OVERVIEW

A. What is a Contract?
B. University as one entity – proper legal name
C. *Contract Review and Signing Authority Policy* – Structure
D. *Contract Review Procedure*
E. Who signs and reviews research-related contracts?
   • RSO & beyond – top 10 University offices to know
F. Sub-Delegation
G. Using the Policy - examples
A. What is a Contract?

- “any document with a third party that creates a legally binding commitment on both/all parties”
- includes agreements, memoranda of agreement
- can include letters of intent
- contracts can also be made verbally.
B. University as one legal entity – proper legal name

- *Post-Secondary Learning Act* establishes one legal entity:

  The Governors of the University of Alberta

- This name should be used on all contracts the University enters into

- May add “as represented by [insert unit name]”
B. University as one legal entity – proper legal name

- note: one part of the University cannot enter into a legally binding contract with another part of the University
C. Structure of CRSA Policy

Contract Review and Signing Authority Policy

- Contract Review Procedure
- Schedule A Signing Authority Categories
- Sub-Delegation of Contract Signing Authority Procedure
- Retention of External Legal Counsel Procedure
C. Structure of CRSA Policy

- Find the Policy and links to procedures in UAPPOL

C. Structure of CRSA Policy

- Applies to **all contracts** signed on behalf of the UA.
- tasks the **Responsible Department** with oversight of the review & execution of a contract
- also identifies a **Signing Authority** for each type of contract – as delegated by the Board of Governors
- Signing Authority has the responsibility to ensure that all appropriate reviews and approvals are in place before they sign the contract
C. Structure of CRSA Policy

- **Schedule A** - Identifies types of contracts, responsible departments and signing authority – start here!

### A. Acquisition or Disposition of Land and Space Leasing

<table>
<thead>
<tr>
<th>Document Description</th>
<th>Dept Responsible</th>
<th>Signing Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquisition of land (except gifts of land) $100,000</td>
<td>V-P (Facilities and Operations)</td>
<td>AV-P (Facilities and Operations)</td>
</tr>
<tr>
<td>Acquisition of land (except gifts of land) $100,000 - $1 million</td>
<td>V-P (Facilities and Operations)</td>
<td>V-P (Facilities and Operations)</td>
</tr>
<tr>
<td>Acquisition of land (except gifts of land) $1 million - $5 million</td>
<td>V-P (Facilities and Operations)</td>
<td>V-P (Facilities and Operations) and V-P (Finance and Administration)</td>
</tr>
<tr>
<td>Acquisition of Land (except gifts of land) &gt;$5 million</td>
<td>V-P (Facilities and Operations)</td>
<td>President and V-P (Facilities and Operations)</td>
</tr>
</tbody>
</table>
| Sale of Land                                      | V-P (Facilities and Operations)  | President and V-P (Facilities and Operations) May require prior approval from Lieutenant Governor in

**Start here:** determine which part of Schedule applies by **TYPE** of contract (categories A-P) and **CONTENTS** (match to examples in applicable table)

**Next:** note the Responsible Department & Signing Authority.

Resp. Dep't then consults the **Contract Review Procedure** for who needs to review/approve before signature.
D. Contract Review Procedure

• Under the **CRSA Policy**

• Signing Authority **must not sign** unless appropriate reviews are completed & maintained by Responsible Dep’t

• Cover Sheet & Signing Page required
D. Contract Review Procedure

• General Counsel’s office and Risk Management dep’t must review all contracts of **sufficient importance** and/or where there is **potential for significant or uncertain liability** to flow to the University

• AND relevant VP’s review where contract:
  • has unusually high risk factor;
  • brings activities of University under public scrutiny; or
  • involves controversial matter.
D. Contract Review Procedure

- Some examples of who should review:

<table>
<thead>
<tr>
<th>Type of Contract - example</th>
<th>Review by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value &gt; $500,000</td>
<td>GC, RM</td>
</tr>
<tr>
<td>Dealing with <strong>land</strong></td>
<td>GC</td>
</tr>
<tr>
<td><strong>Foreign</strong> laws governing</td>
<td>GC, RM</td>
</tr>
<tr>
<td>Potential for personal, property or environmental <strong>injury</strong></td>
<td>GC, RM</td>
</tr>
<tr>
<td>Involving <strong>personal information</strong></td>
<td>RM, IPO</td>
</tr>
<tr>
<td><strong>Faculty</strong> appointment contracts</td>
<td>Academic Staff Admin.</td>
</tr>
</tbody>
</table>
D. Contract Review Procedure

- Except for the exceptions!

