

# **A Guide to Procuring Care and Support Services**

Transforming *your* services

*Real and lasting improvements for service users*



# *A Guide to Procuring Care and Support Services*

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# Acknowledgements

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Thanks also go to Nigel Walker from the Care Services Improvement Partnership, Ronan Segrave from the Department of Health, Chris Kynaston and John Kenyon from the Office of Government Commerce and David Wright and Alison Greer from the Regional Centres of Excellence for their expert guidance on policy and practice.

Finally, specific thanks go to Christopher Smith from SLW Consulting Ltd for supporting and encouraging the authors and for pulling it all together.

## Foreword by Phil Woolas MP

Helping the most vulnerable people in our society is one of this Government's top priorities. That makes procuring services to support these people and often to turn round their lives – services like Supporting People – an important process in itself and one we need to get right.

So I am delighted as Minister responsible for Supporting People and for local government to be introducing this guidance. It is the culmination of 18 months' work by Leeds and Plymouth City Councils. They have taken the best of procurement practice for local public services and have applied it to the particular issues around services for vulnerable members of our communities. It contains tools and techniques for proper planning and practical step-by-step guidance for effective procurement.

Providers of housing-related support and social care services are often small-scale, Third Sector organisations. They may well have strong links with the local community and provide local jobs. That means they are key partners, as well as providers, in making services responsive to people's needs and innovative in how they are delivered. This is a vital part of creating vibrant and successful communities. The procurement process must recognise the real value of this partnership and what small and Third Sector providers can contribute.

Our direction of travel for local public services is towards more personalised services that join up seamlessly around the needs of people. This means less delivery in silos and more integration and partnership, for example between housing-related support and social care. Procurement processes need to fit into this landscape and local authorities must break down any barriers to moving forward. These may be related to developing the right skills or developing the right projects with the potential to transform local services and people's lives.

I am sure local authorities throughout the country will join me in thanking Leeds and Plymouth for their work in producing this excellent guidance. I hope you will all make good use of it in tackling those barriers and making the necessary changes in culture. Then the people who most need our help in society, those using the services, can really benefit.

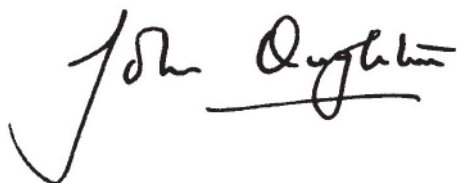
**Phil Woolas MP**

**Minister for Local Government and Community Cohesion**

## Foreword by John Oughton

I am glad to endorse this excellent initiative. This guide is a good example of communities and local government and the Regional Centres of Excellence supporting the work of leading councils, to the benefit of all. Procuring to obtain the best value in the delivery of Supporting People and social care services is demanding work. We now have an up-to-date document that enables councils to build on each other's efforts, rather than repeating each other's work. I also welcome the links within the document to generic Office of Government Commerce (OGC) guidance that we have produced for all those undertaking public sector procurement. OGC is always keen to endorse spreading good and best practice, so that public sector staff, wherever they work, have the support and procedures they need to secure best value.

Local Government is setting a demanding pace in improving efficiency, and this guidance is one more step in the right direction. If you are responsible for Supporting People, if you are commissioning social care services, or if you are a Head of Corporate Procurement working with someone with those responsibilities, I recommend this guidance to you. I am sure it will help corporate procurement teams and those commissioning care and support services work together even more effectively.

A handwritten signature in black ink, reading 'John Oughton'. The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

**John Oughton**  
**Chief Executive**  
**Office of Government Commerce**

# Section 1

## The guide

### Who is this guide for?

#### *The target group*

This guide is designed to help non-procurement professionals who need to procure (or purchase) services for people who need care and support. It is particularly relevant for local authority staff and for other public bodies, including:

- children's trusts that are organising services for children and young people
- drug action teams and crime and disorder reduction partnerships
- regeneration and local area agreement partnerships
- social care and healthcare commissioners for older people or those with a learning or physical disability or mental health problem
- Supporting People programmes that are organising housing-related support services.

#### *The context for the guide*

Procuring services is a new function for most local authorities managing Supporting People programmes and one we know presents challenges for those commissioning in the field of social care.

Procuring services for people with a variety of care and support needs is more problematic and complex than procuring items such as street lamps or stationery. It can be hard to identify whether the service you have actually procured is one that will meet the needs you wish to address.

Services for people who need care and support can also be of high monetary value and carry inherent risk. This makes it all the more important to understand the principles and good practice associated with their procurement and to work closely with your corporate procurement team.

As you work through this guide you will also identify opportunities for jointly commissioning and procuring services. Services for people who need care and support are too often fragmented, with range of different providers involved in meeting different aspects of their need.

Integrating these services by jointly commissioning and procuring services can lead to better co-ordinated solutions to care and support needs and usually represents better value for money.

Careful planning and management will help to make procurement a less daunting prospect.

In this practical guide, procurement planning and delivery is broken down into clear, manageable and structured tasks.

**Find out more.** This guide does not include policy or good practice on the procurement of 'works', information technology equipment or services, commodities or capital projects. For help in these areas, visit the Office of Government Commerce website at [www.ogc.gov.uk](http://www.ogc.gov.uk)

The guide also does not address how best to consult service users, at the beginning of the commissioning process, on the outcomes they require. The Thurrock Value Improvement Project and the OGC have together undertaken work in this area and this material will be included in a companion volume on the work of the Projects to be published in early 2007.

**Find out more** about some of the current issues in commissioning and procuring home care and commissioning for improvement in the Commission for Social Care Inspection's report *Time to Care*. See [www.csci.gov.uk/PDF/time\\_care\\_full.pdf](http://www.csci.gov.uk/PDF/time_care_full.pdf)

## How will this guide help you?

### Clear explanation

- It will clarify the meaning of procurement and explain how it relates to a number of other activities linked to the provision of services for people who need care and support.

### Key drivers

- It will show how **fairness and transparency** are important reasons for good practice in procurement.
- It will give examples of **good practice**, such as engaging providers at an early stage and greater involvement of the Third Sector in delivering public services.

- It will explain how to **keep within the law** when managing procurement programmes.

### *Step-by-step approach*

- It will explain the procurement procedure step by step and provide a comprehensive set of practical tools and techniques to make planning and managing procurement easier.

### *How you will benefit*

- Using this easy-to-follow guide will help you meet the requirements of your organisation and also of the communities you serve more effectively.

**Find out more.** These guidelines are not a substitute for training in procurement. Professional training is provided through training and development programmes for non-procurement professionals run by the Chartered Institute of Purchasing and Supply and the Improvement and Development Agency.

## Procurement: the basics

### What is procurement?

#### *What does it actually mean?*

‘Procurement’ is not the same as ‘commissioning’, although you may hear them used interchangeably.

Commissioning is the process of specifying, securing and monitoring services to meet people’s needs at a strategic level.

An ongoing process, it deals with whole groups of people – which distinguishes it from the process of buying individual services.

Procurement is defined as being the acquisition of goods and services from third party suppliers under legally binding contractual terms where all the conditions necessary to form a legally binding contract have been met. Such acquisitions are for the direct benefit of the contracting authority, necessary for the delivery of the services it provides or for the running of its own business. In addition, the EC procurement directives provide definitions for supplies, services and works contracts covered by them.

The process of procurement is also sometimes called purchasing, buying or contracting. While these words are occasionally used interchangeably, there is much more to procurement than merely entering into a contract for the provision of care and support services, and much that needs to be done before a decision to enter into a contract can be made.

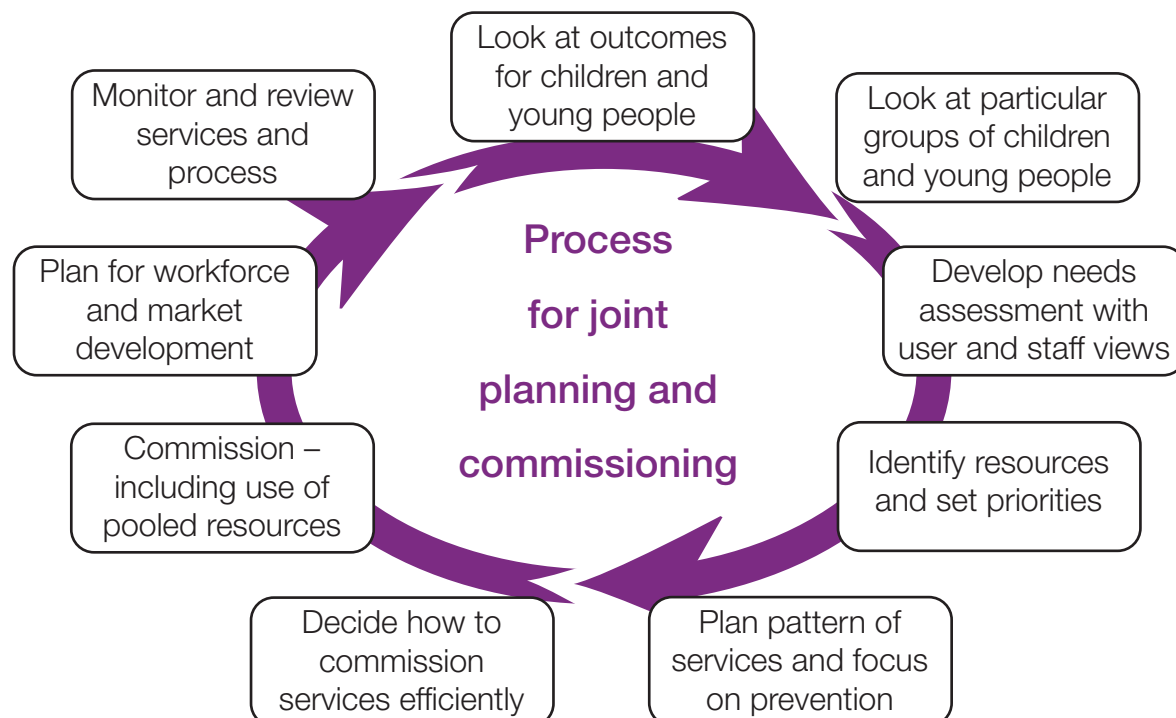
### *How does it fit in with commissioning?*

Procurement follows a cycle – starting with the identification of need to purchase a service and ending with the end of a contract. So it has parallels with the cyclical process of commissioning.

### **The joint commissioning cycle**

A commissioning approach requires a thorough understanding of what local people want and need, as well as knowledge of the local market, the investment from other public services in meeting those needs and the range of providers and potential providers of services. The diagram below sets out the commissioning cycle in the context of planning services for young people.

**Figure 1: The process of joint planning and commissioning**



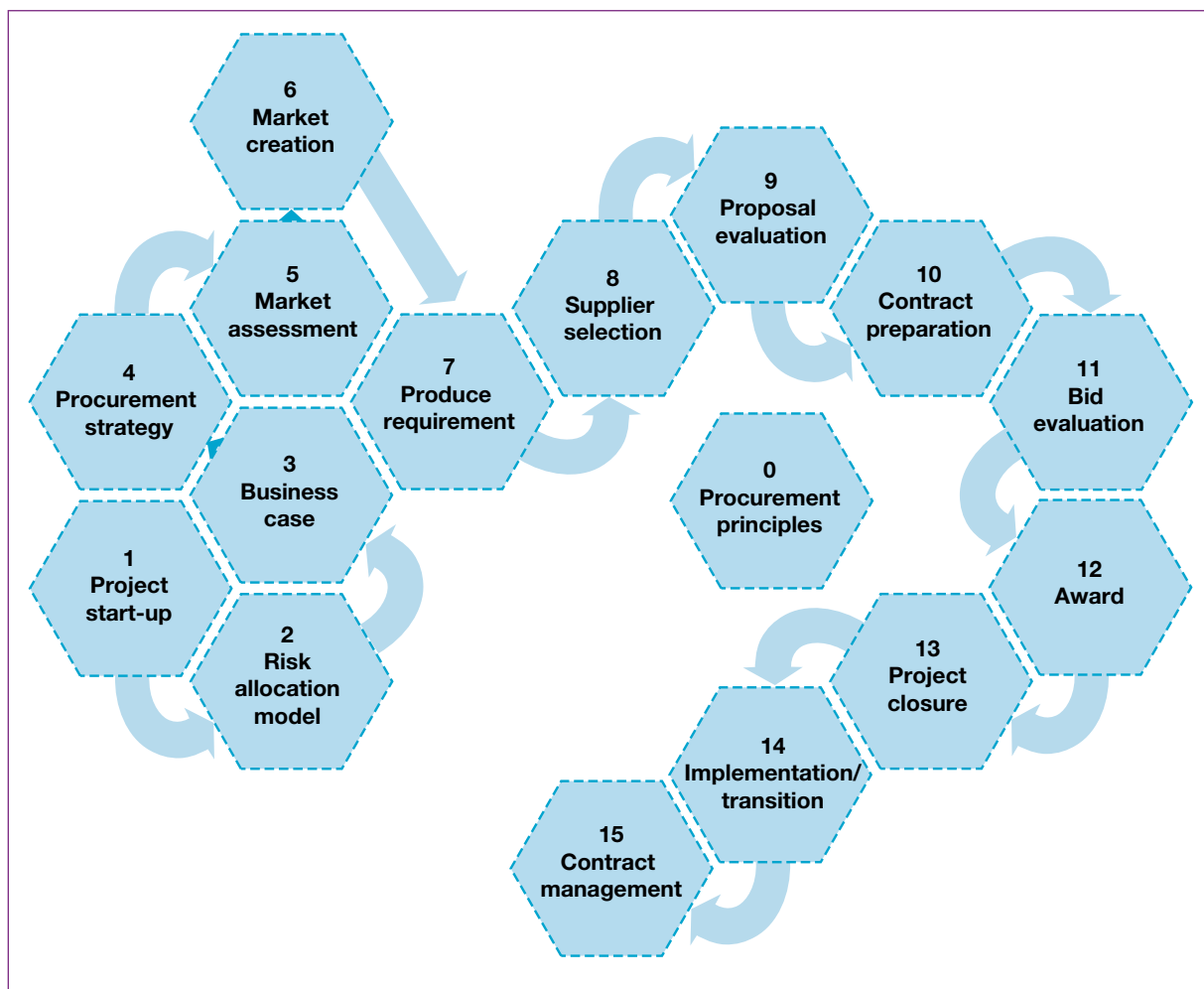
**Find out more.** See the Department for Education and Skills Joint planning and commissioning framework for young people on the DfES website [http://www.everychildmatters.gov.uk/\\_files/312A353A9CB391262BAF14CC7](http://www.everychildmatters.gov.uk/_files/312A353A9CB391262BAF14CC7)

## The procurement life cycle

Once you have established your local strategic requirements, the procurement life cycle from the Office of Government Commerce (OGC) shown below illustrates the stages of the buying process you may need to follow. Particular attention is paid to the roles and responsibilities of those involved.

