

**PLAN DOCUMENT  
FOR THE  
TEXAS A&M UNIVERSITY SYSTEM  
OPTIONAL RETIREMENT PROGRAM**

**403(b) Program**

**THE TEXAS A&M UNIVERSITY SYSTEM  
SYSTEM BENEFITS ADMINISTRATION  
301 TARROW STREET, 5<sup>TH</sup> FLOOR  
MOORE/CONNALLY BUILDING  
COLLEGE STATION, TEXAS 77840-7896**

**The Texas A&M University System  
OPTIONAL RETIREMENT PROGRAM**

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## Introduction

The Texas A&M University System 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 Optional Retirement Program is a governmental 403(b) plan and is not covered by the Employee Retirement Income Security Act of 1974 (ERISA).

### Section 1 - Definition of Terms Used

The following words and terms, when used in the Plan, have the meaning set forth below.

1.1 "**Account**": The account or accumulation maintained for the benefit of any Participant or Beneficiary under an Annuity Contract or a Custodial Account including the Participant's Deferral Account and Employer Contributions Account.

1.2 "**Account Balance**": The bookkeeping account maintained for each Participant which reflects the aggregate amount credited to the Participant's Account under all Accounts, including the Participant's Deferrals, any Employer contributions, the earnings or loss of each Annuity Contract or a Custodial Account (net of expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any account established under Section 6 for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an alternate payee (as defined in section 414(p)(8) of the Code).

1.3 "**Administrator**": System Benefits Administration for The Texas A&M University System.

1.4 "**Annuity Contract**": A nontransferable contract as defined in section 403(b)(1) of the Code, established for each Participant by the Employer, or by each Participant individually, that is issued by an insurance company qualified to issue annuities in Texas and that includes payment in the form of an annuity.

1.5 "**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.

1.6 "**Custodial Account**": The group or individual custodial account or accounts, as defined in section 403(b)(7) of the Code, established for each Participant by the Employer, or by each Participant individually, to hold assets of the Plan.

1.7 "**Code**": The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

1.8 "**Chapter 25**": The Texas Higher Education Coordinating Board's established rules for uniformity in administration of the Texas Optional Retirement Program as directed by Chapter 830, Title 8 of the Texas Government Code.

1.9 "**Compensation**": All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code.

1.10 "**Disabled**": The definition of disability provided in the applicable Individual Agreement.

1.11 "**Deferral**": The Employer contributions made to the Plan for the Participant in lieu of receiving cash compensation. Deferrals are limited to pre-tax salary reduction contributions.

1.12 "**Deferral Account**": The account established and maintained by the Administrator for each Participant with respect to Deferrals (including any earnings or losses attributable thereon) under the Plan resulting from Deferrals.

1.13 "**Employee**": Each individual, whether appointed or elected, who is a common law employee of the Employer performing services as an employee of the Employer. This definition is not applicable unless the employee's compensation for performing services for a public education institution is paid by the Employer. Further, a person occupying an elective or appointive public office is not an employee performing services for a public education institution unless such office is one to which an individual is elected or appointed only if the individual has received training, or is experienced, in the field of education. A public office includes any elective or appointive office of a State or local government.

1.14 "**Employer**": The Texas A&M University System.

1.15 "**Funding Vehicles** ": The Annuity Contracts or Custodial Accounts issued for funding amounts held under the Plan and specifically approved by Employer for use under the Plan offered through a Vendor.

1.16 "**Includible Compensation**": An Employee's actual wages in box 1 of Form W-2 for a year for services to the Employer, but increased (up to the dollar maximum unless the Employee participated in Texas ORP prior to September 1, 1996 for which no maximum applies) by any compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code or including any Deferral under the Plan. The amount of Includible Compensation is determined without regard to any community property laws. Pursuant to Reg. Section 1.415-2(e)(4) of the Income Tax Regulations, Includible Compensation will include payments made to an individual who does not currently perform services for the Employer by reason of qualified military service (as defined in Section 414(u)(5) of the Code) to the extent those payments do not exceed the amount the individual would have received if the individual had continued to perform services for the Employer rather than enter qualified military service. Employer Contributions pursuant to Section shall be subject to a maximum of \$200,000 (or such higher maximum as may

apply under Section 401(a)(17) of the code) unless the Employee participated in Texas ORP prior to September 1, 1996 for which no maximum applies.

1.17 "**Individual Agreement**": The agreements between a Vendor and the Employer or a Participant that constitutes or governs a Custodial Account or an Annuity Contract.

1.18 "**Participant**": An individual for whom Deferrals are currently being made, or for whom Deferrals have previously been made, under the Plan and who has not received a distribution of his or her entire benefit under the Plan.

1.19 "**Plan**": The Texas A&M University System Optional Retirement Program (ORP).