- Requirement for GC & RM review does **not** apply where the Responsible Department (as determined by Schedule “A” to the CRSA Policy) is:

<table>
<thead>
<tr>
<th>RSO</th>
<th>TEC Edmonton</th>
<th>SMS</th>
<th>UAI</th>
<th>Utilities</th>
</tr>
</thead>
</table>

- these dep’ts have their own review mechanisms
D. Contract Review Procedure

• Responsible Department provides draft of agreement to reviewers – involve reviewers as early in the process as possible.
• Do not sign first – arrange for reviews first, then signatures.
• Cover sheet & signature page includes signoff by Responsible Department as to “business” terms.
E. Who reviews research related contracts?

- applications for research funding and proposals
- sponsored research funding agreements for grants, contracts and service
- Research Affiliation Agreements i.e. relationship, partnership, etc.
- site or facility access agreements to access 3rd party’s site/facilities to perform research project

RSO reviews:
E. Who reviews research related contracts?

Looking Beyond the RSO:
Top 10 Other Offices to Know

(see CRSA Policy – Schedule A – Sections B, C, D, E, F, )
E. Research contract review: RSO + 10 to know

10. TEC Edmonton reviews:

• Proprietary rights from IP – patent, copyright, trademark, trade name, plant breeders rights

• License/Options to license to make, use, or sell the product of an invention

• Spin-off company documentation including shareholders agreements
E. Research contract review: RSO + 10 to know

10. TEC

Edmonton reviews:

- IP Management Agreements
- Confidentiality agreements relating to IP(research)
- Material transfer ag’ts (e.g. biological samples)
- Data sharing agreements – e.g.
  - For University/researcher to receive health information; or
  - For disclosure of health or personal information to another institution for collaborative research purposes
E. Research contract review: RSO + 10 to know

10. TEC

Edmonton contacts:

Current contacts for data sharing agreements:

• Joanna Preston - joanna.preston@ualberta.ca

• Veronica Coronado - coronado@ualberta.ca
E. Research contract review: RSO + 10 to know

9. VP-Univ. Relations
   reviews & signs:

- Trade-mark agreements
- For example, if another entity (e.g., a research sponsor) wants to use a trade-mark of the University.
E. Research contract review: RSO + 10 to know

8. VP-Research
reviews & signs:

- Other research-related agreements not dealt with elsewhere in Schedule A
E. Research contract review: RSO + 10 to know

7. Supply Mgmt Services
reviews & signs:

- Agreements re: purchase of any goods or services outside the scope of the Low Dollar Purchase System Procedure (LDPS)
- For example: high value research-related equipment, controlled supplies
E. Research contract review: RSO + 10 to know

LDPS Procedure:

• **Departments** can purchase goods/services for domestic orders $\leq 5,000$ CDN and foreign orders $\leq 2,500$ CDN (excluding GST)

• But **SMS** must purchase goods or services $\geq$ threshold value or are on list of exceptions e.g.:
  - Ongoing equipment maintenance & software license agreements
  - Restricted or controlled goods
E. Research contract review: RSO + 10 to know

6. UA International reviews:

- International contracts *generally*
- Provost and VP (Acad) generally has authority to sign international contracts

- For example: international internship agreements
- But Provost and VP (Acad) and VP (Research) *jointly* review and sign MOUs, letters of agreement and/or contracts with international entities that are Research Related
E. Research contract review: RSO + 10 to know

5. NACTRC reviews:

• Clinical trial agreements and any associated confidentiality agreements, material transfer agreements, or data sharing agreements
E. Research contract review: RSO + 10 to know

4. FACULTY RELATIONS reviews:

- Secondment agreements, which are signed by the Provost

- For example: if a faculty member will do work for AHS for 30% of the faculty member’s time for a year, and AHS will pay the University for the cost of that time
E. Research contract review: RSO + 10 to know

RESPONSIBLE Departments

Offices Who Provide ADVICE
E. Research contract review: RSO + 10 to know

• **Responsible Departments**: #4 – 10 listed above, are responsible for coordinating review process, negotiating the contract, and consulting with all appropriate offices.

