

# CONTRACT MANAGEMENT POLICY AND PROCEDURE



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## 1 PURPOSE

- 1.1 This policy and procedure establishes a CQUniversity-wide governance structure for managing contracts and other legally binding documents as well as establish sound and consistent management practices with respect to University contracts.

## 2 SCOPE

- 2.1 This policy and procedure applies to all contracts and other documents which create legally binding obligations on the University including, but not limited to procurement contracts for the supply of goods and/or services. This policy and procedure will apply to a contract until contractual obligations have concluded.
- 2.2 This policy and procedure does not include:
- employment contracts
  - non-binding Memoranda of Understanding (MOU), or
  - partnering contracts with other education providers.

### 3 POLICY STATEMENT

3.1 CQUniversity's contract governance structure aims to ensure:

- a standard approach and framework is adopted across the University in the management of contracts
- the University enters into and manages contracts in a manner which facilitates University business and minimises risk
- employees understand the University's responsibilities under a contract and are adequately skilled and trained to do so
- employees who are appointed as contract managers understand the responsibilities of all parties under a contract
- obligations under a contract are performed
- contracts are managed and reported to ensure quality performance and value for money are achieved in line with expectations
- maximised supplier and industry engagement to ensure interest so a competitive and willing market exists to support the University, and
- the University receives the full and entire benefit of the contract.

3.2 Contracts must be managed adhering to the [Procurement Policy and Procedure](#).

#### Roles and responsibilities

##### Senior executive

3.3 The Senior Executive are ultimately responsible for the overall management of contracts within their portfolio, to which the University is a party (in accordance with the [Authorities and Delegation Register](#)).

##### Contract managers

3.4 Contract managers are responsible for the day-to-day management of the contract.

3.5 Contract managers will be adequately skilled in contract management according to the level and complexity of the contract. Contract managers will receive relevant training where required.

3.6 Contract managers will oversee and take responsibility for the negotiation of the contract performance by both the University and the contractor/s of the obligations under the contract, reporting on contract performance, maintaining appropriate records in relation to the contract and transition from the contract upon termination or expiry.

3.7 Financial delegation level does not determine the appointment of a contract manager. A contract manager can manage a contract worth more than their level of financial delegation; however, contract managers cannot approve expenditure on items above their financial delegation.

3.8 Contract managers will provide an annual report on the performance of all contracts of \$100,000.00 or greater to the University Council via the Audit, Risk and Finance Committee.

3.9 Should there be a conflict between the University's payment policy and the [Building Industry Fairness \(Security of Payment\) Act 2017](#) (Qld) (the BIF Act) the requirements of the *Building Industry Fairness (Security of Payment) Act* will prevail. The *Building Industry Fairness (Security of Payment) Act* may require additional actions to be taken by the contract manager. The contract manager is responsible for ensuring compliance with the *Building Industry Fairness (Security of Payment) Act*.

##### Procurement advice team

3.10 The Procurement Advice Team (PAT) can provide support and assistance in relation to:

- the Procurement Policy and Procedure

- commercial contract terms and conditions
- standard contract templates
- purchase requisitions, and
- general advice in relation to contract negotiations.

3.11 PAT does not provide legal advice on contracts. Legal services can provide legal advice on contracts.

### **Business area**

3.12 Each business area will maintain their own Contract Register to enable the effective planning, management and reporting of contracts.

3.13 The contract register will include, but not limited to:

- details of the contract description
- campus location
- name and contact details of contract manager
- approved budget
- name and contact details of the contractor, and
- start and end date of the contract.

### **Contract management**

3.14 It is always preferred that, wherever possible, standard University-approved contracts (contract templates) be used (Australian standard contracts are available for the majority of requirements). Refer [Appendix 1](#).

3.15 Employees should never enter into verbal contracts on behalf of the University. Suppliers should always be advised that the University's acceptance will need to be communicated in writing before the University is bound to any agreement.

3.16 Contract managers should consult with PAT if a contractor does not or will not accept a standard contract template. PAT will review and negotiate any such external terms and conditions proposed by the contractor. Reference to legal services may also be required.

3.17 All contracts must include clauses that allow and/or regulate variations to the original contract, extensions to the contract, contract dispute resolution and termination.

