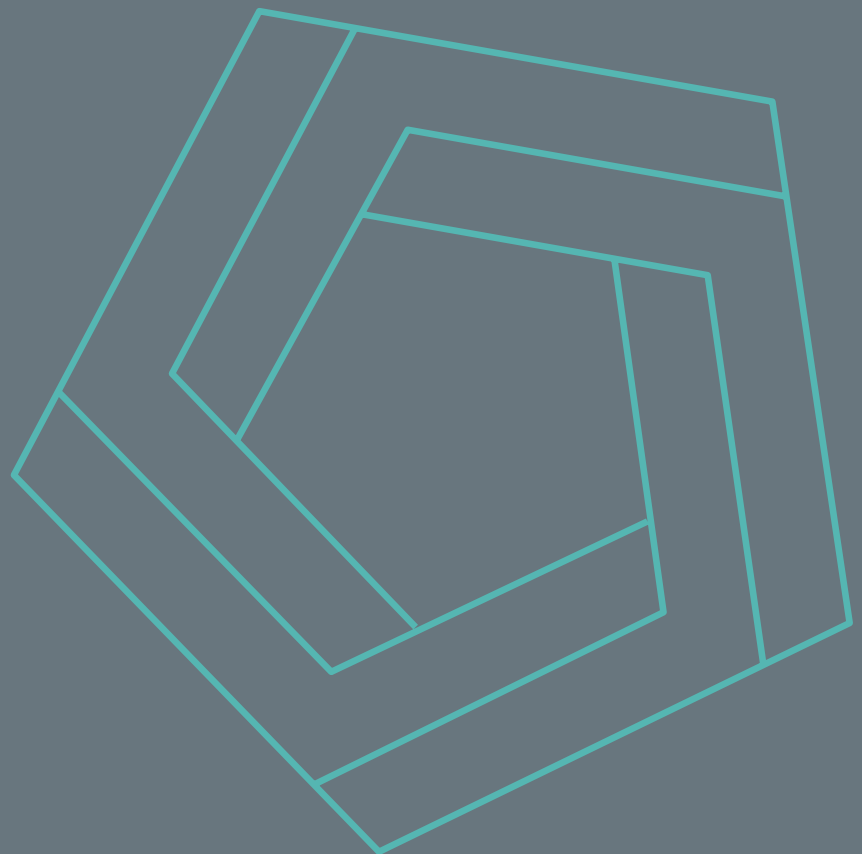




Government  
Commercial  
Function

# THE OUTSOURCING PLAYBOOK

**Central Government Guidance**  
on Outsourcing Decisions  
and Contracting



February 2019

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# Foreword by John Manzoni

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Government outsourcing is under intense scrutiny. The collapse of Carillion in January 2018 and the ongoing difficulties of some companies in the outsourcing sector, has put both our decision making processes and the contracts we award, firmly under the microscope. In March 2018, we completed a study of what we outsource, why we outsource and how we outsource. The study concluded that when done well, the private sector can bring efficiency, scale and fresh thinking to the delivery of public services.

This has not been a lone endeavour by the Civil Service. The outsourcing companies themselves have collaborated fully and wholeheartedly with this work. Jointly, we have identified the challenges associated with delivering public services and agreed the reforms that will set the conditions for healthier practices in the future.

These reforms have been captured within 11 key policy changes that are designed to improve both our decision making and the quality of contracts we place with industry.

The key new policies are:

1. Publication of Commercial Pipelines
2. Market Health and Capability Assessments
3. Project Validation Reviews (PVR)
4. Make versus Buy assessments

5. Should Cost Modelling
6. Requirement for Pilots
7. Key Performance Indicators (KPIs)
8. Risk Allocation
9. Pricing and payment mechanisms
10. Assessing the Economic and Financial Standing of Suppliers
11. Resolution Planning

Following the simple guidelines, rules and principles related to these policies will improve how we do business and ultimately safeguard the continuity of critical public services. Delivering the Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster's goal, to rebuild public trust in government and its suppliers.

Embedding the Outsourcing Playbook into our ways of working is a journey the whole of government must walk together. As Chief Executive of the Civil Service I am delighted to take the first step and commend the Outsourcing Playbook for action.

A handwritten signature in dark ink, appearing to read 'J. Manzoni', written over a horizontal line.

February 2019

# Introduction – Right at the start

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The Outsourcing Playbook is about getting it right. Getting it right when we decide to deliver services using in-house resources and getting it right when we decide to deliver them in partnership with the private and third sectors.

Recent examples highlight that we have not always got these decisions right. Whether it be attempting to contract for the delivery of a service without the necessary expertise. Or expecting too much of a private sector provider – forgetting that we always remain responsible for the delivery of public services, no matter what commercial model is adopted. Both of which can result in achieving less with public money.

To avoid repeating past mistakes, the Outsourcing Playbook captures best practice from across government and highlights where different approaches and new behaviours are required. These are captured within 11 key new policies that all central departments are expected to follow. By following the guidelines, rules and principles associated with these new policies, we can expect to:

- get more projects right from the start;
- develop robust procurement strategies;
- engage with healthy markets;
- contract with suppliers that want to work with us; and
- be ready for the rare occasions when things go wrong.

By acting together we can improve the quality of public services we deliver, ensuring they both meet the everyday needs of the people that use them and provide value for money for the taxpayer. And in doing so, we will rebuild the trust between the government, suppliers and the general public.

The Outsourcing Playbook is the result of a collaborative effort across central government and suppliers, with both sides committed to following its principles. The spirit of collaboration is also captured in the Supplier Code of Conduct, which sets out joint commitments to improve public service delivery. Both suppliers and departments are encouraged to highlight if either party falls short of the expectations in the Supplier Code of Conduct or this Playbook.

The Outsourcing Playbook has been split into 12 chapters. It heralds a new ethos in how we make outsourcing decisions and contract with private and third sector providers. It is how we do things.

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“ The Outsourcing Playbook captures best practice from across government”

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# Summary of key new policies

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## **Publication of Commercial Pipelines**

There is a new expectation that all central government departments will publish their commercial pipelines.

This change will help suppliers to understand the government's long-term demand for services and prepare themselves to respond to contract opportunities.

## **Market Health and Capability Assessments**

All outsourcing projects will conduct an assessment of the health and capability of the market early on during the Preparation and Planning stage.

This will enable project teams to identify potential limitations in the market and consider whether actions such as contract disaggregation could increase competition and improve market health.

## **Project Validation Reviews (PVR)**

Previously only government major projects required a PVR assurance review. Now all complex outsourcing projects will be required to go through this important 'policy to delivery' gateway.

Brings together the full weight of cross government expertise at the early stages of the project to help assure deliverability, affordability and value for money.

## **Make versus Buy assessment**

Central government departments must conduct a thorough make vs buy assessment before deciding to outsource a service.

This is expected to lead to more informed decisions as to when it is best to deliver public services ourselves and when there is benefit to drawing on the capacity and know how of the private sector.

## **Should-cost modelling**

All complex outsourcing projects will produce a 'Should Cost Model' as part of the make or buy decision process.

Will provide a better understanding of the costs associated with different service delivery models and help to protect government from 'low bid bias'.

## **Requirement for Pilots**

Where a service is being outsourced for the first time, there is now a presumption that a pilot should be run.

Piloting a service delivery model is the best way to understand the environment, constraints, requirements, risks and opportunities. Pilots also provide a wealth of quality data and can help inform the drafting of technical specifications.

### **Key Performance Indicators (KPIs)**

It is important that all new outsourcing projects include performance measures that are relevant and proportionate to the size and complexity of the contract. In line with the cross-government transparency agenda, three KPIs from every new outsourcing contract will be made publicly available.

Getting this right will form the foundation of smarter contracts that are designed to incentivise delivery of the things that matter and provide clarity to the public about how the service is working for them.

### **Risk Allocation**

Proposals for risk allocation will be subject to greater consideration and scrutiny to ensure they have been informed by genuine and meaningful market engagement.

Inappropriate risk allocation has been a perennial concern of suppliers looking to do business with government and a more considered approach will make us a more attractive client to do business with.

### **Pricing and payment mechanisms**

The pricing and payment mechanism goes hand in hand with risk allocation and will similarly be subject to greater consideration and scrutiny to ensure it incentivises the desired behaviours or outcomes.

This change is fundamental to making the outsourcing sector a thriving and dynamic market that is sustainable in the long-term.

### **Assessing the Economic and Financial Standing of Suppliers**

All outsourcing projects will comply with a minimum standard when assessing the risk of a supplier going out of business during the life of a contract.

Consistently applying a minimum standard of testing will provide a better understanding of financial risk and leave us better able to safeguard the delivery of public services.

### **Resolution Planning**

There is now a requirement for suppliers of critical public service contracts to provide resolution planning information.

Although major insolvencies are infrequent, this change will help to ensure government is prepared for any risk to the continuity of critical public services posed by the insolvency of critical suppliers.



# About this document

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## Key Outsourcing Terms

1. 'Outsourced service' means any public service obtained by contract from an outside supplier.
2. 'Complex outsourcing' refers to any of the following: first generation outsourcing; significant transformation of service delivery; obtaining services from markets with limited competition or where Government is the only customer; and/ or any service obtained by contract that is considered novel or contentious.
3. 'Critical service contracts' are contracts for outsourced services where significant disruption would occur should services be interrupted. These can be identified using the Cabinet Office [Contract Tiering Tool](#), which considers factors such as the potential impact of service failure; service interruptibility; the speed and ease of switching suppliers; and the contract value.
4. 'Critical suppliers' are providers of critical service contracts. Critical suppliers are required to provide resolution planning information (see chapter 11).
5. 'Public sector dependent suppliers' are supplier groups with over £50m pa revenue of which over 50% is derived from public sector work. They may also be required to provide resolution planning information (see chapter 11).

## Who is the Outsourcing Playbook for?

The Outsourcing Playbook is aimed at Commercial, Finance and Project Delivery professionals across central government departments who are responsible for the planning and delivery of outsourcing projects.

Permanent Secretaries, Accounting Officers, Commercial Directors, Project Sponsors and Senior Responsible Owners will also find the guidance useful when acting as decision makers or approvers, or when conducting checks within the capacity of scrutiny and assurance.

## What is the purpose of the Outsourcing Playbook?

The Outsourcing Playbook aims to provide Commercial, Finance and Project Delivery professionals with guidelines, rules and principles that will help them to avoid the most common errors observed in outsourcing projects.

