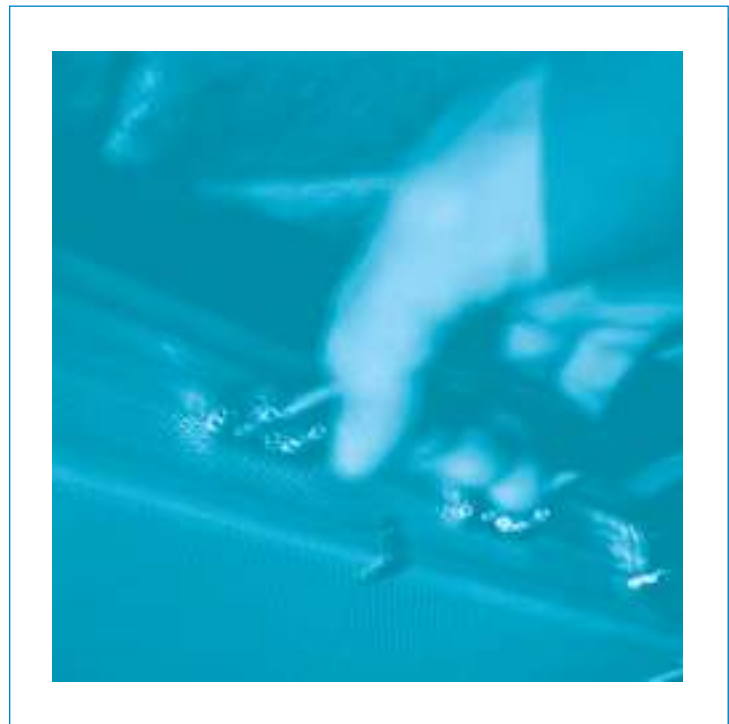


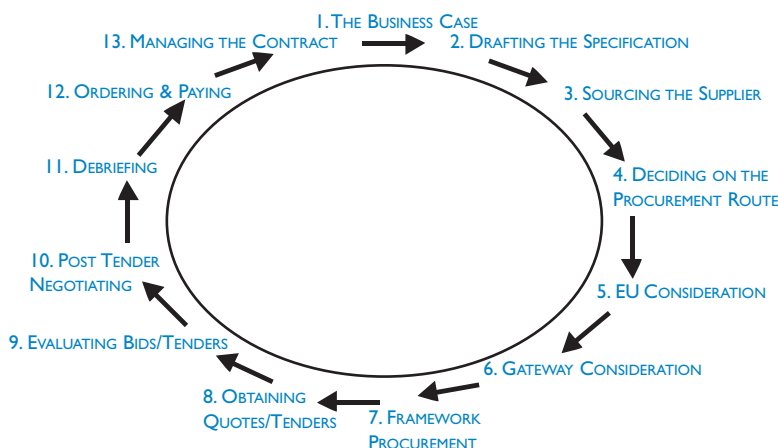
SELLING TO THE DEPARTMENT OF TRADE AND INDUSTRY – A GUIDE FOR SUPPLIERS – PART B



This Guidance is produced solely as a quick reference to the major or critical stages of a procurement project for the Department of Trade and Industry (DTI). It is not intended to supplant the DTI Procurement Manual.

The main stages of the procurement process are set out below:

For simplicity this is presented as a linear process, but in reality many of the steps impinge on one another – eg what is required (Specification) may be dependent on what can realistically be delivered (Sourcing the Market) – so suppliers should read the whole of this Guidance before starting.



THE BUSINESS CASE

This is the rationale for undertaking the purchase. It should describe the need for the goods or the service. The detail will of course depend mainly on the size and complexity of the requirement.

The purpose of the business case is to:

- justify the purchase on cost-benefit grounds
- confirm the capacity of the market to meet the requirement
- confirm that resources – to pay for the purchase and to acquire it properly – are available
- keep the original aim of the procurement clearly in focus throughout the procurement process
- measure the success of the procurement against its original aim
- initiate an audit trail

It should contain:

- the purpose of the purchase
- the benefits that will accrue from it
- any arrangements to be put in place for managing the contract
- estimated costs

The author of the business case should then obtain approval for the requirement from a separate person – ideally the budget holder. This will maintain a separation of duties.

