

## COMMERCIAL CONTRACT PROCEDURE

<b>Section</b>	Finance
<b>Contact</b>	Procurement Manager
<b>Last Review</b>	November 2025
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<b>Approval</b>	SLT 19/11/134

### Procedures:

These procedures cover the full life cycle of a Commercial Contract, from contract establishment through to contract termination and close-out. Vendor Panel is the Commercial Contract management system where all executed Commercial Contracts are stored along with all Commercial Contract documents and correspondence.

Commercial Contracts will be initiated through a Competitive Procurement Process or an exemption from a Competitive Procurement Process. Refer to the Procurement Policy and Procurement Procedures.

Members of Massey's SLT are ultimately responsible for the management of all contracts within their areas of responsibility but can delegate to a Contract Sponsor.

The Contract Sponsor is the person responsible for the contract's high-level results and is normally a senior executive/ manager with the authority to make major decisions on behalf of the University.

The Contract Owner is the person accountable for the budget/cost centre that funds the contract and has the delegation to approve contract payments, variations and be a point of escalation should disputes arise.

The Contract Manager is responsible for these procedures. The CM is the Massey staff member with responsibility for ensuring that the rights and obligations under the contract are met by both the supplier and Massey and where applicable apply supplier performance management.

The Contract Manager is responsible for keeping the Contract Owner and Contract Sponsor informed on a Commercial Contract performance and or issues.

The following eight key activities must be undertaken by the Contract Manager to ensure intended contract outcomes are realised with the Contract Owner being accountable for the outcomes:

- Contract Management Plan (CMP) Implementation (note the CMP should be included in a Procurement Plan)
- Contract Establishment and Due Diligence
- Contract Execution
- Performance Monitoring, Reporting, and Management
- Supplier Relationship Management
- Contract Review, Renewal or Variation
- Contract Close-Out
- Records Management

### **Contract Management Plan (CMP) Implementation**

A high-level CMP must be created to guide focus and activity for the life of the contract. Plans can be proportionate to the size, cost and complexity of the contract and are stored in the VendorPanel Contract Management Module. The Contract Manager is responsible for the CMP.

A CMP will assist the Contract Manager to:

- Ensure continuity of the supply or services
- Develop a clear understanding of the contract and the responsibilities of all parties
- Identify and manage key risks
- Document any Health and Safety obligations, including Massey PCGB requirements
- Establish how performance of both parties will be monitored and governed
- Define escalation pathways to resolve issues that may arise during the term of the contract
- Plan for transition and exit arrangements

The level of detail included in the CMP will vary, depending on the nature and value of the goods or services being purchased. It is expected that many of the required aspects will have been identified as part of the procurement process. All Critical Contracts must have a CMP signed off by Strategic and Procurement Office (SPCO) and the Contract Owner. The PCGB Terms of Reference (TOR) has determined that all Commercial Contracts with an annual value of \$2M and greater are Critical Contracts.

Note: Construction contracts are covered by the following standard form contracts:

- NZS 3910:2013 Conditions of contract for building and civil engineering construction
- NZS 3915:2005 Conditions of contract for building and civil engineering construction (where no person is appointed to act as engineer to the contract)
- NZS 3916: Conditions of contract for building and civil engineering - Design and Construct
- NZS 3917:2013 Conditions of contract for building and civil engineering - Fixed Term

### **Contract Establishment and Due Diligence**

Establishing a Commercial Contract requires budget approval and may require a Competitive Procurement Process.

Supplier due diligence is required to validate the supplier is legitimate and capable. Supplier due diligence will vary but would likely include:

- Validation of Company Information
- Financial Health
- Legal and Regulatory Compliance
- Operational Capability
- Reputation and Environmental, Social, Governance
- Verification and Documentation

Refer to appendix 1 Supplier Due Diligence Checklist.

Approval thresholds are set out in the Commercial Contract Policy.

### **Contract Execution**

Contracts must be fully executed by as outlined in the Commercial Contract Policy. All executed contracts, supporting documents, schedules and correspondence must be registered and stored in the Massey VendorPanel Contract Management module. Refer to SPCO SharePoint site for more details, <https://masseyuni.sharepoint.com/sites/Procurement/SitePages/Procurement-at-Massey.aspx>

### **Performance Monitoring, Reporting, and Management**

Monitoring service delivery enables the Contract Manager to evaluate whether agreed performance and quality levels are being met. This is critically important for large and complex contracts. Service delivery details to be monitored should be set out in the CMP and recorded in VendorPanel.

