



# Procurement essentials



## IDeA procurement

In association with:



NabarroNathanson



national **procurement** strategy  
for local government

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# Managers' guide to procurement

## Purpose

This is a **quick reference** guide for local government officers.

It describes the **essential** features of modern procurement practice in local government.

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All the topics outlined here are discussed in further detail in the **main guidance**: *Modern Procurement Practice in Local Government* and *Sustainability and Local Government Procurement*. This draws on good practice developed by local authorities throughout England and Wales.

The guide is intended to support the implementation of the *National Procurement Strategy for Local Government* in England and *Better Value Wales* in the Welsh local government sector.

For guidance on public-private partnerships, strategic service delivery partnerships, and partnering in construction see the 4ps, SPT and LGTF guidance referenced in *Further Reading* at the end. On eProcurement see the National eProcurement Project's toolkit.

## Why is procurement important?

With external **spending** running at over **£40 billion** a year, a **modernization** agenda linked to Best Value and **CPA** /Wales Programme for Improvement, increasingly **integrated** public services, and a significant growth in **partnerships** with private and voluntary sector suppliers it has never been more important to **get procurement right**.

Pressure to improve **performance** on procurement is mounting because:

- procurement can play a critical role in the delivery of **strategic objectives**, including the **improvement** of public services.
- **savings** realized through more efficient procurement can be channelled into **priority services** or council tax reductions.
- authorities are accountable for achieving **Best Value** (see below) and are open to legal challenge under the EC public procurement directives and the UK procurement regulations (**EC rules**).
- inadequate **planning** and **contract failures** can result in **financial loss** and damage to the authority's **reputation**.
- poor practices in design and procurement result in time and cost **overruns** and poor quality.
- unnecessary '**red tape**' and excessive timescales are costly for authorities and suppliers alike.

## What is “procurement”?

In this guide, procurement means the process of **acquiring goods, works and services** from suppliers. The process spans the whole **cycle** from the identification of needs through to the end of a services contract or the end of the useful life of an asset. It therefore covers everything from “paperclips to PFI”.

Importantly, it includes the critical **option appraisal** stage (the “make or buy” decision). In the context of Best Value, for example, this might involve choosing a new model of service delivery.

## Strategic context

Local authorities in England and Wales frame their own priorities and strategic objectives within a policy and legal context that includes:

- **Best Value.** Authorities have a duty to spend public money wisely and make arrangements to secure continuous improvement in their services in terms of economy, efficiency and effectiveness. Areas for review are prioritized through Comprehensive Performance Assessment (**CPA**) in England and the Wales Programme for Improvement (**WPI**).
- **Community well-being.** Power to promote the economic, social and environmental well-being of the community. A community strategy is drawn up and delivered collaboratively through a Local Strategic Partnership.
- **Sustainability** is key objective to be driven through procurement and **health and safety** is a legal responsibility.
- In the field of **diversity and equalities**, legislation includes the amended Race Relations Act 1976 and sex and disability discrimination legislation.

- **Procurement law.** Includes the EC Treaty, relevant directives and UK procurement regulations (**EC rules**) plus rules on “non-commercial matters” and the treatment of **workforce issues** in procurement. That includes TUPE, pensions and conditions of new starters.
- **Local government finance.** Includes regulations governing **public-private partnerships**, local authority companies, trading, and audit requirements.
- **eGovernment.** A target date of 2005 has been set for electronic service delivery in local government. It includes **eProcurement** (see *eProcurement* tools below).

The policy context for **English** local authorities is set out in further detail in the *National Procurement Strategy for Local Government*. The **Welsh** context includes *Better Value Wales* as implemented in the local government sector.

In addition, there are many **service-specific** legal and policy requirements that apply to services like social care, education, housing, transport, environmental services, leisure and fire. These are outlined in *Modern Procurement Practice*.

## Procurement essentials

The essential features of the modern approach to procurement comprise:

- **corporate arrangements:** creating the **capacity** and **capability** for successful procurement, contract management and supplier relationships.
- **procurement process:** a process built around the procurement **cycle**, a structured approach to **project** and **risk management** and **legal** requirements.
- **contract management:** planned in advance, contract management is about ensuring benefits (**outcomes**) are delivered, **continuous improvement** and sound **relationships** as well as **controls**.

## Tailoring

The information provided in this guide is **generic**. The resources and effort applied to procurement must be **proportionate** to the **risk/value** of the procurement and the potential **benefits** that may be achieved. Authorities should therefore tailor the approaches described here to the context.

Guidance on **complex projects** is available from 4ps, SPT and LGTF (see *Further Reading*).

## Corporate arrangements

This section looks in further detail at corporate arrangements. These are summarized in *Table 1*.

### Corporate arrangements

**Leadership.** Commitment from the top by members and senior managers.

**Procurement strategy.** Procurement's contribution to strategic objectives. A risk-based strategy based on an analysis of spend and the authority's requirements.

**Procurement policies.** Including best value for money, collaboration, partnering, sustainability, health and safety, equalities, workforce issues etc.

**Procurement procedures.** User-friendly, communicated and supported by training. Incorporate controls and EC procurement rules.

**Procurement plan.** Covering a five-year period, a tool for prioritizing and resourcing major projects.

**Register of contracts.** Required for transparency and a management tool.

**Ethics and fraud prevention.** A prevention strategy and ethical dealing with suppliers.

**Procurement skills.** Professional qualifications in the centre. Skill sets required by all project participants, including members and senior managers.

**Centre of expertise.** The source of procurement advice and commercial expertise. **Point of contact for suppliers.** Conduit for sharing lessons learnt.

**Management information and measurement.** Tools to manage and continuously improve. Tracking strategy implementation.

**Supplier intelligence.** Centre of expertise is a repository of knowledge on suppliers and markets.

**Supplier relationships.** Understand how suppliers view you. Build relationships with key suppliers.

**Collaboration.** Make use of purchasing power. Departments and authorities should collaborate to pool resources and "aggregate" requirements to obtain discounts. Services and construction are the challenge for collaboration.

**Promoting diversity and competition.** Consider the value added by small firms, social enterprises, voluntary and community sector suppliers and ethnic minority businesses, including as members of the supply chain in partnerships.

**Resourcing projects.** Projects fail if there is no commitment to resource them properly. Business case culture. Make it part of the culture never to enter procurement without a sound business case.

*Table 1: Corporate arrangements*

## Leadership

Procurement and contract management should be a **strategic priority** in every authority. **Seizing opportunities** to improve public services through **new service delivery models** and ensuring that the authority has the necessary corporate capacity and capability to deliver change successfully are key **leadership** tasks.

Among other things, the strategic importance of procurement should be reflected in an **executive portfolio**, creating a **member champion** for procurement.

Members on the **executive** might have prime responsibility for:

- Adopting the corporate procurement **strategy**, ensuring it is aligned with strategic objectives and monitoring its **implementation**.
- Overseeing **corporate arrangements** for procurement and contract management to ensure they are operating effectively.
- Promoting the use of **gateway reviews**.
- Making **key decisions** in the procurement process for major projects (e.g. business case and contract award).
- Monitoring the **performance** of partnerships and other key contracts.
- **Learning lessons** from major projects and partnerships.
- Leading best value **reviews** of procurement and contract management.

The role of overview and scrutiny members might encompass:

- Conducting **inquiries** into new models of service delivery
- Reviewing areas of **high spend** to identify opportunities for improved value for money
- **Challenging** the progress of major procurement projects
- Reviewing the **performance** of partnerships and other key contracts

- Ensuring that **lessons** are learnt from major projects and partnerships.

