I. PURPOSE: To establish effective contracting procedures which protect the interest of the agency, to minimize personal liability and to ensure the contracting process conforms to state and federal statutes, administrative rules and regulations.

II. DEFINITIONS:

Amendment means a written modification to the terms and conditions of a contract, other than by changes to the work, within the general scope of the original procurement that requires mutual agreement between the Department and the Contractor.

Approving Authority means a person who has been given written authority to bind the Organization he/she represents to the terms and conditions of the contract.

Contract means a legal instrument between the Department and another party describing the work to be done and the obligations between the parties. These include but are not limited to, Personal Service Contracts, fencing, forage, haying, or grazing agreements, grants, Native American Agreements, cooperative agreements, purchasing agreements (Purchase Orders), Interstate, Interagency, Intergovernmental, and International Agreements.

Contractor means the person with whom the Department enters into a contract and is interchangeable with "consultant" and "provider."

Department Director means the Director of the Department of Fish and Wildlife.

Execution means when all approvals and signatures to the contract are in place and a notice to proceed is issued to the contractor(s).

Interagency Agreement means an agreement between the Department and another state agency within Oregon.

Intergovernmental Agreement means an agreement between the Department and one or more units of local government of the State of Oregon. "Unit of local government" means a county, city, district or other public corporation, commission, authority or entity organized and existing under state statute or city or county charter (ORS 190.003). The Department considers an agreement/contract with the Federal Government to be an Intergovernmental Agreement.

International Agreement means an agreement between the Department and any nation or public agency of any nation other than the United States including an American Indian tribe or an agency of an American Indian tribe (ORS 190.110).
Interstate Agreement means an agreement between a public agency in one state and a public agency in another state.

Procurement Section means the section that is assigned to the Administrative Services Division with the authority to administer, track, and process procurement contracts and make related determinations and findings.

Project Manager or Contract Administrator means the person designated in the contract that has responsibility for specific contract administration actions (i.e. authorizing the performance of work, evaluating the contractor's performance, approval of invoices for payment, requesting contract amendments etc.).

Public Contract means a purchase or other acquisition by the Department for supplies and services.

Statement of Work is a written statement that specifically describes phases of work or services, major tasks, areas of responsibility, specific objectives the Contractor must attain, deliverables that the Contractor must provide and a stated schedule of deliverables aligned with payments.

III. POLICY:

1. This policy defines how Department Contracts are to be executed on behalf of the Department Director at the lowest level of responsibility that is consistent with responsible financial and organizational control;

2. A central registry of all contract documents will be maintained;

3. All contract documents must meet the form and content requirements of the Attorney General, Executive Department and the Department of Administrative Services. Contract documents prepared by a party outside of the Department must still meet these requirements;

4. The project manager executing the contract on behalf of the Department Director assumes full responsibility for the Department's obligations in the contract, assuring that services and/or deliverables have been met by the contractor.

IV. PROCEDURAL REQUIREMENTS BY TYPE:

1. Grant, is defined in ORS 279A.010 and means an agreement under which the Department 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 Department 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 an agreement under which an Department 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, loan guarantees, credit enhancements, gifts, bequests, 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 Department is anticipated in the program or activity other than involvement associated with monitoring compliance with the grant conditions. Grants require the Department's Director, Deputy Directors, or their designated representative signature approval. These agreements must be processed through the ASD, Contract Services Section. Grant does not include a public contract.

2. Cooperative Agreement. These agreements provide for each party to perform some
activity, and may not include actual funding to either party. Examples include forage, habitat improvement, road closure, haying, grazing, fire protection, fencing, and farming. Department project managers must use the legal instrument that has been approved by the Contract Services Section and include all appropriate legal requirements per Department of Justice Model Public Contract Rules, Division 46 and 47. These may be signed by designated Department employees that have designated signature authorization.

3. Interagency Agreements. These agreements are between the Department and other Oregon State agencies. Interagency Agreements require the Department's Director, Deputy Directors, or their designated representative signature approval. These agreements must be processed through the ASD, Contract Services Section.

4. Intergovernmental Agreements. These agreements are between the Department and one or more units of local governments of the State of Oregon. Intergovernmental Agreements require the Department's Director, Deputy Directors, or their designated representative signature approval. These agreements must be processed through the ASD, Contract Services Section and when over $100,000 requires Attorney General (AG) review and approval for legal sufficiency prior to taking effect.

