

Strategic Supplier Risk Management Policy

1. Risk-assessment and management of Strategic Suppliers

- 1.1 This Government has recognised the importance of managing relationships with Strategic Suppliers and their performance on a cross-Government basis. Strategic Suppliers bring many benefits to the delivery of public services. However, serious and/or persistent under-performance by Strategic Suppliers is bad for the delivery of public services and the taxpayer and so these risks must be proactively managed in keeping with best practice in the private sector.
- 1.2 This policy note sets out the Government's policy relating to the risk-assessment of Strategic Suppliers, which may result in the designation of Strategic Suppliers as "High Risk" and, where the grounds for designation is under-performance, the consequential implementation of performance improvement measures. We welcome further feedback on this policy, which we expect to evolve and be supplemented as the policy is put into practice.
- 1.3 The policy applies to all central government Departments, to their Executive Agencies and to Non-Departmental Public Bodies ("**NDPBs**") that are classified as central government by the Office of National Statistics ("**ONS**"). To find out if an NDPB is classified as central government, please refer to the [ONS National Accounts Sector Classification Index](#). Departments, Executive Agencies and relevant NDPBs are referred to in this policy note as "**In-scope Organisations**".
- 1.4 The policy replaces all previous policies relating to the risk-assessment and management of Strategic Suppliers. It should be implemented alongside *Procurement Policy Note – Taking Account of Bidders' Past Performance Action Note 09/12* (the "**PPN**"), which can be found at <http://www.cabinetoffice.gov.uk/resource-library/type/1384>.

2. Background

- 2.1 Strategic Suppliers are those suppliers with contracts across a number of Departments whose revenue from Government according to Government data exceeds £100m per annum and/or who are deemed significant suppliers to Government in their sector. The current list of Strategic Suppliers can be found at <http://www.cabinetoffice.gov.uk/content/crown-representatives>.
- 2.2 Over the past two years, the Cabinet Office has developed a new approach to how Government engages with its Strategic Suppliers. The new approach has included establishing a network of Crown Representatives to manage the relationship between Government and each of its Strategic Suppliers.
- 2.3 The work of the Crown Representatives is overseen by the Commercial Relationships Board ("**CRB**"). The CRB is chaired by the Chief Procurement Officer ("**CPO**") and its other members are the Crown Representatives, senior members of the Efficiency and Reform Group in Cabinet Office and the General Counsel for Commercial Law. The remit of the CRB includes reviewing the list of Strategic Suppliers and assessing their performance and relevant risk factors with a particular focus on resolving any performance issues that may arise.

3. Centralised collection, monitoring, collation and sharing of information

- 3.1 Managing Strategic Supplier relationships on a cross-Government basis means that information about Strategic Suppliers and their performance needs to be collected, monitored and collated centrally and then shared with Crown Representatives and In-scope Organisations so that they have access to this cross-Government picture. The Cabinet Office will therefore collect, monitor and collate information about Strategic Suppliers and their groups. This information will include assessments from across Government of supplier performance and information from other sources (such as regulatory filings and notices, published accounts or other publicly available information) concerning the financial status of the Strategic Supplier and its group.
- 3.2 Information about Strategic Supplier performance will be collected in the first instance primarily through performance reports provided by In-scope Organisations in relation to current contracts with Strategic Suppliers and contracts with Strategic Suppliers completed in the previous 3 years that in either case have a total contract value (or anticipated total contract value) of £20 million or more. These will be refreshed by In-scope Organisations on a six-monthly basis and when otherwise appropriate in light of on-going developments. A pro-forma performance report is set out in the Annex to this policy.
- 3.3 Performance reports will be collected and stored by the Cabinet Office in a central repository. Where a report reveals under-performance or possible under-performance by a Strategic Supplier, the Cabinet Office may follow up with the relevant In-scope Organisation to obtain further information, which will also be stored. The repository will also hold publicly available information about Strategic Supplier performance, for example reports of Court cases. It will also hold certificates of performance issued to suppliers (including suppliers that are not Strategic Suppliers) in connection with procurements as described in the PPN.
- 3.4 Strategic Suppliers tend by their nature to be large and complex businesses which may operate through or otherwise depend upon a number of trading arms and/or group companies. The Cabinet Office will therefore also monitor publicly available sources for financial information relating to each Strategic Supplier and its group, including in particular information about 'trigger events' that could potentially lead to the invocation of financial distress measures in Government contracts. These include:
- 3.4.1 a decline in a Strategic Supplier's parent company's credit rating below investment grade¹;
 - 3.4.2 where a Strategic Supplier's parent company does not have or ceases to have a credit rating, a decline in the financial capacity of the Strategic Supplier as determined under paragraph 3.5 below;
 - 3.4.3 the issue by the Strategic Supplier or any guarantor of its obligations of a profits warning to a stock exchange;

