

ATTACHMENT A

COUNTY OF SANTA BARBARA ADMINISTRATIVE MANUAL

SUBJECT:	SERVICE CONTRACT AND GRANT COMPLIANCE MANAGEMENT	ITEM NUMBER	012-030
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Purpose

1. To provide guidance and direction to executives and managers, particularly contract/grant managers, on methods to increase the adherence to rules governing the receipt and spending of public money on Board of Supervisor approved service contracts and grants made by the County over \$100,000;
2. To mitigate the risks of loss, both financial and material, due to fraud, theft, unauthorized use or disposition through effective contract/grant compliance management procedures;
3. To improve enforcement of contractual terms and conditions and to provide management with guidance to evaluate and report instances of non-compliance; and
4. To determine whether vendors adequately provided services in accordance with contract terms and conditions and other State, Federal and local regulations, and achieved contract outcomes.

Background

Effective, modern public sector organizations rely on a network of organizations that work collaboratively with County agencies to provide services to the public. These collaborative relationships involve specific service delivery standards, financial commitments, and other legal terms and conditions. The complexity of these relationships requires contracts/grants that clearly outline the specific obligations of all parties as well as a management oversight and compliance process that ensures programmatic and financial accountability.

This policy identifies essential County practices that will help ensure that when the County enters into a contract or awards a grant, the terms, conditions, financial responsibility and performance outcomes are met in a way that the public can be satisfied is of the highest legal and ethical standards.

Policy

1. This policy is required to be referenced for Board-approved service contracts over \$100,000 or granting agreements entered into by County departments with the exception of the purchase of goods or materials, engineering services, construction or maintenance services, or professional service contracts related to construction or maintenance. However, whenever possible, all contracts and grants should apply the standards detailed in this policy.
2. Contract/grant compliance management involves all activities performed by County staff after a contract/grant has been awarded by the County to determine whether the requirements of the contract/grant agreement were met.
3. Contract/grant compliance management is to focus on obtaining the defined services of required quality, on time and within budget. In other words, the objective of this policy and related process is to make sure the public gets what it is paying for in services.

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4. Each contract/grant must have an assigned contract/grant manager or designated representative. All contract/grant managers must exercise skill and judgment throughout the life of a contract/grant in order to effectively protect the public's interest. When there is turnover in the contract/grant manager, the Department Director shall assign a new contract/grant manager, and when possible, the outgoing contract/grant manager should assist with the transition.
5. Department Directors are ultimately responsible for the contract/grant management decisions in their departments.
6. Contract/grant managers are responsible for creating contracts/grants that are compliant with all involved contracting/granting agencies and allow for the consideration of other vendors if costs and performance quality standards are not met. In the instance that multiple contracting/granting agencies are participating, the contract will adhere to the more inclusive or stringent set of requirements and must ensure compliance with all applicable regulations and policies.
7. Contract/grant managers are responsible for conducting ongoing contract/grant risk assessment at all phases of a contract life cycle (pre-contract, contract and post-contract) and then working to put in place necessary risk mitigations, such as training, contingency plans, contract administration plans, centralized filing systems, payments linked to satisfactory performance and regular performance reports. These risk mitigation methods may involve support from County Executive, County Counsel and/or Auditor-Controller department staff as necessary.
8. Many Federal, state and local program regulations require monitoring of certain entities that receive funding. These regulations generally allow for utilization of a risk based approach. Risk may increase due to the size or scope of contract/grant responsibilities, importance of service to other County programs, experience of contractor, financial and/or performance reporting requirements, etc. County service delivery risk increases when the contractor/grantor is the sole provider of services in the area. All contracts require a foundational level of compliance management; however, additional compliance management diligence may be required as service delivery risks or financial risks to the County increase, or as required by law or regulation. A foundational level of compliance management includes review of the contract and grants agreements and invoice monitoring.
9. Board letters for contracts/grants approved by the Board of Supervisors will include a separate section identifying any financial conditions or grant repayment requirements for organizations as outlined in the pre-contract procedures section. A statement of contract/grant risks and the contract/grant compliance efforts that the department will undertake if the associated contract/grant is approved should also be considered for incorporation.
10. The County Executive Officer will convene a quarterly Contract/Grant Compliance Oversight Committee to review current high risk contract/grants for risk assessment and mitigation, as well as the status of compliance efforts with department directors and contract/grant managers. Members of the Contract Compliance Oversight Committee will include, but are not limited to staff from County Executive Office, Auditor-Controller including Internal Audit Manager and County Counsel.

