



**TEXAS TECH UNIVERSITY
TEXAS TECH UNIVERSITY HEALTH SCIENCES
CENTER
LUBBOCK, TEXAS**

CONDUCT OF TEXAS TECH EMPLOYEES

INTELLECTUAL PROPERTY RIGHTS

EXCERPTS FROM STATE GOVERNMENT CODE

EXCERPTS FROM THE GENERAL APPROPRIATIONS ACT

TABLE OF CONTENTS

TTU System Community Conduct	3
Section 03.02, <i>Regents' Rules</i>	3
Intellectual Property Rights	4
Chapter 10 – <i>Regents' Rules</i>	4
Excerpts From The State Government Code	
Chapter 556. Political Activities by State Agencies and Employees	12
556.004. Prohibited Acts of Agencies and Individuals	12
556.005. Employment of Lobbyist	13
556.0055. Restrictions on Lobbying Expenditures	13
556.006. Legislative Lobbying	14
556.007. Termination of Employment	14
556.008. Compensation Prohibition	14
572.051. Standards of Conduct For State Employees	14
2113.014. Employee Standards of Conduct	14
Chapter 667. Multiple Employments With State	14
667.001. General Provisions	14
667.002. Separate Records Required	15
667.003. Transfer of Leave Balances Prohibited	15
667.004. Accrual of State Service Credit	15
667.005. Group Insurance Contribution	15
667.006. Overtime Compensation	15
667.007. Informing Employer About Multiple Employment	16
667.008. Special Provisions for Legislative Agencies	16
667.009. Special Provisions for University Systems	16
Chapter 403. Comptroller of Public Accounts	16
403.272. Responsibility for Property Accounting	16
403.273. Property Manager; Property Inventory	17
403.274. Change of Agency Head or Property Manager	17
403.275. Liability for Property Loss	18
403.276. Reporting to Comptroller and Attorney General	18
403.277. Failure to Keep Records	18
403.278. Transfer of Personal Property	19
(Replaces Article 8 of the State Purchasing and General Services Act)	
Excerpts From The General Appropriations Act	
Article IX	19
Sec. 4.05 Political Aid and Legislative Influence Prohibited	19
6.04 Excess Obligations Prohibited	19

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EXCERPTS FROM STATE GOVERNMENT CODE AND APPROPRIATIONS ACT**

TTU SYSTEM COMMUNITY CONDUCT

Section 03.02, *Regents' Rules*

- (1) Breach of trust. Colleges and universities that are tax supported must function in accordance with the public trust and the actions by faculty, staff and students within them must be consistent with the execution of that trust. A breach of trust includes, but will not be limited to, the following offenses:
 - (a) academic dishonesty such as giving or receiving aid on a test, examination, quiz, or other academic assignment;
 - (b) plagiarism;
 - (c) forgery, alteration or unauthorized use of TTU system documents, records, or identification materials;
 - (d) knowingly furnishing false information to the TTU system;
 - (e) the use of force or violence or other methods of obstructing the functions of the TTU system, which include teaching, research, administration, public service, presentations by guest lecturers and speakers, and other authorized activities;
 - (f) physical abuse of any person on TTU system-owned or controlled property or at TTU system-sponsored or supervised functions or conduct which threatens or endangers the health or safety of any such person;
 - (g) theft of or damage to the tangible property of the TTU system or of a member of the TTU system community or campus visitor;
 - (h) unauthorized entry to or use of TTU system facilities;
 - (i) unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, or any substance the possession or distribution of which is regulated by federal or Texas law, except where the manufacture, distribution, dispensing, possession or use are in accordance with the laws of each;
 - (j) lewd, indecent, or obscene conduct on TTU system-owned or controlled property or at a TTU system-sponsored or supervised function;
 - (k) failure to comply with the lawful directions of TTU system officials where such directions are issued in the performance of their duties; and/or
 - (l) violation of other laws or promulgated TTU system policies or rules.
- (2) Conviction notification. Each faculty, staff and/or student employee is required to notify the TTU system of any criminal drug conviction no later than five days after such conviction.
- (3) Adjudication. Adjudication of a violation of the standards established in this policy will result in the assessment of a penalty ranging from an oral reprimand to separation from the TTU system.

INTELLECTUAL PROPERTY RIGHTS

Chapter 10 – *Regents' Rules*

1. General Policy

This intellectual property policy as adopted, shall apply prospectively to all persons employed by the component faculties of TTUS, to all students of TTUS, and to anyone using TTUS facilities or under the supervision of TTUS personnel. Every employee, faculty, staff, or student is expected to be aware of the TTUS policies regarding such developments or discoveries protectable by copyright, patent, or contract and agrees to accept and abide by them as a condition of employment or enrollment. All intellectual property disclosures made prior to the date of this policy shall be governed by the prior established policy. It is the intent of this policy to foster the traditional freedoms of the TTUS faculty, staff, and students in matters of publication and invention, through a fair and reasonable balance of the equities among authors, inventors, sponsors, and TTUS. The purpose of the policy is to outline the respective rights that members of the faculty, staff, and students have in intellectual materials created while they are affiliated with TTUS. As a public institution, TTUS is entrusted with the responsibility to facilitate application of scientific, technical, artistic, and intellectual endeavors of its faculty and staff for public use and to provide for an equitable disposition of interests among the authors and inventors, TTUS, and, where applicable, the sponsoring or contracting funding source.

