

1. Title

Delegation to Act on Behalf of the Board

2. Rule and Regulation

NOTE: IN RESPONSE TO THE CORONAVIRUS PANDEMIC, THE BOARD HAS SUSPENDED THE APPLICATION OF THIS RULE TO CERTAIN CONTRACTS AND PROCEDURES. MORE INFORMATION IS CONTAINED IN SEC. 4.4.

Sec. 1 Background

- 1.1 Identification of Significant Contracts or Documents. Institutional presidents and executive officers at U. T. System Administration are responsible for identifying contracts, agreements, and other documents of such significance to require the prior approval of the Board of Regents. Each such matter so identified shall be presented to the Board by the Chancellor as an agenda or Consent Agenda item at a meeting of the Board.
- 1.2 Assurance of Authority to Act. The officer or employee executing any document on behalf of the Board of Regents shall be responsible for assuring that he or she has authority to act on behalf of the Board and that such authority is exercised in compliance with applicable conditions and restrictions. Documents executed on behalf of the Board pursuant to authority granted under these *Rules and Regulations* shall not require further certification or attestation.
- 1.3 Delegation Process. The primary delegate identified in these *Rules and Regulations* or in an official Board action may further delegate his or her delegated authority to a secondary delegate unless otherwise specified. Any such further delegation of authority must be made in writing and the primary delegate shall permanently maintain, or cause to be maintained, evidence of all such delegations. A secondary delegate of the primary delegate may not further delegate such authority.
- 1.4 Delegate's Responsibilities. The primary delegate identified in these *Rules and Regulations* as authorized to execute and deliver on behalf of the Board of Regents

various types of contracts, agreements, and documents shall maintain, or cause to be maintained, necessary and proper records with regard to all contracts, agreements, and documents executed and delivered pursuant to such delegated authority, in accordance with any applicable records retention schedule or policy adopted by the Board, the U. T. System Administration, or the institution. The primary delegate must also maintain, or cause to be maintained, sufficient accounting systems and procedures to assure that contracts, amendments, and renewals for the purchase of goods and services are presented to the Board for approval if required by these *Rules and Regulations*.

- 1.5 Actions of the Board as Trustee. Authority delegated by the Board of Regents in these *Rules and Regulations* includes actions that may be taken by the Board in its capacity as trustee of any trust to the extent such delegation is permitted by law.
- 1.6 Power to Establish Policies. No employee of the U. T. System or any of the institutions, as an individual or as a member of any association or agency, has the power to bind the System or any of the institutions unless such power has been officially conferred in advance by the Board of Regents. Any action which attempts to change the policies or otherwise bind the System or any of the institutions, taken by any individual or any association or agency, shall be of no effect whatsoever until the proposed action has been approved by the president of an institution concerned, if any, the appropriate Executive Vice Chancellor, and the Chancellor, and ratified by the Board.

Sec. 2 Delegation

- 2.1 Compliance with Special Instructions. All authority to execute and deliver contracts, agreements, and other documents is subject to these *Rules and Regulations* and compliance with all applicable laws and special instructions or guidelines issued by the Chancellor, an Executive Vice Chancellor, and/or the Vice Chancellor and General Counsel. Special instructions or guidelines by the Chancellor, an Executive Vice Chancellor, or the Vice Chancellor and General Counsel may include

without limitation instructions concerning reporting requirements; standard clauses or provisions; ratification or prior approval by the Board of Regents or the appropriate Executive Vice Chancellor; review and approval by the Office of General Counsel; and recordkeeping.

- 2.2 Contracts Not Requiring Board Approval. The following contracts or agreements, including purchase orders and vouchers, do not require prior approval by the Board of Regents.
- 2.2.1 Construction Projects. Contracts, agreements, and documents relating to construction projects previously approved by the Board of Regents in the Capital Improvement Program and Capital Budget or Minor Projects.
- 2.2.2 Construction Settlements. All settlement claims and disputes relating to construction projects to the extent funding for the project has been authorized.
- 2.2.3 Intellectual Property. Legal documents, contracts, or grant proposals for sponsored research, including institutional support grants, and licenses or other conveyances of intellectual property owned or controlled by the Board of Regents as outlined in [Rule 90101](#) of these Rules.
- 2.2.4 Replacements. Contracts or agreements for the purchase of replacement equipment or licensing of replacement software or services associated with the implementation of the software.
- 2.2.5 Routine Supplies. Contracts or agreements for the purchase of routinely purchased supplies or equipment.
- 2.2.6 Approved Budget Items. Purchases of new equipment or licensing of new software or services associated with the implementation of the software, identified specifically in the

institutional budget approved by the Board of Regents.

