

Standards for Ratifying an Agreement as a Formal Contract

STN-U5348.05A

Effective: September 25, 2018

Revised: June 30, 2020

Authority

POL-U5348.05 Authorizing Agreements and Contracts

See Also

[FRM-U5348.05A](#) Contract Owner Delegation Form
[STN-U5348.05B](#) Standards for Managing a Contract
[POL-U5348.01](#) Purchasing Goods and Services Policy

Compliance Owner

Compliance Owner: Chief Procurement Officer

Responsible Office: Contract Administration

Purpose

The following are required steps to assess whether or not a contract is required, and the steps to execute a request for a contract through Contract Administration.

1. Determine if an agreement must be executed as a formal contract

A. Determine if an agreement must be executed as a formal contract by reviewing the list of “Agreement Types” below on page 3.

All purchases of goods or services that do not require a formal contract must comply with the *Purchasing Goods and Services* policy (POL-U5348.01) and related standards and procedures.

B. Draft contract if one not provided by vendor.

Contact Contract Administration for assistance and templates (x6340).

2: Review for Required Elements of an Agreement

A. The Contract Owner must consider the following elements when reviewing the draft contract:

- It accurately reflects the current state of negotiations,
- It meets programmatic and University mission and operational requirements,
- It is in the best interests of the University,
- It contains obligations that can be fulfilled,
- It has regulatory requirements that can be met, and
- It is sufficiently clear, consistent, and fiscally prudent.

3: Conduct Stakeholder Review

Consider, as applicable, the following individuals review the draft contract and provide feedback:

- The appropriate vice president if the contract will be perceived as a significant transaction for reasons such as, but not limited to,
 - Involves expenditure of funds that are significant in relation to the budget of the department, unit, or college that will be the source of funding,
 - Is likely to generate significant positive or negative publicity controversy,
 - Could result in unusual or significant liability, or
 - Involves international or out of state operations.
- Individuals required by internal division, college, unit, and/or department approval protocol,
- The head of any University department/unit(s) that is contributing funds for the contract,
- The head of any University department/unit(s) that may:
 - Be significantly affected by the contract performance, or
 - Serve to represent major areas of the University that may be significantly affected by the outcome.
- Others that may have specific expertise relevant to the performance of the contract and/or the parties involved.

4: Ensure Regulatory Compliance Review

A. Determine whether or not the contract contains any of the following content.

The draft contract must be reviewed by each of the Compliance Owners listed below.

Contract Content Includes	Compliance Owner to Review
Provision of student data of any kind including photos	Registrar/FERPA Officer
Medical/Health Information	Compliance Manager/HIPAA Officer
Provision of employee information including photos	AVP for Human Resources
Provision of individuals' financial information (SSN, bank account info, etc)	1. Director of Financial Services 2. Director of Information Security
Hazardous materials	Director of Environmental Health & Safety
Children/Minors	Director of Risk, Compliance, Policy Services
Special events	Director of Risk, Compliance, Policy Services
Intellectual property; copyright or patents	Vice Provost for Research
Purchase of a controlled or prohibited item	1. Chief Procurement Officer 2. Director of Risk, Compliance, Policy Services
Purchase of large equipment	Space Administrator

Contract Content Includes	Compliance Owner to Review

5: Electronic Approval via Contract Administration System

Draft contracts must be submitted through the University's electronic contract administration system as outlined on [Contract Administration's website](#).

6: Follows Standards for Managing Contracts

Once an agreement is approved as a formal contract, the Contract Owner is to follow the *Standards for Managing a Contract* (STN-U5348.05B).

AGREEMENT TYPES

The lists below are not all inclusive nor static, therefore employees are strongly encouraged to review both lists before entering an agreement on behalf of the University to ensure the proper process.

The agreement types below are not required to comply with the *Authorizing Agreements and Contracts Policy* (POL-U5348.05) but must receive approval from the department referenced.

Type of Agreement	Process/Approval Required
Employment agreements	Human Resources
A&E public works agreements	Facilities Development/Capital Budget
Regulatory Compliance Agreements	Assistant Attorney General's Office

The following are agreements or elements of an agreement with external parties that must comply with the *Authorizing Agreements and University Contracts Policy* (POL-U5348.05) and have an agreement executed through Contract Administration.

- Agreements to buy, sell, or rent goods
- Involves the collection, processing of, sharing, or exchanging personal information of individuals
- Agreements to provide, obtain, or rent services, equipment, facilities, or property
- Memorandums of Understanding (Cooperation or Agreement) with external entities for the accomplishment of particular purposes
- Affiliation agreements
- Leases of movable property, such as tools, equipment, vehicles, etc.
- Leases, deeds, and other conveyances affecting interests in real property
- Waivers and releases

- Nondisclosure or confidentiality agreements
- Student or faculty exchange agreements
- Software license agreements (including on-line “click-thru” agreements, and End User License Agreements)
- Agreements with terms and conditions (including **on-line** acceptance of terms and conditions)
- Student internships
- Volunteer agreements
- RFP bid acceptance
- International agreements or the contract says it is governed by the laws of another country
- Obligate the University to defend, indemnify or hold harmless the other party(ies) or add them as additional insured’s to University insurance policies
- Limit the amount or types of liability of the other contracting party, its subcontractors, agents, or successors
- Disclaim or limit warranties
- Require University operation, and/or resources including facilities and employees
- Require dispute resolution
- Results in creation of a subsidiary, joint venture or partnership, or any form of controlled entity
- Inhibit or prevent publication of research by faculty
- Involve export control laws
- Grant the University or its faculty equity interests in a venture
- State a time within which the University must make a claim (e.g. under a warranty) or bring a lawsuit.

If unsure, contact Contract Administration at 360.650.6340.