Contract Management Guideline

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Overview

This guideline provides information and practical advice to public authorities regarding the management of contracts with suppliers of goods and services. By reading this guideline, procurement practitioners will gain an understanding of:

- the benefits of undertaking effective contract management; and
- the key tasks to be undertaken by the contract manager during the contract management period.

Contract Management Principles

Effective contract management requires a commitment to:

- achieve the object of the *State Procurement Act 2004* (the Act);
- proactively manage the contract;
- monitor the performance of the supplier;
- undertake responsibilities as a customer;
- ensure honesty and transparency;
- develop and maintain good relationships;
- communicate effectively and provide feedback;
- ensure the contract delivers the required (agreed) outcomes; and
- manage risks.

Object of the State Procurement Act

The object of the Act is to advance government priorities and objectives by a system of procurement for public authorities directed towards:

a) obtaining value in the expenditure of public money;
b) providing for ethical and fair treatment of participants; and
c) ensuring probity, accountability and transparency in procurement operations.

The management of contracts must have regard to, and be consistent with, these objectives.

Benefits of Effective Contract Management

Contract management is a process undertaken to:

- ensure timely delivery of goods and services;
- achieve the full benefits of the procurement process and contract;
- minimise costs associated with risks arising during the term of the contract;
- improve the benefits flowing to customers and suppliers;
- promote innovation and continuous improvement;
- create additional benefits for both parties through good relationships; and
- achieve value for money in the procurement of goods and services.

Managing the contract and monitoring the performance of suppliers is crucial to achieving the intended objectives of the procurement. All the effort undertaken through the acquisition planning and supplier evaluation process is of little value unless the intended benefits are actually realised during the period of the contract. The key to effective contract
management is having a clear set of contract outputs or outcomes and actively working with the supplier to ensure the delivery and achievement of these requirements.

**Role of the Contract Manager**

The contract manager is responsible for ensuring that:

- the contracted goods or services are provided in accordance with the specification and the terms of the contract and are certified before payment (including progress payment) is authorised;
- contract risks are reviewed, monitored and managed;
- effective communication is maintained between all parties;
- variations to the contract are processed and approved in accordance with the contract and other relevant public authority policies;
- ongoing requirements (e.g. insurance) are validated for the period of the contract;
- continuous improvement practices are applied to future contracting processes; and
- appropriate records and documentation are maintained.

This guideline assumes a:

- person with appropriate contract management expertise, judgement and skills has been appointed as ‘contract manager’, as early as possible during the procurement process;
- procurement process has been undertaken and completed to select a supplier in accordance with the Board’s *Acquisition Planning Guideline* and related policies and guidelines; and
- contract has been signed by the relevant parties, recorded on a contract register and, where appropriate, a contract management plan has been developed, outlining specific contract management requirements and specific task responsibilities.

The contract manager's duties and responsibilities are governed by the conditions of the contract, the contract management plan and common law. In addition, the contract manager may be required to form opinions and make decisions, and in doing so is expected to comply with ethical procurement practices when dealing with suppliers and stakeholders.

**Contract Management Risks**

Risks related to the procurement are identified and documented through the acquisition planning, tendering/evaluation and contract formation process. Some of the more common risks related to managing a contract include:

- the failure of either party to fulfil the conditions of the contract;
- inadequately administering the contract;
- unauthorised changes to the contract;
- the failure to meet the strategic objectives of the procurement;
- the loss of intellectual property;
- changing scope;
- changing technology;
- fraud;
- the lack of properly maintained records;
- unethical behaviour or conflicts of interest; and
- changes or absences in key personnel.
These risks should be monitored and eliminated or minimised during the contract management period. New risks may also be identified and documented during this period. Appropriate professional advice should be sought at an early stage where a legal or governance issue arises. Further information is available from the Board’s Risk Management Policy and Guideline.

