

University Contract Approval and Execution Policy

Subject: Governance and Organization

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Responsible Party: Office of Legal Counsel

100.00 Introduction and Purpose

This policy defines those employees of the University who are authorized to execute contracts on behalf of the University and describes the procedure for review and approval of contracts prior to execution.

200.00 Definitions

1. **Authorized Signatory:** An individual authorized pursuant to policy or properly holding delegated authority to sign University Contracts with external parties on behalf of the University.
2. **Executed Contract:** A University Contract as defined below with the authorized signatures necessary to become effective.
3. **Delegate:** The employee who is officially authorized to sign a University Contract on behalf of a delegator.
4. **Delegator:** The employee who has authority to sign a University Contract on behalf of the University who transfers (“delegates”) the employee’s signature authority to another University employee.
5. **Delegation of Authority:** The formal recorded conveyance of authority from one University employee to another University employee to sign a University Contract.
6. **Sponsored Project:** A grant, contract, cooperative agreement, subgrant, subcontract, consortium agreement, purchase order, or memorandum of understanding (hereafter collectively referred to as a “sponsored project”) that formalizes the transfer of money from a sponsor in exchange for specified activities (e.g., research and development, instruction, public services etc.), and may require specific deliverables such as detailed financial and/or technical reporting by the recipient. Performance is usually to be accomplished within a specified period, with payment subject to revocation, and may include provisions related to intellectual property and publication rights. The University’s [Office of Sponsored Programs](#) is responsible for accepting and administering sponsored projects.

7. **Total Contract Value:** The entire monetary value of the contract as measured by the initial contract period plus any options to renew or any options to buy additional supplies or services.
8. **University Contract:** A contract or agreement between two or more parties, one of which is the University (or any of its units), which obligates the University in any manner or is otherwise intended to have a legal effect. A document may be a University Contract regardless of the title of the document. For example, a University Contract may be titled a memorandum of understanding, license, affiliation agreement, quote, purchase order, scope of work, “click” agreement, end user agreement, lease, purchase agreement, letter of understanding, or simply “terms and conditions” referenced in a purchase order or quote.

In general, agreements are not University Contracts if they are entered into on behalf of a student organization or for purely private interests. Questions concerning whether a document is a University Contract should be directed to the Office of Legal Counsel.

300.00 Responsibilities and Procedures

310.00 University Contract Protocols

310.10 Approval and Execution of Contracts

All University Contracts must be in writing, conform to this policy, and be signed by an Authorized Signatory, whether the contract is an expense contract (the University is paying money), revenue contract (the University is receiving money), or a zero-dollar contract (no money is exchanged but there are other obligations).

University Contracts signed by any individual who does not have documented signature authority are not binding on the University and may subject the individual who signed without authority to personal liability.

A University official entering into any kind of agreement or other document placing obligations on the University or any of its Units should presume they are negotiating a University Contract and this policy applies. All University Contracts, whether routed for legal review, must be consistent with the overall mission of the University and within the capacity of any Units that may be obligated by the contract. University Contracts must also comply with all applicable University policies and state and federal laws. If a University Contract is exempt from legal review, it is the authorized signatory's obligation to ensure compliance with all requirements.

All Authorized Signatories must complete signature authority training through the Office of Legal Counsel prior to signing any University Contract. Signature authority is not deemed effective until all required training has been completed. All Authorized Signatories must complete “refresher” training at least once every three years to maintain an authorized signatory status.

310.20 Responsibilities of an Authorized Signatory

Each Authorized Signatory must:

- Read each proposed University Contract in its entirety and determine whether execution of the contract is in the best interest of the University.
- Coordinate all required reviews and obtain all internal approvals required for each proposed University Contract.
- Ensure the contract terms of each proposed University Contract accurately reflect the negotiated statement of work, meet the originating department/unit's expectations, and protect the University's interests.
- Verify each proposed University Contract complies with all applicable laws as well as University policies and procedures.
- Ensure that appropriate notice is provided to the department of Administration and Finance about any proposed University Contract that may generate unrelated business income.
- Sign each approved University Contract in the name of "Montana State University" and only within the limitations of the signatory's authority.
- Assign each executed University Contract to a contract manager as outlined in Section 340.00 below; maintain a central file of original executed University Contracts available for audit by the University; and follow federal, state, and University policies for record retention.
- Participate in signature training prior to signing any University Contract and complete refresher training at least once every three years.

