

contract review

CMR & LLR PROGRAMMES



NZ TRANSPORT AGENCY
WAKA KOTAHI

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Review programme underway

The Contract Management Review (CMR) programme for the 2009/10 financial year is now well underway.

The programme, which reviews a range of NZ Transport Agency (NZTA) contracts nationwide, is focused on determining compliance with contract requirements and identifying areas for improvement.

For the 2009/10 year, 30 contracts are being reviewed*. This is the largest number of contract reviews in the CMR programme's nine-year history. The 30 contracts consist of:

- 11 physical works contracts
- 9 maintenance contracts
- 10 professional services contracts.

* Note: all suppliers with contracts to be reviewed have been notified.

Seven Lessons Learnt Reviews (LLRs) are also included in this year's review programme. LLRs were introduced by the NZTA at the end of 2008 after a successful trial review of four completed capital projects.

The focus of LLRs is learning – reflecting on what went well and what could be more effectively managed in future contracts. Rather than being an audit like CMRs, LLRs involve a facilitated workshop with participation of the key parties in each of the phases of a project. The reviews are undertaken at the end of the contract and generally prior to the issue of a practical completion certificate.

Note: with any reviews, specific projects are not identified and suppliers remain anonymous.

Common issues and trends

The NZTA periodically collates findings from the CMR programme to report on common issues and trends. To ensure feedback to suppliers and to initiate improvements, the NZTA shares these findings with the industry.

Positive improvements

A review of the findings from CMRs conducted in the first half of this year identified significant improvements in the development and use of management plans, a requirement in most NZTA contracts.

Suppliers are benefitting from developing management plans and setting in place review and audit processes to ensure that the plans remain relevant.

Integration of quality, safety, environmental and risk management plans reduces the need for a multitude of plans. Many suppliers also recognise that some risks have elements in common, eg safety and environmental hazards.

Non-compliances

The CMR findings also identified the most common (overall) non-compliances as:

- insufficient or late provision of deliverables
- inadequate frequency and format of reporting on performance
- poor (or non) use of programme management.

Most of the issues identified to date have been a case of suppliers being unfamiliar with, or deviating from, contractual requirements. Suppliers need to be aware of their obligations and, where a deviation is sought, formal client approval (in writing) needs to be obtained.

Further details are provided in the following 'Top issues reports'. Suppliers are encouraged to focus on compliance in these key areas.



Work is underway at Ruby Bay in the Nelson region

Top issues reports

The tables below illustrate the top CMR compliance issues for capital projects, network operations and professional services from January to September 2009.

CMR programme

Trend indicator key

↑ increasing trend

↓ reducing trend

↔ same as previous period

Top five CMR issues: Capital projects

Top five issues	NCs YTD	Trend	Description of issue and background
1. Provision of deliverables & reports	5	↓	All deliverables and reports, as specified (or referenced) in the contract specification, aren't being provided or late provision <i>Deliverables or reports not provided (2)/late provision (2)/unclear if client still has requirement (1)</i>
2. Programme content & management	4	↓	Programme not provided/programme not updated/no baseline established or maintained and/or critical path identified <i>Programme not being updated monthly/programmes (consultant & contractor) don't comply with spec</i>
3. QA testing & inspections, eg testing materials and/or construction	4	↓	Records of testing not available/non-conformance procedures not initiated/management of hold and witness points <i>Contractor not obtaining or submitting records/not verifying frequency of testing complies to NZTA spec</i>
4. Project audits & inspections, eg managing hold & witness points	3	↓	Project and site audits (against EMP or CQP) not being planned or undertaken/frequency of audits not specified <i>No record of inspection or approval to continue past hold or witness point (ie internal or by consultant)</i>
5. Health & safety management, eg undertaking site audits (TMP/Safety)	4	↓	Not undertaking formal site audits or inspections not conducted/management of subcontractor health & safety <i>TMP audits of site not being planned or undertaken (2)/site safety inspections not formally undertaken (2)</i>

Top five CMR issues: Network operations

Top five issues	NCs YTD	Trend	Description of issue and background
1. Performance management, eg monitoring & reporting performance	9	↑	Contractor not measuring, monitoring and/or reporting against performance indicators specified in the contract specification <i>Monitoring and/or reporting of achievement of performance indicators contained in the contract specification</i>
2. Management reporting, eg management reports not complying to spec	5	↑	Management reports don't contain all items of information and/or commentary required in the specification <i>Management reports often 'roll over' from previous contract and aren't updated to new contract specifications</i>
3. Environmental management, eg consent conditions not known/monitored	5	↑	No records of resource consents/not formally monitoring consent compliance/EMP audits not being undertaken <i>Ongoing resource consent conditions requirements aren't known by and/or communicated to the contractor</i>
4. Network inspections & audits, eg planning & recording of cyclic inspections	3	↔	Inspections and audits of the network, and in particular cyclic maintenance inspections, aren't planned or undertaken <i>Some contractors aren't ensuring that maintenance inspections are planned, performed and/or recorded</i>
5. Project management plans, eg PMPs don't comply with specification	3	↔	Content of project management plans don't comply with NZTA specifications/not being reviewed and updated <i>PMPs not being reviewed and updated/PMPs signed off by the PSC that don't fully comply to the contract spec</i>

Top three CMR issues: Professional services

Top three issues	NCs YTD	Trend	Description of issue and background
1. Provision of deliverables & reports	7	↓	Not providing all deliverables and reports, as specified in the contract spec/late provision of deliverables <i>Deliverables specified in standard spec but not in deliverables schedule/sometimes unclear if client requires</i>
2. Programme content & management	2	↓	Programme not being provided/programme not updated at required frequency/key deliverables not included <i>Not updated monthly/spec states required in all phases but often not provided in MSQA phase</i>
3. QA testing and inspections, eg management of hold & witness points	2	↓	Consultant management of hold & witness points, ie coordination with contractor, site instructions, records <i>Hold points often clearly specified, however consultant not managing or recording inspections or approvals</i>

LLR programme

Top five lessons learnt report for the period 2008/2009 (FY)

Topic	Lesson learnt
1. Programme management	It is important to be proactive in the management of the construction programme and undertake more frequent reviews and updates to the programme, particularly where there are design changes and/or other factors impacting on the sequencing of work.
2. Delays in contract award	Delaying contract award beyond a certain date can have a potentially significant and disproportional affect on the programme, ie a delay in contract award of 1 or 2 months may potentially extend a project by one construction season.
3. Project management board	There is benefit, even with a smaller contract having a Project Management Board (PMB) in place. With a smaller contract the provision of a 'sleeping PMB' as a means of escalating and resolution of significant issues may be beneficial.
4. Unforeseen conditions	Where potential exists for unforeseen ground conditions it is advisable to conduct adequate geotech investigation, and the design must allow adequate contingency for identification and mitigation of risk in the risk profile.
5. Construction period	It is advisable to allow a generous construction period provision within the contract. This may assist with gaining a positive public perception and reduce risk to the NZTA of time extension claims.