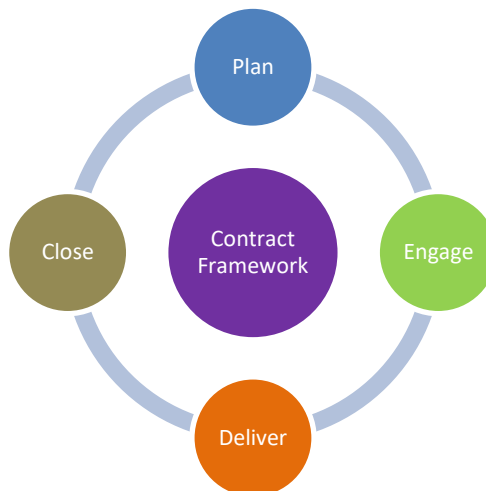
3.18 Prior to the commencement of contract planning and engagement relevant approvals must be obtained. Projects and corporate contracts should have been previously approved through the University's formal governance processes (via the submission of business cases and funding approvals to relevant Committees), and therefore do not require any further approvals other than those through the procurement and normal project management procedures. Contract managers must obtain a copy of the formal approval documentation for audit purposes.

3.19 All general procurement undertaken via a standard purchase order (PO) has general terms and conditions attached. Employees should be familiar with these. In cases where the standard PO can be used (typically low-risk, simple purchases), a more formal contract is not required. In this situation, the employee raising the PO is considered the contract manager and must therefore manage the contract appropriately. Due to the simple nature and low risk normally associated with use of a PO, a business case is not typically required.

## 4 PROCEDURE

### Contract management framework

4.1 The contract management framework follows four steps outlined below:



#### Plan

- 4.2 Contract planning is critical to success and ease of delivery. Planning is necessary to consider and identify the need, contract objectives, strategy, risks, approvals and to nominate suitable employees to manage the contract.
- 4.3 Time required for planning would typically be between one – four weeks, however it is the responsibility of the relevant head of business area or Senior Executive to ensure adequate time is allowed for during the planning stage.
- 4.4 Typical actions required during the planning stage are outlined below. Depending on the contract to be developed, an assessment will need to be made by suitably experienced employees for which actions need to be included.
- Identify need - the actual requirement needs to be clearly defined and clarified in enough detail to allow stakeholders and contractors to understand what is required.
  - Contract objectives/strategy - depending on University requirements, consideration must be made with respect to the type of contract required and the strategy used to approach the market. More common [contract types](#) are discussed later in this document. The contract manager must understand the terms and conditions of the contract to be used. For more complex and/or high-risk items, a plan will need to be developed.
  - Contract manager - a suitable contract manager must be appointed at this stage and will be the responsible person for the ongoing management of the contracted services until contract closure.
  - Risks - a risk analysis must be undertaken. This will generally help inform the strategy and contract type. Risks could include, but are not limited to, items such as risk to the University's reputation, interruption of business, loss of business, quality of service, ability to deliver on time, storage and transportation, contractor performance, safety and conflicts of interest.
  - Costs - all costs need to be considered including the initial purchase costs as well as the ongoing life cycle costs (operations and maintenance).
  - Schedule - consideration of delivery needs must include both the delivery time to meet the required end date, and the time to undertake all necessary steps (including involving all other relevant University stakeholders e.g. PAT, Facilities Directorate, Digital Services) to establish the contract.
  - Communication - appropriate communication with stakeholders and other business areas as required to ensure a smooth and informed process.

- Approvals - suitable approval to proceed must be obtained. This could be provided through an approved project, budget line approval, basic purchase requisition, memo or business case.
- Administration - proper contract administration commences early in the process. Once approval is provided, the details should be entered in to the Contract Register. Other relevant documents and records should be maintained and recorded in accordance with this policy and procedure.

