

BOARD MEMORANDUM

TO: Board of Regents, State of Iowa
FROM: Andrea Anania
DATE: April 20, 2005 *ASN*
SUBJ: Annual Report on Competition with Private Enterprise

Recommended Action:

Receive the annual report.

Executive Summary:

State law precludes the Regent institutions from competing with private enterprise, except in certain situations. To be in compliance with the law, the Board has adopted rules 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.

Regent Institution Policies

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

1. Activities provided by the institutions are consistent with Board policy;
2. Processes are identified to handle inquiries about activities carried out by the institution; and
3. There is a means for community businesses to interact with the institutions including discussion of complaints.

Report Purpose

The purpose of this report is to inform the Board of institutional activities, including any complaints, if any, related to competition with private enterprise, during the past calendar year.

No Complaints Received

No complaints were received during the past year at the Regent institutions relating to competition issues.

Background:

Iowa Code
Iowa Administrative Code
Regent Policy Manual

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. The exemptions detailed in Iowa Code §23A.2(2) and §23A.2(10)k are listed on page 7.

Iowa Administrative Code §681-9.4 and Regent Policy Manual §7.05E specify the Board's rules and requirements regarding competition with private enterprise by Regent institutions.

Iowa Administrative Code §681-9.4(8) details the formal appeal process for resolving complaints involving competition with private enterprise:

- If a private enterprise seeks to appeal an action or activity of a Regent institution, it shall attempt to resolve the issue at the institutional level. The form of appeal shall be a letter to the chief business officer.
- If dissatisfied with the institution's response, the private enterprise may notify the Executive Director in writing and request assistance.
- If the issue remains unresolved, the Executive Director may docket the matter for review by the Board. Board action constitutes final agency action.

The universities may receive comments or concerns that do not follow this process, which are regarded as "informal" issues. These are also included in the annual report to the Board.

Regent Institution
Policies

To fulfill their missions effectively, institutions under the control of the Board of Regents occasionally provide goods and services, which enhance, promote, or support the instructional, research, public service, and other functions to meet the needs of students, faculty, staff, patients, visitors, and members of the public participating in institutional events.

The Regent institutions have established written procedures for receiving, reviewing, and responding to inquiries about activities carried out by the institution that could be considered competition with private enterprise.

Each Regent institution provides a means for business interests in the institution's community to consult with and advise the institution on policies and procedures regarding the sale of goods or services that might compete with private enterprise.

The Regent institutions have committees that meet as necessary to review potential situations that may compete with private enterprise. The chief business officer at each institution may approve an activity that competes with private business only after a review demonstrates that one or more of the following conditions are met:

- 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.
- 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.
- The activity is carried out for the primary benefit of the campus community and is incidental to the education, research, service, or extension missions of the university.
- The activity is carried out due to the importance of maintaining the quality of the institution.

Analysis:

The following information is presented by institution and includes a brief summary on the review committees, local community relationship efforts, and any complaints or issues received by the institutions.

University of Iowa

REVIEW COMMITTEE	<p>Members of the review committee at SUI include representatives from:</p> <ul style="list-style-type: none">• The Provost's Office;• The Office of University Relations;• The Office of the Vice President for Finance and Operations;• The Office of the Vice President for Students Services;• The Office of the General Counsel; and• One faculty member appointed by the Senior Vice President for Finance and Operations in consultation with the Faculty Senate. <p>SUI reported that the Committee on Competition with Private Enterprise and Community Concerns meets periodically and, as needed, meets with the Senior Vice President for Finance and Operations to address issues involving proposed activities, specific inquiries or complaints, and to consult with the local business community.</p>
LOCAL COMMUNITY RELATIONSHIP	<p>The University reported that it has an established policy to consult with business interests in the Iowa City community. The policy establishes a:</p> <ul style="list-style-type: none">• Mechanism for reviewing proposed activities involving the sale of goods, provision of services, or usage of facilities to ensure that SUI's activities are consistent with Board of Regent policies;• Procedure for receiving, reviewing, and responding to inquiries about activities carried out by the University; and• Mechanism for consultation with business interests in the Iowa City community.
ACTIVITIES REVIEWED	<p>The University reported that it did not receive any complaints from the private sector during the past year relating to competition issues.</p> <p>The committee received and reviewed two issues during the past year.</p>
Central Mail Services	<p>The review committee recommended against the University entering into an agreement with Loras College in Dubuque for SUI Central Mail Services to provide bulk mail services for Loras, which had been using a private Cedar Rapids vendor for those services.</p>
Printing Services	<p>The review committee determined that the internal use of SUI Printing Services for wide media printing on the Kinnick Stadium renovation project is appropriate. An Iowa City printing business had contacted the University and indicated that the business could provide blue printing services at a lower cost. University officials reviewed materials submitted by the owner of the company and met with him on separate occasions.</p> <p>The vendor was informed that a comprehensive program review of SUI Printing Services will be initiated in 2005 as part of the Regent Administrative Transformation Review.</p>