320.00 Required Review of All University Contracts

The following offices must review and approve certain types of University Contracts prior to signature. Each reviewing office will coordinate with the Office of Legal Counsel as needed. All University Contracts, regardless of the type or dollar value, must comply with the laws of the State of Montana as well as Board of Regents and Montana State University policies.

320.10 Office of Sponsored Programs

Contracts for Sponsored Projects, regardless of funding amount, or for the rental of lab or research equipment or space must be routed directly to the [Office of Sponsored Programs](#) (OSP). Where appropriate, OSP will refer contracts for goods or services over \$5,000 funded by grant money to Procurement and Contract Services. For University Contracts involving expenditures under Sponsored Projects, OSP and the PI, as may be appropriate, are responsible for ensuring all requirements of the External Sponsor Agreement are met.

320.20 Information Technology

The following University Contracts must be submitted to [University Information Technology](#) for review and approval:

1. University Contracts for the acquisition or purchase of software, whether money is exchanged. Such contracts must be submitted to University Information Technology prior to submitting them to Procurement and Contract Services where required under this policy.
2. Any University Contract which includes an information technology component. For purposes of this policy, an information technology component includes any software licenses which involve access to student data or interface with University systems; hosted information technology solutions on University systems or cloud-based systems; any agreement providing or allowing access to University systems, networks, or data; and any agreement providing or allowing external sources access to University data or similar components.
3. Any University Contract which involves the transfer or storage of personally identifiable information, education records, sensitive data, or data that may be subject to export control must be reviewed by the University's Chief Security Officer.

University Information Technology review will ensure conformance with University IT standards, adequate security and support requirements, and risk mitigation. Approval must be in writing and maintained in the contract file.

320.30 Trademark Licensing and Enforcement

The following University Contracts must be submitted to [University Communications](#) for review and approval:

1. University Contracts involving commercial filming or photography on campus.
2. University Contracts involving the use of University branding, including the University's name, trademarks, or logos.
3. Advertising or promotional agreements under which advertising, or promotion will be placed on campus or commercial activity will take place on campus, either separate from or alongside University branding.

320.40 Campus Planning, Design and Construction

All University Contracts for leases or construction services must be submitted to [Campus Planning, Design, and Construction](#) for review and approval.

320.50 Technology Transfer Office

The following University Contracts must be submitted to the [Technology Transfer Office](#) for review and approval:

1. University Contracts involving University intellectual property (e.g., patentable inventions, copyrightable works, or trade secrets), or which purport to grant intellectual property rights to or from outside entities, such as licenses or assignments of rights.
2. University Contracts for licensing technology arising from University inventions and other creations, including agreements with terms governing patent and copyright registration, the generation and dissemination of royalties, or confidentiality and non-disclosure provisions related to the same.
3. Collaboration agreements between the University and industry partners or other educational institutions related to research and technology transfer, regardless of whether the transfer of materials or property are involved.
4. Material transfer agreements.
5. Nondisclosure or confidentiality agreements.

320.60 Office of Research Compliance

The following University Contracts must be submitted to the to the [Office of Research Compliance](#) for review and approval:

1. Any University Contract involving the use of human or animal subjects.
2. The purchase or shipment of controlled substances or items.
3. Testing services agreements.

320.70 Safety and Risk Management

Contact Safety and Risk Management for assistance with any of the following:

1. University Contracts with clauses that require non-standard University insurance (for example, Contracts that require the University to have coverage limits different from the statutory rates of \$750,000 per claim and \$1,500,000 per occurrence).
2. Contracts with vendors that do not satisfy the University's standard insurance requirements.

320.80 Procurement and Contract Services

All contracts for the procurement of goods or services not otherwise addressed above, or otherwise exempted from review pursuant to Section 300.00 of the [Procurement Policy and Procedures](#), regardless of the dollar value or type of good or service, must be submitted to Procurement and Contract Services for review and approval prior to being signed by an Authorized Signatory.

Additionally, all contracts containing provisions that conflict with the guidance in Section 400.00 (Contract Requirements and Prohibited Provisions), regardless of whether they are subject to review by another department or addressed under Section 300.00 of the [Procurement Policy and Procedures](#), must also be submitted to Procurement and Contract Services for review and

approval prior to signing, regardless of dollar value. Contracts for the procurement of goods and services must be made in accordance with the laws of the State of Montana and all [Procurement Policy and Procedures](#) as administered by [Procurement and Contract Services](#).

