



# Assessing Risk in the Contracting Process – Tools You Can Use to Mitigate Risk

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# Agenda

- \* What is Risk?
- \* Why Assess Risk?
- \* Initial Assessment
- \* Applying to your Solicitation Process
- \* Additional Risk Checks



# What is Risk?

- \* **WHAT IS CONTRACT RISK MANAGEMENT?** Contract risk management involves **the accurate assessment of the amount of risk contained within a contract.**
- \* This may include:
  - \* loss of opportunity,
  - \* legal exposure if things go wrong, and
  - \* potential business impact the contract will have on the involved parties

# Why Assess Risk?

- \* Minimize potential losses
  - \* Saves \$
  - \* Saves time
  - \* Save loss of productivity

# Risk Mitigation Steps

- \* Know the common risks associated with each type of contract
- \* Review records of past risks encountered
- \* Approximate the financial consequences or results of past assumed risks
- \* Develop a list of risk-reducing solutions to implement

# Risk Mitigation Strategy

- \* De-risk future negotiations through use of approved contract templates
- \* Avoid occurrences of human error by automating processes
- \* Engage an automatic contingency protocol to minimize losses when a risk event occurs
- \* Improve company-wide understanding of contractual obligations for both parties
- \* Reduce expenses from overpayments or fees associated with late payments

# Initial Assessment?

- \* Assess the Services
  - \* What is the level of risk related to the services being provided?
  - \* Develop the Service Risk Score
- \* Asses the Contract (not Contractor)
  - \* What is the level of related to contracting?
  - \* Develop the Contract Risk Score
- \* Total Risk Factor
  - \* What is the total risk factor?
  - \* Combine the Service Risk Score and the Contract Risk Score
  - \* Low, Medium or High?

# RISK ASSESSMENT WORKSHEET

- \* RISK ASSESSMENT WORKSHEET – Total Risk Score
- \* Completed by End User
- \* Total 20 Questions
- \* Ideal answer to each question is “No”
- \* Count number of “Yes” responses
  - \* 0-5 = Low
  - \* 6-10 = Medium
  - \* 11+ = High



# Assess the Services

- \* New program or service (or significant change)?
- \* Is scope complex?
- \* Access to clients or vulnerable persons?
- \* Exposed to safety risk?
- \* Contract determines who receives service or what services will be provided?
- \* Federally funded?
- \* Sub-recipient of federal funds?
- \* Cost Reimbursement payment?
- \* Sole Source or No Competitive Selection
- \* Accreditation/licensing required?
- \* High profile or politically sensitive?
- \* Access to HIPAA data?
- \* Fiduciary responsibility for client funds?
- \* Services critical to agency
- \* Likelihood of potential loss

# Assess the Contract

- \* Is contract significant portion of program funding?
- \* High dollar amount (over \$200,000)
- \* Include multiple services/statements of work (complex)
- \* Subcontracting allowed?

# Applying to Contract Monitoring

- \* Low – Desktop monitoring (annual or prior to renewal)
- \* Medium – Desktop and Onsite Monitoring (bi-annual or annual)
- \* High – Desktop monitoring
  - \* 1 year contracts – First 90 days and follow up at 6 months
  - \* Multiyear contracts - First 90 days and annually
  - \* Protective Payee Contracts – every 6 months

# Applying Risk Strategy to Solicitation

- \* RFP Contract Management Risk Questionnaire
- \* Weight Questionnaire (according to Total Risk Factor)
- \* Review Questionnaire Responses
  - \* Additional follow up/research may be required
- \* Score Questionnaire

# Additional Risk Checks?

- \* D&B Report (or similar online tools)
- \* Google
- \* Litigation Database (check with your Counsel)
- \* Peer Feedback

# Final Thoughts

Regardless of a contractor's risk level, contract staff is encouraged to provide technical assistance throughout the contracting process as an effective risk management strategy. Technical assistance can be combined with a desk, MIS or on-site monitoring activity.

# Q&A

# Contact Information

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