BUSINESS AFFAIRS SUB-COUNCIL

April 28, 2015

MINUTES

The meeting began at 9:00 a.m. in the TBR Board Room. Present were Ms. Kathy Archie (STCC); Ms. Renee Austin (VSCC); Ms. Cynthia Brooks (TSU); Mr. Steve Campbell (NeSCC); Mr. Horace Chase (JSCC); Dr. David Collins (ETSU); Ms. Beth Cooksey (VSCC); Ms. Mary Cross (NaSCC); Mr. Danny Gibbs (RSCC); Mr. Lowell Hoffman (DSCC); Mr. Ken Horner (CoSCC); Mr. Bob Hughes (TSU); Mr. Tim Hurst (APSU); Dr. Rosemary Jackson (WSCC); Ms. B.J. King (ETSU); Ms. Renee Moore (PSCC); Mr. Mitch Robinson (APSU); Mr. Stanley Robinson (STCC); Ms. Jeannie Smith (UOM); Dr. Claire Stinson (TTU); Mr. Alan Thomas (MTSU); Ms. Hilda Tunstill (MSCC); Mr. Greg Wilgocki (ETSU); Dr. Tommy Wright (ClSCC); Mr. Jeff Young (TTU); Mr. David Zettergren (UOM); Chancellor John Morgan, Ms. Tammy Birchett, Mr. Tom Danford, Ms. Angela Flynn, Ms. Alicia Gillespie, Ms. Deanna Hall, Ms. Lisa Hall, Ms. Pat Massey, Ms. April Preston, Mr. Wayne Pugh, Ms. Brooke Shelton, Mr. Dale Sims, Ms. Renee Stewart, and Mr. Bob Wallace (TBR).

1. **Chancellor's Remarks**

   Chancellor Morgan discussed the ending of the legislative session and informed the committee that the budget was adopted with the outcomes formula fully funded. The capital budget was also funded, along with some additional capital maintenance funds.

   The Chancellor also discussed tuition increases for the upcoming year. He stressed that we are trying to keep tuition increases as low as possible, while trying to meet all of our needs. One item that we need to look into is how to deal with differential pricing for hours 13-15. When trying to meet completion goals, it seems contradictory to charge extra for these hours when students need to take an average of 15 hours per semester to graduate on time. We are looking at ways to move to a 15 hour threshold and replace any revenue that the institutions would lose.

   The Chancellor discussed salary increases for next year. The State has funded a 1.5% salary increase, and the presidents have been asked what they feel is the best way to implement the increase at their institution, whether it be merit based, across the board, or funding their compensation plan. The System Office will give as much flexibility as possible to each institution. The Chancellor stressed that we need to be able to explain to the Board why a specific method is best for an institution.

   The Chancellor informed the committee that Huron will be present at the May 7, 2015 Board Finance and Business Operations committee meeting. Huron will present their report on achieving efficiencies. They will be presenting a list of approximately seven areas where system savings could be achieved, such as: one bookstore contract for all community colleges, system-wide procurement activities, TCAT administrative structure, and back-office operations using a single instance of Banner. These changes will take significant funding and time. The Chancellor plans to approach the Commissioner of Finance and Administration for funding on some of these items. There is a case to be made for investing in TBR to allow us to make changes to save money going forward and work toward the Drive to 55 by freeing up future resources.

2. <u>Report of the Committees</u>

A. Human Resources

Ms. Preston highlighted the following issue from the March 18, 2015 Human Resources Officers meeting:

- FLAC Implementation Status

  A consultant from Strata Information Group reviewed the status of the FLAC (Faculty Load and Compensation) implementation for the thirteen community colleges. All campuses will be utilizing FLAC by Fall 2015. The data is centralized and all of the contracts are electronic. The consultant invited the university HR officers to contact her if they were interested in implementing FLAC at their institution.

The Human Resource Officers minutes were approved.

B. Finance Committee

Dr. Collins highlighted the following issues from the April 7, 2015 Finance Committee meeting:

- Policy 4:07:00:00 Business Meals

  The committee discussed the business meals policy. The committee discussed that gatherings that are mainly social in nature do not qualify for payment or reimbursement as business meals. Language had been added to refer to gatherings being hosted by the institution as a whole, but the committee decided that the proposed language caused confusion between the separate sections on business meals and recognition events and was not recommended.

  The committee discussed the recognition events section and added language that recognition gifts and retirement plaques are allowable up to a reasonable value if in accordance with institutional policies.

  Language was added to the purpose section to clarify that the policy includes both reimbursement and/or payment. (Attachment A)

- Dual Enrollment Fees

  The committee discussed whether the dual enrollment fee should be allocated among mandatory fees. The committee discussed this fee and determined not to allocate it among mandatory fees and record it all as maintenance fees.

Guideline B-060 has been revised to include the dual enrollment fee information. This attachment was provided to elicit feedback at this time. The proposed changes will not go forward for approval until the July cycle. (Attachment B)

- Motor Vehicle Draft Guideline

  The committee discussed the motor vehicle draft guideline. The guideline was drafted to address motor vehicles assigned to certain persons for their official use such as Presidents, TCAT Directors, the Chancellor and Legal Counsel. The committee discussed the two options available which are the assignment of vehicles and the vehicle allowance.

  Language was added to replace the phrase “incidental personal use” with “non-business use”. It was suggested to add language that the Chancellor shall approve the selection of vehicles for eligible executives. The committee also discussed that the guideline may need to be clarified regarding personal use. (Attachment C)

- Travel Policy

  The committee discussed the travel policy. The only comment submitted prior to the meeting was the shared lodging section and how employees are reimbursed for double occupancy versus single occupancy. After much discussion, it was determined that no revisions need to be made to the shared lodging section.

  The committee also discussed that taxi reimbursement is allowed for business transportation only. After discussion, no changes were recommended to the travel policy.

- Operation and Maintenance of Plant Functional Expenses

  The committee discussed reporting police services and safety as Operation and Maintenance of Plant functional expense rather than Institutional Support. The committee discussed the FARM manual which gives conflicting information.

  The committee agreed to reclassify police services and safety as Operation and Maintenance of Plant functional expense beginning July 1, 2015. This reclassification will not be reflected in the July Proposed budget given the short time frame. The October Revised budget will reflect this reclassification.

