



## DCSR POLICY: CONTRACT MANAGEMENT

### DOCUMENT INFORMATION AND LOG

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## 1. INTRODUCTION

All transactions effected by Department of Culture, Sport and Recreation involves contract whether explicitly agreed in writing, or implicitly implied through action. Contracts are properly managed by all stakeholders involved ensuring that service delivery is according to specifications and at agreed costs. Improperly managed contracts may impact negatively on service delivery. Adverse effect of poor contract management include but are not limited to:

- Goods and services outside of specification
- Cost overruns
- Poor supplier, buyer or other stakeholder relations
- Negative public perception

Contract management involvement of all stakeholders is essential for good financial management and will contribute greatly to the effectiveness and efficiency of service delivery.

## 2. DEFINITIONS:

In this Policy, unless the context indicates otherwise:

DEFINITION	DESCRIPTION
CONTRACT ALTERATION	means changing technical writing or input errors to the agreement of the contract without changing the scope of contract.
CONTRACT AMENDMENT	means changing the scope, nature, duration, purpose or objective of the agreement or contract (In context of Circular 62 and section 116 (3) of the MFMA).
CONTRACT CHAMPION	Means the manger/director/administrator responsible for all day to day activities including performance management and dispute resolution during the life cycle of the contract with delegated owners to perform this function.
CONTRACT MANAGEMENT	Means the holistic term of all role players involved in an agreement (SLA/SDA) or contract and include the; contract manager, contract owner, contract champion and supplier.
CONTRACT ADMINISTRATOR	Means the official responsible for monitoring regulating and reporting on all contract related activities as set out in PFMA

<b>CONTRACT OWNER</b>	Means the official that is ultimately accountable for all activities during the life cycle of the contract relevant to his directorate
<b>DELEGATIONS</b>	Formal written instruction to perform to assist in performing duty
<b>FORCE MAJURE</b>	Is the expression used to denote irresistible superior force which might cause damage or prevent the execution of obligation therefore supplier is not liable for damages caused by for majure or for failure to carry out a contract if prevented

### 3. ABBREVIATIONS

<b>ABBREVIATIONS</b>	<b>DESCRIPTIONS</b>
<b>BEE</b>	Black economic empowerment
<b>B-BBEE</b>	Broad-Based Black Economic Empowerment
<b>PFMA</b>	Means Public Finance Management Act
<b>SCM</b>	Supply Chain Management
<b>NT</b>	National Treasury
<b>SCC</b>	Special Conditions of Contract
<b>SDA</b>	Service Delivery Agreement
<b>SLA</b>	Service Level Agreement

### 4. PURPOSE

The purpose of the departmental contract management policy is to provide guidance within the Department regarding the Supply Chain Management System, which operates in terms of applicable legislation, frameworks, policies and practice notes, and enables a supply chain management system that operates in an effective and efficient manner.

### 5. OBJECTIVES

To give effect to Section 217 of the Constitution of South Africa (1996) that stipulate:

PFMA section 38 subsection 1:

- The effective and efficient control of contracts procured through the SCM system ensuring: proper recording and enforcement of contracts throughout the contract life cycle (specifications to contract reviews); management of Contract Performance; to assist officials in understanding their legal and managerial responsibilities with regards to contract management

- The optimization of efficient and sustainable financial wellbeing of the department, resulting in lower cost drivers, and the continuous development of effective Management Information systems, resulting in strategic support and risk preventions.
- To ensure that no contract procurement takes place outside of the SCM System.

## 6. STATUTORY AND REGULATORY FRAMEWORK FOR MANAGING CONTRACTS

The Legislative framework provided by Public Finance Management Act (PFMA), regulations and guidelines focuses on improving financial management and service delivery. Section 217 of the Constitution; Section 38 of the PFMA, SCM Policy, procures goods or services; disposes of goods no longer needed; and Transfer of goods, Selects service providers and suppliers to provide assistance in the provision of departmental services Adoption, Amendment and Implementation of the Contract Management Policy

## 7. CONTRACT MANAGEMENT AND CONTRACT LIFE CYCLE

Contract management must be applied through contract life cycle based on Planning, Creation, Collaboration, Execution, Administration and Renewal/Close out of the contract.

- Planning: is the stage that identifies the need for contract creation and when this must happen delivery can occur as approved by the budget.
- Creation: will decide on most appropriate intended output and outcomes and prepare contract document first draft.
- Collaboration: drafting and negotiating process including external and internal reviews and will give legal effect to the requirement of all parties to the contract
- Execution: is the act of signing the contract making it legally and formalize the terms and conditions agreed upon
- Administration: includes monitoring delivery under the contract to ensure that it achieves its objectives and also effecting of necessary changes to the contract.
- Closeout/ renewal: is the stage for necessary action to close or renew the agreement as associated with performance review.

