



## TABLE OF CONTENTS FOR FINANCE AND PLANNING COMMITTEE

Committee Meeting: 2/8/2006

Board Meeting: 2/9/2006  
Austin, Texas

Robert B. Rowling, *Chairman*  
John W. Barnhill, Jr.  
H. Scott Caven, Jr.  
Cyndi Taylor Krier  
Colleen McHugh

	<b>Committee Meeting</b>	<b>Board Meeting</b>	<b>Page</b>
<b>A. CONVENE JOINT MEETING WITH AUDIT, COMPLIANCE, AND MANAGEMENT REVIEW COMMITTEE</b>	9:30 a.m. <i>Chairmen Estrada &amp; Rowling</i>		
1. <b>U. T. System: Report on the Fiscal Year 2005 Annual Financial Report including the report on the U. T. System Financial Statement Audit performed by Deloitte &amp; Touche LLP</b>	<b>Report</b> <i>Mr. Rodney Lenfant, Deloitte &amp; Touche</i> <i>Mr. Wallace</i> <i>Mr. Chaffin</i>	Not on Agenda	<b>16</b>
<b>B. CONVENE MEETING OF FINANCE AND PLANNING COMMITTEE</b>	10:30 a.m. <i>Chairman Rowling</i>		
2. <b>U. T. System: Discussion and appropriate action related to approval of Docket No. 125</b>	<b>Discussion, if needed</b>	<b>Action</b>	<b>18</b>
3. <b>U. T. System: Report on the Analysis of Financial Condition for Fiscal Year 2005</b>	10:30 a.m. <b>Report</b> <i>Mr. Wallace</i>	Not on Agenda	<b>18</b>
4. <b>U. T. System: Key Financial Indicators Report</b>	10:40 a.m. <b>Report</b> <i>Dr. Kelley</i>	Not on Agenda	<b>19</b>
5. <b>U. T. System: Approval of additional amount of equipment financing for Fiscal Year 2006 and resolution of parity debt</b>	10:55 a.m. <b>Action</b> <i>Mr. Aldridge</i>	<b>Action</b>	<b>28</b>
6. <b>U. T. System: Approval of the Fiscal Year 2007 Budget Preparation Policies and Calendar for budget operations</b>	11:00 a.m. <b>Action</b> <i>Mr. Wallace</i>	<b>Action</b>	<b>31</b>
7. <b>U. T. System Board of Regents: Approval to amend the Intermediate Term Fund Investment Policy Statement and approval of recommended distribution rate</b>	11:10 a.m. <b>Action</b> <i>Dr. Kelley</i>	<b>Action</b>	<b>34</b>
8. <b>U. T. System Board of Regents: Approval of revised Master Investment Management Services Agreement with The University of Texas Investment Management Company (UTIMCO)</b>	11:15 a.m. <b>Action</b> <i>Dr. Kelley</i>	<b>Action</b>	<b>47</b>

	<b>Committee Meeting</b>	<b>Board Meeting</b>	<b>Page</b>
9. U. T. System Board of Regents: Investments Report for the quarter ended November 30, 2005, and The University of Texas Investment Management Company (UTIMCO) Performance Summary Report	11:20 a.m. <b>Report</b> <i>Mr. Boldt</i>	<b>Report</b>	<b>72</b>
C. ADJOURN	11:30 a.m.		

1. **U. T. System: Report on the Fiscal Year 2005 Annual Financial Report including the report on the U. T. System Financial Statement Audit performed by Deloitte & Touche LLP**

See Item on Pages 16 - 17 of the Audit, Compliance, and Management Review Committee.

2. **U. T. System: Discussion and appropriate action related to approval of Docket No. 125**

**RECOMMENDATION**

It is recommended that *Docket No. 125*, beginning on Page Docket - 1, be approved. The Docket is printed on green paper at the back of the Supplemental Materials (Volume 2) of the Agenda Book.

It is also recommended that the Board confirm that authority to execute contracts, documents, or instruments approved therein has been delegated to appropriate officials of the respective institution involved.

3. **U. T. System: Report on the Analysis of Financial Condition for Fiscal Year 2005**

The Analysis of Financial Condition is a broad annual financial evaluation that rates institutions based on the factors analyzed as either "Satisfactory," "Watch," or "Unsatisfactory." The Report on the Analysis of Financial Condition for Fiscal Year 2005 is set forth on Pages 133 -191 of the Supplemental Materials (Volume 2) of the Agenda Book.

An Executive Summary of the report may be found on Pages 135 -139. One institution's rating has been downgraded to "Unsatisfactory," one institution's rating remains at "Watch," and the rating of two institutions has been upgraded from "Watch" to "Satisfactory."

**REPORT**

A financial analysis is performed from each institution's Balance Sheet and the Statement of Revenues, Expenses, and Changes in Net Assets. The ratios presented in this report are ratios commonly used by bond rating agencies, public accounting firms, and consulting firms. The following ratios were analyzed: Operating Expense

Coverage, Annual Operating Margin, Return on Net Assets, Expendable Resources to Debt, Debt Burden, Debt Service Coverage, and Full-time Equivalent Student Enrollment (academic institutions only).

The Analysis of Financial Condition has been prepared since 1995 to track financial ratios to determine if the financial condition of the institutions is improving or declining. This analysis compares trends for Fiscal Years 2002 through 2005.

#### **4. U. T. System: Key Financial Indicators Report**

The Key Financial Indicators Report as set forth on Pages 20 - 27 representing the consolidated operating results will be discussed by Dr. Scott Kelley, Executive Vice Chancellor for Business Affairs.

#### **REPORT**

The Key Financial Indicators Report compares the results of operations, key revenues and expenses, reserves, and key financial ratios from 2002 through December 2005. Ratios requiring balance sheet data are provided for 2002 through 2005.












# THE UNIVERSITY OF TEXAS SYSTEM



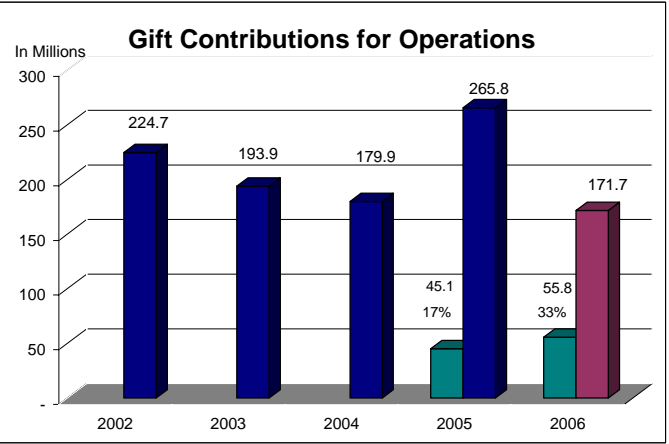
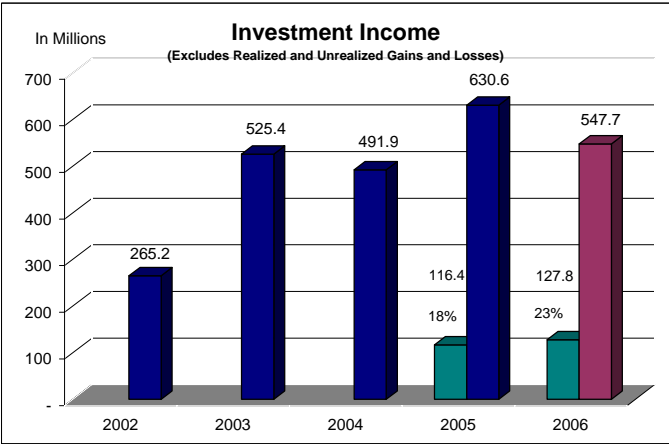
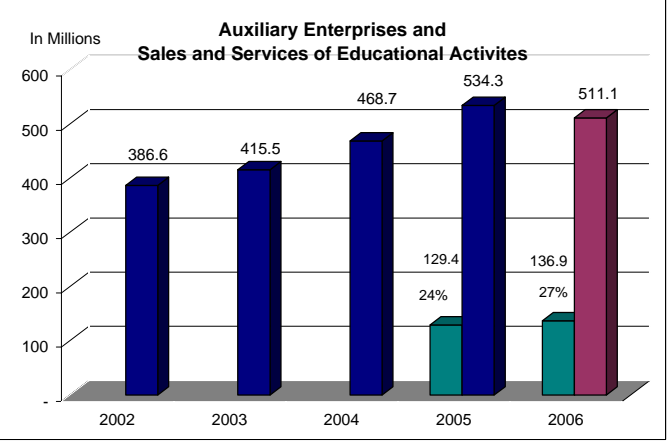
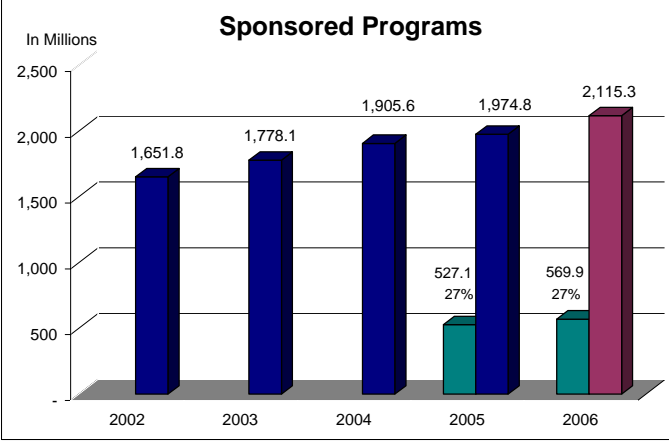
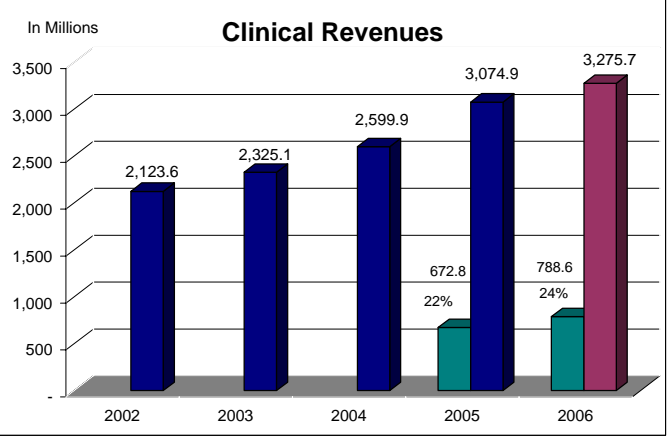
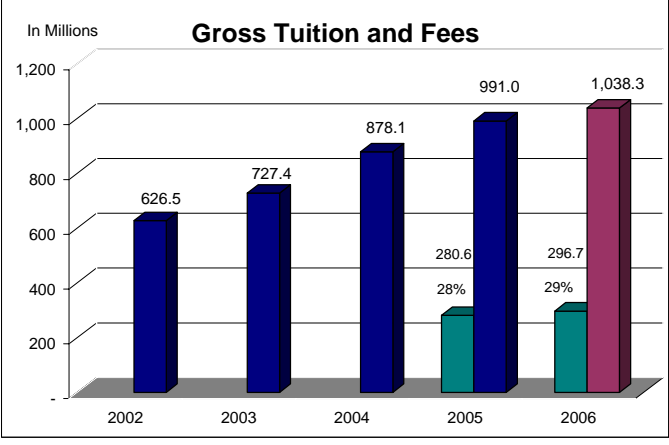
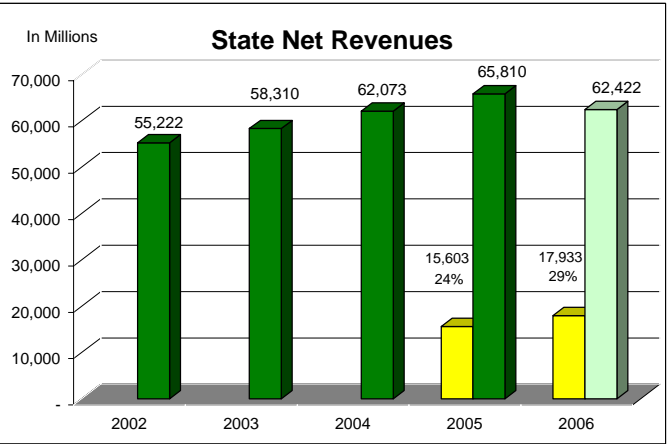
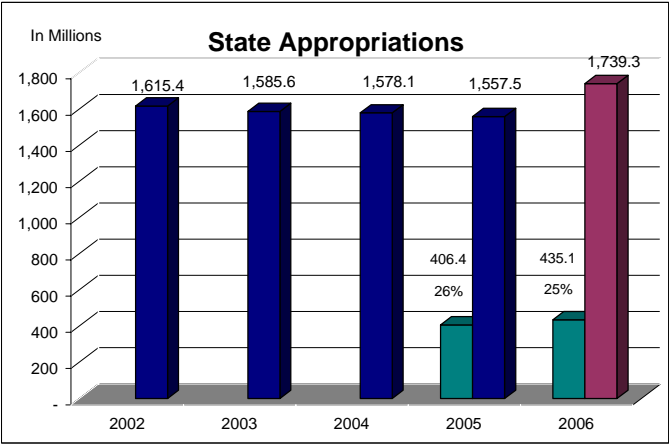
## QUARTERLY KEY STRATEGIC INDICATORS REPORT

1<sup>ST</sup> QUARTER FY 2006

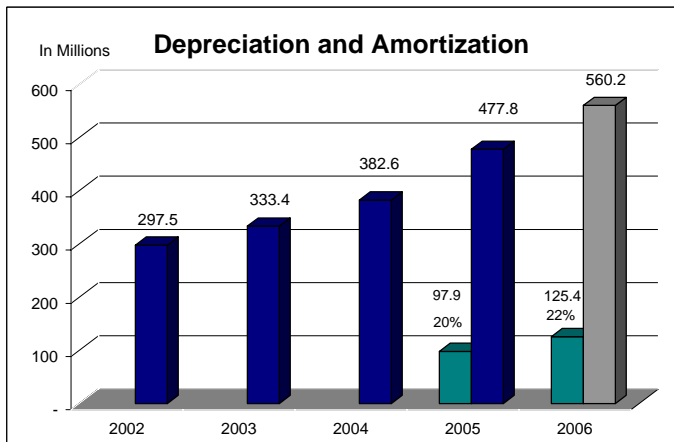
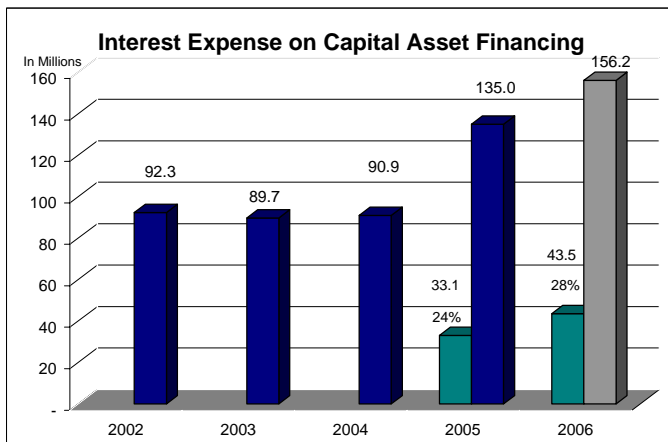
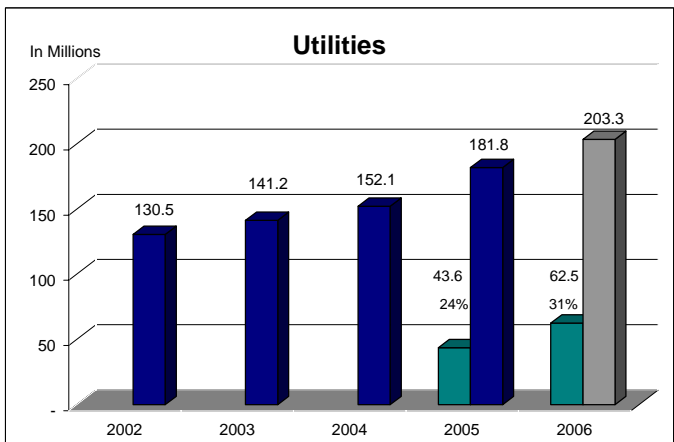
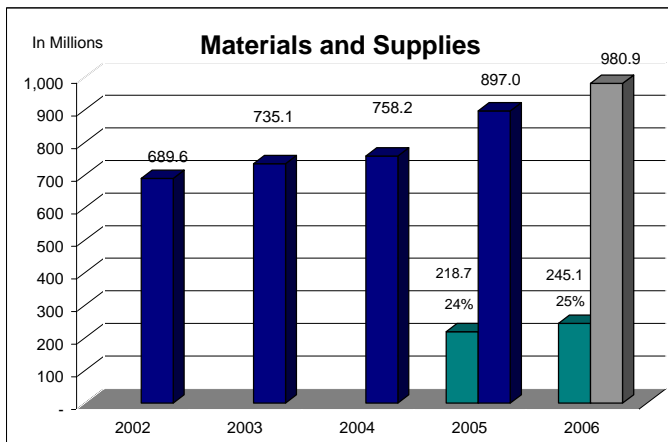
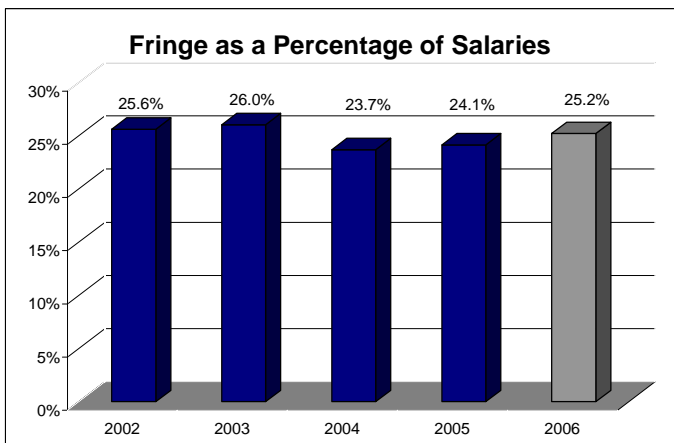
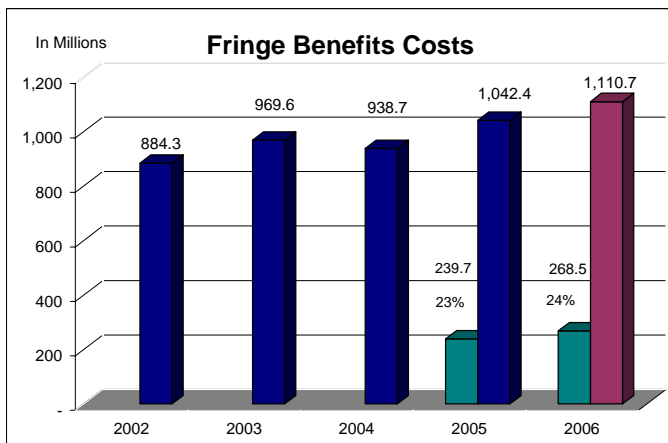
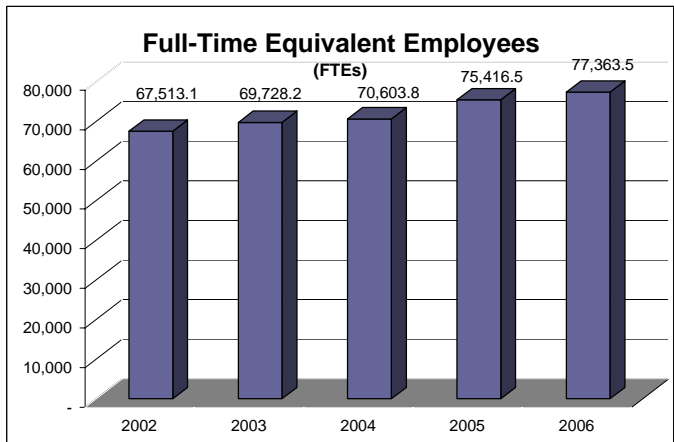
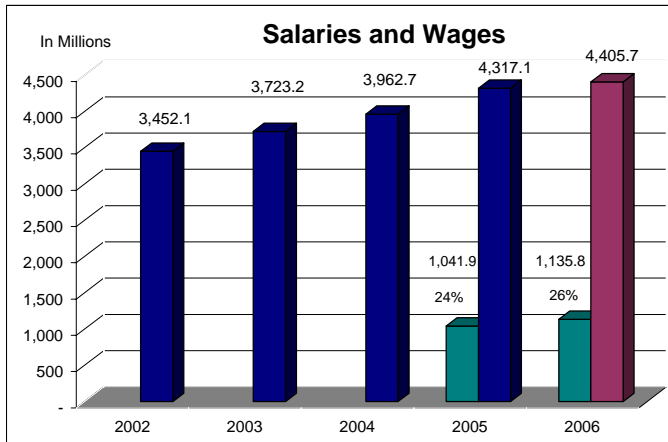
## KEY

