



# **Signing the Contract**

## Knowing the Value Exchange

### What You'll Learn in this Chapter

- weighing intangible benefits
- setting your rate
- understanding contracts

Before you ever sign a contract, it's important to know the value of the work you're doing for a client. This means you need to determine the tangible and intangible benefits of working for that client and what you're prepared to give in exchange.

During the interview and in any sessions or meetings that follow, you'll get a sense of what the position demands of you. This evaluation will help you decide if you want to pursue an opportunity further. Ask yourself, "What do they have to offer and what can I offer in return?". Remember, money is only one component.

Other benefits include:

- working for your utopian company
- experience in a new technology
- exciting professional challenges
- jobs in a new industry
- the chance to work with a mentor or in a great project team
- a unique work environment
- working close to home to reduce the commute
- a long-term, secure commitment

### Setting your Rate

While you can set your own rate, end rates are inevitably decided by the client—they know what they want to spend.

You can use the rate you billed on your last contract, or the rates you know are billed by your peers. Rates go up and down all the time with supply and demand, so you should try to get a sense of how many candidates your client has to choose from. It is also reasonable to bill a higher rate for shorter term contracts and a lower rate for longer term contracts. You are trading rate for security.

### See these web sites for information about salaries

[www.kforce.com](http://www.kforce.com)  
[www.myjobcafe.com](http://www.myjobcafe.com)

When working through an agency, they work with you to establish a rate for the client before they call you to see if you're interested in the job. The agency may then ask to adjust your rate depending on the client feedback.

Consider the following factors when determining your rate:

- What was your rate on previous, similar contracts?
- Does the new project involve greater responsibility or management?
- Will you be required to work extra hours and on weekends to meet project deadlines?
- Were other qualified professionals interviewed for the project? The more candidate choices the client has, the less pressure they feel to pay top rates.

Search the Internet, or check the newspapers and professional journals to get an idea of the industry standards for the kind of position you're offered. Contact professional societies in your industry and ask if they keep statistics on how much someone with your expertise should be making.

The easiest and best method to determine a rate is to ask around. Find out what your peers are currently making. Do this when you're networking. Just remember that your peers may exaggerate their rate—in any industry, everyone wants to be seen as the most successful and that's generally gauged by who makes the most money.

You should establish for yourself two rates:

- Your walk-away rate—this is the least amount you can accept.
- Your ideal rate—this is the amount you would like to make and you feel is reasonable for someone with your skills and experience.

*Always know your walk-away rate before you even get to the contract stage.*

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Before you sign anything, make sure that the offered rate is what you negotiated and understood it to be. Once you sign and accept the terms, stick to your rate. *It is highly unprofessional, and damaging to your reputation, to ask for a rate raise during a contract term.* Stick to the agreed term and wait for the contract to expire. If the client asks for an extension, then renegotiate your rate. It is good business courtesy to forewarn your client that you want to increase your rate at contract extensions.

## Signing the Contract

See these web sites for information about creating contracts

[www.contractedge.com/index.asp](http://www.contractedge.com/index.asp)

[www.realrates.com](http://www.realrates.com)

Almost every agency or client has a standard contract everyone signs. They don't want to increase administrative complexity by creating numerous variations of standard contracts to suit every contractor and position that comes along. If there is anything extremely objectionable, ask if it can be altered.

*Never start work without a contract because the door is wide open for the client to say, "I thought you were going to do that for free."*

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The contract is designed to protect the client, define the terms of the engagement, and to protect you. The simpler it is, the easier it is for everyone involved to understand, complete, and sign, so they can get on with the job.

### Understanding the Contract

Usually, you'll be asked to sign a contract and a confidentiality agreement. These may be separate documents, or they may be in a single document. The confidentiality agreement usually has more to do with the protection of the client's intellectual property, while the contract contains all the basic details and terms about the project and your position.

All contracts have the same elements:

- legal names
- rate
- specific contractor clause
- invoicing terms
- expense clause
- non-compete clause
- term
- termination clause
- billable hours clause

## Legal Names

This portion of the contract identifies:

- The client's name—The legal name of whoever is paying you. This could be the company who is hiring you to do the work or the agency through which you were hired.
- Your name—Either your given name and surname, or your company's name if you're incorporated. If you are incorporated, it is important that the contract be between the client and your company, not you personally.

## Rate

The contract should also state how much you'll be paid. This eliminates surprises for the client when you send them an invoice and for you when they send you a check. Make sure that you're getting what was agreed upon earlier.

If there are additional taxes, GST, or provincial or state taxes, make sure the rate clause says whether your rate is inclusive or exclusive of all applicable taxes. Most contracts should state the rate exclusive of all other taxes.

For tips about establishing your rate, see *Knowing the Value Exchange* on page 85.

