



National Audit Office

## **CONTRACTING STRATEGIES TOOL** A structured approach to developing defence procurement contracting strategies

# OVERVIEW

## National Audit Office value for money study

- The National Audit Office study, 'Using the contract to maximise the likelihood of successful project outcomes,' examines how the MoD and its industry partners can best use the contract to maximise the likelihood of successful project outcomes. It follows on from earlier work, 'Driving the successful Delivery of Major Defence Projects: Effective Project control is a Key Factor in Successful Projects' which identified the contract as a key component of project control. A copy of the report containing the 'gold standard' can be downloaded at [www.nao.org.uk](http://www.nao.org.uk).
- An important factor in helping projects deliver on time, within budget and to the desired requirements is choosing the right contracting strategy. Selecting the right strategy though, given the range and complexity of different defence procurements, is not an easy task. We therefore asked IBM to help us to produce a tool to help focus MoD and industry teams in making a more informed and better choice of strategy based on what best fits the particular circumstances of the procurement.
- The tool introduced in this leaflet has been developed following consultation with MoD project teams, commercial managers and policy groups and builds on existing good practice, guidance and processes. It builds on the 'gold standard' criteria identified in the report.
- In summary, the tool takes a 3 Step approach to the development of a contracting strategy, as follows:

**Step 1** – Identify appropriate procurement circumstances

**Step 2** – Support a consistent and well-informed approach to developing contracting strategies

**Step 3** – Encourage rigorous review of contractual considerations

**The tool has been developed to 'proof of concept' stage. The MoD is considering how this tool might be used in evolving commercial initiatives and in promoting greater general awareness.**

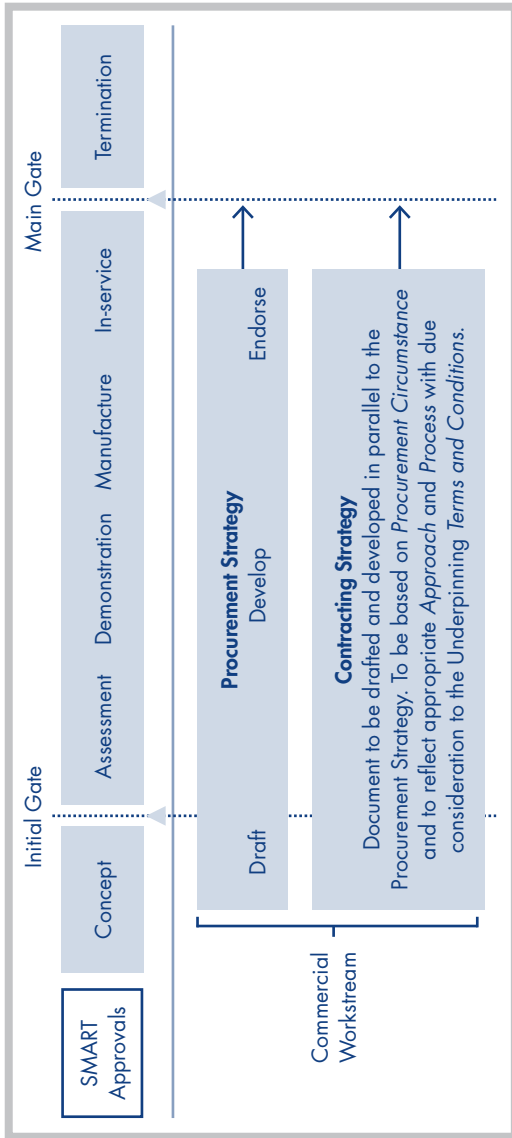
# AIMS OF THE TOOL

## Where does the tool fit within the procurement process as a whole?

The tool is intended to help the MoD and industry acquisition teams make a more informed and better choice of contract strategy based on what best fits the particular circumstances of the procurement (see figure opposite).

The tool has been designed to pull together existing guidance and:

- Encourage commercial input during the early stages of the project and promote early consideration of the contracting strategy.
- Provoke discussion in identifying the procurement circumstance applicable to a project or purchase.
- Provide advice and best practice examples specific to that circumstance.
- Provide a checklist to ensure appropriate rigour is applied in the development and negotiation of key contractual terms and conditions.
- Link to existing guidance in the Commercial Toolkit (CMT) and Acquisition Management System (AMS).
- Act as an audit trail for decision making.
- Set the context and timing of the contracting strategy in relation to the MoD approval processes.
- Assist in the future training needs for the acquisition community.
- Aid overall commercial awareness in acquisition teams.



# STEP 1

## Analysing the influences

The objective of Step 1 is to assess a range of project procurement influences to identify the appropriate procurement circumstance.

**Each of these 5 key procurement influences are assessed in turn to understand the type of procurement.**

### Requirement Importance

How important is the equipment to the MoD? Is it of **strategic** (an activity that delivers a direct battlefield effect), **complementary** (supports the battlefield effect or the provision of supporting equipment) or **administrative** (enables the supporting business processes of the MoD)?

