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ANNUAL REPORT ON COMPETITION WITH PRIVATE ENTERPRISE

Action Requested: Receive the annual report.

Executive Summary: State law prohibits the Regents institutions from competing with private enterprise except in certain situations. The Board's Policy Manual states 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.

Each institution has a committee to review potential situations that may compete with private enterprise. No complaints from the private sector were reported by any of the institutions.

During the past year, SUI reviewed and approved one proposal, ISU reviewed and approved one sales opportunity, and UNI approved three proposals. ISD and IBSSS did not receive any proposals.

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) lists exemptions and §23A.2(10)k lists items for which the chapter does not apply. Both lists may be found on page 2.

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 Regents institutions.

Each institution has established written policies regarding competition with private enterprise to ensure that:

- ◆ Activities provided by the institutions are consistent with Board policy.
- ◆ Processes are identified to handle inquiries about activities carried out by the institution.
- ◆ 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 state Board of Regents or a school corporation 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 the following on-campus activities of an institution or school under the control of the state Board of Regents or a school corporation:

- (1) Residence halls.
 - (2) Student transportation, except as specifically listed 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, except as specifically listed 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.
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Analysis:

UNIVERSITY OF IOWA

UI PARTNERS – STATEWIDE UI ENGAGEMENT CENTERS

Under *UI Partners*, the Office of Research and Economic Development would create regional economic development engagement centers to be located across the state to drive innovation and growth at Iowa businesses.

The Centers would work with local businesses, economic development groups, and educational institutions to solve tangible and specific economic problems and address specific skills shortages in the information technology arena. The Centers would work in collaboration with other Regents institutions, community colleges, and other centers and draw on the skills of faculty, students, and staff. Each Center would utilize local expertise and existing facilities to focus on statewide needs and regional opportunities.

After review of the proposal, the Committee on Competition with Private Enterprise and Community Concerns recommended approval of *UI Partners – Statewide UI Engagement Centers* to the Senior Vice President and Treasurer.

In its recommendation, the Committee stated that the services should be focused on small businesses that meet certain criteria. For example, those with fewer than 50 employees, an annual revenue stream less than \$5 million, or on firms to which *UI Partners* would provide a unique non-competitive service. The Committee also requested that it have the opportunity to review firms to which services would be provided on an annual basis for the first two years of operation.

The Senior Vice President and Treasurer concurred with the Committee's recommendations and the Office of Research and Economic Development proceeded with the development of *UI Partners – Statewide UI Engagement Centers*.

IOWA STATE UNIVERSITY

COLLECTION AND WATER TESTING SERVICES

After performing water testing services for the Corps of Engineers since 1967 under a contracted research arrangement through ISU's Office of Sponsored Programs Administration, the decision was made three years ago to set up the Department of Civil, Construction and Environmental Engineering Water Quality Research Laboratory (WQRL) as a fee-for-service laboratory. This enabled WQRL to continue its work for the Corps of Engineers and also provide services to the Iowa Department of Natural Resources.

The WQRL works closely with the Department of Civil, Construction and Environmental Engineering's Environmental Engineering Research Laboratory (EERL). The WQRL essentially contracts the work, collects the samples, and provides some analytical work. The majority of the analytical work is performed by EERL. WQRL compiles the data, reports it to the client, and initiates billing.

The WQRL is unique because it provides extensive field water quality monitoring in lakes and rivers. It also has the equipment and experience to provide field based studies, including boat access to large reservoirs, integrated beach bacteria monitoring with 18-hour E coli results, collection of fish, and experience in microcystin sampling and analysis. The WQRL performs year-round collection of water samples, which entails augering through ice on rivers and the use of a snowmobile on reservoirs.

Because they were aware of WQRL's experience working in the Red Rock Reservoir, a local construction company wanted to engage WQRL for water quality monitoring during construction of a hydroelectric plant at the Red Rock Reservoir. The contract was forwarded for review.

During the review, the Competition Review Committee learned WQRL had recently bid on a contract opportunity with the Corps of Engineers. Only one other company bid and they could not provide all the requested services WQRL can provide. As a result, the Competition with the Private Review Committee reviewed the sales opportunity. It concluded the services offered by WQRL and EERL were unique and not found in the private sector. Rates were reviewed and the sale of services was approved.

UNIVERSITY OF NORTHERN IOWA

FOUNDRY SAND MOLDS AND CORES

The committee approved a request from the Metal Casting Center to provide foundry sand molds and cores produced by advanced additive manufacturing methods. Through the production of these molds and cores, students receive an education in advanced manufacturing and other industrial training as well as provide engineering assistance.

The primary goal of this is to advance the state of the available technology with research and development activities.

These product sales fall under the conditions provided in Iowa Administrative Code 681-9.4(1) a – “The activity is deemed to be an integral part of the institution’s educational, research, public service and campus support functions, and other educational and support activities.”

MOBILE PRODUCE STAND

The committee approved a request from the Center for Energy and Environmental Education: “Access Granted” which is an initiative of UNI Presidential Scholars to organize a pilot program for a mobile produce stand that will make fresh, locally grown produce accessible at reasonable prices to neighborhoods that otherwise lack access to fresh vegetables.

The mobile produce stand falls under the conditions provided in Iowa Administrative Code 681-9.4(1) b – “The activity is needed to provide an integral good or service which is not reasonably available in the community; or the activity is needed to provide an integral good or service at time, price, location or terms which are not reasonably available in the community.”

PSYCHOLOGICAL EVALUATIONS

The committee approved a request from the Psychological Assessment Clinic (PAC) to provide psychological evaluations to the University and surrounding communities on a flat fee basis.

Main functions of the clinic include delivering psychological assessment services, providing professional training for graduate students, and supporting clinically relevant research projects.

The assessment clinic falls under the conditions provided in Iowa Administrative Code 681-9.4(1) a – “The activity is deemed to be an integral part of the institution’s educational, research, public service and campus support functions, and other educational and support activities.”