

# **TEXAS STATE UNIVERSITY SYSTEM**



## **Depository Funds Policy**

**February 2016**



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### **DEPOSITORY FUNDS POLICY**

The Depository Funds Policy prescribes the Texas State University System (“TSUS”) guidelines for the safety of TSUS deposited funds and for the procurement and control of depository services.

This Policy is specifically directed to depositories providing collection and disbursement services (“banking services”) to the components of TSUS.

This Policy establishes general requirements for the establishment of a depository/depositories for TSUS components along with general procedures for awarding and monitoring the resulting depository contracts.

The Texas State University System Board of Regents (the “Board”) recognizes the unique characteristics of each component. The Board also recognizes that basic banking services are needed and those basic needs are identical for each component. The primary goal of the Board is to provide for safe, efficient, and cost-effective banking services across TSUS. . The main objectives for banking services are:

- provide for the safety of TSUS funds during collection, custody, and disbursement of those funds/assets
- effectively utilize tested banking technologies to serve the components to mitigate fraud, provide business continuity, and provide services in the most cost-effective manner.
- assure a minimum level of service across the System with which TSUS can grow and succeed
- achieve cost efficiencies through System-wide banking services
- achieve cost effectiveness through System-wide use of technology
- recognize the values of economy of scale in obtaining banking services
- assure full insurance and collateralization of TSUS deposited funds at all times

The Depository Funds Policy applies to all components of TSUS. All depository accounts and deposits will be established, controlled, and maintained in accordance with this Policy. Further investment of funds is accomplished under the TSUS Investment Policy for Operating Funds and Endowment Funds.

Depository accounts for time and demand deposits are to be established on a competitive basis at least every six (6) years through the process established by this Policy. The Vice Chancellor for Finance and the Chief Fiscal Officer (CFO) of each component will be involved in the development and bidding process in order to meet all needs.

## **Delegation of Responsibilities**

The Board retains ultimate fiduciary responsibility for all the funds and assets of TSUS. The Board will receive the evaluation of proposals and the recommendation from the Vice Chancellor for Finance, and make the final determination of award of depository services. The handling and control of TSUS assets in all components will have as its primary emphasis the safety of all TSUS assets. All processes and controls must adhere to the prudent person standard for all transactions as well as management of the overall banking relationship. Authority to sign on depository accounts is established in the TSUS Rules and Regulations.

The Vice Chancellor for Finance will be responsible for the coordination with components, preparation of the Request for Proposal (RFP), and competitive bidding of depository services on behalf of all components. The Vice Chancellor for Finance has complete oversight responsibility for preparation of the RFP used for the determination of depositories, determination of the format for specifications, solicitation of proposals, final recommendation for depository bank(s), and negotiation of final contracts.

The CFO of each component has the responsibility to work with the Vice Chancellor for Finance to assure timely preparation of the RFP, to develop and submit appropriate specifications for their component on a timely basis, and to review and provide feedback on proposals submitted. The CFOs shall participate in the evaluation and decision making process directed by the Vice Chancellor for Finance.

## **Funds Control**

Each CFO is responsible to develop and maintain controls and procedures to receive, disburse, and account for all funds of the component. Daily safety for funds and oversight of adequate collateralization is the responsibility of the CFO. The ongoing monitoring of services provided by the banking relationship to the component is the responsibility of each CFO.

All funds are to be deposited with the depository bank as quickly as possible, but within seven days of the date of collection as required by Texas Education Code 51.003(b). Timely deposit will insure that TSUS funds and assets are protected.

Reconciliation of accounts will take place on a timely basis after the end of each month and include all accounts. The CFO is to have all bank accounts reconciled as soon as possible after bank statements are received and no later than the 25<sup>th</sup> of the succeeding month.

## **Establishment of Component Depository Accounts**

Each component will develop procedures for the establishment (and termination) of depository accounts. As part of the RFP process, each CFO will evaluate the need for each existing account and its structure and incorporate the findings into the RFP.

## **Collateralization of Deposited Funds**

All time and demand deposits of TSUS funds deposited in any bank must be fully federally insured or collateralized continuously in accordance with this Policy and in conformance with the Texas Public Funds Collateral Act.

The TSUS master depository agreements shall be executed in accordance with the Federal Financial Institutions Resource, Recovery, and Enforcement Act (FIRREA), which requires a written agreement and a resolution from the bank board or bank loan committee.

