



MIDWESTERN

STATE UNIVERSITY®

CONTRACT MANAGEMENT HANDBOOK

TABLE OF CONTENTS

A. INTRODUCTION	3
B. DEFINITION OF CONTRACT	4
C. CHECKLIST OF ADVANCE CONTRACT REVIEW PROCEDURES	4
1. INITIATING THE PROCESS	4
2. PLANNING	5
3. PURCHASING ACCOUNTABILITY AND RISK ANALYSIS PROCEDURE; RISK ASSESSMENT MATRIX (RAM)	11
4. DEPARTMENTAL APPROVAL OF CONTRACTS	12
5. PURCHASING/CONTRACT MANAGEMENT OFFICE	13
6. REQUIRED CONTRACT APPROVALS	16
7. CONTRACT REVIEW BY UNIVERSITY'S GENERAL COUNSEL	18
D. CONTRACT SIGNATURE AUTHORITY	19
E. DELEGATION OF SIGNATURE AUTHORITY	20
F. RECORDKEEPING/REPORTING	20
1. RESPONSIBILITY FOR MAINTAINING CONTRACTS	21
2. RESPONSIBILITY FOR COMPLETING REPORTING REQUIREMENTS	21
G. MONITORING CONTRACTS	23
1. CONTRACTOR OVERSIGHT	23
2. CONTRACT DATABASE MANAGEMENT SYSTEM	24
3. CONTRACT LIAISON RESPONSIBILITIES	24
4. MONITORING PROCEDURES	24
5. POOR OR UNDERPERFORMANCE BY CONTRACTOR	27
6. CONTRACT CLOSEOUT	27
7. REPORTING VENDOR PERFORMANCE TO STATE COMPTROLLER	28
H. ANNUAL REVIEW/ASSESSMENT	29
I. TRAINING	30
APPENDIX A: Risk Assessment Matrix (RAM)	32
APPENDIX B: Contract Routing Sheet	34
APPENDIX C: Standard Addendum to Agreement	35
APPENDIX D: Vendor/Contractor Performance Report.....	36
APPENDIX E: Monitoring and Performance Checklist	37

Midwestern State University

CONTRACT MANAGEMENT HANDBOOK

A. Introduction

1. Contract management is the process of directing contract planning, formation, execution, and assessment through closeout to maximize financial and operational performance and minimize risk. Good contract management procedures are critical to the efficient and effective use of public funds for Midwestern State University (MSU) to achieve its mission.

The information contained in this *MSU Contract Management Handbook* complies with Section 2261.256 of the *Texas Government Code* which requires MSU, as a state agency, to publish a contract management handbook that establishes consistent contracting policies and practices and contract review procedures to be followed by MSU and that is consistent with the State Comptroller's contract management guide.

In addition, MSU is required under Section 2261.256 of the *Texas Government Code* to develop and comply with a purchasing accountability and risk analysis procedure (see [Appendix A](#)) that must provide for:

- (1) assessing the risk of fraud, abuse, or waste in the contractor selection process, contract provisions, and payment and reimbursement rates and methods for the different types of goods and services for which the agency contracts;
- (2) identifying contracts that require enhanced contract or performance monitoring or the immediate attention of contract management staff (see subsection [G.4.b](#) of this *MSU Contract Management Handbook*); and
- (3) establishing clear levels of purchasing accountability and staff responsibilities related to purchasing (see subsection [C.3](#) of this *MSU Contract Management Handbook*).

MSU is also required to post on its internet website the link to the procedures described in paragraphs (2) and (3) above.

2. MSU Policy 2.24 (Approval and Execution of University Contracts) establishes the authority for the University to approve and execute contracts and requires the University's administration to develop and implement this *MSU Contract Management Handbook* for all contracts.
3. This *MSU Contract Management Handbook* is designed to ensure that:
 - MSU contracts are in proper form and legally sufficient and minimize legal, financial, and related risks;
 - MSU's procurement process fairly and objectively selects the best contractors for the best value and the University pays a fair and reasonable price for goods and services;
 - MSU's contract provisions and contractor oversight are sufficient to hold contractors accountable for delivery of quality goods and services; and

- MSU monitors its contracts for proper execution and performance and annually assesses these procedures and implements identified improvements.
4. MSU officers and employees involved in any way with the contracting process must:
- be familiar with MSU Policy 2.24 and this *MSU Contract Management Handbook*;
 - be familiar with the *MSU Purchasing Manual* and *MSU Fiscal Regulations & Procedures* which may be found at: <http://mwsu.edu/purchasing/>;
 - act in accordance with MSU Policy 3.314 (Ethics Policy for Employees of Midwestern State University); and
 - refer to the State Comptroller's contract management guide for additional details on best practices and Texas state law regarding contracts which may be found at: <http://comptroller.texas.gov/procurement/pub/contractguide/>.

B. Definition of Contract

1. Contract: an agreement between two or more parties who intend to create legally enforceable obligations.
2. There are many types and variations of contracts including, but not limited to:
 - agreements
 - easements
 - grants
 - leases
 - letters of intent
 - licenses
 - memorandums of understanding
 - purchase orders
 - terms and conditions
3. These contract management procedures apply to:
 - any type of contract that binds MSU and/or obligates MSU to provide payment, services, goods, or use of MSU property, facilities or other resources; and
 - any amendment, alteration, change, change order, correction, extension, modification, renewal of a signed contract, or a subsequent services contract.

C. Checklist of Advance Contract Review Procedures

The following checklist and contract review procedures describe each step of the process used to evaluate and process contracts that must be completed *before* contract execution.

1. Initiating the Process
 - a. The contract review process begins with the initiating department.
 - b. No person has the authority to bind the University contractually except in accordance with MSU Policy 2.24 and this *MSU Contract Management Handbook*.
 - c. All University contracts must be in writing and in the name of the University (not in the name of an individual, college or school, or department) and comply with applicable federal and state law and regulations (e.g., state purchasing requirements) and MSU policies and procedures.
 - d. Oral contracts are prohibited.

- e. The University official overseeing the initiating department shall designate an employee from that department (“contract liaison”) who will work closely with the Purchasing/Contract Management Office through each stage of contract administration. The contract liaison’s responsibilities include:
 - (1) assisting in planning and developing contract objectives;
 - (2) ensuring proper completion of the *Risk Assessment Matrix* ([Appendix A](#));
 - (3) ensuring proper completion of the *Contract Routing Sheet* ([Appendix B](#));
 - (4) monitoring progress and performance and ensuring proper completion of the *Vendor/Contractor Performance Report* ([Appendix D](#));
 - (5) authorizing payments consistent with contract documents; and
 - (6) maintaining appropriate records.
- f. Most University purchases are made using a purchase order (standard contract stating the terms of the agreement with a contractor/vendor). In addition to a purchase order, it may be beneficial to also utilize a written contract to include additional terms and conditions (i.e. warranties, guarantees, or limitations of liability) not set forth in the purchase order. Contracts substitute for purchase orders most often in cases where services are needed over an extended period of time.
- g. If a purchase is not involved (e.g., affiliation agreements or facility use agreements), a purchase order will not be issued and a written contract is required.

2. Planning

- a. With proper planning, MSU is more likely to successfully achieve its contracting objectives. During the planning phase each of the following elements of contract management must be considered:
 - (1) Plan: identify contracting objectives and contracting strategy;
 - (2) Procurement: fairly and objectively select the most qualified contractors;
 - (3) Contract Formation/Rate/Price Establishment: ensure the contract contains provisions that hold the contractor accountable for producing desired results, including all relevant terms and conditions as well as establish processes that are cost-effective and aligned with the cost of providing the goods and services; and
 - (4) Contract Oversight: monitor and enforce the terms of the contract.
- b. Statement of Work (SOW)

A SOW defines the scope of the work involved for a vendor and clarifies deliverables, costs, and timelines. A SOW is not needed when the project is small and relatively simple; it may be needed when the project is large and complex as part of a bid document (e.g., RFP - see subsection C.2.c, *infra*) or part of the contract. It is developed by the initiating University department to communicate to potential vendors to ensure that they have a full and accurate understanding of expectations including services to be performed or products to be provided. Contact the MSU Purchasing/Contract Management Office if assistance is needed with a SOW.

c. Procurement Solicitation

MSU's procurement process is designed to protect against the occurrence of fraud, abuse and waste in the contractor selection process. The informal and formal competitive solicitation process facilitates determination that the System and Campuses are being charged a reasonable rate and obtain best value. As a State agency, MSU uses a 'best value' standard for the purchase of good or services. The most important considerations in determining best value for the State are the purchase price and whether the goods or services meet specifications.

The following thresholds have been established for bid requirements:

- Procurements \$5,000 and under require only one quotation;
- Procurements more than \$5,000 up to \$25,000 require three quotations, two of which should be quotations from HUB vendors (If you have difficulty finding HUB vendors, the Purchasing/Contract Management Office will be glad to assist with seeking quotes from HUB vendors for you); and
- Procurements more than \$25,000.01 require formal competitive solicitations through an Invitation for Bids (IFB) or a Request for Proposals (RFP). MSU primarily advertises competitive solicitations electronically in the Electronic State Business Daily (ESBD) and the MSU Purchasing/Contract Management Office website.

Professional Services contracts are awarded based on demonstrated competence and qualifications for the type of services to be performed. Professional services include accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, professional nursing and real estate appraising. Procurement of these professional services is through a Request for Qualifications (RFQ).

Depending upon the nature of the services being performed, it is very important that an MSU purchase order and/or formal contract be in place with the selected vendor *before* the performance of any service or delivery of any supplies or equipment so that MSU is protected in the event of any misunderstanding or conflict.

d. Contracting Requirements/Sample Clauses

A *Standard Addendum* (see [Appendix C](#)) has been created that can be attached to any contract into which MSU enters. By having all parties to the a contract sign the Standard Addendum, the clauses contained within the Standard Addendum will be incorporated into the contract, ensuring compliance with State of Texas contracting requirements referenced below.

