

Good practice guidance

Commercial audit framework



National Audit Office



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We are the UK's independent
public spending watchdog

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Introduction

The National Audit Office (NAO) commercial audit framework is designed to support value-for-money assurance relating to government's commercial and procurement activities. It is designed to allow us to structure our assessments in a consistent way and better identify common insights. This framework updates a previous version published in 2016, and is based on the lifecycle set out in our 2021 publication [Good practice guidance: Managing the commercial lifecycle](#).

The framework is organised around six stages of the commercial lifecycle and the four supporting elements required throughout the lifecycle. Each of these ten sections includes:

- an explanation of the section and what it covers;
- relevant considerations for that section, with links to government and NAO guidance and particular risks to look out for;
- key questions to ask to understand performance; and
- sources of evidence which are likely to provide the means to answer the questions.

As well as using this framework internally, we are publishing it to provide insight into our approach and the types of questions we ask. Our assessments of individual commercial arrangements will depend on their own context and go wider than the questions covered in this document.

This framework is based on current procurement legislation and will be updated for future changes.

The NAO scrutinises public spending for Parliament and is independent of government and the civil service. We help Parliament hold government to account and we use our insights to help people who manage and govern public bodies improve public services. The Comptroller and Auditor General (C&AG), Gareth Davies, is an Officer of the House of Commons and leads the NAO. We audit the financial accounts of departments and other public bodies. We also examine and report on the value for money of how public money has been spent. In 2020, the NAO's work led to a positive financial impact through reduced costs, improved service delivery, or other benefits to citizens, of £926 million.

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1 | Commercial strategy

Commercial strategy represents the overall approach that a public body adopts to ensure that its commercial activities provide the intended outcomes in line with value-for-money requirements, public procurement regulations and wider policy objectives. Strategy reflects the specific functions of the body, its operating environment, and wider considerations including innovation, social value and sovereign capability.

Considerations for auditors

Government expects departments to have commercial strategies in place which align to organisational objectives and policy priorities. It expects departments will monitor compliance with commercial policy requirements. ([Commercial Continuous Improvement Assessment Framework](#) – themes 1&8)

NAO also expects commercial agreements to align with wider strategic objectives. Business cases should be clear and contain realistic appraisals of options to meet those objectives. ([Managing the commercial lifecycle](#) – Commercial strategy)

Particular risks arise where time pressures limit ability for considered commercial planning.

Key questions

How does the business case for the procurement demonstrate alignment with the client's commercial and policy objectives?

- How does the business case reflect alignment with key priorities and expected outcomes in the client's overall commercial strategy?
- How does the business case demonstrate the input of operational and commercial teams on the commercial approach?
- How does the business case reflect learning from early engagement with the market and other parties?
- How have governance and review processes shaped the strategy and requirement?
- Has the business case considered how proposed arrangements might react under different scenarios?
- How does the business case address considerations of innovation, social value, equality, diversity and inclusion, sustainability, and use of small and medium-sized enterprises (SMEs)?

Sources of evidence

- **Annual Report and Accounts and corporate or category commercial strategies** should set out organisational approach to markets and policy priorities.
- **Outline Business Cases** should document strategy at the point of authorising procurement.
- **Full Business Cases** should document strategy at the point of approving award to the successful supplier.
- **Contract Management Plans** should set out expectations for how delivery of policy priorities will be realised through the contract life.



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2 | Capability

Commercial capability covers both organisational and personal effectiveness. Organisational capability should be proportionate to scale, complexity and need for operational resilience. Investment in people and processes builds capability. Relevant knowledge and experience should be retained throughout the commercial lifecycle, recognising that contracts may last for many years.

Considerations for auditors

Government expects key staff to be accredited through the Government Commercial Function Assessment and Development Centre. Approaches to corporate knowledge retention are defined and succession plans in place for senior commercial leaders. Contract managers are also appropriately trained ([Commercial Continuous Improvement Assessment Framework](#) – theme 2).

