

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: September 16, 2009

REGULATION TITLE:
Sponsored Research Exemption Procedures

REGULATION NO.:
UCF-2.0271

SUMMARY OF REGULATION: This regulation is amended to correct references to the appropriate offices and officials, to make technical changes, and to change the regulation number.

AUTHORITY: BOG Resolution dated January 7, 2003

NAME OF PERSON WHO INITIATED PROPOSED REGULATION AMENDMENT:
Office of Research and Commercialization

COMMENTS CONCERNING THE PROPOSED REGULATION AMENDMENT SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION AMENDMENT IS:

Regulations Administrator
4000 Central Florida Blvd.
Millican Hall, Suite 360
Orlando, FL 32816-0015
Phone: (407) 823-2482
Fax: (407) 823-6155
e-mail: regulations@mail.ucf.edu

FULL TEXT OF THE PROPOSED REGULATION AMENDMENT:

UCF-2.0271 Sponsored Research Exemption Procedures.

(1) The University **may** exempt the purchase of materials, supplies, equipment or services for research purposes from the general purchasing requirements **of University Regulations and Florida Statutes. (BOG Regulation 18.001; Florida Statutes s. 1004.22)**

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(2) Exemption Criteria: The Vice President for Research or his designee will exempt a contract from certain general requirements of law and practice, by certifying to the President or his/her designee with a Sponsored Research Exemption Certification memorandum, that one or more of the following conditions exist:

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(a) Competitive Bidding.

1. The Principal Investigator (i.e. the faculty member supervising the research) must submit a memorandum to the Vice President of Research (or designee) requesting a sponsored research exemption. The memorandum must include: a detailed justification for the request; a written quotation from the requested vendor detailing the price, the FOB point, responsibility for freight and insurance, and payment terms; a statement and/or other evidence, that some form of price comparison or determination of price reasonableness has been performed; a written statement signed by the Principal Investigator certifying that he or she is independent of, and has no conflict of interest in the entities evaluated and selected.

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2. If the vendor is a governmental agency, the acquisition is excluded from competitive bid requirements.

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3. The following criteria must be used to justify a request for a sponsored research exemption from competitive bidding: a certain vendor is specified in a prime contract or grant award; 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; 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; 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; the purchase of

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specific goods or services from a certain vendor can be demonstrated to be mandated by scientific or technical requirements; the purchase of specific goods or services from a certain vendor can be demonstrated to be at a cost below industry norms; 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. Any and all changes or corrections to a purchase order or contract issued on the basis of a sponsored research exemption must also be approved by the Vice President of Research or designee.

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(b) Confidentiality: This matter shall be controlled as a confidential matter in the event 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 Section 1004.22, Florida Statutes, the research activity necessitates an exemption from public scrutiny.

(c) Documentation and Advance Payments.

1. Documentation: The University will supply documentation and detail for reporting and payment at the level required by the prime contractor or granting agency which are based upon the provisions of the prime contract or grant award. 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, at a minimum, commensurate with the level of detail and reporting required of the University by the prime contract or grant award. It is not necessary for copies of receipts to be obtained or submitted with the voucher for the payment of such invoices, if the invoice contains a statement certifying that receipts in support of the itemized invoice are maintained in the contractor’s records and may be inspected by officials of the State of Florida.

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2. Advance Payments: 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. The University shall retain the documentation justifying advance payments in the Office of Research and Commercialization. The Principal Investigator is responsible for determining that all goods/services, for which an advance payment has been made, are satisfactorily received. In addition to the sponsored research exemption certification, the Office of Research and Commercialization will provide the Purchasing Department with specific payment details for inclusion in the purchase order. In the event the University believes a vendor will have difficulty in meeting the conditions and terms of the purchase agreement, the University will require the vendor to secure some form of liability protection to cover the amount of advance payments.

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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 provisions of a contract between the University and the subcontractor must include the following language: “The Contractor agrees to return to the University any overpayments due to unearned funds or funds disallowed pursuant to the terms of this Contract or by the prime agency that were disbursed to the Contractor by the University. Such funds shall be considered University funds and shall be refunded to the University within 45 days following the time the overpayment and/or disallowance is discovered unless otherwise authorized by the University in writing. In addition, the Contractor agrees to exclude from its expenditure reports and any other claims for reimbursement any amounts disallowed by the prime agency and the University in accordance with the terms of this Contract.”

(d) Travel: A subcontractor may be reimbursed for travel expenses of non-State of Florida personnel performing travel under a sponsored research subcontract in accordance with the provisions of the applicable prime contract or grant and the travel allowances normally provided by the subcontractor.

(e) Other: Other conditions which can be demonstrated to meet the statutory criteria of “necessary for the efficient or expeditious prosecution of a sponsored project.” The specific conditions must be fully explained.

(3) Execution and Distribution.

(a) If the request is for an exemption from the competitive bid requirements, the Principal Investigator will submit the request for the sponsored research exemption to the Office of Research and Commercialization, allowing sufficient time for review of the request as applicable to the project needs. The request should be accompanied by the requisition, the documentation listed above, and any additional documentation which would further support the request.

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(b) Requests for other sponsored research exemptions may be initiated by the Principal Investigator, the Office of Research Commercialization, or other appropriate University personnel.

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(c) The Office of Research and Commercialization will review the request for sponsored research exemption to determine if all of the required conditions have been met. The certification will be prepared by the Office of Research and Commercialization, signed by the Vice President for Research or designee, and be forwarded to the University President.

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1. Prior consent to a sponsored research exemption by the Director of Purchasing is not required, although his/her advice and counsel may be sought. The Office of Research and Commercialization will send a copy of the Sponsored Research Exemption Certification

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memorandum provided to the President, the requisition, and a copy of the other documentation listed above, to Purchasing. Purchasing will be responsible for compliance with all other Florida Board of Governors and University regulations. Further, if after viewing the documentation provided, Purchasing has knowledge of any other information that would impact the use of a sponsored research exemption, the Office of Research and Commercialization should be contacted prior to issuance of the purchase order. Any purchase order issued under a sponsored research exemption will contain a statement indicating that a sponsored research exemption was given.

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2. Purchasing will forward a copy of the certification, along with a copy of the contract and/or purchase order to the University Controller.

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3. A sponsored research exemption may only be used when the purchase of goods or services is fully funded from sponsored research funds. Payments made for purchases or other actions under a sponsored research exemption may not be reimbursed subsequently from other University funds.

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4. A copy of the Sponsored Research Exemption Certification and any supporting documentation will be maintained in the Office of Research and Commercialization.

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(4) Any contract which has been exempted from general purchasing provisions for herein shall contain essentially the following language: "The contractor agrees to return to the University any overpayments due to unearned funds or funds disallowed pursuant to the terms of this contract or by the prime agency that were disbursed to the contractor by the University. Such funds shall be considered University funds and shall be refunded to the University within 45 days following the item the overpayment and/or disallowance is discovered unless otherwise authorized by the University in writing. In addition, the contractor agrees to exclude from its

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expenditure reports and any other claims for reimbursement any amounts disallowed by the prime agency and the University in accordance with the terms of this contract.”

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Authority: BOG Regulations 1.001 and 18.001. History—New 4-28-91, Amended 3-16-03; Formerly 6C7-2.0271, Amended -09.