The OGC procurement life cycle is used as the main point of reference in this guide, although a number of stages have been adapted to reflect the processes relevant to purchasing care and support services. For more detail on the OGC procurement life cycle, see section 3.

Figure 2: Office of Government Commerce procurement life cycle



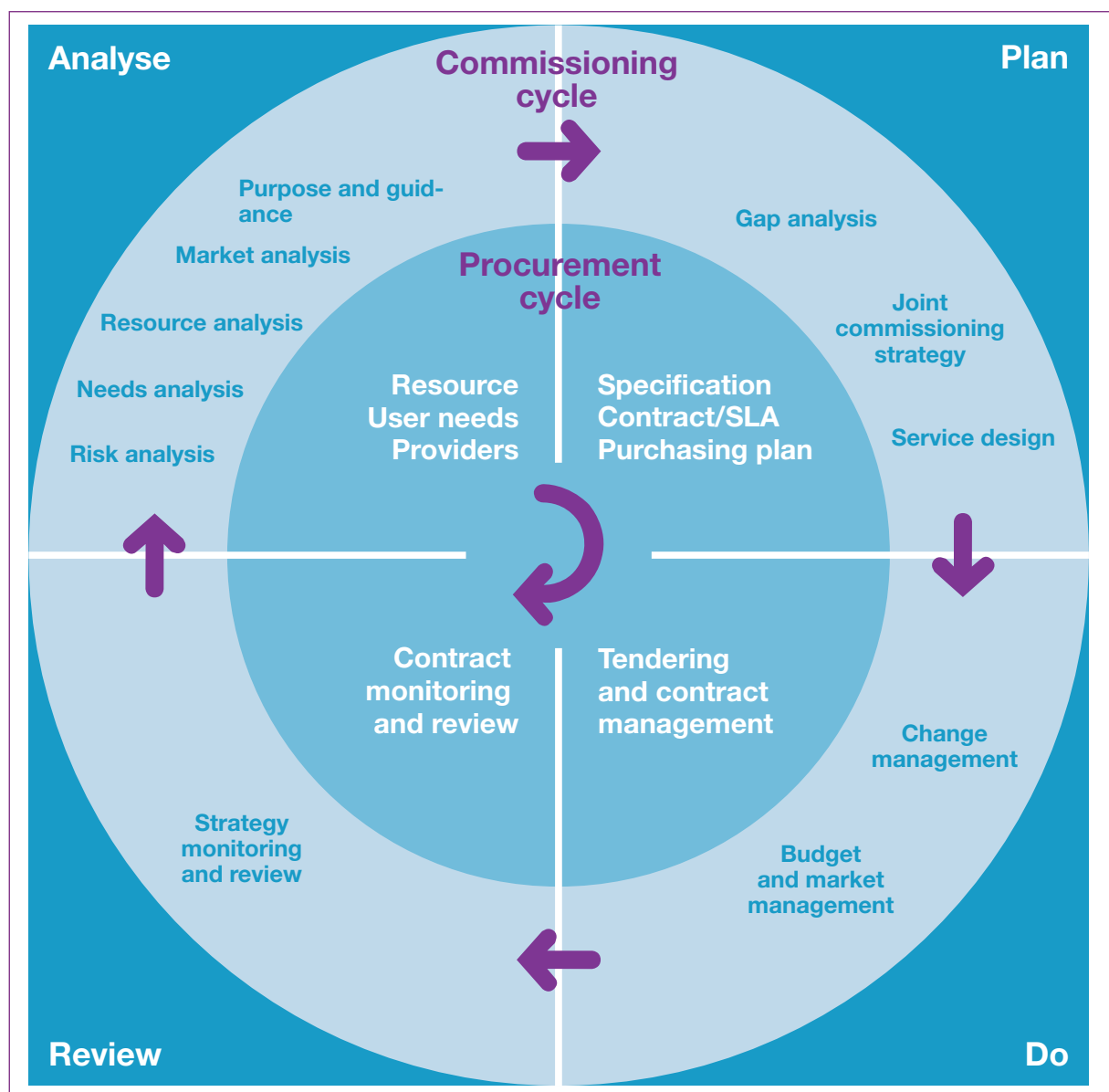
**Find out more** at [www.ogc.gov.uk/introduction\\_to\\_procurement.asp](http://www.ogc.gov.uk/introduction_to_procurement.asp)

## Linking the two cycles

The diagram below shows the link between the commissioning and procurement cycles. It is based on the four key performance management elements – analyse, plan, do and review – which are all relevant to social care, housing, health and Supporting People.

Within this interconnected framework, the commissioning cycle (outer circle) drives the procurement activities (inner circle). The post-procurement review then informs the ongoing development of commissioning.

Figure 3: Institute of Public Care framework for joint commissioning and purchasing of public care services



**Find out more** in the Commissioning eBook at the Care Services Improvement Partnership Change Agent Team website at [www.changeagentteam.org.uk/index.cfm?pid=359](http://www.changeagentteam.org.uk/index.cfm?pid=359)

## Why is procurement important?

Because it:

### *Improves services*

By helping you improve and modernise your services, procurement will enable you to achieve better outcomes for service users.

### *Helps you achieve best value*

Good procurement practice will help you achieve best value – in terms of economy, efficiency and effectiveness – whether your services are directly provided or procured from external suppliers.

### *Makes you more efficient*

Both the Supporting People programme and adult social care services are expected to produce significant efficiency gains as part of the Efficiency Agenda during the years 2005–08. The achievements to date have helped to lay the foundation for a more radical and ambitious value-for-money programme for the years covered by the Comprehensive Spending Review (2008–11). Effective procurement will help you to demonstrate savings on your Annual Efficiency Statement.

**Find out more** about the Efficiency Agenda in *Delivering Efficiency in Local Services* at [www.communities.gov.uk/pub/507/DeliveringEfficiencyinLocalServicesPDF320kb\\_id1135507.pdf](http://www.communities.gov.uk/pub/507/DeliveringEfficiencyinLocalServicesPDF320kb_id1135507.pdf)

### *Encourages innovation*

The procurement process means you are free to identify new providers that may be more motivated to offer you innovative service solutions than your current providers. Innovation can be built into the specification.

## What do you need to consider?

### *How procurement affects quality management*

Quality and performance are key concerns in the delivery of any service for people who need care and support. It is helpful for the buying organisation to understand the difference between them.

Quality management is a systematic way of ensuring that services are fit for their intended purpose. It is primarily the responsibility of the service provider.

There are three main aspects:

- establishing what the service should be offering
- defining how it should be delivered
- continuously evaluating what can be done to improve the service.

Listening to customers' views is an essential part of the quality management process.

### *How procurement affects performance management*

Performance management, on the other hand, focuses on the future. It involves tracking performance against contract requirements and identifying opportunities for improvement.

It should demonstrate that the organisation:

- knows what it is aiming for
- knows what it has to do to meet its objectives
- knows how to measure progress towards those objectives
- can detect performance problems and remedy them.

It is essential for the buying organisation and the provider to work together to correct poor performance and to secure performance improvement.

**Find out more** on quality management at [www.ogc.gov.uk/delivery\\_lifecycle\\_quality\\_management.asp](http://www.ogc.gov.uk/delivery_lifecycle_quality_management.asp) and on performance management at [www.ogc.gov.uk/delivery\\_lifecycle\\_performance\\_management.asp](http://www.ogc.gov.uk/delivery_lifecycle_performance_management.asp)

## *How to involve SMEs and the Third Sector*

The Government is keen to involve more small and medium-sized enterprises (SMEs) as well as the Third Sector (which includes voluntary organisations and community groups) in the delivery of public sector services.

Such organisations can:

- often respond quickly and flexibly to customer needs
- can be a source of greater innovation
- offer efficiencies, improved quality and effectiveness
- can be frequently at hand
- often provide better access to hard-to-reach customer groups
- often attach more importance to doing business with a public sector organisation.

Here are some ways to open up opportunities to smaller organisations:

- Run procurement ‘open days’ and ‘meet the buyer’ events and appoint named procurement officers linked to these events.
- Provide support and information on submitting tenders.
- Encourage opportunities for subcontracting arrangements.
- Encourage the formation of bidding consortia.

**Find out more** about building better relationships between government and the Third Sector at [www.thecompact.org.uk](http://www.thecompact.org.uk). For guidance on commissioning from the Third Sector, see the Funding and Procurement Compact Code of Good Practice at [www.thecompact.org.uk/module\\_images/Funding%20and%20Procurement%20Code%2005.pdf](http://www.thecompact.org.uk/module_images/Funding%20and%20Procurement%20Code%2005.pdf)

## *How to reduce bureaucracy*

When undertaking a procurement exercise, take care that the resources committed are proportionate to the value and complexity of the service you are buying.

Many public sector bodies have expenditure thresholds that allow quotations to be used for lower value contracts. This reserves the tender process for higher value services. The value of a service is determined by its cost over the whole life of the contract.

Other points to remember:

- The information you request from potential providers – either during the competition process or during the life of the contract – should be no more than you really need to ensure that risks are managed and value for money obtained.
- If you have more than one contract with the same provider, try to avoid asking for information you already hold about them.
- Equally, avoid asking for information about providers that is available in the public domain.
- Take advantage of opportunities to share information with other public sector bodies, to reduce the number of requests made to providers. Using standardised documentation and procurement practices will make the provision and sharing of information easier for all concerned.

### *How to keep within the law*

There is a legal requirement to ensure that all contracts for public services are awarded in a fair and open manner.

This requirement is set out in the EU procurement regime, which comprises:

- EU treaty principles
- EU procurement directives
- relevant case law from the European Court of Justice.

### **EU treaty principles**

All public bodies, including local authorities, should abide by the EU treaty principles of: non-discrimination on grounds of nationality; equal treatment; transparency; proportionality; and free movement of goods and services when procuring any service contract.

Even where the EU Directives do not apply, to achieve transparency in the procurement process, the European Court of Justice asks for ‘a degree of advertising sufficient to enable the services market to be opened up to competition and the impartiality of procurement procedures to be reviewed’.

**Find out more** at [www.ogc.gov.uk/documents/ProcurementPolicyThresholdProcurement.pdf](http://www.ogc.gov.uk/documents/ProcurementPolicyThresholdProcurement.pdf)

## EU procurement directives

With few exceptions, the EU procurement directives – which determine the procedures and timescales to be followed in public sector procurement – apply to all contracts for goods, services and construction works awarded by public sector organisations over a certain value (called the ‘threshold’). The Directives are implemented in the UK by means of Regulations. The latest of these, the Public Contract Regulations came into force on 31 January 2006.

The Regulations have two levels of application – a full regime for services designated as ‘Part A’ and a lighter regime for services designated as ‘Part B’. Most services relating to health, social care and support are Part B, although each case is determined individually.

The main requirements are:

- non-discriminatory specifications (Part A and B)
- competition through a tender advertised in the Official Journal of the European Union (OJEU) (Part A only)
- compliance with minimum timescales for suppliers to respond to adverts, pre-qualification checks and tenders (Part A only)
- provision of feedback to unsuccessful suppliers and issue of contract award notice within 30 days of award (Part A and B).

Note that although Part B services do not have to be advertised in the OJEU they should be subject to some form of competition. Advertised competition is the main method of ensuring that the EU principles of equality of opportunity and transparency are met and value for money obtained.

Aggrieved tenderers can put up a legal challenge if they think there has been a breach of the EU treaty or directives. This means that local authorities need to comply.

**Find out more** at [www.ogc.gov.uk/procurement\\_policy\\_and\\_practice\\_procurement\\_policy\\_and\\_application\\_of\\_eu\\_rules.asp](http://www.ogc.gov.uk/procurement_policy_and_practice_procurement_policy_and_application_of_eu_rules.asp)

## *How to distinguish procurement from grants*

It is important to distinguish between the provision of grants and the procurement of services under a contract.

A grant is money provided by a public sector organisation to support a particular activity. It does not usually cover the entire cost of the activity and it is legally considered to be a one-sided 'gift', rather than a payment in exchange for services.

A contract is a binding agreement to perform a certain service in exchange for an agreed payment.

### *Why are programme management and project management important in procuring care and support services?*

The challenge to improve care and support services is fundamentally about change – this guide recommends using formal programme and project management methods to ensure change is delivered successfully.

It is useful to differentiate between programmes and projects rather than use the terms interchangeably.

Projects can be defined as delivering outputs within time, costs and quality constraints – the project remit.

Programmes deliver outcomes – the effects of change.

Procuring care and support services will involve engaging a number of different providers to deliver a range of different outputs.

In this guide we recommend using a programme management approach to ensure the portfolio of services being procured is co-ordinated and managed as a unit to achieve outcomes and realise benefits.

**Find out more** about managing programmes and projects in the *Project Management Handbook* for local authorities, published by the IDeA and available at [www.idea-knowledge.gov.uk/idk/tio/1364493](http://www.idea-knowledge.gov.uk/idk/tio/1364493)

## Section 2

# Step by step: planning a procurement programme

Step 1: Why do you need a plan to procure services?

Step 2: How should you assess your current suppliers?

Step 3: How could you improve things?

Step 4: What are your procurement priorities?

Step 5: How should you plan your procurement activity?