The Outsourcing Playbook describes what should be done. How things should be done is described in a series of supporting Guidance Notes referenced out from this document. The standards that people should work to are specified within GovS 008 Commercial, GovS 002 Project Delivery and GovS 006 Finance respectively.

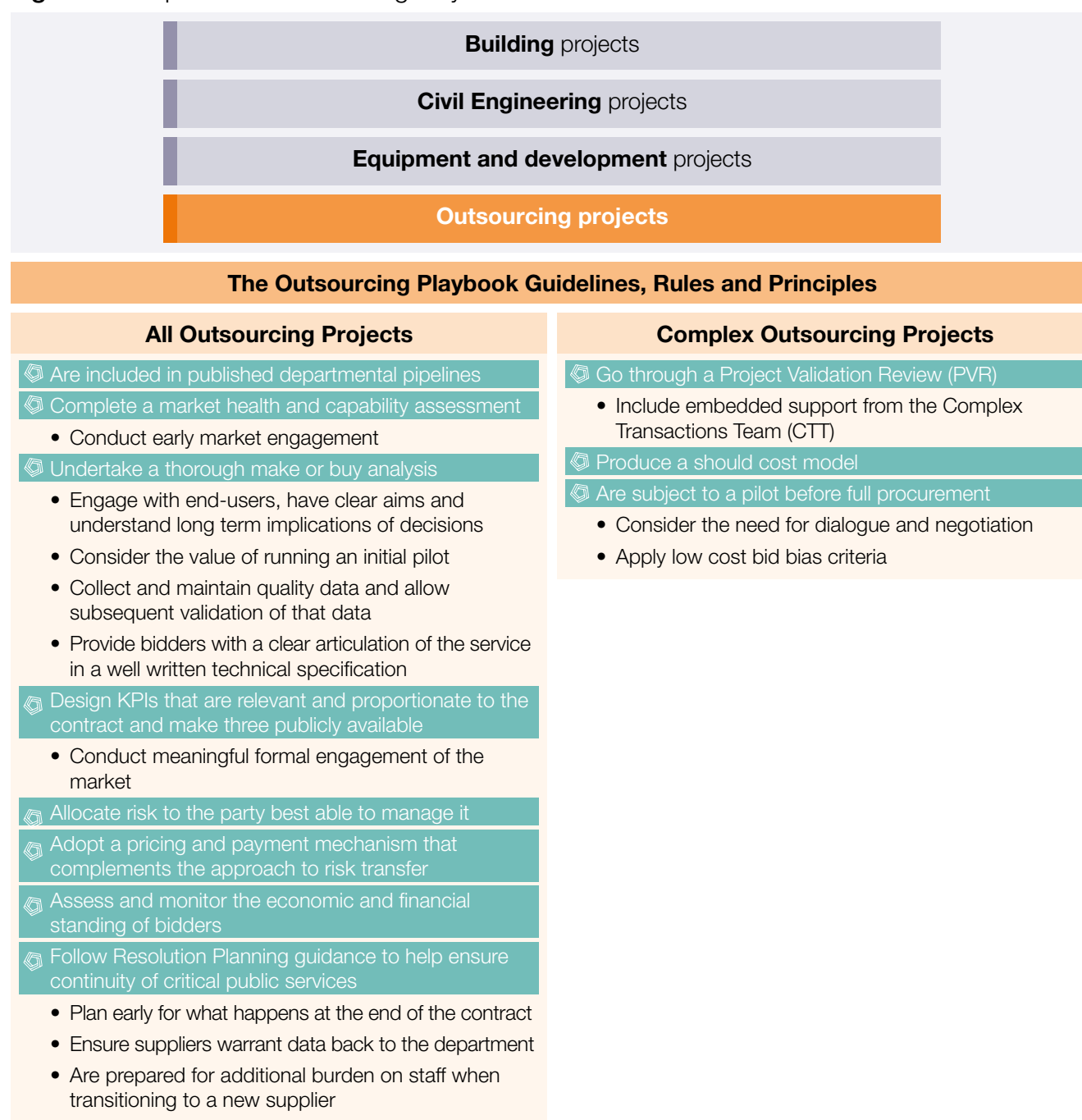
## What is the scope of the Outsourcing Playbook

The Outsourcing Playbook applies to all Outsourcing projects. While the Playbook is not mandatory for Building, Civil Engineering or Equipment projects, the guidelines, rules

and principles are good practice for any procurement project and may still be useful.

The diagram in Figure 1 below summarises the key principles that apply to all standard outsourcing projects and the additional requirements that apply to complex outsourcing projects.

**Figure 1.** Scope of the Outsourcing Playbook



## Navigating the Outsourcing Playbook



The Outsourcing Playbook comprises a set of guidelines, rules and principles that apply across the procurement lifecycle when obtaining services from an outside supplier. They have been structured around the main commercial stages of a typical procurement lifecycle:

Preparation and Planning

Publication

Selection

Evaluation and Award

Contract Implementation

Many of the most important decisions are taken at the Preparation and Planning stage, before a contract notice has been published - applying the key principles early is how we get things right from the start. Figure 2 overleaf shows where each chapter sits within the procurement lifecycle, how they align to the main commercial stages and where the key new policies appear.

## Structure of the Chapters

The main body of each chapter describes good practice from across government, issues to look out for and common errors that have been observed. Each chapter ends with a summary of key principles and a list of additional sources of information and guidance.

## Explanation of Symbols

Throughout the Outsourcing Playbook, symbols are used to help readers navigate the document and to flag key new policies.

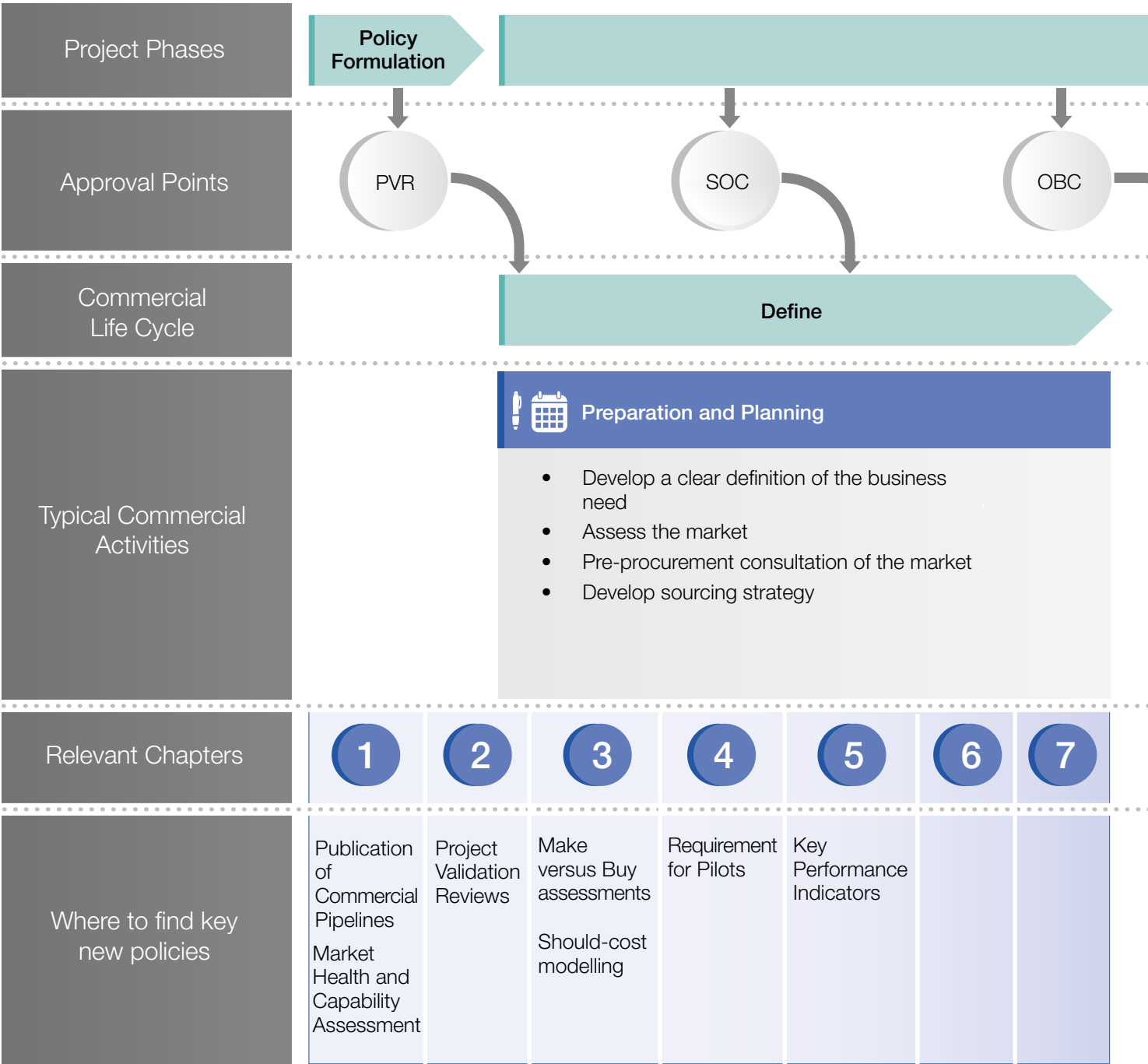
The symbols for the main commercial stages of the procurement lifecycle first appear in the 'Playbook flow diagram' and are then used within the navigation banner of each chapter to indicate when the guidelines, rules and principles apply.

The symbol for a key new policy is the Playbook icon and each time this appears it flags an important policy change that practitioners should take note of.

