

CONTRACT ADMINISTRATION

Best Practices Guide

September 2023

SCOPE AND DEFINITIONS

This NASPO resource contains the best practices of state central procurement offices for contract administration, taking place once a contract has been awarded and signed (that is, after any negotiations), including contract monitoring and administration activities.

The goal for the Best Practices Committee's Contract Management Work Group effort was to create a tool for the membership and public procurement professionals, including helpful steps and guidance for effective contract administration. The steps and recommendations provided in this Guide are based on state practices and common processes identified by the work group through survey responses, state contract management guides, and group interview discussions.

According to the *NASPO State and Local Government Procurement: A Practical Guide*, **Contract Management** means the overarching process that a government agency will use to ensure that the contractor has performed in accordance with the requirements included in the statement of work or the specifications. Contract management is comprised of the entire contracting process, from the pre-solicitation activities through contract closeout.

This publication discusses **Contract Administration**, which is a subset of **Contract Management**, including all monitoring and administration activities that take place from the time the contract has been awarded or signed (that is, after any negotiations) until contract closeout. The processes and activities involved in contract administration vary depending on the complexity of the good or service that is being procured. It includes contract monitoring, which is observing and reporting on the contractor's performance. Contract administration also includes managing changes to contracts, maintaining contract-related documents, addressing claims and disputes, and closeout activities.

STATUTORY MANDATES AND TRAINING REQUIREMENTS

The Chief Procurement Officer (CPO) has a leadership role and sometimes an explicit statutory mandate for contract management statewide. The CPO typically has the discretion to delegate the responsibility for contract management, including contract administration activities.

States have increasingly offered contract management training for state agencies. NASPO, in collaboration with the National Contract Management Association (NCMA), has begun offering the Contract Management Organizational Capabilities (CMOC) program for states. As of 2023 this program has been implemented in several states and provides foundational training for agency contract managers.

ESSENTIAL ELEMENTS

This section discusses a few key elements essential to effective contract administration. While these principles may be applied to all contracts, we recognize that some contracts require more oversight than others, depending on the complexity of the work being performed, risk involved, and dollar amount of the contract.

State contract success is dependent on effective contract management and contract administration processes, which lead to lower operational costs, increased user agency satisfaction, and efficiency in delivering services to taxpayers.

To that end, states developed Contract Management Guides/Manuals and checklists to provide guidance to agencies regarding contract management practices and statutory requirements.

Contract management is successful when a few [essential elements](#) are in place and the process includes:

- Preparing a Contract Administration Plan (CAP);
- Convening kick-off meetings;
- Scheduling regular meetings or on-site visits to customer agencies to monitor and discuss the progress of the contract and contractor's performance;
- Training for best practices in contract management;
- Establishing good communication between the central procurement office and customer agencies before, during, and after the contract has been awarded and signed. This keeps all parties informed of compliance statues and potential issues that may affect the fulfillment of the contractual obligations;
- Allowing changes to specifications and terms and conditions within the general scope of the original contract;
- Collecting meaningful data from user agencies;
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- Collecting meaningful data from user agencies;
- Assessing contract risks and monitoring after the contract has been awarded;
- Establishing performance metrics;
- Implementing reporting tools and having processes in place for user agencies to report deficiencies to the central procurement office;
- Using tracking tools to monitor spending patterns and whether a contract is working as intended;
- Collecting data from users regarding contract performance and customer needs for existing contracts, which is critical when drafting specifications to include in the next contract for similar products or services; and
- Having procedures in place for expedient resolution of contract disputes and claims, encouraging informal resolution while ensuring that the contractor has a fair opportunity to be heard.

CONTRACT ADMINISTRATION PROCESS

For the purposes of this NASPO Contract Administration Best Practices Guide we included four steps, and activities for each phase that are typically involved in the contract administration process.

I. Kick-off/Pre-performance Period

NASPO recommends conducting pre-performance conferences or project “kick-off” meetings with all interested parties, especially for high-risk, high-dollar value contracts. Many states interviewed conduct some type of a “kick-off” meeting at the initial period of performance. These tend to be very informal discussions and are not set up for all contracts. These meetings are important communication tools to use at the beginning of contract performance to discuss the roles and responsibilities for the central procurement office, agency, and the contractor. This should also include a detailed discussion of how performance will be evaluated, documented, and reported. Having a good understanding of the standards of performance helps establish a positive relationship between the procurement office and contractor.

The NASPO State and Local Government Procurement: A Practical Guide recommends that all parties involved have a thorough understanding of their roles and responsibilities. The central procurement office and user agencies should work to ensure that members of the contract team understand each other’s authority, roles, and responsibilities. All parties involved should engage in regular communication throughout the life of the contract.

