

Higher Education Restructuring Act: Approval of the Process and Documents Required to Become a Covered Institution

The Higher Education Financial and Administrative Operations Act (Restructuring Act) includes a section which provides the opportunity for an institution to request the highest level of autonomy in pursuit of operational and administrative efficiencies. An institution granted this level of autonomy is termed a “covered institution.” Shortly after the approval of the Restructuring Act by the General Assembly in April 2005, Virginia Tech began the process of developing strategies and plans to request approval to become a covered Institution.

The University is poised to complete the activities needed to obtain the needed state approvals, and this report provides an overview of the documents involved in this process and the steps needed to complete the submission to the Administration.

As a covered Institution, the Board of Visitors assumes full responsibility for the management of the University, subject to the management agreement and the operational policies attached to the agreement. In recent months, University administrators have been working with the Governor’s cabinet to negotiate the specific authorities in each of the operational areas allowed by the Restructuring Act. In each of the areas the University seeks further autonomy, a draft policy statement has been developed and will be attached to the final management agreement.

The policies and management agreement included with this report in the Board mailing are drafts that have been reviewed and discussed with the Administration but are awaiting final approval from the Governor and his Cabinet. The University is working to finalize the negotiations with the Administration on the policies and the management agreement. Based on discussions with Administration representatives, the University anticipates that final documents will be available for review by the November 7, 2005 Board of Visitors’ meeting.

Application to be Governed as a Covered Institution

During its September 2005 meeting, the Board of Visitors passed a resolution stating the University’s ability to be governed as a covered institution. This resolution was included in the application materials University administrators prepared for the Governor to demonstrate that the University meets the requirements of the Restructuring Act and has the necessary administrative infrastructure and financial capabilities to become a covered institution.

The application included statements about the University’s administrative and financial capabilities to manage the additional autonomy as well as copies of the

University's bond rating certifications, copies of letters stating our achievement of the Commonwealth's Management Standards, and a copy of the Board of Visitors' resolution stating that the University is qualified to be governed as a covered institution. A copy of the application submitted to the Governor will be attached to the management agreement.

Management Agreement

The Restructuring Act requires the University to negotiate a management agreement with the Commonwealth to specify the additional autonomy the University would receive in six operational areas: capital outlay, procurement, leasing, finance and accounting, human resources, and information technology.

Each institution seeking covered institution status negotiates an institution specific management agreement. The proposed management agreement provides a description and listing of the elements of a management agreement, as provided for in the Restructuring Act. Further, the management agreement incorporates the policy statements resulting from the negotiations with the Administration in each of the six operational areas. All of the authorities negotiated between Virginia Tech and the Commonwealth will be available to both the University Division and the Virginia Cooperative Extension and the Agricultural Experiment Station Division. The Restructuring Act requires the management agreement to specifically state this intent in the negotiated document

A draft management agreement is included with this report. As mentioned previously, this is a draft document that has been negotiated with representatives of the Administration but is awaiting final review by the Governor and Cabinet.

Board Policies

The Restructuring Act requires that the Board of Visitors approve policy statements in each of the areas the University seeks additional authority. Six policies were developed and negotiated with the Administration in the following areas: leasing, procurement, finance and accounting, human resources, information technology and capital outlay. A document titled "Rules Governing Procurement of Goods, Services, Insurance, and Construction" is also attached to the procurement policy. The Restructuring Act requires that any deviation from the Virginia Public Procurement Act must be consistent amongst covered institutions. Thus, the "Rules" document represents a consolidated set of procurement rules agreed to by representatives from Virginia Tech, University of Virginia, and the College of William and Mary. The University anticipates that the University of Virginia and the College of William and Mary will also conclude their work to become covered institutions in November 2005.

The human resources and procurement policies will also have Memorandums of Understanding attached describing additional commitments between the University and the Department of Human Resources Management and Department of General Services, respectively.

Draft policy documents are included in the board materials. As mentioned previously, these are draft materials that have been negotiated with representatives of the Administration but are awaiting final review by the Governor and Cabinet.

Accountability Measures and Performance Benchmarks

As part of the University's application to be governed as a covered institution, the Board of Visitors must approve accountability measures and performance benchmarks in those areas where the University seeks further autonomy. A copy of the suggested performance measures submitted to the Administration as part of the University's application is attached. The Restructuring Act requires that these accountability measures and performance benchmarks be approved by the Board of Visitors, along with the management agreement and operational policies.

The Board approved performance measures are in addition to those educational related measures the State Council of Higher Education ("SCHEV") recommended in October as part of their statutory responsibility to certify whether or not all institutions have met the state's goals and are eligible for the Level One financial incentives provided by the Restructuring Act. Further, the Governor must include in the 2006-08 "Budget Bill" those educational related measures SCHEV proposed as well as additional administrative and financial measures.

Approval of Management Agreement

For the management agreement to be effective for the 2006-07 fiscal year, the Governor must sign the management agreement on or before November 15, 2005 and forward copies to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance and the Senate Committee on Education and Health. The Governor must also include a recommendation for approval of the management agreement in Budget Bill for the 2006-2008 biennium or in his amendments to the 2004-2006 biennial budget when it is presented to the money committees on December 16, 2005.

During the 2006 General Assembly session, legislators may approve or disapprove the management agreement as recommended by the Governor. If the agreement is approved through the 2006-08 Appropriation Act, it will become effective on July 1, 2006. If the management agreement is included in a caboose

bill to the 2004-06 biennial budget, the effective date is likely to be the latter months of the 2005-06 fiscal year.

Implementation of Management Agreement

On the effective date, the University may operate as a covered institution in accordance with the management agreement and operational policies for a period of three years. However, during this three year period, an act of the General Assembly may revoke a management agreement or it could be voided by the Governor if a written determination is made that the University is not in substantial compliance with the terms of the management agreement or with the requirements of the Restructuring Act.

As an element of the accountability standards in the Restructuring Act, the Joint Legislative Audit and Review Commission, in cooperation with the Auditor of Public Accounts, shall conduct a review relating to the initial management agreement. The review should cover a period of at least the first 24 months.

Beginning in June 2007, the State Council of Higher Education in Virginia will certify whether all public institutions have met the performance measures (educational as well as administrative and financial measures proposed by the Governor) and thus shall receive the financial benefits detailed in the Restructuring Act. If the University becomes certified, the Level One financial benefits would be available after July 1, 2007.

Board of Visitors' Approval of the Required Documents for Covered Institution Status

The University submits that the proposed management agreement and related policy statements and memorandums of understanding reflect the agreements developed with representatives of the Administration through a series of meetings and negotiations. Further, the University believes that the Application to be Governed as a Covered Institution and the listing of Accountability Measures and Performance Benchmarks meet the requirements of the Restructuring Act. The University has engaged in an extensive exercise in considering the covered institution status, requirements, and commitments, and the University believes that the implementation of covered institution status is an important and appropriate step at this time.