### Step 1: Why do you need a plan to procure services?

#### *Preparing a business case and programme plan*

Before thinking about procuring individual services from suppliers, it is important to develop an overall procurement programme covering all the services you need to procure. This must set out the reasons why you need to procure services, as well as the approach and timetable you plan to adopt.

This will help you to:

- understand the business need for the services
- gain knowledge of the market and its capacity and capability to deliver
- appreciate the risks and complexity of procuring the range of services required by different client groups
- understand procurement priorities.

Before initiating a procurement programme, you need to:

- obtain senior-level commitment via a sponsoring group. This could be a commissioning body, local strategic partnership or other group
- appoint someone who is ultimately accountable for the success of the programme (a senior responsible owner or SRO)

- have the right staff to deliver the programme (including a programme manager – who is responsible for establishing, running and co-ordinating the programme – and, of course, support staff). In some cases you may also consider appointing a business change manager
- develop the programme's governance arrangements (how you will manage risks, stakeholders, quality and resources)
- develop a high-level business case, setting out the business need and rationale for procuring services.

**Find out more.** See the overview of managing successful programmes at [www.ogc.gov.uk/delivery\\_lifecycle\\_overview\\_of\\_managing\\_successful\\_programmes\\_msp.asp](http://www.ogc.gov.uk/delivery_lifecycle_overview_of_managing_successful_programmes_msp.asp)

At this stage, the **business case** should simply cover:

- strategic objectives, in line with your organisational context – such as your vision statement
- expected outcomes and benefits, also confirming the organisation's ability to adapt as necessary
- an overall risk profile, including major risks that threaten the success of the programme
- estimated costs and overall timescales. Detailed scheduling of programme milestones will be part of the programme plan.

Once the business case has been considered and you have been given the official go-ahead for your programme, you need to develop a programme plan.

A **programme plan** has four key elements:

- a list of projects and activities (sometimes known as the 'project portfolio')
- the programme schedule, showing the relative sequencing of the projects (grouping the projects into tranches) and milestone review points
- a transition plan showing how the transition to the new environment will work
- monitoring and control activities and performance targets.

### Listing your projects and activities (project portfolio)

This is a list of all the projects and activities that, taken together, will achieve the programme's vision. The list may include, for example, assessing the current market for services, developing the market, identifying procurement priorities, and

planning the procurement timetable. See section 3 for how to approach each of these elements.

### Looking at risks (risk assessment and management)

Procuring services for people who need care and support can be – at times – uncertain and complicated. At any point there could be situations that threaten the direction of the programme.

It is therefore essential to identify and record all the risks that may affect the programme's viability very thoroughly and then establish effective risk management arrangements.

There are two tools to help you record and prioritise your risks. The risk register is a form in which you can list and grade your risks and their likely consequences. It also includes a section where you can reconsider your control activities for reducing those risks.

The programme risk assessment is a matrix to help you measure risk probability against the possible impact for your programme.

**To help you do this**, see the Risk Register and Programme Risk Assessment templates at [www.spkweb.org.uk/Subjects/Capacity-building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity-building/Procurement+guide+templates.htm)

### What order should you do things in? (schedule)

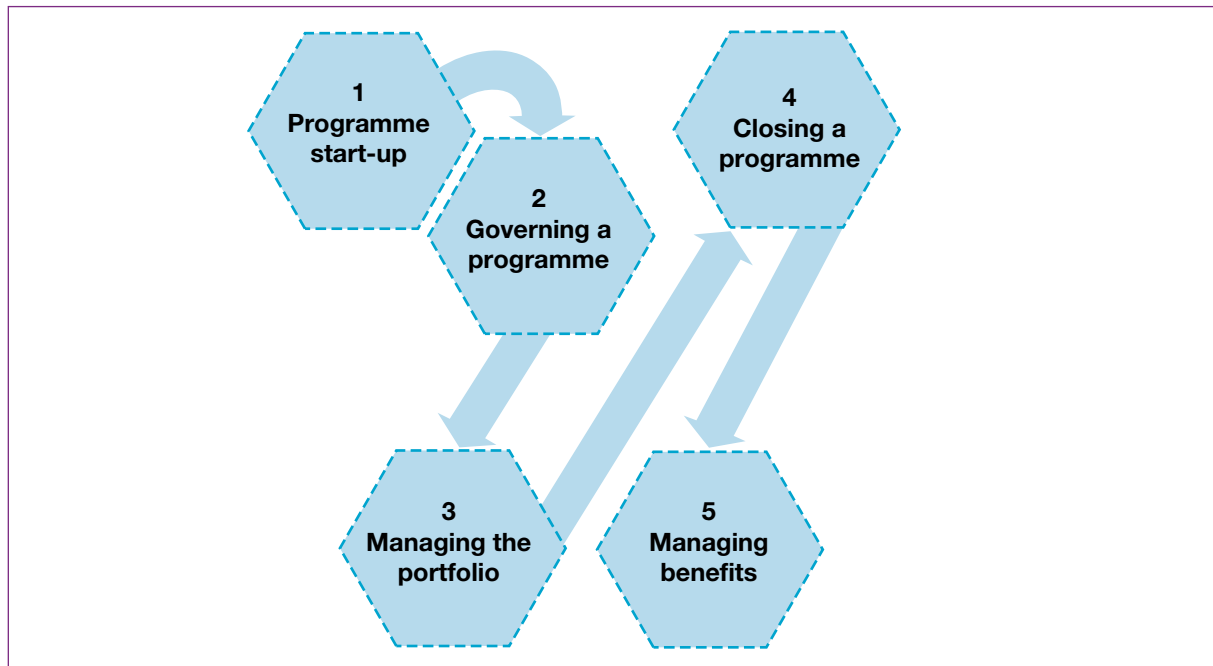
Your programme schedule will show the order in which you plan to tackle your projects, grouped in tranches if appropriate. It will also include milestones and review points.

To ensure that you deliver the programme successfully, it may be helpful to arrange independent oversight planning and delivery. This can be done by setting up a gateway review arrangement (see page 40 for more details).

You should also conduct a post-project review as each project closes. These reviews help you assess the performance and effectiveness of the projects within the programme and track their benefits.

The following diagram illustrates how the various components of programme management relate to one another.

Figure 4: Programme processes



**Find out more** about how to run and manage a successful programme at [www.ogc.gov.uk/programmes\\_\\_\\_projects\\_introduction\\_to\\_programmes.asp](http://www.ogc.gov.uk/programmes___projects_introduction_to_programmes.asp)

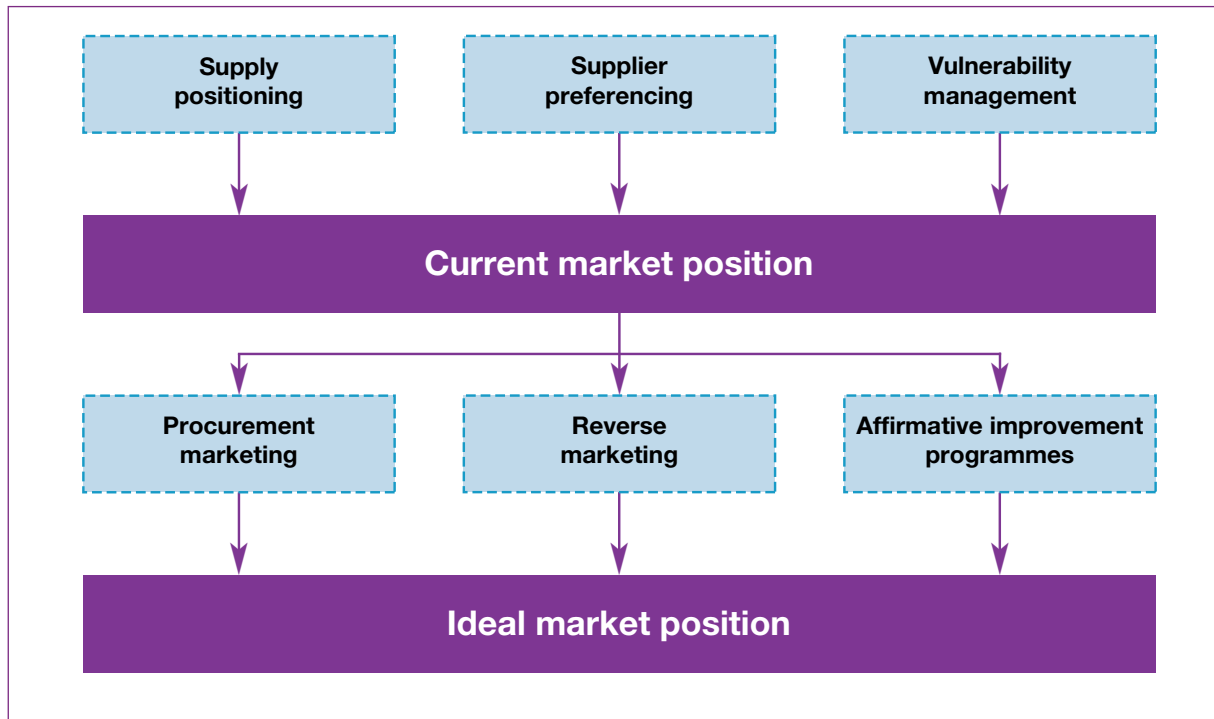
**Find out more** about tools for planning a procurement programme and delivering services. Download 'Industry techniques and inspiration for commissioners' from [www.everychildmatters.gov.uk/resources-and-practice/IG00127/](http://www.everychildmatters.gov.uk/resources-and-practice/IG00127/)

## Step 2: How should you assess your current suppliers?

Once you have prepared your business case and programme plan, it is time to turn to the market.

Assessment of your supplier market can be divided into two stages. First identify what already exists. Then work out how to improve on the current position. The supply planning model below shows how to carry out this process. Each of the six stages are explained clearly in the sections that follow.

Figure 5: Supply planning model



### *Step 2a: How you assess existing contracts (supply positioning)*

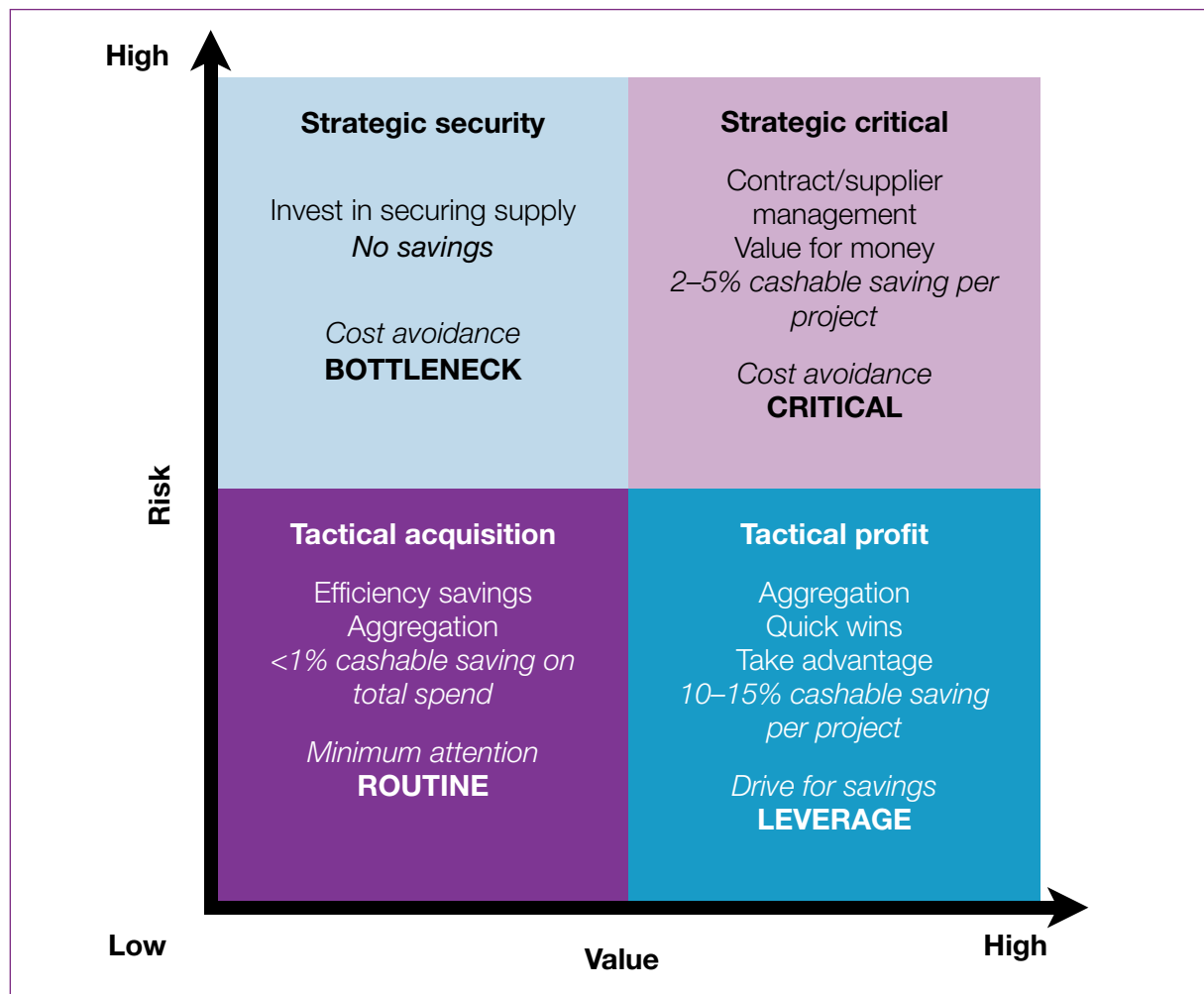
At this stage you are assessing the contracts you already have in place. How important are they to you? Could you make any savings on them? Or are they perhaps more trouble than they are worth?

This process is called 'supply positioning' and is a way of evaluating your contracts by plotting risk against relative contract value.

The contract value is based on the total cost of the service over the life of the contract. The risk is calculated by evaluating the service's strategic importance to you against how difficult it is to procure.

The matrix below shows where the greatest potential for making efficiency gains lies.

