Meeting No. 993

THE MINUTES OF THE BOARD OF REGENTS

OF

THE UNIVERSITY OF TEXAS SYSTEM

Pages 1 - 31

July 8, 2005

Austin, Texas

MEETING NO. 993

FRIDAY, JULY 8, 2005.--The members of the Board of Regents of The University of Texas System convened at 8:45 a.m. on Friday, July 8, 2005, in the Board Meeting Room, Ninth Floor, Ashbel Smith Hall, 201 West Seventh Street, Austin, Texas, with the following participation:

ATTENDANCE.--

Present	Absent
Chairman Huffines, presiding	Regent Craven
Vice-Chairman Clements	
Vice-Chairman Hunt	
Vice-Chairman Krier	
Regent Barnhill	
Regent Caven	
Regent Estrada	
Regent Rowling	

Counsel and Secretary Frederick

In accordance with a notice being duly posted with the Secretary of State and there being a quorum present, Chairman Huffines called the meeting to order.

1. Introduction of UTIMCO Directors

Chairman Huffines announced the first joint meeting of The University of Texas System Board of Regents and The University of Texas Investment Management Company (UTIMCO) Board of Directors would formally convene later in the morning, and he introduced and welcomed the following members of the UTIMCO Board:

- Chairman Woody L. Hunt
- Vice-Chairman H. Scott Caven, Jr.
- Vice-Chairman for Policy Mark G. Yudof
- Mr. Clint D. Carlson
- Mr. Erle Nye
- Mr. Robert B. Rowling
- Mr. Charles W. Tate
- Mr. R. D. (Dan) Burck, Advisory Director

Mr. Huffines said Mr. J. Philip Ferguson was not able to attend and he acknowledged Dr. Keith Brown, Advisor to the UTIMCO Chairman, who was in attendance.

Chairman Huffines said this is a historic meeting as it is the first joint meeting with the UTIMCO Board of Directors. He said in Summer 2004, the Board of Regents made a number of changes regarding matters related to the governance of UTIMCO and this joint meeting is one result of those changes. Chairman Huffines thanked members of the UTIMCO Board for their time and efforts.

As Chairman of the UTIMCO Board, Vice-Chairman Hunt said that one of the recommendations in 2004 from the Report of the UTIMCO Working Group to the Board of Regents of the University of Texas System regarding certain investment management and oversight issues was to hold a joint meeting between the U. T. System Board of Regents and the UTIMCO Board of Directors. He said other recommendations included a change in the process for selection of outside independent directors to fulfill the need for a more diversified Board of Directors. The result has been the appointments of Mr. Tate, experienced in private equities, and Mr. Carlson, experienced in hedge funds, as directors of the UTIMCO Board. UTIMCO Board Chairman Hunt said there is one opening for a director to replace Mr. Hester, and that a comprehensive search will begin in the near future.

2. <u>U. T. System: Approval of concept of a proposal to centralize operating funds and approval of a policy that allows the Board to share in the increased investment returns expected from centralization</u>

Following a presentation by Executive Vice Chancellor Kelley on a concept of a proposal to centralize University of Texas System operating funds, the U. T. System Board of Regents

a. approved the concept of a proposal to centralize the investment of campus cash reserves in the U. T. System Office of Finance and The University of Texas Investment Management Company (UTIMCO). Asset allocation decisions will rest with the Board of Regents as recommended by the Executive Vice Chancellor for Business Affairs, the U. T. System Office of Finance, and UTIMCO. Campus business officers will no longer be accountable for investment returns on these assets; accountability for the returns will reside with the Executive Vice Chancellor for Business Affairs. A formal policy describing the new process and a proposed asset allocation for the new portfolio will be presented to the Board for review and approval at the August 11, 2005 meeting of the Board. The Office of Finance will review a possible "claw back" related to the proposal for recommendation in August.

b. approved a policy that allows the Board to share in the increased investment returns expected from centralization. The sharing would occur only when annual investment returns exceed the Consumer Price Index (CPI) plus 3%, with 90% of those excess returns being retained by the campuses and 10% being retained centrally. Any funds retained centrally would be used exclusively for strategic initiatives that benefit the U. T. institutions and all expenditures from those funds would require approval of the Board of Regents.

Currently, each institution business officer is responsible for investing institutional cash reserves selected from four fund options provided by UTIMCO, a money market fund, a short/intermediate term debt fund, a bond index fund, and an equity index fund. Individually, each campus has real liquidity needs and a strong incentive to preserve capital. Investment expertise and philosophy vary from campus to campus and many campuses lack the human resources and cash reserves necessary to develop a comprehensive investment strategy. As a result, U. T. System's overall investment portfolio for cash reserves is inefficient and does not take full advantage of U. T. System's collective investment strength.

If the U. T. System consolidates all campus cash reserves into a single investment pool, liquidity requirements could be dramatically reduced and an investment portfolio would be created with a longer time horizon and increased expected returns. Analogous to the centralized debt program, true value can be added through centralization that is not available in the current environment of delegated investment allocation decision-making. Furthermore, the consolidation of campus cash reserves provides an opportunity to explore the multiple banking relationships throughout the U. T. System and determine if there are ways to increase efficiency and lower costs for these services. To that end, the U. T. System Office of Finance will collaborate with the campuses to review existing banking relationships. Comments and recommendations derived from this review will be presented to the Board in Spring 2006.

3. U. T. System Board of Regents: Overview of Legal and Fiduciary Issues

Vice Chancellor and General Counsel Burgdorf said the corporate culture for nonprofit organizations is that the application of standards is being rigorously applied and the process, the questions, and the record of Board governance are all important in this area of the law. He thought this joint meeting of The University of Texas System Board of Regents and The University of Texas Investment Management Company (UTIMCO) Board of Directors is a perfect avenue to spell out these concepts of good Board governance.

Mr. Burgdorf introduced Mr. Christopher T. Brown, Baker Botts LLP, who made a PowerPoint presentation on an overview of legal issues and fiduciary responsibilities related to funds under the control and management of the U. T. System Board of Regents. Mr. Brown had contributed to the 2004 Report of the UTIMCO Working Group to the Board of Regents of the University of Texas System regarding certain investment management and oversight issues that examined the relationship between UTIMCO and the U. T. System. Mr. Burgdorf said one recommendation from the Working Group report was for U. T. and UTIMCO to each hire its own counsel.

Mr. Brown explained the primary day-to-day structure of the relationship is governed by contract. As a Texas nonprofit 501(c)(3) corporation, UTIMCO directors are not public officials and have the duties of other directors of nonprofits including duties of care and loyalty and good faith and to act in a manner that the director believes is in the best interest of the corporation, avoiding conflicts of interest. UTIMCO, as a corporation, has fiduciary duties back to the Board of Regents for which it serves as agent. He said UTIMCO has fiduciary duties of an agent to act in good faith, fair dealing, and to discharge its duties with honest performance and strict accountability.
Mr. Brown said the duties of UTIMCO Directors are to ensure that UTIMCO is doing the best job it can to implement the U. T. System Board's investment policies. The Board of Regents entrusts to the UTIMCO Board the oversight of the activities of UTIMCO management.

4. U. T. System: Report on Investment Oversight Resources

Chancellor Yudof provided an overview of the investment oversight function at The University of Texas System Administration. He said under the direction of Associate Vice Chancellor Aldridge, a better job is being done of monitoring performance of The University of Texas Investment Management Company (UTIMCO), to ensure understanding of investment policy and asset allocation. Chancellor Yudof clarified the oversight role is one of a liaison.

