P13
COMMERCIAL HANDBOOK

Institution of Civil Engineers

Introduction

Alongside Project 13's offering of an innovative new enterprise business model and Blueprint for the Future, is this, our practical Commercial Handbook. It outlines the six key commercial principles which are critical to creating the right commercial environment for the model – including:

1. **Alignment** – where commercial performance measures are aligned to delivery of outcomes to the customer/end user.
2. **Reward** – where reward mechanisms in the enterprise structure are based on value added in exceeding the outcomes, not competed lowest cost for a component.
3. **Risk** – where risks that the infrastructure owner or investor are accountable for are not transferred to the supply chain.
4. **Engagement** – where the enterprise comes together at a much earlier stage in the asset enhancement/creation lifecycle.
5. **Scale** – where the enterprise model yields the greatest benefits when applied across asset systems/portfolios.
6. **Time** – where the relationships between organisations last over a longer time period.

Once commitment to these six core principles is agreed, a four-step commercial strategy can then be devised. This handbook demonstrates the detailed processes to follow and desired outcomes that will be achieved through adherence to these four steps:

- Establishing a performance baseline;
- Selecting the right enterprise partners;
- Linking the risk profile to reward mechanisms; and
- Contracting to support the enterprise.

A performance baseline is different to the target cost baseline currently used in pain/gain commercial agreements, in that it considers not only capital and potentially whole life cost elements, it can also include benefits associated with other areas of performance too. It is not intended to replace the cost benefit ratio or project appraisal guidance – rather it sets a clear mandate and outcome level scope for a programme at the outset and applies benchmarks to determine the expected level of performance. The methodology here is based on original research undertaken as part of Project 13 development along with drawing on existing bodies of best practice including from the National Audit Office, Major Projects Association, Infrastructure and Projects Authority and Construction Leadership Council. A full list of reference material is included at the end of this document.

So what should industry take away from this handbook – and what should they aim for? What an enterprise model can achieve is to bring together all parties with incentives that are aligned to the outcome for the ultimate customer – the end user of our infrastructure.

In this way, we hope that Project 13's aim of creating a step-change that will deliver better outcomes across the board can be realised.

Contents

A What are the commercial principles which underpin an enterprise?

Research undertaken during Project 13 has identified six key principles which are critical to creating the right commercial environment for the enterprise business model. If any one of these commercial principles is not fulfilled then the performance of the enterprise and productivity of the relationships with the supply chain will be compromised.

The six principles of the commercial approach

There are six key **commercial principles** which need to be in place to develop a high-performing enterprise. If any of these are missing it will undermine the productivity and performance of the enterprise. They are critical to creating the right environment.

1. Alignment

The commercial performance measures are aligned to delivery of outcomes to the customer/end user; this ensures all partners work collectively in the best interests of the end user rather than introducing commercial tension across contracts.

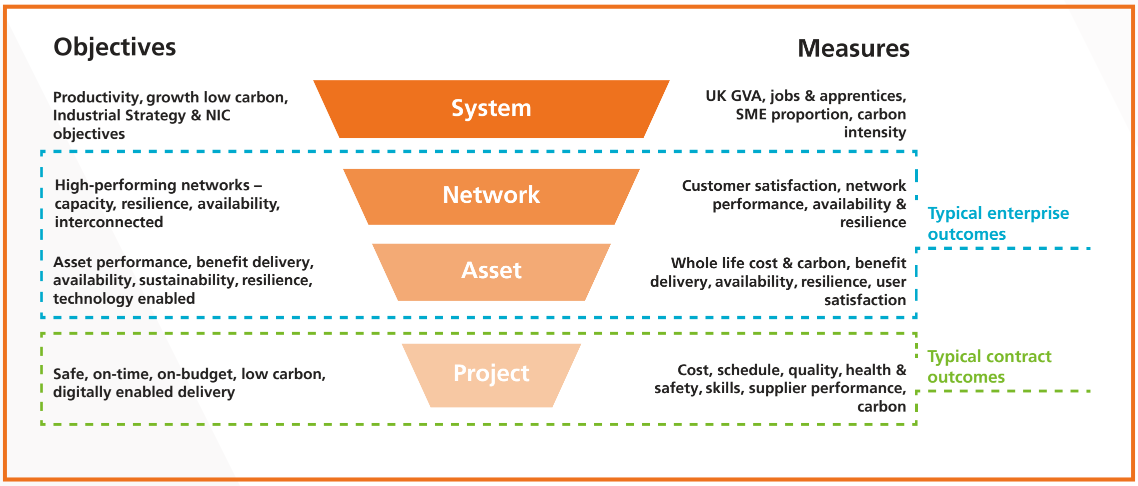


Figure 1. Objectives and measures in an enterprise, adapted from Transforming Infrastructure Performance.

2. Reward

The reward mechanisms in the enterprise structure are based on value added in exceeding the outcomes, not competed lowest cost for a component. This way each party shares the interface risk between organisations and it also ensures reward is linked to a quality performance rather than volume of work/hours put in.

3. Risk

Risks that the owner or investor are accountable for are not transferred to the supply chain, instead all parties in the enterprise are given incentives and potential reward based on their ability to mitigate the risks.

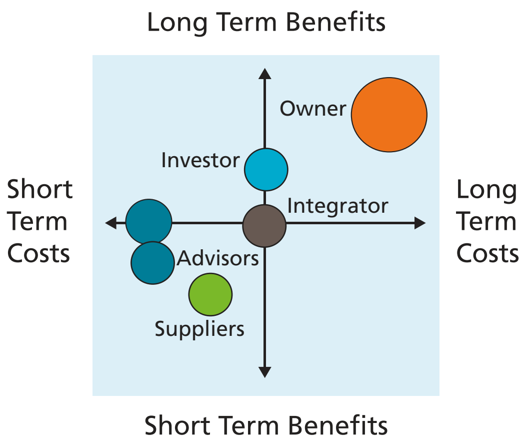


Figure 2. Aligning incentives in an Enterprise, adapted from Project Initiation Routemap Risk Management Module.

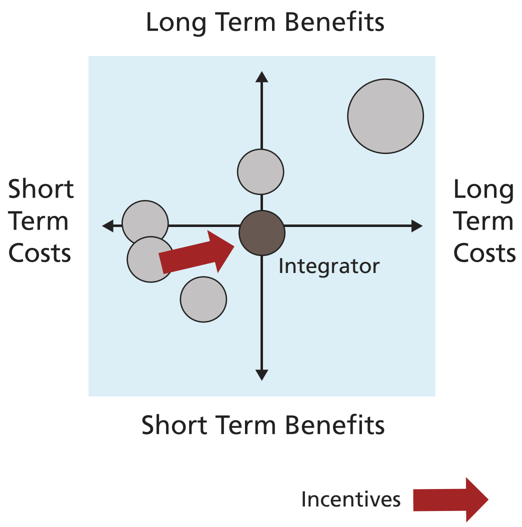
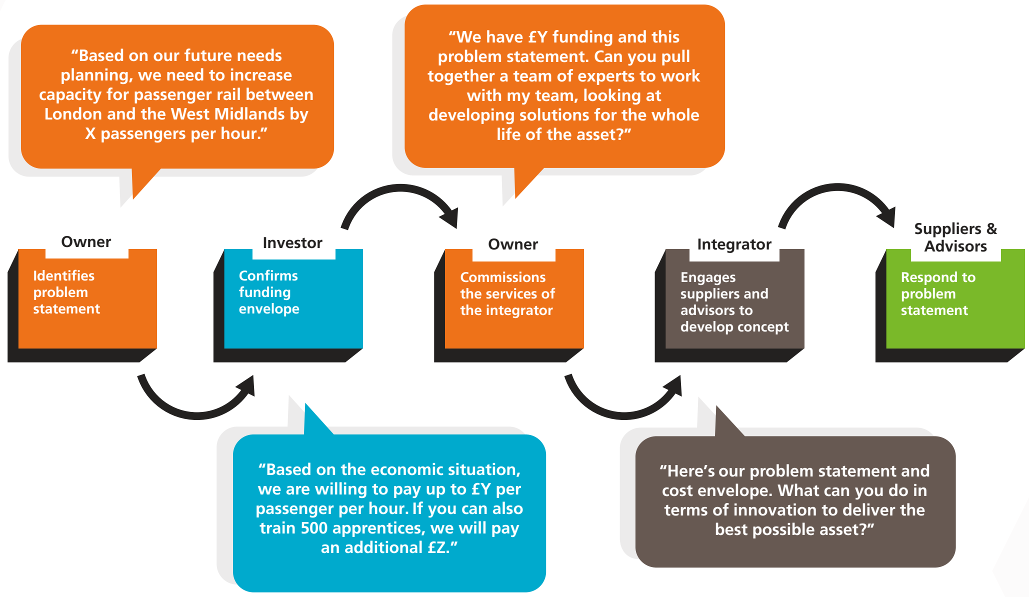


Figure 3. An example of the interplay between the roles when initiating a programme in an enterprise.

