

DPO Advisory Council Meeting

Meeting Date: April 24, 2019

Time: 1:30 – 3:30pm

Location: **ODOT**
 3930 Fairview Industrial Drive (Room 230 – Ashland Conf. Room)
 Salem, OR

Attendees: **Chris Shaver (OMD), Melissa Esser (ODA), Sharon Domaschofsky (OSP), Nancy Cody (DCBS), Connie Lelack (ODOT), Robert Jones (PERS), Karen Johnson (DOJ), Jay Jackson (DAS), Tom Riel (HECC), Shawn Range (OSL), Whitney Steward (ODF), Tony Payseno (DOC), Rich Palmer (PUC), Salem Opeifa (OWRD), Jessica Nelson (OHCS), Sabrina Hay (OPRD), David McKay (ODOE), Mande Wilding (ODE), Jon Walton (OBDD), Melody Waight (ODFW), Archana Thapa-Sherpa (DOJ), Jean Straight (DSL)**

By Phone: **Kirk Rhoades (DHS/OHA)**

Guests: **Chris Patchell (DAS), Nicole Brazeal (DAS), Lori Nordlein (DAS)**

ITEM	DISCUSSION
Welcome/Announcements– Sharon Domaschofsky	
	<ul style="list-style-type: none"> – Introductions were made. – March minutes approved.
Agency Introduction – Debbie Dennis & Kelly Mix (DAS)	
Handout (PowerPoint)	<p>Agency Introduction:</p> <p>Mission: “We Support state government to serve the people of Oregon”</p> <ul style="list-style-type: none"> • Who is DAS: The Department of Administrative Services (DAS) is the central administrative agency of Oregon state government. The Department is the state’s enterprise provider of accounting, finance, budgeting, purchasing, human resources, information technology, facilities, fleet, and publishing and distribution services. DAS also provides leadership and policy direction statewide for agencies who provide their own services in these areas. • Department Breakdown: Kate Brown (Governor) → Katy Coba (DAS Director and State COO) – Terrence Woods (CIO) • Katie Coba’s direct reports → George Naughton (CFO) – Madilyn Zike (CHRO) -- Brian Deforest (CAO) • Strategic Plan: <ul style="list-style-type: none"> ○ Investing in People through Workforce Development: <ul style="list-style-type: none"> ▪ Workday Permanent Staff ▪ Classification, Compensation & Executive Recruiting ▪ Strengthening Training Practices – 2007-2008 training staff was cut, we’re now rebuilding this group

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- State Lead Internal Auditor
- Office of the Public Records Staffing & Travel
- Personnel Investigations
- Chief Business Technology Officers (OSCIO)
- Investing in Assets through Addressing Deferred Costs
 - Capital Construction (Justice Building, Revenue Building, Portland State Office Building)
 - State Vehicle Replacement
 - Capital Facility Planning
 - State Data Center Equipment Lifecycle Replacement (OSCIO)
- Investing in Systems through IT Modernization
 - Oregon Payroll System Replacement – planning phase in 19-21 biennium
 - OregonBuys
 - Learning Management Module – upgrading iLearn to new eLearning system
 - Risk Management
 - IT Security Compliance (OSCIO)
 - Enterprise Office 365 (OSCIO)
 - Basecamp/IT Vendor Management (DAS & OSCIO)
- Chief Operating Office (COO)
 - Also director of DAS
 - Statewide focus:
 - Strategic Communications
 - Legislative Coordination
 - Office of Economic Analysis
 - Internal Audits
 - DAS IT
- Chief Financial Office (CFO)
 - All of the statewide financial services
 - Budget and Management
 - Statewide Audit & Budgeting Reporting
 - Capital Finance & Planning (long term – buildings & infrastructure that the state will need to invest in)
 - Statewide Accounting and Reporting
 - DAS Business Services (internal DAS focus)
- Chief Human Resources Office (CHRO)
 - Statewide Human Resources

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	<ul style="list-style-type: none"> ▪ Classification & Compensation ▪ Information Management ▪ Workforce Management and Innovation ▪ Policy Consultation & Research ▪ Labor Relations ▪ Enterprise Human Resource <ul style="list-style-type: none"> • Chief Administrative Office (CAO) <ul style="list-style-type: none"> ○ Service delivery <ul style="list-style-type: none"> ▪ DAS IT (functional reporting IT is under CAO – Budgeting under CFO) ▪ Enterprise Goods & Services (EGS) <ul style="list-style-type: none"> • Finance Business Systems • Procurement Services • Publishing and Distribution • Risk Management • Shared Financial Services (accounting & budgeting for DAS & 22 other client agencies) ▪ Enterprise Asset Management (EAM) <ul style="list-style-type: none"> • Fleet & Parking Services (4,200 vehicles – 24 DAS parking lots & 10 parking lots for other agencies) • Operations & Maintenance (43 buildings & 69 agencies that are served including medical labs, crime labs, gov. mansion) • Planning & Construction Management (construction projects) • Real Estate Services (negotiates leases) • Surplus Properties (\$3 million in sales) • Sustainability <p>Question: provide PS for DAS correct? Services for your own division</p> <p>Answer: before 2012 for about 8 years there was a separate office in a different building that had its own DPO for DAS, so it was a completely separate unit and their authority was 150K and then there was the State Procurement Office. In 2012 DAS had a big reorganization, and we chose to integrate those teams into a commodity and services/portfolio arrangement rather than DAS – Agency Specific – Statewide. Still organized this way today. Our staff gets assigned DAS contracts as well as other agency specific contracts – we do have other staff that typically work on the statewide contracts.</p>
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Independent Contractor vs Employee – Melissa Canfield (ODOT)

