

BUSINESS AFFAIRS SUB-COUNCIL

January 31, 2007

MINUTES

The meeting began at 9:00 a.m. in the TBR conference room. Present were Ms. Beth Cooksey (Chair, VSCC); Ms. Cynthia Brooks (TSU); Mr. Steve Campbell (NSTCC); Mr. Horace Chase (JSCC); Mr. John Cothorn (MTSU); Ms. Elaine Davis (NSCC); Mr. Danny Gibbs (RSCC); Mr. Mike Gower (MTSU); Mr. Jim Hellums (UOM); Mr. Ken Horner (COSCC); Dr. Charles Hurley (CLSCC); Mr. Al Irby (APSU); Dr. Rosemary Jackson (WSCC); Mr. Ron Kesterson (PSTCC); Mr. Charles Lee (UOM); Ms. Linda Maxwell (TTU); Mr. Ron Parr (SWCC); Mr. Mike Posey (MSCC); Mr. Mitch Robinson (APSU); Dr. Claire Stinson (TTU); Ms. Tammy Swenson (CSTCC); Ms. Velma Travis (DSCC); Mr. Greg Wilgocki (ETSU); Mr. David Zettergren (UOM); Dr. Bob Adams, Ms. Kathy Crisp, Mr. Tom Danford, Ms. Alicia Gillespie, Ms. Tammy Gourley, Ms. Angela Gregory, Ms. Lisa Hall, Ms. Debbie Johnson, Dr. Charles Manning, Ms. Brooke Shelton, Mr. Ron Simmons, and Ms. Renee Stewart (TBR).

1. Chancellor's Remarks

Dr. Manning spoke briefly regarding fee issues for the upcoming year. The system needs \$80 million to remain at the same position against our peers. Of this \$80 million, \$37 million would come from state appropriations and the remaining \$43 million would come from student fees. This would require a 6% fee increase. The General Assembly has expressed an interest in the total amount of fees that students would have to pay.

Athletics and international fees are concerns on campuses. TBR has made no commitment on an international fee. We are waiting on the General Assembly's action before making a decision. This fee would not necessarily have to be a system-wide fee.

Dr. Manning also stated that this would be an interesting session because the different dynamic in the Senate may change things. Therefore, it is important that we make an impact on them.

Dr. Adams requested that the institutions not send down pages of small dollar amount fees that may only generate \$1,000 for one department. The Board asked to see all proposed fees last year, and they were dismayed at the number of small fees requested.

The athletics fee, particularly at universities, is a hot issue with THEC. The TBR Board is supportive of our policy. THEC is looking at student fees and general fund support per FTE and as a percentage of maintenance fees. A question was raised as to why athletics was being targeted more specifically when there are other student activities that charge fees. ETSU is currently looking at bringing back their football program. This would require an additional athletic fee increase and ETSU will need to raise the \$15 million needed to build a stadium.

The international fee needs to be requested on an individual basis. There is a lot of concern throughout the system regarding this fee. The Student Affairs Officers have expressed concern regarding the fact that the money being collected from all students will only benefit about 3,000

students, and that not all students will have the same opportunity to participate in international travel. There are also risk management issues for students traveling abroad. ADA issues also need to be taken into consideration. It was expressed that Academics needs a clear, concrete plan on how the money will be spent. A question was also raised as to why a portion of the tuition increase cannot be allocated for international studies.

2. Center for Performance Excellence Presentation

Mr. Charles Lee introduced Katie Bell from the Center for Performance Excellence. The Center is a non-profit organization that helps all types of organizations improve their processes, as well as offering professional development. Their services include education, sharing best practices, and recognition of members. The Center uses the Baldrige Criteria as the basis of their evaluations and processes.

Jim Hellums, the Fiscal Plant Manager at the University of Memphis, gave a presentation highlighting the benefits that they have received from this program.

3. Report of the Committees

A. Finance Committee

Ms. Stewart highlighted the following issues from the January 18, 2007 Finance Committee meeting.

- **Digital Electronic Signatures**

The committee discussed a proposed revision to Policy 1:08:00:00 Information Technology Resources, that would permit the use of electronic signatures under certain conditions (Attachment A). The committee discussed the following two attributes that must be met in order for an electronic signature to be enforceable: (1) There must be a way to authenticate the signature by using a password and ID, (2) the recipient of the electronic signature must be able to capture and store the signature at the time it is received.

The committee also discussed the use of PKI (Public Key Infrastructure) technology which mandates that the TBR Chief Information Officer be contacted. The committee recommended that the Council of Buyers form a committee to develop procedures regarding the use of electronic signatures. The committee was also informed that a Webinar will be held on March 19 at 2:00 p.m. Institutions should inform their IT Director and Records office if they are interested in participating (Attachment B).

- **Capitalization of Stadium Costs**

The committee discussed the capitalization method used to report stadium costs, specifically grandstands. One institution had questioned whether a grandstand should be

considered a building or improvement. The differences in reporting grandstands as an improvement or building were due to the scope of the grandstand (whether it included enclosures, bathrooms, concessions and locker rooms).

Since GASB 34 gives examples of what is an improvement, the institution will be referred to review these guidelines. The GASB subcommittee will review the current capitalization policy for any needed revisions.

- TBR Residency Policy

The committee discussed the TBR Residency Policy 3:05:01:00. One institution has had problems with students of divorced parents living in Tennessee and another state. During the application process, the student is listing the out-of-state parent as the residence but realizing when fees are due that the in-state parent's residence would apply. The student then has to go through the appeals process.

The committee determined that each school should review the application process and the way the form is structured. It was suggested that the form should specifically ask for an in-state address.

- Lodging Rates

The committee discussed the state's recent revision to the in-state lodging rates (Attachment C). The state is adopting multiple levels for the in-state rate but the committee decided that TBR wanted to adopt three levels for lodging in order to cover different areas of the state. The three levels are proposed on Attachment D.

The proposed change will not be effective until approved at the March Board meeting. Until that time, the institution's president may issue exceptions on a case by case basis.

- Credit Card Usage Fee

The committee discussed a usage fee for credit card payments. The state and UT system are currently charging an access fee for credit card payments. The committee does not support initiating a system-wide fee at this time. If an individual institution wants to submit a credit card access fee for consideration, they may include it in their incidental fee request.

- Banner Social Security Number

It had been reported that Banner provides the employee's social security number to the employee's bank when making a direct deposit. The committee discussed whether there needed to be a modification to Banner to correct this problem. Subsequent to the meeting, it was discovered that E-Visions only removed the SSN from the check stub and

direct deposit statement but not the file. Since the file comes from Banner rather than E-Visions, a modification is needed.

This problem will be referred back to Human Resources for a modification to Banner.

- **Proposed Change to Purchasing Policy Regarding Contract Monitoring**

The committee discussed the proposed change to the purchasing policy regarding contract monitoring. It had been determined that the state statute regarding contract monitoring applies to service contracts and this policy will be revised to reflect the requirements of the statute (Attachment E).

- **Policy and Guideline Changes**

Policy 4:01:04:00 Solicitation and Acceptance of Gifts

The committee determined that the IRS regulations should be referenced when acknowledging acceptance of gifts from donors.

The requirement of review and approval by the Chancellor for institutional policies and procedures required by this policy will be deleted (Attachment F).

Policy 4:01:07:02 Foundations

Since foundations are no longer maintained as an agency fund of the institutions, this reference was deleted. Institutions now maintain their foundation as a separate chart of accounts and this language was added to the policy.

The reference to the foundation's records and accounts maintained as an agency fund being audited on the same cycle as the institutional audit performed by State Audit will be deleted since they are no longer reported as an agency fund (Attachment G).

Policy 4:02:05:01 Naming Buildings and Facilities and Building Plaques

The only changes to this policy were housekeeping changes (Attachment H).

Policy 4:02:09:00 Property Acquisition

The requirement for institutions to submit a list of land acquisition needs to the Chancellor by July 1 of each year was deleted (Attachment I).

Guideline B-025 Acquisition and Disposal of Real Property

The only changes to this policy were housekeeping changes (Attachment J).

Guideline B-026 Lease Procedures and Guidelines

The requirement for notarized signatures on leases in which the institution is the Lessee and which require State Building Commission approval was deleted (Attachment K).

Guideline B-030 Procedures for Acquiring Data Processing Equipment/Software/Services

The committee recommended deleting this guideline (Attachment L).

Guideline B-035 Procedures for Multi-Step Sealed Bidding

This guideline will be deleted once it is incorporated into the purchasing policy (Attachment M).

Guideline B-041 Community College Athletics

There were no changes to this guideline.

- TAF Revisions

The committee discussed revisions to the TAF Plan. It was reiterated that if an institution expands the scope of the original TAF plan that a revision to the TAF plan must be submitted. The status of paper supplies was also discussed. Institutions should use Pool 1 funds or non-TAF funds to purchase paper supplies.

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

B. Council of Buyers

Ms. Gregory highlighted the following issues from the January 17, 2007 Council of Buyers meeting.

- Electronic Signatures

The group discussed the use of electronic signature technology for RFP's. Ms. Gregory will poll the group to ask for volunteers to serve on a committee for electronic signature procedures. Mr. Lee volunteered members of his IT staff to serve on Ms. Gregory's committee.

- ITFS/EBS (Educational Broadcasting Service)

Currently five of our institutions are involved in contracts for EBS. Lou Svendsen, from Legal Counsel, is working with a consultant from Washington, D.C. and obtaining sample RFP materials to prepare a system-wide RFP for this service. One issue with

these types of agreements is that the term is typically long-term. TBR will also have to review what is currently in the five contracts that institutions have for EBS at this time.

- **Illegal Immigrants**

Ms. Gregory distributed the language for contracts (and attestation form) and purchase orders now required in accordance with Senate Bill 411 (TCA Code 12-4-124). The act states that “state or other state entities shall not contract to acquire goods or services from any person who knowingly utilizes the services of illegal immigrants in the performance of a contract for goods or services entered into with the state or a state entity.” This language is to be used immediately, as the bill went into effect January 1, 2007.

- **Insurance**

Ms. Gregory had e-mailed the institutions to see if any institutions were interested in obtaining approval from the Board of Claims, through Risk Management, to pursue an insurance RFP for the students in clinical or lab placements when insurance is required by the facility. The other option would be to leave the responsibility to the student. Dr. Adams advised the group to check at their institutions as he is receiving word that Academics is in favor of a system-wide contract for students.

It was recommended that the institutions be polled to see what type of coverage they would need, as well as to find out who the institutions’ current vendors are. This information will be useful if a system-wide RFP is issued for these services.

- **Non-Credit Instruction Agreement**

Ms. Gregory distributed a smaller version of the non-credit instruction agreement that is in G-030. The smaller version can be used for all of these agreements up to \$25,000 in revenue.

- **Revenue Agreements**

Ms. Gregory restated that the purchasing policy had now been amended to allow revenue contracts for institutions for a term up to 120 months (10 years) based on a request for longer term agreements in revenue situations to provide more of a financial benefit to the institutions.

- **Furniture Contract**

Ms. Gregory announced that TBR Purchasing and Facilities Departments had collaborated on the system-wide furniture and related services RFP and had issued an Intent to Award Letter to Contract Furniture Alliance. This contract was approved by Jerry Preston for equipment purchases in capital projects up to \$750,000. For projects over that amount, institutions are to e-mail their requests to Ms. Gregory and she will

work with Facilities to see if those projects can be procured through this contract as well.

