

BUSINESS AFFAIRS SUB-COUNCIL

October 22, 1998

MINUTES

The meeting began at 9:00 a.m. in the TBR Board Room. Present were Mr. Bob Adams (MTSU); Dr. David Collins (ETSU); Mr. Bill Fuqua (RSCC); Mr. Clay Harkleroad, Jr. (TSU); Mr. Ken Horner (CoSCC); Mr. Charles Hurley (NSTCC); Mr. Al Irby (APSU); Mr. Julian Jordan (WSCC); Mr. Ron Kesterson (PSTCC); Mr. John Kirk (STIM); Ms. Linda Langiotti (NSTI); Mr. Jack Liner (ClSCC) Ms. Linda Maxwell (TTU); Mr. Raymond Pipkin (UOM); Mr. Mike Posey (MSCC); Mr. Terry Rector (TTU); Mr. Mitch Robinson (DSCC); Ms. Tammy Swenson (CSTCC); Ms. Velma Travis (JSCC); Mr. Wayne Powers (JSCC); Mr. Michael Gower, Ms. Kathy Crisp, Ms. Deanna Hall, Ms. Lisa Hall, Mr. Ron Simmons, Ms. Renee Stewart, and Mr. Bob Wallace (TBR).

The Chairman, Mr. James Hodges, was unable to attend. In his absence, Mr. Kesterson served as Chairman and called the meeting to order.

BUSINESS

1. Report of the Finance Committee

Mr. Pipkin highlighted the following issues from the October 8, 1998, Finance Committee minutes.

A. TRA 1997 Reporting Requirements

The committee discussed SCT's program for Hope Scholarship and Lifetime Learning Tax Credit reporting. The program, which will be ready on or before November 30, 1998, will allow input of W-9 information (student name, SSN, and address) and will create 1098-Ts, in both paper and electronic formats. Additionally, SCT will provide a supplemental report for students that will include both fees and financial aid. This report will aid institutions in responding to student inquiries. SCT's program will not, however, include continuing education courses. These non-credit courses are eligible for the Lifetime Learning Tax Credit and must be reported on 1098-Ts. The IRS regulations require a "good faith effort" in reporting for 1998. The committee discussed whether reporting credit students only could be considered a "good faith effort."

B. Valuation of Library Books and Holdings

State Audit has expressed concern with the committee's recommendation of using a standard value for writing off items capitalized at historical cost. State Audit recommended building a database for current purchases and writing off these items at historical cost when they become lost or obsolete. Committee members stated that items written-off are not specifically identified and that the State Audit recommendation will require additional personnel. TBR staff will contact UT and the State for further discussion on the valuation of library books and holdings.

Additionally, Finance Committee members will review with their campus librarians the extent of detailed information that is available.

C. Debt Service Fees

The committee discussed whether the debt service fees transferred to retirement of indebtedness should be a mandatory or a nonmandatory transfer. **It was determined that the current required debt payment should be reported as mandatory and any other amounts should be reported as nonmandatory.**

D. Centers of Excellence/Emphasis Positions

Mr. Pipkin recommended that Centers of Excellence/Emphasis positions use the unrestricted fund as the position "home." This shift will provide equity for state funding for employee benefits such as longevity, 401(k) match, and any future one-time bonuses. Board staff will study the feasibility of this proposal.

The minutes of the Finance Committee were approved as presented.

2. Report of the Human Resource Officers Committee

Ms. Stewart highlighted the following issue from the September 24, 1998, meeting of the Human Resource Officers.

A. Guideline P-120

The Human Resource Officers recommended the removal of the six-month waiting period for receiving longevity upon an employee's return to employment in the TBR system.

Mr. Powers inquired why salary ranges are not increased with each across-the-board salary increase. This concern will be reported to the Human Resource Officers.

Mr. Harkleroad asked for an interpretation of the unemployment law for adjunct faculty. Under unemployment law, an adjunct faculty member is not eligible to draw unemployment if he/she has reasonable assurance of re-employment. The adjunct faculty member is eligible to draw unemployment if he/she was notified in writing that the appointment does not include any assurance of subsequent employment.

Mr. Harkleroad inquired as to the status of the compensation plan for support staff piloted at UOM. Subsequent to the meeting, this issue was discussed with Debbie Johnson, Director of Human Resource at TBR. Ms. Johnson stated that the UOM plan had not been implemented. Upon approval and implementation, the UOM plan would be an alternative for other institutions to adopt at their discretion. Institutions would be allowed to retain the current support staff plan or adopt the UOM plan.

