

POLICY ON CONTRACT REVIEW AND APPROVAL

Policy/Procedure

Section 1. GENERAL

This policy defines the general process by which a contract involving Dickinson College (“College”) might be (1) created; (2) reviewed and approved; and (3) appropriately signed by an authorized College official.

Contracts must satisfy three basic criteria in order to be approved by an authorized College official:

- The contract must be appropriate to the mission and operation of the College.
- The funds and other resources must be available to carry out the obligations of the contract.
- The terms of the contract must comply with College regulations, and applicable local, state, and federal laws.

Prior to final signature, contracts need to pass through those offices having direct oversight for the activities (or their funding) and those assuring administrative, fiscal and/or regulatory compliance.

Section 2. COLLEGE CONTRACT DEFINED

For the purposes of this policy, a “College contract” is defined as an agreement between two (2) or more parties, one of which is the College or any of its subunits/affiliated organizations (i.e. Foundation, Athletic Association, Alumni Association, etc.), intended to have legal effect or be otherwise recognized at law. There must be a common understanding among the parties as to the essential terms, the mutual obligations, and the existence of valid and sufficient “legal consideration,” meaning that something of value is exchanged between the parties. Examples of College contracts include, among others:

- Agreements to buy, sell, or rent goods, or to provide, obtain or rent services;
- Memorandum of Understanding or Cooperation with government agencies, universities, and other organizations for the accomplishment of particular purposes;

- Grants and sub-awards provided (funded) by government agencies and private organizations;
- Affiliation/clinical agreements;
- Leases of movable property, such as tools, equipment, vehicles, etc.;
- Leases, deeds, and other conveyances affecting interests in real property;
- Employment contracts, volunteer and consulting agreements;
- Purchases of services, such as with speakers, artists, performers, etc.;
- Waivers and releases, and nondisclosure agreements;
- Material transfer agreements, intellectual property and software license agreements;
- Student or faculty exchange and joint staffing agreements.

Goods that are commonly purchased with a purchasing card or through accounts payable do not generally require a contract unless the goods are part of a construction project or require the vendor to deliver, install and/or service the goods on campus. In these cases, and regardless of the amount of the contract, it must clearly specify the manner and timing of delivery, limitation of warranties, opportunity to cure defects and payment terms. The College's standard terms and conditions should be included with any contract, a copy of which can be obtained in the *Purchase Order Terms and Conditions* policy, or by either contacting the Office of General Counsel or the Controller's Office.

Identification of the College

The College shall be identified as Dickinson College and must be listed as the contracting party in all agreements and contracts. Departments and individuals may be identified in the agreement, but must not contract in their own name on behalf of the College. The College's official mailing address is *P.O. Box 1773, Carlisle, PA 17013-2896* and must be listed in all contracts and agreements. If a physical street address is required, the address should be changed to *28 North College Street, Carlisle, PA 17013-2311*.

Section 3. ADMINISTRATIVE REVIEW

A person initiating a College contract is responsible for reading the contract entirely and determining that: (1) the contract language accurately reflects the current state of negotiation; (2) the contract meets programmatic and College mission and operational requirements; (3) the contract is in the best interests of the College; (4) he/she can ensure compliance with the obligations it places on the College; and (5) the contract is sufficiently clear, consistent, and fiscally prudent.

In addition, such persons must have the cooperation and approval of any College department that may be directly or indirectly involved in the performance or funding of the contract.

Accordingly, prior to being signed by the appropriate College official (as identified by the Procurement Authorizations document), all contracts must be reviewed and approved by: (1) the College department director, and in some instances the Vice President with administrative oversight of the department; (2) the College department chair (if the requesting department is an academic department), and in some instances the Provost & Dean of the College; (3) the Director of Sponsored Projects for all grant-related contracts; (4) the Vice President for Finance & Administration; and in certain circumstances, (5) the President. The following outlines the responsibility of each of these reviewing offices:

- **Department Chair/Director**
 - Guarantees that the department or unit can furnish services, materials, and/or funds provided for in the contract.
 - Assures that the contract is appropriate and necessary to the department's missions and priorities.
 - Assures that alternative activities, actions and/or providers have been considered, and that those stipulated in the contract or agreement represent the most feasible, reasonable, and fiscally prudent arrangements for the department.

