Consultant Policy

The following policy is intended to establish a framework for all contractual commitments that are entered into by the college with a consultant for the procurement of professional or technical services, and in certain instances, intellectual capital.

The guidelines do not apply to the purchase of services which should be covered under normal Purchase Order procedures. In addition, these guidelines do not apply to instructional contracts. That is, contracts for activity directly related to classes or training, such as employment contracts for instructors.

1. Ensure that a background check of the consultant has been conducted. This should consist of feedback from other clients of the consultant.
2. Confirm, in writing, with the Director of Budgets that there are funds available in the budget to accommodate the costs associated with the consultant. Once a contract is executed notify the Controller, who will encumber the funds.

What should be in the Contract?

1. Scope of work.
2. Start and End Dates.
3. Termination provisions for both parties.
4. An articulation of the duties and obligations of each party including how they are to be performed and timing requirements for their performance. This includes a description of the work to be performed or the services to be provided.
5. Determine if it is required that the consultant and employees be bonded (insured).
6. Price(s) for the service(s) performed.
7. Payment terms, including, if applicable, discounts, incentives, payment schedules, prepayment requirements and deferred payment options.
8. Limits on Mercy College’s liability in the event of a default by the consultant or early termination by Mercy College.
9. A dispute resolution clause which includes where potential lawsuits may be filed (exclusive local jurisdiction, unless otherwise authorized by Mercy counsel).
10. No subcontracting of any nature may be done by any contractor, without Mercy’s prior written consent. Clarify any third party relationships which may result from the consulting agreement. Such third parties should be identified to ensure they are not part of a list of disallowed vendors/consultants for Mercy College.
11. The consultant is an independent contractor and not an employee of Mercy College and may not bind Mercy College in any manner.
12. A statement that invoices for services and any other requests for reimbursement be sent directly to the Accounts Payable Department of Mercy College.

Contract Approval Requirements

All consulting agreements, regardless of commitment amount and duration must be signed and approved by the manager of the department requesting the service and the VP/direct report to the President of the college within the department’s chain of command. The contract should then be sent for review and approval by the VP for Finance and Administration and include the documentation that supports the encumbrances of funds authorized by the Director of Budgets. The contract should be
sent to the Chief Operating Officer for approval if valued greater than $50,000 and to the President for approval if valued greater than $100,000.

- Consulting agreements above $50,000, or longer than 12 months may require legal review and approval by a Mercy College appointed attorney with expertise in contract law.
- Contracts above $1,000,000 for any single year or in excess of three years with an aggregate total in excess of $1,000,000 must also be reviewed by the Business Affairs Committee and signed by the college President or his/her designee.

In addition to these minimum approval requirements, other circumstances may exist which require additional reviews and approvals. For instance: the language within the agreement may have content that could benefit by a referral to legal counsel prior to committing funds. Also, agreements for services impacting the strategic direction and public image of the College should be reviewed by the College President and possibly a subject matter expert, regardless of the amount of the contract. The decision on these additional review requirements rests with the VP for Finance and Administration as part of his/her approval responsibilities.

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Director of Internal Audit
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