**Contract Management Matrix**

Contract management builds upon the work undertaken during the acquisition planning and purchase recommendation approval phase. At this stage of the procurement cycle, a signed contract has been established, having previously been classified according to the appropriate complexity and value quadrant. These quadrants are:

| High Complexity/  
| Low Value  
| (Quadrant 2) | High Complexity/  
| High Value  
| (Quadrant 4) |
| Low Complexity/  
| Low Value  
| (Quadrant 1) | Low Complexity/  
| High Value  
| (Quadrant 3) |

The contract management requirements progressively increase in accordance with the complexity and value of the contract. For example, simple low complexity, low value contracts may require little more than monitoring, basic record keeping and payment authorisation. More complex or strategic contracts of higher value will generally require:

- an active role for the contract manager;
- the development of more strategic and comprehensive relationships with suppliers;
- more communication; and
- more comprehensive performance evaluation mechanisms.

The Contract Management Matrix (Attachment 1) provides guidance on the activities to be undertaken during the contract management period, for each procurement quadrant. Contract management requirements for simple procurements valued up to $220,000 are detailed in the Board’s Simple Procurement Guideline.

**The Contract Management Plan**

The Contract Management Plan (CMP) is an important contract management tool. The CMP is generally developed or commenced for high complexity and/or high value procurements during the acquisition planning phase and addresses the key issues related to managing the contract and achieving the specified objectives. In particular, the CMP:

- outlines the objectives and outcomes of the contract and how the contract should be managed;
- identifies the role, responsibility and obligation of each party;
- identifies the strategic objectives of the contract and the key success factors;
- identifies any specific performance measurement and reporting requirements;
- outlines the approach for dealing with contract variations; and
addresses the tasks necessary to ensure a successful contract outcome and to minimise risk.

The CMP should include all necessary information to enable the contract manager to effectively manage the contract. This may include details regarding:

- acceptance criteria;
- communication and relationship management;
- completion and renewal arrangements;
- continuous improvement;
- contract changes and variations;
- contract deliverables;
- contract management meetings;
- data and information management;
- dispute resolution processes;
- ethical conduct;
- financial management;
- governance structures;
- inspection and testing procedures;
- insurances;
- key success factors or performance indicators;
- payment milestones;
- performance monitoring and reporting;
- quality assurance practices;
- risk management;
- schedule management;
- statutory and regulatory requirements;
- training; and
- warranties.

The contract manager should regularly refer to the CMP and ensure it is amended where circumstances change.

**Variations to Contracts**

A contract variation is defined as a material amendment to the contract, with the consent of all parties to the contract, which modifies some of the rights or obligations of the parties.

In principle, the Board recognises that variations can be a normal part of contract management. To avoid unnecessary and unplanned variations, public authorities should:

- undertake careful planning and preparation of tender documentation to minimise the potential requirement for contract variations; and
- identify and include a process for managing variations at the acquisition planning stage and within draft contract documentation.

The likelihood of significant variations occurring may be identified and addressed in the original acquisition plan and the authority to delegate approval for such variations sought in the plan. However, under certain circumstances, where there is potential or actual major impact, the Board requires variations to be approved by the original approving authority.
Any contract variation that relates to an unusually high complexity procurement or one that has a potential across-government impact should be referred to Procurement Policy and Governance for advice in relation to approval requirements.

It should be noted that once a contract and its extension options have expired, any further extension of arrangements with the current supplier is not considered to be a contract variation but a new procurement process.

**Assessment of Variations**

An assessment of the impact of a variation is required to determine its significance and the need for procurement approval or not. A variation may impact:

- the scope;
- the value of the contract;
- the terms and conditions of the contract; and
- contract options to be exercised.

In assessing the impact of variations, consideration should be given to the objectives of the *State Procurement Act 2004*, which are to advance government priorities and objectives by a system of procurement for public authorities directed towards:

a) obtaining value for money in the expenditure of public money;
b) providing for ethical and fair treatment of participants; and
c) ensuring probity, accountability and transparency in procurement operations.

