

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: July 9, 2009

REGULATION TITLE:
Authority to Suspend or Debar Vendors

REGULATION NO.:
UCF-7.124

SUMMARY OF REGULATION: This regulation is amended to incorporate a process for review of proposed suspensions and debarments. It is specified that this regulation does not apply to contractors and subcontractors for university construction projects. Additionally, this regulation discusses reinstatement from suspension or debarment. Amendments to the regulation also include technical changes, specifically renumbering of the regulation.

AUTHORITY: BOG Resolution dated January 7, 2003

NAME OF PERSON WHO INITIATED PROPOSED REGULATION AMENDMENT:
Ray Puskas, Director, Purchasing Department

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:

UCF6C7-7.124 Authority to Suspend or Debar Vendors.

(1) The Vice President for Administration and Finance or designee, ~~under advisement from the Director of Purchasing,~~ shall be authorized to suspend or debar vendors and contractors. Debarment or suspension is a serious action which must be based on adequate evidence rather than mere accusation. This assessment should include an examination of basic documents, such as contracts, inspection reports and correspondence. Debarment or suspension will be for the purpose of protecting the interests of the University ~~and shall not be used for punishment.~~ This regulation does not apply to contractors and subcontractors for university construction projects – decisions regarding the disqualification of contractors and subcontractors for university construction projects shall be governed by Florida Board of Governors Regulation 14.022 and any university procedures implementing that regulation.

(2) Grounds for Suspension (~~removal of name from bid mailing list restricted from competing on~~ for university procurements) ~~for a period not to exceed six (6) months~~:-

~~(a) Failure to respond to three consecutive invitations to bid.~~

~~—~~ ~~(a)~~ Failure to comply with the conditions, specifications, drawings or terms of vendor's or contractor's contractual agreement with the University on any one contract.

~~(b)~~ Being charged before a court of competent jurisdiction with committing a fraud, misdemeanor or felony in connection with the vendor's or contractor's commercial enterprise. (If charges are dismissed or if the vendor/contractor is found not guilty, the suspension shall be lifted immediately upon notification from the vendor/contractor.)

~~(c)~~ Bankruptcy.

(d) Violation of University regulations, policies, or procedures.

(3) Grounds for Debarment:-

~~(a) Failure to request reinstatement on the bid mailing list to compete in university procurements within six months after receiving a notice of suspension based on subparagraph 1.a. above.~~

(ab) Willful failure to fully comply with the conditions, specifications, drawings or terms of vendor's or contractor's contractual agreement with the University twice in any one year period.

(be) Conviction by or judgment obtained in a court of competent jurisdiction for commission of a fraud or criminal offense in connection with the vendor's or contractor's commercial enterprise. However, if the conviction or judgment is reversed through the appellate process, the disbarment shall be removed immediately upon notification to the University by the vendor or contractor of the reversal.

(ce) Violation of the Federal Anti-trust Statutes arising out of submission of bids or proposals.

(de) A history of failure to perform, or of unsatisfactory performance, in accordance with the terms of one or more contracts; provided that such failure or unsatisfactory performance is within a reasonable period of time preceding the determination to debar. (Failure to perform or unsatisfactory performance caused by acts beyond the control of the vendor or contractor shall not be considered as a basis for debarment.).

(4) Any suspension or debarment under this ~~rule-regulation~~ shall not become effective until 21 days after the date of a notification letter from the University informing the vendor or contractor of the intended action. This written notification shall clearly state the reasons for the suspension or debarment and shall inform the vendor or contractor that the action shall become final within 21 days after the date of the notification unless:

(a) The vendor or contractor demonstrates to the satisfaction of the University that he/she/it has complied with all lawful requirements ~~for retention on the mailing list to remain eligible to compete in the University's procurement process~~ and acceptance of his/hers bids, or

(b) The vendor or contractor requests a review of the proposed suspension or debarment action by filing a written request for review within 21 days of the date of the suspension or debarment notice. Should a request for review of the suspension or debarment be timely filed, the proposed suspension or debarment shall be held in abeyance, unless the University decides otherwise and communicates that decision in writing to the vendor or contractor. A request for review of the proposed suspension or debarment action shall be reviewed by the Vice President for Administration and Finance or designee. The vendor or contractor must submit written materials to support its request for review. At the vendor's or contractor's request, the Vice President for Administration and Finance or designee will convene a meeting with the vendor or contractor and a representative of the procuring department to discuss the suspension or debarment decision. The Vice President for Administration and Finance or designee shall render a written decision to uphold, reverse, or modify the suspension or debarment within twenty (20) business days of this meeting. This decision shall be final and binding on the vendor or contractor and on the procuring department.

~~— (b)1. The vendor requests that a hearing be conducted under the provisions of Section 120.57, F.S.~~

~~— 2. If a hearing is requested by the vendor within 21 days after the date of the suspension or disbarment notice, the proposed suspension or disbarment shall be held in abeyance, unless otherwise ordered by the University pursuant to Section 120.60(7), F.S., pending the outcome of~~

~~the hearing which will be conducted in the manner prescribed in subsection UCF6C7 7.123(3) or (4), F.A.C.~~

~~(5) Suspension shall be for a minimum period of one (1) calendar year. Debarment shall be for a minimum period of three (3) calendar years.~~

~~(6) Reinstatement from Suspension or Debarment. A vendor or contractor that has been suspended or debarred and wishes to be reinstated for contracting purposes must submit a written request for reinstatement to the Vice President for Administration and Finance or designee prior to ninety (90) calendar days before the end of the designated suspension or debarment period.~~

~~(a) Failure to request reinstatement in a timely fashion shall automatically constitute an extension of the suspension or debarment period by one year.~~

~~(b) The request for reinstatement shall be submitted in sufficient detail for the Vice President for Administration and Finance or designee to be able to make a decision whether to continue or rescind the suspension or debarment. The request must thoroughly show that the action that perpetuated suspension or debarment has been corrected and that action has been taken to ensure the violation does not recur.~~

~~(c) The Vice President for Administration and Finance or designee shall render a written decision to continue or rescind the suspension or debarment within twenty (20) business days of the request. This decision shall be final and binding both on the vendor or contractor and on the procuring department.~~

*Authority: Florida Board of Governors~~BOG~~ Resolution dated January 7, 2003. History—
Formerly 6C7-4.05(22), 5-13-82, Amended 12-29-91, 3-16-03. Formerly 6C7-7.124, Amended*

_____.