The minutes of the Human Resource Officers and the proposed guideline revision were approved.

3. Report of the Council of Buyers

Ms. Deanna Hall highlighted the following issues from the October 1, 1998, Council of Buyers meeting.

A. Policy 4:02:10:00

The Council of Buyers recommended raising the sealed bid limit from \$5,000 to \$10,000 as permitted by the recently revised TCA 12-3-204 (see Attachment A). This revision was approved at the October 8, 1998, Finance Committee meeting. The State is currently awaiting final promulgation of rules by the Secretary of State to enact this revision. The rules are expected to be promulgated prior to December 1, 1998. Board staff will take this proposed policy change to the Board at either the December or March meeting.

B. Central Web Site

The Council of Buyers is developing a centralized web site for purchasing. This web site will include a search engine for the product the user needs to purchase as well as links to institutions with existing contracts for this product. Each institution will be responsible for maintaining current contract information on their site.

The minutes of the Council of Buyers were approved as presented.

4. Report of the Financial Systems Review Committee

Mr. Ron Simmons updated the committee on the status of the budget automation project. The pilot campuses will run parallel budgets for the October cycle, user training is targeted for March 1999 for all campuses, and full automation is projected for the July 1999 budget cycle.

Additionally, the committee has submitted a list of budget analysis forms for deletion in upcoming budget cycles. A draft listing of the revised analysis forms will be presented at the next FSR meeting.

The committee is reviewing modifications to the base FRS system and will create a list of base modifications for all institutions. All institutions are encouraged to send their FRS modifications for the committee's review.

5. Chancellor Smith's Comments

Chancellor Smith discussed recent meetings with government officials and the results of these meetings. On August 27, 1998, the Chancellor and other TBR representatives met with Representative Matt Kisber. This meeting allowed TBR representatives to gain a better understanding of Rep. Kisber's concerns and to communicate to Rep. Kisber recent

TBR accountability initiatives. On September 8, 1998, the Chancellor and other TBR representatives met with the Legislative Oversight Committee. This meeting was at TBR's request and allowed the Chancellor to take a "head-on approach" for many issues, including off-campus programming. TBR Board member Jack Fishman also attended the meeting. On September 22, 1998, the Chancellor and TBR representatives met with Comptroller William Snodgrass, Treasurer Steve Adams, and Secretary of State Riley Darnell. All three meetings were viewed as an opportunity for open dialogue and to increase political understanding of higher education issues.

The Chancellor also discussed the Governor's Council for Excellence on Higher Education. It is expected that this Council will result in a set of goals and objectives for higher education upon which the existing governance structure will be judged.

6. OTHER BUSINESS

- Mr. Rudley discussed the recent TBR Board retreat. Items discussed at the retreat included advertising, private giving, and performance benchmarks. The Board concluded that fund raising was a vital component of administration and that Presidents should set benchmarks for fundraising. The Board also stated that private giving benchmarks should be included in future President evaluations. Additionally, the Board recommended that a policy on advertising/billboards be developed that incorporates institutions' service areas.
- Mr. Rudley discussed the different salary equity studies underway at many campuses and reminded the committee that campuses that have adequate funds available are conducting the studies. Because of some dissatisfaction with certain vendors, campuses were encouraged to review carefully their RFPs and the proposals submitted by vendors. Recently, both JSCC and NSTCC have contracted with ETSU to conduct their salary equity studies.

There being no further business, the meeting was concluded.

ATTACHMENT A

TENNESSEE BOARD OF REGENTS

Policy No.: 4:02:10:00

SUBJECT: Purchasing Policy and Procedures

The following policy and procedures, Minimum General Bid Conditions (Attachment A), and code of Ethics in Procurement and Contracting (Attachment B) are adopted as minimum standards for the exercise by the presidents of the institutions and directors of the technology centers, governed by the Tennessee Board of Regents, of their delegated authority to purchase materials, supplies, equipment and services. The authority of the presidents and technology center directors pursuant to these policies and procedures shall not include the purchase or lease of real property or data processing equipment, the purchase of insurance or professional or consultant services, or purchases for capital outlay projects from any fund source whatsoever,

unless approved by the Chancellor, President or Director in accordance with TBR policies and guidelines. Goods and services may be procured without competitive bidding only if such purchases are justified in writing and approved by the President, Director or Chancellor as required by TBR policies and guidelines. In cases where the TBR policies and procedures do not address a specific procedure for purchase of a particular item, the Department of General Services' rules and regulations will govern, if applicable. The Chancellor, President, or Director may delegate approval authority as specified in this policy to their designees.

