

Human Services Contract Risk Management in Multnomah County

March 25, 2011

Using Risk to Guide the Contract Process

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History

In 2008 the Board of County Commissioners adopted Resolution 08-112 directing a team to recommend improvements that would strengthen the oversight of financial and business stability of its personal services contractors. This was a response to recurring Multnomah County Auditor's findings on the administration of large human services contracts, the most recent being July of 2008. As a result of the resolution a multi-Department, 14 person, Contract Action Team (CAT) was formed and their actions culminated in the CAT Report. That report was adopted for implementation by the Board in January 2009.

The CAT Report's recommendation for strengthening risk management with Human Services contracts was - Assess risk for each contract to appropriately scale the contracting process. The summary recommended the development of tools to: **1) help assess risk, 2) guide procurement decisions, and 3) indicate appropriate monitoring level and frequency.** The recommendations were to apply the full risk management plan to contracts over \$150,000 and that the system was scalable to contracts under that amount as an option.

By the nature of the County's services and clients, most of the human services we contract for are at-risk clients in sometimes at-risk activities. By the definition of our services we often deal with clients who are either temporarily or long-term reasoning impaired. The consequences for failure on the programmatic side can result in abuse, injury and death. The consequences of failure on the financial side can leave a highly vulnerable client population without critical care they need and loss of funding from sponsors. Human Services contracts are by definition in many cases "high risk" even when well managed.

Human Services Risk Management Plan Summary

1) Help Assess Risk

1. Evaluating risk begins at the time of decision to offer or continue a client service.
2. It carries through the entire life-cycle of the contract from planning to contract development to monitoring and control of the contract.

3. To deal with the different decision points in the cycle we have developed a suite of five risk assessments tools that are designed to be used by the Program.
 - Two of these tools are checklists to remind programs to review certain elements that have been or likely will be issues
 - One is a contractor-supplied information form
 - One requires the development of a risk management plan if the risk is rated “high” based on the previous checklists and contractor’s self- assessment
 - They culminate in a de-brief form used at the end of the contract to encourage a continuous improvement environment by passing on knowledge gained

2) Guides Procurement and Contract Decisions

1. The completion of the Human Services Program Determination checklist is done at the point of starting or continuing of a client service and asks specific questions on the fit of the program to County objectives. It also incorporates questions designed to guide the user in making the decision to provide the service in-house or out-sourced.
2. In the contract negotiation phase the Contract Pre-Information form is completed by the successful bidder and the form is centrally administered in Purchasing for all Human Services programs
3. Based on the Determination checklist and the Contract Pre-Information form, the Risks in Human Services checklist is used by the department to determine if the contract risk is high.
4. If the risk is high, a plan is developed using the Contract Negotiation Risk Action Plan to appropriately respond to the risks. Actions may be language in the contract, additional or special requirements in the monitoring and administration, or both
5. With risks identified from the first two checklists, risk responses are generated and included in the procurement

3) Indicate appropriate monitoring level and frequency

1. Programs can and should review exceptional contract risk on programmatic or financial risk and identify a contract as a high risk under this guideline as appropriate
2. We will establish recommended review practices and enabled a dynamic rating on-going during contract monitoring
3. The Contract Debrief form is used at the end of the contract life-cycle to ensure we capture all of the practices, both bad and good. This enables us to contribute to a culture of continuous improvement.

Risk Assessment Process

1. Program Manager completes or delegates the Human Services Program Determination Checklist when deciding to either start or continue client service with department decision maker
2. As part of the procurement process the Procurement Representative includes the Pre-Contract Information (PCI) form in the solicitation package. The initial form is due with the bid package, however this is the start of the due-diligence phase and it is expected that the Program Manager will have follow-up questions based on the PCI. This may take several rounds to fully resolve the questions. Negotiations will not start until all of the questions are answered to the Program Managers satisfaction.
3. The Program Manager gathers the Determination checklist from the first step and the Pre-Contract Form from the successful bidder. The Program Manger completes the Risks in Human Services form. The Program Manager and any other resources needed assess the risk of the completed questionnaire and determine if the contract is a high risk to the County.
4. If the Program manager determines the contract is high risk, they complete the Contract Negotiation Risk Action Plan during the contract negotiation with input from the Program Representative, Procurement Representative and Contract Specialist, and others as appropriate. If it is determined that the contract is not high risk, the questionnaire is signed and included in the procurement documentation package
5. To the largest extent possible, risks should be identified during the contract negotiation and the agreed upon management included in the contract with means to ensure compliance.
6. If the Contract Negotiation Risk Action Plan includes additional monitoring of the vendor, details such as what will be monitored, where, when, how, and by whom (both vendor and the County) should be included in the contract language.
7. On-going monitoring reports and any corrective actions required should be noted and a copy filed in the contract file of record

