Issue: Amended USF4.012, *Leasing Regulation*,
Proposed Repealed Regulations: USF 4.01201; 4.01203; 4.01205; 4.01207; 4.01209; 4.01211;
4.01212; 4.01213; 4.01215; 4.01217.

Proposed action: Authorize amendments to Regulation USF4.012, *Leasing Regulation*
Authorize repeal of regulations: USF 4.01201; 4.01203; 4.01205; 4.01207; 4.01209;
4.01211; 4.01212; 4.01213; 4.01215; 4.01217.

Background information:
The Florida Board of Governors Resolution (1/7/03) provides that each board of trustees may adopt
regulations to implement the provisions of law conferring duties upon it. Such regulations must be adopted
pursuant to the Board of Governors Regulation Development Procedure (7/21/05) and must be consistent
with law and the resolutions and strategic plan of the Board of Governors. The BOG Procedure also calls
for a university to monitor the effects of new regulations and periodically review existing regulations to
ensure they are current and consistent.

USF system Vice President & CFO, Business and Finance, conducted a comprehensive review of the USF
system leasing regulations, and proposed amendments to Regulation USF4.012, *Leasing Regulation*,
consolidating the critical sections of proposed repealed regulations (USF4.01201 through 4.01217). The
regulations proposed for repeal were based on practices in place when leases were centrally administered
by the former Board of Regents.

Regulation USF4.012 is amended to comply with the Florida Board of Governors lease authority regulation
(BOG 17.001), which was revised to convey required lease authority to the Boards of Trustees, incorporate
recent changes in the law and eliminate unneeded or duplicative sections of the regulation.

The Finance Management Council reviewed the amended regulation and the regulations for repeal, May

Text of amended USF regulation 4.012 and BOG regulation 17.001 follows in this document: See
attachment: “Leasing Regulations-Brief Explanation,” for a summary chart and links to the repealed
regulations.

Strategic Goal(s) Item Supports: IV
Workgroup Review:
Supporting documentation: USF Regulation 4.012; BOG regulation 17.001, summary chart.

Prepared by OGC and Business and Finance:
University of South Florida system

Regulation: USF4.012- Leasing Regulation

(1) The purpose of this Regulation is to implement the delegated authority received by the USF system in accordance with Section 240.225, Florida Statutes, Board of Governor’s Regulation 17.001 with respect to those functions and duties regarding leasing of space, heretofore performed by the Department of General Services in accordance with Sections 255.248, 255.249, and 255.25, Florida Statutes.

(2) The USF system President or designee may enter into leases for space in a building or any part of a building for use by the USF system or a direct-support organization, including those leases in a research and development park with which the USF system is affiliated. Leases subject to s. 1010.62 F.S. must be approved by the Board of Governors, in accordance with the Board of Governors Debt Management Guidelines.

(3) The USF system may not enter into a lease for 5,000 square feet or more of space in a privately owned building, except upon advertisement for and receipt of competitive bids. The award shall be made to the lowest responsive bidder meeting specifications and shall include the terms and conditions of the bid as submitted.

(4) Exceptions to Competitive Bid Requirements:

(a) Competitive bids shall not be required for renewal of leases as provided in the original lease.

(b) Competitive bids shall not be required for any lease having a term of less than 120 consecutive days which is for the purpose of securing a one-time special use of the leased property.

(c) Competitive bids shall not be required for any lease which is for nominal or no consideration.

(d) Competitive bids shall not be required to extend an existing lease of 5,000 square feet or more space, if the extension is determined to be in the best interest of the USF system and the total of the extension does not exceed 11 months.

(e) Competitive bids shall not be required when leasing educational facilities in a research and development park with which the USF system is affiliated. The Board of Trustees or designee must certify in writing that the leasing of such educational facilities is in the best interests of the USF system and that the exemption from competitive bid requirements is not detrimental to the state, pursuant to s. 1013.17, F.S.
(f) Competitive bids shall not be required when leasing specialized research, medical or educational facilities, if the President or the President’s designee certifies in writing that said facility is available from a single source and that compliance with competitive bid requirements would be detrimental to the USF system.

