

Contract Management Policy



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Chapter 1 Policy

Part 1 Purpose

The purpose of this policy is to confirm Council’s standards and expectations for contract induction, monitoring, supervision, performance assessment, variations, extensions, and customer satisfaction.

Part 2 Applicability

This Contract Management Policy applies to the management of contracts over \$150,000. Contracts under \$150,000 are covered under the **Sustainable Procurement and Contracts Policy**, including, but not limited to contracts for the supply of products, works and services, but excluding employment contracts and non-binding memoranda of understanding.

The Policy is subordinate to Council’s Sustainable Procurement and Contracts Policy and is complemented by Council’s Tendering System.

This policy is to be read in conjunction with the Contractor Work Health and Safety (WHS) Management Policy and Procedure.

Part 3 Outcomes

To ensure that there is accountability in contract management and to deliver high quality products, works and services by generating strong contractual relationships based on clear performance expectations.

Part 4 Definitions

Term	Meaning
CFO	Chief Financial Officer
Council	Glen Innes Severn Council
Designated Officer	The Council Officer who has been assigned responsibility, by the Department Manager, to supervise the contractor and monitor the contract.
Tendering System	Arcblue Procurement and Contract Management Framework

Part 5 Roles and Responsibilities

1. Director

The Director has ultimate responsibility for the contract regarding planning and budget.

2. Department Manager

The Department Manager is responsible for budget management and for allocating a Designated Officer to supervise the contract.

3. Designated Officer

The Designated Officer has responsibility for supervising the contractor and monitoring the contract daily. The Designated Officer may be the Department Manager. The Designated Officer may be the Project Manager. The Designated Officer shall consult with engineering, finance, asset staff and the Department Manager as required.

4. Management of Contracts

Each contract shall have clearly defined and specified contract objectives and a designated Council officer shall manage the contract and monitor the performance of the contractor to ensure delivery of the contractual objectives and realisation of the contractual outcomes.

The designated council officer (Designated Officer) means the officer allocated by the department manager with responsibility for supervising the contractor and monitoring the contract.

Council's Purchasing and Supply Officer has responsibility for coordinating the tendering process including documentation and the contract register.

The Council Department Manager has budget responsibility for the contract.

Part 6 Management of risks

Management of risk is an inherent aspect of contract management. Risks may include:

- Failure (of either party) to comply with the conditions of contract,
- Inadequate monitoring and supervision,
- Unauthorised changes to the contract, including failure to approve variations and extensions,
- Loss of intellectual property and breach of confidential information,
- Changes in scope, personnel, and technology,
- Fraud and unethical behaviour, including failure to disclose conflicts of interest, and
- Lack of properly maintained documentation.
- Failure to comply with Councils WHS requirements

Contract management requirements increase as the value, risk and complexity of a contract increases. The Department Manager, through the Designated Officer, shall be responsible for managing risks and shall seek appropriate professional advice at an early stage where insurance, legal or governance issues arise. Further, the Department Manager should utilise Council's Governance Suite, Risk module, to enter the project as a risk, then assess that risk. Contract management will form a control within that risk.

Part 7 Policy Statement

This Policy shall be binding upon Council staff, contractors, consultants, and agents while performing any work for Council. This policy applies in conjunction with the Sustainable Procurement and Contracts Policy, Grants Management Policy and Procedure, Contractor WHS Management Policy and the Contractor WHS Management Procedure.

Contract management shall be undertaken in an honest and transparent manner. Contracts shall be proactively managed, including management of risk. Contracts will be documented and recorded in the Records Management System and the performance of contractors monitored using the forms and templates provided attached to the **Contractor WHS Management Procedure** document.

Good contractual relationships shall be aimed for, developed, and maintained, proper communication channels shall be established, and constructive feedback shall be encouraged. Council shall honour its' contractual obligations.

Council expects that effective contract management will deliver the following benefits:

- On time delivery of products, works and services,
- Reduced exposure to risks and the costs associated with risks,
- Good quality and value for money products, works and services,
- Innovation and continuous improvement, and
- Goodwill and other intangible or value adding benefits.

