1. PURPOSE AND SCOPE

1.1. This System Administrative Memorandum (“SAM”) sets forth requirements applicable to all contracts entered into on behalf of the System and its component universities for the purchase, sale or other exchange of goods, services and property except as otherwise set forth in this SAM. This SAM was created to comply with Board Policy 55.01 and applicable federal and state laws, regulations, agency advisory opinions and judicial and administrative determinations.

1.2. This SAM does not apply to: (i) contracts for the procurement of goods, materials and supplies that are normally procured by component university purchasing departments or delegated to other departments in accordance with System or component university policies; or (ii) contracts pertaining to Sponsored Research and/or intellectual property which are funded by grants or other external funding sources (refer to SAM 01.G.01, Sponsored Research Activities and/or SAM 01.E.01, Office of Intellectual Property Management).

2. POLICY

2.1. No person has the authority to bind the System or any of its component universities contractually, except in accordance with this SAM. Any person who executes a contract on behalf of the University without authority to do so or otherwise in violation of this SAM may be personally liable for damages related to the contract.

2.2. The Board must approve certain contracts in accordance with Board Policy 55.01 and Board Bylaws (see Section 5 of this SAM). The Board has delegated to the Chancellor the authority to negotiate, execute and administer all other contracts or to further delegate such authority.

2.3. Except as otherwise set forth in this SAM, all contracts must be reviewed and approved by Contract Administration prior to execution by the University.

2.4. All applicable administrative and legal reviews must be completed prior to execution of a contract and prior to commencement of any duties/actions by the parties pursuant to the contract.
2.5. Each System component university shall develop policies and/or procedures to implement this SAM, with input from Contract Administration as necessary.

3. DEFINITIONS

3.1. **Best Value.** Pursuant to Texas Education Code §51.9335, the System and its component universities must generally make purchases based on the method that provides “Best Value” to the System. The factors to consider when evaluating Best Value are set forth in Section 4.4 of this SAM. The Originating Unit shall utilize appropriate documentation to demonstrate that Best Value has been obtained related to each contract. Questions about establishing Best Value pursuant to this SAM should be directed to Contract Administration prior to entering into a contract.

3.2. **Board.** The University of Houston System Board of Regents.


3.4. **Consultant.** A person that provides or proposes to provide a Consulting Service. The term includes a political subdivision, but does not include the federal government, a state agency or a state governmental entity (Texas Government Code §2254.021(3)).

3.5. **Consulting Service.** The service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee (Texas Government Code §2254.021(1)). To “study” means to consider some aspect of the agency in detail, such as its financial status or its method of performing an administrative function, and to present that information to the agency. To “advise” means to provide a recommendation or identify options with respect to some course of action. Generally, a “consultant” delivers information or provides assistance that enables the state agency to take some course of action. When a contract involves both Consulting Services and other services, it is considered a consulting contract if Consulting Services are the primary objective of the contract (Texas Government Code §2254.038). Questions about whether a particular contract involves Consulting Services should be directed to Contract Administration.

3.6. **Contract or Agreement.** An agreement between two or more parties that creates in each party an obligation to do or refrain from doing something and a remedy for such party’s failure to fulfill the obligation. As used in this SAM, references to “contracts” or “agreements” include, but are not limited to, agreements, terms and conditions, amendments, letters of agreement, letters of intent, statements of intent, memoranda of understanding, leases, interlocal agreements, interagency agreements and any other contract-related documents.
3.7. **Contract Administration.** The University of Houston Office of Contract Administration (a division of the University of Houston System Office of General Counsel).

3.8. **Major Consulting Services Contract.** As it relates to an institution of higher education, a Consulting Services Contract for which it is reasonably foreseeable that the value of the contract will exceed $25,000 (Texas Government Code §2254.021(2)).

3.9. **Major Information System.** (i) One or more computers that, in the aggregate, cost more than $100,000; (ii) A service related to computers, including computer software, that costs more than $100,000; or (iii) telecommunications apparatus or device that serves as a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network and costs more than $100,000.