In addition, the Department requires certain external consultancy procurements to be approved in advance by Senior Officials or Ministers. Details of what is included within such consultancies are contained in Procurement Bulletin 6/2003.

THE SPECIFICATION

The specification is your opportunity to let the prospective contractor know exactly what you require. It should also be designed to facilitate the assessment of bids. The specification must be included in the formal invitation to tender and will form an integral part of the contractual arrangement. For this reason it needs to be carefully considered. Generally the end user of the goods or service will draft the tender specification. However, there will be occasions when specialist procurement advice is needed.

Current thinking is that specifications should be written in 'output terms'. Put simply, the specification should be drafted in a way that tells the contractor what you expect to be done or what you expect to get from the work, but not how they should do it.

Below is a simple checklist that can be used for the preparation of a specification:

- is a similar or related specification available?
- are the requirements stated simply, leaving little or no room for ambiguity?
- are the requirements over-specified?
- is the specification written in output terms?
- does the specification conform to legal standards and obligations?
- have relevant Departmental/Government policies been considered?

SOURCING A SUPPLIER

As a guardian of competition and sponsor of SMEs, the Department is committed to an inclusive approach to buying, encouraging competitive bidding from as wide a market as possible for as many procurements as possible. It therefore does not hold a central list of approved suppliers. However, it is open to each Management Unit if they wish to hold a register of suppliers so that they can identify firms which can provide the required service or product. Equally, though, it should be borne in mind that inclusion in any such list must not mean that orders will be automatically placed with those firms.

There are several avenues that can be explored in order to find suitable suppliers, such as trade magazines, local directories and

Yellow Pages. In addition there are a number of online services that can be accessed, such as Companies House Direct.

CHOOSING THE PROCUREMENT STRATEGY

This is how you go about getting your supplier. Government policy is that the normal route by which contracts are let is by competitive tender. This is recognised as providing best value for money, which must lie behind all decisions when it comes to awarding a contract. There are, though, exceptional circumstances which may make single tender action permissible, such as no alternative source or the continuing use of specialist services.

In general terms the following are recommended limits for seeking either quotes, tenders or use of the Government Procurement Card:

- <£500 – Use the Government Procurement Card (although higher levels may be used in some circumstances)
- >£500 <£10,000 – Seek at least three quotes
- >£10,000 – Undertake formal competitive tendering
- >£93,738 – Advertise in the European Journal and use the Restricted Procedure
- Exceptionally – single tender action

The Department has a standard form for obtaining quotes (PF30 on DTINet) and ideally this should be used. It must be accompanied by the Department's terms and conditions of contract (PF31 or PF32).

Orders estimated to be in excess of £10,000 should be the subject of formal tendering; again, except in exceptional circumstances where single tender action may be appropriate. The same form for obtaining quotes may be used – the PF30. Alongside this the formal specification must be included together with the standard terms and conditions of contract. All invitations must be issued at the same time with a common return date clearly indicated. Any requests for an extension to the return date agreed to must be applied equally to all invited to tender.

You must also include with your invitation to obtain quotes the Department's standard terms and conditions of contract – PF31 for services and PF32 for goods.

There is no right for any company to demand to be included in a tender list although the EU may ask the DTI to justify non-selection, so any reasons for non-selection must be clearly recorded. As a rule you should not circulate to those invited to tender the names of the others being invited to bid, which could encourage collusion.

It may also be necessary to invite companies to a bidders conference. The intention of this is to elucidate any problems or discrepancies or ambiguities in the invitation.

You can reasonably extend a contract by single tender action but care must be taken to ensure that this doesn't become an ongoing exercise – ie after one extension you should consider re-tendering for the work. You should for audit purposes state your reasons clearly for any single tender actions.