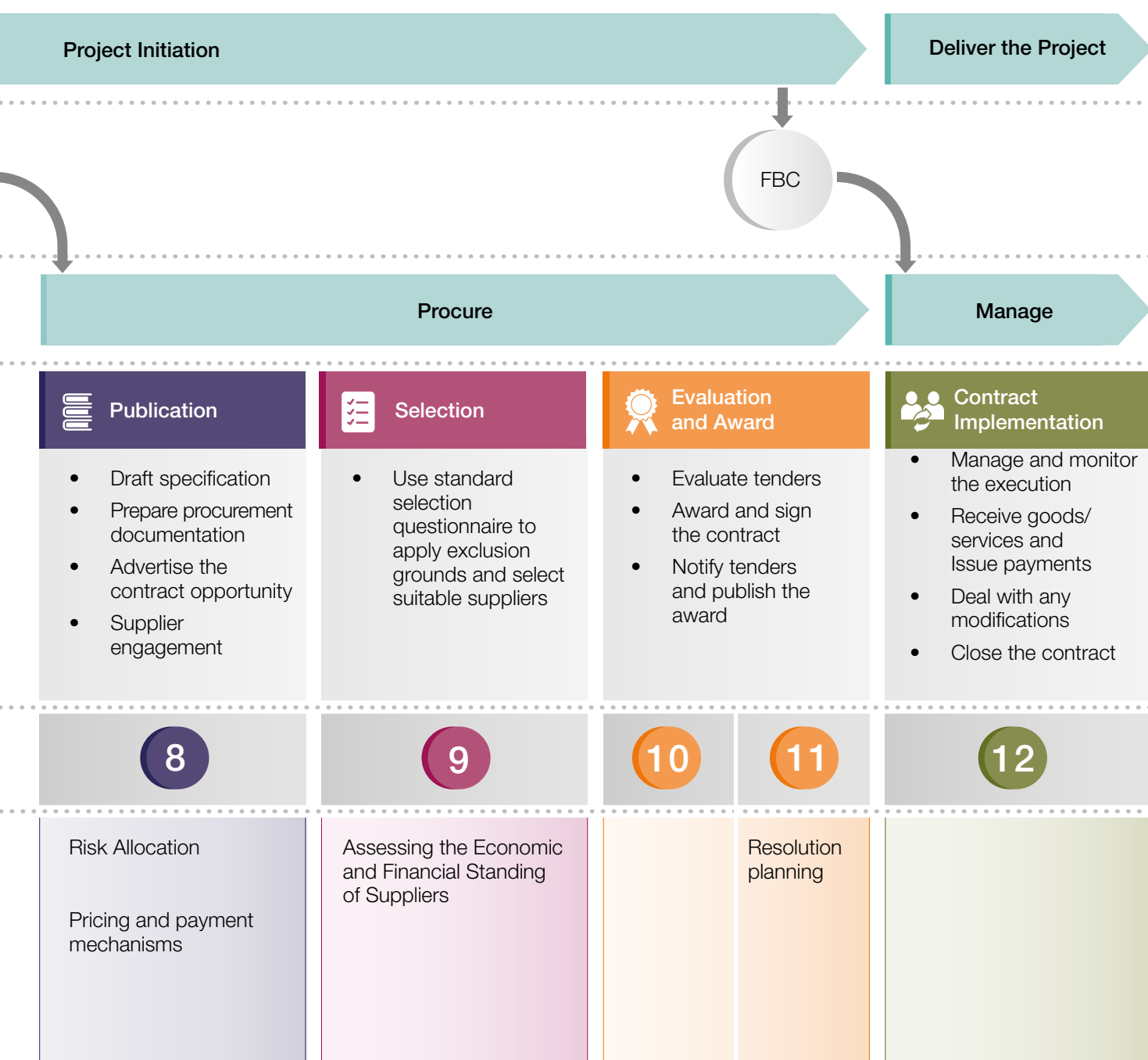
## Contacts

For further information or to provide feedback on the Outsourcing Playbook please contact the [Outsourcing Programme team](#).

# Playbook flow diagram



**Figure 2.** Where the Playbook fits with the typical procurement process.





# 1 Pipelines and Market Management

Getting it right starts by having clear and transparent commercial pipelines and a good understanding of the market.

## Pipelines



One of the most important things we can do is to prepare and maintain comprehensive pipelines of current and future government contracts and commercial activity.

The expectation of commercial practitioners is set out in section 3.3 of the [Government Commercial Functional Standard](#).

**Publishing commercial pipelines enables suppliers to understand the likely future demand across government.** By sharing early insights on planned activities, we can expect to achieve wider participation and greater diversity in our supply chains.

Published Commercial Pipelines should look ahead three to five years to be truly effective, but a minimum of 18 months. Complex outsourcing projects can require at least this period in preparation and planning to get them right. Allowing insufficient time for commercial activities is frequently flagged by the National Audit Office (NAO) as an indicator of project failure.

## Market Management



Healthy, competitive markets matter because they support our ability to achieve value for money for taxpayers.

Good market management is about looking beyond individual contracts and suppliers. It is about designing commercial strategies and contracts that promote healthy markets over the short, medium and long term. The expectation of commercial practitioners is set out in section 5.1.3 of the [Government Commercial Function Standard](#).

**All outsourcing projects should include an assessment of the market** early on during the preparation and planning stage. These assessments should then be kept under review through the life of a contract. Where potential weaknesses are identified, consider whether actions such as contract disaggregation could increase competition and improve market health.

Guidance for how to do this is contained within the [Market Management Guidance Note](#). Departments can also request access to supplementary market intelligence collected by commercial teams in the Cabinet Office and Crown Commercial Service (CCS). Advice can also be sought from the Competition and Market Authority (CMA) in relation to more complex or substantial competition issues.



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“ Publishing commercial pipelines enables suppliers to understand the likely future demand across government”

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## Early Engagement

We aren't afraid to talk to the market. We do it regularly - recognising the benefits to both departments and suppliers. It can help promote forthcoming procurement opportunities and provide a forum to discuss delivery challenges and risks associated with the project. Through this process we are able to understand the deliverability of our requirements, the feasibility of alternative options and whether there is appetite (within the market and government) to consider innovative solutions that could help us deliver better public services.

Preliminary market engagement should actively seek out suppliers that can help to improve service delivery. Including **Small and Medium Enterprises (SMEs)** and **Voluntary, Community and Social Enterprises (VCSEs)** who are experts in the needs of service users and widely involved in the delivery of public services across the country.

To enable inclusive economic growth that works for all, assessments of the market and pre-market engagement should consider opportunities for wider social, economic and environmental benefits to communities.

## Outsourcing projects are tested at the Strategic Outline Business Case stage

to assure that engagement has been sufficiently early for suppliers to understand the requirement and for the department to reflect on any feedback received.

All preliminary market consultation must observe the principles of public procurement<sup>1</sup> and be handled in such a way that no supplier gains a preferential advantage. In practice, this means not setting the technical specification to suit a particular bidder and making sure any information shared is also available during the tender procedure.

It is good practice to openly announce any preliminary market consultation by publishing a Prior Information Notice (PIN).

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1 Equal treatment, non-discrimination, proportionality and transparency

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“ Engage early with the market and be ready to demonstrate in your Strategic Outline Case (SOC) that your proposals have been informed by both your market health and capability assessment and feedback from potential suppliers”

---

## Key Principles

1. Publish commercial pipelines so suppliers understand likely future demand for services across government.
2. Assess the health and capability of the market you will be dealing with and consider how your commercial strategy and contract design can be adapted to address potential weaknesses.
3. Consult widely and encourage broad participation, particularly with SMEs and VCSEs.
4. Engage early with the market and be ready to demonstrate in your Strategic Outline Case (SOC) that your proposals have been informed by both your market health and capability assessment and feedback from potential suppliers.



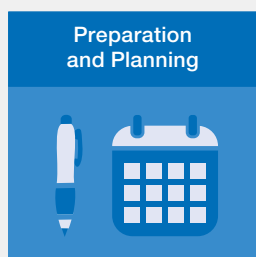
## Want to know more?



1. [GovS008 Commercial Functional Standard](#)
2. [Market Management Guidance Note](#)
3. [Introductory Guide to the Social Value Act for policymakers](#)
4. Training is available from the [Commissioning Academy](#) - a development programme for senior decision makers considering service transformation, innovative delivery models and market development
5. Weekly newsletters on government strategic suppliers can be requested from [marketsandsuppliers@cabinetoffice.gov.uk](mailto:marketsandsuppliers@cabinetoffice.gov.uk)
6. Supplier factsheets and market reports for common goods and services can be requested from [ci@crowcommercial.gov.uk](mailto:ci@crowcommercial.gov.uk)
7. Advice from the CMA can be sought via [advocacy@cma.gov.uk](mailto:advocacy@cma.gov.uk)







Publication

Selection

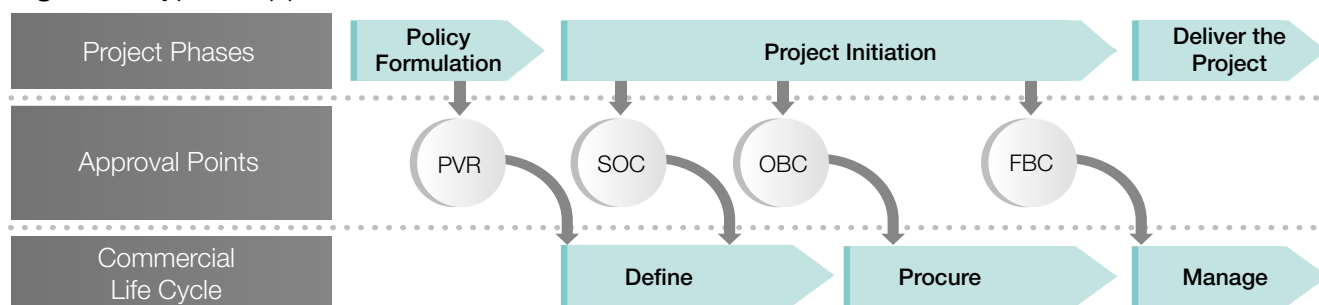
Evaluation and Award

Contract Implementation

## 2 Approval process

To ensure a smooth transition through the approval process, it is critical to engage early with departmental and central assurance teams.

**Figure 3.** Typical Approval Process



### Project Validation Reviews



Any new initiative that is likely to result in a major project, is required to go through a Project Validation Review (PVR). This also now applies to all **complex outsourcing projects**.

If the value of a standard outsourcing project is greater than the departmental delegated expenditure limit or it is considered to be strategically significant, then a PVR may still be required. Departments should consult Cabinet Office Controls Team, HM Treasury and the IPA.

The PVR must occur during the early stages of preparation and planning, and before any public commitment is made. It consists of a short independent peer assessment that takes place ahead of the transition from policy to delivery. Further information can be found in the [Major Project approval and assurance guidance](#).

For all outsourcing projects, additional controls are applied by the Cabinet Office. Departments are encouraged to engage with the [Cabinet Office Controls Team](#) as early as possible. If the outsourcing project is considered to be complex, a member of the [Complex Transactions Team](#) will also be embedded.

