

**NGQUSHWA LOCAL**  
**MUNICIPALITY**



**CONTRACT MANAGEMENT POLICY**

**2022/2023**

## Summary

Contracting shall be conducted in a manner that will:

- a) Stand the test of public scrutiny in matters of discretion and integrity, encourage competition, and reflect fairness in the spending of public funds;
- b) Ensure the supremacy of functioning requirements;
- c) Support long-term infrastructural and local development and other appropriate national objectives; and
- d) Comply with the Local Government's obligations under the related legislative and policy prescripts.

<b>Publication Date</b>	
<b>Review Date</b>	<b>19 March 2022</b>
<b>Related Legislation/Applicable Section of Legislation</b>	The Local Government: Municipal Systems Act No. 32 of 2000 (Municipal Systems Act); the Promotion of Access to Information Act No. 2 of 2000; Section 217 of the Constitution  Section 116 of the MFMA Section 33 of the MFMA
<b>Related Policies, Procedures, Guidelines, Standards, Frameworks</b>	
<b>Replaces/ Repeals (whichever is relevant, if any)</b>	



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## 1. TITLE

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### **CONTRACT MANAGEMENT POLICY**

## 2. PURPOSE

The intention of this Policy is to define the parameters and set out a clear basis for the creation and application of appropriate processes and procedures that should result in efficient and value-adding procedures within the Municipality in accordance with the prescribed legal, financial and ethical requirements. It will assist to properly deliver the required outputs with clarity, effectiveness and accountability, and to further enable standard application of the required processes, thereby resulting in accuracy and consistency in decision-making.

## 3. SCOPE

This policy applies to:

- Technicians
- Middle Managers (except managers on CTC)
- Senior Managers/HOD's will be based on CTC breakdown of employee choice
- Councillors (as per the Determination of upper limits for public office bearers)

## 4. PROCEDURE DETAIL

### **OBJECTIVES**

4.1. The effective and efficient control of contracts procured through the SCM system ensuring:

- 4.1.1. proper recording and enforcement of contracts throughout the contract life cycle (from specifications to contract reviews);
- 4.1.2. support to the demand management framework, optimizing proper planning, resulting in effective service delivery;
- 4.1.3. management of Contract Performance;
- 4.1.4. to assist officials in understanding their legal and managerial responsibilities with regards to contract management;

4.2. To ensure that all contracts by the municipality are procured within the SCM system.

## **STATUTORY AND REGULATORY FRAMEWORK FOR MANAGING CONTRACT**

1.1 Regulatory Framework and Application of the Contract Management

5.1.1. All officials and other role players in the Municipality must implement this policy in a way that gives effect to:

5.1.1.1. Section 217 of the Constitution;

5.1.1.2. Section 116 of the MFMA;

5.1.1.3. Section 33 of the MFMA;

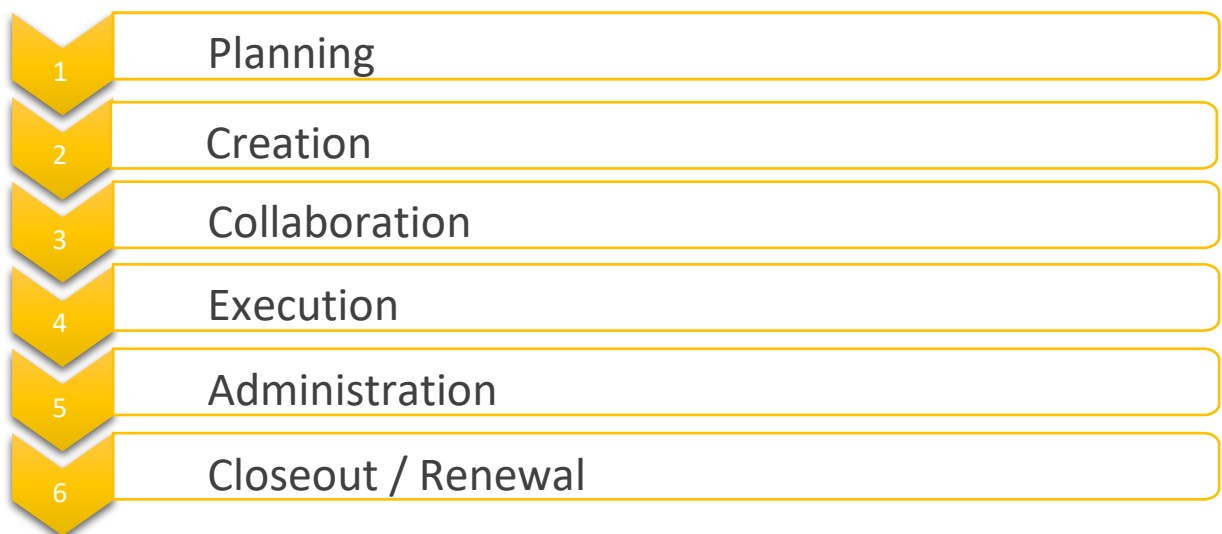
5.1.1.4. SCM Policy; and

5.1.1.5. any other regulations pertaining to Supply Chain Management

5.1.2. The Policy applies to all contracts procured through the supply chain management system of the Municipality.

## **✓ CONTRACT LIFE CYCLE**

*The following diagram depicts the contract life cycle.*



6.1. **Planning**

- 6.1.1. Projects should be identified from the Integrated Development Plan (IDP), sourced from the needs of the Community and the Municipality.
- 6.1.2. Identified projects should be approved by the Council of the Municipality and be incorporated in the IDP and linked to the strategic objectives of the Municipality which in turn will be assigned an appropriate budget.
- 6.1.3. Based on the appropriated budget and developed operational plan, the need for contract should be established in order to execute the operational plans.
- 6.1.4. User Departments must ensure that projects emanating from the strategic objectives contained in the approved IDP are appropriately budgeted for and operational plans or service delivery and budget implementation plans (SDBIP) are developed.
- 6.1.5. Contracts Management Section of the Municipality in consultation with SCM Section of the Municipality must ensure that contracts for projects linked to strategic objectives are procured through an appropriate procurement process.

## 6.2. **Creation**

- 6.2.1. Contract Management through SCM Section of the Municipality must be informed timeously of any tender awarded for procurement of goods and services.
- 6.2.2. Contract Management and Legal Services of the Municipality must ensure that appropriate contract documentation for the relevant class of contract is documented and approved by both the Contracts Manager and the user department.

## 6.3. **Collaboration**

- 6.3.1. Prior to engaging the appointed service provider, the user department, Legal Services and Contracts Management section must review the drafted contract to ensure that the contract will give legal and non-legal effects to the requirements of all parties to the contract.
- 6.3.2. After the service provider has been approved for the appointment, the user department and Legal Department must discuss the terms and conditions of the contract including the

expected deliverables with the appointed contractor to ensure that the terms and conditions of the contract give effect to the requirements of both parties.

