

# CONTRACT CHECKLIST



The Board of Trustees delegates to the Chancellor or Chief Financial Officer the authority to enter into contracts on behalf of the District. Contracts are not enforceable obligations until they are approved or ratified by the Board (BP 6340). If a contract is signed by any person other than the Chancellor or CFO, the contract will be considered null and void.

<b>Location:</b> <input type="checkbox"/> DO <input type="checkbox"/> BC <input type="checkbox"/> CC <input type="checkbox"/> PC - Campus: _____ <b>Vendor Name:</b> _____ <b>Contract Value:</b> _____ <b>Fund Code:</b> _____	<b>Department:</b> _____ <b>Term:</b> _____ (Cannot exceed a 5-year term, including all renewals) <b>Start Date:</b> _____ <b>End Date:</b> _____
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**Mark "X" in all that apply, Confirm the Vendor's Contract includes the following requirements. Any area unchecked, please work with the Vendor to change the language as required.**

- Identified as our legal name - Kern Community College District on behalf of campus name; Bakersfield College, Cerro Coso Community College, or Porterville College
- Indemnification: Should be Mutual Indemnification, not one-sided.
- Fullfill Insurance Requirements - Certificate of Insurance (\*COI) naming KCCD as additional insured *or* General Release & Waiver of Liability Form (*ONLY if a COI does not exist for a Contractor, e.g., individual, small businesses, owner/operator with no employees*).
- Agree to Dispute Resolution: No binding arbitration.
- Governing Law/Jurisdiction/Venue: State of California, County of Kern.
- Signature Block: Kern Community College District on behalf of <your campus name> & Signatory Authority: Melissa Thornsberry, Acting Chief Financial Officer.

**Type of Contract & Contract Supporting Documentation Requirements:**

Unless specified, all Supporting Documentation(s) listed within the Type of Contract are required.

DISTRICT CONTRACT	NON-DISTRICT CONTRACT - PROVIDED BY THE VENDOR
<input type="checkbox"/> <b>Independent Contractor Agreement (ICA)- for Non-Public Works</b> <input type="checkbox"/> Independent Contractor Agreement – CHECKLIST <input type="checkbox"/> COI	<input type="checkbox"/> <b>Contract Provided by The Vendor</b> <i>i.e. Proposal, Statement of Work (SOW), Others: _____</i> <input type="checkbox"/> Vendor's Quote ( <i>If contract does not include an amount</i> )
<input type="checkbox"/> <b>Independent Contractor Agreement (ICA)- for Public Works</b> <input type="checkbox"/> COI	<input type="checkbox"/> <b>Facility Use Agreement</b> <input type="checkbox"/> COI (If required)
<input type="checkbox"/> <b>Short Form Presenter Agreement</b> <i>Use for a one-day, one-time event only</i>	<input type="checkbox"/> <b>Technology Agreement (Software, Subscription, EULA, Terms of Use)</b> <input type="checkbox"/> Completed KCCD Software Requirements Questionnaire & met all requirements outlined. <input type="checkbox"/> Terms & Conditions <input type="checkbox"/> Accessibility Requirements <i>i.e., WCAG 2.0, VPAT, Others: _____</i> <input type="checkbox"/> COI, including Cybersecurity Coverage
<input type="checkbox"/> <b>Allied Health Education Program Agreement</b> <input type="checkbox"/> COI (If required)	<input type="checkbox"/> <b>Memorandum of Agreement (MOU)</b> <input type="checkbox"/> COI (If required)
<input type="checkbox"/> <b>Dual Enrollment MOU</b> <input type="checkbox"/> COI (If required)	<input type="checkbox"/> <b>Grant Agreement</b> <input type="checkbox"/> COI (If required)
<input type="checkbox"/> <b>Instructional Service Agreement (ISA)</b> <input type="checkbox"/> COI (If required)	<input type="checkbox"/> <b>Lease Agreement</b> <input type="checkbox"/> COI (If required)
<input type="checkbox"/> <b>Other:</b> _____	<input type="checkbox"/> <b>Other:</b> _____
<b>OTHER CONTRACT TYPES</b>	
<b>Construction Agreements</b> <i>Contact the District Office Facilities Planning and Construction Department for construction related projects.</i>	
<b>Facility Rental Agreements</b> <i>Contact your Campus Events Management Department.</i>	
<b>Volunteer Agreements</b> <i>Contact your Campus Human Resources Department.</i>	