### Requirement Standardisation

Is the product readily available in the marketplace? Is it **unique** (in that the requirement is specific to the MoD with no obvious products or service already available in the marketplace), **customised** (can be provided through the limited modification of a commercial off-the-shelf product or service) or **commodity** (can be met by a readily available product or service in the marketplace)?

### Supply Market Competition

What does the supply market look like? Is it **monopoly** (only one supplier or considerable time/financial investment required to develop suitable alternative), **limited** (some competition but supply base restricted to a handful of potential providers) or is there **strong supply and demand** (a wide range of competition capable of meeting requirement)?

### Demand Predictability

Can demand be planned? Is it **predictable** (demand is planned and has very low levels of uncertainty) or **unpredictable** (demand is variable and subject to short term significant change)?

### Procurement Competition

Will the procurement be competed? **Competitive** (this can include down select to preferred bidder and complete competition) or **non-competitive** (sole source procurements).

By assessing these influences for a particular procurement requirement, a particular **procurement circumstance** can be derived. For example, assume for the sake of illustration, this is the requirement for Attack Helicopters. Against the 5 key procurement influences, it is found that the new item of equipment is:

- of **strategic** importance because it will be used in theatre to support the front line;
- is **customised** because this capability has been provided to other nations but will require customisation to meet UK specific capabilities;
- is provided by a **limited number of suppliers**;
- has **predictable demand** because the MoD will manage their demand based on internal resourcing and capability plans; and
- will be procured on a **competitive** basis to leverage the limited supply market and to drive value for money.

The tool will then suggest the most appropriate contracting strategy, based on previous good practice in this situation. For details on this, see step 2.

## STEP 2

# Developing the contracting strategy

The objective of Step 2 is to develop a contracting strategy appropriate to the identified procurement circumstance.

The tool will provide contracting guidance for the particular procurement circumstance in terms of recommended approach and process identified as follows.

An appropriate contracting **Approach**. The user will be taken through the key issues to be addressed for that particular circumstance. The focus is mainly concerned with the relationship with the supplier at both a strategic and working level.

Examples of some of the issues are;

- **Strategic Relationship**  
Agreed principles of working?
- **Working Relationship**  
Common terminology, expectations and assumptions been agreed across all parties?
- **Communication**  
A joint steering committee and approvals board?
- **Demonstrating VfM**  
Using supplier market intelligence?

Recommended **Process** and activities that the user should take on board in progressing through specifying the requirement to Contract Award.

The areas covered are;

- **Specifying the requirement**  
Approach, Scope, Supplier Engagement.
- **Developing the solution and tender**  
Commercial, Supplier Engagement.
- **Tender Evaluation**  
Criteria, Scope, Stakeholders, Risk.
- **Negotiation**  
Preparation, Management, Scope, Focus, Leverage.

At the end of Step 2, the user moves to Step 3 to check the robustness of the proposed strategy.

# STEP 3

## Reviewing the strategy

The objective of Step 3 is to provide guidance in checking the robustness of the strategy

- Step 3 provides an illustrative checklist to inform the development of the contract and any approval documentation.
- The checklist covers examples of key issues which are likely to be raised by scrutineers and approvers in the submission of the business case.
- As the MoD develops the tool the checklist can be updated to reflect recent experiences and lessons learnt.

The checklist covers the following areas:

- Incentivisation;
- Continuous Improvement;
- Risk Management;
- Exit Strategy;
- Pricing;
- Intellectual property rights; and
- Through Life Management
- Relationship Management

### An example of checklist questions

#### Incentivisation

- How does the incentivisation of the supplier base relate to contract performance?

#### Continuous Improvement

- Does the culture of the parties involved support Continuous Improvement?

#### Risk Management

- How has the risk management strategy and plan been embedded within the contract?

#### Exit Strategy

- How does the exit strategy cater for sub-contractors?

#### Pricing

- How does the pricing method address uncertainty e.g. in terms of volume and changes to requirements?

#### Performance Management

- How does performance relate to contract payments?

#### Relationship Management

- Do sufficient provisions for sustaining and measuring the health of relationships exist?



# TAKING THE DEVELOPMENT OF THE TOOL FORWARD

- The tool has been developed to ‘proof of concept’ stage as part of the National Audit Office’s Value for Money Contracting Practices Study, ‘Using the Contract to maximise the likelihood of successful project outcomes’.
- At present it represents a small number of possible procurement circumstances. It will inform MoD’s developing acquisition initiatives and guidance.
- Your feedback on the tool and its applicability and benefits to the acquisition community will be gratefully received.

The NAO will work with MOD to further develop the tool. Any views or observations of how that acquisition guidance might be improved should be addressed to:

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