Mr. Philip Aldridge then introduced the following key internal and external members of the oversight team from U. T. System Administration, Ennis Knupp + Associates, Baker Botts LLP, and Ernst & Young:

- Chancellor Mark G. Yudof, Vice-Chairman for Policy for the UTIMCO Board of Directors
- Dr. Scott Kelley, Executive Vice Chancellor for Business Affairs, U. T. System
- Ms. Cathy Swain, Director of Investment Oversight, U. T. System
- Ms. Francie Frederick, Counsel and Secretary to the Board of Regents, U. T. System
- Mr. Barry Burgdorf, Vice Chancellor and General Counsel, U. T. System
- Mr. Charles Chaffin, Director of Audits, U. T. System
- Ms. Amy Barrett, Audit Office, U. T. System
- Mr. Jerry Modjeski, Senior Financial Analyst, U. T. System
- Mr. Steven Voss and Mr. Michael Sebastian, Ennis Knupp + Associates
- Mr. Christopher T. Brown, Baker Botts LLP
- Mr. Ricky Richter, Ernst & Young

Vice-Chairman Clements recommended a review of costs associated with oversight of UTIMCO on an ongoing basis.

5. U. T. System: Investment Policy Goals and Objectives

Executive Vice Chancellor Kelley discussed investment policy goals and objectives in a PowerPoint presentation. He said approximately 6.3% of the total operating budget for The University of Texas System is funded through distributions from the Permanent University Fund (PUF) and the General Endowment Fund (GEF), and that is comparable with peer groups. Dr. Kelley said preserving the purchasing power (which addresses inflation) of assets and distributions over rolling 10-year periods or longer is clearly the priority of the PUF and GEF investment policy goals.

Vice-Chairman Hunt said he views the financial assets as a strategic asset on the balance sheet, and that appropriate decisions on asset allocation relate to how much variability in the financial sheet is acceptable and how much liquidity can be sold. He said once those decisions are made, asset allocation becomes a reflection of those decisions. He said that in setting an asset allocation policy, decisions should not be made in isolation, and there should be flexibility to set asset allocation that will maximize strategic capacity over time as opposed to dealing with legal obligations. He said it is a matter of degree, and he would argue that the rest of the balance sheet needs to be taken into consideration more than in the past. Over time the Board of

Regents needs to consider the balancing of the liability in meeting a certain distribution rate versus the maximization of the capacity of that financial asset over time. He said that is not a decision that needs to be made today, but is part of the educational process that is the subject of this meeting.

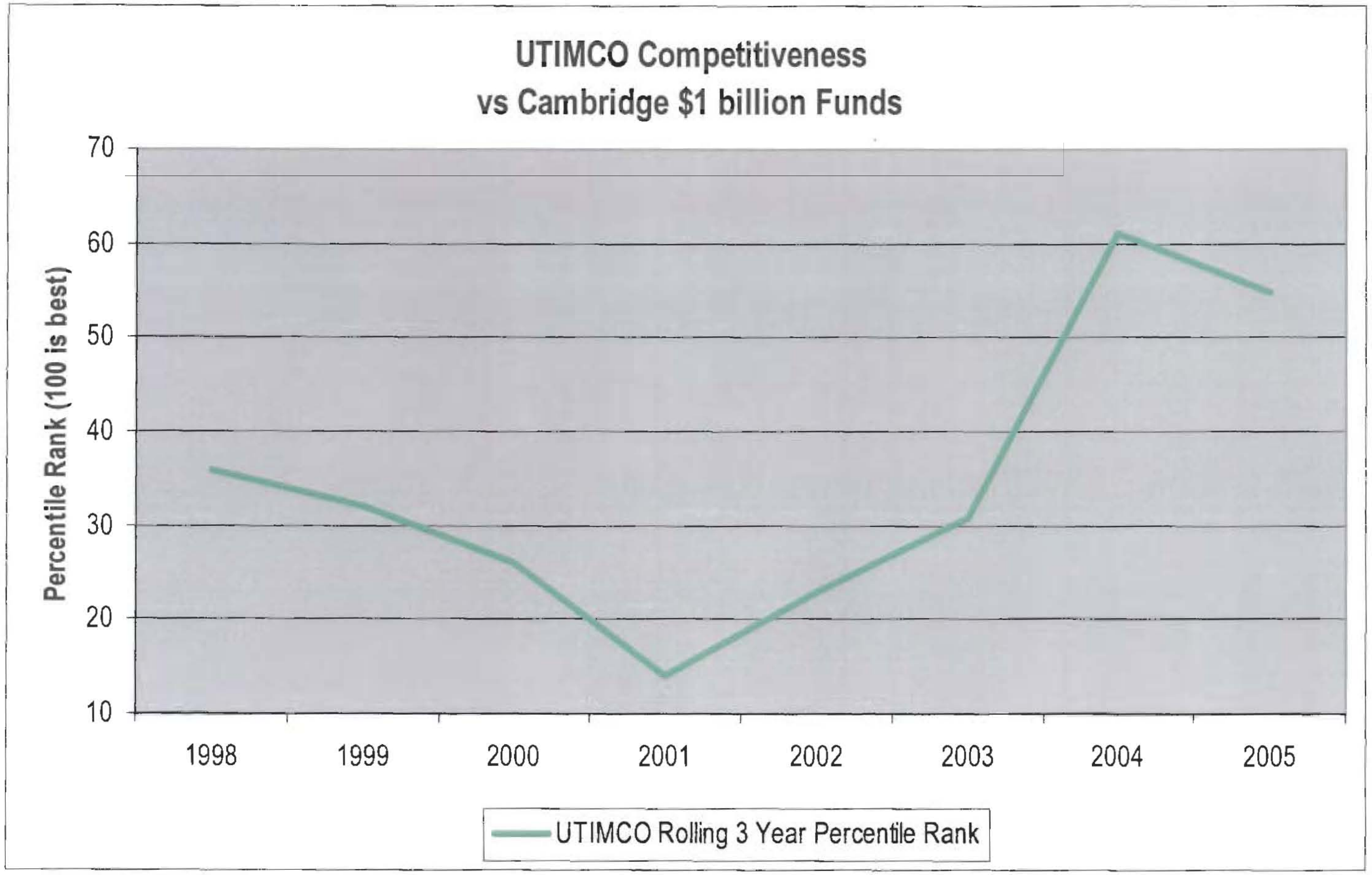
6. U. T. System: Report by Ennis Knupp + Associates on Investment Objectives and Performance

Mr. Steve Voss and Mr. Mike Sebastian, Ennis Knupp + Associates, discussed investment objectives and performance of The University of Texas System funds. Mr. Voss said the primary objective of investment performance is to achieve a Minimal Accepted Return (MAR) of 8.1%, and that primary objective drives policy. He said competitiveness is critically important and that earning returns that meet the MAR is the best way to be competitive in the long run. He also suggested that keeping track of what peers are doing will provide a reasonableness test.

