

Mississippi State University
Contract Guidelines
May 2007

1. **Purpose:**
 - a. This document has been developed to assist all parties in better understanding the processes and procedures associated with contracts at MSU.

2. **Rules:**
 - a. Sponsored program contracts shall not fall under these guidelines. All other contracts, agreements, memorandum of understanding or any other obligations or commitments to which the University will be held shall be entered into only after full compliance with these guidelines.

 - b. Authority to sign contracts has been delegated by the President to the Division of Finance and Administration; specifically, to the Chief of Staff, Director of Budget and Finance, and Director of Procurement and Contracts. No one else is authorized to sign a contract unless they have a letter from the President.

 - c. A contract is “**an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law**”. Black’s Law Dictionary, Seventh Edition. With that background, all documents to be executed on behalf of MSU and any of its subunits, whether the subunits are referred to as a Center, a Department, a College, or otherwise, and which will result in a “contract” between MSU and a third party, must be handled consistently and must contain terms and conditions that are consistent with all applicable State laws, MSU policies, and Board of Trustees policies.

 - d. A letter from the President authorizing an individual to enter into a contract does not act as an exemption to the process set forth below.

3. **Revenue Generating Contracts** (including leases of land, buildings or other facilities and any other contract in which MSU is expected to receive revenue)
 - a. **Guide:**
 - i. Prior to initiating contract discussions with potential contractors the requesting department should submit a request letter to the Office of Procurement and Contracts (P&C). This request should clearly define the proposed scope of the project, the anticipated revenue, the intended procedure for entering into the agreement (RFP, negotiations, other), the intended use for the revenues, a

proposed timeline for the project and any other information that would aid in the review.

- ii. Upon receipt, P&C will review the proposal, evaluate the proposal in relation to other contracts currently on campus as well as other contracts being considered and will make a recommendation to the Chief of Staff concerning final approval.
- iii. If the Chief of Staff approves the project, P&C will notify the requesting department and will provide advice and assistance concerning the process to be followed for solicitation and negotiation of a contract.
- iv. All Revenue Generating Contracts must be reviewed and approved by General Counsel (GC) prior to final approval. P&C will be responsible for submitting the contract document to GC. The Chief of Staff or the Director of P&C will be responsible for signing the contract. Contract services/relationships shall not be initiated prior to complete execution of the agreement (signed by both parties with an original on file in the Office of Procurement and Contracts).
- v. IHL Board approval is required for all Revenue Generating Contracts projected to generate aggregate total revenues of more than \$250,000 or if the term of such contract exceeds four years. Upon completion of an acceptable contract P&C will obtain a completed agenda item from the department and forward the agenda item to the President's office for inclusion on the IHL Board agenda. Note that the lead time on obtaining IHL approval is usually about one month or more so departments are urged to start early.
- vi. For all Revenue Generating Contracts the department will name a Contract Administrator. Prior to the beginning of the contract the Contract Administrator, in cooperation with the department head and the Office of Procurement and Contracts will develop a Contract Administrator Tasks and Responsibilities document to be agreed to and signed by the three parties. This Tasks and Responsibilities document, at a minimum should include:
 1. Verifying that all services are being performed as set forth in the contract
 2. Verifying that all revenues are being received as set forth in the contract
 3. Verify that all applicable bonds and insurance documents have been received and are determined to be adequate.

4. On a monthly basis, the Contract Administrator will be expected to provide the Office of Procurement and Contracts with a summary of all revenues received as well as accurate accounting records which document the process used to verify revenues are in compliance with the contract. P&C will provide a monthly summary of all such revenues to the President.

4. Contracts (other than Revenue Generating Contracts)

a. Guide:

- i. Please remember that only those specifically authorized in writing to do so may sign contracts for the University. In addition, all contracts should include the "Mandatory Addendum to All Mississippi State University Contracts, February 2004 edition". Also, contracts should be signed by the contractor prior to final submittal to Procurement and Contracts (P&C). We suggest the following process:
- ii. Send the contractor our "Standard" contract with the proper scope, dates, payment terms, etc. These contracts can be seen at <http://www.procurement.msstate.edu/contracts/Servicecontract.pdf>
- iii. If the contractor will accept this contract, it will greatly reduce the time and effort involved in gaining approval. When contractors require us to use their "standard terms and conditions", we must conduct a great deal of additional legal review. If they are in substantial agreement with our contract, have them prepare an addendum that identifies the specific clauses which cause them problems and provides alternative language. This type of addendum is easier to review than an entire new contract document.
- iv. If they accept and sign our contract, submit the contract to P&C for execution. Remember, very few individuals on campus have the authority to sign a contract or agreement. If there is not a letter from the President authorizing someone to sign such agreements, then they should not sign the contract!
- v. If the contractor refuses to accept our standard contract, send them a copy of the Mandatory Addendum and ask them to incorporate it into the contract. Have them submit their proposed contract to P&C for review. We will conduct the required review and will determine if the contract is acceptable. If appropriate the contract will be forwarded to the Office of General Counsel to obtain a

review for legal sufficiency. Upon completion of the review we will return the contract to the department with any required changes. The department should have the contractor initial the changes, sign the contract, and return it to P&C, where we will sign the agreement.

- vi. IHL Board approval is required for all contracts or purchases of more than \$250,000. Upon completion of an acceptable contract P&C will obtain a completed agenda item from the department and forward the agenda item to the President's office for inclusion on the IHL Board agenda. Note that the lead time on obtaining IHL approval is usually about one month or more so departments are urged to start early.
- vii. For all Contracts the department should name a Contract Administrator. Prior to the beginning of the contract the Contract Administrator should develop a Contract Administrator Tasks and Responsibilities document to be submitted to P&C with the contract. This Tasks and Responsibilities document, at a minimum should include:
 - 1. Verifying that all services are being performed as set forth in the contract
 - 2. Verify that all applicable bonds and insurance documents have been received and are determined to be adequate.
 - 3. Verifying that all payments are in compliance with the contract and for services that have been received.