It is vital that the **chief executive** recognizes the strategic role of procurement and demonstrates personal **commitment** to major projects and partnerships.

Appointment of a **chief officer champion** for procurement on the **corporate management team** should ensure that it is accorded the necessary **profile** in the organization.

## Procurement strategy

Procurement is not an end in itself. It should be undertaken to further the strategic objectives of the authority.

Developing a corporate **procurement strategy**, covering a three-to-five year period, will enable an authority to develop a longer- term vision of how procurement can help deliver strategic objectives. The development of the strategy can help raise the **profile** of procurement and gain member and senior management buy-in.

The procurement strategy should reinforce the policy of achieving **best value for money** (see *below*) and the need for compliance with the EC directives and the UK **procurement regulations**. It should address sustainability considerations as discussed in *Sustainability and Local Government*, race equality matters as set out in the CRE's *Race Equality and Procurement in Local Government* and the opening of contracts to small firms, social enterprises, ethnic minority businesses, voluntary and community sector suppliers (see, for example, OGC/DTI *Smaller Suppliers... Better Value?*) whose principles are generally applicable.

As a minimum the procurement strategy should contain the following:

- fit with the authority's **strategic framework** and contribution to the achievement of **strategic objectives** (see *Figure 1*)
- **spend profile** and **key suppliers**
- **organization** and **resourcing** of procurement and contract management
- key procurement **policies**
- reference to procurement **procedures** including option appraisal (which should be detailed elsewhere)
- **strategies** appropriate to different requirements in the authority's procurement **portfolio** (see *below*)
- **action plan** for improvements.

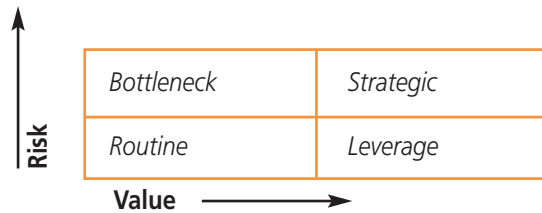
*Figure 1* illustrates how procurement may fit within the authority's strategic framework.

The development of procurement strategy begins with a **spend analysis** and the mapping of requirements in the authority's procurement **portfolio**. (See *Figure 2*).

**Risk-based** strategies should be developed for the various **requirements** in the portfolio.

**Partnering** may be considered an appropriate strategy for **high-risk, high-value** ("strategic") procurements. These do not occur often, but require the greatest resources and know-how.

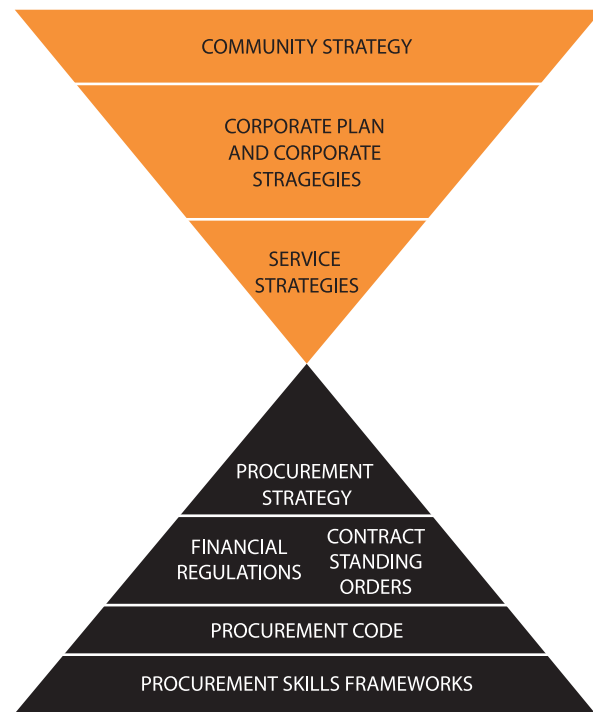
**Framework agreements** and corporate contracts enable authorities to leverage their buying power for **low-risk, low value** requirements when volumes are high (see *Collaboration* below). **eProcurement** tools, such as **eMarketplaces**, support this as well as enabling electronic tendering and electronic auctions. See the NePP Toolkit.



*Fig 2: Procurement portfolio*

The Government **Procurement Card**, (GPC ) or a procurement card offering comparable benefits should be considered for **infrequent** low value, low risk procurements

Requirements of low value can be critical to the operation of the authority too. Strategies for "**bottleneck**" items include multiple suppliers, back-up contractors and partnering..



*Fig. 1 Strategic framework*

## Procurement policies

The authority's procurement **policies** need to be set down in writing and widely communicated.

Above all, the authority should have a policy, supported by members and senior management, of making procurement decisions on the basis of **best value for money** (the **economically most advantageous offer** in the procurement regulations).

Best value for money is defined as:

“the **optimum** combination of **whole life costs** and **benefits** to meet the customer's requirement”.

Contracts should not be awarded on the basis of **lowest initial price** alone. There must always be an assessment of **quality** and the costs that will be incurred by the authority **throughout the life** of the asset or contract period.

A **tender evaluation model** including objective **criteria** for the assessment of cost and quality should be prepared in advance of procurement. Evaluation criteria should be **published** in contract notices and the invitation to tender. They must not be changed during the procurement process.

## Procurement procedures

Clear, user-friendly procurement procedures are a fundamental requirement. The procedures should be available on the corporate **intranet** and proactively **communicated** to staff including through structured **training**.

**Contract standing orders** (CSOs) and **financial regulations** form the core of the procedures. These are the **mandatory** rules with which all officers and members must comply. They are an essential component of the authority's system of **internal controls** and should provide a transparent **audit trail**. The rules are there to protect the authority's **interests** and those of its members and officers.

It is essential that CSOs and financial regulations are regularly **reviewed** and kept up-to-date. They must embody legal obligations properly, including the **procurement regulations** (EC rules), and should enable best practices including use of **negotiated procedures** in justified circumstances for particularly complex contracts and the use of **eProcurement** tools with appropriate controls.

CSOs should not be overly complicated. Typically, CSOs point to more detailed guidance and best practice set out in a procurement **code of practice** or **manual**.

## Procurement plan

The authority should prepare a procurement plan covering at least a **five-year period** and updated on a rolling basis. This should set out for members and senior managers information on all the **major procurement projects** (medium and high risk) planned for the coming five years, with estimated overall spend and **resource requirements**. The plan should also show **dependencies** and how projects will be **prioritized**. This will need to be underpinned by a comprehensive database of forthcoming requirements that can be used by the procurement centre (see *Centre of Expertise* below) to populate the council's website with details of tendering opportunities.

## Register of contracts

Every authority should have in place a corporate register of contracts (ideally, an electronic **contract management database**).

The contracts register is a basic management tool that provides information on the contracts to which the authority is party. It is an important part of the **audit trail**. It provides managers with data on which to **plan**, such as expiry dates and resources required for re-tendering and the scope for achieved better value through the **aggregation** of requirements (see *Collaboration* below).

The register would help officers to identify, for example, an existing framework agreement or contract that can be used instead of letting a new one.

The register will also assist with the compilation of government **statistical returns** on contract awards required by the procurement regulations.

### Ethics and fraud prevention

Procurement in any organisation can be the target of fraudulent and corrupt activities. Authorities should take steps to minimize the opportunities for these. The provision of clear **policy statements** and **codes of conduct**, which are easily accessible by staff, are a basic requirement.

The requirements should be described in the following:

- mandatory code of conduct for **members**
- mandatory **employee** code of conduct
- a policy statement on **fraud**
- financial regulations, contract standing orders, schemes of delegation.