6.3.3. The negotiated contract must be in line with, and must not be materially different from the tender specifications and awarded tender.

#### 6.4. **Execution**

6.4.1. User department must enter into the contract with the appointed service provider and the contract must be endorsed by the Municipal manager of the Municipality.

6.4.2. Contracts Manager and the Head of SCM must also sign the contract as witness to the contract.

6.4.3. The contract will only be enforceable after all the signatures of the relevant parties are documented, therefore the signatures must include the initial on all pages by the User department and delegated representative of the appointed contractor.

#### 6.5. **Administration**

6.5.1. Contract administration includes all administrative (monitoring and evaluation) duties associated with a contract once it is implemented.

6.5.2. Contracts Manager and the user department must from time to time review the following with regards to the contract once it implemented;

6.5.2.1. Contract pricing and discounts(if applicable);

6.5.2.2. Timeliness of payments and or receipts;

6.5.2.3. Performance in delivering agreed service level or specifications of goods and services; and

6.5.2.4. Applicable amendments.

6.5.3. The contract should be signed by all parties concerned (the user department must ensure that the service provider has the delegated powers to sign and amend the contractual agreement).



- 6.5.4. A signed service level agreement (if applicable) must be compiled and signed which will incorporate all the relevant sections of the tender documentation.
- 6.5.5. All once-off purchases shall have a specified end delivery date.
- 6.5.6. Contracts **Manager** must ensure that the contract register recording all contracts of the Municipality is maintained by the Contracts Management section of the supply chain unity.
- 6.5.7. The contracts register contains the following information;
  - 6.5.7.1. Details of awarded tender (i.e. Name of the service provider, Value of Contract, Contract ID number, Contract description and Date of award);
  - 6.5.7.2. Duration of the contract (Start and End date of the contract);
  - 6.5.7.3. Contract Type;
  - 6.5.7.4. Details of price escalation, if applicable;
  - 6.5.7.5. Details of the Project Manager; and
  - 6.5.7.6. Progress payments made under the contract.
- 6.5.8. A senior official must review the contract register on a quarterly basis for completeness and accurac

## 6.6. **Close-out / Renewal**

- 6.6.1. Contracts **Manager** in consultation with the user department and Project Manager must assess the performance of the service providers at the regular interval during the contract life cycle and importantly at the close-out or renewal of contract.
- 6.6.2. A review of the following issues should be considered when the performance under the contract is assessed;
  - 6.6.2.1. actual quantities, prices, total values against budgeted quantities, prices and total values;
  - 6.6.2.2. actual timeliness of delivery under the contract against the contracted timeframes;
  - 6.6.2.3. actual service levels or specifications of goods and services against those contracted.
  - 6.6.2.4. future budgets, change suppliers or other stakeholder;

6.6.2.5. outsourcing opportunities and risk strategies.

## ✓ IDENTIFICATION AND CLASSIFICATION OF CONTRACTS

### 7.1 Classification of Contracts

- 7.1.1. Contracts manager in consultation with the Project Manager and user department must classify the contract according to the nature/type of procurement, value of the contract, duration of contract, complexity of contract and perceived strategic importance of a contract.
- 7.1.2. Contracts manager in conjunction with the various user departments must from time to time maintain the contract listing, the classification of contracts and update the contract register.

## ✓ RECOGNITION, MEASUREMENT AND DISCLOSURE OF CONTRACTS

- 8.1. Contracts which require recognition and disclosure by the GRAP standards should be identified by the contract management section in consultation with Budget and Treasury Office of the Municipality.
- 8.2. The contracts that require recognition, measurement and disclosure in the Annual Financial Statements should be regularly reviewed by the Contracts Manager in consultation with the Head of Budget and Treasury and Legal Section.
- 8.3. These contracts should include the following, but not limited to;
  - 8.3.1. Contingent Assets, example include
    - 8.3.1.1. Claims instituted by the Municipality against service providers
  - 8.3.2. Contingent Liabilities, example includes
    - 8.3.2.1. Claims instituted against the Municipality by service providers; and
    - 8.3.2.2. Environmental rehabilitation liability.
  - 8.3.3. Commitments, example includes
    - 8.3.3.1. Goods and services already ordered but not yet delivered;

8.3.3.2. Goods and services budgeted for but still to be ordered; and

8.3.3.3. Lease commitments.

8.3.4. Accrued revenue, example include

8.3.4.1. Goods and services received in terms of the contract but not yet invoiced by the contractor.

## ✓ **PLANNING, BUDGETING AND REPORTING CYCLE**

1.2 **Strategic plan and budgets:-** A comprehensive review of all existing and proposed contracts must be undertaken during the strategic planning and budget process and that:

1.2.1 operational plans must specify contracting requirements;

1.2.2 objectives of each contract are linked to the strategic objectives of the institution;

1.2.3 contracting requirements are communicated to internal and external stakeholders;

1.2.4 contracts are linked to the annual procurement or sales plan; and

1.2.5 Contract management function is reviewed.

1.3 **Budget implementation:** - this involves enforcement of contracts in such that delivery and subsequent payments are carried out.

1.4 **Management reporting:-** this involves monitoring and the reports useful for managing contracts includes but not limited to:

1.4.1 budget approved, contract not awarded (planned date of award, start and completion);

1.4.2 contract awarded, not yet commenced (planned date of start and completion);

1.4.3 per contract - amount contracted, no order;

1.4.4 per contract - amount committed, goods or services not yet received;

1.4.5 per contract – value of goods or services received, not yet paid for;

1.4.6 per supplier, per contract – amounts not paid within terms;

1.4.7 breaches of conditions or service delivery targets (either party);

1.4.8 Significant price variations or other variations in conditions.

1.5 Reporting may take place during the following stages throughout the contract life cycle;

- 1.5.1 Contract inception;
- 1.5.2 In-year reporting (monthly, quarterly and mid-year);
- 1.5.3 Annual reporting (Audited AFS and Annual Report);
- 1.5.4 Planning and budget (Strategic plan and budget); and
- 1.5.5 Contract closure.

## ✓ **OVERSIGHT OF THE CONTRACT MANAGEMENT**

10.1 The Contract Management of the Municipality is responsible for ensuring that contracts are properly implemented, managed, enforced, monitored and reported on. To facilitate appropriate oversight of contract management the accounting officer must take all reasonable steps to ensure that;

10.1.1 Contracts are properly classified according to the nature;

10.1.2 No rights in terms of an awarded contract will accrue before the objection period of 14 days has elapsed without there being any objection to the award.

10.1.3 Contract are signed by all parties concerned (should also ensure that the service providers have the delegated powers to sign and amend the contractual agreement).

10.1.4 Once the final award for a tender is made the Contract management section of the Municipality must be informed, supporting approving documents and any other documentation subsequent to award are submitted to the Contracts Manager.

10.1.5 The Contracts Manager submits a consolidated report on the performance of contracts or agreements to the Accounting Officer within 10 business days of the end of each quarter.