2. Ownership of Discoveries.

In general, inventions, innovations, discoveries and improvements, biological materials and other proprietary materials and plants (i.e. Intellectual Property, see Section 11), made with the use of TTUS facilities or during the course of regularly assigned duties of the faculty and staff shall become the property of TTUS. Employees and others who are subject to this policy by virtue of their use of TTUS services or facilities shall, upon request, assign all applicable intellectual property to TTUS, except those which might be owned by third parties pursuant to sponsored research agreements and those resulting from independent work or approved consulting activities not utilizing TTUS facilities.

3. Research Involving Third Party

In research sponsored by or involving third parties, provisions for the control of and compensation for patents should normally be consistent with the general policy stated herein. However, nothing in this policy shall be interpreted as precluding the acceptance of a contract, grant or agreement which provides for ownership of intellectual property by the sponsor with appropriate compensation.

4. Disclosure of Intellectual Property

All intellectual property shall be promptly disclosed to the Office of Technology Transfer and Intellectual Property (OTTIP). At least once a year, coincidental with a regular board meeting, the Director of OTTIP shall prepare for the chancellor and the board a report listing the titles and a brief description of each disclosure received since the last report.

5. Intellectual Property Administration

When TTUS elects to protect intellectual property in its name, it shall award to the inventor or creator a reasonable share (as defined hereinafter) of net proceeds from royalties or other income or value after deduction of the directly assignable costs of patenting, marketing, licensing and protection of intellectual property rights.

6. Determinations by the OTTIP

The OTTIP for TTUS shall make determinations as to:

- (1) the potential value of the intellectual property to TTUS;
- (2) the rights and equities of the inventor or creator, TTUS and any third parties; and
- (3) the required actions to maximize the benefits of any intellectual property to the public, TTUS, and the inventor or creator.

7. Implementation

The following guidelines shall be applicable to license agreements with private entities including those formed primarily for the purpose of developing and/or commercializing intellectual property created at TTUS subject to the terms of sponsored research agreements which may have led to the creation of such intellectual property:

- (1) No entity shall be granted the exclusive rights to the development and/or commercialization of all intellectual property created at TTUS. Agreements should grant rights only on a specific project basis.
 - (2) If an entity is granted the exclusive rights with respect to a particular invention, product, process or other item of intellectual property, the agreement should provide that such rights will revert to TTUS in the event the entity fails to diligently develop and commercialize the property within a specified period of time that is appropriate to the particular circumstances.
 - (3) An entity that is granted exclusive rights to develop or commercialize intellectual property that is patentable should be required to reimburse TTUS for all expenses incurred by TTUS in obtaining a patent or, if a patent has not been obtained, should be required to prosecute and bear the expense of obtaining patent protection for the benefit of TTUS and, in either event, the entity should be required to take all actions necessary, including litigation, to protect and preserve such patented rights from infringement.
 - (4) TTUS and its officers and employees should be protected and indemnified from all liability arising from the development, marketing, or use of the particular intellectual property.
 - (5) Restrictions on use by the component institution for research and teaching purposes and the publication rights of researchers should be minimized.
 - (6) If the entity fails to develop and commercialize the property, any and all rights the entity has been granted in TTUS's property shall be returned and granted back to TTUS so that another entity may be offered the right to develop and commercialize the technology.
 - (7) The entity should be required to comply with all applicable federal, state, and local laws and regulations, particularly those concerning use of animals, biological materials and necessary testing, human subject protection and approval by the Federal Drug Administration or other relevant federal or state agency.
 - (8) The entity should be required to maintain confidentiality with regard to any unpatented technology or know-how.
 - (9) An entity that grants a license or sublicense to some other entity for property or technology that is in whole or in part derived from or based on that which is licensed to the entity by TTUS, should be required to share with TTUS: at least 40% of any royalty received by the entity and at least 40% of any equity position to which the entity may be entitled.
 - (10) License agreements should contain such other provisions as may be determined by the OTTIP and the Office of General Counsel to be in the best interest of TTUS.
 - (11) The director of OTTIP is authorized to negotiate and execute license agreements.
- 8.** The chancellor shall report annually to the Board of Regents concerning the status of license agreements, including the distribution of revenues earned from such agreements. The chancellor will inform the board at the first meeting following the end of each calendar quarter of any license agreements entered into by the TTUS OTTIP and not previously reported.

9. In compliance with Section 51.912, Texas Education Code, the Board of Regents must file a report identifying all employees who have an equity interest in or serve as employees, officers, or members of the board of directors of business entities that have agreements with TTUS relating to the research, development, licensing or exploitation of intellectual property in which TTUS has an ownership interest. The report will be filed in accordance with the requirements of Section 51.005, Texas Education Code. The OTTIP will submit the report through the chancellor or his/her designee to the Office of the Board of Regents. The board office will obtain the signature of the chairman of the board and will transmit the report to the Governor's office and other required entities.

10. Any request by a TTUS employee to participate as an employee, officer or member of the board of directors of a business entity that has agreements with TTUS relating to the research, development, licensing or exploitation of intellectual property in which TTUS has an ownership interest must be submitted to the Board of Regents for approval.

