



## Requirements Checklist: Hybrid Contracts

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### Use this checklist to define the functional and technical requirements for a hybrid statement of work (goods and services).

A hybrid Scope of Work includes the purchase of physical items and services associated with the item purchased. For example, the purchase of an electrical generator, operation, maintenance and repairs of that electrical generator is a hybrid scope of work. The purchase of computer equipment and custom designed software code is also a hybrid scope of work. Combining two different types of purchases will require some additional work on the Statement of Work to get the contract provisions to work efficiently.

Treat each of the purchases individually before looking at how they interact with one another. Once the Contract Professional chooses the contract template, the Contract Manager will then work with the Contract Professional to ensure that the secondary aspect of the purchase is adequately addressed in the contract terms. Often contract templates cover one type of purchase. This checklist will help that collaborative process.

### Instructions

1. Please answer each relevant question. Your answers to these questions will become the Statement of Work and will influence some of the terms and conditions in the final contract. The Contract Professional will work with you to align these requirements and the contract terms and conditions.
2. These lists are not exhaustive; these questions are just the beginning of your conversation with Agency stakeholders. So, in your own daily work, start with this list and build on it.
3. These questions may also help you identify risks and associated losses. Please see below for instructions on the inclusion of your answers in the **CM 301 Risk Monitoring Template**.
4. These questions and answers will also help form your **CM 301 Contract Management Checklist** and summary.

### Business Objectives (Why do the work)

- What is causing the need, problem, challenge or issue?
- What is the vendor doing to meet this need, problem or challenge?
- Is the vendor providing goods and services directly to the agency or providing goods and services to the community on behalf of the agency?
- What outcome is the agency looking for from this vendor?
  - o Deliver \_\_\_\_\_ to \_\_\_\_\_ on time for proper maintenance of \_\_\_\_\_.
  - o Provide a stable “app” that allows \_\_\_\_\_ to more easily \_\_\_\_\_ when scheduling appointments with \_\_\_\_\_.
  - o Provide a platform to easily track \_\_\_\_\_, which will allow the Organization to better track \_\_\_\_\_ for federal grant reporting.



## Requirements Checklist: Hybrid Contracts

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- Summarize here: What is the purpose of the contract? (This will be used in any solicitation for a competitive bid/quote.)

### Developing the Work (What is the work)

#### Goods

- What is the good being purchased? Be very specific here.
- Is the vendor buying materials for the agency from another vendor? If yes,
  - Is the vendor passing through warranties from the third-party manufacturer?
  - Or, is the vendor using their own warranty provision to warrant the materials?
- If the agency is providing any goods/equipment for this purchase, how does the agency stay within the provisions of the OEM warranty for those goods/equipment as the vendor accesses the items with the good it provides?
- How does the good properly function? (Note, these are your technical and functional requirements.) Size, shape, dimensions, weight, environment the good will be used in, etc.
- What are the agency's obligations to the vendor (technical drawings, approvals, etc.)? List those agency's requirements so the Contract Professional can determine how to include them in the contract.
- 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.
- List any required qualifications for the good, such as meeting OCIO standards?
- Does the good (item) have its own software of any kind at all? If so, how does this code impact any existing software the agency is using?
- Check your work: Are the functional and technical requirements clearly written in a form that the vendor and the Contract Manager both understand?
  - Use simple sentences, verbs, industry terms, and industry standards.
  - Are there implied requirements (such as one party providing the other party data or drawings or access to a system) that are not outlined so far? List them.

#### Services

- How does the service function in connection to the good? (Note, these are your technical and functional service requirements.) List the specific tasks or duties the vendor will provide. Place these duties or tasks in order of importance, with the most important being numbered one. (design, deliver, maintain, repair, etc.).
- What are the Agency's obligations to the vendor (access to a building, computer system, etc.)? List those agency requirements so the Contract Professional can determine how to include them in the contract.



