

## **POLICY 1.49 – Contract Management and Signing Authority**

**Policy Category:** General

**Related Procedures:** [Procedures for Negotiating, Approving and Signing University Contracts](#)

**Effective Date:** June 24, 2010

**Supersedes:** (NEW)

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### **PURPOSE**

The purposes of this policy are to:

- define the responsibilities of individuals who negotiate, approve, or sign contracts on behalf of the University; and
- specify who may sign contracts on behalf of the University.

### **DEFINITION**

**Contract:** Any agreement, contract, subcontract, letter of intent, memorandum of understanding, memorandum of agreement, lease, license, donor agreement, deed, grant, certificate, instrument, assignment, or any other document which creates an obligation or which may be binding upon the University.

### **POLICY**

1. No person is authorized to sign a contract on behalf of the University unless:
  - (a) The transaction has been reviewed and approved in accordance with this Policy or other applicable Board of Governors by-law, resolution or policy; and
  - (b) He or she has signing authority under this Policy or other applicable Board of Governors by-law, resolution or policy.
2. All persons who negotiate, approve, or sign contracts on behalf of the University must comply with procedures issued by the President relating to the negotiation and execution of University contracts.
3. The President is authorized to execute any contract on behalf of the University except in the following circumstances:
  - (a) Where the President's authority to deal with the subject matter of the contract is limited by another Board by-law, resolution or policy; or
  - (b) Where the authority to execute the contract has been specifically delegated in another Board by-law, resolution or policy.

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4. The President may delegate this signing authority to other University employees but shall remain accountable to the Board of Governors for all contracts executed by such delegates. The nature and scope of the delegation from the President, including approval requirements, shall be set out in procedures issued by the President ([see Appendix 1](#)).
5. The President and Vice-Presidents may delegate signing authority given to them under any Board by-law, resolution or policy for the duration of any absences from the University.
6. It is the responsibility of the President and Vice-Presidents to bring to the attention of the Board of Governors or appropriate Board committee any proposed contract which in their judgment presents an unusually high level of risk to the University, involves precedent setting issues or the nature of which might reasonably be seen to have an effect on the University beyond its normal business operations.
7. From time to time the Board of Governors may authorize other individuals to sign specific contracts or types of contracts.
8. Any question regarding the appropriate signatories for a contract should be referred to the Secretary of the Board of Governors. The Secretary has the authority to determine the appropriate signatories, consulting the University's Legal Counsel as needed.

### **[APPENDIX 1: Procedures for Negotiating, Approving and Signing University Contracts](#)**

#### **[APPENDIX A: Signing Authority Register](#)**

#### **[Sample Delegation of Authority Form](#)**

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### APPENDIX 1

#### **Procedures for Negotiating, Approving and Signing University Contracts**

The President has issued these Procedures pursuant to the Board of Governors [Contract Management and Signing Authority Policy 1.49](#). The **Signing Authority Register** attached as [Appendix A](#) sets out the approval and signing authorities for various types of contracts.

These Procedures apply to contracts between two or more parties, one of which is the University or any of its units. The contracts may relate to any aspect of University administration, operations, academic undertakings, and research. Contracts may be called agreements, letters of understanding, memoranda of agreement, etc.

Examples of contracts include: purchase agreements, donor agreements, technical/professional service agreements with private industry or government agencies, leases, deeds, legal settlements, liability waivers, indemnification agreements, license agreements, student exchange agreements, student placement agreements, internship or training agreements, articulation agreements, research agreements, international research collaboration agreements, and memoranda of understanding or cooperation with other institutions or governments.

#### **NEGOTIATING AND SIGNING CONTRACTS**

Employees who are authorized to enter into contract negotiations with individuals or institutions external to the University, approve contracts on behalf of the University, or sign contracts on behalf of the University, must exercise their authority in a prudent manner. While the degree of care that must be exercised in each instance will vary depending on the type and value of the contract, all employees involved in negotiating or signing contracts must review and comply with the following requirements.

#### **1. NEGOTIATING CONTRACTS**

Everyone who undertakes contract negotiations on behalf of the University must:

- review relevant University policies to determine if approvals are required from the Senate, Board of Governors, a committee, or an officer of the University before negotiations can commence
- ensure that they have the requisite authority to enter into contract negotiations
- assess the likely impact of the transaction on other units of the University and ensure that
- appropriate consultation takes place with any units which may be affected by the contract
- ensure that University procedures have been followed for the allocation of funds for the contract
- determine whether there are financial issues that should be reviewed by Financial Services (egs. method of payment, tax consequences, method of acquisition)
- take into consideration the reputation and financial viability of the other party
- determine whether legal support or advice is required and obtain such support as early as possible in the negotiation process

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- review the proposed terms and satisfy themselves that:
  - they are sufficiently clear and accurately reflect the current state of negotiations
  - they meet the University's program or operational requirements
  - they meet any conditions stipulated by the University authority that had approved the initiation of negotiations
  - they comply with all applicable legislation, regulatory requirements, and University policies
  - the University maintains the required insurance coverage and the other party has provided acceptable proof of coverage
  - the University can comply with its obligations
  - the other party will be able to meet its obligations
  - the contract is in the best interests of the University
- bring to the attention of the appropriate Vice-President any proposed contract which is of sufficient importance because of its subject matter or specific provisions
- ensure that the other party is made aware that the contract is not considered final and binding until it has been approved and signed in accordance with University policies.

