

Contract Management Guidance

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BMGT>SMT>Board

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Contents

Review Schedule	2
Contents	3
Executive Summary	4
Questions you should be able to answer after reading this guidance	4
Role of the Northern Ireland Medical and Dental Training Agency	5
Guidance Influences	7
1. Introduction	8
2. Standards Expected of those involved in Contract Management	9
3. Contract Management	11
3.1 Day to Day Management	11
4. Contract Management Checklist	12
4.1 Preparation	12
4.2 Managing Service Delivery	14
4.3 Managing the Relationship	15
4.4 Contract Administration	16
4.5 Contract Modifications	17
5. Managing Performance	18
5.1 Poor Performance Indicators	19
5.2 Poor Performance - Actions	19
5.3 Continuous Improvement	20
6. What is Good Contract Management?	21
Annex 1	22

Executive Summary

The purpose of this document is to provide NIMDTA Contract Managers and those responsible for the day to day management of goods, works or services contracts with guidance on best practice principles as set out within Procurement Guidance Note 01/12 (revised July 2017)

This document covers straightforward contracts and describes how consistently poorly performing suppliers should be dealt with.

Questions you should be able to answer after reading this guidance

What is Contract Management?

Why is Contract Management Important?

How do I ensure I put the right contract in place and achieve value for money?

How do I deal with Poor/Under Performance?

Role of the Northern Ireland Medical and Dental Training Agency

The Northern Ireland Medical and Dental Training Agency (NIMDTA) is an Arm's Length Body sponsored by the Department of Health (DoH) to train postgraduate medical and dental professionals for Northern Ireland. NIMDTA seeks to serve the government, public and patients of Northern Ireland by providing specialist advice, listening to local needs and having the agility to respond to regional requirements.

NIMDTA commissions, promotes and oversees postgraduate medical and dental education and training throughout Northern Ireland. Its role is to attract and appoint individuals of the highest calibre to recognised training posts and programmes to ensure the provision of a highly competent medical and dental workforce with the essential skills to meet the changing needs of the population and health and social care in Northern Ireland.

NIMDTA organises and delivers the recruitment, selection and allocation of doctors and dentists to foundation, core and specialty training programmes and rigorously assesses their performance through annual review and appraisal. NIMDTA manages the quality of postgraduate medical and dental education in HSC Trusts and in general medical and dental practices through learning and development agreements, the receipt of reports, regular meetings, trainee surveys and inspection visits. It works in close partnership with local education providers to ensure that the training and supervision of trainees support the delivery of high quality safe patient care.

NIMDTA recognises and trains clinical and educational supervisors and selects, appoints, trains and develops educational leaders for foundation, core and specialty medical and dental training programmes throughout NI.

NIMDTA is accountable to the General Medical Council (GMC) for ensuring that the standards set by the GMC for medical training, educational structures and processes are achieved. The Postgraduate Medical Dean, as the 'Responsible Officer' for doctors in training, has a statutory role in making recommendations to the GMC to support the

revalidation of trainees. Revalidation is the process by which the GMC confirms that doctors are up to date and fit to practice. NIMDTA also works to the standards in the COPDEND framework for the quality development of postgraduate Dental training in the UK.

NIMDTA enhances the standard and safety of patient care through the organisation and delivery of relevant and valued career development for general medical and dental practitioners and dental care professionals. It also supports the career development of general medical practitioners and the requirements for revalidation through the management and delivery of GP appraisal.

NIMDTA aims to use the resources provided to it efficiently, effectively and innovatively. NIMDTA's approach to training is that trainees, trainers and educators should put patients first, should strive for excellence and should be strongly supported in their roles.

Guidance Influences

This policy has been influenced by the following

- [PGN 01/12 \(Revised July 2017\)](#)
- [Managing Public Money\(NI\)](#)

1. Introduction

The Northern Ireland Medical and Dental Training Agency recognises that it is important that contracts are adequately managed to ensure they deliver in line with contract commitments and that value for money is achieved for the tax payer. The reputation of NIMDTA, Department of Health and the contractor can be damaged by a poorly managed contract that does not delivery the expected outcomes.

Successful contract management is an extension of the tendering/contract award phase and should be planned for from the start of the procurement process. It comprises a variety of activities ranging from core administration, such as paying invoices and the inspection of goods on receipt, to more developmental and strategic activities such as supplier relationship management, supplier development management and market management.