- Foundation Policy

  The committee discussed the draft foundation policy. Mr. Sims asked the committee to review the policy before the July Finance Committee and send him any comments. The intent is to take the policy to the Board for approval at the September meeting. (Attachment D)

- Policy 4:02:20:00 Disposal of Surplus Personal Property

  The committee discussed the revisions to the disposal of surplus personal property policy. Language was added stating that exceptions to the policy, which are consistent with state law, may be granted by the Chancellor or his or her designee. Language was also added that the Chancellor or his or her designee may not approve a method of disposal which is not specified in the policy. (Attachment E)

The Finance Committee minutes, with the policy and guideline changes, were approved.

C. Council of Buyers

Ms. Flynn highlighted the following issues from the March 31, 2015 Council of Buyers meeting:

- SciQuest Presentation – AP Director / AP Express

  Descriptions of the two SciQuest products were provided for the council. While options exist to add to the basic features of AP Express, AP Director provides more advanced options, including advanced supplier portals for flipping invoices and advanced dynamic functionality of the matching capabilities. When the SciQuest representatives were questioned about the actual cost and cost comparisons of Express versus Director, they responded that the cost would be fee-based per school, and that they would follow up with Ms. Flynn to provide more cost information.

- Collaboration with CPO for Goods/Services

  The next major TBR/UT/CPO collaborative initiative involves procurement cards, which present great potential, particularly to the community colleges, with regard to volume pricing and rebates. It was noted that UT currently has the best rebate in the state at 1.83%.

  Various details were discussed regarding variations in stand-alone contracts, contracts within current banking contracts, and expirations per institution. Once the institutions are all on the same contract, they will benefit greatly from the rebates. Although Fall 2016 is the expected time frame for this initiative, bid documents must be gathered prior to that time. Also, the CFO of each institution should determine preference for renewing contracts currently in place, or to roll onto the collaborative initiative. It is estimated that as a system, approximately $32,000,000 is the current amount of spend on the pcard. With many payables departments paying for more and more purchases with a pcard, these numbers are likely to move upward. The combination of TBR/UT/CPO purchasing could result in a significant revenue stream.

- SciQuest Audit Finding

  UOM reported on recent State Audit findings regarding SciQuest in order to share information that may be helpful to other institutions encountering similar issues. The most recent State Audit resulted in a finding regarding inadequate segregation of duties for procurement transactions. It was noted that the procurement system allows one individual to initiate, approve and receive purchases. Although compensating controls exist, the finding was included in the audit report. Modifications are now being made at UOM to require that a requester no longer acts as approver.

  Additionally, institutions were advised to use caution with pcard usage in work flow involving both requisitioning and approval, because auditors will likely monitor systems and documentation of policies and procedures in this regard as well.

- Student Health Insurance

  It was agreed at the student health insurance meeting held in February that the international student plan offering would be continued. The exchange for domestic students will continue and will enable these students to shop for coverage. Efforts are underway to have all marketing materials to the institutions by May 1.

- Student Athletic Insurance

  Discussion regarding student athletic insurance has been ongoing between the TBR System Office and the institutions. Inconsistencies have been noted in the reporting of numbers of athletes, the groups of students covered, deductible levels, and coverage levels. The student athletic survey was conducted to determine accurate, consistent information for purposes of coverage. AON has now received this information and will analyze the data in several ways. CFO's at all institutions will be involved and updated, as changes could result.

- DocuSign

  TBR Human Resources will begin piloting the DocuSign software, in which methods of automation and electronic approval will be tested. Upon completion of a successful pilot, Purchasing and Contracts and other System Office departments will migrate to use of DocuSign. Although documents will still have to be physically routed to the TBR System Office for approval and signature, internal TBR signatures previously obtained manually will now be obtained electronically, improving the timeliness of processing. The goal is to eventually have a web portal that would allow institutions to upload policy exceptions, etc. for electronic approval and signature by the TBR System Office. All institutions can utilize DocuSign through the U.S. Communities contract.

The Council of Buyers minutes were approved.

D. Internal Audit

Ms. Birchett highlighted the following issues from the April 8, 2015 Internal Auditors meeting:

- Data Breach Legislation

  Ms. Birchett discussed Public Chapter 42, which was passed by the legislature this year and signed into law March 27, 2015. The law requires that instances of confirmed or suspected data breaches be reported to the Comptroller of the Treasury within five days. Ms. Birchett asked that the campus auditors notify their campus staff and act as the conduit for any such breaches, reporting them to System-wide Internal Audit where they will be reported to the Comptroller's office. (Attachment F)

- Access and Diversity Grants

  Ms. Birchett discussed a request from Vice Chancellor Wendy Thompson for the campus internal auditors to audit the Geier funds allocated to each campus for scholarships and other specific purposes. The request is for the audits to be incorporated into the Fiscal Year 2015 audit plans. The group will provide information to Ms. Birchett as to whether this request can be met by June 30. SWIA will send some additional information regarding the audits.

- Software Cost and Future Budgets

  Ms. Birchett discussed the costs associated with MKInsight. SWIA covered the first year costs and plans to cover the second year costs from prior year savings. After the first year, the annual cost is approximately $500 per user per year with an inflationary increase each year. In subsequent years, it is expected that the cost will be added to the internal audit chargeback. The chargeback is billed to the institutions based on the institutions' Education and General expenses.

E. IT Sub-Council

Mr. Young highlighted the following issues from the January 2015 IT Sub-Council meeting:

- Banner XE is currently on hold, while IT re-evaluates the need to move to this. There may be existing modules that could help with current issues.
- An accessibility task force has been developed, with 3 centers across the state, to evaluate software for students.

3. **Dual Enrollment Maintenance Fee**

The committee discussed how the new dual enrollment maintenance fee recommendation could impact home-school students' enrollment and early admission of first-time freshmen who forego the 12th grade. As approved by the Board at its December 2014 meeting, dual enrolled students beginning in Fall 2015 will be charged a special dual enrollment maintenance fee of $166 per hour. The proposed hourly fee will be the only maintenance or mandatory fee assessed against dual enrollment students.

