



LOYOLA UNIVERSITY MARYLAND

— 1852 —

## NEGOTIATING AND ENTERING INTO CONTRACTS OR AGREEMENTS

**DIVISION WITH PRIMARY RESPONSIBILITY:** Business and Finance

**OFFICE FOR ENSURING COMPLIANCE:** Office of Facilities and Campus Services

**CONTACT OFFICE:** Campus Services, [jwood@loyola.edu](mailto:jwood@loyola.edu)

**EFFECTIVE DATE:** May 2, 2016

**REVISION HISTORY:** September 16, 2009

**SCHEDULED FOR REVIEW:** Annually

### **POLICY SUMMARY**

This Negotiating and Entering into Contracts or Agreements Policy (Policy) describes Loyola University Maryland's (Loyola's or University's) requirements for negotiating and entering into contracts and includes contract review, signing authority and requirements for third parties.

### **REASON FOR POLICY**

University faculty, administrators, staff, students, and student organizations routinely enter into contractual agreements with third parties that involve a wide array of activities including, but not limited to, services, consulting, maintenance, supplies, performances, facilities use, construction, research, and publications. This Policy is intended to provide guidance to the Loyola community on signature authority, review process, and recordkeeping for all contractual agreements with third parties involving University resources. The goal of this Policy is to promote good business practices, ensure all contractual agreements meet the University's legal compliance and insurance requirements, and avoid unintended contractual obligations.

### **STATEMENT OF POLICY**

#### **A. TYPES OF AGREEMENTS AND CONTRACTS**

Contracts and agreements governed by this Policy include licensing arrangements; memorandums of understanding (MOUs); clinical agreements; maintenance services; internships; property leases; research; event-related agreements with speakers, caterers or entertainers; software licensing; agreements involving consultants or other independent contractors; and all other agreements that create a financial commitment or obligation for the University.

In general, all types of contracts or agreements mentioned above will hereby be classified into two (2) main types:

## **1. Standard**

Contracts or agreements that contain standard terms and conditions as developed by the University and previously approved by legal counsel and the Office of Facilities and Campus Services.

## **2. Non-standard**

Contracts or agreements that do not contain standard terms and conditions as developed by the University. These are typically agreements where the vendor selected presents their own terms and/or agreement to the University for review and approval.

Non-standard agreements may need additional review if they fall into one of the following categories:

### **a. Software Licensing**

Non-standard software licensing contracts must be submitted to the financial analyst, Technology Services, for approval. Contracts may be emailed with the subject line “Software Licensing”. The financial analyst may be reached directly at extension 2611.

### **b. Sponsored Programs**

Post award grants, contracts, and agreements must be sent to the Office of Research and Sponsored Programs (ORSP) for approval. Please contact the director for the Office of Research and Sponsored Programs at extension 2004 for more information.

### **c. Event Agreements**

Large events that commit the University to provide lighting, sound, event space or special accommodations for guests must also be sent to Event Services for approval. The director of Event Services and Campus Centers may be reached directly at extension 5077.

## **B. SIGNATURE AUTHORITY**

Contracts and agreements will generally involve the University either obtaining or supplying goods and/or services. Only an authorized University representative shall sign contracts or agreements.

The University has provided signature authority to certain individuals based on their level in the organization to approve various transactions. University personnel should review the Signature Authorization Policy before signing legal documents to ensure they have proper signing authority. Any contract or agreement committing the University to a period of more than three (3) years, including extensions, that impact the University economically or financially, must be co-signed by the University’s Vice President for Finance and Treasurer.

**C.** Employees who sign contracts without proper authorization will be subject to University disciplinary action. Prior to signing legal documents containing monetary obligations, authorized individuals should identify the funding source intended to support the expenditure and ensure that adequate funding is available.

## **D. BACKGROUND CHECKS**

Under certain circumstances, the University requires that background checks be conducted for employees and/or agents of contract service providers.