- **AFLAC**

Ms. Gregory notified the group that TBR had discovered that AFLAC was offering the institutions policies that were not a part of the contract with TBR. The contract with TBR was for cancer and intensive care policies. TBR notified AFLAC to cease the non-contract payroll deductions; however, AFLAC misunderstood and notified all TBR employees that payroll deductions would cease. AFLAC has since issued apology letters to TBR employees with cancer and intensive care plans and indicated that their deductions would continue.

- **TTC Regionalization**

Ms. Gregory informed the group that only JSCC had responded to the RFP to regionalize the TTCs. Therefore, the West Region will be regionalized, contingent on a successful agreement with JSCC, and the other two regions will remain as is. The West Regionalization will be used as a pilot for potentially regionalizing the other two regions in the future.

- **People Admin**

The free instance of applicant tracking is only free for three more years. Therefore, there will be two years after that for which the institutions must pay. Ms. Gregory will poll the institutions again to determine which instance they now wish to purchase.

The Council of Buyers minutes with the policy revisions were approved.

C. Human Resources

Ms. Johnson highlighted the following issues from the January 23, 2007 Human Resource Officers Committee meeting.

- **Budget Guidelines and Including Increases in the Revised Budget**

Dr. Adams discussed the procedures in taking any increases (e.g. equity plans, merit plans, across the board, etc.) to the Board in September. Once they are approved, whether they are effective retroactively to July 1, or some cases January 1, our budget instructions ask that institutions put those raises on the individual employee line in the revised personnel budget. Several institutions that are receiving approval are not doing this. It is extremely important to have accurate data because the October personnel data is where the faculty salary averages get pulled to report to THEC, SREB, and others.

The problem is that Banner keeps all future salary records. Therefore, some institutions are only recording the new salary record until the effective time. It was discussed that perhaps the information could be pulled out of the Salary Planner instead of Banner.

- Retirement Credit for Privilege Tax for Professional Dues

Employer payment of the employee's privilege tax is considered by the state to be a salary item covered for retirement purposes. Some institutions have not granted employees retirement credit. Dr. Adams requested that all institutions make certain that it is recorded.

It was requested that a list of items for retirement credit be given to the institution. (The privilege tax and the housing allowance are the only two items that require retirement credit.) Dr. Adams is working with Treasury to get the housing allowance raised to more than \$250.

- Approval of Restricted Positions

Dr. Adams informed the group that if positions are funded through external sources, you may establish restricted positions without Central Office approval. When an appointment is made to a restricted position and the salary is \$75,000 or above, or covered under P-010 for approval, the appointment itself has to be approved.

- Flexible Benefits – Debit Card (Information)

The FBMC contract does have a provision for debit cards. There is an \$18 card charge and a required up-front deposit of 5% of the annual contribution. At this time, the committee elected not to pursue the debit card. This issue was referred to the Finance Committee to investigate the issues relating to the issuance of the debit cards.

- Pandemic Plan

Most institutions have a task force that is working on identifying essential functions and staff. The ETSU form (Admin and Finance Office Continuity Form) was reviewed in preparation for the pandemic.

Step 1 – Campus was divided into functional areas to determine essential functions

Step 2 – Identified administrative duties that could be performed remotely

Step 3 – Identified mechanically what campus needs in place to perform at a remote site

The group recommended that the proposed policy for business continuity (emergency procedures) be scaled down to include only three critical HR components:

1. Leave Policy

2. Payroll Coverage
3. Benefits Advisement/Survivor Benefits

The goal is to have the Pandemic Plan in place by spring. The Telework alternate work arrangement will be reviewed during the next cycle.

- Compensation Guidelines

The guideline needs to reflect the job change reason code so that there will be a compensation guide for Banner within the compensation guideline. The guideline needs to have reason code next to definition so that if you are working in Banner, this would be your guide.

- Direct Deposit – Addition to General Personnel Policy 5:01:00:00

Heidi Zimmerman discussed a proposed addition to the policy to make it mandatory for all employees to use direct deposit. There are some institutions that make it mandatory for student workers to also have direct deposit. Revised language was included. Officers voted and recommended approval of the attached policy.

- Academic Credentials

Heidi Zimmerman discussed the policies that needed to be revised to comply with TCA 49-7-133. Officers voted and recommended approval of the attached changes to P-010 and 5:01:00:00.

- Policy 5:01:01:14 Family and Medical Leave

Family and Medical Leave needs to be updated to incorporate the New Parental Policy. The policy needs to be reviewed by the committee and brought back to the next meeting to go through the next cycle.

- Banner

Raja Kodali reviewed Banner and the time keeping status issue via web. Banner does not accommodate being current on payroll with leave time reported in arrears. There are three possible options to correct this issue:

- 1) Modify Banner (Sara Goodman has indicated that a mod is not reasonable)
- 2) Change policy to get payroll in arrears
- 3) Purchase another software for the process

The HR Officers minutes with the policy revisions were approved.

D. Internal Audit

Ms. Gourley highlighted the following issues from the January 25, 2007 Internal Auditors' meeting.

- **President's Expense Audit Assignments**

A schedule of audit assignments for fiscal year 2007 was reviewed. Auditors were reminded to work out arrangements for travel reimbursement with the institution being audited and were encouraged to perform interim work to prevent overload at year-end. Completed audits are due by August 31, 2007.

- **Risk Assessments**

When the Risk Assessments were presented to the Audit Committee, there was a lot of discussion regarding the reports containing too much information. One of their concerns was that they wanted enterprise-wide terminology to cover more than it did. They would like to see enterprise-wide cover community involvement and strategic plans. Each institution should consider outside influences.

Ms. Gourley was asked by the BASC members to reiterate to the Audit Committee, as well as the Presidents, that many institutions feel that completing the Risk Assessments will require additional staff due to the amount of time required to perform each assessment as well as continuously monitor the previously reviewed areas. The next due date for Risk Assessments is May 11, 2007.

- **Quality Assurance Reviews**

Quality Assurance self-assessments have been completed by some of the system auditors and the remaining auditors have assessments in progress. The auditors discussed comments from the completed reviews, including budgeting. The auditors do not have input into the budgeting process, and they do not feel that they have enough money in their budgets to cover their needs. The Director of System-Wide Internal Audit is contacting individuals from other institutions/systems to identify a team leader for the external validation review.

The Internal Audit Committee minutes were approved.

4. Fraudulent Automatic Draft Payments

A situation has arisen at one institution where fraudulent automatic draft payments are being taken from their bank account. Dr. Adams reminded the committee ensure that bank reconciliations are performed in a timely manner so that these types of things can be detected.

The institution said that it would be difficult to prevent this type of thing from occurring because everyone who receives a check from the institution has access to their account information. The University of Memphis stated that they have an agreement with their bank in which they have provided a list of entities that are authorized to make automatic drafts from their account. Therefore, any entity that is not on the approved list would not be able to draft money from the account.

5. Banner/SunGard Issues

It was requested that hiring a group of centralized DBA's at TBR be looked into as soon as possible. One DBA has already been hired, and is currently working with SunGard. She is working on documenting processes for regular, routine actions. Mr. Danford would like to hire one or two additional DBA's.

A motion was made to authorize Mr. Danford to proceed and advertise for two positions. After lengthy discussion, a motion was made that the recommendation for all 19 institutions to split the costs equally be taken to the Presidents Council.

6. Group Lodging

Ms. Brooks requested that the wording regarding documentation for travel arrangements in Policy 4:03:03:50 Athletic and Other Group Travel be revised to coincide with current practices. Therefore, the policy was updated to state that various cost alternatives need to be explored only if costs exceed the approved travel rates (Attachment N).

A request was also made to amend how costs may be reported if two or more people are sharing a room. Language has been added to allow either one person to claim all of the costs or the costs may be split between the parties (Attachment O).

7. Other

- Banking RFP

There is currently no one available to write the specs for this RFP. Therefore, the committee decided to table this RFP for one year until more resources may become available.

- Presidents Serving as Board Members

There has been heightened interest from the State Ethics Committee regarding institutional presidents serving on bank boards. The Attorney General issued an opinion in 1990 that stated that it is acceptable for presidents to be on bank boards.

- SACUBO Workshop

There will be a SACUBO workshop held in Knoxville on March 5-6, 2007.

There being no further business, the meeting was adjourned.

Attachment A

TENNESSEE BOARD OF REGENTS

POLICY 1:08:00:00

Subject: Information Technology Resources

Section 1 Objectives of this Policy

The objectives of this policy include: 1) to articulate the rights and responsibilities of persons using information technology resources owned, leased, or administered by the Tennessee Board of Regents (TBR); 2) to protect the interests of users and the TBR; and 3) to facilitate the efficient operation of TBR information technology systems.

Section 2 Definitions

“Information technology resources” or **“IT resources”** include computers and computer time, data processing or storage functions, computer systems and services, servers, networks, printers and other input/output and connecting devices, and related computer records, programs, software, and documentation.

“Institutions” shall mean the TBR Universities, Community Colleges, and Technology Centers.

“Personal or private for-profit use” shall mean a use of TBR information technology resources which has as a primary objective financial gain of the user. Activities by a student which are typical of the student job search process (e.g. use of campus e-mail to contact potential employers or posting of one’s resume on the Institution’s website, if allowed under Institutional policies and procedures) are not to be considered personal or private for-profit uses.

“Public record” means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency. TCA § 10-7-301(6)

Section 3 Supplementary Institutional Policies and Regulations

As each Institution may deem necessary and appropriate, TBR Institutions are authorized and encouraged to develop additional Institution-specific policies and regulations relating to the use of information technology resources, provided such policies and regulations are consistent with Federal and State law and with this and other policies of the Tennessee Board of Regents. In particular, Institutions and the TBR Central Office may develop policies and regulations regarding installation of non-standard software (including shareware, freeware, or software developed or purchased by the user) onto TBR IT resources.

Section 4 Conformance with State policies

This policy is intended to be fully consistent with the State of Tennessee Internet Acceptable Use Policy and the State of Tennessee Electronic Mail Acceptable Use Policy, as they currently exist or as they may be amended in the future, as well as with any other applicable policies regarding information technology systems which may be promulgated in the future by the State of Tennessee Department of Finance Office of Information

Resources (OIR). To the extent that a discrepancy exists between this policy and State policy, State policy shall take precedence.

Section 5 Applicability

This policy shall apply to all persons and organizations using the information technology facilities and resources owned, leased or administered by the TBR, including all persons employed (either as full-time, part-time or temporary employees or as independent contractors) by the Tennessee Board of Regents and its constituent Institutions, and to all students enrolled at TBR Institutions. Those provisions contained herein which apply solely to employees and independent contractors are so identified individually. Unless so identified, provisions contained herein apply equally to all persons and organizations covered by this policy.

Section 6 User responsibilities

The following lists of user responsibilities are intended to be illustrative, and not exhaustive. Subject to conformance with Federal and State of Tennessee law and with State of Tennessee and Tennessee Board of Regents policies, individual TBR Institutions are authorized to supplement the user responsibilities contained herein.

Section 6.1 Access

- 1) Users shall obtain proper authorization before using TBR information technology resources.
- 2) Users shall not use TBR information technology resources for purposes beyond those for which they are authorized.
- 3) Users shall not share access privileges (account numbers and passwords) with persons who are not authorized to use them.
- 4) Users shall not use TBR information technology resources in an attempt to access or to actually access computers external to the TBR system when that access is not authorized by the computer's owner (no "hacking" allowed).

