

MEMORANDUM



TO: DEANS, DEPARTMENT CHAIRS, DIRECTORS
CC: OFFICE OF GENERAL COUNSEL, OFFICE OF RESEARCH, AND NIAR CONTRACTS
FROM: RICHARD D. MUMA, PROVOST
JOHN S. TOMBLIN, VICE PRESIDENT FOR RESEARCH & TECHNOLOGY
TRANSFER
DATE: APRIL 8, 2019
SUBJECT: PROCEDURE FOR EXECUTION OF CONTRACTS AND COMMITMENT OF
UNIVERSITY RESOURCES

Pursuant to Kansas Board of Regents (KBOR) and Wichita State University (WSU) policy regarding execution of contracts and commitment of university resources, the following are the procedures required for all contracts executed and resources committed by and on behalf of WSU.

WHAT IS A CONTRACT?

A contract is an agreement between two or more parties to do or not do a particular thing (e.g., perform services, collaborate on research, rent space, etc.). There must be a common understanding among the parties as to the essential terms, there must be mutual obligations, and there must be "legal consideration," meaning that something of value is exchanged.

A contract may be called many different things and still be a contract - for example:

- addendum
agreement
amendment
grant
lease
letter of intent
memorandum of agreement
memorandum of understanding
proposal
purchase order
quotation
statement of work
terms and conditions

A contract may also take the form of an electronic agreement where a party indicates acceptance of terms with a mouse click.

A document may be a contract even if WSU is not paying anything for the item or service or opportunity that it is receiving in return.

WHO HAS AUTHORITY TO SIGN A CONTRACT FOR WSU?

Very few individuals have the authority to contractually commit WSU. These individuals are limited to the President and the President's designees, typically Vice Presidents, Deans and designated Department Chairs and Directors (with limitation). Individual staff and faculty are not authorized and cannot bind WSU. If you have not been directly informed that you have such authority, you do not have such authority. See Policies 1.04, 9.03.

Anyone else executing a contract that purports to bind WSU or any of its units is acting without authority. As a result, the contract could be deemed void or unenforceable and/or the individual who signed the contract could be held personally liable for the breach of the contract or for payment of the full value of the contract.

WHAT DO I DO IF I NEED A CONTRACT?

If you feel you need a contract, or if you have been presented with any document that requires a signature or any type of commitment of resources by WSU from a party external to the university, you must forward this document to the applicable contracts department for review:

Contract Type	Contract Department	Contact Information
Research (e.g., grant funding, subaward of a grant, services involving research on human subjects or animals, transfer of materials for research, non-disclosure agreements relating to a research opportunity, etc.)	Office of Research	proposals@wichita.edu
NIAR (e.g. any contract for or on behalf of NIAR AND it is not otherwise a funded by a state or federal grant or contract that was handled by the Office of Research.)	NIAR Contracts	contracts@niar.wichita.edu
All other contracts (e.g., affiliation agreements, software contracts, intellectual property licenses, services agreements, etc.)	Office of General Counsel	gc.contracts@wichita.edu

WHY DOES IT MATTER?

As a state educational institution, WSU is subject to certain legal requirements and restrictions which may impact its ability to accept certain contract terms. It is common for contract terms to increase the University's risk, liability, or responsibilities, and in some cases these terms may be contrary to state law or University policy. Some examples of this include indemnification, warranty, export compliance, choice of law, intellectual property rights, confidentiality and non-disclosure, and payment terms and penalties.

Accordingly, **all** contracts must be in writing and submitted electronically to the appropriate contracts department for review and ultimately approved by the Office of General Counsel prior to signature, unless otherwise authorized by the President or a Vice President. **An electronic word or editable document should be forwarded.**

No contract will bind WSU unless in writing and executed according to KBOR and WSU policy(ies) and the procedures set forth herein.

Any violation of KBOR or WSU policy(ies) regarding execution of contracts or commitment of WSU resources, or the procedures set forth herein, may subject an employee to disciplinary action up to and including termination.

Any questions regarding these KBOR or WSU policies or these procedures should be directed to the Office of General Counsel.