Handout (PowerPoint & IRS 11 question test)	<ul style="list-style-type: none"> • If ever there is a question about how to treat an independent contractor or if someone is an independent contractor, please contact DOJ for advice. • Independent Contractor: <ul style="list-style-type: none"> ○ Must comply with ORS 279A, B or C and related Administrative Rules for contracting
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	<ul style="list-style-type: none"> ○ Must establish and maintain an independent contractor/business relationship ○ Should not be included in staff meetings or parties ● Temporary Employee: <ul style="list-style-type: none"> ○ Must comply with ORS 240.309 and related OAR for hiring temporary employees ○ Service to the state is limited to 1040 hours per 12 month period ● To avoid confusion and blurring of the line between employee and contractor you could: <ul style="list-style-type: none"> ○ Have a section of the office where the contractors sit together ○ Require contractors to work from home ○ Require contractors to bring their own supplies ○ Do not provide them with laptops ○ Do not provide them with a state email address ○ Do not invite them to staff meetings or office parties ○ Avoid giving the contractor “work hours” but give them times where they can be in the building ● The reason to keep employees and contractors very clearly separated is to avoid a law suit by a contractor because if they are being treated like an employee they can argue that they should receive the same benefits of an employee. ● ODOT offers a training on this subject. Reach out to Stacy Madsen (Stacy.J.MADSEN@odot.state.or.us) for more information on the class.
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COBID EO – Eloisa Miller (GOV)

Handout	<ul style="list-style-type: none"> ● EO Designee Meet and Greet meeting 5/2. ● During meeting Gov. Office is hoping to clarify rolls of designees. ● Will amend the EO. Item that will be amended is the reporting requirement. Will change from quarterly to annually with a check-in every 6 months. ● Asking directors to review the EO once again and look for areas for amendments. ● Will be meeting with the steering committee for review comments again. ● Once OregonBuys is up and running enterprise wide Gov. Office is looking at amending the whole EO. ● Training: looking to add info to current trainings rather than creating new trainings. ● Next meeting for EO Designees is 6/25 – would like get designees to a networking event. Salem Capitol Connections is a monthly event for community vendors who want to contract with the State and gets them networking with the right people. We will be asking the Designees to attend the June event. <p>Comment: we need to have emergency work addressed in the EO.</p> <p>Response: I will add that to the agenda for our next meeting.</p> <p>Comment: Have a difficult time finding the appropriate certified firms – the search is not helpful for very specific services.</p> <p>Response: I will bring this up to Business Oregon for them to help out with this.</p>
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	<ul style="list-style-type: none"> • Can Carrie B. come in for a demonstration? • Maybe we can come up with a common difficult subject list where we can figure out a crosswalk for users? So give a list of keywords that can get you to that difficult subject/service.
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OregonBuys Update – Chris Patchell & Nicole Brazeal (DAS)

Handout (PowerPoint)	<ul style="list-style-type: none"> • SOS first agency who implemented OregonBuys. <ul style="list-style-type: none"> ○ Actively processing transactions through OregonBuys. ○ 152 vendors registered ○ 253 orders have been issued ○ 5 solicitations are ongoing • Forestry is currently in the planning phase • Forestry is about to begin vendor outreach • Enterprise: <ul style="list-style-type: none"> ○ Planning currently ○ Working with Periscope in early May ○ Working on how we are using ORPIN currently and how we will be translating this to OregonBuys ○ How many vendors need to be registered and how will we get them moving over as smoothly as possible. <p>Prior Question & Answer attached, in handout.</p> <p>Question: When will we be getting an official communication?</p> <p>Answer: OregonBuys team does not feel comfortable doing an official communication until we have a signed contract in place. As soon as that happens we will communicate to everyone.</p> <p>Question: How far out is this – months, weeks, days?</p> <p>Answers: Contract is very close to being signed – Maybe 2 weeks out.</p>
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IT Professional Services & Cloud Solutions - Lori Nordlein (DAS)

	<p>Cloud: 7 vendors have master agreements. Most are resellers. Must do pre-work (market research) at your agency about what you're wanting to purchase.</p> <p>Initial step is to do the cloud workbook through OSCIO. Run a best Value Analysis. Contact the reseller(s) – if they don't have what you're looking for, they can add it. Go through the RFQ process. Then Place your order.</p> <p>If we do not have a license/services agreement it will have to be negotiated. Currently we have Microsoft and Adobe – working on Amazon, VMWare and a couple others currently at DOJ.</p> <p>The information you need, it will be in the Buyers Guide.</p>
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Legislative Updates – Jay Jackson (DAS)

