

Contact: Andrea Anania

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 institutions reported that no complaints related to competition were received from the private sector during the past year.

Each Regent institution has a committee that meets periodically to review potential situations that may compete with private enterprise. The institutions reported the following:

- ◆ University of Iowa's committee reviewed two proposals; both were approved, only one moved forward;
- ◆ Iowa State University's committee reviewed five proposals; three were approved, one was placed on hold, and one was not pursued; and
- ◆ University of Northern Iowa, Iowa School for the Deaf, and Iowa Braille and Sight Saving School committees did not receive any proposals to review.

Brief descriptions of the proposals reviewed by the University of Iowa and Iowa State University committees may be found on pages 3 and 4.

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 §7.08D 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 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 any of the following:

- a. Goods and services that are directly and reasonably related to the educational mission of an institution or school.
- b. 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.
- c. Use of vehicles owned by the institution or school for charter trips offered to the public, or to full, part-time, or temporary students.
- d. Durable medical equipment or devices sold or leased for use off premises of an institution, school, or University of Iowa Hospitals or Clinics.
- e. Goods or services which are not otherwise available in the quantity or quality required by the institution or school.
- f. Telecommunications other than radio or television stations.
- g. Sponsoring or providing facilities for fitness and recreation.
- h. Food service and sales.
- i. 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:

- (1) Residence halls.
- (2) Student transportation, exceptions noted in §23A.2(2)(c).
- (3) Overnight accommodations for participants in programs of the institution or school, visitors to the institution or school, parents, and alumni.
- (4) Sponsoring or providing facilities for cultural and athletic events.
- (5) 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.
- (6) Souvenirs and programs relating to events sponsored by or at the institution or school.
- (7) Radio and television stations.
- (8) Services to patients and visitors at the University of Iowa Hospitals and Clinics, exceptions noted in §23A.2(2)(d).
- (9) Goods, products, or professional services which are produced, created, or sold incidental to the schools' teaching, research, and extension missions.
- (10) Services to the public at the Iowa State University College of Veterinary Medicine.

University of Iowa

- ◆ The Department of Ophthalmology and Visual Sciences Chair, Dr. Keith Carter, proposed that the Department establish an optical shop at the University of Iowa Hospitals and Clinics.

The Committee reviewed the proposal and recommended that the optical shop be approved with specified limitations. Senior Vice President Doug True reviewed and approved the proposal and the Department is moving forward with the project.

- ◆ The Laundry Service was approached by Mercy Medical Center (MMC) in Cedar Rapids, Iowa, with a proposal for SUI to provide laundry services. MMC had been providing laundry services internally and indicated that no local vendors were capable of meeting MMC's large volume needs. The University believed that the increased volume from MMC would lower unit costs for SUI laundry customers.

The Committee recommended approval for the University to submit a quote for providing laundry services. MMC subsequently moved forward with a different provider.

Iowa State University

- ◆ The Office of Biotechnology offers a wide range of testing services used primarily by faculty and students for educational and research activities. During the past year, the Office of Biotechnology developed the Macromolecular X-ray Crystallography Facility. This Facility offers: equipment for single crystal x-ray diffraction studies; training in crystallography techniques and computers with crystallography software; and services including consultation, protein purification, crystallization, optimization, screening, data collection, data processing, structural determination, and analysis.

The Committee approved the sale of these services to the public because the only known provider of these services are other public universities, and sales volume is anticipated to be small and incidental to the Facility's operations.

- ◆ The Entomology Department has an employee with strong skills in Entomology and web site development. Entomology Departments at other universities occasionally request this employee's assistance and consultation to improve the appearance and functionality of their web sites. While web site development skills can be found in the private sector, this service also requires a strong Entomology background.

The Committee approved the sale of these services to other universities because the services will be offered on a limited basis and will not be promoted or advertised.

- ◆ The Animal Science Department (ASD) participated in the development of an Avian Molecular Genetics Laboratory (AMGL), which provides testing services primarily to ASD and associated students and faculty. These services are offered by universities and governmental research institutions only. The private sector has expressed interest in purchasing these services on a limited basis from ISU.

The Committee approved the sale of these services to the public because the sales volume is anticipated to be small and incidental to AMGL's operations.

- ♦ The Psychology Department, College of Liberal Arts and Sciences, expressed interest in offering group consulting and mental health services to ISU employees and communities in Ames and central Iowa. Participants would also be provided an opportunity to take part in a research study. Because the proposal included a research study on human subjects, it was referred to the College for further review.

The Committee placed review of this proposal on hold.

- ♦ The Dining Department was asked by a local manufacturer to submit a proposal for full-service kitchen and cafeteria services located within the manufacturing facility. The University discovered that the project was competitively bid and that the manufacturer received two proposals from the private sector, which were considered too expensive.

The Committee did not pursue this opportunity because private sector services were available.