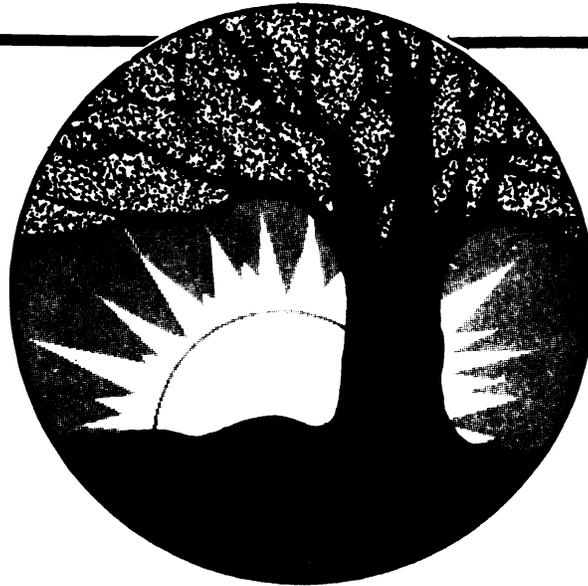


PERFORMANCE AUDIT

University of Tennessee Board of Trustees
March 2007



John G. Morgan
Comptroller of the Treasury



State of Tennessee
Comptroller of the Treasury
Department of Audit
Division of State Audit

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STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
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John G. Morgan
Comptroller

March 27, 2007

The Honorable Ron Ramsey
Speaker of the Senate
The Honorable Jimmy Naifeh
Speaker of the House of Representatives
The Honorable Thelma M. Harper, Chair
Senate Committee on Government Operations
The Honorable Mike Kernell, Chair
House Committee on Government Operations
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the performance audit of the University of Tennessee Board of Trustees. This audit was conducted pursuant to the requirements of Section 4-29-111, *Tennessee Code Annotated*, the Tennessee Governmental Entity Review Law.

This report is intended to aid the Joint Government Operations Committee in its review to determine whether the Board of Trustees should be continued, restructured, or terminated.

Sincerely,

John G. Morgan
Comptroller of the Treasury

JGM/dww
06-046

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Performance Audit
University of Tennessee Board of Trustees
March 2007

AUDIT OBJECTIVES

The objectives of the audit were to determine whether board membership and meetings meet statutory requirements and best practices; to determine the board's review and oversight of higher education foundations; to determine the impact of the lottery on the student population, physical infrastructure, academic infrastructure, and administrative infrastructure and what steps the university has taken to address these issues; to determine how the board and university are managing enrollment, retention, and graduation rates, particularly in light of the impact of the lottery; to determine the adequacy of the board policy for reviewing the university president's performance; to determine the extent to which the UT Board of Trustees' audit committee has complied with the responsibilities enumerated in the Audit Committee Act of 2005 (Title 4, Chapter 35, *Tennessee Code Annotated*); to ascertain the status and content of the university's system-wide strategic plan currently under development; to determine what steps the board and university administration have taken to ensure that the computer-generated data upon which they depend to govern the university are accurate and reliable; to summarize and assess information documenting the university's compliance with Title VI requirements; and to recommend possible alternatives for legislative or administrative action that may result in more efficient and effective operation of the university and board.

FINDINGS

The Board of Trustees Should Improve Its Public Notification of Upcoming Full Board and Committee Meetings by Printing the Notices in Newspapers Statewide or Posting a Notice on the Board's Website

The University of Tennessee system is a statewide system, serving approximately 55,000 students and staff as well as the

approximately 6 million citizens of Tennessee. The board should take steps such as printing notices in major newspapers and placing notice on the board's website to ensure that a broader segment of the statewide population is aware of board meetings (page 35).

The Board of Trustees Should Revise Its Policy on Presidential Performance Reviews to Ensure Multiple Trustees Are Involved in Conducting the Review and That They Document the Review Sufficiently

The current board policy has only the board vice-chair evaluating the university president's performance and does not produce any documentation beyond the president's self-assessment and the vice-chair's written recommendation to the board. Multiple trustees should be involved in a formal performance review of the university president to ensure a more balanced evaluation (page 37).

In Light of Known Student Data Preparation and Reporting Inconsistencies and Reliability Problems, the UT Board of Trustees Should Address the Reliability of Reported Management Data and Ensure That There Are System-Wide Internal Controls Over Statistical Student Data Preparation And Reporting and System-Level Management and Oversight of Student Data Information Systems

Trustees, university administrators, and state legislators rely on university-prepared and

reported student data to make decisions regarding budgets, capital projects, enrollment, academic programs, and campus services. However, there are no university system-wide controls and oversight of statistical student data preparation and reporting. During our audit work, we found instances of incorrect data such as admissions information that is reported to and used by various state and federal agencies. The board should make data reliability a priority and should direct university administrators to create system-level oversight of data systems and to develop campus and system-level data reliability goals and standards to ensure the reliability of prepared and reported data used by administrators and trustees (page 41).

OBSERVATIONS AND COMMENTS

The audit also discusses the following issues: (1) the *Geier* lawsuit; (2) board oversight and university foundations; (3) student enrollment and retention and the impact of the lottery; and (4) the results of additional work (page 7).

Performance Audit

University of Tennessee Board of Trustees

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Performance Audit University of Tennessee Board of Trustees

INTRODUCTION

PURPOSE AND AUTHORITY FOR THE AUDIT

This performance audit of the University of Tennessee (UT) Board of Trustees was conducted pursuant to the Tennessee Governmental Entity Review Law, *Tennessee Code Annotated*, Title 4, Chapter 29. Under Section 4-29-228, the Board of Trustees is scheduled to terminate June 30, 2007. The Comptroller of the Treasury is authorized under Section 4-29-111 to conduct a limited program review audit of the agency and to report to the Joint Government Operations Committee of the General Assembly. The audit is intended to aid the committee in determining whether the University of Tennessee Board of Trustees should be continued, restructured, or terminated.

OBJECTIVES OF THE AUDIT

The objectives of the audit were

- to determine whether board membership and meetings meet statutory requirements and best practices;
- to determine the legal boundaries in state and federal law for higher education foundations as they relate to UT and what oversight and involvement the UT Board of Trustees can legally exercise, to what extent the UT Board of Trustees is actually overseeing the three foundations that operate in the university's name, and whether current day-to-day operations of and between the three university foundations and the university itself comply with any legal restrictions on educational foundations and previous State Audit recommendations;
- to determine the impact of the lottery on the student population, physical infrastructure, academic infrastructure, and administrative infrastructure and what steps the university has taken to address these issues;
- to determine how the board and university are managing enrollment, retention, and graduation rates, particularly in light of the impact of the lottery;
- to determine the adequacy of the board policy for reviewing the university president's performance;

- to determine the extent to which the UT Board’s audit committee has complied with the responsibilities enumerated in the Audit Committee Act of 2005 (Title 4, Chapter 35, *Tennessee Code Annotated*);
- to ascertain the status and content of the university’s system-wide strategic plan currently under development;
- to determine what steps the board and university administration have taken to ensure that the computer-generated data upon which they depend to govern the university are accurate and reliable;
- to summarize and assess information documenting the university’s compliance with Title VI requirements; and
- to recommend possible alternatives for legislative or administrative action that may result in more efficient and effective operation of the university and board.

SCOPE AND METHODOLOGY OF THE AUDIT

The activities of the UT Board of Trustees were reviewed for the period January 2003 through June 2006. The audit was conducted in accordance with the standards applicable to performance audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States and included

1. review of applicable legislation and policies and procedures;
2. examination of the board’s records, reports, and information summaries; and
3. interviews with trustees and university staff.

ORGANIZATION AND STATUTORY RESPONSIBILITIES

Title 49, Chapter 9, *Tennessee Code Annotated*, sets forth statutory requirements for the University of Tennessee (UT) system. UT carries out its three principal missions—instruction, research, and public service—through four primary campuses (Knoxville, Chattanooga, Martin, and the Health Science Center in Memphis), three institutes (the Space Institute, the Institute of Agriculture, and the Institute for Public Service), and agricultural and service operations across the state.

The University of Tennessee is governed by the UT Board of Trustees. The board meets composition requirements, and there are no vacancies. It is composed of 21 Governor-appointed members and five *ex officio* members (the Governor, the Commissioners of the Departments of Agriculture and Education, the Executive Director of the Tennessee Higher Education Commission, and the President of the University of Tennessee). The Governor-appointed members consist of the following:

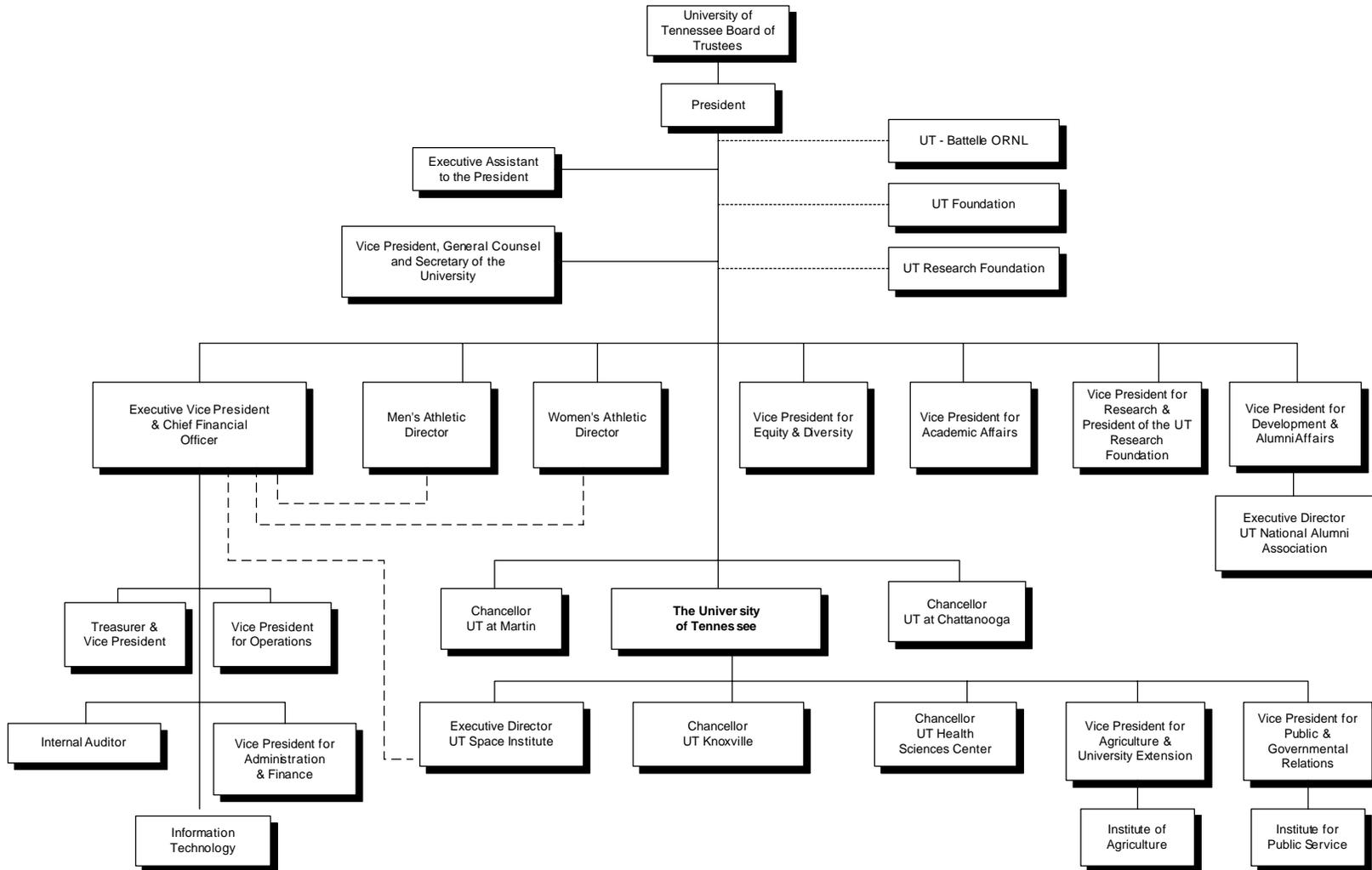
one person from each of the nine congressional districts;
two members from Knox County;
two members from Shelby County;
one member from Weakley County;
one member from Hamilton County;
one member from Davidson County;
one member from Anderson, Bedford, Coffee, Franklin, Lincoln, Moore, or Warren County;
two immediate past presidents of faculty senates (rotates annually among UT institutions)—one a voting member and the other non-voting who will become the voting member the next year; and
two students (rotates annually among UT institutions)—one a voting member and the other non-voting who will become the voting member the next year.

The board has powers including, but not limited to, selecting (and removing) a president, and such professors, tutors, and other officers as they judge necessary; fixing and regulating the salaries of those individuals; making bylaws, rules, and regulations for the government of the university and the promotion of education; and conferring degrees, in conjunction with the president and professors of the university.

The University of Tennessee-Knoxville serves the state through a broad spectrum of undergraduate, graduate, and professional studies and research. The University of Tennessee-Chattanooga defines itself as a “metropolitan university” dedicated to meeting the general and professional educational needs of area residents, with a wide variety of programs, most focusing on undergraduate education. The University of Tennessee-Martin offers undergraduate degree programs in more than 80 specialized fields of study, as well as selected graduate programs. The Health Science Center in Memphis includes colleges of medicine, dentistry, pharmacy, nursing, and allied health professions.

As the state’s land-grant institution, UT offers specialized agriculture programs through its Institute of Agriculture, which includes the College of Veterinary Medicine, the Agricultural Experiment Station, and the Agricultural Extension Service. The university system also provides graduate study and research in aerospace engineering and related fields at the Space Institute in Tullahoma and assistance to governments, business, and industry through the Institute for Public Service, the Municipal Technical Advisory Service, and the County Technical Assistance Service. The university-wide administration offices—which include the office of the president of the university, as well as the Offices of Business and Finance, Academic Affairs, Alumni Affairs, and Research—are located at the Knoxville campus. (See the organization chart on the following page.)

