KEY CONTRACTING ISSUES

General issues

• Focus on the outcomes sought when making decisions in developing and managing the contract.
• Identify the risks and related risk treatments at all main stages of the contracting process.
• Maintain complete and accurate records of key decisions, actions and communications throughout the contracting process.
• Obtain internal or external expert professional advice (for example probity, legal, financial, business) when the knowledge or skills of the contract manager(s) need supplementing.
• Ensure that sufficient resources and priority are given to the contract development and management.
• Actively manage relationships with all stakeholders.
• Behave ethically, honestly and fairly at all times and require the same standards from the contractor.

Developing the Contract

• Access and use standard form contract templates and supporting documentation, where appropriate.
• Be prepared to negotiate contract terms and conditions to optimise value for money (outcomes).
• Comply with whole-of-government arrangements (coordinated procurement) where required. In any case, take opportunities to leverage off existing panels and multi-use lists. Where appropriate, join with others under cooperative agency procurement arrangements—via ‘clustering’ or by joining a contractual arrangement or standing offer arrangement put in place by another agency.
• Develop a realistic performance regime, including how performance will be measured.
• Develop a contract management plan to support the implementation and management of obligations under the contract.

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Formalising the Contract

- Ensure the final contract includes all necessary legislative and policy requirements, the outcome of contract negotiations, and a clear statement of deliverables.
- Obtain all necessary approvals and agreements prior to contract signing.
- Comply with reporting requirements and ensure tenderers are provided with a constructive debrief.
- Ensure the contract is appropriately filed and referenced.

Managing the Contract

- Ensure that all those involved in contracting have the skills, knowledge and experience commensurate with the nature, risk and size of the contracts being developed and managed. Where possible, ensure that the manager of a contract has been involved at earlier stages of the relevant procurement process.
- Fully understand the background, context and objectives of the contract to increase the likelihood of achieving the contract outcomes.
- Assess contractor performance, and provide feedback, throughout the life of the contract.
- Apply any relevant contract provisions where the contractor performance requires it.
- Link payments to contractor performance and make payments strictly in accordance with contract provisions, including compliance with the 30 day payment policy for small business.
- Negotiate contract variations to respond to changing circumstances while continuing to meet the core principle of whole-of-life value for money.
- Ensure that any option for contract extension continues to represent value for money.

Ending the Contract

- Allow time to plan and implement a new procurement process where goods or services continue to be required.
- Conduct a formal review or evaluation at the conclusion of the contract, and incorporate lessons learned in any new contract.