

NOTICE OF PROPOSED REGULATION AMENDMENT
October 27, 2006

DEPARTMENT OF EDUCATION
Division of Universities
University of West Florida
REGULATION TITLE:

UWF REG 6.002 Leasing Program

PURPOSE AND EFFECT: The purpose of the amendment to this regulation is to update the legal citations in the regulation.

SUMMARY: The proposed amendment updates the legal authority.

THE FULL TEXT OF THE PROPOSED REGULATION IS ATTACHED.

SPECIFIC AUTHORITY FOR REGULATION: 1001.74, 1001.75 FS.

LAW IMPLEMENTED: 255.248, 255.249, 255.25 FS.

NAME OF UNIVERSITY OFFICIAL INITIATING PROPOSED REGULATION: Mr. David O'Brien, Assistant Vice President for Administrative Affairs.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS: Vicki Knaack, Coordinator, vknaack@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 must be sent in writing to the contact person on or before November 10, 2006 to receive full consideration.

**University of West Florida Regulations
UWF/REG-6.002 Leasing Program.**

(1) Purposes – The purpose of this rule is to implement the delegated leasing authority received by The University of West Florida in accordance with Section ~~240.225, F.S., with respect to those functions and duties heretofore performed by the Department of General Services in accordance with Sections 255.248, 255.249, and 255.25~~ 1001.74 and 1001.75, F.S.

(2) Definitions – For the purpose of this rule, each of these words shall have the following meaning:

(a) Lease – The contract instrument or agreement required to lease a building or any part thereof.

(b) Privately Owned – Any building not owned by a governmental agency.

(3) Approval – Before leasing a building or any part thereof, prior approval of the need shall be obtained from The Vice President for Administrative Affairs. Prior to occupancy, lease terms and conditions shall be executed by the Attorney. All lease agreements shall be executed by the President or a designee.

(4) Standard Lease Agreement Form – The Department of General Services Standard Lease Agreement form may be used. If another format is used, such form should embrace the terms and conditions of the Department of General Services Standard Lease Agreement. Provisions of the Department of General Services Standard Lease Agreement may be changed or additional covenants or conditions added thereto with the prior approval of The University of West Florida Attorney. Articles III (2) and VI of the General Services Standard Lease Agreement may be deleted without attorney approval.

(5) Escalation Clauses Prohibited – A lease shall not contain an open rate, such as Consumer Price Index or rental escalation clause. Any such clause in a lease shall be null and void and unenforceable.

(6) Right-to-Terminate Clause Required – A right-to-terminate clause shall be a part of any lease for a term exceeding one year and may not be omitted from any lease.

(7) Renewal of Leases – Any lease may contain an option to renew and any such renewal shall be made according to the terms and conditions of such agreement.

(8) Fire Code Compliance in Leased Space.

(a) Any private sector building to be leased shall comply with the fire safety standards of the State Building Code.

(b) Before construction or renovation of any state-lease building is commenced, the proposed construction or renovation plan shall comply with the fire safety standards of the State Building Code. This responsibility may be delegated to any ex-officio agent of the State Fire Marshal.

(c) Whenever it is determined that a construction or renovation plan is not in compliance with such fire safety standards, an order may be issued to cease all construction or renovation activities until compliance is obtained, except those activities required to achieve such compliance.

(d) Approval of any proposed lease shall be withheld until the facility and/or construction or renovation plan complies with fire safety standards.

(e) The cost of all modifications or renovations made for the purpose of bringing lease property into compliance with the fire safety standards shall be borne by the lessor.

(9) Leases of 2,000 Square Feet or More.

(a) The University of West Florida shall not enter into a lease for 2,000 square feet or more of space in a privately owned building except upon advertisement for and receipt of competitive bids and award to the lowest bid meeting specifications. More than one lease shall not be entered into, within any 12 month period, for space of a total of 2,000 square feet or more in a privately owned facility or complex except upon the solicitation of competitive bids. Exceptions.

1. This rule shall not apply to renewal of leases.

2. This rule shall not apply to any lease having a term of less than 21 consecutive days for the purpose of securing the one-time special use of the leased property.

3. This rule shall not apply to any lease for nominal or no consideration. As used herein, "nominal consideration" means consideration for \$1.00 or less per year.

4. This rule shall not apply to building or facilities of any size leased for the purpose of providing care and living space for persons.

5. Extensions of an existing lease of 2,000 square feet or more space may be approved if such extensions are determined to be in the best interest of the State, but in no case shall the total of such extensions exceed 11 months. If at the end of the period granted by the extension(s), the time of such extension(s) equal(s) 11 months, competitive bids shall be solicited in accordance with this chapter.

6. This rule shall not apply for specialized educational facilities excluding classrooms, provided the President or Vice President for Administrative Affairs certifies in writing that the space is available only from a single source. The certification and documentation determining the sole source status shall be filed with the official records of the University of West Florida.

(b) A lease agreement for space of 2,000 square feet or more in a privately owned building shall not be entered into when suitable space is available in a state-owned building located in the same geographic region unless it is determined to be in the best interest of the State. The term "state-owned building" as used in this section means any state-owned facility regardless of use or control.

(c) Solicitation.

1. A public solicitation for proposals will be widely publicized using newspaper advertisements and contact with owners, developers or realtors in the city or area in which space is desired.

2. Solicitation should set forth, but not be limited to the following:

a. Approximate net square footage required.

b. General area in which space must be located.

c. Date space must be available.

d. Name and address of location where specifications may be obtained.

(d) Specifications.

1. Specifications shall be drawn in general terms. They shall afford each prospective lessor interested in submitting a proposal, knowledge of the user's space requirements. They shall not be structured to favor any specific location or lessor.

