



AGENDA
SPECIAL CALLED TELEPHONE MEETING
of
THE UNIVERSITY OF TEXAS SYSTEM
BOARD OF REGENTS
September 24, 2015
Austin, Texas

Page

CONVENE THE BOARD IN OPEN SESSION TO RECESS TO EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE, CHAPTER 551

1:30 p.m.

1. Personnel Matters Relating to Appointment, Employment, Evaluation, Assignment, Duties, Discipline, or Dismissal of Officers or Employees – Section 551.074
 - a. **U. T. System: Discussion and appropriate action regarding individual personnel matters relating to appointment, employment, evaluation, compensation, assignment, and duties of presidents (academic and health institutions), U. T. System Administration officers (Executive Vice Chancellors and Vice Chancellors), other officers reporting directly to the Board (Chancellor, General Counsel to the Board, and Chief Audit Executive), members of the Board of Regents, and U. T. System and institutional employees**
 - b. **U. T. Austin: Discussion and appropriate action regarding individual personnel matters concerning proposed agreement with former Men’s Athletics Director Stephen W. Patterson**
2. Consultation with Attorney Regarding Legal Matters or Pending and/or Contemplated Litigation or Settlement Offers – Section 551.071
 - a. **U. T. System Board of Regents: Discussion with Counsel on pending legal issues**
 - b. **U. T. Austin: Discussion and appropriate action related to legal issues regarding proposed agreement with former Men’s Athletics Director Stephen W. Patterson**

RECONVENE IN OPEN SESSION TO CONSIDER ACTION, IF ANY, ON EXECUTIVE SESSION ITEMS AND TO CONSIDER AGENDA ITEMS

1:45 p.m.
approximately

1. **U. T. M. D. Anderson Cancer Center: Approval to enter into a strategic alliance transaction with OncoResponse, Inc., including receipt and acquisition of equity in OncoResponse, Inc. and delegation of authority to the President of U. T. M. D. Anderson Cancer Center to execute documents and take other actions as necessary**
2. **U. T. System: Discussion and appropriate action regarding proposed policies and procedures related to the approval of future tuition and fee rates at U. T. System institutions**

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3. U. T. System Board of Regents: Discussion and appropriate action regarding proposed amendments to Regents' <i>Rules and Regulations</i>, Rule 80301 (Capital Improvement Program); Rule 80402 (Major Construction and Repair and Rehabilitation Projects); and Rule 80404 (Institutional Management of Major Construction and Repair and Rehabilitation Projects) to revise the Board of Regents' approval requirements for Major Projects	Action	6
4. U. T. System Board of Regents: Discussion and appropriate action regarding proposed amendments to Regents' <i>Rules and Regulations</i>, Rule 30104, regarding Conflict of Interest, Conflict of Commitment, and Outside Activities	Action	16
5. U. T. Austin: Discussion and appropriate action regarding proposed contracts between U. T. Austin and Jackson Walker L.L.P. for outside counsel services	Action	23

ADJOURN

*3:30 p.m.
approximately*

1. **U. T. M. D. Anderson Cancer Center: Approval to enter into a strategic alliance transaction with OncoResponse, Inc., including receipt and acquisition of equity in OncoResponse, Inc. and delegation of authority to the President of U. T. M. D. Anderson Cancer Center to execute documents and take other actions as necessary**

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs, the Executive Vice Chancellor for Business Affairs, the Vice Chancellor and General Counsel, and President DePinho that authorization be granted by the U. T. System Board of Regents, on behalf of U. T. M. D. Anderson Cancer Center:

- a. to negotiate, execute, and perform a strategic alliance transaction with OncoResponse, Inc., including approval of receipt and acquisition of equity in OncoResponse, Inc.; and
- b. to the President of U. T. M. D. Anderson Cancer Center or his delegate to execute all documents, instruments, and other agreements, following review and approval by the Executive Vice Chancellor for Health Affairs, the Executive Vice Chancellor for Business Affairs, and the Vice Chancellor and General Counsel, and to take all further actions necessary or advisable to carry out the purpose and intent of the foregoing actions and to accomplish the foregoing transaction.

BACKGROUND

In furtherance of U. T. M. D. Anderson Cancer Center's efforts to develop novel approaches to improve cancer treatment through research collaborations, M. D. Anderson seeks to enter into a strategic research alliance with OncoResponse, Inc., a Delaware corporation (OncoResponse), in the field of immuno-oncology. OncoResponse is a pharmaceutical company that was recently formed by TheraClone, Inc. (TheraClone), a discovery-stage company focused on the development of therapeutic monoclonal antibodies (mAbs).

