

SAM HOUSTON STATE UNIVERSITY
VENDOR REGULATIONS
FOR THE
OPTIONAL RETIREMENT PROGRAM
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SAM HOUSTON STATE UNIVERSITY
VENDOR REGULATIONS
FOR THE
OPTIONAL RETIREMENT PROGRAM

I. INTRODUCTION

The Optional Retirement Program (ORP) is authorized under Chapter 830, Title 8 of the Texas Government Code and Section 403(b) of the Internal Revenue Code. The goal of ORP is to provide eligible employees with a high-quality, portable retirement program. Sam Houston State University (SHSU) allows certain vendors, including life insurance companies, administrators of custodial accounts, banks and investment companies qualified to conduct business in Texas the opportunity to offer ORP contracts to eligible employees. This document is intended to provide vendors and prospective vendors with the regulations governing the ORP program at SHSU.

The SHSU ORP program is a governmental 403(b) and is not covered by the Employee Retirement Income Security Act of 1974 (ERISA).

II. DEFINITIONS

The following definitions apply:

ACCOUNT BALANCE is the accumulation of all deposits, interest, dividends, capital gains or other additions/deletions to an employee's Product to determine its dollar value at any point in time.

CONTRACT means a formal, written agreement between a Vendor and SHSU or eligible ORP participant, for a Product qualified as an ORP under regulations of the Code and as designated under the terms of this document.

CONTRIBUTIONS refer to deposits to the ORP.

CRITERIA, as used throughout this document, means ORP Criteria for ORP Vendors at SHSU.

DEPOSITS refer to individual mandatory employee contributions deducted from salary and employer non-elective contributions.

REPRESENTATIVE means a SHSU approved agent, broker, salesperson, solicitor, selling officer,

IV. VENDOR APPLICATION

A. CERTIFICATION FOR ALL VENDORS

An officer of the vendor with the authority to legally bind the company must certify agreement with the following by signing the certification statement on page 7:

1. Every ORP contract issued to employees of SHSU satisfies all requirements for income tax deferment under all applicable sections of the Internal Revenue Code.
2. Every ORP contract offered complies with all requirements of Chapter 830, Title 8 of the Texas Government Code. To view or download Chapter 830 of the Government Code, go to <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.830.htm>.
3. Every ORP contract issued to employees of SHSU complies with all applicable Texas Attorney General's Opinions (see Exhibit E-1).
4. SHSU has the right to reject any ORP contracts it deems not to be in the best interest of the employees.
5. The payment of any investment advisory fees is guaranteed to be in accordance with Title 8, Section 830.107 of The Texas Government Code, as approved by IRS Private Letter Ruling dated August 30, 1990.
6. A distribution of funds will be made only after a distributable event, defined in Title 8, Section 830.105 of the Texas Government Code and only upon receipt of a properly completed Vesting Certification Form.
7. No loans or hardship withdrawals will be granted against the cash or account value to a participant prior to retirement from the public institutions of higher education in Texas or

prospectuses. In addition, SHSU requires that the website allow participants to access individual ORP accumulations, review monthly contribution allocations, reallocate contributions and change investment products.

16. A representative will be available to attend benefit fairs held annually in order to acquaint participants with their investment options and services. In addition, a representative will participate in retirement and investment education seminars as scheduled by SHSU Human Resources and given by presenters selected by SHSU when requested.
17. SHSU's remittances will be accepted.

27.

34. In addition to items 1-33 listed above, a

**SAM HOUSTON STATE UNIVERSITY
VENDOR CERTIFICATION STATEMENT - ORP**

By signature on this certification statement, I agree on behalf of the vendor named below, to comply with the conditions set forth in the Sam Houston State University (SHSU) Optional Retirement Program (ORP) Vendor regulation 97.1(a)(2.8) .157 -7 S4w 0.566 0.2.8 (o,-)1.1 (s)53.3 (e)eral syctop2. (to)-liae iee4walthte5.3 (a)-14N

B. OTHER DOCUMENTS AND INFORMATION REQUIRED FOR VENDOR APPLICATION

The following information must be attached to the Certification Statement.

