

University of Rhode Island Office of General Counsel Contract Review Protocol

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Protocol Scope

This protocol relates only to review of Contracts by the Office of General Counsel ("OGC") and is intended to supplement, not supersede, the [Policy on Approval and Execution of Contracts and Other Binding Documents](#) ("Contracts Policy") and other departments' procedures for review and approval of Contracts. Note that the Contract Owner is responsible for retaining fully executed Contracts and monitoring compliance with their terms. OGC does not maintain a database of executed Contracts. Capitalized terms used in this Protocol have the meaning assigned to them in the Contracts Policy.

Purchasing Department

Per Section 3.6 of the Contracts Policy, Contracts that involve the purchase or lease of goods or services must be reviewed and approved by the Purchasing Department, in accordance with (and except as otherwise established in) its [policies, procedures, and regulations](#). Note there is a broad category of goods and services that must be procured through the Purchasing Department, including but not limited to consulting agreements, construction-related agreements, rental or lease of equipment, or other personal property. It is important that the Contract Owner refer to the URI Board of Trustees Procurement Regulations and the Purchasing Department policies, procedures, and regulations, and consult with the Purchasing Department on questions as to when a Contract must be handled through them. When a Contract will be handled through the Purchasing Department, it must go through the Purchasing Department before it is submitted to OGC or the Office of Information Technology Services ("ITS") as described below.

Office of Information Technology Services

Per Section 3.8 of the Contracts Policy, Contracts that involve the purchase of hardware or software, grant a third party the right to integrate with University IT infrastructure or access campus information containing University data, or involve a third-party service provider or cloud-based vendor that provides services that process or hold institutional data ("IT Contracts") must be reviewed and approved by ITS. IT Contracts do not need to be sent by the Contract Owner to OGC for review. ITS will be responsible for determining whether OGC should be consulted on an IT Contract and, if so, for submitting the Contract to OGC for review as part of its approval process.

General Rule: Review of Contracts by the Office of General Counsel

In general, Contracts must be reviewed by an attorney in OGC before they are signed by an Authorized

Signatory (as defined in the [Contracts Policy](#)) on behalf of the University of Rhode Island (URI) and its Board of Trustees (URI-BOT). There are, however, several exceptions to the OGC review requirement set forth in this Protocol.

What are “Business Terms” and what are “Legal Terms”?

“Business terms” cover things like time, manner or scope of services or delivery, product quantities, purchase price, fees, payment, start date and end date, cancellation, termination or renewal, and deliverables. “Legal terms” cover things like liability limitations, defense, indemnification or hold harmless, choice of law, venue, forum or jurisdiction, dispute resolution (such as arbitration or mediation), liquidated damages, force majeure or acts of God, warranties, non-competition, exclusivity, or other covenants. Business terms should be fully negotiated and incorporated in the draft Contract before it is sent to OGC.

What is the Role of OGC in Reviewing a Contract?

Contracts that bind URI or the URI-BOT must be in writing. OGC’s review of a Contract or drafting of a Contract upon request of a department is not an approval of the business terms or authorization to proceed with the transaction. OGC review is to assess that the Contract, as written, complies with relevant federal and state laws, policies and procedures, conforms to the University’s expectations, adequately protects the University’s interests and rights, and appropriately allocates risks among the parties. It is important to remember that a Contract is an agreement to a particular relationship or transaction. The Contract Owner is responsible for reviewing and understanding the Contract and making sure it accurately reflects the intended relationship or transaction before it is executed and for complying with its terms after it is executed.

Exceptions: When Does a Contract not Require OGC Review?

The following categories of Contracts do not require OGC review under the circumstances described below:

IT Contracts

All IT Contracts must be reviewed by ITS, as described above and in Section 3.8 of the [Contracts Policy](#). In consideration of the expert review by ITS, many IT Contracts will not also require a separate review by OGC, even if none of the specific exceptions set out below apply. As noted above, it will be up to ITS to determine if OGC review is required and, if so, to consult with OGC as part of its review and approval process.

Templates

To simplify the Contracts process, OGC has developed and approved standard template agreements for use by authorized departments for routine transactions or relationships. It should not be routine to simply accept the vendor’s form of Contract and forward it to OGC for review. In some instances, the OGC may refer the Contract Owner to another operating unit that has expertise and authority in a specific area and that the OGC has granted exclusive authority to use specific OGC-approved templates. OGC-approved templates should be used by authorized departments whenever appropriate and, if there are no changes, there is no requirement to send them to OGC for approval. The authorized department simply fills out the terms where there are blanks in the template, without revising other language in the template, and submits the document through the appropriate department. If a department has the need for a standard template agreement for its frequent use, and one does not exist, a template can be requested by submitting a request for legal services to OGC’s matter intake email at OGC-service-request-group@uri.edu.

Small Contracts

“Small Contracts” do not require review by OGC. A “Small Contract” is one with a total Contract value of \$25,000 or less, EXCEPT if it relates to any of the following categories:

- Purchase, sale, lease/sublease, or license/sublicense of, or granting of naming rights in, any URI interest in real property;
- Settlement or release of legal claims or disputes;
- Financing, refinancing, restructuring or guarantee of debt or granting any security interest; or
- Transactions or relationships that are highly strategically important, involve potential for significant publicity, or otherwise involve unusually significant financial or reputational risk.

Contracts in the foregoing categories must be reviewed by OGC regardless of dollar value. Total Contract value measures how much value a Contract is worth once executed. It includes any recurring revenue from the Contract or obligations required to be paid or withheld (including contingent fees and revenue offsets) under the Contract, as well as all one-time charges like professional service fees, onboarding fees, and any other charges incurred throughout the Contract term.