EUROPEAN UNION DIRECTIVES

The aims of the EU Public Procurement Directives are to ensure fair play and international competition in bidding for goods and services of a certain type and over a certain value. The types of goods and services that need to be advertised can be found in detail in the Procurement Manual. The threshold for advertising changes every two years.

The rules governing advertising and the routes on how to go about this are explained in detail in the Procurement Manual.



However – briefly – there are three recognised routes:

- The Negotiated Procedure is used where the Department may negotiate the terms of a contract with one or more suppliers of their choice, ie without inviting competitive bids. This route can only be used in very special circumstances.
- The Open Procedure means that you issue a formal invitation to tender to any supplier expressing an interest. This route is only used where the likelihood of compliant responses is low and it is necessary to cast your net as widely as possible.
- The Restricted Procedure limits the number of interested suppliers you would issue an invitation to tender to. The Department's policy is to use the Restricted Procedure wherever possible and only exceptionally to use the other two routes.

GATEWAY CONSIDERATIONS

Gateway is a process whereby all new procurement projects in civil central government are subject to review at various stages, or 'gates'. It is used to provide assurance that the project can continue on to the next stage. The process covers all types of procurement and is not dependent on the estimated value of the work. Full details can be found on the OGC website www.ogc.gov.uk as well as in the Procurement Bulletin referred to above.

Essentially you need to use an OGC risk assessment tool called the Project Profile Model (PPM). The PPM assigns points to various parameters and depending on the total score the project is defined as either low, medium or high risk, or else Gateway is not required. If low risk the review of the project is conducted internally by DTI staff who have been trained in the process. If medium or high risk this will involve the project being reviewed by individuals outside of the Department.

FRAMEWORK PROCUREMENT

Frameworks are agreements to provide either goods or services on predefined and specified terms. They may be with a single firm or a group of firms. There is no commitment on either side to buy or provide the goods or services – although the arrangement will usually specify the terms that would apply if and when they are provided.

There is a wide variety of frameworks that DTI staff have access to and these are listed in an annex to the Procurement Manual. A typical Departmental framework arrangement would be DTI's stationery contract; a typical government-wide framework would be S-CAT.

Actual orders from either the agreements or arrangements are usually referred to as 'call-offs', which sometimes leads to these arrangements being casually referred to as call-off contracts.

Frameworks offer distinct advantages in providing value for money, amongst these being:

- speed and simplicity – no need to follow the full tender process
- price – economies of scale allow framework managers to secure competitive prices
- process cost savings
- safety – the framework will already comply with all necessary regulations and will be covered by DTI or other HMG standard terms and conditions of contract

EVALUATING BIDS/TENDERS

Receipt formalities All tenders received must have the time of receipt recorded and be kept under lock and key until the closing date. Tenders received after the closing dates are invalid unless there is clear evidence from the postmark on an envelope that it was dispatched in time to meet the deadline.

A tender opening board should be convened with the sole purpose of overseeing the opening and recording of the bids. This should comprise



two officials. There is a tender opening form (PF50) which can be used to record the names of companies and their bids, if any.

Evaluation Ideally the evaluation criteria should have been established beforehand and included within the specification. The objective of the evaluation is to compare commercial, technical and financial terms. If quotes are being evaluated the criteria are likely to be simpler, but for tenders and especially large or complex pieces of work you can set these out formally. You should recognise that large or complex tender evaluations should be grouped under the following headings – commercial, technical and financial. These should then be categorised as optional or mandatory. If mandatory and the criteria are not met the tender must be rejected. It is often desirable to assign weightings to each of the criteria.

What you are almost always seeking in a bid is a balance between meeting (but not necessarily exceeding) your requirements and price – what the EU calls Most Economically Advantageous Tender (MEAT).

However, it is often not possible simply on the basis of a paper sift to 'pick a winner'. Visits to existing customers – 'site visits' – may be advisable and any bidder shortlisted can be invited to make presentations of their offerings to a panel and answer searching questions. This can go some way to assessing the competence or otherwise of those responsible for the delivery of the goods or the service in question.