1. The completed Product/Investment Performance Disclosure form (see Exhibit E-3). If your company offers more than 20 mutual fund products, you may submit forms on a sample set of the 20 funds with the highest fees within all fee categories.
2. The completed Vendor Rating Information form (see Exhibit E-4). This form applies to insurance and annuity vendors only.
3. Provide the name, title, address, telephone number (include both the toll-free and direct numbers), fax number and email address of the following individuals:
 - a. **Primary Contact:** This individual must be an employee, preferably an officer, of the company identified on the Vendor Certification Statement (he/she may not be an independent representative or broker). This individual has primary responsibility for overseeing compliance with these Vendor regulations and serves as a first point of contact with SHSU Human Resources. This individual will be the recipient of regular correspondence and notices from SHSU Human Resources, and must be able to disseminate important information in a timely manner to all authorized vendor representatives as requested by SHSU.
 - b. **Representative Designator(s):** This individual must be an employee, preferably an officer, of the company identified on the Vendor Certification Statement

A. ELIGIBILITY FOR ORP PARTICIPATION

SHSU will determine which employees are eligible for ORP based on ORP eligibility standards of state law and the Texas Higher Education Coordinating Board.

B. ENROLLMENT PROCEDURES

The following forms must be completed by the employee and submitted to SHSU Human Resources. Forms are provided on the SHSU University Human Resources website at <https://www.shsu.edu/dept/human-resources/benefits/retirement-program.html>.

1. SHSU Salary Reduction Agreement and Change of Company Form
2. Election to Participate in Optional Retirement Program and/or Refund (TRS 28), if the employee is participating in TRS and wants to request a refund.

In addition, the employee should submit the vendor application to Human Resources or acceptable documentation indicating an account has been opened.

C. EFFECTIVE DATE OF PARTICIPATION (PAYROLL DEADLINES)

1. SHSU will determine the employee's effective date of ORP participation. ORP elections received on or before the first day of employment will be effective the first day of employment. If ORP election is after the first day of employment, the ORP elections will be effective the following 16th

a. Death

- b. A SHSU Capital Transfer Form must be completed. An ORP account must be transferred to a corresponding ORP account with the receiving vendor. The SHSU Capital Transfer Form must include the receiving vendor information.
 - c. Both the receiving vendor's rollover/transfer form and the SHSU Capital Transfer Form should be forwarded to Human Resources for signature.
2. SHSU HumanC1 94.9 (u Tw ~~nt (u) Sign (ced) (h) eM Cg Re 108 07 (a) 07 06 07 02 (u) 1.8.9 IT& (C) 12 D~~)

b. For fixed annuity accounts, submit the following additional information:

EXHIBIT E-1

Selected Texas Attorney General's Opinions regarding ORP

AGO #	Date	Summary
M-196	02/68	Validity of certain sections of ORP act.
M-420	06/69	ORP vesting: effective after one year and can be with more than one company, but only one institution (revoked by H-99, 1973).
M-595	03/70	No life insurance in ORP contracts (revoked by MW-244, 1980).

M-

EXHIBIT E-2

ORP/TSA

EXHIBIT E-4

VENDOR RATING INFORMATION

Each insurance and annuity vendor is required to submit the following information to SHSU Human Resources with all applications for active vendor status. Also, current active insurance and annuity vendors must submit this information by November 30 each year. Each section that is not applicable or information that is not available should be indicated as appropriate. Failure to supply this information may result in removal from the active vendor list.