1. COMPETITIVE BIDDING AND SPECIFICATIONS

All purchases shall be based upon the principle of competitive bidding except as herein provided. Whenever possible, all specifications for materials, supplies, equipment and services shall be worded or designed so as to permit open and competitive bidding for the supplying of the article, commodities or services to which they apply. It will be considered open and competitive bidding by utilizing one of the following purchasing techniques:

- (a) Specifications based on brand names and product numbers-reference to brand names, trade names, model numbers or other descriptions peculiar to specific brand products is made to establish a required level of quality and functional capabilities; it is not intended to exclude other products of that level. Comparable products of other manufacturers will be considered if proof of comparability is contained in the bid. It shall be the responsibility of the vendors, including vendors whose product is referenced, to furnish with the bid such specifications, catalog pages, brochures or other data as will provide an adequate basis for determining the quality and functional capabilities of the product offered. Failure to provide this data may be considered valid justification for rejection of a bid;
- (b) Specifications based on standard specifications;
- (c) Specifications based on qualified products list;
- (d) Specifications based on catalogs, price lists, or price schedules;
- (e) Multi-step sealed bidding - 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. The multi-step bidding process may also be used for the procurement of other products or services, when it is not practical to prepare initially definitive specifications which will be suitable to permit an award based on price. (See Guideline B-035, Procedures for Multi-Step Sealed Bidding).

Purchase of materials or services, for which the State of Tennessee Department of General Services, Purchasing Division, has awarded a contract (SWC) to a vendor through the competitive bidding process will be made without adherence to Section III, Minimum Notice and Number of Bids, provided the vendor meets the bid specifications. This section does not preclude institutions from utilizing the SWC as a bid in accordance with the competitive bidding process outlined in Section III, Minimum Notice and Number of Bids, if so desired.

II. INVITATIONS TO BID

Invitations to bidders shall specify:

- (1) the time and place that bids will be received and opened,
- (2) the articles or services for which such bids are to be submitted and the specifications for such articles or services,
- (3) the amount or number of articles or services required,
- (4) the time of delivery,
- (5) the amount, if any, of any bid bond or certified checks to accompany the bid,
- (6) the amount, if any, of any performance bond which will be required if the vendor is the successful bidder,
- (7) date bid evaluations available for viewing,
- (8) and any other requirements, conditions, or information in reference to the purchase deemed necessary.

III. MINIMUM NOTICE AND NUMBER OF BIDS

The number of bids required and the notice to bidders for solicitation of bids shall be as follows:

- A. If the estimated amount of the purchase is ~~\$5,000~~ **\$10,000** or more, written sealed bids must be solicited from fifteen (15) vendors or the number of vendors on the Vendors List--whichever is less. (The Chief Purchasing officer must approve the solicitation of less than 15 bids). The invitation to bid must be mailed at least fourteen (14) days (ten days where all vendors are local vendors) before the date that the bids are scheduled to be opened.
- B. If the estimated amount of the purchase is at least \$1,500 but less than **\$10,000**, written or telephone bids must be solicited from at least three (3) qualified vendors. When telephone bids are solicited, a written record of the bidders and amounts bid shall be maintained.
- C. If the estimated amount of the purchase is less than \$1,500, the purchase may be negotiated.

IV. BID WITHDRAWAL, BID REVISION, AND BID REJECTION

Before bid opening, a vendor may be permitted to withdraw a bid entirely and/or submit a substitute bid. The vendor making such a request must submit suitable identification.

After bid opening, a vendor will be permitted to withdraw a bid only where there is obvious clerical error in the bid such as a misplaced decimal point, or where enforcement of the bid would impose unconscionable hardship due to an error in the bid resulting in a quotation substantially below the other bids received. Withdrawal will be considered only upon written request from the vendor.

In cases of errors in the extension of prices in the bid, the unit price will govern.

A bid may not be revised after bid opening.

When it becomes necessary to reject all bids, the reason for such rejection must be set out in complete detail and made available to all bidders who submitted a bid.

