

# CONTRACT MANAGEMENT POLICY

CONTRACT MANAGEMENT			
<b>Effective Date</b>	April 18, 2023	<b>Policy Type</b>	Administrative
<b>Responsibility</b>	Vice President Corporate Services (policy owner) Director Financial Services (policy manager)	<b>Related Policies</b>	Employee Code of Conduct Procurement Policy Conflict of Interest Policy Records Management Policy Financial Signing Authority Policy Enterprise Risk Management Policy
<b>Approval Authority</b>	Executive Council	<b>Review Schedule</b>	Every Three Years

## 1. Policy Statement

1.1. Northwestern Polytechnic (NWP) enters into Contracts with third- parties for a variety of academic, professional, advisory, informational and the purchase of Goods and Services; government and grant funding; and sale(s) of Goods and Services. The Polytechnic is committed to ensuring its contracting processes and standards are consistent, transparent, promote sound financial stewardship, provide a robust system of internal controls, and balance efficiency of operations with operational and financial risk.

## 2. Scope

2.1. This policy applies to all Contracts, Amendments, or Renewals:

- Which create a Contractual Obligation and/or Contractual Rights beyond the current fiscal year,
- Involves the purchase, disposal, or lease of land,
- Involves the purchase of capital assets, Goods or Services above \$75,000,
- Involves the purchase of capital assets, Goods or Services between \$25,000 and \$74,999 (document retention only)
- Grant agreements,
- Revenue generating agreements over \$2,000,
- Banking or investment activities, including long-term borrowing,
- Memorandums of Understanding.

2.2. This policy applies to all NWP Employees.

## 3. Policy Objective

- 3.1. The objective of the policy is to provide a framework to ensure all Contracts undergo required institutional review and approval prior to execution.
- 3.2. This policy is one element in the Polytechnic's system of internal control. Internal financial controls provide guidance on the authorization of transactions and activities, appropriate segregation of duties, design and use of adequate documents and records, and adequate safeguards over access to and use of assets and records. As such, this policy is to be followed in conjunction with other Polytechnic policies including the *Financial Signing Authority Policy* including the *Signing Authority Decision Tree*, *Procurement Policy*, *Employee Code of Conduct*, *Risk Management Policy* and *Records Management Policy*.

## 4. Definitions

- 4.1. **Amendment:** A change or addition to the terms of a Contract or document. An amendment is often an addition or correction that leaves the original document substantially intact but can strike the original text entirely and substitute it with new language.
- 4.2. **Approved Budget:** The annual operating and capital budget as approved by NWP's Board of Governors.
- 4.3. **Budget Owner:** An Employee who has been assigned a Cost Centre budget in the financial system and therefore has signing authority to make expenditures within the scope of his/her budget.
- 4.4. **Capital Project:** Projects that concern the demolition of existing buildings or infrastructure, new construction, renovation or renewal of existing facilities or infrastructure, and acquisition or sale of real property
- 4.5. **Conflict of Interest:** A situation where an Employee has an external interest, financial or otherwise, that could impact their conduct at NWP. This may occur when the external interest provides, directly or indirectly, a motivation or incentive to influence the Employee's conduct in exercising their employment responsibilities. This creates a risk that the individual's judgment or actions could be, or could be seen to be, unduly influenced by that external interest. Conflict of Interest includes both actual and apparent conflicts of interest.
- 4.6. **Contract:** Any document with a third party that creates a legally binding commitment and includes letters of intent and memoranda of agreement.
- 4.7. **Contracts Coordinator:** An NWP Employee responsible for administering the contract life-cycle process, including records management of fully executed Contracts.
- 4.8. **Contract Manager:** An Employee whose employment duties include the development and monitoring of one or more Contracts.
- 4.9. **Contractual Obligation:** A payment or other action that parties agree to do or become responsible for when they sign a Contract. Contractual Obligations can arise from many sources including purchasing an item with ongoing maintenance or licensing requirements.
- 4.10. **Contractual Rights:** Rights given to a party through a legally binding contract.
- 4.11. **Cost Centre:** An NWP Account Category which represents an organizational segment of the Polytechnic.
- 4.12. **Employee:** means an individual employed by the Polytechnic on a permanent, temporary or casual basis.
- 4.13. **Financial Services:** A department within NWP responsible for the management of the Polytechnic's financial records and maintenance of the financial internal controls.
- 4.14. **Frustration:** Where there is a supervening event that occurs after contracting through no fault of either party, and which was not foreseeable at the time that the parties entered the

Contract, that changes the nature of the parties' rights and obligations to such a degree that performance is impracticable, impossible or unjust in the circumstances.

