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The purpose of this Health Sciences Center Operating Policy and Procedure (HSC OP) is to establish policies and procedures for use of private consultants to assure that TTUHSC is in compliance with state law and Board of Regents rules and regulations.

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This HSC OP will be reviewed on June 1 of each odd-numbered year (ONY) by the Director of Contracting, with reco

- c. Search firms are not considered to be consultants and should be processed through Purchasing.

2. **D**

Private consultants may be used only if there is a substantial need for the consulting services and the service cannot be adequately performed with TTUHSC personnel or by contracting with another state agency. When the use of a private consultant is authorized, the consultant shall be selected:

- a. On the basis of demonstrated competence, knowledge, and qualifications, and on the reasonableness of the proposed fee for the services; and
- b. When other considerations are equal, preference should be given to a private consultant whose principal place of business is within the state or who will manage the consulting engagement wholly from one of its offices within the state.

Private consultants will be employed using written contracts approved by the Contracting Office. No payments will be made for services obtained without a written contract.

3. **E**

- a. Consulting contracts paid by institutional funds shall follow the procedures outlined in HSC OP 54.01 and 54.02 as an expense contract that requires encumbrance of funds as therein provided.
- b. Consulting contracts paid by funds appropriated by the Legislature, derived from the exercise of the statutory duties of a state agency, or received from the federal government, to the extent that federal laws or regulations do not conflict with this policy shall follow the procedures outlined in HSC OP 54.01 and 54.02, if less than \$25,000.00, and if over \$25,000.00 shall be processed as follows:
 - (1) When it is determined that a substantial need exists for a consulting service which cannot be satisfied by use of TTUHSC personnel or by contracting with another state agency, the appropriate administrator will contact the Contracting Office for guidance. The request should have the approval of the appropriate Regional Dean/Dean. If the contract is a Major Consulting Services Contract, the CONSULTING CONTRACT NOTICE TO BOR CHAIRS form (Attachment A) must be prepared by the appropriate administrator and forwarded to the Contracting Office.
 - (2) If the Regional Dean/Dean approves the request, the approved form and the contract should be forwarded to the Contracting Office.
 - (3) The EVPFA will forward Major Consulting Services Contracts to the President for approval. If the President approves the request, the Contracting Office will prepare an appropriate item for action by the Board of Regents at their next available meeting. After favorable action by the Board of Regents, the EVPFA will notify the Contracting Office to proceed.
 - (4) Pursuant to *Regents' Rules*, all modifications to consultant contracts which cause the total consideration to exceed \$25,000.00 or which increase

- (a) Submission and Approval. When the department is ready to submit a contract, a TechBuy requisition (reference number) must be provided to the Contracting Office that evidences funding approval, along with the fully approved Attachment A, at least ninety (90) days before the service is to begin, and at least thirty (30) days prior to the next Board of Regents meeting to allow for inclusion of the item in the Board of Regents' agenda.
- (b) Solicitation of Proposals. The Contracting Office will submit the following information to the Secretary of State for publication in the Texas Register at least thirty (30) days before contracting with a private consultant:
 - 1. An invitation for private consultants to provide offers of consulting services;
 - 2. Name, address and telephone number of the individual who should be contacted by a private consultant who intends to make an offer;
 - 3. Closing date for the receipt of offers; and
 - 4. The procedure by which TTUHSC will award the contract.
- (c) Notification after entering into a Major Consulting Services Contract. No later than the 20th day from the date that the Major Consulting Services Contract is executed, the Contracting Office shall file the following information with the Secretary of State for publication in the Texas Register:
 - 1. A description of the activities that the private consultant will conduct;
 - 2. The name and business address of the private consultant;
 - 3. The total value and the beginning and ending dates of the contract; and
 - 4. The due dates of documents, films, recordings or reports that the private consultant is required to present to TTUHSC.

5.

If the desired consulting service relates to a service previously performed by a private consultant, this must be disclosed in the invitation for offers filed with the Secretary of State under Section 4.b.(2)(d). If the intent is to award the contract for the consulting service to the private consultant who previously performed the service unless a better offer is submitted, this intention must also be disclosed in the invitation for offers.

6.

When TTUHSC intends to renew, amend or extend a consulting services contract, the procedures to be followed will be determined by the value of the contract, based on contract amount with any individual or entity and type of funding.

Procedures for renewal, amendment, or extension of contracts paid from funds appropriated by the Legislature, derived from the exercise of the statutory duties of a state agency, or received from the federal government to the extent that federal laws or regulations do not conflict with this policy are as follows:

- (1) If the original contractfun26sa6.1(at)-2a6.1(at)-a.7(do6.5 0 Td 73)JTJ 0 0 Td ()Tj nt contract

(Attachment A) to the appropriate Regional Dean/Dean for approval. The approved request, along with a TechBuy requisition (reference number) that evidences funding approval, should be routed to the Contracting Office and to the Executive Vice President for Finance and Administration (EVPFA) for Presidential and Board of Regents approval. After approval by the Board of Regents, TTUHSC shall file with the

Section 4.(2)(e).

A person's offer or proposal to provide consulting services to TTUHSC may not be accepted if:

- a. the person received compensation from the agency to participate in the preparation of the specifications or request for proposals on which the offer is based; and
- b. the person would receive compensation from the agency for providing consulting services to the agency.

11. **V** **6**

If TTUHSC or any employee contracts for consulting services or renews, amends or extends a consulting services contract or any private consultant contracts to perform a consulting service for the institution without complying with the provisions of this HSC OP, the contract, renewal, amendment or extension is void.

12. **W** **5** **6**

a. If an unforeseen emergency causes a department to need the services of a private consultant in a time frame that makes compliance with all or part of this policy infeasible, then this section applies. This section applies regardless of whether the needed services necessitate a new contract or the renewal, amendment, or extension of an existing contract which is paid from other than institutional funds.

b. The department, through the Contracting Office of TTUHSC, shall request from the Governor a limited waiver from the requirements of the statute or Govt. Code Section 2254. The Governor may grant the limited waiver only after TTUHSC has provided information concerning the nature of the emergency, the reason that the emergency was unforeseen, the identity of the private consultant with whom TTUHSC wishes to contract, the amount of the proposed contract, and the other information the Governor deems necessary.

c. For the purpose of this section, the term "unforeseen emergency" means a situation that suddenly and unexpectedly causes TTUHSC to need the services of a private consultant. The term includes, but is not limited to, the following: (1) a natural disaster; (2) a public health emergency; (3) a security emergency; (4) a crisis of confidence; (5) a major change in the law; (6) a major change in the policy of the state; (7) a major change in the needs of the state; (8) a major change in the needs of the community; (9) a major change in the needs of the nation; (10) a major change in the needs of the world. The term does not include a change in the needs of the state that is the result of a change in the law, policy, needs, or interests of the state, community, nation, or world.