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11. Department directors, contract/grant managers, staff from Auditor-Controller, County Counsel and the County Executive Office are committed to ongoing process improvement in the area of contract management.

Procedures

The following procedures will be used by all County departments that are responsible for implementing contract/grant compliance management policies in the CEO Administrative Manual:

Pre-Contract (Screening and Initiation Phase)

1. Contract/grant managers will review all contracts/grants before approval to identify unique terms or conditions of the contract that may alter standard monitoring or payment processes. Unique terms and conditions may cause an increase in compliance risk.
2. Before the County enters into an agreement to disburse grant funds, the contract manager will read and understand the grant requirements and communicate those requirements to all involved departmental staff. The contract manager should also continue to monitor the County's compliance with the requirements as needed.
3. Contract/grant managers will be required to evaluate the financial condition of contractor/grantee using the Auditor-Controller's checklist of financial conditions when the County is providing over \$100,000 of contract or grant funding to any organizations. The key contract risk section of the contract-approval board letter should summarize the checklist of financial conditions. Contracts for services over \$100,000 are referred to as "Board Contracts" and must be approved by the Board according to existing County policy. This evaluation is also recommended for entities where the County provides between \$50,000 and \$100,000 of funding to an organization.
4. New Contract Review Session - Contract/grant managers will conduct one or more review sessions with new contractor/grantees, preferably on the project site, to review contract terms and conditions, required payment or performance reports, invoice processing/approving procedures, quality assurance plans and evaluation methods. In addition, the contract/grant manager should identify key County contacts should questions or concerns arise.
5. Experienced Contractor/Grantee Orientation – Contract/grant managers may choose to conduct similar meetings as noted above with the primary focus on reviewing new terms, conditions or contract/grant related business process changes.
6. Contract/grant managers will implement contract/grant risk assessment processes needed to monitor the risks as early as possible in order to avoid unexpected findings later.
7. Contract/Grant terms and conditions provide the platform for quality and financial risk management. The Contract Manager should assess the basic contractual terms and conditions and evaluate incorporation of the following:
 - Negotiate for the most financially responsible contract possible.

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- Payments linked to satisfactory performance. (i.e. requiring the submission of programmatic reports with invoices).
- Consequences for poor performance or non-compliance. (i.e. liquidated damages, withholding of payments or termination of contract).
- Clause stating that disbursement of funds by County is subject to availability from the State or Federal Government and consequences if funding ceases to be available.
- A provision allowing for recoupment of audit exceptions and disallowances.
- A provision authorizing the County to fully access an entity's records, especially when multiple funding sources are involved.
- A requirement to maintain adequate financial records and have audits conducted as required by law.

Contract (Operational Phase)

Risk Management

Risk management is the systematic process of identification, assessment, and prioritization of risks which can be defined as the probability of an event or action having an adverse effect on an entity such as financial loss, abuse of County assets or inadequate level of contracted service. Once risks have been identified, they must then be assessed as to the potential severity of impact (generally a negative impact, such as damage or loss) and to the probability of occurrence.

1. Contract risk management recognizes and mitigates risks in light of their financial implications.
2. Possible risk assessment categories may include:
 - Size and cost of the project,
 - Complexity of funding and contract requirements, including any federal or state funding requirements, particularly if multiple funding sources are employed,
 - Performance periods extending to multiple years,
 - Payments not linked to satisfactory performance,
 - Availability of competitive contractors able to perform service or deliver product,
 - Experience and past performance of contractors,
 - Ability of contractor to demonstrate financial stability, (i.e. audited financial statements, insurance/bonding, tax returns, etc.)
 - Type of work (i.e. complex financial consulting, mission-centric business redesign consulting, complex automation development projects, etc.),
 - Size and capability of the contractor/grantee including the maturity of their financial management system (i.e. availability of accurate financial and performance reports),

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- Department's ability to demonstrate proficiency in managing the contract/grantee (i.e. previous audits or program reviews noted significant deficiencies),
 - Contract modifications that increase significant cost and/or period of performance,
 - Age of program or service being performed, and/or
 - Access to personally identifiable, protected health, proprietary and/or classified Information.
3. The use of contract/grant risk assessment worksheets can provide contract/grant managers, contractor/grantees, auditors and others documentation of the risk assessment and a basis for any necessary risk mitigation practices. The risk assessment worksheet will be utilized as an ongoing tool that will be continuously developed and tested for improvements. Any major risks can be identified in the key contract risk section of the board letter. The use of the basic checklist of financial conditions worksheet will provide basic guidelines of key financial conditions to include in the board letter. An example *Risk Assessment Worksheet and Basic Checklist of Financial Condition* can be found on Attachment 1.