11. Definitions

For the purposes of this regulation, the following terms are defined as follows:

- (1) Invention: A process, method, discovery, device, plant, composition of matter, or other invention that reasonably appears to qualify for protection under the United States patent law, Chip Design Protection law or plant protection schemes (utility patent, plant patent, design patent, certificate of Plant Variety Protection, etc.), whether or not actually patentable. An invention may be the product of a single inventor or a group of inventors who have collaborated on a project.
- (2) Copyrightable Work: An original work of authorship which has been fixed in any tangible medium of expression from which it can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device, such as books, journals, software, computer programs, musical works, dramatic works, videos, multimedia products, sound recordings, pictorial and graphical works, etc. A copyrightable work may be the product of a single author or a group of authors who have collaborated on a project.
- (3) Trademark (including Service Mark): A distinctive word, design, or graphic symbol, or combination word and design, that distinguishes and identifies the goods and services of one party from those of another, such as names or symbols used in conjunction with plant varieties or computer programs.
- (4) Tangible Research Property: Tangible items produced in the course of research including such items as biological materials, engineering drawings, integrated circuit chips, computer databases, prototype devices, circuit diagrams, and equipment. Individual items of tangible research property may be associated with one or more intangible properties, such as inventions, copyrightable works and trademarks. An item of tangible research property may be the product of a single creator or a group of individuals who have collaborated on a project.
- (5) Intellectual Property: Collectively, all forms of intellectual property including but not limited to inventions, copyrightable works, trademarks, and tangible research property.
- (6) Intellectual Property Committee: A standing committee, the majority of whom are faculty members, appointed by the chancellor based on recommendations of the vice presidents for research at TTU and TTUHSC, representing the various components of TTUS, whose purpose is to provide a forum for discussion of policies and procedures affecting intellectual property and to advise the chancellor and the OTTIP regarding intellectual property matters when called upon, including comment on disputes that may arise regarding the handling of intellectual property and technology transfer and suggestions for policy or procedure changes with respect to this policy. The committee will meet at least twice each year, or more often as called by the

chancellor or the director of OTTIP.

- (7) The Office of Technology Transfer and Intellectual Property: The TTUS OTTIP administrative office whose mission is to promote the transfer of TTUS technologies for society's use and benefit while generating unrestricted income to support research and education. The OTTIP is responsible for administration and implementation of TTUS's intellectual property program, and for assisting and advising TTUS's faculty and staff.

12. Ownership Further Defined

- (1) An invention or tangible research property resulting from activities related to an individual's employment responsibilities and/or with support from TTUS funds, facilities or personnel shall be owned by TTUS.
- (2) An invention or tangible research property unrelated to an individual's employment responsibilities that is developed on his or her own time without TTUS support or use of TTUS's facilities is not owned by TTUS.
- (3) Ownership of an invention or tangible research property developed in the course of or resulting from research supported by a grant or contract with the federal government (or an agency thereof) or a non-profit or for-profit non-governmental entity, shall be determined in accordance with the terms of the sponsored grant or contract, or in the absence of such terms, shall be owned by TTUS.
- (4) Present and prospective employees of TTUS shall, upon request by the chancellor, or by the OTTIP, to protect intellectual property rights, execute an invention assignment agreement in a form prescribed by and available from the OTTIP to set forth effectively the ownership and rights to inventions. Executed invention assignments shall be maintained in an office location designated by the chancellor.

13. Disclosure, Assignment and Protection

- (1) All persons subject to these regulations shall promptly disclose to the OTTIP any invention or economically significant tangible research property covered by this regulation, including those made under sponsored research or cooperative arrangements. Disclosure shall be made on a disclosure form prescribed by and available from the OTTIP. Such persons shall cooperate with TTUS and the OTTIP in protecting intellectual property rights in the invention, to the best of their ability. If TTUS decides to patent or seek other available protection for the invention, it shall proceed through the OTTIP.
- (2) All inventors shall execute appropriate assignment and/or other documents required to set forth effectively the ownership and rights to inventions and tangible research property.
- (3) The OTTIP will determine whether TTUS desires to commit funding to obtain protection for the invention, and shall so notify the inventor of the decision. In many cases, the OTTIP will identify one or more licensees who will bear the cost of obtaining patent protection before making a final decision.
- (4) In those instances where the inventor perceives that delay would jeopardize obtaining the appropriate protection for the invention, the inventor may request that TTUS expedite its decision as to whether or not it shall proceed to file a patent application or take other steps to obtain available protection. If TTUS has not acted within six months after a request to expedite, and the inventor or creator has cooperated in good faith, TTUS will release its rights and Section 22 shall apply.

14. Obligations to Sponsors

The OTTIP, in cooperation with the respective Office of Research Services or Office of Sponsored Programs, shall coordinate reporting requirements and other obligations to

research sponsors regarding inventions or economically significant tangible research property developed under a research contract or grant, including but not limited to obligations to the United States Government under 37CFR Part 401.

