

08 Contract Management

What is Contract Management?

Contract management is the active management of the relationship between the client and the contractor over the term of the contract for the provision of goods and services to the agreed standards.

Contract management should be proportionate to the value, risk and complexity of the contract. Simple purchase contracts will usually only require inspection on receipt and payment of the invoice whilst for complex or high value contracts it may be necessary to appoint a full-time contract manager or team and develop a contract management plan.

The relevant category manager should also be involved in helping establish and oversee contract management arrangements. [The roles of the contract manager and the category manager are included in a chart at the end of this paper.](#)

Some of the benefits of effective contract management include:

- more favourable contract outcomes
- improved quality of service and customer focus;
- achieving value for money and financial control;
- decrease in the level of risk;
- clarification of roles and responsibilities of the contract manager, contractors, end users
- early identification and resolution of poor performance, other problems or disputes;
- evaluation of the specification against contract performance and identification of contract changes or variations.

Contracts with a single supplier to provide a wide range of services over a longer period are expected to bring substantial benefits in capital investment, revenue savings and improved services but they may also carry significant risks.

The quality of the relationship between client and contractor is very important in these arrangements, as they are based on a higher degree of dependence than traditional service contracts and there is a need for a “cultural fit” if the services are directly related to core values of the Council.

Transition arrangements

Once the decision has been made to award a contract, there is often a transition period. This period involves planning, implementing and managing the contract transitional arrangements.

The transition process should be as 'seamless' as possible and the transition stage should be addressed in the procurement planning stage.

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Key issues to be addressed are:

- clarification of the roles and responsibilities of both the contractor and the client (usually the contract manager) and the category manager
- staff and asset related issues
- risk management issues
- continuity and quality of service
- consultation with the end users to keep them informed of changes
- the commencement of contract performance monitoring and reporting
- agreement on the contract management process and plans

A preliminary contract meeting should be held to provide the contractor and the contract manager or management team an opportunity to:

- clarify and develop a mutual understanding of the issues
- agree an implementation schedule
- agree the contract management processes to be followed
- confirm key staff and their roles
- finalise administrative and liaison details

Develop the Contract Management Plan

A contract management plan is an important tool for ensuring that the client identifies and addresses all relevant issues through the life of the contract. It is a dynamic document which is created during the contract formation stage and modified throughout the life of the contract.

Contract Management Plans are essential where:

- the contract is fundamental to the operation of the authority
- the contract has a significant public profile
- the consequences of contract failure are serious or extreme
- the contract contains complex terms and conditions
- the contract has a high financial value

The Contract Management Plan should detail:

- Contract Structure
- Contract Measurement
- Contract Management
- Contract Review
- Risk Management

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Contract Operation

This involves the active management of the contract and follows the

- implementation and completion of the contract transition stage
- completion and implementation of a contract management plan
- finalisation of an agreement between the authority and the contractor on all the contract management processes and activities

The Council will have a common approach it expects all contract managers to follow whatever the type of contract. The aim is to work proactively with the contractor, to achieve common aims.

Role of Contract Manager

The contract manager has the key role in ensuring that the day-to-day requirements of the contract are delivered. It is good practice for contract managers to be recruited or receive training and development prior to contract award, so that they have an understanding of the contract and the environment they are responsible for managing.

The contract manager's key responsibilities should include:

- clearly setting out the roles, responsibilities and standards
- monitoring performance, compliance with conditions of contract, key performance indicators and milestones;
- managing associated risks
- ensuring that effective communication is maintained between all parties and is free from bias
- monitoring conflicts of interest that may arise between the parties and facilitating their resolution
- managing the budget and maintaining financial control
- working with the contractor for continuous improvement;
- managing changes or variations to the contract
- liaison with the category manager.

Monitoring Performance

Performance against key indicators, linked to payments for service, is becoming a standard feature in many major contracts. The contractor's performance must be assessed objectively against clearly agreed standards and targets set out in the contract.

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Contract managers are responsible for developing an effective system of performance measurement.

The key aims of an effective system of monitoring performance are:

- delivering the outputs to the required standard
- ensuring contractors are meeting their contractual obligations.
- early identification of problems to ensure prompt remedial action
- price and payment terms are adhered to.

Review Meetings

The authority should also undertake periodic formal review meetings of contract performance. These meetings should involve senior personnel from both the client and the contractor.

The aim of the formal review process is to:

- provide an overview of the operation of the whole contract
- allow any outstanding issues or problems to be managed in an informed and effective manner
- anticipate potential problems
- minimise their incidence and severity.