## **8. IDENTIFICATION AND CLASSIFICATION OF CONTRACTS**

The classification of contract will include: contract by or nature

Contract value, contract duration and contract complexity.

## **9. OVERSIGHT OF CONTRACT MANAGEMENT**

Contract are properly enforced, classified correctly, roles of contract owners, contract managers, appropriate delegations to allow role players to carry their responsibilities, clear procedure and handover from contract award to contract management, reporting channels be followed, ongoing contract training is provided annual review of contract

## **10. AVOIDING ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM**

The accounting officer together with delegated official in the department must apply: –

- That all reasonable steps to prevent abuse of the contract management system are taken care of
- Check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors, are listed as companies or persons prohibited from doing business with the public sector;
- Reject any bid from a supplier who fails to provide written proof from the South African Revenue Service that that supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations;
- Reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract.

## **11. CANCEL A CONTRACT AWARDED TO A SUPPLIER**

- (i) If the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or
- (ii) If any official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that supplier.

## **12. THE ACCOUNTING OFFICER**

- May disregard the bid of any bidder if that bidder, or any of its directors –
  - (i) Has abused the departmental supply chain management system
  - (ii) Has committed fraud or any other improper conduct in relation to such system; or

- (iii) Has failed to perform on any previous contract; and must inform the relevant treasury of any action taken in terms of paragraph (a).

### 13. CONDITION OF CONTRACT

A contract or agreement procured through the Supply Chain Management System of the Department must:

- The contract must be in writing;
- It must stipulate the terms and conditions of the contract or agreement, which must provide for:
- The termination of the contract or agreement in the case be in writing; the termination of the contract or agreement in the case of non- or underperformance
- Dispute resolution mechanisms to settle disputes between the parties;
- A periodic review of the contract or agreement once every three years in the case of a contract or agreement for longer than three years; and any other matters that may be prescribed.

### 14. ADMINISTRATIVE CAPACITY

The relative Departmental officials, with delegated powers from the Accounting Officer, as contract owner must establish capacity in the administration of the department to:

- Assist the accounting officer in carrying out the duties set
- Ensure that a contract or agreement procured through the supply chain management policy of the department is properly enforced;
- Monitor on a monthly basis the performance of the contractor under the contract or agreement.
- Administrate the contract with the necessary competencies and delegations, ensuring effective management of contracts.
- The Contract Owner ensures that contract champions submit suppliers' performance reports to the contract administrator within every time when contracts were approved for services and goods.
- The Contract Owners submits a consolidated report for their Directorate to the Contracts Administrator within seven (7) business days after the end of each quarter.

- The Contracts Administrator submits a consolidated report on the performance of contracts or agreements to the Accounting Officer within 15 business days of the end of each quarter for reporting to provincial treasury.

## 15. AMENDMENT OF CONTRACTS

Contract or Agreement procured through the supply chain management policy of the department may be amended by the parties, in exceptional circumstances in order to mitigate abuse, in perception after the fact to prevent financial inefficiencies and influencing financial sustainability.

Amendments of contracts where the expansion or variation is not more than 20% (construction related goods, services and/or infrastructure projects), and 15% (all other goods and/or services) of the original value of the contract, must be submitted directly to the Accounting Officer for approval

Amendments of contracts where the expansion or variation is more than the threshold prescribed by National Treasury must be dealt with in terms of the, deviation and inform provincial treasury for approval.

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.

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.

## 16. DEPARTMENTAL CONTRACTS

National /Provincial or Local government institutions contracts can be utilized by the department if the contracts are valid. The department will get in contract with the contracted service provider if the contract from intra-departments has not expired or has been granted extended period.

- The department can use the active contract to acquire relevant services that are of same category if the department need them urgent where by the department could not get three quotations. The Head of Department will approve such.
  - This will be applied on special services, on catering, catridges, etc.

### **APPOINTMENT OF THE TRANSACTION ADVISORS (PUBLIC PRIVATE PARTNERSHIP) PPP.**

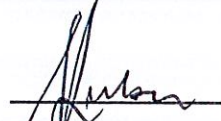
The appointment of consultants to assist Accounting Officer or project manager with the execution of their obligations should be done in accordance with the prescripts contained in Supply Chain Practice Note SCM3 of 2003.

The appointment of Transaction Advisor to assist with the preparation, concluding/implantation of Public Private Partnership or part thereof, must be done in



accordance with PPP Practice Note Number 4 of 2004, issued in terms of section 76(4)(g) of the Public Finance Management Act, No.1 of 1999 as amended by Act 29 of 1999.

APPROVED BY:

  
MR SW MNISI

HEAD: CULTURE, SPORT AND RECREATION

  
DATE