



Angelo State University
Operating Policy and Procedure

OP 30.01: Contracting Policy & Procedures

DATE: November 23, 2020

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to outline the policy/procedures to follow in the development, negotiation, and approval of all contracts and agreements for any purpose and for any amount between Angelo State University (ASU) and other parties. Facilities Planning & Construction (FP&C) and external sponsored programs contracts are excluded from this OP.

REVIEW: This OP will be reviewed in March every five years, or as needed, by the executive director of contracts and materials management with recommended revisions forwarded through the vice president for finance and administration to the president by April 15.

POLICY/PROCEDURE

1. Definitions

Contract: A legally binding written agreement executed between the Texas Tech University System (TTUS) or an Institution and a third party in which the parties agree to perform in accordance with the obligations therein. Contracts include, but are not limited to, letter agreements, cooperative agreements, memorandums of understanding (MOU), interagency contracts, interlocal contracts, purchase orders, easements, licenses, and leases.

Contract Administration: Following the award of a contract, the department level actions to oversee full compliance with all of the terms and conditions contained within a contract.

Contract Administrator: The contract administrator is the department level individual responsible for adherence to all provisions contained within a contract and for managing the performance of a contract.

Contract Close-out: The process conducted at the completion of the contract during which the contract administrator confirms and documents compliance with the terms and conditions of the contract, that final deliverables are received, and outstanding payments are made.

Contract Management: The complete contracting process from planning through contract administration and concluding with contract close-out.

Goods: Supplies, materials, or equipment as defined in [Texas Government Code § 2155.001](#). Goods do not include services or real property.

Procurement (Procure): Purchasing, renting, leasing, or otherwise acquiring any goods and services, including all functions that pertain to the acquisition through contract close-out.

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Service(s): The furnishing of labor, time, and effort by a contractor or auxiliary enterprise, including for a construction project, which may involve to a lesser degree, the delivery or supply of goods.

Vendor: An individual, business, or governmental entity that has a contract to provide goods or services to the State of Texas. Used interchangeably with the term “contractor.”

2. Approval for Execution of Contracts

No person has the authority to commit ASU for any purpose (e.g., enter into) except as authorized in [Section 07.12, Regents’ Rules](#), and [OP 30.02 Contracting Authorities and Policies](#).

An individual executing a contract on behalf of a state agency, without the authority to do so, may be personally liable for damages flowing from repudiation of the contract (See Thomas, Richardson, Runden & Company, Inc. v. State of Texas, 683 S.W.2d 100 (Tex. App. - Tyler 1985 writ ref d n.r.e.)).

3. Contracts Training

- a. In accordance with Texas Education Code 51.9337 and Texas Government Code 2155.78, employees authorized to execute contracts on behalf of the university or to exercise discretion in awarding contracts, are required to complete training, including training in ethics, selection or appropriate procurement methods, and information resources procurement technologies.
- b. Training is required for faculty and staff:
 - (1) Who have contract signature authority, which is delegated by the TTUS [Regents’ Rules](#) and as outlined in [OP 30.02](#);
 - (2) Who are assigned a financial manager role;
 - (3) Who are delegated signature authority;
 - (4) Who have an assigned role as contract administrator or contract manager;
 - (5) Who are authorized to make PCard purchases either by an individual PCard or a departmental PCard.
- c. Faculty and staff are responsible for ensuring the required training is completed every two years. A notification will be sent out when the training is due. For any questions on the training, please email c_admin@angelo.edu. Employees who do not comply with this training requirement are subject to disciplinary action.

4. General Guidelines for Processing Contracts

This policy shall apply to all contracts for the initial periods, and for amendments, or extensions thereto. All contracts of \$100,000 or more require fiscal approval from the vice president for finance and administration and legal review by the TTUS Office of General Counsel. For the purpose of determining whether a contract requires approval from the vice president for finance and administration, the TTUS Office of General Counsel or the Board of

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Regents, any option(s) to extend or renew a contract shall be counted in the overall term of the contract.

