NEW ZEALAND
GOVERNMENT PROCUREMENT

Developing your Construction Procurement Strategy

Construction Procurement Guidelines

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MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Construction Procurement Guidelines

The purpose of the Construction Procurement Guidelines is to provide government agencies with guidance on the government's standards of good practice for the development of their construction procurement strategy. The Guidelines are intended to support government agencies to improve the quality and consistency of their construction procurement practices.

The Guidelines consist of a suite of sections, each covering a subject matter area. They are considered to be live documents which we may update and add to, from time to time, to ensure they remain current and relevant. You can download the latest version of each section, along with any accompanying tools and templates, from www.procurement.govt.nz.

To provide feedback on the Guidelines, email procurement@mbie.govt.nz.

Major infrastructure project guidance

Major infrastructure projects by their very nature are large scale and complex – they have bespoke issues, risks and challenges that may require more sophisticated project planning, management, procurement and governance approaches. The New Zealand Infrastructure Commission - Te Waihanga, publishes major infrastructure guidance for projects with a total cost of ownership of greater than $50m.

For more information about major infrastructure project guidance and the support provided by the Infrastructure Commission, see www.infracom.govt.nz or contact the Infrastructure Commission at info@infracom.govt.nz.

Disclaimer

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New Zealand Government

New Zealand Government Procurement
PO Box 1473 | Wellington 6140 | New Zealand

www.procurement.govt.nz | procurement@mbie.govt.nz

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Developing your Construction Procurement Strategy

Overview

A robust, documented procurement strategy, based on facts and analysis, is an important part of planning the successful delivery of your capital project.

A procurement strategy is developed during the planning phase of the procurement lifecycle. One of the key objectives of a procurement strategy is to assess a range of delivery options and identify a recommended delivery model. By assessing a range of options, you can maximise value and optimise project outcomes.

The procurement plan follows on from the procurement strategy document, providing the methodology, approach, process, and project management structure for sourcing and managing your suppliers.

Within this guide, **client** means the public sector agency that procures and delivers the project.

Procurement strategy relates to the process for considering and deciding the most appropriate delivery model and approach to market for a specific project. The procurement strategy should be documented, to clearly demonstrate how an agency has evaluated the available options and arrived at a best-fit solution. There's no universal template for use, however, a good procurement strategy should contain at a minimum the items as highlighted below in Components of a good procurement strategy.

Procurement plan is the execution plan for delivering the procurement strategy during the sourcing phase of the procurement lifecycle. It should address matters such as:

- governance
- key stakeholders and their responsibilities
- budget management
- tender deliverables
- timelines and milestones
- probity requirements
- tender evaluation requirements.

Steps to developing your procurement strategy

The process of developing a procurement strategy can be divided into three steps:

Although this process is shown as sequential, these steps may also be repeated as the project progresses, circumstances change, and more information becomes available. It can be developed in parallel with your business case.

Components of a good procurement strategy

- ☐ Statement of objectives
- ☐ Summary and analysis of:
  - ☐ project objectives
  - ☐ requirements
  - ☐ characteristics
  - ☐ risks
- ☐ Review of client and market capabilities
- ☐ An analysis of delivery model options and identification of a recommended delivery model
- ☐ Analysis of potential procurement methods and identification of a recommended method
- ☐ Description of how whole-of-life outcomes will be delivery
- ☐ Summary of market engagement strategy
- ☐ Summary of approach to:
  - ☐ risk management
  - ☐ health and safety
  - ☐ incorporating broader outcomes
  - ☐ construction skills and training
  - ☐ sustainable construction
  - ☐ Building Information Modelling (BIM)
- ☐ A project plan showing timing and sequence
- ☐ Client contract management requirements
- ☐ Opportunities for bundling or unbundling work and contracts, for example:
  - ☐ bundling projects of a similar nature to increase economies of scale, or
  - ☐ splitting contracts where speed is a high priority, such as enabling, groundworks and main contract.

Note: The level of detail for each can be tailored to the scale and complexity of your project. Procurement strategies for projects that are low-risk and low-value may not require all these elements.

Key success factors when developing an effective procurement strategy

- Fully understand the project characteristics including key drivers, constraints and risks.
- Assess client and market, capabilities and capacity.
- Evaluate potential delivery models and approach to market for suitability.
- Involve key stakeholders and experts early in the planning and development process.
- Challenge assumptions in order to better achieve desired outcomes.
- Use practical analytical techniques to support the decision-making process.

Context

This focus area assumes that you have developed or are developing a business case that indicates new construction work, or construction work involving refurbishment of an existing asset, is needed.

It describes what MBIE considers good practice when you develop a procurement strategy for a construction project. It provides basic guidelines on the types of delivery models available, how to go about assessing which model may be the best fit for your project, and the issues to consider when planning your approach to market.

This guide is not a substitute for professional advice. It helps inform you about some of the key issues to address when you develop a procurement strategy for a construction project.

If you require more information and advice on procurement of construction projects, contact MBIE at procurement@mbie.govt.nz.

Gather and analyse project information

The first step involves gathering and analysing relevant project information to establish a good understanding of your project characteristics in the following key areas:

- Project requirements
- Project constraints
- Project risks
- Client capability
- Market position.

Understanding the project's unique characteristics will enable you to identify the appropriate evaluation criteria, and their weightings, and decide on the best project delivery option.

The project brief is a useful source of information. The following tables will also help you with some of the questions key to determining your project's characteristics.

Project requirements

Key requirement	Factors to consider…
Broader outcomes	• What broader outcomes should be incorporated? (Eg social, economic, environmental, and cultural)
Priority outcomes	• How will priority outcomes be achieved? (Eg ensuring that there's a focus on adopting good health and safety practices and improving construction skills and training throughout the supply chain)
Whole-of-life	• How will good whole-of-life outcomes be achieved covering off the three key elements of lifecycle cost, user criteria and environmental considerations?
Programme and phasing	• What are the desired milestone dates? • What is the target date that the asset should be operational?
Service	• What are the future operational requirements? • What are the future maintenance requirements? • Would this be suitable for delivery by the private sector?
Design criteria	• What performance standards are required for achieving whole-of-life public value? • What functionality is to be delivered by the project? • What are the required quality standards? • What are the drivers for design eg new technology? • Is an attractive architectural statement required? (Reflecting the asset's status in the community) • Is there sufficient space to meet the client's immediate and possible future space requirements? • Is the site potential being maximised? • Do those operating and maintaining the facility have any specific needs?

Cost certainty	• Has the budget for the project been finalised? • Would the final cost of the project be expected to vary from the budget cost? • Can the project be funded through alternative sources?
Other objectives	• Are there objectives around aspects of sustainability? • Are there objectives around iwi engagement?
Site	• Where is the site? What are the desired features of prospective sites? • What is the site status? (including land ownership, geotechnical conditions, demolition and disposal needs, environmental and heritage issues)

Project constraints

Constraint	Factors to consider…
Site status	• What is the location? • What are possible future developments on or around the site? • What is the nature of the land title? • What are the geotechnical conditions? • Does the site need remediation due to contamination? • Are there demolition and disposal needs? • Are there environmental considerations? • Are there cultural heritage considerations?
Site condition	• What type of site is it? • How will contractors price for any risks associated with the site conditions? • Have extensive reviews of the site been done as part of the design development process? • Is the client willing to retain full control of the design and accept the risk of potential unknown risks?
Planning	• Is the design sympathetic to the needs of the planning authority and local stakeholders?
Risk allocation	• What is the project risk profile, and how are these risks to be allocated and managed between client and supply chain?
Degree of client involvement	• What degree of involvement would the client like to have?
Flexibility for change during design and construction	• Is absolute cost certainty required before commitment to build? • When in the project will cost certainty need to be fixed? • Do the design and construction processes need to be flexible, to allow incorporation of future changes? (eg advancements in technology)
Market interest	• Will the procurement method get a good response from contractors?
Design and construction complexity	• Is the project pushing the boundaries of technology? • Is the project technologically complex in terms of services? • Does it need specialised equipment or a custom-built plant?

Opportunities	• Are there opportunities to bundle or unbundle the project to maximise value? (eg where the project is part of a wider programme)
Other constraints	• Are there other constraints specific to this project? (eg the remote location of the site)

Project risks

Identify your project risks, including all major risks and opportunities identified in the risk register. This could include:

- Site issues
- Permits
- Design
- Materials
- Constructability
- Client risk culture
- Market maturity
- Market capability
- Market appetite for risk transfer
- Financial
- Political opportunities and risks
- Stakeholder management.

Client capability

Use the Matching capability to complexity guide to review your capability. In particular focus on:

Capability…	Consider…
Client capability	• Different delivery methods and project sizes require different levels of knowledge, skill, experience and resources. You should also consider the capability and availability of potential team members. • Do you have adequate resources to manage the preferred delivery model? • What is the level of oversight that you can provide? • What is your ability to manage a particular delivery model? • What is your ability to develop or administer a new form of contract that has not been used previously? • Do you have experience in delivering the type of project desired?
Stakeholder input	• Is there potential for community disruption and opposition? • What are the contact points with neighbouring assets, operations, works or supply contracts? • Are there any existing commitments made to stakeholders and the public?

If extra capability is required, consider sourcing the required capability externally from other government agencies or the private sector. For more advice, contact MBIE at procurement@mbie.govt.nz.

Market position

Use the Market capability assessment tool to help determine the market position. Undertake an initial market discussion and/or briefing for possible supplier/s to determine the following:

- Risk appetite
- Views on different potential delivery models
- Capability with respect to different delivery models.

Determine preferred delivery model

Selection of an appropriate delivery model is one of the most important decisions to be made during the construction procurement process. An inappropriate delivery model can increase project risk and negatively impact value for money, quality and timing.

Undertaking a delivery model options analysis reduces this risk. It is essential that a robust analysis is done.

Agencies must document their rationale in their procurement strategy/plan for the selected delivery model and planned approach to market.

Experienced judgement is required to facilitate discussion and to help identify a recommended delivery model to suit unique project characteristics. This process requires expertise from practitioners familiar with the models being considered.

Types of delivery models

The delivery model you select will determine how you organise your project team. This is a key decision when determining your procurement strategy. There are advantages and disadvantages to each model, and selection should be based on the project and situation specifics.

There are many types (and hybrids) of delivery model to choose from:

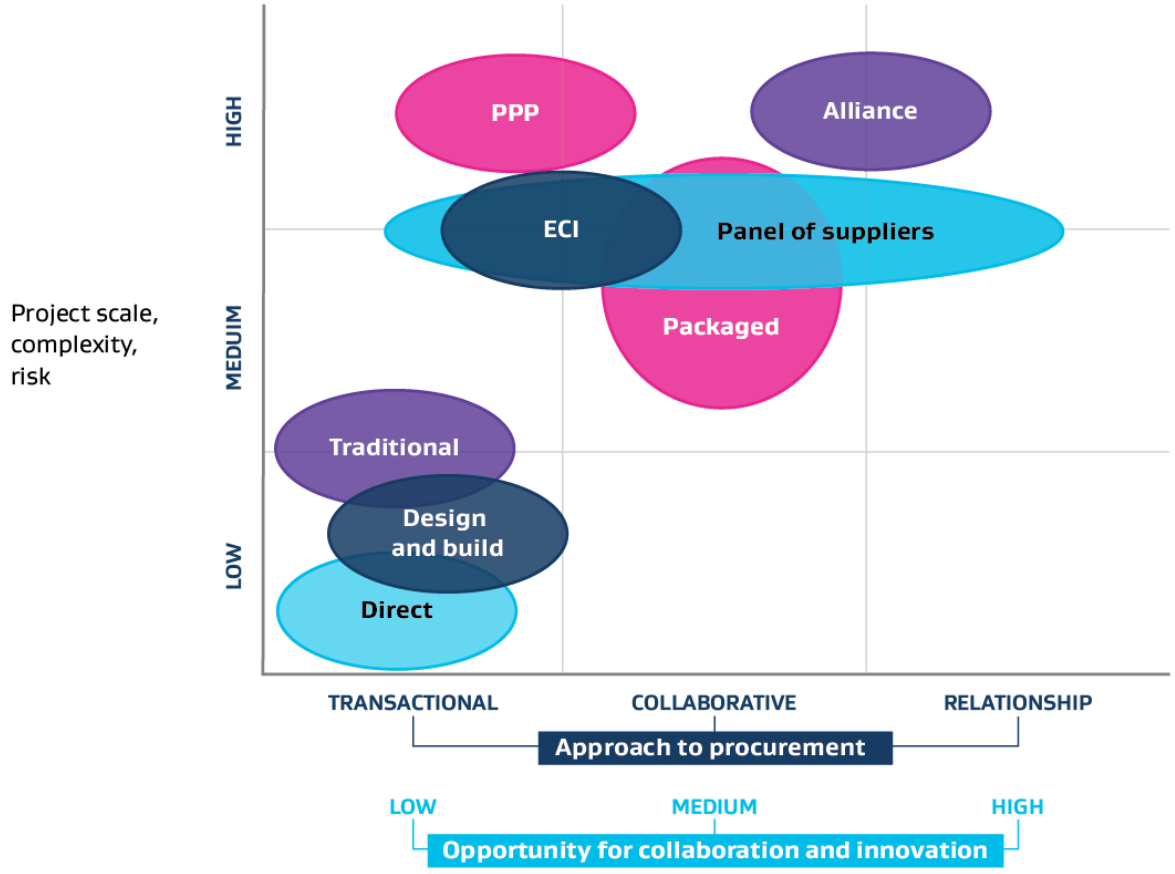
- Traditional (conventional client-led design)
- Design and build
- Package based
- Direct managed
- Alliance
- Public private partnerships (PPP)
- Early contractor involvement (ECI)
- Panel of suppliers.

Each of these models is described in the following pages, looking at:

- the typical circumstances in which they are used
- their potential benefits
- points to watch.

Overview of delivery model types

This diagram provides a simple overview of the types of delivery model available and where these are appropriate given the scale, complexity or degree of risk. It illustrates how each delivery model influences the procurement approach and opportunities for collaboration and innovation.



The model selected influences collaboration among the project team during the design process. For example, the traditional delivery model requires the design to be completed by the client design team prior to tender. This can limit scope for the contractor to provide input to ensure that the project is economical and safe to build. That isn't to say that the design team won't consider safety in design, but the contractor and its supply chain will have a greater knowledge and experience in construction methodologies. Engaging the contractor at an earlier stage of the design process, for example through early contractor involvement (ECI), can help to overcome these kinds of challenges to secure good project outcomes.

Information sheets

The key features of each of the delivery models and their suitability for use can be found in the following information sheet PDFs:

- Traditional delivery model
- Design and Build delivery model
- Package Based delivery model
- Direct Managed delivery model
- Alliance delivery model
- Early Contractor Involvement (ECI)
- Panel of Suppliers
- Public Private Partnerships (PPP)

A note on professional services

All delivery models require the professional services of design consultants. The delivery model selected determines whether it is you as the client or the contractor that appoints the design consultants.

You will usually also require consultants to support you in project management, cost management and contract administration and the type of delivery model will influence the level and scope of services required for each. If you have a pipeline of projects you may consider developing in-house capability to undertake some of these roles.

Identifying a preferred delivery model

Determine evaluation criteria

Having established the project characteristics, appropriate evaluation criteria can be developed for assessment of potential delivery models. It can be helpful to investigate the lessons other organisations have learned delivering similar projects (public and private).

You can contact New Zealand Government Procurement and Property to help you identify other organisations that may be able to help, email procurement@mbie.govt.nz.

Agree on weightings for evaluation criteria

Assign weightings to criteria based on relative importance to you as the client while remaining objective about overall project needs. It is a good idea to agree on the criteria and relative importance of each with key stakeholders.

Evaluation weighting and scoring of options is best done using workshops and/or interviews with relevant key stakeholders. These should be thoroughly discussed in facilitated, structured sessions, and agreed on. This process isn't an exact science.

You may choose to use the Procurement delivery model evaluation tool as a template to enter the criteria and weightings. The tool includes a pairwise comparison which will help to rank a set of decision-making criteria and rate the criteria on a relative scale of importance.

Evaluate delivery models

You should:

- Score each potential delivery model option against the evaluation criteria. This can be done in a stakeholder workshop with individuals scoring first, before sharing scores in a wider group discussion to agree the final scores for each option. It is good practice to have a facilitator who can run the workshop and prepare the final outputs.
- Discuss and constructively challenge scoring but be prepared to listen to all stakeholders' views. Everyone will have a slightly different perspective based on their own experiences. Consider which delivery models might match the project objectives and reduce risk. One of the benefits of this approach is to gain a collective stakeholder understanding of the delivery model and the related risks and opportunities.
- Identify a preferred option(s). Capture both qualitative and quantitative notes to support this.
- It is a good idea to test the preferred option(s) through more market discussions, before a final delivery model is recommended.
- Determine the final option and keep records of the decision making process.

The Procurement delivery model evaluation tool can be used to help with the evaluation process.

Checklist for establishing delivery model evaluation criteria

The following is a useful checklist for establishing evaluation criteria:

- ☐ **Speed of project delivery**: is time taken to first occupation/use critical?
- ☐ **Single point of responsibility**: is having a single point of responsibility for both design and construction important, or are you willing to accept design risk?
- ☐ **Cost certainty**: is certainty of cost before commencing build important, or are you willing and able to take some risk on this?
- ☐ **Whole-of-life cost certainty and accountability**: is certainty in whole-of-life costs critical, and is there a single point of responsibility for achieving whole-of-life outcomes?
- ☐ **Broader/priority outcomes**: is the project of a scale or complexity that requires a higher degree of engagement with the supply market, beyond the main contractor to ensure that broader and priority outcomes are achieved?
- ☐ **Design quality**: is the facility going to be a landmark project in terms of design quality, specialisation or technological innovation? (that would call for close control of the design)
- ☐ **Complexity**: is the project highly complex, or does it include highly-specialised elements requiring design-stage collaboration of the design team and supply chain to deliver good whole-of-life outcomes and manage risk?
- ☐ **Flexibility to change**: is there a need for some flexibility post-contract, to make changes to the design where practical? (Eg to take advantage of developments in technology)
- ☐ **Certainty of scope**: is there a high degree of uncertainty in scope that can't be adequately defined prior to going to market?

It may be useful to share the rationale for selection of the preferred delivery model with the market when going to tender. This can help prospective tenderers understand and respond to your needs with innovative solutions.

Plan the approach to market

Once the recommended delivery model is chosen, you need to plan an approach to market:

- appropriate tender process
- pricing mechanism
- form of contract for each package of work.

The Guide to Procurement gives detailed guidance regarding this stage. The following information complements this guide by providing guidance on specific aspects of construction.

This guidance has been developed in accordance with the Principles in the Government Procurement Rules. Agencies who follow these guidelines provide greater certainty within the tendering process for themselves, tenderers and contractors.

Tender process

You should:

- Determine the most appropriate tender process and type. See the Government Procurement Rules, and the Guide to Procurement.
- Use the Construction Tendering quick reference guide to provide greater certainty to you as the client and contractors in the tender process.

Interactive, collaborative tender processes

There's a growing trend in construction procurement to use an interactive tender process. Agencies involved in relationship-based models, including Alliance delivery models, typically adopt this approach.

Structured interviews and/or workshops conducted throughout the tender period are used to clarify the contract scope and to assess tender performance. Tenderers can ask clients about their requirements, and obtain feedback on their proposed approaches.

Benefits of this approach include:

- minimising misunderstanding arising from the client's documentation
- improving documentation (where necessary) prior to finalising contract documents
- encouraging open, transparent and collaborative dialogue
- improving time and cost outcomes
- minimising risk contingency amounts in the tender price to cover unknown factors and risk.

Contract price mechanism

Identify the most appropriate pricing mechanism

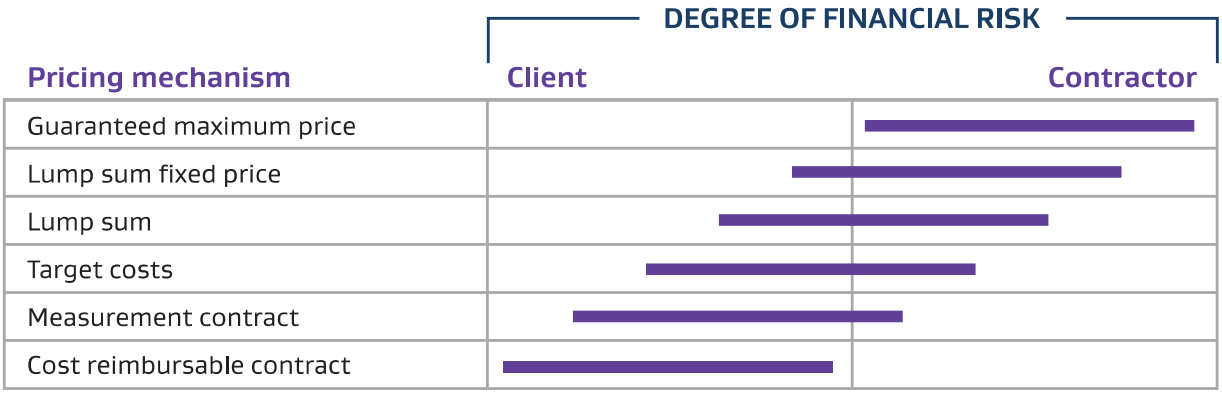
The pricing mechanism determines the level of cost certainty that you can achieve at the time of contract award, and how much financial risk is to be allocated between the parties to the contract. It also influences how quickly a project can go to market. In general, the greater the cost certainty required at award of contract, the more time is needed to develop the design to a sufficient level of detail needed for pricing.

Common pricing mechanisms include:

- guaranteed maximum price
- lump sum (based on either a schedule of quantities or drawings and specifications)
- target cost contract
- measurement contract
- cost reimbursable contract.

Degree of financial risk shared between client and contractor for different pricing mechanisms

This table illustrates (in broad terms) the financial risks associated with each of the pricing mechanisms outlined.



Typical combinations of delivery models and pricing mechanisms

This table illustrates (in broad terms) the most common uses of each pricing mechanism against some of the delivery models described earlier.

Delivery model		Traditional	Design and build	Package based[1]	Direct managed	Alliance
Pricing mechanisms	Guaranteed maximum price		X			
	Lump sum fixed price	X	X	X	X	
	Lump sum	X	X	X	X	
	Target cost contract					X
	Measurement contract	X				
	Cost reimbursable contract					X

[1] Although package based and direct managed approaches don't provide cost certainty at the outset, lump sums can be agreed on a package by package basis as the project proceeds.

Information sheets

Further details of the key features of each of the pricing mechanisms can be found in the following information sheet PDFs:

- Guaranteed Maximum Price
- Lump Sum (including fixed fee variant)
- Target Cost Contract
- Measurement Contract
- Cost Reimbursable Contract

Type of contract

A contract formalises arrangements between the client and contractor to deliver a project. An appropriate form of contract for a project helps to ensure high quality and cost-effective outcomes. The form of contract in broad terms covers:

- obligations of the client (you) and the contractor
- details of how the contract will be administered: timing of payments, valuation of changes you request and details of how disputes will be addressed
- performance and quality standards to be met by the contractor
- how risk is to be allocated between you and the contractor.

Use the Contract Clauses quick reference guide and incorporate this guidance wherever possible to achieve the Principles in the Government Procurement Rules and to provide greater certainty to agencies, tenderers and contractors.

Consider other contract-related issues and how these are incorporated into the contract documents. Matters to consider include:

- contract administration arrangements and internal resource requirements
- contractual interfaces with other related projects
- opportunities to develop integrated project teams
- the use of any applicable technology-based project techniques

Benefits of using standard contracts

Agencies must adopt a recognised standard form of contract where an appropriate one exists for their selected delivery model.

Use of standard construction contracts can help to reduce procurement and contract administration costs, as they are generally well understood by users. Standard construction contracts are generally developed in consultation with clients and the industry and consider both perspectives to arrive at a contract with an appropriate balance of risk. Their familiarity with the industry can also help avoid disputes over the meaning and intent of clauses.

For more information on standard forms of designer/consultant and construction contracts, see the Standard Types of Construction Contract information sheet

Use of special conditions

Some standard forms, such as the New Zealand standard forms of contract, usually include what are referred to as 'special conditions'. These are usually standard schedules annexed to the standard form, which prompt you to define requirements specific to the contract, covering such matters as:

- selected pricing mechanism
- valuation of variations
- form of contractors' bond
- programme requirements
- provisions for payments and retentions
- insurances
- warranties and guarantees, etc
- financing instruments (if applicable).

Agencies must limit their use of special conditions in standard form contracts.

Excessive special conditions can result in significant risk pricing by the contractor, and/or can potentially put the project at risk, if the contractor faces risk it can't adequately manage.

Where you consider variations to the standard form of contract are required, and these materially affect the standard contract risk allocation it is good practice to:

- Check that the risk allocation proposed through the special conditions has been assessed collectively by the legal, commercial and technical teams, by taking each in turn and agreeing that the contractor is best placed to manage these
- Check that the business case's value for money assessment includes the potential cost of the risk allocation proposed through the special conditions (especially where these may be significant)
- Provide a schedule of the proposed changes and rationale to enable the contractor to respond. See Risk Allocation.