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Creating Change Together

# **SIGMA**

# **Public Procurement**

# **Training Manual**

## **Update 2015**

## **Module B**

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# **Module B1 Governance, Internal Regulation and the Organisation of Public Procurement**

## **Section 1 Introduction**

### **1.1. Objectives**

The objectives of this module are to make participants aware of how the procurement team and contracting authority in which it works are accountable for their activities, including:

1. Best practice in the organisation of procurement services to meet the needs of stakeholders
2. The merits of different options for organising procurement services to meet the needs of stakeholders
3. The key components of internal legal governance processes in relation to the core (standing orders) procurement team, other stakeholders, and the economic operators
4. The need to maintain an audit trail and key stages of procurement linked to the audit trail
5. Best practice in the maintenance of legal governance documentation
6. An appropriate code of ethics for procurement staff and stakeholders
7. An example of governance documentation

### **1.2. Important issues**

Procurement as an organised system its people and its processes must be accountable. In this respect, procurement must be “above suspicion”.

Fundamental issues within this module include:

- Organisational structure options for the operation of procurement services
- Procurement governance documentation (an internal legal framework of the procurement process including manuals and instructions)
- Guidelines for the preparation of procurement governance documentation
- Maintenance of appropriate procurement governance documentation
- Identification of audit trail points
- The accountability of the contracting authority

### **1.3. Links**

Links to other modules appear throughout the text of this document. This module does however contain major links to modules:

- B2 The procurement cycle
- B3 The role of the procurement officer
- B4 The role of stakeholders

### **1.4. Relevance**

Procurement officers need to:

- Understand the concept of accountability throughout their organisation

- Understand the good practice options available when designing the organisational structure for procurement, and understand the issues relating to each option
- Live by a code of ethics
- Be able to develop, enhance and maintain procurement governance documentation, to underpin best practice procurement in their organisation
- Understand the concept of transparency and the need to audit their actions
- Be able to link the concepts in this module to Module B2, where procurement processes are discussed, and Modules B3 and B4, where the roles of procurement officers and stakeholder are discussed

### **1.5. Legal information helpful to have at hand**

This section will link to other areas referring more closely to legal information.

LOCALISATION WILL NEED TO REFER TO SPECIFIC LEGAL DOCUMENTS

## Section 2 Narrative

### 1 Accountability and contracting authority structures for procurement

#### 1.1 Introduction

This first section describes the concept of accountability in the sense that the contracting authority itself, the procurement team, and the individuals working for the contracting authority are accountable for their actions. The section considers the issues concerning delegation and then considers the options for structuring a procurement team.

#### 1.2 Accountability

Accountability is defined as:

“the quality or state of being accountable, especially an obligation or willingness to accept responsibility or to account for one's actions”.

In accordance with this definition, it is said that public officials have the obligation and must be willing to accept responsibility for their actions. Accountability has a literal meaning related to counting and accounting for items of monetary value, but as a concept its expanded meaning covers ethics and corporate social responsibility. Procurement officers and contracting authorities need to demonstrate:

- Good governance and a structure that encourages good governance
- Enforcement of internal and external legal regulations
- An absence of corrupt practices
- Accountability for their actions

Contracting authorities spend money. In this context contracting authorities are spending public money, generally derived from taxation imposed on citizens of the town, city and country as a whole. It is therefore fundamental that contracting authorities are made accountable to the electorate and to elected representatives of the town, city and country for the money spent on their behalf. Contracting authorities must therefore have structures and processes that allow them to 'account' for:

- Actual expenditure
- Value for money spent
- Effective processes used to achieve value for money spent
- A structure that organises its resources effectively

The actions, decisions and processes of the contracting authority must be transparent so that it is clearly understood why decisions were made and that these decisions reflected what was considered to be the best value opportunity at the time. Mistakes can always be made, and subsequent events may make it seem as though the decision taken was the wrong one. It is

therefore vital for anyone to be able to see, by looking back at the information available at the time, that an appropriate decision was made.

With transparency goes the ability to have an auditable structure and auditable processes. Module B2 covers in detail procurement processes and audit touch points.

Procurement officials must juggle a number of requirements. They have to:

- remain in control;
- behave in an ethical manner;
- deliver the services that stakeholders need;
- deliver value-for-money;
- minimise bureaucracy;
- maintain the fair competition of the supply market.

The accountability of public officials must revolve around the exercise of appropriate managerial, administrative and financial control over the resources that are entrusted to them as part of their role. Procurement officers must therefore:

- manage effectively their own time and the time of those working for them to provide value-for-money;
- use other resources as effectively as possible, including the processes and equipment required to procure as well as the buildings in which these operations take place;
- administer and manage procurement in accordance with local and national laws and with the EU *acquis* (where applicable);
- ensure that there is control that adds value, with as little bureaucracy as possible so as to reduce added costs;
- be able to account for the spending of every cent of every euro;
- ensure that processes are transparent;
- make decisions in an equitable way;
- maintain ethical behaviour.

**Good practice note – use of local economic operators**

One area where ‘accountability’ can place procurement officers in conflict is the consideration that accountability does not mean using local or national economic operators in preference to others. Procurement officers must promote competition between economic operators, whether they are local, national, from a neighbouring country or from anywhere else in the world.

Accountability can be summarised by evoking two concepts:

1. The power of approval in decision-making:

Public officials work within processes that require the approval of steps in the procurement process at several stages. Typically, approval would be required for:

- establishing a budget;

- preparing annual procurement plans;
- preparing individual, contract-specific procurement plans;
- searching for tenders by using formal procedures;
- taking specific steps in the procurement process;
- deciding which economic operator is to be awarded the contract;
- completing and signing contractual documents;
- accepting goods and services as ‘fit for purpose’;
- paying an economic operator.

Line managers and procurement officers following steps in the procurement process and receiving authorisation from more senior officers, as prescribed by internal legal processes, will be most likely to make decisions that clearly demonstrate their accountability.

## 2. The responsibility to provide answers to questions:

Public officials have the duty to make themselves available to other public officials, elected officials or the general public through designated channels. Public officials have the duty to answer the questions of other public officials, elected officials or the general public as to why they made a given decision at whatever stage of the procurement process in which they made the decision, depending upon the specific national rules under which they are operating. **Need for localisation here.**

A question from an elected official asking ‘why we bought 50 laptops from economic operator X’, which is answered by a public procurement official to the effect that ‘my brother runs economic operator X, I trust him and I like to keep it in the family’, should lead to the dismissal of the public official.

An appropriate answer would be: ‘We had five award criteria and economic operator X scored highest on four of the five criteria. When the panel calculated the responses from all of the economic operators that had submitted a tender we found that economic operator X scored the highest and thus submitted the most economically advantageous tender. Consequently, we recommended the award of the order to economic operator X, and the senior procurement manager agreed with us and signed the procurement approval.’

Note the following aspects of the second answer:

1. There were several economic operators.
2. Five evaluation criteria were used.
3. Economic operator X came out on top in four of the five criteria.
4. Overall, economic operator X came out on top.
5. There was an evaluation panel – this means officials from several departments.
6. The panel made a recommendation to a senior purchasing manager and he signed the approval.
7. The information will be available for auditors to review in years to come.

### **Good practice note - corruption**

Corruption is more likely if one person is making a decision alone. Here several people from different departments would have to collude to make a corrupt decision and then they would have to convince the senior procurement official to go along with them. In some cases this could happen, but it is a most unlikely set of events.

Public sector purchasing contracting authorities must have processes that insist upon accountability. The ability of procurement officers to make decisions on their own may exist through delegated authority for low-value and low-risk purchases. However, as the cost of the purchase and the risk to the contracting authority increase, the need to involve peers, stakeholders, senior managers and elected officers in some way and at various stages of the process will also increase.

### **1.3 Governance structures**

In recent years procurement practitioners have increasingly recognised the importance of ensuring behavioural compliance with ethical standards through a governance structure. A governance structure is defined as:

“an ethics infrastructure that contains the tools, systems and conditions for motivating and enforcing high standards of conduct amongst a workforce”. -Adapted from an article about the Encyclopaedia of Public Administration and Public Policy, Second Edition in <http://www.informaworld.com>

Governance structures can take many forms, but all include systematic policies and procedures to impartially monitor compliance with an ethical code, ethical mission, or other form of articulated standards of conduct deemed as being vital to the contracting authority concerned.

### **1.4 Corruption**

Corruption is defined as:

“impairment of integrity, virtue, or moral principle, depravity, decay, decomposition, inducement to wrong by improper or unlawful means (as bribery), a departure from the original or from what is pure or correct”.

Procurement officials must reject corrupt practices, which are contrary to good practice in the procurement profession. A code of ethics similar to the one appended in Appendix A should be the norm for procurement officers.

### **1.5 Delegation of authority**

Delegation is defined as:

“the act of empowering to act for another”.

Therefore, delegation of authority is allowing someone or some contracting authority to act on your behalf to perform tasks and consume resources that are available to you. The initial delegation may be to the finance department and then to the procurement team, depending upon specific national conventions. **Need for localisation.**

The contracting authority's governance documentation will ascribe roles and responsibilities to officials to enable them to make decisions and approve activities. For example, in order to despatch a contract notice for publication in the *Official Journal of the European Union*, the process may work like this (demonstrating that in public procurement key decisions are not taken by a single person but collectively by a number of stakeholders):

- 1 Department heads need to spend money the following year and request budgets from financial controllers.
- 2 The budgets may or may not be approved.
- 3 The approved budget is represented as a procurement plan by the procurement team working with the stakeholders.
- 4 The procurement plan is approved or not approved.
- 5 Stakeholders approve individual procurement within the plan at an appropriate time during the year.
- 6 Procurement staff draft a procurement plan and a business case and propose a process in accordance with the policies and procedures of the contracting authority.
- 7 The procurement plan and the business case are approved by senior procurement officials and senior stakeholders.
- 8 The contract notice is despatched for publication in the *Official Journal of the European Union*, and the procurement process continues with the involvement of a number of stakeholders.

The procurement process is described in Module B2, the roles of procurement officials are described in Module B3, and the roles of stakeholders are described in Module B4.

## **1.6 Organising within a contracting authority to meet the needs of stakeholders**

A procurement stakeholder is defined as 'anyone who has a stake or interest in the process of procurement'. Individuals with roles within the end-user, officials in finance, legal and IT departments, and elected officials all have a 'stake' in procurement.

Procurement has many stakeholders, and the identification and management of stakeholders are discussed in detail in Module B3. One vital mindset that procurement officers need to adopt is the realisation that their stakeholders are customers and that they must provide a service to those customers. As all contracting authorities differ and stakeholders in different city councils may vary, there is therefore no single contracting authority model that is 'right' for procurement within the public sector.

Procurement officials working in procurement may report up the contracting authority hierarchy through the finance directorate, through a chief procurement office to the chief executive, or through the clerk in public works; there is no one set-up. One concept is vital, however, and that is that procurement must be left alone to work within the rules prescribed for it by the contracting authority and not subjected to undue influence by stakeholders.

There are four fundamental models for procurement within a single contracting authority:

- Centralised procurement model within a contracting authority
- Decentralised procurement model within a contracting authority
- Centre-led action network model within a contracting authority

- Matrix management of procurement model within a contracting authority

#### **Good practice note – choice of model**

It is important to stress that none of the above options is considered “right” in preference to any of the others, although it is probable that fewer contracting authorities select the decentralised model. These models are options for organising procurement within a contracting authority and are to be distinguished from structures relating to central purchasing bodies and other forms of co-operation between a number of contracting authorities, which are discussed in module B2.

### **1.7 Centralised procurement model within a contracting authority**

Centralised procurement is a concept where all requests for goods, works, materials and services are passed through a central team within a contracting authority. The central team prepares and runs the procurement exercise and may manage the contract afterwards.

#### **1.7.1 Advantages of a centralised model**

The advantages of a centralised function include:

- Economies of scale exist:
  - within purchasing teams because the whole team is in a single location;
  - because more professional and capable resources can be employed;
  - when approaching the supply market, because large volume purchases can be made;
  - making communication easier within the central team;
  - allowing all of the human resources focused on purchasing to be assembled to meet stakeholder requirements;
  - where a single contract within the contracting authority can be established rather than several small ones.
- The processes can become clear and standardised because all purchases must be made through a single internal contracting authority.
- A single team can more effectively communicate purchasing decisions.
- The approach to both the contracting authority and the supply market can be consistent, and therefore everyone knows where they stand.
- Control over what is spent can be more closely exercised by the central team.
- A central team will have the resources to employ specialist procurement officials to make purchases, of fuel for example.
- Quality and speed of decision-making are improved.

#### **1.7.2 Disadvantages of a centralised model**

The disadvantages of a centralised function include:

- Remoteness from stakeholders: A central team located 400 kilometres away may not appreciate the needs of local stakeholders.
- Bureaucracy: The centrally enforced processes may not allow for local flexibility.

- The central contract may not be appreciated by all stakeholders, with the result that some may seek to work around it.
- The central team may constitute an additional layer of administration.
- Decision-making may be slower as requests must be transmitted through the central team.
- Processes may take longer if the additional central step is in place.
- Local people may feel that local economic operators are not given a chance.

## **1.8 Decentralised procurement model within a contracting authority**

Decentralised procurement is a concept whereby purchasing is carried out at a local level by the officers who need the goods, works, materials and/or services at a local level, without reference to anyone else within a contracting authority.

### **1.8.1 Advantages of a decentralised model**

The advantages of decentralised procurement include:

- Closeness to stakeholders: A local team understands the needs of local stakeholders.
- Less bureaucracy: The local team can allow for local flexibility.
- The central contract may not be appreciated by all stakeholders, with the result that some may seek to work around it.
- There is no additional layer of administration in the form of a central team.
- Decision-making may be faster as requests can be met locally.

### **1.8.2 Disadvantages of a decentralised model**

The disadvantages of a decentralised function include:

- Economies of scale are not made:
  - because the whole purchasing team is not in a single location;
  - because more professional and capable resources cannot be employed for each local purchase;
  - resulting in higher costs when approaching the supply market because volumes are small;
  - meaning communication between purchasing teams may be fragmented or non-existent;
  - where stakeholder requirements are not aggregated;
  - where multiple small contracts are established within the contracting authority.
- The processes can become ragged and ineffective without a central force driving standardisation.
- Purchasing decisions may not be widely communicated, and an economic operator may be found to charge different parts of the contracting authority with different prices for the same item.
- The approach to the contracting authority as a whole and the supply market may be inconsistent.
- There is no central view of 'spending' and control over what is spent may not be adequate.
- Local teams may not have specialist purchasing knowledge.
- Local favouritism may exist.
- Quality of decision-making may be poor.

## **1.9 Centre-led action network (CLAN) model within a contracting authority**

With a centre-led action network (CLAN) approach to procurement, experienced procurement officials are physically placed alongside key stakeholders. This model facilitates local involvement in procurement whilst organising and co-ordinating the total effort of the procurement team through the network so as to enable the maximum impact for the purchasing contracting authority.

### **1.9.1 The CLAN concept**

The CLAN concept involves:

- A small central team of procurement officials that sets policy, monitors statistics, co-ordinates efforts and manages common systems and processes
- Experienced procurement specialists, who are seated next to the stakeholders using the goods and services they procure and embedded in the local team
- Collaboration between central and local teams on procurement that impacts one or more stakeholder areas
- Local purchasing procurement officials who take a global lead for the contracting authority in some purchases and a back seat role in others.

### **1.9.2 Advantages of a CLAN model**

CLAN enables local and central accountability, functional excellence from centre-led resources, and synchronised action in the form of procurement plans with stakeholder buy-in. CLAN can achieve:

- The best centralised purchasing, without incurring the costs and overheads of a central team
- Local buy-in from stakeholders, who have a voice and resources to work with CLAN to aggregate spending and deliver economies of scale

For a contracting authority with several purchasing sites, a national railway for example, or for a contracting authority on a single large site, a CLAN approach can work well.

### **1.9.3 Disadvantages of a CLAN model**

A CLAN can become more like a decentralised function whenever the central team does not co-ordinate well, when stakeholders use their local procurement resource to push their position at the expense of others, and when communication is poor.

## **1.10 Use of a matrix management model within a contracting authority**

Like CLAN, a matrix model tries to gain the best of both worlds by organising itself to address specific needs. Contracting authorities using a matrix model may have some central specialists and some local resources. As procurement needs arise, the central team attempts to draw upon the expertise of officials and other experts in all areas to provide input and to manage the procurement.

The matrix concept may involve:

- A team assembled from various areas for a single project

- A team assembled from various areas meeting monthly to address the total requirements of the purchasing contracting authority for a commodity area
- Specialists co-opted from other functions
- Participation of certain officials and experts for specific parts of the process

### **1.10.1 Advantages of a matrix model**

The matrix approach can:

- ensure that everyone with a stake in a given project or ongoing requirement is involved;
- draw upon resources as and when needed, allowing individuals to return to their normal jobs when they are no longer needed;
- provide the advantages of central procurement, focused on specific requirements with local buy-in.

### **1.10.2 Disadvantages of a matrix model**

The matrix approach can:

- be seen as drawing officials into unnecessary meetings;
- depend for its success on the quality of the officials released to participate in it;
- fail if officials do not consider the task to be important.

## **2 Ethical behaviour and governance documents**

### **2.1 Introduction**

This second section builds on the topics of accountability and structure to consider the issues of ethical behaviour and governance and to examine the relevant documents that describe the policies and procedures necessary to operate procurement processes. The accountability and good governance of these processes is then demonstrated within one of the above structures.

#### **Good practice note – governance documents**

Comprehensive information has been provided on what could be included in governance documentation. Readers seeking to develop their own documentation must select what they feel is appropriate to their needs and what reflects their own situation and their own national laws.

‘Good practice’ is intended to meet the needs of your situation and it is therefore obliged to walk a tightrope between complexity and burdensome rules on the one hand and the lack of adequate guidance on the other.

### **2.2 A code of ethics**

### 2.2.1 Definition

Ethics is defined as ‘the rules of conduct recognised appropriate to a particular profession or area of life’.

### 2.2.2 CIPS code of ethics

Worldwide, one of the foremost custodians of ethical standards in procurement is the Chartered Institute of Purchasing and Supply (CIPS). Based in the UK, CIPS updated its code of ethics in 2009. All CIPS members sign the code of ethics when they join CIPS. Appendix 1 includes a full copy of the CIPS Code of Ethics. [Localisation note](#)

#### Good practice note

Whilst the CIPS code of ethics is internationally recognised, it is only one of several codes that are available. You may find others by searching the Internet.

### 2.3 Example of a policy and probity statement

Appendix 2, which provides an example of a policy and probity statement, has been extracted from the website of the city of Salisbury in Australia. While this city is not expected to comply with the EC directives, its policy and probity statement serves as an example of how public procurement worldwide has very similar values.

### 2.4 Governance documentation

All contracting authorities must have written statements that govern the process of procurement. These statements may be referred to as governance or policy and procedure manuals, and they may be provided electronically on a website. Many contracting authorities make their policy and procedure statements available to the public via the Internet.