TheraClone utilizes a proprietary platform technology (I-STAR™) to interrogate the human immune system to discover therapeutic mAbs. The I-STAR™ platform has been validated in infectious disease, and TheraClone will license this platform to OncoResponse for the development and commercialization of therapeutic mAbs in the field of oncology. M. D. Anderson will collaborate with OncoResponse in the development and advancement of therapeutic mAbs by accelerating and broadening access to biological samples and data obtained from cancer patients whose immune systems have been stimulated by immuno-oncology therapies (e.g., cancer vaccines, checkpoint inhibitors, and immune-modulators). Accordingly, M. D. Anderson and OncoResponse will enter into a Strategic Alliance Agreement (Agreement) under which

M. D. Anderson will provide OncoResponse with access to such samples and data, as well as providing collaborative research input and expertise of M. D. Anderson oncologists, laboratories, clinical trial leaders, and others. M. D. Anderson will be responsible for payment of its own costs associated with its conduct of collaborative research under the Agreement. Additionally, to facilitate development and commercialization of therapeutic mAbs by OncoResponse, the Agreement provides that all data and inventions arising from research under the Agreement will be owned by OncoResponse, subject to M. D. Anderson's retained right to use such data and inventions for internal research, academic and patient care purposes.

In conjunction with the initial capitalization of OncoResponse, certain investors (including M. D. Anderson) will purchase Series A Preferred Shares of OncoResponse pursuant to a Series A Preferred Stock Purchase Agreement. M. D. Anderson will purchase 2,499,000 shares at a purchase price of \$1.00 per share, payable in two installments of: (a) \$1,250,000 from an unrestricted source of funds due upon the closing of the strategic alliance transaction; and (b) \$1,249,000 from an unrestricted source of funds to be paid on or prior to the first anniversary of such closing. In addition, in consideration of M. D. Anderson's conduct of the research collaboration and the rights in data and inventions granted to OncoResponse, M. D. Anderson will receive: (a) 2,000,000 shares of OncoResponse Series A Preferred Stock (such shares in addition to the 2,499,000 shares to be acquired by M. D. Anderson under the Series A Preferred Stock Purchase Agreement); (b) a royalty on Net Sales of any therapeutic mAbs developed under the Agreement; and (c) payments to be made on the basis of and at such time that certain regulatory approval and Net Sales milestones have been met. Accordingly, M. D. Anderson expects to realize value through this transaction through its equity interest in OncoResponse and also through royalties and milestone payments with respect to therapeutic mAbs discovered and developed as a result of the collaboration with OncoResponse.

But for M. D. Anderson purchasing 2,499,000 Series A Preferred shares of OncoResponse via the Stock Purchase Agreement, this Agreement would not normally require approval by the Board of Regents. As provided by Regents' *Rules and Regulations*, Rules 10501 and 90101, and U. T. Systemwide Policy UTS125, U. T. System institutions may enter into sponsored research agreements exceeding \$1,000,000 (or in the case of M. D. Anderson, \$2,500,000) if reviewed and approved by the Office of General Counsel. Because the current Board of Regents' Rules regarding delegation do not authorize direct investment in a company with no license under which it is commercializing Board of Regents-owned intellectual property, this Agreement is being submitted to the Board of Regents for approval and to delegate direct investment authority to the President of M. D. Anderson for this Agreement.

2. **U. T. System: Discussion and appropriate action regarding proposed policies and procedures related to the approval of future tuition and fee rates at U. T. System institutions**

RECOMMENDATION

Chancellor McRaven, Deputy Chancellor Daniel, Executive Vice Chancellor Leslie, and Executive Vice Chancellor Greenberg will lead a discussion and make recommendations to the Board concerning policies and procedures related to the approval of future tuition and fee rates.

3. **U. T. System Board of Regents: Discussion and appropriate action regarding proposed amendments to Regents' *Rules and Regulations*, Rule 80301 (Capital Improvement Program); Rule 80402 (Major Construction and Repair and Rehabilitation Projects); and Rule 80404 (Institutional Management of Major Construction and Repair and Rehabilitation Projects) to revise the Board of Regents' approval requirements for Major Projects**

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Executive Vice Chancellor for Business Affairs, the Executive Vice Chancellor for Health Affairs, and the Vice Chancellor and General Counsel that the U. T. System Board of Regents approve proposed amendments to Regents' Rule 80301 (Capital Improvement Program), Rule 80402 (Major Construction and Repair and Rehabilitation Projects), and Rule 80404 (Institutional Management of Major Construction and Repair and Rehabilitation Projects) as set out in the following pages in congressional style to be effective upon approval. The Secretary to the Board of Regents may also make minor editorial amendments to the Regents' Rules to implement these changes.

BACKGROUND INFORMATION

The recommended amendments to Rules 80301, 80402, and 80404 propose revision to the Major Project approval process. Revisions will allow the appropriate Executive Vice Chancellor and the Chancellor to approve select projects to move forward with a Definition Phase, authorizing expenditure of 5% of the Total Project Cost prior to addition to the Capital Improvement Program. Following the Definition Phase, Major Projects would be added to the Capital Improvement Program with schematic designs, fully-vetted business plans, and cost estimates with reduced contingencies in place. These revisions support a shorter time to Design Development Approval and a more effective change management process.

