

Appendix F: Procurement Guide

Procurement components establish the contractual foundation that protects your agency, ensures accountability, and maintains compliance throughout the system's lifecycle. Contracts should include the terms outlined below before execution.

Level 1: Core Contract Components for All Systems

System Requirements and Specifications

- + Clearly define the problem the system should address
- + Define requirements for integration with existing systems

Performance Standards and Metrics

- + Require vendors to propose metrics for evaluating success
- + Specify accuracy, reliability, and consistency requirements

Evidence and Validation Requirements

- + Require documentation of system testing and validation
- + Require disclosure of any known limitations or failure modes
- + Request case studies or references from criminal justice implementations

Transparency and Explainability

- + Require documentation of how the system works
- + Demand plain-language explanations suitable for non-technical stakeholders
- + For complex systems, require capability to generate case-specific explanations
- + Specify access rights for auditors and oversight personnel

Data Governance and Privacy

- + Define what data the system will access and process
- + Establish data ownership clearly (agency retains ownership)
- + Specify data retention and deletion policies
- + Establish security and encryption standards
- + Require compliance with relevant privacy laws and regulations
- + Require vendors to disclose contractual and technical controls that prevent foreign government access to sensitive data
- + Define data breach notification and redress protocols
- + Vendor must certify it will NOT train models on agency/community data without explicit written consent
- + If any data sharing is permitted, vendor must anonymize data per industry standards (k-anonymity, differential privacy, or equivalent)
- + Agency retains right to audit vendor data practices

Bias Testing and Fairness

- + Require evidence of bias testing across demographic groups where relevant
- + Specify fairness metrics appropriate for your context
- + Require disclosure of any known bias issues and mitigation strategies

Human Oversight and Override

- + Specify that human operators must be able to override system recommendations
- + Require documentation of how human oversight will be facilitated

Training and Support

- + Specify vendor responsibilities for initial training
- + Require ongoing no-/low-cost training resources for the life of the contract
- + Require training for new staff and refresher courses for existing users
- + Establish technical support requirements and response times

System Changes and Updates

- + Mandate notification for any system changes
- + Require re-validation after updates
- + Include the right to refuse updates that change risk profile

Liability and Indemnification

- + Require vendor to accept liability for system errors or failures
- + Include in contract a clause requiring the vendor to indemnify the agency for civil rights violations caused by the system
- + Specify that the vendor must certify compliance with all applicable nondiscrimination laws

Termination

- + When additive, the contract must include a clause allowing you to terminate the contract for convenience, performance failure, or rights concerns

Level 2: Additional Contract Components for Substantial-Risk Systems

Enhanced Validation and Testing

- + Require independent validation of performance claims
- + Specify pilot program requirements and success criteria

Enhanced Rights Protections

- + Require legal review of system impacts on due process and equal protection
- + Specify how individuals' rights to challenge decisions will be preserved

Community Engagement Support

- + Require vendor participation in community meetings and explanations
- + Specify vendor obligations to address community concerns

Enhanced Auditability

- + Require algorithm transparency, with appropriate intellectual property protections
- + Establish audit rights for independent experts