Monitoring

1. Invoice Monitoring - Contract/grant managers, in conjunction with the project manager, will confirm the accuracy of the invoice amounts, that the services have been received, that the invoice does not overlap or duplicate a previously submitted invoice, quality of the required documentation, timeliness of invoicing, invoice review, and approval and payment processing to reduce compliance risks. This monitoring should be performed on all contract/grant agreements. This monitoring is evidenced through invoice approval prior to payment.
2. Contract/grants should be monitored based upon the risk the department assumes in the contract/grant. Based on the completed risk assessment and the nature of the contract, all high risk level contracts/grants should be monitored at least annually. The department should evaluate whether on-site monitoring visits should be performed at the contractor/vendor's place of business or program/project site to review financial and programmatic records.
3. The department may seek assistance from other funding partners to monitor compliance. Joint monitoring is undertaken when economies of time and effort can be achieved through mutual cooperation.
4. Document and report noncompliance conditions, including poor performance or service quality, to department executive staff to coordinate and communicate with Auditor-Controller and/or County Counsel staff. The goal of the coordinated effort is to bring contractor/grantees back into compliance as quickly as possible. Continued noncompliance can lead to suspension of funding, non-renewal of contracts or possible legal action.
5. Breach of Contract/Grant – The contract/grant manager, County Counsel, Auditor-Controller, Department Director and County Executive Officer should agree on the action to be taken prior to suspension or withholding of vendor payments.

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6. On-going Risk Assessment – Contract/grant managers need to be aware of changes in circumstances of contractor/grantees that may affect the timeliness, quality or cost of contract/grant funded services. The loss of key staff, economic cycles and other organizational changes may change the contract/grant risk assessment. The risk assessment should be re-evaluated on an annual basis and when risk factors change throughout the entire period of the contract.

Post-Contract (Close-Out and Follow up Phase)

Reporting, Corrective Actions, and Breach of Contract/Grant

Reporting – At contract close-out, the contract/grant manager will request from the contractor any verifications required to accurately determine if contract/grant results have been achieved and financial compliance terms have been met.

If expected service targets and/or performance results are not achieved, involve County Counsel, Auditor-Controller and County Executive Office staff when the compliance issue is identified to help determine the best course of action.

- The department head will notify County Counsel, the Auditor-Controller and the County Executive Officer.
- The contract/grant manager will document the issues, potential liabilities, and possible course of action.
- The contract/grant manager will maintain summary records for compliance issues, including copies of reports and other pertinent documents.

Documentation required to be maintained

For all contracts/grants in excess of \$100,000, Departments will maintain a complete electronic file pertaining to a specific contract or grant in an easily accessible location:

- Original executed contract/grant and amendments,
- Contractor/grantee financial statements or analysis of financial capacity for each year in which the contract/grant was renewed, if applicable,
- For non-profit organizations, a copy of the organizations IRS Form 990 for each year in which the contract/grant was renewed,
- A contract/grant monitoring log which records all compliance reviews including desk reviews and site visits performed by the department,
- Copies of all invoices (may be in FIN or other financial management software) and other documentation required under contract/grant terms and conditions, and
- Key communication with the contractor/grantee.

Approved on December 1, 2012

Responsible Department: County Executive Office

Basic Checklist of Financial Conditions

This questionnaire is intended to be used as a tool that helps assess basic financial conditions of vendors/organizations that receive payment from the County. Due to the variety of services being provided and types of vendors, not all questions may be applicable or useful. Departments should identify which questions yield meaningful feedback and make additional inquiries as necessary.

1. Does the vendor/ organization have timely audited financial statements?
2. Does the vendor/organization possess current tax returns? (Tax Form 990 for non-profit organizations)
3. What is the percentage of total vendor/organization revenue generated from the County in the prior year?
4. Did the vendor/organization have an operating deficit in the prior year? If so, please indicate the consecutive number of years with a declining fund balance?
5. How many years has the vendor/organization been in operation?