Action to reject all bids shall be taken only for unreasonably high prices, errors in the invitation to bid, cessation of need, unavailability of funds, or any other reason approved by the president or director or his or her designee.

V. ACCEPTANCE OF BIDS

All bids shall be subject to rejection by the president or director of the institution or technology center or his or her designee. If awarded, the contract for purchase shall be awarded to the lowest qualified and responsible bidder, taking into consideration quantifiable factors including but not limited to the apparent ability of the bidder to perform the proposed contract, the conformity of the articles or services to the specifications, any discount allowed for prompt-payment or for any other reason, transportation charges, and the date of delivery specified in the invitation to bidders.

A bond for the faithful performance of any contract may be required in the discretion of the institution or technology center. A complete written record on all procedures and justifications shall be maintained on each purchasing transaction in order to provide a clear audit trail on the purchase.

Bids must be received in the specified location on or before the date and hour designated for bid opening. Late bids will not be considered in contract award.

All bids received shall be publicly opened and examined by a designated institutional representative at the time and place specified in the invitation to bidders. All bids conforming to the invitation together with the name of the bidder shall be recorded, become a matter of public record, and remain open to public inspection after award.

Each bid should give the full name and business address of the bidder. Unsigned bids will be rejected. The person signing the bid must show his title, and if requested by the institution or technology center, must furnish satisfactory proof of his or her authority to bind his or her company in contract. Bids must be written with typewriter, ink, or indelible pencil; otherwise they may not be considered. Purchase order will be issued to the firm name appearing on the bid.

Alternate bids will not be considered unless specifically called for in the bid.

VI. PROTESTED BIDS

A. Right to Protest

An aggrieved bidder may submit a protest in writing to the chief purchasing officer within ten (10) days after he or she knows or should have known the facts giving rise to the protest.

B. Authority to Resolve Protest

The purchasing officer shall review all bid protests and communicate his or her decision in writing to the chief business officer. If a protest is not resolved to the satisfaction of the aggrieved bidder, the aggrieved bidder may request an opportunity to meet with the chief business officer to present his or her grievance.

Protests shall be submitted to the chief-business officer within ten (10) days of a written decision of the chief purchasing officer. The chief business officer, in consultation with the President or his or her designee, shall review the appeal. If the chief business officer's decision does not resolve the issue, the aggrieved bidder may appeal to the Chancellor or his or her designee. A request for this action must be made in writing within ten (10) days of the date of the decision of the chief business officer. The determination of the Chancellor or his or her designee is final and shall be given in writing and submitted to the protestor.

C. Stay of Procurement During Protest

An aggrieved bidder may request a stay of award prior to award of the contract. Upon notification of a request for a stay to the chief purchasing officer, the proposed acquisition shall not proceed until the protest has been resolved, unless the Chancellor or his or her designee makes a written determination that continuation of the bid process or the award of the contract without delay is necessary to protect substantial interests of the institution, technology center or Board office based upon the recommendation from the chief business officer.

D. Protest Subsequent to Award

The Tennessee Claims Commission has exclusive jurisdiction to determine all monetary claims against the state for the negligent deprivation of statutory or constitutional rights.

VII. TIE BIDS

A tie bid exists when two or more bidders offer products that meet all specifications, terms and conditions at identical prices, including cash discount offered. In such case, a tie bid will be broken by the following methods, in descending order of preference:

- A. In-state business will be given preference.
- B. Small and minority business will be given preference.
- C. Award item(s) to vendor who was low bidder on other item(s) being bid per the same requisition.
- D. By lot or coin toss (properly witnessed and documented)

VIII. RECEIVING REPORTS

When any supplies, equipment, or materials are received by an institution or technology center, the receiving agent thereof shall make a written certification that the supplies, equipment, or materials received were equal in quality and quantity to those requisitioned. Complete records on all receiving reports shall be maintained in order to provide for a clear audit trail on the receipt of all purchases.

IX. VENDORS LIST

Each institution and technology center shall maintain a list of vendors which shows the types or classes of materials, supplies, equipment or services which the person, firm or corporation is willing and able to furnish to the institution or technology center. The institution or technology center may require the person, firm or corporation to submit sufficient information to demonstrate ability to perform any future commitment prior to inclusion on the list of bidders.

