



Contract Checklist

1. Do you have the funds and your supervisor's approval for the contract?

Be sure you have the money in your budget and that you have received your supervisor's approval to move forward with a contract.

2. Does the contract properly identify KCCD?

Our legal name is the Kern Community College District on behalf of your campus name; Bakersfield College, Cerro Coso Community College or Porterville College.

3. Does the contract meet all of your needs?

Please read your contract. The Contracts Department and Office of General Counsel reviews contracts to be sure they are in compliance with State of CA laws, Ed Code, Public Contract Code and Government Code. We don't know what your needs are and we assume that what you want is included in the contract.

4. Are the effective dates properly identified?

There must be a term listed for the contract. The term should list an effective date and a termination date. The term of an agreement cannot exceed a 5-year term, including all renewals.

5. Does the contract have signature lines for all individuals who need to sign the contract?

The contract needs to have the person or persons listed who have signature authority for KCCD. The Board of Trustees has delegated signature authority to the Chief Financial Officer and Chancellor.

6. Does the contract have the appropriate language, some of which may need modification or deletion, for the following:

- a. 30 days for payments
- b. Finance charges and/or payment penalties
- c. Liability
- d. Indemnification
- e. Attorney fees and/or court costs and/or litigation expenses
- f. Insurance
- g. Termination Clauses
- h. Breach of Contract Clauses
- i. Any state laws other than California governing the contract
- j. No binding arbitration
- k. Other



As a general rule these are the recommended changes to an agreement:

- **Agreement:** should be between Kern Community College District on behalf of *COLLEGE NAME*
- **Term:** we cannot enter into a perpetual term agreement. Add “The maximum term of the agreement shall not exceed five (5) years from the effective date.”
- **Indemnification:** Should be Mutual Indemnification. Occasionally we add “Kern Community College District maximum liability amount shall not exceed two million dollars (\$2,000,000).”
- **Governing Law/Jurisdiction/Venue:** we cannot agree to another governing state or jurisdiction should litigation be required for the following reasons:
 - California Education Code 72502 states the following:
 - § 72502. Claims against districts; Applicability of Government Code All claims for money or damages against a district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

The designation of the law of another state would violate this provision. It is possible to enter into a contract with no choice of law provision. In that situation the proper state law would be resolved through the applicable conflict of laws provisions in the event of litigation.

Governing law should be State of California, County of Kern.

- **Insurance Requirements:** Unless otherwise specifically agreed to in writing in advance of execution of this Agreement, Contractor agrees to obtain, pay for and maintain in effect during the Term of this Agreement and/or Date(s) of Service(s), the following policies of insurance issued by an insurance company rated not less than “A-VI” in A.M. Best’s Insurance Rating Guide:

(i) Commercial General Liability insurance (including contractual, products and completed operations coverage, bodily injury and property damage liability insurance) with single combined limits of not less than \$1,000,000 per occurrence;

(ii) Commercial Automobile Liability insurance for “any auto” with combined single limits of liability of not less than \$1,000,000 per occurrence;

(iii) Professional Liability insurance (also known as “Errors and Omissions” insurance) with a limit of liability of not less than \$1,000,000 per occurrence; and

(iv) Worker’s Compensation and State Disability insurance as required under law.

Each policy shall contain an endorsement naming the Kern Community College District as an additional named insured insofar as this Agreement is concerned, and provide that written notice shall be given to the District at least thirty (30) days prior to cancellation or material change in the form of the policy or reduction in coverage. Prior to rendering Services hereunder, and at Contractor’s expense, Contractor shall furnish the District with a Certificate of Insurance evidencing the endorsements required above, and the District shall have the



right to inspect the Contractor's original insurance policies upon request. Upon notification of a notice of cancellation, change or reduction in coverage, Contractor shall immediately file with the District a certified copy of the required new or renewal policy and certificates for such policy. Nothing herein concerning minimum insurance requirements shall reduce the Consultant's liabilities or obligations under the indemnification provisions of this Agreement.

- **Dispute Resolution:** We cannot accept binding arbitration. If the agreement includes such wording, ask the vendor to remove or replace with other language.
- **Signature block:** Kern Community College District obo *COLLEGE NAME*. Signatory authority is Arlitha Harmon, Ph.D., Interim Chief Financial Officer

Software requirements:

Here are the items that need to be reviewed in contracts from an IT perspective. Also note that if this requires any IT work it must be submitted via your VP for consideration and prioritization.

1. Are the ADA standards provided and in compliance with Section 508, WCAG, and ADA provided and current?
2. Provide a copy of VPAT policy.
3. Clear security industry standard identified that follow best practices or standards (ex. NIST, ISO, etc.)?
4. What are the plans for scheduled maintenance and are they coordinating with the college?
5. Are there redundant connections and DR planning – Data, power, internet, etc.?
6. What are the criteria for extracting our data when the agreement ends (suggest 90 days in a common format)?
7. Is our data required to remain in the USA (FERPA requires information to remain in the USA)?
8. If there is a breach of our data, are there cost recovery limits addressed in the contract (actual expenses which could be millions)?
9. Is there a need for FERPA compliance? Has it been met?
10. Are there information copyright or intellectual property concerns?
11. What is the data extraction criteria at the end of the agreement- suggest 90 days in a common format?