	<b>Actual 2002 Through 2005 amounts</b> (SOURCE: Annual Financial Reports Fiscal Years 2002, 2003, 2004 and 2005)
	<b>2006 Budget amounts</b> (SOURCE: Operating Budget Summary 2006)
	<b>Projected 2006 amounts</b> (trend based on the average change of the previous four years of data)
	<b>Monthly Financial Report Year to Date amounts for November 2004 and November 2005</b>
	<b>Annual State Net Revenue Collections for 2002, 2003, 2004 and 2005</b> (SOURCE: Texas Revenue History by Source 1978-2005, State Comptroller's Office)
	<b>Year to Date State Net Revenue Collections for November 2005 and November 2006</b> (SOURCE: State Comptroller's Office)
	<b>Estimated State Revenue Collections for 2006</b> (SOURCE: January 2005 Biennial Revenue Estimate 2006-2007 Summary Tables, State Comptroller's Office)
	<b>2002, 2003, 2004 and 2005 Annual Average of FTEs, 1st Quarter 2006 FTEs</b> (SOURCE: State Auditor's Office Quarterly FTE Report)
	<b>Year to Date margin for December 2005</b> (SOURCE: Monthly Financial Report for December 2005)
	<b>Projected 2006 Margin</b>
	<b>Year to Date margin for December 2004</b> (SOURCE: Monthly Financial Report for December 2005)
	<b>Target Normalized Rates</b>
	<b>Aaa/Aa1 Median</b> (SOURCE: Moody's)
	<b>Aa2 Median</b> (SOURCE: Moody's)
	<b>Fair Facilities Condition Index (5% - 10%)</b>
	<b>Good Facilities Condition Index (Exceeds 10%)</b>

**KEY INDICATORS OF REVENUES  
ACTUAL 2002 THROUGH 2005  
PROJECTED 2006  
YEAR TO DATE 2005 AND 2006 FROM NOVEMBER MONTHLY FINANCIAL REPORT**

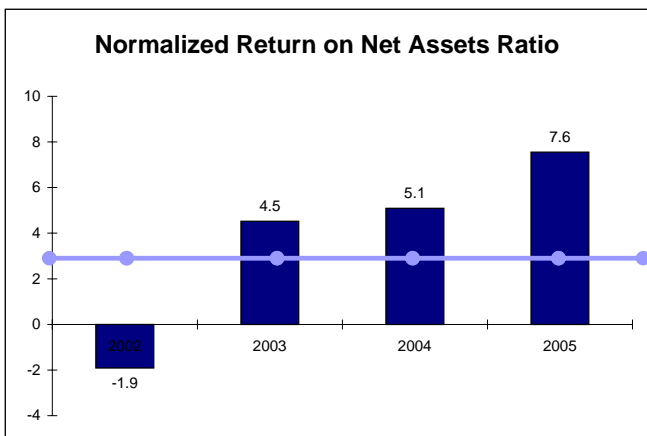
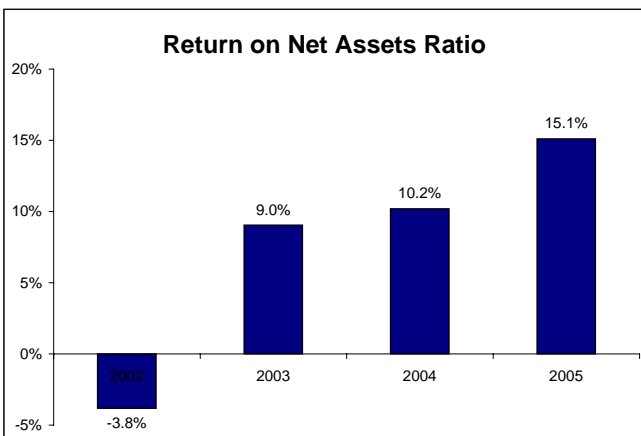
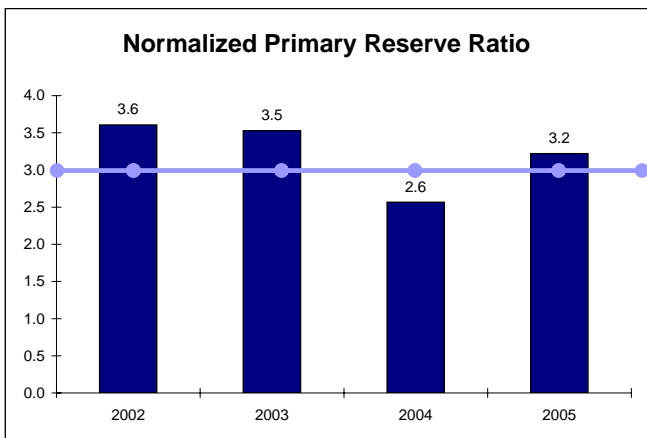
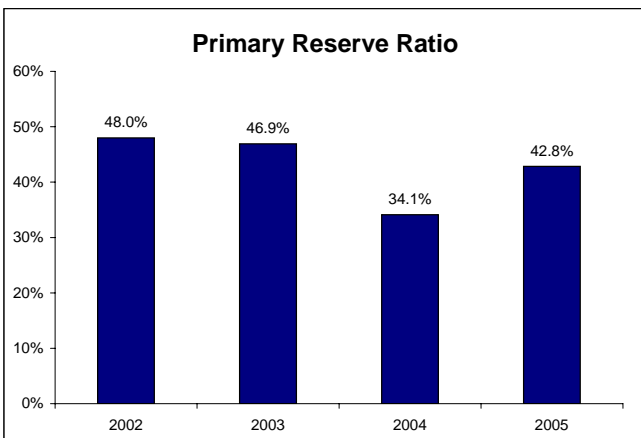
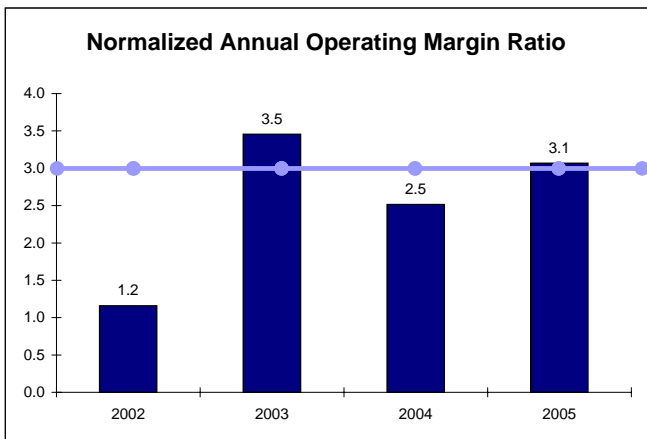
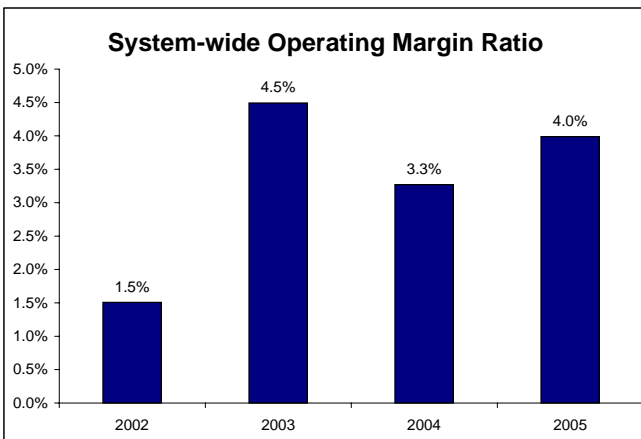
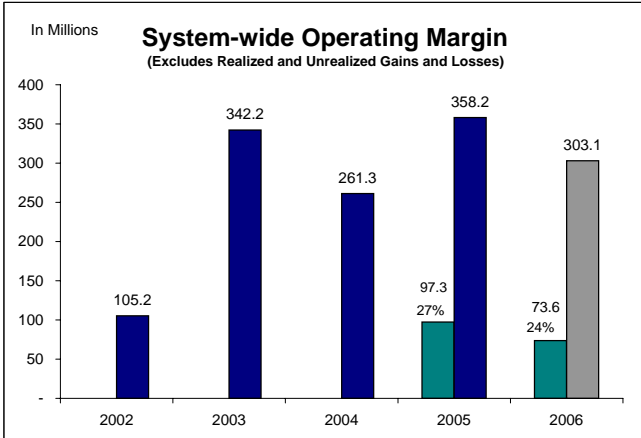


**KEY INDICATORS OF EXPENSES  
ACTUAL 2002 THROUGH 2005  
PROJECTED 2006  
YEAR TO DATE 2005 AND 2006 FROM NOVEMBER MONTHLY FINANCIAL REPORT**

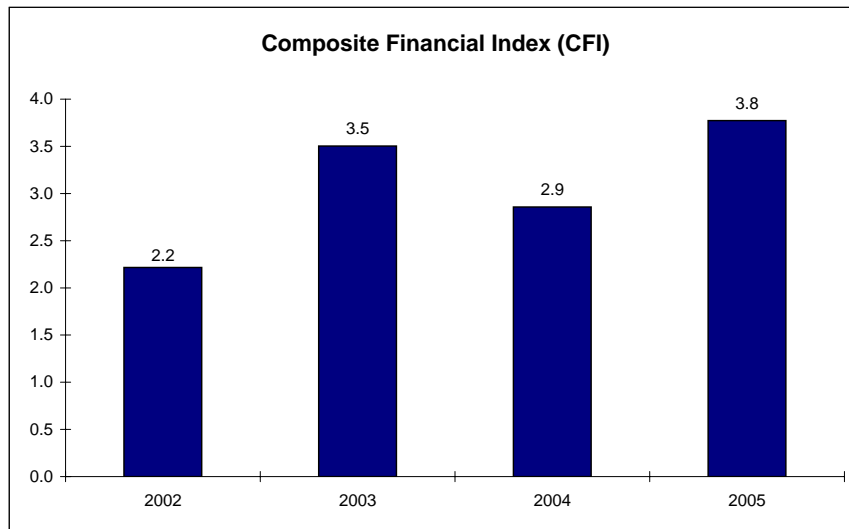




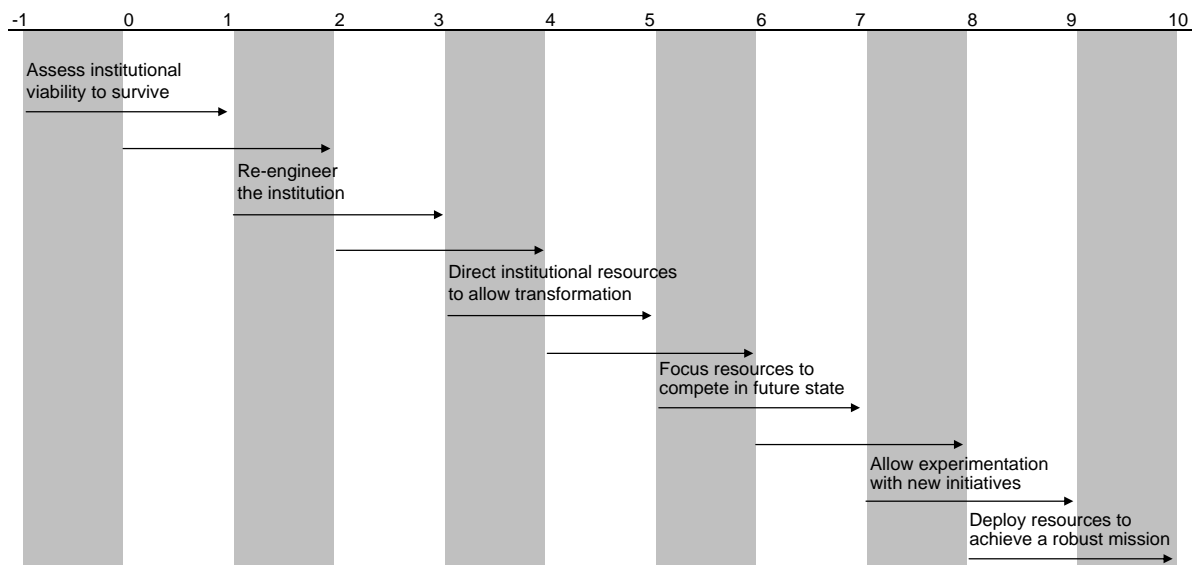
**KEY INDICATORS OF RESERVES**  
**ACTUAL 2002 THROUGH 2005**  
**YEAR TO DATE 2005 AND 2006 FROM NOVEMBER MONTHLY FINANCIAL REPORT**  
**PROJECTED 2006**



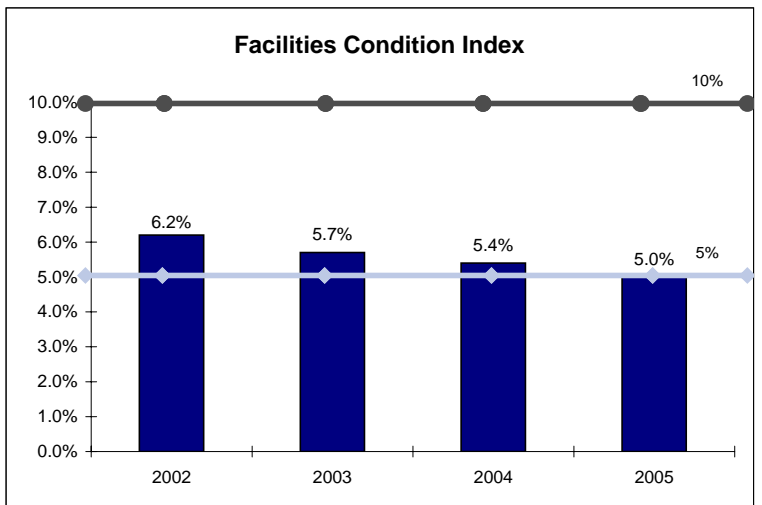
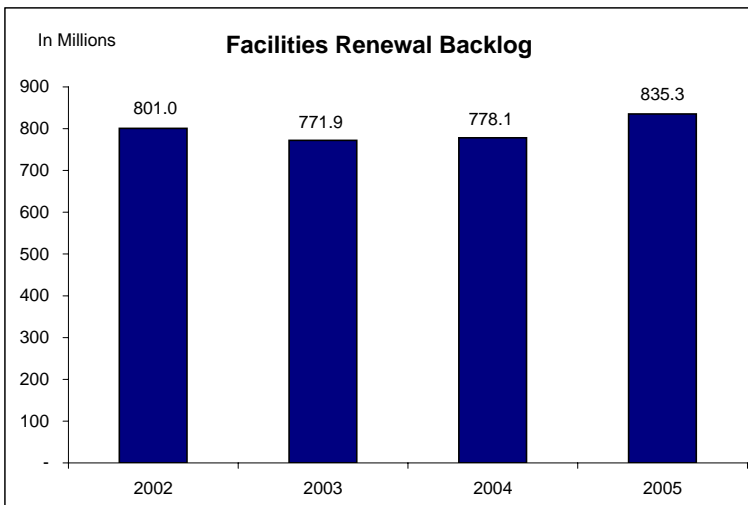
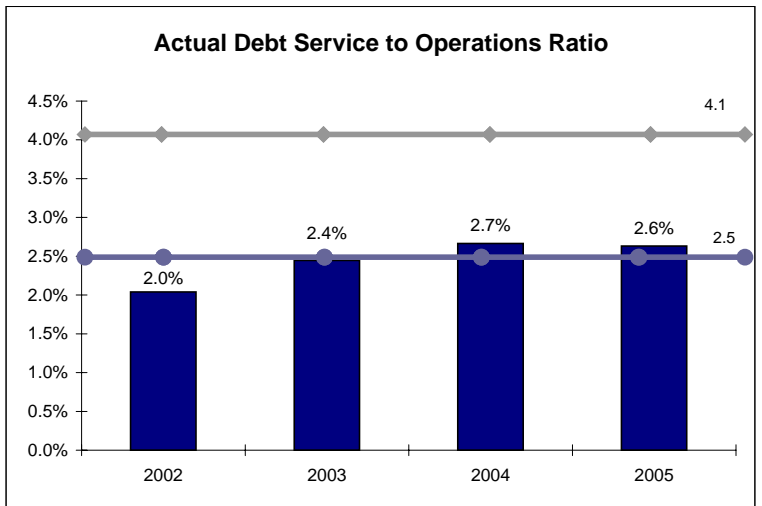
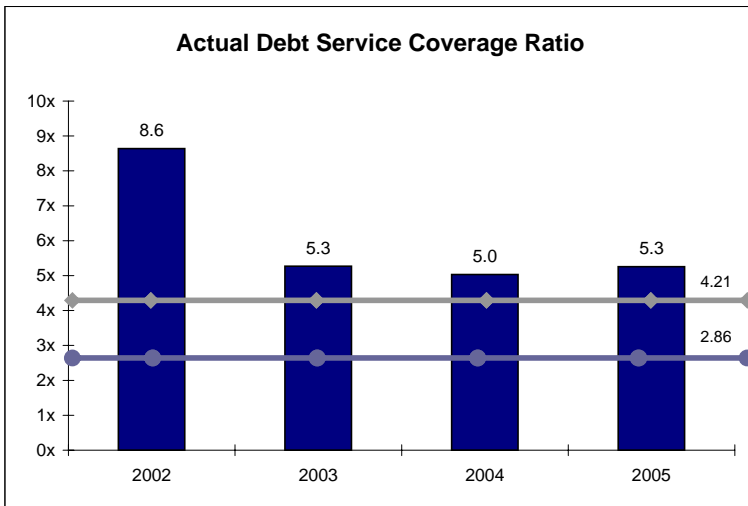
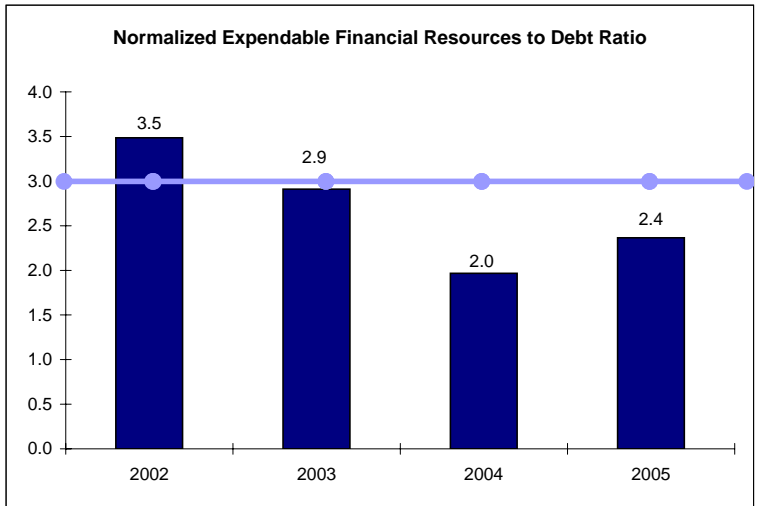
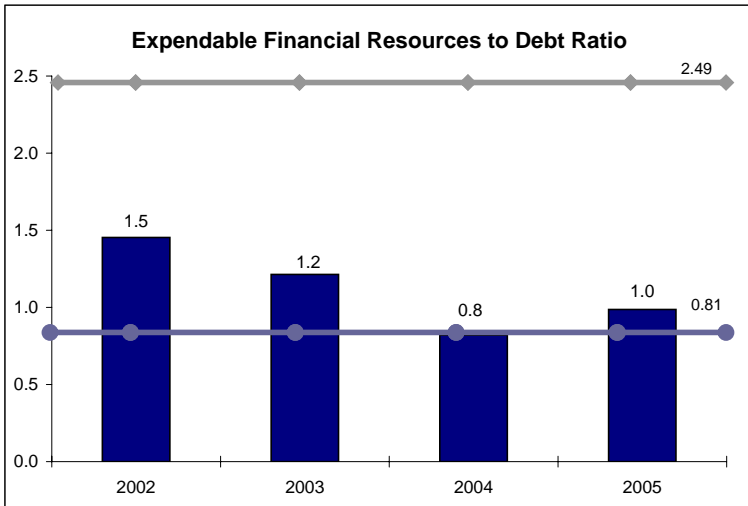
# KEY INDICATORS OF FINANCIAL HEALTH 2002 THROUGH 2005