**The benefit of applying the full weight of cross government expertise to outsourcing projects is realized in the deliverability, affordability and value for money of the project.** Getting all teams on the same page from day one puts us in a position to make good decisions, right from the start. The expectation of commercial practitioners is set out in section 3.4 of the [Government Commercial Functional Standard](#).

At the Strategic Outline Case (SOC) stage, outsourcing projects must demonstrate that proposals have been informed by early market engagement and a market health and capability assessment.



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“ All complex outsourcing projects go through a Project Validation Review”

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The commercial conversation continues after the PVR and SOC. **Departments are encouraged to make use of available resources and knowledge from across**

**their own organisation, wider Government and in the central commercial teams throughout the approval process.**

## Key Principles

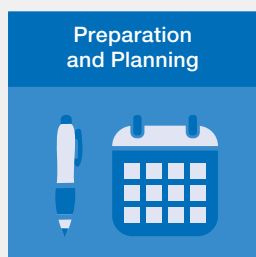
1. All complex outsourcing projects go through a Project Validation Review (PVR).
2. The benefit of applying the full weight of cross government expertise to outsourcing projects is realised in the deliverability, affordability and value for money of the project.
3. Departments are encouraged to continue the commercial conversation through Outline Business Case (OBC) and Final Business Case (FBC) approval stages.



## Want to know more?



1. [Major Project approval and assurance guidance](#)
2. [A short 'plain English' guide to assessing business cases](#)
3. [Approvals Process Guidance Note](#)
4. For advice on engaging the HMT Spending Teams, contact your departmental approval and scrutiny lead
5. For guidance on the IPA assurance process contact [gateway.helpdesk@ipa.gov.uk](mailto:gateway.helpdesk@ipa.gov.uk)
6. If you have any questions regarding Cabinet Office controls contact [cabinetofficecontrols@cabinetoffice.gov.uk](mailto:cabinetofficecontrols@cabinetoffice.gov.uk)
7. Contact the Complex Transactions team via [cttbusinessoperations@cabinetoffice.gov.uk](mailto:cttbusinessoperations@cabinetoffice.gov.uk) if you are seeking central commercial support on a complex outsourcing project



Publication

Selection

Evaluation and Award

Contract Implementation

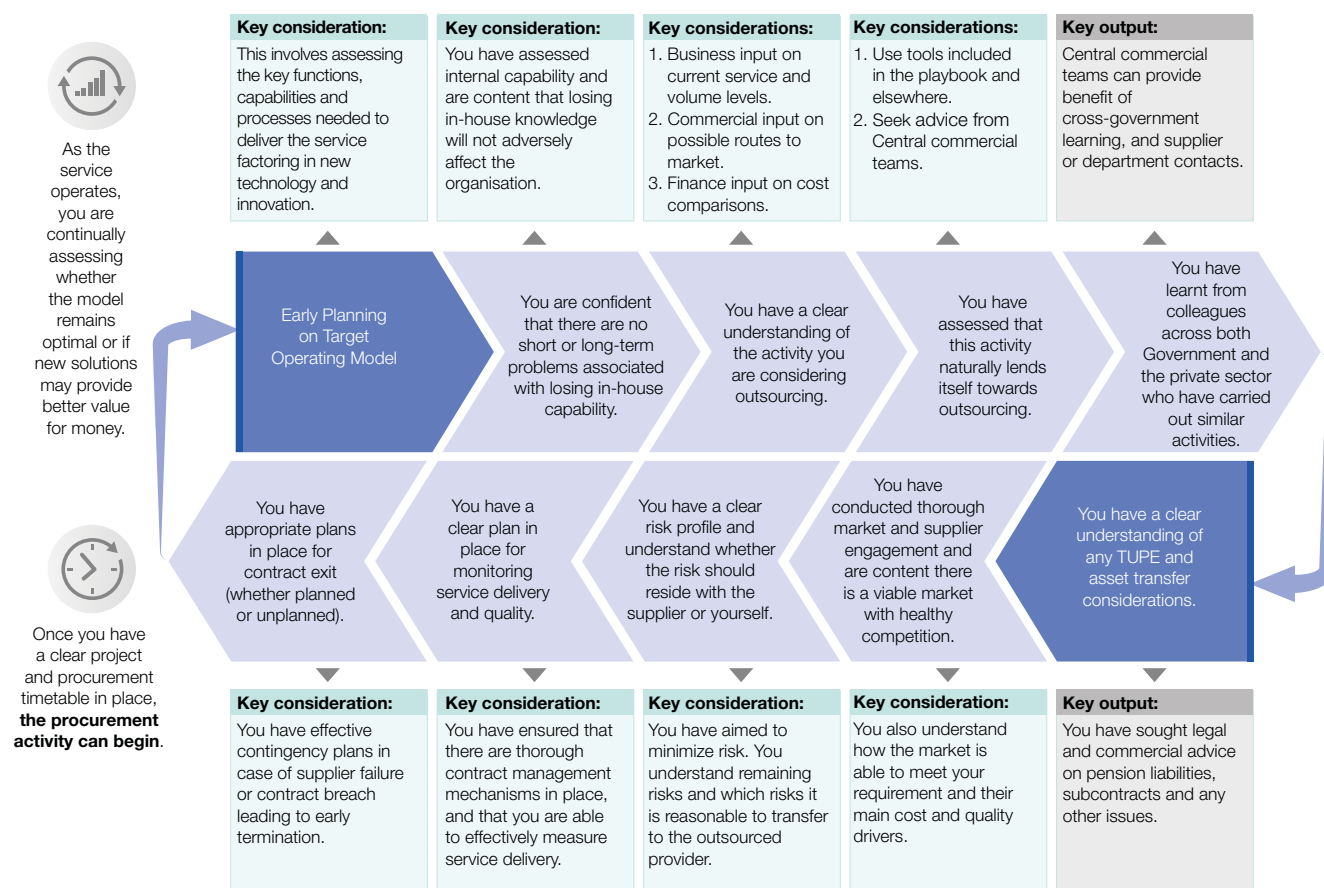
### 3 Make or Buy

The selection of an appropriate service delivery model at the outset of a project has a significant impact on the Government's ability to achieve value for money.

The 'Make or Buy' decision (whether a department should **deliver services in-house, or procure from the market**) is a strategic decision that must be given adequate consideration. It is key that the appropriate level of analysis and attention is applied to whether to deliver in-house or via an outside

supplier, before making this decision. This should take place early enough to inform the Strategic Outline Case (SOC). The following chapter provides guidance on the factors departments must consider when deciding whether to outsource a service. The decision process is captured in Figure 4 below.

**Figure 4.** An overview of the Make or Buy decision process






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“ The Make or Buy decision is a strategic decision that must be given adequate consideration”

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## When a Make or Buy decision is required



In accordance with the [Green Book](#), Make or Buy decisions are required in the following scenarios:

1. Upon the introduction of new public services, or the identification of a significant new development to an existing service (such as a new technology requirement).
2. Where there is a need to re-evaluate the delivery model of existing services, for example due to deteriorating quality of delivery, departmental cost reduction or transformation programmes.

Make or Buy analysis **should be completed early in the preparation and planning stage** in order to inform the development of options in the Strategic Outline Case (SOC).

Studies show that there has not always been sufficient emphasis placed on this fundamental analysis, particularly where a project has been progressed at speed.

## How the decision should be made

Experience tells us the Make or Buy decision is a critical, strategic decision and one which should be made on the basis of **optimal service delivery and value for money**.

To determine which service delivery model offers best value for money, a detailed analysis of the costs and benefits of each option is required. This should include a comprehensive evaluation of the risks, and the possible consequences — economic, human and technological — of outsourcing, maintaining internal operations and/or adopting a mixed economy approach. An evidence-based structured methodology is essential to assess these factors, consistent with the options appraisal approach prescribed in the [Green Book](#).

It can be more challenging to outsource services with the following characteristics:

- Core to departmental purpose and objectives<sup>2</sup>
- Complex or high risk and without proven market capability
- Novel and therefore with a limited market to source from

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2 As set out in the Single Departmental Plan.

- Experienced many operational difficulties in the past
- Poorly understood and/or not well defined
- Disproportionate effort and cost to bring back in-house in future

In such cases it is essential to ensure that even more time and care is taken to set services up to succeed, whether they continue to be delivered in-house or if the decision is taken to outsource.

The Make or Buy decision should be taken after appropriate consideration. A thoughtful and informed Make or Buy decision process **will reduce downstream risks**, which can help ensure projects are delivered on time and on budget, and will minimise the need for major contract negotiations, bail outs, early contract terminations and/or even (temporary) government step-in.

In summary, as a minimum, we must:

- Understand the service and what we want to achieve by changing the delivery model.
- Be clear on how any change will benefit the end user (for instance new investment and innovation).
- Understand the costs and long-term implications.
- Have completed a comprehensive market health and capability assessment.

## Understanding the service

The Make or Buy decision should be founded on a firm understanding of precisely what is needed. This is articulated in a clear technical specification.

Whether or not a service is ‘commoditised’ or deemed ‘complex’ can often depend on the definition of the service boundary. For example, services may be deemed less complex if the outsourced element excludes the making of discretionary decisions affecting end users.

Supplementary guidance for defining a service is provided in the [Make or Buy Guidance Note](#).

## Benefit to end users

Early discussions with the **end users of a service enable operational and commercial staff to fully understand the environment, constraints, requirements, risks and opportunities** related to the delivery of that service. These discussions help to provide a clear view of what needs to be delivered and the challenges ahead. This will inform both the process to specify the service and help to articulate how changing the delivery model or investing in new technology and innovation could benefit the end user.

A collection of resources on alternative delivery models is available [here](#).





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“ Where a complex service is being considered for outsourcing, a ‘Should Cost Model’ must be produced”

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## Using ‘Should Cost Models’ to understand costs



Having a clear understanding of the cost of delivering a service, the cost of transforming a service and/or the likely cost of procuring a service from an outside supplier, is best achieved by producing a ‘Should Cost Model’ (sometimes referred to as a public sector comparator).

In this context, a ‘Should Cost Model’ is a calculation of the total estimated cost of delivering a service. It is good practice to produce a ‘Should Cost Model’ for all procurements. Where a complex service is being considered for outsourcing, **a ‘Should Cost Model’ must be produced.**

The ‘Should Cost Model’ will inform engagement with bidders, help to understand the risks and opportunities associated with delivering the service and ultimately help to accurately assess the deliverability of bids.