Contractors who are successful in a competition must comply with business registration requirements and submission of financial documents prior to commencement of the contract, as a matter of showing that they meet responsibility criteria. As a part of the contract award process, some state contracts are not executed before all documents are received. In some states, the state may reject an otherwise successful supplier due to failure to submit the required documentation, failure to timely submit it, or failure to timely submit it, or to provide documentation that does not meet applicable responsibility criteria.

II. Ongoing Maintenance for the Duration of the Contract

This is an important stage in the contract administration process. The contract manager plays a critical part and needs to ensure that all elements and planning tools that will guide the implementation are in place.

The *NASPO State and Local Government Procurement: A Practical Guide 4th ed.* recommends preparing a Contract Administration Plan (CAP) to document all aspects of the procurement process from the development of specifications to the contract closeout. The CAP document is a tool developed in the pre-award stage of contract management to aid in contract administration and ensure that all activities are carried out effectively.

The CAP should include critical elements and activities for effective contract management and quality assurance. Additional information that should be documented in the CAP includes:

- Names and roles of contract administration team members, including who is responsible for
 - o measuring performance,
 - o reporting,
 - o documenting files,
 - o authorizing payment,
 - o approving change orders, and
 - o supervising contract closeout
- Justification of solicitation source selection method
- Scope of work or specifications that include deliverables
- Contract goals
- Pricing structure for contract
- Delivery terms and requirements
- Key contract terms and conditions to include risk mitigation and information security
- Contract monitoring methods
- How performance will be measured and accepted
- Milestones for measurement (linked to payment terms)
- Payment terms
- Reporting method and frequency
- Required documentation

The central procurement office should work with user agencies to determine:

- Roles and responsibilities and who is responsible for each activity
- How performance will be evaluated, (including milestones and performance metrics)
- Monitoring methods
- Reporting tools and processes
- Process for resolution of disputes and claims

Having the proper tools in place to support the procurement office in fulfilling its contract management and administration role is an essential element. To assist with contract management tasks there is a growing market of contract management software options. There is an opportunity for states that have implemented robust eProcurement systems to consider implementing a contract management module and fully utilize the existing functionality statewide, if a contract management solution is in place. However, some states continue to rely on home-grown solutions in the absence of some contract management software.

III. Monitoring Contractor Performance, Documenting, and Record-Keeping

Monitoring contract performance is a key function in the contract administration process to make sure that all involved parties are performing their duties in accordance with the contract. Requiring contractual usage reports is a practice used by many states. However, the content and compliance of contractor responses can vary.

Gathering feedback from user agencies about the service received and contractor performance, typically through surveys, telephone, or face-to-face inquiry are some of the tools used by central procurement offices. Documenting and maintaining a contract file are good practices to ensure the delivery is in line with the contract requirements and issues are addressed promptly. All contract performance issues should be properly documented and included in the official contract file.

The Contract File should contain the essential record of contract award and performance as follows:

- Pre-award documents
 - o Solicitation document
 - o All responses to bids or proposals
 - o Copy of the contract, including all attachments and amendments
- Post-award to contract closeout documents (contract administration files)
 - o Copies of all correspondence with the contractor
 - o Notes from all meetings and verbal communications
 - o Documentation of performance issues/complaints, cure letters
 - o Contract amendments
 - o Documentation of deliverables
 - o Payment records
 - o Contract closeout documentation

Documenting contract compliance and performance issues when the contractor is not able to perform as agreed upon and addressing them promptly is an important activity in the administration process. Regular communications with the contractor should identify problems promptly. Dispute resolution processes need to be in place to resolve problems and reach agreement rather than seeking legal remedies. Managing documentation is especially important in cases of disputes, assessment of liquidated or actual damages, and for justifying termination for default.

Contract changes are inevitable. Anticipated amendments such as contract prices, time of performance, extensions and renewals, or other terms deemed appropriate should be built into the contract provisions.

Contract amendments are typically approved by the procurement office, especially for centralized statewide contracts. Involvement of legal counsel may be requested depending on contract complexity and the type of contract modification to the standard terms and conditions.

The importance of having a change management process in place cannot be overstated. A good practice for handling unforeseen amendments effectively should follow these principles:

- Only changes that are within the general scope of the original contract should be accepted
- Changes should be in accordance with the terms of the contract
- Only changes that are due to legitimate unforeseen circumstances should be allowed
- Written determination should be required prior to amending the contract
- Any changes need to be evaluated in terms of the impact on the scope, schedule and budget
- Formal, written approval of all changes should be required prior to the change taking place

A good practice for state central procurement offices is to provide written guidance to agencies on contract disputes and escalation procedures. The process for managing issues arising in contracts and how claims and disputes are addressed should be set in the contract terms and conditions. Poor or non-performance should never be accepted. That is why documenting problems is critical when requesting a cure. Acceptable means to resolve disputes should be identified in the contract.

