

University of the District of Columbia

Title: Contract Administration & Review Guidelines	President's Approval: June 21, 2010
Related Policies and Procedures: <i>UDC Procurement Regulations; UDC Contract Review Routing Form; Unauthorized Procurements and Ratification Policy; UDC PASS Approver Policy; and Independent Contractor/Employee Guidelines.</i>	

I. Introduction

The effective administration of contracts, which in any way obligate performance by the University, is an essential operational function. These guidelines define the general parameters through which a University contract may be created, the different kinds of contracts or agreements and the necessary administrative reviews.

II. Scope

This document describes the process for review of University agreements of any type, whether for employment, research, business purchases or other purposes. The basis for this review process is found in applicable statutes, regulations, University bylaws and other governing documents. These agreements include all deeds, leases, licenses, contracts and similar agreements arising out of the normal course of business of the University. Examples of the contracts covered by these guidelines include: construction agreements; software consulting agreements; contracts for computer hardware and telecommunications services, or for the purchase of any other kinds of materials, equipment or services; facilities use agreements; memoranda of understanding/agreements; interagency agreements; procurement agreements or financing agreements of any kind; and agreements with temporary employment agencies.

All contracts entered into by a component of the University, unless specifically excluded by policy adopted by the Board of Trustees, are subject to these guidelines, including all original contracts, amendments, alterations, modifications, corrections, changes and extensions.

All contracts must be in writing.

III. Internal Review Process

Generally

Contracts for different purposes may have different steps in the review process. A lease and lease renewal, for example, must be reviewed by the Office of General Counsel and must be approved by the University's Board of Trustees. All contracts binding the University or any of its components must be approved by the Office of General Counsel, consistent with University policy. All contracts creating University financial obligations must also be approved by the Office of Contracting & Procurement, unless noted below.

Procurement Contracts

The University's Chief Contracting Officer may delegate certain contract administration functions to a University officer or staff member. The delegate becomes the Contracting Officer's Technical Representative or COTR. Contracting officers, and not COTRs, have the authority to enter into contracts. COTRs monitor the contract. Every University procurement contract has an appointed COTR. Any COTR administering or monitoring an agreement while acting within the scope of his/her employment is entering into a contract on behalf of the University with legal considerations and requiring legal review. COTRs must have the cooperation and express approval of any office, department or unit of the University which may be affected in the performance of the contract. For example, coordination may be required of additional offices such as Information Technology, Risk Management, Facilities & Real Estate, etc.

All COTRs must submit requirements, which may include a business justification and detailed statement of work, to the Office of Contracting & Procurement. Once a contract is generated, a COTR must read the contract in its entirety prior to signing and is responsible for confirming that:

- The contract reflects the current requirements and expectations between the University and the opposing party;
- The scope is consistent with program/department needs, the mission of the University, and is in the best interests of the University;
- As the Contracting Officer's Technical Representative (COTR), he/she will monitor the overall agreement, confirm deliverables and ensure compliance in a manner consistent with the Office of Contracting & Procurement's COTR policies and training.

Once the responsible University officer or staff member is satisfied that the contract is sufficiently clear and consistent, other department reviews have taken place, and that any additional documentation has

been supplied, the requirements should be forwarded to the Office of Contracting and Procurement for processing. The Office of Contracting & Procurement will forward the potential contract to the Office of the General Counsel.

The University Community is reminded that the University's procurement autonomy was approved by the City Council of the District of Columbia on December 15, 2009 and formalized by the University's Board of Trustees. Procurement Regulations may be accessed at www.udc.edu/procurement. New policies and procedures are currently in draft form and will be available to the University community by late Summer 2010.

In the interim, if there are any policy and procedure questions and/or concerns they should be directed to the University's Office of Contracting and Procurement (202-274-5181).

See: UDC Procurement Regulations and UDC Contract Review Routing Form.

IV. Unauthorized Contracts & Procurements

Only authorized contracting officers (and not COTRs) are permitted to enter into contracts, modify contracts, terminate contracts or contractually bind the University for the procurement of supplies, services, or construction. A contracting officer may bind the University only to the extent of his/her written delegated authority. Any contract or procurement for supplies, services, or construction entered into or conducted by an individual other than an authorized contracting officer shall be considered an unauthorized procurement.

Examples of unauthorized procurements include, but are not limited to, (i) a contract signed with a vendor by any employee or person other than a duly appointed contracting officer; (ii) instructing a vendor to begin work, without a valid contract and/or Purchase Order in place; (iii) informing a vendor that the vendor has been awarded a contract or will be engaged to deliver goods or perform services, without a valid contract and/or purchase order in place.

Any employee responsible for initiating an unauthorized contract or procurement shall be subject to sanctions and may be personally liable for any obligation.