University of Tennessee
June 2006



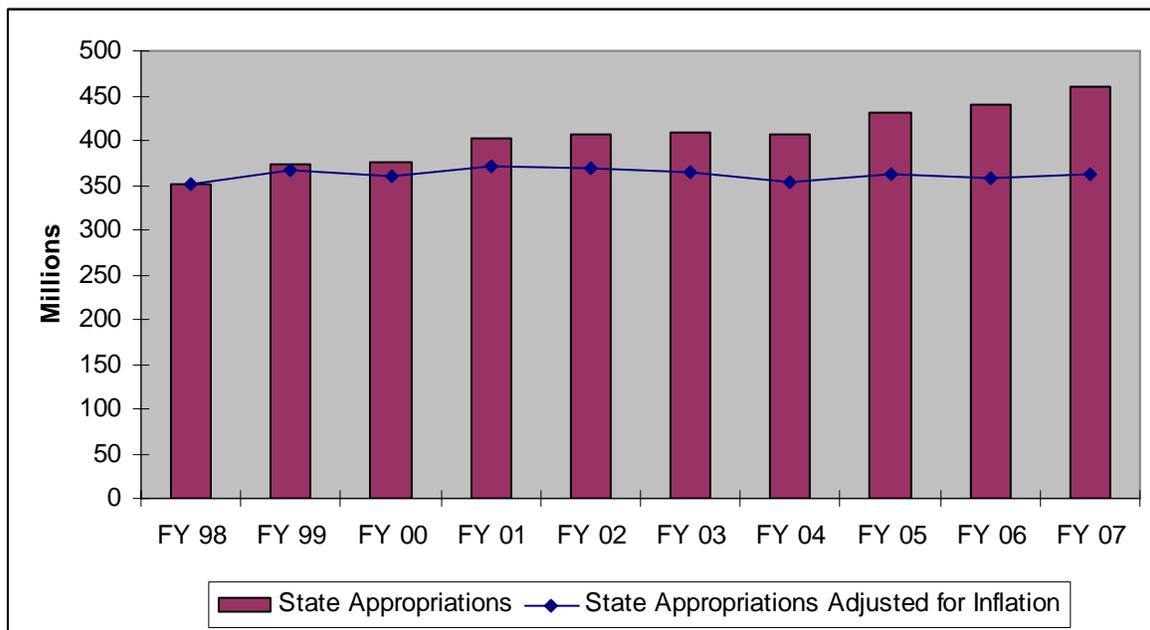
REVENUES AND EXPENDITURES

State appropriations made up approximately 30-31% of 2004 and 2005 university revenues, respectively. Other sources of revenue in 2005 included gifts, grants, and contracts (28%); tuition and fees (18%); auxiliary enterprises (10%); other (6%); independent operations (6%); federal and local appropriations (1%); and non-mandatory transfers and hospitals (less than 1%).

	University of Tennessee System*		University of Tennessee Foundation		University of Chattanooga Foundation	
	2004	2005	2004	2005	2004	2005
Revenues	1,404,539,000	1,448,918,000	14,697,000	10,333,000	10,866,000	3,031,000
Expenses	1,340,677,000	1,400,362,000	1,735,000	6,543,000	8,647,000	10,511,000
Year-End Net Assets	1,625,249,000	1,591,709,000	18,754,000	22,544,000	106,576,000	99,096,000

*includes University of Tennessee Research Foundation

Source: State Audit Report, *The University of Tennessee, for the Year Ended June 30, 2005*.



Source: UT budget presentation to the Board of Trustees, June 21, 2006.

**THE UNIVERSITY OF TENNESSEE
BOARD OF TRUSTEES BUDGET
FISCAL YEAR 2006**

Professional Salaries	\$ 49,021
Operating	
Travel	\$ 18,900
Media Processing	2,000
Communication	3,460
Maintenance Repairs	155
Professional Services Memberships	8,000
Supplies	2,654
Contractual, Special Services	28,599
Rentals & Insurance	90
Insurance & Interest	60
Total Operating	\$ 62,764
Grand Total	\$ 112,939

OBSERVATIONS AND COMMENTS

The topics discussed below did not warrant a finding but are included in this report because of their effect on the operations of the University of Tennessee Board of Trustees and on the citizens of Tennessee.

THE *GEIER* LAWSUIT

On May 21, 1968, the *Geier* case was filed by private plaintiffs to enjoin the proposed construction of the University of Tennessee-Nashville Center (UT-Nashville). The original plaintiffs argued that construction of the predominantly white UT-Nashville would perpetuate the racial identifiability of Tennessee State University (TSU), also located in Nashville, as a segregated black institution, thereby maintaining Tennessee's long-established dual system of public higher education. On July 22, 1968, the U.S. Department of Justice, Civil Rights Division, Educational Opportunities Section, intervened. A new UT-Nashville campus was ultimately constructed in downtown Nashville. However, on February 28, 1977, the district court ordered the merger of TSU and UT-Nashville. The court subsequently entered a Stipulation of Settlement between the state, the original plaintiffs, and the private plaintiff-intervenors on September 25, 1984.

According to the terms of the settlement, UT and the Board of Regents were required to establish enrollment, employment, and other desegregation goals at all state universities and colleges. Several stipulations required a good-faith effort by the university systems, while others required a specific percentage of African-American students and faculty before compliance with the consent decree could be achieved. The court ordered Tennessee State University in Nashville to increase its white enrollment to 50 percent; minority enrollment and hiring goals were set later for the state's other universities by a special Desegregation Monitoring Committee. The committee, which was composed of representatives from UT, the Board of Regents, and the Tennessee Higher Education Commission, was identified as the entity responsible for reporting to the court. The state assured the plaintiffs that the implementation of the settlement would not decrease access to public higher education in Tennessee by qualified African-American students, nor would the state decrease the African-American presence in administrative and faculty positions within the two statewide systems.

In late 1999, the parties voluntarily retained a professional mediator to attempt to resolve outstanding issues in the case. After a year of negotiations, the parties reached a new settlement that, if fully implemented, is expected to desegregate Tennessee's system of public higher education. The new consent decree was entered by the court on January 4, 2001. While the desegregation monitoring committee was disbanded and specific numerical racial goals were dropped, UT was required

- to establish a statewide committee on faculty and administrative hiring that would propose ways to utilize institutional resources to enhance and further the recruitment and retention of African-American faculty and administrators;
- to agree that employment decisions within the UT system would be open, fair, and competitive;
- to study currently implemented strategies for the recruitment of other-race high school students and other-race community college students and to propose enhancements to recruitment practices;
- to employ one full-time recruiter in Nashville and another in Memphis who will devote significant effort to recruiting African-American students;
- to increase the availability of financial aid for other-race students attending UT schools;
- to assess its current retention practices and programs and propose changes to those practices that would close the “persistence gap” between black and white students; and
- to assess expansion of cooperative extension and agricultural research collaboration with TSU.

An October 14, 2004, status report filed with the court by the court monitor on the Geier Consent Decree shows satisfaction with UT’s actions to comply with the decree. The only weakness mentioned involved the increases in UT’s and the Board of Regents’ recruitment and retention of African-American faculty, which have not grown appreciably.

On September 21, 2006, a federal judge dismissed the lawsuit and ceased court oversight after finding the state had complied with the decree.

BOARD OVERSIGHT AND UNIVERSITY FOUNDATIONS

In August 2003, the university’s internal auditor released a special review of the UT president’s office. Most of the review’s recommendations addressed university administration; a few addressed the board. A June 2004 follow-up conducted by the university’s internal auditor and transmitted to the university president and state Comptroller determined that appropriate actions had been or were being taken by the university and the UT Board of Trustees to address the internal control weaknesses identified in the audit.

In October 2003, the Division of State Audit released its investigative review of issues related to the presidency of Dr. John Shumaker and made comments and recommendations directly concerning the board. Also in October, the board’s Governance Task Force presented its own report on the effectiveness of board and university administration oversight.

A February 2005 performance audit by the Division of State Audit found that the UT Board of Trustees and university administration had taken or were in the process of taking appropriate actions to rectify weaknesses in administration of the university as well as board operations. However, the same report found that the board had neither addressed nor formally discussed the finding taken by the Division of State Audit in its October 2003 special report that “without appropriate oversight, the University of Tennessee Foundation can serve as a technically legal vehicle to divert public funds and circumvent laws providing for accountability and controls over public funds and assets.” The report recommended, “The Board should study the issues presented in this report relative to the foundation and the actions and attitudes that may serve to undercut the necessary commitment to accountability and compliance with applicable laws and policies and take steps to ensure that these mistakes do not recur and that an environment conducive to such errors is not tolerated.”

On March 28, 2005, the Governance Committee of the UT Board of Trustees created an Ad Hoc Committee on the UT Foundation to review the purpose of the UT Foundation and the operating relationship between UT and the UT Foundation. A preliminary report was submitted to the Governance Committee on June 22, 2005. In addition to reporting certain changes initiated by the foundation itself, the committee reported it was working on a revised memorandum of agreement between the university and the UT Foundation. In December 2005, a new agreement was signed between UT and the UT Foundation. However, despite the improvements made by the board in the relationship with the UT Foundation, there remain concerns regarding the board’s inconsistent approach to and relationship with all three of its foundations, the foundations’ lack of operational separation from the university, the lack of information provided to UT trustees regarding the activities and financial situations of foundations that operate in the university’s name, and the appropriateness of certain foundation arrangements and fund usage.

University Foundations

The University of Tennessee has three supporting foundations whose assets are solely for the benefit of the university: the University of Tennessee Foundation, the University of Tennessee Research Foundation, and the University of Chattanooga Foundation. Established as 501(c)(3) corporations, these foundations are subject to Internal Revenue Service requirements including restrictions on self-dealing between the foundation and its substantial contributors, that any income be distributed solely for a charitable purpose, that investments not jeopardize the carrying out of that purpose, and others.

Statutory Basis of Foundations

Tennessee law authorizes the existence of foundations to support public higher education institutions. Section 49-7-107, *Tennessee Code Annotated*, specifically authorizes the UT Board of Trustees to take such steps necessary to the establishment of foundations, to enter into agreements with foundations, to require public university-related foundations to establish a code of ethics to govern the conduct of all board members, and to subject such foundations to audit by the Comptroller of the Treasury. With the exception of a research foundation (e.g., the UT

Research Foundation), state law does not touch on the relationship of a university with its supportive foundation. Section 49-9-1402, *Tennessee Code Annotated*, expressly grants the University of Tennessee authority to “take whatever steps it deems necessary to form and participate in legal entities organized under the laws of this state for the purpose of . . . carrying out the university’s research mission” and to enter into “joint ventures and other cooperative arrangements with such entities” to further the research mission. It also allows the University to grant such entities use of University employees. In addition, statute states that the “part shall be liberally construed in conformity with its purposes.” Higher education institutions have created foundations primarily because of state constitutional prohibitions against the state’s credit being loaned or given to or in aid of any person, association, company, corporation or municipality and against the state becoming the owner in whole or in part of any bank or a stockholder with others in any association, company, corporation or municipality.

Tennessee law also regulates real estate projects of such foundations. Section 4-15-102, *Tennessee Code Annotated*, gives the State Building Commission power to approve and supervise all improvements to realty in excess of five hundred thousand dollars (\$500,000) by an educational foundation, if operation of the property is intended to be the responsibility of a Tennessee institution of higher education. In addition, that section also states that the Building Commission must approve any plans for the improvement or demolition of any structure by an educational foundation if it is on land in which the Tennessee institution of higher education has an interest.

University of Tennessee Foundation

The University of Tennessee (UT) Foundation’s mission is to support the educational, research, and public activities of the university by seeking, receiving, and administering private funds to support programs beyond the scope of the university’s general budget. The UT Foundation, established in 2000, is led by a president and a board of directors drawn from corporate and community leaders from across the State of Tennessee. Foundation funds are solely for the benefit of UT. Currently, two of the foundation board directors also sit as UT Board trustees.

The foundation’s sole full-time employee is an accountant on UT’s payroll who is responsible for overseeing and controlling the financial activities of the foundation. (The foundation reimburses UT for the employee’s services.) The UT Vice President for Development and the UT Treasurer serve as the foundation’s president and treasurer; the university is not reimbursed for these persons’ time and services. The foundation rents space from the university and maintains its accounting records within the university’s accounting system.

In late 2005, the foundation signed a new Memorandum of Agreement (MOA) with the university and restated its bylaws. According to the MOA, the foundation will receive and manage gifts for the benefit of the university and will engage in entrepreneurial ventures and other revenue-raising acts. It states that the university is to inform the foundation of UT priorities and long-range plans and provide the foundation with information systems, staff effort

for development, gift processing, and administrative systems maintenance. The MOA also requires the foundation to reimburse the university for any expenses UT would not otherwise have incurred. Under this new agreement, the university directly receives all private giving. The foundation can only accept gifts specifically directed to it by the donor or gifts that the university is prohibited from accepting (e.g., annuities and encumbered gifts). The UT Development Office conducts all fund-raising activities for both the university and the foundation. If the university is prohibited from accepting certain types of gifts, those gifts may be directed to foundation accounts.

The new MOA requires that the President of UT and one other senior UT administrator (currently UT's Chief Financial Officer) shall serve as non-voting members of the foundation board of directors. The UT President holds veto power over any proposed activity of the foundation if it is determined not to be in the best interest of the university. The MOA also states that the foundation cannot not pay any UT employee directly (including the UT President), but the foundation may reimburse UT for services of university employees specifically assigned to support the foundation. To bolster communication, the MOA also requires that the foundation make an annual report to UT of its activities and budget. Though presented as a discrete component unit in the University's audited financial statements, currently, beyond a brief verbal report on foundation activities and a copy of its operating budget, UT Board trustees are not provided with detailed explanatory information or notes on the UT Foundation's activities, properties, indebtedness, and asset management.

The foundation's largest project to date is the construction of Knoxville Place, a student housing complex located next to the Knoxville campus that was financed through approximately \$60 million in bonds and is held by a limited liability corporation created by the foundation.

University of Chattanooga Foundation

The mission of the University of Chattanooga Foundation (UC Foundation) is to support the University of Tennessee at Chattanooga (UTC) through special programs and projects. Created in 1969 as part of the merger of the University of Chattanooga into the University of Tennessee system, the foundation was established with the approximately \$6 million endowment of the former University of Chattanooga. Currently, the foundation's funds, which are solely for the benefit of UTC, stand in excess of \$100 million. The UC Foundation is led by a 48-member board of trustees and 4 officers. The UT President and UTC Chancellor are ex officio members. Currently, two foundation board trustees also sit as UT Board trustees.

The UC Foundation has no separate staff or offices of its own; university staff perform the bookkeeping for the cash endowment using an accounting system separate from the university's, while the foundation's real estate holdings are managed by a Chattanooga attorney who sits on the foundation's board.

The UC Foundation and UTC do not have a formal operating agreement; rather, their relationship is defined by the UC Foundation's 1991 Re-Styled Charter and 1985 Amended Bylaws. The charter states that the UC Foundation exists solely to support UTC and that the

Chancellor and staff of UTC will initiate most projects. The charter gives the foundation's board of trustees the authority to decide which projects to undertake, but the charter states that "no funds may be disbursed to UTC, or be spent on its behalf, without prior approval of the President of the University of Tennessee system and the Board of Trustees of the University of Tennessee."

Just as with the UT Foundation, UTC conducts all fund-raising for the UC Foundation, and gifts are only transferred to the foundation if the donor specifically requests it or the donation is of a kind the university is prohibited from accepting. The UC Foundation manages its endowment by making investments and occasionally by financing and conducting entrepreneurial projects. The biggest project to date is the construction of UTC Place, a student-housing complex built by the same company that built similar complexes in Knoxville and Martin. To gain local government approval for this housing complex, the foundation agreed to build Brown Academy, an elementary magnet school that UTC's education department uses as a laboratory school and rents to Hamilton County Schools for \$1 a year. However, the UC Foundation's primary activity is responding to funding requests from the university. Typically, a department head will make a request to the foundation for such things as doctoral program start-ups, library requests for periodicals, sabbaticals, fine arts programs, graduate assistantships, research activities, and scholarships. The screening committee of the foundation examines these requests and makes recommendations to the foundation executive committee.