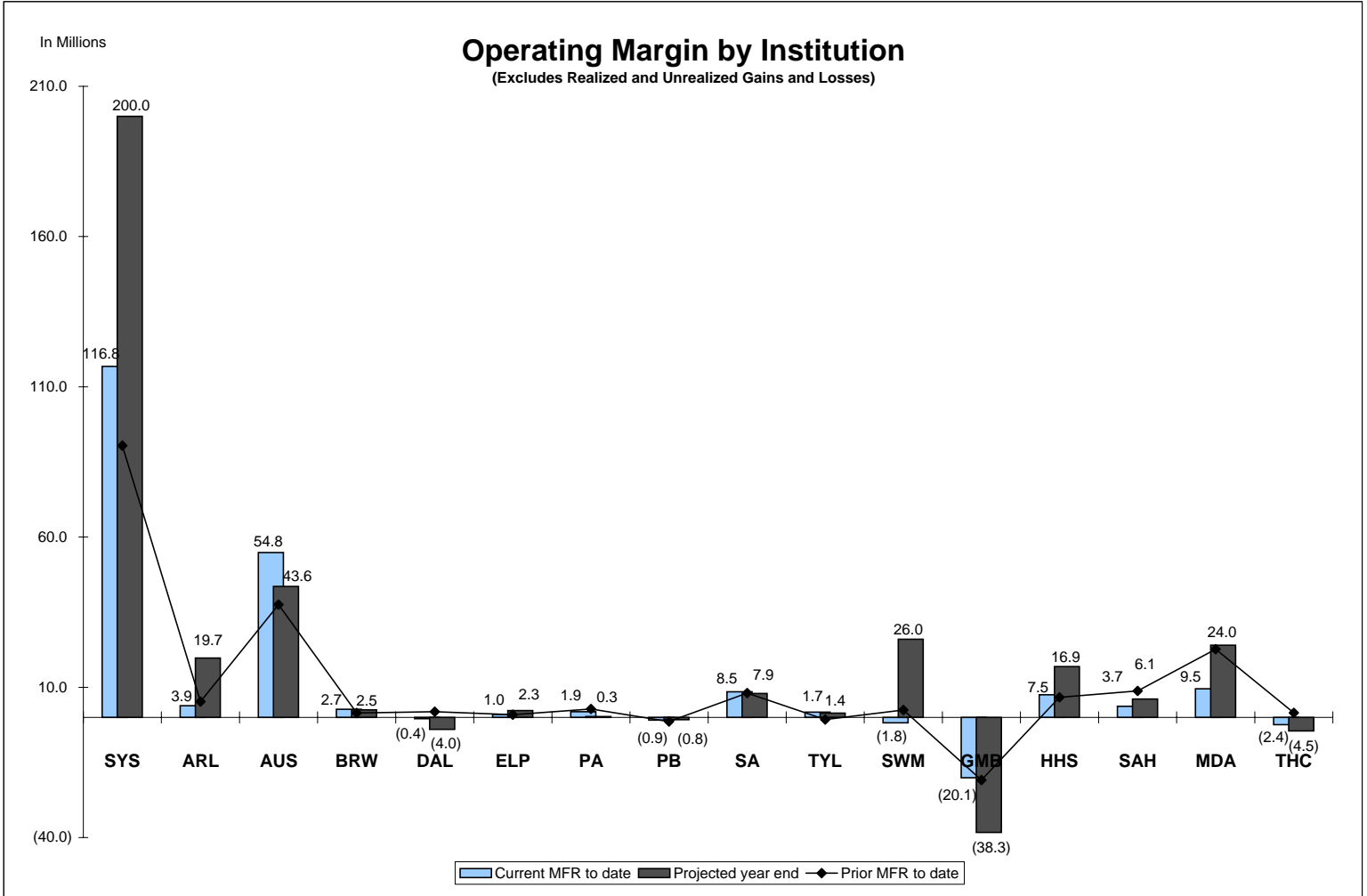
### Scale for Charting CFI Performance



# KEY INDICATORS OF CAPITAL NEEDS AND CAPACITY 2002 THROUGH 2005



**KEY INDICATORS OF RESERVES**  
**YEAR TO DATE 2005 AND 2006 FROM DECEMBER MONTHLY FINANCIAL REPORT**  
**PROJECTED 2006 YEAR-END MARGIN**



5. **U. T. System: Approval of additional amount of equipment financing for Fiscal Year 2006 and resolution of parity debt**

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs that the U. T. System Board of Regents

- a. approve an additional aggregate amount of \$24,500,000 of Revenue Financing System Equipment Financing for Fiscal Year 2006 as allocated to those U. T. System institutions set out on Page 30; and
- b. resolve in accordance with Section 5 of the Amended and Restated Master Resolution Establishing The University of Texas System Revenue Financing System that
  - parity debt shall be issued to pay the cost of equipment including costs incurred prior to the issuance of such parity debt;
  - sufficient funds will be available to meet the financial obligations of the U. T. System, including sufficient Pledged Revenues as defined in the Master Resolution to satisfy the Annual Debt Service Requirements of the Financing System, and to meet all financial obligations of the U. T. System Board of Regents relating to the Financing System;
  - the institutions and U. T. System Administration, which are "Members" as such term is used in the Master Resolution, possess the financial capacity to satisfy their direct obligation as defined in the Master Resolution relating to the issuance by the U. T. System Board of Regents of tax-exempt parity debt in the aggregate amount of \$24,500,000 for the purchase of equipment; and
  - this resolution satisfies the official intent requirements set forth in Section 1.150-2 of the *Code of Federal Regulations*, that evidences the Board's intention to reimburse project expenditures with bond proceeds.

BACKGROUND INFORMATION

In 1994, the U. T. System Board of Regents approved the use of Revenue Financing System debt for equipment purchases in accordance with the Guidelines Governing Administration of the Revenue Financing System. Equipment financing is used for the

purchase of equipment in lieu of more costly vendor financing. The Guidelines specify that the equipment to be financed must have a useful life of at least three years. The debt is amortized twice a year with full amortization not to exceed 10 years.

At the August 11, 2005, meeting, the U. T. System Board of Regents approved \$95,511,000 for equipment financing in Fiscal Year 2006. This Agenda Item requests approval of an additional aggregate amount of \$24,500,000 for equipment financing.

Further details on the equipment to be financed and debt coverage ratios for individual institutions may be found on Page 30.

APPROVAL OF U. T. SYSTEM EQUIPMENT FINANCING  
FY 2006 (February)

Institution	\$ Amount of Request	Description of Equipment Purchases	DSC*
U. T. Brownsville	\$1,350,000	Telephone system replacement	2.4x
U. T. El Paso	150,000	Facilities Services-Timekeeping Software, Freight Elevator Improvements	1.8x
U. T. San Antonio	750,000	Scientific & Lab Equipment	2.9x
U. T. M. D. Anderson Cancer Center	20,000,000	Radiology, Pharmacy Pumps, Imaging, Surgical, Information Technology, Research Laboratory	4.6x
U. T. Health Center - Tyler	2,000,000	Clinical equipment	1.7x
U. T. System	250,000	Information technology equipment	NA

<b>Total</b>	<b>\$24,500,000</b>
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\* Debt Service Coverage ("DSC") based on actual results for FY 2005.

6. **U. T. System: Approval of the Fiscal Year 2007 Budget Preparation Policies and Calendar for budget operations**

**RECOMMENDATION**

With the concurrence of the Executive Vice Chancellor for Academic Affairs, the Executive Vice Chancellor for Business Affairs, and the Executive Vice Chancellor for Health Affairs, the Chancellor recommends that the U. T. System Board of Regents approve the Budget Preparation Policies and Calendar for use in preparing the Fiscal Year 2007 Operating Budget for the U. T. System as set out below:

**U. T. System Fiscal Year 2007 Budget Preparation Policies**

**General Guidelines** - The regulations and directives included in the General Appropriations Act enacted by the 79th Texas Legislature serve as the basis for these guidelines and policies. In preparing the draft of the 2007 Operating Budget, the president of each institution should adhere to guidelines and policies as detailed below and as included in the General Appropriations Act. The Chancellor will issue detailed instructions regarding the implementation of those regulations and directives into the institutional budget process.

Overall budget totals, including reasonable reserves, must be limited to the funds available for the year from General Revenue Appropriations, Estimates of Educational and General Income, and limited use of institutional unappropriated balances.

**Salary Guidelines** - Recommendations regarding salary policy are subject to the following directives:

1. **Salaries Proportional by Fund** - Unless otherwise restricted, payment for salaries, wages, and benefits paid from appropriated funds, including local funds and educational and general funds as defined in *Texas Education Code* Section 51.009 (a) and (c), shall be proportional to the source of funds.
2. **Merit Increases and Promotions** - Subject to available resources and resolution of any major salary inequities, institutions should give priority to implementing merit salary increases for faculty and staff.

Merit increases or advances in rank for faculty are to be on the basis of teaching effectiveness, research, and public service.

Merit increases or promotions for staff are to be based on evaluation of performance in areas appropriate to work assignments.



To be eligible for a merit increase, staff must have been employed by the institution for at least six consecutive months ending August 31, 2006, and at least six months must have elapsed since the employee's last merit salary increase.

3. Other Increases - Equity adjustments, competitive offers, and increases to accomplish contractual commitments should also consider merit where appropriate, subject to available resources.
4. New Positions - Subject to available resources, new administrative positions are to be requested only when justified by workloads or to meet needs for developing new programs.
5. Reporting - The Chancellor will issue guidance on reporting of salary changes and amounts. It is expected that required reports will encompass high-ranking and highly compensated staff along with those staff receiving significant changes in compensation.

Staff Benefits Guidelines - Recommendations regarding the State contribution for employee staff benefits such as group insurance premiums, teacher retirement, and optional retirement are subject to legislative determination via the General Appropriations Act.

Other Employee Benefits - Employer contributions to the self-insured Unemployment Compensation Fund are based on an actuarial study. Workers' compensation insurance rates are experience rated for each institution. Appropriate instructions will be issued regarding the implementation of Unemployment Compensation Fund and Workers' Compensation Insurance Benefits.

Other Operating Expenses Guidelines - Increases in Maintenance, Operation, Equipment, and Travel are to be justified by expanded workloads, for developing new programs, or for correcting past deferrals or deficiencies.

Budget Reductions and Limitations - The General Appropriations Act contains provisions requiring budget reductions and budget restrictions.

### BACKGROUND INFORMATION

The U. T. System Fiscal Year 2007 Budget Preparation Policies are consistent with the regulations and directives included in the General Appropriations Act enacted by the 79th Texas Legislature. As written, this policy provides general direction to the U. T. System institutions.

Historically, the planning and execution required to develop a proposed institutional budget within required timelines make it difficult to make determinations on individual salary recommendations. A Board Committee, chaired by former Regent Lowell Lebermann, recognized this challenge and recommended that individual salaries not be included in the institutional operating budgets submitted for approval to the Board of Regents but be available for review in separate salary rosters. This recommendation was adopted by the Board in December 1994. In August 2005, the Board of Regents adopted a recommendation no longer requiring separate salary rosters in advance of the August meetings. This change does not impact the current procedure for the Board to review the salaries for U. T. System executive officers, presidents, those reporting directly to the Board, and those earning \$1 million or greater.

**FY 2007**  
**Operating Budget Calendar**

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February 9, 2006	U. T. System Board of Regents approves budget policies
April 3 - 14, 2006	Major goals, priorities, and resource allocation hearings with System Administration
May 12, 2006	Draft budget documents due to System Administration
May 15 - 26, 2006	Technical budget review with System Administration
June 9, 2006	Final budget documents due to System Administration
June 22, 2006	High-ranking and highly compensated salary reports due to System Administration
July 13 - 14, 2006	U. T. System Board of Regents to approve executive compensation
July 27, 2006	Operating Budget Summaries mailed to U. T. System Board of Regents
August 10, 2006	U. T. System Board of Regents approves Operating Budget
August 14, 2006	Salary change report due to System Administration

7. **U. T. System Board of Regents: Approval to amend the Intermediate Term Fund Investment Policy Statement and approval of recommended distribution rate**

**RECOMMENDATION**

The Chancellor and the Executive Vice Chancellor for Business Affairs recommend that the U. T. System Board of Regents approve

- a. the proposed changes to the Intermediate Term Fund (ITF) Investment Policy Statement, as presented in congressional style on Pages 35 - 46 and
- b. the proposed ITF distribution rate.

**BACKGROUND INFORMATION**

The U. T. System Board of Regents (Board), at the July 8, 2005, meeting, authorized the centralization of management of the U. T. System operating reserves. The ITF Investment Policy Statement established the ITF as a pooled fund for the collective investment of operating assets and other intermediate and long-term assets under the sole control of the Board, as a fiduciary with full discretion as to investments. Investment policies are the responsibility of the Board. The ITF Investment Policy Statement was approved at the November 10, 2005, Board meeting. The ITF will be managed by The University of Texas Investment Management Company (UTIMCO) in conformity with the ITF Investment Policy Statement, with authority delegated by the Board pursuant to the Investment Management Services Agreement with UTIMCO.

UTIMCO staff and U. T. System staff collaborated on the development of the ITF Investment Policy Statement. In the course of preparation for the ITF launch, several accounting issues emerged. As a result of the increased understanding of operating funds accounting procedures at the institutions, the UTIMCO Board of Directors are recommending a change to the ITF Investment Policy Statement to provide for distributions from the ITF as noted on Pages 43 and 44. The proposed amendments to the ITF Investment Policy Statement were approved by the UTIMCO Board of Directors at its January 17, 2006, meeting.

Alternative methods for setting the distribution rate were considered at an Investment Advisory Group meeting on January 10, 2006. Based on these discussions, the UTIMCO Board of Directors recommends that the distribution rate for the ITF be set at 3.0% per annum for the remainder of Fiscal Year 2006, 0.25% paid on a monthly basis as set forth in the amended ITF Investment Policy Statement, effective with the March 1, 2006, distribution. The proposed distribution rate was approved by the UTIMCO Board of Directors at its January 17, 2006, meeting.

# THE UNIVERSITY OF TEXAS SYSTEM INTERMEDIATE TERM FUND INVESTMENT POLICY STATEMENT

## **Purpose and Structure**

The University of Texas System Intermediate Term Fund (ITF) was established by the Board of Regents of The University of Texas System (Board of Regents) as a pooled fund for the collective investment of operating funds and other intermediate and long-term funds held by U. T. System institutions and U. T. System Administration.

## **ITF Organization**

The ITF functions as a mutual fund in which each eligible account purchases and redeems ITF units as provided herein. The ownership of ITF assets shall at all times be vested in the Board of Regents. Such assets shall be deemed to be held by the Board of Regents, as a fiduciary, regardless of the name in which the assets may be registered.

## **ITF Management**

Article VII, Section 11b of the Texas Constitution authorizes the Board of Regents, subject to procedures and restrictions it establishes, to invest the Permanent University Fund (the "PUF") in any kind of investment and in amounts it considers appropriate, provided that it adheres to the prudent investor standard. This standard provides that the Board of Regents, in making investments, may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment that prudent investors, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment. Pursuant to Section 51.0031(c) of the *Texas Education Code*, the Board of Regents has elected the PUF prudent investor standard to govern its management of the ITF.

Ultimate fiduciary responsibility for the ITF rests with the Board of Regents. Section 66.08, *Texas Education Code*, as amended, authorizes the Board of Regents, subject to certain conditions, to enter into a contract with a nonprofit corporation to invest funds under the control and management of the Board of Regents.

Pursuant to an Investment Management Services Agreement between the Board of Regents and The University of Texas Investment Management Company (UTIMCO), the ITF shall be managed by UTIMCO, which shall a) recommend investment policy for the ITF, b) recommend specific asset allocation targets, ranges, and performance benchmarks consistent with ITF objectives, and c) monitor ITF performance against ITF objectives. UTIMCO shall invest the ITF assets in conformity with this Policy Statement. All changes to this Policy Statement or the exhibits to this Policy Statement, including

changes to asset allocation targets, ranges and performance benchmarks, are subject to approval by the Board of Regents.

UTIMCO may select and terminate unaffiliated investment managers subject to the Delegation of Authority Policy approved by the UTIMCO Board. Managers shall be monitored for performance and adherence to investment disciplines.

### **ITF Administration**

UTIMCO shall employ an administrative staff to ensure that all transaction and accounting records are complete and prepared on a timely basis. Internal controls shall be emphasized so as to provide for responsible separation of duties and adequacy of an audit trail. Custody of ITF assets shall comply with applicable law and be structured so as to provide essential safekeeping and trading efficiency.

