



Department
for Education

Procurement essentials

Departmental advice for free schools

March 2014

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Summary

About this departmental advice

This is departmental advice from the Department for Education. This advice is non-statutory, and has been produced to help recipients understand their obligations and duties in relation to public sector procurement.

Expiry or review date

This advice will next be reviewed before April 2015.

Who is this advice for?

This advice is for school leaders, school business managers, bursars, back office staff and governing bodies in all schools.

Key points

All schools must carry out procurement as part of their daily activities. Procurement is the term used to describe the whole process of buying anything. This includes the first step of identifying what it is that you need, finding out what different suppliers can offer you, and then choosing, purchasing and using your goods or managing your services, right through to disposing of the used goods, or the end of the contract

Why you need to know about procurement

Free schools, like academies and maintained schools, rely on public funding to carry out their work and meet their objectives. All schools have to understand and follow basic procurement rules whenever they spend that money. These rules aim to ensure that taxpayers' money is used in ways that are demonstrably open, fair, and good value.

Understanding and following these rules and guidance will protect you from being criticised for wasting public money or using it inappropriately. It will give all suppliers an equal opportunity to seek your business and make competitive offers, and ensure that your spending choices and decisions are transparent and defensible.

Poor procurement skills impact on your school's ability to meet its objectives – bad spending decisions mean that your total budget simply won't go as far as it can and should. But they can also result in legal challenges, cancellation of contracts, financial penalties and damages, and loss of reputation. Suppliers who compete unsuccessfully for your business can be especially keen to challenge the legality of your procurement process.

If you're new to public sector procurement, some of the rules and procedures can seem complex and time-consuming. But good procurement is simply a mix of common sense, planning upfront, and knowing and following the basic UK and EU legal requirements governing all public sector spending. It is considered essential to complete the public sector procurement elearning on [BuyWays](#). You will soon become familiar with the basic steps for any procurement.

This publication and other tools produced by the Department for Education, will help you to manage your school's range of procurement processes, securing best-value outcomes and reducing the risk of later complications, costly mistakes or legal challenges.

Before you start – key principles

Procurement is something we all do

Everyone makes use of good procurement skills in their daily lives. You use them in the decisions you make every day when spending your own money – looking for supermarket bargains, checking the references of a home decorator, or working out whether you can afford a new car, and finding the best one to fit your budget.

From basic everyday purchases to the most complicated and costly one-off decisions - the key elements of good procurement are:

- planning - taking the time up-front to get the information you need to make a good, informed decision
- information – knowing and understanding the basics – such as the legal requirements you must follow for any high-value spending

- common sense - using your judgment: for example, allocating more time to one-off high-value purchases, recognising when you may need to seek further help and advice, or having the confidence and experience to make your own decisions.

The value of your time

Procurement can range from the everyday, low-value purchases such as classroom supplies and cleaning products, right up to the highest-value, one-off purchases – a major refurbishment project, say, or letting a three-year contract for catering services.

With limitless free time, it might be possible to subject every procurement process to the same level of scrutiny. In practice, though, you'll need to take a common-sense approach. The more public money you're spending, the tighter the controls you need to apply.

Categories of procurement

Public procurement regulations cover three categories of spend:

Goods – the term for actual products being purchased,

- such as
- stationery
- equipment (e.g., IT, catering, furniture)
- vehicles

Works – this refers to any building work, including new buildings, extensions, refurbishments or repairs.

Services – the skills and expertise provided by individuals or

- companies. Examples include:
- IT installation and maintenance
- catering services
- grounds maintenance.

Procurement and the law

All public sector procurement - including schools - must comply with the European Procurement Directive, which has been fully ratified into UK law. These Regulations are legally binding on anyone responsible for spending public funds, to safeguard the fair competition principles set out below.

So failing to comply can have serious consequences. For example, suppliers can challenge your spending decisions and contracts if you fail to follow these legal requirements – this will give them grounds to claim they may have been treated unfairly by you. Legal challenges are costly and time-consuming to deal with. But they can also damage your school's reputation for integrity and professionalism. UK procurement law protects five key principles:

- equality - all suppliers bidding for public sector contracts must be treated equally.
- non-discrimination - do not discriminate directly or indirectly against suppliers from another European Union state, or their workers. Don't impose contract requirements that a supplier from elsewhere in the European Union could not meet.
- transparency – all procurement of a sufficiently high value must be advertised, to make it possible for suppliers from across the EU to find out about the work and, potentially, bid for it.
- mutual recognition - all European countries must recognise professional qualifications, technical standards and similar accreditation issued by other Member States.
- proportionality - the means should be proportional to the ends. For example, don't make bidders fill in a 30-page form if only one or two pages of that information are genuinely relevant to the bid.

