



Contracting: Building Organizational Sustainability

Hi, and welcome to Contracting: Building Organizational Sustainability brought to you today by the Café Technical Assistance Center.

Contracting



- This training will:
 - Discuss why contracting may be a sustainability option for consumer run organizations;
 - Review contract basics;
 - Discuss contracting risk protections for organizations; and
 - Explore some of the challenges associated with contracting.

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In this training we will discuss why contracting may be a sustainability option for consumer-run organizations. We'll talk about contract basics and discuss contract risk protections for organizations and, finally, we're going to explore some of the challenges associated with contracting.

Pre Training Evaluation



Please take a moment to participate in our Pre-Training Evaluation so we can learn more about what you already know.



Pause the presentation, then click the link below.



First, we'd like you to take a moment to participate in our pre-training evaluation so we can learn more about what you already know. If you'll click on the link below the arrow, it will take you directly to the survey and then you can return to the slideshow and we'll talk more about contracting.

<http://www.surveymonkey.com/s/contracting-pre-test>

What is a Contract



- A contract is a legally binding agreement between two or more parties to do something, with terms and conditions, that are a legal obligation.
- Usually includes:
 - Goals for the agreement
 - Terms and conditions to be adhered to by the parties
 - Something exchanged by EACH side
 - Legal competence

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Welcome back. So what is a contract? A contract is a legally binding agreement between two or more parties to do something with terms and conditions that are a legal obligation. This usually includes goals for the agreement, terms and conditions to be adhered by both parties, something exchanged by each side, as well as an affirmation of legal competence.



So our contracting premise includes that we share a population mission or purpose. For example, we're serving individuals with mental health needs and that we want to do business. It's like I have something that you need, such as a service or product, and you have something that I need, such as funding, so when we look at this we see that consumer organizations are likely to contract with individuals, organizations, systems or programs that share their population and who want to do business with them; who need something that the consumer organization has to offer.

Benefits of Contracting



For the system:

- Access to targeted, special expertise
- Use as needed
- Save on tax contributions
- Save on benefits
- Flexibility in relationship



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Well, there are many benefits of contracting. For this system, they have access to targeted special expertise. That's right; they have access to consumers who have already navigated their system of care, who already know the ins and outs, the pitfalls, the challenges, as well as the benefits. They can use a contract as needed and it saves on tax contributions. It can save on their benefits. Because they're contracting with another entity they don't have to treat you as an employee, and it also gives them some flexibility in the relationship, and we'll talk more about that a little bit later.

Benefits of Contracting



For the organizations:

- Payment for accrued expertise
- Builds business capacity
- Separation of 1 degree
- Supervision of staff
- Flexibility in relationship



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There are also benefits of contracting for the organization. They can get a payment for all the experience that they've gained over the years. It can build their business capacity. For example, it's very much like having a business portfolio. The more often they can show that they have successfully contracted with other entities, the more other people want to do business with them. It's a separation of one degree, so they're not an employee they're a contractor, and it allows them to do some of the things that employees might not be able to do when seated in a position within the agency. It allows them to supervise their staff, and it certainly allows them to have flexibility in their relationship as well.

Contract Limitations



- Contracts are not guaranteed
- Contracts are often based on funding availability (*some funding is more secure over time than others*)
- Contracts may be short term (*or long term*) funding
- Contracts can be cancelled (*or can be renewed*)

- Read the fine print

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But, as with everything, there are contract limitations. Contracts are not guaranteed, so you could write for a contract, talk about a contract and never get it. Contracts are often based on funding availability, and some funding is more secure over time than others. For example, you could have a grant or a contract with the federal government, and at some time or another the funding that supports that could be moved to another line item and you're funding's gone along with your contract. Contracts may be short term, but they can be long term as well, and contracts can be cancelled or they can be renewed and, as always, you have to be able to read the fine print.

Sustaining Organizations



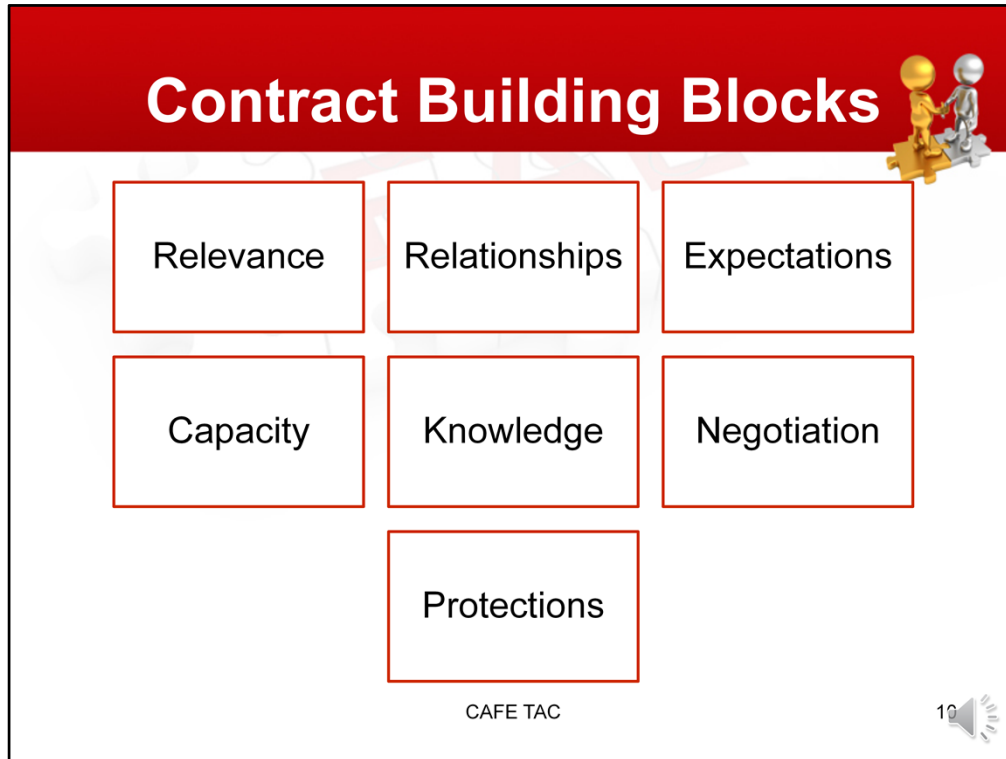
Contracts can:

- Offer targeted funding for specific mission related activities
- Be renewable
- Be negotiated or amended to address emerging changes and needs
- Keep organization focused and accountable

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So when looking at organizational sustainability, contracts can offer targeted funding for specific mission-related activities. They may also be renewable and be negotiated or amended to address emerging changes and needs. For example, the entity you're contracting with may discover they need something else, so rather than putting it out for bid or writing a brand new contract, they could amend the one that you already have and add it on, and it can keep your organization focused and accountable. Contracts are a legally binding agreement, so they're very outlined to show you exactly what you can and cannot do.



There are many contract building blocks, and we're going to talk about these. There's relevance, relationships, expectations, capacity, knowledge, negotiation and protections. These all work together to help ensure that the contract that you have will allow you to do what needs to be done, and that the entity contracting with you will get what they intend to buy.

Relevance



Must be relevant to:

- Mission
- Population
- Current organizational capacity
- Programs and activities



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So let's look at relevance. Any contract must be relevant to your mission. Your mission is what drives your organization. It's what allows you to do tax-exempt work under IRS regulations. Even though you need money, if the contract is not directly related to your mission, you may not do it under your 501C3. It must be relevant to your population, and it has to be within your current organizational capacity. If you're a brand new organization and just got started and don't even have a bank account, you certainly wouldn't want to take on a contract for \$1,000,000.00, and it also has to be relevant to your programs and activities. It would be difficult for you to start a brand new program or activity just to accommodate one small contract.

Business Relationships



- Relationships should be:
 - Purposeful
 - Intuitive
 - Strategic
 - Outcome focused
 - Measurable
 - Accountable
 - Achievable



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And business relationships should be very purposeful. They must be intuitive and strategic, so, in other words, you really need to look at what they have that you need and what you have that they need. They should be very outcome focused and driven and measurable. You need to be able to prove to them that you've done what they asked you to do for your payment. You must be accountable as well as they must be accountable to you, so if you say that you're going to do something by a certain timeframe, unless you negotiate a different timeframe you need to give it to them. And if they say that they're going to pay you within a certain period, then they need to pay you. The relationship must also be achievable, so, in other words, you don't want to set yourself up for failure. You need to look at the contract and say to yourself can we really do that.

Developmentally Appropriate Expectations



- Match the developmental level of the organization
- Grows with the organization
- Expectations that are achievable and realistic



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There must be developmentally appropriate expectations. Contracts must match the developmental level of the organization. As we discussed previously, you don't want to take on more than you can handle. Contracting should grow with the organization, so, in other words, you may start with a small contract and keep building and building and building as the relationship and your outcomes are showing that you can handle it. And the expectations must be achievable and realistic. We have seen many organizations that take on more than they can handle. Everyone expects them to do it and when they can't achieve it, they lose their organization, they lose money, they lose credibility.

Capacity



Organizations may have a desire to contract with others, but must have the capacity to engage in a business relationship.



- Board and governance inclusion and oversight*
- Financial capacity
- Program ability
- Organizational infrastructure
- Personnel resources
- Accountability practices

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Organizations may have a desire to contract with others, but they must also have the capacity to engage in a business relationship. Their board and governance must be able to provide the inclusion and oversight. They need to have a financial capacity to carry out the financial responsibilities associated with the contract. They need programmability to do the things that they're being asked to do, as well as the organizational infrastructure that will allow them to provide all of the components of the contract that are required. They also need the personnel resources, the staff to actually get the things done that need to be done, as well as accountability practices. They must have practices in place that can protect themselves, so that they know that anything that they're doing can be very easily documented, and they can show that they've done what they need to do to protect themselves from any risk.

****Note about Boards***



- Boards are charged with managing the finances of the organization
- Boards are charged with developing funds for the organization
- Boards are responsible for the organization business agreements



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So let's talk a little more about boards. Boards of directors are charged with managing the finances of the organization. Boards of directors are charged with developing funds for the organization, and boards are responsible for the organization's business agreements. So when you think about that, boards are part of the legally binding contract that is executed between an entity doing business with an organization. It is critically important that boards understand the contract, that boards know how, when and where to execute the things that they need to do to ensure that the contract is successful. Legally binding agreements mean that the board of directors is responsible and the final line of fire if something goes wrong.

Knowledge & Understanding



Contracting is a business arrangement protected by the law.

It is not to be entered into without an understanding and knowledge of contracting basics.

Understanding and knowledge is a risk protection for the organization.

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Contracting is a business arrangement protected by the law. It's not to be entered into without an understanding and knowledge of contracting basics. Understanding and knowledge is a risk protection for the organization, so, in other words, if you understand the contract and you have a knowledge about the basics of contracting, it's a better protection for your organization to ensure that you won't be taken advantage of and that you certainly won't fail to provide the necessary components of the contract to make you successful.

