

# PROCUREMENT AND CONTRACT SERVICES (PACS) POLICIES AND PROCEDURES

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## 100: PURCHASING AND CONTRACT ETHICS

Procurement and Contract Services Policy & Procedures Manual  
Section 100: Purchasing and Contract Ethics  
Effective: 01/04/2010

### PURPOSE:

To direct University faculty, administrators and staff in ethical and responsible procurement practices ensuring compliance with applicable laws, regulations, policies and procedures.

### BACKGROUND:

University employees are expected to uphold the highest ethical standards in their relationships with one another, with students, with the wider community and in all of their professional pursuits. Inherent in this responsibility is the obligation to follow the laws, regulations, policies and procedures that govern ethical and responsible procurement practices while exhibiting integrity expected of all University employees. Specifically, the regulations guiding OSU employees are those contained in the Oregon Government Ethics Law at ORS 244 and the Code of Ethics at OAR 580-061-0000. This policy will address ethical and responsible procurement and public contracting practices.

### POLICY:

#### 101: Employee Ethical Conduct

##### 101-001: Financial Gain or Avoidance of Financial Loss

Employees are prohibited from using or attempting to use their positions to gain financial benefit or to avoid a financial cost for themselves, a relative or their businesses if the opportunity is available only because of the position held by the employee.

Employees with purchasing authority should not engage directly or indirectly in a personal financial transaction that primarily relies upon information obtained through University employment and is not otherwise common knowledge.

##### 101-002: Contracting with Current and Past OSU Employees Under Development.

##### 101-003: OSU Employee Honorariums Guideline

OSU Employees may not solicit or accept honorarium in excess of \$50 for which the honorarium are solicited or received in connection with the official duties of the OSU employee. OSU

Employees may solicit or receive honorariums in excess of \$50 for which the honorarium is received in connection with a private activity of the OSU employee. This does not authorize OSU to provide honorariums to OSU Employees.

101-004: Other State Employees Honorarium Guideline

OSU may not contract with or pay an honorarium in excess of \$50 to other State of Oregon employees for which the honorarium is being paid in connection with the State of Oregon employees official duties. State of Oregon Employees may solicit or receive honorariums in excess of \$50 for which the honorarium is received in connection with a private activity of the State of Oregon employee.

101-005: Personal Purchases using OSU Funds

Employees may not make personal purchases using OSU funds.

101-006: Personal Purchases using OSU Contracts

OSU employees may make personal purchases using their own personal funds from an OSU or a State of Oregon contract provided the following circumstances exist:

- a) the product or service is available to the general public (both private and public entities) and not exclusively to the public agency who made the contract, and
- b) the price of the goods or services are not better than the public agency has contracted. Any more favorable arrangement than the public agency's contract may be a conflict of interest.

102: Interaction with Vendors

102-001: Vendor Gifts or Entertainment

An employee, relative or member of the household may not solicit or receive gifts with an aggregate value in excess of \$50 during a calendar year, or receive payment for expenses for entertainment from a single source that has an interest in the agency in which the public official works. Additionally, employees may not accept a favor, gratuity or special consideration from vendors and contractors doing or seeking to do business with the University in order to influence a purchase or secure a contract.

102-002: Vendor Employment Promises

Employees may not solicit or accept the offer, pledge or promise of future employment based on an understanding that the employee will influence a purchase or contract award for their future employer while still employed by OSU. OSU employees involved in the preparation, solicitation, evaluation, award or approval of a solicitation or execution of a contract may not be employed by the contractor for a period of one (1) year.

102-003: Impartiality

Employees will conduct themselves and represent OSU in a manner which exhibits fair and impartial treatment to all vendors.

103: Ethics in Purchasing and Contracting

103-001: Authority to Purchase

Employees may not procure goods or services or enter into contracts outside of the employee's budget authority, purchase authority or contract signature authority.

103-002: Purchase Fragmentation

Employees shall not fragment purchases in order to avoid following a regulation, policy or procedure. Anticipated and estimated purchases shall be aggregated whenever possible to accurately reflect purchase totals and gain economies of scale as available with quantity purchases.

103-003: Process Circumvention

Employees may not circumvent regulations, policies or procedures by using personal funds for the purchase and then seeking reimbursement or by using an alternate funding source or contracting method which will be indirectly reimbursed or paid for by OSU.

103-004: Bid Shopping

Employees involved in the procurement process will not disclose a vendor's price to competitors in order to have a competitor beat the vendor's price. Price results may only be given to vendors once the final selection is made.

103-005: Collusion

Collusive behavior will not be tolerated from OSU employees or vendors. Collusive behavior includes but is not limited to, making agreements or understandings between two or more persons to commit a fraudulent, deceitful, unlawful or wrongful act in order to provide an unfair advantage.

103-006: Document Fabrication

Altering, fabricating, destroying, misrepresenting, or forging contracts or documents for personal gain or an unfair advantage is prohibited.

104: Conflict of Interest

104-001: Declaration of Conflict or Potential Conflict of Interest

There may be situations in which financial or other personal considerations may compromise, or have the appearance of compromising, an employee's professional judgment in the execution of any part of the procurement process. Such conflicts could impart a bias which could inappropriately affect the goals of research, instructional, or administrative programs at OSU. The procurement of goods and services at OSU must therefore be free of the undue influence of outside interests.

104-002: Conflict of Interest for Selection Committee Members

Employees engaged as a Selection Committee Member must first execute the OUS Conflict of Interest Statement before participating in the evaluation or selection of a Contractor or vendor under a Formal Procurement process.

104-003: Segregation of Procurement and Accounting Functions

Administrators should structure the entire function and cycle of procurement so that purchasing, purchasing approvals and payment are adequately segregated to ensure ethical practices. These duties should be divided among departmental personnel so that there is a distinct separation of those duties. Separating the functions within the cycle of procurement should provide a series of checks and balances of all facets of purchasing. It is important that administrators are aware of the purchasing function within their department and provide oversight and review of this function, ensuring the continued separation of purchasing duties.