1.20 "**Plan Year**": September 1<sup>st</sup> through August 31<sup>st</sup>.

1.21 "**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 Employer 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.

1.22 "**Severance from Employment**": For purpose of the Plan, Severance from Employment means Severance from all Texas public institutions of higher learning.

1.23 "**Vendor**": The provider of an Annuity Contract or Custodial Account as identified in Appendix A, B, and C.

1.24 "**Valuation Date**": Each business day of the Plan Year.

## **Section 2 - Participation and Contributions**

2.1 **Eligibility.** Each eligible Employee as defined in Chapter 25 (Section 25.4 Eligibility to Elect ORP) who chose participation as described in Chapter 25 (Section 25.4 Eligibility to Elect ORP) in the Texas ORP in lieu of active membership in the Teacher Retirement System (TRS) of Texas shall participate in the Plan and have mandatory Deferrals made on his or her behalf hereunder immediately upon choosing ORP participation.

2.2 **Compensation Reduction.** An eligible Employee elects to become a Participant by choosing participation in ORP in lieu of TRS and executing an agreement to reduce his or her Compensation by the amount required at the time by the Texas Legislature (~~currently 6.65%~~) and filing it with the Administrator. This Compensation reduction shall be made on the agreement provided by the Administrator under which the Employee agrees to be bound by all the terms and conditions of the Plan. The agreement shall also include designation of the Funding Vehicles and Accounts therein to which Deferrals are to be made and a designation of Beneficiary. The reduction shall remain in effect unless the Participant changes to an ineligible position prior to the end of the vesting period in accordance with the terms in Section 8. Only an individual who performs services for the Employer as an Employee may reduce his or her Compensation under the Plan. Each Employee will become a Participant in accordance with the terms and conditions of the Individual Agreements. All Deferrals shall be made on a pre-tax basis. An Employee shall become a Participant as soon as administratively practicable following the date applicable under

the Employee's selection of ORP in accordance of the rules established in Chapter 25 of the Texas Higher Education Coordinating Board. Once ORP participation is elected, the choice is irrevocable for all Texas institutions of higher education as indicated in Chapter 830, Title 8 of the Texas Government Code. Required ORP participants not designating a funding vehicle in a timely manner will be defaulted into a funding vehicle chosen by the administrator from a vendor listed in Appendix A after a 30-day notification period.

**2.3 Information Provided by the Employee.** Each Employee enrolling in the Plan should provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Administrator to administer the Plan, including any information required under the Individual Agreements.

**2.4 Contributions Made Promptly.** Deferrals under the Plan shall be transferred to the applicable Funding Vehicle within three business days following legal availability in which the amount would otherwise have been paid to the Participant.

**2.5 Leave of Absence.** If an Employee is absent from work by leave of absence, Deferrals under the Plan shall continue to the extent that Compensation continues.

**2.6 Protection of Persons Who Serve in a Uniformed Service.** An Employee whose employment is interrupted by qualified military service under section 414(u) of the Code or who is on a leave of absence for qualified military service under section 414(u) of the Code may elect to make additional Elective Deferrals upon resumption of employment with the Employer equal to the maximum Elective Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Elective Deferrals, if any, actually made for the Employee during the period of the interruption or leave. Except to the extent provided under section 414(u) of the Code, this right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

### **Section 3 - Benefit Distributions**

**3.1 Benefit Distributions At Severance from Employment or Other Distribution Event.** Distributions from a Participant's Account may not be made earlier than the earliest of the date on which the Participation has a Severance from Employment from all Texas public institutions of higher learning, dies, becomes Disabled, or attains age 70½. Distributions shall otherwise be made in accordance with the terms of the Individual Agreements.

**3.2 Minimum Distributions.** Each Individual Agreement shall comply with the minimum distribution requirements of section 401(a)(9) of the Code and the regulations thereunder. For purposes of applying the distribution rules of section 401(a)(9) of the Code, each Individual Agreement is treated as an individual retirement account (IRA) and distributions shall be made in accordance with the provisions of § 1.408-8 of the Income Tax Regulations, except as provided in § 1.403(b)-6(e) of the Income Tax Regulations.

**3.3 Rollover Distributions.** (a) A Participant or the Beneficiary of a deceased Participant (or a Participant's spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Code) who is entitled to an eligible rollover distribution

may elect to have any portion of an eligible rollover distribution (as defined in section 402(c)(4) of the Code) from the Plan paid directly to an eligible retirement plan (as defined in section 402(c)(8)(B) of the Code) specified by the Participant in a direct rollover. In the case of a distribution to a Beneficiary who at the time of the Participant's death was neither the spouse of the Participant nor the spouse or former spouse of the Participant who is an alternate payee under a domestic relations order, a direct rollover is payable only to an individual retirement account or individual retirement annuity (IRA) that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of section 408(d)(3)(C) of the Code).

