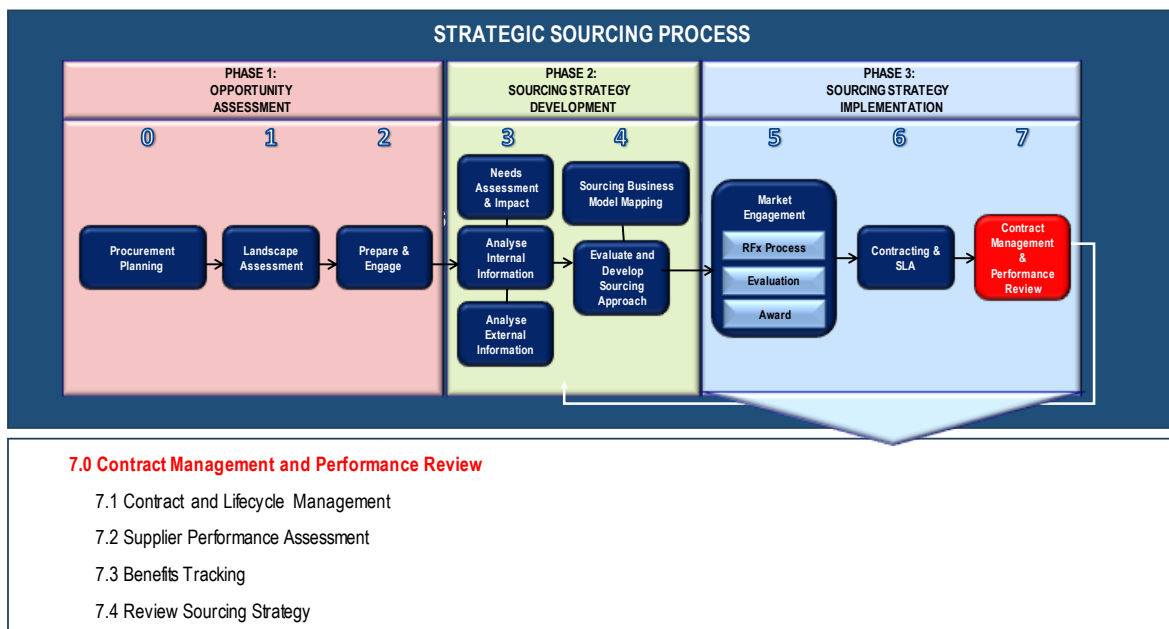


Using this guide

This guide accompanies the National Treasury's Strategic Procurement Framework (SPF) for Strategic Sourcing in the Public Sector. For more information, visit the National Treasury website at <http://ocpo.treasury.gov.za/>. The SPF can be found here: http://ocpo.treasury.gov.za/Resource_Centre/Documents/1A.%20Strategic%20Procurement%20Framework.pdf

CONTRACT MANAGEMENT AND PERFORMANCE REVIEW



1.0 Introduction

- i. At this stage, the procuring institution is working on implementing the sourcing strategy through contract and lifecycle management, performance assessment, benefits tracking and sourcing strategy review to identify improvement opportunities.

1.1 The objective

- i. Ensure an effective contract management process throughout the life of the contract.
- ii. Ensure consistent tracking of the supplier performance.
- iii. Ensure that the benefits of implementing successful contract management are tracked and recorded.
- iv. Ensure that a sourcing strategy is reviewed to determine areas of improvement.

1.2 Output

- i. Contract Management Plan
- ii. Supplier Performance Dashboard
- iii. Savings/Benefits Dashboard
- iv. Sourcing Strategy Review Report

2.0 The narrative

2.1 Contract lifecycle management

2.1.1 What is contract management?

- i. A contract is an agreement entered into by two or more parties to create a legal obligation, or obligation resulting from an offer and an unconditional acceptance of such an offer.
- ii. This means that every transaction undertaken by an Institution is a result of a contract.
- iii. Contract management covers all the activities at the commencement of, during and after the contract period.
- iv. It is the process that ensures both parties to a contract fully meet their respective obligations as effectively as possible, to continually deliver both the business and operational objectives required from the contract.
- v. This means actively tracking and monitoring delivery and costs, managing risks, and actively managing the relationships between the department and the supplier.

- vi. Contract management is simply the maintenance of control or influence over the contractual relationship between an Institution and a supplier, including the administering and regulating of the contractual agreement.

