

Section VII. Legal Affairs Contract Review Procedures

These procedures supplement and clarify Section VII. of the Lone Star College System District Policy Manual (“Policy Manual”) last revised by the Board of Trustees on **February 5, 2015**—setting out the College’s policies regarding the Office of the General Counsel (“OGC”).

The Policy Manual controls when a conflict arises between it and the procedures below. These procedures were adopted on **August 8, 2018**. The notice and comment period for these procedures was open to the public online from **June 27, 2018** to **July 27, 2018**.

1. Scope of Procedures. The procedures below are intended to apply to all College contracts except for employment contracts and contracts for legal services.

2. Definitions

a. Contract means a written document intended to create binding rights and obligations between the College (or one or more of its colleges) and any other person or entity, including but not limited to any amendment, addendum, schedule, renewal, or extension to another contract.

b. Standard Contract means the current version of a form contract pre-approved by OGC with no subsequent modifications, including page additions, except for the appropriate information entered into the empty, designated fields. The language, “Standard Form Approved by Lone Star College Office of the General Counsel” in the footer of the form contract denotes a Standard Contract.

c. Non-standard Contract means any contract that is not a standard contract, including any modified Standard Contract.

3. Does OGC Need to Review this Contract? To protect the College from legal risk, OGC must review all contracts—regardless of the contract’s value—absent a written variance from the General Counsel. However, unmodified standard contracts totaling less than \$50,000 of College expenses do not require additional OGC review. College employees may download current versions of standard contracts at:

<https://intranet.lonestar.edu/OGC/SharedDocuments/Forms/AllItems.aspx>.

Download the current version each time you use a standard contract; old versions are not approved for use without additional OGC review. The originating department must review *Form VII.1. Contract Review Checklist* included in the appendix to these procedures. All standard contracts must satisfy the criteria within that checklist, and the originating department is responsible for any failure to verify the criteria therein. The originating department should review all contract provisions and corresponding documents to ensure that all information is accurate and that the intended business outcome is likely to result. The checklist is for the originating department’s records and should not be sent to OGC.

Standard contracts totaling \$50,000 or more of College expenses and non-standard contracts require specific OGC review regardless of the sum at issue. Some example scenarios are

included in the appendix to these procedures. If unsure whether a contract requires OGC review, please submit it for OGC review.

4. How to Submit a Contract for OGC Review.

a. Pre-Submission Checklist.

Before submitting a contract for OGC review, the originating department must review *Form VII.1. Contract Review Checklist* included in the appendix to these procedures. The originating department is responsible for any failure to verify the criteria therein. The originating department should review all contract provisions and corresponding documents to ensure that all information is accurate and that the intended business outcome is likely to result. The checklist is for the originating department's records and should not be sent to OGC.

b. Submitting a Contract for OGC Review.

To submit a contract for OGC review, please follow the steps listed in the appendix to these procedures entitled "Submitting a Request for Contract Review in ServiceNow."

5. OGC Contract Review.

The assigned OGC attorney will review the proposed contract for legal issues and risks. The attorney will either approve the contract or respond to the requester explaining what changes are recommended by the OGC attorney to the proposed contract. The requester must then ask the other party whether it will agree to the requested changes, independent of the OGC attorney's email to the requestor. **This is NOT done by forwarding the attorney's confidential email to the other party.**

6. Variances. OGC recognizes that the College's operational needs, as determined by the College's senior leadership, will sometimes require the College to enter into contracts with provisions that vary from the College's standard contractual terms and conditions, presenting legal risks to the College. If the other party will not agree to the contractual terms and conditions requested by Lone Star College, the College (or one or more of its colleges) may not execute that contract unless the Chancellor's Cabinet member ultimately responsible for that contract approves a contract variance in writing after considering OGC's advice regarding the legal risks that the contract presents. OGC will coordinate contract variance review with the appropriate senior leadership.

7. Execution. Standard contracts not requiring additional OGC review may be executed by authorized representatives of both parties. In such cases, OGC does not need to see the contract before or after it is executed unless and until a dispute later arises under that contract, but the originating department should retain a copy (electronic is fine) of the contract in its files for reference for at least four years, or as long as otherwise required by law, after the contract term has ended.

For contracts requiring specific OGC review, once the parties have agreed on all terms and conditions, an OGC attorney will stamp the contract, signaling OGC review of the document,

for the College's authorized representative to sign. When possible, the other contract party should sign the contract before the College representative signs. Once all parties have executed the contract, the originating department should retain a copy (electronic is fine) in its files and send a copy to OGC and to the other party if it does not already have a copy of the fully executed contract.