These should emphasize that it is the duty of all members of staff involved in procurement to behave in a professional and honest manner (including adherence to rules on the acceptance of **gifts and hospitality**) and to **treat all suppliers equally**. They must report any **conflicts of interest** and any **breaches** of procurement procedures.

These requirements should be embodied in the authority's procurement policies and procedures (see above).

**Training** on these rules should be provided for new staff in particular and on an ongoing basis if the codes/rules change. The procurement function should work closely with **internal audit** to monitor their application.

A policy on **procurement ethics** will assist authorities in a number of ways. It will help to ensure that conduct is **fair, honest, efficient and professional** and that decisions are made on the basis of best value for money alone. Importantly, it will ensure that the **reputation** of the authority remains good within the **market**. An authority with poor procurement ethics will attract suppliers with similarly poor ethics, with reduced opportunity for productive working relationships.

### Procurement skills

The head of the procurement function and key procurement officers should be **professionally qualified**.

Elected members and officers throughout the authority need to have the **skills** necessary to perform their roles including participation in procurement projects and managing contracts and relationships.

IDeA, 4ps and EO have jointly published *Skills Frameworks for Local Government Procurement* that enable authorities to carry out **training needs assessments** and to provide or commission appropriate training and development, including **member and management development**.

Under the National Procurement Strategy training and development programmes are being put into place for members, senior managers and project teams to enable them to acquire the relevant skills. Skills training is also in place in Wales.

### Centre of expertise

*The National Procurement Strategy for Local Government* urges all single tier and county councils in England to establish a **corporate procurement team** led by the **professional head of the procurement function**. *Better Value Wales* similarly recommends leadership for the function.

Smaller councils might **collaborate** with others to **share** procurement resources. In England regional **centres of excellence** are being established to facilitate this under the *National Procurement Strategy*.

The authority's procurement centre acts as a **focal point for suppliers** wishing to do business with the authority. Accessibility can be enhanced by publishing information on the authority's website. This should include a "Selling to the Council" guide, contact details and information on forthcoming tendering opportunities.

The centre provides **procurement advice** and support on **commercial issues** to staff involved in procurement projects. That typically includes guidance on **rules, procedures** and **best practices, supplier intelligence** and **market knowledge**.

It can involve assistance with best value reviews, option appraisal, specification, the preparation of contracts and the management of procurement projects.

**Early involvement** of procurement professionals in projects (from review stage onwards) is a key to success. In major projects all professional advisers – legal, finance, HR and **ICT** as well as procurement need to be involved from an early stage.

The procurement centre also plays an important role in authorities committed to being a **learning organization** as it can provide the mechanism for ensuring that lessons learned on one project are disseminated to others. This immediately improves the potential for success.

Every authority needs to determine the **appropriate role** for its centre in relation to the requirements in the portfolio. The four main approaches are:

- **Procurement-led** – the centre has responsibility for the procurement. This could involve leading a project team.
- **Cross-functional team** – the centre participates as a member of a project team.
- **Co-ordinated** – the centre collaborates closely with key internal stakeholders, without which a successful outcome will be compromised.
- **Decentralised** – responsibility for the procurement is located with service managers.

Procurement centres should proactively **market** their services within and outside the authority. This may be achieved through, for example, open days, seminars, dissemination of success stories and/or induction programmes.

### Management information and measurement

A good **management information system** is a further key to success in procurement. Traditionally, procurement in local government has been bedeviled by a lack of information on which to base decisions. However, as authorities upgrade their financial management systems and start using eProcurement tools much higher quality information is becoming available. It is critical that procurement professionals are involved in the specification and implementation of such systems.

Among other things, management information can be used to **measure performance**. The performance of the procurement function must be measured, like any other, with a view to continuously improving service and to achieve best value for money. Performance measurement facilitates **benchmarking**.

Procurement performance measurement should be concerned with procurement's contribution to **strategic objectives** as well as **operational** measures of efficiency.

For procurement performance indicators see the IDeA's *Modern Procurement Practice in Local Government* and the Audit Commission/IDeA online *Library of Local Performance Indicators*.

## Supplier intelligence

Successful procurement depends on good **market knowledge** and **supplier intelligence**. Centres of expertise should be repositories of such knowledge. Suppliers should be assessed in terms of capability, capacity and financial risk. This information may be held on a **supplier database** (approved list). The centre tracks developments in the market and looks for innovations.

## Supplier relationships

The authority needs to identify who its **key suppliers** are in terms of **spend** and **dependency**.

The authority should have a strategy for building and maintaining good **relationships** with those suppliers.

Contract management will address the relationship on a project-by-project basis, but through the creation of an **open dialogue** with key suppliers at senior management level, the authority stands to benefit from learning about the strengths and weaknesses of the authority's procurement processes, the potential **risks to supply** in the future and changes in the market.

Lessons from these activities will assist authorities in improving their own performance and better understanding their **supplier base**. Authorities may need to take steps to 'market' themselves to the best suppliers.

## Collaboration

Authorities should take advantage of their **purchasing power** by aggregating requirements. This requires departments to collaborate. To achieve the best results collaboration should extend across a number of authorities and public bodies.

Aggregation provides opportunities for pooling, and where appropriate, reducing, the **resources**

that go into procurement and can of deliver **savings** for authorities through **bulk discounts**. Authorities should encourage the reduction of procurement **resources** used to acquire high volume, low value items such as stationery, ICT consumables and office equipment.

These can be very successfully dealt with through **framework agreements** set up either within an authority or via **purchasing consortia**, which set up framework agreements on behalf of a number of authorities. If a well-managed framework agreement is in place it is unlikely that authorities will be able to improve on the value for money it offers, and use of frameworks should be made **mandatory** (i.e. in policies and procedures).

When establishing framework agreements authorities should take care to ensure that they are **open** for use by all public sector bodies in the locality or region that might wish to make use of them (including, for example, small authorities, health and police). OJEU contract notices (see *Procurement Process* on page 13) need to be worded accordingly.

Significant benefits may be obtained from collaboration in the procurement of services and in construction (**joint procurement projects**). This is a complex area. See, for example, the SPT's *Rethinking Service Delivery* guidance.

## eProcurement tools

There are many eProcurement solutions on the market, including some that can be fully integrated with back office systems and payment.

These solutions allow authorities to:

- Receive quotations and **tenders** electronically in a secure environment
- **Order** goods and services securely over the internet from **electronic catalogues**
- Conduct electronic **auctions**

**eMarketplaces** generally combine these features with the bonus that they also enable authorities to collaborate to create **shared catalogues**.

**Procurement cards** and electronic **payment** (BACS and CHAPS) are also sometimes counted as eProcurement tools. They improve information, increase efficiency and reduce paperwork.

The first **benefit** of eProcurement is **better information** on which to base decisions. In time eProcurement can also release **resources** for allocation to strategic procurement and can result in contracts that offer improved **value for money**.

### Diversity and competition

Authorities should encourage a **diverse** range of suppliers to compete for their contracts. Often small and medium sized enterprises, social enterprises, ethnic minority businesses, voluntary and community organizations are discouraged from tendering.

They may be unaware of **opportunities** (see *Centre of Expertise* above), or the bureaucracy of procedures or packaging of requirements may deny them the opportunity of tendering and so prevent them demonstrating the **value** they can add.

These suppliers may offer greater **innovation** and **value for money** than their larger counterparts. They can be effective participants in the **supply chain** for larger partnerships.

See OGC/DTI's *Smaller Supplier...Better Value?*, CRE's *Race Equality in Local Government Procurement* and IDeA's *Sustainability and Local Government Procurement* for practical advice on how the local government market can be opened.

