



# CONTRACT DEVELOPMENT, REVIEW, AWARD, & MONITORING

---

*Dr. Brian McGinley*

*Executive Director, HSC Contract Administration*

# Learning Objectives



TEXAS A&M  
UNIVERSITY

- Definitions
  - Elements of a Contract
  - Contract Terms & Conditions
  - Statement of Work Development
  - Performance Based Contracting
  - Deliverables
  - Service Level Agreement
-

- **Contract** – A promise or set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty. (Contracts in a Nutshell, 6th Edition)
  - **Service Contract** – A contract that directly engages the time and effort of a contractor to perform an identifiable task rather than to furnish an end item of supply. (FAR 37.101)
  - **Professional Service** – A service that usually depends on state licensure or other unique qualification.
  - **Performance-Based Contracting** - Structuring all aspects of an acquisition around the purpose of the work to be performed as opposed to either the manner by which the work is to be performed or broad and imprecise statements of work.
-

# Elements of a Contract



TEXAS A&M  
UNIVERSITY

- **Offer** - willingness to enter a contract
  - **Acceptance** - assent to the terms thereof made by the offeree in a manner invited or required by the offer
  - **Legal Purpose** – not illegal
  - **Consideration** - Consideration is present when each party receives something under the contract
  - **Certainty of Subject Matter** - essential terms are sufficiently defined to enable a court to understand the parties' obligations
  - **Competent Parties** - competent and authorized to enter a contract
-

# Contract Terms & Conditions



TEXAS A&M  
UNIVERSITY

- **Basic Clauses (Essential)**
    - SOW
    - Payment Terms (Consideration)
    - Term & Termination
  - **Required Clauses**
    - Explicitly by Law
    - Required by University or System policy
    - Deemed Best Practice to Minimize Risk
  - **Situational Clauses**
    - Information Technology
      - Accessibility
      - Security
    - Confidentiality (FERPA, HIPAA, Sensitive)
-

- Templates, Examples, Previous SOWs
  - What is a Contract Administration Plan (CAP)
    - Loose set of guidelines
    - Flexible – allow the plan to fit the contract
    - Included in the contract
    - Agreed upon with the vendor
    - Increased communication
  - What is a Quality Assurance Surveillance Plan (QASP)
    - Monitor the performance of the contract
    - Created to administer the CAP
-

# SOW Development (cont.)



TEXAS A&M  
UNIVERSITY

- Describe the purpose of the contract administration plan and the contract (Requirements)
  - State what you want from the contract:
    - Service delivered on-time
    - Quality product/service
    - Receive correct quantity
    - Accurate billing
  - Who? What? When? Where? How (only if necessary)?
-

- Ambiguity vs. vagueness
    - Ambiguous: Word, phrase, or provision can be interpreted to mean two or more different things
    - Vague: Lack of specificity, may be appropriate in certain circumstances – “reasonable” time, etc.
  - Spelling, formatting, grammar, punctuation, and general appearance of document are professional and accurate
  - All exhibits, attachments, appendices, schedules, etc. attached?
-



# Performance Based Contracting



TEXAS A&M  
UNIVERSITY

**Task-based SOW** – Mow lawns once per week (52 mows)

**Performance-based SOW** – Maintain grass at 2”-3.5” during growing season (Request proposals)

**Task-based SOW** – Schedule oil changes monthly

**Performance-based SOW** - The Contractor shall establish and implement an oil analysis program incorporating the manufacturer’s recommendations. Documentation shall include periodic oil analysis tests to be performed at least annually, diagnostic standards, and thresholds for oil changes.

---

## Tracking Document

- What is the party supposed to deliver?
- Where is that requirement found?
- What is specific timeframe or due date?
- Has it been received?

Deliverable	Ref	Deliverable Due	Due Date	Rec'd
Existing Deficiency Inspection	4.2	Report due not later than ___ days after award of the Contract.		
Startup/Transition Phase (Staffing Plan, etc.)	5	Report due not later than ___ days after award of the Contract.		
Phase out Transition	6	On the last performance day of the Contract, Contractor must turn over keys and identification badges/cards.		
List of key personnel and emergency contact information	8.1	The Contractor must develop and submit to the CO within ___ days of Contract award.		
Quality Control Program	8.6	Develop and submit for approval ___ days after Notice of Award		
Building Operating Plan	9.2	Develop and submit for approval ___ days after award		

# Service Level Agreement



TEXAS A&M  
UNIVERSITY

## Tracking Document

- What Service is being delivered?
- How will it be measured?
- What is the standard?

Services	Unit of Measure	Measurement
Core Network	# of Minutes Operational	99.99 percent of the reporting period (24 x 7), the system will be operational
Banner	# of Minutes Operational	99.90 percent of the reporting period (7 x 10), the system will be operational
eCollege	# of Minutes Operational	99.90 percent of the reporting period (24 x 7), the system will be operational



“Abraham took sheep and oxen and gave them to Abimelech, and the two of them made a covenant.”

**Genesis 21:27**