

Contract Process & Procedures

I. General

This document describes the legal review of contracts, the routing process, and designated contract signature authorities for Georgia College & State University (hereinafter referred to as “Georgia College”). All employees responsible for routing contracts for their respective departments must read this document in entirety prior to submitting contracts.

Please note, the Office of Legal Affairs is *only* responsible for the legal review of contracts thereby evaluating the legal risks associated with such contracts and ensuring Georgia College contracts comply with applicable laws, regulations, and policies.

Contracts that are submitted after the day of the event or after the effective date listed on the contract will not be approved by the Office of Legal Affairs. We cannot guarantee that contracts submitted the day or week of the event will be approved. All contracts should be submitted as soon as possible, but not later than two weeks before the performance of the contract is scheduled.

II. Contract Basics

A “Contract” Defined:

A **contract** is any legally enforceable agreement whether or not it is titled “contract.” Contracts include, but are not limited to, service agreements, lecture or performance agreements, licenses, nondisclosure agreements, memoranda of understanding or agreement, and terms and conditions related to all types of transactions. Contracts also include membership/affiliation applications where terms and/or conditions are included therein.

B “University Contract” Defined:

A **university contract** is defined as an agreement intended to have legal effect or be otherwise recognized at law between the University, or any of its subunits, and another party.

C Requirements for All Georgia College Contracts:

1. Must be appropriate to the mission and operation of the University;
2. Georgia College must have an interest in or benefit from the contracted transaction, despite the presence, or lack thereof, of a “financial” transaction;
3. Funds must be available to carry out the obligations of the contract. Consequently, due to the nature of funding, all contracts should run with the fiscal year – e.g. end on or before June 30th.
4. The terms of the contract must comply with Board of Regents and University regulations, and applicable local, state, and federal laws;
5. Contracts, other than MOUs, should not have a term of more than one (1) year. Renewals should not be listed as “automatic.”
6. Must be in writing; and,
7. The proper “contracting party name” for Georgia College, which should appear on all contracts, is “Board of Regents of the University System of Georgia by and on behalf of Georgia College & State University.”

D Requirements for Specific Georgia College Contracts:

1. Software and technology contracts must go to Information Technology prior to being sent to Legal Affairs and/or routing for approval.
2. Service contracts (or contracts with service components) require E-verify forms if the contracts are for an amount equal to or greater than \$2,500.

E Specialty Contracts:

1. Board of Regents Contracts
 - a. These contracts must be executed or approved by the Chancellor or the Board of Regents. These contracts would include, but are not limited to, real estate leases and purchases, settlement agreements over \$100,000, and construction contracts beyond the institution's delegated authority.
2. Purchasing Contracts
 - a. The Georgia Department of Administrative Services (DOAS) governs the negotiation and execution of Purchasing contracts. These contracts would include, but are not limited to, contracts for consultants or other services, as well as contracts to procure goods.
3. Affiliated Entities Contracts
4. Pre-Approved Contracts

III. Contracts Requiring Legal Review

Generally, all contracts of which Georgia College is a party must be reviewed and approved by Legal Affairs prior to signing as executing/signing a contract on behalf of Georgia College may have legal implications for the University. Legal Affairs cannot review or provide legal advice regarding personal or non-Georgia College contracts.

A Exemptions to the Legal Review

Please note, exemption from legal review and approval does not exempt contracts from contract routing to obtain other necessary approvals, depending on the nature of the contract. When able, departments should always use contract templates that are pre-approved by Legal Affairs. The following types of contracts are currently exempt from legal review:

1. Routine purchase orders, bills of sale, invoices, if they do not contain any terms and conditions; or
2. Renewals of existing contracts approved by Legal Affairs within the previous three (3) years, unless the terms and conditions of the renewal are different that those previously approved or one year plus two (2) renewals;
3. Pre-approved and unmodified standard university contract templates, such as the Guest Speaker/Lecturer or Performance/Production Agreements, unless modifications to the terms and conditions are needed. However, these contracts may not be inappropriately used. For example, a Guest Speaker/Lecturer Agreement must not be used to contract with providers of services other than lectures.
4. Contracts for the purchase of software, statistical data, online products and services, and lab and research materials, if both of the following conditions apply:

- a. Value of the contract is \$4,999.99 or less.
- b. The product is for use within the department making the purchase, and not for campus-wide use.