(5) The measurement of leased space shall be based on the method of measurement used by the State University System for gross square feet as described in the current Physical Facilities Space File.

(6) The USF system shall not enter into a lease for space of 5,000 or more feet in a privately owned building when suitable space is available in a USF system building located in the same geographic region unless it is determined that the lease of non-USF system property is in the best interest of the USF system.

(7) When entering all new leases, renewal leases, modifications to approved leases, and notifications of renewal under a lease option for leases of space of 5000 square or more, USF system shall require disclosure statements from the owners of such property to ensure compliance with Florida Statutes, Chapter 112, Part III. It is not necessary to obtain 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, which stock is for sale to the general public. Disclosure Statements may include:

(a) A statement by the owner providing for full disclosure of the names and the extent of interest of the owners holding an interest in any privately owned property to be leased or in the entity holding title to the property; or

(b) A statement by the owner providing for full disclosure of the names of all public officials, agents, or USF system employees holding interest in any privately owned property leased, to be leased or in the entity holding title to the property, and the nature and extent of their interest.

(8) All leases shall be timely submitted to the Office of the General Counsel for review and approval as to form and legality.
**AUTHORITY:** Art. IX, Sec. 7, Fla. Const. and Resolutions issued by the FL Board of Governors.

Specific Authority 240.227(1), 255.249(2) FS. Law Implemented 240.225, 240.227(1), (17), 255.248, 255.249, 255.25 FS.
BOG 17.001 Lease Authority

(1) The Board of Trustees or designee may enter into leases for space in a building or any part of a building for use by a university or university direct-support organization, including those leases in a research and development park with which the university is affiliated. Leases subject to s. 1010.62 F.S. must be approved by the Board of Governors, in accordance with the Board of Governors Debt Management Guidelines.

(2) No university shall enter into a lease for 5,000 square feet or more of space in a privately owned building, except upon advertisement for and receipt of competitive bids or proposals as determined by the University. In the case of invitations to bid, the award shall be made to the lowest responsible and responsive bidder. In the case of competitive proposals, the award shall be made to the responsive and responsible proposor whose proposal is determined to be the most advantageous to the University, taking into consideration the price and other criteria set forth in the request for proposals. If the University elects to enter into a negotiation with responding proposers, the President or designee must specify why negotiation will assist the University in achieving the best leasing value for the University. “Best Leasing Value” means the highest overall value to the state based on objective factors that include, but are not limited to, rental rate, renewal rate, operational and maintenance costs, tenant-improvement allowance, location, lease term, condition of facility, landlord responsibility, amenities and parking. Cost savings related to the University’s procurement process are not sufficient justification for negotiation.

(a) Exceptions to Competitive Solicitation Requirements:
1. Competitive solicitations shall not be required for renewal of leases as provided in the original lease.
2. Competitive solicitations shall not be required for any lease having a term of less than 120 consecutive days which is for the purpose of securing a one-time special use of the leased property.
3. Competitive solicitations shall not be required for any lease which is for nominal or no consideration.
4. Competitive solicitations shall not be required to extend an existing lease of 5,000 or more square feet, if the extension is determined to be in the best interest of the University and the total of the extension does not exceed 11 months. If at the end of the 11th month the University still needs space, it shall be procured by competitive solicitation. However, if the University determines it is in its best interest to remain in space it currently occupies, the University may negotiate a replacement lease with the landlord if an independent market analysis demonstrates that the lease rates offered are within...
market rates for the space and the cost of the new lease does not exceed the cost of a comparable lease plus documented moving costs. The term of such replacement lease may not exceed the base term of the expiring lease.

5. Competitive solicitations shall not be required when leasing educational facilities in a research and development park with which the university is affiliated. The university board of trustees or designee must certify in writing that the leasing of such educational facilities is in the best interests of the university and that the exemption from competitive bid requirements is not detrimental to the state, pursuant to s. 1013.17, F.S.