**Approval Process:**

All contracts must meet the above requirements, complete with respective campus approval routing process and obtained all required signatories, prior to submittal to District Business Services-Contracts Department for processing. Should the vendor not be able to meet the requirements, please forward the vendor response regarding the required change(s) to [contracts@kccd.edu](mailto:contracts@kccd.edu), and the District Business Services-Contracts Department will review further and/or seek General Counsel, Risk Management, or District IT Department guidance.

1. **Ratification item- Contract value under current year Annual Bid Limit threshold**  
 All Contracts must be submitted to the District Business Services-Contracts Department email [contracts@kccd.edu](mailto:contracts@kccd.edu) for Authorized Signature prior to services being rendered and Board Ratification. Once the CFO or Chancellor has signed the agreement, you may then obtain services. It does not have to wait for Board approval.
2. **Approval item- Contract value over current year Annual Bid Limit threshold**  
 Contract value over current year Annual Bid Limit threshold is subject to Board Approval, and no services may commence until after Board Approval. All Approval Items will follow the posting process currently in place, (i.e. each campus and/or department should enter their respective Contracts/Documents into BoardDocs). The campus initiator will email the contract to [contracts@kccd.edu](mailto:contracts@kccd.edu) with any instructions. If the contract requires an original "wet" signature, send the original contract via the intra office mail, attention District Business Services-Contracts Department. Once Board approved, the Contracts Dept will obtain District signature and return the signed agreement to the initiator and/or the requesting Agency.



## Contract Checklist FAQs

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Please review the following information to ensure the contract submission includes all required information **prior to** submittal to [contracts@kccd.edu](mailto:contracts@kccd.edu).

Contracts submitted for District signature require a 2-3 day turnaround time. If the submitted contract requires further review from General Counsel, Risk Management, or District IT Dept, there is a 10-day turnaround.

**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. Follow campus approval process.

**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 do not know what your needs are and we assume that what you want is included in the contract. The requesting campus/department must do their due diligence to ensure that all terms and conditions within the contract are terms that are acceptable to the District. Do not forward the agreement to the Contracts Department requesting signature until this process is completed.

**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. Payment requirements
- b. Finance charges and/or payment penalties
- c. Liability
- d. Indemnification
- e. Attorney fees and/or court costs and/or litigation expenses
- f. Insurance requirements
- g. No waiver of subrogation language
- h. Termination Clauses
- i. Breach of Contract Clauses
- j. Any state laws other than California governing the contract
- k. No binding arbitration
- l. 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 an automatic renewal, or perpetual term agreement. Term must have a specific start-end date. Include in the contract language “The maximum term of the agreement, including all renewals, 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:** Governing law should be State of California, County of Kern.

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.

- **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;
  - (iv) Cyber Liability insurance of not less than \$2,000,000; and
  - (v) 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.

Software agreements require evidence of cybersecurity coverage.

- **Dispute Resolution:** We cannot accept binding arbitration. If the agreement includes such wording, ask the vendor to remove or replace with other language.
- **Subrogation:** Agreement should not include a waiver of subrogation. If it does, it needs to be in favor of the District, not the other party.
- **Signature Block:** Kern Community College District obo *COLLEGE NAME*. Signatory authority is Melissa Thornsberry, Acting Chief Financial Officer.

