



TEXAS TECH UNIVERSITY

Operating Policy and Procedure

OP 62.15: Sales of Goods and Services by Auxiliary Enterprises and Education-Related Business Activities

DATE: February 9, 2023

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to provide information and set Texas Tech University (TTU) policy on the legitimate purposes under which Auxiliary Enterprises (AE) and Education-Related Business Activities (EBA) sales of goods and services may be approved and to establish a mechanism to review the sales of goods and services.

REVIEW: This OP will be reviewed in July of even-numbered years by the Chief Accounting Officer (CAO) with substantive revisions forwarded through administrative channels to the Senior Vice President for Administration & Finance and Chief Financial Officer (SVPAF/CFO).

POLICY/PROCEDURE

1. General

This policy applies to all AE and EBA support activities. These activities are established by a unit/department to be managed as self-supporting operations ***not to provide goods and services primarily to other internal units/departments*** on a fee-for-service basis.

This policy does not apply to:

- a. Education-related charges for instruction in regular, extension, evening, or continuing education programs;
- b. Sponsored projects or gifts; or
- c. Service centers.

2. Definitions

- a. Auxiliary Enterprises (AE) – AE support activities are activities similar to retail operations for the benefit of students, faculty, staff, and the public that are integral to the support of but are not directly a part of the academic and research functions of the university. Examples include University Student Housing, Hospitality Services, and Athletics.
- b. Education-Related Business Activities (EBA) – EBA support activities are activities whereby revenues received relate incidentally to the conduct of instruction, research, and public service, and/or from activities that exist to provide an instructional and laboratory experience for students that incidentally create goods and services. EBA shall not engage in any sales activity solely for the purposes of raising revenue to support an educational or research

- activity if the goods or services are not related directly and substantially to the educational program. Examples include Skyviews and Red Raider Meats operations.
- c. Unrestricted sale of goods and services – Transactions that are generally not restricted in any way by the paying entity that are based on the delivery of goods or services.
 - d. Sponsored project – Grant, contract, or a cooperative agreement from both the public and private sectors that support research, instructional, and service projects under which the university agrees to external restrictions to perform a certain scope of work, according to specified terms and conditions, and for specific budget monetary compensation most often on a cost reimbursement basis with cost sharing requirements.
 - e. Service Centers – Cost centers established by a unit/department primarily to provide goods and services to other internal units/departments on a fee-for-service basis. Examples of internal service centers include central services such as MailTech or Communication Services and academic service centers such as Animal Care Services. Service centers should consult [TTU OP 62.23, Academic Service Centers](#) to ensure that institutional policies are followed.

3. Exemptions from Policy

- a. Sales that are temporary in nature and the resulting total sales revenues are expected to be less than \$50,000 over the entire life of the sales of the goods or services and with a gap of at least 2 years before there are additional sales.
- b. Any other request by the division vice president submitted in writing to the Chief Accounting Officer (CAO) for review and approved by the SVPAF/CFO.

4. Establishment

The University may authorize the establishment of an AE or EBA when it is determined necessary or reasonable to charge fees for goods and services. The request for establishing a new AE or EBA account or for approval to begin selling a significantly different type of good or service for an existing AE shall be submitted as a new fund request using the Finance Fund Maintenance Application. The following information may be requested to be included in the request:

- a. Names of the non-campus organizations and/or private businesses requesting the services. If the non-campus organization(s) is/are federal agencies, State of Texas, local, city, county, or other agencies, indicate whether agreements, contracts, or other documentation will be required.
- b. If external competitors exist, the name(s), addresses, and rates of at least three competitors, local or within the state of Texas, which offer and perform the same services to be offered by the AE or EBA.
- c. The proposed rate or charge to non-campus organizations and/or private businesses for the service(s). This rate may not be less than that charged for the same service by private businesses for such services. If no private business offers the particular good/service, state the proposed rate for non-campus organizations and private businesses. If this rate is not intended to recover all costs of operating the AE or EBA, justify the rate proposed.

- d. Explain why it is beneficial for the institution to offer this service to non-campus organizations and private businesses.

