



# NIGP

## Global Best Practice

### | CONTRACT ADMINISTRATION

#### STANDARD

The primary responsibilities of contract administration are to document performance of the contract in a procurement file, monitor performance of the contract, and resolve any issues related to the contract. Laws, codes, ordinances, or regulations provide Procurement with the authority for executing or delegating contract administration activities. Procurement, the end user, or the project manager monitors performance to ensure compliance with the statement of work. Key monitoring activities include ensuring goods and services are being received on time, in the right quantity, of the right quality, and conforming to the requirements of the contract; identifying and reporting violations, and pursuing remedies; managing contract changes; ensuring taxpayer dollars are expended wisely while compensating the contractor properly; and ensuring all parties abide by the terms and conditions of the contract on a day-to-day basis. Procurement is responsible for performance of certain contract close out activities.

#### Definitions

**Contract Management:** The overarching process that includes the functions of both contract formation and contract administration.

**Contract Formation:** Planned functions that are to be performed before the parties have signed the contract. Typical contract formation activities include development of the solicitation, scope of work, terms and conditions, and negotiation of a contract that is mutually beneficial for the entity and the contractor.

**Contract Administration:** The functions that are performed after the parties have signed the contract. Typical contract administration activities are goal-oriented and are aimed at ensuring compliance with the contract terms and conditions while giving attention to the achievement of the stated output and outcome of the contract.

**Monitoring:** A contract administration tool, whereby certain procedures are developed to assure the public entity that contracted goods and services are being delivered in accordance with the terms and specifications of the contract.

### Contract Administration

The broad goal of contract administration is successful contract completion. Public contracts are governed by laws found in state constitutions, statutes, and codes, and in the applicable entity ordinances, regulations, and rules. Policies should be established that provide Procurement with the authority to conduct or delegate the activities necessary for contract administration such as:

- Ensuring maintenance of proper contract documentation.
- Managing performance of the contract, including contract compliance.
- Resolving any contract issues or disputes.

#### Element 1: Ensuring maintenance of proper contract documentation

Once the contract is executed, the contract administrator collects information related to contractor performance, milestones, deliverables, payments, and nonperformance. Best practice recommends maintaining both procurement and contract documents in a single file to provide ready access, avoid duplication or gaps, and provide transparency. Technology makes it possible to store electronic files in a single repository accessible to both Procurement and Contracting. Maintenance of the procurement file may be performed by a contract administration team.

The capacity and structure of the entity and the size, complexity, expense, and risk involved in the procurement influence the composition and size of the contract administration team. The composition of this team may range from an individual to a cross-functional team. Procurement should communicate who the designated contact person is for the contract administration team, suppliers, and other appropriate stakeholders.

The contract administrator collects evaluations that document positive and negative contractor performance, including a final evaluation at the completion of the project. This information should be included in the contract file. Any approval process should include documentation to the contract file. Procurement is responsible for maintenance and closeout of the contract file.

Maintenance of the contract file includes keeping relevant records such as:

- Contract award.
- Approval of any change orders or amendments, and resulting documents.
- Documentation, validation, review, and resolution of compliance and performance issues, and milestones achieved.

Contract closeout may include:

- Return of any unused encumbered funds.
- Release of retainage.
- Requesting feedback on contractor performance.
- Required documentation, e.g., reports, deliverables, written warranties, acceptance of deliverables, performance feedback.
- Return or disposal, as stated in the contract, e.g., equipment.
- Transition to new contractor.

### Element 2: Managing performance of the contract, including contract compliance

Contract administration ensures that all parties comply with the terms of the contract, e.g., milestones, metrics, and deliverables. Contract administrators should reference the Contract Administration Plan (CAP) to monitor and evaluate performance. Contractors must also perform according to the Performance Assessment Plan (PAP). For example, Procurement should be contacted when a milestone is achieved, a contract breached, or other challenge arises. Procurement will then act in accordance with the contract, whether approving payment when a milestone is reached, or working with the contractor and relevant stakeholders to resolve the challenges and ensure that deficiencies have been cured.

Depending on the type and complexity of the procurement, it may be appropriate to conduct a contract kickoff meeting to establish roles and responsibilities and provide any needed clarification.

Managing and monitoring of contract performance includes:

- Ensuring that milestones are achieved, and timelines are met.
- Ensuring compliance with risk mitigation strategies.
- Updating of Performance Assessment Plan (PAP), as needed.
- Tracking outcomes, e.g., revenue generation, client service and satisfaction levels, percentage of disadvantaged businesses subcontracted.
- Reviewing payment for processing.
- Reconciling invoices against contracted price.

Methods of contract managing and monitoring may include:

- Site Visits.
- Formal or informal audit.
- Regular status meetings.
- Performance review and follow up, including corrective action plan.
- Reporting.
  - Status reports
  - Performance and activity reports, e.g., supplier scorecards
- Third party managing or monitoring.
- Inspection and testing.

Managing contract compliance includes:

- Ensuring that any certificates of insurance are valid and remain current.
- Confirming receipt and validation of bonds, i.e., payment and performance, if applicable.
- Monitoring the timeline for contract renewal and surveying client satisfaction.
- Addressing issues of nonperformance or noncompliance, remedies, and determinations of breach.

### Element 3: Resolving any contract issues or disputes

Procurement should have authority and be responsible for monitoring performance of and compliance with the contract by both parties, and taking appropriate action. Performance or compliance issues may include:

- Missed or delayed deadlines or failure to achieve milestones.
- Delivery issues, e.g., wrong location; late; failure to deliver; site not set up to accommodate necessary equipment, vehicle, or offloading such as available dock.
- Acceptance issues, i.e., goods or services that differ from specifications in type, quality, or quantity, lack of authorized person to sign for or accept delivery, incomplete or unsatisfactory performance of services.
- Change orders.
- Unforeseen conditions.
- Disputes.

Actions to address nonperformance may include:

- Managing contract relationships.
  - Ensure accountability of those in established roles
  - Ensure adherence to established communication protocols
  - Ensure transparency
- Ensuring distribution of the fully executed contract.
- Monitoring performance.
- Ensuring implementation of necessary training.
- Adhering to written policies, procedures, and processes.
- Performing audits of contracts, e.g., to ensure proper invoicing for term contracts or to ensure compliance with requirements for federal grants.
- Issuing change orders or contract modifications.
- Exercising remedies, e.g., claims against bonds, cure notices, show cause notices, termination for default.

*While not strictly Procurement's responsibility, procurement professionals may address failure of contractors to pay subcontractors, which may result in claims against bonds.*

### Conclusion

Contract administration ensures goals and objectives are achieved through successful performance of and compliance with the contract. Contract administration refers to those activities that take place after contract award. Procurement must exercise professional judgment and apply critical thinking when managing a contract, e.g., obtaining the right quality, at the right time, at the right price. Contract administration focuses on performance of and compliance with the contract. Key activities of contract administration include establishing roles and responsibilities and monitoring progress, modifications, change orders, and payment terms.



## Global Best Practice

CONTRACT ADMINISTRATION CONT.

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### Referenced position paper:

- National Institute of Governmental Purchasing, Inc. (NIGP). (2019). Position Paper: Best Value Procurement Methods for Professional Services - Overcoming the Limitations of Low-Bid and QBS. NIGP.

### Resources

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