Section 6.2 Respect for others

- 1) A user shall not attempt to obstruct usage or deny access to other users.
- 2) Users shall not transmit or distribute material that would be in violation of existing TBR policies or guidelines using TBR information technology resources.
- 3) Users shall respect the privacy of other users, and specifically shall not read, delete, copy, or modify another user's data, information, files, e-mail or programs (collectively, "electronic files") without the other user's permission. Users should note that there should be no expectation of privacy in electronic files stored on the resident memory of a computer available for general public access, and such files are subject to unannounced deletion.
- 4) Users shall not intentionally introduce any program or data intended to disrupt normal operations (e.g. a computer "virus" or "worm") into TBR information technology resources.
- 5) Forgery or attempted forgery of e-mail messages is prohibited.
- 6) Sending or attempts to send unsolicited junk mail or chain letters is prohibited.
- 7) Flooding or attempts to flood a user's mailbox is prohibited.

Section 6.3 Respect for State-owned property

- 1) A user shall not intentionally, recklessly, or negligently misuse, damage or vandalize TBR information technology resources.
- 2) A user shall not attempt to modify TBR information technology resources without authorization.

- 3) A user shall not circumvent or attempt to circumvent normal resource limits, logon procedures, or security regulations.
- 4) A user shall not use TBR information technology resources for purposes other than those for which they were intended or authorized.
- 5) A user shall not use TBR information technology resources for any private or personal for-profit activity.
- 6) Except for those not-for-profit business activities which are directly related to an employee's job responsibilities or which are directly related to an organization which is affiliated with the Institution, a user shall not use TBR information technology resources for any not-for-profit business activities, unless authorized by the President or Director (or his/her designee).
- 7) Users shall at all times endeavor to use TBR information technology resources in an efficient and productive manner, and shall specifically avoid excessive game playing, printing excessive copies of documents, files, data, or programs; or attempting to crash or tie-up computer resources.

Section 6.4 Additional Responsibilities of Employees and Independent Contractors

- 1) Users who are Employees and Independent Contractors shall not make use of TBR information technology resources for purposes which do not conform to the purpose, goals, and mission of the TBR and to the users job duties and responsibilities.
- 2) Users shall not use TBR information technology resources for solicitation for religious or political causes.

Section 7 Digital/Electronic Signatures and Transactions

The Tennessee Board of Regents and its institutions must comply with the Tennessee Uniform Electronic Transactions Act (T.C.A. §47-10-101 et seq.) This Act permits the use of electronic signatures and electronic transactions under certain circumstances.

- 1) In order to be legally enforceable, an electronic signature must meet the following two criteria.
 - A. An electronic signature must be attributable (or traceable) to a person who has the intent to sign the record or contract with the use of adequate security and authentication measures that are contained in the method of capturing the electronic transaction (e.g., use of personal identification number or personal log-in identification username and password) (T.C.A. §47-10-109) (If Public Key Infrastructure technology ("PKI") is to be used in the creation of the digital signature, contact TBR Chief Information Officer prior to implementation.)
 - B. The recipient of the transaction must be able to print or store the electronic record of the transaction at the time of receipt. (T.C.A. §47-10-109)
- 2) The use of electronic/digital signatures in compliance with state and federal laws is permitted.

Section 7 8 No unlawful uses permitted

Users shall not engage in unlawful uses of the information technology system resources of the TBR. Unlawful activities are violative of this policy and may also subject persons engaging in these activities to civil and / or criminal penalties. This list of unlawful activities is illustrative and not intended to be exhaustive.

Section 7-1 8.1 Obscene materials

The distribution and display of obscene materials is prohibited by the laws of Tennessee (see Tenn. Code Ann. § 39-17-902). Obscene materials are defined under Tennessee law (see T.C.A. § 39-17-901(10)) as those materials which:

- a) The average person applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest;
- b) The average person applying contemporary community standards would find that the work depicts or describes, in a patently offensive way, sexual conduct; and
- c) The work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

Federal law (18 U.S.C. 2252) prohibits the distribution across state lines of child pornography.

Section 7-2 8.2 Defamation

Defamation is a civil tort which occurs when one, without privilege, publishes a false and defamatory statement which damages the reputation of another.

Section 7-3 8.3 Violation of Copyright

Federal law gives the holder of copyright five exclusive rights, including the right to exclude others from reproducing the copyrighted work. Sanctions for violation of copyright can be very substantial. Beyond the threat of legally imposed sanctions, violation of copyright is an unethical appropriation of the fruits of another's labor.

Pursuant to the Digital Millennium Copyright Act of 1998, the TBR designated agent for receipt of complaints of copyright infringement occurring with the use of TBR information technology resources is the TBR Assistant Vice Chancellor for Information Technology. The TBR agent shall develop and maintain a policy regarding receipt and disposition of complaints of copyright infringement. The Institutions are authorized to designate agents to serve their specific campus, however the Assistant Vice Chancellor for Information Technology shall be promptly informed of all complaints received by such Institutional agents.

Section 7-4 8.4 Gambling

Gambling, including that performed with the aid of the Internet, is prohibited under Tennessee state law (see Tenn. Code Ann. § 39-17-502).

Section 8 9 World Wide Web Home pages

The principles of use articulated above in Sections 6 and 7 are generally applicable to World Wide Web home pages. For example, use of TBR information technology resources to post a web page for personal or private for-profit use is prohibited under Section 6.3.5. Illegal content in web pages stored on TBR IT resources is prohibited under Section 6.2.2. Obscene content is prohibited under Section 7.1. Incorporation of copyrighted material, without either permission of the copyright holder or under a lawful exemption, is prohibited under Section 7.3.

In addition to the principles of use outlined in Sections 6 and 7, users may not incorporate into web pages or other electronic documents the trademarks or logos of others without express, written permission. Persons who are not employees of an Institution may not make use of Institutional trademarks or logos without express, written permission. Institutions are authorized to develop policies and regulations regarding use of Institutional trademarks on the Institution's website by employees. The Institution Presidents and Directors are authorized to designate persons (e.g. campus webmaster) who may approve a proposed use of the Institution's trademarks and logos by employees on Institutional web pages.

Section 9 10 Advertising

Use of TBR information technology resources to promote or advertise activities or entities which are not related to the Institution is prohibited, unless such use is consistent with the mission of the Institution and results in substantial benefit to the Institution. The President or Director of each TBR Institution is authorized to determine whether a given use is consistent with the mission of the Institution and results in substantial benefit to the Institution, consistent with other TBR Policies (in particular, TBR Policy 3:02:02:00). Sale of advertising in web-based versions of Institution-affiliated student publications is specifically permitted.

Section ~~10~~ 11 TBR monitoring and inspection of electronic records

Electronic records sent, received, or stored on computers owned, leased, or administered by the TBR is the property of the Tennessee Board of Regents. As the property of the TBR, the content of such records, including electronic mail, is subject to inspection by TBR personnel. While the TBR does not routinely do so, the TBR is able and reserves the right to monitor and / or log all network activity of users without notice, including all e-mail and Internet communications. Users should have no reasonable expectation of privacy in the use of these resources.

Section ~~11~~ 12 Disclosure of electronic records

Pursuant to the Tennessee Code Annotated, Title 10, Chapter 7, and subject to exemptions contained therein, electronic files (including e-mail correspondence) which are 1) generated or received by TBR employees and 2) either owned or controlled by the State or 3) maintained using TBR IT resources may be subject to public inspection upon request by a citizen of the State of Tennessee. TBR personnel receiving such a request for public inspection should refer the request to the President or Director of their Institution (or to the President's or Director's designee). Institutions may charge reasonable fees for making copies of such records, pursuant to T.C.A. § 10-7-506.

While disclosure under T.C.A. Title 10, Chapter 7 applies to employees, disclosure of the electronic records of all users which are maintained using TBR IT resources may be made pursuant to a valid subpoena or court order, when otherwise required by federal, state or local law, or when authorized by the President or Director of the Institution.

Section ~~12~~ 13 Retention of electronic records

Electronic records needed to support Institutional functions must be retained, managed, and made accessible in record-keeping or filing systems in accordance with established records disposition authorizations approved by the Public Records Commission and in accordance with TBR Guideline G-070, "Disposal of Records". Each employee of the TBR, with the assistance of his or her supervisor as needed, is responsible for ascertaining the disposition requirements for those electronic records in his or her custody. The system administrator is not responsible for meeting the record retention requirements established under T.C.A. Title 10, Chapter 7, and the TBR, as owner of electronic records stored on TBR computers, reserves the right to periodically purge electronic records, including e-mail messages. Users who are either required to retain an electronic record, or who otherwise wish to maintain an electronic record should either:

1. Print and store a paper copy of the record in the relevant subject matter file; or
2. Electronically store the record on a storage medium or in an electronic storage location not subject to unannounced deletion.

Section ~~13~~ 14 Violation of this policy

Section ~~13.1~~ 14.1 Reporting allegations of violations

Persons who have reason to suspect a violation of this policy, or who have direct knowledge of behavior in violation of this policy should report that allegation of violation to the Institution President or Director or his/her designee.

Section ~~13.2~~ 14.2 Disciplinary procedures

Allegations of violation of this policy shall be referred by the designee of the President (typically, the Computer Center Director) or of the Director to the appropriate person(s) for disciplinary action. If a student, the policy violation will be referred to the judicial officer of the institution under TBR Policy 3:02:00:01. If an employee, the policy violation will be referred to the immediate supervisor. If there is a policy violation, which the designee believes rises to the level of a serious violation of this or any other TBR policy; the designee is authorized to temporarily revoke access privileges. In those cases, the revocation of access must be reviewed by the appropriate disciplinary authority for review and final determination of access privileges. In such cases the authorization of the designee carries with it the authorization to make subjective judgments, such as whether material or statements violate TBR Policy.

Section ~~13.3~~ 14.3 Sanctions

Persons violating this policy are subject to revocation or suspension of access privileges to TBR IT resources. Additionally other penalties, as outlined in TBR Policy 3:02:00:01, may be imposed upon student users. Sanctions for violation of this policy by employees may extend to termination of employment. Violations of law may be referred for criminal or civil action.

Section ~~13.4~~ 14.4 Appeals

Sanctions imposed upon students at a TBR University or Community College and imposed at the discretion of the Computer Center Director (or other designee of the President) may be appealed to the Chief Student Affairs Officer. Other sanctions may be appealed under established Institution procedure.

Source: TBR Board Meeting June 28, 2002

VI. Meals

1. In-State and Out-of-State Meals - Meals while on authorized travel will be reimbursed, subject to the meal allowance provided on the Addendum. The maximum per diem rates include a fixed allowance for meals and for incidental expenses (M&I). The M&I rate, or fraction thereof, is payable to the traveler without itemization of expenses or receipts. Incidentals are intended to include miscellaneous costs associated with travel such as tips for baggage handling, phone calls home, etc.

The M&I rates for out-of-state travel are the same as those for federal employees, and are available on the General Services Administration's web site. As with lodging, there is a standard rate for the continental United States (CONUS), and a list of exceptions. Reimbursement for meals and incidentals for the day of departure shall be three-fourths of the appropriate M&I rate (either the in-state rate or CONUS rate for out-of-state travel) at the rate prescribed for the lodging location. Reimbursement for M&I for the day of return shall be three-fourths of the M&I rate applicable to the preceding calendar day. To assist in this calculation, the following table lists partial per diem rates for meals and incidentals for in-state and out-of-state travel.

