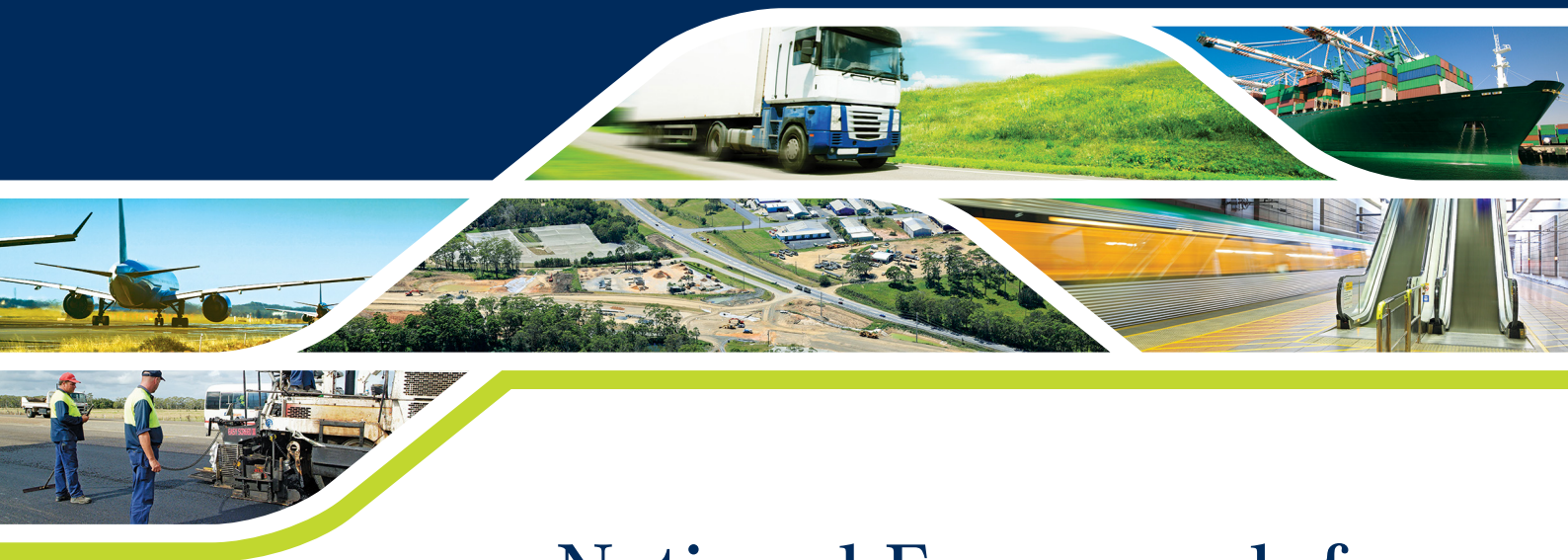




Australian Government

Department of Infrastructure and Regional Development



National Framework for Traditional Contracting

Topic Specific Guide 4
Performance and
Continuous Improvement

September 2015



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Document Updates

This guide will be updated from time to time to reflect evolving best practices and lessons learned.

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Note

Governments in each jurisdiction will have their own individual approval processes for capital investment projects, as well as policies (e.g. probity) and legislation that will impact on all capital works delivery. These overarching jurisdictional requirements are precedent to the practices covered in this document.

Acknowledgement

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- Department of Treasury and Finance, Victoria (Chair)
- Treasury, New South Wales
- Treasury, Queensland
- Department of Treasury and Finance, Western Australia
- Department of Infrastructure and Regional Development, Commonwealth of Australia

The preparation of this document was led by the Victorian Department of Treasury and Finance with Evans & Peck Pty Ltd Level 2, 555 Coronation Drive Toowong, Queensland 4066.

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1 Introduction to the Guide

This Chapter outlines the purpose and structure of this Topic Specific Guide and describes the relationship of this document to other relevant government policy documents and guidelines.

1.1 Purpose of the Guide

Government always seeks to achieve value for money in conducting its activities on behalf of the community. Governments spend a significant proportion of their budgets on the procurement of infrastructure and strive to constantly improve the value for money achieved through this expenditure by:

- Delivering the required service need for the lowest possible cost (refer to Topic Specific Guide 1); and
- Supporting industry productivity and sustainability.

Suppliers participate to:

- Achieve corporate objectives including profit generation; and
- Win future contracts.

In many infrastructure markets, government is the dominant Client and it influences (by design or inadvertently) the industry's structure and operations as it pursues public good outcomes.

Intelligent Clients¹ will exert influence in two ways:

1. At a **project by project** level, through the way they engage the market, evaluate offers, award and manage contracts.
2. At a **project portfolio** level, through the nature of the longer term relationship and mutual expectations they establish with their repeat Suppliers across many projects.

The intelligent Client understands the effectiveness of its current approach to infrastructure procurement, can identify where the greatest opportunities are for improvement and is able to implement changes to realise those improvements. The Client can only achieve this when it has a mature relationship with its Suppliers and has regular, structured discussions on both the Supplier's performance and its own performance as a Client. The focus should be on what is achieved, how work is done and how both parties can work to continuously improve their performance to achieve better outcomes.

¹ Refer to the National Framework for Traditional Contracting of Infrastructure 'Guide' for more detail on the concept of the Intelligent Client (which is taken from the UK Government).

The principles and practices described in this Guide are written from the perspective of a standalone major infrastructure project (say \$50M or more) procured through traditional contracting models.

Nevertheless, many principles and practices also apply to infrastructure programs, and some will apply to other procurement models (ie non-traditional contracting and indeed to non-residential building projects).

Similarly, principles in the Guide will apply for less complex, lower value projects, however, the practices described may be sensibly scaled down to a level appropriate to the project.

Good performance can be defined as meeting the commitments made to deliver the project to the required standards for the lowest cost in an appropriate timeframe. 'Good' performance is partially defined by the contract, but is also influenced by factors that are not always fully captured in a contract such as timely availability of suitable capability, establishment of a high performance culture, responsiveness and flexibility etc. The Client should determine the elements that are most material to the success of the Project and set appropriate criteria to effectively communicate their expectations to the tenderers.

The intelligent Client demonstrates the importance it places on Supplier performance by formally including past performance as a criterion in selecting Suppliers for future projects. If the Client does not include past performance of Suppliers as a selection criterion, Suppliers will not perceive their past performance as important to winning future potential projects. In the absence of using past performance as a selection criterion, Clients sometimes rely on financial incentives to Suppliers for 'ordinary' performance, unnecessarily increasing project costs.

The Supplier's performance must be considered in context. In addition to recognising the characteristics of each project, the Client's performance must also be considered and inform the assessment of the Supplier's performance. The intelligent Client must demonstrate to the Supplier its commitment to improving its own performance by seeking formal feedback from the Supplier of its performance and taking actions to improve where necessary. This mutual commitment to improvement is essential in establishing a longer term productive relationship dedicated to continuous improvement for the investor and taxpayer.

To properly understand performance and where there is opportunity for improvement, a Client requires accurate project performance data, captured at all stages of the project and across its portfolio of projects. Generally, jurisdictions formally assess the project performance in terms of achievement of the Business Case and Project Definition objectives. However, the assessment of Supplier and Client performance is often undertaken informally and on a project by project basis. It is this element of performance that this Guide addresses.

Whilst an informal approach assists in Client decision making, there are significant risks in relying on this information because:

- The information is often known by a few individuals and it is unlikely that 'lessons learned' are captured or shared across the organisation or government;
- There is no framework that promotes continuous improvement in the Supplier's performance;
- There is no consistency from project to project to allow 'like with like' comparisons; and

- The informal nature of the ‘assessment’ does not provide Clients and Suppliers involved with any formal avenue to be properly informed about the assessment of their performance on the project or to provide their perspective.

This document provides practical guidance on establishing a formal performance assessment framework to:

- inform contract management and decision making at a project level;
- inform tender selection evaluations for future projects; and
- promote continuous improvement at a systemic level between industry and government.

A large Client agency (conducting multiple projects) is expected to benefit greatly over time from a ‘performance and continuous improvement’ framework. Flow on benefits to other Agencies in the same jurisdiction can also be expected as improved practices and behaviours become the norm. Further value can be achieved by cooperation and shared information between agencies in a jurisdiction.

Measurement and benchmarking of performance data can be a powerful analytical tool that helps to identify practices that work well and those that do not. It can help foster accountability by:

- exposing areas where improvement is needed;
- identifying good practice processes;
- setting targets for improvements; and
- encouraging innovation.

The Guide has been developed by identifying and examining how the government can develop a performance continuous improvement framework to improve both project outcomes and infrastructure productivity more generally. Examples from the UK and Hong Kong², as well as Australia, have shown this to be practical and beneficial. This Guide will borrow heavily from these existing and proven models. The Guide provides a generic framework which should be modified by the Client to suit the characteristics of each project.

The Guide does not address issues related to:

- the jurisdictional processes that apply to the execution of a traditional contract, there are other (overarching and general) government policies and guidelines that cover these matters; and
- any jurisdictional processes that may already be in use. It is intended to complement and enhance existing informal systems that assess project performance and to provide a consistent and auditable process which promotes continuous improvement.

The effectiveness of a performance and continuous improvement framework can be measured by the impact it has on business outcomes. This impact is optimised when performance assessment is integrated in tender requirements (including the tender selection criteria and tender evaluations), governance and contractual arrangements and incorporates continuous, open and transparent dialogue between Clients and Suppliers. Whilst this Guide provides principles on these matters, the details should be developed by the Client (with input from Suppliers) and integrated in their normal processes and approaches.

² www.devb.gov.hk/TechnicalCirculars.aspx?section=53&lang=1; <http://www.hm-treasury.gov.uk>

1.2 Who should use the Guide

The Guide is intended to be used by public sector agencies who undertake the roles of Investor or Client in the provision of new infrastructure assets. It is intended to provide practical guidance that can be used at all phases of a project and complements the other Topic Specific Guides in the Framework.

It is also expected that this Guide will be of benefit to Suppliers who are involved in tendering for the Construction Phase of new assets and their sub-contractors.

1.3 Structure of the document

The Guide addresses performance assessment and continuous improvement in the context of traditional contracting of infrastructure. The document is structured as follows:

- **Chapter 2:** Performance assessment principles
- **Chapter 3:** Typical elements of a performance assessment framework.
- **Chapter 4:** Collecting accurate and useful data.
- **Chapter 5:** Application of the framework.
- **Chapter 6:** Managing the framework.
- **Chapter 7:** Continuous improvement.

Key points are highlighted by two types of text boxes:



Overview of chapter



Practice and commercial insights

1.4 How and when to use the document

This Guide has been written on the basis that Investors and Clients refer to existing government policies and guidelines applying to procurement, planning, infrastructure delivery and government decision making.

The Guide has been prepared on the basis that readers already have:

- a reasonable understanding of the project lifecycle including all phases which lead up to awarding the contract;
- experience and understanding of the post-contract award Construction Phase of traditional contracts;
- a good understanding of the terminology and general principles set out in the following chapters, familiarity with the relevant Acts and other jurisdictional policies and guidelines;
- an understanding of the practical challenges of prevailing market conditions that impact public sector infrastructure projects; and
- the ability to call on specialist professional service providers (sourced internally or externally) to assist them deliver projects in accordance with this Guide.

1.5 Relationship with existing policies and guidelines

This document forms part of the National Framework for Traditional Contracting of Infrastructure suite of documents. The National Framework is made up of the following documents:

- The Guide: Good Practice and Commercial Principles for Traditional Contracting.
- Topic Specific Guide 1: Project Definition and Tendering.
- Topic Specific Guide 2: Development of Project Budgets in Business Cases.
- Topic Specific Guide 3: Governance and Contract Management.
- Topic Specific Guide 4: Performance Assessment and Continuous Improvement.

The National Framework provides best practices (not policy) as a resource that individual Australian jurisdictions can use to inform their policy and guideline development for Traditional Contracting of infrastructure; or for project client agencies to reference as a benchmark for their practices where corresponding jurisdictional guidelines do not exist. Where there is a conflict in the material of this National Framework and jurisdictional policies and guidelines, the jurisdiction's position will take precedence.

1.6 Updates to the document

Updates to the Guide will be published from time to time on <http://www.infrastructure.gov.au/utilities/contact.aspx>.

2 Performance assessment principles

This Chapter introduces key principles that underpin effective performance assessment frameworks.

2.1 Overview

Both the Client and Supplier have objectives they wish to achieve in undertaking a project – some of these objectives are aligned and some are not. In undertaking performance assessments, the Client must be mindful of the differing objectives of the Client and Supplier to ensure performance assessment has the desired outcome of improving overall project productivity and industry sustainability in the public benefit.

The performance and continuous improvement framework typically comprises four components:

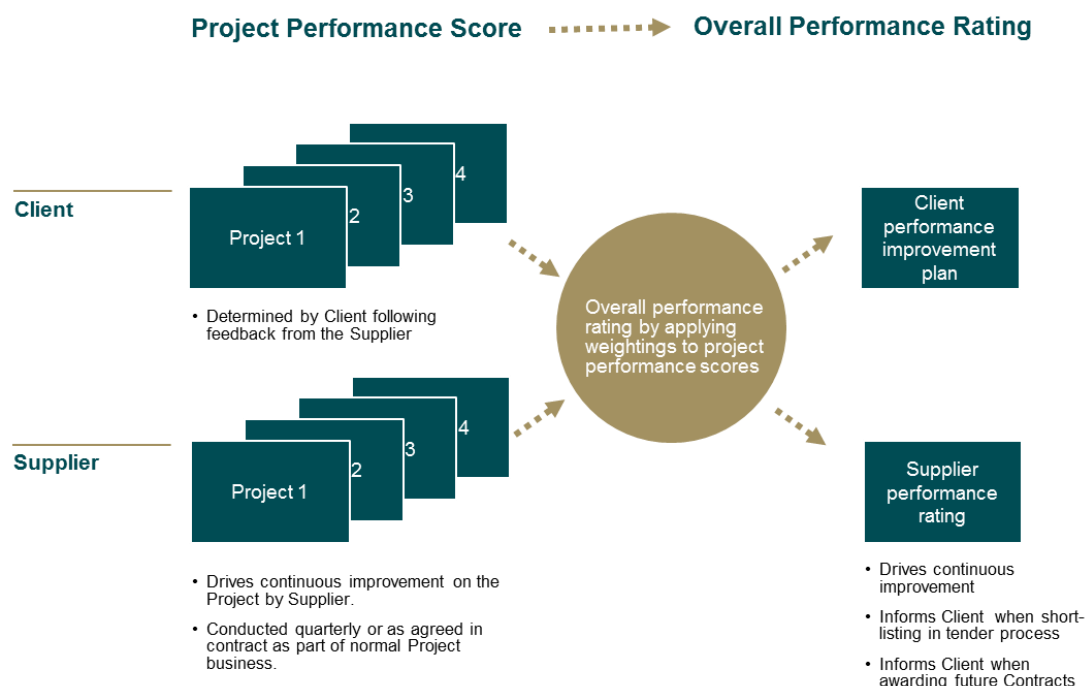
1. *Client's Project performance assessment (project by project)*: monitor and report the performance of the Client (including Supplier feedback) as a project progresses to inform decision making on that project.
2. *Client's performance improvement plan (across a portfolio of projects)*: establish an overall performance improvement plan, based on organisational capability and performance on individual projects, to help the Client achieve continuous improvement.
3. *Supplier's Project performance score (project by project)*: monitor and report regularly the Supplier's performances as the project progresses. The Supplier performance score could also incorporate the evaluation of the performance of any sub-contractors (e.g. the Designer) that it engages in its team.
4. *Supplier's past performance rating (across a portfolio of projects)*: establish an overall performance rating for current projects that are aggregated with other past performance assessments. Use the current Supplier's aggregated performance rating in future tender evaluations.

These four components enable:

- Continuous improvement, informed by the quarterly performance assessments and discussions, on the current project a Client and Supplier are working on;
- Measurement of the overall performance of the Supplier and identification of opportunities for continuous improvement in how the Client and Supplier undertake future infrastructure projects;
- Over the long term, identification of trends and productivity impacts that should be addressed; and
- Enhanced competition and contestability through a focus on actual past performance identifying high performing Suppliers; and by providing fair opportunities for new Suppliers to establish a high performance track record and increase their chance of winning future work. (See Sections 2.3 and 5.4 for more details)

The general approach is illustrated in Figure 1:

Figure 1 Performance assessment approach



2.2 Key principles

There are a number of principles that underpin the success of any performance assessment approach:

- The Client 'owns' the performance assessments.
- The performance assessments are determined by the Client following feedback from the Supplier. Overall performance ratings are shared and transparent in their construct.
- Performance assessment information is used to inform tender evaluations, when both shortlisting and when awarding the next contract, but is not used to provide financial rewards on the current contract not to prevent new entrants in bidding for contracts.
- Regular structured proactive feedback is provided to the Client on performance between formal performance points.
- At a minimum, the Client will short-list 2-3 tenderers to submit a bid³. These 'places' on the short-list are valuable and Suppliers should demonstrate during the Tender Phase that they deserve the opportunity to take up one of these limited and desirable places. Suppliers should be assessed on their performance during the Tender Phase (understanding that a Supplier could receive a high score for their performance but not be the successful Tenderer);
- Assessed poor performance makes winning future contracts 'that much more difficult' but does not preclude a Supplier from bidding for a project. A Supplier with a poor track record should be able to demonstrate, in new project tenders, a reformed ability to perform better

³ The Client should carefully weigh up the number of tenderers to be shortlisted, with regard to maximising competitive pressures while minimising administrative cost. The Client should also take care not to focus excessively on local experience when selecting shortlisted tenderers, as this will deter bidding by potentially better international suppliers.

on new projects and provide the Client with comfort that the potential risks associated with engaging that Supplier have been addressed to achieve better performance in the future.

- Award of tenders is generally based on the highest combined score of the technical assessment and the tender price assessment. This safeguards against contractors who have performed poorly on past projects and now submit low bids to try to win a new contract on price. Using a criterion of past performance, in the technical assessment, will balance technical/performance delivery with tender prices. As a general principle, a poor track record should not be off-set by a low tender price.
- Recognition of poor performance should be accompanied by suggested measures to improve.
- All parties should attempt to agree to the accuracy of the information used to inform the assessment (however, the assessment is 'owned' by the Client).
- The assessment will consider both quantitative and qualitative information to ensure that the unique context of each project is considered in assessing performance of both Client and Supplier. Anecdotal evidence is as valuable as hard measures when collected in a way that ensures the validity of that evidence.
- In the short term as the performance and continuous improvement framework is established, assessment results should be kept confidential to the Client, agencies in that jurisdiction, and the Supplier and are not provided in the public domain. As the performance assessment process matures, the Client may decide to make scores public to enhance transparency in the procurement process.
- The performance assessment framework is integrated in the procurement process, with the assessment criteria being incorporated in the tender evaluation (addressed in 'The Guide') and in the governance and contract management system (refer to Topic Specific Guide 3).
- The assessment process should be adequately supported and resourced.
- The framework is capable of being audited and the Client will undertake regular reviews to ensure the efficacy and efficiency of the process and its implementation.

2.3 Performance assessment and long term relationships

An intelligent Client uses its attractiveness as a large, repeat, high quality, buyer to establish constructive long term relationships with its Suppliers. That is, where a 'good' Supplier delivers its obligations and a 'good' Client understands and fulfils its role to facilitate good Supplier performance.

In this repeat relationship the Supplier aims to receive payment for services on the current project (and make a profit) and position itself to win the next project. The Client aims to select the best Supplier to ensure the project is successful, and that over time there is improvement in its provision of infrastructure to the community. Any loss of corporate memory by the Client on Supplier capability and performance is a lost opportunity for improving performance (and making productivity gains) on future projects.

In establishing a constructive long term relationship, both the Client and Supplier recognise that they can only be individually successful if both are successful. Good repeat Clients and Suppliers help each other improve. The regular project discussions that inform the performance assessment will also assist in strengthening this relationship by enhancing communications, aligning expectations, addressing potential issues at the source and collaborating to resolve issues and improve performance.

An intelligent Client will recognise the influence its actions have on the quality of its relationships with its Suppliers. Good/high performing Clients will attract good/high performing Suppliers. Clients pay a premium for being perceived as a 'bad client'. The Client/Supplier performance feedback assists the Client to understand how to better engage with the Supplier to ensure that they are a good Client, and the Supplier to better understand the Client expectations, constraints and requirements. This requires a commitment to honest and transparent discussion by both parties on the comfortable and uncomfortable issues.

As stated in the Guide, the development of positive "long term repeat relationships" with Suppliers is not inconsistent with Governments wishing to encourage new entrants and promote competition for public projects. As subsidiaries of the market dominant repeat buyer, Government agencies are in the position (and arguably have the obligation) to develop the leadership, culture and practices that promotes a strong and internationally competitive Supplier base; and they can do this by being efficient, effective, informed and exemplary "buyers of choice". This means recognising that new entrants can have both the potential and the motivation to be part of a long term repeat relationship. In practical terms, agencies should be prepared to collaborate and explain their contracting practices to new entrants as well as to "new hands" in established Suppliers. (Although in the infrastructure contracting market, it is likely that new entrants will employ both new and old hands.)

It is especially important to ensure that tendering practices and relationships with existing suppliers do not preclude the involvement of international Tenderers. Clients should not focus excessively on performance within their own jurisdiction to the exclusion of other assessments of performance. Effort should be made by Clients to make the tendering process as open and transparent as possible in order to avoid discouraging new entrants to the market, and hence improve competitive pressures.

2.4 Application in tender evaluation

In designing the performance assessment approach, it is necessary to decide how the aggregated or 'overall' rating across a portfolio of projects will be applied in new project tender evaluations. There are two options:

1. The Supplier's past project performance rating is 'just another weighted criterion' in the tender selection criteria; or
2. The Supplier's past project performance rating either 'passes' or 'fails' the threshold criterion for the new project tender evaluation (in effect serving as a punishment/incentive to drive Suppliers to perform in delivering the contract).

The first option influences Suppliers to achieve good performance ratings and informs the Clients of the strengths and weaknesses of the Supplier based on past performance. A poor overall rating does not preclude the Supplier from participating in the tender process but allows it to present a case as to how it has addressed deficiencies to improve its performance on this new project. If the Supplier is successful in being selected, it will be bound to improve its performance as committed in its tender, potentially improving its overall performance rating if it performs well. This has the effect of improving the performance of that Supplier, the project outcome and, in the longer term, the overall industry productivity.

The second option is a binary hurdle which excludes Suppliers from bidding for that project if they don't satisfy the threshold that has been set. This approach requires a process outside of the project tender process to allow Suppliers to demonstrate that they have addressed the deficiencies that put them on the wrong side of the threshold so that they can then be given an opportunity to be considered for future projects. These commitments made by the Supplier can be incorporated in future tenders.

The first option is recommended and forms the basis for this Topic Specific Guide. It is a continuous process linked to the requirements of the next project and therefore more likely to have real improvement impact, and the process is less onerous on both parties.

3 Elements of a performance assessment framework

This Chapter describes the elements which make up a typical performance assessment framework.

3.1 Overview

To capture performance data, a Client should establish a framework⁴ that provides the structure to ensure that the right data is captured, that it is accurate and can be analysed and shared as required. Clients should undertake quarterly performance reviews focusing on improvement of performance and overall outcomes. These reviews should not be confused with the monthly reviews Clients typically conduct with Suppliers to confirm payment claims which normally focus on contract compliance.

The performance and continuous improvement framework has a number of positive consequences:

- On feedback from the Supplier to the Client
 - the Client can be expected to use this feedback to improve its performance in current and future projects; and
 - the Supplier(s) develops its understanding of the Client's strengths and weaknesses which it can choose to help improve to achieve better future engagements and project outcomes
- the Supplier obtains a 'score' for their performance on a project
 - this Supplier performance score, combined with the score of other projects, provides an 'overall' performance rating used by the Client when evaluating that Supplier's bid for new projects;
 - the Supplier can be expected to use this score (and other feedback) to improve its performance on future projects; and
 - the Client establishes a performance improvement plan applicable to all its Suppliers to drive continuous improvement.

In designing a performance assessment framework the following elements must each be considered:

- Project performance assessment:
 - Assessment criteria;
 - Assessment process; and
 - Review mechanism.

⁴ Jurisdictions should consider the development of a consistent performance framework that will allow performance data to be shared and/or benchmarked within a jurisdiction or across jurisdictions. Such a framework should take into account the elements discussed in this chapter, and have the flexibility to be adapted to a range of projects.

- Overall past performance rating

Each of these is addressed in the following sections.

3.2 Project performance assessment

3.2.1 Assessment criteria

Overview

The performance assessment comprises two types of measures:

1. *Quantitative*: relates to hard measurable items such as cost or program.
2. *Qualitative*: relates to individuals' judgement on the establishment of effective commercial relationships, good engagement on project governance and contract management, and other more general views of performance.

Whilst it can be tempting to use only quantitative measures due to (generally) the ease of data capture and the perceived 'neutrality' of the assessment, it is not recommended as it is generally qualitative data and assessments that provide a depth and richness of understanding that cannot be provided through the exclusive use of quantitative measures. Typically quantitative measures inform an understanding of the outcomes or 'what' happened and do not allow consideration of contextual aspects. Qualitative measures inform an understanding of how and why those outcomes occurred in the context of that specific project. The combination of qualitative and quantitative measures is the most useful approach in achieving improved performance.

Designing the performance assessment criteria

The performance assessment criteria and weightings should be designed to:

- Be transparent, fair and target oriented with clear metrics and expectations; and
- Include outcomes as required by the contract (and by industry standards) such as price, progress, quality, safety, environmental standards, etc.

The assessment criteria should be established prior to issuing the Request for Tender (RFT) to the market and form part of the RFT documentation.

The assessment criteria and methodology/guidelines should be transparent to Suppliers who can then understand the requirements and take proactive measures for improvement against the Client's expectation. The approach forms part of the contract governance arrangements.

Whilst project performance is assessed according to a published set of criteria that the Client and Supplier commit to in the contract, the basis for assessment will differ between the Client and the Supplier based on the roles that they are undertaking on the project. This will be tailored to each project. Typically:

- for the Supplier it will encompass project delivery activities such as program, budget, leadership, dispute resolution/avoidance, stakeholder management; and
- for the Client it will typically encompass their performance in managing the contract such as establishing reasonable process timelines and requirements within guidelines; providing a project definition that aligns to jurisdiction requirements; adherence to published timelines; provision of suitable capability at appropriate times; and timely decision making.

For infrastructure projects using traditional contracting it is suggested that there should be no more than 10-15 criteria reflecting the items that will have the most material influence on that project outcome. Infrastructure projects are by definition unique and complex, and it is important that the assessment is tailored to reflect the things that matter most for the success of that project. However, there is a generic set of success drivers that are common to any infrastructure project, and in tailoring the assessment approach, it is most likely that the criteria weightings and the details will change rather than the generic criteria themselves. In the example of a 'generic set' provided in Figure 2, a Client can be expected to (say) detail the headline item "Delivery as Specified" with "meeting the contracted price"; "satisfying specified and industry standards of workmanship". In addition to the 'generic set', the Client can tailor other criteria (to a total of 10-15) important to its corporate practices and specific project requirements⁵.

⁵ Whilst the principles and intent described here that underline the performance assessment criteria and scorecard would apply for less complex, lower value projects (say, under \$50M), the detail and scope may be sensibly scaled down to a level appropriate for such projects.

Figure 2: Example criteria and scorecard used by Network Rail, UK to assess Project performance in their PRISM system (reproduced by kind permission of Network Rail, UK)

PRISM

NB. Highlighted cells indicate where this form has not been completed			
SUPPLIERS FEEDBACK		NETWORK RAIL'S FEEDBACK	
Supplier's Comments and Feedback on Network Rail's Performance	Score	Network Rail's Comments and Feedback on the Supplier's Performance	Score
Delivery On Time			
Engineering Assurance			
Delivery as Specified			
Behavioural Aspects			
Stakeholder Interface			
Contract Administration			
Supplier's Safety Performance - To Be completed By Network Rail			
Once established and operational the Safety Score will be obtained from the Automated Safety Performance KPI's. However, until such time as this programme has been launched use the Scoring Criteria Guidance to determine the Supplier's Safety Performance Score.			
		Supplier Name:-	
		Supplier Name, if not available above:- NOTE:- You must select "Other" in the Supplier Name above if completing this field	
		Date of Review:-	
<i>The undersigned hereby agree that the comments and feedback provided by either party have been discussed in an open and honest manner. Where an action is required these have been clearly defined and a mutually acceptable timescale has been agreed between both parties for the completion of the action (s).</i>			
Supplier Signature:-		Network Rail Signature:-	

As stated, Figure 2 is provided as an illustration only, and Clients are encouraged to consider what other criteria may be important for their delivery of infrastructure. For example, the mining and resource engineering sectors commonly collect productivity data on their projects (where productivity metrics are proposed in bidders' tender responses and then the actuals are tracked). Where Clients have developed a productivity metrics framework as part of their infrastructure delivery model, they would be expected to measure and collect productivity data to track performance and encourage continuous improvement⁶.

⁶ The collection of productivity data during the construction phase is supported by the Productivity Commission 2014, Public Infrastructure, Draft Inquiry Report, Canberra, which also draws attention to the work being done in this area by the Victorian Department of Treasury and Finance (refer to pages 20 and 324).

3.2.2 Assessment process

The assessment process should be designed with the following features:

- **Fixed quarterly assessments** are conducted from commencement of contract until final completion is achieved. This is formalised in the contract's governance arrangements with the following features in mind:
 - A standard corporate marking scheme is established by the Client and applied, with any changes signed off at appropriate levels. This allows reliable comparisons across projects. Ideally when a particular selection criterion is deemed appropriate for a specific project, the same marking scheme is used each time to allow comparison across projects.
 - Reports are drafted by the Client's Contract Manager and signed-off by the department's or agency's Senior Responsible Officer. The Client's and Supplier's Contract Managers should both co-sign; although the Supplier's Contract Manager may sign as having viewed the report if there is a disagreement.
 - Where it is possible, the scores are jointly agreed by both the Client and the Supplier, however the Client does not require the agreement of the Supplier (although the nature of the disagreement should be noted).
 - The Supplier and Client need to comprehensively and robustly discuss the assessment, and if appropriate, describe any mitigation strategies and how these will respond to performance issues.
 - The assessment belongs to the Client.
- **The overall project assessment** is determined post final completion and this is the assessment that will be aggregated to the Supplier's performance on a portfolio of projects. In determining this overall project assessment, the following should be considered:
 - The average of quarterly assessments;
 - The trend line of the quarterly assessments (eg has performance shown a pattern of increase or decrease?; has performance been up and down with no discernible pattern? etc); and
 - How has the Supplier responded to adverse performance issues and were successful mitigation strategies put in place?

3.2.3 Review mechanism

Where the Supplier and Client cannot agree, the issue will be escalated through the governance process committed to by both parties in the contract (see Topic Specific Guide 3). For example, senior management of the Client organisation may determine in some circumstances, and at its discretion, that an independent assessment is appropriate. This may occur if the Client and Supplier fail to reach agreement on a major performance issue over a period of time.

3.3 Overall performance rating

The overall performance rating across a portfolio of projects is informed by the performance data and 'score' captured from past projects. In formulating the overall rating, the following should be considered:

Complexity: To take into account the greater effort required to perform under more complex contracts, a formula with higher weightings may be applied to performance scores in larger projects. For example, a weighting could be assigned according to the original contract sum if indeed complexity is related to contract sum (eg a score of 1 for contract sum of \$50M; 4 for \$500M; 5 for over \$1B).

Currency: The time lapse before the data of past project performance is considered 'stale' and out-of-date for inclusion in the Supplier's overall past performance rating, will differ with each Client. The time period will depend on the typical duration of projects undertaken; and also on the rate at which the Supplier shows demonstrable change (positive or negative) in the pattern of its performance. However, as a starting point a Client will want to take into account more recent performance over less recent performance, and to do this a weighting factor can be assigned to the date of performance scores. For example a weighting of 5 can be applied to a recent performance score of less than one year and a weighting of 3 can be applied to a performance score that is 3 years old.

A considered judgement call is required by the Client to determine an overall performance rating across a portfolio of projects, although an overall rating based on weighted average of all of the performance scores in the declared period is a good start.

4 Collecting accurate and useful data

This Chapter defines how accurate data will be captured to assess performance.

4.1 Overview

Achieving a positive business impact through performance assessment relies on creditable and accurate data that is consistent across a portfolio of projects. A Client benefits by:

- understanding the Supplier's performance is trending across multiple projects and having discussions on how that Supplier may improve;
- making a comparison of the performance benchmarks and trends of multiple Suppliers and using this information when applying the appropriate tender selection criterion; and
- obtaining insights on how its own performance as a Client can improve to deliver greater value to the Government and taxpayers.

For benefits to be maximised, the assessment of performance should be impartial, with clear benchmarks of what good performance looks like and, in the case of poor performance, be balanced against the successful implementation of mitigation strategies when required. Information to inform the assessment should come from a variety of sources such as Clients, Suppliers, sub-contractors and stakeholders.

The effectiveness of this process is dependent on the maturity of the Client/Supplier relationship. They must be confident that both will be open and honest about each party's performance and that each party will take that feedback constructively with a view to improving their performance on that project and on future projects. The important role of senior leadership in establishing an appropriate culture as a foundation to this type of relationship cannot be understated.

4.2 Assessment methodology

The assessment methodology should be documented, communicated and understood full by both parties. Some principles for consideration:

- The assessment of each performance attribute can be based on defined performance grades, for example, 'Very Good', 'Good', 'Satisfactory', 'Poor' and 'Very Poor'. However, to apply a weighting to each attribute, these qualitative grades need to be translated to numbers, for example, 1, 0.75, 0.5, 0.25 and 0 of the maximum possible respectively.
- A marking guide should provide clear guidelines on what constitutes 'Very Good', 'Good', 'Satisfactory', 'Poor' and 'Very Poor'. An example of a marking guide is provided at Appendix A.
- An attribute of performance may be given an overall 'poor' or 'very poor' grade if critical (threshold) aspects are rated as 'poor' or 'very poor' (e.g. number of injuries) despite 'satisfactory' or even 'very good' grades for other aspects (e.g. safety training) under the same attribute (e.g. site safety).

- Where possible, adequate warnings should be given to a Supplier if performance issue 'signs' are emerging, before formally reporting its performance as 'poor' or 'very poor'. The Contract Manager will state the reasons for giving a 'poor' or 'very poor' rating. In any commercial relationship the Client and Supplier should work together to address performance issues (refer to Topic Specific Guide 3) and this should be part of normal Project business management.
- The governance arrangements should describe how the assessment methodology will reflect contract changes and the process to be followed to ensure the assessment reflects the changes adequately and that both the Supplier and the Client understand how the changes have flowed through to the assessment methodology.
- By collecting performance data, a database of useful information can be established. This should be a collation of information from the whole lifecycle and contain appropriate assumptions, caveats or explanation of the project characteristics to put the data in context.

5 Application of the framework

This Chapter describes how the data can be used to influence future evaluation and performance of Suppliers.

5.1 Overview

The performance data can be used to:

- Encourage high performance in the Tender Phase by both Client and Supplier;
- Improve performance on the current project by both Client and Supplier;
- Inform selection of Suppliers for future projects; and
- Inform Suppliers and Clients of each other's capability.

The combination of these outcomes is an overall improvement in project outcomes and increased infrastructure productivity.

5.2 Encourage high performance in the Tender Phase

Suppliers can be evaluated through the Tender Phase of a project and the performance data can be used to shortlist in future tenders. This encourages the best possible performance by the Suppliers through this phase. Without the best performance by the Suppliers in the Tender process, competition is compromised and the Client is likely to risk the best VfM outcome.

The Clients can also be evaluated by Suppliers in the Tender Phase in terms of how they conduct the process. This will assist the Client with its continuous improvement program; and inform Clients of any mitigating issues in determining the performance rating of Suppliers in the Tender Phase. Placing a focus on Client performance encourages excellent performance by the Client as they strive to attract the best possible Suppliers to their project for their lowest contract price (i.e. avoid incurring a 'bad client' premium).

5.3 Improve Supplier and Client performance on current Project

This Guide recommends formal quarterly performance assessments, however the Client and Supplier would normally conduct much more regular assessments as part of usual project contract management. Where improvement is identified and required at any time, the commitment needs to be documented and the party held accountable for meeting that commitment. As discussed in Topic Specific Guide 3, an effective commercial relationship is founded on good communication between the Client and Supplier. This process provides a basis for a regular formal discussion on performance of both parties and should assist in minimising disputes and escalation of problems.

5.4 Inform selection of Suppliers for future projects

The score that the Supplier receives on each project is used as a basis for providing that Supplier with an overall past performance rating that can be used in future tender evaluations. The following features are recommended:

- The Supplier rating used in the tender evaluation is the weighted average of the Supplier's scores from past projects (see section 3).
- Clients should take care to ensure that qualitative as well as quantitative past performance information is considered in the context of the project to be delivered.
- For joint venture tenderers, the performance rating will be the weighted average of the performance ratings of the participants or shareholders in accordance with their share of the work by value or some other measure of criticality.
- Suppliers are notified of their overall rating across a portfolio of projects at regular intervals or as they change.
- Generally the past performance criterion would account for about 10% of a new project's tender selection criteria.
- The Supplier rating is used by the Client to determine their shortlist at an EOI stage, and again for awarding the contract.

As stated in section 2.3, Governments do wish to encourage new entrants and promote competition for public projects, and therefore the use of a past performance criterion in a new project's tender selection criteria should not disadvantage new entrants. Where a new entrant does not yet have a performance rating, the past performance criterion does not apply and therefore their total tender evaluation score needs to be appropriately scaled up.

5.5 Designing the tender evaluation approach

The tenderer's past performance rating can be included as a simple criterion considered in the evaluation, weighted accordingly against other criteria. A more complex approach can be taken by Clients by capturing the Supplier's past project performance against specialist attributes that the Client finds especially important on certain projects. The Client's tender evaluators may then be able to effectively increase or decrease a Supplier's overall 'score' based on the strengths and weaknesses in line with the past performance demonstrated on those specialist attributes that are highly relevant to the future project. Implementing such a complex approach requires a clear rationale and this adjustment to overall performance ratings documented in the published tender selection criteria.

Avoiding unintended consequences

The performance rating is a valuable input to the tender evaluation, however the Client should take care to ensure that qualitative as well as quantitative past performance information is considered. Whilst it seems straightforward to simply apply a single 'number' using a quantitative scoring scheme, this number cannot capture the full value of past performance information. The optimal approach is for experienced practitioners to use the information provided in the performance assessment and consider its relevance in the context of the project to be delivered. This ensures that where a Supplier may perform very strongly in certain aspects that are not relevant to the future project, that an experienced evaluator can apply a 'sense check' to ensure that the best tenderer is selected.

6 Managing the framework

This Chapter establishes how a performance assessment framework can be managed including responsibility for collating information, managing a database of information and correctly applying it in an impartial manner.

6.1 Overview

The Client's performance assessment framework should be managed to ensure that it operates as efficiently and effectively as possible. This Guide does not propose that performance assessments should be shared by agencies across various jurisdictions. Although in some instances it may make sense to establish a framework across a number of related agencies within a jurisdiction (e.g. water authorities).

6.2 Responsibility

The framework should be managed through a Client's single point of contact where performance data can be collated from a variety of projects. This assists in achieving completeness of information and consistency of scoring.

The data should be stored in a central location and secured to adequately protect any commercial information.

6.3 Refreshing and updating

The Client should be responsible for uploading all performance reports to an information management system within the time limit specified.

The framework should specify the 'point in time' on a project where performance data is captured. For example, data captured at conclusion of the tender phase, end of construction and at end of the contract liability period. These point 'definitions' need to be consistent across all projects.

The Supplier's overall score across a portfolio of projects should be updated either on an annual basis or as new project scores are produced. As part of the refreshing exercise, attention needs to be paid to the relevant period of past performance (see section 3.3).

6.4 Regulating, Review and Audit

The framework should include a Client process to conduct an independent audit of the system to avoid from time to time any preferential scoring or assessment of performance and to provide assurance that the approach is working as intended.

7 Continuous improvement

This short Chapter provides guidance on how the information and analysis captured in the performance assessment framework can inform continuous improvement by the Supplier and the Client.

The Client should understand, and where possible, address the lessons learned on similar projects. This will help to continuously improve and better tailor project definitions to the needs of new projects and devise a procurement strategy which maximises the experience and capability of the market. This will provide a good opportunity to achieve improved project outcomes.

To reverse the trend of constantly increasing the base estimation of an asset cost or class of asset across a longer term portfolio, the Client should gather and utilise information on how to successfully meet the service need at the lowest cost. Following construction of the asset, once it is being used operationally, the Investor/Client should conduct a structured and objective assessment of the entire project lifecycle which considers:

- Was the project delivered in line with the approved business case (budget⁷ and other constraints)?
- Was the service outcome achieved?
- Did the Supplier perform their contractual obligations to the expected standard?
- Is there anything that could have been done differently (e.g. project planning, procurement practices etc.) which would have had a positive impact (e.g. lower costs, shorter timelines etc.) on the project or government's wider portfolio?

Both the Client and Supplier (with a balance of people internal and external to the project delivery teams) should participate in this review so that a balanced conclusion can be reached which does not unduly praise or criticise either party but comes to a sound assessment.

⁷ Whilst business cases are often approved with a project budget at the P90 figure, it is universally agreed that the probabilistic model of cost estimation works on the basis that across a portfolio of projects successful project delivery is achieving actual outcomes at the average of P50. For example, an agency delivering four consecutive or related projects with each at, or just below, the P90 figure should consider this a poor outcome. In this example, the agency would be expected to seriously review its project planning and procurement practices. In undertaking such a review, it is important not to assume that poor cost outcomes are due to poor (or under) cost estimating.

Appendix A

Example Performance Assessment Framework Templates

Performance Assessment Scheme

What will be assessed?

An assessment shall be made of how the Client considers the Supplier is performing against the criteria documented in the contract. The Client's performance will be assessed in order to inform the assessment of the Supplier's performance. Potential criteria are illustrated in Figure 3.

Figure 3 Example Supplier Performance Assessment criteria

Criteria	Measure
Workmanship	
Progress	
Site safety and accident rates	
Productivity achieved	
Environmental control	
Organisation	
General obligations	
Industry awareness	
Resources	
Design (in D&C contracts)	
Responsiveness and agility	
Attitude to Claims	

How will performance be assessed?

The Performance Assessment Scheme consists of the following key steps:

- **Assessment:** Assessment of the Supplier's performance conducted by the nominee of the Client.
- **Interaction:** A discussion between the Supplier and the Client with an opportunity for input from the Supplier regarding performance.
- **Report:** The Client nominee finalises the Report for the Client.
- **Escalation:** In accordance with the agreed project governance protocols.

Assessment

The Client will assess the performance of the Supplier (and itself) in their performance of their contractual obligations using the agreed criteria. The assessment will be conducted by completing a *Supplier Performance Assessment proforma* (refer to examples provided).

The assessments shall be completed every quarter. Not all assessment areas may be scored each quarter.

Each quarterly Assessment represents a snapshot in time of the Suppliers' performance, with an overall assessment of performance on this project determined post final completion. For each measure, performance will be assessed across a 5 score range.

1. Very Poor: immediate action is required to rectify performance.
2. Poor: some performance unsatisfactory.
3. Satisfactory.
4. Good: expected performance.
5. Very Good: stretch performance which may become the 'good' rating over time with continuous improvement.

The Client will prepare a matrix outlining each criteria and the performance at each of the 5 'rating' levels which will form part of this document.

The Interaction and Report

Within two weeks of the completion of the quarterly Assessment both parties will meet to discuss the results.

The Client will make their quarterly Assessment available to the Supplier at least 3 working days prior to the meeting.

At the meeting, the assessor should explain the ratings. The Supplier will be given an opportunity to discuss any concerns they have with the scoring.

The aim of the meeting is to provide a basis for discussion between the Client and the Supplier about the performance of their obligations in the past quarter, identify any differences between the Client and Supplier in this and address any issues as they emerge.

Following the Discussion the assessor shall complete the quarterly Assessment with additional comments noting any differences of opinion. This completed document shall form the Report of the quarterly Assessment. The Report will be provided to:

- relevant parties as per the project governance and contract management requirements; and
- the Client's central recording team to enable use of the score in future evaluations, and for analysis of trends etc.

Escalation

Issues arising from completion of the quarterly Assessment should be resolved, where this is possible, by the Client and Supplier at project team level. If resolution is not possible, the Client's view is incorporated in the Assessment with the Supplier's dissent noted.

Control and use of Reports

The Report of the quarterly Assessment will be used for:

- determining the Client of the overall assessment of the Supplier's performance on this project;
- informing discussions between the Client and Supplier; and
- providing data to inform the Client's engagement with industry on industry-wide issues.

The Client may also use the Report to inform other analysis or share it with other agencies.

Contract Requirements

The Performance Assessment scheme forms part of the contract. It does not replace or mitigate any other contractual obligation of the Parties. In particular where measures of performance against Key Result Areas or similar are required it does not replace that requirement. Where such measures are required they may form a valuable input into the completion of the Assessment.

Contractor Performance Assessment Proforma

Project:

Form Completed by:

Approximate Completion of Project to Date:

Project commencement Date:

Has a previous Assessment occurred for this project? Y / N

If Yes, when was the most recent?

Today's Date:

Date for Discussion:

The assessor shall complete this document with a view to sharing information at the Interaction step and then completing it as a final Report.

Instructions for use

1. The Client will complete the assessment every quarter.
2. It is recognised that not all assessment areas can be scored each quarter. Complete only those that are relevant.
3. The following Assessment rating shall be used:
 - (1) Very Poor: immediate action is required to rectify performance;
 - (2) Poor: some performance unsatisfactory;
 - (3) Satisfactory;
 - (4) Good: expected performance;
 - (5) Very Good: stretch performance which may become the 'good' rating over time with continuous improvement.
4. Commentary should be provided on the basis for the rating.
5. Share the Assessment between the Parties and conduct the interaction meeting.
6. Assessor complete the Report with commentary regarding the interaction and issues in accordance with the Project governance and contract administration requirements.

Overall Assessment

The Supplier is performing at <insert appropriate rating> level.

Criteria	Measure	Rating	Comment
Workmanship			
Progress			
Site safety			
Productivity achieved			
Environmental control			
Organisation			
General obligations			
Industry awareness			
Resources			
Design			
Responsiveness and agility			
Attitude to Claims			

The performance score is the (sum of the Supplier's score/sum of the maximum score) X 100.

Example Marking Guide

(Reproduced with the kind permission of UK Network Rail).

Scoring Criteria	5 = Very Good	4 = Good
3 = Adequate	2 = Poor	1 = Very Poor
In the event that both Network Rail and the Supplier's representative are unable to reach agreement on the scoring to be applied, this matter and details of the disagreement are to be escalated via the SAM (Supplier Account Management) process. If the contract is not subject to SAM process then the issues shall be escalated via the same hierarchy as is applied to the contract.		
Performance Indicators for Consideration for the Supplier (taken from previous PRISM Guidance)	Performance Indicators for Consideration for Network Rail (taken from previous PRISM Guidance)	Scoring Guidance
Delivery On Time		
1 off Action		
At the project kick off meeting both parties are to agree the mobilisation periods for the project start up		
Timely contract award for adequate lead times	Timeliness of assurance, quality documentation and other submitted documentation	5 = Assessed party consistently provides all relevant documentation / approvals / acceptance etc in advance of the agreed programme requirements. Where variations to the contract scope are required they are agreed within a timescale relevant to the nature of the variation (ie:- simple, non complex within less than 5 working days, complex within a timescale as mutually agreed between the parties). They should have an appropriate timescale allowed for in order to undertake the additional activities in a safe and cost effective way, without negatively impacting upon other areas of the programme. Programme contains detailed activities in regards to the requirements for resources (plant, materials and labour), or other 3rd party influences and the lead time for these requirements are sufficiently detailed such that all orders / interactions are completed well in advance of the back stop date. The programme is continually monitored with a view to improving the delivery timescales (at levels 3 and 4) , reported against and all activities are delivered on time or in advance of the programme dates.
Effective and timely management of changes and variations	Development, maintenance and adherence to programmes and plans	4 = Assessed party consistently provides all relevant documentation / approvals / acceptance etc in accordance with the agreed programme requirements, and occasionally in advance of the programme. Where variations to the contract scope are required they are agreed within a timescale relevant to the nature of the variation (ie:- simple, non complex within less than 10 working days, complex within a timescale as mutually agreed between the parties). They have been agreed with an appropriate timescale allowed for in order to undertake the additional activities in a safe and cost effective way, but they may have an impact upon other areas of the programme. Programme contains outline level activities in regards to the requirements for resources (plant, materials and labour), or other 3rd party influences. The programme is continually monitored, reported against and all
Timely provision of NR free issued materials and plant	Timely site provision of plant and materials	3 = Assessed party provides all relevant documentation / approvals / acceptance in accordance with the agreed programme. Where variations to the contract scope are required they are agreed within a timescale relevant to the nature of the variation (ie:- simple, non complex within less than 21 working days, complex within a timescale as mutually agreed between the parties). They are agreed with an appropriate timescale to complete the additional activity in a safe but not necessarily cost effective way, the additional requirements may have a negative impact on other areas of the programme. Programme contains high level activities in regards to the requirements for resources (plant, materials and labour) and other 3rd party influences. The programme is continually monitored, reported against and the majority of activities are delivered on time, and those which aren't achieved on time have limited impact upon the overall programme.
Realistic timescales set for the safe delivery of the requirements:- possessions, lead times etc	Timely provision of team resources, site and off site	2 = Assessed party consistently provides all relevant documentation / approvals / acceptance late but within 10 working days of the agreed programme. Where variations to the contract scope are required they take time to agree regardless as to the nature of the variation. The additional requirements will have a negative impact on other areas of the programme. Programme contains high level activities in regards to the requirements for resources (plant, materials and labour) and other 3rd party influences. The programme is occasionally monitored and reported against however, a proportion of the activities are delivered late, requiring some mitigation / intervention in order to meet the overall programme.
Timely approval of submitted documentation; including assurance submissions and quality documentation, planning permissions etc	Impact of re-work, remediation	1 = Assessed party consistently provides all relevant documentation / approvals / acceptance late (greater than 10 days) against agreed programme. Where variations to the contract scope are required they take significant time (greater than 21 working days) to agree regardless as to the nature of the variation and they are unrealistic / unacceptable in regards to timescales to complete the activity and potentially introduce safety risk to the programme. The additional requirements will have a negative impact on other areas of the programme. Programme doesn't contain sufficient detail in order to ensure that resources (plant, materials and labour) and other 3rd party influences are requested in a timely manner to meet programme. The programme is occasionally monitored and reported against however, a significant proportion of the activities are delivered late, requiring continual mitigation / intervention in order to meet the overall programme.