POST-TENDER NEGOTIATION

Although it is possible to open negotiations with the best bidder in order to gain further benefits, great care needs to be taken to ensure that there is no distortion of competition. One very important point to be stressed is that it is important to ensure that the Department's standard terms and conditions of contract are accepted and that English law prevails. This should remain a vital consideration when comparing bids.

The purpose of negotiation is to obtain maximum value for money. Allied to this, however, is the need to ensure that other tenderers are not put at any disadvantage and that competition is not distorted – this is especially important in EU cases.

What carefully conducted negotiations can achieve is a reduction in the overall total cost of the service or a gain elsewhere. Once more it must be stressed that great care needs to be taken not to distort the process or to allow any change in the specification. Should this happen any change must be notified to other tenderers and result in a re-tendering process.

The ultimate aim of post-tender negotiation is to establish the means by which the buyer can obtain a better deal from the supplier or service provider, on a mutually acceptable basis.

There are potential areas that can be explored, such as:

- better terms of payment
- earlier delivery dates
- warranties
- training
- after-sales service

It is important to control and document any post-tender negotiation. The benefits obtained should ideally be quantified and any changes made should clearly be recorded with the bidder and embodied in the final contract/purchase order.

Should any change in the specification (other than a minor change) result from post-tender negotiation all tenderers must be notified and invited to re-tender.

DEBRIEFING

Debriefing unsuccessful bidders is in line with Government policy to improve the competitiveness of suppliers. All unsuccessful bidders should therefore be offered a debriefing. Additionally, under the EU rules those bidders not included in a tender list have a right to know the reasons for their exclusion.

There is a clearly defined technique and some basic ground rules that should be observed, including:

- debriefing only after the contract is let
- ensuring that the tenderer is aware that the debrief is mutually beneficial
- ensuring that the tenderer is aware that it is only their tender that will be discussed
- recording the results of the interview

ORDERING AND PAYING

This needs to be read in conjunction with the Commit to Pay module guidelines of MENTOR.

The purchase order is that part of the process where the Department enters into a contractual agreement for the supply of the goods or service. It will in most cases follow on from the tendering process.

Various members of the Department have been issued with a Government Procurement Card. This allows cardholders to pay for

usually low-value (generally under £500) goods and services. The main benefit to the Department lies in transaction costs savings. Suppliers in turn benefit from quick payment by VISA – usually within two to three days.

MENTOR guidelines detail exactly how the purchase order is entered onto the system. Whether this is the final document that is issued to the contractor or whether a bespoke contract is issued, it is still mandatory to enter details onto the MENTOR system.

The Department is committed to pay all correctly presented invoices within 30 days. As approval of the purchase order implies additionally approval of invoices relating to the ordered work, separate certifying of the invoice is not needed. However, end users are responsible for certifying receipt of goods and services; again, details can be found in the MENTOR guidelines.

CONTRACT MANAGEMENT

Contract management is the active monitoring and control of all parts of the ongoing relationship between the contractor and the Department. It is a major and challenging role whose importance should not be understated. Clearly a low-value and/or simple contract will require less monitoring than a high-value and/or complex arrangement.

At the outset contact names should be established and individuals' roles understood. The relationship should be one of joint problem solving rather than adversarial, with either side standing on the letter of the contract.

The main roles of contract management will be to:

- satisfy yourself that the goods and services have been received and are satisfactory
- identify any improvements in the contractor's performance
- note any future trends/needs
- establish when staged payments should be made

To assist in carrying out these functions some standard practices include:

- monitoring of the contractor's performance against Key Performance Indicators set in the contract
- inspection of completed work
- noting any complaints from customers
- recording customer satisfaction

In order to be able to identify problems it is necessary to know what type of problems might be encountered.

Problems might include:

- unsatisfactory performance
- misunderstanding the requirement
- poor communication
- contractor insolvency

If it does appear from monitoring that the contractor's performance is unsatisfactory action must be taken to rectify this. In many cases a simple discussion will suffice.