## Engage

- 4.5 This step focuses on developing documentation to enable an approach to the market in a fair and transparent manner to gain competition from qualified and suitable contractors to provide a value for money solution. It also ensures thorough evaluation and selection of contractors capable of delivering the contract in line with the range of requirements of the University.
- 4.6 Time required for engaging would typically be between two – six weeks, however it is the responsibility of the relevant head of business area or Senior Executive to ensure adequate time is allowed for during the engagement stage.
- 4.7 Typical actions required during the engagement stage are outlined below. Depending on the contract to be developed, an assessment will need to be made by suitably experienced employees for which actions need to be included.
- Prepare relevant documents - in order to gain suitable quotations, it is essential to develop a clear scope of works. The clearer the scope, the more accurate the quotation, which in turn will help to avoid any later conflicts. A poorly developed scope of works (or brief) can lead to numerous justified time and cost variations. Clearly outlined requirements ensure consistency in the message to potential contractors and a written record that can be used in case of any later dispute. Documentation can range from a well-developed email to a fully developed project specification and scope of works.
  - Liaise with PAT - for any significant procurement activities (above \$50,000), advice should be obtained from PAT. PAT can provide advice and support where required. At all times, the Procurement Policy and Procedure must be followed.
  - Finalise strategy - finalise the strategy and review risks.
  - Check and finalise contract - a final review of the type of contract and documentation required should be performed to ensure it addresses the identified risks and provides protection to the University while enabling delivery of the required goods and/or services from the market.
  - Approach to market - this can be undertaken in many ways in compliance with the Procurement Policy and Procedure. Advice should be sought from PAT in relation to request for quotes or request for tenders. For major purchases and contracts, a tender evaluation is required.
  - Evaluation - proper evaluation of the responses must be undertaken in a fair and transparent manner. Records of evaluation and any communications must be kept. No provider is to be disadvantaged during this process, so any clarification or information must be provided to all. Due diligence of the contractor as far as financial situation should be undertaken for significant contracts. Consultation with the University's Finance Directorate is required. The Chair of the Evaluation Panel must prepare a recommendation report for significant contracts. The Chair must also obtain the necessary approvals prior to any further progress.
  - Contract award - following suitable approval, the contract may be awarded. This must be done in writing. For significant contracts, a version of the contract signed by both parties is required. The contract document must contain all the terms and conditions as set out for the engagement, including, but not limited to; the relevant scope, departures, agreed outcomes, schedule and costs contained in the submission.
  - Cost codes - suitable cost codes should be established to track and manage the approved budget accordingly. Corporate Budget set up cost codes.
  - Administration - update the Contract Register and properly record the evaluation report, correspondence, submissions and final contract. Raise the PO through the finance system.
  - Review risks - review and update the Risk Register to include any items that may have reduced risk or new items introduced by the contractor.

## Deliver

- 4.8 This step focuses on the delivery and day-to-day management and administration of the contract in line with the contracted obligations.
- 4.9 Time required is determined by the contract schedule, however it is the responsibility of the relevant head of business area or Senior Executive to ensure adequate time is allowed for during the delivery stage.
- 4.10 Typical actions required during the delivery stage are outlined below. Depending on the contract to be developed an assessment will need to be made by suitably experienced employees for which actions need to be included.
- Contract start up - Where suitable, a contractor meeting and formal induction is advised. This is generally required whenever a contractor undertakes physical work on a University campus, apart from just delivering goods and services.
  - Reporting - regular reporting by the contract manager to the relevant senior executive should be provided for any contracts greater than three months duration. Shorter contracts will depend on the actual contract. Annual reporting to the University Council, via its Audit, Risk and Finance Committee, is required for all contracts which exceed \$100,000 in value.
  - Financial management - the contract manager is responsible for managing the approved budget, reviewing invoices and ensuring payments are made as required. The contract manager must also ensure any requirements under the *Building Industry Fairness (Security of Payment) Act* for building and construction works, including addition actions to be undertaken by the contract manager, is adhered to. The University's Facilities Management Directorate (DFM) can provide advice on these matters.
  - Contractor management - the contract manager is responsible for the behavior of the contractor during the term of the contract. This includes general performance and compliance to University policy documents, as well as performance management of the contract. Concerns over contract requirements must be raised and addressed with the contractor as soon as possible to rectify and ensure a shared understanding.
  - [Work Health and Safety Act 2011](#) (Qld) and [Environmental Protection Act 1994](#) (Qld) - both the contractor and the contract manager have certain responsibilities in relation to work health and safety and, depending on the type of project, environmental protection. It is important to note that some risks cannot be 'contracted out' and the University will still have some responsibility. This relates to a range of items from making sure a piece of equipment purchased overseas is fit for use in Australia (compliant) to full building construction safety and the correct disposal of hazardous chemicals.
  - Variations - the contract manager is responsible for the management of variations which may impact time, quality, finish, costs, ongoing business, reputation etc. All variations need to be addressed formally and raised formally by the contractor for consideration. The University must respond in writing. If required, advice can be provided by PAT or other contract managers. Legal advice may also be required either through the University legal office or through an external legal practitioner. Variations must be approved by a person with suitable financial delegation.
  - Disputes - disputes need to be dealt with quickly, but also correctly, to ensure delivery is maintained. In formal contracts, there must be a dispute resolution clause contained for when communications and relationships breakdown. The contract manager has responsibility for addressing any disputes.
  - Risk review - review and update the Risk Register to include any items that may have reduced risk and/or new items introduced by the contractor.
  - Acceptance - once the goods or services have been delivered as required by the contract, the contract manager should formally accept them. This normally requires inspection and testing of the goods and any necessary documentation, warranties, training etc.
  - Administration - update the Contract Register if required. Ensure all items are actioned and records maintained. Key communications and meeting minutes to be filed and readily available. These records must be filed on the University's records system. They are important to the University and need to be readily available in case of dispute or emergency.