X. REMOVAL FROM VENDORS LIST

Vendors who fail to respond to a reasonable number of bids or fail to provide adequate goods or services shall be removed from the vendors List. Reported failure to comply with bids, awards, and/or orders becomes a part of the bidder's application file. If a qualified bidder repeatedly fails to respond to Invitations to Bid, the bidder will be removed from all commodity groups. Examples of failure to comply include but are not limited to:

- Overshipments
- Undershipments
- Early Shipments
- Late Shipments
- Damaged Products
- Defective Products
- Shipments not in Conformance with Specifications
- Unauthorized Substitutions
- Billing Errors
- Service Deficiencies
- Failure to Ship

Other principal causes for temporary or permanent removal from the bid list are:

- Unethical practices
- Misrepresentation of merchandise

Failure of a vendor to perform satisfactorily in any of the above areas may result in a vendor's liability for damages to the institution.

XI. STATE MANUFACTURED ARTICLES AND SERVICES

All institutions and technology centers are required to purchase items and services from other State agencies, e.g., Department of Correction, Blind Services, whenever such items or services are available therefrom and meet the desired conditions and standards.

XII. PURCHASES FROM SMALL AND MINORITY OWNED BUSINESSES

All institutions shall actively solicit bids from small and minority owned businesses in order to obtain a fair proportion of goods and services from such businesses, whenever possible. In accordance with TCA 12-3-808, on an annual basis information regarding small and minority-owned business purchasing will be filed with the Department of General Services which will consolidate this information into the report to the Legislature.

XIII. EMERGENCY PURCHASES

Purchases of specific materials, supplies, equipment or services may be made in the open market for immediate delivery only to meet bona fide emergencies arising from any unforeseen cause. All bona fide emergency purchases must be approved by the president or director or his or her designee, and a written report on the circumstances of any such emergency justifying the purchase shall be prepared and maintained by the institution or technology center. All emergency purchases shall, if practicable, be made on the basis of competitive bids.

XIV. SPECIAL PURCHASE CATEGORIES

A. Sole source or proprietary purchases may be allowed pursuant to the following:

Sole Source Procurement - Sole source purchases are made only when items are unique and possess specific characteristics that can be filled by only one source.

Proprietary Purchase - A proprietary product is one that is manufactured and marketed by a person or persons having the exclusive right to manufacture and sell the product. Marketing is generally controlled by franchises that may include competitive sales at wholesale or retail levels. When it is found that bids may be obtained from different franchises, bid invitations must be issued unless the estimated purchase is less than \$1,500 .

Factors to be considered in sole source and proprietary purchases include the following:

1. Whether the vendor possesses exclusive and/or predominant capabilities or the items contain a patented feature providing superior utility not obtainable from similar products.
2. Whether the product or service is unique and easily established as one of a kind.
3. Whether the program requirements can be modified so that competitive products or services may be used.

4. Whether the product is available from only one source and not merchandised through wholesalers, jobbers, and retailers.

5. Whether items must be interchangeable or compatible with in-place items.

6. Whether the cost of conversion, including but not limited to disruption, re-training, and replacement precludes bidding competitively.

7. Whether the product is to be used in an instructional setting and the intent is to provide instruction on the specific product or diversity of products.

8. Other justifications as approved by the Chancellor or his or her designee.

All authorized sole source may be procured utilizing non-competitive negotiation.

Whenever specifications are not so worded or designed to provide competitive bidding, or specify a single brand, the person responsible for the recommendation shall be required to justify the necessity for the specification in writing, and the request shall be approved by the president or director, or his or her designee.

B. Purchases for Resale in Auxiliary Enterprises

Purchases of items for resale shall be made as follows:

1. Textbooks and other course related materials may be purchases without adherence to Section III of this Policy, minimum Notice and Number of Bids. All textbook ordering lists and authorization forms must be maintained for audit purposes.
2. Certain items for resale for which customers have expressed a preference, and/or promotional items procured under accepted retail merchandising practices, may be purchased without adherence to Section III of this Policy, minimum Notice and Number of Bids. Appropriate documentation shall be maintained which supports the action taken.

C. Purchases for Libraries-, Excluding Materials and Supplies Identified for Consumption by the Library

Purchases of materials for additions to a library collection include cost of books, catalogs, periodicals, binding, audio-visual media, and other general publications. These items are capital expenditures. Each institution and technology center shall be responsible for developing purchasing policies and procedures for the library. These purchases may be made without formal bids or quotations, and appropriate documentation shall be maintained on these purchases to support sole source procurement.