### Resourcing of projects

A common cause of the failure to deliver

procurements within time, budget and quality is the lack of senior management commitment to adequately **resource** procurement projects. This is a **false economy**.

The correct number of staff will be important but so too will a level of skills and experience commensurate with the procurement (see *Procurement Skills* above). The types of skills and resources that may be required at a project team level (this will vary with the risk level of a procurement) will include:

- project and programme management
- commercial negotiation
- contract and relationship management
- options appraisal and business case development
- financial modelling
- procurement processes
- contract and procurement law
- commercial practice (law, tax and finance)

If an authority fails to resource their procurements adequately, the impact on the citizen may be significant as a result of poor quality services.

### Business case culture

Management must ensure that all proposed procurements remain **aligned** with the authority's procurement strategy.

To ensure that this happens a **business case 'culture'** should be promoted across the authority. That means that a business case should be produced for each significant procurement project (risk-based approach).

This will provide a clear justification for the procurement in terms of alignment with the authority's objectives and should be signed off by management, and members where appropriate, before the project continues.

The business case will provide evidence that:

- the proposals fit with the authority's **strategic objectives** and priorities
- an appropriate number and range of **options** (benefits, costs and risks) have been considered for delivering what is required
- the proposals are **achievable** – that is, the authority can realistically achieve all that is proposed
- the proposals are **affordable** – the budget needed to deliver the requirement is available
- the proposals offer **best value** for money for the authority

The business case is considered in more detail in the *Procurement Process* section below.

## Procurement Process

### Project management

Every medium and high-risk procurement should be managed as a project. The *National Procurement Strategy for Local Government Procurement* in England and the *Wales Programme for Improvement* identify a structured approach to project management as an important factor in successful procurement.

Roles and responsibilities should be defined and agreed so that everyone involved knows what they have to do and when. The stages of the procurement should be set out with clear milestones and expectations of what is to be done at each stage. People with appropriate skills and experience should be assigned to project roles; resources and timescales should be determined at the outset. These are the principles of effective project management that enable a procurement to achieve what is required.

### Project organisation

Project management requires trained and committed staff in a hierarchy of roles.

The structure of the project team organisation and grades of staff involved will depend on how

important the project is to the authority, its scale and complexity.

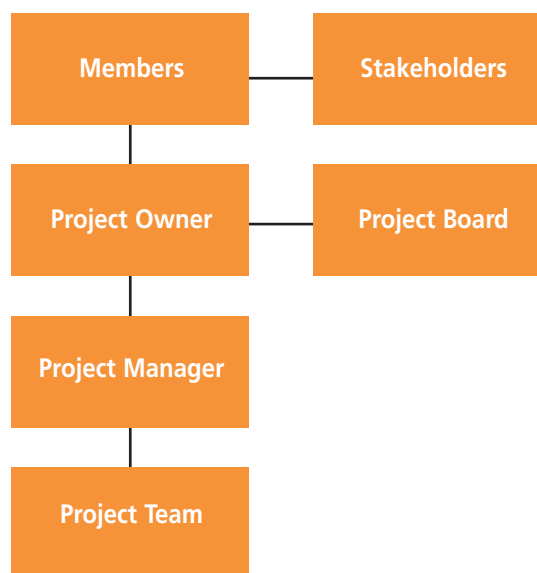


Fig. 3. Project organization

Figure 3 shows a typical structure for a project organization, with the key roles and reporting lines between the roles.

### Members and senior management

There must be a role responsible for making the **investment decision** on behalf of the authority. For a major project this would usually be **members** or the **corporate management team**, not an individual. They are responsible for committing funding for the project. For less significant projects the decision on the investment would be delegated as appropriate.

### Project owner

An individual should be nominated as the owner of the project, with personal responsibility for its success. This is the **project owner** (sometimes referred to as the senior responsible owner). If a project board is established, the project owner chairs the board. They must have enough seniority in the authority to drive the project forward.

### Project board

For major projects there is usually a **project board** that typically comprises senior managers from legal, finance, procurement, HR, ICT and property (as appropriate to the contract). The board ensures all aspects of the project are addressed and will act on the feedback from stakeholders.

### Project manager

The **project manager** is the role responsible for co-ordinating the project team and overseeing the delivery of the project. The project manager must have sufficient **authority** delegated to them to fulfil their role.

For major projects project managers will require support from professional advisers. These will provide advice as and when required by the project. Their expertise may include procurement, finance, legal, human resources, property and technical advice.

### Project team

The **project team** will be made up of staff required to resource the delivery of the project.

Procurement staff should be consulted throughout the project and may be project team members. Procurement should also be represented on the project board at senior level and have an active part in the quality management of essential activities such as formulation of evaluation criteria and the development of contractual documentation.

### Stakeholders

Involving the right stakeholders at the right stages of a procurement will help to ensure that officers

correctly identify what is required, reduce the number of costly post-contract variations to requirements and have the buy-in of key bodies and individuals to the procurement decisions that are made (see *Table 2* below for a list of potential stakeholders). Stakeholder engagement is an important element of achieving best value for money.

Stakeholder input should be carefully **planned**.

Not all stakeholders will require the same level of input to the procurement process. Officers should identify a complete list of stakeholders, where they should be involved in the procurement cycle and the extent of their involvement at stages of a procurement such as:

- sign-off required
- comments required
- keep informed.

Option appraisal, development of the specification and the evaluation of suppliers are three main activities where stakeholder involvement is particularly beneficial.

#### Examples of stakeholders

Citizens  
 Service users  
 Elected members  
 Head teachers and governors  
 Tenants  
 Carers  
 Staff  
 Trade unions  
 Internal audit  
 External audit  
 Government  
 Other local authorities  
 Suppliers  
 Special interest groups  
 Media

*Table 2: Examples of stakeholders*

## Risk management

A **risk** to a procurement project is anything that might **adversely affect the outcome** of the project. Some typical procurement risks are shown in *Table 3* below.

- Political change in the authority leading to project misalignment with authority objectives
- Loss of key procurement/project management staff
- Insufficient resources and skills in project team
- Low response rate from market leading to poor (or no) competition
- Funding cannot be secured for the full period of the contract
- The projected timescales for implementation are too short
- Evaluation process fails to identify the best value for money supplier
- The authority is unable to agree favourable terms with the preferred supplier
- The supplier fails to perform as required

*Table 3: Examples of risks in a procurement project*

Risk management is the ongoing process of **identifying** potential risks, **analyzing** the likelihood of them occurring and their impact, **controlling** the risk and **monitoring** the process.

In some cases, a decision may be taken to **transfer risk** to the supplier under the contract.

A best practice approach to risk management requires authorities to control risks by identifying **who is best placed to manage or eliminate the risk** and allocating the risk to them. In some cases this will be the supplier but in others it will be the authority. Sharing a risk may even be the best option.

If a risk is allocated to the wrong party there is a greater likelihood of it materialising and of the impact being greater than it might otherwise be. In addition if it is allocated wrongly to the supplier, the supplier will **charge** the authority a **premium** for assuming that risk.

Each project should have a **risk register**, overseen by the project manager which:

- records each risk
- prioritises them by impact and probability of occurrence
- allocates them to a named party
- records the actions that can be taken to mitigate or eliminate each and an action date.

This risk register provides the framework against which the project manager will **report** on risk and monitor the success of the risk management processes. It is good practice for the risk register to be maintained **jointly** by the authority's representatives, the supplier and any additional parties involved in the delivery of the project.

### Gateway review process

Project owners are recommended to adopt a gateway review process for significant procurement projects.