**The University of Texas System
Rules and Regulations of the Board of Regents**

Rule: 80301

1. Title

Capital Improvement Program

2. Rule and Regulation

- Sec. 1 Annual Status Report. The University of Texas System Administration will maintain a Capital Improvement Program (CIP) on an ongoing basis. Although the CIP is a dynamic document subject to change throughout the year, a report detailing the current status of the CIP will be formally presented to the Board of Regents no less than annually.
- Sec. 2 Contents of Program. The CIP will consist of a six-year projection of major new construction and repair and rehabilitation projects (Major Projects) to be implemented and funded from institution and Systemwide revenue sources. The CIP should be a current reflection of the institutions' continuous processes of strategic planning and master planning for institutional programs.
- Sec. 3 Modifications to the CIP. The CIP is subject to modification at any Board of Regents' meeting. Candidate projects will routinely be added to the CIP, and project information such as funding sources, project cost, and delivery dates will routinely be revised. For Major Projects seeking Board action, the institutional president will submit a request for inclusion on the Board of Regents' agenda. Requests to add to or modify the CIP will be reviewed in accordance with the processes administered by the Office of Facilities Planning and Construction adopted in the CIP.
- Sec. 4 Preliminary Cost Expenditures for Major Projects. Approval by the appropriate Executive Vice Chancellor and the Chancellor will allow a Major Project to proceed to the Definition Phase. Addition of a project to the CIP. The Definition Phase provides authority for the U. T. System Administration and the institutional administration to expend institutional funds up to 5% of the anticipated total project cost to select the project architect and other consultants, confirm the basis of design, develop the formal Facility Program document, and develop schematic preliminary project plans. ~~Requests to expend funds in excess of the amount equal to 5% but not more than 10% of the anticipated total project cost shall be reviewed and approved by the Executive Vice Chancellor for Business Affairs.~~ These funds

**The University of Texas System
Rules and Regulations of the Board of Regents**

Rule: 80301

will be provided by the institution initially but will be reimbursed to the institution from applicable project funds upon design development approval or upon submission of a project application to Texas Higher Education Coordinating Board ~~approval~~ (if applicable), whichever is later.

Sec. 5 Addition of a Major Project to the CIP. Following the Definition Phase, addition of a project to the CIP provides authority for the U. T. System Administration and the institutional administration to expend institutional funds up to 10% of the anticipated total project cost to proceed to Design Development Approval. These funds will be provided by the institution initially but will be reimbursed to the institution from applicable project funds upon design development approval or upon submission of a project application to Texas Higher Education Coordinating Board (if applicable), whichever is later.

Sec. 65 Institutional Management of a Major Project. Addition of a project to the CIP includes authorization of institutional management of Major Projects so designated in the CIP. Requests for institutional management shall be reviewed and approved by the Associate Vice Chancellor for Facilities Planning and Construction. Projects approved for institutional management will be included in the CIP. Projects designated for institutional management shall follow the process, authority, and approvals as outlined in Rule 80404 of the Regents' *Rules and Regulations* for the full amount stipulated in the CIP.

~~Sec. 6 — Feasibility and Planning Studies. For projects included in the CIP and identified as feasibility studies or planning studies, adoption of the CIP provides authority for the U. T. System Administration and the institutional administration to expend institutional funds for the full amount stipulated in the CIP. These funds will be provided by the institution initially but will be reimbursed to the institution from future CIP funds allocated for projects derived from the studies after design development approval and appropriation of project funds by the Board of Regents.~~

Sec. 7 Timing of Student Election. For such additions to the CIP that are anticipated to be funded in part by student fees, the project must be presented to the Board by the institutional President or his/her delegate and student representative(s) for approval prior to the call for a student election on the authorization or increase

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Rules and Regulations of the Board of Regents**

Rule: 80301

of the associated fee. This Section does not require a student election if one is not otherwise required by statute.

3. Definitions

Facility Program – A project planning document that organizes and summarizes client needs and programmatic information needed to design a capital project. It is generated through a process of collecting, analyzing, synthesizing, and documenting significant requirements for a Project prior to proceeding into the Design Phase.

