Processing University Contracts

OVERVIEW

This section explains the University contracting process and provides assistance to departments in the development, drafting, and processing of contracts.

A proposed contractual relationship or transaction that would commit University resources of any nature must be reduced to a written agreement. The agreement must be approved by appropriate University officials and signed by a University officer who has received written delegated authority from the Board of Regents or the President to sign such agreements (see BPPM 10.10).

Table 1 - Contract Administration Offices

<table>
<thead>
<tr>
<th>Office</th>
<th>Contract Types</th>
<th>Other BPPM References</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finance and Administration (telephone 509-335-5524)</td>
<td>Real Estate (sales/purchases/leases)</td>
<td>20.45</td>
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<tr>
<td></td>
<td>WSU Facilities Use</td>
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<tr>
<td></td>
<td>Interlocal and Interagency Agreements (between WSU and other governmental entities)</td>
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<td>Revenue-generating Agreements</td>
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<td>Performances</td>
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<td></td>
<td>Academic Programs (domestic and international)</td>
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<td>Affiliation Agreements (internships/student teaching)</td>
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<td></td>
<td>Miscellaneous Agreements</td>
<td></td>
</tr>
<tr>
<td>Purchasing Services (telephone 509-335-3541)</td>
<td>Personal Services Contracts</td>
<td>70.50</td>
</tr>
<tr>
<td></td>
<td>Purchased Services</td>
<td>60.01</td>
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<td></td>
<td>Equipment</td>
<td>Chapter 70</td>
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<td></td>
<td>Software</td>
<td>70.24</td>
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<td></td>
<td>Goods</td>
<td>Chapter 70</td>
</tr>
<tr>
<td>Office of Support and Operations (ORSO) (telephone 509-335-9661)</td>
<td>Sponsored Projects</td>
<td>Chapter 40</td>
</tr>
<tr>
<td>Human Resource Services (HRS) (telephone 509-335-4521)</td>
<td>Personnel</td>
<td>Chapter 60</td>
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<tr>
<td>Provost's Office (telephone 509-335-5581)</td>
<td>Faculty Employment</td>
<td>60.11, 60.25</td>
</tr>
<tr>
<td>Facilities Services, Capital (telephone 509-335-5571)</td>
<td>Major Capital Construction (including consulting)</td>
<td></td>
</tr>
<tr>
<td>Facilities Services, Operations (telephone 509-335-9000)</td>
<td>Minor Capital Construction (including consulting)</td>
<td>80.56</td>
</tr>
</tbody>
</table>
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Contract Defined
A contract is an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law.

Central Contract Administration Offices
Several central administration offices process contracts for the University.

General Questions
For answers to general questions about contract processing, contact the Office of Finance and Administration; telephone 509-335-5524.

Complex Agreements
Any central contract administration office may request assistance from the Associate Vice President for Finance when an agreement is unusually difficult to draft or negotiate or requires executive-level involvement.

CONTRACT PROCESSING PROCEDURES
To process a contract, departmental personnel initially contact the appropriate central contract administration office (see Table 1).

Exceptions
The procedures in this section do not apply to contracts processed through the Office of Research Support and Operations (ORSO), Facilities Services, Capital, and Facilities Services, Operations.

Standard Procedures
The standard procedures in this section apply to contracts processed by Finance and Administration, Purchasing Services, and Human Resource Services (HRS).

The proposing department is responsible for negotiating and preparing the initial draft of the agreement in accordance with this and other applicable BPPM sections.

The central contract administration office provides model agreements for use as contract templates.

Contracting Steps
Contracting is made up of five distinct steps: negotiation, drafting, review, approval, and performance.

NOTE: During the negotiation, drafting, and review stages of contract preparation, the negotiator and other University representatives often provide the other party with information regarding contract terms and conditions. The response from the other party may require additional negotiation, redrafting, and further review.

Negotiation
The proposing department is responsible for negotiating the terms and conditions that are unique to the requested agreement, e.g., scope of work, quantity, quality, price, deliverables, timelines,
Processing University Contracts

Negotiation (cont.)

work product. The terms and conditions include all rights, responsibilities, and obligations of the contracting parties.

The individual with the most knowledge of the desired relationship or transaction should conduct the negotiations. The proposing department may request assistance with negotiations from Purchasing Services or other central contract administration office.

The negotiator is to make it clear to other parties that ultimate University approval of the contract can only be conferred by a University official holding delegated authority to sign contracts on behalf of the University.

Drafting

The proposing department is responsible for originating contract drafts and providing supporting information. The contract draft must include standard University terms and conditions applicable to the type of contract being drafted. The appropriate central contract administration office may provide assistance (see Table 1).