For OGC's purposes, electronic copies of contracts are sufficient. Occasionally, another party will request an original "wet ink" signature on its copy of the contract. OGC will coordinate with the requestor when wet ink signatures are requested. Notary signatures and notarized signatures must be originally signed in person, but electronic copies of such signatures are sufficient once one original has been signed.

When a contract authorizes counterpart signatures, the parties' representatives need not place their signatures on the same signature page of the contract; they may each sign a signature page, and the combined signature pages are the contract's signature page.

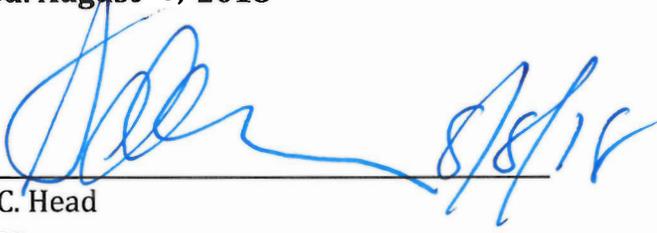
If a contract requires the parties to initial any specific clauses that have been modified or added, both parties' authorized representatives must initial where indicated for the contract to be fully executed.

8. Delegation of Contract Authority. Contracts do not bind the College unless they have been signed by the parties' authorized representatives. Only individuals with expressly delegated contract authority may sign contracts on the College's behalf, and no individual may contractually bind the College (or its colleges) beyond the limit of his or her delegated authority. Contract authority is delegated by policy and by Board action from the Board of Trustees to the Chancellor. The Chancellor may delegate contract authority in any sum within the Chancellor's authority to one or more College employees and may permit additional sub-delegation of contract authority. Those empowered to sub-delegate contract authority may do so. Individuals who have received delegated contract authority are responsible for their use of that authority.

Delegations of contract authority are not effective unless they are written and submitted to OGC using *Form VII.2. Delegation of Contract Authority* included in the appendix to these procedures.

The delegator may amend or revoke delegations of contract authority at any time by delivering written notice to OGC. A delegation of contract authority is automatically revoked when the delegator's or delegee's College employment is terminated, suspended, or transferred to another position. When a delegation of contract authority is revoked, all sub-delegations of contract authority made under the former (now revoked) delegation are also revoked.

Approved: August 8, 2018

A handwritten signature in blue ink, appearing to be 'S. Head', followed by the date '8/8/18'.

Stephen C. Head
Chancellor
Lone Star College

APPENDIX & FORMS

Does OGC Need to Review This Contract?—Examples

Example 1: A college department plans to use a standard contract to obtain \$10,000 of services. An addendum is attached to explain the services the other party will provide. OGC must review this contract because the addendum is a modification that makes the contract a non-standard contract.

Example 2: A college department plans to purchase goods for \$30,000 using the vendor's contract. OGC has reviewed this vendor's contract in the past and approved it without changes. OGC must review the contract again each time the vendor's contract is used because it is a non-standard contract.

Example 3: A college plans to execute a "Memorandum of Understanding" with a non-profit entity to accomplish a shared objective. OGC must review this contract.

Example 4: A college department plans to use a standard contract to purchase four months of services for a total of \$44,000. OGC does not need to review this contract if there are no modifications to the approved form other than filling in blanks with appropriate information such as the other party's name, the purchase price, and the date of the contract.

Example 5: The same as Example 4, except that the contract includes an addendum describing the services to be performed. OGC must review this contract because the addendum makes the contract a non-standard contract.

Example 6: The same as Example 4, except that the department wants to extend the contract for another month, bringing the total cost to \$55,000. OGC must specifically review this contract because it is for more than \$50,000.

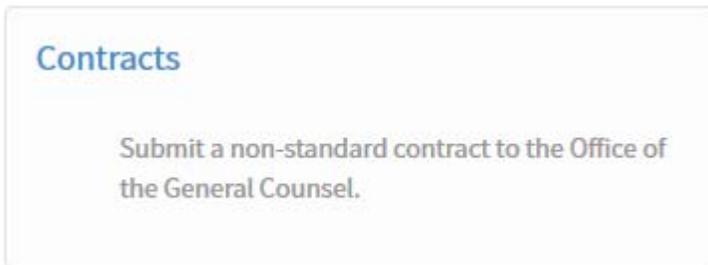
Example 7: A college department plans to use a non-standard contract that includes online terms and conditions that must be accepted through the vendor's website. OGC must review those online terms and conditions, as well as the non-standard contract, prior to contract execution.