This comprises reviews at **key decision-making points** in the "procurement cycle" (see below) by a **peer review** team that is **independent** of the project team to ensure that a project can proceed successfully to the next project stage. The process is particularly valuable for managing high-risk projects. It is being introduced into local government by the **4ps**. The outcome of using this approach is projects that are more likely to be completed on time and budget and to meet the clients' requirements.

The gateway process is not an audit of a project but a tool to assist the project owner to deliver a successful project. Authorities should decide to apply a gateway review process on the basis of the risk inherent in the procurement project. There is a tool to help authorities do this on the 4ps website: the Project Assessment Spreadsheet (PASS).

The recommended key decision points are shown in *Table 4* below.

A review is recommended at each of these stages in the procurement cycle:

- Gate 0: **Strategic assessment** - business need identified and outline brief prepared
- Gate 1: **Business justification** - options appraisal completed and preferred option identified
- Gate 2: **Procurement approach** - approach to procurement identified (but before advertising)
- Gate 3: **Investment decision** - preferred supplier identified (but before contract award)
- Gate 4: **Readiness for service** - asset or service is ready for delivery
- Gate 5: **Benefits evaluation** - asset or service is in place (this may be repeated several times over the life of the asset (such as a building) or service contract).

*Table 4: The key decision making points at which a gateway review is recommended*

## Project stages

There are four main stages in any project:

### Project definition

Project definition requires the setting of the **parameters** of the project (using a project initiation document or PID), including a high-level **business case**.

### Project planning

Project definition (the PID) also provides the basis of project planning. Planning is essential at the outset of a project but remains important throughout the project as the environment, risks etc change. Planning includes:

- **organising** the project management team structure and any additional resources
- forecasting **expenditure** profiles
- scheduling **milestones** for delivery
- the **actions** required to achieve these
- setting out the approach to **risk management, communications** and **stakeholder** engagement.
- developing the **procurement approach**.

### Project control

At this stage progress is monitored against the outputs from the project planning stage and action undertaken as required to ensure the project remains on track.

### Project close

At this stage steps should be undertaken to ensure that the end of the project is as smooth as possible. A project evaluation report should be prepared with the key objective of **learning lessons** and feeding them into the project management processes for the benefit of **future projects**.

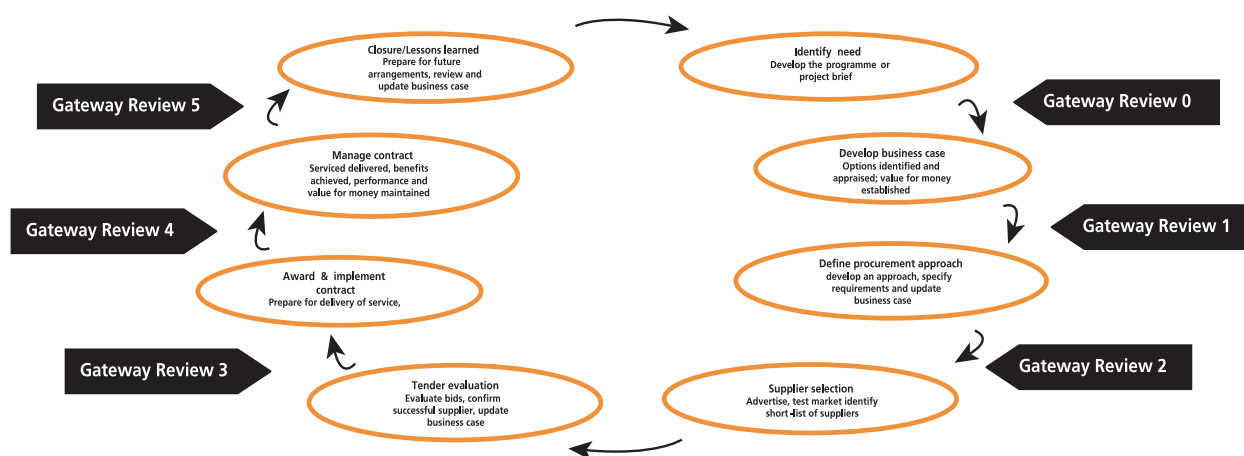


Fig. 4. The procurement cycle and gateway reviews

All authorities should aim to be “**learning organisations**” which will allow them to continually improve their performance. **Post-project reviews** are an important element of this. (See also *post-implementation reviews* below). These assess whether the procurement achieved the benefits set out in the business case.

Some of the areas referred to above are outlined in more detail below.

## The procurement cycle

It is helpful to think of the procurement process as a **cycle**. The procurement cycle comprises the steps shown in *Figure 4* above.

Viewing a procurement project in this way emphasizes the importance of the business case and ensures that procurement is not mistakenly regarded as simply the process of advertising and evaluating tenders.

### Tailoring

All procurements should be carried out in accordance with the principle of the procurement cycle at *Figure 4*.

However, the resources applied to a procurement project should be proportionate to its risk and value (see *Figure 1*). Those procurements that fall into the strategic group should follow all the steps shown at *Figure 4* and should adopt project management and gateway review tools. Procurements with lower risk/value levels, particularly routine procurements, can be delivered through a simplified process.

## Steps in the procurement cycle

Each of the key steps of the procurement cycle is outlined below.

### 1. Identifying needs

Needs may be recognised in a number of ways such as a demand from members, the identification of weaknesses through Comprehensive Performance, Best Value reviews or inspections, the end of an existing contract or the failure of a contract.

### 2. Developing the business case

The business case is an essential document for project success. It provides justification for the procurement in terms of its alignment with the objectives of the authority; it also provides the

basis for managing the delivery of the project on time, within budget and to agreed quality standards.

The business case will be an evolving document throughout the procurement cycle.

In a major project the business case will start as a high level summary of possible options to meet the service need, progress through further high level investigation as a Strategic Outline Case (SOC), develop into an Outline Business Case (OBC) with indicative costs and finally a Final Business Case (FBC) with the indicative information confirmed.

The Final Business Case is continuously reviewed. It will provide the basis for the project implementation review and beyond.

The following questions are explored at each stage of business case development:

- **strategic fit** – how well does the proposed way of meeting the requirement support the authority's objectives and current priorities? Does the scope need to change?
- **options** – has a wide range been explored, including innovation and/or collaboration with others? How do they compare in terms of benefits, costs and risk.
- **achievability** – can this project be achieved with the authority's current capability and capacity (such as other projects with a high priority that must be delivered at the same time)?
- **value for money** – can this be obtained from proposed sources of supply such as current suppliers? Does the project need to be made attractive to a wider market?
- **affordability** – is the budget available to deliver what is required? If not, can the scope be reduced or delivery extended over a longer period of time; or funding sought from other sources?

The high level business case may contain no more than a summary statement outlining the questions above; all that is needed is enough information to enable those responsible for making the investment decision to take an informed view on the best way forward.

The **Strategic Outline Case** is still a summary document, with just enough detail to engage **stakeholders** and support an informed decision on whether to proceed or to revisit the **project scope**. It should include an option appraisal of the high level options for meeting the authority's objectives such as make or buy, together with an initial view of the costs, benefits and risks.

A more detailed option appraisal will be undertaken during the "Develop the Business Case" stage and recorded in the **Outline Business Case**. These options will be based on an ongoing assessment of strategic fit, achievability, value for money and affordability. Information at this stage is based on relatively detailed indicative assumptions about costs, benefits, risks etc.

The **Final Business Case** contains the same level of detail as the Outline Business Case, but with all the information confirmed as it becomes available from suppliers during the competitive procurement process. It should provide all the information needed to support a decision to award a contract and commit actual funding.