Vendor: _____

Date of Report: _____

RATING INFORMATION REQUIRED FOR INSURANCE/ANNUITY VENDORS

The most recent rating from the following rating services are:

	<u>Most Recent</u>	<u>Date of Rating</u>	<u>Previous</u>	<u>Change (+/-)</u>
1. A.M. Best	_____	_____	_____	_____
2. Fitch	_____	_____	_____	_____
3. Moody's	_____	_____	_____	_____
4. Standard & Poor's	_____	_____	_____	_____
5. Any other (list name)	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

EXHIBIT E-5

**SAM HOUSTON STATE UNIVERSITY
ORP/TSA REPRESENTATIVE ACKNOWLEDGEMENT FORM**

INSTRUCTIONS:

1. Prospective representative should complete Section I and forward to vendor.
2. Vendor should complete Section II and mail to SHSU Human Resources.
3. Human Resources will review and complete Section III. Representative may not contact SHSU employees until after the vendor has been notified of approval.
4. This representative will represent both ORP and TSA programs. Separate vendor representatives for each program are prohibited.

SECTION I Add Remove

Vendor Name	Representative Name		
Broker/Dealer/Company Name	Representative Title		
Mailing Address	City	State	Zip
Phone Number(s)	Fax Number	E-mail Address	

Check All Applicable Responses			
Designations:	Licenses & Registrations:	NASD Examinations:	Memberships:
CPA	Attorney	Series _____	American Society CLU ChFC
ChFC	Health Insurance	Series _____	CFPI
CLU	Life Insurance	Series _____	MDRT
CAP	PC Insurance	Series _____	NALU
CFA	Variable Insurance		

EXHIBIT E-6

Plan Document – ORP
ADOPTED by the Board of Regents – November 21, 2008
Revised February 2016

**Texas State University System
Optional Retirement Program Plan**

Table of Contents

Section 1	Controlling Statutes
Section 2	Definitions
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Texas State University System Optional Retirement Program Plan

Preamble

This plan ("the Plan") is for eligible employees, former employees and retirees of the Texas State University System, including all its component institutions, and is established in compliance with and under the authority of the Texas Government Code, Chapter 830. The Texas State University System is a unit of the State of Texas, and this Plan is not covered by ERISA (P.L. 93-406, 88 Stat. 829). This Plan serves as a restatement of any prior formal or informal plan or rules and regulations governing the Optional Retirement Program ("ORP") at the Texas State University System or at any of its component

qualified to issue annuities in Texas and that includes payment in the form of an annuity.

2.6 **“Beneficiary”**: The designated person who is entitled to receive benefits under the Plan after the death of a Participant, subject to such additional rules as may be set forth in the Individual Agreements.

2.7 **“Custodial Account”**: The group or individual custodial account or accounts, as defined

2.19 **“Plan year”**: The year coincident with the Fiscal Year of the State of Texas, ending August 31 of each year. Vendors may, in their discretion and as necessary to enable the vendor and/or the participants to comply with the Code, supply participants with reports and other documents based on the calendar year.

2.20 **“Public Institution of Higher Education”** Public Institution of Higher Education means a State-sponsored organization of higher education that meets the requirements of section 170(b)(1)(A)(ii)(relating to educational organizations that normally maintain a regular faculty and curriculum and normally have a regularly enrolled body of pupils or students in attendance at the place where educational activities are regularly carried on).

2.21 **“Related Employer”**: The Employer and any other entity which is under common control with the Employer under section 414(b) or (c) of the Code. For this purpose, the Plan Administrator shall determine which entities are Related Employers based on a reasonable, good faith standard and taking into account the special rules applicable under Notice 89-23, 1989-1 C.B. 654.

2.22 **“Related Entity”** For the purposes of the Plan, Related Entity means any other Texas Public Institution of Higher Education authorized to participate in the Optional Retirement Program under the provisions of the Texas ORP Law, the Texas Higher Education Coordinating Board or the Texas Education Agency.