In addition to the funding requests (paid out of unrestricted funds), the budget also contains expenditures that are paid out of restricted funds in accordance with formal donor agreements, expenditures towards discretionary spending accounts for the UTC Chancellor and UT President, and expenditures towards maintenance costs of the foundation (e.g., meeting costs, legal fees, audit fees, etc.). This funding budget is the only documentation the UT Board of Trustees is presented; they vote to accept this money from the UC Foundation and to use it for these purposes. Though presented as a discrete component unit in the University's audited financial statements, the UT Board and university do not receive verbal or written reports or notes detailing and explaining the UC Foundation's activities, properties, indebtedness, and asset management.

University of Tennessee Research Foundation

The University of Tennessee Research Foundation's (UTRF) mission is to promote and manage research and technology commercialization through the UT system and to contribute to state and regional development. Originally formed as the University of Tennessee Research Corporation in 1934, it was rechartered in 2003 as a foundation. The scope of the UTRF broadened at that time to include a new emphasis on economic development for technology transfer activities. Based on university policy and agreements, intellectual property developed by university staff accrues to the university. In an operating agreement with the UTRF, the university has assigned its rights in the intellectual property to the UTRF, which then decides whether to secure protection through patenting or copywriting. The UTRF may then decide to license the patent or copyright to outside third parties for consideration (i.e., "technology transfer"). As consideration, the UTRF may take either payment or an equity interest in a new company (usually started by the inventor) that is built around the intellectual property. Revenue

from licensing offsets legal costs associated with securing patents and copyrights. UTRF shares a smaller portion of the resulting revenue with the inventor.

The foundation is governed by a board of directors of up to 14 members including up to 10 representatives of UT campuses and university-wide administration and up to 4 external members from business and government. The bylaws require certain university representatives to serve on the foundation's board of directors: one member of the UT Board of Trustees (as designated by the UT Board from time to time), the UT President (non-voting), a UT Vice President, the UT Treasurer, and two senior officers of the University (as such offices are designated from time to time by the UT President). In addition, the bylaws allow up to four faculty representatives from the university to be appointed by the UT President (upon nomination by the foundation board). The bylaws also allow up to four external (non-University-affiliated) representatives to be appointed to the board. In regard to the foundation's officers, the bylaws make several requirements that also further coordination with the university. The UT President appoints a university employee or officer to the post of president of the foundation, subject to confirmation by the UTRF's board. The foundation president reports directly to the university president and is responsible to the university president and board. The director that is also a member of the UT Board of Trustees serves as chairman of the UTRF, and the UT Treasurer serves as foundation treasurer. Lastly, the bylaws give the UT President a veto power over any amendment to the UTRF charter or bylaws. The foundation's president is the UT Associate Vice President for Research. He and 11 staff are divided between offices in Knoxville and Memphis. The university provides office space and pays all salaries and operating expenses.

The UT Board of Trustees do not approve the UTRF budget, except in the sense that they approve the UT system-wide budget. UT staff do not present to the trustees documents showing UTRF assets and liabilities and revenues and expenses broken out from the main university's budget and financial statements. There is no detailed explanatory information on the UT Research Foundation's activities, properties, indebtedness, and asset management.

Concerns

While the UT Board of Trustees has addressed most of the concerns expressed in previous audits and investigations specifically regarding the UT Foundation, there remain concerns regarding the board's inconsistent approach to and relationship with its three foundations, the foundations' lack of operational separation from the university, the lack of information provided to UT trustees regarding the activities and financial situations of foundations that operate in the university's name, and the appropriateness of certain foundation arrangements and fund usage.

The UT Board of Trustees has not ensured that there is a consistent policy regarding university foundations. In fact, there is no policy at all. All three of UT's foundations, which

operate in the university's name and for the university's sole benefit, were organized and interact with the university in a different manner and have varying degrees of operational separation from the university. See the chart on the following page for the differences between the three foundations.

- UT Foundation's and UT Research Foundation's relationship with the university is spelled out in formal agreements that do not exist with the UC Foundation.
- UT Foundation and UC Foundation have a board of trustees/directors separate from university personnel and trustees, while UT Research Foundation's board consists almost entirely of university administrators and professors.
- UT Foundation and UT Research Foundation handle their finances using the university's accounting system, while UC Foundation has a system separate from the university's.
- UT Foundation has dedicated office space and a university person to direct daily operations and accounting for which the foundation reimburses the university. UT Research Foundation is solely staffed by university-funded personnel and has office space, while UC Foundation (which has no office) uses university staff to do its accounting, for which they do not reimburse the university.

The UT Board also has not required that the foundations provide them with written details of foundation activities, properties, indebtedness, and asset management. Only in the December 2005 revised agreement with the UT Foundation was the foundation required to present an annual report to the UT Board. University and foundation staff do not provide the board with details of the UT Research Foundation budget and financial information. The UC Foundation provides no information to the UT Board concerning its investments or the uses of funds for activities in which the funds are not given directly to the university.

University of Tennessee (UT) Foundations

	<u>UT Foundation</u>	<u>UT Research Foundation</u>	<u>University of Chattanooga Foundation</u>
Formal agreement between the UT Board of Trustees and the foundation	Yes	Yes	No
Foundation board membership	21 - corporate & community leaders; ex officio state officials	up to 14 - up to 4 community business leaders; 10 university personnel either ex officio or appointed by UT President or UT Board	48
Foundation employees	none - reimburses UT for services of 1 accountant	none - all UT employees; no reimbursement	none - uses 2 university staffers; no reimbursement
Foundation President	UT Vice President for Development	UT Associate Vice President for Research	Private
Foundation Treasurer	UT Treasurer	UT Treasurer	Private
Office space	rents space from UT Knoxville	office space and equipment provided by the university	None
Accounting system	within UT's system	within UT's system	outside UT's system
Fundraising activities for the foundation conducted by	UT personnel	UT personnel	UT personnel
Written annual report (operational and financial) to UT Board required	Yes (effective Dec. 2005)	No	No
Component unit on UT financial statements	Yes	No	Yes
UT presidential/board veto over foundation funds disbursed to UT or spent on its behalf	Yes (for both disbursed to UT and spent on its behalf; however, in practice, board is given no approval opportunity)	Not applicable	Yes (however, in practice, the board is given no opportunity to approve funds not given directly to UTC)

The university and the UT Board should also give consideration to the appropriateness of certain foundation financial arrangements and the usage of funds not given directly to the university. For example, the UT Foundation leases farmland around Martin from third parties and then subleases it to the university for the amount of the first lease plus a fee. The UC Foundation spent millions of dollars to help build Brown Academy, a magnet school used by the university as a laboratory school, to get city/county approval to erect a university student dormitory. UC Foundation also provides money to the Lyndhurst Foundation's "Live Near Your Work" program, which provides grants (actually forgivable second mortgages) to university employees to live in the MLK neighborhoods near UTC.

Additional concerns regard the UT Foundation and particularly UT Research Foundation's lack of operational separation from the university. Theoretically, such foundations should be separate and self-sufficient entities established to take advantage of certain fund- and revenue-producing activities not permitted to the university by state law and state constitutional prohibitions. However, the university's provision of staff, office space, and accounting systems make the foundations' existence, particularly that of UT Research Foundation, a legal fiction. In the case of UTRF, the university provides 100% of its staff, office space, and funding, with the exception of some small returns on its technology transfers. Therefore, the UTRF may not be considered a separate entity from the university itself. Because of this, there is also a concern that the UTRF's ownership of equity in a number of companies may be a violation of the state Constitution.

Although there are some limited situations in which foundations can serve to assist universities in fulfilling their missions, the very structure and nature of foundations are such that they can be used to improperly circumvent controls over operations and conceal the true substance of transactions. Only in regard to the UT Foundation have some steps been taken to improve the transparency of the operations, at least with regard to opening the foundation records and making the foundation subject to audit by the Comptroller's office. However, audits are conducted after the fact, and open records do not ensure that actions of the UT Foundation and its officials are subject to adequate oversight as decisions are made and implemented.

The potential problems with foundations are even greater when public resources are involved. In every instance—whether it is the name of the foundations, their mission, their location, their boards of directors, or certainly their assets—it is very difficult to draw a line between the foundations and the university. The line that is drawn is basically a legal construct that frequently ignores the reality of the situation, that the foundations function as part of the university and control university assets without the controls over university operations that afford the public an appropriate level of assurance that the assets will not be misused.

In addition to the accounting issues raised by the utilization of foundations for a public institution, the operation of foundations bearing the name of the university can adversely affect the reputation of the university through actions that, because they were not subject to the ordinary controls of the university, give the appearance of impropriety or at least waste.

Recommendations

The UT Board of Trustees should review the legal standing and continuing necessity for the university's foundations and its policy towards them. This review should address the need for improved accountability by the university and its staff, officials, and trustees and the need for greater transparency in foundations' actions, transactions, and use of assets. After this review, the board should develop a policy describing the foundations and the relationship of the board and its audit committee to the foundations, noting the responsibilities of board and foundations. The foundations should not be used by the university or the foundations themselves as a way to circumvent the laws and policies in place to safeguard public assets from waste and abuse. The board should recognize its responsibility and that of the university to safeguard assets held by the university as well as assets given to and held by foundations that may only be used for the university's benefit.

UT Board of Trustees Comment

The University of Tennessee appreciates the comprehensive review of its relationship with three related foundations. The comments and observations will be taken into careful consideration. However, we believe several important points need to be added.

The existence of multiple related foundations is not an anomaly in higher education. The best data available to the University at this time indicates that approximately 40% of four-year institutions of higher education currently have more than one related foundation.

At The University of Tennessee, each of the three foundations has a unique history, and each serves a unique purpose. Specifically, although the University of Chattanooga Foundation (UC Foundation) exists for the sole purpose of supporting the Chattanooga campus of the University, the UC Foundation was not created by the Board of Trustees and does not bear the name of The University of Tennessee. Rather, the UC Foundation was formed in 1969 from the endowment of a private institution, the University of Chattanooga. The University of Tennessee Foundation (UT Foundation) was created at the initiative of the Board of Trustees, bears the University's name, and serves to enhance the University's ability to raise funds from private sources. The University of Tennessee Research Foundation (UTRF) is the result of specific legislative action authorizing the University to form legal entities for the purpose of promoting, supporting, and carrying out the University's research mission.

Given this uniqueness in the history and purpose of the three foundations, differences in how the University relates to the foundations are reasonable and appropriate.

The UT Foundation has been the subject of previous reviews by the Division of State Audit and, as noted in the report, great strides have been made in correcting the noted relationship and oversight deficiencies. The compliance with new Memorandum of Agreement between the University and the UT Foundation was reviewed by the Governance Committee of the Board of Trustees in June 2006 and will be annually reviewed by the UT Foundation audit committee. As the audit notes, the UT Foundation financial position is discretely presented as a

component unit in The University of Tennessee's audited financial statements, which are presented to the Board of Trustees each year. This presentation reflects revenues, expenditures, assets, liabilities, and net assets for the UT Foundation.

The UC Foundation supports academic initiatives and educational excellence at UT Chattanooga. The variety of support is exceptional, ranging from the Guerry Professorships for top faculty to funding for the finest in arts and entertainment through the Dorothy Patten Fine Arts Series. The Foundation has supported equipment grants for academic departments and provided matching funds for chairs of excellence. It has also worked to secure the best students through scholarships and honors programs. Over the last 25 years, the UC Foundation has provided some \$67 million to UTC benefiting many programs and providing scholarships to about 8,950 UTC students. The fact that UTC staff provide fundraising and bookkeeping services for the foundation means that more funds are available from the foundation for the support of programs at UTC (approximately \$4.2 million annually).

The financial growth of the UC Foundation, as well as the number of community leaders who donate their time and service to the board, reflects the private and public partnerships that exist at UTC and are the hallmark of an engaged, metropolitan university like UTC. The audit questions recent UC Foundation activities that were in fact initiated at the request of the Chattanooga campus, which is consistent with the declared supporting role of the UC Foundation.

For example, the *Live Near Your Work Employee Housing Incentive Program* was a partnership initiative envisioned and approved by former UTC Chancellor Bill Stacy. The program was modeled after other national metropolitan university programs designed to improve, enhance, strengthen, and rebuild decaying neighborhoods adjacent to universities. Funding for the program was provided by grants and gift funds from the Lyndhurst Foundation of Chattanooga (\$160,000) and the Lupton Renaissance Fund (\$160,000) with program accountability taken on by the UC Foundation. Besides providing a mechanism to recruit and retain talented faculty, the program realized many benefits some of which are listed below:

- The program ended in 2006 with well over 16 awards given and approximately 3 remaining awards.
- Neighborhood has been revitalized.
- Many national, local awards.
- Featured in *Southern Living Magazine*.
- UTC continues with a Community Client Committee to keep partnerships active.
- COPC – Community Outreach Partnership Program, obtained an extended grant to assist neighborhood as an indirect result.
- The neighborhood obtained a Federal “Weed and Seed” Grant and designation as a result of its efforts to revitalize its neighborhood and UTC was a major partner with that effort.

- The initiation has spurred enormous economic development within adjacent neighborhoods surrounding the university.

The *Brown Academy Lab School* was also the initiative of the Chattanooga campus and not the foundation. Ongoing campus planning and community partnerships identified the need for a new elementary school to serve downtown/urban residents and spur economic and business growth in the central business district. In addition, the need for better and more convenient student teacher training laboratories created an opportunity for the foundation to again be the facilitator. The university, given it supplies the overwhelming majority of teachers to the Hamilton County Public Schools System, had a real need for a laboratory school to improve the quality of urban teacher education. The UTC chancellor developed a partnership with Hamilton County Schools, the RiverCity Company, UTC, and the UC Foundation to explore the development of a new elementary school within the M. L. King neighborhood. It had been well over 50 years since a new school had been built in the area. Private donors raised \$5 million and the UC Foundation pledged an additional \$3 million in revenues to offset annual debt service on the new school.

The school was built as a sub-project within Phase II of the foundation's student housing project, and an agreement was reached with Hamilton County Schools to:

- Allow Hamilton County Schools to fully operate the school at no cost to the Foundation or UTC on a \$1 a year contract basis.
- Allow neighborhood children adjacent to the UTC community, many of whom are children of UTC faculty and staff, first choice in attending the school,
- Allow UTC, in partnership with the UTC College of Education, to utilize the school as a laboratory school for urban teacher education, education research, and student teacher placement. The new school is only a half block away from the UTC College of Education building.
- Provide UTC with 10,000 square feet of space, free of charge, to operate the UTC Children's Teaching and Learning Center. This program provides child care and infant care for UTC faculty and staff; community residents also are allowed matriculation access to this learning center. The center is part of state and federal teacher training and certification.