Per Diem Rates - Three-fourths Calculations

\$31	\$23.25
\$38	\$28.50
\$39	\$29.25
\$44	\$33.00
\$49	\$36.75
\$54	\$40.50
\$59	\$44.25
\$64	\$48.00

The following table may be used to determine reimbursement for a single meal, when appropriate. Reimbursement for meals will not be permitted when overnight travel is not involved.

In-State and Out-of State of Tennessee

Meals and Incidental - Allocated by Meal

Per diem	31	38	39	44	49	54	59	64
Breakfast	6	7	8	8	9	10	11	12
Lunch	6	10	8	12	13	15	16	18
Dinner	16	18	20	21	24	26	29	31
Incidentals	3	3	3	3	3	3	3	3

Revisions to the above two tables that are required solely by changes in CONUS rates will not be subject to Board approval.

2. Official Banquets - When the expenses for an official banquet of a meeting or conference is in excess of the meal allowance, the excess will be allowed provided a receipt or proper explanation of the charge is submitted.
3. Business Meals - See Policy 4:07:00:00 for criteria on reimbursing business

meals.

VII. Miscellaneous Expenses

1. Personal Expenses - Expenses for entertainment (employee or others), laundry, valet service, tips and gratuities, etc., are personal expenses and will not be reimbursed in excess of the incidental portion of the M&I rate.
2. Telephone, Telegram and Fax Expenses - Charges for long distance telephone calls, telegrams, and/or fax on official business will be allowed provided a statement is furnished showing the date, the name and location called, and the purpose of the call. Charges for necessary local calls on official business will be allowed.
3. Registration Fees - Registration fees for approved conferences, conventions, seminars, meetings, etc., will be allowed including cost of official banquets and/or luncheons, if authorized in advance by the appropriate approving authority, and provided receipts are submitted with the travel claim.
4. Handling Fees - Fees for the handling of equipment or promotional materials will be allowed up to the maximum indicated (see Addendum).

VIII. Claims

The standard form for claims for travel expenses approved by the President, director or Chancellor shall be used for reimbursement of expenses. The form must show movement and detail of expenses on a daily basis, be signed in ink by the employee, and be approved by the appropriate approving

Addendum

Tennessee Board of Regents General Travel Policy

This Addendum provides the specific expenses considerations cited in the general travel policy. The reimbursement rates listed below are consistent with the current Comprehensive Travel Regulations of the State of Tennessee, which may be revised from time to time. The following shall remain in effect from and after December 2, 2005, until revised by the Chancellor.

General Reimbursement Rates

Standard mileage rate	Rate approved by the Dept. of Finance and Administration (see http://www.state.tn.us/finance/acct/policy8.pdf)
Maximum parking fees without receipt	\$ 8.00 per day
Fees for handling of equipment or promotional materials	\$ 20.00 per hotel

Out-of-State Reimbursement Rates

Employees are to utilize the U.S. General Services Administration CONUS (Continental United States) rates provided by the federal government. The CONUS rates are located on the U.S. Government's web page at <http://www.gsa.gov>

Use the CONUS standard rates for all locations within the continental United States not specifically shown on the web page as a listed point.

In-State Travel Reimbursement Rates

Level I Counties and Cities

<u>Day of Departure And Return</u>	<u>Maximum Lodging</u>	<u>Maximum Meals and Incidentals</u>
75% of M&I	\$99.00 + tax	\$54.00
Davidson County		

Level II Counties and Cities

<u>Day of Departure And Return</u>	<u>Maximum Lodging</u>	<u>Maximum Meals and Incidentals</u>
75% of M&I	\$75.00 \$83.00 + tax	\$38.00 \$49.00
Shelby County, Davidson County , Knox County, Hamilton County, Gatlinburg, Pigeon Forge, Sullivan County, Johnson City , Williamson County. (Includes Paris Landing, Montgomery Bell, Natchez Trace, Pickwick, Fall Creek Falls, and Henry Horton State Parks) Montgomery County, Putnam County, Rutherford County, Washington County.		

Level III Counties and Cities

<u>Day of Departure And Return</u>	<u>Maximum Lodging</u>	<u>Maximum Meals and Incidentals</u>
75% of M&I	\$65.00 + tax	\$31.00 \$39.00
All other counties and cities not listed above.		

Standard Out-of-Country Rates

<u>Day of Departure And Return</u>	<u>Maximum Lodging</u>	<u>Maximum Meals and Incidentals</u>
Actual expense or 75% of M&I	Actual expense	Actual expense or \$64.00
(per diem amount only to be used when receipts are not available)		

Special Rates Under Exception One

This exception applies to the Tennessee Board of Regents' Chancellor and his or her immediate staff, presidents of institutions, area school directors, and System employees traveling in their company. This exception rate schedule corresponds with Exception Number Three of the Comprehensive Travel Regulations of the State of Tennessee.

Out-Of State Reimbursement Rates

Employees are to utilize the U.S. General Services Administration CONUS (Continental United States) rates provided by the federal government. The CONUS rates are located on the U.S. Government's web page at: <http://www.gsa.gov>

Use the CONUS standard rates for all locations within the continental United States not specifically shown on the web page as a listed point.

In-State Travel Reimbursement Rate

Level I Counties and Cities

<u>Day of Departure And Return</u>	<u>Maximum Lodging</u>	<u>Maximum Meals and Incidentals</u>
75% of M&I	\$104.00 + tax	\$54.00
Davidson County		

Level II Counties and Cities

<u>Day of Departure And Return</u>	<u>Maximum Lodging</u>	<u>Maximum Meals and Incidentals</u>
75% of M&I	\$80.00 \$88.00 + tax	-\$38.00 \$49.00
Shelby County, Davidson County , Knox County, Hamilton County, Gatlinburg, Pigeon Forge, Sullivan County, Johnson City , Williamson County. (Includes Paris Landing, Montgomery Bell, Natchez Trace, Pickwick, Fall Creek Falls, and Henry Horton State Parks) Montgomery County, Putnam County, Rutherford County, Washington County		

Level III Counties and Cities

<u>Day of Departure And Return</u>	<u>Maximum Lodging</u>	<u>Maximum Meals and Incidentals</u>
75% of M&I	\$70.00 + tax	\$31.00 \$39.00
All other counties and cities not listed above.		

Special Rates Under Exception Two

This exception applies to Board Members of the Tennessee Board of Regents who are reimbursed for travel in the performance of their official duties. This exception rate schedule corresponds with Exception Number Four of the Comprehensive Travel Regulations of the State of Tennessee.

Out-of State Reimbursement Rates

Employees are to utilize the U.S. General Services Administration CONUS (Continental United States) rates provided by the federal government. The CONUS rates are located on the U.S. Government's web page at <http://www.gsa.gov>

Use the CONUS standard rates for all locations within the Continental United States not specifically shown on the web page as a listed point.

In-State Travel Reimbursement Rates

Level I Counties and Cities

<u>Day of Departure And Return</u>	<u>Maximum Lodging</u>	<u>Maximum Meals and Incidentals</u>
75% of M&I	\$119.00 + tax	\$54.00
Davidson		

Level II Counties and Cities

<u>Day of Departure And Return</u>	<u>Maximum Lodging</u>	<u>Maximum Meals and Incidentals</u>
75% of M&I	\$95.00 \$103.00 + tax	\$38.00 \$49.00
Shelby County, Davidson County , Knox County, Hamilton County, Gatlinburg, Pigeon Forge, Sullivan County, Johnson City , Williamson County. (Includes Paris Landing, Montgomery Bell, Natchez Trace, Pickwick, Fall Creek Falls, and Henry Horton State Parks) Montgomery County, Putnam County, Rutherford County, Washington County		

Level III Counties and Cities

<u>Day of Departure And Return</u>	<u>Maximum Lodging</u>	<u>Maximum Meals and Incidentals</u>
75% of M&I	\$85.00 \$90.00 plus tax	\$31.00 \$39.00
All other counties and cities not listed above.		

II. PROCUREMENT OF GOODS, MATERIALS AND SUPPLIES / SERVICES

E. Monitoring and of Services. Institutions shall have a monitoring plan for **all service contracts***, **including grants and grant subcontracts**, ~~resulting from RFPs~~ to ensure the following:

- (1) that ~~goods/services~~ **deliverables** are received,
- (2) financial obligation of the institution does not exceed the **RFP contract** pricing, and
- (3) ~~contract is~~ **services are** in compliance with the terms and conditions of the ~~RFP~~/contract.

***Service contracts shall have the same meaning as provided in Section II of this policy. Procurement of goods under this policy shall not require a monitoring plan, but shall comply with TBR and institution internal controls and audit procedures.**

POLICY 4:01:04:00**Subject: Solicitation and Acceptance of Gifts**

The purpose of this policy is to establish responsibilities and procedures regarding the solicitation and acceptance of gifts to the institutions ~~and area vocational-technical schools~~ governed by the ~~State~~ **Tennessee** Board of Regents. As cited in Board Policy (No. 1:02:02:00, Duties Of the Board), T.C.A. § 49-8-203 provides:

Board shall have the power to receive donations of money, securities, and property from any source on behalf of the institutions..., which gifts shall be used in accordance with the conditions set by the donor.

The Board considers the solicitation and acceptance of gifts to be appropriate administrative responsibilities of institutional presidents and ~~school~~ **technology center** directors, and therefore delegates to the presidents and directors the authority to solicit and accept gifts in accordance with the provisions of this policy.

General Statement

The Board recognizes the vital importance of gifts to institutional ~~and school~~ development. Gifts of real and personal property from individuals and organizations often benefit institutions ~~and schools~~ by making possible the accomplishment of objectives for which support from other sources is limited or unavailable. Gifts also often represent a means by which the donor may contribute to an aspect of postsecondary education that is of particular interest to the donor.

The Board authorizes and encourages the institutions ~~and schools~~ to solicit and accept gifts for purposes that are consistent with their missions. All activities related to the solicitation and acceptance of gifts shall be implemented in a manner which serves the mutual interests of the donors and institutions ~~and schools~~. To this end, each institution ~~and school~~ shall develop policies and procedures which incorporate the following provisions.

Solicitation of Gifts

1. The president/director shall designate the campus official(s) authorized to approve and conduct activities for the purpose of soliciting gifts to the institution/~~school~~.
2. Criteria and procedures for soliciting gifts shall be established which clearly define appropriate activities and the campus approval process.
3. Solicitation of gifts which may require a commitment of institutional/~~school~~ resources must be approved by the president/director.

Acceptance of Gifts

1. The president/director is authorized to accept gifts on behalf of the institution/~~school~~, subject to the following conditions:

a. Only the Board may accept a gift if board acceptance is a condition set by the donor;

b. Only the Chancellor and Board may accept gifts of real property or any permanent interest in real property, and title must be conveyed to the Board on behalf of the institution/~~school~~; in the name of the ~~Board of Regents of the State University and Community College System of Tennessee~~ **Tennessee Board of Regents** for the use and benefit of the institution/~~school~~.

c. Any acquisition of real property by gift or devise which obligates the institution/~~school~~, Tennessee Board of Regents or State of Tennessee to expend state of Tennessee funds for capital improvements or continuing operating expenditures shall be approved by the State Building Commission in accordance with TCA 4-15-102(d)(2) prior to acceptance by the Chancellor and Board. Any such Deed transferring title to the **Tennessee** Board of Regents shall not be recorded until the State Building Commission has approved the acceptance of the gift property.

d. Gifts with conditions that ultimately will require consideration by the Board or Chancellor must be approved by the Chancellor prior to acceptance (e.g., gifts to support the initiation of a new academic program or capital improvement project); and

e. Gifts of property subject to an indebtedness must be approved by the Chancellor prior to acceptance.

