



University Contracts Management Program Policy

Contracts Management Program Policy

Contracts entered into on behalf of the University of Guam must be reviewed and approved by designated University personnel to ensure compliance with established University guidelines and procedures regarding contract language and requirements. Contracts may only be executed by University designated signatories as specified in writing and approved by the President. At least annually, the President will inform the Board of the signatories specified.

Entering into a contract commits the University legally and creates certain exposures to the University's resources and reputation. To protect against these exposures departments that enter into a contract with outside parties must follow certain guidelines and procedures. This contract management program outlines who has responsibility and accountability to provide required reviews of proposed contracts as well as affirms the President or his designee as signatory authority on behalf of the University. These reviews are to be done in conjunction with a thorough departmental review, using the contract management procedures and guidelines to ensure that the contract meets the needs of the department initiating the contract while adhering to the requirements set forth by the University.

Contacts

Subject	Contact	Telephone
Contract oversight	Vice President, Administration & Finance (VPAF) and Comptroller's Office (CO)	735-2900 (VPAF) 735-2942 (CO)
Contracts for entertainment	Dean or Director of the department or advisor of the student group initiating the engagement	See University Directory
Contracts for external funding	Assistant Vice President, Office of Graduate Studies, Sponsored Programs & Research	735-2672
Contracts for the purchase of goods / services	Procurement Office	735-2945
Contracts for professional services	Dean or Director of the services department requesting the services	See University Directory
Contracts for the use of resources and/or facilities	Dean or Director of the department initiating the agreement Director of the facility being utilized	See University Directory
Insurance / Indemnification requirements	Vice President, Administration & Finance and Comptroller's Office	735-2900 (VPAF) 735-2942 (CO)

Definitions

Contract	A legally enforceable agreement between two or more parties.
Contract Review Checklist	A tool used by individuals initiating a contract to verify that all policies and procedures have been addressed and completed.
Construction-based contracts	A contract related to the construction, renovation or maintenance of new and existing facilities. These contracts include construction, architectural and engineering services.
Contracts for entertainment	A contract to hire or provide entertainment services.
Contract for external funding of research projects and other activities	A contract between a governmental or private funding source and the University.

Contracts for professional services	A contract for the purchase or sale of professional services such as consulting or legal services.
Contracts for the purchase of goods/services	A contract for the purchase of movable items, such as furniture and computers, and non-professional services, such as delivery of office equipment and grounds work. Agreements for the purchase of goods/services can also be imbedded in another contract, such as a construction contract.
Contracts for the use of resources and/or facilities	A contract for the use of University resources and/or facilities such as athletic fields.
Indemnification	Indemnification is an offer to pay for expenses related to a loss without holding another party responsible. The value of the indemnity is related to the capital strength of the indemnifier.
Insurance	Insurance provides the financial backing to provide for the payment of expenses that arise from an indemnification and protects the University from potential risks.
Signatory Authority	The authority of representatives to sign on behalf of the University. Representatives are granted signatory authority as per University policy and written delegation by the President.
Subcontract for external projects and other activities	A contract between the University of Guam and another University funding of research or prime contractor that has obtained funding for research from a governmental or private funding source for a subcontractor in the project.
Use of contracts	<p>The University requires contracts for activities that:</p> <ul style="list-style-type: none"> ○ Commit the University to receive or spend funds ○ Commit the University to purchase or provide goods or non-professional services ○ Commit the University to provide or receive educational or other professional services ○ Commit the University to hire entertainers or provide entertainment services ○ Commit the University to obtain construction services, to include construction, architectural and engineering services

- Arrange a volunteer/service learning opportunity for students
- Otherwise utilize University resource and/or facilities

Contract Review Checklist:	The individual initiating a contract is responsible for completing the Contract Review Checklist. This checklist is used as verification that all policies and procedures have been addressed and completed. Upon completion, the form should be signed by the reviewer, attached to the contract and sent to the appropriate signatory to execute. (Refer to the University of Guam Contract Review Checklist on p. 15 of these guidelines and procedures.)
Identification of the University	The University shall be identified as the University of Guam in all contracts and agreements. The official address of the University shall be UOG Station, Mangilao, Guam 96923 in all contracts and agreements.
Legal Counsel Review	Legal Counsel reviews, approves as to form and legality, and is a signatory on all contracts.
Mandatory clauses	<p>All contracts must contain certain clauses that are required to protect the University and its resources. These clauses include:</p> <p><i>Insurance:</i> The University requires certain levels of insurance coverage to be provided by other parties contracting with the University. The coverage required varies depending on the type of work, the level of risk to University buildings and people engaged in the work, and the amount of the contract. (Refer to Insurance requirements on pgs. 9-10 of these guidelines and procedures.)</p>

Indemnification: The University requires contracts to include an indemnification clause, and permits a cross indemnification clause where appropriate, as approved by the Legal Counsel. This clause is intended to protect both the University and the other party from one another's negligent acts. (Refer to Indemnification requirements on p. 11 of these guidelines and procedures.)