	<p>HB 2498 – independent contractor: First week of March did get a hearing, it has been sitting in committee ever since. Rules committee is not subject to the legislative deadlines so it can hang around until the last day of session. Could have significant impact on agencies – adds the idea that you cannot have someone as an independent contractor that does a service that is ordinarily a part of</p>
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	<p>the work that your agency would do.</p> <ul style="list-style-type: none">• Some examples of how this could be problematic:<ul style="list-style-type: none">○ Dept. of Ed. Contracting substitutes or summer school teachers.○ Forestry hiring firefighters. <p>We have 2 months left of session.</p> <p>2828 bills filed as of today.</p> <p>Not a lot of public hearings. Jay believes this means there is a lot going on behind the scenes, trying to work out the specifics.</p> <p>HB2020 – up to #79 amendment. This shows that there are a lot of conversations behind the scenes trying to pick parts of amendments to create what is truly needed.</p>
Roundtable:	
	<p>DAS – recruiting for OregonBuys – OPA 2, Project Manager, Business Analyst, Program Manager</p> <p>DOJ – get work in soon for end of Biennium</p>
	<p>Close of meeting.</p>

Next Meeting:

Date: May 22, 2019

Time: 1:30 - 3:30 pm

Location: ODF – 2600 State Street SE, Salem (Tillamook Room #100)



DEPARTMENT OF ADMINISTRATIVE SERVICES

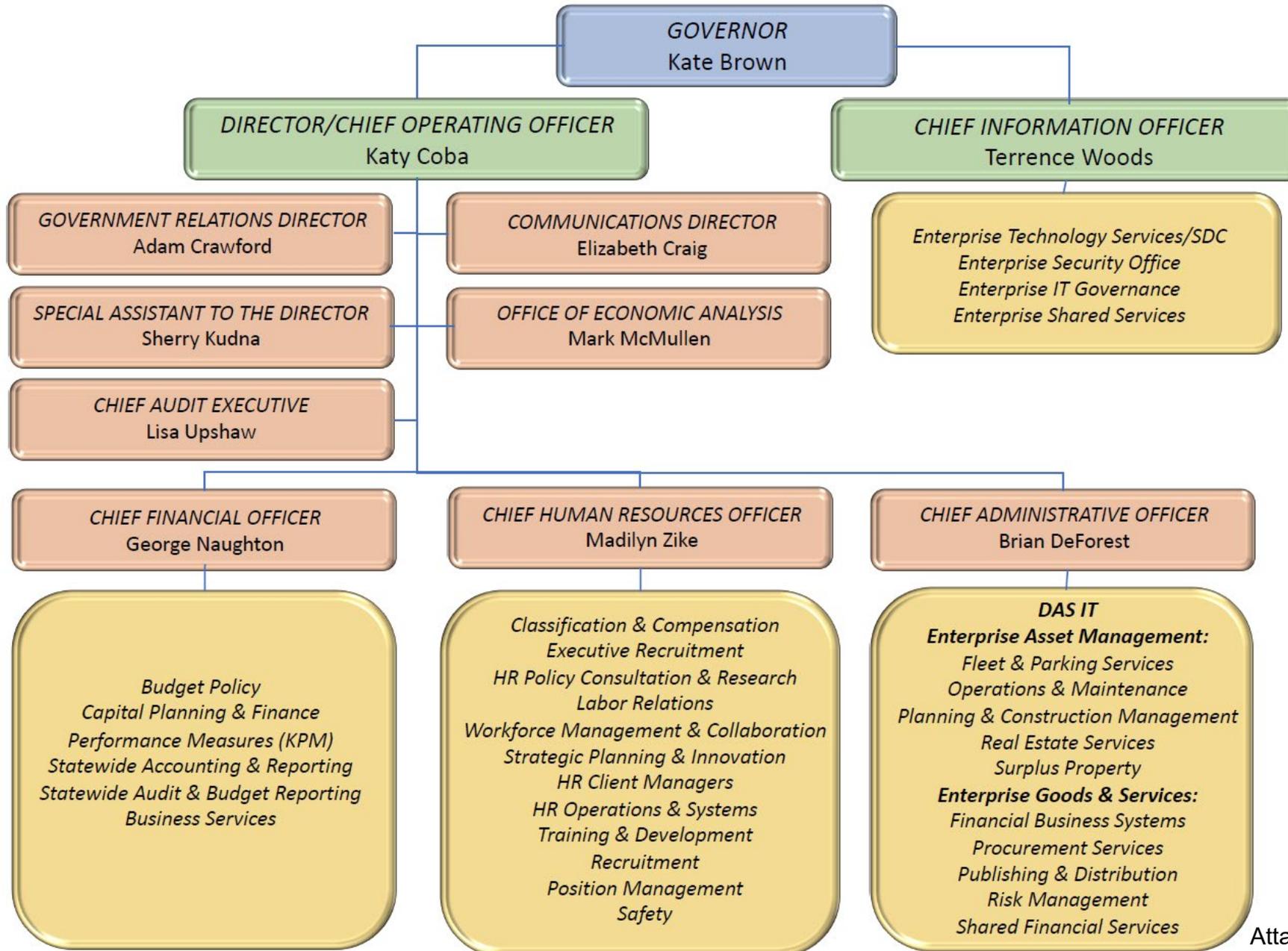
DPO COUNCIL PRESENTATION

APRIL 24, 2019

DEPARTMENT OF ADMINISTRATIVE SERVICES

The Department of Administrative Services (DAS) is the central administrative agency of Oregon state government. The Department is the state's enterprise provider of accounting, finance, budgeting, purchasing, human resources, information technology, facilities, fleet, and publishing and distribution services.