- 2.2.7 Group Purchases. Purchases made under a group purchasing program that follow all applicable statutory and regulatory standards for procurement.
- 2.2.8 Loans. Loans of institutional funds to certified nonprofit health corporations, which loans have been approved as provided in The University of Texas Systemwide Policy [UTS 166, Cash Management and Cash Handling Policy](#) and The University of Texas Systemwide Policy [UTS 167, Banking Services Policy](#) concerning deposits and loans.
- 2.2.9 Certain Employment Agreements. Agreements with administrators employed by the U. T. System or any of the institutions, so long as such agreements fully comply with the requirements of *Texas Education Code* [Section 51.948](#) including the requirement to make a finding that the agreement is in the best interest of the U. T. System or any of the institutions, except those that require approval by the Board of Regents under [Rule 20204](#).
- 2.2.10 Energy Resources. Contracts or agreements for utility services or energy resources and related services, if any, which contracts or agreements have been approved in advance by the Chancellor or the Chancellor's delegate.
- 2.2.11 Library Materials and Subscriptions. Contracts or agreements for the purchase or license of library books and library materials.
- 2.2.12 Athletic employment agreements. Contracts, contract revisions, and contract extensions with athletic directors and coaches except those with total annual compensation of \$1 million or greater or those with proposed multiyear contracts totaling \$1 million or greater.

- (a) Contracts, contract revisions, and contract extensions for individuals with total annual compensation of \$1 million or greater or those with proposed multiyear contracts totaling \$1 million or greater may be negotiated and executed by the President following consultation with the Chancellor, the Executive Vice Chancellor for Academic Affairs, the Vice Chancellor and General Counsel, and the Chairman of the Board of Regents and additional consultation, as requested by the Chairman, to determine if special circumstances require an offer or contract change to be made prior to a scheduled meeting of the Board and if the proposed offer or contract change is in the best interest of the institution.
- (b) Such special circumstance contracts shall be submitted to the Board for formal approval via the Consent Agenda at the next appropriate meeting of the Board as required by [Rule 20204](#) of these Rules.
- (c) Alternatively, the President may seek prior approval of the Board to negotiate with a slate of identified individuals within defined contract terms and proceed, if authorized, to hire an athletic director or coach and submit a contract for formal approval by the Board as set out in (b) above.
- (d) It is the expectation of the Board, the Chancellor, and the Executive Vice Chancellor for Academic Affairs that each President will assure the Chairman, the Chancellor, and the Executive Vice Chancellor for Academic Affairs are provided advance notice of proposed hirings and potential terms of employment related to such contracts in advance of an offer or publication or public distribution of information to allow for meaningful consultations and/or approvals.

- 2.2.13 Athletic Games. Contracts or agreements related to athletic games, including postseason bowl games. If the contract or agreement exceeds \$1 million in value, the contract or agreement must be approved by the Executive Vice Chancellor for Academic Affairs and be in a form acceptable to the Vice Chancellor and General Counsel.
- 2.2.14 Property or Casualty Losses. Contracts or agreements with a cost or monetary value to the U. T. System or any of the institutions in excess of \$1 million but not exceeding \$10 million associated with or related to a property or casualty loss that is expected to exceed \$1 million may be approved, executed, and delivered by the Chancellor. The Chancellor shall consult with the institutional president, if applicable.
- 2.2.15 Health Operations. Contracts or agreements for the procurement of routine services or the purchase or lease of routine medical equipment, required for the operation or support of a hospital or medical clinic, if the services or equipment were competitively procured.
- 2.2.16 Increase in Board Approval Threshold. An institution's dollar threshold specified in Section 3.1 may be increased to up to \$5 million by the Vice Chancellor and General Counsel, after consultation with the General Counsel to the Board of Regents, if it is determined that the institution has the expertise to negotiate, review, and administer such contracts. Unless approved in advance by the Vice Chancellor and General Counsel, any increase will not apply to contracts or agreements designated as Special Procedure Contracts by the Vice Chancellor and General Counsel.

