

## **FIU-1502 Direct Support Organizations**

1. The President of the University (the “President”) may recommend to the Board of Trustees (the “BOT”) that an organization meeting the requirements of Florida law pertaining to Direct Support Organizations (a “DSO”) be designated a DSO of Florida International University (the “University”). Upon approval by the BOT and the Board of Governors (the “BOG”), a DSO shall be considered to be certified and authorized to use the property, facilities and personal services of the University, subject to the provisions of this regulation.

2. In order to be considered for certification as a DSO, an organization must fulfill the requirements of Florida law pertaining to DSOs, BOG regulations and must have Articles of Incorporation and Bylaws that together:

a. Provide that any amendments to the Articles of Incorporation or Bylaws must be submitted by the President to the BOT for approval prior to becoming effective;

b. Provide that the organization shall provide equal employment opportunities to all persons regardless of race, color, religion, gender, age, disability, marital status, sexual orientation, veteran’s status or national origin, or any other basis protected by law;

c. Prohibit the giving, directly or indirectly, of any gift to a political committee as defined in Section 106.011, Florida Statutes; and

d. Provide that an annual budget, which has been approved by its governing board and recommended by the President, is submitted to the BOT for review and approval. Such proposed budget shall be approved by the BOT no later than sixty (60) days after the first day of the fiscal year to which the proposed budget pertains. Each proposed budget shall include therein:

i. Expenditures for the construction of physical facilities; and

ii. Salary supplements, compensation and benefits provided to the President, University faculty, University staff, and DSO employees to be paid with assets of the DSO, which shall be specifically identified.

e. Provide that the University shall have the right to audit the books, records and operations of the organization as the University determines appropriate in the exercise of its oversight.

f. Prepare and submit to the President, no later than the first day of each quarter of the organization’s fiscal year, a quarterly expenditure plan that separately delineates planned actions which would cause a commitment of University resources or which represent a significant commitment of the resources of the DSO, including:

i. Major fundraising events and campaigns and their purpose;

of the organization;

- ii. Compensation and benefits to University employees and employees

- iii. Capital projects, including land acquisition, construction, renovation or repair; and

- iv. Other major commitments of the resources of the organization.

- g. Have a financial audit of its accounts and records to be conducted by an independent certified public accountant after the close of each fiscal year. The audit report shall be submitted by the President to the BOT and the BOG no later than the end of the fourth month following the close of the organization's fiscal year.

- i. Audits shall be conducted pursuant to the requirements of the Florida Statutes and in accordance with rules adopted by the Auditor General.

- ii. The President shall submit the annual audit report to the Auditor General and the BOG no later than nine (9) months after the close of the organization's fiscal year. A DSO must also submit to the BOG its Federal Internal Revenue Service Application for Recognition of Exemption form and its Federal Internal Revenue Service Return of Organization Exempt from Income Tax form.

- h. Provide that the DSO assets be distributed for the benefit of the University as directed by the BOT if the organization is decertified as a DSO.

3. The Chair of the BOT (the "BOT Chair") shall appoint at least one representative to the governing body and, if any, the executive committee, of each DSO. In addition, the President or a designee shall also serve on the governing body and, if any, the executive committee, of each DSO. The BOT shall approve all appointments to the governing body of each DSO, other than the BOT Chair's representative(s) or the President or President's designee. The BOT Chair's designee may not be the President, nor may the BOT Chair and the President appoint the same person to represent both the BOT Chair and the President on the governing body of a DSO.

4. The President may also appoint other members of the University administration, faculty, student body or public to serve on the governing body and, if any, the executive committee, of each DSO for terms designated by the President as provided in the DSO's Articles of Incorporation and/or Bylaws.

5. The President shall have the power to:

- a. Monitor and control the use of University resources by the organization;

- b. Control the use of the University name by the DSOs; and

- c. Monitor compliance of the organization with federal and state laws.

