

Risk Monitoring Template

List of Risk Questions

From the CM 301 Requirements Checklist—Hybrid Purchase

- Is the vendor providing goods/services directly to the community on behalf of the agency?
- Are there agency policy, regulatory and/or statutory requirements impacting risk?
- Any required qualifications of the vendor and/or their staff?
- Timeline for delivery create risk?
- Inspections or testing to accept the goods?
- Are quality assurance audits needed?
- Is the vendor providing a service that could injure people or property (for example, welding)?

Agency-Vendor Interdependency

Map out the dependencies

- What is the vendor depending on to do its work?
- Who is the vendor going to depend on to receive information, data, approvals, etc.?
- What is the Agency depending on? (Data, reports, samples, draft versions, etc.)
- Who is the Agency going to depend on? (from this vendor or another vendor)
- Who will test, inspect or accept work? (In other words, does someone need to travel to your location for the Agency to test a system?)
- Who within the Agency will approve work and is that the same person who will formally accept the work according to the performance criteria?
- What are the time frames associated with these dependencies?
- What are the potential barriers to receiving adequate information, data or approvals associated with the dependency?

Statement of Work

- Transition Planning Schedule.
 - This is a schedule to transition work from one party to another. It is not the same as vendor milestone dates, which is vendor specific. This schedule will include anticipated dates the Agency or possibly another vendor will transition its work to the vendor.
 - This language would outline the Agency criteria for approving of the transition of work from the vendor to the State or from one vendor to another vendor.
- Milestone Dates. There are different categories for
 - Vendor delivery,
 - Agency approval/acceptance,
 - CM invoice submittals and payments.

- Vendor Representative Named as Project Manager. Some vendors prefer a title to a named individual.
- Acceptance Criteria.
 - Note the circular nature of template contracts. Templates will refer back to the scope of work, technical specifications, vendor's response, or applicable standards.
 - Be sure that formal acceptance or applicable industry standards are included in the scope of work or technical specifications. These mechanisms act as a control.
- Reports and Reporting Timeline. The vendor will need to demonstrate its compliance with transitions in the form of a report of some kind. And, how often does the Agency wish to receive these reports. Consider tying them to the acceptance criteria.
- Performance criteria.
 - Is the transition happening all at once or over a period of time? If over a period of time, consider a metric (90% complete by a date) or a Service Level Agreement (90% on-time delivery by a date).

Financial Risks

- Compliance
 - Ensuring the vendor complies with laws and regulations regarding federal funding (or other sources of funding)
 - Ensuring the vendor is appropriately insured and complies with insurance reporting requirements
 - Ensuring that sub-contractors working for the vendor comply with laws, regulations and policies
- Small businesses
 - Insufficient cash flow to complete services or deliver goods
 - Insufficient cash flow to pay sub-contractors or employees
 - Insufficient (or lapsed) insurance coverage
- Insufficient insurance for:
 - Goods or services provided to the community on behalf of the Agency
 - Complex services that pose a potential risk to the Agency (such as complex Information Technology work)
 - Vendor employees who work on-site at the Agency
- Wrong type of insurance for the list noted above
- Does the Agency require proof of insurance for the duration of the contract term?
- Bankruptcy, Insolvency, Receivership
- Vendor mergers/acquisitions with other businesses
- Insufficient auditing of invoices against contract payment terms
- Lack of auditing the vendor's records when an issue arises
- Insufficient or non-existent recording keeping for an audit process

Hybrid Contract Risks

- Is the vendor providing goods/services directly to the agency or providing goods/services to the community on behalf of the agency?
- Is the vendor buying goods for the Agency from another vendor (original equipment manufacturer)? If yes,
 - Is the vendor passing through warranties from the manufacturer?
 - Is the vendor purchasing from a distributor?
 - Or, is the vendor using their own warranty provision to warrant the materials?
- What are the Agency's obligations to the vendor (technical drawings, approvals, etc.). List those agency's requirements.
- Should your Agency's policy, regulatory and statutory requirements be documented here in the functional requirements? In other words, does the good need to meet a regulatory or policy obligation? List them.
- If the Agency is providing any goods/equipment for this Statement of Work, how does the Agency stay within the provisions of the original equipment manufacturer warranty for those goods/equipment as the vendor accesses the items with the good/service the vendor provides?
- List any required qualifications for the good, such as meeting OCIO standards?
- Does the good have its own software of any kind at all? If so, how does this software code impact any existing software code the Agency is using?
- List any required qualifications required of the vendor and/or their staff to perform the services?
- Which one is dependent on the other? Does the good arrive first or does the service start first?
- Is the timeline for performance/delivery etc. clearly outlined?
 - Are there gaps in the delivery dates or "TBD's"?
 - Who, when and how will the "TBD's" be determined?

Intellectual Property Risks

- How robust is your Agency's oversight of vendor's who have access to
 - Sensitive Agency data,
- Community or citizen's data, or
 - Access to agency networks?
 - How will you personally monitor data breaches, security breaches etc.? If it is not your duty, then whose duty is it?
- How recently have your Agency's cyber-security policies been updated? Are those updates in the current contract template that will be attached to the solicitation?
- Does this project require background checks on the vendor's employees?
- Check your work: How will these risks be incorporated into the Statement of Work and contract terms?

Software Need Checklist

- What exactly—in lay person’s terms—does the agency need from the vendor? Don’t worry about talking in legal terms for now, just make sure you list things like:
 - Does the agency need to make adjustments to the code over time?
 - Does the agency need to get the code to work with new items that agency might purchase, such as new elements in a security system in the near future?
 - Does the agency need to include the custom software into an existing network?
 - Does the agency need the ability for other vendors to access this custom code over time?
 - In terms of use of or ownership of the code, the Contract Professional and legal staff will align the template terms with what the business needs.
- How long does the vendor intend to service the software (i.e. upgrades)?
- How long does the Agency project using the software and updates? (months, years, decades)

Therefore, when accessing, modifying or creating drivers for older software consider the following:

- Will the vendor need access to another vendor’s software at the Agency for their work?
- Does the Agency have that right to access the software?
- Can this vendor legally help the Agency get that access?
- What is the solution if the Agency does not have the right to access the software? (Note, older contracts were not well written to anticipate the issues.)