Procurement thresholds

The principle of proportionality also applies to your own procurement activities. To help decide what steps are appropriate for different values of spending, schools (and other public bodies) need to set and use procurement thresholds – financial limits, with the required procurement protocols set out and agreed for each item of expenditure below or above each threshold.

Maintained schools must follow the thresholds set by their relevant Local Authority: these vary considerably between the different LAs around the country. Your school will need to decide and set its own thresholds for procurement spend, which will depend on the size of your school, your annual budget, and your established patterns of expenditure over time.

You may find it helpful to check what the thresholds are for other schools in your area, but see [Buying for schools purchases checklists](#) for typical values. Remember - this is for the whole cost of each procurement project.

Propriety

It is essential that you take care to ensure propriety in all financial business relating to your school. This is necessary to protect the integrity of those involved in spending public money, and minimise the opportunities for errors or impropriety.

One key aspect of this is to avoid any conflicts of interest: there must be no personal or professional relationships between those who have responsibility for spending the school's budget, and the suppliers and potential suppliers of goods and services to the school.

You must also enable a clear separation of duties within the school's procurement and payment processes. The critical element is to ensure that the same person is not responsible for taking the decision to buy something and for authorising / making payments for that purchase.

Ideally, depending on the number of admin staff in your school, a separate member of staff should be responsible for each of the four stages below:

- the authority to make spending decisions
- the authority to approve spending decisions
- certifying the invoice (checking to confirm the invoice details are accurate); and
- authorising payments

Data security

Be aware that data security and confidentiality are going to be key considerations for you when dealing with your suppliers. In particular, where you are letting contracts with suppliers to provide services, it is likely that those suppliers will need access to personal data – yours, and those of your teachers or your pupils.

The Data Protection Act in [Buying for schools: exemplar forms, templates and glossary](#) should be included in all your contracts where information is processed on individuals in any way either electronically or on paper.

The procurement cycle

Procurement is a cyclical process. See [Effective buying for your school](#) to clearly see how all procurement starts and ends the same way – starting with the initial process where you assess your needs and the budget you have available, and ending with receipt, use and eventual disposal of the goods and services you've paid for. Between those two points, the steps you'll need to take will vary, depending on the amount of money you're planning to spend and the relative importance of the procurement you're making (i.e., how relevant this specific purchase is to your school's ability to function). Basically, the more you're spending, the more care you will need to take to ensure that your procurement is open, fair, transparent and competitive.

The procurement process overall aims to optimise outcomes and manage risk. Allowing the steps you take for each procurement you make reflect those aims, striking a balance between the requirement for you to spend public money in the most efficient, effective and appropriate way, and the need for you to balance these procurement duties with your wider responsibilities and remit to meet your school's overall objectives.

Low value procurement

Most of your day-to-day, low value procurements won't require an elaborate competition process. Be prepared to investigate and get to know your market, and to 'shop around' to look for good-value deals, rather than simply going to the first supplier you can find. Ideally, you'll want to compare prices and options on at least three suppliers, by getting quotes (ideally in writing, or at least by telephone).

Once you're satisfied you've identified a good price for the goods or services you need, you can simply proceed by issuing a purchase order or PO. This is an instruction to a supplier to provide goods, services or works to an organisation. The purchase order describes the item(s) being purchased, the price and the delivery address. It also states terms and conditions of payment (for example, when payment needs to be made). Exemplar forms, templates and a procurement glossary are available on [GOV.UK](#)

Medium and high value procurement

For medium and high-value procurements, the overall steps are broadly similar. You will need to make an initial business case for your procurement, carry out some form of competition, comparing at least three potential suppliers and using a process of impartial evaluation to choose the supplier who meets your requirements at the best value price.

The main difference between medium- and high-value procurements is the requirement to make the competition part of the process more formal and open, by advertising your business and considering all interested suppliers on the same open terms. This is tendering, which is described in more detail later on.

