When does the University require a department to process a contract through the contract management system?

The University requires departments to enter contracts through the contract management system in the following circumstances:

- <u>**Regardless**</u> of dollar value (even if the transaction is a zero-dollar transaction, including non-binding letters of intent):
    - o   The other party requires the University to sign the document.
    - o   The other party requires advanced payment.

- The transaction is $10,000 or more and:
    - o   The transaction is for services.
    - o   The transaction is for goods or services and other party is an international vendor.
    - o   The transaction is for goods with a domestic vendor and the other party will not accept a purchase order.

Are there any types of contracts that departments are allowed to sign?

No. Only the university's authorized officials may sign contracts. Under state law, only authorized officials can sign contracts. A list of authorized officials is here: https://procurement.tennessee.edu/contracts/

If a person <u>without</u> authority signs a contract, the contract is not binding on the university. Further, the person without authority could be personally liable for the contract, in the event of a lawsuit. See T.C.A. § 9-8-307. Moreover, Chief Business Officers have discretion to require an employee who signed a contract without authority to pay for the goods/services in the contract using personal funds (for which the employee would not be eligible for reimbursement).

The proper process to ensure that only authorized officials sign is for departments to submit contracts through the contract management system. If you have questions, please contact your campus contract office.

What if the title of an agreement is something like "memorandum of understanding," or "letter of intent"? What if the title does not contain the word "contract," but instead contains the word "agreement." Does that have any impact on whether the document needs to go through the contract-review process?

No. The title of an agreement does not govern whether it is a contract. If you have questions about whether a document needs to go through the contract process, please reach out to your campus contract office.

GUIDANCE DOCUMENT:

FI0420 | FAQS

THE UNIVERSITY OF
TENNESSEE
SYSTEM

GENERAL COUNSEL
Policies

Examples of University contract titles include, but are not limited to, the following types of agreements: affiliation agreements; agreements for the purchase, lease, or rental of goods or services; agreements for the use of the university's name, logo, or resources; agreements regarding use of intellectual property; agreements with hotels, convention centers, or other facilities; athletic agreements; banquet event orders; catering agreements; click-wrap terms and conditions (also known as shrink-wrap, click-through, browse-wrap, online, or electronic terms and conditions, terms of use, or licenses); clinical service agreements; deeds; gift agreements not related to a University Foundation; instructional agreements; liability waivers; material transfer agreements (also known as MTAs); memoranda of agreement (also known as MOAs); memorandum of understanding (also known as an MOUs); nondisclosure agreements (also known as confidentiality agreements, NDAs, or CDAs); settlement agreements; software license agreements; subscription agreements; term sheets; and terms and conditions.

What happens if the other party will not agree to the university's revisions?

The contract office that reviews the contract will work with the other party to explain the reasoning behind the university's revisions.

How long does the process take?

It varies based on several factors. A good practice to follow is to submit your contracts into the contract management system as early as possible. The process can take as little as a few business days to a long as several months. The two most important variables in the timeline are: 1) the requesting department's actions and 2) the other party's timeline for reviewing and working with the university on revisions.

Why does the university need to revise the terms and conditions of a contract?

The university is a state-government agency. As such, state and federal laws limit the University's ability to agree to various clauses that often appear in contracts.

What are things that the department can do to help ensure a smooth contract-review process?

The following checklist is for departments to use and it is to help departments ensure that they follow appropriate steps.

- **Read** all documents and ensure that you understand the obligations, rights, and responsibilities set forth in the contract. If you do not, please consult with your campus contract office.

- Ensure that you have **all documents**. Sometimes, contracts reference schedules, addenda, exhibits, etc. Be sure to attach those to the documents that you submit for review.

- Pay special attention to all **dates, financial obligations, and deliverables**. Only your department, and not the campus contract office, will know if the dates, financial obligations, and deliverables are accurate and complete. If you need to make adjustments, please work with the other party to make corrections before you submit the contract for review.

- Do **not** attempt to negotiate policy or legal issues with the vendor. Doing so could result in delays.

- Do **not** attempt to edit the legal terms and conditions of the contract. Doing so could result in delays.

- Enter the contract documents into the contract management system as **soon as possible**. The sooner you enter the contract into the contract management system, the better.

- Take all necessary steps to avoid requesting rush review. The campus contract offices have a high volume of work, and usually review hundreds to thousands of contracts per year.

- Discuss any concerns that you have with your campus contract office or procurement office, as applicable. If you experience problems with the vendor, please reach out to your campus contract office or procurement office.