## 200: AUTHORITY AND RECORDS

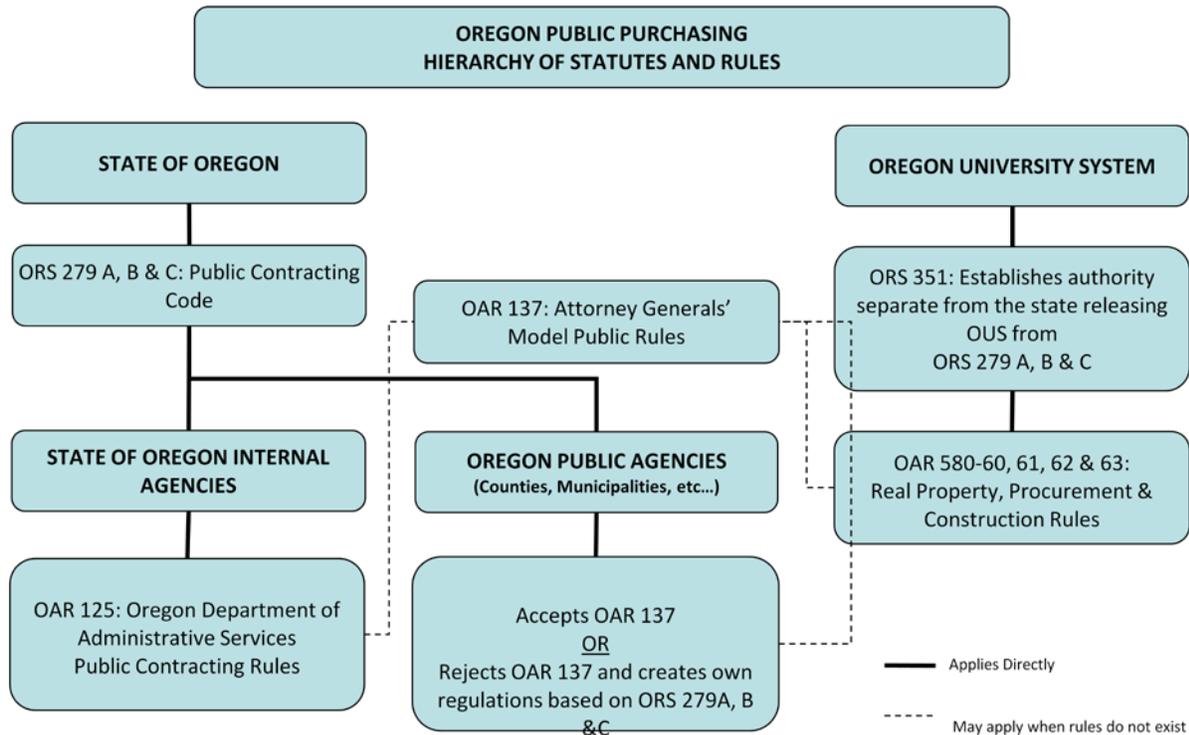
Procurement and Contract Services Policy & Procedures Manual  
 Section 200: Regulations and Authority  
 Effective: 01/04/2010

### PURPOSE:

To explain the regulations covering Oregon State University Purchasing and Contracting and the authority delegated.

### BACKGROUND:

The State of Oregon is governed by a body of statutes called the Oregon Revised Statutes (ORS). The statutes typically contain the framework on which the Oregon Administrative Rules (OAR) expand and provide more detailed information. In public procurement, most State of Oregon agencies are guided by ORS 279 A, B & C with subsequent rules created to guide specific agencies. In the absence of individual agency rules they can follow the Department of Justice Model Public Rules created by the Attorney General.



However, Oregon Revised Statute (ORS) 351 grants the Oregon University System (OUS) separate authority and releases OUS from following most of ORS 279 A, B & C. Subsequently, OUS has created Oregon Administrative Rule OAR 580 divisions 60 through 63 to guide OUS institutions in their procurement activities. Following is an illustration of the hierarchy of statutes and rules for state agencies.

### POLICY:

#### 201: Regulations and Applicability

Purchases on behalf of OSU shall be made in accordance with the applicable ORS, OAR, and PaCS policies and procedures. It is the responsibility of all persons who purchase goods and

services on behalf of the University to be aware of the applicable ORS, OAR and current PaCS policies and guidelines. All such persons are expected to uphold the laws, rules and policies guiding the University. Failure to do so can expose the individual to personal financial risk and may cause a negative impact on OSU.

201-001: Funding Sources

All funds within OSU, with the exception of Agency Funds, are subject to the applicable statutes, rules, policies and procedures pertaining to procurement and contracting at OSU no matter what the source of funding. This policy is subject, but not limited to funding through E & G, Auxiliary, Research, Foundation or Agricultural Research Foundation.

201-002: Organizations

Oregon State University should only be purchasing or contracting on behalf of Oregon State University. We cannot purchase or contract for entities that are only affiliated and not part of Oregon State University. This can be particularly confusing as you start looking at how often Oregon State University or OSU is used in conjunction with entities that have an affiliation with OSU but are not OSU. Some examples of entities that are not OSU are:

- OSU Bookstore is a 501(c) 3 non-profit organization
- OSU Foundation is a non-profit organization
- OSU Master Gardner's Association
- OSU 4H Leaders Association

Likewise, we cannot contract or make commitments on behalf of students or employees. When a Contract Officer signs a contract they do so in their position as a State of Oregon employee for a State of Oregon agency and as such, only have the authority to commit on behalf of OSU.

202: Authorities

The four authorities relevant to the purchase of goods and services for the University are Budget Authority, Purchase Authority, Institutional Authority and Contract Signature Authority.

202-001: Budget Authority

Delegated by the Office of the Provost, Budget authority is the unit/department head or delegated person responsible for a university account and who must approve the expenditure of funds from that account.

202-002: Purchase Authority

Grants authority to units to purchase goods and services\* within the delegated dollar threshold after approval is obtained from the required approver with Budget Authority.

Dollar Threshold	Unit	Required Approver
<\$5000	Department	Dept. Staff w/ Budget Authority
>\$5000 and <\$25,000	Business Center	Dept. Staff w/ Budget Authority
>\$25,000 and <\$100,000	Procurement & Contracts	Business Center Administrator & Dept. Staff w/ Budget Authority
>\$100,000	Procurement & Contracts	Dean or Vice Provost & Business Center Administrator & Dept. Staff w/ Budget Authority

These dollar thresholds are in the aggregate and purchases known at the time should be aggregated and not split in order to avoid the thresholds. If there is a chance that the purchase may exceed that amount or that additional phases of work may be done contingent upon funding send the purchase to PaCS for processing. Projects which may have multiple components should be competed in the first phase through PaCS.

\* Excludes those purchases that are subject to Bureau of Labor and Industry (BOLI) Prevailing Wage Rates (PWR). For those purchases there is no delegation of purchasing authority to departments or Business Centers. See PCC 504-05 or contact PaCS to determine if a purchase may fall under this exclusion.

