March 29, 2013

TO: MEMBERS OF THE STATE BOARD OF HIGHER EDUCATION

The State Board of Higher Education will be meeting on Friday, April 5, 2013. Agenda items include a review and update of 2012-13 Committee work plans; approval of two consent items (AP/IB Statewide Source Credit Policy and OAR updates to Divisions 60, 61, and 62); and one action item (principles of a shared services enterprise).

Additionally, the Chancellor, Board Committee chairs, chair of the Oregon Student Association, and the president of the Interinstitutional Faculty Senate will provide informational reports to the Board.

These meetings will be held in accordance with the time, location, and schedule listed below:

**Friday, April 5, 2013**
9:00 a.m. – 2:00 p.m. Full Board meeting (webcasting will be available)

The OSBHE Boardroom is located in the Academic and Student Recreation Center (ASRC), suite 515, which is located at 1800 SW 6th Avenue. Telephone messages for Board members and institution officials attending the meetings may be called to (503) 725-5700. If special accommodations are required, please contact the Board's Office at (541) 346-5749 at least 72 hours in advance.

Cordially,

Charles L. Triplett III
Board Secretary
Oregon State Board of Higher Education

Committee Assignments, 2012-13

Academic Strategies Committee
- Francesconi (Chair)
- Coulombe
- Eiland
- Middleton
- Plec
- Yaden

Governance & Policy Committee
- Kelly (Chair)
- Ford
- Ganjifard
- Schueler
- Yaden

Finance & Administration Committee
- Schueler (Chair)
- Ciuffetti
- Forbes
- Ford
- Ganjifard

Delegation Assignments

State
- College Savings Board
  - Kelly

Education
- OHSU Board
  - Yaden
AGENDA

1. CALL THE MEETING TO ORDER/ROLL CALL/WELCOME

2. REPORTS

   a. Chancellor’s Report
   b. Interinstitutional Faculty Senate (IFS) President
   c. Oregon Student Association (OSA) Chair
   d. Committee Action Reports .............................................................. 1
      i. Academic Strategies (Plec/Marrongelle)
      ii. Finance & Administration (Schueler)
      iii. Governance & Policy (Kelly)

3. DISCUSSION ITEM

   a. Six-Month Committee Work Plan Review ........................................ 3

4. CONSENT ITEMS

   a. Advanced Placement/International Baccalaureate Statewide Alignment Policy Approval.............................................................. 13
      The policy on 2014-15 Advanced Placement and International Baccalaureate Statewide Course Credit is submitted for approval by the State Board of Higher Education.

   a. Oregon Administrative Rule Updates
      Working with OUS university representatives, Chancellor’s Office staff have drafted amendments to Divisions 60, 61, and 62, of the Oregon University System’s administrative rules covering real property, facility, and campus planning and procurement and contracting code as it relates to goods and services.
      i. Amendments to OAR Division 60 (Real Property, Facility, and Campus Planning) .......................................................... 19
      ii. Amendments to OAR Divisions 61 (OUS Procurement and Contracting Code) and 62 (Purchasing and Contracts for Personal or Professional Services and Goods) .......................................................... 33

   b. Approval of Minutes, January 11 and 28, and February 14, 2013 ........ Appendices
5. ACTION ITEM
   a. OUS, Principles of a Shared Services Enterprise (Kelly/Pernsteiner) ..................................... 85
      The Governance & Policy Committee believes that shared services should be
      encouraged to optimize efficiency, minimize cost, maximize revenue, and assure quality.

6. DISCUSSION ITEM (CONTINUED)
   a. Research Presentation and Discussion (Marrongelle)

7. PUBLIC INPUT

8. BOARD COMMENTS

9. ADJOURNMENT
Note: All docket materials are available on the OUS website at: http://www.ous.edu/state_board/meeting/dockets. Please contact the Board’s office at (541) 346-5749 if you have any questions regarding these materials. This agenda may be amended at any time prior to 24 hours before the Board meeting. Estimated starting times for the agenda items are indicated; however, discussions may commence, or action may be taken, before or after the suggested times. Any item on the agenda may be considered at any time out of order at the discretion of the President of the Board. During the meeting, the Board may convene in Executive Session to receive legal advice regarding any item on the agenda or for any reasons permitted under Oregon law.
Regular Meeting #865 of the Oregon State Board of Higher Education
OSBHE Boardroom, Portland State University
1800 SW Sixth Avenue, ASRC Suite 515
Portland, Oregon
April 5, 2013

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Amendments to OAR Divisions 61 (OUS Procurement and Contracting Code) and 62
(Purchasing and Contracts for Personal or Professional Services and Goods) .................... 33

ACTION ITEM
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Minutes, February 14 ............................................................................ 101
Committee Action Reports

Academic Strategies Committee

Convened January 10, February 14, and March 7 and 27, 2013

Actions
• Approved November 2012 and January, February, and March 7 meeting minutes
• Approved SOU, BA/BS in Emerging Media and Digital Arts
• Approved Dual Credit Program
• Approved Associate of Arts Oregon Transfer (AAOT), Course Substitution Language Modification
• Approved Admissions Policy 2014-15
• Approved Board Diversity Goal
• Approved 2014-15 Advanced Placement/International Baccalaureate Statewide Alignment Policy

Discussions
• ASC Work Plan Review
• 40-40-20 Strategies
  o Campus 40-40-20 Assumptions and Diversity Goals
    i. 2013 Campus 40-40-20 Guidelines & Review Process
    ii. Campus Response Matrix
  o Diversity
    i. Campus Diversity Goals
    ii. Campus Diversity Presentation and Consideration of Campus Goals
• Excess Credits Workgroup
• Faculty Satisfaction Survey
• Legislative Update
• Teacher Education
• Research Collaborative

Informational Items Received
• Assessment Updates
  o DQP (Degree Qualifications Profile)
  o Multistate Assessment Collaborative
• Credit for Prior Learning Task Force
• GEAR UP
• Managing Student Debt Initiative
• WICHE – ICE (Interstate Course Exchange)
Finance and Administration Committee

Convened January 9 and 18, February 15, and March 15, 2013

Actions
- Approved December 21, January 9, 18, and February 15 meeting minutes
- Approved OUS 2013-2015 Capital Budget – 40-40-20 Re-Prioritization
- Approved OUS 2012 Annual Financial Report
- Approved OUS 2012 Internal Audit Division Final Progress Report and 2013 Internal Audit Annual Plan
- Approved UO Approval of License Agreement for (gift of) Autzen Stadium Landscape, Exiting and Accessibility Improvements
- Approved OUS Outcome-based Budget Development Process and Timeline
- Approved OUS managerial reporting— quarterly management report (ending 12/31/12)
- Approved OUS report on investments (ending 12/31/12)
- Approved OUS Risk Management Quarterly Update (including OUS Risk Management Program Policy, the Risk Fund Policy, and the Allocation Methodology for 2013-14)
- Approved OIT Approval of Restrictive Covenant for 1.75 MW Geothermal Power Plant Project
- Approved OUS Capital Budget Process Post-SB 242 Finalization
- Approved OIT InFocus Building Purchase (Wilsonville Campus)
- Approved UO Housing Central Kitchen and Woodshop
- Approved OUS Optional Retirement 401(a) Plan Definition of Normal Retirement Age
- Approved OAR Updates (Amendments to OAR Divisions 60, 61, and 62)

Reports
- OUS Update on the 2013-2015 Governor’s Balanced Budget
- OUS Capital Projects Financial Analysis
- OUS 2013-2015 Outcome-based Budget Update
- State Audit Report Update

Governance and Policy Committee

Convened February 15 and March 15, 2013

Actions
- Approved Presidential Evaluation Criteria
- Adopted Principles of a Shared Services Enterprise

Discussions
- Pension Plans Administered by OUS (Optional Retirement Plan, PERS Supplemental Plan, 403(b), special plan for coaches and presidents, etc.)
- Compilation of Current Shared Services
- Update on OUS Legislative Concepts
## 2012-13 Committee Work Plan Updates

### ACADEMIC STRATEGIES COMMITTEE

<table>
<thead>
<tr>
<th>Issue</th>
<th>Lead Assignment</th>
<th>Due Date</th>
<th>Resource Demand</th>
<th>Plan Details</th>
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<tbody>
<tr>
<td>OUS Contributions to 40-40-20</td>
<td></td>
<td>Ongoing</td>
<td>Medium</td>
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<tr>
<td>Mission alignment</td>
<td>Provosts’ Council CO—Academic Strategies Division Academic Strategies Committee</td>
<td>Ongoing</td>
<td>Medium</td>
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<tr>
<td>Aligning Performance Measures Initiatives</td>
<td>Provosts’ Council CO—Academic Strategies Division Academic Strategies Committee</td>
<td>Ongoing</td>
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<td>Capacity Planning</td>
<td>Provosts’ Council CO—Academic Strategies Division Academic Strategies Committee</td>
<td>Ongoing</td>
<td>Medium</td>
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<tr>
<td>Diversity / Rural</td>
<td>Provosts’ Council CO—Academic Strategies Division Academic Strategies Committee</td>
<td>June 2013</td>
<td>Medium</td>
<td>Work done at March 7, 2013 meeting and planned for May, 2013 meeting.</td>
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<td>Critical Degrees that Serve the Economy</td>
<td>Provosts’ Council CO—Academic Strategies Division Academic Strategies Committee</td>
<td>Ongoing</td>
<td>Medium</td>
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<td>Program Approvals supporting 40-40-20</td>
<td>Provosts’ Council CO—Academic Strategies Division Academic Strategies Committee</td>
<td>Ongoing</td>
<td>Medium</td>
<td>Ongoing</td>
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<td>Excess Credits</td>
<td>Provosts’ Council CO—Academic Strategies Division Academic Strategies Committee</td>
<td>Completed</td>
<td>Medium</td>
<td>Study group formed and recommendation made.</td>
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<td>Residency Rules</td>
<td>Provosts’ Council CO—Academic Strategies Division Academic Strategies Committee</td>
<td>Ongoing</td>
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<td>Issue</td>
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<td><strong>2013-2015 Strategic Priorities</strong></td>
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<td>Teacher Preparation Initiative</td>
<td></td>
<td>Ongoing</td>
<td>Medium</td>
<td>Update at February 14, 2012 meeting</td>
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<td>Collaborative Education Initiatives</td>
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<td>Ongoing</td>
<td>Medium</td>
<td>Update at October 4, 2012 meeting</td>
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<td>• Eastern Promise</td>
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<td>• P20 Education Research Unity</td>
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<td>• Common Core State Standards</td>
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<td>Research Connected to Oregon’s Economy</td>
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<td>Update at March 7, 2013 meeting</td>
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<td>Others</td>
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<td><strong>Diversity</strong></td>
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<td>Diversity Incentive Funding</td>
<td>CO—Academic Strategies Division Academic Strategies Committee OUS Institutions (Presidents, Provosts, etc.)</td>
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<tr>
<td>Student Diversity Initiatives</td>
<td>CO—Academic Strategies Division Academic Strategies Committee OUS Institutions (Presidents, Provosts, etc.)</td>
<td>June 2013</td>
<td>Medium</td>
<td>Adopt campus diversity goals and report to full Board.</td>
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<tr>
<td>Faculty &amp; Staff Diversity Initiatives</td>
<td>CO—Academic Strategies Division Academic Strategies Committee OUS Institutions (Presidents, Provosts, etc.)</td>
<td>June 2013</td>
<td>Medium</td>
<td>Adopt campus diversity goals and report to full Board.</td>
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<tr>
<td><strong>Learning Outcomes</strong></td>
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<td>How to Measure</td>
<td>CO – Academic Strategies Division OUS Institutions</td>
<td>Ongoing</td>
<td>Medium</td>
<td>Multi-State Assessment Collaborative</td>
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<td>Areas of Improvement</td>
<td>CO – Academic Strategies Division OUS Institutions</td>
<td>Ongoing</td>
<td>Medium</td>
<td>Degree Qualifications Profile</td>
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<tr>
<td>Ongoing Activities</td>
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<td>• Academic Program Approvals</td>
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## 2012-13 COMMITTEE WORK PLAN

<table>
<thead>
<tr>
<th>Issue</th>
<th>Lead Assignment</th>
<th>Due Date</th>
<th>Resource Demand</th>
<th>Plan Details</th>
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<tr>
<td>OUS Contributions to 40-40-20</td>
<td>Campus Tuition Committees</td>
<td>May – F&amp;A</td>
<td>Medium</td>
<td>• Oct: Board promulgates guidance for enrollment fees</td>
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<tr>
<td>2013-14 Tuition and Fee Rate proposals</td>
<td>CO—Budget Division</td>
<td>June – Board</td>
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<td>• Oct: Campus president establishes tuition review committee</td>
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<td></td>
<td>Finance &amp; Administration Committee</td>
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<td>• Nov-Feb: Committee meets twice to consider guidelines</td>
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<td>Full Board</td>
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<td>• Mar: Campus president develops recommendation</td>
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<td>• Apr: President presents request to Chancellor</td>
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<td>• May: F&amp;A consideration</td>
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<td>• Jun: Board adoption</td>
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<td>Capacity Planning (faculty, facilities, and technology investments)</td>
<td>CO—Budget and Capital divisions</td>
<td>Ongoing</td>
<td>Medium</td>
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<td>2013-2015 labor agreements (SEIU, AFT, AAUP, AF50U)</td>
<td>Campus Labor Management Teams</td>
<td>Underway at</td>
<td>Medium</td>
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<td>CO—Labor &amp; Employment division of</td>
<td>central SEIU</td>
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<td>Legal Services</td>
<td>and at</td>
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<td>university</td>
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<td>campuses</td>
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<td>Bond Sale</td>
<td>State Treasurer’s Office</td>
<td>February and</td>
<td>Medium</td>
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<td></td>
<td>CO—Controller’s Division</td>
<td>at various</td>
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<td>Student Success, Access, and Affordability Incentive Allocations</td>
<td>CO—Budget and F&amp;A Divisions</td>
<td>Distributed</td>
<td>Light</td>
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<td></td>
<td></td>
<td>in January</td>
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<td>Student Debt</td>
<td>Moved to ASC</td>
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<td>Senate Bill 242 Implementation</td>
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<td>Legal Services Planning and Implementation</td>
<td>CO—Legal Services Division</td>
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<td>High</td>
<td>Annual report pending</td>
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<td>F&amp;A Committee</td>
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<td>Risk Management Cost Allocation Models</td>
<td>CO—Risk Management</td>
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<td>High</td>
<td>Quarterly reports to F&amp;A</td>
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<td>Issue</td>
<td>Lead Assignment</td>
<td>Due Date</td>
<td>Resource Demand</td>
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<td>Labor / Management Committees</td>
<td></td>
<td>Completed</td>
<td>Medium</td>
<td>• Healthcare Benefits • Optional Retirement • Classification/Compensation</td>
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<tr>
<td>2012-13 Strategic Priorities</td>
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<td>Internal Audit – Hotline Update and Code of Ethics</td>
<td>CO-Internal Audit Division</td>
<td>Completed</td>
<td>Medium</td>
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<tr>
<td>Financing Approaches – Financial Stability</td>
<td>F&amp;A vice presidents</td>
<td>Completed in December 2012</td>
<td></td>
<td>Incorporate into annual Presidential evaluations? G&amp;P Committee</td>
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<tr>
<td>2013-2015 Budget Strategy, guidelines, and policy packages (Operating &amp; Capital)</td>
<td>F&amp;A vice presidents</td>
<td>Completed</td>
<td></td>
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<tr>
<td>Outcome Based Budgeting</td>
<td>F&amp;A and workgroup of Provosts, VP’s, Student Affairs Officer and NCHEMS consultant</td>
<td>June 2013</td>
<td>Medium</td>
<td>Design a new budget allocation based on outcomes with plan to distribute 30% of funding in 2013-15, 40% in 2015-17 and 50% in 2017-19</td>
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<td>Recurring Optional Retirement Plan Contribution Rate Amendment</td>
<td>CO- Human Resources</td>
<td>June</td>
<td>Low</td>
<td>Occurs in odd-numbered years</td>
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<td>Optional Retirement Plan</td>
<td>CO – Human Resources</td>
<td>Completed June-Oct 2012</td>
<td>High</td>
<td>Amend. 4 In-service Distributions  Amend. 5 Employer Contribution Rates Amend. 6 Commissioned Police Officers Amend. 7 Waiver, 2009 Minimum Required Distributions</td>
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<td>Tax-Deferred Investment 403(b) Plan</td>
<td>CO-Human Resources</td>
<td>Completed Oct 2012</td>
<td>Low</td>
<td>Amend. 1 Waiver, 2009 Minimum Required Distributions</td>
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<td>Green Procurement</td>
<td>F&amp;A vice presidents</td>
<td>Spring 2013</td>
<td>Light</td>
<td>In process</td>
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<td>Sustainability and Greenhouse Gas Inventory</td>
<td>Sustainability Coordinators and Capital Planning folks</td>
<td>Spring 2013</td>
<td>Medium</td>
<td>Update to Greenhouse gas inventory to determine improvements from baseline</td>
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<td>Issue</td>
<td>Lead Assignment</td>
<td>Due Date</td>
<td>Resource Demand</td>
<td>Plan Details</td>
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<td><strong>Ongoing Activities</strong></td>
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<tr>
<td>Quarterly management (financial) reports</td>
<td>CO – Controller’s Division</td>
<td>Quarterly</td>
<td>Medium</td>
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<td>Finance &amp; Administration Committee</td>
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<td>Internal audit reports</td>
<td>CO – Internal Audit Division</td>
<td>Quarterly</td>
<td>Medium</td>
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<td>Finance &amp; Administration Committee</td>
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<td>Investment reports</td>
<td>State Treasurer</td>
<td>Quarterly</td>
<td>Medium</td>
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<td>CO – Controller’s Division</td>
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<td>Finance &amp; Administration Committee</td>
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<td>Annual external audit report</td>
<td>Clifton and Larson Allen</td>
<td>January</td>
<td>Medium</td>
<td>Completed</td>
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<td>CO – Internal Audit Division</td>
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<td>Finance &amp; Administration Committee</td>
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<td>Risk Management reports</td>
<td>Finance &amp; Administration Committee</td>
<td>Quarterly</td>
<td>Medium/High</td>
<td>Strategic updates regarding the risk management program financial and policy updates including loss ratios, claims updates, and risk control activities.</td>
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<td>Chancellor’s Office</td>
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<td>Budget Allocation</td>
<td>CO – Budget Division</td>
<td>June – even years</td>
<td>Medium</td>
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<td>Finance &amp; Administration Committee</td>
<td>September – odd years</td>
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<td>Legal services planning and implementation</td>
<td>Finance &amp; Administration Committee</td>
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<td>Chancellor’s Office</td>
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<td>Annual financial ratio analysis</td>
<td>CO – Finance &amp; Administration Committee</td>
<td>September</td>
<td>Medium</td>
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<td>RAM allocation decisions to implement 2013-2015 budget</td>
<td>CO – Budget Division</td>
<td>October</td>
<td>High</td>
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<td>Finance &amp; Administration Committee</td>
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<td>Tuition-setting process</td>
<td>Campus tuition committees</td>
<td>October – June</td>
<td>Medium</td>
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<td>CO – Budget Division</td>
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<td>Finance &amp; Administration Committee</td>
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<tr>
<td>Financing approaches (financial sustainability)</td>
<td>Finance &amp; Administration Committee</td>
<td>February/March</td>
<td>High</td>
<td>Review of RAM for possible replacement or reorganization – see</td>
</tr>
<tr>
<td>Issue</td>
<td>Lead Assignment</td>
<td>Due Date</td>
<td>Resource Demand</td>
<td>Plan Details</td>
</tr>
<tr>
<td>--------------------------------------</td>
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<td>-----------------------------</td>
</tr>
<tr>
<td>Green procurement</td>
<td>CO – Purchasing &amp; Contracting Services / Capital Programs</td>
<td>June</td>
<td>Low</td>
<td>Create Board policy</td>
</tr>
<tr>
<td></td>
<td>Finance &amp; Administration Committee</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Statewide Public Services report</td>
<td>SWPS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>CO – Controller’s Division</td>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Finance &amp; Administration Committee</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
GOVERNANCE & POLICY COMMITTEE

2012-13 COMMITTEE WORK PLAN

To be sent under separate cover.
## EXTERNAL RELATIONS WORK GROUP

### 2012-13 COMMITTEE WORK PLAN

<table>
<thead>
<tr>
<th>Issue</th>
<th>Lead Assignment</th>
<th>Due Date</th>
<th>Resource Demand</th>
<th>Plan Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>OUS Contributions to 40-40-20</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Student Outcomes and Metrics and messaging</td>
<td>Chancellor’s Office</td>
<td>On-going</td>
<td></td>
<td>Development of relevant, Systemwide data regarding student outcomes and metrics, coupled with strategic messaging that articulates the value of a System approach, has contributed to the higher education reform debate. Ongoing outreach will support the 40-40-20 goal attainment. Data has been developed working with Institutional Research and other staff that supports the strategic goals of OUS as well as our budget and other needs. This has been and will continue to be integrated into all outreach efforts, from legislative Ways &amp; Means hearings to editorial board meetings, to leadership speeches.</td>
</tr>
<tr>
<td>Issue</td>
<td>Lead Assignment</td>
<td>Due Date</td>
<td>Resource Demand</td>
<td>Plan Details</td>
</tr>
<tr>
<td>-----------------------------------------------</td>
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<td>---------------------------</td>
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<td>--------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>2012-13 Strategic Priorities</td>
<td></td>
<td></td>
<td></td>
<td>Development of a strategic communications plan that supports Board and statewide higher education goals, in collaboration with a professional services firm specializing in education and non-profit organizations in the creation of persuasive messages and appropriate outreach strategies. Pyramid Communications was engaged to complete an audit of OUS general and leadership messaging; and to provide messages specific to the legislative session, 40-40-20, the reform agenda so that a set of strong, consistent messages provided by Board and staff can help OUS meet its strategic goals.</td>
</tr>
<tr>
<td>Strategic communication</td>
<td>Communications Div.</td>
<td>Ongoing</td>
<td></td>
<td>40-40-20 messaging has been integrated and reflected in all speeches, documents, Legislative Session work with consistent messaging, including national attention for the goal and our work to</td>
</tr>
<tr>
<td>Strengthen impact and deepen understanding of OUS 40-40-20 goals</td>
<td>Communications Div.</td>
<td>Completed, but some honing will continue</td>
<td></td>
<td>Development and alignment of messages with education, business, and nonprofit sectors to strengthen the impact and deepen understanding of OUS goals related to 40-40-20, the OUS budget priorities, and statewide strategies and programs related to student success.</td>
</tr>
<tr>
<td>Issue</td>
<td>Lead Assignment</td>
<td>Due Date</td>
<td>Resource Demand</td>
<td>Plan Details</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>---------------------------------------------------------</td>
<td>-----------------------------------------------</td>
<td>--------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Joint Messaging Campaign</td>
<td>Communications Div. Public Information Officers at OUS campuses</td>
<td>Message development Phase I completed; Phase II full implementation deferred</td>
<td></td>
<td>Continued development and orchestration of a Systemwide joint messaging campaign with all of the OUS campuses to be included in outreach materials, advocacy initiatives, and presentations to reinforce statewide higher education goals and prioritization of key messages, with a demonstrated commitment to innovation, change management, and strategic vision.</td>
</tr>
<tr>
<td>Drive alignment, goal-setting, and results</td>
<td>Chancellor’s Office</td>
<td>On-going</td>
<td></td>
<td>Enhanced communication between Board members and OUS leaders and staff to drive alignment, goal-setting, and results.</td>
</tr>
<tr>
<td>Ongoing Activities</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Develop messaging strategy</td>
<td>Communications Div. Chancellor</td>
<td>Primary messaging completed; work with Pyramid continuing</td>
<td></td>
<td>Development of messages and communications strategy to meet current System challenges and the new focus on outcomes and results. Pyramid Communications has provided a message framework which is working well and able to be applied to most of our messaging and outreach work.</td>
</tr>
</tbody>
</table>

get there.
Advanced Placement and International Baccalaureate Statewide Course Credit Policy

BACKGROUND
The Statewide Advanced Placement Policy was adopted prior to 2009 and updated each year since (to reflect changes to the AP curricula). The Statewide International Baccalaureate Policy was adopted in January 2010 and first updated last year. Each year, the Statewide AP/IB Working Group reviews the Policies in light of the curricular changes. Faculty on the OUS campuses review the curricular changes and provide feedback regarding those changes vis-à-vis the Statewide Policies.