8. At the end of the procurement* the same roles that were present in the initial scoping team meet and conduct a de-briefing using the Contract Debrief - Lessons Learned form as a minimum. If the contract is renewed with the same vendor, this step is complete and any modification incorporated into the new contract. In all cases this form is filed in the contract e-folder

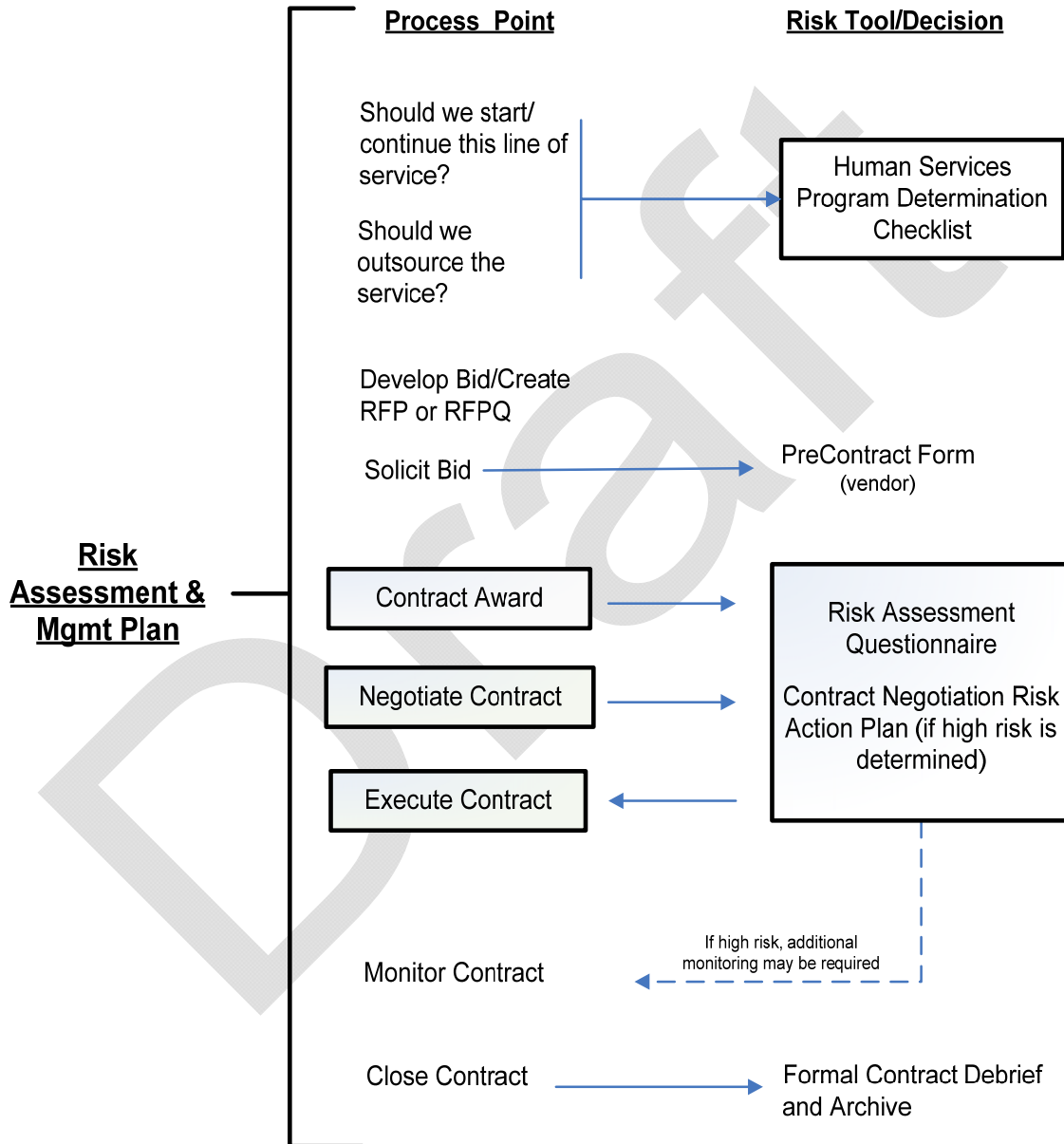
* Timing of when this step is taken can be varied. Because some procurements/contracts are never ending, a period of a maximum of 5 years between reviews is recommended. More frequent evaluations are encouraged