#### 2.4.1 Objectives of governance documentation

The objective of governance/policy and procedure statements and the supporting documentation is to make sure that everyone within the contracting authority and all those who supply it with goods and services are aware of the standards according to which the contracting authority wishes to operate in the business world. Specifically, the documentation should help readers understand:

- The need for best practice policies, rules and controls
- How to obtain the best results from procurement policies and processes and ensure their appropriateness
- How inefficient or unethical policies, practice and processes inhibit the success of a contracting authority or prevent it from obtaining the best results from its resources and economic operators

- The factors that shape policy and processes
- How the review or design of policies, practices and processes, and the development of contemporary solutions to meet the current needs of the contracting authority are part of a continual process

#### **2.4.2 Advantages of good governance documentation**

Good governance documentation facilitates:

- Clarity of purpose within procurement and across the contracting authority
- A shift of focus from the resolution of procurement issues to the provision of solutions to the contracting authority, through improved alignment with the contracting authority's strategic objectives
- Demonstrably fair, equitable and transparent processes
- Appropriate corporate governance and compliance
- Certification to established standards
- Continual professional development of procurement staff
- Consistent delivery of business objectives
- Consistent service to stakeholders

#### **2.4.3 Risks taken when effective governance documentation is lacking**

Contracting authorities working without effective policies and procedures to govern their procurement activities expose themselves to risks in the following areas:

1. Poor cost control
2. Little or no understanding of who is spending the purchasing contracting authority's resources, what they are spending it on, and with which economic operators
3. Possible challenges by economic operators who believe that the public procurement law may not have been followed
4. Complaints by economic operators to the European Commission
5. Poor or biased decision-making process
6. Payments being made for goods and services that have not been received
7. Exposure to fraud through lack of control of accountabilities, responsibilities, records and audit trails, gifts and hospitality, and vested interests
8. Poor reputation through late payment, adversarial behaviour, lack of regard for environmental and corporate social responsibilities, and lack of regard for disreputable, unethical, or illegal practices
9. Insecure supply chains through:
  - Poor understanding of economic operators and the supply markets they operate in
  - Inadequate management of economic operators
  - Lack of knowledge about supply and demand
  - Inadequate recognition of the pace of technical and commercial changes

#### **2.4.4 Summary of the contents of governance documentation**

The 'documentation' may be Internet-based and may be represented by a series of documents or by a single comprehensive manual. The contents should include:

- A statement defining the extent to which the governance applies
- A signed statement from the head of the contracting authority mandating the governance and requiring all who are affected by it to comply with it
- The mission statement of the contracting authority
- A mission statement for procurement
- Policy statements reflecting the broad policies of the contracting authority
- An indication of roles and responsibilities of procurement staff and stakeholders relating to the process of procurement
- Specific descriptions of the processes and procedures that the procurement team and stakeholders are required to undertake, including the use of manual and computer systems
- A link to operational manuals, where computer systems are used to carry out procurement activities
- A statement on ethics
- A statement relating to how relationships with economic operators are managed
- A reference point for readers to ask questions
- Version control and/or a validity date for the documentation
- Statements linked to processes indicating how records should be kept
- Statements of the role of internal and external auditors
- An indication of sign-off by internal audit
- The endorsement of an internal audit committee (if one exists)

#### **2.4.5 Controls**

The governance documentation must include specific statements on the following controls, which may be cascaded upwards from the procurement officer to the head of the contracting authority:

- Authorisation of expenditure (budget control)
- Authority to approve claim settlements
- Authority to approve single tender action
- Authority to approve modifications of contracts
- Authority to contract (commitment)
- Authority to make payment (accounts payable)
- Authority to pay *ex gratia* sums
- Compliance and improvement
- Delegated powers under procurement contracts
- Executive or board approvals
- Self-audit
- Separation of duties

NB: None of the controls listed above is repeated in the checklist below.

#### **2.4.6 Audit and separation of duties**

### Good practice note – separation of duties

Procurement processes must be audited. ‘Separation of duties’ is a vital concept, which makes fraud less likely by requiring that several appropriate persons in a contracting authority take different roles within the procurement process.

The worst-case scenario when this concept is lacking is that one person decides whether a purchase is necessary, makes an agreement with an economic operator, confirms receipt and acceptance of the purchase and approves payment. The above procedure represents bad practice. There have been cases where goods and services have been received at the homes of employees and subsequently paid for by their employers!

In a procurement process, different officials within the contracting authority should:

- agree that their budget can be used to make this purchase (this is a stakeholder role);
- carry out the procurement process on behalf of the stakeholder (this is a procurement role and results in a contract being signed);
- carry out the receipt of the goods or services (ideally this is a third person in a store or warehouse, but it could also be someone in the stakeholder area);
- assess acceptance of the goods or services (ideally this is a fourth person, but it could be someone in the stakeholder area, particularly in the case of services; more detail on this aspect is provided in Module B2);
- receive and process the invoice (this must be a person other than the stakeholder or the procurement person, and is typically someone working in accounts payable);
- authorise the payment (depending upon the policies and procedures of the contracting authority, this could be a person in accounts payable or the original budget-holder).

This separation of duties is not an absolute guarantee that improper practices will not take place, but it is less likely that several officials working together will wish to commit fraud.

Procurement teams have a duty to take care to exercise probity in all of their activities, and part of that probity is to ensure that evidence of decisions and transactions made is available for auditors to inspect at any time. Procurement staff should keep orderly records so that the arrival of an internal auditor would not be a source of concern and so that any procurement chosen at random by internal audit would demonstrate the necessary compliance and probity.

Internal auditors and/or the audit committee will want to verify that:

- approval to commence a procurement process was given by a budget-holder who is separate from the procurement team;
- processes were followed to issue a notice by the procurement team that is separate from the budget-holder/stakeholder, where such a separate team exists;
- the supply market had no cause for concern over the selection and award process;
- tender receipt and opening processes can be demonstrated – here signing and logging by persons who are not members of the procurement team may be required; – localisation if covered by laws or local rules
- evaluation was made according to the selection and award criteria and involved the necessary stakeholders;
- a decision was made and approved in accordance with the delegation of authority;
- the award of contract was made;
- in cases where the economic operator(s) challenged the award, the appropriate processes were followed;

- receipt transactions for goods and services were made by a person separate from the procurement team and from the stakeholder, and the receipt was matched to the procurement order, contract or call-off;
- qualitative checks on goods and services were made by a competent person;
- only for acceptable goods and services were payment requests forwarded;
- invoices were matched to receipts and ordering transactions;
- approval to pay was authorised by an appropriate person based upon a matched invoice;
- payment was made in an approved manner.

Separation of duties is a fundamental procurement concept.

## **2.5 Guidance in compiling governance documentation**

The following guidance notes are based on observations concerning implemented purchasing policy and procedure frameworks. They address the fundamental aspects of the approach to these frameworks, rather than the details of their contents.

### **2.5.1 Language**

The language used to describe governance must not be ambiguous, contradictory, or subject to misinterpretation. However, all languages contain nuances and subtleties, and it would be very difficult to write a text that could not possibly be misinterpreted in the future. The following points will help:

- Use terms consistently – for example, ‘purchasing’ and ‘procurement’.
- Maintain a glossary of terms – define what you mean when using a term.
- Avoid using jargon, acronyms, and expressions that obscure the common understanding and clarity of what you wish the reader to understand.
- Use plain language.
- Be concise.
- Define the terms you use – this will help the reader to understand them.
- Number the documents consistently.
- Number the text within the documents consistently.
- Include cross-references to other documents.
- Provide a cross-reference rather than repeating the same text.
- Provide a high-level map, flowchart or picture of how the governance documentation joins together.
- As part of the development and drafting process, ask someone who is knowledgeable about procurement to read the documentation produced – this will test whether the documentation is correctly understood.
- As part of the development and drafting process, ask someone who knows nothing about procurement to read the documentation produced – this will test whether someone new to procurement would be able to understand the documentation.
- Beware of emerging practices and fashion statements. Strike a balance between pragmatism and innovation, but retain the flexibility to support continual improvement.
- Avoid the temptation to minimise content by concentrating on “what works today”. Instead, adopt an approach that supports competency development and lessons learned.
- Keep it simple.

### **2.5.2 Clarity of purpose**

Clarity of purpose is essential when preparing governance documentation that is to be understood by its readers. Writers must explain why governance, policies and processes are necessary and what the factors are that shape them. Consider the following recommendations:

- State the need for control prominently in plain, simple language.
- Embed corporate governance understanding and controls within policies and processes to facilitate fraud prevention, mitigate risk, and implement the delegation of power and authority.
- Include only those elements concerning external influences (for example, international standards, EC directives, legislation, customer requirements, industry codes, and corporate social responsibilities) that have a direct impact on procurement and that can be owned by the contracting authority.

### **2.5.3 Accountability and roles**

Accountability for policy and process must be placed at the highest level of the contracting authority, which will help to ensure compliance and clarify roles, both inside and outside procurement. Consider the following recommendations:

- Be clear about who owns procurement policies and procedures. It may be that the head of procurement is accountable for them, but the reader needs to know whom to contact for advice and support.
- Identify those in need of detailed knowledge and understanding of the contracting authority's policies and procedures; use them to familiarise and increase awareness across a wider audience.
- Enable local accountability for policy and processes where decentralised procurement models exist or where national teams require different solutions.
- Avoid duplication and ambiguity as well as heavy-handed central control whenever this may inhibit efficient and effective local practice.
- Maintain change management and version control. It is vital to circulate changes to everyone using the documentation and to ensure that each change issued to readers has a different and incremental version number.

### **2.5.4 Design for access and availability**

The procurement team must manage the planning, development, consultation, launch, roll-out and marketing of the contracting authority's policies and processes to ensure their effective access and ongoing use. Access to this information must be quick and easy if it is to be effective for those who need it, as otherwise officials may use this difficult access as an excuse to avoid applying the procedures. Consider the following comments and recommendations:

- Adopt a consistent, branded house style to reinforce procurement's role in the contracting authority.
- Consider a single source of truth. Implement effective version control.
- Choose the most appropriate media to deliver ongoing ease of access:
  - Design for use, not abuse – so keep the information short and to the point.
  - Decide when and where the information can be viewed.
  - Templates may enable uniformity of style but may restrict flexibility.
  - Printed documents may meet immediate needs but are more difficult to control and

- update than electronic versions.
- Electronic documents may be easier to control and distribute but may not be conveniently accessible to everyone.
- Do not underestimate the difficulty experienced by users in searching for information; create simple but effective navigation tools (contents, indexing or menus).
- Time the launch of major updates to avoid holiday periods and dates of other significant corporate activities.

### **2.5.5 Design and Content**

The most fundamental prerequisite for successful content design is to know what the content is intended to facilitate. One may choose to rely on:

- Prescriptive manuals that lock down processes and practices as a means of delivering compliance, or
- Guidance notes, with minimal constraints to facilitate creativity, or
- Something in-between the above two options

The option chosen must reflect the needs of the contracting authority and the level of its procurement maturity. With care, a balance of control and freedom to express individuality will promote both willing compliance and success in the face of changing circumstances as well as the ability to exploit opportunities. Divide the components into segments:

- Rules – what must be done
- Guidance – what to consider when engaging in x/y/z
- Checklists – as reminders
- Physical and electronic template documents – to improve consistency and speed up processes,

### **2.5.6 Continual Development**

A well-developed series of policies and processes will not in itself ensure compliance with governance, continuing good practice, or improved performance, but it will help. Successful policy and process regimes continually monitor their successes and failures; the challenge they face is to continuously adapt to change and to drive change so that it leads to improvements. Consider the following development issues:

- Procurement officials' competency measurement and development
- Induction training for beginners
- Compliance audit and self-audit protocols to challenge practitioner behaviours rather than process
- Benchmarking or peer comparison
- Accreditation or certification by a professional body
- Self-assessment - have we got it right, is it being used?
- How to identify or develop better practice
- How to manage contracting authority change
- How to manage version control, obsolete documents, and historical records

### **2.5.7 Barriers to successful governance documentation**

Barriers to successful governance documentation may include:

- Lack of direction from senior officials in the development, implementation, and continual improvement of a professional procurement resource
- Lack of funding for the documentation; time and resources may not be made available
- Closed mindsets that inhibit development and innovation; as examples, officials could say:
  - ‘That’s not how we do it here.’
  - ‘If it isn’t broken, then don’t fix it.’
  - ‘I am happy with the service I receive today, so don’t mess with it.’
  - ‘You (procurement) are a service department – just do the paperwork for me.’
  - ‘Let me worry about the impact on the business.’
- Cultures of non-compliance in which offenders are not held to account

### **2.5.8 Enablers of successful corporate governance documentation**

Enablers of successful policy and process represent the opposite of the above barriers, but also include:

- A ‘no blame’ culture
- A willingness to seek out good practice and to learn from:
  - one’s own contracting authority
  - other contracting authorities
  - other sectors
  - other professions
- Learning from mistakes by:
  - implementing what works well
  - not repeating what does not work well
- Combining the best processes and practices of efficiency with an adaptable approach to change

### **2.6 Maintenance of governance documentation**

Governance documentation must be maintained if it is to serve the needs of the contracting authority it represents. The following circumstances may require a change or update:

- Change in the contracting authority’s structure
- Update of EC directives
- Case law
- New computer system
- New stakeholder area
- Officials leaving, arriving and/or changing responsibilities
- Merger or separation of a contracting authority
- New site being set up
- Passage of time

All of these circumstances and others will impact on the policy and procedures of the contracting authority.

Major changes in the contracting authority must be reflected by a prompt change in the documentation. In addition, it is good practice for the person responsible for maintaining the documentation to undertake an annual review. This review will draw in other procurement staff and stakeholders as necessary to discuss and make revisions.

The documentation should have a version number that should be incremented when the update is issued.

Updates need to be communicated to all persons affected by them.

Where a paper-based update is used, good practice is to ask the recipient to sign and return a document confirming that they have read it and that they have revised processes and procedures accordingly and have briefed others as necessary.

Where electronic Intranet-based systems are used, good practice can include an online test relating to the new update and an email return indicating that they have read the update and have accordingly revised processes and procedures and briefed others as necessary.

## 2.7 Governance documentation – detailed checklist

The following is a detailed checklist of areas to include in governance documentation, presented alphabetically. **The list is long; a contracting authority should not necessarily expect to include every item in its documentation:**

- Accuracy and completeness of information
- Advance payments
- Alignment of procurement with the contracting authority's objectives
- Annual procurement planning
- Anti-competitive behaviour
- Award criteria and evaluation
- Award recommendations
- Briefing unsuccessful economic operators
- Challenges by unsuccessful economic operators
- Confidentiality agreements
- Contract award notification
- Contract documents
- Contract price adjustments
- Diagrammatic representation of approval structure
- Diagrammatic representation of contracting authority structure
- Disciplinary action if documentation is not followed
- Disposal of assets
- EC directives and EU *acquis*
- Economic operator assurance
- Economic operator development
- Economic operator financial probity
- Economic operator performance management
- Economic operator pre-qualification/selection
- Economic operator references
- Economic operator registration

- Economic operator visits – economic operators visiting the contracting authority
- Economic operator visits – visits to economic operators by officials of the contracting authority
- Engaging with stakeholders
- Ethical code of conduct
- Fitness for purpose
- Foreign currency payments
- Framework agreements
- Fraud prevention
- Health and safety – contractor
- Health and safety – hazardous materials
- Health and safety – on-site
- Inspection on receipt
- Inspection prior to receipt
- Insurances
- Intellectual property rights
- Inviting and receiving tenders
- Invoice payment
- Keeping records
- Late payment
- Law of contract
- Letters of intent
- Limitation of liabilities
- Liquidated damages
- Long-term procurement planning
- Measuring procurement performance
- Negotiation
- Parent company guarantees
- Payment
- Performance bonds
- Policy development and policy process
- Post-tender negotiation
- Process maps
- Procurement cards
- Procurement strategies
- Product evaluation
- Provisional sums
- Purchases made outside procurement
- Qualification of economic operators
- Reciprocal trading
- Relationships with economic operators
- Requests for information
- Requisitions and ordering systems
- Retentions and bonds
- Rights of third parties
- Risk assessment
- Risk management
- Role descriptions with accountabilities
- Single-tender sourcing

- Software piracy
- Stage payments
- Statutory and case law compliance
- Stock control
- Supply-base management
- Team development
- Tender documents
- Termination and suspension
- Terms and conditions of contract
- Three-way matching
- Trading with joint ventures and consortia
- Travel and entertainment policy
- Unacceptable staff behaviour
- Unacceptable economic operator behaviour
- Waste management
- Whistle-blowing

### Section 3 Exercises and case study

#### Exercise 1: Definitions

Please complete the table by providing a specimen answer/definition in the right-hand column

No.	Word	Answer/Definition
1	Ethics	
2	Governance	
3	Accountability	
4	Delegation	
5	Centralised procurement	
6	Decentralised procurement	
7	Probity	
8	Fraud	
9	Transparency	
10	Separation of duties	
11	Governance structure	
12	Corruption	

## **Exercise 2: Organisational Structures**

You will be divided into four equal teams. Each group will receive a description of one of the four organisational structures. Your team task will be to prepare arguments in support of your procurement structure and then make a presentation to the rest of the group to persuade them that your structure is best.

## **Information section**

### **Case study – Implementation of a CLAN procurement structure**

The following case study demonstrates how the implementation of a CLAN structure can improve relationships between the procurement team and the stakeholder departments.

#### **Basic data about the institution**

The institution is a major United Kingdom county council; it spends EUR 2 billion per year.

#### **Introduction**

The culture within the council was typical of almost all large organisations, where purchase order placement and processes had been manually intensive and paper based, with approval of spend typically taking place at invoice stage. A central procurement team existed in a separate building three kilometres away from county hall, where most people worked. Eighty-five per cent of procurement was placed through this team. People in major departments felt that the procurement team was remote and unresponsive to their needs. It was considered important to ensure that an effective to change management was put in place to remove the barriers between procurement and their stakeholders.

#### **The course of the event(s)**

An analysis of the procurement spend by department was undertaken and consultation process begun with senior people in certain departments. Account was taken of the size, complexity and commonality of spend across departments.

#### **Analysis of the event(s)**

- 1 The analysis revealed that some of the procurement team worked almost entirely for a given department on specialised purchases. In phase one these people were relocated to sit physically within the team of their stakeholder, which brought the benefits of immediate communication and a greater team feeling. This led to 60% of the procurement team moving to work with stakeholders.
- 2 Phase two considered the largest spend on common items across the council. Members of the procurement team were moved to work in areas alongside the staff in the department which accounted for the largest element of spend in the council in this area. Their role was of course to take account of the needs of others as well as the major spender.
- 3 A small nucleus of staff remained with the director of procurement with responsibilities for systems, processes and training and development for the procurement team.
- 4 The staff who were re-located were actually transferred to the budget of the stakeholder departments.

#### **Conclusions**

Relations between the stakeholder departments and the procurement team were vastly improved, as the procurement team was now seen as part of “our” team.

### Exercise 3: Governance Documentation

Use the boxes below to answer two questions.

Q1: What are the advantages of good governance documentation?

Q2: What risks do I face if my governance documentation is poor?

## **Exercise 4: Governance**

### **Case study – Inkjet Alison**

Alison was a bright girl. She was married with a young daughter and she and her husband had a nice flat.

