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SA Health

Policy

Contract Variation Policy

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Version 5

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Government
of South Australia

SA Health

1. Name of Policy

Contract Variation Policy

2. Policy statement

This policy provides direction on the management, approval and recording of a contract variation, in the event of an addition or alteration to the original contract.

Variations may be proposed by either party and may refer to adding, removing or changing an existing contract provision.

3. Applicability

This policy applies to all employees and contracted staff of SA Health; that is all employees and contracted staff of the Department for Health and Wellbeing, Local Health Networks (including state-wide services aligned with those Networks), SA Ambulance Service and the attached offices of Wellbeing SA and The Commission on Excellence and Innovation in Health (CEIH).

This Policy does not apply to exercising extension options permitted within the terms of the original contract.

4. Policy principles

SA Health's approach to contract variations is underpinned by the following principles:

- > We must ensure that all contract variations are assessed, documented and approved.
- > We maintain probity, accountability and transparency in all procurement activity.
- > We exercise ethical conduct in all procurement processes.

5. Policy requirements

Summary of Requirements

- > A contract variation must be undertaken to continue a contract arrangement beyond the contract end date (inclusive of all contract extension options) in an executed contract.
- > A determination must be made whether a contract variation is more appropriate than a new procurement and contract arrangement.
- > An impact assessment must be undertaken to determine procurement approval requirements.
- > Financial approval is required where the variation increases the contract value and is determined by the proportion of the variation (including previous variations) to the original contract value:
 - <5% of original contract value – financial approval is based on the variation amount
 - >5% of original contract value – financial approval is based on the total value of the proposed variation, all previous variations and the original contract value
- > Financial approval must be given by an officer with financial authorisation to enter into contract to the required amount.

Note: *If delegated approval from the Minister is sought for amounts above \$15 million, advice from DTF on the budget impact associated with the contract is required to be sought. DHW Corporate Finance can assist with this consultation process (email: [Health:Finance Cabinet Submission Review](#)).*
- > Approval is sought using the [Contract Variation Approval template](#) 'for SA Health internal use only'. The level of detail is to be commensurate with the measure of impact of the contract variation.

- > Contract variations for high risk or complex procurements should seek advice from the Crown Solicitors Office before approval is given to vary the contract.
- > Where a variation introduces a new product, advice must be sought on whether the new product requires approval of the Product Standardisation Committee for its introduction into SA Health.
- > The form of the contract variation must be in the form of the original contract.
- > The contract variation must be recorded in the Procurement and Contract Management System (PCMS).
- > SA Health officers must not agree to informal contract variations by way of oral agreement or other conduct.

Variations after contract expiry

Where a contract has expired without an approved variation to extend but the supply of goods and/or services under the expired contract is required to continue for a short time after the expiration, a new interim contract must be executed.

In such situations, where the supplier/s are willing to continue supply under the same terms and conditions, procurement approval for the extended arrangements may be obtained via contract variation.

Although an acquisition plan is not required, SA Health officers must consider risk and value for money by assessing any negative impact of the extended arrangements on the contract deliverables, price, timeframes, value for money outcomes, probity, transparency, and accountability.

This option is to be utilised only as an interim measure on the condition that a new procurement process is undertaken within a reasonable timeframe. For longer term extensions and/or those requiring more complex negotiations, an acquisition plan must be used.

Impact Assessment for Procurement Approval

- > The impact assessment is undertaken using the assessment matrix (Table 1).
- > The level of variation is evaluated in terms of **insignificant, minor, moderate** or **major**.

Table 1 – Impact Assessment Matrix

Measure of impact	Criteria for Assessing impact	Procurement approval required – Assessment by Impact
Insignificant	No potential to negatively impact the contract deliverables, price, timeframes, value for money outcomes, probity, transparency and accountability.	Where a variation is assessed as insignificant or minor, a file note detailing the variation must be uploaded to the PCMS.
Minor	Limited potential to negatively impact the contract deliverables, price, timeframes, value for money outcomes, probity, transparency and accountability.	
Moderate	Moderate potential to negatively impact the contract deliverables, price, timeframes, value for money outcomes, probity, transparency and accountability.	Where a variation is assessed as moderate or major, procurement approval is to be sought from the approver of the Acquisition Plan using the Contract Variation Approval Template 'for SA Health internal use only'.
Major	Major potential to negatively impact the contract deliverables, price, timeframes, value for money outcomes, probity, transparency and accountability.	

The table above details assessed levels of impact and associated procurement approvals required.

New products

- > Where a variation relates to the introduction of a new product, the supplier may be required to submit [SA Health new product or consumable equipment submission documents](#) for consideration.