As a result of this new all-inclusive fee, a home-school student qualifying for dual enrollment will now be able to take a full load of college courses each semester if requested/approved by their parent (principal). These students will pay significantly less than traditionally enrolled students taking the same course load. In addition, the dual enrollment students are also eligible for the Dual Enrollment Grant through TSAC. Home-schooled students are more likely to be involved in the activities of campus and possibly even live in campus housing, whereas regular high school students are still connected back to their high schools. These home-school students could conceivably receive their high school diploma and college degree at the same time, while paying only a small portion of the regular tuition rate.

Ms. Stewart has sent questions regarding eligibility for the dual enrollment grant to Tim Phelps. At this time, she has not received a response. Once these questions are answered, the TBR will need to determine which students and/or courses are eligible for the $166 hourly rate. Mr. Sims asked that institutions notify us of any other issues or questions before the next BASC meeting.

4. **IT Guideline G-054 IT Acceptable Uses**

There was a question regarding some inconsistencies between IT Guideline G-054 Acceptable Uses and Guideline B-095 Use of Electronic Signatures. It appears that Guideline B-095 is outdated in technology and practice. Mr. Danford explained that the original intent of the guideline was so that the use of an e-signature would be reported to the system office when it used PKI. TBR Legal is currently working to update Guideline B-095.

5. **Revising the Useful Life of Buildings**

Several campuses have buildings that are in excess of 40 years or nearing 40 and need to re-evaluate the useful life. Guideline B-110 Fixed Assets and Sensitive Minor Equipment has been revised to increase the useful life of buildings to 60 years. This is a change in accounting estimate, so the change will be made in current year activity. There is no prior period adjustment or cumulative effect of a change in accounting principle. A paragraph will be added to the Capital Assets note underneath the table explaining changes as compared to prior years. (Attachment G)

6. **Election of BASC Chair and Finance Committee Member**

The committee elected Ms. Mary Cross as the BASC chair.

The committee elected Ms. Cynthia Brooks as a Finance Committee member.

7. Legislative Update

A statute passed this year that added TBR, UT, and constitutional offices into the legislation that makes performance evaluations confidential. A question was raised as to whether student evaluations of faculty are confidential. David Gregory is researching the issue, but the initial thought is that they are not. David Gregory, Mary Moody, Wayne Pugh, and Dale Sims will continue to research the issue and provide guidance.

There being no further business, the meeting was adjourned at 10:30 a.m.

Attachment A

Business Meals: 4:07:00:00

Policy/Guideline Area

Business and Finance Policies

Applicable Divisions

TCATs, Community Colleges, Universities, System Office

Purpose

The purpose of this policy is to establish Tennessee Board of Regents processes and procedures regarding reimbursement for business meals and recognition events.

Policy/Guideline

I. Business Meals

~~A.~~ The institution may pay or reimburse properly documented meals ~~for which the primary purpose is a business discussion~~ **which have a clear business purpose and setting.**

1. Business meals generally include at least one non-institutional employee. However, occasional gatherings of institutional employees may be reimbursed as business meals.

2. Expenses may be incurred only for those individuals whose presence is necessary to the business discussion.

B. In addition to an itemized receipt, IRS rules of substantiation of business expenses require documentation of the time, date, place, specific topic of discussion and attendees at the meals.

1. Please note that the documentation requirements apply to all on-campus or off-campus business meals, regardless of payment method.

2. Accordingly, all on-campus dining facilities require this documentation for all meals charged to departmental accounts.

C. The institution will deny reimbursement for meal expenses that lack documentation or a clear business purpose. Gatherings that are primarily social in nature do not qualify for payment or reimbursement as business meals.

II. Recognition Events

A. Institutional funds may be used to purchase food and non-alcoholic beverages for recognition, appreciation and/or retirement events if the event is in accordance with institutional policies and is reasonable in number and events per fiscal year and amount spent.

B. Recognition gifts and retirement plaques are allowable up to a reasonable value limit per employee/retiree recognized **if in accordance with institutional policies.**

Sources

TBR Board Meeting December 5, 2003; December 2, 2005; September 28, 2007.

Fees, Charges, Refunds, and Fee Adjustments: B-060

I. Maintenance Fees

A. Description of Fees

B. Rates

1. Rates are established by the Board and incorporated in a fee schedule that groups specific fees; by type of institution (two-year institutions; APSU, ETSU, MTSU, TSU, and TTU; and UOM); and by student level (undergraduate and graduate). The hourly rate will be discounted when undergraduate students enroll in greater than 12 hours and graduate students in greater than 10 hours unless stated otherwise elsewhere in this guideline.
2. Developmental courses are charged at the two-year institution hourly rate. If a student enrolls in both regular and developmental courses, the rates shall be assessed at the hourly rate for each up to the current amount of 12 undergraduate hours. The discounted tuition rate will then apply to any additional courses.
3. For institutions with multiple summer sessions, maintenance fees and tuition may be assessed by using the current part-time rate with no maximum amount for total credit hours enrolled.
4. Maintenance fees may not be waived. However, specific exceptions are provided in the following instances:
   a. Pursuant to T.C.A. § 49-7-113, exceptions exist for certain disabled and elderly students, as well as state service retirees. For audit courses, no fee is required for persons with a permanent, total disability, persons 60 years of age or older and domiciled in Tennessee and persons who have retired from state service with 30 or more years of service, regardless of

age. For credit, a fee of $70 per semester or $60 per trimester may be charged to persons with a permanent, total disability, and persons who will become 65 years of age or older during the academic semester in which they begin classes and who are domiciled in Tennessee. (Note: This fee includes all mandatory fees; it does not include course-specific fees such as all miscellaneous course fees, materials fees, application fee, online course fees and parking fees.) This only applies to enrollment on a space available basis, which permits registration no earlier than four (4) weeks prior to the first day of classes.

b. Pursuant to T.C.A. § 49-7-102, certain statutory fee exceptions exist for dependents and spouses of military personnel killed, missing in action, or officially declared a prisoner of war while serving honorably as a member of the armed forces during a period of armed conflict. If these provisions are invoked by a student, the correct applicable law should be determined.