Major Project – Any project that meets one or more of the following criteria: 1) new building construction with a total project cost of \$10 million or more, 2) road, paving, and repair and rehabilitation projects with a total project cost of \$10 million or more, and 3) any project determined by the Board to be architecturally or historically significant, ~~and 4) any campus planning efforts that are intended to result in a capital project meeting one or more of these criteria.~~

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**The University of Texas System
Rules and Regulations of the Board of Regents**

Rule: 80402

1. Title

Major Construction and Repair and Rehabilitation Projects

2. Rule and Regulation

- Sec. 1 Contract Authorization – Architects, Engineers, and Design-Build Contractors. Subject to Regents' *Rules and Regulations*, Rule 80301 and Rule 10501, and Sections 2, 3, 4, and 5 below, and except as otherwise specified in these *Rules and Regulations*, the Executive Vice Chancellor for Business Affairs, with the advice of the Associate Vice Chancellor for Facilities Planning and Construction and the institutional president, is authorized to appoint architects, engineers, and design-build contractors and execute contracts for professional services.
- Sec. 2 Contract Authorization - Construction. The Executive Vice Chancellor for Business Affairs is authorized to execute construction and related contracts for all ~~Major Projects new construction projects and for all major repair and rehabilitation projects~~ that have previously been approved ~~or authorized~~ for Definition Phase by the appropriate Executive Vice Chancellor and the Chancellor or authorized by the Board of Regents in the Capital Improvement Program (CIP).
- Sec. 3 Standardized Contracts. Construction contracts executed and delivered on behalf of the Board of Regents for Major Projects shall comply with guidelines issued by the U. T. System Administration's Office of General Counsel and shall be written on a standard form approved by the Office of General Counsel. Payment and performance bonds, when required by law for contracts, shall be on a standard form approved by the Office of General Counsel. Contracts with architects and engineers shall comply with guidelines issued by the Office of General Counsel and shall be written on a standard form approved by the Office of General Counsel.
- Sec. 4 Authorization to Expend Funds Appropriated in the CIP.
- 4.1 The Chancellor will approve the Design Development Plans for all major repair and rehabilitation projects that are not architecturally or historically significant and authorize expenditure of appropriated funds. The executive officers and institutional presidents shall be

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Rules and Regulations of the Board of Regents**

Rule: 80402

responsible for identifying special interest projects to the Facilities Planning and Construction Committee.

4.2 The Board of Regents will approve the Design Development Plans for all Major Projects other than repair and rehabilitation projects that are not architecturally or historically significant and authorize expenditure of appropriated funds. The executive officers and institutional presidents shall be responsible for identifying special interest projects to the Facilities Planning and Construction Committee.

Sec. 5 Approval for Excess Costs. Project costs that exceed 10% of the Total Project Cost approved by the Board of Regents or \$500,000, whichever is greater, must be approved by the Board.

Sec. 6 Contract Management. The Associate Vice Chancellor for Facilities Planning and Construction is authorized to implement and manage all professional service, construction, and construction-related contracts executed by the Executive Vice Chancellor for Business Affairs pursuant to Sections 1 and 2 of this Rule and Rule 80403, Section 1. The Associate Vice Chancellor for Facilities Planning and Construction's authority includes, but is not limited to, extending the term of existing contracts to the extent such extensions are contemplated in the contract; approving additional work requests; approving a construction contractor's, design-build contractor's, or construction manager's estimates, guaranteed maximum price proposals, or stipulated sum proposals; approving change orders; and providing general supervision of all Major and Minor Projects.

Sec. 7 Authority to Increase Project Cost. The Chancellor, with the advice of the Deputy Chancellor, the appropriate Executive Vice Chancellor, the Office of Finance, and the institutional president, is authorized to increase the approved Total Project Cost not more than 10% or \$500,000, whichever is greater. To provide funding for the increase, the Chancellor may reallocate funding between or among approved projects at a single institution if funding for such projects has previously been authorized or approved funding from some other source is available to the institution.

Sec. 8 Facility Program. A facility program shall be prepared for all Major Projects in accordance with the Facilities Programming

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Guidelines maintained by the Office of Facilities Planning and Construction. The facility program must be approved by the president of the institution.

- Sec. 9 Adherence with Campus Master Plan. Requests for Qualifications (RFQs) issued to solicit responses from interested architects, engineers, and design-build contractors will include a requirement that the architect, engineer, and design-build contractor evidence agreement to adhere to the approved Campus Master Plan and a set of criteria applicable to the facility program and the needs of the institution.
- Sec. 10 Preparation of Schematic Plans and Design Development Plans. Pursuant to approval under Section 4 of Rule 80301, Following approval of the facility program, the Associate Vice Chancellor for Facilities Planning and Construction is authorized to release the project architect, engineer, or design-build contractor to prepare Schematic Plans (exterior design, site plans, cost estimates, and other necessary and appropriate documents). and Pursuant to approval under Section 5 of Rule 80301, the Associate Vice Chancellor for Facilities Planning and Construction is authorized to release the project architect, engineer, or design-build contractor to prepare Design Development Plans (elevations, and sections, outline specifications, cost estimates, and other related work to establish the scope, design, dimensions, and materials of the project in greater detail). The project architect, engineer, or design-build contractor shall work with the institutional delegates and the Office of Facilities Planning and Construction.
- Sec. 11 Construction Documents. After approval of the Design Development Plans, the Associate Vice Chancellor for Facilities Planning and Construction is authorized to direct the preparation of the Construction Documents (working drawings and specifications).