4. Engagement

The enterprise comes together at a much earlier stage in the asset enhancement/creation lifecycle; shortly after the need has been identified the owner will engage the Integrator. This allows for pooling knowledge, expertise and application of innovative solutions in solving the problem.



5. Scale

The enterprise model yields the greatest benefits when applied across asset networks not just small-scale individual projects or to deliver component parts of programmes.

6. Time

The relationships between organisations last over a longer time period, incentivising investment in skills and tailoring of supply-chain business models. This combined with asset network level scope will improve productivity through changes to ways of working; enabling innovations that require long-term commitment for payback such as delivery methods like offsite construction.

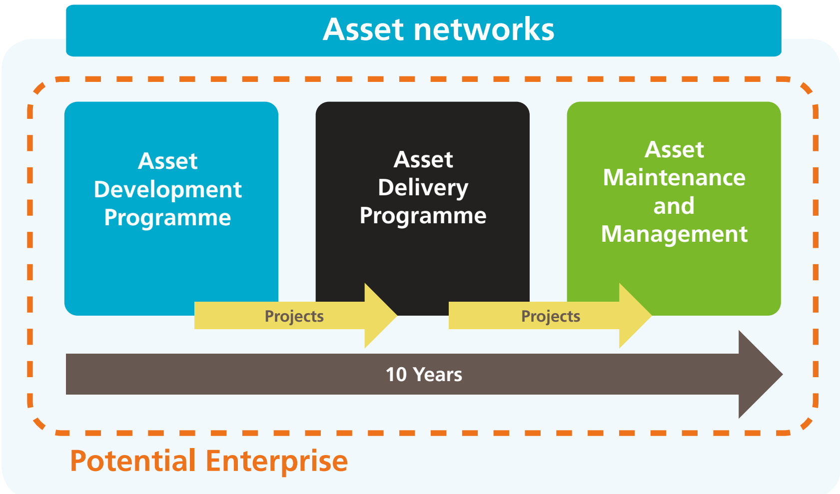


Figure 4. A typical enterprise scope.

B Developing a commercial strategy – the four steps

Once agreement has been reached to follow the commercial principles set out in the previous section there are four steps to establishing a successful commercial strategy. These steps are not independent and there are overlaps and iterations between the phases.

	Who is involved	Process	Outcome
1. Establishing a performance baseline	Owner Investor	Agree a definition of value considering benefits, performance, capital and whole life costs. Use this to set up fair and consistent performance measurement across the enterprise throughout the lifecycle.	Demonstrate 'value for money' on delivery of outcomes not just lowest price tendering. Increased alignment of procurement with customer needs.
2. Selecting the right enterprise partners	Owner Integrator Supplier Advisor	Selecting partners based on their ability to improve the outcomes using the performance baseline. Evaluating suppliers against the outcomes in the performance baseline including capabilities and behaviours in the selection process.	Elevates suppliers who have influence on out-comes (not just volume of spend) to enterprise/ programme board level. Supply chain has the capability to shape the scheme during programme development and add value at the early stages.
3. Linking the risk profile to reward mechanisms	Owner Investor Integrator Supplier Advisor	Incentivising all partners to collaborate to maximise outcomes and mitigate risks through programme-level incentives. Encourages a long-term approach to investing in new ways of working and technology.	Encourages collaborative risk mitigation giving increased delivery confidence and better outcomes for programme. Links opportunity to innovate with rewards for innovating.
4. Contracting to support the enterprise	Owner Integrator Supplier Advisor	Select and apply the correct contract to support the delivery of the performance baseline.	Consistent contract conditions across the enterprise. Contracts drafted to support the commercial strategy not undermine it with additional clauses.

1 Establishing a performance baseline

The commercial strategy starts by ensuring alignment with programme outcomes through defining outcome level performance metrics and using these to set a performance baseline for the whole enterprise. This introduces an agreed broader definition of value to the enterprise commercial arrangements.

The performance baseline considers not only capital and whole life cost elements; it also considers the benefits and performance measures.

The following model can be used as a discussion point to identify what constitutes value and the elements of 'high performance' for a specific programme. This discussion should happen between the owner and the investors to decide on and agree outcome measures of high performance (research of best practice indicates aiming for less than 10). These are likely to be drawn from corporate objectives, government policy objectives or particular challenges to be addressed with this programme. It is critical they are described in terms of outcomes at the network or asset level in line with Commercial Principle 1. The IPA's Transforming Infrastructure Performance programme and DfT's Transport Infrastructure Efficiency Strategy are looking at defining outcome measures for government and transport programmes as part of their benchmarking initiatives.

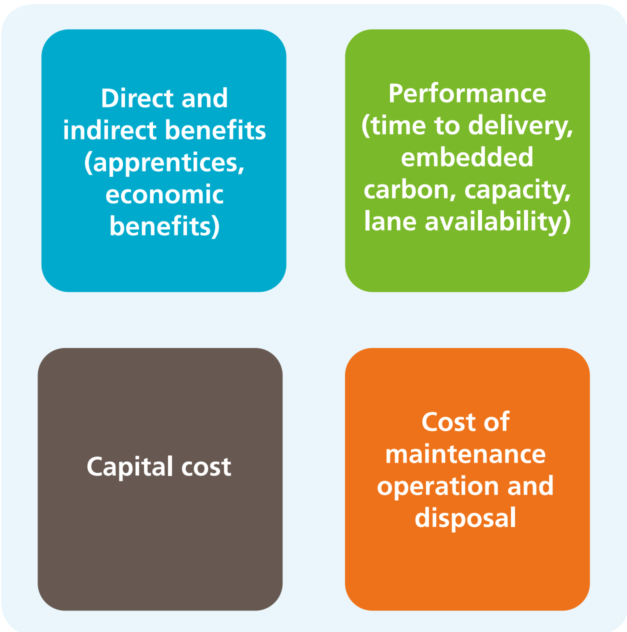


Figure 5. A model of categories to consider when developing a performance baseline.

Setting outcome-based performance metrics

Once these outcome measures have been identified there's an opportunity to apply benchmarked data to create a performance baseline and set the enterprise outcome-based performance metrics rather than a detailed specification. This approach has already been used successfully by TfL and the Environment Agency on their capital programmes.

How is a performance baseline developed?

Using the outcome measures developed from the model in Figure 5 above, they can then be prioritised in two categories:-

Mandatory – these are outcomes which cover aspects of the programme where there are guaranteed minimum standards. They should be reflected as such in any commercial arrangements/contract and must be met to achieve acceptable performance and enable access to the additional return from the programme shares rewards pot (see section 3 for further information on programme shares).

Incentivised – these are the outcomes where the enterprise has the freedom to develop the best options to exceed a range of outcomes. The preferred solution which delivers most effectively across these outcomes also determines the solution cost. Value is represented by the difference between the baseline performance (benchmarked cost or 'willingness to pay') and the solution cost. This value is the starting point for the shared programme rewards pot and therefore additional return available to the enterprise partners.