5. Military reserve and national guard personnel who are mobilized to active military service within six months of attendance at a TBR institution and whose mobilization lasts more than six months shall be charged upon re-enrollment at such institution the tuition, maintenance fees, student activity fees and required registration or matriculation fees that were in effect when such student was enrolled prior to mobilization. After re-enrollment, no increase in tuition, maintenance fees, student activity fees or required registration or matriculation fees shall be assessed to such student until a period of time equal to one year plus the combined length of all military mobilizations has elapsed. In no event, however, shall a student’s tuition and fees be frozen after re-enrollment for more than four years.

a. To be eligible for the tuition and fee freeze, the student shall have completed military service under honorable conditions and shall re-enroll in a TBR institution within six months of release from active duty.

b. A student eligible for the tuition and fee freeze may transfer from one state institution of higher education to another state institution of higher education one time with such student's tuition and fees calculated at the institution to which the student transfers as if the student had been in attendance at that institution before the mobilization that resulted in the student's tuition and fee freeze at the initial institution.

6. Dual enrollment students will be charged an hourly maintenance fee rate in lieu of other mandatory fees. This hourly rate will be recorded as maintenance fee revenue in the accounting records and will not be allocated among existing mandatory fees. The per hour rate does not include a maximum and will not be discounted when a student enrolls in more than 12 hours in a semester. The dual enrollment hourly maintenance fee rate does not apply where institutions have agreements in place that provide for external payers to fund any gap between the dual enrollment scholarship and the full maintenance fee for all dual enrollment students attending that specific institution. Dual enrollment students enrolled in courses that include nonmandatory fees will be assessed the nonmandatory fees.

~~Draft Guideline~~

Assignment of Motor Vehicles Pursuant to the TBR Motor Vehicle Policy ~~4:03:02:00~~: B-XXX

Guideline Area

Business and Finance Guidelines

Applicable Divisions

TCATs, Community Colleges, Universities, System Office

Purpose

Section II of TBR Policy 4:03:02:00 provides for the assignment of an institutional motor vehicle to certain persons for their official use. Positions included within this policy are the Presidents of institutions, TCAT Directors, the Chancellor, Vice Chancellors, and Legal Counsel. The purpose of this guideline is to provide structure to the assignment of vehicles under this policy.

Definitions:

None

Guideline

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A. ~~Section II of TBR Policy 4:03:02:00 provides for the assignment of an institutional motor vehicle to certain persons for their official use. Positions included within this policy are the Presidents of institutions, TCAT Directors, the Chancellor, Vice Chancellors, and Legal Counsel. The purpose of this guideline is to provide structure to the assignment of vehicles under this policy.~~

II. ~~A.~~ General

A. An Eligible Executive includes positions cited in the TBR Motor Vehicle Policy (4:03:02:00), Section II. At the time of employment, an Eligible Executive ~~shall be eligible~~may elect -to receive~~for~~:

1. Assignment~~ed~~ of an institutional motor vehicle for their use; or
2. A motor vehicle allowance.

B. Absent extraordinary circumstances as approved by the Chancellor, this is a one-time election made at the time of employment.

III. ~~B.~~ Assignment of an Institutional Motor Vehicle

A. Eligible Executives selecting this option shall be provided an appropriate motor vehicle by the institution. For purposes of this plan, an appropriate motor vehicle is defined as a late model (no more than five years old) four-door passenger sedan of the same general class, type, and cost as the motor vehicle assigned to the Chancellor~~. Should circumstance dictate the assignment of a motor vehicle other than a passenger sedan as herein described, the institution shall seek an exception from the Chancellor~~. The Chancellor shall approve the selection of assigned vehicles for eligible executives. Operating and maintenance cost of the assigned motor vehicle shall be the responsibility of the institution. In recognition that use of the assigned motor vehicle may include ~~incidental personal use~~, non-business use Eligible Executives are required to maintain appropriate types and amounts of insurance to ~~respond in situations arising from~~cover any non-business use of the motor vehicle.

B. To the degree that the motor vehicle assigned is used for non-business purposes, it is the responsibility of the institution to report on the employee's Form W-2 the value of such personal use in the employee's income as ~~wages~~ compensation subject to withholding for federal income taxes and applicable FICA taxes. Additionally, these amounts ~~so reported as wages~~ shall be considered as compensation for employee benefit purposes.

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IV. ~~C.~~ Motor Vehicle ~~Automobile Cash~~ Allowance

A. Eligible Executives selecting this option shall receive a monthly cash allowance from the institution. In recognition of this payment, the Eligible Executive shall be responsible for all expenses attendant to the:

1. Purchase or lease (and replacement as needed) of a motor vehicle appropriately suited for the conduct of institutional business. For purposes of this plan, an appropriate motor vehicle is defined as a late model (no more than five years old) four-door passenger ~~sedan~~ vehicle of at least the same general class, type, and cost as the motor vehicle assigned to the Chancellor; and
2. Operation, insurance, maintenance, and repair cost of said motor vehicle.

B. The monthly automobile allowance amount shall be set in the Eligible Employee's employment agreement.

1. The allowance ~~would~~ consist of two components:
   a) A capital component ~~set at the~~ based on the estimated monthly lease value of the motor vehicle assigned to the Chancellor; and
   b) An operating component that applies a mileage rate that considers only the marginal operational cost of a vehicle and assumes 12,000 business miles are driven annually. ~~the Board's approved mileage rate less the IRS standard mileage rate attributed to depreciation~~
2. It is the responsibility of the business and finance area of the System Office to initially calculate and periodically update the monthly automobile allowance amount.
3. The monthly automobile allowance will be reviewed and adjusted periodically in conjunction with future compensation studies for presidents and other system executives. ~~times 12,000 business miles divided by 12 months. (NOTE: depreciation portion for CY 2015 = $0.24/mile). For example, the current operating allowance would equal approximately:~~

C. The monthly automobile allowance, under Internal Revenue Service (IRS) Regulations, must be included in compensation on the employee's Form W-2 and is subject to federal withholding and applicable FICA taxes. Additionally, automobile allowance payments are considered compensation for employee benefit purposes.

~~Operating Allowance = (($0.47 - $0.24) * 12,000) / 12~~

~~Operating Allowance = $230.00~~

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D. Eligible Executives whose business related travel exceeds 12,000 miles annually are eligible to be reimbursed for business related mileage. If requesting such reimbursement, the Eligible Executive must provide the institution with a log that documents that the motor vehicle for which the allowance is paid has been used for 12,000 business related miles. The log submitted should comply with IRS guidance for documentation of business usage of a motor vehicle. Once this annual 12,000 mile threshold is achieved, the Eligible Executive may submit mileage reimbursement requests for any business related miles that exceed 12,000 miles. The reimbursement rate shall equal the Board's then current approved mileage rate, less the then current IRS standard mileage rate attributed to depreciation. Mileage reimbursement paid under this item are not considered compensation for income tax purposes and are not subject to federal withholding and applicable FICA taxes.

