

Contact: Andrea Anania

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 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.

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

The University of Iowa, Iowa School for the Deaf, and the Iowa Braille and Sight Saving School did not receive any formal complaints, nor did they receive any proposals for consideration.

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 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:

IOWA STATE UNIVERSITY

HOP CONE QUALITY TESTING

The Department of Horticulture developed a procedure to test alpha and beta acids to determine hop cone maturity (harvest package) and cone quality (cone quality package). This service serves as a way to interact with the emerging Iowa hop industry by providing them with one-stop access to reliable and timely information. Currently, Iowa hop growers send their samples to the Pacific Northwest to determine harvest time and cone quality. All hop growers have to have alpha and beta acids tested and listed on their product.

The Competition with Private Sector Review Committee (Committee) concluded that this service is not readily available in Iowa or the Midwest and is part of the institution's public service and outreach activities by providing an efficient and timely service to an emerging industry in Iowa. The request was approved.

SCID (SEVERE COMBINED IMMUNE DEFICIENT) PIG SALES

The Department of Animal Science has developed facilities and a technology to produce domestic pigs that are unique because they do not have a functioning immune system and, therefore, cannot reject human cells. Because of their uniqueness, several universities and companies expressed interest in acquiring these pigs for use in their own biomedical research to test human cell therapeutics.

The Committee reviewed this request and concluded the pigs are not available anywhere on a regional or national level. At this stage of development, and while the NIH grant that funded the research leading to this technology is open, the proceeds from the sales will go back into the NIH account as project income. After the grant closes, the proceeds from the sales will go into an account to continue covering the cost of producing the pigs. This activity is an integral part of the institution's research, and the activity is not available from any other source. The request was approved.

AG ED WORKSHOP

The College of Agriculture developed a workshop titled 'Stihl Two-stroke Engines Workshop'. This workshop offers a general introduction to two-stroke engines, including the theory of operation, operating systems, maintenance, troubleshooting, failure analysis, and safety. Successful completion of this workshop entitles Industrial Education teacher participants to one license-renewal credit or up to three graduate credits in the form of the AGEDS 590B course.

The Committee concluded this offering does not compete with the private sector, is consistent with Ag Ed's mission, is an integral part of the institution's educational and public service function and activity, and serves to further the outreach opportunities of the College of Agriculture. The request was approved.

WEAR TESTING OF MATERIALS

The Department of Mechanical Engineering has two highly specialized pieces of equipment: a TA Instruments Dynamic Mechanical Analyzer and an Rtec Instruments Multi-Axis Tribometer. Both of these instruments are used to wear-test, especially bio-based polymers and bio-derived materials. Both services entail acquiring sample materials from industrial clients and affixing these samples to the instrument(s), or running a battery of standard or customer-defined tests, for which data is collected and reported to the client.

The Committee concluded that these highly specialized services are not available in Iowa or regionally on a fee-for-service basis (and only in a limited market nationally.) The rates were reviewed and sales of the services, which are expected to be small, were approved.

UNIVERSITY OF NORTHERN IOWA

STUDENT LIFE AND EVENT SERVICES

Student Life and Event Services provides conference room and meeting/event space rental to internal university departments, student groups, and customers external to the University. Rent to external customers represents about 1% of their total rental space. Rates for services are based on operational cost factors.

The rental of the identified spaces falls under the exemption stated in Iowa Administrative Code §681-9.4(6)(a)(1) - "Goods and services that are directly and reasonably related to the mission of the institution including activities such as conferences, institutes, outreach programs, specialized centers and other efforts and programs which provide continuing education." The request was approved.

PANTHER PLOT STUDENT GARDEN

The Panther Plot Student Garden has been asked to sell its produce to a local bakery within the College Hill proximity. The objective is to provide vegetables in a quantity that the local establishment is not able to procure from other farming establishments. The cost for the items sold is based on commodity prices from the Rodale Institute.

The selling of produce to this local customer falls under the exemption stated in Iowa Administrative Code §681-9.4(6)(a)(1) - "Goods and services that are directly and reasonably related to the mission of the institution including activities such as conferences, institutes, outreach programs, specialized centers and other efforts and programs which provide continuing education." The request was approved.

DEPARTMENT OF TECHNOLOGY

The Department of Technology is building tiny houses as part of its construction management program and selling them to non-profit organizations at the cost of the raw materials at the conclusion of the semester.

This is consistent with the exemption in Iowa Administrative Code §681-9.4(6)(1)(a) - "Goods and services that are directly and reasonably related to the mission of the institution including activities such as conferences, institutes, outreach programs, specialized centers and other efforts and programs which provide continuing education." The request was approved.