The measures of impact for variations are categorised as follows:

<table>
<thead>
<tr>
<th>Measure</th>
<th>Description</th>
<th>Approval Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insignificant</td>
<td>No potential to adversely impact the contract and/or the outcome. No risk to operational probity, fairness or accountability.</td>
<td>A note should be recorded in the relevant procurement file.</td>
</tr>
<tr>
<td>Minor</td>
<td>Limited potential to adversely impact the contract and/or the outcome. Limited risk to operational probity, fairness or accountability.</td>
<td>A note should be recorded in the relevant procurement file.</td>
</tr>
<tr>
<td>Moderate</td>
<td>Moderate potential to adversely impact the contract and/or the outcome. Moderate level of risk to operational probity, fairness or accountability.</td>
<td>Approval should be sought from the approving authority of the acquisition plan.</td>
</tr>
<tr>
<td>Major</td>
<td>High potential to adversely impact the contract and/or the outcome. Major risk to operational probity, fairness or accountability.</td>
<td>Approval should be sought from the approving authority of the acquisition plan.</td>
</tr>
</tbody>
</table>

Irrespective of the assessed impact, where the aggregate value of a contract (or contracts) resulting from the variation exceeds the public authority’s procurement authority, approval must be sought from the Board. In the case of a contract/s which resulted from an original procurement approval of the Board, or a contract/s where the Board has approved a previous variation due to the aggregate value of the contract/s, the public authority must assess the variation’s measure of impact to determine if further procurement approval is required from the Board.
Where the contract variation would increase the value of a contract, public authorities must ensure financial authorisation of the variation is obtained (where required) in accordance with *Treasurer’s Instruction 8 Financial Authorisations*.

Note that changes to terms and conditions of contracts may only be authorised by all of the contract signatories. The Board strongly recommends that advice from the Crown Solicitor’s Office be sought before such authorisation is given. There may also be international free trade implications dependent on the nature and value of the variation proposed.

Attachment Two outlines examples of contract variations and associated actions.

**Further Information and Resources**

For feedback or assistance regarding this guideline, please contact:

*State Procurement Board Secretariat*

ph: (08) 8226 5001  fax: (08) 8226 5667  
email: stateprocurementboard.sa.gov.au  
www.spb.sa.gov.au

**Related Policies and Guidelines**

- SPB Acquisition Planning Guideline
- SPB Risk Management Policy and Guideline
- SPB Procurement Authority Criteria/Standards Document 3a, 3b and 3c
- Treasurer’s Instruction 8 Financial Authorisations
## Attachment 1 Contract Management Matrix

<table>
<thead>
<tr>
<th></th>
<th>Quadrant 1 Low Complexity/Low Value</th>
<th>Quadrant 2 High Complexity/Low Value</th>
<th>Quadrant 3 Low Complexity/High Value</th>
<th>Quadrant 4 High Complexity/High Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Understanding And Defining The Contract Management Need</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td></td>
<td>A contract has been signed and recorded in accordance with the Board’s contract register standards. It is recognised that the form this “contract” takes will vary, ie a supplier’s acceptance of a Purchase Order may form a “contract” for some low value, low complexity procurements.</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td></td>
<td>A contract manager has been appointed to manage the contract</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td></td>
<td>Establish a contract management oversight committee</td>
<td></td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td></td>
<td>Contract management objectives and requirements have been developed as outlined in the acquisition planning guideline</td>
<td>✔️</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>A contract management plan has been developed as outlined in the acquisition planning guideline</td>
<td></td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td></td>
<td>A specific risk management plan has been developed</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>2</td>
<td>Meeting Government Requirements</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ensure any relevant legislation, policies and regulations are met eg State Procurement Board policies and guidelines, Treasurer’s Instructions, OHS&amp;W legislation, privacy legislation, intellectual property, free trade agreements, trade practices legislation</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>3</td>
<td>Defining Contract Management Context</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Identify any actual or potential conflicts of interest and how these will be dealt with</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>Quadrant 1</td>
<td>Quadrant 2</td>
<td>Quadrant 3</td>
<td>Quadrant 4</td>
<td></td>
</tr>
<tr>
<td>------------</td>
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<td>------------</td>
<td></td>
</tr>
<tr>
<td>Low Complexity/ Low Value</td>
<td>High Complexity/ Low Value</td>
<td>Low Complexity/ High Value</td>
<td>High Complexity/ High Value</td>
<td></td>
</tr>
</tbody>
</table>

