

Procedures

University of Victoria Indemnity Approval Procedures

Procedures:

1.0 Authority

Under Risk Management Policy #1140, the vice-president finance and operations is responsible for developing procedures to achieve good risk management, including the protection of university assets. The providing of indemnification to a third party exposes the university to financial responsibility and accordingly must be managed prudently.

2.0 Background

2.1 The purpose of these procedures is to describe the process required by the Minister of Finance of British Columbia to enable the university to provide an indemnity to another party. Under the terms of the Financial Administration Act and Regulations, the university cannot agree to any form of third party indemnity without having an effective internal approval process in place. An indemnity is a promise to another person to hold the person harmless from any third party claims or from other losses the person may suffer arising from matters covered by the indemnity.

2.2 The following procedures govern any commitment by the university to assume financial responsibility for loss, damage or expense, including legal costs, sustained by any person, natural or corporate, by way of an indemnity. The procedures apply whether or not the commitment would be covered by any contract of insurance held by the university.

2.3 The intent of these procedures is to promote consistency in the form and content of indemnities provided by the university; to determine that any indemnities agreed to by the university do not likely impose unreasonable risk upon the university; and to provide the process by which such agreements may be reviewed and approved.

3. Statement of Principle

The university recognizes that many contracts which it enters into with third parties in a wide variety of situations, including, but not limited to, contracts for carrying out research or educational projects, will contain a clause by which the university agrees to indemnify the third party against losses incurred by that party through the actions of the university and its employees acting in the course of their employment. The university accepts that such clauses may be a fair and reasonable protection for third parties and wishes to facilitate the work of the university and its employees by providing a clear and expeditious process by which such reasonable contracts may be entered into while protecting the interests of the university.

Specifically, the university's indemnification should not extend to assuming responsibility for the negligence of the other party to an agreement.

4. Procedures

4.1 The wording of the indemnification of a third party in every agreement by the university must be reviewed by an Approving Officer who must be one of:

- General Counsel;
- the Associate Vice-President Financial Planning and Operations;
- the Associate Vice-President Research Operations;
- the University Secretary;
- the Risk Analyst;
- the Vice-President Finance and Operations.

4.2 Standard indemnification wording can be approved by one of the above Approving Officers for similar types of contracts such as practicum agreements and building leases. Any deviations from the approved standard wording, or situations where the authorized signing officer believes there are different, unusual or more hazardous circumstances must be approved by the appropriate Approving Officer.

4.3 This review, which should be coordinated through the office of the Approving Officer listed below, must occur prior to the signature of the authorized signing officer pursuant to Signing Authority Policy #1002.

4.4 The unit from which the document containing the indemnity agreement originates must send the original agreement together with an Indemnity Approval Form to the office of the appropriate Approving Officer.

4.5 The Indemnity Approval Form must state clearly, in terms that can be understood by a person without expertise in the subject area of the agreement, the nature of the risks inherent in carrying out the agreement, including the likelihood and extent of any risks of incurring damage to person or property or incurring any other losses.

4.6 After approval of an agreement under 4.1 that contains the indemnity clause, the Approving Officer will send to the Risk Analyst a copy of the Indemnity Approval form and the Risk Analyst will retain it in a registry of indemnity contracts to facilitate annual reporting under the Financial Information Act.

5. Guidelines

5.1 An Approving Officer may consult the General Counsel for legal advice and may engage the services of external legal counsel in appropriate cases pursuant to Policy #1720 (Retention of Legal Counsel).

5.2 Where an Approving Officer is of the opinion that an indemnity agreement does not conform to the guidelines set out below or imposes an unusual risk upon the university, the Approving Officer may decline to approve the agreement or may forward the agreement to the Risk Management Branch of the Ministry of Finance for special approval.

5.3 Since the review by the Approving Officer may require research and the obtaining of legal advice, documents containing indemnification clauses must be forwarded to the Approving Officer well in advance (generally, at least 10 days) of signing deadlines or face being declined.

5.4 The following guidelines shall be considered in providing an indemnity agreement:

- The indemnity should apply only in the event of loss or damage arising out of the usual activities or programs of the university or the activities of its employees, agents or contractors carrying out those programs or activities;
- The wording for the indemnity clause should be in respect of loss, damage and expense, and may include reasonable costs of any legal proceedings, arising from the activity or program to which the whole agreement relates;
- The commitment in the indemnity should be limited to every extent possible to the negligence attributable to the university, its employees, agents or contractors for whom it is responsible;
- To the extent that the actions of other parties to the agreement may give rise to any claim of loss, damage or expense against the university, the agreement should contain a reciprocal indemnity from those parties in favour of the university.
- Nothing in this Policy abrogates or alters in any way the requirements of Signing Authority Policy #1002. All contracts must be signed by the officer or officers designated pursuant to that Policy.

Assignment of typical contracts, agreements and other documents which contain any form of indemnification clause to an approving officer

Contract/Agreement/Document	Approving Officer - See contact list below
Artwork loan and transfer agreements (Maltwood)	Risk Analyst
Building acquisition and lease agreements	AVP Financial Planning and Operations
Career Services placement agreements	Risk Analyst
Childcare/summer camp, etc., agreements	Risk Analyst
Computing services contracts and agreements, including BCNet	General Counsel
Construction contracts (FMGT)	AVP Financial Planning and Operations
Consulting and personal service contracts	Risk Analyst
Co-op placement agreements	General Counsel
Copyright and licensing (Continuing Studies, Bookstore and others)	University Secretary
Educational service agreements	General Counsel
Employee secondments, benefits, labour relations, contracts, etc. (HUMR)	AVP Financial Planning and Operations
Goods and services purchase agreements through Purchasing Services and those such as utilities, library acquisitions and banking services	Risk Analyst

assigned to other departments.	
Government permits, fees and license agreements	Risk Analyst
Home Stay (Continuing Studies, Residences and others)	Risk Analyst
Honorarium agreements	General Counsel
International exchange agreements	General Counsel
Practicum agreements	University Secretary
Licensing of intellectual property agreements	Research Services
Sponsored research agreements: grant agreements	Research Services
Contracts - government	Research Services
Contracts - corporate (IDC)	Research Services
Material transfer, clinical trials, loaned research equipment, etc., agreements	Research Services
Other contracts and agreements containing another type of indemnity clause should be forwarded to the Risk Analyst to identify the appropriate approving officer.	

- [Approving Officer Contacts](#)

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