

FLORIDA A&M UNIVERSITY BOARD OF TRUSTEES



NOTICE OF PROPOSED NEW REGULATION

Date: November 7, 2006

REGULATION CHAPTER TITLE: Purchasing Program **REGULATION CHAPTER NO.:** Chapter 6

REGULATION TITLES AND NUMBER: Authority to Debar and Suspend Vendors (6.006)

SUMMARY OF REGULATION: The Regulation has been renumbered and amended to expand the categories of offenses and clarify the conditions by which a University vendor/contractor may be debarred or suspended from doing business with the University. Such conditions include, but are not limited to, convictions for commission of fraud, embezzlement, forgeries; violations of federal anti-trust statutes, bankruptcy and willful failure to perform in accordance with the specifications or delivery requirements of a contract. Specifically, the bankruptcy category was added to the suspension provision and the commission of fraud or a criminal offense in connection with contractor/vendor's commercial enterprise was added to the debarment provision.

AUTHORITY FOR REGULATION: Article IX, Florida Constitution, Board of Governors Regulation Development Procedure dated July 21, 2005, Sections 1001.74(4), (5), 1001.75(5) and 1010.04, Florida Statutes.

UNIVERSITY OFFICIAL INITIATING THIS REGULATION: Dr. Grace Ali, Vice President for Fiscal Affairs.

PROCEDURE FOR COMMENTS: Written comments concerning this proposed regulation shall be submitted within 14 days of the date of this notice to the person identified below. The comments must specifically identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS: Shira R. Thomas, Office of the General Counsel, Suite 300 Lee Hall, Tallahassee, Florida 32307, (850) 599-3591 (phone), (850) 561-2862 (fax), regulations@famu.edu.

FULL TEXT OF THE PROPOSED REGULATION: The full text of the proposed amended regulation follows:

Regulations of
Florida A&M University



6.023-6.006 Authority to Debar or Suspend Vendors.

(1) The Vice President for Fiscal ~~Administrative~~ Affairs under advisement from the Director of Purchasing shall be authorized to suspend or debar contractors. Debarment 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 interest of the University and shall not be used as punishment.

(2) Debarment.

(a) Conviction by or a judgment obtained in a court of competent jurisdiction for:

1. Commission of fraud or a criminal offense as an indictment to obtaining, attempting to obtain, ~~or~~ in the performance of a public contract or in connection with contractor/vendor's commercial enterprise;

(b) Violation of the Federal Anti-trust Statutes arising out of submission on bids or proposals;

(c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a university contractor;

NOTE: If the conviction or judgment is reversed on appeal, the debarment shall be removed upon receipt of notification thereof. The decision to debar is discretionary; the seriousness of the offense and all mitigating factors should be considered in making the decision to debar.

(d) Clear and convincing evidence of violation of contract provisions, as set forth below, when the violation is of a character so serious as to justify debarment action;

(e) Willful failure to perform in accordance with the specifications or delivery requirements in a contract;

(f) 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 contractor shall not be considered as a basis of debarment.); or

(g) Any other causes determined to be so serious and compelling as to affect responsibility as a university contractor.

(3) Suspension – Upon adequate evidence a contractor may be suspended based upon suspicion of involvement in any of the causes cited in subsections ~~6C3-6.023-6.006~~(1), (2)(a), (b), (c), (d), (e), (f), (g), ~~F.A.C.~~, Florida A and M Purchasing ~~Rules~~ Purchasing Program Regulations or bankruptcy.

(4) Actions taken pursuant to subsections (1), (2), and (3) shall be subject to the provisions of Section 120.57 F.S., known as the Administrative Procedures Act.

Specific Authority 1001.74(4), 1010.04 F.S. Law Implemented 120.57, 1001.74(5), 1001.75(5), F.S. History – New 12-07-06, Amended _____.