NAO also expects commercial capability to draw on policy, operational, business and commercial teams working together at levels appropriate to the risks and complexity identified in the strategy ([Managing the commercial lifecycle](#) – Capability)

Particular risks arise where levels of senior staff turnover are high and contracts are long-term arrangements.

Key questions

How has the client ensured appropriate skills will be in place throughout the lifecycle of the contract?

- How has the client demonstrated that commercial capability across the lifecycle reflects the complexity identified in the business case?
- How does the plan provide for the retention of cross-discipline knowledge and experience throughout the commercial lifecycle?
- How has the client ensured adequate documentation of all aspects of the contractual arrangement for all phases will be available to it and the supplier throughout the contract?
- How has the client ensured that it has knowledge and skills comparable to those of its suppliers?
- Have key staff met the expected levels of skill and experience set out in the Commercial Continuous Improvement Assessment Framework for all stages of the lifecycle?
- How does the plan provide for resilience of commercial capability in the face of unplanned developments or market challenges?
- How has the client assured itself that its staffing model remains effective and relevant throughout the commercial lifecycle?

Sources of evidence

- **Workforce plans**
- **Data on staffing and vacancies**
- **Contract Management Plans** should set out anticipated make-up of key staff and capability throughout the contract lifecycle.
- **Contract governance reporting**



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3 | Accountability and governance

Accountability supports organisations to fulfil their duties with respect to managing public money. Governance supports this through oversight of commercial activity at an organisational level. Public bodies should demonstrate robust, effective, independent oversight of both their contractual arrangements and overall commercial portfolios.

Considerations for auditors

Government expects a commercial governance framework to be in place, defining roles and responsibilities for the strategic and operational management of commercial activity. Expectations include a commercial oversight board or equivalent, and use of standard operating procedures ([Commercial Continuous Improvement Assessment Framework](#) – theme 1)

NAO expects effective independent scrutiny of commercial decisions and activity, drawing on reliable and timely management information. Scrutiny should extend to the organisation's own performance against obligations ([Managing the commercial lifecycle](#) – Accountability and governance).

Particular risks arise where services are complex or novel, are dependent on client obligations, or cannot be disrupted – with few alternative providers.

Key questions

Can the client demonstrate robust, effective, and independent oversight of their contractual arrangements?

- What assurance and approval regimes have been used in the development, procurement and management of the contract?
- Is transparency built into the contract, including NAO access?
- Are governance frameworks that are in place suitable to the scale of the organisation's contract?
- What independent scrutiny of commercial processes has the client demonstrated throughout the commercial lifecycle?
- How reliable, timely and understandable is the management information flowing to individuals/groups providing governance and control?
- What independence controls have been in place where external industry expertise has been used?
- Does oversight include advice with the required level of technical knowledge?
- What independent scrutiny is in place over the client's own contractual obligations and its performance against them?
- How does the organisation demonstrate lessons learned in the past are being used to improve future performance?

Sources of evidence

- Contract terms and any referenced documents
- Outline Business Case and Full Business Case
- Submissions for scrutiny including Cabinet Office and HM Treasury controls
- Contract management plans
- Minutes of meetings of boards, those charged with governance and other decision-making groups
- Submissions to commercial oversight boards or equivalent
- Performance and progress reports



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4 | Transparency and data

Transparency helps improve market engagement throughout the commercial lifecycle, enhancing effectiveness and upholding market and public confidence. A significant opportunity exists to make better use of government's commercial data to improve transparency and value for money throughout the commercial lifecycle.

Considerations for auditors

Public Contracts Regulations require departments to comply with procurement publication and documentation rules ([Public Contracts Regulations 2015](#), 48-55 on publication and transparency, 83-84 on records and reports)

Government also expects departments to publish transparency information relating to key contract performance indicators. ([Commercial Continuous Improvement Assessment Framework](#) – theme 5)

NAO also expects departments to collect data in ways that are easy to share and use. The collection of data should be proportionate and timely, and subject to sufficient assurance processes ([Managing the commercial lifecycle](#) – Transparency and data)

Particular risks arise where services are contentious, not subject to established processes (for example, in emergencies or if they are too small), or being procured under time pressure.

