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ANNUAL REPORT ON COMPETITION WITH PRIVATE ENTERPRISE

Action Requested: Receive the annual report.

Executive Summary: State law precludes the Regent institutions from competing with private enterprise, except in certain situations. The Board has adopted a policy that Regent institutions shall not engage in competition with private enterprise unless the activity will assist in the education, research, extension, or service mission of the institutions.

The Regent institutions reported that no complaints were received from the private sector during the past year relating to competition issues. Iowa State University reported that its review committee reviewed and approved one sales opportunity and submitted a proposal for another.

- ◆ ISU approved a request from The American College of Veterinary Pathologists (ACVP), a non-profit-organization, for the University to score its certification exam administered annually on campus. ISU's Test and Evaluations Services (TES) provides academic support services, which includes scoring exams and surveys and producing statistical reports. The University reported that private-sector test scoring options are limited in central Iowa and that by providing this service locally, ISU enabled ACVP to conduct the exam in Ames and provide a convenience to students. The review committee concluded that the volume was incidental to the operation and that the services were not readily available locally. Rates were developed and approval was granted to score tests for ACVP and other non-profit entities or community colleges.
- ◆ ISU's Extension Distribution Center submitted a proposal to the University of Wisconsin (UOW) to supply media reproduction, warehousing, and distribution for its extension publications. The UOW's Extension Service had solicited proposals through a Request for Proposal process. ISU performs these services for its own extension publications. The review committee determined that the Iowa Administrative Code exempts educational media, publications, and distribution from competition with the private sector. The opportunity to develop a partnership with another land-grant institution was perceived to be beneficial since building partnerships and outreach are part of the Extension mission so a proposal was submitted. The proposal was not accepted by UOW.

Background: Iowa Code Chapter 23A prohibits a public entity from competing with private enterprise unless specifically authorized by statute, rule, ordinance, or regulation and authorizes the Board of Regents to provide, by administrative rule, exemptions to this prohibition for the institutions under the control of the Board. Iowa Code §23A.2(2) and §23A.2(10)k list exemptions and are provided on the following page.

Iowa Administrative Code (IAC) §681-9.4 and Regent Policy Manual §7.08C specify the Board's rules and requirements regarding competition with private enterprise by Regent institutions. IAC §681-9.4(8) details the formal appeal process for resolving complaints involving competition with private enterprise.

Each institution has review committees that meet periodically to review potential situations that may compete with private enterprise and has established written policies regarding competition with private enterprise to ensure that:

- ◆ Activities provided by the institutions are consistent with Board policy and are: integral to educational, research, public service, and campus support functions; not reasonably available in the community; for the primary benefit of the campus community and incidental to education, research, service, or extension missions; and important to maintaining the quality of the institution;
- ◆ Processes are identified to handle inquiries about activities carried out by the institution; and
- ◆ There is a means for community businesses to interact with the institutions, including discussion of complaints.

Exemptions from Competition with Private Enterprise

**Iowa Code
§23A.2(2)**

The Board of Regents may, by rule, provide for exemption from the application of this chapter for the following activities:

- ◆ Goods and services that are directly and reasonably related to the educational mission of an institution or school.
- ◆ Goods and services offered only to students, employees, or guests of the institution or school and which cannot be provided by private enterprise at the same or lower cost.
- ◆ Use of vehicles owned by the institution or school for charter trips offered to the public, or to full, part-time, or temporary students.
- ◆ Durable medical equipment or devices sold or leased for use off premises of an institution, school, or University of Iowa Hospitals or Clinics.
- ◆ Goods or services which are not otherwise available in the quantity or quality required by the institution or school.
- ◆ Telecommunications other than radio or television stations.
- ◆ Sponsoring or providing facilities for fitness and recreation.
- ◆ Food service and sales.
- ◆ Sale of books, records, tapes, software, educational equipment, and supplies.

**Iowa Code
§23A.2(10)k**

This chapter does not apply to any of the following on-campus activities of an institution or school under the control of the Board of Regents:

- ◆ Residence halls.
- ◆ Student transportation, exceptions noted.
- ◆ Overnight accommodations for participants in programs of the institution or school, visitors to the institution or school, parents, and alumni.
- ◆ Sponsoring or providing facilities for cultural and athletic events.
- ◆ Items displaying the emblem, mascot, or logo of the institution or school, or that otherwise promote the identity of the institution or school and its programs.
- ◆ Souvenirs and programs relating to events sponsored by or at the institution or school.
- ◆ Radio and television stations.
- ◆ Services to patients and visitors at the University of Iowa Hospitals and Clinics, exceptions noted.
- ◆ Goods, products, or professional services which are produced, created, or sold incidental to the schools' teaching, research, and extension missions.
- ◆ Services to the public at the Iowa State University College of Veterinary Medicine.