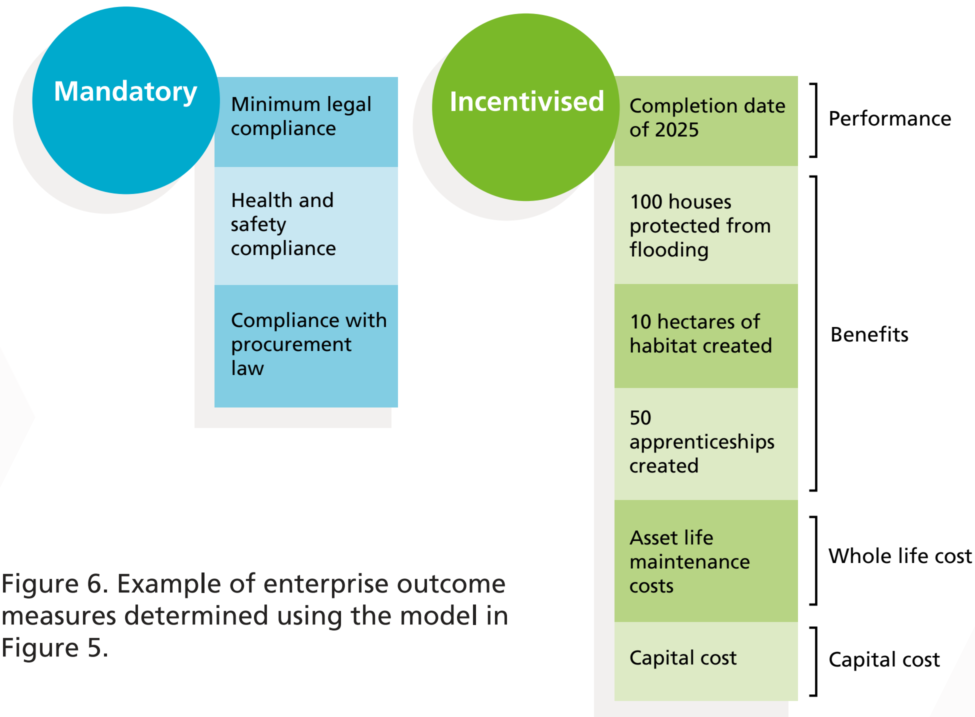


Figure 6. Example of enterprise outcome measures determined using the model in Figure 5.

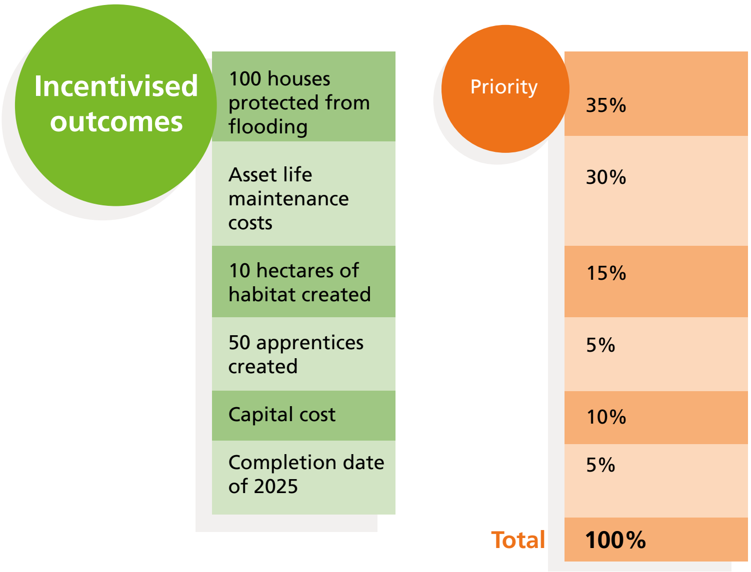


Figure 7. Creation of the enterprise scorecard.

Once the programme outcome measures have been defined by the owner they discuss the outcome measures with the investor. Between them they agree on the prioritisation of these outcomes and assign a weighting to them. This establishes a performance scorecard that can be used in the business case and as a framework for the commercial strategy.

They then discuss what constitutes ‘good performance’. This is likely to be based on benchmarked data which as a standard sets a ‘benchmarked cost’ or ‘willingness to pay’ for benefits against each of the outcomes. This alongside the cost – benefit ratio is used to set the cost envelope for the programme and therefore what equates to good performance.

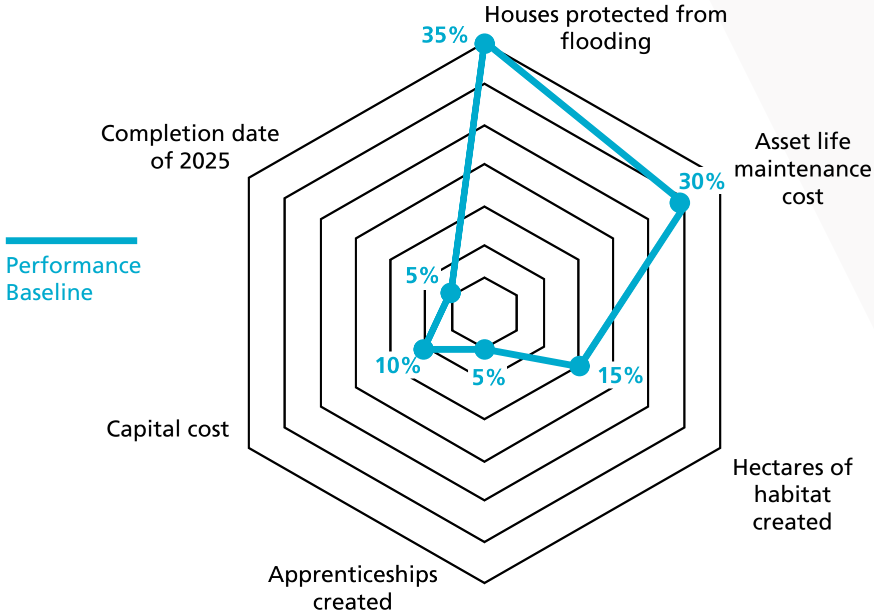


Figure 8. A diagrammatic version of the enterprise scorecard.

This performance baseline should be developed at a programme/enterprise level. It can then be used in its entirety for the commercial strategy and as a sub-set to align with performance targets in any individual contracts. It should be noted that individual contracts might only have a sub-set of this overarching performance baseline included. There is further information on this in section 4 on contracting in an enterprise.

How will the performance baseline be applied?

The performance baseline will be first applied during the development stage of a programme to set the expected level of performance based on sector benchmarked 'should cost' or 'willingness to pay' for benefits. The scope and weighting for each of the performance outcomes in the scorecard will be the decision of the investors and owners. This will then inform the performance baseline for the duration of the programme. Any future decision to change the scope or benefits weighting would have to flow through the commercial framework in a transparent way in order to maintain the alignment and fair incentivisation.

As the programme progresses it can be used to measure performance by comparing the actual programme forecasts and deliverables against the performance baseline.

How will it help support an enterprise?

This will establish an enterprise performance baseline which can be used alongside the normal cost – benefit ratio to:

- Give a clear steer from the investor and owner to the enterprise on prioritised outcomes to support better options development.

- Mitigate political impacts by having a clearer agreement between investors and owners on priorities, i.e. if the investor changes the priorities it will be more formally discussed as it will change the performance baseline, giving the enterprise a chance to re-baseline its performance to reflect the new priorities.
- Set a baseline against which future enterprise performance can be assessed using benchmarked cost data.
- Inform decision making and spending announcements as a simple pre-policy options analysis.
- Provide a framework for economic appraisal of cross-sector projects to be evaluated quickly at a strategic level.
- Make better use of benchmarked data in procurement decisions to demonstrate value for money.