Figure 6: Supply positioning



### Types of contract (the procurer's view)

You can categorise each contract as one of the following, depending on where it appears in the matrix:

- **Strategic critical** contracts are high value and high risk, so they are of vital importance to the procuring organisation. The high value means there is some scope to make savings, but this has to be balanced against the risks to quality or supply.
- **Strategic security** contracts are low value and high risk. This means there is little scope for savings. Resources should therefore be directed to securing supply and quality rather than driving prices down.

- **Tactical profit** contracts are high value but low risk. These contracts have the greatest potential for making savings. Their relative strategic importance is low, so you can afford to aim for higher savings.
- **Tactical acquisition** contracts are low value and low risk. But, because of their low value, there is limited scope for savings. These contracts should be managed and procured through simple routine processes, such as purchase order systems, so that you can direct your resources into areas where there is a greater potential to make improvements and savings.

### Applying the model

Using the supply positioning matrix above as a guide, you should now be able to categorise each of your contracts and, from there, identify the best purchasing strategy for each one. For some contracts, this may involve strengthening your position by reducing the risk factors. For others you may seek to increase the value of the contract packages.

**To help you do this**, see the Supply Positioning Matrix template at [www.spkweb.org.uk/Subjects/Capacity-building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity-building/Procurement+guide+templates.htm)

### Aggregating supply

You may be able to benefit from grouping (or ‘aggregating’) services into fewer, larger contracts to be tendered. Potential benefits include economies of scale, less administration and a more manageable number of supplier relationships.

But there are disadvantages too. Fewer suppliers may lead to market dominance of a single or small number of providers and a less competitive market place. Larger contracts may also pose significant barriers to smaller providers. That, in turn, may mean missing out on the innovation smaller providers can offer.

### Supporting smaller providers

Smaller providers, particularly in the Third Sector, may need help in developing the strategic alliances, consortia and subcontractor arrangements necessary for larger-scale contracts. It may also be appropriate to encourage larger service providers to engage with potential subcontractors.

This integration of the supply chain is recognised as good practice and should be considered as early as possible in any procurement programme or project.

**Find out more** from the OGC publication *Aggregation: Is bigger always better?* at [www.ogc.gov.uk/documents/CP0072\\_Aggregation-is\\_bigger\\_always\\_better.pdf](http://www.ogc.gov.uk/documents/CP0072_Aggregation-is_bigger_always_better.pdf)

### *Step 2b: How your suppliers might see existing contracts (supplier preferencing)*

In your assessment of the supplier market, you have so far looked at your current contracts and how well they suit **you** as the procuring organisation.

The next stage is to put yourself in the shoes of the supplier and determine how **they** might view their contract with you. This process is called ‘supplier preferencing’.

By understanding the benefits or challenges the contract brings to the supplier, you will be able to work out the kind of relationship you can expect to have with them.

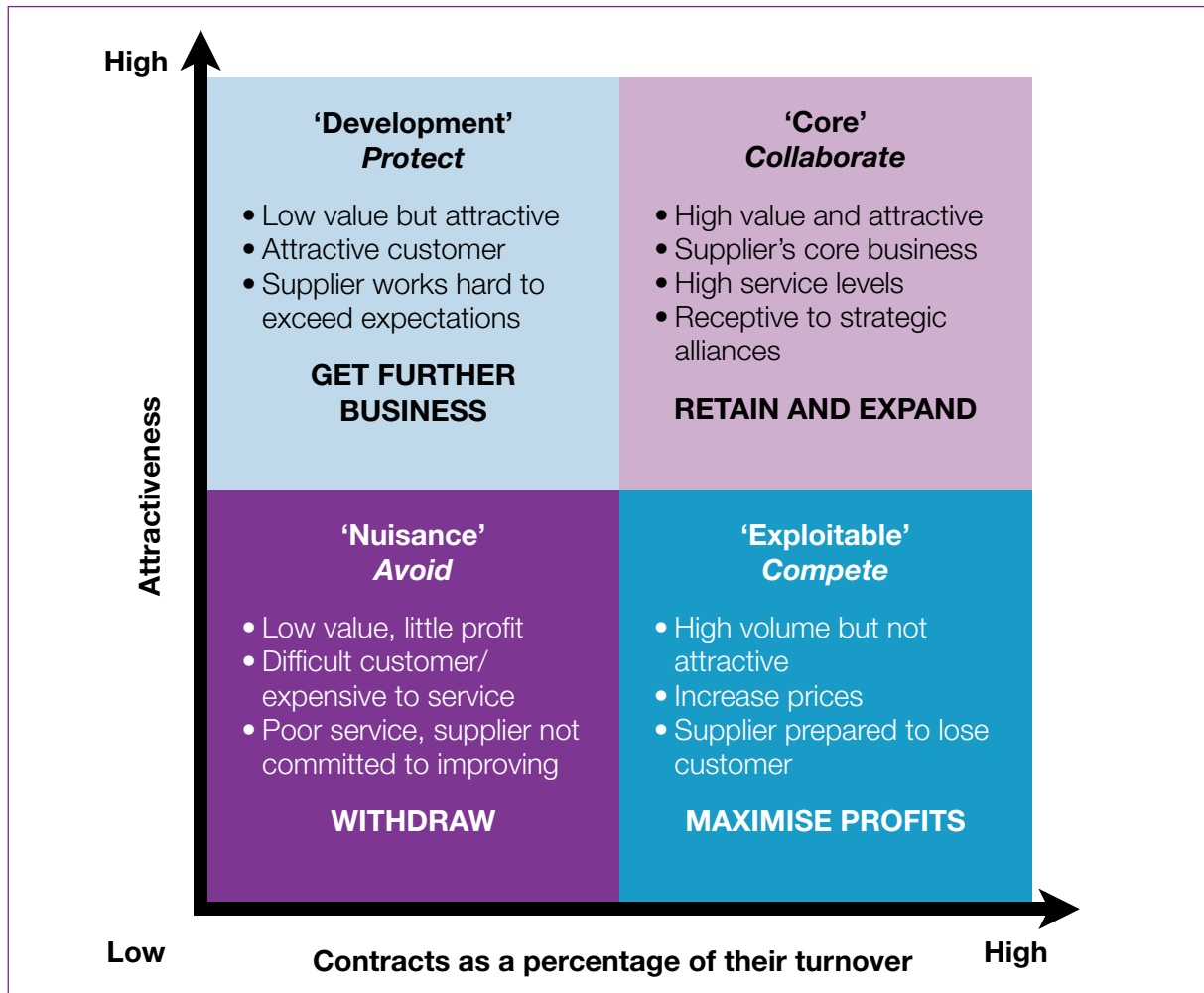
This puts you in a stronger position to change your procurement strategy if you want to complement or counteract the attitude of the provider.

To help you assess each providers’ attitude to their contract with you, you can use a simple questionnaire and apply scores depending on responses.

**To help you do this**, see the Supplier Preferencing Questionnaire template at [www.spkweb.org.uk/Subjects/Capacity-building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity-building/Procurement+guide+templates.htm)

Like the supply positioning matrix in the last section, the matrix below shows how providers can be plotted according to the value of your contracts and attractiveness of the contracts to them.

Figure 7: Supplier preferencing



### Types of contract (the supplier's view)

You can categorise each contract as one of the following, depending on where it appears in the matrix:

- A **core** contract is highly valued by the provider. For this contract, it is likely to devote much of its time and resources, introduce innovation, take a collaborative approach and welcome joint working opportunities.
- A **development** contract is attractive to the provider, in spite of its relatively low value. This may be because the provider is trying to break into a new area of service delivery. Alternatively, it may want to establish a relationship with a public sector organisation. There are several reasons for this. The public sector is usually reliable at paying for services and may even pay in advance, where there is a business need. They also procure a range of

services of varying contract sizes. For a provider that is looking to develop and expand, this presents plenty of business opportunities. Providers in this category often deliver a service that is beyond the expectations of the contract they currently hold.

- An **exploitable** contract, in spite of its relatively high value, is an unattractive business opportunity. This may be because it is difficult to manage or because the relationship with the purchasing organisation is poor. Since the provider does not really want the business, it will charge a high amount for the service and invest little time or resources in its delivery. The provider has the upper hand, so this contract is unlikely to represent value for money for the procuring organisation.
- A **nuisance** contract is both low value and unattractive for the provider. It is unlikely to be delivering a quality service and may be looking to exit from the contract as soon as possible.

### Applying the model

Using the supplier preferencing matrix above as a guide, you should now be able to categorise each of your contracts and, from there, identify the best purchasing strategy for each one.

**To help you do this**, see the Supplier Preferencing Matrix template at [www.spkweb.org.uk/Subjects/Capacity-building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity-building/Procurement+guide+templates.htm)

### *Step 2c: How to consider strengths and weaknesses (vulnerability management)*

You now have a full picture of your current contracts, both from your own point of view as the procurer and also from the supplier's point of view.

This means you have most of the information you need to determine the best course of action in relation to each supplier or contract.

But, as we have already said, procurement carries inherent risks. As well as the status of existing suppliers, there are other factors you need to consider.

'Vulnerability management' is the identification and management of risks that could interrupt the supply of vital services you have procured.

There are two processes to help you do this: market sounding and the market management matrix.

### Market sounding

Market sounding assesses the reaction and suitability of the market to a proposed requirement for services. It is centred around the following questions:

- Maturity: is the market ready to deliver what is required?
- Feasibility: will the market be technically capable of delivering?
- Competition: how many suppliers provide what is required? Will procurement be sufficiently competitive?
- Capacity: are there enough suppliers, with sufficient capacity, to meet the requirement?
- Working together: will the requirement bring suppliers from different sub-sectors together in a new way?
- Traditions and prevailing attitudes: how will they affect the requirement and the procurement approach?

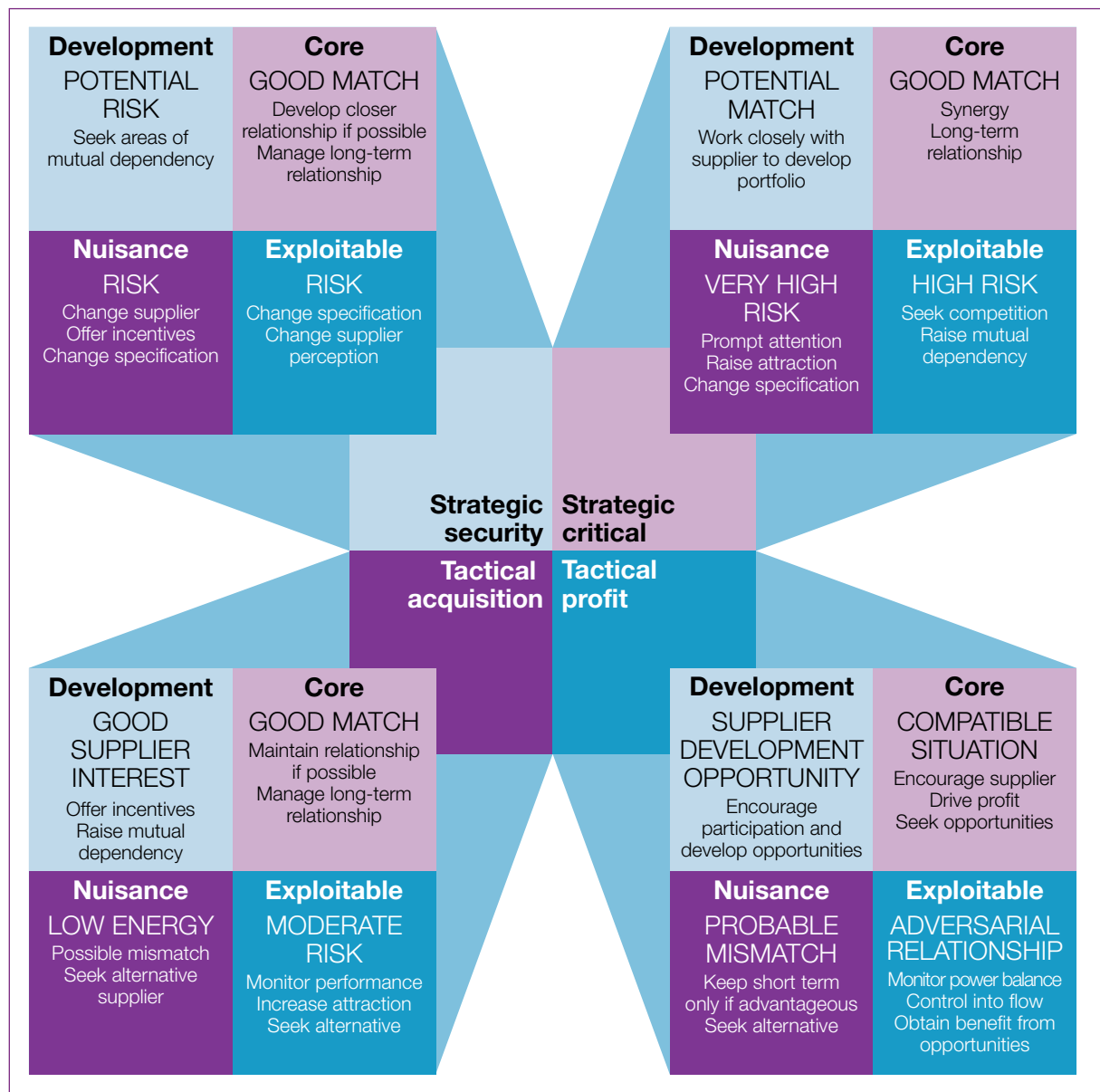
To find out the answers, use surveys, workshops, focus groups or 'soft market testing' (such as expressions of interest).

**Find out more** about engaging with providers in *Early Market Engagement*, available at [www.ogc.gov.uk/documents/Early\\_Market\\_Engagement.pdf](http://www.ogc.gov.uk/documents/Early_Market_Engagement.pdf)

### Market management matrix

Another way of looking at the strengths and weaknesses of your current relationships with suppliers is by combining the results of the supply positioning and supplier preferencing exercises explained in Steps 2a and 2b. This can be done using the market management matrix (see below).