Understanding the Basics



Terms

Provisions

Attachments

Purposes

Benefits

Limitations

Contract basics at lawyers.com

- <http://contracts.lawyers.com/contracts/Contract-Basics.html>

Understanding Contracts

- <http://www.understandingcontracts.com/index.html>

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We don't really have time to go through all of the basics of contracting, but we do recommend that you do a little research of your own to learn more about the terms, provisions, attachments, purposes, benefits and limitations. You might look at contract basics at lawyers.com, or look at understanding contracts from understandingcontracts.com. Both of these resources will allow you to get some more information about the basics of contracting.

Additional Resources



National Study of Nonprofit-Government Contracting: State Profiles (Boris, et al)

- <http://www.urban.org/publications/412227.html>

How to Understand Contract Language

- http://www.ehow.com/how_6186446_understand-contract-language.html

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There are some additional resources that could help you, such as the National Study of Non-Profit Government Contracting and How to Understand Contract Language. Again, the more knowledge and understanding you have the better you will be able to negotiate and execute successful contracts.

Definitions and Terms




- **Boilerplate** is commonly used standard language, usually at the end of a contract
- The **statement of work** describes the activities to be completed, including specific tasks and products
- The **payment provisions** describe the compensation or reimbursement to be received for the work completed

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Let's look at the definition of a few common terms. Boilerplate is commonly used standard language in a contract. Usually it's at the end of a contract, but it could be at the beginning as well. This is language that is used in every single one of the program's contracts. The statement of work describes the activities that are to be completed, including specific tasks and products, and the payment provisions describe the compensation or reimbursement to be received for the work completed.

Standard Provisions




- ☐ Identity of Parties
- ☐ Recitals
- ☐ Obligations of the Parties
- ☐ Terms of the Contract
- ☐ Price
- ☐ Payment Terms
- ☐ Representations and Warranties

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Some other standard provisions are the identity of parties, the recitals, obligation of the parties, terms of the contract, the price, payment terms and representations and warranties. Each of these sections has specific details in them that explain to you what their obligation is to you and what your obligation is to them as the contractor.

Standard Provisions



- Liability
- Termination of Contract
- Confidentiality
- Default
- Disputes
- Indemnification
- Miscellaneous

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More standard provisions include liability, termination of the contract, the level of confidentiality that's required, what occurs during a default, how to handle disputes, indemnification, which is a protection against loss or outlines how to be exempt from any penalties that occur from executing the contract, as well as other miscellaneous components.

Attachments



- Invoice forms
- Auditing requirements
- Other articles that will be a requirement that did not “fit” or fall into another place within the contract



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There may be many attachments. You need to make sure if you're contracting you understand all attachments and their role in your contract. There can be invoice forms, or auditing requirements, or other articles that will be a requirement that did not fit or fall into another place within the contract. So, in other words, it didn't fit within the boilerplate language and it didn't fit within your scope of work.

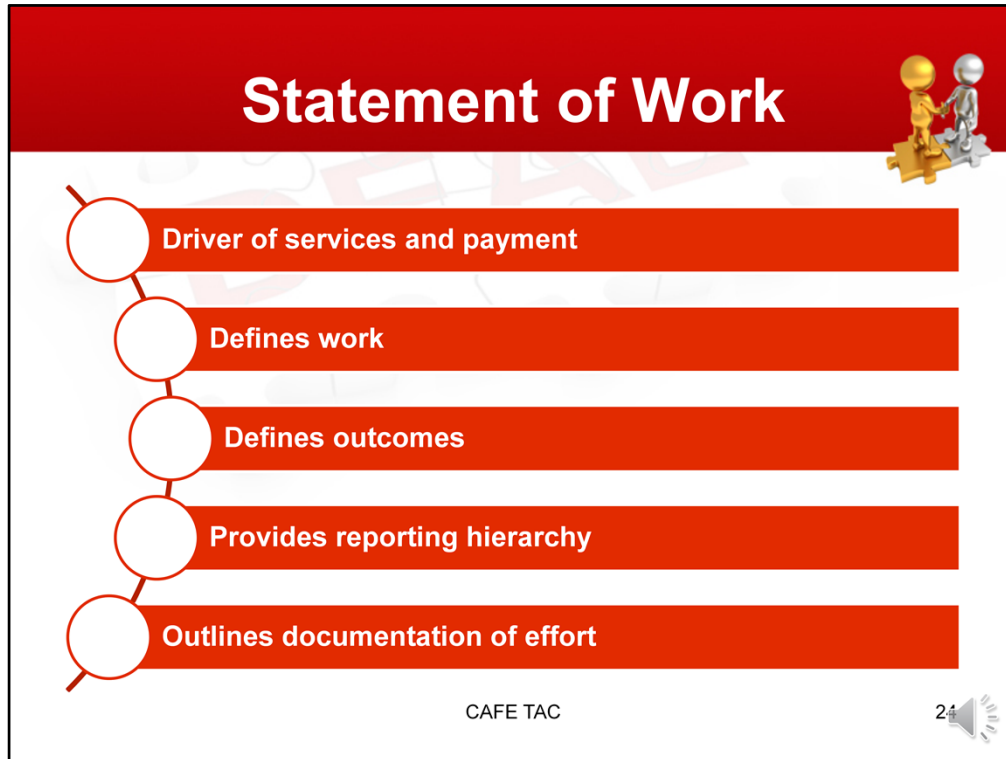
Critical Components



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There are many critical components to a contract that you need to pay close attention to.



