**Pennsylvania’s State System of Higher Education**
**Office of the Chancellor**
**Guidance**

**Interim contract processing measures for legal review**

**March 17, 2020**

In order to ensure legal resources are tasked to the most pressing issues relative to the Coronavirus response, be advised that the Office of General Counsel (OGC) and Office of Attorney General (OAG) has informed my office that transactional documents (contracts, grants, etc.) requiring approval as to form and legality (as required by either (1) OAG or (2) OAG & OGC) will only be reviewed where they are mission critical. As such, the State System (read as-- “your university”) is to only submit for legal approval by OGC or OAG mission critical contracts/grants. Therefore, non-mission critical contracts are to beheld in abeyance until further notice. The legal office will discuss this further on Thursday’s (3/19) call with the procurement directors.

**What is Mission Critical?**

Per the instructions my office received, universities should indicate that the contract is mission critical with justification; I view this as akin to the sole source justifications that your universities submit in support of those purchases or services. **Your university is in the best position to know that. The legal office is not going to dictate what is or is not mission critical**, but we will advise whether we think it passes muster. Certainly, if it seems doubtful, your ULC will have a discussion with the appropriate university procurement professional.

**What does this mean for contract approval?**

For contracts that are less than $20,000, there is no change, as our office will continue to review and approve those documents as timely as we can. For contracts that require the additional level of approval by the OAG (or even OGC for contracts in excess of $500,000) we will have to examine the need and whether it is “mission critical” for your university or the System.

**What should universities do differently in light of this interim contract approval process?**
First, determine whether you believe the subject of the contract or grant is, in fact, mission critical to your university. The second step is to provide a justification as to why the goods or services are mission critical. Thereafter, transmit for legal review as in the normal course.

**What is the interplay between this guidance and the need for emergency procurement resulting from the Governor’s COVID-19 Emergency Disaster Proclamation?**

Emergency procurement resulting from the COVID-19 pandemic will not be subject the aforementioned requirements. This includes any emergency procurements related to responding to the COVID-19 pandemic. We will continue to expedite your ability to respond to immediate needs for your campus community.

The procurement directors will be discussing the foregoing in their upcoming call and your ULC stands ready to assist your university in navigating this temporary requirement.

Please feel free to raise any concerns or questions about this with Chief Counsel, Andy Lehman (lehman@passhe.edu).