



## FGCU REGULATION 1.005

*Effective Date  
of Regulation*

### Direct Support Organizations

*January 08, 2019*

#### A. GENERAL STATEMENT

The President shall recommend to the Florida Gulf Coast University Board of Trustees ("BOT") that an organization, meeting the requirements of section 1004.28, Florida Statutes, be certified as a Florida Gulf Coast University Direct Support Organization ("DSO").

#### B. PROCEDURES

##### 1. Certification

To be considered for certification, the Articles of Incorporation and Bylaws of the proposed DSO together must provide that:

- a. The DSO is a Florida not-for-profit corporation under the provisions of chapter 617, Florida Statutes, or the DSO will, upon certification by the BOT, file for such incorporation with the Department of State;
- b. Any person employed by the DSO shall not be considered to be an employee of the University by virtue of employment by the DSO;
- c. The chief executive officer or director of the DSO shall be selected by the President and shall report to the President or a designee reporting directly to the President;
- d. Any amendments to the Articles of Incorporation or Bylaws shall be submitted by the President to the BOT for approval prior to becoming effective; and
- e. Consistent with the BOT's most recent *Resolutions on Presidential Authorizations* (Presidential Resolutions), the President or designee shall have the following powers and duties:
  - 1) Monitor and control the use of University resources by the DSO;
  - 2) Control the use of the University name by the DSO;
  - 3) Monitor compliance of the DSO with federal and state laws;
  - 4) Recommend to the governing board of the DSO an annual budget;
  - 5) Review and approve quarterly expenditure plans; and

- 6) Approve contributions of funds or supplements to support Intercollegiate athletics.

2. Decertification

The BOT shall decertify a DSO if the BOT, or designee, determines that the organization is no longer serving the best interests or mission of the University and decertification is appropriate. In decertifying a DSO, the BOT shall require an accounting of, and a reasonable plan, as necessary, to secure the return of all University property and facilities, as requested by the University.

### **C. OVERSIGHT BY THE FGCU BOARD OF TRUSTEES**

1. Appointment of Board of Directors of the DSO

- a. The Chair of the BOT shall appoint at least one (1) representative to the governing body and the executive committee of each DSO. The President or designee shall also serve on the governing body and executive committee of each DSO.
- b. Each DSO shall recommend to the BOT, all appointments of the DSO.
- c. The BOT shall approve all appointments to a DSO.

2. Use of Property

- a. Once certified, a DSO is authorized to use the property, facilities, and personal services of the University, in accordance with University policies or regulations, and such additional conditions, controls, and requirements for a DSO as the BOT deems appropriate to provide for budget and audit review and oversight. A DSO is also authorized, with approval by the DSO's Board, to receive, hold, invest, or administer assets or property and to make expenditures for the benefit of the University.
- b. University personal services used by a DSO are subject to the individual \$200,000 remuneration cap set forth in section 1012.976, Florida Statutes.

3. Activities

- a. Approval

For actions that require the approval of any party, the approving party should be consulted as soon as a project becomes viable. The approving party should be consulted throughout the process and at each significant decision-making point.

b. Consult

- 1) For actions that require the President, or designee, to consult with the Chair of the BOT, the President or designee, and Chair of the BOT must be informed as soon as a project or action becomes viable and before any potentially binding decisions are made. Information must be provided to such parties throughout the process and at each significant decision-making point. For actions where the BOT has retained authority to act, approval by the BOT must be secured.
- 2) Actions designated as Authorized Activities may require approval of the President in consultation with the BOT Chair, and notice to the BOT. Actions in excess of these thresholds may require BOT approval.

c. Authorized Activities

- 1) A DSO is authorized to issue revenue bonds or other forms of indebtedness, upon approval of the BOT, in accordance with sections 1010.62 and 1013.171, Florida Statutes, the Board of Governors (BOG) Debt Management Guidelines, and FGCU Regulation 7.007, Debt Management Guidelines.
  - 2) All debt issued by a DSO is subject to the State University System Debt Management Guidelines, and all public-private partnership transactions are subject to the State University System Public-Private Partnership Guidelines.
  - 3) A DSO may establish accounts with the State Board of Administration for investment of funds.
  - 4) A DSO is authorized to enter into agreements to finance, design and construct, lease, lease-purchase, purchase, or operate facilities necessary and desirable to serve the needs and purposes of the University. Such activities of the DSO, authorized by the President through the Presidential Resolutions, will be subject to the thresholds below.
    - a) Capital facilities projects less than or equal to \$10,000,000, not using State funds are authorized pursuant to the Presidential Resolutions. Capital facility projects covered under this provision in excess of \$2,000,001, require a competitive solicitation.
- b) Issuance of Debt
- c) Real Estate
- i) Purchase or sale of real property;
  - ii) Easements less than twenty-five (25) years;
  - iii) Leases less than ten (10) years (requires a competitive solicitation);

