

DOCUMENT TYPE	D	
ADMINISTRATIVE	5	
GOVERNANCE	1	
LEGAL & CONTRACTS	4	
NUMBER	006	
		Policy Database Document Reference Number 514006D

LEGAL PROCESS AND APPROVAL OF CONTRACTS PROCEDURE

Parent Policy Title	Legal Process and Approval of Contracts Policy												
Associated Procedures	<p>Contract Signing Policy and Contract Signing Delegation Procedures;</p> <p>All relevant University's policies and procedures including but not limited to:</p> <ul style="list-style-type: none"> • the policies and procedures in relation to outside work and conflict of interest; • the policies and procedures of La Trobe International; • the policies and procedures of Research Services; and • the policies and procedures of the Finance Division regarding the engagement of contractors, and the University's participation in a tender process to procure goods and services. 												
Preamble	This Procedure applies to a staff member of the University who wishes to seek legal advice or who wishes the University to become a party to a legal contract.												
General	<p>The University's Legal Services provides advice to the Vice-Chancellor, the University Council, the Faculties, the Administration and other parts of the University on all legal matters. Legal Services has a specialized legal knowledge and understanding of a wide range of University activities. It is important to use the resources of Legal Services early in any proposal or project where legal assistance may be required.</p> <p>It is University policy that all legal work must come to Legal Services. Legal Services in consultation with the client will determine whether the work is to be done by Legal Services itself or through the use of an external legal firm where specialist knowledge is required.</p>												
Table of Contents	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Item</th> <th style="text-align: left;">Section</th> </tr> </thead> <tbody> <tr> <td>Seeking Legal Assistance and Approval of Contracts</td> <td>1</td> </tr> <tr> <td>Consultancies</td> <td>2</td> </tr> <tr> <td>Conflicts of Interest</td> <td>3</td> </tr> <tr> <td>International Contracts</td> <td>4</td> </tr> <tr> <td>Tenders</td> <td>5</td> </tr> </tbody> </table>	Item	Section	Seeking Legal Assistance and Approval of Contracts	1	Consultancies	2	Conflicts of Interest	3	International Contracts	4	Tenders	5
Item	Section												
Seeking Legal Assistance and Approval of Contracts	1												
Consultancies	2												
Conflicts of Interest	3												
International Contracts	4												
Tenders	5												
1. Seeking Legal Assistance and approval of Contracts	<p>All correspondence in relation to new legal matters should be directed to the Director, Legal Services who will then allocate work to individual solicitors. All instructions will be acknowledged by Legal Services in writing within three working days of receipt.</p> <p>All contracts and agreements must be approved by Legal Services prior to execution by the University.</p>												

DOCUMENT TYPE	D	
ADMINISTRATIVE	5	
GOVERNANCE	1	
LEGAL & CONTRACTS	4	
NUMBER	006	
		Policy Database Document Reference Number 514006D

	Legal Services has a range of precedent agreements which should be utilised wherever possible. Any amendments made to those precedents must be approved by Legal Services.
2. Consultancies	<p>Legal Services has developed two standard consultancy agreements for use by the University:</p> <ul style="list-style-type: none"> • 2.1 - Provision of research, training, consultancy and other services by the University • 2.2 - Engagement of Contractors by the University
2.1 Provision of research, training, consultancy and other services by the University	<p>One standard agreement is to be used where the University is contracted to provide consultancy services. This agreement has been developed in conjunction with Research Services.</p> <p>Where the University is contracted to provide consultancy services involving the conduct of research, enquiries in the first instance should be directed to the Research Services.</p>
2.2 Engagement of Contractors by the University	<p>The other standard agreement is to be used where the University engages a Contractor to provide certain services. There is a short form and a long form version of this agreement. For a statement on the policy and procedure for the engagement of contractors, contact the Finance Division.</p> <p>The standard agreements should be used wherever possible to ensure that issues such as ownership of intellectual property, insurance, the University's potential liability and rights of publication are adequately addressed from the University's viewpoint.</p> <p>The standard agreements should be presented to outside parties at an early stage in negotiations as this will strengthen the University's position in contract negotiation.</p> <p>It is important to remember that the standard agreements may require amendment to deal with particular circumstances. Please note that all agreements must be approved by Legal Services before they are signed.</p> <p>You should contact Legal Services on 9479 2495 should you require assistance or a current copy of the standard agreements.</p>
3. Conflicts of Interest	Staff who are intending to undertake consultancy services or who are involved in negotiating contracts on behalf of the University must comply with the University's policy and procedures on conflicts of interest and outside work.
4. International Contracts	The processes and procedures for international contracts are set out in the policies and procedures of La Trobe International.

DOCUMENT TYPE	D	
ADMINISTRATIVE	5	
GOVERNANCE	1	
LEGAL & CONTRACTS	4	
NUMBER	006	
		Policy Database Document Reference Number 514006D

5. Tenders	<p>There are 2 types of tenders:</p> <ul style="list-style-type: none"> • 5.1 -Tenders where the University submits a tender in response to a request for tender from an external party. • 5.2 -Tenders where the University intends to acquire goods or services.
5.1 Tenders where the University submits a tender in response to a request for tender from an external party.	<p>The advice of Legal Services on all contractual terms and conditions must be obtained prior to the University committing itself to a particular project. Tender conditions must be reviewed by Legal Services before the University lodges a tender. The University is not able to negotiate amendments to a contract if a Faculty, School or Department has accepted particular contractual terms as part of its tender.</p> <p>In particular, it is important for Legal Services to review any indemnity provisions in a contract to ensure they are acceptable. It is also necessary to ensure that the University has insurance cover for any such indemnity or any other liability accepted under the contract.</p> <p>The University's existing insurance policies do not generally cover contractual liability unless that liability has been specifically accepted by our insurers.</p> <p>In addition, in some contexts, the contractual provisions relating to ownership of intellectual property may be unacceptable as they may prevent the University using materials developed under the contract for necessary teaching, research and educational purposes. Trade practices and other issues may also arise.</p> <p>University Staff must, therefore, refer tender conditions and contractual terms to Legal Services prior to the University lodging a tender to enable Legal Services to negotiate any necessary amendments to the contractual arrangements.</p> <p>In relation to tenders or proposals for contracts involving the conduct of research, you should seek the advice of Legal Services through Research Services.</p>
5.2 Tenders where the University intends to acquire goods or services	<p>Staff of the University must comply with the policies and procedures of Finance Division with respect to the procurement of goods or services.</p>
Status	<p>Revised Format. Approved by Finance and Resources Committee on 16 August 2004 and updated in March 2006. The implementation of the latest version of these procedures supersedes all previous versions of these procedures.</p>
Approval Body	<p>Finance and Resources Committee, 16 August 2004, FRC04/187(M), Minute 61.5.3(g); 14 March 2006, FRC06/62(M), Minute 74.8.5; Senior Management Committee, 29 May 2009, SMC09/17(M), Minute 3.3(f).</p>
Initiating Body	<p>Vice-Chancellor</p>

DOCUMENT TYPE	D	
ADMINISTRATIVE	5	
GOVERNANCE	1	
LEGAL & CONTRACTS	4	
NUMBER	006	
		Policy Database Document Reference Number 514006D

Definitions	Not Applicable
Date Effective	16 August 2004
Next Review Date	1 December 2012
Keywords	Legal Process, Contracts, Tenders, Contractors
Owner/Sponsor	Vice-Chancellor
Author	Deputy Director, Legal Services
Contact person	g.ducasse@latrobe.edu.au