5. Charges for Goods and Services

AE and EBA operate as self-supported units and charge users for their goods and services at rates that will recover their full cost subject to the following requirements:

- a. AE and EBA are to charge all internal units/departments at the same rates for the same goods or services. AE and EBA with annual sales of \$100,000 or more to internal units will be reviewed periodically by Accounting Services to ensure appropriate classification and/or rates and charging practices are reasonable and equitable.
- b. EBA may include TTU overhead rates in invoices to non-campus organizations and/or private businesses.
- c. AE rates charged to non-campus organizations and/or private businesses will be equivalent to the prevailing charge for the goods or services by private businesses (e.g., sale of beef cattle, water quality tests, etc.).
- d. AE must meet the requirements of [OP 62.01, Extension of State Credit](#), before the sale of goods and/or services can be made on credit. Otherwise, the sale of a service to non-federal or State of Texas non-campus organizations and/or private businesses shall be based upon payment in advance or payment upon delivery. Federal agencies, State of Texas, local, city, county, or other agencies are exempt from this provision, provided written agreements or other documents (e.g., State of Texas Interagency Cooperation Contracts (IAC)) are on file in the TTU Contract Management department to pay for the service.
- e. AE must comply with requirements set forth in [OP 72.24, Auxiliary Enterprise Contractors](#), which outlines certain criteria for contractors who contract with TTU to provide services and are not paid with appropriated funds (funds 11–14).
- f. AE and EBA, for all proposed sales to other universities or governmental agencies that exceed \$5,000, may provide information about the proposed sale to Accounting Services to determine whether the sale is appropriate to classify as an unrestricted sale of goods and services or if the transaction should be treated as a sponsored project to ensure appropriate compliance with reporting requirements.
- g. AE and EBA must follow tax requirements as set forth in section 7 below.

6. Administrative Service Charge

AE and EBA with revenue of \$100,000 or more are subject to an administrative service charge (ASC). The ASC rate will be set annually by the SVPAF/CFO. The ASC may be reduced/waived by the SVPAF/CFO. The ASC will be calculated by the Budget Office and charged to the AE or EBA on a quarterly basis by Accounting Services via Budget Book Transfers.

The ASC rate will not exceed the uncapped general and administrative rate of the university's most recent Facilities and Administrative (F&A) Rate Agreement.

7. Unrelated Business Income (UBI)

- a. Revenues derived from goods sold or services performed by TTU to non-TTU users may be subject to federal income taxation as unrelated business income (UBI) when that sale or service constitutes a regularly carried on trade or business that is **not** substantially related to TTU tax-exempt purposes. The mere fact that an activity generates a source of funds that are then used for exempt purposes does **not** mean that the activity is related to the exempt purposes.
 - (1) Income derived from royalties, rents from real property, and sales of capital assets are not included in UBI.
 - (2) Examples of activities that may be considered UBI include, but are not limited to, the following:
 - (a) Advertising space for commercial business on the internet or in publications;
 - (b) Providing services related to rental space, meeting halls, office space, or student housing to non-TTU users;
 - (c) Catering (food service, etc.) to non-TTU users;
 - (d) Printing or audio-visual sales and services to non-TTU users; and
 - (e) Sale of memberships or rental of equipment to non-TTU users.
 - (3) A myriad of exceptions apply that may exclude the income from an otherwise taxable activity, e.g., income derived from an unrelated trade or business that is carried on primarily for the convenience of its members or that is conducted primarily by volunteers is not taxable.
 - (4) The taxation of each activity is contingent upon a facts and circumstances determination. A survey is sent out annually by Payroll & Tax Services to assist in making this determination. All sales of goods or services to non-TTU users should be reported. Payroll & Tax Services will make the determination whether or not any exclusions or exceptions are applicable. If you have questions or require further information, please contact Payroll & Tax Services.
- b. Activities that are determined to produce unrelated business income or loss will be included in the institution's Exempt Organization Business Income Tax Return (Form 990T), which is prepared annually by Payroll & Tax Services for submission to the Internal Revenue Service.
- c. The department must adopt procedures to identify to whom the sales were made. In addition, a cost methodology must be implemented to properly allocate indirect costs to the taxable activity to minimize the tax liability. Such transactions may trigger tax consequences that affect financial budgets.
- d. Sales to non-campus organizations and/or private businesses (external parties) may generate Texas sales and use taxes. See [OP 62.30, Sales Tax Collection](#), for further information regarding sales and use taxes.