



National Audit Office

**MINISTRY OF DEFENCE**

Using the contract to maximise the  
likelihood of successful project outcomes

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## SUMMARY



**1** Over the past 20 years the annual Major Projects Report has highlighted the variable performance of the Ministry of Defence's (the Department) highest value defence equipment procurement projects. This performance has been a matter of concern for both the Department and Parliament, and the Department has introduced a large number of reforms designed to improve project performance. To help understand why sustained improvements in performance are proving so difficult for the Department and its industry partners to deliver, we analysed the complex cultural and systemic drivers which need to be managed if military capability is to be delivered faster, cheaper and better. The initial results of this work were published in March 2004.<sup>1</sup>

**2** Working with the Department and defence industry, we are undertaking a series of studies examining some of the drivers identified by our initial modelling in more detail. Each study examines practical evidence of how well a specific driver is being managed in the defence environment and explores how that driver is addressed by overseas and commercial comparators. Each study compares current defence performance to a theoretical "gold standard" developed from this comparator work, against which no individual organisation is likely to perform consistently well in all areas. The recommendations in our reports are intended to bring improvements in defence acquisition performance to help ensure all defence projects routinely adopt practices closer to the gold standard.

**3** The first report in the series *Driving the Successful Delivery of Major Defence Projects: Effective Project Control is a Key Factor in Successful Projects* identified the contract as a key component of project control.<sup>2</sup> Building on this conclusion, this report examines how the Department and its industry partners can best use the contract to maximise the likelihood of successful project outcomes. We have taken as our reference point the start of negotiations with the preferred supplier, regardless of whether that point was reached by competitive or other means. The study does not, therefore, examine the methods – whether competitive or otherwise – the Department might pursue to select a potential supplier. We will consider the effective use of competition in a future study. Our methodology is described in Appendix 1 and details about our case studies are given in Appendix 2.

**4** The outcomes of the study are available in two main formats. This report focuses on recommendations to help ensure all defence projects routinely adopt practices closer to our gold standard. The evidence included in the report is not exhaustive but provides an indication of current practices and the beneficial effects on projects where the approaches we recommend have been applied. Given the richness of the evidence we have gathered, we are publishing it all on a website ([www.naodefencevfm.org](http://www.naodefencevfm.org)) to enable those interested to explore the evidence underpinning our recommendations in more detail and to better understand the gold standard criteria we have developed.

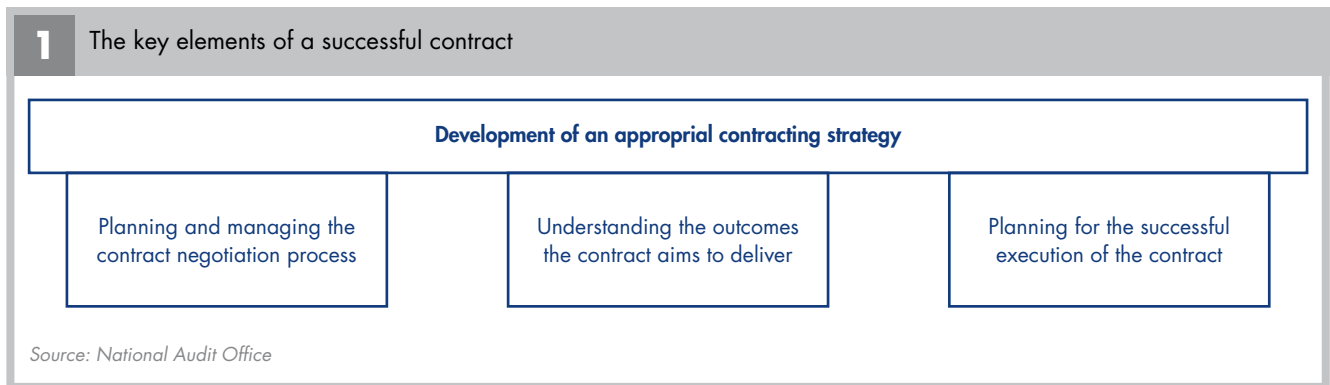
<sup>1</sup> *Driving successful delivery of major defence projects: drawing on wider practice in tracking the progress of major projects*. A Briefing and Consultation Document by the National Audit Office, March 2004.

<sup>2</sup> *Driving the successful delivery of major defence projects: effective project control is a key factor in successful projects*, HC 30, Session 2005-06, May 2005; Major Projects Report 2005, HC 595-I, 25 November 2005.

5 Our analysis shows that some defence projects are at the forefront of good contracting practice; however, overall performance is not consistent. The challenge for the Department and its industry partners is to learn from their own good experiences and the success of others and to incorporate those approaches more consistently, appropriate to the specific circumstances of projects so as to motivate both parties to perform effectively.

6 **Figure 1** provides a schematic representation of our gold standard for the timely agreement of contracts which will support the achievement of successful project outcomes and help to underpin constructive long-term working relationships. The gold standard recognises there is no ‘one size fits all’ contract or contracting strategy and that varying approaches are likely to underpin achievement of the desired outcomes on specific projects. The pillars, as shown in Figure 1, represent the generic enablers likely to underpin the agreement and application of contracts which will support the successful delivery of projects. Full details of the good practice criteria within each pillar are given in **Figure 2**.

7 The precise form of the contract will depend on the specific circumstances of the project and the aspirations and roles being assumed by stakeholders with the Department and key elements of the industry supply chain. We have worked with the Department to draw up a methodology to allow its commercial and project staff and, potentially, their industry partners to identify influences and consider relevant factors and past experiences to develop contracting strategies appropriate to the circumstances of a project. Our work to date has developed a contracting strategies tool to “proof of concept” level. Both the Department and industry have recognised the potential utility of the tool to help inform the development of appropriate contracting strategies and, potentially, to provide a systematic way to learn lessons from past experiences. The Department is now considering how best to evolve the tool. An overview of the tool is given in Appendix 3 with further details in the handout included at the end of this report.



## 2 Our gold standard for a successful contract

### Planning and managing the contract negotiation process

#### Good practice criteria

Having the right portfolio of skills and experience

Setting clear ground rules for the negotiation and subsequent application of the contract

Active strategic analysis of the portfolio of contracts and application of lessons learnt

#### Enablers

Adopting a 'whole team' approach to the negotiation and management of the contract

A suitable level of commercial training and expertise among staff

Ensuring continuity of staff expertise throughout the contracting process

Actively planning the contracting process and communicating this to those invited to tender

Clearly establishing stakeholder roles and responsibilities

Collection of accurate and timely information on contracting practices, their application and outcomes

Active corporate management of the portfolio of contracts

Evidence based development of commercial policy

### Understanding the outcomes the contract aims to deliver

#### Good practice criteria

Negotiating from a common baseline

Ensuring all parties understand the contract negotiated

#### Enablers

Common analysis of risks and opportunities undertaken early on in the process by all parties and with subsequent reviews

Ensure full and real time access to common information

Understanding the aims, aspirations and driving factors behind other parties in the negotiation

Ensuring an effective communication process between parties

Test understanding of the contract

### Planning for the successful execution of the contract

#### Good practice criteria

Link the contract to the agreement of desired behaviours in executing the project

Use the contract to incentivise the achievement of the full range of desired outcomes with intelligent use of contract terms to protect the contracting parties

#### Enablers

Negotiate the contract and principles underpinning the behaviours expected of all parties to the contract as part of a coherent package

Establish formal or informal codes of behaviour

Include provisions in the contract to resolve disputes quickly and in a non-confrontational manner

Applying contractual remedies on the basis of an assessment of their cost, effect and likelihood of being used in the specific circumstances of the project