

Doing Business with a Department Procurement in The Department of Trade and Industry DTI Procurement Organisation : Guidance 18

The DTI has a mixed procurement organisation - both centralised and decentralised. The main components are as follows:

A Procurement Standards Unit located in the Finance and Resource Management Directorate. It is staffed by trained individuals and is responsible for providing specific advice on any aspect of procurement policy, procedure or training within DTI. It maintains close links with the Treasury's Procurement Group and purchasers elsewhere in government. It does no purchasing itself.

Centres of Expertise. These are intelligent customers for specialised areas of procurement and undertake fairly large-scale purchasing. There are currently three centres of expertise: those covering IT products and services; building and estate maintenance; and publicity and advertising.

Contract Management Units. These units manage contracted-out services such as estates management and accounts services as well as central framework contracts such as travel and stationery.

Management Units. There are currently about 80 management units in DTI who have authority to purchase in their own right. They will put in place any framework arrangements that cover their areas of responsibility.

In addition to the above, there are currently six Executive Agencies: The Radiocommunications Agency; The Employment Tribunal Service; The National Weights and Measures Laboratory; Companies House; The Patent Office; and The Insolvency Service. Each of these has a large measure of autonomy and operational independence although ultimately all are responsible to the Secretary of State for Trade and Industry.

The Department has offices and establishments throughout the United Kingdom. These include the Executive Agencies and the Government Offices staffed jointly by DTI, the Department for Education and Employment (DfEE) and the Department of the Environment, Transport and the Regions (DETR).

General Public Procurement Principles

Current public procurement policy is based largely on the White Paper "Setting New Standards: A Strategy for Government Procurement", 1995.

The effects of this policy were examined in the "Comprehensive Spending Review on Efficiency in Civil Government Expenditure" published jointly by HM Treasury and the Cabinet Office in April 1998. This review re-affirmed that the role of government procurement is to make taxpayers' money go further in meeting users' requirements, and that this is best achieved through the professional identification of requirements and the selection and subsequent management of the best supply strategies to meet them.

The Government's White Paper "Modernising Government", March 1999, contains a commitment to procurement based on competition to secure best whole-life value, the use of partnering to encourage innovation and continuous improvement, and to PFI for capital projects.

Two further reviews have been published:

a. "Review of Civil Procurement in Central Government" by Peter Gershon, April 1999, which pointed the way to a strengthening of the Government's strategic procurement capacity through the establishment of a new Office of Government Commerce.

b. "Second Review of the Private Finance Initiative" by Sir Malcolm Bates, April 1999, which confirms the use of private finance as a mainstream procurement tool, used as one of a range of Public Private Partnership models.

Definition of Procurement

Procurement, in the sense in which it is applied in this Guidance, covers the process of acquisition of goods, services and works projects from third parties (including logistical aspects), from initial concept and definition of business needs through to the end of the useful life of a procured asset or services contract.

Value for Money

Government policy is that all procurement should be based on best value for money and that departments should seek to secure continuous improvements in value for money.

Best value for money means taking into account the optimum combination of whole-life cost and quality necessary to meet the customer's requirement. All procurement decisions must be based on robust assessments of all the options in each set of circumstances, making full use wherever appropriate of Public Private Partnerships. Continuous improvements in value for money should be sought throughout the life of a contract through effective contract monitoring and control.

Commitment to Competition

It is also Government policy to ensure that procurement strategies and practice should be used so as to enhance the competitiveness of UK and EU companies and strengthen supplier markets through the development of world-class professional procurement systems and practices.

The Government's White Paper "Our Competitive Future: Building the Knowledge Driven Economy", December 1998, reaffirms the commitment to open, competitive markets. It also commits the Government to supporting more effective collaboration between businesses and with business in order, among other things, to drive quality through the supply chain.