One very important aspect of contract management is being able to note the need, or otherwise, to extend or re-tender the work. Various changes can be made during the life of the contract although these need to be agreed with the contractor for them to be legally binding. However, contract renewal may be necessary if, for example, it is deemed necessary to have 'more of the same'. It is vital to recognise that it should not be a case of a constant renewal of an existing contract in these circumstances. A complete re-tendering exercise will at some point be needed if indeed more work is required.



DTI SUSTAINABLE PROCUREMENT STRATEGY

OUR COMMITMENT

It is widely recognised that the public sector has a key role in furthering sustainable development through its procurement of buildings, goods and services.

The DTI is committed to ensuring that sustainability through procurement becomes embedded within Departmental culture. This Guidance describes the DTI approach to achieving this objective.

SCOPE

This document describes the sustainable procurement strategy for core DTI but is equally applicable to any or all of its agencies and those NDPBs who wish to adopt it. (Agencies are required to either prepare their own strategy or adopt their sponsor department's strategy.)

It includes DTI strategy to:

- develop a DTI environmental purchasing policy which is fully integrated into all Departmental purchasing activities
- introduce environmental risk assessments of contracting activity
- develop and implement environmental supply chain management
- ensure that systems for further integration of government-wide initiatives and guidance are in place
- develop mechanisms for measuring and reporting on progress

It also covers:

- the development of an action plan to take this strategy forward
- the identification of the management structure and resources required to implement this strategy

DTI ENVIRONMENTAL PURCHASING POLICY

The DTI's environmental purchasing policy will underline the Department's commitment to procure all its goods, services and works in a sustainable manner. It will have commitment from the most senior level and DTI procurement personnel will have the authority to challenge any internal customers who ignore the policy.

The Department will provide guidance, support and training to internal customers to enable procurements to be undertaken in a sustainable manner according to policy. DTI policy will be in the form of a stand-alone statement of policy and will also be enshrined in Departmental guidance documents.

The Department will communicate its policy and all ongoing relevant sustainable development requirements to internal customers via one or more of the following:

- PPS procurement account managers
- group procurement contacts
- Procurement Bulletins
- procurement conferences
- procurement seminars
- the DTI Noticeboard

The Department will provide a checklist of environmental and social considerations for each stage of the procurement process which will be available to internal customers via the DTI procurement website.

ENVIRONMENTAL RISK ASSESSMENTS

Adoption of a risk-based approach is seen as a key tool to sensible decision making in incorporating sustainability within each procurement. The Department will incorporate a process of environmental and social risk assessment into its procurement



activities. Environmental and social risk assessments undertaken by project owners will identify procurements which constitute high environmental and social risk. Responsibility will lie with project owners to mitigate the risk. Lower environmental and social risk procurements will also be assessed and the correct level of management will be applied on a case-by-case basis.

The DTI approach to risk management will be to:

- remove risk
- reduce risk
- manage risk

ENVIRONMENTAL SUPPLY CHAIN MANAGEMENT

The Department already complies with the existing government-wide standards on sustainable procurement – the 'Quick Wins'.

The new EU Consolidated Directive, which was enacted in UK legislation on 31 January 2006, allows authorities to identify social and environmental conditions related to the performance of the contract provided they are compatible with Community law and are included in the contract notice. Environmental award criteria are permitted provided they are linked to the subject matter of the contract. Additionally suppliers may be excluded from tender exercises for professional misconduct relating to environmental and social legislation or for non-compliance with environmental or social requirements in previous contracts.

The real opportunities to manage the supply chain arise therefore once the contract has been let. A process for identifying the DTI suppliers with most impact on the environment and social issues and therefore the most opportunity to influence and manage their supply chains in this regard will be developed. A programme for the management of those DTI suppliers, and their supply chains, identified by this process will be developed and progressed, in liaison with the DTI contract managers for those contracts. The DTI approach to environmental supply chain management will be published on the website.

