

Midwestern State University
March 31, 2014

Administrative Council
Meeting No. 14-03

The Administrative Council met Monday, March 31, 2014, at 2:03 p.m. in the J. S. Bridwell Foundation Board Room in the Hardin Administration Building. Present were Dr. Jesse W. Rogers, Chairman; Dr. Betty Stewart, Dr. Marilyn Fowlé, Dr. Howard Farrell, Mr. Barry Macha, Mr. Kyle Owen, Dr. Deborah Garrison, Mr. Charlie Carr, Dr. David Carlston, Mr. Dirk Welch, Ms. Debbie Barrow, Ms. Dawn Fisher, Ms. Julie Gaynor, and Ms. Cindy Ashlock.

MSU Policy and Procedures Manual

Policy 2.24, President's Office, Approval and Execution of University Contracts

Mr. Macha stated that the policy was updated with current procedures in practice. The Council recommended placing the policy on the May Board of Regents agenda. See **Attachment A**.

Policy 2.333, Provost and Vice President of Academic Affairs, Organization, H.1., Graduate Coordinators Duties

Dr. Stewart presented changes to the policy to define duties of the graduate coordinators. The Council recommended placing the policy on the May Board of Regents agenda. See **Attachment B**.

Policy 3.348, Human Resources, Employment of Foreign Nationals

Ms. Fisher informed the Council that the policy was being updated to reflect current practices in place. The Council recommended placing the policy on the May Board of Regents agenda. See **Attachment C**.

Policy 4.182, Business Affairs & Finance, Investment Policy – Operating Funds

Dr. Fowlé stated that the policy was updated due to change in the Texas Education Code 51.0031. The Council recommended placing the policy on the May Board of Regents agenda.

Please Note: After the Administrative Council meeting, Ms. Barrow notified Dr. Fowlé via e-mail that the Board of Regents had changed this policy at their August 2013 meeting. Ms. Barrow stated that title changes do not require Board approval; however, the other changes will be made at the May Board meeting. See **Attachment D**.

Proposed Holiday Schedule 2014-2015

Ms. Fisher presented the proposed holiday schedule for 2014-2015. The Council recommended placing the policy on the May Board of Regents agenda. See **Attachment E**.

Councils and Committees

Budget Oversight Committee

Dr. Fowlé recommended adding the Staff Senate Chair to be added to the structure of the committee. The Council approved this request (see **Attachment F**).

Risk, Safety, and Emergency Management Committee

Mr. Macha requested that the Internal Auditor and General Counsel be added to the structure of the committee. The Council approved this request (see **Attachment G**).

Contract Administration Procedures

Mr. Macha presented the contract administration procedures to the Council as an item of information only. The procedures were updated with title corrections, wording clarification, reflect current practices in place, etc. See **Attachment H**.

Department Name Change Request

Dr. Stewart noted that the Department of English was renamed the Department of English, Humanities, and Philosophy to better reflect the departmental structure. This was presented to the Council as an item of information only.

Title Change – Undergraduate Radiologic Science Program: Associate of Applied Science in Radiography to Bachelor of Science in Radiologic Technology

Dr. Stewart informed the Council that MSU is making the two-year program a four-year program and will become the Bachelor of Science in Radiologic Technology. This was presented as an item of information only.

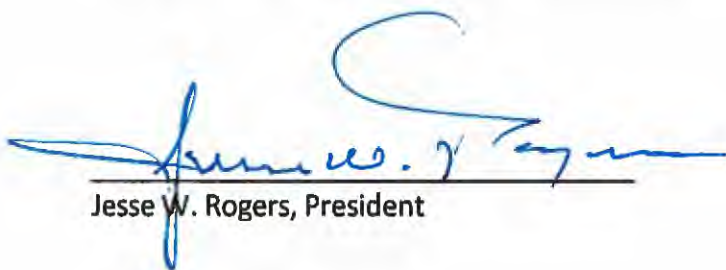
Title Change – Graduate Major – Counseling to Clinical Mental Health

Agenda item tabled.

Other

Dr. Rogers informed the Council that the Board of Regents had three appointments; Shawn Hessing was reappointed, and Caven Crosnoe and Nancy Marks are new appointees. Mr. Crosnoe and Ms. Marks will have their training session on Friday, April 4.

There being no further business, Administrative Council adjourned at 3:03 p.m.



Jesse W. Rogers, President



Cindy Ashlock, Secretary

2.24 President's Office**APPROVAL AND EXECUTION OF UNIVERSITY CONTRACTS**Date Adopted/Most Recent Revision: ~~08/10/2012~~ 05/09/2014**A. Purpose and Scope**

This policy establishes the authority for the University to approve and execute contracts. A “contract” is an agreement between two or more parties who intend to create legally enforceable obligations. 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, and terms and conditions.

This policy applies to any type of contract that binds the University and/or obligates the University to provide payment, services, goods, or use of university property, facilities or other resources, including any amendment, alteration, change, change order, correction, extension, modification, or renewal of a signed contract. No person has the authority to bind the University contractually except in accordance with this policy. 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.

