



FIU

FLORIDA INTERNATIONAL UNIVERSITY
Miami's public research university

MEMORANDUM

TO: R. Kirk Landon
Trustee, Florida International University

FROM: Regina DeIulio, Associate General Counsel *RD*
Rafael A. Paz, Associate General Counsel *RP*

RE: "Go-to-Market" Corporate Sponsorship Campaign

DATE: April 24, 2007

You have asked for an opinion as to the legality of the "Go-to-Market" Corporate Sponsorship Campaign.

As a general matter, our office has offered certain parameters or guiding principles to ensure the legality of the Go-to-Market Campaign, which includes a sponsorship component in a competitive solicitation for goods/services. The parameters are as follows:

- (i) the terms of the competitive solicitation must not *require* sponsorship;
- (ii) the terms of the competitive solicitation must provide for award of the contract on an overall "best value" basis with the sponsorship component being only one of several factors considered in the evaluation process;
- (iii) each sponsorship package must bear some reasonable relationship to the nature of the services provided; and
- (iv) each sponsorship package must confer benefits of value to the vendor in exchange for the sponsorship.

Consistent with these parameters, the General Counsel's office will review the appropriateness of including a sponsorship component as part of any competitive solicitation, and will review every Go-to-Market competitive solicitation document as to form and legality prior to its being advertised. To date, the only Go-to-Market competitive solicitation in progress is the Snack/Beverage Vending Request For Proposal ("Vending RFP"). The Vending RFP is divided into several programs to permit vendors to submit proposals for the rights to provide snack

machine-vending services and/or beverage machine-vending services and fountain pouring rights at FIU.

Although we offer no opinion as to the business aspects of the solicitation, the Office of the General Counsel has concluded that the structure of the Snack/Beverage Vending RFP is legal for the following reasons:

- The Vending RFP does not *require* sponsorship of vendors. Instead, the RFP permits vendors the discretion to "price" the sponsorship package as they deem fit, and is structured so that the proposers will be ranked on a "best value" basis. As such, it is possible for a proposer that does *not* provide the highest sponsorship contribution (or any contribution, for that matter) to be the highest-ranked proposer and awarded a contract for one or more of the programs.
- The sponsorship package bears a reasonable relationship to the nature of the services at issue, namely the exclusive right to serve vendor's products at FIU. In this regard, snack/beverage sponsorships are common not only at other universities nationwide, but in professional sports as well. In the Vending RFP, the sponsorship contribution will be made in exchange for exclusive rights to serve beverages at all inter-collegiate athletic events, and in exchange for designation as a sponsor of the University's athletics program and as the "official beverage sponsor" of the University.

- The sponsorship package confers significant value to the vendors. The marketing and promotional value is especially relevant at FIU, given the diversity of our student body. In addition, the sponsorship includes the right to use FIU's trademarks and logos on vendor's products at all athletic events and other University-sponsored events, and includes the right to signage and promotional opportunities at athletic and other FIU-sponsored events. Finally, the sponsorship contribution may include the right to a sky box suite at the stadium, along with club seats, and tickets to intercollegiate events.

Each Go-to-Market solicitation shall be reviewed for legality on a case-by-case basis, consistent with the guiding principles discussed above. Please let me know if we can be of any further assistance.

cc: Modesto A. Maidique, President
Vivian Sanchez, CFO and Sr. Vice President
Marcos A. Perez, Vice President
Pete Garcia, Athletic Director
Mayra Beers, Chief of Staff