

# OFFICE OF THE GENERAL COUNSEL: USF REGULATIONS

## NOTICE: PROPOSED REGULATION AMENDMENT

DATE: February 16, 2009

12.002	Sponsored Research Exemptions from General Accounting and Purchasing Procedures
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### Summary:

Policy 0-303 will be adopted as Regulation 12.002, with minor technical changes.

Board of Governors' (BOG) Regulation 18.001 authorizes universities in particular instances to adopt regulations exempting purchases of material, supplies, equipment or services for research purposes from general purchasing requirements.

The University currently has a policy 0-303 (2005) and a regulation 12.002 (1991) addressing this issue. As a *regulation*, not a policy, is required by the BOG, the out-of-date text of the regulation will be replaced by the provisions in policy 0-303, effective March 10, 2009.

The text of the updated regulation follows: (To view the regulation prior to amendments: [HTTP://GENERALCOUNSEL.USF.EDU/REGULATIONS/PDFS/REGULATION-USF12.002.PDF](http://GENERALCOUNSEL.USF.EDU/REGULATIONS/PDFS/REGULATION-USF12.002.PDF)) or contact Dee Brown at [usflegal@admin.usf.edu](mailto:usflegal@admin.usf.edu).

**End of summary.**

### **Proposed UNIVERSITY OF SOUTH FLORIDA SYSTEM REGULATION USF 12.002**

#### **SUBJECT: Sponsored Research Exemptions from General Accounting and Purchasing Procedures**

(1) Provisions in Section 1004.22, Florida Statutes and BOG regulation 18.001, allow the University of South Florida system in particular instances to exempt the purchase of materials, supplies, equipment, or services for research purposes from general purchasing requirements.

The exemption may only be exercised when the Director of Sponsored Research certifies to the President/designee that, in a particular instance, the exemption for the purchase of materials, supplies, equipment, or services is necessary for the efficient or expeditious prosecution of a sponsored project. The certification will be in the form of a memorandum in the format given in the attached Exhibit. The memorandum will:

- (a) Describe the purchase, contract, award, project, or interrelated activities for which the exemptions are being given, specifically identifying the project, contract title and number, etc., as appropriate.
- (b) Specify the purpose of the activities to be exempted.
- (c) State the necessity for exemption.

**(2)** Payments made for purchases or other actions under a sponsored research exemption may not subsequently be reimbursed from other USF system funds.

### **(3) Exemption Criteria**

The Director of Sponsored Research may exempt a contract from certain general requirements of law and practice by certifying to the USF system President or designee that one or more of the following conditions exist:

#### **(a) Competitive Bidding**

For subcontracts or subgrants, the Principal Investigator should request, and the sponsor approve, the project's subcontractors/subgrantees; exemption is granted on the basis of sections 3(a)1. and 3(a)2. For purchases that are not subcontracts or subgrants, the Principal Investigator should submit a request for a sponsored research exemption to the Division of Sponsored Research. The request should contain a detailed justification for the exemption and evidence that some form of price comparison or determination of price reasonableness has been performed. If the vendor is a governmental agency, the acquisition is excluded from competitive bid requirements. The request may be considered when:

1. A certain vendor is specified in a prime contract or grant award.
2. A certain vendor is approved in writing by the prime contractor or granting agency in accordance with the provisions of the prime contract or grant award.
3. The purchase of specific goods or services from a certain vendor can be demonstrated to be more efficient or expeditious based on compatibility, availability, or the current capabilities of the Principal Investigator and staff.
4. The purchase of specific goods or services from a certain vendor can be demonstrated to be necessary to meet the time requirements of the prime contract or grant award.
5. The purchase of specific goods or services from a certain vendor can be demonstrated to be mandated by scientific or technical requirements.

6. The purchase of specific goods or services from a certain vendor can be demonstrated to be at a cost below industry norms.
7. Other conditions which can be demonstrated to meet the statutory criteria of "necessary for the efficient or expeditious prosecution of a research project." The specific condition must be fully explained.