15. Management of Copyrightable Works

It is specifically noted that this intellectual property rights policy does not address rights in material specifically prepared for distance learning. To the extent that a future policy specifically directed to distance learning is approved, where that future policy and this policy are in conflict, the specific policy directed to distance learning shall prevail. TTUS encourages the preparation and publication of copyrightable works that result from teaching, research, scholarly and artistic endeavors by members of the faculty, staff and student body of TTUS. Authors shall be permitted maximum freedom with respect to their copyrightable works, consistent with the obligations to TTUS. Copyrightable works may be created under a variety of circumstances and conditions which impact the ownership and subsequent management thereof, as follows.

Ownership of Copyrightable Works

(1) Books, Articles and Similar Works

In keeping with academic tradition, and except to the extent required by the terms of any funding agreement, TTUS does not claim ownership to pedagogical, scholarly or artistic works, regardless of their form of expression. Such works include but are not limited to faculty-prepared works such as textbooks, course materials and refereed literature. Such works include those of students created in the course of their education, such as dissertations, papers and journal articles. Furthermore, TTUS claims no ownership in popular nonfiction, novels, poems, musical compositions or other works of artistic imagination that are not works for hire (see Section (2) below). If title to copyright in works defined within this section vests in TTUS by law, TTUS will, upon request and to the extent consistent with its legal obligations, convey copyright to the authors of such copyrightable works.

(2) Institutional Works or "Works for Hire"

TTUS shall retain ownership of copyrightable works created as institutional rather than personal efforts, that is, created for institutional purposes in the course of the creator's employment, including but not limited to simultaneous or sequential contributions over time by numerous faculty, staff or students. For instance, work assigned to programmers is institutional work or "work for hire" as defined by law, as is software developed for TTUS purposes by staff working collaboratively. Brochures, training programs, CD ROMs, videos, and manuals for which staff members are hired to develop are other examples of institutional works, or work for hire. TTUS owns all right, title and interest in such institutional works.

(3) Works Developed with Significant Use of Resources

Copyrightable works that are not works for hire (see Section (2) above) but are works that are developed with integral and significant use of funds, space, hardware, or facilities administered by TTUS, where use was essential and substantial rather than incidental, shall be owned by TTUS. Furthermore, copyrightable works that are not works for hire (see Section (2) above) but are works that are developed in the course of or resulting from research supported by a grant or contract with the federal government (or an agency thereof) or a non-profit or for-profit non-governmental entity, or by a private gift or grant to TTUS, shall be determined in accordance with the terms of the sponsored grant or contract, or in the absence of such terms and to the extent consistent with copyright law, shall be owned by TTUS. TTUS recognizes and affirms the traditional academic freedom of its faculty and staff to publish pedagogical, scholarly or artistic works without restriction. In keeping with this philosophy, TTUS will not construe the provision of offices or library facilities as constituting significant use of TTUS resources, except for

those instances where the resources were furnished specifically to support the development of such copyrightable works. Nothing in this section is intended to change the traditional manner in which TTUS faculty, staff and employees assign the copyright ownership of works intended for publication in scholarly journals.

(4) Hybrid Works

Changing technology can give rise to creative efforts that fall into more than one category, for example, a book (traditionally owned by the author) coupled with an interactive CD ROM (perhaps software in which TTUS may have rights to under this policy). Such hybrid works should be brought to the attention of the OTTIP which shall negotiate a reasonable sharing arrangement or issued release as may be appropriate. Should the OTTIP and the inventor or creator be unable to agree, the matter shall be finally resolved by the chancellor or his or her designee.

- (5) Present and prospective employees of TTUS shall, upon request by the chancellor or by the OTTIP to perfect intellectual property rights, execute an assignment agreement in a form prescribed by and available from the OTTIP to set forth effectively the ownership and rights to copyrightable works. Executed copyright assignment agreements shall be maintained in the respective department head's office, in the OTTIP, or in a similar office as determined by the chancellor.

16. Disclosure, Assignment and Protection

- (1) Authors of copyrightable works that are not owned by TTUS own the copyrights in their works and are free to publish them, register the copyright, and to receive any revenues which may result there from.
- (2) Authors of copyrightable works that are not works for hire (see Section 15.2) but are works that are owned by TTUS under Section 15.3 shall promptly disclose to the OTTIP any work of authorship covered by this regulation (including those made under sponsored research or cooperative arrangements). Disclosure shall be made on a disclosure form prescribed by and available from the OTTIP and a copy shall be filed with that office. Such persons shall cooperate with TTUS and the OTTIP to the best of their ability in protecting intellectual property rights in the work of authorship. Furthermore, upon request by the OTTIP to perfect intellectual property rights, such persons shall warrant that, to the best of his/her knowledge, the work does not infringe upon any existing copyright or other legal rights, that work not identified as quotations is the expression or creation of the author, and that necessary permission for quotation and the use of third party works has been obtained.
- (3) Negotiation and Execution of Agreements for Copyrightable Works Agreements permitting a party to use, develop, or otherwise commercialize copyrightable works owned by TTUS are encouraged. The OTTIP has primary responsibility for negotiating with third parties having an interest in using, developing or otherwise commercializing copyrightable works.
- (4) Software as Patentable Subject Matter
In recent years, the United States Patent and Trademark Office has determined that software which meets certain technical and legal criteria may be patentable. In the case that software originally disclosed as a copyrightable work subsequently is determined to be patentable subject matter, and TTUS chooses to seek patent protection for the software, then such software shall be managed under this regulation as an invention.

