• A contract is an agreement between two or more competent parties enforceable by law.
• Other terms for contract include:
  • Agreement
  • Memorandum of Understanding (MOU)
What is a Contract?

• The essential elements necessary to form a binding, legal contract are usually described as:
  • **Offer**
  • **Acceptance** of the offer
  • **Legal purpose** of the offer (Objective of the contract)
  • **Consideration** exchanged between parties (Both parties get something from the contract. The consideration does not need to be monetary.)
  • **Mutuality of obligation** (Both parties understand the terms of the contract and agree to perform their obligations.)
  • **Competent parties** (Signers must be authorized to sign contracts on behalf of the contracting parties.)
What is a Contract?

• Since a contract, once fully executed, obligates both parties to the designated terms, make sure of the following:
  • **Start Date:** Make sure you have a reasonable start date.
  • **End Date:** Make sure there is an end date. Contract terminations can be anywhere from a couple of days to five years from the start date. For longer contracts, a 30-day notice of cancellation from either party is a good practice.
  • **Facilities:** If facilities or technology are required, make sure the college is able to provide it. Check with the appropriate department.
  • **Indemnification Clause:** Make sure it is reciprocal and not one-sided (in the other agency’s favor). Contact Risk Management if you have any questions.
• Templates are available on the Risk Management website.
What is Risk?

- Risk is the potential for an activity or event to result in an injury or loss.
- Risk Management is the process of identifying, assessing, and analyzing hazards and recommending methods to reduce or eliminate those hazards.

By managing risk effectively, it is expected that we will have fewer losses, pay for less liability, and therefore lower insurance premiums.
• Best way to manage risk is avoidance, controlling, or transferring through means of contracts and/or insurance.
• Additionally, requiring contractors to carry sufficient insurance to cover losses and to name the Yosemite CCD as an Additional Insured may lower the cost of claims to District’s insurance.
A Certificate of Insurance provides proof that the Contractor has sufficient insurance coverage to handle any losses associated with their services.

The Yosemite Community College District would be named Certificate Holder. This alone does not afford YCCD sufficient protection against claims.

Additional Insured is an endorsement that would add YCCD to the Contractor’s insurance policy. This provides us with adequate protection against claims.
• An indemnification/hold harmless clause is a contractual agreement where one party assumes the liability of another.
• For instance, if a contract that contains a hold harmless clause is signed and a case goes to trial or is settled, the party who agreed to indemnify another may be held responsible for the other party’s defense costs, as well as the entire settlement or judgment against that other party.
• YCCD prefers to have a “Reciprocal” indemnification/hold harmless clause.
• This holds each party responsible for their own costs of liability.
• YCCD has a Standard Indemnification Clause that we prefer to be used in contracts.
“Each of the parties hereto shall be solely liable for actively negligent or wrongful acts or omissions of its representatives and employees occurring in the performance of this Agreement, and if either party becomes liable for damages caused by its representatives and employees, it shall pay such damages without contribution by the other party. Each party hereto agrees to indemnify, defend, and save harmless the other party, its officers, agents, and employees from any and all claims and losses proximately caused by the party’s active negligent or wrongful acts or omissions.”

Standard Indemnification Clause in YCCD Contracts
• Insurance should be sufficient to cover any potential losses that may occur during the course of the contract.
• YCCD’s minimum requirement is as follows:
  • $1 million each occurrence
  • $2 million aggregate
  • $1 million automobile liability (if the contractor plans to have a vehicle on District property)
• Certain activities/events may have higher risks, so the insurance limits will be higher. Check with Risk Management.
Subrogation is a legal right that is reserved by most insurance carriers. It is the right for an insurer to pursue a third party that caused an insurance loss/claim to the insured. This is done as a means of recovering the amount of the claim paid to the insured for the loss.
• A Waiver of Subrogation clause is often inserted into contracts in order to prevent one insurance company from claiming restitution from another.
• It is most commonly used with respect to workers’ compensation.
• ASCIP’s Memorandum of Coverage with the VIPJPA directs that we not sign agreements waiving their right to subrogation.