(b) Each Vendor shall be separately responsible for providing, within a reasonable time period before making an initial eligible rollover distribution, an explanation to the Participant of his or her right to elect a direct rollover and the income tax withholding consequences of not electing a direct rollover.

## **Section 4 - Rollovers to the Plan and Transfers**

### **4.1 Eligible Rollover Contributions to the Plan.**

(a) **Eligible Rollover Contributions.** To the extent provided in the Individual Agreements, a Participant who is entitled to receive an eligible rollover distribution from another eligible retirement plan (Texas ORP as defined in Chapter 25) may request to have all or a portion of the eligible rollover distribution paid to the Plan. Such rollover contributions shall be made in the form of cash only. The Vendor may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code and to confirm that such plan is an eligible retirement plan authorized under Chapter 830, Title 8 of the Texas Government Code known as a Texas ORP retirement plan as defined in Chapter 25.

(b) **Eligible Rollover Distribution.** For purposes of Section 4.1(a), an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of 10 years or more, (2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the Employee, or (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) of the Code. In addition, an eligible retirement plan means an annuity plan described in section 403(b) of the Code authorized under Chapter 830, Title 8 of the Texas Government Code known as a Texas ORP retirement plan as defined in Chapter 25 that accepts the eligible rollover distribution.

(c) **Separate Accounts.** The Vendor shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan.

**4.2 Plan-to-Plan Transfers to the Plan.** (a) At the direction of the Employer, for a class of Employees who are participants or beneficiaries in another plan under section 403(b) of the Code, the Administrator may permit a transfer of assets to the Plan in this Section 4.2. Such a transfer is permitted only if the other plan provides for the direct transfer of each person's entire interest therein to the Plan and the participant is an Employee or former Employee of the Employer. 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. At the direction of the Employer, the Administrator may also permit a transfer of assets to the Plan in this Section 4.2 in compliance with Texas Government Code, Chapter 830.108 Correction of Certain Reporting Errors in regards to the Teacher Retirement System of Texas.

(b) The amount so transferred shall be credited to the Participant's Account Balance, so that the Participant or Beneficiary whose assets are being transferred has an accumulated benefit immediately after the transfer at least equal to the accumulated benefit with respect to that Participant or Beneficiary immediately before the transfer.

(c) To the extent provided in the Individual Agreements holding such transferred amounts, the amount transferred shall be held, accounted for, administered and otherwise treated in the same manner as a Deferral by the Participant under the Plan, except that (1) the Individual Agreement which holds any amount transferred to the Plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the Individual Agreement must impose restrictions on distributions to the Participant or Beneficiary whose assets are being transferred that are not less stringent than those imposed on the transferor plan and (2) the transferred amount shall not be considered a Deferral under the Plan.

#### **4.3 Plan-to-Plan Transfers from the Plan.**

(a) At the direction of the Employer, the Administrator may permit a class of Participants and Beneficiaries to elect to have all or any portion of their Account Balance transferred to another plan that satisfies section 403(b) of the Code in accordance with § 1.403(b)-10(b)(3) of the Income Tax Regulations. A transfer is permitted under this Section 4.3(a) only if the Participants or Beneficiaries are Employees or former Employees of the employer (or the business of the employer) under the receiving plan and the other plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.

(b) The other plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the other plan shall impose restrictions on distributions to the Participant or Beneficiary whose assets are transferred that are not less stringent than those imposed under the Plan. In addition, if the transfer does not constitute a complete transfer of the Participant's or Beneficiary's interest in the Plan, the other plan shall treat the amount transferred as a continuation of a pro rata portion of the Participant's or Beneficiary's interest in the transferor plan (e.g., a pro rata portion of the Participant's or Beneficiary's interest in any after-tax employee contributions).

(c) Upon the transfer of assets under this Section 4.3, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 4.3 (for example, to confirm that the receiving plan satisfies section 403(b) of the Code

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.

**4.4 Contract and Custodial Account Exchanges.** A Participant or Beneficiary is permitted to change the investment of his or her Account Balance among the Vendors under the Plan identified in Appendix A as an authorized vendor or identified in Appendix B when the Participant is actively contributing to such vendor, subject to the terms of the Individual Agreements. However, an investment change that includes an investment with a Vendor that is not identified in Appendix A as an authorized vendor or identified in Appendix B as a vendor already receiving contributions from the Participant is not permitted.

## **Section 5 - Investment of Contributions**

**5.1 Manner of Investment.** All Deferrals or other 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 and their Beneficiaries, 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 Beneficiaries.