#### 202-003: Institutional Authority

Authority granted from the Oregon State Board of Higher Education to an institution to apply for and accept, on behalf of the Board, gifts or grants and to negotiate contracts. Pursuant to OAR 580-042-0010, institutions are delegated this authority so long as they do not result in:

- Enrollments in excess of those on which budgets have been based
- Commitment of funds beyond those available in budgets approved by the Board, or the normal continuation thereof;
- Development or support of activities inconsistent with the approved mission of the department and/or institution;
- Launching of new curricular programs that have not received prior Board approval
- Establishing or significantly expanding a clientele for services of an essentially non-research or non-instructional nature.

#### 202-004: Contract Signature Authority

Contract signature authority is delegated to Contracts Officers from the Vice President for Finance and Administration to sign specific contract types on behalf of OSU. Contract signature authority may not be sub-delegated unless authorized by the Vice President for Finance and Administration. Those with contract signature authority must adhere to institutional authority and contract review due diligence instructions indicated in this Policy.

Only Contract Officers are authorized to sign and execute contracts and other written instruments on behalf of OSU. Any document required to be signed on behalf of OSU, regardless of dollar value or type of document, must be signed by an individual with contract signature authority. Persons who are not authorized and still sign documents or authorize services on behalf of the University, whether it be a procurement, a contract, an MOU, etc., take on personal liability for the commitments made therein. A current list of authorized University Contracts Officers and their signature authority is maintained on the PaCS website.

Exception to this policy: There is only one exception to this policy. Employees without designated contract signature authority may sign OSU Interdepartmental Agreements. This does not apply to contracts/agreements between OSU and other Oregon University System institutions.

#### 203: Unauthorized Procurements or Contracts

An Unauthorized Procurement or Contract is when a purchase or contract is executed outside of the Oregon Revised Statutes, Oregon Administrative Rules or Oregon State University policies and procedures. The University is at risk when procurements or contracts are executed without

following the laws, rules or policies. When an unauthorized procurement is discovered it is important that the University address this with corrective action immediately.

203-001: Unauthorized Procurements

Procurements made by units above their delegated procurement dollar threshold, without the required approval, or those that do not comply with ORS, OAR or OSU Policies and Procedures are considered unauthorized procurements. Unauthorized procurements or other commitments are not legal and binding upon the university and may result in a personal obligation for the individual making the procurement or commitment.

203-002: Rectification of Unauthorized Procurements Under Development.

203-003: Ratification of Unauthorized Procurements >\$25,000 and <\$100,000 Under Development.

203-004: Ratification of Unauthorized Procurements >\$100,000 Under Development.

203-005: Unauthorized Contracts

A Contract is determined to be Unauthorized when, work is performed without the presence of a written agreement, the Contract is not fully executed prior to work being performed or the Contract is signed by a University employee that does not have the appropriate delegated authority. Contracts entered into by individuals not designated as University Contract Officers will be voidable at the sole discretion of the University.

203-006: Ratification of Unauthorized Contracts Under Development.

204: Records and Reporting

204-001: Records Retention

By law, all records (paper and electronic) are required to be maintained for a certain period of time according to a schedule established by the Oregon Secretary of State Archives Division. In general, all records including procurement records related to OSU contracts are subject to retention requirements as set forth in Oregon Administrative Rule 166-475. A General Retention Schedule is available on the Oregon University System Records Management website: <http://www.ous.edu/about/records/retention-schedule>. Documentation of purchasing and contracting transactions will be made available for inspection by OUS Internal Audit Division, Federal, State and Granting Agencies upon request. The department, Business Center or PaCS will be responsible for maintaining the records for those purchases or contracts which they execute.

204-002: Public Records

Periodically, there may be a request to see public records. Requests should go through the procedures for making public records requests which are available at:

<http://oregonstate.edu/leadership/sites/default/files/public-records-requests-4-10.pdf>

OSU may charge its costs for responding to public records requests. In response to public records requests, estimates of the costs will first be provided, which includes the cost per page for copies at the then current established fee and the hourly rate of the persons responding to

the request. PaCS will use the lowest hourly rate employee available and able to respond to the request.

The estimate will be provided to the requestor who must decide whether they want to proceed. Requested documents will not be provided until payment to cover the estimate has been made. After gathering documents, the requester may need to pay additional costs or may receive a refund depending on the accuracy of the estimate.

## **300: PURCHASING**

Procurement and Contract Services Policy & Procedures Manual

Section 300: Purchasing

Effective: 7/01/2010

301: Required Reviews and Approvals

The following purchases require approval from specified departments prior to making the purchase.

301-001: Facility Modifications

Facilities Services should be consulted when a department is requesting work to be done such as Construction, Electrical, Design/Build, Architectural and Engineering, Autoclaves, Fume Hoods, Hazardous Materials, Telecommunications Wiring, Ducting, Heating, Air Conditioning, UPS Units, Roofing and anything related or requiring a permit. For more detailed information see PCC 502-03.

301-002: Radioactive Material or Radiation-Producing Machine

The Facilities Services Department of Environmental Health & Safety (EHS) must authorize all purchases of radioactive material or radiation-producing machines, regardless of whether by purchase, gift, loan, transfer, or other means. In accordance with the Radiation Safety Manual <http://oregonstate.edu/ehs/rso/rsm-index> authorization must be verified and documented prior to placing the order or accepting gifts, loans or transfers.

Most procurements of radioactive material are radiolabeled chemicals for use as tracers in laboratories. The following is a “hot list” of other items that incorporate radioactive material or produce radiation, and also require prior approval of Radiation Safety:

- Any device with the word “x-ray”, “diffraction”, “fluorescence” or “nuclear” in the description
- Gas chromatographs equipped with electron capture detectors (ECDs)
- Liquid scintillation counters
- Gamma counters
- Portable moisture/density gauges
- Class IIIb or IV lasers

301-003: Use of OSU Logos or Name

All purchases using any of the OSU logos or name are to be reviewed and approved by University Advancement. For more information on obtaining University Advancement authorization go to <http://oregonstate.edu/marketing/>. Vendors and contractors may not use the name of Oregon State University, any Oregon State University Trademarks or logos without the express written consent of the university.

301-004: Print Purchases and Copying

Pursuant to the Vice President for Finance and Administrations memo dated December 1, 2004, Printing and Mailing Services <http://printmail.oregonstate.edu/policies-turnaround> has been identified by the University as the sole agency for print purchasing and copying using state or university funds. All purchases for printed materials and services should be directed to Printing and Mailing Services.

