

DATE: May 17, 2018

SUBJECT: Procurement Severance
Middle 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. 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. Three LGIs—Austin Peay State University, East Tennessee State University, and Tennessee Technological University—notified THEC in accordance with this process of their intention to sever on December 1, 2017, the first date of eligibility. The three remaining LGIs—Middle Tennessee State University, Tennessee State University, and the University of Memphis—notified THEC in January 2018 of their intention to sever on July 1, 2018.

The Procurement Severance Process required all documents, actions, and a Letter of Compliance to be submitted to THEC staff for review by April 1, 2018, for consideration. The Letters 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. Letters of compliance are provided in the attachment.

RECOMMENDATION

Action for Procurement Severance for Middle 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 **Middle Tennessee State University** to assume the performance of the **procurement** function for the university effective July 1, 2018, 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

Middle Tennessee State University

Procurement and Contract Policy Development

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

Policies of Interest (<http://www.mtsu.edu/procurement/Severance.php>)

- Procurement Policy
- Procurement and Contract Standards
- Delegation of Authority/Signature Authorization

Pro Forma Contracts & Templates

Documents of Interest (<http://www.mtsu.edu/procurement/Severance.php>)

- RFP Template
- ITB/RFQ Template
- Pro Forma Contract

Fiscal Review Committee

Fiscal Review Requirements (<http://www.mtsu.edu/procurement/Severance.php>)

Documents of Interest

- Contract Review Checklist
- Fiscal Review Non-Competitive Contract Form
- Fiscal Review Non-Competitive Contract Amendment Form

Fiscal Review Campus Representative:

- Alan Thomas (Primary Contact)
Vice President Business and Finance
PN 615-898-2852; email: alan.thomas@mtsu.edu

Reporting Requirements

Report Samples - <http://www.mtsu.edu/procurement/Severance.php>

Master Contracts

Provided acknowledgment of, and agreement to, requirements for exiting master contracts

April 2, 2018

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

Re: Procurement Severance Preparation – Middle Tennessee State University

Mr. Krause,

Pursuant to the FOCUS Act, the Middle Tennessee State University Board of Trustees acknowledged that Middle Tennessee State University's Procurement and Contract policy meets the minimum requirements of state and federal law.

See http://www.mtsu.edu/procurement/docs/procurement_severance_docs/Severance_Letter.pdf

The webpage that contains documentation, as required by THEC, for the procurement severance process can be found at <http://www.mtsu.edu/procurement/Severance.php>.

As also required for severance, this is to notify you that MTSU intends to remain part of all current master contracts with TBR, and MTSU agrees to work with TBR and THEC on a case-by-case basis to identify the terms under which MTSU might exit a master contract before the full-term is completed. Should MTSU determine it desires to leave a master contract at the end of the full term, the university will notify the TBR Associate Vice Chancellor for Purchasing and Contracts of that decision at least six months prior to the end of the contract.

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

Sincerely,



Sidney A. McPhee
President

Sidney A. McPhee

President

Middle Tennessee State University

Cope Administration Building 204

1301 East Main Street

Murfreesboro, TN 37132

o: 615-898-2622 • f: 615-898-2507



December 12, 2017

Mike Krause, Executive Director, THEC

State of Tennessee

Higher Education Commission

Parkway Towers, Suite 1900

Nashville, TN 37243-0830

RE: Request for Procurement Severance – Middle Tennessee State University

Director Krause,

At its December 5, 2107 meeting, the Board of Trustees of Middle Tennessee State University voted to seek THEC's approval for severance from the Tennessee Board of Regents for the purposes of procurement.

Pursuant to the requirements of the FOCUS Act, please accept this letter with the notice and authorized signature attached as Middle Tennessee State University's request for approval to sever from the Tennessee Board of Regents for the purposes of procurement beginning on July 1, 2018.

We look forward to answering any questions you may have and providing additional information in support of this request.

Sincerely,

A handwritten signature in black ink that reads "Sidney A. McPhee".

Sidney A. McPhee

President

Intent to Sever

The FOCUS Act (amending TCA § 49-8-101) authorizes THEC to solicit and receive requests from state university boards to assume the performance of data systems, capital project planning and management, and procurement. The signature of the President, with Board authorization, below indicates that Middle Tennessee State University understands the reporting, compliance, and existing contract requirements associated with procurement and that Middle Tennessee State University intends to sever from the Tennessee Board of Regents on July 1, 2018 for the purposes of procurement. The Board of Trustees of Middle Tennessee State University understands and agrees that it shall not be permitted to assume the performance of the procurement functions until such time as severance is granted.

Name: Sidney A. McPhee

Title: President

Institution: Middle Tennessee State University

Signature: 

Date: December 12, 2017