Link to economic appraisal and cost – benefit ratios

The performance baseline is not intended to replace the cost – benefit ratio or project appraisal guidance; it is a mechanism for setting a clear mandate and scope for a programme at the outset and applying benchmarks to determine the expected level of performance. It also enables non-cost measures to be quantified and better managed without having to ascribe a financial figure to them.

It should be used in conjunction with the cost – benefit ratio and investors, return on investment calculations as part of the programme decision making.

The performance baseline includes factors for the indirect benefits and the ability to weight the priority of these alongside the direct economic benefits, using a balanced scorecard approach a project is delivering such as creating apprenticeships or percentage of British content. There will also be more of a focus on whole-life cost, as opposed to the discounted value which can skew decisions toward capital investment at the expense of whole-life performance.

Link to Crown Commercial Service (CCS) procurement balanced scorecard

- It can be used in conjunction with the CCS balance scorecard where the balance scorecard can check its alignment with the performance baseline.
- The performance baseline is a much more strategic approach covering the entire programme rather than the deliverables on a specific contract.
- The performance baseline will be used throughout the appraisal and business case process unlike the CCS balance scorecard which is only used on specific contracts during the procurement process.

Link to the Companies Act Section 172

During the discussion around setting the performance baseline, if the owner or the investor are private companies they should reflect on their duties under Section 172 of the Companies Act alongside their corporate priorities.

Duty to promote the success of the company
(1) A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to

(a) the likely consequences of any decision in the long term,
(b) the interests of the company's employees,
(c) the need to foster the company's business relationships with suppliers, customers and others,
(d) the impact of the company's operations on the community and the environment,
(e) the desirability of the company maintaining a reputation for high standards of business conduct, and
(f) the need to act fairly as between members of the company.

2 Selecting the right enterprise partners

This section covers how you can use the performance baseline (developed in section 1) to select the right suppliers and advisors for an enterprise. It also covers the key considerations in the process to identify and select suppliers and advisors with the right skills and behaviours to work collaboratively.

There are different levels of engagement within the enterprise and this is reflected in contractual and management frameworks.

Key suppliers and key advisors are those who will have most direct influence on the performance and should therefore have a direct relationship with the owner and have a seat around the programme board table. The determination of key suppliers and advisors has no reference to volume or value of work; it is entirely based on impact on the outcomes.

Suppliers and advisors are those who are still essential in delivery of the enterprise outcomes but have a smaller role in the overall direction of the enterprise.

The integrator role is likely to have the most influence on delivery of value because of their programming function and identification of solutions and delivery routes. The main focus should therefore be on getting this role established. The integrator could be formed by bringing together a number of organisations through the adaption of a role for an existing organisation. In any of these options working with the owner and other organisations in an integrated way will be critical to the success of the enterprise. Existing contractual arrangements for design, construction and specialist roles can be amended to work with the integrator and a strategy developed for their renewal or changed to better accommodate and work in an enterprise organisation. There is also no 'one-size-fits-all' model, with the integrator being formed in numerous different ways as can be seen from the table below.

Organisation	Contractual arrangements and Integrator role
@One Alliance	Integrator appointed, use existing frameworks for design and construction for asset management. Integrator works with main joint venture partners to bring in advisors/suppliers through their processes. Operate with enterprise arrangements.
Yorkshire Water	Strategic planner appointed, integrated with owner planning department. Act as a strategic thinker and innovator, challenging and re-engineering solutions that are then delivered either through Alliance contracting or direct by Tier2/Tier3 or in-house. The 'Integrator' role identifies delivery routes, establishing risk and value options with supply chain arrangements set up with owner procurement.
London Underground Bank Station	Tier 1 contractor appointed for the design and build of the 5+ year project under NEC Option C. The Tier 1 contractor and owner project staff work in an integrated way in a joint project office with joint management and acts as the systems integrator. The Tier 1 contractor manages Tier 2 suppliers in enterprise arrangements with the owner.
Environment agency TEAM2100	The integrated delivery team of lead supplier and owner acts as integrator. The lead supplier has joint venture style arrangements for flood risk asset management work in the Thames Estuary in a ten year NEC Term Services contract. The JV manages Tier 2 contractors with key suppliers starting to be appointed on long-term contracts.
Connect Plus (M25)	Connect Plus have a 30-year design, build, finance and operate contract with Highways England for the M25 and connector roads. They are in the second phase of procurement with a framework of four contractors jointly incentivised on common performance metrics for a ten-year contract with break clauses. Tier 2 suppliers are beginning to join these arrangements where they are considered key suppliers. Connect Plus Services, a wholly owned subsidiary of Connect Plus providing project management and other operational services, works with Tier 1 contractors as system integrators.

Using the performance baseline the integrator and the owner can identify the types of organisations who might form key suppliers and key advisors. This should be based on the opportunity to influence the outcomes and may well include smaller specialist suppliers who could offer innovative and high-performing solutions. The diagram overleaf follows the previous example with the stars identifying areas where the integrator and owner should look to bring in key suppliers and key advisors with capability and expertise.

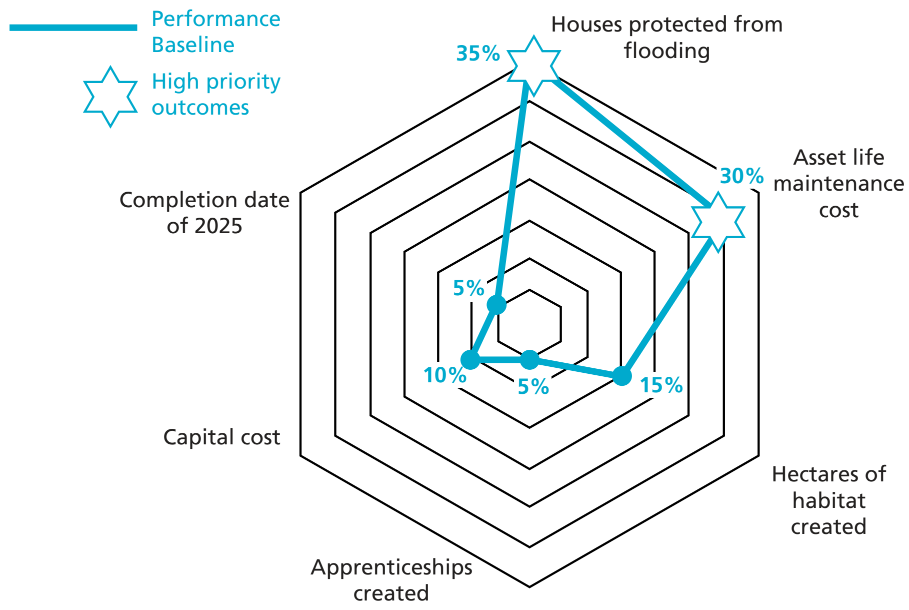
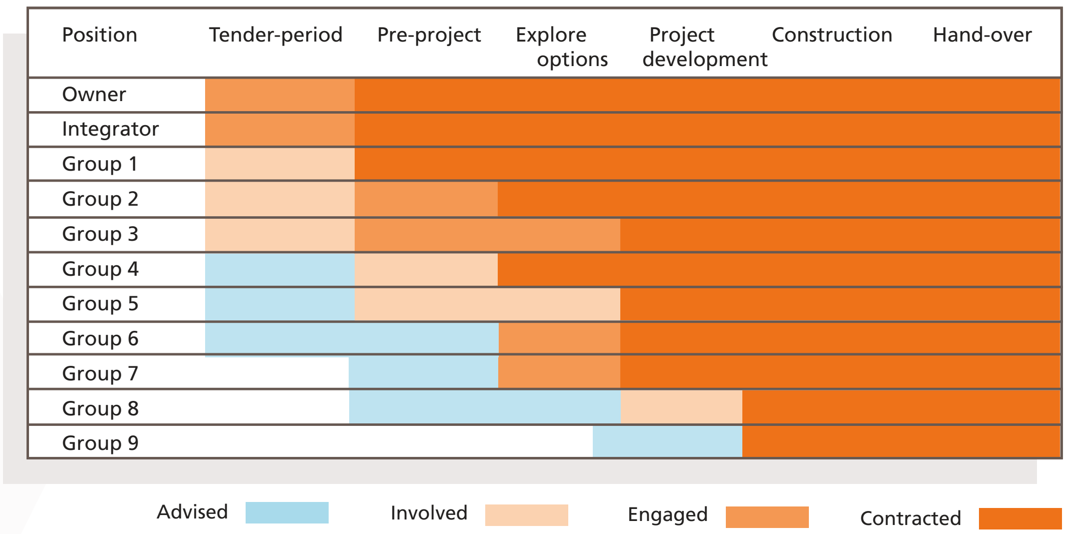


Figure 9. The enterprise scorecard analysed for opportunities for key suppliers and key advisors.