2.23 **“Severance from Employment”**: For purpose of the Plan, Severance from Employment means Severance from all Employment with the Employer and any Related Entity. However, a Severance from Employment also occurs when an Employee ceases to be an employee of a Public Institution of Higher Education, even though the Employee may continue to be employed by a Related Employer that is another unit of the State or local government that is not a Public Institution of Higher Education, or in a capacity that is not employment with a Public Institution of Higher Education, (*e.g.*, ceasing to be an employee performing services for a Public Institution of Higher

The Plan Administrator may appoint Deputy Plan Administrators to assist in the administration of the Plan on the System Campuses. The Plan Administrator may, but is not required to, delegate to Deputy Plan Administrators functions, including but not limited to, approving new participant contracts with vendors, approving transfers from one vendor to another, and certification of Severance from Employment for the purposes of distributions or rollover to an IRA.

3.3 Employer Specific Plan Administration

The Plan Administrator may not exercise any of the discretionary provisions in the Plan in a manner that treats like situated employees differently; provided, however, that because each Employer has separate human resource and payroll administration and systems, decisions may be made, and procedures and options established, separately for each Employer; and provided further that this shall not prohibit the Plan Administrator from establishing different rules, procedures and options for participants first enrolling in the plan after a specific date.

3.4 Administration and Compliance

The administrative and compliance functions on each Campus may be performed by employees of that Campus, or the Plan Administrator may approve the appointment of qualified contractors to perform administrative and compliance functions on any Campus or Campuses. The functions to be carried out by such contractors shall be stated in the administrative procedures documents of the Campuses involved.

3.5 Administrative Procedure Documents

Each Campus shall maintain an administrative procedure document or documents detailing all administrative procedures, including procedures employed by contractors, if any, that participants and vendors will need to follow in participating in the Plan on that Campus. The document or documents may be part of a larger Employee or Human Resources Policies and Procedures Manual, and may be provided in electronic form or on the Web, provided electronic or Web access is made available on Campus to all participants.

3.6 Vendor Lists

Each Employer shall maintain a vendor list that is specific to the Employer. Such list shall be considered a part of the procedures manual of the Campus or Campuses involved.

3.7 Information Sharing

Each Vendor shall agree to provide the Administrator with all available information that may be reasonably necessary to enable the Administrator to administer the Plan in accordance with the Code, the Income Tax Regulations, the Texas ORP Law and the ORP Rules. The Vendor must agree that such obligation shall extend until April 15 of the year after the year in which there last was an open Contract or Account governed by the Plan, even if the Vendor has not been authorized to open new Accounts or Contracts, or to accept new contributions for a longer period. This agreement shall be evidenced in writing in a form satisfactory to the Administrator, but may be part of another more comprehensive agreement.

Section 4 Participation and Vesting

4.1 Eligibility to Elect to Participate

Eligibility to elect to participate in the Plan shall be governed by the Texas ORP Law, Sections 830.101 through 103 and the ORP Rules, Rule 25.4.

4.2 Election to Participate and Continue or Resume Participation

for any taxable year, whether by inadvertence or by aggregation that includes a Section 403(b) Plan, or other plan the contributions to which are required to be aggregated to determine the maximum permissible deferral, with another employer, then to the extent timely identified, the corrective actions shall be taken in the following sequence until the limits are no longer exceeded: (i) Contributions under this plan in excess of those provided for in Section 5.3, if any, shall be returned to the Employer; (ii) Elective Deferrals under any other Plan of the Employer shall be returned to the Participant until contributions are within the Code Sections 415 and 414(v) limits; (iii) The Plan Administrator shall request that the plan administrator of a plan that the employee participates in with another employer to return elective deferrals, if any, to the participant until contributions are within the Code Sections 415 and 414(v) limits, and contributions to this Plan are in compliance with Section 5.3; (iv) The Plan Administrator shall request that the plan administrator of a plan that the employee participates in with another employer to return elective deferrals, if any, to the participant until contributions are within the Code Sections 415 and 414(v) limits, and contributions to this Plan are in compliance with Section 5.3.

8.1 Transfers/Contract Exchanges within the Plan

A participant or beneficiary is permitted to change the investment of his or her Account Balance among the Vendors approved under the Plan for the Employer employing or formerly employing the participant, subject to the terms of the Individual Agreements. A participant transferring from one Employer to another is permitted to transfer ORP funds to a Vendor on the approved list for the new Employer, subject to the terms of the Individual Agreement. Any transfer of funds from one Vendor to another shall be by trustee to trustee transfer.

