation Process

I. Statement of Regulation

In order to meet the University of West Florida's mission, Procurement and Contracts administers and provides management and oversight of the competitive solicitation requirements and contracting process necessary to acquire quality commodities and contractual services that is free from favoritism, promotes fair and open competition, and preserves the integrity of public purchasing and contracting. Responsible Purchasing officials shall be protected from improper pressures of external political or business interests while carrying out their duties. Procurement and Contracts administers and provides management and oversight for this UWF Regulation.

II. Authority

In accordance with Florida Board of Governors Regulations 1.001 and 18.001, the following Regulation applies to all University offices, departments, divisions, institutes and centers.

III. Procurement Actions Not Subject to the Competitive Solicitation Process

- A. All procurement actions are subject to the competitive solicitation requirements in accordance with Florida Board of Governors Regulations 1.001, 18.001 and UWF Regulation 6.0054, except the following:
1. Emergency Purchases. When the President or designee determines in writing, that the delay due to the competitive solicitation process poses an immediate danger to the public health or safety or the welfare of the University, the University may proceed with the procurement of commodities or contractual services without a competitive solicitation.
 2. Sole Source Purchases. Commodities or contractual services available from a single source shall be exempted from the competitive solicitation process. The sole source exemption form will be publicly posted in accordance with Florida Board of Governor's Regulation 18.002.
 3. Purchases from contracts and negotiated annual price agreements established by the State of Florida, other governmental entities, other universities in the State University System, or other independent colleges and universities and that are entered into after a public and open competitive solicitation are not subject to further competitive solicitation when it is determined to be cost-effective and in the best interest of the University.

4. Construction Direct Purchase Program. Commodities to be incorporated into any public work, 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.
5. Extension of a contract, entered into as a result of a competitive solicitation, shall be for a period not to exceed 12 months or until completion of the competitive solicitation and award or protest, whichever is longer, shall be in writing, shall be signed by both parties prior to the expiration date, and shall be subject to the same terms and conditions set forth in the initial contract. There shall be only one extension of a contract permitted.
6. A contract may be renewed if the commodity or contractual service is purchased as a result of a competitive solicitation, for a period that may not exceed 5 years or twice the term of the original contract, whichever is longer. The cost of any contemplated renewal must be included in the competitive solicitation. 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.
7. Types of commodities and contractual services that are not subject to the competitive solicitation process include:
 - (a) Artistic services;
 - (b) Academic reviews;
 - (c) Lectures;
 - (d) Auditing services, including those services needed to address audit, financial, and fraud-related compliance, controls, and investigative matters, or such other related services;
 - (e) Legal services, including attorney, paralegal, expert witness, appraisal, arbitrator or mediator services;
 - (f) 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, wheelchairs and other related equipment and supplies, provided they 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;
 - (g) 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;
 - (h) 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;
 - (i) Family placement services;
 - (j) Training and education services;
 - (k) Advertising; except for media placement services;

Deleted: .

- (l) Services or commodities provided by governmental agencies, another University in the State University System, direct support organizations of the university, political subdivisions or other independent colleges and universities;
- (m) Programs, conferences, workshops, continuing education events or other university programs that are offered to the general public for which fees are collected to pay all expenses associated with the event or program;
- (n) Purchases from firms or individuals that are prescribed by state or federal law or specified by a granting agency;
- (o) Regulated utilities and government franchised services;
- (p) Regulated public communications, except long distance telecommunication services or facilities;
- (q) Purchases from an Annual Certification List developed by the University.
- (r) Purchases for resale;
- (s) Accounting services;
- (t) Contracts or services provided by not-for-profit support and affiliate organizations of the University, direct support organizations, health support organizations and faculty practice plans;
- (u) Implementation/programming/training services available from owner of copyrighted software or its contracted vendor; or
- (v) Purchases of materials, supplies, equipment, or services for instructional or research purposes when a 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 in accordance with sponsored research procedures or to attain the instructional objective;
- (aa) Any other goods or services exempted by Florida Board of Governors Regulation 18.001.

Deleted: Programs, conferences or events that have been specified by a grant, can include, but not limited to items such as lodging, meeting rooms, services and food;

Authority BOG Regulations [14.007](#); 18.001.

History: New 9-23-03. Formerly 6C6-6.0055. Converted to UWF/REG 6.0055 - 7/21/05. Amended 1/5/07, 12/10/10, 6/13/14, 6/29/2017; Amended June 2019, [September 2020](#).