2. The president/director may recommend approval by the Chancellor or Board prior to acceptance of any gift.

3. The president/director may delegate to a campus official or officials his/her authority to accept gifts on behalf of the institution/~~school~~; however, institutional/~~school~~ policies must identify the specific types of gifts that may be accepted by the designated official(s). The acceptance of all gifts is subject to confirmation by the president/director.

4. Corporate stock given to an institution/~~school~~ may be sold by the institution/~~school~~ through or in consultation with a registered security broker within 60 days of receipt of the stock certificate, and the sale may be executed by the president/director or a designated representative.

5. Appropriate procedures must be established for acknowledging acceptance of gifts and for ensuring compliance with conditions set by the donors **and in compliance with IRS regulations.**

Records and Reporting

1. Adequate records of all gifts shall be maintained by the institution/~~school~~ in accordance with accepted accounting procedures to allow a proper audit trail.

2. A summary of all gifts to the institution/~~school~~ during a fiscal year shall be included in the institution's/~~school's~~ annual report to the Board, as required by Board Policy (No. 1:02:10:00, Annual Reports).

Foundations

For purposes of distinguishing institutional gifts and related procedures from those of foundations established pursuant to Board Policy (No. 4:01:07:02, Foundations):

1. The institution may not accept gifts specifically intended for the foundation, and only gifts specifically intended for a foundation may be accepted by a foundation.
2. In general, institutional resources may not be used to meet conditions of gifts to a foundation; however, exceptions may be approved by the president or the Chancellor in accordance with the provisions of this policy on acceptance of gifts.
3. The institution must maintain records of gifts to the institution separate from those of gifts to the foundation.
4. The institution shall report gifts to foundations in the summary of gifts during a fiscal year to be included in its annual report, as provided in this policy in 2. under Records and Reporting.

~~The institutional/school policies and procedures required by this policy shall be submitted for the review and approval of the Chancellor.~~

Source: TBR Meeting, September 30, 1983; September 21, 1990; TBR Meeting, March 15, 1991; TBR Meeting March 20, 1992

SUBJECT: Foundations

The following policy shall apply to all institutions ~~and area vocational technical schools~~ governed by the Tennessee Board of Regents.

1. General Statement

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. The Board recognizes the value of such foundations to the overall development programs of the institutions. Foundations provide a direct means for individuals to participate in the generation and management of contributions for the benefit of institutions and units of institutions.

2. Definition of Foundation

For purposes of this policy, a foundation is defined as a not-for-profit organization which exists solely to support and advance the objectives of an institution. A foundation also shall be operated as a tax-exempt corporation chartered within the State of Tennessee.

3. Foundation/Institution Relationship

A foundation is not an operational function of an institution; it is a separate legal entity. The foundation/institution relationship is derived from a shared interest in the institution's development. Institutional participation in and support of foundation operations are, therefore, appropriate and desirable. It is recognized that to be effective in achieving its purpose, a foundation's identity must be maintained separate from the institution. The accountability of a foundation and the institution as it relates to the foundation, however, are concerns common to the foundation, the institution, and the Board.

4. Purpose of the Policy

The purpose of this policy is to promote and strengthen the operations of foundations which have been and may be established for the benefit of TBR institutions. The following provisions set forth a framework which, from the Board's perspective, enables and enhances a sound and mutually supportive foundation/institution relationship.

5. 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.
2. The governance structure of a foundation should be determined by the ~~organization~~ **foundation**. To ensure an appropriate level of institutional participation in foundation governance, it is recommended that the institution president and/or the president's designee(s) hold membership on the foundation's executive body.
3. The foundation's executive body shall adopt an annual budget. The institution will develop and present a recommended budget to the foundation to ensure that institutional objectives are reflected in the allocation of foundation funds.
4. The foundation should develop policies and procedures concerning its operations. At a minimum, the policies should address solicitation, 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.

The policy regarding solicitation and acceptance of contributions shall provide that prior to acceptance of any gift to the foundation which requires institutional support, i.e., staff, financial assistance, storage, etc., approval must be obtained from the president of the institution, and if applicable, by the Chancellor, in accordance with Board policy.

5. No institutional funds, including contributions to the institution, may be transferred directly or indirectly to the foundation. Endowment funds, however, may be transferred from the institution to the foundation with the written approval 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.

6. Foundations must respect Board and institutional responsibilities for personnel administration, and a process must be established whereby foundation expenditures for compensation and other forms of supplement to institutional personnel, i.e., salary, expense account, automobiles, etc., must be approved in advance by the institution president and Chancellor on an annual basis.

7. Foundation records and accounts may be maintained by the institution; however, they must be maintained ~~separate from institutional records and accounts and be shown as an agency fund of the institution as a separate chart of accounts.~~ Records and accounts maintained by the foundation should be available to the institution.

8. The foundation executive body should issue periodic reports 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 comprehensive annual financial report shall be issued, prepared in accordance with generally accepted accounting principles.

9. ~~A foundation whose records and accounts are maintained as an agency fund of the institution shall be audited on the same cycle as the institutional audit performed by the Comptroller of the Treasury of the State of Tennessee and shall be reported upon as a part of the agency fund of the institution.~~ Records and accounts maintained by the foundation shall be audited annually by the Comptroller of the Treasury or with the prior approval of the Comptroller of the Treasury, an independent public accountant. The audit contract between the independent public accountant and the foundation shall be approved in advance by the Board and the Comptroller and shall be on contract forms prescribed by the Comptroller.

10. 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.

11. The Chancellor shall have the authority to grant exceptions to this policy when deemed appropriate and necessary.

Source: TBR Meeting, August 17, 1973; TBR Meeting, September 20, 1985; September 21, 1990; June 28, 1991; December 3, 2004.

POLICY 4:02:05:01

SUBJECT: Naming Buildings and Facilities and Building Plaques

The following policy shall apply to all institutions ~~and area vocational-technical schools~~ governed by the Tennessee Board of Regents.

A. Naming Buildings and Facilities

1. General Statement

The naming of buildings, facilities, grounds, and organizational units of institutions for individuals or groups who have made significant contributions to society is an honored tradition of higher education. The prerogative and privilege of such namings on the campuses of the Tennessee Board of Regents System are vested in the Board. Authority to name identifiable sub-units or components of buildings and facilities, however, is delegated to the institution president or ~~area school~~ **technology center** director, subject to the criteria and process set forth below.

The purpose of this policy is to establish the criteria and process for such namings in the System.

This policy applies to all buildings of the institutions ~~and area vocational-technical schools~~ governed by the Board. It also applies to other facilities, grounds, and organizational units which the institution ~~or school~~ wishes to dedicate in the name of an individual or group. Buildings designated by their general purpose or function are not subject to this policy.

2. Criteria

In general, individuals and groups for whom buildings are named must have made a significant contribution to the field of education, government, science, or human betterment. To preserve the integrity of all buildings named in the System, this honor must be reserved for individuals of recognized accomplishment and character; no building may bear the name of an individual convicted of a felony. With respect to the naming of buildings on a particular campus, special consideration shall be given to:

1. The historical significance of the contribution of the individual or group to the institution ~~or area school~~;
2. The association of the individual or group with the building to be named;
3. Any financial contribution of the individual or group to the institution ~~or area school~~; and
4. State, regional, national, or international recognition of the individual's or group's contributions and achievements.

A given surname may be assigned to only one building on a specific campus.

3. Process

The institution president or ~~area school~~ **technology center** director shall charge a committee to consider and make recommendations for the naming of a building. The committee shall be comprised of student, faculty, and administrative representatives; other representatives of the campus community may serve on the committee, as deemed appropriate by the president or director.

The committee shall consider all suggested namings which satisfy the criteria cited above. Any individual or group associated with the institution ~~or area school~~ may suggest a name for consideration by the committee.

The committee shall submit a report to the president or director, which includes a recommendation for the naming, documentation of all suggestions considered, and justification of its recommendation.

For namings which require Board approval, the president or director shall submit his or her recommendation, along with the committee's report and any additional supporting information deemed appropriate, to the Board through the Chancellor.

No publicity shall be given to the recommendation for naming until it is considered by the Board. For namings not subject to Board approval, the president or director shall determine and make known the naming in the manner deemed most appropriate.

4. Dedication Ceremony and Plaque

Upon approval of the naming by the Board, an appropriate dedication ceremony may be planned and conducted by the institution ~~or area school~~.

The institution ~~or area school~~ also may erect a dedication plaque or comparable marking upon approval of the naming by the Board. The plaque may be separate from the building plaque provided by State regulations. In addition to the individual or group for whom the building is named, the dedication plaque should identify the institution president ~~or area school~~ **technology center** director, the Chancellor, and the Chairman of the Board at the time the naming was approved.

B. Building Plaques

An institution ~~or school~~ may affix a building plaque to a new or newly renovated building or facility. All building plaques must comply with Tennessee Board of Regents guidelines adopted pursuant to this policy and State Building Commission policy on building plaques. This section shall apply to any new or newly renovated building or facility.

Source: TBR Meetings, April 13, 1973; September 30, 1983; June 28, 1985; March 21, 1986; September 18, 1992

POLICY 4:02:09:00

SUBJECT: Property Acquisition

Pursuant to T.C.A. § 49-8-111 ~~and 49-8-203~~, the ~~State~~ Tennessee Board of Regents has the authority to purchase and condemn land, and to receive donations of property on behalf of institutions ~~and area vocational technical schools~~ governed by the Board, and to be vested with title to property so acquired. Any proposed acquisition of property by any manner shall be subject to the approval of the Board.

The approval of land acquisition by purchase or condemnation shall be subject to the following procedures:

1. Each institution ~~and school~~ shall submit to the Chancellor for consideration and approval, a campus master plan which indicates proposed long-range land acquisition needs with justification for such needs.
2. ~~Each institution and school shall submit to the Chancellor by July 1 of each year a list of land acquisition needs, ranked on a priority basis, for the fiscal year.~~
32. Upon approval of the campus master plan and fiscal year land acquisition needs, a land acquisition request form will be submitted to the Chancellor for each proposed acquisition, which shall contain the following information:
 - a. The justification of the need for the property; b. A description of and the location of the property; c. The estimated amount of funds required for the acquisition, and the source of the funds; d. The estimated amount of total funds required for capital and operating improvements; e. The estimated pre-acquisition costs of the property; f. A plat of the property; and g. The name(s) of the present owner(s).
43. Upon preliminary approval of the proposed land acquisition, two appraisals of the property will be obtained, which will be submitted to the Chancellor. The institution ~~or school~~ may be required to obtain any or all of the following additional information or documents: (1) market data analysis, (2) a survey of the property, and (3) a title commitment.
54. Following submission of the foregoing and any additional information which may be necessary, the institution ~~or school~~ may be authorized to enter into negotiations with the property owner, and to obtain an option to purchase the property.
65. If an option to purchase the property is executed, it will be submitted to the Chancellor for approval, and for final approval of the proposed acquisition. If negotiations fail, the institution ~~or school~~ may request that condemnation proceedings be commenced for acquisition of the property.
76. If acquisition of the property by purchase is approved, the institution ~~or school~~ will be responsible for recording the warranty deed and forwarding the original deed and title insurance to the Chancellor for filing.