3.10. **Originating Unit.** The component university department or representative that initiates a contract request and/or otherwise has responsibility for such contract.

3.11. **Professional Services.** Services directly related to the professional licensed practices such as accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing (Texas Government Code §2254.002(2)). Services provided by professionals outside the scope of their profession, e.g., management-consulting services provided by accounting firms, are not considered Professional Services for purposes of this SAM.

3.12. **Sponsored Research.** Includes research and development projects that usually involve the preparation of specialized contracts such as grants, sub-recipient agreements or sub-contract agreements with other entities. Each component university has a designated person or department that is responsible for administering contracts related to Sponsored Research.

3.13. **Standard form agreement.** Contracts and other documents that have been previously reviewed and approved by Contract Administration for proper form and legality, including compliance with applicable state laws, constitutional requirements and Board and System policies. Standard form agreements are denoted by a contract number such as the following example: “OGC-S-2010-01.”

3.14. **Substantive change.** A change that modifies the legal terms of a particular document. Any substantive change to a standard form agreement will render it non-standard. Examples of non-substantive changes include modifications to: party names, description of goods or services, dollar amount to be paid or received, effective date and term length. Questions about whether a particular modification constitutes a substantive change should be directed to Contract Administration.
3.15. **System.** The University of Houston System and its component universities.

4. GENERAL PROVISIONS


a. **Record Retention.** Each component university shall retain a fully-executed, legible copy of every contract it executes in accordance with such university’s record retention policies and timeframes. The copy may be retained by the Originating Unit or by a central repository as specified by the component university. Unless otherwise specified in the particular contract, this SAM or in other System policies, legible facsimile contracts and signatures are acceptable for meeting this requirement.

b. **Contract Numbering.** Each component university shall develop and implement a contract numbering system that will provide a unique identification number for each of its contracts subject to this SAM.

c. **Contract Compliance.** Each component university shall develop and maintain a contract management system to ensure that the terms and conditions of each contract are monitored and that each party complies with its contractual obligations.

4.2. **Standard Form Agreements.**

a. Contract Administration may designate standard form agreements and related processes whereby further review and approval by Contract Administration is not necessary prior to execution so long as: (i) there have been no substantive changes made to the standard form agreement; and (ii) the contract does not require Contract Administration review pursuant to any of the special contracting requirements set forth elsewhere in this SAM. Requests for a document to be designated as a standard form agreement should be directed to Contract Administration. In order to expedite a transaction, Originating Units are encouraged to use standard form agreements when available for the particular transaction.

b. **Standard Addendum.** Contract Administration may develop standard addendums and related processes whereby review and approval by Contract Administration of certain non-standard contracts is not required provided that the parties execute the standard addendum form and attach it to the non-standard contract.

4.3. **Contract Amendments.**

a. Submission of a contract amendment to the proper contracting office must include the proposed amendment and a copy of the original contract together with any prior amendments.
b. In instances where the original contract was approved by the Board and the amount of the requested amendment is not greater than the amount set forth in Section 5.1(f) of this SAM, the Chancellor is authorized to execute the amendment without further action by the Board. The Chancellor shall provide the Board Chairman a report of any such actions at the next regularly scheduled Board meeting following the action.

4.4. **Competitive Procurement Requirements (Best Value).** Pursuant to Texas Education Code §51.9335, the System and its component universities may acquire goods or services by the method that provides the Best Value to the System, including:

- competitive bidding;
- competitive sealed proposals;
- catalog purchase;
- group purchasing program; or
- open market contract.

The following criteria must be considered in determining Best Value:

- purchase price;
- reputation of the vendor and of the vendor’s goods or services;
- quality of the vendor’s goods or services;
- extent to which the goods or services meet the System’s needs;
- vendor’s past relationship with the System;
- impact on the ability of the System to comply with laws and rules relating to historically underutilized businesses and to the procurement of goods and services from persons with disabilities;
- total long-term cost to the System of acquiring the vendor’s goods or services;
- any other relevant factor that a private business entity would consider in selecting a vendor; and
- use of material in construction or repair to real property that is not proprietary to a single vendor unless the System provides written justification in the request for bids for use of the unique material specified.