### Determining Contract Management Process

<table>
<thead>
<tr>
<th>Activity</th>
<th>Quadrant 1</th>
<th>Quadrant 2</th>
<th>Quadrant 3</th>
<th>Quadrant 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identify and manage the risks identified in the existing contract management plan or risk management plan</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Adhere to the requirements of the contract management objectives</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adhere to the requirements of the contract management plan</td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Monitor the performance of suppliers against the contract objectives</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Monitor the performance of suppliers against the contract obligations and key performance indicators</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Authorise and process claims for payment in accordance with the contract</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Maintain adequate records (paper and electronic) of all communication interactions with the supplier as appropriate</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Maintain a record of progress against milestones and timeframes</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Seek feedback on supplier performance from stakeholders and customers</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Hold meetings with the supplier as required</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hold regular (eg weekly, monthly, quarterly and annual) contract review meetings with the supplier and record the outcomes</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Process requests and gain appropriate approvals for variations to the contract in accordance with the contract, contract management plan, Board policy and public authority policy</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Resolve any disputes and performance management issues in a quick and informal manner as required</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Task</td>
<td>Quadrant 1 Low Complexity/Low Value</td>
<td>Quadrant 2 High Complexity/Low Value</td>
<td>Quadrant 3 Low Complexity/High Value</td>
<td>Quadrant 4 High Complexity/High Value</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>-------------------------------------</td>
<td>--------------------------------------</td>
<td>--------------------------------------</td>
<td>--------------------------------------</td>
</tr>
<tr>
<td>Apply dispute resolution and performance management procedures as documented in the contract and contract management plan where required</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Provide regular performance summary reports to the appropriate senior manager/oversight committee as required</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Review the contract management plan annually (or more frequently if appropriate)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Report on the achievement of the intended procurement objectives (as confirmed in the purchase recommendation) during the contract period and at the conclusion (e.g. closure reports)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Undertake ad hoc audits and site visits as appropriate</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Obtain regular reports from the supplier prior to the scheduled review meeting</td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Monitor and review the risks identified in the contract management plan or risk management plan</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>
### Attachment 2 Contract Variation Examples