A new medical product / consumable / equipment includes:

- New innovative medical technology recently released to the market
- New version of existing medical technology already present in the market and available from other suppliers
- Medical product / consumable / equipment previously only supplied to SA Health as a result of a hospital ethics committee approved clinical trial that has concluded
- A medical product / consumable / equipment not otherwise marketed or sold to any SA Health entity

If unsure that a product introduced to a contract is a new product, advice must be sought from the Product Standardisation Subcommittee Executive Officer via email:

Health.ProductCommittee@sa.gov.au.

Records Management

Records, including contract variations, must be managed in compliance with the with the [State Records Act 1997](#) and the [Procurement and Contract Management System Policy](#) 'for SA Health internal use only'. This includes maintaining appropriate hardcopy documents on registered files as well as completing the Contract Variation Approval template and uploading documents to PCMS.

6. Mandatory related documents

The following documents must be complied with under this Policy, to the extent that they are relevant:

- > [Treasurer's Instructions 8 — Financial Authorisations \(legislation.sa.gov.au\)](#)
- > [Treasurers Instruction 18 Procurement](#)
- > [PSSA Procurement Planning Policy](#)
- > [PSSA Contract Management Policy](#)
- > [PSSA Sourcing Policy](#)
- > [State Records Act 1997](#)
- > [Public Finance and Audit Act 1987](#)
- > [GADS PRD - Delegations \(health.sa.gov.au\)](#)
- > [Contract-Extensions-and-Variations-Guideline.pdf \(procurement.sa.gov.au\)](#)

SA Health – Policy and Guidelines

- > [Internal Procurement Framework](#)
- > [Procurement and Contract Management System Policy](#)
- > [Contract Variation Approval Template](#)

7. Supporting information

- > [Procurement Records Management Factsheet](#)

8. Definitions

Contract variation means: an addition or alteration to the original contract, which may be proposed by either party and may refer to adding, removing or changing an existing contract provision.

Variations may impact:

- The scope of the contract
- The value of the contract
- Contract options to be exercised
- Prices, quantity and/or specifications

Statewide services includes Statewide Clinical Support Services, Prison Health, SA Dental Service, BreastScreen SA and any other state-wide services that fall under the governance of the Local Health Networks.

9. Compliance

This policy is binding on those to whom it applies or relates. Implementation at a local level may be subject to audit/assessment. The Domain Custodian must work towards the establishment of systems which demonstrate compliance with this policy, in accordance with the *requirements of the [System-wide Integrated Compliance Policy](#)*.

Any instance of non-compliance with this policy should be reported to the Domain Custodian for the Policy and Reporting, Procurement and Supply Chain Management, Corporate & System Support Services and the Domain Custodian for the Risk, Compliance and Audit Policy Domain.

10. Document ownership

Policy owner: Policy and Reporting, Procurement and Supply Chain Management, Corporate & System Support Services as Domain Custodian for the PSCM Policy and Reporting Policy Domain.

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Contact for enquiries: Health.PSCMPolicyandCompliance@sa.gov.au

11. Document history

Version	Date approved	Approved by	Amendment notes
V5.0	27/07/2022	Deputy Chief Executive, Corporate & System Support Services	Update policy to new Policy Framework - simplify the policy with essential information only, non-essential information will be covered by a guideline. Update references to PSSA requirements.
V4.0	07/07/2021	Deputy Chief Executive, Corporate and System Support Services	Amendments related to the new SA Government Procurement Policy Framework, including Treasurer's Instruction 18 Procurement.
V3.4	04/09/2020	Executive Director, Procurement and Supply Chain Management	Highlighted the requirement to monitor contract spending against the contract's approved financial limit in order to obtain contract variation and financial approvals before the contract expires.
V3.3	14/10/2019	Executive Director, Procurement and Supply Chain Management	Clarified the requirement to seek advice from the Product Standardisation Subcommittee Executive Officer to advise if a new product requires approval. Minor amendment to New Product description to align with the Product Standardisation Subcommittee.

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V3.2	29/11/2017	Executive Director, Procurement and Supply Chain Management	Procurement authority amount changed from \$11 million to 15 million advised by the State Procurement Board on 19 October 2017.
V3.1	16/10/2017	Executive Director, Procurement and Supply Chain Management	Reformatted section 3.2 to include two new sub-headings: 3.2.1 Variations Prior to Contract Expiry and 3.2.1 Variations After Contract Expiry. No additional content. Transferred to the new template.
V3.0	08/12/2016	Executive Director, Procurement and Supply Chain Management	Contract Variation / Renewal changes to align with the State Procurement Board's Acquisition Planning Policy and Procurement Reforms.
V2.0	01/04/2015	Executive Director, Procurement and Supply Chain Management	Minor wording changes to align to State Procurement Board's Supplier Selection Guideline.
V1.1	19/08/2014	Executive Director, Procurement and Supply Chain Management	Transferred to the new template. Scope excludes contract extension. Aligned approvals to updated across-government policy requirements.
V1.0	16/06/2011	PE Approved	PE Approved version.