10.2 The contract will only be enforceable after all the signatures of the relevant parties are documented.

10.3 A signed service level agreement (if applicable) must be compiled and signed which will incorporate all the relevant sections of the tender documentation.

10.4 Contract variations should be recommended by the user department in conjunction with the Contract Manager and be submitted to the Bid Adjudication Committee before duly approved by the Municipal Manager.

10.5 Approved contract variations must be attached to the original, signed contract, between the Municipality and the service provider.

### ✓ **RESOURCING CONTRACT MANAGEMENT ACTIVITIES**

11.1. The roles and responsibilities of parties involved in the management of contracts procured through the SCM system are described in the attached Annexure. Please refer to Annexure A: Roles and Responsibilities.

### ✓ **DOCUMENT AND INFORMATION MANAGEMENT**

12.1. All contracts entered into by the Municipality must be recorded in the contract register to be maintained by Contracts Management section of the Municipality.

12.2. Proper records regarding all aspects of the contract must be maintained and kept in accordance with relevant legislation, i.e. SCM policy, MFMA, MFMA SCM regulations and etc. Safe custody of all contract documents must be enforced by all relevant user departments.

12.3. Contracts management section of the Municipality must record and document the following with regards to the contract;

12.3.1. that the goods/services are received in accordance with the contract;

12.3.2. that the goods/services procured are received;

12.3.3. that the suppliers/contractors are paid in accordance with the contract;

12.3.4. that any variations to the contract are implemented in accordance with the contract; and

12.3.5. that any price escalations are implemented in accordance with the contract.

12.4. In instances where the price escalations provided for in the contract are approved by the delegated officials, contract management must ensure that the addendum to the contract is attached to the original contract.

## ✓ **RELATIONSHIP MANAGEMENT**

13.1. Relationship management of the Municipality with stakeholders should take account of the factors but not limited to;

13.1.1. understanding of and respect for each party's point of view;

13.1.2. shared knowledge and objectives and desire for contract to succeed;

13.1.3. sound understanding of contract wording and contract documents;

13.1.4. willingness to resolve issues by all parties;

13.1.5. effective decision making processes; and

13.1.6. joint approach to managing delivery under the contract.

13.2. Contracts Manager in consultation with Budget and Treasury Department must ensure that the service providers are classified according to the below "Classification Framework for Relationship Management".

Prime	The top X suppliers in terms of importance to Institution's strategic objectives
Key	Business critical supplier in terms of institution's strategic objectives
Approved	Non business critical suppliers approved for repeat business subject to performance
Test	New and ad-hoc suppliers
Potential	Suppliers identified for potential future business
Exit	Suppliers to be managed out of future business

13.3. For classification purposes, the Contracts Manager in consultation with the user department should consider the following with regards to each contract;

13.3.1. Unique supplier ID;

- 13.3.2.Unique contract ID and description of contract;
- 13.3.3.Contract type;
- 13.3.4.Rand value of contract;
- 13.3.5.Contract duration (start and end date)
- 13.3.6.Contract classification;
- 13.3.7.Value for money assessed prior to contract execution, if applicable;
- 13.3.8.Corrective action required;
- 13.3.9.Good performance acknowledgement;
- 13.3.10. Performance rating;
- 13.3.11. Value of money achieved, if applicable; and
- 13.3.12. Whether supplier be considered for future contracts?

13.4. Classification of suppliers into the above classes should be reviewed on an annual basis by the Contracts Manager and the representative from Budget and Treasury Department.

13.5. Contract management section must consider the consideration given to continuity of suppliers and buyer staff for appropriate classification.

13.6. Regular contract management review must consider existing and potential strategic relationships with a view to deliver benefits for all relevant parties.

13.7. Contract management section must ensure that communication between the parties is on peer to peer basis, i.e. operational issues should be resolved by staff at the operational level (Project Manager).

13.8. In addition to the elements mentioned above, other factors that encourage the development of a successful relationship include:

13.8.1.securing senior level support in both the Municipality and service provider;

13.8.2.recognising that actions and attitudes affect the tone of the relationship;

13.8.3.ensuring that the governance arrangements are fair;

13.8.4.ensuring that roles and responsibilities are clearly understood by both parties and that the necessary authority levels have been ascribed;

- 13.8.5.ensuring that escalation routes are clear and understood but that problems are resolved as early as possible and as low down the management tree as possible;
- 13.8.6.separating strategic matters from the day-to-day service delivery issues;
- 13.8.7.ensuring that appropriate attitudes and behaviour are practised and displayed to assist the promotion of a positive and constructive relationship;
- 13.8.8.Communicating and sharing information at the appropriate level between the organisation and the service provider, for example strategic, business and operational levels and as openly as possible.

## ✓ **PERFORMANCE MANAGEMENT**

- 14.1 Performance of the suppliers should be monitored on a regular basis and individual contracts must be managed appropriately for the classification of contract;
- 1.6 Procedures to assess the performance of suppliers in meeting the requirements of the contract must be clear, well documented and communicated to all parties prior to signing of the contract and commencement of delivery under the contract.
- 1.7 Baselines, measurement metrics, methods, data sources and collection responsibilities must be agreed with the service provider before contract signing and commencement of delivery.
- 1.8 Performance measurement metrics must be linked to service delivery agreements which are consistent with the strategic objectives of the Municipality.
- 1.9 The following performance management measurements must be considered for contracts entered into with contractors;
  - 1.9.1 Site visits in accordance with the requirements of the contracts;
  - 1.9.2 Site meetings with service providers;
  - 1.9.3 Regular performance reviews conducted in accordance with the classification of the service provider and or stakeholder;
  - 1.9.4 Ad-hoc performance reviews conducted where non-performance is identified outside of the regular review process;



14.5.5 In instances where non-performance has been identified, a formal letter advising a specific non-performing areas and stating the remedial action(s) required within a specific timeframes must be issued to the non-performing service provider, by the Contracts Manager.

14.5.6 General market monitoring for market trends and compared to performance of current service providers.

14.5.7 Performance assessment by the user department.

14.6 When assessing the value for money prior to engagement, Contracts Manager must consider the following;

14.6.1 Prices are within the reasonable limits for the type of goods and services;

14.6.2 Procurement and other procedures were adhered to; and

14.6.3 Previous performance, where applicable.

14.7 When assessing the value for money achieved, Contracts Manager must consider the performance rating for the contract.

14.8 Contracts management section of the Municipality must assess the performance of the service provider, at the regular interval during the contract life cycle and importantly at the close-out or renewal of contract.

14.9 When assessing the performance of the service providers, buyers or other stakeholders, parties responsible for the performance or lack thereof should be considered.