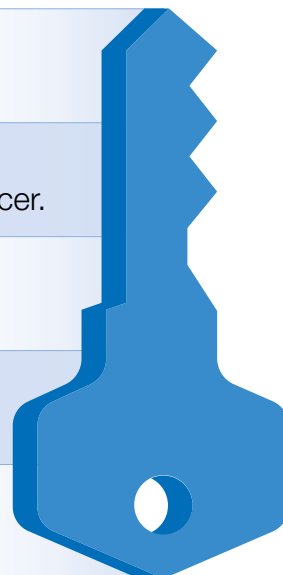
In order to produce a ‘Should Cost Model’ there needs to be a clear articulation of the service specification and performance measures (see chapter 5 for more information on measuring performance). This will involve:

- Agreeing specifications and Key Performance Indicators (KPIs).
- Creating an operating model for delivering the service.
- Forecasting the bottom-up cost drivers of using the operating model to meet the specification and KPIs.

While producing the ‘Should Cost Model’ can be time and resource intensive, having a robust understanding of the cost of delivering the service is likely to greatly improve the ultimate outcome. Departments delivering complex outsourcing projects are required to demonstrate they have a ‘Should Cost Model’ during the approval process. [HM Treasury guidance](#) on quality assuring government models provides additional information.

## Key Principles

1. The Make or Buy decision should come early in the preparation and planning stage of an outsourcing project.
2. Conduct a thorough analysis of value for money to determine whether services are best delivered 'in-house' or with the support of an outsourcer.
3. Engage with users of the service to fully understand the environment, constraints, requirements, risks and opportunities.
4. Be clear about what you want to achieve and the long-term implications, including the effect on markets.
5. All complex outsourcing projects must produce a 'Should Cost Model'.



## Want to know more?



1. [The Green Book: appraisal and evaluation in central government](#)
2. [Approvals process Guidance Note](#)
3. [Review of quality assurance of government models](#)
4. [The Aqua Book: guidance on producing quality analysis for government](#)
5. [Market Management Guidance Note](#)
6. [Make or Buy Guidance Note](#)
7. [Alternative delivery models](#)
8. Contact the Commercial Models team via [commercialmodels@cabinetoffice.gov.uk](mailto:commercialmodels@cabinetoffice.gov.uk) if you are seeking advice on potential commercial models for your service







## 4 Piloting First Generation Outsourcing

When we choose to outsource something for the first time, we treat it as a special case and apply additional scrutiny and assurance.

### Piloting delivery of a service



**Where government is outsourcing a service for the first time there is now a presumption that a pilot should be run first**, in recognition of the inherent uncertainty of first-generation outsourcing, before deciding on a long term delivery model. We will take a pragmatic approach to this presumption and exemptions can be agreed where it isn't practical or beneficial to run a pilot.

### Options for running pilots

A pilot involves running the service for a trial period, to test viability. It is usually trialled on a small scale, with part of the service outsourced and the rest kept in-house. **Pilots can also be used to test new technologies and delivery innovations for services that are already outsourced.**

A pilot can allow organisations to trial different methods of outsourcing; to collect more data on a service (for instance to inform a Make or Buy decision); and/or to test best practice approaches. It is important that clear metrics are agreed in order to measure the success of the pilot. A pilot may also be helpful where an outsourced service is undergoing a transformation, where there is weak competition in the market and, to test new technology or innovation.

There are three main ways of running a pilot, although any variation of these can be used if they better suit the project needs:

**Proof of Concept** – Tests the fundamental principle of whether an in-house service can be outsourced, or whether an outsourced service can be transformed. This may be particularly useful for first generation outsourcing in an unknown market, or where an innovative solution has been proposed but there remain risks to its deliverability.

**Regional trial** – The service is split geographically, and one (or more) of the regions are outsourced, whilst the remainder stay in-house. In designing a regional pilot it is important to ensure that the lessons of the regional service will be applicable (or how they will differ) to the rest of the country.

**Innovation Partnership** – an established procurement procedure under the Public Contracts Regulations (PCR) 2015 that can be used where the services to be piloted are innovative. It allows for a combination of research and development, and the subsequent procurement of the developed solution within a competitive and transparent process. In an innovation partnership, the service that is to be outsourced is piloted but is gradually contractualised throughout the pilot. As areas are tested and deemed successful, that area is contracted between the organisation and the supplier. This is on a gradual basis across the whole service where appropriate.



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“ Where a service is being outsourced for the first time, there is now a presumption that a pilot should be run”

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## Mixed Economies

Having started to test service delivery options via a pilot, departments need to consider whether they are achieving the objectives set out at the beginning.

If the objectives are being met, departments should consider **whether to outsource the service in full, or move to a mixed model of provision** (between public and private).

A mixed economy has the benefit of retaining in-house capability to run the service if either a supplier was to get into difficulty or there was a decision to bring the service back in-house. It also creates transparency, competition and contestability between different service solutions that can help drive service improvements.

## Market Management

First generation outsourcing decisions can have a profound effect on market development. For example, those winning early contracts may acquire first mover incumbency advantages.

We should adopt models that promote competition and contestability over time, so that those that win the first contracts know that they must deliver value for money or risk government taking its business elsewhere in future.

Mixed economies represent one way of broadening competition in a market and can therefore help drive value for money. However, where mixed economies are used, care is required to create a level playing field between public, private and third sector providers.

## Key Principles

1. Services that are being outsourced for the first time are considered complex and the presumption is they will be subject to a pilot before advancing to full procurement.
2. Pilots may also be helpful where an outsourced service is undergoing a transformation, where there is poor competition in the market and/or to test new technology or innovation.
3. After the pilot, consider whether to outsource the service in full, or move to a mixed model of provision (between public and private sector).



### Want to know more?



1. [Market Management Guidance Note](#)
2. [The Magenta Book: Guidance for evaluation](#)







## 5 Preparing to go to market

Preparation is the key to achieving flexible and efficient procurement processes that encourage broad participation and are open and accessible to all.

### Quality data and asset registers

We should be **collecting and maintaining sufficient data and information about our assets and services** to enable us to make informed decisions when we need to. This includes early Make or Buy decisions; those that shape commercial strategies; decisions that promote market health; and designing fair contracts and making good deals. All of which depend on the quality of information and data.

Suppliers are dependent on us having good data. The only way they can assess whether the delivery model and pricing structure that we take to market is deliverable and sustainable is if it is based on quality data.

We are committed to providing accurate data and/or building in flexibility to allow for subsequent validation of data (consistent with procurement legislation), particularly with first generation contracts, and expect pilots to be used to generate this information.

Where we are carrying out second (or subsequent) generation procurements, we rely on data provided by the incumbent. Good contract management throughout the life of the contract is essential to ensure that the incumbent consistently provides and updates this information.

It is only once we have these elements in place that we can engage the market in a fair and open way and provide sufficient information for bidders to make an informed decision about whether they want to bid.

### Clear specifications

Another precursor to fair and open market engagement is a clear technical specification, which must provide **sufficient information for bidders to make an informed decision about whether they want to bid**.

Without this shared understanding, we cannot expect to be able to relate the price offered by bidders to our own understanding of costs. And if we cannot do that, then we will always be open to risk that we will not get the outcomes we want at the price we need.

### KPIs and baselines



Appropriate specifications and performance measures are the foundation of a good contract. This playbook highlights some of the key factors necessary to help design KPIs that align with an overarching strategy. With the right KPIs in place, it should follow that contracts are designed to incentivise delivery of the things that matter, to minimise perverse or unintended incentives and to promote good relationships.



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“ In line with the cross-government transparency agenda, three KPIs from every new outsourcing contract will be made publicly available”

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It is important that **KPIs are relevant and proportionate** to the size and complexity of the contract. Getting this wrong can create confusion and tension. For instance, having too many KPIs (i.e. more than 10-15 per service) will lead to over-complicated contracts and ambiguity with suppliers. KPIs should also be set to **align with the intended benefits** to be realised during contract delivery (e.g. working within cost thresholds; achieving minimum performance outputs; and/or maintaining a minimum level of customer satisfaction).

Misunderstandings about how KPIs work, or how they are measured can make it difficult for bidders to price them and can result in unintended outcomes and/or service failures. It is important to work closely with your bidders and suppliers to ensure KPIs are jointly shaped and understood.

**In line with the cross-government transparency agenda, three KPIs from every new outsourcing contract will be made publically available.** These should be the three most relevant to demonstrating whether the contract is delivering its objectives, and they should be measured regularly. The indicators should focus on delivery to the end user, not management information required by contract managers. Market engagement will be helpful to check that suppliers understand which KPIs were chosen and why.

A specific **review of the benefits** being realised during contract delivery is initially done at the 12 month stage of a contract, and every 12 months thereafter ‘on a comply or explain’ basis. A sample of projects are routinely checked by Central Approvals and Scrutiny.

## Designing evaluation criteria

In order to help avoid a bias towards low cost bids the following questions should be considered when designing evaluation criteria:

1. Does the evaluation model consider whole life cost rather than just price?
2. Does the cost/quality ratio show a clear differentiation in favour of quality? If not, is the ratio justified?
3. Does the scoring methodology assess wider social, economic and environmental benefits?
4. Has a ‘Should Cost Model’ been used to inform the evaluation methodology in terms of what the right cost is and what financial elements form the whole life cost calculation?
5. Has the pre market engagement phase been used to inform the design of the evaluation methodology?
6. Have you used evidence from the ‘Should Cost Model’ and early market engagement to set a price threshold below which bids will be subject to further investigation in

accordance with Regulation 69 of the Public Contracts Regulations 2015?

7. Is the required quality threshold clear and does the evaluation model make it clear to bidders that you can exclude bids not meeting the required threshold?
8. Does your quality evaluation methodology recognise and reward bids that offer highest value in the areas that are most critical to successful delivery?
9. Does the scoring methodology avoid 'bid bunching' by differentiating between bids offering the minimum quality (an acceptable bid) and those offering real value add?
10. Does the scoring methodology evaluate delivery and financial risk of the bid?

It is essential that people with the appropriate skills and experience are involved in the evaluation of bids. This includes ensuring the financial aspects of a bid are tested by finance experts, as well as technical experts who understand the components that make up the bid.