Once negotiations are completed, any necessary approvals must be obtained. Even if there is no formal approval requirement, it is recommended that the proposed contract be reviewed by another employee(s) with appropriate expertise who can bring a "fresh set of eyes" to the document. The contract should then be forwarded to the appropriate individual(s) for signature. Ordinarily, there should be one copy containing original signatures for each party to the agreement. The University's copy containing original signatures should be forwarded to the storage site designated in the Signing Authority Register.

### 2. APPROVING CONTRACTS

Everyone who is required to approve a contract prior to signature must satisfy him or herself that the requirements set out above under "Negotiating Contracts" have been met. Approval of a contract indicates that:

- the individual is satisfied that all necessary steps have been taken to ensure that the form and content of the contract are satisfactory, and
- he or she recommends that the contract be signed by the University.

### 3. SIGNING CONTRACTS

Everyone who is authorized to sign contracts on behalf of the University must satisfy him or herself that the requirements set out above under "Negotiating Contracts" have been met and that all required reviews and approvals have been obtained.

### CONFLICT OF INTEREST

Everyone involved in negotiating, approving, or signing contracts on behalf of the University must disclose a conflict of interest or potential conflict of interest to the appropriate University officers. See also [http://www.uwo.ca/univsec/pdf/policies\\_procedures/section3/mapp34.pdf](http://www.uwo.ca/univsec/pdf/policies_procedures/section3/mapp34.pdf) and applicable collective agreements.

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### **LEGAL REVIEW**

The University Legal Counsel and other designated legal counsel within the University provide legal advice and assistance to individuals who negotiate and sign contracts. Legal review ensures that those responsible for entering into contracts are made fully aware of the legal consequences of contractual provisions. It also provides added assurance that the terms of the contract fully protect the rights and other interests of the University and are consistent with all applicable laws.

It is the responsibility of those who are negotiating and signing contracts to decide if legal advice or assistance is required in a particular case. As a general rule, legal counsel should be consulted prior to signing a contract in any of the following cases:

- there are substantial changes to the terms of an existing contract
- the contract contains insurance clauses, indemnities, intellectual property provisions, guarantees, or warranties
- the contract involves a significant dollar amount or it may expose the University to an uncertain or potentially significant liability
- there are or may be significant financial ramifications to the University
- the contract involves sensitive issues
- the contract includes provisions which may pose a substantial risk to the University.

### **LEGAL NAME OF UNIVERSITY**

Contracts must be entered into in the name “The Board of Governors, The University of Western Ontario”, or “The University of Western Ontario”. The name of a Faculty or Department may be included in certain cases.

### **ORAL CONTRACTS**

Contracts do not need to be in writing to bind the University. Oral representations and agreements can potentially create legal obligations for the University. As a general rule, the University’s business should be conducted through written contracts or agreements. Under no circumstances does an individual have authority to bind the University by way of oral agreement if that individual does not have the requisite signing authority under a Board of Governors by-law, resolution or policy.

### **CONTRACTS IN LANGUAGES OTHER THAN ENGLISH**

The University Legal Counsel should be consulted with respect to signing contracts in languages other than English or signing an English and non-English version of a contract.

### **CORPORATE SEAL**

Contracts requiring the corporate seal are signed in accordance with Board of Governors By-law No. 1, J.1. The Secretary of the Board of Governors maintains a record of all contracts signed under seal and a fully signed original contract is stored in the University Secretariat or such other location designated by the Secretary.

### **SIGNING AUTHORITY REGISTER**

The Signing Authority Register (Appendix A) sets out:

- (a) those officers and employees to whom the President delegates approval and signing authority for specific types of contracts pursuant to MAPP Policy 1.49;
- (b) those officers and employees who are authorized to approve and sign specific types of contracts pursuant to other Board of Governors by-laws, policies or resolutions; and
- (c) the required storage site for signed original contracts.

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The President retains the authority to sign contracts for which he/she has delegated signing authority in the Register.

The University Secretary is responsible for maintaining and updating the Signing Authority Register.

### **RETENTION OF CONTRACTS**

The custodians of contracts must ensure that they are kept secure and retained for the stipulated retention period. The University Legal Counsel must approve all retention periods for contracts.

**Date of Issue: *November 15, 2010***