UTC, as part of the partnership, was also given 10,000 square feet of space in the Battle Academy Elementary School on Market Street to provide a second convenient location for its UTC Children's Teaching and Infants Learning Center free of charge.

The school is named in honor of current State Representative, the Honorable Tommie Brown of Chattanooga, a long-serving faculty member of UTC and a strong supporter of P-16 education. Representative Brown has an office in the school, and a flag that flew over the State Capital now flies over the school. Former Governor Sundquist and current Governor Bredesen have visited this site and commended this public/private partnership.

The State of Tennessee just recently awarded the school a research grant of \$100,000 to study how to get parents involved in the success of elementary student's education and benchmark the effectiveness of parental involvement. The State Department of Education, Vanderbilt University, UTC, and Chattanooga State Community College are active partners with this project.

Governor Bredesen recently was at the school to award it one of the prestigious pre K-3 grants to improve the reading and cognitive skills of children across the state of Tennessee.

These are excellent examples of how foundations can serve to assist universities in fulfilling their missions.

University participation in UC Foundation operations helps safeguard against and mitigate the concerns expressed in the audit about circumventing controls and concealing the true substance of a transaction. As noted in the report, two members of the Board of Trustees representing the Chattanooga area, as well as the University President and the UTC Chancellor, are members of the UC Foundation board of directors. In that capacity, these University officials have influence and some control over activities and funding recommendations. The financial position of the UC Foundation is discretely presented as a component unit in The University of Tennessee's financial statements, and annual UC Foundation distributions to the university for support of programs on the Chattanooga campus (compared with prior year support) are approved annually by the Board of Trustees. It is acknowledged that there is no separate Memorandum of Agreement between the UC Foundation and The University of Tennessee. The Board of Trustees will initiate an effort to negotiate an agreement outlining responsibilities of each entity and seek to have an agreement in place by June 30, 2007.

The UT Research Foundation (UTRF), while organized as a foundation, does not possess any of the same operational characteristics as the UC Foundation or the UT Foundation except to support The University of Tennessee. The stated purpose of UTRF is to promote and manage intellectual properties arising out of research at The University of Tennessee. By design, the governance of this foundation primarily involves University personnel engaged in research oversight and administration. Given its close linkage to the research mission at the University, its policies of sharing licensing and royalty payments with the inventors and the university, and its dependence upon university personnel, greater University involvement in governance and operational oversight is reasonable. In fact, the UTRF enabling legislation expressly provides for the use of University personnel in foundation administration. In accordance with financial accounting standards, and by agreement with the State of Tennessee Comptroller's Office, the financial position for the UT Research Foundation is not discretely presented as part of the overall University financial statements. However, as part of the annual budget for the University, the Board of Trustees approves the financial support provided to the UT Research Foundation, although not separately identified as such. To address areas of concern expressed in the report, the Board of Trustees will be provided the operating budget for the UT Research Foundation for review annually, along with a disclosure of operational highlights.

Having noted the differences inherent in the three foundations, The University of Tennessee Board of Trustees will undertake development of a broad policy articulating the purpose for each foundation and outlining oversight responsibilities of the Board of Trustees.

THE UT BOARD OF TRUSTEES AND UNIVERSITY ADMINISTRATORS SHOULD CONTINUE TO STUDY STUDENT ENROLLMENT AND RETENTION IN GENERAL AND THE IMPACT OF THE LOTTERY IN PARTICULAR, PLACING NEW EMPHASIS ON A SYSTEM-WIDE APPROACH

The Tennessee Education Lottery Scholarship Program began in the fall semester of 2004. The scholarships are available to Tennessee residents who enroll in one of Tennessee's public or private colleges or universities and who meet the academic and/or financial requirements for eligibility. The program includes five different scholarship options for students: the Tennessee HOPE Scholarship, the Aspire Award, the Tennessee HOPE Access Grant, the General Assembly Merit Scholarship, and the Wilder-Naifeh Technical Skills Grant.

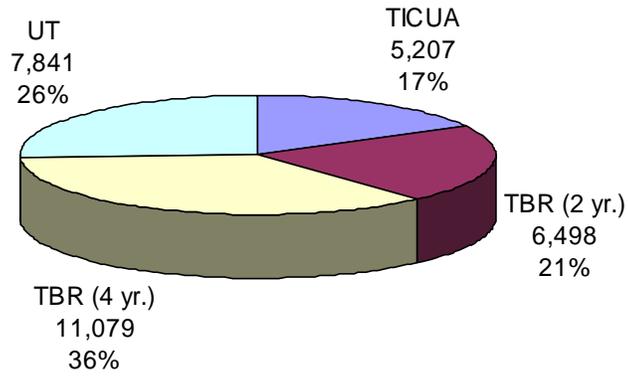
The four-fold purpose of the program is

- to provide access for Tennesseans to post-secondary education,
- to improve high school and collegiate academic achievement,
- to keep more of the best and brightest students in Tennessee, and
- to provide social and economic benefits to the State of Tennessee.

The introduction of the lottery scholarship program has resulted in an enrollment increase statewide. However, the full impact of this program is not yet known. With the many factors that contribute to enrollment, such as tuition costs, availability of financial aid, and capacity limitations, the university system is challenged with finding the right balance between creating access to higher education and maintaining high academic standards.

The Hope Scholarship accounts for 30,625 of the 39,057 lottery scholarships (\$93,342,125) awarded in the 2004-2005 academic year.

**HOPE Scholarship Recipients by System
Fall Semester 2004**



TBR: Tennessee Board of Regents

TICUA: Tennessee Independent Colleges and Universities Association

UT: University of Tennessee System

Source: Tennessee Higher Education Commission.

There has been much discussion about the opportunities afforded to minority students and students from low-income families as a result of the lottery scholarship program. Approximately 10% of lottery scholarship recipients in 2004 were African American, 58% were female, and 25% were from households making less than \$36,000.

Race	# of Recipients	% of Total Lottery Scholarship Recipients
Asian	586	1.9%
African American	3,182	10.4%
Caucasian	25,866	84.5%
Hispanic	350	1.1%
Unknown/Other Race	641	2.1%
Total	30,625	100.0%

Source: Tennessee Higher Education Commission.

Household Income	% of Total Lottery Scholarship Recipients
Below \$36,000	25.4%
\$36,000 - \$60,000	22.2%
\$60,000 - \$100,000	31.7%
Above \$100,000	20.7%
Total	100.0%

Source: Tennessee Higher Education Commission.

The total first-time freshman enrollment for higher education institutions in Tennessee increased by 6.9%, which resulted in 2,003 more students in the statewide higher education system than in the prior academic year. For the fall 2004 semester, the University of Tennessee at Knoxville had the largest freshman class of lottery scholarship students of any school in the state at 3,282.

Fall 2004 Freshmen Lottery Scholarship Recipients at State Public Schools*			
Campus	First-Time Freshmen	Freshman Who Received Lottery Scholarship	% of Total Freshmen
TN Tech Univ.	1,238	1,052	85.0%
Middle TN State Univ.	3,142	2,486	79.1%
UT Chattanooga	1,502	1,139	75.8%
UT Knoxville	4,336	3,282	75.7%
UT Martin	1,146	865	75.5%
Univ. of Memphis	2,062	1,410	68.4%
East TN State Univ.	1,466	980	66.8%
Austin Peay State Univ.	1,478	825	55.8%

Fall 2004 Freshmen Lottery Scholarship Recipients at State Public Schools*			
Campus	First-Time Freshmen	Freshman Who Received Lottery Scholarship	% of Total Freshmen
TN State Univ.	1,199	403	33.6%
University Total	17,569	12,442	70.8%
Cleveland State CC	570	241	42.3%
Columbia State CC	902	376	41.7%
Chattanooga State Technical CC	1,348	324	24.0%
Dyersburg State CC	589	160	27.2%
Jackson State CC	791	288	36.4%
Motlow State CC	936	349	37.3%
Nashville State CC	904	131	14.5%
Northeast State Technical CC	926	310	33.5%
Pellissippi State Technical CC	1,262	493	39.1%
Roane State CC	1,083	485	44.8%
Southwest TN CC	1,998	236	11.8%
Volunteer State CC	1,219	432	35.4%
Walter State CC	1,015	493	48.6%
Community College Total	13,543	4,318	31.9%
Statewide Total	31,112	16,760	53.9%

*Does not include scholarship recipients at Tennessee's Independent Colleges and Universities.

Source: Tennessee Higher Education Commission.

Admission and Retention

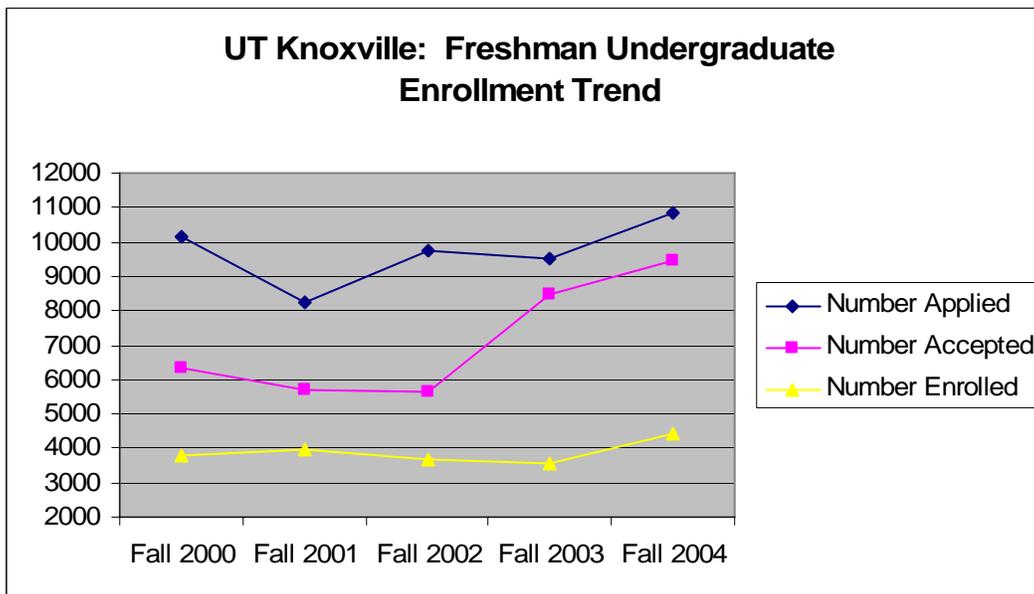
Entrance requirements are established by the UT Board of Trustees. Recent changes have addressed

1. a growing concern on campus regarding the success rate, as measured by retention and six-year graduation rates, for students admitted with ACT scores of 16 or below;
2. pressure from the Tennessee Higher Education Commission (THEC) to limit the number of first-time freshmen admitted; and
3. the mandate from THEC that four-year public institutions in Tennessee no longer provide remedial instruction and reduce expenditure on developmental instruction.

UT Chattanooga and UT Martin use a standards-based admissions process. As long as students meet the eligibility requirements, they are accepted into these institutions. Historically, Chattanooga and Martin have had excess capacity, unlike Knoxville, which has been at capacity for many years. The Chattanooga campus currently has excess capacity in both classrooms and dormitories.

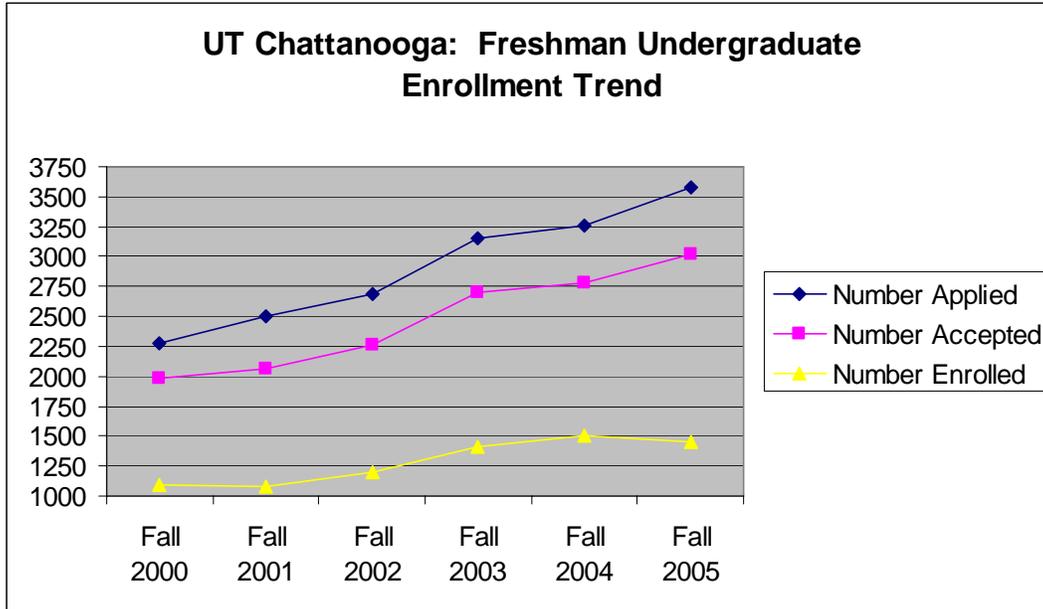
The admissions process for UT Knoxville is a competitive-based model. Meeting the minimum entrance requirements will not necessarily guarantee entrance into UT Knoxville as it typically receives more applicants than it can physically accommodate. The administration looks at many factors when choosing whom to extend an offer of acceptance to—area of study, race, gender, extracurricular interests—in an effort to create a well-balanced class of freshmen. The admissions process is much like putting together a puzzle as UT Knoxville tries to achieve diversity while selecting the best students. The process is further complicated when an acceptance letter is extended to a student who chooses to attend another university. The university has a “wait list” for those students to be accepted as first-time freshmen if a slot becomes available. However, the problem of placing a student on a “wait list” is that a student may select another institution rather than wait to see if a slot becomes available at Knoxville.

As of early April 2006, 12,050 students had applied for admission to UT Knoxville; 8,578 students were accepted. The university extends acceptance letters in excess of the number of students it can physically accommodate (i.e., housing and classroom space) with the assumption that not every student accepted will actually enroll. Historically, the “yield rate” or the number of accepted students that actually enroll at the university has been about 50%. For the fall 2006 semester, the university will be able to accommodate approximately 4,200 new freshman students.