• **Offices Who Provide Advice**: #1-3 listed below, provide advice on particular contracts, but are not generally responsible for coordinating the review process.
E. Research contract review: RSO + 10 to know

3. Office of INSURANCE and RISK ASSESSMENT

• Provides assistance in relation to risk assessment and mitigation.

• Specifically, reviews waivers, and liability, indemnity, and insurance clauses.
E. Research contract review: RSO + 10 to know

2. Information & Privacy Office reviews:
   - Reviews contracts to ensure privacy compliance
   - E.g. agreement for personal records held by the University to be disclosed to a researcher for research purposes, or to a software provider
E. Research contract review: RSO + 10 to know

1. Office of the General Counsel

- Provides legal advice as necessary on contracts that offices listed above do not handle, or per Contract Review Procedure
- Provides legal advice to offices listed above as necessary
- External legal counsel can only be retained through the Office of General Counsel, in accordance with the Retention of External Legal Counsel Procedure
E. Research contract review: RSO + 10 to know

ISSUES:

• What if after looking at Schedule A you are still not sure who should be reviewing a contract?

• What if there is a disagreement about who the Responsible Department is?

☞ Call the Office of General Counsel.

This Office’s mandate includes figuring out the answers to these questions.
E. Research contract review: RSO + 10 to know

AND:

• There may be more than one Signing Authority for a contract – see Schedule “A”.

• If a contract has aspects that fall into different categories, one unit may be Responsible Dep’t but consult another.

  • e.g. if contract is primarily research funding, but has small data sharing element, RSO could consult with TEC Edmonton.
F. Sub-Delegation

There may be times when someone other than the position listed in Schedule A should sign certain types of contracts

• If appropriate, the listed position could sub-delegate the authority to sign certain contracts to another position

• see Sub-Delegation of Contract Signing Authority Procedure
F. Sub-Delegation

Examples:

• VP (Research) – delegation of some signing authority to positions within RSO and TEC Edmonton

• VP (Facilities and Operations) – delegation of some signing authority to positions within Real Estate Services
G. Using the Policy

Example 1 – 3rd party paid use of UA lab

Faculty X wants to enter into a contract with a third party to allow the third party to use our laboratory facilities for a fee

- Who is the Responsible Department?
- Who is the Signing Authority?
- Should anyone else review?
G. Using the Policy

**Example 1 – 3rd party paid use of UA lab**

- Responsible Department – VP (Research), Faculty, VP (Facilities & Operations)?

- Signing Authority is likely the AVP (Facilities & Operations) if a lease or license is being granted – interest in land [Section A – if fee is less than $100,000]

- Contract Review Procedure applies – interest in land and risk to property, person & environment

- Legal and Risk Management review needed – likely no IPO review
G. Using the Policy

**Example 2 – Research collaboration contract with a Chinese University**

Contract with a University in China for collaboration on research and academic matters.

- Who is the Responsible Department?
- Who is the Signing Authority?
- Should anyone else review?
G. Using the Policy

Example 2 – Research collaboration contract with a Chinese University

• Responsible Department is UAI given international nature

• Signing Authority is the Provost and VP (Academic) and probably VP (Research)

• Contract Review Procedure does not apply: UAI is exempt
Example 3 – Contract to purchase goods or services contains IP terms

Supplier has presented its standard form contract which contains terms regarding intellectual property generated from use of goods/services.

• Who is the Responsible Department?
• Who is the Signing Authority?
• Should anyone else review?
G. Using the Policy

*Example 3 – Contract to purchase goods or services contains IP terms*

- Responsible Department is:
  - If not Low Dollar Purchase System – SMS
  - If Low Dollar Purchase System applies - Department

- RSO & TEC may be good resources to consult.

- Signing Authority is VP-Finance as delegated

- Contract Review Procedure does not apply to SMS
G. Using the Policy

*Example 4 – Data sharing amongst UA centre and others*

Proposed collaboration to create a common repository for data collected by UA Centre & other Canadian and U.S. Universities. No funding.

• Who is the Responsible Department?

• Who is the Signing Authority?

• Should anyone else review?
G. Using the Policy

Example 4 – Data sharing amongst UA centre and others

- Responsible department - TEC Edmonton, VP (Research), UAI?
- Signing authority – TEC , VP (Research), Provost and VP (Academic)?
- What is purpose of repository – educational use or research use?
- Is arrangement akin to a “consortium”? 
Questions?