## Fair Return

Short-term thinking can reduce the value for money that government as a whole is able to derive from markets. There are many examples where we have mandated unreasonable payment mechanisms, applied unreasonable terms & conditions and/or sought unsustainable cost reductions. This can create a bias towards low quality and can increase the probability of contract failures. In addition, suppliers may exit the market to the point where competition is severely weakened.

While it is important to guard against firms making excessive profits, the fundamental principle is that **contracts need to be profitable and expectations need to be reasonable** for suppliers to remain interested.

## Resolution planning



Standard clauses dealing with resolution planning should be included in draft contracts.

Before releasing a contract notice, we should consider the criticality of the service contract we are procuring. This depends on factors such as the potential impact of service failure, service interruptibility and the speed and ease of switching suppliers. A **Contract Tiering Tool** is available for this purpose.

**Where we are procuring a critical service contract, we will want the successful bidder to provide us with resolution planning information** during the life of the contract and should make this clear in the contract notice.

More information on resolution planning can be found in chapter eleven.

## Protecting against supply chain risk

The Model Services Contract (MSC) includes various protections against supply chain risk. These include step-in rights, the approval of key sub-contractors and assignment and novation provisions.

**When planning a procurement we should consider whether to incorporate additional protection.** For example, we could require that the supplier use a ring-fenced (or partially ring-fenced) entity to insulate us to some extent from the impact of adverse events elsewhere in a supplier's business. (Note, however, that complete ring-fencing can be difficult and expensive to achieve and limit bidder appetite).



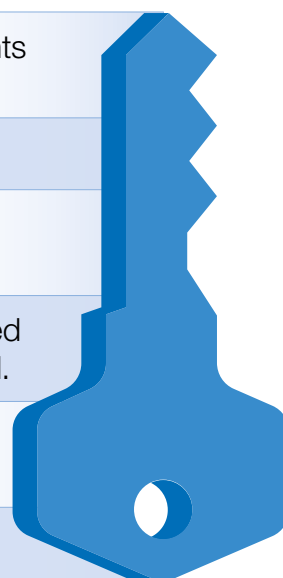
## Protecting against costs arising from supplier insolvency

As part of procurement planning we should consider **how best to protect ourselves against costs arising from supplier insolvency**.

In most cases the optimal approach will be through self-insurance although performance bonds are common in construction contracts and should be used where they provide Value for Money. Where we self-insure, we should recognise the risk in the Business Case, agree who is carrying it and include a notional cost in the Make or Buy decision.

## Key Principles

1. Invest time in preparing to go to market in order to conduct procurements that encourage broad participation and are open and accessible to all.
2. Collect and maintain quality data and accurate asset registers.
3. Consider the need to build in flexibility to allow for post-contract validation of data (consistent with procurement legislation)
4. Offer potential suppliers a clear articulation of the service being procured so they can make an informed decision about whether they want to bid.
5. Design KPIs that are relevant and proportionate to the size and complexity of the contract and select three to be made publicly available.
6. Plan for an annual review of benefits realisation after contract signature.
7. Design contracts that set reasonable expectations of suppliers and offer a fair return.
8. Consider the criticality of the service contract and determine whether resolution planning information will be required.
9. Consider supply chain risk and whether to require any additional protections.
10. Consider how best to protect against costs arising from supplier insolvency.



## Want to know more?



1. [Onerous practices in procurement and contracting PPN10/16](#)
2. [Benefits Measurement Guidance Note](#)
3. [Resolution Planning Guidance Note](#)
4. [The Public Contracts Regulations 2015, Regulation 69: Abnormally low tenders](#)



## 6 Routes to market

When outsourcing more complex services it is important to pick a procurement procedure that allows for appropriate dialogue and negotiation.

### Which Procurement Procedure?

Cabinet Office policy on the choice of procurement procedure can be found in the [Availability of Procurement Procedures PPN 12/15](#). This policy note includes a procurement decision tree showing a general preference for the Open Procedure to be used, with other procedures shown as exceptions.

One of the exceptions is the use of Competitive Dialogue procedure which allows for a reduction in the number of suppliers to be invited to tender and the ability to dialogue about complex issues and areas of risk. It also allows post tender negotiations within certain limits with the successful bidder to confirm financial commitments or finalise other terms.

PCR Regulation 26 sets out the circumstances when the Competitive Dialogue procedure can be used. Guidance from CCS can be found in [Guidance on Changes to Procedures](#).

In the case of any outsourced service that does not fall within the definition of common goods or services, departments should seek assurance from CCS that the correct procurement procedure is used. The business case should also justify the chosen procedure.

### Using Dialogue and Negotiation

Meaningful formal engagement is critical to the successful outcome of any dialogue/negotiation. However, if used incorrectly, dialogue and negotiation can unnecessarily extend the length and cost of a procurement for both government and suppliers, and ultimately fail to deliver the desired public service outcomes.

A successful dialogue/negotiation strategy will:

1. Be commercially and business driven;
2. Enable the early identification of areas of complexity and risk that would benefit from dialogue or negotiation;
3. Restrict dialogue/negotiation to areas that will benefit from this process;
4. Identify a strong chair to lead dialogue/negotiations, supported by a team with defined roles and appropriate skills and experience;
5. Be based on pre-agreed negotiation positions;
6. Adopt an appropriate and clear timetable, coupled with strong programme and project management disciplines to mitigate the risk of cost and time overruns.



Early market engagement will inform the choice of procurement procedure. If, as an outcome of this engagement, the department identifies **areas of complexity and risk that will benefit from dialogue and/or negotiation, it should select the competitive dialogue** (or competitive procedure with negotiation).

The following situations suggest the use of competitive dialogue (or competitive procedure with negotiation) would be more appropriate:

1. No solution available off-the-shelf.
2. Readily available solutions will need adapting to meet requirements.
3. The solution involves innovation.
4. The legal and/or financial framework is complex.
5. The delivery of the specified outcomes is reliant on outside factors.
6. Solutions (financial or non-financial) need stress testing to ensure long term viability.
7. Milestones and KPIs are complex/have numerous dependencies on all parties.
8. Correct risk allocation is critical to both value for money and long term viability.
9. A high level of employee transfer is involved.
10. Business continuity risk is high.
11. There is an opportunity to drive cost out without impacting quality.

## Use of Frameworks

**Frameworks (and dynamic purchasing systems) are an efficient method for government to procure, goods and services.** They provide the opportunity for departments to access economies of scale and benefit from greater value for money.

However, using frameworks inappropriately can have negative consequences for departments, markets, suppliers and can unintentionally inflate prices. **Any services that are not common across government should be subject to the full procurement process, including meaningful engagement with bidders.**

Where this is the case, standardised contracts or standardised contract terms (such as the Model Services Contract) can be used to help simplify and speed up procurement procedures by enabling commercial staff to concentrate on just the elements that need to be bespoke.

In addition, where possible and appropriate, dynamic purchasing systems should be used so that other suppliers can be added during the life of the arrangement, in order to maintain an open and competitive market (subject to them meeting the same objective criteria as existing suppliers).

## Keeping bid costs down

The cost of bidding for government contracts is frequently cited as a reason for not bidding and as a barrier to entry for SMEs and VCSEs. **Procurement processes should be of proportionate duration and effort to the size and complexity of the contract opportunity.** By making our procurement processes unnecessarily complicated or protracted, we risk minimising the pool of bidders and stifling competition.

## Key Principles

1. All complex outsourcing projects should consider the need for dialogue and negotiation to achieve the desired outcomes.
2. Common goods and services should be purchased through a government framework.
3. Bespoke services should be subject to a full procurement process that allows for appropriate dialogue with the market.
4. Procurement processes should be of proportionate duration and effort to the size and complexity of the contract opportunity so as not to create a barrier to entry for SMEs and VCSEs.



## Want to know more?



1. [Availability of Procurement Procedures \(Decision Tree\) PPN 12/15](#)
2. [Guidance on changes to procedures](#)
3. [The Public Contracts Regulations 2015, Regulation 26: Choice of procedures](#)







## 7 Model Services Contract

The latest Model Services Contract is a great starting point for a wide range of government services.

The Model Services Contract (MSC) is published by the Cabinet Office and Government Legal Services and comprises a set of model terms and conditions for major services contracts. It is intended for use by procurement specialists and lawyers and aims to aid assurance and reduce administration, legal costs and negotiation time. It is a convenient place to start for many contracts. The MSC is **a convenient and flexible model contract** which is regularly revised, but nevertheless, should be tailored to suit specific requirements.

The whole of the MSC should be reviewed to ensure it meets the needs of the project. Some of the schedules require detailed input to make sure they reflect the specific services being procured. For example, the Services Description (Schedule 2.1), the Standards (Schedule 2.3), and Testing (Schedule 6.2). There are other areas that are already populated, but these may also benefit from tailoring to suit any unique requirements of the project.

In particular, users of the MSC should think about how to make the following areas to reflect their **priorities, and the capability and appetite of the market:**

- Performance management: number and type of performance indicators, service credits and service points

- Insurance levels and parent company guarantees
- Charges and Invoicing: use of milestones, appropriate indexation
- Pricing mechanism
- Benchmarking
- Financial distress
- Governance and contract management structure

**Users should seek assistance from Government Legal Department (GLD)**

**when changing contract terms**, and make sure that any risks are assessed and recorded. Users should also consider what level of review and approval is required within their department for any changes made to the MSC.

Formal and informal engagement with potential suppliers will also help determine whether standardised terms are appropriate for the industry. This will help structure the contract to balance risk between parties fairly and appropriately. Sensible, flexible and appropriate use of the MSC will help to demonstrate where priorities lie and encourage suppliers to deliver them.



## Key Principles

1. The Model Services Contract (MSC) is a convenient and flexible starting point for a wide range of government services.
2. Some areas of the MSC require tailoring to reflect priorities and the capability and appetite of particular markets - this should be completed with the aid of legal advice and support.
3. Users should seek assistance from Government Legal Department (GLD) when changing contract terms.



## Want to know more?



1. **Model Services Contract**



## 8 Formal engagement with the market

Suppliers have a choice whether to work with us or not. Genuine and meaningful formal market engagement helps to ensure that more suppliers want to work with government.

### Setting the tone

All outsourcing projects should be run in accordance with the [Supplier Code of Conduct](#). This recognises the joint nature of public service delivery and sets out how we achieve constructive and collaborative engagement with suppliers. The Contract Notice and tender documentation should carry a statement to indicate that the procurement will be run in the spirit of Supplier Code of Conduct. This also helps to ensure that government is seen as an attractive client to do business with.