DAS also provides leadership and policy direction statewide for agencies who provide their own services in these areas.



STRATEGIC PLAN

DEPARTMENT OF
ADMINISTRATIVE
SERVICES

**We support
state government
to serve the people
of Oregon.**



DAS
DEPARTMENT OF
ADMINISTRATIVE
SERVICES

INVESTING IN OREGON

- Investing in People through Workforce Development
- Investing in Assets through Addressing Deferred Costs
- Investing in Systems through IT Modernization

INVESTING IN PEOPLE

- Workday Permanent Staff
- Classification, Compensation, and Executive Recruiting
- Strengthening Training Practices
- State Lead Internal Auditor
- Office of the Public Records Staffing and Travel
- Personnel Investigations
- Chief Business Technology Officers (OSCIO)

INVESTING IN ASSETS

- Capital Construction
 - Justice Building
 - Revenue Building
 - Portland State Office Building
- State Vehicle Replacement
- Capital Facility Planning
- State Data Center Equipment Lifecycle Replacement (OSCIO)

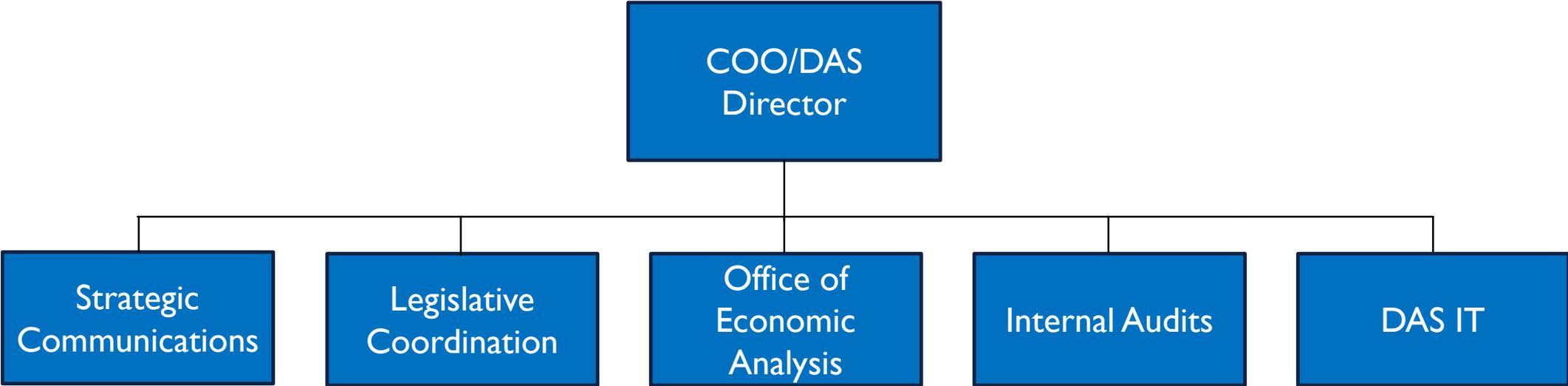
INVESTING IN SYSTEMS

- Oregon Payroll System Replacement
- OregonBuys
- Learning Management Module
- Risk Management
- IT Security Compliance (OSCIO)
- Enterprise Office 365 (OSCIO)
- Basecamp/IT Vendor Management (DAS and OSCIO)

CHIEF OPERATING OFFICE

The Office of the Chief Operating Officer (COO) leads the Department of Administrative Services and provides statewide operations and policy leadership. The COO coordinates teams and initiatives across jurisdictional and agency boundaries with a goal of achieving transformative, long-term change and developing an agile organization that can meet current and future challenges.

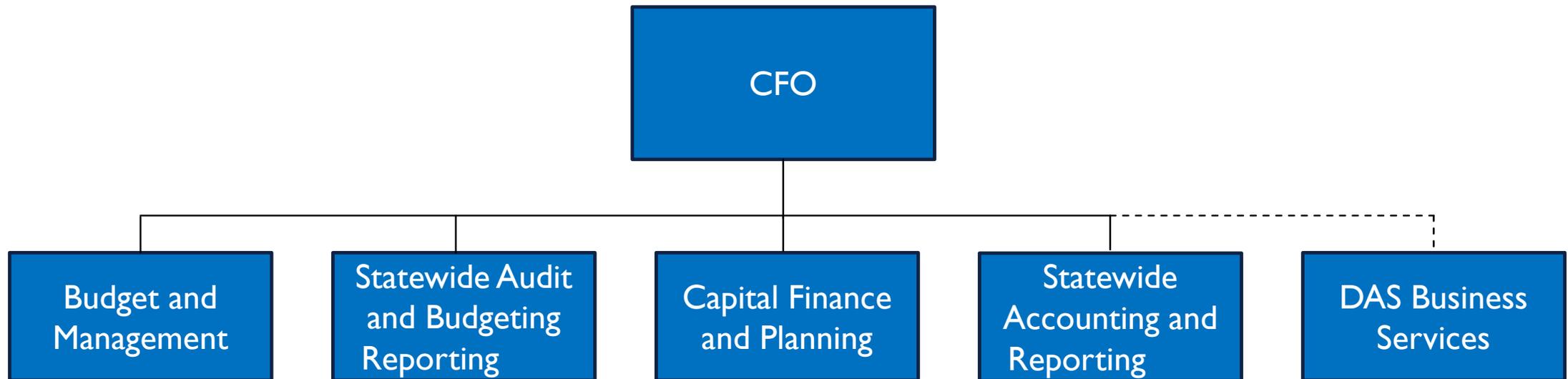
OFFICE OF THE CHIEF OPERATING OFFICER (COO)