**5.2 Investment of Contributions.** Each Participant or Beneficiary shall direct the investment of his or her Account among the investment options available under the Annuity Contract or Custodial Account in accordance with the terms of the Individual Agreements. Transfers among Annuity Contracts and Custodial Accounts may be made to the extent provided in the Individual Agreements and permitted under applicable Income Tax Regulations.

**5.3 Current and Former Vendors.** The Administrator shall maintain a list of all Vendors under the Plan, hereby incorporated as part of the Plan as appendices. Each Vendor and the Administrator shall exchange such information as may be necessary to satisfy section 403(b) of the Code or other requirements of applicable law. In the case of a Vendor which is not eligible to receive Deferrals under the Plan (including a Vendor which has ceased to be a Vendor eligible to receive Deferrals under the Plan and a Vendor holding assets under the Plan in accordance with Section 4.2 or 4.4), the Employer shall keep the Vendor informed of the name and contact information of the Administrator in order to coordinate information necessary to satisfy section 403(b) of the Code or other requirements of applicable law.

## **Section 6 - Amendment and Plan Termination**

**6.1 Termination of Contributions.** The Employer has adopted the Plan with the intention and expectation that contributions will be continued indefinitely as authorized under Chapter 830, Title 8 of the Texas Government Code. However, the Employer has no obligation or liability to maintain the Plan if discontinued by the state of Texas.

**6.2 Amendment and Termination.** The Employer reserves the authority to amend or terminate this Plan at any time as may be permitted or required by the state of Texas.

**6.3 Distribution upon Termination of the Plan.** The Employer may provide that, in connection with a termination of the Plan as may be permitted by the state of Texas and subject

to any restrictions contained in the Individual Agreements, all Accounts will be distributed, provided that the Employer and any Related Employer on the date of termination do not make contributions to an alternative section 403(b) contract that is not part of the Plan during the period beginning on the date of plan termination and ending 12 months after the distribution of all assets from the Plan, except as permitted by the Income Tax Regulations.

## **Section 7 - Miscellaneous**

**7.1 Non-Assignability.** Except as provided in Section 7.2 and 7.3, the interests of each Participant or Beneficiary under the Plan are not subject to the claims of the Participant's or Beneficiary's creditors; and neither the Participant nor any Beneficiary shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

**7.2 Domestic Relation Orders.** Notwithstanding Section 7.1, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of any State ("domestic relations order"), then the amount of the Participant's Account Balance shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Administrator shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order.

**7.3 IRS Levy.** Notwithstanding Section 7.1, if a Participant or Beneficiary is entitled to a distribution in accordance with Section 3, the Administrator may pay from a Participant's or Beneficiary's Account Balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

**7.4 Tax Withholding.** Contributions to the Plan are subject to applicable employment taxes (including, if applicable, Federal Insurance Contributions Act (FICA) taxes with respect to Deferrals, which constitute wages under section 3121 of the Code). Any benefit payment made under the Plan is subject to applicable income tax withholding requirements (including section 3401 of the Code and the Employment Tax Regulations thereunder). A payee shall provide such information as the Administrator may need to satisfy income tax withholding obligations, and any other information that may be required by guidance issued under the Code.

**7.5 Payments to Minors and Incompetents.** If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits 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.

**7.6 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.

**7.7 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 of a notice to the last known address shown on Employer's or the Administrator's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within 6 months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the funding vehicle shall continue to hold the benefits due such person.

**7.8 Incorporation of Individual Agreements.** The Plan, together with the Individual Agreements, is intended to satisfy the requirements of section 403(b) of the Code and the Income Tax Regulations thereunder. Terms and conditions of the Individual Agreements are hereby incorporated by reference into the Plan, excluding those terms that are inconsistent with the Plan or section 403(b) of the Code.

**7.9 Governing Law.** The Plan will be construed, administered and enforced according to the Code and the laws of the State of Texas.

**7.10 Headings.** Headings of the Plan have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

**7.11 Gender.** Pronouns used in the Plan in the masculine or feminine gender include both genders unless the context clearly indicates otherwise.

## **Section 8 – Employer Contributions**

### **8.1 Definitions**

(a) “**Employer Contributions Account**”: The account established and maintained by the Administrator for each Participant with respect to his total vested interest (including any earnings or losses attributable thereon) under the Plan resulting from Employer Contributions and Employer Supplemental Contributions.

(b) “**Employer Contributions**”: The Employer's contributions to the Plan in accordance with Chapter 830, Title 8 of the Texas Government Code. Currently, Participants who participated in Texas ORP prior to September 1, 1995 will receive an Employer Contribution of 8.5%. Participants who participated in Texas ORP on or after September 1, 1995 will receive an Employer contribution established by the Texas Legislature.

(c) “Employer Supplemental Contributions”: The Employer’s discretionary contribution based on the additional percentage amount established by the Employer to be contributed to the Plan, but only in an amount which, when combined with the Employer Contributions, does not to exceed the maximum statutory rate allowed by the Texas Legislature.

