

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; Iowa State University approved ten proposals and denied one; and the University of Northern Iowa approved one proposal. (See pages 3-6.)

The 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 activities of an institution or school under the control of the state Board of Regents as provided in Iowa Code §23A.2(10)k or any other applicable provision of Iowa law.

- (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) Health care and related services to patients and visitors by the University of Iowa.
 - (9) Goods, products, or professional services provided to the public in furtherance of the institution's or school's mission.
 - (10) Services to the public at the Iowa State University College of Veterinary Medicine.
-

Analysis:

UNIVERSITY OF IOWA

Department of Health and Human Physiology (DHHP)

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

The Resting Metabolic Rate (RMR) test provides the total number of calories an individual burns when the body is at rest. RMR plays a major role in determining an individual's weight status. This test, which takes approximately 10-15 minutes, is a low-risk test but requires expensive equipment requiring extensive training. As such, it is not common in most fitness facilities but is instead found in research facilities and/or hospitals.

Several faculty members have years of experience using this equipment and DHHP is adequately equipped for any potential emergencies. The program will be overseen by trained DHHP faculty members and tests will be run by trained undergraduate or graduate level students in DHHP as part of a practicum/internship. 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.

The test will be offered to individuals who initiate contact on their own as well as by physician referrals. DHHP anticipates patients treated in the Weight Loss Management Clinic and the Bariatric Surgery Clinic at UIHC will be referred on a regular basis.

DHHP has worked with Risk Management to develop an approved client agreement for the additional testing.

This testing, a support service for wellness and fitness, will also meet a demand for the campus and the community that is not otherwise available. The sole testing site at present is the University of Iowa Institute for Clinical and Translational Science (ICTS) Clinical Research Unit. However, tests performed at ICTS are strictly for research and diagnostic purposes and are not available to the community at large.

DHHP is not aware of any private businesses or organizations that offer this service.

The Committee on Competition with Private Enterprise and Community Concern's recommendation to Senior Vice-President Rod Lehnertz was to allow DHHP to move forward to provide the RMR fee-for-service health testing service through its Community Outreach Lab. Should DHHP wish to add additional fee-for-service health testing services to be conducted at the Community Health Teaching Center, they were advised to contact the Committee to discuss potential competition with private enterprise concerns.

SVP Lehnertz concurred with the Committee's recommendation.

IOWA STATE UNIVERSITY

1. Ag & Biosystems Engineering Machinery Testing Facility (ABE MTF) – Short Course Trainings
2. Ag & Biosystems Engineering - ISU Conservation Learning Group (ABE CLG)
3. Biochemistry, Biophysics & Molecular Biology - DiSpirito Lab
4. Department of Music - Music Hall Space Usage Fee
5. Genetics, Development and Cell Biology (GCBD) - Zebrafish GeneWeld Service
6. Ivy College of Business (ICOB) - Custom Education Workshops
7. Kinesiology - Lang Research Lab
8. National Institute of Antimicrobial Resistance Research and Education (NIAMRRE)
9. School Wellness Integration Targeting Child Health (SWITCH) Program
10. Veterinary Clinical Sciences (VCS) - Jergens Clinical Trial
11. Recreation Services

Ag & Biosystems Engineering Machinery Testing Facility (ABE MTF) – Short Course Trainings

ABE MTF requested approval to provide short course trainings to industry partners who would like to procure testing and training services using the facility's unique equipment and the expertise of researchers. Some of the equipment used to do the training is not otherwise available as it was custom-developed for the research facility.

The Competition with the Private Sector Review Committee reviewed the request and determined the activity is an integral part of the institution's educational, research, and public outreach functions and activities and provides an integral good or service that is not reasonably available in the community.

The Committee approved the request.

Ag & Biosystems Engineering - ISU Conservation Learning Group (ABE CLG)

ABE CLG requested approval to provide coordination of field days and workshops designed to provide education and outreach to farmers and landowners on timely conservation issues related to agricultural land management, soil health, water quality, and wildlife. Services include coordination of speakers, venues, meals, promotion, program delivery, and evaluation on behalf of faculty and staff within ISU Extension and Outreach.

The Competition with the Private Sector Review Committee reviewed the request and determined the activity is an integral part of the institution's educational and public outreach functions and activities.

The Committee approved the request.

Biochemistry, Biophysics & Molecular Biology - DiSpirito Lab

The modified protein methanobactin is undergoing animal studies to evaluate its potential in treating Wilson disease and other copper-related diseases. Methanobactin was discovered by Dr. DiSpirito's laboratory and ISURF holds partial patent rights on it and its different applications.

The DiSpirito Lab requested approval to sell methanobactin from Methylocystis strain SB2 to a pharmaceutical company for research for a variety of purposes as well as for the preliminary studies necessary for its use in the treatment of metal-related diseases.

The Competition with the Private Sector Review Committee reviewed the request and determined the activity to be an integral part of the institution's educational, research, and public service functions and activities and provides an integral good or service that is not reasonably available in the community.