8.2 Plan-to-Plan Transfers to the Plan from other Texas ORP Plans

(a) The Administrator may, but is not required to, permit a transfer to this Plan of the Account Balance of a Participant or class of Participants to the Plan from another plan which is a plan established under and operated in conformity with the Texas ORP Law and the ORP Rules. Such a transfer is permitted only if: (i) the participant transfers to the Employer without meeting the requirements for Severance from Service as defined in this Plan; (ii) the participant is vested in the other plan; (iii) the other plan provides for the direct transfer of each person's entire interest therein to the Plan, and (iv) the participant is an employee or former employee of the Employer. If the Account Balance is held in an account or contract of a Vendor which is already on the approved list of the campus at which the participant is employed, the transfer may be accomplished by the Vendor acknowledging in writing that the account or contract contains, or has been amended to contain, all the distribution restrictions required by Section 403(b) of the Code, the Texas ORP Law and the ORP Rules, and will henceforth be part of and under the control of this Plan. Otherwise, the transfer may only be made by trustee to trustee transfer and only to a Vendor on the approved list for the Campus which employs the participant. The Administrator and any Vendor accepting such transferred amounts may require that the transfer be in cash or other property acceptable to it. The Administrator or any Vendor accepting such transferred amounts may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with §1.403(b)-10(b)(3) of the Income Tax Regulations and to confirm that the other plan is a plan that satisfies Section 403(b) of the Code and the Texas ORP Law and ORP Rules. The Administrator may require the plan administrator of the other plan to agree to exchange in the future any information that may become necessary to satisfy the requirements of the Code and the Income Tax Regulations.

(b) The

this Section 8.3 (for example, to confirm that the receiving plan satisfies section 403(b) of the Code, the Texas ORP Law, the ORP Rules and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to §1.403(b)-10(b)(3) of the Income Tax Regulations.

8.4 Rollover to an Individual Retirement Annuity or Individual Retirement Account

An Employee who has a Severance from Employment, as defined in this Plan, may elect to rollover all or any portion of his or her accounts to an Individual Retirement Annuity or Individual Retirement Account as provided in the Code and Income Tax Regulations.

Section 9 Investment of Contributions

9.1 Manner of Investment

All amounts contributed to the Plan, all property and rights purchased with such amounts under the Funding Vehicles, and all income attributable to such amounts, property, or rights shall be held and invested in one or more Annuity Contracts or Custodial Accounts. Each Custodial Account shall provide for it to be impossible, prior to the satisfaction of all liabilities with respect to Participants, their Beneficiaries and unvested Employer contributions for any part of the assets and income of the Custodial Account to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their

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will be paid to such person as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

11.6 Mistaken Contributions

If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Employer. The Employer, as an agency of the State of Texas, is constitutionally unable to indemnify any party or hold them harmless, and Vendors shall not require an indemnification or hold harmless agreement as a condition for the return of mistaken contributions.

11.7 Procedure When Distributee Cannot Be Located

The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means: (a) the mailing by certified mail

Exhibit 7 – Authorized Active Vendors

Vendors authorized to receive ongoing contributions, and Exchange and Transfers under the Plan:

<u>Company Name</u>	<u>Funds Offered</u>	<u>Phone Number</u>	<u>Website</u>
Fidelity	Mutual	1-800-343-0860	www.fidelity.com
Voya (formerly ING)	Fixed & Variable	1-800-422-3862	www.orptx.com
MetLife (Brighthouse)	Fixed, Variable & Mutual	1-800-638-7732	www.metlife.com
Pentegra (Aspire)	Mutual	1-866-634-5873	www.pentegra.com
TIAA	Fixed & Variable	1-800-842-2273	www.tiaa.org
VALIC (AIG)	Fixed & Variable	1-800-448-2542	www.valic.com

Exhibit 8 – Authorized Inactive Vendors

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