6. The Director or Chief Executive Officer of a DSO shall report to the President or designee, who shall be a Vice President of the University or other Senior Officer reporting directly to the President.

7. Additional Governance Oversight. Subject to any applicable provisions under Florida law, BOG regulations or other University rules or regulations, the following shall apply:

a. Purchases of Goods/Services. Any purchase of goods and services by a DSO, in one or a series of related transactions during a given fiscal year, with a total value:

i. greater than or equal to \$500,000 and less than \$1,000,000, shall be reported on a quarterly basis to the Finance and Facilities Committee of the BOT (the "Finance Committee").

ii. greater than or equal to \$1,000,000 and less than \$3,000,000, shall require the prior approval of the Finance Committee and thereafter reported to the BOT; *provided, however*, in the event no regular meeting of the Finance Committee is scheduled within thirty (30) days from the date such approval is requested, any such transaction(s) may be approved by the Chair of the Finance Committee and thereafter, reported to the BOT.

iii. greater than or equal to \$3,000,000, shall require the prior approval of the BOT.

b. Real Estate Construction and Renovation.

i. The construction or renovation of facilities by a DSO, in one or a series of related transactions during a given fiscal year, (A) in an amount greater than or equal to \$500,000 and less than \$2,000,000, shall be reported on a quarterly basis to the Finance Committee; and (B) in an amount greater than or equal to \$2,000,000, shall require the prior approval of the BOT.

ii. Any change orders related to a facilities' construction or renovation project undertaken by a DSO, in one or a series of related transactions during a given fiscal year, in an amount greater than or equal to \$50,000 and five percent (5%) of the total value of the project, shall require the prior approval of the BOT.

c. Real Estate Leases. Any lease of real property by a DSO (i) with a total value greater than \$500,000, (ii) greater than 5,000 square feet, and (iii) with a term longer than 5 years shall require the prior approval of the BOT; *provided, however*, that any lease that does not meet all three requirements stated in (i), (ii), and (iii) but meets at least one of these requirements must be approved by the Finance Committee.

d. Real Estate Acquisitions.

i. Any acquisition of real estate by a DSO (other than the FIU Foundation), in one or a series of related transactions during a given fiscal year, for an aggregate

purchase price (A) less than \$2,000,000, shall be reported on a quarterly basis to the Finance Committee; and (B) greater than or equal to \$2,000,000, shall require the prior approval of the BOT.

ii. Any acquisition of real estate by the FIU Foundation, in one or a series of related transactions during a given fiscal year, for an aggregate purchase price greater than or equal to \$10,000,000, shall require the prior approval of the BOT.

e. To the extent that any University resources are requested and/or required in connection with DSO real estate construction and/or renovation, a DSO real estate lease, or DSO real estate acquisition (whether through a purchase, gift, or otherwise), approval shall be required in accordance with BOT delegated authority requirements to the University.

f. All debt issued by a DSO is subject to the State University System (the "SUS") Debt Management Guidelines, and all public-private partnership transactions involving a DSO are subject to the SUS Public-Private Partnership Guidelines.

g. University personal services used by a DSO are subject to the remuneration requirements set forth in Section 1012.976, Florida Statutes.

h. A DSO is prohibited from using state funds for travel expenses incurred by the DSO.

8. The President may recommend to the BOT that an organization be decertified as a DSO if the President determines that the organization is no longer serving the best interests of the University. The recommendation for decertification shall include a plan for disposition of the organization's assets and liabilities.

9. Other than the auditor's report, management letter, any records related to the expenditure of state funds, and any financial records related to the expenditure of private funds for travel, all records of the organization and any supplemental data requested by the BOG, the BOT, the Auditor General and the Office of Program Policy Analysis and Government Accountability shall be confidential and exempt from Section 119.07(1), Florida Statutes.

*Specific Authority Board of Governors Resolution dated January 7, 2003. History—New 5-8-03, Formerly 6C8-6.100, Amended 9-12-08, Amended 9-6-16, Amended 3-6-19.*