The procurement cycle

This section describes each step in the typical procurement process – but remember, low-value and medium-value procurements will only follow some steps in this process. Checklists together with this guide are available on [GOV.UK](https://www.gov.uk), to help you understand which of the following steps are relevant to any specific procurement you're planning:

- identify need - develop an initial briefing note based on your school's current needs for goods, works or services.
- develop your Business Case - the essential planning document for managing the whole procurement process.
- define your procurement approach - what are your options for carrying out this procurement?
- markets and suppliers – understanding the market, identifying potential suppliers
- tender and evaluation – advertising for bids, evaluating tenders, making the right choice
- awarding the contract – agreeing and signing the formal legal agreement, taking delivery of your goods or services.
- contract management – to ensure you're getting the goods or services you are paying for, securing best value for your money
- closure - lessons learned – at the end of the contract, what lessons will you take forward to the next procurement?

Identify need

All procurement starts with identifying what it is that you need to buy, and why. To begin with, your needs will be somewhat obvious: your school is going to need classrooms and related facilities, together with admin staff to run it (if you aren't going to carry out all the support functions yourself).

Business case

When you've worked out what you need, why it's a particular priority and whether there's money available in your budget for it, write this up in a business case. This is simply a planning document, which describes the basic planning steps you've taken (what, why, how much). The business plan is a record of the reasoning behind any procurement, showing that your spending decisions have been made responsibly from the start. It also provides a basic 'request for permission' which can be approved by your school's accountable officer – the person with the final authority to say whether the school's budget can and should be spent in this way.

The procurement approach

After the business case has been approved, you'll need to decide your procurement approach – how exactly you're going to take this purchase forward. What you decide to do will depend on a number of factors – the scope of your procurement. For example –

- what is being procured? (goods, works or services? everyday goods, or something more complex such as lab equipment?)
- contract value? you'll need to estimate how much you think the whole procurement will cost, over the full life of the contract (so, for example, a three-year cleaning contract might involve relatively small monthly payments, but a six-figure sum for the whole life of that contract). The higher the value, the more formal and open you will need to make the procurement approach.
- timescales – do you need to make this procurement urgently? Is it critical to the school being able to get going or meet key objectives? Or is it something you're anticipating a need for? Remember that high-value procurement will mean an open competition and tender process: these take time to set up and run.
- potential risks – essentially, questions such as what could get held up if we don't get this item purchased? or how big.
- a slice of the budget we are about to spend – what happens if we get it wrong?
- what resources are required – not just money but time, knowledge of the market or suppliers, planning experience.

Frameworks

For any value of procurement, you may be able to use an existing **framework agreement** to identify and secure a competitive deal with a reliable supplier. Frameworks are a set of umbrella agreements that have been drawn up by another public sector body, such as Local Authorities and their public sector buying consortia, or by central Government Departments such as DfE and [Crown Commercial Service](#)

See [EduBuy](#) for a group of public sector organisations who offer an extensive range of legally compliant contracts giving access to thousands of products and services which are all available to the UK education sector.

These agreements are with a 'panel' of suppliers of similar goods or services. Suppliers on a framework are approved to provide certain services, with an assurance of competitive rates guaranteed, and with the basic legal and other checks (financial stability, track record, etc) having already been carried out by the 'owner' body. These allow you to place orders for goods, works or services. You will usually need to carry out a 'mini-competition' amongst the relevant suppliers on a framework, but this is typically a quicker and simpler process than setting up a new contract by yourself from scratch.

For example, within DfE the Project Management and Education Services Framework provides a select pool of suppliers with good experience in supporting the initial and ongoing work involved in Academy and Free School projects. By running a mini-

competition within this framework, schools can secure the right professional services for their specific needs at guaranteed good rates, quickly and efficiently.

Markets and suppliers

Outside of frameworks, all procurement will involve researching and understanding the wider open marketplace of suppliers for the goods and services you need to buy, and making a cost-effective, impartial choice within that market.

When several suppliers are competing, they will try to attract the available customers by offering good-value deals and discounts – think of the way supermarket chains compete to offer the lowest prices on everyday household goods.

It's the same with suppliers to schools. One of the key ways you can achieve value for money is through encouraging competition amongst your potential suppliers, by making sure as many as possible are aware of your business and are competing to get it. And this is easier to do if you do some basic research and understand the market for your procurement, which will help you to target your potential suppliers, and identify the best value options. This process is called market sounding.

The following questions can help you to understand your market better:

- size of the market - are the goods or services you want to buy provided by several suppliers, or only one or two?
- current practice - what are the most common ways in which these goods and services are usually procured and supplied?
- attracting suppliers - what is the best way of managing your
- procurement to make sure you get a good range of suppliers to choose from?
- research – find out about different suppliers, their reputation, the type of goods or services they provide – compare this information.

