

Chapter 9 : CONTRACT CHECKLIST

One way to improve the quality of contracts in general is through use of a checklist. The following checklist was in the 1993 version of the Contract Procedures Manual, and updated in 1996 for training by the Central Approvers' Task Force (CATF).

This checklist can also be useful in developing an agenda for business strategy meetings in advance of solicitations or negotiations of sole source contracts. The checklist, along with the table of contents to this *Manual*, can be used during development of the solicitation or in the formulation of negotiation objectives when negotiating sole source contracts.

Most important, it is useful as an aid in checking the quality of the contract. Since agency contract managers may not be involved in all types of contracts referenced in this manual, they are encouraged to tailor the contract checklist to their own contracting program.

Pages 9-2 through 9-6 contain the Contract Checklist.

A separate section has been reserved following the Contract Checklist for an agency "insert."

CONTRACT CHECKLIST

I. PROVISIONS RELATIVE TO CONTRACTS GENERALLY

A. AUTHORITY

- 1. **Funds availability** verified by: _____ [date]
- 2. _____
Contract concept approved by: _____ [date]
- 3. _____
Use of special forms required by other agencies, e.g. SBP _____

B. RECITATIONS

- 1. Introductory paragraph _____
 - a. State of Colorado for the use and benefit of
Department of _____
 - b. Agency name, building, street & zip code _____
 - c. Full legal name of contractor _____
 - d. Contractor state of legal existence and status
(e.g. Colorado sole proprietorship/corporation/limited or
general partnership) and business address _____
 - e. Parties defined in short form
("State," "Contractor," "Lessor," "Lessee") _____
- 2. Fund availability statement _____
- 3. Statutory authority cited _____
- 4. General purpose of contract _____
- 5. Procurement methodology statement
(RFP/IFB # or statutory authority, as applicable) _____

C. PROVISIONS

- 1. Scope of work/performance measurable _____
- 2. Technical terms or acronyms defined _____
- 3. Effective date (later than "made" date) _____
- 4. Term of contract (beginning and ending date) _____
- 5. _____
Maximum dollar limit _____
- 6. Method and rate of payment _____
- 7. **No advance payments without Controller approval** _____
- 8. Lease and installment purchases, over multiple fiscal years: use _____

- 9. expanded future funding contingency used in real property leases _____
- 10. Federal Fund provisions/other third-party fund contingencies _____

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- 11. Language referencing all exhibits and controlling priority _____
- 12. of contract and exhibits _____
- 13. Language incorporating RFP/IFB or other statement of work _____
- 14. Notice provisions with names and addresses of key contacts _____
- 15. Inspection/Acceptance provisions _____
- 16. Warranty Provisions clear and suitable, e.g. specific to transaction _____
- 17. Documentation/Data/software deliverables and due dates defined _____
- 18. State rights in data/software defined. _____
- 19. Complete understanding/integration provision _____
- 20. Termination provisions _____
 - a. For convenience of State _____
 - b. For cause _____
- 21. **No indemnification or hold harmless by the State** _____
- 22. **Colorado Special provisions (two pages)** _____
- 23. All pages numbered as part of total (Page 1 of ____, etc.) _____

D. SIGNATURE BLOCK (4 signed originals routed through the central approval process)

- 1. Printed contract forms used (Special Provisions) _____
- 2. Top line: full legal name of contractor _____
- 3. 2nd line: legal signature(s) _____
- 4. Title of individual signatory _____
- 5. Taxpayer identification number _____
- 6. Corporate seal/attestation _____
- 7. Department name, etc. _____
- 8. If signature authority delegated: "For The" ex. dir. _____

E. AMENDMENTS

- 1. Amendment recites additional consideration for the contract change _____
- 2. **Basic contract/previous amendments included in review file** _____

