Legal Affairs Committee
2:30 p.m.
Thursday, March 21, 2013
Board of Supervisors’ Meeting Room
2nd Floor, J.S. Clark Administration Building
Southern University and A & M College
Baton Rouge, LA

Agenda

1. Call to Order
2. Roll Call
3. Adoption of the Agenda
4. Public Comments
5. Action Item
   A. Contract between SU System and EO Serve (Dumas)
6. Other Business
7. Adjournment

Members
Dr. Eamon M. Kelly – Chair; Atty. Tony M. Clayton - Vice Chair; Atty. Murphy F. Bell, Jr.; Atty. Walter C. Dumas,
Mr. Darren G. Mire, Mr. Willie E. Hendricks, Dr. Leon R. Tarver II, Atty. Bridget A. Dinvaut - Ex Officio
BACKGROUND AND CHRONOLOGY

for the

SOUTHERN UNIVERSITY – EDUCATION ONLINE SERVICE, CORP. ONLINE PARTNERSHIP
EOS – BACKGROUND

• 2010-Interim President Dr. Kassie Freeman initiated discussion with EOServe.
• 2010 – President Mason meets with Bisk and EOServe about on-line course offerings.
• 2011 – Bisk declines to participate after due diligence.
• 2011- EOServe submits a proposal.
  – An extensive review was done by
    • Chancellors
    • Academic Affairs
    • Information Technology
    • Finance
    • In-house Counsel
    • Outside Counsel
EOS – DOA/OCR CHRONOLOGY

• EOServe Agreement approved by SUBOS.
  – 10/28/2011

  ▪ SUBR Purchasing submits Sole Source Justification to DOA
    ▪ 11/30/11

    ▪ OCR contacted VP-IT about terms of EOServe agreement.
    ▪ OCR referred EOServe agreement to OIT (Office of Information Technology) for review.
      ▪ 12/27/11

    ▪ OCR contacted SUS General Counsel about EOServe Agreement
      ▪ 2/10/12
EOS - OCR CHRONOLOGY

- OCR sends request for information about tuition
  - 2/22/2012
- SUS response provided to OCR on the following topics:
  - Revenue, Tuition and Financial Aid
  - 2/27/2012
- OCR sends request for additional information about sole source.
  - 03/12/12
EOS - OCR CHRONOLOGY

- SUS General Counsel provided additional documentation to support Sole Source justification.
  - 04/3/12
  - Information submitted to OCR.
    - EOServe only provider of bundled services (marketing, software, delivery, etc.) for distance learning.
    - OCR stated they found two additional companies offering similar services.
      - SUS explained Bisk declined to work.
      - Others did not bundle all services.
EOS - OCR CHRONOLOGY

• OCR and SUS General Counsel met-05/7/12
  ▪ SUS raised the Central Purchasing Exemption for Colleges and Universities
  ▪ DOA disagreed with SUS position.
    ▪ Requested additional information on
      ▪ Revenue Sharing
      ▪ Contingent Payment
  ▪ 05/16/2012
EOS - OCR CHRONOLOGY

• SUS General Counsel met with DeCuir Clark & Adams and Taylor Porter - 5/21/12

• Taylor Porter submitted opinion to DOA stating that EOServe Agreement was exempt for DOA - 5/29/12
  – Not state funds
  – Central Purchasing Exemption
  – Not a contingency fee arrangement
EOS - OCR CHRONOLOGY

• OCR
  – Disagreed with non-state funds argument
  – Suggested alternative approach if EOServe agreement could be viewed as a revenue sharing agreement. OCR provided an Attorney General opinion for guidance
  • 06/7/12
EOS - OCR CHRONOLOGY

• AG’s opinion provided by OCR was reviewed and determined inapplicable.

• Taylor Porter issued an opinion letter supporting the contention that the funds collected by SUS for EOServe are not public funds-7/25/12