B. Contractual Authority of the Board of Regents

By law the Board of Regents is vested with the authority to contract on behalf of the University. The Board may delegate to a representative of the Board or an employee of the University the authority to negotiate, approve, and execute contracts. A contract that is not approved or executed (signed) in accordance with this policy is void.

C. Contract Approval Process

A *Contract Routing Sheet* prepared in accordance with section E (Administrative and Legal Review) must be attached to the contract and approved as indicated below:

Contract Term	Approval Required
Contracts of \$500,000 or more per year (except that the following are exempt from this provision: contracts 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)	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: contracts 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	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 <u>Provost and Vice President for Academic Affairs;</u> Vice President for Business Affairs & Finance; <u>Vice President for University Advancement & Public Affairs;</u> and Appropriate Vice President;
Contracts involving non-monetary affiliation, <u>articulation,</u> and clinical agreements	President or Provost and Vice President for Academic Affairs; <u>and appropriate Vice President</u>

<u>Contracts for professional and consulting services</u>	<u>President and Vice President for Business Affairs & Finance</u>
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 Business Affairs & Finance
Approval of all contracts for information technology	Vice President for Administration & Institutional Effectiveness
Approval of all contracts unless using an unmodified standard contract form pre-approved in writing by the Office of General Counsel	General Counsel

D. Contract Signature Authorization Process

Prior to signing a contract, the contract review process must be completed as outlined in section C (Contract Approval Process) of this policy. The President has approved the following signature authority:

Contract Term	Signature Approval
Contract signature authorization for contracts approved by the Board in accordance with Section C (Contract Approval Process) of this policy, 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: contracts 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	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
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	President or Appropriate Vice President
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 & Institutional Effectiveness

Delegations of signature authority to a designate may be made by the Chairperson of the Board of Regents, ~~or the President of the University,~~ or the Vice President for Business Affairs and Finance only and must: be in writing; specify the need for compliance with these contract approval and signature authorization requirements; and be retained by the party making the delegation and the party receiving the delegation. A copy of the delegation shall be sent to the Controller, Office of General Counsel, and the Contract Administration Office.

Once contracts are signed, the Purchasing Office will create purchase orders (except for contracts not involving a purchase, e.g., affiliation or facility use agreements).

E. Administrative and Legal Review

1. The University's administration shall develop and implement *Contract Administration Procedures* for all contracts that include the following:
 - (a) All contracts are in writing and in the name of the University (not in the name of a department or an individual);
 - (b) Contracts comply with applicable federal and state law and regulations (including state purchasing requirements), and applicable University policies and procedures;
 - (c) Contracts are properly reviewed and approved prior to being signed by a person with delegated authority and evidenced by a properly completed *Contract Routing Sheet*;
 - (d) Contracts are properly maintained in accordance with the University's records management policy and records retention schedule and all state reporting requirements are completed in a timely manner and proper form;
 - (e) Contracts are monitored to ensure proper execution and performance; and
 - (f) The contract administration procedures will be annually assessed and identified improvements implemented.

The contract administration procedures shall also apply to any amendment, alteration, change, change order, correction, extension, modification, or renewal of a signed contract.

2. All contracts must be approved as to form and legal sufficiency by the Office of General Counsel before execution. The Office of General Counsel may approve standard

contract forms which, if unmodified, may be used without obtaining further approval from the Office of General Counsel.

F. Prior Contracts

Contracts signed and approved in accordance with policies and procedures in effect prior to the effective date of this policy shall remain in full force and effect, but modifications or extensions to such contracts must be approved and signed in accordance with the provisions of this policy.

Policies and Procedures 2.333 Provost and Vice President of Academic Affairs
ORGANIZATION-PROVOST and VICE PRESIDENT FOR ACADEMIC AFFAIRS

H. Graduate Coordinators

1. Duties

~~Graduate coordinators are appointed as academic administrative assistants for selected graduate programs. They are full-time faculty members who serve as administrative assistants to deans or department chairs.~~

Graduate Coordinators are full-time faculty members who are appointed in an academic supervisory role for select graduate programs. They serve as administrative associates to Department Chairs or Deans and provide leadership of the graduate programs and direction over students' programs in order to give them the opportunity to excel in advanced studies.

3.348 Human Resources

Employment of Foreign Nationals

Date Adopted/Most Recent Revision: 02/15/2008 05/09/14

A. Introduction

The process of employing foreign nationals involves federal rules and regulations that if not carefully followed can result in severe penalties and consequences to the employee and employer. United States (U.S.) immigration laws are very specific and complicated concerning ~~in regard to~~ the employment based options for ~~of~~ foreign nationals. ~~and also very specific in terms of the penalties to be imposed for the violation of these laws.~~ Errors in compliance can cause the university to be debarred from immigration filings as well as to be subject to substantial monetary fines and penalties. An employee who violates status can be subject to removal from the U.S. among other penalties. This policy is intended to provide a general overview of the processes relative to employment for ~~of~~ foreign nationals at Midwestern State University and does not propose to represent immigration law.