## Close

- 4.11 Once completed, contracts should be formally closed out with the contractor and all administrative functions completed.
- 4.12 Typical actions required during the closing stage are outlined below. Depending on the contract to be developed, an assessment will need to be made by suitably experienced employees for which actions need to be included.
- Goods and/or services delivered - have the goods and/or services been delivered in line with the contract requirements, including variations? Have relevant stakeholders reviewed and approved delivery? Are the goods and/or services in the expected condition?
  - Financial - have all payments been made? Were all payments made on time and in accordance with the contract? If funding security (bank guarantee) was provided by the contractor, this can now be returned in line with the contract. Close out any open PO's and close account as required.
  - Documentation/training - with respect to the requirements as set out in the contract deliverables, scope of works or brief); has all relevant documentation, certificates, licenses, warranties, and training been provided and reviewed?
  - University property - ensure the prompt return of all University property (e.g. keys).
  - Administration - close Contract and Risk Register. Provide formal notification of contract completion to the contractor as required. Ensure all documents are filed and recorded in the records system in line with University policies. Undertake a 'lessons learned' exercise or contract review as necessary.

## Contract types

### Purchase orders (PO)

- 4.13 POs are a standard form of contract that is used for the purchase of simple, low risk items. University PO's have set terms and conditions which have been developed to support the University. These terms and conditions are automatically generated and printed on the reverse of a PO. A copy of the standard terms and conditions should be included when requesting quotes for goods and/or services. This will allow contractors an opportunity for review prior to submitting a quote.
- 4.14 When obtaining goods and/or services under a University PO, many of the actions outlined above (under sections 4.1-4.12) do not need to be applied, however it is always important that consideration be given to them during the process.
- 4.15 Many contractors provide their own terms and conditions when submitting a quote. These need to be carefully reviewed, as acceptance of the quote will result in acceptance of the contractor's terms and conditions. Without any further review and/or clarification, the University terms and conditions will not apply.
- 4.16 University PO's should always be used as a first preference. However, there are cases where a PO is not suitable e.g. where a specialised piece of medical equipment needs to be supplied, installed and fully operational by a particular date. The PO would not provide the necessary contract terms and conditions to support and protect the University. In such a case, one of the standard contract templates would be more suitable. PAT can provide advice in relation to contract templates.
- 4.17 Where University PO's are used to engage contractors for the provision of goods and/or services, they do not need to be captured on the Contract Register.

### Standard contracts or contract templates

- 4.18 The University has a number of standard contract templates to use for the provision of goods and/or services when a PO will not suffice. Refer to section 3.14 above and [Appendix 1](#).

## Contract management

### Appointment of a contract manager

- 4.19 A person will be nominated as a contract manager for a particular contract by that person's supervisor on behalf of the relevant head of business area or Senior Executive.
- 4.20 Supervisors will ensure that contract managers have the necessary skills, expertise and training to undertake contract management. Supervisors will ensure that training is provided where required.

