



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER AT EL PASO

Operating Policy and Procedure

HSCEP OP: 54.01, **Contracting Authority and Policy**

PURPOSE: The purpose of this Texas Tech University Health Sciences Center at El Paso (TTUHSC El Paso) Operating Policy and Procedure (HSCEP OP) is to state the institutional policy relating to the approval and execution of contracts and agreements.

REVIEW: This HSCEP OP will be reviewed by April 15 of each odd-numbered year (ONY) by the Managing Director of Contracting Services, with recommendations for revisions forwarded to the Vice President of Clinical Administration (CAO), or designee by May 1.

POLICY/PROCEDURE:

I. Authorities of the Board of Regents.

- A.** Authority for approval of TTUHSC El Paso contracts is vested in the Texas Tech University System (TTUS) Board of Regents. This approval authority applies to all contracts, regardless of the external agency or source of funds.
- B.** The TTUS Board of Regents has established policies regarding contracting approvals, which are published in the *Regents' Rules*.

II. Contracting Policies.

- A.** Written contracts shall be executed whenever TTUHSC El Paso enters into a binding agreement with another party which involves any material consideration. Contracts are construed to include, but not be limited to: agreements, cooperative agreements, memorandums of understanding, interagency contracts, grants, loans, easements, licenses, leases, permits and restrictions on acceptances of gifts and bequests. Other parties include, but are not limited to: federal, state and local agencies, nonprofit organizations, private businesses, partnerships and individuals. Search firms are not considered to be consultants and should be processed through purchasing.
- B.** This policy shall apply to all contracts for the initial periods and for amendments or extensions thereto. For the purpose of determining whether a contract requires the approval of the TTUS Board of Regents, any option(s) to extend or renew a contract shall be counted in the overall term of the contract. For example, a contract for a lease of land for three years that has an option to extend the lease for an additional three years shall be considered to be a lease of land for more than five years.
- C.** *Regents' Rules*, Section 07.12, governs the contracting procedure and signatory authority and is summarized in Section 07.12.
- D.** The President is delegated the authority to approve and sign contracts in accordance with HSCEP OP 10.11, Delegation of Authority by the President.

- E. **No officer or administrator is authorized to approve or execute contracts or agreements with an external agency unless that authority has been delegated in accordance with Regents' Rules or TTUHSC at El Paso Operating Policies and Procedures.**
- F. Approval and signature of a contract constitutes approval to establish an operating budget, which does not exceed the consideration of the contract without further TTUS Board of Regents approval. The operating budget will then be considered approved in accordance with the provisions of Section 07.04, *Regents' Rules*, and in related implementing procedures.
- G. Questions concerning contracting approval authorities and related procedures for processing contracts may be directed to the Contracting Services Office or the TTUHSC El Paso Contracting Services Office website, located at <https://elpaso.ttuhs.edu/fiscal/contracting/>

III. Prohibited contracts

- A. TTUHSC El Paso may not enter into a contract for the purchase of goods or services with a private vendor with whom any of the following persons have a financial interest as defined in Section 07.12.2.a *Regents' Rules* in accordance with Section 07.12.2 *Regents' Rules*:
 - (1) the chancellor, vice chancellor and general counsel, president of the institution involved in the contract, chief procurement officer or equivalent employee responsible for procurement of goods and services for the institution involved in the contract; or
 - (2) a family member related to the employees and officials listed above within the second degree of affinity or consanguinity.

IV. Commitments Prior to Contract Approval.

- A. Officer or administrator should not make any commitment of any nature **prior** to the approval of the availability of funds, either through the allocation of internal fund balances or execution of contracts or agreements.
- B. No officer or administrator should make any statement or take any action which would cause that officer or administrator to appear to a third party as having the authority to commit the institution **prior** to the execution of contracts or agreements and approval of the availability of funds. This policy is effective for all contracting approvals regardless of the external agency or source of funds.

V. Familiarity with Regents' Rules.

- A. Each fund manager and administrative officer should read and be familiar with the TTUS Board of Regent's contracting policies, namely *Regents' Rules*, Section 07.12.