(1) Contracting Requirements:

Governing Law. MSU contracts should always be governed by the laws of the State of Texas. Texas law contains many provisions which protect the State and State institutions of higher education. If another state's law governs the contract, these protections may not apply.

Confidentiality Clauses. Chapter 552 of the *Texas Government Code* provides the public a right of access to information collected, assembled,

maintained, owned or controlled by a governmental body unless the information fits within one of the exceptions to disclosure. MSU is a governmental body subject to the Act. Therefore, any clauses in contracts which require MSU to maintain information as confidential must either be deleted or limited "to the extent permitted by the Texas Public Information Act" or similar language. Ideally, all contracts should include the following statement: "MSU shall release information to the extent required by the Texas Public Information Act and other applicable law. If requested, Vendor shall make public information available to MSU in an electronic format."

Indemnification. Indemnity provisions are critical and must be reviewed carefully. A provision in a contract to indemnify a party is a promise to pay that party's obligations to a third party if a specified event occurs, such as negligently performing duties under the contract. Article III, Section 49 of the Texas Constitution states that "no debt shall be created by or on behalf of the State" and the Attorney General has opined that a contractually imposed obligation of indemnity creates a "debt" in the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Contract clauses which require MSU to indemnify must be deleted or limited "to the extent permitted by the Constitution and laws of the State of Texas."

Miscellaneous Clauses. Liquidated damages, attorney's fees, waivers of a vendor's liability, and waivers of statutes of limitations clauses should also be deleted or limited "to the extent permitted by the Constitution and laws of State of Texas."

Insurance. MSU should carefully review any clauses in contracts which require the University to maintain insurance, and should ensure that the clauses accurately reflect levels of coverage. Below is a brief explanation of some common insurance requirements.

- *General Liability Insurance.* It is the stated policy of the State of Texas not to acquire commercial general liability insurance for torts committed by employees of the State who are acting within the course and scope of their employment. Rather, third parties must look to the Texas Tort Claims Act for relief with respect to property damage, personal injury, and death proximately caused by the wrongful or negligent act or omission of an employee acting within his or her scope of employment. One exception to the above stated policy authorizes agencies and state institutions of higher education to acquire commercial automobile insurance for the use and benefit of their employees who operate state owned, motorized vehicles and special equipment.
- *Worker's Compensation Insurance.* Employees of MSU are provided Worker's Compensation coverage under the provisions of the Workers' Compensation Act for Texas State employees.
- *Professional Liability Insurance.* MSU maintains a Professional Liability Self-Insurance Plan for its nursing faculty and students under the authority of Chapter 59 of the *Texas Education Code*.

- Please contact the manager for the MSU Environmental, Health, Safety and Risk Management Office with questions regarding insurance.

Interest on Late Payments. Chapter 2251 of the *Texas Government Code* provides for interest on late payments to vendors. Contracts which require MSU to pay interest on late payments should be modified so that payments and interest will be paid in accordance with Chapter 2251 of the *Texas Government Code*.

Breach of Contract Claims. Chapter 2260 of the *Texas Government Code* establishes a dispute resolution process for contracts with entities of the State of Texas involving goods, services, and certain types of projects. This statute is of benefit to parties contracting with an entity of the State of Texas. This statute requires that a state entity give vendors notification of the dispute resolution process and its applicability to state contracts. Any arbitration or mediation provisions contained in contracts should be deleted and replaced with a Chapter 2260 notice. MSU should not agree to arbitration provisions because they constitute an unconstitutional waiver of sovereign immunity.

Obligations Extending Beyond Current Appropriations Term. If MSU is a party to a contract and the term of the contract extends beyond the expiration of the appropriations term in effect when the contract is entered into, the contract should contain a provision that specifically conditions MSU's financial obligations under the contract on the availability of sufficient appropriations. This is necessary to avoid the creation of an unconstitutional debt.

Eligibility for Vendor to Receive Payment from State of Texas.

- *Franchise Tax Certification.* Section 2107.008 of the *Texas Government Code* does not permit MSU to pay a vendor that is delinquent in paying State of Texas franchise taxes. MSU must determine whether a vendor is delinquent.
- *Payment of Debts to the State of Texas.* Sections 2107.008 and 2252.903 of the *Texas Government Code* only require state institutions to include this clause in contracts with persons whom the state comptroller has determined are in debt to the state or delinquent in the payment of taxes. Vendors should be required to acknowledge if they are in debt to the state, payments owed the vendor under the contract will first be applied to payment of the debt.
- *Child Support Certification.* Section 231.006 of the *Texas Family Code* requires certain vendors who do business with the state to certify that they are not delinquent in the payment of child support.
- *Certain Bids Prohibited.* Section 2155.004 of the *Texas Government Code* states that a state agency may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from the agency to

participate in preparing the specifications or request for proposals on which the bid or contract is based.

Limitation of Time in Which to Bring Legal Action or Claim. Section 16.070 of the *Texas Civil Practice & Remedies Code* states that any stipulation or agreement that attempts to establish a limitations period shorter than two years is void.

(2) Sample Clauses:

Choice of Law and Venue:

This agreement and any incorporated documents shall be governed by and construed in accordance with the laws of the State of Texas. The exclusive venue of any suit brought concerning the agreement and any incorporated documents is fixed in any Court of competent jurisdiction in Wichita County, Texas.

Confidentiality:

- *Texas Public Information Act.* Notwithstanding any provision of this Agreement, University shall release information to the extent required by the Texas Public Information Act and other applicable law. If requested, Vendor shall make public information available to University in an electronic format.
- *FERPA.* University hereby provides notice and the parties acknowledge that the Family Educational Rights and Privacy Act ("FERPA") applies to student educational records. No disclosure or re-disclosure of personally identifiable information of any Student shall be made except as allowed by FERPA and each party will limit its use of such information obtained from the other party to what is reasonable and necessary for legitimate educational interests under the purposes of this Agreement.
- *HIPAA.* The parties shall comply with all applicable federal, state, and local laws and regulations, including the Health Insurance Portability and Accountability Act ("HIPAA") and any other applicable law regulating the privacy of patient information. The parties will maintain the confidentiality of individually identifiable health information as required by HIPAA and as required by state law.

Indemnification:

Contractor agrees to indemnify and hold harmless University and its regents, officers, agents, and employees, from and against any liability, losses, or damages it may suffer as a result of claims, demands, causes of action, costs, or judgments against it arising out of Contractor's breach of any provision of this Agreement or arising out of any act or omission by Contractor in the provision of the Services.

Insurance:

The parties hereby acknowledge that University, as an agency of the State of Texas, is insured for general liability insurance under a self-insurance program covering its limits of liability. The parties agree that such self-

insurance by University shall, without further requirement, satisfy all insurance obligations of University under this Agreement.

Marketing/Name/Licensed Marks:

Each party is the sole and exclusive owner of its name and Licensed Marks ("Licensed Marks" means the designs, trademarks, servicemarks, logotypes, seals, and certain logographics and/or symbols it has come to be associated with). Neither party may use the name or Licensed Marks of the other party in any advertising or promotional material except with the prior review, approval, and express written permission of the other party for a nonexclusive and nontransferable right to utilize the other party's name and/or Licensed Marks; likewise, neither party shall have the right to sublicense others to use the other party's name or Licensed Marks or to assign any part of them without the prior written consent of the other party. Each party reserves the right to review and approve all copy for news releases for the event. Permission required from MSU under this subsection must be obtained through its Marketing and Public Information Office.

Payment Provisions:

In accordance with Chapter 2251 of the *Texas Government Code*: (a) payment shall be made no later than thirty days following the later of (i) delivery of the goods or completion of the services and (ii) delivery of an invoice to University; and (b) interest, if any, on past due payments shall accrue and be paid at the maximum rate allowed by law. Vendor must be in good standing, not indebted to the State of Texas, and current on all taxes owed to the State of Texas for payment to occur. Invoices and any required supporting documents must be presented to: Midwestern State University – Business Office, 3410 Taft Boulevard, Wichita Falls, TX 76308-2099.

Disclosure of Interested Parties:

This Agreement is subject to *Texas Government Code* Section 2252.908 and Chapter 46 of the Texas Ethics Commission. Accordingly, Contractor must comply with the statutory requirements before Midwestern State University may execute and enter into this Agreement. Pursuant to *Texas Government Code* Section 2252.908 and Chapter 46 of the rules of the Texas Ethics Commission, a state agency such as Midwestern State University may not enter into certain statutorily defined contracts with a business entity unless the business entity, in accordance with said statute and administrative rules, fills out and electronically files Texas Ethics Commission Form 1295 "Certificate of Interested Parties" with the Texas Ethics Commission at its website. The business entity then must generate a copy of the filing (either hard copy or electronic) showing the filing certification number issued by the Commission's website, sign and swear to the hard copy, and deliver that copy to the state agency along with the signed contract. The state agency will then file notice of its receipt of both the completed disclosure of interested parties and the certification of filing with the Texas Ethics Commission not later than the 30th day after the state agency receives the Form 1295.

