



KWAZULU-NATAL PROVINCE
HUMAN SETTLEMENTS
REPUBLIC OF SOUTH AFRICA



A NATION
THAT WORKS FOR ALL

CONTRACTS MANAGEMENT POLICY

NOVEMBER 2025

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ABBREVIATIONS

HOD: HEAD OF DEPARTMENT

MEC: MEMBER OF EXECUTIVE COUNCIL

MOA: MEMORANDUM OF AGREEMENT

PFMA: PUBLIC FINANCE MANAGEMENT ACT

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DEFINITIONS

Bilateral agreements:	Refers to a legal agreement between two parties or entities commit to perform specific actions or obligations towards each other.
Tripartite agreements:	Refers to a legal agreement between three distinct parties and outlines their rights, responsibilities and obligations to each other
Service level agreements:	Refers to a contract between a service provider and an entity/customer that defines the service to be provided and the level of performance that is expected.
Memorandum of agreement:	Refers to a written document describing a cooperative relationship between two parties who wish to work with each other on a project or to meet an agreed upon objective.
Contract Owner:	Means the official that is ultimately accountable for the deliverables during the contract lifecycle relevant to the service delivery target that the contract seeks to achieve.
Contract Manager:	Means the official responsible for overall contract management in an institution.
Contract Administrator:	Refers to the official that is responsible for the continuous updating of the contract register and management and control of all documentation relating to the contract.

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1. INTRODUCTION

The effective management of contractual commitments is a critical aspect of service delivery improvement. The appropriate handling and processing of legal agreements from beginning to end will ensure compliance with agreed timelines, targets and allocated budgets.

2. LEGISLATIVE FRAMEWORK

2.1 The Constitution of the Republic of South Africa

Section 217 provides that contracting of goods and services by organs of state in the national, provincial and local sphere of government, and other institutions identified in national legislation, must occur in accordance with a system which is fair, equitable, transparent, competitive and cost-effective

Section 195(1) and (3) of the Constitution provides that national legislation must among others ensure the promotion in public administration of the following principles:

- A high standard of professional ethics
- efficient, economic and effective use of resources; and
- development-oriented, accountability and transparency

2.2 Public Procurement Act 28 of 2024

This Act regulates public procurement by organs of state, ensuring that contracts are awarded in a fair, equitable, transparent, competitive, and cost-effective manner

2.3 Public Finance Management Act 1 of 1999 (PFMA)

Section 38 provides the general responsibilities of accounting officers

(1) The accounting officer for a department, trading entity or constitutional institution

(a) must ensure that that department, trading entity or constitutional institution has and maintains

(i) effective, efficient and transparent systems of financial and risk management and internal control

(ii) a system of internal audit under the control and direction of an audit committee complying with and operating in accordance with regulations

(iii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective

(iv) a system for properly evaluating all major capital projects prior to a final decision on the project

(b) is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution

Section 76 provides that National Treasury must make regulations or issue instructions applicable to departments related to contractual and financial management.

3. OBJECTIVES

3.1 Ensure compliance with relevant legislation when contracting for goods or services.as per the PFMA this must be done in a manner which is:

- a) Equitable;

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- b) Transparent;
- c) Cost effective; and
- d) Fair.

- 3.2 To assist officials in understanding their legal and managerial responsibilities with regards to contract management
- 3.3 To facilitate improvements in contract management which will lead to:
 - a) reduction in costs
 - b) increases in revenue and
 - c) enhanced service delivery
- 3.4 Ensure that contracts within the Department are managed in a coordinated and efficient manner

4 APPLICATION OF THE POLICY

The policy is applicable to all formal contracts entered into between the Department and the relevant service provider. There are many types of formal contracts which can be used, depending on the type of goods, works and services which will be provided, the timeframe of the contract as well as the risks associated with the execution of the agreement.

