

**Florida Gulf Coast University Board of Trustees  
April 21, 2009**

**SUBJECT:** Regulation: FGCU-PR6.013 Definitions

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**PROPOSED BOARD ACTION**

Approve revision to University regulation.

**BACKGROUND INFORMATION**

The language in the existing regulation was last modified in 2008. This revision will delete all reference to the Florida Administrative Code. The regulation revision provides clearer definitions for competitive solicitation processes.

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**Supporting Documentation Included:** Notice and Regulation Definitions (FGCU-PR6.013)

**Prepared by:** Director of Procurement Services Maryan Egan

**Legal Review by:** General Counsel Vee Leonard (March 19, 2009)

**Submitted by:** Vice President for Administrative Services and Finance Joe Shepard

# FLORIDA GULF COAST UNIVERSITY

## NOTICE OF REGULATORY ACTION

March 19, 2009

**REGULATION TITLE:**

Definitions

**REGULATION NO.:**

FGCU-PR6.013

**SUMMARY:**

This regulation identifies definitions of terms used in the procurement process.

**FULL TEXT:**

The full text of the regulation being proposed is attached and can also be found at <http://www.fgcu.edu/generalcounsel/promulgation.asp>

**LAW IMPLEMENTED:**

§§273.055, 273.05, 287.09451, 287.057, 288.703(2), 1001.74(2), F.S.

**UNIVERSITY OFFICIAL INITIATING THE PROPOSED REVISED REGULATION:**

Maryan Egan, Director of Procurement Services

**UNIVERSITY OFFICIAL APPROVING THE PROPOSED REGULATION:**

Dr. Joseph Shepard, Vice President for Administrative Services and Finance

**PERSON TO BE CONTACTED REGARDING THE PROPOSED NEW REGULATION:**

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**ANY COMMENTS REGARDING THE PROPOSED NEW REGULATION SHOULD BE SUBMITTED IN WRITING ON OR BEFORE APRIL 3, 2009 BY 5:00 P.M. THE COMMENTS MUST IDENTIFY THE REGULATION ON WHICH YOU ARE COMMENTING.**

**THIS NOTICE WAS POSTED ON THE FGCU WEBSITE ON MARCH 19, 2009.**



## REGULATION: FGCU-PR6.013

Effective  
Date of  
Regulation:

01/15/08

### Definitions

- (1) 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, craft arts, industrial design, costume design, fashion design, web design, motion pictures, television, radio or tape and sound recording or in any other related field.
- (2) Bid – A ~~competitive~~-sealed response to a competitive solicitation received pursuant to the issuance of an Invitation to Bid by a responsive and ~~qualified~~ responsible bidder or offeror.
- (3) Change Order – A University document formalizing the amendment of a purchase order.
- (4) 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 and software to be used pursuant to license agreements shall be considered commodities.
- (5) Competitive Negotiation – The process resulting in the establishment of a contract through deliberation, discussion or conference on the ~~specifications,~~ terms and conditions of a proposed agreement.
- (6) Competitive Solicitation – An Invitation to Bid, Request for Proposal or Invitation to Negotiate to competitively select a contractor ~~with the title, date, and hour of the public solicitation opening designated.~~through a publicly noticed process.
- (7) Contractor/Vendor – A person or firm who contracts to sell commodities or contractual services to the University.
- (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~~ the 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.~~ FGCU regulation PR6.015.
- (14) Invitation to Bid (ITB) – 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 on specific items for a fixed price on defined commodity (ies) through a publicly noticed process.~~ The ITB is used when the University is capable of specifically defining the scope of work for which a contractual service is required or capable of establishing the precise specifications defining the commodities sought. The contract will be awarded to the lowest, responsible and responsive bidder.
- (15) Invitation to Negotiate (ITN) – ~~A written solicitation to define the specifications, terms and conditions of a contract for commodities or contractual services~~ A written solicitation where the scope of work is not specifically defined. The ITN is used when it has been determined by the University, in its sole discretion, that the use of an ITB or RFP will not result in the best value to the University, based on factors including price, quality, design and workmanship. 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 small 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 to a competitive solicitation 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 to a competitive solicitation received from a vendor pursuant to the issuance of an Invitation to Negotiate.
- (26) Request for Proposal (RFP) – A written solicitation for competitive proposals for commodities or contractual services ~~with the title, date, and hour of the public opening designated as part of a publically noticed process.~~ The request for proposal may be used when ~~the scope of work is not clearly defined~~price is not the primary factor. Unlike the ITB process, award need not be to the lowest bidder; rather the award may be given to the responsible bidder whose proposal is determined in writing to be in the best interest of the University, considering the price and other criteria set forth in the RFP.
- (27) Responsive and ~~Qualified-Responsible~~ Bidder or Offeror – A contractor/vendor who has submitted a bid, reply or proposal that conforms in all material respects to a competitive solicitation.
- ~~(27)~~(28) Surplus Property – State owned, tangible personal property which is excess, obsolete, uneconomical, inefficient for continued use or which serves no useful function shall be determined by the surplus property board.
- ~~(28)~~(29) Term Contract – An indefinite quantity contract for the purchase of commodities or contractual services during a prescribed period of time, with a beginning and ending date.

Specific Authority:

§§1001.74(42), 1010.04 FS.

Law Implemented:

§§273.055, 273.05, 287.09451, 287.057, 288.703(2), 1001.74(52) FS.

History of Rule:

New 9-30-99, Amended 7-10-03

History of Regulation:

New 01-15-08, Amended \_\_\_\_\_

Effective Date of Regulation:

~~July 10, 2003~~ \_\_\_\_\_