¹ For Standard and Poor's, Fitch and Rating and Investment Information, Inc investment grade means any grade from AAA to BBB (inclusive) and non-investment grade means BB or below. For Moody's investment grade means any grade from Aaa to Baa3 (inclusive) and non-investment grade means Ba1 or below.

- 3.4.4 an investigation by any authority or regulatory body into improper financial accounting and reporting, suspected fraud and/or other impropriety of the Strategic Supplier or any guarantor of its obligations;
- 3.4.5 a material breach by the Strategic Supplier or any guarantor of its obligations of their covenants to lenders;
- 3.4.6 commencement of any material litigation against the Strategic Supplier or any guarantor of its obligations with respect to financial indebtedness or obligations under a contract for the supply of goods or services; non-payment of any financial indebtedness; any financial indebtedness becoming due as a result of an event of default; or the cancellation or suspension of any financial indebtedness. Litigation will be material for these purposes if the value of the claim is above three per cent. (3%) of the Strategic Supplier's group revenue as shown in the most recent published set of audited consolidated financial statements of the group.

The collection of information as set out above will enable the performance and financial status of the Strategic Supplier to be considered in the context of the total financial resources available to underpin its ability to fulfil its contractual obligations across Government.

- 3.5 Where a Strategic Supplier's parent company does not have or ceases to have a credit rating from any ratings agency, the Crown Representative for that Strategic Supplier, supported by the Cabinet Office will discuss and agree with the Strategic Supplier a measure of financial capacity and risk and levels of decline in substitution for the most recent rating(s) given by a ratings agency or agencies.
- 3.6 Strategic Suppliers will be requested to agree to the collection and sharing of performance-related information as contemplated in paragraphs 3.2 and 3.3 above. In-scope Organisations should also ensure that they do not limit the ability to share information in confidentiality agreements or confidentiality provisions in services agreements. This includes confidentiality agreements relating to arbitration or dispute proceedings with a Strategic Supplier and confidentiality undertakings in compromise agreements reached in settlement of disputes.

4. Use of information

- 4.1 Performance-related and financial information held by the Cabinet Office will be made available to In-scope Organisations at their request for the purposes of contract management, since the management of individual contracts remains primarily a matter for the individual In-scope Organisation holding the relevant contract. Performance related information relating to Strategic Suppliers and others held by the Cabinet Office may also be made available to In-Scope Organisations at their request to enable them to discharge their function of assessing the suitability of bidders when deciding to whom contracts may be awarded (as further explained in the PPN in relation to the assessment of reliability based on past performance).
- 4.2 In addition, the collection, monitoring and collation of a central pool of information by the Cabinet Office (as set out in paragraphs 3.1 to 3.4 above) will support the work of the Crown Representatives in overseeing the management of relationships with Strategic Suppliers and

reviewing their performance at a cross-Government level. In particular, it will enable Government (through the CPO and the Crown Representatives) to identify any Strategic Suppliers that give rise to concerns in terms of the performance or delivery of their contractual obligations. This may lead to the designation by the Minister for the Cabinet Office (“MCO”) on the recommendation of the CRB of such Strategic Suppliers as “High Risk”. The:

- 4.2.1 grounds on which a Strategic Supplier may be designated as “High Risk”;
- 4.2.2 procedure that will be adopted in designating a Strategic Supplier as “High Risk”;
- 4.2.3 consequences for a Strategic Supplier of being designated as “High Risk”; and
- 4.2.4 procedure whereby a Strategic Supplier may cease to be designated as “High Risk”,

are set out in sections 5 to 8 of this policy note.