Vice-Chairman Hunt led a discussion of strategic objectives and constraints and Mr. Bob Boldt, President, Chief Executive Officer, and Chief Investment Officer of The University of Texas Investment Management Company, explained the restriction is the value of the Permanent University Fund. Vice-Chairman Krier asked if there was any concern about Slide 7 on Page 5.4 of the Agenda Book that showed U. T. is below the median for university endowments. Vice-Chairman Hunt also expressed this concern; and Mr. Boldt said that while the end points on the chart are accurate, the [cumulative] black line does not show the reality that over the past three years UTIMCO has been above the median. Mr. Hunt clarified that an additional slide not included in the Agenda Book, attached on Page 7 of these Minutes, shows more accurately where U. T. is in the nine-year history of UTIMCO.

Dr. Keith Brown, Advisor to the UTIMCO Chairman, suggested the Board of Regents consider who are U. T.'s actual peers. Of the 39 universities included in the peer report, roughly one-half are private institutions, and the other half are public.

UTIMCO Competitiveness Has Improved



7. U. T. System: Approval of Investment Performance Reporting including proposed Restatement of Historical Endowment Policy Portfolio Returns and proposed Investment Performance Reporting Error Correction Policy

Executive Vice Chancellor Kelley presented the proposed Restatement of Historical Endowment Policy Portfolio Returns and the proposed Investment Performance Reporting Error Correction Policy.

Following extensive discussion of the value of restating benchmarks and providing a side by side comparison of previous and new benchmarks, Chairman Huffines reminded the meeting participants that the UTIMCO Board already passed the motion on Restatement at their June 2005 meeting, and consequently, the vote to be taken would be only for the Board of Regents. Upon motion by Vice-Chairman Hunt, the Board approved the Restatement, together with complete and accurate disclosure, in substantially the form set forth on Pages 10 - 12, with corrections as presented by Executive Vice Chancellor Kelley. The motion was seconded by Regent Barnhill. Vice-Chairman Krier stated she appreciated the discussion and the request for a side by side comparison before casting a vote against the Restatement.

Further, upon motion by Vice-Chairman Hunt, seconded by Regent Rowling, the Board adopted the Investment Performance Reporting Error Correction Policy, set forth on Pages 13 - 16, to be an exhibit to Investment Policy Statements for all University of Texas System funds managed by The University of Texas Investment Management Company (UTIMCO).

The following background information was provided:

1. Disclosure of the procedures used to restate endowment policy portfolio investment performance prior to January 2004 is provided on Pages 10 - 12, together with the reasons for the changes and the policy portfolio (benchmark) returns prior to restatement.

   The following footnote appears with published performance results that include presentation of restated historical benchmark performance:

   > Policy Portfolio returns for the PUF and GEF were restated in 2004 to correct two technical errors in benchmark construction and calculation and to replace the private capital asset benchmark in previously reported Policy Portfolio returns. Results were restated for all prior periods beginning June 1993. Complete details of the restatement as well as prior Policy Portfolio returns are available on the website at www.UTIMCO.org or upon request.

The link in this footnote on the UTIMCO web site will lead to disclosure describing the details of the restatement, as well as prior Policy Portfolio returns in the form substantially as presented on Pages 10 - 12. The same disclosure will be provided to anyone requesting the information.

2. The purpose of the Investment Performance Reporting Error Correction Policy ("Error Correction Policy"), set forth on Pages 13 - 16, is to ensure consistency and accuracy of reported performance data by providing guidance to handle all types of errors in presentation of actual and benchmark investment performance statistics for all U. T. System funds. The policy, derived from guidelines recently published by the CFA Institute [formerly Association of Investment Management Research (AIMR)], was approved by the UTIMCO Board at the Board's June 16, 2005 meeting.

   This policy addresses situations where errors in investment performance data (including benchmarks) are discovered and also addresses the process for documenting and correcting errors. It defines situations where investment performance reported by UTIMCO must be retroactively changed; how such restatement should be documented; and when and for whom restated numbers should be republished.

   A determination that a chosen externally published benchmark for a given asset class, portfolio, fund, or composite is inappropriate, inconsistent with investment goals and policies, or no longer suitable for any reason (as opposed to misstated, miscalculated, or presented incorrectly) does not constitute an "error" for purposes of this policy. The policy clarifies that the U. T. System Board will make the final determination as to whether or not a proposed restatement and republication should be made in cases where a benchmark is replaced for reasons other than an actual error.

UTIMCO Restatement of Historical
Endowment Policy Portfolio Returns:
Investment Performance Reporting Disclosure

The following disclosure will appear as a footnote to published performance results that include presentation of historical benchmarks:
Policy Portfolio returns for the PUF and GEF were restated in 2004 to correct two technical errors in benchmark construction and calculation and to replace the private capital asset benchmark in previously reported Policy Portfolio returns. Results were restated for all prior periods beginning June, 1993. Complete details of the restatement as well as prior Policy Portfolio returns are available on the web site at www.UTIMCO.org or upon request.

A link will be provided on the UTIMCO web site to disclosure in substantially the following form to describe the details of the restatement as well as prior Policy Portfolio returns:

Procedures Used to Restate Prior Policy Portfolio Returns

Policy Portfolio returns for all periods beginning June 1993 were restated in 2004 to correct two technical errors in benchmark construction and calculation and to replace the private capital asset benchmark in previously reported Policy Portfolio returns as follows:

1. UTIMCO began publishing Policy Portfolio returns in 1997. At that time, Policy Portfolio returns for periods prior to 1997 were calculated using the policy asset allocation targets in place in 1997 rather than the actual approved allocations in prior years. In addition, when changes were made in asset allocation targets subsequent to 1997, those changes were implemented immediately in calculating Policy Portfolio returns, despite that fact that the changes might take years to actually implement especially in less liquid asset categories. As a result, prior Policy Portfolio returns did not accurately reflect either the true Asset Allocation Policies in place at each point in time in history or the practical implementation of those Policies. In order to correct these errors, UTIMCO analyzed Board of Regents minutes, UTIMCO Board minutes, and actual quarterly asset statements for the PUF and GEF/LTF for the period 1992 through 2003. Changes in Policy Allocations for liquid asset categories such as public equities and bonds were implemented almost immediately in the LTF/GEF's Policy Portfolio. However, changes in allocations to the LTF/GEF's private equity and hedge funds were phased in on a straight-line basis over time periods that were deemed reasonable to reflect the actual time it would take to implement those changes in the actual endowment portfolios. The PUF was phased-in more closely aligned with actual asset allocation due to the restraints placed on it from the distribution requirements. A senior consultant at Cambridge Associates reviewed the phase in procedures and found them to be reasonable.
2. Since the time it began reporting Policy Portfolio returns in 1997, UTIMCO has reported a single Policy Portfolio return for each time period for comparison to both the PUF and GEF/LTF. However, prior to Texas State Proposition 17 in 1999, the PUF asset allocation was constrained by the necessity to maintain a relatively level annual distribution which could be paid only out of current income. Proposition 17 converted the PUF to a so-called "total return" basis in which distributions could be paid out of either income or principal. The GEF/LTF had paid distributions on a "total return" basis since 1987. In a period of generally declining interest rates over the late 1990's, the PUF was forced into asset allocation positions that differed substantially from stated Investment Policy Targets which were apparently set without consideration of the income requirements (there was no differentiation in Asset Allocation Policy for the PUF and the GEF/LTF) in order to meet income requirements to pay distributions. To correct this error in Policy Portfolio construction, the phase-in process described above was done differently for the

PUF Policy Portfolio than for the GEF/LTF Policy Portfolio, resulting in different returns for the two benchmarks. Phase-ins for the PUF were defined to more closely mirror the actual holdings in the PUF since the need to generate current income sometimes precluded a smooth linear phase-in as used in the case of the GEF/LTF. A senior consultant from Cambridge Associates reviewed the assumptions for both the PUF and GEF/LTF and found them to be appropriate.

