

Resource type: Project 13

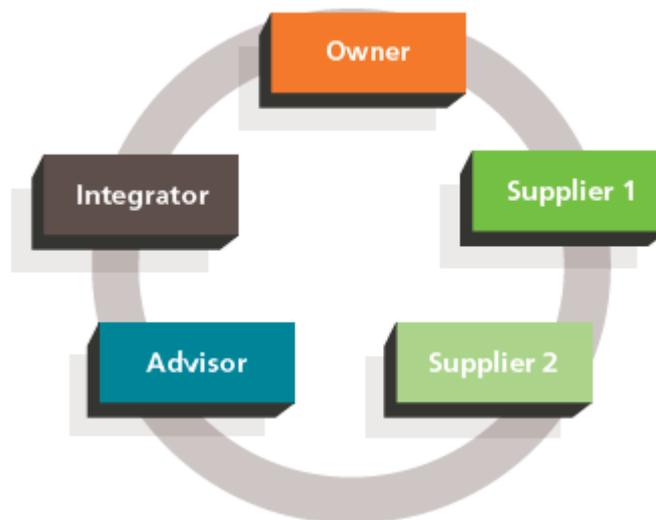
Project 13 Commercial Handbook – contracting in an enterprise

The purpose of the contract in an enterprise is to join all parties with incentives aligned to the outcome for the ultimate customer. They need to be sufficiently flexible to allow suppliers to join and leave the enterprise at different points during the enterprise lifecycle whilst still having long term incentives based on the performance baseline.

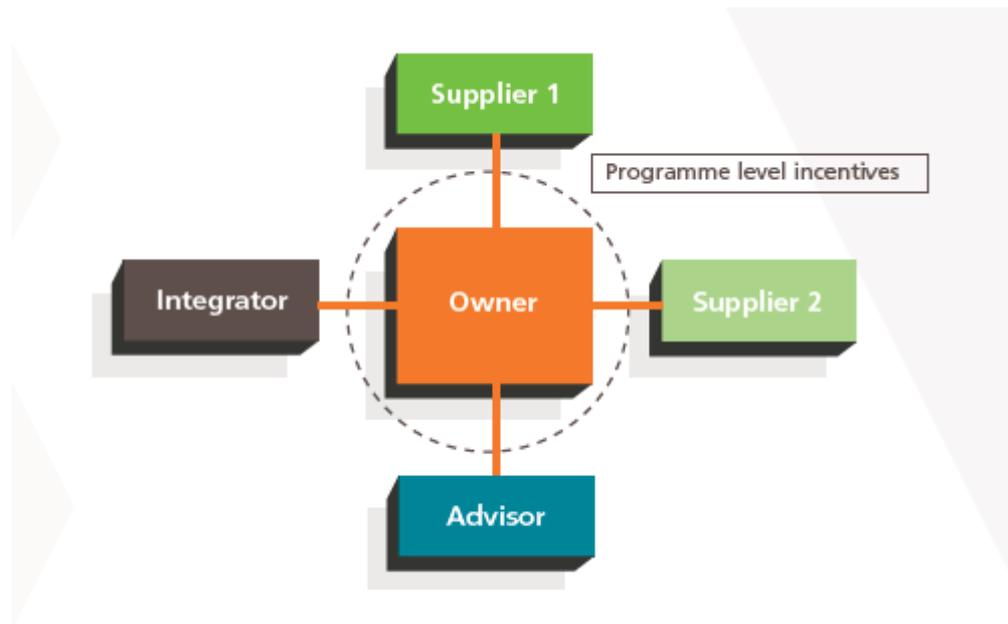
Types of contracts

There are 2 options to suit different types of programmes, they may even be used within the same enterprise to reflect different requirements.

All parties are on a single contract (similar to a joint venture, supported by a bespoke form of contract such as the NEC4 alliancing or similar others forms) The basis of payment is defined cost plus fee on the same basis as option E of the NEC4 ECC. Payment is made through a project bank account set up by the alliance and to which named suppliers can be added. The Enterprise Chair assesses the amount due, which is the sum of the defined cost plus fee of the partners.



Separate contracts are issued between the owner and the suppliers but there is the common programme performance incentive of a shared profit pot across the individual contracts. This can be reinforced by contract conditions such as the multi-party collaboration clause in NEC4 or similar.



Key principles/clauses

- The contract structure should be there to support the enterprise and bridging the gap between suppliers, advisors, the owner and the integrator.
- Attention should be paid to the length of tenders and the use of pre-qualification. Looking at a strategy across the enterprise to minimise the burden. Tenders should be much shorter (e.g. 50 pages rather than 500) and contain only requirements that add value for citizens rather than unnecessarily increasing delivery costs.
- The detailed drafting of the contracts should focus on unamended versions and minimising the use of Z clauses which could undermine the commercial strategy and contract intent.