

# CITY OF MBOMBELA



## **CONTRACT MANAGEMENT POLICY**

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## **1. INTRODUCTION**

### **1.1 PREAMBLE**

The City of Mbombela proposes to introduce a policy that will manage the relationship between itself and the suppliers doing business with the municipality.

If approved by the Council of the City of Mbombela, the proposed policy will enhance the processes of procurement within the municipality and place the city in the situation whereby the projects and programmes procured and implemented in line with the Supply Chain Management Policy of the municipality are delivered within budget, scope and quality as determined by the city.

### **1.2 DEFINITION**

Contract Management is a strategic management discipline employed by both buyers and sellers whose objectives are to manage customers and suppliers expectations and relationships, control risk and cost, and contribute to organizational success.

### **1.3 LEGISLATIVE REQUIREMENTS**

Effective contract management is vital for the efficient operation of any institution. The importance of contract management in municipalities has been emphasized by the introduction of the Municipal Finance Management Act no 56 of 2003.

The following extract from section 116 of the Municipal Finance Management Act no 56 of 2003 Contracts and contract management are of particular relevance "A contract or agreement procured through the supply chain management system of a municipality or municipal entity must—

- 1.3.1 be in writing;
- 1.3.2 stipulate the terms and conditions of the contract or agreement, which must include provisions providing for—
  - 1.3.2.1 the termination of the contract or agreement in the case of non- or underperformance;
  - 1.3.2.2 dispute resolution mechanisms to settle disputes between the parties;
  - 1.3.2.3 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
  - 1.3.2.4 any other matters that may be prescribed.

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1.3.3. The accounting officer of a municipality or municipal entity must—

1.3.3.1 take all reasonable steps to ensure that a contract or agreement procured through the supply chain management policy of the municipality or municipal entity is properly enforced. In adherence to this provision, every contract above the estimated contract value of R500 000 Vat inclusive will be regulated and managed by means of a Service Level Agreement. Service Level Agreements will be drafted by the Supply Chain Management Unit taking into considerations all the provisions of the General Conditions of contracts issued by the National Treasury. The Legal Services Department will be required to vet and make recommendations to the Municipal Manager to approve the Service Level Agreement.

If otherwise stated or required, other contractual obligations, e.g., sureties and guarantees should be furnished to the municipality within 14 days prior to the signing of the Service Level Agreement.

All Infrastructure delivery projects will be managed in line with the provisions of the relevant contract, e.g., GCC, JBCC, NEC, FIDIC etc.

No project including the infrastructure delivery projects will commence within a valid contract having been entered into by the City and the Supplier concern.

1.3.3.2 monitor on a monthly basis the performance of the contractor under the contract or agreement;

The municipality will on month to month evaluated the progress made by the contracted suppliers in line with the service level agreement. A committee established and chaired by the Municipal Manager sits on weekly basis to monitor the performance of the suppliers. The report generated by the committee will form part of the Supply Chain Management performance report tabled before council on quarterly basis.

1.3.3.3 establish capacity in the administration of the municipality or municipal entity—

1.3.3.1 to assist the accounting officer in carrying out the duties set out in paragraphs (1.3.3.1) and (1.3.3.2); and

1.3.3.2 to oversee the day-to-day management of the contract or agreement; and

1.3.3.3 regularly report to the council of the municipality, as may be appropriate, on the management of the contract or agreement and the performance of the contractor.

1.3.3.4 A contract or agreement procured through the supply chain management policy of the municipality or municipal entity may be amended by the parties, but only after—

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1.3.3.4.1 the reasons for the proposed amendment have been tabled in the council of the municipality or, in the case of a municipal entity, in the council of its parent municipality; and

1.3.3.4.2 the local community—

1.3.3.4.2.1 has been given reasonable notice of the intention to amend the contract or agreement; and

1.3.3.4.2.2 has been invited to submit representations to the municipality or Municipal entity;

## **2 ROLE PLAYERS OF CONTRACT MANAGEMENT**

2.3 Contract Administration/Supply Chain Management

2.4 Legal Services

2.5 Contract Management/Project Manager

## **3 OBJECTIVES OF THE POLICY**

3.1 Ensure that goods and services are delivered within:

3.1.1 Timeframes

3.1.2 Scope

3.1.3 Costs

## **4. CUSTODIAN OF BID DOCUMENTS AND CONTRACT DOCUMENTS**

4.1 All bid documents and Contract Documents shall be kept by the Supply Chain Management Divisions, other contractual obligations like sureties and guarantees will be kept by the Chief Financial officer or delegated official.

4.2 No Department shall be allowed keep original bid documents and contracts in their offices

4.3 Departments will however be allowed to keep copies of contracts and bid documents for assessment purposes

## **5 ROLE OF PROJECT MANAGEMENT AND CONTRACT ADMINISTRATION**

Project Manager	Contract Administration
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<ul style="list-style-type: none"> <li>- Nominated by the Head of Department to manage the specific projects or programmes</li> <li>- Responsible for – <ul style="list-style-type: none"> <li>a) Quality control, financial management and other technical expertise needed for the success of the project.</li> <li>b) Assist in assessing the performance of the supplier.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- Official from Supply Chain Management division Responsible for Contract Administration</li> <li>- Responsible for – <ul style="list-style-type: none"> <li>(a) Safekeeping of all contract related documents with the exception of sureties, guarantees and samples</li> <li>(b) Advise the client in : <ul style="list-style-type: none"> <li>i. Drafting of service level Agreement</li> <li>ii. Contract's expiry date</li> <li>iii. Price adjustment</li> <li>iv. Reporting on performance of supplier to the Municipal Manager and council</li> </ul> </li> </ul> </li> </ul>
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## 6. SCOPE AND PURPOSE OF THE POLICY

- 6.1 The purpose of this policy is to set out the procedure and processes that should be followed when drafting, monitoring, cancelling or renewing contracts or agreements procured through the supply chain management of the municipality.
- 6.2 This policy applies to all contracts entered into by the Municipality as results of its supply chain management policy.
- 6.3 This policy should be read and used in conjunction with the City's Supply Chain Management policy.

## 7. PROCEDURES WHEN DRAFTING CONTRACTS

- 7.1 All contracts of the municipality should be in writing and should at least include the following:
- 7.1.1 Termination of the agreement in case of non or under-performance
  - 7.1.2 Dispute resolution mechanisms to settle disputes between the parties
  - 7.1.3 Price of the goods or services to be delivered to the municipality and performance will be evaluated.
  - 7.1.4 Penalties in case of non-performance or under performance
  - 7.1.5 Duration of the contract
  - 7.1.6 The deduction of performance retention fee on all consultancy services

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7.1.7 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.

7.2 All contracts that have serious financial implications for the municipality should be handed over to the municipality legal adviser for review before being signed by the Municipal Manager or delegated official.

The following are regarded as contracts that have serious financial implications:

7.2.1 Contract value to the amount of R500 000 or more

7.2.1 Contract for the period of more than one year

## **8. PROCEDURE AFTER DRAFTING CONTRACTS**

8.1 After the contract has been signed by the Municipal Manager it should be entered into the contract register that should be maintained by the Contract Administration officer. The register should at least include the following information (See Annexure A):

8.1.1 Date that the contract was signed

8.1.2 Authority number

8.1.3 Contract Number

8.1.4 Name of the contractor

8.1.5 Brief description of the goods or services to be provided

8.1.6 Duration of the contract

8.1.7 Penalties under the contract

8.1.8 Review date if it is a contract of more than three years

8.1.9 Remarks/Comments

8.1.10 Financial implications e.g. increase in rent amount

8.2 The Contract Administration officer should update this register on monthly basis with all contracts entered into by the municipality during that month.

8.3 A separate register should be maintained for contracts above R500 000 in additions to the register mentioned in 5.1 above. The following information should be included in that register (See Annexure B):

8.3.1 Contract Number

8.3.2 Name of the contractor

8.3.3 Brief description of the goods or services to be provided

8.3.4 Duration of the contract

8.3.5 Penalties under the contract

8.3.6 Payments made to date

8.3.7 Penalties paid by the municipality or contractor

8.3.8 Amendment to the contract

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8.3.9 Remarks from site meeting or contract steering committee meeting that have impact on the contract.

8.3.10 Progress report from the head of department that procured the goods or services.

8.3.11 Financial implications

8.4 The Contract Administration officer should update this register on monthly basis with all information affecting the contract and comments from the Head of Department that procured goods.

## **9. MANAGEMENT OF VARIATION ORDER AND EXTENSION OF SCOPE OF WORKS.**

9.1 This policy allows project managers to amend the following based on the following:

9.1.1 The extension of delivery time without financial implications.

9.1.1.1 A motivation will be drafted by the project manager and recommended by the head of that particular Department (HOD) detailing circumstances that necessitated the extension of time. The motivation must further detail the revised completion date. The motivation must have an undertaking that the City will incur no financial burden linked to the extension. If the extension is as a result of poor performance by the contracted service provider, a detailed report on the penalties applied and further sanctioning must be attached.

### **9.1.2 The extension of time with financial implications.**

A motivation will be drafted by the project manager and recommended by the head of that particular Department (HOD) detailing circumstances that necessitated the extension of time and costs. The motivation must further detail the revised completion date. It must have an undertaking that the penalties have been applied and further sanction will be applied in terms of the contract. The extension of time due to the poor performance of the service provider must be communicated with the thoroughly with the supplier. The project manager must ensure that risk management systems are in place to ensure the smooth running of all projects. Early warning signals must be activated to ensure that projects are not allowed to overrun in terms of costs and time without been detected. The municipal manager is delegated to approve all extension of scopes or variation of contract to the value not exceeding 20% of the original contract in terms of Construction related projects and a maximum of 15% on all other contracts.

The extension of works or variation orders must be in a manner that they allow natural progression on the original contract. No variation order

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requests and approval must be used for a different project or programme. The extension of scope and or variation order above the indicated threshold will follow the strict requirements of section 116(3) of the Municipal Management Supply Chain Management regulations. All rates based contracts will have a ceiling threshold and end period. The variation order may not exceed the predetermined threshold by 15%.

### **9.1.3 The extension of works/quantities with financial implications**

9.1.3.1 The extension of scope of works or quantities should ordinarily be funded from the savings of the project or contingency fees allowed in the project. In extreme cases whereby funding is required other than contingency fee or savings derived from the project is needed to complete a particular project, the following procedure should be followed:

- 9.1.3.1.1 The circumstances that lead to the project overrun
- 9.1.3.1.2 The amount of funds derived from the penalties applied
- 9.1.3.1.3 The source of funding to complete the project
- 9.1.3.1.4 Project consultancy fee linked to the project if applicable

9.1.3.2 The municipal manager is delegated to approve all variation order not exceeding threshold of the original contract price 20% for all construction related project and 15% for all other contracted services for goods and services.

### **9.1.4 Cost of living adjustment on materials and other commodities linked to the contract.**

Contract price adjustments will be permitted only if provided for in the bid document. The Contract Price Adjustment Provisions (CPAP) will be used to determine the adjustment of fluctuations in the cost of labour, plant, materials and goods that are required to construct the works.

In the absence of a scientific and approved formula to determine price escalations that resulted from either materials costs, late payments, interruptions in construction etc., the Project Management will develop such a formula and be approved by the Municipal Manager. The formula must comply with general accepted norms and standards.

## **10. APPROVAL FOR CESSION AGREEMENTS AND DIRECT PAYMENT TO THE THIRD PARTY PAYMENT AGREEMENT**

10.1 Approval for a cession agreement or direct payment to the third party payment may be approved by the municipal manager in cases whereby it does not exceed a threshold of 25% of the original bid price.

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In extreme cases. The municipal manager may approve a cession or direct payment to the third party above the stipulated threshold on condition that:

- 10.1.1 The company in a cession agreement or direct payment is EME and complies with the tax matters from SARS.
- 10.1.2 The B-BBEE level higher than the main contractor.

## **11. REVIEW OR TERMINATION OF CONTRACTS**

- 11.1 The Head Supply Chain Management should inform the relevant Head of Departments and/or Municipal Manager about the date of the review of the contract, at a reasonable period before the review date.
- 12.2 In case of non-performance or under-performance by the contractor remedies as outline in the contract should be used by the Municipality.

## **12. REPORTING TO COUNCIL ON CONTRACT MANAGEMENT**

- 12.1 Relevant Service Delivery Departments with the assistance of Contract Administration officer should prepare on monthly basis a report for submission to the council on the state of all contract entered into through the municipality supply chain management system. This report is required by section 116 subsection (d) of the Municipal finance management act, act No 53 of 2003.

- 12.1.1 The following information should be contained in the report:

- 12.1.1 Contract Number
- 12.1.2 Name of the contractor
- 12.1.3 Brief description of the goods or services to be provided
- 12.1.4 Duration of the contract
- 12.1.5 Penalties under the contract
- 12.1.6 Payments made to date
- 12.1.7 Penalties paid by the municipality or contractor
- 12.1.8 Amendments to the contract
- 12.1.9 Remarks from site meeting or contract steering committee meeting that have impact on the contract.
- 12.1.10 Progress report from the head of department that procured the goods or services
- 12.1.11 Any delays that might have impact on the completion of the contract

## **13. REPORTING TO NATIONAL TREASURY**

- 13.1 The Chief Financial Officer are required to submit information in respect of each contract above R100 000 awarded and signed by all parties to the contract to National Treasury.

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13.2 A report must be submitted each time a contract is awarded and signed or no later than 15 days after the end of each month.

13.3 Completed reports are to be e-mailed to the National Treasury at [Contracts@treasury.gov.za](mailto:Contracts@treasury.gov.za) or by facsimile to (012) 326 5445.

13.4 The following information should be contained in the report:

13.4.1 Name of the Municipality

13.4.2 Contract reference number

13.4.3 Contract signing date

13.4.4 Contract description

13.4.5 Name of contractor

13.4.6 Percentage equity ownership by BBBEE based on information furnished on Municipal Bid Document (MBD) 6.1

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10. ANNEXURES

Annexures A to C is typical annexures applicable to all Municipal contracts. Information required may vary in detail depending on the nature of the project

<b>IN THE ANNEXURES</b>	<b>ANNEXURE</b>	<b>TITLE</b>
	A	Registration of all contracts of the Municipality
	B	Registration of all contracts above R500 000
	C	Report to the council on Contracts Management

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**10. APPROVAL:**

RECOMMENDED BY:

\_\_\_\_\_  
Chief Financial Officer

\_\_\_\_\_  
Date

SUPPORTED BY:

\_\_\_\_\_  
Municipal Manager

\_\_\_\_\_  
Date

APPROVED BY:

\_\_\_\_\_  
Executive Mayor

\_\_\_\_\_  
Date

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