Risk Assessment and Monitoring Application

This process is designed to be used at a minimum on new and renewal human services contracts greater than \$250,000 per year or over \$1,000,000 life *at its inception*.

1. Contracts that are initially under the minimum amount but exceed the threshold during the life of the contract *do not automatically require these processes be completed*. The decision on starting this process post award should depend upon Department policy as well as the degree the threshold is exceeded
e.g. a contract for \$240,000 for one year would not require this process if the final amount is \$255,000. A contract that was for \$200,000 for one year that is amended to a five year contract for an outlay of \$225,000 annually is a *significant* change and should have this process applied at the time of the amendment
2. These thresholds, durations, and terms used in this manual are considered minimums; Departments wishing to exceeding these requirements may start or continue to do so

Risk Assessment Plan Process-Tools Map



Risk Assessment Tools

1) Human Services Program Determination Checklist

Purpose: Provides a guide of self-identified questions that other programs have encountered when deciding to start or continue a client service. Used by the Program Manager/Decision Maker at the initial consideration to begin/continue a program

1. This form is not scored - there are no “right” answers.
2. This form remains with the Department and does not become part of the official procurement file.
3. We believe this form achieves its optimum value when used in a team review of beginning/continuing a service

Human Services Program Determination Checklist

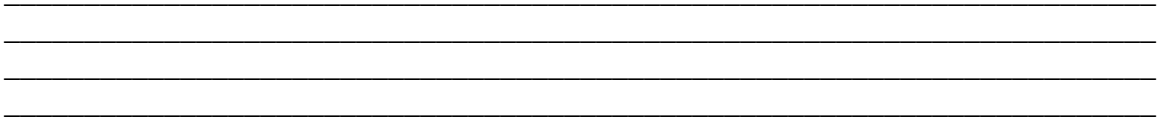
1. Person(s) completing checklist: _____
2. Date: ___/___/___
3. Service being evaluated: _____
 e.g., adult alcohol & drug residential treatment, mental health case management
4. If there are current contracts in this type of service: _____
 - a. Number of current County contracts for this service _____
 - b. Total dollar value of current contracts \$ _____

Determination to Contract or Directly Operate Service

Questions	Favorable to Contracting	Uncertain	Favorable to Direct Service	Don't Know	N/A
	Circle appropriate answer				
Service Provision Issues					
1. Does the County currently have the specialized skills needed to provide this service?	No	Both have	Yes		
2. If the answer to #1 is no, is it feasible for the County to develop the specialized skills needed?	No		Yes		
3. Does the County have the administrative/managerial infrastructure to provide this service?	No		Yes		
4. If the answer to #3 is no, is it feasible and/or desirable for the County to develop the necessary administrative/ managerial infrastructure?	No		Yes		
5. Are there contractors in the community to provide this service?	Yes		No		