Advanced Placement:
• The College Board develops copyrighted materials and examinations
• In Oregon: 37 AP courses offered in 20 disciplines in 286 high schools
• Typically a score of 3 or higher (out of 5) is considered satisfactory

International Baccalaureate:
• The IB Organization authorizes schools to offer an IB program. The IB Organization oversees the curricula and produces examinations for the IB courses
• In Oregon: 19 high schools offer an IB Diploma
• The courses (and, hence, exams) are separated into a Standard Level and a High Level. Typically a score of 5 or higher (out of 7) is considered satisfactory

2014-2015 AP POLICY HIGHLIGHTS

AP Policy Highlights
The syllabi for two AP exams, Chemistry and Spanish Language & Culture were revised for the 2014-2015 academic year. In addition, the name of the “Spanish Language” course changed to “Spanish Language & Culture”. Faculty from OUS campuses reviewed the revised AP syllabi in these two content areas and did not suggest any changes to the credit/exam score policy, based on their review.

IB Policy Highlights
The syllabus for Computer Science and all of the Mathematics course syllabi were revised for the 2014-2015 academic year. Faculty from OUS campuses reviewed the revised syllabi. Minor refinements to the Computer Science and Mathematics policies were made.

The Further Mathematics course was changed from a Standard Level offering only to a High Level offering only. The policy reflects the consensus of mathematics faculty to award between 12-15 credits for a score of 5+ on the Further Mathematics High Level exam.
The Global Politics course is being moved from a PILOT course to a regular offering. Faculty from OUS campuses reviewed the syllabus and did not suggest any changes to the credit/exam score policy.

The Sports, Exercise, and Health Science course is being moved from a PILOT course to regular offering. Faculty from OUS campuses reviewed the Sports, Exercise, and Heath syllabus and did not suggest any changes to the credit/exam score policy, except to add the Human Physiology program as a subject area in which to award credit. UO is the only institution that offers a Human Physiology program, and the suggestion of this additional program area was suggested by UO.

The follow pages present the recommended 2014-15 AP and IB Statewide Alignment Policies (with changes in red and courses under review highlighted).

COMMITTEE RECOMMENDATION TO THE BOARD
The Academic and Strategies Committee recommends that the policy on Advanced Placement and International Baccalaureate Statewide Course Credit be approved by the State Board of Higher Education.

(Board action required.)
### ADVANCED PLACEMENT COURSE CREDIT

**2014-15 Academic Year**

Approved State Board of Education – TBA
Approved State Board of Higher Education – TBA

<table>
<thead>
<tr>
<th>AP Exam Taken</th>
<th>Exam Score</th>
<th>Credit Awarded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Art – History</td>
<td>4+</td>
<td>8</td>
</tr>
<tr>
<td>Art – Studio</td>
<td>4+</td>
<td>4</td>
</tr>
<tr>
<td>Biology</td>
<td>4+</td>
<td>12-15</td>
</tr>
<tr>
<td>Calculus AB</td>
<td>3</td>
<td>4-5</td>
</tr>
<tr>
<td>Calculus AB</td>
<td>4+</td>
<td>8-10</td>
</tr>
<tr>
<td>Calculus BC</td>
<td>3</td>
<td>8-10</td>
</tr>
<tr>
<td>Calculus BC</td>
<td>4+</td>
<td>12-15</td>
</tr>
<tr>
<td><strong>Chemistry</strong></td>
<td>4+</td>
<td><strong>12-15</strong></td>
</tr>
<tr>
<td>Chinese Lang &amp; Culture</td>
<td>3+</td>
<td>12-15</td>
</tr>
<tr>
<td>Computer Science A</td>
<td>4+</td>
<td>4</td>
</tr>
<tr>
<td>English Language &amp; Comp</td>
<td>3+</td>
<td>3-4</td>
</tr>
<tr>
<td>English Literature &amp; Comp</td>
<td>3+</td>
<td>3-4</td>
</tr>
<tr>
<td>Environmental Science</td>
<td>3+</td>
<td>4</td>
</tr>
<tr>
<td>French Lang &amp; Culture</td>
<td>3+</td>
<td>12-15</td>
</tr>
<tr>
<td>German Lang &amp; Culture</td>
<td>3+</td>
<td>12-15</td>
</tr>
<tr>
<td>Government (U.S.)</td>
<td>4+</td>
<td>3-4</td>
</tr>
<tr>
<td>History (European)</td>
<td>3+</td>
<td>6-8</td>
</tr>
<tr>
<td>History (U.S.)</td>
<td>3+</td>
<td>6-8</td>
</tr>
<tr>
<td>History (World)</td>
<td>3+</td>
<td>6-8</td>
</tr>
<tr>
<td>Human Geography</td>
<td>3+</td>
<td>4</td>
</tr>
<tr>
<td>Japanese Lang &amp; Culture</td>
<td>3+</td>
<td>12-15</td>
</tr>
<tr>
<td>Latin</td>
<td>3+</td>
<td>12-15</td>
</tr>
<tr>
<td>Macro Economics</td>
<td>3+</td>
<td>4</td>
</tr>
<tr>
<td>Micro Economics</td>
<td>3+</td>
<td>4</td>
</tr>
<tr>
<td>Music Theory</td>
<td>4+</td>
<td>8</td>
</tr>
<tr>
<td>Physics B</td>
<td>4+</td>
<td>12-15</td>
</tr>
<tr>
<td>Physics C - Mechanics</td>
<td>4+</td>
<td>4</td>
</tr>
<tr>
<td>Physics C - Elect &amp; Magn</td>
<td>4+</td>
<td>4</td>
</tr>
<tr>
<td>Psychology</td>
<td>3+</td>
<td>4</td>
</tr>
<tr>
<td><strong>Spanish Language &amp; Culture</strong></td>
<td>3+</td>
<td><strong>12-15</strong></td>
</tr>
<tr>
<td>Spanish Literature &amp; Culture</td>
<td>3+</td>
<td>4</td>
</tr>
<tr>
<td>Statistics</td>
<td>4+</td>
<td>4</td>
</tr>
</tbody>
</table>

*Note: Exams below are not current; provided for information purposes*

<table>
<thead>
<tr>
<th>Exam</th>
<th>Score</th>
<th>Credit Awarded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Computer Science AB</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Computer Science AB</td>
<td>4+</td>
<td>8</td>
</tr>
<tr>
<td>French Literature</td>
<td>3+</td>
<td>4</td>
</tr>
<tr>
<td>Italian Lang &amp; Culture</td>
<td>3+</td>
<td>12-15</td>
</tr>
<tr>
<td>Latin Literature</td>
<td>3+</td>
<td>4</td>
</tr>
</tbody>
</table>

Notes:

1. For AP exam titles not listed here, students should contact individual institutions for credit information.
2. Individual Faculty reviewed the highlighted content areas (exams were revised) and recommended to keep the policy as stated for these areas.
## STATEWIDE INTERNATIONAL BACCALAUREATE ALIGNMENT POLICY
### 2014-15 ACADEMIC YEAR

**Note:** Students with certificates not listed below should contact individual institutions for credit information.

<table>
<thead>
<tr>
<th>Community College and OUS Subject Area</th>
<th>Certificate Earned with Standard Level Exam Score of 5, 6 or 7</th>
<th>Certificate Earned with High Level Exam Score of 5, 6 or 7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Biology</td>
<td>3 to 5</td>
<td>12 to 15</td>
</tr>
<tr>
<td>Business</td>
<td>3 to 4</td>
<td>3 to 4</td>
</tr>
<tr>
<td>Chemistry</td>
<td>4 to 5</td>
<td>12 to 15</td>
</tr>
<tr>
<td>Computer Science</td>
<td>3 to 4</td>
<td>6 to 8</td>
</tr>
<tr>
<td>Dance</td>
<td>3 to 4</td>
<td>6 to 8</td>
</tr>
<tr>
<td>Economics</td>
<td>3 to 4</td>
<td>6 to 8</td>
</tr>
<tr>
<td>Environmental Systems and Societies</td>
<td>4</td>
<td>NA</td>
</tr>
<tr>
<td>Geography</td>
<td>3 to 4</td>
<td>6 to 8</td>
</tr>
<tr>
<td>Global Politics</td>
<td>4</td>
<td>6 to 8</td>
</tr>
<tr>
<td>History: Africa</td>
<td>NA</td>
<td>9 to 12</td>
</tr>
<tr>
<td>History: Americas</td>
<td>NA</td>
<td>9 to 12</td>
</tr>
<tr>
<td>History: Asia/Oceania</td>
<td>NA</td>
<td>9 to 12</td>
</tr>
<tr>
<td>History: Europe &amp; Middle East</td>
<td>NA</td>
<td>9 to 12</td>
</tr>
<tr>
<td>History: Medieval Europe &amp; Islamic Wld</td>
<td>3 to 4</td>
<td>9 to 12</td>
</tr>
<tr>
<td>History</td>
<td>3 to 4</td>
<td>NA</td>
</tr>
<tr>
<td>Language A: Literature (English)</td>
<td>3 to 4</td>
<td>9 to 12</td>
</tr>
<tr>
<td>Language A: Language &amp; Literature (English)</td>
<td>3 to 4</td>
<td>9 to 12</td>
</tr>
<tr>
<td>Language A: Literature (other than English)</td>
<td>4 to 5</td>
<td>12 to 15</td>
</tr>
<tr>
<td>Language A: Language &amp; Literature (other than English)</td>
<td>4 to 5</td>
<td>12 to 15</td>
</tr>
<tr>
<td>Language B (all languages except English)</td>
<td>4 to 5</td>
<td>12 to 15</td>
</tr>
<tr>
<td>Literature and Performance (English)</td>
<td>3 to 4</td>
<td>NA</td>
</tr>
<tr>
<td>Literature and Performance (Spanish, French)</td>
<td>4 to 5</td>
<td>NA</td>
</tr>
<tr>
<td>Classical Languages</td>
<td>4 to 5</td>
<td>12 to 15</td>
</tr>
<tr>
<td>Film</td>
<td>3 to 4</td>
<td>6 to 8</td>
</tr>
<tr>
<td>Info Tech in a Global Society</td>
<td>3 to 4</td>
<td>6 to 8</td>
</tr>
<tr>
<td>Math Studies</td>
<td>3 to 4</td>
<td>NA</td>
</tr>
<tr>
<td>Mathematics</td>
<td>4 to 6</td>
<td>8 to 12</td>
</tr>
<tr>
<td>Further Mathematics</td>
<td>3 to 4</td>
<td>NA-12 to 15</td>
</tr>
<tr>
<td>Music (Solo, Group or Composition)</td>
<td>3 to 4</td>
<td>6 to 8</td>
</tr>
<tr>
<td>Philosophy</td>
<td>3 to 4</td>
<td>6 to 8</td>
</tr>
<tr>
<td>Physics</td>
<td>4 to 5</td>
<td>12 to 15</td>
</tr>
<tr>
<td>Psychology</td>
<td>3 to 4</td>
<td>6 to 8</td>
</tr>
</tbody>
</table>

1 WR 121 or equivalent credit for SL; WR 121 or equivalent credit + additional courses at discretion of institution for HL.
### Certificate Earned with Standard Level Exam Score of 5, 6 or 7

<table>
<thead>
<tr>
<th>Certificate Earned with High Level Exam Score of 5, 6 or 7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community College and OUS Subject Area</td>
</tr>
</tbody>
</table>

#### Social & Cultural Anthropology
- Certificate Earned: 3 to 4
- Certificate Earned with High Level Exam Score of 5, 6 or 7: 3 to 4
- Community College and OUS Subject Area: Social/Cult Anthrop.

#### Sports, Exercise, & Health Science
- Certificate Earned: 3 to 4
- Certificate Earned with High Level Exam Score of 5, 6 or 7: 6 to 8
- Community College and OUS Subject Area: Health/Human Physiology

#### Theater Arts
- Certificate Earned: 3 to 4
- Certificate Earned with High Level Exam Score of 5, 6 or 7: 3 to 4
- Community College and OUS Subject Area: Theatre Arts

#### Visual Arts
- Certificate Earned: 3 to 4
- Certificate Earned with High Level Exam Score of 5, 6 or 7: 8 to 9
- Community College and OUS Subject Area: Visual Arts

#### World Religions
- Certificate Earned: 3 to 4
- Certificate Earned with High Level Exam Score of 5, 6 or 7: NA
- Community College and OUS Subject Area: Religion/Humanities

### Note: Exams listed below have been phased out; listed for information purposes.

<table>
<thead>
<tr>
<th>Certificate Earned with Standard Level Exam Score of 5, 6 or 7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community College and OUS Subject Area</td>
</tr>
</tbody>
</table>

#### Anthropology
- Certificate Earned: 3 to 4
- Certificate Earned with High Level Exam Score of 5, 6 or 7: 3 to 4
- Community College and OUS Subject Area: Anthropology

#### Art
- Certificate Earned: 4
- Certificate Earned with High Level Exam Score of 5, 6 or 7: 8 to 9
- Community College and OUS Subject Area: Art History

#### Further Mathematics
- Certificate Earned: 3 to 4
- Certificate Earned with High Level Exam Score of 5, 6 or 7: NA
- Community College and OUS Subject Area: Mathematics

#### History of Asia/M.E.
- Certificate Earned: NA
- Certificate Earned with High Level Exam Score of 5, 6 or 7: 3 to 4
- Community College and OUS Subject Area: Asian History

#### History: Europe
- Certificate Earned: NA
- Certificate Earned with High Level Exam Score of 5, 6 or 7: 9 to 12
- Community College and OUS Subject Area: European History

#### Islamic History
- Certificate Earned: 3 to 4
- Certificate Earned with High Level Exam Score of 5, 6 or 7: 6 to 8
- Community College and OUS Subject Area: Islamic History

#### Language A1 (English)
- Certificate Earned: 4
- Certificate Earned with High Level Exam Score of 5, 6 or 7: 12
- Community College and OUS Subject Area: Writing or English

#### Language A1 (other than English)
- Certificate Earned: 4 to 5
- Certificate Earned with High Level Exam Score of 5, 6 or 7: 12 to 15
- Community College and OUS Subject Area: Foreign Language

#### Language A2: 2nd Language (except Eng)
- Certificate Earned: 4 to 5
- Certificate Earned with High Level Exam Score of 5, 6 or 7: 12 to 15
- Community College and OUS Subject Area: Foreign Language

#### Language A2 & B: English
- Certificate Earned: 3 to 4
- Certificate Earned with High Level Exam Score of 5, 6 or 7: 6 to 8
- Community College and OUS Subject Area: General elective credits
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Amendments to OAR Division 60 (Real Property, Facility, and Campus Planning)

Working with OUS university representatives, Chancellor’s Office staff have drafted amendments to Division 60 of the Oregon University System’s administrative rules covering real property, facility, and campus planning (see both a redline/strike-out version and updated version attached). The amendments are offered to accomplish the following:

- Align rules with the changes in Senate Bill 242,
- Clearly delineate roles and responsibilities, and
- Clarify language and eliminate unnecessary provisions

These draft amendments have been reviewed by counsel and were reviewed and approved by the Administrative Council in February.

The following provides more detail regarding the proposed changes.

*Align Rules with Changes in SB 242*

The draft amendments align the terminology in these rules with that within SB 242, namely referring to institutions as “Public Universities” and institution presidents as “Presidents.” Additionally, in accordance with the provisions of SB 242, we are no longer subject to the Land Conservation and Development Commission’s OAR 660-030, which mandates that university plans conform to regulations of applicable local jurisdictions.

*Clearly Delineate Roles and Responsibilities*

In accordance with the Board’s desire to delegate operational functions to university administration, the draft amendments:

- Delegates official property recordkeeping from the Chancellor’s Office to the universities (580-060-0015);
- Delegates execution of conveyances (purchases, receiving by gift, sales, and easements) to Presidents (580-060-0020, 0025, 0035, and 0040); and
- Raises dollar thresholds within the rule to the new thresholds being established within the Finance and Administration Committee capital approval process (580-060-0020 and 0035).

*Clarify Language and Eliminate Unnecessary Provisions*

The language in certain provisions was modified and reorganized in order to clarify the meaning of the rules (580-060-0045 and 0050). The dollar limitation within 580-060-0040 relating to easements was deemed unnecessary. In addition, 580-060-0060 relating to Board-provided housing was removed from rule and will be made an internal management directive as it is not required to be in rule and having it in policy allows for more efficient administration of future policy changes.
COMMITTEE RECOMMENDATION TO THE BOARD
The Finance & Administration Committee forwards the proposed OAR changes for submittal as temporary administrative rules to be made permanent upon completion of the rules process.

(Board action required.)
580-060-0000
**Authority**
These rules establish the procedures that will be followed by Public Universities of the Oregon University System to acquire, receive, hold, control, convey, sell, manage, operate, lease, lend, improve, and develop all real property of the Public Universities under the control of the Board.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0005
**Definitions**
All capitalized terms in chapter 580, division 60 have the meanings set forth in OAR 580-061-0010 unless the context requires otherwise or except as stated.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0010
**Comprehensive Plan Coordination**
Each of the Public Universities will maintain a long-range campus development plan covering all real property under its control and management. The combined Public University plans will be known as the Oregon University System Comprehensive Plan. Institutional plans, and revisions thereof, will be approved by the President and by the Chancellor or designee. The Chancellor or designee will approve revisions to the campus boundaries.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0015
**Records**
Each OUS Public University will maintain the official records of all documents that affect real property under its control and management. Documents affecting real property include, but are not limited to, all instruments that acquire, transfer, sell, or alter the character of land.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08
580-060-0020
Purchase of Real Property
(1) All purchases of real property will be for the present or future development of the Public University.
(2) Legal title to all real property purchased must be taken and held in the name of the State of Oregon.
(3) The President is delegated the authority to execute conveyances for the purchase of real property after the following have been performed to satisfaction of the President:
   (a) Obtain at least one appraisal by a licensed and experienced real estate appraiser estimating the fair market value;
   (b) Complete an environmental assessment and determine that any risk associated with the real property is reasonable;
   (c) Determine that sufficient ongoing revenues are available to operate and maintain the property
(4) If the consideration for the purchase is $5,000,000.00 or more, the President must receive the prior approval of the State Board of Higher Education or an appropriate standing committee of the Board.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0025
Gifts of Real Property
(1) Legal title to all real property gifted to a Public University must be taken and held in the name of the State of Oregon.
(2) The President is delegated the authority to execute conveyances for the gift of real property after the following have been performed to satisfaction of the President:
   (a) Complete an environmental assessment and determine that any risk associated with the real property is reasonable under the circumstances;
   (b) Determine that sufficient ongoing revenues are available to operate and maintain the property
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0030
Condemnation
Acquisition of real property by condemnation will be conducted in accordance with ORS Chapter 35 and must be approved by the Board.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0035
Sale of Real Property
(1) The President is delegated the authority to execute conveyances for the sale of real property after the following have been performed to satisfaction of the President:
   (a) Obtain at least one appraisal by a licensed and experienced real estate appraiser estimating the fair market value;
(b) Verify with the Chancellor’s Office regarding whether any tax exempt financing was used to purchase or improve the property and, if any such debt remains outstanding, coordinate with the Chancellor’s Office to ensure continued compliance with IRS regulations.

(2) If the consideration for the sale is $5,000,000.00 or more, the President must receive the prior approval of the State Board of Higher Education or an appropriate standing committee of the Board.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0040

Easements

(1) The President is delegated the authority to execute easements and other nonpossessory interests in real estate.

(2) If granting an easement, the President shall first verify with the Chancellor’s Office regarding whether any tax exempt financing was used to purchase or improve the property and, if any such debt remains outstanding, coordinate with the Chancellor’s Office to ensure continued compliance with IRS regulations.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0045

Use of Board Property

(1) If a Public University intends to lease or license real property owned by the Board and either (a) the term of the lease or license exceeds 50 days in total or (b) the arrangement was not set at fair market value, then prior to the execution of the lease or license, the President or designee will confer with the OUS Controller's Division to determine compliance with bond restrictions.

(2) The President or designee will obtain prior approval of the State Board of Higher Education or an appropriate standing committee of the Board for agreements permitting the construction on or renovation to Board-owned property if such improvements exceed $5 million during the term of the agreement. To obtain approval from the State Board of Higher Education or an appropriate standing committee of the Board, the Public University must specify where funding for operations and maintenance will come from.

(3) If the Public University permits construction on or renovation to Board-owned property, the Public University must approve all plans and specifications prior to the commencement of work and obtain record drawings upon termination of the agreement or completion of the work, whichever first occurs.

(4) Public Universities normally will not make available Public University buildings and other facilities to individuals for essentially private use or to outside organizations, unless approved in Public University policy or required by law. Exceptions will be made only if the proposed use is consistent with Public University policies and missions and the individual or organization fully reimburses the Public University for all appropriate costs.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08
580-060-0050
Leases
(1) A President is delegated the authority to execute leases of real property.
(2) If the consideration for the lease is from $5,000,000 to $15,000,000 or the term of the lease is over 10 years but less than 15 years, the President must receive the prior approval of the Chancellor.
(3) If the consideration for the lease is over $15,000,000 or the term of the lease is over 15 years, the President must receive the prior approval of the State Board of Higher Education or an appropriate standing committee of the Board.
(4) Prior to executing an amendment to a lease, the President must receive approval under subsection (2) or (3) based on the consideration or term of the amended lease.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08; OUS 4-2011(Temp), f. & cert. ef. 11-10-11 thru 5-7-12

580-060-0055
Naming Buildings
A President is authorized to name buildings. No building or structure of the Oregon University System will be named after a living person. However, the Chancellor, or designee may make exceptions to this rule if a donor contributes a substantial share of the cost of construction or if other unusually meritorious reasons exist.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08
OREGON UNIVERSITY SYSTEM

DIVISION 60

REAL PROPERTY, FACILITY, AND CAMPUS PLANNING

580-060-0000
Authority
These rules establish the procedures that will be followed by Public Universities Institutions of the Oregon University System to acquire, receive, hold, control, convey, sell, manage, operate, lease, lend, improve, and develop all real property given to any of the Public Universities Institutions under the control of the Board, by private donors or acquired by any other method or from any source, except for any structure, or asset encumbered by a certificate of participation.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0005
Definitions
All capitalized terms in chapter 580, division 60 have the meanings set forth in OAR 580-061-0010 unless the context requires otherwise or except as stated.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0010
Comprehensive Plan Coordination
(1) Each of the Public Universities Institutions will maintain a long-range campus development plan covering all real property under its control and management, approved campus boundaries, including real property that is not contiguous to the main campus. The combined Public Universities Institutional plans will be known as the Oregon University System Comprehensive Plan. Institutional plans will conform to OAR Chapter 660, Division 30 of the Land Conservation and Development Commission, which includes, but is not limited to, conforming the Institutional plans to regulations of the applicable local jurisdiction. Institutional plans, and revisions thereof, will be approved by the President Institution President and by the Chancellor or designee. The Chancellor or designee will approve revisions to the campus boundaries.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0015
Records
Each OUS Public University will maintain the official records of The Office of Capital Construction, Planning, and Budget of the Chancellor’s Office will be the official record keeper of the approved comprehensive plans.
for all documents that affect real property under its control and management the control of the Board. Documents affecting real property include, but are not limited to, all instruments that acquire, transfer, sell, or alter the character of land. All documents will be provided by Institutions to the Office of Capital Construction, Planning, and Budget in a timely manner.

Stat.Auth.:ORS 351
Stats. Implemented:
Hist.:OSSHE 5-2008(Temp),f. &cert.ef.2-19-08thru8-16-08;OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0020
Purchase of Real Property
(1) All purchases will be in the name of the State of Oregon. All instruments acquiring title to real property must be executed by the Board President and Board Secretary in accordance with ORS 351.150. All purchases of real property will be for the present or future development of the Public University.Institution.
(2) Legal title to all real property purchased must be taken and held in the name of the State of Oregon.
(3) The Institution President has President is delegated the authority to approve purchases of execute conveyances for the purchase of real property after obtaining at least one appraisal by a licensed and experienced real estate appraiser estimating the fair market value if the consideration is less than $1,000,000. The Institution President must ensure that an environmental assessment has been completed and that any risk associated with the real property is reasonable under the circumstances and OUS Systemwide legislative expenditure limitation has been obtained prior to approving the purchase of real property.
(2) For the purchase of real property where the consideration exceeds $1,000,000, the Institution President or designee must: the following have been performed to the satisfaction of the President:
(a) Obtain at least one appraisal by a licensed and experienced real estate appraiser estimating the fair market value; and
(b) Obtain prior approval of the acquisition by the Chancellor or designee; and
(bc) Complete an environmental assessment and determine confirm that any risk associated with the real property is reasonable; under the circumstances; and
(c) Determine that sufficient ongoing revenues are available to operate and maintain the property.
(d) Obtain Legislative limitation, if required.
(4) All purchases of real property will comply with the applicable requirements of ORS Chapter 270. If the consideration for the purchase is $5,000,000.00 or more, the President must receive the prior approval of the State Board of Higher Education or an appropriate standing committee of the Board.
Stat. Auth.:ORS 351
Stats. Implemented:
Hist.:OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0025
Gifts of Real Property
The Institution President may accept gifts of real property on behalf of the Board. The Institution President must ensure that an environmental assessment has been completed prior to accepting the gift of real property and that any risk associated with the real property is reasonable under the
circumstances. Legal title to all real property gifted to the Institution must be taken and held in the name of the State of Oregon and executed by the Board President and Board Secretary.

