

## **OGC Recommended Contract Execution Instructions**

A written contract must be signed (also referred to as “executed”) by an authorized representative of each party to the contract or the written contract may not be enforceable. OGC is providing the following recommended contract execution instructions to help UT institutions confirm that their contracts are properly signed and are, therefore, enforceable.

### **Authority of UT Institutions to Sign Contracts**

The Board has delegated to each President the authority to sign or execute certain contracts on behalf of the Board, *so long as* those contracts conform with (1) the Regents’ Rules and Regulations (Rules) and (2) policies and procedures (Policies) promulgated by the Executive Vice Chancellor for Health Affairs, the Executive Vice Chancellor for Academic Affairs and the Vice Chancellor and General Counsel. The Policies are summarized in UTS145 Processing of Contracts located at: <http://www.utsystem.edu/policy/ov/uts145.html>

After your institution has processed the contract in accordance with UTS145 Processing of Contracts, the contract should be signed and dated by the appropriate authorized representative(s) of the Contractor and the UT institution as more particularly described below.

### **Execution by Contractor**

The representatives that are authorized to sign a contract and bind the Contractor will depend on the type of organizational entity formed by the Contractor (for example, corporation, partnership, joint venture, or limited liability company).

**Corporation:** If the Contractor is a corporation (whether for-profit or not-for-profit), the contract should be signed by the President of the Contractor and attested by the Corporate Secretary of the Contractor. If the President of the Contractor does not sign the contract, the UT institution should consider obtaining (1) a current resolution from the Board of Directors of the Contractor that authorizes the corporate officer signing the contract to do so on behalf of and bind the Contractor, or (2) a current certificate from the Corporate Secretary of the Contractor that certifies that the corporate officer signing the contract has authority to sign and bind the Contractor.

**Partnership:** If the Contractor is a partnership, the contract should be signed by an authorized representative of a general partner of the Contractor.

**Joint Venture:** If the Contractor is a joint venture, the contract should be signed by an authorized representative of each joint venturer.

**Limited Liability Company:** If the Contractor is a limited liability company (also known as an LLC), the contract should be signed by a Manager or Member of the LLC. The UT institution should consider requesting written evidence (such as a copy of the LLC's bylaws) indicating that the person signing on behalf of the LLC has authority to sign and bind the LLC. In the alternative, all Members of the LLC may sign the contract.

**Assumed Names:** If the Contractor is operating under an assumed name (that is, the Contractor is doing business under a name that is different than the name of the Contractor), the contract must disclose the name of the party that owns the assumed name (for example, Jill Jones d/b/a Landscape Wizards) and the contract should be signed by an authorized representative of the owner of the assumed name.

*If you have any questions regarding who is authorized to sign a contract on behalf of a Contractor, you may contact the Business Law Section of OGC by calling 512/499-4462.*

### **Execution by UT Institutions**

**Debts to the State of Texas:** Sections 2107.008 and 2252.903, *Government Code*, require that not earlier than seven (7) days before the UT institution executes a contract and not later than the day the UT institution executes the contract, the UT institution must contact the Comptroller of the State of Texas and confirm that the Contractor is not currently on "vendor hold." This determination must be made in accordance with the Comptroller's requirements.

**Board Approval, if required:** In certain circumstances, the Rules require that a contract must be approved by the Board of Regents before a UT institution may sign the contract. *Please refer to UTS145 Processing of Contracts for assistance in determining whether your contract requires Board approval.*

In some cases, a contract that did not initially require Board approval may be amended and the amended contract will require Board approval before the amendment is signed. *Please refer to UTS145 Processing of Contracts for assistance in determining whether an amended contract requires Board approval.*

**Execution of Contract:** If the Contractor is not on "vendor hold," then after (1) proper execution by the Contractor, and (2) Board approval (if required), the contract may be executed and dated by your institution's duly authorized representative. Only (1) the President, or (2) a delegate that has received a written delegation from the President authorizing the delegate to sign contracts of similar nature and value, may sign the contract on behalf of a UT institution.

### **Exceptions to Recommended Procedures**

*If your institution believes that circumstances related to a particular contract warrant a deviation from these recommended procedures, you may discuss those circumstances with the Business Law Section of OGC by calling 512/499-4462.*