### **Funds Eligible to Purchase ITF Units**

No account shall be eligible to purchase units of the ITF unless it is under the sole control, with full discretion as to investments, by the Board of Regents. Any account whose governing instrument contains provisions which conflict with this Policy Statement, whether initially or as a result of amendments to either document, shall not be eligible to purchase or hold units of the ITF.

### **ITF Investment Objectives**

The ITF consists of intermediate and long-term funds held by the U. T. System Board of Regents, as a fiduciary, for the benefit of U. T. System institutions, U. T. System Administration, and other affiliated funds. ITF assets are pooled for efficient investment purposes and managed by UTIMCO over the intermediate to longer term.

The primary investment objective of the ITF is to preserve the purchasing power of ITF assets by earning a compound annualized return over rolling three-year periods, net of all direct and allocated expenses, of at least inflation as measured by the Consumer Price Index (CPI-U) plus 3%. The ITF's success in meeting this objective depends upon its ability to generate higher returns in periods of low inflation that will offset lower returns generated in years when the capital markets under-perform the rate of inflation.

The secondary ITF objective is to generate a return, net of all direct and allocated expenses, measured monthly by the independent custodian and reported at least quarterly, in excess of the approved Policy Portfolio benchmark over rolling three-year periods. The Policy Portfolio benchmark will be maintained by UTIMCO and will be comprised of a blend of asset class indices reported by the independent custodian and weighted to reflect ITF's approved asset allocation policy targets as defined in Exhibit A.

Limiting factors are that prudent diversification within each approved asset class must be maintained at all times; and a portfolio risk profile within the approved Policy Portfolio

risk range, as defined in Exhibit A and measured at least monthly by UTIMCO's risk model, must be sustained at all times. Liquidity of the ITF will be governed by the Liquidity Policy, overseen by the Risk Committee of the UTIMCO Board.

ITF return, asset allocation, and risk targets are subject to adjustment from time to time by the U. T. System Board of Regents.

### **Asset Allocation and Policy**

Asset allocation is the primary determinant of the volatility of investment return and, subject to the asset allocation ranges specified in Exhibit A, is the responsibility of UTIMCO. The asset allocation is designed to accommodate the intermediate investment horizon of the ITF assets with enhanced returns at moderate managed risk levels. UTIMCO is responsible for measuring actual asset allocation at least monthly (incorporating the impact of derivative positions covered under the Derivative Investment Policy), and for reporting the actual portfolio asset allocation to the UTIMCO Board and the Board of Regents at least quarterly. While specific asset allocation positions may be changed within the ranges specified in Exhibit A based on the economic and investment outlook from time to time, the range limits cannot be intentionally breached without prior approval of the Board of Regents.

In the event that actual portfolio positions in asset categories move outside the ranges indicated in Exhibit A due to market forces that shift relative valuations, UTIMCO staff will immediately report this situation to the UTIMCO Board Chairman and take steps to rebalance portfolio positions back within the policy ranges in an orderly manner as soon as practicable. Extenuating circumstances that could cause immediate rebalancing to be irrational and detrimental to the interest of the ITF asset values could warrant requesting approval of the UTIMCO Board Chairman for remedial action.

ITF assets shall be allocated among the following broad asset classes based upon their individual return/risk characteristics and relationships to other asset classes:

- A. U.S. Equities – U.S. equities represent ownership in U.S. companies that are traded in public markets. U.S. equities include common stocks, exchange traded funds, and derivatives based on common stocks, including warrants, rights, options, and futures. In addition, derivative applications that serve as a U.S. equity substitute will be classified as traditional U.S. equity. Global mandates that include a majority of U.S. equities will be included in U.S. equities. U.S. equities provide both current income and capital gains.
- B. Global ex U.S. Equities – Global ex U.S. equities represent ownership in global companies that are traded in public markets. The global ex U.S. markets include established (non-U.S. developed) and emerging markets.

Global ex U.S. equities include common stocks, exchange traded funds, and derivatives based on common stocks, including warrants, rights, options, and futures.

In addition, derivative applications that serve as a Global ex U.S. equity substitute will be classified as Global ex U.S. equities. Global mandates that include a majority of Global ex U.S. equities will be included in Global ex U.S. equities. Global ex U.S. equities provide both current income and capital gains.

Non-U.S. Developed Equity – Non-U.S. developed equities represent ownership in companies domiciled in developed economies (countries) included in the MSCI All – Country World Equity Index – excluding those classified as part of the MSCI Emerging Markets Equity Index. These securities are typically constituents of countries in Europe, the Americas (North/Latin/South) and the Far East with high per-capita income, mature capital markets, and stable governments. The benchmark for this asset category will be the MSCI EAFE Index, with net dividends.

Emerging Markets Equity – Emerging markets equities represent ownership in companies domiciled in emerging economies as defined by the current composition of the MSCI Emerging Markets Equity Index. In addition, such definition will also include those companies domiciled in economies that have yet to reach MSCI Emerging Markets Equity Index qualification status (either through financial or qualitative measures). The benchmark for this asset category will be the MSCI Emerging Markets Equity Index, with net dividends.

- C. Hedge Funds – Hedge funds are broadly defined to include nontraditional investment strategies whereby the majority of the underlying securities are traded on public exchanges or are otherwise readily marketable.

Directional Hedge Funds – Directional hedge fund investments include U.S. and international long/short equity or fixed income strategies and other such strategies that exhibit directional market characteristics using commodities, currencies, derivatives, or other global market instruments. These strategies attempt to exploit profits from security selection skills by taking long and short positions in various securities. These strategies may also include fund of hedge fund investments. Directional hedge fund investments are made through private placement agreements. Directional hedge fund investments may be held in an internal commingled investment fund managed by UTIMCO.

Absolute Return Hedge Funds – Absolute return hedge fund investments include arbitrage, event driven strategies, and other relative value strategies. Arbitrage strategies attempt to exploit pricing discrepancies between closely related securities, utilizing a variety of different tactics primarily within equity, fixed income, and convertible securities markets. Event driven strategies attempt to exploit discrete events such as bankruptcies, mergers, and takeovers. Absolute return hedge funds may include multi-strategy managers and fund of hedge fund investments. Absolute return hedge fund investments are made through private placement agreements. Absolute return hedge fund investments may be held in an internal commingled investment fund managed by UTIMCO.

D. Inflation Linked – Inflation linked investments are intended to provide some degree of inflation protection and generally consist of assets with a higher correlation of returns with inflation than other eligible asset classes. Inflation linked investments include:

REITS – REITS are real estate investment trusts that may be held as either trust certificates, derivative investments, or exchange traded funds. REITS own, and in most cases operate, income producing real estate.

Commodities – Commodities include natural resource investments including oil and gas interests and other hard assets. These investments may be held through partnerships, derivative investments, exchange traded funds or direct investments.

TIPS - TIPS are inflation protected securities with a return linked to the inflation rate. For diversification purposes, TIPS may include non-U.S. inflation protected fixed income securities as well as nominal fixed income securities.

E. Fixed Income – Fixed income investments include debt (whether U.S. or foreign) issued by Governments, various government enterprises and agencies, and domestic and foreign corporations. The principal securities include bonds, notes, bills and mortgage and asset-backed securities. In addition, derivative applications that serve as a fixed income substitute may be classified as fixed income.

F. Cash and Cash Equivalents – Short-term (generally securities with time to maturity of three months or less), highly liquid investments that are readily convertible to known amounts of cash, and which are subject to a relatively small risk of changes in value.

### **Performance Measurement**

The investment performance of the ITF will be measured by the ITF's custodian, an unaffiliated organization, with recognized expertise in this field and reporting responsibility to the UTIMCO Board, compared against the stated investment benchmarks of the ITF, as indicated in Exhibit A (incorporating the impact of internal derivative positions) and reported to the UTIMCO Board and the Board of Regents at least quarterly. Monthly performance data and net asset values will be available on the UTIMCO website within a reasonable time after each month end.



## **Investment Guidelines**

The ITF must be invested at all times in strict compliance with applicable law. Investment guidelines include the following:

### General

- Investment guidelines for index, commingled funds, and limited partnerships managed externally shall be governed by the terms and conditions of the respective investment management contracts or partnership agreements.
- All investments will be U.S. dollar denominated assets unless held by an internal or external portfolio manager with the authority to invest in foreign currency denominated securities.
- Investment policies of any unaffiliated liquid investment fund must be reviewed and approved by UTIMCO's chief investment officer prior to investment of ITF assets in such liquid investment fund.
- No securities may be purchased or held which would jeopardize the ITF's tax-exempt status.
- No internal investment strategy or program may purchase securities on margin or use leverage unless specifically authorized by the UTIMCO Board.
- No internal investment strategy or program employing short sales may be made unless specifically authorized by the UTIMCO Board.
- The ITF's investments in warrants shall not exceed more than 5% of the ITF's net assets or 2% with respect to warrants not listed on the New York or American Stock Exchanges.
- The ITF may utilize derivatives to: a) simulate the purchase or sale of an underlying market index while retaining a collateral balance for fund management purposes; b) facilitate trading; c) reduce transaction costs; d) seek higher investment returns when a derivative security is priced more attractively than the underlying security; e) hedge risks associated with ITF investments; or f) adjust the market exposure of the asset allocation, including the use of long and short strategies and other such strategies, provided that the ITF's use of derivatives complies with the Derivative Investment Policy approved by the UTIMCO Board and the Board of Regents. The Derivative Investment Policy shall serve the purpose of defining permitted applications under which derivatives can be used, which applications are prohibited, and the requirements for the reporting and oversight of their use. Derivative applications implemented in compliance with the Derivative Investment Policy shall be deemed to be specifically authorized by the UTIMCO Board for purposes of this Policy Statement. The objective of the Derivative Investment Policy is to facilitate risk management and provide efficiency in the implementation of the investment strategies using derivatives.

## Cash and Cash Equivalents

Holdings of cash and cash equivalents may include the following:

- Highly liquid internal pooled investment funds managed by UTIMCO.
- Unaffiliated liquid investment funds as approved by UTIMCO's chief investment officer.
- ITF's custodian late deposit interest bearing liquid investment fund.
- Municipal short-term securities.
- Commercial paper rated in the two highest quality classes by Moody's Investors Service, Inc. (P1 or P2) or Standard & Poor's Corporation (A1 or A2).
- Negotiable certificates of deposit with a bank that is associated with a holding company meeting the commercial paper rating criteria specified above or that has a certificate of deposit rating of 1 or better by Duff & Phelps.
- Repurchase agreements and reverse repurchase agreements transacted with a dealer that is approved by UTIMCO and selected by the Federal Reserve.
- Bank as a Primary Dealer in U.S. Treasury securities and rated A-1 or P-1 or the equivalent.
  - Each approved counterparty shall execute the Standard Public Securities Association (PSA) Master Repurchase Agreement with UTIMCO.
  - Eligible collateral securities for repurchase agreements are limited to U.S. Treasury securities and U.S. Government Agency securities with a maturity of not more than 10 years.
  - The maturity for a repurchase agreement may be from one day to two weeks.
  - The value of all collateral shall be maintained at 102% of the notional value of the repurchase agreement, valued daily.
  - All collateral shall be delivered to the ITF custodian bank. Tri-party collateral arrangements are not permitted.
  - The aggregate amount of repurchase agreements with maturities greater than seven calendar days may not exceed 10% of the ITF's fixed income assets.
  - Overnight repurchase agreements may not exceed 25% of the ITF's fixed income assets.
- Mortgage Backed Securities (MBS) dollar rolls shall be executed as matched book transactions in the same manner as reverse repurchase agreements above. As above, the rules for trading MBS dollar rolls shall follow the Public Securities Association standard industry terms.

## Fixed Income

### Domestic Fixed Income

Permissible securities for investment include the securities within the component categories of the Lehman Brothers Aggregate Bond Index (LBAGG). These component categories include investment grade government and corporate securities, agency mortgage pass-through securities, and asset-backed securities. These sectors are divided into more specific sub-sectors:

- 1) Government securities: Treasury and Agency;
- 2) Corporate securities: Industrial, Finance, Utility, and Yankee;
- 3) Mortgage-backed securities: GNMA, FHLMC, and FNMA;
- 4) Asset-backed securities;
- 5) Taxable Municipal securities; and
- 6) Commercial Mortgage-backed securities.

In addition to the permissible securities listed above, the following securities shall be permissible:

- a) Floating rate securities with periodic coupon changes in market rates issued by the same entities that are included in the LBAGG as issuers of fixed rate securities;
  - b) Medium term notes issued by investment grade corporations;
  - c) Zero coupon bonds and stripped Treasury and Agency securities created from coupon securities; and
  - d) Structured notes issued by LBAGG qualified entities.
- U. S. Domestic Bonds must be rated investment grade, Baa3 or better by Moody's Investors Services, BBB- by Standard & Poor's Corporation, or BBB- or better by Fitch Investors Service at the time of acquisition. An external investment manager may be authorized by the terms of an investment advisory agreement to invest up to a maximum of 50% of the total fixed income portfolio in below investment grade bonds.
  - Not more than 5% of the market value of domestic fixed income securities may be invested in corporate and municipal bonds of a single issuer.

### Non-U.S. Fixed Income

Non-dollar denominated bond investments shall be restricted to bonds rated equivalent to the same credit standard as the U. S. Fixed Income Portfolio unless an investment manager has been authorized by the terms of an investment advisory agreement to invest in below investment grade bonds.

- Not more than 50% of the ITF's fixed income portfolio may be invested in non-U.S. dollar denominated bonds.

- Not more than 15% of the ITF's fixed income portfolio may be invested in emerging market debt.
- International currency exposure may be hedged at UTIMCO's discretion or delegated by UTIMCO to an external investment manager.

### Equities

The ITF shall:

- Hold no more than 25% of its equity securities in any one industry or industries (as defined by the standard industry classification code and supplemented by other reliable data sources) at market, or
- Hold no more than 5% of its equity securities in the securities of one corporation at cost.

### **ITF Accounting**

The fiscal year of the ITF shall begin on September 1st and end on August 31st. Market value of the ITF shall be maintained on an accrual basis in compliance with Government Accounting Standards Board Statements, Financial Accounting Standards Board Statements, or industry guidelines, whichever is applicable. The ITF's financial statements shall be audited each year by an independent accounting firm selected by the Board of Regents.

### **Valuation of ITF Assets**

As of the close of business on the last business day of each month, UTIMCO shall determine the fair market value of all ITF net assets and the net asset value per unit of the ITF. The final determination of ITF net assets for a month end close shall normally be completed within six business days but determination may be longer under certain circumstances. Valuation of ITF assets shall be based on the books and records of the custodian for the valuation date.

The fair market value of the ITF's net assets shall include all related receivables and payables of the ITF on the valuation date and the value of each unit thereof shall be its proportionate part of such net value. Such valuation shall be final and conclusive.

### **ITF Distributions**

~~There will not be any planned distributions from the ITF. The earnings of the ITF will be reflected in the net asset value per unit of the ITF. The ITF shall provide monthly distributions to the unitholders. The UTIMCO Board will recommend the annual distribution (%) rate to the Board of Regents.~~

Distributions from the ITF to the unitholders shall be made monthly on the first business day of each month. To calculate the monthly distribution, the distribution rate (% divided by 12) will be multiplied by each unitholder's account, determined as follows:

- Net asset value of each unitholder's account on the last business day of the second prior month;
- Plus value of each unitholder's net purchase/redemption amount on the first business day of the prior month;
- Less the distribution amount paid to each unitholder's account on the first business day of the prior month.

### **Purchase and Redemption of ITF Units**

The ITF participants may purchase units on the first business day of each month upon payment of cash or reinvestment of distributions to the ITF, at the net asset value per unit of the ITF as of the prior month ending valuation date. Such purchase commitments are binding. The ITF participants may redeem ITF units on a monthly basis. The unit redemption shall be paid in cash as soon as practicable after the month end valuation date of the ITF. Redemptions from the ITF shall be at the market price per unit determined at the time of the redemption. Such redemption commitments are binding.

Participants of the ITF are required to provide notification of purchases and redemptions based on specific notification requirements as set forth in The University of Texas System Allocation Policy for Non-Endowment Funds.

### **Securities Lending**

The ITF may participate in a securities lending contract with a bank or non-bank security lending agent for purposes of realizing additional income. Loans of securities by the ITF shall be collateralized by cash, letters of credit, or securities issued or guaranteed by the U.S. Government or its agencies. The collateral will equal at least 100% of the current market value of the loaned securities. The contract shall state acceptable collateral for securities loaned, duties of the borrower, delivery of loaned securities and collateral, acceptable investment of collateral and indemnification provisions. The contract may include other provisions as appropriate.

The securities lending program will be evaluated from time to time as deemed necessary by the UTIMCO Board. Monthly reports issued by the lending agent shall be reviewed by UTIMCO staff to ensure compliance with contract provisions.

### **Investor Responsibility**

As a shareholder, the ITF has the right to a voice in corporate affairs consistent with those of any shareholder. These include the right and obligation to vote proxies in a manner consistent with the unique role and mission of higher education as well as for the economic benefit of the ITF. Notwithstanding the above, the UTIMCO Board shall

discharge its fiduciary duties with respect to the ITF solely in the interest of ITF unit-holders, in compliance with the Proxy Voting Policy, and shall not invest the ITF so as to achieve temporal benefits for any purpose including use of its economic power to advance social or political purposes.

### **Amendment of Policy Statement**

The Board of Regents reserves the right to amend the Investment Policy Statement as it deems necessary or advisable.

### **Effective Date**

| The effective date of this policy shall be ~~November 10, 2005~~February 9, 2006, except for Exhibit A. Adherence to the policy targets and ranges may not be fully effective throughout the first six months after initial funding (expected February 1, 2006) as new portfolio investments are phased in. The selection of the effective date of Exhibit A, to be no later than September 1, 2006, shall be determined by UTIMCO's Chief Investment Officer and notification to the Chairmen of the UTIMCO Board and the Board of Regents shall occur at least 30 days prior to the effective date.