- a. Written contracts shall be executed whenever the university enters into a binding agreement with another party that involves any amount and for any purpose between ASU and other parties.
- b. The department requesting procurement of goods or services shall first review the following operating policies:
 - [OP 02.09 Conflict of Interest and Commitment](#)
 - [OP 30.05 Use of Private Consultants](#)
 - [OP 30.06 Professional Services](#)
 - [OP 54.02 Historically Underutilized Businesses](#)
 - [OP 54.04 Purchase of Goods and Services](#)

A contract process flowchart is provided below. Please contact the Contracting Office for assistance.

- c. Use the templates created by the Contracting Office:
 - (1) Clinical and Affiliation Contracts:
 - For student internship agreements, use the *Institutional Affiliation Agreement Student Internship* template (Attachment A).
 - For clinical agreements, use the *Combined Clinical (PT & Nursing)* template (Attachment B).
 - For teaching affiliation agreements, use the *Field Placement Interagency Affiliation Agreement* template (Attachment C).
 - For clinical and affiliation agreements, use the *Clinical and Affiliation Contract Routing Sheet* (Attachment D).
 - (2) General and Professional Contracts:
 - For guest speakers, guest lecturers, or performing artists who are not covered under a performing agency contract, please use one of the following templates:
 - If the total fee is \$500 or less, use the *University Notice \$500 and Under* template (Attachment E);
 - If ASU is only paying for travel, use the *University Notice Travel Only* template (Attachment F);

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- If the total fee is over \$500, use the *University Contract* template (Attachment G).
- For guest speakers, guest lecturers, or performing artists covered under an agency contract, submit the agency contract and technical rider, if applicable, to c_admin@angelo.edu. A *Performance Presentation Addendum* (Attachment H) may be required.
- Use the *Professional Consulting Services Contract* template (Attachment I) to develop contracts for consulting or other services.
- If it is necessary to amend a signed contract, complete the *Contract Amendment* template (Attachment J) and complete a *Contract Routing Sheet* (Attachment K), then send to c_admin@angelo.edu.

Contact the Contracting Office if you have questions or need assistance with developing or amending contracts.

d. Contract Submission to the Contracting Office:

- (1) If possible, please initiate contract requests at least six (6) weeks prior to the start date of the contract to allow ample time for review and approval.
- (2) If a vendor contract is received, please e-mail it to c_admin@angelo.edu and complete the Contract Routing Sheet. The Contracting Office will review the contract and negotiate terms with the vendor, then notify the department of any changes.
- (3) For all non-template contracts, the Contracting Office will require vendors to sign the *Contract Dispute Resolution* form (Attachment L) or the *Contract Addendum* template (Attachment M), depending on the vendor contract terms and conditions.
- (4) All vendors and individuals doing business with ASU must have a signed W-9 on file in order to process a purchase order and related payment. The Contracting Office will request vendors and individuals to complete the *W-9 Form* (Attachment N) if a W-9 has not been completed within the last 18 months.
- (5) Departments using an approved contract template must follow the template instructions and email it to c_admin@angelo.edu for approval.
- (6) The Contracting Office will route all contracts and amendments that involve information technology components or services to the Office of Information Technology for review and approval.
- (7) Do not sign a contract unless it has been reviewed and approved by the Contracting Office.

5. Department Responsibilities

Departments must ensure that ASU operating policies are followed prior to submitting contracts to the Contracting Office:

- a. Departments requesting to enter into a contract must first determine what type of procurement is required and if other vendor quotes are necessary according to [OP 54.04](#) (see contract process flowchart). The Contracting Office will assist departments with determining required competitive bidding.
- b. Departments are responsible for ensuring that funding is available and allowable (see [Allowable – Non-allowable Expenditures](#) list) for expense contracts. The Contracting Office will create an online requisition for financial managers to approve and attach the contract documents in OnBase for departments to view. Procurement must be secured prior to commencement of services or receipt of goods.
- c. Departments must assign a contract administrator to each contract. Contract administrator's responsibilities are outlined in [OP 30.03 Contract Administration](#).
- d. Contract administrators are responsible for ensuring that all expenditure and revenue transactions are in compliance with ASU operating policies and the requirements of each contract.