301-005: Restricted Fund Equipment Purchases

Purchases with an Asset Account Number of 40101 and a Restricted Fund Number must have approval of the Office of Post Award Accounting (OPAA). Purchaser will obtain this approval prior to completing the purchase order. For a listing of Post Award Administration Fund/Agency Responsibilities go to: [http://oregonstate.edu/fa/businessaffairs/staff/opaa/restricted\\_funds\\_acct](http://oregonstate.edu/fa/businessaffairs/staff/opaa/restricted_funds_acct)

301-006: Trade-Ins

If an item is used as a trade-in allowance toward purchase, the documentation must include an approved Property Disposition Request (PDR) <http://inventorycontrol.oregonstate.edu/formList.cfm> signed by the Surplus Property Manager, and written approval from Inventory Control confirming the item is University owned. All Trade-Ins must follow the Property Management Policies and Procedures: <http://oregonstate.edu/dept/budgets/PROManual/PRO209.htm> and approval must be confirmed prior to processing. Purchases made with a trade-in are capitalized at their full value, not the amount after it was reduced by the trade-in allowance. If multiple assets are being traded there must be a specific amount for each asset – not a lump sum for all.

For additional information related to Trade-In's see PCC 303-009.

301-007: BOLI Procurement

Purchases of goods and services that are determined to be subject to the Bureau of Labor & Industries (BOLI), Prevailing Wage Rates (PWR) are excluded from purchase authority granted to departments or Business Centers regardless of dollar threshold. See BOLI Procurement 504-05. When unsure if a purchase qualifies for BOLI, immediately contact PaCS.

301-008: Public Entities outside the State of Oregon

Contracts or Agreements with public entities outside the state of Oregon (interstate), or public entities of other nations (international) require ORS Chapter 190 approval by OSU General Counsel. These reviews are required regardless of the dollar amount of the purchase or agreement. Federal agreements do not require Chapter 190 approval.

301-009: Purchases or Contracts greater than \$100,000

Purchases, Contracts or Solicitations greater than \$100,000 and meeting the requirements in OAR 137-045-0010 must be submitted by PaCS to OSU General Counsel for legal sufficiency approval prior to order.

302: Requisitions

302-001: Requisitions

Purchases over \$25,000 and BOLI procurements at any dollar value (See PCC 504-05) must be submitted to PaCS on a requisition with the required approver's signature(s) according to the purchase authority set forth in 202-002. Purchases made in excess of \$25,000 without PaCS involvement will be considered unauthorized. For purposes of this policy the total amount of the purchase price should be calculated in the aggregate of the reasonably known quantity of

purchases not including equipment trade-in values. PaCS may not process purchases for amounts less than \$25,000. Those should be sent through the applicable Business Center according to the Business Centers Policies and Procedures.

#### 302-002: Requisition Processing Timeline

When submitting requisitions departments should allow at least 10-14 days from requisition submission to issuance of a purchase order for purchases between \$25,000 and \$100,000 and for BOLI Procurements. For purchases greater than \$100,000 allow 30+ days. Timing depends on the complexity of the purchase, necessary authorizations, type of solicitation method being utilized, available resources and any necessary negotiations.

#### 303: Purchase Orders

The dollar threshold indicates from where an authorized purchase order may be issued. Whoever issues the purchase order is responsible for all aspects of the purchase order including but not limited to; obtaining the required approvals, setting up the appropriate commodity or document level accounting in Banner, obtain the necessary Banner approvals prior to PO issuance, ensure the appropriate terms and conditions are indicated on the Purchase Order document, make any changes, cancelations or modifications to the purchase order including liquidating the purchase order as necessary and keep the official archival records.

#### 303-001: PaCS Purchase Orders

PaCS is responsible for issuing Banner Purchase Orders for purchases that exceed \$25,000. Departments and Business Centers are not authorized to issue procurements that exceed \$25,000. Purchases may not be fragmented in order to circumvent the necessary processes associated with issuing purchases over the \$25,000 threshold, see PaCS Policy and Procedure 103-002.

#### 303-002: Business Center Purchase Orders

Business Centers will issue Banner Purchase Orders for purchases between \$5000 and \$24,999.99 referencing the appropriate terms and conditions on the PaCS website.

#### 303-003: Departmental Purchase Orders

Departments may issue Department or Banner Purchase Orders for purchases at and under \$4999.99.

#### 303-004: Purchase Order Terms and Conditions

Purchase Orders greater than \$5,000 will be issued through Banner and reference the appropriate Standard Terms and Conditions listed on the PaCS website at: <http://pacs.oregonstate.edu/terms-and-conditions>. Business Centers should contact PaCS if unsure about which terms and conditions apply to their purchase. OSU Purchase Order Standard Terms and Conditions prevail over vendor terms and conditions. Under no circumstances should Business Center staff allow or agree to make changes to OSU Purchase Order Terms and Conditions. If a vendor requests changes to the terms and conditions, submit request to PaCS for review.

#### 303-005: Purchase Order Changes and Cancellation

Purchase Order changes and modifications should be done by the Department that issued the Purchase Order. Business Centers may not issue changes or cancelations to Purchase Orders issued through PaCS, but PaCS may cancel or change a PO issued by a Business Center.

Business Centers may not execute changes to a purchase order which would cause it to increase beyond the dollar threshold for the Business Center.

Business Centers should submit their requests to PaCS for Purchase Order changes or cancellations as soon as they are aware that the need exists. PaCS will review the request and determine whether or not the request is feasible and can be reasonably accommodated. In cases where a department is requesting a substantial change to a Purchase Order or Contract, such changes may not be accommodated as those changes may be substantial enough that they would be best managed through initiating a new purchase.

Departments may manage Purchase Order changes or cancelations that are issued under their Purchase Authority.

A purchase order change may not be allowed in cases where a change results in a significant price increase or a significant change in the scope of work.

#### 303-006: Purchase Order Completion

Banner has an automatic function that disallows completion of a purchase order greater than \$5,000 for departments and \$25,000 for Business Centers when entered by someone without appropriate access. If a Department or Business Center requests completion of the purchase order, unit completing the purchase order needs to see the signed requisition for the items, insure any applicable approvals or processes have been completed and keep a record of the purchase.

#### 303-007: Purchase Order Encumbrances

Purchase Order encumbrances not linked to an invoice remain encumbered in the system and must be monitored by the purchase order issuer and the encumbrance deleted before the end of the fiscal year.

#### 303-008: Purchase Order Capital Assets

A capital asset is generally described as a single asset with a minimum value of \$5,000 except in special cases approved by Property Management. All Capital Assets shall be purchased according to the Property Management Polcies and Procedures: <http://oregonstate.edu/dept/budgets/PROManual/PRO202.htm> Software, consumables, minor equipment not permanently affixed to the equipment and maintenance cannot be considered part of the asset value. Freight, training, and set up can be a part of the asset value.