**EXHIBIT A**

**INTERMEDIATE TERM FUND  
POLICY TARGETS, RANGES, AND PERFORMANCE OBJECTIVES**

Asset Categories	Percent of Policy (%)		Benchmarks
	Policy Targets	Policy Ranges	
<b>U. S. Equities</b>	<b>15</b>	<b>5 to 20</b>	<b>Russell 3000 Index</b>
<b>Global ex U. S. Equities</b>	<b>10</b>	<b>0 to 15</b>	
Non - U. S. Developed Equity	5	0 to 10	MSCI EAFE Index with net dividends
Emerging Markets Equities	5	0 to 10	MSCI Emerging Markets Index with net dividends
<b>Hedge Funds</b>	<b>25</b>	<b>10 to 27.5</b>	
Directional Hedge Funds	12.5	5 to 20	Combination index: 50% S&P Event-Driven Hedge Index plus 50% S&P Directional/Tactical Hedge Fund Index
Absolute Return Hedge Funds	12.5	5 to 20	Combination index: 66.7% S&P Event-Driven Hedge Fund Index plus 33.3% S&P Arbitrage Hedge Fund Index
<b>Inflation Linked</b>	<b>25</b>	<b>10 to 35</b>	
REITS	10	0 to 15	Dow Jones Wilshire Real Estate Securities Index
Commodities	5	0 to 10	Combination Index: 66.7% GSCI minus .5% plus 33.3% DJ-AIG Commodity Index
TIPS	10	5 to 15	Lehman Brothers US TIPS Index
<b>Fixed Income</b>	<b>25</b>	<b>15 to 40</b>	Lehman Brothers Aggregate Bond Index
<b>Cash</b>	<b>0.0</b>	<b>0 to 20</b>	90 Day T-Bills

Expected Annual Return (%)	7.08
1 yr Downside Deviation (%)	-5.0
Standard Deviation (%)	7.5

Upper Risk Bound: 1 yr Downside Deviation (%)	-6.4	% of Target Risk 127%
Lower Risk Bound: 1 yr Downside Deviation (%)	-3.5	69%

**8. U. T. System Board of Regents: Approval of revised Master Investment Management Services Agreement with The University of Texas Investment Management Company (UTIMCO)**

**RECOMMENDATION**

The Chancellor, the Executive Vice Chancellor for Business Affairs, and the Vice Chancellor and General Counsel concur with the recommendation of The University of Texas Investment Management Company (UTIMCO) Board of Directors that the U. T. System Board of Regents (U. T. Board) approve the revised Master Investment Management Services Agreement (IMSA) effective February 9, 2006, as set forth in congressional style on Pages 50 - 71. The proposed revisions, approved by the UTIMCO Board of Directors on January 17, 2006, amend and restate the IMSA that was approved August 11, 2005, and became effective September 1, 2005.

**BACKGROUND INFORMATION**

Following is a comprehensive summary of proposed changes to the IMSA between the U. T. Board and UTIMCO. "Substantive changes" are those considered necessary or appropriate to reflect current policy of the U. T. Board, while the "Nonsubstantive changes" are intended to update and refine the IMSA to minimize the need for future amendment except through amendment of schedules and to facilitate easier reference to the substantive requirements of the IMSA.

**A. Primary Substantive Changes.**

1. Definitions. While not intended to be substantive, proposed definitional changes are designed to rationalize and update existing patchwork descriptions of the "accounts" governed by the Agreement and to drive the bulk of the changes throughout the document.

"Delegated Assets" and "Funds." The existing defined term "Accounts" has been bifurcated into: (i) a new definition of "Delegated Assets" encompassing the various institutional assets under the control and management of the U. T. Board that are invested in (ii) the various pooled investment Funds managed by UTIMCO. The definitions of the Funds managed by UTIMCO have been revised, updated (including the inclusion of the Intermediate Term Fund), and moved to a new schedule intended to enable more efficient amendment by the parties as Accounts are added or changed. Revised definitions expressly contemplate the possible inclusion of institutional funds of third party foundations dedicated to the support of the U. T. System and its institutions that are under the control and management of the U. T. Board by contract or otherwise (see revised Sec. 1(e)(vi) on Page 52).



"Investment Policies." The definition of "Investment Policies" has been revised to clarify its inclusion of generally applicable policies such as those regarding Asset Allocation, Derivatives, Liquidity, Risk Measurement and Management, Valuation, and Error Correction in Performance Presentation.

2. Delegation of Investment Authority. New language has been added to Section 2(a), the general delegation of authority to UTIMCO, clarifying the U. T. Board's general reservation of authority regarding investment management matters.

Section 2(b) is also revised to limit the obligation of UTIMCO to look to the Chancellor for guidance on non-Investment Policy matters that might implicate other policies of the U. T. Board, to decisions involving media relations, intergovernmental relations, and selected legal issues, with a general delegation to the UTIMCO Board and UTIMCO President of the responsibility to make all decisions necessary to implement the Investment Policies.

3. Investment Management. Various subsections of Section 3 regarding investment management services have been revised to clarify and set forth in more detail certain investment management responsibilities.

3(a). Investment Policies.

i. Added language providing that annual review of Investment Policies will include "such other matters as the U. T. Board or its staff designees may request."

ii. Added language stating process for review and appropriate action on proposed changes will follow U. T. Board agenda process and schedule.

3(b). Investment Management. Added language in first sentence clarifying UTIMCO oversight of investment management shall be "pursuant to the Investment Policies."

3(g). Disclosure of Information. Revised to incorporate changes to second paragraph (new language added in August 2005 to conform to new disclosure law) requested by UTIMCO, and to incorporate cross-reference to new Section 12 regarding confidentiality provisions of contracts with third parties.

## **B. Nonsubstantive Changes.**

1. Title. The name of the Agreement has been changed to "Master Investment Management Services Agreement with UTIMCO," in recognition that the U. T. Board has and may in the future have "Investment Management Services Agreements" with other parties such as the Comptroller and affiliated foundations.

2(b). Policy Matters. Revised to clarify UTIMCO's obligation to consult with the Chancellor on legal issues is limited to those issues that implicate policies of the U. T. Board other than the Investment Policies.

2(c). Meetings and Agendas. Relocated provision regarding obligation of UTIMCO directors to participate in joint annual meeting, consistent with UTIMCO Bylaws from prior Section 2(h).

3(f). Reporting. Revised to more clearly tie reporting to current U. T. System compliance standards and processes "adopted or approved by the U. T. Board."

3(h). Other Services. Added or relocated specific references in this Section to distribution services, online Fund information system, and training functions.

4. Investment Manager as Fiduciary; Training and Education. Deleted second paragraph regarding training and relocated to 3(h).

5. Custody of Assets. Stylistic revisions intended to make reference to agreements with Custodians more generic, to permit changes over time without amendment of the IMSA.

6. Use of Unaffiliated Investment Managers. Added specific cross-reference to Investment Policies.

7. Investment Management Fees; Direct Expenses. Reordered sections by anticipated relevant importance.

10. Representations and Warranties of Parties. The provision regarding Investment Company Act compliance has been relocated from Section 14 to a new Section 10(b) and slightly revised.

11. Compliance with Bylaws, Policies, Regulations and Financial Disclosure Requirements. Investment Policies have been added to the list of governing instruments.

15. Termination. Language has been added to clarify that the right to fees earned prior to termination is subject to the UTIMCO charter documents (i.e., provisions regarding disposition of surplus).

16. Amendments. Language has been added clarifying that amendments must be signed by duly authorized representatives of each party.

18. Non-Assignability. This section has been tightened up to conform with Texas corporate law standards concerning transactions deemed to constitute assignments of contracts.

20. Indemnification. Language added to subsection 20(d)(ii) clarifying need for due notice.

## MASTER INVESTMENT MANAGEMENT SERVICES AGREEMENT WITH UTIMCO

This Investment Management Services Agreement (this “Agreement”) by and between the Board of Regents (the “U. T. Board”) of The University of Texas System (the “U. T. System”) and The University of Texas Investment Management Company (“UTIMCO”), a Texas nonprofit corporation, is effective ~~September 1, 2005~~ February 9, 2006 (the “Effective Date”), and supersedes all earlier agreements by and between the U. T. Board and UTIMCO regarding the subject matter hereof.

### RECITALS

WHEREAS, the U. T. Board, pursuant to the Constitution and statutes of the State of Texas, is responsible for the investment of the Permanent University Fund, the local and institutional ~~fund~~assets of the U. T. System and the ~~fund~~assets of various trusts and foundations for which it serves as trustee, all of which ~~fund~~assets are under the control and management of the U. T. Board;

WHEREAS, Section 66.08, *Texas Education Code*, as amended, authorizes the U. T. Board, subject to certain conditions, to enter into a contract with a nonprofit corporation for the corporation to invest ~~fund~~assets under the control and management of the U. T. Board, as designated by the U. T. Board;

WHEREAS, UTIMCO has been organized under the laws of the State of Texas, including the Texas Non-Profit Corporation Act, Tex. Rev. Civ. Stat. Ann. art. 1396-1.01 *et seq.*, for the express purpose of investing ~~fund~~assets under the control and management of the U. T. Board, as designated by the U. T. Board, in accordance with the laws of the State of Texas;

WHEREAS, the U. T. Board desires to continue an Agreement with UTIMCO for UTIMCO to invest certain designated ~~fund~~assets under the control and management of the U. T. Board;

WHEREAS, UTIMCO desires to enter into this Agreement with the U. T. Board and to invest certain designated ~~fund~~assets under the control and management of the U. T. Board; and

WHEREAS, all conditions precedent to the execution and delivery of this Agreement have been fully satisfied and fulfilled, including, without limitations, the conditions established by Section 66.08, *Texas Education Code*, as amended.

NOW THEREFORE, for and in consideration of the premises and the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## AGREEMENT

### Section 1. Definitions.

Accounts shall mean those funds for which the U. T. Board has responsibility, namely (a) the Permanent University Fund, excluding PUF Lands, (b) the Permanent Health Fund, (c) the U. T. Board Accounts and (d) the U. T. Board Trust Accounts.

Available University Fund or AUF shall mean the fund that consists of the distributions made to it from the total return on all investment assets of the Permanent University Fund, including the net income attributable to the surface of PUF Lands, all as provided by Article VII, Section 18 of the Texas Constitution.

- (a) Affiliate shall mean an entity directly or indirectly controlling, controlled by, or under common control with UTIMCO, including an entity with whom UTIMCO has an express or implied agreement regarding the direct or indirect purchase of investments by each from the other.
- (b) Cash Reserves shall mean cash on hand plus investments, plus prepaid expenses, less accounts payable, less other liabilities.
- (c) Claims shall mean all claims, lawsuits, causes of action and other legal actions and proceedings of whatever nature brought against (whether by way of direct action, counter claim, cross action, or impleader) any Indemnified Party and all requests or demands for indemnification made by any third party upon any Indemnified Party, even if groundless, false or fraudulent, so long as the claim, lawsuit, cause of action, other legal action or proceeding, request or demand is alleged or determined, directly or indirectly, to arise out of, result from, relate to or be based upon, in whole or in part, the duties, activities, acts or omissions of any person arising under this Agreement.
- (d) Custodian or Custodians shall mean a commercial bank, trust company or other entity selected by UTIMCO to hold and ~~safekeep~~safe-keep physical securities representing investment assets of any ~~Account~~Fund and to perform the other functions listed in Section 5 hereof.

General Endowment Fund or GEF shall mean the pooled fund for the collective investment of long term funds under the control and management of the U. T. Board. The PUF, PHF, LTF or other long term funds may invest in the GEF as authorized by the U. T. Board in each fund's investment policy statement.

- (e) Delegated Assets shall mean those assets under the control and management of the U. T. Board that are invested in the Funds managed by UTIMCO hereunder, pursuant to the corresponding Investment Policies as such assets may be directed for investment by the U. T. Board or its designees from time to time pursuant to its Investment Policies or otherwise. The Delegated Assets may include, without limitation, the following funds or categories of assets:

- (i) The Permanent University Fund established pursuant to Article VII, Section 11 of the Texas Constitution (the “Permanent University Fund” or “PUF”); provided that, for purposes of this Agreement and the delegation of investment management responsibilities hereunder, the PUF excludes the approximately 2.1 million acres of land located in 19 Texas counties, primarily in West Texas, and constituting a part of the PUF (the “PUF Lands”), as to which the U. T. Board retains complete investment management authority and responsibility;
  - (ii) Any and all funds or assets under the control and management of the U. T. Board as owner, administrator, contractual investment manager, or otherwise, including without limitation endowment funds and operating assets, other than the Permanent University Fund, the Permanent Health Fund and the U. T. Board Trust Accounts (collectively, “U. T. System Funds”);
  - (iii) The assets of charitable remainder trusts, foundations and other separately invested assets for which the U. T. Board serves as trustee on behalf of itself and other co-beneficiaries (“U. T. Board Trust Accounts”);
  - (iv) The permanent assets for health-related institutions established pursuant to Chapter 63, *Texas Education Code*, for which the U. T. Board is an administrator (collectively, the “Permanent Health Fund” or “PHF”);
  - (v) U. T. System Funds or U. T. Board Trust Accounts which, by election of the U. T. Board or by requirement of the trust indenture or donative instrument, are invested separately and apart from other U. T. System Funds and the PUF (collectively, “Separately Invested Funds” or “SIFs”); and
  - (vi) Institutional assets of third-party non-profit charitable foundations or tax-exempt charitable organizations to the extent dedicated to the support of the educational purposes of the U. T. System and under the control and management of the U. T. Board by contract (collectively, “Foundation Funds”).
- (f) **Funds** shall mean the separate investments or pools of assets in which the Delegated Assets are to be invested pursuant to the corresponding Investment Policies, as specified in Schedule A hereto and in the corresponding Investment Policies, each of which may be amended by the U. T. Board from time to time as provided for herein.
- (g) **Indemnified Parties** shall mean UTIMCO and any of its officers, directors, employees and agents.
- (h) **Investment Policies** shall mean the written investment policies determined and approved by the U. T. Board relating to the Permanent University Fund, General Endowment Fund, Permanent Health Fund, Long Term Fund, Separately Invested Funds, Short Intermediate Term Fund and the Short Term Fund. Amendments may be presented by UTIMCO to the U. T. Board for review and approval. Funds, and all generally applicable written investment-related policies determined and approved by the U. T. Board that govern the management of investments for some or all Funds, such as the policies regarding Asset

Allocation, Derivatives, Liquidity, Risk Measurement and Management, Valuation, and Error Correction in Performance Presentation, but excluding internal UTIMCO operational guidelines as to which approval of the U. T. Board is not required, which include the UTIMCO Soft Dollar Policy and the Proxy Voting Policy (the Proxy Voting Policy being governed by the provisions of the individual Investment Policies related to proxy voting).

~~Long Term Fund or LTF shall mean the long term pooled investment fund previously established by the U. T. Board for the collective investment of all endowment and other long term funds of institutions of the U. T. System.~~

- (i) Losses shall mean losses, costs, damages, expenses, judgments and liabilities of whatever nature (including, but not limited to, attorneys', accountants' and other professionals' fees, litigation and court costs and expenses, amounts paid in settlement, amounts paid to discharge judgments and amounts payable by an Indemnified Party to any other person under any arrangement providing for indemnification of that person) directly or indirectly resulting from, arising out of or relating to one or more Claims.

~~Permanent Health Fund or PHF shall mean collectively the permanent funds for health-related institutions established pursuant to Chapter 63, *Texas Education Code*, for which the U. T. Board is an administrator.~~

~~Permanent University Fund or PUF shall mean the constitutional fund known by that name and established pursuant to Article VII, Section 11 of the Texas Constitution.~~

~~Permanent University Fund Lands or PUF Lands shall mean approximately 2.1 million acres of land located in 19 Texas counties, primarily in West Texas, and constituting a part of the Permanent University Fund.~~

~~Separately Invested Funds or SIFs shall mean U. T. System Funds or U. T. Board Trust accounts which, by election of the U. T. Board or by requirement of the trust indenture or donative instrument, are invested separately and apart from other U. T. System Funds and the PUF.~~

~~Short Intermediate Term Fund or SITF shall mean the short intermediate term pooled investment fund previously established by the U. T. Board for the collective investment of funds (other than endowment and other long term funds, including the Permanent University Fund) of the institutions of the U. T. System.~~

~~Short Term Fund or STF shall mean the money market mutual fund or funds approved by UTIMCO from time to time as an investment for U. T. System Funds.~~

- (i) Surplus Cash Reserves shall mean Cash Reserves on the last day of the fiscal year in excess of twenty-five percent (25%) of the upcoming fiscal year's projected operating budget plus approved capital expenditures budgeted for the upcoming fiscal year operating and capital budgets approved by the U. T. Board.

~~U. T. Board Accounts shall mean the investment assets of the General Endowment Fund and U. T. System Funds.~~

~~U. T. Board Trust Accounts shall mean the assets of charitable remainder trusts, foundations and other separately invested funds for which the U. T. Board serves as trustee on behalf of itself and other co-beneficiaries.~~

~~U. T. System Funds shall mean all funds under the control and management of the U. T. Board, other than the Permanent University Fund, the Permanent Health Fund and the U. T. Board Trust Accounts.~~

## **Section 2. Delegation of Investment Authority; Retention of Policy Setting Authority.**

### **(a) General:**

~~The U. T. Board retains ultimate fiduciary responsibility and authority for all matters related to the investment of the Delegated Assets. Pursuant to that responsibility and authority, the U. T. Board hereby appoints UTIMCO as its investment manager with complete authority to act for the Board in the investment of the AccountsFunds, subject, however, to such limitations and restrictions as are set forth in the Investment Policies. UTIMCO shall furnish the U. T. Board with continuous investment management services and shall invest and reinvest the assets of the AccountsFunds in such ways and at such times as are consistent with the Investment Policies and Section 4 hereof. UTIMCO shall be responsible for overall management of the U. T. Board's investment affairs as covered by set forth in this Agreement and shall manage each AccountFund as a discretionary account.~~

### **(b) Policy Matters:**

~~The U. T. Board, as ultimate fiduciary for the AccountsFunds, retains policy setting authority. Unless otherwise provided in writing by the U. T. Board, UTIMCO shall look to the Chancellor to provide primary oversight and management concerning matters other than the core investment duties delegated above, including relations with the media, legal issues (such as public disclosure of information) that implicate policies of the U. T. Board other than the Investment Policies, public disclosure of information and intergovernmental relations, and other matters arising out of UTIMCO's activities as investment manager under this Agreement that implicate policies of the U. T. Board other than investment policy. Except for the forgoing matters, the The UTIMCO Board of UTIMCO Directors and the President of UTIMCO shall be responsible for making all decisions necessary to implementing the investment policyInvestment Policies, of the U. T. Board and performing those core investment duties delegated above. It shall be the responsibility of the President of UTIMCO to inform the Chancellor of unresolved policy issues not governed by the Investment Policies immediately so that appropriate oversight and management can be provided by the Chancellor. UTIMCO hereby agrees to abide by such oversight and management decisions made by the Chancellor. The President of UTIMCO shall confer with the Chancellor on the above-mentioned matters where the Chancellor has primary oversight and management and on other matters that may implicate broader policies of the U. T. Board.~~

(c) **Meetings and Agendas:**

- (i) The UTIMCO President shall consult with the Chairman and the Vice Chairmen of the UTIMCO Board, including the Chancellor as Vice Chairman for Policy, on the draft agenda for meetings of the UTIMCO Board at least ~~two~~three (2)(3) weeks prior to each regular UTIMCO Board meeting.
- (ii) UTIMCO shall participate in an annual joint meeting of the UTIMCO Board of Directors and the U. T. Board as referenced in Art. III, § 7 of the UTIMCO Bylaws.

**Section 3. Description of Investment Management Services.**

During the term of this Agreement, UTIMCO shall provide the following services in conjunction with the investment of the ~~Accounts~~Funds:

(a) **Investment Policies:**

UTIMCO shall review current ~~investment policies~~Investment Policies for each AccountFund, including without limitation policies concerning Asset Allocation, Liquidity, Proxy Voting, and Derivatives, at least annually by June 1 of each year. Such review shall include distribution (spending) guidelines, long-term investment return expectations and expected risk levels, asset allocation targets and ranges for each eligible asset class, expected returns for each asset class and fund, and designated performance benchmarks for each asset class and such other matters as the U. T. Board or its staff designees may request. After UTIMCO completes its assessment, it shall forward any recommended changes to U. T. System staff with adequate time for review prior to being submitted to the U. T. Board for review and approval. for review and appropriate action, following the established schedule for the submission of proposed agenda topics for meetings of the U. T. Board.