Supplier open days

Before you've committed to any procurement, it can be useful to invite a selection of suppliers to meet you and give their collective input on your key procurement projects, especially for a new school, as this will help to raise supplier awareness that you are a new business opportunity for them. You can explain the aims of your procurement directly, and the suppliers will tell you what is or isn't feasible and what else you may need to consider.

Advertise, evaluate, award and implement

At this point, you're ready to plan how to choose the right supplier for your work. For medium and high-value procurement, the normal process for this involves advertising your business, inviting suppliers to bid for it, evaluating supplier bids, and awarding your contract to the highest-scoring supplier. This process is outlined in detail in the section below on tendering.

After your successful tender competition, you will be ready to award the contract to the successful supplier and prepare for its implementation. You must also let the other suppliers know they were unsuccessful and if any supplier requests feedback, you must give it. Bear in mind that an unsuccessful supplier this time might be the best supplier for other business you have in future – and the better they understand how they failed to meet your needs this time, the more they will be in a position to make you a better and more competitive offer next time.

Standstill period

Just one final hurdle. After notifying all the suppliers of your decision you are obliged to do nothing at all for a period of ten calendar days. This is known as the standstill period (**Alcatel**) and is designed to give all the suppliers the opportunity to consider your decision and decide if they feel they have been treated unfairly and wish to challenge your decision in any way. Providing no challenge is forthcoming after ten days the contract can go ahead and be delivered.

Congratulations you've made your purchase

But procurement doesn't end with getting your goods, works or services and paying for them.

Contract management

It's possible to sign a contract then sit back, leave the supplier to deliver as they've agreed, pay their invoices, and take a chance that you'll end up with exactly what you were hoping the contract would deliver and for the vast proportion of low-value purchases, that's exactly what happens. There's no benefit to micro-managing every low-cost one-off contract for delivery of a straightforward commodity: there are established legal processes to protect you in the event of problems with the quality or timing of your purchase.

But for any contract that is more than low-value, or for a complex or critical purchase, or one that will last for several months or even years, some form of basic contract management is critical.

A contract should be managed over its lifespan. If you're acting as the contract manager, you will take responsibility for ensuring that every aspect of the contract is functioning as planned and as effectively as possible.

An example of good contract management is available on [GOV.UK](https://www.gov.uk) It covers service level agreements, getting value for money, contract renewals and how to draw up a content management plan.

Closure and lessons learned

This is the final step in the procurement cycle. You will need to consider how to dispose of any goods that have reached the end of their useful life, or when any contract that is currently running will come to its end, and what you will need to do to deal with the possible impact of that ending.

For example, are you leasing equipment such as photocopiers – what happens when that contract ends? Does your contract require you to return the copiers to the supplier yourself? Are there penalties if you don't do this by a specific date?

Or, do you have contracts for cleaning or catering services? How long would it take you to run a competition for a new contract – will you have time to do this before the current one ends?

Exit strategy

An exit strategy is a plan for ending a contract earlier than originally intended. It outlines what actions need to be taken by the organisation at that point. Every project must have one.

The exit strategy must include contingency plans. For example, if a supplier goes out of business, what will your school do to ensure services are still received?

End of contract review

At the end of a contract you should carry out a formal review, taking on board the views of stakeholders and users of the product or service.

You must then update the business case with lessons learned during the life of the contract. Anyone managing similar procurements in the future can take these into account.

Managing the end of the contract process

If future arrangements require a full procurement process, then adequate time must be allowed for this to happen.

For example, if you need a new canteen supplier, you must begin this procurement process before the old contract expires, or you will be without canteen services until the new contract is put in place.

Tendering

For any significant values of public sector procurement spending, it's vital that your actions and choices are open, transparent and fair, and that the best possible value for money decision is reached.

Making an inefficient choice when buying a box of pencils is relatively harmless: the pencils cost little and will soon be used up, leaving you free to learn from experience and make a better choice next time. Making an inefficient choice when awarding a contract for reprographics equipment can mean losses of thousands of pounds, as well as being locked into a costly contract that might run for years. And unsuccessful suppliers may seek to challenge your decision if they think there is any suggestion that it wasn't impartial.

The procurement solution is to use a **tendering** process when making some medium and all high-value purchases.

What is tendering?