Independent Contractor Status: The University requires contracts to include an independent contractor status clause, where appropriate, usually in personal services and professional services contracts. This clause guards against the other party alleging the contract constituted a joint venture or other employment arrangement that would make certain employee benefits and insurance coverage available to the contracted party. (Refer to Independent Contractor Status requirements on p. 12 of these guidelines and procedures.)

Disputes: The University requires contracts to include a disputes clause which addresses disputes which are not resolved by mutual agreement.

Employment Restriction: The University is required by law to include in contracts an employment restriction clause which prohibits contractors from hiring convicted sex offenders to provide services while on University property.

No Gratuities, Kickbacks, and/or Favors: The University requires contracts to include a clause in which the contractor acknowledges that it has not and will not violate the prohibition against gratuities, kickbacks, and/or favors set forth in Guam law.

Contingent Fees: The University requires contracts to include a clause in which the contractor affirms that it has not retained any person or agency on a percentage, commission or other contingent arrangement, in accordance with Guam law.

Ethical Standards: The University requires contracts to include a clause in which the contractor affirms that it has not knowingly influenced and/or promised or influenced any government employee to breach any of the ethical standards set forth in Guam law.

Force Majeure: The University requires contracts to include a force majeure clause that addresses delay in performance caused by forces beyond the parties' control.

Entire Agreement: The University requires contracts to include an entire agreement clause that states the written contract is to be the whole agreement. No verbal or side agreements will be acceptable or enforceable.

Governing Law: The University requires contracts to specify that the contract provisions are governed by the laws of Guam.

Termination in the event of default: The University requires contracts to include a termination clause in the event of default, which should be applied with equal force to both parties. The contract should provide a provision for written notification of default to the defaulting party with the address and acceptable means of communication. There should be a provision for remedy to the default that includes acceptable corrective action and time allowed for corrective action to be completed.

Mandatory Exclusions

Automatic Renewal: The University does not allow contracts to contain an automatic renewal clause, unless there are specific time limitations, as approved by Legal Counsel.

Single Indemnification Clauses to benefit the contracting party only: The University does not allow single indemnification clauses that only protect the contracting party. There are some exceptions, such as when the University contracts with the federal government. Contact Legal Counsel for further clarification.

Limitation of Liability: The University does not allow a contracting party to limit its potential liability. Limiting this recovery could adversely impact the University's insurance coverage.

Responsibilities

Individual Initiating Contract

Make sure the contract conforms with University policies.

Make sure the contract conforms to federal, state and local law.
Make sure an assessment has been made of the likely impact of the transaction on the University and the broader community and appropriate consultation has taken place with any constituencies that may be impacted by the transaction.

Make sure funds necessary for the contract have been allocated or are available within regularly approved budgets, special appropriations or restricted accounts.

Make sure there is no conflict of interest on the part of the approving individual or any other individual or organization involved in the transaction.

Make sure any facility being utilized in conjunction with the contract is available and reserved through the appropriate channels.

If the contract is greater than \$200,000 consult with the VPAF or Comptroller to assess the strength of the other parties' indemnification through a review of their financial statements, as appropriate to the risk and size of the contract. See VPAF or Comptroller for assistance.

Make sure all required reviews and approvals have been obtained before any commitment is made.

Sign the Contract Review Checklist as part of the contract review process.

Forward completed contract for signatures/approvals.

Waiver of Liability

The University's Rules, Regulations and Procedures Manual (RRPM), Article III, Student Policies, Section CC. 6 states as follows:

"There shall be a waiver of liability form releasing and discharging the University of Guam, its agents, servants, and employees and all other acting on its behalf, from all claims, demands, or other actions for any damages to person or property arising out of student participation in voluntary University activities, including but not limited to, field trips, athletic activities, and University-sponsored off-island trips. The Waiver is available in the University's Legal Counsel's Office. For additional information, contact that office."