3. Purchasing Accountability and Risk Analysis Procedure; Risk Assessment Matrix (RAM) – Appendix A

- a. As a state agency, MSU is required to develop and comply with a purchasing accountability and risk analysis procedure that provides for:
 - (1) assessing the risk of fraud, abuse, or waste in the contractor selection process, contract provisions, and payment and reimbursement rates and methods for the different types of goods and services for which MSU contracts;
 - (2) identifying contracts that require enhanced contract monitoring or the immediate attention of contract management staff; and
 - (3) establishing clear levels of purchasing accountability and staff responsibilities related to purchasing.
- b. Performing risk assessments helps to determine the level of oversight and participation MSU will need. A *Risk Assessment Matrix* (RAM) - see [Appendix A](#) - is used to determine the risk level of the contract (i.e., the potential for loss, harm, or damage that may occur due to errors or problems associated with a vendor's performance). This assessment is completed to anticipate risks, mitigate or manage risks, and avoid or transfer risk in order to protect MSU. Based upon the classification of risk (as high or extremely high as opposed to low or moderate), the contract will require enhanced levels of contract or performance monitoring (see subsection G.4.a and b, *infra*).
- c. Performing a risk assessment is an ongoing process throughout the life of the contract. The risk assessment matrix should be used prior to: (1) awarding contracts from RFP proposals; (2) entering into new contracts with vendors; and (3) renewing existing contracts. For ongoing contracts, the risk assessment matrix should be completed at least annually and when risk conditions undergo a substantial change (e.g., vendor's management or ownership changes). It is also important to note that the risk assessment is a dynamic process that should be updated regularly to reflect the results of monitoring visits, reviews of payment vouchers, desk reviews, etc. For example, if a contractor has fallen significantly behind schedule in delivering services to the targeted population, the risk assessment should be updated to indicate the elevated risk and this impacts how the contract is monitored in the future. Likewise, if a contractor is well ahead of schedule in delivering services to the targeted population, the risk assessment should be updated to indicate the lower level of risk.
- d. The risk factors in MSU's risk assessment matrix are:
 - (1) Total Cost
 - (2) Type of Contract Purchase;
 - (3) Payment Type/Structure;
 - (4) Essential MSU Function;
 - (5) Percentage of Services Performed by Subcontractors;
 - (6) Stability & Experience of Contractor Key Management;
 - (7) Compliance History;
 - (8) Past Programmatic Performance;

- (9) Audit Results;
- (10) Number of Years in Business;
- (11) Performance Measures;
- (12) Deliverables; and
- (13) Financial Reports Required

Additional risk factors can be added and considered as appropriate.

Each contractor is rated (scored) on the risk elements using the range of Low: 1, Medium: 2, High: 3, or Extremely High: 4; the scores are added up with ranges for the overall risk scores being:

Low Risk procurement: 0-13

Medium Risk procurement: 14-26

High Risk procurement: 27-39

Extremely High Risk: 40-52

- e. No objective or mathematical formula can be used to completely assess the risk imposed by a particular contract; risk is determined subjectively. For contract monitoring procedures, including contracts requiring enhanced contract or performance monitoring or the immediate attention of contract management staff, see section G.4, *infra*.
- f. In addition to using the risk assessment matrix, contract liaisons should keep a log for all major contracts and major purchase orders. This log should identify all risks to their contracts, the mitigation plan or strategy for addressing the risk and the outcome.
- g. Under Texas Government Code §2261.253 and other provisions of Senate Bill 20 and General Appropriations Act Art. IX, Rider 7.12 adopted in 2015 by the 84th Legislature, Regular Session, MSU's Director of Purchasing/Contract Management is required to notify the University's Board of Regents of any serious issues or risks on certain contracts (see subsection F.2.c.(2), *infra*).

4. Departmental Approval of Contracts

- a. The department initiating the contract is responsible for ensuring that the delivery schedule and financial provisions of the contract are reasonable; and reviewing the business terms of the contract, including payment and reimbursement rates, to determine if they are reasonable. Contracts must be reviewed and approved in advance by the initiating department head and the appropriate supervisor(s) (e.g., Dean / Associate Vice President and/or Vice President).
- b. In addition, contracts should be reviewed and approved by any other department that will need to provide technical support, facilities, services, personnel, and/or security to carry out the MSU's obligations under the contract. Examples: Information Technology (IT) Department review/approve any software; office of sponsored programs for external funding – grants and gifts.

- c. The initiating department's contract liaison is responsible for ensuring that approval by the appropriate department(s) and supervisor(s) are properly completed on the *Contract Routing Sheet*.

Examples:

- (1) If the University Librarian wants to enter into a contract to purchase new software for the library, the Librarian's designated contract liaison ensures that the following approvals/signatures are on the contract routing sheet:
 - (a) the Librarian;
 - (b) the Librarian's designated contract liaison;
 - (c) the IT Department (contributing technical support and ensuring compliance with the DIR - Texas Department of Information Resources);
 - (d) the Provost and Vice President for Academic Affairs (the University Librarian reports directly to the Provost); and
 - (e) the Vice President for Administration and Finance (approval required on all contracts for information technology) .
- (2) If the Chair of the University's Nursing School wants to enter into an affiliation agreement with a hospital, the Chair's designated contract liaison ensures that the following approvals/signatures are on the contract routing sheet:
 - (a) the Chair of the Nursing School;
 - (b) the Chair's designated contract liaison;
 - (c) the Dean of the College (Nursing Chair reports directly to the college dean); and
 - (d) the Provost and Vice President for Academic Affairs (the Provost oversees the college).

5. Purchasing/Contract Management Office

The Purchasing/Contract Management Office shall review all contracts to ensure that purchasing statutes are followed and that the procurement is handled in a fair and competitive environment. For example, *Texas Government Code* Section 2155.004 (Certain Bids and Contracts Prohibited) prohibits a state agency like MSU from accepting a bid or awarding a contract that includes proposed financial participation by a person (e.g., a consultant) who received compensation from the agency to participate in preparing the specifications or request for proposals (RFP) on which the bid or contract is based.

- a. After obtaining the approvals by the appropriate department(s) and supervisor(s), the initiating department's contract liaison shall deliver the contract routing sheet and any attachments (including any tendered contract) to the Purchasing/Contract Management Office.
- b. University contracts are numbered in accordance with the University contract numbering system developed and approved by the Purchasing/Contract Management Office. The contract numbering system is utilized for purposes of tracking, monitoring, auditing, compliance, and record retention.
- c. The Purchasing/Contract Management Office, through its contract management coordinator, will assist the initiating department's contract

liaison with negotiating contract terms and conditions and the preliminary preparation and review of the contract (including for institutional risks) and related contract management considerations prior to review, if necessary, by the University's General Counsel.

- d. MSU requires that the Director and the Assistant Director of the University's Purchasing/Contract Management Office must be trained (including continuing education) and certified as a Certified Texas Contract Developer by the Texas Comptroller of Public Accounts. See *Texas Government Code* Section 656.051.

MSU requires that the Director of the University's Purchasing/Contract Management Office and all contract coordinators in the University's Purchasing/Contract Management Office must be trained (including continuing education) and certified as a Certified Texas Contract Manager by the Texas Comptroller of Public Accounts. See *Texas Government Code* Section 656.052.

The Director of the MSU Purchasing/Contract Management Office shall ensure that all individuals required by this subsection to be trained and certified are current with their training and certification and that they do not participate in purchases/contract management unless they have received the applicable training and certification.

- e. In sole source procurements (no-bid), the initiating department's contract liaison is responsible for ensuring that a properly completed sole source procurement form is attached to the *Contract Routing Sheet*.
- f. All applicable state procurement and historically underutilized business (HUB) laws, regulations, policies, and procedures must be followed as a part of the contracting process and indicated on the *Contract Routing Sheet* by the Purchasing/Contract Management Office. See the *Texas Procurement and Contract Management Guide*. And in sole source procurements (no-bid), the initiating department's contract liaison is responsible for ensuring that a properly completed sole source procurement form is attached to the *Contract Routing Sheet*.

(1) Verification of Best Value Standard

The University's Director of Purchasing/Contract Management or Assistant Director of Purchasing/Contract Management shall:

- (a) approve each MSU contract for which MSU is required to purchase goods or services using the best value standard;
- (b) ensure that, for each contract, MSU documents the best value standard used for the contract;
- (c) acknowledge in writing on the *Contract Routing Sheet* that MSU complied with MSU's and the State Comptroller's contract management guide in the purchase; and
- (d) for each purchase of goods or services for which MSU is required to use the best value standard, ensure that MSU uses the State Comptroller's vendor performance tracking system to determine whether to award a contract to a vendor reviewed in the tracking

system and includes in the vendor performance tracking system information on whether the vendor satisfied that standard.

(2) Contractor Selection

The University's procurement process should be sufficient to ensure that the best contractors for the best value are selected fairly and objectively and the following best practices observed:

- (a) whenever feasible, and unless prohibited by law or other restrictions, contractors should be selected through competitive procurement proceedings;
- (b) past performance should be considered in subsequent selection/contract renewal decisions; and
- (c) formal documented procedures should be used to assess prospective contractors' strengths and weaknesses.

If the Director or Assistant Director of Purchasing/Contract Management certifies that procurement for the proposed contract is a sole source, such certification must be prepared prior to contract execution and attached to the *Contract Routing Sheet*.

The MSU Purchasing/Contract Management Office is not authorized to allow the contractor to commence work before the contract is executed (signed). See page 91 of the *Texas Procurement and Contract Management Guide*.

(3) Payment/Reimbursement Methodology

The methods used by the University to establish contractor reimbursement should be sufficient to ensure that the University pays a fair and reasonable price for goods and services and the following best practices are observed:

- (a) prior to the contract award, the cost of goods or services, as well as the goods or services themselves, should be analyzed to determine the most effective payment methodology;
- (b) approval of proposed contractor budgets should focus on ensuring that proposed expenses are reasonable and necessary to accomplish program objectives and both program results and contractor efficiency should be considered as part of the budget approval process; and
- (c) for unit-rate contracts, the rate-setting process should ensure that there is a reasonable correlation between the quality of the services provided, the costs of providing the services, and the rate paid.