The Committee approved the request.

Department of Music (DOM) - Music Hall Space Usage Fee

DOM requested approval for faculty to use university space to provide private music/vocal lessons for students who wish to have additional, personally funded lessons. Because this is beyond a faculty member's job description, a fee will be charged to the faculty member to compensate the use of university space.

The Competition with the Private Sector Review Committee reviewed the request and determined the activity will be carried out for the primary benefit of the campus community.

The Committee approved the request.

Genetics, Development and Cell Biology (GDCB) - Zebrafish GeneWeld Service

GDCB requested approval to provide lab services to investigators in the zebrafish community at other institutions who do not have access to or expertise in CRISPR gene editing technology. The lab will provide services using CRISPR gene editing to generate transgenic (genetic material into which DNA from an unrelated organism has been artificially introduced) zebrafish lines for the zebrafish research community.

The Competition with the Private Sector Review Committee reviewed the request and determined the activity is an integral part of the institution's educational, research, and public outreach functions and activities and provides an integral good or service that is not reasonably available in the community.

The Committee approved the request.

Ivy College of Business (ICOB) - Custom Education Workshops

ICOB requested approval to develop a custom education workshop for employees (typically directors to AVP level) of Union Pacific Railroad. The curriculum and content, which will focus on developing a growth mindset and strategic thinking skills, will be created and delivered by ICOB faculty. The workshop will be created in such a manner that it can be customized to other potentially interested entities in the future.

The Competition with the Private Sector Review Committee reviewed the request and determined the activity is an integral part of the institution's educational and public outreach activities that provide continuing education.

The Committee approved the request.

Kinesiology - Lang Research Lab (LRL)

LRL requested approval to provide lab services to an industry partner that facilitates human research. Services would range from recruiting participants to conducting lab tests and presenting analyses. Such activities would provide graduate and undergraduate students training, education, and experience in conducting research, performing lab techniques, and working with research participants and corporate entities.

The Competition with the Private Sector Review Committee reviewed the request and determined the activity is part of the institution's educational and research activities.

The Committee approved the request.

National Institute of Antimicrobial Resistance Research and Education (NIARRE)

ISU serves as the host organization for NIARRE. One Health Certification Foundation (OHCF) has been established to manage a certification wherein food product producers may demonstrate their production practices comply with certain animal care standards developed by OHCF. Once certified, producers may market their certification on their packaging and promotional materials.

NIARRE believes the goals and activities of OHCF are consistent with their own goals and activities. Accordingly, NIARRE requested approval to provide OHCF access to ISU office space, office equipment and supplies, and staff time to administer the certification program, as detailed in a service agreement formulated by ISU Office of University Counsel and Office of the Vice President for Research.

The Competition with the Private Sector Review Committee reviewed the request and determined the arrangement provides an integral service that is not reasonably available in the community. The One Health Certification is a labeling program distinctive in its comprehensive approach to science-based, best-practice animal health and welfare, and NIARRE is well positioned to administer the program.

The Committee approved the request.

School Wellness Integration Targeting Child Health (SWITCH) Program

SWITCH, coordinated through ISU Extension and 4-H, is a wellness initiative designed to support and enhance school wellness programming. To date, SWITCH has waived all program fees to participating schools to encourage participation and remove barriers for utilizing the program. SWITCH requested approval to begin charging a technology fee to cover the cost of hosting the website as well as the web developer's time for customizing each participating school's program website.

The Competition with the Private Sector Review Committee reviewed the request and determined the activity is an integral part of the institution's educational and public outreach activities.

The Committee approved the request.

Veterinary Clinical Sciences (VCS) - Jergens Clinical Trial

VCS was selected as a participant site for an animal health company's study to develop three rapid tests for certain gastrointestinal diseases in companion animals. The rapid tests are being developed for point-of-care (i.e., local veterinary practice) analysis rather than having to send samples to a lab for analysis. VCS requested approval to be compensated for blood samples provided for the study. Only samples meeting certain criteria and having the animal owner's prior consent will be collected and submitted.

The Competition with the Private Sector Review Committee reviewed the request and determined the activity is directly related to the institution's educational and research functions and activities.

The Committee approved the request.

Recreation Services (RS)

RS requested approval to provide CPR/AED and lifeguard certification classes to campus constituents and the Ames community.

The Competition with the Private Sector Review Committee reviewed the request and determined there are local entities providing these services to the Ames community; therefore, the Committee viewed the proposal as direct competition.

The Committee denied the request.

UNIVERSITY OF NORTHERN IOWA

Department of Kinesiology (DOK)

DOK offers exercise testing to UNI staff and students, including maximal aerobic capacity, body composition, metabolic rate, and strength/power. To expand the testing environment and gain additional hands-on experience, students in the Department are extending testing to community members for a fee.

The Competition with the Private Sector Review Committee approved the request concluding that it is consistent with the exemption in Iowa Code §23A.2.2.a "Goods and services that are directly and reasonably related to the educational mission of an institution or school."