(b) **Investment Management:**

UTIMCO shall oversee the investment management process pursuant to the Investment Policies. Such oversight shall include without limitation the development of an investment outlook based on global economic and capital market forecasts, the rebalancing of allocations to each asset class within ranges in response to changes in the investment outlook, and the selection of a combination of portfolio managers to construct portfolios designed to generate the expected returns of each asset class.

(c) **Investment Performance:**

UTIMCO shall monitor and report on investment performance for the PUF, PHF and U. T. Board accounts. Such each of the Funds. With respect to all Funds other than the SIFs, such responsibilities shall include the calculation and evaluation of performance of investment returns for each asset classesclass and individual portfolios,Fund portfolio against established approved benchmarks over various periods of time, and the periodic review of performance benchmarks. With respect to all Funds, such responsibilities shall also include the reporting of investment performance of Separately Invested Assets and U. T. Board Trust Accounts as such specific Funds as may be requested by the U. T. Board, and the reporting to regulatory agencies and others regarding investments under management to the extent required by applicable law.



(d) **Operations:**

UTIMCO shall execute such operational responsibilities as the purchase and sale of investments, the settlement of all trades (to the extent such trades are not settled by the Custodian or brokers), the accounting for all transactions at the portfolio level in accordance with generally accepted accounting principles, the preparation and delivery of periodic financial reports on all ~~funds~~Funds, and the maintenance of complete books and records (internally or through contract with the designated Custodian for the assets under management) reflecting transactions and balances of the ~~Accounts~~Funds.

(e) **Maintenance of and Access to Books and Records:**

UTIMCO shall maintain the books and records for each ~~Account~~Fund on the basis of a fiscal year ending August 31st (or such other fiscal year as the U. T. Board may establish from time to time), and shall keep full separate records of all transactions with respect to each ~~Account~~Fund.

The books and records of the ~~Accounts~~Funds and any and all records concerning UTIMCO and UTIMCO's operations shall be available during normal business hours for inspection by an ~~authorized representative~~representatives of U. T. System. UTIMCO shall provide full audit access to any and all information concerning the operations of UTIMCO, including information necessary to review UTIMCO expenditures for compliance and reasonableness with the approved budget, to auditors representing the U. T. Board and/or the State Auditor.

(f) **Reporting:**

In connection with the annual audited financial statements of UTIMCO, effective with the August 31, 2004 financial statements, UTIMCO shall provide all compliance-related information, reports and certifications, and shall cause the chief executive officer and the chief financial officer of UTIMCO shall to provide such certifications similar to those required by Section 302 of the Sarbanes-Oxley Act of 2002, Corporate Responsibility for Financial Reports, as may be specified by the U. T. Board and U. T. System compliance policies and procedures adopted or approved by the U. T. Board. UTIMCO will follow the U. T. System compliance guidelines as outlined in the Action Plan to Enhance Institutional Compliance, as it may be amended from time to time, including providing the U. T. Board or its ~~designee~~designees with quarterly compliance reports.

(g) **Disclosure of Information:**

The U. T. Board is committed to a policy of full and fair disclosure to the public. As part of that commitment with respect to private investments in the ~~Accounts~~Funds, UTIMCO shall disclose to the public with respect to such private investments all information required to be disclosed pursuant to Section 552.0225 of the *Texas Government Code* regarding "Right of Access to Investment Information" ("private investment information"). UTIMCO shall make no private investment with an entity unless the U. T. Board and UTIMCO have clear and unequivocal authority to disclose to the public the private investment information, described immediately above, relating to such investment.

Before UTIMCO declines to disclose any information it has collected, assembled or maintained in its role as investment manager for the U. T. Board that is requested under the Texas Public Information Act, the President of UTIMCO shall notify the U. T. System Vice Chancellor and General Counsel and solicit his or her input to the process. UTIMCO shall disclose the information unless (i) it is confidential and excepted as provided in Section 552.143 of the *Texas Government Code* regarding “Confidentiality of Certain Investment Information,” or (ii) as to any other information, the Vice Chancellor and General Counsel, after consultation with the Chancellor, approves a Public Information Act request to the Attorney General of Texas. In addition, the U. T. Board reserves the right and authority, in its sole discretion, to disclose, or direct the disclosure of, any information at any time, to the extent such disclosure would not result in a violation of applicable law or breach or result in a default under any agreement binding upon UTIMCO or the U. T. Board.

In addition to and not in lieu of the foregoing, UTIMCO will comply with the provisions of Section 12 below regarding confidentiality provisions of contracts with third parties.

**(h) Other Services:**

UTIMCO shall perform other investment management services ~~including but not limited to 1)~~, including without limitation:

- (i) attending meetings of the U. T. Board and making such reports as the U. T. Board may request from time to time, 2) attending an annual Joint Meeting between the UTIMCO Board of Directors and the U. T. System Board of Regents as referenced in Article III, Section 7 of the UTIMCO Bylaws, 3) rendering services to managers of private equity investments in which UTIMCO has decided to invest, 4) attending meetings of governing bodies of companies in which UTIMCO’s managed Accounts have invested, 5) voting of securities (or proxies with respect thereto) held as investments of the Accounts according to written policies of the U. T. Board; 6) providing U. T. System institutions with annual endowment reports reflecting, among other things, changes in the investment value of such institution's endowment and distributions made to such institution to support the activities for which the endowment was established; 7);
- (ii) rendering services to managers of private equity investments in which UTIMCO has decided to invest;
- (iii) attending meetings of governing bodies of companies in which assets of Funds have been invested pursuant to this Agreement;
- (iv) voting of securities (or proxies with respect thereto) held as investments of the Funds in accordance with the Investment Policies and the UTIMCO Proxy Voting Policy and any other relevant written policies or rules of the U. T. Board;
- (v) providing U. T. System institutions with annual endowment reports reflecting, among other things, changes in the investment value of such institution’s

endowment and distributions made to such institution to support the activities for which the endowment was established;

- (vi) providing charitable trust administration services such as portfolio management, annual tax return preparation, annual trust reporting to donors and remittance of quarterly distributions; providing annual reporting of investment transactions and balances and distributing funds/assets to authorized beneficiaries on foundation accounts; 8) effecting distributions directly or through the Custodian to U. T. System institutions or other named beneficiaries from the Accounts; 9) supporting and maintaining on-line account information system for endowment accounts; and 10) any other services necessary to provide investment management of the Accounts.-;
- (vii) effecting distributions directly or through the Custodian to U. T. System institutions or other named beneficiaries from the Funds;
- (viii) supporting and maintaining online information systems for endowment funds;
- (ix) providing training and education to members of the UTIMCO Board of Directors as may be determined in consultation with U. T. System staff to assure that all duties required of directors under the Texas Non-Profit Corporation Act and that matters related to legal and fiduciary responsibilities of the directors, including current regulations for determining reasonable compensation, are outlined and discussed fully; and
- (x) any other services necessary to provide investment management of the Funds.

#### **Section 4. Investment Manager as Fiduciary; ~~Training and Education.~~**

UTIMCO acknowledges that it ~~will be acting~~ acts as a fiduciary ~~with respect to managing~~ in its management of the investments of the ~~Accounts~~ subject Funds pursuant to the Investment Policies and applicable law. The U. T. Board recognizes that all individual investment transactions involve a variety of significant potential risks, including, without limitation, market risk, liquidity risk, credit risk, cash flow risk, operational risk and counterparty risk, although taken as a whole these transactions are also expected to manage risk. The U. T. Board agrees that (i) UTIMCO will not be liable for any losses incurred in the ~~Accounts~~ Funds as a result of investments made pursuant to the Investment Policies and applicable law, and (ii) UTIMCO will not be liable for actions of co-fiduciaries. The U. T. Board also acknowledges that UTIMCO shall not be liable for, and, to the fullest extent authorized by the Constitution and laws of the State of Texas, agrees to hold UTIMCO harmless from the consequences of, any action taken or omitted to be taken by the U. T. System or any of its employees or agents prior to March 1, 1996.

~~UTIMCO agrees to provide training and education to members of the UTIMCO Board of Directors to assure that all duties required of directors under the Texas Non-Profit Corporation Act and that matters related to legal and fiduciary responsibilities of the Directors, including current regulations for determining reasonable compensation, are outlined and discussed fully.~~

## **Section 5. Custody of Assets.**

UTIMCO shall select one or more Custodians, each of which shall be approved by the U. T. Board, which shall also enter into or approve each agreement with the Custodian(s).

UTIMCO shall use ~~eustodians~~the Custodian(s) for safekeeping, settlement of security purchases, sales, collection of income and other duties, as may be more fully described in the existing eustodyrelevant agreement(s) between UTIMCO and the Custodian, which agreement, together with the U. T. Board's rights, duties and obligations thereunder, has been assigned to UTIMCO. the Custodian(s) and the U. T. Board or UTIMCO (as agent of the U. T. Board). In addition, UTIMCO may from time to time use a brokerage firm to settle security sales on behalf of the U. T. Board and may invest in a regulated mutual fund, externally managed commingled funds, or other investments in which assets are held outside of the bank custody relationship. Any physical certificates not held in safekeeping with a Custodian shall be held in safekeeping at a local bank as designated by UTIMCO.

## **Section 6. Use of Unaffiliated Investment Managers.**

UTIMCO shall be entitled to use unaffiliated investment advisors to invest all or part of the ~~Accounts~~Funds and to perform other duties, subject to any restrictions in the relevant Investment Policies.

## **Section 7. Investment Management Fees; Direct Expenses.**

For services performed hereunder, UTIMCO shall be compensated in the amounts and in the manner set forth below:

### **(a) Annual Budget and Management Fee:**

#### **(i) Budget Approval Policy**

UTIMCO shall submit to the U. T. Board its proposed annual budget for the following fiscal year (an "Annual Budget") within the time frame specified by the U. T. Board for other annual budget submissions. The Annual Budget shall include all estimated expenses associated with the management of the ~~Accounts~~Funds. The Annual Budget shall also include an annual UTIMCO management fee (an "Annual UTIMCO Management Fee") which shall include all operating expenses associated with the general management of the ~~Accounts~~Funds, including, without limitation, reasonable salaries, benefits and performance compensation of portfolio management and support personnel, expenses for consulting services, office space lease expenses, office furniture and equipment expenses, professional, legal, payroll, and other general services expenses, travel, insurance, capital expenditures, and other miscellaneous expenses incurred by UTIMCO in connection with the performance of its obligations hereunder. In addition to its Annual Budget, UTIMCO shall annually submit its capital expenditures budget approved by the UTIMCO Board of Directors to the U. T. Board for approval.

(ii) Allocation Formula

At the same time that UTIMCO submits its Annual Budget, it shall also submit to the U. T. Board an allocation formula for charging the Annual Budget to the ~~Accounts~~Funds. Items proposed in the Annual Budget and the allocation formula may be approved, disapproved, or approved with modification by the U. T. Board. Any such Budget item or formula allocation that is disapproved or approved with modification may be promptly reviewed and revised by UTIMCO and resubmitted to the U. T. Board for additional consideration.

(iii) Charging of Funds for Management Fee

On or before the first day of each fiscal quarter, UTIMCO shall be entitled to charge each ~~Account~~Fund with its allocable share (determined in accordance with the allocation formula then in effect) of one-fourth of the amount of the Annual UTIMCO Management Fee to pay UTIMCO's operating expenses for the succeeding fiscal quarter. UTIMCO may, with the approval of the U. T. Board, revise the Annual UTIMCO Management Fee and allocation formula at any time during a fiscal year. Any statements for partial quarters at the beginning or end of this Agreement shall be prorated to reflect the actual time services were rendered during such partial quarters.

(iv) Payment of Third Party Vendors

UTIMCO is hereby authorized to pay from each ~~Account~~Fund direct expenses incurred for portfolio management, ~~custodian~~Custodian, auditing, and other services which are performed by external vendors specifically for each ~~Account~~Fund.

(b) Directors FeesCash Reserves:

Within 90 days after the end of each fiscal year, UTIMCO will distribute back to the Funds which generated the surplus that portion of the Surplus Cash Reserves as may be directed by the U. T. Board, in its sole discretion, from time to time. Such distribution back to the Funds shall be in the same proportion that the Funds contributed to the Cash Reserves.

(c) UTIMCO Management Service on Outside Boards:

Members of UTIMCO management, with the approval of the UTIMCO Board, may serve as directors of companies in which UTIMCO has directly invested ~~Account~~Fund assets. In such event, any and all compensation paid to UTIMCO management for their services as directors shall be endorsed over to UTIMCO and considered a part of UTIMCO's fee income and reflected in the Budget. Furthermore, UTIMCO Board approval of UTIMCO management's services as directors of investee companies shall be conditioned upon the extension of UTIMCO's Directors and Officers Insurance Policy coverage to UTIMCO management's services as directors of investee companies.

(d) ~~e)~~ **Fees for Services Rendered:**

Members of UTIMCO management may perform services for which UTIMCO receives a fee (“Service Fees”) from investment promoters or investee companies in consideration of the UTIMCO staff’s private investment activities and/or investment origination activities. Such Service Fees shall be considered additional fee income to UTIMCO. UTIMCO may also receive commitment fees, standby fees and other similar fees (“Capital Fees”) accruing or inuring to the capital invested on behalf of the ~~Accounts~~Funds managed by UTIMCO. Such Capital Fees shall be credited to the ~~Accounts~~Funds from which such investments are funded.

(e) ~~d)~~ **Miscellaneous Fees:**

UTIMCO management may perform specialized services for ~~accounts~~assets that are separately invested for which UTIMCO receives a fee from the ~~account~~Fund. These fees primarily relate to maintenance of computer programs for the ~~separately invested accounts~~SIFs. Such Miscellaneous Fees shall be considered additional fee income to UTIMCO and reflected in the Budget.

~~e)~~ ~~————~~ **Cash Reserves:**

~~Within 90 days after the end of each fiscal year, UTIMCO will distribute back to the Accounts which generated the surplus that portion of the Surplus Cash Reserves as may be directed by the U. T. Board, in its sole discretion, from time to time. Such distribution back to the Accounts shall be in the same proportion that the Accounts contributed to the Cash Reserves.~~

**Section 8. Brokerage Commissions.**

The U. T. Board acknowledges and agrees that the investment management fees provided for in Section 7 are in addition to any compensation that may be due to a broker or dealer in effecting and executing transactions on behalf of UTIMCO. UTIMCO is hereby authorized and empowered, with full discretion, to issue instructions in accordance with the Investment Policies to such unaffiliated brokerage firms as may be selected by UTIMCO for the execution of orders for the purchase, sale, exchange and general investment of the ~~Accounts~~Funds; provided that UTIMCO shall not select a brokerage firm that is an Affiliate of UTIMCO or any of its officers, directors or employees. All orders for ~~Account~~Fund transactions shall be placed in such markets and through such brokers as UTIMCO determines will offer the most favorable price, execution and commission cost of each order. The U. T. Board acknowledges and agrees that UTIMCO may, from time to time ~~and~~ in accordance with applicable law and UTIMCO’s Soft Dollar Policy and Procedures, ~~may~~ pay commissions to brokers that are higher than those that might be obtainable elsewhere in order to obtain from such brokers research and other services expected to enhance the long-term value of the ~~Accounts~~Funds.

**Section 9. Valuation of ~~Account~~Fund Assets.**

The valuation of ~~the account~~each Fund shall be determined in accordance with the Investment Policies approved by the U. T. Board for ~~the accounts~~such Fund.

## Section 10. Representations and Warranties of Parties.

### ~~U. T. Board.~~

~~A. The U. T. Board (a) is duly established and validly existing under the laws of the State of Texas and is an agency of the State of Texas, (b) has all power and authority and all material government licenses, authorizations, consents and approvals required to carry on its business as now conducted, and (c) has full power and authority to execute, deliver and perform this Agreement.~~

~~(a) The U. T. Board represents and warrants that:~~

~~(i) B. The execution, delivery and performance by the U. T. Board of this Agreement have been duly authorized by all necessary action and do not contravene, or result in the violation of or constitute a default under, any provision of applicable law or regulation, or any order, rule or regulation of any court, governmental agency or instrumentality or any agreement, resolution or instrument to which the U. T. Board is a party or by which it or any of its property is bound.~~

~~C. No authorization, consent, approval, permit, license, or exemption of, or filing or registration with, any court or governmental department, commission, board, bureau, agency or instrumentality that has not been obtained or issued is or will be necessary for the valid execution, delivery or performance by the U. T. Board of this Agreement. D. This, and this Agreement constitutes a valid and binding agreement of the U. T. Board.~~

~~(ii) E. There is no action, suit or proceeding pending or, to the knowledge of the U. T. Board, threatened against or affecting the U. T. Board or the U. T. System, or relating to this Agreement, in any court or before or by any governmental department, agency or instrumentality which, if adversely determined, would materially affect the ability or authority of the U. T. Board to enter into, and perform its obligations under, this Agreement, or which in any manner questions the validity or enforceability of this Agreement.~~

~~(iii) F. The U. T. Board has approved:~~

~~(A) (1) the Articles of Incorporation and Bylaws of UTIMCO;~~

~~(B) (2) the Investment Policies;~~

~~(C) (3) the Audit and Ethics committee Committee of UTIMCO; and~~

~~(D) (4) the Code of Ethics of UTIMCO.~~

~~G. The U. T. Board has been provided with the opportunity to ask questions of, and it has received answers thereto satisfactory to it from, UTIMCO and its representatives regarding this Agreement and has obtained all additional information requested by it of UTIMCO and its representatives prior to entering into this Agreement.~~

### ~~UTIMCO.~~

(b) UTIMCO represents and warrants that:

~~A. UTIMCO (a) is duly organized and validly existing as a Texas nonprofit corporation under the laws of the State of Texas, particularly the Texas Nonprofit Corporation Act, Tex. Rev. Civ. Stat. Ann. art. 1396-1.01 et seq., (b) has all corporate power and authority and all material government licenses, authorizations, consents and approvals required to carry on its business as now conducted, and (c) has full power and authority to execute, deliver and perform this Agreement.~~

(i) ~~B. The execution, delivery and performance by UTIMCO of this Agreement have been duly authorized and this Agreement constitutes a valid and binding agreement of UTIMCO. by all necessary action by UTIMCO and do not contravene, or result in the violation of or constitute a default under, any provision of applicable law or regulation, or any order, rule or regulation of any court, governmental agency or instrumentality or any agreement, resolution or instrument to which UTIMCO is a party or by which it or any of its property is bound.~~

~~C. No authorization, consent, approval, permit, license, or exemption of, or filing or registration with, any court or governmental department, commission, board, bureau, agency or instrumentality that has not been obtained or issued is or will be necessary for the valid execution, delivery or performance by UTIMCO of this Agreement.~~

~~D. This Agreement constitutes a valid and binding agreement of UTIMCO.~~

(ii) ~~E. There is no action, suit or proceeding pending or, to the knowledge of UTIMCO, threatened against or affecting UTIMCO, or relating to this Agreement in any court or before or by any governmental department, agency or instrumentality which, if adversely determined, would materially affect the ability or authority of UTIMCO to enter into, and to perform its obligations under, this Agreement, or which in any manner questions the validity or enforceability of this Agreement.~~

(c) Investment Company Act and State Securities Act:

The parties to this Agreement acknowledge and agree that UTIMCO is not currently required to, and shall not engage in any activities that would require it to, register as an “investment company” under Title 15 United States Code Section 80a-8 (the Investment Company Act of 1940), as amended, and Tex. Rev. Civ. Stat. Ann. art. 581-1 et seq. (The Securities Act).

