

Dealing With Poor Performance



There are a number of strategies for dealing with a contractor's poor performance. These include:

- Progress meetings and reviews;
- Agreed problem solving mechanisms and dispute resolution processes;
- Withholding payment, retainage; or
- As a last resort, termination of the contract and assessing damages.

Effective performance monitoring should provide the contract manager with a timely warning if the contractor is having difficulty in meeting the terms of the contract or the agreed performance standards. Prompt action must be taken if monitoring reveals that contractor performance does not meet the agreed standards. Early intervention may prevent a potential problem from escalating into a full-blown dispute. It also protects the value for money objective. Contractors should be made aware of any shortcomings in their performance as soon they occur.

For most performance problems, particularly for more serious or recurring problems, contractors should be given a formal warning that their current level of performance is not satisfactory, an explanation of why this is the case and details as to what changes are required in order to meet the performance expectations. This enables performance issues to be identified clearly and addressed by all parties and provides an opportunity for the contractor to improve performance to a satisfactory level before more serious actions are taken.

Communication between the parties should increase, more frequent milestones should be set and closer monitoring should occur. It may be necessary to renegotiate some elements of the contract. The contractor should be informed, when appropriate, that termination of the contract may be considered and must be made fully aware of any changes in their performance that they are required to make if they wish to avoid having their contract terminated. Legal advice should be sought prior to acting on any breaches of the conditions of contract.

A good performance management process produces good contract management records. These can be used for verification of performance and can be referred to when a contract is ready for extension or renewal. In extreme cases, these contract management records can be used as justification for the termination of a contract due to the contractor's failure to perform to the standard expected.