330.00 Legal Review of University Contracts

330.10 University Contracts Not Requiring Legal Review

330.11 Contracts Using University-Approved Forms

University Contracts utilizing forms approved by the Office of Legal Counsel do not require legal review, so long as: (i) no changes have been made to the form other than filling in blanks such as contracting parties, dollar amounts, term or length of the contract, and details regarding the scope of work of the parties; (ii) the contract amount is within a unit's monetary authority; and (iii) the Authorized Signatory has verified use of the most current form. Form agreements may include contracted services agreements, affiliation agreements, speaker agreements, facility use agreements, nondisclosure agreements, material transfer agreements, testing services agreements, and commissioned work of art agreements, among others. It is up to the individual preparing the contract to ensure that it utilizes the correct form.

330.12 Small Purchases or Service Contracts with a Total Contract Value Under \$5,000 USD

Subject to the [Procurement Policy](#) and the requirements of Section 320.00 (Required Review of All University Contracts), Section 330.11 (Contracts Using University-Approved Forms), and Section 400.00 (Contract Requirements and Prohibited Provisions), units may review and process University Contracts with a dollar value below \$5,000 USD without further legal review and approval. Such purchases and contracts may include, but are not limited to, authorized purchases with a University-issued purchasing card, hotel reservations, transportation, food, and meeting space.

330.13 Contracts for the Procurement of Goods and Services Approved by Procurement and Contract Services

University Contracts that are reviewed and approved by Procurement and Contract Services are not required to be submitted to the Office of Legal Counsel for review provided that the contract complies with the other provisions of this policy, including Section 400.00 (Contract Requirements and Prohibited Provisions).

330.20 Mandatory Legal Review of University Contracts

Any contract not exempted from legal review above must be sent to the Office of Legal Counsel for mandatory legal review. After addressing each of the responsibilities above and ensuring completion of any review required by Section 320.00, the originating unit will forward the draft contract to the Office of Legal Counsel for review and approval. The unit forwarding the draft contract to the Office of Legal Counsel shall indicate what units or departments have already reviewed and approved, where applicable, the draft contract.

The Office of Legal Counsel will review each proposed contract to ensure:

- The contract does not contain any prohibited clauses,
- The contract is consistent with state and federal law,
- The contract is consistent with University policies and rules,
- Risk management concerns have been reasonably addressed, and
- The contract is consistent with any predecessor documents.

The Office of Legal Counsel is not necessarily qualified to determine whether the proposed contract represents “the best deal” for the University regarding price, quality, or efficacy of goods or services. Therefore, determination of the best deal for the University is the responsibility of the initiating unit, Authorized Signatory, and Procurement and Contract Services, when necessary.

340.00 Contract Retention

The originating department or unit is responsible for administration and retention of fully executed University Contracts. Each University Contract must have an assigned Contract Manager, who may be the Authorized Signatory or another designated employee. Contract managers shall:

1. Participate in the Contract Management Training program provided by the Montana State Procurement Bureau,
2. Possess a complete understanding of the contract terms,
3. Serve as primary contact for the contractor,
4. Monitor contracts for compliance with contract terms and insurance requirements,
5. Monitor contracts for vendor performance,
6. Maintain a complete record of contract information,
7. Review, monitor and retain any Certificates of Insurance applicable to the contract (contact Safety & Risk for assistance with Certificates of Insurance).
8. Ensure adherence to additional requirements particular to contracts funded in whole or in part with federal money,
9. Determine and document necessary contract modifications; prepare timely contract amendments as needed; and coordinate with other offices listed in Section 300 as appropriate or when required (such as Procurement and Contract Services and the Office of Sponsored Programs),
10. Monitor contract end dates to allow sufficient lead time for renewal or re-solicitation,
11. Maintain a complete record of payments, if any, as may be required under the contract,
12. Review and approve invoices for payment of satisfactory work performed or supplies provided,

13. Document significant contract complaints, disputes, and terminations, and
14. Ensure completion and documentation of contract close-out actions.

Upon completion or termination of a University Contract for the purchase, sale, acquisition, or provision of goods or services, a signed and dated close-out record must be completed and placed in the contract file, where appropriate.

All University Contracts and applicable Certificates of Insurance should be stored in a location designated by the Authorized Signatory and must be retained in accordance with the [Montana University System General Record Retention Schedule](#) and state and federal law (where applicable). Contracts and Certificates of Insurance must be retained for eight years beyond contract expiration.