- g. All contracts valued at \$1 million or more, or that otherwise require approval by the Board of Regents, require the contractor to complete an online Certificate of Interested Parties form (Form 1295) *before* the contract may be signed. The contractor may access and complete the Form 1295 on the Texas Ethics Commission website; and then print, sign, notarize form, and e-mail it to the MSU Purchasing/Contract Management Office; MSU then has 30 days to acknowledge the filing online (which is generally performed by the University's Controller). See the sample contract clause on page 10 of this *MSU Contract Management Handbook*.

- h. Upon completion, the Purchasing/Contract Management Office shall indicate its approval on the *Contract Routing Sheet* and will, through its contract management coordinator, forward the contract and any attachments along with the completed contract routing sheet and any attachments (e.g., sole source procurement; if required, a completed Certificate of Interested Parties Form 1295) for approval by the appropriate University official(s).
- i. Additional responsibilities:
 - (1) notifies departments concerning the status of the contracts as they progress through the review process;
 - (2) verifies that bonds and insurance are provided as required by the contract or University policy;
 - (3) notifies departments when contracts are expiring and require procurement or renewal;
 - (4) closes out agreements upon completion and assists departments with the *Vendor/Contract Performance Report* in accordance with the terms and conditions of the contract; and
 - (5) reports non-compliance of contracting policies and procedures to the University's Internal Auditor.

6. Required Contract Approvals

- a. In accordance with Section 51.9337 (d), (e) of the *Texas Education Code*, the types and values of contracts that must be approved by the MSU Board of Regents and the types and values for which contracting authority is delegated by the Board to the University's President and by the President to other officers and employees of MSU are contained in Section C (Contract Approval Process) of MSU Policy 2.24 (Approval and Execution of University Contracts) listed below, and each and every contract must be reviewed and approved as indicated below and evidenced by (attached to) a properly completed *Contract Routing Sheet* prior to being signed by a person with delegated authority in accordance with Section D (Contract Signature Authorization Process) of MSU Policy 2.24:

Contract Term	Approval Required
Contracts of \$500,000 or more per year (except that the following are exempt from these provisions: contracts related to bequests, gifts, or grants to the University, other than real property, in accordance with University policies and procedures; and interagency agreements for the purchase of electricity and natural gas through the Texas General Land Office's state energy marketing program; and contracts for the purchase of electricity and natural gas through a provider other than the Texas General Land Office that do not exceed \$2 million per year for a total term not to exceed ten years)	Board of Regents

Contracts involving the acquisition, purchase, sale, or encumbrance of real property (except that a mineral interest in real property having a monetary cost or value of less than \$100,000 is exempt from this provision)	Board of Regents
Contracts in excess of five years (except that the following are exempt from this provision: a contract that can be terminated without cause with notice of 120 days or less; and leases of mineral rights having a monetary cost or value of less than \$100,000)	Board of Regents
Contracts that involve employment of the President of the University	Board of Regents
Contracts that involve athletic conference membership	Board of Regents
Contracts of \$500,000 or more per year related to: the acceptance of bequests, gifts, or grants to the University, other than real property, in accordance with University policies and procedures; and interagency agreements for the purchase of electricity and natural gas through the Texas General Land Office's state energy marketing program; and contracts for the purchase of electricity and natural gas through a provider other than the Texas General Land Office that do not exceed \$2 million per year for a total term not to exceed ten years	President
Contracts of \$100,000 or more, but less than \$500,000 per year	President
Contracts related to the purchase, sale, or encumbrance of a mineral interest in real property having a monetary cost or value of less than \$100,000	President
Contracts and notices of employment for University personnel	President
Licenses or other conveyances of intellectual property owned or controlled by the University	President
Contracts of less than \$100,000 per year	President or Appropriate Vice President
Contracts involving grant proposals for sponsored research, including institutional support grants	President or Provost and Vice President for Academic Affairs; Vice President for Administration & Finance; Vice President for University Advancement & Public Affairs; and Appropriate Vice President

Contracts involving non-monetary affiliation, articulation, and clinical agreements	President or Provost and Vice President for Academic Affairs; and Appropriate Vice President
Contracts for professional and consulting services	President and Vice President for Administration & Finance
Fiscal approval of contracts of \$50,000 or more per year (except that all University employment contracts are exempt from this provision)	Vice President for Administration & Finance
Approval of all contracts for information technology	Vice President for Administration & Finance
Approval of all contracts unless using an unmodified standard contract form pre-approved in writing by the Office of General Counsel	General Counsel

- b. A contract not reviewed and approved as required by subsection 6.a above is void.

7. Contract Review by the University's General Counsel

- a. All contracts must be reviewed and approved as to form and legal sufficiency by the University's Office of General Counsel before execution (signature). The Office of General Counsel may approve standard contract forms which, if non-substantive changes are made to the standard contract form, may be used without obtaining further approval from the Office of General Counsel. Changes to the names of the parties, amount of consideration, date, and term are examples of non-substantive changes.
- b. If the contract is not an unmodified standard form that has been pre-approved in writing by the University's General Counsel, the General Counsel will review the contract and accompanying routing sheet to ensure that:
- (1) the contract complies with applicable federal and state law and regulations (including state purchasing requirements), and applicable University policies and procedures;
 - (2) the parties' obligations are clearly set forth in the contract and it contains all of the important items;
 - (3) contract provisions are sufficient to hold contractors accountable for delivery of quality services and prevent the inappropriate or inefficient use of public funds, and
 - (4) the following best practices are observed:
 - (a) clear statements of services and goods expected from the contractor;
 - (b) clearly defined performance standards and measurable outcomes;
 - (c) clear statements describing how contractor performance will be evaluated;
 - (d) sanctions sufficient to hold contractors accountable for failing to meet intended objectives;

- (e) appropriate restrictions regarding contractors' use of public funds; and
 - (f) specific audit clauses that allow the University and other oversight entities (e.g., Texas State Auditor's Office) access to contractor books and records.
- c. Normally, the General Counsel seeks input from the appropriate parties and requests that any necessary changes are made and, if necessary, the contract be resubmitted for further review.
- d. The process is repeated until an appropriate document is developed and ready for signatures. The General Counsel will forward the approved contract (along with the completed routing sheet indicating the General Counsel's approval) to the Purchasing/Contract Management Office for submission to the authorized official for signature.

D. Contract Signature Authority

An officer or employee of MSU may not execute a document for the University's Board of Regents unless the officer or employee has authority to act for the Board and the authority is exercised in compliance with applicable conditions and restrictions, including state law and MSU policies and procedures.

1. The advance contract review process must be completed *before* the contract may be signed on behalf of the University by an individual with appropriate signature authority in accordance with MSU Policy 2.24.
2. It is expected that those authorized to sign contracts have reviewed them and are satisfied with their provisions and that the University's advance contract review requirements have been followed.
3. The following signature authority has been authorized by the Board of Regents and approved by the President and is contained in Section D (Contract Signature Authorization Process) of MSU Policy 2.24:

Contract Term	Signature Approval
Contract signature authorization for contracts approved by the Board of Regents, unless otherwise specified by the Board	President or President's designee
Contract signature authorization for contracts of \$500,000 or more per year related to: the acceptance of bequests, gifts, or grants to the University, other than real property, in accordance with University policies and procedures; and interagency agreements for the purchase of electricity and natural gas through the Texas General Land Office's state energy marketing program; and contracts for the purchase of electricity and natural gas through a provider other than the Texas General Land Office that do not exceed \$2 million per year for a total term not to exceed ten years	President or President's designee
Contract signature authorization for all contracts of \$100,000 or more but less than \$500,000 per year	President or President's designee

Contract signature authorization for all contracts related to the purchase, sale, or encumbrance of a mineral interest in real property having a monetary cost or value of less than \$100,000	President or President's designee
Contract signature authorization for all contracts and notices of employment for University personnel	President or President's designee
Contract signature authorization for licenses or other conveyances of intellectual property owned or controlled by the University	President or President's designee
Contracts for professional and consulting services	President or President's designee
Contract signature authorization for all contracts of less than \$100,000 per year	President or Appropriate Vice President
Contract signature authorization for all contracts involving grants for sponsored research, including institutional support grants, and all non-monetary affiliation and clinical agreements	President or Provost and Vice President for Academic Affairs
Contract signature authorization for all non-monetary affiliation and clinical agreements	President or Provost and Vice President for Academic Affairs
Contract signature authorization for all contracts for information technology	President or the Vice President for Administration & Finance

4. A contract not executed (signed) as required by subsection D.3 above is void. An individual who signs a contract without having the authority to do so may be individually responsible for fulfilling the obligations required by the contract.
5. Once contracts are signed by all parties, the Purchasing Office will create purchase orders (except for contracts not involving a purchase, e.g., affiliation or facility use agreements).

E. Delegation of Signature Authority

1. Delegation of signature authority to a designate may be made by the Chairperson of the Board of Regents, the President of the University, or the Vice President for Administration and Finance only and must:
 - a. be in writing;
 - b. specify the need for compliance with these contract approval and signature authorization requirements;
 - c. be retained by the party making the delegation and the party receiving the delegation; and
 - d. a copy of the delegation sent to the Controller, Office of General Counsel, and the Purchasing/Contract Management Office.

2. The University retains the authority not to recognize a contract as binding against the University unless all signatories to the contract have proper contract signature authority as of the date the contract was entered into.