The important part of setting up any enterprise is early engagement with suppliers and advisors. The owner will need to change elements of the offer to the market, particularly on ways of working and the commercial deal, before and during the tender process based on feedback. There is no need to engage with all suppliers and advisors immediately as shown in the following diagram.

Stage 2 of Engagement



Having decided on the scope of the integrator, a detailed plan will be required for the activities from the start through to the establishment of the enterprise.

3 Linking the risk profile to reward mechanisms

Once the performance baseline is set and the key suppliers and advisors identified the commercial strategy focuses on aligning commercial rewards of all organisations to the delivery of outcome measures. This can be done in different ways depending on the categorisation of the suppliers and advisors:

1. For the integrator, key advisors and key suppliers a shareholder model can be used which creates a return from programme shares based on joint performance which exceeds the performance baseline.

2. For suppliers and advisors who have a smaller role in the enterprise they can be incentivised through the use of pain/gain share arrangements or through an incentivised set of key performance indicators (KPIs).

The most important considerations here are identifying the correct key advisors and key suppliers and ensuring that all commercial arrangements are aligned with the performance baseline set of outcome measures, even if this is through a sub-set of KPIs.

Commercial arrangements for the integrator, key suppliers and key advisors

The incentivisation mechanism to share performance exceeding the baseline is through creating a cross-programme incentivisation and reward pot proportioned through ‘programme shares’. These programme shares are distributed across the partners based on each party’s ability to mitigate risk or improve performance. For example, below where actual performance is exceeding the performance baseline there would be ‘return’ to be shared between the enterprise partners.

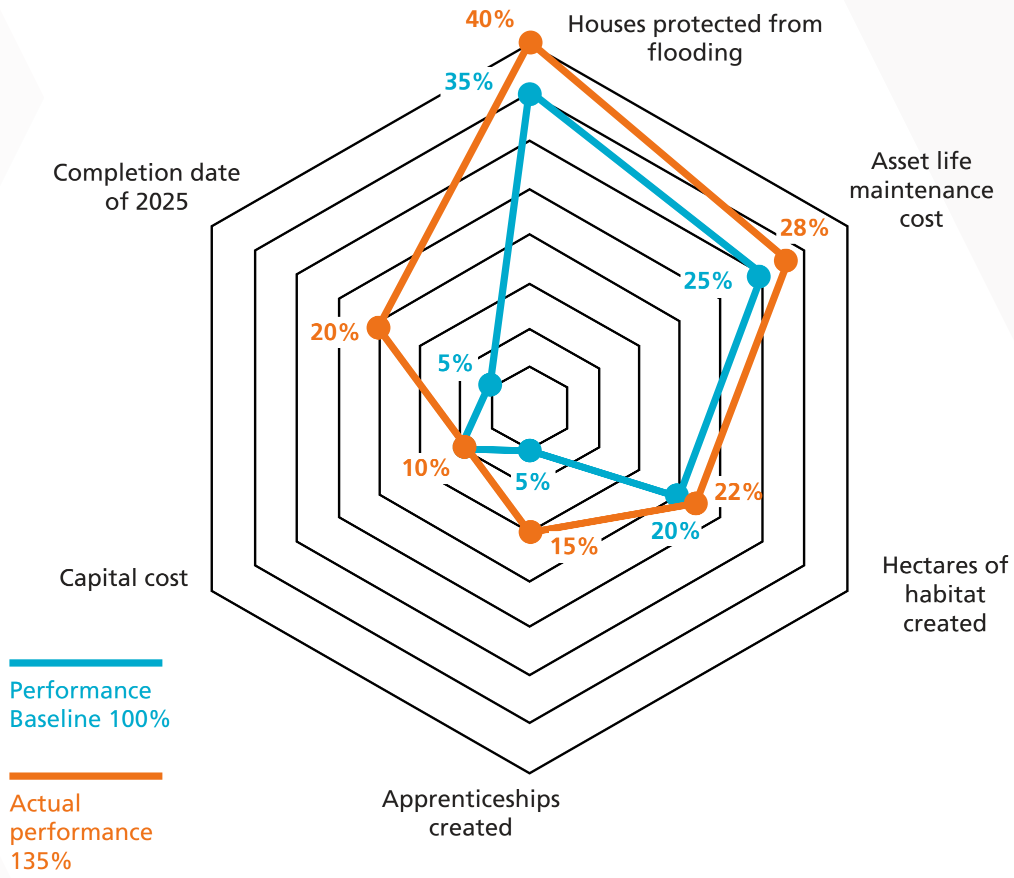
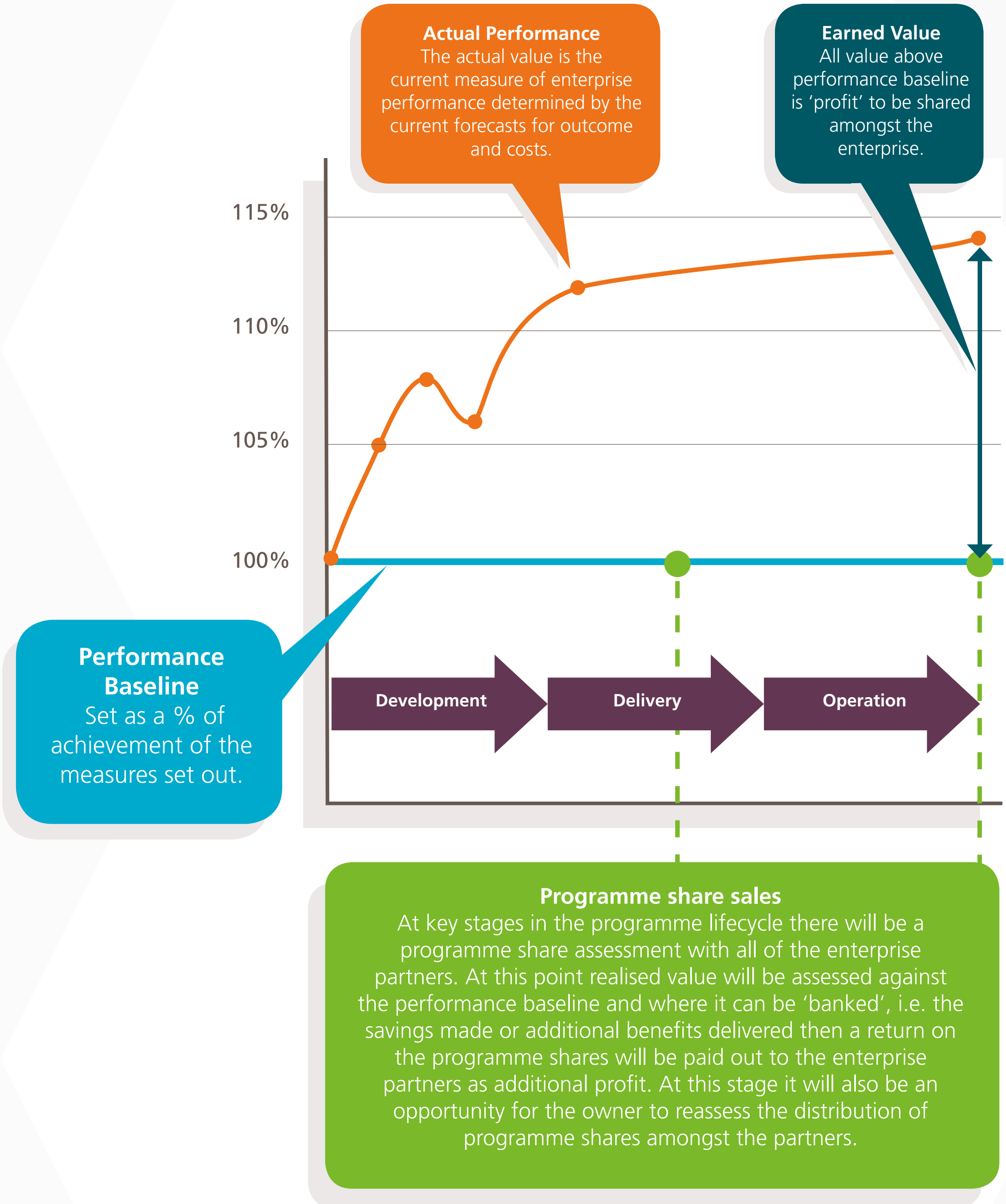