Submitting a Request for Contract Review in ServiceNow

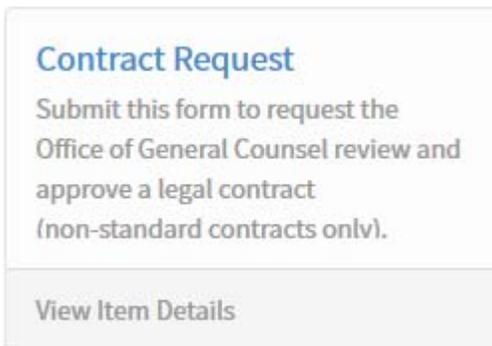
1. Go to the [Service Portal](https://lonestar.service-now.com/sp) (lonestar.service-now.com/sp).
2. Select “OGC Services.”



3. Select “Contracts.”



4. Select “Contract Request.”



5. Fill in the form fields as follows:

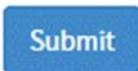
- a. **Acknowledgment Checkbox:** Check the box marked “I acknowledge” to acknowledge that you have read the note at the top saying, “This submission contains certifications that may give rise to personal, criminal, and civil penalties under Texas law.” (This text will be moved to the checkbox in future updates.)

- b. **Requested By:** The person submitting the form is the “Requested by” person. This should auto-populate with your name.
- c. **Requested For:** If you are submitting the request on behalf of someone else, select that person in the “Requested For” field.
- d. **Short Description:** This should briefly clarify who the contract is with and what the contract is for. Example: “Willy Wonka Chocolate Factory—Tour Liability Release Agreement.”
- e. **Full description:** Any information about the contract which the OGC attorney needs to know to review it.
- f. **Select your college/center:** This is your location, not necessarily the location of the contract. This will select who must certify the request.
- g. **Verification.** Check the box marked “I verify” to verify that the requestors and certifiers have obtained the proper procurement approvals for the contract prior to submitting to OGC for review.
- h. **Contract start date:** If unknown or “upon execution,” it is okay to estimate a time in the future. **Please make this selection using the calendar.** Do not enter the date as text. A bug in ServiceNow (which will be fixed in the next system update) will prevent the date from being visible to us if you do not use the calendar dropdown.
- i. **Contract end date:** Similarly, please estimate if you don’t have an exact date, and please use the calendar.
- j. **Amount:** The total contract cost over its full term. If none, put “0” (not N/A).
- k. **Contract with:** The name of the other party/company.
- l. **Board Contract Checkbox:** Select this if the contract requires Board approval, and be sure to attach the Board Agenda Item.
- m. **File Type:** Self-explanatory; for any contract that is not an affiliation or facilities agreement, select “Non-Standard Agreement.” If you are using an [OGC standard form](#), you do not need to submit it to OGC for review unless you or the other party has made changes to the form (including adding any attachment, addendum, exhibit, etc.) or unless the agreement is for more than \$50,000 or for the Chancellor’s signature.

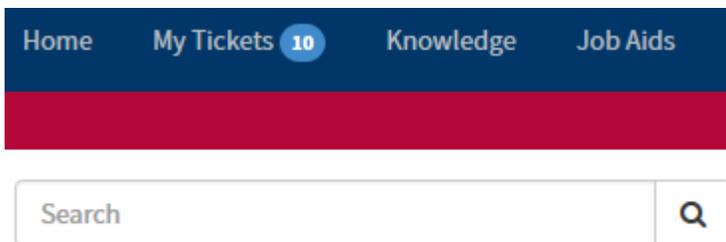
- n. **Rush:** If you need this contract very quickly, select “yes” and enter a reason for the rush request. We cannot provide exact estimates of contract turnaround time. Please contact the assigned OGC attorney or paralegal for a status update. Please also recognize that OGC is responsible for helping the entire system and your rush contract must be weighed relative to all other rushes. Please try to use the rush option sparingly. When every contract from your department is a rush, it sets a bad precedent.
- 6. Attach a copy of the agreement (including all pages, amendments, exhibits, etc.) and all supporting documentation (emails, Board Agenda Items, vendor proposals, etc.) required for review. You may do this either by dragging and dropping files onto the window or by clicking “Add attachments” at the bottom of the form.



- 7. After you have double-checked all information, click “Submit.”