Her job at the city council was in the busy stationery purchasing team, where she had been promoted to senior supervisor. Alison was responsible for a team of fourteen people purchasing stationery items; however her favourite commodity was the inkjet cartridge, and she had made a significant saving on the cartridges used by leveraging the volumes. Alison saw the cartridges as her private domain; she checked the stocks every day, reordered from economic operators once a week and sent the cartridges out from the central location to the 120 departments that used them, sometimes by courier.

Peter used to do Alison's job before he was promoted, and he was proud to have promoted Alison. He approved the purchases and the invoices that Alison and her team had checked. Everything was fine – or so he thought.

Rob was an auditor and he checked through the paperwork and the stock levels, noting that demand had increased by 15% over the previous year. Everything seemed fine and in order so Rob gave the department a green light.

- 1 Was everything really fine? What could the worst-case scenario be?
  
- 2 How would you improve the organisational structure of the procurement department to avoid the worst-case scenario?

### Exercise 5: An ethics test

Below is a list of bullets that form the CIPS code of ethics. THE PROBLEM IS THAT WE HAVE AMENDED THE TEXT SO FIVE OF THE POINTS ARE MOST DEFINITELY WRONG. Your task is to work out which five points are incorrect.

The CIPS code of ethics states that as a member of CIPS procurement, officers must:

- Maintain the highest standard of integrity in their business relationships
- Remain partial in business dealing and be influenced by those with vested interests
- Declare any personal interest that might affect, or be seen by others to affect, their impartiality or decision making
- Enhance the proficiency and stature of the profession by acquiring and applying knowledge in the most appropriate way
- Use their authority of position for their own personal gain
- Foster the highest standards of professional competence amongst those for whom they are responsible
- Ensure that the information they give in the course of their work leads economic operators to the position that they want them to be in
- Optimise the use of resources which they have influence over for the benefit of their organisation
- Comply with both the letter and the intent of:
  - The law of countries in which they practise
  - Agreed contractual obligations
  - CIPS guidance on professional practice **Localisation here**
- Ensure that the information they give in the course of their work is accurate
- Respect the confidentiality of information they receive and never use it for personal gain
- Accept business practices that might reasonably be deemed improper
- Not accept inducements or gifts, other than items of small value such as business diaries or calendars
- Always declare the offer or acceptance of hospitality and never allow hospitality to influence a business decision
- Strive for genuine, fair and transparent competition when it suits them

## Section 5 Chapter summary

### Self-test questions

No	Question
1	How would you define accountability?
2	Corruption is more likely if several people are involved in making a procurement decision.  Do you agree with this statement?  Give your reasons.
3	Local procurement officers should use local economic operators. True or false?
4	Four models for organising procurement within a contracting authority are discussed in this module. "Matrix" is one model, what are the others?
5	Is the following bullet point a disadvantage of a centralised procurement model or a decentralised procurement model?  ◦ Remoteness from stakeholders.
6	Which procurement model used in contracting authorities has a small central team of people setting policy, monitoring statistics, co-ordinating efforts and managing common systems and processes, with experienced procurement specialists seated next to the stakeholders?
7	The CIPS code of ethics is used as an internationally recognised ethical standard in the module.  There is a mistake in the following statement. Can you correct it? –  Maintain the lowest standard of integrity in their business relationships.
8	Governance documentation must be maintained if it is to serve the needs of the organisation it represents. In which circumstances might "maintenance" be appropriate?
9	A "no blame" culture and a willingness to seek out good practice and learn were two enablers to successful policy and process in governance documentation. Can you remember the other two enablers?
10	In your job, who are you accountable to? Think not just of your boss, but up the chain of command.

### Other resources

The following websites have information on organisational structures and governance documentation:

[www.CIPS.org](http://www.CIPS.org)

<http://www.pasa.nhs.uk/PASAWeb/Guidance/>

[www.ogc.gov.uk](http://www.ogc.gov.uk)

<http://cweb.salisbury.sa.gov.au>

## Appendix 1 The CIPS code of ethics

The CIPS code of ethics states that as a member of CIPS procurement, officers must:

- Maintain the highest standard of integrity in their business relationships
- Reject any business practice which might reasonably be deemed improper
- Never use their authority or position for their own personal gain
- Enhance the proficiency and stature of the profession by acquiring and applying knowledge in the most appropriate way
- Foster the highest standards of professional competence amongst those for whom they are responsible
- Optimise the use of resources which they have influence over for the benefit of their organisation
- Comply with both the letter and the intent of:
  - The law of countries in which they practise
  - Agreed contractual obligations
  - CIPS guidance on professional practice
- Declare any personal interest that might affect, or be seen by others to affect, their impartiality or decision making
- Ensure that the information they give in the course of their work is accurate
- Respect the confidentiality of information they receive and never use it for personal gain
- Strive for genuine, fair and transparent competition
- Not accept inducements or gifts, other than items of small value such as business diaries or calendars
- Always declare the offer or acceptance of hospitality and never allow hospitality to influence a business decision
- Remain impartial in all business dealing and not be influenced by those with vested interests

### **Use of the Code**

Members of CIPS are required to uphold this code and to seek commitment to it by all those with whom they engage in their professional practice.

Members are expected to encourage their organisation to adopt an ethical purchasing policy based on the principles of this code and to raise any matter of concern relating to business ethics at an appropriate level.

The Institute's Royal Charter sets out a disciplinary procedure which enables the CIPS Council to investigate complaints against any of its members and, if it is found that they have breached the Code of Ethics, to take appropriate action. Advice on any aspect of the Code of Ethics is available from CIPS.

*This Code was approved by the CIPS Council on 11 March 2009*

## **Appendix 2 An example of governance documentation and policy and probity statements**

<http://cweb.salisbury.sa.gov.au/manifest/servlet/page?pg=12145>

### **1 Preamble**

Modern procurement in Australia involves the use of best practice in contracting and purchasing and provides a foundation for organisations to achieve their mission, goals and objectives.

The elements of best practice applicable to Local Government procurement incorporate:

- Broad principles covering ethics, value for money, responsibilities and accountabilities;
- Guidelines giving effect to those principles;
- A system of delegations (i.e. the authorisation of officers to approve a range of functions in the procurement process);
- Procurement processes, with appropriate procedures covering minor simple procurement to high value complex procurement; and
- A professional approach to all major procurements.

Council contracting and purchasing needs to be able to demonstrate that public money has been well spent and that the procurement process was conducted and seen to be conducted in a manner which generates business in the local community and is impartial, fair and ethical.

As part of the City's goal to embrace innovative and technological advances, electronic purchasing and tendering processes will be made available and used whenever appropriate.

In complying with legislation, section 49 of the Local Government Act 1999 requires:

'A council must prepare and adopt policies on contracts and tenders, including policies on the following:

- The contracting out of services; and
- Competitive tendering and the use of other measures to ensure that services are delivered cost-effectively; and
- The use of local goods and services; and
- The sale or disposal of land or other assets.

This policy relates to all procurement activities at Council.

### **2 Policy Purpose/Objectives**

In accordance with best practice principles and the constant pursuit for continuous improvement, the purpose of this policy is to:

- Provide policy and guidance to Council employees to allow consistency and control over procurement activities;
- Demonstrate accountability to rate payers;
- Provide guidance on ethical behaviour in public sector purchasing;
- Demonstrate the application of elements of best practice in purchasing; and

- Increase the probability of obtaining the right outcome when purchasing goods and services.

### **3 Policy Statement**

The procurement method for obtaining goods and services will be determined according to the estimated costs of the goods or services sought. Depending upon the estimated costs, the procurement method may be by oral quotes, written quotes or by a tender process. The level of these thresholds will be determined from time to time by the Management Executive Group of Council. The authority to provide an exemption from using the required method of procurement will be delegated to Officers of Council, depending upon the level and nature of the exemption.

### **4 Key Principles**

Persons engaged in procurement activities on behalf of Council will at all times pursue the City's six key procurement principles. These are:

1. Value for money
2. Open and Effective Competition
3. Ethical Behaviour and Fair Dealing
4. Accountability and Transparency
5. Environmental Preference
6. Economic Development of the Northern Region

#### **4.1 Value for Money**

Value for money involves obtaining goods, works or services for Council that best meet the end user's needs at the lowest total cost with the minimum level of contractual risk.

Value for money may mean not always accepting the lowest price. Factors to be considered as part of evaluating quotes and tenders include fitness for purpose, fair market prices and whole of life costs. 'Whole of life' includes, price, cost of spares, running costs, post-delivery support, effective warranties, cost of replacement, installation costs, etc.

All decision-makers in the procurement process must satisfy themselves that the proposed expenditure will make efficient and effective use of rate payers' funds.

#### **4.2 Open and Effective Competition**

Open and effective competition is the central operating principle in pursuit of the best outcome. Openness requires procurement actions that are visible to Council, ratepayers and economic operators/contractors. The probability of obtaining the best outcome is increased in a competitive environment.

Council will create effective competition by maximising the opportunities for firms to do business with Council through the selection of procurement methods suited to market conditions. These methods will include requesting offers from a number of economic operators, providing timely and adequate information and allowing ease of entry for new or small economic operators.

Council will provide feedback to unsuccessful bidders, if requested.

### **4.3 Ethical Behaviour and Fair Dealing**

Council will not use or disclose information that confers unfair advantage, financial benefit or detriment on an economic operator.

Employees have a responsibility to act honestly and impartially, and be accountable for procurement actions. Adopting an ethical and fair approach is important because the concepts of honesty, integrity, fairness and accountability in local government are core expectations of public sector procurement.

Council employees and officials will not engage in any private business or professional activity that would or may be seen to create conflict between personal interest and the interest of the organisation.

In pursuit of ethical behaviour and fair dealing, employees will:

- treat potential and existing economic operators with equality and fairness;
- not seek or receive personal gain;
- maintain confidentiality of contract prices and other sensitive information;
- present the highest standards of professionalism and probity;
- deal with economic operators in an honest and impartial manner that does not allow conflicts of interest;
- provide all economic operators and tenderers with the same information and equal opportunity;
- Be able to account for all decisions and provide feedback on them.

### **4.4 Accountability and Transparency**

Accountability in procurement means being able to explain and evidence what has happened. An independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable.

The processes by which all procurement activities are conducted will be in accordance with Council's Procurement Policy and Procedures.

Delegations define the limitations within which Council employees are permitted to work. They ensure accountability and provide confidence to Council and the public that purchasing activities are dealt with at the appropriate level. As such, Council has delegated responsibilities to employees relating to the expenditure of funds for the purchase of goods and services and the acceptance of tenders.

Employees must be able to account for all decisions and provide feedback on them. Additionally, all procurement activities will leave an audit trail for monitoring and reporting purposes.

### **4.5 Environmental Preference**

As part of the procurement process, economic operators may be asked if they can offer products and services which conserve resources, save energy, minimise waste and/or contain recycled products and/or are environmentally sustainable.

Prospective economic operators to Council may be required to communicate their environmental practices as part of the tender specification.

#### **4.6 Economic Development of the Northern Region**

When all other factors are considered equal, procurement methods will consider as a final choice the capability of the Region to supply required products and services.

When tenders are found to be of equal value, preference will be given to those economic operators whose activities contribute to the economic development of the Region.

## Module B2 Procurement Cycle

### Section 1 Introduction

#### 1.1. Objectives

The objectives of this module are to make participants aware of:

1. A typical good practice procurement process, from “cradle to grave”
2. Vital audit touch points within good practice procurement processes
3. The occasions when procurement processes require interaction with stakeholder departments
4. The circumstances when differing contracting authorities will collaborate

#### 1.2. Important issues

The following issues are of importance:

**localisation here depending upon the laws of each country**

1. A recognition that procurement processes must be followed
2. A recognition that flexibility is required: the same process will not necessarily be used to make every purchase
3. A recognition that procurement adds value to a contracting authority, and is not simply an administrative clerical function
4. An understanding that while procedures must be followed, value can be added to the benefit of contracting authorities when procurement officers develop effective processes
5. An understanding of the opportunities, advantages and disadvantages of co-operating with other contracting authorities

#### 1.3. Links

Links to other modules appear throughout the text of this document; by its very nature this module touches almost every other module in the training programme. The major links, however, are to modules:

- B1 Governance, internal regulation and organisation of public procurement
- B3 The role of the procurement officer
- B4 The role of stakeholders

#### 1.4. Relevance

Procurement officers need to:

- Have a thorough knowledge of the whole procurement cycle and its three parts, to perform effectively
- Understand the competencies that are required of them
- Understand the opportunities, advantages and disadvantages of co-operating with other contracting authorities

### **1.5. Legal information helpful to have at hand**

This section will link to other areas referring more closely to legal information.

LOCALISATION WILL NEED TO REFER TO SPECIFIC LEGAL DOCUMENTS

## Section 2 Procurement processes

### 2.1 Introduction

The procurement process is frequently seen as a cycle. The cycle runs from: identifying what is needed and who can supply it, determining and selecting the 'best' supply option, and then managing the supply with the selected economic operator throughout the life of the contract.

One clear fact to note early on is that not every stage of the procurement cycle described below will be needed for every requirement procured. The process will differ with the:

- Nature of the requirement
- Risk inherent in purchasing the requirement
- Risk inherent in providing the requirement to stakeholders
- Cost of the requirement
- Complexity of the requirement
- Legal issues surrounding the requirement
- Supply market
- Procedure selected in accordance with the national public procurement legislation
- Relevant laws of the land [localisation here](#)

The procurement cycle prepared below has 39 individual steps, which are divided into three divisions. The three divisions are:

- Prepare for the procurement
- Run the procurement exercise
- Manage the contract

The three divisions are described below.

“Prepare for the procurement” considers the steps that procurement officers and other stakeholders within the contracting authority have to take in order to arrive at a stage where a given procurement has been planned, approved and prepared in such a way that economic operators may be asked to tender.

“Run the procurement exercise” considers the steps necessary to ascertain which of several economic operators is the most appropriate for delivering the goods, services or works for the contracting authority.

“Contract management” considers the steps that enable both the contracting authority and the economic operator to meet their obligations within the contract in order to meet the contract objectives.

### 2.2 Overarching concept

Before considering the process in detail, there is an overarching concept known as the upstream/downstream concept. This concept considers steps in the procurement cycle up to and including the award of contract as 'upstream' and steps occurring after the contract has been awarded as 'downstream'. This means that the first two divisions described above, which prepare

and run the procurement process, are upstream and the contract management activities are downstream.

The concept reflects upstream activities as 'adding value':

because the focus is on getting the procurement 'right' during the processes occurring up to the time when the contract is awarded.

The concept reflects downstream activities as 'adding cost':

because where the goods, works, materials and services being utilised are not 'right', extra costs in terms of time and resources may have to be incurred to make them right.

**Good practice note – overarching concept**

Procurement officers considering how to allocate their time should therefore attempt to spend most their time working upstream, adding value to the organisation which employs them (getting it right first time) and should not be mired in downstream activities which add cost (spending time putting it right).

Activities forming part of upstream processes within contracting authorities include:

**localisation here**

- Undertaking an internal customer needs analysis
- Assessing economic operators' processes and quality capabilities
- Market research
- Setting performance criteria
- Considering terms and conditions carefully
- Obtaining tenders
- Planning
- Analysing and evaluating tenders
- Economic operator selection and contract award

Activities forming part of downstream processes include:

**localisation here**

- Checking acknowledgements
- Expediting
- Matching goods to purchase orders
- Searching for economic operator paperwork
- Sorting out quality problems
- Returning substandard items
- Sorting out invoice queries
- Routing the invoice "around the houses"
- Processing credit notes
- Changing the requirement specifications

Take this concept further and it is true to say that if the upstream activities are well performed, resulting in a complete contract that meets the needs of the stakeholders and is clear to the economic operators, the downstream activities that add cost will either be performed much more easily or in some cases hardly be necessary at all.

This document now discusses the 39 individual steps in the procurement cycle, within the three divisions:

- Preparing for the procurement exercise
- Running the procurement exercise
- Managing the contract

### **2.3 The procurement cycle – preparing for the procurement exercise**

This section considers the activities necessary to prepare for the procurement (steps 1 to 11 in the total procurement process). A useful quotation to remember here, attributed to Harvey Mackay, is:

“Failures don't plan to fail; they fail to plan.”

Although only one of the steps in this section is called ‘planning’, so much of the preparation division of the overall procurement process is about planning that it is worth remembering the quote here. The 11 process steps within this division are:

#### **localisation here**

1. Pre-planning and the annual procurement plan
2. Determining the need
3. Procurement planning
4. Market review
5. Specification
6. Performance measures
7. Terms and conditions
8. Constructing a business case
9. Approval
10. Preparing a procurement notice
11. Preparing an invitation to tender (ITT)

Each step will now be covered in more detail and particular attention will be given to:

- Decision points
- Working with stakeholders
- Audit touch points
- Effectiveness

Where other modules deal in more detail with the topics under consideration, the text in this section will be limited, and a cross-reference will be made to the appropriate sections or modules where further information can be found.

#### **1. Pre-planning and the annual procurement plan**

This process will ideally take place during the year, before the procurement needs to be made. Procurement people will sit down with user departments and key stakeholders and discuss their procurement requirements and budgets for the next year, giving advice on likely costs based on their market knowledge and deciding which items to include within a Prior Information Notice (PIN). Modules C4 and E2 describe the actions necessary to publish a PIN. [localisation here](#)

Regardless of whether a PIN is used, this process is vital in helping to inform procurement officers about what they may be expected to purchase during the following year, and it should be part of the annual engagement process between stakeholders and procurement.

Once procurement officers have been given the information about what they may be expected to purchase during the coming year, they can then be alerted to what is happening in the relevant supply markets, and that knowledge can be fed into subsequent processes.

Whilst pre-planning is acknowledged as 'good practice' everywhere, it is recognised that in some countries the procurement plan that results from the process described above can be:

- The plan that has been, or has to be, adopted by the contracting authority
- A document that has to be published
- A document closely linked to budgets and financial plans
- The annual plan, which forms the only basis on which procurement can be carried out in the year concerned

[localisation here](#)

The annual procurement plan may also indicate those cases where a contracting authority intends to:

- collaborate with other contracting authorities for occasional joint procurement
- acquire supplies and/or services from a central purchasing body
- acquire works, supplies and services by using contracts awarded by a central purchasing body
- acquire works, supplies and services by using dynamic purchasing systems operated by a central purchasing body
- acquire works, supplies and services by using a framework agreement concluded by a central purchasing body.

## 2. Determining the need

This is the very first stage in the actual procurement process. Here the basic need of the stakeholder(s) is explored, options considered, and the requirements briefly described as the basis for a plan and a specification. Procurement officers should not take the initial need for granted, but rather they should engage in a process that evaluates the needs and considers alternative cost-effective solutions. Some 'needs' may already have been met by a previous and or by a current contract, the item sought may already be in stock from an alternative economic operator, or a potential purchase could be aggregated with other forthcoming purchases so as to present a more attractive supply opportunity to the supply market.

### **Good practice note – ensuring there is a need**

A procurement officer should not simply be a rubber stamp! Auditors will want to understand that there is a clear need.