Waiver of Subrogation
• Board Policy and Procedures 6340
• Per Board Resolution, contract signing is delegated to:
  • Chancellor,
  • Executive Vice Chancellor, or
  • Vice Chancellor
• Original contracts are processed and filed in the Office of the Executive Vice Chancellor
• The Board of Trustees designates certain administrators with certain authority. These designees are described in a Resolution approved by the Board in June.
• No one other than these designated administrators have the Board’s authority to obligate the District in any business transactions.
• Contracts refer to agreements between YCCD and outside agencies.
• Types include:
  • Construction Projects (Purchasing bid process)*
  • Grant Programs (Grants Office process)*
  • Facilities Usage Agreements (FUA) (College process)*
  • All other contracts, including Instructional Agreements (Contract Cover Sheet process)

*These contracts receive college approval through different processes, so they do not require the Contract Cover Sheet. Contact Purchasing, Grants, or College Facilities units for directions to complete their processes.
• Any contract that is not a construction project, grant program, or FUA must follow the Contract Cover Sheet process.

• Why?
  • To provide a summary description of the purpose for the contract and identify it with college goals
  • To collect the appropriate college administrative approval before sending to District for the obligatory signatures
  • To simplify the cataloging and filing of the contract
  • Because it is part of District Procedure 3340
Contractor is the name of the outside agency.

College administrative approvals are important to show that the college supports this contracted activity.

Risk Management checks for insurance and indemnification language.

Make sure you have the beginning and ending date of the contract.

Complete a brief purpose for the contract.

Need IT approval to install anything that may affect our network.

Contract Cover Sheet is located at www.yosemite.edu/contracts/ContractForms.htm
Executive Vice Chancellor
Teresa Scott
(209) 575-6530

Executive Assistant
Jennifer Ahlswede
(209) 575-6531

Risk Manager
Dorothy Pimentel
(209) 575-6963

YCCD Risk Management Services 19
YCCD is part of a self-insured pool called the VIPJPA, created in 1986, to provide insurance coverage for its member districts. Coverage includes workers comp, general liability, property, employment practices, and auto physical damage.

- Valley Insurance Program Joint Powers Agency (VIPJPA)
  - Merced CCD
  - State Center CCD
  - Yosemite CCD
- Administered by the Alliance of Schools for Cooperative Insurance Programs (ASCIP)
ASCIP (Alliance of Schools for Cooperative Insurance Programs) is the administrator for the general and property liability, workers compensation, and automobile coverage for the VIPJPA. It is a nonprofit organization committed to providing risk control services to California public K-12 and community colleges. ASCIP’s services include:

- Acquiring insurance coverage at a low premium cost
- Tracking regulations and advising members on compliance
- Providing technical support related to insurance/risk questions
- Providing online and onsite trainings on various topics
- And much more
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<tr>
<th>Member District</th>
<th>Board Member</th>
<th>Alternate Member</th>
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<tbody>
<tr>
<td>Merced CCD</td>
<td>Joanne Schultz, Vice President</td>
<td>Paul Baxter</td>
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<td>Trustee Carmen Ramirez</td>
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<td>State Center CCD</td>
<td>Edwin Eng, President</td>
<td>Darren Cousineau</td>
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<td>Trustee Eric Payne</td>
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<tr>
<td>Yosemite CCD</td>
<td>Teresa Scott, Treasurer</td>
<td>Dorothy Pimentel</td>
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<td>Trustee Abe Rojas</td>
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• Any Questions?
• Need a Certificate of Insurance?
• Need contract language reviewed?
• Need claims assistance?
• Contact:
  • Dorothy Pimentel, Risk Manager
  (209) 575-6963
  pimenteld@yosemite.edu