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V. ~~D.~~ Funding

A. Each institution is responsible for funding the provisions of this plan.

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Foundations: 4:01:07:02

Policy~~/Guideline~~ Area

Business and Finance Policies

Applicable Divisions

Universities, Community Colleges, ~~Universities, TCATS~~TCATs, System Office

Purpose

The purpose of this policy is to assure that, with regard to any foundation established to support any TBR institution or its programs, the relationship of the foundation to the institution is clearly defined and is set forth in a formal, written manner~~.~~ that (1) defines the legal authority and operating control of the institution with respect to the foundation; (2) describes the relationship and of the foundation to the Institution and the extent of any liability arising out of that relationship; and (3) demonstrates that the fund-raising activities of the foundation further the mission of the institution.

Definitions

- **Foundation**~~–~~: For purposes of this policy, a foundation is defined as a tax-exempt, not-for-profit corporation, chartered within the State of Tennessee for the sole purpose of supporting and advancing the mission of an institution~~.~~ or its programs. This policy does not apply to foundations established solely to support an institution's research activities.

Policy

~~1. Legal Authority~~

~~This policy is adopted pursuant to T.C.A. §§ 49-7-107 and 49-11-402(a)(4) which authorizes and empowers the Tennessee Board of Regents to take steps necessary for the establishment of foundations for the institutions governed by the Board.~~

~~2. Foundation as a Separate Legal Entity~~

I. The Foundation's Relationship to the Institution

~~1.~~ A foundation is not an operational function of an institution; it is a separate legal entity.

~~2. The foundation/institution relationship is derived from a shared interest in the institution's development.~~

~~3. Institutional participation in and support of foundation operations are, therefore, appropriate and desirable.~~

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~~4.~~A. ~~It is recognized that to be effective in achieving its purpose, a foundation's~~ A foundation's identity must be maintained separate from the institution.

B. The foundation's relationship to the institution is based upon a shared interest in the institution's development and the success of the institution's mission. Therefore, institutional participation in and support of foundation operations are, therefore appropriate and desirable.

~~5.~~C. The accountability of a foundation and of the institution as it relates to the foundation~~, however, are~~ is a concern~~s~~ common to the foundation, the institution~~,~~ and the Board. Institutions should not promote, encourage or agree to use of a foundation in ways that are, or appear to be, abusive, inappropriate, or do not follow sound business practices.

~~3. Provisions~~

~~1. To document the foundation's and institution's understanding of their relationship, each institution shall formulate a written agreement with its foundation(s) which describes their respective responsibilities and the services the institution provides the foundation.~~

II. General Requirements

~~2.~~A. The governance structure of a foundation ~~should~~must be determined by the foundation. To ensure an appropriate level of institutional participation in foundation governance, ~~it is recommended that the institution~~the institution's president ~~and/~~or the ~~president's~~president's designee~~(s)~~ should hold a voting membership on the ~~foundation's executive~~foundation's governing body. In order to assure that the foundation acts as a separate entity, a quorum of its governing body may not consist of a majority of members who are employed by the institution.

B. Each institution shall enter into a written agreement with its foundation(s) that documents their understanding of their relationship and describes their respective responsibilities. Institutions must use the standard agreement that is attached to this policy or another agreement approved by the Chancellor. Every agreement must contain, at a minimum, the provisions of the standard agreement.

~~3.~~C. The ~~foundation's executive body~~foundation shall adopt an annual budget. ~~The institution will develop and present a recommended budget to the foundation to ensure that institutional~~ In order to assure that the foundation's

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objectives are ~~reflected in the allocation of~~ aligned with those of the institution, the institution shall advise the foundation ~~funds~~of its needs and priorities for the fiscal year in question.

D. The foundation ~~should~~shall develop policies and procedures concerning its operations~~. At a minimum, the policies should~~, including, but not limited to, the following:

~~4.~~1. Policies that address the solicitation~~,~~ and acceptance~~, and management/investment~~ of contributions to the foundation. The policies must incorporate sound business principles and safeguard compliance with donor intent and conditions. ~~It is recognized that investments by the foundation are governed by TCA 35-10-101 et seq.~~ Such policies shall provide that, prior to acceptance of any gift to the foundation that will require institutional support such as staff, financial assistance, storage, on-going maintenance, etc., approval must be obtained from the president of the institution and, if applicable, from the Chancellor.

2. ~~The policy regarding solicitation~~Policies and ~~acceptance~~procedures that address the management and investment of contributions ~~shall provide that prior to acceptance of any gift to the~~ to the foundation ~~which requires institutional support, i.e., staff, financial assistance, storage, etc., approval must be obtained from the president~~, subject to the requirements of the Uniform Prudent Management of ~~the institution, and if applicable, by the Chancellor~~Institutional Funds Act, T.C.A. Title 35, Chapter 10, Part 2.

3. Policies and procedures that address the foundation's procurement and contracting activities. Such policies and procedures shall implement sound business practices and prudent use of foundation funds, including encouragement of the use of competitive procurement of goods and services, when practicable.

~~1.~~4. Policies that, in accordance with ~~Board policy~~T. C. A. § 49-7-107(c), establish and adopt a code of ethics that apply to and govern the conduct of all members of the foundation's governing body. Such policies shall require that members review and acknowledge the code of ethics annually.

~~5.~~E. No institutional funds, including contributions to the institution, may be transferred directly or indirectly to the foundation~~. Endowment funds~~; provided, however, ~~may be transferred from~~ this shall not prohibit the

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Formatted: Font: Arial, Font color: Auto, English (United States) institution from providing in-kind services to the foundation~~ with~~, such as office space and the ~~written approval~~use of ~~the donor. It is understood that instances may occur where a donor inadvertently directs a contribution to the institution which is intended for the foundation. Procedures shall be established to clarify donor intent~~support staff.