- 8. The request will be submitted first to the “Requested for” individual for approval (if not the same as the “Requested by”) and then to the Certifier (generally the Chancellor’s Cabinet Member over your location or area). Once certified, it will be submitted to OGC and assigned to an attorney. **A matter is not received by OGC unless and until it is certified, and OGC is not responsible for getting certifiers to certify or reject a matter.** You will be able to track the status of the matter by accessing “My Tickets” on the right side of the top navigation bar the Service Portal.



- 9. If OGC requires any further information from you, you will receive an email notification and the matter may show as “Waiting on Client.”



Form VII.1: Contract Review Checklist

DO NOT SUBMIT THIS FORM TO OGC. This is only here to help you.

As provided in the College's Contract Review Procedures, a contract's originating department and the Office of the General Counsel (OGC) use this contract checklist to ensure that College contracts comply with relevant laws and College policies and procedures.

Before submitting a contract for OGC review, or when considering use of an unmodified standard contract not required to be submitted for OGC review, the originating department is responsible for ensuring that a contract satisfies the criteria in this checklist. The checklist is for the originating department's records and does not need to be sent to OGC.

- 1. The contract ___ **requires** or ___ **does not require** (mark one) Board of Trustees approval. Board Policy Manual Section III.D.1.3. lists most types of contracts that require Board approval. If you have questions regarding the applicability of Board approval to your matter, please contact OGC. Note: The Board of Trustees delegates signature authority to the Chancellor or designee for contracts requiring Board approval.
- 2. If the contract does not require Board approval, identify the individual with delegated authority who will sign the contract on the College's behalf.

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- 3. If applicable, the College has complied with all legally required competitive processes before selecting the other party to this contract. If you have questions regarding applicable competitive processes, please contact the College's Procurement department.
- 4. Is this contract a sole source purchase for \$50,000 or more? If so, has a sole source affidavit been executed?
- 5. Will grant funds awarded to the College be spent under this agreement? If so, has the College's Resource Development Administration team been involved up to this point? If not, please contact them before processing the contract any further.
- 6. The following information about the other party is accurate:

Legal Name	
Street Address	

- 7. The other party's identity (for an individual) or legal status (for an entity) has been verified.

- 8. If payments will be made, the College is the ___ **payor** or ___ **payee** (mark one) under this proposed contract.
- 9. The following information about the proposed transaction is accurate:

General

Sum to be paid	
Contract start date	
Contract end date	

Goods

Description of goods	
Delivery date	

Services

Description of services	
Service start date	
Service end date	

- 10. The originating department has reviewed all contract provisions and corresponding attachments and exhibits and has ensured that all information therein is accurate and that the intended business outcomes are likely to result.
- 11. The proposed contract clearly identifies the parties' rights and obligations, including any time frames for performing such obligations. **The originating department should work out any adjustments in a contract's business terms before submitting a contract for OGC review.**
- 12. The College can reasonably fulfill its obligations under the contract within the specified time frame.
- 13. The contract would provide value to the College and would ensure adequate return for any public funds to be spent and/or public property to be used during the contract.
- 14. The contract's term does not exceed a cumulative period of five years, including renewal terms. Contracts for the College to purchase goods and services may not exceed five years under Board policy.
- 15. The College employees working on this contract know of no illegality or unethical conduct associated with the contract.



Form VII.2: Delegation of Contract Authority

Deegee: _____
Name and Title

Signature

Delegator: _____
Name and Title

Signature

Date: _____

Subject: Delegation of Authority to Approve and Execute Contracts
Lone Star College Policy Manual—Authority to Purchase Goods and Services

Under the College's Policy Manual and Chancellor's Procedures, this memorandum confirms that the deegee named above has delegated authority from the delegator to approve and execute contracts that are less than \$_____ within the deegee's area of responsibility.

This delegation ___ **includes** or ___ **does not include** (mark one) authority to sub-delegate contract authority under established procedures.

This delegation supersedes and will govern any prior delegation of authority issued to the deegee. This delegation of authority will continue as long as you are an employee of the College unless amended or revoked at the sole discretion of the delegator or the delegator's supervisor(s) or by automatic revocation under relevant Chancellor's Procedures.

Further, this delegation and your approval and execution of contracts are subject to and limited by (i) existing and/or future Board of Trustee policies; (ii) existing and/or future Chancellor's Procedures; and (iii) review and approval of all proposed contracts as to legal form by the Office of the General Counsel.

cc: Mario K. Castillo, General Counsel