25.07 Contract Administration

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Policy Statement

The effective administration of contracts is an essential operational function of The Texas A&M University System (system). All contracts entered into by a member of the system, unless specifically excluded by this or another policy adopted by the Board of Regents (board), are subject to this policy, including all original contracts, amendments, alterations, modifications, corrections, changes and extensions.

Reason for Policy

This policy provides uniform systemwide contract administration requirements.

Procedures and Responsibilities

1. CONTRACT ADMINISTRATION RULES

   It shall be the responsibility of each member to develop and implement a contract administration rule. Such rule must address the following:

   (a) the process for contract origination, recommendation, approval, execution, administration and contract close-out; and

   (b) contract reporting requirements.

2. CONTRACTS REQUIRING BOARD APPROVAL

Except as stated in Section 3, the following contracts must be submitted to the board for approval:

(a) Contracts that involve a stated or implied consideration of $500,000 or more;

(b) Contracts that have a primary term longer than five (5) years regardless of dollar value; and

(c) Employment agreements containing one or more of the following provisions:

(1) employment contracts with system or member administrators that are to be paid in whole or in part from appropriated funds;

(2) employment contracts having a total salary consideration of $500,000 or more;

(3) employment contracts having a primary term longer than five (5) years;

(4) employment contracts that allow for settlement or other payments on the termination of the contract to exceed an amount equal to the discounted net present cash value of the contract on termination at a market interest rate agreed upon in the contract;

(5) employment contracts allowing for development leave that is inconsistent with System Regulation *12.99.01, Faculty Development Leave*; or

(6) employment contracts awarding tenure in any way that varies from the general policy on the award of tenure.

The board must approve any contract amendment, extension, or renewal that exceeds 25% of the value of the original contract approved by the board, unless the authority to exceed the approved amount is expressly delegated by the board or an exception is expressly adopted by the board for that specific contract.

The foregoing does not abrogate the authority of the chancellor or a member chief executive officer (CEO) to appoint officials as set out in System Policy *01.03, Appointing Power and Terms and Conditions of Employment*.

3. CONTRACTS NOT REQUIRING BOARD APPROVAL

The following types of contracts are not required to receive board approval regardless of dollar value or term:

(a) sponsored research contracts and grants;

(b) contracts transferring rights in technology or products protectable by (1) patent or as a plant variety; (2) copyright; (3) treatment as a trade secret of unpatented technological know-how; or (4) trademark or service mark;

(c) contracts which are procured through a state contract, state catalogue, or other procurement methodologies authorized by state statute and in accordance with the system requirements;

(d) contracts for athletic events, athletic contests and use of athletic facilities in which the event, contest or use occurs over the course of two years or less; and

(e) contracts, grants and agreements, including interagency and intrasystem contracts, to perform research, educational and/or service activities consistent with a member's mission.

4. REQUIRED GENERAL COUNSEL REVIEW

The Office of General Counsel (OGC) shall establish contract review guidelines to be followed for all contracts or agreements entered into by a member. Such guidelines shall contain the following:

(a) a description of each step that a member must use to evaluate and process contracts; and

(b) a checklist that describes each process that must be completed before contract execution.

All contracts or agreements that have a stated or implied consideration of $100,000 or more must be submitted to OGC for review and approval as to form and legal sufficiency when required by OGC guidelines that have been approved by the chancellor.

5. CONTRACTS GOVERNED BY OTHER POLICIES

All contracts for (a) the purchase or sale of real property; (b) the lease, license or use of system real property; (c) the lease, license or use of real property from third parties; (d) the granting or acceptance of easements or rights-of-way; and (e) any other acquisition or disposition of real property or real property interests shall be governed by the policies under Policy Series *41, Real Property*, and any regulations promulgated under these policies. The delegation of authority for all construction contracts shall be governed by System Policy *51.04, Delegations of Authority on Construction Projects*, and the regulations promulgated under that policy.

6. CONTRACT APPROVAL AND DELEGATION OF AUTHORITY

With the exception of Section 3(b) which is covered in System Policy *17.01, Intellectual Property Management and Commercialization*, contracts and grants described in Section 3 may be approved by member CEOs, or their designees, regardless of dollar value or term. The chancellor is authorized to approve all other contracts not reserved for approval by the board, and may delegate authority to deputy chancellors, vice chancellors, CEOs or others to execute all such other contracts less than $500,000.

7. WRITTEN AUTHORIZATION REQUIRED

The authority to enter into contracts on behalf of the system or any of its members must be by express written authority pursuant to the policies of the board and approved contract administration rules of the system or the respective member.

8. EXTENSION OF PRE-EXISTING CONDITIONS FOR CONTRACTS WHICH PRE-DATE THIS POLICY

Contracts reviewed and authorized prior to the adoption of this policy shall remain in full force and effect; however, any modification or extension of such contracts shall be reviewed and authorized in accordance with this policy.

Related Statutes, Policies, or Requirements

Tex. Educ. Code § 51.159

Tex. Educ. Code § 51.9335

State of Texas Contract Management Guide

System Policy *01.03, Appointing Power and Terms and Conditions of Employment*

System Policy, Chapter 41, *Real Property*

System Policy *51.04, Delegations of Authority on Construction Projects*

System Regulation *25.07.01, Contract Administration Delegations and Reporting*

System Regulation *25.07.03, Acquisition of Goods and/or Services*

System Member Delegations of Authority for Contract Administration

Definitions

Contract – an agreement that creates an obligation to do or not do a particular thing.

Member Rule Requirements

A rule is required to supplement this policy. See Section 1.

Contact Office

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