Letters of Understanding

Agreements within the State System of Higher Education

Agreements between different components of the State System of Higher Education are **not** contracts. The entire arrangement should be treated from start to finish as an internal transaction. These agreements are memorialized in the format of a "letter of understanding." Such agreements differ from standard contracts in the following ways:

• Bidding is not required.

• As long as the agreement is solely between parts of the State System (agreements of two or more universities with each other or with the Office of the Chancellor) **under no circumstances** should the entities use a formal contract document or anything that even appears remotely to be a binding contract. The word "contract" should not be used within the agreement to describe it, because it is NOT a contract.

• The parties should formalize their expectations in a letter between authorized employees at the appropriate levels of authority. The Chancellor or president of the university can authorize any employee to engage in contracts generally or in particular kinds of contracts. Persons exercising such authority in the format of a Letter of Understanding should have written authorization from the Chancellor or president to do so.

• So long as no other entity except the Office of the Chancellor and/or State System universities are parties to the agreement, nothing in the letter (or any reply to it or other exchange of correspondence regarding it) should make reference to any rights, or remedies for breach, or manner of enforcement. The letter should state that the arrangement is not a legally binding contract and is not enforceable in a court or in the Board of Claims. The agreement may state that in the event of a dispute between two parties, advice and direction should be requested from the Office of the Chancellor or Office of Chief Counsel.

• All letters should be reviewed and signed by university legal counsel.