

Kean University Operating Rules and Procedures for Contracts

Applies: University-Wide

Issuing Authority: Chief Financial Officer

Responsible Officer: Associate Vice President for University Procurement & Business Services

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1. PURPOSE

To define the responsibilities of University employees regarding University contracts for the purchase of goods and services. Please refer to the Office of University Counsel for contracts of other types.

2. ACCOUNTABILITY

The Chief Financial Officer (CFO) shall implement these procedures and the Senior Vice Presidents, Vice Presidents, Deans, Directors, University employees shall ensure compliance with these rules and procedures.

3. APPLICABILITY

These rules and procedures apply to all Kean University departments, divisions, colleges, and schools who wish to procure products and/or services that result in a contract. Please note that products and/or services should not be procured without appropriate documentation.

4. DEFINITIONS

- Contract: is a written agreement, enforceable by law.
- Requestor: is the contract initiator that has submitted a request to University Procurement & Business Services (UPBS) to review and approve a contract for the purchase of goods and/or services.
- Vendor: is a company or independent contractor that sells goods or services.
- Arbitration: Form of Alternative Dispute Resolution involving the resolution of disputes outside the court system using the services of an arbitrator.
- Governing Law: also known as choice of law, is a clause that is included within contracts, which gives the parties involved the right to choose which state's or country's laws will govern in a legal dispute between the parties.
- Indemnification: is a provision in a contract wherein one party agrees to be financially responsible for losses incurred by the other party.
- Jurisdiction: is the place in which legal action must be filed under a contract.

5. RULES & PROCEDURES

5.1. Acceptance of University Purchase Order as Contract. With certain exceptions, Vendors should be strongly encouraged to accept the University's purchase order as its official contract for purchases at or below the University bid threshold.

- 5.2. Use of Vendor Contracts. If a vendor requires the University to use a contract other than the purchase order, or if a contract is required by these rules and procedures, the requestor should ask the vendor to utilize one of the University's standard service agreements. If the vendor requires the requesting Department to use the vendor's contract, the contract must be reviewed pursuant to Section 5.4 of these rules and procedures.
- 5.3. Contract Required. University Departments must submit for approval a vendor contract in in the following circumstances:
- a. The hiring of professional services, regardless of the value of the contract.
 - b. The purchase of goods and services in excess of \$50,000.00.
 - c. Any public works and construction contracts of any value.
 - d. Any project in which workers are employed and paid in accordance with the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.).
- 5.4. Vendor Contracts. If the vendor insists on providing their own contract, they must be made aware that the University is a New Jersey Public Urban Research University and is not permitted to agree to certain clauses in vendor service agreements. The following list is a list of common objectionable clauses:
- a. Indemnification
 - b. Governing Law/Jurisdiction in a state other than New Jersey
 - c. Arbitration
 - d. Terms & Conditions posted on the Vendor's Website that may be updated at the vendor's discretion.

If a vendor provides a document that includes such clauses, the contract will require modification and shall be sent back to the requestor. This may delay the signing of the agreement.

- 5.5. Vendor Acknowledgement Form. UPBS may request a Vendor submit a Vendor Acknowledgement Form confirming they agree to abide by the statutes, rules, and regulations of the State of New Jersey applicable to all vendors doing business with any State agency.
- 5.6. University Service Agreements. Whether the contract is on a standard University service agreement template or initiated by the vendor, the contract should clearly outline the products and/or services at issue, including, but not limited to:
- a. Scope of work or an accurate, detailed, and concise description of the services to be provided or the work to be performed by the vendor.
 - b. Deliverables or the quantifiable products or services that will be provided upon project completion.
 - c. Term or the time period in which the contract will be valid.
 - d. Cost of products or services and/or price breakdown.
 - e. All contracts for goods and services must include a maximum "not-to-exceed" value.

6. SIGNATURE AUTHORITY

- 6.1. Contracts should not be signed until the University Counsel and UPBS approves any revisions to the final contract form.
- 6.2. Upon approval of the contract, the vendor should be asked to sign the contract first.
- 6.3. Upon receipt of an executed contract, UPBS will obtain the signature of an authorized signatory of the University.
- 6.4. The Board of Trustees has delegated authority to sign contracts for the purchase of equipment, materials, supplies and services **only** to the President, CFO and the Associate Vice President for Procurement & Business.
- 6.5. The Board of Trustees has delegated authority to sign contracts for something other than the purchase of equipment, materials, supplies and services to the President, the Chief of Staff, the CFO and the Senior Vice Presidents or their designees. This includes affiliation agreements, articulation agreements, memoranda of agreement/understanding, acceptance of grant funds, research agreements, or other similar agreements.

7. AMENDMENTS

Contracts may require modification (amendment). Such amendments must be in writing. Amendments must be approved through the UPBS and be executed as described above.

8. LEGAL REVIEW

UPBS is responsible for the processing of contracts for the purchase of goods or services and/or payments made to the contracting vendor. All contracts shall be sent to UPBS for review prior to signing. UPBS will consult with University Counsel as necessary.

- 8.1. Timeframe. A requesting Department should allow a minimum of fourteen (14) days for legal review of any vendor contract. Use of a standard Kean University contract template will expedite legal review. Contracts for confirming orders may not be processed by UPBS without approval by the CFO.

9. ADDITIONAL UPBS RESPONSIBILITIES & VENDOR MAINTENANCE

Prior to the review of contract documentation, UPBS ensures the vendor we are contracting with is authorized in the University Ellucian System generating a unique identification number. The vendor data is cross-referenced against documentation requirements from the State; including, but not limited to: New Jersey Business Registration Certification, Affirmative Action and EO117 Compliance Documentation.

- 9.1. Procurement Compliance: If you are soliciting goods or services which result in a contract, UPBS ensures the correct State mandated and University required procurement supports

the purchase. For additional information see *Kean University Operating Rules and Procedures for Procurement*.

10. TECHNOLOGY COMPLIANCE:

The Office of Computer & Information Services (OCIS) is responsible for ensuring that technology infrastructure meets University supported specifications and standards. Contracts for technology purchases and services will not be processed without required approvals from OCIS.

11. REQUESTING DEPARTMENT CONTRACT RESPONSIBILITIES

- 11.1. Submit to UPBS the final fully executed version of the agreement, as well as any amendments.
- 11.2. All departments are responsible for managing their own contracts, including tracking deliverables, annual renewals, renewal terms, vendor performance, etc.
- 11.3. Notify UPBS regarding vendors who are potentially in breach of contract.
- 11.4. Submit requisitions and invoices required by the contract in accordance with University operating rules & procedures.

12. RULES & PROCEDURES REVIEW AND DISTRIBUTION

These rules and procedures shall take effect immediately and shall be posted on the University Procurement & Business Services website. They shall be reviewed and amended as required.