Contract management becomes more important as contract risk, value and duration increase. A proportionate approach is recommended as a contract that has little inherent risk attached to it and little opportunity for additional value would not warrant a large amount of contract management resource, as the benefits that could be achieved from greater contract management would be small. However, even if contract risk is low, the potential to generate additional value from the contract should never be overlooked and could, on occasions, justify increasing levels of contract management resources and activities, possibly for short or intermittent periods. Extra value could come, for example, from cost reduction through process development or from encouraging and helping a contractor to increase service levels without additional cost.

Good contract management aims to achieve continuous improvement throughout the life of the contract. This will involve NIMDTA and contractor building an effective working relationship. Both parties approach to managing the relationship is critically important in insuring successful contract delivery. The relationship, however must also maintain an appropriate degree of commercial tension and be maintained in a professional manner.

2. Standards Expected of those involved in Contract Management

It is important that those involved in contract management adhere to the principles underlying probity. Their behaviours should be consistent with:-

- [Northern Ireland Public Procurement Policy](#),
- [Principles of Public Life](#)
- [NICS code of Ethics](#)
- Ethical standards governing the particular professions of those involved in the process.

Staff should **not** accept gifts or hospitality from contractors and comply with:-

- NIMDTA Gifts & Hospitality Policy
- DAO (DFP) 10/16 – Revised guidance on acceptance of gifts and hospitality – Sept 2009

It is NIMDTA's responsibility to ensure that there are no conflicts of interest or the perception of bias at any stage of the relationship with the contractor. Regulation 24 of the [Public Contracts Regulations 2015](#) clearly states appropriate measures should be taken to prevent, identify and remedy such action. Any connections between a member of staff and a contractor must be formally disclosed and documented at the earliest possible opportunity. NIMDTA should then take (and record) action deemed appropriate in each particular circumstance.

Staff involved in contract management should be aware of the NIMDTA's Anti-Fraud policies and Fraud Response Plan and are encouraged to undertake fraud awareness training. Fraud is not a victimless crime and public servants are entrusted with taxpayers' money. NIMDTA takes a zero tolerance approach to fraud, reporting instances of fraud to the police as necessary, and taking all appropriate steps to recover monies lost as a result of fraud.

Successful contracts require suppliers who want to work with NIMDTA, if contracts are unattractive with low profit margins, the number of bidders will fall.

NIMDTA and BSO PaLs aim to:-

- Manage contracts in a fair, open and honest way;
- Meet its obligations as a customer and not be slow in providing information the contractor needs; and
- Ensure the contract is sustainable for the contractor.

3. Contract Management

Contract Management is a continuous procurement process what ensures suppliers adhere to their agreed contractual obligations along with, where permitted, negotiating any future changes that need to take place. This includes:-

- Core Administration e.g. receipt of goods/services; invoicing, payments
- More developmental and strategic activities seeking to optimise value for money

3.1 Day to Day Management

NIMDTA engage with a number of suppliers and have a range of Contracts in place which differ in value and complexity, some are Regional BSO Contracts managed in some part by BSO on NIMDTA's behalf and others are the responsibility of NIMDTA to manage.

The Business Services Organisation Procurement and logistics is NIMDTA's Centre of Procurement Excellence (CoPE) and they offer support and advice throughout the Procurement and Contract Management process for all contracts, they may particularly become involved:

- At agreed review dates; or
- When there are problems of a contractual or commercial nature that put at risk the delivery of the supplies or services to the quality, standard or timelines contracted for; or
- Where there are problems of persistent poor performance, including failure to deliver sustainability requirements or commitments given in tender documents.

As set out within the Contracts Policy the Business Manager assess each contract based on value and risk to determine the level of contract management and frequency of reporting required.

Impact of Contract underperformance	Contract RAG	Reporting required
Business critical contract, NIMDTA's operational ability will be seriously impeded if the contract underperforms.	RED	A quarterly report is required to the Business Manager. The contents of this report will be agreed by the Business Manager and the Contract Manager at the outset. The frequency of reports may be increased at the Business Manager's discretion.
NIMDTA's operational ability will be moderately impeded, as in functions may be delayed, or subject to extra support activity.	AMBER	A bi-annual report is required to the Business Manager. The contents of this report will be agreed by the Business Manager and the Contract Manager at the outset. The frequency of reports may be increased at the Business Manager's discretion.
Support Contract, this is a low level support contract that will not impeded operational ability	GREEN	An annual report is required to the Business Manager. The contents of this report will be agreed by the Business Manager and the Contract Manager at the outset. The frequency of reports may be increased at the Business Manager's discretion.

Contract Managers must ensure they document and record meetings with Contractors and provide reports and contract documentation to the Business Manager/Business Management Executive Officer to ensure the Contracts Register is up to date at all times. Contract Management responsibilities are set out further in Annex 1.