F. Recordkeeping/Reporting

1. Except for employment contracts which are maintained by the Human Resources Department and donor agreements maintained by the University Advancement Office, all contracts subject to these contract management procedures, including all attachments, and all contract solicitation documents related to the contract, and the *Contract Routing Sheet*, shall be:
 - a. maintained by the Purchasing/Contract Management Office; and
 - b. maintained in accordance with state retention laws and policies (See *Texas Government Code* Section 441.1855) and the University's records management policy and records retention schedule (MSU Policy 4.125) as follows:
 - (1) MSU shall retain in its records each contract entered into by MSU and all contract solicitation documents related to the contract; and
 - (2) MSU may destroy the contract and documents only after the seventh anniversary of the date:
 - (a) the contract is completed or expires; or
 - (b) all issues that arise from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the contract or documents are resolved.
2. The MSU Purchasing/Contract Management Office is responsible for ensuring that all state contract reporting requirements (e.g., Texas Comptroller of Public Accounts, including HUB, Legislative Budget Board (LBB), etc.) are completed in a timely manner and proper form.
 - a. Sections 2101.041 and 2261.257 of the *Texas Government Code* require MSU to report or provide using the State Comptroller's centralized accounting and payroll system each contract entered into by MSU as specified by the rules, policies, or procedures developed by the Comptroller, including:
 - (1) a brief summary of each contract that is quickly and easily searchable, including the contract's purpose, timeline, and deliverables;
 - (2) contract planning and solicitation documents;
 - (3) the criteria used to determine the vendor awarded the contract;
 - (4) if the contract was awarded based on best value to the state;
 - (a) a list of the factors considered in determining best value with the weight given each factor; and
 - (b) a statement regarding how the vendor awarded the contract provides the best value to the state in relation to other vendors who bid or otherwise responded to the contract solicitation;
 - (5) any statements of work and work orders prepared for under the contract;
 - (6) the proposed budget for the contract;
 - (7) any conflict of interest documents signed by MSU purchasing personnel participating in the planning, soliciting, or monitoring of the contract;

- (8) criteria used or to be used by MSU in monitoring the contract and vendor performance under the contract;
 - (9) a justification for each change order, contract amendment, contract renewal or extension, or other proposed action that would result in an increase in the monetary value of a contract with an initial value exceeding \$10 million; and
 - (10) additional supporting documentation and justification for a change order, contract amendment, contract renewal or extension, or other proposed action of a contract described by subdivision (9) that would result in an increase in the contract's monetary value by more than 20 percent (20%).
- b. Sections 2054.008, 2166.2551, 2254.006, and 2254.0301 of the *Texas Government Code* require MSU to report the following contract information to the LBB no later than 10 days after entering into the contract:
- (1) major information service contracts valued at \$100,000 or more;
 - (2) construction projects valued at \$14,000 or more;
 - (3) professional service contracts valued at \$14,000 or more; and
 - (4) consulting service contracts valued at \$14,000 or more.

Section 322.020 of the *Texas Government Code* requires MSU to provide the LBB with copies of major contracts and solicitation documents.

Section 7.04 of Article IX in the 2014-2015 General Appropriations Act requires that all other contracts valued at \$50,000 or more and that are not already being reported under another statutory provision must be reported to the LBB before October 1 of each fiscal year.

- c. Posting/Reporting of certain contracts under Chapter 2261 of the *Texas Government Code*:
- (1) For each contract for the purchase of goods or services from a private vendor, MSU shall post on its Internet website:
 - (a) each contract MSU enters into, including contracts entered into without inviting, advertising for, or otherwise requiring competitive bidding before selection of the contractor, until the contract expires or is completed;
 - (b) the statutory or other authority under which a contract that is not competitively bid under subsection (a) is entered into without compliance with competitive bidding procedures; and
 - (c) the requests for proposals related to a competitively bid contract included under subsection (a) until the contract expires or is completed.

MSU may monthly post contracts described by subsection (1) that are valued at less than \$15,000.

- (2) MSU shall identify each contract that requires enhanced contract or performance monitoring (see section G.4 and [Appendix E](#), *infra*) and submit information on the contract to the President of MSU and the MSU Board of Regents; this may be accomplished by providing such information to the chair of the University's Compliance and Ethics Coordinating Committee for inclusion in the quarterly compliance update

submitted to the Board's Audit, Compliance, and Management Review Committee. MSU's Purchasing/Contract Management Office or its Director shall also immediately notify the President of MSU and the MSU Board of Regents of any serious issue or risk that is identified with respect to a contract monitored under this subsection.

Subsections (1) and (2) do not apply to a memorandum of understanding, interagency contract, interlocal agreement, or contract for which there is not a cost.

- d. Federal law - Section 117 of the Higher Education Act of 1965, as amended - requires that MSU report contracts or gifts from a foreign source that, alone or combined, have a value of \$250,000 or more for a calendar year. Using the Federal Student Aid (FSA) electronic application (E-App) at www.eligcert.ed.gov; go to Section K, Question 71. The information must be reported by January 31 or July 31 (whichever is sooner) after the date of receipt of the gifts/contract. The January 31 report should cover the period July 1 – December 31 of the previous year, and the July 31 report should cover January 1 - June 30 of the same year.

These recordkeeping/reporting requirements apply to any amendments, modifications, renewals, and extensions for specified contracts.

G. Monitoring Contracts

University contracts must be monitored to ensure proper execution and performance.

1. Contractor Oversight

- a. Contractor oversight is one of the key components of an effective system of contract management. Throughout the life of a contract, the University must hold contractors accountable for delivery of quality services and diligently and regularly monitor both the quality of the services contractors provide and whether contractors are using public funds effectively and efficiently.
- b. The University's contractor oversight should be sufficient to ensure that contractors consistently provide quality goods and services (by measuring performance against well-documented expectations) and that public funds are spent effectively and efficiently, and the following best practices observed:
 - (1) monitoring functions should focus on the outcomes of services provided and the cost-effectiveness/prudence of contractor expenditures in addition to compliance with regulations;
 - (2) results of monitoring reviews, audits, and investigations should be routinely followed up on to ensure corrective actions have been taken and to identify common problem areas;
 - (3) a formalized risk assessment process should be used to select contractors for review and identify the level of review necessary for each contractor; and
 - (4) standardized criteria should be established to evaluate contractor performance.

2. Contract Database Management System

- a. The University's monitoring procedures are designed to ensure compliance with all significant contract provisions, program requirements, and finance-related requirements.
- b. The University's Purchasing/Contract Management Office will maintain and update a current database for the purpose of contract information and monitoring. Upon signature by individuals with appropriate signature authority, all contracts, including any amendment, change order, extension, or renewal of a signed contract shall be added to the University's contract management system by the Office of Purchasing/Contract Management.
- c. The system serves as a repository for all contracts that obligate the University, and provides information for tracking and monitoring. The only exceptions are employment contracts which are maintained by the Human Resources Department and donor agreements maintained by the University Advancement Office.

3. Contract Liaison

a. Appointment

When a contract is executed in accordance with these procedures, the designated employee from the University department initiating the contract is appointed as the contract liaison and is responsible for monitoring the contract for proper execution and performance from the start date of the contract through completion and final payment.

b. Role and Responsibilities

The contract liaison is responsible for monitoring that contract requirements are satisfied, goods and services are delivered in a timely manner, safety and risk issues are addressed, and required payments are made. The contract liaison is also responsible for striving to resolve discrepancies and timely reporting of any unresolved discrepancies and/or problems to the administrator who signed the contract and the Vice President for Administration and Finance.

Upon completion of the contract, the contract management coordinator will enter completion information into the contract management system. In addition, the contract management coordinator shall update the status field in the contract management system as of fiscal year end for each open contract and more often if appropriate. Contract amendments, extension, and renewals must also be monitored in the same manner as the original contract.

4. Monitoring Procedures

Monitoring the contractor's performance is a key function of proper contract administration. The purpose is to ensure that the contractor is performing all contract obligations and for MSU to be aware of and address any developing problems or issues.

The monitoring procedures a contract liaison uses will vary depending on the level of risk of the contract. Monitoring methods may include but are not limited to: desk reviews, site visits, status telephone calls, expenditure document review, spot audits, and scheduled audits.

- a. Contracts with Risk Assessment Matrix Level of Low or Medium
- Contracts with risk assessment matrix levels of low (0-13) or medium (14-26) (see [Appendix A](#)) should be monitored for performance to ensure goods and services conform to the contract requirements. The applicable contract liaison will submit to the contract management coordinator a *Vendor/Contractor Performance Report* (see [Appendix D](#)) on the status of all open contracts with risk assessment matrix levels of low or medium. Such reports must be submitted as necessary (developing problems or issues) but at a minimum prior to the close of each fiscal year and upon completion of the contract. A *Vendor/Contractor Performance Report* will not be required for the closeout of certain contracts, including contracts with a value less than \$25,000 (see section G.6.a (12), *infra*).
- b. Contracts Requiring Enhanced Contract or Performance Monitoring or the Immediate Attention of Contract Management Staff
- (1) Contracts with Risk Assessment Matrix Levels of High or Extremely High
- Enhanced monitoring is an increased level of monitoring, beyond the regular monitoring normally used. A higher degree of contract or performance monitoring is required for contracts with a high (27-39) or extremely high (40-52) level of risk (see [Appendix A](#)).
- For these contracts, the contract liaison must review the contract to identify deliverables and develop a monitoring and performance plan/checklist for each contract taking into account the level of risk.
- Because risk assessment is a dynamic process that should be updated regularly to reflect the results of enhanced monitoring, the contract liaison must perform the following contract monitoring procedures and submit a completed *Monitoring and Performance Checklist* (see [Appendix E](#)) to the contract management coordinator as often as is necessary (developing problems or issues) but at a minimum prior to the close of each fiscal year:
- (a) monitoring the contractor's progress and performance to ensure goods and services conform to the contract requirements; depending on the nature of contract, the contract liaison may need to conduct one or more site visits and/or contractor meetings;
 - (b) documenting required contractor visits, tests, and significant events;
 - (c) reviewing required reports submitted by the contractor demonstrating compliance;
 - (d) resolving disputes in a timely manner;
 - (e) verifying receipt of contract deliverables in accordance with the contract terms and maintaining detailed supporting documentation;
 - (f) reviewing contractor's invoices and reconciling and verifying payments with the contract terms and maintaining proper documentation;
 - (g) reviewing compliance with applicable laws, regulations, and policies and procedures and consulting with the applicable University department if there are any concerns (Vice President for

Administration and Finance, General Counsel, Human Resources, etc.);

- (h) documenting and immediately reporting to MSU's Director of Purchasing/Contract Management any serious issue or risk that is identified; and
- (i) prior to the closeout of a contract, completing and submitting to the Purchasing/Contract Management Office the *Vendor/Contractor Performance Report*. Note that the *Vendor/Contractor Performance Report* will not be required for the closeout of certain contracts, including contracts with a value less than \$25,000 (see section G.6.a (12), *infra*).

