Exit Strategy

An exit strategy is necessary to:

- identify possible risks;
- define potential losses;
- ensure service continuity.

It should be a ‘front end’ activity i.e. considered when developing your commodity/service strategy.

Your exit strategy should be included in the Procurement Documents and contractual terms and conditions where possible. This may appear counterintuitive, but you need a strategy which is consistent with your overall sourcing strategy. Otherwise you risk being locked into an unsatisfactory contract. You may be forced to pay more to stop the contract to minimise operational impact.

Having an exit strategy in place at the start of a supplier relationship, means that any transfer requirements (e.g. intellectual property; systems access or handover process for delivery requirements etc.) will be included in the contract. This ensures minimum business and customer disruption if the relationship were terminated.

Please note: you cannot terminate a contract with the aim of avoiding procurement rule obligations.

Exit strategies should be reviewed annually, or when significant change occurs.

There are several considerations to be made when developing an exit strategy, including:

1. Continuing Service Requirements
2. Data Security and Privacy
3. Knowledge and Documentation Transfer
4. Costs
5. Personnel

Below suggests some factors for consideration. This is not an exhaustive list as each contract / supplier relationship should be considered on its own merits.

1. Continuing Service Requirements

Open or close

An exit strategy should set your service requirements when the parties are transitioning out of the relationship. These requirements may include:

- An obligation on the supplier to continue service performance during the transition period. During transition these services must stay at the same quality level and continue to comply with all contract obligations.
- The provision of parallel services for a certain period. This term can be extended as necessary to resolve issues before the final changeover.
- A supplier obligation to maintain the same supplier team during the transition period.
- Confidentiality on any communications regarding the termination of the relationship.

2. Data Security and Privacy

Open or close

Data privacy and security are critical. The exit strategy should consider provision for:

- The transfer of all data belonging to your Organisation, including any customer information.
- An acceptable method for the supplier to destroy and remove your Organisation’s proprietary information.
- The supplier destroying and removing sensitive information from all media. The supplier must ensure no information is disclosed to other individuals or organisations.
- The return or transfer of each party’s assets.

3. Knowledge and Documentation Transfer

Open or close

Strict documentation and knowledge transfer contract requirements will be advantageous. Be sure to:

- Require the supplier to give you access to everything your Organisation will need to maintain the service
- Clearly state responsibilities i.e. which party owns the work performed by the supplier and which party is responsible for the transfer of ownership.
- Fully document the service description for any transition period additional services. These are services required from the supplier e.g. employee training and training new supplier personnel
- Require the supplier to provide your Organisation with copies of information such as, copies of data, procedures, access logs, error logs, documentation and other information generated as a part of providing the contract services. The supplier should also grant your Organisation the right to provide this information to potential successor suppliers.

4. Costs

Open or close

Transition, termination and timing are a key part of the financial aspects of an exit strategy. Be sure the contract:

- Will not penalise your Organisation for an early exit. This is especially important if the termination is due to the supplier’s failure to perform the contract.
- Specifies when compensation should be paid and how much. This includes compensation for any continuing base services and transition activities.
- Specifies the return of any pre-paid fees for services which have not been supplied.

5. Personnel

Open or close

An exit strategy should cover personnel issues, such as:

- Ensuring supplier personnel and key resources remain on the project and committed during the transition. This ensures relevant knowledge and

expertise is retained during transition.
- Defining the exit-strategy team and its roles
- The treatment of employees and any obligations to inform or consult under TUPE.

Contract Termination

Your exit strategy must allow you to terminate a contract during its term where the following occur:

- the contract has changed substantially i.e. a new procurement exercise would have been required. This applies to existing contracts that started after 18 April 2016.
- it is found that the successful supplier should have been excluded from the procurement procedure at contract award. This could be for either mandatory or discretionary exclusions e.g. as a result of convictions for fraud or corruption.

Regulation 73 of the Public Contracts (Scotland) Regulations 2015 requires the above termination grounds to be included as a contract term. If they are not included, they are implied.

Any documents you need are listed below

Exit Strategy Template

(file type: docx)