## Specific Contractor Clause

This portion identifies who will be doing the work—you. This is included in the contract for the client's protection, in case you are offered another contract and you decide to let your cousin Ralph take your place on the contract you already signed.

If you're incorporated, the contract is between two companies, and this clause assures the client that you are your company's representative for all work done.

### **Invoicing Terms**

This portion defines how frequently you invoice the client and whether you invoice them at the start, middle, or end of the month. This term may also specify the format in which your invoice should be delivered. For example, one client may accept electronic invoices in Microsoft Excel while another will accept only printed invoices. The client may also have their own standard invoice forms they want you to complete.

This clause also says when you get paid: in one week, 30 days, or on demand.

### **Expense Clause**

This clause defines valid expenses, whether expenses must be pre-approved, limits for expenses, and the frequency with which you'll be reimbursed for out-of-pocket expenses. For example, you may have to wait 15 or 30 days after submitting an expense invoice before you are reimbursed. It should also identify who is responsible for approving and reimbursing your expenses.

### **Non-Compete Clause**

This clause defines the period for which you cannot work for a client's direct competitors. Typically this period is six months. Any period longer than six months is unrealistic and difficult to enforce.

If this term is too long, it can limit your ability to earn a living.

### **Contract Term**

This term specifies how long you work for the client. This can be stipulated by one of the following:

- The total amount of hours.
- The start and end date.
- The number of weeks or months.

When you sign up for a project, think about the term. If you are unsure about the client or project, initially sign up for a term of three months or less. If you are very comfortable with the client and the project and want the security, sign up for six months or one year.

Once you commit to a term, it is expected that you will stay for the duration of your contract.

*One of the worst things you can do after signing a contract is to abandon the project before the term ends and before your deliverable is complete.*

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### **Termination Clause**

This clause defines how both you and the client can terminate the contract, including whether the termination should be verbal or written, and the period of notice after which the termination becomes effective, for example, five days.

### **Billable Hours Ceiling Clause**

This clause specifies the number of hours for which you can invoice in a given period. For example, you may be able to invoice for only 160 hours per month even if you work 180 hours. Pay special attention to this portion of the contract. Make sure the hours permitted are reasonable within the project deadlines. Also, make sure you are not signing up for a fixed-cost commitment, but are signing an agreement for your personal services on an hourly rate. However many hours the client directs or requires you to work is what the client is responsible for paying for.



## **Understanding the Confidentiality Agreement**

Most places ask you to sign a confidentiality agreement. This agreement is designed to protect the client by preventing employees and consultants from sharing private client information, including processes or information developed in-house. This clause also prevents employees and consultants from profiting using private information they learn while on a client site. For example, if during your contract you learn that your client is about to take over a company and that the stocks of the newly acquired company will skyrocket, you can't then go and purchase shares in that company or tell anyone else to purchase shares in that company.

You also can't take code or designs you were paid to develop and reuse or resell them without permission from your client. The confidentiality agreement must define what is considered confidential information.

## **Being Sure Before you Sign**

If you're uncertain about the ramifications of terms or clauses in a contract and the client is unable to clarify them to your satisfaction, ask the client if you can review the contract for 24 hours. If the client agrees, seek counsel with someone who is knowledgeable about contracts. A contract is really a detailed formal listing of your agreement and shouldn't be seen as an obstacle.

## Looking for Red Flags

A red flag is something in a contract that strikes you as odd, unclear, or inappropriate. For example, a red flag might be a clause requesting that you only submit one invoice at the very end of the contract, a non-compete clause of more than six months, or unrealistic conditions about what is billable. Use your common sense.

Clear up any red flags before you sign the contract.

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Now you know how to set your rate and what to expect in a typical contract, proceed to *Working on the Project* on page 97 to learn the importance of planning your time and getting on board with your project team.

## Frequently Asked Questions

**Q** How do I determine my market value?

**A** You can check several sources to determine your market value:

- Compare the rate for this position to how much you made on previous, similar contracts.
- Consult your peers.
- Contact a professional society in your area.
- Check the Internet.
- Be aware of current supply and demand constraints on your skillset.

**Q** Do I have to sign a contract if I'm uncomfortable with its terms?

**A** No. If you feel suspicious about a contract or are unclear about something and the client is unable to clarify it for you, ask if you can review the contract for 24 hours. If the client is honest, they should have no problem with that. Never sign if you are uncomfortable. There is always another deal.

**Q** How long is a typical non-compete clause?

**A** The typical term for a non-compete clause is six months. Anything longer than that is difficult to enforce as it severely restricts you from earning a living.

**Q** What do I do if I'm offered a new contract by a competitor?

**A** Generally, stick to your original client and assignment; it costs the client time and money to train a new person and existing clients are your best source for new work. You want them to remember you as reliable and committed to them. If the new contract is for more money or offers new skills or technologies, mention it to your current client and give them the opportunity to match the offer.