They may include:

- Informal dispute resolution through collaboration and negotiation
- Alternative Dispute Resolution (ADR)
- Liquidated damages
- Contract Termination/Cancellation
 - o Termination without Cause – mutual consent of both parties
 - o Termination for Convenience – when the contract no longer serves the best interest of the entity
 - o Termination for Default (Termination for Cause)–due to failure to perform, failure to deliver on time, or failure to comply with other terms and conditions. Prior to terminating a contract for default, a Cure Notice must be sent to the contractor. If the contractor fails to remedy the contract deficiencies identified in the Cure Notice, the contract may be terminated.
 - o Repudiation – either the state or the contractor indicates that it cannot or will not perform.

Alternatives to termination for default that can be considered include:

- withholding payment until performance requirements are met
- seeking an alternative source of supply
- revising the contract
- delivery schedule
- re-procuring the product or service

IV. End of the Contract/Contract Closeout

Managing the closeout of the contract is the final phase in contract administration.

Documenting the life of the contract, including the history of the contract from the planning stage to contract completion, consistently reviewing contractor performance, and promptly evaluating challenges and successes are recommended steps.

The contract is considered successful when all obligations have been met, including the completion of all legal, administrative, and managerial tasks. A [Contract Closeout Checklist](#) is a helpful tool to use during the final review of the contract to ensure that all the necessary steps in the closeout process are completed.

Contract Closeout General Tasks Checklist

Conduct contract review activities

- Confirm that all contractual obligations have been completed
- Verify if the contract (including all optional renewals) expired
- Confirm that all testing reports have been received and analyzed
- Confirm that all inspections have been completed and accepted
- Confirm that any state-furnished property and/or information has been returned
- Confirm that no claims, issues, or unresolved matters exist on the contract
- Confirm that all required contract audits have been completed
- Confirm that all contractor invoices have been submitted and paid
- Confirm that contractor performance evaluation has been completed by the Contract Administration Team
- Determine if a termination for convenience was completed (if it was initiated)
- Determine if a cancellation for breach was initiated
- Complete cancellation
- Determine if all outstanding subcontracting issues have been resolved
- Verify that the contract file includes:
 - o an updated copy of the contract
 - o any contract amendments
 - o all original signatures for all file documents, including invoices, letters to contractor, etc.
 - o all change orders
- Communicate to contractor that the contract has been reviewed and is complete
- Contract Manager completes and signs the Contract Completion Statement, or similar document (See appendix for examples)
- Conduct a contract administrative analysis and document lessons learned, what has worked well and what activities failed
- Provide a report, including conclusions and recommendations from the contract administrative analysis to all stakeholders to prevent future issues with similar contracts.

CHALLENGES AND USEFUL TIPS TO OVERCOME BARRIERS TO EFFECTIVE CONTRACT ADMINISTRATION

We have identified a few challenges based on group interview discussions with NASPO procurement professionals. Some of these challenges do not have easy solutions, so tips and “words of wisdom” are provided here in hopes they may help other states who face similar hurdles in managing contracts effectively.