Questions	Favorable to Contracting	Uncertain	Favorable to Direct Service	Don't Know	N/A
	Circle appropriate answer				
6. Are we more likely to provide culturally competent services by contracting for this service?	Yes		No		
7. Do actual/potential contractors have the willingness and expertise to follow best practices/newer models of service provision?	Yes		No		
8. Would contracting the service increase access to citizens needing the service, e.g., wider geographic availability?	Yes		No		
9. Would County requirements create barriers in the provision of this service?	Yes		No		
10. Could the program be more quickly implemented and/or more quickly changed to respond to community needs by a contractor?	Yes		No		
11. Can a contractor better facilitate community input and involvement?	Yes		No		
12. Would provision of this service by a contractor help to strengthen a sense of neighborhood control and community?	Yes		No		
Policy and Coordination Issues					
13. Is there a State or Federal mandate not to contract for these services?	No		Yes		
14. Does this service involve granting or withholding basic rights and permissions to citizens?, e.g. involuntary commitment, incarceration, or permits for land use	No		Yes		
15. Is there a high risk of harm to individuals receiving this service?	No		Yes		
16. Is there a need for the County to directly provide a high level of cost control?	No		Yes		
17. Is this a complex service that requires a high degree of integration with other County provided services?	No		Yes		
18. Would contracting the service increase fragmentation of services?	No		Yes		
19. Are we likely to have system accountability issues if we contract for these services?	No		Yes		
Financial Issues					
20. Is it cheaper to contract for this service?	Yes		No		
21. Would contracting result in workers being paid less than a living wage?	No		Yes		
22. Is reasonably priced liability insurance available to non-governmental providers of this service?	Yes		No		
23. Do actual/potential contractors have current resources that can leverage or supplement County funds for this service?	Yes		No		
24. Would a contract increase the likelihood that the contractor could leverage potential additional resources, e.g., obtain grants, for this service?	Yes		No		
25. Are there enough actual or potential contractors willing and capable of providing this service to ensure adequate competition?	Yes		No		
26. Would the County end up being the sole or major source of funds for contractors of this service?	No		Yes		

Comments



Draft

2) Pre-Contract Information Form

Purpose: This form is to collect data from the successful bidder by providing a structured questionnaire on their organization and operation methods. When combined with the completed Human Services Program Determination Checklist, these combined forms should answer most questions on the Risk Assessment Questionnaire. (next section)

Note: If Federal or State rules and administrative directives or other governing body directs that a question(s) not be asked by the County, note the exception and do not ask the questions(s).

1. The form is completed by the successful bidder after contract award but before contract negotiation
2. Process is to include the form in the solicitation package and indicate that it is due to Purchasing, completed, not later than 7 days after the award by the successful bidder. Purchasing will check for completeness and against minimums, resolve any open issues with award winner, then forward on to the Department. Department will check for quality of answers and obtain any follow up questions directly.
3. Central Purchasing will request this form from the selected bidder, manage its timely return, make the information available for all areas on a need-to-know basis, and archive the return.
4. The form is required back 7 days after notification (the same time as the award challenge timeframe) and must be in place at the start of negotiation
5. It is highly desirable that department concerns generated from this form, as well as information from the previous checklist, is addressed in the contract language whenever possible
6. The form may not be used to disqualify applicants based on questions and is not scored
 - Used to provide information to the program to help in identification of “high” risk
7. It is highly desirable that this form be sent, completed and returned as an electronic document.

Pre-Contract Information (PCI) Form - Programmatic

[MC Users – fiscal information is gathered by DCM/Finance/Fiscal Compliance, please refer to that organization for financial information. All areas in brackets and highlighted [] are for options/MC info and should be removed before sending]

Organizations doing business with Multnomah County must have the capacity to manage and monitor administrative contract requirements. This form is to be submitted after the potential vendor is notified they have been awarded the contract. If you already have submitted this form in the last 12 months for a different contract AND no significant changes have occurred in your company, you may elect to sign the 12-month waiver at the back of this questionnaire. **Failure to file this form within 7 calendar days of the notice of contract award may disqualify you.** Note: if a similar question also appears in a solicitation, the solicitation question is likely to be scored. An electronic response is preferred. If responding in written form, please provide the original and one copy.

1. Organizational Chart: Please submit a current organizational chart that indicates lines of authority and communication for all of the organization's programs pertaining to doing business with Multnomah County. Include on the chart the position-in-charge (e.g., executive or local director), and the administrative and program management position(s). Please identify time in position. Clearly identify where administrative contract management responsibilities lie.

2. Executive Director/Administrator: Please identify the name, title, and job description of the position-in-charge (e.g., executive or local director) for the Provider organization.