### Ethical behaviour

- 4.21 The contract manager and other employees associated in the process of contract management cannot and must not show favoritism towards any contractor. Employees must not accept gifts, or any other benefits (including, but not limited to, dinner or travel expenses) from potential contractors. Even if the contractor already provides services to the University, it can be seen as future favoritism when those services may be re-contracted.
- 4.22 Conflicts of interest must be declared in accordance with [Conflict of Interest Policy and Procedure](#).
- 4.23 Employees should not act in any way that calls into question standards of ethical behaviour.

### General contract management rules and guidelines

- 4.24 The following general rules and guidelines should be adhered to during contract management:
- Do not make any verbal agreements with contractors. Only written contracts should be entered into.
  - Contracts can be complex and raise different issues, so it is important that employees seek advice and help if they have any concerns whatsoever.
  - Do not automatically assume that through discussion with contractors there is a shared understanding. It is always best to discuss and confirm in writing.
  - All formal directions, approvals, requests for variation etc. must be in writing.
  - Always commence contract negotiations in a formal and strict manner with the contractor. It is easier to allow a level of informality if the contractor demonstrates high performance rather than attempting to bring about a formal relationship after a period of time.
  - Address any concerns or performance issues as soon as they become known and make formal notes for recordkeeping purposes.
  - DFM, Digital Services Directorate and PAT have good contract knowledge and experience. Please contact them for advice if needed.
  - Nominated contract managers should be suitably experienced. Formal qualifications are not essential but supervisors of contract managers are required to ensure that regular training is provided to ensure knowledge and skills are up-to-date and commensurate with the level of contract being managed.
  - All other University policy documents must be followed and complied with. Contract managers must become familiar with the relevant University policy documents, including, but not limited to:
    - [Delegation of Authority Policy](#)
    - [Financial Management Practice Manual](#)
    - [Occupational Health and Safety Policy](#)
    - [Procurement Policy and Procedure](#), and
    - [Work Health and Safety Roles and Responsibilities Procedure](#).



## Contract register and recordkeeping requirements

- 4.25 Each business area must maintain its own Contract Register. A template is available on [PAT StaffNet page](#). The template provides a guide of the minimum information that must be maintained on the Contract Register. Contract Registers can be further developed with additional information to help suit the individual business area needs.
- 4.26 The Contract Register should be used to help manage and plan for contracts and ensure adequate attention and resourcing is applied.
- 4.27 Business areas will provide Contract Registers to the University Council via the Audit, Risk and Finance Committee annually.

## Property leases

- 4.28 Property leases are a special form of contract managed by DFM. DFM maintains a Property Register which contains details of leased and owned properties for the University.
- 4.29 These contracts (leases) are formed using standard lease agreements with negotiated terms and conditions. In most cases, the leases are either developed by, or reviewed by a suitably qualified solicitor, prior to formal agreement.
- 4.30 Lease agreements are signed by the Vice Chancellor and President (or their nominated delegate).

## 5 RESPONSIBILITIES

### Compliance, monitoring and review

- 5.1 The Chief Operating Officer and PAT are responsible for implementing, monitoring, reviewing and ensuring compliance with this policy and procedure.

### Reporting

- 5.2 Contract managers will provide an annual report on the performance of all contracts of \$100,000.00 or greater to the University Council via the Audit, Risk and Finance Committee.
- 5.3 Business areas will provide Contract Registers to the University Council via the Audit, Risk and Finance Committee annually.

### Records management

- 5.4 Employees must manage records in accordance with the [Records Management Policy and Procedure](#). This includes retaining these records in a recognised University recordkeeping information system.
- 5.5 University records must be retained for the minimum periods specified in the relevant [Retention and Disposal Schedule](#). Before disposing of any records, approval must be sought from the Records and Privacy Team (email [records@cqu.edu.au](mailto:records@cqu.edu.au)).

## 6 DEFINITIONS

- 6.1 Terms not defined in this document may be in the University [glossary](#).

### Terms and definitions

**Contract:** includes, but is not limited to, an agreement, exchange of letters, heads of agreement, response to tender, grant application, trust deed and any other document which creates or which may create legally binding obligations on the University.

**Due diligence:** part of the risk management process by which the University assesses the suitability of a contract and the credentials of any other involved party including, but not limited to, their insurances, capabilities and reputation and evaluates the business opportunity before signing a binding contract.