2.1.2 The importance of contract management

- i. Good management of contracts ensures that services are delivered according to specifications at the agreed time and price.
- ii. Improperly managed contracts may impact negatively on the procuring Institution and government at large.
- iii. Project management techniques could be applied to managing contracts.
- iv. Contracts should be managed in terms of the contractual documents which formed a part of the bid such as the General Conditions of Contract (GCC), Special Conditions of Contract (SCC) and Service Level Agreements (SLAs).
- v. Regular contract management reviews must be done to consider existing and potential strategic relationships to deliver benefits for all relevant parties.
- vi. Contracts are managed to reduce the risk of failure and improve the chances of delivery success.

2.1.3 Contract lifecycle management

- i. There are four stages of contract lifecycle management.
- ii. These are:
 - a. Contract creation,
 - b. Contract execution,
 - c. Contract administration, and
 - d. Contract close-out.

2.1.4 Key activities in contract management

- i. Contract Management activities can be broadly grouped into three areas:

2.1.4.1 Service delivery management

- i. The objective is to ensure that the service is being delivered as agreed, to the required level of performance and quality.

- ii. Service level management is the process of managing the performance provided to the department as specified in the contract's performance requirements, for example, key performance indicators or quality standards.
- iii. To meet the department's business needs, the supplier has to optimise the relationship between cost and quality of the service delivered.
- iv. Service level management plays an important role for the supplier in balancing these factors: to provide the department with what it wants and the best value for money.

2.1.4.2 Relationship management

- i. The objective is to keep the relationship between the two parties open and constructive, aiming to resolve or ease tensions and identify problems early.
- ii. Ultimately the success of the commercial relationship often comes down to the relationship between the department and the supplier. Getting it right benefits both parties.
- iii. The benefits of developing and maintaining a good supplier relationship fall on both parties.
- iv. The three key factors for successful supplier relationships are:
 - a. Openness and excellent communication
 - b. Developing mutual trust and understanding
 - c. A joint approach to managing delivery and any related problems

2.1.4.3 Contract administration

- i. The objective is to formally handle the governance of the contract and changes to the contract documentation.
- ii. Contract administration involves activities such as:
 - a. Maintaining documentation relating to the contract
 - b. Regulating change control
 - c. Monitoring changes and costs
 - d. Checking invoices and authorising payments
 - e. Reviewing reports and requesting information

- f. Asset management

2.1.5 Benefits of effective contract management

- i. Contract management is a process undertaken to:
 - a. Ensure timely delivery of goods and services;
 - b. Achieve the full benefits of the procurement process and contract;
 - c. Minimise costs associated with risks arising during the term of the contract;
 - d. Improve the benefits flowing to customers and suppliers;
 - e. Promote innovation and continuous improvement;
 - f. Create additional benefits for both parties through good relationships;
and
 - g. Achieve value for money in the procurement of goods and services.
- ii. Managing the contract and monitoring the performance of suppliers is crucial to achieving the intended objectives of the procurement.
- iii. All the effort undertaken through the acquisition planning and supplier evaluation process is of little value unless the intended benefits are realised during the period of the contract.
- iv. The key to effective contract management is having a clear set of contract outputs or outcomes and actively working with the supplier to ensure the delivery and achievement of them.

2.1.6 Role of the contract manager

- i. The contract manager is responsible for ensuring that:
 - a. The contracted goods or services are provided as per the specification and the terms of the contract;
 - b. Contract risks are reviewed, monitored and managed;
 - c. Effective communication is maintained between all parties;
 - d. Variations to the contract are processed and approved by the contract and other relevant legislation;
 - e. Ongoing requirements (e.g. valid tax status) are validated for the period of the contract;

- f. Continuous improvement practices are applied to future contracting processes; and
 - g. Appropriate records and documentation are maintained.
- ii. This guide assumes:
 - a. A person with appropriate contract management expertise, judgement and skills has been assigned as 'contract manager', as early as possible during the procurement process;
 - b. The procurement process to select a supplier in terms of the procurement legislation and related policies and guidelines, has been undertaken and completed; and
 - c. A contract has been signed by the relevant parties, recorded on a contract register and, where appropriate, a contract management plan has been developed, outlining specific contract management requirements and specific task responsibilities.
- iii. The contract manager's duties and responsibilities are governed by the conditions of the contract, the contract management plan and common law.
- iv. In addition, the contract manager may be required to form opinions and make decisions, and in doing so is expected to comply with ethical procurement practices when dealing with suppliers and stakeholders.