Figure 8: The market management matrix



In this model, the ‘supply positioning’ categories sit in the centre and the ‘supplier preferencing’ categories at each corner. You can then determine the nature of the relationship by where the provider falls in relation to:

- the value and vulnerability of the service they provide
- the value and attractiveness of the business to them.

### Types of procurer–supplier relationship

By applying the market management matrix, you will be able to understand your supplier relationships better.

- *Good relationships*  
Contracts in the top half of both boxes are **strategic critical/strategic security** to you and **development/core** to the provider.
- *Relationships with potential for development*  
Contracts in the lower half of the centre box and top half of the outer box are **tactical acquisition/tactical profit** to you and **development/core** to the provider.
- *Relationships with potential for conflict*  
Contracts in the lower half of the centre box and bottom half of the outer box are **tactical acquisition/tactical profit** to you and **nuisance/exploitable** to the provider.
- *Relationship mismatch*  
Contracts in the top half of the centre box and the bottom half of the outer box are **strategic critical/strategic security** to you and **nuisance/exploitable** to the provider.

To remind yourself what these terms mean, refer back to pages 24–25 and 27–28 for definitions.

Developing and improving relationships with providers are covered further on.

### Step 3: How could you improve things?

Now that you have assessed your current suppliers and understand your position in the market better, it is time to look at improvements with a view to achieving an ‘ideal market position’.

#### *Step 3a: Promoting your organisation to existing suppliers (procurement marketing)*

You may think that existing suppliers are not a priority for marketing activity. But you could be wrong. ‘Procurement marketing’ is the promotion of your organisation in order to develop relationships with suppliers and become a ‘preferred customer’. How can you make your organisation more attractive, so that suppliers want to do business with you?

For this you can use intelligence gathered during market sounding (see page 29), to ensure that any promotion is effective and targeted. You may also need to consult providers at this stage on, for example, the technical requirements or the procurement route.

**To help you do this**, see the Consultation Planning and Consultation Evaluation templates at [www.spkweb.org.uk/Subjects/Capacity-building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity-building/Procurement+guide+templates.htm)

Here are some ways to improve existing supplier relationships:

- Improve communications:
  - develop a communications plan, identify stakeholders, and decide on frequency and method of communication.
- Gain an understanding of each other's needs:
  - host 'meet the buyer' events and focus groups, and undertake supplier surveys.
- Simplify processes:
  - simplify burdensome administrative requirements
  - use standardised procurement processes based on best practice.
- Develop open and transparent processes:
  - publish procurement strategies and processes
  - use web portals to publish information.
- Develop incentives:
  - identify what matters to the provider and, if possible, build it into the contract. Incentives do not have to be financial.

### *Step 3b: Attracting new suppliers (reverse marketing)*

So what about new suppliers? 'Reverse marketing' is where procurers stimulate suppliers to enter the market to encourage more competition for the services they need. This may apply where there is a gap in the market, where the procurer is in a weak position (perhaps with one dominant supplier) or where existing services are poor, with no real prospect of improvement. Obviously, this needs to be done before the start of the competitive tender.

Here are some ways to attract new suppliers:

- Source new suppliers to enter the market:
  - seek expressions of interest, advertise and approach suppliers in neighbouring areas.

- Talk to those procuring similar services in other areas to identify existing suppliers of care and support services or in related sectors, with a good performance record, who have the potential to deliver what you need:
  - organise ‘meet the buyer’ events, to clarify your requirements. A ‘meet the buyer’ event is an opportunity to provide potential providers with key information, such as your procurement strategy and priorities, the kind of services you require and over what period, the procurement process and documentation, and how you plan to communicate with providers
  - organise ‘capacity-building’ activities, such as training in writing tenders, find sources of business development funding and make contact with agencies such as Business Link, your local Chamber of Commerce and ChangeUp.

### *Step 3c: Improving current contracts (affirmative improvement programmes)*

You have just been dealing with communication and marketing to suppliers – both existing and new. Now it is time to look at areas where process or cost improvements can be made. Working closely with suppliers, affirmative improvement programmes are designed to help you, and your supplier, identify these areas, and both sides stand to benefit.

Benefits might include:

- reducing the administrative burden
- developing specifications
- performance monitoring
- setting more challenging performance targets.

## **Step 4: What are your procurement priorities?**

So far, you have gained a high-level overview of the existing market and have carried out activities to improve your position as a procurer. You are now ready to start to identify your procurement priorities and plan your procurement activity.

With such a wide range of services for people who need care and support, delivered by a number of different providers, it is likely that your procurement programme will take some years to complete.

You will need to establish a cyclical programme to take account of the resources needed to manage individual procurement projects. You will also need to organise it so that you avoid an unmanageable number of contracts expiring (and possibly needing to be procured again) at the same time in the future.

Your aim should be to determine procurement priorities in a systematic way so that everyone involved in the programme can be clear about the reasons some services will be procured at an early stage and others left until later. This will also help existing providers understand where any services they currently provide fit in the procurement programme and why.

To get an understanding of the procurement priorities among existing services, you first need to evaluate and then score each service so that you can compare and rank them.

You should also review the requirements for any new services as part of this exercise.

Once you have evaluated and scored each service, you can look for opportunities for grouping (or ‘aggregating’) contracts or opportunities for joint commissioning by considering, for example:

- client group
- type of service
- geographical location.

Considering how you can group contracts according to client group will help you assess the capacity and capability of providers for that specialism and identify options for more effective and economic service delivery.

The following gives an overview of each stage of the prioritising process.

### *Step 4a: What matters most?*

Begin by looking at the factors you think are most important to procuring the services you need. These will be the starting point for prioritising services and might include:

- cost – based on contract value, total spend, unit cost or cost per hour of service
- quality – including inspection results, outcomes and general contract performance

- market assessment – information from supply positioning and supplier preferencing
- suitability for joint commissioning
- potential to integrate services or improve service delivery systems.

### *Step 4b: How to score existing services*

The next step is to establish a scoring system.

You should give each service a score against each factor you have considered important to the procurement programme. Some factors will be more significant than others, so you can weight your scoring system accordingly. In doing so it will be helpful to refer to the business case for the programme.

There is no hard and fast way of doing this. However, if cashable efficiency gains are a priority, you might choose to weight cost as more significant. If you have concerns about the achievement of outcomes, you might weight quality as more significant. Or where you wish to better co-ordinate service delivery, you may give suitability for joint commissioning a heavier weighting.

By including in your scoring the results of the supply positioning and supplier preferencing exercises, you can see how your existing suppliers compare against the ‘what matters most’ factors you ascribe to existing services. This will help you understand whether your existing suppliers have the potential to deliver the improvements you need.

### *Step 4c: Prioritising client groups or specialisms*

Once you have an overall score for each service, you can use this to identify your priorities. It is also worthwhile organising the services into groups. This will help you to see where you could procure several services together to:

- save time and money
- improve delivery by joint commissioning and integrating services
- address concerns about service quality.

By focusing on group patterns and priorities – and balancing these with other factors such as your overall procurement strategy and your assessment of the market – you will be able to make a judgement more easily about how to proceed with your procurement programme.

You should also explore opportunities to collaborate with other organisations that may provide services to people who require care and support both in your local area and elsewhere, such as organisations providing health, welfare or advice services.

## **Step 5: How should you plan your procurement activity?**

The final phase of planning your procurement programme involves using all the information you have gathered in the earlier stages to prepare a market analysis report, set out your procurement strategy and agree a timetable for it. This should enable you to secure the necessary endorsements within your organisation to proceed with a procurement programme for care and support services. In local authorities it is likely to require formal approval from the relevant chief officer and portfolio holder (or similar elected member post).

### *Preparing a market analysis report*

The market analysis report should include your assessment of the market and your procurement priorities.

A typical report might therefore include:

- a list of your current services
- a list of your current service providers
- a list of other providers that could supply the services you need
- your summary of the current provider base (from the supply positioning and supplier preferencing exercises)
- a summary of activities you have undertaken to improve your market position, such as:
  - provider questionnaires
  - capacity-building events
  - feedback from any ‘meet the buyer’ events
- market sounding – can the market as it stands meet your service needs?
- your priority list of services for procurement.

The report’s main functions are to:

- address whether the market is able to meet your business need

- highlight any work you have done to create an 'ideal market position'
- state whether any further development is necessary
- set out priority areas for activity.

### *Setting out your procurement strategy*

As well as the report, you will need to prepare a strategy document. This should outline the approach you plan to take and your strategic aims and the results or outcomes you require when procuring services for people who need care or support. You also need to emphasise the importance of open and transparent processes.

This document should be closely aligned to any corporate procurement strategy your organisation may have, as well as the National Procurement Strategy.

It should be based around a series of objectives and, in the document, you will need to explain how you propose to meet each of these objectives. Here is a suggested list:

**Objective 1** – Implement a consistent framework (both processes and documents) for the procurement of services.

**Objective 2** – Achieve cashable and non-cashable savings through a programme of procurement.

**Objective 3** – Identify joint commissioning opportunities and align systems and processes to facilitate this.

**Objective 4** – Adopt a project management approach to the procurement of services.

**Objective 5** – Aim to develop, expand or create markets, where appropriate, to facilitate more efficient service delivery.

**Objective 6** – Ensure that procurement processes and activities are fair, fully inclusive and promote equality of access.

**Objective 7** – Ensure that procurement processes and activities comply with EU rules and UK public policy.

**Objective 8** – Develop and implement a contract management system that effectively measures performance, delivers continuous improvement and maximises overall ‘value for money’ for services.

Taken together, these objectives will form the basis of a long-term strategy for improvement. Remember that any strategy should be based on knowledge of the local market. This knowledge must therefore be updated continually, to take account of lessons learned from more recent procurements or other engagement with the market.

### *Supporting suppliers*

It is worth noting that the prospect of competitive procurement may unsettle your existing providers. Effective communication about the procurement process is therefore very important, as is being sensitive to – and dealing with – any concerns they may have.

Equally, other suppliers may assume there is a bias towards existing providers. As this could be a disincentive for them to enter the market, you will need to demonstrate that processes are fair, open and transparent. Again, good communication is vital to maintain good relations.

### *Producing a timetable*

You will need to prepare a timetable that sets out all the required procurement activities over a defined period and is linked to your market analysis report. It should take account of procurement priorities, contract end dates, the EU rules that apply and, crucially, the resources needed to deliver the procurement programme.

In some cases the timetable can be as long as three to five years. This may be necessary, for example, where separate services are going to be jointly commissioned and you need to allow for the expiry of existing contracts and the realignment of contract start dates.

The timetable should also include a high-level overview of the benefits you expect to achieve (including quality improvements and cashable efficiency gains) for each of the procurement projects to be undertaken during the course of the programme. This can be updated as the project progresses to reflect contract awards.

Now you are ready to move on to actually running a procurement project. Section 3 explains how to do this.

## Section 3

# Step by step: running a procurement project

Step 1: Getting started

Step 2: Planning a project

Step 3: Assessing the market

Step 4: Producing the specification

Step 5: Planning the evaluation process

Step 6: Sourcing suppliers

Step 7: Invitation to tender

Step 8: Evaluating tenders

Step 9: Awarding the contract

Step 10: Transition arrangements

Step 11: The end of the project

Step 12: Contract management

This part of the procurement pack tells you how to plan and manage individual procurement projects. It provides a step-by-step guide, based on the procurement life cycle (see page 11) developed by the OGC and also draws on mainstream local authority procurement practices.

It is particularly important to invest time in all stages before awarding the contract. This will save costs and the effort needed to rectify problems once the contract has been awarded.

Solid project management is essential. Commitment and a clear understanding of procurement roles and responsibilities will ensure a successful project.

**Find out more** about project management on the OGC website at [www.ogc.gov.uk/programmes\\_\\_\\_projects\\_introduction\\_to\\_projects.asp](http://www.ogc.gov.uk/programmes___projects_introduction_to_projects.asp)

### *Gateway reviews*

Complex and high-value procurement projects should ideally include a gateway review process. The gateway review enables an experienced team, independent of the project, to approve progress at five critical stages.

This review process is in addition to governance by the appointed project board.

**Find out more** about gateway reviews on the OGC website at [www.ogc.gov.uk/what\\_is\\_ogc\\_gateway\\_review.asp](http://www.ogc.gov.uk/what_is_ogc_gateway_review.asp)

## **Step 1: Getting started**

### **(Project start-up)**

Before starting a procurement project, make sure you have the necessary commitment and resources assigned to it. The governance arrangements will be established at this stage and include the project board, which is ultimately accountable for the project's success.

At this stage, you will need to:

- define the scope of the project and ensure that the planned outcomes are in line with the strategic objectives of your organisation
- define the project governance, including the method and frequency of communication with all parties involved
- define the project organisation and ensure that your team has all the skills and experience you need. This will include stakeholder consultation and involvement. You may also need access to specialist skills – such as procurement, human resources and legal services – from time to time
- assess potential risk and create a risk register to help you record and manage risks as appropriate (see page 21).

## *Developing a business case*

The business case explains the need and justification for the project. It should comprise:

- strategic fit – reasons why the project outcome is needed
- option appraisal – the pros and cons of each option, the risks and a cost/benefits analysis, including non-financial, soft benefits
- risk analysis
- commercial aspects
- affordability
- achievability.

**To help you do this**, see the Business Case template at [www.spkweb.org.uk/Subjects/Capacity\\_building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity_building/Procurement+guide+templates.htm) or refer to the OGC website at [www.ogc.gov.uk/introduction\\_to\\_procurement\\_business\\_case.asp](http://www.ogc.gov.uk/introduction_to_procurement_business_case.asp)

## **Step 2: Planning the project** (Procurement strategy)

Now you are ready to plan the activities needed to manage your procurement project effectively. At this stage, create a procurement strategy covering:

- key objectives of the project
- your chosen procurement option
- the procurement route (type of procedure)
- timing and key milestones.

The procurement strategy will involve collaboration between a number of different teams and professional disciplines in your organisation and, potentially, in other public sector organisations. Consultation with existing and potential providers about procurement methods will also help. The ability of the market to respond to the procurement project will be another key factor in the strategy (see page 22 for further guidance on this).