The proper transaction account code must be used as indicated below:

- 40101 Equipment
- 40102 Livestock
- 40103 Art/Museum Collections
- 40104 Vehicles
- 40199 Asset under Construction
- 40201 Vessels

It is critical to process items for capital assets with extra care as each item on the Banner Purchase Order creates an automatic o-tag (inventory asset tag). Note items created under 40199 will be changed to assets from a journal voucher process at a later time so they do not create o-tag.

303-009: Purchase Order Trade-Ins

When an asset involves a trade-in, the original purchase order should reflect the original value of the asset without consideration of the trade-in credit. The intent to make a trade-in and the value, which will be received for the trade-in, should be covered in item text. The trade-in value will be given during invoice payment by using journal voucher processing. When a trade-in is referenced, the department should be reminded they must check with Surplus Property and Inventory Control and complete a Property Disposition Request (PDR) before the purchase. All Trade-Ins shall follow the Property Management Policies and Procedures. A copy of the PDR and the Purchase Order shall be provided to Inventory Control.

For additional information related to Purchase Order Trade-In's see PCC 301-006.

303-010: Exchange of OSU Goods or Services for Discounts Under Development.

303-011: Purchase Order Discounts

When an asset involves a "discount" from a vendor, the purchase order should reflect the actual discounted cost paid rather than the inflated cost prior to discount.

303-012: Commodities not requiring Purchase Orders Under Development.

304: Invoices

304-001: Invoice Completion

In most categories, Banner has an automatic audit that disallows completion of an invoice greater than \$5,000 entered without being linked to a purchase order. Department staff will call the Business Center to request invoice completion. If a contract has been approved for the item, i.e. conference fees, a purchase order was done but has been closed for some reason or a contract is in place for the goods or services the explanation should be covered in text within the invoice and then it can be completed.

Invoice Approval >\$500,000 must be provided by the Procurement and Contract Manager.

Invoice Approval >\$1,000,000 must be provided by the:

- Director of Business Services or Procurement and Contracts Manager,
- Director of Business Affairs or the Assistant to the Director of Business Affairs,
- Vice President of Finance and Administration or the Associate Vice President of Finance and Administration and;
- The President, Provost or Vice Provost.

305: Commodities Prohibited for Purchase with State Funds

See FIS 507-01: <http://oregonstate.edu/dept/budgets/FISManual/FIS507.htm> and

OSU Business Affairs OSU Purchasing Card Prohibited Uses:

[http://oregonstate.edu/fa/businessaffairs/staff/ap/visa\\_prohibited\\_uses](http://oregonstate.edu/fa/businessaffairs/staff/ap/visa_prohibited_uses)

### 306: Purchasing and Payment Methods

Departments should utilize one of the methods of purchasing and payment for direct purchases.

#### 306-001: Procurement Card

Departments are encouraged to make direct purchases by using their procurement card for those purchases applicable under the OSU procurement card program. This method of purchase is a simple, efficient method of acquisition and payment. Instructions regarding how to utilize your Procurement Card are located at Accounts Payable website at <http://oregonstate.edu/fa/businessaffairs/accountspayable/purchasingcard>

OSU Accounts Payable oversees the OSU procurement card program through the credit card purchasing program established by OUS. For more information go to FIS 1402-12 <http://oregonstate.edu/dept/budgets/FISManual/FIS1402-12.htm>

#### 306-002: Purchase Orders

When it is not feasible to utilize other more efficient methods of direct purchasing, OSU departments may wish to issue a Purchase Order. Departments may issue different types of Purchase Orders which could include Banner Purchase Orders, department Purchase Orders or the Purchase Order available on the PaCS website. Once created departments can issue any of the Purchase Orders described above directly with the vendor.

#### 306-003: Store Credit Accounts and Applications

There are rare instances where use of the Procurement Card is not feasible and the vendor will only accept a purchase order after OSU has been approved for a credit account with the company. In those rare cases, departments may initiate establishing such accounts as long as it does not exceed a credit limit of \$5000 and does not result in a commercial credit account, revolving credit account or credit card and does not violate any related policy. Only those individuals with Contract Signature Authority may sign the credit application. To establish a credit account, departments should complete credit applications with the information that pertains specifically to their department such as the department name and billing address. Once that information is completed departments may submit their requests to their related Business Center. In cases where a Business Center is not yet established departments can submit their request for credit application signature via email at [pacs@oregonstate.edu](mailto:pacs@oregonstate.edu). This is the preferred method of submittal however if this method is not feasible departments may fax their request to (541) 737-2170 or via campus mail to PaCS.

#### 306-004: Prohibited Procurement Mechanisms

The following procurement mechanisms are prohibited:

- Commercial credit or revolving credit accounts
- Credit cards other than the OSU Procurement Card, ghost card or other procurement cards maintained through Accounts Payable.
- Any method that circumvents applicable approvals or procurement rules.

#### 306-006: Payment Terms

All Purchase Orders and Contracts should indicate payment terms of Net 30 even though pursuant to ORS 293.463 and OAR 580-061-0050 we are not required to pay interest on late payments until the 45th day after payment is due. Cash on delivery, prepayment or payment prior to receipt of any goods or services should not occur unless pre-payment conditions exist as noted below. Cash to accompany orders must be managed by the department with Accounts Payable.

### 306-007: Pre-Payment

Prepayment to vendors is highly discouraged because it renders payment for goods or services that have not yet been received. This omits OSU's ability to withhold payment when goods or services have not been delivered. When a vendor requires prepayment the following conditions must exist:

- There is no other vendor from which OSU can purchase the goods or services; and
- Prepayment is required as part of the purchase order contract terms and conditions; and
- PaCS has approved the prepayment by signing the purchase order or contract.

Vendor documentation may be required to verify that prepayment is the only acceptable form of payment.

### 306-008: IRS W9 Forms

PaCS maintains current expenditure and revenue W9's for the University. Tax ID number 93-6001786 is used by all OUS institutions for expenditure transactions or purchases. The name listed on the W9 is "Oregon University System". Tax ID number 48-1278540 is used solely by OSU for revenue transactions. The name listed on the W9 is "Oregon State University". The names listed on the W9's are in accordance with the Internal Revenue Service records and should not be changed. Departments will not be issued separate W9 forms.

Departments may not create or sign new IRS W9 forms or alternate W9 forms. Occasionally a vendor may request OSU to fill out an alternate W9 form capturing information on the IRS W9 form as well as additional reporting requirements. It is recommended that the department first try to use the already completed IRS W9 forms on file at PaCS using the appropriate Tax ID number for the type of transaction (expenditure or revenue) being conducted. If the vendor does not accept the IRS W9 and requires the alternate W9 to be completed, send to PaCS for processing.

