

Prepared by the Office of Technology Transfer and Economic Development.
This is a new Policy.

UNIVERSITY OF HAWAI'I

EXECUTIVE POLICY - ADMINISTRATION

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E2.208 University of Hawai'i Library External Services Program

I. INTRODUCTION

The campus libraries support the mission of the University of Hawai'i (UH) by playing a crucial role in the storage and dissemination of knowledge and information. This role, however, is changing as the libraries harness advanced information technologies to provide online database retrieval services, outreach extension services, and other specialized services. The library's capability to serve users have increased tremendously.

The operational philosophy of the University of Hawai'i libraries has been to provide traditional library services to on-campus and off-campus users to the extent that resources were available. While this operating paradigm will continue, the University is embarking on extending its library services to nontraditional users such as businesses, government agencies, professional organizations, community groups, and individuals. New library systems and services will enable nontraditional user's access to information collections and databases held, controlled, or licensed by the University of Hawai'i libraries. Users of these new library services will pay a fee to cover the costs of operating the fee-based library external services program (ESP).

Through the ESP, the UH will be supporting one of the State's economic development objectives in developing the information industry. The program will be available State-wide--i.e., a client on Maui will have access to similar services as a client on Oahu. The service will also be available to national and international users at fees and charges appropriate to serving those geographical areas.

This program is not intended to be a substitute for traditional library services that must continue to be offered freely to all UH faculty, students, and staff. This policy does not eliminate or compromise the options of campus libraries to offer services to community users as a courtesy or according to current practices that may vary from campus to campus. Traditional library service continues to be the highest priority of service for the University campus libraries.

II. GENERAL POLICIES

- A. The purpose of this policy is to guide the implementation of the ESP. It defines the program; describe the mission; and states specific policies pertaining to the fee schedule, startup of such services, the administration of the policy and program, the cost recovery model, collections and services, contracts with other information providers, legal and regulatory issues, and inter-connectivity to State and other information networks.

In this policy, "library information services" will be interpreted broadly to include those services that pertain to the creation, production, or dissemination of information collections and technologies that are held, controlled, or licensed by a University of Hawai'i campus library or organizational unit. These "information collections" may be in the form of various media such as paper copy, electronic storage, audio tape, videotape, compact disc, and art media.

A "fee-based library external services program" will mean the provision of library information services by charging fees to users that may include, but not exclusively, the following types of services:

1. Online literature searching of university-held or controlled databases.
2. Document delivery services from university-held or controlled databases and resources including journal articles, conference proceedings, technical reports, standards, patent information, books, media, or loans of items customarily circulated by libraries.
3. Online literature searching of remotely-held public and commercial databases.

4. Document delivery and the acquisition of information services from other university, public, and commercial information providers.
5. Citation verification and fact retrieval.
6. Literature review, analysis, and abstract or report writing.
7. End-user training in use of online information services.
8. Consulting in the areas of library bibliographic software development and provision of access to online information resources.
9. Creation of online databases and indexing or abstracting of ad hoc collections of research-in-progress materials.
10. Technical production and services utilizing information collections and media such as videotapes, audio tapes, compact discs, prints of photographs, and other information resources which would be held, licensed, or copyrighted by the University for purposes of information creation, storage, and dissemination.
11. Software development for organizing or manipulating information pertaining to library operations and information systems.
12. Publishing house services to repackage existing paper-based information collections or portions thereof or to create electronic journals or the electronic coordination and dissemination of works in progress.
13. Copyright royalty clearinghouse services to users of the fee-based library information services.
14. Patent research services to assist users in searching, verifying, or obtaining information on patents.
15. Translation services for converting documents into other languages on a direct service or referral basis.
16. Subscription services and other payment mechanisms, e.g., debit cards, to support University of Hawai'i information services.

- B. The mission of the University of Hawai'i fee-based library external services program is: **Advance the utilization of knowledge by providing the highest quality library information services to organizations and individuals in the business, education, government, and community sectors.**
- C. The general policy guidelines to implement this mission are:
1. The ESP will be self-supporting, except State general funds will be used to subsidize the program until its third year of full-service operation. Fees and charges for the ESP will be based on a cost recovery model and set by considering a combination of: (a) cost of services and (b) comparability with other academic library fee-based services of similar quality universities in the United States. The cost recovery model will also include a management reserve component to enable the ESP to address contingencies, amortization and capital reinvestment of information technologies, and the general improvement of library operations.
 2. The services will be targeted toward nontraditional library users from business and industry, State and county governments, community groups, and other educational institutions in the State.
 3. The University of Hawai'i at Mānoa Libraries and the Language Telecommunications, Resource and Learning Center from the College of Languages, Linguistics and Literature will be the first units to implement the program. Subsequently, any University of Hawai'i campus or unit may participate in accordance with these policy guidelines.
 4. Services to the client will be delivered in a timely and accurate manner, usually in 24 to 48 hours. Its success will depend on the cooperation and benefits of working with the regular library staff.
 5. The program will be accessible State-wide, i.e., a person from Maui will be able to receive similar services as a person from Oahu at similar rates.