~~6.~~F. Foundations must respect Board and institutional ~~responsibilities for~~authority over personnel administration~~, and a process must be established whereby foundation~~. Foundation expenditures for compensation and other ~~forms~~payments to or for the benefit of ~~supplement to~~ institutional personnel~~, i.e.,~~ and reportable as income to the recipient, such as salary, expense ~~account~~accounts, automobiles, club or other organization memberships and dues, etc., must be approved in advance, annually, by the institution president~~ and Chancellor on an~~. Advance approval of the chancellor shall be required if such payments are made to or for the benefit of the president or if the aggregate annual ~~basis.Foundation records and accounts may be maintained~~value of such payments to any individual institutional employee exceeds one thousand dollars ($1,000) per year. This provision does not apply to reimbursement of business expenses incurred by ~~the institution; however, they must be maintained as a separate chart of accounts. Records and accounts maintained by the foundation should be available to the institution~~institutional employees or to recognition awards given to institutional employees.

~~7.~~G. The ~~foundation executive~~foundation's governing body ~~should~~shall issue ~~periodic~~ reports, at least annually, on the activities of the foundation, which shall be submitted to the president of the institution. ~~At a minimum, the reports should be issued on an annual basis. At a minimum, a~~ A comprehensive annual financial report shall be issued, prepared in accordance with generally accepted accounting principles, including all disclosures.

~~8.~~H. In accordance with T.C.A. § 49-7-107(b), all annual reports, books of account and financial records of a foundation shall be subject to audit by the Comptroller of the Treasury of the State of Tennessee. Records and accounts maintained by the foundation shall be audited on the same cycle as the institutional audit performed by the Comptroller~~ of the Treasury of the State of Tennessee~~, or, with the prior approval of the Comptroller~~ of the Treasury~~, an independent public accountant~~. The~~ may perform such an audit. The contract between the independent public accountant and the

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foundation shall be approved in advance by the Board of Regents and the Comptroller and shall be on ~~contract~~ forms prescribed by the Comptroller.

~~9.~~I. ~~Initial~~Copies of the initial and amended foundation charters and bylaws ~~to be~~ filed with the Secretary of State shall be submitted by the president of the institution to the ~~Chancellor for review.~~Board of Regents' Office of General Counsel.

J. The Chancellor shall have the authority to grant exceptions to this policy when deemed appropriate and necessary. An exception must be requested and granted in writing.

~~I.~~III. Implementation

a. No later than twelve (12) months after adoption of this policy, all institutions shall act to conform any existing agreement with foundations to the requirement of this policy.

~~10.~~

Sources

TBR Meeting, August 17, 1973; TBR Meeting, September 20, 1985; September 21, 1990; June 28, 1991; December 3, 2004; TBR Meeting March 30, 2007.

Related Policies

- Solicitation and Acceptance of Gifts

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Attachment E

Disposal of Surplus Personal Property: 4:02:20:00

Policy/Guideline Area

Business and Finance Policies

Applicable Divisions

TCATs, Community Colleges, Universities, System Office

Purpose

The following policies and procedures concerning the disposal of surplus personal property shall be followed by all institutions governed by the Tennessee Board of Regents.

Definitions

- Surplus personal property - means that personal property which has been determined to be obsolete, outmoded, unusable or no longer usable by the institution, or property for which future needs do not justify the cost of maintenance and/or storage. Such property must be declared "surplus personal property" by the president, director, or designee of the transferring institution; provided however, property need not be declared surplus when disposition is through the trade-in method.

Policy/Guideline

I. General Rules

   A. Surplus personal property is either usable property, which shall be transferred or sold, or unusable property, which may be destroyed, as hereinafter provided:

      1. Surplus personal property which is perishable food may be destroyed without delay or notification.

      2. Surplus mattresses may be destroyed or may be otherwise disposed of only upon compliance with T.C.A. § 12-2-403.

3. Surplus personal property which is determined to be not usable by the institution and of little or no salvage or other economic value may be destroyed by an appropriate method.
4. The institution shall follow the procedures described in Section II.C of this policy, prior to disposal of all other surplus personal property.

B. Surplus personal property in which the Federal Government or other entity has a legal interest should be transferred to such entity when no longer needed.

C. It is unlawful for any state official or employee, including System employees, to purchase from the state except by bid at public auction any surplus property during the tenure of his office or employment, or for six (6) months thereafter. A purchaser who violates this provision is guilty of a misdemeanor under T.C.A. § 12-2-412.

D. For all sales to individuals except at public auctions including internet auction, the transferring institution conducting the sale shall obtain from the purchaser a signed disclaimer certifying the purchaser is not a state or System employee and that the purchaser is not buying the property for or on behalf of any state or System employee.

E. All employees of the Tennessee Board of Regents System and their immediate families shall be ineligible to bid for or purchase surplus personal property except by bid at public auction.

F. Possession of surplus personal property sold to the general public under any method prescribed under Section II.C of this policy shall not pass until payment is made by cash, or if payment is made by cashier’s check or certified check, possession shall not pass until the check is honored by the drawee bank.

G. Possession shall pass to System institutions, political subdivisions of the state, and other governmental entities upon receipt, by the institution, of purchase vouchers of such institutions, political subdivisions, or other governmental entities. Title to motor vehicles sold as surplus property to political subdivisions and other governmental entities shall be closed as to transferee when title is passed.

II. General Disposal Procedures

A. The president or director of each institution or their designee shall declare personal property to be surplus personal property prior to disposition as such; provided however, property need not be declared surplus when disposition is through use of the trade-in method.

B. The president or director or their designee shall designate the department or individual at the institution responsible (hereinafter referred to as "responsible authority") for the disposal of surplus personal property, and the communications and procedures concerning the disposal of surplus personal property.

C. No article of personal property may be disposed of as surplus except by one of the following methods:

   1. Trade-in, when such is permitted due to the nature of the property or equipment and subject to the provisions of T.C.A. § 12-2-403 and the rules of this policy;
   2. Transfer to other institutions within the Tennessee Board of Regents system;
   3. Transfer to other state agencies;
   4. Sale to eligible political subdivisions of the state and other governmental entities;
   5. Public auction, publicly advertised and held;
   6. Sale under sealed bids, publicly advertised, opened and recorded;
   7. Negotiated contract for sale, at arm’s length; but only in those instances in which the availability of the property is recurring or repetitive in character, such as marketable waste products;
   8. Disposition through the Department of General Services as provided in the Department Rules and Regulations;
   9. Donations to a public school or public school system;
   10. Sale by Internet auction.