## **Section 11. Compliance with Bylaws, Policies, Regulations and Financial Disclosure Requirements.**

In the performance of this Agreement, ~~UTIMCO’s Directors, Officers, and Employees~~ shall abide by, and cause its directors, officers, and employees to abide by, the following policies:

a) ~~(A)~~ UTIMCO Code of Ethics as approved by the U. T. Board;

b) ~~(B)~~ UTIMCO Bylaws as approved by the U. T. Board;

e) ~~(C)~~ All UTIMCO policies;

⊕ ~~(D)~~ Applicable portions of the U. T. Board’s Regents’ Rules and Regulations; and

(E) All U. T. Board-approved Investment Policies, resolutions, and applicable law.



Financial advisors and service providers as defined in *Texas Government Code* Section 2263.002 shall comply with the disclosure requirements contained in *Texas Government Code* Section 2263.005, in addition to any obligations regarding disclosure of private investment information and the like as contemplated by Section 3(g) of this Agreement.

**Section 12. Contracts with Third Parties.**

UTIMCO covenants and agrees that each agreement, contract, or understanding it enters into with any third party will comply with all applicable law (including without limitation *Texas Government Code* Sections 2263.002 and 2263.005 as referenced in Section 11 above), and will not contain any term or provision limiting the ability of UTIMCO, the U. T. Board, the U. T. System, or any of its institutions to comply with any provision of applicable law, including without limitation any covenant regarding non-disclosure of confidential information or similar subject matter that would purport to limit the ability of UTIMCO or the U. T. Board to comply with any provision of the Texas Public Information Act or other law regarding public disclosure; provided that any contract provision regarding non-disclosure of confidential information must be approved by the Vice Chancellor and General Counsel of the U.T. System or his/her designee.

UTIMCO further covenants and agrees that it will not enter into any contracts indemnifying or holding harmless any third party to a greater extent than the scope of the indemnification of the Indemnified Parties by the U. T. Board without the prior consent and approval of the Vice Chancellor and General Counsel of the U. T. System.

**Section 13. ~~Section 12.~~ UTIMCO's Open Meeting Policy.**

Except as otherwise provided in Section 66.08, *Texas Education Code*, UTIMCO shall comply with all applicable provisions of the Texas Open Meetings Act, Chapter 551 of the *Texas Government Code*.

**Section 14. ~~Section 13.~~ Prohibition Against Service to Other Clients.**

In accordance with Section 66.08, *Texas Education Code*, UTIMCO shall not engage in any business other than managing the ~~Accounts~~Funds under this Agreement.

**Section 14. ~~Investment Company Act and State Securities Act.~~**

~~The parties to this agreement acknowledge that UTIMCO shall not be required to register as an "investment company" under Title 15 *United States Code* Section 80a-8 (the Investment Company Act of 1940), as amended, and Tex. Rev. Civ. Stat. Ann. art. 581-1 *et seq.* (The Securities Act).~~

**Section 15. Termination.**

The U. T. Board may terminate this Agreement at any time by written notice to UTIMCO, effective immediately upon receipt of such notice by UTIMCO, subject to reasonable allowance for settlement of pending trades. UTIMCO may terminate this Agreement upon ninety (90)

days' written notice to the U. T. Board. There shall be no penalty for termination; however, UTIMCO shall be entitled to all management fees, compensation, and benefits earned prior to the effective date of termination, subject to UTIMCO's Articles of Incorporation and Bylaws and applicable law.

**Section 16. Amendments.**

No amendment hereto shall be effective unless executed by duly authorized representatives of each party in the same manner as this Agreement.

**Section 17. Notices.**

All notices or communications hereunder shall be in writing and shall not be effective until hand delivered ~~and received to the other party, or,~~ sent by overnight delivery, or sent by United States Certified or Registered Mail, postage prepaid, to the ~~addressed~~ other party. ~~The at the following are the designated addresses for such notices or communications and which may only be changed by communication notice sent~~ in the manner required by this paragraph:

To U. T. Board:

Board of Regents of The University of Texas System  
Attn: Counsel and Secretary  
201 West Seventh Street, Suite 820  
Austin, Texas 78701  
Tel. (512) 499-4402  
Fax. (512) 499-4425

To UTIMCO:

The University of Texas Investment Management Company  
Attn: President and CEO  
401 Congress Avenue, Suite 2800 ~~221 West Sixth St., Suite 1700~~  
Austin, Texas 78701  
Tel. (512) 225-1600  
Fax. (512) 225-1660

**Section 18. Non-Assignability.**

~~No Assignment~~ This Agreement is personal to the parties hereto, and no assignment of this Agreement by UTIMCO, whether by contract, merger, consolidation, or operation of law, shall be made without having obtained other than with the prior written consent of the U. T. Board ~~nor is the Agreement assignable by the U. T. Board~~ and in compliance with applicable law.

**Section 19. No Waiver of Breach.**

A waiver of a breach of any provision of this Agreement shall not constitute a waiver of any subsequent breach of that provision or a breach of any provision hereof. Failure of either party

to enforce at any time or from time to time any provision of this Agreement shall not be construed as a waiver thereof.

## **Section 20. Indemnification.**

**(a) Agreements to Indemnify:**

To the fullest extent authorized by the Constitution and laws of the State of Texas, the U. T. Board shall indemnify and hold harmless each of the Indemnified Parties against any and all Losses, including Losses resulting from the negligence of the Indemnified Party claiming indemnification; provided, however, the U. T. Board shall not be obligated to indemnify an Indemnified Party against Losses to the extent such Losses are caused by (i) an act or omission that involves intentional misconduct or a knowing violation of law by the Indemnified Party claiming indemnification, (ii) a transaction from which the Indemnified Party claiming indemnification received an improper benefit, (iii) an act or omission for which the liability of the Indemnified Party claiming indemnification is expressly provided by an applicable statute, or (iv) an act or omission constituting gross negligence by the Indemnified Party claiming indemnification; provided further that indemnification payments by the U. T. Board shall be paid from the same sources as the Annual Fee pursuant to Section 7.

**(b) Reimbursement:**

Each Indemnified Party shall reimburse the U. T. Board for payments made by the U. T. Board pursuant to this Section to the extent of any proceeds, net of all expenses of collection, actually received by it from any insurance with respect to any Loss. At the request and expense of the U. T. Board, each Indemnified Party shall have the duty to claim any such insurance proceeds and such Indemnified Party shall assign its rights to such proceeds, to the extent of such required reimbursement, to the U. T. Board.

**(c) Notice:**

In case any Claim shall be brought or, to the knowledge of any Indemnified Party, threatened against any Indemnified Party in respect of which indemnity may be sought against the U. T. Board, such Indemnified Party shall promptly notify the U. T. Board in writing; provided, however, that any failure so to notify shall not relieve the U. T. Board of its obligations under this Section.

**(d) Defense:**

The U. T. Board shall have the right to assume the investigation and defense of all Claims, including the employment of counsel and the payment of all expenses. Each Indemnified Party shall have the right to employ separate counsel in any such action and participate in the investigation and defense thereof, but the fees and expenses of such counsel shall be paid by such Indemnified Party unless (i) the employment of such counsel has been specifically authorized by the U. T. Board, in writing, (ii) the U. T. Board has failed to assume the defense and to employ counsel following due notice, or (iii) the named parties to any such action (including any impleaded parties) include both an Indemnified Party and the U. T. Board, and such Indemnified Party shall have been advised by counsel that there may be one or more legal defenses available to it which are different from or additional to those available to the U. T. Board (in which case, if such

Indemnified Party notifies the U. T. Board in writing that it elects to employ separate counsel at the U. T. Board's expense, the U. T. Board shall not have the right to assume the defense of the action on behalf of such Indemnified Party; provided, however, that the U. T. Board shall not, in connection with any one action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegation or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys for the Indemnified Parties, which firm shall be designated in writing by such Indemnified Parties).

(e) **Cooperation; Settlement:**

Each Indemnified Party shall use reasonable efforts to cooperate with the U. T. Board in the defense of any action or Claim. The U. T. Board shall not be liable for any settlement of any action or Claim without its consent but, if any such action or Claim is settled with the consent of the U. T. Board or there be final judgment for the plaintiff in any such action or with respect to any such Claim, the U. T. Board shall indemnify and hold harmless the Indemnified Parties from and against any Loss by reason of such settlement or judgment as provided in Subsection (a) of this Section.

(f) **Survival; Right to Enforce:**

The provisions of this Section shall survive the termination of this Agreement, and the obligations of the U. T. Board hereunder shall apply to Losses or Claims whether asserted prior to or after the termination of this Agreement. In the event of failure by the U. T. Board to observe the covenants, conditions and agreements contained in this Section, any Indemnified Party may take any action at law or in equity to collect amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the U. T. Board under this Section.

**Section 21. Claims By and Against Managed Funds Assets.**

UTIMCO is authorized and empowered to seek, demand, collect, recover, and receive any and all sums of money, debts, dues, rights, property, effects, or demands due, payable, or belonging, or that may become due, payable, or belonging ~~to the PUF of the U. T. Board~~ or any Fund from any person or persons as a result of any investment transaction and to execute any and all necessary or proper receipts, releases, and discharges hereof, and any other instruments as may be necessary or appropriate from time to time relating to the handling, management, control, and disposition of any investment.

The authority granted in this Section does not include the authority to institute litigation on behalf of the U. T. Board, any Fund, or any associated assets, or to settle contested claims or litigation that may result in ~~UTIMCO receiving receipt of~~ less than full value for the claim or the payment of damages or awards. The settlement of any contested claim or litigation for less than full value requires the prior approval of the U. T. System Vice Chancellor and General Counsel and appropriate U. T. System officials, as set out in the Regents' *Rules and Regulations*.

**Section 22. Communications.**

UTIMCO and the U. T. System will assure that communications are clear and timely. UTIMCO will provide notice of actions taken in meetings of the UTIMCO Board and committees to members of the U. T. Board through the Office of the Board of Regents. U. T. will provide notice of actions taken by the U. T. Board related to UTIMCO issues to members of the UTIMCO Board of Directors through the President and CEO of UTIMCO.

**Section 23. Authority to Purchase, Exchange, and Sell Securities.**

UTIMCO may purchase, exchange, and sell, for and on behalf of the Permanent University Fund or the U. T. Board, any and all securities of any description whatever and from any source, including gifts and bequests, registered in the name of the ~~PUF or the~~ U. T. Board, or in any other form of registration of such securities held for the account of the ~~PUF or the~~ U. T. Board in whatever manner, including all fiduciary capacities and including those registered in the names of trusts or foundations managed and controlled by said U. T. Board. In addition, external investment managers appointed by UTIMCO may purchase, sell, or exchange securities, pursuant to written agreement with UTIMCO.

**Section 24. Authority to Assign and Transfer Securities.**

UTIMCO may assign and transfer any and all securities of any description whatever and from any source, including gifts and bequests, and execute any and all documents necessary to the consummation of any sale, assignment, or transfer of any securities registered in the name of ~~the~~ ~~PUF or~~ the U. T. Board, or in any other form of registration of such securities held for the account of the ~~PUF or the~~ U. T. Board in whatever manner, including all fiduciary capacities and including those registered in the names of trusts or foundations managed and controlled by said U. T. Board. In addition, ~~custodian~~ Custodian banks appointed by UTIMCO may assign and transfer securities and execute any and all documents necessary to the consummation of any sale, assignment, or transfer of any security owned by the U. T. Board.

**Section 25. No Third Party Beneficiaries.**

UTIMCO and the U. T. Board each agree that there are no third party beneficiaries of this Agreement.

**Section 26. Governing Law.**

This Agreement and all matters arising under or related to it shall be governed by the Constitution and laws of the State of Texas. Venue for any action brought by any party hereto concerning the subject matter of this Investment Management Services Agreement shall be in Travis County, Texas.

BOARD OF REGENTS OF THE  
UNIVERSITY OF TEXAS SYSTEM

Date: \_\_\_\_\_

By \_\_\_\_\_  
Chairman

THE UNIVERSITY OF TEXAS INVESTMENT  
MANAGEMENT COMPANY

Date: \_\_\_\_\_

By \_\_\_\_\_  
Chairman

## Schedule A

### Funds

This Schedule A setting forth the Funds managed by UTIMCO pursuant to this Agreement as fiduciary on behalf of the U. T. Board, in which the Delegated Assets are to be invested as directed by the U. T. Board pursuant to its Investment Policies, may be amended from time to time by the U. T. Board in consultation with UTIMCO to add or remove Funds, change fund allocations, reflect revisions to the corresponding Investment Policies, or otherwise. The Funds covered under this Agreement as of the Effective Date of this Agreement, and the corresponding Investment Policies, are as follows:

- a. **Permanent University Fund:** The PUF (as defined in Section 1(e)(i)) will be separately invested in accordance with the PUF Investment Policy Statement.
- b. **Permanent Health Fund:** The PHF (as defined in Section 1(e)(iv)) will be separately invested in accordance with the PHF Investment Policy Statement.
- c. **Separately Invested Funds:** The SIFs (as defined in Section 1(e)(v)) will be separately invested in accordance with the SIF Investment Policy Statement.
- d. **Long Term Fund (“LTF”):** The long-term pooled investment fund previously established by the U. T. Board for the collective investment of all endowment and other long-term funds of institutions of the U. T. System, with investments made in accordance with the LTF Investment Policy Statement.
- e. **General Endowment Fund (“GEF”):** The pooled fund for the collective investment of long-term funds under the control and management of the U. T. Board. The PUF, PHF, LTF or other long-term funds may invest in the GEF as authorized by the U. T. Board in each Fund’s investment policy statement, and the GEF funds will be invested in accordance with the GEF Investment Policy Statement.
- f. **Short Intermediate Term Fund (“SITF”):** Selected U. T. System Funds (as defined in Section 1(e)(ii)) (other than endowment and other long-term funds, including the Permanent University Fund) designated from time to time by the U. T. Board or its U. T. System staff designees will be collectively invested in the short intermediate term pooled investment fund governed by the SITF Investment Policy Statement.
- g. **Short Term Fund (“STF”):** Selected U. T. System Funds designated from time to time by the U. T. Board or its U. T. System staff designees will be invested in the STF, which is the money market mutual fund or funds approved by UTIMCO from time to time as an investment for U. T. System Funds, in accordance with the STF Investment Policy Statement.

- h.** **Institutional Index Funds:** The Institutional Index Funds currently comprise the following two index Funds:
- (i) **The U.S. Debt Index Fund B,** a U.S. debt index fund which replicates the Lehman Brothers Aggregate Bond Index fund and is currently managed by Barclays Global Investors (BGI) for UTIMCO.
- (ii) **The Equity Index Fund B,** an equity index fund which replicates the S&P 500 index and is currently managed by BGI for UTIMCO.
- i.** **The Intermediate Term Fund (“ITF”):** The ITF was established by the U. T. Board as a pooled fund for the collective investment of operating assets and other intermediate and long-term assets held by U. T. System institutions and U. T. System administration. The ITF will be invested in accordance with the ITF Investment Policy Statement.



9. **U. T. System Board of Regents: Investments Report for the quarter ended November 30, 2005, and The University of Texas Investment Management Company (UTIMCO) Performance Summary Report**

REPORT

The Investments Report for the quarter ended November 30, 2005, are as set forth on Pages 73 - 77.

Item I on Page 73 reports activity for the Permanent University Fund (PUF) investments. The PUF's net investment return for the quarter end was 1.84% versus its composite benchmark return of 2.37%. The PUF's net asset value increased by \$137.9 million since the beginning of the quarter to \$9,564.6 million. This change in net asset value includes increases due to contributions from PUF land receipts and net investment return and a decrease due to a \$100.0 million distribution towards the annual distribution from the PUF to the Available University Fund.

Item II on Page 74 reports activity for the General Endowment Fund (GEF) investments. The GEF's net investment return for the quarter was 1.72% versus its composite benchmark return of 2.37%. The GEF's net asset value increased \$62.3 million since the beginning of the quarter to \$4,989.1 million.

Item III on Page 75 reports activity for the Short Intermediate Term Fund (SITF). Total net investment return on the SITF was negative .20% for the quarter versus the SITF's performance benchmark of .06%. The SITF's net asset value decreased by \$13.9 million since the beginning of the quarter to \$1,208.5 million. This decrease in net asset value was due to net withdrawals, distributions and investment return to the SITF.

Item IV on Page 76 presents book and market value of cash, debt, equity, and other securities held in funds outside of internal investment pools. Total cash and equivalents, consisting primarily of institutional operating funds held in the Dreyfus money market fund, increased by \$74.0 million to \$2,517.8 million during the three months since the last reporting period. Market values for the remaining asset types were debt securities: \$46.2 million versus \$47.2 million at the beginning of the period; equities: \$364.9 million versus \$256.5 million at the beginning of the period; and other investments: \$1.2 million versus \$1.6 million at the beginning of the period.

The November 30, 2005, UTIMCO Performance Summary Report is attached on Page 77.

