Contracting and Risk
Using Contracts to Mitigate Risk

Presented by:
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Overview

• Our Purpose and Risk Philosophy
• Financial Risks
• Operational Risk
• Reputational Risk
• Fraud
• Compliance Risk
Role of PCS

**Our Mission**
Purchasing and Contracting Services (PCS) is a team of business professionals dedicated to public service and advancing the university’s mission. We are a service unit that empowers campus stakeholders to accomplish their goals, while successfully balancing efficiency, innovation, and risk. We accomplish this mission by:

- Obtaining the best value for the university and its stakeholders;
- Providing timely, creative, strategic, and practical business services;
- Fostering a climate of good faith, fair dealing, and compliance;
- Promoting access to university business opportunities;
- Partnering in the development and execution of university initiatives.
Values and Risk Philosophy

Our Values

• Obtain best value by minimizing the Total Cost of Ownership of goods, services, systems, policies, and processes.
• Understand that change is constant and inevitable: plan for and make incremental, managed change.
• Continuously improve.
• Use systems to make rule based decisions; use people to make decisions that require discretion and thought.
• **Know that risk cannot be eliminated, only mitigated: avoiding all risk eliminates all opportunity.**
• Be proactive; not reactive.
• Approach conflict from a “Me→Us→You” perspective.
• Value everyone’s contribution, understand other’s perspective.
• Communicate in a manner that is accessible to our audiences.
• Always offer solutions to add value.
Financial Risks

- Distributing Liability
- Ensuring recovery of damages
Distributing Liability

• Only accept liability for things you can control
• Indemnification Terms?
• Sovereign Immunity and the Tort Claims Act
  • Never waive it
  • Example, Oracle and the State of Oregon
Recovering

- Liquidated damages
- Insurance requirements
  - UO has high deductible (lower cost)
  - We attempt to minimize costs by requiring vendors to carry insurance
- Data recovery
- Software escrow
- Cost of replacement
Operational Risk

• How critical are the goods or services to our operations?
• What would happen if the goods or services are unavailable?
• Does our use or receipt of the good or services create liability?
Operational Risk Examples

• Cheetahs at JSMA!
• Whitewater rafting!
• Data security: ISO 27001, SOC 2 or HECVAT?
• Driving automobiles
• *Inability to change quickly*
Reputational Risk

- What will people think?
- Hard costs may pale in comparison
  - Threatens enrollment and funding
- Example: Boeing 737 MAX MCAS System
- Sam.gov
- Awareness of market conditions and current events
Fraud Prevention

- Lack of internal controls
- Override of existing controls
- Lack of management review
  - Perception of detection is directly correlated to the occurrence of occupational fraud.
- Active management plays a key role.
Compliance Risk

• Higher Ed is highly regulated:
  • FERPA
  • HIPAA
  • Title IX
  • Civil Rights Laws
  • ADA
  • Public Records Laws
  • NCAA Rules
  • Uniform Guidance
    • Agency level regulations
  • GDPR
  • Conflicts of interests laws
  • BOLI
  • IRS
  • Export Controls
    • ITAR and DOD?
  • And Many More!
UO Code of Ethics

- All UO employees must commit to follow the code of ethics annually.
- Covers four broad categories:
  - Best Value
  - Fairness
  - Honesty and Good Faith
  - Legal Compliance
Conflicts of Interest

• Oregon government ethic laws prohibit public officials from using office for financial gain, and require public disclosure of economic conflicts of interest.
  • This includes benefits that may be enjoyed by you, a relative (children, parents, spouse, and children or parents of spouse), or a member of your household (individuals that reside with you).

• You or your relatives are “associated” with a business if during the preceding calendar year that person:
  • Held an equity interest or debt instrument over:
    • $1,000 in a privately held firm,
    • $100,000 or more in a publicly held corporation
  • Is a director or officer of a publicly held corporation.

UO employees should remove themselves from transactions where they have either an actual or potential conflict of interest.
Questions?