

DATE: May 17, 2018

SUBJECT: Procurement Severance
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 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 **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

Tennessee State University

Procurement and Contract Policy Development

Procurement & Contract Services - <http://www.tnstate.edu/procurement/forms-severance.aspx>

Policies of Interest (<http://www.tnstate.edu/procurement/forms-severance.aspx>)

- Procurement Policies & Procedures
- Guideline No. G-30 (General Instructions on Form and Execution of Contracts)
- Delegation of Authority/Signature Authorization

Pro Forma Contracts & Templates

Documents of Interest (<http://www.tnstate.edu/procurement/forms-severance.aspx>)

- ITB (Intent to Bid) Template
- Pro Forma Contract
- RFP (Request for Proposal) Template

Fiscal Review Committee

Fiscal Review Requirements (<http://www.tnstate.edu/procurement/forms-severance.aspx>)

Documents of Interest

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

Fiscal Review Campus Representative:

- Cynthia Brooks
Vice President Business and Finance
PN 615-963-7411; email: cbrooks@Tnstate.edu
- Laurence Pendleton
University Counsel and Secretary to the Board of Trustees
PN 615-963-7925; email: Laurence.Pendleton@Tnstate.edu

Reporting Requirements

Report Samples - <http://www.tnstate.edu/procurement/forms-severance.aspx>

Master Contracts

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



TENNESSEE STATE UNIVERSITY
3500 JOHN A. MERRITT BOULEVARD
NASHVILLE, TENNESSEE 37209-1561

OFFICE OF
THE PRESIDENT

March 28, 2018

Mr. Michael Krause
THEC Executive Director
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243

Dear Mr. Krause:

Tennessee State University has prepared for its upcoming severance from the Tennessee Board of Regents in the procurement function. As part of our severance preparation, a temporary website has been established at www.tnstate.edu/procurement/forms-severance.aspx, with links to documentation required for the procurement severance process. Please find below information that reflects our compliance with the procurement severance requirements.

1. Procurement and Contract Policy Development
 - a. TSU has established links to policies and procedures for procurement and contracting
 - b. TSU has established pro forma contracts and templates
 - c. Indication that these documents meet at minimum the requirements of state and federal law (see attached memo and attestation from Ms. Cynthia B. Brooks).
2. Fiscal Review Committee
 - a. Checklist outlining all proper documents that must be submitted to Fiscal Review when a contract or amendment is under review
 - b. Fiscal Review forms required to address non-competitive contracts and amendments
 - c. Ms. Cynthia B. Brooks and Mr. Laurence Pendleton will represent Tennessee State University at Fiscal Review Committee meetings.
3. Reporting Requirements
 - a. Campus liaison responsible for meeting reporting requirements: Mr. Joel L. Sims, Jr., Director of Procurement Services and Ms. Latonnsya Burney, Director of Contracts.
 - b. Examples of most recent versions of reports

4. Master Contract Severance:

- a. Tennessee State University agrees to work with TBR and THEC on a case-by-case basis to identify the terms under which Tennessee State University may exit a master contract before its full term is completed.
- b. Tennessee State University further agrees to notify the TBR Assistant Vice Chancellor for Purchasing and Contracts regarding which master contracts we intend to exit at the end of their full contract terms at least six months in advance of the contract expiration date.

Sincerely,



Glenda Glover

President

c: Cynthia B. Brooks, Vice President Business and Finance
Joel L. Sims, Jr. Director of Procurement Services



Vice President for Business and Finance
Tennessee State University
3500 John A. Merritt Blvd.
Nashville, TN 37209-1561

Office of the Vice President

March 28, 2018

Mr. Michael Kruase
THEC Executive Director
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243

Via: Dr. Glenda B. Glover, President
Re: Certification of Policies and Procedures

Dear Mr. Krause:

In your memorandum dated September 11, 2017, related to the procurement severance process, you indicated that an "LGI's governing board shall certify that the policies and procedures approved by them meet at minimum all requirements of state and federal law."

The Tennessee State University Board of Trustees, through its Delegation of Authority to the President policy, has delegated authority to the President to create and revise institutional policies and procedures, including contracting related policies and procedures. The policy states that the Board has delegated "to the President full authority over the administration of all affairs and operations of Tennessee State University, subject to any authority retained by the Board or specifically delegated by the Board to other Tennessee State officers." Included in this delegation is the administration and execution of contracts.

President Glover executes University contracts, and has delegated authority to the University Counsel/University Counsel's Office to process and ensure the legal sufficiency of University contracts. The President has delegated authority to me, as Vice President for Business and Finance, to operate the institution's procurement functions. Tennessee State University respectfully requests that you accept the attached attestations as the required certification governing contract and procurement policies and procedures.

The Tennessee State University Board of Trustees' Audit Committee and Finance and Budget Committee will be updated on the status of this procurement severance process at the June 21, 2018 Board Meeting. Members of the Board of Trustees will be provided electronic links to our procurement policies and Procurement Manual for their convenience in assessing these documents.

Sincerely,

Cynthia B. Brooks
Vice President for Business and Finance

c: Joel L. Sims, Jr. Director of Procurement Services
Laurence Pendleton, University Counsel



Vice President for Business and Finance
Tennessee State University
3500 John A. Merritt Blvd.
Nashville, TN 37209-1561

Office of the Vice President

ATTESTATION

I, Cynthia B. Brooks, Vice President for Business and Finance, am responsible for overseeing Tennessee State University's Procurement Office. I have reviewed the policies and procedures submitted to THEC and certify that to the best of my knowledge, they meet the requirements of state and federal law.

Signed: *C Brooks* *3/28/18*

Cynthia B. Brooks, Vice President for Business and Finance

Date



"Think. Work. Serve."

Office of the University Counsel

3500 John A. Merritt Boulevard
Nashville, TN 37209-1561
Office: (615) 963-7923
Fax: (615) 963-5584

ATTESTATION

I, Laurence Pendleton, University Counsel, am responsible for overseeing Tennessee State University's Contracts Office. I have reviewed the policies and procedures submitted to THEC and certify that to the best of my knowledge, they meet the requirements of state and federal law.

Signed: Laurence Pendleton 3/28/18
Laurence Pendleton, University Counsel Date

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 Chairman of the Board (or President with proper Board authorization) below indicates that the Locally Governed Institution understands the reporting, compliance, and existing contract requirements associated with procurement severance and that the indicated Locally Governed Institution intends to sever on July 1, 2018, for the purposes of procurement. The board of the Locally Governed Institution 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: Dr. Glenda Glover (as authorized by the Tennessee State University Board of Trustees on November 16, 2017)

Title: President

Institution: Tennessee State University

Signature: Glenda Glover