Figure 10. The Enterprise Scorecard demonstrating actual performance against the performance baseline.

The commercial model for the enterprise must be aligned directly with the funding and commercial arrangements for the owner. This is one of the most important aspects in creating the alignment required for an enterprise. This could mean a commercial model which is capex, totex (total expenditure) or whole life cost based. If alignment is maintained there will be a line of sight from funding arrangements through the performance baseline and into the programme shares reward pot.

It’s important to recognise that this value may be realised over a number of years and the return should only be paid out when it is confirmed as received. However, the programme share system can be arranged with staged arrangements to aid cash flow in the supply chain. It’s clear that value realisation will take place during the delivery and early operational phase which means although the ‘savings’ may not yet be fully realised by the owner the confidence in successful delivery of the outcomes will mean that the return on the programme shares can be paid out in a timely manner.

The following diagram describes the methodology for managing programme shares.



Enterprise risk management

The approach to risk management in an enterprise centres on increased transparency for all organisations involved. This begins with jointly developing an understanding of the risk profile for the programme at the outset of the enterprise which everyone contributes to and is maintained transparently throughout the programme.

Ultimately the majority of the risk defaults to the owner and investor in the assets; they are the beneficiary so they have the most at risk. This cannot be allocated or transferred away to another party. Instead the enterprise model seeks to incentivise those who can put in place risk mitigation measures for the owner and investor to do so and to be rewarded if they succeed. This is done through the allocation of the proportion of 'programme shares'.

As with all shares return from programme shares can go up or down depending on the performance of the enterprise and therefore gaming to take on more shares when you are not able to mitigate the risks or innovate is an unwise strategy. It's in everyone's best interests to share according to skills. This will also encourage innovation as niche suppliers such as tech companies can bring innovation and secure substantial rewards as a result of their percentage of programme shares.

The process for deciding how to allocate programme shares is as follows:

1. Understand the value and risk profile of the programme.
2. Consider who amongst the key suppliers is best placed to maximise value and mitigate these risks.
3. Allocate programme shares based on a function of 1 & 2.
4. Create a forecast value profile based on when benefits are realised and shares will be paid out.

Underperformance and risk exposure

There is an important consideration to be decided in the commercial strategy on the risk exposure for the integrator, suppliers and advisors under the programme share system. Although a degree of incentivisation for receiving a loss as a result of joint poor performance is required, the scale of this could have significant implications for the overall programme costs from excess private sector insurance liability costs and the sustainability of the private companies engaged in delivery of the enterprise if unlimited loss is recovered. There are options already in use around capped losses which are agreed in the contract so the owner takes on the additional liability or through an insurance system for the enterprise with an 'excess' type of arrangement.

Understanding risk profiles

The National Audit Office has designed a Delivery Environment Complexity Analytic tool based on its analysis of major programme delivery which sets out 12 categories of risk. Alongside this Project 13 and the Infrastructure Risk Group has drawn on strategic risk registers from both Crossrail and the Olympics to create a standard template for defining a strategic risk profile for a programme.

Included below is this template filled out for a fictitious programme. Initially it is important to identify the risk rating (the likelihood and impact the risk has on the overall programme delivery) to determine the risk profile. Secondly, the risk owner (who ultimately loses out if the risk is realised) and those who can help mitigate this risk should be identified.

Commercial models that create the right behaviour

Project 13 research highlighted the importance of the commercial model in creating the right behaviours. Transactional commercial models often create divisive behaviours where commercial interests destroy overall programme value. An enterprise approach places more emphasis on the development of commercial models which will create the behaviours required to deliver the programme outcomes. If the commercial model is going to drive the right behaviours it must be meaningful to the delivery teams. It will only impact on behaviours if the teams and individuals can see how it relates to them. The focus should be on simplicity and alignment.

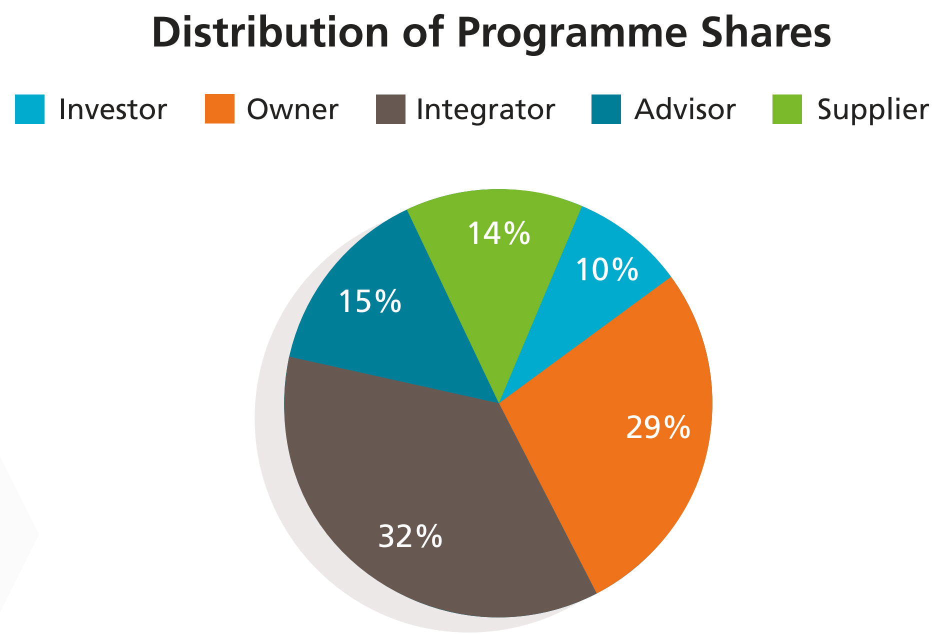
Risk profile			Risk Owner/Mitigator — Who owns the risk / is incentivised				
Risk Category	**High level risk statement**	**Risk rating**	**Investor**	**Owner**	**Integrator**	**Advisor**	**Supplier**
Strategic importance	Defining the investment need and business case	M					
	Responding to government and external environment	L					
	Managing results and out turn confidence	H					
Stakeholders/ Influencers	Managing corporate affairs and public relations	M					
	Complying with legal regulatory and tax frameworks	L					
	Providing leadership and motivational alignment	H					
	Managing resources and collaborative partnerships	M					
Requirements and benefit articulation	Specifying the investors' requirements	M					
	Realising the operational benefits	H					
	Defining the functional specification	H					
	Specifying the engineering requirements and standards	M					
Dependencies	Managing project controls and core processes	M					
	Managing business continuity, force majeure and catastrophic events	L					
Inter-connected-ness	Operating the infrastructure and delivering the service	M					
	Integrating systems and commissioning the works	L					
Financial impact and value for money	Developing policies and strategic plans	H					
Stability	Responding to incidents and service disruptions (construction and operation)	M					
	Managing risk, governance and assurance	M					
Interfaces/ Relationships	Obtaining permissions & powers to construct and operate	L					
	Achieving operational readiness	M					
	Managing insurance warranties and third-party compensation	L					
Execution complexity (including technology)	Confirming operational viability	M					
	Establishing the safety duty holders and safety management system	L					
	Investigating the site and data gathering	H					
	Implementing the works	M					
	Establishing the procurement strategy and commercial arrangements	M					
Range of disciplines and skills	Engineering the scheme and reference design	M					
	Developing estimates that support the investment and business case	L					
	Managing resources and collaborative partnerships	M					
Extent of change	Building high-performing teams	H					
Organisational capability: performance to date	Managing contracts and works authorisations	M					
	Planning the commercial proposition	M					

What are the benefits of a standard risk register and creating a risk profile like this?