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**The University of Texas System
Rules and Regulations of the Board of Regents**

Rule: 80404

1. Title

Institutional Management of Major Construction and Repair and Rehabilitation Projects

2. Rule and Regulation

Sec. 1 Contract Authorization – Architects, Engineers, and Design-Build Contractors. Subject to Regents' *Rules and Regulations*, Rule 80301 and Rule 10501, and Sections 2, 3, 4, and 5 below, and except as otherwise specified in these *Rules and Regulations*, the institutional president, with the advice of the appropriate Executive Vice Chancellor, is authorized to appoint architects, engineers, and design-build contractors and execute contracts for professional services.

Sec. 2 Contract Authorization - Construction. The institutional president is authorized to execute construction and related contracts for ~~Major Projects new construction projects and for all major repair and rehabilitation projects~~ that have previously been approved ~~or authorized~~ for Definition Phase by the appropriate Executive Vice Chancellor and the Chancellor institutional management or authorized by the Board of Regents in the Capital Improvement Program (CIP).

Sec. 3 Standardized Contracts. Construction contracts executed and delivered on behalf of the Board of Regents for Major Projects shall comply with guidelines issued by the U. T. System Administration Office of General Counsel and shall be written on a standard form approved by the Office of General Counsel. Payment and performance bonds, when required by law for contracts, shall be on a standard form approved by the Office of General Counsel. Contracts with architects and engineers shall comply with guidelines issued by the Office of General Counsel and shall be written on a standard form approved by the Office of General Counsel.

Sec. 4 Authorization to Expend Funds Appropriated in the CIP.

4.1 The institutional president will approve the Design Development Plans for all major repair and rehabilitation projects that are not architecturally or historically significant and authorize expenditure of appropriated funds. The executive officers and institutional presidents shall be responsible for identifying special interest

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projects to the Facilities Planning and Construction Committee.

4.2 The Board of Regents will approve the Design Development Plans for all Major Projects other than repair and rehabilitation projects that are not architecturally or historically significant and authorize expenditure of appropriated funds. The executive officers and institutional presidents shall be responsible for identifying special interest projects to the Facilities Planning and Construction Committee.

Sec. 5 Approval for Excess Costs or Material Change. Project costs that exceed 10% of the Total Project Cost approved by the Board of Regents or \$500,000, whichever is greater, must be approved by the Board.

Sec. 6 Contract Management. The institutional president shall approve the construction contractor's, design-build contractor's, or construction manager's estimates, guaranteed maximum price, or stipulated sum proposals; sign change orders; and provide general supervision of all Major Projects.

Sec. 7 Authority to Increase Project Cost. The institutional president, with the advice of the appropriate Executive Vice Chancellor, is authorized to increase the approved Total Project Cost not more than 10% or \$500,000, whichever is greater. To provide funding for the increase, the institutional president may reallocate funding between or among approved projects at the institution if funding for such projects has previously been authorized or is from some other source of approved funds available to the institution.

Sec. 8 Facility Program. A facility program shall be prepared in accordance with the Facilities Programming Guidelines maintained by the Office of Facilities Planning and Construction. The facility program must be approved by the president of the institution.

Sec. 9 Adherence with Campus Master Plan. Requests for Qualifications (RFQs) issued to solicit responses from interested architects, engineers, and design-build contractors will include a requirement that the architect, engineer, and design-build contractor evidence agreement to adhere to the approved

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Campus Master Plan and a set of criteria applicable to the facility program and the needs of the institution.

- Sec. 10 Preparation of Schematic Plans and Design Development Plans. Pursuant to approval under Section 4 of Rule 80301, After approval of the facility program, the institutional president is authorized to release the project architect, engineer, or design-build contractor to prepare Schematic Plans (exterior design, site plans, cost estimates, and other necessary and appropriate documents). and Pursuant to approval under Section 5 of Rule 80301, the institutional president is authorized to release the project architect, engineer, or design-build contractor to prepare Design Development Plans (elevations, and sections, outline specifications, cost estimates, and other related work to establish the scope, design, dimensions, and materials of the project in greater detail). The project architect, engineer, or design-build contractor shall work with the institutional delegates and the institutional president.
- Sec. 11 Construction Documents. After approval of the Design Development Plans, the institutional president is authorized to direct the preparation of the Construction Documents (working drawings and specifications).

