

# Caltech



# Contracting/Purchasing Process

*Caltech Purchasing Services*

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# Introduction

- Objective

- Provide an understanding of the roles and responsibilities of Caltech's End Users (students, administrative staff, technical staff, faculty, grant managers, etc.) and the roles and responsibilities of Caltech's Purchasing Officials (Purchasing Agents, Contracting Officers, etc.)
- Provide resources to assist End Users early on in the contracting/purchasing process
- Provide an understanding of the importance that only a Purchasing Official can authorize work under a Purchase Order or Contract

# Purchasing Policies & Procedures

- General Purchasing Services Policy
  - Law of Agency
    - **Delegation of Authority:** *SOS Buyer program that allows those with delegated authority to commit the institute to low value procurements (\$10,000 and less). We currently have about 25 across campus (including LIGO offsite locations). Training is required)*
  - Contracting Law
  - Ethics
- Purchasing Goods and Services Policy
  - Purchasing/Contracting Methods
  - Competition Requirements
  - Regulations over purchasing/contracting activities
- Subaward and Subrecipient Monitoring Policy
  - Subaward process, including pre-award, post-award, and closeout

# L.A. NOW

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## UC system, UCLA professor charged in lab fire that killed staffer [Updated]

DECEMBER 27, 2011 | 4:35 PM



Associated Press

Over more last year's rash of shootings involving Barack Obama...

I never said my father had died. But by God, I loved it. I loved knowing where he had been...

Most businesses, however off their own efforts and their initial actions as food drives and other disaster relief. Defendants: Gov. to Charles...

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## UC Regents strike plea deal in chemistry lab death at UCLA

JULY 27, 2012 | 11:49 AM



Felony charges against the University of California Regents stemming from the 2000 death of UCLA and South Los Angeles and more with a variety of government, civil and religious leaders. The case...

# End User

## Roles/Responsibilities

### Purchasing Goods and Services

- Obtaining quotes from potential suppliers for goods or services in accordance with informal bidding procedures to meet competitive requirements
- Perform market research and complete noncompetitive justifications for Purchasing Services review and approval
- Submit purchase requisitions and change requests via TechMart for final approval (all supporting documentation must be attached to the requisition, including quotes, proposals, contracts, estimates, etc. ***The End User should not sign any supporting documentation attached to the requisition, including quotes, proposals, estimates, and contracts***)



# End User

## Roles/Responsibilities

### Contracts and/or Subawards

- Contact Purchasing Services prior to issuing a formal solicitation (Request for Proposal/Request for Quote)
- Generate Specifications and Statement of Work for solicitations and/or contracts
- Develop schedules
- Establish budgets and review cost estimates
- Submit purchase requisitions for contracts/subawards and change requests via TechMart
- Review and complete cost and technical evaluations and noncompetitive justifications
- Assist with contract negotiations regarding the scope of work, deliverables, and price
- Oversee post award activities
- Provide technical assistance and/or direction, as required
- Work with the Purchasing Official during the contract closeout process

***Caltech End Users do not have the authority to commit Caltech financially and contractually***

# Purchasing Official Roles/Responsibilities

- Issues purchase orders, contracts, and modifications thereto
- Manage contracts in all aspects, other than those of a purely scientific or technical nature
- Negotiate cost and terms of purchase orders, contracts, and modifications
- Performs cost/price analysis to justify cost or price reasonableness prior to issuing a purchase order, contract, and modification
- Coordinates approvals with the Office of General Counsel (OGC) and other administrative offices, including but not limited to the Office Sponsored Research (OSR), the Office of Research Compliance (ORC), and Environmental, Health, and Safety (EHS)
- Executes contracts and issues purchase orders to commit funds
- Monitors contract performance with End User
- Ensures compliance with Caltech's Procurement Policies and Procedures
- Initiates the closeout of purchase orders and contracts

