

NATIONAL PUBLIC PROCUREMENT POLICY FRAMEWORK



NPPPU

National Public Procurement Policy Unit
Department of Finance

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Executive Summary

The public procurement process in public sector organisations is heavily decentralised. Public bodies perform the function independently within a framework of EU/national laws and national guidelines. These promote open and transparent competition as a means of achieving value for money. The increasing complexity and importance of purchasing decisions by public bodies is leading to a need for a more strategic focus and improved management of the public procurement process.

Effective and efficient procurement policy, procedures and practices by public bodies can have a significant impact on the accountability and value for money aspects of the purchase of goods and services by the State. The potential for real savings from more effective procurement policies and practices is significant. Achieving savings is important as it frees up resources which can be redirected to the provision of services within organisations.

The National Public Procurement Policy Unit (NPPPU) was established in the Department of Finance as a result of an April 2002 Government decision. Its role is to develop public service procurement, policy and practice through a process of *procurement management reform*.

This policy document, drawn up by the NPPPU is part of ongoing work to implement this programme of *procurement management reform* in the public sector. It sets out the broad practices and principles that should underpin reform. The reform process involves capacity building, training and education measures and procurement aggregation. These reform pillars are being developed and rolled out in tandem with incremental and suitable e-procurement measures.

Practical steps have already been taken to advance these reform pillars. Up to eight departments and offices have participated in capacity building, which will enable them to develop corporate plans and carry forward the procurement reform process. Steps to develop aggregation of the purchase of goods and services are being taken across the public sector and it is intended to build on these over the next few years. Appropriate technology to support these developments such as the e-tenders site has

been developed and is being updated and improved as is necessary. However more needs to be done so as to ensure the success of the reform process.

In this context therefore and as part of overall aim of reforming procurement policy, public bodies subject to this policy are expected to:

- include *procurement management reform* as one of the key strategic priorities and aims as part of their Statements of Strategy or other key strategic documents;
- develop an appropriate corporate procurement plan based on the procurement management reform objectives; and
- arising from the annual corporate procurement plan develop a plan (s) for significant purchases.

The departments/offices and sections that have completed procurement improvement projects under the capacity building element of procurement management reform initiative (Health and Children, Environment, Heritage and Local Government, Social, Community and Family Affairs, Justice Equality and Law Reform, Defence, Finance, Communications Marine and Natural Resources and OPW) will be well placed to undertake the corporate procurement planning process. A further round of projects will begin in 2005 for other Departments.

Part A of this document sets out the policy framework, while **Part B** provides guidance on the implementation of the policy at the level of individual public bodies.

PART A

POLICY

1. Public procurement policy aims to achieve value for money. It is underpinned by a number of core principles, in particular the need to maximise competition in the market for the goods and services purchased by the State. Where practical and legally possible the policy should also seek to promote whole of Government objectives.

2. National policy aims to advance reform of the procurement function across public bodies by adopting optimal procurement structures and effective purchasing policies and procedures. This involves an assessment of existing procurement structures, policies, procedures and skills. It requires that, following the assessment process, appropriate procurement policy, procedures and practices are adopted which lead to value for money outcomes over time.

Definition of public procurement

3. Public procurement is defined as the acquisition, whether under formal contract or not, of works, supplies and services by public bodies. It ranges from the purchase of routine supplies or services to formal tendering and placing contracts for large infrastructural projects by a wide and diverse range of contracting authorities.

Core Principles underpinning national procurement policy

4. Procurement policy and practice must conform to certain core principles and should therefore be
 - a. accountable;
 - b. competitive;
 - c. non-discriminatory and provide for equality of treatment;
 - d. fair and transparent; and
 - e. conducted with probity and integrity.

Public Bodies to which this policy applies

5. The national procurement policy framework applies to:
 - a. Central Government departments and bodies under their aegis and which are subject to audit under the Auditor General (Amendment) Act, 1993;
 - b. Commercial or non-commercial state bodies;
 - c. Local and regional authorities

Current procurement approach and the need for change

6. Public procurement policy and actions are focused on compliance with the relevant EU, WTO and national legal requirements and obligations. They must also comply with relevant procurement guidance issued by the Department of Finance. Compliance with these rules by all public bodies to which they apply is vitally important to ensure fairness, accountability and to encourage competition.¹
7. Developments internationally suggest that better outcomes may be possible by moving beyond pure compliance with existing rules towards improved procurement policies and practices. There have been some efforts in this direction in Ireland. The scope for further development now exists.

Procurement management reform

8. There is therefore an opportunity to build on existing compliance strengths and move procurement policy and practice to a more strategic level to maximise the financial and organisational benefits to the State. In this context there is a need to advance the process of *procurement management reform*.