(1) Legal title to all real property gifted to a Public University must be taken and held in the name of the State of Oregon.

(2) The President is delegated the authority to execute conveyances for the gift of real property after the following have been performed to satisfaction of the President:

(a) Complete an environment assessment and determine that any risk associated with the real property is reasonable under the circumstances;
(b) Determine that sufficient ongoing revenues are available to operate and maintain the property.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0030
Condemnation

Acquisition of real property by condemnation will be conducted in accordance with ORS Chapter 35 and must be approved by the Board.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0035
Sale of Real Property

(1) The President is delegated the authority to execute conveyances for the sale of real property after the following have been performed to the satisfaction of the President:

(a) Obtain at least one appraisal by a licensed and experienced real estate appraiser estimating the fair market value;
(b) Verify with the Chancellor’s Office regarding whether any tax exempt financing was used to purchase or improve the property and, if any such debt remains outstanding, coordinate with the Chancellor’s Office to ensure continued compliance with IRS regulations.

(2) If the consideration for the sale is $5,000,000.00 or more, the President must receive prior approval of the State Board of Higher Education or an appropriate standing committee of the Board.

(1) All instruments transferring title to real property must be executed by the Board President and Board Secretary.

(2) The Institution President has the authority to approve the sale of real property after obtaining at least one appraisal by a licensed and experienced real estate appraiser estimating the fair market value if the consideration is less than $1,000,000.

(3) For the sale of real property where the consideration exceeds $1,000,000, the Institution President must obtain at least one appraisal by a licensed and experienced real estate appraiser estimating the fair market value and must obtain prior approval of the sale by the Chancellor, or designee.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08
580-060-0040
Easements
(1) The President is delegated the authority to execute easements and other nonpossessory interests in real estate.
(2) If granting an easement, the President shall first verify with the Chancellor’s Office regarding whether any tax exempt financing was used to purchase or improve the property and, if any such debt remains outstanding, coordinate with the Chancellor’s Office to ensure continued compliance with IRS regulations.
(1) All instruments granting or acquiring an easement must be executed by the Board President and Board Secretary.
(2) The Institution President or designee has the authority to approve acquisition or grant of an easement reasonably related to the operation of the Institution if the consideration does not exceed $1,000,000.
(3) The Institution President or designee must obtain Chancellor, or designee approval for all other easement grants or acquisitions.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0045
Use of Board Property Facilities for Other than Institutional Purposes
(1) If a Public University intends to lease or license real property owned by the Board and either (a) the term of the lease or license exceeds 50 days in total or (b) the arrangement was not set at fair market value, then prior to the execution of the lease or license, the President or designee will confer with the OUS Controller’s Division to determine compliance with bond restrictions.
(2) The President or designee will obtain prior approval of the State Board of Higher Education or an appropriate standing committee of the Board for agreements permitting the construction on or renovation to Board-owned property is such improvements exceed $5,000,000 during the term of the agreement. To obtain approval from the State Board of Higher Education or an appropriate standing committee of the Board, the public university must specify from where funding for operations and maintenance will come.
(3) If the Public University permits construction on or renovation to Board-owned property, the Public University must approve all plans and specifications prior to the commencement of work and obtain record drawings upon termination of the agreement or completion of the work, whichever first occurs.
(4) Institutions Public Universities normally will not make available Institutional Public University buildings and other facilities to individuals for essentially private use or to outside organizations, unless approved in Institutional Public University policy or required by law. Exceptions will be made only if the proposed use is consistent with Institutional Public University policies and missions and the individual or organization fully reimburses the Institutional Public University for all appropriate costs. The Institutional President or designee will confer with the OUS Controller’s Division to determine compliance with bond restrictions.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08
Transfers of Interests in Real Property Leases

1. A President is delegated the authority to execute leases of real property.
2. If the consideration for the lease is from $5,000,000 to $15,000,000 or the term of the lease is over 10 years but less than 15 years, the President must receive the prior approval of the Chancellor.
3. If the consideration for the lease is over $15,000,000 or the term of the lease is over 15 years, the President must receive the prior approval of the State Board of Higher Education or an appropriate standing committee of the Board.
4. Prior to executing an amendment to a lease, the President must receive approval under subsection (2) or (3) based on the consideration or term of the amended lease.

1. Private Activity Limitations: If an Institution intends to execute any transfer of an interest in real property owned by the Board or the right to use Board real property, including a lease or license, and either (a) the term of the transfer exceeds 50 days in total or (b) the arrangement was not set at fair market value, then prior to the execution of that transfer of interest in real property, the Institution President or designee will confer with the OUS Controller’s Division to determine compliance with bond restrictions.

2. Authority to Execute Agreements: The Institution President or designee is authorized to execute documents transferring such interests for real property owned or controlled by the Board or real property for the use of the Institution if the term of the agreement and all extensions do not exceed ten years or the consideration for the transfer of an interest does not exceed $5 million over the term of the agreement. The Chancellor or designee may approve transfers of interest if the term of the agreement and all extensions do not exceed 15 years or the consideration for the transfer of an interest does not exceed $15 million over the term of the agreement. All other transfers of interests for real property will be approved by the Board or designee.

3. Improvements to Board-Owned Property: The Institution President or designee will obtain prior approval of the Board for agreements permitting the construction on or renovation to Board-owned property if such improvements exceed $5 million during the term of the agreement. To obtain approval from the Board, the Institution must specify where funding for operations and maintenance will come from.

(a) If the Institution permits construction on or renovation to Board-owned property, the Institution must approve all plans and specifications prior to the commencement of work and obtain record drawings upon termination of the agreement or completion of the work, whichever first occurs.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-060-0055

Naming Buildings

An Institution President is authorized to name buildings. No building or structure of the Oregon University System will be named after a living person. However, the Chancellor, or designee may make exceptions to this rule if a donor contributes a substantial share of the cost of construction or if other unusually meritorious reasons exist.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08
Board of Higher Education—Provided Housing

(1) Consistent with ORS 182.415 to 182.435, the Board will collect rent for housing provided to officers and employees. Each Institution will:

(a) Examine periodically, but not less frequently than once every five years, each rental unit’s fair rental value. Fair rental value will be determined by a qualified appraiser certified under ORS 308.010 or licensed or certified under ORS 674.310. The rental rate will be adjusted annually to reflect changes in community real estate values, if any.

(b) Collect rent for such housing based on the fair rental value, subject to any rental rate reductions authorized in subsection (2).

(c) Deposit such rental income in an appropriate Institution account.

(d) Provide no furnishings except as authorized by ORS 182.415(1).

(e) Determine whether to provide or to what extent the Institution will provide utilities and services for each housing unit.

(2) Each Institution providing housing for officers or employees may reduce the rent charged, by up to 100 percent from the fair rental value based on the following factors:

(a) Rental reduction for Institution need provided:

(A) If residence in the housing unit is a job requirement, as evidenced by contract or position description and not offered as an incentive or a fringe benefit to the resident state employee—50 percent reduction; or

(B) If residence in the housing unit is not a job-related requirement but it is a distinct advantage to the Institution to have the officer or employee live near the job in case of an emergency or for general protection of Board property in the area—20 percent reduction; or

(C) If residence in the housing unit is not a job requirement and the only advantage to the Institution is to reduce the chance of vandalism and deterioration to a Board-owned or controlled residence—10 percent reduction; or

(D) If residence in the housing unit is not a job requirement nor is it for the benefit of the Institution, but is solely for the benefit of the occupant—No reduction.

(b) Rental reduction for invasion of privacy.

(A) If the housing unit or a significant part of it is used for a public office or public business or is so located that invasion of privacy by the public or by guests invited for Institution-related activities is expected or usual—30 percent reduction; or

(B) If the public is not invited and invasion of privacy is not the usual occurrence, but the residence location or architecture plainly indicates state ownership and there is little or no restriction of public or Institution client traffic—20 percent reduction; or

(C) Invasion of privacy is an occasional or seasonal occurrence and there is some restriction to public traffic—10 percent reduction; or

(D) Invasion of privacy is no more than would be expected for an average privately owned residence—No reduction.

(c) Rental reduction for isolation.

(A) If the housing unit is located in an isolated area, defined as being more than 50 miles distance or 90 minutes travel by automobile from the nearest full-service community, or the travel conditions are usually severe or hazardous—20 percent reduction. A full-service community is one with a supermarket, department store, medical doctor, dentist, church, school, etc.; or
(D) If the housing unit is located 30 to 50 miles distance or 60 to 90 minutes travel by automobile from the nearest full-service community or the travel conditions are seasonally severe or hazardous—15 percent reduction; or
(C) If the housing unit is located 10 to 30 miles distance or 30 to 60 minutes travel time by automobile from the nearest full-service community, the travel conditions are only occasionally severe or hazardous—10 percent reduction; or
(D) The housing unit is located within 10 miles and not over 30 minutes travel time by automobile from the nearest full-service community and the travel conditions are rarely severe or hazardous—No reduction.
(d) Rental reduction for unique conditions. Certain unique conditions may arise or exist in addition to those in subsections (a)–(c) above. Rent may be reduced as follows:
(A) To correct inequities between the fair rental value as determined in subsection (1) and the salary of the officer or employee occupying the residence—reduction to the extent necessary and reasonable;
(B) Because of unique conditions in the Board's title to the property (e.g., the Board's ownership is conditioned upon residence by a specified employee)—up to 100 percent of the fair rental value; and
(C) Other factors necessary for effective program management (cannot include factors reflecting only the convenience or comfort of an employee)—a reduction of up to 20 percent.
(3) At least once every five years, Institutions will prepare a report indicating the fair rental value of each housing unit, the date of the most recent appraisal, and the amount of any reductions from the fair rental value and the reasons for the reductions. This report will be available for public inspection.
Stat. Auth.: ORS 351ORS 182.415, 182.425 & 351.070
Stats. Implemented:
Amendments to OAR Divisions 61 (OUS Procurement and Contracting Code) and 62 (Purchasing and Contracts for Personal or Professional Services and Goods)

Working with OUS university representatives, Chancellor’s Office staff drafted amendments to Divisions 61 and 62 of the Oregon University System’s administrative rules covering the OUS procurement and contracting code as it relates to goods and services (see both a redline/strike-out version and clean version of OARs attached). The amendments are offered to accomplish the following:

- Align rules with the changes to processes related to the passage of SB 242 and new Board policies,
- Update processes to reflect changing technologies and procedures, and
- Clarify language and eliminate unnecessary provisions.

These draft amendments have been reviewed by counsel and were reviewed and approved by the Administrative Council in February.

The following provides more detail regarding the proposed changes.

Align rules with the changes to processes related to the passage of SB 242 and new Board policies

The draft amendments also align the terminology and processes in these rules with changes required by the passage of SB 242 and recently adopted Board policies. Specifically the amendments:

- Referring to institutions as “Public Universities” and institution presidents as “Presidents,”
- Remove all references to the Department of Administrative Services,
- Provide exemptions to contract for insurance and legal products and services required by our departure from the state insurance fund and the Department of Justice, and
- Include new language to align the OARs with the Board policy on contracting with Historically Underrepresented Businesses, as adopted last year.

Update processes to reflect changing technologies and procedures

Upon the request of Institution purchasing and contracting staffs and counsel, updates to the amendments:

- Include clear language allowing for electronic submission of Bids and Offers and the procedures related to such,
- Modify requirements for cooperative contracting with other state agencies to provide for using cooperating contracts advertised via the internet,
• Create an exemption for contracts relating to specifically budgeted items in grant-funded projects,
• Apply the Special Procurement exemption existing in capital contracting code to goods and services,
• Increase the threshold for Formal Procurement from $100,000 to $150,000, and
• Explicitly allow Institutions to establish lower procurement thresholds per Public University policy or procedure.

Clarify Language and Eliminate Unnecessary Provisions
The language in certain provisions was modified in order to clarify meaning, maintain consistency, and reflect current processes.

COMMITTEE RECOMMENDATION TO THE BOARD
The Finance & Administration Committee forwards the proposed OAR changes for submittal as temporary administrative rules to be made permanent upon completion of the rules process.

(Board action required.)
DIVISION 61

OUS PROCUREMENT AND CONTRACTING CODE

580-061-0000

Code of Ethics
(1) The following Code of Ethics will apply to Oregon University System employees in relation to chapter 580, divisions 60, 61, 62, and 63. Employees will:
(a) Give first consideration to the objectives and policies of the Board, OUS, and the Public University;
(b) Strive to obtain the best value for expenditures;
(c) Fairly consider prospective Contractors insofar as state or federal statutes and Public University rules and policies require;
(d) Conduct business in an atmosphere of good faith;
(e) Demand honesty in representations made by prospective Contractors;
(f) Promote competition by encouraging the participation of Oregon businesses, emerging small and minority-owned and women-owned businesses, and Qualified Rehabilitation Facilities;
(g) Comply with the applicable provisions of ORS Chapter 244 and other applicable rules and policies on conflict of interest that may be more restrictive;
(h) Refrain from having financial interests incompatible with the impartial, objective, and effective performance of duties. Activities that may create a conflict of interest must be addressed in accordance with the procedures outlined in the Oregon University System's Internal Management Directives and other applicable rules and policies;
(i) Receive the written consent of the originator of proprietary ideas and designs before using them; and
(j) Foster fair, ethical, and legal trade practices.
(k) Execute the OUS Conflict of Interest Statement before any person may participate in the evaluation or selection of a Contractor or vendor under a Formal Procurement process.
(L) On an annual basis, sign a statement that the employee has reviewed and will comply with the OUS Code of Ethics.
(2) This code is for the Oregon University System's internal use only and creates no obligations enforceable by Contractors, Proposers, Bidders, or other parties doing business with a Public University, nor may it be used by Contractors, Proposers, Bidders, or other parties doing business with a Public University who are challenging actions taken by a Public University or its officers, employees, or agents. This code may not be the only statement on ethics applicable to an employee.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08
580-061-0005
Applicable Model Public Contract Rules
The Attorney General's Model Public Contract Rules adopted by the Oregon Attorney General pursuant to ORS 279A.065 are generally inapplicable to the contracting activities of Public Universities unless specifically referenced and adopted herein.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0010
Definitions
The following Definitions will apply to chapter 580, divisions 60, 61, 62, and 63, unless the context requires otherwise:
(1) “Addendum” or “Addenda” means an addition to, deletion from, a material change in, or general interest explanation of the Solicitation Document. Addenda will be labeled as such and posted on the OUS procurement website for access by all interested Offerors.
(2) “Award” or “Awarding” means, as the context requires, identifying the Entity with whom the Public University intends to enter into a Contract following the resolution of any protest of the selection of that Entity and the completion of all Contract negotiations.
(3) "Bid" means an offer, binding on the Bidder and submitted in response to an ITB.
(4) "Bidder" means an Entity that submits a Bid in response to an ITB.
(5) "Board" means the Oregon State Board of Higher Education.
(6) "Change Order" or "Contract Amendment" means a written order issued by a Public University to the Contractor requiring a change in the Work within the general scope of the original Contract.
(7) "Closing" means the date and time specified in a Solicitation Document as the deadline for submitting Bids or Proposals.
(8) "Competitive Process" means the process of procuring goods and services and construction-related services by fair and open competition, under varying market conditions, with the intent of minimizing opportunities for favoritism and assuring that Contracts are award equitably and economically using various factors in determining such equitability and economy.
(9) "Contract" means a contract for sale or other disposal, or a purchase, lease, rental, or other acquisition, by a Public University of personal property, services, including personal or professional services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a Public Improvement. "Contract" does not include grants. "Contract" may also mean a purchase order, Price Agreement, or other Contract document in addition to a Public University’s Solicitation Document and the accepted portions of a Solicitation Response.
(10) "Contract Officer" means the Vice President for Finance and Administration or his or her designee at the Public University or the Vice Chancellor for Finance and Administration or his or her designee with the authority to negotiate and execute Contracts.
(11) "Contract Price" means, as the context requires, the maximum monetary obligation that a Public University either will or may incur under a Contract, including bonuses, incentives and contingency amounts, Addenda, Change Orders, or approved alternates, if the Contractor fully performs under the Contract.
(12) "Contractor" means the Entity awarded a Contract to furnish a Public University goods, services, or Work.
(13) "Days" means calendar days, including weekdays, weekends, and holidays, unless otherwise specified.
(14) "Disadvantaged Business Enterprise" means a small business concern as defined in ORS 200.005.
(15) "Disqualification or Disqualify" means the preclusion of an Entity from contracting with an agency of the State of Oregon in accordance with OAR 580-061-0160.
(16) "Electronic Solicitation Response" means a response to a Solicitation Document submitted to a Public University via the World Wide Web or some other internet protocol.
(17) "Emergency" means an unexpected, serious situation that creates a significant risk of loss, damage, interruption of service, or threat to the public health or safety that requires prompt action to remedy the condition.
(18) "Emerging Small Business" means an Emerging Small Business as defined in ORS 200.005 and that maintains a current certification issued by the Oregon Department of Consumer and Business Services.
(19) "Entity" means a natural person capable of being legally bound, sole proprietorship, corporation, partnership, limited liability company or partnership, limited partnership, profit or nonprofit unincorporated association, business trust, two or more persons having a joint or common economic interest, or any other person with legal capacity to contract, or a government or governmental subdivision.
(20) "Grant" means:
(a) An agreement under which a Public University receives money, property, or other assistance, including, but not limited to, federal assistance that is characterized as a Grant by federal law or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities, or other assets, from a grantor for the purpose of supporting or stimulating a program or activity of the Public University and in which no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with the Grant conditions; or
(b) An agreement under which an Public University provides money, property, or other assistance, including, but not limited to, federal assistance that is characterized as a Grant by federal law or regulations, loans, commodities, or other assets, to a recipient for the purpose of supporting or stimulating a program or activity of the recipient and in which no substantial involvement by the Public University is anticipated in the program or activity other than involvement associated with monitoring compliance with the Grant conditions.
(c) "Grant" does not include a Public Improvement Contract or a Contract for Emergency Work.
(21) “Historically Underrepresented Business” means Minority Business Enterprises, Women Business Enterprises, and Emerging Small Businesses certified by the State of Oregon or self-certified, and firms certified federally or by another state or entity with substantially similar procedures to the State of Oregon.
(22) "Invitation to Bid" (ITB) means a Solicitation Document for the solicitation of competitive, written, signed, and Sealed Bids in which Specifications, price, and delivery (or project completion) are the predominant award criteria.
(23) "Minority Business Enterprise" means a Minority Business Enterprise as defined in ORS 200.005 and that maintains a current certification issued by the State of Oregon.
(24) "Opening" means the date, time, and place specified in the Solicitation Document for the public opening of written or electronically submitted Solicitation Responses.
(25) “Offeror” means the entity submitting a binding Solicitation Response.
(26) "OUS Retainer Program" means Contracts by which, pursuant to a Solicitation Document, multiple Contractors are authorized to provide specific materials to or perform specific services for a Public University(ties). Contractors on an OUS Retainer Program may provide goods or services on a non-exclusive and as-needed basis. OUS Retainer Programs are administered centrally by the Vice Chancellor for Finance and Administration or designee.

(27) "Owner" means the Board, in its own right or on behalf of one of its Public Universities as identified in the Solicitation Document, also known as the Oregon University System (OUS).

(28) "President" means the president of one of the Public Universities and, in the case of the Chancellor's Office, the Chancellor. Where the term "President" is used, it refers to the president of the Public University (or Chancellor) as context requires.

(29) "Personal or Professional Services" means a Contract with an Entity whose primary purpose is to acquire specialized skills, knowledge, and resources in the application of technical or scientific expertise, or the exercise of professional, artistic, or management discretion or judgment, including, without limitation, a Contract for the services of an accountant, physician or dentist, educator, consultant, broadcaster or artist (including a photographer, filmmaker, painter, weaver, or sculptor). "Personal or Professional Services" under this definition does not include architects, engineers, planners, land surveyors, appraisers, construction managers, and similar professional consultants for construction work.

(30) "Price Agreement" means a nonexclusive agreement in which the Contractor agrees to provide specific items or services to a Public University at a set price during a specified period of time.

(31) "Proposal" means a binding competitive offer submitted in response to a Request for Proposals.

(32) "Proposer" means an Entity that submits a Proposal in response to a Request for Proposals.

(33) "Public Improvement" means a project for construction, reconstruction, or major renovation on real property by or for a Public University. "Public Improvement" does not include:

(a) Projects for which no funds of a Public University are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or

(b) Emergency Work, minor alteration, ordinary repair or maintenance necessary to preserve a Public Improvement.

(34) "Public Improvement Contract" means a Contract for a Public Improvement. "Public Improvement Contract" does not include a Contract for Emergency Work, minor alterations, or ordinary repair or maintenance necessary to preserve a Public Improvement.

(35) "Public University" means a university under the authority of the Board, including the Chancellor's Office.

(36) "Public Work" is defined by the Bureau of Labor and Industries (BOLI) in ORS 279C.800(6).

(37) "Qualified Rehabilitation Facility" means a nonprofit activity center or rehabilitation facility authorized by the Oregon Department of Administrative Services to provide goods or services in accordance with ORS 279.835 et seq.

(38) "Request for Information (RFI)" means a Solicitation Document seeking information regarding products or services that a Public University is interested in procuring.

(39) "Request for Proposals (RFP)" means a Solicitation Document to obtain competitive Proposals to be used as a basis for making an acquisition or entering into a Contract when price will not necessarily be the predominant award criteria.
(40) "Request for Qualifications" means a Solicitation Document issued by a Public University to which interested Contractors respond in writing by describing their experience with and qualifications to provide the services described in the Solicitation Document.

(41) "Request for Quotes" means a Solicitation Document to obtain competitive quotes to be used as a basis for making an acquisition or entering into a Contract when best value will be the award criteria.

(42) "Responsible Offeror" means an Entity that demonstrates their ability to perform satisfactorily under a Contract by meeting the applicable standards of responsibility outlined in OAR 580-061-0130.

(43) "Responsive Solicitation Response" means a Solicitation Response that has substantially complied in all material respects with the criteria outlined in a Solicitation Document.

(44) "Retainer Contract" means a Contract by which, pursuant to a Solicitation Document, multiple Contractors are authorized to provide specific supplies or equipment to or perform specific services for a Public University. Contractors on a Retainer Contract may provide goods or services on a non-exclusive and as-needed basis.

(45) "Sealed" means a Solicitation Response to an RFP or an ITB that has not been opened by the Public University or a Solicitation Response delivered by electronic means that has not been distributed beyond the Public University personnel responsible for receiving the electronically submitted Solicitation Response.

(46) "Signed or Signature" mean any Written mark, word, or symbol that is made or adopted by an Entity with the intent to be bound and that is attached to or logically associated with a Written document to which the Entity intends to be bound.

(47) "Single Seller" means the only Contractor of a particular product or service reasonably available.

(48) "Solicitation Document" means an Invitation to Bid, Request for Proposals, Request for Qualifications, Request for Information or any other written document issued or posted on the OUS procurement website by a Public University that outlines the required Specifications necessary to submit a Bid, Proposal, or other response.

(49) "Solicitation Response" means a binding offer submitted in response to a Solicitation Document.

(50) "Specifications" means a description of the physical or functional characteristics, or of the nature of the goods or services, including any requirement for inspecting, testing, or preparing the goods or services for delivery and the quantities or qualities of the goods or services to be furnished under a Contract. Specifications generally will state the result to be obtained and may describe the method and manner of performance.

(51) "Women Business Enterprise" means a Women Business Enterprise as defined in ORS 200.005 and that maintains a current certification issued by the Oregon Department of Consumer and Business Services.

(52) "Work" means the furnishing of all materials, equipment, labor, transportation, services, and incidentals necessary to successfully complete any individual item or the entire Contract and carrying out and completion of all duties and obligations imposed by the Contract.

(53) "Written or Writing" means letters, characters, and symbols inscribed on paper by hand, print, type, or other method of impression intended to represent or convey particular ideas or means. "Written" or "Writing," when required or permitted by law, or required or permitted in a Solicitation Document, also means letters, characters, and symbols made in electronic form and intended to represent or convey particular ideas or meanings.