17. Distribution of Income from Commercialization and Licensing

- (1) Where TTUS has an ownership interest in the intellectual property pursuant to this policy, the following provisions will govern the distribution of royalties and other income after TTUS has recouped all direct costs associated with the processing of the patent or copyright application and marketing and licensing the technology:

<u>Net Royalty</u>	<u>Individual</u>	<u>TTUS</u>	<u>Department*</u>	<u>Unit**</u>
\$0-\$100,000	50%	30%	10%	10%
\$100,001-\$500,000	\$50,000 plus 40% of amount over \$100,000	30%	15%	15%
\$500,000 -up	\$210,000 plus 30% of amount over \$500,000	30%	As set by Board of Regents	

* Department, center, or institute

**College or school

Net royalties are to be paid according to the above schedule as the net royalties are earned; that is, the individual will receive 50% of the first \$100,000, and 30% of all net royalties over \$100,000. Funds received by the department and college will be placed in unrestricted accounts under their control. Such funds will not be used to substitute for funds budgeted for expenditure in the routine annual operating budget which is approved by the Board of Regents.

- (2) This policy recognizes that in addition to the traditional academic units such as departments and colleges, research, and specifically interdisciplinary research, can be sponsored by other academic units, such as centers and institutes. Because of the many different combinations that may occur, this policy cannot specify how the royalties are to be allocated. It is, however, the general policy of Intellectual Property Rights, Regents' Rules, to allocate royalties to the units which have provided the substantial level of indirect support that triggers TTUS's ownership of the intellectual property. The policy encourages voluntary agreements between such units prior to the development of intellectual property (to allocate the percentage of royalty share that is appropriate for each unit). In the event that no agreement can be reached prior to the generation of royalties, the president or his or her designee will resolve the allocation question. The division of net royalties and other income from patents and copyrights managed by a patent or copyright agent will be controlled by TTUS agreement with such agent, as approved by the TTUS Board of Regents. Any deviation from this rule requires the prior approval of the TTUS Board of Regents.

18. Distribution of Income from Copyrightable Works

All monetary proceeds from commercialization of copyrightable works, including royalties, equity interests, and dividends, are the property of TTUS component from which the work emerged. Income received from commercialization of copyrightable works will be distributed as follows:

- (1) Institutional Works (see Section 15.2): TTUS shall be entitled to all income from distribution or commercialization of institutional works.
- (2) Works Developed with Significant Use of Resources (see Section 15.3) and commercialized by the OTTIP on behalf of TTUS: In cases where the OTTIP conducts the commercialization or distribution of the copyrightable work on behalf of TTUS, the distribution of income shall be made in accordance with steps outlined in Section (1) above.

- (3) Works Developed with Significant Use of Resources (see Section 15.3) and distributed by TTUS: In cases where TTUS conducts the commercialization or distribution of the copyrightable work, the distribution of net income after expenses of creation and distribution shall be as follows: 50% to TTUS and 50% to the author. In the event of multiple authors, the authors will agree among themselves as to the distribution of the income accruing to the authors; distribution of the authors' share shall be made only upon receipt of a signed agreement between the authors. In the event that an author is a joint employee of two or more components, or in the event that authors represent two or more components, the components will agree as to the distribution of the income accruing to the components, considering such factors as annualized FTE by component and relative contributions of the authors to the work.

19. Equity and Other Non-monetary Returns

TTUS may negotiate, but shall not be obligated to negotiate, for equity interests in lieu of or in addition to royalty and/or monetary consideration as a part of an agreement relating to inventions or copyrightable works.

- (1) Inventors and authors may receive up to 50% of any equity or other non-monetary consideration (or, in TTUS's discretion, its monetary equivalent) received by TTUS or its components under this section. However, TTUS may choose to receive the consideration under terms that restrict its ability to sell, distribute or otherwise deal with the equity interests. In such cases, any restrictions on TTUS's interest shall be equally applicable to the interest of the inventor or author, unless waived or varied in writing and signed by the director of the OTTIP and the inventor (for inventions), or the authors (for copyrightable works).
- (2) TTUS does not act as a fiduciary for any person concerning equity or other consideration received under the terms of this regulation.
- (3) The division of net royalties and other income from patents and copyrights and marketing and licensing the technology managed by a patent or copyright agent will be controlled by TTUS agreement with such agent, as approved by the TTUS Board of Regents. Any deviation from this rule requires the prior approval of the TTUS Board of Regents.

20. Equity Ownership

This policy allows equity ownership and business participation by TTUS faculty, staff, and students consistent with state law as presently stated in Section 51.912, Texas Education Code, or any other future statutory provision relating to the subject matter of this intellectual property policy.

21. Trademarks

In most situations, a trademark identifies an item of intellectual property, such as a computer program or a plant variety. In other situations, a trademark identifies an educational, service, public relations, research or training program of TTUS or its components. TTUS, or the applicable TTUS component, owns all right, title and interest in trademarks related to an item of intellectual property owned by TTUS or its components, or to a program of education, service, public relations, research or training program of TTUS or its components. All income from the licensing of a trademark shall belong to TTUS, or the TTUS component, as applicable.

22. Tangible Research Property

- (1) TTUS owns all right, title and interest in tangible research property related to an individual's employment responsibilities and/or developed with support from TTUS-administered funds, facilities, equipment or personnel.
- (2) For purposes of management of the asset, tangible research property shall be

managed as an invention under Sections 11, 12, and 13 with distribution of income from the distribution or commercialization of such tangible research property made in accordance with Section 17.

23. Provisions for Release of Rights to Inventors and Authors

Absent a contractual obligation to a research sponsor, TTUS may release to the inventor(s) its rights to an invention, and TTUS may release its rights to a copyrightable work, with the following provisions.

- (1) TTUS shall retain for TTUS and all components thereof a perpetual, royalty-free license to use the invention or copyrightable work, and any corresponding patents or copyrights, for research, education and service purposes.
- (2) TTUS shall receive a share of all proceeds generated from commercialization of the invention or copyrightable work after the inventor or author has recovered documented out-of-pocket costs for obtaining legal protection for the invention or copyrightable work, the amount of such share to be negotiated at the time of the release. Should the OTTIP and the inventor or creator be unable to agree, the matter shall be finally resolved by the chancellor, or his or her designee.
- (3) In the case of release of rights to the inventor or author, the inventor or author shall not be entitled to a share of proceeds received by TTUS under Section (2) above.

24. Offers of Intellectual Property

- (1) If an individual chooses to offer to TTUS certain intellectual property in which TTUS has no claim, TTUS may accept ownership of the intellectual property provided that:
 - (a) the individual makes the offer to TTUS as if the intellectual property had been created within TTUS;
 - (b) the individual agrees to all provisions (including distribution of income provisions) of this policy;
 - (c) the individual warrants that he or she owns all right, title and interest to the intellectual property, and that to the best of his or her knowledge, the intellectual property does not infringe upon any existing copyright or other legal rights.
- (2) The OTTIP will decide whether to accept or reject such offers.
- (3) Should TTUS agree to accept the offer of intellectual property, the individual will execute an assignment agreement transferring all right, title, and interest in the intellectual property to TTUS, and acknowledging that the individual agrees to all provisions of this policy, such agreement available from the OTIP. In cases in which the individual has already expended funds toward obtaining patent or other legal protection for the invention, the individual and TTUS may negotiate terms to allow recovery of legal and/or patent expenses from license fees and/or royalty income. Such an agreement would modify normal royalty sharing provisions until such expenses are recovered by the party entitled to recovery of the expenses.
- (4) TTUS may accept charitable donations of intellectual property from governmental or private organizations. Upon the transfer of title in the intellectual property to TTUS, the intellectual property will be managed in accordance with this regulation.

EXERPTS FROM THE STATE GOVERNMENT CODE

CHAPTER 556. POLITICAL ACTIVITIES BY STATE AGENCIES AND EMPLOYEES.

556.004. Prohibited Acts of Agencies and Individuals

- (a) A state agency may not use any money under its control, including appropriated money, to finance or otherwise support the candidacy of a person for an office in the

legislative, executive, or judicial branch of state government or of the government of the United States. This prohibition extends to the direct or indirect employment of a person to perform an action described by this subsection.

- (b) A state officer or employee may not use a state-owned or state-leased motor vehicle for a purpose described by Subsection (a).
- (c) A state officer or employee may not use official authority or influence or permit the use of a program administered by the state agency of which the person is an officer or employee to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose.
- (d) A state employee may not coerce, attempt to coerce, command, restrict, attempt to restrict, or prevent the payment, loan, or contribution of any thing of value to a person or political organization for a political purpose.
- (e) For purposes of Subsection (c), a state officer or employee does not interfere with or affect the results of an election or nomination if the individual's conduct is permitted by a law relating to the individual's office or employment and is not otherwise unlawful.

556.005. Employment of Lobbyist

- (a) A state agency may not use appropriated money to employ, as a regular full-time or part-time or contract employee, a person who is required by Chapter 305 to register as a lobbyist. Except for an institution of higher education as defined by Section 61.003, Education Code, a state agency may not use any money under its control to employ or contract with an individual who is required by Chapter 305 to register as a lobbyist.
- (b) A state agency may not use appropriated money to pay, on behalf of the agency or an officer or employee of the agency, membership dues to an organization that pays part or all of the salary of a person who is required by Chapter 305 to register as a lobbyist.
- (c) A state agency that violates Subsection (a) is subject to a reduction of amounts appropriated for administration by the General Appropriations Act for the biennium following the biennium in which the violation occurs in an amount not to exceed \$100,000 for each violation.
- (d) A state agency administering a statewide retirement plan may enter into a contract to receive assistance or advice regarding the qualified tax status of the plan or on other federal matters affecting the administration of the state agency or its programs if the contractor is not required by Chapter 305 to register as a lobbyist.

556.0055. Restrictions on Lobbying Expenditures

- (a) A political subdivision or private entity that receives state funds may not use the funds to pay:
 - (1) lobbying expenses incurred by the recipient of the funds;
 - (2) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305;
 - (3) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2); or
 - (4) a person or entity that has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

(b)A political subdivision or private entity that violates Subsection (a) is not eligible to receive additional state funds.

556.006. Legislative Lobbying

(a)A state agency may not use appropriated money to attempt to influence the passage or defeat of a legislative measure.

(b)This section does not prohibit a state officer or employee from using state resources to provide public information or to provide information responsive to a request.