- 2.2.17 Group Employee or Student Benefits. Contracts or agreements for uniform group employee or student benefits, including those offered pursuant to [Chapter 1601](#), *Texas Insurance Code*.
- 2.3 Delegation of Other Matters.
- 2.3.1 Institutional Agreements for Dual Credit. The Board of Regents delegates the authority to approve and execute dual credit partnership agreements for the academic institutions to the Executive Vice Chancellor for Academic Affairs.
- 2.3.2 Construction Settlements. The Board of Regents delegates authority to execute all documents necessary or desirable to settle claims and disputes relating to construction projects to the System Administration or institution official designated in the construction contract to the extent funding for the project has been authorized.
- 2.3.3 Memorandum of Understanding with University-Affiliated Foundation. The Board of Regents delegates authority to execute a Memorandum of Understanding between U. T. System or a U. T. System institution and an affiliated foundation to the institutional president or the Chancellor after approval by the appropriate Executive Vice Chancellor and the Vice Chancellor and General Counsel (see [Rule 60305](#)).
- 2.4 Signature Authority. The Board of Regents delegates to the Chancellor or the president of an institution authority to execute and deliver on behalf of the Board contracts and agreements of any kind or nature, including without limitation licenses issued to the Board or an institution. In addition to other primary delegates the Board assigns in the Regents' *Rules and Regulations*, the Board assigns the primary delegate for signature authority for the following types of contracts.

- 2.5 System Administration and Systemwide Contracts. The Board of Regents delegates to the Executive Vice Chancellor for Business Affairs authority to execute and deliver on behalf of the Board contracts or agreements:
- (a) affecting only System Administration,
 - (b) binding two or more institutions of the U. T. System with the concurrence of the institutions bound, or
 - (c) having the potential to benefit more than one institution of the U. T. System so long as participation is initiated voluntarily by the institution.
- 2.6 Contracts Between or Among System Administration and Institutions. The Board of Regents delegates to the Executive Vice Chancellor for Business Affairs authority to execute on behalf of the Board contracts or agreements between or among System Administration and institutions of the U. T. System for resources or services. Any such contract or agreement shall provide for the recovery of the cost of services and resources furnished.
- 2.7 Contracts with System Administration or Between or Among Institutions. The Board of Regents delegates to the president of an institution authority to execute on behalf of the Board contracts or agreements with System Administration or between or among institutions of the U. T. System for resources or services. Any such contract or agreement shall provide for the recovery of the cost of services and resources furnished.
- 2.8 Contracts for Legal Services and Filing of Litigation. The Board of Regents delegates to the Vice Chancellor and General Counsel authority to execute and deliver on behalf of the Board contracts for legal services and such other services as may be necessary or desirable in connection with the settlement or litigation of a dispute or claim after obtaining approvals as may be required by law. Litigation to be instituted under these contracts on behalf of the Board, System Administration, or an institution of U. T. System must have the prior approval of the Vice Chancellor and General Counsel.

2.9 Settlement of Disputes. Except as provided in Section 3.6 below, the Board of Regents delegates to the Vice Chancellor and General Counsel authority to execute and deliver on behalf of the Board agreements settling any claim, dispute, or litigation. The Vice Chancellor and General Counsel shall consult with the institutional president and the appropriate Executive Vice Chancellor or Chancellor with regard to all settlements greater than \$150,000 that will be paid out of institutional funds. Settlements greater than \$1,000,000 will require the approval of the Board as outlined in Section 3.6 below. The Vice Chancellor and General Counsel shall consult with the Office of External Relations, Communications and Advancement Services with respect to settlement of will contests and other matters relating to gifts and bequests administered by that Office.

Sec. 3 Matters Not Delegated. The following contracts or agreements, including purchase orders or vouchers and binding letters of intent or memorandums of understanding, must be submitted to the Board for approval or authorization:

3.1 Contracts Exceeding \$1 Million.

3.1.1 All contracts or agreements, with a total cost or monetary value to the U. T. System or any of the institutions of more than \$1 million, unless exempted in Section 4 below. The total cost or monetary value of the contract includes all potential contract extensions or renewals whether automatic or by operation of additional documentation. For purposes of this Rule, any contract with unspecified cost or monetary value with a term of greater than four years is presumed to have a total value of greater than \$1 million.

3.1.2 Any amendment, extension, or renewal that increases the cost or monetary value of the original contract to more than \$1 million must be submitted to the Board for approval or authorization. Any amendment, extension, or renewal with a cost or monetary value that exceeds 25% of the cost or monetary value of

the original contract approved by the Board must be submitted to the Board for approval.

