

STRATHFIELD COUNCIL

CONTRACT
MANAGEMENT
POLICY
June 2021

RESPONSIBILITY	Executive Manager Corporate Services		
DATE ADOPTED	June 2021	MINUTE	
REVISED	June 2021	REVIEW	June 2023
ECM No			
ASSOCIATED POLICIES	<p>Strathfield Council Code of Conduct</p> <p>Strathfield Council Business Ethics Policy</p> <p>Strathfield Council Privacy Management Plan</p> <p>Strathfield Council Procurement Policy</p> <p>Strathfield Council Asset Management Policy</p> <p>Strathfield Council Disposal of Council Assets Policy</p> <p>Strathfield Council Prevention of Fraud and Corrupt Conduct Policy</p> <p>Strathfield Council Records Management Policy</p> <p>Strathfield Council Enterprise Risk Management Policy</p> <p>Strathfield Council Complaints Policy</p>		
ASSOCIATED LEGISLATION	<p><i>Government Information (Public Access) Act 2009</i></p> <p><i>Independent Commission against Corruption (ICAC) Act 1998</i></p> <p><i>Local Government Act 1993</i></p> <p><i>Privacy and Personal Information Protection Act 1998</i></p> <p><i>Health Records Information Privacy Act 2002</i></p> <p><i>Public Interest Disclosures Act 1994</i></p> <p><i>Local Government (General) Regulation 2005 – Part 7 Tendering</i></p>		
ASSOCIATED DOCUMENTS	<p>Tendering Guidelines for NSW Local Government (Division of Local Government)</p> <p>Strathfield Council Purchasing and Tendering Guidelines</p> <p>Strathfield Council Risk Register</p> <p>Strathfield Council Contracts Register</p> <p>Strathfield Council Bonds Register</p>		

Introduction

1.0 Background and Purpose

The main objective of contract management is to ensure that deliverables are provided to the required standard, within the agreed timeframe and achieve value for money whilst managing inherent risk. The purpose of this Policy is to provide a clear and standardised approach to managing and administering contracts for goods and services purchased.

This Policy focuses on contract management related to post-award activities which commences when the contract is awarded and finishes when the contract is concluded.

1.1 Objectives

The objective of this Policy is to:

- Ensure that contractual relationships between the Council and service providers is managed equitably, transparently, and accountably by the Council.
- Ensure a shared understanding of the obligations between Council and the contracted service providers.
- Provide a shared understanding of roles, responsibilities and accountabilities between Council staff and contracted service providers.
- Establish a standardised approach to monitor and measure performance, identify and report on performance issues and implement intervention strategies to restore it to the requisite standards.
- Ensure that all contract management activities aligns with Council's conduct obligations and community expectations.

1.2 Coverage

The Policy applies to staff and contractors involved in the management of contracts. This Policy covers the period from the contract award to its completion. It does not cover pre-award activities. Although pre-award activities are outside the scope of this, they must align with the principles outlined in this Policy.

Policy Statement

2.0 Definitions

Contract Management

The process that ensures both parties to a contract meet their respective obligations as efficiently and effectively as possible, in order to deliver the strategies and operational objectives expected from the contract.

Commercial in confidence	Confidential information that may prejudice the business dealings of a party eg, prices, discounts, rebates, profits, methodologies and process information, if released.
Probity	A procurement process in which clear procedures, that are consistent with the Council’s policies and legislation, are established, understood and followed from the outset. These procedures need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated equitably.
Performance management	Performance management refers to the process of ensuring both parties to a contract meet their obligations effectively in order to achieve agreed outcomes.
Performance measures	Quantitative or qualitative measurements that help determine the extent to which agreed contractual outcomes, outputs, quality of service and compliance with legislative requirements have been achieved.
Contract	An agreement between two or more authorised persons on behalf of their organisations to perform or not perform a specific act/s that is enforceable in law. A contract may be verbal or written or inferred by conduct.
Contract documents	Documents construed together as an instrument of contract. They may include terms and conditions, specifications, drawings, tender responses, delivery schedules and payment schedules.

2.1 Roles and Responsibilities

There are three essential roles for managing contracts effectively. Each role draws on a range of skill sets. These roles may be assigned to current employees or contractors with the correct skills and delegations of authority. Where necessary, the same person could be delegated to one, two or all of the roles described below:

Contract Owner (CO)	<ul style="list-style-type: none"> • Accountable for the budget/cost centre that funds the contract • Approves contract payments and variations • Appoints contract management roles
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Contract Manager (CM)	<ul style="list-style-type: none"> • Single point of contact for suppliers on all contract matters • Completes Contract Performance Management Workbook throughout contract lifecycle • Monitors contract performance and compliance
Contract Administrator (CA)	<ul style="list-style-type: none"> • Performs administrative activities over the contract management lifecycle (e.g. information management, cost control, etc.)

It is the responsibility of the Contract Owner to assign the roles of Contract Manager and Contract Administrator.

Some contracts do not warrant having as an extensive management program as contracts for goods and services which carry a potential high level of risk, are complex or have a high dollar value. Further, goods or services received from a particular contractor over a 12-month period, which when aggregated, exceed a total value of \$9,999 (incl GST) require a more comprehensive management approach than a single one-off transaction. The Contract Owner is responsible for determining how extensive the contract management program is within Council's Contract Management Framework and they must ensure that all practices align with good contract management principles.

2.2 Contract start-up

The contract defines the plan, roles and responsibilities for managing a contract. This step allows the Contract Owner to agree upfront the key roles and management activities of the contract during its lifecycle.