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4. **U. T. System Board of Regents: Discussion and appropriate action regarding proposed amendments to Regents' *Rules and Regulations*, Rule 30104, regarding Conflict of Interest, Conflict of Commitment, and Outside Activities**

RECOMMENDATION

The Chancellor concurs in the recommendation of the Vice Chancellor and General Counsel, the Executive Vice Chancellor for Academic Affairs, and the Executive Vice Chancellor for Health Affairs that a proposed amendment to Regents' *Rules and Regulations*, Rule 30104, regarding Conflict of Interest, Conflict of Commitment, and Outside Activities, be adopted as set forth in congressional style on the following pages. The proposed amendments will allow U. T. System the flexibility to require more in-depth disclosure and focus on particular areas of greatest risk regarding outside activities.

BACKGROUND INFORMATION

Regents' Rule 30104 and the corresponding U. T. Systemwide Policy UTS180 were substantially amended in 2012. The Rule recognized for the first time the potential for conflict in uncompensated positions and required the disclosure of any type of outside activity by full-time employees. It also required the implementation of a publicly accessible electronic database of the information.

U. T. System Administration has worked with the U. T. System institutions over the past three years to develop a database that will assist in the identification of potential conflicts. However, due to the breadth and types of information the Rule requires to be maintained, the database lacks functionality. Much of the information maintained is not relevant in the identification of potential conflicts of interest.

An amendment to Rule 30104 will provide the ability to focus the database on particular risk areas, including potential conflicts of interest regarding individuals involved in the procurement process and executive officers. This will greatly assist in meeting the new requirements of Senate Bill 20. The new law requires employees involved in procurement to disclose any potential conflict of interest related to all contracts for the purchase of goods and services. The additional administrative workload involved with the new disclosure requirement is significant. As an example, U. T. Austin completes approximately 6,000 purchase orders per month. Documenting proper conflict disclosure for each of these purchase orders in an unautomated format will be difficult at best.

A data-driven solution to address this increased workload will increase efficiency and allow the institutions to focus time and effort on areas of greatest need. To that end, the Office of General Counsel recommends amendment of policies and the disclosure database to ask the appropriate questions of, and maintain the appropriate records for, procurement employees and executive officers. The modified database will allow the institutions to verify that conflicts of interest are not present in procurement processes at speeds necessary for the volume of work required at the institutions. The proposed amendments to Rule 30104 will allow for the amendment of U. T. Systemwide Policy UTS180 and the disclosure database to provide this flexibility.

While changes to the structure of the disclosure database will focus on procurement and executive officer risks, the other areas of conflict of interest and conflict of commitment will have minimal changes.

A chart on the next page provides detail on the proposed changes. A brief summary of the chart follows:

- Nothing related to research (federally funded or otherwise) will change.
- Full-time faculty and salaried employees of U. T. System and its institutions must continue to seek approval for outside employment, board service, and activities that may constitute a conflict of interest.
- Individuals participating in the procurement process and executive officers will be required to disclose additional information in order to assure a conflict free decision-making process.

U. T. Systemwide Policy UTS180 will be reviewed and edited in coordination with the institutions to conform with these changes to Rule 30104 and to ensure that it meets the needs of U. T. System Administration and the U. T. System institutions.

Disclosure Chart

Categories of Disclosure	Currently Required	Required Under Proposed Rules
All matters Related to Research	YES	YES
For Full-Time Faculty and Full-Time Salaried Employees		
Outside employment	YES	YES
Board service	YES	YES
Activities that create a conflict of interest	YES	YES
Substantial interests in business entities	YES	NO*
Gifts over \$250	YES	NO*
For Non-Salaried and Part-Time Employees		
Outside employment	Usually**	Usually**
Activities that create a conflict of interest	YES	YES
For Procurement and EO employees		
Outside employment	Self Only	Self and family
Board service	Self Only	Self and family
Activities that create a conflict of interest	Self and family	Self and family
Substantial interests in business entities	Self Only	Self and family
Gifts	Self Only	Self and family

*If employees are executive officers, or participate in the procurement process, they will be required to disclose.

** Disclosure is required for most "ordinary" part-time employees. However, nurses at some health institutions who work very limited hours for U.T., some contract employees, and other employees who work very low hours (5-10% time), may not disclose outside employment unless it presents a conflict of interest.