B. Verification of Eligibility for Employment

All foreign nationals employed by the university, ~~in any capacity,~~ must be processed through the ~~Office of International Services~~ Human Resources Department in coordination with the Office of the General Counsel, and in accordance with approved internal procedures. Subsequent to the employing authority's confirmation of an offer of employment, the ~~Office of International Services-~~ Human Resources Department will verify the employee's credentials (passport, visa, social security number, work authorization status, etc.). ~~Employees determined by the Office of International Services and the Human Resources Department to be ineligible for employment will be denied employment by the university.~~ Foreign nationals who must have prior authorization obtained from relevant immigration agencies to work for the university shall not commence employment until authorized.

C. Eligible Employment Status for Foreign National Student Employees

The Office of International Services will issue the Form I-20 for students in F-1 status and Form DS-2019 for students in J-1 (exchange visitor) student status. The "On-Campus Employment Form For International Students," verifying F-1 and J-1 student employment eligibility, must be issued by the Office of International Services before the student employee's first day of work, and must be renewed annually. The Office of International Students is responsible for all SEVIS database compliance by the university for students.

D. Eligible Employment Status for Full-time Foreign National Employees

Foreign nationals ~~can~~ may be employed in full-time positions through several processes. ~~The current residence and immigration status of the prospective employees have some bearing on the process.~~ For staff positions, this review will be conducted by the Human Resources Department in conjunction with the Office of the General Counsel. For faculty positions, this review will be conducted by the Office of the

Provost and Vice President for Academic Affairs in conjunction with the Human Resources Department and the Office of the General Counsel.

1. ~~If eligible, a~~ **A foreign national may be eligible for employment** ~~can be hired on via Optional Practical Training (OPT) or Academic Training (J-1) status for one year or eighteen months, respectively. For qualifying STEM positions, additional time in OPT status may be available. No employment based petition processing is required unless the employee is to be retained beyond the period specified on the Employment Authorization Document (EAD). Citizens of Canada or Mexico may qualify for employment on a North American Free Trade Agreement (TN) status, which is granted for professional positions on a one-year renewable basis.~~
2. Eligible foreign nationals and those losing eligibility with the expiration of the F-1, OPT, TN, or J-1, Academic Training status and current employees in a TN status may gain employment status through the employer sponsored H1-B visa, which entails the filing of a Form I-129 and a Labor Condition Application. The H1-B visa is available to qualified individuals for a period of three years and may be renewed for a second three-year period. In the event of a delay in a pending immigration visa petition, an emergency 7th year of H1-B status may be granted. **At least six (6) months prior to the expiration of work authorization, the applicable department must determine whether to request potential sponsorship by the university for a nonimmigrant visa.**
3. **In some cases, a** A foreign national in non-immigrant status may apply for permanent **residence in the U. S.** If the university wishes to retain the employee, the university may sponsor the employee for an immigrant visa, or "green card." Sponsorship for permanent **residence** does not constitute a guarantee of lifetime employment or of tenure; however, there should be no anticipated employment ending date on the part of the university or the employee. An individual employee may not initiate the request for sponsorship. A formal request must be submitted **to the Human Resources Department** ~~through the Office of International Services~~ by the hiring department seeking university sponsorship. ~~for the permanent residency status of a foreign national employee.~~ In the case of faculty, the request will be signed by the respective department chair and dean and approved by the ~~p~~**Provost** and ~~v~~**Vice pPresident** for ~~a~~**Academic aAffairs**. In the case of staff, the request will be signed by the department director and approved by the ~~p~~**Provost** and ~~v~~**Vice pPresident** for ~~a~~**Academic aAffairs** or respective vice president. The ~~Director of International Services~~ **Human Resources Department in coordination with the Office of the General Counsel** will determine if the foreign national employee **and the proposed position** meets the federal guidelines for sponsorship. ~~The provost and vice president for academic affairs or respective vice president will determine if the position and the qualifications of the individual meet the criteria for university sponsorship. The president will make the final decision to determine if the sponsorship is in the best interest of the university.~~
4. ~~A foreign national with an advanced degree and extraordinary ability, such as an~~

~~outstanding, internationally recognized professor or researcher, may be eligible for an EB-1 visa. EB-1 visa application does not require employer sponsorship.~~

~~5. A foreign national with a minimum of a Master's degree or an exceptional ability may be eligible for an employer sponsored EB-2 visa. It is advisable to allow one year or more for EB-2 status approval through the standard labor certification procedure utilizing the Form I-140.~~

E. Financial Support

The university will pay the applicable filing fees and attorney costs related to petitions filed by the university filing fee and fraud fee, as required by law. ~~Legal fees incurred during the labor certification application process for permanent residency status must be paid by the university.~~ A private attorney may not be engaged to represent the university unless first approved by the university president, the Office of the General Counsel, and the Office of the Texas Attorney General. A foreign national does not have the option to retain outside counsel to file immigrant or nonimmigrant petitions based on his or her employment by the university. If expedited processing of a petition is desired or required, the additional "premium processing" fee may be approved for payment by the university when in its best interest unless the foreign national has chosen to expedite the petition for his or her personal benefit. Application fees, costs, and related legal fees for dependent family members related to immigration filings must be paid by the foreign national. Additionally, the university will contribute 50% of the costs incurred by a qualified foreign national employee seeking status in one of the following categories up to a maximum of \$1,000 per employee. No employee shall receive financial support in more than one category or for more than one request in any one category, while employed at Midwestern State University. Applications for reimbursement of costs incurred seeking status in these categories should be submitted by the employee to the Human Resources Department.