If the University is entering into a contract that requires a third party to:

- Enter bathrooms, locker rooms, and/or residence halls where students and/or employees might present; and/or,
- Deal with financial information such as credit card transactions and/or any other highly sensitive information;

The contract must have the following wording:

*[Contractor] certifies that it has obtained satisfactory criminal history records checks and reference checks for all of its employees and agents who will be providing services under this Agreement. [Contractor] further agrees that it shall verify its certification contained in this Paragraph [x] in a signed writing delivered to [Loyola University Maryland] prior to the commencement of this Agreement. [Contractor] further certifies that it shall obtain a criminal history records check and reference check before engaging any new employee(s) or agent(s) that [Contractor] wishes to hire or engage after the commencement of this Agreement who will provide services under this Agreement, and [Contractor] agrees to verify, in a writing forwarded or delivered to [Loyola University Maryland], that such investigations were completed and the findings satisfactory.*

All departments must check the [debarred vendor](#) lists below before awarding or renewing a contract in order to ensure that they are not awarding a contract to a debarred vendor. Debarment may occur, by the federal government or the state, when there is evidence of improper conduct, including, but not limited to, fraud, collusion, attempts to improperly influence a bid process or indictment by the bidder/contractor.

## **E. INSURANCE AND INDEMNIFICATION**

The University requires certain levels of insurance coverage and indemnification in order to mitigate the risks of entering into a binding contract. It is University policy that the type(s) and levels of insurance coverage required for a given contract or lease will be determined based on discussion between the requesting department and the Office of Facilities and Campus Services. The University's director of Campus Services is also available for technical assistance in determining appropriate terms of insurance and indemnification.

The indemnification provision of a contract or agreement outlines the management and transfer of risk by establishing the circumstances in which parties to the contract will hold each other harmless in the event of a claim or suit that results from the activities or transactions specified in the contract. The wording of an indemnification provision will be determined through discussion between the requesting department and the Office of Facilities and Campus Services, and with the risk manager and/or the University's legal counsel.

### Example of Indemnification:

*Note: "Vendor" pertains to the organization with which the University is entering into a contract.*

*The University hereby agrees to indemnify, protect, and hold harmless Vendor, its agents, officers, and employees from and against any and all claims, demands, actions or judgments for which Vendor, its agents, officers or employees may become liable upon or arising out of any services performed under or pursuant to this Agreement resulting from the negligence, actions, or omissions of the University, or any of its directors, officers, agents, or employees.*

## **F. IMPORTANCE OF WRITTEN CONTRACTS AND REVIEW**

### **1. Written Contracts**

All contracts with third parties involving University resources should be in writing, regardless of prior practice or prior business relationships with the person or entity and should be supported by a purchase order when appropriate.

### **2. Advance Review by Relevant Departments**

All contracts should be reviewed by the department responsible for the contract and approved by departments that will need to provide technical support, facilities or personnel to carry out the contract, prior to forwarding to the Office of Facilities and Campus Services.

## **G. SPECIFIC STEPS TO TAKE PRIOR TO CONTRACT/AGREEMENT EXECUTION**

### **1. Non-standard Agreement**

If a non-standard agreement is entered into, a discussion concerning the intended business arrangement should take place with the Office of Facilities and Campus Services. The Office of Facilities and Campus Services will assist in reviewing contract language/format, and will clarify the contract review process if required.

A non-standard university contract or agreement that may require review by legal counsel must be forwarded to the director of Campus Services for review at least one (1) month prior to the anticipated effective date of the contract.

### **2. Standard Agreement**

All standard contracts should be forwarded to the director of Campus Services for review and approval at least two (2) weeks prior to the anticipated effective date of the contract.

### **3. Executed Agreements**

Original signed contracts or agreements and related documents are to be kept on file in the Office of Facilities and Campus Services and the requesting department.

## **H. CONFLICT OF INTEREST**

University officials with contract authority must exercise that authority in a manner consistent with the University's Conflict of Interest Policy.

### **1. Record Keeping**

When a contract is signed, the University office/department that arranged for the contract is responsible for:

- a. Promptly providing the original, fully-executed (i.e., signed by all parties) contract to the Office of Facilities and Campus Services.

- b. Keeping a copy of the fully-executed contract, including all attachments and RFPs associated with the agreement for seven (7) years after the date of expiration of the contract. For additional information on record keeping, please reference the University's Records Retention Policy.
- c. Sending a copy of any required insurance certificates to the Office of Facilities and Campus Services.

**DEFINITIONS:** None

**CROSS-REFERENCED POLICIES/DOCUMENTS:**

- Conflict of Interest Policy
- Records Retention Policy
- Standard Insurance Requirements
- Signature Authorization Policy