Source: SBR Meetings, September 24, 1976; September 30, 1983

GUIDELINE B-025

SUBJECT: Acquisition and Disposal of Real Property

This guideline establishes procedures for the acquisition and disposal of real property in fee interest.

1. Authorization

Only the Chancellor and Board have the authority, whether by gift or purchase, to acquire and dispose of real property.

2. Title of Property Acquired

Property that is acquired shall be titled in the name of the ~~Board of Regents of the State University and Community College System of Tennessee~~ **Tennessee Board of Regents and for the State University and Community College System of Tennessee** for the use and benefit of the institution or school.

3. Master Plan

Property that is proposed for acquisition or disposal must be identified in an approved Facilities Master Plan for subject institution or school prior to taking any action. The acquisition of gift property does not apply to this condition.

4. State Building Commission

a. With the exception **in 4c below** of gifts of real property, the acquisition and disposal of any interest in real property in fee interest shall be subject to the approval of the State Building Commission Executive Sub-Committee and shall be done in accordance with procedures established by the State Building Commission (Reference TCA 4-15-102, 12-2-112 and 49-8-111).

b. The following completed documents (five copies each) shall be submitted to the Chancellor to obtain approval to acquire or dispose of real property:

Form RPM 1; Recorded Deed to property; Land Acquisition Questionnaire or Land Disposal Questionnaire, as applicable; Survey of property, if needed; Tax Assessors Map; Facilities Evaluation Survey; **and**; if applicable, Environmental Identification

c. Only the Chancellor and Board may accept gifts of real property and may dispose of real property acquired by gift or devise; however, acquisition of any interest in real property by gift or devise that obligates the institution/~~school~~ **technology center**, Tennessee Board of Regents or state of Tennessee to expend state of Tennessee funds for capital improvements or continuing operating expenditures shall be approved by the State Building Commission Executive Sub-committee in accordance with TCA 4-15- 102(d)(2) prior to acceptance by the Chancellor and Board (see TBR Policy No. 4:01:04:00).

d. No Deed transferring title of property to the **Tennessee** Board of Regents shall be recorded without the written approval of the Chancellor and in the instance of 4.c. above, State Building Commission approval shall be confirmed by the Chancellor prior to recording the Deed.]

5. Inspection

a. Facilities Evaluation

If property to be acquired includes any structures, a facilities evaluation survey shall be conducted of each building. All required renovations and/or alterations to make the facility(ies) functionally usable in accordance with all applicable codes and current standards of use shall be evaluated with estimated cost to complete and source of funds identified prior to any action to acquire.

b. Environmental Identification

Prior to any action to acquire real property, the property and all structures, if any, shall be inspected and tested for the identification of any contaminants, including asbestos, PCBs, underground storage tanks, hazardous wastes and other environmental concerns.

If any contaminants are identified, a plan for their disposal or neutralization shall be included with the request to acquire subject property, including estimated costs and identification of responsibility for abatement.

6. Relocation Assistance

Persons, businesses, farms and non-profit organizations relocated by State real property acquisition projects are eligible for relocation assistance in accordance with the provisions of T.C.A. § 13-11-101 et seq., and the Federal Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, as administered by the Department of Finance and Administration.

7. Proceeds from Sale of Real Property

The receipts from the sale or conveyance of real property shall be deposited in the capital outlay fund of the selling institution or school in accordance with TCA 49-8-111. However, if the receipts are the result of a devise or gift which designated the purpose of the gift for a particular use, any funds from a sale or conveyance of the property may be transferred from the capital outlay fund of the selling institution to the appropriate account in order to effectuate the donor's intent.

Source: May 14, 1991 Presidents Meeting. Revised May 12, 1992.

GUIDELINE B-026

SUBJECT: Lease Procedures and Guidelines

These guidelines set forth the leasing procedures for all institutions and Tennessee Technology Centers governed by the Tennessee Board of Regents.

I. APPROVALS REQUIRED

A. Institution/Technology Center as Lessee

All agreements involving or related to the lease of real property for a term of more than five (5) years or a consideration of more than \$15,000 per year shall be approved by the Chancellor, including any amendment or cancellation (TBR Policy No. 1:03:02:10).

B. Institution/Technology Center as Lessor

All agreements involving or related to the leasing of **Tennessee** Board of Regents or institutional property for a term of more than five (5) years or a consideration more than \$15,000 per year shall be approved by the Chancellor, including any amendment or cancellation (TBR Policy No. 1:03:02:10).

C. Leases for more than \$15,000 per year or for more than 5 years

All proposed leasing actions for real property with consideration more than \$15,000 per year or for a term of more than five (5) years shall be submitted to the Department of Finance and Administration and the Tennessee Higher Education Commission by the Office of Facilities **Development**, Tennessee Board of Regents for review and analysis prior to taking action by the institution or technology center.

D. Leases for more than \$50,000 per year or for more than 5 years

All lease proposals involving a consideration of more than \$50,000 per year or a term longer than five (5) years, upon approval of the Department of Finance and Administration and the Tennessee Higher Education Commission shall be presented, with appropriate comment or recommendation, to the State Building Commission Executive Sub-Committee for approval prior to any leasing action. Leases approved during the annual budget review process will not require prior approval of the State Building Commission Executive Sub-Committee (SBC Policy).

E. Leases for more than \$15,000 per year and not more than \$50,000

All lease proposals with a consideration of more than \$15,000 per year and not more than \$50,000 shall be submitted to the Department of Finance and Administration and the Tennessee Higher Education Commission prior to any leasing action but shall not require prior approval of the State Building Commission Executive ~~Committee~~ **Sub-Committee prior to advertising**. After review and analysis, the Department of Finance and Administration and the Tennessee Higher Education Commission shall provide comments to the **Tennessee** Board of Regents (SBC

Policy).

F. Leases for more than \$40,000 per year or for more than 5 years

Documents for all leases and lease amendments with consideration of more than \$40,000 per year or a term longer than five (5) years shall be approved by the State Building Commission in accordance with TCA 12-2-115 and the Tennessee Higher Education Commission. Signatures required include:

1. **The Lessor (signature shall be acknowledged by a notary public).**
2. President of the Institution or Vice Chancellor for ~~Vocational Education for an TTC~~ **Technology Centers** (signature shall be acknowledged by a notary public)
3. Chancellor or his/her designee (~~signature shall be acknowledged by a notary public~~)
4. State Building Commission with signatures by:
Commissioner of Finance and Administration
State Attorney General
Governor (**this signature is required for lease-outs**)

G. Leases for \$15,000 or less per year and for five (5) years or less where the institution/technology center is the Lessee or Lessor, **using one of the following approved forms: the Tennessee Board of Regents Standard Lease Agreement, Mutual Use Agreement, Transient Use Agreement, or Tenant Use Agreement,** shall be approved by:

President of the institution

Vice Chancellor for ~~Vocational Education for a TTC~~ **Technology Centers**

H. Leases for which operating funds will be requested or for more than five years

Any lease which is for a term longer than five (5) years or in which the total of the consideration, maintenance costs, utility costs and/or custodial costs are estimated to exceed \$15,000 per year, and funding for same is requested through state appropriations, shall be approved by the Tennessee Higher Education Commission (THEC Policy).

II. NON-DISCRIMINATION

A. Institutions/technology centers engaging in a real estate transaction, including sale, rental or lease, shall not discriminate on the basis of race, color, creed, religion, sex or national origin. See TCA 4-21-601.

B. No state employee or agent shall enter into a commercial agreement on behalf of the state with a club which denies to a person entry, use of facilities or membership or unreasonably prevents the full enjoyment of such club on the basis of sex, race, creed, color, religion, ancestry, national origin or disability. See TCA 4-21-803.

~~III. NOTARIZED SIGNATURES REQUIRED~~

~~Leases in which the institution/technology center is the Lessee which require State Building Commission approval (i.e., for more than \$40,000 annual rent or for a term of more than five (5) years shall have the following signatures acknowledged by a notary public (per TCA 66-22-101).~~

~~1. The Lessor~~

~~2. The President of the institution or the Vice Chancellor for Vocational Education for an **TTC Technology Centers**~~

~~3. The Chancellor or his/her designee~~

~~IV. III. RECORDING OF LEASES~~

~~Leases in which the institution/technology center is the Lessee which require State Building Commission approval shall be recorded by the Commissioner of Finance and Administration in the county or counties where the property is located (per TCA 12-2-105).~~

~~V. IV. ADVERTISING FOR LEASED SPACE~~

~~Where the institution/technology center is the lessee, advertising shall be required in all transactions involving new, succeeding, superseding leases or lease renewals except:~~

~~(1) Where the annual rent does not exceed \$8,500 or where the term of the lease is one year or less.~~

~~(2) Where property is owned by a governmental agency and leased to another governmental agency.~~

~~(3) Where a supplemental agreement is made to an existing lease for additional space at a negotiated price without modifying the original lease term (Reference TCA 12-2-114).~~

~~VI. V. FORMS & DOCUMENTATION REQUIRED~~

~~Submit to the Chancellor ~~five (5)~~ **four (4)** copies each of the following forms at the appropriate times described above. Copies of all forms are available from the Office of Facilities **Development** upon request.~~

~~A. Space Action Request Form (green)~~

~~**Five Four** green copies required with initial submittal of request for leased space.~~

~~B. State University and Community College **System** of Tennessee (**Tennessee Board of Regents**) Standard Lease Form~~

Minimum of five (5) copies required after approval has been given to enter into a lease agreement. Use the **Tennessee** Board of Regents standard form of agreement unless prior approval has been obtained to use any other form. There should be no changes or additions to the standard form without prior approval.

C. Statement of Financial Interest for Leased Property

For all leases subject to the State Building Commission approval, when the institution/technology center is the Lessee, the Lessor shall identify persons with a financial interest in the leased property on the Statement of Financial Interest for Leased Property when submitting the lease agreement.

D. Space Action Request, Office Space Requirements Analysis, Finance and

Administration Form RSM-1A

Document space needs on this form, adapting as necessary to include classroom and class laboratory space needs and submit with initial submittal of request for leased space.

E. Supplemental Data Questionnaire, Finance and Administration Form RSM-1B

Document space needs on this form and submit with initial submittal of request for leased space.

F. Certification of Funds Available

For all leases subject to State Building Commission approval, a letter signed by the President of the institution or Vice Chancellor for ~~Vocational Education for an TTC~~ **Technology Centers** certifying that funds are available must accompany the lease proposal. **Institution/technology center Certification of Funds shall be acknowledged and certified by Vice Chancellor for Business and Finance.**

G. Summary of Analysis of Lease Proposals Received

If advertising and receipt of lease proposals is performed by the institution/technology center, a summary of analysis of lease proposals must accompany the lease proposals including cost analysis.

H. Enrollment Projections and Program Documentation

Provide historical enrollments and enrollment projections and documentation of programs to be offered at the site of the proposed leased facility shall accompany the lease proposal as justification for the need to lease space.

VII. VI. STATE STATUTES ON STATE LEASES & DISPOSALS OF REAL PROPERTY

The following State Statutes on State leases and disposals of real property are referenced for your information. Copies are available from the Office of Facilities upon request.