APPENDIX A – summary of required contracting approvals

Contract Terms	<i>Regents' Rules</i> Section Citation	Approval Required
Contracts in excess of \$1,000,000 per annum; and any amendment, extension or renewal of such contracts that increases the value of the original contract to more than \$1,000,000 per annum.	07.12.3.a 07.12.3.b	Board
Contracts in excess of \$1,000,000 total but less than \$1,000,000 per annum; and any amendment, extension or renewal of such contracts that does not cause the per annum amount to exceed \$1,000,000	07.12.4.a 07.12.5 07.12.6	Chancellor or President - <i>with information item provided to board at next meeting</i>
Contracts for real property: sale or purchase; and lease for more than 5 years (<i>unless the contract can be terminated without cause with notice of 180 days or less</i>)	07.12.3.d(1)(a)	Board
Contracts in excess of five years (<i>unless the contract can be terminated without cause with notice of 180 days or less</i>)	07.12.3.d(1)(b)	Board
Consulting contracts in excess of \$100,000, and all modifications that increase the consideration of such contracts	07.12.3.e(1)	Board
Consulting contracts of \$100,000 or less	07.12.4.e(1)	Chancellor or President – <i>with prior review by the VC/CFO and information item provided to board at next meeting.</i>
Employment contracts	07.12.3.f	[see Appendix B]
Initial contracts for vending machines	07.12.3.g	Board
Contracts to license sale of alcoholic beverages by third-party vendor at a TTUS facility	07.12.3.h	President
Sponsored program project contracts in excess of \$1,000,000 per annum	07.12.4.b	President – <i>with information item provided to board at next meeting</i>
Certain health-related continuing contractual relationships	07.12.4.c	President - <i>with prior review of General Counsel and VC/CFO and information item provided to board at next meeting.</i>
Contracts with search firms (<i>so long as contract amount does not exceed \$1.0 million per annum</i>)	<i>due to</i> 07.12.4.e(2) <i>and</i> 07.12.4.a: 07.12.5 or 07.12.6	Chancellor (<i>for TTUSA searches</i>) or President (<i>for institutional searches</i>)

APPENDIX B – summary of employment agreement approvals (per Sec. 07.12.3.f, *Regents' Rules*)

BOARD APPROVAL REQUIRED	<i>per Section 07.12.3... ↓</i>	BOARD APPROVAL NOT REQUIRED
<p>If <u>any</u> of the following provisions apply, the agreement must be approved by the Board:</p> <ul style="list-style-type: none"> • Total value over the entire term of the contract exceeds \$1.0 million. • Term is longer than 5 years. • Termination payment exceeds an amount equal to the discounted net present cash value of the contract upon termination at the U.S. Treasury rate that matches the remaining term of the contract. • Contract allows for development leave inconsistent with <i>Regents' Rules</i> or institutional operating policies. • Contract awards tenure in any way other than as provided in Board-approved operating policies. 	<p>← f(2)(a) →</p> <p>← f(2)(b) →</p> <p>← f(2)(c) →</p> <p>← f(2)(d) →</p> <p>← f(2)(e) →</p>	<p><u>All</u> of the following provisions must apply for the agreement to be exempt from Board approval:</p> <ul style="list-style-type: none"> • Total value over the entire term of the contract is \$1.0 million or less. • Term is 5 years or less. • Termination payment does <u>not</u> exceed an amount equal to the discounted net present cash value of the contract upon termination at the U.S. Treasury rate that matches the remaining term of the contract. • Contract does <u>not</u> allow development leave inconsistent with <i>Regents' Rules</i> or institutional operating policies. • Contract does <u>not</u> award tenure in any way other than as provided in Board-approved operating policies.
<p>Chancellor or President contract. [see Sections 02.01.2 and 02.03.1.b(2), respectively]</p>	<p>← f(3)(a) →</p>	<p align="center">— — — —</p>
<p>Athletic director or head coach contract if:</p> <ul style="list-style-type: none"> • total value over the entire term of the contract exceeds \$2.0 million; OR • term exceeds 5 years. 	<p>← f(3)(b)i →</p>	<p>Athletic director or head coach contract if: • total value over entire term of the contract is \$2.0 million or less; AND ... • term is 5 years or less. [<i>President approves, and Chancellor gets prior notice.</i>]</p>
<p>Assistant coach contract: Board approval not required.</p>	<p>← f(3)(b)ii →</p>	<p>Assistant coach contract: President approves.</p>
<p>Health-related institution faculty contract if: any of the general thresholds shown above are exceeded ... but a process for quick approval is provided when needed.</p>	<p>← f(3)(c) →</p>	<p>Health-related institution faculty contract if: none of the general thresholds provided in Sec. 07.12.3.e(2) are exceeded.</p>