B Contracts by Affiliated Entities

1. Affiliated entities of Georgia College are legally distinct from the University. Therefore, contracts binding these third parties should be negotiated and executed according to the rules of the respective entity.
2. Georgia College does not review and accepts no legal responsibility for the contracts of independent student organizations.

IV. Negotiating and Drafting

The initiating office retains the responsibility for performing the necessary due diligence to evaluate the benefits and risks for entering into the contract for the University. The office supervisor or director should be aware that the contract is being requested and/or negotiated. If the contract will impact other University units, those units should be immediately notified of the potential contract. Legal Affairs is available to assist and/or participate in contract negotiating and/or drafting.

A Prohibited Contract Language

As a state agency, Georgia College may not agree to the following provisions:

1. Attorney fees and/or court/litigation expenses
2. Contracts being governed by the law of another state
3. Finance charges and/or payment penalties
4. Hold harmless
5. Indemnification
6. Limited liability
7. Additional/commercial insurance
8. Binding arbitration/mediation

While this is not an exhaustive list of prohibited contract provisions, these are the most common provisions. Removal of such provisions prior to routing for approval provides for more efficient contract processing.

V. Contract Routing Process

A Preliminary Review by Initiating Office

This review should focus on the business implications of the terms and conditions of the contract. The originating office must determine what it can or cannot agree to, and what needs to be negotiated with the contractor.

1. Examples for issues to consider during this review include:
 - a. The contract terms and conditions, including duties of the parties, are clear, consistent, and acceptable to the University and the office.
 - b. The college, department, or unit has the necessary funds and resources for this contract.
 - c. The contract is appropriate and serves the office's mission and responsibilities.
 - d. The services provided are the most feasible for the University in terms of quality and cost.
 - e. The contract includes the entire understanding between the parties, without additional oral explanations or promises that are not included in the contract.

B Legal Review

The purpose of Legal Affairs' review is to ensure the initiating office complies by state and federal laws, which include state purchasing and contract requirements, not agreeing to prohibited clauses, and operating in accordance with the policies and procedures of the Board of Regents of the University System of Georgia and Georgia College. Please note, the legal review determines the legal validity of a contract, as opposed to whether the contract is appropriate for business and administrative purposes. The final decision to enter into a contract is the responsibility of the initiating office and applicable Vice President. Contracts approved by Legal Affairs are only "approved as to form."

All vendor-supplied contracts, and supporting documentation, shall be submitted to Legal Affairs for initial review **prior** to routing for signature authority approval. **Prohibited language should be removed by vendor prior to submitting for approval or review.**

C Approval/Routing

Contracts shall be submitted for processing via the [Contract Entry Form](#) located on the Legal Affairs webpage and in Unify under the GC Signatures Form tab. Please submit all contracts at least four (4) weeks in advance of scheduled performance, service, or target effective date, to allow sufficient time for processing. While contract review generally takes up to five (5) business days, during times of heavy volume, contract review may take up to two (2) weeks. Payment by the Accounting Office may take up to an additional two weeks. In cases where the contract requires complex negotiations, a new contract be drafted, or there is a signing deadline, you are encouraged to include Legal Affairs in the process as early as possible.

If the contract is returned with changes, the contract should be sent to the appropriate vendor/contractor for approval of changes, then returned to Legal Affairs upon approval of the necessary changes and receipt of the final draft of the contract. After Legal Affairs' approval, the contract will be submitted for signature authority approval via the GC Signatures portal.

All contracts should be signed by vendors prior to routing for GC signature authority approval.

VI. *Signature Authority*

Only authorized individuals may sign contracts on behalf of Georgia College. Therefore, contracts signed by unauthorized individuals or without obtaining legal approval may, if the university chooses

not to honor the contract, result in personal liability for the person signing the contract. The appropriate signature authority depends upon the type of contract and its value, as outlined below.

A Contracts for the Purchase of Goods or Services:

1. The President, or the President's designee, has the authority to sign any contracts, except as limited by the Board of Regents (BOR Policy Manual 2.5.4).
2. Purchasing Card (P-Card) users are de facto purchasing agents, as authorized by Georgia Department of Administrative Services (DOAS), and may execute contracts as it relates to such P-Card purchases **ONLY**. Such purchases must be in compliance with the State of Georgia's Statewide Purchasing Card Policy, the requirements of the Georgia Procurement Manual, as well as Board of Regents and Georgia College policies.