5. **CONTRACTS REQUIRING BOARD APPROVAL**

5.1. Board approval must be obtained in an open meeting for the following contracts (refer to Board Policy 55.01.1):

a. contracts for the purchase, gift or acquisition of real property;

b. contracts for the sale of real property or conveyance of any rights in real property;
c. as lessee, all real estate leases, lease renewals and extensions, if the obligation of the lease is equal to or greater than the submittal threshold requiring Texas Higher Education Coordinating Board action;

d. banking agreements;

e. any single procurement contract for any equipment, goods and services, not specified above, that is expected to exceed $1,000,000 in a fiscal year with the exception of contracts that fall within and are a part of approved construction projects set forth in Section 53.04 of the Board policy or investment agreements;

f. any extension, modification, or renewal of an existing contract that is expected to exceed $1,000,000 in a fiscal year with the exception of investment agreements;

g. any series of contracts initiated in the same department for the same goods or services with the same party within a fiscal year, that, if combined in one contract, would require Board approval or reporting; and

h. any other contract the Board might designate as having significant importance to require Board approval.

5.2. Procedures and requirements for contracts requiring Board approval.

a. Submittal Process. The Board holds four regularly scheduled meetings per year. The meeting schedule is available at: www.uhsa.uh.edu/regents/board_meetings. With the exception of contracts handled by the Division of Research and Intellectual Property, in order to submit a contract for Board approval, the component university must send the contract and a completed Board of Regents’ Agenda Cover Sheet (a sample copy of which is attached to this SAM as Exhibit A) to the Office of the Executive Vice Chancellor for Administration and Finance.

b. Contract Administration Review. All contracts requiring Board approval must be reviewed and approved by Contract Administration before execution.

c. Delegation to the Chancellor. The Chancellor shall execute all contracts approved by the Board.

d. Delegation by the Chancellor. All delegations of contracting authority must be made in writing, approved by the Chancellor and filed with the Board. Such delegations can be viewed on the Chancellor’s Delegations of Authority.
e. **Emergencies.** In the event of a bona fide emergency, as declared by the Chairman of the Board upon consultation with the Chancellor, the Chancellor may enter into a contract that would otherwise require Board approval under this SAM prior to receiving such approval, provided that the Chancellor submits such contract to the Board for ratification at the next regular meeting of the Board.

5.3. **Construction Projects.**

a. The Executive Vice Chancellor for Administration and Finance shall present for approval to the Board projects for new construction or major repair and rehabilitation of buildings and facilities when the total cost is equal to or greater than the submittal threshold requiring Texas Higher Education Coordinating Board action. In such cases, the Board will be presented with the project, budget, schedule and, if applicable, a program and schematic design. Once a project is approved, the Chancellor is authorized to negotiate and execute all appropriate contracts and easements required to accomplish the project, provided it is within the approved scope and budget of the project.

b. Each component university shall ensure that all plans, specifications and bidding documents are reviewed for compliance with applicable state laws governing their areas of responsibility prior to being released for bidding. When requested by the Executive Vice Chancellor for Administration and Finance, the System Facilities Planning and Construction Department shall assist in the coordination and management of all project activities, including the review of all plans, specifications and bidding documents for compliance with applicable state laws prior to being released for bidding.

6. **DELEGATION OF AUTHORITY FOR CONTRACTS NOT REQUIRING BOARD APPROVAL**

6.1. The Chancellor may negotiate, execute, and administer all contracts and related necessary legal documents and instruments not requiring Board approval.