4. Contract Management Checklist

Crown Commercial Services (CCS), part of the Cabinet Office, has developed a Contract Management Checklist which provides a useful guide to best practice. It is broken into four areas: *Preparation; managing service delivery; managing the relationship; and contract administration.*

4.1 Preparation

The foundations for contract management are laid in the stages before contract award. There should be a plan for actively managing the contract, which should include ensuring the right people are in place to manage all aspects of it. If possible key contract management staff should be involved in contract development.

Consideration should be given to what training is required for contract management staff. The skills and experience required will vary from one contract to the next. Similarly, the skills and experience required to

manage service delivery may be different from those required to manage the relationship between the parties. To be effective, contract managers should have the necessary commercial skills.

It is important that the right contract is put in place. The contract should include (as appropriate:

- a definition of what is to be provided and requirements to be met;
- agreed service levels and mechanisms for payment reduction if not met;
- means to measure performance including key performance indicators(KPI's)
- pricing mechanisms including where appropriate, milestone payments, incentivisation/rewards, retentions;
- a plan to cover implementation/transition/rollout;
- acceptance strategy/test plan;
- ownership of assets and intellectual property;
- escalation and alternative dispute resolution procedures;
- change control procedures;
- invoicing arrangements;
- communications routes, typically at three levels:
 - operational (end users/technical support staff)
 - business (contract manager and relationship manager on both sides)
 - strategic (senior management/board of directors)
- agreed exit strategy and agreed break options
- sub-contractor details;
- NIMDTA's responsibilities; and
- Contract management, oversight and review arrangements

A good contract not only identifies clearly the obligations of the contractor, but identifies key performance indicators against which the contractor must perform throughout the contract.

The contract manager should consider the following when preparing for a new contract:

One-off contract

- Is NIMDTA ready for the contract to start?
- If not, what action is required?
- Are you communicating with the relevant stakeholders?

On-going contract

- Managing/overseeing the exit of the out-going contractor
- Managing/overseeing the Hand-over to the new contractor
- Internal & External communications
- Update systems, administration

4.2 Managing Service Delivery

During the contract delivery phase NIMDTA Contract Managers should ensure the agreed service levels are maintained. Service level management is the process of managing the contractor's performance as specified in contractual performance metrics. However, where specific service levels have been set, it may sometimes be appropriate to take a flexible approach to enforcement particularly in the early stages of contract performance.

Qualitative metrics are measurements that allow the quality of a service to be measured. Qualitative measures might include assessing aspects such as completeness, availability, reliability and timeliness among others. Some aspects of a service may be measurable by quantitative means while others may require subjective assessment (e.g. customer satisfaction surveys)

It is important to ensure that the contract continues to achieve value for money over its life. Benchmarking is the practice of making like for like comparisons between similar contracts with the aim of ensuring this as well as getting better performance from the contractor and improving

business practices. Price comparisons offer a quick and effective way of gauging whether value for money is being obtained.

Some contracts may cover long periods of time and have options to extend after the end of the initial contract period (e.g. the option to extend for a period of a year after a three year initial contract period). Properly managing the supplier's performance will help Contract Managers decide whether or not the optional extension represents value for money or whether the contract should be put out to tender.

Risks must be identified and managed as they arise. They can relate to many aspects of the contract including fluctuation in demand, lack of contractor capacity, modification in requirement and transfer of skill staff (on either side). If necessary this should be entered onto the appropriate risk register and constantly reviewed to ensure those best placed to manage the associated risks do so.

A major part of Contract Management is considering service continuity/contingency – what will happen if the service fails or is interrupted. It will normally be the contractor's responsibility to manage service continuity and this will be stipulated in the contract. Those aspects of a service identified as critical will require careful consideration and the creation of a business continuity plan. The risks associated with service interruption or failure should be identified and formally recorded in the appropriate risk register so they can be effectively managed.

4.3 Managing the Relationship

NIMDTA's relationship with the contractor should be managed as well as the more formal aspects of the contract. It is in NIMDTA's interest to make the relationship work.

Good two-way communication is always key to managing any relationship. This allows problems to be identified and resolved early and builds an atmosphere of mutual trust appreciation of each other's priorities.

However good the relationship between the NIMDTA and contractor and however stable the service being delivered, problems may arise. These should be dealt with promptly. The contract should define the procedures for undertaking corrective action if, for example target performance levels are not being achieved.

4.4 Contract Administration

Contract Administration is concerned with the mechanics of the relationship between NIMDTA and the contractor. Clear administrative procedures ensure that all parties to the contract understand who does what, when and how.