### 308: Informal Solicitations

Informal Solicitations will be used for purchases between \$25,000 and \$99,999.99. Informal solicitations are those which fall into a purchasing threshold which require competition but do not require a formal procedure. PaCS is the only department authorized to issue informal solicitations. The types of informal solicitations are a Request for Quote (RFQ) and an Informal Request for Proposal (IRFP). An RFQ will be used when pricing will be the only determining factor. An IRFP would be used when the University wishes to award based on price and additional qualitative characteristics.

### 309: Formal Solicitations

Formal solicitations are those which fall into a purchasing threshold which require competition by following the procedure for a Formal solicitation outlined in OAR 580-061 & 580-062. Generally formal solicitations are used for purchases equal to or exceeding \$100,000. If a purchase does not equal or exceed \$100,000 but a formal solicitation is used, the rules for the formal solicitation process must be followed. PaCS is the only department authorized to issue formal solicitations. The types of Formal solicitations are an Invitation to Bid (ITB) and a Request for Proposals (RFP). An ITB is used when pricing will be the only determining factor. An RFP would be used when the University wishes to award based on price and additional qualitative characteristics.

## 310: Other Solicitations

### 310-001: Request for Qualification (RFQu) - Procurement

A Request for Qualification (RFQu) is a procedure by which Procurement seeks vendors that meet a specific level of minimum qualifications. This process is used to establish a qualified vendor list or Qualified Pool. A Solicitation Document is issued establishing minimum qualifications and interested Vendors respond in writing by describing their experience with and qualifications to provide the services described in the Request for Qualification. Generally further competition is required to select from this group of vendors who have met the qualifications and this is generally the initial step.

### 310-002: Request for Information (RFI)

A Request for Information (RFI) is a procedure by which the University can obtain information in preparation for another type of solicitation. RFI's are used for informational purposes and do not fulfill the requirements for competition, therefore a contract or award cannot be made from this process. Generally an RFI is used when the University does not have sufficient information of the goods, services or vendor interest. An RFI typically includes a basic outline of what the University is interested in doing and how vendors should provide responses. Responses can be comprised of the vendors marketing materials, or answers to a series of questions. Request for Information may be used by departments as a starting point to find information, but may not result in a purchase or a contract.

### 310-003: Qualified Pools

OSU may establish a pool of qualified Vendors ("Qualified Pools") that can be used on a non-exclusive as needed basis for the selection of Contractors when Direct Procurement or Informal Procurement methods are otherwise authorized in OAR 580. This process may not be applied to construction related services.

## 314: Sole Source

Sole Source procurements of \$25,000 or more, are only allowed when it can be thoroughly documented that the contractor holds a unique (no other sources have it) set of skills or expertise that make it impossible for anyone else to do the work or that the goods are not available from another source. Departments must fill out the Sole Source Request Form and completely document the due diligence used to make the sole source determination which could include sources such as internet searches, scientific publications and colleague references.

### 314-001: Sole Source Advertisement

Sole sources must be advertised on the OUS website for seven (7) calendar days. PaCS will make a written determination of the Sole Source. Contracts or purchase orders will not be signed or issued until after it has been advertised for the requisite amount of time and the written determination has been made.

### 314-002: Protest of a Sole Source Determination:

Vendors may protest a sole source determination by submitting a letter of protest to the analyst listed in the advertisement. The letter must be submitted to the analyst by the day and time established in the advertisement. Late protests will not be considered. The letter of protest must demonstrate that the vendor can provide the service or goods indicated in the sole source advertisement and include additional support documentation.

PaCS will review the protest and make a determination to uphold or deny the protest. If upheld, PaCS will issue a solicitation. If the protest is denied, PaCS will notify the vendor indicating why the protest was denied and the sole source procurement may proceed.

### 315: Purchasing from Existing Contracts

OSU will use existing University-wide contracts or price agreements set up for purchasing goods and services whenever possible. The contracts represent savings based on large dollar spend and will likely be better than the prices quoted outside of the contract or, represent savings in administrative processing that may not be apparent on the face of the contract.

OSU also has access to cooperative procurement contracts from other organizations and may be able to use those contracts in order to fulfill the requirement for competition. OSU maintains and supports first those contracts put in place by OSU, and then those organizations that OSU is affiliated with for cooperative procurements. When using these contracts or agreements the requirement for competition has typically already been met.

#### 315-001: OSU Contracts and Price Agreements

OSU should use current contracts or price agreements listed on the PaCS website. The contract number should be given to the vendor when asking for a quote and referenced on the resulting purchase order or ordering documents.

#### 315-002: State of Oregon Contracts and Price Agreements

As a State of Oregon agency, OSU may utilize existing State of Oregon Contracts or Price Agreements without seeking further competition if the specifications are equivalent. All requests for procurements from an existing State of Oregon contract should reference the contract number and follow the order procedures identified in the contract. When using a contract from the State of Oregon the terms and conditions of that contract will apply. State of Oregon contracts can be viewed on the Oregon Procurement Information Network ("ORPIN") and can be accessed at the State of Oregon Procurement website with a username and password.

#### 315-003: Western States Contracting Alliance

The State of Oregon is a participating state in the Western States Contracting Alliance ("WSCA") which is a cooperative multi-State contracting group established to achieve cost-effective and efficient acquisition of quality products and services. All governmental entities within WSCA states as well as authorized governmental entities in non-WSCA states are welcome to use the approved agreements. All procurements should match the specifications and follow the order procedures identified in the contract. When using a contract from WSCA the terms and conditions of that contract will apply. Some contracts require addendums to be established before a purchase order can be issued, and most minimally require a clause be added to the purchase order and contract documents. Contracts setup under WSCA can be viewed on the web.

#### 315-004: General Services Administration (GSA) Contracts

OSU is allowed to use the U.S. General Services Administration (GSA) Multiple Award Schedules (MAS) program also known as Federal Supply Schedule or GSA Schedules pursuant to OAR 580-062-0020(7)(d). However, state and local government may only purchase from the GSA schedules when granted access through federal government regulations. The federal government has granted very limited access to the schedules. Contact PaCS if you wish to make a procurement under a GSA schedule.

315-005: Other Contracts and Cooperatives

OSU may make a Permissive Procurement from another public agencies contract so long as OSU has obtained a copy of the solicitation and contract and has determined in writing, that the solicitation and award process for the Contract is reasonably equivalent to the respective process established in OAR 580-061 through OAR 580-062 and has been advertised in Oregon.