14.10 When assessing the performance of the service providers, the following broader obligations must be considered;

14.10.1 Compliance with broader legal framework(i.e. health and safety, environment, etc.); and

14.10.2 Compliance with other policy initiatives (i.e. B-BBEE, Proudly South African, etc.).

14.11 Reports on contract management performance should be sorted or grouped in variety of ways and combinations, which should include the following, but not limited to;

14.11.1 Contract category and or type;

14.11.2 Service provider, buyer or other stakeholders; and

14.11.3 User department, Contracts Manager or legal advisors.

14.12 Contract management systems should add value to the Municipality, user department and Contracts management section.

14.13 With regards to the Municipality as a whole, the following metrics should be used to evaluate value of contract management systems to the Municipality;

- 14.13.1 total cost of contracting function;
- 14.13.2 breaches of contract by service providers;
- 14.13.3 number and cost of litigations;
- 14.13.4 number and severity of issues identified in audits; and
- 14.13.5 shorter cycle time for delivery for services (plan-budget-procure-deliver).

14.14 With regards to the User Departments, the following metrics should be used to evaluate the value of contract management systems to the user departments;

- 14.14.1 % of total spend under contracts;
- 14.14.2 % of total spend under contracts by contract classification, suppliers;
- 14.14.3 suppliers, buyers or other stakeholders with multiple contracts;
- 14.14.4 goods and services with multiple suppliers / buyers; and
- 14.14.5 survey User Departments, procurement staff, finance, legal services, audit and other internal stakeholders regarding their opinion of
  - 14.14.5.1 efficiency;
  - 14.14.5.2 user friendliness; and
  - 14.14.5.3 accessibility of contracts.

14.15 With regards to Contracts management section, the following metrics should be used when evaluation value of contract management system to the Contracts management section;

- 14.15.1 average number of contracts managed per contracting professional;
- 14.15.2 average number of new contracts executed per contracting professional;
- 14.15.3 average number of amendments executed per contracting professional;
- 14.15.4 average time to author a new contract (by category);
- 14.15.5 average time to negotiate a contract;
- 14.15.6 average time to get internal approval to execute a contract;
- 14.15.7 average time to execute a contract;
- 14.15.8 total cycle time from contract creation to contract execution;

- 14.15.9 % of contracts with non-standard terms;
- 14.15.10 % of non-standard contracts not approved;
- 14.15.11 % of contracts with penalties for non-compliance;
- 14.15.12 % of contracts with auto renewal clauses;
- 14.15.13 % of contracts with standard terms and or based on standard template;
- 14.15.14 % of contractual obligations fulfilled;
- 14.15.15 lost contracts; and
- 14.15.16 survey stakeholders regarding their opinion of
  - 14.15.16.1 efficiency;
  - 14.15.16.2 user friendliness; and
  - 14.15.16.3 accessibility of contracts.

14.16 As part of the annual review of the contract management policy, the performance of each contract management area, system or set of procedures and processes must be reviewed.

14.17 Contract Management performance should be measured in terms of at least the following;

- 14.17.1 efficiencies achieved in reducing total annual contracting costs;
- 14.17.2 direct and indirect administrative overheads applicable to contract management activities;
- 14.17.3 accuracy and timeliness in recording, filing and accessing contract documentation;
- 14.17.4 correct operation of contract management systems (if computerised systems, the software functioning properly);
- 14.17.5 accuracy and timeliness of contract management reports;
- 14.17.6 compliance with procedures; and
- 14.17.7 retraining and / or removal of staff due to procedural breaches.

14.18 Performance reporting should consider the usefulness of the information for decision making.

14.19 Contracts management section should ensure that the performance information is relevant, accurate and timely.

14.20 Inception reports must be completed at inception of the contract and should incorporate the following;

- 14.20.1 metrics;
- 14.20.2 measurement systems; and

14.20.3 measurement and reporting format and frequency.

14.21 Inception report must be endorsed by both the contractor and the User department.

14.22 The frequency of reporting must be determined taking into account the following factors;

14.22.1 classification of the contract for management purposes;

14.22.2 classification of service providers taking into account the relationship status;

14.22.3 decision useful information for User Departments and Contracts Managers; and

14.22.4 material events reported by exception when they occur.

14.23 Monthly performance reports should incorporate the following;

14.23.1 notification of material events such as contract breaches and service delivery failures;

14.23.2 action taken or proposed in response to breaches; and

14.23.3 updates on contracts placed on watch due to previous performance issues.

14.24 Quarterly and mid-year report should encompass the following issues;

14.24.1 notification of key trigger points and milestones contained in the contracts;

14.24.2 notification of impending contract end dates;

14.24.3 notification of contract commencement and impending contract commencements;

14.24.4 contracts budgeted for and not yet contracted;

14.24.5 value committed (ordered) and not yet delivered;

14.24.6 payments to service providers outside of contract terms;

14.24.7 actions taken as result of contract breaches – summary for the quarter and half-year; and

14.24.8 actions taken to commend exceptional performance – summary for the quarter and mid-year.

14.25 During both the preparation for annual report and strategic plan and budget, a comprehensive review of the existing, recently completed and proposed contracts should be undertaken.

14.26 Completion reports for contracts entered into with service providers should be prepared to ensure;

- 14.26.1 formal evaluation of delivery under the contract;
- 14.26.2 overall performance under the contract; and
- 14.26.3 cost of service to the Municipality.

## **15. PREPARATION AND EXECUTION OF SERVICE LEVEL AGREEMENT**

15.1 Service Level Agreements (SLA's) are negotiated agreements designed to create a common understanding about services, priorities and responsibilities and are applicable in two situations.

15.1.1 Firstly, internally used and provided specialist support services; and

15.1.2. Secondly when outsourcing.

15.2. The purpose of SLAs and setting service levels is to enable the Municipality to monitor and control the performance of the service received from the supplier against agreed standards.

15.3. Contracts management section of the Municipality should ensure that service levels are agreed and benchmarked for both the Municipality and suppliers and should be:

15.4. established at a reasonable level; if they are set too high they will attract additional charges from the supplier;

15.4.2. prioritised by the customer in order of importance and on an agreed scale for example critical, major, urgent, important, minor, easily monitored, such as objective, tangible and quantifiable;

15.4.3. unambiguous and understandable by all parties; and

15.4.4. open to re-negotiation at any time.

15.5. After the appointment of the service provider, a service relationship must be established and a service level agreement must be entered into.

15.6. Contract Management section and SCM unit must ensure that the tender specifications and the minimum terms and conditions as per the bid documentation are included in the service level agreement.

15.7. Contract Manager in conjunction with the Legal Services and user department must ensure that the following are determined for inclusion in the service level agreement;

15.7.2. Performance, tracking and reporting;

15.7.3. Legal compliance;

- 15.7.4. Third party dependencies;
- 15.7.5. Subcontractor relationships that service provider may enter into and the terms thereof;
- 15.7.6. Exclusive relationship with service provider and the circumstances under which a client may engage other service providers;
- 15.7.7. Service provider's duties and responsibilities
- 15.7.8. Security and information security;
- 15.7.9. Timeframes of signing of SLA, i.e. 21 days;
- 15.7.10. Intellectual property rights and confidential information; and
- 15.7.11. Conditions for termination of the agreement.