~~1. H1-B~~

~~2. EB-1~~

~~3. EB-2~~

4.182 Business Affairs & Finance
INVESTMENT POLICY – OPERATING FUNDS
Date Adopted/Most Recent Revision: 08/09/2013

A. Purpose

The purpose of this investment policy is to establish cash management and investment guidelines for the investment and protection of university operating funds in order to ensure that the university's investments are duly authorized, properly managed, and adequately protected. This policy will be reviewed annually by the Board of Regents. This policy is intended to:

1. establish prudent investment procedures;
2. assure that investment assets are adequately safeguarded;
3. assure that adequate accounts and records are maintained which reflect investment position and results; and
4. assure that a system of good internal controls is maintained.

This policy provides investment guidelines for all operating funds invested by Midwestern State University to ensure compliance with university standards, the Public Funds Investment Act (TX Gov't. Code 2256), Texas Education Code 51.0031, and all other state and federal laws.

B. Investment Objectives

1. Safety of Principal:

Each investment transaction shall seek to reduce the likelihood of capital losses, whether from security defaults or erosion of market value.

2. Liquidity:

The investment portfolio shall remain sufficiently flexible to enable the university to meet all operating requirements which may be reasonably anticipated in any funds.

3. Public Trust:

In managing the investment portfolio, officials shall avoid any transaction that might impair public confidence in the university. Investments shall be made with precision and care, considering the probable safety of the capital as well as the probable income to be derived. No security shall be purchased that has either a limited or nonexistent secondary market.

4. Rate of Return:

The investment portfolio shall be designed with the purpose of regularly exceeding the average return of three month U.S. Treasury bills and the State of Texas Treasury yield. The investment program shall seek returns above this threshold, consistent with the overall investment policy and other investment objectives.

C. Investment Fund Administration

1. Investment Responsibility

Investment responsibilities are delegated by the Midwestern State University Board of Regents to the President and the Vice President for Administration Business Affairs and Finance. Each member of the Board shall attend at least one (1) training session relating to the person's responsibilities under the Public Funds Investment Act within six (6) months after taking office. The university's chief financial officer and controller shall attend at least one (1) training session relating to that person's responsibilities within six (6) months after assuming duties and shall attend a training session not less than once in a two (2) year period and prepare a report to the Board of Regents on such training. This training must include education in investment controls, security risks, strategy risks, market risks, and compliance with the Public Funds Investment Act (TX Gov't. Code 2256.007). The university's chief financial officer shall also provide a report within six months of the end of each legislative session on any changes to the Public Funds Investment Act passed that session.

2. Day-to-Day Supervision

The Controller shall be responsible for the daily supervision and implementation of the investment program and shall be authorized to purchase, sell and invest university funds in accordance with the Public Funds Investment Act and this investment policy, with approval of the President or the Vice President for Administration Business Affairs and Finance.

3. Record Keeping

Transaction and accounting records shall be complete and prepared on a timely basis with consideration at all times to the adequacy of an audit trail. Internal controls will assure responsible separation of duties and diminish the real and prospective burden on individual employees.

4. Custody

Custody of investment assets shall be in compliance with applicable laws and arranged to provide as much

security, trading speed, and flexibility as possible.

D. Investment Strategy - Short-term Operating Funds

1. The daily cash position will be monitored by the Controller to ensure that non-interest bearing cash is minimized. The collection time of all dividend and interest payments will be accelerated to the extent possible. The university will maintain a minimum of \$1,000,000 available in overnight funds which will be kept in Texpool, Logic, or repurchase agreements. Should balances fall below this amount for any reason they will be replenished at the earliest opportunity from the first available cash receipts.
2. Overnight or short-term (thirty [30] days) funds shall be invested through a competitive bid or offer process as frequently as the market dictates as follows:
 - a. Banks in the local area are to be contacted by telephone to obtain their current certificate of deposit rates.
 - b. An unaffiliated investment broker is to be contacted to obtain statewide Texas banks' certificate of deposit rates.
 - c. Texpool or LOGIC, or other Board-approved cash investment pools are to be contacted to obtain current overnight rates.
 - d. Funds shall be placed based on the best rate quoted.
3. Transactions to purchase or sell securities shall be entered into on the basis of "best execution," which normally means best realized net price for the security. Settlement of all transactions except investment pool funds must be on a delivery versus payment basis.
4. The goal of the university will be that the portfolio shall be adequately diversified at all times in accordance with these investment guidelines. Specific investment ranges and investment policy limitations are as follows:

	Minimum	Maximum
U.S. Treasury Obligations	0%	100%
Federal Agency Obligations	0%	90%
Federal Agency Mortgage-Backed	0%	25%
Municipal Obligations	0%	50%
Certifications of Deposit (Insured)	0%	20%
Purchase Agreements (Collateralized)	0%	20%
Mutual Funds	0%	15%
Approved Investment Pools	0%	50%

5. The university's pooled investment fund is comprised primarily of operating funds, and fund balance equity that carries forward from year to year. At the beginning of each fiscal year, the Controller and Vice President for ~~Administration~~ **Business Affairs** and Finance will analyze current operating cash needs as well as any cash requirements for capital projects that will occur within the next two (2) years. If the university is not using a University System Cash Concentration Pool arrangement, then the university will be required to more closely monitor its investments and maturities. This monitoring and analysis will include a two (2) year time line which clearly identifies any known cash requirements and the approximate month in which the cash must be available. Once an analysis of project needs has been assembled, an analysis of current economic conditions and interest rate levels and projections from third party outside sources should be reviewed. Investment maturities are to be structured in such a way as to maintain a liquid or currently maturing balance for all operating funds budgeted for expenditure during the fiscal year. If interest rates are rising or anticipated to increase these funds may be kept in short-term investment pools such as TEXPOOL. If interest rates are falling or are projected to fall, these funds should be invested to match projected cash needs as determined. Funds in excess of operating funds may be invested, preferably by staggering maturities, for longer than a year.
6. Bond proceeds are to be invested separately and apart from the university's pooled investment fund and maturities are to be structured in such a way as to provide sufficient cash to meet construction expenditures.

7. Endowment funds are to be invested in accordance with the university's separate Investment Policy – Endowment Funds.
8. Investments donated to the university for a particular purpose or for a specific use as specified by the donor may be held in investments other than those identified as authorized investments in this policy. Such investments shall be held apart from the university's pooled investment fund. Those investments shall be subject to all other requirements of this policy.
9. The investment staff shall be responsible for following the "prudent person" standard which shall be applied in the management of the portfolio. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the possible income to be derived.

E. Investment Brokers/Dealers

1. The Board of Regents and the President may hire independent investment advisors or investment managers to assist university personnel in the execution of their investment responsibilities. All routine investments will be purchased or sold utilizing an established list of qualified firms. The Board of Regents shall annually review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the university. Qualified firms must be regulated by the Securities Exchange Commission and be members of the National Association of Securities Dealers, Inc.
2. A written copy of this investment policy shall be presented to any person offering to engage in an investment transaction with the university. The qualified representative of the business organization shall execute a written instrument substantially to the effect that the business organization has:
 - a. Received and reviewed this investment policy; and
 - b. Acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the university and the organization that are not authorized by the university's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the university's entire portfolio or requires an interpretation of subjective investment standards.
 - c. The investment officer may not acquire or otherwise obtain any authorized investment described in this investment policy from a person who has not delivered the written instrument to the university as described above.
 - d. Nothing in this section relieves the university of the responsibility of monitoring the investments made by the university to determine that they are in compliance with this investment policy.

F. Investment Ethics

Officers and investment staff involved in the investment process shall refrain from personal business activity, as defined by the Public Funds Investment Act (TX Govt Code 2256.005), that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. A member of the Board shall not direct nor participate in the decision to purchase or sell securities of a firm with which such member is significantly affiliated. Securities will not be purchased from or sold to a member of the Board. All investment staff must report any personal business relationship or relationship within the second degree of affinity or consanguinity with an individual or another firm or organization to the President and the Internal Auditor. On an annual basis the staff will report the nature and extent of any investments in or business transacted with such firms.

G. Investment Guidelines

Funds must be invested at all times in strict compliance with the Public Funds Investment Act (TX Gov't. Code 2256) and other applicable laws, unless invested according to Texas Education Code Section 51.0031 which allows the Board of Regents to contract with another institution under prudent person investment standards.

1. **Authorized Investments.** Authorized investments include the following.
 - a. Obligations of the United States or its agencies and instrumentalities.
 - b. Direct obligations of the State of Texas or its agencies and instrumentalities.

