

## **CONTRACTS**

**Policy Number: 206GS**

**Effective Date: 6/1/16**

**Revised Dates: 6/21/17; 11/09/2020**

### **Scope**

This Policy on Contracts applies to faculty, staff, predoctoral researchers, summer scholars and applicants ("Covered Individuals") of The Graduate School of the Stowers Institute for Medical Research ("The School").

### **Purpose**

Standardization and active management of the SGC's contracting process: (i) ensures that SGC contracts accomplish their intended purposes, properly document the SGC's business and legal relationships, and protect the SGC Organizations against unintended liability risk; (ii) drives compliance with respect to the SGC Organization's commitments, relevant SGC policies, and applicable law; (iii) reduces the time-to-contract while maintaining the high quality of the SGC's contracts; and (iv) makes effective use of learning from previous transactions and documents.

The School is included in the Stowers Group of Companies ("SGC") Organizations and has adopted the following policy as its own.

### **Policy**

All SGC contracts must be in writing and no Covered Individual is authorized to sign or otherwise enter into any contract on behalf of a SGC Organization unless the contract has been negotiated and executed in accordance with this policy. The requirements of this policy are in addition to any other applicable SGC policies and procedures.

### **Covered Contracts**

This policy applies to any agreement or understanding between a SGC Organization and a third party, regardless of the form of that agreement or understanding (e.g., paper, shrink-wrap, clickwrap), including any amendment or modification thereto.

### **Responsible Person**

The President of each SGC Organization will assign primary responsibility for the contracting process with respect to certain categories of contracts to designated Covered Individuals ("Responsible Person"). This responsibility will include, among other things, due diligence on the counterparty, and negotiation, implementation, and performance of the contract in compliance with this policy and any other applicable SGC policy.

### **Negotiation of Contracts**

Negotiation of a contract will be led by the Responsible Person. Depending on the anticipated complexity or magnitude of the contract, the SGC General Counsel should be and, in certain

cases, must be, involved in the negotiation so that prohibited or problematic contractual provisions or concepts can be addressed early in the process. Contracts which contain the following provisions will require the involvement of the General Counsel, who will review the appropriateness of the provisions also in light of the SGC's policy positions as set forth below:

**Indemnification of the counterparty.** SGC Organizations generally will not agree to indemnify the counterparty against losses resulting from its own actions or inactions, and will in no event indemnify the counterparty against losses resulting from its own negligence.

**Limitation of the liability of the counterparty.** It is generally unacceptable for the counterparty to limit its liability for breaching the contract, to restrict the remedies or relief that the relevant SGC Organization may seek in the event of a breach, or to disclaim express and/or implied warranties.

**Presence of the counterparty on SGC property.** If the counterparty's employees, consultants, suppliers or subcontractors are required or permitted to be on SGC property for more than an incidental period of time, the contract must require compliance with the SGC policies indicated as being applicable to individuals who make substantial use of SGC facilities and, if applicable, the Contractors Safety Program Manual. In addition, the SGC General Counsel will determine whether the proposed presence would constitute private use of the SGC's tax-exempt bond-financed facilities.

**Payment of contingent compensation to the counterparty.** Because of the risk of private use, SGC Organizations will not agree to variable compensation for services rendered that are based on revenue, expenses or consumption of units of services. Rather, the compensation must be based on fixed fees (i.e., a stated dollar amount for services rendered during a specific period of time.)

**Term of contract beyond one year.** The term of SGC contracts should ordinarily be limited to terms of one year or less and should not renew without the relevant SGC Organization having to affirmatively indicate in writing its agreement to renew the contract (i.e., the term should not automatically renew if the SGC Organization fails to provide prior notice of its intent not to renew.)

### **Drafting of Contracts**

If the negotiating position of the relevant SGC Organization permits it to control the authoring of the contract, the Responsible Person should originate the contract draft using a standard, preapproved SGC contract template, which can be found on the SGC General Counsel page in Helix. If a template is not available for a particular contract category, a request for contract authoring should be made to the SGC General Counsel.

### **Execution of Contracts**

Contracts must be signed by a Covered Individual who is authorized to do so pursuant to the signature authority policy maintained by SRM's Accounting Department, even if the financial

commitment of the relevant SGC Organization under the contract is within the Responsible Person's approved budget. Requests for delegation of signature authority must be made in writing to the President of the relevant SGC Organization and may be approved for limited purposes. Upon execution of a contract by the authorized Covered Individual, the fully executed contract, together with the transmittal letter and all exhibits, attachments, and documents incorporated by reference, must be maintained in accordance with the Records Retention Policy of the SGC.

### **Performance of Contracts**

The Responsible Person is responsible for managing executed contracts, including, among other things, monitoring and managing compliance, addressing or escalating related issues, and tracking deadlines for termination or renewal.

This policy was approved by the GSSIMR Board of Directors on September 5, 2018.

This policy was last updated by the GSSIMR Board of Directors on November 09, 2020.

This policy will be reviewed by the GSSIMR Board of Directors in 2022.