FURTHER INTEGRATION OF GOVERNMENT-WIDE INITIATIVES AND GUIDANCE

DTI has well-tested and accepted methods for the dissemination of procurement initiatives and guidance and for its subsequent integration into Departmental guidance and best practice. These include the use of Procurement Bulletins which are distributed to the DTI procurement community, publication of information on the weekly DTI electronic Noticeboard, via procurement conferences and through the DTI procurement account managers and contacts.

These will remain the main method for disseminating and integrating future sustainability initiatives and guidance.

Major initiatives will also be disseminated via seminars, workshops and training courses where appropriate.

MECHANISMS FOR MEASURING AND REPORTING ON PROGRESS

Progress will be measured via the environmental risk assessment process and the environmental supply chain management programme. Mechanisms for measuring progress and success will be included at the time of developing these two areas. DTI procurement account managers and procurement contacts will take a leading role in this, together with group central finance teams.

ACTION PLAN

The action plan to implement the DTI sustainable procurement strategy will take account of the overall DTI procurement strategy and priorities and will be integrated into these.

MANAGEMENT STRUCTURE AND RESOURCES

The Head of Procurement (Procurement Policy Services Unit) has overall responsibility for the DTI sustainable procurement strategy.

Day-to-day actions arising from the strategy are the responsibility of a Range 6, reporting through a Senior Procurement Manager at Range 9 to the Assistant Director of Procurement (Procurement Policy Services Unit).

PPS resources required to implement the strategy are estimated to be:

- 1 x Range 6
- 0.25 x Range 9
- 0.10 x Range 10
- 0.05 x Head of Procurement

CONTACTS

<http://www.dti.gov.uk/>

As previously mentioned, the DTI operates both a devolved procurement and devolved budgeting system, although certain goods and services are purchased centrally or let through central framework arrangements. In addition the Executive Agencies have their own purchasing arrangements.

Listed below are the main contacts for these centrally managed goods and services:

FACILITIES PROCUREMENT

Jonathan Frost
 Building Services Team
 Estates and Accommodation Unit
 DTI
 Bay 532 (5th floor)
 151 Buckingham Palace Road
 London SW1W 9SS
 Tel: 020 7215 1203
 Email: jonathan.frost@dti.gsi.gov.uk

IT GOODS AND SERVICES

Chris Bowen
 IWS
 DTI
 Bay 514
 151 Buckingham Palace Road
 London SW1W 9SS
 Tel: 020 7215 3760
 Email: chris.bowen@dti.gsi.gov.uk

PUBLICATIONS

Brian Morgan
 Strategy Communications Unit
 DTI
 Bay 654
 1 Victoria Street
 London SW1H 0ET
 Tel: 020 7215 5072
 Email: brian.morgan@dti.gsi.gov.uk

For other goods or services, in the first instance please contact:

Liz Quantrell
 Procurement Policy Services Unit
 DTI
 Bay UG129
 1 Victoria Street
 London SW1H 0ET
 Tel: 020 7215 6044
 Email: procurementpolicy@dti.gsi.gov.uk

All information received will be passed on wherever possible to potential users.



Those interested in supplying the Executive Agencies should contact:

COMPANIES HOUSE

Steve Pitt
Companies House
Crown Way
Cardiff
CF14 3UZ
Tel: 02920 380427
Fax: 02920 380566
Email: spitt@companieshouse.gov.uk

INSOLVENCY SERVICE

Keith Sanderson
Area 3.2 Insolvency Service
21 Bloomsbury Street
London WC1B 3QW
Tel: 0207 291 6751
Fax: 0207 291 6764
Email: keith.sanderson@insolvency.gsi.gov.uk

PATENT OFFICE

Neil Regan
Patent Office
Room GB53 Concept House
Cardiff Road
Newport NP10 8QQ
Tel: 01633 814880
Fax: 01633 814711
Email: neil.regan@patent.gov.uk

EMPLOYMENT TRIBUNAL SERVICE

Roy Dowell
Employment Tribunal Service
Carodog House
16 St Andrews Place
Cardiff
CF1 3BE
Tel: 02920 394991
Fax: 02920 225906
Email: Roy.DOWELL@ets.gsi.gov.uk

