



NEGOTIATION AND EXECUTION OF CONTRACTS POLICY

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Responsible	Associate Vice President for Legal Affairs	Page(s):	4

I. Purpose

This Negotiation and Execution of Contracts Policy clarifies the procedures, obligations and liabilities applicable to the negotiation and execution of contracts in the name of Georgia Southern University. This policy is consistent with the policy entitled “Contracting Authority” and contained in section 7.9.1 of the Board of Regents of the University System of Georgia Policy Manual. Section 7.9.1 reads:

Except for the contracts that are reserved to the Board or Chancellor by this Policy Manual, all contracts necessary for the daily operation of the institution and all contracts for goods and services not regulated by the Georgia Department of Administrative Services can be executed by the head of each institution or his/her designee. This limited delegation of contracting authority to the executive head of each institution or his/her designee is in addition to all other delegations contained in this Policy Manual.

Therefore, the following Negotiation and Execution of Contracts Policy defines the circumstances under which individual employees are authorized to negotiate and sign contracts on behalf of Georgia Southern University, as well as the process and procedure for reviewing and approving contracts prior to signature.

II. Policy Statement

Unless specifically excluded from this Policy, all contracts involving Georgia Southern University must be executed in accordance with the terms of this Policy. No person shall sign any contract binding upon the University unless such individual has been appointed, in writing, as the designee authorized to sign. For purposes of this policy, “contract” shall mean any contract, agreement, memorandum of understanding, memorandum of agreement, letter of intent, or any other instrument which commits the funds, personnel, equipment, property or facilities of Georgia Southern University. The policy shall further apply to revenue contracts for which the University receives funds for providing services, as well as all change orders, modifications, amendments or renewals of any contract not specifically excluded below.

III. Exclusions

The following types of contracts are not included within the terms of this Policy:

1. Regents' Contracts.

Certain contracts must be executed or approved by the Chancellor or the Board of Regents. These types of contracts include, but are not limited to, real estate leases and purchases, settlement agreements over \$100,000 and construction contracts beyond the institution's delegated authority.

2. Contracts by Affiliated Entities

Affiliated entities of Georgia Southern University are legally distinct from the University. Therefore, contracts binding such entities and any third party should be negotiated and executed according to the rules of the respective entity. Some examples of affiliated entities include the Georgia Southern University Foundation, Inc., the Georgia Southern University Research and Service Foundation, Inc., the Georgia Southern University Housing Foundation, Inc., and the Georgia Southern University Athletic Foundation, Inc.; however, contracts between a Foundation and the University are subject to this Policy.

3. Pre-approved "Form" Contracts.

The Office of Legal Affairs will occasionally approve standardized "form" contracts for routine use. Provided that the original form has been approved, in writing, and no changes in form have been made since approval, subsequent versions of the same form are not required to be re-approved. However, to be valid, those subsequent versions may still be signed only by an individual with appropriate authority.

IV. Negotiation and Drafting

The office, division or department responsible for implementing and managing the contract should initiate the contract process and retains responsibility for performing the necessary due diligence to evaluate the benefits and risks of entering into the contract for the University. The head of the office, division or department should be aware that the contract is being requested and/or negotiated. If the contract will impact other University units, departments, or affiliated entities, those units, departments or entities should be notified as soon as possible of the potential contract. The Office of Legal Affairs is available to assist and/or participate in contract negotiations and drafting. Before being forwarded for review and approval, each contract must be in writing and all terms of the contract (including, but not limited to, purpose, time for performance, price and term) must be complete.

V. Review and Approval

After a contract has been drafted and negotiated, the originator shall submit the proposed contract to the appropriate reviewing office (either the Office of Procurement and Contract Services or the Office of Legal Affairs). The originator of the contract, who will serve as the primary point of contact at the University, must be clearly identified prior to forwarding for review.

