

# WELCOME

CSUMB Finance

Business Operations Forum

September 20, 2017

Contracts: What You Need to Know



# AGENDA

- Introductions and Sponsors
- Contracts, MOUs, Service Agreements
- Fantastical Templates and Where to Find Them
- Contract Elements
- Signature Flows
- Common Pitfalls to Avoid
- Insurance, International, Independent Contractors
- Time for Questions

# Introductions and Sponsors

- Finance, of Administration and Finance
  - John Fitzgibbon, Associate Vice President, Finance
- Business and Support Services, BSS
  - Art Evjen, Director
  - Reyola Carlisle, Sr. Contracts Analyst, Purchasing
  - Michael Phillips, Contracts Analyst, BSS
  - Eva Salas, Buyer III, Purchasing
  - Richard Arredondo, Property Clerk, Property
  - Miguel Silva, Office Coordinator, Procurement Asst., Property Asst., etc...



# Upcoming Business Operations Forums

- Oct 18<sup>th</sup> – TBD
- Nov 13<sup>th</sup> – What Does ASM Do? Also CFS, CHRS, CMS Student/HR Updates
- Dec 13<sup>th</sup> – TBD
- Jan 10<sup>th</sup> – Information Security
- Feb 7<sup>th</sup> – CFS Updates?
- Mar 7<sup>th</sup> – Fiscal Closing Workshop
- Apr 4<sup>th</sup> – University Corporation at Monterey Bay
- May 2<sup>nd</sup> – TBD (*but, You could help determine*)



# BOF SURVEYS

- Email from ASM (Administration Systems Mgmt.)
- Soon after the BOF
- Fairly short due date
- Valued input from each of you:
  - Content
  - Delivery
- Requests for Future Topics



# BOF PRESENTATIONS

Business Operations Forum Presentations are saved on Google Drive and available on the

[Business Operations Forums](#) web page found under “Finance Training” on the Finance home page.

<https://csumb.edu/financetraining/business-operations-forums>

Look under “Past Forums”

Today’s presentation will be included as soon as any changes suggested by you, are considered.



# PROREQUESTOR LIST

Used for Important Messages and Updates

Used for Fiscal Year-End Reminders and Tasks



# CONTRACTS





# CONTRACTS

- Contracts, MOUs, MOAs, Service Agreements
- “Same Thing”
- True MOUs and MOAs can be Softer
- Critical Elements
  - See Templates and General Provisions
- Please Visit Our Templates



# TEMPLATES

- Word Docs
- Start with Most Current Template
- Add More, But Watch for Contradictions
- Insurance Requirements (*Can't Touch This!*)
- Discuss with Contracts Staff Before any Provision Removals
- Rejecting Older Templates (*Stale Provisions*)
- *New Imbedded Macro to Prompt Update!*



# FANTASTICAL TEMPLATES (and Where to Find Them)

Link to Contracts Page:

<https://csumb.edu/finance/contracts>

- Service Agreement (9/18/17)
- Information Technology Service Agreement (9/18/17)
- Guest Speaker Service Agreement (9/18/17)
- Service Agreement Amendment
- UAAPS Template (Intern Placement Agreement)
  - Rev 4/21/16



## ADDITIONAL FANTASTICAL

- UAAPS
- University Agency Agreement for Placement of Students
- S4 Database for Managing Sites and Placements
  - Initially Developed at CSUMB, Now System-wide
  - Traci Reid, Brianna Wagner, S4 Cloud, calstates4.com
  - S4 at CSUMB Soon to Have On-Line Functionality
    - Electronic Documents, No Printing Required!
    - Electronic Signatures, (in Compliance with ICSUAM)
  - Integrated CSU Administrative Manual



# CONTRACT ELEMENTS

- Parties Identified
- Official Address (at Front or at Signature Block)
- Non-Resident Alien Question
- Vendor Data Record (Required before Starting)
- Duration
- Scope of Work
- Rights in Work Product



# CONTRACT ELEMENTS

- Service Fee/Compensation
- Remuneration, Payable to \_\_\_\_\_
  - Helps match with VDR and Payment Request
- Tax Withholding
- Points of Contact
- Termination for Convenience
  - Consider appropriate number of days
  - Could be 30 for us, 60 or 90 or more for them



# CONTRACT ELEMENTS

- General Provisions Invoked (*Most current!*)
- Order of Predominance
- ***Smoke and Tobacco Free Campus***
- Insurance Requirements
  - Endorsement and Certificate of Insurance
  - Request to Modify or Waive
- Indemnification
- Signatures

# GENERAL PROVISIONS

- General Provisions (all updated 2014)
  - Services
  - Goods / Commodities
  - Information Technology
    - Always Consider Sec. 508, Accessibility
  - Public Works / Facilities Maintenance





# GENERAL PROVISIONS

## About Sec. 508, Accessibility

- VPAT – Voluntary Product Accessibility Template
- VPAT Guide and Template
- Vendor Information on Sec 508 Compliance
- VPAT Content Guidelines
- <https://csumb.edu/finance/contracts>
  - Under “Associated Contract Documents”



# GENERAL PROVISIONS

- Link to General Provisions

<http://www.calstate.edu/CSP/crl/GP/GP.shtml>

- Sensitive Data (Information Assets)
  - Special Supplemental Provisions
  - “Rider A” Referenced in Service and IT Agreements
  - Contact Procurement
  - Updating Contracts Webpage