The *National Procurement Strategy for Local Government* describes the options that English authorities should consider in the context of Best Value Reviews and similar strategic reviews of services (the “make or buy” decision):

- In-house
- Public sector consortium
- Tactical contracts (multiple)
- Non-profit-distributing organization
- Local authority company
- Joint venture company
- Partnering contract
- Framework agreement
- DBFO (PFI)
- Concession or franchise
- Closure or disposal.
- Mixture of the above.

### 3. Defining the procurement approach

#### (a) Market sounding

It will be essential for authorities to **communicate** with suppliers throughout the procurement cycle to create a **dialogue** (taking care not to show favouritism or provide representatives with an unfair advantage).

They may choose to consult the market via publication of a **PIN** for a particular project (see *Advertising* below) or during a best value review or through “open days” and similar events for suppliers.

Market sounding is particularly important when developing the **option appraisal** but will also contribute significantly to the development of the **procurement approach** (see below). Not only is it unlikely that officers will have the knowledge and expertise to produce the optimum approach to procurement in isolation, they must also ensure that there will be interest from the market in the approach they choose. If suppliers are unwilling to accept, for example, the **risks** the authority wishes to transfer to them, the procurement may fail to achieve best value for money. As a minimum, timescales for reaching a satisfactory agreement will be extended.

Authorities should also bear in mind that if they are regarded by the market as a **poor client** they are unlikely to receive the number or quality of responses required to achieve best value.

Consultations with the market should identify these perceptions and authorities should be proactive in addressing any shortcomings and in letting market know they have.

#### (b) Procurement approach

The procurement approach defines the **type, size** and **phasing** of the procurement. Detailed planning of the procurement timescales and resourcing are undertaken. In the light of market sounding the procurement approach defines:

- the optimum **allocation of risk** between the supplier/s and the authority
- the **splitting** of requirements across a number of suppliers
- the **bundling** of requirements with a reduced number of suppliers e.g. through setting up framework agreements (see below)
- **incentives** that may improve performance to the authority's advantage
- **payment** periods
- the optimum **length** of contract.

The draft contract and specification and draft OJEU notice are also prepared during this period.

#### (c) Compliance with procurement law

Compliance with legal obligations is essential and **professional advice** should be taken as appropriate. For general information, see the Basic Guide to Contract and Procurement Law in the IDeA's *Modern Procurement Practice*.

Obligations include compliance with the procurement regulations (EC rules), Part II of the Local Government Act 1988 (non-commercial matters), ODPM Circular 03/2003 (which includes the code of practice on workforce issues), NAFW Circular 18/2002 and the Welsh code of practice on workforce matters.

If the contract is covered by the procurement regulations, authorities have a choice of three **procedures**:

- open
- restricted
- negotiated

The **restricted procedure** is recommended for general use. Use of the **negotiated procedure** (with or without advertising) must always be justified under the procurement regulations and is open to challenge.

See *Table 6* for summary information on the procurement regulations.

#### Procurement regulations

Public sector procurement is governed by EC directives and UK procurement regulations (**EC rules**). These apply to the majority of procurements of works, services and supplies with a total value, excluding VAT, over a specified threshold (see table). They stipulate rules and **time limits** for the procurement process particularly concerning **specifications, advertising, selection of suppliers, tendering** and **contract award** which aim to increase competition across Europe.

Authorities need to comply with their obligations under the procurement regulations in order to avoid legal challenge by suppliers or the European Commission.

#### Threshold Value

Works: £3,861,932  
 Services: £154,477  
 Supplies: £154,477

*Procurement regulations thresholds at June 2003. These are regularly reviewed.*

*Table 6: The procurement regulations*

All procurements should aim to achieve **best value for money** for the authority. One of the keys to achieving this is through competition. On the simplest procurement three quotations may provide adequate **competition**. On the more complex procurements advertising, followed by an initial assessment to identify a shortlist, and tendering are the recommended competitive tools.

#### (d) Managing change

If the project involves transferring staff to the supplier, then the authority will need to plan in advance how it will **manage the change**, in addition to complying with its legal obligations on TUPE, pensions, new starters and other workforce matters. There is statutory obligation to consult staff who might transfer.

However, staff in the contract management team and other services will be affected by the change as well as those transferring. **HR** professionals will need to be involved from the beginning of the project if there is a likelihood of a staff transfer.

For guidance on the handling of workforce issues see ODPM Circular 30/2003, the Employers Organisation's *Workforce Issues and Local Government Procurement* and the SPT's *Employment Matters in Partnerships*.

#### 4. Competition

##### (a) Advertising

Advertising provides an important link between the authority and suppliers. **Contract notices** should aim to attract an adequate number of suitable suppliers and therefore they should be carefully worded and the publications used should be project specific.

For contracts covered by the procurement regulations, there are clearly defined rules on advertising and the number of suppliers to be invited to tender.

In most circumstances **prior information notices** (PIN) should be posted annually to notify the market of future potential requirements ( on scheme approval for works projects) and a **contract notice** placed as each project arises. The cycle is completed with a **contract award notice**. These should all be placed in the Official Journal of the European Union (**OJEU**).

The procurement regulations also contain **rules** on the form and content of notices (which can be submitted **electronically**).

##### (b) Selecting suppliers

Where a large number of replies are expected an early sifting (**pre-qualification** or **supplier assessment**) exercise, based on information requested in the advertisement, will help to provide a manageable number to invite to tender. The criteria used at this stage normally concern financial risk and technical capability of the

supplier. Criteria should be carefully chosen to avoid unnecessary ruling out at this stage of suppliers who might be suitable to provide the requirements.

For contracts being awarded under the procurement regulations (open, restricted and negotiated procedures) there are rules on the information that can be sought to assess the financial risk capacity and capability of suppliers and on the minimum number to be invited to tender or negotiate.

##### (c) Inviting tenders

Once suppliers have been identified as suitable for further consideration, they may be invited to tender.

Invitation to tender (ITT) documentation typically comprises four main parts:

- ITT itself, including tendering instructions.
- specification
- contract
- pricing schedule

**Tendering instructions.** This section provides advice on the timescales and administration of the procurement process and conditions for tendering.

**Specification.** The specification provides potential suppliers with a statement of the authority's requirements and will form an important part of any contract with the supplier. It will also provide the information on which suppliers will base their pricing and resourcing structure and therefore must be comprehensive and clear. The importance of **getting the specification right** should not be underestimated.

Key specification success factors are shown in *Table 6* on the next page.

<b>Critical success factors for specifications</b>
Do not over- or under-specify your requirements. The results will be expensive.
Reflect your needs, not your wants.
State your required outputs/outcomes but allow suppliers to suggest how to provide these.
Time taken to produce the specification will be rewarded.
Involve stakeholders in developing and signing-off the specification.
Be alert to how the specification is allocating risks.

Table 6: Key factors in producing the right specification

The time and effort applied to developing a specification should be in keeping with the risks and complexities attached to the requirement. However a specification will be helpful for all requirements, even routine procurements as it provides a useful contractual record of what was requested.

Involving relevant stakeholders, particularly users, in the development of a specification is essential to ensure it properly reflects their needs.

A basic rule for producing a specification is to ensure that it is as **output-based** as possible – that is, it states the desired output/outcome but does not **prescribe** how a supplier should meet this.

**Functional** and **performance** descriptions of requirements provide an output-based approach. (See Table 7 below for further information on *Types of Specification*). This approach invites supplier **innovation** and recognises that in most instances they are best placed to identify the most appropriate **solution**.

For major contracts, tenderers may be asked to provide **method statements** setting out, for

example, their proposed solution, how they will resource and manage the contract and how they will bring about continuous improvement. They might be asked to provide **implementation** and **exit plans**.