Specific model templates are available from the appropriate central contract administration offices. See the agreement template corresponding to this section (BPPM 10.11) for general guidance regarding agreement preparation. This general template may be used if the central contract administration office does not provide an applicable model template.

NOTE: The use of a model template substantially expedites the University review and approval process.

Review

The proposing department completes a Contract Review Sheet that summarizes the proposed contract and indicates potential commitments of University resources, and provides for signatures of reviewing officers. The Contract Review Sheet is routed with the proposed contract.

The following information must be included on the Contract Review Sheet:

- A description of the proposed relationship or transaction.
- An explanation of how the proposed agreement relates to a mission or program of the proposing department.
- A description of the resources to be committed (e.g., money or other assets) and duration of the obligations.
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Review (cont.)

- The account coding for the supporting budget if the University is required to make payment.
- An indication of the type of contract, whether or not the contract is to be competitively awarded, the funding source, payment method, and insurance requirements.
- The names and signatures of University officers who have read and also recommend the terms and conditions of the contract.

Central Contract Administration Office

Route the initial draft of the proposed contract and the completed Contract Review Sheet to the appropriate central contract administration office (see Table 1).

EXCEPTION: See BPPM 40.02 for review and approval of sponsored agreements.

The proposing department and central contract administration office refine and revise the draft until the reviewing parties are satisfied that the contract is in final form.

The proposing department should allocate adequate time for this part of contract preparation. Early review of the draft by the central contract administration office usually expedites the contract preparation.

Other Review

When a draft contract involves the following issues, the central contract administration office ensures that appropriate offices review the document.

- Ethics issues: Office of Internal Audit (telephone 509-335-2001)
- Legal issues, e.g., indemnification, arbitration, legal authority to enter the contract: Attorney General's Office (telephone 509-335-2636)
- Billing or tax issues: Controller's Office (telephone 509-335-2022)
- Patent rights, copyrights, trademarks, data rights: Office of Commercialization (telephone 509-335-5526)
- Insurance: Risk Management (telephone 509-335-6893)
- Computer equipment, services, or software: Information Technology Services (telephone 509-335-4357).
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Approval

The proposing department obtains administrative approval. The appropriate central contract administration office obtains approval as to form and final approval.

Administrative Approval

The proposing department is responsible for obtaining appropriate administrative approval to proceed with the agreement, usually before the contract is in final form.

Written approval by unit administrators constitutes affirmation that the approvers have read and reviewed the proposed contract that documents the transaction or relationship, understand the commitments and risks undertaken, have the funds or resources to support contract requirements, and recommend the approval and execution of the agreement.

A department or college may impose internal approval processes in addition to the University requirements described here.

Academic Departments

A contract originating with an academic department should be approved by the dean or equivalent area administrator.

Nonacademic Departments

A contract originating with a nonacademic department should be approved by the responsible unit manager, director, and vice president or associate vice president or equivalent area administrator.

Approval "As to Form"

The central contract administration office obtains approval as to form from the Office of the Attorney General when the contract deviates from one of the model templates.

This approval merely indicates that all elements necessary to create a formal contract are present and that there is nothing that is contrary to state law in the agreement. Approval as to form does not confer approval of the proposed transaction on a policy level or indicate whether or not the proposed agreement and terms are beneficial or detrimental to the University.

This step may take several days. The central contract administration office should route the contract to the Office of the Attorney General several days in advance of any deadline to provide adequate review time.

Final Approval

Signature by an officer with delegated contract authority constitutes the official University final approval of the contract. This signature may be obtained either before or after signatures by other parties to the agreement. If any party seeks to make changes
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Final Approval (cont.)

Only those with delegated contract authority originating with the Board of Regents may sign agreements for and on behalf of the University (see BPPM 10.10). The Board of Regents by resolution has delegated certain contract authority to the President. The President has delegated in writing specific parts of that authority to the Vice President for Finance and Administration and other specifically named University officials. NOTE: Certain contracts require the approval of the Board of Regents.

Performance

The proposing department is responsible for the contract performance. Likewise, any obligations indicated in the contract remain with the unit, department, or college requesting the relationship or transaction. As such, during the administrative review the approving dean or director should carefully review the agreement for commitments the department will be required to provide or elicit from other parties.

If during the performance of the contract, it becomes apparent that contract changes are required; the proposing department initiates a revised contract proposal and processes the proposed contract using the procedure in this section. Such changes might include extending the time of performance, changing the scope, or changing costs.

Problem Resolution

The proposing department should seek assistance from the responsible central contract administration office when resolving contract problems. If the resolution results in a change in terms and/or conditions, a University officer holding delegated signature authority must approve the new contract. If the problem involves litigation or potential litigation, the central contract administration.