

Contracts Update

More Efficient Contract Processing – Process Changes and Handy Hints



Contracting Process Update

Contracting Process Updates

- Contract Delegation Memo
 - Each VP can sign contracts up to \$350,000.
 - Contracts over this amount are reviewed by the appropriate VP and signed by the President.
 - Articulation agreements will be signed by the President.
- Electronic Signatures
 - Contracts will be signed electronically by the appropriate VP or President and/or the Vendor.
 - It is hoped that this results in quicker processing times as contracts can be signed by even if the authorized representative is out of the office.
 - Contract summary form to be updated to ensure we are capturing required information about vendor that will allow contract to be signed electronically
 - Policy regarding electronic signatures to be implemented before system goes live.

Contracting Process Updates

- Legal Review

- On October 28, 2019 the Board of Regents approved a resolution exempting certain contracts from legal review for a trial period from January 1, 2020 to July 21, 2020 (the date of the July Board Meeting).
- This is not going to change the way contracts are submitted, but will change the way they are reviewed.
- Contracts below \$50,000 in value and on a University template will be reviewed and routed for signature by the Procurement team
- Contracts below \$50,000 in value using a Vendor's template will be reviewed and routed for signature by the Procurement team if the Vendor accepts the University's Standard Contract Addendum without any changes.
- It is hoped that this will reduce the processing time for contracts.
- It is still recommended that contracts be submitted as early as possible to give OGC and/or Procurement time to review and process appropriately

Contracting Process Update

- Legal Review Cont.
 - The decision as to who is reviewing the agreement will be made by the Contracting Specialists in conjunction with OGC
 - If you have a contract sent through by a Vendor then submit to contracts@sfasu.edu as soon as possible, as we may need to negotiate with the Vendor.
 - Some contracts are not exempted from legal review even if they are below \$50,000. E.g. software contracts.
- Software will still go through the PMO process.
- VPAT and HECVAT information is still required if purchasing software.

Handy Hints

Handy Hints

- We are always happy to answer any questions you may have about a contract. It is easier to answer a question or review a contract before it is submitted than having to re-route a contract.
 - General Counsel's Office – ext. 4305
 - Procurement - <http://www.sfasu.edu/purchasing/660.asp> (Who is my Buyer?)
- Give as much lead time as possible to allow for contract processing. Never know when issues may arise and negotiating the contract takes longer than expected.
- Templates are available on the OGC's website:
<http://www.sfasu.edu/gencounsel/106.asp>
- It is important to use the correct version of the agreement – always check the bottom left corner for date of last update. Contract forms have all been updated in 2019 (you may need to clear any bookmarks you have).

Services Agreements

_____, Project Director
_____, University: **Insert Title of VP**
_____, Contractor

Date: _____
Date: _____
Date: _____

- As there is a contract delegation in place, you will need to enter the appropriate VP's title on the contract.

Services Agreements

Whereas the undersigned **Insert Name of Contractor** (Contractor) hereby enters into this Agreement with Stephen F. Austin State University (SFASU) to provide the following designated services and/or products on the dates agreed to below:

(The kinds and amounts of services to be rendered must be specifically listed and in sufficient detail to clearly describe the services contracted for.)

- The name for the Contractor listed on the contract must match the name on the W9 form.
- Incorrectly listed names requires the contract to be re-processed and for the name change to be initialed by both the University and the Contractor, leading to delays in payment to Vendor.
- Services must be described in as much detail as possible.

Services Agreements

This agreement shall begin on **date**, and shall terminate on **date**. This agreement may be terminated by either party upon thirty (30) days written notice or immediately by SFASU in the event of breach by Contractor.

- Ensure the term of the agreement is correct – this is the time frame in which the services are to be provided.
- A Contractor is not paid until the contract has ended so it is important to provide the correct end date.
- If you put an earlier date as the start date then you may be found to be out of compliance with the contract processing rules as the contract is being signed after the start date.

Services Agreement

Travel:

Contractor shall be responsible for any and all travel expenses.

Contractor shall be reimbursed for travel conducted in the pursuit of this contract and appropriate per diem. Documentation of travel costs (original receipts) shall be provided by the contractor for all travel related expenses except mileage on personal automobile. Original receipts are required for travel expenses related to hotel, rental car, commercial coach airfare, parking, taxi, etc. Hotel expenses shall be reimbursed at no more than \$93.00 per night, plus taxes. Mileage will be tallied using the shortest route between two points as indicated by Google Maps and shall be reimbursed at a rate of 54.5 cents per mile. Receipts are not required for meals; however, they shall not exceed \$51.00 per day. Meals will not be provided unless overnight travel is incurred.