III. DELEGATION

The responsibility for the management and implementation of this policy is delegated to the Office of Technology Transfer and Economic Development (OTTED).

IV. ADMINISTRATION OF POLICY

- A. The University Library External Services Program will be administered as follows:
1. Upon approval of this fee-based policy, ESP will officially begin operations in the UH at Mānoa Hamilton Library and the UH at Mānoa Language Telecommunications, Resource and Learning Center, respectively.
 2. The Office of Technology Transfer and Economic Development will provide university-wide administrative oversight of the ESP. The specific program manager or director of an ESP will be directly responsible and accountable for the administration and operation of the specific program within one's jurisdiction. The UH at Mānoa Librarian will assume the university-wide operational responsibility and support for the ESP at the Hamilton Library and other ESP to be served by the UH at Mānoa Libraries.
 3. The Office of Technology Transfer and Economic Development will submit an annual report to the President who, in turn, will review and evaluate the program and provide an annual report to the Board of Regents. The report will include: program status, accomplishments, actions taken to improve the program, proposed fee changes, and any recommendations, if any, which must be acted upon by the Board.
 4. Any legal matters resulting from the program will be referred to the University's Legal Counsel through the Office of Technology Transfer and Economic Development. The University Librarian will be consulted in those situations involving the UH at Mānoa libraries.

V. START-UP OF OTHER UH ESP

- A. Any UH campus or organizational unit may use this policy to start an ESP. Several options are available:
1. The campus or organizational unit may serve as a referral service to the ESP at Hamilton Library.
 2. The campus or organizational unit may serve as a service center tied to the ESP at the Hamilton Library with a mutually-agreed operational configuration.

3. The campus or organizational unit may serve as an information provider of a special collection which would be accessible to nontraditional users through the Hamilton Library ESP.
4. The campus or organizational unit may serve as a combination of the Items 1, 2, and 3 above.
5. The campus or organizational unit may establish its own ESP.
6. In all cases above, the request will be sent to the Office of Technology Transfer and Economic Development for recommendation to the President for approval. Upon presidential approval, a contractual agreement will be entered into between the campus or organizational unit and the Office of Technology Transfer and Economic Development. Concurrence of the UH at Mānoa Librarian must be obtained in those contracts where the library information system of Hamilton Library will be used to effect the services.

VI. COST RECOVERY MODEL

The ESP will be based on a cost recovery model. Both direct and indirect costs of operations will be recovered. These include such items as salaries and related personnel costs, database access charges, supplies and current expenses, telephone and postage, electricity, and courier or postal delivery charges. Where applicable, indirect costs may be guided by the Federal Cost Accounting Standards.

At the outset of the program, the State will subsidize the start-up costs of personnel, facilities, and equipment such as computers, terminals, printers, facsimile machines, copiers, postage meters, related maintenance costs of the equipment, and furniture.

When the program becomes self-supporting, capitalization costs will be amortized and recovered.

The cost recovery model will also include a management reserve component for funding contingencies, amortization and capital reinvestment of information technologies, and the general improvement of library operations.

Funds collected will be deposited in the account of the Discoveries and Innovation Revolving Fund administered by the UH Office of Technology Transfer and Economic Development.

VII. INFORMATION COLLECTIONS

According to this policy, all library collections of the University of Hawai'i libraries will be eligible for access by ESP. However, approval for access must be granted by the participating campus library or information providing unit. With regard to restricted photocopying such as of rare books, accessibility will be provided only through microfilm or camera copy following guidelines set by the respective curator of a library's preservation office.

An ESP may also engage in activities to: develop information collections and databases with other information providers and institutions; subscribe to existing databases available in the State, nationally, and internationally; establish reciprocal arrangements of use with cooperating institutions; and, license other public and private agencies to access and use UH holdings and controlled databases.

A. Services

Any new services that will revise section II. GENERAL POLICIES, A. 1 thru 16, or revisions to fee schedules (see Hawai'i Administrative Rules 20-21), must be recommended to the Office of Technology Transfer and Economic Development for consideration. The Office of Technology Transfer and Economic Development will, with the concurrence of the University of Hawai'i at Mānoa Librarian, review the application and send its recommendations to the President.

B. Collaboration with Information Providers



An ESP may enter into a contract with information providers outside the University of Hawai'i to share, exchange information services, or to serve as a host for the information system and/or information services. The following criteria will be considered in entering into a contract:

1. The information collection of the provider is consistent with the priority program areas identified in the University of Hawai'i plans and budgets and will therefore enhance the University's library information services.
2. The collection is of high quality and easy to use.

