University System of New Hampshire
Financial and Administrative Procedures

CONTRACT REVIEW CHECKLIST
Procedure 12-009
Issued By: USNH Senior Contract Officer
Issued Date: 07/01/2005
Revised Date: 07/01/2005

(Note: You may print out this document and fill it in; paragraph numbers coincide with those used in the “Contract Guidance and Boilerplate Clauses” document.

1. General Information
   1.1 Contract Description:______________________________________________________________
   1.2 Institution Department:____________________________________________________________
   1.3 Other Party to Contract: __________________________________________________________
   1.4 Date Reviewed:__________________________________________________________________

2. Initial Review
   2.1 Review contract in its entirety
   2.2 Ensure that all attachments and exhibits referred to in the contract are attached or available for review
   2.3 Discuss background facts and circumstances with person or administrator most closely involved

3. Identification of Parties
   3.1 Is the Institution properly identified
   3.2 Is the other party properly identified
   3.3 Are abbreviated descriptions of the parties throughout the contract consistent

4. Recitals
   4.1 State qualifications of the other party
   4.2 State expectations and understandings of the Institution

5. Term and Termination
   5.1 Is there a clearly ascertainable starting and ending date
      5.1.1 Is a "no-fault" termination prior to a specific ending date appropriate? If so, is the method of notice clear
      [Beware of contracts with fixed terms and no-fault termination in the same document]
   5.2 Provisions for renewal
      5.2.1 At the Institution's option or by mutual agreement
6. Other Termination Provisions

6.1 Termination upon happening of an event
6.2 Termination upon payment of stipulated sum
6.3 Automatic termination
6.4 Termination for unsatisfactory performance
   6.4.1 Events of default clauses
      6.4.1.1 Does the contract provide for termination in the event of default
      6.4.1.1.1 If so, does it apply with equal force to both parties
      6.4.1.2 If there is a disparity, does the purpose of the contract justify it
   6.4.1.3 Is there a provision for written notification of default to the defaulting party
   6.4.1.4 Is there a curative provision
      6.4.1.4.1 Does it cure default upon initiation of curative action
      6.4.1.4.2 Or does it require that curative action be completed before default

7. Consideration

7.1 Adequacy of consideration
7.2 Is the consideration stated properly and accurately
7.3 If cash payments are to be made, does the contract specify when and where payments are due
7.4 If cash payments are due to the Institution, will it constitute unrelated business income

8. Duties and Obligations

8.1 Are the parties' obligations clear
   8.1.1 Does the description of a duty or obligation require an explanatory justification
8.2 Are there clear time limits or expected time frames
8.3 Is the Institution able to fulfill on the timetable required
8.4 Are any duties or obligations implied and not clearly assigned
8.5 Are any obligations conditional upon a triggering event
   8.5.1 Is the triggering event defined clearly
8.6 Is the location of the performance of each duty and obligation adequately identified
8.7 Is each duty and obligation described with sufficient clarity so that the parties know how it will be performed

9. Indemnification

9.1 Indemnification by other party to cover:
   9.1.1 Institution's governing board, officers, faculty, staff, students, employees, agents, contractors, volunteers

10. Arbitration Clause/ADR

10.1 Scope of arbitration/ADR clause
    10.1.1 Does it cover the whole contract or only certain kinds of disputes
    10.2 Are the particular rules of arbitration identified and acceptable

11. Force Majeure Clause

11.1 If present, does the contract address delay in performance caused by force majeure or suspension of payments
12. **Insurance**
   12.1 Types of insurance required
   12.2 Minimum insurance specified
   12.3 Company acceptable to Institution
   12.4 Does it provide for proof of insurance
   12.5 Does it provide that failure to maintain insurance is an event of default
   12.6 Institution as a named insurer, not just a certificate holder

13. **Confidentiality Clause**
   13.1 Is it enforceable under state law
   13.2 Does it impose a confidentiality requirement on a non-contracting party

14. **Remedies Clause**
   14.1 Does the contract clearly specify the only remedies available
   14.2 Does it provide for liquidated damages
      14.2.1 Are they related to the actual facts of the contract
   14.3 Does it provide for cumulative remedies
   14.4 Does it provide for damages other than actual, i.e., consequential, exemplary, etc.
   14.5 Does it provide for recovery of attorney’s fees, court costs, etc.

15. **Public Institutions**
   15.1 Other contracting party gives assurance that:
      15.1.1 Is not controlled by a State legislator
      15.1.2 Is not employing any employee of the Institution
      15.1.3 Will comply and cooperate with applicable Freedom of Information Act (FOIA) provisions
      15.1.4 No fee was paid to secure this Agreement

16. **Merger or Entire Agreement Clause** (eliminates effect of any oral or "side" agreements)

17. **Severability Clause**

18. **Choice of Law and Venue**

19. **Assignment Clause**
   19.1 Permitted or not
      19.1.1 If so, binding or not on successors

20. **Notice**
   20.1 Be sure to include necessary "with copies to"
   20.2 Any documents to be incorporated by reference

21. **Gender-Neutrality**

22. **No Personal Liability**

23. **Non-discrimination by Both Parties**
   23.1 ADA Compliance
24. **Other Party Qualified to do Business in the State**

25. **Record All Agreements Concerning Real Estate**

26. **Relationship of the Parties; Independent Contractor, not Partner, Agent, or Joint Venturer**

27. **No Use of Institution Name Without Written Permission**

28. **Time of the Essence**

29. **Waiver**

30. **Execution**
   
   30.1 Is signature page in proper format
   30.2 Does person signing have authority
   30.3 Are there representations of authority
   30.4 Provide space for the date of each signature, but clarify "effective date," whether "date of last signature," or "as contained in this agreement"
   30.5 Should the contract be notarized