University Counsel recommends that the waiver be tailored to the individual activity as event-specific risks may apply based on the nature of the event/activity. Completed forms should be maintained for a period of at least two (2) years by the University department which oversees the activity.

Contract Guidelines

Contracts entered into on behalf of the University of Guam must be reviewed and approved by designated University personnel to ensure compliance with established University guidelines and procedures regarding contract language and requirements. Contracts may be executed by University designated signatories pursuant to University policy and written delegation by the President. Original contracts or agreements should be maintained by the contracting department for a minimum of four (4) years after the end of the contract period. Construction agreements should be retained for longer periods after construction has been completed, commensurate with warranty periods and other relevant retention periods. Retention periods for federal grants/contracts may vary and should comply with the retention period outlined by the granting agency.

Administrative Compliance and Accountability

- A. Contract initiators, reviewers and signatories must comply with policy, guidelines and/or procedures or be subject to administrative restrictions on their responsibilities and authorities.
- B. Administrators or administrative officers who submit or approve non-compliant contracts are subject to loss of authority to approve contracts following consultation with them and with the approval of the President.
- C. Contract initiators, administrators and/or administrative officers who submit fraudulent and/or non-compliant contracts are subject to disciplinary action.

Legal Counsel will monitor administrative compliance during her reviews and will refer concerns to the president, SVP and/or VPAF.

Contract Review Checklist/ Procurement Checklists

The individual initiating a contract or agreement should complete a Contract Review Checklist before finalizing a contract on behalf of the University. This checklist is used as verification that all contract guidelines and procedures have been addressed and completed. Upon completion, the form should be signed by the preparer, attached to the contract and sent to the appropriate signatory for review.

In addition, the Guam Office of the Attorney General (OAG) has issued AG Procurement Form 001, Certification of Completed Procurement Record, which the OAG recommends be used whenever an invitation for bid (IFB) or request for proposal (RFP) has resulted in a contract with the University.

For contracts \$500,000 and above which have resulted from a University IFB or RFP, the OAG issues its own Procurement Review Checklists, which must be completed before final approval of the contract by the appropriate University signatories. These checklists must be requested directly from the OAG. For contracts \$500,000 and above, the OAG has designated University Counsel as a Special Assistant Attorney General to the OAG to determine compliance during all phases of the solicitation and procurement process, in addition to approving for correctness of form and legality.

Insurance Requirements

CATEGORY	APPLICATION	COVERAGE
BASIC	Tenants occupying office space, buildings, or open space not engaged in the sale of tangible products or professional services to third parties.	<ul style="list-style-type: none"> ▪ Auto – Owned & Non-Owned - \$1,000,000 ▪ Liability - \$1,000,000/2,000,000 Aggregate, BI & PD, Personal Injury, Contractual ▪ Property – 100% replacement cost of tenant improvements ▪ Workers’ Compensation – Statutory
RETAIL SALES	Tenants occupying office space, buildings, or open space and engaged in the sale of tangible products or professional services to third parties.	<ul style="list-style-type: none"> ▪ Auto – Owned & Non-Owned - \$1,000,000 ▪ Liability - \$1,000,000/2,000,000 Aggregate, BI & PD, Personal Injury, Contractual, and Products ▪ Property – 100% replacement cost of tenant improvements ▪ Workers’ Compensation – Statutory

<p>PROFESSIONAL SERVICES</p>	<p>Consultants providing designated professional services to the University; i.e. appraisers, architects, equipment maintenance, messengers, construction managers, etc.</p> <p>Exceptions may apply to individual professional services contractors. Contact University Legal Counsel or the VPAF for further clarification. This does not apply to faculty contracts.</p>	<ul style="list-style-type: none"> ▪ Auto – Owned & Non-Owned - \$1,000,000 ▪ Liability - \$1,000,000/2,000,000 Aggregate, BI & PD, Personal Injury, Contractual ▪ Professional Liability - \$1,000,000 CSL, coverage extended for 3 years after NOC ▪ Property – 100% replacement cost of tenant improvements ▪ Workers’ Compensation – Statutory
<p>CONTRACTORS</p>	<p>Firms hired to carry out construction projects on campus.</p>	<ul style="list-style-type: none"> ▪ Auto – Owned & Non-Owned - \$1,000,000 ▪ Liability - \$1,000,000/2,000,000 Aggregate, BI & PD, Personal Injury, Contractual, Products & Completed Operations, Broad Form PD ▪ Property – Builders All Risk, 100% of total contract price ▪ Transportation ▪ Workers’ Compensation – Statutory
<p>TRANSPORTATION</p>	<p>Concessionaires holding permits for the transportation of passengers.</p>	<ul style="list-style-type: none"> ▪ Auto – Various depending on vehicle capacity ▪ Liability - \$1,000,000/2,000,000 Aggregate, BI & PD, Personal Injury, Contractual ▪ Property – 100% replacement cost of tenant improvements ▪ Workers’ Compensation – Statutory