Tendering is the process of selecting the best supplier from a range of potential suppliers, by advertising your requirements, seeking offers (also known as bids or tenders) and evaluating these on the basis of pre-set criteria that are applied equally to all potential bidders.

The usual steps involved in running a tender are:

- plan your tender (as with any procurement project!)
- draw up the specification – the outcome you're aiming to get by spending this money
- decide your evaluation criteria – which factors are most important to you in the ideal bid?
- advertise your procurement – let the potential suppliers know what you want.
- send out your Invitation to Tender to the shortlisted suppliers.
- evaluate bids – comparing and scoring each bid on a like-for-like, impartial basis
- award contract – notify your successful bidder (and the unsuccessful ones), agree the final contract terms, sign the contract.

These steps are explained in more detail below.

The specification

Put simply, the specification is your description of exactly what it is you want to buy. There are three types of specification.

- functional - this states the function or duty of the thing you're seeking to procure - for example, to provide cleaning services to school premises. A functional

specification is output-focused – telling the suppliers what you want in the end, but not the exact way they have to get there. This gives suppliers more freedom to meet your requirements in an innovative way. They will need to decide method, performance targets and technical requirements they deem necessary to meet your end needs.

So, if your specification is "the school to be cleaned to appropriate standards of hygiene, health and safety", one cleaning company may decide it needs to clean the school premises daily, but another may believe it can achieve this by only cleaning 3 times a week, but doing a more thorough job.

- performance - this kind of specification defines the performance required - for example, a school cleaning service capable of servicing classrooms during school term. A performance specification is also output-focused, but here you set the outcome you want, and also the targets you'll use to measure success, and suppliers will describe how they would meet your performance targets, and any technical requirements (such as types of cleaning equipment, use of eco-friendly cleaning products).
- technical - this sets out the technical and physical characteristics of how the goods, services or works must be provided. For example a school cleaning service using X staff with X equipment and cleaning for Z hours on the stated days. This kind of specification can be the easiest to write up because, for example, you decide exactly what you expect a cleaning company to be doing to get your school clean. But it might offer you the least chance of getting a good deal.

For example: a cleaning company with powerful machines and an experienced, efficient workforce may charge a higher hourly rate, but they can bid to do a quicker and more efficient job than one with inefficient equipment and staff. This may offer the best deal to get your desired end result of "a clean school".

Specification hints and tips

Consider the following points when you write your specification:

- take time to write a good specification. The better and clearer you can make this, the more likely you are to cover all the important elements, and get a solution that meets your needs.
- be specific - the supplier's offer will reflect what you state in the specification. If you under-specify your requirements, you could end up paying extra for something that you didn't state as a requirement up front. If you over-specify, you could end up paying extra for something you don't really need.
- focus on needs – think clearly about what you need, rather than what you want. This should help you avoid over-specifying.

- state outputs clearly - be clear about what outputs or outcomes you're expecting, so the supplier knows exactly what they should deliver.
- involve stakeholders - involve other people in developing and signing off the specification – such as your teachers, your governors, PTAs. That way you can be sure that you're meeting their requirements.
- consider risks - be aware that different specifications allocate risks differently. With a technical specification, the supplier can only supply you with what you ask for. The risk of getting it wrong and paying for things you don't need - or even a contract that doesn't achieve what you want - lies with you. With a performance specification, the supplier determines what they think is required to meet your output. Any errors will probably be on their side - so the risk of not meeting your needs effectively lies with them.

Evaluation and weighting

This is the process of:

- deciding what factors are key to you when assessing the merits of each bid, for example price quoted, relevant experience of bidder, turnover of their company, how closely they meet your specification output: and
- deciding the relative weight of these factors. For example, is it more important that the bid is as cheap as possible, or that the bidder can deliver a sustainable outcome by using low-energy equipment, say?

Think of two possible suppliers for your contract for cleaning services. Let's say you have two evaluation criteria – the proposed price quoted for this contract, and the comparable experience (how many other schools does the supplier provide cleaning services for?)

For cost, you might give a score of 20 for any bid coming in below your proposed budget, 10 for bids between the budget's minimum and maximum ranges, and 0 for any where the price quoted by the bidder is over your top budget figure. And for experience, you might give a score of 20 for a supplier already providing cleaning for other schools, 10 for one with cleaning contracts with other public sector establishments (such as hospitals and sports centres), and 0 for suppliers with no relevant public sector clients.

But which factor matters more to your school?