A. TCA 4-15-102 - State Building Commission - Powers and Duties

- B. TCA 4-21-601 - Discriminatory Housing Practices Generally
- C. TCA 4-21-803 - Commercial Agreements with the State - Prohibition - Required Statement
- D. TCA 12-2-112 - Disposal of Surplus Interests in Real Property and Energy Resources
- E. TCA 12-2-114 - State Leases - Procedure
- F. TCA 12-2-115 - Approval of Lease Instrument where State is Lessee or Lessor
- G. TCA 49-8-111 - Powers Regarding Property

~~VIII.~~ VII. LEASE POLICIES OF THE STATE BUILDING COMMISSION

Item 7, Leases of Real Property as published in By-Laws, Policy and Procedure of the State Building Commission of Tennessee, compiled January 1991 is referenced for your information. Copies are available from the Office of Facilities upon request.

Source: Presidents Meeting, May 14, 1991; Presidents Meeting November 5, 1997

GUIDELINE B-030

SUBJECT: PROCEDURES FOR ACQUIRING DATA PROCESSING EQUIPMENT/SOFTWARE/SERVICES

This guideline establishes procedures for the initial acquisition of data processing equipment, software, and maintenance services for institutions and schools governed by the Tennessee Board of Regents. It does not apply to annual renewals of lease agreements, software licenses, or maintenance contracts. It also does not apply to data processing acquisitions where the total expenditure is less than \$50,000. If multi-step sealed bidding is used, reference should be made to Guideline B-035.

For the purpose of this guideline, the term data processing equipment, software, and maintenance services is defined as those computers and related peripherals, operating system and associated utility software, application software and hardware and software maintenance services that are used in conjunction with the electronic information systems serving both academic and administrative departments. Typical functions include office automation, financial accounting, payroll and personnel systems, decision support systems, programming, and educational activities related to the above. Specifically excluded from this definition is equipment hardware, software and services where the use of microcomputers or microprocessors is incidental to its intended primary use for non-data processing functions. Examples of said equipment are telephone switches, numerically controlled mills, robotics, and audio spectrum analyzers and other such scientific equipment.

The term "acquiring" denotes any form of acquisition (regardless of source of funds) including, but not limited to a rental, lease, purchase, trade, or gift. All changes in data processing equipment at an institution shall be accomplished in accordance with the current institutional data processing plan, with review by the institution's computer resources committee and with the approval of the president at the institution. All changes in data processing equipment at a technology center will be reviewed by the center's computer advisory committee, with approval by the Vice Chancellor for Vocational-Technical Education, who for purposes of this guideline shall have the authority and responsibilities of an institution president.

The procedures outlined in the Board of Regents Policy No. 4:02:10:00, Purchasing Policies and Procedures, Guideline B-035 on Multi-Step Sealed Bidding Process and, G-030 on Contracts and Agreements will serve as the guide for the bid process for data processing equipment software/services. To determine the applicable category under Section III, Minimum Notice and Number of Bids, "expenditures" are defined as follows:

1. Total expenditures if purchase is proposed.
2. Total funds to be committed by contractual obligation if lease, lease/purchase or rental. (Example: \$200 per month on a three year contract would be considered a \$7,200 expenditure.)
3. For month to month leases or rentals, the annual obligation or the actual cost to be incurred if period is less than one year.

For the purpose of acquisition approval, service contract costs will be considered on the basis of number 2 and 3 above, and the cost of service contracts will be added to the cost of the equipment purchase or lease to determine total expenditure. The appropriate number of vendors will be solicited and method of bid solicitation will be followed as specified in Section III of Policy No 4:02:10:00 and guidelines on approval of Contracts and Agreements. If multi-step process is used, B-035 will be followed. Board notification or approval will not be required on expenditures less than \$50,000. In case of quantity orders or assemblies, it will be the cost of the extended total cost or total assembly cost, respectively, that will apply. However, all acquisitions regardless of cost should be reviewed by appropriate campus personnel and/or committees. Renewals of annual machine maintenance contracts will not require Board approval.

Requests for approval to acquire data processing equipment will be submitted in the Computer and Telecommunications Plan (CTP) as part of the July budget process. Equipment purchases included in an approved CTP do not require subsequent individual approvals. Changes to data processing equipment needs as submitted in the CTP and/or other requests not included in the CTP will be forwarded to the Chancellor over the signature of the president of the institution for review and approval. A copy of the request should be sent to the Office of Business and Finance. Approval must be obtained prior to awarding the bid. The request for approval of equipment not submitted in the CTP and/or changes to requested equipment in the CTP will include: (1) justification for change or acquisition, (2) approximate expenditure, and (3) justification for sole source procurement, if applicable. Upon request, if deemed necessary, the Office of Business and Finance may require that the bid specifications be forwarded to the Board office.

If intended purchase requires performance valuation, the benchmark and bid specifications will be prepared in conjunction with the Office of Business and Finance. All bid specifications will incorporate Board of Regents standard contracts and essential terms where applicable. The Office of Business and Finance is available to assist in the development of any equipment bid specifications.

Upon receipt of the Computer and Telecommunications Plan or other requests the Office of Business and Finance will review the plan or request and communicate with the institution or center concerning any additional information which may be necessary. A reply to the plan or request will be forwarded to the president of the institution over the signature of the Vice Chancellor for Business and Finance.

When approved, the bid process will then proceed at the institution or center. If not previously submitted but required, a copy of the final bid specifications will be forwarded to the Office of Business and Finance when bids are mailed to the vendors. Upon acceptance of a bid in cases where no formal contract must be signed, the institution or school will furnish to the Office of Business and Finance a report of bid analysis, vendor selected, price, terms, etc. and scheduled installation date (if required).

If a contract or letter of agreement must be signed, the above mentioned report and the contract, if applicable, will be forwarded to the Chancellor with a copy to the Office of Business and Finance for appropriate signature prior to formal acceptance of the bid. If state policies and procedures require additional signatures, the signed contract will be returned to the institution or center after appropriate signature have been obtained.

If intended procurement includes major purchases which have had benchmark and bid specifications prepared, vendors will be required to submit copies of responses to bids to both the institution or center and the Office of Business and Finance. The institution or center will be responsible for maintaining files of correspondence related to any bid procedures. Copies of bid responses furnished to the Board will be disposed of when the bid process is complete.

Source: September 1, 1975 TBR Presidents Meeting; Revised May 25, 1982 Presidents Meeting; July 1, 1984; December 13, 1985; November 10, 1987; May 16, 1989; May 10, 1994 Presidents Meeting; November 8, 1995 Presidents Meeting; November 5, 1997 Presidents' Meeting

GUIDELINE B-035

SUBJECT: Procedures For Multi-step Sealed Bidding

I. WHEN TO USE MULTI-STEP PROCESS

Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which the potential bidder submits unpriced technical offers to be evaluated and a second phase in which those potential bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered. Multi-step sealed bidding may be used for any purchase where there is a desire to obtain the benefits of competitive sealed bidding by award of a contract to the lowest responsible and responsive bidder and at the same time obtain the benefit of the competitive sealed proposals procedure through the solicitation of technical offers and the conduct of discussions to evaluate and determine the acceptability of technical offers, i.e., copiers, terminals, data processing equipment, etc. However, the use of a multi-step sealed bidding process is required in the acquisition of institutional computer systems involving the purchase of hardware and the development of application software.

II. REQUIREMENTS OF THE ITB

Multi-step sealed bidding shall be initiated by the issuance of an Invitation to Bid (ITB). In the ITB, the evaluation team shall provide the potential bidder with information describing the functional requirements of the hardware, software, or services desired, scope of procurement, technical specifications, evaluation criteria and other information considered relevant to the acquisition. If the intended procurement includes major system upgrade and/or central processing unit changes, the benchmark and bid specifications will be prepared in conjunction with the Office of Administration. All bid specifications will incorporate Board of Regents standard contracts and essential terms referenced in G-030, Contracts and Agreement. The contract shall not exceed sixty (60) months. If the intended procurement includes major system upgrade and/or central processing unit changes, potential bidders will be required to submit copies of their responses to both the institution or school and the Office of Administration.

III. BID CONFERENCE PRIOR TO SUBMISSION OF TECHNICAL OFFERS

Prior to the submission of unpriced technical offers, a bid conference will be conducted to entertain questions and concerns expressed by potential bidders and to explain the procurement requirements. The conference shall be announced to all potential bidders within the ITB. Potential bidders should be reminded at this conference that their technical offer must be responsive solely to the written ITB with any addenda thereto and cannot be amended or altered by oral representations. The issuing agency may respond to questions and concerns at the conference. The official response will be in writing and will be provided to all potential bidders.

IV. MULTI-STEP SEALED BIDDING PROCUREMENT PROCESS

A. PHASE ONE

1. Technical Offers

The potential bidder shall submit a technical offer in sufficient detail so as to constitute the technical specifications of the purchase. All technical offers received by the evaluation team shall be opened and examined at the time and place specified in the ITB. Once all offers have been opened, the evaluation team will announce only the names of the bidders who have submitted technical offers for consideration.

The bidder's technical offer must respond to the ITB. The failure by a bidder to submit a technical offer which conforms to the specified content and format requirements will be sufficient cause to render the technical offer unacceptable.

Any offer submitted, which is determined by the evaluation team to be materially deficient or substantially incomplete in its response to the requirements set forth in the ITB, will be sufficient cause to render the technical offer unacceptable.

Any technical offer submitted which contains pricing information will be rejected without exception.

2. Amendments to the ITB

Once technical offers have been submitted, any amendments to the ITB shall be distributed only to bidders who submitted unpriced technical offers and those bidders shall be permitted to submit new unpriced technical offers or to amend those previously submitted.

If, in the opinion of the evaluation team, a contemplated amendment will significantly change the nature or the scope of procurement, all offers will be rejected in accordance with T.C.A. 12-3-203(i).

3. Technical Evaluation

An evaluation team will be appointed by the President, or his/her designee and a Chairperson will be designated. The evaluation team member will be notified of his/her appointment by written memorandum. The evaluation period commences with the opening date of the technical offer and ends with the issuance of notice of intent to award by the evaluation team.

The unpriced technical offers shall be evaluated solely in accordance with the objective criteria set forth in the ITB. No technical offer shall be evaluated for any requirement or criterion that is not disclosed in the ITB. The unpriced technical offers shall be categorized as:

- a) acceptable;
 - b) potentially acceptable; or
 - c) unacceptable.
- (see definitions; section V)

The evaluation team may conduct discussions with any bidder, including any subcontractor or supplier of goods or services, who submits an acceptable or potentially acceptable technical offer. Discussions may be conducted for the purposes of facilitating understanding of technical offers and specifications and may include but not be limited to: obtaining of supplemental

information, amendments to the technical offer, amendments to the ITB or a potentially acceptable offer being converted into an acceptable offer. The evaluation team will notify all bidders in writing when no more supplemental information may be submitted.

The evaluation team will meet and discuss each technical offer to determine whether the offer is acceptable and meets the requirements of the ITB. The evaluation team will document the final evaluation of the technical offers and make a recommendation to the President or his/her designee regarding the offers determined acceptable. If the purchase involves a major computer acquisition, it shall be reviewed by the Chancellor or his/her designee prior to advancing to Phase Two. Any other acquisition may be reviewed by the Chancellor or his/her designee if the Institution deems it necessary.

A written record shall be maintained and become a part of the bid file documenting the contents of said discussions.

4. Unacceptable Technical Offers

When the evaluation team determines a bidder's unpriced technical offer to be unacceptable, the evaluation team will submit a recommendation to the President or his/her designee. If the President or his/her designee concurs with the recommendation, such bidder shall not be afforded an additional opportunity to supplement its technical offer or to submit a priced bid in Phase Two. The evaluation team will prepare a written determination outlining the nature of unacceptability and it shall become a part of the bid file and the bidder shall be notified prior to the commencement of Phase Two.