556.007. Termination of Employment

A state employee who causes an employee to be discharged, demoted, or otherwise discriminated against for providing information under Section 556.006(b) or who violates Section 556.004(c) or (d) is subject to immediate termination of employment.

556.008. Compensation Prohibition

A state agency may not use appropriated money to compensate a state officer or employee who violates Section 556.004(a), (b), or (c) or Section 556.005 or 556.006(a), or who is subject to termination under Section 556.007.

572.051. Standards of Conduct For State Employees

A state officer or employee should not:

- (1) accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows or should know is being offered with the intent to influence the officer's or employee's official conduct;
- (2) accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position;
- (3) accept other employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties;
- (4) make personal investments that could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the public interest; or
- (5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the officer's or employee's official powers or performed the officer's or employee's official duties in favor of another.

2113.014. Employee Standards of Conduct

(a)A state agency may not use appropriated money to compensate a state employee who violates a standard of conduct described by Section 572.051.

CHAPTER 667. MULTIPLE EMPLOYMENTS WITH STATE

667.001. General Provisions

- (a) This chapter applies to a person who is or may become employed by more than one state agency or institution of higher education.
- (b) A person who is employed by more than one state agency or institution of higher education may not receive benefits from the state that exceed the benefits provided for one full-time employee.
- (c) The person must be informed of the requirements of this chapter before the person is employed by more than one agency or institution.

667.002. Separate Records Required

Separate vacation and sick leave records must be maintained for each employment.

667.003. Transfer of Leave Balances Prohibited

If the person separates from one employment, the person's leave balances that were accrued under that employment may not be transferred to the remaining employments.

667.004. Accrual of State Service Credit

The person accrues state service credit for all purposes as if the person had only one employment.

667.005. Group Insurance Contribution

The total state contribution toward the person's group insurance is limited to the amount specified in the General Appropriations Act for a full-time active employee.

667.006. Overtime Compensation

- (a) Overtime compensation accrues for each employment independently of every other employment, except as provided by Subsection (b).
- (b) If the person is subject to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) in an employment, the employing agencies and institutions of higher education shall ensure that the person is compensated for all combined time actually worked that exceeds 40 hours per week in accordance with the overtime provisions of the federal law. The agencies and institutions shall cooperate to determine which agency or institution is responsible for ensuring that the employee is properly compensated according to those provisions.
- (c) An employing agency or institution may not use multiple employments of an employee within the same agency or institution for the purpose of:
 - (1) paying the employee for working more than 40 hours in a week instead of earning compensatory time in accordance with state law; or
 - (2) paying the employee a greater salary than is allowed for either of the employee's positions.

667.007. Informing Employer About Multiple Employment

The person must inform the person's employing state agencies or institutions of higher education before accepting an additional employment with another agency or institution.

667.008. Special Provisions for Legislative Agencies

If a person's multiple employment involves only legislative agencies and all employments are less than full-time, the person may use paid leave from leave balances in all employments, and on separating from one employment, leave balances accrued under that employment will be transferred to the remaining employments.

667.009. Special Provisions for University Systems

(a) A university system as defined by Section 61.003, Education Code, may establish a policy that defines a person's employment as the total hours the person is assigned:

- (1) to one component of the system; or
- (2) to all components of the system.

(b) The policy may apply to a person only if the person is employed by more than one institution of higher education and all the employing institutions are within the same university system.

CHAPTER 403. COMPTROLLER OF PUBLIC ACCOUNTS

(REPLACES ARTICLE 8 OF THE STATE PURCHASING AND GENERAL SERVICES ACT)

403.271. Property Accounting System

(a) This subchapter applies to:

- (1) all personal property belonging to the state; and
- (2) real and personal property acquired by or otherwise under the jurisdiction of the state under 40 U.S.C. Section 483c, 484(j), or 484(k), and Subchapter F, Chapter 2175.

(b) The comptroller shall administer the property accounting system and maintain centralized records based on information supplied by state agencies and the uniform statewide accounting system. The comptroller shall adopt necessary rules for the implementation of the property accounting system, including setting the dollar value amount for capital assets and authorizing exemptions from reporting.

(c) The property accounting system shall constitute, to the extent possible, the fixed asset component of the uniform statewide accounting system.

(d) The comptroller may authorize a state agency to keep property accounting records at the agency's principal office if the agency maintains complete, accurate, and detailed records. When the comptroller makes such a finding, it shall keep summary records of the property held by that agency. The agency shall maintain detailed records in the manner prescribed by the comptroller and shall furnish reports at the time and in the form directed by the comptroller.

(e) A state agency shall mark and identify state property in its possession. The agency shall follow the rules issued by the comptroller in marking state property.

403.272. Responsibility for Property Accounting

- (a) A state agency must comply with this subchapter and maintain the property records required.
- (b) All personal property owned by the state shall be accounted for by the agency that possesses the property. The comptroller shall define personal property by rule for the purposes of this subchapter. In adopting rules, the comptroller shall consider the value of the property, its expected useful life, and the cost of recordkeeping. The comptroller shall consult with the state auditor in drafting rules. The state auditor shall cooperate with the comptroller by giving technical assistance and advice.