**The University of Texas System
Rules and Regulations of the Board of Regents**

Rule: 30104

1. Title

Conflict of Interest, Conflict of Commitment, and Outside Activities

2. Rule and Regulation

- Sec. 1 Primary Responsibility. The primary responsibility of employees of the U. T. System Administration and each of the U. T. System institutions is the accomplishment of the duties and responsibilities assigned to one's position of appointment.
- Sec. 2 Outside Work or Activity. Employees may engage in work or activity with outside entities and individuals, including governmental agencies, industry, or other educational institutions so long as such work or activity complies, as applicable, with the approval and disclosure requirements of Section 5 below and does not violate State laws or U. T. System Administration or U. T. System institution rules or policies governing the conduct of employees, including ethics standards and provisions prohibiting conflicts of interest, conflicts of commitment, and the use of State resources.
- Sec. 3 Unmanaged Conflicts of Interest Prohibited. U. T. System Administration and U. T. System institution employees may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the employee's duties in the public interest.
- Sec. 4 Conflicts of Commitment Prohibited. Activities on behalf of outside entities or individuals must not interfere with a U. T. System Administration or U. T. System institution employee's fulfillment of his/her duties and responsibilities to the University. Such conflicts of commitment may arise regardless of the location of these activities (on or off campus), the type of outside entity (individual, for-profit, not-for-profit, or government), or the level of compensation (compensated or unpaid).
- Sec. 5 Approval and Disclosure Requirements. U. T. System Administration and each institution shall adopt policies that clearly delineate the nature and amount of permissible outside work or activities. The policies shall include provisions to prevent, identify, and manage conflicts of interest and conflicts

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Rule: 30104

of commitment and shall include specific processes for disclosing such work or outside activities, as well as the procedures for obtaining and documenting institutional approval to carry out such engagements, consistent with this Rule.

5.1 Approval Required for ~~Compensated~~ Outside ~~Work or Activities~~ and for Outside Board Service. ~~No full-time member of the faculty or administrative and professional staff employed by the U. T. System or any of the institutions on a 12-month or nine-month basis U.T. System Administration shall establish a policy providing requirements for the approval and disclosure of outside activities for employees: (1) authorized to execute contracts on behalf of U.T. System Administration or a U.T. institution, (2) authorized to exercise discretion with regard to the award of contracts or other pecuniary transactions, and (3) who are Executive Officers of U.T. System Administration or a U.T. institution. shall be employed in any outside work or activity or receive from an outside source any compensation, or serve on an outside board until a description of the nature and extent of the employment or activity and the range of any compensation has been timely filed with and approved by the president of the institution, or his or her designee(s), or by the Chancellor or his or her designee(s) for U. T. System Administration employees, as set forth in the policies of the U. T. System or the *Handbook of Operating Procedures* of each institution. Filings~~ Disclosure and approvals for the presidents will be made to the appropriate Executive Vice Chancellor. ~~Filings~~ Disclosure and approvals for the Chancellor, the General Counsel to the Board, and the Chief Audit Executive will be made to the Chairman of the Board.

5.2 U.T. System Administration and each Institution shall adopt a policy governing an officer's or employee's outside activities, including compensated employment and board service, that clearly delineates the nature and amount of permissible outside activities and that includes processes for disclosing the outside activities and for obtaining and documenting institutional approval to perform the activities.

5.23 Additional Financial Disclosures. All officers and employees shall, in a timely manner, furnish such

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additional written financial disclosures as may be required by State or federal authorities or by U. T. System Administration or institutional authorities.

5.34 Electronic Database. Disclosure of outside activity, documentation of requests for approval, and subsequent approvals required ~~under Section 5.1,~~ above, shall be maintained in an electronic database, following guidelines provided by U. T. System Administration.

- Sec. 6 Free Advice. Even in the case of employees specifically engaged only in residence work, there exists an obligation, usually intermittent, to furnish expert knowledge and counsel for public benefit free of charge, provided that the meeting of this obligation by an employee does not interfere with his or her regular duties, and provided further that in meeting this obligation an employee shall avoid undue competition with legitimate private agencies.
- Sec. 7 Separation of Activities. If a U. T. System Administration or U. T. System institution employee engages in any outside activity, the employee must make it clear to those who employ him or her that the work is unofficial and that the name of the U. T. System or any of the institutions is not in any way to be connected with the employee's name, except when used to identify the member as the author of work related to the employee's academic or research area as more fully described in [Rule 90101](#) of the Regents' *Rules and Regulations* concerning general rules for intellectual property. No employee engaged in outside activities shall use in connection therewith the official stationery of the System, give as a business address any building or department of the U. T. System or any of the institutions, or any University telephone extension.
- Sec. 8 Use of University Property. U. T. System Administration and U. T. System institutional property may only be used for State purposes appropriate to the System or institutional mission.
- Sec. 9 Opinions for Advertising Purposes. Every employee must protect the U. T. System and U. T. System institutions against the use of opinions for advertising purposes.
- Sec. 10 Noncompliance. Noncompliance with this Rule subjects an employee to disciplinary action, including termination, in accord with applicable procedures.

**The University of Texas System
Rules and Regulations of the Board of Regents**

Rule: 30104

3. Definitions

Executive Officer- Includes, but is not limited to, a chancellor or president, all individuals who report directly to the chancellor or president (other than administrative support positions), and any employee who exercises broad and significant discretion over key institution or System functions.

Compensation— any form of benefit including but not limited to salary, retainer, honoraria, intellectual property rights, or royalties, or promised, deferred, or contingent interest.¹

¹ ~~Sponsored or reimbursed travel is included for consistency with Public Health Service regulations and UTS175 governing conflicts of interest in research [42 CFR Sec. 50.603, definition of “significant financial interest,” at (2)]. It does not apply to travel that is reimbursed or sponsored by a Federal, state, or local government agency, an institution of higher education, an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education.~~

5. **U. T. Austin: Discussion and appropriate action regarding proposed contracts between U. T. Austin and Jackson Walker L.L.P. for outside counsel services**

RECOMMENDATION

The Chancellor concurs with the recommendation of the Vice Chancellor and General Counsel and the General Counsel to the Board of Regents that the Board approve the proposed contracts with the law firm of Jackson Walker L.L.P. for outside counsel legal services for U. T. Austin as set out on the following page and to be effective September 1, 2015 through August 31, 2017.

BACKGROUND INFORMATION

Every two years, the Office of General Counsel issues an RFQ for outside counsel legal services on matters for which the Vice Chancellor and General Counsel determines in-house legal expertise is not readily available and the Office of the Attorney General (OAG) elects not to provide legal services. The firms selected following the RFQ process and the proposed service contracts must be approved by the OAG. The most recent RFQ was issued in May 2015 for the two-year period beginning September 1, 2015, and proposed firm selections and requests to retain were sent to the OAG for approval in August 2015.

While the U. T. System Vice Chancellor and General Counsel has delegated authority to execute legal service contracts after approval by the OAG, Section 669.003 of the *Texas Government Code* requires that contracts with an entity employing the former president of a university in the U. T. System be approved by the Board of Regents in an open meeting of the Board following advance notice of the proposed contract to the Texas Legislative Budget Board. Former U. T. Austin President William C. Powers, Jr., is employed part-time by Jackson Walker L.L.P. as "Of Counsel" and the terms of that approved outside employment were discussed with the Board on August 20, 2015, when the Board provided approval for extensions or modifications to the U. T. Austin and U. T. System Administration contracts with Jackson Walker L.L.P. for the remainder of the 2012-2015 term. With the agreement of the OAG, the term for those previous contracts was for three years, rather than two, to align U. T. System's contracting timeframes with those of other state agencies. As noted in August, Professor Powers will not be involved in providing legal advice to the U. T. System and will not share in revenue generated by legal representation of the U. T. System.

According to the requirements of Section 669.003, contracts between Jackson Walker and U. T. Austin require approval of the Board of Regents. U. T. System Administration contracts with Jackson Walker L.L.P., which U. T. Austin utilizes, as well as Jackson Walker contracts with other U. T. System institutions are listed on the following page for informational purposes to provide the Board with a complete picture of all U. T. System and institutional contracts with Jackson Walker L.L.P.

The outside counsel relationship with Jackson Walker L.L.P. has been of great benefit to the U. T. System, and attorneys with the firm have the expertise needed to continue providing advice and counsel on several critical matters, including particularly intellectual property; real estate; international, corporate, and health law; and utility issues. Approval of this recommendation allows continued representation of U. T. Austin, as needed, by Jackson Walker L.L.P. until August 31, 2017.

JACKSON WALKER 2015-17 OUTSIDE COUNSEL CONTRACTS

9/1/15 - 8/31/17

<u>OCC#</u>	<u>Institution</u>	<u>Area of Law</u>	<u>Ceiling</u>	<u>Status</u>
		<u>U. T. Austin</u>		
2016-721-0105	Austin	Intellectual Property	\$25,000	Contract sent to firm for signature
2016-721-0386	Austin	Utility Law	\$35,000	Contract sent to firm for signature
		<u>Other U. T. System Institutions</u>		
2016-720-0439	System	Real Estate and Real Estate Finance	\$975,000	Contract sent to firm for signature
2016-720-0130	System	International Law	\$149,999	Contract sent to AG for approval
2016-720-0428	System	Corporate Law	\$50,000	Contract sent to AG for approval
2016-738-0136	Dallas	Intellectual Property	\$150,000	Contract sent to AG for approval
2016-723-0258	Galveston	Corporate Law	\$49,999	Contract sent to firm for signature
2016-744-0394	HSC Hou	Health Law	\$9,999	Contract sent to AG for approval
2016-744-0282	HSC Hou	Intellectual Property	\$999,999	Contract sent to AG for approval
2016-745-0296	HSC SA	Intellectual Property	\$100,000	Contract sent to AG for approval
2016-744-0394	HSC SA	Health Law	\$9,999	Contract sent to firm for signature
2016-743-0181	UTSA	Intellectual Property	\$550,000	Contract sent to AG for approval
2016-729-0233	SMC DAL	Intellectual Property	\$100,000	Contract sent to AG for approval

(Status as of 9/18/15)