Most importantly is the statement of work. This is the driver of all services, and it's what triggers your payment. It defines the work that you're going to do, as well as the outcomes that they expect when delivering that work. It also provides the reporting hierarchy, it may show who your contract manager is, who your contracting officer is, who you go to when you have a question about work or service, and who you go to when you have a question about payment. It also outlines how you're going to document all of your effort, so, in other words, what documentation will be required from you in order to trigger the payment.

Statement of Work Detail



- General Description
- Goal statement
- Definition of terms
- Population to be served
- Manner of service provision
- Service tasks
- Staffing requirements/qualifications

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So within the statement of work there's a general description, so that description talks about why it is that the two of you are contracting with one another. There's generally a goal statement as well as a definition of terms, and in the definition of terms it may talk about how long the contract is for, um, when it's renewable, how you amend it. It also talks about the population to be served and the manner in which the service will be provided. It has the service task listed as well as the staffing requirements, or any qualifications that they require as the contracting entity to you, the contractor, in delivering those services.

Considerations



You should consider the following:

- Clarity
- Scope is defined in increments
- Services are completely defined and measurable
- All reporting mechanisms are defined
- Includes duration & intensity
- Timelines are clear
- There is mutual agreement



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You should consider the following. The clarity – how clear is the contract and the scope of work? Is the scope well defined in increments so that you know exactly what needs to be done and when it needs to be done? Are services completely defined and measurable? How will you know if you've actually completed the service or not? Are all reporting mechanisms defined, and do they include duration and intensity? How long do you provide the service? How deep do you provide the service, or how many services do you provide? Are the timelines very, very clear? And there should be a mutual agreement on all components of the contract.

SAMPLE: Scope of Work



Services to be provided for consumers with mental health disorders:

Objective: To improve the capacity of the XYZ Department to serve the mentally ill.

- The ABC Organization will provide the following services:
 - A newsletter for consumers;
 - Develop support groups for consumers in a variety of rural and urban areas;
 - Host a conference; and
 - Collaborate with the program office on issues related consumer mental health.
- **Payment**
 - The ABC Organization will invoice once a month for expended costs related to the above deliverables.
 - The ABC Organization will be paid no more than \$50,000 for the contracted period.

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Let's look at a sample scope of work. Services are to be provided for consumers with mental health disorders. The objective is to improve the capacity of the XYZ department to serve the mentally ill. The ABC organization will provide the following services. A newsletter for consumers, develop support groups for consumers in a variety of rural and urban areas, and host a conference and, furthermore, they'll collaborate with the program office on issues related to consumer mental health, and through this they will have a payment. The ABC organization will invoice once a month for expended costs related to the above deliverables. The ABC organization will be paid no more than \$50,000.00 for the entire contract period.

What Do You Think?



Clear?

Incremental?

Reporting Requirements?

Duration & Intensity?

Timelines?

Activities?

Products?

Payment?

Other?

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So what do you think? Was it real clear? Was it incremental? Did it show the reporting requirements? Was there clear duration and intensity and timelines? Do you know exactly what activities they're expecting? What about the products? And is the payment clear? Are there other things that we should be concerned about?

Better...



Services to be provided for consumers with mental health disorders:

Objective: To improve the capacity of the XYZ Department to serve persons with mental health needs.

- The ABC Organization will provide the following services:
 - Write and disseminate quarterly (4) electronic newsletter for consumers of program services that discusses opportunities of consumer involvement across the state;
 - Develop 4 support groups for consumers in rural and urban areas with populations of less than 4,000;
 - Host a 1 day conference in a central location in the state for a minimum of 100 consumers of mental health services;

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Maybe this is a better way to say it. Services to be provided for consumers with mental health disorders, to improve the capacity of the XYZ department to service persons with mental health needs using first-person language. The ABC organization will provide the following services. Write and disseminate quarterly, four times, electronic newsletter for consumers of program services that discuss opportunities of consumer involvement across the state. Well that's pretty clear. You're going to do four letters, you're going to send it out to the people that are served, and it's going to talk about consumer involvement. Develop four support groups for consumers in rural and urban areas with populations of less than 4,000. So there you go. You know exactly how they define a rural and urban area. You know how many support groups you're going to provide. And, finally, host a one-day conference in a central location in the state for a minimum of 100 consumers of mental health services. So you know now that it only has to be a one-day conference, where it's going to be located, and how many people they expect you to serve at the conference. I think that's much more clear.



- Meet with the program office quarterly (4) to discuss issues related consumer mental health, and
- Provide monthly reports (12) that includes the status of each activity, outcomes, and challenges encountered as well as documentation of each deliverable.

- **Payment**

- The ABC Organization will invoice on the 5th of each month for \$4167 with the Monthly Report.
- The XYZ Department has 5 days to approve or disapprove the Invoice and Report.
- The ABC Organization will be paid within 14 days of Departmental approval.

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And then they go on, meet with the program office quarterly, four times a year, for the purpose of discussing issues related to consumer mental health. And, finally, they're asking for you to provide 12 monthly reports that include the status of every activity, the outcomes, any challenges you've encountered, as well as documentation of each deliverable. So it appears that it's pretty clear about what they want and how they're going to measure you. And then the payment. The ABC organization will invoice on the 5th of each month for \$4,167.00 with the monthly report. The XYZ department has five days to approve or disprove the invoice and report. The ABC organization will be paid within 14 days of department approval. So this is pretty easy. By the 5th you have to send in the invoice with a monthly report; same amount every month. And then the department has only five days to approve or disprove the invoice, and then the organization will be paid within 14 days of the departmental approval, so you can pretty much expect that you're going to be paid, if there's no problems, within 19 days of sending in your invoice. So if you send it in on the 5th, you're probably going to have your payment by the 25th of the month.