6.2. The Chancellor may delegate such authority to System administration officers or the presidents according to their areas of responsibilities (for a list of such delegations, see the Chancellor’s Delegations of Authority). As permitted by this SAM and the Chancellor’s Delegations of Authority, these signature authorities may be further delegated by University officers or presidents by using the Delegation of Authority Memorandum available from the Contract Administration website at [www.uh.edu/contractadmin](http://www.uh.edu/contractadmin).

6.3. All contracts and documents must be executed by an individual(s) with appropriate delegated signature authority.
7. SPECIAL CONTRACTING REQUIREMENTS

7.1. Lease of Space. The Chancellor must approve all leases, lease renewals and extensions, regardless of the funding source, except as delegated in accordance with this SAM.

a. State Funds. State law requires that state agencies afford the Texas Facilities Commission (“TFC”) the opportunity to obtain leased space, if the lease will be paid from state funds. An Originating Unit desiring to lease space with state funds should anticipate working with the System Facilities Planning and Construction Department and Contract Administration which shall coordinate the required activities with the TFC leasing department, after obtaining approval of the Chancellor.

b. Local Funds. The TFC has delegated authority to the System to execute lease agreements for which no state funds will be expended. An Originating Unit desiring to lease space under System delegated authority must work with the System Facilities Planning and Construction Department and Contract Administration for assistance in ensuring compliance with all legal and administrative requirements.

7.2. Consulting Services Contracts.

a. Contract Administration Review. All Consulting Services contracts must be reviewed and approved by Contract Administration before execution, regardless of contract amount.

b. Funding. This policy applies to Consulting Services contracts that are funded with money: (i) appropriated by the Texas state legislature; (ii) derived from the exercise of the statutory duties of a state agency; or (iii) received from the federal government, unless a federal law or regulation provides otherwise (Texas Government Code §2254.023).

c. Requirements. There are numerous state requirements that must be met before and after entering into consulting contracts (including contract renewals, amendments and extensions for such services). These include but are not limited to: obtaining a finding of fact that Consulting Services are necessary and cannot be adequately performed by the agency or another state government entity, providing public notice of the need for Consulting Services and notices to state government agencies related to the Consulting Services Contract. The Originating Unit must work with the appropriate contracting office and/or Contract Administration to comply with these requirements and timeframes. Failure to comply with the state requirements will render the associated contract(s) void.

d. Additional Information. For more information about which types of services are considered Consulting Services, see the Consultant Contract
e. Reporting. All Consulting Services contracts exceeding $14,000 must be reported to the Legislative Budget Board (“LBB”) in accordance with Section 8.2(i) of this SAM.

7.3. Professional Services Contracts. State law requires that selection and award of contracts for Professional Services be based on the professional’s demonstrated competence, the professional’s qualifications for the type of services to be performed and a fair and reasonable price (which may not exceed any maximum price provided by law) - rather than on the basis of competitive bids (Texas Government Code §2254.003). Failure to comply with these requirements will render the associated contract(s) void. All Professional Services contracts exceeding $14,000 must be reported to the LBB in accordance with Section 8.2(i) of this SAM.

7.4. Revenue-Generating Contracts. Except as otherwise directed by the University of Houston Tax Department, all contracts that generate revenue for the System or its component universities, regardless of amount, must be reviewed by Contract Administration, which will notify the University Tax Department about the contract and ensure the contract is executed by the appropriate individual. Component universities are authorized to enter into contracts that generate revenue if the transaction does not create adverse tax implications for the System and is directly related to furthering the component university’s educational mission, research, expansion, public service or campus support functions. Questions about potential tax implications of any particular transaction should be directed to the University of Houston Tax Department.

7.5. Contracts for Legal Services. All contracts for legal services must be initiated by the Office of General Counsel after receiving approval from the Office of the Attorney General for the State of Texas (refer to System Administrative Memorandum 01.D.02, Employment of Outside Legal Counsel).

7.6. Contracts for Major Information Systems. Pursuant to Texas Government Code §2054.008, the component university must provide written notice to the LBB after entering into a contract for a Major Information System in accordance with Section 8.2(i) of this SAM.