3. Administrative Oversight: Please identify the name(s) and title(s) of the employee(s) responsible for meeting administrative contract requirements (e.g. insurance, non-discrimination, property management, etc) [MC USER: Include any other programmatic oversight individuals here] and overseeing contract corrective action, and describe their job duties as they relate to these functions. Please identify their time in position (either with your organization or others. If other organizations, please list the organization(s) and years experience with each if more than one organization for the past 10 years.) Be sure to include these positions on the organizational chart.

4. Policies, please submit a copy of the organization's **index** of policies/procedures manual(s) showing where board oversight, client interaction, incident reporting, and client and their information safeguards are located. [MC USER: Include any other programmatic area policies you wish to review here] You may be asked to furnish a copy of those policies.

5. Non-Discrimination Policy: If not included in the personnel policies, please submit a copy of the organization's non-discrimination policy stating that the organization will not discriminate against any individual with respect to employment or provision of services based on that individual's race, color, religion, sex, national origin, age, sexual orientation, gender identification, political affiliation, marital status, or disability.

Please also submit a statement that the organization is willing and able to comply with the following non-discrimination policies should it be awarded a contract:

- a. Executive Orders 11246: www.dol.gov/esa/regstats/ofccp/EO11246.htm
- b. Title VI of the Civil Rights Act of 1964, as amended: www.eeoc.gov/laws/vii.html
- c. Section 504 of the Rehabilitation Act of 1973: www.dol.gov/oasam/regstats/sec504.htm
- d. Americans with Disabilities Act: www.usdoj.gov/crt/ada/adahoml.htm

6. Accountability Mechanism Description, Roles, and Functions: describe the purpose, functions, and structure of the organization's accountability mechanism, e.g., Board of Directors, Advisory Committee, etc. These may be outlined in by-laws. Please include the frequency of meetings and what constitutes a quorum. Please be aware that we may ask to see the meeting minutes for previous meetings [MC User: if other policies/procedures are required, insert them here] Be sure to cover what role the governing body or alternative mechanism plays in:

- a. Setting and overseeing business planning and policy development. Planning refers to guiding the future direction of the organization's business, e.g., identifying areas for program development and innovation. Policy refers to setting the philosophy and values of the organization, and principles and guidelines for making operational decisions. Example: policy on cultural diversity, policy on types of programs appropriate for the organization to operate.
- b. Overseeing the organization's budget, both its development and the organization's ongoing financial position.
- c. Overseeing operations of the organization. This includes involvement with issues affecting delivery of services as well as personnel matters when organizational policy and procedures are concerned.

- d. Assuring accountability of the organization's business and operations to funding sources, legal requirements (e.g., tax laws), and the organization's clientele.

7. Other County Contracts: Please provide the following information on contracts already awarded by Multnomah County (if this application is accompanied by a bid, please do not include that bid).

- a. What percentage of current operations is funded by Multnomah County (contracts or other)?
- b. The number of Multnomah County contracts currently administered before this potential award?

8. Operational Experience: Please provide the following information

- a. Number of years experienced with Federal, State, or municipal contracts (including Multnomah County) of a similar nature to this bid. (If state or municipality is other than in Oregon, please name the state and the number of years experience with that state).
- b. What percentage of operations is expected to be provided by volunteers (including unpaid interns, graduate students and others)?

9. Pending Litigation/Adverse Action: To the best of your knowledge, is there any litigation pending or in process related to services you propose to offer the County? If yes, please note timeline and your evaluation of the issues as well as the predicted outcome.

10. Contract History: Has the organization ever had a government contract terminated due to non-compliance? If so please note date, agency, type of service, and reason.

11. Contract Review: Please list any governmental audits/reviews of the organization or its affiliates within the last three years. Include the results of the audit/reviews noting instances of non-compliance and any disallowances or paybacks.