Budget Development



- Budgets are critical in driving the management of the contract and must be:
 - Detailed
 - Justified
 - Realistic
 - Visionary
 - List ALL potential costs and assign a budget category



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Budgets are critical in driving the management of the contract, and, just like the scope of work, they must be detailed, justified, realistic, visionary and list all potential costs and assign a budget category.

Compensation & Invoicing



- Invoicing must correlate to the contract
- Compensation cannot fall outside of payment in contract
- Invoicing must match contract type
 - Deliverable based
 - Hourly
 - Fixed price

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Your invoicing must correlate to the contract. You cannot invoice in a way that's not outlined in the contract. It will be bumped back. Compensation cannot fall outside of the payment in the contract as well without an amendment or negotiating a new contract. For example, it would not be possible for you to consider that you need \$5,000.00 when the contract says that you can only bill for \$4,000.00. You cannot bill for \$5,000.00 and expect a payment unless that is renegotiated, and your invoicing must match the contract type. If your contract type is deliverable based, then that's how you invoice. If it's hourly or fixed price, you have to invoice that way as well, so make sure that the way that you invoice, no matter how you've done it in the past nor how you do it with other entities, has to match the contract type for this particular invoice.

Reimbursement Methods



Fixed Price

Cost
Reimbursement

Performance
Based (Fee for
Service)
Contracts

Hour Contracts

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So fixed price, cost reimbursement, performance base, fee-for-service contracts and hourly contracts are the most common types of payment methods that are written into contracts.

Fixed Price



- **Pre-established price for an agreed upon set of services**
 - Designed to fund a total amount of work,
 - Payment schedule can be divided
 - Deliverables can drive the payment
 - Not based upon hourly or documentation invoices
 - Amendment necessary for increases

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A fixed-price contract is a pre-established price for an agreed-upon set of services. It's designed to fund a total amount of work, not every activity required to produce the outcome. For example, it may be a fixed-price contract for \$5,000.00. It pays \$5,000.00 for a newsletter no matter what the cost to develop the newsletter is. The payment schedule can be divided, for example, into five equal payments of \$1,000.00, and the deliverables can drive the payment. The newsletter could be submitted five times a year with the invoice and you would get \$1,000.00 each time. This is not based upon our earlier documentation of services. An amendment would be necessary for any increases. As we discussed earlier, it could cost you more to design and produce the newsletter than \$5,000.00, but as a fixed-price contract you cannot bill for more than that. So you would have to go back and renegotiate the price and put an amendment on the contract in order to bill for more money.

Cost Reimbursement



- **Payment is based upon receipts and documentation of cost**
 - Reimbursement is equal to expenses
 - Less likely to lose money
 - Requires careful tracking/documentation of expenses
 - Meets the outflow of cash
 - Cash flow delays (can increase the need for investment while awaiting reimbursement)

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Now, cost reimbursement payment is based upon receipts in a documentation of costs that have already been incurred. The reimbursement equals the expenses. You're less likely to lose money this way, but it does require careful tracking and documentation of all expenses. You will have to keep track of receipts and anything else that they require to prove that you incurred the expense. It definitely helps you meet the outflow of cash, but there can be some cash flow delays, and this can increase the need for investment while awaiting reimbursement. For example, you may have paid for a conference and the conference may have cost you \$15,000.00, but then you'd have to gather your receipts, submit it in an invoice, wait for it to be approved, and you may not get paid for another 30 days. Can you produce \$15,000.00 out of your budget that you have right now and wait 30 days for that to be given back to you?

Performance Based Fee for Service



- **All payments are based upon documentation of pre-agreed performances or deliverable**
 - Allows control of cash flow to a certain extent
 - Could be a risk if performance or deliverable is not satisfactory
 - Can require up front investment while awaiting deliverable approval and reimbursement

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Performance-based or fee-for-service contacts are based upon documentation of pre-agreed performances or deliverables. It allows the control of cash flow to a certain extent. It could be a risk if the performance of the deliverable is not satisfactory and they bump it back, and it can require some up-front investment while you're awaiting the deliverable approval and reimbursement.

Hour Contracts



- **Invoicing is for every hour of service**
 - Usually for flat consultation fees
 - Work is usually for a set services, not a product
 - May or may not include other related expenses such as travel

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Hourly contracts invoice for every hour of services. This is usually the kind of contract used for consultation fees. The work is for a set of services, not a product, and it may or it may not include other related expenses such as travel. An example might be that you're being asked to provide technical assistance to a consumer-run organization in a very rural area. The entity contracting with you is willing to pay you \$50.00 an hour with appropriate documentation to provide the service.