¹ www.e-tenders.gov.ie is the primary resource for advertising tenders, for disseminating information on procurement (guidelines, news etc.) and for all advertising and creation of notices for the Official Journal of the European Union.

9. *Procurement management reform* comprises the following integrated set of actions:

- **capacity building** which involves building organisational capacity to strategically manage procurement effort to maximise measurable savings and benefits;
- **training and education** which seeks to develop capabilities and competencies among employees which are necessary to sustain measurable improvements in procurement performance;
- **procurement aggregation** which aims to reduce costs through leveraging public sector demand in certain markets;
- **e-procurement** to improve efficiency through the targeted use of cost effective technologies to support various aspects of procurement effort.

Value for money in public procurement

10. The main aim of national policy on procurement is to achieve value for money having regard to probity and accountability. While price is very important in determining value for money outcomes in procurement and for certain categories of purchases in particular, it is not the only variable that needs to be considered. Value for money also encompasses non-cost factors. When making purchases of goods or services consideration should be given to whether they are fit for the purpose for which they are intended, whether the goods or services provided are of sufficient quality and whether the level of service or support provided meets the requirements. There are other issues that should also be considered including whole-of-life and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods or service. Value for money in procurement is therefore the optimum combination of whole-life-costs and/or price, where appropriate, and quality (or fitness for purpose) to meet user's requirements.

11. Responsibility for ensuring value for money outcomes rests with individual departments and offices. Under section 4(f) and (g) of the **Public Service Management Act (PSMA), 1997**² departments and scheduled offices as listed in the PSMA, 1997, as amended, are required to provide cost effective public services, achieve better use of resources and comply with the requirements of the **Comptroller and Auditor General (Amendment) Act, 1993**. Similar rules, which require value for money outcomes, apply to bodies which are audited by the Comptroller and Auditor General.

² This states that Secretary Generals or the head of a Scheduled Office are, subject to the determination of matters of policy by the Minister of the Government, are tasked with

“(f) ensuring that the resources of the Department or Scheduled Office are used in a manner that is in accordance with the Comptroller and Auditor General (Amendment) Act, 1993 with a view to enabling the matters referred to in paragraphs (a) to (d) of Section 19(1) of that Act to be appropriately addressed by the Department or Scheduled office;

(g) examining and developing means that will improve the provision by the Department or Scheduled Office of cost effective public services..”

PART B

ACHIEVING A CHANGE IN PUBLIC PROCUREMENT POLICY AND PROCEDURE

12. This section sets out the practical policy and process changes which support *procurement management reform*. These will be supported by guidance to be produced by NPPPU over time and as appropriate.
13. The PSMA, 1997 requires the development of a strategy statement which comprises the key goals, objectives, strategies and outputs for the organisation. Departments and offices deriving their strategic mandate from that Act should develop and include public procurement policy objectives as part of their strategic framework. Public bodies, which are not within the remit of the Act, but which have a strategic plan underpinning their organisation's activities should also develop and include public procurement policy objectives as part of their strategic framework.
14. To ensure that procurement is at the centre of the decision making process, public bodies should:
 - a) include *procurement management reform* as one of the key strategic priorities and objectives in the Statement of Strategy;
 - b) develop an annual corporate procurement plan based on the *procurement management reform* objectives; and
 - c) arising from the annual corporate procurement plan develop a plan(s) for significant purchases, where necessary and appropriate

(a) STRATEGIC APPROACH TO PUBLIC PROCUREMENT

15. The form and shape of any procurement strategy adopted by public bodies will vary from organisation to organisation and therefore it is not possible to be prescriptive. Nevertheless, any strategy which is adopted should reflect the requirements of national procurement policy – management reform and achieving value for money. When public bodies are developing the process outlined in paragraph 14 (a) – (c) it should be linked to the overall strategic objectives of the organisation and be linked into the business planning process. This approach would allow for the effective interaction between the organisation’s strategic objectives and procurement policy and management.

(b) CORPORATE PROCUREMENT PLAN

16. Best practice corporate governance requires a key role for procurement management. The pursuit of best practice procurement should be supported by action to place it at the centre of organisational business planning by means of an annual corporate procurement plan. A template for a corporate procurement plan is outlined in Appendix A.
17. It is the responsibility of departments and offices and other public bodies to develop appropriate procurement policies and plans. If possible, public bodies which have a reporting relationship should seek to co-operate in the development of procurement policies and plans. For example, a department and the agencies for which it is responsible could consider developing a single corporate procurement plan. This would allow for greater co-operation, allow for exchanges of information, minimise the need to produce individual plans and provide better opportunities for aggregation of demand of commonly used goods and services.