Chapter 2 Procedure

Part 1 Awarding a contract

1. Letter of Acceptance

As soon as practicable after a decision has been made to award a contract, the Department Manager shall communicate the decision in writing to the Contractor. The written advice shall cover, at least, the following points:

- Amount of the contract (lump sum, schedule of rates or annualised amount),
- Commencement date and duration,
- Name of Council's nominated Designated Officer or Project Manager,
- Name of Contractor's nominated representative; and
- Requirement to provide insurance certificates and performance security deposit or bank guarantee (if required) within a specified timeframe.

2. Contracts Register

The Designated Officer/Department Manager shall enter the following information in the Contracts Register:

- The contract number and name,

- The contract commencement date, contract term and the date the contract is expected to conclude,
- The name of the Contractor,
- The date and place of the publication of public notice calling for tenders or expressions of interest,
- The names of all tenderers,
- The closing date for the submission of tenders,
- The tender evaluation criteria and any ranking accorded to the criteria,
- The names of persons who were on the tender evaluation panel,
- Council's reason for entering the contract if the contract was not awarded to the lowest tenderer,
- The estimated value of the contract for the financial year, in which the contract was entered into,
- In each subsequent financial year during the term of the contract, the estimated value of the contract, and
- Details of approved variations and extensions (as they occur).

The Contracts Register, for contracts over \$150,000 in value, shall be made available by the Public Officer on Council's website as Open Access Information (As defined in the *Government Information (Public Access) Act 2009*).

The Contracts Register shall be held on Councils Electronic Record Management system and be available to the Public Officer, General Manager, Executive Managers, and other nominated staff.

3. Pre-contract commencement

Prior to the commencement of works or services under the contract, the Department Manager shall ensure that at least the following matters have been addressed (to the extent that they apply):

- A contract "induction" meeting has been held,
- A program or calendar/timetable of works has been submitted and approved by the Contract Superintendent,
- All WHS induction certificates have been provided,
- A contract management plan has been submitted and approved by the Department Manager and the required proof of insurances have been provided, and
- Bank guarantees or security deposits have been received and held in the Council safe or banked, as appropriate.

The Designated Council Officer must ensure that Contractor WHS Management Policy and Procedures are complied with and that the following forms which can be found attached to the Contractor WHS Management Procedure have been completed prior to a contractor starting:

- Self-Assessment Checklist – Contractor WHS Management,

- Contractor Prequalification Letter,
- Contractor Prequalification Questionnaire – Short version,
- Contractor Prequalification Questionnaire – Full Version,
- Contractor Prequalification Questionnaire - Heavy Vehicle/Chain of Responsibility,
- Contractor Pre-Start Checklist, and
- Contractor Site Inspection Checklist

Part 2 Performance assessment

1. Introduction

Performance assessment is a major component of contract management and performance assessment requirements shall be written into the contract specification.

Ongoing performance assessment should be based on the mechanisms for performance assessment included in the contract.

Where applicable, performance assessment shall be based on, but not limited to, contractor reports, inspections, performance review meetings, customer complaints and surveys.

Important to the performance assessment of contractors is compliance with Council's Contractor WHS Management Policy and compliance with the Contractor WHS Management Procedures which provides the following reporting forms and templates.

- Self-Assessment Checklist – Contractor WHS Management,
- Contractor Prequalification Letter,
- Contractor Prequalification Questionnaire – Short version,
- Contractor Prequalification Questionnaire – Full Version,
- Contractor Prequalification Questionnaire - Heavy Vehicle/Chain of Responsibility Appendix 6 Contractor Pre-Start Checklist,
- Contractor Site Inspection Checklist,
- Contractor Non-Conformance Report, and
- Contractor Review Report.

2. Contractor Reports

Contractor reports are the method by which a contractor certifies that the products, works, or services comply with the specification. If required, the type and frequency of Contractor reports shall be clearly described in the specification. Council's Designated Officer shall ensure that the contractor submits the reports on time and shall review the reports carefully. The Designated Officer shall discuss matters of serious concern with the Department Manager.

3. Inspections

Inspections should incorporate an assessment that compares actual performance to the performance requirements specified in the contract, they shall also include review of WHS compliance. Inspections shall be the responsibility of the Designated Officer.

