OP 62.01: Extension of State Credit

DATE: October 8, 2013

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to establish policy in compliance with state law for the extension of credit to individuals, business entities, or other governmental agencies.

REVIEW: This OP will be reviewed in June of every fourth year by the managing director of Procurement Services with substantive revisions forwarded to the vice president for administration and finance and chief financial officer (VPAF/CFO).

POLICY/PROCEDURE

1. Legal Authorities

   a. Article 3, Section 50 of the Texas Constitution states: "The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State in aid of, or to any person, association or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever."

   b. Attorney General Opinion JM-1229 states: "A lending of credit that accomplishes a public purpose and is accompanied by controls that ensure the use of public credit for a public purpose does not violate article III, sections 50 and 52, or article XI, section 3, of the Texas Constitution. The determination that a particular extension of credit meets the constitutional requirements is in the first instance within the sound discretion of the governing body, subject to judicial review. Attorney General Opinions MW-461 (1982) and JM-533 (1986) are overruled to the extent they hold the contrary."

2. TTU Policy Regarding Extension of Credit

   Section 07.06, Regents’ Rules, Credit Extension, states: "The chancellor, or the chancellor’s designee, is authorized to approve the sale of goods and services on credit provided that: there is public purpose for the sale and that can be documented; and controls limiting risk of loss have been established and reviewed by the OAS" (Office of Audit Services).

3. Procedures

   a. Requests to sell goods and/or services on credit shall be directed in writing to the VPAF/CFO. The written request must contain statements that document the public purpose for selling the goods or services on credit. Additionally, the request must describe, in detail, controls that will be established to limit the risk of loss from the sales on credit.
b. After reviewing the request and determining that there is a documentable public purpose for the extension of credit, the VPAF/CFO shall forward the request to the OAS. The OAS, after completion of the review and determination that the controls to be established will limit risk, will notify the VPAF/CFO of its findings.

c. The VPAF/CFO will forward the request and OAS findings to the chancellor for review and approval action.

d. After action by the chancellor, the VPAF/CFO will notify the requesting department of the chancellor’s decision. NO SALES OF GOODS AND/OR SERVICES ON CREDIT MAY BE MADE UNTIL THE REQUESTING DEPARTMENT HAS BEEN NOTIFIED OF THE CHANCELLOR’S APPROVAL.

e. This policy does not apply to the extension of credit to federal or state of Texas government entities and agencies.