2.2 Supplier Performance Assessment

- i. Supplier performance management is time-consuming and sometimes expensive.
- ii. It must be approached with great care and understanding.
- iii. The procuring institution must first understand the importance of assessing supplier performance, and also decide which commodities need close monitoring.

2.2.1 The importance of supplier performance monitoring

- i. Managing and monitoring a supplier's performance is one of the tools that can be used in meeting the principles of the procuring institution's procurement objectives.
- ii. Sound supplier performance monitoring and management strategies offer the following opportunities:

- a. Assist procuring institutions to reduce internal transaction costs associated with procurement;
- b. Contribute to effective risk management;
- c. Contribute towards the development of strategic relationships with suppliers;
- d. Assist in developing supplier capability;
- e. Assist in the development of supply chain management strategies; and
- f. Minimise service delivery disruptions and enhance the security of supply.

2.2.2 For which purchases?

- i. Deciding the level of monitoring and management required for a supplier's performance should be based on assessments of risk management and cost-benefit considerations.
- ii. Monitoring and managing performance should be a priority when procuring goods and services that are relatively expensive and for which supply is difficult to secure.

2.2.3 An Effective Supplier Performance Assessment

- i. Effective supplier performance monitoring and management requires the contract manager to:
 - a. Regularly check the supplier's progress to ensure that contractual obligations are being met;
 - b. Conduct regular random inspections of the supplied goods and/or services during the contract period to ensure that they meet specifications and are of a suitable standard;
 - c. Check that all conditions and clauses in the contract are acted upon; the contract manager should be aware of any breaches of contract and be prepared to take action (after seeking legal advice) if any non-conformance with the contract occurs;
 - d. Advise the supplier in writing if dissatisfied with any aspect of performance under the contract;

- e. Act immediately if a problem occurs and involve senior representatives of both the procuring institution and supplier to solve any identified problems as soon as appropriate;
- f. Develop effective mechanisms for obtaining feedback from stakeholders about the procurement;
- g. Keep adequate, written records of all dealings with the supplier and of the administration of the contract (e.g. file notes of inspections, telephone conversations, records of meetings and documented invoice processing);
- h. Perform regular inspections of work to ensure compliance with any applicable legislation, contract conditions, quality provisions; or workplace health and safety. Depending on the nature of the procurement, its complexity and associated risks, this could be on a daily, weekly or monthly basis.

2.3 Benefits tracking

2.3.1 Tracking the benefits of a sourcing strategy

- i. Accurate benefits tracking (reporting of savings and improved efficiencies) is becoming more beneficial as the need to understand the important role procurement plays in supporting the delivery of services at a time when resources are constrained, grows.
- ii. This guide aims to help government institutions identify, measure and report on the savings and benefits of procurement activities. It:
 - a. Describes typical procurement savings and benefits.
 - b. Outlines the factors you need to consider when measuring savings and benefits.
 - c. Provides a five-step process you can use to measure your procurement savings and benefits.

2.3.2 When to use the tracking of benefits

- i. The five-step process is particularly suited to measuring the savings and benefits of procurement activities.
 - a. Step 1: Define the scope of the procurement activity
 - b. Step 2: Define the comparison units
 - c. Step 3: Baseline the current costs
 - d. Step 4: Predict the future costs
 - e. Step 5: Compare: What are the savings and other benefits?
- ii. It may also be appropriate to use this methodology for more complex and high-value procurements.
- iii. The process also responds to the need for a consistent approach across all procuring institutions.
- iv. By using the process, institutions will be able to collectively quantify and track their contract's financial savings and wider benefits.
- v. If your institution chooses to use another measurement process for highly strategic and/or complex procurements, you should make sure that the terms you use are consistent with those in this guide.

2.3.3 Benefits tracking in procurement

- i. Savings and benefits typically result from three broad types of procurement, the **Assessment** of such benefits come from the types of procurement.
- ii. Generally, there are three types of procurement, these are renewal or modified rebuy, new purchase and renegotiation or improvement of terms.
 - a. **Renewal or modified rebuy:** where the term of a contract (or agreement) has ended and it is renewed through a procurement process.
 - i. A renewal activity often has a strong historical baseline that can be used to compare and quantify the savings/benefits the activity creates.
 - ii. However, any specification change should be identified and considered in the comparison.