Amending the Contract

As contracts become more complex and longer, the need for changes to the requirements of the contract is more likely. One of the contract manager's key roles is to manage the process of change in an equitable way, balancing the spirit of the relationship with the requirements and obligations of the contract.

Contractors will need to be prepared to adopt an 'open book' approach in these longer term contracts where change is likely.

The contract itself should set out the change control or variation procedures and the appropriate clauses needs to be followed carefully to avoid breaches. However, it may be appropriate to have other working documents or protocols that set out how minor contract variations are handled.

Resolving Disputes

An effective local authority client needs a clear understanding of its contractor's business, both in relation to the individual contract and the wider pressures that may affect that contract. Many conflicts between the public and private sector are created

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by a lack of understanding of the other's point of view and an inability to judge the reasonableness of the point.

Another frequent source of conflict is a mismatch between the expectations of end users of the service and the terms of the contract. The contract manager needs to manage end user expectation and be clear about dissatisfaction arising from the procurement specification as opposed to poor performance by the contractor.

Where disputes do arise, clear procedures will help to minimise disruption and maximise the efficient handling of any problem. The procedures should ensure that:

- full details of the problem are recorded
- the contractor is notified that a problem has occurred
- approaches to resolution and outcomes are clear and documented
- open mindedness and consideration of the facts throughout is encouraged
- escalation procedures are clearly defined, including involving the category manager where necessary.

If something does go wrong the first thing to do is find out:

- exactly what has gone wrong?
- has it, or something similar, happened before?
- why has it gone wrong?
- is it a one-off problem and if not is it likely to recur and how often?
- has the Council contributed to the problem?
- can it be put right and if so at what cost to contractor or the Council?

Disputes should be identified and addressed as soon as possible to ensure effective resolution.

Methods for dispute resolution include:

- negotiation
- mediation
- conciliation
- arbitration
- independent expert appraisal

Complete, Extend or Renew the Contract

It is imperative that the requirement for completion, extension or renewal of a contract should be addressed in adequate time to initiate the appropriate action prior to the contract expiry date. Careful and timely planning ensures that there is a

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continuity in the provision of the service where required. Ideally the contractor will be required to produce a “lead out” or exit plan as part of the bid evaluation process.

Contracts due to expire should be reviewed to determine future requirements and options for those requirements to be met. This review should be undertaken in sufficient time for the public authority to call a tender if required, prior to the expiry of the existing contract.

The authority must maintain sufficient knowledge to act as an intelligent client when a contract comes up for re-tendering, otherwise, there is a risk that the client may be over-dependent on the existing contractor for information and advice at this point.

Completion

A formal completion process should be undertaken at the end of the contract term, which will depend on the nature of, and terms of the contract.

Extension

If the contract may be extended by an extension option then the relative benefits of extension versus a new tender should be considered.

Renewal

Where the need for goods or services is ongoing, a new contract may be tendered and awarded prior to the completion of the current contract with the commencement of the new contract to coincide with the expiry of the existing contract.

Consultation

At the end of a contract, good practice may require the Council to consult with the contractor and the contractor may be issued with a closeout report on its performance.

Review and Evaluate the Contract

The contract process should be evaluated during the term of the contract and on completion, prior to or concurrently with any new contract process. The outcome from this process should establish a clear understanding of future requirements and the information necessary to select the best course of action.

Evaluation should be done in an objective and structured manner against predefined criteria. It should:

- confirm what happened;
- understand why it happened;

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- identify and be able to disseminate good practice
- inform future planning

It should also establish whether

- procurement objectives have been achieved;
- performance, standards and costs specified in the contract were met
- the specification still meets current needs.

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Areas to consider:

- did the contract meet its original objectives?
- has it provided value for money?
- how does it compare with other similar contracts?
- was the specification changed? If so, in what way?
- were the costs higher/lower than anticipated? If so, why?
- were all performance targets met consistently?
- if the contractor was providing technical expertise has it been proved to be correct?
- have any independent technical audits been undertaken?
- was the contractor competent and professional in delivering the contract?
- was the contractor proactive? How did they react to problems? Did they solve them?
- was performance/information provided on time? Was it accurate/of the quality required?
- evidence from users or other feedback?
- how much resource (time/staff/other) was used in managing and monitoring the contract? Was it more than expected?
- were any contract variations introduced? What were they and why were they needed?
- was the Contractor's performance consistent throughout the contract period? Was there a 'honeymoon' period?
- to what extent did the Contractor's personnel change? Did it influence the contract?
- with whom did you deal on a regular basis?

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Components of a Category Management Model