Commitment to Best Practice and Innovative Procurement Processes

The Comprehensive Spending Review referred to above, in addition to reaffirming that best value for money is the guiding principle for public procurement, also acknowledged the need for continuous improvement in public sector procurement processes. Public procurement needs to be benchmarked against the best in class in order to play a constructive part in that process.

Departments are committed to increasing the use of electronic commerce for low-value procurements, increasing the use of collaborative procurement, improving procurement performance measurement and increasing professionalism among procurement staff.

DTI Procurement Principles

Best Practice

Best practice procurement must be a central element in the Department's business at all management levels. This means:

- a. seeking to match the cost savings achieved by best practice private and public sector organisations and collaborating with other departments to achieve best value for money;
- b. using a range of procurement techniques, including Public Private Partnership approaches, such as private finance, market testing and contracting-out, selecting the most appropriate in each case;
- c. being an intelligent customer (knowledgeable about the products or services and markets) with well-defined objectives and requirements;
- d. adopting integrated procurement processes, covering the whole cycle of acquisition and use from start to finish, to ensure quality and economy over time, not short-term lowest price;
- e. taking great care in drawing up business cases, and in assessing and managing risks; and
- f. carefully managing all contracts.

In addition, purchasers must adhere to:

- a. Departmental policies which impact upon procurement, such as:
 - competitiveness;
 - private finance;
 - partnering;
 - small firms;
 - supported employment;

- the environment;
- open government; and
- equal opportunities.

b. public procurement ethics to avoid accusations of impropriety and to ensure that an adequate audit trail is always maintained; and

c. best financial management practice, the separation of responsibility for committing expenditure, ordering goods and services, certifying performance against invoices and authorising payment.

General DTI Procurement Strategy

The Department's overall strategy is for procurement to be carried out by the Management Unit best placed to act as the procurement specialist. In HQ this results in three procurement routes:

- a. common specialist requirements are purchased centrally through centres of expertise;
- b. other general items, where there is less need for close control, are purchased by end users through framework arrangements set up by the Management Unit with Departmental policy responsibility for the procurement; and
- c. policy-specific goods or services (such as R&D) are procured by the Management Unit with policy responsibility.

Executive Agencies are responsible for their own strategies. However, they are free to participate in central framework arrangements.

This mixture of centralised and decentralised procurement enables the Department to take advantage of economies of scale without a central procurement bureaucracy.

Competition

Supplier Competitiveness

The public sector exerts considerable influence on the competitiveness of suppliers. Many sectors of British industry (such as defence equipment and the construction industry) are heavily dependent on public purchasing decisions. Good purchasing by the public sector can therefore have a profound effect on the competitiveness of firms. It can improve quality, assist innovation, reduce costs, set standards, and provide a shop window for world sales.

Competition remains the cornerstone of Government procurement policy in pursuit of value for money. Public contracts awarded in competition to suppliers producing high-quality keenly priced goods and services offer mutual benefit to public sector

customers and the taxpayer, and to suppliers themselves who will be in a better position to win business internationally.

Seeking value for money through competition therefore contributes to the creation and retention of a sound industrial and commercial base.

As well as aiding the achievement of value for money, competition provides fair access to work paid for by the taxpayer. Fairness and even-handedness in dealing with suppliers and avoiding conflicts of interest are also therefore of considerable importance.

Working with Suppliers

You should, as a matter of enlightened self-interest, use the Department's buying power to help improve the competitiveness of suppliers, so obtaining better value for money and strengthening the industrial and commercial base. The products and services that the Department buys should as far as possible reflect the requirements (in terms of quality and price) of world markets.

You are also expected to work with suppliers to secure improvements in your performance as well as theirs. Although suppliers should be pressed to reduce costs and improve quality, it is important to recognise that mutually satisfactory relationships are in the interests of both sides and to avoid an unnecessarily adversarial approach.

Helping suppliers through a constructive partnership built on competition, rather than a short-term arm's-length adversarial relationship, will lead to cost savings as well as improving quality and service delivery to the mutual benefit of both customer and supplier.