- It gives an investor a standardised view of risk and risk exposure across their portfolio of programmes.
- Programmes can compare their assessment of who owns and who can mitigate risks.
- There is transparency on who owns and who can help mitigate risks to delivery.
- Risk mitigation is incentivised rather than blindly transferred to the supply chain so there is a much clearer view on risks to delivery.

Using risk profiles to calculate programme shares

To clearly align the risk profile with the reward system for each role you can use the risk profile and the map created of who can help to mitigate the risk to calculate the distribution of project shares. Included here is the output from a basic tool to help you do this. Based on the example in the previous section the risk can be mitigated by the owner and integrator and therefore the distribution of programme shares would look like this.



This distribution is then captured in the contracts as part of the programme share proportions.

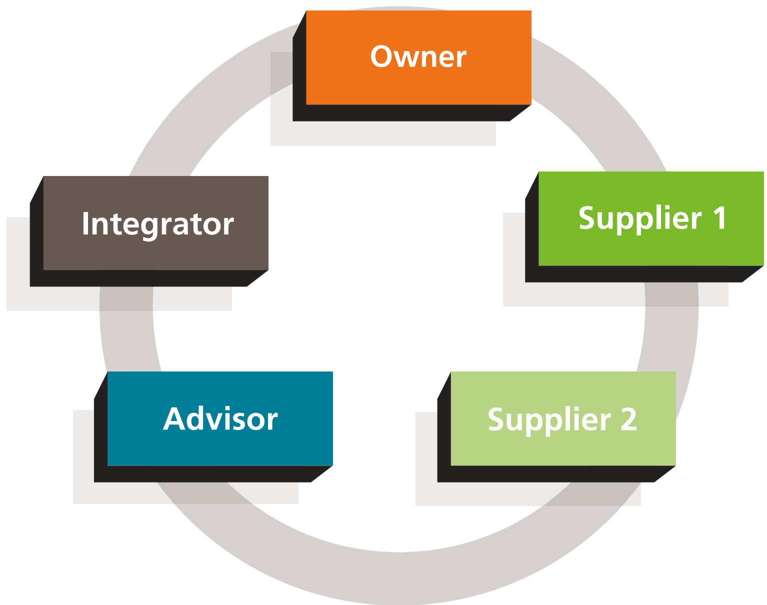
4 Contracting to support the enterprise

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.

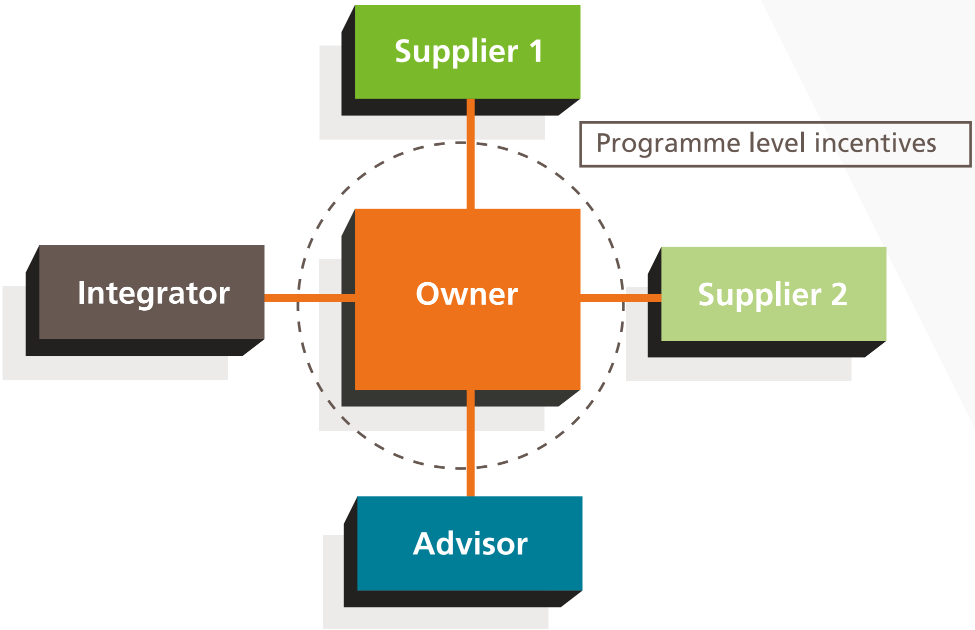
Types of contracts

There are two 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.



a) 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 bridge 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.

Considerations for the procurement process

Section 1 Preparing to tender

Is the organisation ready?

Setting up an enterprise is likely to require significant change to the organisation, culture and ways of working. Managing this change needs to start before tenders are issued: this is covered in more detail in the road map sections: define behaviours and design the organisation. Without organisational buy-in at senior director level and all operational management affected then not only will the implementation of an enterprise be challenging, but the tender process itself is likely to be prejudiced. The objective is to gain market interest and understanding of what the owner is trying to achieve. Therefore, having clarity of the following will be important:

(a) Aims and objectives. Why are they doing this? What are they trying to achieve? How important is this to the corporate organisation?

(b) Performance measures and performance baseline. Demonstrate the link to the aims and objectives. The measures should be well defined and with historic performance information and baseline data included.

(c) Programme shares. How will the pot be calculated and shared? The programme shares pot is all financial whereas the measures will probably include non-financial. A good description and model will be required to set out what out-performance contributes to increasing the pot, how non-financial measures interact with the pot and the way the pot is shared.

(d) Organisational model. It will need to be clear what part(s) of the owner's business will be going into the enterprise and details of all resources that will be part of the new enterprise. Roles and responsibilities need to be defined for the enterprise: the Blueprint has information that will help complete this in a standard way. The expenditure profile of the enterprise will need to be set-out for the period covered with information on all the component parts of the enterprise. The longer the period of contractual relationship, the more value to the supply chain compared to tender costs and the higher the likely improvements in performance as benefits from investments to save and innovations can take 2-3 years.

(e) Culture and behaviours. Setting out the aspirations for the culture of the enterprise and the supporting behaviours will be important in securing the right partners. Care is needed in 'minding the gap' between the owner organisation's culture and behaviours and those the enterprise aspires to. This can be shared through a maturity matrix assessment showing where you are currently along with plans for development such as the integration strategy. It will be important to be open with the supply chain with this information. They are likely to have a good knowledge either by direct experience or hearsay and if they think that the owner is under-estimating the challenge within their own organisation then they are likely to add a premium to prices to represent the risks involved.

(f) Using appropriate language and terminology that is consistent with the commercial handbook will help the supply chain understand the owner's needs.

(g) Location and systems. Where will the management team and the various teams delivering the enterprise be based? What will be the approach to health and safety? Whose systems will be used? Clarity will help manage expectations for all involved as well as for the tenderers.

(h) Commercial arrangements for risk. There needs to be a full identification of all the risks in delivering the programme with clear statements as to risk allocation and how risk will be managed.