### **3. Procurement planning – individual procurement level**

Within the framework of the annual procurement plan, this is the stage in the process when the objectives of making an individual procurement are considered in relation to stakeholder needs and when a planned approach to the procurement is set out. This process is vital to the success of the procurement, although it may be executed in parallel with or immediately after the specification. Procurement planning is dealt with in more detail in Module C1, where a sample procurement plan is provided. Auditors will want to see a clear procurement plan signed off by key stakeholders, as it represents a decision to proceed. An individual procurement level plan could also involve co-operation with other contracting authorities and/or one or more central purchasing bodies.

### **4. Market review**

This stage involves the review of the range of potential tenderers for the requirement, and it may be an iterative process with planning and specification.

The nature of the market identified in this review may influence the procedure selected for this procurement so as to obtain the greatest value for money for the purchasing organisation. The review may lead to a decision on how to construct the requirement and whether to include or exclude items from the bundle forming the invitation to tender. For example, it may be possible to award a service contract or to outsource. It may also be possible to outsource everything or to retain some service provision within the organisation.

The market review may also reveal which other contracting authorities:

- have purchased a similar requirement and may provide opportunities for learning lessons;
- have a similar need and may provide opportunities to collaborate for joint procurement.

Article 40 of the 2014 Directive confirms that the contracting authority “may conduct market consultations with a view to preparing the procurement and to informing economic operators of their procurement plans and requirements”.

Article 40 continues:

“For this purpose, the contracting authority may, for example, seek or accept advice from independent experts or authorities or from market participants. That advice may be used in the planning and conduct of the procurement procedure, provided that such advice does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency.”

Article 41 of the 2014 Directive provides that:

“ where a candidate or tenderer or an undertaking related to a candidate or tenderer has advised the contracting authority or has otherwise been involved in the preparation of the procurement procedure, the contracting authority must take appropriate measures to ensure that competition is not distorted by the participation of that candidate or tenderer.”

Article 41 continues:

“Such measures shall include the communication to the other candidates and tenderers of relevant information exchanged in the context of or resulting from the involvement of the candidate or tenderer in the preparation of the procurement procedure and the fixing of adequate time limits for the receipt of tenders. The candidate or tenderer concerned shall only be excluded from the procedure where there are no other means to ensure compliance with the duty to observe the principle of equal treatment.”

Article 41 emphasises that:

“Prior to any such exclusion, candidates or tenderers shall be given the opportunity to prove that their involvement in preparing the procurement procedure is not capable of distorting competition.”

See Module E6 for further information on articles 40 and 41 in the 2014 Directive.

## 5. Specification

With simple requirements a description may be adequate; however, a detailed “specification” is necessary for all but the simplest requirement. The specification describes, clarifies and defines the requirement in detail that is adequate enough to enable potential economic operators to make a clear offer to the contracting authority that should meet its needs. At the same time, technical specifications must be drafted in such a way as to avoid artificially narrowing down competition through requirements that favour a specific economic operator by mirroring key characteristics of the supplies, services or works habitually offered by that economic operator. This process involves stakeholders in a major way, as well as procurement officers. The different types of specification are discussed in more detail in Module E1.

## 6. Performance measures

This step involves the consideration by the contracting authority of the way in which it will measure the success of the goods, works, materials and services supplied to it in response to the specified requirement. This consideration may:

- mean a change in the specification to add clarity if the difficulty of measuring performance has been considered;
- influence the wording of the notice and the invitation to tender (ITT);
- influence the weighting and scoring mechanisms used in the procurement;
- form the basis of the performance measurement to be used when economic operators are actually delivering the requirement.

### **Good practice note – performance measures**

This step is closely linked with step 36 and Module G3 includes more detail on performance measurement. This step may also set the evaluation criteria to be used to evaluate an economic operator’s tenders and propose milestones against which payment will be made.

Essentially, if we do not know what a good job looks like then how we can expect economic operators to know it!

## 7. Terms and conditions

This step includes the consideration by the contracting authority of the specific terms and conditions that it would prefer to apply to the supply of goods, works, materials and services. It is vital to do this before the Invitation to Tender is prepared and issued.

The terms and conditions may be extracted from the standard terms and conditions of the purchasing organisation. However, procurement officers:

- must ensure that the standard terms and conditions used are appropriate to the requirement;
- should use internationally recognised forms of contract wherever this will encourage competition from an international supply base (e.g. International Federation of Consulting Engineers – FIDIC); **localisation here**
- add to, develop or amend standard terms and conditions to meet the specific requirements;
- add to, develop or amend standard terms and conditions to deliver best value;
- must ensure that terms and conditions satisfy legal standards.

Decisions here can impact on economic operators' costs, particularly if the terms and conditions place unnecessarily heavy burdens on them. These costs may be passed on to the purchasing organisation.

## **8. Constructing a business case **localisation here****

A business case tests the viability of a project or purchase and proves that the purchase the contracting authority is making is worthwhile.

At the simplest level the business case captures the reasoning behind the purchase and adds up all of the costs and compares them with the likely benefits to ensue. When this is done, it is possible to see whether the purchase should go ahead.

For major purchases a business case should be constructed demonstrating that there is clear benefit in making this procurement. This case must reflect the costs and benefits of the procurement and of all the options considered. The business case should be revisited at the end of the process - during the performance review and continuous improvement steps - to ensure that the project has lived up to its expectations.

This document is a key decision-making tool. Completing a business case can call a halt to unnecessary or unwise procurement that is not going to pay back. The business case is also a key document for auditing the performance of the contract.

## **9. Approval**

In some circumstances procurement staff may have been given formally delegated authority to go to the next stage without further approval being needed; however, in other circumstances it will be necessary to seek the approval of more senior staff in, for example, a ministry, before the procurement can move forward. Where approval is necessary, auditors will regard the signature of the appropriate person as a vital authorisation to proceed, and progressing without the necessary approval will frequently contravene internal legal procedures.

## 10. Preparing a procurement notice

A notice to be published must be prepared to allow all potential economic operators to have an opportunity to bid for the requirement in question. Module E2 describes this notice in detail. This document and/or transaction is a key part of the audit trail.

## 11. Preparing an invitation to tender (ITT)

It is necessary to create an ITT that will be available for despatch to potential economic operators, using formats that have been approved by the contracting authority and that in some cases are required by law. Within the standard approved template, the text describing the actual requirement may be:

- A simple and relatively short document (e.g. for the supply of stationery)
- A vast document (e.g. for the construction of a new bridge) including a set of drawings, graphical performance charts, images, etc.

Irrespective of its size, the ITT should include a number of key features that reflect good practice and the law of the land; these features are described in Module E1. This step will also ensure that the evaluation criteria used for economic operators' tenders are included in the information sent to economic operators.

### 2.4 The procurement cycle – running the procurement exercise

This section considers the activities necessary to run the procurement exercise (steps 12 to 23 in the total procurement process). The process steps within this division are:

12. Publishing a notice
13. Supplying an ITT
14. Handling questions
15. Receiving tenders
16. Qualification of economic operators
17. Evaluation
18. Clarification
19. Award approval
20. Standstill period
21. Bid protest and contract review
22. Award of contract
23. Publishing a contract award notice

Referring specifically to the evaluation of tenders, but with reference elsewhere, consider this quote from Oscar Wilde: "What is a cynic? A man who knows the price of everything and the value of nothing." (from *Lady Windermere's Fan*, Act III, 1892).

Each step will now be covered in more detail and particular attention will be given to:

- Decision points
- Working with stakeholders
- Audit touch points

- Effectiveness

Where other modules deal in more detail with the topics under consideration, the text in this section will be limited, and cross-references will be made to appropriate sections or modules where further information can be found.

## 12. Publishing a notice

This process, which notifies potential economic operators that a requirement exists, is described in Module E2. It is vital that the procurement officer is able to demonstrate that the notice has been placed and that all potential economic operators have had access to the information it contains about the requirement. The publishing of a buyer profile is encouraged. The buyer profile may include prior information notices, information on ongoing invitations to tender, schedules of purchases, contracts concluded, procedures cancelled, and any useful general information, such as a contact point, telephone number, fax number, mailing address and e-mail address. The buyer profile may also include prior information notices, used as a means of calling for competition, which are published at national level. [localisation here](#)

## 13. Supplying an ITT

This process involves manually or electronically sending or making available the documents describing the procurement requirement to the potential economic operators who request them. The documents will vary depending upon the process selected. The processes are described in Module C4. It is vital that all potential economic operators receive the same information about the requirement. According to the 2014 Directives, electronic availability of the procurement documents is mandatory with effect from 18 April 2016. There are also provisions in article 53 of the 2014 Directive requiring procurement documents to be available free of charge on the Internet on the date of publication of the contract notice. See Module E6 for further information on the requirements in the 2014 Directive relating to the availability of procurement documents.

## 14. Handling questions

Despite careful preparation on behalf of the procurement team, economic operators attempting to respond to the ITT may have questions, and the process must include the receipt of and reply to these questions. The process is fully described in Module E1.

Questions may relate to many areas of the ITT, including:

- Evaluation process
- Extent of the requirement
- Payment terms
- Quality standard required
- Return processes
- Terms and conditions
- Timing of the delivery
- Understanding of the requirement as described

### Good practice note – handling questions

Good practice is to record all questions and answers in due course. Answers to all questions should be sent to all tenderers.

This topic is dealt with more fully in Module E1. Questions may also arise at later stages in the procurement process. [Localisation – if specific legislation comments on what to do here](#)

## **15. Receiving tenders**

This is the process in which the procurement officer receives offers to deliver/perform the specified requirement from economic operators. Tenders must be held in a secure location once they have been received and, depending upon the process used, tenders may not be opened until the time prescribed as the final date for receipt of a tender.

The tender opening process may in some cases be a public event, where the tenderers can visit the contracting authority and see that initially all of the tenders are unopened and then that they are opened in the same way at the same time. A senior official in the contracting authority may be asked to open the tenders, and therefore the procurement officer must ensure that time is set aside in the senior official's agenda and that a suitable venue is booked in advance.

Once opened, tenders should be stored in a secure place and transmitted via a secure means of transfer to the persons who will evaluate them.

On some occasions two separate envelopes from each economic operator may be requested. One envelope will contain the economic operator's response with costs included and the other envelope will contain the economic operator's response without costs. The objective of this method is to allow technical specialist stakeholders to evaluate the response without considering the cost. In these circumstances the responses with costs included remains with the procurement officer and the responses without costs are passed to the technical stakeholder.

Late tenders must not be accepted and must be returned unopened to the economic operators concerned.

According to the 2014 Directives, the electronic submission of tenders shall be required (no later than 18 October 2018). Further discussion on the action required from procurement officers at this stage is provided in Module B3.

## **16. Qualification of economic operators**

This step in the process seeks to confirm whether economic operators are qualified to perform the contract that is to be awarded. This qualification will refer to the pre-established selection criteria set out in stage six above and may include an examination of the economic operator's accounts and performance with other customers. If the restricted procedure, the negotiated procedure or the competitive dialogue procedure is used, this qualification step is part of the process of selecting the economic operators who are to receive the full ITT. Qualification of economic operators is discussed in more detail in Module E3. Qualification can be confirmed on the basis of financial, legal and technical (experience) assessments.

## **17. Evaluation**

This is the process of reviewing the offers made by economic operators and comparing them, with a view to determining which offer(s) are most likely to meet the needs of the contracting authority.

The process uses the weighting and scoring criteria set out in step six above. In some cases the evaluation may require an on-site review of an event or a site visit. The roles of the procurement officer and the stakeholder in the evaluation are described in more detail in Modules B3 and B4 respectively. Evaluation is also dealt with in Module E5.

The evaluation shall be based on the determination of the most economically advantageous tender, as redefined in the 2014 Directive. Article 67 provides that the “most economically advantageous tender from the point of view of the contracting authority shall be identified on the basis of the price or cost, using a cost-effectiveness approach, such as life-cycle costing....and may include the best price-quality ratio, which shall be assessed on the basis of criteria linked to the subject matter of the public contract in question, including qualitative, environmental and/or social aspects.”.

In the case where only the price is used for identifying the most economically advantageous tender, where three tenderers have bid 170 000 EUR, 155 000 EUR and 160 000 EUR for a requirement advertised by the contracting authority, the tenderer bidding 155 000 EUR will be awarded the work, all other criteria being equal.

In the case where the best price-quality ratio is used for identifying the most economically advantageous tender, weighted criteria reflecting issues of vital importance to the purchase are specified and communicated to tenderers, who then submit a tender with that information in mind. Where three tenderers have bid 640 000 EUR, 665 000 EUR and 649,000 EUR for a trolleybus, the contracting authority may select the tenderer who has demonstrated that his offer represents the most economically advantageous tender when all of the criteria are compared.

For example, it may be that the tenderer bidding 665 000 EUR can demonstrate that his trolleybus:

- uses substantially less electricity than the other two options; and/or
- will operate on its battery for longer than the other two options.

The cost of the higher purchase price at 665 000 EUR will, over the life of the use of the trolleybus, result in a more economically advantageous purchase.

The need to obtain answers to questions may make the evaluation process an iterative one, taking several days before a final decision can be made. During this time it is vital that no one on the tender panel leaks information to anyone else in the contracting authority or to economic operators.

### **Good practice note – make the most of the best price-quality ratio**

Make the most of the best price-quality ratio. This principle allows you to determine the best solution. However, keep in mind that the best price-quality ratio must always include a price or cost element.

One city authority describes the best price-quality ratio as the “criteria which the authority may use to determine that an offer is the most economically advantageous, including delivery date, running costs, cost effectiveness, quality (including technical merit), aesthetic and functional characteristics, accessibility, suitability of design for all users, social, environmental and innovative characteristics, after-sales service, technical assistance and price.”

According to the 2014 Directives, where the quality of the staff assigned can have a significant impact on the level of performance of the contract, the organisation, qualifications and experience of staff assigned to perform the contract may also be used as contract award criteria.

## **18. Clarification**

Clarification is the process undertaken by the purchasing officer and stakeholders in order to understand more precisely the details and implications of the economic operator’s offer(s) in relation to the specified requirement. This step may not be necessary if the tender is perfectly clear. In the same way that the specification prepared by the procurement officer may not be completely clear to staff working for economic operators, the tender provided by economic operators may not be clear to the evaluators in the contracting authority. Typically, questions can relate to:

- The discovery of arithmetical errors
- The requirement not appearing to be fully covered
- The quality standard being offered
- Changes in terms and conditions
- Timing of the delivery
- The understanding of the tender’s description of its offer
- Conflicts between the same statistics shown on different pages of the tender
- The tender being incomplete

To fully understand the offer being made by an economic operator, the contracting authority, through the procurement officer, may need to contact the economic operator and seek answers to its questions. It must be clear that this process is a simple question and answer session and not a negotiation session. Good practice is to record all questions and answers. The need to obtain answers to questions may make the evaluation process an iterative one, taking several days before a final decision can be made. During this time, as with the evaluation process, it is vital that no one on the tender panel leaks information to anyone else in the contracting authority or to economic operators. Module E5 deals with clarification in more detail.

## **19. Award approval**

In some circumstances procurement staff may have been given formally delegated authority to proceed to the next stage without formal approval being needed; however, in others it will be necessary to seek the approval of more senior staff in, for example, a ministry before the procurement can move forward. Where approval is necessary, auditors will regard the signature of the appropriate person as a vital authorisation to proceed, and progressing to the next stage without the necessary approval will frequently contravene internal legal procedures.

## 20. Standstill period

Following an ECJ decision (Alcatel C-81/98), it is now a requirement for a contracting authority to establish a standstill period of a minimum of ten (10) calendar days between advising tenderers by fax, e-mail or post (whichever is the fastest method) of the contract award decision and entering into a contractually binding agreement with the successful tenderer. The requirement for a standstill period applies to most contracts awarded following a procurement process carried out under the EU procurement directives.

This standstill period allows unsuccessful tenderers an opportunity to challenge the decision of award of the contract and, if they so choose, to bring an action to court for the suspension and setting aside of the decision.

The requirements for notification, standstill period and challenges are discussed in more detail in Module F1.

## 21. Bid protest and contract review

**Localisation is needed here.** Where a tenderer registers a complaint concerning an award of contract within the standstill period, procurement officers must immediately make their legal team and others (as appropriate) aware of the situation. The 'successful' tenderer must also be made aware of the situation and understand that the supply cannot immediately proceed.

The nature of the complaint may shape the precise route taken, for example where fraud is alleged the procurement officer will need to involve an internal audit. In all cases, procurement officers must review the file containing the information on the decision-making process and ascertain from those colleagues who made the decision whether they consider that there may be grounds for a complaint. Where this review leads to a conclusion that the decision was not properly made, the contracting authority may choose to re-tender the requirement, participate in a court case, or seek alternative methods of dispute resolution. Module G2 reviews alternative methods of dispute resolution. The standstill period and challenges are discussed in more detail in Module F1.

Where a challenge is taken to court, the contracting authority and the selected tenderer cannot proceed to sign contracts or prepare to commence work in any way as the court may set aside the contract. Module E5 will give further details on the procedures to follow in these circumstances.

## 22. Award of contract

This step is the process of formally notifying an economic operator that it has been selected as the provider of the goods and services required and specified by the contracting authority. This process will include the completion and signing of contracts - legally binding documents. The successful economic operator may need to provide the contracting authority with a performance bond before the contract is signed.

The roles of the procurement officer and stakeholders are described more fully in Modules B3 and B4 respectively. Where the agreement made with an economic operator is in the form of a single purchase order, this order will form the first of three transactions, which auditors refer to as a three-way match. For each transaction auditors will seek to establish the existence of:

- A validly authorised instruction to an economic operator indicating that it is to proceed with a requirement – step 22 (see also a call-off order linked to a contract, step 26)
- A validly authorised receipt demonstrating that what had been ordered was received (usually on the premises of the contracting authority) – steps 29 or 31
- An authorised payment demonstrating that the contracting authority is only paying for what it had ordered and has received – step 35

## 23. Publishing an award notice

A notice of the contract awarded must be published as required by national law. This process is described in Module E2.

## 2.5 The procurement cycle – managing the contract

Consider this quotation: “To manage a system effectively, you might focus on the interactions of the parts rather than their behaviour taken separately.” (Russell L. Ackoff) Effective contract management relies upon processes interacting efficiently and effectively and on people taking a holistic view of the subject, not a view from within their own silo.

This module considers the activities necessary to run the procurement exercise (steps 24 to 39 in the total procurement process). The process steps within this division are: [localisation here](#)

24. Internal communication
25. Engaging the economic operator
26. Enabling ordering mechanisms
27. Acknowledgement
28. Expediting
29. Quality control
30. Special transportation
31. Receipt
32. Inspection
33. Storage and control
34. Issuing to stakeholder
35. Payment
36. Performance review
37. Continuous improvement
38. Disposal
39. Close-out

Each step will now be covered in more detail and particular attention will be given to:

- Decision points
- Working with stakeholders
- Audit touch points
- Effectiveness

## 24. Internal communication

This step involves members of the procurement team communicating to the relevant stakeholders in the contracting authority concerning the specific nature of the contractual arrangements agreed with the economic operator(s). This step is particularly vital where one group in the contracting authority 'procures' and another 'manages the contract'.