Where the Department has longer-term contracts with suppliers, contracts should incorporate incentives for the continuous improvement of performance. Contracts for services are particularly suitable for such treatment. One way of encouraging improvement is through pricing arrangements.

The development of suppliers is critical to increasing their efficiency and competitiveness and hence to enabling Departments to improve value for money.

Public Sector Efficiency and the use of Public Private Partnerships

"Modernising Government" re-iterated the commitment to achieving continuous improvement in central government policy making and service delivery. Public Private Partnerships (PPPs) are seen as a means of helping to meet that commitment. Partnering should be used to encourage innovation and continuous improvement, and the Private Finance Initiative (PFI) should be considered for capital projects.

Partnering

Partnering covers any long-term arrangement in which the parties work together for mutual benefit.

Private Finance Initiative (PFI)

The use of private capital and expertise in the provision of public infrastructure and services has a long history, particularly in the fields of housing, economic regeneration, transport and municipal enterprise. The Private Finance Initiative (PFI) is one of the main mechanisms through which the public sector can secure improved value for money in partnership with the private sector.

PFI projects can take a number of forms. The most common models currently in use are:

- for services sold to the public sector, where the private sector provides the capital assets and the public purchaser pays only on delivery of the specified services;
- financially free-standing projects, where the private sector designs, builds, finances and operates an asset, recovering the costs through direct charges on the private users of the asset;
- joint ventures, where the costs of a project are not met entirely by the charges on end users but are subsidised from public funds.

Contracting-out

Following the publication of "Modernising Government", departments have to review all services and activities to identify the best supplier in each case. These reviews could lead to the identification of further departmental activities that could more efficiently be carried out by or in partnership with the private sector and for which a procurement exercise would then need to be undertaken.

Such reviews must be accompanied by robust assessments of all the options, following the criteria set out in the handbook on creating Public Private Partnerships through market testing and contracting-out, "Better Quality Services" published by the Stationery Office (1998 - ISBN 0-11-630964-4) or BiP Sales, tel (0141) 332 8247, fax (0141) 331 2652.

The identification and selection of appropriate private sector providers or partners as part of or following such reviews must be fully in accordance with the principles of best value for money in this Guidance.

Sources of Additional Information

FRM2's PFI adviser should be consulted whenever a project appears suitable for private financing or where market testing may be involved.

There is an introductory guide to the Private Finance Initiative ("Partnerships for Prosperity - The Private Finance Initiative", HM Treasury).

There is an official Handbook on creating Public Private Partnerships through market testing and contracting-out ("Better Quality Services", The Stationery Office, ISBN 0-11-630964) or BiP Sales, tel (0141) 332 8247, fax (0141) 331 2652.

Partnering

Partnering in the public sector is any long-term contractual relationship during which the public sector purchaser and the private sector supplier seek, by maintaining an open and collaborative relationship, to reduce cost, improve quality and service delivery and to seek innovation, for mutual benefit. Ideally, specific measurable targets would be set for at least one of these characteristics.

Partnering is not a 'one-off' solution but a culture, which is applied continuously. It is not one specific method of procurement: there are a number of models. Nor is it the sole answer to successful procurement, but it can play a vital role.

Partnering requires considerable work, expertise, commitment and patience from both parties. For this reason the building of full partnerships is normally used only for procurements of strategic importance, although a number of the elements of partnership have wider application.

Remember that partnerships need to be established by competitive tender and re-opened periodically to competition and that all contracts for priority services which exceed the relevant EU procurement threshold must be advertised and let by competition.

Objectives

The key objectives are:

- to minimise total costs;
- to maximise product and service development; and
- to obtain value for money.

In day-to-day operation, partnering occurs wherever the customer and supplier develop such a close and long-term relationship that the two work together as partners with the aim of securing the best possible commercial advantage for both parties. The principle is that teamwork is better than combat.