Aim of corporate procurement plan

18. The corporate procurement plan addresses the policy and practical approach to be adopted by an organisation. The annual plan should set objectives that seek to improve the way the organisation acquires and pays for goods and services. As a first step the plan should examine past purchasing activities and procedures and develop ways of improving performance in the year ahead.

The plan needs to set targets for improvements in the purchase of goods and services to measure if appropriate changes in process and procedures have been achieved. The plan also needs to examine the potential for procurement aggregation of commonly used goods and services. There are a number of steps which need to be adopted to facilitate the development of the corporate plan.

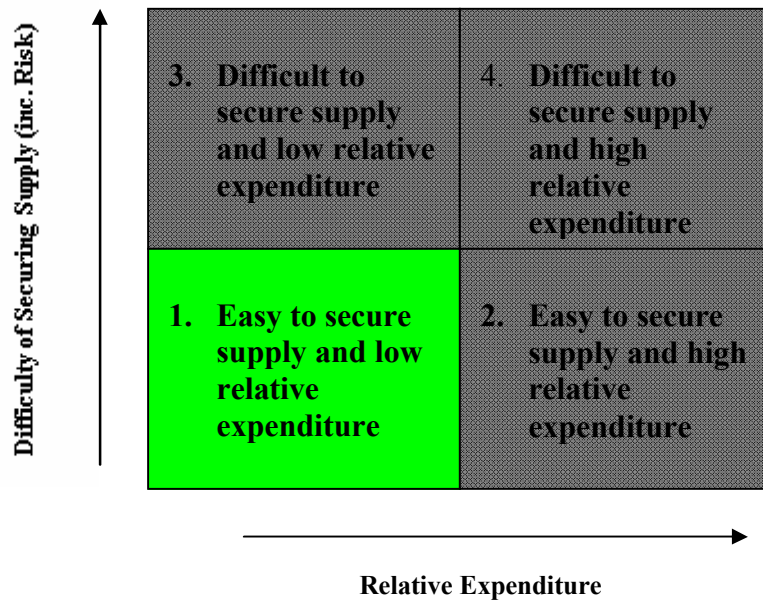
Collection of information and use of supply positioning tool

19. In order to facilitate the development of a corporate procurement plan, organisations need to have a thorough understanding of their purchasing expenditure and the level of risk associated with acquiring particular goods and services. Two main factors are considered to influence the nature of public purchasing and are the basis for the use of the procurement management tool called *Supply Positioning*. These are:

- **the difficulty of securing supplies of goods and services:** this means the degree to which the goods and services present risks or are critical to the purchasing organisation (an overview of risk issues is contained in Appendix B) as well as the extent to which a competitive supply market for the goods or services exists; and
- **the relative expenditure for the goods and services:** this means the total cost of the individual good or service relative to the total purchasing expenditure by the organisation.

All the data collected from the financial system on purchases of goods and services is plotted using the supply positioning tool and is allocated into the quadrants of the supply positioning matrix in Figure 1.

Figure 1 - Supply positioning matrix



20. Each of the quadrants has distinct attributes that require specific strategies and this represents a core element of the process of *procurement management reform*. This framework is outlined in brief in paragraphs 21 to 24.

Low relative spend – easy to secure supply (1)

21. This segment includes ad hoc purchases such as subscriptions or publications. International experience suggests that total expenditure on categories in this segment is generally less than **10%** in any body and often less than **5%**. Purchasing of items in this segment is most efficient where decision-making is devolved to those who are closest to the point of need. The purchasing strategy in this segment is to reduce transaction costs.

High relative spend – easy to secure supply (2)

22. Items in this segment include goods such as electricity, fuels or telecommunications. International experience suggests that expenditure on categories in this segment is usually around **20 – 30%** of the total. Usually there is some degree of competition in the market that favours the position of the buyer. The purchasing strategy is to reduce unit costs by leveraging volume demand into the market and reduce associated transaction costs.

Low relative spend – difficult to secure supply (3)

23. This segment includes goods that are specialised, technical and often for the specific use of the purchasing body. Goods and services include, for example, specialised information technology consultancy or unique chemicals. Expenditure is likely to be less than **1%** of the total. Most of the buying in this segment is done by technical experts. The procurement strategy in this segment is to reduce risk through changing demand attributes (i.e. reducing demand for a good or service or seeking substitute products or services) and/or improving the body's position in the market (i.e. developing better relationships with the supplier base or seeking a wider range of suppliers possibly in another territory). There are generally limited opportunities for reducing costs in this segment.