- 3.2 Contracts with Foreign Governments. Contracts or agreements of any kind or nature, regardless of dollar amount, with a foreign government or agencies thereof, except affiliation agreements and cooperative program agreements, material transfer agreements, sponsored research agreements and licenses, or other conveyances of intellectual property owned or controlled by the Board of Regents prepared on an approved standard form or satisfying the requirements set by the Office of General Counsel, or agreements or contracts necessary to protect the exchange of confidential information or nonbinding letters of intent or memorandums of understanding executed in advance of definitive agreements each as reviewed and approved by the Vice Chancellor and General Counsel.
- 3.3 Contracts Involving Certain Uses of Institution Names, Trademarks, or Logos. Except as specifically allowed under existing contracts entered into between the Board of Regents and nonprofit entities supporting a U. T. System institution, agreements regardless of dollar amount that grant the right to a non-U. T. entity to use the institutional name or related trademarks or logos in association with the provision of a material medical-related service or in association with physical improvements located on property not owned or leased by the contracting U. T. System institution.
- 3.4 Contracts with Certain Officers. Agreements, regardless of dollar amount, with the Chancellor, a president, a former Chancellor or president, an Executive Vice Chancellor, a Vice Chancellor, the General Counsel to the Board, the Chief Audit Executive, or the Chief Compliance and Risk Officer, which are subject to the applicable provisions of *Texas Education Code Section 51.948* and Regents' *Rules and Regulations, Rule 20101*.
- 3.5 Insurance Settlements.
 - (a) Settlements in excess of \$1 million must have the approval of the Board.

- (b) Settlement claims from insurance on money and securities or fidelity bonds of up to \$1 million shall be approved by the Executive Vice Chancellor for Business Affairs.
 - (c) If a loss is so extensive that partial payments in excess of \$1 million are necessary, the Chancellor is delegated authority to execute all documents related to the partial payment or adjustment. Final settlement of claims in excess of \$1 million will require approval by the Board.
- 3.6 Settlement of Disputes. Settlements of any claim, dispute or litigation for an amount greater than \$1 million require approval. The settlement may also be approved by the appropriate standing committee of the Board of Regents. The Vice Chancellor and General Counsel shall consult with the institution's president and appropriate Executive Vice Chancellor or Vice Chancellor with regard to all settlements in excess of \$150,000 that will be paid out of institutional funds.
- 3.7 Power to Authorize Expenditures. No expenditure out of funds under control of the Board shall be made and no debt or obligation shall be incurred and no promise shall be made in the name of the System or any of the institutions or of the Board of Regents by any member of the respective staffs of the U. T. System or any of the institutions except:
 - 3.7.1 In accordance with general or special budgetary apportionments authorized in advance by the Board of Regents and entered in its minutes; or
 - 3.7.2 In accordance with authority specifically vested by the Board of Regents in a committee of the Board; or
 - 3.7.3 In accordance with authority to act for the Board of Regents when it is not in session, specifically vested by these *Rules and Regulations* or by special action of the Board.

Sec. 4 Exceptions. The provisions of Sections 2 and 3 of this Rule do not apply to any of the following:

- 4.1 UTIMCO. Management of assets by The University of Texas/Texas A&M Investment Management Company (UTIMCO), which is governed by contract and the provisions of [Rule 70101](#), [70201](#), [70202](#), and [70401](#) of these *Rules and Regulations*.
- 4.2 Acceptance of Gifts. The acceptance, processing, or administration of gifts and bequests, which actions are governed by [Rule 60101](#), [60103](#), [70101](#), and [70301](#) of these *Rules and Regulations* and applicable policies of the Board of Regents.
- 4.3 Statutory. Any power, duty, or responsibility that the Board has no legal authority to delegate, including any action that the Texas Constitution requires be taken by the Board of Regents.
- 4.4 Coronavirus Pandemic/Extenuating Circumstances. Effective March 27, 2020 and continuing until terminated by the Chairman, the Board of Regents delegated authority to the Chancellor to approve certain urgent contracts, agreements, and purchases and to make needed policy modifications associated with assuring response to and continuation of operations during the coronavirus pandemic. The motion delegating this authority can be found [here](#).

3. Definitions

Settlement – the amount of the settlement shall mean the amount that might be reasonably expected to be recoverable by the U. T. System or any of the institutions but not received pursuant to the settlement or, in the case of a claim against the U. T. System, the total settlement amount to be paid by the U. T. System.