In a typical partnership relationship, purchasers and suppliers maintain a continuing dialogue on the ways in which the costs, both of the product or service and of the acquisition process, can be reduced, with the benefits being shared by both parties. It can also involve keeping an established supplier in touch with your strategic thinking where this might affect your requirements. Both parties have an interest in each other's success.

Benefits

The benefits should be:

- achieving high-level quality standards;
- cutting lead times and increasing flexibility in response to fluctuating requirements;
- reducing stock (where appropriate) and administration costs; and
- innovation through better information from customers and suppliers being shared and access to the technical resources of both.

In the public sector the benefits of partnering can best be achieved through:

- the effective management of contractual relationships;
- competition suited to the nature of the procurement; and
- appropriate provisions for subsequent competition.

This will only be achieved if the partnering relationship:

- has been tested competitively;
- has been established on the basis of clearly defined needs and objectives over a specified period of time - normally not more than 3 to 5 years; and
- if appropriate safeguards have been built to ensure genuine competition in the future.

Sources of Additional Information

Central guidance on Public Private Partnerships is issued by HM Treasury. A useful general guide is the Treasury Private Finance Task Force's publication "Partnership for Prosperity - the Private Finance Initiative", available on the Treasury website - www.hm-treasury.gov.uk

Within DTI advice on Public Private Partnership issues should always be sought from the PFI adviser in FRM2.

There are also three booklets covering partnering more generally available from Partnership Sourcing Limited of Centre Point, 103 New Oxford Street, London, WC1A 1DU (a company limited by guarantee established in association with the CBI and DTI). These booklets are titled "Partnership Sourcing", "Making Partnership Sourcing Happen" and "Partnership Sourcing Creating Service Partnerships".

Managing the Procurement Process

ARRANGEMENTS AND RESPONSIBILITIES

Key Stages in Procurement

Procurement arrangements in DTI, involving a mixture of centralised and decentralised procurement, are designed to ensure the benefits of economies of scale where appropriate without a unified central procurement bureaucracy. Managers are responsible for ensuring that they meet their procurement needs by using the procurement route that provides best value for money.

While the precise procurement arrangements will vary according to size and type, every procurement should involve the following key stages:

- preparing a clear plan for the procurement;
- determining the requirement and obtaining the finance;
- identifying sources and choosing the supplier appropriate to the type and scale of procurement; and
- receiving and managing the goods or services supplied (including payment and, where appropriate, contract management).

Responsibilities

Responsibility for ensuring these stages are appropriately addressed rests with everyone in the procurement chain:

- end-users need to be clear about their requirements;
- procurement staff need to be appropriately trained to discharge their procurement responsibilities professionally and effectively in accordance with all appropriate legislative and administrative requirements;
- finance staff need to have appropriate procedures in place for ensuring expenditure has been properly authorised and that proper payments are made in a timely manner;
- managers need to have robust mechanisms in place for managing each stage of the procurement; and
- budget holders need to ensure proper arrangements are in place for approving expenditure and that these arrangements are consistent with delegated authorities.

The following three tables indicate how responsibilities for various stages of procurement are normally divided:

Table 1: Roles in the pre-tendering phase

ROLES

Budget Holder

Line Manager

End-User

Purchasing Staff

FUNCTIONS

Procurement · arrangements

Business Case

preparation ·

approval ·

Specification ·

Requisitioning

Sourcing ·

Strategy

preparation ·

approval ·

implementation ·

Table 2: Roles from tendering to ordering

ROLES

Budget Holder

End-User

Purchasing Staff

Third Party

FUNCTIONS

Quotations

Tendering ITTs

evaluation

negotiation

Debriefing

Ordering

preparation of entry form

initial authorisation

data entry

final authorisation

issue of purchase order

Table 3: Roles from receipt onwards

ROLES

Budget Holder

Liaison Officer

End-User

Purchasing Staff

Finance Staff

FUNCTIONS

Certifying receipt

Payment

authorisation

processing

Contract Management

Disposals

request

initial authorisation

implementation

final authorisation

Sources of Additional Information

Procurement Staff should make full use of the expertise available throughout the Department if they encounter any issues or situations about which they are unsure.

