

University of San Francisco
Contract Review, Approval and Execution Policy

The term "contract" includes agreements, memoranda of understanding, leases, licenses, purchase orders, waivers, and any other document which creates an obligation for the University to do or not do a particular thing. Only the President, Vice Presidents, or their designees, are authorized to sign contracts on behalf of the University.

Contracts typically require evaluation from a number of perspectives. Most need legal review to ensure they do what they are intended to do without creating unnecessary burdens on the University and that they comply with various University, state and federal requirements. Many require budgetary review to ensure that the obligations created are financially sound. Others need to be scrutinized for conflicts with existing contractual relationships or for programmatic conflicts with other departments of the University.

The type of contract determines how it is processed within the University. The following types of standard contracts require minimal review.

Procurement: The Purchasing Department processes procurement requests including orders for goods and some services, office supplies, furniture and fixtures, and office equipment. Purchasing uses prescribed purchase order forms [to be approved] by the Office of the General Counsel (OGC). University departments may work directly with Purchasing on procurement matters; however, requests for variations from standard purchase orders require legal review by OGC.

Sponsored Research: Sponsored research projects include research projects funded by governmental units or corporate entities. Both government and corporate contracts require written approval by an appropriate University official on a Research Project Authorization Form. Generally, government contracts may be executed without OGC review. Corporate sponsorship contracts must be reviewed by OGC.

Facilities Use/Equipment Rental: A number of departments lease University facilities for short-term use and also rent equipment in conjunction therewith. Examples include Lone Mountain conference rooms, Memorial Gym, baseball/soccer fields, and Koret. Departments leasing facilities use prescribed facilities use agreements/equipment rental forms [approved] by the OGC. Requests for variations from the standard facilities use agreements/equipment rental forms require legal review by OGC.

Clinical Placement Agreements: OGC has provided the School of Nursing and the School of Education with a standard clinical placement contract which may be used without further legal review. Requests for variations from the standard clinical placement contract require legal review by OGC.

Academic Memoranda of Understanding: OGC has provided a standard memorandum of understanding in the form of a template containing many provisions. Schools wishing to enter into a memorandum of understanding with other institutions may use the template

for negotiation purposes. Variations from the standard memorandum of understanding require legal review by OGC.

Waivers: OGC provides various departments with a standard waiver form for use with voluntary on-campus and off-campus activities. The form contains blanks to be filled in according to the events. Departments may insert activity information and submit the waiver to Risk Management for review; however, any deviation from the waiver language requires review by OGC.

All other contracts require review and approval in accordance with the steps set forth below in order to minimize delay.

1. Department Approval. The first step in the contract review process is written approval (by cover memo) from the dean of the school, or head of the department, from which the contract originates. Note that if the resources of more than one school or department are implicated by the contract in any way, written approval from that school or department must be also obtained.
2. Collateral Review. Depending on the nature of the contract, approval by the following University departments may be required.

Plant Services: Plant Services must be contacted and issue its approval if the contract requires any changes to the University's physical plant; presents environmental safety issues; or involves use of Plant Services employees or equipment.

Business & Finance: Business and Finance must be contacted and issue its approval if the contract requires the University to issue a check in under 30 days or to accept credit; requires any modification of the school or departmental budget; or results in expenditures in excess of \$ _____.

Risk Management: Risk Management must be contacted and issue its approval if the contract involves special risk management issues or the University is required to provide proof of insurance.

3. General Counsel Review. The contract, the departmental approval(s) and any collateral review comments must then be submitted to the OGC for its review and comment.
4. Authorized Officer Approval. After the above steps have been completed, the contract is forwarded to the President, Vice President, or authorized designee, for final approval and signature.

Student Organizations

Only registered student organizations may request the University to enter into a contract on their behalf in the name of the University. No student or student group may negotiate contracts without prior written University approval. Individual students or unregistered student groups

have no authority to request that the University assume a legal obligation on their behalf. Contracts signed by individual students or in the name of student groups, registered or unregistered, will not be honored by the University; and the individual student or students involved will be responsible for any financial commitments.

MEMORANDUM

TO:

FROM: Office of the General Counsel

RE: (Title of policy, contract)

DATE:

Thank you for submitting your _____ to the Office of the General Counsel (OGC) for review. We appreciate the opportunity to review this in a collaborative effort with you, both to assure legal compliance and to avoid potential liability. We look forward to working with you cooperatively to achieve your goals.

Review Timing and Scheduling

Please allow at least ten working days from receipt of the Requested Information form (attached) for the review to be completed. Lengthy or complex agreements may require additional time. Emergency requests requiring a faster response will be processed as soon as possible, depending on urgency, need, and available staff.

Contact Review Policy

The OGC offers assistance in drafting and legal counsel related to essential contract elements. For example, clarity and consistency of terms, duration, termination, indemnification, consideration, etc.

[The OGC does not make business or policy decisions, for example, whether the costs, fees, or amounts involved are appropriate, or whether a program or service is desirable or appropriate.]

Before any agreement or contract is submitted to our office, you must have authority to do so, and the agreement or contract must be approved as a matter of policy by the appropriate administrator. Ultimate authority for contract approval lies with your divisional Vice President or Dean. You are responsible for negotiating, administering, terminating, and renegotiating the agreement [TO BE DISCUSSED]. We will assist and counsel you in these processes. Please do not attempt to terminate a contract or agreement without consulting the OGC first.

CORRESPONDENCE FROM THE OGC IS FOR INTERNAL USE ONLY. SUCH CORRESPONDENCE ADDRESSES SENSITIVE ISSUES SUCH AS CONTRACT WEAKNESSES AND STRATEGY CONSIDERATIONS. IT SHOULD NOT BE SHARED WITH OTHER PARTIES TO THE CONTRACT. HOWEVER, PLEASE FEEL FREE TO INCORPORATE SUGGESTED LANGUAGE FROM OUR REVIEW IN YOUR CONTRACT NEGOTIATIONS.

In order to complete the review process, please complete the requested information, and return this form to the OGC as soon as possible. Thank you.

Requested Information

- 1. Please provide any concerns, problems, questions, or uncertainties you have regarding this contract, agreement, policy, etc.:

- 2. Please briefly describe the nature of this contract, agreement, policy, etc., focusing on the services each party will provide and goals or purpose you wish to achieve:

- 3. Please identify any type of risk you believe is involved (e.g., copyright infringement, libel, personal injury) and describe any activities that may involve risk:

- 4. The ability to make changes in contracts is usually dependent on the bargaining power or “leverage” of each party. Using your best judgment, do you think the other party is willing to make changes in the contract or agreement? Yes No

- 5. Who drafted this contract or agreement? _____

- 6. Has the contract or agreement been approved by an appropriate administrator in your division or department? Yes No Please identify approver: _____

- 7. Your requested response date is _____. Please explain if needed before 10 days.

Your contact person for this contract is _____.

Again, thank you for submitting your agreement for review.