CONTRACT CHECKLIST

II. PROVISIONS RELEVANT TO CERTAIN TYPES OF CONTRACTS

A. PERSONAL SERVICES CONTRACT CLAUSES/ATTACHMENTS

- 1. **Authorized independent contractor provision (Personnel Director rules)** _____
- 2. No excessive day to day direction and control over contractor _____
- 3. Assignment/subcontracting prohibited without State approval _____
- 4. Independent Contractor Certification Form in file _____

B. REAL ESTATE - LEASES

- 1. ADA compliance _____
- 2. Work requirements relative to any tenant improvements _____
- 3. Formula and cap for any increased rent in later years _____
- 4. Expansion options (where applicable) _____
- 5. Renewal options (where applicable) _____
- 6. Asbestos responsibilities _____
- 7. Number of square feet rented, expressed as "rentable square feet" for improved real estate _____
- 8. Exact address of premises _____
- 9. Purpose for which leased premises will be used _____
- 10. Services to be provided by Lessor _____
- 11. Parking obligations, if any _____
- 12. Termination provisions, if applicable _____
- 13. Holdover provisions, if applicable _____
- 14. Collocation clause (permits termination if State agencies collocate) _____
- 15. Damage or destruction provisions (see Fiscal Rules for minimums) _____
- 16. **Approved State form used (where required)** _____
- 17. Drawings and specifications of any agreed-upon tenant improvements _____
- 18. Diagram or sketch of leased premises within overall building or compound _____
- 19. Any agreed-upon rules and regulations applicable to leased premises _____
- 20. An appraisal, if the contract is purchase, sale, or exchange of real estate exceeding \$100K _____

CONTRACT CHECKLIST

- C. PROFESSIONAL SERVICES (Architect, Landscape Architect, Engineer, and/or Land Surveyor)
- 1. All Items under A. above, Personal Services Contracts _____
 - 2. Coordinate scope of work with payment/compensation provisions _____
 - 3. **Execution/encumbrance within 6 months of appropriation (if applicable)** _____
 - 4. **Signed Consultant Certification Attached** _____
 - 5. Complete, full service fee negotiated for all phases, whether or not funded _____
 - 6. Services not to be performed eliminated/stricken _____
 - 7. Condition precedent to unfunded phases used _____

- D. CONSTRUCTION
- 1. Base bid/alternate amounts on face of agreement/total = award
 - a. Alternates acquired or deducted in numerical order _____
 - 2. Stamped, signed specifications for the project _____
 - 3. Stamped, signed drawings for the project _____
 - 4. Labor and material bond, with power of attorney attached _____
 - 5. Performance bond, with power of attorney attached _____
 - 6. Worker's Compensation Certificate _____
 - 7. Appendix B: Minority Goal Form _____
 - 8. MBE/WBE Compliance Report _____
 - 9. Builder's Risk Insurance/Liability Insurance _____

III. EXHIBITS

- A. Properly labeled as described in contract _____
- B. Properly paginated (Exhibit A, Page 1 of ____, etc.) _____
- C. All documents fastened (stapled) together as one document _____
- D. Unnecessary RFP and proposal elements omitted _____

CONTRACT CHECKLIST

IV. ATTACHMENTS RELATIVE TO CONTRACTS GENERALLY

A. GENERAL

- 1. Late justification letter _____
- 2. If an amendment or modification, include one copy of original contract and previous amendments _____
- 3. Proof of insurance _____
- 4. Routing slip properly completed, including proper routing sequence _____

B ENCUMBRANCE DOCUMENT

- 1. Encumbrance Amount same as amount in contract _____
- 2. Encumbrance Amount same as Encumbrance Balance _____
- 3. Description fully explain purpose of contract _____
- 4. If multiple year, is there a total amount? _____

Agency Supplemental Checklist (Insert)

THIS SECTION IS RESERVED FOR AGENCY SUPPLEMENTARY MATERIAL OR POLICIES RELATED TO THIS CHAPTER.

CONSIDER SUPPLEMENTING THIS CHAPTER WITH AGENCY-DEVELOPED CHECKLISTS THAT ARE TAILORED TO THE CONTRACTS ROUTINELY EXECUTED IN YOUR AGENCY.