(d) “**Vested**”: The non-forfeitable portion of a Participant’s Employer Contributions Account.

**8.2 Employer Contributions.** For each Plan Year, the employer will contribute to the Plan Employer Contributions subject to any limitations imposed under applicable law. In addition, the Employer may, in its discretion, contribute Employer Supplemental Contributions to the Plan. Such contributions will be allocated to the Participant’s Employer Contributions Account.

### **8.3 Maximum Annual Additions**

(a) The maximum permissible Annual Additions that may be contributed or allocated to each Participant’s Account under the Plan for any Plan Year will not exceed the lesser of:

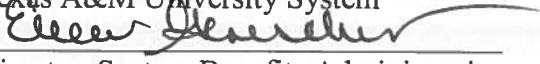
- (i) \$40,000 as adjusted for increases in the cost of living under Section 415(d) of the Code, or
- (ii) 100 percent of the Participant’s Includible Compensation for the Plan Year.

(b) For purposes of this Section 8.3, “Annual Additions” means, for any Plan Year, the sum of the Elective Deferrals, Roth 403(b) Contributions, non-Elective Deferrals, Employer Contributions, and Employer Supplemental Contributions to the Plan made to the Participant’s Account and the sum of any employee and employer contributions made on behalf of such individual under any other 403(b) plan, whether or not sponsored by the Employer.

(c) If a Participant has a “controlling interest” in another employer and participates in that employer’s qualified 401(a) defined contribution plan, a welfare benefit fund (as defined in Section 419(e) of the Code), an individual medical account (as defined in Section 415(1)(2) of the Code), or a simplified employee pension (as defined in Section 408(k) of the Code) which provides Annual Additions which may be credited to a Participant’s Account for any Plan Year will not exceed the maximum permissible amount described in subsection (a), taking into account employer contributions that have been allocated to such other plans as described in this subsection.

**8.4 Vesting.** A Participant will be 100% Vested in his Employer Contributions Account the day following twelve (12) cumulative months of actual participation in the Plan in accordance with Chapter 25.

IN WITNESS WHEREOF, the Employer has caused this Plan to be executed this 31<sup>st</sup> day of March, 2020.

Employer: Texas A&M University System  
By:   
Title: Director, System Benefits Administration  
Date signed: March 31, 2020  
Effective Date of the Plan: January 1, 2010

**AMENDMENT NO. FOUR  
TO  
THE TEXAS A&M UNIVERSITY SYSTEM  
OPTIONAL RETIREMENT PROGRAM**

Amendment made this 19th day of September 2022 to The Texas A&M University System Optional Retirement Program (ORP) plan document.

**W I T N E S S E T H**

**WHEREAS**, the Employer desires to amend The Texas A&M University System ORP plan document to provide that the Teacher Retirement System of Texas pursuant to Texas Government Code, Chapter 830.108 has the authority to make corrections to an individual ORP account in accordance with the Government Code.

**WHEREAS**, pursuant to Section 6.2 of the Plan, The Employer has the authority to amend the Plan.

**NOW, THEREFORE**, the Plan is amended as follows:

Section 4.3 is amended to read as follows:

**“Plan-to-Plan Transfers from the Plan.** (a) At the direction of the Employer, the Administrator may permit a class of Participants and Beneficiaries to elect to have all or any portion of their Account Balance transferred to another plan that satisfies section 403(b) of the Code in accordance with § 1.403(b)-10(b)(3) of the Income Tax Regulations. A transfer is permitted under this Section 4.3(a) only if the Participants or Beneficiaries are Employees or former Employees of the employer (or the business of the employer) under the receiving plan and the other plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred. At the direction of the Employer, the Administrator may also permit a transfer of assets to the Plan in this Section 4.3 in compliance with Texas Government Code, Chapter 830.108 Correction of Certain Reporting Errors in regards to the Teacher Retirement System of Texas.”

**IN WITNESS WHEREOF**, this Amendment has been executed on the date written above, by the Employer.

**EMPLOYER:  
THE TEXAS A&M UNIVERSITY SYSTEM**

By:   
Title: Director, System Benefits Administration

## Appendix A

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

<u>Name of Organization</u>	<u>Customer Service</u>
AIG Retirement Services	(800) 448-2542
Fidelity Investments	(800) 343-0860
Voya	(800) 873-5518
Lincoln Financial Group	(800) 341-0441
Pentegra	(866) 634-5873
TIAA-CREF	(800) 842-2776

## Appendix B

Vendors authorized to receive ongoing contributions. Exchanges and Transfers to these Vendors are not permitted under the Plan unless the Participant is actively contributing to the vendor.