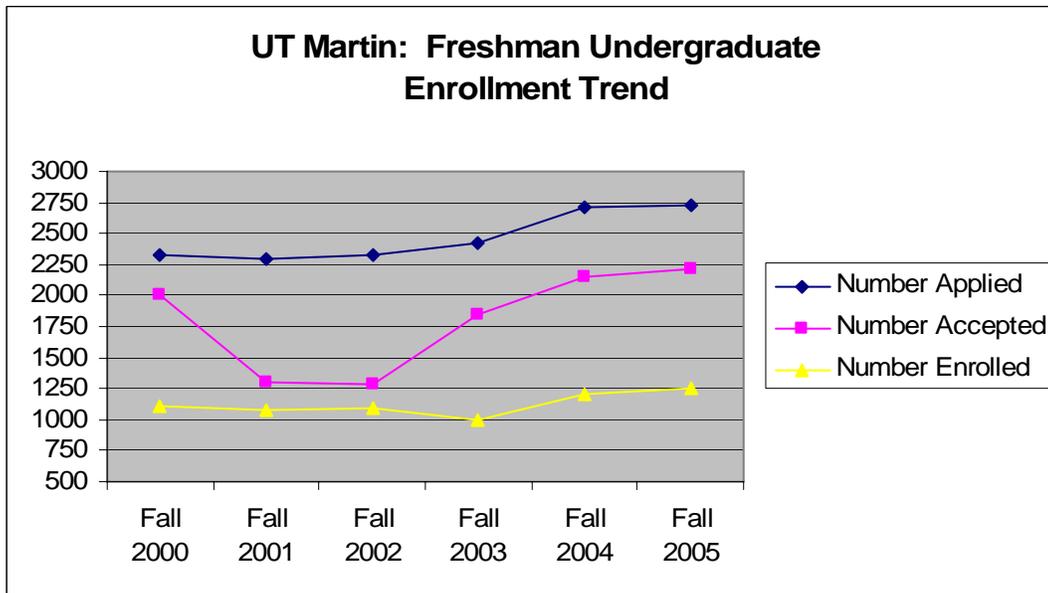


*Data for Knoxville campus only. The numbers for Fall 2005 are not shown in the above trend analysis as the Knoxville campus changed its reporting of acceptance rates to include those ultimately declining acceptance. Fall 2005 numbers were 12,251 applied; 9,060 accepted; 4,264 enrolled—roughly the same acceptance and enrollment numbers as the year before.

Source: Tennessee Higher Education Commission.

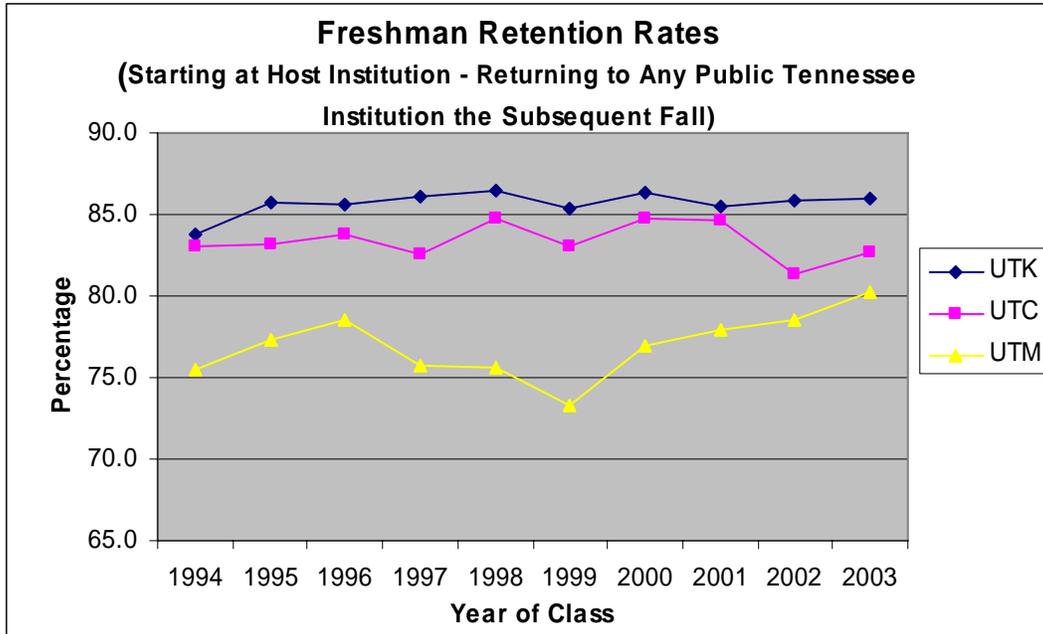


Source: Tennessee Higher Education Commission.

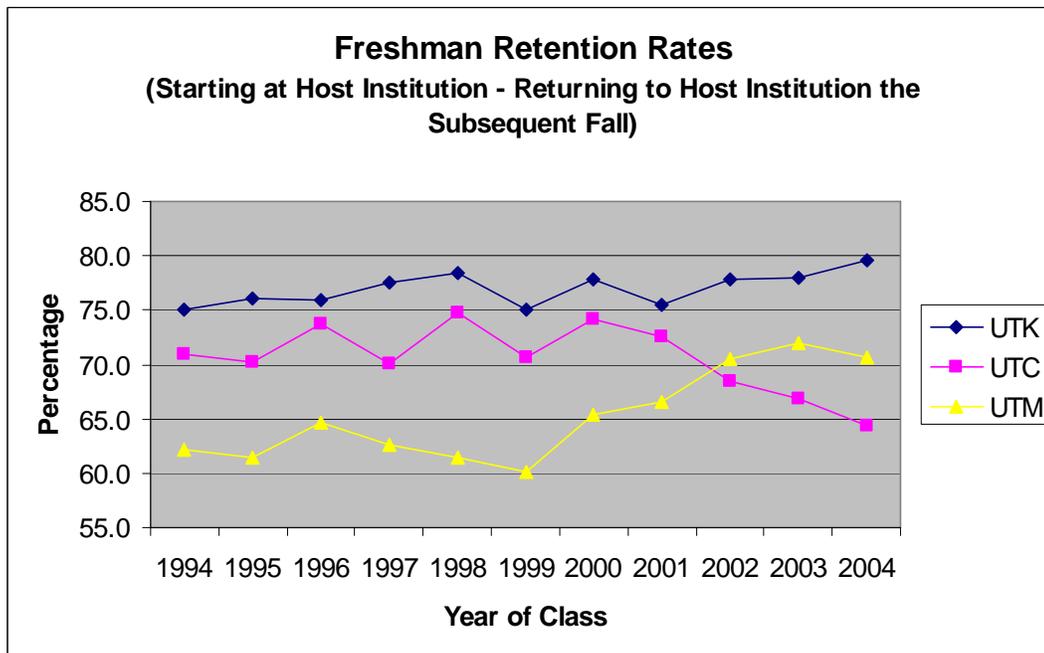


Source: UT Martin.

While admissions are an important part of the higher education system, there must also be a focus on retaining students at a chosen institution, hopefully through graduation.



Source: *UT 2005-2006 Facts & Figures*.
 Note: UTK data for Knoxville campus only.
 UTC—UT Chattanooga
 UTM—UT Martin



Source: *UT 2005-2006 Facts & Figures*.
 Note: UTK data for Knoxville campus only

The university administration has taken steps to improve the retention rates for the university system. One decision in fall 2005 was to reduce the number of credit hours required to earn a bachelor's degree, except for programs or degrees that required a different amount due

to accreditation or other standards. With this change still being early in the implementation, the full impact is not yet known; however, the administration feels this will encourage students to stay in school.

In May 2006, the university president introduced to the board a new initiative that would target students that desire to complete their degree who have dropped out of school due to unforeseen circumstances such as cost, family considerations, or job conflicts. The university administration is working to develop this initiative and expects the plan to be ready for consideration some time next year. While university administrators noted that this initiative would be an enormous undertaking, they feel that “such an effort is key to the economic future of the state and would directly respond to Governor Phil Bredesen’s call to action in his State of the State address in February [2006] to raise graduation rates.” The administration plans to use the university’s agricultural extension service offices in all of Tennessee’s 95 counties as resources for instruction and computer-based distance learning as part of this initiative.

If the lottery continues to fuel the demand for access to higher education, and university efforts are successful in keeping these students in school until they graduate, the University of Tennessee Board of Trustees, along with the university administration, will have to consider the impact of these forces in at least three different areas:

- physical infrastructure,
- academic infrastructure, and
- administrative infrastructure.

Physical Infrastructure

The physical infrastructure of the University of Tennessee campuses will be challenged if the lottery scholarship program continues the trend of increasing numbers of applications for admissions. While there may be an increase in the number of applications, the campuses cannot accept more students than they can physically accommodate. For example, UT Knoxville has been at capacity for some time now but received approximately 12,000 applications for 4,200 freshmen slots for the fall 2006 semester. The university system’s plans for the future will be crucial in creating access for students who wish to pursue a higher education degree.

Each of the UT campuses—Chattanooga, Knoxville, Martin, and Memphis—has a Master Plan that outlines capital projects for future expansion and renovations. The priorities for projects are set by each campus administration and brought before the board’s finance and administration committee for approval. The projects must be approved by the Board of Trustees and then be presented to the Tennessee Higher Education Commission (THEC) for approval. Once projects are approved by both the board of trustees and THEC, they are presented to the Governor for his approval and inclusion in the budget.

The introduction of the lottery scholarship program has heightened each campus administration’s awareness of some existing needs as well as caused them to reprioritize

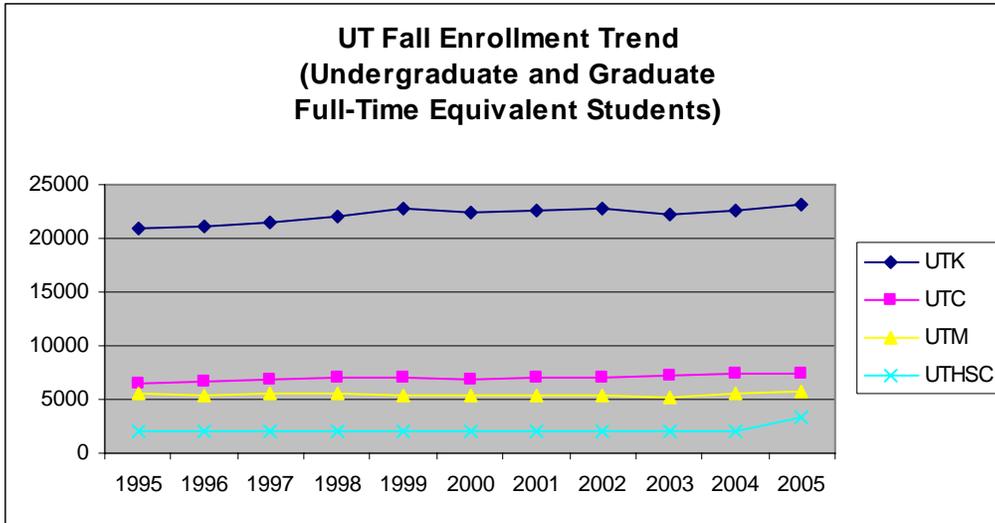
previously planned projects. At UT Knoxville, the campus utilizes many older buildings that are in need of renovation. The timing of construction projects is very important as the administration must find alternate workspace for those displaced by a building renovation project. UT Knoxville administration has been aware that many campus buildings need to be renovated in the near future, and the introduction of the lottery scholarship program has only made this a greater priority. The administration at UT Chattanooga attributes the building of a student services center to the lottery scholarship program. The campus saw a need for a central location that would house all vital student services and give students and their families easy access to the services they need. The campus administrations for Knoxville, Martin, and Chattanooga all anticipate the need for more academic space in the near future. Since it can take time for a project to be approved and funded by the university, the board, THEC, and the Governor before it is placed in the Master Plan or on the priority list for each campus, it is vital that the campus administrations and the Board of Trustees exercise foresight in planning properly for the future.

Academic Infrastructure

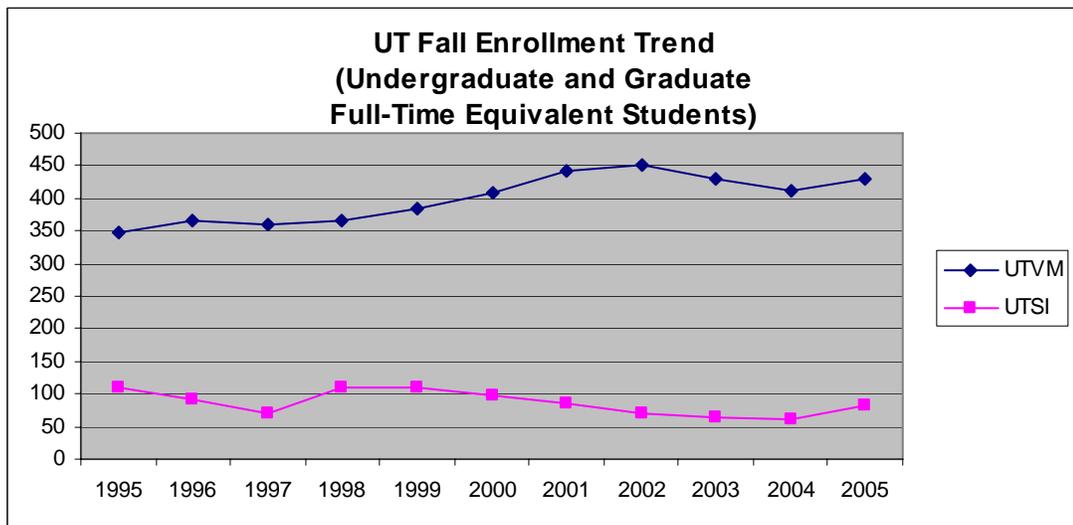
Because the campuses at Knoxville, Martin, and Chattanooga are experiencing or expect to experience an increase in freshman enrollment, the administration has had to make some changes regarding the academic infrastructure and scheduling of classes. The administration has hired more part-time and adjunct faculty and hired non-tenure-track faculty to teach lower-level courses to deal with the impact of the lottery scholarship program. The use of graduate students as teaching assistants also allows the university to balance workloads of existing faculty. Creating a more efficient classroom scheduling system for the Knoxville campus has helped the administration assess whether it is maximizing use of all available classroom space. As the lottery students progress to the upper-level courses, the campuses will have to be prepared for a shift in demand to the junior and senior level as well as maintain adequate staffing for the lower-level courses.

The university administration and board have also looked at alternative methods of instruction as a way to increase access to course offerings and provide options for non-traditional students. The university is considering expansion of online degree programs, which are currently restricted to graduate degrees. The university is also working to improve the process for students who want to take courses at another UT campus. Each campus uses a unique system, and communication between campus systems is a challenge for the administration. Currently, a process is in place, but the administration would like this process to be more efficient by implementing a universal system for all campuses.