D. If the president, director or designee declares the property to be surplus personal property, the method of disposal shall be determined by the responsible authority from the alternatives set forth in Section II.C of this policy. Written documentation for the selection of method of disposal shall be maintained.

E. The trade-in method, when property is of the nature appropriate for trade-in, and transfer to other institutions in the Tennessee Board of Regents System shall be the first and second priority methods, respectively, for disposal of surplus personal property, except for waste products which shall be disposed of as further provided in this policy.

F. In the selection of other methods of disposal, the following criteria shall be considered:

1. The character, utility and functionality of the property;
2. The economics of disposal in light of all relevant circumstances attendant the proposed disposal, including the condition and climate of the potential market and present estimated market value of the property, transportation costs, and other cost factors associated with disposal; and
3. Sound fiscal and budgetary policy and practices.

G. The method of disposal selected in the preceding section shall be implemented pursuant to the specific procedures set forth in this policy for such disposition.

H. The responsible authority at the institution shall be responsible for the maintenance of accountability documentation on all items of surplus personal property, and shall ensure that adequate audit and inventory trails on all items of surplus personal property are maintained.

I. Such authority shall make the final determination of the fair market value of surplus personal property for purposes of calculating reimbursements to the transferring institution and to determine whether property may be destroyed pursuant to Section I.A.3.

J. Nothing shall prohibit an institution from simultaneously providing notice of an intended disposition of surplus personal property to all System institutions and all state agencies as specified in Section IV.A and V.A below.

K. In such event, if no System institution has requested the property within seven (7) days of the initial notice, the first state agency which had requested the property within such time shall be entitled to receive the property upon reimbursement as provided in Section V. below.

III. Trade-In on Replacement

A. Items that must be replaced may, subject to the requirements of this section, be traded in on replacement property.

B. The responsible authority of the institution shall perform the following functions in connection with the trade-in method of disposal:

   1. Issue invitations to bid asking for bids with trade-in and without trade-in and receive and review bids;

   2. Make an evaluation of the condition and fair market value of the property to be disposed of; Through comparisons of bids and the evaluation prepared, make a determination whether it is in the best interests of the institution to dispose of the property by trade-in or by one of the other methods of disposal.

IV. Transfer to System Institutions

A. Except when the trade-in method is utilized or when the property is to be disposed of as a waste product, the responsible authority at the institution shall provide to the president, director, or their designee, or appropriate departments and/or individuals at all other institutions in the System and to the offices of the Tennessee Board of Regents, a notice of intended disposition which shall include;

   1. The name of the individual to contact for additional information;

   2. The location of the property for inspection;

   3. A description of the property;

   4. The condition of the property; and

   5. The original cost and fair market value of the property as determined by the responsible authority.

B. The initial notice of available surplus personal property may be made at periodic intervals for the purpose of consolidating notices on numerous items of such property for convenience.

C. The first institution which makes a written request for the available surplus personal property shall be entitled to receive such property.

D. In the event that no institution requests transfer of available surplus personal property within seven (7) days of the date of the initial notice, the property may be disposed by means of another appropriate method of disposal.

V. Transfer to Other State Agencies

A. When transfer to other state agencies is the method of disposal selected; the responsible authority of the institution shall provide notice of the intended disposition to the commissioner or chief executive officer of all state agencies which shall include all information specified in the notice required by Section IV.A.

B. The first state agency which makes a written request for the available surplus personal property shall be entitled to receive such property.

C. In the event that no state agency requests transfer of available surplus personal property within seven (7) days of the date of the initial notice, the property may be disposed by means of another appropriate method of disposal.

VI. Sale of Surplus Property to Governmental Entities

A. Political subdivisions of the state and other eligible governmental entities may purchase surplus personal property by submission of sealed bids for such property to the responsible authority of the institution no later than two (2) days prior to a public auction held for disposal of such property.

1. Such bids shall be opened two (2) days prior to such public auction and the highest bid shall be selected unless the responsible authority decides that the highest bid does not represent the fair market value.

2. The responsible authority may reject such bids and may negotiate with the political subdivisions of the state and other entities which have submitted bids in order to obtain a fair market value. In the event negotiation does not result in a fair market value, such property shall be disposed of by public auction.

B. Political subdivisions of the state and other governmental entities shall retain possession of surplus property purchased from System institutions for at least one (1) year unless disposal is approved by the Board of Standards. Any profit realized from the resale of such property shall revert to the state or the System as their interests may appear.

C. Any sale of automobiles by a System institution to a county, municipality or other political subdivision or governmental entity shall become null and void and such property shall revert to the state, or the System as their interests may appear, in the event that such political subdivision or governmental entity does not transfer the registration of title to such automobile to its name within seven (7) days after the sale.

VII. Public Auctions and Sales Under Sealed Bids

A. Public auctions and sales under sealed bids, as provided in this policy, shall be publicly advertised and publicly held.

1. Notice of intended disposal by public auction or sale under sealed bid shall be entered by the responsible authority of the institution in at least one (1) newspaper of general circulation in the county or counties in which the disposal is to be made reasonably describing the property and specifying the date, time, place, manner, and conditions of the disposal.
2. The advertisement shall be entered in the public notice or equivalent section of the newspaper and shall run not less than three (3) days in the case of a daily paper and not less than twice in the case of a weekly.
3. The disposal shall not be held sooner than seven (7) days after the last day of publication nor later than fifteen (15) days after the last day of publication of the required notice, excluding Saturdays, Sundays and holidays.
4. Prominent notice shall also be conspicuously posted for ten (10) days prior to the date of disposal, excluding Saturdays, Sundays and holidays, in at least two (2) public places in the county or counties where the disposal is to be made.
5. Furthermore, notice shall be sent to the county court clerks of the county in which the sale is to be made, and all contiguous counties in Tennessee, except when the fair market value of all the property to be sold is determined in writing by the president or director or his or her designee to be less than $500.00.

B. A mailing list shall be developed for mailing to eligible governmental entities and potential buyers of surplus items.

C. No person, firm or corporation shall be notified of any public auction or sale except as provided by this policy.

D. Each institution should attempt to include as many items in each sale as is practical and feasible.

E. All notices of sales of such property shall provide that the property is to be sold "as is" with transportation costs assumed by the purchaser. The notice shall state that the only warranty provided, expressed or implied, is the seller's right, title and interest in the property sold.