3. Like many investors in the private capital asset category, UTIMCO has had difficulty determining an appropriate benchmark for the asset category. Over the 1993 through 2004 time period, UTIMCO has used at various times a flat 17% benchmark, a Wilshire 5000 +4% benchmark, and has recently adopted the Venture Economics Periodic IRR Index to evaluate actual private capital performance. Both the flat 17% benchmark and the Wilshire 5000 + 4% proxy benchmark have serious flaws. An essential trait of any appropriate benchmark is that returns for the benchmark should have a high degree of correlation with the actual returns of the portfolio to which the benchmark is being used as a comparison. As the table below indicates, the flat 17% and Wilshire 5000 + 4% benchmarks fail this essential test, especially over shorter time frames. These correlation measures were calculated from actual data over the 1993 to 2003 time period.

Correlation Coefficients	UTIMCO and Venture Economics	UTIMCO and Wilshire +4%	UTIMCO and 17%
1 Year	0.9229	0.5162	0.0000
3 Years	0.8931	0.8882	0.0291
5 Years	0.9520	0.9710	0.0000

While the Wilshire proxy benchmark might be appropriate for longer term time periods such as 5 to 10 years, it is clearly not appropriate over shorter time periods such as one year. The flat 17% benchmark is not appropriate over any time period. On the other hand, the Venture Economics Index passes this important test over all time periods. Since we know that this Index has been a good benchmark over the ten year period that historical results are provided by the statistics above, the Venture Economics Index has been applied retroactively as the private capital asset category benchmark.

The composite result of the restatements of historical Policy Portfolio returns are indicated in the table below. The table also presents Policy Portfolio returns under the prior methods of calculation.

UTIMCO Performance Summary							
	Periods Ended February 28, 2005 (Returns for Periods Longer Than One Year Are Annualized)						
	One Month	Three Months	Six Months	One Year	Three Years	Five Years	Ten Years
Permanent University Fund	**3.13**	**4.83**	**12.40**	**11.67**	**10.85**	**5.39**	**10.58**
Permanent University Fund Policy Portfolio	**1.69**	**2.65**	**8.36**	**10.62**	**7.60**	**4.35**	**11.12**
General Endowment Fund	**3.13**	**4.79**	**12.54**	**11.72**	**11.11**	**N/A**	**N/A**
Permanent Health Fund	**3.15**	**4.79**	**12.50**	**11.67**	**10.99**	**5.34**	**N/A**
Long Term Fund	**3.15**	**4.80**	**12.51**	**11.67**	**11.03**	**5.45**	**11.25**
General Endowment Fund Policy Portfolio	**1.69**	**2.65**	**8.36**	**10.62**	**7.60**	**3.94**	**11.02**
Policy Portfolio Before Restatement	**1.69**	**2.65**	**8.36**	**10.62**	**9.19**	**3.93**	**11.09**

The University of Texas System
Investment Performance Reporting Error Correction Policy

Purpose

The purpose of this Investment Performance Reporting Error Correction Policy ("Error Correction Policy") is to ensure continued consistency and accuracy of reported performance data by providing guidance to handle all types of errors in presentation of investment performance statistics. The performance data subject to this policy are relied upon by UTIMCO directors and advisors, The University of Texas System Board of Regents ("U. T. System Board"), System Administration staff, development officers, donors, legislators, consultants, third party verifiers, auditors, members of the public, and other consumers of investment performance information for funds under the management and control of the U. T. System Board. This Error Correction Policy addresses situations where errors are discovered and the process for documenting and correcting errors.

Scope

This policy applies to all types of errors in presentation of actual and benchmark investment performance reporting for fund portfolios (endowment and operating), asset classes, and third party investment manager portfolios. It defines:

1. Situations in which investment performance data (including benchmarks) reported by UTIMCO must be retroactively changed;
2. How such restatement should be documented; and
3. When and for whom restated numbers should be republished.

A determination that a chosen externally published benchmark for a given asset class, portfolio, fund, or composite in the investment performance presentation is inappropriate, inconsistent with investment goals and policies, or no longer suitable for any reason, as opposed to misstated, miscalculated, or presented incorrectly, does not constitute an "error" for purposes of this policy. The U. T. System Board will make the final determination as to whether or not a proposed restatement and republication should be made in cases where a benchmark is replaced for reasons other than an actual error.

Types of Errors in Presentation of Investment Performance Data

Presentation errors that must be corrected and that could result in restatement and republication of investment performance data include, but are not limited to, the following types:

- Reconciliation errors
- Calculation errors
- Valuation errors
- Benchmark reporting presentation errors
- Other types of errors.

Reconciliation errors (differences) between UTIMCO's records and raw data from an outside source, such as a third party investment manager or custodian, can result in an erroneous calculation of a rate of return and/or risk statistics. Errors can be caused by, but are not limited to:

- Missed trades, processed against the wrong account or not correctly registered on one or more systems.
- Mishandling of corporate actions, missed completely or simply not processed correctly.
- Missed cash flows.
- Differences in carrying values for securities that aren't actively traded or for which manual prices are entered.
- Exchange rate discrepancies.

Calculation errors are defined as inaccuracies in numerical calculations resulting from a mathematical, accounting, statistical, or software error.

Valuation errors can result from pricing problems for securities that are not actively traded or for which market prices are not available.

Benchmark reporting presentation errors may result when index returns (customized or externally published) are weighted incorrectly for policy portfolios.

Other types of errors in presentation of investment performance statistics include, but are not limited to, incorrect allocation of portfolios to composites/funds, misstated composite dispersion, or other disclosures and/or presentation statistics.

Definitions

Restatement shall be defined as the correction of data presented in monthly and/or quarterly investment performance reports, accompanied by a detailed footnote explaining the date, the reasons for, and the impact of the change.

Republishing is defined as making best efforts to redistribute corrected data to parties who may have relied upon the incorrect information, including but not limited to UTIMCO directors and advisors, U. T. System Board and staff, development officers, donors, legislators, consultants, third party verifiers, auditors, and members of the public. A disclosure, including the date, reasons for, and impact of the change, must be provided to attempt to ensure that relevant parties fully understand the change.

Risk statistics include, but are not limited to, standard deviation of returns and downside risk measures for asset classes, portfolios, and/or funds.

Materiality: Materiality in terms of the size and impact of an error will vary for different asset types (e.g., equities, fixed income, emerging markets), reporting periods (e.g., monthly, quarterly, or annual returns), and qualitative circumstances. Assessing materiality of an error in performance measurement requires that management, their custodians, consultants, independent verifiers, and auditors consider not only the size of the misstatement but also the qualitative significance of the information to the investment performance report taken as a whole. Situations may arise where a reasonable person would conclude that a matter is material even though it is quantitatively small relative to the financial statements or investment performance reporting taken as a whole. Examples of considerations that may make a relatively "small" investment performance reporting error material include but are not limited to the following:

- If the error arises from an estimate, what degree of imprecision is inherent in the estimate?
- Does the misstatement hide a failure to meet goals or expectations for the enterprise?
- Does the misstatement mask a change in earnings or other trends?
- Does the error change a loss into income, or vice versa?
- Does the error concern a component, fund, asset class, or other portion of the business that has been identified as playing a significant role in operations?
- Does the error affect compliance with investment policy statements, regulatory or other contractual requirements?
- Does the error have the effect of increasing management compensation – e.g., by satisfying requirements for the award of bonuses or other forms of incentive compensation?
- Does the error involve concealment of an unlawful transaction?