Other Mechanisms of Pay



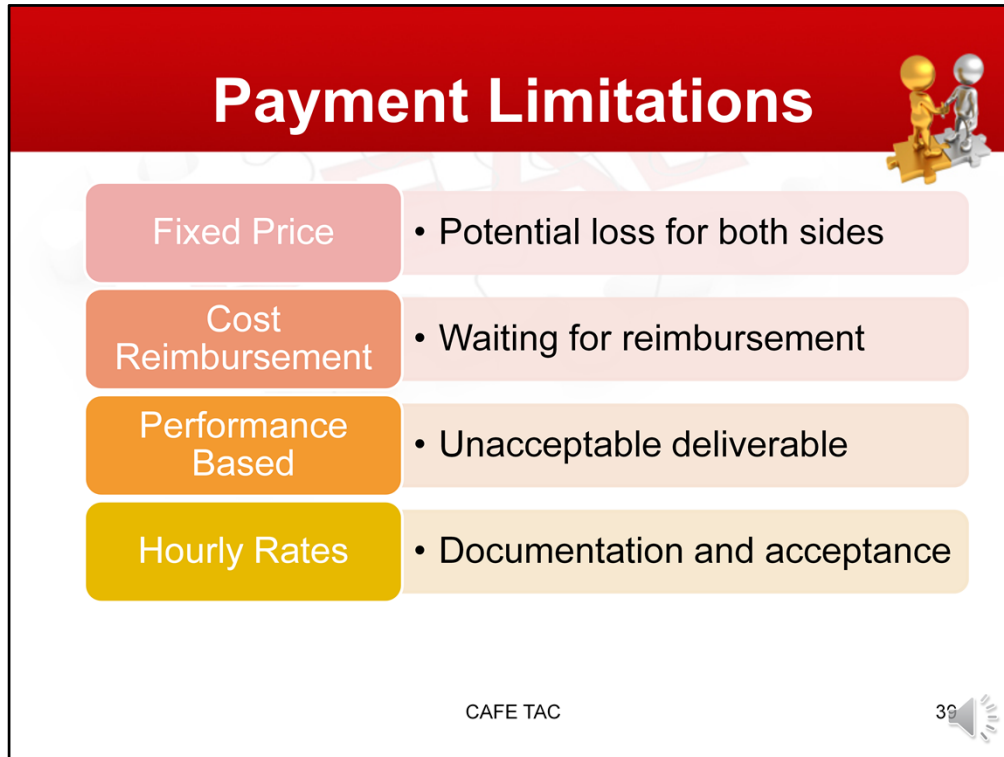
- Letter of Agreement
- Oral agreements
- Purchase orders



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There are other mechanisms of pay. There might be a letter of agreement which is a little different than a contract, just saying this is what we want you to do and this is how we want you to do it. There are oral agreements. Somebody can tell you that they want you do something and just do it verbally, and you can take it on as a project; and then there are purchase orders, and many states and government agencies use purchase orders instead of contracts for anything that's to be done for under a certain amount of money. So, for example, if they want you to do something and it's for less than \$25,000.00 they may opt to go for a purchase order rather than a contract.



So we can see that all options do have some limitations. With a fixed price there is the potential for loss for both sides. You're taking a chance on the fact that it is going to cost you a set amount of money to provide a certain deliverable or service. An entity that is negotiating with you or contacting with you, they're accepting the fact that that's the amount of money that it's going to cost them to have you do it. It doesn't matter that if it costs more or less, no matter how much it cost to produce it, that is the amount that you both agreed upon that you will be paid. With cost reimbursement you may have to wait a lengthy time for reimbursement. It may take awhile, so your company, your organization, is going to be investing a certain amount of money and then awaiting payment for it. Performance-based contracts always have the potential for an unacceptable deliverable that you will have to do over, and maybe over, and maybe over once again until it's accepted by the entity that has requested it; and then with hourly rates, you have to keep detailed documentation in the manner in which the contracting entity has requested, and then that documentation has to be accepted. It is very possible that you document well, submit for a service that you provided and they come back and say I'm sorry, that service was not a part of what we requested in our contract, and then you're hung out there not being able to recapture that amount of money.

Contracting Safeguards



How can you
protect your
organization when
contracting?



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So how can you protect your organization when you're contracting? How can you protect yourself from some of the risks?

Consumer Driven Payment

- Consumer driven payment options
 - Does not pose a risk for the organization
 - Defined timelines
 - Limits investment



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A good way to safeguard your contracting practices is to make sure that all payments are consumer driven. Consumer-driven payment options do not pose a risk for the organization that they cannot handle. For example, they won't ask the organization to put out a large amount of money and then await for a long period of time for that money to be paid back to them. Most organizations, depending upon their size, do not have the budget that allows them to put forth \$10,000.00-\$20,000.00 and then wait two or three months for that to be paid back to them. The consumer-driven payment also has defined timelines. So it's very, very clear to all parties exactly what's expected, when it's expected and how long it will take to get approval and payment, and again, it limits that investment that the organization is going to have to put forth in order to do the job.

References



- Attach all statutes and references
- Understand implications
- All and everything that is considered a part of the contractual understanding **MUST** be attached



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All statutes and references should be attached to the contract, and all parties should understand their implications: what they mean to the contract, what they mean to the entity contracting with the organization and what they mean to the organization itself. All and everything that is considered a part of the contract must be understood and attached. This ensures that there are no surprises. This ensures that the organization and the contacting entity have agreed upon every single component of the contract.

Defining Terms



- Mutual understanding of terms
- Define in writing
- Eliminate and close open ended terms, such as “in a reasonable period of time”

Understand

Define

Close

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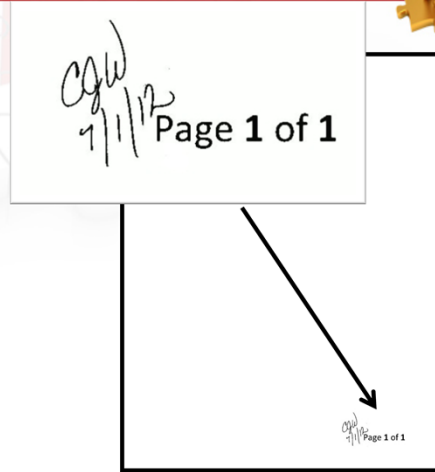


So when defining terms, you have to have a mutual understanding of the terms. You have to understand them in a way that allows you to have a conversation and execute the contract in the way that the agency, program or organization expects you to do it. All terms should be defined in writing. Eliminate and close open-ended terms such as in a reasonable amount of time. Well, exactly what is a reasonable amount of time? So, is it 30 days? Is it 45 days? Is it 5 days? So what's reasonable to you might be entirely different for them.