6. General Guidelines for Processing Renewal Contracts

Contact the Contracting Office for assistance with renewal contracts or follow these steps:

- d. For non-template contracts previously approved by the Contracting Office, departments must submit the appropriate contract routing sheet and a copy of the renewal quote to c_admin@angelo.edu or request that the Contracting Office obtain a renewal quote from the vendor. Please note on the contract routing sheet that the contract is a renewal and was previously approved by the Contracting Office.
- e. All non-template renewal contracts not previously reviewed by the Contracting Office must be submitted to c_admin@angelo.edu for review. Departments must submit a copy of the contract and appropriate contract routing sheet. Please note on the contract routing sheet that the contract is a renewal. If applicable, the Contracting Office will negotiate terms with vendors.

4. The Contracting Office's Responsibilities

- a. Serve as the repository for all university contracts subject to this operating policy and [OP 02.07 Records Retention](#).
- b. Ensure contracts are in compliance with the requirements listed in the [TTUS Contract Management Handbook](#).
- c. Review contracts for institutional risks through appropriate risk management procedures.
- d. Negotiate contract terms and conditions with vendors and notify departments on the status of contracts as they progress through the review process.
- e. Verify that contracts subject to this operating policy are in compliance with Texas state and federal laws.

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- e. Verify that contractors are eligible to contract with ASU in accordance with Texas state and federal laws.
- f. Submit contracts for fiscal and/or legal review, as deemed necessary. The TTUS Office of General Counsel requests to have thirty (30) days to review pending contracts.
- g. Route contracts to authorized university officials and to vendors to obtain signature and provide copies of signed contracts. Departments will be IDT'd for postage charges related to obtaining vendor signatures on contracts, if applicable.
- h. Verify that bonds and insurance certificates are provided as required by the contract or university policy.
- i. Provide contract management oversight to contract administrators to ensure contracts are performed in accordance with contract terms and conditions as required by [OP 30.03 Contract Administration](#).
- j. Assist contract administrators with developing renewal documentation or assessing if procurement is necessary for expiring contracts.
- k. Report non-compliance of contracting policies to the Office of Audit Services.
- l. Report to the Legislative Budget Board all reportable contracts, amendments, renewals, extensions, requests for proposals, invitations to bid or other solicitations.
- m. Assist departments with the *Notice to BOR Chairs for Consulting Contracts* (Attachment O).
- n. Prepare motions or information agenda items for contracts to report to the TTUS Board of Regents.

Attachment A: [*Institutional Affiliation Agreement Student Internship*](#)

Attachment B: [*Combined Clinical \(PT & Nursing\)*](#)

Attachment C: [*Field Placement Interagency Affiliation Agreement*](#)

Attachment D: [*Clinical and Affiliation Contract Routing Sheet*](#)

Attachment E: [*University Notice \\$500 and Under*](#)

Attachment F: [*University Notice Travel Only*](#)

Attachment G: [*University Contract*](#)

Attachment H: [*Performance Presentation Addendum*](#)

Attachment I: [*Professional Consulting Services Contract*](#)

Attachment J: [*Contract Amendment*](#)

Attachment K: [*Contract Routing Sheet*](#)

Attachment L: [*Contract Dispute Resolution*](#)

Attachment M: [*Contract Addendum*](#)

Attachment N: [*W-9 Form*](#)

Attachment O: [*Notice to BOR Chairs for Consulting Contracts*](#)

CONTRACT PROCESS FLOWCHART