In order to anticipate market price changes and provide additional security for all funds, the collateral for each component shall be maintained and monitored. At a minimum, the market value of the collateral will equal 102% of the total value of principal and accrued interest of the deposits. The pledging institution shall be contractually liable for monitoring and maintaining this margin daily.

Collateral pledged to secure deposits shall be held by an independent financial institution outside the holding company of the depository in accordance with a safekeeping agreement signed by authorized representatives of each component the depository, and the custodian (unless the custodian is the Federal Reserve Bank in which case a Circular 7 Pledgee Agreement will be executed). All collateral shall be subject to inspection and audit by TSUS or its independent auditors during reasonable business hours.

## **Authorized Collateral for Time and Demand Deposits**

The following securities are the only authorized collateral for time and demand deposits:

- A. FDIC insurance coverage.
- B. Obligations of the United States, its agencies or instrumentalities, or other evidence of indebtedness of the United States guaranteed as to principal and interest, including MBS which pass the bank (volatility) test and are eligible as collateral with the Federal Reserve.
- C. Obligations, the principal and interest on which are guaranteed or insured by the State of Texas or Texas political subdivisions having been rated no less than "A" or its equivalent by two nationally recognized rating agencies.
- D. Obligations of any state or of a county, city, or other political subdivision of a state having been rated no less than "A" or its equivalent by two nationally recognized rating agencies.

The component staff shall review no less than monthly the custodian pledged collateral.

## **Authorized Financial Institutions**

Only financial institutions doing business in Texas with a federal or state charter will be authorized to act as depositories for TSUS. The geographic disparity of the components is recognized and any depository chosen should have a local presence to serve the needs of those components.

## **Master Depository Agreement**

Through the solicitation process, one or more financial institutions will be designated as depositories for TSUS. A single Master Depository Contract will be approved and executed by the Board with the depository(s) chosen through the process and authorized to provide depository banking services to any component.

Each component may choose one of the designated banking services depositories with which the Board Master Depository Agreement has been executed to serve their component's banking services needs. No other depositories shall be utilized for banking services, i.e. collection and disbursement of funds.

Each component will execute an addendum to the Master Depository Agreement for the services as provided by the RFP under the master agreement at the fee structure as negotiated by TSUS for use by all its components.

The Master Depository Agreement will incorporate, by reference, all the provisions of the RFP used to obtain the proposal and the bank's proposal as submitted. The Agreement will address, at a minimum:

- designation as a depository
- defined term of contract
- conditions for events of default and termination of contract
- designation of parties and responsibilities of each
- applicability of the contract to all components with provisions for addendums and, if needed, applicable specific service sub-agreements
- insurance and collateralization terms and requirements
- assignment of custodian for pledged collateral
- execution of the contract to include the custodian
- incorporation of the fees and provisions used in the Request for Proposal (RFP)
- approving resolution by the Bank Board or Bank Loan Committee

## **Request for Proposals (RFP) for Depository Contract**

A RFP format will be utilized to solicit proposals from financial institutions for the provision of depository and banking services at least every six years. From this competitive process one or more banks will be chosen as depositories for TSUS and its components. Negotiations of final terms and conditions may be conducted in order to obtain the best value for TSUS.

The banking will be structured to ensure the security of assets and mitigate fraud, while minimizing the cost of related banking services provided.

The RFP should be sent to all known, applicable financial institutions within the geographic limitations of the components deemed capable of providing the services. Additionally, the RFP shall be published according to applicable state laws. The RFP will provide, at a minimum, for:

- account structures which support full investment of funds (such as sweeps),
- services for timely collection of funds through manual or electronic means,
- services for timely disbursement of funds through manual or electronic means,
- complete automated balance and detail reporting for accounting and management purposes,
- secure electronic transmission of information and financial data
- the ability to pay for services on a compensating or fee basis during the contract period, at the discretion of and notice of the component, and dependent upon interest rate environment,
- full insurance and collateralization of funds in accordance with this Policy,
- and
- termination provisions and conditions.

The Vice Chancellor for Finance, will notify each CFO of the timeline for issuance and accepting of proposals. The timeline developed by the Vice Chancellor for Finance shall include the issuance of the RFP, submission of proposals and Board approval.

The CFO's are responsible for preparing and providing to the Vice Chancellor for Finance the following twelve months' data for incorporation into its RFP:

- Consolidated bank analysis statements that reflect twelve months' worth of data, with the current fees redacted.
- New or optional services desired/required for the coming contract.