Signature Block

_____ My firm already has a pre-Contract Information form on file with Multnomah County that has been submitted with-in the last 12 months AND there have been no significant changes to that information

OR

_____ Attached is our response to the questions

My signature below attests to the truthfulness of the above information

_____ Senior Officer Signature

_____ Title

_____ Print name

DRY

3) Risks in Human Services Contracts

Purpose: This form is designed to consolidate information gained both from an internal self-assessment of initial risk review (Human Services Program Determination Checklist) and the potential contractors' self-assessment (Pre-Contract Information Form). The questions on the form have shown to be possible indicators of a high risk contract either in the County or in other governmental agencies dealing with human services. The Program Manager uses the results to develop a determination if the contract is likely to be high risk for the County.

Note: If state rules and administrative directives or other governing body directs that a question(s) not be asked by the County, note the exception and do not ask the question or consider the information

1. This form is not scored
2. The form is signed by the appropriate level of management indicating they concur with the Program Manager's determination of risk level
3. The form becomes part of the procurement package and is archived with the other procurement information and forms

Note: this form is available electronically

Form on next page

Risks in Human Services Contracts

This checklist is used by the Program Manager or Representative to determine if the contract would be a high risk to the County. The data to complete this form is taken from the Department's Human Services Program Determination Checklist and the Vendor's Pre-Contract Information form. It is likely that a follow-up call will be needed to the Vendor to fully evaluate the form. Once the risk is evaluated, the Division or Department manager approves indicating their agreement of the risk level.

This survey and the tool that eventually is derived are intended for new or non-current contractors, and are not designed to be retroactively applied to existing contractors.

Considering the contract, please rate the likelihood of the attribute happening, and in the next set of columns, we are asking for the impact if it does happen. Finally, please rate the control we have over this attribute.

If a risk does not apply to your program(s), check NA.

Glossary:

Control Level - How much control does MC have over the contract deliverable? Ex.: We accept clients and providers set up by the State, are very limited in what we can do with the contractor, and have no say in client choice. This aspect is likely to be a very low control level (5).

NA - Attribute does not apply

NI - No Information. This is different than NA - the attribute is valid for your application, but you have no information -hence NI. You need to determine how key the information is, and a follow-up to obtain the information may be appropriate.

<u>Type of Contractor Risk</u>	<u>Likelihood of occurrence</u>				<u>Impact if it occurs</u>				<u>Control Level</u> <u>1 (high) to 5</u> <u>(low)</u>
	<u>NA</u>	<u>Low</u>	<u>Med</u>	<u>High</u>	<u>NA</u>	<u>Low</u>	<u>Med</u>	<u>High</u>	
1. Greater than 40% of a particular line of County business with a single contractor.									
2. Chances of dollars and/or capacity needs in contract increasing significantly. Is the contractor scalable? Ex.: Can they handle twice the business if funding became available, or a second supplier ceased business?									
3. Risks related to unsupervised client contact									
4. Complexity of contract (24/7 operations, multi-site, multi-service, etc.).									

<u>Type of Contractor Risk</u>	<u>Likelihood of occurrence</u>				<u>Impact if it occurs</u>				<u>Control Level</u>
	<u>NA</u>	<u>Low</u>	<u>Med</u>	<u>High</u>	<u>NA</u>	<u>Low</u>	<u>Med</u>	<u>High</u>	<u>1 (high) to 5 (low)</u>
5. Lack of active, fully engaged board of directors with defined oversight responsibilities									
6. Contractor determines eligibility and prescribes service									
7. Unexpected increases in cost. Ex.: May involve volatile commodities. Services like transportation (fuel costs)									
8. Presently under a formal corrective action plan (MC or other agency directed)									
9. Delays in service/Start-up costs. Ex.: Starting contract for services but contractor needs time to develop facilities									
10. The significance of the contractor's reliance on the County's business and overall # of contracts with the County									
11. Past poor performance issues. Ex.: Ideal is to have poor performance documented and a corrective action plan									
12. Risk of business failure - fiscal or programmatic									
13. Use of sub-contractors (generally discouraged in Human Services Contracts)									
14. Internal controls lacking or poor results of prior audits and reviews									
15. Experience, knowledge and stability of the staff									

<u>Type of Contractor Risk</u>	<u>Likelihood of occurrence</u>				<u>Impact if it occurs</u>				<u>Control Level</u>
	<u>NA</u>	<u>Low</u>	<u>Med</u>	<u>High</u>	<u>NA</u>	<u>Low</u>	<u>Med</u>	<u>High</u>	<u>1 (high) to 5 (low)</u>
16. A new or significant change in program for the contractor									
17. Lack of prior experience working with MC/State of OR									
18. Contracts are non-competitive									
19. No or minimal policies on issues such as: volunteer usage, un-supervised contact, incident reporting, client escalation issues process									
20. Pending litigation or regulatory investigation sufficient to severally impact on-going operation if there is an adverse finding									
21. Impaired ability to meet Federal, State, or grant monitoring and reporting requirements									
22. Other (describe below in comments)									

Comments?