On occasions when this step is not adequately performed, stakeholders may not know who the new economic operator is, when the new economic operator starts and the old one stops, whom to contact about their needs, and which process to use. It is a fundamental process that procurement officers must not leave as a loose end. Key steps involve communication to:

- Persons managing the contract
- Persons who will be requesting the service - to inform them which processes to use and to provide contact points and numbers
- Persons who will be using the service - to let them know the name of the new or changed contractor
- The IT Department - to set up, amend and remove entries from computer systems
- The finance department – to make sure that payments go to the correct places
- Departments concerned with organising site access to contractors as appropriate and where necessary - to prevent access to previous contractors
- Persons engaged in receiving or inspecting consignments
- The economic operators involved, if a handover is needed
- Others involved in actions as necessary - to ensure the effective implementation of the contract

## 25. Engaging the economic operator

This step sees the initial engagement of the purchasing and selling organisations, which are now working together within the agreed contractual framework. This step will involve:

- Planning cutover from the existing contractor (if appropriate)
- Planning the introduction of the requirement through a new contractor
- Organising meetings between procurement staff, stakeholders and contractors' staff
- Considering systems integration
- Considering ordering mechanisms
- Organising accommodation, site passes, etc.
- Pilot run, where appropriate
- Handover of stocks or other equipment from in-house service providers or existing economic operators
- Press releases, where appropriate
- Other actions as necessary to ensure the effective implementation of the contract

One other vital change needs to take place at this stage. Up until the contract was signed, there was a feeling of competition between the contracting authority and the selling organisation about who would or would not do this or that and about who would bear the cost of this or that aspect of the contract. At this stage, within the framework of the contract, the two organisations must now move from 'competition' to 'collaboration', which means working together to produce a successful result

for both parties. Procurement officers must ensure that they avoid corrupt activities or activities that could be viewed as potentially corrupt when working with economic operators.

## **26. Enabling ordering mechanisms**

In many cases there is more work to do than simply placing a contract or an order!

Specifically, staff from a number of stakeholder departments, IT and the economic operator will need to be involved to ensure that business processes and procedures between the organisations involved actually work. They will also need to ensure that the information required to fulfil the contract flows punctually, securely and completely in both directions between the organisations concerned. Stakeholder departments can include:

- End-users
- Finance
- Receivers
- Inspectors
- Project managers
- Procurement
- Engineers

Where call-off or other similar arrangements have been agreed with an economic operator, this step activates those arrangements involving internal stakeholders and economic operators. The ongoing supply of goods and services provided by economic operators is therefore “called off” by stakeholders directly, without involving the procurement team in each individual “call-off”.

A call-off Order linked to a contract or a purchase order constitutes the first of three transactions that auditors refer to as a three-way match. Module C4 deals with framework agreements in more detail. For each transaction, auditors will seek to establish the existence of:

- A validly authorised instruction to an economic operator to proceed (a call-off order linked to a contract) – step 26
- A validly authorised receipt demonstrating that what had been ordered was received (usually on the premises of the contracting authority) – steps 29 or 31
- An authorised payment demonstrating that the contracting authority is only paying for what it had ordered and has received – step 35

## **27. Acknowledgement**

This process is the receipt by the contracting authority of a communication from the economic operator agreeing to supply the goods and/or perform the services required by the contracting authority. Signing the contract together normally makes this communication redundant, but economic operators may inadvertently issue an acknowledgement, and there may be legal consequences.

Localisation will be required here to understand the status of the acknowledgement in the local ‘battle of the forms’

## **28. Expediting**

This is the process of establishing the current delivery status of the specified requirement. Procurement staff contact the economic operator when goods and services are supplied and/or update the project plan with information on the progress of an economic operator when more complex requirements are being procured.

Ideally, economic operators should always deliver as agreed – meaning on time. However, procurement officers live in the real world and on-time delivery may vary from ‘most of the time’ with some economic operators to ‘hardly ever’ with other economic operators. This expediting step is a pure cost for the contracting authority, although there may be an even greater cost if the delivery does not occur, and it may therefore be the lesser evil to have procurement officers phoning economic operators to check and chase delivery. Poor performance here may be reflected in the performance review (step 36) and in continuous improvement (step 37). Delivery time may also be the essence of the contract and as such it is vital.

## **29. Quality control**

This is the process of monitoring the progress of work being undertaken by the economic operator on behalf of a contracting authority where this is necessary, for example in the design and construction of a building. Procurement staff need not necessarily ‘do’ the inspection or progress report themselves, but they need to ensure that it is done. It is possible to use other economic operators who are specialists in measurement and/or certification to undertake this work on behalf of the contracting authority.

As an example, a quantity surveyor may be asked to visit a construction project to determine whether progress has been satisfactorily made and whether stage payments could be made because the foundations of the building were correctly in place. Another example could be an assessment of the development of software, where a systems analyst would test the software developed to date and deem whether it was fit for purpose. A stage payment could then be made. Using a qualified professional to make an assessment is a vital control in this part of the procurement process, and auditors will want to be assured that qualified persons have completed the step before payment is released.

In these cases, the inspection or on-site quality control becomes a receipt and an inspection can trigger payment. These transactions can form part of the three-way match sought by auditors – refer to steps 22 or 26, 29 or 31, and 35.

## **30. Special transportation**

The delivery of the requirement is not normally a problem; however, it may be a problem when the item being delivered:

- is large and requires special transport;
- is hazardous;
- requires a permit;
- is heavy and requires additional equipment to unload or install it.

In these circumstances the procurement team must organise appropriate permits, resources and/or facilities. In one example a French lorry driver had to wait for an extra 24 hours to unload his vehicle because the contracting authority had not organised a crane to unload the compressors at its site. This failure added cost to the procurement and reduced the effectiveness of the contracting authority.

[localisation here for examples of laws governing transportation of hazardous goods](#)

### 31. Receipt

Receipt is the process by which the contracting authority receives the goods, works, materials and services from the economic operator, checking that the quantity it ordered has been received. This process will vary depending on the nature of the requirement. When goods are received it is easy to count and account for the delivery, for example of six boxes of stationery. The contracting authority will also need to comply with legislation on the removal and disposal of packaging. [Localisation – implementation of European WEEE legislation](#)

#### **Good practice note – receipt**

Receipt is a vital process and it is the focus of auditors who wish to check that what has been ordered has been received. Don't let people escape without providing a receipt transaction for goods or services.

Services, by their very nature, are more intangible than goods. It would be difficult to answer the following questions: Has the consultant been on site for an entire day? How do we measure the delivery of a training programme? How do we measure the output of consultants and contractors working on their premises and not on our site? How do we know that the window cleaner has cleaned all of the windows on the site that were supposed to be cleaned?

Receiving services is more difficult than receiving goods, but it is a process that must not be shirked. Examples of service receipts are:

- Signing in/signing out for people performing a service on-site
- Acceptance testing of software
- Sample checks on work accomplished, e.g. whether all of the windows have been cleaned or all of the rat traps emptied and set
- Deliverables, such as written outputs or reports of the appropriate length and quality, demonstrating that a consultant has spent time as agreed on a project for a contracting authority
- Surveys of performance, e.g. of a training programme or restaurant, confirming receipt and fitness for purpose
- Timesheets provided for work, wherever it takes place

In some cases, the above 'receipt' transactions cross over the boundary to log 'acceptance' as well as receipt. A pragmatic view must be taken and if one step will meet two needs then it should be used. Effective receipt processes can make use of technology, and they must not be unnecessarily bureaucratic.

Receipt of works and other intangible services, such as software, was discussed in step 29 (quality control) above. This transaction is a vital part of the three-way match sought by auditors – refer to steps 22 or 26, 29 or 31, and 35.

## 32. Inspection

This is the process whereby the fitness for purpose is established of the goods, works, materials and services received by the contracting authority. This process will vary depending on the nature of the requirement. Procurement officers need to ensure that:

- appropriate tests take place promptly;
- acceptance testing takes place (e.g. testing of equipment, such as x-ray machines);
- persons conducting the test are 'qualified';
- health and safety legislation is complied with;
- prompt communication of acceptance or rejection takes place with relevant stakeholders;
- rejected goods and services are not paid for until they are revalidated;
- rejected goods are returned and replaced;
- rejected services are carried out again, at a quality level in accordance with the contract.

This process is a vital one, as it tests the fitness for purpose of the delivery. For example, it would be possible to order and receive 12 bottles of vodka, but without a sampling test it would not be possible to determine whether the bottles were full of water or vodka. Tests for goods can include:

- Dimensional tests
- Weight tests
- Spectral analysis
- Certification
- Air pressure tests
- Vibration tests
- Tension tests

Some of the tests are non-destructive and others take an item and test it to the point of destruction. On some occasions only samples are checked and on others the whole batch is checked.

Tests for works, services and supplies were discussed in step 29.

Irrespective of the nature of the requirement, it is incumbent upon the contracting authority to make sure that they have received what they paid for. Some form of 'inspection' is therefore appropriate, although this inspection should also be tempered by the cost and risk of the requirement.

## 33. Storage and control

This step is the process of storing and controlling goods and materials in such a way that they can be readily used by stakeholders as and when required. It does not apply to works and services. Having paid for the goods and materials, the contracting authority must store them to ensure that they are both available and in good condition when stakeholders use them.

[localisation here – storage of hazardous goods](#)

## 34. Issuing to stakeholder

This step reflects the process of making goods and materials available to authorised stakeholders within the organisation. This process is of vital importance because 'goods tend to develop legs and walk'. The absence of items required by stakeholders may prevent a key business process from

taking place, and any items stolen, whether by internal or external persons, must be replaced at a cost. Someone working in the contracting authority must be tasked with the process of control issues. Again, depending upon the value of the goods and their criticality, auditors may be interested in these transactions. Effective issuing processes can make use of technology but they must not be bureaucratic.

### **35. Payment**

This step reflects the process of making payments to economic operators for the goods, works, materials and services they have supplied to the contracting authority. Auditors will typically be interested in this process, which constitutes the last of the component parts of the three-way match. The three-way match is described in step 22 and links also to steps 26, 29 and 31.

Finance departments in the contracting authority should seek to make a three-way match with all invoices received, expecting to be quizzed by auditors wherever this is not the case. Depending upon the systems available to the contracting authority, it may or may not be possible for the payment authorisation to be made before the economic operator's invoice document has left the finance department.

Some contracting authorities find it acceptable for an economic operator's invoice to be part of a three-way match made by the finance department, which can confirm, by means of either paperwork or a computer system, that the other two parts of the match are in place.

Other contracting authorities find it necessary to send an economic operator's invoice to other stakeholders for their approval, even in cases where the finance department can see, from paperwork or a computer system, that the other two parts of the match are in place.

Public sector organisations in some EU Member States are striving to achieve the former example above, while others feel they must maintain the latter process. The minimum information needed on an invoice document includes:

- Invoice number
- VAT number **Localisation**
- Contract and reference point in the economic operator
- Name and address of recipient organisation (contracting authority)
- Details of the goods, works or services for which the invoice has been established
- Dates and times of provision of the services
- Invoice date or tax point
- Sum invoiced

Direct payments to subcontractors are explicitly permitted according to the 2014 Directives where the nature of the contract so allows and without prejudice to the issue of the main contractor's liability. Such measures may include appropriate mechanisms permitting the main contractor to object to undue payments. Module G1 provides more information.

**Localisation may be required here**

### **36. Performance review**

This process involves a comparison of the performance of the goods, works, materials and services provided to the contracting authority against the quoted, specified and agreed criteria. Module G3 includes more details on performance measurement.

Measurement is a vital part of the procurement process but is sometimes forgotten when procurement officers are concentrating on a subsequent project. For large procurement, a post-implementation review is an appropriate tool.

### 37. Continuous improvement

This step involves looking at the procurement process and at the goods, works, materials and services purchased and identifying areas for improvement, which could be applied to future procurement.

#### Good practice note – continuous improvement

As higher mammals, the experiments of Pavlov indicated that we learn from our experiences. Procurement people and contracting authorities must not be immune from this. Learn from your experiences and improve for next time.

At the end of a procurement process it is appropriate to ask:

- What went really well with this procurement? Can we implement those features elsewhere?
- What needs improving? How can we do that? Who will help us?

In terms of the goods, works, materials and services procured, we could ask:

- Did we specify appropriately? Did any issues arising during delivery demonstrate that the specification could have been better?
- Was the economic operator unreliable in delivering what it had promised? How could we require it to be clearer in the future?
- Were all of the checks and controls needed during the processes in place? What could be done better with a similar procurement next time?

### 38. Disposal

This process includes the steps necessary to dispose of goods, works and materials in an ethical and environmentally friendly way, whilst ensuring value for money for the contracting authority. Sometimes this step is the responsibility of procurement. Disposal to 'friends' or disposal below market value are normally viewed as corrupt activities. Procurement will also need to ensure that the organisation complies with the EC directives on disposal. [LOCALISATION on disposal legislation](#).

### 39. Close-out

Contract close-out is achieved when the contracting authority and the economic operator have completed all procurement steps and administrative actions. Close-out occurs when all disputes have been settled and final payment has been made. The following list of actions, where applicable, can contribute to the close-out of a contract:

- Complete any price revisions
- Complete contract audit
- Complete contractor's final closing statement
- Submit and obtain acceptance of contractor's final invoice
- Ensure that all indirect costs are settled
- Ensure that all subcontracts are settled by the prime contractor
- Ensure that there are no outstanding change proposals
- Identify excess funds for re-distribution
- Review contract data and confirm that all deliveries have been accepted

Module G1 covers this step in more detail.

## **2.6 Co-operation with other contracting authorities**

### **What is meant by co-operation?**

Co-operation with other contracting authorities aims at 'working with others to achieve best value'. It can be achieved by leveraging greater economies of scale through the supply base due to larger size order. There are at least two models for achieving this co-operation:

According to one model, a separate organisation is set up to act as a central purchasing body, for example, on behalf of local authorities within a geographical area, making all of their major purchases. The authorities may or may be not free to purchase outside the organisation, and the organisation may levy a small percentage on each purchase it makes so as to recover its operating costs.

Another model involves sharing out purchasing between the organisations concerned and running occasional joint procurement activity as a virtual organisation. For this model, charges are usually not levied.

The 2014 Directive contains provisions relating to central purchasing in article 38 and to occasional joint procurement in article 39.

### **Informal co-operation**

Public sector organisations can informally collaborate:

- between themselves;
- with private sector organisations;
- on specific projects;
- for specific purchases.

### **Example of an organisation set up to act on behalf of authorities**

Extract from the ESPO (Eastern Shires Purchasing Organisation in the UK) website <http://www.espo.org>:

“ESPO is a joint Committee of Local Authorities and operates within the Local Government (Goods & Services) Act 1970. It acts as a purchasing agent for its member authorities and other customers and provides a professional, cost effective procurement and supply service. The use of our products and services by our member authorities and other customers, as measured by the value of their combined procurement activities, amounts to some £700 million PA and the procurement services provided can be grouped into four categories as follows:

- A strategic role offering good practice relating to the procurement function as a whole. ESPO offers leading edge advice on major complex procurement and contracting issues, competition and services, best value-driven reviews of service provision and one-off project based procurements. Over the last two years in particular, this aspect of our procurement activity and expertise has grown significantly.
- A procurement role for goods and services commonly used by a number of customers throughout the consortium area. This type of activity includes framework call off contracts and some local contracting where local issues are of key consideration.
- A catalogue based provision where ESPO is able to purchase products in volume (usually low value high volume type products) from manufacturers in the main, and the resultant economies of scale means that we can purchase into our central warehouse here at Grove Park and deliver to customers using a combination of our own and contracted transport. An on-line ordering facility is available for those who want to use it.
- A procurement service for 'ad hoc' goods and services required by customers where advice, guidance and good practice are the watchwords. Often customers need commercial solutions to meet a need or specific requirement in this field.

We are a self-financing organisation, operating on a not-for-profit basis, utilising the aggregate buying volumes of our member authorities and other customers to maximise the potential savings for all customers in every area of our procurement activity.”

### **Advantages of co-operation**

The advantages of co-operation include:

- Lower unit cost through aggregation of spending;
- Small organisations are able to access large contracts and the benefits that come with them;
- Access to the procurement skills of other specialists;
- Compliance with EC directives should be ensured;
- An individual contracting authority may not need its own procurement team or may be able to manage with a smaller procurement team;
- Improved quality;
- Reduced burden on economic operators; an economic operator will only have to answer one ITT rather than five from different contracting authorities, thereby reducing costs;
- Good practice can be shared between organisations.

### **Disadvantages of co-operation**

The disadvantages of co-operation include:

- Choice may be restricted by the selection requirements of other contracting authorities within the group – it could be a majority decision;
- Timing may not completely suit the contracting authority;
- If the consortium makes a mistake and a decision is contested, the individual contracting authorities are also liable;
- Where the organisation of the consortium relies on other contracting authorities inputting their resources into a joint approach, some organisations may want to take more than they are prepared to give;
- Organisations with higher spending may try to dominate the consortium;
- Where a framework agreement is established on behalf of the consortium, economic operators may not view this agreement as 'real' business.

### **Legal issues to consider**

When co-operating with other contracting authorities, the following legal issues should be considered:

- Joining existing framework agreements with other contracting authorities;
- Buying from another contracting authority (ECJ Hamburg case);
- Implications of competition law, which applies whenever the purchasing power of the contract exceeds 15% of the market for a given requirement. An example would be the procurement of breathing equipment for firemen.

### **Conclusion**

For small or local contracting authorities, using the services of a central procurement body or joining a consortium can be a way of achieving benefits that are otherwise not available to them. In the case of consortium organisations, they frequently succeed only when all participants actively support and participate in the joint procurement activity.

## **2.7 Summary**

This module has drawn out the 39 steps within the procurement cycle, whilst accepting that not every step will be necessary with every procurement and that in some countries the law of the land may impose specific practices.

The text has referred to the overarching concept known as the upstream/downstream concept. This concept considers steps in the procurement cycle up to and including the award of contract as 'upstream' and steps occurring after the contract has been awarded as 'downstream'.

## Section 3 Exercises

### Exercise 1

We would like you to take the 39 cards you will be given, read the process step description and then:

1. Place them into one of the three divisions of the procurement process
2. Place the cards in sequence from step one to step thirty-nine

The problem is that the cards have no number on them!

## **Information section**

### **Case Study – Collaborative procurement**

#### **Basic data about the institution**

The local town council spends only EUR 20 million. It has a population of 169 000 people in its district

#### **Introduction**

The town council has one procurement officer who also has other duties and is not therefore in a procurement role “full time”. The council nevertheless wants to have the advantage of best practice procurement for the people within its district.

#### **The course of the event(s)**

The council joined the Eastern Shires Purchasing Organisation [www.espo.org](http://www.espo.org), and pays a fixed fee each year to take advantage of the procurement arrangements set up by ESPO.

#### **Analysis of the event(s)**

When the council has a specific requirement, it can either:

1. Take advantage of an existing framework contract let by ESPO for the goods, works or services required, or
2. Ask the ESPO procurement specialist to make the purchase on its behalf.

In this way the small local council gains access to the procurement activity of a major purchaser within the country.