# CONTRACT APPROVAL FLOW

- CSUMB template document (minor changes):
  - Vendor signature first, then route internal
  - May need Dept. Head, Chair, Dean, AVP, VP
  - Must have University Agent signature
- Vendor's Contract Form/Language:
  - Vendor usually signs last
  - Must be reviewed by Contracts Staff and OK'd First
  - May require negotiations/modifications
  - Must have University Agent signature



# UNIVERSITY AGENTS

## CSUMB University Agents:

- President
- Vice President, Administration & Finance
- Associate Vice President, Finance
- Director, Business & Support Services
- Procurement Buyer/Contract Coordinator  
for Purchase Orders



# DOCUMENT FLOW PROCESS

- Fully executed document (All parties signed)
- Scanned and pdf sent to CSUMB parties
- Primary Contact sends pdf to Contactor
- Primary Contact Notifies Contractor to Proceed



# CONTRACTS - TIMING

## Payments

- General Provisions 45 days
- Accounts Payable does 30 days
- Any special payment arrangements must be specified in contract
- Allow sufficient time for processing



# INTERNATIONAL PROCESS



# INTERNATIONAL PROCESS

## International Vendors

Considering doing business with someone from another country?

Stop Sign



You must first contact Art Evjen, Director of Business & Support Services for important regulations that **MUST** be satisfied **PRIOR** to making a commitment for goods and/or services from another country.

There are several critical criteria that must be researched and considered, including visa status, treaties, and withholding regulations. Information will be requested from the foreign entity to render a determination as to whether we can proceed and the optimal process under which to proceed.

Art Evjen can be reached at x3394 or at [aevjen@csumb.edu](mailto:aevjen@csumb.edu)





# INTERNATIONAL PROCESS

- PRIOR to any Commitment/Agreement
- Preliminary Assessment - Form
- International VDR
- Services provided in the US require add'l forms
- Timing, Add 2 more weeks
- Payment Terms
  - American \$
  - Wires are more difficult and more expensive



# INTERNATIONAL PROCESS

- Do Not make any Commitment prior to:
  - An Approved Preliminary Assessment
  - A Completed VDR is Successfully Accepted
  - A Fully Executed Agreement



# INTERNATIONAL VDRs

- Revised 12-2016
- Different from Standard VDR
- Standard VDR Prevents International Use
- Int'l VDR Captures Data for Compliance
  - Need Box 5, Foreign Taxpayer ID or Birthdate
  - Need Box 6, a person at CSUMB for any additional information; Not the Vendor



# PITFALLS



## PITFALLS TO AVOID

- Timing (Late Agreements, ***After*** the event!)
- Not using current templates
- Missing/Unclear content or Scope of Work
- Bad/Missing termination provision (*not Breach*)
- No limits on lodging/airfare/transport./food
- Binding arbitration
- Misalignment of Identities – Payable Name
  - VDR, Contract, Invoice; Vendor, dba



## CONTRACTS - TIMING

# PRIOR TO!

See GP #1



# CONTRACTS - TIMING

## 1. Commencement of Work

Contractor shall not commence work under the Contract until Contractor has received a fully executed Contract and been given written approval to proceed. Any work performed by Contractor prior to the date of approval shall be considered as having been performed at **Contractor's** own risk and as a volunteer.



## MORE PITFALLS TO AVOID

- Insurance requirements deleted
- Not removing [Placeholders]
- Projected expenses don't include items claimed
- PO referenced in contract, but not created
- Rate sheet/Quote mentioned, but not attached
- Missing contact information (email, phone #)
- Missing legal address of contractor
- One-time template vs. Umbrella template





## MORE PITFALLS TO AVOID

- Paying for Service Agreements via ProCard
  - Restricted Use, Under ProCard Guidelines
  - Must Request AND Receive Prior Written Approval from ProCard Administrator (Eva Salas, Art Evjen)
  - Can't do Withholding on Credit Card Payment if Withholding is Required (University Liability)



# INSURANCE



# INSURANCE REQUIREMENTS

- Fully referenced in General Provisions
- Endorsement links insurance to contract
- Certificate required, but not enough!
- Insurance = financial backing to indemnification
- May request modification or waiver. ***START SOON!***
  - **Dept.** Request for Insurance Waiver or Modification
    - <https://csumb.edu/finance/contracts>
    - Depends on criteria and risk assessment
    - May be denied or rejected.



# INSURANCE PITFALL TO AVOID

- Insurance Waiver/Modification Submitted ***AFTER*** Services Performed
  - Need Sufficient Time to Review/Accept/Reject



# INDEPENDENT CONTRACTOR VS. EMPLOYEE



# INDEPENDENT CONTRACTOR VS. EMPLOYEE

- Multiple Criteria
- IRS Penalties Possible
- 24 Factor Assessment (IRS, EDD)
  - Look for Link on Business Support Services Website
  - Ask University Personnel or Contracts



# INDEPENDENT CONTRACTOR VS. EMPLOYEE

- “Special Consultant” is a CSU Employee
- “Casual Worker” is a CSU Employee
- Look to UP Forms for Non-Recruited Staffing Forms
- CSU Staff Can NOT be hired as Independent Contractors
- *Exception:* CSU Faculty and Coaches can be hired as Independent Contractors (HR2003-21)
  - Needs a formal Service Agreement



# QUESTIONS???





# THANK YOU!!!