Aggregating and Netting Errors: In determining whether multiple errors cause the investment performance to be materially misstated, errors should be evaluated both individually and in the aggregate in light of quantitative and qualitative factors to judge whether they materially misstate the investment performance overall.

The Error Correction Process

The Error Correction Process strives to provide simple, unambiguous steps to correct and document errors, and to disseminate the corrected information to all interested parties. The process includes the following steps:

1. ***Report the error immediately to the UTIMCO Chief Compliance Officer***, together with the calculation of its impact.

2. ***Determine if the error is material:*** The Chief Compliance Officer will be responsible to recalculate the investment performance presentation and risk statistics to estimate the impact of the error and to gather all relevant facts and circumstances that could influence the determination of materiality.

3. ***Document the original figure, corrected figure, and action taken.*** UTIMCO staff must disclose the date, the reasons for, and the impact of any change to attempt to ensure that relevant parties who may have relied on the investment performance reporting fully understand it. Potentially relevant parties who require disclosure of corrected performance data include but are not limited to UTIMCO directors and advisors, U. T. System Board and staff, development officers, donors, legislators, consultants, third party verifiers, auditors, and members of the public.

4. ***Restate and republish the affected data.*** When an error, as defined above, is discovered in the presentation of Actual Investment Performance Data and/or Benchmark Investment Performance Data for an individual portfolio, an asset class, or at the total fund level, the data will be restated and republished immediately to all parties who may have relied upon the incorrect information, unless all three of the following circumstances apply:

a. A correction will have little or no impact on previously reported numbers because the error is calculated to be “immaterial” based on both quantitative measures and qualitative facts and circumstances as described above; and
b. The error will be captured and corrected in an immediately subsequent reporting period; and
c. Risk statistics derived from investment performance returns will not be materially impacted.

5. ***Benchmark Change:*** In the event of a benchmark change, if a custom benchmark or combination of multiple benchmarks is used, staff must also provide written disclosure to all relevant parties, describing the benchmark creation and re-balancing process.

8. U. T. System: The University of Texas Investment Management Company (UTIMCO) Cost Study

Mr. Matthew Lincoln, Cambridge Associates, LLC, presented a study of the cost efficiency of the investment services that The University of Texas Investment Management Company (UTIMCO) provides to The University of Texas System.

Mr. Bob Boldt, President, Chief Executive Officer, and Chief Investment Officer of The University of Texas Investment Management Company (UTIMCO), explained legal expenses related to the disclosure issue over the past year inflated the expenses that should be lower in the future.

CONVENE JOINT MEETING: BOARD OF REGENTS AND UTIMCO BOARD OF DIRECTORS.--At 10:55 a.m., Chairman Huffines and Vice-Chairman Hunt, Chairman of the Board of Directors of The University of Texas Investment Management Company (UTIMCO), convened the first annual joint meeting of The University of Texas System Board of Regents and the UTIMCO Board of Directors.

Vice-Chairman Hunt remarked that UTIMCO was created in 1996 by the Board of Regents as a result of a need to be more competitive and to have better management of financial assets. He said the separate, nonprofit corporation was needed to create a different environment that would allow for a different compensation system for a competitive staff. Vice-Chairman Hunt reviewed the chart on Page _7 regarding UTIMCO competitiveness that measures the progress UTIMCO has made. He said a qualified staff is in place. He said the next step is to integrate the financial endowment asset as a part of the competitive balance sheet to determine how much risk is acceptable to the U. T. System Board of Regents.

9. U. T. System: UTIMCO Organization

Mr. Bob Boldt, President, Chief Executive Officer, and Chief Investment Officer of The University of Texas Investment Management Company (UTIMCO), outlined the organizational structure of UTIMCO including the members of the Board of Directors and the various committees. Mr. Boldt described the UTIMCO Mission Statement, strategic objectives, and said UTIMCO strives to add value by achieving higher returns than the market.

PRESENTATION OF CERTIFICATES OF APPRECIATION.--Vice-Chairman Hunt, Chairman of the Board of Directors of The University of Texas Investment Management Company (UTIMCO), presented Vice-Chairman Clements and Regent Barnhill with certificates of appreciation for their service on the Board of Directors. Mrs. Clements served on the UTIMCO Board from May 9, 2001 through February 9, 2005, and Mr. Barnhill served from July 16, 2004 through February 9, 2005.

10. <u>U. T. System: Observations by investment consultants, Mr. Michael Sebastian, Ennis Knupp + Associates, and Mr. Bruce Myers, Cambridge Associates, LLC, on asset allocation for U. T. System endowment funds</u>

Mr. Michael Sebastian, Ennis Knupp + Associates, and Mr. Bruce Myers, Cambridge Associates, LLC, made PowerPoint presentations and discussed asset allocation for University of Texas System endowment funds.
Mr. Sebastian provided an overview of the process and the resulting asset allocation and he spoke about policy recommendations. Mr. Myers discussed key concepts of successful endowment management, how to bring together the key concepts of asset allocation, and he provided a look at practices of peer institutions to see how they are putting together the key concepts.

11. <u>U. T. System: UTIMCO review and discussion of asset allocation for U. T. System endowment funds</u>

Mr. Bob Boldt, President, Chief Executive Officer, and Chief Investment Officer of The University of Texas Investment Management Company (UTIMCO), discussed asset allocation for University of Texas System endowment funds, using a PowerPoint presentation. Mr. Boldt said asset allocation will be probably better managed on the basis of risk levels, but for now, asset allocation is set on a dollar basis across asset categories. He said UTIMCO wants to find the best target for the U. T. System and The University of Texas A&M University funds. Part of the process is to establish ranges around targets and benchmarks to measure success.

Vice-Chairman Hunt said that final benchmarks will be recommended to the Board of Regents at the August 2005 meeting. He asked staff to look at hedge funds benchmarks, and stated that if replicated over the last three years, they would have set a higher standard than existing benchmarks for purposes of compensation, which is consistent with the trend to set reasonable but high standards and only compensate for extraordinary type of performance. Vice-Chairman Hunt concluded by saying that the hedge fund experience to date has been successful.

ADJOURN JOINT MEETING AND CONTINUE BOARD OF REGENTS' MEETING.--At 12:20 p.m., the joint meeting of The University of Texas System Board of Regents and The University of Texas Investment Management Company (UTIMCO) Board of Directors was adjourned. Chairman Huffines thanked members of both Boards for their interest and input and said he looks forward to next year's meeting and a close working relationship throughout the year. Vice-Chairman Hunt said he is encouraged that the direction of UTIMCO is positive and upward. Chairman Huffines said 11 months ago, major reforms for UTIMCO were undertaken under the leadership of Vice-Chairman Hunt including the selection process for outside directors and today, there is a strong, diverse directorship. He said the Board of Regents improved the oversight and governance of UTIMCO, the coordination of UTIMCO with the Board of Regents, disclosure and transparency, and he added the UTIMCO website has been updated for greater access. Chairman Huffines commended Mr. Hunt for his nearly six-years of service on the UTIMCO Board (beginning August 12, 1999). Chairman Huffines then announced the U. T. System Board of Regents would reconvene in open session to consider the following Agenda Items.