The elements that need managing are likely to include:

- Ordering procedures;
- Payment procedures;
- Charges and cost monitoring;
- Contract maintenance and charge control;
- Notice period, contract closure or termination;
- Budget procedures;
- Resource management and planning;
- Management reporting; and
- Asset management.

4.5 Contract Modifications

It is important for contracts to evolve over time in response to changing needs, it is important to have clear, precise and unequivocal review clauses contained within the tender documentation.

Types of contract change/modification include:-

- Changes to the scope
- Providing additional services or goods
- Price changes
- Changes to contract duration

In all cases, it is important to document any changes to maintain an audit trail. The Business Manager should always be consulted and full documentation forwarded to the Business Executive Officer to update the Contract Register.

Modifications such as this would be managed on NIMDTA's behalf by BSO Pals however Contract Managers should liaise with the Business Manager and provide support and documentation if required.

There are a number of circumstances when a contract can be modified without running a new procurement such as:-

- Changes which have been provided for in review clauses
- Minor changes (don't exceed 10% [15%] of initial contract value for supplies/services [works] and EU threshold)
- Major changes (e.g. unforeseen circumstances) and must publish a modification notice.
- Corporate changes (e.g. merger, insolvency)

NIMDTA must seek advice from Pals on any potential contract modifications.

Contract modifications may have an effect on service delivery and costs, and on whether the contract represents value for money. Appropriate

structures need to be in place with representatives of both NIMDTA and contractor for reviewing and authorising modification requests.

Price Changes – do not agree to anything without speaking to Pals

- Read the conditions of contract carefully to understand what price changes are possible
- Overall price is usually made up of a number of elements (materials, labour costs, profit margin etc.)
- Benchmark prices
- If not allowed for within the conditions of contract negotiate with the contractor to optimise vfm.

Extending the Contract – BSO Pals must manage this.

- Provision for contract period extensions. Tender documents state initial period and any provision for extension(s)
- Is the contractor's performance satisfactory?
- Are you content to extend the contract?
- Timing of extension is important. If you decide not to extend, there must be sufficient time to run a tender competition.

Maintaining contract documentation is an important activity, especially where there are any modifications to the contract, including modifications to services and procedural modifications. Formal agreement to any contract modification should be recorded, and all contract documentation must be kept up to date and shared with the Business Manager and Business Management Executive Officer.

5. Managing Performance

Routine Performance reporting and communication should be monitored by the Contract Manager to ensure performance is within the agreed parameters as set out within the contract.

5.1 Poor Performance Indicators

Continued poor performance cannot be ignored and NIMDTA should, through increased monitoring and management, work with the contractor in order to ensure they do meet contract requirements.

Routine Performance Management should alert the Contract Manager that the contractor is having difficulty meeting terms of the contract, remember the issue could be with NIMDTA.

Both parties must agree there is an issue and work together to resolve it, good communication is essential.

5.2 Poor Performance - Actions

Regular, consistent collection and review of performance measures and KPI's by the Contract Manager should flag up issues at an early stage and they should be dealt with promptly.

- Identify emerging problems
- Investigate cause(s)
- May be procedural, qualitative
- May be the personalities
- Identify factors that do / may influence the problem
- For each factor identify the possible causes
- Review the identified causes from NIMDTA's and contractors point of view
- Develop solutions and implement

The Business Manager and BSO Pals should be notified of any concerns around contract performance and will assist in the resolution of the issue. This could involve talking, formal meetings, writing, contract shortening or termination with early escalation and notification to BSO PaLs essential.

5.3 Continuous Improvement

The tender process is about identifying the contractor in an open, transparent, fair and legally compliant manner. Once appointed, while remaining within the scope of the specification, continuous improvement may be sought:-

- Lower prices for same quality
- Better for the same price
- Streamlining procedures/processes
- Working smarter

Continuous improvement works to the benefit of both parties, there must be a benefit to NIMDTA. Improvements can be proposed by either party and can be challenged if the change takes the contract beyond the scope of the specification set out in the tender documentation. The use of an output specification may provide more opportunities for improvement.

6. What is Good Contract Management?

- Good Planning and preparation
 - Tender strategy that looks beyond contract award
 - The right style of contract
 - A contract that has a business focus
- Focus is on successful contract management and administration
- Builds a professional relationship with current and potential future contractors
- Enables and achieves continuous improvement
 - Within the scope of the original specification
 - Provides flexibility on part of both parties with mutual trust and co-operation
- Recognises the role of people, their skills and knowledge
- Facilitates and manages change
- Maintenance of clear and complete records
- Is proactive rather than reactive

Annex 1

Contract Management Responsibilities