Stat. Auth.: ORS 351
580-061-0015
Purchasing and Contract Records
(1) Public Universities will maintain records relating to all Public University purchasing and contracting transactions in accordance with the requirements of the Secretary of State and OUS administrative rules.
(2) Documentation of all purchasing and contracting transactions will be made available for inspection by the public as outlined in applicable public records laws.
(3) Public Universities will maintain records relating to all Public University purchasing and contracting transactions that may include:
(a) An executed Contract and any amendments or Change Orders;
(b) The record of the actions used to develop the Contract;
(c) A copy of the Solicitation Document, if any;
(d) Any required findings or statement of justification for the selection of the Contractor or the procurement method used;
(e) The record of any negotiation of the Specifications, the Work, the Contract Price and related Contract terms;
(f) All information describing how the Contractor was selected, including the basis for awarding the Contract;
(g) The names of Entities and cost estimates considered.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0020
Designation of Contract Officers
Each Public University Vice President for Finance and Administration or the Vice Chancellor for Finance and Administration will designate staff authorized to enter into Contracts and Public Improvement Contracts for the Public University.
(1) Public Universities will maintain a list identifying Contract Officers and describing the types and Contract Price of Contracts and Public Improvement Contracts they are authorized to enter into. Public Universities will provide an updated list annually to the Chancellor's Office. The Vice Chancellor for Finance and Administration may designate staff authorized to enter into Contracts and Public Improvement Contracts on behalf of all Public Universities.
(2) Contracts or Public Improvement Contracts entered into by individuals not designated as authorized Contract Officers and unauthorized procurements or expenditures that do not follow the OUS Procurement and Contracting Code will be voidable at the sole discretion of the Public University. Public Universities may take appropriate action in response to execution of Contracts or procurements contrary to this rule. Such actions include, but are not limited to, providing educational guidance, imposing disciplinary measures, and holding individuals personally liable for such Contracts or procurements.
(3) Authorized Contract Officers will be responsible for ensuring that the proper procedures are followed as outlined in chapter 580, Divisions 60, 61, 62, and 63.
(4) Unless otherwise specified in chapter 580, divisions 60, 61, 62, and 63, the Contracting Officer will perform all the duties of the Owner on behalf of the Board.
(5) The President may, by Written agreement with the President of another Public University or the Chancellor, and after notice to the Chancellor, transfer such delegation to a person at another Public University.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0025
Policy Governing the Acquisition of Goods and Services available from Qualified Rehabilitation Facilities
Public Universities will purchase goods and services from Qualified Rehabilitation Facilities in accordance with the provisions of ORS 279.835 to 279.855 and applicable administrative rules.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0030
Affirmative Action; General Policy
(1) The general policy of OUS Public Universities will be to expand economic opportunities for Historically Underrepresented Businesses by offering them the contracting and subcontracting opportunities available through Public University Contracts. Notice of all Contracts over $25,000 procured through a Competitive Process will be provided to the Advocate for Minority, Women, and Emerging Small Business, unless otherwise provided, by fully completing the information set out on the OUS procurement website. Public Universities are encouraged to unbundle contracts, when appropriate, to expand contract opportunities for Historically Underrepresented Businesses and Oregon-based businesses.
(2) OUS will not knowingly contract with or procure goods or services from any Entity that discriminates on the basis of age, disability, national origin, race, marital status, religion, sex, or sexual orientation.
(3) Offerors will certify, as part of the Solicitation Response that such Offeror has not discriminated against Historically Underrepresented Businesses in obtaining any required subcontracts.
(4) Public Universities will comply with the OUS Equity Contracting and Purchasing Policy and Data Reporting Procedures.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0035
Emerging Small Business Program
(1) The Board encourages participation of Emerging Small Businesses by creating an Emerging Small Business Program. The Emerging Small Business Program is limited to businesses that meet the definition in ORS 200.005(3) and that maintain a current certification issued by the State of Oregon. When conducting procurements, Public Universities may implement the Emerging Small Business Program by methods including, but not limited to:
(a) Priority of Contract Award. In the event of a tie low Bid, when price is the sole determinative factor, give priority to a certified Emerging Small Business;
(b) Exclusive Emerging Small Business Opportunities. Public Universities have the authority to create opportunities that are only open to certified Emerging Small Businesses. When a Public University issues a Solicitation Document, the Public University may determine that it is in the university’s interest to limit the opportunity to only qualified and certified Emerging Small Businesses.

(c) Evaluation Criteria. A Public University may identify in a Solicitation Document that it will award additional evaluation points based on certified Emerging Small Business status.

(2) For Construction-Related Services where price is the determinative factor, if a Responsible Emerging Small Business’ Responsive Bid is within one percent of the lowest Responsible Responsive Bid, the Public University will award the Contract to the Emerging Small Business.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0040
Sexual Harassment Policy
All Entities that wish to contract with the Public Universities will be notified on the OUS procurement website that the Board has adopted policies applicable to Contractors that prohibit sexual harassment and that the Contractor's company and employees are required to adhere to the Public University’s policy prohibiting sexual harassment in their interactions with members of the Public University’s community.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0045
Insurance or Bond Requirements
All Contractors will provide and maintain insurance or bonding as may be required by the Public University. Such insurance or bonding will remain in force throughout the term of the Contract, including any extensions.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0050
Interest on Overdue Charges
The policy of the Board is that a Public University pay any overdue account charge, in accordance with ORS 293.462, incurred by a Public University when payment for goods and services have not been reasonably made.

(1) Overdue claims will be those that have not been paid within 45 days from the latest of the following dates: The date of the receipt of the accurate invoice, the date of the initial billing statement if no invoice is received, the date all goods have been received, or the date the claim is made certain by agreement of the parties or by operation of law. However, overdue account charges will not accrue on any purchases made by a Public University during time of civil emergency or in the event of a natural disaster that prevents the timely payment of accounts. In such instances, accounts will be paid in as timely a manner as possible.
(2) The maximum overdue charge incidental to procurement of the goods or services will be at a rate of two-thirds of one percent per month, but not more than eight percent per annum.
Stat. Auth.: ORS 351
Stats. Implemented: ORS 293.462
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0055
(1) Brand-Name Specification. Public Universities may specify brand names in the procurement of goods and services if that particular product or service has attributes not found in other goods and services of like kind. In addition, when specific design or performance specifications must be met for a good or service to be purchased, a Public University may specify a list of qualified goods or services by reference to the qualified goods or services of a particular contractor or potential contractor.
(2) Invitation to Bid Required Provision. If an Invitation to Bid is issued for a Contract for goods or services, the Public University will ensure that the following statement is contained in the Invitation to Bid: "Contractors will use recycled products, as defined in ORS 279A.010(1)(ii), to the maximum extent economically feasible in the performance of the Contract."
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0060
Basis for Awarding Contracts
Public Universities will select Contractors and award Contracts based on such factors as are identified in the Solicitation Document and such other factors as are reasonable under the circumstances.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0065
Contract Amendments (Including Change Orders and Extra Work) and Expired Contracts
An amendment for additional Work or goods that is reasonably related to the scope of Work under the original Contract, including Change Orders, extra work, field orders, or other change in the original Specifications that increases the original Contract Price or length of time, may be made with the Contractor without using a Competitive Process provided that the amendment does not materially alter such a Contract. An amendment that extends the Contract past the period set out in the Solicitation Document for anything other than completion of the Work contemplated in the original Contract as extended will require a new Competitive Process, unless approved by the Vice President for Finance and Administration or Vice Chancellor for Finance and Administration for good cause. Expired Contracts may be revived and reinstated upon the approval of the Vice President for Finance and Administration or Vice Chancellor for Finance and Administration or their designees.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08
580-061-0070
Solicitation Responses are Offers
(1) Offer and Acceptance. The Solicitation Response is the Offeror’s offer to enter into a Contract that will be binding upon the Offeror for thirty (30) days, unless a different time frame is specified in the Solicitation Document.
(2) The Solicitation Response will be a complete offer and fully responsive to the Solicitation Document, unless Offerors are specifically authorized by the Solicitation Document to take exceptions or to leave terms open to negotiation.
(3) Unless expressly authorized by the Solicitation Document, Offerors will not make their Solicitation Response contingent upon the Public University's acceptance of Specifications or contract terms that conflict with or are in addition to those in the Solicitation Document.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0075
Facsimile and Electronic Solicitation Responses
(1) Public Universities may authorize submission of Solicitation Responses through facsimile or electronic methods.
(2) If the Solicitation Response is in response to an RFP or ITB and the Solicitation Document permits submission via facsimile or electronic means, the Public University must establish a method of receiving, identifying, recording, and preserving the "Sealed" requirement of the Formal Procurement.
(3) Solicitation Responses submitted through facsimile and electronic methods must contain Written signatures indicating intent to be bound by the offer.
(4) Public Universities may execute or open electronic submissions to verify receipt of documents prior to the Closing, but will not verify responsiveness of Solicitation Responses.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0080
Solicitation Response Submissions
(1) Identification of Solicitation Responses. To ensure proper identification and special handling, if any, Offeror must appropriately mark its Written Solicitation Response. The Public University will not be responsible for the proper identification and handling of Solicitation Responses not submitted in the designated manner or format as required in the Solicitation Document.
(2) Receipt of Solicitation Responses. It is the Offeror’s responsibility to ensure that Solicitation Responses are received by the Public University at the required delivery point, prior to the Closing as indicated in the Solicitation Document, regardless of the method used to submit or transmit the Solicitation Response.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08
580-061-0085
Pre-Solicitation Response Conferences
(1) Pre-Solicitation Response conferences may be scheduled. Each pre-Solicitation Response conference will be described in the Solicitation Document as "voluntary" or "mandatory." If such a conference is designated as "mandatory," an Offeror must attend in order to submit a Solicitation Response.
(2) If the Offeror is an individual, the Offeror may authorize a representative other than himself/herself to attend the pre-Solicitation Response conference.
(3) Statements made by Public University representatives at the pre-Solicitation Response conference will not be binding unless a Written Addendum to the Solicitation Document is issued.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0090
Offer Security
(1) The Public University may require in the Solicitation Document submission of a security. Security includes, but is not limited to, a surety bond from a surety company authorized to do business in the state of Oregon, cashier's check, certified check, or savings and loan secured check.
(2) The Solicitation Response security of all unsuccessful Offerors will be returned or released after a Contract has been executed and a performance bond provided (if such a bond is required), or after all Solicitation Responses have been rejected.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0095
Addenda to Solicitation Document
(1) The Public University may change a Solicitation Document by Written Addenda. Public Universities will make reasonable efforts to notify potential Offerors of such Written Addenda by methods that may include, but are not limited to, publication of the Written Addenda on the OUS procurement website or requiring submission of a notice of interest by potential Offerors to receive Addenda.
(2) The Public University will issue the Written Addenda within a reasonable time prior to Closing to allow prospective Offerors to consider the Addenda in preparing their Solicitation Responses. The Public University may extend the Closing if it determines prospective Offerors need additional time to review and respond to Addenda.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0100
Clarification of ITBs and RFPs and Requests for Change
Requests for clarification or change of the ITB or RFP must be received by the Public University in writing by the date indicated in the ITB or RFP.
(1) Such request for clarification or change will include the reasons for the clarification or change, and any proposed changes to Specifications or provisions.
(2) The Public University will consider all requests for clarification or change and, if appropriate, amend the ITB or RFP by issuing Addenda.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0105
Pre-Closing Modifications or Withdrawal of Bids or Proposals
(1) Modifications. An Offeror may modify its Solicitation Response in Writing prior to the Closing. Any modification must include a statement that the modification amends and supersedes the prior Solicitation Response.
(2) Withdrawals. An Offeror may withdraw its Solicitation Response by Written notice, signed by an authorized representative of the Offeror, submitted to the individual and location specified in the Solicitation Document (or the place of Closing if no location is specified), and received by the Public University prior to the Closing. The Offeror, or authorized representative of the Offeror, may also withdraw its Solicitation Response in person prior to the Closing, upon presentation of appropriate identification and evidence of authority satisfactory to the Public University.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0110
Formal Procurement receipt, Opening, and Recording of Bids and Proposals
(1) In all Formal Procurements an Public University will comply with the following:
(a) Receipt. A Public University will electronically or mechanically time-stamp or hand-mark each Bid or Proposal and any modification upon receipt. Except as provided in OAR 580-061-0075(2) the Public University will not open the Bid or Proposal or modification, but will store it in a secure place until Opening. If the Public University inadvertently opens a Bid or Proposal or a modification prior to the Opening, the Public University will reseal and store the opened Bid or Proposal or modification until the Opening.
(b) Disclosure. Unless otherwise specified in the Solicitation Document, the name of the Entity submitting a Bid or Proposal will be the only information that may be made public until notice of the intent to Award or an Award has been issued.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0115
Late Bids and Proposals, Late Withdrawals, and Late Modifications
Any Bid or Proposal, modification, or withdrawal received after the Closing is late. A Public University will not consider late Bids or Proposals, modifications, or withdrawals except as permitted in OAR 580-061-0120. However, Public Universities may adopt a Public University policy or procedure to accept late bids in circumstances that are determined to be in the best interests of the Public University if policy or procedure is stated in the Solicitation Document.
Mistakes
(1) Generally. To protect the integrity of the Competitive Process and to assure fair treatment of Offerors, a Public University should carefully consider whether to permit waiver, correction, or withdrawal for certain mistakes.

(2) Public University Treatment of Mistakes. A Public University will not allow an Offeror to correct or withdraw a Solicitation Response for an error in judgment. If the Public University discovers certain mistakes in a Solicitation Response after Opening, but before award of the Contract, the Public University may take the following action:

(a) A Public University, in its sole discretion, may waive or permit an Offeror to correct a minor informality. A minor informality is a matter of form rather than substance that is evident on the face of the Solicitation Response or an insignificant mistake that can be waived or corrected without prejudice to other Offerors. Examples of minor informalities include an Offeror’s failure to:

(A) Return the correct number of Signed Solicitation Responses or the correct number of other documents required by the Solicitation Document; or

(B) Sign the Solicitation Response in the designated block, provided a Signature appears elsewhere in the Solicitation Response, evidencing an intent to be bound; or

(C) Acknowledge receipt of an Addendum to the Solicitation Document, provided it is clear on the face of the Solicitation Response that the Offeror received the Addendum and intended to be bound by its terms, or the Addendum involved did not affect price, quality, or delivery.

(b) A Public University may correct a clerical error if the error is evident on the face of the Solicitation Response or other documents submitted with the Solicitation Response and the Offeror confirms the Public University's correction in Writing. A clerical error is an Offeror’s error in transcribing its Solicitation Response. Examples include, but are not limited to, typographical mistakes, errors in extending unit prices, transposition errors, and arithmetical errors, instances in which the intended correct unit or amount is evident by simple arithmetic calculations. In the event of a discrepancy, unit prices will prevail over extended prices.

(c) A Public University may permit an Offeror to withdraw a Solicitation Response after Closing based on one or more clerical errors in the Solicitation Response only if the Offeror shows with objective proof and by clear and convincing evidence:

(A) The nature of the error;

(B) That the error is not a minor informality under this subsection or an error in judgment;

(C) That the error cannot be corrected under subsection (b) of this subsection;

(D) That the Offeror acted in good faith in submitting a Solicitation Response that contained the claimed error and in claiming that the alleged error in the Solicitation Response exists;

(E) That the Offeror acted without gross negligence in submitting a Solicitation Response that contained a claimed error;

(F) That the Offeror will suffer substantial detriment if the Public University does not grant it permission to withdraw the Solicitation Response;

(G) That the Public University's or the public's status has not changed so significantly that withdrawal of the Solicitation Response will work a substantial hardship on the Public University or the public it represents; and
(H) That the Offeror promptly gave notice of the claimed error to the Public University.
(d) The criteria in subsection (2) (a) of this rule will determine whether a Public University will permit an Offeror to withdraw its Solicitation Response after Closing. These criteria also will apply to the question whether a Public University will permit a Offeror to withdraw its Solicitation Response without forfeiture of its Bid bond (or other Bid security) or without liability to the Public University based on the difference between the amount of the Offeror’s Solicitation Response and the amount of the Contract actually awarded by the Public University, whether by Award to the next lowest Responsive and Responsible Bidder or the best Responsive and Responsible Offeror or by resort to a new solicitation.
(3) Rejection for Mistakes. The Public University will reject any Offeror in which a mistake is evident on the face of the Solicitation Response and the intended correct Solicitation Response is not evident or cannot be substantiated from documents submitted with the Solicitation Response.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. cf. 2-19-08 thru 8-16-08

580-061-0125
Low Tie Bids
(1) Definition. Low Tie Bids are low tied Responsive Bids from Responsible Bidders that are identical in price, fitness, availability, and quality and that meet all the requirements and criteria set forth in the Solicitation Document.
(2) Award. In the event of a Low Tie Bid, the Public University will award the Contract based on the following order of precedence:
(a) An Emerging Small Business that meets the definition in ORS 200.005(3) and that maintains a current certification issued by the State of Oregon;
(b) An Entity whose principal offices or headquarters are located in Oregon;
(c) If neither subsection (a) nor (b) apply, award of the Contract will be made by drawing lots.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. cf. 2-19-08 thru 8-16-08

580-061-0130
Rejection of Individual Solicitation Responses and Offerors
(1) A Public University may reject, in whole or in part, any Solicitation Response not in compliance with all prescribed Solicitation Response procedures, Contract provisions, and Specifications contained in the Solicitation Document or upon a Written finding by the Public University that it is in the public interest to do so.
(2) Reasons for rejection. A Public University may reject a Solicitation Response upon the Public University's findings that include, but are not limited to, the Solicitation Response:
(a) Is contingent upon the Public University's acceptance of terms and conditions that differ from the Solicitation Document; or
(b) Takes exception to the terms and conditions (including Specifications) set forth in the Solicitation Document; or
(c) Attempts to prevent public disclosure of matters in contravention of the terms and conditions of the Solicitation Document or in contravention of applicable law; or
(d) Offers goods or services that fail to meet the Specifications of the Solicitation Document; or
(e) Is late; or
(f) Is not in substantial compliance with the Solicitation Document; or
(g) Is not in substantial compliance with all prescribed solicitation procedures; or
(h) Does not include the Solicitation Response security as required by the Solicitation Document; or
(i) Does not include an executed certification of non-discrimination in compliance with 580-061-00305 and compliance with Oregon tax laws.

(3) A Public University may reject an Offeror upon the Public University's findings that include, but are not limited to, the Offeror:
(a) Has not met any required mandatory prequalification;
(b) Has been disqualified pursuant to OAR 137-046-0210(3) (Disadvantaged Business Enterprise Disqualification);
(c) Has not met the requirements of the Emerging Small Business Program created in OAR 580-061-0035, if required in the Solicitation Document.
(d) That has been debarred in accordance with ORS 279B130 or 279C.440;
(e) Has been declared ineligible by the Commissioner of Bureau of Labor and Industries under ORS 279C.860;
(f) Has within the last five years been found, in a civil, criminal, or administrative proceeding, to have committed or engaged in fraud, misrepresentation, price-rigging, unlawful anti-competitive conduct, or similar behavior;
(g) Is non-Responsible. Offerors are required to demonstrate their ability to perform satisfactorily under a Contract. Before Awarding a Contract, the Public University must have information that indicates that the Offeror meets the applicable standards of Responsibility. To be a Responsible Offeror, the Public University may consider:
(A) If the Offeror has appropriate financial, material, equipment, facility, and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the Offeror to meet all contractual responsibilities;
(B) If the Offeror has a satisfactory record of contract performance. The Public University may consider both private and public contracts in determining responsible performance under a contract;
(C) If the Offeror has a satisfactory record of integrity. An Offeror may lack integrity if a Public University determines the Offeror demonstrates a lack of business ethics such as violation of state environmental laws or false certifications made to a state agency. A Public University may find an Offeror non-Responsible based on the lack of integrity of any person having influence or control over the Offeror (such as a key employee of the Offeror that has the authority to significantly influence the Offeror’s performance of the Contract or a parent company, predecessor or successor person);
(D) If the Offeror is qualified legally to Contract with the Public University;
(E) If the Offeror has supplied all necessary information in connection with the inquiry concerning Responsibility. If the Offeror fails to promptly supply information requested by the Public University concerning responsibility, the Public University may base the determination of responsibility upon any available information or may find the Offeror non-Responsible.

(4) Form of Business Entity. For purposes of this rule, the Public University may investigate any Entity submitting a Solicitation Response. The investigation may include the Entity's officers, directors, owners, affiliates, or any other person acquiring ownership of the Entity to determine application of this rule.
(5) Notice. If an Offeror or a Solicitation Response is rejected in accordance with this rule, the Public University will provide written notice of such rejection to the Offeror. The notice will include the grounds for rejection and a statement of the Offeror’s appeal rights and applicable appeal deadlines.

(a) If an Offeror wishes to appeal the decision to reject the Offeror or Solicitation Response, the Offeror must notify the Public University, in Writing, within three Days after receipt of the notification.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0135
Rejection of All Solicitation Responses
(1) Rejection. A Public University may reject all Bids or Proposals whenever the Public University finds it is in the Public University’s best interest to do so.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0140
Disposition of Solicitation Responses if Solicitation Cancelled
(1) Prior to Solicitation Response Opening. When a solicitation is cancelled prior to Opening, all Solicitation Responses received will be destroyed.

(2) After Solicitation Response Opening. When all Solicitation Responses are rejected, the Solicitation Responses received will be retained and become part of the Public University's permanent solicitation file.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0145
Protest of Contractor Selection, Contract Award, and Protest of Solicitation Document
(1) The purpose of this rule is to require adversely affected or aggrieved Offeror on a Public University solicitation to exhaust all avenues of administrative review and relief before seeking judicial review of the Public University's selection or Award decision.

(2) Types of Protests. The following matters may be protested:

(a) A determination of responsibility or lack thereof;

(b) A determination of responsiveness or lack thereof;

(c) The rejection of a Solicitation Response, unless notice of rejection has been previously provided under OAR 580-061-0130(5);

(d) The content of a Solicitation Document;

(e) The selection of one or more Contractors. A protest may be submitted only by an Entity that can demonstrate that it has been or is being adversely affected by a Public University decision or the content of a Solicitation Document.

(3) Delivery. Unless otherwise specified in the Solicitation Document, an Offeror must deliver a Written protest to the Public University within three (3) Days after the Award of a Contract or issuance of the notice of intent to Award the Contract, whichever occurs first. Protests must be
clearly marked on the outside of the envelope with the title or the number of the Solicitation Response and that it is a protest to ensure that it is recognized and recorded.

(4) Content of Protest. An Offeror’s protest must fully specify the grounds for the protest and include all evidence that the protestor wishes the Vice Chancellor for Finance and Administration, Public University Vice President for Finance and Administration, or designee to consider. Failure to include any ground for the protest or any evidence in support of it will constitute a final, knowing, and voluntary waiver of the right to assert such ground or evidence. A protest must include a conspicuous marking identifying the type and nature of the protest.

(5) A protest of a Solicitation Document may be made only if a term or condition of the Solicitation Document, including, but not limited to, Specifications or Contract terms violates applicable law. The Public University will promptly transmit the revised Solicitation Document to all Offerors and extend the Closing where appropriate. The Public University may choose, in its sole discretion, to close the procurement process without making an Award and begin a new procurement process.

(6) A protest of the selection of one or more Contractors requires the protestor to demonstrate, as applicable;

(a) That all higher-ranked Offerors were ineligible for selection or that the protestor would have been "next in line" to receive the Award and was eligible for selection; and

(b) That the Offeror selected was ineligible.

(c) In the case of a sole source procurement, that the Single Seller selected is not the only Contractor or consultant reasonably available to provide the personal or professional services, goods, services, Professional Consultant services as defined in OAR 580-061-0010, Construction-Related Services as defined in OAR 580-061-0010, or combination of Professional Consultant services and Construction-Related Services.

(7) A protest of the rejection of a Solicitation Response must demonstrate that the Public University's decision was materially in error or that the Public University committed a material procedural error and that any such error, alone or in combination with other errors, was a "but for" cause of the rejection.

(8) Response. The Vice Chancellor for Finance and Administration or the Public University Vice President for Finance and Administration, or their designee, will have the authority to settle or resolve a Written protest. A protest received after the time set out in the Solicitation Document will not be considered. The Vice Chancellor for Finance and Administration, or designee will issue a Written final agency order of the protest in a timely manner. If the protest is upheld, in whole or in part, the Public University may, in its sole discretion, either Award the Contract to the successful protestor or cancel the procurement or solicitation. Contract Award may be made prior to issuance of the final agency order if authorized by the Vice Chancellor for Finance and Administration, or designee.

