



Purchasing and Contracting on Behalf of DePaul

Procurement Services
Office of the General Counsel



Legal Review by the OGC

- Pre-approved form agreements do **NOT** require further legal review (unless the legal provisions are changed)
- OGC review of the legal terms of contracts is required when
 - The actual or estimated value of a contract is \$50,000 or more
 - Includes contracts that might incur over time an aggregate value of \$50,000 or more
 - A contract involves “Special Risk”

What is “Special Risk”?

- Contracts involving a third party’s use of DePaul’s **intellectual property** (such as university logos, marks, artwork, symbols, or copyrighted materials);
- Contracts involving the **lease or purchase of real estate**;
- Contracts requiring DePaul to **indemnify or insure an outside party**;
- Contracts involving **off-campus educational programs or activities** (such as international affiliation agreements, study abroad contracts, and student internship/service-learning contracts);
- Contracts that will give any provider of goods or services **access to private or confidential information** (such as information protected by FERPA, HIPAA, or the Gramm-Leach-Bliley Act);
- Contracts that may expose DePaul to **significant risk or liability**; and
- Contracts involving the authority to **open or maintain banking accounts** for the university

Exceptions to the Special Risk Category

- Contracts for domestic hotel/lodging, catering, restaurant, meeting space and individual car rental do **not** require legal review regardless of whether such contracts fall into a “Special Risk” category.
- Procurement’s rules regarding requisitions still must be followed. Generally, if any of the contracts above are over \$3,500 in value, a requisition must be opened with Procurement.

Retention of Contracts Not Reviewed by the OGC

- If the OGC does not review a contract, the department should **not** send the signed contract to the OGC.
- Departments should file and maintain their original signed contracts. Almost always, retaining electronic copies is acceptable.
- Signed contracts must be saved for ten years.

Electronic Signatures

- With the vast (vast) majority of contracts, pdfed signatures, faxed signatures, and electronic signatures (i.e. DocuSign) are acceptable.

Common Contract Terms

Okay	Hmm ...	Term
✓		Assignment
✓		Waiver
✓		Governing Law (Illinois preferred)
✓		Bankruptcy
✓		Severability
✓		Amendment/Modification
✓		Arbitration
✓		Waiver of Jury Trial
✓		Forum Selection
	✓	Indemnification
	✓	Insurance
	✓	Automatic Renewal

If in doubt, ask me! mmerjan@depaul.edu or (312) 362-6372 (x2-6372)

Indemnification

- Legal term meaning to compensate or reimburse a party for loss or damages it sustains.
- We see it frequently in contracts when one party agrees to “defend or indemnify” the other for claims brought by a third party.
- It is a way to shift risk.
- Sometimes, DePaul must indemnify the other party to a contract.

Signatory Authority/Bid Exemption DePaul Executive Officers



President A. Gabriel Esteban, PhD



Executive Vice President Sherri Sidler



Provost Salma Ghanem



Secretary of the University Kathryn Stieber

Master Services Agreements

- A master services agreement ("MSA") is a special type of contract that is commonly used when purchasing goods or services multiple times over a longer period of time from the same vendor, but the specifics (e.g. quantity, specifications) of each order are not known up front.
 - For example, an MSA may be used for a general contractor who is on campus many times and it would be impractical to sign a new contract for each job.
- Issues to consider when deciding to enter into a new MSA:
 - How many orders will be placed with this vendor?
 - What terms are needed for the contract?
 - Is the estimated value over \$3,500?
 - Is the estimated value \$50,000 or is there "special risk" as defined by the Contract policy requiring legal review?
 - Is the estimated value over \$25,000?
 - The term "master services agreement" is not a proper noun and some companies or other entities may use the term differently than DePaul.

What Happens When a PO is Needed?

- **Department Responsibility:**
 - Opens a requisition and attaches quotes, contract and contract review form to the requisition
 - Waits to hear back from OGC with comments
 - Works with vendor to agree on the recommended changes
 - Obtains contract signatures and forwards the duly signed contract to Procurement
- **OGC Responsibility:**
 - Receives/Reviews contract review form and contract from Procurement
 - Reviews legal terms
 - Submits comments/recommended changes to department
 - Approves requisition after review is complete
- **Procurement Responsibility:**
 - Reviews requisition; approves and routes requisition to OGC and other approvers, if needed
 - Advises department to make recommended changes to the contract per OGC
 - Advises department to have the contract duly signed
 - Sends purchase order, signed contract and standard terms to vendor
 - Forwards signed contract to OGC for filing

What Happens When a PO is Not Needed?

(Certain specialized contracts and contracts under \$3,500)

- **Department Responsibility:**

- If a contract is \$50,000 or more in value and/or contains a special risk, fill out a contract review submission form and submit both the form and contract to contractreview@depaul.edu
- Waits to hear back from OGC with comments
- Works with vendor to agree on the recommended changes
- Obtains contract signatures and forwards the duly signed contract to OGC

- **OGC Responsibility:**

- Receives/Reviews contract review form and contract from department
- Reviews legal terms
- Submits comments/recommended changes to department

Successful Planning

- Know the organization's policies and procedures for purchasing.
- Ask for assistance from Procurement!
- Treat each supplier with equal consideration.
- Maximize the value for each dollar spent.
- Be knowledgeable about your decisions.

- Questions



- Resources

- [Office of the General Counsel](#)
- [Procurement](#)