***Only authorized Purchasing Officials have the authority to commit Caltech financially and contractually***

# Shared Roles/Responsibilities

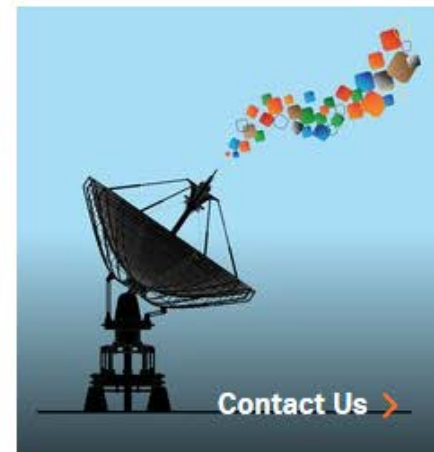
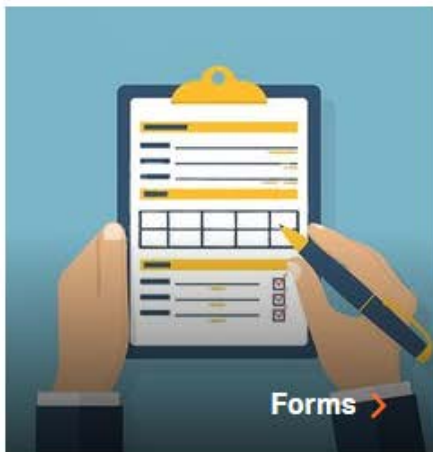
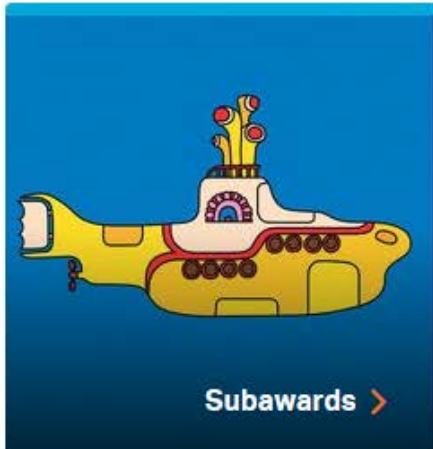
- Ensure compliance with Caltech's Purchasing Policies and Procedures
- Perform market research and cost/price analysis for cost technical evaluations and/or noncompetitive justifications
- Identify and negotiate purchase order/contract changes (to be executed by the authorized Purchasing Official)
- Monitor contract cost, schedule, and delivery performance
- Maintain copies of documents and audit trail
- Facilitate contract closeout process

# Resources

– Purchasing Services Website

- <http://procurement.sites.caltech.edu/departments/purchasing>

## How Can We Help?



# Summary

- **All contracts shall be routed through the appropriate contracting/purchasing process for the following reasons:**
  - Purchasing Officials are the only authorized individuals to bind Caltech to contractual and financial obligations
  - To ensure that appropriate terms and conditions are acceptable to Caltech
  - To eliminate the potential risk of audit findings
  - To eliminate the potential risk of financial losses and lawsuits
  - To ensure that the appropriate contract type is used to mitigate project and financial risk
  - To ensure required terms and conditions are flowed down to suppliers

# Questions?

**Caltech**

# General Data Protection Regulation (GDPR)

Ann Martin  
Office of the General Counsel

August 28, 2018



# GDPR Overview

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- **Effective May 25, 2018**
- **Regulation adopted by the European Union (EU) and EEA providing privacy and security protections for personal data to all individuals residing in the EU (data subjects)**
- **It also addresses the export of personal data outside the EU.**
- **Significant fines for noncompliance**
  - Up to the greater of €10 million or 2% of global annual revenue for non-compliance related to technical measures such as impact assessments, breach notifications and certifications.
  - Up to the greater of €20 million or 4% of global annual revenue for non-compliance with key provisions of the GDPR, e.g. non-adherence to the core principles of processing personal data, infringement of the rights of data subjects.