SMALL BUSINESS SERVICE

Martin Bennett
Small Business Service
Bay 632
Kingsgate House
66-74 Victoria Street
London SW1E 6SW
Tel: 020 7215 4436
Fax: 020 7215 8003
Email: martin.bennett@sbs.gsi.gov.uk

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Expert public procurement consultancy for Buyers and Suppliers at your service



PASS – HELPING YOU MEET KEY OBJECTIVES

The key objective of public procurement professionals is to ensure that the most suitable supplier is selected to provide goods and services on terms which are likely to offer the best value for money. The PASS service helps you meet this requirement and deliver contracts that offer best value-for-money terms with suppliers who will execute them efficiently.

PASS CONSULTANCY

BiP's Procurement Advice and Support Service (PASS) provides organisations with access to experts in public procurement practices and procedures, thus helping you develop and deliver effective and efficient procurement. Our team offers a range of services to meet your specific needs. Whichever area you wish evaluated and improved, we have the experts to help.

The PASS consultancy's mission is to help you deliver the best in government procurement through:

- Practical solutions to improve procurement performance
- Innovative approaches to knowledge transfer within government
- Joined-up government
- Improved performance indicators
- Strategic direction and performance
- Opportunities offered by e-government
- Capacity to deliver change to meet identified needs
- Continuous improvement of services and challenging poor performance
- Sustainable development within decision-making processes and delivery of services
- EU-compliant processes
- Best practice procurement training

PASS TRAINING

Our consultants can provide you with bespoke training packages to suit your needs. Consultancy and training is available for the following: environmental purchasing, partnering, evaluation, e-government, supplier debriefing, UK legal processes and precedents, contract management, EU-compliant tendering and much more.

PASS ONLINE GUIDANCE

The PASS service provides online guidances on all aspects of the public procurement process and legal requirements: www.bipsolutions.com/html/briefing.php

PASS – EFFECTIVE DISPUTE MANAGEMENT

Contractual and procurement-related disputes are time-consuming, expensive and unpleasant. They can destroy client/contractor relationships, can add substantially to the cost of the contract, and can nullify some or all of its benefits or advantages. They can also have an impact on value for money. It is therefore in everyone's interest to work at avoiding disputes in the first place. Inevitably, however, disputes do occur and when they do the importance of a fast, efficient and cost-effective Alternative Dispute Resolution (ADR) procedure cannot be overstated. If a dispute arises, it is important to manage it actively and positively and at the right level in order to encourage early and effective settlement. Unnecessary delays and inefficiency can lead to rapid deterioration in relations and entrenchment of opinions. ADR through PADRE mediation involves the use of a trusted expert third party and is an effective alternative to litigation. PADRE mediation is provided by experts in contracting and public procurement. If you would like more details on how PADRE can help your organisation and become your mediation service of choice, telephone the PASS team on 0845 270 7055 or email pass@bipsolutions.com.

PASS HEALTH CHECK

The PASS service can help your organisation examine its current procurement organisational structures, strategies, processes, practices and related strengths and weaknesses. It delivers a detailed PASS Mark Health Check Outcome Highlight Report (OHR) that outlines areas of strength as well as those requiring further attention, and provides an outline Project Initiation Document (PID) designed to deliver a more effective and efficient tendering process that will help you achieve optimum performance and better value-for-money procurement.

PASS IN-HOUSE PRESENTATIONS

PASS consultancy can provide you with in-house presentations directed to buyer or supplier. Each presentation will be bespoke to your requirements, whether they be with regards to improving your tendering practices or your procurement strategy or processes. Contact: pass@bipsolutions.com



The PASS Mark Health Check is a process-based evaluation technique that helps identify how your company can develop more effective processes when tendering for public sector contracts.

For further information on the PASS service, contact our PASS Team on 0845 270 7055, email pass@bipsolutions.com or visit www.bipsolutions.com/pass/