2. Specifications provided to each prospective lessor should set forth, but not be limited to, the following:

a. Approximate net square footage required, to be measured in compliance with the State University System Standard Method of Space Measurement.

b. An approximate floor plan of space needed showing partitioning and other physical requirements.

c. General location of required space.

d. Date space must be available.

e. Term of lease with option to renew, if desired.

f. Services required to include parking, dining and transportation requirements.

3. Specifications shall also set forth that the prospective lessor will agree to:

- a. Enter into a contract on the specified lease agreement form.
 - b. Provide a scaled floor plan showing present configurations and measurements that equate to net rentable square footage offered.
 - c. Comply with the requirement of ~~Chapter 60D-1, F.A.C., any~~ Design Standards for Special Facilities for the Physically Disabled.
 - d. Be an Equal Opportunity Employer.
 - e. Provide Full Disclosure Statements of Ownership.
 - f. Validate the proposal for a minimum of thirty (30) or more days following the public bid opening date.
 - g. Provide a Life Cycle Analysis with proposal if space is for 20,000 or more square feet in any one structure with the understanding that the analysis shall be acceptable before an award can be made. (Section 255.254, F.S.)
 - h. Comply with the fire safety standards of the State Building Code.
 - i. Ensure that any renovations required will comply with safety standards of the State Building Code before renovations are commenced. (Section 255.25(5), F.S.)
 - j. Propose a rental rate per square foot per year that will include all renovations and other special requirements necessary to accommodate the program at the time of initial occupancy.
4. Specifications may provide that sealed proposals are to be submitted, in a titled envelope, to a designated individual by a specified closing time and date, at which time all proposals will be publicly opened.
- (e) Proposals – Each proposal shall be signed by the owner(s), corporate officers, or legal representative(s). The corporate, trade, or partnership name must be either stamped, written or typewritten, beside the actual signature(s). If the proposal is signed by an agent, written evidence of his authority must accompany the proposal. If a corporation foreign to the State of Florida is the owner, evidence of authority to conduct business in Florida shall be presented.
- (f) Evaluation:
1. The University of West Florida alone shall reserve the right to accept or reject any or all bids submitted and if necessary reinitiate procedures for soliciting competitive proposals.
 2. Weighted criteria shall be developed. The criteria items most significant to the user's needs should bear the highest weight. The cost of relocation, if any; consolidation of activities, if desirable; and any other factors deemed necessary should be weighted.
 3. The evaluation shall be made by The University of West Florida.
 4. Selection shall be made by The University of West Florida.
 5. Documentation to support the selection shall be maintained and shall include but not be limited to the following:
 - a. A copy of all advertisements.
 - b. A copy of the proposal specifications.
 - c. A copy of all proposals received.
 - d. A synopsis of the findings for each proposal.
 6. Selection shall be publicly announced.
- (g) Lease preparation and approval – After the selection has been announced, a lease agreement shall be properly executed.
- (h) Disclosure Statements – Private Entities, Public Officials.
1. A Statement by the owner providing for full disclosure of the names and the extent of interest of the owners holding 4% or more interest in any privately owned property leased to the state or in the entity holding title to the property, shall be secured for all new leases, renewal leases, modifications to approved leases and the notification of renewal under an existing lease option.
 2. A statement by the owner providing for full disclosure of the names of all public officials, agents, or employees holding any interest in any privately owned property leased to the state, or in the entity holding title to the property, and the nature and extent of their interest, shall be secured for all new leases, renewal leases, modifications to approved leases, and notifications of renewal under a lease option.
 3. It is not necessary to make disclosure of any beneficial interest which is represented by stock in any corporation registered with the Securities and Exchange Commission or registered pursuant to Chapter 517, F.S., which stock is for sale to the general public. A statement certifying the registration shall be provided by the Lessor.
 4. It is not necessary to make disclosure under subparagraphs (h)1. and 2. of any leasehold interest in property located outside the territorial boundaries of the United States.
 5. Each subsequent transaction pertaining to a lease for which a Disclosure Statement has been provided, may be accompanied by a lessor's affidavit that the previous Disclosure Statement submitted on (date to be provided) is still valid, if no change in the interest held or individuals concerned has occurred.
- (10) Legal Review.

- (a) All leases of space in a privately owned building shall be reviewed as to form and legality by The University of West Florida Attorney or member of the legal staff and approval thereof indicated on the Lease Agreement.
- (b) This rule shall not apply to leases for less than twenty-one (21) consecutive days.
- (11) Certification of Compliance – The President, Vice President for Administrative Affairs, or authorized designee shall certify that the lease is in compliance with all leasing criteria provided by Chapter 255, F.S. The certification shall be filed with the official records of the University of West Florida.
- (12) Space Measurement – The State University System method of space measurement as specified in the HEGIS Facilities Inventory and Classification Manual shall be utilized.
- (13) Space Allocation – Space allocation shall be based on the State University System Space Generation Formula.
- (14) Rental Rates – The rental rates of space shall be established by the University Office of Facilities Planning.
- (15) Exception to Competitive Bidding – Any lease for purposes of providing care and living space for persons shall be exempt from competitive bidding requirements provided the President, Vice President for Administrative Affairs, or authorized designee certifies that the space is to be used for that purpose.
- (16) Nominal or No Consideration Leases – Leases for nominal or no consideration shall be reported to and approved by the Vice President for Administrative Affairs annually.

*Specific Authority ~~240.227(1)~~1001.74, 1001.75 F.S. Law Implemented ~~240.225, 240.227(17)~~, 255.248, 255.249, 255.25 F.S.
History–New 6-30-81, Amended 4-12-84, Formerly 6C6-6.002. Converted to UWF/REG 6.002 - 7/21/05. Amended*