OSU may purchase from cooperative procurement contracts which name OSU directly or indirectly in the solicitation and resulting contract. It must be determined, in writing, that OSU has been named directly or indirectly in the contract and that process is reasonably equivalent to the process established in OAR 580-061 through OAR 580-062.

316: Affirmative Action Contracting and Qualified Rehabilitation Facilities (QRF)

Under OAR 580-061-0000(f) Code of Ethics, OUS employees will promote competition by encouraging the participation of Oregon businesses, emerging small and minority-owned and women-owned businesses and Qualified Rehabilitation Facilities.

316-001: Affirmative Action

OAR 580-061-0030 expands economic opportunities for Minority Business Enterprises, Women Business Enterprises and Emerging Small Businesses (MWESB) by offering them the contracting and subcontracting opportunities available through Institution contracts. Notices of all Contracts over \$25,000 procured through a competitive process will be provided to the Advocate for Minority, Women and Emerging Small Business through the Oregon University System Procurement Gateway.

In accordance with OAR 580-061-0030 (2), OUS shall not knowingly contract with or procure goods and services from an Entity that discriminates on the basis of age, disability, national origin, race, marital status, religion, sex, or sexual orientation.

316-002: Qualified Rehabilitation Facilities (QRF)

In accordance with OAR 580-061-0025, OSU will purchase goods and services from Qualified Rehabilitation Facilities (QRF's) in accordance with the provisions of ORS 279.835 to 279.855 and applicable administrative rules.

The following organizations support, represent or manage QRF's as indicated below:

- Oregon Department of Administrative Services certifies organizations as QRF's. For a listing of QRF's go to the following website: <http://dasapp.oregon.gov/qrf/index.aspx>
- The State Procurement Office (SPO) manages the products and services of the disabled program.
- Oregon Rehabilitation Association (ORA) supports and represents QRF's. For more information see ORA's website at [www.oregonrehabilitation.org](http://www.oregonrehabilitation.org).

## 400: CONTRACTS

### PURPOSE

This policy is to provide information about the various types of contracts and how best to contract for a variety of goods and services for OSU. The purpose of having a written contract is to set forth a binding set of obligations and expectations for each party. Any time OSU is committed to an action, commits to the acceptance of an action by another party, or agrees to pay for goods or services, some form of written contract is required.

## APPLICABILITY

All employees authorized to procure goods or services for OSU.

## POLICY

### 401: Contract Basics

#### 401-002: Contract Form

In order to acquire goods or services, the parties should enter into some form of a written contract regardless of the dollar value. Written contracts may be in a variety of forms including but not limited to: Purchase Orders, Personal Services Contracts, Use Agreements, and Rental Agreements. Contracts do not need to be labeled as such to be legally binding as interpretation is typically based on the content. There are different types of instruments used to formalize the obligations and expectations of the parties.

#### 401-003: Oral Contracts

Oral contracts are not an acceptable form of contract and are not binding on the University.

#### 401-005: Independent Contractor

Contracts may only be issued to individuals or businesses that qualify as Independent Contractors. An evaluation of the relationship between an individual and the University must be examined before determining independent contractor status. Facts that provide evidence of independent contractor status fall into three categories: Behavioral, Financial and the Relationship of the Parties. The degree of importance of each category varies depending on the type of work and individual circumstances. An Independent Contractor Determination form must be completed whenever the university is contracting with an individual whether by PSC or other form of contract.

#### 401-006: OSU as a Contractor

OSU may perform work as a Contractor to other entities only under certain conditions; the work must be consistent with OSU's mission; and the fee charged must be approved and published in the OSU fee book. Office of Sponsored Programs and Procurement both execute contracts on behalf of the University where the University acts as the contractor. To determine whether PaCS or the Office of Sponsored Programs would handle the contract, refer to the Contract Type Characteristics matrix at

[http://oregonstate.edu/research/osp/submission/TestingAgreements\\_000.htm](http://oregonstate.edu/research/osp/submission/TestingAgreements_000.htm)

### 402: Contract Types

OSU will strive to be consistent in the naming and use of certain agreement types defined in these policies in order to maintain consistency and continuity within the university. The agreements will be written in a manner that clearly establishes the roles, responsibilities and obligations of the parties involved. Any financial obligations should be clearly detailed including amounts and terms. The following are some of the types of contracts and their intended use.

#### 402-001: Interdepartmental Agreements

Interdepartmental agreements are intended to document agreements between OSU departments. Interdepartmental agreements can be processed and signed by the departments.

#### 402-002: Interagency Agreements (IAA)

Interagency Agreements are intended to formalize agreements or understandings between State of Oregon agencies. Interagency agreements require review, approval and signature by the Contracts Office.

402-003: Intergovernmental Agreements (IGA)

Intergovernmental Agreements are intended to be used between OSU and other governmental agencies when an Interagency Agreement isn't applicable. Intergovernmental Agreements with agencies outside the State of Oregon may require review to insure compliance with ORS Chapter 190. Intergovernmental Agreements require review, approval and signature by the Contracts Office.

402-004: Memorandums of Understanding (MOU)

A Memorandum of Understanding (a.k.a Memorandum of Agreement and Letter of Intent) is a document describing an intended common line of action and does not create a legally enforceable contract. These are informal and understood as precursors to a formal legally binding contract. Memorandums of Understanding require review, approval and signature by the Contracts Office.

402-005: Purchase Orders (PO)

Purchase Orders are contracts and are issued for the purchase of goods or services. Purchase orders are legally binding contracts.

402-006: Personal Services Contracts

Personal Services Contracts (PSC) are used to contract for infrequent, technical or unique services performed by contractors with specialized, technical or scientific expertise of a professional nature. Examples of professional services contractors include:

- Accountants
- Actuaries
- Attorneys
- Brokerage firms
- Grant writers
- Physicians
- Public relations consultants
- Recruiters

Personal Services Contracts must be issued when the dollar threshold will exceed \$5000 cumulatively in one academic year for a department. However, Personal Services Contracts may be used at any dollar level, and are highly recommended when detailed expectations or obligations are necessary. The PSC must be used at any dollar level for Non Resident Aliens.

Personal Services Contracts may not be issued to OSU Employees, OUS Employees, State of Oregon Employees or Federal Employees.

Contractors performing work on a PSC may not:

- Supervise OSU personnel or other contractors;
- Be listed as an instructor of record for an OSU for credit course;
- Be in contact with minors until contractor has passed a criminal background check as required in OAR 580-023;
- Represent themselves as OSU or make promises on behalf of OSU;
- Drive OSU vehicles; or

- Transport students, unless specifically authorized to do so in the contract. If authorized, contractor must meet OSU minimum driving standards in accordance with OAR 125-155.