D. Acquisition of Computer Systems

Acquisition of computer systems involving the purchase of hardware with the development of application software shall be made in accordance with TBR

Guideline B-030, Acquisition of Data Processing Equipment/Software/Services, and Guideline B-035, Procedures for Multi-Step Sealed Bidding.

XV. MULTI-STEP SEALED BIDS

- A. In the invitation to bid, the Purchasing Department shall provide the bidder with information describing the functional requirements of the system, purpose of the procurement, technical requirements, bidder qualifications, and any other information considered relevant to the goods or services being acquired.
- B. The bidder shall submit a technical offer sufficient in detail so as to constitute the technical specifications of the purchase.
- C. As specified in the invitation to bid, all technical offers must be received by the institution or technology center at the designated time and will be opened in the same manner a competitive sealed bid. Technical offers shall not be made public until the inspection period following evaluation of the bids submitted with prices.
- D. Acceptability of technical offers shall be determined by an evaluation team appointed by the President, or his/her designee. All technical offers will be evaluated based on the criteria of the invitation to bid and other information learned during the technical evaluation process. All vendors whose technical offers are deemed acceptable will be invited to participate in a confidential discussion of unpriced technical offers. Offers not deemed acceptable will not proceed to the pricing phase.
- E. Bid Price. At the conclusion of the evaluation phase of the multi-step sealed bidding process, bidders will be required to submit a bid price clearly defining the cost of their technical offer in accordance with the invitation to bid.
- F. Award. Each contract shall be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation to bid.

XVI. COMPETITIVE NEGOTIATION

A contract may be entered into by competitive negotiation only in cases when the institution or technology center is unable to obtain needed goods and/or services by the competitive bid process. The president or director shall prescribe the procedures under which negotiation is to be conducted. These procedures shall provide for the safeguarding of the information and provide fairness to the vendors in the negotiation process. In the event it appears the competitive negotiation process is to be implemented, such an action must be approved by the president or director. Once the negotiations have been concluded, a recommendation shall be made by the negotiating team to the president or director, and he or she shall approve the results prior to entering into a contract.

XVII. CONTRACTS AND AGREEMENTS

All contracts and agreements will be in conformance with TBR Guideline G-030, Contracts and Agreements.

- A. All agreements and contracts involving or related to the purchase or lease of real property or data processing equipment, the purchases related to capital outlay projects, shall be expressly subject to the approval of the Chancellor.
- B. No agreement of any nature which requires the expenditure of funds shall extend beyond the end of fiscal year in which it is entered into unless expressly subject to the condition that the institution or technology center shall have the right to terminate the agreement at the end of any fiscal year in the event that sufficient funds are not appropriated by the General Assembly and/or budgeted for continuation of the agreement.
- C. No agreement of any nature shall be entered in to which:
 - 1. provides the institution or technology center shall indemnify or hold harmless any other party;
 - 2. provides that the institution or technology center shall pay taxes of any nature;
 - 3. provides for the payment of interest, late charges, or penalties of any nature by the institution or technology center;
 - 4. contains any provision concerning default by the institution or technology center, commencement of any legal proceeding, or payment of attorney's fees.
- D. All agreements, contracts and subcontracts shall contain all necessary nondiscrimination requirements provided by Federal or State laws and regulations.
- E. Contract Limitations

No contract for purchase of materials, supplies, equipment or services shall be awarded pursuant to these procedures unless funds have been appropriated and are available for the purchase. No contract shall be entered into in addition to the contract resulting from acceptance of a bid and issuance of a purchase order except pursuant to TBR Policy No. 1:03:02:10, Approval of Agreements.

XVIII. UTILITY CONTRACTS

The institution or technology center shall purchase or contract for all telephone, telegraph, electric light, gas, power, postal and other services for which a rate for the use thereof has been established by a public authority in such manner as the Commissioner deems to be in the best interest of the State of Tennessee. Each such purchase or contract shall be made on a competitive basis, whenever possible, in accordance with the TBR Purchasing Policy, unless it has been determined that such purchase is single source. If such purchase has been determined to be single source, the purchase shall then be made pursuant to Section XIV. Sole Source and Proprietary Purchases, of the TBR Purchasing Policy.

XIX. COORDINATION OF PURCHASING FUNCTIONS AMONG SYSTEM INSTITUTIONS AND TECHNOLOGY CENTERS

In all contracts and other bid processes consideration should be given to such wording that would allow member institutions and technology centers to purchase under the terms and conditions of the bid of the individual institution or technology center.