The Contract Manager must note key performance indicators (KPIs) and ensure that performance is being measured, monitored and managed. Consider should be given to the areas below, using the CMP as guidance:

- Deliverables against specification
- Charges against contract price
- Quality against KPIs and/or agreed standards
- Opportunities for cost or efficiency gains
- Supplier's overall performance
- Lessons learned
- Health & Safety Compliance
- Compliance against any standards, breaches and corrective actions.
- Massey's performance in meeting its obligations

**Note:** construction contracts must also adhere to relevant construction standards.

### **Supplier Relationship Management**

The Contract Owner is responsible for the Commercial Contract and maintaining an effective relationship with the supplier. The Contract Owner may delegate a Contract Manager to be responsible for ensuring that the rights and obligations under the Commercial Contract are met by both the supplier and Massey and where applicable apply supplier performance management. For clarity SPCO will only be appointed Contract Manager in few circumstances by the PCGB through a procurement plan with a rationale for recommending SPCO as the Contract Manager. e.g. Travel.

Contract Managers should hold regular meetings with the supplier to discuss overall performance, achievement of objectives and key performance indicators and each party's adherence to the contractual terms. The format, frequency and venue of these meetings will be dependent upon the nature of the contract and should be documented in the CMP. Minutes and file notes of such meetings must be kept and added to the contract file in the Vendor Panel Contract Management Module.

If a material issue arises that cannot be resolved and that has the potential to create risk of any type for Massey, the Contract Manager must advise the Contract Owner and review the matter to ascertain what action (if any) needs to be taken. The Contract Manager must also inform the Contract Sponsor and the SPCO.

If disputes arise, they should be dealt with proactively and in accordance with the dispute resolution clauses included in the contract. The initial responsibility for dispute resolution is with the Contract Manager and the appointed representative of the supplier. If resolution is not possible and a dispute is likely to escalate, this must be advised immediately to the Contract Owner and the Contract Sponsor and the SPCO. The Director Governance and Assurance must be advised of any contract dispute that may involve potential legal action between the parties as soon as this is considered a possibility.

Critical Contracts require an annual contract performance review and assessment by the Procurement and Contracts Board (PCGB) as detailed in the in the Procurement and Contracts Governance Board Terms of Reference. The Contract Manager is responsible for reporting on Critical Contracts outlining supplier performance and any issues resolved or unresolved.

### **Contract Review, Contract Renewal or Variation**

A contract may be recommended to be renewed following satisfactory review of performance monitoring and reporting, under the following conditions:

- Budget approval
- PCGB approval for the Whole of Life Costs (WoLC), including renewals, has been granted

The renewed contract then follows the contract procedure steps from and including contract execution.

A contract may need to be varied from time to time by the Contract Manager, such that the variation increases the WoLC. Under these circumstances, the following approvals are required:

- Budget approval; and
- PCGB approval for the “new” WoLC if the WoLC exceeds \$100,000. For clarity, WoLC is the total cost of the contract, including any additional costs resulting from the variation, e.g. if an existing Commercial Contract with a WoLC of \$200,000 is varied and the additional costs associated with the variation total \$20,000, then the “new” WoLC is \$220,000.

**Important:** The variation detail should be added to/included in the Contract Management Plan as appropriate

### **Contract Close out**

When the contract is expiring e.g. all obligations have been met by the parties, or terminated e.g. terminated due to breach or mutual consent, the Contract Manager must complete a contract close-out process proportionate to the size and criticality of the contract. A formal record should be kept in the VendorPanel Contract Management Module. The contract status must be updated from Active to Closed in the VendorPanel Contract Management Module.

Key aspects that should be checked include:

- Have all the required contract outcomes and obligations been delivered?
- Have Massey’s materials, equipment or other resources used or generated during the life of the contract been returned?
- Have access arrangements for the supplier been terminated?
- Has final financial reconciliation been completed (all invoices paid, no liabilities outstanding?)
- Has an evaluation of the contract been undertaken, and any lessons learned documented and shared?
- Has the supplier’s performance been evaluated, documented and feedback provided to the supplier?
- Have records been updated in the VendorPanel Contract Management Module?

### **Records Management**

Contracts and all associated documents are classified as Vital Records. Storage, archival and retention of contracts and associated documents must be in accordance with the record keeping requirements of Massey, as defined in the Information and Records Management Policy. All Commercial Contracts must be registered in the VendorPanel Contract Management module.

Disposal of Contracts and Contract related records must be undertaken in accordance with Massey’s Information and Records Management Policy. See the Records Management intranet site for specific information.

### **Further Guidelines**

Further guidelines are available on OneMassey:-Support Services- - Strategic Procurement Contracts-Contacts.  
<https://masseyuni.sharepoint.com/sites/Procurement/SitePages/Procurement-at-Massey.aspx>

## **Definitions:**

**Confidentiality Agreement:** an agreement designed to prevent disclosure of commercially sensitive information to a third party, or into the public domain.

**Commercial Contract:** an agreement that commits Massey in legal or financial terms and for the purposes of this Policy and includes Confidentiality Agreements, Pre-contractual Agreements not intended to be legally binding.