CHIEF FINANCIAL OFFICE

The Chief Financial Office (CFO) provides objective and accurate information to state leaders and the public for more efficient use of state resources.

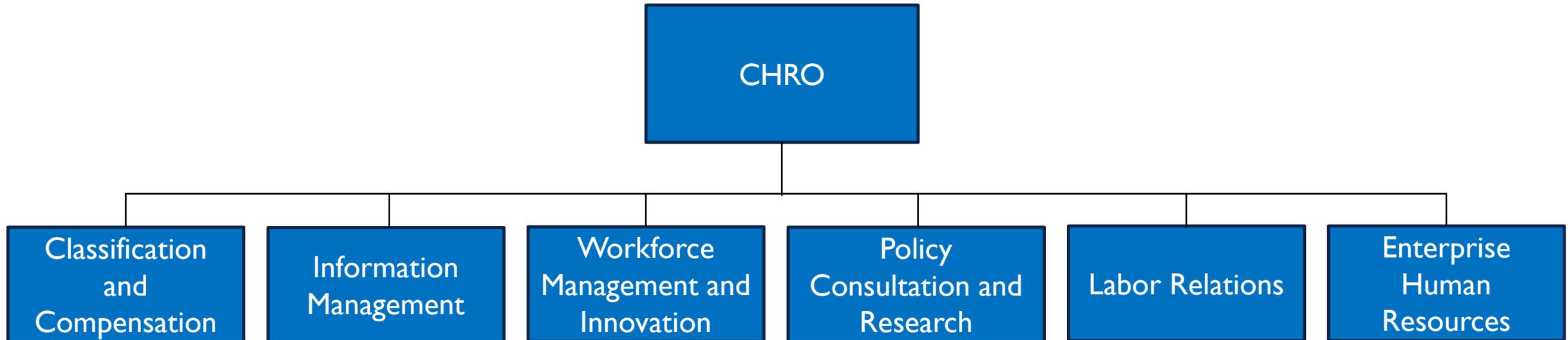
CHIEF FINANCIAL OFFICE (CFO)



CHIEF HUMAN RESOURCES OFFICE (CHRO)

The Chief Human Resources Office (CHRO) provides the enterprise-wide policy leadership necessary to maintain a reliable and qualified workforce for the state of Oregon. The Office's centralized policy functions enable executive branch agencies to share resources and expertise with which to manage their human resource assets and capital in a cost-effective way.

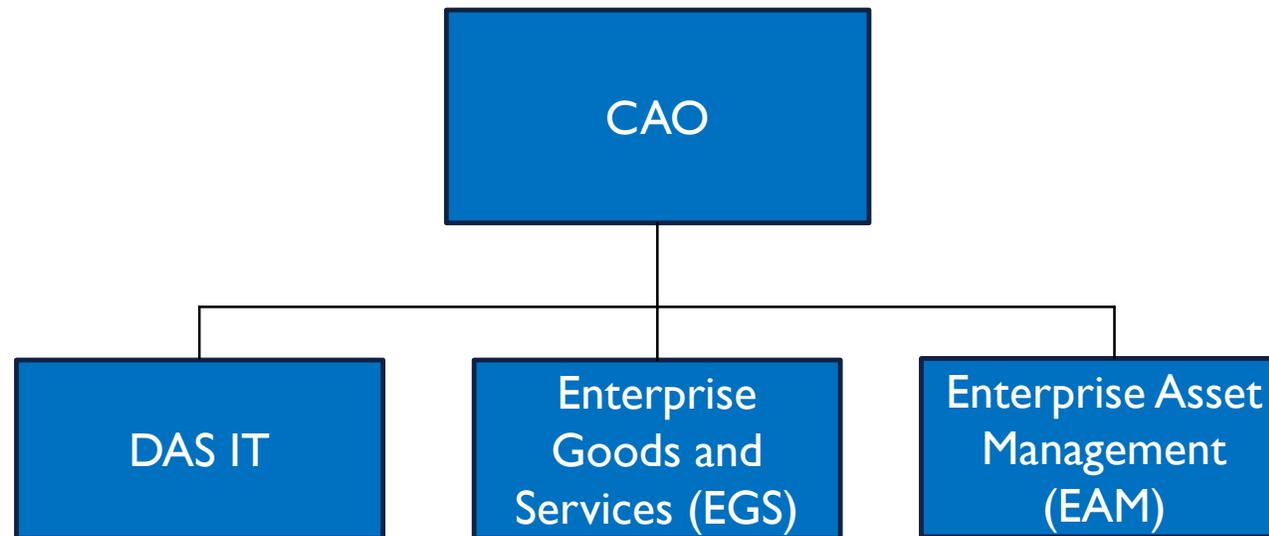
CHIEF HUMAN RESOURCES OFFICE (CHRO)



