

CONTRACTING AUTHORITY

I. CONTRACTS AND CONTRACTING AUTHORITY

A. General Delegation of Contracting Authority. The authority to contract in the name of the University of Arkansas and the Board of Trustees of the University of Arkansas in the normal course of operations of a campus, division or unit is delegated to the Chancellor or chief executive officer for each campus, division or unit and the Vice Chancellor for Finance and Administration of each campus, division or unit, subject to provisions and restrictions set out in this policy, other Board Policies, University of Arkansas Systemwide Policies and Procedures, and applicable law. The contracting authority delegated herein may be exercised only to sign agreements that have been reviewed by the General Counsel's Office, or an attorney designated by the General Counsel's office, or which are standard contract forms developed or approved by the General Counsel's Office.

B. Forms of Contracts. (1) For purposes of this policy, all contracts shall be in writing, supported by consideration, and intended to have binding legal effect between the University and another party (whether an individual, corporation, partnership, limited liability company, association, governmental agency or entity, foundation or any other legal entity capable of entering into contracts). A contract includes a memorandum of understanding and any other form of written agreement regardless of what it is called. A contract does not include written agreements between or among campuses, divisions or units of the University since the University is the only legal entity capable of contracting in that institutional name or in the name of its Board of Trustees and it cannot contract with itself. While such agreements should be carefully written to avoid misunderstandings, normally they would not require legal review unless they are affected by specific statutes.

(2) Any contract shall indicate the particular campus, division or unit for which the contract is applicable. Contracts are not to be made in the name of a campus, division or unit as a contracting party since there is only one legal entity capable of contracting for the one institution ("University of Arkansas"), either in that institutional name or in that of its governing board ("Board of Trustees of the University of Arkansas"). For example, the introductory paragraph of a contract with respect to the University of Arkansas at Little Rock should read as follows: "Agreement made this ___ day of _____, 20__, by and between the Board of Trustees of the University of Arkansas acting for and on behalf of the University of Arkansas at Little Rock and (other party)..." In some instances it may be helpful to indicate a college or department to which the contract is applicable, for example: "Agreement made this ___ day of _____, 20__, by and between the Board of Trustees of the University of Arkansas acting for and on behalf of the Department of Pediatrics of the University of Arkansas for Medical Sciences campus

and (other party)..." Likewise the signature block on the contract should read the same as the introductory paragraph. Deviations from this policy may be allowed under certain rare circumstances but any such deviation must be approved in advance by the Office of the General Counsel.

C. Legal Review. (1) The General Counsel's Office should be involved early in the process of drafting contracts to avoid having to delete or redraft unacceptable provisions later. Review of contracts by the General Counsel's Office will be evidenced by a form or communication from the General Counsel or a member of his or her staff or an attorney designated by the General Counsel's office. A form to be used in submitting contracts to the General Counsel's Office for legal review is included as Attachment A to this policy. All requested information on the legal review form should be completed prior to submission to the General Counsel's Office and it should be signed by the contact person. Such person need not be the same as the person who will sign the contract. Usually the contact person should be the person who would be most familiar with the substance of the contract, the need for it and the history of the negotiations.

(2) Each campus, division or unit may develop procedures for assuring prompt transmission of a contract and the legal review form to a member of the General Counsel's Office situated on campus or to the General Counsel's Office in the System Administration. For example, for a contract which is to be signed by a Chancellor or Vice Chancellor for Finance and Administration, the legal review form may be submitted with a principal contract negotiator as the contact person. Under campus procedures concerning contract review and signature, the contract together with the legal review form would be sent to the General Counsel's Office on campus or at the System Administration. After legal review, the contract would be sent to the person who is to sign it. Campus procedures should also direct who is to send the contract to the other contracting party after signature and should provide assurance that the contact person is notified that legal review has been completed and the contract has been signed. If the General Counsel's Office makes suggested changes to the contract on the legal review form those changes may be either incorporated in the contracts or further discussed with the attorney and contracting parties. If the suggested legal changes from the General Counsel's Office are not accepted or are revised in the course of the contract negotiations, it is the responsibility of the contact person to assure that the General Counsel's Office has reviewed the final version of the contract.