## Section 4 Summary

### Quick Questions

No.	Question
<b>Quick Questions Part 1: Preparing for Procurement</b>	
1	There is not much advantage to pre-planning procurement requirements. True or false?
2	A procurement officer should not simply be a rubber stamp to obtain the requirements of stakeholders. True or false?
3	Specifications are a joint activity involving stakeholders and procurement officers. True or false?
4	Specifications are a key means of delivering transparency. True or false?
5	There may be iteration between the consideration of performance measures and the specification. What is it?
6	Using economic operators' terms and conditions is a good idea. True or false?
7	What does a business case test?
8	Which comes first, the ITT or the specification?
9	What might a market review influence?
10	What is meant by an "upstream" process?
<b>Quick Questions Part 2: Running the procurement exercise</b>	
11	What is "vital" about publishing a notice?
12	Why it is vital that all potential economic operators receive the same information about the requirement?
13	Provide three examples of questions that a procurement officer might receive about an ITT that has been issued.
14	"I only send answers to the people who ask the questions", said Marie. Is she correct?
15	Yvette said, "I open all of the tenders when I receive them. I don't need to wait until all of the tenders are received before I open them". How would you advise Yvette?
16	"Late tenders sometimes contain really low prices", said Marian. What is the worst-case scenario here?
17	When looking at two economic operators' tenders, a very experienced procurement officer was heard to say, "This is like comparing an apple and a banana!" What did he mean?
18	It is necessary to clarify the offer that economic operators have made to us. Provide three examples of what you might wish to clarify.
19	The contract award can be the first part of a three-way match. What are the other parts?
20	What might unsuccessful economic operators do if they feel that they have been unfairly treated?
<b>Quick Questions Part 3: Contract Management</b>	
21	"All of the hard work is done once the contract is placed." Comment on this statement.

No.	Question
22	Identify three things that may be necessary during the “internal communication” step.
23	“I don’t order things late and so I don’t expedite”, said Jacques the procurement officer. Is there a risk in Jacques’ approach?
24	In what circumstances might a receipt be performed by a specialist resource away from the site of the purchasing organisation?
25	Provide examples of a service receipt.
26	Inspection is part of the three-way match. True or false?
27	Where in the whole procurement cycle are the measurement criteria first considered?
28	“A payment should only be made if a three-way match is evidenced.” What does this mean? Provide an example.
29	When we consider “continuous improvement”, we are referring to both _____ and _____. Complete the blanks.
30	Identify three examples of what might take place during closeout.

## **Module B3 The Role of the Procurement Officer**

### **Section 1 Introduction**

#### **1.1. Objectives**

The objectives of this module are to make participants aware of what is required of them in terms of:

1. Understanding stakeholder requirements
2. The elements of a competency profile of professional procurement officers relating to good practice and operating within the environment of EU Directives. This includes the skill sets required to effectively prepare, run and manage the procurement process
3. Managing stakeholders
4. Providing advice to stakeholders on key issues relating to procurement
5. Managing the procurement process as a whole
6. The need to communicate in four directions
7. Handling relationships with economic operators
8. Drafting a report on procurement activity

To assist in explaining these issues, the main narrative is divided into three sections:

- A discussion of the stakeholders in a procurement process and where the power to influence procurement processes and decisions lies within a contracting authority.
- The role of the procurement officer where that role is not specifically linked to a procurement process: this includes an introduction to the core competencies of a procurement officer, communication and reporting requirements.
- The role of the procurement officer during the 39 steps of the procurement cycle: the 39 steps are covered in detail in B2.

#### **1.2. Important issues**

A key issue is to understand that the procurement officer and procurement team are service providers and that procurement is a service to the stakeholders within the contracting authority. If there were no goods or services to purchase, there would be no need for a procurement team.

To successfully deliver the service for stakeholders, a procurement officer should have a wide range of competencies. These competencies are highlighted in this module.

#### **1.3. Links**

Links to other modules appear throughout the text of this document, in particular Module B2 and Module B4.

#### **1.4. Relevance**

Procurement professionals should:

- Understand and demonstrate the competencies they need to fulfil their role
- Be trained to have a thorough understanding of policy and processes, and be able to determine what is appropriate for the contracting authority
- Maintain a body of knowledge of best practice
- Have a full understanding of rules, regulations, laws and guidelines that impact on their policy and process
- Ensure that policy and process mitigate business risk and manage cost
- Ensure that policy and process are developed to deliver the objectives, vision and/or mission of the contracting authority
- Ensure supply chain compliance or alignment with adopted policy and process through economic operator assessment and evaluation
- Formalise policy and process development

### **1.5. Legal information helpful to have at hand**

This section will link to other areas referring more specifically to legal information.

**LOCALISATION WILL NEED TO REFER TO SPECIFIC LEGAL DOCUMENTS**

## Section 2 Narrative

### 1 Overview

This narrative is split into three sections:

- A discussion of the stakeholders in a procurement process where the power to influence procurement processes and decisions lie within a contracting authority
- The role of the procurement officer where that role is not specifically linked to a procurement process, including an introduction to the core competencies of a procurement officer, communication and reporting requirements
- The role of the procurement officer during the 39 steps of the procurement cycle: the 39 steps are covered in detail in Module B2

### 2 Stakeholders

#### 2.1 Stakeholders - Introduction

A stakeholder is defined as ‘anyone who has a stake or interest in the process of procurement’. According to that definition, this would include:

- Persons with a role in end-user departments who use the items purchased by the procurement officer, the procurement team and the procurement process. In a sense they are the customers of procurement;
- Persons working in other areas of the contracting authority who have a ‘stake’ or interest in procurement. This would include staff in finance, legal, IT and audit departments as well as elected officials, as appropriate to the contracting authority.

There is no ‘correct’ single list of stakeholders; however, procurement officers ignore their stakeholders at their peril.

#### **Good practice note – stakeholders**

Identifying the stakeholders in a procurement exercise and understanding their drivers and needs is vital information for procurement officers seeking to provide their contracting authority with a cost-effective solution. Assuming that you know what stakeholders want can be a dangerous game, even for experienced procurement officers.

Stakeholders can exert influence and power within the procurement process, and prudent procurement teams analyse the stakeholders of large projects and then address their needs relative to their importance.

#### 2.2 Typical stakeholders

'Stakeholders' are those individuals, groups and organisations – both internal and external – who have an interest or influence in the operations, processes or outcomes of an organisation. When making major purchases, initiating projects or seeking to bring about change, it is appropriate to consider the stakeholders who can affect the outcome and to determine what their attitude might be and what they might seek in the existing or future situation.

Many purchases and projects bring about change, and successful management of change requires that all stakeholders are identified and taken into account in some way. A major component in a change strategy should be the management of relationships with stakeholders so that they behave in such a way as to ensure the success of the change. In particular, this means mobilising support where it is needed and overcoming or removing resistance where it can be expected. Things go wrong when key stakeholders are ignored and are not involved in the change process or are needlessly alienated. Points to note include:

- Both internal and external stakeholders are included.
- It is crucial to choose the right level of detail. A single category of 'staff' is rarely adequate because different groups of staff are affected in different ways (and will to some extent require different responses). Separating out different tiers/ functions/ specialities/ locations, etc. is usually worthwhile.
- This is of course no more than a snapshot; stakeholders and their actual stake will change over time.
- Account should be taken of the links between stakeholders. A diagram should properly be drawn, showing these links as a network.
- The analysis must identify potential alliances and conflicts between all of the stakeholders.

Figure 1 (below) shows typical stakeholders in a change project. The stakeholder list will reflect the given project, change or purchase.

Figure 1

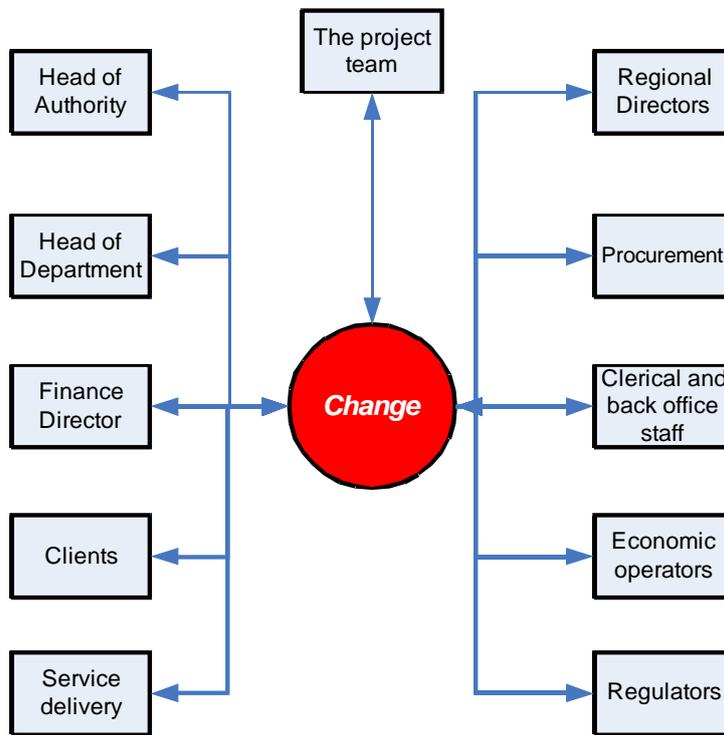
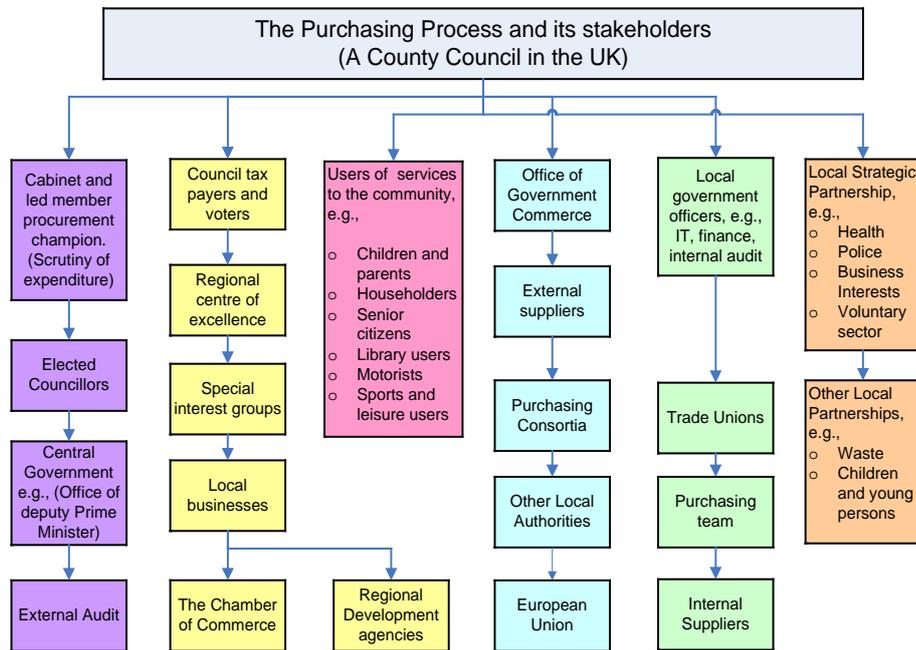


Figure 2 shows the stakeholder map of a local authority (county council) in the UK. **Localisation: This could be replaced by a country-specific example.**

Figure 2



NB: The hierarchical sequence of the business functions in this chart is not meant to give prominence to one function over another, it is simply a convenient way of grouping stakeholders together in this environment. The author would like to thank Fiona Holbourn of Leicestershire County Council and Ken May of ESPO for their assistance in refining this diagram

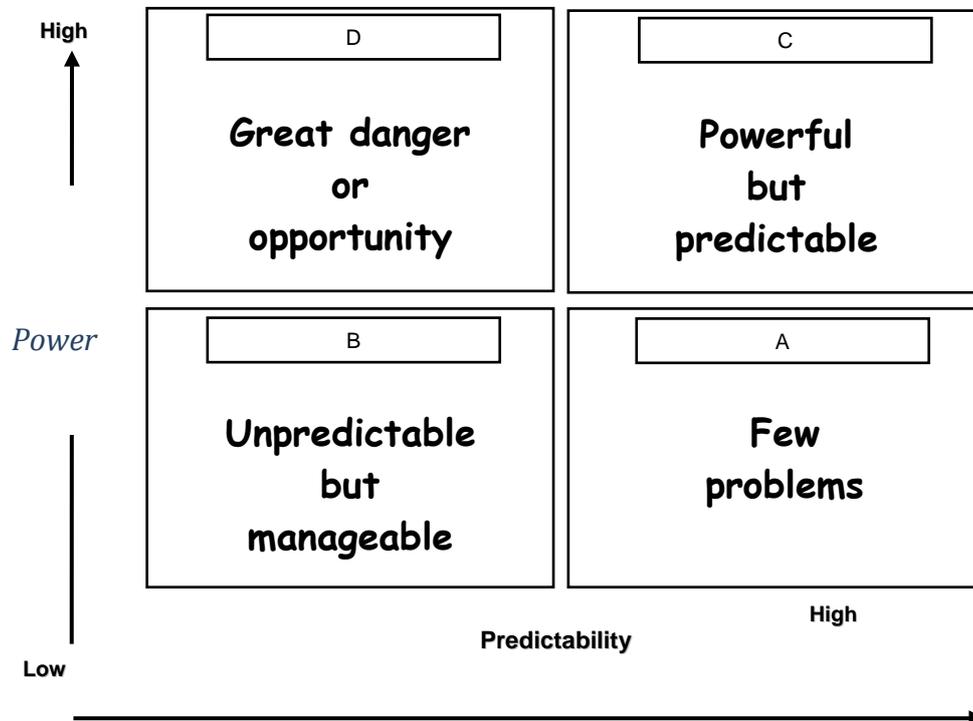
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### 2.3 Stakeholder Mapping

Assessing the importance of stakeholder expectations is an important part of any strategic analysis. It consists of making assessments and positioning stakeholders on these issues:

- How likely each stakeholder is to impose their expectations on the purchasing strategy;
- How interested the stakeholders are in becoming involved; we have all had experience with stakeholders who show no interest in the early stages but are at the forefront of criticism when “things” have not gone well;
- Whether the stakeholders have the means and/or power to exert their views and expectations; this is possibly at the expense of others with less power but with more important needs.

### 2.3.1 Power / predictability matrix



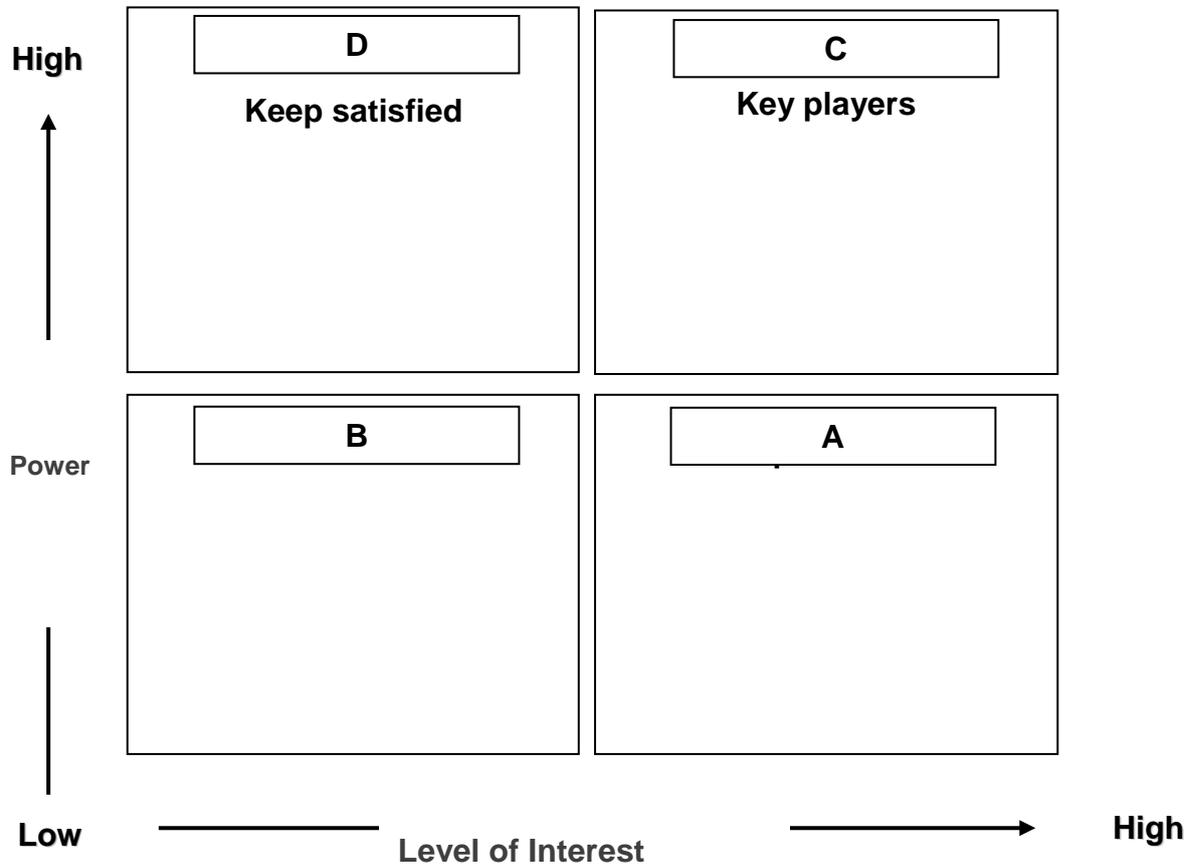
Source: A Mendalow

The power / predictability matrix is a useful way of assessing where the efforts to engage stakeholders should be channelled during the development of the purchasing strategy. The most difficult group to cope with are those in segment D, since they are in a powerful position to block or support the strategy, but their stance is difficult to predict. The implication is very clear: means must be found to at least bring them 'on board', if not into the team, before an irrevocable position has been established.

In contrast, stakeholders in segment C are likely to influence a purchasing strategy process of those managers who anticipate their stance and build strategies that will address their expectations. This does not mean that the stakeholders should be ignored, but the job of ensuring that they are on board should be more straightforward.

Although stakeholders in segments A and B have less power, this does not mean they are unimportant. Indeed, the active support of such stakeholders may in itself have an influence on the attitude of the more powerful stakeholders.

### 2.3.2 Power/ interest matrix



Source: A Mendelow

The power / interest matrix classifies stakeholders in relation to the power they hold and the extent to which they are likely to show interest in the contracting authority's purchasing strategies. The matrix indicates the type of relationship that the contracting authority will need to establish with each stakeholder group. Clearly the acceptability of strategies to the key players (segment C) should be a major consideration during the formulation and evaluation of new strategies.

Often the most difficult stakeholders are those in segment C. Although these stakeholders might in general be relatively passive, readers are reminded that stakeholder groups tend to emerge and influence strategy as a result of specific events. It is therefore critically important that the likely reaction of stakeholders towards future performance is given full consideration. A disastrous situation could arise if the stakeholders' level of interest were underrated and they suddenly repositioned themselves in segment D, which would impact on the strategy and on the expectations of the economic operator and the contract.

Similarly, the needs of stakeholders in segment B need to be properly addressed, largely through information. They can be crucially important "allies" in influencing the attitudes of more powerful stakeholders.