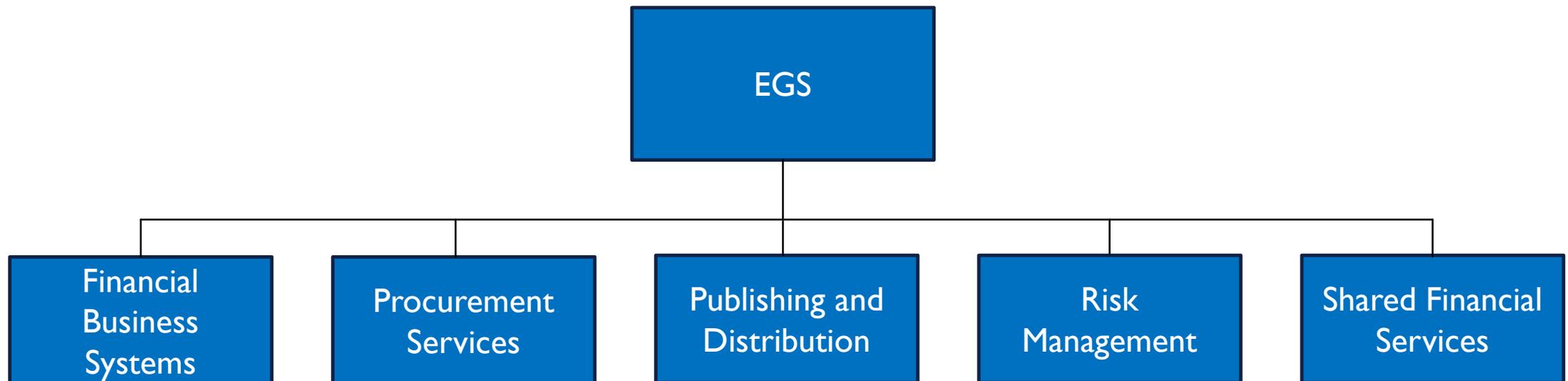
CHIEF ADMINISTRATIVE OFFICE (CAO)

The Chief Administrative Office (CAO) provides a diverse suite of services to meet the business and operational needs of state agencies.

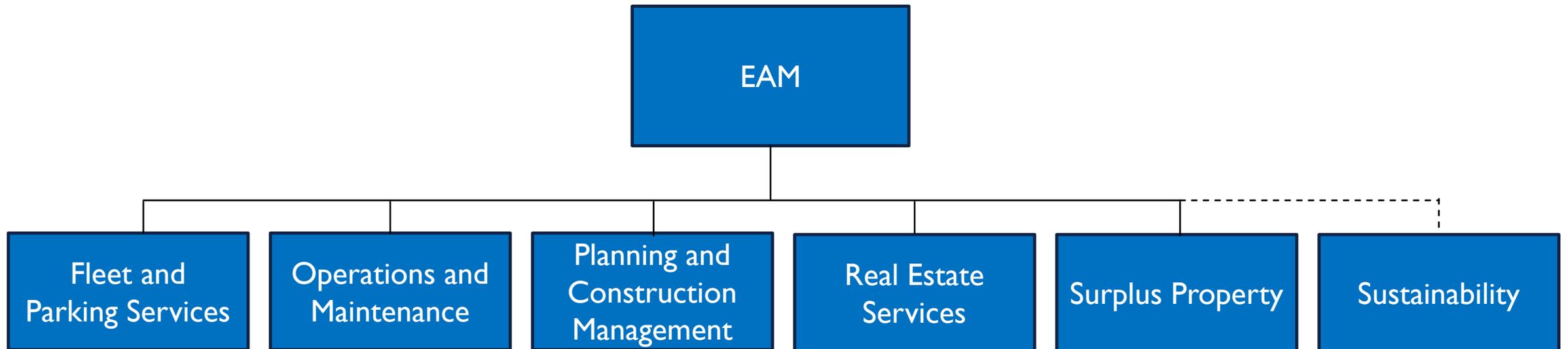
CHIEF ADMINISTRATIVE OFFICE (CAO)



ENTERPRISE GOODS AND SERVICES (EGS)



ENTERPRISE ASSET MANAGEMENT (EAM)



QUESTIONS?