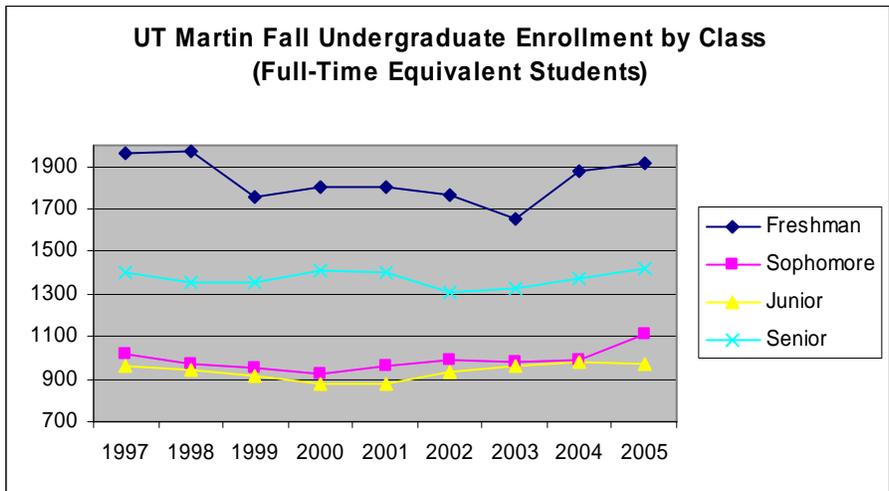
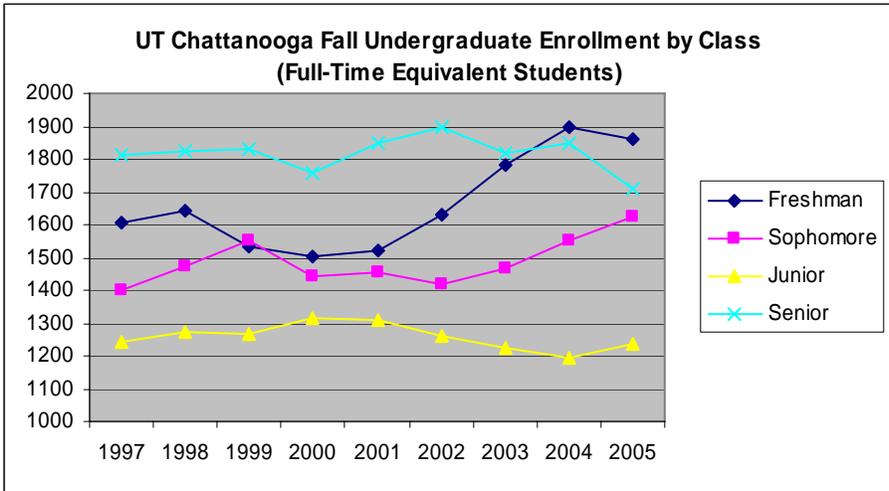
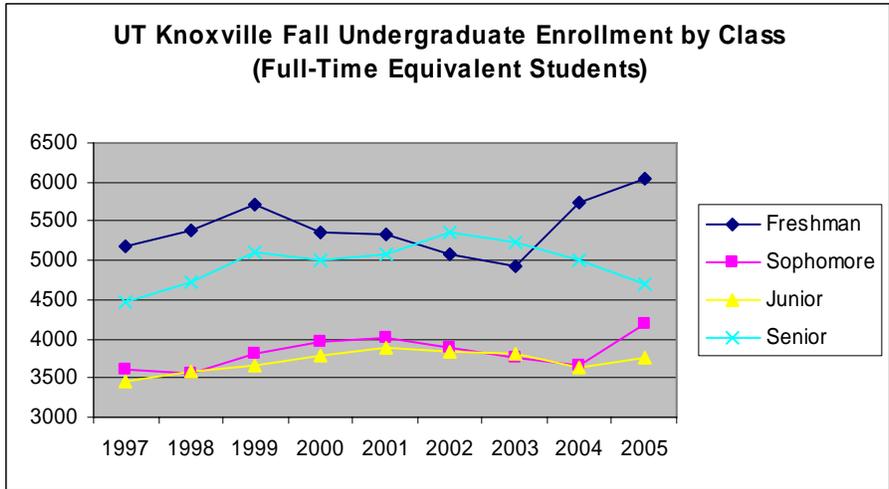
For fall 2006, the lottery scholarship program will have recipients in the freshman, sophomore, and junior classes. Since the lottery scholarship recipients have not yet reached the upper-level division, the campuses have not seen what impact the program will have at this level.



UTK—UT Knoxville
 UTC—UT Chattanooga
 UTM—UT Martin
 UTHSC—UT Health Science Center



UTVM—UT School of Veterinary Medicine
 UTSI—UT Space Institute



Source: *UT Facts & Figures, 1997-2005.*

Administrative Infrastructure

The lottery will also have an impact administratively. When the lottery scholarship program was introduced in 2004, the universities were not given any additional funding to administer the program and comply with the reporting requirements for scholarship recipients. The Knoxville campus has added two staff positions in the financial aid office as well as one position in the bursar's office to deal with the increase in applications. The Martin campus has added one position in financial aid and is in the process of creating a second position. The board's finance and administration committee reviews the university system's administrative costs. The committee is working to develop benchmarks that will be used to measure efficiency as well as help the administration look for areas that can be improved. The committee also looks at information from peer institutions for ideas of how to be more efficient in managing costs.

Increase in Applications	From 2003 to 2004	From 2004 to 2005
Chattanooga	3.23%	9.88%
Knoxville	13.85%	13.10%
Martin	12.31%	0.48%

Source: Tennessee Higher Education Commission.

Campuses have also had to adapt their computer systems in order to report information properly for lottery scholarship recipients. Since the calculation for grade point averages differs between the lottery scholarship program and the universities, the campuses have had to incorporate the lottery's requirements into their existing systems. There will also be additional work required on the computer systems as the lottery scholarship program expands eligibility to non-traditional students and students from the foster care program. These students will be eligible for a lottery scholarship beginning with the fall 2006 semester. The dual-credit grant established for the 2005-2006 academic year allowed high school students who take courses for both college and high school credit to use a lottery scholarship to help pay for the courses. All of these changes must be integrated into the universities' existing systems.

Recommendations

The full impact of the lottery scholarship program on higher education in Tennessee has yet to be seen. The University of Tennessee campuses at Knoxville, Chattanooga, and Martin have seen or are beginning to see some effects from the introduction of this program. The board, along with university administration, will have to ensure that the university promotes the purpose of the lottery scholarship program by continuing to create access to higher education in Tennessee. In creating access, the university system must also maintain high academic standards in order to keep the "best and brightest students" and promote economic growth through an educated populace. In planning for the future, it will be important for the Board of Trustees to work with university administration in considering the physical, academic, and administrative impact the lottery scholarship program will have on campus operations.

The Board of Trustees should also consider implementing a system-wide enrollment management committee to approach issues brought about as a result of the lottery scholarship program from a system-wide view. Making the committee's focus system-wide may unify efforts to make decisions that will benefit the entire University of Tennessee system and may assist in spreading the burden of increased student demand and attendance across the system, taking advantage of the capacities still available at some campuses when other campuses are at capacity. It would also allow each campus to be more aware of what is happening at other campuses, creating a synergy that could be more effective than each campus working independently. This committee would work in conjunction with one of the board's existing committees and act as a liaison between similar campus committees and the full board.

UT Board of Trustees Comment

The University welcomes the auditors' narrative about the impacts of the Tennessee Education Lottery Scholarship (TELS) program on campus enrollments. Because UT administrators helped to draft TELS rules, the University has been keenly aware of enrollment ramifications. At its March 3, 2004 meeting, the UT Board of Trustees Academic Affairs and Student Life Committee discussed TELS issues. At its June 23, 2004 meeting, the Committee discussed TELS, enrollment forecasting, and THEC enrollment planning. At its March 2, 2005 meeting, the full UT Board of Trustees participated in a presentation on enrollment management by Dr. Dolan Evonovich. At its October 27, 2005 meeting, the Committee discussed Fall Semester enrollment issues. At its November 3, 2006, the Committee discussed in-depth "campus capacity" reports from UTC, UTK, and UTM. Thus, the auditors' comments about TELS' impacts on physical, academic, and administrative infrastructure are consistent with UT staff analyses and discussions by the UT Board of Trustees.

The University does not believe that the UT Board of Trustees needs to create a separate enrollment management committee of the Board. Rather, the existing Academic Affairs and Student Life Committee should review its Charter to ascertain the best ways for it to respond to the UT System Strategic Plan goal to ensure student access to UT campuses. In addition, the Vice President for Academic Affairs and Student success will convene a standing committee of campus and System administrators to study "capacity" issues and to report to the Board's Academic Affairs and Student Life Committee.

RESULTS OF ADDITIONAL WORK

Audit Committee

Following the passage in 2004 of the Higher Education Accountability Act, the General Assembly enacted the State of Tennessee Audit Committee Act of 2005. This act charged the UT Board of Trustees' Audit Committee with

- (1) overseeing the financial reporting and related disclosures, especially when financial statements are issued;

- (2) evaluating management's assessment of the body's system of internal controls;
- (3) formally reiterating, on a regular basis, to the state governing board, council, commission, equivalent body, or management and staff of the agency to which the audit committee is attached, the responsibility of the state governing board, council, commission, equivalent body, or management and staff of the agency for preventing, detecting, and reporting fraud, waste, and abuse;
- (4) serving as a facilitator of any audits or investigations of the body to which the audit committee is attached, including advising auditors and investigators of any information the audit committee may receive pertinent to audit or investigative matters;
- (5) informing the comptroller of the treasury of the results of assessment and controls to reduce the risk of fraud; and
- (6) promptly notifying the comptroller of the treasury of any indications of fraud.

The UT Board of Trustees' audit committee appears to be in compliance with the Audit Committee Act of 2005.

University-Wide Strategic Plan

In June and November 2006, the UT Board of Trustees approved and subsequently revised its first university-wide strategic plan. The plans address four areas: student access and success; research and economic development; outreach and globalization; and effective and efficient use of administrative, fiscal, physical, and communication resources.

FINDINGS AND RECOMMENDATIONS

- 1. The Board of Trustees should improve its public notification of upcoming full board and board committee meetings by printing the notices in newspapers statewide or posting a notice on board's website**

Finding

The University of Tennessee Board of Trustees and its committees, which oversee a statewide system that serves approximately 42,000 students, 13,000 staff, and the state's approximately 6 million citizens, are required to comply with the Tennessee Open Meetings Act that states "any such governmental body which holds a meeting . . . shall give adequate public notice of such meeting." This statute applies to regularly scheduled full board and committee meetings as well as special meetings. Attorneys general and court cases opine that adequate public notice requires the posting of notices in places where the community can become aware of such notices.

However, when the university's Office of Public Relations issues a press release at the direction of the board for each full board and board committee meeting and sends it to various statewide media outlets and certain university administrators and staff, it does not have the press releases actually published but leaves that to the media outlet's discretion. According to staff at the *Knoxville News Sentinel*, Nashville's *Tennessean*, and the *Chattanooga Times Free Press*, board meeting notices are not automatically printed. Notices and stories are only printed if newspaper staff deem an agenda item of significant local interest. Staff from the *Memphis Commercial Appeal* did not respond to repeated auditor requests for information. An Internet search of three of the four newspapers above revealed no formal printed public notice of any full board or committee meetings, and only half the time did the newspapers run issue stories at least one day before a meeting and mention the upcoming full board and committee meetings. (Auditors could not check the *Chattanooga Times Free Press* as it does not allow free access to back issues.) The UT Board of Trustees' website does not post notices of meetings, nor does it provide a website link for such notices. The only meeting notices found were online at "Tennessee Today," a website maintained by the university's Office of Public Relations. A link to the press release is listed in the "Headlines" section on the front page of the university's home page. According to UT's General Counsel, the press release for a board meeting remains until the meeting date.

To determine the number of days before a full board or committee meeting that notice was given to university faculty, staff, and the public, auditors reviewed the press releases for full board meetings between June 2004 and May 2006 and for board committee meetings between January 2004 and May 2006. There were 6 board meetings and 50 board committee meetings during the time frame reviewed for this audit. The average number of days' notice given on the university's "Tennessee Today" website for a full board meeting was six days, with a range

between five and seven days. The average number of days' notice for a board committee meeting was five days, with the range being one to eight. Keep in mind that these notices would not appear in the print media until at least one day later than the date the notice appears on the website.

Since the University of Tennessee system is a statewide system, serving approximately 55,000 students and staff as well as the approximately 6 million citizens of Tennessee, the board should actively publish meeting notices in the state's major newspapers to ensure that a broader and more diverse population is provided adequate notice of board meetings. Because the full board and board committee meetings rotate between the various UT campus locations, it is important that notices be published and/or aired through media outlets that are specific to the campus locations as well as those that would reach the general statewide public. In addition, the meetings do not take place on a dedicated day of the month or during a specified month of the year. In consideration of these factors, the notices should be published and/or aired in sufficient time to provide those individuals located outside the designated meeting place ample time to make travel arrangements if they choose to attend a meeting.

Recommendation

The Board of Trustees should take steps to ensure that a broader segment of the statewide population can become aware of the notice of board meetings. The board should have the press releases for upcoming board and board committee meetings printed in newspapers specific to campus locations such as the *Memphis Commercial Appeal*, the *Weakley County Press* (Martin), the *Nashville Tennessean*, the *Chattanooga Times Free Press*, and the *Knoxville News Sentinel*. This would provide a broader base for reaching the general public and offer diversity to the type of publications used for press releases, which are currently only released via the Internet. The Board of Trustees should also publish the board meeting press releases on the board's website or place a link on the website to the university's public relations website, where such notices are now made. This would offer another outlet accessible to the public for people to find information about upcoming meetings.

The press releases for regular board meetings and for regular board committee meetings that occur at various campus locations and at various dates and times should be published and/or aired at least a week to ten days prior to the meeting to allow individuals adequate public notice to make plans to attend a meeting.

Management's Comment

We concur in part. We agree that additional methods of notice can be used. However, we do not agree that printing notices in newspapers would be particularly effective, and therefore we are concerned that the cost of purchasing newspaper notices for all meetings of the board and its committees would not be a prudent use of state funds.

The following means are used to give notice of Board of Trustees meetings: (1) issuance of a press release to print and broadcast media outlets across the state; (2) posting the press release on the University's website; (3) including a "Headline" about the meeting on the front page of the University's website linking the reader to the press release; and (4) posting the date and location of upcoming meetings on the Board of Trustees website.

We agree to take the following additional steps: (1) the cost and benefit of purchasing a notice in the classified section of newspapers in Chattanooga, Knoxville, Martin, Memphis, and Nashville will be explored further; (2) representatives of the major daily newspapers in Chattanooga, Knoxville, Martin, Memphis, and Nashville will be urged to publish information from the press release in the news section of their newspapers; (3) when the press release about meetings is issued to statewide media outlets, a link to the release will be inserted on the Board of Trustees website like the link that already appears in the "Headline" on the front page of the University's website; and (4) the feasibility of broadcast e-mails to employees, alumni, and other constituent groups will be explored.

We also agree to issue the press release seven to ten days prior to the meeting when feasible. However, we note that there is no statutory requirement of a specific number of days' notice, and there may be circumstances in which the need for immediate action by the board or a board committee will necessitate giving less than seven to ten days' notice of a meeting. Dates of upcoming meetings are already being posted on the Board of Trustees website as soon as feasible after meetings are set. Thus, in the case of regular board meetings and committee meetings held in conjunction with regular board meetings, notice of the meeting date is actually posted a year or more in advance of the meeting. In the case of committee meetings set between regular board meetings, notice of the meeting date is generally posted from a month to six weeks before the meeting.