If required, an inspection regime shall be clearly described in the specification and shall stipulate:

- Who will inspect,
- When inspections will occur, and
- What will be inspected.

4. Performance Review Meetings with Contractor

Performance review meetings provide a forum to discuss and assess the contractor's performance. Generally, a performance review meeting shall be based on the most recent contractor report and include review of WHS compliance. If required, the type and frequency of performance review meetings shall be clearly described in the specification.

The conduct of performance review meetings shall be the responsibility of the Designated Officer. The contract should authorise the Designated Officer to nominate the time, date, and place of performance review meetings. The contract should require the contractor or an appropriate representative and any other person nominated by the Designated Officer to attend performance review meetings. The Department Manager may also attend performance review meetings at their own choosing or when requested to do so by the Designated Officer.

5. Unsatisfactory Performance

When contractor performance does not meet the contract requirements, the Contract Superintendent shall contact the Contractor and:

- Define the problem,
- Specify the unsatisfactory performance in terms of a comparison with the requirements of the contract, and
- Specify the implications of the problem.

If the Designated Officer/Department Manager considers that the problem can be rectified without resort to formal breach of contract procedures, the Designated Officer and Contractor shall:

- Identify the cause of the problem, and
- Decide upon corrective action.

The contractor shall implement the corrective action as agreed upon and the Department Manager shall monitor and assess the outcome to ensure that the unsatisfactory performance is rectified on a permanent basis.

The Designated Officer shall ensure that any informal problem resolution process does not prejudice Council's rights under the contract with respect to any breach of the contract.

6. Performance Measurement Form

If required, a performance measurement form, shall be developed for the contract by the Designated Officer. The performance measurement form shall identify the performance requirements of the specification.

The Designated Officer shall complete the performance measurement form on a regular basis. For example, after the receipt of the contractor's report or after the performance review meeting with the contractor.

7. Council's Responsibilities

If Council is to be able to enforce the contract, it must ensure that Council itself complies with the contract. The Designated Officer should ensure that Council complies with all contract timelines, gives all required notices, and otherwise meets its obligations under the contract. Even if the Designated Officer employs informal processes to address problems, the formal requirements of the contract should still be followed.

8. Termination for Failure to Achieve Performance Standards

Any formal process for termination of the contract must be conducted strictly in accordance with the requirements of the contract. Generally, this will require a "show cause" notice to first be issued to the contractor. Legal advice should be obtained before such a process is instigated.

If a contractor has breached a contract with Council, then (whether the contract has been terminated), Council may consider the breach in considering subsequent tenders from the contractor.

Part 3 Variations

The appropriate Department Manager is responsible for policy, planning and development, setting service standards and writing specifications.

Therefore, any major change which is a significant departure from the contract specification is the responsibility of the Department Manager to consider in consultation with their Director. The decision to approve a major change shall be made by the appropriate Council staff member with delegated authority to do so, as defined in Council's Instrument of Delegation.

The role of the Designated Officer is to supervise and monitor the contract in accordance with the specification.

When supervising the contract, minor changes or changes of an operational nature may be made by the Designated Officer providing the decision does not alter the objectives, scope, purpose, or overall value of the contract.

1. Value of Change

The importance of discussion between the Designated Officer and Department Manager cannot be overstated when there is any doubt about variations.

As a guide, the value of the change will determine whether it is the Department Manager or Director who has the responsibility and authority to approve the change. For example, providing there are no exceptional circumstances, the Department Manager shall be responsible for and have authority to approve minor changes providing that, during the

life of the contract or project, they do not exceed a maximum cumulative value of 10% or \$25,000 (whichever is the lowest amount) of the estimated value of the contract.

Before any variation is approved, the Department Manager must ensure that the value of the change does not exceed the limits of their delegation as shown in Council's Instrument of Delegation.

If the change exceeds a maximum cumulative value of 10% or \$25,000 (whichever is the lowest amount) of the estimated value of the contract, a Council Report will be required to approve the variation.