In addition OGC's "Risk Allocation Model" for project strategy and procurement, helps you determine which procurement approach best suits your particular needs. It also emphasises consideration by customer and supplier together of objectives, plans, risk and problem resolution.

**Find out more** about the Risk Allocation Model on the OGC website [http://www.ogc.gov.uk/introduction\\_to\\_procurement\\_risk\\_allocation\\_model.asp](http://www.ogc.gov.uk/introduction_to_procurement_risk_allocation_model.asp)

### *What are your key objectives?*

You should confirm your key objectives in the procurement strategy. These may relate to:

- the need to improve the quality of service delivery
- the need to produce efficiency gains
- the need to achieve value for money.

### *Considering your procurement options*

The choice of procurement option will depend on the nature and objectives of the project. You need to decide whether to maintain an in-house service or to outsource it – the ‘make or buy’ decision.

To help you make this decision, carry out an option appraisal. This will determine the suitability of the service for delivery by providers other than your organisation.

If you decide to buy a service, you will need to explore:

- the extent to which the market has the staff, facilities and other resources available to satisfy your requirements (market capacity)
- the extent to which suppliers have the skills, technology and general ‘know how’ to satisfy your requirements (supplier capability)
- the length of contract that would be attractive to both your organisation and suppliers
- the form of contract
- the level of innovation required
- any risks relating to the purchase of the service
- the application of EU directives (see page 17 for more details)
- Transfer of Undertakings (Protection of Employment) legislation (TUPE) (see Glossary)
- whether the competition will be to source a single supplier or multiple suppliers for the service.

## *Deciding on the right procurement route*

The next step is to establish the appropriate procurement route. You may need to check the availability and suitability of existing contractual arrangements such as framework agreements (see Glossary) and approved provider lists, if any are in place.

There are several procurement routes available. Before making a decision, you should consider:

- appropriateness
- compliance with EU directives
- business benefits
- risks.

**Find out more** about framework agreements on the OGC website at [www.ogc.gov.uk/documents/guide\\_framework\\_agreements.pdf](http://www.ogc.gov.uk/documents/guide_framework_agreements.pdf)

## Procurement routes

### Open procedure

- One-stage process.
- All potential tenderers responding to the advertisement are issued with tender documentation and additional documentation such as pre-qualification questionnaires (PQQs).
- All tenders received are evaluated.

### Restricted procedure

- Two-stage process.
- All potential tenderers responding to the advertisement are issued with a PQQ.
- Completed PQQs are evaluated to establish the tenderer's suitability and capability in relation to commercial and technical requirements.
- A minimum of five suppliers should then be issued with the invitation to tender document.

### Competitive dialogue procedure

- A new procedure, introduced in January 2006.

- Can only be used in particularly complex contracts and only where the open and restricted procedures cannot be used. The use of this procedure should always be considered before attempting the negotiated procedure.
- The public sector organisation will enter into dialogue with tenderers, following an OJEU notice and selection process, to develop one or more suitable solutions to its requirement and for which the tenderers will be invited to tender.
- The minimum number of participants is three.
- This new procedure entails a PQQ phase, dialogue phase, final tender phase and preferred tenderer phase.

### **Negotiated procedure**

- Can be used but is subject to the specific criteria set out in the EU Rules.
- Examples of its use include where the procuring organisation is unable to draw up a sufficiently precise specification and, exceptionally, where the nature of the requirement means that it is not possible for the provider to price the requirement in advance.
- For Part A services, and in strictly defined circumstances such as where for the protection of exclusive rights the contract may only be awarded to a particular person, the EU rules do not require an OJEU Notice to be issued.
- To ensure genuine competition, the minimum number of participants is three for the competitive negotiated procedure.

### **What are PQQs?**

For high-value contracts (value is based on the price to be paid over the whole duration of the contract), a two-stage process is recommended. This will help ensure a manageable evaluation process, especially if a large number of responses are anticipated.

The first stage involves the use of a PQQ, which establishes the initial suitability of a tenderer and helps rule out any tenderer who is unlikely to meet the requirements of the tender. (Note that where the required service falls under Part A of the EU directives, the same information must be included in the OJEU notice and you can only ask questions that are consistent with those set out in the rules.)

Once a tenderer has been approved on the basis of the PQQ, you can then invite them to tender a more detailed submission.

For one-stage procurements, the PQQ and the invitation to tender are sent out together.

See page 53 for more details about PQQs.

### How long should you allow?

The choice of procurement route may affect the timescale of the project. This particularly applies if it falls under Part A of the EU directives (which includes equipment, repairs and handyperson services, cleaning, refuse and taxi services).

**Find out more** about the EU procurement directives at [www.ogc.gov.uk/procurement\\_policy\\_and\\_practice/procurement\\_policy\\_and\\_application\\_of\\_eu\\_rules.asp](http://www.ogc.gov.uk/procurement_policy_and_practice/procurement_policy_and_application_of_eu_rules.asp)

If the procurement falls under Part B (most services relating to health, social care and support), there is no formal time constraint. But you should still allow sufficient time for tenderers to develop their tender and submit their tender application.

Remember, too, to allocate enough time for tender evaluation and for any internal approval required before the award of the contract.

Prepare a detailed procurement timetable featuring key milestones, including all tasks required from the project team and the tenderers, as well as any decisions and approvals.

The following is an example of a timetable for tendering activity if you are working to the restricted procedure under the EU rules. These timescales represent good practice and the timetable can still be used even if the required service is not subject to the EU rules.

Please note that the table does not allow for holiday periods or weekends.

Phase	Start date	Finish date	No. of days	
Despatch of notice/issue of PQQ	1 Jan 07	6 Feb 07	37	Mandatory if OJEU applies
PQQ evaluation	7 Feb 07	21 Feb 07	14	
Issue invitation to tender	22 Feb 07	–	–	
Tendering period	22 Feb 07	3 Apr 07	40	Mandatory if OJEU applies
Tender close date	3 Apr 07	–	–	
Tender evaluation	4 Apr 07	1 May 07	28	
Contract award notice	2 May 07	9 May 07	7	Mandatory if OJEU applies
Contract award	10 May 07	21 May 07	11	

### *What else should you consider?*

It is important to consider – particularly in relation to opportunities for joint commissioning and service integration – any related contracts for care and support services that may need to be terminated or extended in order to synchronise with the start of the proposed new contract.

You also need to think about how to attract new providers and encourage SMEs and Third Sector organisations to tender for the business. For more information about this, see page 15.

**Find out more** about support for SMEs and Third Sector organisations from your local community strategy or the council's own procurement strategy.

The European Commission has issued guidance on contracts that are not covered by the advertising requirements of the EU directives. This includes Part B services and those requirements that are below the threshold. See page 17 for more details.

**Find out more.** The full text of the communication can be found at [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/c\\_179/c\\_17920060801en00020007.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/c_179/c_17920060801en00020007.pdf)

## **Step 3: Assessing the market** (Market assessment)

### *Can the market deliver?*

When planning your procurement project, make sure you establish whether the current market has the capacity and capability to deliver the specific services you need.

This builds on the market assessment you carried out during programme planning. But at this stage you should know more about the requirements, scale and potential value of the contract, as well as the timetable for procurement.

Refer back to the market sounding exercise you completed during the planning stage (see page 29) and revisit the questions to get a clearer picture.

*Will there be enough suppliers?*

When putting a requirement out to tender, you need a healthy, competitive supply market. If this is not the case, you should think of ways to make the service requirement more attractive to providers.

This may involve packaging the service differently:

- as larger lots
- as more integrated or more specialised services
- by encouraging the formation of supply chains to allow a range of providers to pool their capability and capacity to meet your needs.

What other measures could you adopt?

- A proactive approach to the market.
- A well-developed communication plan.
- ‘Meet the buyer’ events, training sessions and dialogue about the requirements.

These all show your commitment to engaging providers and will help generate interest in the procurement project.

## **Step 4: Producing the specification**

### **(Produce requirement)**

The tender specification is your key communication with potential providers, so take time to make it as clear and helpful as possible. It should enable providers to understand exactly what will be required from them and help them to respond appropriately. Their tender will be evaluated against this specification.

*What to include*

Your specification should:

- clearly define the purpose of the service
- be sufficiently detailed to ensure that providers can deliver a tender that meets your requirements
- list possible key performance indicators to be used in the contract

- identify delivery requirements, including eligibility criteria and access to services, networks and links
- specify the service details, including levels of care and support, when the services are to be provided, where the service is to be provided and any key tasks associated with the service
- list the management information required and the frequency that you require the information to be provided
- focus on the 'what' to be delivered, not the 'how'. The onus will be on providers to explain in their tender how they intend to deliver the service
- consider all aspects of the service and highlight potential issues (for example, the availability and rights of use of property, if required, or TUPE).

### *What else should you consider?*

Consult service users and other key stakeholders on their requirements so that these can be included in your specification. The project team developing the specification should include representatives from key stakeholder groups.

You should consider lessons learned from other procurements for similar services, in order to build on successes and improve your management of risks and issues.

You may also want to take the opportunity to develop a collaborative approach to the procurement if other teams in your organisation or other public sector bodies have similar requirements.

As you develop your specification, you should be aware of the potential need to change and improve your own working practices to ensure that requirements are met and benefits delivered.

**To help you do this**, see the Specification template at [www.spkweb.org.uk/Subjects/Capacity\\_building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity_building/Procurement+guide+templates.htm)

Before approving the specification, the project board should be satisfied that the outputs and outcomes are achievable and affordable. They will also need to be sure that the procurement project itself is sufficiently resourced to ensure that it is delivered successfully.

## Step 5: Planning the evaluation process

### (Proposal evaluation)

Your evaluation process must be decided before inviting tenders and explained in the tender documents. This makes the system fair and transparent and helps tenderers understand the basis on which their tenders will be judged.

In the past, public sector organisations could award contracts on price alone. But UK public policy now obliges you to make a decision based on the ‘most economically advantageous tender’ or the optimum combination of whole-life costs and quality.

### *Balancing whole life cost and quality*

#### (Commercial and technical evaluation)

Both the commercial and the technical aspects of the tender must be considered in the evaluation. The relative weighting of the two should be shown as a percentage in the tender documentation, together with the number of marks attributable to each. The balance may be influenced by the level of expertise required of the provider; as an example, the table below shows sample weightings for different types of contract.

Type of contract	Technical weighting (%)	Commercial weighting (%)
Contracts for well-defined goods, works or services where the skills, experience and resources of the contractor are <b>contributory</b> factors (e.g. single service provider contracts for routine supplies and maintenance).	20–40	80–60
Contracts for works and services where the skills, experience and resources of the contractor are <b>significant</b> factors (e.g. construction projects, cleaning and catering services, outsourcing).	40–60	60–40
Contracts where specialist professional and technical expertise are <b>critical</b> (e.g. design, IT, management consultants).	60–80	40–20

Once you have determined the weightings applied to the technical and commercial aspects on this level, these weightings need to be broken down further for each of the elements that fall under these headings.

## Technical evaluation

To help you evaluate the technical elements, you should include a method statement template with your tender. This should list the criteria on which the tenderer will be judged in order of importance, together with a weighting for each. You should also consider the quality standards you require for the service when setting a minimum standard or threshold in the evaluation score.

The method statement may ask for a response to a scenario or pose a series of questions. The response will be evaluated on the tenderer's ability to demonstrate that they can meet the specific requirements of the service.

Tenderers achieving or surpassing the threshold score may also be invited to give a presentation or attend an interview.

## *How the evaluation works*

The evaluation should be carried out by a tender evaluation panel (see Glossary) consisting of at least one technical and one commercial representative.

In this way, when a tender is returned it can be divided into the technical and commercial sections and given to the appropriate tender panel representative.

This ensures maximum fairness and transparency and increases the effectiveness of the evaluation process as the representatives should have the background and knowledge to score the tenders appropriately.

Each member of the panel should record their score for each criterion of each tender. These scores are then transferred to a single tender evaluation form.

If the scores from the panel vary, you can organise a moderation meeting to reconcile them. Otherwise, the panel can record their comments individually and meet to agree a joint decision on the scores. Both processes will ensure consistency and transparency and also provide an audit trail on the overall evaluation process.

The completed tender evaluation form, which should include detailed notes on strengths and weaknesses, will also be used when feedback is given to unsuccessful tenderers.

The specification and evaluation process must be reviewed and signed off by the project board before being issued to tenderers. The review should ensure that the

process is consistent with the business case, the business requirement and the procurement strategy. It will also allow the risk register to be updated.

**To help you do this**, see the Tender Evaluation Criteria template, the Method Statement Evaluation template with sample questions and the Tender Evaluation Scoring template at [www.spkweb.org.uk/Subjects/Capacity\\_building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity_building/Procurement+guide+templates.htm)

## Step 6: Sourcing suppliers

### (Supplier selection)

You are about to enter the tendering process, so now you need the involvement of the providers. To ensure the success of your procurement project you should proactively stimulate the market to participate.

### *Advertising*

The first thing to do is attract the market by inviting expressions of interest from potential providers.

If the procurement project falls under Part A of the EU directives, you must advertise through the OJEU by issuing an OJEU notice.

**Find out more** about the standard form for the mandatory Part A OJEU contract advertisement at <http://simap.eu.int>

But even when the required service is under the financial threshold or when it falls under Part B, there is still a legal obligation to ensure that the degree of advertising permits a genuine competition to take place.

For other advertisements, you should include:

- the business need
- the scope of the requirement
- where further information can be obtained
- a closing date for return of expressions of interest
- a point of contact.

**To help you do this**, see the Advertisement (Non-OJEU) template at [www.spkweb.org.uk/Subjects/Capacity\\_building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity_building/Procurement+guide+templates.htm)

Once the advertisement has been placed, the providers that have formally expressed an interest should be issued with a PQQ if it is a two-stage procurement process or a PQQ and the tender documentation together if it is a one-stage procurement process. References may also be requested.