NOTES:

1. The above table is a summary only; see applicable detail requirements for each category in Appendices.

2. In all cases, the final types and amounts of coverage will depend on the scope of work or description of activities in the contractual documents.
3. Exceptions to the above levels must be approved by the VPAF or Comptroller.

Indemnification Requirements

All contracts entered into on behalf of the University of Guam should include an indemnification clause. In general, contractors should indemnify the University. However, other types of indemnity clauses may be used in appropriate circumstances. The value of the protection to the University under an indemnification clause depends on the capital strength of the parties. For contracts over \$200,000 contract initiators are responsible to consult with the VPAF or Comptroller for their assessment of the strength of the other parties' indemnification. The VPAF or Comptroller may require a review of the indemnifier's financial statements, as appropriate to the risk and size of the contract. Sample wording for these clauses are as follows:

Unilateral indemnity:

_____ agrees to defend, indemnify and hold the University harmless from and against all claims, liabilities, damages and expenses, including attorney's and other professional's fees, arising out of or related to the intentional or negligent acts or omissions of _____, its affiliates, contractors, officers, directors, trustees, employees and agents.

Mutual indemnity clause:

_____ and the University agree to defend, indemnify and hold each other and their respective affiliates, contractors, officers, directors, trustees, employees and agents harmless from and against all claims, liabilities, damages and expenses, including attorney's and other professional's fees, arising out of or related to the intentional or negligent acts or omissions of the other party, its affiliates, contractors, officers, directors, trustees, employees and agents.

Between government of Guam entities:

The University of Guam and the _____ (Government entity) agree that all claims between them and between them jointly and severally and any third party, its agents, employees, contractors, or assigns arising out of this Agreement for negligent or intentional harm to property, death, or personal injury shall be governed by the Government Claims Act as hereinafter amended. Neither institution agrees to indemnify the other for such claims. Nothing in this Agreement is intended as a waiver of sovereign immunity.

Independent Contractor Status Requirements

Most personal and professional services contracts entered into on behalf of the University of Guam should include an independent contractor status clause. Other contracts may also. If uncertain, seek the advice of UOG Legal Counsel. Sample wording for this clause is as follows:

Neither Contractor nor any person assisting Contractor in its obligations under this agreement, shall be deemed to be an employee of the University of Guam. Furthermore, the arrangements contemplated by this agreement shall not be deemed to constitute a partnership or joint venture between Contractor and University of Guam. Contractor is not entitled to the rights, privileges or benefits that the University of Guam provides for its employees.

Disputes Clause

The following or similar wording is required to be used in University contracts:

In accordance with UOG Procurement Regulations 9.4 et seq., all controversies between the University and the contractor that arises under, or are by virtue of, this contract and which are not resolved by mutual agreement, shall be decided by the Procurement Officer in writing, within sixty (60) working days after written request by the contractor for a final decision concerning the controversy; provided, however, that if the Procurement Officer does not issue a written decision within sixty (60) working days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as if an adverse decision had been received.

NOTE: The University may include further language with regard to mediation or arbitration, depending on the type of services provided. Please contact University Legal Counsel for further information.

Employment Restriction

The following or similar wording is required to be used in University contracts:

Contractor warrants that no person in its employment who has been convicted of a sex offense under the provisions of 9 GCA Chapter 25 or of an offense defined in 9 GCA Chapter 28, Article 2, or who has been convicted of an offense with the same elements as heretofore defined in any other jurisdiction, or who is listed on the Sex Offender Registry shall provide services on behalf of Contractor while on University of Guam property. If any employee of Contractor is providing services on University property and is convicted subsequent to an award of a contract, then Contractor warrants that it will notify the University of the conviction within twenty-four (24) hours of the conviction, and will remove immediately such convicted person from providing services on government property. If Contractor is found to be in violation of any of the provisions of this

paragraph, then the University will give notice to Contractor to take corrective action. Contractor shall take corrective action within twenty-four (24) hours of notice from the University, and Contractor shall notify the University when action has been taken. If Contractor fails to take corrective steps within twenty-four hours of notice from the University, then the University in its sole discretion may suspend temporarily any contract for services until corrective action has been taken.