Prepared By: _____

Date: _____

Extension: _____

Approved by:

Date: _____

Draft

4) Contract Negotiation Risk Action Plan

Purpose: If it is determined that the contract is high risk, this form is used to detail the risk management plan. Included is what is being done, by whom, when, and how they are doing it. This plan or portions of it may be incorporated into the contract and may have monitor dates entered into the contract administration reminder module [SAP/PPS].

1. It is strongly preferred that safeguards be incorporated into the negotiated contract to minimize risk to the greatest degree possible
2. Some risk may require additional monitoring for compliance.

(See next page for form)

Draft

Contract Negotiation Risk Action Plan [date]	
Contractor Name	Contract Number
Form Completed By:	Phone Number:
<p>1. What specific parts of the contract have been identified as high risk? (You may include the number from the Risks in Human Services Contracts form to abbreviate all sections – you may limit these to the top risks – an example is all aspects that have a high likelihood and impact – or other criteria. Listing all elements is generally not required) Example: Vendor has never done business with Multnomah County,</p>	
<p>2. Why is this high risk? Example: [follow up to #1 above: “vendor has never done business with Multnomah County”] Gaining the understanding of what our compliance needs are could result in corrective actions on the vendors’ part and delays in service to the Counties’ clients.</p>	
<p>3. How will this risk be addressed? Example: [continuing from example above] Multnomah County will conduct an on-site visit to train financial and operational staff on reports and other compliance needs.</p>	
<p>4. Where is this addressed? Example: [continuing from example above] We will include language in the formal contract that requires the vendor to provide staff for this training. This is where language to include monitoring might be included.</p>	
<p>5. When will this be addressed? Example: [continuing from example above] we will conduct the training not-more-than 60 days after the start of the contract</p>	

5) Contract Debrief – Lessons Learned

Purpose: Provide a structured forum to reflect on what went well and what could be improved. This is done as part of the contract close by the core team that developed and administered the contract. The information is available to other Program Managers with a need to know.

Notes:

1. The information obtained from this form cannot be used to screen out a potential vendor nor as part of the scoring. Its purpose is to provide information on performance that can be taken into consideration when developing a new procurement or contract

2. All information supplied must be fact based and verifiable

3. If there is no formal documentation of issues, please check No on each area and submit

The form becomes part of the archived procurement/contract record and is a public record

Contract Lessons Learned

Contractor	Contract #	Dept/Div
Prepared By	Date Prepared	
Are you willing to talk with other Program Managers about this contract? Yes No		
<p>1. Service with Multnomah County</p> <p>Please list any examples of exceptional merit:</p> <p>Is there any documentation that lists issues with service, including delivery of services or goods? Yes No</p> <p>Were the issues resolved? Yes No</p> <p>Please attach in the file of record any documentation</p>		
<p>2. Audits and compliance reports (fiscal and programmatic) with Multnomah County/Other Agencies</p> <p>Please list any examples of exceptional merit:</p> <p>Were any corrective action plans developed as a result of a compliance or audit? Yes No</p>		

Were the issues resolved?

Please attach findings in the file of record any documentation

3. Responsiveness to Multnomah County/other agencies

Please list any examples of exceptional merit:

Are there any corrective action plans or other vendor notifications detailing needs to improve responsiveness? Yes No

Were the issues resolved? Yes No

Please attach any documentation of findings in the file of record

4. Other issues with Multnomah County/other agencies

Are there any other areas where formal documentation exists that would be of benefit to a future County-user? Yes No

Please list any such documentation here _____
and attach documentation in the file of record

Comments: _____