**Competitive Procurement Process:** a structured process that encourages competition that can lead to lower cost, better quality, innovative solutions and risk reduction while ensuring transparency, accountability and fairness.

**Contract Owner:** the person accountable for the budget/cost centre that funds the contract and has the delegation to approve contract payments, variations and be a point of escalation should disputes arise.

**Contract Manager:** the Massey staff member with responsibility for ensuring that the rights and obligations under the contract are met by both the supplier and Massey and where applicable managers supplier performance.

**Contract Sponsor:** the person responsible for the contract's high-level results normally a senior executive/ manager with the authority to make major decisions on behalf of the University.

**Contract Management Plan (CMP):** a document that outlines how a contract will be managed throughout its lifespan to help ensure the contract achieves its intended value and delivers the desired outcomes. The CMP should be regularly reviewed and updated in accordance with the contract and the contracts context.

**Critical Contract:** a Commercial Contract which may require an annual contract performance review and assessment by the PCGB as detailed in the PCGB's Authorisation Responsibilities in the Procurement and Contracts Governance Board Terms of Reference.

**Whole of Life Cost (WoLC):** the genuine estimate of the total costs that Massey will pay over the lifespan of the contract, including any expenses. The WoLC includes any rights of renewal available in the contract.

**PCGB:** Massey University's Procurement and Contracts Governance Board.

**Pre-contractual Agreements:** a written agreement not intended to be legally binding which may include letters of intent, memorandums of understanding (MOU), or other similar documents.

**Value for Money (VfM):** the optimum combination of WoLC and quality (fitness for purpose). VfM is not necessarily achieved with the lowest WoLC.

**VendorPanel Contract Management Module:** the contract management module provided by VendorPanel that is in use by Massey. This system provides a centralised online, digital repository for Massey's Commercial Contracts.

**VendorPanel Procurement Planning Module:** the procurement module provided by VendorPanel that is in use by Massey.

## **Audience:**

This procedure applies to all Massey employees and contractors acting on behalf of Massey who are involved in entering, managing, or approving Commercial Contracts.

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**Related procedures / documents:**

Delegations of Authority Policy  
Procurement Policy  
Procurement Procedures  
Information and Records Management Policy  
Risk Management Policy  
Risk Management Framework  
OneMassey-Support Services-Strategic Procurement Contracts-Contacts

**Document Management Control:**

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**Appendix 1 Supplier Due Diligence Checklist**

<b>Basic Company Information</b>
<ul style="list-style-type: none"> <li>• Company registration and incorporation documents to confirm legitimacy</li> <li>• Business licenses and regulatory certifications relevant to your operations and jurisdiction</li> <li>• Ownership and organizational structure, including directors and key executives</li> <li>• Physical location verification, e.g., site visit, photographs, or digital checks</li> <li>• References and prior client testimonials to check past performance</li> </ul>
<b>Financial Health</b>
<ul style="list-style-type: none"> <li>• Review audited financial statements, balance sheets, income statements, and cash flow reports.</li> <li>• Check credit ratings, debt obligations, loans, and major assets</li> <li>• Confirm compliance with local, state, and national tax obligations</li> <li>• Evaluate compensation structures and stability in revenue streams</li> </ul>
<b>Legal, Regulatory, and Compliance</b>
<ul style="list-style-type: none"> <li>• Verify adherence to industry regulations and certifications (e.g., ISO standards, data protection laws).</li> <li>• Confirm there are no ongoing or past litigation issues involving the company or key personnel</li> <li>• Screen for politically exposed persons (PEPs), sanctions, or watchlist entries.</li> <li>• Review contracts, service level agreements (SLAs), and insurance coverage</li> </ul>
<b>Cybersecurity and Data Protection</b>
<ul style="list-style-type: none"> <li>• Refer ITS</li> </ul>
<b>Operational Capability</b>
<ul style="list-style-type: none"> <li>• Evaluate production capacity, scalability, and lead times</li> <li>• Review quality management systems and certifications (e.g., ISO 9001)</li> <li>• Assess employee practices, retention rates, culture, and operational training</li> <li>• Examine past service interruptions, uptime records, and disaster recovery preparedness</li> </ul>
<b>Reputation and ESG (Environmental, Social, Governance)</b>
<ul style="list-style-type: none"> <li>• Review media coverage, customer complaints, controversies, and social media presence.</li> <li>• Check ESG policies, labour and safety standards, environmental practices, and supply chain traceability.</li> <li>• Confirm alignment with your organization's values and risk tolerance</li> </ul>
<b>Verification and Documentation</b>
<ul style="list-style-type: none"> <li>• Use audit reports, site visits, client feedback, and third-party verifications to confirm supplier claims.</li> <li>• Maintain a verification matrix tracking the completion and reliability of each check.</li> <li>• Document all findings for internal compliance, recordkeeping, and risk assessment</li> </ul>