### Types of specification

There are three main ways of specifying requirements:

#### Functional specification:

This states the function or duty of the requirement such as to provide a refuse collection service for domestic properties.

#### Performance specification:

This defines the performance required e.g. a refuse collection service capable of removing x tonnes of waste from x homes in a defined area.

#### Technical specification:

This sets out the technical and physical characteristics of how the supplies, services or works must be provided e.g. a refuse collection service using x number of vehicles of x capacity and with x staff, undertaking collections on stated days.

Functional and performance specifications are preferred as they allow the supplier to provide innovative solutions to meeting the authority's requirements because they are output-based. Technical specifications are generally too restrictive, particularly for service provision, and retain the risk of failure with the authority.

Table 8: Types of Specification

**Contract conditions.** Authorities should use **standard forms** or their **own terms and conditions** of contract, prepared with specialist legal advice, which suppliers will be requested to accept with minimal variation prior to award of contract. These set out the basic requirements that will be common to most procurements such as what will happen in the case of a default by a supplier and when and how payments will be made. These should be included in all invitations to tender/negotiate and on order forms where tendering is not appropriate.

Such terms and conditions should not however be overly **adversarial** so that fair and trusting relationships can be developed with suppliers.

Suppliers' own terms and conditions are unlikely to be favourable to an authority or to provide protection in the case of default by a supplier.

**Pricing schedule.** This is a form for suppliers to complete showing their proposed prices and expenses. It will take a variety of different forms depending on what is being procured and how.

#### *(d) Negotiated procedures*

Under the public procurement regulations (EC rules), where the **negotiated** procedure applies, an **invitation to negotiate** (ITN) may be used instead of an invitation to tender (ITT). Care should be taken to ensure that the negotiated procedure is only used within the terms of the procurement regulations.

In justified cases the negotiated procedure may be chosen for **PPP/PFI** and other **strategic partnering** projects. In the case of PFI projects the 4ps guidance (including Procurement Packs) and OGC's *Step-by-Step Guide to the PFI Procurement Process* should be followed. Otherwise, the relevant guidance is the SPT's *Rethinking Service Delivery* procurement guidance.

## 5. Evaluating tenders

Traditionally, tenders have been assessed on the basis of **lowest initial price** alone. This leads to tenderers reducing proposed prices in the hope of making up the difference by cutting corners, inflating prices for variations to contract and pursuing claims.

Rather than reduce the cost of delivery, awarding contracts on the basis of lowest price increases costs through, for example:

- delayed delivery
- complaints handling
- increased in-house management team to continuously check performance
- resources required to deal with claims
- re-tendering.

Award on the basis of lowest price is therefore often a **false economy**.

Tenders should be assessed on the **value for money** they offer the authority – that is, the **optimum balance of whole-life costs and benefits that meets** the customer's **requirement**.

Authorities often fail to consider whole life costs in particular. **Whole life costs** comprise all costs to an authority of acquiring, owning, maintaining and disposing of goods, services or works.

*Table 8* below provides an indication of the types of costs that may be included in whole life costs. Those to be included will vary with the procurement to be undertaken.

**Whole life costs**

Initial price  
 Delivery and installation  
 Operative resources  
 In-house management resources  
 Consumables  
 Spare parts  
 Licences  
 Taxes  
 Maintenance  
 Energy consumption  
 Depreciation  
 Disposal

Table 8: Examples of cost contributing to the whole life costs of tenders

Evaluation of quality will entail an authority identifying the criteria against which they will evaluate suppliers' proposals, **weighting** these on the basis of their relative importance and **scoring** them.

Quality criteria need to be carefully identified for each procurement project. They will differ from project to project.

The main IDeA guidance, *Modern Procurement Practice*, discusses mechanisms to assist authorities to identify the best balance of cost and quality.

*Sustainability and Local Government Procurement* explains how **environmental** and **social** considerations can be taken into account under the procurement regulations.

Tender **clarification** is the process of obtaining further information about a tender if it is incomplete or unclear.

**Post-tender negotiation (PTN)** is the process of negotiating with a tenderer whose tender appears to offer best value for money in order to obtain improved terms for the authority.

Information from these activities should be fed back into the tender evaluation process.

PTN is only successful when it has:

- produced an outcome that is acceptable to both sides
- been carried out efficiently and is not more resource intensive than necessary
- encouraged and supported a good working relationship between the parties rather than reinforced adversarial relations.

Authorities should note that where the procurement regulations apply there are restrictions in the use of PTN for above-threshold contracts under the open and restricted procedures. PTN should therefore only be undertaken with **legal advice**.

## 6. Awarding and implementing the contract

In major projects, the mobilisation and implementation phases of the procurement process are critical to success. They may involve the transfer of staff, assets, data and third party contracts. The **management of change** more generally will be a key task and HR professionals will need to be involved from an early stage.

On the management of staff transfers in particular, see the Employers Organization's guidance (including *Workforce Issues and Local Government Procurement*) and the SPT's *Employment Matters in Partnerships*.

There are two other activities to carry out following the award of the contract:

- debriefing
- post-implementation review

These are set out below.

#### (a) Debriefing

Debriefing is the provision of feedback to a supplier following notification to them that they have or have not been successful in response to an advertisement, request for quotation or invitation to tender/negotiate. In practice they are most often undertaken following an unsuccessful tender.

Supplier debriefing is good procurement practice and should be provided wherever it is requested. Authorities may proactively provide debriefings where they may wish to improve market conditions for future procurements.

Debriefings have a number of advantages:

- they assist suppliers in offering improved value for money on future procurements
- they allow authorities to explain their policies on achieving best value for money.
- they improve the authority's image as a professional purchasing organisation.

They also provide an opportunity to gain **feedback** on the authority's performance.

Debriefings should never be delegated to officers who do not have the necessary experience, knowledge or sensitivity to carry them out.

They can successfully be provided by telephone but a record of the conversation should be retained on file.

Under the procurement regulations debriefings should be provided on procurement exercises to which the procurement regulations apply, within fifteen days of being requested by a supplier.

#### (b) Post-implementation review

This is a formal review undertaken once the procurement has had time to demonstrate **benefits** (i.e. outcomes). Its purpose is to confirm that the benefits set out in the business case for the project (and the specification) have been achieved. It may be repeated on major change projects. This is a major input to the Gateway Review **benefits evaluation**.

On larger projects a **team** may be required to carry out the review. These may include those responsible for the benefits management process, strategy planners, technical staff and those with knowledge of the service under review.

### 7. Managing the contract and supplier relationship

Effective contract management is a vital and often neglected part of the procurement process. In many people's minds, procurement ends when the contract is awarded! Unless pro-active and professional contract management takes place, even the best specified and procured contracts can fail to deliver what was expected of them.

### 8. Closure and lessons learned

The **exit** strategy for every contract must be clearly defined (including contingency plans for **early termination**) and the period running up to the exit managed to ensure that there is no loss of service delivery if this is still appropriate. Decisions on future arrangements must be made in adequate time to allow for a full procurement process should a further procurement be required.

## Contract management

The foundations for effective contract management are set in the quality of the specification and the steps taken to the point of award. The main focus of contract management is to ensure that the **benefits** identified in the business case are delivered (ie. outcomes).

At this stage, clear objectives should be set, establishing what is expected from the supplier and how it can be measured. If **key performance indicators** (KPIs) are included within the contract, under-performance will be easier to address. Contract managers must be given the **tools to tackle under-performance**. Failure to do so will simply frustrate the relationship with the supplier.