12. <u>U. T. System Board of Regents: Announcement of a new Task Force</u>

Chairman Huffines announced the establishment of a Task Force on The University of Texas at Dallas Lands to review and make recommendations on the best use of lands at U. T. Dallas.

He appointed Regent Barnhill, Regent Rowling, and President Daniel to serve on the Task Force and said Executive Vice Chancellor Kelley, Interim Associate Vice Chancellor Dixon, and Executive Director Mayne will staff the Task Force.

He asked the Task Force to provide a report on their work to the Board in February 2006.

REMARKS BY CHAIRMAN HUFFINES REGARDING THE U. T. AUSTIN PRESIDENTIAL SEARCH.--Chairman Huffines reported on the status of the presidential search at The University of Texas at Austin since President Faulkner announced on June 30, 2005, his resignation from the presidency expected to be effective during the Spring 2006. Mr. Huffines said this matter was not posted with the Secretary of State for action or discussion, thus he could not respond to any questions. He reported the composition of the search committee will be publicly announced and he reviewed the timeline for selecting a president by, he hopes, the first week in December 2005.

13. U. T. System: Review of Fiscal Year 2006 Significant Budget Issues affecting the U. T. System institutions

Chancellor Yudof provided an overview of significant budget issues affecting The University of Texas System institutions for Fiscal Year 2006 in advance of consideration of the budget for approval at the August 2005 meeting of the Board.

Chancellor Yudof said for the next biennium, the budget for the U. T. System will grow from $8.7 billion to $9.5 billion. He said primary drivers for the increase include merit salary increases, additional funding for research, and hospital and patient fees (including the purchase of two hospitals).

14. U. T. System Board of Regents: Adoption of Regents' *Rules and Regulations*, Series 20204, related to determining and documenting compensation

The Board adopted a new rule, as set forth on Pages 22 - 23, to be added to the Regents' *Rules and Regulations*, Series 20204 titled "Determining and Documenting the Reasonableness of Compensation."

At the request of the Chancellor, The University of Texas System Audit Office reviewed the compensation setting process for highly compensated individuals within The University of Texas System. As a result of that review, the Audit Office recommended the development of a System-wide policy for establishing the compensation of highly compensated personnel, defined as individuals whose total annual compensation is $500,000 or more.

The Internal Revenue Service's *Internal Revenue Manual*, Section 4233.27 lists the factors an IRS agent is to consider in determining the reasonableness of compensation in *Internal Revenue Code* (IRC) Section 162 regarding reasonable compensation cases. While IRC Section 162 and the *Internal Revenue Manual* Section 4233.27 are not applicable to the U. T. System as an agency of the State of Texas, the Chancellor recommends voluntary compliance with the spirit of Section 4233.27.

Under current policy, compensation for the institutional presidents and others defined as "key employees" of U. T. System is determined in accordance with procedures outlined in Regents' *Rules and Regulations*, Series 20203 (Compensation for Key Executives). The U. T. System Audit Office has determined Series 20203 complies with the spirit of the *Internal Revenue Manual* for determining the reasonableness of compensation. Because Series 20203 is not applicable to all highly compensated employees such as highly recruited healthcare faculty researchers and some coaches, the proposed new rule will cover them. Under the proposed rule, the Chancellor is charged with developing a System-wide policy for ensuring institutions have processes in compliance with the spirit of Section 4233.27 for setting the compensation of highly compensated personnel. In addition, employees whose total annual compensation is $500,000 or more but less than $1,000,000 must be approved by the appropriate Executive Vice Chancellor. Under the proposed new rule, total annual compensation of $1,000,000 or more would be approved by the U. T. System Board of Regents.

1. Title

Determining and Documenting the Reasonableness of Compensation

2. Rule and Regulation

Sec. 1 Setting of Compensation. Institutions of The University of Texas System are charged with setting compensation levels for Highly Compensated Personnel in such a way that compensation is reasonable and adequate documentation is maintained for supporting the reasonableness of compensation paid. *Internal Revenue Code* (IRC) Section 162 imposes a reasonableness requirement for the deductibility of compensation as a business expense and its applicability has been extended to tax-exempt organizations. IRC Section 4958 imposes excise taxes on excess benefit transactions between a tax-exempt organization and certain influential persons within the organizations. Although the U. T. System is not subject to the IRC sections, the process used to determine compensation by U. T. System shall be pursuant to a process in conformance with the spirit of the Internal Revenue Service (IRS) guidelines in *Internal Revenue Manual*, Section 4233.27, which lists the factors used to determine the reasonableness of compensation in IRC Section 162 reasonable compensation cases.

Sec. 2 Compliance with IRS Guidelines. The Chancellor shall develop a System-wide policy for establishing the compensation for Highly Compensated Personnel, not covered in Regents' *Rules and Regulations*, Series 20203 (which outlines the procedures for establishing the compensation of key executives), that is in conformance with the spirit of the Internal Revenue Service's *Internal Revenue Manual*, Section 4233.27.

Sec. 3 Board Approval. Compensation for employees of the U. T. System whose total annual compensation is $1 million or more and who are not covered in Regents' *Rules and Regulations*, Series 20203 must be approved by the Board of Regents. The employing institution is responsible for providing documentation that the compensation was established in accordance with the System-wide policy for establishing the compensation for Highly Compensated Personnel.

Sec. 4 Executive Vice Chancellor Approval. Compensation for employees of the U. T. System whose total annual compensation is $500,000 or more but less than $1,000,000 and who are not covered in

Regents' *Rules and Regulations*, Series 20203 must be approved by the appropriate Executive Vice Chancellor. The employing institution is responsible for providing documentation to the Executive Vice Chancellor that the compensation was established in accordance with the System-wide policy for establishing the compensation for Highly Compensated Personnel.

3. Definitions

Highly Compensated Personnel – employees of the U. T. System whose total annual compensation is $500,000 or more and are not covered in Regents' *Rules and Regulations*, Series 20203 (Compensation for Key Executives).

Total Annual Compensation – includes salaries or wages, employer contributions to Teacher Retirement System of Texas and Optional Retirement Program, practice plan supplements, incentive plan payments, unpaid deferred compensation, and excluding employer-provided insurance, expense allowances, and other fringe benefits.

4. Relevant Federal and State Statutes

Internal Revenue Code Section 162 – Trade or Business Expense

Internal Revenue Code of 1986 Section 4958 – Taxes on Excess Benefit Transactions

Internal Revenue Manual, Section 4233.27

5. Relevant System Policies, Procedures, and Forms

Regents' *Rules and Regulations*, Series 20202 – Presidential Cash Compensation

Regents' *Rules and Regulations*, Series 20203 – Compensation for Key Executives

6. Who Should Know

Chancellor
Executive Vice Chancellors
Vice Chancellor for Administration
Presidents

7. System Administration Office(s) Responsible for Rule

Chancellor

15. U. T. System Board of Regents: Appointment of Regental Representatives to U. T. Austin Intercollegiate Athletics Council for Men and Intercollegiate Athletics Council for Women Effective September 1, 2005

The Board made the following appointments as Regental representatives to The University of Texas at Austin Intercollegiate Athletics Council for Men and the Intercollegiate Athletics Council for Women each for a four-year term beginning September 1, 2005:

a. Appoint Mr. R. Steven Hicks to replace Mr. Robert K. Moses, Jr., on the Intercollegiate Athletics Council for Men

b. Reappoint George Willeford III, M.D., to the Intercollegiate Athletics Council for Women.