7.7. Research Contracts. Except as limited by the Chancellor’s Delegations of Authority, each president has, or may delegate, the authority to negotiate, execute and administer all contracts and grants pertaining to Sponsored Research contracts, including externally-funded research contracts, cooperative agreements, joint research projects and similar agreements. The presidents must report all
such contracts to the Board. For more information about contracts related to Sponsored Research, see SAM 01.G.01, Sponsored Research Activities.

7.8. **Vendor Identification.** The component university must report to the Texas Office of the Comptroller each vendor who is indebted to the State or has a tax delinquency. The report must contain required information and be submitted in a manner and frequency required by the Texas Office of the Comptroller. For more information, see http://ecpa.cpa.state.tx.us/vendor/tpsearch1.html or contact the appropriate contracting office and/or Contract Administration.

7.9. **Agreements with State and Local Government Entities.** The System and component universities may generally contract with another state agency or other government entity for the acquisition or provision of necessary and authorized services and resources using interagency agreements (Texas Government Code §771), interlocal agreements (Texas Government Code §791) or other appropriate agreements. These agreements may be subject to specific statutory requirements. Assistance may be requested from the appropriate contracting office and/or Contract Administration.

7.10. **Contracting with Historically Underutilized Businesses (“HUBs”).** System and component university contracts must comply with Chapter 2161 of the Texas Government Code (refer to Board Policy 55.04 and System Administrative Memorandum 03.B.02 for more information).

7.11. **Audit Clause.** All revenue generating contracts and all contracts where payment by a component university is contingent upon records processed and maintained by another party to the contract must contain an audit clause. This clause must give the System and/or its component universities the right to access and audit any and all documents pertaining to the contractual relationship held by any party to the contract.

8. **CONTRACT REPORTING REQUIREMENTS**

8.1. **Yearly Report to the Board (Consulting Services and Professional Services).** Pursuant to Board Policy 55.01.4, the Executive Vice Chancellor for Administration and Finance shall compile a report of all contracts for Consulting Services or Professional Services, where total compensation from System-wide sources to a single entity or individual exceeds $250,000 during the fiscal year, for submission to the Board at the first meeting of the next subsequent fiscal year.

8.2. **State Agency Reporting.**

   i. Each component university is required to provide written notice to the LBB not later than the tenth (10th) day after the component university enters into certain expense contracts, if the amount of the contract, including an amendment, modification, renewal or extension of the contract,
contract, exceeds $14,000. This includes, but is not limited to: (a) contracts for construction projects (Texas Government Code §2166.2551); (b) contracts for Professional Services other than contracts for physician or optometric services (Texas Government Code §2254.006); (c) contracts for Consulting Services (Texas Government Code §2254.0301); and (d) contracts for Major Information Systems (Texas Government Code §2054.008).

ii. Before October 1 of each fiscal year, each component university is required to provide written notice to the LBB of: (i) each contract for the purchase or sale of goods or services with a value of over $50,000 to which the component university was a party during the prior fiscal year - except purchase orders, interagency contracts, contracts paid with funds not appropriated by the Texas General Appropriations Act or contracts already reported to the LBB; and (ii) each contract, or series of contracts, between the component university and a single entity or individual for the purchase or sale of goods or services with a value of over $500,000 to which the component university was a party during the prior fiscal year – except contracts already reported to the LBB.

iii. Pursuant to delegated authority from the TFC, Contract Administration compiles and maintains information regarding space leased by the System and its component universities. On a calendar year quarterly basis, each component university shall provide Contract Administration a summary of such university’s active and expired leases for the preceding three month period.

9. REVIEW AND RESPONSIBILITY

   Responsible Party: Executive Director for Contract Administration and Associate General Counsel

   Review: Every three years, on or before March 1

10. APPROVAL

   Approved: Vice Chancellor for Legal Affairs

   Chancellor

   Date: 
## EXHIBIT A
### Sample Board of Regents’ Agenda Cover Sheet

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July 23, 1996; Draft May 17, 2010