Part-time purchasers and those new to purchasing can also refer to CUP Guidance No. 39 - Basic Purchasing and Supply - for a general appreciation and understanding of purchasing and supply work.

The Business Case

It is a fundamental principle that public money should not be spent unless the need has been demonstrated. The business case is a statement defining in a rational manner the need for the purchase and is the first stage in the procurement process. Approval of a business case must always be sought before proceeding further with the procurement.

The end-user or customer should be responsible for writing the business case unless they do not have the detailed knowledge to make a case, for example when procuring IT equipment. The appropriate procurement specialist should then draw up the business case in consultation with the end-user or customer.

In a number of parts of the Department formal structures are in place to ensure procurement proposals are adequately researched and properly documented and are

processed through to approval of funding. This section sets out the general principles which should underpin such standing arrangements and which should be applied wherever more ad hoc arrangements are needed.

Special procedures apply to the approval of proposals for consultancy contracts and to the procurement of legal advice.

Coverage of the Business Case

The amount of detail included in the business case should be proportional to the value and complexity of the proposed purchase. A full case paper would be expected for a high-value complex piece of work, whereas a short minute might suffice for a relatively cheap off-the-shelf item. The amount of effort in producing the case should be commensurate with the value of the intended purchase.

A good business case should cover:

- Summary. This should highlight the main features, detailed below, of the business case. For relatively small purchases the summary itself will be sufficient.
- Purpose of the goods, services or works. This is the essence of the case and should set out in clear terms how the intended purchase is to assist the Management Unit in achieving its aims and objectives.
- Benefits that will be derived. Wherever possible, identify benefits in terms of financial savings and non-financial savings expected from the intended purchase. This should be a key feature where expenditure is significant. Benefits should be quantified and measurable so that the success of the procurement can be evaluated. Examples of benefits include the expected savings that will be generated as a result of an organisational study, the amount of skill transfer as a result of a training event, the size of the audience to be reached in a promotional campaign or the value likely to be added to policy advice. Include efficiency and effectiveness benefits where relevant. For large or complex procurements formal investment appraisal techniques should be used to ensure that the best value for money options are being proposed. Further information on investment appraisal can be found in the Green Book: "Economic Appraisal in Central Government - A Technical Guide for Government Departments" prepared by HM Treasury and published by HMSO, 1991 (ISBN 0-11-560034-5). In the case of consultancy proposals make clear what the deliverables are expected to be.
- Contract management arrangements. Effective contract management is important for service contracts. Contract monitoring and control will play a major role. Always appoint a contract manager (liaison officer) whatever the size or type of contract. Also, since contract management is about the management of the whole procurement process, from defining the requirement through to disposal of any surplus or redundant goods, consider setting out who will be responsible for managing the various stages of the process, such as specification writing, evaluating the bid and monitoring and control. For consultancy contracts make clear what the division of work between the contractor and in-house staff is expected to be.

- Total costs. The total estimated costs, including those associated with equipment maintenance, disposal and contract management, should be set out. Where applicable, the VAT element must be included in the cost make-up. Identify where costs fall to different budgets or ledger headings (for example running costs for management and programme costs for the project). Take into account the requirements of EU Public Procurement Directives and the WTO (GATT) Government Procurement Agreement.
- Related action. Indicate plans for implementing follow-on or related actions associated with the procurement including:
 - any requirement for consultancy advice or customer surveys to help define the specification or for training where software is being bought;
 - the timing of organisational or policy changes following a review; or
 - arrangements for an evaluation at the end of the procurement exercise.

Where procurement (e.g. of contracted-out services) follows an appraisal of options, such as market testing, that prior appraisal project should have identified the key issues that would form a business case. It may still, nevertheless, be necessary to submit the results of that prior appraisal exercise, together with detailed postings and plans for the conduct and management of the procurement, for formal approval (and authorisation of funds) prior to initiating further procurement action.