It is important that the management of the contract or relationship is seen as part of the on-going procurement process. The business case must continue to be developed throughout the contract management phase and reassessed against the need for the provision.

To ensure the life of the procurement cycle develops effectively, consistency and **continuity** are important. **Knowledge transfer** between the different stages is essential. This is most effectively ensured by involving the contract manager in the procurement project at the outset of the procurement project or, at the latest, in the drafting of the specification.

Before the contract is awarded, the project manager should provide details of the provisions in place to manage the contract. This needs to be supported by an analysis of risks associated with the contract and how they will be addressed.

This will inevitably have resource implications and impact on the way in which the contract should be managed. Consideration also must be given to the client structures within an organization. Those that are **geographically-based** or **devolved** will often require a particular approaches. It is important that the authority's on-site representatives always have an adequate understanding of the contract (e.g. premises managers and office cleaning contracts).

### Who will manage the contract?

Contract management is the interface between the authority and the supplier. The person responsible for managing the contract and developing the relationship must have the necessary skills, knowledge and experience to understand both sides of the arrangement. If the authority is serious about developing effective relationships, it is essential that the contract manager has appropriate **interpersonal skills**.

### Financial control

The ability to control the cost of the contract requires careful attention. Too frequently budget provisions are over-spent, due to ineffective management and **regular variations**. In many cases this is a result of a poorly designed or specified contract. However, costs can be reduced where the contract manager has a good knowledge of the contract, enabling them to avoid the over-use of variations (that is, changes to the contract).

Robust and effective **systems** should be in place **before the contract starts** that include: payments, ordering, change control (variations), performance management, information gathering etc.

**Regular reports** should be provided to senior managers, and where appropriate members, that carefully track the performance of the contract against the costs.

### Roles and responsibilities

As part of the initial risk analysis and resource planning, the roles and responsibilities of all those involved in the project should be established. Effective reporting lines are essential to the success of any contract. If problems occur, it is important these are reported and acted upon. The owner of the contract must be able to bring about change or influence decisions relating to resources, policy and strategy.

All those involved in the management of a contract must have a clear understanding of their roles, responsibilities and reporting lines. Whether it is the contract manager, contract owner, monitoring officer or finance assistant, **levels of authority** must be clearly set and decisions taken in line with the authority's regulatory framework.

## Communication

Both parties need to be clear about how business will be conducted and how issues are communicated. It is also important that both parties clearly understand the others' **reporting lines, roles and responsibilities**. The degree to which this is relevant will depend on the risk or strategic importance of the contract. If a **communications strategy** is established before the contract starts, many problems can be avoided.

## Dispute resolution

However well a contract is procured and managed there will inevitably be occasions when problems occur, or poor performance cannot be addressed through the normal day-to-day arrangements. There are many different ways in which these can be resolved; such approaches should be agreed in advance by both parties, to reduce the scope for disagreement and unnecessary **legal costs**.

The usual mechanisms are shown in the table below.

- Informal **liaison**
- Formal **contract review** meetings
- Performance **deductions** (liquidated damages) / **change control** (variations)
- Formal expert determination, **arbitration** etc.

While most issues should be dealt with at the lowest level of both organisations, there must be clear provision of **escalation** to higher levels including senior **managers** and **members** where appropriate.

In extreme cases it may be necessary to go beyond these normal processes, either **terminating** the contract or pursuing **legal action** in the courts. Such approaches should not be taken lightly, and there may be significant knock-on effects, both politically and on the reputation of the authority. In addition the risk of success / failure of such action must be given serious consideration.

Again, where the contract manager has a good knowledge of the contract and had developed an effective working relationship with the supplier, such occurrences are less likely. However, it is important for the project team to know its **limitations** and when to **seek legal advice**.

### Critical success factors for contract management

- Requirements specified in comprehensive specification
- Involve the contract manager at the outset of the project
- Accurate assessment of the service requirement
- Good supplier selection
- Planned and active relationship management
- Clear roles and responsibilities
- Good knowledge of the contract
- Reduction and management of risk
- Encouragement of continuous improvement
- Management of performance shortfalls
- Adequate tools to tackle poor performance
- Continuity of knowledge throughout the procurement cycle
- Control of change (variations)
- Robust financial control
- Exit strategy

Table 9: Contract management success factors

## Supplier relationships

An authority should review its suppliers and identify those that are **critical** to the performance of the authority (the **key suppliers**). The objective is to establish a closer corporate relationship with these suppliers. The criteria to use when establishing such a list is:

- Size of **spend** across the authority
- **Criticality** of goods/service supplier to the delivery of the authority services
- Lack of easily available **substitutes**
- Significant **market share** and strategic **influence**
- Extent of the authority **business** on a multi-departmental basis

Figure 2 illustrated a tool that can be useful for this.

The authority should develop initiatives that are designed to foster better working relationships and understanding between suppliers and the authority.

Figure 5 illustrates another useful tool. It helps the authority to understand how it is viewed by suppliers.

If the authority does not have a positive **image** with suppliers it will need to consider how to market itself better so that the best suppliers can be attracted to bid. Members and senior managers can have a decisive impact on the way that the authority is perceived through the “signals” that are sent out.

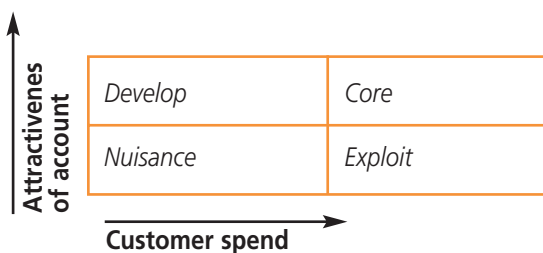


Figure 5. The suppliers view of a customer.

## Further Reading

Details of the main **IDeA** guidance can be found at [www.idea.gov.uk/knowledge](http://www.idea.gov.uk/knowledge). The guidance includes:

- Strategic Context
- Managing the Procurement Process
- Managing Contracts and Supplier Relationships
- Project Management for Procurement
- Tools and Techniques
- Supplies Procurement Pack
- Services Procurement Pack

The **Welsh Local Government Procurement Support Unit's** guidance can be accessed via the WLGA website [www.wlga.gov.uk](http://www.wlga.gov.uk).

For information on **4ps** guidance on the gateway review process and public-private partnerships in local government go to [www.4ps.gov.uk](http://www.4ps.gov.uk).

Guidance includes:

- Gateway Review Workbooks
- Leisure Procurement Pack
- Street Lighting Procurement Pack
- Schools Procurement Pack
- Social Care Procurement Pack
- Waste Management Procurement Pack
- Joint Service Centre Procurement Pack
- Standardisation of Local Authority PFI Contracts
- Options Appraisal and the Outline Business Case; Final Business Case
- Output Specifications for PFI Projects; Payment Mechanisms (by service)

**Local Government Task Force** (LGTF) and **Housing Forum** publications on Rethinking Construction in local government are detailed on [www.lgkf.org.uk](http://www.lgkf.org.uk). This includes -

- Rethinking Construction Toolkit
- Procurement through Partnering
- Top Ten Tips for a Successful Procurement Process

The **Strategic Partnering Taskforce's** guidance is published at [www.odpm.gov.uk](http://www.odpm.gov.uk). It includes:

- Strategic Service Delivery Partnerships – A Decision-Maker's guide
- Rethinking Service Delivery (Volumes 1 to 5)
- Structures for Partnerships – Technical Notes
- Partnership Assessment Tool
- Procurement Pack

The **National eProcurement Project's** toolkit is hosted on [www.idea.gov.uk/knowledge](http://www.idea.gov.uk/knowledge)

## Notes



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