

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 NEED TO USE 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 Office of Research.

Research (e.g., grant funding, subawards, or 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		
NIAR (e.g., any contract for or on behalf of NIAR AND is not otherwise a federal grant or contract that was handled by the Office of Research.)	NIAR Contract	contact: Sarah.Tanuar@wichita.edu	
All other contracts (affiliation agreements, contracts, intellectual property licenses, services agreements, etc.)			

WHY DOES IT MATTER?

As a state educational institution, WSU is subject to certain legal provisions, and provisions which are not subject to any or accession contract terms as it is common for contract risk, liability or responsibilities, in some cases, to be transferred to the University. Some examples 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. **Contracts must be forwarded.**

No contract will bind WSU unless in writing and executed by the appropriate WSU representative.

Any violation of KRS 19.01-19.04 (policy), regarding execution of contracts, or the procedures set forth herein, may result in termination of the contract.

Any questions regarding this policy should be directed to the Office of General Counsel.