400.00 Contract Requirements and Prohibited Provisions

As an agency of the State of Montana, the University does not accept certain contractual provisions as described below. The Authorized Signatory for each proposed University Contract must ensure these provisions have been addressed prior to contract execution. Contracts containing provisions that conflict with the guidance in this section must be forwarded to Procurement and Contract Services for review and approval prior to execution, regardless of dollar value. Procurement and Contract Services shall consult with the Office of Legal Counsel prior to approving any contract that conflicts with this section.

410.00 University Name

The correct name of the University, "Montana State University," must appear on all University Contracts.

420.00 Governing Law and Venue

The University requires Montana governing law and jurisdiction for all University Contracts unless the agreement is with another public agency, in which case the agreement may remain silent on governing law and jurisdiction. If a party insists on governing law or jurisdiction of another state or country, then the Authorized Signatory must consult with the Office of Legal Counsel for guidance.

430.00 Indemnification/Hold Harmless

The University requires deletion of any requirement for the University to "indemnify" or "hold harmless" another party to a contract for damages or losses resulting from claims against the other party. If a party insists on indemnification language, then the Authorized Signatory, or appropriate reviewing department as indicated in Section 320.00 above, must consult with the Office of Legal Counsel for guidance.

440.00 University Insurance

The University cannot agree to provide insurance greater than or different from the statutory self-insurance provided by the State of Montana. Montana law provides for tort liability self-insurance with limits of \$750,000 per claim and \$1,500,000 per occurrence, and the University is not authorized to list third parties as additional insureds or loss payees under the state self-

insurance plan. Authorized signatories must ensure University Contracts do not obligate the University to provide insurance it does not possess.

450.00 Confidentiality

The University is subject to Montana's Open Records laws, which require disclosure of certain records maintained by the University, with some limited exceptions. The University cannot agree to a confidentiality requirement that does not provide an exception for disclosures required by law (e.g., where required by court order or state or federal law).

460.00 Term

The University may not enter into contracts with terms longer than seven (7) years, inclusive of any autorenewal provisions, with limited exceptions (e.g., hardware or software purchases). Autorenewal provisions are not allowed.

500.00 Authority to Sign University Contracts

510.00 Delegation Guidelines

This section defines the proper delegation of signature authority to execute University Contracts. The proper delegation of authority to execute University Contracts is required to minimize and/or mitigate financial, legal, and related risks and to ensure appropriate fiscal and management controls are in place for the benefit of the entire University.

The president has authority to sign all contracts for the University except where the authority to contract rests solely with the Commissioner of Higher Education or Board of Regents. The President has delegated signature authority to administrators of certain academic and administrative units to sign contracts initiated or funded by their units as described in Section 520.00 below. These administrators may sub-delegate signature authority to certain administrators within their units in accordance with the sub-delegation procedure described in Section 530.00.

All delegations are based on an employee's position within the University at the time of the delegation. The authority associated with an appointment may not be exercised prior or subsequent to the effective dates of employment or appointment. When there is turnover in a position, the new individual holding the position must seek, in writing, a specific delegation of signature authority.

Those with delegated authority to sign and approve contracts are responsible for reviewing any contracts, collecting any applicable Certificates of Insurance, and ensuring compliance with this policy. Delegates may not approve others to review and sign contracts in their place (e.g., via use of a rubber stamp, electronic signature, or otherwise) unless such authority has been appropriately sub-delegated to those individuals.

The Office of Legal Counsel may determine appropriate signature authority for any University Contract and may require units to submit signature authority delegation forms for review.

520.00 Standing Authority and Delegations

Administrators for the following units have been delegated signature authority by the president:

- **Executive Vice President for Academic Affairs and Provost**
 - All contracts related to academic affairs, including contracts funded by college or department-controlled funds, the graduate school, and the library.
 - Contracts related to the operation of the Provost's Office.
 - Faculty employment contracts.
 - Academic agreements with other institutions.
- **Vice President of Administration and Finance**
 - All contracts related to the operation of the unit, including but not limited to contracts related to the operation of Auxiliaries, Human Resources, University Services, University Police, Financial Services, and the University Budgets Office.
- **Vice President of Research, Economic Development and Graduate Education**
 - All contracts related to the operation of the unit.
 - Contracts and other instruments related to sponsored programs and the research enterprise, including contract and grant agreements, subcontracts, testing services agreements, intellectual property license agreements, data use agreements, nondisclosure and confidentiality agreements, and material transfer agreements.
 - Contracts related to programs assigned to the Office of Research Compliance.
 - Contracts related to approved research centers and programs.
- **Vice President of Information Technology**
 - All contracts related to operation of the unit.
- **Vice President of Student Success**
 - All contracts related to the operation of the unit, including financial aid and student health services.
- **Vice President of University Communications**
 - All contracts related to the operation of the unit.
- **Vice President for Agriculture**
 - All contracts related to the College of Agriculture and the Montana Agriculture Experiment Stations.
- **Executive Director of Extension**
 - All contracts related to the operation of Extension.