High relative spend – difficult to buy (4)

24. The segment includes goods and services that are critical to the core business of the body. Categories in this segment include, for example, information technology related systems development or major construction projects. Procurement related expenditure in this segment is usually between **50 - 60%** of the total for a body. The procurement strategy is to achieve value for money through effective supplier selection and strong relationship management. (See paragraphs 30-31 for further information.)
25. An organisation also needs an overview of the way it procures goods and services, which includes an examination of systems, procedures and staff capabilities.

Specifying procurement objectives for the organisation

26. Once an organisation has identified and classified purchasing information the next step in the plan involves developing procurement policy objectives. Organisations should list the key issues or problems arising from the analysis of their spending. This information is a good way of determining where *procurement management reform* effort should be focused in the corporate procurement plan for the year. The use of this supply positioning information can potentially transform purchasing from a predominantly transaction

processing based function to one with a strategic role and influence. For example, some corporate procurement objectives which could be identified are:

- cost reduction and the containment of the purchase price of goods and services;
- reduce risk exposure associated with difficult to supply goods or services;
or
- reducing transaction costs associated with purchasing goods or services.

Measuring the achievement of procurement objectives

27. The corporate procurement plan requires the specification of how the purchasing body's procurement objectives will be measured. It is important that public bodies develop performance measures for this purpose. Performance measures should be established in relation to specific strategies and key processes as set out in the corporate procurement plan. Performance measures should be simple, relevant, specific, proportionate, agreed by stakeholders and within the control of the purchasing body. They should measure the procurement aims and objectives set out in the corporate plan. Public bodies should avoid having over complex measurement criteria. Ultimately it is a matter for public bodies to develop their own performance measures and refine and develop these over time as the process becomes more sophisticated. The material set out here is intended to be illustrative and appropriate measures will differ for each public body.

28. Bodies could use or adapt as appropriate some or all of the following performance measures to determine whether they have improved their purchase of goods and services:

- *Cost reduction and containment (especially where demand is increasing)*
 - level of savings/economies due to new contract/supplier arrangement or purchasing initiatives;
 - cost reduction due to using an alternative good or service;
 - reduction in demand for a good or service.

- *supplier performance*
 - gauge whether contract requirements, service and quality are met by examining terms of contract against actual performance;
- *contract management*
 - ensure supplier is performing on requirements in the contract.
- *maintenance of procurement profile*
 - ensure profile of spending on goods and services by the public body is up to date.
- *maintain and update information on relevant markets*
 - ensure appropriate information is collected on a timely basis and is available when needed.

29. Public bodies could use some of the following performance measures to determine whether they have improved the way they deal with the transactions element of their internal purchasing practices and procedures.

- *Efficiency of internal procurement systems and processes*
 - volume of procurement spend transacted electronically;
 - reduction in transaction and inventory management costs;
 - savings on procurement staff time and resources;
 - volume of goods and services transacted through aggregated arrangements;
 - internal customer satisfaction with devolved purchasing processes such as perceived degree of simplicity, convenience and effectiveness of procurement decision making.

(c) PLANS FOR SIGNIFICANT PURCHASES – Category 4 expenditure

30. This policy requires each public body to prepare plans when making significant purchases of goods and services. These have been identified by the purchasing body as being of high relative expenditure and/or where securing supply can be difficult and/or are critical to the operation of the public body.

Significant purchases can be characterised as follows:

- they represent the majority of a purchasing body's spend;
- they are generally complex in terms of demand and/or supply; and
- individually, they can have a significant impact on a purchasing body's operations.