- c. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States with a maturity of 10 years or less.
- d. Other obligations, the principal of an interest on which are unconditionally guaranteed or insured by the State of Texas or United States.
- e. Obligations of states, agencies, counties, cities, and other political subdivisions of any state having been rated as to investment quality by a nationally recognized investment rating firm and having received a rating of not less than A or its equivalent.
- f. Certificates of deposit issued by state and national banks having a main office or branch office in this state that are guaranteed or insured by the Federal Deposit Insurance Corporation, or its successor, or collaterally secured by those obligations as listed above in a.- e.
- g. Certificates of deposit issued by a savings bank having a main office or branch office in this state that are guaranteed or insured by the Federal Savings and Loan Insurance Corporation or its successor, or collaterally secured by those obligations as listed above in a. - e.
- h. Fully collateralized repurchase agreements having a defined termination date, secured by obligations described in a. above, and the securities are pledged to the university, held in the university's name and deposited at the time the investment is made with the university or with a third party selected and approved by the university, and is placed through a primary government securities dealer as defined by the Federal Reserve, or a financial institution doing business in this state. Repurchase agreement means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described in a. above, at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. This term includes a direct security repurchase agreement and a reverse security repurchase agreement. The term of any reverse security repurchase agreement may not exceed ninety (90) days after the date the reverse security repurchase agreement is delivered. Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.
- i. Prime domestic bankers' acceptances with a stated maturity of two-hundred-seventy (270) days or less from the date of issuance and will be liquidated in full at maturity, are eligible for collateral for borrowing from a Federal Reserve Bank, and are accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1, P-1, or the equivalent by at least one nationally recognized credit agency and is fully secured by an irrevocable letter of credit issued by a bank.
- j. Commercial paper with a stated maturity of two-hundred-seventy (270) days or less from the date of its issuance that is rated not less than A-1, P-1, or the equivalent by at least two (2) nationally recognized rating agencies, or is rated at least A-1, P-1, or the equivalent by at least one (1) nationally recognized credit agency and is fully secured by an irrevocable letter of credit issued by a bank.
- k. SEC-registered, no-load money market mutual funds and no-load mutual funds as described in and limited by the Public Funds Investment Act (TX Gov't. Code 2256.014).
- l. Guaranteed investment contracts for bond proceeds as described in the Public Funds Investment Act (TX Gov't. Code 2256.015)
- m. Investment Pools as described in the Public Funds Investment Act (TX Gov't. Code 2256.016).
- n. Corporate bonds, debentures, or similar debt obligations rated by a nationally recognized investment rating firm in one of the two highest long-term rating categories, without regard to gradations within those categories.
- o. A contracted arrangement with a university system as defined under Education Code 51.0031 which allows the university to invest its cash into their cash concentration pool.**

2. Unauthorized Investments

Effective September 1, 1995, in compliance with the Public Funds Investment Act (TX Gov't. Code 2256.009b), the following are not authorized investments:

- a. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal (interest-only).
- b. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest (principal only).

- c. Collateralized Mortgage obligations that have a stated final maturity date of greater than ten (10) years.
- d. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

H. Performance Measurement

The investment performance of the funds will be measured by an unaffiliated organization with recognized expertise in this field, and compared against the stated performance goals. Measurement will occur at least monthly and will be used to evaluate the results on investment holdings and will include monitoring any rating changes in the university's investments. Reports will be prepared in compliance with generally accepted accounting principles and will describe in detail the investment position of the university and will include, by individual investment, the book value, market value, accrued interest, maturity dates, any purchases, sales, gains or losses and the fund or pooled account for which each individual investment was acquired. Reports shall be distributed to the President, the Vice President for Administration and Finance, and the Internal Auditor. The Board of Regents shall receive the report no less than quarterly. The reports to the Board of Regents must be prepared and signed by the investment staff of the university and certified as to the portfolio's compliance with these policies and the Public funds Investment Act (TX Gov't. Code 2256.023), unless the funds are invested under Texas Education Code Section 51.0031, for which the reporting will be provided by the contracted institution. The university Internal Auditor will perform a compliance audit at least once every two years with results reported to the State Auditor, President, and the Board of Regents not later than January 1 of each even-numbered year on those funds held locally and not invested through contract according to Texas Education Code Section 51.0031.

I. Interest Rate Risk Measurement

The university will measure on a quarterly basis the interest rate risk of its securities. The university will monitor and be aware of the overall interest rate and market value risk it is taking.

Holiday Schedule 2014-2015

Schedule I (Employees on Four-Day, 40 Hour Summer Work Schedule)

Date	Holiday	No. of Days
September 01, 2014	Labor Day	1
November 27 – 28, 2014	Thanksgiving	2
December 22 – 31, 2014	Christmas	8
January 1 – 2, 2015	New Year's	2
January 19, 2015	Martin Luther King Day	1
March 19 – 20, 2015	Spring Break	2

Schedule I – Total Holidays 16*

***The university will be closed Monday, May 25, 2015 for Memorial Day. Employees on Schedule I, the four-day workweek, will work Friday of that week totaling 40 hours; therefore those days are not counted as a holiday and will be observed as 1 additional day off during Spring Break.**

Schedule II (Employees on Five-Day, 40 Hour Summer Work Schedule)

Date	Holiday	No. of Days
September 01, 2014	Labor Day	1
November 27 – 28, 2014	Thanksgiving	2
December 22 – 31, 2014	Christmas	8
January 1 – 2, 2015	New Year's	2
January 19, 2015	Martin Luther King Day	1
March 20, 2015	Spring Break	1
May 25, 2015	Memorial Day	1