- **Legal Counsel**
 - All contracts related to legal services or the operation of the Office of Legal Counsel.
- **University President Executive Assistant**
 - All contracts related to the operation of the Office of the President.
- **College Deans**
 - All contracts related to the operation of the College and individual departments.
- **Director of the Museum of the Rockies**
 - All contracts related to the operation of the Museum of the Rockies.
- **Athletics Director**
 - All contracts related to the operation of Montana State University Athletics, excluding contracts that require President/Commissioner signatures.
- **Director of Office of Institutional Equity**
 - All contracts related to the operation of the Office of Institutional Equity.
- **Director of Procurement and Contract Services**
 - All contracts related to the operation of Procurement and Contract Services and as required by the State of Montana Procurement Delegation Agreement.

530.00 Additional Delegation Procedure

530.10 Use and Retention of Delegation Form

All delegations, including any sub-delegations, of signature authority must be in writing on the approved delegation of authority form. The delegation must include the contract or types of contracts the delegate is authorized to sign, the term of delegation, and any limitations on the scope of the delegated authority, including dollar thresholds. The delegation must also indicate whether the authority can be sub-delegated, so long as such sub-delegation is consistent with this policy (e.g., not made to an individual below the department head or unit director level, ability to bind the University, etc.). No delegation of signature authority is valid until the delegate has completed the mandatory Signature Authority Training required by this policy.

All delegation of authority forms should be stored in a central location determined by each Delegator and must be kept in compliance with the [Montana University System General Record Retention Schedule](#). Generally, Delegations of Authority must be retained for one year beyond the authorization term.

A delegation of authority shall become effective on the date the delegation form is fully executed. Delegations shall continue until revoked by the Delegator or modified because the delegate leaves the position or has duties and responsibilities changed to broaden or lessen the areas of delegation. No delegation of authority may be made for more than a six-year term before additional review and renewal is required. Any delegation of signature authority may be

revoked by any delegator higher in the chain of delegation. The University president has ultimate authority to revoke any delegation of authority at any level, including those specified by this policy.

530.20 Subdelegate Qualifications

Delegations of authority are appropriate where the delegation will enhance effectiveness and efficiency without risking the integrity of the internal control necessary for accountability. No delegation shall be made of all or substantially all of the powers held by any person making a delegation or where checks and balances would be minimized. Authority can only be delegated to the extent the Delegator has the authority to bind the University to a legally enforceable obligation.

Individuals who receive delegated authority shall have active involvement with the activity being conducted and have sufficient knowledge of the University policies, rules, laws, regulations, and procedures to ensure compliance. No delegation of signature authority may be made to an individual below the department head or unit director level.

530.30 Delegation Management

Each Delegator is responsible for managing and monitoring all delegations of signature authority. This includes maintaining official files of all delegations of authority and conducting annual reviews of all delegations to ensure they are revised as necessary.

The Delegator must maintain proper control and management of the Delegator's area of authority and remains accountable for all actions taken by the Delegate. The Delegator shall consider and maintain appropriate internal controls including separation of duties, reviewing reports, sampling completed transactions, and monitoring the effectiveness of the controls established.

530.40 Required Training

All delegates must complete signature authority training through the Office of Legal Counsel prior to signing any University Contract. Signature authority is not deemed effective until the training session has been completed. All delegates must complete "refresher" training at least once every three years to maintain an authorized signatory status.

600.00 Contracts Made in Violation of Policy

Contracts made in violation of this policy, i.e., without proper authorization, signatures, or review by the appropriate offices, or that violate the law or Board of Regents or Montana State University policies, are voidable at the discretion of the University. No contract may be voided without the approval of Procurement and Contract Services or the Office of Legal Counsel.

Employees who make or sign contracts in violation of this policy may be subject to additional mandatory signature authority training, revocation of signature authority, and potential personal liability for the contract and any damages caused to the university. Failure to comply with this policy, including egregious, repeated, or intentional violations of this policy, may be

considered a violation of the professional standards expected of University employees and may result in disciplinary action up to and including dismissal.