(9) Judicial Review. Judicial review of the Public University’s decision relating to a Contract Award protest will be available pursuant to the provisions of ORS 183.480 et seq.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0150
Right to Inspect Plant
The Public University may, at reasonable times, inspect the part of the plant or place of business of a Contractor or any subcontractor that is related to the performance of any prospective Contract or Awarded Contract.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0155
Invitation to Bid and Request Proposal Negotiations
(1) The Public University may negotiate with the lowest-cost Bidders after determining that that the Bids are Responsive and from Responsible Bidders.
(2) The Public University may, if it has given notice in the Solicitation Document, commence negotiations in accordance with sections (3) and (4) of this rule with Proposers in the competitive range. For purposes of this rule “competitive range” means the highest-ranked Proposers based on evaluating all Responsive Proposals in accordance with the evaluation criteria set forth in the Solicitation Document.
(3) If the Public University chooses to enter into discussions with and receive best and final Proposals, the Public University will proceed as follows:
(a) The Public University will initiate oral or written discussions with all Proposers submitting Responsive Proposals or all Proposers in the competitive range regarding their Proposals with respect to the provisions of the Solicitation Document that the Public University identified in the Solicitation Document as the subject of discussions.
(b) The Public University may conduct discussions with each eligible Proposer necessary to fulfill the purposes of this section (3), but need not conduct the same amount of discussions with each eligible Proposer. The Public University may terminate discussions with any eligible Proposer at any time. However, the Public University will offer all eligible Proposers the same opportunity to discuss their Proposals with the Public University before the Public University notifies eligible Proposers of the date and time pursuant to subsection (d) that best and final Proposals will be due.
(c) The Public University may adjust the evaluation of a Proposal as a result of a discussion under this section. The conditions, terms, or price of the Proposal may be altered or otherwise changed during the course of the discussions provided the changes are within the scope of the Solicitation Document.
(d) If best and final Proposals are required, the Public University will establish a common date and time by which Proposers must submit best and final Proposals. Best and final Proposals will be submitted only once, provided, however, the Public University may make a written determination that it is in the Public University's best interest to conduct additional discussions, negotiations, or change the Public University's requirements and require another submission of best and final Proposals. The Public University will evaluate Proposals as modified.
(4) Negotiations.
(a) The Public University may commence serial negotiations with the highest-ranked eligible Proposer or commence simultaneous negotiations with all eligible Proposers.
(b) The Public University may negotiate:
(A) The statement of Work;
(B) The Contract Price as it is affected by negotiating the statement of Work; and
(C) Any other terms and conditions reasonably related to those expressly authorized for negotiation in the Solicitation Document. Accordingly, Proposers will not submit and the Public
University will not accept for negotiation, any alternative terms and conditions that are not reasonably related to those expressly authorized for negotiation in the Solicitation Document.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-061-0160
Disqualification from Consideration for Award of Contracts

(1) A Public University may disqualify an Entity from consideration for award of Public University Contracts for the reasons listed in subsection (2) of this section after providing the Entity with notice and a reasonable opportunity to be heard.
(a) All OUS Public Universities may rely upon a disqualification of an Entity by another Public University or exclusion by the federal government or the State of Oregon. The Chancellor's Office will maintain a current roster for Entities that have been disqualified.
(b) In lieu of the disqualification process described in this rule, a Public University contracting for a Public Improvement may petition the Construction Contractors Board to disqualify an Entity from consideration for award of the Public University's Public Improvement Contracts for the reasons listed in subsection (2) of this rule.

(2) An Entity may be disqualified from consideration for Award of a Contract for any of the following reasons:
(a) A primary employee of the Entity has been convicted of a criminal offense as an incident of obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract;
(b) A primary employee of the Entity has been convicted under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty that currently, seriously, and directly affects the person's responsibility for the Entity;
(c) A primary employee of the Entity has been convicted under state or federal antitrust statutes;
(d) A primary employee of the Entity has committed a violation of a contract provision that is regarded by a Public University or the Construction Contractors Board to be so serious as to justify disqualification. A violation may include, but is not limited to, a failure to perform the terms of a contract or an unsatisfactory performance in accordance with the terms of the contract. However, a failure to perform or an unsatisfactory performance caused by acts beyond the control of the Entity may not be considered to be a basis for disqualification;
(e) The Entity does not carry workers' compensation or unemployment insurance as required by statute.

(3) A Public University will issue a Written decision to disqualify an Entity under this section. The decision will:
(a) State the reasons for the action taken; and
(b) Inform the disqualified Entity of the appeal rights of the Entity under ORS 279C.445 and 279C.450.

(4) A copy of the decision issued under subsection (3) of this section must be mailed or otherwise furnished immediately to the disqualified Entity.

(5) Appeal of Disqualification. An Entity who wishes to appeal disqualification must, within three (3) business days after receipt of notice of disqualification, notify the Public University in Writing that the Entity appeals the disqualification. Immediately upon receipt of the notice of
appeal, the Public University will notify the OUS Vice Chancellor of Finance and Administration, or designee.

(6) The OUS Vice Chancellor of Finance and Administration, or designee, will conduct the appeal generally consistent with the procedures set forth in ORS 279C.450. The OUS Vice Chancellor of Finance and Administration, or designee, may share the final outcome of the appeal with all Public Universities.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08
DIVISION 62

PURCHASING AND CONTRACTS FOR PERSONAL OR PROFESSIONAL SERVICES AND GOODS

580-062-0000
Definitions
All capitalized terms in chapter 580, division 62 have the meanings set forth in OAR 580-061-0010 unless the context requires otherwise or except as stated.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-062-0005
Procurement and Contracting Procedures
The procedures set out in OAR 580-061-0000 through 580-061-0160 will be used for the procurement of personal or professional services or goods and services.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-062-0010
Procurement Card
The Chancellor's Office may maintain procurement card services for the benefit of the Public Universities. The Controller's Office of the Chancellor's Office will publish policies governing use of the procurement card.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-062-0015
Personal/Professional Services, Goods, and Services Contract Procurement Thresholds
(1) When procuring personal or professional services, goods, or services, not including services from Professional Consultants as defined in chapter 580, division 63, Public Universities will conduct the procurement in accordance with the Direct Procurement, Informal Procurement, or Formal Procurement method, unless another method is applicable, based on the anticipated contract price, including consultant fees, reimbursable expenses, and all amendments contemplated by the parties. Multiple Contracts, purchase orders, or purchasing requisitions will not be issued separately with the intent to circumvent these rules. Public Universities may establish lower procurement thresholds for specific procurements or as a Public University policy or procedure.
   (a) $25,000 or less – Direct Procurement or other method of procurement that the Public University deems beneficial to the procurement.
   (b) $25,000.01 to $150,000 – Informal Procurement, Formal Procurement, or other method of procurement, except the Direct Procurement method, that the Public University deems beneficial to the procurement.
   (c) Greater than $150,000 – Formal Procurement or other method of procurement, except the Direct Procurement or Informal Procurement methods, that the Public University deems beneficial to the procurement.
(2) Notwithstanding subsection (1), if the source of the funding for the procurement requires a different procurement method, the Public University may comply with the procurement method required by the funding source.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-062-0020
Methods of Procurement
Public Universities will use the following methods of procurement when procuring personal or professional services or goods and services.
(1) Direct Procurement. A process where the Public University negotiates directly with a single Entity to provide personal or professional services or goods and services.
(2) Informal Procurement. A Competitive Process where the Public University posts an advertisement of the opportunity on the OUS procurement website for a reasonable time necessary to obtain at least three (3) Solicitation Responses. The Public University may also directly contact prospective Offerors. If the notice has been posted for a reasonable time period and fewer than three Solicitation Responses have been submitted, the Public University may enter into a Contract with a Responsible Offeror based on the Specifications contained in the Solicitation Document.
(3) Formal Procurement. A Competitive Process where the Public University:
   (a) Creates a Solicitation Document that contains the procurement procedures and necessary Specifications.
   (b) Publishes a notice of the procurement on the OUS procurement website and, at the discretion of the Public University, in a trade periodical, newspaper of general circulation, or other historically underrepresented business-targeted periodicals, Public University website, or other medium for advertising. The notice must specify when and where the Solicitation Document may be obtained and the Closing Date/Time. The notice must be published for a duration reasonable under the circumstances for the procurement.
   (c) Conducts the procurement in accordance with chapter 580, division 61, section 0000 through 0160.
(4) Emergency Procurement. The Chancellor, Vice Chancellor of Finance and Administration, President, or Vice President of Finance and Administration, or designee may declare an Emergency when such a declaration is deemed appropriate. The reasons for the declaration will be documented and will include justifications for the procedure used to select the Entity for a Contract within the scope of the Emergency declaration. After the President, Chancellor, or designee has declared an Emergency, the Public University may negotiate a Contract with any qualified Entity for services included in the scope of the Emergency. The Public University will maintain appropriate records of negotiations carried out as part of the contracting process.
(5) Retainer. Public Universities may conduct a Formal Procurement to enter into Retainer Contracts with multiple Entities to provide personal or professional services or goods and services at contracted rates of compensation or based on pre-qualifications.
(6) Alternative Processes. Notwithstanding the foregoing procedures, the Public University Contract Officer may authorize alternative procurement methods that provide a Competitive Process to two or more Entities to contract with the Public University and meet the following objectives:
   (a) Responds to innovative business and market methods; or
   (b) Contributes to Public University productivity improvement and process redesign; or
(c) Results in comprehensive cost-effectiveness and productivity for the Public University.
(7) Exempt. Public Universities need not follow, regardless of value, a Competitive Process when seeking or acquiring or paying for the following goods and services:
(a) Educational services.
(b) Advertising and media services, excluding consulting services.
(c) Price-regulated goods and services, including utilities, where the rate or price for the goods or services being purchased is established by federal, state, or local regulatory authority.
(d) Goods or services under federal contracts. When the price of goods and services has been established by a contract with an agency of the federal government pursuant to a federal contract award, Public Universities may purchase the goods and services in accordance with the federal contract. In addition, Public Universities may purchase specific equipment that is only available from one source or use specific Entities that are expressly required under the terms of the contract.
(e) Copyrighted materials. Copyrighted materials covered by this exemption may include, but are not limited to, textbooks, workbooks, curriculum kits, reference materials, software, periodicals, library books, library materials, and audio, visual, and electronic media.
(f) Investment contracts and retirement plan services, excluding consulting services.
(g) Food and food-related products.
(h) Maintenance services directly from the contractor providing the goods.
(i) Used personal property.
(j) Goods purchased for resale to outside entities.
(k) Goods or services related to intercollegiate athletic programs.
(L) Cadavers or cadaveric organs.
(m) Hotel sites for large conferences and workshops.
(n) Dues, registrations, and membership fees.
(o) Gasoline, diesel fuel, heating oil, lubricants, natural gas, electricity, and similar commodities and products and the transportation thereof.
(p) Supplies, maintenance, and services for ocean-going vessels when they are in other than home port.
(q) Repair and overhaul of goods or equipment.
(r) Goods or services purchased in foreign countries.
(s) Insurance and insurance-related contracts, not including consulting or brokerage contracts.
(t) Grants, including Grant applications and proposals.
(u) Contracts for legal services, including professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which a Public University is or may become interested.
(v) Contracts entered into, issued, or established in connection with:
(A) The incurring of debt by a Public University, including but not limited to the issuance of bonds, certificates of participation, and other debt repayment obligations, and any associated Contracts, regardless of whether the obligations that the Contracts establish are general, special, or limited;
(B) The making of program loans and similar extensions or advances of funds, aid, or assistance by a Public University to a public or private body for the purpose of carrying out, promoting, or sustaining activities or programs authorized by law; or
(C) The investment of funds by a Public University as authorized by law and other financial transactions of a Public University that by their character cannot practically be established under the Competitive Process.

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Oregon State Board of Higher Education
(D) Grant-funded projects where professional or personal service providers are named in Grant or identified in the Grant budget, unless Public University determines it is in its best interest to require a Competitive Process.

(w) Contracts for employee benefit plans as authorized by law.

(x) Services provided by those in the medical community including, but not limited to, doctors, physicians, psychologists, nurses, veterinarians, and those with specific license to administer treatments for the health and well-being of people or animals.

(y) Artists, performers, photographers, graphic designers, website design, and speakers.

(z) Sponsorship agreements for Public University events or facilities.

(8) Sole Source. A process where the President, the Chancellor or designee has made a Written determination that due to special needs or qualifications, only a Single Seller is reasonably available to provide such personal or professional services or goods or services. Sole source procurement will be avoided except when no reasonably available alternative source exists.

(a) Each Public University will provide public notice of its determination that the person or professional services or goods or services are only available from a Single Seller. Public notice may be provided on the OUS procurement website. The public notice will describe the personal or professional services or goods or services to be acquired from the Single Seller, identify the prospective Contractor, and include the date, time and place that protests are due. The Public University shall give Entities at least seven (7) Days from the date of notice publication to protest the sole source determination.

(b) An Entity may protest the Public University's determination that the personal or professional services or goods or services are available from a Single Seller in accordance with OAR 580-061-0145.

(c) On an annual basis, Presidents, or their designees will submit a report to the Board summarizing approved sole source procurements for the Public University for the prior fiscal year. The report will be made available for public inspection.

(9) Special Entity. (a) Public Universities may purchase goods or services, without using a Competitive Process, if purchasing from a federal, state, local governmental agency, public corporation (including, but not limited to, OHSU), or a state Qualified Rehabilitation Facility certified by the Oregon Department of Human Services or the Oregon State Procurement Office.

(b) Public Universities may participate in cooperative procurements with other contracting agencies or Entities or utilize other public contracts or cooperatively-procured contracts if it is determined, in Writing, that the solicitation and award process used to award that Contract was reasonably equivalent to the respective processes established in these rules, including notice during solicitation process that the contract resulting from the procurement may be utilized by other entities. Determinations regarding equivalency and adequacy of processes for cooperating procurements will be made by Public University Contract Officer.

(10) Special Procurement. A special procurement is an exemption from competitive procedures that the Finance and Administration Committee of the Board determines is appropriate because it: (A) Is reasonably expected to result in substantial cost savings to the Public University or to the public; or (B) Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with others processes described in this rule.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08
DIVISION 61
OUS PROCUREMENT AND CONTRACTING CODE

580-061-0000
Code of Ethics
(1) The following Code of Ethics will apply to Oregon University System employees in relation to chapter 580, divisions 60, 61, 62, and 63. Employees will:
(a) Give first consideration to the objectives and policies of the Board, OUS, and the InstitutionPublic University;
(b) Strive to obtain the best value for expenditures;
(c) Fairly consider prospective Contractors insofar as state or federal statutes and institutional rules and policies require;
(d) Conduct business in an atmosphere of good faith;
(e) Demand honesty in representations made by prospective Contractors;
(f) Promote competition by encouraging the participation of Oregon businesses, emerging small and minority-owned and women-owned businesses, and Qualified Rehabilitation Facilities;
(g) Comply with the applicable provisions of ORS Chapter 244 and other applicable rules and policies on conflict of interest that may be more restrictive;
(h) Refrain from having financial interests incompatible with the impartial, objective, and effective performance of duties. Activities that may create a conflict of interest must be addressed in accordance with the procedures outlined in the Oregon University System's Internal Management Directives and other applicable rules and policies;
(i) Receive the written consent of the originator of proprietary ideas and designs before using them; and
(j) Foster fair, ethical, and legal trade practices.
(k) Execute the OUS Conflict of Interest Statement before any person may participate in the evaluation or selection of a Contractor or vendor under a Formal Procurement process.
(L) On an annual basis, sign a statement that the employee has reviewed and will comply with the OUS Code of Ethics.
(2) This code is for the Oregon University System's internal use only and creates no obligations enforceable by Contractors, Proposers, Bidders, or other parties doing business with an Institution Public University, nor may it be used by Contractors, Proposers, Bidders, or other parties doing business with an Institution Public University who are challenging actions taken by an Institution Public University or its officers, employees, or agents. This code may not be the only statement on ethics applicable to an employee.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0005
Applicable Model Public Contract Rules
The Attorney General's Model Public Contract Rules adopted by the Oregon Attorney General pursuant to ORS 279A.065 are generally inapplicable to the contracting activities of Institutions Public Universities unless specifically referenced and adopted herein.
Definitions

The following Definitions will apply to chapter 580, divisions 60, 61, 62, and 63, unless the context requires otherwise:

1. "Addendum" or "Addenda" means an addition to, deletion from, a material change in, or general interest explanation of the Solicitation Document. Addenda will be labeled as such and distributed to all posted on the OUS procurement website for access by all interested Offerors, Bidders or Proposers.

2. "Award" or "Awarding" means, as the context requires, identifying the Entity with whom the Institution Public University intends to enter into a Contract following the resolution of any protest of the selection of that Entity and the completion of all Contract negotiations.

3. "Bid" means an offer, binding on the Bidder and submitted in response to an ITB.

4. "Bidder" means an Entity that submits a Bid in response to an ITB.

5. "Board" means the Oregon State Board of Higher Education.

6. "Change Order" or "Contract Amendment" means a written order issued by an Institution Public University to the Contractor requiring a change in the Work within the general scope of the original Contract.

7. "Closing" means the date and time specified in a Solicitation Document as the deadline for submitting Bids or Proposals.

8. "Competitive Process" means the process of procuring goods and services and construction-related services by fair and open competition, under varying market conditions, with the intent of minimizing opportunities for favoritism and assuring that Contracts are award equitably and economically using various factors in determining such equitability and economy.

9. "Contract" means a contract for sale or other disposal, or a purchase, lease, rental, or other acquisition, by an Institution Public University of personal property, services, including personal or professional services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a Public Improvement. "Contract" does not include grants. "Contract" may also mean a purchase order, Price Agreement, or other Contract document in addition to an Institution's Solicitation Document and the accepted portions of a Solicitation Response, Bid or Proposal.

10. "Contract Officer" means the Vice President for Finance and Administration or his or her designee at an Institution or the Vice Chancellor for Finance and Administration or his or her designee with the authority to negotiate and execute Contracts.

11. "Contract Price" means, as the context requires, the maximum monetary obligation that an Institution either will or may incur under a Contract, including bonuses, incentives and contingency amounts, Addenda, Change Orders, or approved alternates, if the Contractor fully performs under the Contract.

12. "Contractor" means the Entity awarded a Contract to furnish an Institution Public University goods, services, or Work.

13. "Days" means calendar days, including weekdays, weekends, and holidays, unless otherwise specified.

14. "Disadvantaged Business Enterprise" means a small business concern as defined in ORS 200.005.
(15) "Disqualification or Disqualify" means the preclusion of an Entity from contracting with an agency of the State of Oregon in accordance with OAR 580-061-0160.
(16) "Electronic Solicitation ResponseBid or Proposal" means a response to a Solicitation Document submitted to an Institution Public University via the World Wide Web or some other internet protocol.
(17) "Emergency" means an unexpected, serious situation that creates a significant risk of loss, damage, interruption of service, or threat to the public health or safety that requires prompt action to remedy the condition.
(18) "Emerging Small Business" means an Emerging Small Business as defined in ORS 200.005 and that maintains a current certification issued by the Oregon Department of Consumer and Business Services.
(19) "Entity" means a natural person capable of being legally bound, sole proprietorship, corporation, partnership, limited liability company or partnership, limited partnership, profit or nonprofit unincorporated association, business trust, two or more persons having a joint or common economic interest, or any other person with legal capacity to contract, or a government or governmental subdivision.
(20) "Facsimile" means a document that has been transmitted to and received by an Institution in a format that is capable of being received via a device commonly known as a facsimile machine.
(2021) "Grant" means:
(a) An agreement under which an Institution receives money, property, or other assistance, including, but not limited to, federal assistance that is characterized as a Grant by federal law or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities, or other assets, from a grantor for the purpose of supporting or stimulating a program or activity of the Institution Public University and in which no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with the Grant conditions; or
(b) An agreement under which an Institution provides money, property, or other assistance, including, but not limited to, federal assistance that is characterized as a Grant by federal law or regulations, loans, commodities, or other assets, to a recipient for the purpose of supporting or stimulating a program or activity of the recipient and in which no substantial involvement by the Public University is anticipated in the program or activity other than involvement associated with monitoring compliance with the Grant conditions.
(c) "Grant" does not include a Public Improvement Contract or a Contract for Emergency Work.
(20) “Historically Underrepresented Business” means Minority Business Enterprises, Women Business Enterprises, and Emerging Small Businesses certified by the State of Oregon or self-certified, and firms certified federally or by another state or entity with substantially similar procedures to the State of Oregon.
(22) "Institution" or "Institutional" means a university under the authority of the Board, including the Chancellor's Office.
(223) "Invitation to Bid" (ITB) means a Solicitation Document for the solicitation of competitive, written, signed, and sealed Bids in which Specifications, price, and delivery (or project completion) are the predominant award criteria.
(234) "Minority Business Enterprise" means a Minority Business Enterprise as defined in ORS 200.005 and that maintains a current certification issued by the State of Oregon Department of Consumer and Business Services.
"Opening" means the date, time, and place specified in the Solicitation Document for the public opening of written or electronically sealed Bids or Proposals submitted Solicitation Responses.

"Offeror" means the entity submitting a binding Solicitation Response.

"OUS Retainer Program" means Contracts by which, pursuant to a Solicitation Document, multiple Contractors are authorized to provide specific materials to or perform specific services for a Public University(ties). Contractors on the OUS Retainer Program may provide goods or services on a non-exclusive and as-needed basis. OUS Retainer Programs are administered centrally by the Vice Chancellor for Finance and Administration or designee.

"Owner" means the State of Oregon acting by and through the Board, in its own right or on behalf of one of its Institutions as identified in the Solicitation Document, also known as the Oregon University System (OUS).

"President" means the president of one of the Institutions Public Universities and, in the case of the Chancellor's Office, the Chancellor. Where the term "Institution Public University President" is used, it refers to the president of the Institution Public University at issue.

"Personal or Professional Services" means a Contract with an Entity whose primary purpose is to acquire specialized skills, knowledge, and resources in the application of technical or scientific expertise, or the exercise of professional, artistic, or management discretion or judgment, including, without limitation, a Contract for the services of an accountant, physician or dentist, educator, consultant, broadcaster or artist (including a photographer, filmmaker, painter, weaver, or sculptor). "Personal or Professional Services" under this definition does not include an architects, engineers, planners, land surveyors, appraisers, construction managers, and similar professional consultants for construction work.

"Price Agreement" means a nonexclusive agreement in which the Contractor agrees to provide specific items or services to an Institution at a set price during a specified period of time.

"Proposal" means a binding competitive offer submitted in response to a Request for Proposals.

"Proposer" means an Entity that submits a Proposal in response to a Request for Proposals.

"Public Improvement" means a project for construction, reconstruction, or major renovation on real property by or for an Institution Public University. "Public Improvement" does not include:

(a) Projects for which no funds of an Institution Public University are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or

(b) Emergency Work, minor alteration, ordinary repair or maintenance necessary to preserve a Public Improvement.

"Public Improvement Contract" means a Contract for a Public Improvement. "Public Improvement Contract" does not include a Contract for Emergency Work, minor alterations, or ordinary repair or maintenance necessary to preserve a Public Improvement.

"Public University" means a university under the authority of the Board, including the Chancellor's Office.

"Public Work" is defined by the Bureau of Labor and Industries (BOLI) in ORS 279C.800(6).

"Qualified Rehabilitation Facility" means a nonprofit activity center or rehabilitation facility authorized by the Oregon Department of Administrative Services to provide goods or services in accordance with ORS 279.835 et seq.
"Request for Information (RFI)" means a Solicitation Document seeking information regarding products or services that an Institutiona Public University is interested in procuring.

"Request for Proposals (RFP)" means a Solicitation Document to obtain written, competitive Proposals to be used as a basis for making an acquisition or entering into a Contract when price will not necessarily be the predominant award criteria.

"Request for Qualifications (RFQ)" means a Solicitation Document issued by an Institutiona Public University to which interested Contractors respond in writing by describing their experience with and qualifications to provide the services, personal services or architectural, engineering or land surveying services, or related services described in the Solicitation Document.

"Request for Quotes" means a Solicitation Document to obtain competitive quotes to be used as a basis for making an acquisition or entering into a Contract when best value will be the award criteria.

"Responsible Bidder or ProposerOfferor" means an Entity that demonstrates their ability to perform satisfactorily under a Contract by meeting the applicable standards of responsibility outlined in OAR 580-061-0130.

"Responsive Solicitation ResponseBid or Proposal" means a Solicitation ResponseBid or Proposal that has substantially complied in all material respects with the criteria outlined in a Solicitation Document.

"Retainer Contract" means a Contract by which, pursuant to a Request for Proposals or Invitation to Bid, multiple Contractors are authorized to provide specific supplies or equipment to or perform specific services for an Institution(s). Contractors on a Retainer Contract may provide goods or services on a non-exclusive and as-needed basis. “Retainer Contract” means a Contract by which, pursuant to a Solicitation Document, multiple Contracts are authorized to provide specific supplies or equipment to or perform specific services for a Public University(ties). Contractors on a Retainer Contract may provide goods or services on a non-exclusive or as-needed basis.