Although the University has a procedure for those rare cases where the ratification of an unauthorized commitment is necessary, the procedure should not and will not be used in a manner that encourages such commitments by any employee of the University.

See: Unauthorized Procurements and Ratification Policy; UDC Procurement Rules and the UDC PASS Approver Policy.

V. Employees versus Independent Contractor

Only persons authorized to offer employment or to sign employment documents may do so. To determine whether you have such authority, contact the Office of Human Resources. These guidelines do not address any academic appointments made on regular University appointment forms that require approval by the Provost. Likewise, these guidelines do not address ordinary employment appointment forms (Form 52, etc.) used for hiring non-academic employees through the Office of Human Resources.

Any agreements to hire a person to perform work or any other services for the University which are not going to be processed on a regular, pre-approved University form through the Office of the Provost or through HR must be reviewed by the Office of the General Counsel and the Office of Contracting & Procurement. Examples of such agreements would be research consultants; agreements for temporary or ongoing consulting services in administrative functions such as facilities, finance, legal services and the like; and Independent Contractor agreements.

No person may work for UDC, either as an employee or as an independent contractor or consultant, until his/her hiring has been properly approved. It is important, in order for supervisors to avoid personal financial liability or other penalties for unauthorized hiring, that no person set foot in the workplace or otherwise begin to do work for the University, on campus or elsewhere, until he or she has been approved on the appropriate form, completed the Immigration Verification process (where appropriate) and received any required pre-employment orientation and training, such as in safety, certain biohazards or other similar areas. Hiring by an oral promise is prohibited. No person at UDC may get paid by the University as both an employee and as an independent contractor without approval by the Office of the General Counsel.

See: Independent Contractor / Employee Guidelines

VI. Memoranda of Understanding, Non-District Agency Memoranda of Agreements, Grants and other Academic Agreements

Regarding academic agreements, any document titled as a "Memorandum of Understanding" (MOU) must be reviewed by the Office of the General Counsel because in the District of Columbia, an MOU ordinarily has a technical meaning that makes it an important binding document between agencies or other entities within the District of Columbia Government. Documents such as a memorandum of agreement (MOA), agreements regarding academic operations (for example, affiliation agreements with external entities such as

hospitals, social agencies or school systems; or collaboration agreements with other universities) also require review by the OGC as well as approval by the Provost or her designee. Any agreement that commits University funds must also be approved by the Office of Finance.

Certain documents are research agreements, executed by the Provost or her designee. These include proposals for sponsored research and for training grants and training programs funded by external sources such as another District agency or a Federal agency, a foundation or a private corporation. Research agreements typically fund activities including direct research by UDC faculty; sub-contracts from UDC to collaborators at other institutions where the funding to UDC is from external sources; training by UDC faculty for personnel at organizations outside the University; or performance of work by UDC as a sub-contractor on another University's grant. Research agreements must be reviewed by the General Counsel.

VII. Copies / Archives

All University contracts originating or approved by the Office of Contracting & Procurement shall be archived in the Office of Contracting & Procurement. The Office of Contracting & Procurement will provide fully executed copies to the COTRs. All other University agreements approved by the Office of the General Counsel must be returned to the Office of the General Counsel within five (5) days of execution. Forward a copy of any document which involves the University receiving funds to the Office of Finance.

Finally, all COTRs must maintain a copy of the contract in his/her office.

VIII. Conflict of Interest

Members of the University community, including contracting officers, are expected to conduct the affairs of the University in a manner consistent with its educational purpose and its overall best interest. The contracting and procurement operations of the University shall be conducted with the sole aim of providing the best value to the University in accordance with these rules.

Contracting officers and COTRs are expected to evaluate their external interests, both professional and personal, and avoid any situation that may: (i) compromise their ability to carry out their primary obligations to the University; (ii) suggest an actual or apparent conflict of interest; or (iii) impair the University's reputation.

Members of the University community have a duty to fully disclose all facts and circumstances surrounding an actual or apparent conflict before making any commitment or decisions which pose the conflict. No person having contracting authority for the University or otherwise involved in any procurement shall participate in the transaction if the person is affiliated with, has financial interest in or is related to the prospective bidder or vendor.

See: UDC Procurement Regulations Section 3001.7 and UDC Conflict of Interest Guidelines

IX. Miscellaneous

Any contract reviewed and authorized prior to the adoption of these guidelines shall remain in full force and effect, but subject to review by the Office of the General Counsel. Any modification or extension of these earlier agreements shall be reviewed and authorized in accordance with these guidelines.

History / Revision Dates

Origination Date: June 21, 2010
Next Review Date: September 15, 2010
Office of the General Counsel
Office of Contracting & Procurement