No Gratuities, Kickbacks and/or Favors:

The following or similar wording is required in University contracts:

The Contractor acknowledges that it has not and will not violate the prohibition against gratuities, kickbacks and/or favors set forth in 5 GCA, Chapter 5, Article 11, Ethics in Public Contracting and Section 11.7 (Gratuities and Kickbacks and Favors) of the University of Guam Procurement Manual.

Contingent Fees

The following or similar wording is required in University contracts:

The Contractor affirms that it has not retained any person or agency on a percentage, commission, or other contingent arrangement, except for detention of bona fide employees or bona fide established commercial selling agencies of the purpose of securing business.

Ethical Standards

The following or similar wording is required in University contracts:

The Contractor affirms that it has not knowingly influenced and/or promised or influenced any government employee to breach any of the ethical standards set forth in 5 GCA, Article 11, and in Chapter 11 (Ethics in Public Contracting) of the University of Guam Procurement Manual.

Force Majeure

The following or similar wording can be used in University contracts:

Neither party hereto shall be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including, but not limited to, acts of God, strikes, epidemics, war, riots and/or any other cause beyond the reasonable control of the party whose performance is affected. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

Governing Law

The following or similar wording can be used in University contracts:

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties to this Agreement, shall be governed by the laws of Guam.

Entire Agreement/ Modifications

The following or similar wording can be used in University contracts:

This Agreement supersedes all prior agreements, written or oral, between the parties and shall constitute the entire agreement and understanding between the parties with respect to the subject matter hereof. The parties represent and warrant that they have relied on no promises or representations of the other party, other than those contained in this Agreement. This Agreement and each of its provisions shall be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by the parties.

Default, Remedies & Termination

The following or similar wording can be used in University contracts:

Any one of the following events shall be deemed to be an “Event of Default”:

1. Failure by either party to perform as specifically described in the Agreement.
2. Non-payment for services rendered, as described in the Agreement.
3. A unilateral change in contract terms, not agreed in writing by both parties.
4. Circumstances in which a court having jurisdiction over any of the parties enters an order for relief in any involuntary case commenced against the applicable party as debtor under the Federal Bankruptcy Code or the entry of a court decree or order appointing a custodian, receiver, liquidator, assignee, trustee, or other similar official.

Upon the occurrence of an “Event of Default”, the non-defaulting party (1) shall have the remedies afforded by law and in equity, and (2) shall have the right to terminate this Agreement.

Either party may terminate this Agreement by providing thirty (30) days’ written notice to the other. Should the University terminate this Agreement, Contractor will be paid the reasonable value for services performed that are acceptable to the University.

Severability

The following or similar wording can be used in University contracts:

If any provision of this Agreement shall be deemed by a court of competent jurisdiction to be invalid, then such provision shall be deemed stricken from the Agreement and the Agreement shall be enforced according to its valid and subsisting terms and provisions.

CONTRACT REVIEW CHECKLIST

Today's Date: _____ Contract Due Date: _____

Department Initiating Contract: _____

Individual Responsible for Contract: _____

Contract Purpose/Consideration:
*(What is the purpose of the proposed contract, and what are the terms of consideration?
 Consideration describes what is being provided, by whom and to whom, and at what cost.)*

Contract Terms: Commencement Date _____
 Expiration Date _____
 Cost _____

Reviews/Approvals	University's Supply Management Administrator	<input type="checkbox"/> Necessary	<input type="checkbox"/> Completed
	Legal Counsel	<input type="checkbox"/> Necessary	<input type="checkbox"/> Completed
	Capital Improvement Coordinator	<input type="checkbox"/> Necessary	<input type="checkbox"/> Completed
	Dean/Director of Department Initiating Contract	<input type="checkbox"/> Necessary	<input type="checkbox"/> Completed

All questions must be answered.

I. Initial Review

_____ Have you read the contract in its entirety and agree that it meets the needs of your department?
 What, if any, exceptions to UOG contract guidelines and procedures have been requested?

Who approved these?

_____ Are all attachments and exhibits references in the contract attached?
 _____ Is this a construction based contract?
 _____ Is it for under \$25,000?