**To help you do this**, see the PQQ and Reference Request templates at [www.spkweb.org.uk/Subjects/Capacity\\_building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity_building/Procurement+guide+templates.htm)

Tender documentation (PQQs and the 'invitation to tender' documentation) can be made available on your website or procurement portal for interested parties to download, complete and submit online. Hard-copy documentation should also be available on request.

Failure to return expressions of interest and tender documentation by the closing date and time may make them invalid and you will need to notify late tenderers of this.

**To help you do this**, see the Late Submission Letter template at [www.spkweb.org.uk/Subjects/Capacity\\_building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity_building/Procurement+guide+templates.htm)

### Other sources of supply

It is not enough to advertise and then expect providers to come to you. They might have missed the advertisement or don't know anything about your procurement portal. Trying the following sources of supply will increase your opportunities to encourage competition:

- current suppliers – start off with your current suppliers, making sure they know you are about to begin the tendering process and providing them with details of how to participate
- other public sector organisations – contact other organisations with similar requirements and ask them to give you details of suitable providers
- health/social care/housing publications – research various publications to find new suppliers
- the internet
- Yellow Pages.

## Evaluating PQQs

If you have decided to run a two-stage process, you will need to consider how the PQQs you have just issued will be evaluated.

The PQQ is used to evaluate the initial suitability of the provider and will include information about:

- organisation name and status, contact details, and history of bankruptcy, criminal conviction or failure to pay taxes
- economic and financial standing
- technical capacity and track record
- other areas, such as health and safety, equal opportunities, environmental considerations, experience of workforce transfer and quality management.

The questions used in the PQQ must be appropriate to the procurement and also comply with your organisation's minimum requirements for entering into a contract.

The PQQs are evaluated against an evaluation matrix. This should mirror the process used to evaluate the method statement (see page 50) to ensure a consistent and transparent procedure. This process will help you provide feedback to unsuccessful tenderers more easily.

If the procurement falls under Part A of the EU directives, the number of providers to be shortlisted is determined by the procurement route (see page 43). Where the procurement falls under Part B, a threshold may be introduced to ensure that only the more capable providers are invited to tender while ensuring that obligations to achieve best value are met.

Sometimes contract procedure rules or standing orders also specify the minimum number of providers that must be invited to tender. It is very important to set the threshold at the right level, to avoid too few or too many tenderers.

If, following the evaluation of PQQs, the number of tenderers is lower than the minimum recommended, you may need to review your requirements to ensure that genuine competition and value for money can be secured.

After the panel has evaluated the PQQs, the project board should be asked to approve the panel's decisions. Tenderers can then be informed and feedback can be given to unsuccessful tenderers following a written request.

**To help you do this**, see the PQQ Evaluation Worksheet at [www.spkweb.org.uk/Subjects/Capacity\\_building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity_building/Procurement+guide+templates.htm)

## Step 7: Invitation to tender

This stage is called 'invitation to tender' under the restricted or open procedures, 'invitation to negotiate' under the negotiated procedure, or 'invitation to participate in the dialogue' in the competitive dialogue procedure. See 'Procurement routes' on page 43 for more details.

For the purposes of this guide we will follow the invitation to tender procedure, which is most commonly used for care and support services.

### *What to include in the tender documentation*

The 'invitation to tender' documentation should be divided into the following sections:

#### **Section 1 – Definitions**

This section sets out the terminology to be used for the rest of the documentation. It should be strictly adhered to in order to provide consistency and clarity to the reader.

Defined terms should start with a capital letter to help tenderers identify them throughout the document so that they can refer back to the definitions section if they are unsure of their meaning.

#### **Section 2 – Introduction**

This section should be used to provide background and high level information on the services that are being tendered.

#### **Section 3 – Instructions to tenderers**

This section should provide information to tenderers on how and when they should present their tender. It should include details of how queries should be dealt with, how the tenders will be evaluated and general information on what tenderers must or must not do whilst participating in the tender process.

Please note that if a tenderer has a question or query regarding the tender they should submit these formally to the Contract Officer for the tender. The Contract Officer then adds the question and the correct answer to a circular advice notice, which is then issued to all tenderers. This ensures that all tenderers have the same level of information and that no individual tenderer is given an unfair advantage.

**To help you do this**, see the ITT Circular Advice Notice template at [www.spkweb.org.uk/Subjects/Capacity\\_building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity_building/Procurement+guide+templates.htm)

## Section 4 – Terms and conditions

This section sets out the conditions by which the tender process is being conducted.

## Section 5 – Specification

In this section you should enter your specification for the service which is being tendered.

## Section 6 – Schedules

So far you have provided the tenderer with information about the tender. However, from this point on, the documentation consists of schedules that the tenderers need to submit as part of their tender. In some cases all they have to do is sign the schedule but for others they have to produce responses to the questions asked of them.

It is a good idea at this point to include a tender submission checklist to remind the tenderers of the schedules that they need to return to you.

### *Schedule 1 – Draft contract*

In this schedule you should include a copy of the draft contract. There should also be a signature page where the tenderers can sign to say they accept the terms and conditions contained within the contract. It is very important that this is included as you do not want to select a tenderer only to find out subsequently that they do not accept your terms and conditions.

If tenderers do not accept the terms and conditions or accept them but would like some changes they should record this in Schedule 9 – General qualifications.

You should seek specific legal advice about the terms and conditions of the contract to be used by your organisation.

**To help you do this**, download the model contract for local authority services at [www.ogc.gov.uk/tools\\_services\\_model\\_contract\\_4660.asp](http://www.ogc.gov.uk/tools_services_model_contract_4660.asp)

***Schedule 2 – Form of tender***

The tenderer signs this document to confirm that they are submitting a bona fide tender and that they have not been influenced by any other person in the production of the tender.

***Schedule 3 – Contract for the declaration of direct or indirect interest***

This schedule asks the tenderer to certify that no person or persons who is a councillor or board member has any indirect or direct interest with the tenderer.

***Schedule 4 – Contract as to the certificate of canvassing***

This schedule asks the tenderer to certify that they have not canvassed to any member of your organisation in the preparation, submission and evaluation of the tender.

***Schedule 5 – Certificate of confidentiality***

This schedule asks the tenderer to agree to keep all matters relating to the tender confidential.

***Schedule 6 – Declaration***

This schedule requires the tenderer to confirm that the tender will be open for a period of six months and that until a formal agreement is prepared and executed the tender shall constitute a binding agreement.

***Schedule 7 – Certificate of compliance – Insurance***

This schedule requires the tenderer to confirm that they have the appropriate level of insurance required to perform the service.

***Schedule 8 – Pricing schedule***

In this schedule, the tenderer will enter their pricing information. You should specify how you want this information provided to ensure clarity during the evaluation process. In most cases you can do this using a simple table.

***Schedule 9 – General qualifications***

The tenderer is required to declare any qualifications that apply to their tender. A qualification is the 'but' factor. For example, a tenderer may sign up to your terms and conditions but they cannot accept termination within three months. In this case they would qualify their tender by inserting into this schedule the termination time that they would be willing to accept.

***Schedule 10 – Proposed contracts***

The tenderer should identify in this schedule the names of any prospective partners or subcontractors that they may use in the execution of the contract.

***Schedule 11 – Method statements***

This schedule should include a list of items that you would like the tenderer to respond to. You need to think about how the tenderer can demonstrate how they can perform the service and to what level.

You should include as many method statements as you feel are appropriate. Keep in mind that this section of the tender will determine the quality of the service you receive. You should also give consideration to how you will differentiate and score the responses that you receive.

The method statement should also address the arrangements for any transfer of the service from a current to a new provider. You can do this by asking for a transition plan covering the period from award of contract to the commencement of the contract.

**To help you do this**, refer to the sample questions in the Method Statement Evaluation template at [www.spkweb.org.uk/Subjects/Capacity\\_building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity_building/Procurement+guide+templates.htm)

***Schedule 12 – Innovative tender***

This schedule allows the tenderer to insert any innovative proposals they would like to be considered. These could be commercial or technical proposals, but in essence they should be any idea that would encourage time or cost savings or improvements in the quality of service.

***Schedule 13 – Commercial response***

This should include any commercial questions relevant to the tender, for example:

- Please confirm that you can provide the following information on a monthly basis: [you should list the management information you require here]
- Please confirm who your Contract Manager will be if you are the successful tenderer
- In order to achieve continuous improvement, the successful tenderer will need to measure the success on contract performance. How do you demonstrate success?

Once the tenders have been submitted, Schedule 11 – the method statement – is given to the tender evaluation panel's technical representative for evaluation. All the other schedules are evaluated by the commercial representative.

All tender documentation must be signed off by the project board before it is issued to the short-listed tenderers.

**To help you do this**, see the Example ITT documentation at [www.spkweb.org.uk/Subjects/Capacity\\_building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity_building/Procurement+guide+templates.htm)

## Step 8: Evaluating tenders

### (Bid evaluation)

#### *Who needs to be involved?*

All tenders received should follow the opening process set out in your organisation's contract procedure rules or standing orders. This may involve staff from the corporate procurement unit or a person otherwise independent of the project team.

Many public sector organisations have a dedicated person for opening tenders. It is important to involve someone who is independent of the evaluation process. This ensures transparency and avoids any fraud or corruption during this stage of the procurement process.

#### *What is the methodology?*

Tender evaluation should follow the methodology set out in 'Planning the evaluation process' (see page 49). It will consider the degree to which the tenders meet the specification for service delivery, staffing and management arrangements and communication – especially in relation to providing reports and performance management information.

The evaluation should also address how the relationship with the provider and the risks in relation to delivering the service will be managed over the life of the contract. As well as evaluating tenders for meeting the quality and performance requirements in the specification, you should also consider the commitment to quality improvement over the life of the contract.

#### *What are the financial considerations?*

When you are evaluating the financial element of the tender, it is important to establish whether the price and other cost which will be incurred over the life of the contract are realistic for delivering the service. Have all relevant costs been included?

For procurement that may involve voluntary or community sector organisations, you should avoid seeking information about management fees and overheads.

You should also consider whether key objectives relating to potential efficiency gains and cost reduction have been achieved. This particularly applies where improvements in service delivery are expected or where, as in the case of framework contracts, the volume of services may increase significantly.

If two providers have equal scores following evaluation, you may consider the potential benefits of any 'added value' elements in the tenders. The value of these benefits should be agreed by the panel and recorded on the evaluation form.

The evaluation must be based solely on the information provided with the tender. This ensures that no tenderer is given an unfair advantage. This may be particularly important in the case of existing or 'in-house' tenders, where established relationships could disadvantage potential new providers.

At the end of the evaluation process, both financial and non-financial elements of each tender are combined to form an overall score. The award recommendation will be based on the highest-scoring tender.

The award recommendation should then be referred to the project board for approval and, if appropriate, for a gateway review (see page 40) before making the award.

### *When can you negotiate?*

As part of the evaluation, you may need to contact providers to clarify aspects of their tenders. This is accepted in all procurement procedures as a way to avoid misunderstandings.

However, more detailed negotiation is only allowed when the competitive dialogue or negotiated procedures are followed (see page 43). In this case, the areas for negotiation should be listed in the tender documents and the principles of non-discrimination, equal treatment and transparency should be followed. The Competitive Dialogue procedure allows for discussion in a structured way as outlined in the UK Regulations.

For contracts that may involve TUPE, you will need to consider pension rights. Following the negotiated procedure may help resolve these issues.

If you are likely to be involved in negotiation, you should prepare a detailed plan as it can be a time-consuming and intensive activity. The plan will make sure that

the procurement stays on track and will allow you time to source any specialist help you may need – for example, in the case of TUPE, actuarial advice on pension rights. The remit of the negotiating team in relation to decisions on risk and value for money needs to be clarified and documented. The plan should then be approved by the project board.

## Step 9: Awarding the contract (Award)

### *Informing the chosen supplier*

Once the award recommendation has been approved by the project board, the contract is formally offered to the successful tenderer.

**To help you do this**, see the Award Letter and Unsuccessful Tender Letter and Feedback Sheet templates at [www.spkweb.org.uk/Subjects/Capacity\\_building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity_building/Procurement+guide+templates.htm)

This procedure may vary. For example, contracts below the EU threshold or your organisation's scheme of delegation may be awarded without the involvement of the corporate procurement unit.

All high-value contracts should be executed via the legal team, who will need the following information:

- a copy of the recommended tender
- any correspondence with the tenderer
- amendment letters
- supplementary agreements
- copies of all relevant approvals
- details of unsuccessful tenderers, plans for informing them and arrangements for feedback.

### *What is the 'standstill period'?*

For the procurement of services that fall under Part A of the EU directives, all those who expressed an interest must be informed of the evaluation panel's decision before the contract is awarded. This is to allow those who are unsuccessful to seek further information about the award decision before it is entered into.

This process is called the ‘Alcatel standstill period’. Where the standstill rules apply, there must be a minimum of 10 calendar days between dispatch of the award notification and execution of the contract. Remember to include this period in the timetable for the procurement process.

Further advice on what the standstill period entails should be obtained from procurement professionals.

Regardless of whether the procurement falls under Part A or B of the EU directives, you need to issue an award notice in the OJEU within 48 days of the award of contract.

**To help you do this**, see the Contract Award Notice on the EU SIMAP website: [http://simap.eu.int/Forms%20in%20pdf/081ccd6a-f5fa-c676-7cb64850cd7b3371\\_en.html](http://simap.eu.int/Forms%20in%20pdf/081ccd6a-f5fa-c676-7cb64850cd7b3371_en.html)

### *Giving feedback to unsuccessful tenderers*

Unsuccessful tenderers should be given the opportunity to request feedback. Where the standstill period applies, this is a legal requirement, but in any case it is beneficial to both parties. For the project team, it is an opportunity to get the tenderer’s comments on the procurement process. It also demonstrates a commitment to openness, fairness and transparency. It will help the unsuccessful tenderer establish the strengths and weaknesses of their tender, allowing them to address these issues for future tenders.

### *Planning the contract management process*

After the award, you should start the contract management process. This will include the management of the service, management of the relationship between you and the provider and contract administration. This process should be in place on both sides. Ideally, those involved in the procurement should form part of the contract management team.