"Sealed" means a Solicitation Response to an RFP or an ITB that has not been opened by the Public University or a Solicitation Response delivered by electronic means that has not be distributed beyond the Public University personnel responsible for receiving the electronically-submitted Solicitation Response.

"Signed or Signature" mean any Written mark, word, or symbol that is made or adopted by an Entity with the intent to be bound and that is attached to or logically associated with a Written document to which the Entity intends to be bound.

"Single Seller" means the only Contractor of a particular product or service reasonably available.

"Solicitation Document" means an Invitation to Bid, Request for Proposals, Request for Qualifications, Request for Information or any other written document issued or posted on the OUS procurement website by an Institutiona Public University that outlines the required Specifications necessary to submit a Bid, Proposal, or other response.

"Solicitation Response” means a binding offer submitted in response to a Solicitation Document.

"Specifications" means a description of the physical or functional characteristics, or of the nature of the goods or services, including any requirement for inspecting, testing, or preparing the goods or services for delivery and the quantities or qualities of the goods or services to be furnished under a Contract. Specifications generally will state the result to be obtained and may describe the method and manner of performance.
"Women Business Enterprise" means a Women Business Enterprise as defined in ORS 200.005 and that maintains a current certification issued by the Oregon Department of Consumer and Business Services.

"Work" means the furnishing of all materials, equipment, labor, transportation, services, and incidentals necessary to successfully complete any individual item or the entire Contract and carrying out and completion of all duties and obligations imposed by the Contract.

"Written or Writing" means letters, characters, and symbols inscribed on paper by hand, print, type, or other method of impression intended to represent or convey particular ideas or means. “Written” or "Writing," when required or permitted by law, or required or permitted in a Solicitation Document, also means letters, characters, and symbols made in electronic form and intended to represent or convey particular ideas or meanings.

Purchasing and Contract Records

(1) Institutions Public Universities will maintain records relating to all Institutional Public University purchasing and contracting transactions in accordance with the requirements of the Secretary of State and OUS administrative rule.

(2) Documentation of all purchasing and contracting transactions will be made available for inspection by the public as outlined in applicable public records laws.

(3) Institutions Public Universities will maintain records relating to all Institutional Public University purchasing and contracting transactions that may include:

(a) An executed Contract and any amendments or Change Orders;
(b) The record of the actions used to develop the Contract;
(c) A copy of the Solicitation Document, if any;
(d) Any required findings or statement of justification for the selection of the Contractor or the procurement method used;
(e) The record of any negotiation of the Specifications, the Work, the Contract Price and related Contract terms;
(f) All information describing how the Contractor was selected, including the basis for awarding the Contract;
(g) The names of Entities and cost estimates considered.

Designation of Contract Officers

Each Institutional Public University Vice President for Finance and Administration or the Vice Chancellor for Finance and Administration will designate staff authorized to enter into Contracts and Public Improvement Contracts for the Institutional Public University.

(1) Institutions Public Universities will maintain a list identifying Contract Officers and describing the types and Contract Price of Contracts and Public Improvement Contracts they are authorized to enter into. Institutions Public Universities will provide an updated list annually to
the Chancellor's Office. The Vice Chancellor for Finance and Administration may designate staff authorized to enter into Contracts and Public Improvement Contracts on behalf of all Institutions Public Universities.

(2) Contracts or Public Improvement Contracts entered into by individuals not designated as authorized Contract Officers and unauthorized procurements or expenditures that do not follow the OUS Procurement and Contracting Code will be voidable at the sole discretion of the Institution Public University. Institutions Public Universities may take appropriate action in response to execution of Contracts or procurements contrary to this rule. Such actions include, but are not limited to, providing educational guidance, imposing disciplinary measures, and holding individuals personally liable for such Contracts or procurements.

(3) Authorized Contract Officers will be responsible for ensuring that the proper procedures are followed as outlined in chapter 580, Divisions 60, 61, 62, and 63.

(4) Unless otherwise specified in chapter 580, divisions 60, 61, 62, and 63, the Contracting Officer will perform all the duties of the Owner on behalf of the Board.

(5) The Institution Public University President may, by Written agreement with the President of another Institution Public University or the Chancellor, and after notice to the Chancellor, transfer such delegation to a person at another Institution Public University.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0025
Policy Governing the Acquisition of Goods and Services available from Qualified Rehabilitation Facilities
Institutions Public Universities will purchase goods and services from Qualified Rehabilitation Facilities in accordance with the provisions of ORS 279.835 to 279.855 and applicable administrative rules.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0030
Affirmative Action; General Policy
(1) The general policy of OUS Institutions Public Universities will be to expand economic opportunities for Historically Underrepresented Businesses Minority, Women or Emerging Small Business Enterprises by offering them the contracting and subcontracting opportunities available through Institution Public University Contracts. Notice of all Contracts over $25,000 procured through a Competitive Process will be provided to the Advocate for Minority, Women, and Emerging Small Business, unless otherwise provided, by fully completing the information set out on the OUS procurement website. Institutions are encouraged to unbundle contracts, when appropriate, to expand contract opportunities for Historically Underrepresented Businesses Minority, Women or Emerging Small Business Enterprise Businesses and Oregon-based businesses.

(2) OUS will not knowingly contract with or procure goods or services from any Entity that discriminates on the basis of age, disability, national origin, race, marital status, religion, sex, or sexual orientation.

(3) Bidders and Proposers Offerors will certify, as part of the Solicitation Responses Bids or Proposals that such Offeror Bidder or Proposer has not discriminated against Historically
Underrepresented Businesses

Minority, Women or Emerging Small Business Enterprises in obtaining any required subcontracts.

(4) Public Universities will comply with the OUS Equity Contracting and Purchasing Policy and Data Reporting Procedures. On an annual basis, Institution Presidents will report to the Board statistical information regarding the number of Contracts awarded and the cumulative dollar amount of Contracts awarded to Minority Business Enterprises, Women Business Enterprises, Emerging Small Businesses, and Oregon based businesses. The report will include information describing Institutional programs or initiatives to expand contracting opportunities to Minority, Women, Emerging Small Businesses, and Oregon based businesses.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08; OUS 5-2011(Temp), f. & cert. ef. 11-10-11 thru 5-7-12; Administrative correction, 5-25-12; OUS 10-2012, f. & cert. ef. 6-18-12

580-061-0035

Emerging Small Business Program

(1) The Board encourages participation of Emerging Small Businesses by creating an Emerging Small Business Program. The Emerging Small Business Program is limited to businesses that meet the definition in ORS 200.005(3) and that maintain a current certification issued by the State of Oregon Department of Consumer and Business Services. When conducting procurements, Public Universities may implement the Emerging Small Business Program by methods including, but not limited to:

(a) Priority of Contract Award. In the event of a tie low Bid, when price is the sole determinative factor, give priority to a certified Emerging Small Business;
(b) Exclusive Emerging Small Business Opportunities. Public Universities have the authority to create opportunities that are only open to certified Emerging Small Businesses. When an Institution issues a Solicitation Document, the Institution may determine that it is in the Institution's interest to limit the opportunity to only qualified and certified Emerging Small Businesses.
(c) Evaluation Criteria. An Institution may identify in a Solicitation Document that it will award additional evaluation points based on certified Emerging Small Business status.

(2) For Construction-Related Services where price is the determinative factor, if a Responsible Emerging Small Business' Responsive Bid is within one percent of the lowest Responsible Responsive Bid, the Institution will award the Contract to the Emerging Small Business.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08
580-061-0040

Sexual Harassment Policy
All Entities that wish to contract with Institutions/Public Universities will be notified on the OUS procurement website that the Board has adopted policies applicable to Contractors that prohibit sexual harassment and that the Contractor's company and employees are required to adhere to the Institution/Public University's policy prohibiting sexual harassment in their interactions with members of the Institution/Public University's community.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0045

Insurance or Bond Requirements
All Contractors will provide and maintain insurance or bonding as may be required by the Institution/Public University. Such insurance or bonding will remain in force throughout the term of the Contract, including any extensions.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0050

Interest on Overdue Charges
The policy of the Board is that an Institution/Public University pay any overdue account charge, in accordance with ORS 293.462, incurred by an Institution/Public University when payment for goods and services have not been reasonably made.
(1) Overdue claims will be those that have not been paid within 45 days from the latest of the following dates: The date of the receipt of the accurate invoice, the date of the initial billing statement if no invoice is received, the date all goods have been received, or the date the claim is made certain by agreement of the parties or by operation of law. However, overdue account charges will not accrue on any purchases made by an Institution/Public University during time of civil emergency or in the event of a natural disaster that prevents the timely payment of accounts. In such instances, accounts will be paid in as timely a manner as possible.
(2) The maximum overdue charge incidental to procurement of the goods or services will be at a rate of two-thirds of one percent per month, but not more than eight percent per annum.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0055

(1) Brand-Name Specification. Institutions/Public Universities may specify brand names in the procurement of goods and services if that particular product or service has attributes not found in other goods and services of like kind. In addition, when specific design or performance specifications must be met for a good or service to be purchased, an Institution/Public University may specify a list of qualified goods or services by reference to the qualified goods or services of a particular contractor or potential contractor.
(2) Invitation to Bid Required Provision. If an Invitation to Bid is issued for a Contract for goods or services, the Institution/Public University will ensure that the following statement is contained
in the Invitation to Bid: "Contractors will use recycled products, as defined in ORS 279A.010(1)(ii), to the maximum extent economically feasible in the performance of the Contract."
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0060
Basis for Awarding Contracts
Institutions, Public Universities will select Contractors and award Contracts based on such factors as are identified in the Solicitation Document and such other factors as are reasonable under the circumstances.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0065
Contract Amendments (Including Change Orders and Extra Work) and Expired Contracts
An amendment for additional Work or goods that is reasonably related to the scope of Work under the original Contract, including Change Orders, extra work, field orders, or other change in the original Specifications that increases the original Contract Price or length of time, may be made with the Contractor without using a Competitive Process provided that the amendment does not materially alter such a Contract. An amendment that extends the Contract past the period set out in the Solicitation Document for anything other than completion of the Work contemplated in the original Contract as extended, will require a new Competitive Process, unless approved by the Vice President for Finance and Administration or Vice Chancellor for Finance and Administration for good cause. Expired Contracts may be revived and reinstated upon the approval of the Vice President for Finance and Administration or Vice Chancellor for Finance and Administration or their designees, subject to receiving all required approvals.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0070
Solicitation Responses
Bids or Proposal Bids are Offers
(1) Offer and Acceptance. The Solicitation Response is the Bidder's or Proposer's offer to enter into a Contract that will be binding upon the Bidder or Proposer for thirty (30) days, unless a different time frame is specified in the Solicitation Document. An Institution's award of the Contract constitutes acceptance of the offer and binds the Bidder or Proposer.
(2) The Solicitation Response Bid or Proposal will be a complete offer and fully responsive to the Solicitation Document, unless Offerors, Bidders or Proposers are specifically authorized by the Solicitation Document to take exceptions or to leave terms open to negotiation.
(3) Unless expressly authorized by the Solicitation Document, Offerors, Bidders or Proposers will not make their Solicitation Response Bid or Proposal contingent upon the Institution's acceptance of Specifications or contract terms that conflict with or are in addition to those in the Solicitation Document.
Facsimile and Electronic Solicitation Responses

Bids and Proposals

1. Institutions Public Universities may authorize submission of Solicitation Responses Bids or Proposals through facsimile or electronic methods if:
   (a) If the Solicitation Response is in response to an RFP or ITB and the Solicitation Document permits submission via facsimile or electronic means, and (b) The Institution must establish a method or means of receiving, identifying, recording, and preserving the "sealed" requirement of the Formal Procurement Competitive Process.
   (c) Solicitation Responses Bids or Proposals submitted through facsimile and electronic methods must contain written signatures indicating intent to be bound by the offer.

2. Institutions Public Universities may execute or open electronic submissions to verify receipt of documents prior to the Closing, but will not verify responsiveness of Solicitation Responses.

Bid or Proposal Solicitation Response Submissions

1. Identification of Bids or Proposals Solicitation Responses. To ensure proper identification and special handling, if any, Offeror must appropriately mark its written Solicitation Response. Bids or Proposals will be submitted in a sealed envelope appropriately marked or in the envelope provided by the Institution, whichever is applicable. The Institution Public University will not be responsible for the proper identification and handling of Bids or Proposals Solicitation Responses not submitted in the designated manner or format as required in the Solicitation Document.

2. Receipt of Bids or Proposals. It is the Bidder’s or Proposer’s responsibility to ensure that Bids or Proposals are received by the Institution at the required delivery point, prior to the Closing as indicated in the Solicitation Document, regardless of the method used to submit or transmit the Bid or Proposal Solicitation Response.

Pre-Solicitation Response Bid and Pre-Proposal Conferences

1. Pre-Solicitation Response Bid or Pre-Proposal conferences may be scheduled. Each pre-Solicitation Bid or Pre-Proposal conference will be described in the Solicitation Document as "voluntary" or "mandatory." If such a conference is designated as "mandatory," an Offeror Bidder or Proposer must attend in order to submit a Solicitation Response Bid or Proposal.

2. If the Offeror Bidder or Proposer is an individual, the Offeror Bidder or Proposer may authorize a representative other than himself/herself to attend the pre-Solicitation Bid or pre-Proposal conference.

3. Statements made by Institutional representatives at the pre-Solicitation Bid or pre-Proposal conference will not be binding unless a written Addendum to the Solicitation Document is issued.
580-061-0090
Bid or Proposal Offer Security
(1) The Institution may require in the Solicitation Document submission of a Bid or Proposal security. Security includes, but is not limited to, a surety bond from a surety company authorized to do business in the state of Oregon, cashier's check, certified check, or savings and loan secured check.
(2) The Bid or Proposal security of all unsuccessful Offerors or Proposers will be returned or released after a Contract has been executed and a performance bond provided (if such a bond is required), or after all Solicitation Responses or Bids or Proposals have been rejected.

580-061-0095
Addenda to Solicitation Document
(1) The Institution may change a Solicitation Document by Written Addenda. Institutions will make reasonable efforts to notify potential Offerors or Proposers of such Written Addenda by methods that may include, but are not limited to, publication of the Written Addenda on the OUS procurement website or requiring submission of a notice of interest by potential Offerors or Proposers to receive Addenda.
(2) The Institution will issue the Written Addenda within a reasonable time prior to Closing to allow prospective Offerors or Proposers to consider the Addenda in preparing their Solicitation Responses or Proposals. The Institution may extend the Closing if it determines prospective Offerors or Proposers need additional time to review and respond to Addenda.

580-061-0100
Clarification of ITBs and RFPs Solicitation Document and Requests for Change
Unless a different deadline is specified in the Solicitation Document, Requests for clarification or change of the ITB or RFP Solicitation Document must be received by the Institution in writing by the date indicated in the ITB or RFP at least ten (10) days prior to the Closing.
(1) Such request for clarification or change will include the reasons for the clarification or change, and any proposed changes to Specifications or provisions.
(2) The Institution will consider all requests for clarification or change and, if appropriate, amend the ITB or RFP Solicitation Document by issuing Addenda.
580-061-0105
Pre-Closing Modifications or Withdrawal of Bids or Proposals
(1) Modifications. A Bidder or Proposer may modify its Bid or Proposal in Writing prior to the Closing. Any modification must include a statement that the modification amends and supersedes the prior Bid or Proposal.
(2) Withdrawals. A Bidder or Proposer may withdraw its Bid or Proposal by Written notice submitted on the Bidder or Proposer's letterhead, signed by an authorized representative of the Bidder or Proposer, delivered to the individual and location specified in the Solicitation Document (or the place of Closing if no location is specified), and received by the InstitutionPublic University prior to the Closing. The Bidder or Proposer, or authorized representative of the Bidder or Proposer, may also withdraw its Bid or Proposal in person prior to the Closing, upon presentation of appropriate identification and evidence of authority satisfactory to the Institution.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0110
Formal Procurement Receipt, Opening, and Recording of Bids and Proposals
(1) In all Formal Procurements, an InstitutionPublic University will comply with the following:
  (a) Receipt. An Institution will electronically or mechanically time-stamp or hand-mark each Bid or Proposal and any modification upon receipt. Except as provided in OAR 580-061-00075(2) the Institution will not open the Bid or Proposal or modification, but will store it in a secure place until Opening. If the InstitutionPublic University inadvertently opens a Bid or Proposal or a modification prior to the Opening, the Institution will reseal and store the opened Bid or Proposal or modification until the Opening. The Institution will document the rescaling for the solicitation file (e.g., "Institution inadvertently opened the Bid/Proposal due to improper identification of the Bid/Proposal.").
  (b) DisclosureOpening and Recording. An Institution will publicly open Bids or Proposals including any modifications made to the Bid or Proposal. Unless otherwise specified in the Solicitation Document, the name of the Entity submitting a Bid or Proposal will be the only information that may be made public until notice of the intent to Award or an Award has been issued.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0115
Late Bids and Proposals, Late Withdrawals, and Late Modifications
Any Bid or Proposal, modification, or withdrawal received after the Closing is late. An InstitutionPublic University will not consider late Bids, Proposals, modifications, or withdrawals except as permitted in OAR 580-061-0120. However, Public Universities may adopt a university policy or procedure to accept late bids in circumstances that are determined to be in the best interests of the Institution if policy or procedure is stated in the Solicitation Document.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08
580-061-0120

Mistakes

(1) Generally. To protect the integrity of the Competitive Process and to assure fair treatment of Offerors, Bidders, and Proposers, an Institution, Public University should carefully consider whether to permit waiver, correction, or withdrawal for certain mistakes.

(2) Institution, Public University Treatment of Mistakes. An Institution, Public University will not allow an Offeror, Bidder, or Proposer to correct or withdraw a Solicitation Response, Bid, or Proposal for an error in judgment. If the Institution, Public University discovers certain mistakes in a Solicitation Response, Bid, or Proposal after Opening, but before award of the Contract, the Institution, Public University may take the following action:

(a) An Institution, Public University, in its sole discretion, may waive or permit an Offeror, Bidder, or Proposer to correct a minor informality. A minor informality is a matter of form rather than substance that is evident on the face of the Solicitation Response, Bid, or Proposal or an insignificant mistake that can be waived or corrected without prejudice to other Offerors, Bidders, or Proposers. Examples of minor informalities include an Offeror’s, Bidder’s, or Proposer’s failure to:

(A) Return the correct number of Signed Solicitation Responses, Bids, or Proposals or the correct number of other documents required by the Solicitation Document; or
(B) Sign the Solicitation Response, Bid, or Proposal in the designated block, provided a Signature appears elsewhere in the Solicitation Response, Bid, or Proposal, evidencing an intent to be bound; or
(C) Acknowledge receipt of an Addendum to the Solicitation Document, provided it is clear on the face of the Solicitation Response, Bid, or Proposal that the Offeror, Bidder, or Proposer received the Addendum and intended to be bound by its terms, or the Addendum involved did not affect price, quality, or delivery.

(b) An Institution, Public University may correct a clerical error if the error is evident on the face of the Solicitation Response, Bid, or Proposal and the Offeror, Bidder, or Proposer confirms the Institution, Public University’s correction in Writing. A clerical error is an Offeror’s, Bidder’s, or Proposer’s error in transcribing its Solicitation Response, Bid, or Proposal. Examples include, but are not limited to, typographical mistakes, errors in extending unit prices, transposition errors, and arithmetical errors, instances in which the intended correct unit or amount is evident by simple arithmetic calculations. In the event of a discrepancy, unit prices will prevail over extended prices.

(c) An Institution, Public University may permit an Offeror, Bidder, or Proposer to withdraw a Solicitation Response, Bid, or Proposal after Closing based on one or more clerical errors in the Solicitation Response, Bid, or Proposal only if the Offeror, Bidder, or Proposer shows with objective proof and by clear and convincing evidence:

(A) The nature of the error;
(B) That the error is not a minor informality under this subsection or an error in judgment;
(C) That the error cannot be corrected under subsection (b) of this subsection;
(D) That the Offeror, Bidder, or Proposer acted in good faith in submitting a Solicitation Response, Bid, or Proposal that contained the claimed error and in claiming that the alleged error in the Solicitation Response, Bid, or Proposal exists;
(E) That the Offeror, Bidder, or Proposer acted without gross negligence in submitting a Solicitation Response, Bid, or Proposal that contained a claimed error;
(F) That the Offeror, Bidder, or Proposer will suffer substantial detriment if the Institution does not grant it permission to withdraw the Solicitation Response, Bid, or Proposal;
(G) That the Institution's or the public's status has not changed so significantly that withdrawal of the Solicitation Response or Proposal will work a substantial hardship on the Institution or the public it represents; and
(H) That the Offeror promptly gave notice of the claimed error to the Institution.

(d) The criteria in subsection (2)(a) of this rule will determine whether an Institution will permit an Offeror to withdraw its Solicitation Response or Proposal after Closing. These criteria also will apply to the question whether an Institution will permit an Offeror to withdraw its Solicitation Response or Proposal without forfeiture of its Bid bond (or other Bid security) or without liability to the Institution. The criteria for permitting withdrawal are based on the difference between the amount of the Offeror's Solicitation Response or Proposal and the amount of the Contract actually awarded by the Institution, whether by Award to the next lowest Responsive and Responsible Bidder or by resort to a new solicitation.

(3) Rejection for Mistakes. The Institution will reject any Offeror in which a mistake is evident on the face of the Solicitation Response or Proposal and the intended correct Solicitation Response or Proposal is not evident or cannot be substantiated from documents submitted with the Solicitation Response or Proposal.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0125
Low Tie Bids
(1) Definition. Low Tie Bids are low tied Responsive Bids from Responsible Bidders that are identical in price, fitness, availability, and quality and that meet all the requirements and criteria set forth in the Solicitation Document.
(2) Award. In the event of a Low Tie Bid, the Institution will award the Contract based on the following order of precedence:
(a) An Emerging Small Business that meets the definition in ORS 200.005(3) and that maintains a current certification issued by the State of Oregon Department of Consumer and Business Services;
(b) An Entity whose principal offices or headquarters are located in Oregon;
(c) If neither subsection (a) or (b) apply, award of the Contract will be made by drawing lots.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0130
Rejection of Individual Solicitation Responses or Proposals and Offerors
(1) An Institution may reject, in whole or in part, any Solicitation Response or not in compliance with all prescribed Solicitation Response procedures, Contract provisions, and Specifications contained in the Solicitation Document or upon a Written finding by the Institution that it is in the public interest to do so.
(2) Reasons for rejection. An Institution Public University may reject a Solicitation Response Bid or Proposal upon the Institution Public University’s findings that include, but are not limited to, the Solicitation Response Bid or Proposal:
(a) Is contingent upon the Institution Public University's acceptance of terms and conditions that differ from the Solicitation Document; or
(b) Takes exception to the terms and conditions (including Specifications) set forth in the Solicitation Document; or
(c) Attempts to prevent public disclosure of matters in contravention of the terms and conditions of the Solicitation Document or in contravention of applicable law; or
(d) Offers goods or services that fail to meet the Specifications of the Solicitation Document; or
(e) Is late; or
(f) Is not in substantial compliance with the Solicitation Document; or
(g) Is not in substantial compliance with all prescribed solicitation procedures; or
(h) Does not include the Solicitation Response Bid or Proposal security as required by the Solicitation Document; or
(i) Does not include an executed certification of non-discrimination in compliance with 580-061-0030 and compliance with Oregon tax laws.

