

FLORIDA A&M UNIVERSITY BOARD OF TRUSTEES



NOTICE OF PROPOSED AMENDED REGULATION

Date: March 6, 2019

REGULATION CHAPTER TITLE: Chapter 11

REGULATION TITLE AND NUMBER: Requirements for Certification, Budget and Audit Review. (11.001).

SUMMARY OF REGULATION: To amend Regulation 11.001, to comply with the amendment of Section 1004.28, Florida Statutes (March 2018), which revised the Universities' oversight of direct support organizations.

AUTHORITY FOR REGULATION: Article IX, Section 7, Florida Constitution, Section 1004.28, Florida Statutes, Board of Governors Regulation 1.001.

UNIVERSITY OFFICIAL INITIATING THIS REGULATION: Shira Thomas, Interim Vice President of Legal affairs and General Counsel

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 on which you are commenting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS: Shira Thomas, Interim Vice President of Legal affairs and General Counsel, Office of the General Counsel, 304 Foote-Hilyer Administration Center, 1700 Lee Hall Drive, Tallahassee, Florida 32307, Telephone: (850) 599-3591, Facsimile: (850) 561-2862, Email: shira.thomas@famuedu.

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

Regulation of Florida A&M University



11.001 Requirements for Certification, Budget and Audit Review.

(1) An organization seeking to become a direct support organizations (“DSO”) shall be certified by the Florida Agricultural and Mechanical University Board of Trustees (“University Board”) to use University property, facilities and personal services to the extent permissible by applicable law, Section 1004.28, Florida Statutes, Florida Board of Governors' Regulation 9.011, and University Regulations and Policies. Such support organizations shall be organized and operated to serve the best interests or mission of the University, and may receive, hold, invest, and administer property and make expenditures to, or for, the benefit of the University or University-affiliated research and development authority. In order to be certified as a direct support organization, as provided in Section 1004.28, F.S., an organization wishing to become a Florida Agricultural and Mechanical University (“University”) Direct Support Organization (“DSO”) shall fulfill the requirements of Section 1004.28(1)(a), F.S., and shall request approval of the Florida Agricultural and Mechanical University Board of Trustees (“the Board”). Upon the approval of the University President (the “President”) and approval by the Board, a direct support organization shall be considered to be certified and authorized to use the property, facilities, name and personal services of the University.

(2) University Board Oversight

- (a) The Board shall approve all appointments, including elected board members, to any DSO governing board.
- (b) The Chair of the Board shall appoint at least one representative to the board of directors and executive committee of the DSO, and the President or the President’s designee will serve on the board of directors and executive committee of the organization.

(c) The senior operating officer of the DSO shall be selected and appointed by the University President in consultation with the DSO's governing board. The senior operating officer of the DSO shall report to the President.

(d) Also refer to Policy 2018-01, FAMU Direct Support Organizations.

(3) Direct Support Organizations Finance and Budget

(a) Operating budgets of DSOs shall be prepared at least annually, approved by the organization's governing board and by the President and submitted to the Board for approval.

(b) A DSO shall have the authority to amend its budget. Budget amendment requests for less than 15%, but not to exceed \$40,000, of the total amount of the annual budget shall require the approval of the President, provided that no budget amendment affecting the President or the President's compensation, salary or other benefits shall be made without the approval of the Board. Other budget amendment requests shall require the approval of the President and the Board.

(c) Direct support organizations shall provide for an annual audit and management letter, as prescribed by applicable laws and rules, which shall be submitted to the President and to the Audit Committee of the University Board for ~~Board~~ review and approval.

(d) DSO thresholds for the purchase of commodities and services, acquisition of real property, projects, construction and/or renovation, and issuance of debt are set forth and shall be made in accordance with University procurement and construction regulations, policies, and procedures including, without limitation, FAMU Regulation Chapter 6, Purchasing Program, University Board Policy 2013-02, Construction Procedures Manuals.

(e) Any debt issued by a direct support organization is subject to the State University Debt Management Guidelines, and all public-private partnership transactions involving a direct support organization are subject to the State University System Public-Private Partnership guidelines.

(f) Any transfer of a state appropriation to a direct support organization is limited to funds pledged for capital projects.

1. A direct support organization may transfer funds and provide the use of direct support organization property, facilities or personal services without any charge to the University.
2. Annually, the University will report to the Legislature and to the Board of Governors all transfers of state funds to each University direct support organization as specified by the Board of Governors' Chancellor.

(4) Decertification

- (a) The Board has the authority to request that the President investigate any DSO that is acting inconsistently with the best interests of the University. If the President determines that the DSO is no longer serving the best interests of the University, the President may request that the Board decertify a DSO. ~~The Board has the authority to request that the President investigate any DSO that is acting inconsistently with the best interests of the University.~~ The request for decertification shall include a plan for disposition of the DSO's assets and liabilities.

Specific Authority s. 1004.28 FS. History—New 1-1-04, amended ____-19.