Key questions

How well is the department making use of commercial data and complying with transparency requirements?

- Have transparency rules and guidance been followed consistently and in full across the commercial life-cycle?
 - Information on the procurement opportunity
 - Information on the contract award
 - Information about contract KPIs
 - Information on contract changes and extensions
- Does the client have the data it needs to understand what drives cost and performance?
- How has the client specified its data collection to maximise opportunities for open data-sharing and automation?
- How has the client quality-assured the data it receives for performance monitoring (particularly where it relies on supplier data or assessment)?
- How has the client included and used any possible open book access rights over costs or other data?
- How have the client and suppliers shared data and used appropriate expertise to triangulate and interpret data, and shared insight to improve contract outcomes?
- Has the client agreed clear and consistent principles with suppliers around transparency and commercial confidentiality?
- How has the client assured data protection mechanisms on contract data?

Sources of evidence

- **Regulation 84 report** – reporting required under Public Contracts Regulations to cover details of contracts and key decisions in the process
- Published details on transparency sources including:
 - [Contracts Finder](#)
 - [Find a Tender](#)
- **Contract management plan**
- **Contract documentation**



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5 | Requirement

The requirement represents the outcomes the client is trying to achieve through any commercial relationship. Requirements can focus on outcomes allowing scope for supplier innovation, or focused on detailed specifications which produces more comparable offers across suppliers.

Considerations for auditors

Government expects departments to engage with supplier markets when developing requirements. Sources of scrutiny and assurance over requirement development include Delivery Model Assessments and Project Validation Reviews. Commercial specialists and contract managers should be involved in the process. ([Commercial Continuous Improvement Assessment Framework](#) – theme 3, [The Sourcing Playbook](#) section 3)

NAO also expects business cases to clearly define requirements and evidence all necessary reviews and approvals. Cases should assess what flexibility is essential to continue meeting requirement as conditions change ([Managing the commercial lifecycle](#) – Requirement).

Particular risks arise where services are new, being outsourced for the first time, or are complex by nature, or where the aim is particularly high.

Key questions

Has the client developed clear outcomes for the service it requires, and used these to define the requirement?

- How has the client engaged service users and the market in development of the requirement?
- How has the client assured itself over the quality of service or asset data used in developing the requirement?
- How have governance and review processes shaped the requirement?
- Has a Delivery Model Assessment been used to evaluate the full range of options for delivering the requirement? (for example, in-house vs outsource) and how they align with the client's needs and its capabilities?
- How has the client developed a robust understanding of the likely cost of the requirement (for example, 'Should Cost Model')
- How has the client considered and set up processes as needed for potential changes?
- How does the Full Business Case demonstrate analysis of the risks of the complexity and demands of the requirement?
- How has the client's understanding of the market and past performance across government been used in its requirement?

Sources of evidence

- **Commercial pipeline information**
- **Strategic supplier management information**
- **Records of market engagement**
- **Project Validation Review material**
- **Regulation 84 report** – reporting required under Public Contracts Regulations to cover details of contracts and key decisions in the process
- **Outline Business Case and Full Business Case.**
- **Delivery Model Assessment documentation**



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6 | Sourcing approach

Sourcing approach is the assessment of how the requirement will best be met, through in-house capability, external suppliers or a blend of both. Clients will consider how to apply procurement regulations and the procurement approaches it adopts. The approach should reflect the overarching procurement principles of transparency, equal treatment and non-discrimination.

Considerations for auditors

Government expects commercial options to be developed and appraised with cross-functional input in accordance with Green Book principles. Pilots should be used in novel or complex outsourcing where information about requirements, markets or service risks may be limited ([Commercial Continuous Improvement Assessment Framework](#) – theme 3).