403.273. Property Manager; Property Inventory

- (a) The head of each state agency is responsible for the custody and care of property in the agency's possession.
- (b) The head of each state agency shall designate a property manager and inform the comptroller of the designation. Subject to comptroller approval, more than one property manager may be designated.
- (c) The property manager of a state agency shall maintain the records required and be the custodian of all property possessed by the agency.
- (d) When a state agency's property is entrusted to a person other than the agency's property manager, the person to whom the property is entrusted shall provide a written receipt to the manager. A state agency may lend its property to another state agency only if the head of the agency lending the property provides written authorization for the lending. The head of the agency to which the property is lent must execute a written receipt.
- (e) A state agency shall conduct an annual physical inventory of all property in its possession. The comptroller may specify the date on which the inventory must be conducted.
- (f) Not later than the date prescribed by the comptroller, the head of a state agency shall submit to the comptroller:
 - (1) a signed statement describing the methods used to conduct the agency's annual physical inventory under Subsection (e);
 - (2) a copy of the results of the inventory; and
 - (3) any other information concerning the inventory that the comptroller requires.
- (g) At all times, the property records of a state agency must accurately reflect the property possessed by the agency. Property may be deleted from the agency's records only in accordance with rules adopted by the comptroller.
- (h) The state auditor shall periodically examine property records or inventory as necessary to determine if controls are adequate to safeguard state property.

403.274. Change of Agency Head or Property Manager

When the head or property manager of a state agency changes, the outgoing head of the agency or property manager shall complete the form required by the comptroller about property in the agency's possession. The outgoing head of the agency or property manager shall deliver the form to the incoming head of the agency or property manager. After verifying the information on and signing the form, the incoming head of the agency or property manager shall submit a copy of the form to the comptroller.

403.275. Liability for Property Loss

The liability prescribed by this section may attach on a joint and several basis to more than one person in a particular instance. A person is pecuniarily liable for the loss sustained by the state if:

- (1) agency property disappears, as a result of the failure of the head of an agency, property manager, or agency employee entrusted with the property to exercise reasonable care for its safekeeping;
- (2) agency property deteriorates as a result of the failure of the head of an agency, property manager, or agency employee entrusted with the property to exercise reasonable care to maintain and service the property; or
- (3) agency property is damaged or destroyed as a result of an intentional wrongful act or of a negligent act of any state official or employee.

403.276. Reporting to Comptroller and Attorney General

- (a) If the head or property manager of a state agency has reasonable cause to believe that any property in the agency's possession has been lost, destroyed, or damaged through the negligence of any state official or employee, the head of the agency or property manager shall report the loss, destruction, or damage to the comptroller and the attorney general not later than the date established by the comptroller. If the head or property manager of a state agency has reasonable cause to believe that any property in the agency's possession has been stolen, the head of the agency or property manager shall report the theft to the comptroller, the attorney general, and the appropriate law enforcement agency not later than the date established by the comptroller.
- (b) The attorney general may investigate a report received under Subsection (a).
- (c) If an investigation by the attorney general under Subsection (b) reveals that a property loss has been sustained through the negligence of a state official or employee, the attorney general shall make written demand on the official or employee for reimbursement of the loss.
- (d) If the demand made by the attorney general under Subsection (c) is refused or disregarded, the attorney general may take legal action to recover the value of the property as the attorney general deems necessary.
- (e) Venue
for all suits instituted under this section against a state official or employee is in court of appropriate jurisdiction of Travis County.

403.277. Failure to Keep Records

If a state agency fails to keep the records or fails to take the annual physical inventory required by this subchapter, the comptroller may refuse to draw warrants or initiate electronic funds transfers on behalf of the agency.

403.278. Transfer of Personal Property

- (a) A state agency may transfer any personal property of the state in its possession to another state agency with or without reimbursement between the agencies.
- (b) When personal property in the possession of one state agency is transferred to the possession of another state agency, the transfers must be reported immediately to the comptroller by the transferor and the transferee on the forms prescribed.

EXERPTS FROM THE CURRENT APPROPRIATIONS ACT

ARTICLE IX

SEC. 4.05 POLITICAL AID AND LEGISLATIVE INFLUENCE PROHIBITED

The funds appropriated by this Act, regardless of source or character, may not be expended except in compliance with Chapter 556, Government Code.

SEC. 6.04 EXCESS OBLIGATIONS PROHIBITED

- (a) An agency specified in this Act may not incur an obligation in excess of the amounts appropriated to it for the respective objects or purposes named.
- (b) As a specific exception to Subsection (a) Texas Building and Procurement Commission may determine that a proposed installment purchase arrangement is cost effective and certify this finding in response to an agency request.
- (c) A determination made by the Texas Building and Procurement Commission under subsection (b) may be made for obligations incurred for the purchase or lease of automated information system equipment only if the agency has on file with the Legislative Budget Board a Biennial Operating Plan, including any amendments to the Biennial Operating Plan, and the plan has been approved by the Legislative Budget Board
- (d) If this section is violated, the State Auditor shall certify the fact of the violation and the amount of over-obligation to the Comptroller, and the Comptroller shall deduct an amount equivalent to the over-obligation from the salary or other compensation due the responsible disbursing or requisitioning officer or employee, and apply the amount to the payment of the obligation.
- (e) This provision is specified pursuant to Section 10, Article XVI, Texas Constitution.