3. The information collection has redeeming value and reflects the unique advantages of Hawai'i's cultural, ecological, geographical, and international business orientations to Asia and the Pacific Basin.
4. Collaborative and/or reciprocal arrangements such as collection updating and monitoring and the sharing of revenues and costs with the information provider will be mutually beneficial.
5. Fees agreed upon in pre-existing third party contracts will be honored and reciprocal arrangements for fees will be beneficial to all parties concerned.

Any contract subject to this section will be forwarded to the Office of Technology Transfer and Economic Development for review and approval. The University of Hawai'i at Mānoa Librarian will provide comments and recommendations, as appropriate.

VIII. LEGAL AND REGULATORY ISSUES

In order to minimize the exposure of an ESP and its sponsors to liability, the following policies pertaining to legal liability will be instituted and inserted into any contracts with other information providers as appropriate.

A. Contractual Issues

1. The common and statutory law of contracts, except for the Uniform Commercial Code, will apply equally to paper and properly authenticated online transactions.
2. Contracts with an ESP, including document delivery, are contracts for services and not subject to the Uniform Commercial Code.
3. The University will warn each end user and disclaim the:
 - a. warranties concerning delivery, completeness, integrity of data, etc.;
 - b. liability for damages resulting from use of services or software; and,
 - c. liability in the event the end user is damaged by reliance on advice or information provided through an ESP.

4. To ensure a quality program, provisions will be made for the University, in its judgment, to have the sole right to remove objectionable, obscene, illegal, or similar material, and to terminate online access of end users who violate the terms and conditions of the services offered.
5. Provisions will be made to ensure that the end user will be responsible for: words or other material which the end user puts into public areas of an ESP; any material held by the end user who puts it into a non-public place about an ESP; and, any damages resulting from material mounted or sent through an ESP by the end user.
6. The University will notify end users that all electronic mail is subject to monitoring by the program operator and no warranties are made concerning privacy or delivery. The University will not be liable for damages under the Electronics Communication Privacy Act (ECPA).
7. The program will act as an agent for information providers except for those information services named on a list as provided by the program.

B. Copyright Issues

1. The program will obtain from all end users a license to copy all end user-authored files for backup purposes and, in the case of messages or files in public areas, an unlimited license to make copies for non-commercial purposes, such as conferences and forums through a computer network.
2. Where the services provide combined works authored by another party, and additional authorship and intellectual labor is performed by the information provider, copyright notices for both the author of the underlying work and for the additional work should be noted on the material.
3. The program will establish an account with the Copyright Clearance Center, Inc. in Salem, Massachusetts for the payment of standard royalties for duplication of journal articles and other copyrighted publications copied by the program for its end users. Invoices to end users for document delivery services will state the amount of copyright royalty paid on behalf of the end user.

4. The program will obtain from each information provider a warranty of goods titled to the information collections provided by the information provider and an agreement to indemnify the program for breach of such warranty.

C. Privacy Issue

If an ESP should act as a gateway operator for third party messaging services, the program will establish policies that will limit the program's involvement with private messaging services to providing directories and connecting end users to information providers or service bureau operators. That is, the ESP will not be responsible for the privacy of the message content and will merely serve as an intermediary in passing through the message from one party to the other.

D. Unlicensed Practice Issue

For export controls, the program will limit file transfer services only to end users in countries for which an Export Administration Act (EAA) license for software is not required.

E. Criminal Acts by End User Issue

Any illegal activity by an end user of the service will be reported to law enforcement agencies and the end user will be notified to cease and desist from utilizing the program until such matters are cleared.

F. Competition with the Private Sector Issue

The program will provide information services to the external community and may be perceived by private sector information providers as a competitor; however, the intent is not to compete with other private information providers but to serve as a source or unique holder of information for value-added use by others.

IX. INTER-NETWORKING WITH OTHER AGENCIES

Act 1, SpSLH, 1988 Relating to Telecommunications and Information, Section 14, also charges the University of Hawai'i with improving the UH information network and instituting network connections with other national and international research libraries and agencies. In addition, the University may access the State of Hawaii information network administered by the State Department of Budget and Finance. The following policies will apply with regard to inter-connectivity of ESP with other networks.

A. In-State Connectivity

The ESP may elect to access the State of Hawai'i network (known as State Packet Network) through contractual agreement with the appropriate State government agency.

B. National and International Connectivity

The UH may enter into agreements with national and international value-added networks and gateway services to enhance access of UH end users to information providers on the continental U.S. and foreign countries and vice versa, e.g. CARL, InterNet, OCLC, and RLG.