

RULES OF
DEPARTMENT OF EDUCATION
DIVISION OF UNIVERSITIES
UNIVERSITY OF FLORIDA

6Cl-3.025 ~~Finance and Administration~~Administrative Affairs: Lease of Space

(1) Purpose. This rule implements the authority given to the University of Florida pursuant to ~~Section 240.227, Florida Statutes,~~ to lease real property for the purpose of implementing approved programs of the University ~~when the lease does not require expenditures in excess of \$500,000.~~

(2) Definitions. For ~~the purposes~~ of this rule, a lease is a document containing the terms and conditions establishing the relationship of landlord and tenant ~~or lessor and lessee~~ for real property, including land and any improvements thereon ~~a building or any part thereof.~~

(3) Approval.

~~—(a) All leases shall be prepared in accordance with this rule and executed by the President or the President's designee.~~

~~—(b) Disabled Access. All space leased by the University shall comply with the requirements for access by persons with physical disabilities.~~

(4) Standard Lease. The University uses a standard lease, Form BCM 4054 (R5-~~0199~~), approved by the University's Office of the Vice President and General Counsel and incorporated herein by reference. ~~The standard lease may which can~~ be obtained from the Purchasing Division, Elmore Hall, Room 102, University of Florida. The University's lease form may be changed by deleting, adding to or revising its terms, which shall remain consistent with the

requirements of this rule as far as ~~practical~~practicable given the circumstances of the lease, with the prior approval of the University's Office of the Vice President and General Counsel.

(5) 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. Any such clause in a lease shall be null, void, and unenforceable. The final cost to the University for the complete ~~term~~time-period of a lease, including all renewal periods, must be clearly set forth in the lease.

(6) 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."~~A right to terminate clause shall be a part of any lease for a term exceeding one fiscal year and may be included in any other lease.~~

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

(8) ~~Fire~~ Code Compliance in Leased Space.

(a) Any privately-owned building or any part thereof to be leased ~~to~~by the University shall ~~comply~~be in compliance with those portions of Chapters 553 and 633, Florida Statutes, including, but not limited to, fire safety, life safety and disabled access standards, applicable to University buildings of the State Building Code.

(b) ~~No~~Before construction or renovation of any state-leased building ~~may~~is commenced, until the University ~~has~~shall ascertained that the proposed construction or renovation plan

complies with those portions of Chapters 553 and 633, Florida Statutes applicable to University buildings~~fire safety standards of the State Building Code.~~

~~— (c) The University shall withhold approval of any proposed lease until the facility and/or construction or renovation plan complies with fire safety standards.~~

(c~~d~~) The cost of all modifications or renovations made for the purpose of bringing state-leased property into compliance with the applicable portions of Chapters 553 and 633, Florida Statutes~~fire safety standards~~ shall be borne by the landlord~~lessor~~ unless otherwise agreed in writing by the University.

(9) Leases of 53,000 Square Feet or More.

(a) The University shall not enter into a lease for 53,000 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. The University shall not enter into, within any 12-month period, more than one lease for space in the same privately-owned facility or complex except upon the solicitation of competitive bids.

1. Exceptions:

a. This section shall not apply to the renewal of leases when the lease contains renewal terms or to leases otherwise~~other~~ excepted~~ions~~ from the competitive bidding requirements of ~~described in~~ Section 255.25, Florida Statutes, by its terms. The University ~~may~~will approve extensions of an existing lease of 53,000 square feet or more of space if such extensions are determined to be in the best interest of the University~~State in that there is no space available to which the occupants can be moved~~, but in no case shall the total of such extensions exceed 11 months. If at the end of the 11th month the University still needs space, it shall be procured by competitive bid. 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.

b. This section shall not apply to specialized educational facilities, excluding classrooms, 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 Universitystate.

c. This section shall not apply to any lease having a term of less than 120 consecutive days for the purpose of securing one-time special use of the leased property or to any lease for nominal or no consideration.

d. This section shall not apply to buildings or facilities of any size leased for the purpose of providing care and living space for persons provided the University President or the President's designee certifies that the space is to be utilized for that purpose.

e. This section shall not apply to ~~or~~ emergency space needs in the event 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 Universityagency controlled space is not available and the term of the lease does not exceed 11 months, provided the University may modify the lease to extend month to month for up to 6 additional months to allow completion of such construction or renovations.

f. This section shall not apply when leasing educational facilities in a research and development park with which the University is affiliated and when the President or the

President's designee certifies that the leasing of such educational facilities is in the best interests of the University and that the exemption from competitive bid requirements would not be detrimental to the University.

(b) The University shall not enter into a lease agreement for space of 53,000 square feet or more in a privately owned building 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 University, such State as when the cost of the move from the private building to the state-owned building would be prohibitive.

(c) Solicitation.

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

2. The solicitation shall 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.

e. Terms and conditions of lease.

(d) Specifications.

1. Specifications shall be written by the University in general terms and shall afford each prospective landlord~~lessor~~, interested in submitting a proposal, knowledge of the University's space requirements. Specifications shall not be structured to favor any specific location or landlord~~lessor~~.