(2) Contracts Requiring the Immediate Attention of Contract Management Staff

(a) Contracts for Goods or Services with Value Exceeding \$1 Million

For each contract for the purchase of goods or services that has a value exceeding \$1 million, the MSU Purchasing/Contract Management Office shall document the following information (see [Appendix D](#)):

- i. compliance with financial provisions and delivery schedules under the contract;
- ii. corrective action plans required under the contract and the status of any corrective action plan;
- iii. any serious issue or risk that is identified and such information is submitted to the President of MSU and the MSU Board of Regents; and
- iv. any liquidated damages assessed or collected under the contract.
- v. The MSU Purchasing/Contract Management Office shall verify:
 - (i.) the accuracy of any information reported under subsections (2)(a)(i), (ii), and (iii) above that is based on information provided by a contractor; and
 - (ii.) the delivery of goods and services scheduled for delivery under the contract.

(b) Contracts for Goods or Services with Value Exceeding \$5 Million

For each MSU contract for the purchase of goods or services that has a value exceeding \$5 million, the MSU Purchasing/Contract Management Office must (see [Appendix E](#)):

- i. verify in writing that the solicitation and purchasing methods and contractor selection process comply with state law and MSU policy; and
- ii. submit to the President of MSU and the MSU Board of Regents information on any potential issue that may arise in the solicitation, purchasing, or contractor selection process, and any other serious issue or risk that is identified.

(3) Contract Reporting Requirements

Except for a memorandum of understanding, interagency contract, interlocal agreement, or contract for which there is not a cost, MSU's Purchasing/Contract Management Office or its Director shall submit information to the President of MSU and MSU's Board of Regents on each contract that requires enhanced contract or performance monitoring and/or the immediate attention of contract management under subsection G.4.b of this *MSU Contract Management Handbook*; this may be accomplished by providing such information to the chair of the University's Compliance and Ethics Coordinating Committee for inclusion in the quarterly compliance update submitted to the Board's Audit, Compliance, and Management Review Committee. MSU's Purchasing/Contract Management Office or its Director shall also immediately notify the President of MSU and MSU's Board of Regents of any serious issue or risk that is identified with respect to a contract monitored under this subsection (G.4.b).

These reporting requirements apply to any amendments, modifications, renewals, and extensions for each contract that requires enhanced contract or performance monitoring and/or the immediate attention of contract management under subsection G.4.b of this *MSU Contract Management Handbook*.

5. Poor or Under Performance by Contractor

If a contract liaison determines that the contractor's performance is not acceptable, the contract liaison should notify the responsible University administrator identified on the contract routing sheet. This administrator in consultation with the Vice President for Administration and Finance, the Director of the Office of Purchasing/Contract Management, and General Counsel will determine the appropriate action, which may include withholding some or all of payment. The University should impose adequate sanctions and spending restrictions on contractors who are identified as not meeting expectations. When contractors demonstrate repeated inability to meet expectations, they should be denied the privilege of contracting with the University.

6. Contract Closeout

Contract closeout begins when the contract is complete with all services performed and products delivered. The closeout process is final when all administrative actions are completed, all disputes settled, and final payments are made. The process can be simple or complex depending on the contract type for cost-reimbursement contracts. This process requires close coordination between the Purchasing/Contract Management Office, the contract liaison, and the contractor. Contract closeout is an important aspect of contract administration.

a. Closeout file contents (if applicable):

- (1) encumbrance documentation or purchase order and any addenda;
- (2) fully executed copy of contract (both parties' signatures);
- (3) submitted proposals;
- (4) RFP;
- (5) best and final offers;

- (6) proposal tabulation;
- (7) appropriate justification;
- (8) award recommendation;
- (9) HUB participation plans and supporting documentation (greater than \$100,000);
- (10) correspondence;
- (11) review reports; and
- (12) vendor/contractor performance.

A *Vendor/Contractor Performance Report* (see Appendix D) will not be required on the following contracts:

- (a) contracts with a value less than \$25,000;
- (b) publishing agreements for the print shop;
- (c) sponsorship agreements for Athletics;
- (d) University employment contracts and donor agreements;
- (e) membership fees and dues;
- (f) purchases from federal agencies;
- (g) purchases from the Texas Department of Criminal Justice;
- (h) purchases from the Texas Industries for the Blind and Handicapped;
- (i) subscriptions, advertisements, and publications; and
- (j) lecturers and guest speakers.

b. Random and Planned File Review

Contract /Agreement Performance Reviews: On a random basis during the “closeout” of a contract/agreement, the Purchasing/Contract Management Office will conduct a review of the contract/agreement.

Such reviews, at a minimum, will seek to ensure the following:

- (1) the contractor is in compliance with the terms, conditions, and requirements of the contract/agreement;
- (2) MSU is in compliance with the terms, conditions, and requirements of the contract/agreement;
- (3) purchase orders issued under the contract/agreement are in compliance with the terms, conditions, and requirements of the contract/agreement, if applicable; and
- (4) payments are in compliance with the terms and conditions of the contract/agreement.

7. Reporting Vendor Performance to State Comptroller

- a. After a contract is completed or otherwise terminated, MSU is required under Section 2155.089 of the *Texas Government Code* to review the vendor’s performance under the contract.
- b. The Purchasing/Contract Management Office shall report to the State Comptroller, using the vendor performance tracking system established by the Comptroller, on the review results regarding a vendor’s performance under a contract.

H. Annual Review/Assessment

1. Scope of Annual Review/Assessment

An effective system of contract management includes enforcement of policies and procedures through proper oversight of the contract management function. The contract management procedures must be annually assessed and identified improvements implemented.

The University's Vice President for Administration and Finance, Controller, General Counsel, and the Director of the Office of Purchasing/Contract Management will annually review the University's contract management procedures and implement identified improvements. The review/assessment shall include the four key phases of contract management:

- a. contractor selection;
- b. contract payment/reimbursement methodology;
- c. contract establishment; and
- d. contractor oversight.

2. Internal Audits

The University's Internal Auditor shall include contract administration in the risk assessments performed on the annual audit plan.

- a. Internal audits conducted by the University's Office of Internal Audits shall provide a systematic, disciplined approach to evaluate and improve the effectiveness of MSU's risk management, control, and governance processes related to contracts and shall include risk-based testing of contract administration.
- b. The University's Internal Auditor shall have full and unrestricted access to all institutional property, personnel, and records and must report directly to the Board of Regents in accordance with Chapter 2102 of the *Texas Government Code*.
- c. The University's Internal Auditor shall annually assess whether MSU has adopted the rules and policies required by Section 51.9337 of the *Texas Education Code* and shall submit a report of findings to the State Auditor.
- d. In auditing the purchase of goods and services by MSU, the State Auditor is required under Section 51.9337 of the *Texas Education Code* to determine whether MSU has adopted the required rules and procedures. If the State Auditor determines that MSU has failed to adopt the required rules and policies, the State Auditor is required to report that failure to the Legislature and to the MSU Board of Regents and is further required to, in consultation with MSU, adopt a remediation plan to bring MSU into compliance. If MSU fails to comply within the time established by the State Auditor, the State Auditor is required to find MSU to be in noncompliance and report that finding to the Legislature and State Comptroller.
 - (1) In accordance with a schedule adopted by the State Auditor in consultation with the State Comptroller, MSU's authority to acquire goods and services as provided by Sections 51.9335 or 73.115 of the *Texas Education Code* will be suspended if MSU fails to comply with the remediation plan under subsection H.2.d. above within the time established by the State Auditor.

- (2) If such suspension occurs, the laws, including Subtitle D, Title 10, *Texas Government Code*, and Chapter 2254, *Texas Government Code*, governing acquisition of goods and services by state agencies from which MSU is otherwise exempt, shall apply to MSU's acquisition of goods and services.

I. Training

1. All MSU purchasing personnel must receive the training and continuing education required by rule by the State Comptroller, which must include ethics training. An employee who is required to receive the training may not participate in purchases by MSU unless the employee has received the required training or received equivalent training from a national association recognized by the State Comptroller.
2. The University shall provide training on a regular basis for:
 - a. officers and employees of the University concerning the University's code of ethics concerning its:
 - (1) general standards of conduct and that each officer or employee is expected to obey all federal, state, and local laws and is subject to disciplinary action for a violation of those laws;
 - (2) policies governing conflicts of interest, conflicts of commitment, and outside activities, ensuring that the primary responsibility of officers and employees is to accomplish the duties and responsibilities assigned to that position;
 - (3) conflict of interest policy that prohibits employees from having a direct or indirect financial or other interest, engaging in a business transaction or professional activity, or incurring any obligation that is in substantial conflict with the proper discharge of the employee's duties related to the public interest;
 - (4) conflict of commitment policy that prohibits an employee's activities outside the University from interfering with the employee's duties and responsibilities to the University;
 - (5) policy governing an officer's or employee's outside activities, including compensated employment and board service, that clearly delineates the nature and amount of permissible outside activities and that includes processes for disclosing the outside activities and for obtaining and documenting University approval to perform the activities;
 - (6) policy that prohibits an officer or employee from acting as an agent for another person in the negotiation of the terms of an agreement relating to the provision of money, services, or property to the University; and
 - (7) policy governing the use of institutional resources.
 - b. officers and employees of the University authorized to execute contracts for the University or to exercise discretion in awarding contracts, including training in ethics, selection of appropriate procurement methods, and information resources purchasing technologies.