(3) An Institution Public University may reject an Offeror Bidder or Proposer upon the Institution Public University's findings that include, but are not limited to, the Offeror Bidder or Proposer:
(a) Has not met any required mandatory prequalification;
(b) Has been disqualified pursuant to OAR 137-046-0210(3) (Disadvantaged Business Enterprise Disqualification);
(c) Has not met the requirements of the Emerging Small Business Program created in OAR 580-061-0035, if required in the Solicitation Document.
(d) That has been debarred in accordance with ORS 279B130 or 279C.440;
(e) Has been declared ineligible by the Commissioner of Bureau of Labor and Industries under ORS 279C.860;
(f) Has within the last five years been found, in a civil, criminal, or administrative proceeding, to have committed or engaged in fraud, misrepresentation, price-rigging, unlawful anti-competitive conduct, or similar behavior;
(g) Is non-Responsible. Offerors Bidders or Proposers are required to demonstrate their ability to perform satisfactorily under a Contract. Before Awarding a Contract, the Institution must have information that indicates that the Offeror Bidder or Proposer meets the applicable standards of Responsibility. To be a Responsible Offeror Bidder or Proposer, the Institution Public University may consider:
(A) If the Offeror Bidder or Proposer has appropriate financial, material, equipment, facility, and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the Offeror Bidder or Proposer to meet all contractual responsibilities;
(B) If the Offeror Bidder or Proposer has a satisfactory record of contract performance. The Institution Public University may consider both private and public contracts in determining responsible performance under a contract;
(C) If the Offeror Bidder or Proposer has a satisfactory record of integrity. An Offeror Bidder or Proposer may lack integrity if the Institution Public University determines the Offeror Bidder or Proposer demonstrates a lack of business ethics such as violation of state environmental laws or false certifications made to a state agency. An Institution Public University may find an Offeror Bidder or Proposer non-Responsible based on the lack of integrity of any person having influence or control over the Offeror Bidder or Proposer (such as a key employee of the
Offeror/Bidder or Proposer that has the authority to significantly influence the Offeror’s/Bidder’s or Proposer’s performance of the Contract or a parent company, predecessor or successor person;
(D) If the Offeror/Bidder or Proposer is qualified legally to Contract with the Institution/Public University;
(E) If the Offeror/Bidder or Proposer has supplied all necessary information in connection with the inquiry concerning Responsibility. If the Offeror/Bidder or Proposer fails to promptly supply information requested by the Institution concerning responsibility, the Institution may base the determination of responsibility upon any available information or may find the Offeror/Bidder or Proposer non-Responsible.
(4) Form of Business Entity. For purposes of this rule, the Institution/Public University may investigate any Entity submitting a Solicitation Response/Bid or Proposal. The investigation may include the Entity's officers, directors, owners, affiliates, or any other person acquiring ownership of the Entity to determine application of this rule.
(5) Notice. If an Offeror/Bidder or Proposer or a Solicitation Response/Bid or Proposal is rejected in accordance with this rule, the Institution/Public University will provide written notice of such rejection to the Offeror/Bidder or Proposer. The notice will include the grounds for rejection and a statement of the Offeror’s/Bidder’s or Proposer’s appeal rights and applicable appeal deadlines.
(a) If an Offeror/Bidder or Proposer wishes to appeal the decision to reject the Offeror/Bidder or Proposer or Bid or Proposal, the Offeror/Bidder or Proposer must notify the Institution/Public University, in Writing, within three Days after receipt of the notification.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0135
Rejection of All Solicitation Responses/Bids or Proposals
(1) Rejection. An Institution/Public University may reject all Solicitation Responses whenever the Public University finds it is in the Institution/Public University’s best interest to do so. Bids or Proposals for good cause upon a Written finding that it is in the public interest to do so. Notification of rejection of all Bids or Proposals, along with the good cause justification and finding of public interest, will be sent to all who submitted a Bid or Proposal.
(2) Criteria. The Institution may reject all Bids or Proposals based upon the following criteria:
(a) The content of or an error in the Solicitation Document or the procurement process unnecessarily restricted competition for the Contract;
(b) The price is too costly or the quality, or performance presented by the Bidders or Proposers is insufficient to justify acceptance of any Bid or Proposal;
(c) Misconduct, error, or ambiguous or misleading provisions in the Solicitation Document threaten the fairness and integrity of the Competitive Process;
(d) Causes other than legitimate market forces threaten the integrity of the Competitive Process. These causes may include, without limitation, those that tend to limit competition, such as restrictions on competition, collusion, corruption, unlawful anti-competitive conduct, and inadvertent or intentional errors in the Solicitation Document;
(e) Any other circumstance indicating that Awarding the Contract would not be in the public interest.
Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08
580-061-0140
Disposition of Solicitation ResponsesBids or Proposals if Solicitation Cancelled
(1) Prior to Solicitation ResponseBid or Proposal Opening. When a solicitation is cancelled prior
to Opening, all Solicitation ResponsesBids or Proposals received will be destroyed returned to
Bidders or Proposers unopened if submitted in a hard copy format with a clearly visible return
address. If there is no return address on the envelope, the Bid or Proposal will be opened to
determine the source and then returned to the sender.

(2) After Solicitation ResponseBid or Proposal Opening. When all Solicitation ResponsesBids or
Proposals are rejected, the Solicitation ResponsesBids or Proposals received will be retained and
become part of the InstitutionPublic University’s permanent solicitation file.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0145
Protest of Contractor Selection, Contract Award, and Protest of Solicitation Document
(1) The purpose of this rule is to require adversely affected or aggrieved OfferorsBidders or
Proposers on an InstitutionPublic University solicitation to exhaust all avenues of administrative
review and relief before seeking judicial review of the InstitutionPublic University’s selection or
Award decision.

(2) Types of Protests. The following matters may be protested:
(a) A determination of responsibility or lack thereof;
(b) A determination of responsiveness or lack thereof;
(c) The rejection of a Solicitation ResponseBid or Proposal, unless notice of rejection has been
previously provided under OAR 580-061-0130(5);
(d) The content of a Solicitation Document;
(e) The selection of one or more Contractors. A protest may be submitted only by an Entity that
can demonstrate that it has been or is being adversely affected by an InstitutionPublic University
decision or the content of a Solicitation Document.

(3) Delivery. Unless otherwise specified in the Solicitation Document, an OfferorBidder or
Proposer must deliver a Written protest to the InstitutionPublic University within three (3) seven
(7) Days after the Award of a Contract or issuance of the notice of intent to Award the Contract,
whichever occurs first. Protests must be clearly marked on the outside of the envelope with the
title or the number of the Solicitation ResponseBid or Proposal and that it is a protest to ensure
that it is recognized and recorded.

(4) Content of Protest. An Offeror's Bidder's or Proposer's protest must fully specify the grounds
for the protest and include all evidence that the protestor wishes the Vice Chancellor for Finance
and Administration, InstitutionPublic University Vice President for Finance and Administration,
or designee to consider. Failure to include any ground for the protest or any evidence in support
of it will constitute a final, knowing, and voluntary waiver of the right to assert such ground or
evidence. A protest must include a conspicuous marking identifying the type and nature of the
protest.

(5) A protest of a Solicitation Document may be made only if a term or condition of the
Solicitation Document, including, but not limited to, Specifications or Contract terms violates
applicable law. The InstitutionPublic University will (upon altering the Solicitation Document in
response to a protest) promptly transmit the revised Solicitation Document to all OfferorsBidders
and Proposers and extend the Closing where appropriate. The InstitutionPublic University may
choose, in its sole discretion, to close the procurement process without making an Award and begin a new procurement process.

(6) A protest of the selection of one or more Contractors requires the protestor to demonstrate, as applicable;
(a) That all higher-ranked Offerors, Bidders or Proposers were ineligible for selection or that the protestor would have been "next in line" to receive the Award and was eligible for selection; and
(b) That the Offeror, Bidder or Proposer selected was ineligible.
(c) In the case of a sole source procurement, that the Single Seller selected is not the only Contractor or consultant reasonably available to provide the personal or professional services, goods, services, Professional Consultant services as defined in OAR 580-061-0010, Construction-Related Services as defined in OAR 580-061-0010, or combination of Professional Consultant services and Construction-Related Services.

(7) A protest of the rejection of a Solicitation Response, Bid or Proposal must demonstrate that the Institution's decision was materially in error or that the Institution committed a material procedural error and that any such error, alone or in combination with other errors, was a "but for" cause of the rejection.

(8) Response. The Vice Chancellor for Finance and Administration or the Institution's Vice President for Finance and Administration, or their designee, will have the authority to settle or resolve a Written protest. A protest received after the time set out in the Solicitation Document will not be considered. The Vice Chancellor for Finance and Administration, or Vice President for Finance and Administration, or designee will issue a Written final agency order of the protest in a timely manner. If the protest is upheld, in whole or in part, the Institution may, in its sole discretion, either Award the Contract to the successful protestor or cancel the procurement or solicitation. Contract Award may be made prior to issuance of the final agency order if authorized by the Vice Chancellor for Finance and Administration, Vice President for Finance and Administration, or their designee.

(9) Judicial Review. Judicial review of the Institution's decision relating to a Contract Award protest will be available pursuant to the provisions of ORS 183.480 et seq.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 7-2008(Temp), f. & cert. ef. 6-5-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0150
Right to Inspect Plant
The Institution may, at reasonable times, inspect the part of the plant or place of business of a Contractor or any subcontractor that is related to the performance of any prospective Contract or Awarded Contract.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 7-2008(Temp), f. & cert. ef. 6-5-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0155
Invitation to Bid and Request Proposal Negotiations
(1) The Institution may negotiate with the lowest-cost Bidders after determining that the Bids are Responsive and from Responsible Bidders.
(2) The Institution may, if it has given notice in the Solicitation Document, commence negotiations in accordance with sections (3) and (4) of this rule with Proposers in the
competitive range. For purposes of this rule “competitive range” means the highest-ranked Proposers based on evaluating all Responsive Proposals in accordance with the evaluation criteria set forth in the Solicitation Document.

(3) If the InstitutionPublic University chooses to enter into discussions with and receive best and final Proposals, the InstitutionPublic University will proceed as follows:
   (a) The InstitutionPublic University will initiate oral or written discussions with all Proposers submitting Responsive Proposals or all Proposers in the competitive range regarding their Proposals with respect to the provisions of the Solicitation Document that the InstitutionPublic University identified in the Solicitation Document as the subject of discussions.
   (b) The InstitutionPublic University may conduct discussions with each eligible Proposer necessary to fulfill the purposes of this section (3), but need not conduct the same amount of discussions with each eligible Proposer. The InstitutionPublic University may terminate discussions with any eligible Proposer at any time. However, the InstitutionPublic University will offer all eligible Proposers the same opportunity to discuss their Proposals with the InstitutionPublic University before the Institution notifies eligible Proposers of the date and time pursuant to subsection (d) that best and final Proposals will be due.
   (c) The InstitutionPublic University may adjust the evaluation of a Proposal as a result of a discussion under this section. The conditions, terms, or price of the Proposal may be altered or otherwise changed during the course of the discussions provided the changes are within the scope of the Solicitation Document.
   (d) If best and final Proposals are required, the Institution will establish a common date and time by which Proposers must submit best and final Proposals. Best and final Proposals will be submitted only once, provided, however, the InstitutionPublic University may make a written determination that it is in the InstitutionPublic University’s best interest to conduct additional discussions, negotiations, or change the InstitutionPublic University’s requirements and require another submission of best and final Proposals. The InstitutionPublic University will evaluate Proposals as modified.

(4) Negotiations.
   (a) The InstitutionPublic University may commence serial negotiations with the highest-ranked eligible Proposer or commence simultaneous negotiations with all eligible Proposers.
   (b) The InstitutionPublic University may negotiate:
      (A) The statement of Work;
      (B) The Contract Price as it is affected by negotiating the statement of Work; and
      (C) Any other terms and conditions reasonably related to those expressly authorized for negotiation in the Solicitation Document. Accordingly, Proposers will not submit and the InstitutionPublic University will not accept for negotiation, any alternative terms and conditions that are not reasonably related to those expressly authorized for negotiation in the Solicitation Document.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-061-0160
Disqualification from Consideration for Award of Contracts
(1) An InstitutionPublic University may disqualify an Entity from consideration for award of InstitutionPublic University Contracts for the reasons listed in subsection (2) of this section after providing the Entity with notice and a reasonable opportunity to be heard.
(a) All OUS Public Universities may rely upon a disqualification of an Entity by another Public University or exclusion by the federal government or the State of Oregon. The Chancellor's Office will maintain a current roster for Entities that have been disqualified.

(b) In lieu of the disqualification process described in this rule, an Institution contracting for a Public Improvement may petition the Construction Contractors Board to disqualify an Entity from consideration for award of the Institution’s Public Improvement Contracts for the reasons listed in subsection (2) of this rule.

(2) An Entity may be disqualified from consideration for Award of a Contract for any of the following reasons:

(a) A primary employee of the Entity has been convicted of a criminal offense as an incident of obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract;
(b) A primary employee of the Entity has been convicted under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty that currently, seriously, and directly affects the person's responsibility for the Entity;
(c) A primary employee of the Entity has been convicted under state or federal antitrust statutes;
(d) A primary employee of the Entity has committed a violation of a contract provision that is regarded by an Institution or the Construction Contractors Board to be so serious as to justify disqualification. A violation may include, but is not limited to, a failure to perform the terms of a contract or an unsatisfactory performance in accordance with the terms of the contract. However, a failure to perform or an unsatisfactory performance caused by acts beyond the control of the Entity may not be considered to be a basis for disqualification;
(e) The Entity does not carry workers' compensation or unemployment insurance as required by statute.

(3) An Institution will issue a Written decision to disqualify an Entity under this section. The decision will:

(a) State the reasons for the action taken; and
(b) Inform the disqualified Entity of the appeal rights of the Entity under ORS 279C.445 and 279C.450.

(4) A copy of the decision issued under subsection (3) of this section must be mailed or otherwise furnished immediately to the disqualified Entity.

(5) Appeal of Disqualification. An Entity who wishes to appeal disqualification must, within three (3) business days after receipt of notice of disqualification, notify the Institution in Writing that the Entity appeals the disqualification. Immediately upon receipt of the notice of appeal, the Institution will notify the OUS Vice Chancellor for Finance and Administration Director of the Oregon Department of Administrative Services, or designee. The OUS Vice Chancellor for Finance and Administration, or designee, may share the final outcome of the appeal with all Public Universities.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08
DIVISION 62

PURCHASING AND CONTRACTS FOR PERSONAL OR PROFESSIONAL SERVICES AND GOODS AND SERVICES

580-062-0000

Definitions

All capitalized terms in chapter 580, division 62 have the meanings set forth in OAR 580-061-0010 unless the context requires otherwise or except as stated.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-062-0005

Procurement and Contracting Procedures

The procedures set out in OAR 580-061-0000 through 580-061-0160 will be used for the procurement of personal or professional services or goods and services.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-062-0010

Procurement Card

The Chancellor's Office may maintain procurement card services for the benefit of the Institutions. Public Universities. The Controller's Office of the Chancellor's Office will publish policies governing use of the procurement card.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08

580-062-0015

Personal/Professional Services, Goods, and Services Contract Procurement Thresholds

(1) When procuring personal or professional services, goods, or services, not including services from Professional Consultants as defined in chapter 580, division 63, Institutions will conduct the procurement in accordance with the Direct Procurement, Informal Procurement, or Formal Procurement method, unless another method is applicable, based on the anticipated contract price, including consultant fees, reimbursable expenses, and all amendments contemplated by the parties. Multiple Contracts, purchase orders, or purchasing requisitions will not be issued separately with the intent to circumvent these rules. Public Universities may establish lower procurement thresholds for specific procurements or as a university policy or procedure.

(a) $25,000 or less – Direct Procurement or other method of procurement that the Institution deems beneficial to the procurement.

(b) $25,000.01 to $150,000 – Informal Procurement, Formal Procurement, or other method of procurement, except the Direct Procurement method, that the Institution deems beneficial to the procurement.
(c) Greater than $100,000 – Formal Procurement or other method of procurement, except the Direct Procurement or Informal Procurement methods, that the Institution/Public University deems beneficial to the procurement.

(2) Notwithstanding subsection (1), if the source of the funding for the procurement requires a different procurement method, the Institution/Public University may comply with the procurement method required by the funding source.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-062-0020
Methods of Procurement
Institution/Public Universities will use the following methods of procurement when procuring personal or professional services or goods and services.

(1) Direct Procurement. A process where the Institution/Public University negotiates directly with a single Entity to provide personal or professional services or goods and services.

(2) Informal Procurement. A Competitive Process where the Institution/Public University posts an advertisement of the opportunity on the OUS procurement website for a reasonable time necessary to obtain at least three (3) Solicitation Responses/Bids or Proposals. The Institution/Public University may also directly contact prospective Offerors/Bidders or Proposers. If the notice has been posted for a reasonable time period and fewer than three Solicitation Responses/Bids or Proposals have been submitted, the Institution/Public University may enter into a Contract with a Responsible Offeror/Bidder or Proposer based on the Specifications contained in the Solicitation Document.

(3) Formal Procurement. A Competitive Process where the Institution/Public University:
   (a) Creates a Solicitation Document that contains the procurement procedures and necessary Specifications.
   (b) Publishes a notice of the procurement on the OUS procurement website and, at the discretion of the Public University, beneficial to the procurement, in a trade periodical, newspaper of general circulation, or other historically underrepresented minority, women, and emerging small business-targeted periodicals, Institution/Public University website, or other medium for advertising. The notice must specify when and where the Solicitation Document may be obtained and the Closing Date/Time. The notice must be published for a duration reasonable under the circumstances for the procurement.
   (c) Conducts the procurement in accordance with chapter 580, division 61, section 0000 through 0160.

(4) Emergency Procurement. The Institution/Public University President, Chancellor, or designee may declare an Emergency when such a declaration is deemed appropriate. The reasons for the declaration will be documented and will include justifications for the procedure used to select the Entity for a Contract within the scope of the Emergency declaration. After the Institution/Public University President, Chancellor, or designee has declared an Emergency, the Institution/Public University may negotiate a Contract with any qualified Entity for services included in the scope of the Emergency. The Institution/Public University will maintain appropriate records of negotiations carried out as part of the contracting process.

(5) Retainer. Institutions/Public Universities may conduct a Formal Procurement to enter into Retainer Contracts with multiple Entities to provide personal or professional services or goods and services at contracted rates of compensation or based on pre-qualifications.
(6) Alternative Processes. Notwithstanding the foregoing procedures, the InstitutionPublic University Contract Officer may authorize alternative procurement methods that provide a Competitive Process to two or more Entities to contract with the InstitutionPublic University and meet the following objectives:
(a) Responds to innovative business and market methods; or
(b) Contributes to InstitutionPublic University productivity improvement and process redesign; or
(c) Results in comprehensive cost-effectiveness and productivity for the InstitutionPublic University.

(7) Exempt. Institutions need not follow, regardless of value, a Competitive Process when seeking or acquiring or paying for the following goods and services:
(a) Educational services.
(b) Advertising and media services, excluding consulting services.
(c) Price-regulated goods and services, including utilities, where the rate or price for the goods or services being purchased is established by federal, state, or local regulatory authority.
(d) Goods or services under federal contracts. When the price of goods and services has been established by a contract with an agency of the federal government pursuant to a federal contract award, InstitutionPublic Universities may purchase the goods and services in accordance with the federal contract. In addition, InstitutionPublic Universities may purchase specific equipment that is only available from one source or use specific Entities that are expressly required under the terms of the contract.
(e) Copied materials. Copyrighted materials covered by this exemption may include, but are not limited to, textbooks, workbooks, curriculum kits, reference materials, software, periodicals, library books, library materials, and audio, visual, and electronic media.
(f) Investment contracts and retirement plan services, excluding consulting services.
(g) Food and food-related products.
(h) Maintenance services directly from the contractor providing the goods.
(i) Used personal property.
(j) Goods purchased for resale to outside entities.
(k) Goods or services related to intercollegiate athletic programs.
(L) Cadavers or cadaveric organs.
(m) Hotel sites for large conferences and workshops.
(n) Dues, registrations, and membership fees.
(o) Gasoline, diesel fuel, heating oil, lubricants, natural gas, electricity, and similar commodities and products and the transportation thereof.
(p) Supplies, maintenance, and services for ocean-going vessels when they are in other than home port.
(q) Repair and overhaul of goods or equipment.
(r) Goods or services purchased in foreign countries.
(s) Insurance and insurance-related contracts, not including consulting or brokerage contracts service contracts as provided for under ORS 414.115, 414.125, 414.135, and 414.145 for purposes of source selection.
(t) Grants, including Grant applications and proposals.
(u) Contracts for legal services, including professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which an InstitutionPublic University is or may become interested.
(v) Contracts entered into, issued, or established in connection with:
(A) The incurring of debt by an Institution Public University, including but not limited to the issuance of bonds, certificates of participation, and other debt repayment obligations, and any associated Contracts, regardless of whether the obligations that the Contracts establish are general, special, or limited;

(B) The making of program loans and similar extensions or advances of funds, aid, or assistance by an Institution Public University to a public or private body for the purpose of carrying out, promoting, or sustaining activities or programs authorized by law; or

(C) The investment of funds by an Institution Public University as authorized by law and other financial transactions of an Institution that by their character cannot practically be established under the Competitive Process.

(D) Grant-funded projects where professional or personal service providers are named in Grant or identified in the Grant budget, unless Institution determines it is in its best interest to require a Competitive Process.

(w) Contracts for employee benefit plans as authorized by law.

(x) Services provided by those in the medical community including, but not limited to, doctors, physicians, psychologists, nurses, veterinarians, and those with specific license to administer treatments for the health and well-being of people or animals.

(y) Artists, performers, photographers, graphic designers, website design, and speakers.

(z) Sponsorship agreements for Institution events or facilities.

(8) Sole Source. A process where the Institution Public University President, the Chancellor or designee has made a Written determination that due to special needs or qualifications, only a Single Seller is reasonably available to provide such personal or professional services or goods or services. Sole source procurement will be avoided except when no reasonably available alternative source exists.

(a) Each Institution Public University will provide public notice of its determination that the person or professional services or goods or services are only available from a Single Seller. Public notice may be provided on the OUS procurement website. The public notice will describe the personal or professional services or goods or services to be acquired from the Single Seller, identify the prospective Contractor, and include the date, time and place that protests are due. The Institution Public University shall give Entities at least seven (7) Days from the date of notice publication to protest the sole source determination.

(b) An Entity may protest the Institution's determination that the personal or professional services or goods or services are available from a Single Seller in accordance with OAR 580-061-0145.

(c) On an annual basis, Institution Public University Presidents, or their designees will submit a report to the Board summarizing approved sole source procurements for the Institution Public University for the prior fiscal year. The report will be made available for public inspection.

(9) Special Entity. (a) Public Universities may purchase goods or services, without using a Competitive Process, if purchasing from a federal, state, local governmental agency, public corporation (including, but not limited to, OHSU), or a state Qualified Rehabilitation Facility certified by the Oregon Department of Human Services or the Oregon State Procurement Office.

(b) Public Universities may participate in cooperative procurements with other contracting agencies or Entities or utilize other public contracts or cooperatively-procured contracts if it is determined, in Writing, that the solicitation and award process used to award that Contract was reasonably equivalent to the respective processes established in these rules, including notice during solicitation process that the contract resulting from the procurement may be utilized by other entities. Determinations regarding equivalency and adequacy of processes for cooperating procurements will be made by the Public University Contract Officer.
Institutions may enter into Contracts without using a Competitive Process when the contracting Entity is a federal, state, or local governmental agency, or a state Qualified Rehabilitation Facility certified by the Oregon Department of Human Services or the Oregon State Procurement Office. Institutions may participate in cooperative procurements with other contracting agencies if it is determined, in Writing, that the solicitation and award process for the Contract is reasonably equivalent to the respective process established in these rules and that the solicitation was advertised in Oregon.

(10) Special Procurement: A special procurement is an exemption from competitive procedures that the Finance and Administration Committee of the Board determines is appropriate because it: (A) Is reasonable expected to result in substantial cost savings to the Public University or to the public; or (b) Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with other processes described in this rule.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351
Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08; OUS 6-2011(Temp), f. & cert. ef. 11-10-11 thru 5-7-12; Administrative correction, 5-25-12; OUS 11-2012, f. & cert. ef. 6-18-12
OUS, Principles of a Shared Services Enterprise

One part of the university governance proposal advanced last December by the Oregon Education Investment Board dealt with an organization dedicated to providing services to universities and other education entities on a shared basis. Continuing its work on shared services, the Governance and Policy Committee moved its focus in February to consider how such an organization might be formed, be governed, and operate. Committee discussions have included consideration of principles that would guide a shared services organization. The Committee has considered a variety of principles advanced by university presidents and by staff. That work will continue in subsequent Committee meetings following a topical timeline presented at the Committee’s February meeting.

The Committee also is engaged in a multi-month effort to identify services that are or might be shared and to develop an understanding of how the shared services enterprise might work with respect to the legalities, complexities, and operations of each major service area. Literally dozens of services currently are shared among OUS universities, most but not all provided by the Chancellor’s Office. Each of these will be considered by the Committee and by working groups of campus and outside experts over the course of the next several months. In addition, the Committee will discuss how to expand into services not currently shared and to extend the benefits of a shared services enterprise to education organizations beyond OUS universities (e.g., to OHSU, to independent non-profit universities, to community colleges, etc.).

The Committee believes that shared services should be encouraged to optimize efficiency, minimize cost, maximize revenue, and assure quality. There are a number of principles that the Committee continues to consider and is not yet prepared to recommend to the Board for adoption. These are in the areas of the philosophy of the organization with respect to whether the overriding purpose is to minimize cost for the seven universities collectively or for each university individually; whether the shared services enterprise will be a single legal entity; whether universities opting out of a currently shared service must pay remaining participants some or all of the increased costs they will bear due to the exit of those universities; whether the shared services enterprise is supported entirely by state appropriation or charges its customers in order to recoup some or all of its costs; and how the shared services enterprise will acquire the money needed for capital investments. The Committee will continue to work to reach agreement on principles that will address these areas and any others that seem important.

