

**DATE:** November 15, 2017

**SUBJECT:** Procurement Severance  
East Tennessee State University

**ACTION RECOMMENDED:** Approval

**BACKGROUND INFORMATION**

Pursuant to Tennessee Code Annotated § 49-8-101(a)(2)(C), the FOCUS Act authorizes the Tennessee Higher Education Commission (THEC) to “solicit and receive requests for state university boards to assume the performance of [data systems, capital project planning and management, and procurement]. A state university board shall not be permitted to assume the performance of these functions until November 30, 2017.” Furthermore, the law requires THEC to approve or deny the requests for independent management of the designated responsibilities, including procurement. To this end, THEC has developed processes and timelines for assessing institutional capacity in collaboration with the locally governed institutions (LGIs), Tennessee Board of Regents (TBR), and state agencies.

**SUMMARY**

Beginning in January 2017, THEC began identifying the necessary requirements for independent management of procurement activities. THEC staff provided a memo to all LGI presidents outlining four foundational requirements for procurement severance in April 2017. East Tennessee State University notified THEC in accordance with this process of their intention to sever on December 1, 2017, the first date of eligibility.

The Procurement Severance Process required all documents, actions, and a Letter of Compliance to be submitted to THEC staff for review by October 6, 2017, for consideration. The Letter of Compliance as well as links to the required documents and actions are provided in the action item. The four requirements for severance are outlined below.

**Procurement and Contract Policy Development**

Each LGI was required to provide links to policies, procedures, and guidelines associated with procurement and contracting on their website (links provided in the attachments). Each LGI indicated that these policies and procedures

comply with state and federal law.

### **Fiscal Review**

Pursuant to Tennessee Law, the Fiscal Review Committee is required to review and comment on proposed non-competitive contracts of longer than one year or payable value of more than \$250,000 and amendments to contracts with payable values equal to or exceeding \$250,000. Each LGI was required to provide a checklist outlining all proper documents that must be submitted to Fiscal Review when a contract or respective amendment is under review. Each LGI also provided the name of the institutional representative to Fiscal Review. These documents and contact information are provided in the attachments.

### **Reporting Requirements**

Each LGI was required to exhibit the ability to file the appropriate reports as required by Tennessee Statute or bylaws and policies by providing examples of the following reports: the Governor's Office of Diversity Business Enterprise Diversity Report; the Governor's Office of Diversity Business Enterprise Small, Minority, Women-Owned Business Report; the Governor's Office of Diversity Business Enterprise Goals Report; Fiscal Review Goods and Services Contract Report; and the Senate Finance, Ways and Means Committee Contract Requirements Report. Links to these reports are provided in the attachments.

### **Master Contract Severance**

As members of TBR, each LGI has participated in master, group, or statewide contracts. LGIs that are granted severance agree to continue participating in these contracts until the full-term of the contract expires. However, if they wish to exit a master contract when the full-term of the contract expires, each LGI was required to acknowledge and agree to procedures, including providing TBR with at least six months advance notice of intent to exit an expiring contract before exiting the master contract. A letter of compliance is provided in the attachment.

### **RECOMMENDATION**

#### *Action for Procurement Severance for East Tennessee State University*

Pursuant to Tennessee Code Annotated § 49-8-101(a)(2)(C), THEC staff recommend that the Commission **approve** the request of the Board of Trustees of **East Tennessee State University** to assume the performance of the **procurement** function for the university effective December 1, 2017, and declare that the Board of Regents is no longer responsible for the performance of this function for the university as of that date.

# Procurement Severance Requirements

## East Tennessee State University

### ***Procurement and Contract Policy Development***

Procurement & Contract Services - <http://www.etsu.edu/procurement/>

Policies of Interest (<http://www.etsu.edu/procurement/purchasing/severance.aspx>)

- Delegation of Authority/Signature Authorization
- Contracts Guideline
- Contracts

Pro Forma Contracts & Templates

Documents of Interest (<http://www.etsu.edu/procurement/purchasing/severance.aspx>)

- RFP Template
- RFQ Template
- Pro Forma Contract

### ***Fiscal Review Committee***

Fiscal Review Requirements (<http://www.etsu.edu/procurement/purchasing/severance.aspx>)

Documents of Interest

- Fiscal Review Summary Sheet 2016 (revised checklist)
- Fiscal Review Non-Competitive Contract Form
- Fiscal Review Non-Competitive Contract Amendment Form

Fiscal Review Campus Representative:

- Dr. Kathy Kelley (Primary Contact)  
Associate Vice President Procurement & Contract Services  
PN 423-439-7481; email: [kelleyk@etsu.edu](mailto:kelleyk@etsu.edu)

### ***Reporting Requirements***

Report Samples - <http://www.etsu.edu/procurement/purchasing/documents/2017-09-29%20Report%20Samples-%20TBR%20Sev.pdf>

### ***Master Contracts***

Provided acknowledgment of and agreement to requirements for exiting master contracts



EAST TENNESSEE STATE  
UNIVERSITY

Board of Trustees

October 3, 2017

Mike Krause, Executive Director, THEC  
State of Tennessee  
Higher Education Commission  
Parkway Towers, Suite 1900  
Nashville, TN 37243-0830

RE: Procurement Severance Preparation – East Tennessee State University

Mr. Krause:

Pursuant to the FOCUS ACT, please accept this letter as East Tennessee State University's Board of Trustee's acknowledgement that procurement and contract services' policy documents meet the minimum requirements of state and federal law.

If you have any questions or require additional information, please feel free to contact my office as listed below.

Sincerely,

Scott Niswonger  
Chair  
ETSU Board of Trustees



EAST TENNESSEE STATE  
UNIVERSITY

Office of the President

October 3, 2017

Mike Krause, Executive Director, THEC  
State of Tennessee  
Higher Education Commission  
Parkway Towers, Suite 1900  
Nashville, TN 37243-0830

RE: Procurement Severance Preparation – East Tennessee State University

Mr. Krause,

Pursuant to the FOCUS ACT, please accept this letter as East Tennessee State University's notification that Dr. Kathy Kelley, Associate Vice President Procurement and Contract Services will be the current contact for the following: campus liaison who will represent ETSU in front of Fiscal Review, campus liaison responsible for meeting reporting requirements for Fiscal Review Committee, Governor's Office of Diversity Business Enterprise, and the Senate Finance Ways and Means Committee. Dr. Kelley can be reached at 423-439-7481 or [kelleyk@etsu.edu](mailto:kelleyk@etsu.edu). We are conducting an employment search to fill a new position which will be a permanent contact for these requirements. The new position will be in Procurement and Contract Services under the direction of Dr. Kelley. We will provide contact information for that individual after the search process is completed.

The items required to be available via website can be found at  
<http://www.etsu.edu/procurement/purchasing/severance.aspx>

We are also notifying you that ETSU intends to remain part of all current master contracts with TBR. If this should change, ETSU will work with TBR and THEC on a case-by-case basis to identify the terms under which ETSU might exit a master contract before the full-term is completed. Should ETSU determine it intends to leave a master contract at the end of the full term, the university will notify the TBR Assistant Vice Chancellor for Purchasing and Contracts of that decision at least six months prior to the end of the contract termination.

If you have any questions or require additional information, please feel free to contact my office.

Sincerely,

Brian Noland  
President