Renewals, Extensions and Amendments

Renewals, extensions, or amendments of existing Contracts that change only business terms do not need to be reviewed if the existing Contract was previously reviewed by OGC or did not require review because it is a small Contract, unless the underlying Contract was reviewed by OGC more than five years before or, in the case of a Contract previously not reviewed by OGC, the change results in the Contract no longer qualifying as a Small Contract. In addition, if URI is responsible for drafting the renewal, extension or amendment and it is not on a pre-approved template, OGC should be consulted. The Contract Owner is responsible for carefully reviewing the existing Contract and confirming that the terms are still appropriate before submitting a renewal or extension for review or signature. If an extension or renewal of an existing Contract (other than a small Contract) adds, deletes, or modifies legal terms, if it results in an extension more than five (5) years from when the original Contract was reviewed, or if a department would like to renegotiate and amend legal terms of the existing Contract, OGC should be contacted. When requesting legal review or negotiation assistance for a renewal, extension, or amendment of an existing Contract, it is important that a copy of the existing Contract (including any prior amendments, renewals, or extensions), as well as a summary of the desired changes to terms, be provided with the [Contract Cover Sheet](#) and document requiring review.

Master Agreement Orders and Statements of Work

Master pricing agreements by vendors with the State of Rhode Island are not subject to review by OGC. When there is any master agreement with a counterparty (regardless of whether it is a State master pricing agreement), orders and statements of work that are issued under the master agreement to the counterparty do not need to be reviewed by OGC if they modify only business terms and not underlying legal terms of the master agreement. Orders and statements of work that are with a third party, not the counterparty to the master agreement, still require review unless they are Small Contracts.

How Do I Request OGC Contract Services?

The [Contract Cover Sheet](#) should be completed by the Contract Owner and submitted via email to OGC's matter intake email at OGC-service-request-group@uri.edu with copies of any prior relevant contracts with the counterparty and any term sheets, commitment letters, proposals or letters of intent related to the terms of the Contract to be reviewed. Note that Appendix A does not need to be completed for Contracts that require OGC review. Whenever possible, Contracts should be provided in an editable Word format so that OGC may mark suggested language changes in the document. All blanks must be completed and attachments included. OGC should be notified prior to review if a counterparty has presented a Contract as "non-negotiable." If the request is not complete based on the requirements of this Protocol, it will be returned for completion before a matter is opened and an attorney is assigned. Once an attorney is assigned, the Contract Owner and the contact in Purchasing, where applicable, will receive an email indicating the matter number and name of the assigned attorney. All email communications regarding the Contract should include that matter number and name in the subject line.

Timing of Request

All requests to review or draft a Contract must be submitted before the work begins and before the Contract is signed on behalf of URI. For an informed review that will provide for favorable terms to the University, ample time between the time the request is submitted, and the Contract begins, is necessary. Whenever possible, we ask for at least 30 days for initial OGC review and to allow time for negotiation of changes and final review. Requests to draft contracts should allow for even more time and should be submitted as soon as possible without a Contract Cover Sheet, which can be prepared later before submission to the Authorized Signatory. Note that this time is in addition to, not inclusive of, time needed for other required reviews and approvals, including by Purchasing. Therefore, the Contract Owner needs to plan accordingly to allow sufficient time for business review, OGC review, and obtaining Authorized Signatory approval. If a shorter OGC review period is required,³ the reason should be clearly indicated

and explained in the request for Contract review.

Contract Negotiation

The OGC assigned attorney may make recommendations for changes in the Contract but is generally not responsible for negotiating Contracts. The assigned attorney may assist with negotiation when requested to do so. In addition, OGC should be contacted to assist in negotiations if the Contract counterparty has an attorney involved in their negotiations. If OGC is asked to assist in negotiation, the assigned attorney must be fully apprised of the background, business and ultimate goals of the Contract and be assisted by the Contract Owner so the assigned attorney is equipped with relevant business considerations for the negotiations. If changes are requested when negotiations are complete, the Contract should be sent back to the assigned attorney for final review indicating it has been fully negotiated and what changes have or have not been made in response to OGC comments.

Final OGC Review

After OGC Contract review services are completed, a final review email will be sent by the assigned OGC attorney to the Contract Owner and Purchasing (where applicable). If no changes are requested by OGC on first review, the final review email will state that the Contract has been reviewed by OGC and it is legally sufficient. If changes were requested, the fully negotiated Contract must be sent back to OGC for further review by the assigned attorney. If all requested changes were substantively addressed to the satisfaction of the assigned attorney, the final review email will indicate the Contract is legally sufficient. If requested changes were not addressed to the satisfaction of the assigned attorney, they will send a final review email indicating what changes were requested and not addressed and describing the associated risks or concerns and conclude with one of the following: 1. The Contract is not legally sufficient as written and should not be executed.; or 2. Although all requested changes were not addressed, OGC would consider it not unreasonable for the Authorized Signatory to make a business decision to enter into the Contract, in which case the Contract Owner is responsible for making the case to the Authorized Signatory that the Contract is of sufficient importance and the risk is sufficiently attenuated that they believe the Contract should be executed.

Attorney-Client Privileged Legal Advice

Note that communications from OGC to URI employees and the URI-BOT with our attorney's advice and comments on Contracts are attorney-client privileged and should only be shared with those within URI who are responsible for negotiation and approval of the Contract. Under no circumstances should OGC communications be forwarded to Contract counterparties.