2. Specifications provided to each prospective ~~landlord~~lessor shall 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 ~~landlord~~lessor will agree to:

a. Enter into ~~the University's standard lease~~a contract on the specified lease form.

b. Provide a scaled floor plan showing present configurations and measurements that equate to net rentable square footage offered.

~~c. Comply with the requirements of Part V, Chapter 553, Florida Statutes (Florida Americans with Disabilities Accessibility Implementation Act).~~

~~cd.~~ Be an Equal Opportunity Employer.

~~de.~~ Provide Full Disclosure Statements of Ownership.

~~ef.~~ Validate the proposal for a minimum of forty-five (45) days following the public bid opening date.

~~fg.~~ Provide a Life Cycle Cost Analysis with proposal if space is for 20,000 or more square feet in any one structure with the understanding that the analysis must be acceptable before an award can be made. (Section 255.254, Florida Statutes)

~~h. Comply with the fire safety standards of the State Building Code.~~

~~i. Ensure that any renovations required will comply with fire safety standards of the State Building Code before renovations are commenced. (Section 255.25(5), Florida Statutes)~~

gj. 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.

1. Proposals shall respond specifically but need not be limited to each item included in the specifications.

2. 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 reserves the right to accept or reject any or all bids submitted and, if the University deems it necessary, to reinitiate procedures for soliciting competitive proposals.

2. The University, in conjunction with preparing specifications, shall develop weighted evaluation criteria. The criteria items most significant to the University'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 weighed.

~~3. The evaluation shall be made by the University.~~

~~34. Selection shall be made by the University and shall be publicly posted at the location where the bids were opened and remain posted for seventy-two (72) hours, which shall be interpreted as three (3) working days, not counting Saturdays, Sundays, and State of Florida holidays. Any person who files an action pursuant to Section 120.57(3), Florida Statutes, protesting a decision or intended decision pertaining to a competitive bid for space to be leased by the University shall post with the University at the time of filing the formal written protest a bond payable to the University in an amount equal to one percent (1%) of the estimated total rental of the basic lease period or \$5,000, whichever is less. The bond shall be conditioned upon the payment of all costs which may be adjudged against the protestor in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. Failure to timely post the bond shall result in the protest being dismissed. Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. If the agency prevails after completion of the Administrative Hearing process and any appellate court proceedings, it shall recover all costs and charges which shall be included in the final order or judgment, excluding attorneys fees. Upon payment of such costs and charges by the person protesting the award, the bond shall be returned to him or her. If the person protesting the award prevails, the bond shall be returned to that person and he or she shall recover from the agency all costs and charges which shall be included in the final order or judgment, excluding attorneys fees.~~

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 University's findings for each proposal.

(g) Lease preparation and approval. After the selection has been awarded, a lease shall be properly executed.

(10) Disclosure Statements -- Private Entities, Public Officials.

(a) ~~The landlord shall provide the A-statements required pursuant to 255.249(2)(h) and (i), Florida Statutes, regarding ownership interests in the lease property, by the owner providing for full disclosure of the names and the extent of interest of the owners holding four percent (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.~~

~~(b) 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.~~

(be) 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, Florida Statutes, which stock is for sale to the general public. A statement certifying the registration shall be provided by the landlord~~Lessor~~.

(cd) It is not necessary to make disclosure under subsections (a) and (b) above of any leasehold interest in property located outside the territorial boundaries of the United States.

(de) Each subsequent transaction pertaining to a lease for which a Disclosure Statement has been provided, may be accompanied by a landlord's~~lessor's~~ affidavit that the previous Disclosure Statement submitted on (date provided) is still valid, if no change in the interest held or individuals concerned has occurred.

~~(11) Legal Review. All leases of space in a privately owned building shall be on the lease form (Form BCM 4054 (R5-99)) approved by the University's Office of the General Counsel. Any substantial changes or modifications to said lease form must be approved by said Office.~~

(11~~2~~) Certification of Compliance. The President, or the President's designee, shall certify that the lease is in compliance with all leasing criteria provided by Chapter 255, Florida Statutes. (12~~3~~) Standard Method of Space Measurement. Space measurement shall be based on the State University System Standard Method of Space Measurement ~~in accordance with Board of Regents' Rule 6C-17.012 F.A.C.~~

(13~~4~~) Space Allocation. Space allocation shall be based on the formula provided in the publication "State Requirements for Educational Facilities, 1999 Volume I-Process and Rule and Volume II-Building Code." ~~State Board of Education Chapter 6A-2, Educational Facilities.~~

(15) Rental Rates. The rental rate for space shall be within rental rate guidelines established by the University.

(16) Leases Not Requiring Competitive Bidding

In any leasing of space that is accomplished without competition, the individuals taking part in the development or selection of criteria for evaluation, in the evaluation, and in the award processes shall attest in writing that they are independent of, and have no conflict of interest in, the entities evaluated and selected.

Specific Authority 229.0081(2), 229.0082(1)~~240.227(1)~~, FS.

Law Implemented 229.0081(2)(i), 229.0082(5), 240.241, 242.242, 240.227(12), (13),
255.25, 255.248, 255.249 FS.

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7-27-98, 1-12-2000, _____.