

January 31, 2011

MEMORANDUM

To: Chancellor
Council of Presidents
Cabinet
Administrative Council
University Controller
Legal Affairs Designees
Purchasing Directors

From: Frederick P. Schaffer



General Counsel & Senior Vice Chancellor for Legal Affairs

Re: Contract Signing Authority

Introduction

There appears to be some uncertainty within the University as to which individuals have the authority to sign contracts and which contracts require approval by the Office of the General Counsel ("OGC"). This memorandum is intended to clarify the rules pertaining to these issues and where appropriate to change them so as to achieve consistency and eliminate unnecessary delays while ensuring proper oversight.

General Rules

CUNY, including each of its constituent colleges and professional schools, is subject to the public procurement requirements of New York State law. CUNY policy requires that OGC approve all commitments made in CUNY's name. Pursuant to Board policy, contracts for the purchase of goods and services valued at \$500,000, except contracts covered by the Board's annual omnibus resolution relating to technology contracts, must be approved by the Board of Trustees and signed by the General Counsel. For contracts valued at less than \$500,000 but \$20,000 or more, the Board has authorized the Chancellor or his designee to approve and the General Counsel to execute all such contracts.

Current practice for the Purchasing Department at each college and the Office of the Controller for the Central Office includes making purchases and commitments without review by OGC and

without signature by the General Counsel where they use current OGC-issued documents, such as purchase orders, independent contractor agreements and space rental agreements. In addition, Purchasing Departments also issue and sign purchase orders, using an OGC-issued form, to procure goods and services covered by existing contracts (that have already satisfied public procurement requirements) of the City and its agencies (including the Department of Education), the State and its agencies, and certain permitted agencies of the United States government.

This memorandum clarifies these general rules and practices and settles questions as to who precisely has authority to execute agreements for CUNY, in what amounts and under what circumstances. The remainder of the memorandum establishes such specific delegations of authority.

Scope of Application and Definitions

This memorandum covers all agreements, including contracts, purchase orders and independent contractor agreements, that create obligations or liabilities on behalf of the University, any constituent unit of the University or its constituent units (but not college associations, auxiliary enterprise corporations, college foundations or the City University Construction Fund), regardless of the source of funds (*i.e.*, tax levy accounts, IFR accounts, non-tax levy accounts, accounts at the Research Foundation, etc.).¹ It also covers all agreements whether the University or other entity is paying for goods and services from a third party or receiving payment for providing goods and services to a third party.

The value of an agreement shall be determined by the total amount of the agreement. For example, if a service contract is for \$50,000 per year for a total of five years, its value is \$250,000. This remains true even if the University has the right to terminate the contract, whether on an annual basis or with appropriate notice. Similarly, if the University has the right to extend an annual service contract in the amount of \$50,000 for an additional four years, its value is \$250,000. Contracts may not be artificially broken up to avoid limitations. For example, if the University contracts to buy five copiers for \$10,000 apiece, the value of the contract is \$50,000 even if the purchase is divided up into five contracts. Some contracts have an uncertain or indeterminate value. In such cases, or whenever there is any uncertainty about the value of a contract, the contracting person should consult with OGC.

Notwithstanding the delegation of signing authority, all agreements must comply with laws and University policy regarding procurement. In addition, no agreement shall be signed unless the document is on a form that has been issued or approved by OGC.

¹ The source of funds remains relevant as to whether it is necessary to comply with State procurement law and obtain approval of a contract by the Office of the State Comptroller.

Delegations of Authority

Contracts

1. Contracts in the Amount of \$100,000 or More. All such contracts must be signed by the General Counsel, except that annual renewals of technology contracts covered by the Board's omnibus resolution may be signed by the Associate Vice Chancellor and University Chief Information Officer where the terms of the contract have not been changed (other than dates and price increases set forth in the original contract) and the renewal contract does not extend beyond the term of the original contract.
2. Contracts in an Amount Less Than \$100,000. Contracts that have been approved as to form in writing by the Office of the General Counsel may be signed by the following persons:
 - a. Central Office –
 - the Controller and the Associate Controller for Procurement (with respect to contracts for goods and services other than construction and construction related services, leases and computers and software);
 - the Vice Chancellor for Facilities Planning, Construction and Management and the Executive Director of Fiscal Management in the Department of Facilities Planning, Construction and Management (with respect to contracts for goods and services relating to construction and leases); and
 - the Associate Vice Chancellor and University Chief Information Officer (with respect to contracts for goods and services relating to data and voice technology, including computers, software and telephones).
 - b. Campuses – the President or Vice President for Finance and Administration.
3. Contracts in an Amount Less Than \$20,000. Where contracts are on OGC-issued forms or have been approved as to form in writing by OGC, the following additional persons may sign such contracts:
 - a. Central Office –
 - the Associate Controller for Procurement in the Office of the Controller (with respect to contracts for goods and services other than construction and construction related services, leases and computers and software).

- b. Campuses – the Purchasing Director and his/her designee(s). Such designee(s) must be approved annually by the Vice President for Finance and Administration on each campus and a list of such approved designee(s) must be sent to the Office of the General Counsel.

Purchase Orders

Only purchase orders on forms issued by OGC where the underlying contract has been approved as to form in writing by OGC may be used. In cases where a purchase order is to be issued off of existing contracts of the City and its agencies (including the Department of Education), the State and its agencies, and certain permitted agencies of the United States government, so long as the terms of the purchase order are the same as or more favorable to the University than the existing government contract, then such existing contracts may be deemed to have been approved by OGC.

Where these conditions have been met, the following persons may sign the purchase order:

- a. Central Office –

- the Associate Controller for Procurement (with respect to contracts for goods and services other than construction and construction related services and leases) and his/her designee(s). Such designee(s), and the dollar amount of their authority to sign purchase orders, must be approved annually by the University Controller, and a list of such approved designee(s) and the limits of their authority must be sent to the Office of the General Counsel; and
- the Executive Director of Fiscal Management in the Department of Facilities Planning, Construction and Management (with respect to contracts for goods and services relating to construction and leases), and his/her designee(s). Such designee(s), and the dollar amount of their authority to sign purchase orders, must be approved annually by the Vice Chancellor for Facilities Planning, Construction and Management, and a list of such approved designee(s) and the limits of their authority must be sent to the Office of the General Counsel.

- b. Campuses – the Purchasing Director and his/her designee(s). Such designee(s), and the dollar amount of their authority to sign purchase orders, must be approved annually by the Vice President for Finance and Administration, and a list of such approved designee(s) and the limits of their authority must be sent to the Office of the General Counsel.

Annual Filing of Forms or Signature Cards with the Office of the State Comptroller

All forms or signature cards filed with the Office of the State Comptroller indicating the persons on each campus who have authority to sign contracts and purchase orders shall comply with the terms of this memorandum. A draft of the completed forms must be sent to the Office of the General Counsel for approval before they are sent to the Office of the State Comptroller, and a copy of the final form sent to the Comptroller must be sent to the Office of the General Counsel.