XX. LIFE-CYCLE COSTS

An institution or technology center shall, in a case where the State Board of Standards has adopted a rule requiring life-cycle costs to be used by the Commissioner of the Department of General Services in contracting for major energy-consuming products, and may, in a case where a life-cycle cost and/or energy efficiency standard has been developed for a product by the federal government, apply such life-cycle cost and/or energy efficiency standard in the determination of the lowest qualified and responsible bidder under Section V of this policy.

XXI. DISPOSAL OF SURPLUS PERSONAL PROPERTY

Surplus property is personal property which has been determined obsolete, outmoded, unusable or no longer usable by the institution or technology center, or property for which future needs do not justify the cost of maintenance and/or storage. Disposal of such property must be in accordance with TBR Policy No. 4:02:20:00, Disposal of Surplus Personal Property.

XXII. PROHIBITED TRANSACTIONS

No personal items shall be purchased through the institution or technology center or from funds of the institution or technology center for any employee of the institution or technology center or any relative of any employee. No employee of an institution or technology center responsible for initiating or approving requisitions shall accept or receive, directly or indirectly, from any person, firm or corporation to whom any contract may be awarded, by rebate, gift or otherwise, any money or anything of value whatsoever, or any promise, obligation or contract for future awards or compensation. Whenever any contract is awarded contrary to the provisions of these policies and procedures, the contract shall be void and of no effect, and if the violation was intentional, the employee responsible for the purchase shall be liable for any state funds paid contrary to these policies and procedures.

XXIII. PURCHASING MANUAL

Each institution and technology center shall maintain a written purchasing manual which sets forth the policies and procedures of the institution or technology center on purchasing materials, supplies, equipment and services. The purchasing manual will contain, but not be limited to, provisions on procedures or forms to be listed on or removed from the qualified vendors lists, procedures for appealing decisions related to purchasing transactions, procedures for maintaining a record of performance by firms selling to the institution or technology center, procedures for assuring that funds are available to meet obligations that are incurred, the procedures for use of state contracts and purchases from State agencies, the policy and procedures for inspecting items purchased to assure quality and quantity, policy on bid and performance bonds, and

procedures for processing payment of invoices. A copy of the manual and all subsequent revisions shall be provided to and approved by the Chancellor or his or her designee.

XXIV. REPORTS

The report of Minority, Women, Disabled-owned and Small Businesses required by Tennessee Code Annotated 12-3-808 shall be transmitted to the Vice Chancellor for Business and Finance on a quarterly basis (January-March, April-June, July-September, and October-December). Other reports will be provided upon request.

XXV. EXCEPTIONS

Any exceptions to the policies and procedures established herein shall be subject to the approval of the Chancellor.

XXVI. COUNCIL OF BUYERS

The Chancellor shall establish a Council of Buyers, which Council shall be composed of a representative from each institution recommended by the president and approved by the Chancellor, and a representative from the Board staff appointed by the Chancellor. The Council should meet at least ~~quarterly~~ **semi-annually**, or upon request of the Chancellor or his designee, and shall have the responsibilities including but not limited to the following:

- A. Development of uniform procedures, forms and general conditions governing purchasing which may be feasible and practicable for use by all institutions and technology centers in the System, including affirmative action and equal opportunity provisions, for review and approval by the Chancellor.
- B. Formulation of standard specifications for purchase of specific materials, supplies, and equipment which may be feasible and practicable for use by the institutions and technology centers for review and approval by the Chancellor.
- C. Consideration of the feasibility and advantages of possible term contracts for the System, of designation of certain institutions or technology centers as responsible purchasing agents for specific materials, supplies or equipment for the System, and of the possibility of coordinating purchasing functions among institutions and technology centers within geographic areas, with recommendations to be submitted to the Chancellor.
- D. Formulation of a uniform code of ethics for governing the professional conduct of employees responsible for purchasing. (Attachment B)
- E. Any other matters referred to the Council by the Chancellor.

Source: TBR Meetings, March 5, 1976; June 30, 1978; December 12, 1980; September 18, 1981; June 25, 1982; September 30, 1983; September 20, 1985 ; December 4, 1987; June 24,

1988; June 30, 1989; September 22, 1989; September 21, 1990; June 28, 1991; June 25, 1993;
September 23, 1994; September 20, 1996; March 7, 1997.

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