**Life cycle costs:** the sum of all ongoing and individual costs over the full life span of a good, service, structure or system. This includes, but is not limited to, the purchase price, installation cost, operating cost, maintenance costs and upgrade costs.

**Significant contract:** is a contract for the procuring of goods and/or services that have been identified as being high expenditure and/or for which there is a high degree of business risk. Purchases in excess of \$500,000 are considered high expenditure. Significant procurements can be both significant single, one-off procurements, or a number of smaller projects or purchases which when combined, are significant.

## 7 RELATED LEGISLATION AND DOCUMENTS

[Authorities and Delegations Register](#)

[Building Industry Fairness \(Security of Payment\) Act 2017](#) (Qld)

[Conflict of Interest Policy and Procedure](#)

[Delegation of Authority Policy](#)

[Enterprise Risk Management Framework](#)

[Environmental Protection Act 1994](#) (Qld)

[Occupational Health and Safety Policy](#)

[Partnerships Policy and Procedure](#)

[Procurement Policy and Procedure](#)

[Work Health and Safety Act 2011](#) (Qld)

[Work Health and Safety Roles and Responsibilities Procedure](#)

## 8 FEEDBACK

8.1 Feedback about this document can be emailed to [policy@cqu.edu.au](mailto:policy@cqu.edu.au).

## 9 APPROVAL AND REVIEW DETAILS

Approval and Review	Details
Approval Authority	Council
Delegated Approval Authority	Audit, Risk and Finance Committee
Advisory Committee	N/A
Required Consultation	N/A
Administrator	Chief Operating Officer
Next Review Date	1/05/2022

Approval and Amendment History	Details
Original Approval Authority and Date	Council 1/05/2019
Amendment Authority and Date	Editorial amendment 14/05/2021; Editorial amendment 17/08/2021; Editorial amendment 03/01/2023
Notes	This document consolidated and replaced the Contract Management Policy (12/05/2014), Contract Management Procedure (12/05/2014).

## 10 APPENDIX

### Appendix 1 - Standard University approved contracts

The following Standard University Approved Contracts List is not exhaustive. Further information can be obtained from PAT.

- Consultancy Agreement (to be used when engaging any external consultancy)
- Contract for Goods and Services – One Time Use (to be used when purchasing goods or simple, low-risk services not containing Intellectual Property)
- Contract for Goods and Services – Panel (to be used when purchasing goods or simple, low-risk services not containing Intellectual Property)
- Professional Services Agreement (to be used when purchasing services containing Intellectual Property);
- Professional Services Agreement – Privacy Undertaking (to be used when purchasing services containing Intellectual Property and requiring additional privacy clauses)
- Hardware Acquisition and Maintenance Contract (to be used when purchasing hardware and hardware maintenance (typically IT related))
- Professional Services Contract (Long Form) (to be used when purchasing higher-risk services containing Intellectual Property)
- Non-Disclosure Agreement (Contractor Disclosure) (to be used when requesting disclosure of information from the Contractor only)
- Bi-Lateral Non-Disclosure Agreement (to be used for disclosure of information by both parties)
- Panel Contract – Network Goods and Services (used to establish a Panel of Contractors for the purchase of network goods and / or services (IT related))
- Collaboration Agreement
- Recruitment Agency Agreement (to be used to engage a recruitment agency for assisting to fill University employment positions)
- Commercial Partnership Agreement (to be used for a partnership between the University and a Contractor involving commercial exchange)
- Non-Commercial Partnership Agreement (to be used for a partnership between the University and a Contractor not involving commercial exchange)
- Education Partnership Agreement
- International Education Agent Contract
- International Education Provision Contract
- Provision of Services Contract
- Aviation Training Services Agreement (to be used to engage aviation training services)
- License to Occupy Deed
- Use of Space Agreement
- Minor Works Contract Conditions – AS4906 2002 (to be used for minor works less than \$150,000 (e.g. water main upgrades, fire compliance works etc.))
- General Conditions of Contract – AS4000 1997 (to be used for major works where a design has been prepared previously)
- General Conditions of Contract for design and construct – AS4902 2000 (to be used for any works greater than \$150,000 where a design is required in addition to construction) and
- General Conditions of Contract for the supply of equipment and installation – AS4910 2002 (to be used for projects such as transformer supply and installation).