

FSU-2.011 Facilities Leasing.

- (1) The purpose of this Regulation is to implement the delegated authority from the Board of Governors (BOG) to the Florida State University (FSU) found in BOG Regulation 17.001 with respect to leasing of space.
- (2) The President or designee may enter into leases for space in a building or any part of a building for use by FSU or its direct-support organizations. However, Leases subject to Section 1010.62, Florida Statutes, relating to revenue bonds and debt, must be approved by the Board of Governors.
- (3) The President or designee must first certify that there is no available and suitable university controlled space within a reasonable distance of the need before approving any lease. All leases will achieve best leasing value. "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 procurement processes are not sufficient justification for direct negotiation.
- (4) Leases for space of 5,000 square feet or more in a privately owned building must be competitively procured. Competitive bids shall be awarded to the lowest responsible and responsive bidder; competitive proposals shall be awarded to the most advantageous responsible and responsive proposer based on all criteria in the proposal including price. The university may not negotiate with responding proposers unless the university makes a specific statement why this will achieve best leasing value. Cost savings related to the university procurement processes are not sufficient justification for direct negotiation.
- (5) Competitive procurement shall not be required for the following:

- (a) Renewal of leases procured under this Regulation where the specific renewal involved is provided in the initial lease which was itself competitively procured, where such is required.
- (b) Lease of less than 120 consecutive days which is for the purpose of securing a one-time special use of the leased property.
- (c) Lease for nominal or no consideration.
- (d) ~~One extension of a current, existing lease of 5,000 square feet or more, however procured, not exceeding eleven (11) months, if determined to be in the best university interest.~~ 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. The best interest of the University for this purpose shall be determined by the Vice President for Finance and Administration.
- (e) Lease of educational facilities in a FSU affiliated Research and Development Park.
However, as required by Section 1013.17, Florida Statutes, the Board of Trustees or designee must certify in writing that it is in the best university interests and that the exemption is not detrimental to the state,
- (f) Leasing of specialized research, medical or educational facilities certified by President or President's designee in writing that such leasing is available only from a single source and that compliance with competitive bid requirements would be detrimental to the university.
- (g) In an emergency, when university/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 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.

- (h) Leasing facilities in a hospital or other medical facilities, such as a medical office building, with which the University is affiliated.

- (6) All measurement of potential 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.

- (7) Escalation Clauses Prohibited. A lease shall not contain a rental escalation clause or an open rental rate that permits an adjustment in the amount paid by the University based on the happening of a future event, such as a change in the Consumer Price Index or other economic indicator, without also including a ceiling on the total amount the rent may increase. For leases of ten years or more a process may be established within the terms of the lease that allow for determining and adjusting the rental amounts based on existing fair market leasing values at agreed upon milestones.

- (8) Right-to-Terminate Clause Required. All leases for a term exceeding one (1) fiscal year shall include the following provision: "The State of Florida's performance and obligation to pay under this Lease is contingent upon an annual appropriation by the Legislature."

- (9) Lease Form. All leases shall be prepared in accordance with this regulation, and executed by the President or the President's designee. The University uses a standard lease approved by the Senior Vice President for Finance and Administration and by the University General Counsel for form and legal content. Any deviations from the standard lease must be within the requirements of this Regulation and will acquire specific approval of these same parties.

(10) For leases or renewal of leases of space of 5,000 square feet or more, Lessor must disclose to FSU all owners of the leased property to ensure compliance with conflict of interest provisions of Chapter 112, Florida Statutes.

Specific Authority BOG Regulations 1.001 (3) (j) and (7) (b), 17.001. History—New 9-30-75, Amended 6-14-81, Formerly 6C2-2.11, Substantially rewritten, 6-9-2012. Amended _____