STANDARD OPERATING PROCEDURE:
4.0 CONTRACT MANAGEMENT

This procedure is in accordance with Purchasing Policy 20.1.11.

Introduction

Contract management at Rutgers can be summarized as the process of systematically and efficiently managing contract creation, analysis, negotiation, and execution for the purpose of maximizing operational performance and minimizing risk. This may entail negotiating the terms and conditions in contracts, ensuring compliance with the terms and conditions, as well as documenting and agreeing to any changes or amendments that may arise post contract execution. For training and additional resources on Contracting, please visit University Procurement Services’ Training and Resources.

Procedure Outline

4.1 What is a Procurement Contract?
4.2 When is a Procurement Contract Needed?
4.3 Contract Types
4.4 Contract Creation and Total Contract Manager Setup
4.5 Contract Review and Negotiation
4.6 Contract Execution and Total Contract Manager Activation
4.7 Contract Management/Tracking of Deliverables
4.8 Contract Amendments
4.9 End of Contract Options

Definitions

Amendment: A formal change to an existing contract or other legal document, such as modifying terms and conditions. This may be done through a Rutgers or supplier amendment or a Supplemental Statement of Work.

Business Associate Agreement (BAA): This agreement is required when a unit is engaging services that include creating, receiving, maintaining, or transmitting Protected Health Information (PHI). Use of the University template is preferred. A non-University template may be authorized upon contract management review, negotiation, and approval. This contract must be negotiated and approved by the Rutgers’ Office of General Counsel.
**Contract**: An agreement between two or more parties with specific terms and conditions, wherein an offer to provide something is made by one party and accepted by another party in return for consideration of some kind.

**Expired Contract**: A contract has fulfilled its contract term and is no longer active for purchasing. If the unit requires the goods and services to continue, a new procurement must take place (ex. bid, waiver, quotes, etc.).

**Independent Contractor or Employee Determination (ICED)**: This is a prerequisite document for guest lecturer, honorarium, or professional services engagements, that the prospective supplier must complete and must be reviewed and approved by University Procurement Services or University Tax Department prior to any start of service.

**Non-Disclosure Agreement (NDA)**: A legal contract between at least two parties that outlines confidential material, knowledge, or information that the parties wish to share with one another for certain purposes, but wish to restrict access to outside parties. It is preferred to use the university template if possible. However, a non-university template may be authorized upon contract management review, negotiation, and approval.

**RU Marketplace**: RU Marketplace is the university online system that covers all stages of the procurement-to-payment process. This system provides a comprehensive approach to the provider and end user. The tool also allows for data analytics by measuring the effectiveness of contracts, transaction approval cycle times, and use of automated invoice processing.

**Standard Operational Procedure (SOP)**: A set of instructions that functionally describes the key procedures.

**Statement of Work (SOW)**: A complete and detailed description of all goods and/or services to be delivered to Rutgers including specifics such as cost, milestones, deliverables, and timelines. This must include everything the unit expects to receive as a result of the purchase.

**Supplemental Statement of Work (SOW)**: A complete and detailed description of the requested changes to an original SOW already issued under a Rutgers Purchase Order. These service engagement changes may include a service date extension, changes or additions to the services being rendered including deliverables or milestones (if any), and/or an increase to the fees and expenses.

**Terminated Contract**: A contract that has been terminated, at the direction of the unit or supplier. The contract will no longer be active for purchasing.

**Third Party Risk Assessment (TPRA)**: The Third Party Security Questionnaire assists units in evaluating the security/compliance of third parties or application service providers by requiring the supplier to disclose their method of managing and storing restricted, internal or public information. Rutgers’ Office of Information Technology reviews the questionnaire and assesses the prospective supplier’s processes, making a recommendation regarding moving forward with the supplier. The goal is to provide a safe environment for Rutgers’ data, assets, resources, and confidentiality.
Total Contract Manager (TCM): RU Marketplace solution that allows the University to see the contract processing stages. It also serves as a repository for contract documents and information and allows for advance notice of contract expiration and/or renewals.

Unit: Department within the University (e.g. University Procurement Services, Facilities Department, etc.).