Approval of the Business Case

The customer or purchaser placing the order must obtain approval for the business case from a manager with both the appropriate level of delegated financial powers to authorise expenditure and an allocated budget for the goods, services or works.

Maintain a clear separation of duties as a control over any potential impropriety. Ideally, the person who authorises expenditure from a budget should not also be responsible for placing the order (making the commitment).

The person approving the business case will need to ensure that it is persuasive in all respects and in particular that:

- the purchase is necessary to assist the Management Unit in its work and is not merely desirable;
- the procurement provides value for money;
- a budget exists to cover the cost of the proposed purchase including any VAT;
- due attention has been paid to contract monitoring and control, particularly in the case of large service contracts;
- private sector contributions have been sought where the work will benefit industry; and

- arrangements have been made for reviewing the project on completion (wherever appropriate).

If necessary, obtain expert opinion before approving business cases.

Approval should be given in writing. Where a centre of expertise is requisitioned to carry out some or all of the subsequent purchasing functions Form PF20 should be used to confirm that such a business case has been presented and approved.

Formal business cases can be dispensed with for routine, low-value (i.e. less than £500) purchases. Separation of duties should still be maintained and the person placing the order should seek approval for the purchase.

Special Cases

a. Consultancy Contracts

Contracts for external consultancy exceeding £10,000 in value require prior approval by Ministers. For contracts whose value is between £10,000 and £40,000 seek approval from the relevant Junior Minister. For contracts whose value exceeds £40,000 seek approval from the Secretary of State.

External consultancy is defined as that which is concerned with investigating problems, providing analysis or assisting with the development of new systems, new structures or new capabilities within the organisation. It covers all types of management consultancy, including reviews or evaluations of activities, functions and programmes, work on privatisation and contracting-out and feasibility and strategy studies carried out by IT specialists and consulting engineers to enable management (rather than technical) decisions to be made.

b. Legal Advice

Legal advice is available from the Legal Services Directorate but Management Units have the option of obtaining legal advice directly from outside lawyers. However, advice relating to "core governmental work" can be obtained only from in-house lawyers.

"Core governmental work" has been defined by the Attorney General and includes (but is not confined to):

- work with national security or other especially sensitive implications;
- work relating to major policy or constitutional issues;
- Government-to-Government and other international non-commercial work;
- work affecting the long-term interests of more than one Department; and
- work where Cabinet Office coordination is necessary.

Management Units should consult the Legal Services Directorate at an early stage before procuring legal advice externally and must take the Solicitor's views into account. Where it appears that the legal advice being sought may relate to "core governmental work", proposals to procure it externally must be put to the Solicitor in writing, allowing at least 5 days for the Solicitor to give a view.

Where the legal advice sought does not relate to "core governmental work", the Solicitor can offer a view on conflict of interest issues or on the relative merits of particular organisations and may lay down requirements in particular cases (e.g. if the legal advice sought is close to "core governmental work") for certain aspects of the legal advice given to be referred to him.

Whenever the proposal to procure legal advice externally does not relate to core work the Management Unit will be responsible for setting up the contract, ensuring best value for money and managing the contract. The Legal Services Directorate will, where relevant, offer guidance on appropriate outside organisations and on terms of contract. The Legal Services Directorate may undertake, on an ad-hoc basis, quality assurance monitoring only of work done by outside lawyers. The Directorate will not, routinely, provide a second opinion on legal advice obtained. If they do so, it will be charged for.

The Solicitor must be consulted on any proposals to go to Counsel and on any proposals to consult the Law Officers.

Consult the Legal Services Directorate if you are unsure about the application of this Guidance.

All information in this guidance is checked and believed to be correct, but cannot be so guaranteed and the publishers shall not be liable for any loss suffered directly or indirectly as a result of its use.