- iii. For example, in a contract for new vehicles there might be different safety specifications from the original.
- b. **New:** for procuring products/services for the first time, contracting out existing services or undertaking a one-off procurement activity.
 - i. New procurement also requires an appropriate baseline for comparison, such as the budget in the original business case (as long as it is realistic).
 - ii. The benefit can also be realised through a process of benchmarking with existing similar purchases.
 - iii. The benchmark can be used as a source for comparing the outcomes and the potential savings.
- c. **Renegotiation or improvement of terms:** interaction with an existing supplier that results in savings to the business through negotiating current terms and conditions.
 - i. The savings/benefits might be simple to quantify, such as those that result from reduced delivery costs, or bulk ordering that leads to supplier discounts or rebates.
 - ii. The renegotiation may also be classified as a straight rebuy, which is a purchase conducted with the same suppliers on the panel with the same specifications.
- iii. How you go about measuring the savings/benefits of a particular procurement activity will be influenced by the type of procurement you use.
- iv. At the very start of the procurement process there may be a **Target** that applies to the procurement project. This will normally be applicable only in the higher value tenders where detailed market analysis has taken place.
- v. This may be imposed (for example an institution may have to maintain the same levels of service with a 5% drop in budget), or aspirational (aiming to achieve a 2% improvement on the current delivery cost).
- vi. As the procurement proceeds, market research and strategy development will give a more realistic overview of what savings and benefits may be achievable,

enabling the tender process to begin with a fairly strong **Forecast** of the expected benefits.

- vii. When tenders are considered, the decision to award a contract is based on a value judgement that indicates that the agreed contract will deliver certain benefits. Once the contract is awarded, those benefits/savings are **Secured**: that is, the contract will deliver them if it is used and performs as expected.
- viii. During the lifetime of the contract, it is key to ensure that the contract delivers the anticipated savings and benefits. These delivered savings are the most important as they are based on actual, bottom-line savings that have impacted an organisation. So even if there are challenges to recording the savings before this stage, it is essential that this saving is recorded.
- ix. The following diagram illustrates how benefit tracking can be traced throughout the strategic sourcing process through the various stages.

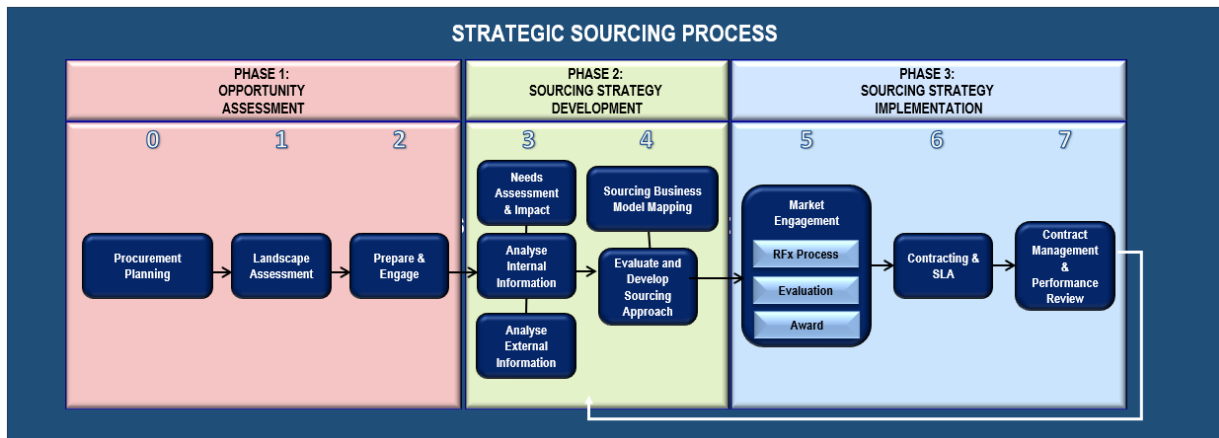


Figure 1: Social Value Tracking Throughout the Sourcing Process

2.4 Review the sourcing strategy

2.4.1 Why must the sourcing strategy be reviewed?

- i. The review of the sourcing strategy is typically conducted by the Cross-Functional-Sourcing Team (CFST).
- ii. The roles and responsibilities for delivery (governance) and the transparency of the decisions made, money spent and results achieved (accountability) are all subject to review.
- iii. Due process must be followed at all stages of procurement.
- iv. Except for governance and accountability reasons, it is also important to take stock to refine and improve the sourcing strategy.
- v. Strategic sourcing is not a once-off event, but a continuous cycle of improvement.