(b) Confidentiality

The prime contract, grant award, or subcontract contains a confidentiality clause requiring the research materials to be exempt from public scrutiny; or if it is determined that, pursuant to Subsection 1004.22(2), Florida Statutes, the research activity necessitates an exemption from public scrutiny.

(c) Advance Payments and Documentation

Advance Payments

1. The subcontractor or vendor requests an advance payment, and it can be demonstrated that the advance payment is necessary to fund extensive start-up costs, realize discounts or cost savings, or create adequate cash flow in order to provide required goods or services.
2. The USF system shall retain the documentation justifying advance payments in Purchasing & Property Services. The Principal Investigator is responsible for determining that all goods/services, for which an advance payment has been made, are satisfactorily received.
3. When an exemption from the general provisions of Chapter 215, Florida Statutes, and related rules and practices for documentation or advance payment is authorized, the subcontract/subgrant will include a provision that the subcontractor/subgrantee will pay the USF system for any audit disallowances.

4. Travel

Non-state of Florida personnel performing travel under a sponsored research subcontract may be reimbursed for travel expenses in accordance with the provisions of the applicable prime contract or grant and the travel allowances established by the subcontractor.

5. Other conditions that can be demonstrated to meet the statutory criteria of "necessary for the efficient or expeditious prosecution of a sponsored project." The specific condition must be fully explained.

Documentation for Advance Payments

1. The level of detail and documentation for reporting and payment required by the prime contractor or granting agency in the provisions of the prime contract or grant award (or approved in writing by the sponsor) is less than that required by the state of Florida.

2. When an exemption from the general provisions of Chapter 215, Florida Statutes, and related rules and practices is authorized, subcontractors' invoices shall contain a level of detail that is commensurate with the level of detail and reporting provided for in the subcontract/subgrant.

#### **(4) Execution and Distribution**

(a) If the request is for an exemption from the competitive bid requirements for purchases that are not subcontracts or subgrants, the Principal Investigator will submit the request for the sponsored research exemption. The request should be accompanied by any essential documentation and sent to the Division of Sponsored Research, allowing sufficient time for adequate review of the request.

(b) Request for other sponsored research exemptions may be initiated by the Principal Investigator, the Division of Sponsored Research, or others as appropriate.

(c) The Division of Sponsored Research will review the request for a sponsored research exemption to determine if the required conditions have been met. The certification will be prepared by the Division of Sponsored Research, signed by the Director of Sponsored Research and forwarded to Purchasing and Property Services.

(d) Prior consent to a sponsored research exemption by the Director in Purchasing & Property Services is not required, although the Director's advice and counsel may be sought.

1. Purchasing & Property Services will be responsible for compliance with State of Florida rules and USF system regulations, policies, and procedures. Further, if Purchasing & Property Services has knowledge of any information that would affect the use of a sponsored research exemption, the Director of Sponsored Research should be contacted prior to issuance of the purchase order.
2. Any purchase orders exceeding the bid threshold that are issued under a sponsored research exemption will contain a statement to this effect.

**(5)** A copy of the Sponsored Research Exemption Certification and any supporting documentation will be maintained in Purchasing & Property Services.

*Authority: Art. IX, Sec. 7, Fla. Constitution and Resolutions issued by the FL Board of Governors, ~~240.227(1), 240.241(2), (9), 287.057 FS. Law Implemented 240.209(1), 240.225, 240.227(1), 240.241(12), 287.057 FS.~~ History-New 3-24-91, Formerly 6C4-12.002, F.A.C., Amended*

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***AUTHORITY TO AMEND:*** Art. IX, Sec. 7, Fla. Constitution and Resolutions issued by the FL Board of Governors.

***UNIVERSITY OFFICIAL INITIATING PROPOSED AMEND:*** Karen A. Holbrook, V.P. FOR Research & Innovation.

**WRITTEN COMMENTS CONCERNING THESE PROPOSED REGULATIONS MAY BE SUBMITTED WITHIN 14 DAYS AFTER THE POSTING DATE OF THIS NOTICE TO:**

Dee Brown, Agency Clerk  
Office of the General Counsel  
University of South Florida system  
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Tampa, FL 33620-6250  
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