University will pay for the following travel directly:

- The travel section has been updated to include a new section to cover any travel arrangements the University is making directly.
- The text boxes for reimbursement and direct payment can be edited and should be edited to detail the exact arrangements being made.
- It is important to ensure this part of the contract is completed correctly to ensure that duplicate payments are not made.
- It is permissible that both the second (purple) and third (blue) boxes are ticked for the same contract.

Services Agreements

Fees:

Contractor shall be paid \$ (words and figures) for contracted services, including any and all preparation time. This agreement shall not exceed \$ (words and figures), excluding travel and per diem as described herein. Notwithstanding, performance by SFASU under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of SFASU (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then SFASU will issue written notice to Contractor and SFASU may terminate this Agreement without further duty or obligation hereunder. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of SFASU.

- In the fees section you need to include the amount being paid for the services, along with a not to exceed amount.
- The fees section does not include any travel that the University is reimbursing to the Contractor or paying directly.

Services Agreements

Intellectual Property:

Intellectual Property is not a part of contracted services.

SFASU and Contractor acknowledge and confirm that SFASU has special ordered or commissioned from Contractor the Work referenced above and that no party other than Contractor has rights, titles or interests in the Works. Contractor acknowledges that its services, including works on and contributions to the Work are rendered and made by Contractor at the instigation of SFASU; and all of Contractor's work and contributions are and at all times shall be regarded as "work made for hire", as that term is used in the U.S. Copyright Act. Contractor acknowledges and agrees that the Work (and all rights therein, including without limitation copyright) belong to and shall be the sole and exclusive property of SFASU.

If for any reason the Work would not be considered a work made for hire under applicable law, Contractor hereby assigns, transfers, and conveys any and all rights, title, and interest to SFASU, including without limitation all copyrights, patents, rights of reproduction, rights to ownership, and right to secure registrations, renewals, reissues and extensions thereof. As the sole copyright holder of the Work, SFASU maintains and asserts the rights to use, reproduce, incorporate, make derivative works from, and/or edit the Work in any form of medium, expression, or technology now known or hereafter developed, at any time within SFASU's discretion.

If the Work is one to which the provisions of 17 U.S.C. § 106A apply, Contractor hereby waives and appoints SFASU to assert on Contractor's behalf Contractor's moral rights or any equivalent rights regarding the form or extent of any alteration to the Work (including, without limitation, removal or destruction) or the making of any derivative works based on the Work, including, without limitation, photographs, drawings or other visual reproductions of the Work, in any medium, for university purposes.

Contractor warrants and guarantees to SFASU that the Work is original on his or her part, is not a derivative work of any other work, and is no way a violation or infringement of any copyright belonging to any third party. CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD SFASU, ITS BOARD OF REGENTS, OFFICERS, EMPLOYEES, AFFILIATES AND AGENTS HARMLESS AGAINST ANY LOSS, EXPENSE (INCLUDING ATTORNEY'S FEES AND ALL EXPENSES WHATSOEVER), OR DAMAGE OCCASIONED BY ANY CLAIM, DEMAND, SUIT, RECOVERY, OR SETTLEMENT ARISING OUT OF BREACH OR ALLEGED BREACH OF ANY OF THE WARRANTIES CONTAINED HEREIN OR ARISING OUT OF ANY OTHER FAILURE ON THE PART OF THE CONTRACTOR TO FULFILL ANY OF ITS COVENANTS, PROMISES, REPRESENTATIONS, OR WARRANTIES CONTAINED IN THIS AGREEMENT.

- For most services IP is not a part of contracted services.
- The contract is considered a work for hire if the University needs to own the copyright in something being produced as a result of the contract. I.e. if a report is being produced that the University needs to be able to reproduce.

Affiliation Agreements

- Affiliation Agreements are for a term of five (5) years.
- They are not student specific. This means that they do not need to be resigned each semester if a different student is completing an internship at the facility.
- It is recommended that as you submit Affiliation Agreements for signature that you maintain a list within your department so that you can track if and when a new agreement is required.
- If a facility is insistent that the agreement must be student specific or for a shorter duration contact us in OGC and we can update the agreement as appropriate.
- Moving forward Affiliation Agreements will be signed by the Provost.
- During the trial period Affiliation Agreements on the University's template will be reviewed by the Procurement team.
- Affiliation Agreements on a facility's form will still be reviewed by OGC.
- Be sure to include the name of the program as required throughout the document and ensure you include the number of hours that need to be provided under the agreement.