2. The Board of Trustees should revise its policy on presidential performance reviews to ensure multiple trustees are involved in conducting the review and that they document the review sufficiently

Finding

While the board is to be commended on developing a policy for regularly reviewing the performance of the university president, the policy itself has certain weaknesses that should be addressed—insufficient personnel conducting the review and a lack of documentation.

In March 2004, the executive committee of the UT Board of Trustees approved a policy requiring annual and five-year performance reviews of the university president. The stated purposes are

- to enable the president to strengthen his or her performance;

- to promote good communications and strong working relationships between the president, the board, and university constituencies;
- to enable the president and board to set mutually agreeable goals;
- to inform board decisions on compensation and other terms of employment for the president;
- to solicit the informed perceptions of members of the university's major stakeholder groups on broader aspects of institutional health, management, and governance;
- to engage and inform a wide range of university constituencies; and
- to enable the president and the board to determine whether they have the basis for an extended commitment to each other.

Annual Review Process

The board delegates to its vice chair the responsibility for organizing and conducting the annual performance review. Two have been completed to date.

As part of the review, the university president prepares a written self-assessment statement. In addition to a retrospective review of goals previously agreed upon by the president and the board and of other achievements, disappointments, or problems of the preceding year, the self-assessment statement includes a statement of challenges and opportunities facing the university and the president's proposed goals for the coming year.

After receipt of the president's self-assessment statement, the board's vice chair solicits views of the president's performance from members of the senior administrative staff and from faculty, student, staff, and alumni leadership. The vice chair then meets with the president to discuss the self-assessment statement and the president's proposed goals for the coming year. The vice chair then prepares a written assessment of the president's performance and a recommendation of the president's goals for the coming year.

The president's self-assessment statement, any additional information the vice chair may have requested of the president, and the vice chair's assessment of the president's performance and recommendation of goals for the coming year are submitted to the board, at a regular or called meeting, for review and approval or modification.

Five-Year Review (yet to be performed)

Every fifth year, or earlier if the board so chooses, the board or its delegate conducts a comprehensive review of the president's performance with the assistance of at least one external advisor who, if feasible, should be a former chief executive with experience as head of an enterprise similar in scope and mission outside the State of Tennessee.

Early in the year of the comprehensive performance review, the vice chair or a special committee, in consultation with the president, develops a written plan and timetable for the

comprehensive review and presents it to the board for approval. The plan is to include at least the following elements.

The President is to prepare a comprehensive self-assessment statement covering the 5-year period of service under review. This comprehensive statement should present a clear picture of the university's academic and financial progress and condition, using appropriate qualitative and quantitative benchmarks, and should highlight the president's view of his or her major achievements and concerns.

The external advisor(s) is to conduct personal interviews with the president, members of the board, and with a broad array of individuals or groups internal and external to the university.

The external advisor(s) then prepares a written report in draft form detailing the university's progress and the president's performance. The report is to include specific recommendations for strengthening the president's performance and his or her relationships with the board, university constituent groups, and other major stakeholder groups. The draft report is then presented to the president for review and comment.

The final report of the external advisor(s) is presented to the vice chair or the special committee. The vice chair or the special committee meet with the president and the external advisor(s) to review the report and the president's self-assessment statement and to develop a set of short-term and long-term goals for recommendation to the board.

The vice chair or the special committee then prepares and submits to the board a written comprehensive assessment of the president's performance and a statement of the recommended short-term and long-term goals. The board also receives copies of the report of the external advisor(s), the president's self-assessment statement, and any other information the vice chair or special committee may have requested of the president. At a regular or called meeting, the board then reviews and approves or modifies the comprehensive performance assessment and statement of goals recommended by the vice chair or special committee.

The board-approved assessment of the president's performance is then submitted to the Executive and Compensation Committee for consideration in connection with the president's compensation and other terms of employment.

Weaknesses

Job performance planning and evaluation promotes employee development, enhances employee productivity, serves as a basis for sound personnel decisions, and provides a permanent record of the performance of major job duties and responsibilities.

However, unlike the review of the chancellor of the Tennessee Board of Regents, the University of Tennessee System president's annual review relies solely on one person, the vice chair. This arrangement gives too much influence to one person, who may be influenced by a personal agenda or too personal a relationship (good or bad) with the university president. Instead, multiple trustees should be tasked with conducting the university president's annual review to ensure that a wider-based and more balanced view is obtained.

Also, the current annual review process maintains no documentation other than the president's self-assessment and vice chair's letter to the board with his assessment and recommendations for presidential goals for the coming year. There is no documentation, even in the aggregate, of the required views and information the vice chair solicited from senior administrative staff, faculty, staff, students, and alumni leadership. The university itself has an anonymous administrator peer/staff review form that allows for the documentation of peer and staff views of an administrator's work, decision-making habits, and commitment to the school and its academic mission. Without such documentation, the university president's reviewer (whether one person or multiple trustees) could conceal evidence of dissatisfaction or other problems of significant magnitude by simply stating that a "majority" or "consensus" felt favorably toward the university president.

Recommendation

A well-designed and implemented formal presidential evaluation process can

- contribute to the board's meeting its duty to effectively lead the university,
- ensure university goals are being met,
- allow the board and the university president to understand each other's expectations about performance issues,
- highlight areas where the board is insufficiently informed,
- ensure continued development of the university president to more effectively conduct his role,
- ensure a formal and documented evaluation process that meets standards of fairness and practicality, and
- provide a written record of the board's impression of the university president's performance.

The board should revise its presidential review policy to have multiple trustees involved in conducting both the annual and five-year presidential performance reviews. This will ensure that the process is fair and allows for more trustee input.

The board's policy should also require that the views of senior administrative staff, faculty, staff, students, and alumni are adequately documented in the aggregate, and that such documentation is retained. This will ensure that minority views are known, particularly if a significant number are expressing such views.

Management's Comment

We concur. The Board Policy on Presidential Performance Reviews will be revised to provide for multiple trustees to be involved in the performance review by interviewing members of the senior administrative staff. The policy will also be revised to provide for an aggregate summary of the views of the senior administrative staff and the views of representatives of the faculty, staff, students, and alumni to be included in the report presented to the Board for approval.

- 3. In light of known student data preparation and reporting inconsistencies and reliability problems, the UT Board of Trustees should address the reliability of reported management data and ensure that there are system-wide internal controls over statistical student data preparation and reporting and system-level management and oversight of student data information systems**

Finding

The UT Board of Trustees is charged with making decisions regarding budgets, capital projects, enrollment, academic programs, and campus services. To accomplish this, the university administration provides the board with various data. While trustees rely on this data to govern, there is no evidence that they have ever questioned whether the data reports are, in fact, accurate. Trustees' reliance on the due diligence of university administrators has contributed to a university that lacks system-wide internal controls over statistical student data preparation and reporting reliability and lacks system-level management and oversight of student data preparation and reporting information systems. Without these, the university and trustees risk making decisions based on possibly inconsistent, inaccurate, and unreliable reported data.

The university's current structure has no system-level chief information systems officer and no system-wide oversight providing management and standards and ensuring that internal controls exist and operate effectively on the various computer systems used by the university. There is one system-wide information system that handles accounting, budgeting, and human resources. This particular system is routinely reviewed by the state Comptroller's financial and

information system auditors. Other system-wide information systems handle alumni as well as development and research grants. All other information (primarily student-related) is handled by computerized information systems unique to each campus that operate independently from each other and are managed only by local campus officials.

Based on conversations with university-system administrators and campus-level information systems staff, even though some campuses and some of the student information data systems on those campuses appear to have initiated some internal controls designed to verify student data accuracy and aid system reliability, it appears that system-level internal controls over student data preparation and reporting are weak and campus-level approaches are inconsistent. There is no system-level management or controls ensuring that all campuses are capturing and reporting the same student data using the same definitions and parameters. Some student information systems at a particular campus may have relational databases, preset field options, and instantaneous validation based on preset parameters that reduce the probability of incorrect data entry while other systems (at the same or different campus) do not. Without making student data preparation and reporting reliability a priority, the UT Board of Trustees and university administrators cannot ensure that the university's statistics are not over- or under-representing any current or historical situation.

For example, the UT Office of Institutional Research and Assessment (OIRA) provides the university's official statistics. Every year, it publishes a lengthy and detailed *Fact Book* in paper form and on its website that provides current and historical data on enrollment, student retention and graduation rates, tuition and fees, salaries, state appropriations, revenues and expenditures, funding recommendations, and other miscellaneous information. While an extremely valuable source of information for trustees, legislators, other public officials, and the general public, OIRA does not check to make sure that the data prepared and reported are reliable and consistent, instead assuming that others within the university and at the Tennessee Higher Education Commission (THEC) have checked the data.

A review of several years' admissions data for UT Martin obtained from THEC showed an unusual change in the numbers for two years. UT Martin officials, when asked, stated that the data submitted to THEC for those years had been later discovered to be incorrect; university officials had neither informed THEC nor provided them with corrected figures. In this instance, not only is it possible that university administrators were basing decisions (such as level and number of classes needed, expected housing needs, etc.) on the incorrect figures, but THEC as well as the National Center for Educational Statistics was using these numbers to make state-wide decisions and in-state and national comparisons.

A review of admissions data for UT Knoxville obtained from THEC revealed that in 2005, the university had changed the way it defined a certain category but had only done it for the Knoxville campus. THEC appeared to be unaware of this. To be able to include that year in our trend analysis, we requested adjusted figures from the university. However, the adjusted numbers received from the university, when compared to those provided by THEC, did not make sense based on UT's definition of that category. University officials, when asked to explain the discrepancies, stated that they had included in the 2005 figure numbers not reported in that way

previously to THEC. They also stated that they could not replicate the numbers they had given to THEC, and that they don't expect and never get the same data twice from their system.

Similar discrepancies and problems were also discovered with statistics published in the statutorily required annual Title VI Implementation Plan. University officials cited reasons for the problems similar to those already mentioned: differences between what UT tracks in-house and what raw data it reports to THEC and when; that UT and THEC's numbers are almost always going to be different; mislabeling of information; lack of notice given to when attribute definitions change; or unknown reasons.

Because the UT Board of Trustees, university administrators, and state legislators use university-generated data to make critical decisions about the future of the university, it is vitally important that the trustees, administrators, and legislators be provided with accurate, reliable, and uniform data. Without system-wide coordination and oversight of data and computer systems, the university lacks control of both the systems used to maintain data and the data as well.

Recommendation

The UT Board of Trustees should direct university administrators to develop campus and system-level data reliability goals and standards to ensure the reliability of prepared and reported data used by administrators and trustees. Trustees should designate an existing university administrator or create a new position on the system level to oversee and manage university computer systems and their reliability. Trustees should also consider the use of a centralized system-wide student information system to ensure that all campuses are defining and reporting statistical student data in a consistent manner. Trustees should make data reliability a more important priority to ensure that the information used by them to manage the university is the best and most reliable data possible.

Management's Comment

We concur in part. For many years, the UT System administration had generally been able to offer timely and sufficiently accurate student data to the UT Board of Trustees. This was accomplished by the effective distributing of campus resources, and by sharing data analyses with THEC. However, the need for vastly improved System-wide student information was clear to UT well before this Finding.

Upon his arrival in 2004, UT President John Petersen quickly recognized that the UT System lacked an efficient, centralized, and regular means of dealing with System-wide student data. Thus, in spring 2005, President Petersen charged a taskforce "to develop recommendations for a system-wide student information system (SIS)." The taskforce was chaired by the Vice President for Academic Affairs, Dr. Robert A. Levy, and it included representatives from the campuses and System offices.

On December 16, 2005, Dr. Levy reported to the Executive Vice President, Dr. Jack Britt, and the President's Staff that the taskforce had concluded that a System-wide SIS was needed, despite the likelihood that it would be very expensive to develop and to support. This decision was reached after extensive study of best practices around the country, analyses of several key probable vendors, insight from THEC and TBR, and discussion with UT campus academic and student affairs officers. The taskforce concluded that the national SIS leader is a product called "SCT Banner" and that UT should strive to implement that product (http://www.sct.com/Education/products/p_b_index.html).

The overarching goals set out by the taskforce were consistent with sound management practices and this Finding:

1. that the System-wide SIS be efficient to install and operate, so that all possible UT dollars be directed to student and faculty needs;
2. that it be within the national mainstream of SIS products, such that its vendor has an established SIS track-record and a long-term likelihood of support;
3. that it be as user-friendly as possible for the key on-campus offices who will daily operate in its environment; and
4. that it allow UT campuses and institutes to better share non-privileged information—among themselves, with the UT Board of Trustees, and with our closest external organizations.

During the spring of 2006, UT's Chief Financial Officer, Dr. Gary Rogers, studied the cost implications of adopting Banner and began to identify possible funding sources. By early summer 2006, Drs. Britt and Levy had developed guidelines and had begun to recruit a Banner implementation director. Dr. Linda Painter has been appointed and already has begun to meet with Banner representatives to begin the long process of creating an effective System-wide SIS.

Thus, the UT System recognized the need for a System-wide SIS well in advance of this Finding, and the University appreciates the Finding's corroboration.

Differences in student data definitions and different reporting contexts do exist, and some student data from one UT campus may not match supposedly comparable numbers from another UT campus. However, we do not believe these discrepancies have resulted in flawed decisions by the Board or management. For the most part, the discrepancies result in relatively small student data differences. National, state, and related entities' student data definitions (e.g., US Office of Education, Integrated Postsecondary Education Data System, Southern Regional Education Board, THEC, TSAC, SACS, Common Data Set) always are changing. It is inevitable, therefore, that submission errors will be found; errors are corrected if the requiring entity allows updates/corrections. It is true that—occasionally—corrected student data are not re-submitted in a timely way; however, having a System-wide SIS should dramatically reduce these instances.

System-wide responsibility for Information Technology has been shared by Knoxville campus and System offices. That cumbersome arrangement now has been reorganized so that backbone, security, and enterprise functions can be managed by the Chief Financial Officer. Similarly, implementation of the student information system is being coordinated by the Vice President for Academic Affairs and Student Success. The Internal Auditor will continue to be responsible to the UT Board of Trustees, and will continue the schedule of checks of data validity and reliability.