## **Request for Proposal Documents and Format**

Financial institutions may submit proposals for Banking Services at one or multiple components of TSUS. Key elements of the RFP will include:

- A schedule for and conditions required for the submission of proposals.
- A background statement of current services and structure.
- A statement of required services and conditions of the RFP.
- A compilation of service usage volumes by component and System-wide.
- A definition of required services and specific questions concerning the financial institution's provision for such services.
- A definition of optional services that may be used by TSUS with specific questions concerning the financial institution's ability to provide the service.
- A specific fee schedule to be completed as part of the proposal outlining fees to be charged for each required and optional service.
- An earnings history to be completed by the financial institution to indicate the prior twelve months' interest rates and earnings credit rates for each available type of account.

## **Evaluation of Proposals and Award of Contract**

The Vice Chancellor for Finance shall establish an evaluation team that is comprised of representatives from each component. Each CFO will provide the Vice Chancellor for Finance with a report evaluating and comparing the proposals that are relevant to their institution

The Vice Chancellor for Finance is authorized to consult with the financial institutions for clarification and negotiation of the proposals submitted.

The report will be distributed to all CFOs before presentation to the Board. More than one financial institution may be selected to fulfill specific geographic or service needs of the components.

The Board will receive the report and recommendation of the Vice Chancellor for Finance and award the depository contract(s).

A single Master Depository Agreement for TSUS will be negotiated and executed by the Vice Chancellor of Finance on behalf of the Board and in accordance with the Board resolution awarding the contract. If multiple contracts were awarded by the Board, each contract will be negotiated with the basic terms of the RFP. The Chancellor will coordinate the execution with the Regents.

The contract will be a Master Agreement and each component using the services of the financial institution will execute an addendum to the Master Agreement to enter into the agreement with the financial institution.

Notification of award will be sent to all proposing financial institutions by the Vice Chancellor for Finance, or his/her designee.



## **Transition Period**

An approximate timeline for implementation will be set with each financial institution and the component utilizing the services, but no implementation shall be delayed more than six months following Board action awarding a depository contract.

## **Definitions**

Bailee: the custodian's role under the Public Funds Collateral Act in events of default under which the custodian bank acts as the agent for TSUS and takes possession of all collateral under agreed upon terms until such default is cured.

Banks: financial institutions doing business in Texas and chartered as banks by the State of Texas or the Federal Government. Local banks operate with a branch or central location within the city limits of the city in which the component is located. "Virtual banks" (which exist fundamentally electronically) are not categorized as banks for purpose of this Policy.

Collateral: securities pledged to, but not owned by, TSUS placed in an independent custodial account for benefit of TSUS in the event of a default of the depository.

Component Funds: funds and assets which are the property of the TSUS component and funds for which the component is acting in a fiduciary capacity. The latter includes amounts generally accounted for in the Agency Fund group.

Custodian: a bank or other financial institution which acts as trustee and bailee for securities pledged as collateral by the depository bank. Custodians are limited to banks, bankers' banks, and the US Federal Reserve.

Depository: a bank designated as a 'depository' by the Board in which TSUS components maintain their bank accounts and from which they process collections and disbursements. Other depositories may be used strictly for investment purposes for time deposits or interest-bearing stand-alone accounts.

Education Code 51.002: delineates the types of funds which can be placed in depositories and includes general directions as to the competitive nature of bidding depository services

FIRREA: the Federal Financial Institutions Resource, Recovery, and Enforcement Act is the administrative act which guides the FDIC (Federal Deposit Insurance Corporation) in actions taken under the closing of a bank. The Act has four requirements of the public entity: any agreement must be in writing, the agreement must be approved by resolution of the Bank Board or Bank Loan Committee, the agreement must be entered into the official records of the bank, and any change in collateral must be simultaneous to the agreement (which requires that no list of specific collateral be appended to the agreement).

Operating Funds: those TSUS funds designated for operations of the TSUS and its components. Funds may be kept liquid (with daily liquidity) for day-to-day operations or be

held for short and long-term needs usually identified with fiscal year operations. These include funds not usually associated with day-to-day operations such as Plant and Retirement of Indebtedness (I&S) Funds. Investment of operating and endowment funds are governed by the Operating and Endowment Investment Policy of TSUS.

Texas Public Funds Collateral Act: Texas Government Code Chapter 2257 delineates requirements for insurance and collateralization of all public funds in Texas including higher education.