Schedule I – Total Holidays 16

Attachment F

Budget Oversight Committee		
Purpose:	To serve as an advisory group to the President concerning the university's operating budget.	
Personnel:	Provost and Vice President for Academic Affairs, Vice President for Business Affairs and Finance, Vice President for University Advancement and Public Affairs, Vice President for Administration and Institutional Effectiveness , Vice President for Student Affairs and Enrollment Management, Associate Vice President for Facilities Services, Director of Budget and Management, Director, Institutional Research and Assessment, Interim Director of Human Resources, Chair of the MSU Faculty Senate, one faculty member recommended by the MSU Faculty Senate, <u>Staff Senate Chair</u> , and the Director, Board and Government Relations. The President will Chair the committee.	
Reports to:	President	
Members:		
President	Jesse Rogers, Chair	
Provost and Vice President for Academic Affairs	Betty Stewart	
Vice President for Business Affairs and Finance	Marilyn Fowlé	
Vice President for University Advancement and Public Affairs	Howard Farrell	
Vice President for Administration and Institutional Effectiveness	Robert Clark	
Vice President for Student Affairs and Enrollment Management	Keith Lamb	
Associate Vice President for Facilities Services	Kyle Owen	
Budget and Management Director	Valarie Maxwell	
Director, Institutional Research and Assessment	Mark McClendon	
Interim Director, Human Resources	Dawn Fisher	
Faculty Senate Chair	David Carlston	
Faculty	Rebecca Dodge	2014/GEOS
<u>Staff Senate Chair</u>	<u>Dirk Welch</u>	
Director, Board and Government Relations	Deborah Barrow	

Attachment G

Risk, Safety and Emergency Management Committee	
Purpose:	To review all risk management campus safety issues including accidents and make appropriate recommendations for policy changes and Risk, Safety and Emergency Management training programs.
Personnel:	The Provost and Vice President for Academic Affairs, the Vice President for Business Affairs and Finance (Chair), the Vice President for Student Affairs and Enrollment Management, <u>the General Counsel</u> , <u>the Internal Auditor</u> , the Associate Vice President for Facilities Services, the Controller, the Chief of University Police, the Lab/Hazardous Material Coordinator, the Vinson Health Center Physician, the Dean of Students, the Interim Director of Human Resources, and the Director of Marketing and Public Information
Reports to:	President
Members:	
Provost and Vice President for Academic Affairs	Betty Stewart
Vice President for Business Affairs and Finance , Chair	Marilyn Fowlé
Vice President for Student Affairs and Enrollment Management	Keith Lamb
<u>General Counsel</u>	<u>Barry Macha</u>
<u>Internal Auditor</u>	<u>Mike Taylor</u>
Associate Vice President for Facilities Services	Kyle Owen
Controller	Gail Ferguson
Chief, University Police	Dan Williams
Coordinator, -Lab/ Hazardous Material	Rich Frank
Medical Director, Vinson Health Center	Keith Williamson
Dean of Students	Matthew Park
Interim Director, Human Resources	Dawn Fisher
Director, Marketing and Public Information	Julie Gaynor

Attachment H

Double click the icon below to open the form.



Contract Routing
Sheet rev. 5-9-2014.

Midwestern State University

CONTRACT ADMINISTRATION PROCEDURES

Barry L. Macha, *General Counsel*

A. Introduction

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

1. 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 these *Contract Administration Procedures* for all contracts.
2. These Contract Administration Procedures are designed to ensure that:
 - a. MSU contracts are in proper form and legally sufficient and minimize legal, financial, and related risks;
 - b. 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;
 - c. MSU's contract provisions and contractor oversight are sufficient to hold contractors accountable for delivery of quality goods and services; and
 - d. MSU monitors its contracts for proper execution and performance and annually assesses these procedures and implements identified improvements.
3. MSU officers and employees involved in any way with the contracting process must:
 - a. be familiar with MSU Policy 2.24 and these *Contract Administration Procedures*; and
 - b. act in accordance with MSU Policy 3.314 (Ethics Policy for Employees of Midwestern State University).

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 administration procedures apply to:
 - a. 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
 - b. any amendment, alteration, change, change order, correction, extension, modification, renewal of a signed contract, or a subsequent services contract.

C. Advance Contract Review Requirements

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 these *Contract Administration Procedures*.
 - 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 **Administration Management** Office through each stage of contract administration. The contract liaison's responsibilities include:
 - (1) assisting in developing contract specifications;
 - (2) ensuring proper completion of the *Contract Routing Sheet*;
 - (3) monitoring the vendor's/contractor's progress and performance;
 - (4) authorizing payments consistent with contract documents; and
 - (5) 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. Departmental Approval of Contracts
- a. 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);
 - (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 Institutional Effectiveness (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).

3. Purchasing/Contract ~~Administration~~ Management Office

- 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 ~~Administration~~ Management Office.
- b. University contracts are numbered in accordance with the University contract numbering system developed and approved by the Purchasing/Contract ~~Administration~~ Management Office. The contract numbering system is utilized for purposes of tracking, monitoring, auditing, compliance, and record retention.
- c. The Purchasing/Contract ~~Administration~~ 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 administration considerations prior to review, if necessary, by the University's General Counsel.
- d. 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 ~~Administration~~ Management Office.
- 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. Procurement and HUB compliance must be indicated on the *Contract Routing Sheet* by the Purchasing/Contract ~~Administration~~ Management Office.
 - (1) 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 Purchasing Director 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*.

(2) **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. Upon completion, the Purchasing/Contract **Administration 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) for approval by the appropriate University official(s).

h. **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 Form* 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.