Mr. Hicks is Chairman of Capstar Partners, LLC, a private investment company based in Austin, Texas, and Dr. Willeford, is a gastroenterologist in private practice in Austin.

16. U. T. Austin: Approval of the reorganization of the John A. and Katherine G. Jackson School of Geosciences

The Board

a. approved the reorganization of the John A. and Katherine G. Jackson School of Geosciences at The University of Texas at Austin as a separate academic college-level entity under the leadership of a dean, by transfer of the Department of Geological Sciences and the Institute for Geophysics from the College of Natural Sciences and by transfer of the Bureau of Economic Geology from the portfolio of the Vice President for Research; and

b. authorized the Executive Vice Chancellor for Academic Affairs to submit this administrative change to the Texas Higher Education Coordinating Board for final approval.

The Jackson School of Geosciences was created in July 2001 to enable effective joint use of the proceeds of an endowment created through gifts of Mr. John A. Jackson prior to his death. The School was named for Mr. Jackson and his late wife, Katherine G. Jackson. The Jackson School exists as a coordinating structure (rather than a governing structure) and includes one academic unit, the Department of Geological Sciences, and two research units, the Bureau of Economic Geology and the Institute for Geophysics. The Jackson School is headed by a Director who reports to the Dean of the College of Natural Sciences. The Chair of the Department of

Geological Sciences and the Director of the Institute for Geophysics also report to the Dean of the College of Natural Sciences. The Director of the Bureau of Economic Geology reports to the Vice President for Research.

Upon the death of Mr. Jackson, U. T. Austin received from his estate more than $250 million for an endowment to build a premier program in geosciences. Mr. Jackson instructed that geosciences include "...geology; geophysics; energy, mineral and water resources; as well as the broad areas of the earth sciences, including Earth's environment." Given the scale and transformative potential of this gift, President Faulkner concluded in 2003 that U. T. Austin should not establish patterns of use of the proceeds without careful thought about the most effective strategy for developing the geosciences at U. T. Austin. Toward that end, he appointed a Jackson School Vision Committee under the leadership of President Emeritus Peter T. Flawn. The Vision Committee reported in December 2003 with a number of recommendations, principal among them that the Jackson School be reorganized to bring the units into closer interaction and common governance.

On April 1, 2004, President Faulkner issued to all members of the Jackson School a detailed response to the Vision Committee's report. He laid out three possible organizational paths that U. T. Austin might follow and invited further comment. On the basis of the responses and his own further analysis, President Faulkner concluded in late April that it would be best to pursue the concept of a "federated school" governing structure. This would provide an effective combination of the resources of the three units to optimize the teaching and research programs in the School.

President Faulkner then asked a Jackson School Implementation Committee to design a specific plan for reorganizing the Jackson School. That plan ultimately was approved by vote of the members of the Jackson School and by Executive Vice President and Provost Sheldon Ekland-Olson. President Faulkner subsequently consulted with the leadership and membership of the Faculty Council. Based upon that consultation, some proposals recommended by the Implementation Committee that are subject to institutional control and that are specific to the composition of appointments, tenure, and graduate studies committees are being modified.

The reorganized Jackson School will be headed by a dean who will report to the Executive Vice President and Provost, as do other academic college-level units. The Chair of the Department of Geological Sciences and the Directors of the Bureau of Economic Geology and the Institute for Geophysics will report to the new dean.

The Counsel and Secretary to the Board will amend the Regents' *Rules and Regulations*, Series 40601, which lists institutions and entities comprising the U. T. System, to add the John A. and Katherine G. Jackson School of Geosciences.

17. U. T. Dallas: Creation of an Advisory Council for the new Cecil H. and Ida Green Center for Systems Biology Science (Regents' *Rules and Regulations*, Series 60302, regarding advisory councils)

The University of Texas System Board of Regents approved the creation of an Advisory Council at The University of Texas at Dallas to be known as the Cecil H. and Ida Green Center for Systems Biology Science Advisory Council.

The Cecil H. and Ida Green Center for Systems Biology Science was created by refocusing funds from the various gifts made to U. T. Dallas over the years by Mr. and Mrs. Green into a program designed to enhance a key U. T. Dallas research priority, biomedical science, and to strengthen the spirit and reality of closer collaborations with The University of Texas Southwestern Medical Center at Dallas. Both of these priorities were at the top of the list of the recommendations for U. T. Dallas formulated by the Washington Advisory Group and presented to the U. T. System Board of Regents in May 2004.

The Advisory Council will have responsibility for sustaining the focus of the Green Center on forefront research in the field of Systems Biology Science; on fostering close and mutually beneficial collaborations between U. T. Dallas and U. T. Southwestern Medical Center - Dallas, in particular between the U. T. Dallas Green Center for Systems Biology Science and the U. T. Southwestern Cecil H. and Ida Green Comprehensive Center for Molecular, Computational and Systems Biology; and on ensuring scientific discoveries that hold promise for improving human health are developed into practical therapies. The Council will review the credentials of candidates for appointment to endowed faculty positions in the Green Center for Systems Biology Science.

Approval of this Advisory Council is pursuant to the Regents' *Rules and Regulations*, Series 60302, which requires Board approval for the establishment of new advisory councils.

18. U. T. System: Approval to authorize requirement of criminal background checks of applicants and students of clinical programs and charge necessary fees

The University of Texas System Board of Regents granted authority to all University of Texas System institutions offering clinical programs to

a. require criminal background checks of applicants and students as a condition of admission and continued participation in clinical programs; and

b. charge fees as necessary to cover the cost of the criminal background check and related services.

The next appropriate institutional catalogs will be amended to reflect this action.

Increasingly, facilities in which students enrolled in clinical programs receive education and training require a criminal background check. Licensing boards and clinical facilities in Texas require criminal background checks before issuing a license to practice or allowing the student in their facility. All U. T. institutions with clinical programs subject to this authorization will amend catalogs to inform prospective applicants of this requirement. Individuals who are unable to pass the criminal background check may be denied admission or continued enrollment in the program.

The detailed policies for conduct of such criminal background checks including issues of confidentiality must be approved by the Office of General Counsel and the Executive Vice Chancellor for Academic Affairs or the Executive Vice Chancellor for Health Affairs.

19. U. T. M. D. Anderson Cancer Center: Authorization to extend the term of the leaseback to the U.S. Government Department of Defense of approximately 18 acres of land and improvements located at 1850 and 1902 Old Spanish Trail, Houston, Harris County, Texas (DOD Site); and finding of public purpose

Authorization was granted by The University of Texas System Board of Regents, on behalf of The University of Texas M. D. Anderson Cancer Center, to

a. extend the leaseback to the U.S. Government Department of Defense from a term not to exceed four years to a term not to exceed 10 years from the date of acquisition of approximately 18 acres of land and improvements located at 1850 and 1902 Old Spanish Trail, Houston, Harris County, Texas (DOD Site) during construction by the Department of Defense of the Ellington Site joint Reserve facilities;

b. determine that the lease of the DOD Site and improvements thereon to the U.S. Government for an extended term to include periods of no rent or below market rent serves a public purpose appropriate to the function of U. T. M. D. Anderson Cancer Center, and that the consideration to the U. T. System and U. T. M. D. Anderson Cancer Center for lease of the DOD Site is adequate; and

c. authorize the Executive Vice Chancellor for Business Affairs or the Executive Director of Real Estate to execute all documents, instruments, and other agreements, subject to approval of all such documents as to legal form by the Office of General Counsel, and to take all further actions deemed necessary or advisable to carry out the purpose and intent of the foregoing actions.

