

10.

CONTRACTS, PURCHASES, AND AGREEMENTS.

10.1 Pecuniary Interest. No member of the Board of Regents shall enter into the discussion, make motions, or vote on a contract, purchase, or agreement of any character in which the member directly or indirectly has pecuniary interest. The provisions of *Government Code, Chapter 572* shall be observed.

10.2 Authority.

10.21 All contracts, purchases, and agreements in the amount of \$1 million or more as defined in *Chapter III, Subsections 1.11* and *1.12*, shall be submitted to the Board of Regents for approval (Contracts, purchases, and agreements between \$500,000 and \$1 million require approval by the Chancellor). All such contracts and agreements shall be submitted to the Chancellor for review by the Vice Chancellor and General Counsel prior to submission to

the Board. The Vice Chancellor and General Counsel shall advise the Board of any contract or agreement that may have adverse legal ramifications.

The President of each Component shall be delegated the authority to approve increases to the approved contracts, purchases, and agreements in an amount not to exceed ten (10) percent of the original approved amount or \$50,000, whichever is less.

- 10.22 The President of each Component shall be delegated the responsibility and authority to enter into contracts, purchases, and agreements for sums less than \$500,000 whether said amount is income or expenditure, including but not limited to, interlocal contracts with Texas local government entities, and interagency cooperation agreements between a Component and another state agency, and to enter into all grants and agreements funded by private individuals, governmental agencies, and foundations without regard to the amount, unless otherwise limited by the Board. At the request of the Component President, the Vice Chancellor and General Counsel will provide advice and assistance with regard to such contracts, purchases, grants, and agreements. Upon a specific request by a member of the Board, the Chancellor, or the Vice Chancellor and General Counsel, the Component President shall submit designated contracts and agreements to the Chancellor for review by the Vice Chancellor and General Counsel.
 - 10.23 The President may delegate power to contract, purchase, or enter into agreements of less than \$500,000, including but not limited to, interlocal contracts with Texas local government entities, and interagency cooperation agreements between a Component and another state agency, to other employees of the Component. Such delegation must be specific and in writing to be effective. The President will remain responsible for all contracts, purchases, and agreements for sums under \$500,000, and for the proper administration of all grants and agreements funded by private individuals, governmental agencies, and foundations, regardless of delegation of power to contract, purchase, or enter into agreements.
 - 10.24 The President shall not enter into any faculty or personnel contracts or agreements which are not subject to approval of the Board unless the authority for such action has been previously delegated to the President by the Board.
- 10.3 Contract Vendor Employee Background Check Policies. System Components shall engage in due diligence in awarding contracts to vendors of services, who will maintain permanent staffing on the campus.
- 10.31 Due Diligence on Vendors. Before awarding a contract to a vendor of services, who will permanently place employees on the campus

where such employees will be working with or around students, the Component shall:

- (1) During the bidding or negotiation process, notify prospective vendors, in writing, of the requirements of this paragraph;
- (2) Secure credit and criminal background checks on the vendor's officers and managers dealing with or on the campus; and,
- (3) Research prior or pending claims against the vendor (e.g., negligent hiring claims).

10.32 Content of Contracts. All contracts in which the vendor permanently places employees on the campus, working with or around students, shall include the following provisions and requirements:

- (1) A general liability policy, providing primary coverage and naming the Component, System, Regents, and their employees as additional insureds;
- (2) Indemnity and/or hold harmless clauses, protecting the Component, the System, Regents, and their employees from third party claims, caused, in whole or in part, by the actions or omissions of vendor, its employees, or other persons that the vendor causes to be on the campus;
- (3) A representation by the vendor that it has conducted the following background checks on its officers, employees, or other persons it causes to be on the campus:
 - (a) Sex offender and criminal history databases where the above individuals will be placed permanently on the campus, working with or around students;
 - (b) Criminal history and credit history background checks where the above individuals will be handling money, informational technology, or other security-sensitive areas as determined by the president;
- (4) That the president may require the vendor to remove any person from the campus that, in his or her judgment, poses a danger to health or safety;
- (5) An "independent contractor" clause.

10.4 Form and Procedure. All contracts, purchases, and agreements covered by *Subsection 10.21* of this *Chapter* of these *Rules and Regulations* shall be entered into in the official name of the Board after each instrument is considered and approved in open meeting. Each instrument shall identify the Component on whose behalf it is made and shall be recorded in the minutes of the meeting at which it is approved. The original copy of an

executed instrument shall be filed by the Chancellor in the System Administration as a permanent record of the Board. Executed copies of the instrument shall be delivered to the party with whom it is made and to the President of the Component. Additional copies of any contract or agreements may be executed and delivered as the Board may determine.

Endorsement Format. All contracts approved by the Board of Regents shall be endorsed by the contractor, firm, or agency, by and through its authorized representatives. On behalf of the System, the contracts shall have signature blocks, indicating "Examined and Recommended" by the president, as applicable, the Chancellor, and the Board committee through which the contract passed, if applicable. A signature line shall be provided for the Vice Chancellor and General Counsel, indicating "Approved as to legal form." Upon approval by the Board, the Chairman's signature shall indicate "APPROVED by the Board of Regents of the Texas State University System on [date] at [place]." The Chairman's name shall appear along with his or her title.

The following is the endorsement form to be used:

[Contractor]

Name, Title, Authority

Date

TEXAS STATE UNIVERSITY SYSTEM

Examined and Recommended:

President _____

Date

Chancellor _____

Date

[If applicable:

The Honorable _____
Chair, _____ Committee]

Date

Approved as to legal form:

Vice Chancellor and General Counsel

APPROVED by the Board of Regents on [date of meeting] at [place of meeting].

The Honorable
Chairman of the Board

Date

10.5 Contract Reporting

10.51 On a quarterly basis, each Component and System Office personnel shall report to the System Administration Office Procurement Director the following information as to any Component or System contract, as the case may be, for goods or services that has a value exceeding \$1 million:

- (1) Compliance with financial provisions and delivery schedules under the contract;
- (2) Corrective action plans required under the contract and the status of any active corrective action plan; and
- (3) Any liquidated damages assessed or collected under the contract.

10.52 The Component or System Administration Office, as the case may be, shall verify (1) the accuracy of any information reported under *Subparagraph 10.51* that is based on information provided by a contractor, and (2) the delivery time of goods and services scheduled for delivery under the contract.

11. COPYRIGHT POLICY.

11.1 Policy Statement and Purpose.

Copyright is the ownership and control of the intellectual property in original works of authorship. The purpose of The Texas State University System copyright policy is to outline the respective rights which a Component and members of its faculty, staff, and student body have in copyrightable materials created by them while affiliated with the Component and, if necessary, how those ownership rights shall be determined.

Copyright ownership shall remain with the creator of the work except as otherwise provided by *Section 11.2* of this policy.

Nothing in this policy precludes copyright owners/creators from entering into written agreements between or among themselves governing ownership, use, licensing, or sharing of revenues related to works owned