This type of stakeholder positioning is of value when assessing the following:

- Whether the situation is likely to undermine the adoption of a particular purchasing strategy. In other words, mapping is a way of assessing cultural fit and serves as a form of risk assessment. We are trying to ensure that the whole contracting authority thinks as one before we place what may be a very strategic contract.
- Who the key blockers and facilitators of change are likely to be, and therefore, whether activity needs to be put in place to reposition selected stakeholders. This activity could be aimed at lessening the influence of key players or persuading them to adopt another point of view.
- The extent to which maintenance activities will be needed to discourage stakeholders from repositioning themselves if 'things go wrong' or if they feel that the service they are receiving does not meet their expectations. This is what is meant by 'keep satisfied' in relation to stakeholders in segment C, and to a lesser extent 'keep informed' in segment B.

### **2.3.3 What is power?**

The previous section was concerned with analysing stakeholder expectations and highlighted the need to assess the power of the various stakeholders. Power is the mechanism by which expectations are able to influence strategies. In most contracting authorities, power will be unequally shared between the various stakeholders.

Before proceeding, it is necessary to understand what is meant here by 'power'. In particular, a distinction needs to be drawn between the power that people or groups derive from their position within the contracting authority and the power that they actually possess by other means. For the purposes of strategic analysis, power is best understood as the extent to which individuals or groups are able to persuade, induce or coerce others into following certain courses of action. This is the mechanism by which one set of expectations will dominate strategic development or seek compromise with others. Analysis of power must, therefore, begin with an assessment of the sources of power.

### **2.3.4 Sources of power within organisations**

Power within organisations can be derived in a variety of ways, any of which may provide an avenue whereby the expectations of an individual or a group may influence outcomes.

Within organisations sources of power might be:

- The hierarchy.....the formal structure
- The network.....the informal structure
- Controllers of resources
- Possessors of knowledge
- Possessors of (rare) skills
- Decision-makers

## **2.4 Advice and leadership provided by procurement officers to stakeholders**

Procurement officers should be a source of advice and leadership to stakeholders concerning:

- Best practice procurement processes

- Options for a specific procurement
  - Selecting the right process
  - Timing
  - Bundling the requirements appropriately
- Best value-for-money concepts, for example:
  - Total cost of ownership (whole-life costing)
  - Procurement planning
  - Generic specifications
  - Economic operator conditioning
  - Setting evaluation criteria and weightings
  - Separating priced and unpriced tenders
  - Most economically advantageous tender principle
  - Evaluating tenders
  - Communication between economic operators and the contracting authority
  - Separation of duties
  - Three-way matching
  - Need for an audit trail
  - Adding value upstream and diminishing costs downstream
- Ethical behaviour
- Procurement policies
- Using procurement procedures
- Compliance with EU directives
- Relationships with economic operators
- Specification options
- Advice to those drafting the specification
- Performance management

### **3 The role of the procurement officer – not specifically linked to the procurement process**

#### **Good practice note – a procurement officer’s role**

Procurement is about process and following rules and laws. However, a procurement officer’s role also concerns other things, which include seeing the big picture within the contracting authority, identifying and managing risk, serving as a source of knowledge to others, and actively promoting good practice within the contracting authority. The list is long and there is a standard to uphold!

#### **3.1 Role and activities not specifically linked to the process**

The role of a procurement officer can be summarised by the following broad activities:

- Link the strategy of the contracting authority – through procurement planning and selection of individual procurement strategies – to the operational procurement of works, supplies and services, which will allow the contracting authority to meet its strategic objectives;
- Work effectively within internal and external legal frameworks to determine the most appropriate and effective method of procurement for each requirement;

- Strive to obtain value for money on behalf of the contracting authority for all items procured;
- Abide by the contracting authority's ethical code;
- Build comprehensive knowledge of the supply market relating to the works, supplies and services needed by the contracting authority;
- Liaise closely with stakeholders as needed on procurement matters;
- Communicate effectively with stakeholders;
- Encourage truly competitive procurement while still satisfying the needs of the contracting authority;
- Conduct all formal communications with economic operators regarding purchases;
- Develop and maintain current information on sources of supply;
- Maintain an accurate record of the process of procuring all requirements;
- Promptly report any improper practices to the appropriate authorities;
- Develop manual and electronic systems and procedures aimed at eliminating bureaucracy and increasing effectiveness;
- Maintain governance documentation, including a policies and procedures manual;
- Work with procurement officers in other authorities to develop legitimate collaborative approaches to the supply market, where appropriate;
- Identify and manage risks inherent in the process of procurement.

### **3.2 Competencies of a procurement officer**

#### **Good practice note – competencies**

If you are not competent then you should not be in the position you are in! The precise nature and extent of competency required for any given position will vary with the organisation, what it purchases, and the level of the job-holder. This section discusses an internationally acknowledged set of competencies tested on more than 5500 procurement professionals in several countries.

#### **3.2.1 Introduction and definition**

Procurement staff must be competent. But what does competent mean? A dictionary definition is:

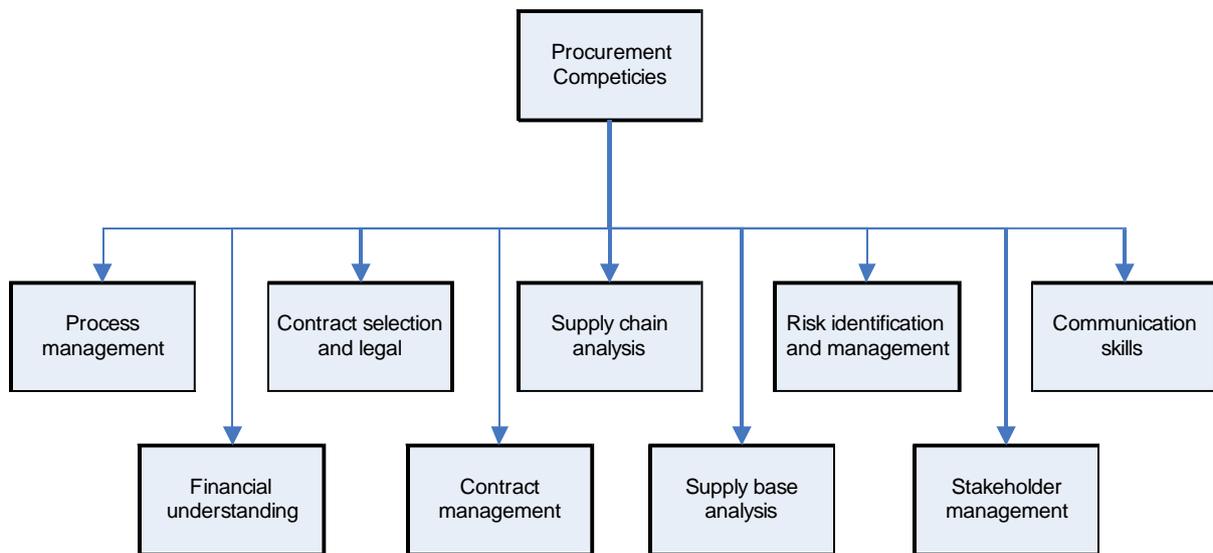
“Proper or rightly pertinent, having requisite or adequate ability or qualities, having the capacity to function or develop in a particular way, having the capacity to respond”. Source: Merriam Webster Dictionary

The same dictionary defines competence as “the knowledge that enables a person to speak and understand a language”.

Procurement officers need to have specific abilities, qualities and capacities: they need to be able to understand and talk the language of procurement. Procurement officers equally need to continue to develop and refresh their competencies through a continuous professional development programme.

#### **3.2.2 Procurement competencies**

The diagram below identifies nine procurement competencies to be used as a benchmark for identifying the needs of professional procurement officers worldwide. The competencies focus on the key attributes that procurement officers must possess.



Each of the competencies will be examined below.

**Localisation note: some countries may require more formal qualifications**

### 3.2.3 Procurement process management

The ability to effectively manage the totality of the procurement process is vital. Everyone involved in the process can contribute to value creation, and procurement officers need to be able to draw this out of other stakeholders. The establishment, development, compliance with and maintenance of core procurement processes, strategies and control procedures will result from review and constructive challenge at each stage of the procurement process. The procurement process should have the appropriate strategic context and key elements, including:

- Regulatory compliance
- Procedural knowledge
- Demand management
- Sourcing
- Economic operator performance and measurement
- Performance management
- Knowledge management

### 3.2.4 Contract selection and legal

Procurement officers must be able to draft, negotiate and agree on clear, concise, and complete contractual documentation, which identifies roles and responsibilities and makes provision for all aspects of the agreed procurement plan with reference to process steps and appropriate templates.

An understanding of contract law, the business application and its critical success factors, negotiating skills, and the ability to access and apply specialist legal and technical advice, are all

required in order to protect the contracting authority's commercial position in such areas as liabilities, indemnities, insurance and warranties.

Procurement officers need to be able to build flexibility into contracts so that business change and associated requirements can be reflected over the life of the contract. Elements here include:

- Contract execution
- Economic operator performance measurement
- Risk assessment
- Risk mitigation
- Exit strategies
- Selection of appropriate terms and conditions

### **3.2.5 Supply chain analysis**

Procurement officers need to be able to apply knowledge and awareness of supply chain processes and supply networks so as to control and optimise the performance of both the contracting authority and economic operators. The execution of a supply chain strategy, understanding how elements integrate and the risks/rewards associated with their integration, is an important consideration when preparing to go to the market. Also important is an understanding of the concept of activity-based costing models and of the primary factors that impact on supply chain complexity and how these factors impact on supply chain costs.

### **3.2.6 Risk identification and management**

Procurement officers must be able to manage commercial, reputation, compliance, ethical and other risks associated with the procurement process so as to ensure that undesirable consequences of the risks identified are mitigated. In addition to market knowledge and commercial acumen, an understanding of health and safety authority expectations relating to procurement is valuable. Elements of risk management include:

- Health and safety assessment
- Financial assessment
- Market analysis
- Operational continuity
- Strategic impact on the contracting authority
- Ethical conduct

### **3.2.7 Communication skills**

Communication skills are a vital asset for a procurement officer. Communication must take place between the procurement officer and stakeholders, economic operators, peers and colleagues, using a range of communication tools. Procurement officers should ideally be able to communicate in more than one language.

### **3.2.8 Financial understanding**

Procurement officers must be able to undertake a meaningful financial appraisal of economic operators, making an assessment of any risk taken by using that economic operator and utilising this information in decision-making and contract management. Procurement officers are required to interpret financial ratios and the interrelationships of financial statements (balance sheets, profit and loss accounts, cash flow information, etc.) to assist in arriving at appropriate conclusions.

Also required is an ability to understand costing methods and to analyse financial information so as to arrive at a potential cost make-up of an economic operator's tender.

Conducting an economic and financial analysis prior to the award of a contract can result in the elimination of economic operators that are a potential risk. Procurement officers should also satisfy themselves that economic operators have complied with legal, financial and finance-related corporate statutory regulations.

### **3.2.9 Contract management**

Procurement officers must establish and manage a robust contract management system. Successful contract management will add value to contract delivery by providing review and feedback, assessing contractual compliance by both parties, establishing appropriate and effective key performance indicators, managing any disputes in a timely, appropriate and effective manner, identifying continuous improvement opportunities, and liaising with stakeholders to ensure that their business needs are met and developed.

### **3.2.10 Supply base analysis**

Procurement officers need to be able to evaluate economic operators and the supply markets that form part of their area of responsibility for the purchase of goods, works, materials and services. The management of appropriate supply-base analysis processes and the identification and implementation of optimal economic operator selection processes in accordance with the EC directives are vital.

The utilisation of tools and technology, where appropriate, to understand pressures on the contracting authority and the supply base is required. An integral part of this competence is the ability to work with accountable line managers and other stakeholders (including legal, financial, technical, integrity, and health and safety specialists) to establish a comprehensive assessment of the requirement and of the economic operators under consideration. This competence includes being able to:

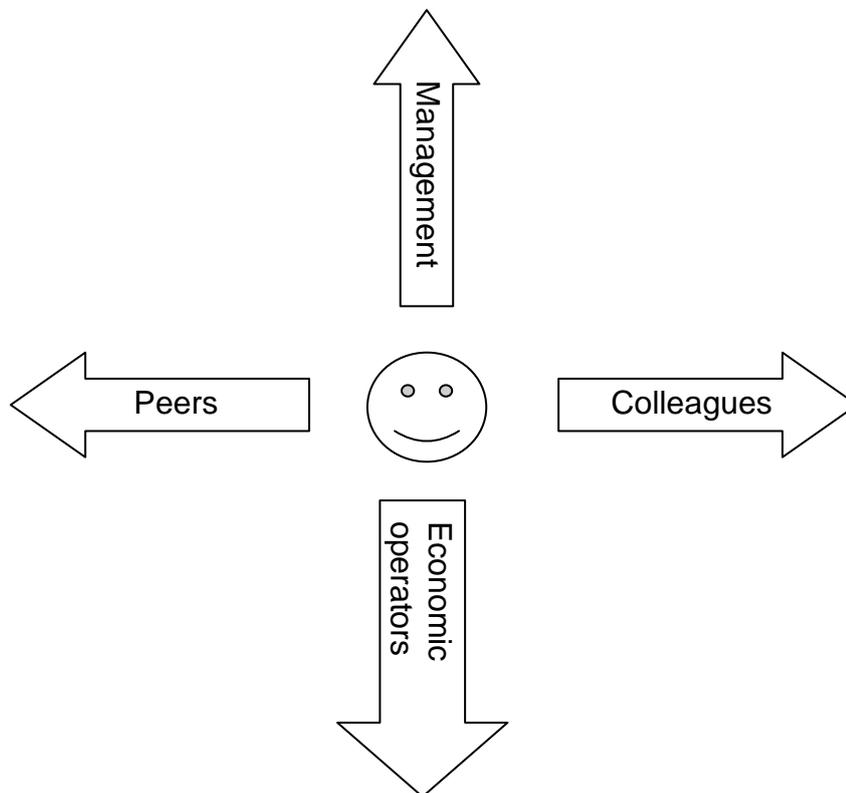
- develop award criteria;
- undertake full and robust external market analysis;
- undertake financial analysis;
- feed the analysis into economic operator selection steps;
- understand economic operator segmentation;
- develop risk mitigation strategies.

### **3.2.11 Stakeholder management**

Procurement officers must be able to determine and implement appropriate management of internal relationships, utilising stakeholder mapping. They must have an awareness of the importance of working in cross-functional teams as an aid to decision-making and an awareness of how procurement can raise its own profile through a strategy of internal procurement marketing as well as improved and effective communications. The ability to build relationships with stakeholders is essential to enable the procurement team to anticipate, identify, understand and meet the developing stakeholder requirements and to feed this information into key processes, such as the annual procurement plan.

### 3.3 The need to communicate

‘Communicate’ means to impart, participate, convey knowledge of or information about something, make known or reveal by clear signs. Procurement officers need to communicate to their managers and senior stakeholders, to colleagues on their team, to peers in other stakeholder departments and to persons working for economic operators. The diagram below shows the concept of communication in four directions.



Irrespective of whom we are trying to communicate to, the communication must be appropriate, timely and relevant, and it must be received and understood by the recipient.

#### **Good practice note – communication**

Procurement people have to communicate to be effective. There is a balance, however, between the communication methods selected and the frequency, content and language used in the communication. Achieving this balance is of crucial importance.

Equally vital is the recognition that communication is a two-way process. People will receive the contract authority's communication and they may or may not understand it, they may or may not respond, and their response may or may not be the one that the contract authority wanted to

### **3.3.1 Communication with management**

'Management' is a term that can be used to describe the team of senior staff that is responsible for the overall performance of the contracting authority. This team may fall into the category of powerful stakeholders, predictable or unpredictable, and given the demanding schedules that its members probably have, communication with the team must be:

- related to major issues;
- to the point;
- probably one-way communication (from the procurement officer to the management team), thereby offering them an opportunity to seek further information if they need it;
- delivered through an agreed channel – e.g. a monthly activity report;
- simple and straightforward;
- capable of being delivered through a third party (the procurement officer's boss to a more senior boss).

Any attempt to set up a meeting to discuss a minor contractual issue with the head of the authority will be unsuccessful. Obtaining a meeting that the head of the authority considers as a waste of time will be career-limiting. A monthly briefing report or a staged project briefing report should provide the information needed and allow the management team members to ask questions as and when they consider it necessary.

### **3.3.2 Communication with colleagues**

'Colleagues' are other persons on the procurement team or current procurement project, and communication with them must be both one-way and two-way. Procurement officers need to exchange ideas and information with colleagues and to enter into discussions in order to solve problems. Problems are caused when colleagues do not discuss:

- what they propose to do
- problem situations
- opportunities
- decisions that need to be made
- difficulties they encounter with systems, processes, stakeholders, and persons working with economic operators

Procurement and project teams should have regular face-to-face meetings to discuss progress on the procurement processes they are carrying out and in other areas. E-mail can be an overused means of communication and copying people unnecessarily on e-mail can also lead to 'e-mail

fatigue', which occurs when people receive too many communications and therefore fail to spot and act upon the priority messages.

### **3.3.3 Communication with persons working for economic operators**

Persons working for economic operators must receive communications from the contracting authority and vice versa, and there are times when issues are discussed together. Communication is therefore both one-way and two-way. The next section deals with the procurement officer's role in the procurement process; as many activities concerning communication are described in that section, they are not mentioned here. However, it is worth repeating that the communication that the contracting authority carries out with persons working for economic operators must be appropriate, timely and relevant, and it must be received and understood by the recipient. If this is not the case, the authority is encouraging poor performance by the persons working for the economic operator.

### **3.3.4 Communication with peers**

'Peers' are stakeholders who work in other departments and work with or against procurement officers and procurement processes. Communication must again be both one-way and two-way, with e-mails or documents being used to provide updated briefings and face-to-face communication for discussions. Care must be taken to strike a balance between over-communication and under-communication. Examples of one-way communication to peers include:

- Updates on the progress of a procurement process or project
- Information provided by economic operators
- Prompts for action
- Examples of templates and documents used for previous procurement

Examples of two-way communication to peers include:

- Discussions on the annual procurement plan
- Discussions on timing
- Meeting to set weightings
- Call for discussion of specifications
- Call for discussion of an issue raised by an economic operator completing an invitation to tender

There is no single correct channel of communication in these circumstances. Selection of the channel could depend upon the following factors:

- Physical nearness of the person
- Importance of the communication
- Preference of the peer
- Time available
- Communication media available
- Extent to which the peers are familiar

### 3.4 Relationships with economic operators

It is necessary to establish relationships with economic operators, although it can be argued that procurement officers do not have relationships with economic operators but with the persons working for economic operators!

#### **Good practice note – corruption**

Procurement officers must avoid giving the impression that their 'relationship' with the economic operator goes beyond the limits of ethical behaviour.

The contracting authority should therefore have prepared governance documentation that clearly indicates:

- a consistent approach of the contracting authority towards persons working for economic operators regarding how business as a whole will be carried out and how specific requirements will be met;
- who can and who cannot contact persons working for economic operators and what they can and cannot discuss.

