

UNIVERSITY OF WEST FLORIDA

**NOTICE OF PROPOSED AMENDMENT TO REGULATION
UWF/REG 6.0054**

REGULATION TITLE: UWF/REG 6.0054-Competitive Solicitation Requirements

PURPOSE AND EFFECT: The purpose and effect of the regulation amendment is to establish proper protocol for filing a bid protest and outlining the process through which a bid dispute is heard and resolved.

SUMMARY: The proposed amendment revises the regulation in order to conform to Florida Board of Governors' Regulation 18.002.

AUTHORITY: Florida Board of Governors Resolution dated January 7, 2003; Florida Board of Governors Regulation Development Procedure 7/21/05; Florida Board of Governor's Regulation 18.002; Section 1001.74, Florida Statutes.

NAME OF UNIVERSITY OFFICIAL INITIATING PROPOSED REGULATION AMENDMENT: Dave O'Brien, Associate Vice President, Public Safety and Management Services.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS: James Felder, Assistant General Counsel, jfelder@uwf.edu, Phone (850) 474-3420; FAX (850) 857-6058; Bld. 10/Rm 128; 11000 University Parkway; Pensacola, FL 32514-5750. Any comments regarding the proposed regulation amendment must be sent in writing to the contact person on or before November 24, 2008 to receive full consideration.

THE DATE THIS NOTICE WAS POSTED ON THE UWF BOARD OF TRUSTEES WEBSITE:
November 10, 2008

THE FULL TEXT OF THE PROPOSED AMENDMENT TO THIS REGULATION IS SET FORTH BELOW:

University of West Florida Regulations

UWF/REG-6.0054 Competitive Solicitation Requirements.

- (1) All contracts for the purchase of commodities or contractual services exceeding \$50,000 shall be awarded pursuant to a competitive solicitation, unless otherwise authorized herein.
- (2) 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 is in the best interest of the University. If it is determined that a second call would not be in the best interest of the University, the University will proceed with the acquisition.
- (3) When multiple responses that are equal in all respects are received to a competitive solicitation, the University may give preference to responses that include commodities manufactured in the state, Florida businesses, businesses with a drug-free workplace program, or foreign manufacturers located in the state. If these conditions do not exist or are equivalent between two or more responses, the award will be based on the toss of a coin.
- (4) The purchase of commodities and contractual services shall not be divided with the intent to avoid the requirement of competitive solicitation.
- (5) The notice of intent to award shall be publicly posted in accordance with Section 120.57(3), F.S., by the Procurement ~~and Contracts Services~~ Department for 72 hours prior to award. This is interpreted as three working days excepting Saturdays, Sundays, or State holidays. ~~Any person who is adversely affected by the University's decision or intended decision may file a written notice of protest with the Procurement Services Department, provided such is done in accordance with Florida law.~~
- (6) Responses to competitive solicitations shall remain confidential in accordance with Chapter 119 F.S.
- (7) As a general rule, in the case of extension errors, the unit price will prevail. However, the University reserves the right to disqualify bid responses for lack of clarity.
- (8) Modifications to bid or proposal response. A bidder or respondent may amend its bid or proposal, including revocation, in writing up until the due date and time of responses.
- (9) Withdrawal of bid or proposal response. A bidder or respondent may revoke its bid or proposal in writing up until the due date and time of responses.
- (10) Withdrawal of solicitation by bidders after the opening. Should a bidder withdraw its bid after bid opening, the University reserves the right to collect on the vendor or contractor's bid bond.
- 11) Protests. Any qualified bidder who is adversely affected by the University's decision or intended decision regarding a competitive solicitation may file a written Notice of Protest with the Procurement and Contracts Department within 72 hours after the electronic posting of award or notice of intent to award, provided the contract has not been fully executed. The Notice of Protest must be received before the expiration of the 72 hour period. Notices of Protest filed after the 72 hour period will be rejected.
- 12) Formal Written Protest. The protesting party must reduce its protest to a written petition and file it with the President of the University or designee within ten calendar (10) days of the filing of the Notice of Protest. Formal written protests not filed within this 10 day period will be rejected. The formal written petition must state with specificity the grounds upon which the protest is based and also the action requested to be taken. If the competitive solicitation documents require the posting of a bond with the protest, the bond shall be included with the protest. Noncompliance with this regulation, in whole or in part, shall be deemed to be a waiver by the protesting party of its rights under this regulation.
- 13) Upon receipt of the formal written petition filed in accordance with this regulation, the President or designee shall delay the execution of the contract until the protest is resolved by mutual agreement between the parties or by final presidential action, unless the President shall make a finding and declares that such delay would cause serious danger to the public health, safety or welfare.
- 14) Quasi-Judicial Hearing. If the protest involves a disputed issue of material fact, and the protesting party requests a hearing, the matter will be referred for a quasi-judicial hearing. At the conclusion of the hearing, the presiding officer shall submit a written recommended order to the President of the University. The President shall then issue a preliminary order for final action and notify the protesting party of such order. The preliminary order of the President shall be final, unless the protesting party takes exception to such order; in which event, the protesting party may file with the President such exceptions within twenty-one (21) days of receipt of notice of the preliminary order. At the end of the period for filing exceptions, the President will review the preliminary order and any exceptions that have been filed, and will render the final order. The decision of the President is final. Appellate review of the final order shall be in accordance with the requirements of Rule 9.190(b)(3), Florida Rules of Appellate Procedure.