NAO also expects commercial options to examine practices addressing equality, diversity and inclusion alongside social value objectives. When direct awards and/or urgent procedures are used, a robust justification for doing so should be recorded. ([Managing the commercial lifecycle](#) – Sourcing approach)

Particular risks arise where requirements have not been clearly stated, where unconsidered assumptions about sourcing or benefits have been built into previous stages, or where the market cannot provide competition.

Key questions

How has the client assessed its sourcing alternatives, and used effective competition to support value for money?

- How clearly does the business case set out the nature of the service and the expected supplier relationship?
- Has a Delivery Model Assessment (Make vs Buy) considered the full range of options for delivering the requirement?
- Has a strong options appraisal been carried out which fully considers costs, deliverability and realistic benefits?
- How has the client developed a robust understanding of the likely cost of the requirement (for example, 'Should Cost Model')?
- How robustly has the client justified its choice of sourcing approach? Particularly where it has:
 - used frameworks/Dynamic Purchasing System rather than approach the wider market;
 - used negotiation/dialogue rather than an open procedure; or
 - used direct award.
- How have pilot schemes been incorporated into the sourcing approach for first-generation or complex outsourcing?
- How robustly does choice of sourcing approach consider equality, diversity and inclusion in the procurement process?
- How robustly does choice of sourcing approach consider social value and national procurement priorities in the procurement process?

Sources of evidence

- **Outline Business Case** and **Full Business Case**
- **Governance submissions**
- **Regulation 84 report** – reporting required under Public Contracts Regulations to cover details of contracts and key decisions in the process
- Framework contract tendering information



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7 | Market monitoring

Market monitoring involves engaging with potential suppliers throughout the commercial lifecycle, informing ongoing contracts as well as planning for future ones. Market monitoring should consider the role of SMEs, and the overall financial resilience of the sector.

Considerations for auditors

Government expects market health and capability assessments to be undertaken during the planning stage and kept under review. Outline Business Cases should reflect early engagement. ([The Sourcing Playbook](#) section 1)

NAO also expects market capability and diversity to be managed to avoid sole supply or low competition situations when other options may be available. The convenience of established relationships and framework agreements is balanced with developing competitive markets ([Managing the commercial lifecycle](#) – Market monitoring).

Particular risks arise where markets contain limited credible providers, or powerful incumbents, where there is an increased chance that relationships between buyers and suppliers become too familiar.

Key questions

How effectively is the client using market knowledge to support VFM through the commercial lifecycle?

- Strategy and requirement
 - How does the business plan reflect the client's understanding of market capability and diversity, and its own role in it?
 - What specialist commercial skills did the client use to develop its market engagement approach?
 - How has the client given the market advance notice of its requirements? Has it used a published pipeline, Prior Information Notices (PINs) or industry days?
 - How has the client made sure that its engagement with the market was informed and helped shape the requirement and risk allocation?
 - How has market engagement helped inform client understanding of social value opportunities and their likely costs?
 - How has the client's understanding of the market and past performance across government been used in shaping its procurement process?
- What monitoring does it perform to understand the financial health and sustainability of its suppliers throughout the commercial lifecycle?
- Procurement
 - How did the number of participants in the formal procurement process compare to client expectations?
 - Has contact been restricted to formal channels during live procurement processes to ensure that all potential suppliers are treated fairly?
- Development
 - How did the client update its understanding of market capability before any decision to extend the contract?
 - How does the client monitor the wider commercial landscape and depth of the market? Is this proportionate to the scale of commercial activity?
 - How does the client make its future procurement requirements transparent (for example, via a pipeline of future opportunities)?

Sources of evidence

- Commercial pipeline publications and material
- Records of meetings/ industry days
- Outline Business Case
- Market Health and Capability Assessment
- Regulation 84 report – reporting required under Public Contracts Regulations to cover details of contracts and key decisions in the process
- Approval submissions for contract extension
- Tender documents, review papers, and assessment frameworks or results



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8 | Process and agreement

The procurement process runs from issuing documentation through supplier engagement, bidder evaluation, award decision and the formal notification and standstill processes that follow. Adherence to a strong process minimises the risk of supplier legal challenge. The agreement is the legally binding contract that results from the process, setting out expectations and obligations, risk transfer, payment mechanisms and incentives.