3. The Office of the General Counsel and the Purchasing/Contract Management Office will provide contract management training to University personnel and departments on a regular basis and upon request.

APPENDIX A

Risk Assessment Matrix (RAM)

Table 1: Evaluation Criteria

Factor	Low 1	Medium 2	High 3	Extremely High 4
Total Cost	<\$25k	>= \$25k but <\$100k	>= \$100k but <\$1 million	>\$1 million
Type of Contract Purchase	Interagency, MOU or Interlocal	Contract less than 25k	Consulting, Emergency, Sole Source, Proprietary, or Construction > \$25k	Major information technology purchase
Payment Type/Structure	Fixed price or contingency	Rate or Fee for Services	Cost Reimbursement >= \$100k but <\$1 million	Cost Reimbursement
Essential MSU Function	Contract services are not essential to MSU's mission	Contract services are moderately essential to MSU's mission	Contract services are essential to MSU's mission >= \$100k but <\$1 million	Contract services are essential to MSU's mission
Percentage of Services Performed by Subcontractors	No Subcontractor involvement	Subcontractors account for less than 50% of contract work performed	Subcontractors account for 50% to 75% of contract work performed	Subcontractors account for more than 75% of contract
Stability & Experience of Vendor's Key Management	No recent change and significant experience	No recent change, but not significant experience; or recent change but significant experience	Recent change and not significant experience	Recent change and less than 1 year of experience
Compliance History	No issues of non-compliance	Moderate instances of non-compliance	Substantial finding of non-compliance	Substantial finding of non-compliance –
Past Programmatic Performance	Met or exceeded all output and outcome measures	Met 90% or more but less than 100% of output and outcome measures	Met 75% or more but less than 90% of output and outcome measures	Met less than 75% of output and outcome
Audit Results	No audit required or no issues or findings in audit(s)	Moderate issues or findings in audit(s)	Substantial issues or findings in audit(s)	Substantial issues or findings in audit(s)
Number of Years Vendor in Business	More than 5 years	3 to 5 years	1 to 3 years	Less than 1 year
Performance Measures	Contract contains multiple defined and measurable performance	Contract contains at least one clearly defined or measurable performance measure	No performance measures included in contract >= \$100k but <\$1 million	No performance measures included in
Deliverables	Contract contains multiple deliverables that are clearly defined	Contract contains at least one clearly defined deliverable	No deliverables included in contract	No deliverables included in contract
Financial Reports Required	>= \$500k but <\$1 million – substantial financial reports required	>= \$1 million but <\$1 million – substantial financial reports required	>= \$1 million - minimal financial reports required	>= \$1 million - no financial reports

Table 1A:

Evaluation Table (Use the criteria in Table 1 to determine the score for each factor and total up the scores.)

Project Name:		
Factor	Comments	Score
Total Cost		
Type of Contract Purchase		
Payment Type/Structure		
Essential MSU Function		
Percentage of Services Performed by Subcontractors		
Stability & Experience of Vendor's Key Management		
Compliance History		
Past Programmatic Performance		
Audit Results		
Number of Years in Business		
Performance Measures		
Deliverables		
Financial Reports Required		
Other		
	TOTAL	

Table 2: Risk Assessment Matrix (Use the scores provided in Table 1A to determine the level of risk.)

Risk Level		Point Range	Description
Extremely High Risk	E	40-52	Projects include unexpected levels of risk, including critical issues that are likely to occur if the contract is not properly managed. Contract management staff must consider possible contract risks, document and include them in the contract management plan and determine how risk will be monitored.
High Risk	H	27-39	Projects contain potentially serious risks that may occur. The contract management plan must include language that ensures proactive strategies to reduce risk and the method of monitoring the risk.
Medium Risk	M	14-26	Projects contain some level of risk that may occur. Contract management staff should consider if a contract management plan is required. If a contract management plan is not required, the purchaser will identify and document with an explanation of how risks will be managed. This information will be maintained with other contract documentation.
Low Risk	L	0-13	Projects contain minimal risks and are unlikely to occur. Contract management staff can proceed with contracting as planned.

Summary of Risk Management:

Risk Mitigation Plan:

Contract Liaison/Monitor

Date

Department Head

Date

APPENDIX B

Contract Routing Sheet

MSU Contract Routing Sheet			
IMPORTANT: Contracts are to be signed by the delegated authority after the completion of this review process.			
<input type="checkbox"/> New Contract <input type="checkbox"/> Renewal Contract <input type="checkbox"/> Change Order <input type="checkbox"/> Other: _____			
Revenue Account Number: _____		Contract Amount: _____	
Expense Account Number: _____		Date Routed: _____	
P.O. Number: _____		Vendor Code: _____	
Departments shall complete this form in its entirety. Indicate non-applicable items by N/A.			
Contract Purpose: _____			
Contract Period: _____ Does Contract Renew? Yes <input type="checkbox"/> No <input type="checkbox"/> If so, When: _____			
Contract Deliverables: _____			
Board of Regents (BOR) Approval Required: Yes <input type="checkbox"/> No <input type="checkbox"/> Meeting Date: _____ Board Item No: _____			
This contract must go to the BOR if: it is \$500,000 or greater per year (except bequests, gifts, or grants, or a State energy agreement), or involves acquisition, purchase, sale, or encumbrance of real property (except mineral lease less than \$100,000), or a contract in excess of 5 years (except with 120 days or less cancellation notice or mineral lease less than \$100,000). If BOR approval required, BOR specify signature authorization other than President? Yes <input type="checkbox"/> No <input type="checkbox"/> Attached <input type="checkbox"/>			
MSU Office of Origin: _____		Individual Responsible: _____ Phone No: _____	
University Funds Required: No <input type="checkbox"/> Yes <input type="checkbox"/> \$ _____		Verified Available: Yes <input type="checkbox"/> No <input type="checkbox"/> Revenue Contract Yes <input type="checkbox"/> No <input type="checkbox"/>	
Contractor: _____		Contractor's email address: _____	
Contractor Representative: _____		Phone: _____ Fax: _____	
Contractor's Address: _____			
Resident Contractor: Yes <input type="checkbox"/> No <input type="checkbox"/> State of Non-Resident Contractor: _____ Is Contractor an MSU Employee: Yes <input type="checkbox"/> No <input type="checkbox"/>			
Procurement: _____ bid out _____ sole source (attached) _____ State contract _____ other: _____			
Historically Underutilized Business (HUB): Yes <input type="checkbox"/> No <input type="checkbox"/> HUB Plan (required over \$100,000): Yes <input type="checkbox"/> No <input type="checkbox"/>			
Review and Approval Signatures:			
Department _____		Date _____	
<i>By signing form, Department verifies they will abide by the terms of the agreement and has obtained approval of any other department(s) contributing technical support, services, and/or personnel (e.g., IT Dept.-hardware/software & Sec. 508 contract addenda attached; office of sponsored programs for external funding - grants & gifts)</i>			
Initiating Dept.'s Designated Contract Liaison/Monitor _____		Date _____	
Other Dept. Supervisor(s) Contributing Personnel/Services _____		Date _____	
Dean _____		Date _____	
<i>Approval required on all contracts for reporting departments/grants</i>			
Associate Vice President _____		Date _____	
<i>Approval required on all contracts for reporting departments/grants</i>			
Appropriate Vice President _____		Date _____	
<i>Approval required on all contracts for reporting departments; VP Univ. Advancement & Public Affairs on all grants; signature authority of appropriate VP for contracts of less than \$100,000 per year for reporting departments</i>			
Provost and Vice President for Academic Affairs _____		Date _____	
<i>Approval required on: all contracts for reporting departments, affiliation/clinical agreements (or President's), and all sponsored research grants; signature authority for contracts of less than \$100,000 per year for reporting departments, affiliation/clinical agreements</i>			
Vice President for Administration and Finance _____		Date _____	
<i>Approval required on: all contracts for reporting departments, fiscal approval of contracts of \$50,000 or more per year, all sponsored research grants, and professional and consulting services; signature authority for: contracts of less than \$100,000 for reporting departments</i>			
Purchasing /Contract Management Office _____		Date _____	
<i>Approval required on all contracts (except University employment contracts)</i>			
Proposed contract attached? Yes <input type="checkbox"/> No <input type="checkbox"/> If applicable, a copy is attached of the delegation of signature authority signed by _____			
Required Notice for Professional/Consulting Services (Tex. Govt. Code §2254) by: LBB Yes <input type="checkbox"/> No <input type="checkbox"/> Gov.'s Budget/Planning Office Yes <input type="checkbox"/> No <input type="checkbox"/>			
Verify that the solicitation, purchasing methods, and contractor selection process comply with State law and University policy? Yes <input type="checkbox"/> No <input type="checkbox"/>			
Verify that University documented best value standard used and complied with University's & Comptroller's contract management guide? Yes <input type="checkbox"/> No <input type="checkbox"/>			
Verify that University has complied with required TEC filing disclosure of interested parties (Tex. Govt. Code §2252.908)? Yes <input type="checkbox"/> No <input type="checkbox"/>			
Other Reviews and Approval Signatures, as required:			
General Counsel _____		Date _____	
<i>Approval required on all contracts unless using an unmodified standard contract form pre-approved in writing</i>			
Comment: _____			
President _____		Date _____	
<i>Approval required on all contracts: for direct reporting departments, of \$500,000 or more not requiring BOR approval, of \$100,000 or more but less than \$500,000, related to mineral interest in real property of less than \$100,000, licenses /conveyances of MSU intellectual property, professional and consulting services, and outside legal counsel; required signature authority (or designee) on all contracts: for reporting departments, of \$100,000 or more (except contracts otherwise specified by the BOR), for outside legal counsel</i>			
Comment: _____			
<i>This Section for Use by MSU Purchasing/Contract Management Office Only:</i>			

MSU OGC/bm: latest rev. 6/1/2018

PLEASE RETURN COMPLETED FORM TO THE MSU PURCHASING/CONTRACT MANAGEMENT OFFICE

APPENDIX C

STANDARD ADDENDUM TO AGREEMENT

Contracts with Midwestern State University (MSU), 3410 Taft Boulevard, Wichita Falls, Texas, are subject to the following terms and conditions, which are incorporated for all purposes into the Agreement to which they are attached. In the event of a conflict between the Agreement and this Addendum to Agreement, this Addendum shall govern. Any term or condition of the Agreement that is not superseded by a term or condition of this Addendum shall remain in full force and effect.