If budget is the key factor for you, you might also give this a weighting of 3, and the 'experience' factor would have a weighting of 2. So in scoring, a below-budget bid from an inexperienced supplier would score $20 \times 3 = 60$ for contract cost, and $0 \times 1 = 0$ for relative experience, making a total score of 60. A more costly but established schools cleaning supplier might score $0 \times 3 = 0$ for cost, and $20 \times 2 = 40$ for experience, making a total score of 40.

In this case, the cheapest supplier, with least experience, wins the bid. So if you believe relative experience is worth paying more for, you would change the weightings – making cost less important (x 2 weighting), and experience more important (x 3 weighting).

Evaluation and weighting is a little tricky to explain – but in practice, this gives you a formal process of comparing elements of each bid in a fair way, and ensures that the successful bidder will ultimately be the one who can offer you the best fit to those factors that are most important to you.

Bear in mind that your evaluation process needs to be decided in advance– you will have to choose, set and inform all suppliers of the criteria and weighting you'll be using to score them. You can't leave this until you've received bids, or change the criteria you've initially agreed after you've started your tender

Advertising

When you advertise for suppliers to bid for your procurement project, you need to do this in places where the suppliers are likely to look. These may be local or national newspapers, specific websites or trade magazines.

You must word your advertisement so that it sets realistic expectations for potential suppliers. It must clearly explain the procurement, and let the suppliers know what information you require in their response.

If your requirement is particularly attractive to suppliers and whole life cost may exceed £100,000, you might get a lot of responses to your advertisement. Rather than scoring and evaluating a large number of bids in detail, you may wish to use a form called a **pre-qualification questionnaire** or PQQ.

The PQQ is a first-step evaluation, taking place before the later weighted evaluation process. It asks all interested suppliers to set out some basic critical information about themselves, by replying to your questionnaire. You can then assess all these interested suppliers together and equally, using this PQQ – and use it to filter out suppliers who will not be right for this particular procurement, no matter what bid they might make. Although this means putting an additional step into your tendering process, the time and effort involved will pay off later, by having a much smaller, manageable number of bids to deal with at the full weighted evaluation stage.

The questions in your PQQ will also need to be scored and evaluated – but evaluating a PQQ is much more straightforward than evaluating a whole bid, because the information you need is basic and given in a clear and consistent format. And you can set a limit on the number of suppliers you will evaluate fully - so that, for example, only the five highest-scoring suppliers at the PQQ stage will go on to actually bid for your business and be fully evaluated.

Questions you might put in a typical PQQ could include:

- financial stability – does the supplier have an established pattern of turnover in recent years?
- track record - can they prove that they deliver?

- relevant experience - have they completed similar projects for similar organisations in the past?
- capacity - do they have the resources to carry out the work?

Invitation to tender

Once you've identified the suitable suppliers, you invite them to tender by sending out an Invitation to Tender or ITT for short. The ITT is usually made up of several documents – you can access standard tender documentation templates here. Briefly it will include:

- tendering instructions - advice for the suppliers on the project timescales and administration.
- evaluation criteria – as described above, these will be used to evaluate the suppliers. A competent supplier will check your evaluation criteria and make sure they're providing you with information on each of these criteria.
- specification - the specification – the statement of your school's requirements - will eventually become part of the final contract. It and resourcing structure.
- Contract terms and conditions - these set out all the usual details about performance, monitoring, payments and remedies for failure to deliver under the contract's terms.
- pricing schedule - suppliers must complete a pricing schedule to show their proposed prices and expenses. The format of the form depends on the procurement project.

Suppliers are requested to accept terms and conditions with minimal variation. Remember, every contract is a legally binding document on both parties – you as well as the supplier. Try to get legal advice on your contract before signing, especially for higher-value contracts.

Offers

Suppliers can choose whether or not to respond to your ITT by submitting a tender. This is a formal offer which the supplier is committing to providing, should they be awarded the contract. If the offer is accepted, it matures into a contract which can be enforced by law. If the offer is rejected, you must notify the supplier.

Evaluating tenders

Use the scoring process described above to evaluate and score each bid, fairly and impartially. Ideally, there should be at least two people who work separately to evaluate and score each bid, only comparing scores after they've completed all evaluations. Any disagreements in scoring can then be discussed or aggregated and averaged, to produce an overall final score for every bid.

The highest scoring bid is the successful one.

Regulations for EU procurement

As you'd expect, for the highest-value levels of public sector procurement, the regulations are very specific and must be followed completely.