B. PHASE TWO

1. Pricing

Upon the determination of the technical offer(s) acceptability, the evaluation team will invite each acceptable bidder to submit a price bid. The price bids will be opened and read at the date and time specified in the ITB. The price bid must be prepared as set forth in the ITB. The failure by a bidder to submit a price bid which conforms to the specified content and format requirements will be sufficient cause to reject the price bid.

The evaluation team will verify the pricing information provided by the bidder. Errors in the priced bid may be cause for rejection of that bid; however, the evaluation team may recalculate the bid or correct arithmetic errors contained in the bid only if, in the evaluation team's opinion, sufficient information is provided. The decision to permit the correction or withdrawal of bids or contracts based on bid mistakes shall be supported in the written report made by the evaluation committee.

2. Inspection Prior to Award

All data relating to the procurement shall be made available for inspection to each bidder on the ITB, upon request, subject to D.2. of this procedure. The evaluation team shall award no contract without providing bidders a reasonable opportunity for such inspection. The evaluation team shall provide not less than five (5) working days for such inspection. The evaluation team shall establish procedures for providing such inspection.

3. Award

The evaluation team will prepare a written determination recommending award and the basis for the award of a contract and submit this recommendation to the President or his/her designee for approval. Approval of the recommendation may result in a contract being issued by the Institution or school.

V. DEFINITIONS

Acceptable - the unpriced technical offer is responsive to bid and contractual mandatories and is compliant with technical specifications described in the Invitation to Bid and related documents.

Potentially Acceptable - the unpriced technical offer is substantially responsive to bid and contractual mandatories and is materially compliant with technical specifications described in the invitation to bid and related documents, thereby providing a reasonable expectation of being made acceptable by amendment to either the bidder's offer or the invitation to bid. In the event the bidder does not amend the offer by the specified date, that offer is deemed unacceptable and the bidder will not be afforded further consideration.

Unacceptable - the unpriced technical offer is not responsive to bid and contractual mandatories and deviates from the technical specifications described in the Invitation to Bid and related documents to such an extent there is no reasonable assurance that the offer will meet or exceed announced requirements. The bidder will not be afforded further consideration.

Responsive - conforms in all respects to the essential requirements of the Invitation to Bid.

Responsible - capable in all respects to perform in full the contract requirements and the integrity and reliability that will assure good faith performance.

Institutional computer system - a computer that is operated as the centralized data system at an institution or school.

Application software - any program that is not part of the basic operating system.

VI. GENERAL REQUIREMENTS APPLICABLE TO BOTH PHASES

1. Rejection of All Technical Offers or Priced Bids

When all technical offers or priced bids are rejected, the evaluation team shall prepare a written determination outlining the nature of such rejection and submit this determination to the Chancellor and President or their designees for approval. If another ITB is to be readvertised, all prior offers and/or bids shall remain closed to inspection by the bidder and/or the public until the evaluation of the readvertisement is complete.

2. Confidentiality

During the evaluation, all parties will hold the contents of all offers, correspondence, agenda, working papers, discussions or any other medium which discloses any aspect of a bidder's technical offer, in the strictest confidence until the evaluation team issues written notice of intent to award.

3. Conflict of Interest

In the event a bidder is awarded a contract he/she will warrant that no part of the contract award amount shall be paid directly or indirectly to any officer or employee of the State of Tennessee as wages, compensation or gifts in exchange for acting as officer, agent, employee, sub-contractor or consultant to the bidder in connection with any work contemplated or performed relative to this ITB.

4. Ethical Standards

In order to protect the integrity of the public contracting process, all contact between the procuring agency and bidder(s) either by the Institution/Board or from the bidder or the bidder's representatives shall be made only through the Chairperson of the evaluation team as it relates to that acquisition. Failure to adhere to this provision will be sufficient cause to reject the bid.

Source: Presidents Meeting, May 16, 1989

POLICY 4:03:03:50

SUBJECT: Athletic and Other Group Travel

This policy is established by the Tennessee Board of Regents in recognition of the unique characteristics associated with travel by athletic personnel and teams and other groups at the institutions governed by the Board. The purpose of the policy is to address practical considerations for travel related specifically to the performance of intercollegiate athletic recruiting, athletic team travel, and other group travel. The policy shall apply only to these functions; travel for other purposes by athletic personnel and other groups shall be subject to Tennessee Board of Regents General Travel Policies and Procedures (No. 4:03:03:00) and institutional policies and guidelines. All travel will be reimbursed subject to TBR Policy No. 4:03:03:00 unless a specific exception is provided below. In addition, each institution shall comply with all pertinent regulations of the National Collegiate Athletic Association or the National Junior College Athletic Association and the athletic conference of which the institution is a member.

Each institution shall develop and enforce guidelines for athletic and other group travel consistent with the provisions of this policy. Institutional guidelines should include working procedures and be presented in such detail as to ensure thorough understanding of the provisions by all affected personnel.

I. Athletic Recruiting

A. Travel Advances

Travel advances should be made consistent with the Tennessee Board of Regents General Travel Policies and Procedures. In addition, temporary or permanent travel advances may be made to staff members engaged in recruiting when such advances are approved by the president or designee.

B. Reimbursement Rates - Courtesy Vehicle

If a staff member has a "courtesy vehicle" on account of his or her association with the institution, the maximum rate allowed will be the rate allowed under the Tennessee Board of Regents General Travel Policies and Procedures, less seven cents per mile.

C. Approval for Travel

The following are subject to prior approval by the president or designee:

1. Blanket travel authorization for scouting or recruiting; and
2. The travel of visitors and guests at institutional expense for any occasion related to recruiting.

D. Guest Meals

The actual cost of guest meals may be claimed when incurred by a staff member for recruiting purposes. Such claims must be submitted in appropriate detail. Receipts are required.

E. Student Recruits

1. Staff members are responsible for compliance with pertinent NCAA, NJCAA, and conference rules regarding student recruits.
2. Lodging in campus facilities should be arranged if space is available. If campus space is not available, arrangements may be made for lodging in local motels/hotels, and, with the approval of the athletic director or designee may be charged to the athletic department.
3. If available, the use of campus dining services should be arranged and costs may be charged to the athletic department. If necessary, staff members will be reimbursed at cost for off-campus meals, with reasonable and customary gratuities allowed. Receipts must accompany claims.
4. Transportation may be arranged through a local travel service and charged to the athletic department with the approval of the athletic director or designee. Automobile mileage may be reimbursed to a student recruit at the maximum rate allowed under the Board of Regents General Travel Policies and Procedures for the use of a personal vehicle.
5. Entertainment expenses may be reimbursed at cost within NCAA, NJCAA, and conference rules.

II. Travel

- A. Institution officials and guests of the institution that accompany the team or student groups on trips must be approved in advance by the president or designee.
- B. In all cases, team and group transportation will be arranged through established institutional procedures, and travel itineraries are to be arranged in advance. **If costs exceed the approved travel rates in Policy 4:03:03:00**, Documentation must be maintained in the athletic or other appropriate departments or offices indicating that various cost alternatives have been explored before making all arrangements and reservations. However, if such arrangements are made by the institution's purchasing office, that office should maintain the appropriate documentation.
- C. A roster of all individuals on a particular trip must be included with the itinerary documentation for proper accounting and auditing purposes and filed with the travel claim.
- D. A travel advance in the amount of 100% of the estimated trip expenses may be allowed. One person from the athletic department or other appropriate department or office who is familiar with the travel regulations will be responsible for the advance and all bills connected with team or group travel.
- E. Receipts are required for all team or group travel expenses consistent with TBR Policy No. 4:03:03:00.
- F. Actual lodging expenses will be reimbursed. **If costs exceed the approved travel rates in Policy 4:03:03:00**, Documentation must be maintained in the athletic department or other

appropriate department or office indicating that various cost alternatives have been explored before making all arrangements and reservations. However, if such arrangements are made by the institution's purchasing office, that office should maintain the appropriate documentation.

G. Miscellaneous expenses, such as movies while on trips, must be supported by receipts. Telephone calls by staff members for business purposes may be claimed with documentation consistent with TBR Policy No. 4:03:03:00.

H. Individual meals associated with team or group travel will follow the Board of Regents General Travel Policies and Procedures.

I. All team or group meals and snacks will be reimbursed at actual cost. Gratuities not to exceed reasonable and customary rates are allowed. Appropriate documentation and receipts are required.

J. All travel claims and requisitions for team or group travel must be approved in writing by the appropriate approving authority.

III. Other Group Travel

Travel by student groups or other groups of participants in programs or activities of the institution may be reimbursed under the same provisions as included in Section II above. Travel by student groups or other groups of participants in programs or activities of the institution should be addressed by specific institutional guidelines which describe the approval process, discussion of possible liability issues and requirement of waivers/releases of liability by the student if appropriate. Sample waivers/releases and a discussion of liability issues have been provided by the Office of the General Counsel and should be on file in the offices of student and academic affairs.

IV. Exceptions

The Chancellor or his or her designee may approve exceptions to the requirements of this policy in appropriate cases.

Source: SBR Meeting March 23, 1984; TBR Meeting June 29, 1990

V. Lodging

1. In-State Lodging - Lodging expenses incurred within the state while on authorized travel will be reimbursable to the maximum shown on the Addendum.
2. Out-of-State Lodging - Lodging expenses incurred out of the state while on authorized travel will be reimbursable to the maximum shown on the Addendum. The maximum reimbursement rates for out-of-state travel are the same as those maintained by the U. S. General Services Administration for federal employees within the continental United States (CONUS). The CONUS list, available on the General Services Administration web site, contains a standard reimbursement rate for lodging and meals and incidentals, and several pages of exceptions. Most destinations for out-of-state travel fall within the list of exceptions. En route lodging will be allowed for only one day each way on trips of long duration. En route lodging will only be allowed in cases where the approved and most direct or expeditious mode of travel will require more than ten (10) hours of continuous travel. (Refer to Section II.4. for explanation of en route lodging expenses.)
3. Additional Lodging Expenses - Sales taxes on lodging costs will be reimbursable.

Higher rates for lodging at the location of a convention or conference will be allowed, without special approval, up to the amount indicated in the convention or conference brochure. If more than one rate is indicated, the lowest rate is the amount which will be reimbursed. However, the employee should attempt to receive a government rate for the lodging. If the lowest rate indicated in the convention or conference brochure is unavailable, approval of the higher rate must be obtained from the appropriate approving authority. Additional lodging for presidents/directors will be approved on the same basis as approval is granted for other employees. Any exceptions must be approved by the Chancellor. The convention or conference brochure which indicates the lodging rates must be included with the travel claim. Otherwise, reimbursement will be limited to the applicable lodging rate as provided in these regulations.

4. Shared Lodging - ~~When employees share a hotel room, each employee should claim a proportionate share of the room cost, and include an explanation with his or her travel claim detailing dates and other employees with whom the room was shared.~~ **In the event of double occupancy for state employees on official travel, both employees should attach an explanation to his/her travel claim detailing dates and other employees with whom the room was shared. The lodging cost may be claimed by the employee who incurred the cost, or one half the double occupancy charge may be allowable for each employee.** If a room is shared with other than a state employee, actual cost subject to the maximum in the Addendum will be allowed. The receipt for the entire amount should be submitted with the expense account.