If the contract is subject to State Purchasing regulations, the Office of Procurement and Contract Services will conduct a review and will involve the Office of Legal Affairs in the review process as necessary. The Georgia Department of Administrative Services (DOAS) governs the negotiation and execution of Purchasing contracts. These types of contracts include, but are not limited to, contracts for the University to hire a consultant or other service and contracts to procure supplies, materials and equipment. Certain solicitations for goods or services must be handled under the State Purchasing Act. Complete DOAS purchasing policies are available at: <http://statepurchasing.doas.georgia.gov>. Nothing in this Policy is intended to usurp applicable DOAS purchasing regulations. On campus, such contracts are handled by the Department of Procurement and Contract Services. If you are unsure whether a contract fits within this category, please consult the Department of Procurement and Contract Services at (912) 478-2897 or the Office of Legal Affairs at (912) 478-7481.

All other contracts will be reviewed for legality by the Office of Legal Affairs, which may contact the originator or the contractor to modify, clarify or finalize terms. Once the contract has been finalized, the reviewing office will forward original(s) to the appropriate signatory.

VI. Signature Authority

All persons signing contracts must ensure that the necessary review and approval has been obtained prior to signing. The following individuals are granted the signature authority described herein by policy:

1. President

Except for those agreements specifically reserved for the Board of Regents, the President shall have authority to execute all contracts on behalf of the University. In executing this authority, the President shall conform to all State and Board of Regents laws, regulations and policies. The President is empowered to delegate this authority in writing to any University employee he or she deems appropriate, unless otherwise indicated by Board of Regents policies.

2. Vice President for Academic Affairs/Provost

The Vice President for Academic Affairs/Provost is the designated secondary signature authority for the University in the President's absence. As such, the Vice President for Academic Affairs/Provost may sign any contract on behalf of the University for which the President has not delegated authority to another Vice President when the President is unavailable or where the President has delegated such authority in writing.

3. Vice President for Business and Finance

The Vice President for Business and Finance is the designated tertiary signature authority for the University in the absence of both the President and the Vice President for Academic Affairs/Provost. As such, the Vice President for Business and Finance may sign any contract on behalf of the University when both the President and Vice President for Academic Affairs/Provost are unavailable. In addition, the Vice President for Business and Finance is the appropriate signatory for any contract relating to the business and financial operations of the University. The Vice President for Business and Finance is further authorized to open accounts in the name of and for the benefit of the University at banking or other financial institutions as

might be necessary to efficiently and effectively conduct the business and financial matters of the University.

The Vice President for Business and Finance is the designated signatory on contracts involving the exchange of money. However, it shall be the responsibility of the reviewing office to ensure that the Vice President who would have authority if the contract did not involve the exchange of money has seen and approved the contract before it is submitted to the Vice President for Business and Finance for signature.

4. Vice President for University Advancement and External Affairs

The Vice President for University Advancement and External Affairs is authorized to execute contracts related to gift agreements.

5. Chief Information Officer (CIO)

The CIO is authorized to sign contracts related to technology. This authority includes but is not limited to the acquisition of technological equipment and services for the University (including software, maintenance agreements and service renewals).

6. Sub-delegation

The authority delegated to specific individuals within this policy may be sub-delegated in writing to other individuals as appropriate. Such delegation must be in writing, must clearly define the nature and extent of the authority being delegated, and must be approved in writing by the President. A copy of each written delegation of authority must be supplied to the Office of Legal Affairs.

VII. Contract Management

After the contract has been reviewed, approved and signed, both originals will be returned to the originator of the contract. The originator is charged with ensuring that both copies are fully executed and one original copy is retained in the originating office, department or unit in accordance with the Board of Regents document retention schedule or other applicable retention schedule. The originator and originating office, department or unit is also responsible for ensuring that the contract is appropriately performed. This obligation includes ensuring that Georgia Southern fulfills its obligations under the contract, the other party fulfills its contractual obligations, all necessary payments are given or received in accordance with the contract, and any renewals are handled appropriately.

VIII. Unauthorized Commitments

Any contract not executed in accordance with this Policy may be invalid as a matter of law. The President of the University retains the right to declare any contract purporting to bind the University void from its inception. In addition, failure to follow this policy may result in personal liability for the individual signing the contract.