15.8. The Municipal manager or chairperson of the BAC, in conjunction with the user department must co-sign the service level agreement with the service provider.

#### 15.9. **Roles and Responsibilities**

15.9.2. Service provider

15.9.2.1. Must ensure that all requirements as per the SLA are met;

15.9.2.2. Must provide quarterly SLA Compliance Report and other self-assessments to verify compliance

15.9.3. **Contracts Manager.**

15.9.3.1. Verifies service provider's compliance assessments by;

15.9.3.2. Tracking the SLA-related exception reports

15.9.3.3. Reviewing the SLA Monthly Compliance Reports and other self assessments

15.9.3.4. At its sole discretion, independently verifying the compliance with certain SLAs;

15.9.3.4.1. Resolving each SLA issue that effects the Municipality with the service provider; and

15.9.3.4.2. Escalating the unresolved SLA issues to Municipal manager.

15.9.3.5. Must review the service level agreement, on a regular basis, preferably annually.

15.9.4. **Legal Services**

15.9.4.1. In conjunction with the user department must prepare the service level agreement.

15.9.4.2. In conjunction with the User department must negotiate the terms of the service level agreement with the service provider.

15.9.5. **User department**

15.9.5.1. In conjunction with the Legal Services must prepare the service level agreement.

15.9.5.2. Must vet the service level agreement for relevance and accuracy prior to engaging the service provider.

15.9.5.3. Must negotiate the service level agreement with the service provider in conjunction with the Legal services.

15.10. The original signed SLA must be kept by the Contracts Manager.

15.11. Copies of the SLA must be provided to the user department and the service provider for their records.

15.12. Original version(s) of the service provider's tender documentation including proposal must be maintained by the Supply Chain Management function of the Municipality.

15.13. In addition to the service level agreement, the appointed service provider must be compelled to complete and duly sign the MBD7 form as per the National Treasury guidelines and the documentation must be attached to the proposal maintained by the SCM function of the Municipality.

15.14. The offer and acceptance form (i.e. MBD7 form) must be signed by the appointed service provider and the Municipal manager or delegated official of the Municipality.

15.15. Contract management section of the Municipality must ensure that the SLA Lifecycle comprises of the following six different phases;

15.15.2. development of service and service templates;

15.15.3. discovery and negotiation of an SLA;

15.15.4. service provisioning and deployment;

15.15.5. execution of the service;

15.15.6. assessment and corrective actions during execution (parallel phase to execution

of the service); and

15.15.7. termination and decommission of the service.

15.15.8. As a Service Level Agreement can be used in many areas, there are several types

of SLA's that can be used, including:

15.15.9. Customer SLA: This is where there is an agreement with an individual customer

15.15.10. Service SLA: This service agreement is for every customer making use of the

services being provided

15.15.11. Multi-level SLA: This is a combination of levels with the purpose of addressing

multiple sets of customers

15.15.12. Corporate SLA: This covers all Service Level Management (SLM) issues

15.15.13. Customer Level SLA: Covers all SLM issues that apply to a particular group of

customers

15.15.14. Service Level SLA: This covers all SLM issues that apply to specific services.

## **ANNEXURE A: ROLES AND RESPONSIBILITIES OF:**

### **1.1 Municipal manager**

1.1.1. Municipal manager in his capacity as an Accounting Officer must take all reasonable step as to ensure that the contracts or agreements of the Municipality are properly enforced.

1.1.2. Must ensure that a comprehensive delegations system is in place and that staff with delegated authority have the necessary competence to carry out their tasks and provide appropriate and timely advice.

1.1.3. Regularly report to the Council of the Municipality on the management of contract(s) or agreement(s) and performance of service providers.

1.1.4. Approve the contract variation based on the recommendation of the Contract Manager in consultation with the user department.

1.1.5. Approve the price escalation provided for in the contract based on the commendation of the user department and Contract Manager.



1.1.6. Approve the price escalations not provided for in the contract based on the recommendation of the Contract Manager in consultation with the Chief Financial Officer.

## **1.2. Contracts Manager:**

1.2.1. Contracts Manager is the official responsible for monitoring, regulating and reporting on all contracts related activities.

1.2.2. Must monitor on an on-going basis the financial health, tax compliance and overall performance of the prime and key supplier's.

1.2.3. Must ensure that an appropriate systems (manual or computerized) are developed and implemented to ensure proper management control and monitoring of contracts;

1.2.4. With the delegated authority from the Municipal manager, must monitor on a monthly basis the performance of service providers under the contract or agreement.

1.2.5. Responsible for managing the different types of contracts and provide summary and exception reports for each type as part of the contract and performance monitoring.

1.2.6. Prepare a report for the Municipal manager, at least on a quarterly basis, on the performance service providers and on the management of contract or agreement.

1.2.7. Ensure that payments as per general ledger are reconciled to the contract register.

1.2.8. Ensure the contract registers are update for each contract awarded by the Municipality.

1.2.9. Must ensure that he/she clearly understand the contract terms and ramification around keys issues including, termination; warranty; indemnity; security; confidentiality and dispute resolution.

1.2.10. Must submit consolidated report on the performance of contracts or agreement to the Municipal manager within 15 business days after the end of each quarter.

1.2.11. Must ensure that the user(s) and service provider (s) adhere to the terms and conditions of the contract.

1.2.12. Must handle all legal aspects of the contract and/or refer to the relevant department, i.e. Legal Services Department.

## **SHARED RESPONSIBILITIES**

1.2.13. In consultation with the User department must recommend for approval by the Municipal manager the price escalations provided for in the contract.

1.2.14. In consultation with the Chief Financial Officer must recommend for approval by the Municipal manager price escalations not provided for in the contract.

1.2.15. In consultation with the Project Manager must take appropriate action where a contractor is underperforming or is in default or breach of the contract

1.2.16. In consultation with the user Department must ensure that the inception report is completed at inception of the contract.

1.2.17. In consultation with the Project Manager must ensure that the frequency of reporting is determined.

1.2.18. During both the preparation for annual report and strategic plan and budget, undertake a comprehensive review of the existing, recently completed and proposed in conjunction with the user Department.

### **1.3. Project Manager:**

1.3.1. The Project Manager is responsible for the following activities:

1.3.1.1. site visits in accordance with the requirements of the contracts;

1.3.1.2. prepare contractors performance report to the user department and Contract Manager within 5 business days after the end of each month.

1.3.1.3. ensuring that purchase orders with correct ledger accounts are captured on the financial system in accordance with the pricing schedule;

1.3.1.4. maintaining adequate records (paper and/or electronic) in sufficient detail on an appropriate contract file to provide an audit trail;

1.3.1.5. inform the Asset Management section of the location of newly procured assets for asset register and insurance purposes;

1.3.1.6. where appropriate, authorize payments due in terms of the contract by processing invoices/Goods Received Notes.

1.3.1.7. submit monthly performance reports to the Contracts Manager on service providers /suppliers' performance in meeting the terms and condition of the contract (Including price escalation);

1.3.1.8. ensure performance of service provider is managed (Champion) appropriately to the terms and conditions of the contract including establishing and managing of:

1.3.1.8.1. non-performance is addressed with at least a formal letter advising specific non-performing areas and stating remedial action/s required within specific time frames;

1.3.1.8.2. good performance is recognised and communicated through established channels, and

1.3.1.8.3. all parties participate in joint performance reviews where appropriate, and seek improvement opportunities.

#### SHARED RESPONSIBILITIES

1.3.2. In consultation with the Contract Manager must ensure that the frequency of reporting is determined.

1.3.3. In conjunction with the user department must prepare a completion report for contracts entered into with service provider.

1.3.4. In consultation with Legal Services must ensure that all the necessary legal formalities in entering into the contract are adhered to.

1.3.5. In consultation with the Contract Manager must take appropriate action where a contractor is underperforming or is in default or breach of the contract;

#### 1.4. User Department:

1.4.1 The user department is responsible for ensuring that the Project Manager is:

1.4.1.1. assigned to all contract; and

1.4.1.2. Adequately trained so that they can exercise the necessary level of responsibility in the performance of their duties.

1.4.2. The User department must ensure that Project Managers submit suppliers' performance reports to the Manager within 5 business days after the end of each month.

1.1.1. Must submit a consolidated report for their Directorate to the Contracts Manager within 10 business days after the end of each quarter.

1.4.3. Must submit a consolidated report for their Directorate to the Contracts Manager within 10 business days after the end of each quarter.

#### SHARED RESPONSIBILITIES

1.4.4. In consultation with the Contract Manager must ensure that the inception report is completed at inception of the contract.

1.4.5. During both the preparation for annual report and strategic plan and budget, must undertake a comprehensive review of the existing, recently completed and proposed in conjunction with the Contract Manager.

1.4.6. In conjunction with the Project Manager must prepare a completion report for contracts entered into with service provider.

1.4.7. In consultation with the Contract Manager must recommend for approval by the Municipal manager the price escalations provided for in the contract.

1.5. User:

1.5.1. The user(s) is responsible for ensuring the following activities;

1.5.1.1. day to day management of the contract; and

1.5.1.2. ensuring that goods received are in accordance with the terms of the contract and contract timeframes.

1.6. **Budget and Treasury Department:**

1.6.1. Chief Financial Officer of the Municipality must ensure that adequate budget is available for procurement of any goods and services as per the contract.

1.6.2. Must ensure efficient processing of payments according to the contract(s).

#### **SHARED RESPONSIBILITIES**

1.6.3. In consultation with the Chief Financial Officer must recommend for approval by the Municipal manager price escalations not provided for in the contract.

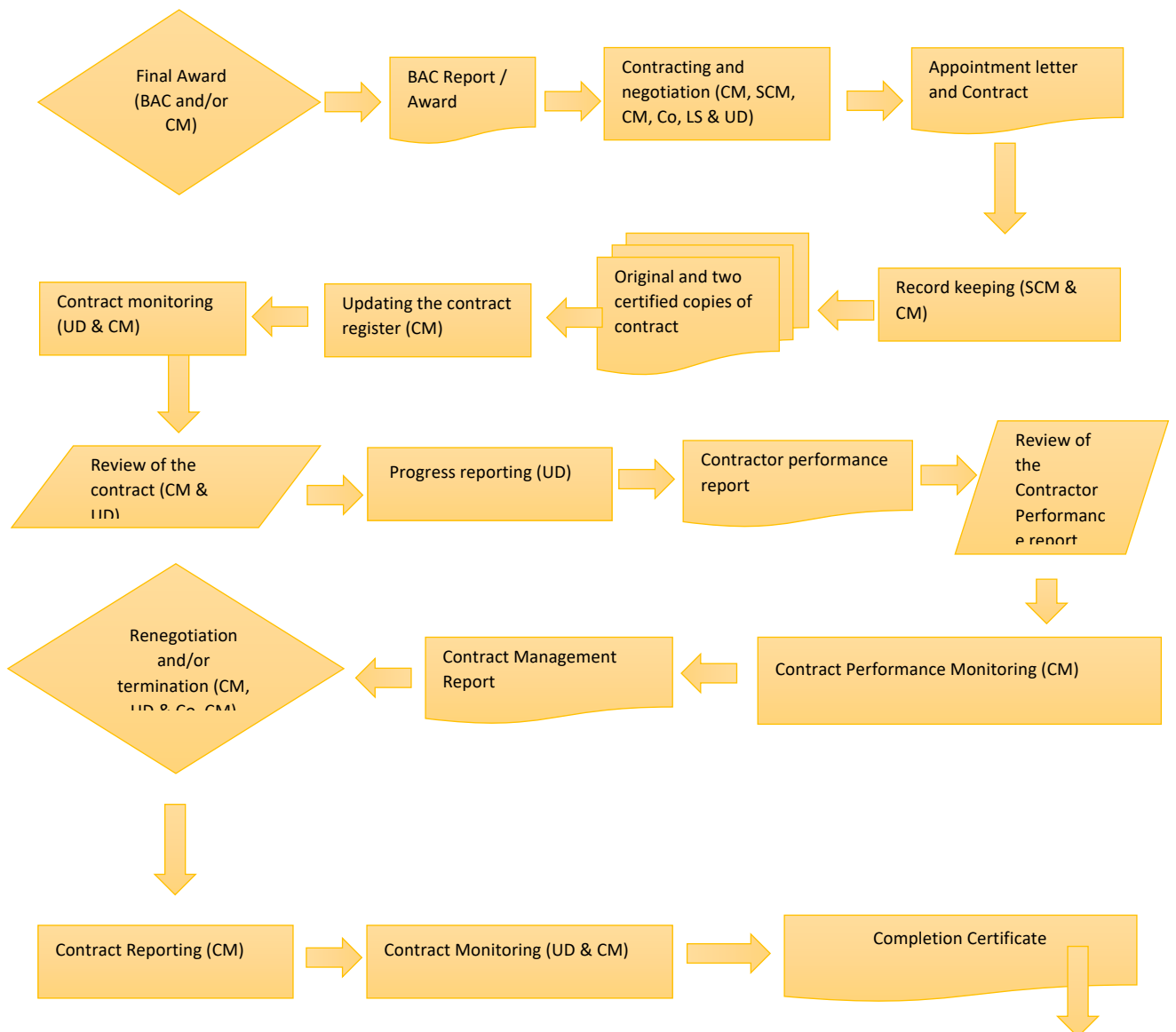
1.7. **Legal Services**

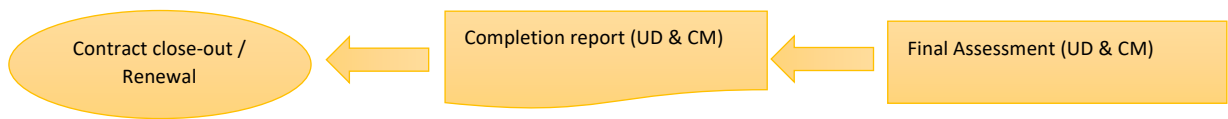
1.7.1. Must attend to all legal matters pertaining to contracts referred to by the Contracts Manager.

#### **SHARED RESPONSIBILITIES**

1.7.2. In consultation with Project Manager must ensure that all the necessary legal formalities in entering to contract are adhered to.

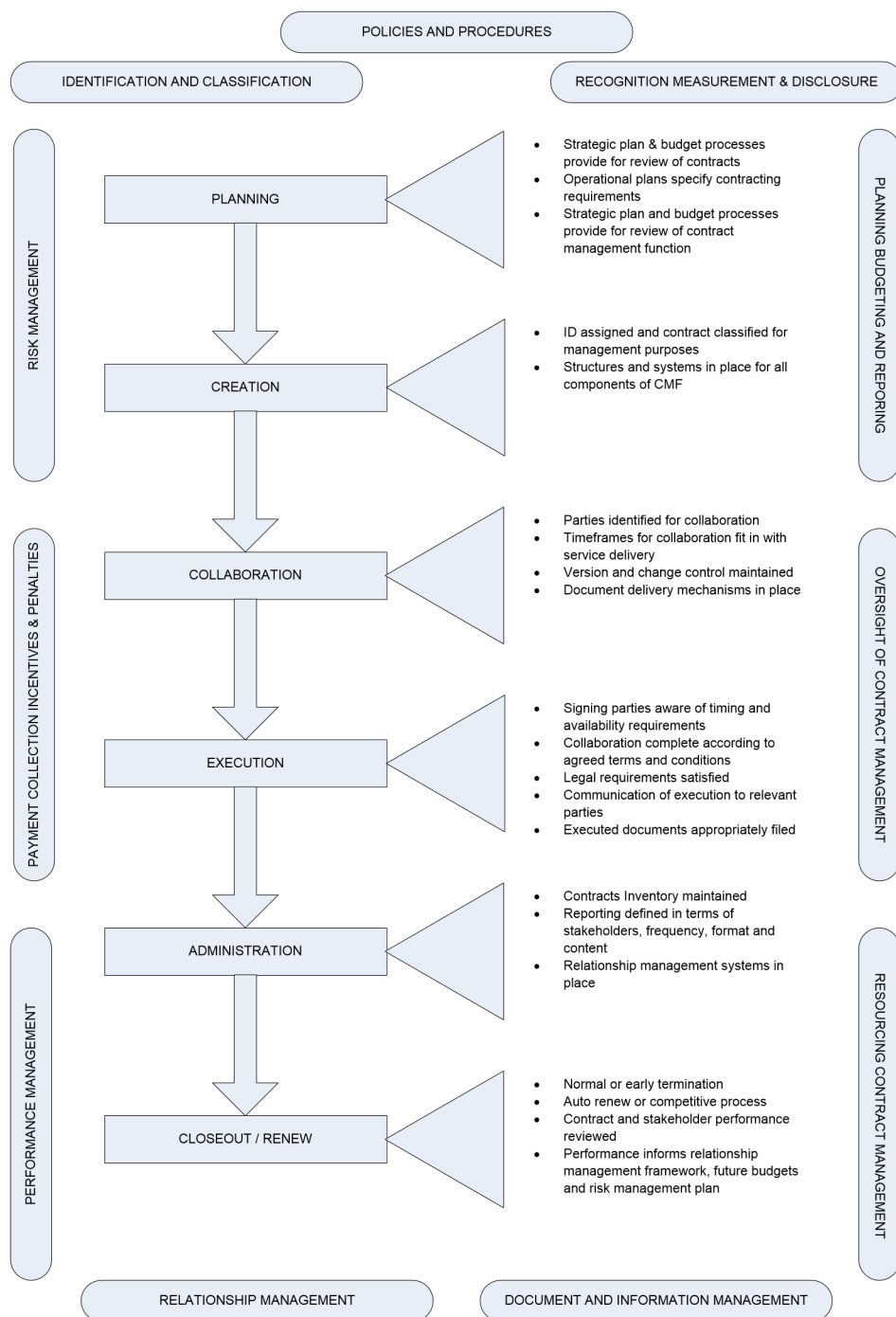
## ANNEXURE B: CONTRACT AND PERFORMANCE MANAGEMENT FLOWCHART





### **ANNEXURE C: “CONTRACT LIFE CYCLE CHECKLISTS”**

The diagram below illustrates how the Contract Management Framework (CMF) encompasses the Contract Life Cycle (CLC). For each stage of the CLC an example checklist is provided. As you apply each checklist in the institution, ensure that all components of the CMF have been considered and the relevant policies and procedures are in place.



## Checklist - Planning

- ✓ Strategic planning and budgeting processes provide for review of contracts
  - Existing contracts continuing through or concluding during the budget year
  - Proposed contracts commencing in the budget year

- Advance planning for contracts required in future years
- ✓ Operational plans developed at budget time specify contracting requirements
  - Suppliers, buyers, stakeholders identified – refer to relationship management framework
  - Time frames specified for
    - Creation
    - Collaboration
    - Execution and commencement
    - Reviews
    - Closeout / renewal
  - Objectives of each contract linked to strategic objectives of the institution
  - Communication to relevant internal and external stakeholders regarding contracting requirements
  - Link to annual procurement plan on the purchasing side
  - Link to annual sales and distribution plan on the sales side
- ✓ Strategic planning and budgeting processes provide for review of contract management function
  - Issues identified during year and from AFS and Annual Report
  - Contract management policies and procedures
    - Identification and classification
    - Recognition, measurement and disclosure
    - Planning budgeting and reporting



- Oversight
- Resourcing contract management
- Document and information management
- Relationship management
- Performance management
- Payment, collection, incentives and penalties
- Risk management

### **Checklist - Creation**

- ✓ Contract ID assigned
- ✓ Contract classification for management purposes
- ✓ Budget, implementation and in-year monitoring structures in place
- ✓ Contract oversight structures in place
  - Supplier / buyer / stakeholder induction completed
  - Contract manager appointed
  - Steering group and other advisory and oversight structures in place
  - Handover from bid and award stage to contract management
  - Contract management plan in place
- ✓ Contract management resources appropriate for classification
- ✓ Contract documentation systems in place
  - Original signed hard copy contract on file
  - Electronic copy of original signed contract on file (PDF)
  - Key information and trigger points recorded in the contract management system

- ✓ Appropriate supplier relationship structures in place
  - Roles and responsibilities of supplier, contract owner, and contract manager defined
  - Formal and informal communication channels clear
  - Conflict resolution mechanisms and escalation routes identified
  - Regular meeting dates set (monthly / quarterly / annually)
  
- ✓ Performance management systems in place
  - Performance management processes and metrics agreed with stakeholders prior to contract commencement
  - Performance measurement metrics consistent with institution's strategic objectives
  - Performance reviews set (monthly / quarterly / annually) and documentation defined
  
- ✓ Payment, collection, incentive and penalty systems in place
  - Payment or collection processes and remedial action understood by all parties
  - Incentive or penalty provisions linked to outcomes and strategic objectives of institution
  
- ✓ Risk management plan in place
  - Risk identification, and assessment completed
  - Potential risk response documented
  - Risk management plan is in line with institution wide Risk Management Plan

## **Checklist Collaboration**

- ✓ Parties for collaboration are appropriate
  - Contract owner
  - Legal
  - Finance
  - Risk management
  - Audit
  - Insurance
  - External parties to contract
- ✓ Timeframes for collaboration take into consideration operational deadlines for service delivery
- ✓ Version and change control is maintained in an efficient manner
- ✓ Delivery mechanisms are appropriate

## **Checklist - Execution**

- ✓ Signing parties (including witnesses) are aware of timing and availability requirements well in advance
- ✓ Required collaboration is complete and execution is in line with agreed terms and conditions
- ✓ Legal requirements are in order
- ✓ Execution and final terms and conditions communicated to all relevant internal and external parties
  - Contract owner
  - Contract manager / administrator
  - External parties to contract
- ✓ Executed documents appropriately filed

## **Checklist - Administration**

- ✓ Maintenance of Contracts Inventory
- ✓ Stakeholder ID (e.g. supplier or buyer ID and name)
  - ✓ Contract ID, and description
  - ✓ Contract value (total and annualised)
  - ✓ Contract duration
  - ✓ Classification for management purposes and appropriate management intervention required
    - Oversight
    - Resources
    - Document and information management
    - Relationship management
    - Performance management
    - Payment, collection, incentives and penalties
    - Risk management
- ✓ Stakeholders to receive reports
- ✓ Frequency of review and reporting
- ✓ Reporting requirements defined including documentation format and information content
  - Contracts likely to give rise to contingent assets or liabilities
  - Recently closed contracts
  - Recently renewed contracts
  - Impending contract commencement
  - Key trigger points

- Tax clearance maintained and other statutory and compliance requirements
- Risk management issues
- Performance issues by exception (good and poor)

### **Checklist – Closeout/Renew**

- ✓ Contract ID, description and classification
- ✓ Contract closeout
  - Early termination
  - Normal termination
- ✓ Contract renew
  - Auto renew
  - Competitive process
  - Other
- ✓ Deliverables reviewed (actual v budget)
  - Quantities
  - Prices
  - Total values
  - Timeliness of delivery
  - Service levels or specifications
- ✓ Performance review completed
  - Performance rating (1 – 5)
  - Value for money achieved (Y/N)
  - Considered for future contracts (Y/N)
- ✓ Relationship management framework informed
- ✓ Change supplier, buyer or other stakeholder
- ✓ Future budgets informed
- ✓ Risk management plan informed

## 5. ROLES AND RESPONSIBILITIES

<b>Role</b>	<b>Authority</b>
Create, evaluate, review and adopt the Contract management policy	Council
<ul style="list-style-type: none"><li>• Implement and enforce this policy</li><li>• Establish and control the administration necessary to fulfil this policy, and report efficiently and regularly to the Committee in this regard.</li></ul>	Municipal Manager
<ul style="list-style-type: none"><li>• Ensure that there is compliance with the Contract Manangement policy</li></ul>	Chief Financial Officer

## 6. MONITORING, EVALUATION AND REVIEW

- A report detailing the progress with the implementation of irregular fruitless unauthorised and wasteful policy with specific reference to achievement of this policy has to be compiled every year by the person with the responsibility for implementation and monitoring. The policy must be made available to all consulting parties for perusal and comment and must be circulated to all staff members by means of circulars, notices and notice boards

## 7. DEFINITIONS AND ABBREVIATIONS

<b>Terms</b>	<b>Meaning</b>
Act or MFMA	Means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
Circular 62	Means communication from National Treasury by Means of a Circular to enhance compliance and accountability to SCM Regulations and the MFMA of 2003.
Construction Industry Development Board (CIDB):	Means the Construction Industry Development Board (CIDB), a national body established by an Act of Parliament (Act 38 of 2000) to oversee the sustainability and growth of construction enterprises across the country.
Contract	Means the agreement that results from the acceptance of a bid by the Municipality (mutual agreement) Contract Alteration Means changing technical writing or input errors to the agreement of the contract without changing the scope of contract.
Service Agreement Level	Means the agreement between the Municipality and a service provider, it details the nature, quality, and scope of the service to be provided.
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).

Project Manager	Means the Manager responsible for the day to day activities (including performance management and dispute resolution) during the life cycle of the contract (with delegated powers 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; Contracts Manager, user department, Project Manager and supplier.
Contracts Manager	Means the official responsible for monitoring, regulating and reporting on all contract related activities as set out in Section 116 of the MFMA.
User Department	Means the Department that is ultimately accountable for all activities during the life cycle of the contract, relevant to his/her directorate.

User Department	Means the Department that is ultimately accountable for all activities during the life cycle of the contract, relevant to his/her directorate.
Delegation <i>(in relation to a duty)</i>	Includes an instruction or request to perform or to assist in performing the duty.
Force Majeure	Is the expression used to denote irresistible superior force which might cause damage or prevent the execution of an obligation, therefore suppliers is not liable for damages caused by force majeure or for failure to carry out a contract if prevented (Term and conditions in this regard will be determined by every individual contract/s).
Official <i>(In relation to a municipality)</i>	Means: >an employee of a municipality; > a person seconded to a municipality to work as a member of the staff of the municipality; or > a person contracted by a municipality to work as a member of the staff of the municipality otherwise than as an employee.
Users	Means all officials as set out in the organogram of Ngqushwa Local Municipality involved with contracts.
Pre-Award	Means prior to the Municipality enter into a contract with the service provider/contractor



Post-Award	Means subsequent to the Municipality entering into a contract with the service provider/contractor.
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BEE	Black Economic Empowerment
B-BBEE	Broad-Based Black Economic Empowerment
GCC	General Conditions of contract.
LG: MSA	Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).
NT	National Treasury established by section 5 of the Public Finance Management Act.
SCC	Special Conditions of Contract.
SDA	Service Delivery Agreement.
SLA	Service Level Agreement
SCM	Supply Chain Management

## 8. SUPPORTING DOCUMENTS

None

## 9. REFERENCES

None

## 10 APPENDIX

None

**11. ADOPTION AND APPROVAL OF THE POLICY BY COUNCIL**

This policy is adopted and approved by the full Ngqushwa Local Municipality Council for implementation

\_\_\_\_\_  
**MUNICIPAL MANAGER**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**DATE**