



WICHITA STATE UNIVERSITY

Audit Update

A Newsletter from the
Office of Internal Audit
201 Morrison Hall, Campus Box 205

Director of Internal Audit
Chris Cavanaugh 5823

Senior Internal Auditor
Terry Coltrain 5824

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This newsletter was distributed to all University budget officers. Please email chris.cavanaugh@wichita.edu to request additional copies.

University Contracts Policy

The University's **Execution of Contracts Policy** at Section 1.04 of the *WSU Policies and Procedures Manual* provides guidance relative to contracts and contract processes at WSU. The goal of this newsletter is to explain the policy and address misconceptions about contracts and contract processes at WSU.

The Execution of Contracts Policy contains the following provisions:

1. For purposes of this policy, a "contract" is any agreement or promise which purports to obligate the University to perform some responsibility or to take some specific action[s].
2. All University contracts must be in writing and must be in the name of Wichita State University. Colleges, individual schools, divisions and departments shall not enter into contracts.
3. The President, the Provost and Vice President for Academic Affairs and Research, and the Vice President for Administration and Finance are the only individuals authorized to contractually bind the University by the execution of a contract. The President, the Vice President for Administration and Finance, and the Provost and Vice President for Academic Affairs and Research may further delegate authority to execute contracts (and thereby legally commit) on behalf of the University with consideration given to the type of contract and the amount of revenue and expenses involved.

4. All contracts or contract forms involving an expenditure of funds, either by or to the University, in an amount of \$2,500 or more, must be approved by the University's General Counsel prior to execution on behalf of the University.

Examples of Contracts

It is sometimes perceived that an "agreement" carries less legal authority than a "contract" and thus falls outside the reach of the Execution of Contracts Policy. Any agreement or promise that purports to obligate the University to perform some responsibility or to take some specific action is deemed to be a contract, regardless of the name of the document or the label attached to it. It is also incorrect to assume that if an agreement is not in writing, it is less than a contract. As provided in the policy, all University contracts must be in writing. Examples of University contracts include:

1. Agreements for the purchase or rental of goods or services
2. A sale, lease, or donation of University goods or services
3. Revenue-producing agreements
4. Agreements that set terms for acceptance of gifts
5. Assignment of the right of a person, group, or agency to use the University's name, marks, or logo
6. Contracts with hotel convention centers or other facilities that require a written agreement
7. Performance or entertainment contracts
8. Letters of understanding or cooperation
9. Student or faculty exchange agreements
10. Study/travel abroad agreements
11. Affiliation/internship agreements
12. Clinical training agreements
13. Instructional agreements
14. Nondisclosure agreements
15. Settlement of disputes
16. Liability waivers
17. Licenses

Source of Funds

In the case of contracts for the purchase of goods or services, the Execution of Contracts Policy applies regardless of whether the purchase is funded with GU or RU monies, or with monies from the WSU Foundation or Board of Trustees. The policy applies even though the procurement card may be used to facilitate the purchase.

Purchasing Authority Contrasted With Contracting Authority

When a budget officer approves a purchase requisition, the budget officer is not executing a contract. Contracting authority is (or already has been) executed elsewhere in the University's purchasing system. The budget officer is simply authorizing the expenditure from the department he or she oversees.

Delegated Contract Authority

The Execution of Contracts Policy stipulates that the University President, the Vice President for Administration and Finance, and the Provost and Vice President for Academic Affairs and Research may delegate authority to execute contracts. Delegation of contract authority will always:

1. Be in writing
2. Be granted to a specific person in a specific position
3. Identify the type of contract and related dollar limits
4. Expire when the person leaves the position specified

Aside from the three mentioned above, there are no positions with the authority to execute contracts due solely to the nature of the position. This includes the other vice presidents, deans, and department chairs. A delegation of authority does not include the authority to further delegate.

Approval by General Counsel's Office

The University's General Counsel or Assistant General Counsel must approve all contracts involving an expenditure of funds, either by or to the University, in an amount of \$2,500 or more, prior to execution. This applies to all contracts regardless of contract authority. Even though a person may have delegated authority to sign specified contracts in amounts up to \$10,000, those contracts of \$2,500 or more still require General Counsel Office review and approval before execution. This provision applies to the total contract amount. For example, a three-year contract in the amount of \$2,000 per year requires General Counsel Office review and approval prior to execution. **Regardless of amount, contract review is advisable and suggested.**

Research Grants and Contracts

The WSU Office of Research Administration (ORA) must be consulted whenever a proposed grant or contract requires a commitment of University facilities or personnel. ORA works with the General Counsel's Office to administer all grants and contracts prepared and awarded to conduct research, training and service projects for external sponsors and clients.

Gifts

Gifts that do not require institutional commitments are received and accounted for by the WSU Foundation.

Model Contract Process

In many departments, contracts are seldom an area of concern because items purchased for the ordinary course of business are routinely handled through the University's purchasing system. For those units that must use contracts, but are without a clear-cut process, the following can be used as a model:

1. The faculty or staff member initiates the contract, using past contracts as a guide when available and appropriate (faculty or staff should feel free to consult with the University General Counsel's Office if assistance is needed). If a contract will be prepared for the first time, ask the University General Counsel's Office to prepare the contract. Alternatively, the other party may have a contract that will need to be reviewed per the University's contract process.
2. The faculty or staff member provides the contract to the appropriate vice president, dean, or department chair for review (as necessary).
3. If the contract involves an expenditure of funds in the amount of \$2,500 or more, either by or to the University, the contract is submitted to the University General Counsel's Office for review. The General Counsel's Office will return the contract to the originating unit upon approval.
4. The contract will then be forwarded to the President, Provost and Vice President for Academic Affairs and Research, or Vice President for Administration and Finance as appropriate.
 - a. Generally, the President signs only those contracts that require the signature of the University's chief executive officer.
 - b. The Provost and Vice President for Academic Affairs and Research will generally sign contracts initiated by units within the Division of Academic Affairs and Research. The Provost has delegated to the Associate Provost for Research the authority to sign contracts that commit WSU to conduct research, training and service projects for external sponsors and clients.
 - c. The Vice President for Administration and Finance generally signs all other contracts.
5. After execution, the contract will be returned to the originating unit.