When the contract is awarded, Council's Legal and Governance section will provide a signed copy to the Contract Owner. Council's Legal and Governance Unit will also ensure that the contract is registered in Council's Contract Register. All documents should be saved in electronic form in Council's EDRMS.

2.3 Establish KPIs

Implementing performance management activities is a fundamental element for delivering the expected value from contracts.

The KPIs to be measured in the contract should be clearly identified, before the contract is signed. All the parties need to agree on KPI's, performance measures and the measurement process and these should be incorporated into the contract.

2.4 Performance monitoring

Contract Managers should inform suppliers of their contract deliverables and KPIs in order to provide feedback on a regular basis. A reporting process, appropriate for the contract based on its value and risk should be established and regular contract performance reviews conducted and shared with the contractor. This should include an opportunity for the supplier to provide feedback on internal issues impacting their performance.

Any amended deliverable or KPI's require a variation to the contract. These variations should occur via the contract variation process.

2.5 Managing underperformance

Performance issue discussions should be initiated with the supplier as early as possible for a timely resolution. In the event where there are performance issues a formal performance management process should be undertaken and all performance discussions should be documented with a copies relevant documentation provided to all parties involved.

Performance monitoring activities should increase during the period agreed for performance improvement, and communication with the supplier and key stakeholders should be maintained on a regular basis to address any issues or concerns on a timely basis.

Underperformance must not be overlooked.

2.6 Contract administration

Contract register

All contracts must be registered in Council's Contract Register. A copy of Council's Contract Register is available on Council's website and is updated on a regular basis.

Records management

Information related to contracts must be saved in Council's EDRMS system. These documents may include contract documents, insurances, bank guarantees and indemnities, sourcing documents, variation schedules, records of meetings and correspondence etc.

Risk management

Most commercial contracts involve some level of risk, it is how this risk is managed that may determine the gravity of the consequences associated with it.

Risk identification and assessment needs to occur at the start of the contract process and be continuously monitored and if necessary be mitigated by implementing prudent measures to reduce the potential impact.

Bank guarantee

A contractor may be required to provide Council with cash security or an unconditional undertaking (duly stamped) given by a financial institution approved by Council, in the amount stated in the Contract particulars. The contract terms should clearly provide for the forfeiture of cash security or the claim on bank guarantees should there be established non-performance.

The Contract Manager must ensure that this obligation is met. Unconditional bank guarantees must be sought for Council. Any bond or guarantee is to be provided to Legal and Governance for recording in the Bonds Register and secure storage.

Insurances

The Contract needs to include the insurance obligations of all the parties and the compliance ensured before the commencement date.

Dispute resolution

Any disputes that may arise during the life-cycle of a contract need to be addressed in accordance with dispute resolution process outlined in the respective contract. Council should endeavour to resolve any disputes informally such as negotiation and mediation in the first instance.

2.7 Manage contract extension, renewal or variation

During the contract lifecycle a range of circumstances may require a contract to be varied including:

- technology changes or improvements
- changes in legislation
- changes in specification and/or scope of goods / services
- changes in external pricing drivers

The process for managing and approving variations to contract schedules and pricing should be agreed during the sourcing process. All variations must be provided in writing.

Before a contract is extended or renewed, value for money must be assessed. Reasons for the extension/renewal should be adequately documented, explained and authorised for any extension, renewal or variation.

2.8 Contract close-out

The contract close-out is the step concluding the contract obligations and liabilities. It may also include transitioning to another supplier for the goods/services. The following steps are followed for all contract close-outs.

2.9 Final performance review

Evaluation of supplier performance and provision of feedback that can be used as a reference for future work.

Prior to the close-out of the contract, the contract manager should conduct a final performance review considering the following key elements:

- contract objectives
- supplier's performance
- customer performance
- satisfaction of the users
- contract variations
- disputes that arose during the contract
- budgeted versus actual costs
- weaknesses in planning, management and procedures
- identification and analysis processes that went well, areas that did not go well and potential areas for improvement for future contracts
- audit reports

2.10 Ending a contract

A contract can be discharged in a number of ways. Special care needs to be taken when terminating , as it can have serious ramifications on Council. Advice must be sought from Council's Legal unit should a contract need to be ended.

2.11 Managing warranties/defects

Upon final completion of contract delivery of goods or services, the contract manager must conduct appropriate inspection/testing to check for any defects. Where the contract manager identifies an issue in the deliverables from the supplier, a correction notice is to be issued to the supplier detailing the rectification action required. The supplier will be required to submit a Defect Correction Plan detailing the plans to rectify the defect.

Following acceptance of the defect correction plan by Council, the supplier will undertake the rectification work in accordance with the plan. Once the supplier has completed the rectification work and satisfactorily corrected the defect, the contract manager should issue a Defect Acceptance Certificate confirming that the defects have been rectified.

2.12 Transition

In certain circumstances, the need for the contracted goods/services will continue, however, the Council may decide to engage another supplier.

The Contract Manager will conduct a risk assessment and prepare a transition plan that may require ongoing management until the identified risks, if any, have been mitigated and controlled.

2.14 Releasing a bank guarantee

In the event Council does not have claims against the bank guarantee during the retention period, the Contract Manager may release the bank guarantee. A release letter will be provided to the Supplier or bank. The Bonds Register should also be updated and relevant records stored within Council's EDRMS.

Document History

Date	Details	Council Meeting Date
June 2021	Draft V1.0	
29 June 2021	Adopted for inclusion in Policy Register	