INDEPENDENT CONTRACTOR or EMPLOYEE



TODAY'S TOPICS

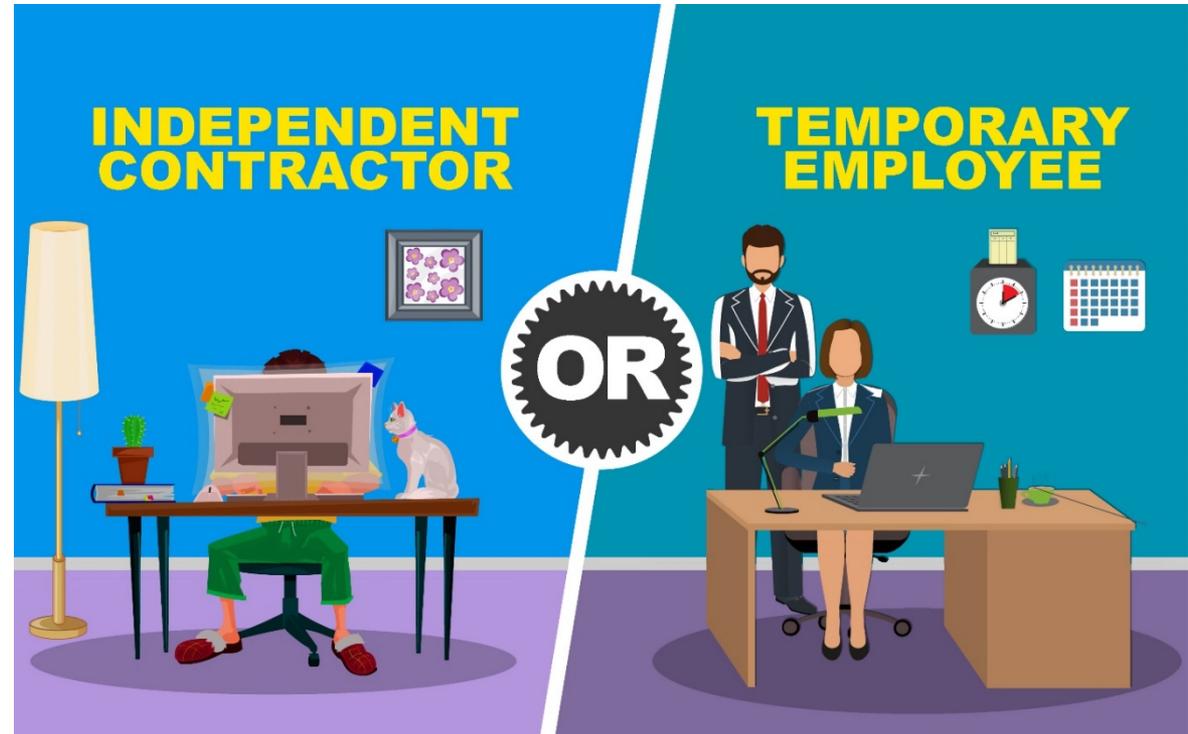
- ❑ Defining what an Independent Contractor is
- ❑ Risks Associated with Misclassification
- ❑ Assessing and Mitigating Risk
- ❑ Policies
- ❑ Resources



The information presented here and in the accompanying materials is provided as a summary and teaching guide. It is not intended as legal advice.

ARE THEY AN EMPLOYEE OR INDEPENDENT CONTRACTOR?

It Primarily Comes Down to Control



- Must comply with **ORS 279A, B, or C** and related Administrative Rules for contracting
- Must establish and maintain an independent contractor/business relationship
- Must comply with **ORS 240.309** and related OAR for hiring temporary employees
- Service to the state is limited to 1040 hours per 12-month period

FACTORS TO CONSIDER

- Nature and degree of control by agency
- Extent to which the services are integral part of agency's business
- Duration of the relationship
- Independent enterprise
 - Extent of worker's investment in facilities and equipment
 - Ability of worker to hire others to help with the work
 - Extent worker is able to perform similar services for others while working for agency
 - Degree of control worker has to set own schedule, how the work is performed, and hours and working conditions

Possible Red Flags:

- ✓ Worker previously provided the same services as an employee
- ✓ Working relationship lasting for years
- ✓ Or, if the Independent contractor:
 - Provides increased bench depth to the entity
 - Attends staff meetings
 - Required to follow the policies and procedures of the entity



WHY CLASSIFICATION MATTERS

The Consequences Can Be Steep



Potential Impact to Agency

- Employment taxes, plus late fees & penalties
 - Compensation for accrued overtime
 - Non-compliance with the Affordable Care Act
 - Retirement benefits
 - FMLA
 - Vacation and sick leave benefits
 - Harm or damage caused by contracted resource
 - Violation of bargaining agreement
-



Potential Personal Impact

Any person who willfully violates ORS 240.309 State Personnel provisions commits a Class A misdemeanor

Penalties might include:

- Fine up to \$6,250 or up to one year incarceration, or both
- Ineligible for employment in state services for 5 years (any person)
- Deemed guilty of malfeasance and lose state service position (employee or officer of the state)

IRS INDEPENDENT CONTRACTOR CLASSIFICATION ASSESSMENT

The IRS Common Law Rules used to simplify making a determination
[IRS 11-Factor Right To Control Test](#)

Divided into three categories to gauge the degree of control:

Behavior Control

- 1 – Instruction given to the worker
- 2 – Training provided by business

Financial Control

- 3 - Extent of Unreimbursed Business Expenses
- 4 – Extent of Worker’s Investment
- 5 – Availability of Worker’s Services in Market
- 6 – How the Worker is Paid
- 7 – Whether the Worker can Realize a Profit or Loss

Relationship

- 8 – Contract Describing Relationship
- 9 – Benefits provided to the Worker
- 10 – Permanency of the Relationship
- 11 – Worker Provides Services Key to the Business’ Activity



The keys are to look at the entire relationship, consider the degree or extent of the right to direct and control, and finally, to document each of the factors used in coming up with the determination.