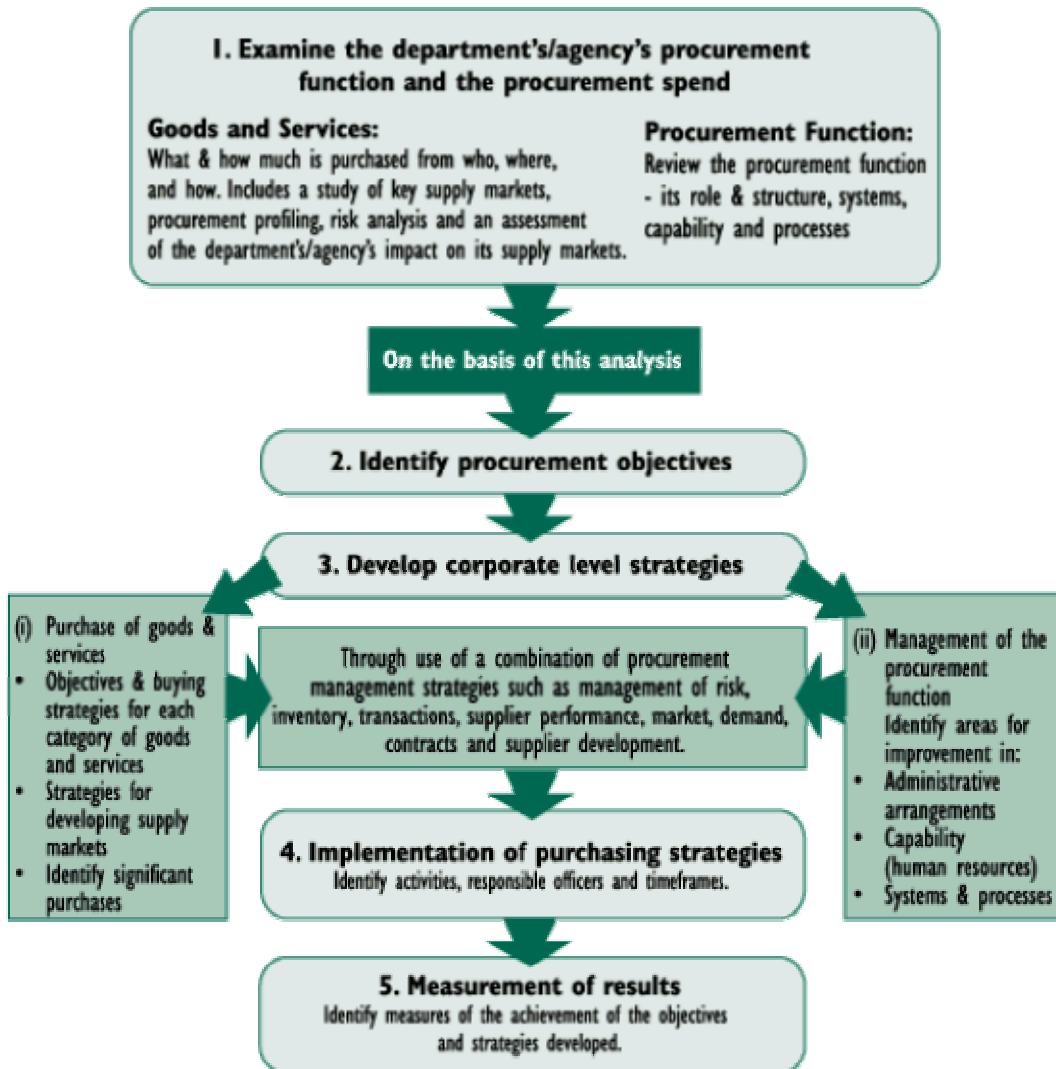
31. In planning for significant purchases organisations should seek to:

- identify the best way to approach the procurement of specific goods or services through information gathering and analysis;
- identify risks (e.g. possibility of non-delivery or identifying wider range of suppliers) associated with the purchase of goods or services at an early stage to allow optimum management;
- identify ways of achieving the objectives defined in the significant purchases plan, in line with the purchasing body's corporate procurement plan.

In terms of engaging this requirement, public bodies should use the same methodology as is used to develop their own corporate plan.

Appendix A

Corporate procurement plan template



Appendix B

Risk Assessment and Management

A report of the working group on the accountability of Secretaries General and Accounting Officers (the Mullarkey Report), endorsed by the Government and published in January 2003, inter alia, recommended that risk assessment and management should be integrated into the management processes of Departments within two years of the publication of the report. The report recommended that the risk management system should concentrate on the principal risks to the organisation as well as the principal risks arising from its relationship with other organisations.

The Government Accounting Section, Department of Finance issued formal advice – *Risk Management Guidance for Government Departments and Offices* - in March 2004. This informs the approach by public sector organisations to all forms of risk assessment and management. It is expected that public sector organisations that risk assessment and management processes specific to procurement will be included in their corporate procurement plan. The processes set out in the Risk Management Guidelines issued by the Department of Finance should be used as a way of determining procurement risk.

Public bodies should engage in risk assessment and management in procurement where:

- The value of the purchase is high
- The procurement process is complex
- Adverse consequences could significantly affect a public body's operation
- Delivering the public body's core services to the community is significantly affected

Risk and procurement

When risk is being considered with respect to procurement public bodies should consider that risk is assessed in relation to each category of goods and services with reference for example to the following factors:

- nature of the supply market i.e. does it favour the buyer or the supplier;
- probability of supply failure
- complexity of relationship with supplier
- impact on the organisation of supply failure
- strategic importance to the organisation