- 4.15. **Goods:** means property (including the costs of installing, maintaining, or manufacturing such moveable property), including raw materials, products, equipment, and other objects of every kind and description whether in solid, liquid, gaseous, or electronic form.
- 4.16. **Multi-Unit Expense:** A transaction which obligates or charges expenses to more than one Cost Centre within NWP.
- 4.17. **Multi-Year Expense:** A transaction which creates a Contractual Obligation across fiscal and budget approval years.
- 4.18. **Polytechnic:** Northwestern Polytechnic, a post-secondary institution operating in the Province of Alberta.
- 4.19. **Renewal:** A clause in an agreement that outlines the terms for renewing or extending the original agreement, including any specifications or conditions that must be satisfied to initiate the Renewal.
- 4.20. **Repudiation:** where one party is substantially deprived of the whole benefit of the Contract or where the breaching party indicates an intention to no longer be bound by the Contract.
- 4.21. **Services:** All services to be supplied, including but not limited to consulting and professional services.

## 5. Guiding Principles

- 5.1. Employees developing Contracts on behalf of NWP must ensure the Contract, Amendment or Renewal is in the best interests of the Polytechnic, consistent with the Polytechnic's strategic plan and Approved Budget while managing institutional risks, maintaining impartiality from personal gain, and conducting Polytechnic business in a fair and transparent manner.

### 5.2. Risk Management

- 5.2.1. Contracts will be developed in accordance with the *Risk Management Policy*, all Polytechnic policies and applicable government and trade legislation.
- 5.2.2. This includes adequate indemnity, insurance, and risk mitigation clauses.
- 5.2.3. Contracts must protect the Polytechnic's intellectual property rights with terms that conform to the Polytechnic's policies, collective agreements, existing legal obligations, and section 68 of the Post-secondary Learning Act (Alberta).

### 5.3. Impartiality

- 5.3.1. Contract development will be undertaken by Employees free of actual or perceived Conflicts of Interest as defined in the *Employee Code of Conduct*.

### 5.4. Procedural Fairness and Transparency

- 5.4.1. Under no circumstances shall any single Contract be divided into multiple Contracts or be reduced in term or scope with the intent or unintended result of altering the commitment level or the positions which have authority to sign the Contract.
- 5.4.2. All Contracts under the scope of this policy must be submitted through the established Contract process, managed by the Director, Financial Services.

## 6. Contract Development

- 6.1. The Polytechnic's name on all Contracts must be "Northwestern Polytechnic". Contracts in the name of any specific Faculty/School, academic department, administrative unit, or unincorporated entity or organization of the Polytechnic will not be valid.
- 6.2. All Contracts must be made in writing.
- 6.3. Payments made by the Polytechnic to third parties in accordance with the terms of a Contract shall take place only when a Contract has been fully executed and is in effect.

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- 6.4. Contracts should be completed using the internal templates. Should external Contract documents be used they must include the same or comparable information, be clear and consistent, and accurately reflect the agreed upon terms.
- 6.5. An Employee versus Contractor determination will be in accordance with Appendix A: Contractor/Employee Decision Tree.

## 7. Review and Approval

- 7.1. All Contracts under the scope of this policy must be submitted through the established Contract process, managed by Financial Services.
- 7.2. All parties involved in the Contract process should ensure that they have read, understood, and agree in principle with the Contract.
- 7.3. Individuals may only sign a Contract on behalf of the NWP if they have explicit authority to do so under this Policy, or if that authority has been properly delegated to them as outlined in the Appendix B.
- 7.4. Any Contract which has unusual or significant risk exposure (financial, reputational or otherwise), precedent-setting issues or controversial matters, or which might bring the Polytechnic under public scrutiny will be forwarded on for legal review before signing, regardless of value.

## 8. Contract Execution

- 8.1. The Board of Governors is responsible for overseeing and directing all matters respecting the management of the Polytechnic's property and financial affairs and is duly empowered and authorized by the *Post Secondary Learning Act* to enter into Contracts on behalf of NWP.
- 8.2. To facilitate operational efficiency, the Board of Governors delegates the power and authority to enter into Contracts on behalf of the Polytechnic to certain Authorized Signatories as set out in Appendix B: Contract Signing Authority.
- 8.3. No person is authorized to sign any document that creates an obligation or undertaking on behalf of NWP unless:
  - 8.3.1. that Contract has been reviewed and approved in accordance with this policy and procedures; and
  - 8.3.2. the Employee has signing authority in accordance with this policy and procedures
- 8.4. The Contracts Coordinator is responsible for obtaining all signatures on a contract.

## 9. Ongoing Monitoring

- 9.1. Once a Contract has been approved and signed, the Contract Manager is required to ensure that the Polytechnic and the other contracting party(ies) meet their respective obligations under the Contract.
- 9.2. Contract monitoring includes verifying the fulfilment of Contract clauses during its lifecycle, and for initiating or recommending action to address issues of non-compliance by the parties to a Contract.