# I. PERMANENT UNIVERSITY FUND

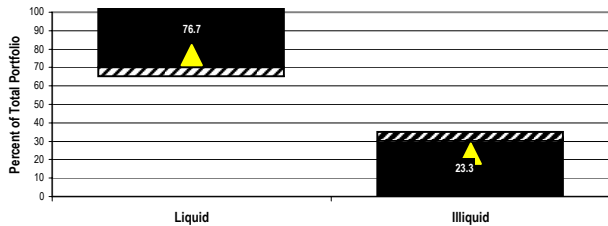
## Investment Reports for Periods Ended November 30, 2005

Prepared in accordance with Texas Education Code Sec. 51.0032

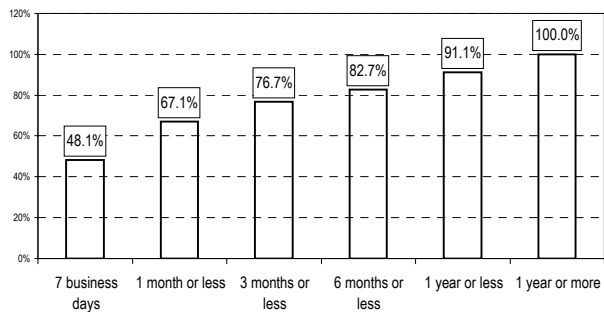
### Summary of Capital Flows

	Fiscal Year Ended August 31, 2005	Quarter Ended November 30, 2005	Fiscal Year Ended August 31, 2006
(\$ millions)			
Beginning Net Assets	\$ 8,087.9	\$ 9,426.7	\$ 9,426.7
PUF Lands Receipts	193.0	70.1	70.1
Investment Return	1,538.0	183.7	183.7
Expenses	(51.0)	(15.9)	(15.9)
Distributions to AUF	(341.2)	(100.0)	(100.0)
Ending Net Assets	\$ 9,426.7	\$ 9,564.6	\$ 9,564.6

### PUF Liquidity Policy Profile As of November 30, 2005

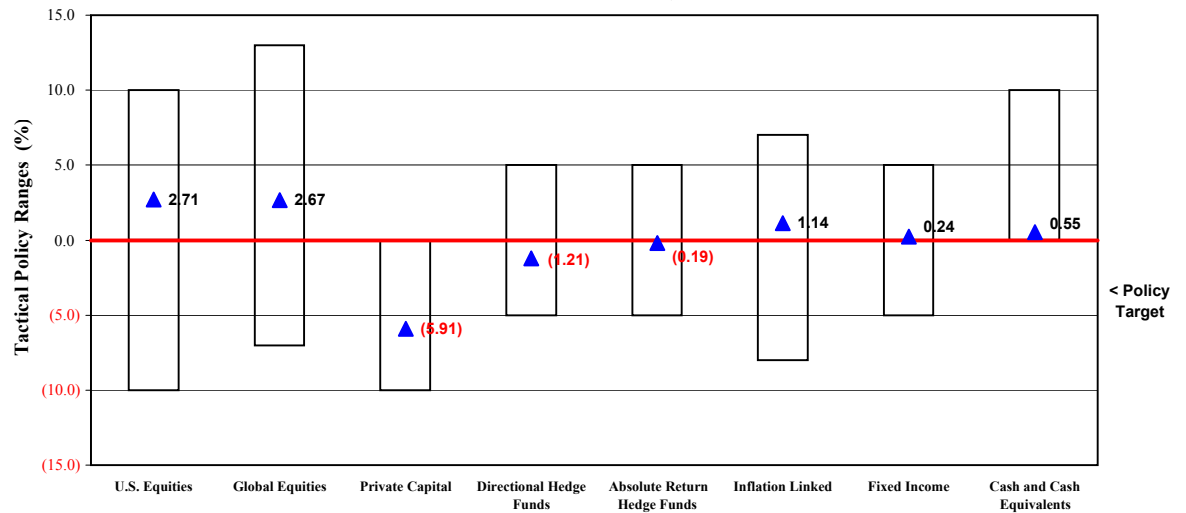


### PUF Detailed Liquidity Profile as of November 30, 2005



	November 30, 2005		Three Months to Date				
	Portfolio Exposure	Policy Target	Returns		Value Added		
			Portfolio	Policy Benchmark	From Asset Allocation	From Security Selection	Total
Cash and Cash Equivalents	0.55%	0.00%	0.94%	0.90%	0.01%	0.00%	0.01%
U.S. Equities	22.71%	20.00%	3.06%	2.84%	0.03%	0.04%	0.07%
Global Equities	19.67%	17.00%	5.45%	6.69%	0.04%	-0.22%	-0.18%
Directional Hedge Funds	8.79%	10.00%	0.31%	0.93%	0.01%	-0.06%	-0.05%
Absolute Return Hedge Funds	14.81%	15.00%	0.41%	-0.16%	0.00%	0.08%	0.08%
Inflation Linked	14.14%	13.00%	-1.82%	-1.68%	-0.07%	-0.02%	-0.09%
Fixed Income	10.24%	10.00%	-1.73%	-1.38%	-0.02%	-0.04%	-0.06%
<b>Total Marketable Securities</b>	<b>90.91%</b>	<b>85.00%</b>	<b>1.47%</b>	<b>1.68%</b>	<b>0.00%</b>	<b>-0.22%</b>	<b>-0.22%</b>
Private Capital	9.09%	15.00%	5.52%	6.30%	-0.19%	-0.12%	-0.31%
<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>	<b>1.84%</b>	<b>2.37%</b>	<b>-0.19%</b>	<b>-0.34%</b>	<b>-0.53%</b>

### Deviations From Policy Targets Within Tactical Policy Ranges As of November 30, 2005



## II. GENERAL ENDOWMENT FUND

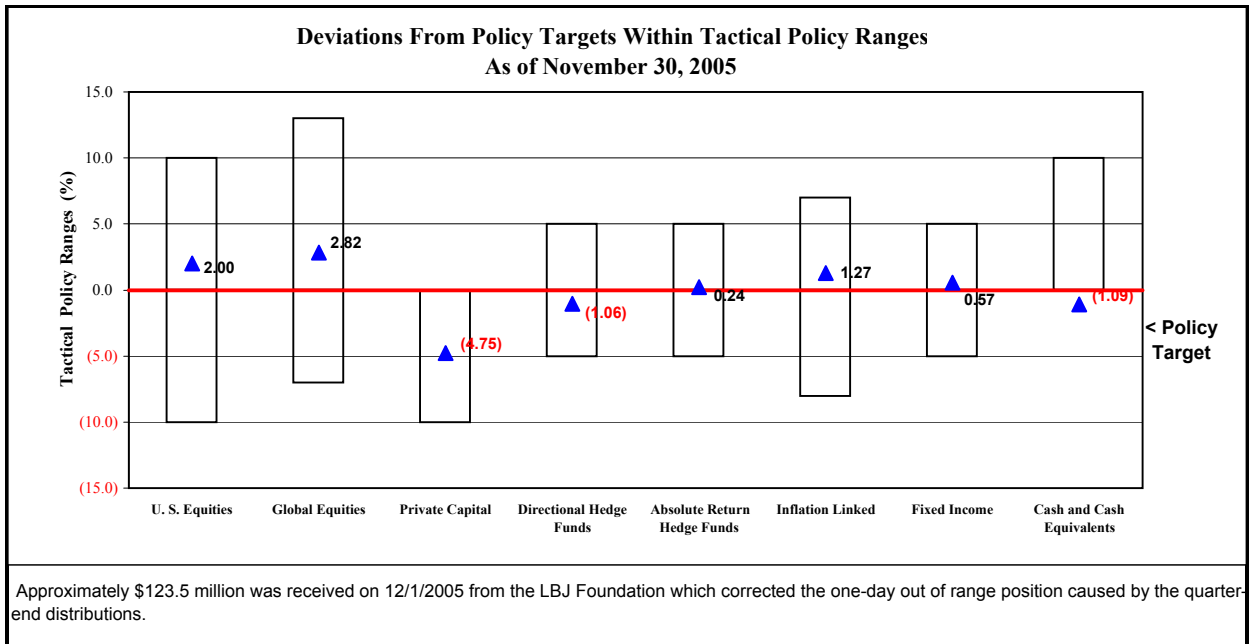
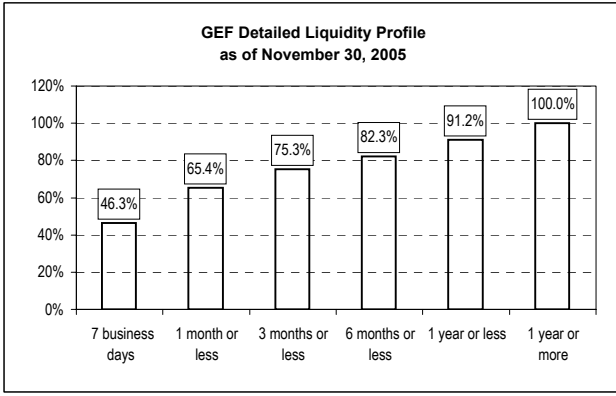
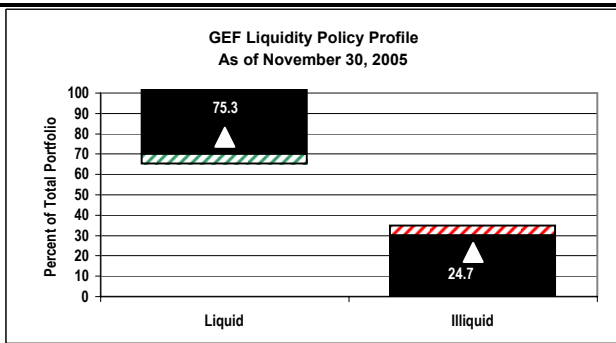
### Investment Reports for Periods Ended November 30, 2005

Prepared in accordance with Texas Education Code Sec. 51.0032

<b>Summary of Capital Flows</b>			
	Fiscal Year Ended August 31, 2005	Quarter Ended November 30, 2005	Fiscal Year Ended August 31, 2006
(\$ millions)			
Beginning Net Assets	\$ 4,207.6	\$ 4,926.8	\$ 4,926.8
Contributions	139.2	32.0	32.0
Withdrawals	(4.7)	-	-
Distributions	(206.4)	(53.9)	(53.9)
Investment Return	814.2	92.0	92.0
Expenses	(23.1)	(7.8)	(7.8)
Ending Net Assets	\$ 4,926.8	\$ 4,989.1	\$ 4,989.1

	November 30, 2005		Three Months to Date				
	Portfolio Exposure	Policy Target	Returns		Value Added		Total
			Portfolio	Policy Benchmark	From Asset Allocation	From Security Selection	
Cash and Cash Equivalents	-1.09%	0.00%	0.94%	0.90%	0.01%	0.00%	0.01%
U.S. Equities	22.00%	20.00%	3.00%	2.84%	0.00%	0.03%	0.03%
Global Equities	19.82%	17.00%	5.29%	6.69%	0.02%	-0.25%	-0.23%
Directional Hedge Funds	8.94%	10.00%	0.22%	0.93%	0.01%	-0.07%	-0.06%
Absolute Return Hedge Funds	15.24%	15.00%	0.37%	-0.16%	0.00%	0.08%	0.08%
Inflation Linked	14.27%	13.00%	-1.86%	-1.68%	-0.06%	-0.02%	-0.08%
Fixed Income	10.57%	10.00%	-1.61%	-1.38%	-0.03%	-0.02%	-0.05%
<b>Total Marketable Securities</b>	<b>89.75%</b>	<b>85.00%</b>	<b>1.39%</b>	<b>1.68%</b>	<b>-0.05%</b>	<b>-0.25%</b>	<b>-0.30%</b>
Private Capital	10.25%	15.00%	4.73%	6.30%	-0.12%	-0.23%	-0.35%
<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>	<b>1.72%</b>	<b>2.37%</b>	<b>-0.17%</b>	<b>-0.48%</b>	<b>-0.65%</b>

74



Approximately \$123.5 million was received on 12/1/2005 from the LBJ Foundation which corrected the one-day out of range position caused by the quarter-end distributions.

**III. SHORT INTERMEDIATE TERM FUND**  
**Investment Report for Periods Ended November 30, 2005**  
Report prepared in accordance with *Texas Education Code Sec. 51.0032*

(\$ millions)		
	FY04-05	FY05-06
	Full Year	1st Qtr
Beginning Net Assets	\$ 1,178.0	\$ 1,222.4
Net Contributions (Withdrawals)	46.0	(0.5)
Investment Return	30.0	(2.6)
Expenses	(0.5)	(0.1)
Distributions of Income	(31.1)	(10.7)
Ending Net Assets	\$ 1,222.4	\$ 1,208.5
Net Asset Value per Unit	9.914	9.805
No. of Units (End of Period)	123,305,429	123,251,937
Total Net Investment Return	2.48%	-0.20%

**IV. SEPARATELY INVESTED ASSETS**  
**Summary Investment Report at November 30, 2005**  
Report prepared in accordance with *Texas Education Code Sec. 51.0032.*

ASSET TYPES	(\$ thousands)													
	FUND TYPE													
	CURRENT PURPOSE DESIGNATED		RESTRICTED		ENDOWMENT & SIMILAR FUNDS		ANNUITY & LIFE INCOME FUNDS		AGENCY FUNDS		OPERATING FUNDS		TOTAL	
	<u>BOOK</u>	<u>MARKET</u>	<u>BOOK</u>	<u>MARKET</u>	<u>BOOK</u>	<u>MARKET</u>	<u>BOOK</u>	<u>MARKET</u>	<u>BOOK</u>	<u>MARKET</u>	<u>BOOK</u>	<u>MARKET</u>	<u>BOOK</u>	<u>MARKET</u>
<b>Cash &amp; Equivalents:</b>														
Beginning value 08/31/05	2,857	2,857	3,336	3,336	56,790	56,790	677	677	-	-	2,380,148	2,380,148	2,443,808	2,443,808
Increase/(Decrease)	322	322	2,809	2,809	(526)	(526)	(76)	(76)	120,846	120,846	(49,405)	(49,405)	73,970	73,970
Ending value 11/30/05	3,179	3,179	6,145	6,145	56,264	56,264	601	601	120,846	120,846	2,330,743	2,330,743	2,517,778	2,517,778
<b>Debt Securities:</b>														
Beginning value 08/31/05	-	-	263	215	29,765	30,076	16,312	16,921	-	-	-	-	46,340	47,212
Increase/(Decrease)	-	-	-	(4)	85	(410)	(131)	(599)	-	-	-	-	(46)	(1,013)
Ending value 11/30/05	-	-	263	211	29,850	29,666	16,181	16,322	-	-	-	-	46,294	46,199
<b>Equity Securities:</b>														
Beginning value 08/31/05	27	9,198	1,915	1,605	41,129	46,823	21,183	24,998	-	-	211,588	173,882	275,842	256,506
Increase/(Decrease)	-	(1,566)	(12)	26	(449)	286	(804)	(159)	-	-	104,199	109,798	102,934	108,385
Ending value 11/30/05	27	7,632	1,903	1,631	40,680	47,109	20,379	24,839	-	-	315,787	283,680	378,776	364,891
<b>Other:</b>														
Beginning value 08/31/05	-	-	1,547	1,547	-	-	223	86	-	-	-	-	1,770	1,633
Increase/(Decrease)	-	-	(342)	(342)	2	2	11	-	-	-	-	-	(329)	(340)
Ending value 11/30/05	-	-	1,205	1,205	2	2	234	86	-	-	-	-	1,441	1,293

Details of individual assets by account furnished upon request.

## UTIMCO Performance Summary

November 30, 2005

	Net Asset Value 11/30/2005 (in Millions)	Periods Ended November 30, 2005 (Returns for Periods Longer Than One Year are Annualized)										
		One Month	Fiscal Year To Date	Three Months	Six Months	Calendar Year To Date	One Year	Two Years	Three Years	Four Years	Five Years	Ten Years
<b>ENDOWMENT FUNDS</b>												
Permanent University Fund	\$ 9,564.6	2.23	1.84	1.84	7.48	10.15	12.82	14.11	15.83	10.12	7.02	9.48
General Endowment Fund		2.12	1.72	1.72	7.29	9.91	12.54	13.95	15.99	10.26	N/A	N/A
Permanent Health Fund	931.7	2.12	1.70	1.70	7.24	9.80	12.42	13.83	15.85	10.13	7.38	N/A
Long Term Fund	4,057.4	2.13	1.71	1.71	7.25	9.80	12.44	13.83	15.88	10.17	7.22	10.21
Separately Invested Funds	315.7	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Total Endowment Funds</b>	<b>14,869.4</b>											
<b>OPERATING FUNDS</b>												
Short Term Fund	2,330.7	0.32	0.94	0.94	1.76	2.84	3.01	2.12	1.80	1.83	2.40	4.02
Short Intermediate Term Fund	1,208.5	0.39	(0.20)	(0.20)	0.53	1.62	1.92	1.93	2.08	2.13	3.26	4.76
Institutional Index Funds:												
BGI US Bond Index Fund	-	0.44	(1.38)	(1.38)	(0.47)	1.47	2.41	3.43	4.10	4.88	6.14	N/A
BGI Equity Index Fund	283.7	3.78	2.88	2.88	5.90	4.93	8.53	10.68	12.15	4.19	0.68	N/A
<b>Total Operating Funds</b>	<b>3,822.9</b>											
<b>Total Investments</b>	<b>\$ 18,692.3</b>											
<b>BENCHMARKS (1)</b>												
Permanent University Fund: Policy Portfolio		2.20	2.37	2.37	6.68	9.64	11.58	12.74	12.23	7.38	4.89	10.10
General Endowment Fund: Policy Portfolio		2.20	2.37	2.37	6.68	9.64	11.58	12.74	12.23	7.38	4.94	10.01
Short Term Fund: 90 Day Treasury Bills Average Yield		0.33	0.90	0.90	1.66	2.74	2.96	2.08	1.77	1.79	2.39	3.87
Short Intermediate Term Fund: Composite (3/93-7/04) and Merrill Lynch 1-3 Year Treasury Index (8/04-current)		0.32	0.06	0.06	0.59	1.28	1.49	1.43	1.76	2.57	3.87	4.86
Institutional Bond Index Fund: Lehman Brothers Aggregate Bond Index		0.44	(1.38)	(1.38)	(0.48)	1.46	2.40	3.41	4.00	4.82	6.06	6.21
Institutional Equity Index Fund: Standards & Poor's 500 Index (S&P 500)		3.78	2.88	2.88	5.88	4.88	8.44	10.63	12.10	4.13	0.64	9.28
<b>VALUE ADDED (2)</b>												
Permanent University Fund		0.03	(0.54)	(0.54)	0.80	0.51	1.25	1.38	3.60	2.74	2.13	(0.62)
General Endowment Fund		(0.08)	(0.65)	(0.65)	0.61	0.27	0.97	1.21	3.76	2.88	N/A	N/A
Permanent Health Fund		(0.08)	(0.68)	(0.68)	0.56	0.16	0.85	1.09	3.62	2.75	2.43	N/A
Long Term Fund		(0.07)	(0.66)	(0.66)	0.57	0.16	0.86	1.09	3.65	2.79	2.28	0.20
Short Term Fund		0.00	0.04	0.04	0.10	0.10	0.06	0.04	0.02	0.04	0.01	0.15
Short Intermediate Term Fund		0.08	(0.26)	(0.26)	(0.07)	0.34	0.43	0.50	0.32	(0.44)	(0.60)	(0.11)
Institutional Bond Index Fund		0.00	0.00	0.00	0.01	0.00	0.01	0.02	0.10	0.05	0.08	N/A
Institutional Equity Index Fund		0.00	0.01	0.01	0.02	0.06	0.09	0.05	0.06	0.05	0.04	N/A

(1) - Effective May 6, 2004, benchmark returns for the PUF policy portfolio have been restated for prior periods beginning June 1, 1993 through September 30, 2000 and for the GEF/LTF policy portfolio for prior periods beginning June 1, 1993 through September 30, 2001 to correct the following technical errors in benchmark construction and calculation: (a) to reflect actual asset class target allocations which were in place, or the practical implementation of changes to those policy allocations, and (b) to distinguish between PUF and GEF/LTF historical investment objectives and distribution policies by accurately representing actual asset class allocations during those periods.

Benchmark returns for the PUF and GEF/LTF policy portfolios were also restated for all prior period beginning June 1, 1993 through December 31, 2003 to replace various benchmark returns reported previously for the Private Capital asset class. Specifically, the Wilshire 5000 + 4%, the benchmark used prior to January 1, 2004, was replaced with the Venture Economics Periodic IRR Index, a more appropriate benchmark measure for the actual Private Capital portfolio.

Complete details of the [restatement](#) and previous policy portfolio benchmark history are documented on the UTIMCO website at [www.UTIMCO.org](http://www.UTIMCO.org) or are available upon request.

(2) - Value added is a measure of the difference between actual returns and benchmark or policy portfolio returns for each period shown. Value added is a result of the active management decisions made by UTIMCO staff and external managers.