Considerations for auditors

Government expects evaluation models to be developed before formally inviting offers from the market, with criteria informed by market engagement. Supplier due diligence should be proportionate, with no conflicts of interest. Abnormally low bids should be referred to central scrutiny and can be rejected if not explained. Contracts should follow model terms with appropriate governance around variation. Contracts should be sufficiently adaptable to allow for development of requirements, with costing of future options included where appropriate ([Commercial Continuous Improvement Assessment Framework](#) – theme 4).

NAO also expects the process to balance speed and agility with the benefits of competition derived from participation of a range of capable suppliers. The process and agreement should encourage ways of working that deliver on social value objectives. Performance measures will focus on key outcomes driven by the requirement. ([Managing the commercial lifecycle](#) – Process and agreement)

Key questions

(a) Has the client adhered to established public procurement processes and timetables to secure the benefits of procurement, including competition?

- How has the client managed risks around fair treatment where the market was involved in shaping the requirement?
- How has the client identified, addressed and documented any potential conflicts of interest in the process?
- How has the client managed supplier due diligence processes in ways that do not inadvertently disadvantage SME suppliers?
- How has the client ensured that suppliers were sufficiently informed of the relevant details of what they were bidding for?
- How has the process made provision for plans in the event of supplier failure or failure on the client's deliverables?
- How has the evaluation model defined quality and prioritised it against cost?
- How has the evaluation model provided for understanding and assessment of social value outcomes?
- How did the client assure itself that its evaluation model aligned with published criteria and would work as expected?
- How did the client handle any abnormally/unexpectedly low bids?
- How did the client manage risks to competition from bidders withdrawing from the process?
- How did the client assure itself over the robustness of its evaluation and award decision?
- Has the client complied with transparency requirements around contract award?

Sources of evidence

- **Regulation 84 report** – reporting required under Public Contracts Regulations to cover details of contracts and key decisions in the process
- **Evaluation model and documentation**
- **Independent review of low bids**
- **Resolution plans**
- **Final Business Case**
- Contract material including:
 - **payment mechanism**
 - **risk transfer**
 - **pricing schedule**
 - **KPIs**

8 | Process and agreement *continued*

Considerations for auditors

Particular risks arise where procuring authorities fail to plan and prepare to conduct a conventional procurement process (for example, open procedure – with competitive tension), seek to cut corners as a result of budgetary or timing pressures, or have a preference to choose a particular solution or supplier.

Key questions

(b) Has the client developed a contract that is clear on requirement, profit arrangements, risk allocation, flexibility and exit arrangements?

- How has the client assured itself that the risk allocation reflects each party's ability to manage risk?
- How effectively do KPIs represent the priority risks and outcomes for the client?
- How effectively do processes ensure that there is verifiable information and a 'single version of the truth'?
- How effectively does the contract incentivise the supplier to act in the interests of the client and the requirement?
- How effectively does the contract encourage ways of working to deliver the required social value outcomes?
- How effectively does the contract incentivise provider performance during transition and exit phases of lifecycle?
- How well does the client understand the expected and actual financial returns and relevant metrics (for example, profit and shareholder returns)?



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9 | Contract management

Contract management covers all activities relating to the performance and monitoring of the contract. Building consistent knowledge and understanding of the contract is vital, as is ensuring this knowledge is maintained throughout the commercial lifecycle. There should be regular review of delivery and key performance indicators, with open book access used to scrutinise commercial performance and profit levels.

Considerations for auditors

Government expects contract management and mobilisation plans to be developed during procurement, with obligations on each side understood. Regular performance reviews are held with consequences for underperformance managed formally. The financial standing of suppliers is monitored on an ongoing basis. Contract reviews ensure agreements remain fit for purpose and governance processes exist around contract change ([Commercial Continuous Improvement Assessment Framework](#) – theme 5)

NAO also expects information provided for contract management to be subject to sufficient, targeted assurance. An appropriate contract management infrastructure allows for managers to draw on the right support including at a senior level ([Managing the commercial lifecycle](#) – Contract management).