_____ Have you obtained necessary review from the Supply Management Administrator?

_____ Have you asked for a purchase order to be generated from the Purchasing Department?

_____ Is it for over \$25,000?

_____ Have you obtained the necessary review from the Capital Improvement Projects Coordinator?

_____ Is the agreement for the purchase of goods/services?

_____ If yes, has the University's Supply Management Administrator conducted the necessary review for compliance with the UOG Procurement Manual?

_____ If sole sourcing is requested, has it been justified pursuant to established guidelines and approved by the VPAF or Comptroller?

_____ Is the agreement to hire or provide entertainment services?

_____ If yes, has the Dean/Director of the responsible department or the advisor of the University student group conducted the necessary review?

_____ Is this agreement to provide or receive educational services?

_____ If yes, has the Dean/Director of the responsible department conducted the necessary review?

_____ Is this agreement to utilize University resources and/or facilities?

_____ If yes, are you sure the resource/facility is available?

_____ If yes, has the Dean/Director of the responsible department conducted the necessary review?

_____ If over \$25,000, is there a bid security in the amount of 15% of the total amount of the bid?

Note: Construction contracts \$25,000 or more require a 100% performance bond at contract signing.

II. Identification of Parties

_____ Is the University properly identified?

_____ Is the other party properly identified?

_____ Are abbreviated and designated descriptions of the parties consistent throughout the contract?

III. Consideration/Business Terms

- _____ Is the consideration properly and accurately stated?
- _____ If payments are to be made by the University, does the contract specify when payments are due and where they should be remitted to?
- a) Are payment terms standard (i.e., 30 days following submission of invoice)?
- b) No advance payment allowed.
- c) If initial payment requested, is the reason acceptable pursuant to the relevant guidelines?
- _____ Are funds available for this contract?

IV. Duties and Obligations

- _____ Where will the proposed contract activities take place?
- _____
- _____ Is each obligation described with sufficient clarity so that the parties know what is being performed and how it will be performed?
- _____ Does the contract properly identify the responsibility for National, State and Local code requirements?

V. Terms and Termination

- _____ Does the contract contain a clearly ascertainable starting and ending date?
- _____ Have you ensured there is no automatic renewal clause?

VI. Insurance Clause

- _____ Is there an insurance requirement clause in the contract?
- _____ If yes, are the requirements consistent with the University requirements?
- _____ Does the contract require exchange of information by way of Certificates of Insurance?
- _____ Is the other party required to name the University as an additional insured?

VII. Indemnity

- _____ Does the contract contain an indemnity clause?
- _____ If yes, is the indemnity clause consistent with the University requirements?
- Does the risk and size of the contract require that financial statements be furnished to UOG and assessed?

VIII. Default

- _____ Does the contract provide for termination in the event of default?
- _____ Are the instances establishing default described with clarity and specificity?
- _____ Are the following included in the list of instances resulting in default?
 - _____ Unsatisfactory Performance
 - _____ Non-payment
 - _____ Unexpected change in contract terms
- _____ Is the ability to terminate in the event of default applied with equal force to both parties?
- _____ Is there a provision for written notification of default to the defaulting party?

IX. Force Majeure

- _____ Does the contract contain a force majeure clause?
- _____ Does the force majeure clause address delay in performance caused by forces beyond the parties' control?

X. Miscellaneous Provisions

- _____ Does the contract contain an entire agreement clause?
- _____ Is the contract governed by the Laws of the Territory of Guam.
- _____ Are the necessary facilities available for this contract?

XI. Execution

- _____ Does the person signing the contract have the authority to sign on behalf of the University?
- _____ Does the other party's representative have the authority to sign on behalf of the other party?

Submitted by:

Sign: _____ Print: _____ Date: _____

Contract Review Checklist (For UOG Internal Use Only)

This is a tool for UOG personnel involved with the preparation and review of UOG contracts. It is intended as a guide to ensure compliance with UOG's Procurement Rules and Regulations; Guam Procurement Law (5GCA, Chapter 5) and Procurement Regulations (2GAR Division 4) which govern contracting. Refer to the UOG Contract Approval Matrix to verify the final approval official signatories and certifying officials. For further assistance contact the Office of the Vice President for Administration and Finance.