Payment. In accordance with Chapter 2251 of the *Texas Government Code*: (a) payment shall be made no later than thirty days following the later of (i) delivery of the goods or completion of the services and (ii) delivery of an invoice to MSU; and (iii) interest, if any, on past due payments shall accrue and be paid at the maximum rate allowed by law. Vendor must be in good standing, not indebted to the State of Texas, and current on all taxes owed to the State of Texas for payment to occur. Invoices and any required supporting documents must be presented to: Midwestern State University – Business Office, 3410 Taft Boulevard, Wichita Falls, TX 76308-2099.

Eligibility to Receive Payment. By entering into and performing under the Agreement, Vendor certifies that under Section 231.06 of the *Texas Family Code* and under Section 2155.004 of the *Texas Government Code*, it is not ineligible to receive the specified payment and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.

Tax Exempt. MSU is exempt from the payment of taxes and will provide necessary documentation confirming its tax exempt status.

Breach of Contract Claims Against MSU. Chapter 2260 of the *Texas Government Code* establishes a dispute resolution process for contracts involving goods, services, and certain types of projects. To the extent that Chapter 2260, Texas Government Code, is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by the parties to attempt to resolve any claim for breach of contract against MSU that cannot be resolved in the ordinary course of business.

Governing Law and Venue. This Agreement and any incorporated documents shall be construed and enforced under and in accordance with the laws of the State of Texas. Venue for any suit filed against MSU shall be fixed in any court of competent jurisdiction in Wichita County, Texas.

Travel Expenses. Reasonable travel, meals, and lodging expenses shall be charged in accordance with and shall not exceed State of Texas travel, meal, and lodging reimbursement guidelines applicable to employees of the State of Texas.

Delivery. Delivery shall be FOB Destination.

Public Information. MSU shall release information to the extent required by the Texas Public Information Act and other applicable law. If requested, Vendor shall make public information available to MSU in an electronic format.

Insurance. MSU, as an agency of the State of Texas, is insured for general liability insurance under a self-insurance program covering its limits of liability. The parties agree that such self-insurance by MSU shall, without further requirement, satisfy all insurance obligations of MSU under the Agreement.

Use of Name/Licensed Marks. Each party is the sole and exclusive owner of its name and Licensed Marks ("Licensed Marks" means the designs, trademarks, servicemarks, logotypes, seals, and certain logographics and/or symbols it has come to be associated with). Neither party may use the name or Licensed Marks of the other party in any advertising or promotional material except with the prior review, approval, and express written permission of the other party for a nonexclusive and nontransferable right to utilize the other party's name and/or Licensed Marks; likewise, neither party shall have the right to sublicense others to use the other party's name or Licensed Marks or to assign any part of them without the prior written consent of the other party. Each party reserves the right to review and approve all copy for news releases for the event. Permission required from MSU under this subsection must be obtained through its Marketing and Public Information Office.

Indemnification. To the extent authorized under the Constitution and laws of the State of Texas, Vendor shall hold MSU harmless from liability resulting from Vendor's acts or omissions arising out of the performance of this Agreement provided, however, Vendor shall not hold MSU harmless from any claims, demands, or causes of action arising in favor of any person or entity resulting directly or indirectly from negligence (whether sole, joint, concurring or otherwise) of MSU, its officers, agents, representatives, or employees, or any person or entity not subject to Vendor's supervision or control.

Independent Contractor. In performing the service, Vendor will be deemed an independent contractor and not MSU's agent or employee. This Agreement will not be construed to create any partnership, joint venture or other similar relationship between the parties.

Limitations. MSU is subject to constitutional and statutory limitations on its ability to enter into certain terms and conditions of the Agreement, which may include those terms and conditions relating to: liens on MSU property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers, and limitations on legal rights, remedies, requirements, and processes; limitations of time in which to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorney's fees; dispute resolution; and indemnities. Terms and conditions relating to these limitations will only be binding on MSU to the extent permitted by the Constitution and the laws of the State of Texas.

VENDOR: _____

MSU

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPENDIX D

Vendor/Contractor Performance Report

Midwestern State University Vendor/Contractor Performance Report

Instructions: This form is required to be prepared by the Contract Liaison and then submitted to the MSU Purchasing/Contract Management Office. For less than satisfactory evaluations or unacceptable evaluations, a copy will be submitted to the Contractor/Vendor. Supporting documentation of correspondence with Contractor/Vendor shall be attached to this evaluation form for record.

Part I – GENERAL CONTRACT DATA					
Contract No. (not project number)		Contract Date		Today's Date	
To: Vendor Name, Address, Fax number, VID Number			From: Department Name and Address (please include contact name, phone number, and e-mail address)		
<u>Description and location of work:</u>					
<u>FISCAL DATA</u>		<u>Amount of original Contract</u>	<u>Amount of Modifications (+ or -)</u>	<u>Liquidated Damages Assessed (if any)</u>	<u>Net Amount Paid to the Contractor</u>
<u>SIGNIFICANT DATES</u>		<u>Date of Award</u>	<u>Original Contract Completion Date</u>	<u>Revised Contract Completion Date</u>	<u>Date Work Accepted</u>
<u>Type and Extent of Subcontracting</u>					
Part II – PERFORMANCE EVALUATION OF CONTRACT					
<u>PERFORMANCE ELEMENTS</u>	<u>A (90% - 100%)</u>	<u>B (80% - 89%)</u>	<u>C (70% - 79%)</u>	<u>D (60% - 69%)</u>	<u>E (0% - 59%)</u>
Quality of Work					
Timely Performance					
Effectiveness Of Management					
Compliance with Labor Standards					
Compliance with Safety Standards					
Overall Evaluation					
<u>Detailed explanation (Please be specific; attach additional sheets if required):</u>					

Administrative Head or assigned Contract Liaison

Office of Purchasing/Contract Management Signature

Revised: 08/01/2016

APPENDIX E
Monitoring and Performance Checklist
For Contracts Requiring Enhanced Contract or Performance Monitoring
And/or the Immediate Attention of Contract Management Staff

Contract/Purpose: _____

MSU Office of Origin: _____ Department Head: _____

Contractor: _____ Contractor Rep: _____

Contracts Requiring Enhanced Contract or Performance Monitoring

1. Goods and services conform to the contract requirements.
Comments:
2. Conducting any necessary site visits and/or contractor meetings.
Comments:
3. Documenting required contractor visits, tests, and significant events.
Comments:
4. Reviewing required reports submitted by the contractor demonstrating compliance.
Comments:
5. Resolving any disputes in a timely manner.
Comments:
6. Verifying receipt of contract deliverables in accordance with the contract terms and maintaining detailed supporting documentation.
Comments:
7. Reviewing contractor's invoices and reconciling and verifying payments with the contract terms and maintaining proper documentation.
Comments:
8. Reviewing compliance with applicable laws, regulations, and policies and procedures and consulting with the applicable University department if there are any concerns.
Comments:
9. Prior to the closeout of the contract, completing and submitting to the Purchasing/Contract Management Office the *Vendor/Contractor Performance Report*.
Comments:
10. Other - including but not limited to documenting and immediately reporting to MSU's Director of Purchasing/Contract Management any serious issue or risk that is identified.
Comments:

Contract Liaison/Monitor	Date	Department Head	Date
--------------------------	------	-----------------	------

Contracts for Goods or Services with Value Exceeding \$1 Million

1. Compliance with financial provisions and delivery schedules under the contract.
Comments:
2. Corrective action plans required under the contract and the status of any corrective action plan.
Comments:
3. Any liquidated damages assessed or collected under the contract.
Comments:
4. Verify the accuracy of any information reported under subsections 1, 2, and 3 above that is based on information provided by a contractor.
Comments:
5. Verify the delivery of goods and services scheduled for delivery under the contract.
Comments:
6. Other - including but not limited to documenting any serious issue or risk that is identified and immediately submitting such information to the MSU President and Board of Regents.
Comments:

Contract Management Coordinator	Date
---------------------------------	------

Purchasing/Contract Management Director	Date
---	------

Contracts for Goods or Services with Value Exceeding \$5 Million

1. Verify in writing that the solicitation and purchasing methods and contractor selection process comply with state law and MSU policy.
Comments:
2. Submit to the President of MSU and the MSU Board of Regents information on any potential issue that may arise in the solicitation, purchasing, or contractor selection process.
Comments:
3. Other - including but not limited to documenting any serious issue or risk that is identified and submitting such information to the President of MSU and the MSU Board of Regents.
Comments:

Contract Management Coordinator	Date
---------------------------------	------

Purchasing/Contract Management Director	Date
---	------