- 4.3 Over time the Cabinet Office intends to work with Crown Representatives to develop a full performance and risk-assessment programme for all Strategic Suppliers.

5. Grounds for designation as “High Risk”

- 5.1 A Strategic Supplier may be designated as “High Risk” on the basis that:

- 5.1.1 it is considered to have seriously and/or persistently under-performed on one or more contracts with Government and its under-performance has not been resolved in the course of "business-as-usual" contract management; or
- 5.1.2 one or more of the triggers for financial distress listed in paragraph 3.4 above have occurred.

The CRB may in future determine that other grounds for designating a Strategic Supplier as “High Risk” will apply in which case those grounds will be published in a future version of this policy note.

- 5.2 Assessments of performance will be made using the central repository of performance reports and other information held as described in paragraph 3.2 above. Performance will therefore be assessed with reference to the terms of the relevant contracts.
- 5.3 In considering whether the Strategic Supplier should be considered as “High Risk” on the grounds of serious and/or persistent underperformance, the CRB will have regard to all the relevant circumstances including the public service delivery, financial and reputational consequences for Government of that under-performance. The CRB will also consider whether the information about under-performance evidences underlying systemic issues which need to be addressed.
- 5.4 It is also part of the relevant ground that the under-performance has not been resolved in the course of "business as usual" contract management, in other words that the concerns of the customer In-scope Organisation have not been resolved through the escalation channels specified in the relevant contract for resolving performance issues. Since the taking of steps

to arbitration, mediation or litigation is usually a last resort for either party, this will be taken as evidence that “business as usual” contract management has failed.

6. Consequences of “High Risk” designation

6.1 The purpose of designating a Strategic Supplier as “High Risk” is to ensure that the risks to delivery posed by these suppliers are proactively identified and managed. Where a Strategic Supplier has been designated as “High Risk” on the grounds of under-performance on one or more contracts with Government, the relevant Crown Representative will work with the Strategic Supplier to develop a strategy (an “**Improvement Plan**”) for the purposes of improving the Strategic Supplier's performance. This will take account of all information held by the Cabinet Office. If the Strategic Supplier does not agree an Improvement Plan, it will in any event be notified by the Crown Representative of those steps it must take to improve its performance. The Crown Representative will also send a copy of the Improvement Plan to each In-scope Organisation that has a contract with the Strategic Supplier.

6.2 Designation as a “High Risk” Strategic Supplier on the grounds of under-performance will have the following additional consequences for the period of the designation:

6.2.1 the Improvement Plan will provide for additional performance information to be collected above and beyond that provided in the normal course of business;

6.2.2 the Crown Representative will proactively monitor with individual In-scope Organisations progress at contract level, for example, whether underlying root causes for poor performance and disputes get resolved. Accordingly where an In-scope Organisation wishes to take corrective action under a contract with a Strategic Supplier it will inform and consult with the Crown Representative;

6.2.3 the Crown Representative will meet a senior representative from the Strategic Supplier on a regular and frequent basis to review performance;

6.2.4 In-Scope Organisations should reduce where possible the extent to which the Strategic Supplier is given additional work under the terms of an existing contract (by, for example the exercise of any option or change requests) so as to contain the risk to the taxpayer. As a result, Strategic Suppliers who are designated as “High Risk” may receive reduced revenue from Government; and

6.2.5 the benefits of being a Strategic Supplier, such as meetings with Ministers, participation in round-table events and provision of references, may be fully or partly withdrawn.

6.3 Where a Strategic Supplier has been designated as “High Risk” on the grounds of financial distress, designation will have the following consequences for the period of the designation:

6.3.1 a representative of the Cabinet Office will meet a senior finance officer from the Strategic Supplier and/or its guarantor as appropriate to assess the position and to discuss the Strategic Supplier’s plans to address the relevant issues;

6.3.2 the Cabinet Office will proactively monitor developments, including the Strategic Supplier’s progress against its plans;

- 6.3.3 In-Scope Organisations should reduce where possible the extent to which the Strategic Supplier is given additional work under the terms of an existing contract (by, for example the exercise of any option or change requests) so as to contain the risk to the taxpayer. As a result, Strategic Suppliers who are designated as “High Risk” may receive reduced revenue from Government; and
- 6.3.4 the benefits of being a Strategic Supplier, such as meetings with Ministers, participation in round-table events and provision of references, may be fully or partly withdrawn.
- 6.4 The new policy is not a "name and shame" policy. Names of any Strategic Suppliers that are designated as “High Risk” will not be published by Government but will be made known to Crown Representatives and In-scope Organisations as set out in paragraph 7.3 below.
- 6.5 The fact that a Strategic Supplier may have been designated as “High Risk” is not of itself relevant to the conduct of procurement activities. Information held by the Cabinet Office and which forms part of the basis for designation may be supplied to In-Scope Organisations at their request, however, to discharge their function of assessing the suitability of bidders when deciding to whom contracts may be awarded as mentioned in paragraph 4.1 above.

7. Procedure for designation as “High Risk”

- 7.1 The Crown Representative for each Strategic Supplier, supported by the Cabinet Office, will conduct a review of each Strategic Supplier once a quarter and when otherwise appropriate in light of on-going developments, to determine whether a recommendation should be made to designate a Strategic Supplier as “High Risk”. If a Crown Representative has reason to believe a Strategic Supplier should be designated as “High Risk” it will inform the CRB. The CRB will then consider whether grounds exist for making a recommendation to the Minister for the Cabinet Office that the Strategic Supplier be designated as “High Risk”.
- 7.2 The Government appreciates that the reasons for under-performance of contractual obligations are complex and that it should understand the Strategic Supplier's perspective before reaching a conclusion. If the CRB considers that grounds exist for a Strategic Supplier (and any members of its group) to be designated as “High Risk”, the Strategic Supplier will therefore be notified by the CPO of these grounds and invited to make written representations within 10 working days. The CRB will consider any representations made by the Strategic Supplier before reaching a final decision on whether to make a recommendation to the MCO.
- 7.3 If the CRB does decide to make a recommendation to the MCO to designate a Strategic Supplier (and any members of its group) as “High Risk”, the MCO will be advised of the grounds, any representations made by the Strategic Supplier and the CRB's assessment of those representations. If the MCO accepts the recommendation, the Strategic Supplier will be notified accordingly by the CPO. The notification will set out the reasons for the decision, including a response to any representations made by the Strategic Supplier. If the MCO does not accept the recommendation, the Strategic Supplier will also be notified. Crown Representatives and In-scope Organisations will also be notified of the outcome as appropriate.

8. Review of designation as “High Risk”

- 8.1 A Strategic Supplier's designation as “High Risk” will be reviewed by the CRB on a quarterly basis and when otherwise requested by that Strategic Supplier's Crown Representative in light of all available evidence (including progress against the agreed Improvement Plan or other notified performance improvement steps and any new developments since the date of previous consideration by the CRB), taking into account all the reasons for the initial designation and/or its continuation.
- 8.2 If the CRB concludes that grounds do not exist for making a recommendation to the MCO for the removal of a Strategic Supplier's “High Risk” designation, the Strategic Supplier will be notified accordingly with reasons and the CRB will consider any written representations made by the Strategic Supplier within 10 working days of such notification before making its final decision.
- 8.3 If the CRB is satisfied (either at the time of its review or after consideration of any representations made by the Strategic Supplier) that all issues which gave rise to the designation and/or its continuation have been resolved and sufficient time (normally six months) has elapsed to confirm their resolution, a recommendation will be made to the MCO to remove the designation.
- 8.4 If the MCO decides to accept the recommendation, the Strategic Supplier, Crown Representatives and In-scope Organisations will be notified. If the MCO does not accept the recommendation to remove the designation, the Strategic Supplier will be notified together with the reasons for the MCO’s decision.

Annex – Pro-forma Performance Report

Strategic Supplier Performance Report

Name of Strategic Supplier.....("Strategic Supplier")

Name of Customer.....("Customer")

Please complete the table below setting out details of all current contracts with total contract value of £20m or greater, taking only ICT, BPO or FM services into account. Details of previous similar contracts completed within the last three years should also be included. This table will be updated every six months or sooner in the event of a material change in status.

Contract Number, if relevant	Customer (name, address, telephone number and email) with whom we can raise further queries should we wish to do so	Contact address	Contracting Parties both Customer and Strategic Supplier	Contract title plus brief description of the services provided, when they were supplied and the value of contract, preferably by contract year	Date contract awarded plus start and finish dates

Please respond to the following questions regarding the Strategic Supplier's performance in relation to the Contracts:

1. Did the Strategic Supplier supply all services pursuant to the Contracts without material delay? Yes/ No

If the answer is No, please provide details including details of the length of any delay, any failure to achieve an acceptance milestone, any remediation plans agreed and any liquidated damages or other claims made against the Strategic Supplier and any excusing cause claimed by the Strategic Supplier.

2. Did the Strategic Supplier supply all the services pursuant to the Contracts in accordance with the scope set out in the original Contracts? Yes/No

If the answer is No, please provide details of any goods and/or services included in the original scope of the Contracts which the Strategic Supplier failed to provide and the reasons for this failure. Please also provide details of any failure by the Strategic Supplier to meet any contractual specifications.

3. Were all services supplied pursuant to the Contracts fit for purpose and/or supplied in accordance with quality standards or service levels. Yes/No

If the answer is No, please provide details including details of any remediation plans agreed, service credits claimed or paid or other claims made against the Strategic Supplier and any excusing cause claimed by the Strategic Supplier.

4. Did the Strategic Supplier supply the services pursuant to the Contracts within the prices agreed in the original Contracts? Yes/No

If the answer is No, please provide details including the amount of additional charges paid or claimed by the Strategic Supplier.

5. Are you aware of any other material or persistent breaches by the Strategic Supplier of its obligations under the Contracts?

If the answer is Yes, please provide details. For example this may include details of evidence of auditable over-charging, failures to provide management or financial information to which the Customer is entitled, failure to comply with key personnel provisions, failure to co-operate with other suppliers, failure to pay sub-contractors, failures to undertake contracted transition or exit activities in a timely or co-operative fashion, failures to agree necessary and reasonable changes, material breaches of health and safety, security, confidentiality, data and/or other standards.

6. Have you had any occasion to issue any notices of breach of Contract, and/or to use the escalation and/or dispute resolution procedures set out in the Contracts?

If the answer is Yes, please provide details.

7. Did the Strategic Supplier carry out any periodic customer relationship management reviews in accordance with the Contracts? Yes/No

If the answer is Yes, did any of those reviews raise any material areas of dissatisfaction which are unresolved?

If the answer is No, or if the Contracts did not provide for regular customer relationship management reviews, did you ever express any concerns about the management of the relationship by the Strategic Supplier?

8. Is there any other information about the Strategic Supplier's performance you would like to provide?

If the answer is Yes please provide details.

.....

SignedHead of Procurement of Customer for and on behalf of [insert customer]

Name

Date.....