<table>
<thead>
<tr>
<th>Variation</th>
<th>Details</th>
<th>Measure of Impact</th>
<th>Required Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Period</td>
<td>Seeking to extend a six week study by two weeks (based on agreed rates) to ensure project outcomes can be met.</td>
<td>Insignificant/Minor - Best value likely to be delivered by the supplier already engaged in the task.</td>
<td>There is no requirement for procurement approval of the variation by the Board, unless the aggregate value of the contract resulting from the variation exceeds the agency’s procurement authority. In all other circumstances, refer to agency procedures, acquisition plan approval and the terms of contract to determine any specific local action/approvals required.</td>
</tr>
<tr>
<td>Contract Period</td>
<td>Extending a 2-year period contract for an ongoing requirement for a further year when no extension option exists.</td>
<td>Major - May be cause for complaint from other suppliers regarding unfairness to market participants.</td>
<td>Procurement approval for the variation should be sought from the original approving authority. However, approval must be sought from the Board where the aggregate value of the contract resulting from the variation exceeds the agency’s procurement authority. While a contract variation can be used to extend the term of a contract, when the cost and complexity quadrant assessment of the variation requires the acquisition planning guideline to be utilised, the variation should be considered as a new procurement, requiring approval at the appropriate level.</td>
</tr>
<tr>
<td>Variation</td>
<td>Details</td>
<td>Measure of Impact</td>
<td>Required Action</td>
</tr>
<tr>
<td>-----------</td>
<td>---------</td>
<td>------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td><strong>Scope</strong></td>
<td>Seeking an additional 10 units to be supplied in excess of the 50 already contracted from a recent procurement and where no option for additional purchases exists. &lt;br&gt;Time elapsed from last procurement: 3 months. &lt;br&gt;Market: Limited, specialist suppliers. &lt;br&gt;Price: Stable.</td>
<td>Insignificant/Minor - The same procurement outcome could reasonably be expected.</td>
<td>There is no requirement for procurement approval of the variation by the Board, unless the aggregate value of the contract resulting from the variation exceeds the agency’s procurement authority. &lt;br&gt;While a contract variation can be used to increase the number of units supplied, when the cost and complexity quadrant assessment of the variation requires the acquisition planning guideline to be utilised, the variation should be considered as a new procurement, requiring approval at the appropriate level. &lt;br&gt;In all other circumstances, refer to agency procedures, acquisition plan approval and the terms of contract to determine any specific local action/approvals required.</td>
</tr>
<tr>
<td><strong>Scope</strong></td>
<td>Seeking an additional 30 units to be supplied in excess of the 50 already contracted from a recent procurement and where no option for additional purchases exists. &lt;br&gt;Time elapsed from last procurement: 12 months. &lt;br&gt;Market: Competitive, easy entry. &lt;br&gt;Price: downward trend due to increased competition and technology advances.</td>
<td>Major – There is a risk that value for money will not be delivered. Risk of complaint from other participants denied opportunity to compete.</td>
<td>Procurement approval for the variation should be sought from the original approving authority. However, approval must be sought from the Board where the aggregate value of the contract resulting from the variation exceeds the agency’s procurement authority. &lt;br&gt;While a contract variation can be used to increase the number of units supplied, when the cost and complexity quadrant assessment of the variation requires the acquisition planning guideline to be utilised, the variation should be considered as a new procurement, requiring approval at the appropriate level.</td>
</tr>
<tr>
<td>Variation</td>
<td>Details</td>
<td>Measure of Impact</td>
<td>Required Action</td>
</tr>
<tr>
<td>-----------</td>
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<td>-----------------</td>
</tr>
<tr>
<td>Scope</td>
<td>Proposal to reduce the scope of services to be provided under contract at the same or reduced price.</td>
<td>Major - fairness and equity issue if a supplier was excluded during evaluation against the original scope or a supplier chose not to tender on the basis of capability/capacity.</td>
<td>Procurement approval for the variation should be sought from the original approving authority.</td>
</tr>
<tr>
<td>Value</td>
<td>The estimated cost of a period contract is likely to be exceeded due to an increase in end user demand for the services.</td>
<td>Insignificant - Except where poor estimation of the potential value has resulted in procurement approvals at a lower level of procurement authority.</td>
<td>There is no requirement for procurement approval of the variation by the Board, unless the aggregate value of the contract resulting from the variation exceeds the agency’s procurement authority. In all other circumstances, refer to agency procedures, acquisition plan approval and the terms of contract to determine any specific local action/approvals required.</td>
</tr>
<tr>
<td>Value</td>
<td>Contractor seeking to renegotiate fees in line with demonstrated increases in cost under a fixed price contract.</td>
<td>Major - Potential for fairness and probity to be questioned if there are other capable suppliers and there was price sensitivity in the contractor’s initial selection.</td>
<td>Procurement approval for the variation should be sought from the original approving authority. However, approval must be sought from the Board where the aggregate value of the contract resulting from the variation exceeds the agency’s procurement authority.</td>
</tr>
</tbody>
</table>