

Business Policy

TO: All Members of the University Community

2019:13

DATE: March 2019

CONTRACTING POLICY

(Supersedes 97:12, 00:03, 04:10, 12:11, and 12:13)

I. Introduction

The Contracting Policy is used in tandem with the University's Purchasing Policy and other applicable policies.

Examples of contractual activity that would be covered largely or entirely by this policy are technical service agreements; affiliation, articulation, consignment and consortium agreements; contracts to provide services to a third party; subcontracting documents; and any other oral or written agreement between the University and another entity for the acquisition or purchase or barter of property or services for the direct benefit or use of either of the entities.

In the event the Board of Trustees has an existing policy or adopts a policy in the future, for example the Purchasing Policy, with respect to the authority to contract, such policy shall be the governing policy. Federal, state and private grant proposals and agreements are covered by the Board of Trustees Contracting Policy and further described in Business Policy – Grant Procedures

II. Contracting Authority

- A. The Board of Trustees, as the body corporate having ultimate responsibility for the University, reserves to itself the obligation for review and final action on all contracts and areas not delegated by the Board to the President, Vice President for Administration and Finance; and for matters which concern solely Kendall College of Art & Design, the President of Kendall College of Art & Design/Vice President of Ferris State University. Specifically, the Board reserves to itself the responsibility to approve all contracts for the University involving a cost greater than \$150,000, to the extent that they are not governed by other policies, such as the University's Purchasing Policy.
- B. The President, Vice President for Administration and Finance, and for matters which concern solely Kendall College of Art & Design, the President of Kendall College of Art & Design/Vice President of Ferris State University, or other authorized contracting officer, may bind the University on contracts regarding items included within the Board-Approved General Fund Budget or the Auxiliary Services Budget, which is approved by the President.

- C. The President, Vice President for Administration and Finance, and for matters which concern solely Kendall College of Art & Design, the President of Kendall College of Art & Design/Vice President of Ferris State University/Vice President of Ferris State University, or other authorized contracting officer, may bind the University on contracts for sponsored research and supplements thereto, including agreements for fellowships, scholarships, and grants-in-aid, and all contracts covering payment for tuition, books and fees, fees for non-degree academic courses, non-credit programs, third party recruitment fees, non-credit continuing education offerings, contracts for in-service field training, training grants or fellowship programs which do not exceed a rate of \$150,000 per year, and all other contracts where the Board has not retained authority and where the amount involved does not exceed \$150,000 for any one (1) contract. The President, or his designee, is authorized to enter into institutional articulation agreements on behalf of the University with educational institutions in the United States and Canada. The President shall promptly advise the Chairperson of the Academic and Student Affairs Committee of the Board of Trustees of each new institutional articulation agreement, and shall provide an annual report to the Academic and Student Affairs Committee of the Board of Trustees.
- D. Except for contracts covered by other applicable Board policies or resolutions, the President, Vice President for Administration and Finance, for matters which concern solely Kendall College of Art & Design, the President of Kendall College of Art & Design/Vice President of Ferris State University/Vice President of Ferris State University, or other authorized contracting officer may bind the University for contracts where there is no exchange of monetary consideration between the parties. As to those contracts where there is no exchange of monetary consideration between the parties, but where (i) significant policy considerations may be involved, or (ii) the name or reputation of the University may be implicated, the Chairperson of the Board shall be consulted prior to binding the University to the contract. Where the Chairperson of the Board deems it advisable, but not otherwise, the contract shall require Board of Trustees approval prior to binding the University.
- E. In the case of emergency wherein any delay in contracting would possibly result in the interruption or detriment to the proper operation of the University, the President, the Vice President for Administration and Finance after notice to the President, or for matters which concern solely Kendall College of Art & Design, the President for Kendall College of Art & Design/Vice President Ferris State University/Vice President of Ferris State University after notice to the President, may waive the provisions of this policy and enter into a contract. The President shall make every attempt to notify the Chairperson of the Board within 24 hours, and shall apprise the Board on or before the next scheduled Board meeting of any contract made under this section and the factual basis for any such emergency contract.

- F. Notwithstanding any other provision of this Policy, no University official shall enter into any contract requiring an expenditure of University funds without having determined that there is a sufficient encumbered balance in the appropriate account balance to defray the amount of such contract.

III. Legal Review and/or Risk Management Review

- A. All University contracts must comply with the law and conform to the legal and liability standards of the University General Counsel's office and the Safety, Health, Environmental Safety, Health, Environmental, and Risk Management office.
- B. The contracting officer may submit all contracts for legal review and/or risk management review. However, the University General Counsel's office or Board Counsel, prior to execution, must review all contracts as defined herein exceeding \$100,000.
- C. The University's General Counsel's Office or Board Counsel, prior to execution, must review all contracts with a foreign entity. A "foreign entity" means a non-resident alien, corporation, foundation or association whose principal place of business is outside the United States; a foreign government; an agency or subdivision of a foreign government or an agent registered under the Foreign Agents Registration Act, 22 U.S.C. 611-621, when acting in that capacity.
- D. The University General Counsel's office shall develop standard contracts for use in those areas that lend themselves to such contracts. Such standards, after review and approval by the President or Vice President for Administration and Finance, shall be circulated to the contracting officers, upon request.
- E. Where the University General Counsel's office or Board Attorney has reviewed and approved a contract, as to form, the reviewing attorney shall indicate thereon "approved as to form" and sign or initial such approval.
- F. All settlements or agreements relating to employment disputes or labor relations matters shall be reviewed by the University General Counsel's Office.

IV. Contracting Officers

- A. No person may contract for the University except as prescribed by the Board of Trustees by specific designation or by delegation by the authorized contracting officer. The President, Vice President for Administration and Finance, and for matters which concern solely Kendall College of Art & Design, the President of Kendall College of Art & Design/Vice President Ferris State University/Vice President of Ferris State University are the principal contracting officers for the University.
- B. All delegations of contract authority by the President, Vice President for Administration and Finance, and for matters which concern solely Kendall College of Art & Design, the President of Kendall College of Art & Design/Vice President of Ferris State University, must be documented in writing to the Office of the President, Secretary to the Board of Trustees, the Vice President for Administration and Finance, and the President of Kendall College of Art & Design/Vice President of Ferris State University/Vice President of Ferris State University.

- C. In addition to any other specific delegations of authority by the Board of Trustees made in the Board of Trustees Bylaws, Policies and Procedures of the Board, or Board Resolutions, the following are designated contracting officers of the University for the areas indicated and amounts indicated:

Area	Position with Contracting Authority
Entertainment Contracts for amounts less than \$150,000 for programming associated with student organizations and resident activities	The President or Vice President for Student Affairs or other person designated by the Vice President for Student Affairs.
Automobile Repair Contracts	Dean of the College of Engineering Technology or designated representative(s)

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Contact: Vice President for Administration and Finance

Cross-Reference:

Board Policy, Subpart 4-1, *Contracting Policy*