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## Requirements Checklist: Hybrid Contracts

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- Should your Agency's policy, regulatory and statutory requirements be documented here in the service requirements? In other words, does the service need to meet a regulatory or policy obligation? List them.
- List any required qualifications required of the vendor and/or their staff to perform the services.
- Check your work: Are the functional and technical requirements clearly written in a form that the vendor and the Contract Manager both understand?
  - Use simple sentences, verbs, industry terms, and industry standards.
  - Are there *implied* requirements (such as one party providing the other party data or drawings or access to a system) that are not outlined so far? List them.

### **Describing Performance (How and when is the work done to specifications)**

- When do the goods need to be delivered?
- When does the service need to start?
- Which one is dependent on the other? Does the good arrive first or does the service start first?
- Does anything have to happen before this work can be done, such as another vendor completing an audit or software consultants completing reports or designs?
- 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?
- Are there milestones (or gateway reviews or progress reports) to track performance/delivery?
  - Are they tied to a report? When, by whom, how will the report be delivered?
  - Are the milestone dates tied to payment terms? How is this outlined?
  - How often are milestones monitored and by whom at your organization?
- What documents/reports will the agency need to verify delivery of goods and services? How will these documents paint a complete picture for the stakeholder who will approve the work?
- What objective factors will the agency use to verify the good meets technical requirements and that the services meet performance requirements? These are your performance measures which will become metrics or Service Level Agreements (SLA).
- What are the suggested industry SLAs? Will an industry SLA work for this agreement? Why or why not?
- List the SLA here: \_\_\_\_\_.
- List the SLA target here: \_\_\_\_\_.
- Then answer these questions:
  - Who will record the data about this SLA?
  - How often will the recording party collect the data?
  - In what form will the recording party report the data?
  - How will the receiving party validate that the data is accurate?
  - Who will review that data?
  - Who at the Agency will approve of the data?



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## Requirements Checklist: Hybrid Contracts

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- What happens if the vendor misses the target?
  - The first time?
  - At a critical time in the service?
  - At the beginning of the contract implementation?
  - More than once? In what time frame? (twice in a year or twice in a month?)
- What should happen if the good does not meet the requirements? (Note, these will be incorporated into the contract terms and conditions.)
  - Will the vendor replace the good or item? What is that process? Who will pay for shipping the defective item back to the vendor and shipping the replacement item to the agency? Does the item need to be new or the refurbished version of the defective item originally delivered?
- What should happen if the service does not meet the requirements? (Note, these will be incorporated into the contract terms and conditions.)
  - Will the vendor have the right, time and ability to “cure” or fix the service or deliverable (software)? How will that work? What timeframe? Who would be negatively impacted if the service is defective?
- How do you know that the work is “finished?” What is the least the vendor can do to call the project done?
- Check your work: Are the performance requirements clearly written so the Contract Manager can demonstrate performance or demonstrate the lack of performance when talking to the vendor about its performance?

### **Acceptance (What happens if the goods and/or services don't meet expectations)**

The contract template will have generic acceptance language, and usually refers back to the scope of work or technical specifications for acceptance criteria. This section will provide the Agency with the vendor acceptance criteria. (Acceptance criteria provides guidance about how and when the work is complete. Complete can mean a part of the service is complete or all of the services are complete. Please see the Defined Terms in the contract for the applicable definition.)

- Who at the agency will verify that the goods are delivered? What does that person need to verify that the goods are delivered?
- Who at the agency will verify that the goods meet the technical and functional specifications? In other words, that the goods are the size, shape and form ordered?
- Who at the agency will verify that the services are delivered on time? What does that person need to verify that the services are delivered on time?
- Who at the agency will verify that the services meet the technical and functional specifications? What does that person need to verify that the services meet the Agency's requirements?
- Are there inspections of goods? When, by whom and at what point? The vendor at the point of shipment or the agency at time of delivery?



