

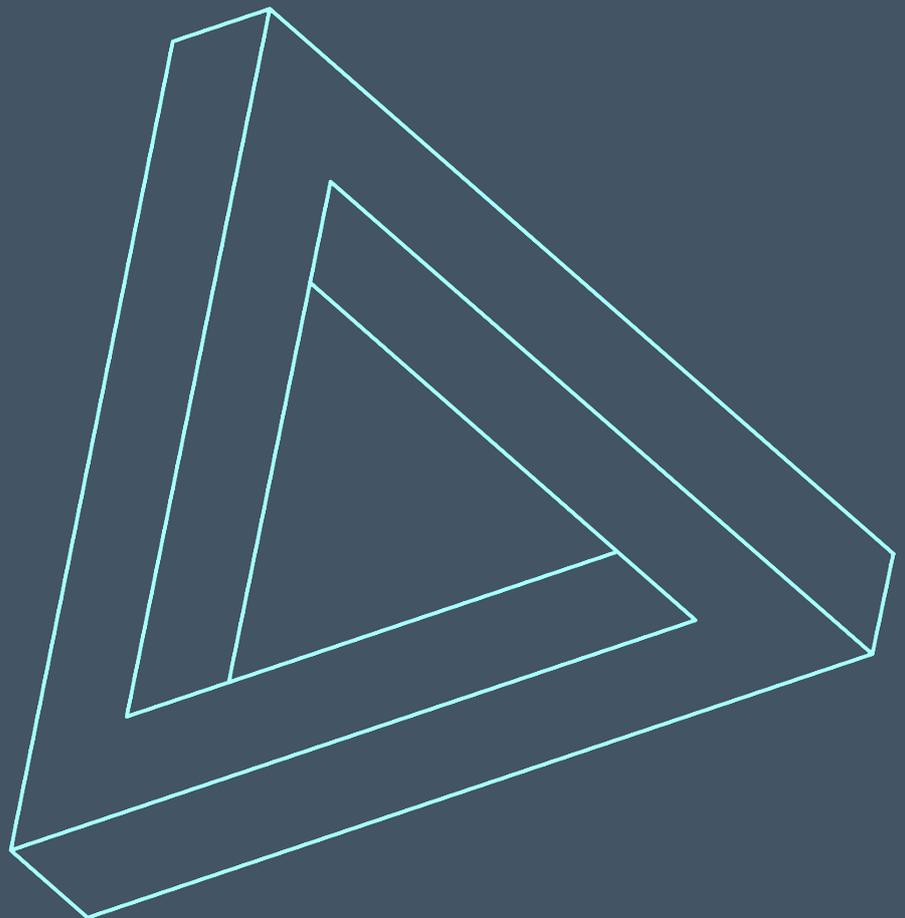


Government
Commercial
Function

Government Commercial Operating Standards

Iteration ii

October 2016





CONTENTS

1 INTRODUCTION

1.1 Foreword by Gareth Rhys Williams, Government Chief
Commercial Officer

1.2 Purpose Statement

2 THE COMMERCIAL OPERATING STANDARDS

3 THE ASSOCIATED METRICS

4 ASSUMPTIONS AND DEFINITIONS

5 CONTACT US



1 INTRODUCTION

1.1 Foreword by Gareth Rhys Williams, Government Chief Commercial Officer

Since we published our first set of Commercial Operating Standards in February 2016 we have undertaken a consultation with our key stakeholders across government. These have resulted in a shorter, more concise set of standards, which are now underpinned by associated metrics to enable departments to localise the standards and to measure and define how they meet these standards.

I look forward to working with departments in both the continuing integration of these standards into departmental processes, and the uplift in capability that will occur as we continuously improve our adherence to the standards.



1.2 Purpose Statement

The purpose of the Commercial Operating Standards is to ensure effective and consistent commercial delivery, and to drive continuous improvement of that commercial capability. Standards are also relevant to other initiatives, including commercial blueprints and spend assurance.

They are standards, which apply across the whole of the business. Departments will monitor and report achievement against the Standards.

Following a 6-month base-lining period to allow departments the opportunity to assimilate and conduct an internal review, there will follow a programme of peer group reviews to assess current performance against the Standards, aimed at identifying capability and any gaps. Departments with more developed capability will be expected to share their good practice, and those departments with less well developed capability in a particular area will be expected to use those examples to help in their continuous improvement work, such that by the time of their next six monthly peer review, they can demonstrate meaningful progress towards the 'best' metric.

The emphasis of the peer review is not to assess a pass or fail mark, but to identify routes for improvement; what matters is not the current position, but the delivery of the improvement plan that will come out of the review.

The Standards and their associated metrics will be reviewed again, and potentially added to, towards the end of 2017, the objective is continuous improvement, and, in so doing contributing to the Commercial Function Vision: The Government's Commercial Function will be the best commercial function in the UK.'



2 THE COMMERCIAL OPERATING STANDARDS

1. BLUEPRINTS & RESOURCES

Government will ensure that it has the right workforce to deliver against each department's pipeline of commercial activity. A key enabler will be that each department will have a signed off blueprint that indicates their expected commercial activity, details grants where appropriate, and sets out their resource and capability requirements for the next 3 years. Each blueprint will be reviewed annually.

2. PIPELINE AND PLANNING

Government will prepare and retain a comprehensive view of current and future contracts and commercial activity through a commercial pipeline, refreshed every 6 months (with major changes updated as they happen), and plan commercial activity in good time.

3. SENIOR RESPONSIBLE OWNERS & EXPERTISE

Government will maintain senior engagement throughout the commercial process, with all commercial activity on its pipeline having a senior officer (or SRO if appropriate) appointed or identified. This will ensure that the department as a whole maintains a clear understanding of the requirements.

4. EARLY CROSS-FUNCTIONAL ANALYSIS OF OPTIONS

Government, through widely sourced cross-functional analysis, will consider all relevant commercial options prior to agreeing a sourcing pathway, and produce timely commercial cases with options for appraisal.

5. MAXIMISING COMPETITION

Government will maximise competition by engaging with the market early, and design service requirements that are accessible to as many suppliers as possible (including small and medium-sized businesses where appropriate).

6. CONTRACTING

Government will make use of flexible commercial contracts that can adapt to future changes. When appropriate, Government will use model terms/standard forms of contracts with minimal amendment.

7. CONTRACT MANAGEMENT

Government will ensure the implementation of adequate contract management processes to ensure measurable performance against the requirements throughout the contract lifecycle.

8. SUPPLIER RELATIONSHIPS

Government will develop a comprehensive view of its supply chain and apply relevant strategies to manage industry capacity. At a strategic level, Government will create and maintain strategic supplier relationship management (SRM) programmes with its highest impact suppliers, both across Government and for each department's commercial portfolio.



3 THE ASSOCIATED METRICS

1. BLUEPRINTS & RESOURCES

Government will ensure that it has the right workforce to deliver against each department's pipeline of commercial activity. A key enabler will be that each department will have a signed off blueprint that indicates their expected commercial activity, details grants where appropriate, and sets out their resource and capability requirements for the next 3 years. Each blueprint will be reviewed annually.

ASSOCIATED METRICS

1.1 Improving Commercial Capability in departments

GOOD	At least 60% of staff at Grade 6* or above, within a commercial role in a department will be accredited through the Assessment & Development Centre. *Civil Service Grade 6 or equivalent grade
BETTER	At least 80% of staff at Grade 6* or above, within a commercial role in a department will be accredited through Assessment & Development Centre. *Civil Service Grade 6 or equivalent grade
BEST	100% of staff at Grade 6* or above, within a commercial role in a department will be accredited through Assessment & Development Centre. *Civil Service Grade 6 or equivalent grade

1.2 Changing the grade mix to reflect target operating model

GOOD	Grade mix aligns with the originally agreed baseline.
BETTER	Numbers of senior grade staff are at target number as defined in the agreed blueprint.
BEST	Target numbers for all staff grades have been achieved in the agreed current blueprint.

1.3 Cost of Commercial Functions

GOOD	Based on current agreed blueprint the department cost of function aligns with baseline.
BETTER	Cost of function has achieved target resourcing as outlined in the agreed blueprint.
BEST	Cost of function includes the resource savings against the baseline as outlined in the agreed blueprint.

1.4. The level of commercial interim staffing in departments is optimised

GOOD	All interim staff appointments for commercial activity are supported by a clear rationale and statement of purpose that shows time limited reliance on this form of resource and supports the permanent resourcing strategy as set out in the agreed blueprint.
BETTER	All in situ interim appointments are regularly reviewed and reliance on interim appointments for commercial activity continues to reduce.
BEST	Blueprint resourcing strategy is achieved.



2. PIPELINE AND PLANNING

Government will prepare and retain a comprehensive view of current and future contracts and commercial activity through a commercial pipeline, refreshed every 6 months (with major changes updated as they happen), and plan commercial activity in good time.

ASSOCIATED METRICS

2.1 Extending contracts based on value for money considerations

GOOD	Zero unwarranted extensions, and 30% or more of eligible contracts have been reviewed ahead of the deadline for the contractual extension notification date, allowing time for the department to consider all VFM options (including options to run a new competition - and the time this would take).
BETTER	Zero unwarranted extensions, and 60% or more of eligible contracts have been reviewed ahead of the deadline for the contractual extension notification date, allowing time for the department to consider all VFM options (including options to run a new competition - and the time this would take).
BEST	Zero unwarranted extensions, and 100% or more of eligible contracts have been reviewed ahead of the deadline for the contractual extension notification date, allowing time for the department to consider all VFM options (including options to run a new competition - and the time this would take).

2.2. Creating a comprehensive commercial pipeline (minimum of 18 months) of contracts that are high risk or complex

GOOD	Departments regularly review their comprehensive commercial pipeline with high risk or complex transactions. The Board is confident that the organisation has a full view of its upcoming relevant commercial events.
BETTER	The department has in place resources and processes that enable unforeseen or new commercial activity, that is additional to that already on the pipeline, to adopt appropriate commercial strategies in line with its approach to pipeline and planning.
BEST	The department has planned and created or has available sourcing routes that enable unforeseen or new commercial activity, that is additional to that already on the pipeline, to be sourced in line with value for money considerations for that service.

2.3. Using management information to support effective demand and category management

GOOD	The Department collects and uses effective management information, producing an annual comprehensive spend analysis report to understand demand in key categories of spend relevant to the department (which should include options to enable reducing duplication, right sizing requirements and improving consistency of performance). Information from this report will be shared with industry where this informs future commercial activity at Department level.
BETTER	The Department is able to evidence that commercial decision-making is influenced by the utilisation of management information to better manage demand and categories.
BEST	The Department is able to evidence the impact of better demand and/or category management (through for example savings, rationalisation of contracts, cross-government collaboration).



3. SENIOR RESPONSIBLE OWNERS & EXPERTISE

Government will maintain senior engagement throughout the commercial process, with all commercial activity on its pipeline having a senior officer (or SRO if appropriate) appointed or identified. This will ensure that the department as a whole maintains a clear understanding of the requirements.

ASSOCIATED METRICS

3.1 Ensuring strong and effective commercial engagement

GOOD	The Department has a clear overarching commercial governance framework with an appointed senior leader (e.g. senior contract owners, SROs or equivalent) in place for all key identified commercial activity.
BETTER	Senior leaders appointed across identified key commercial activity, which leads to the effective management of contracts, with recognised activities consistently undertaken across the organisation, to ensure that the right commercial decisions are being made at the right time.
BEST	Senior leaders are regularly challenged to attest (or equivalent) to the effectiveness of commercial delivery of the commercial activity they oversee.



4. EARLY CROSS-FUNCTIONAL ANALYSIS OF OPTIONS

Government, through widely sourced cross-functional analysis, will consider all relevant commercial options prior to agreeing a sourcing pathway, and produce timely commercial cases with options for appraisal.

ASSOCIATED METRICS

4.1 Commercial need is shaped in the department early, between the commercial function and business owner, and a full review is undertaken of the required commercial outcomes (including risk/benefit trade-offs/stress-testing for Government and suppliers). Metrics or key performance indicators for all eligible contracts are documented and these are clear by Full Business Case (or equivalent).

GOOD	100% of eligible contracts.
BETTER	For eligible contracts the review of commercial outcomes is extended to bring in cross-government expertise.
BEST	For eligible contracts the review of commercial outcomes is further extended to bring in supplier and markets views on service delivery options and innovation.

4.2. Commercial options should be considered early and with the department Commercial Function (suggested a minimum of 6 months prior to any approval date for Strategic Outline Business Case and Outline Business Case) using business cases (or equivalent) that contain appropriate consideration of commercial and contract management capability (staffing/resources).

GOOD	100% of eligible outline business cases (or equivalent) will review a full range of sourcing options (or equivalent).
BETTER	100% of eligible strategic outline business cases (or equivalent) will review a full range of sourcing options (or equivalent, e.g. make or buy).
BEST	100% of eligible strategic or outline business cases (or equivalent) will contain a full range of sourcing options including “make or buy”, existing / prospective collaborative arrangements, using external sources of expertise where appropriate and include consideration of options that have benefitted from cross-Government (and related industries) learning in terms of commercial terms, supplier markets or innovations in service delivery.



5. MAXIMISING COMPETITION

Government will maximise competition by engaging with the market early, and design service requirements that are accessible to as many suppliers as possible (including small and medium-sized businesses where appropriate).

ASSOCIATED METRICS

5.1 Early engagement of suppliers

GOOD	At least 70% of all eligible contracts demonstrate engagement was sufficiently early to permit suppliers to influence, understand and prepare to bid for Government work (e.g. using contracts finder, supplier messaging, publication of PIN, undertaking of supplier days etc).
BETTER	At least 85% of all eligible contracts demonstrate engagement was sufficiently early to permit suppliers to influence, understand and prepare to bid for Government work (e.g. using contracts finder, supplier messaging, publication of PIN, undertaking of supplier days etc.).
BEST	100% of all eligible contracts demonstrate engagement was sufficiently early to permit suppliers to influence, understand and prepare to bid for Government work (e.g. using contracts finder, supplier messaging, publication of PIN, undertaking of supplier days etc.).

5.2. Work with suppliers to design and shape the market

GOOD	All eligible contracts are subject to a test as to whether market forming and development activity is appropriate.
BETTER	All eligible contracts tested as requiring market forming and development should follow good practice (such as Lean Supplier Boot Camps etc.).
BEST	All eligible contracts tested as requiring market forming and development should include engagement and collaboration with other Government departments (OGDs) where there is a comparable need or expertise available.



6. CONTRACTING

Government will make use of flexible commercial contracts that can adapt to future changes. When appropriate, Government will use model terms/standard forms of contracts with minimal amendment.

ASSOCIATED METRICS

6.1 Greater accessibility and awareness of commercial terms

GOOD	Departments have assurance mechanisms in place to ensure that appropriate and proportionate commercial terms are utilised across its commercial portfolio (e.g. the use of short form terms and conditions (T&Cs) for procurements below the procurement thresholds).
BETTER	Proposed commercial terms for all eligible contracts are shared with the supply market ahead of the procurement (e.g. KPIs, service level agreements, contract conditions, performance mechanisms), where the department intends to deviate from standard form terms for business reasons.
BEST	Departments contribute actively to the continuous improvement of relevant standard commercial terms through periodic “lessons learnt” reviews within their business and across and with OGDs as appropriate.

6.2 Contracts will outline agreement on the cost of potential future options

GOOD	As part of supplier engagement and the procurement, eligible contracts should explicitly define and recognise costed future options (e.g. foreseeable changes to the service, responses to expected policy changes, possible operational changes to need).
BETTER	The original contracts are set up to include sufficient agreed unit costs to provide a basis for negotiating the costs of future unplanned changes that might occur.
BEST	Contract changes are tracked across a commercial portfolio to ensure that all changes are undertaken as an opportunity to negotiate further contractual improvements to terms and inform and influence future commercial programmes.

6.3 Appropriate risk allocation between parties

GOOD	All eligible contracts are subject to a commercial risk assessment prior to commencement of the procurement activity (i.e. recognition of the risk profile between supplier and contracting authority).
BETTER	Regular reviews of the department’s contract portfolio to test and benchmark commercial risk assessments across comparable services or markets.
BEST	Active management of department’s whole commercial risk portfolio to ensure that risks are allocated to the parties best placed to manage risk, with a documented understanding of which party is liable for what risk at different levels of out-turn (e.g. volume, rate of uptake of services).

6.4 Departments will have a mechanism for tracking the deliverability of mobilisation obligations.

GOOD	100% of mobilisation obligations should be understood by the parties prior to service commencement for eligible contracts and executed as per the agreed mobilisation planning.
BETTER	100% of mobilisation obligations should be understood by the parties prior to service commencement for eligible contracts and executed as per the agreed mobilisation planning. Mobilisation obligations are risk assessed early in the procurement design phase.
BEST	100% of mobilisation obligations should be understood by the parties prior to service commencement for eligible contracts and executed as per the agreed mobilisation planning. Mobilisation obligations are risk assessed early in the procurement design phase and the role of mobilisation obligations is reviewed strategically within the wider context of departmental procurement policy.



6.5 Transition arrangements	
GOOD	All eligible contracts stipulate at the time of signing what the transition responsibilities for each party will be in the run up to when that contract expires.
BETTER	All eligible contracts stipulate at the time of signing what the transition responsibilities for each party will be in the run up to when that contract expires with detailed timings for each deliverable and with clear definitions of those deliverables.
BEST	All eligible contracts stipulate at the time of signing what the transition responsibilities for each party will be in the run up to when that contract expires. Contracts additionally allow for the modification/expansion of these transition arrangements during agreed contract review processes.



7. CONTRACT MANAGEMENT

Government will ensure the implementation of adequate contract management processes to ensure measurable performance against the requirements throughout the contract lifecycle.

ASSOCIATED METRICS

7.1 Contracts should deliver the outcomes anticipated

GOOD	All eligible contracts are subject to regular performance reviews and can demonstrate conformance against agreed contracted outcomes.
BETTER	Where contract provisions permit, departments maintain a regular dialogue around continuously improving contract conformance and outcomes for eligible contracts.
BEST	Departments are able to demonstrate that across their entire eligible contract portfolio they employ contract provisions that promote continuous improvement and innovation.

7.2 Delivering effective contract management

GOOD	Effective contract management is applied proportionately to eligible contracts.
BETTER	The Department has evidence of commercial decision making being positively influenced by contract management for eligible contracts.
BEST	The Department can provide evidenced impact of contract management (demonstrably reducing risk and maintaining / enhancing VfM).

7.3 Commercial Contract Management Competency

GOOD	Appropriate level and number of contract managers, who are trained and have proven competency, are assigned to each eligible contract.
BETTER	The department regularly employs (for eligible contracts) procedures that validate the delivery of contract management plans, asking contract managers to evidence effective application of their plans.
BEST	As above, but departments also establish their own contract management competency centre of excellence to promote effective contract management planning and delivery.



8. SUPPLIER RELATIONSHIPS

Government will develop a comprehensive view of its supply chain and apply relevant strategies to manage industry capacity. At a strategic level, Government will create and maintain strategic supplier relationship management (SRM) programmes with its highest impact suppliers, both across Government and for each department's commercial portfolio.

ASSOCIATED METRICS

8.1 Run a departmental strategic supplier relationship management programme

GOOD	Strategic suppliers are identified and engaged in regular programmes of activity to improve value through service and cost.
BETTER	A measureable and managed programme with strategic suppliers is in place, to drive additional value (service, cost and risk) beyond that originally contracted. Demonstrable performance reporting across with initiatives and individual accountability at executive level for SRM programmes.
BEST	As above, but the SRM programme also demonstrates joint strategic objectives with the supplier. Outputs from SRM drive the commercial strategy. Transformational savings are realised and recorded through improved alignment between policy, service area and supply market.

8.2 Understanding your supply chain

GOOD	The Department understands the criticality of each component of the supply chains for all "tier 1" suppliers.
BETTER	The Department holds a comprehensive and maintained contingency plan for "high risk" contracts and vendors.
BEST	The Department holds a comprehensive and maintained contingency plan for "high risk" contracts, and additionally has plans in place for lower risk contracts (based on business priorities) and vendors.



4 ASSUMPTIONS AND DEFINITIONS

Assumptions & Definitions	
<i>To assist in the understanding and utilisation of these Commercial Operating Standards, a set of common assumptions and definitions are presented to be used alongside the Commercial Operating Standards Statements and Associated Metrics.</i>	
Accountability	Although reference is made in the Commercial Operating Standards to increasing commercial capacity across Government, it is assumed that Departments are individually accountable for meeting the Operating Standards and the delivery of metrics.
Base-lining period	How Departments build an assessment of their delivery to the Associated Metrics will be informed by an initial 6-month base-lining and assessment period. Departments will review their processes, systems, operating practices and any data available to prepare a baseline of Standards delivery after 6 months.
Capacity Building	Where, following the base-lining period, Departments are yet to define their Commercial Operating Standards or Associated Metrics delivery they will enter a Capacity Building period. Capacity Building will require further review and support for the operating practices of the Department to determine how an assessment to any metric or standard can be provided. A Capacity Building Programme will be initiated, this will be time bound and be agreed with the Cabinet Office and sponsored by the Government Chief Commercial Officer.
Continuous improvement	Commercial Operating Standards and metrics are designed according to a continuous improvement model. Future iterations will follow a performance improvement review.
Eligibility	The Commercial Operating Standards have been drafted to give Departments the ability to create local eligibility criteria as part of their methodology to meet the Commercial Operating Standards and their own assessments against the metrics. Where the term “eligible” is used, Departments should consider what this means for them in relation to the delivery of the Commercial Operating Standards.
Local integration of Standards	Departments are encouraged to use terminology or procedures common or understood at the Department level, though with an explanation or correlation shown to any standard terms of practices and how this will meet the Commercial Operating Standards.
Mobilisation Obligations	Refer to the resource, data, access and other obligations created by programmes of work.



<p>Risk Allocation</p>	<p>Risk assessment, as referred to in standard 6.3, should recognise the risk profile of both the supplier and Government department in the delivery of the programme of work.</p> <p>Examples of risk allocation methodologies could include deploying gainshare or other outcome-based financial models, assigning specific contractual liabilities to each party, requiring the delivery of guarantees or other assurances (amongst other commercial approaches).</p>
<p>Scope</p>	<p>The Commercial Operating Standards are for the whole of Government. Cabinet Office will continue to work with and identify other organisations in Government who will benefit from recognising and adhering to the Commercial Operating Standards.</p> <p>The scope and reach of iteration ii of the Commercial Operating Standards, in terms of the initial base-lining period post publication, will be those Departments that were engaged in their development and form part of the Government Commercial Function.</p> <p>Where Departments work with groups or partner organisations such as Arms Length Bodies, that Department will agree with those organisations how these Commercial Operating Standards will be disseminated.</p>
<p>Transition responsibilities</p>	<p>Refers to the measures that need to be undertaken before the end of a contract to enable future commercial options, leading up to the contract end date, to ensure the smooth transition of services from the incumbent to any replacement provider(s). Provisions may include determining a transition plan, outlining what information must be exchanged and in what format and designing incumbent contingency plans in the event of reprocurement issues.</p>
<p>Unwarranted</p>	<p>Where a contract arrangement is “extended” and insufficient preparation or planning has informed the commercial action. This could be seen as a direct award, where the department has no provision to extend its contract.</p>

5 CONTACT US

For further enquiries please email the Cabinet Office Commercial Standards and Assurance Team via commercialassurance@cabinetoffice.gov.uk.