

EMAKHAZENI LOCAL MUNICIPALITY



CONTRACT MANAGEMENT POLICY

Contract Management Policy

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1 Introduction

The Emakhazeni Local Municipality manages the risk associated with legal agreements by providing clear direction to their establishment, and responsibility of staff entering into legally binding agreements with other parties.

As such, it includes all types of agreements that contain the fundamental requirements of a contract which are an offer, acceptance of that offer, and consideration, including tender submissions which, when accepted, will constitute a contract.

Emakhazeni Local Municipality's contract management policy and procedures are aligned to the expectations of good practice contract management as described in the Municipal Finance Management Act {MFMA} and General Conditions of Contract guidelines.

2. Definitions

For the purpose of this policy the following definition(s) apply:

- "Policy ":** means the basic principles by which a municipality is guided;
- "Contract":** a written or spoken agreement, especially one concerning employment, services and/or tenancy that is intended to be enforceable by law;
- "Contractor":** means the person, be it natural or juristic person who has been awarded a contract to render services to the Emakhazeni Local Municipality in terms of the contract;
- "Contract Manager":** means a designated employee of each party, whose responsibility is to ensure that each party complies with contractual obligations in terms of the contract and who is responsible to develop reports;
- "Municipality":** means the Emakhazeni Local Municipality;
- "Municipal Manager":** means the Municipal Manager of the Emakhazeni Local Municipality, or the acting Municipal manager of the Municipality, as the case may be; or any party delegated this responsibility;

3. Legislative Framework

- Municipal Finance Management Act of 2003
- Municipal Systems Act of 2002

4. Objectives

- To ensure that services are provided to the required standard
- To ensure contract performance is satisfactorily
- To ensure adequate monitoring of contractor performance
- Scope of application

5. Scope of Application

The policy shall apply to all contracts entered into as per the provision of Section 116 of MFMA.

6. Negotiating a contract

- 6.1** A full and proper record must be kept of all contract negotiation and related correspondence. An official contract file must be established for all new contracts. Contract drafts, amended copies and a full copy of the signed original are to be placed on file and retained in the Supply Chain Management Unit and user departments.
- 6.2** Managers negotiating contracts must liaise in the first instance with the appropriate departments or sections listed below for guidance and assistance:

Contract Area	Responsible Department
General construction works Electrification services Water and sanitation Procurement of purification chemicals	Technical Services Department
Sourcing of stationery and furniture General financial management Disposal of municipal assets	Financial Services Department
Land development Sale of stands Local economic development	Planning and Development
Training of staff	Corporate Services Department
ICT services	
Legal services	
Procurement of protective clothing Security services Traffic related matters Refuse and parks and grounds	Community Services Department
Miscellaneous agreements and once-off contracts, not listed above	Corporate Services Department

7. Preparing a Contract

- 7.1** All Emakhazeni Local Municipality contracts must be in writing and should have written content under the following headings;
- Contract Manager
 - Price of the goods or service
 - Duration of the contract
 - A periodic review of long term contracts
 - Penalties in case of non performance or under performance
 - Termination of the contract in case of non or under performance
 - Dispute resolution mechanisms to settle disputes between the parties
- 7.2** Those staff involved in negotiating or preparing contracts must have an appropriate knowledge of contract, good practice contract management, and must comply with Emakhazeni Local Municipality policy and procedure in respect of the contracting process.
- 7.3** Where contracts involve a tender, the municipal tender process and the Bid Committee processes contained in the Supply Chain Management Policy must be followed.
- 7.4** Emakhazeni Local Municipality's standard terms and conditions as provided in the contract templates shall be used for all contracts. Legally approved contract templates are provided by the following sections and available to staff upon request.

- Supply Chain Management Unit
- Legal Services

- 7.5** If Emakhazeni Local Municipality terms and conditions require variation in any way, or a must first seek advice. In such circumstances, advice should be sought from the Responsible Area identified in the above table and where legal advice is required must be sought (in accordance with the Delegations Document) as early as possible in the contracting process and in any event prior to any commitments being made.
- 7.6** System of effective monitoring and review of the contract should be documented within the contract and maintained in accordance with the Contract Management Procedures.
- 7.7** Agreement on terms and conditions of any contract, remain subject to approval by the Municipal Manager.

8. Signing and Storing the contract

- 8.1** **Three (3) copies of contracts shall be presented for signature and** only the Municipal Manager or his delegated representative will have authority to sign contracts on behalf of Emakhazeni Local Municipality and with Manager Corporate Services having the responsibility to keep copies of signed contracts and the storage thereof.
- 8.2** All contracts must be entered into the Emakhazeni Local Municipality Contract Register. The responsibility for ensuring the contract information is entered into the Contract Document Management System rests with the Contract Manager.
- 8.3** All contracts are deemed 'Vital Records' and original documents must be securely stored with the **Manager Corporate Services**. The Contract Manager must send the original signed Contract with coversheet, plus any relevant signed pre-contractual negotiation agreements.

9. Review of termination of contract

- 9.1** The Head of Supply Chain Management should inform the relevant Head of Department and the Municipal Manager about the date of the review of the contract at a reasonable period before the review date.
- 9.2** In case of non-performance or under performance by the contractor remedies as outlined in the contract should be followed to have the situation dealt with

10. Reporting to Municipal Manager on contract management

- 10.1** The Head of Supply Chain Management Unit with the assistance of Contract Managers should prepare on monthly basis a report for submission to the Municipal Manager on the state of a contract entered into through the municipality supply chain management system The following information should be contained in the report:
- Contract number
 - Name of the contractor
 - Description of goods or services
 - Duration of contract
 - Penalties on the contract
 - Contract price
 - Payments made to date
 - Penalties paid by the contractor
 - Amendments to the contract

- Remarks of contract management committee
- Progress report form head of department

10.2 Any council resolutions in respect of any of the awarded contract should be dealt with in accordance with the applicable legislation.

11. Policy Review

11.1 This policy shall be reviewed annually in order to ensure effective service delivery.