D. Compliance. No University employee may execute any contract purporting to be on behalf of the University, its campuses, divisions, and units or other components unless he or she has been delegated signature authority to do so pursuant to this policy. **No contract signed by a person without signature authority delegated by the President pursuant to this policy or other systemwide policies, policies of the Board of Trustees of the University of Arkansas, or applicable law shall be binding upon the University or the Board of Trustees of the University of Arkansas.**

II. CONTRACTS FOR WHICH AUTHORITY WILL NOT BE DELEGATED TO THE CAMPUSES

A. Authority will not be delegated for the followings contracts:

- (1) a commitment to build or renovate a facility in excess of \$ 2,500,000, including methods of finance in excess of \$2,500,000;
- (2) a commitment to initiate or expand an academic program;
- (3) a commitment to continue expenditures of University funds beyond the term of the contract;
- (4) athletic related employment contracts over \$100,000 and/or for a term greater than three (3) years, and the consent, which can be verbal, of any waivers of any such contract provisions;
- (5) contracts or other instruments affecting title to real estate such as deeds, easements, rights of way and leases unless specific authority is given elsewhere in this policy or in other University of Arkansas Systemwide Policies and Procedures or Board Policies (e.g. lease and rental agreements for University-owned housing and dormitories and the authority to contract to purchase property);
- (6) sponsored research contracts and corporate sponsorship contracts that exceed \$2,500,000 or are greater than five (5) years in duration (the five (5) year limitation shall not apply to contracts for human subject research); and,
- (7) any document that requires the signature of the President or Chief Fiscal Officer under applicable state or federal law or other Board policies, which are set out in greater detail in Section IX below.

B. All contracts for which signature authority has not been delegated, together with the legal review form, shall be sent to the Office of General Counsel even if such contracts require the signature of the President or the Chairman of the Board of Trustees.

III. CONTRACTS TO WHICH AUTHORITY WILL NOT BE DELEGATED BEYOND THE CHANCELLORS

The following contracts shall not be subdelegated beyond the campus unit or division to anyone and shall be executed by the Chancellor or Chief Executive Officer for each campus, division, or unit:

- (1) a commitment to build or renovate a facility in excess of \$1,000,000;
- (2) a contract, the amount of which exceeds \$250,000 individually or \$250,000 in the aggregate when involving connected transactions;
- (3) methods of finance submitted to the Arkansas Department of Finance or Administration for projects in excess of \$1,000,000;
- (4) sponsored research or corporate sponsorship contracts in excess of \$1,000,000; and

- (5) any other contract specifically designated by the President or Board of Trustees with such limitations.

Contracts which are limited to execution by the Chancellors or Chief Executive Office of a campus, division or unit may not be subdelegated, and may only be executed at the campus, division or unit after the President or Chief Fiscal Officer has been notified of the proposed contract. Notification can be accomplished by providing a copy of the proposed contract and a copy of an executed General Counsel's legal review form. Upon execution, a copy of any contract under this subsection, along with the executed General Counsel legal review form, shall be sent via electronic mail by the campus, division or unit to the System's General Counsel's Office for record maintenance.

IV. SUBDELEGATION OF CONTRACTING AUTHORITY

Authority to contract in the name of the University and the Board may be subdelegated only with written authorization of the President. Every request for subdelegation of contracting authority will be directed to the President with such justification as the President may require and designating the position to which authority is to be delegated and the scope of delegated authority. Each Chancellor or chief executive officer of a unit or division shall maintain a record of requests for subdelegation of contracting authority which have been approved. The request shall be made on the form attached to this policy as Attachment B.

It is recognized that Chancellors or chief executive officer of a unit or division may find it expedient for the efficient operation of the University that Vice Chancellors, Associate Vice Chancellors, Deans, and Directors be subdelegated general contracting authority within their areas of responsibility. Subdelegation of contracting authority beyond these levels of responsibility or positions with comparable levels of responsibility, will require special justification.

In the absence or unavailability of the President and the Chief Fiscal Officer, contracting authority may be exercised by the General Counsel, the Vice President for University Relations, or the Vice President for Academic Affairs.

V. CONTRACTS SIGNED BY THE UNIVERSITY'S AGENCY PURCHASING OFFICIALS

Standard purchase orders and similar standard contracts using approved terms and conditions may be signed by the University's agency purchasing officials (as designated under State purchasing law) without further legal review. Chancellors or the chief executive officer of a unit or division shall require that agency purchasing officials under their supervision have adequate procedures in place to assure that each invitation for bid or request for proposals contains a notice setting forth certain contractual provisions or conditions which the University will require and/or prohibit and also that, when

necessary, contracts resulting from the purchasing process will be subject to legal review prior to the award or issuance of a purchase order.

