
BLUE CRANE ROUTE MUNICIPALITY



Contract Management Policy

2019/2020

No. 18

**To be reviewed by
Council**

CONTRACT MANAGEMENT POLICY

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PRE-AMBLE

All transactions undertaken by the Blue Crane Route Municipality involves a contract whether explicitly agreed in writing, or implicitly implied through actions. Properly managed contracts by all stakeholders involved, can ensure that services are delivered within specifications as set and agreed by all during the specifications phase and at the agreed cost , (Inclusive of escalation clauses in contracts) time period and qualities of the goods and services procured. All contracts must be managed throughout the **Contract Life Cycle**, based on the level of management control appropriate for the classification of that contract. Improperly managed contracts may impact negatively on service delivery.

Good contract management

- ✓ optimises delivery of large capital projects
- ✓ specifies management techniques and processes for all types of contracts
- ✓ encourages achievement of value for money and continuous improvement
- ✓ identifies savings and additional revenue opportunities
- ✓ enhances risk management
- ✓ provides clear and complete records for audit and
- ✓ encourages communication between all parties to contracts

Failure to implement adequate contract management could result in:

- ✓ paying for goods and services which do not meet the standards set out in the contract;
- ✓ significantly higher costs;
- ✓ revenue collection delays;
- ✓ customer and supplier dissatisfaction;
- ✓ overcharges by suppliers or underpayments by buyers;
- ✓ erroneous payments
- ✓ service delivery issues
- ✓ missed savings opportunities
- ✓ failed compliance with regulatory provisions;

- ✓ increased risk
- ✓ complications associated with audits
- ✓ accidental renewal of goods or services
- ✓ no verification of timeliness and accuracy of payments, receipts or deliverables
- ✓ no monitoring of use of discounts or rebates
- ✓ no monitoring of contract management processes and mechanisms
- ✓ no monitoring of supplier performance across contracts
- ✓ no enforcement for non-performance or violation of regulations or other terms and conditions.
goods and services outside of specification
- ✓ cost overruns
- ✓ poor suppliers-, buyer- or other stakeholder relations
- ✓ negative public perception, and
- ✓ potentially complete service delivery failures.

The above shall therefore also serve as the indicators of ineffective contract management.

Hence, good contract management by all stakeholders involved is essential for good financial management and will contribute greatly to the effectiveness and efficiency of service delivery. In effect it would give strategic direction to all directorates following a centralised strategy of contract management. This policy must be read in conjunction with the SCM Policies of Blue Crane Route Municipality.

DEFINITIONS

In this Policy, unless the context indicates otherwise-

Accounting Officer	(in relation to a municipality) means the municipal official referred to in section 60 of the MFMA (2003); and include a person acting as the accounting officer
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.
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 official within a specific department, responsible for all 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; SCM contract manager, contract owner, contract champion and supplier
SCM Contract Manager	means the SCM official responsible for monitoring, regulating and reporting on all contract related activities as set out in Section 116 of the MFMA

Contract Owner	means the deputy director, senior manager or manager, as the case may be, that is ultimately accountable for all activities during the life cycle of the contract. The Contract Owner can also be seen as the Budget holder. Director Appointment according to sect 56 of the Systems Act Delegation (in relation to a duty) Includes an instruction or request to perform or to assist in performing the duty
Force Majure	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	(In relation to a municipality) means: <ul style="list-style-type: none"> ✓ 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 the Blue Crane Route Municipality involved with contracts.

ABREVIATIONS

BEE	Black economic empowerment
B-BBEE	Broad-Based Black Economic Empowerment
GCC	General Conditions of contract
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
SCM	Supply Chain Management
SDA	Service Delivery Agreement
SLA	Service Level Agreement

1. OBJECTIVES

- 1.1. To give effect to Section 217 of the Constitution of South Africa (1996) that stipulate:
 - 1.1.1. When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is:
 - 1.1.2. equitable
 - 1.1.3. transparent
 - 1.1.4. competitive
 - 1.1.5. cost-effective and
 - 1.1.6. fair
- 1.2. The effective and efficient control of contracts procured through the SCM system ensuring:
 - 1.2.1. proper recording and enforcement of contracts throughout the contract life cycle (specifications to contract reviews);
 - 1.2.2. support to the demand management framework as set out in Circular 62 of National treasury (August 2012), optimizing proper planning, resulting in effective service delivery;
 - 1.2.3. management of Contract Performance;
 - 1.2.4. compliance with the regulatory framework;
 - 1.2.5. to assist officials in understanding their legal and managerial responsibilities with regards to contract management;
 - 1.2.6. the optimization of efficient and sustainable financial wellbeing of the municipality, resulting in lower cost drivers, and
 - 1.2.7. the continuous development of effective Management Information systems, resulting in strategic support and risk preventions.
- 1.3. To ensure that no contract procurement of goods and services (excluding land sales or rentals of Blue Crane Route Municipal Assets, which are managed by Corporate Services Directorate), takes place outside of the SCM System.

2. STATUTORY AND REGULATORY FRAMEWORK FOR MANAGING CONTRACTS

2.1. Application and Framework of the Contract Management Policy

2.1.1. All officials and other role players in the Supply Chain Management system of the Blue Crane Route Municipality must implement this Policy in a way that gives effect to:

2.1.1.1. Section 217 of the Constitution;

2.1.1.2. Section 116 of the MFMA;

2.1.1.3. Section 33 of the MFMA;

2.1.1.4. SCM Policy

2.1.1.5. SCM Regulations

2.1.1.6. General Conditions of Contract

2.1.1.7. Contract Management Framework

2.1.1.8. Regulations on Financial Misconduct

2.1.1.9. any other legislation pertaining to SCM

2.2. Applicability of Policy

This Policy applies when the Municipality:

- a) procures goods or services
- b) disposes of goods no longer needed; and
- c) selects service providers and suppliers to provide assistance in the provision of municipal services including circumstances where Chapter 8 of the Municipal Systems Act applies

This policy is also applicable to the municipality when dealing with all revenue related transactions.

2.3. Adoption, Amendment and Implementation of the Contract Management Policy

2.3.1. The accounting officer must:

- a) at least annually review the implementation of this Policy; and
 - a. when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to Council;

- b) Implement the Contract Management Policy in respect of all goods and services which are procured by the municipality in the process of implementing the Supply Chain Management Policy as required in terms of section 62(1) (f) (iv) of the Act.
- c) Implement the Contract Management Policy in respect of all revenue related transactions.

2.4. Conditions of Contract

2.4.1. A contract or agreement procured through the Supply Chain Management System of the Municipality must:

2.4.2. be in writing;

2.4.3. stipulate the terms and conditions of the contract or agreement, which must provide for:

2.4.3.1. the termination of the contract or agreement in the case of non- or underperformance;

2.4.3.2. dispute resolution mechanisms to settle disputes between the parties;

2.4.3.3. 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

2.4.3.4. outline the deliverables and the expenditure which is linked to such deliverable

2.4.3.5. Outline the gateway reviews as well as the expenditure that is linked to such reviews

2.5. Administrative Capacity And Management Of Contracts

The accounting officer must establish capacity within the municipality to assist the accounting officer with contract management as required in terms of section 116(2) of the MFMA. To this end the municipality shall within the Infrastructure Directorate establish a Project Management Unit. Further to this, the municipality shall within its organogram for the supply chain management unit make provision for a contract management position.

To this end the accounting officer, assisted by officials delegated for contract management shall:

- a) Ensure that contract or agreements are entered into in respect of all goods and services which are procured through supply chain management policy of the municipality
- b) ensure that all contracts or agreements which have been procured through supply chain management policy of the municipality are properly enforced
- c) monitor on a monthly basis the performance of the contractor under the contract or agreement
- d) oversee the day to day management of the contract or agreement

- e) prepare and submit reports to council regularly on the management of contracts or agreements and the performance of the contractor

The Contract Owner must ensure that contract champions submit suppliers' performance reports to the SCM contract manager within 5 business days after the end of each month.

The SCM Contract Manager submits a consolidated report to the relevant Director and Contract Owner within 10 business days after the end of each month.

The SCM Contract Manager 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.

2.6. Amendment Of Contracts

2.6.1. Variations or Expansion which exceed the threshold

Where it is evident that a contract or agreement procured through the supply chain management policy of the municipality should be amended and such expansion or variation exceeds the threshold, such amendment can be done only after;

- a) the reasons for the amendment have been tabled to the municipal council and
- b) the local community:
 - a. has been given reasonable notice of the intention to amend the contract or the agreement and
 - b. has been invited to submit representations to the municipality

A contract shall be amended only in order to mitigate abuse and to prevent financial inefficiencies where it is evident that financial sustainability will not be achieved in the provisions of the current contract or agreement.

2.6.2. Expansion or Variation within the threshold

- a) In instances where that expansion or variation relate to construction related goods, services and or infrastructure projects and such variation does not exceed 20% of the original value of the contract, applications for variation or expansion shall be submitted directly to the Contract Management Office for processing through the SCM Committee System.
- b) The above principle will be followed where a variation relates other goods and services and the variation amount does not exceed 15% of the original value of the contract.

2.7. Amendments which do not influence the Value and the Term of the contract

Amendments to the contract, which do not influence the value or the term of the contract, within the scope of the original terms and conditions, may be effected, provided that both parties have consensus on the amendment and the contract amendment is in writing and signed by both parties. Provided that the rand value of such amendment does not exceed 5% of the total contract value.

2.8. Validity of Amendment

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.

2.9. Amendment with Budgetary Implication for a Term Longer than 3 (three) years

In instances where an amendment had budgetary implications for a term which is longer than 3 (three) years, such amendment shall be effected only if:

- a. the reasons for the amendment have been tabled to the municipal council and
- b. the accounting officer has at least 60 days before the meeting of the council at which the amendment will be tabled has
 - i. made public the amended contract and an information statement summarising the municipality's obligation in terms of the proposed amended to the original contract
- c. the accounting officer:
 - i. has given reasonable notice to the local community of the intention to amend the contract or the agreement and
 - ii. invited the local community and other interested parties to submit to the municipality comments or representations in respect of the proposed amendment to the original contract
 - iii. has solicited views and recommendations of:
 - i. the National Treasury and Eastern Cape Provincial Treasury
 - ii. the National Department of Co-Operative Governance and Traditional Affairs
 - iii. if the contract involves water, sanitation, electricity, or any other service, the responsible national department
- d. the municipal council has taken into account the following:

- i. the municipality's projected financial obligations in terms of the proposed amendment to contract for each financial year covered by the proposed amendment
 - ii. the impact of those financial obligations on the municipality's future municipal tariffs and revenue
 - iii. any comments or representations on the proposed amendment to the original contract received from the local community and other interested persons and
 - iv. any written views and recommendations on the proposed amendment to original contract from the National Treasury, Eastern Cape Provincial Treasury, National Department of Co-Operative Governance and Traditional Affairs and any other National Department which is relevant for the type of contract for which amendment is being proposed
- e. the municipal council has adopted a resolution in which:
- i. it determines that the municipality will secure a significant capital investment or will derive a significant financial economic or financial benefit from the proposed amendment to the original contract
 - ii. it approves the entire proposed amendment to contract exactly as it is to be executed and it authorises the municipal manager to sign the amended contract on behalf of the municipality

3. MAINTENANCE AND CONTRACT ADMINISTRATION

- 3.1. Contract administration includes all administrative duties associated with a contract once it is adjudicated and implemented.
- 3.2. No rights in terms of an awarded contract will accrue before the SCM appeal period and/or appeal has been finalised.
- 3.3. The contract should be signed by all parties concerned (The relevant official should also ensure that the suppliers have the delegated powers to sign and amend the contractual agreement).
- 3.4. The contract will only be enforceable after all the signatures of the relevant parties are documented.
- 3.5. A signed service level agreement (if applicable) must be compiled and signed which will incorporate all the relevant sections of the tender documentation.

3.6. All once-off purchases shall have a specified end delivery date.

4. ROLES AND RESPONSIBILITIES OF OFFICIALS

4.1. SCM Contract Manager

The SCM Contract Manager is the SCM official responsible for system administration, status and SCM performance reporting on all contracts related activities. For the purposes of contract management activities performed by the relevant role players, the SCM contract manager will monitor and report on the following activities:

- a) identification and classification of contracts for management purposes in terms of the SCM processes
- b) recognition, measurement and disclosure
- c) oversight of contract management as is provided for in this policy
- d) document and information management
- e) relationship management
- f) performance management
- g) contract risk management

4.2. Contract Champion

The contract champion is responsible for the following activities:

- a) ensuring that all the necessary legal formalities in entering into the contract are adhered to
- b) ensuring that purchase orders are processed on the financial system in accordance with the pricing schedule
- c) maintaining adequate records (paper and/or electronic) in sufficient detail on an appropriate contract file to provide an audit trail
- d) inform the Asset Management Section of the Expenditure Section of the location of newly procured assets for asset register and insurance purposes; and
- e) where appropriate, in terms of Council's Delegations, authorise invoices due for payment.
- f) to take appropriate action in consultation with the contract owner and the SCM contract manager, where a contractor is underperforming or is in default or breach of the contract.

- g) ensure performance of suppliers is managed appropriately to the terms and conditions of the contract.

4.3. Contract Owner

The contract owner is responsible for ensuring that contract champions are assigned to all contracts. The contract owner is ultimately responsible for management of the activities.

11.4 Accounting Officer

The Accounting Officer is responsible for signing of contracts with the relevant service provider, in line with the Delegation of Powers and Duties. The director is ultimately accountable for the contract.

5. RECORD KEEPING

- 5.1. Proper records regarding all aspects of the contract must be maintained and kept in accordance with relevant legislation.
- 5.2. All communication related to contracts must be linked to the master document on the electronic system, by the relevant official.
- 5.3. Safe custody of all contract documents must be enforced by all relevant users.
- 5.4. Contract Champions and Contract Owners are responsible for the electronic capturing of the contract information and maintenance thereof on the **Contract Management system**.
- 5.5. The original signed contract must be sent to the records department (by the contract management office) for safekeeping and storage.
- 5.6. The records section is responsible for the administration of archived contract documentation.

6. CONTRACTS HAVING BUDGETARY IMPLICATIONS BEYOND THREE FINANCIAL YEARS

Blue Crane Route Municipality may enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, only if

- a) The municipal manager, at least 60 days before the meeting of the municipal council at which the contract is to be approved has
 - a. made public the draft contract and an information statement summarising the municipality's obligations in terms of the proposed contract ; and
 - b. Invited the local community and other interested persons to submit to the municipality comments or representations in respect of the proposed contract; and

- c. has solicited views and recommendations of:
 - i. the National Treasury and Eastern Cape Provincial Treasury
 - ii. the National Department of Co-Operative Governance and Traditional Affairs
 - iii. if the contract involves water, sanitation, electricity, or any other service, the responsible national department
- b) the municipal council has taken into account the following:
 - a. the municipality's projected financial obligations in terms of the proposed amendment to contract for each financial year covered by the proposed amendment
 - b. the impact of those financial obligations on the municipality's future municipal tariffs and revenue
 - c. any comments or representations on the proposed amendment to the original contract received from the local community and other interested persons and
 - d. any written views and recommendations on the proposed amendment to original contract from the National Treasury, Eastern Cape Provincial Treasury, National Department of Co-Operative Governance and Traditional Affairs and any other National Department which is relevant for the type of contract for which amendment is being proposed
- c) the municipal council has adopted a resolution in which:
 - a. it determines that the municipality will secure a significant capital investment or will derive a significant financial economic or financial benefit from the proposed amendment to the original contract
 - b. it approves the entire proposed amendment to contract exactly as it is to be executed and it authorises the municipal manager to sign the amended contract on behalf of the municipality

7. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

The accounting officer is responsible to establish a **dispute resolution mechanism** as per provisions of this policy as well as required by section 116(1) of the MFMA

8. CONTRACT PRICE ESCALATIONS

- 8.1. An appropriate contract price adjustment formula or specified terms of escalation must be specified in the bid documents
- 8.2. Escalation notification must be in writing and presented before the implementation date thereof.
- 8.3. User departments are responsible to manage, verify and implement price escalations as per originally agreed terms and conditions set out in the specifications of the contract and keep proof of evidence to the newly agreed escalations on the system for all other relevant stakeholders to access.

9. PERFORMANCE ON CONTRACTS

- 9.1. The accounting officer must implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved in terms of the **Performance Management System Implementation Policy**.

9.1.1. Municipality's Performance:

- 9.1.1.1. The municipality is required to pay creditors within 30 days of receiving all relevant invoice statements.
- 9.1.1.2. The municipality is also required to create a favourable environment to receive services and goods without preventing the supplier to perform their duties.
- 9.1.1.3. All parties involved must perform according to the terms and conditions of the relevant contract, while the contract is alive.

9.1.2. Supplier Performance:

- 9.1.2.1. The supplier of goods and services is required to perform as per terms and conditions agreed upon and should **inform the municipality if circumstances prevents** them to perform, with reasons provided, **within 5 working days (to be included in all contracts)**.
- 9.1.2.2. For all relevant deviations from the agreed terms and conditions of any contract, the key performance indicators (KPI's) should be reviewed as well as the alignment with the strategic objectives established in the IDP.
- 9.1.2.3. Suppliers performance will be reviewed by Blue Crane Route Municipality Officials on a monthly basis (every 25th of the month) giving effect to section 116 of the MFMA, 2003 and the Performance Management System Implementation Policy

9.1.2.4. Prescribed procedures to evaluate service providers must be complied with. (**Refer to the Performance Management Framework Policy**)

9.2. The Following Procedures Need To Be Followed

- a) The requirements of this policy must be included in the contract of the service provider.
- b) The performance of the service provider under the contract or service level agreement must be assessed monthly by the **Reporting Officer**.
- c) The assessment must be completed in the contract management system.
- d) The Reporting Officer must complete the **Service Provider Assessment** on the contract management at the end of each month.
- e) The quarterly assessment and reporting must be completed within 15 working days after the end of each quarter. (Refer to the Performance Management Framework Policy, paragraph 9.2.1).
- f) The Reporting Officer must provide a copy of the assessment to the Service Provider at the end of each quarterly assessment period and on completion or termination of the contract.
- g) Supply Chain Management Unit (Contract Management Office) will review the quarterly Service Provider assessments within 20 days after the end of each quarter and submit a summary report to Council.
- h) The Accounting Officer need to develop the **necessary forms and report structures** to be utilised to manage the above processes. The forms and reporting requirements need to be **reviewed on a regular basis**.
- i) In the instance of under-performance:
 - a. The Municipality will facilitate support interventions to service providers in the identified areas of underperformance
 - b. Service providers who have been identified as under-performing in identified areas must be informed of these support interventions.
 - c. The impact of support interventions must be **monitored** by the Reporting Officer.
 - d. **Corrective action should be documented** in writing within the contract management system
 - e. The records of the support interventions must be documented, signed by both parties and appropriately filed in the contract management system.

10. REVIEW OF CONTRACTS

- 10.1.** Contracts or agreements that are longer than three years which have been procured through the Supply Chain Management system must have a periodic review once every three years.
- 10.2.** The contract owner or champion must conduct, as appropriate, within 3 months after the expiry of contracts, post contract reviews.

Service Standard

11. IMPLEMENTATION AND REVIEW PROCESS

This policy was adopted 30 June 2016 and will come into effect on 1 July 2016. This policy will be reviewed at least annually or when required by way of a Council resolution.

Reviewed by Council	06 July 2017	
Reviewed by Council	28 March 2019	