- **Division Vice President/Provost**
 - Ensures that the review of the contract has taken place at the Department Chair/Director level.
 - Assures that all of the criteria established for Department Chair/Unit Director consideration have been properly reviewed, and a determination made that the contract is in the best interest of the College.

- **Office of General Counsel**
 - Assures that the contract does not subject the College to undue liability or risk.
 - Assures that the contract does not contain any prohibited clauses.
 - Assures that the terms of the contract comply with College regulations, and applicable local, state, and federal laws.

General Counsel should review all contracts valued at \$10,000 and above, and must review all

contracts valued at \$15,000 and above. General Counsel must also review all contracts that include an auto-renewal provision or are multi-year contracts. The contract review involves analyzing terms of the agreement that may be ambiguous, confusing, or otherwise creates increased liability or exposure to the College. The analysis focuses on provisions that:

- Commit the College to defend, indemnify, hold harmless the party
 - Obligate the College to pay legal and other fees as damages
 - Require the College to add the party as an additional insured on a College policy
 - Limit the liability of the other party or requires the College to waive its legal rights
 - Require that disputes be handled through mediation or arbitration, or requires that claims be litigated in a non-Pennsylvania venue
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- **Vice President for Finance & Administration or President**
 - Verifies that all appropriate signatures are intact, including - as appropriate – legal, accounting, information services or sponsored programs/grants review and approval.
 - Assures that the contract is appropriate and necessary to the College’s mission and priorities, and is not in conflict with the needs, mission, or priorities of any other division within the College.
 - Obligates the College to the terms of the contract.

Approvals from the above departments/units are required before the contract is executed. These approvals apprise the authorized College signatory that the terms of the contract have been appropriately reviewed.

Section 4. AUTHORIZING SIGNATURES

All contracts involving the College must be signed by an authorized College official. The President may sign any contract for the on-going operations of the College. The President can also delegate signing authority to other senior administrators as deemed prudent. The President has delegated signing authority to the Vice President for Finance & Administration for all College operational contracts, and contracts that have financial, debt, or payment implications. Academic contracts and MOUs can be signed by the Provost and Dean of the College. Children’s Center contracts and compliance agreements can be signed by the Director of the Center, as long as their supervisor is aware of the contract/agreement in question and is also in agreement with the Director exercising signature authority in each specific instance.

Generally, contracts must be signed by a Vice President/Provost. However, contract signing, spending limits or payment approval for periodic payments specified within a contract can be delegated with significant variation depending on the nature of the contract, subject to the guidelines included in the *Procurement Authorizations* section of this policy. Any delegation of authority must be in writing. When these individuals delegate their approval or signatory authority, they must still exercise reasonable oversight and maintain responsibility for the contracts, and they should limit or revoke the delegated authority whenever appropriate.

Contracts and agreements signed by other than authorized officials, or those who have received delegated authority, will be rejected and returned to the originating department. Dickinson College retains the authority not to recognize an agreement as binding against the College unless all signatories to the agreement have proper contract authority as of the date the contract was entered. Failure to follow College policies and procedures regarding signature authority may result in an employee's loss of liability insurance coverage, personal liability for all contractual obligations, and/or disciplinary action.

Section 5. PROCUREMENT AUTHORIZATIONS

The following summarizes employee signature authorizations. These authorizations are reviewed and updated annually at the beginning of each fiscal year, and each division will receive the specific authorizations categorized by department heads and authorized approvers. Signature authority rests with the positions (or authorized approvers) named in each respective document. In general, authorizations are as follows:

- I. < \$15,000, any Department Head, Budget Officer or Assistant, Associate or employee authorized in writing by a Department Head or Budget Officer
- II. < \$50,000, any Vice President/Provost or Associate Vice President/Associate Provost
- III. > \$50,000, the President or any two of the following (one of whom must be the Vice President for Finance and Administration or Associate Vice President and Associate Treasurer):
 - Vice President/Provost
 - Associate Vice President/Associate Provost

Section 6. CONTRACT RETENTION

All signed contracts must be sent to the Office of General Counsel, where they will be stored and reviewed prior to renewal. Signed contracts should also be sent to the Office of Finance & Administration for record keeping and fiscal awareness purposes. The department that initiated the contract is also responsible for maintaining copies of such agreements in its own files and for complying with the specific document retention requirements.

Related Information

History/Revision Information

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Also Found In: