

The Key Components For Successful Contract Management

By Philip Holt

INTRODUCTION

If you were asked to identify the activities that a company (of any size) needs for it to do business, then why is it that functions such as accounting, sales, marketing, IT and many others would all immediately come to mind, but contract management would rarely feature? Yet whether you are a large, medium or small enterprise, involved in manufacturing, services, construction, utilities, health care or almost any other industry you will at some time use contracts; all of which need to be planned, awarded and managed. More and more companies are focusing on what they do best and buying-in goods and services that can be provided by outside sources quicker, at lower cost and better quality. However, the methods used to acquire goods and services at the best price and under the best terms needs to follow a structured process with careful planning and managed by experienced people. Yes, this does require investment from your company – and not just financial – but the cost of not doing it can far outweigh the cost of doing it right. This paper tries to help you identify some of the aspects you need to consider and some of the best practices to adopt to make contract management as normal a business activity as any of the more traditional business processes.

WHY BOTHER?

One of the most obvious reasons why contract management is important is that in the EU it is a legal requirement that you must use a formal and open tendering process for all public sector contracts that exceed certain thresholds, which can be as low as €80k. Even if you are a private company and so not obliged to comply with the EU contracting process (known as the “OJEU process” from the Official Journal of the European Union) it is a good process to adopt and includes many best practices. A good process will help you undertake the three main phases of contract management, namely: planning the award of contracts; awarding the contract to the right supplier (or win it if you are a seller); and managing the ongoing delivery/supply. It will deliver financial savings and manage risk better than many other business activities.

Apart from any legal obligation, there are many other reasons why you should be interested in developing a good contract management process. Most companies are under several external pressures^[1], including costs, globalisation, compliance and risk. These translate into companies seeking to reduce costs, to be able to satisfy global or local business requirements quickly by having more standard and centralised contract processes, to comply with laws and regulations by having documented and transparent business processes and to manage risk better. Many people see the most important reasons for contract management are to ensure compliance with legal requirements and terms and conditions and monitoring the deliverables.

Without contract management, companies run risks that range from being forced to close due to breaking the law, to struggling on with high costs due to inefficient contract processes. The net result is that a company with poor contract management is a weakened company ... and we all know what happens to the weak in the business world.

OK, so if you now accept that you should at least take more interest in contract management, what exactly should you do? We will now look at the key activities and some of the best practices.

You need to start by building-up your contract management expertise by developing a team of specialists, some of whom should be organised in a centralised team. The contract management team should have a mix of hard and soft skills. They need factual knowledge of contracting such as planning and contract writing, but they also need the softer skills such as those used in negotiating. After all, contracts are made by and between people, and the ability to interact and work with all sorts of people is important. Many successful contract management teams follow project management processes and adopt project management disciplines. This results in a multi-disciplinary team that pulls in specialists as and when they needed, all controlled by a project manager who has the ability to always keep an eye on the 'big picture' and the overall aims, whilst homing in to detailed issues because inevitably the devil is often in the detail.

The question of how contract management expertise should be organised remains unanswered. Bearing Point's European survey "Contract Management 2010" found that many enterprises are dissatisfied with their present organisation and processes, but it is surprising to see that the results of their survey show that fully centralised contract management teams are rare. They found that although a central organisation is strongly favoured for many contract related processes, only 9% of enterprises today regulate all contract management-related tasks centrally. This may be because contracts generally consist of two parts. Part of a contract will adopt a corporate standard that defines how contracts should be written in style and format. It contains corporate information and also includes standard terms and conditions. There is also a project-specific part that covers the detailed statements of work or specifications of what is being bought/sold. These are often included as a number of appendices to the standard contract and in many ways are the most important part of a contract. So maybe the best organisation is a hybrid contract management structure which has a centralised team that provides contract templates, standard terms and conditions and holds all the contracts centrally. This central team could be staffed by specialist project managers who pull in the necessary technical experts who define what is required in great detail, plus the necessary legal expertise, from several different parts of the organisation.

IT tools can certainly help, but there is not one universal tool. Some of the more important IT tools are project management and office software, easy and fast retrieval of documents, together with complete, structured, secure, central filing that allows access to all related documents and information. Such tools are essential throughout the contract life cycle as one of the main tasks of contract management after the contract is signed is to monitor compliance both with the regulations and contracted deliverables.

Many experts, including those reported in Bearing Point's survey, recommend the following best practices:

Management support: this is perhaps the most important best practice. The highest levels of management need to be clear that contracts are important and to implement an organisation that reflects that view. Without this, contracts are doomed to wallow in the backwater activities of your organisation where at best they will frequently raise the levels of risk and incur unnecessary costs for your organisation.

A further good practice is to have a simple and clear contract management process that:

- Defines and reminds everyone of the objectives; not only of what is to be acquired but also the reason for acquiring it in the first place.

- Encourages communication between stakeholders (internal users and potential suppliers).
- Is aware of, and complies with, all the appropriate business regulations, whether they are internal corporate guidelines or external laws.
- Recognises that an efficient and rigorous change management process will be needed from the start.
- Collates, stores, allows access and distributes related contract information, including previous contracts and contract intelligence such as competitor analyses, pricing and quality benchmarks.
- Remains transparent and subject to analysis and audit at any time.

Although it is linked to management support, a contract management process must be run by experienced, pragmatic project professionals who have the authority and organisational status to define tasks, delegate work and get contributions from appropriate experts.

SUMMARY

Hopefully you will recognise that contracts and their management are very important, and becoming increasingly so. The risks of getting it wrong are also increasing, as are the penalties for failure to comply. And it is inescapable that to implement a good contract management process will incur management effort, cost and time. But it is not rocket science. With careful planning and experienced project professionals, companies can and do ensure that they get commercial advantage from having an efficient contract management process. It ultimately saves time, money and reduces risk. It can even be a differentiating factor that contributes to your company's unique selling proposition. After all, who wouldn't like to buy from and sell to companies that have an efficient contracts department where contracts are straightforward, their needs are addressed, deadlines met and costs are managed; and above all, there are no surprises!

Philip Holt, an instructor with ESI International, has over 25 years' experience in a wide variety of industries in both the public and private sectors, including IT, aviation, communications, energy and the non-profit arena. He has worked extensively in Europe, the United States, Canada, New Zealand and Jamaica.

Find out how ESI International can help organisations with their Contract Management requirements. To learn more, please contact ESI at enquiries@esi-intl.com or +44(0)20 7017 7100 or www.esi-intl.co.uk/contract_management.

(c) 2011 Reprinted with permission by ESI International.

[1] See "Contract Management 2010" survey, section 3, by Bearing Point Management &

