

# Managing the contract

You'll need to manage the contract after you've awarded it. This includes:

- managing relationships;
- managing risks;
- managing performance and reviewing the contract at regular milestones;
- managing assets that are or will be publicly owned;
- managing payments;
- resolving disputes;
- managing changes; and
- contingency planning.

Contract management arrangements should include well-defined responsibilities at a senior level for providing direction and monitoring delivery of the project, and at an operational level for its day-to-day management.

This brochure is not legal advice and is only a general overview of the issues.



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Achieving  
public sector  
outcomes with  
private sector  
partners

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# Thinking about partnering?

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If you are a decision-maker in a public entity and you're thinking about entering into a partnering arrangement<sup>1</sup>, you'll need to consider the issues and risks set out below.

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For a more comprehensive discussion please refer to our full report, *Achieving public sector outcomes with private sector partners* (on our website, [www.oag.govt.nz](http://www.oag.govt.nz)).

## Before you choose a partnering arrangement

You should first assess different procurement options (including traditional approaches).

It will be important to show how a partnering approach is better than other procurement options. A value-for-money assessment should consider the benefits of opting for a partnering approach against the costs of doing so.

The chosen partnering arrangement should fit with, and help to achieve, the corporate vision and policy objectives of the public entity.

Assess the lawfulness of the proposed procurement arrangement and the implications of any requirements to comply with statutory processes such as the Resource Management Act 1991.

You'll need to research the market to ensure that there are enough independent private sector companies wanting to take part.

The decision on the type of partnering arrangement to adopt will be affected by whether there are realistic options for financing that arrangement.

### Public interest

You'll need to assess whether the project safeguards the public's short- and long-term interests.

The main risks you need to consider are:

- that poor performance by the private sector partner might affect your ability to deliver core or essential services;
- the effects on the project of a change in political control of the public entity; and
- the effects on the project of poor contract management by the public entity.

Involve relevant stakeholders through suitable consultation and consider their views.

### Internal arrangements

To implement a partnering arrangement successfully, politicians and senior management need to show strong commitment to the project and provide the necessary direction, control, and resources throughout the project's life.

Before entering into a partnering arrangement, you'll need to set up and maintain the necessary governance and accountability framework.

Decide on the appropriate accounting treatment for the proposed partnering arrangement and ensure that you can access the necessary information from the private sector party throughout the term of the project.

Assess the potential effect on employees of entering into a partnering arrangement, including how you might need to protect their interests.

## Selecting a private sector partner

The process for selecting a private sector partner must be fair and transparent, and be able to stand up to scrutiny. Internal and external audit involvement during the decision-making and selection processes is essential.

The procurement process will probably be more complex than traditional forms of procurement, and most public entities will probably have to use external expertise.

After using rigorous processes to select consultants, you need to properly manage them.

In drawing up the contract, risk allocation between the public and private sector parties is extremely important. In general, the party best able to manage the risks should bear them.

<sup>1</sup> By "partnering" we mean mutually beneficial commercial procurement relationships between the public and private sectors that involve a collaborative approach to achieving those outcomes.