<u>Name of Organization</u>	<u>Customer Service</u>
Security Benefit	(800) 888-2461
USAA	(800) 531-8292
ISC Group	(800) 888-3520
Global Atlantic Financial (Zurich)	(800) 457-9047
Metlife Resources	(800) 233-3591
Metropolitan Life Insurance Company	(800) 560-5001



## Appendix C

Vendors authorized to hold account balances. Ongoing contributions, Exchanges, and transfers to these Vendors are not permitted under the Plan.

<u>Name of Organization</u>	<u>Customer Service</u>
American Funds	(800) 421-9900
Van Kampen Funds	(800) 341-2911
John Hancock Signature Services	(800) 225-5291
National Western Life	(800) 922-9422
Trust Company of America	(800) 223-4133
Jefferson Pilot	(800) 487-1485
Pioneer Investments	(800) 665-8839
Nationwide Life Insurance	(800) 321-6064
State Farm Insurance	(309) 766-6580
John Hancock Mutual Life Insurance Co.	(800) 344-1029
United Investors Life Insurance Co.	(800) 866-9933
Merrill Lynch	(800) 234-7620
ReliaStar Life Insurance	(888) 587-8511
Symetra Life Insurance	(800) 796-3872
Jackson National Life	(800) 388-9193
American Skandia	(800) 752-6342
Franklin Templeton	(800) 632-2350
Evergreen Funds	(800) 247-4075
INVESCO/Aim	(800) 241-9799
Prudential Life Insurance	(800) 458-6333
Fiserv	(800) 831-8675
Sun Life	(800) 752-7215
Transamerica Life	(800) 821-9090
US Global	(800) 873-8637
Union Central Life	(800) 825-1551
Wachovia	(800) 654-1410
Conseco Life Insurance Co.	(800) 824-2726
Western National Life Insurance	(800) 424-5018
ITT Hartford	(860) 547-5000
AXA Equitable	(800) 628-6673
Great American Life Insurance Co.	(800) 789-6771
American Century	(800) 345-3533
Life Insurance Co. of the Southwest	(800) 579-2878
Jefferson National Life Insurance Co.	(866) 667-0561
Midland National Life	(877) 586-0240
Ameriprise Financial Services	(800) 862-7919
Waddell & Reed	(800) 880-3941
Diversified Investors	(800) 755-5803
AVIVA (Delta Life/American Investors)	(888) 266-8489

## Appendix D

### Administrative Procedures

#### A. Enrollment Procedures

Employees will enroll in the ORP plan through Workday. They will choose the vendor and enter the legislated contribution percentage.

Employees will enroll with their selected vendor outside of Workday by completing enrollment through the vendor's enrollment process. If the employee chooses not to complete an enrollment with the vendor, funds will be placed in the default investment option by the chosen vendor, typically a target-date or lifestyle fund.

Employees will submit the Election to Participate in the Optional Retirement Program and/or Refund Form (TRS 28) to the benefit partner if the employee is new participant in Texas ORP and/or is participating in TRS and wants to request a refund. The benefit partner will submit to TRS for processing.

#### B. Effective Date of Participation

A Participant's ORP enrollment will be effective the first of the month following the submission of the TRS 28 to the benefit partner. The ORP contributions will be reflected on the paycheck for that pay period. For example: The employee submits the signed and notarized TRS 28 to the benefit partner on 3/15. The Coverage Begin Date is 4/1 and will be seen on the 5/1 check, which includes the 4/1-4/30 pay period.

#### C. Withdrawal of Teacher Retirement System (TRS) Contributions

An employee who elects to participate in the ORP must withdraw his or her contributions (plus interest) from TRS. The employee must submit a properly completed Election to Participate in Optional Retirement Program and/or Refund form (TRS 28) to the benefit partner to initiate this process with TRS. Rollovers or transfers must be made in compliance with federal and state law.

#### D. Procedure for Changing the ORP Vendor

1. A change of vendor is the only change a participant can make after the initial election to participate in ORP.
2. Participants can change vendors by submitting an ORP Vendor Change Benefit Event in Workday.

#### E. ORP Distribution Rules

1. A distribution of funds will only be made upon the occurrence of a distributable event, defined in Title 8, Section 830.105 of the Texas Government Code as follows:

- a. Death
  - b. Retirement
  - c. Termination of employment in all public institutions of higher education in Texas
  - d. Attainment of age 70 ½
2. Distributions may only be made by the vendor upon receipt of a properly completed ORP Notification of Change in Employment Status Form (HR15) or a letter from the appropriate Payroll Office confirming termination and vesting status. These documents must be signed by an authorized representative of the System. The vendor may not delay distribution by requiring additional paperwork or signatures or through some other means. The distribution confirmation form and check should be sent directly to the former System employee or designated vendor as instructed.
  3. Distributions under a Qualified Domestic Relations Order may be made based on the procedures stated below.