On May 12, 2005, in furtherance of the long-term strategic plan for U. T. M. D. Anderson Cancer Center for development of The University of Texas Research Park on land located south of Old Spanish Trail, authorization was granted by the U. T. System Board of Regents, on behalf of U. T. M. D. Anderson Cancer Center, to: (1) acquire the Ellington Site and then convey the Ellington Site to the U.S. Government Department of Defense, together with a cash equalization payment in the amount of approximately $18.2 million from institutional funds for the construction of new joint Reserve facilities at the Ellington Site, in exchange for the conveyance by the U.S. Government Department of Defense to the U. T. System of the DOD Site; and (2) enter into a leaseback to the U.S. Government Department of Defense for a period not to exceed four years from the date of closing to occupy the DOD Site during construction by the Department of Defense of the Ellington Site joint Reserve facilities. This Agenda Item seeks additional approvals with respect to the proposed exchange transaction between the U. T. System and the U.S. Government Department of Defense.

Since the approval in May 2005, U. T. M. D. Anderson Cancer Center and the U.S. Government Department of Defense have continued their negotiations of the exchange transaction and the leaseback. Those negotiations include new lease terms to address certain concerns of the U.S. Government Department of Defense. Due to uncertainties regarding the timing of future appropriations to complete the construction of the Ellington Site new joint Reserve facilities, and because the reserve units stationed at the DOD Site have no alternative facilities in the Houston area, the U.S. Government Department of Defense has insisted on a leaseback term well in excess of four years, and the parties have negotiated a maximum leaseback term of 10 years from the date of closing.

Additionally, because there is a substantial lead time inherent in the U.S. Government Department of Defense's budget appropriation process, it is concerned about events beyond its reasonable ability to anticipate or control (Force Majeure Events) that may delay completion of the new joint Reserve facilities beyond the initial four-year rent-free period. To address these concerns, the parties have negotiated to extend the no-rent period beyond the four years previously approved by the number of days lost to Force Majeure Events that occur during the initial four-year period of the lease.

Finally, if construction of the new joint Reserve facilities at the Ellington Site takes longer than four years, the Department of Defense is concerned about obtaining additional funding from Congress to cover its rental obligations. U. T. M. D. Anderson Cancer Center, while recognizing the Department of Defense's funding and appropriation issues, also wants to motivate the U.S. Government Department of Defense to diligently pursue completion of the new joint Reserve facilities and promptly vacate the DOD Site. As a means of addressing both parties' concerns, the parties are negotiating a graduated rental rate for the fifth year through the tenth year of the lease term. The average graduated rental rate will be based on the fair market rental rate for that six-year period, as determined by appraisal prior to the fifth year of the lease. Although the specific rental rate graduations are still subject to negotiation, the parties contemplate rental rates substantially lower than fair market value in years five, six, and seven, and rising to rental rates substantially above fair market value in years 9 and 10 of the lease.

These additional lease terms are critical and necessary elements in effecting the property exchange at this time. The lease serves a public purpose appropriate to the function of U. T. M. D. Anderson Cancer Center, and provides adequate consideration for the U. T. System because it enables a transaction that

1. establishes a fixed price at the current appraised value in an escalating market, thus allowing U. T. M. D. Anderson Cancer Center to avoid market risk, future development risk, and the financial responsibility for any changes in scope to the new joint Reserve facility;

2. enhances the overall value of the contiguous U. T. Research Park land;

3. permits the activities of the Reserves on the DOD Site to continue while a new joint use facility is built; and

4. represents U. T. M. D. Anderson Cancer Center's best chance of acquiring the DOD Site, inasmuch as the DOD Site cannot be acquired by condemnation.

<u>Counsel and Secretary's Note</u>: Competing appraisal methodologies used for demolition costs changed the cash equalization price from $17.6 million to $18.2 million between the time the May 9-10, 2005 and July 8, 2005 Agenda Items were prepared.

RECESS TO EXECUTIVE SESSION.--At 1:30 p.m., Chairman Huffines announced the Board would recess to convene in Executive Session pursuant to *Texas Government Code* Sections 551.071 and 551.073 to consider those matters listed on the Executive Session agenda.

RECONVENE IN OPEN SESSION.--At 1:56 p.m., the Board reconvened in open session and took the following action on matters discussed in Executive Session:

1a. U. T. Medical Branch - Galveston: Approval regarding Settlement Agreement and Institutional Compliance Agreement between the Office of Inspector General of the Department of Health and Human Services and U. T. Medical Branch - Galveston

Vice-Chairman Clements moved that The University of Texas System Board of Regents authorized Executive Vice Chancellor for Health Affairs to approve, with the concurrence of the Vice Chancellor and General Counsel, the Settlement Agreement and the Institutional Compliance Agreement between the Office of the Inspector General of the United States Department of Health and Human Services and The University of Texas Medical Branch at Galveston in accordance with the proposal presented in Executive Session.

The motion was seconded by Regent Estrada and carried unanimously.

1b. U. T. Arlington: Discussion and appropriate action regarding litigation involving patent infringement matter

A matter relating to litigation involving a patent infringement matter at The University of Texas at Arlington was not included in the agenda materials but was posted with the Secretary of State. No action was taken on this item.

2. U. T. M. D. Anderson Cancer Center: Approval to name the future Institute for the Early Detection and Treatment of Cancer at the U. T. Research Park as the Red and Charline McCombs Institute for the Early Detection and Treatment of Cancer

Vice-Chairman Krier moved that The University of Texas System Board of Regents approve the naming of the future Institute for the Early Detection and Treatment of Cancer at the U. T. Research Park at The University of Texas M. D. Anderson Cancer Center in Houston be named the Red and Charline McCombs Institute for the Early Detection and Treatment of Cancer in accordance with the proposal presented in Executive Session.

The motion was duly seconded and carried unanimously.

RECESS TO EXECUTIVE SESSION.--At 1:58 p.m., Chairman Huffines announced the Board would recess to convene in Executive Session pursuant to *Texas Government Code* Section 551.074 to consider those matters listed on the Executive Session agenda.

RECONVENE IN OPEN SESSION.--At 4:44 p.m., the Board reconvened in open session. No action was taken on the following matter discussed in Executive Session:

3. <u>U. T. System: Consideration of individual personnel matters relating to appointment, employment, evaluation, compensation, assignment, and duties of presidents (academic and health institutions), U. T. System Administration officers (Executive Vice Chancellors and Vice Chancellors), other officers reporting directly to the Board (Chancellor, Counsel and Secretary, and Director of Audits), and U. T. System employees</u>

SCHEDULED MEETINGS.--The next scheduled meeting will be held on August 10-11, 2005, in Galveston.

ADJOURNMENT.--There being no further business, the meeting was adjourned at 4:45 p.m.

/s/ Francie A. Frederick
Counsel and Secretary to the Board

August 8, 2005