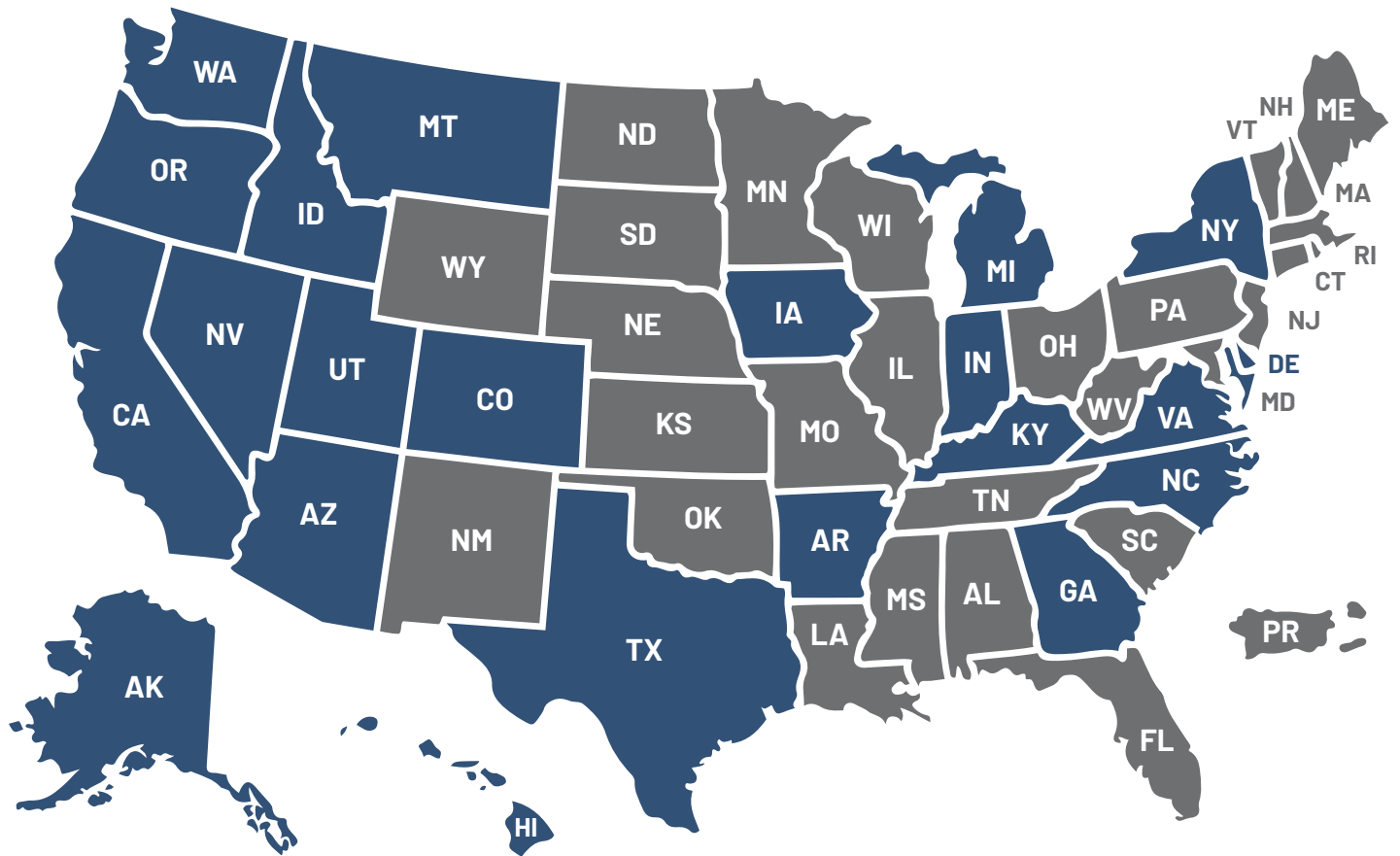
Useful Tips and Solutions

- Provide clear guidance for developing, awarding, and monitoring contracts
- Provide training to procurement staff involved in contract management, including (contract administration and monitoring activities)
- Communicate as early as possible and conduct pre-performance conferences or kick-off meetings
- Emphasize the importance of having kick-off meetings to discuss requirements, performance, metrics, etc
- Create a separate contract administration group and hire procurement personnel with the appropriate contract management skills set
- Build relationships with customer agencies
- Maintain communications and business relationships with contractors
- Monitor and track contract performance
- Document communications and contract changes
- Provide progress reports regularly
- Be diligent in managing your contracts and hold contractors accountable to the contract terms and conditions

And finally, effective contract management is primarily demonstrated by a few factors:

- High contract user satisfaction
- Very limited or no changes to the contract
- No claims or disputes
- No increased costs resulting in inefficient use of taxpayers’ dollars
- A contract file that contains the essential record of contract award and performance
- No contract ambiguities, fraud, or conflict of interest issues

STATES WITH ONLINE CONTRACT MANAGEMENT GUIDES AND RESOURCES



Map Key:



States with online contract management guide and resources

States without published online contract management guide and resources

Map last updated: September 2023

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ABOUT NASPO

The National Association of State Procurement Officials (NASPO) represents the directors of the central purchasing offices in all 50 states, the District of Columbia, and the territories of the United States. For more information on NASPO, please visit www.naspo.org.

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SUGGESTED READING

- NASPO State and Local Government Procurement: A Practical Guide, 4th ed., 2024, Lexington, KY: National Association of State Procurement Officials.
- Jack T. Pitzer and Khi V. Thai, Introduction to Public Procurement, 3rd ed. (National Institute of Governmental Purchasing, 2009).
- Margaret G. Rumbaugh, Contract Management Body of Knowledge, 4th ed. (NCMA, 2013).

ADDITIONAL RESOURCES

- Contract Administration Best Practices Guide," Arkansas Department of Transformation and Shared Services, accessed September 13, 2023, [Contract Administration Best Practices Guide](#).
- Contract Management: State of Missouri," Statewide Advantage for Missouri, last updated September 15, 2022, <https://samii.mo.gov/media/pdf/contract-management-user-guide>.