Guidance on how to conduct formal market engagement before proceeding to Publication is contained within the “Industry Boot Camp” slide pack of [Lean sourcing: guidance for public sector buyers](#).

### Risk allocation



Ensuring that **risks sit with the party best able to manage them** is central to the Government’s approach to delivering value for money and partnering with the private sector.

Inappropriate allocation of risk remains one of the main concerns of suppliers looking to do business with government. It is also one of the most frequent issues raised by the NAO in their audits of government contracts. It will therefore be a key area of discussion with prospective suppliers. Proposals for risk allocation should be subject to extensive scrutiny prior to going to market. Formal engagement should include the sharing of risk registers with prospective suppliers.

A good approach is to apply appropriate focus during commercial strategy development to agree the balance of risk between the supplier and the department. This should then be iterated through dialogue with potential bidders and then managed proactively during the life of the contract.

Ultimately we aim to get three things right:

- **Identification**, by studying the nature of the market, risk registers and lessons learned documents from related projects;



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“ Ensuring that risks sit with the party best able to manage them is central to the Government’s approach to delivering value for money and partnering with the private sector.”

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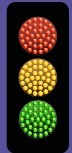
- **Quantification**, by assessing how likely, for example, based on past experience, an event is to occur and what the impact might be; and
- **Allocation**, by compiling a risk allocation matrix that considers who is best placed to manage the risk (i.e. whether it is a supplier, government or joint risk).

Getting risk allocation right in our contracts will lead to:

- Optimal pricing from the bidders
- Suppliers being paid a fairer profit margin in return for the risk they are accepting and the commitments and investments they make in order to deliver better public services
- Fewer performance and commercial issues during the life of the contract
- Reduced likelihood that the contract fails completely, and the supplier prematurely exits the contract or becomes insolvent

The Government’s approach to managing risk is set out more fully in the [Green](#) and [Orange](#) Books.

### When outsourcing departments are expected to:



- Not ask suppliers to take unlimited liabilities.
- Where not addressed through the payment mechanism, ensure that contracts include appropriate indexation (i.e. using an index or basket of indices or measure that reflect the underlying costs of delivering the service) where the supplier is managing pricing risks outside their control.
- Share and mutually agree risk registers with bidders.
- Share all data (that is appropriate to do so) relating to the procurement.
- Not hold incoming suppliers responsible for errors in data (excluding forecasts) where they are unable to complete due diligence (volume forecasts are addressed under payment mechanisms). Where data turns out to be incorrect, subject to procurement law, there should be a contractual mechanism for reflecting this. Any renegotiation should take place no more than a year after service commencement.

## Payment Mechanisms



The payment mechanism and the approach to risk transfer go hand-in-hand.

If the department wishes to control how the services are delivered, it should adopt an **input based pricing model and transfer no or minimal risk to the suppliers**. This normally means procuring resources on a 'Cost Plus' or 'Time and Materials' basis. The pricing and supplier margins should only reflect the input costs and scarcity of those inputs i.e. there is no "risk premium".

If the department considers that the supply market is best placed to determine the solution, it should specify the required solution or services outputs i.e. what to deliver. It is the supplier's responsibility to find the optimum way to deliver those outputs. In this scenario the department should also ensure that **the supplier takes any risks associated with delivering this output**. It is accepted that margins will be higher for contracts where suppliers take on the risk of delivery. In theory this is more than offset by greater expertise in delivery and greater efficiencies.

Departments should **avoid fixed price payment mechanisms where the scope of the contract is not fixed** (and relevant volume risks are outside the control of the supplier).

## Onerous Contracts

A possible consequence of getting risk allocation and payment mechanisms wrong is that contracts can become onerous (loss making) for a supplier.

When a contract is publicly designated by a supplier as onerous, this should prompt a root cause analysis and a conversation with the supplier about the options available to address this.

## Other barriers to entry and competition

Market engagement can also be used to understand other barriers that may be stopping suppliers from entering a market or competing on a level playing field. These barriers may include overly restrictive participation criteria, overly aggregated contracts, or lack of access to certain information that is only held by incumbent suppliers. Once these barriers are understood, an assessment can be made as to whether they can be reduced without compromising other objectives.

Guidance is available in the [Market Management Guidance Note](#). Emerging best practice in market management and sourcing from across departments is captured in the [NAO Commercial and contract management guide](#). Advice can also be sought from the Competition and Market Authority (CMA) in relation to more complex or substantial competition issues.

## Key Principles

1. Set a collaborative tone and provide clear escalation routes for suppliers.
2. Conduct meaningful formal engagement with the market to help ensure that suppliers want to work with us.
3. Risk should be allocated to those best placed to manage them.
4. The pricing and payment mechanism should go hand-in-hand with the approach to risk transfer and will be subject to greater scrutiny.
5. Where a department wishes to control how the services are delivered, it should adopt an input based pricing model and transfer no or minimal risk to the suppliers.
6. Where it is left to the supplier to determine the optimum way to deliver, the associated risks should also be with the supplier.
7. Avoid fixed price payment mechanisms where the scope of work is not fixed.
8. When a contract is publicly designated as onerous, this should automatically prompt a root cause analysis and conversation with the supplier.



## Want to know more?



1. [Supplier Code of Conduct](#)
2. [The Green Book: appraisal and evaluation in central government](#)
3. [Orange Book: Management of risk - Principles and Concepts](#)
4. [Risk allocation Guidance Note](#)
5. [Payment mechanisms Guidance Note](#)
6. [Dialogue and risk Guidance Note](#)
7. [Data quality and transparency Guidance Note](#)
8. [Market management Guidance Note](#)
9. [NAO Commercial and contract management: insights and emerging best practice](#)
10. [Lean sourcing: guidance for public sector buyers](#)
11. Advice from the CMA can be sought via [advocacy@cma.gov.uk](mailto:advocacy@cma.gov.uk)



## 9 Due diligence during Selection

We have a responsibility to assure ourselves of the solvency and competency of suppliers that bid for our contracts. In return, we must prepare accurate specifications for suppliers to bid against and offer a fair deal.

### The Selection Process

The selection process is used to determine whether bidders are able to **comply with exclusion grounds and demonstrate suitability** to carry out the contract. The Standard Selection Questionnaire (SQ) must always be used and some standard information may be obtainable via the [Supplier Registration Service](#).

Part 2 of the SQ comprises a self-declaration regarding whether or not any of the Exclusion Grounds set out in PCR 2015 apply (further detail on mandatory and discretionary grounds for exclusion under PCR Regulation 57).

Part 3 of the SQ comprises a set of standard questions relating to suitability to pursue a professional activity; economic and financial standing; and technical and professional ability (further detail on selection criteria under PCR Regulation 58).

Supplementary guidance on how to avoid common mistakes when applying selection criteria can be found in [Public Procurement - Guidance for practitioners](#).

### Economic and Financial Standing



It is particularly important that we get our assessments of economic and financial standing right. The key principle is to **safeguard the delivery of public services**, whilst being proportionate, fair and not overly risk averse. Guidance on how to do this is included in [Assessing and Monitoring the Economic and Financial Standing of Suppliers](#).

The key principles of appropriate financial testing are:

- Objective is to determine bidders' financial capacity to perform the contract.
- Mitigations should be considered.
- Forms part of the overall judgement of suitability during Selection.
- Assessment must be proportionate to the size and nature of the contract, be flexible and not overly-risk averse.
- All bidders, whatever their size or constitution, should be treated fairly and not inadvertently disadvantaged by the tests employed.
- The [Contract Tiering tool](#) should be used to determine the stringency to which bidders are tested, with higher thresholds for more critical contracts.



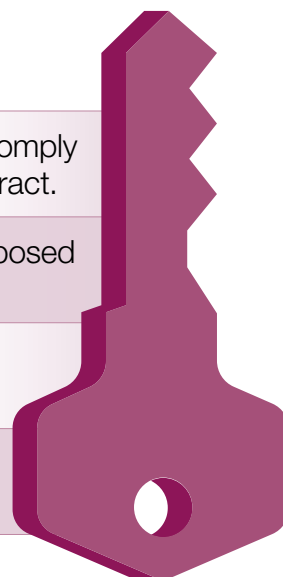
## Technical and Professional Ability

The skills possessed, efficiency, experience and reliability of suppliers should also be

taken into account when selecting bidders. The standard set of questions in this section of the SQ can be augmented to include criteria for human and technical resources and experience. These requirements must focus on the bidder itself and its past experience.

## Key Principles

1. The selection process is used to determine whether bidders are able to comply with exclusion grounds and demonstrate suitability to carry out the contract.
2. The Selection stage is an assessment of the suppliers themselves, as opposed to the Evaluation & Award stage which is an assessment of their bids.
3. The key principle of assessing economic and financial standing of bidders is to safeguard the delivery of public services.
4. Observe the principles of public procurement: equal treatment, non-discrimination, proportionality and transparency.



## Want to know more?



1. [Standard Selection Questionnaire \(SQ\) PPN 8/16](#)
2. [Supplier Registration Service for Government](#)
3. [The Public Contracts Regulations 2015, Regulation 57: Exclusion Grounds](#)
4. [The Public Contracts Regulations 2015, Regulation 58: Selection Criteria](#)
5. [Assessing and monitoring the economic and financial standing of suppliers Guidance Note](#)
6. [Public Procurement - Guidance for practitioners \(2018\)](#)



## 10 Evaluating Bids and Contract Award

Encouraging the market to compete on price alone can create false economies and unhealthy markets and should be avoided.

The purpose of the evaluation is to determine the most economically advantageous tender based on the published award criteria. It is not to identify the cheapest bid. Section 4.2.2 of the [Government Commercial Functional Standard](#) sets the expectation of commercial practitioners within departments.

Detailed best practice guidance on evaluation can be found in the [Evaluating Bids Guidance Note](#).

Departments are expected to conduct robust evaluation processes that comply with the public procurement rules and best practice.

Evidence suggests that, although Complex Outsourcing projects can be inherently difficult to cost, on occasions there has been **a bias towards low cost bids** rather than the best value for money in terms of cost and quality.

### Low Cost Bid Referrals

Where services are complex, there is a risk of low cost bias, even if evaluation criteria are designed to balance quality and cost.