Procedures

Throughout the contracting process, there are several steps that occur including contract analysis, negotiations, edits, and signature, among other things. University Procurement Services is responsible for steering all phases of this process.

4.1 What is a Procurement Contract?

A procurement contract is a legal document between Rutgers and a supplier for any related procurement activity, and may include such factors as pricing, length of contract, delivery, quality, and payment information. The contract establishes the terms and conditions that govern the relationship between the parties.

4.2 When is a Procurement Contract Needed?

When goods and/or services are procured by Rutgers, a contract is needed, unless otherwise specified. Wherever possible, the unit should procure goods and services from suppliers that have active contracts in place with Rutgers. Units are advised to check RU Marketplace or contact University Procurement Services. If there is not an active contract in place, the preferred method of contracting with a supplier is to issue a purchase order in RU Marketplace, which incorporates the University Procurement Terms and Conditions and includes the appropriate statement of work.

If a supplier will not accept a standalone purchase order or if further details of the transaction are required, then units should refer to the various contract types (see below) that Rutgers uses to engage a supplier. See Contract Management Process Instructions.

4.3 Contract Types

4.3.1 Purchase Orders

Purchase orders (POs) are the standard form of contract used to procure goods and/or services for Rutgers. A PO has established terms and conditions that protect the University’s interests. It provides the detailed description of the goods or services, deliverables, price, and the length of term, among other items. Upon acceptance by a supplier, a PO becomes a contract binding both parties.
A purchase transaction solely based on a PO will not be tracked in Total Contract Manager (TCM).

### 4.3.2 Standard Contracts

If the PO alone is insufficient, University Procurement Services may utilize one of the Rutgers standard contract templates for provision of goods and/or services which should be used whenever possible:

- **Master Service Agreement (MSA):**
  - Option 1: A university-wide engagement with a defined SOW including fees and expenses (e.g. copiers, office supplies, lab supplies, etc.) with one supplier. The University enters into this contract when there is a repetitive need to purchase the same type of good or service from a supplier.
  - Option 2: The Master Service Agreement is also used for an agreement with one supplier that allows units university-wide to purchase goods and/or services from the supplier. In this instance, there is no defined SOW or fees and expenses, however the terms and conditions of the agreement have been established. The unit must establish a defined SOW(s) including fees and expenses for all future purchases (e.g. consulting firms), which will be governed by the MSA. It is optimal to utilize this type of contract when units repetitively purchase goods or services from the same supplier(s).

- **Service Agreement (SA)** – A unit-specific purchase of goods or services, with a defined Statement of Work (SOW), including Fees and Expenses (e.g. parking services, photography services, etc.).

- **RFP Contract Award Letter** – A contractual letter that binds the parties to the terms and conditions as set forth in the RFP.

### 4.3.3 Supplier Contract

When a Rutgers standard contract is not acceptable, a supplier contract may be utilized in case-by-case circumstances. University Procurement Services must negotiate terms and conditions for these types of contracts.

There are two types of supplier contract situations:

a) A non-university contract is provided by the supplier that contains their terms and conditions. While this is not a preferred document to engage a supplier, Rutgers may authorize the use of this document upon University Procurement Services review, negotiation, and approval.

b) A supplier submits a quotation with their terms and conditions. These need to be carefully reviewed by University Procurement Services. If the quotation is accepted with the supplier terms and conditions, then Rutgers terms and conditions do not apply.

### 4.3.4 Other

- **Non-Disclosure Agreement (NDA)** – A legal contract between at least two parties that outlines
confidential material, knowledge, or information that the parties wish to share with one another for certain purposes, but wish to restrict access to outside parties. Use of the Rutgers template is preferred. However, a non-university agreement may be authorized upon contract management review, negotiation, and approval.

- **Business Associate Agreement (BAA)** - This agreement is required when a unit is engaging services that include creating, receiving, maintaining, or transmitting Protected Health Information (PHI). Use of the university template is preferred. A non-University template may be authorized upon contract management review, negotiation, and approval. This contract must be negotiated and approved by the Rutgers’ Office of General Counsel.