#### **Technology\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 to include resources and cost review with IT.

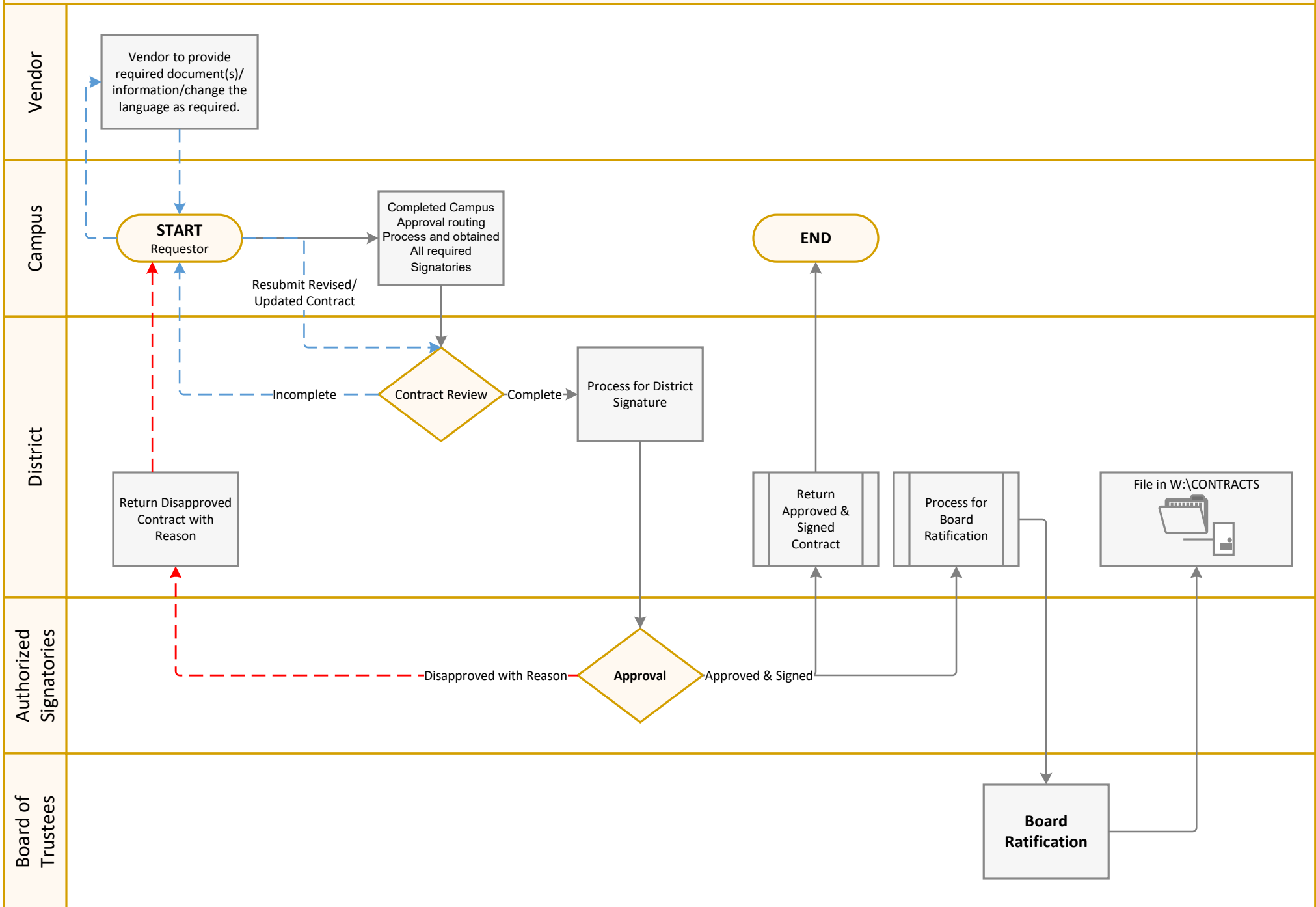
#### **Vendor must answer the following questions and provide requested information:**

1. Are the ADA standards provided and in compliance with Section 508, WCAG, and ADA provided and current?
2. Provide a current 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?

#### **District requestor must answer the following questions and provide requested information:**

11. Has the College IT Director reviewed and advised of needed resources\support requirements?
12. Has this request been sent through the IT Project review process and recommended for approval?

# Business Services-Contracts Department(District) Procedure – Board Ratification Item (**UNDER** Annual Bid Limit)



# Business Services-Contracts Department(District) Procedure – Board Approval Item (**OVER** Annual Bid Limit)