Yes = <input checked="" type="checkbox"/> No = <input checked="" type="checkbox"/>	Review of Contract Number: _____ School or Department Name: _____	Comments
1. <input type="checkbox"/>	Description of goods/services to be received by UOG department or school? <i>Clear and understandable description of the subject of the contract. Limit use of highly technical terms when possible.</i>	
2. <input type="checkbox"/>	Contractor's name, address, phone, and current Guam Business License? <i>Verify current information.</i>	
3. <input type="checkbox"/>	Contact person(s) for contractor, name, position title, address, phone, fax, email address? <i>Verify current information, especially if anything differs from (2).</i>	
4. <input type="checkbox"/>	Date contract is to begin? <i>This may or may not be the date the contract is signed. Note: The contract date must not be earlier than contract approval date.</i>	
5. <input type="checkbox"/>	Date contract ends? <i>This refers to date the contract would normally end unless terminated earlier for any reason.</i>	
6. <input type="checkbox"/>	Other important dates (deadlines, mileposts, reports due, etc.)? <i>Dates should be clearly identified. Use full dates (ex: "June 3, 2004") whenever possible.</i>	
7. <input type="checkbox"/>	Procedure for renewal clearly identified and understood?	
8. <input type="checkbox"/>	Procedure for termination clearly identified and understood? <i>Termination for cause and termination at will be identified.</i>	

9. <input type="checkbox"/>	Verify highest level of approval within UOG needed for contract? <i>Use current Contract Review and Signature Approval Process to identify final approval officials.</i>	
10. <input type="checkbox"/>	All exhibits, attachments, appendices, schedules, etc. attached? <i>UOG Legal Counsel normally will not approve an agreement until all of these documents have been provided for review.</i>	
11. <input type="checkbox"/>	Title and authority of person signing for contractor? <i>Should be an officer or authorized agent of contractor.</i>	
12. <input type="checkbox"/>	Clear description of amounts of money or other consideration for contract? <i>Partial payments should be stated with due dates; amount tied to other amounts (e.g., royalties, percentages) should be stated in clear terms.</i>	
13. <input type="checkbox"/>	All payments are in U.S. dollars? <i>If any part of the contract is performed or payable outside the U.S.</i> a) Are payment terms standard (i.e., 30 days following submission of invoice)? b) No advance payment allowed. c) If initial payment requested, is the reason acceptable pursuant to the relevant guidelines?	
14. <input type="checkbox"/>	Method for providing notice of default and opportunity to cure? <i>Normally written notice and reasonable time to cure.</i>	
15. <input type="checkbox"/>	Rights, obligations, duties of every party clearly listed? <i>Each party's responsibilities identified in understandable wording.</i>	
16. <input type="checkbox"/>	Time and place for performance? <i>If performance extends over a period of time, include due dates if necessary.</i>	
17. <input type="checkbox"/>	Indemnification, liquidated damages, other miscellaneous clauses are stated in accordance with UOG's Procurement Rules and Regulations and Guam Procurement Law.	
18. <input type="checkbox"/>	Governed by laws of the Territory of Guam? <i>Generally, UOG may not agree to be governed by the laws of another state.</i>	

<p>19. <input type="checkbox"/></p>	<p>Venue for filing law suits is stated as the Superior Court of Guam.</p>	
<p>20. <input type="checkbox"/></p>	<p>If insurance is required, types and levels of coverage listed? <i>The UOG Office of the Vice President, Administration and Finance (VPAF) t should be consulted if there are questions about the levels of coverage and/or carriers.</i></p>	
<p>21. <input type="checkbox"/></p>	<p>Confidentiality provisions? <i>UOG cannot agree to keep information confidential if it is subject to public disclosure under the Guam Procurement Law.</i></p>	
<p>22. <input type="checkbox"/></p>	<p>Act of God or force majeure clause? <i>Provides relief if performance impaired by unexpected events including weather and civil disturbances.</i></p>	
<p>23. <input type="checkbox"/></p>	<p>Assignment by either party must be approved in advance in writing. <i>Written pre-approval of assignments is mandatory.</i></p>	
<p>24. <input type="checkbox"/></p>	<p>Spelling, formatting, grammar, punctuation, and general appearance of document are professional and accurate.</p>	

<p>Post Review Contract Status:</p>	<p><input type="checkbox"/> Forward to President’s Office Date forwarded: _____</p>	<p><input type="checkbox"/> Return for Corrections/Revisions Date returned: _____</p>
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<p>Legal Counsel</p>	
<p>Certifying Officials</p>	
<p>Approving Officials</p>	
<p>G/L Account No.:</p>	