- **Statement of Work (SOW)** – All service-based purchase orders should have a Rutgers SOW or supplier bid/quote/proposal that outlines the service scope, deliverables and fees and expenses. This would include most professional and business services. This should be attached to the requisition as an external document.

### 4.4 Contract Creation and Total Contract Manager Setup

Either University Procurement Services or units may initiate a contract. Units must reach out to University Procurement Services for contract assistance if they wish to proceed with a Rutgers Standard Contract as described in Section 4.3.2.

The process is as follows:

1) University Procurement Services ensures that the applicable prerequisite documents have been provided and are approved. If the documents provided are insufficient, the category analyst will return it to the appropriate unit for clarification or additional information.

- **ICED (Independent Contractor or Employee Determination)** – This is a prerequisite document for guest lecturer, honorarium, or professional services engagements, that the prospective supplier must complete and must be reviewed and approved by University Procurement Services or University Tax Department prior to any start of service.

- **BAA (Business Associate Agreement)** – described above

- **TPRA (Third Party Risk Assessment)** – This assists units in evaluating the security/compliance of third parties or application service providers by requiring the supplier to disclose their method of managing and storing restricted, internal, or public information. The unit must forward the TPRA to Rutgers’ Office of Information Technology to review, assess the prospective supplier’s processes, and make a recommendation regarding moving forward with the supplier. The goal is to provide a safe environment for Rutgers’ data, assets, and resources and to maintain confidentiality.
• **Concerning Protected Information** – This document must be signed by the supplier whenever student information is involved.

• Facilities docs need to be mentioned here

• **Statement of Work (SOW)** – Described above.

2) University Procurement Services creates the contract framework in Total Contract Manager (TCM).

   a) If review and/or negotiation is not required, the contract is processed. The contract proceeds to section 4.6 Contract Execution and Total Contract Manager activation.

   b) If further review and/or negotiation is required, the contract proceeds to section 4.5 Contract Review and Negotiation.

4.5 **Contract Review and Negotiation**

If the contract requires additional review and negotiation, University Procurement Services reviews and negotiates the terms and conditions, including but not limited to:

1) Seeking guidance as needed from internal resources (e.g. Risk Management, Legal Counsel), as well as the unit.

2) Negotiating the contract with the supplier. There can be an exchange of red-lined versions of the contract during the negotiation period. This may require University Procurement Services to re-engage internal sources for additional input.

3) Forwarding agreed upon terms and conditions amongst the parties for signature.

4.6 **Contract Execution and Total Contract Manager Activation**

Once a contract has been fully executed by all parties, a PO is issued and services commence. The TCM framework is fully populated, including the attached fully executed contract. In general, University Procurement Services signs procurement contracts. However, in some instances, units have authority to sign a procurement contract. Please see Office of General Counsel, Rutgers Policy 50.13.3, and Signature Matrix.
4.7 Contract Management/Tracking of Deliverables

Units are responsible for ensuring that the goods, services, deliverables, and supplier payments are consistent with the requirements set forth in the related procurement contract. Units are encouraged to use the Contract Management-Tracking Deliverables spreadsheet and the Tracking Deliverables Process Instructions.

In the event of a service level discrepancy with a supplier, units are encouraged to contact the University Procurement Services Help Desk for assistance. The Help Desk will forward the request to the appropriate individual who can assist in resolving the dispute.

4.8 Contract Amendments

Situations may arise for units and/or suppliers that require contract modification. With all parties in agreement, a contract may be amended to adjust the original requirements and/or terms and conditions via a Rutgers or supplier amendment or Supplemental SOW.

4.9 End of Contract Options

TCM notifies University Procurement Services in advance that a contract is set to expire or renew within a specified amount of time. University Procurement Services then notifies the unit of the upcoming expiration or renewal. University Procurement Services can, at the direction of the unit, exercise any contract extension/renewal term(s) available with the supplier. At the expiration or termination of the contract, units can no longer utilize the contract for procurement.

References

Campus Instructions
Contract Management Process Instructions
Tracking Deliverables Process Instructions

Process Flowchart
Contract Management

Revisions

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