Contract Risk Assessment Worksheet

Contractor Name: Board Contract No.: Contracted Service: Department: Grant/Contract Manager:	Vendor Number: Contract Start Date: Contract End Date: Date:
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Risk Factors	Weight	Low (1)	Medium (3)	High (5)	Comments
1. Contract Size	2	<input checked="" type="checkbox"/> Small (less than \$100K)	<input type="checkbox"/> Medium (\$100K - \$500K)	<input type="checkbox"/> Large (over \$500K)	
2. Performance Period	1	<input checked="" type="checkbox"/> Less than 2 years	<input type="checkbox"/> 2 - 5 Years	<input type="checkbox"/> More than 5 years	
3. Contract Type	2	<input checked="" type="checkbox"/> Performance Based	<input type="checkbox"/> Fixed Price	<input type="checkbox"/> Cost Reimbursable	
4. Complexity of Contract Requirements	3	<input checked="" type="checkbox"/> Low Complexity	<input type="checkbox"/> Moderate Complexity	<input type="checkbox"/> High Complexity	
5. Contract Award	1	<input checked="" type="checkbox"/> Full and open competition with a large # of bidders or simplified acquisition	<input type="checkbox"/> Competitive acquisition with limited # of bidders	<input type="checkbox"/> Sole source	
6. Contractor	2	<input checked="" type="checkbox"/> Agency has significant experience with contractor and no significant issues	<input type="checkbox"/> Agency has experience with contractor, only minor issues, or new contractor	<input type="checkbox"/> Known issues with contractor, such as defaults; suspensions or debarments; past performance issues; significant audit findings on previous contracts; or past or ongoing investigations or lawsuits	
7. Contract Subject	2	<input checked="" type="checkbox"/> Not mission critical or not highly visible, sensitive, or potentially controversial	<input type="checkbox"/> Contract is moderately visible, sensitive, or controversial	<input type="checkbox"/> Contract is mission critical or is highly visible, sensitive, or potentially controversial	
8. Subcontractors	1	<input checked="" type="checkbox"/> Percent of work subcontracted is less than 25%	<input type="checkbox"/> Percent of work subcontracted is between 25% and 50%.	<input type="checkbox"/> Percent of work subcontracted is more than 50%	
9. Contracting Manager and/or County Department	2	<input checked="" type="checkbox"/> Previous audits or program reviews noted no significant deficiencies with the contract manager and/or department	<input type="checkbox"/> Previous audits or program reviews noted moderate deficiencies with the contract manager and/or department	<input type="checkbox"/> Previous audits or program reviews noted significant deficiencies with the contract manager and/or department	
10. Fiscal Responsibility of Contractor	5	<input checked="" type="checkbox"/> Contractor has submitted AUDITED financial statements and tax returns	<input type="checkbox"/> Contractor has provided current financial statements and/or tax returns	<input type="checkbox"/> Contractor is unable to provide current financial statements and/or tax returns	
11. Federal/State or Other Program or Funding Requirements	5	<input checked="" type="checkbox"/> Program not funded by Federal/State (0%). No Federal/State funding & program requirements exist	<input type="checkbox"/> Program partially funded by Federal/State (less than 50%). Federal/State funding & program requirements exist	<input type="checkbox"/> Program mostly funded by Federal/State (50% or more) Federal/State funding & program requirements exist	
12. Availability of Progress Reports	2	<input checked="" type="checkbox"/> Contractor is able to perform good and system-generated performance reports.	<input type="checkbox"/> Contractor is able to perform adequate or manually-generated performance reports.	<input type="checkbox"/> Performance is difficult to measure; or contractor is unable to perform adequate performance reports.	
13. Contract Modifications	1	<input checked="" type="checkbox"/> No modifications or modifications had little impact on cost and/or period of performance	<input type="checkbox"/> Modifications moderately increased cost and/or period of performance	<input type="checkbox"/> Modifications significantly increased cost and/or period of performance	
14. Program Longevity	2	<input checked="" type="checkbox"/> Existing with no changes within past year	<input type="checkbox"/> Existing with minimal changes within past year	<input type="checkbox"/> New or existing with significant changes	
15. Access to Personally Identifiable, Proprietary and/or Classified Information	2	<input checked="" type="checkbox"/> No requirement to access	<input type="checkbox"/> Limited requirement to access	<input type="checkbox"/> Requirement to access	
16. Other Risk Factor	0	<input type="checkbox"/> Other- Low Risk	<input type="checkbox"/> Other- Medium Risk	<input type="checkbox"/> Other- High Risk	
	33	33-48 = Low Risk	49-79 = Medium Risk	80-165 = High Risk	

Contract Risk =

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