ECONOMIC REALITIES TEST

This additional test focuses on the economic relationship with the worker.

Comprised of Six Factors -

Right to Control: Does the agency or worker control how the work is performed?

Investment: Who Pays for equipment, materials, and helpers?

Length of Relationship: Is the relationship permanent or temporary?

Skill: Does the work require special skill?

Level of Risk: Does the worker's ability to make money solely depend on the work being performed?

Level of Integration: To what extent are the worker's services an integral part of the employer's business?



BEST PRACTICES

- Centralize worker classification decisions
- Be consistent
- Classify workers performing same/similar work the same
- Independent contractor should not perform same work as regular employees
- Ensure written independent contractor agreement is in place
- Independent contractors should be paid via invoice
- Review all relationships with independent contractors and their duties
- Monitor compliance and performance of terms, amending the contract as needed



**If it walks like a duck
and talks like a duck,
it probably is a duck.**

David Lewis,
Independent Contractor
vs Employee by OPEN Forum

WRAP UP AND RESOURCES

- This information was provided to help you identify potential risks of when engaging with contractors.
- Knowledge of factors used to make independent contractor determinations will help you make conscious and intentional decisions, and develop solutions to mitigate potential risks.
- If needed, seek additional assistance from your manager, the ODOT Procurement Office and other resources.

Oregon.gov [Oregon Independent Contractors](#)

ODOT Procurement [Independent Contractor Webpage](#)

IRS Self-Employed [Independent Contractor Webpage](#)

ODOT Procurement Office [Webpage](#)

DAS Independent Contractor [Webpage](#)



Thank You!



OREGON DEPARTMENT OF ADMINISTRATIVE
SERVICES



OregonBuys

April 24, 2019

OregonBuys

Agenda

- Current Status
- Questions and Feedback

Progress on Current Implementations

Update from Secretary of State

- *Currently processing transactions through OregonBuys*
- *Preliminary planning for transitioning the vendor help desk is underway*

Update on ForestryBuys

- *Design phase in process with road-testing (proof of concept) in the OregonBuys test environment.*
 - *Road testing the configuration in test*
- *Vendor outreach launches at the end of April, and user acceptance testing in mid-May*

Current Status

OregonBuys Enterprise Project Planning

- *Anticipate starting work with Periscope in early May*
- *Early Planning will focus on*
 - *Drilling down on the next level of details on the project planning documents (ongoing)*
 - *Collaborating with agencies to capture the “As-Is” process for work currently done in OPRIN*
 - *Preliminary data collection for the supplier enablement activities*
 - *Forming the cross-agency committees in accordance with the Governance model*

Questions and Feedback

Question	Answer
<p>Will we only put expenditures in OregonBuys that are subject to the procurement code, or will we need to capture other expenditures? (For example: property leases, utility bills, etc.)</p>	<p>At this time, we expect only those expenditures subject to the procurement code. However we would want to capture these expenditures at any dollar value, not just those that would be subject to posting on ORPIN.</p>
<p>Will there be a cost to agencies to implement?</p>	<p>Funding for the system will come from an increased vendor collected fee. (Most statewide contracts have a VCAF today.) Agencies should expect to dedicate staff time toward training and implementation.</p> <p>Agencies should expect to dedicate staff time toward training and implementation.</p>
<p>Will agencies be required to use requisitions in OregonBuys? If so, will agencies have flexibility into how they roll out them out?</p>	<p>Yes, agencies will be required to use the requisition feature. Agencies will have choice in determining who is responsible for requisitions in their agency.</p>
<p>Can you customize forms in the system?</p>	<p>Need more clarification on the question.</p>
<p>Can you create a vendor registration on the vendor's behalf?</p>	<p>No. The vendor needs to create their own registration with their tax identification number. They will receive notification and instructions on how to do so.</p>
<p>Will COBID certification information be loaded into the system?</p>	<p>Yes. We have established an interface with the COBID database to import vendors' certification types (MBE, WBE, ESB, etc.). The list of certifications will be wiped clean each night and reloaded. However it will not import the specific commodity codes in which vendors are certified. To find that information (and details regarding certification dates) people will need to look in the COBID database.</p>

Questions and Feedback

Question	Answer
Can we see a demo of the system?	SoS has agreed to provide a demo of the system at the May DPO meeting.
What happens to ORPIN?	Once ORPIN functionality has been replaced by OregonBuys, the system will be available for historical purposes (read only) for a designated period of time.
What work can agencies start doing now to prepare?	Once we're further along in our planning, we'll put together a preliminary list of things agencies can do to prepare.
Who do vendors contact with questions?	Vendors can send questions to oregonbuys.support@oregon.gov .
Who do I send my questions to?	Agency staff can send questions to: oregonbuys.info@oregon.gov