## 10. Dispute Prevention and Resolution

- 10.1. If there is a dispute regarding a contract developed or managed under this policy that cannot be solved through direct negotiation between the Contract Manager and external parties then:
  - 10.2. Written notice, containing a request to negotiate, shall be given by either party to the other(s). This notice shall be given promptly to prevent further damages resulting from delay and shall specify the issues in dispute.
  - 10.3. Negotiations shall occur between representative of the Contractor and the departmental Vice President who provides executive oversight to the Contract Manager.
  - 10.4. All information exchanged during these negotiations shall be regarded as "without prejudice" communications for the purpose of settlement negotiations and shall be treated as confidential by the parties and their representatives, unless otherwise required by law. However, evidence that is independently admissible or discoverable shall not be rendered inadmissible or non-discoverable by virtue of its use during the negotiations.

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10.5. If the parties do not resolve some or all of the issues in dispute within 30 days after notice has been given, then the parties agree to attempt to resolve the dispute through mediation in accordance with mediation practices agreed upon by the parties.

10.6. If the parties do not resolve all of the issues in dispute through mediation, then within 30 days from the date of the mediator's report, the parties shall submit those issues to binding arbitration pursuant to the Arbitration Act of Alberta and the decision will bind all parties.

## 11. Contract Retention

11.1. The original signed Contract shall be retained with the Contracts Coordinator. The Contracts Coordinator ensures each contract is converted into a digital form and is accessible.

11.2. All executed Contracts must be retained in accordance with the *Records Classification and Handling Policy*.

## 12. Contract Termination

12.1. Contracts will be deemed terminated when any of the following occur:

12.1.1. The termination stipulations in the Contract have been met, including but not limited to the date of termination.

12.1.2. All parties, including NWP, have agreed to terminate the Contract.

12.1.3. There has been Repudiation of the Contract.

12.1.4. The Contract has been Frustrated.

12.1.5. The Contract was made in violation of this policy and deemed void at the discretion of the President.

12.2. Legal council will be sought on all Contracts contemplated for termination under sections 11.1.3 to 11.1.5. Departmental Vice-President approval is required before legal council is engaged.

12.3. Contract Managers are responsible to monitor active Contracts under their responsibility and proactively extend or renegotiate a Contract under this policy or initiate purchasing activities under the *Procurement Policy* to ensure continuity of service.

## 13. Non-compliance

13.1. Non-compliance with this policy may result in disciplinary action up to and including dismissal or termination of employment Contract. Further, should any claims, damages or other consequences arise from non-compliance with this policy, the Board of Governors may seek indemnification from the individual involved.

## 14. Exceptions to the Policy:

14.1. Exceptions to this policy must be documented and approved by the Vice-President, Corporate Services. Documentation on policy exceptions must contain:

- A description of nature of the exception, including the date the exception expires,
- Justification for the exception, and
- An analysis of the risks created by the exception and alternate steps take to mitigate the risk.

14.2. Policy Exceptions will be tracked and stored within the Financial Services department according to the Records Management Policy.

## 15. Amendments (Revision History)

15.1. Amendments to this policy will be published from time to time and circulated to the community of the Polytechnic.

15.2. Appendix 2 Revised and approved 26-Feb-18.

15.3. Appendix 2 Revised 7-Dec-18.

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15.4. Policy revised January 25, 2022.

15.5. Policy revised April 1, 2023.

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## Appendix A: Contractor/Employee Decision Tree

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## Appendix B – Contract Signing Authority

This appendix should be read in conjunction with the *Financial Signing Authority Policy* and the Signing Authority Decision Tree

Transactions requiring Contract development	Minimum Approval Authority
All transactions regarding land	Board resolution, signed by the Chair of the Board in agreement with the Disposition of Lands regulation.
Multi-Year Expenses – any value	Departmental Vice-President
Capital Asset Purchases over \$75,000	Vice-President, Corporate Services
Purchases of Goods or Services over \$75,000	Departmental Vice-President
Rental or Leasing of Buildings or Equipment, commuted value below \$75,000	Director, Facilities
Rental or Leasing of Buildings or Equipment, commuted value \$75,000 and above	Vice-President, Corporate Services
Grant agreements	Signing Authority as dictated by the granting authority
Revenue generating agreements, over \$2,000	Departmental Vice-President
Banking or Investing agreements, including long-term borrowing	President
Endowment or other donation agreements	Vice-President, External Relations and Departmental VPs for non-financial assets.
Clinical Placements or Student Practicums	Deans
Memorandums of Understanding and other non-purchase Contracts	Departmental Vice-President

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## Appendix B – Contract Signing Authority, continued.

Transactions requiring document retention in the Contract management system	
Capital asset purchases between \$25,000 and \$74,999	Director, Facilities
Purchases of Goods or Services between \$25,000 and \$74,999	Budget Owner
Multi-Unit Expenses between \$25,000 and \$74,999	Departmental Vice-President or Vice-President, Corporate Services