402-007: Speakers and Entertainers  
Under Development.

402-008: Honoraria  
Under Development.

402-009: Capital and Operating Leases

Equipment or real property leases can be very complex as there are various types of leases and OSU has strict rules it must follow in how leases are defined, structured, paid and reported. The complexity of leases, even of minor, low dollar value equipment, is quite high. For purposes of this Policy leases described herein apply to those leases in which OSU is the Lessee.

There are two types of equipment leases, Operating Leases and Capital Leases. OUS Policy .200 A. lists criteria that differentiates Capital Leases from Operating Leases:

<http://www.ous.edu/cont-div/fpm/acco.05.281.php#.200>

A Operating Lease (also called a Municipal or non-finance lease) is more like a fixed-term rental where the item has a residual value close to its market value at the end of the lease term. OSU may enter into these types of leases at any dollar level.

A Capital Lease (also called a Finance lease) means that OSU will own the personal or real property which exceeds the \$5,000 capitalization threshold at the inception of the date of the lease, with a minimal buy-out, at the end of the lease term. OSU only has authority to enter into these types of leases up to \$100,000.

Capital Leases exceeding \$100,000 are particularly complicated and can take up to a year or longer to process. Because of the associated complexities, necessary resources it takes to process and administrative costs involved, Capital Leases are highly discouraged. Any Capital Lease exceeding \$100,000 and meeting the following criteria shall be managed by the Oregon Department of Administrative Services and Oregon Department of Justice and must be reported to the Oregon University System:

- The agreement transfers ownership of property to OSU when the agreement ends.
- The agreement contains a nominal or bargain purchase option. A nominal or bargain purchase is a price less than fair market value at the time of purchase.
- The term of the agreement is 75% or more of the economic useful life of the property.
- The present value of the minimum payments under the agreement is at least 90% of the current fair market value of the property. Minimum agreement payments include any penalty for terminating the agreement.

The OUS Fiscal Policy Manual states how all OSU lease accounting and fiscal management shall be managed: <http://www.ous.edu/cont-div/fpm/acco.05.281.php>

The OUS Controller's Division states how all leases shall be reported:

<http://www.ous.edu/dept/cont-div/accounting-reporting/closingbooks/instructions>

Regardless of lease type, all equipment leases must follow the Property Management Policies and Procedures <http://oregonstate.edu/dept/budgets/PROManual/PRO204.htm>,

<http://oregonstate.edu/dept/budgets/PROManual/PRO205.htm> and a copy of the final lease must be sent to Inventory Control to ensure the property is recorded on Banner records as required.

402-010: Sponsorship Agreements

Sponsorship agreements are intended to document a vendor's support of a specific event or activity. In return the vendor typically received acknowledgement of the sponsorship and other benefits at the event. The value of the sponsorship should be equivalent to or greater than the acknowledgement or other benefits received.

404: Contract Processing

404-001: Department Review & Input Prior to Submittal

Departments will first review the contract to be certain the department and contractor are in agreement with the expectations or obligations in the contract. If they cannot comply then they should discuss this and come to a mutual agreement articulated in the scope of work.

404-002: Contract Submittal and Routing

Departments should submit the contract to their Business Center who will forward to PaCS for review and execution. PaCS will coordinate all other necessary reviews. PaCS may also work with the vendor and provide them with an OSU contract or negotiate the vendor's contract terms and conditions. Copies or electronic images of the contract are acceptable.

404-003: Contract Review  
Under Development.

404-004: Signature Prior to Commencement:

Contracts must be signed by an OSU person with contract signature authority prior to commencement of work. Contracts not signed prior to commencement will be considered unauthorized.

404-005: Electronic Signatures

Signatures on contracts must be inscribed on paper by hand. Electronic signatures are not acceptable.

404-006: Signatures prior to PaCS Review

Contracts which arrive already signed by the contractor without prior PaCS review, might not be accepted. PaCS advises against departments accepting agreements that have been signed prior to review.

404-007: Signatures after PaCS Review

Generally the agency responsible for drafting the contract or agreement should sign the document last. This allows the other agency time to review, negotiate and make changes with the drafting agency before execution.

404-008: Contract Amendments

Contract amendments may be made pursuant to OAR 580-061-0065.

404-009: Amendment of Expired Contracts

Contracts should be amended or extended in advance of the expiration of the contract. Extension of an expired contract will be at PaCS discretion.

#### 404-010: Certificate of Insurance Processing

Requests for Certificates of Insurance (COI) will only be processed when there is a contract in existence that has been reviewed by PaCS, executed by someone with contract signature authority and the contract document requires proof of insurance. Requests for Certificates of Insurance must be made to Risk Management.

#### 405: Contract Administration

##### 405-001: Contract Administration

Contract administration involves those activities performed after a contract has been awarded to determine if the requirements and specifications of the contract were met. It encompasses all dealings between OSU and the contractor from the time the contract is awarded until the work has been completed and accepted or the contract terminated, payment has been made, and disputes have been resolved. The level of contract administration necessary is dependent on the nature of the work, type of contract and experience and commitment of the personnel involved. Good contract administration assures that the end users are satisfied with the product or service being obtained under the contract.

PaCS will perform contract administration for University-wide contracts. Departments will perform contract administration for departmental contracts. Departments will notify PaCS immediately in the event any of the following situations arise:

- Contract modifications or amendments;
- Irresolvable invoice or billing discrepancies Unsatisfactory/unacceptable work product;
- Non-performance of work; or
- Breach of the contract.

Duties involved in contract administration should include all of those duties listed below.

##### 405-002: Contract Monitoring

Contract monitoring should include the following:

- Contract orientation meeting
- Authorization of orders placed under the contract
- Adherence to the scope of work and terms and conditions in the contract
- Review and acceptance of deliverables
- Monitor key dates throughout the entire term of the contract to ensure any necessary actions happen prior to these dates.

##### 405-003: Contract Documentation

Once the contract is in place, documentation of the contract should be maintained by the contract administrator. Documentation should include:

- Fully executed contract
- Contract amendments/renewals
- Solicitation (if done by the contract administrator)
- Meeting notes
- Orders placed under the contract
- Performance issues or deficiencies
- Written receipt of deliverables
- Invoices

Contract documentation should be clear and discernable so that anyone reviewing the contract file can understand the history of the contract, current status, and all outstanding issues.

405-004: Contract Invoice Review

The contract administrators recommended approval of an invoice implies that to the best of their knowledge, the nature, type, and quantity of effort or materials invoiced are in general accord with the progress of work under the contract. Invoices should be reviewed for:

- Reasonableness of costs
- Vague references or ambiguity
- Mathematical accuracy