RECOMMENDATIONS

ADMINISTRATIVE

The University of Tennessee Board of Trustees should address the following areas to improve the efficiency and effectiveness of its operations:

1. The UT Board of Trustees should review the legal standing and continuing necessity for the university's foundations and its policy towards them. This review should address the need for improved accountability by the university and its staff, officials, and trustees and the need for greater transparency in foundations' actions, transactions, and use of assets. After this review, the board should develop a policy describing the foundations and the relationship of the board and its audit committee to the foundations, noting the responsibilities of board and foundations. The foundations should not be used by the university or the foundations themselves as a way to circumvent the laws and policies in place to safeguard public assets from waste and abuse. The board should recognize its responsibility and that of the university to safeguard assets held by the university as well as assets given to and held by foundations that may only be used for the university's benefit.
2. The Board of Trustees should take steps to ensure that a broader segment of the statewide population is aware of board meetings. The board should have the press releases for upcoming board and board committee meetings printed in newspapers specific to campus locations such as the Memphis *Commercial Appeal*, the *Weakley County Press* (Martin), the *Nashville Tennessean*, the *Chattanooga Times Free Press*, and the *Knoxville News Sentinel*. This would provide a broader base for reaching the general public and offer diversity to the type of publications used for press releases, which are currently only released via the Internet. The Board of Trustees should also publish the board meeting press releases on the board's website or place a link on the website to the university's public relations website, where such notices are now made. This would offer another outlet accessible to the public for people to find information about upcoming meetings. The press releases for regular board meetings and for regular board committee meetings that occur at various campus locations and at various dates and times should be published and/or aired at least a week to ten days prior to the meeting to allow individuals adequate public notice to make plans to attend a meeting.
3. The board should revise its presidential review policy to have multiple trustees involved in conducting both the annual and five-year presidential performance reviews. This will ensure that the process is fair and allows for more trustee input. The board's policy should also require that the views of senior administrative staff, faculty, staff, students, and alumni are adequately documented in the aggregate, and

that such documentation is retained. This will ensure that minority views are known, particularly if a significant number are expressing such views.

4. The UT Board of Trustees should direct university administrators to develop campus and system-level data reliability goals and standards to ensure the reliability of prepared and reported data used by administrators and trustees. Trustees should designate an existing university administrator or create a new position on the system level to oversee and manage university computer systems and their reliability. Trustees should also consider the use of a centralized system-wide student information system to ensure that all campuses are defining and reporting statistical student data in a consistent manner. Trustees should make data reliability a more important priority to ensure that the information used by them to manage the university is the best and most reliable data possible.

APPENDIX

The Office of Equity and Diversity (OED) has identified the following Title VI issues for reporting. It is important to note that when persons contact an OED Office, they do not always identify their issue as a Title VI issue. OED tries to determine if the complaint/inquiry falls within the parameters covered by Title VI.

Title VI Complaints/Inquiries Reported July 1, 2003 - June 30, 2004

Summary of Information: University of Tennessee

1. Complainant alleged that as the only white female in her department at UT Health Science Center, she was subjected to discipline, harassment, and discharge because of her race and age, in retaliation for complaining about race and age. EEOC investigated and issued Dismissal and Notice of Right to Sue.
2. Complainant, an African American, alleged that he was asked to resign as a UT Chattanooga Department Head after a dispute with a white subordinate and was replaced as Department Head by a white. Case was settled with complainant being compensated and dismissed by the court. Complainant remains on the faculty at UT Chattanooga.
3. Complainant, an African American female, alleged harassment, retaliation, intimidation, and a hostile UT Knoxville work environment because of race, age, and gender. EEOC determined it was unable to investigate and conciliate the charges within the 180 days of when it assumed jurisdiction. At complainant's request, EEOC issued a Notice of Right to Sue.
4. Complainant, an African American female, charged racial discrimination in a reduction-in-force that resulted in the loss of her job at UT Health Science Center. The Tennessee Human Rights Commission found no reasonable cause to believe that UT Health Science Center engaged in a discriminatory practice based on race.

Source: Appendix J, *University of Tennessee Title VI Implementation Plan, 2005-2006*.

Title VI Complaints/Inquiries Reported July 1, 2004 - June 30, 2005

1. Complainant, who is French, alleged unfair working terms to include class assignments, pay, extra pay, merit raises, and harassment. Investigation concluded that while some of the allegations were not without foundation, actions by the department were not based on national origin discrimination. Some issues have been resolved while others remain under investigation.
2. Complainant, a Hispanic graduate assistant, alleged discrimination citing unfair terms regarding grades and evaluations, teaching assignments, and harassment.

Investigation concluded that although some complaints might have legitimacy, there was no evidence of discrimination because of national origin. Some issues have been resolved while others remain under investigation.

Source: Appendix J, *University of Tennessee Title VI Implementation Plan, 2006-2007*.

Undergraduate Enrollment by Race
The University of Tennessee - Knoxville
 2000 - 2005

	<u>White</u>	<u>African American</u>	<u>Asian</u>	<u>Hispanic</u>	<u>Native American</u>	<u>Alaskan</u>
2000	17,940	1,246	589	239	60	1
2001	17,862	1,328	596	251	63	1
2002	17,383	1,399	630	263	74	2
2003	16,713	1,423	573	239	62	4
2004	16,940	1,568	588	274	76	5
2005	17,255	1,772	673	318	83	2

Data include undergraduate enrollment at the UT Health Science Center.

Source: Appendix K, *University of Tennessee Title VI Implementation Plan, 2005-2006 and 2006-2007*.

Undergraduate Enrollment by Race
The University of Tennessee - Chattanooga
 2000 - 2005

	<u>White</u>	<u>African American</u>	<u>Asian</u>	<u>Hispanic</u>	<u>Native American</u>	<u>Alaskan</u>
2000	5,478	1,203	209	66	37	0
2001	5,545	1,263	205	68	24	0
2002	5,403	1,422	221	66	21	0
2003	5,400	1,506	197	74	20	0
2004	5,514	1,615	180	74	22	0
2005	5,495	1,493	178	92	28	1

Source: Appendix K, *University of Tennessee Title VI Implementation Plan, 2005-2006 and 2006-2007*.

Undergraduate Enrollment by Race
The University of Tennessee - Martin
 2000 - 2005

	<u>White</u>	<u>African American</u>	<u>Asian</u>	<u>Hispanic</u>	<u>Native American</u>	<u>Alaskan</u>
2000	4,490	790	133	42	17	0
2001	4,439	834	144	38	11	4
2002	4,281	830	127	44	13	6
2003	4,367	802	132	43	16	5
2004	4,596	857	128	55	19	6
2005	4,850	879	121	58	20	8

Source: Appendix K, *University of Tennessee Title VI Implementation Plan, 2005-2006 and 2006-2007*.

THE UNIVERSITY OF TENNESSEE
 MINORITY, WOMEN, AND SMALL OWNED BUSINESSES
 SUMMARY REPORT
 JULY 1, 2003 - JUNE 30, 2004

<u>CAMPUS</u>	<u>CLASS</u>	<u>BIDS SOLICITED</u>	<u>BIDS RETURNED</u>	<u># ORDERS/ C.ORDERS</u>	<u>TOTAL \$</u>
KNOXVILLE	MINORITY	370	93	18	343,584
	WOMEN	812	271	93	1,303,348
	SMALL	3,121	1,101	599	19,965,881
		4,303	1,465	710	21,612,813
CHATTANOOGA	MINORITY	37	10	8	181,152
	WOMEN	36	7	11	70,936
	SMALL	367	105	209	3,099,921
		440	122	228	3,352,009
MEMPHIS	MINORITY	16	5	9	623,660
	WOMEN	37	6	13	105,978
	SMALL	179	32	180	2,270,019
		232	43	202	2,999,657
MARTIN	MINORITY	8	2	7	427,401
	WOMEN	0	0	6	326,993
	SMALL	16	2	49	1,424,541
		24	4	62	2,178,935
TULLAHOMA	MINORITY	5	2	1	2,808
	WOMEN	8	3	0	0
	SMALL	37	12	6	82,438
		50	17	7	85,246
CAMPUS-WIDE TOTALS	MINORITY	428	109	43	1,578,606
	WOMEN	893	287	123	1,807,254
	SMALL	3,704	1,250	1,043	26,842,799
		5,025	1,646	1,209	30,228,659

Source: Appendix M, *University of Tennessee Title VI Implementation Plan, 2005-2006*.

THE UNIVERSITY OF TENNESSEE
 MINORITY, WOMEN, AND SMALL OWNED BUSINESSES
 SUMMARY REPORT
 JULY 1, 2004 - JUNE 30, 2005

<u>CAMPUS</u>	<u>CLASS</u>	<u>BIDS SOLICITED</u>	<u>BIDS RETURNED</u>	<u># ORDERS/ C.ORDERS</u>	<u>TOTAL \$</u>
KNOXVILLE	MINORITY	456	131	39	2,201,685
	WOMEN	1,268	409	120	4,609,115
	SMALL	3,597	1,193	763	51,333,182
		5,321	1,733	922	58,143,982
CHATTANOOGA	MINORITY	20	5	3	84,566
	WOMEN	48	10	10	68,031
	SMALL	379	95	175	2,193,944
		447	110	188	2,346,541
MEMPHIS	MINORITY	29	1	20	853,739
	WOMEN	89	4	54	1,499,836
	SMALL	255	22	207	5,378,540
		367	27	281	7,732,115
MARTIN	MINORITY	10	3	10	244,205
	WOMEN	14	4	15	260,706
	SMALL	35	9	83	3,082,602
		59	16	108	3,587,513
TULLAHOMA	MINORITY	6	3	0	0
	WOMEN	9	4	1	2,813
	SMALL	21	7	12	101,463
		36	14	13	104,276
CAMPUS-WIDE TOTALS	MINORITY	521	143	72	3,384,194
	WOMEN	1,422	431	200	6,440,502
	SMALL	4,287	1,326	1,240	62,089,731
		6,230	1,900	1,512	71,914,427

Source: Appendix M, *University of Tennessee Title VI Implementation Plan, 2006-2007.*

**The University of Tennessee System
IPEDS Fall Staffing Survey – Official Reporting Year
Data as of October 31, 2004**

Campus	Race	Gender	Full-Time EEO Category									Part-Time EEO Category									Grand Total	Campus Percent
			Faculty	Exec/Mgt	Prof	Tech/Para	Clerical	Skilled Craft	Service	Total	Campus Percent	Faculty	Exec/Mgt	Prof	Tech/Para	Clerical	Skilled Craft	Service	Total	Campus Percent		
UT	White	Male	935	251	900	290	183	385	1,023	3,967	41.7	192	19	36	34	34	6	297	618	40.6	4,585	41.6
		Female	470	201	955	261	1,467	17	301	3,672	38.6	144	13	103	88	192	0	148	688	45.2		
	Minority	Male	192	25	259	50	37	47	203	813	8.6	22	0	9	12	8	0	33	84	5.5		
		Female	97	31	251	133	376	4	161	1,053	11.1	23	1	11	34	47	0	16	132	8.7		
	All	Male	1,127	276	1,159	340	220	432	1,226	4,780	50.3	214	19	45	46	42	6	330	702	46.1		
Female	567	232	1,206	394	1,843	21	462	4,725	49.7	167	14	114	122	239	0	164	820	53.9				
UTC	White	Male	165	64	70	10	8	13	38	368	37.1	119	0	13	14	14	1	33	194	32.2	562	35.2
		Female	142	47	70	5	127	1	24	416	41.9	148	1	13	17	53	0	44	276	45.9		
	Minority	Male	17	8	17	1	2	6	37	88	8.9	12	0	2	3	6	0	24	47	7.8		
		Female	12	4	18	3	47	1	36	121	12.2	13	0	6	8	34	0	24	85	14.1		
	All	Male	182	72	87	11	10	19	75	456	45.9	131	0	15	17	20	1	57	241	40.0		
Female	154	51	88	8	174	2	60	537	54.1	161	1	19	25	87	0	68	361	60.0				
UTM	White	Male	128	29	42	19	7	38	48	311	48.8	0	0	5	0	1	3	0	9	32.1	320	48.1
		Female	87	25	63	7	152	4	32	283	44.4	0	1	1	0	13	0	1	16	57.1		
	Minority	Male	13	-4	6	0	1	1	6	23	3.6	0	0	1	0	1	0	0	2	7.1		
		Female	15	0	7	0	7	0	6	35	5.5	0	0	0	0	1	0	0	1	3.6		
	All	Male	141	25	48	19	8	39	54	334	52.4	0	0	6	0	2	3	0	11	39.3		
Female	102	25	70	7	159	4	38	303	47.6	0	1	1	0	14	0	1	17	60.7				

Source: Appendix N, *University of Tennessee Title VI Implementation Plan, 2005-2006.*

**The University of Tennessee System
IPEDS Fall Staffing Survey – Official Reporting Year
Data as of October 31, 2005**

Campus	Race	Gender	Full-Time EEO Category									Part-Time EEO Category									Grand Total	Campus Percent
			Faculty	Exec/ Mgt	Prof	Tech/ Para	Clerical	Skilled Craft	Service	Total	Campus Percent	Faculty	Exec/ Mgt	Prof	Tech/ Para	Clerical	Skilled Craft	Service	Total	Campus Percent		
UT	White	Male	1190	249	891	295	166	389	1111	4291	41.9	282	14	48	33	37	7	292	713	40.7	5004	41.6
		Female	598	209	963	267	1431	15	360	3843	37.6	160	14	121	73	224	2	165	759	43.4		
	Minority	Male	297	30	255	52	40	37	239	950	9.3	34	0	10	8	31	0	30	113	6.5		
		Female	137	28	281	139	373	1	19	1150	11.2	31	0	10	31	9	0	14	165	9.4		
	All	Male	1487	279	1146	347	206	426	1350	4241	51.2	316	14	58	41	68	7	322	826	47.2		
Female	735	237	1244	406	1804	16	551	4993	48.8	191	14	131	104	303	2	179	924	52.8				
UTC	White	Male	185	63	66	18	8	22	24	386	36.6	131	0	13	20	16	1	33	214	36.0	600	35.2
		Female	157	54	69	17	28	1	17	443	41.9	155	1	25	14	44	0	24	263	44.3		
	Minority	Male	23	8	12	2	5	8	38	96	9.1	14	0	0	3	7	0	23	47	7.9		
		Female	20	8	8	11	46	0	38	131	12.4	13	0	7	3	27	0	20	70	11.8		
	All	Male	208	71	78	20	13	30	62	482	45.6	145	0	13	23	23	1	56	261	43.9		
Female	177	62	77	28	174	1	55	574	54.4	168	1	32	17	71	0	44	333	56.1				
UTM	White	Male	137	29	56	20	7	40	47	336	50.7	0	0	3	0	2	0	1	6	24.0	342	48.1
		Female	94	32	68	6	136	2	26	283	42.7	1	0	0	0	14	0	2	17	68.0		
	Minority	Male	13	1	2	0	0	1	7	24	3.6	0	0	0	0	1	0	0	1	4.0		
		Female	14	0	10	0	8	0	8	40	6.0	0	0	0	0	1	0	0	1	4.0		
	All	Male	150	30	58	20	7	41	54	360	54.3	0	0	3	0	3	0	1	7	28.0		
Female	108	32	78	6	144	2	34	303	45.7	1	0	0	0	15	0	2	18	72.0				

Source: Appendix N, *University of Tennessee Title VI Implementation Plan, 2006-2007.*