# GDPR Applicability

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- **Applies to all companies operating in the EU collecting, processing or holding personal data of data subjects residing in the EU, regardless of the company's location**
- **Applies to organizations outside of the EU**
  - That offer goods or services to individuals in the EU, or
  - Monitor behavior of individuals in EU
- **Companies not located in the EU are required to designate in writing a representative in the EU in each EU member state where the EU residents live**

# Covered Entities

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- **Controllers and processors of personal data are covered by the regulation**
- **Controller are persons or entities that determines the purposes and means of processing personal data.**
- **Processors are persons or entities which process personal data on behalf of the controller**



# Personal Data

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- **All personal data is subject to core requirements**
- **Personal data is any information related to a data subject that can be used to directly or indirectly identify the person, including:**
  - Name; photo; email address; educational, financial, employment-related and health data; personal phone numbers; posts on social networking websites; or computer IP address.
- **Additional protections apply to sensitive personal data:**
  - Racial and ethnic origin; religion; sexual orientation; political views; genetic, biometric data, and health data, and data concerning a person's sex life or sexual orientation
- **Places limitations on processing personal data related to criminal convictions.**

# Scope of GDPR

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- **The GDPR covers the complete life cycle of a data subject's personal data. Protections specified in the GDPR address:**
  - what types of data may be collected under specific circumstances;
  - how that data may be used;
  - recordkeeping of processing activities;
  - how the data must be secured;
  - how the data must be disposed of; and
  - what rights the data subject has during the life cycle of their personal data.

# Privacy Restrictions

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- **Must have a lawful basis for data processing**
  - Consent
  - Necessary to perform a contract
  - Required by law
  - To protect vital interests
  - Legitimate interest balanced against impact on individual's privacy rights (e.g. research)
- **Processing must be:**
  - Lawful
  - For specified purpose
  - Adequate, relevant and proportionate
  - Accurate
  - Retained only so long as necessary

# Consent

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- **Consent is a fundamental requirement for many collection and processing activities**
- **Consent:**
  - must be provided by the data subject by a statement or by a clear affirmative action.
  - It must be “freely given, informed” and tied to a specific purpose.
  - When the processing has multiple purposes, the processor or controller must obtain consent for each purpose.
  - Consent includes the right to withdraw consent.

# Data Subject's Rights

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- **Right to Access**
  - Data subjects have the right to obtain confirmation about whether, where and for what purpose their personal is being processed.
  - Requires the controller to provide a copy of the personal data to data subjects in an electronic format, free of charge.
- **Right to be Forgotten**
  - Data subjects have the right to have personal data erased and prevent further dissemination and processing
  - Applies when the data is no longer relevant to original purposes for processing, or when a data subject withdraws consent.
  - Requires controllers to compare the subjects' rights to "the public interest in the availability of the data" when considering such requests.



# Data Subject's Rights

- **Right to Correct Information** - the right to have inaccurate or incomplete information corrected or supplemented.
- **Right to opt out of automated decision making** such as the automatic refusal of an online credit application or e-recruiting practice without any human intervention.



# Notice Requirements

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- **There are required disclosures to data subjects including:**
  - identity and contact information of controllers and their agents;
  - the legal basis and purpose of the data collection;
  - the category of recipients of the data being collected;
  - data retention and deletion policies of the controller;
  - the data subject's rights; and
  - whether any data being collected will be held in a third country.

# Data Privacy and Security Requirements

- The GDPR imposes a variety of data privacy and data security requirements.
- Requires processing in a manner that ensures appropriate security of personal data, including protection against:
  - Unauthorized or unlawful processing;
  - Against accidental loss; or
  - Destruction or damage



# Covered Activities at Campus

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- **At Caltech GDPR will apply to:**
  - EU based operations (e.g. CERN);
  - Caltech employees working in EU;
  - Caltech collaborations with EU entities
  - Applicants/Visitors residing in EU
  - Alumni/Donors residing in EU
  - Students studying abroad
  - Contracts with Vendors processing such information



# What Are We Doing?

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- **Identifying covered data subjects and data collected**
- **Determining applicability**
- **Determining legal basis for collecting and processing**
  - Preparing appropriate consent documents if required
- **Revising privacy policies and notifications**
- **Implementing appropriate policies and procedures for data transfers**
- **Flowing down appropriate clauses to affected contractors**
- **Appointing representative(s) in EU**
- **Revisiting record retention policies**



**caltech.edu**