

Policy Title: Creation and Management of Contracts

Policy Owner: Chief Financial Officer, Finance and Business Services Centre

Keywords: Contracts, Memorandum of Understanding (MoU), Management

Policy Code: PL059 [ad024]

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1. INTENT

To establish consistent management practices with respect to:

- The University entering into and managing Contracts and MoUs in a manner which facilitates University business, minimises risk, maximises opportunity and adds value;
- University staff understanding their responsibilities under a Contract; and
- Ensuring the obligations under a Contract are performed by relevant parties as intended.

2. ORGANISATIONAL SCOPE

This policy applies to all ECU staff and honorary appointees, and to Contracts and memorandum of understanding entered into by the University.

What constitutes a contract in any given situation can be a complex legal issue. It is not always clear whether a binding legal relationship may be created. Any failure to comply with prescribed requirements concerning contractual dealings undertaken on behalf of the University exposes the University to financial and reputational risk.

3. DEFINITIONS

TERM	DEFINITION
Contract	Any agreement (whether oral or written) which creates legally binding obligations on the University where the required elements (offer, acceptance, intention to create legal obligations and consideration) for the formation of a contract exist including but not limited to: a) supply and procurement contracts; b) heads of agreement and legally binding memorandum of understanding; c) any variation, extension or renewal of an existing contract.

TERM	DEFINITION
Contract Management Framework	The Framework comprises the policies, principles, resources and systems collectively designed to ensure the effective management of all University Contracts.
Contract Management Plan	<p>A contract management plan contains all the key information about how a contract will be managed. It establishes systems and processes to ensure that the contractor complies with the terms and conditions during the performance of the contract.</p> <p>A contract management plan enables the contract manager to:</p> <ul style="list-style-type: none"> • develop a good understanding of the contract, and the responsibilities of the parties involved; and • establish a system against which the performance of both parties can be monitored and problems can be identified early - either before or as they occur.
FBSC	The Finance and Business Services Centre of Edith Cowan University.
MoU	A document which sets out an agreement between the University and one or more other parties which may not be legally enforceable.

4. POLICY CONTENT

- A. The University will ensure that the Contracts and MoUs it enters into:
 - i. protect the University's reputation and best interest;
 - ii. are negotiated fairly and transparently; and
 - iii. address any perceived or real conflicts of interest in a transparent manner.
- B. University Contracts and MoUs will be governed by due diligence, risk management and approval processes appropriate to the value and nature of the Contract or MoU.
- C. Contracts and MoUs must be approved and signed by appropriately authorised officers in accordance with University Delegations and Authorities. The relevant delegate is responsible for ensuring that, where appropriate, a Contract Management Plan is in place to support the fulfilment of the contractual obligations and the achievement of University goals and objectives.
- D. Staff involved in negotiating or establishing a Contract or MoU must have an appropriate knowledge of contract, consumer and competition law, and risk management or engage the services of suitably qualified subject matter experts.
- E. The University's standard terms and conditions should be used for Contracts where the University is the purchaser of goods and/or services.

- F. Advice from appropriate sources (including but not limited to the Strategic & Governance Services Centre and the Finance & Business Services Centre etc.) must be sought prior to entering into any Contract or MoU developed by the party with whom the University is contracting or where there is any deviation from the University's standard terms and conditions. For the engagement of the Strategic & Governance Services Centre, please refer to the [Legal & Integrity Service Guidelines](#).
- G. A full and proper record must be maintained of all Contracts and MoUs including any appropriate documentation of contract negotiations, specialist advice received or related correspondence. Records must be maintained in accordance with the University's [Records Management Policy](#).
- H. University Contracts and MoUs, except for employment and student scholarship contracts, must be managed in accordance with the [Contract Management Framework](#) where applicable. The Contract Management Framework comprises of principles, resources and systems and has been developed to support the effective management of University Contracts.

5. ACCOUNTABILITIES AND RESPONSIBILITIES

In relation to this policy, the following positions are responsible for the following

Chief Financial Officer

The Policy Owner has overall responsibility for the content of this policy and its operation in ECU.

Manager, Strategic Procurement and Business Services

The person in this role shall act as a formal point of reference within the University on contract management questions or issues. Staff requiring advice or guidance on contract management issues shall direct their enquiries to this person.

Staff

Staff are required to comply with the content of this policy and to seek guidance in the event of uncertainty as to its application.

6. RELATED DOCUMENTS

- 6.1 The policy is supported by the following Guidelines:
 - [Contract Management Framework](#)
- 6.2 Other documents which are relevant to the operation of this policy are as follows:
 - [Records Management Policy AD022](#)
 - [Code of Conduct](#)
 - [Conflict of Interests Policy](#)
 - [Delegations Manual](#)
 - [Integrated Risk Management Guidelines](#)

7. CONTACT INFORMATION

For queries relating to this document please contact:

Policy Owner	Chief Financial Officer
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8. APPROVAL HISTORY

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