Iowa State University

REVIEW COMMITTEE	Members of the review committee at ISU include a representative from the President's Office, the Vice President for Business and Finance's Office, and the Business Affairs Office. ISU reported that all activities involving the sale of goods, services, or facility usage to the general public must be in accordance with University Review Committee policies.
LOCAL COMMUNITY RELATIONSHIP	<p>The University reported that it continues to maintain positive relationships with the Iowa business community. ISU representatives:</p> <ul style="list-style-type: none">• Meet periodically with groups such as the Ames Chamber of Commerce and the Ames Convention and Visitors Bureau regarding business relationships with the local community, particularly in reference to technology transfer, biotechnology initiatives, and the ISU Research Park;• Participate in the Greater Des Moines Partnership;• Sit on the boards of various community groups; and• Attend planned networking events.
ACTIVITIES REVIEWED	<p>The University reported that it did not receive any complaints from the private sector during the past year relating to competition issues.</p> <p>The committee received, reviewed, and approved five sales opportunities:</p>
Proteomics Testing Facility	The ISU review committee approved a request from The Plant Sciences Institute to operate a Proteomics Testing Facility on campus. Educational and institutional research laboratories throughout Iowa may access the testing services. The University reported that these specific testing services, which support research activities, are not available in Iowa's private sector; they can be found only in a handful of companies across the United States
Job Posting / Credentials	<p>The ISU review committee approved the College of Veterinary Medicine to charge fees for Internet job posting and for certifying credentials. The job posting site is popular with private practitioners nationwide seeking graduating Doctors of Veterinary Medicine (DVM) and with organizations such as the American Association of Veterinary State Boards who seek ISU's assistance with certifying DVM credentials. According to the University, both activities consume valuable staff time.</p> <p>The University reported that these services help ensure the success of ISU students by helping them find jobs and assist with future recruiting activities.</p>

Stallion Breeding Fees The ISU review committee approved a request from horse breeders to breed their mares with ISU stallions. Stallion fees include short-term boarding costs, breeding fees, semen collection, and shipping costs. The University reported that this activity was approved due to its limited scope and support for teaching activities associated with the Animal Science Equine Program.

Dwarf Calf Gene Typing The ISU review committee approved a request from the Animal Science Department to charge for staff time and testing procedures which help producers to determine the probability of cattle carrying the genetic defect for dwarfism. ISU reported that these services are not available elsewhere and are directly related to the research and public service activities of the University.

Internet Security Testing The ISU review committee approved a request from the ISU Information Assurance Program to provide Internet security testing and analysis to municipalities, counties, and other governmental agencies for a fee. ISU has a national reputation for its expertise in this area. Due to the small size of requests, governmental entities experience difficulty in obtaining these services at a reasonable cost from national companies.

The work will be performed by students under faculty supervision and will provide an excellent educational opportunity and experience. ISU reported that these services support the educational and public service activities of the university.

University of Northern Iowa

REVIEW COMMITTEE Members of the review committee at UNI include a representative or designee selected by the President and two representatives selected by the Vice President for Administration and Finance. The committee:

- Reviews all activities involving the sale of goods, services, or facility usage at the University;
- Recommends approval, changes, abandonment, or consolidation of existing or proposed activities;
- Reviews written appeals and recommends appropriate action; and
- Meets with representatives from the local community and/or the private sector.

LOCAL COMMUNITY RELATIONSHIP The University reported that it maintains regular communication with the Cedar Falls Chamber of Commerce and has asked to be informed of any concerns or problems that involve the University.

ACTIVITIES REVIEWED The University reported that it did not receive any complaints from the private sector during the past year relating to competition issues.

Iowa School for the Deaf

REVIEW COMMITTEE Members of the review committee at ISD include the Superintendent, the Director of Facilities, and the Director of Business Operations. The committee receives, reviews, and responds to inquiries involving the School's activities.

LOCAL COMMUNITY RELATIONSHIP ISD operations generally do not include activities that compete or have the potential to compete with private enterprise. The School does:

- Rent unoccupied or underutilized property on campus to local businesses and community groups whose activities benefit the campus community;
- Open the Lied Multipurpose Center on campus to the public. Participants pay a fee and may use the Center during certain hours; and
- Engage in leasing activities with faculty, staff, deaf-related entities, education and cooperative extension services, as well as a day-care facility. ISD consults with the local private business sector to ensure lease rates are comparable to the local market.

ACTIVITIES REVIEWED The School reported that it did not receive any complaints or appeals from the private sector during the past year relating to competition issues.

Iowa Braille and Sight Saving School

REVIEW COMMITTEE Members of the review committee at IBSSS include the Superintendent, the Director of Administrative Services, and may involve others as necessary. The committee receives, reviews, and responds to inquiries involving the School's activities involving the sale of goods, services, or facility usage.

LOCAL COMMUNITY RELATIONSHIP IBSSS operations generally do not include activities that compete or have the potential to compete with private enterprise.

The School does rent unoccupied or underutilized property on its campus to local businesses and community groups whose activities benefit the campus community.

ACTIVITIES REVIEWED The School reported that it has not ever received any complaints or appeals from the private sector relating to competition issues.

**Board of Regents Exemptions
From Noncompetition 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, except as specifically listed in subsection 2, paragraph "c".
- 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, except as specifically listed in subsection 2, paragraph "d".
- 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.