However, the Committee has been able to reach agreement on several principles that would help frame how a shared services enterprise would be established, governed, and operated. Providing these initial consensus principles to the Board should permit the Board’s views to be shared with state leaders during the development of legislation about university governance in the 2013 legislative session. As the Committee develops other principles, it will make future recommendations to the Board. All the powers needed for such an enterprise currently are within the statutory authority of the Oregon State Board of Higher Education. However, the customer service ethic that must pervade and motivate a shared services enterprise suggests that such an enterprise cannot also be in the role of governing any of the universities but must
be purely a service providing organization. Therefore, some of the statutory powers now vested in the State Board must be transferred to a new legal entity. It is with this in mind that the Committee proposes the following principles to the Board as it considers the establishment of a shared services enterprise.

**PREAMBLE:** The Shared Services Enterprise exists as a means to advance the goals of the State Board of Higher Education to increase the number of Oregonians with degrees, to provide high quality education to students, to undertaken innovative research to advance Oregon and Oregon’s economic well-being, and to support and sustain vibrant communities throughout the state. It is a means of improving education service and reducing cost. Its primary motivator is to keep tuition for Oregon students as low as possible. The Shared Services Enterprise also may extend its services beyond its public university members to other entities within Oregon education.

**PRINCIPLES**

1. Standardization of information, processes and functions is critical to cost-effective operations and to providing the lowest cost at any specified quality level.

2. The Shared Services Enterprise should implement best practices in each service area and focus on lowest cost for the quality of the service desired. Dimensions of quality include timeliness and ease of accessing services.

3. The Shared Services Enterprise shall be overseen by a board composed of the presidents of its public university members or their designees plus two or three public members appointed by the governor and confirmed by the state senate.

4. Each of its major service areas also should be advised by groups of its members and the Shared Services Enterprise should enter into service level agreements with customers that specify levels of quality and cost.

5. Some services may be mandatory for all members, but only to the extent necessary to satisfy legal requirements.

6. An institution that proposes not to continue using a service that was shared prior to the establishment of the Shared Services Enterprise, or which was shared thereafter within the Shared Services Enterprise, must provide the Shared Services Enterprise and each of its member universities with a reasonable and adequate advance written notice of withdrawal, such notice being of sufficient length for the Shared Services Enterprise and its members to assess the impact of such a withdrawal and make appropriate adjustments to operations, rates and practices to permit the enterprise and its members to continue effective operations.

7. The Shared Services Enterprise is considered to be an ongoing entity and it and its participants must take a long view of its operations so that it can make appropriate investments in technology, systems, and other long-lived assets or practices in order to provide high quality, timely, and cost effective services. Such investments may affect how long each university must participate in any service in which it shares.

8. Inclusion of a service within the Shared Services Enterprise does not determine who will provide that service.
9. In addition to the shared services it offers or facilitates, the Shared Services Enterprise may provide a convening function to allow discussions about topics of mutual interest to members and the sharing of best practices in matters not part of the Shared Services Enterprise’s suite of services.

10. The Board of the Shared Services Enterprise will meet at least twice each year in order to plan for the enterprise, assess the quality and effectiveness of its services, explore new opportunities for sharing, evaluate senior staff, receive and adopt financial reports and budgets, receive and discuss audit reports, and conduct such other business as shall be necessary or desirable.

11. The Shared Services Enterprise will not be a state agency.

12. The existence of a Shared Services Enterprise shall not impinge on the ability of any university to offer services to other universities on a shared basis.

**COMMITTEE RECOMMENDATION TO THE BOARD**
The Governance & Policy Committee recommends that the foregoing preamble and principles be approved by the State Board of Higher Education.

*(Board action required.)*
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Minutes

Board members present included President Matt Donegan and Directors Lynda Ciuffetti, Brianna Coulombe (telephone), Jill Eiland, Orcilia Forbes, Allyn Ford, Farbodd Ganjifard, Paul Kelly, Jim Middleton, Emily Plec, and Kirk Schueler. Members absent included: Jim Francesconi and David Yaden.

Chancellor’s staff present included: Chancellor George Pernsteiner, Bridget Burns, Mike Green, Drew Hagedorn, Ryan Hagemann, Jay Kenton, Melody Rose, Di Saunders, Patricia Snopkowski, Charles Triplett, and Marcia Stuart.

Campus personnel present included: Presidents Mary Cullinan (SOU), Bob Davies (EOU), Mike Gottfredson (UO), Chris Maples (OIT), Ed Ray (OSU), Mark Weiss (WOU), and Wim Wiewel (PSU); others present included Dr. Bob Mason (IFS), Vice President Jamie Moffitt (UO), Provost James Bean (UO), and Mary Weatherhead, Emily McLain and Emma Kallaway (OSA).

1. **Call the Meeting to Order/Roll Call/Welcome**

   President Donegan called the meeting to order at 9:18 and asked the Board Secretary to take the roll.

2. **Reports**
   a. **Chancellor’s Report**

   Chancellor Pernsteiner advised that the Governor’s recommended budget is slightly above the System budget request; however, the Statewide Public Services did not receive an increase. The Sports Action Lottery was defunded and will impact the campuses. These two issues will need to be addressed as the biennium progresses.

   The Capital Budget was submitted following the approval of the reprioritization by the Finance & Administration Committee at the January 9th meeting; this revised budget will now be submitted to the Oregon Education Investment Board (OEIB) and Governor. The OEIB unveiled the first reading of the Chief Education Officer’s strategic plan; this plan will evolve in the next few weeks. Some of the measures included in the plan challenge the System to organize the education continuum to move important educational attainment goals. This will change the way the universities reach out and connect to students, even starting at the elementary school
age. This strategic plan begins to provide a framework to be used throughout the state and the education continuum. Regional compacts are being created and organized around community college districts to promote more effective collaboration among universities, community colleges, ESDs, and regional health & welfare agencies.

Chancellor Pernsteiner called upon Chief of Staff Bridget Burns and Mr. Drew Hagedorn to provide an update on the legislative process. Three legislative concepts will be shepherded by the System through the 2013-2015 legislative session: 1) Senate Bill 242 cleanup, including: a) financing agreements for leases, b) revenue bonding, c) ORP amendment, d) Board officer title change, and e) abandoned retirement accounts; 2) 2013-2015 operating budget; and 3) 2013-2015 capital budget.

b. Committee Action Reports

i. Academic Strategies

In the absence of Chair Jim Francesconi, Vice Chancellor Rose provided the ASC report. The Committee met on January 10th and reviewed and refined their Committee Work Plan. Advancing OUS diversity remains a top priority for the Committee with additional emphasis during 2013 on generating strategic planning efforts to support faculty satisfaction and promote Board strategic priorities (teacher preparation, research, economic development).

ii. Finance & Administration

Chair Kirk Schueler reported that the Committee held a meeting on January 9th to review and reprioritize the capital budget submission to better align with the Governor’s 40-40-20 goal. The majority of OUS priority projects remained on the revised list but several moved in the ranking. Vice Chancellor Kenton will provide the Governor’s Office with the rationale used in the prioritization of the projects.

The Committee met in retreat on December 21 and received reports from the universities on a directed budget modeling exercise. Schueler advised that the findings will be brought to the Board at some time in future.

iii. Governance & Policy

Chair Paul Kelly reported that the Committee reviewed the practice of university foundations providing supplemental compensation for university presidents and the guidelines for that practice. Discussion included testimony from foundation representatives and university presidents and the Committee concluded that current policy is effective and allows the Chancellor and full Board to negotiate and approve all compensation terms. The Governance Committee agreed to review the Chancellor’s recommendations prior to submittal to the full Board in the future.
Chair Kelly advised that the Committee will continue to focus a majority of its time on the Shared Services Enterprise topic.

c. **SOU Campus Visitation**

Director Jill Eiland reported that she and Directors Kirk Schueler, and Allyn Ford, visited Southern Oregon University and spent the day with administration, students, faculty and staff, as well as community and political leaders. Partnerships with SOU, the Ashland community, and the Board were strengthened. Director Ford acknowledged the fast-paced changes that President Cullinan is implementing on the campus and the support of the campus and community for these changes, even through difficult times. Director Schueler noted the importance of the Board visitations to campuses throughout the System, and how the visits provide opportunities for the directors to interact with the communities, building lines of communication, and increasing their understanding of the campuses.

d. **Interinstitutional Faculty Senate**

Dr. Bob Mason, president, reported that at the November IFS meeting, the Senate reconfirmed their mission and goals and are committed to “reinvigorating and repurposing” themselves to be more effective in representing their constituent faculty, staff, and students as well as their institutions as a whole. The IFS has formed an ad-hoc committee to review pertinent administrative rules relating to faculty ranks and will present recommendations to the IFS at their January meeting. (The complete report is on file in the Board’s Office.)

e. **Oregon Student Association**

Chair Merriam Weatherhead reported that, in the OSA’s efforts to “get out the vote,” they registered 50,750 people to vote in Oregon, surpassing their goal of 40,000 registrations. Noting OSA’s primary legislative priority as funding for schools and need-based aid, she shared the frustration of students that OUS appears to represent the Governor’s Recommended Budget as sufficient. Tuition is skyrocketing and students are taking fewer classes in order to work more hours thus extending their stay or choosing not to complete their degree solely based on the growing cost of their education. She asked that the Board to reconsider messages that suggest that the GRB is enough.

Members applauded the OSA for their success in increasing voter registration on the campuses but challenged the belief that the Board, in supporting of the Governor’s budget, believes that funding for OUS is adequate. Chancellor Pernsteiner added to this point and thanked Ms. Weatherhead for the clarity of her report. (The complete report is on file in the Board’s Office.)

f. **40-40-20 Strategy Update**

Dr. Rose provided the update by characterizing the System as entering the beginning stages of preparing a strategic framework to reach the 40-40-20 goal. Under the leadership of Director
Yaden, Dr. Rose is mapping out a strategy that will draw upon campuses strategic plans, system goals, and the state’s P20 efforts. She thanked Directors Yaden, Middleton, Plec, and Ganjifard for their leadership and contributions. It was noted that a draft “white paper” is in development and will be distributed to the Board through the Academic Strategies Committee with a strategic framework provided to the full Board in June. It is anticipated that the framework will identify the requisite elements, variables and resources needed for the 40-40-20 strategy. Director Middleton and President Ray encouraged Dr. Rose to be in close contact and collaboration with the community college to alleviate duplication of effort while in the development stage.

3. **DISCUSSION ITEMS**

   a. **Distance Delivery and Related Topics (Eastern Oregon University and Oregon State University)**

Vice President Eiland called upon Dr. Rose to introduce and facilitate the discussion on distance delivery. Following the introduction wherein she advised that online education has presented a massive paradigm shift in the way knowledge is created and delivered, Dr. Rose introduced Dr. Steve Adkison (EOU provost), Chris Cronin (Center Director for Grant County, John Day), Terry Walters (Director for Mid-Willamette/North Coast Center), Linda Jerofke (professor of anthropology), and Terry Hanson (EOU student from John Day). President Davies shared that distance education is the passion of Eastern Oregon University and began as correspondence courses over 20 years ago with Dr. Dixie Lund developing their online education. EOU has subsequently become the leading university in online distance education, offering over two dozen majors and 22 minors to students around the country. Fully half of EOU’s enrollment is made up of online students. As a strategy to meeting 40-40-20 goals, EOU offers a high degree of flexibility to meet student needs, focuses on the ability of the students to stay connected with their communities without traveling to a physical campus, and academic integration with Eastern’s larger set of programs. EOU’s service area consists of 42,000 square miles, 10 counties, and 46 percent of the state. A key piece of EOU’s model in offering high levels of service and student contact is centered in the 16 regional centers located around the state.

President Weiss informed that, at Western Oregon University, distance education offerings are increasing significantly and inquired into persistence rates for online students as compared to other cohorts and tuition differentiation for out-of-state students. President Davies replied that many distance education students are persisting and graduating at a higher rate than on-campus students and presently differential tuition rates for out-of-state students are not used.

Following the EOU presentation, President Ray introduced Associate Provost David King, University Outreach and Engagement, and Vice Provost Scott Reed, OSU Outreach & Engagement and director of the OSU Extension Service, to report to the Board on the distance education provided by Oregon State University. Dr. Reed advised that the Division of University Outreach and Engagement was created in 2007, through the combination of the OSU Extension Service and the former Office of Distance Continuing Education (now called the Extended
Campus – or ECampus). Three primary goals drive the ECampus plan: 1) student access, 2) partnerships, and 3) scholarship. The success of the ECampus has resulted in the Carnegie Foundation Award for the Advancement of Teaching in 2010, a relatively-new credential for community engagement.

Dr. King reported that when created in 2007, only eight undergraduate degrees were offered completely online. Now there are more than 30 undergraduate and graduate degree and certificate programs offered online and ECampus offers approximately 800 courses in approximately 80 subjects. There are 16 undergraduate programs and 17 graduate programs available through ECampus and approximately 35 percent of enrollment is made up of off-campus adult students seeking a degree part-time. In closing, Dr. King advised that 49 percent of graduates in 2003 or 2004, taking an online course, graduated in four years. Students who take online courses tend to graduate at a faster rate because online courses allow the university and students to mix and match effectively and, therefore, more efficiently.

President Ray concluded the presentation by noting that the ways in which universities can connect with students throughout the P20 continuum were unimaginable just a short time ago. This opens more avenues for outreach and capabilities to pursue open dialogue along the entire educational continuum. However, he cautioned that, in striving to meet the 40-40-20 goal, universities must reach Oregonians and not just out-of-state students. President Wiewel advised that Portland State’s online courses are structured to support and serve the student body in achieving their educational goals, especially part-time students who are working toward a degree while working full-time. He expressed eagerness to work with EOU and their regional centers in order to complement their course offerings.

Following a robust discussion, President Donegan thanked the participants for the information and insights they provided.

4. **CONSENT ITEMS**

a. **OSU, Resolution Regarding Classified Information for the U.S. Department of Defense**

b. **Approval of Minutes, October 2012**

**ACTION:** With no comments or corrections provided President Donegan called for a motion to approve the consent agenda as presented in the docket materials. Directors Jim Middleton and Jill Eiland made the motion and second, respectively; motion carried.
5. **VISIT BY REPRESENTATIVE DENBROW**

Representative Michael Denbrow, representing Northeast Portland and also chair of the Higher Education and Workforce Development Legislative Subcommittee, joined the meeting. He pledged to ensure that the subcommittee “will do a lot of work and not a lot of damage.” The subcommittee will be reviewing issues that include governance, student debt, affordability, increasing access, and completion progress to assist students in completing lower- and upper-division work in a timely manner. He recognized the System’s support of tuition equity. This program will allow children of undocumented Oregonians to be considered in-state for the purposes of tuition when they meet certain criteria; to include, attending and graduating from an Oregon high school, acceptance into an Oregon institution of higher education, and an indication (by means of an affidavit) that they will pursue citizenship. This was submitted in a legislative concept form (LC 1951) and will be introduced at the beginning of the 2013-2015 Session as a committee bill. He noted his expectation that the bill be “fast-tracked” through the process for implementation in time for the next academic year and encouraged the Board to continue their support of the issue. Directors Kelly and Eiland thanked Representative Denbrow for his continued support for higher education and his leadership in the legislature. Director Plec thanked Rep. Denbrow for his work during the 2011-2013 legislative session on the issue of textbook affordability for students. Dr. Plec noted that this issue remains important to faculty and students.

6. **ACTION ITEMS**

a. **OUS, Code of Ethics and Financial Irregularities Board Policy**

President Donegan called upon Chief Audit Executive Patricia Snopkowski to present the item. She advised that the code of ethics and the proposed Board policy on financial irregularities have been developed over the past year. Although the State of Oregon currently has a code of ethics and a hotline, these do not meet current System needs and, with the passage of SB 242 and the implementation of a new risk management program in 2012, the System has assumed significant additional liabilities. If adequate coverage is not in place, then the System is exposed to increased reputational and financial risk. Additionally, recent ethical breaches and criminal activities in higher education nationally have created awareness and led to questions regarding the potential for such acts in Oregon.

In the development of the code of ethics and policy, information on best practices across public systems of higher education and private universities was gleaned and melded to meet Oregon’s needs; the resulting documents were vetted with faculty, staff, key management, and the Finance & Administration Committee. Protocols dealing with ethical breaches were updated. Ms. Snopkowski then demonstrated the hotline website for the Board.

**ACTION:** Following discussion, President Donegan called for a motion to approve the OUS Code of Ethics and repeal the current Financial Irregularities Board Policy, to be replaced by the OUS Fraud, Waste, and Abuse Reporting Internal Management
Directive. Directors Allyn Ford and Orcilia Forbes made the motion and second, respectively; motion carried.

b. OUS, Incentive Funding for 2011-12

President Donegan called upon Vice Chancellor Rose to provide the background and make the recommendation for the 2011-12 incentive funding distribution for Year 2.

ACTION: With no discussion raised, President Donegan called for a motion to approve the proposed incentive allocations as presented; motion carried.

c. UO, Request to Renovate and Expand its Erb Memorial Union

President Donegan called upon Vice Chancellor Jay Kenton and UO President Michael Gottfredson to provide background and present the item. Dr. Kenton advised that in August 2012, the Board approved a placeholder in the Governor’s capital budget pending a positive outcome of a UO student referendum on the project. President Gottfredson noted that this project has a lengthy history and emphasized that it is a critical project for the campus in order to serve more students with a modernized facility. President Gottfredson then called upon Jamie Moffitt (vice president for finance and administration) and Robyn Holmes (vice president for student affairs) to provide additional information. ASUO President Laura Hinman and a first year student provided information pertaining to the student referendum.

Director Schueler asked concerning the reduction in project scope and Article XI-F(1) bonds; Moffitt advised that the original project design included a concert hall, that was to be funded through private fundraising ($35 million). The removal of that portion of the project reduced the risks associated with fundraising and complications relating to having such a facility in the middle of the campus. This resulted in an approximate $12 per term reduction in the student fee proposal (15 percent). Dr. Kenton advised that the project stays within the Board’s guidelines (less than or equal to 7 percent) but based on conservative assumptions of expense growth, the addition of this debt load will bring the University close to that threshold.

Dr. Kenton advised the Board that the recommendation for approval of the project contains a caveat that if the grievance is upheld by the student court and the referendum is invalidated, the project will be withdrawn from the capital budget project. Through the tuition and fee process, if the proposed student fee is opposed, the project will subsequently be withdrawn. Chancellor Pernsteiner added that, when the Board makes a decision to approve the project, that approval outweighs the other factors. Ms. Hinman advised that, when the new ASUO board was elected, the student body was made aware of the current fee structure and the proposed new fee to support the EMU expansion. She further noted that, when President Gottfredson addressed the student senate concerning the project, the students requested that the current fee structure be reviewed for potential reduction in fees to off-set the proposed increase in fees.
Members expressed concerns that the increased student fees, coupled with the continued disinvestment by the state, will place additional burden on students and further jeopardize their ability to complete their education. Directors strongly emphasized that a satisfactory resolution to the grievance issue must be received in order to prevent a negative impression to students and that, if the referendum is invalidated, the project must be resubmitted to the Board. President Gottfredson noted that, if delayed by even one year, additional costs would accrue as construction costs are likely to trend up while the economy recovers. Chancellor Pernsteiner advised that this action only places the project on the Governor’s budget; if, prior to the bond sale during the next biennium, the Board decides to postpone or eliminate the project, that option remains available.

**ACTION:** Following discussion and public input, President Donegan called for a motion to approve, subject to satisfactory resolution of the aforementioned grievance that preserves the validity of the referendum, the EMU project as presented and direct the Chancellor to draft a letter to the Governor requesting that $84.3 million in Article XI-F(1) bonds for the project be added to the 2013-2015 capital budget. Directors Allyn Ford and Orcilia Forbes made the motion and second, respectively; motion carried.

7. **Public Input**

None provided.

8. **Board Comments**

No comments were provided.

9. **Adjournment**

With no further business proposed, President Donegan adjourned the meeting at 2:02 p.m.

Chancellor’s staff present included: Chancellor George Pernsteiner, Bridget Burns, Ryan Hagemann, Jay Kenton, Melody Rose, Di Saunders, Charles Triplett, and Marcia Stuart. *by phone

1. **CALL THE MEETING TO ORDER/ROLL CALL/WELCOME**

President Donegan called the meeting to order at 10:06 a.m. and asked the Board Secretary to take the roll.

2. **ACTION ITEM**

President Donegan provided an outline of the meeting and called upon Director Paul Kelly, chair of the Governance & Policy Committee, to review key points of Chancellor George Pernsteiner’s separation agreement as drafted by OUS legal counsel, Ryan Hagemann. Board leadership and Chancellor Pernsteiner negotiated the terms of the separation agreement with the goals of a smooth and positive transition with OUS leadership and recognition of Pernsteiner’s years of service to the System.

Key provisions include Mr. Pernsteiner continuing in the role of chancellor until March 1, 2013; following that, he will work through the month of March on a shared services model for Board consideration. Director Kelly noted that Pernsteiner is uniquely qualified to create a shared services template.

During discussion, President Donegan thanked Director Kelly, Mr. Hagemann, and Chancellor Pernsteiner for their cooperative actions and noted that the compensation is fair, recognizing the chancellor’s contribution to the state. To Chancellor Pernsteiner, he said “this is a very creative solution and we want to recognize your time and contribution.”

**ACTION:** Director Paul Kelly made a motion to accept the resignation of Chancellor George Pernsteiner and approve the separation and resignation agreement as
negotiated; Director Jill Eiland seconded. Those voting in approval included: President Matt Donegan and Directors Lynda Ciuffetti, Brianna Coulombe, Jill Eiland, Orcilia Forbes, Allyn Ford, Jim Francesconi, Farbodd Ganjifard, Paul Kelly, Jim Middleton, Emily Plec, and Kirk Schueler; motion passed.

President Donegan thanked Chancellor Pernsteiner for his service to OUS, noting that he has been with the System since 1989, working in the Chancellor’s Office, the University of Oregon, and Portland State University. Members echoed Donegan’s thanks and remarked on Chancellor Pernsteiner’s support for students across the state, regardless of their ethnicity; his willingness to collaborate with community colleges; his leadership during the presidential transition at the University of Oregon; and his leadership and advocacy for faculty and staff across the system.

Chancellor Pernsteiner thanked the Board for their comments and expressed his thankfulness to the Board, the staff of the Chancellor’s Office, to Governors Kitzhaber and Kulongoski, and to his wife, Cheryl, and their five children for their support.

3. **ADJOURNMENT**

President Donegan adjourned the meeting at 10:39 a.m.

Chancellor’s staff present included: Bridget Burns, Drew Hagedorn, Ryan Hagemann, Melody Rose, Di Saunders, Charles Triplett, and Marcia Stuart.

Campus personnel present included: Provosts Adkison (EOU) and Bean (UO).

*by phone.

1. **CALL THE MEETING TO ORDER/ROLL CALL/WELCOME**

   President Donegan called the meeting to order at 9:08 a.m. and asked the Board Secretary to take the roll.

2. **ACTION ITEM**

   a. **Appointment of an Interim Chancellor**

   President Donegan called upon Chair Paul Kelly, Governance & Policy Committee, to present the item. Following Director Kelly’s advisement of the appointment agreement, Chancellor Pernsteiner commended the Board in their selection of Dr. Rose, noting that she is the “right leader for these times,” who focuses on student success in such a way that assures effective collaboration.

   President Donegan advised that Dr. Melody Rose currently serves as OUS Vice Chancellor for Academic Strategies, adding that he has enjoyed working with Dr. Rose during the brief time she has served as Vice Chancellor.

   **ACTION:** Following discussion, President Donegan called for a motion to approve the appointment of Dr. Melody Rose as interim chancellor beginning effective March 2, 2013, and serving until a regular successor is appointed or the Board relieves her of the duties of interim chancellor at a monthly salary of $21,667, based on an annualized amount of $260,004, and an annualized professional development fund of $20,694 and
authorize the Board president or designee to negotiate and execute an employment agreement consistent with this appointment as interim chancellor. Directors Paul Kelly and Jill Eiland made the motion and second, respectively. Those voting in favor included: Directors Ciuffetti, Donegan, Eiland, Ford, Francesconi, Ganjifard, Kelly, Middleton, Plec, and Schuler; those voting no: none. Motion carried.

Director Francesconi thanked President Donegan and Director Kelly for their leadership and former Chancellor Pernsteiner for his service. Dr. Rose thanked the Board for the trust expressed through this appointment.

3. **ADJOURNMENT**

With no further business proposed, President Donegan adjourned the meeting at 9:27 a.m.