2. Documentation

All changes must be documented including:

- If the change to the contract has been agreed by the parties, write to the contractor providing a description of the change and the agreed value of the change,
- If the change is being directed by the Department Manager pursuant to a contractual entitlement to do so, ensure that the change is directed in writing in accordance with the requirements of the contract,
- Provide a copy of the change to the Director to be attached to the official signed contract,
- Place a copy of the change on the contract file,
- Report the change in the monthly and quarterly reports, and
- Advise the Chief Financial Officer (CFO) in writing if the value of the change will create a significant budget variation.

It is the Department Manager's responsibility to ensure that all contract documentation is retained for a period of seven years following contract closeout, defect liability periods or resolution of pending action (e.g., legal, audit, etc.) whichever is later.

Part 4 Extensions

It is the Designated Officers responsibility to anticipate and plan for the expiry of a contract. This is part of normal contract supervision and monitoring.

The Designated Officer shall review the contract and consult with the appropriate Department Manager to determine the action required for:

- Arrangements with the Contractor for expiry and termination of the contract including actual end date), and
- Arrangements for service delivery beyond the expiry date, for example, the extension of the contract or the commencement of a new contract.

In deciding whether a contract should be extended or allowed to expire at the end of the initial contract term, the Department Manager and Designated Officer must ensure that Council complies with any notice periods and procedures for extending the contract.

If the contract is for a fixed period, such as a contract for managing a swimming pool, and it does not contain provision for an extension, it may not be possible for Council to

“extend” the contract, as any “extension” will constitute a new contract and hence may be subject to the public tendering requirements.

1. *Formal communication*

After the decision to extend the contract has been made, it is the responsibility of the Department Manager to write to the Contractor confirming the extension to the contract. The Department Manager should refer to this Policy in applying an extension communication.

Chapter 3 Legislation and Supporting Documents

Part 1 Relevant Legislation, Regulations and Industry Standards include:

- *Local Government Act (NSW) 1993,*
- *Local Government (General) Regulation 2021,*
- *Local Government (Tendering) Regulation 1999,*
- *Tendering Guidelines for NSW Local Government 2009 (Or updated versions),*
- *Code of Conduct for Council Staff, Code of Conduct for Councillors, and the Code of Conduct for Council Committee Members, Delegates and Advisers,*
- *Government Information (Public Access) Act 2009 ,*
- *Government Information (Public Access) Regulation 2009,*
- *State Records Act 1998.*
- *Work Health and Safety Act (NSW) 2011*
- *Work Health and Safety Regulation (NSW) 2017*
- *Work Health and Safety (Mines and Petroleum Sites) Act (NSW) 2013*
- *Work Health and Safety (Mines and Petroleum Sites) Regulation (NSW) 2022*

Part 2 Relevant Council Policies and Procedures include:

- *Sustainable Procurement and Contracts Policy,*
- *Risk Management Policy,*
- *Risk Management Plan,*
- *Contractor WHS Management Policy,*
- *Project Management Policy,*
- *Contractor WHS Management Procedure including WHS Site Specific WHS Induction checklist,*
- *Daily Activity Sheet V2.*

The following procedural documents and templates, attached to the Contractor WHS Management Procedure must be used:

- Self-Assessment Checklist – Contractor WHS Management,
- Appendix 2 Contractor Prequalification Letter,
- Appendix 3 Contractor Prequalification Questionnaire – Short version,
- Appendix 4 Contractor Prequalification Questionnaire – Full Version,
- Appendix 5 Contractor Prequalification Questionnaire - Heavy Vehicle/Chain of Responsibility,
- Appendix 6 Contractor Pre-Start Checklist,
- Appendix 7 Contractor Site Inspection Checklist,
- Appendix 8 Contractor Non-Conformance Report,
- Appendix 9 Contractor Review Report.

Part 3 Variation and Review

The Contract Management Policy will be reviewed every term of Council (four years), or earlier if deemed necessary, to ensure that it meets the requirements of legislation and the needs of Council. The term of the Policy does not expire on the review date, but will continue in force until superseded, rescinded or varied either by legislation or a new resolution of Council.

Appendix A

Document Control/Authorisation

Responsible Officer:	Director Corporate and Community Services (DCCS)				
Reviewed By:	Management Executive Team (Manex), Manager Governance.				
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