

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: May 8, 2012

REGULATION TITLE:

Construction; Evaluations of Professional Service Providers
(including Architects and Engineers), Design/Builders, Construction
Managers and Contractors; Disqualification Procedure

REGULATION NO.:

3.074

SUMMARY: The changes clarify that professional service providers for construction projects will be evaluated once per calendar year rather than twice per calendar year. The threshold for minor projects is increased from one million dollars to two million dollars. Thus, a project in which construction costs are in excess of two million dollars is considered a major project and a project in which construction costs are less than two million dollars is considered a minor project. The location of the forms has been updated to www.facilities.ufl.edu.

AUTHORITY: BOG Regulation 1.001

COMMENTS CONCERNING THE PROPOSED REGULATION 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 IS: Rebecca J. Holt, Senior Administrative Assistant, 123 Tigert Hall, Post Office Box 113125, University of Florida, Gainesville, Florida 32611, 352-392-1358 office, 352-392-4387 facsimile, regulations@ufl.edu.

NAME OF PERSON WHO APPROVED THE PROPOSED REGULATION: Curtis Reynolds, Vice President for Business Affairs

THE FULL TEXT OF THE PROPOSED REGULATION IS ATTACHED TO THIS NOTICE.

REGULATIONS~~RULES~~ OF THE

UNIVERSITY OF FLORIDA

~~6C1-3.074 Finance and Administration;~~ Construction; Evaluations of Professional Service Providers (including Architects and Engineers), Design/Builders, Construction Managers and Contractors; Disqualification Procedure

(1) For purposes of this regulation~~rule~~, major project means a project the construction cost of which is in excess of ~~One Million and No/100 Dollars~~ (~~\$21,000,000.00~~), and minor project means a project the construction cost of which is ~~One Million and No/100~~ (~~\$21,000,000.00~~) or less.

(2) Professional service providers under contract for a major project or a minor project which is not under a continuing contract will be evaluated by the University on a project by project basis as follows:

- (a) once~~two times~~ per calendar year, in ~~March and~~ September, during the contract term;
- (b) upon completion of a project; and
- (c) at anytime the University determines there has been a material change in the quality of the firm's performance occurring during the contract term.

(3) Professional service providers under continuing contracts with the University will be evaluated by the University on all projects performed during the contract term. These evaluations will occur:

- (a) once~~two times~~ per calendar year, in ~~March and~~ September, during the contract term, and

(b) at anytime the University determines there has been a material change in the quality of performance during the contract term. In conducting evaluations under subsection (2) and (3) of this ~~regulation~~~~rule~~, the University will utilize the on-line Architect/Engineer Evaluation Form which can be obtained from the Facilities Planning and Construction website at www.facilities.ufl.edu ~~AEE-001, Revised January 22, 2003, incorporated herein by reference.~~ ~~The Architect/Engineer Evaluation form can be obtained from the Office of Facilities Planning and Construction, 232 Stadium, University of Florida.~~ If, when procuring professional services, the University, in accordance with University of Florida Regulation ~~Rule 6C1-3.070, F.A.C.~~, considered any additional criteria not set forth in the University's standard form professional qualifications statement, the University shall also evaluate the professional service provider's performance in those areas.

(4) Construction managers under contract for a major project or a minor project which is not a continuing contract will be evaluated by the University on the schedule set forth in subsection (2) above for evaluating firms and individuals providing professional services on major projects and minor projects which are not continuing contracts. Construction managers under continuing contracts will be evaluated by the University on the schedule set forth in subsection (2) above for evaluating firms and individuals providing professional services under continuing contracts. In conducting evaluations of construction managers, the University will utilize the on-line Construction Manager Evaluation Form which can be obtained from the Facilities Planning and Construction website at www.facilities.ufl.edu ~~CME-001, Revised January 23, 2003, incorporated herein by reference.~~ ~~The Construction Manager Evaluation form can be obtained from the Office of Facilities Planning and Construction, 232 Stadium, University of Florida.~~

(5) Design/Builders under contract for a major project or a minor project which is not a continuing contract will be evaluated by the University on the schedule set forth in subsection (2) above for evaluating firms and individuals providing professional services on major projects and minor projects which are not continuing contracts. Design/Builders under continuing contracts will be evaluated by the University on the schedule set forth in subsection (3) above for evaluating firms and individuals providing professional services under continuing contracts. In conducting evaluations of design/builders, the University will utilize the applicable portions of the evaluation forms used in evaluating providers of professional services and in evaluating construction managers.

(6) Contractors under contract with the University to provide either major or minor projects will be evaluated by the University on the schedule set forth in subsection (2) [above](#) for evaluating firms and individuals providing professional services under contract for major projects or minor projects which are not under continuing contracts. In conducting evaluations of general contractors, the University will consider all known instances of poor or inadequate performance, deficient management resulting in project delay, poor quality workmanship, and late payments to laborers, subcontractors and suppliers with whom the contractor has a direct contract and where there is no bona fide contract dispute between the contractor and such laborers, subcontractors and suppliers. .

(7) In order to be evaluated, a firm must have been under contract for at least two (2) months at the time of the evaluation.

(8) Firms will be provided with a copy of each completed evaluation form and may appeal the evaluation in accordance with Chapter 120, [Fla. Stat.](#)

(9) The University may utilize the information gathered in its evaluation to evaluate a firm's qualifications to provide services on future University construction projects and to decide whether a firm should be disqualified from providing services at the University in the future.

(10) If the University determines, whether through the evaluation process or otherwise, that any of the firms or individuals providing professional services, construction managers or contractors that it has engaged to perform professional or construction services are not providing satisfactory service to the University, the President or President's designee will carefully review all facts and circumstances surrounding such unsatisfactory service and determine whether there is sufficient cause to warrant disqualification from participation on future University projects. Without limitation of the foregoing, legal action between the University and the firm or individual providing professional services, the construction manager or the contractor relating to services or work performed by the firm or individual providing professional services, construction manager or the contractor which has commenced or is imminent shall constitute automatic grounds to entitle the President to disqualify the firm from performing future services at the University or to temporarily suspend the firm or individual's right to perform future services at the University. The disqualification shall continue until the University is satisfied that the services of such firm or individual providing professional services, the construction manager or the contractor will be, at least, satisfactory to the University. The President or designee shall so notify the firm or individual providing professional services, the construction manager or the contractor of the disqualification. The notice shall set forth specifically the grounds for disqualification and the right of the disqualified firm or individual providing professional services, construction manager or contractor to request a hearing in accordance with Chapter 120, Florida Statutes.

~~Specific~~ Authority: [BOG Regulation 1.001-1001.74\(4\) FS](#).

~~Law Implemented 287.055, 1001.74(28), 1001.75(5), 1013.45 FS.~~

History—New 6-3-03, [Formerly 6C1-3.074, Amended](#)_____.