F. Qualified Domestic Relations Order (QDRO) Procedures

A Domestic Relations Order is a notice of entitlement that awards an interest in the ORP account value to an alternate payee. Title 8, Chapter 804 of the Texas Government Code, makes the vendor responsible for qualifying a Domestic Relations Order and administering benefits in accordance with the Code. The following procedure should be used when executing a QDRO for a System ORP participant.

1. Employee/alternate payee's responsibility:  
  
Domestic Relations Order decree must be sent to the employee's ORP vendor to determine if the order meets the criteria for a "Qualified" Domestic Relations Order (QDRO).
2. Vendor's responsibilities:
  - a. Determine if the Domestic Relations Order meets the criteria established in Chapter 804. The vendor will communicate the results of its determination to the employee and alternate payee in writing, sending a copy of the determination to the employee's System Member Human Resources or Payroll Office.
  - b. If the Order is "qualified", execute the provisions of the order.
3. System Member Human Resources or Payroll Office responsibilities:

When notified by a vendor that a Domestic Relations Order is a QDRO, the System Member Human Resources or Payroll Office should place a copy of the notice in the employee's payroll file.

G. Contract Exchanges of Existing ORP Funds

Total Contract Exchanges of ORP funds, partial Contract Exchanges, and Contract Exchanges between a 403(b)(7) account (mutual fund) and a 403(b)(1) account are permitted. Transfers are only permitted to active ORP vendors (listed in Appendix A) unless the Employee is actively contributing to a Vendor in Appendix B, in which case the Employee may transfer to a the Vendor where contributions are currently being sent. The following procedure applies to partial as well as total ORP Contract Exchanges:

1. Receiving vendor's/employee's responsibilities:
  - a. The receiving vendor completes its rollover/transfer form, including the account number, address where the funds should be sent, and other information appropriate for each vendor. Employees may only do a Contract Exchanges to a Vendor listed in Appendix A unless the Employee is actively contributing to a Vendor in Appendix B, in which case the Employee may transfer to a the Vendor where contributions are currently being sent.
  - b. An ORP/TDA Transfer Verification Form (HR 16) must be completed. An ORP account must be exchanged to a corresponding ORP account with the receiving vendor. The ORP/TDA Transfer Verification Form must include the receiving vendor information, including the name of the vendor representative who is authorized by the System. The vendor representative name is not required if the employee is transferring funds to a vendor that does not require individual vendor representatives. (TDA refers to 403(b) Tax-Deferred Account Program.)
  - c. Both the receiving vendor's rollover/transfer form and the ORP/TDA Transfer Verification Form should be forwarded to the appropriate System Member Human Resources or Payroll Office.
2. System Member Human Resources or Payroll Office responsibilities:
  - a. Upon receipt of the ORP/TDA Transfer Verification Form and the receiving vendor's rollover/transfer form, the System Member Human Resources or Payroll Office will verify that the receiving Vendor is on the list of authorized Vendors (listed in Appendix A). A Contract Exchange may only be made to a Vendor listed in Appendix A unless the Employee is actively contributing to a Vendor in Appendix B, in which case the Employee may transfer to a the Vendor where contributions are currently being sent.
  - b. The completed ORP/TDA Transfer Verification Form, with the attached receiving vendor's rollover/transfer form, is forwarded by the System

Member Human Resources or Payroll Office to the surrendering vendor. The forms will be returned to the employee if the receiving vendor is not an authorized ORP Vendor (listed in Appendix A or Appendix B) or if the representative is not registered with the System.

3. Surrendering vendor's responsibilities:
  - a. The surrendering vendor must receive a completed ORP/TDA Transfer Verification Form certified by the appropriate System Member Human Resources or Payroll Office and the receiving vendor's rollover/transfer form, prior to making any Contract Exchanges. If unauthorized Contract Exchanges are made, the System has the right to require the surrendering vendor to recover the funds or make the account whole.
  - b. Upon receipt of the completed ORP/TDA Transfer Verification Form and the receiving vendor's rollover/transfer form, the funds must be transferred directly to the receiving vendor within seven business days. The surrendering vendor may not delay Contract Exchanges by requiring additional paperwork or signatures or through some other means. However, the surrendering vendor may require a signature guarantee or medallion guarantee.
  - c. If a total Contract Exchange is completed by the surrendering vendor (i.e., the total account value is transferred to the receiving vendor) and additional funds are subsequently received by the surrendering vendor, the surrendering vendor is responsible for automatically transferring those funds directly to the receiving vendor. Employee must change their vendor in Workday if they do not want future contributions to go to the surrendering vendor.