Particular risks arise where authorities fail to invest sufficiently in the contract management function to ensure delivery meets contractual standards, for example quality, availability, timeliness, cost or price. This risk increases where requirements are novel or complex, hard to monitor with reliable indicators or contracts are long term in nature.

Key questions

How has the client demonstrated active attention to the quality and delivery of performance throughout the contract lifecycle?

- How has the client assured itself that adequately trained and experienced staff are available to manage and deliver the contract throughout its lifetime?
- How clearly are client and supplier obligations, responsibilities and penalties set out in contract management documentation?
- How effectively does the compliance regime (KPIs, incentives and reporting requirements) align with client risks and priorities? How material are incentives to the contract?
- How effectively does the compliance regime incentivise the desired relationship between client and supplier?
- How has the client maintained assurance over the financial standing of the supplier throughout the life of the contract?
- How has the client monitored and acted on the extent of the supplier's dependency on public sector contracts? Has it assessed any resultant conflicts of interest?
- How effectively have other sources of assurance and insight been used to triangulate evidence from the formal compliance regime?
- How consistently and reasonably have incentives and penalties been used during the contract lifecycle?
- How good a knowledge base have contract managers been able to draw on when understanding and assessing variations to expected costs and performance?
- How has the client used strategic relationship management to support common understanding with the supplier alongside formal contract mechanisms?

Sources of evidence

- Contract management plan
- Supplier performance information packs
- Internal performance reporting
- Financial monitoring documentation
- Contract review information
- Supplier market information and accounts



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10 | Review, transition and exit

Review, transition and exit encompasses the factors that inform a decision in relation to the extension or re-procurement of a requirement. It also involves the process by which a contract is transitioned to a new supplier or ended. It may also include contract extension for a short period if this flexibility provides clear benefits. Planning and preparation for transition arrangements are vital and should be evidenced from the outset of the contract and built into the cost estimation.

Considerations for auditors

Government expects departments to plan early to allow orderly transitions to new service arrangements. The contract should include clear expectations for exit and transition, including obligations around data transfer at the end of the contract. There should be sufficient means to incentivise suppliers to perform up to the end of the contract, and burdens of managing transition processes should be planned for in commercial and operational staffing ([The Sourcing Playbook](#) section 12).

NAO also expects supplier performance to be benchmarked against market measures throughout the lifetime of the contract. Authorities need to have the information necessary to manage transitions to new arrangements, including reversion of assets, capabilities and data to the public sector ([Managing the commercial lifecycle – Review, transition, exit](#))

Particular risks arise where markets are less competitive and contracts are long term. In short-term sequential contracts these processes are also particularly important.

Key questions

How effectively has the client planned for and managed decisions around contract extension and termination?

- What governance and reporting requirements does the client have in place for contract amendment, extension and termination?
- How has the client ensured continuity (for example, alternative suppliers, intervention mechanisms, support payments to failing suppliers)?
- What contingency plans are in place for provider failure and its wider impact across government?
- How has the client provided for the capability required to manage transition events (amendment, extension, re-procurement) on a timely basis alongside ongoing service delivery?
- How has the client assured itself that any decision to extend the contract represents best value for money?
- How has the client assured itself that any changes to the contract do not represent grounds for a full re-procurement?
- How has the client incentivised effective transfer of capability, data, learning and skills from outgoing suppliers?
- How has the client maintained competitive pressure on the provider during any amendment/extension negotiations?
- How has the client incorporated any lessons learned in any amended or new contractual arrangements?

Sources of evidence

- **Governance submissions around contract development, extension, termination**
- **Contract management plans**
- **Resolution plans**
- **Contract material**
- **More recent business cases and procurement documents** which lessons learned should feed into
- **Minutes of regular meetings with suppliers and contractors**
- **Final performance reports**