- B The table below outlines the current signature authorities, for all contracts (***contracts may have more than one authorized signatory – e.g., a software contract for \$75,000 would require the signature of the Chief Information Officer, the Provost, and the Vice President for Finance and Administration***):

Type of Contract	Annual Contract	Authorized Signatories
All contracts, agreements, assumptions, or assignments related to grant, lease, or sell of real property, construction, and settlement agreements over \$100,000.	Any	<ul style="list-style-type: none"> The Board of Regents of the University System of Georgia (“BOR”)
All contracts not reserved by the BOR.	Any	<ul style="list-style-type: none"> President
All contracts regarding University academics.	Any	<ul style="list-style-type: none"> Provost and Vice President for Academic Affairs
All contracts in which University is expending funds or receiving revenue greater than \$5,000.	Up to \$99,999.99 – Open Market Purchases	<ul style="list-style-type: none"> Vice President for Finance and Administration or his/her delegate: Senior Director of Budget Planning and Administration
All contracts in which University is expending funds or receiving revenue greater than \$5,000.	\$100,000 and above	<ul style="list-style-type: none"> Vice President for Finance and Administration or his/her delegate: Senior Director of Budget Planning and Administration
All contracts involving student activities outside of formal academic curriculum.	Any	<ul style="list-style-type: none"> Vice President for Student Affairs
All contracts regarding University advancement, donations, or gift planning/development.	Any	<ul style="list-style-type: none"> Vice President for University Advancement
All contracts involving technology and/or information technology systems.	Any	<ul style="list-style-type: none"> Chief Information Officer
All Contracts involving goods or services.	\$25,000 and above	<ul style="list-style-type: none"> Senior Director of Materials Management and Central Services
Purchases from Statewide Contracts, Existing State Entity Contracts, Statutory or Mandatory Contracts, SPD Pre-Approved Piggyback Purchases, SPD Pre-Approved Consortia and Cooperative Purchases.		<ul style="list-style-type: none"> Senior Director of Materials Management and Central Services

Signature authority automatically passes to current authorities' successor. The signature authority delegation may not be further delegated by any person other than the University President.

VII. Contract Retention

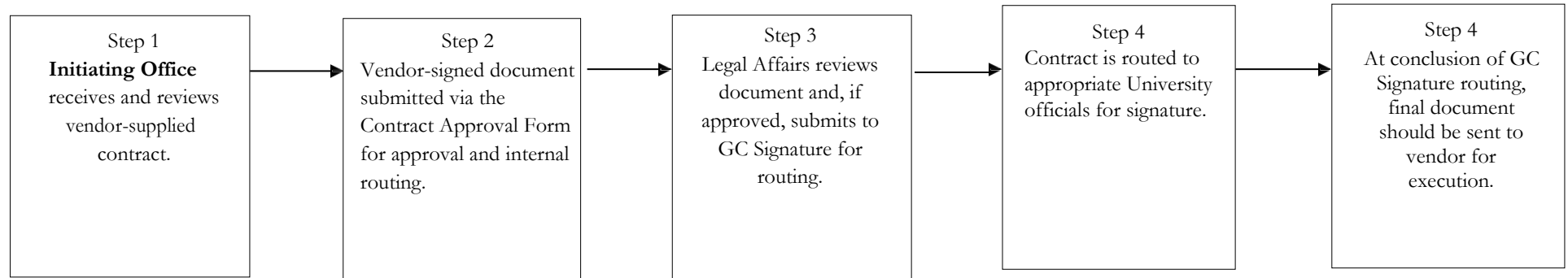
Unless otherwise approved, contracts shall be retained according to BOR requirements and/or recommendations. In addition, any University contract provision addressing document retention by the parties must be satisfied, even if such contractual provisions require longer retention periods than those set by BOR guidelines. The initiating office is responsible for ensuring contract retention compliance.

VIII. Questions and Additional Information

Questions regarding the contract review and approval process, contract negotiations, new contracts, or general contracts questions should be directed to contracts@gcsu.edu or (478) 445-2037.

Process Workflow
for
Professional and Personnel Services, University System Service Level Agreements, and Service Contracts

Approval Process



Requisition and Payment Process