Group Purchasing Program – for purposes of this Rule, a purchasing program established by (1) a state agency that is authorized by law to procure goods and services for other state agencies, such as the Texas Procurement and Support Services Division of the Texas Comptroller of Public Accounts and the Texas Department of Information Resources, or any successor agencies, respectively; or (2) a group purchasing organization in which the institution participates, such as Novation, Premier, Western States Contracting Alliance, and U.S. Communities

Government Purchasing Alliance; or (3) the U. T. System Supply Chain Alliance.

4. Relevant Federal and State Statutes

The Higher Education Act of 1965 ([20 U.S.C §1011f](#)) – Disclosures of Foreign Gifts

Texas Education Code [Section 51.928\(b\)](#) – Written Contracts or Agreements Between Certain Institutions

Texas Education Code [Section 51.948](#) – Restrictions on Contracts with Administrators

Texas Education Code [Section 65.31\(g\)](#) – Delegation by the Board

Texas Government Code [Section 618.001](#) – Uniform Facsimile Signature of Public Officials Act

Texas Government Code [Sections 669.001 - 669.004](#) – Restrictions on Certain Actions Involving Executive Head of State Agency

Texas Insurance Code, Chapter 1601 – Uniform Insurance Benefits Act for Employees of The University of Texas System and The Texas A&M University System

5. Relevant System Policies, Procedures, and Forms

The University of Texas Systemwide Policy [UTS 166, Cash Management and Cash Handling Policy](#)

The University of Texas Systemwide Policy [UTS 167, Banking Services Policy](#)

The University of Texas Systemwide Policy [UTS 145, Processing of Contracts](#)

Regents' *Rules and Regulations*, [Rule 20204](#) – Determining and Documenting the Reasonableness of Compensation

Regents' *Rules and Regulations*, [Rule 60101](#) – Acceptance and Administration of Gifts

Regents' *Rules and Regulations*, [Rule 60103](#) – Guidelines for Acceptance of Gifts of Real Property

Regents' *Rules and Regulations*, [Rule 70101](#) – Authority to Accept and Manage Assets

Regents' *Rules and Regulations*, [Rule 70201](#) – Investment Policies

Regents' *Rules and Regulations*, [Rule 70202](#) – Interest Rate Swap Policy

Regents' *Rules and Regulations*, [Rule 70401](#) – Oversight Responsibilities for UTIMCO

[Litigation Approval Request Form](#)

[Special Procedure Contracts](#)

[Board Contract Approval Threshold Table](#) (March 25, 2020)

6. Who Should Know

Administrators

7. System Administration Office(s) Responsible for Rule

Office of the Board of Regents

8. Dates Approved or Amended

Editorial amendments made September 15, 2020

March 27, 2020

Editorial amendment to Sec. 2.2.9 made March 26, 2020

September 27, 2019

Editorial amendments to Sec. 1.6, 2.1, 2.2.12(a) and (d), 2.3.3, 2.9, and 3.4 made September 25, 2018

Editorial amendment to Sec. 3.2 made August 31, 2017

Editorial amendment made May 25, 2017, per Board action on May 10, 2017

Editorial amendment to Sec. 2.4 made October 12, 2016

Editorial amendment to Number 5 made September 21, 2016

Editorial amendment to Section 2.2.12 made January 7, 2016

Editorial amendment to Section 2.2.3 made September 17, 2015

Editorial amendments to Sec. 1.6, 2.1, 2.2.12(a) and (d), 2.3.3, 2.9, and 3.4 made July 13, 2015

November 6, 2014

Editorial amendment to add Sec. 2.3.3 made May 30, 2014

May 15, 2014

Editorial amendment to Section 2.2 made October 16, 2013
Editorial amendment to Section 2.2.17 made May 10, 2012
Editorial amendment to Section 1.1 made April 12, 2012
Editorial amendment to Section 2.9 made April 11, 2012
August 25, 2011
Editorial amendments to rearrange the Rule made April 15, 2011
Editorial amendment to Section 4.12 made December 1, 2010
February 5, 2010
November 12, 2009
August 20, 2009
Editorial amendment to add Subsection 4.17 (Group Employee Benefits)
back into the Rules made August 6, 2009
Editorial amendment to Number 4 made January 5, 2009
November 13, 2008
May 15, 2008
Editorial amendment to Sec. 3.3 made March 17, 2008
Editorial amendment to Number 3 made January 28, 2008
May 10, 2007
February 8, 2007
May 12, 2005
December 10, 2004

9. Contact Information

Questions or comments regarding this Rule should be directed to:

- bor@utsystem.edu