## Requirements Checklist: Hybrid Contracts

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- Is testing required to validate performance of either the good or service? When, by whom and how are those tests to be done?
- Does the good or does the service require quality assurance (QA) audits, or other procedures to verify or validate performance? When, by whom and how are those to be done?
- Are there additional expenses for inspections or certificates of compliance etc.? Who pays for them?
- What if something is rejected and needs to be inspected again or tested again? Who pays for that process?
- Does the purchase of the good constitute acceptance or does a successful test with the incorporation of the service constitute acceptance?
- How do we enforce these performance requirements? (If you have any questions, please ask your Contract Professional.)
- Check your work: Is the acceptance process clearly outlined so the Agency can formally accept or reject the goods and services? (Note, acceptance leads to payment, and rejection leads to replacement/re-work).



Reassess the answers to the following questions as your answers may indicate a potential risk and associated loss to the Agency. If you are unclear at this point, please call your Contract Professional or a Subject Matter Expert.

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### Risk Questions

These questions (from above) may indicate a potential risk and associated loss to the Agency.

- Is the vendor providing goods and/or services directly to the community on behalf of the agency? If yes, this is a potential risk and needs to be addressed in the legal terms and conditions. Further note this risk in the Risk Monitoring Template and follow the directions in the template.
- Should your Agency's policy, regulatory and statutory requirements be documented here in the functional requirements? In other words, does the good or service need to meet a regulatory or policy obligation? If you listed any policies, regulations or statutes please work with your Agency stakeholder and Contract Professional about potential risks.
- List any required qualifications required of the vendor and/or their staff to perform the work. If there are qualifications, the loss of or lack of qualifications is a potential risk and needs to be addressed in the legal terms and conditions. Further note these qualifications as a risk in the Risk Monitoring Template and follow the directions in the template.



## Requirements Checklist: Hybrid Contracts

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- Is the timeline for performance/delivery etc. clearly outlined? If a missed timeline could negatively impact the Agency or the community it serves, the missed timeline is a potential risk and needs to be addressed in the legal terms and conditions. Further note this risk in the Risk Monitoring Template and follow the directions in the template.
- Are there tests of the goods or service deliverables? If yes, a failed test is a potential risk and needs to be addressed in the legal terms and conditions. Further note this risk in the Risk Monitoring Template and follow the directions in the template.
- Does this good or service require quality assurance (QA) audits, or other procedures to verify or validate performance? If yes, a failed quality assurance audit is a potential risk and needs to be addressed in the legal terms and conditions. Further note this risk in the Risk Monitoring Template and follow the directions in the template.
- Is a small business performing the work? If so, are there any risks associated with a small business performing the services? If yes, this is a potential risk and needs to be addressed in the legal terms and conditions. Further note this risk in the Risk Monitoring Template and follow the directions in the template.
- Where is the source of funding? If the funding is from another source such as the Federal Government, there is a potential risk if the vendor does not perform. And, the Agency has additional tracking and reporting requirements. These issues need to be addressed in the legal terms and conditions. Further note this risk in the Risk Monitoring Template and follow the directions in the template.
- Is the vendor buying materials for the Agency from another vendor? If yes, there is a risk of invalidating the original manufacturer's warranty. These issues need to be addressed in the legal terms and conditions.
- Does the purchase of the good constitute acceptance or does a successful test with the incorporation of the service constitute acceptance because the acceptance of the good is tied to the service? If acceptance is tied together, this is a critical juncture in the project. As a juncture, it poses a potential threat of loss to the Agency if the good or the service fail to function when working together for the first time. This juncture should be noted in the Risk Monitoring Template and follow the directions in the template.
- Are there milestones (or gateway reviews or progress reports) to track performance/delivery? These milestone dates are points where a risk event can occur. Please place these milestones into your Contract Monitoring Summary. If a risk event occurs, the risk is then placed into the Risk Monitoring Template and follow the directions in the template.



## Requirements Checklist: Hybrid Contracts

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If you are unclear about any of these issues, please call your Contract Professional or a Subject Matter Expert. After these questions are complete, please set up a meeting with your Agency's Contract Professional to continue the collaborative process of preparing the solicitation for issuance.

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