- iv) Leases less than or equal to 30,000 square feet (requires a competitive solicitation);
- v) Leases less than or equal to \$5,000,000 total expenditures (requires a competitive solicitation);
- vi) Leases between the DSO and the University do not require a competitive solicitation;
- vii) No approval is required to accept gifts of real estate; or
- viii) Any leases or easements currently in place and exceeding the aforementioned thresholds are authorized upon the approval of this Regulation.

d) Goods and Services

- i) Goods and services greater than or equal to \$75,000 require a competitive solicitation managed by the University Procurement Services Director or designee, and approval of the resulting contract by the Vice President for Administrative Services and Finance or designee, or the Executive Director of the DSO, or designee, as appropriate.
- ii) Goods and services less than \$75,000 will be addressed consistent with the limitations currently being utilized by University Procurement Services.
- iii) Continuing services less than or equal to \$2,000,000 require a competitive solicitation, which may be satisfied by utilizing the University's contractors, solicited pursuant to section 287.055, Florida Statutes.
- iv) In-kind goods and services are gifts to the DSO and not subject to the provisions of this Section.

5) Each DSO shall prepare and submit to the BOT or designee no later than the first day of each quarter of the DSO's fiscal year a budget plan that delineates planned actions which would cause a commitment of University resources or represent a significant commitment of the resources of the DSO, including:

- a) Major fund raising events and campaigns and their purpose;
- b) Compensation and benefits to University employees and employees of the DSO, the limitations of which are indicated herein;
- c) Capital projects, including land acquisition, construction, renovation or repair, the thresholds of which are delineated above; and
- d) Other major commitments of the resources of the DSO.

6) Recognition of Exemption

Each DSO shall submit its federal Internal Revenue Service application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990) to the BOT, or designee, at the times required by the applicable University regulation or policy. Copies of such forms shall be provided to the BOG.

7) As of July 1, 2019, any transfer of a state appropriation to a DSO is limited to funds pledged for capital projects.

- a) This Regulation does not prohibit the transfer of non-state funds between DSOs, or the transfer of non-state funds to a DSO, as long as the original source of funding was not a state appropriation.
- b) A DSO may transfer funds and provide the use of DSO property, facilities, or personal services without any charge to the University.
- c) Effective for fiscal year 2018-2019, and annually thereafter, the University will report to the Florida Legislature and the BOG all transfer of state funds to each DSO during the previous fiscal year, the purpose for which the funds were transferred, and the remaining balance of any funds transferred using the format and instructions specified by the Chancellor.

d. Prohibited Activities

- 1) A DSO may not provide compensation for individual personal services of its employees in excess of \$200,000.
- 2) A DSO is prohibited from using state funds for travel expenses incurred by the DSO.
- 3) The BOT may not transfer any funds to, and shall not permit the use of property, facilities, or personal services by, any DSO that does not provide equal employment opportunities to all persons regardless of race, color, national origin, sex, religion, age, disability, marital status, veteran status, or any other basis protected by law.
- 4) A DSO is prohibited from giving, either directly or indirectly, any gift to a political committee as defined in section 106.011, Florida Statutes, for any purpose.

4. Audit

Each DSO shall conduct its financial operation observing a fiscal year ending on June 30

of each year and shall cause a financial audit of its accounts and records to be conducted by an independent certified public accountant after the close of each fiscal year as follows:

- a. Audits shall be conducted pursuant to section 1004.28, Florida Statutes, and in accordance with rules adopted by the Auditor General pursuant to section 11.45, Florida Statutes; and
- b. The President shall submit the annual audit report to the BOT and the Auditor General for review within nine (9) months after the end of the fiscal year.

*Authority*

*Chapter 287 and section 1004.28, Florida Statutes*  
*BOG Regulation 1.001(6)-(8), University Board of Trustees Powers and Duties*  
*BOG Regulation 9.001, Definitions*  
*BOG Regulation 17.001, Lease Authority*  
*BOG Regulation 18.001, Procurement Regulation*  
*FGCU Regulation 9.001, Use of University Facilities*

*History of Regulation*

*New 03/17/03; Amended 01/08/19; Format Changed 12/11/20*

*Approved by the Florida Gulf Coast University Board of Trustees*  
*January 8, 2019*