What are EU thresholds?

These are financial limits which apply to all public sector procurement across the European Union. They are set by the EU and revised every two years, and every EU country - including the UK - is required to comply with them. The EU thresholds place legal requirements on any public sector body where the value a specific procurement is likely to go over the respective limits ("thresholds") for goods, services or works. For current thresholds see [Buying for schools purchases checklists on GOV.UK](#)

The EU regulations ensure that ALL high-value public sector spending is fair, open, competitive and transparent. All proposed contracts above the thresholds must be advertised widely, open to tenders from all interested suppliers, and awarded without bias to the best-value bid.

Why you have to follow the EU regulations

Procurement guidance for spending below the EU thresholds is just that – guidance. It will help you to manage your procurement effectively, get best value from your purchases, and make legally valid, successful contracts.

Above the thresholds, the information in this note is more than guidance. It is a set of legal requirements. You will have to understand them and follow them. If you fail to comply, you might end up with a 'good' procurement outcome, the best supplier for your needs, at a good value price and with a full and clear contract. But any unsuccessful supplier will be legally entitled to challenge your procurement and - if successful - to have your contract cancelled. You may also have to pay damages and penalties for running a non-compliant procurement. Specific details on EU tendering is available on [GOV.UK](#).

Does your procurement exceed the threshold?

You'll need to estimate what you're planning and likely to spend on each specific procurement project. Err on the side of caution. For example, if you plan to let a cleaning contract for £165,000, but eventually sign a contract worth £175,000 that contract will be a "qualifying" procurement.– if you didn't follow the EU rules, it can be overturned.

You can't get round the rules by breaking down a high value contract into a number of smaller contracts – for example, by letting a contract to rent cleaning equipment, and another contract with the same firm for cleaners to use that equipment. And the same goes for the length of the contract – if your £175,000 cleaning contract runs for one year, or three or five, it's still the full value of the total contract that will count.

The relevant value is exclusive of VAT. Remember, the final cost to you may include VAT, but this will not be included in estimating the qualifying value for EU purposes.

EU qualifying procurements

Key requirements

Your tender process must be **transparent** so all bidders have equal access to the same information in your tender – your specification, what process and timetable you are going to follow, your evaluation criteria, and their weightings. This helps you to get high quality tenders, and ensure the process is fair to all involved.

You must avoid any **conflicts of interest** – there should be no personal or professional relationships between the people who assess and score your tender, and any of the potential bidders

Contract opportunities must be **advertised in the Official Journal of the European Union (OJEU)**. The tender process must follow a **strict timetable** setting minimum time limits for each stage - for example, how long your advert must run.

Your specification (the details of what you want from this contract) will need to follow a **set format** – this helps to promote wider competition.

Your **evaluation criteria** and **weightings** (the values you use to score the competing offers you get) **must be advertised** with the contract and included in your tender documentation (Invitation to Tender pack)

Before any contract can be signed, there is a compulsory “**standstill period**” of at least 10 days at the end of the process (allowing unsuccessful bidders to appeal if they think you have behaved non-compliantly)

- you must write to all unsuccessful bidders, explaining briefly why they were unsuccessful. Each letter must include:
- your award criteria for the procurement
- the reasons for your decision
- scores for the unsuccessful bidder you’re writing to, compared with the successful supplier
- the successful supplier’s name
- the date when the standstill period is expected to end; and
- the contract date

Exemplar templates and forms are available on [GOV.UK](https://www.gov.uk)

"Part A" and "Part B" procurements

Technically, all spend over the EU thresholds is classed as either "Part A" or "Part B" procurement. Broadly speaking, "Part A" purchases are the more common kinds of goods and services (for example, vehicles and transport, telecoms and computers, cleaning and maintenance, consultancy and auditing). "Part B" are more specialist purchases – such as health, legal, cultural and sporting services – and education.

The procurement rules for Part B are slightly less complicated than for Part A – because the more specialist services classed as Part B are likely to have fewer potential suppliers and a smaller market, with less competition across the EU. So the Part B rules don't, for instance, require tenders to be advertised throughout the European Union. In practice, however, it may be better to treat all **procurement over the EU thresholds as "Part A" procurement**, unless you have obtained clear professional advice that your proposed procurement meets the "Part B" definition.

Again, this is a more prudent approach - because a procurement that mistakenly follows the Part B procedure, when it is in fact a Part A purchase, can be legally overturned. You won't save yourself much work by following Part A procedures for all spending above the thresholds, but you will safeguard yourself against the significant cost and disruption of having your contract challenged later for following the easier regulations.