6. Competitive solicitations shall not be required when leasing specialized research, medical or educational facilities, if the President or the President's designee certifies in writing that said facility is available from a single source and that compliance with competitive bid requirements would be detrimental to the University.

7. Competitive solicitations shall not be required in an emergency, when leasing space is necessary because an existing state-owned or leased space is destroyed or rendered uninhabitable by an act of God, fire, malicious destruction, or structural failure, or by legal action, upon certification by the President or his designee that other University controlled space is not available and the term of any such lease does not exceed 18 months, provided the University may modify the lease to extend it on month to month basis for up to 6 additional months to allow completion of such construction or renovations.

8. Competitive solicitations shall not be required when leasing facilities in a hospital or other medical facilities, such as a medical office building, with which the University is affiliated.

(3) The measurement of leased space shall be based on the method of measurement used by the State University System for gross square feet as described in the current Physical Facilities Space File. A copy of this document is incorporated in this regulation by reference.

Authority: Section 7(d), Art. IX, Fla. Const., History – Formerly 6C-17.003, 6C-17.009, and 6C-17.012; 6C-17.003 and 6C-17.009, 12-30-79, Amended 8-11-85, 6-5-96; 6C-17.012, 12-30-79, Amended 5-19-80, 8-11-85, 6-5-96; Amended and Renumbered 6-18-09.
<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Action</th>
<th>Brief Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>USF 4.012</td>
<td>Leasing Regulation</td>
<td>Amend</td>
<td>Consolidates content from ten (10) regulations into a single streamlined regulation. Most of the amendments are required by new BOG REG 17.001 (Leasing Authority) issued 6-18-09.</td>
</tr>
<tr>
<td>USF 4.01201</td>
<td>Definitions</td>
<td>Repeal</td>
<td>Repeal is recommended for this and the following regulations which are based on old BOR rules predicated on Ch. 240 and 255, F.S., that do not apply to USF BOT regarding leases.</td>
</tr>
<tr>
<td>USF 4.01203</td>
<td>Leasing Approval</td>
<td>Repeal</td>
<td>Moved to Section (2) of new USF REG 4.012</td>
</tr>
<tr>
<td>USF 4.01205</td>
<td>Standard Lease Form</td>
<td>Repeal</td>
<td>Outdated BOR lease form repealed by BOG</td>
</tr>
<tr>
<td>USF 4.01207</td>
<td>Fire Code Compliance Certification</td>
<td>Repeal</td>
<td>Certification of fire code compliance no longer required from universities to BOG. USF maintains its own Building Code Administration Program (USF Policy 6-019) and Fire &amp; Security Monitoring Systems (USF Policy 6-014).</td>
</tr>
<tr>
<td>USF 4.01209</td>
<td>Leases of 5,000 or more square feet</td>
<td>Repeal</td>
<td>Existing language moved to USF REG 4.012 (3)</td>
</tr>
<tr>
<td>USF 4.01211</td>
<td>Competitive Bidding</td>
<td>Repeal</td>
<td>Moved to USF REG 4.012 (3)</td>
</tr>
<tr>
<td>USF 4.01212</td>
<td>Single Source Facilities</td>
<td>Repeal</td>
<td>Contained in USF REG 4.02040 (Purchasing Reg.)</td>
</tr>
<tr>
<td>USF 4.01213</td>
<td>Disclosure Statements</td>
<td>Repeal</td>
<td>Moved to USF REG 4.012 (7)</td>
</tr>
<tr>
<td>USF 4.01215</td>
<td>Legal Review</td>
<td>Repeal</td>
<td>Moved to USF REG 4.012 (8)</td>
</tr>
<tr>
<td>USF 4.01217</td>
<td>Certification of Compliance to Board of Regents</td>
<td>Repeal</td>
<td>BOG repealed this requirement for universities to submit certification forms under Ch. 255 F.S. that is not applicable</td>
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</tbody>
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