

Contact: Andrea Anania

ANNUAL REPORT ON COMPETITION WITH PRIVATE ENTERPRISE

Action Requested: Receive the annual report.

Executive Summary: State laws prohibit government entities from competing with private enterprise unless specifically authorized by statute, rule, ordinance, or regulation. The Iowa Administrative Code and Board Policy Manual state 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.

During the past year, the University of Iowa approved one proposal and Iowa State University approved three proposals (See pages 3-4.)

The University of Northern Iowa, Iowa School for the Deaf, and the Iowa Braille and Sight Saving School did not receive any proposals for consideration.

Background:

Iowa Code Chapter 23A (Noncompetition by Government) 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 Board Policy Manual §2.2(8)(D) 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; 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 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

Department of Health and Human Physiology - Community Outreach Lab

SUI's Department of Health and Human Physiology (HHP) submitted a proposal to offer fee-for-service health testing through the Community Outreach Lab (COL). COL is housed in the Field House on SUI's campus.

As background, participants would sit in the Bod Pod, a large egg-shaped pod in COL that measures body composition in under a minute. The Bod Pod uses air displacement to estimate the ratio of fatty mass to lean mass. The subject would wear compression clothing and sit inside the Bod Pod for 2 to 3, 50-second testing periods. The Bod Pod has been demonstrated as a highly accurate measure of body composition and is far superior to the common but unreliable skinfold calipers.

Initially, HPP intends to only provide body composition testing primarily for the campus community and potentially patients being treated at UIHC. The testing would be conducted by faculty-supervised students who earn academic credit. Currently, there are approximately 450 students in the exercise science program eligible to register for this practicum/internship.

The desire to offer this service is to give students experience in a client setting and to meet a demand from personal trainers and coaches on campus who encourage clients to obtain a body composition test, but who have limited options to pursue one. Offering this service will further the educational mission of the University by providing students an experiential learning opportunity that they do not have access to elsewhere.

This service, arguably a support service for fitness, would also meet a demand for the campus and the community that is not otherwise available. While an individual can have body composition testing performed at gyms and other locations in the community, there are no local providers of this particular specialized safe and highly accurate type of service or this particular type of testing method. The intent is that the majority of clients will be SUI students, faculty, and staff, but the service will also be available to the community.

The Committee on Competition with Private Enterprise and Community Concerns recommended moving forward with the understanding that, should HHP wish to add additional fee-for-service health testing services, they were to contact the Committee to discuss potential competition with private enterprise concerns. Senior Vice President Rod Lehnertz concurred with the Committee's recommendation.

IOWA STATE UNIVERSITY

AG EXPERIMENT STATION-FOOD SCIENCE AND HUMAN NUTRITION (FSHN) CREAMERY

FSHN requested approval to produce ice cream, cheese, and other dairy products for public sale, as well as rent the creamery space to student organization groups, university departments, and external customers for meetings and events.

The creamery will employ and train students and entrepreneurs in dairy processing and food safety practices.

The Competition with the Private Sector Review Committee reviewed this request and concluded the activity is an integral part of the institution's educational, research, and public service functions and activities.

The Committee approved the request.

CENTER FOR NONDESTRUCTIVE EVALUATION INSTRUMENT SERVICES

ISU's Center for Nondestructive Evaluation (CNDE) has equipment to run digital X-ray radiography and high-resolution computed tomography (CT) scans on various materials. These scans provide the opportunity to inspect the interior structure of materials with a nondestructive method.

The instrument itself, along with the physical room in the science building, is uncommon. No known businesses in Iowa provide this type of service. There are commercial entities that supply such instruments and there are external entities that have similar facilities, but these facilities are often at a high degree of capacity or are part of the government National Laboratory complex and, hence, are difficult to access.

The purpose of the activity is principally intended to support ISU research and teaching. Any external sales are expected to be minor.

The Competition with the Private Sector Committee reviewed the request and determined the services to be an integral part of ISU's educational and research functions and these services are not reasonably available in the community.

The Committee approved the request.

MOTIVATIONAL INTERVIEWING HUB

The Motivational Interviewing Hub (MIH) is a training and research group within ISU's Translational Research Network (U-TuRN) in the College of Human Sciences. U-TuRN supports translational academic study, teaching, and outreach with the goal of building sustainable community systems that enable healthy lifestyles.

MIH is designed to provide a self-guided, introductory-level training on the elements and foundational principles of a behavioral/counseling skill known as "motivational interviewing". Training through ISU's online learning management system provides a way to offer this base training to a wider audience. MIH also offers a supervised version of the training that provides a mentored/facilitated experience.

Various outside agencies offer training in motivational interviewing and are conducted in similar ways; however, those courses are quite expensive and not accessible to many individuals. Therefore, the goal of MIH is to provide a low-cost training that would provide participants with base-level training so they can learn to understand and apply the principles.

The Competition with the Private Sector Review Committee reviewed this request and concluded the activity is an integral part of the institution's educational, research, and public service functions and activities.

The Committee approved the request.