For the purposes of this policy, the following formal contracts are applicable, namely:

- a) Bilateral agreements
- b) Tripartite agreements
- c) Service level agreements
- d) Memorandum of agreement (MOA)

5 ESSENTIALS OF A DEPARTMENTAL CONTRACT

- 5.1 **Consensus:** A valid contract requires a "meeting of the minds," meaning all parties must agree on the essential terms and intend to create binding obligations. This consensus is achieved through a clear offer by one party and an unequivocal acceptance by the other. The agreement must be free from misrepresentation, duress, or undue influence
- 5.2 **Contractual Capacity:** Parties entering into a contract must have the legal capacity to do so. Generally, individuals over the age of 18 have full contractual capacity
- 5.3 **Legality:** The contract's content must be lawful. Agreements that involve illegal activities or contravene public policy are void and unenforceable. For instance, a contract for the sale of prohibited substances would not be recognized by law
- 5.4 **Possibility of performance:** The obligations stipulated in the contract must be possible to perform at the time the contract is concluded
- 5.5 **Certainty:** The terms of the contract must be clear and definite. Vague or ambiguous terms can lead to disputes and may render the contract unenforceable. All essential elements, such as price, quantity, and timeframes, should be explicitly stated
- 5.6 **Formalities:** While many contracts can be concluded verbally, certain agreements must adhere to specific formalities to be valid. For the purpose of this guideline all contracts must be formalized in writing

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- 5.7 **Amendments:** The contract must include a clause which allows for amendments to the contract. This will be determined by the project scope, duration of the project and the additional services required, if any.
- 5.8 **Payment:** Payment provisions including the value to be paid, the schedule of payments, as well as payment procedures as agreed upon by all parties, must be stipulated within the contract. The types of payment schedules include payments made at regular intervals throughout the contract period or when agreed deliverables or outputs are achieved.

6 CONTRACT MANAGEMENT

The Contracts Management Unit must undertake the following in order to ensure proper management of a contract:

6.1 Contract File

A contract file should be opened for each contract and must include the following documentation:

- a) Letter of Award
- b) Purchase Order (if applicable)
- c) A contract, signed by all parties' post-award
- d) All correspondence between the contracting parties
- e) Record of payments
- f) Evidence of delivery as provided for in the agreement
- g) Record of amendments to the contract (including extension of time frames or expansion of scope)
- h) Record of reviews and audits conducted on the contract and
- i) Risk assessment reports, where applicable.

6.2 Contract Register

The contract administrator must update the contract register on a regular basis to ensure that register is complete and accurate. The contract register should include the following information:

- a) Contract identifiers (unique ID, corresponding bid / quotation / requisition number and purchase order number)
- b) Contract type and category
- c) Service provider details (Name of appointed bidder, Provincial database registration number, type of service provider)
- d) Description of Goods/Services/Works/Projects
- e) Contract Value (if applicable, include percentage escalation and any other financial value)
- f) Contract period (start date, end date, duration, extension date where applicable, and early termination date where applicable) and
- g) Payment history (milestones/deliverables, actual dates of payment, payment penalties levied).

N.B: A Drafting/Vetting Checklist is attached as Annexure A.

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7 COMPLIANCE

The Departments Accounting Officer and delegated officials must take all reasonable steps to:

- 7.1 ensure that a contract or agreement awarded by the Department is properly enforced
- 7.2 monitor on a monthly basis the performance of the contractor under the contract or agreement
- 7.3 administer the contract with the necessary competencies and delegations, ensuring effective management of contracts

8 CODE OF CONDUCT

The Departments Accounting Officer and delegated officials and other parties to a contract must:

- 8.1 Promote sound, efficient, transparent and accountable administration
- 8.2 During the course of his or her official duties, report to the appropriate authorities, fraud, corruption, nepotism, maladministration and any other act which constitutes an offence, or which is prejudicial to the public interest
- 8.3 Give honest and impartial advice based on all available relevant information to higher authority when asked for assistance of this kind
- 8.4 Honor confidentiality of matters, documents and discussions, classified or implied as being confidential or secret.
- 8.5 Not engage in any transaction or action that is in conflict with or infringes on the execution of his or her official duties

9 ROLES AND RESPONSIBILITIES

ROLE	RESPONSIBILITY
Contract Owner	The contract owner should undertake the following: a) Monitor the service provider's progress and performance to ensure goods, services and/ or works conform to the contract requirements. b) Regular meetings with the service provider to review progress, discuss problems and consider necessary changes. c) Consider project reports to advise the Contract Administrator of the performance or non-performance of the service provider and risks associated with the project. d) Recommend the processing of payments consistent with the contract terms and conditions of payment. e) Resolve operational issues as they arise.
Contract Manager	The Contract Manager should undertake the following: a) Establish procedures and guidelines for managing all contracts. b) Authorize payments consistent with the contract terms and conditions of payment.