4. **Required Contract Approvals**

- a. The 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 MSU Policy 2.24 (Approval and Execution of University Contracts):

Contract Term	Approval Required
Contracts of \$500,000 or more per year (except that the following are exempt from this provision: contracts 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)	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	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 Business Affairs & Finance; Vice President for University Advancement & Public Affairs; or and Appropriate Vice President
Contracts involving non-monetary affiliation, <u>articulation</u> , 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 Business Affairs & 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 Business Affairs & Finance
Approval of all contracts for information technology	Vice President for Administration & Institutional Effectiveness
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 section 4a above is void.

5. 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 unmodified, may be used without obtaining further approval from the Office of General Counsel.
- 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 **Administration Management** Office for submission to the authorized official for signature.

D. Contract Signature Authority

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:

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	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 Appropriate Vice President 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 & Institutional Effectiveness

4. A contract not executed (signed) as required by section D3 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, or the President of the University, or the Vice President for Business Affairs 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 ~~Administration~~ 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

1. Except for employment contracts which are maintained by the Human Resources Department, all executed (signed) original contracts subject to these contract administration procedures, including all attachments and the *Contract Routing Sheet*, shall be:
 - a. maintained by the Purchasing/Contract **Administration Management** Office; and
 - b. maintained in accordance with **state retention laws and policies** and the University's records management policy and records retention schedule (Policy 4.125, Midwestern State University Policies and Procedures Manual).
2. The Purchasing/Contract **Administration Management** Office is responsible for ensuring that all state contract reporting requirements (e.g., HUB, Legislative Budget Board, etc.) are completed in a timely manner and proper form.

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 administration. 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 **Administration 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 ~~Administration~~ **Management**.

- c. The system serves as a repository for all contracts that obligate the University, and provides information for tracking and monitoring. The only exception is employment contracts which are maintained by the Human Resources Department.

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 Business Affairs and Finance.

Upon completion of the contract, the contract ~~liaison~~ **management coordinator** will enter completion information into the contract management system. In addition, the contract ~~liaison~~ **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

The procedures a contract owner uses will vary depending on the size, level of risk, and complexity of the contract.

a. Contracts Less Than \$10,000

Contracts less than \$10,000 should be monitored for performance to ensure goods and services conform to the contract requirements. The contract ~~liaison~~ **management coordinator should will report to the applicable contract liaison** the status on all open contracts less than \$10,000 at the close of each fiscal year and/or upon completion of the contract.

b. Contracts \$10,000 and Above

A higher degree of monitoring is required for contracts \$10,000 and above. For these contracts, the contract liaison should review the contract to identify deliverables and develop a monitoring plan/checklist for each contract taking into account the level of risk. General factors used to assess the level of risk include, but are not limited to:

- (1) the dollar amount of the contract;
- (2) negative impact to the University's safety and/or reputation if the contract is not executed properly and on time;
- (3) the contractor's past performance; and
- (4) how experienced the contractor is with the type of work to be performed.

- c. At a minimum, the contract liaison should perform the following contract monitoring procedures:

- (1) 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 owner may need to conduct one or more site visits;
- (2) documenting required contractor visits, tests, and significant events;
- (3) reviewing required reports submitted by the contractor demonstrating compliance;
- (4) resolving disputes in a timely manner;
- (5) verifying receipt of contract deliverables in accordance with the contract terms and maintaining detailed supporting documentation;
- (6) reviewing contractor's invoices and reconciling and verifying payments with the contract terms and maintaining proper documentation;
- (7) 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 Business Affairs and Finance, General Counsel, Human Resources, etc.); and
- (8) prior to the closeout of a contract, completing and submitting to the Purchasing/Contract Administration Office the *Vendor/Contractor Performance Form*.

A *Vendor/Contractor Performance Form* will not be required on the following contracts:

- (a) contracts with a value less than \$10,000;
- (b) publishing agreements for the print shop;
- (c) sponsorship agreements for Athletics;
- (d) University employment contracts;
- (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.

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 Business Affairs and Finance, the director of the Office of Purchasing/Contract **Administration 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 **Administration 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;
- (2) addenda;
- (3) fully executed copy of contract (both parties' signatures);
- (4) submitted proposals;
- (5) RFP;
- (6) best and final offers;
- (7) proposal tabulation;
- (8) appropriate justification;
- (9) award recommendation;
- (10) HUB participation plans and supporting documentation (greater than \$100,000);
- (11) Correspondence;
- (12) Vendor/Contractor Performance Form; and
- (13) review reports.

b. Random and Planned File Review

Contract /Agreement Performance Reviews: On a random basis during the "closeout" of a contract/agreement, the Purchasing/Contract **Administration 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.

H. Annual Review/Assessment

1. Scope of Annual Review/Assessment

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

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

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

2. Formal Audits

The University's Internal Auditor may include contract administration in the risk assessments performed to determine which formal audits, if any, will be included on the audit plan.

I. **Contract Training**

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

Attachment A: **MSU Policy 2.24 (Approval and Execution of University Contracts)**

Attachment B: **Contract Routing Sheet**

Attachment C: **Vendor/Contractor Performance Form**