## **Step 10: Transition arrangements** (Implementation/transition)

The management of the transition period should be undertaken in line with the transition plan developed as part of the method statement and agreed with the tenderer. Monitoring progress against the transition plan will help identify any signs

of slippage or emerging issues at an early stage and allow them to be dealt with in a timely manner.

This is an ideal opportunity to enable the transfer of knowledge between the incumbent provider and the new provider and to ensure that staff involved in service delivery are fully prepared. This is particularly important where there is a transfer of staff under TUPE, as both staff and management from the two providers will need to develop an understanding of each other's working practices and may need to adopt new ways of working to avoid disruption to the service.

The transition plan will include areas such as personnel and management, communication, equipment and property interests. It should be in the form of an ongoing progress report, listing details of tasks and when they are completed. These might relate to current providers, staff and management, policy and procedure, clients, communication, equipment, health and safety, and trade unions if applicable.

**To help you do this**, see the Transition Plan template at [www.spkweb.org.uk/Subjects/Capacity\\_building/Procurement+guide+templates.htm](http://www.spkweb.org.uk/Subjects/Capacity_building/Procurement+guide+templates.htm)

## Step 11: The end of the project

### (Project closure)

The project team will need to evaluate how well the project performed against the original schedule, estimated cost and business case. It is important to capture and share all lessons learned so they can be applied to future projects.

Any unresolved issues should be recorded for future action by the contract management team.

## Step 12: Contract management

Contract management is the process that ensures both parties meet their respective obligations as effectively and efficiently as possible. This means they can deliver the contract's business and operational objectives and also provide value for money.

The following table outlines a range of measures that could be used to perform effective contract management. However, this table should be used for guidance purposes only as it is not possible to cover every possible scenario and assess all risks involved. The basic principles applied to this table are that the appropriate level of contract management will be determined by the risk and spend associated with the contract. Obviously, high-spend, high-risk contracts will demand a greater level of contract management than a low-spend, low-risk contract.

### *Key to table*

OM = Operational meeting

ER = Executive review

KPI = Key performance indicators

CIP = Continuous improvement plan

### *Spend levels*

Low = <£100K

Medium = >£100K and <£500K

High = >£500K

		Spend		
		Low	Medium	High
Risk	High	OM = Monthly KPIs  <i>Standard</i>	OM = Monthly KPIs CIP  <i>Standard</i>	OM = Monthly ER = Quarterly KPIs CIP Benchmarking Provider Development <i>Standard</i>
	Medium	OM = Quarterly KPIs linked to the risks  <i>Standard</i>	OM = Quarterly KPIs linked to risks Benchmarking  <i>Standard</i>	OM = Monthly ER = Annually KPIs CIP Benchmarking <i>Standard</i>
	Low	OM = Yearly  <i>Standard</i>	OM = 6 monthly KPIs Benchmarking  <i>Standard</i>	OM = Quarterly KPIs Benchmarking  <i>Standard</i>

## Standard

The following list identifies the actions that need to be performed for all contracts:

Price updates

Renewals – contract extensions

Close-outs – at the end of the contract a close-out procedure should be followed to ensure that there are no loose ends.

Terms and conditions updates – as legislation changes or as internal policies and procedures are updated

Variations – as and when required

The contract manager shall determine the frequency of the above.

## Operational meeting

The representative of your organisation and the provider's representative convene to discuss current stock holdings, performance, KPIs, future requirements, invoice queries and progress on improvement plans.

## Executive review

Senior management of both your organisation and the provider convene to discuss and agree future key objectives, review any savings that have been achieved and review the results of the benchmarking exercise.

## KPIs

To establish the KPIs for the contract consider what you are aiming to achieve from the service and how this can be demonstrated. Also consider the risks related to the provision of the services; it may be possible to mitigate these risks by placing emphasis on specific areas that could be monitored by the use of key performance indicators.

For each KPI a target has to be set for the provider. Progress should be monitored on performance against the set KPIs at the operational meetings.

KPIs are not intended to be used as proof that a provider is failing; they are intended to be used as an indicator of a provider's performance. If a provider has not met their targets, talk to them and find out why. There could be a perfectly good reason or they might need help and support. To address poor performance, encourage dialogue with providers and work with them to produce improvement plans.

## Continuous improvement plans

Continuous improvement plans should be produced with the assistance of the provider and should be treated as a tool to improve the performance of both your organisation and the provider. If this approach is taken efficiency savings will be realised for both parties in terms of time and money.

Continuous improvement plans should be used in conjunction with the KPIs set for the contract so that targets can be met and subsequently improved upon.

## Benchmarking

The frequency of benchmarking exercises needs to be assessed against the anticipated spend levels of the contract and determined by the contract manager.

## *When can you extend or renew a contract?*

A decision to extend a contract can be taken only if explicit provision was made to do this during the procurement process and formally recorded on the award of the contract.

For example, the contract may be awarded for a period of three years, with an option to extend it for a further two years. A contract review should then be scheduled in the third year, to determine whether a contract extension can be given.

If an extension is agreed, and assuming that the service is still required and the funding available, a new procurement process will not be undertaken until the fifth year of the contract.

### *How to review a contract*

To assess a provider's overall performance against the contract, you will need to consider:

- whether the quality of service delivery is satisfactory
- whether the quality of service delivery has improved as expected
- overall performance against performance indicators
- relationships – whether the provider is co-operative and proactive
- service user satisfaction
- cost of service – whether the expected savings have been realised
- whether the service still represents value for money, particularly in relation to services procured more recently.

These factors will help you decide whether to extend the contract or undertake a new procurement process. The contract review needs to take place in time to allow a full procurement process – including contract award and transition arrangements – before the current contract expires.

## Appendix A: Find out more

### **General guidance on procurement programmes and projects:**

Office of Government Commerce [www.ogc.gov.uk](http://www.ogc.gov.uk)

Introduction to procurement

[www.ogc.gov.uk/introduction\\_to\\_procurement.asp](http://www.ogc.gov.uk/introduction_to_procurement.asp)

Managing Successful Programmes (MSP)

[www.ogc.gov.uk/delivery\\_lifecycle\\_overview\\_of\\_managing\\_successful\\_programmes\\_msp\\_.asp](http://www.ogc.gov.uk/delivery_lifecycle_overview_of_managing_successful_programmes_msp_.asp)

Gateway Reviews (Successful Delivery Toolkit) [www.ogc.gov.uk/sdtoolkit](http://www.ogc.gov.uk/sdtoolkit)

### **Framework for joint planning and commissioning:**

[www.everychildmatters.gov.uk/planningandcommissioning](http://www.everychildmatters.gov.uk/planningandcommissioning)

### **Local authority improvement and efficiency:**

ADSS [www.adss.org.uk](http://www.adss.org.uk)

IDeA Knowledge [www.idea.gov.uk/idk/core/page.do?pagelId=1](http://www.idea.gov.uk/idk/core/page.do?pagelId=1)

Regional Centres of Excellence [www.rce.gov.uk/rce/core/page.do?pagelId=1](http://www.rce.gov.uk/rce/core/page.do?pagelId=1)

### **Social care improvement:**

Care Services Improvement Partnership [www.csip.org.uk](http://www.csip.org.uk)

### **Training:**

Chartered Institute of Purchasing and Support [www.cips.org/](http://www.cips.org/)

Improvement and Development Agency [www.idea.gov.uk](http://www.idea.gov.uk)

### **Voluntary Sector Compact:**

[www.thecompact.org.uk](http://www.thecompact.org.uk)

## Appendix B: Glossary

### Alcatel standstill period

The period of at least 10 days following a contract award decision during which unsuccessful tenderers can challenge that decision.

### Affirmative improvement programmes

A means of working with current and prospective providers to identify where process or cost improvements can be made.

### Commissioning

The process of specifying, securing and monitoring services to meet people's needs at a strategic level.

### Commissioning body

A commissioning body (a partnership of local statutory services: housing, social care, health and probation) plays a key role in advising and approving a Supporting People strategy.

### EU procurement directives

The European Union (EU) procurement directives, and the regulations that implement them in the UK, the Public Contract Regulations 2006 set out the law on public sector procurement. Their purpose is to open up the public procurement market and to ensure the free movement of goods and services within the EU.

### EU procurement rules

These consist of the EU treaty principles, EU procurement directives and relevant case law from the European Court of Justice (ECJ).

## EU treaty principles

The fundamental principles of the EU treaty apply to all public sector contracts, including contracts for Part B services and below-threshold contracts. It places particular importance on the principle, derived from ECJ case law, that the obligation of transparency means that a contracting authority must ensure a degree of advertising – based on the individual circumstances of the case – sufficient to allow the services market to be opened up to competition and the impartiality of procedures to be reviewed.

## Expressions of interest

An expression of interest is a response to an OJEU Notice or any other advertisement.

## Framework agreement

Under the EU procurement directive, a ‘framework agreement’ is a formal agreement with providers which sets out the terms and conditions under which specific purchases (call-offs) may be made throughout the period of the agreement. There will be no commitment on either the purchaser to buy or the supplier to sell. Where a framework agreement has been advertised in OJEU there is no requirement for specific call-offs under that agreement also to be advertised in OJEU. Frameworks can be set in place for use by one or a number of authorities.

## Gateway review

A review conducted by an experienced and independent team, at several key stages of a procurement programme or project.

## Invitation to negotiate (ITN)

The point at which suppliers are issued with the documentation under a ‘negotiated procedure’.

## Invitation to tender (ITT)

The point at which suppliers are issued with tender documentation under an ‘open’ or ‘restricted procedure’.

### Joint commissioning

Commissioners from different specialisms in the same organisation (or the same or different specialisms in different commissioning organisations) working to design a unified system for care and support in the local area. The aim is to create a clear picture of the care and support needs of the local population, to work together to make the best use of resources, and to join up services so that they deliver better outcomes than they would on their own.

### Local strategic partnership (LSP)

LSPs are intended to be cross-agency, umbrella partnerships that include all sectors of society, including the public, private, and community and voluntary sectors. The LSP remit is aimed at working together to improve the quality of life in a particular locality. The Government sees them as the main mechanism for the co-ordination of delivery of better local services.

### Market analysis report

A report combining assessment of the market and procurement priorities.

### Market management matrix

Using a combination of supply positioning and supplier preferencing data, this helps to analyse strengths and weaknesses in existing contractual relationships.

### Market sounding

The process of assessing the reaction and suitability of the market to a proposed requirement for services.

### Office of Government Commerce (OGC)

An independent office of the Treasury that works with public sector organisations to gain the best value for money from procurement.

### OJEU

The Official Journal of the European Union, where Part A procurements must be advertised.

## Part A and Part B procurements

The UK regulations relating to contracts for services. These regulations have two levels of application: a full regime for priority services designated as Part A services and a lighter regime for other services designated as Part B services. Some services such as those relating to health and social services, education, recreational and cultural activities are Part B services, subject to the lighter regime.

## Pre-qualification questionnaire (PQQ)

A questionnaire used to determine the broad suitability of providers in relation to financial and technical capability and their fitness as a supplier. An important part of pre-qualification is to remove providers who have weaknesses in these areas that would make them unlikely to be able to fulfil your requirements and to treat as ineligible providers who have been convicted of offences relating to bribery, corruption or tax evasion.

## Procurement

Within the context of a broader commissioning plan, procurement is the whole process of purchasing goods and services from third party suppliers under legally binding contractual terms. This process spans the whole life cycle from initial concept and definition of business needs through to the end of the useful life of an asset or end of a services contract.

## Programmes and projects

It is useful to differentiate between a programme and a project rather than use the terms interchangeably. A common approach is to relate outcomes to programmes and outputs to projects. Outputs should be delivered within time, cost and quality constraints – the project remit. Outcomes are the effects of change resulting from implementing the outputs. To achieve the outcomes, active and co-ordinated management of the change process is needed. The change process will often include transforming behaviour, attitudes and ways of working – a key part of the programme remit.

## Programme management

Programme management is a vital component in the delivery of change, whether change to public or customer services or change within organisations, thinking through the end-to-end process to translate policy into delivery plans and into desired outcomes.

### **Procurement marketing**

The promotion of your organisation in order to develop relationships with suppliers and become a 'preferred customer'.

### **Project management**

A good project management method will guide the project through a controlled, well-managed, visible set of activities to achieve the desired results. All parties must be clear about why the project is needed, what it intends to achieve and what individuals' responsibilities are in that achievement.

### **Project board**

The board ultimately responsible for the success of a procurement project. They will need to approve decisions at the key stages of the project. The purpose is for the project manager to highlight progress to date, raise issues requiring management attention, and present forward plans for the project board to approve.

### **Project portfolio**

A list of all the projects and activities that, taken together, will achieve the aims of a procurement programme.

### **Reverse marketing**

The process of stimulating suppliers to enter the market to encourage more competition.

### **Senior responsible owner (SRO)**

The person ultimately accountable for the success of a procurement programme.

### **Supplier preferencing**

A way of evaluating existing contracts from the provider's point of view. This involves plotting the value of your business to them against their assessment of the attractiveness of the contractual relationship.

### **Supply positioning**

A way of evaluating existing contracts by plotting the risks associated with procuring the service against its relative value in your programme.

### Tender evaluation panel

The panel has responsibility for separately evaluating the commercial and technical elements of a tender and making recommendations to the project board.

### TUPE

Transfer of Undertakings (Protection of Employment) regulations are an important plank of employment law in Britain and, under different names, in other EU countries. Introduced in 1981, they aim to ensure that an employee whose organisation is taken over has his or her existing conditions respected by his or her new employer, including hours of work, pay, pension entitlement and so on. This is a complex area of law which may require professional (legal and human resources) advice.

### Voluntary sector compact

The agreement between the Government and the voluntary and community sector in England to improve their relationship for mutual advantage.

### Vulnerability management

The identification and management of risks that could interrupt the supply of services you have procured.

### Value for money

Value for money is not the lowest price – it is defined as the optimum combination of whole life cost and quality to meet the user's requirement.









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