VI. SPECIAL PROCEDURES FOR PROFESSIONAL/CONSULTANT SERVICES

(1) Contracts for professional or consultant services may be executed by University employees to whom contracting authority has been delegated subject to the same limitations and restrictions applicable to any other contract as set out above or in policies of the Board of Trustees. Contracts for professional/consultant services, which are submitted on the standard state form and are subject only to approved terms and conditions, may be signed by the University's agency purchasing officials (as designated under State purchasing law) without prior legal review. All other contracts for professional/consultant services, including those that are submitted on the standard state form, along with all attachments and documents incorporated by reference, shall require legal review prior to execution.

(2) Placing professional and consultant services contracts on the agenda of the Legislative Council for its review and appearing at meetings of the Legislative Council or other appropriate committees of the Legislature reviewing such contracts shall be the responsibility of each Chancellor or chief executive officer of a unit or division or his/her designee.

VII. CONTRACTS WITH FEDERAL AGENCIES

Contracts with federal agencies on standard federal forms will be treated the same as any other contracts for which authority has been delegated. Contracts which are frequently used with federal agencies will be submitted to the General Counsel's Office for approval as a standard contract form and, following such approval, may be executed by the employee to whom authority has been delegated under this policy.

VIII. RESEARCH AND SPONSORED PROGRAMS AND CORPORATE SPONSORSHIPS

(1) The authority to review, approve, and sign all applications or proposals for sponsored research programs and corporate sponsorship contracts is delegated to the Chancellor or chief executive officer of a unit or division and Vice Chancellor for Finance and Administration and, if applicable, the Vice Chancellor for Research of each campus, unit or division.

(2) Sponsored research contracts and corporate sponsorship contracts that exceed \$2,500,000 or are greater than five (5) years in duration cannot be delegated by the President. This five (5) year limitation on delegations shall not apply to contracts for human subject research. All other contracts or grants resulting from applications or proposals for research and sponsored programs or corporate sponsorships shall be treated as any other contract under this policy and may be executed by an employee to whom contracting authority has been delegated subject to the restrictions and provisions of this

policy. Legal review of all contracts or grants resulting from such applications or proposals, including review of standard contract forms, will be conducted by the General Counsel's Office or by an attorney designated by the General Counsel.

(3) Contracts or grants for research and sponsored programs often contain certifications that the recipient is in compliance with applicable federal laws and regulations. Any such certification shall be signed by the Chancellor or chief executive officer of a unit or division or Vice Chancellor for Finance and Administration or the Vice Chancellor for Research (or comparable position) of each campus to whom this authority has been subdelegated. The signature on the certification shall mean that the individual signing the certification has made such inquiry as he or she deems appropriate to be assured that the certification is true and correct to the best of his or her knowledge and belief.

IX. MISCELLANEOUS DOCUMENTS FOR WHICH SIGNATORY AUTHORITY IS NOT DELEGATED

Under applicable state or federal law or policies of the Board of Trustees certain documents or authorizations continue to require the signature of the President or Chief Fiscal Officer. Among these are the following:

- (1) Powers of attorney authorizing an individual or firm to take specific limited action on behalf of the University, other than limited powers of attorney for purposes of customs clearance in a form approved by the General Counsel's Office;
- (2) Documents in probate proceedings in which the University is a beneficiary such as an entry of appearance and waiver of notice or a receipt of distribution, which may be signed only by the President, Vice President for Finance and Administration or the General Counsel.
- (3) Documents to open bank accounts or accounts with investment or brokerage firms which are subject to Board Policy 305.1.

July 31, 2019 (Revised)

May 8, 2017 (Revised)

June 6, 2016 (Revised)

April 29, 2016

Attachment A - Legal Review Form

Attachment B - Request to Delegate Contracting Authority

REQUEST TO DELEGATE CONTRACTING AUTHORITY

This form must be signed by the Chancellor (or chief executive officer of a unit or division) or the Vice Chancellor for Finance and Administration and should be sent to the Chief Fiscal Officer. The delegation number will be assigned by the Chief Fiscal Officer after approval by the President and a numbered copy will be returned to the requesting official for transmission to the person occupying the position to which delegated authority has been given.

Delegation No. _____

Official Requesting Delegation: _____

Position(s) to Which Authority is to be Delegated and the Current Occupant of Position(s):

Contracting Authority to be Delegated: _____

Justification for Delegation: _____

Limitations on Delegated Authority, if any: _____

Signature of Requesting Official: _____

Title: _____ **Date:** _____

Action by the President

Pursuant to University Systemwide Policies and Procedures 300.1, the above request for a delegation of contracting authority is hereby approved effective _____ .
(Date)

President