5. International Agreement means an agreement between the Department and any nation or public agency of any nation other than the United States including an American Indian tribe or an agency of an American Indian tribe (ORS 190.110). International Agreements require the Department's Director, Deputy Director(s) or their designated representative signature approval. These agreements must be processed through the ASD, Contract Services Section and may require AG and Department of Administrative Service (DAS) review and approval prior to taking effect.

6. Interstate Agreements. These agreements are between the Department and any other state. These agreements are unique in that they must be approved by the AG before they are approved and signed by the Director, Deputy Director(s), or their designated representative. These agreements must be processed through the ASD, Contract Services Section and must be reviewed by the AG regardless of the dollar amount in accordance with ORS 190.430 and ORS 190.490.

7. Personal or Professional Service Contracts. A contract for Personal Services (PSK) is a contract that calls for specialized skills, knowledge and resources in the application of highly technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment. Qualifications and performance history, expertise, knowledge and creativity, and the ability to exercise sound professional judgment are typically the primary considerations when selecting a Personal Services Contractor, with price being secondary. These contracts must be processed through the ASD, Contract Services Section. The screening and selection procedures for the award of Personal Services Contracts are governed by ORS 279A, B and C and OAR Chapter 125. Department employees are encouraged to use qualified public sources through interagency or intergovernmental agreements before using private contractors. All contracts must be approved and signed by the Director, Deputy Director, or their designee (as apposed to designated representative).

8. Information Systems Agreements or Contracts. May require the review of DAS, Enterprise Information Strategy and Planning Division (EISPD). The ODFW, Information Systems Division (ISD) will coordinate with the Contract Services Section. All Agreements or contracts must be approved and signed by the Director, Deputy Director or their designee.
9. **Memorandums of Understanding.** "MOU's" are similar to cooperative agreements except that they typically concern Department policy. Often these agreements may only outline what is understood with no beginning or ending time and should not have consideration as part of the agreement. These must be approved and signed by the Director, Deputy Director or ASD Administrator.

10. **Goods and Trade Service Agreements.**

A. **Goods Agreements:** Normally goods are processed on a purchase order. For more complex agreements that involve maintenance or ancillary services, a larger agreement or contract may be written. These agreements are processed through Contract Services unless otherwise delegated individually or by policy. Purchase orders and Contract Release Orders $1,000 and under may be processed by an employee with signature authorization on file with Fiscal Services for at least the amount of the agreement.

B. **Trade Service Agreements:** Agreements/Contracts for Trade services include all types of services not classified under the "Personal or Professional" services category. Trade Service contracts and agreements are processed through Contract Services unless otherwise delegated individually or by policy. These agreements include such services as landscape, janitorial, standard training (not customized to ODFW's need), as well as others not including office and storage leasing.

11. **Office and Storage Facilities.**

A. **Office Space Leasing:** is processed according to the Department of Administrative Services (DAS) procedures. DAS requires space needs be documented prior to lease negotiations being enter into by DAS. These must be approved and signed by the Director, Deputy Director, or their designee.

B. **Storage Facilities:** leasing/renting of commercial storage facilities is processed through the Fish Division, Realty Section.

12. **Construction and Public Improvement Contracts.** The Fish Division, Engineering Section is designated to prepare and administer all contracts for new construction and improvements or major repairs to all buildings, structures, lands, and related facilities in accordance with state law, DAS procedures and federal requirements imposed by funding contracts/agreements.

**ATTACHMENTS**

Note: Construction Services or Architectural, Engineering and Land Surveying Services and Related Services are not covered under this policy and are governed under ORS 279C and OAR Chapters 137 or 125.

**Contract process using Flowcharts.**

1. **Personal Service Contracts (PSK)**
   - A. Attachment 1 - PSK, Sole source
   - B. Attachment 2 - PSK, Direct Negotiation
   - C. Attachment 3 - PSK, Informal Negotiation
   - D. Attachment 4 - PSK, Formal Negotiation

2. **Agreements**
   - A. Attachment 5 - Interagency Agreement
   - B. Attachment 6 - Intergovernmental Agreement
C. Attachment 7 - Interstate Agreement

3. Grants
   A. Attachment 8 - Federal Assistance Grants

4. Miscellaneous
   A. Attachment 9