#### H. Reporting Procedures

1. Each vendor must submit, quarterly, a report or reports directly to each participant containing:
  - a. For all accounts:
    - (1) Name and address of participant
    - (2) Identifying number
    - (3) Total payments received during the reporting period
    - (4) Expense charges during the reporting period
    - (5) Net payments during the reporting period
    - (6) Total value of account at end of the reporting period
    - (7) Net cash surrender value of account at end of the reporting period reflecting all potential charges against the account if it were surrendered for cash as of the last day of this reporting period
  - b. For fixed annuity accounts, submit the following additional information:

- (1) Interest rate or rates paid on the account from the previous reporting period to the end of the current reporting period
  - (2) Where multi-level rates of interest were paid on an account, a breakdown showing the amount in the participant's account at each interest level, the amount of interest earned at each interest level, and the rates of interest
- c. For variable annuity and custodial accounts, submit the following additional information:
  - (1) Units of each fund or investment or account purchased during the reporting period
  - (2) Total units of each fund or investment in the account at end of the reporting period
  - (3) The value of each unit of each fund or investment or account at the end of the reporting period
2. Each vendor must submit confirmation of receipt of funds (remittance acknowledgment) directly to each participant at least quarterly. The report shall contain the date and amount of each payment received during the reporting period.
3. Each vendor must, immediately upon execution of a transfer from one fund or investment account to another fund or investment account, submit a confirmation directly to the participant. This confirmation shall include all transfer information, including a statement of the charges made for the transfer, if any.
4. Company literature such as Annual Reports and Proxy Statements will be mailed directly to the participant's permanent address.

#### I. Solicitation Procedures

1. The System reserves the right to limit or revoke the solicitation privileges of any representative or vendor at its discretion if it determines that any representative or vendor is not properly serving the best interest of System employees or is disruptive to employees or System business.
2. Properly appointed representatives of authorized ORP vendors (listed in Appendix A) are permitted to solicit eligible employees at System facilities only as invited guests of the administration. They must abide by the rules established by System Benefits Administration, the Chief Executive Officer and the individual in charge of each System location.
3. Representatives are allowed to make sales presentations on System premises only at the request of the administration.
4. No unsolicited visits, mailings (including bulk mailings), telephone, or e-mail solicitations are permitted to campus offices.

5. The providing of gifts or monetary rewards in exchange of information on newly hired employees is prohibited.
6. All representatives are expected to abide by the parking regulations in effect at the various System locations. Excessive parking violations may result in the loss of solicitation privileges.
7. System employees are not allowed to provide copying or typing assistance, notary or other clerical service to representatives conducting business in System buildings.
8. Authorized ORP Vendors (listed in Appendix A) may supply sales literature to the System Member Human Resources or Payroll Offices. Brochures may be made available for employees at a location to be designated by the Chief Executive Officer of each System member or the individual in charge of each System component.
9. Informational reports may be requested by contacting Open Records:

The Texas A&M University System  
Public Information Officer  
Deputy General Counsel  
Moore/Connally Bldg.  
301 Tarrow St., 6th Floor, (Mail Stop 1230)  
College Station, Texas 77840

NOTE: The Texas Public Information Act restricts public access to the home addresses, home telephone numbers and social security numbers of employees who designate this information as private. Therefore, address labels and reports described above will only include employees who permit public access to their information.

#### J. Vendor Administrative Changes

1. Changes to existing information: System Benefits Administration must be notified in writing of any changes to the contact information provided in Appendix A, B, or C.
2. Adding representatives: System Benefits Administration must receive a completed Representative Acknowledgment Form (HR 13) that has been signed by the prospective representative and one of the individuals assigned as a Representative Designator or Primary Contact by the Authorized Vendor (listed in Appendix A). System Benefits Administration will notify the vendor and the various System Member Human Resources or Payroll Offices of the addition if acceptable. New representatives may not contact System employees until after the vendor has been notified that the addition is accepted.
3. Send a notice of change and/or requests to add or drop representatives to:

System Benefits Administration  
The Texas A&M University System  
Connally Building  
301 Tarrow Street, 5<sup>th</sup> Floor  
College Station, Texas 77840  
Phone: (979) 458-6330  
Fax #: (979) 458-6247

K. Recertification Procedure

In order to maintain solicitation privileges, the vendor will periodically be required to certify agreement with changes to the vendor requirements or to resubmit the information contained in the application.

1. The System is responsible for initiating the request for recertification. A written notice, including instructions and a response deadline, will be sent to the Primary Contact for the vendor.
2. Failure to respond in a timely fashion may result in loss of privileges.

L. Procedure for Terminating Vendor Participation in the ORP

1. The System may terminate a vendor's participation in the ORP by sending a written notice to the Primary Contact for the vendor at least 30 days in advance of the termination date.
2. A vendor may terminate participation in the ORP by sending a written notice to each participant in the program and System Benefits Administration at least 60 days in advance of the termination date.