(i) Establishing the criteria for contract award. These can be multi-dimensional with a mix of price, behaviours, staffing proposals and demonstrating capability to exceed the performance baseline. Establishing and agreeing the criteria and weighting is critical.

London Underground had a 70% technical and a 30% price evaluation for its Bank Station Upgrade project. The focus for the technical evaluation was mainly on: the outcomes it wanted to achieve; the approach to whole life cost and the behaviours covered in the alliance protocol discussed during the negotiations with the short-listed suppliers.
The Environment Agency TEAM2100 procurement was awarded based on the lowest price per quality points model. The quality had a focus of 25% on behaviours demonstrated in behavioural workshops and interviews. The majority of the technical questions revealed the suppliers' behaviours and approach in achieving various objectives such as innovation and integrated working.
Connect Plus had a 90% technical and 10% price weighting for the evaluation of their main frameworks in 2016/17. The low price percentage was the result of analysing completed work and finding that only around 10% used agreed schedule of rates figures in previous framework arrangements. It also has good cost data and a methodology for setting target prices. The technical evaluation was focused on how suppliers would contribute to the Connect Plus objectives in their DBFO contract and represented on a balance scorecard. Evaluation also covered behaviours and cultural alignment with behavioural workshops and interviews that tested leadership on, for example, what success looked like for them, innovations and working with the supply chain in improving value.

Early engagement

This is a great opportunity to have a major launch: exciting the supply chain and getting their best people to lead the tender process and form the senior management in the enterprise. Internally, this is the opportunity to start the roadshows, and change process. Planning, resources and leadership for this should not be under-estimated and is likely to require the same people you want to negotiate with tenderers as well as evaluate the tenders.

Establishing a transparent approval process and keeping all involved informed of the plans and progress will help to maintain the timetable and manage any changes required.

Behavioural evaluation

Behavioural evaluation needs careful planning. First it is important to identify the key behaviours that will help make the enterprise a success. Then you need to plan how to conduct the evaluation. Most large suppliers are used to behavioural evaluation and train staff for specific tenders, so some 'stressful situations' will be required to reveal underlying behaviours. The main objective is to get the staff who have been nominated for key roles to be part of the exercise. Having trained assessors to focus on the interactions and behaviours being demonstrated rather than the technical discussions is essential.

Dialogue and negotiation

Your proposition will benefit from detailed discussions with short-listed suppliers. Use workshops to test models and scenarios for performance measures and reward sharing. Focus on the key elements and leave room for suppliers to test areas where they need a better understanding or can propose improvements. Be prepared to change your proposition: that is the point of dialogue, to get a better solution and a win-win situation.

Finalising the deal

Finalising the scope, contract and deal before the final tender returns will require a solution that has the support of operational management, directors and the final short-listed suppliers. All parties should at this stage be happy about the ways of working, structure, sharing of information and systems, risk allocation, commercial model and decision making in the new enterprise to a reasonably high degree of detail. Where possible, base processes on standard templates identified in the Blueprint or other good practice.

The internal engagement should be reaching the point where everyone internally is ready to move to new structures and ways of working with people recruited and in place in key positions with the right support to make the enterprise work.

You should now be ready to award – the final hurdle being approvals! If you have an agreed approval process and have communicated well throughout the tender process then this should not take too long and then you will be ready to go.

Appendix A
Leadership and support

Project 13 Executive Group

Miles Ashley, Wessex Advisory Ltd
Nick Baveystock, Institution of Civil Engineers
Mark Enzer, Mott MacDonald
Dale Evans, Infrastructure Client Group Chair & Anglian Water Services
Emma-Jane Houghton, KPMG
James Merrett, Mace
Simon Murray, Acumen7 Network
Mark Reynolds, Mace
Richard Threlfall, KPMG
Hannah Vickers, Institution of Civil Engineers
Phil Wilbraham, Heathrow Airport

Project 13 Operations Group

Dr Franziska Drews, KPMG
Ben Goodwin, Institution of Civil Engineers
Zain Kanji, Mace
Tim Leech, Heathrow
Neilan Perumal, Anglian Water
Jamie Radford, Mott MacDonald

Project 13 Future Leaders Panel

Heather Cox, Rolls Royce
Zoe Henderson, UCL
Lucy Howard, Turner & Townsend
Aaron Matthew, Transport for London
Doug Mills, Bam Nuttall Ltd
Miranda Sharp, Ordnance Survey
Tom Wooster, Rider Levett Bucknall

Institution of Civil Engineers President's Future Leaders

Will Lavelle, Atkins
Charlotte Murphy, Arup

Appendix B
Reference material

Are we getting better at Major Project Initiation? (Major Projects Association 2018)
http://www.majorprojects.org/highlights/461highlightsprojectinit.pdf

Constructing the team (Sir Michael Latham 1994)
http://constructingexcellence.org.uk/wp-content/uploads/2014/10/Constructing-the-team-The-Latham-Report.pdf

The DECA: Understanding challenges in delivering project objectives (National Audit Office 2013)
https://www.nao.org.uk/report/deca-understanding-challenges-delivering-project-objectives/

Emerging Trends in Infrastructure 2018 (KPMG 2018)
https://home.kpmg.com/xx/en/home/insights/2018/01/emerging-trends-in-infrastructure.html

The Farmer Review of the UK Construction Labour Model – Modernise or Die (Mark Farmer 2016)
http://www.constructionleadershipcouncil.co.uk/wp-content/uploads/2016/10/Farmer-Review.pdf

Fixing the Foundations: creating a more prosperous nation (HMG, 2015)
https://www.gov.uk/government/publications/fixing-the-foundations-creating-a-more-prosperous-nation

Framework to review programmes (National Audit Office 2017)
https://www.nao.org.uk/report/framework-to-review-programmes/

Global Client Models – A study of trends and lessons from international major projects (Major Projects Association 2017)

ICG – Alliancing Code of Practice (Institution of Civil Engineers 2015)
https://www.ice.org.uk/knowledge-and-resources/best-practice/alliancing-code-of-practice-grid-infrastructure

In Plain Sight – reducing the risk of infrastructure failure (Institution of Civil Engineers 2017)
https://www.ice.org.uk/news-and-insight/policy/in-plain-sight-reducing-the-risk-of-infrastructure

Independent review of building regulations and fire safety – Interim Report (Ministry of Housing, Communities & Local Government 2017)
https://www.gov.uk/government/publications/independent-review-of-building-regulations-and-fire-safety-interim-report

Infrastructure Cost Review (Infrastructure UK 2010)
https://www.gov.uk/government/publications/infrastructure-cost-review-measuring-and-improving-delivery

Mace Insights – What the construction Sector Deal means to the UK (Mace 2018)
https://www.macegroup.com/perspectives/180125-construction-productivity-the-size-of-the-prize

http://www.majorprojects.org/pdf/misc/globalclientssummary.pdf

Project Initiation Routemap – Requirements Module (Infrastructure & Projects Authority 2014)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/529338/0643_Requirements_Module.pdf

Project Initiation Routemap – Risk Management Module (Infrastructure & Projects Authority 2016)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/528952/ipa_routemap_risk_management_module.pdf

Rethinking Construction (Sir John Egan 1998)
http://constructingexcellence.org.uk/wp-content/uploads/2014/10/rethinking_construction_report.pdf

Skin in the Game (Nassim Nicholas Taleb 2018)

Transport Infrastructure Efficiency Strategy (Department for Transport 2017)
https://www.gov.uk/government/publications/transport-infrastructure-efficiency-strategy

Transforming Infrastructure Performance (Infrastructure & Projects Authority 2017)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/664920/transforming_infrastructure_performance_web.pdf

UK Construction – An economic analysis of the Sector (BIS 2013)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/210060/bis-13-958-uk-construction-an-economic-analysis-of-sector.pdf

Institution of Civil Engineers

One Great George Street
Westminster
London, SW1P 3AA

policy@ice.org.uk
ice.org.uk

Published May 2018
Registered charity number 210252