



**President's**  
Policy Statement  
University Policy Library

<b>Operational Area:</b>	Business and Finance
<b>Responsible Executive:</b>	Chief Financial Officer
<b>Responsible Office:</b>	Controller's Office
<b>Effective:</b>	July 1, 2020

## Contractual Indemnification Approval

### Business and Finance

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### I. Introduction

- A. **Authority:** Colorado Revised Statutes (C.R.S.) § 23-54-102, *et seq.* (2020) authorizes the Trustees of Metropolitan State University of Denver ("MSU Denver" or "University") to establish rules and regulations to govern and operate the University and its programs. The MSU Denver Trustees retain authority to approve, interpret, and administer policies pertaining to University governance. The MSU Denver Trustees authorize the MSU Denver President to approve, administer, and interpret policies pertaining to University operations.
- B. **Purpose:** Board policy prohibits MSU Denver from entering into contracts containing indemnification or hold-harmless provisions, except under limited circumstances, and then only when the contract is approved in compliance with this policy, which sets forth the requirements for approval. This policy does not modify or amend delegations of authority to approve and to execute binding legal instruments. Any contract to indemnify or hold harmless presents economic risks that must be carefully evaluated. A contract to indemnify or hold harmless that fails to comport with either the Board policy or this Presidential policy is not permitted.



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- C. **Scope:** This policy applies to all contracts entered into by MSU Denver, whether denominated as an agreement, memorandum of understanding, intergovernmental agreement, purchase order, or some other title.

### II. Roles and Responsibilities

- A. **Responsible Executive:** Chief Financial Officer
- B. **Responsible Administrator:** Contracts and Business Services Manager
- C. **Responsible Office:** Office of the Controller
- D. **Policy Contact:** Contracts and Business Services Manager, 303-605-5265

### III. Procedures

- A. No contract that contains an indemnification or hold harmless provision shall be authorized or binding unless approved in accordance with this Policy. Requests for authorization to enter into a contract that includes any form of an indemnification or hold harmless provisions will be made using the "Request for Authorization to Indemnify" form ("Request") attached hereto as Appendix A. Any employee who agrees to an indemnification or hold harmless provision that is not authorized and approved in accordance with this policy will be personally responsible for any liability or damages arising from the contract to indemnify or hold harmless.
- B. The University will designate a person to coordinate the indemnification approval process ("Contract Designee"). The Contract Designee may be the Vice President for Administration and Finance or the Chief Financial Officer ("CFO") or another person with a contracting background and will be responsible to screen the request and obtain all information necessary to prepare the Request for submission for review.



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C. The steps to complete the Request are as follows:

1. Step 1. The Contract Designee will determine the Contract Category.
2. Step 2. The Contract Designee will develop, in consultation with the requesting end-user, a summary of the project.
3. Step 3. The Contract Designee will identify, in consultation with the requesting end-user, the anticipated benefit to the University.
4. Step 4. The Contract Designee will identify, in consultation with the requesting end-user, the technological and programmatic risks to third parties associated with the project and the manner in which those risks will be minimized ("Risk Assessment").
5. Step 5. The Contract Designee will identify attempts to remove the indemnification or hold harmless provisions or limit liability to an amount not to exceed \$250,000 or the amount received under a revenue contract, whichever is less.
6. Step 6. The CFO, in consultation with the General Counsel's office, will make a written assessment of whether the amount of potential liability under the indemnification or hold harmless provision exceeds \$250,000 or the amount to be received under a revenue contract, whichever is less ("Liability Cap Assessment").
7. Step 7. The CFO, in consultation with the General Counsel's office, will make a written assessment of the source of funds available to cover potential liability attributable to the indemnification or hold harmless clause ("Liability Coverage Assessment").
8. Step 8. Information Technology ("IT") related contracts require Chief Information Officer approval. This approval indicates agreement with the Risk Assessment and Liability Cap Assessment from an IT perspective only. It is not an indication that IT will provide technical support for the project, goods or services.



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9. Step 9. The General Counsel or a designated reviewing attorney will make a written determination as to whether the indemnification or hold harmless provision is considered standard in the industry, or, if no standard exists, is reasonable and non-negotiable, and the contract is otherwise consistent with Board policy.
  10. Step 10. The CFO, in consultation with the General Counsel's office, will approve the Request only upon a determination that the Risk Assessment, Liability Cap Assessment and the Liability Coverage Assessment are fair and reasonable.
  11. Step 11. The Vice President for Administration and Finance will approve the Request only upon a determination that the contract meets all policy requirements and appropriately advances University interests in light of the totality of the circumstances.
- D. If a contract does not satisfy the requirements as set forth above, such contract may not be entered into unless the University President makes a prior written determination that the contract serves a valid, public purpose and that any risks to the University that may arise from entering into the contract are sufficiently limited and outweighed by the benefits of the contract so as to warrant approval on behalf of the Board of Trustees. The University President may choose to submit any contract within the scope of the University President's approval authority to the Board of Trustees for its consideration at its next regularly scheduled meeting.
- E. Any request for indemnification that does not meet all of the criteria of this Policy, including the liability cap, may only be approved by the Board of Trustees, in its sole discretion.



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### IV. Related Information

- A. Board of Trustees Contractual Indemnification Policy
- B. Contractual Indemnification Request Form
- C. C.R.S. § 23-5-106 (4), Authority of governing boards – contracts of indemnity

### V. History

- A. **Effective:** July 1, 2020
- B. **Review:** This policy will be reviewed every three years or as deemed necessary by University leadership.

### VI. Approval

Janine Davidson, Ph.D.  
*President, Metropolitan State University of Denver*

N/A

*Chair, Board of Trustees, Metropolitan State University of Denver*