Number and Initial Pages



- Put number of pages and page number on each page
- Date and initial each page



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So another thing that you can do to protect yourself is number and initial each and every page down on the bottom. This helps in case say they're carrying your contract back to put it in the file and they drop it, and one of the pages gets lost, and it could be a critical page, it could be an important page of safeguards, it could be an important page of requirements. So this way you've numbered and identified that you have received and read every page in the contract.

Terms



- Terms can be:
 - Renewed
 - Renegotiated
 - Amended
- All terms should:
 - Be well defined
 - Include closure requirements
 - Detail renegotiation periods and options
 - Discuss price adjustment options

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Make sure that you understand the terms. You know, terms can be renewed, renegotiated or amended. All the terms in the contract should be very well defined. They should include closure requirements. For example, at the end of the contract what are they going to do? Are they going to do an audit? Is it going to be a desk audit? Do they monitor? Are they coming out to look through your records? Make sure that when the contract closes that you understand exactly what they're going to do to close that contract. The terms should detail renegotiation periods and options as well as discuss price adjustment options. So for example, the terms of the contract may be a fixed-price contract for \$100,000.00, but there should be a clause in there for what they need to do if they need to renegotiate this price.

Prepare for Hidden Costs



- Proposal preparation
- Administrative overhead
- Audits
- Accounting
- Liability insurance
- Others



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You also want to prepare for hidden costs, costs that you often do not think about. For example, whenever you have a contract you had to prepare something. So the proposal preparation should be considered and thought about. Administrative overhead, how much is it going to cost you to do the paperwork, to have the administration available to do the things that need to be done in order to bill, in order to execute the contract, in order to supervise? Audits, is there an audit inclusion within the contract? Does it require an audit? How are you going to pay for it? Accounting, certainly you want to accommodate accounting as a line item in your budget so that you can actually receive the money and pay the people that you need to in order for you to meet the contract obligations. Liability insurance, look very closely throughout the contract. Does it require liability insurance? How much? Someone has to bear the burden of that cost, and there may be many other things. You should sit down, think about all the different things that are going to cost you time, money and resources associated with executing the contract, and those kinds of things have to be paid for from someplace.

Components for Success

1	• Developmentally appropriate
2	• Consumer driven payment options
3	• Attach all statutes and legal references
4	• Define terms
5	• Number and initial all pages with dates
6	• Annual review and feedback
7	• Detailed Scope of Work
8	• Pathways of accountability

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So what are the components for a successful contract with a consumer-run organization? Well first of all, it has to have developmentally-appropriate expectations. You have to have the capacity to actually accomplish what it is that they're asking you to do. There needs to be a consideration of consumer-driven payment options. It should not cost you a large investment of money in order to accomplish the goals and objectives. All statutes and legal references should be attached so that you understand what your real obligations and requirements are. Terms should be defined in a way that both parties can agree upon what they mean. You should number and initial all pages with dates so that if anything happens to a page or if anything from another contract accidentally gets slipped into yours you'll know that it was not part of your original contract. There should be an annual review and feedback on how the contract is working, looking back at how the payments went, how the deliverables were done, and seeing if any adjustments need to be made before the next year. There should be a very detailed scope of work. Every line, every expectation should have a number in it. They should be very clearly defined of exactly what it is you're being asked to do, and there should be clearly outlined pathways of accountability. In other words, you should know exactly what they expect you to do and how you're going to prove to them that it was done.

Common Mistakes in Contracting



- Not developing a first draft
- Not including explicit payment terms
- Not including EVERYTHING in the deal
- Making assumptions
- Not paying attention to boilerplate terms
- Not negotiating all important points
- Not knowing when enough is enough
- Not building strong relationships

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Some common mistakes in contracting include not developing a first draft. If you develop a first draft and take some time to look it over and see if you can live with it, it gives you an opportunity to make edits, suggestions and actually negotiate changes. Another mistake is not including very explicit payment terms, and not including everything that's in the deal. So there can be nothing that's verbal. You shouldn't sign a contract where you have been told well don't worry about that, we'll take care of that later. Never make any assumptions when contracting. Everything is legally binding and should be written down. Pay very close attention to boilerplate terms. Just because it's the boilerplate and it's in all contracts that they write does not mean that it couldn't have something in it that could negatively impact your organization. Negotiate all important points. Just because your handed a contract does not mean that it cannot be changed, but it must be changed before signing or else it will have to be amended. Another common mistake is not knowing when enough is enough. You need to know when you can perform the contract and when you cannot. If they're asking for you to do too much and it's just more than your organization can produce, you need to say no, and another common mistake is not building strong relationships with the people you're contracting with. Now, I didn't say friendships, I said relationships. These folks, whether you're friends on the outside or not, are not your friends when it comes to contracting. This is a legally-binding instrument. This is business, so you want to build a strong business relationship with them.