Producing 'Should Cost Models' will put government in a stronger position to avoid this, but to further mitigate this risk an additional commercial control has been established.

**This requires departments to refer any abnormally low bid that is more than 10% lower than the average of all bids or the 'Should Cost Model' to Central Assurance and Scrutiny.**

This is to be done in accordance with Regulation 69 of the Public Contracts Regulations 2015.

### Cost vs Quality

It is Government policy to award contracts on the basis of value for money. See [Annex 4.6 of HM Treasury's Managing Public Money](#) and the [Green Book](#). **Value for money is defined as securing the best mix of quality and effectiveness for the least outlay over the period of use of the goods/ services bought.** It is **not** about minimising up front costs.





When considering 'outlay' the key factor is whole life cost, not lowest purchase price. Whole life cost takes into account the total cost over the life of a contract, including capital, maintenance, management, operating and disposal costs and can be very different from initial price. Paying more for higher quality may be justified if the whole life cost is advantageous. Departments should determine whether increased benefits justify higher costs.

Whilst cost will always be an important evaluation criterion, the expectation is that quality will be weighted higher than cost in a complex outsourcing, recognising the importance of delivering quality public services.

Evaluators should keep detailed records of their evaluation of bids, setting out the scores awarded and the rationale for the score. On the completion of the evaluation a robust evaluation report should be produced, based on the detailed evaluation records, demonstrating that the evaluation has been completed in accordance with the stated evaluation model, showing the evidence supporting the scores allocated, providing a clear interrogation of the all costs and demonstrating that the bid is financially sustainable over the life of the contract.

## Social Value

One of the objectives of Social Value Act is to enable departments to use public procurement to support common societal goals. These goals include, for example, the protection of the environment, energy efficiency, combating climate change, promoting innovation, employment and social inclusion, and ensuring the best possible conditions for the provision of high quality social services.

The **Balanced Scorecard** approach can be used to **design evaluation criteria that recognise the wider economic, environmental and social benefits** that can be achieved through public procurement.



## Key Principles

1. Value for money is defined as securing the best mix of quality and effectiveness for the least outlay over the period of use.
2. Evaluate tenders based on price and quality, including social value impacts.
3. Make use of balanced scorecard guidance to design fair, open and transparent evaluation criteria.
4. For complex outsourcing, any winning bids that are 10% lower than either the average cost of all the bids or the 'Should Cost Model' are referred to central scrutiny.



### Want to know more?



1. [GovS008 Commercial Functional Standard](#)
2. [The Green Book: appraisal and evaluation in central government](#)
3. [The Public Contracts Regulations 2015, Regulation 67: Contract award criteria](#)
4. [Procuring for Growth Balanced Scorecard](#)
5. [Evaluating Bids Guidance Note](#)



**SECURITY**



## 11 Resolution Planning and Ongoing Financial Monitoring

Although major insolvencies are infrequent we need to be prepared for the risk to continuity of critical public services posed by the insolvency of critical suppliers

### Resolution planning



If a supplier becomes insolvent, services may be affected. Where these are critical public services, any interruption is likely to be unacceptable or create significant risk.

**Resolution planning helps ensure continuity of critical public services and their orderly transfer to a new supplier or in-house in the event of supplier insolvency.**

The best time to put this in place is when contracts become effective with regular updates thereafter.

**All new critical service contracts require resolution planning information from suppliers. This requirement applies throughout the life of the contract. This will allow us to:**

- understand better the potential impact of a supplier's failure and key risks to continued service provision; and
- work with suppliers (and/or insolvency practitioners) to develop mitigations to limit the risk to critical public services.

We should **include supplier insolvency as a risk when reviewing suppliers' Business Continuity and Disaster Recover (BCDR) and exit plans for critical service contracts.**

Our own contingency plans for these contracts also need to be in place and subject to regular refresh. A template is referenced below.

Guidance on resolution planning is available in a new [Guidance Note](#).

### Public sector dependent suppliers

We also work jointly across government to manage risks to the delivery of public services posed by public sector dependent suppliers. The [Cabinet Office Markets & Suppliers team](#) should be consulted whenever departments are planning to terminate a service contract worth £5m pa or above with a public sector dependent supplier.

Standard clauses will be available in the updated Model Services Contract (MSC) for inclusion in future service contracts. These require suppliers to confirm annually whether they are public sector dependent suppliers. They may also be required to provide resolution planning information.



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“ We require suppliers of critical service contracts to provide resolution planning information during the lives of the contracts.”

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## Ongoing financial monitoring

Although the financial standing of suppliers is assessed during procurement, it can deteriorate subsequently either suddenly or over time. Early recognition of the risk of supplier financial failure gives us more time to prepare for that failure should it occur and mitigate the risk to continuity of critical public services.

We must therefore monitor the financial standing of our key suppliers on an ongoing basis.

Monitoring should normally be performed in the first instance by a function or team which is independent of the day-to-day contract management role. Its frequency should reflect the frequency of the supplier's own financial reporting regime and the perceived risk of failure. Ongoing 'alert' systems should be established to monitor company announcements and other information sources.

The outcome of financial monitoring should be discussed with contract managers and, where appropriate, reassurance sought from the supplier. Where monitoring and follow-up suggest a raised level of concern, contract managers should ensure their contingency plans are up-to-date and consider what further action or monitoring is required.

Guidance on ongoing financial monitoring is available in [Assessing and Monitoring the Economic and Financial Standing of Suppliers](#).

## Compliance confirmation

In future, the financial thresholds we require suppliers to meet during the lifetime of new critical contracts will include some of the financial tests conducted on procurement. We will also require the boards of suppliers of new critical contracts to confirm annually that they continue to meet these thresholds.

## Financial distress

Guidance on supplier financial distress is available in [Corporate financial distress](#). The guidance sets out common signs of potential distress, how financial distress can lead to insolvency, the different forms of insolvency, the steps that you should take and the additional support available.

## Consequences of supplier insolvency

A supplier's insolvency can adversely affect the profitability and cash characteristics of its contracts. An administrator or liquidator may choose not to continue with a contract that is or becomes loss-making or cash-negative or carries significant risk. In such circumstances,

we will need to consider how best to maintain service continuity.

We may also experience re-procurement or other costs on switching suppliers and the cost of the new service may change.

## Key Principles

1. Resolution planning helps ensure continuity of critical public services and their orderly transfer to a new supplier or in-house in the event of supplier insolvency.
2. When reviewing suppliers' BCDR plans for critical contracts, include supplier insolvency as a risk. Make sure exit plans and exit information cover emergency exit arising from supplier insolvency.
3. Keep our own contingency plans for critical contracts up to date and make sure they cover the risk of supplier insolvency.
4. Ongoing financial monitoring enables early identification of possible problems and the opportunity to test contingency plans before they are needed.



### Want to know more?



1. [Resolution planning Guidance Note](#)
2. [Contingency plan template](#)
3. [Contract Tiering tool](#)
4. [Model services contract](#)
5. [Assessing and monitoring the economic and financial standing of suppliers Guidance Note](#)
6. [Corporate financial distress Guidance Note](#)







## 12 Expiry, Extension, Transition and Termination

Early planning puts us in a position to conduct orderly transitions to new contract arrangements, whether extending, re-tendering or bringing delivery back in-house.

### Early planning for contract end

The first chapter set the expectation that all outsourcing projects should make an assessment of the market during the preparation and planning phase. This guiding principle equally applies when we are approaching the end of an existing contract. The market may have changed sufficiently to alter the basis of previous decisions and the market health and capability assessment should therefore be updated.

We should also have thought about how to ensure, under any circumstances, a smooth transition to new arrangements. The contract should have been written to include clear expectations for exit and transition arrangements, including **obligations on the supplier to warrant data and information back to the department** at the end of the contract.

And where a contract runs its full course, there should be sufficient means within the contract to **incentivise the incumbent supplier to both maintain resources and performance up to the end of the contract**.

It is also important to remember, and plan for, the **additional burden on operational and commercial staff** of simultaneously managing an existing contract, tendering a replacement contract, on-boarding a new supplier and off-boarding an incumbent.

### Extensions

Some contracts contain an option to extend. Whether to take up this option or not **should be considered well in advance of when notice needs to be served**. Effective management of our commercial pipelines helps to ensure we are prepared for this decision. See also section 4.3.5 of the [Government Commercial Functional Standard](#).

Where we have failed to plan early enough in the past, we have been left in the very weak position of having inadequate time to carry out a reprocurement.

We must plan early and set out our requirements for any extension to the contract. Some contracts provide for an extension to be on the same terms and conditions whilst others rely on a review clause which, if it is to be relied upon, must set out a clear, precise and unequivocal review process. If we decide not to extend the contract, this decision must be taken far enough in advance to allow for a reprocurement.

### Bringing delivery back in-house

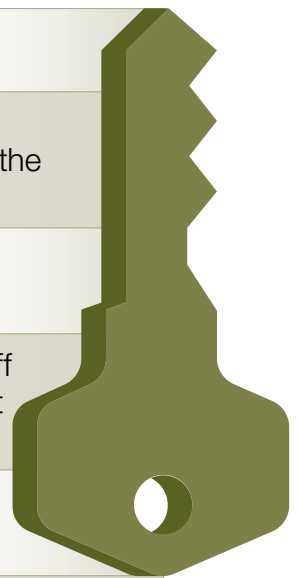
The Make or Buy guidance in chapter 3 should be followed when considering insourcing services.





## Key Principles

1. Plan early for what happens at the end of a contract.
2. There should be sufficient means within the contract to incentivise the incumbent supplier to both maintain resources and performance up to the end of the contract.
3. Suppliers are expected to warrant data and information back to departments at the end of a contract.
4. Be prepared for the additional burden on operational and commercial staff of simultaneously managing an existing contract, tendering a replacement contract, on-boarding a new provider and off-boarding an incumbent.
5. Allow sufficient time to decide whether or not to extend a contract (where contract provisions allow).
6. Review benefits realisation on an annual basis.



## Want to know more?



1. [GovS008 Commercial Functional Standard](#)
2. [The Green Book: appraisal and evaluation in central government](#)
3. [Approvals process Guidance Note](#)
4. [Review of quality assurance of government models](#)
5. [The Aqua Book: guidance on producing quality analysis for government](#)
6. [Market Management Guidance Note](#)
7. [Make or Buy Guidance Note](#)
8. [Benefits Measurement Guidance Note](#)