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	c) Manage risks and resolve disputes in a timely manner. d) Maintain appropriate records. e) Monitor performance data and address non-conformance. f) Be the first line of dispute resolution. g) Receive and consider performance reports from the service provider.
Contract Administrator	The contract administrator must undertake the following: a) Keep all contract records, including bid documents, letters of awards, purchase orders, signed contract documents and amendments or variations to the contract. b) Create and maintain the contract registers. c) Manage contract amendments and variations. d) Issue warning letters to non-performing service providers. e) Open and close projects on the contract management system

* The roles and responsibilities should be guided by the relevant Standard Operating Procedures

10 AMENDMENT OF CONTRACTS

A contract or agreement procured via the Department may be amended by the parties, such amendments may only be made after the proposed amendments have been submitted via the relevant directorate to the HOD and thereafter MEC for approval and further instruction, where applicable.

Amendments to contracts are applicable in the following circumstances:

- 10.1 Amendments of contracts where the expansion or variation is not more than
 - a) 20% (construction related goods, services and/or infrastructure projects), and
 - b) 15% (all other goods and/or services) of the original value of the contract,
- 10.2 Amendments to the contract, without influencing the value or term of the contract, within the scope of the original terms and conditions, may be altered, provided that both parties have consensus on the amendment and the contract amendment is in writing and signed by both parties.
- 10.3 No agreement to amend or vary a contract shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties.
- 10.4 The Department shall remain liable for the fulfilment of its outstanding obligation six months after the contract term has ended.
- 10.5 Amendments to the contract must be filed in the contract file.

11 CONTRACT PERFORMANCE MANAGEMENT

- 11.1 The aim of contract performance management is to ensure that:
 - a) The service provider performs in accordance with the standards previously agreed upon;
 - b) The service provider is meeting their obligations stipulated in the contract;
 - c) Issues and problems are identified early in order for remedial actions to be implemented; and
 - d) Price and payment terms are being adhered to

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- 11.2 Prior to the contract commencing the parties should discuss and agree upon the policies and procedures to be used in measuring performance. These policies and procedures must be set out in the contract. The level of performance management will depend on factors such as:
- a) Contract value
 - b) Duration of the contract
 - c) Expertise of the personnel involve
 - d) Level of risk associated with the contract
 - e) Size and nature of the contract
 - f) The goods, services and/ or works to be provide and
 - g) Type of contract

12 MONITORING OF CONTRACTS

- 12.1 A monitoring mechanism should be put in place to ensure early identification of risks, non-delivery and poor performance by the service provider, as well as early detection of other possible hindrances to service delivery.
- 12.2 This can be achieved by the following: The administration officer of the contract's management unit must:
- a) enforce adherence to terms and conditions; and
 - b) implement appropriate monitoring mechanisms that reflect the classification of the contract.
 - c) information provided by a service provider for monitoring purposes should be reviewed and audited to ensure that it receives regular reports on contract performance and verifies the accuracy and accuracy and reliability of the report, including conducting sample audits to authenticate performance information.
 - d) contracts should be monitored every month and information about performance and possible problems must be added in the contract register
 - e) Letters to the service providers/IA advising them of the expiring of contract may be structured differently depending on the duration of the contract, for example within 6 months, 3 months and 30 days of the end term of the contract
- 12.3 The renewal and extension stage include necessary actions to renew the agreement and associated performance review Where the contract is due to be renewed or extended the contract is reviewed in order to determine the service providers performance with respect to the contract deliverables.

13 EFFECTIVE DATE

The effective date of the policy guideline will be the date of signature by the MEC.

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14 MONITORING AND EVALUATION

The Policy, Research and Product Development Directorate with support from the Contracts Management Unit will undertake the monitoring and evaluation of the policy and will review the policy after three years or as required.

APPROVED BY:



MR S.A. DUMA, MPL
HONOURABLE MEC FOR TRANSPORT &
HUMAN SETTLEMENTS

10/04/2025
DATE

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ANNEXURE A

DRAFTING/VETTING CHECKLIST

DOCUMENTS	YES/NO N/A	COMMENTS
Departmental Approval		
MM/IA/ Contractor Resolution		
Development Programme		
Professional Indemnity		
Signed Progress Payment Schedule		
Correspondence between the contracting parties		
Signed Contract Agreement (with all attachments initialed)		
Evidence of delivery as provided for in the agreement		
Approved price escalations /Alignments or variations		
Record of amendments to the contract (Extension of time, Renewal; or Expansion of scope)		
Record of reviews and Audits conducted on contract		
Evaluation by Internal M&E		
Risk Assessment Report		

Prepared By: _____ Signature: _____ Date: _____

Verified By: _____ Signature: _____ Date: _____

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