Common Mistakes in Management



- Not periodically reviewing the contract
- Not using the statement of work as the basis for a work plan
- Not staying in touch on a predictable and regular basis
- Paying for non-budgeted expenses
- Not understanding unallowable expenses
- Not understanding and following payment terms

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Another common mistake in contract management is not periodically reviewing the contract. Just like a good movie that you watch over and over again and each time you watch it you see something you didn't see before, well reviewing the contract is the same way. I guarantee that every time you read the contract you'll find something that you swore wasn't in there before. Another mistake is not using the statement of work as the basis for a work plan. You should develop a work plan based on the statement of work to drive, monitor, measure and hold you accountable for all of the work that you're supposed to be doing. Not staying in touch on a regular and predictable basis with your contract manager or the entity that you're contracting with can be another mistake. You don't want to wait until there's a problem to contact them. You need to remember that they're there for a specific reason. They're there to help make sure that the contract is successful. That's their job. They want the contract to be successful. So when you run into problems or have questions you need to get in touch with them. Another common mistake is paying for non-budgeted expenses. So if you take money out of this budget in this contract for things that you did not budget in, you will eventually run out of money. You should also make sure that you understand all unallowable expenses. If you're monitored or audited it is very possible, no matter what kind of contract you had, if you paid for something that you weren't supposed to pay for they will ask for the money back, and you need to make sure that you understand and can follow all of the payment terms, not part of them, not the way that you used to do it, not the way that you did it for other entities, but the way that this contract actually describes that you're going to do it.

Common Mistakes in Management, continued



Not being prepared at **ALL** times for a full audit or monitoring

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Probably the biggest common mistake that you might see in contract management is not being prepared at all times for a full audit or monitoring. This doesn't matter if it's your first month or your last month of the contract. You need to be ready for them to come in and look at the way that you've executed this contract, every piece of it, boilerplate language, scope of work, payment terms, budget. Be ready at all times to prove that you have complied with every component of the contract.



So to manage your risk have all contracts reviewed. You might be able to use someone on your board or someone working with your organization who has an expertise in contracts, maybe a lawyer or an accountant, or you may want to hire someone to specifically review your contracts on an annual basis or before you sign them. Ensure that everyone understands the contract in its entirety, both the people you're contracting with and yourself. Don't assume that because they wrote the contract or because they're providing the contract for you that they understand it. Review the contract with all parties affected. So if you have people on your staff that will be implementing pieces of the contract make sure that they understand the contract as well. Refer to the contract often when you're managing the project. Go back and double check that you're doing things the way that you're supposed to. Play every possible outcome and prepare for any negative impact that it might have. Look at the contract and think to yourself, well if we did this this way and this happened, what would we do? Make sure that you're well prepared for everything, and develop very clear and concrete work product expectations. Know what it is that you're supposed to do, how you're supposed to do it and when it's to be provided. Make sure that there's unanimous agreement with the people contracting with you that that's the way it's supposed to be done as well.



And there's more you can do to manage your risk in contracting. Everything that is attached or mentioned in the contract needs to be considered a part of your obligations. You need to outline all deliverables before signing. Make sure that you know exactly what it is that they're asking you to produce. Examine all of the risks, like failure to comply, default, termination of contract. Make sure that you know exactly what it is you have to do and what opportunities you will be afforded should you fail to comply in a manner in which they request. Project all of those up-front dollars that will be required. Make sure that it won't cost you too much money to execute the contract that you will not get payment for, and make sure that you understand and comply with all auditing and monitoring requirements. If at all possible if they say that they may monitor you ask them to attach the monitoring tool as a part of the contract so you can be sure of exactly what it is that's being expected of you.

In the End...



**At the
close of
every
contract
or grant**

- Review what worked
- Review what did not work
- Make an outline of lessons learned and positives-negatives
- Attach to the front of the closed contract or grant
- Use as a tool and reminder for the future

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At the close of every contract or grant review what worked. Learn from it. Review what did not work. Don't do it again. Make an outline of all the lessons that you learned and the positives and negatives associated with each of them. Attach to the front of the closed contract or grant all of the things that you think could make this a better contract. It will either help you the next time they contract with you or maybe help someone else. Use this as a tool and a reminder for the future on how you can make contracting with other entities a more enjoyable and successful experience for you, your organization and the people that you serve.

In Closing



Contracting is a way for organizations to sustain themselves through accountable practices.



Contracting outcomes are directly proportional to knowledge, capacity, and relevance.



Contracting, no matter who it is between, is a business arrangement.

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In closing, contracting is a way for organizations to sustain themselves through accountable practices. Contracting outcomes are directly proportional to knowledge, capacity and relevance. Contracting, no matter who it is between, is a business arrangement.

Post Training Evaluation



Please take a moment to participate in our Post Training test so we can measure how much you have learned!



Pause the presentation, then click the link below.



We'll thank you for spending this time with us to discuss contracting in consumer-run organizations. Please take a moment to participate in our post-training test so we can measure how much you have learned. Please click on the link below and take the test, and then you can return.

<http://www.surveymonkey.com/s/contracting-post-test>



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The Café TAC is supported by SAMHSA to operate one of its five national technical assistance centers; providing technical assistance, training, and resources that facilitate the restructuring of the mental health system through effective consumer directed approaches for adults with serious mental illnesses across the country.

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Welcome back and thank you so much. The Café TA Center is supported by Sansa to operate one of its five national technical assistance centers providing technical assistance, training and resources that facilitate the restructuring of the mental health system through effective consumer-directed approaches for adults with serious mental illness across the country. We appreciate you taking the time to be with us today, hope that you've gained some information that will help your organization or yourself participate in restructuring this mental health system so that it is more responsive to the people that it serves. Thank you.