F. All sales by bid or auction shall be with reserve, and when bids received are unreasonably below the fair market value as determined by the responsible authority of the institution or school, all bids shall be rejected and the property shall be thereafter disposed of pursuant to other acceptable methods of disposal.

VIII. Disposal of Waste Products

A. Marketable waste products such as paper and paper products, used lumber, bottles and glass, rags, and similar materials of nominal value classified as scrap may be sold directly to dealers at the going market rate without soliciting bids. Each institution shall keep a record of the volume and unit price of such materials sold on the scrap market.

B. Waste products which are subject to storage and are normally accumulated until such quantities are available to make a sale economically feasible shall be sold under sealed bids as follows:

1. Invitations to bid shall be mailed to known buyers of the particular item;
2. Three firm bids shall be secured when possible;
3. Sealed bids shall be publicly opened and recorded ten (10) days, excluding Saturdays, Sundays, and holidays, after the invitations to bid are mailed;
4. The highest bidder shall be awarded the contract and shall be notified of the date for removal of the property and the method of payment which will be acceptable;

5. A file shall be maintained for each disposal for the purpose documenting the sale and should include all documents and information pertinent to the disposal.

C. Anything to the contrary notwithstanding, surplus personal property which is determined to be unusable and of little or no salvage or other economic value may be destroyed by an institution or school as provided in Section I.A.3.

IX. Disposal of Livestock

A. The Head of the Agriculture Program is responsible for the administration of sales or other disposition of all livestock. The Head of the Agriculture Program shall also ensure that adequate inventory records are maintained. Exceptions must be approved by the President of the Institution.

B. As applicable for the method of sale, documentation that supports the method of sale, advertisements, invitations to bid, bids received, authorization, minimum prices, and price received should be maintained by the Head of the Agriculture Program.

C. Consistent with the best interest of the institution, as recommended by the Head of the Agriculture Program, livestock may be sold by the following methods:

1. Disposition by Public Auction or Sealed Bid - Unless it is in the best interest of the institution to proceed otherwise, livestock shall be sold by invitation of sealed bids or by public auction (i.e., local livestock auctions).

2. Special Auction/Private Treaty Sales - These methods are used for superior breeding animals, show animals, pedigreed and/or high quality specialty animals.

   a. Prior to advertisement, a responsible faculty member or farm manager shall submit a list of superior animals to be sold at auction or private treaty and obtain written approval from the Head of the Agriculture Program.

   b. The animal(s) available for sale will be advertised through the departmental website, relevant industry publications, or newspaper at least two (2) weeks in advance. A responsible point of contact, who is able to provide information on animal offerings and participate in the selling/bidding process, should be included in the advertisement.

c. The Agriculture Program will establish minimum sale prices. The farm manager or faculty member in charge of the respective species' research/teaching program shall determine sale prices for each animal. Value shall be based on the genetic, phenotypic, and performance merit of the animal compared to the average of the population.

d. Sale of the animal will be to the highest bidder at or above the minimum established sale price. In cases of tie bids, a random draw will determine the successful bidder.

3. Where the price for "commercial" (non-pedigree/non-specialty) livestock can easily be established, the institution may sell directly to "order-buyers" based on current prices when viewed as being in the best interest and most profitable to the institution.

4. Disposition by Slaughter - Prices for livestock being sold for slaughter shall be based on the National Yellow Sheet prices. The "Yellow Sheet" publication updates prices daily based on a national average. An acceptable alternative for obtaining slaughter animal prices are current USDA Livestock Market Reports.

X. Sale by Internet

A. Notice of intended disposal by Internet auction shall be posted on the Internet. Such notice shall specify and reasonably describe the property to be disposed of, the date, time, manner and conditions of disposal, all as previously determined by the responsible authority.

XI. Exceptions

A. ~~Surplus personal property may be disposed of by a method other than those listed in Section 3(c) of the policy only~~ Exceptions to this policy which are consistent with state law may be granted by the Chancellor or his or her designee upon request by the president or director of the transferring institution or their designees.~~ and approval by the Chancellor or his or her designee.~~ The Chancellor or his or her designee may not approve a method of disposal which is not specified in Sections I.A. or II.C. of this policy.

Sources

TBR Meetings, June 29, 1979; September 30, 1983; March 7, 1997; September 26, 2003; June 29, 2007; June 24, 2011: March 29, 2012; Dec 13. 2012

State of Tennessee

PUBLIC CHAPTER NO. 42

SENATE BILL NO. 416

By Bowling

Substituted for: House Bill No. 193

By Wilburn

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 4, Part 1, relative to governmental computer information systems.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-4-119, is amended by inserting the following language as a new subsection (c) and redesignating the remaining subsections accordingly:

(c)(1) Any state agency shall, within a reasonable amount of time, notify the comptroller of the treasury of any confirmed or suspected unauthorized acquisition of computerized data and any confirmed or suspected breach of a computer information system or related security system established to safeguard the data and computer information system.

(2) For purposes of subdivision (c)(1):

(A) "Breach" does not include individual occurrences of malware or spyware;

(B) "Computer information system" and "related security system" mean those computer information systems and security system infrastructures operated and administered by the state agency or an entity with which the state agency contracts for such operation and administration; and

(C) "Reasonable amount of time" means any amount of time that is reasonable under the particular circumstances, but shall not under any circumstances exceed five (5) working days.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 416

PASSED: March 16, 2015

RON RAMSEY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 27th day of March 2015

BILL HASLAM, *GOVERNOR*

Fixed Assets and Sensitive Minor Equipment: B-110

Guideline

I. Introduction

II. Land

III. Land Improvements

IV. Leasehold Improvements

V. Buildings

A. The cost of a building includes all necessary expenditures to acquire or construct and prepare the building for its intended use.

1. Buildings consist of relatively permanent structures, including all permanently attached fixtures, machinery and other appurtenance that cannot be removed without damaging the building or the item itself.

B. Buildings are erected for the purpose of sheltering persons or property. Examples include, but are not limited to such items as academic buildings, dormitories, apartments, barns, etc.

1. All buildings costing $100,000 and above should be capitalized.
2. Buildings costing less than $100,000 should be expensed.
3. Buildings are normally depreciated over a useful life of ~~40 years~~ 60 years.