Managing your contract

What is contract management?

Contract management is how you ensure that the supplier is delivering the contract requirements to specification and cost and that any shortfalls in performance are tackled effectively and quickly.

It is a joint responsibility between you and the supplier. A good contract manager builds and maintains a strong working relationship with the supplier and with all relevant partners and stakeholders, checking that the scheduled goods, works or services are being delivered on time and to the required standards set out in the contract.

He or she will be responsible for responding to changes in the wider marketplace or environment, and for addressing any problems as they arise, seeking resolution through informal dialogue as a first step.

An effective contract manager will also seek to get better value out of the existing contract – by identifying incentives to encourage higher performance delivery from the supplier, or using cost-effective measures (for example, seeking discounts for very prompt payment of invoices).

Contract Manager Checklist

If you are taking on the role of contract manager, the following pointers may help you to plan and manage this challenging job more effectively. establish your role before you start make sure you're clear about the extent of your authority to:

- negotiate changes to the contract
- commit to additional expenditure;
- accept or challenge any shortfalls on the supplier's part, such as solutions or compensation for failing to meet contract KPIs

maintain documents - including

- contract
- change control procedures (i.e. the agreed record of all contract variations)
- risk register
- copies of invoices and other payment documents

manage contractor performance

At its simplest, performance monitoring could mean inspecting goods on receipt to ensure that you have received what you wanted, undamaged etc and that costs are as anticipated. Some aspects of the contract deliverables will be capable of numerical

measurement but other aspects may require subjective assessment. Steps to achieve this include:

- set performance measures
- agree management information (MI) requirements with your supplier
- validate the MI provided
- review performance against these measures
- address poor performance through discussion with the supplier (consider using incentives and damages)
- if necessary, be ready to use formal dispute resolution measures (which should be set out in the contract)

manage your supplier relationship

Encourage an open and honest dialogue with your supplier so that they give you early warning if contract performance may fail to meet required standards. Prevention of shortfalls in performance is always better than reacting after the event. Ask questions. If performance is poor, find out why then work with your supplier to identify remedial action. Establish contacts – individuals in the key supplier roles that you and your team will be dealing with over the life of the contract

- be sure that you're clear about their specific roles and responsibilities
- check the dispute resolution processes set out in the contract and
- be prepared to use them – always starting with informal discussion to resolve problems arising

manage change

Once contracts have been agreed, they are not set in stone. There may be a need to make changes especially where the contract is of long duration. To manage change effectively:

- establish change control procedures and agree them with your supplier
- assess, plan, manage and record all changes

If you wish to make significant changes to an existing contract you will need to negotiate a Variation Agreement – guidance on how to do this and a template agreement are available on [GOV.UK](https://www.gov.uk)

manage risks

- carry out a risk assessment of your contract
- maintain a risk register
- prepare a workable contingency plan

- check that appropriate levels of data security are being applied, where relevant, to all information collected and held as part of the contract

manage financial aspects

- ensure that budgetary controls are in place
- establish procedures that allow invoices to be checked against the goods or services delivered through the contract
- ensure invoices are accurate and valid
- protect your school's assets

manage contract exit

- review the contract's end terms and conditions in good time before the end of the contract. Agree a contract exit strategy with your supplier, covering timescales, handover of assets and other contract materials
- manage the process of contract exit.

Improve your procurement knowledge

Having a basic knowledge of public procurement regulations is a useful tool in creating cost savings and efficiencies to be spent on raising educational standards. It is considered essential to complete the public sector procurement e-learning on [BuyWays](#)

BuyWays

[BuyWays](#) is a basic introduction to procurement. It can be used by anyone working or volunteering in education in England including Governors.

- The guidance and advice in the BuyWays modules can be used as an introduction for anyone new to public procurement or as a refresher for more experienced buyers.
- The modules in the course are 15 to 30 minutes in duration, dealing with topics on the Procurement Cycle, European Union Directives and thresholds, and Contract Management. There are case studies to help you learn about real-life procurement, and short review sections where you can test your knowledge.

All users can access [BuyWays](#) free of charge.

Further information

Useful links

- [GOV.UK](https://www.gov.uk) – The official UK government website.

Other relevant departmental advice and statutory guidance

- [Effective buying for your school on GOV.UK](#)



Department
for Education

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Reference: DFE-00103-2014