The governance documentation (described in Module B1) and its thrust, emanating from the fact that procurement officers are spending public money, provide a key driver for these relationships, which are embodied in the code of ethics. Relationships with persons working for economic operators may be characterised by:

- Quality of information exchange
- Trust in the relationship
- Openness in the relationship
- Commitment to each other in the relationship
- Duration of the relationship
- Risk assessment carried out by the parties
- Risk management carried out by the parties

#### **3.4.1 Quality of information exchange**

Procurement officers must provide persons working for economic operators with high quality information and must comply with statutory obligations. The provision of relevant, accurate, complete, timely and well-organised information is closely linked to the successful provision of goods and services by persons working for economic operators. Procurement officers have the right to expect a reciprocal arrangement.

Information provided by the procurement officer should be linked, however, to the requirement in question. Some persons working for economic operators will attempt to exploit purchasing officers and gain information relating to areas that are commercially confidential. An example would be a sales manager requesting the prices of his/her competitor.

#### **3.4.2 Trust**

The extent to which persons working for both organisations feel that they can trust each other will influence the quality of the relationship. There is a clear element of ‘feeling’ here, but the extent to which both parties honour their promises, provide information and treat each other well when they meet will influence this aspect of the relationship. Procurement officers must be able to trust the persons working with economic operators and these persons must be able to trust procurement officers. For example, the persons working with economic operators must be able to trust procurement officers not to leak the intellectual property of the economic operator to its competitors.

### **3.4.3 Openness**

Procurement officers must be open about what they need. Hiding terms and conditions or performance requirements will, for example, not enable the persons working with economic operators to deliver the best goods and services to the contracting authority. The persons working with economic operators must also be open and honest about whether their solution will meet the contracting authority’s needs. The credibility of a procurement officer who attempts to trick an economic operator by introducing a new term late in the procurement process will diminish. Equally, the credibility of persons working for economic operators will rapidly diminish if they propose a solution that will clearly not meet the needs of the contracting authority.

### **3.4.4 Commitment to each other**

The extent to which the parties are committed to each other once they enter into a contractual relationship is a key factor in the success of the relationship. Both parties must move from the pre-contract situation, where there is competition, to a post-contract situation where they are co-operating to deliver the requirements of the contracting authority within the framework of the contract. Prior to signing the contract, this commitment must be characterised as follows:

- The procurement officer provides all of the necessary information to enable economic operators to submit a first-class tender;
- Persons working for the economic operator honestly attempt to meet the needs expressed by the contracting authority through their best endeavours. Offering less than the best demonstrates a lack of commitment.

Once the contract has been signed, the focus of both parties should be on the successful delivery of the goods, works, materials or services to the persons in the contracting authority who require them.

### **3.4.5 Duration**

The relationship duration is in one sense limited to the duration of the contract. However, in another sense, persons working for both organisations will relate to each other before and after the contract as:

- both will know the other exists;
- sellers will be aware of the sorts of needs the contracting authority has;
- procurement officers will be aware of the services provided by the economic operator.

### 3.4.6 Risk assessment

Both parties will undertake a risk assessment before doing business together:

- The contracting authority will look at the risk of doing business with the economic operator (Can this operator meet our needs? Is it financially stable?).
- The economic operator will look at the risk of doing business with the contracting authority (Will the authority pay? Will it pay on time? Will it take advantage of us?).

### 3.4.7 Risk management

Both parties will undertake risk management while doing business together. This risk management will include:

- The contracting authority will look at obtaining value-for-money and will carry out checks and controls during the selection and contract management phases.
- The economic operator will look at the risk of cost overrun and will seek to limit what is supplied to the provisions of the contract, unless additional funds are provided.

## 3.5 Reporting on procurement activity

According to article 84 of the 2014 Directive, contracting authorities are obliged to prepare reports on their procurement activity and to provide that information to the European Commission if requested. In practice, governments oblige public sector contracting authorities to provide the statutory information to a central government department and to provide additional information, for example on the award of contracts that are under the EU financial thresholds. It is good practice to provide a report on procurement activity to the managing body of the contracting authority. Paragraph 3.5.1 lists the mandatory reporting requirements under article 84 of the 2014 Directive, and paragraphs 3.5.2, 3.6 and 3.7 provide examples of information that may be included in a report on procurement activity provided to the managing body of the contracting authority.

#### **Good practice note – reporting**

The text below provides a comprehensive list of reporting options. Procurement officers may not need to complete all of them, and they should work with their management and stakeholders to establish a suitable basis for appropriate reporting based on the lists provided below.

### 3.5.1 Mandatory reporting under Article 84

A contracting authority is required to draw up a written report on every contract and framework agreement and on the establishment of a dynamic purchasing system. The contracting authority must send the written report to the European Commission if requested to do so. The written report must contain (as a minimum) the following:

- Name and address of the contracting authority

- Subject matter of the contract, framework agreement or dynamic purchasing system
- Value of the contract, framework agreement or dynamic purchasing system
- Where applicable, the result of the qualitative selection and/or reduction of numbers
- Names of the successful economic operators (candidates or tenderers) and the reasons for their selection
- Names of the rejected economic operators (candidates or tenderers) and the reasons for their rejection
- Reasons for the rejection of tenders found to be abnormally low
- Name of the successful economic operator and the reason for its selection. If known, the share of the contract or framework agreement that the successful economic operator intends to sub-contract to third parties; and, where known at that point in time, the names of the main contractor's subcontractors, if any
- For the competitive procedure with negotiation and for the competitive dialogue, the circumstances specified in the EU Directive justifying the use of these procedures
- For the negotiated procedure without prior publication, the circumstances specified in the EU Directive justifying the use of this procedure
- Where a contracting authority has decided not to award a contract or framework agreement or to establish a dynamic purchasing system, the reason(s) why
- Where applicable, the reason(s) why means of communication other than electronic means have been used for the submission of a tender
- Where applicable, conflicts of interest detected and subsequent measures taken
- Where applicable, the reason(s) for the decision not to subdivide a contract into lots, if those reasons are not set out in the procurement documents.

### **3.5.2 Examples of reporting on procurement activity**

It may be that senior managers in the contracting authority:

- want to keep only a digest of the information and nothing else;
- want a digest of the information and other information kept, to be reviewed as and when needed;
- prefer to have a comprehensive report of activity.

The information below is divided into information that is:

- related to a single procurement;
- to be placed in an annual report of activity.

The information in the annual report could be adapted for smaller quarterly or monthly reports.

### **3.6 Reporting on a specific procurement**

A brief introductory sentence about the specific procurement will help to put the following list of reporting options in context:

- Comparisons with the procurement plan and budget
  - Progress in terms of time and budget of a partially completed project
  - Outcome in terms of time and budget of a completed project
  - Major lessons learned that impact on future procurement activity
  - Savings

### **3.7 Annual reporting**

Annual reports should include, where appropriate, the following six main spending figures:

1. Total spending
2. Spending by stakeholder area
3. Spending by economic operator
4. Spending by type of goods, works, materials or services
5. Spending by size of order
6. Trend of spending of each of the above, presented by using charts as well as figures

The reports could also include the following information:

- Number of purchase orders, invitations to tender and economic operator tenders corresponding to the above main spending figures 1-6
- Spending analysed according to the following ratios:
  - Average spending per economic operator
  - Average spending per member of the procurement team
  - Average spending per employee
- Savings made in procurement processes, analysed according to the main spending figures 1-6 above
- Compliance with internal legal processes
  - Number of non-compliant incidents within the period
  - Actions taken to resolve non-compliant activity
- Compliance with external legal processes
  - Number of non-compliant incidents within the period
  - Actions taken to resolve non-compliant activity
  - Contracts awarded without a competitive process – in absolute numbers and with the justification for such action
  - Contracts awarded without a competitive process – as a proportion of total orders
  - Contracts awarded without a competitive process – as a proportion of total spending
- Number of transactions processed by the procurement team:
  - Requisitions

- Procurement plans
  - Invitations to tender despatched
  - Tenders received
  - Notices placed
  - Invoices processed
  - Invoice queries
  - Modifications of the contracts during their term
  - Challenges to decisions
- Analysis of economic operators
    - Value of spending with an economic operator
    - Economic operators analysed by country
    - Economic operators analysed by area of the country
    - Number of tenders accepted as a percentage of number of tenders submitted
    - Number of process improvements made during the period resulting in cost savings, greater accuracy or time saved
  - Number of process improvements identified but not yet enacted
  - Average order value
  - Number of electronic orders placed
  - Value of stock, stock turnover and wastage (according to the main spending figures 1-6 above)
  - Days lost through sickness
  - Percentage of staff who have passed exams to be qualified as procurement officers  
(Localisation – they may not have a body to qualify them)
  - Cost of the procurement department as a proportion of total spending

#### **4 Role of the procurement officer – linked to the procurement process**

This section takes each of the process steps identified in the procurement process model in Module B2 and provides an objective for the process, a list of procurement officer actions, a note on tools and/or templates used, and the process output sought.

##### **4.1 Role and activities during preparation for procurement**

The process steps in preparation for procurement are:

1. Pre-planning and annual procurement plan
2. Determining the needs
3. Procurement planning
4. Market review
5. Specification
6. Performance measures

7. Contract terms and conditions
8. Constructing business case
9. Approval
10. Preparing procurement notices, including contract notices
11. Preparing invitation to tender (ITT)

### Step 1 – Pre-planning and annual procurement plan

Step objective(s)	To propose a plan of the procurement activity to be undertaken for the next financial year
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Start three to four months before the beginning of the year</li> <li>2. Work with stakeholders to identify what they must purchase during the period</li> <li>3. Test the budgets available against the likely market costs</li> <li>4. Consider the bundling and/or unbundling of requirements likely to attract economic operators (see discussion in A4 on lots and bundling)</li> <li>5. Advise on lot strategy and contract strategy (these aspects are covered in Modules A4, C1 and C2)</li> </ol>
Tools and templates used	Use templates from previous years
Outputs	A considered, itemised time-phased list of procurement requirements on which individual procurement plans can be based. Input to a prior indicative notice (refer to Modules C4 and E2)

### Step 2 – Determining the needs

Step objective(s)	To explore the basic needs of the stakeholder(s), consider options and form the basis for an individual plan and a specification
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Obtain an outline description of the requirement from the stakeholders</li> <li>2. Debate the options available</li> <li>3. Explore what is available</li> <li>4. Explore what others authorities have done</li> </ol>
Tools and templates used	Internet searches, networking
Outputs	A series of options for the delivery of the goods or services

### Step 3 – Procurement planning – individual procurement level

Step objective(s)	To lay down a plan for the procurement of specific goods, works, supplies or services
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Draft a time-phased plan for the procurement with stakeholders and submit it for approval where necessary</li> </ol>

	2. Note the specific time and process requirements of internal governance and external legal requirements
Tools and templates used	A procurement plan template (refer to the sample provided in Module C1)
Outputs	A time-phased, approved plan that everyone can work to

#### Step 4 – Market review

Step objective(s)	To review the supply market from which likely economic operators will emerge
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Research the state of the market and its complexity</li> <li>2. Obtain information about potential solutions</li> </ol>
Tools and templates used	Internet searches and networking
Outputs	An informed understanding about the market

#### Step 5 – Specification

Step objective(s)	To arrive at a generic statement of the goods, works, supplies or services required by the stakeholders
Procurement officer actions	The procurement officer must advise upon: <ol style="list-style-type: none"> <li>1. The state of the supply market</li> <li>2. Supply options</li> <li>3. Aspects of best practice in drawing up a specification</li> <li>4. How EC directives support best practice by insisting that competition is encouraged</li> </ol>
Tools and templates used	<ol style="list-style-type: none"> <li>1. Templates of specifications related to the goods or service</li> <li>2. Checklists of things to be included/avoided</li> </ol>
Output	A generic description of the required attributes fundamental to the needs of the prime user of the requirement, which includes an indication of how fitness for purpose will be measured

#### Step 6 – Performance measures

Step objective(s)	To state the performance that, if achieved by an economic operator, will meet the objectives of the procurement
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Understand what performance options are available</li> <li>2. Understand what other authorities have done on equivalent procurement</li> <li>3. Advise the stakeholders on performance options</li> <li>4. Ensure that a multi-disciplinary team composed of appropriately competent people is available to set performance criteria. For complex projects, different technical specialists may need to be drawn together to evaluate different parts of the requirement</li> </ol>
Tools and templates used	Templates for similar purchases
Outputs	A validated specification. A clear statement of what good performance will

	look like when it is delivered. Module G3 deals with this in more detail
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### Step 7 – Terms and conditions

Step objective(s)	To identify the terms and conditions that the contracting authority will apply to the procurement
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Understand the risks in the procurement</li> <li>2. Select the appropriate terms and conditions from the authorised terms and conditions</li> <li>3. Draft amendments to terms and conditions from the authorised version (where they are permitted to do so)</li> <li>4. Use internationally recognised terms and conditions where appropriate to encourage competition</li> <li>5. Gain authorisation for amendments</li> </ol>
Tools and templates used	Standard sets of terms and conditions, with options depending upon the procurement
Outputs	A clear set of terms and conditions for this procurement that will meet the needs of the stakeholder and the authority

### Step 8 – Constructing business case

Step objective(s)	To ensure that there is a sound business case for the money being spent
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Work with stakeholders and financial colleagues to construct a business case that demonstrates a payback</li> <li>2. Understand, document and calculate all of the costs and benefits relative to a given procurement and ensure that there is an appropriate level of payback</li> </ol>
Tools and templates used	Business case templates
Outputs	A sound business case demonstrating a payback

### Step 9 – Approval

Step objective(s)	To gain the necessary approval for the procurement to go ahead
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Submit or contribute to the submission of the evidence required by those tasked with signing off on the procurement. This may be: <ul style="list-style-type: none"> <li>• A business case</li> <li>• A collection of documents</li> <li>• A presentation</li> <li>• An electronic transaction</li> </ul> </li> </ol>
Tools and templates used	Internal legal documents and processes
Outputs	An approval, a request for more information, or a rejection

### Step 10 – Preparing procurement contract notice

Step objective(s)	To prepare the procurement notice for publication
Procurement officer actions	Procurement officers will need to take the specification, procurement plan, performance criteria and terms and conditions to create the procurement notice. Module E2 describes this in detail
Tools and templates used	Standard form contract notices – refer to Module E2
Outputs	A notice ready to be published

### Step 11 – Preparing an invitation to tender (ITT)

Step objective(s)	To prepare an invitation to tender (ITT) to send to economic operators
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Use the specification, procurement plan, performance criteria and terms and conditions to create an appropriate invitation to tender</li> <li>2. Ensure that the evaluation criteria are included in the ITT package</li> <li>3. Ensure that the information within the package to be despatched to economic operators is: <ul style="list-style-type: none"> <li>• Accurate</li> <li>• Complete with all necessary attachments</li> <li>• Unbiased (seen not to favour one economic operator)</li> <li>• Adequately detailed</li> <li>• Clear</li> <li>• Attractive to economic operators wanting the business</li> <li>• Checked for errors</li> <li>• Clear about how, when and where it must be returned</li> <li>• Compliant with the requirements in the Directive (see C4 for information on the content of the ITT)</li> </ul> </li> </ol>
Tools and templates used	12. Standard templates for invitations to tender 13. Checklist of what to include
Outputs	An ITT ready to be sent to economic operators

#### 4.2 Role and activities when running the procurement exercise

This section considers the activities necessary to run the procurement exercise (steps 12 to 23 in the total procurement process). The process steps within this division are:

12. Publishing procurement notice
13. Supplying ITT
14. Handling questions
15. Receiving tenders
16. Selection (qualification) of economic operators
17. Evaluation
18. Clarification
19. Award approval
20. Standstill period
21. Tender protest and contract review
22. Award of contract
23. Publishing award notice

### Step 12 – Publishing procurement notice

Step objective(s)	To make the requirement known to the supply market via the <i>Official Journal of the EU (OJEU)</i>
Procurement officer actions	Procurement officers will need to despatch the contract notice (or the prior information notice as a call for competition) for publication. The publishing of a buyer profile is encouraged. The buyer profile may include prior information notices, information on ongoing invitations to tender, schedules of purchases, contracts concluded, procedures cancelled, and any useful general information, such as a contact point, telephone and fax numbers, a mailing address and an e-mail address. The buyer profile may also include prior information notices as a means of calling for competition, which are published at the national level.  This process and statutory time scales are described in Module E2 and C4
Tools and templates used	Standard electronic processes ( <b>localisation</b> )
Outputs	A requirement visible to the supply market

### Step 13 – Supplying ITT

Step objective(s)	To manually or electronically send appropriate information about the requirement to potential economic operators requesting it  NB: The 2014 Directive requires procurement documents to be made available, free of charge, by direct access on the Internet on the date of publication of the contract notice (or the invitation to confirm interest where a PIN as a call for competition is used).
Procurement officer actions	Procurement officers will need to: 1. Act as the focal point for the ITT between the contracting authority and the supply market 2. Ensure that all economic operators receive the same information. The processes are described in Module C4  NB: This step will not follow step 12 on the restricted, competitive procedure with negotiation, competitive dialogue or innovation partnership procedure, where the economic operators will first be selected on the basis of the initial request to participate.
Tools and templates used	e-mail or postal services
Outputs	A number of economic operators considering the requirement as specified and advertised to the supply market

### Step 14 – Handling questions

Step objective(s)	To ensure that all economic operators have the best possible understanding of the contracting authority's requirement
Procurement officer	Procurement officers will need to:

actions	<ol style="list-style-type: none"> <li>1. Provide a communication channel for economic operators to pose both technical and commercial questions concerning the contracting authority's requirement</li> <li>2. Receive questions from economic operators concerning the requirement</li> <li>3. Answer promptly economic operators' technical and commercial questions concerning the requirement</li> <li>4. Circulate all questions and all answers to all economic operators</li> <li>5. Ensure that there is only one communication channel</li> <li>6. Comply with statutory requirements and time scales (see Module C4)</li> </ol> <p>The process is fully described in Module E1</p>
Tools and templates used	e-mail and word processing systems
Outputs	A group of economic operators fully cognisant of the requirement of the contracting authority and able to submit a first-class tender

### Step 15 – Receiving tenders

Step objective(s)	<p>To provide a secure means of receiving and storing economic operators' tenders until they are opened and to deliver a demonstrably transparent tender opening process</p> <p>NB: The 2014 Directive requires contracting authorities to have in place systems which permit tenders to be submitted by electronic means. These e-procurement provisions will apply in Member States by 18 October 2018 at the latest.</p>
Procurement officer actions	<p>Action here will vary depending upon whether the receipt is electronic, Internet-based or manual. Procurement officers will need to:</p> <ol style="list-style-type: none"> <li>1. Ensure that the process provides for logging and recording of tenders separately from procurement where this is necessary</li> <li>2. Ensure that no one has access to tenders or is able to understand who has tendered and who has not tendered</li> <li>3. Provide a locked location for physical tenders received, which may be in another department</li> <li>4. Provide a secure electronic location for e-mailed tenders (liaison with IT colleagues will be necessary)</li> <li>5. Ensure that Internet-based tenders are secure (liaison with IT colleagues will be necessary)</li> <li>6. Organise appropriate opening procedures where senior officials wish to be involved in an official opening ceremony. This will include booking a room and securing a slot on the agenda of a senior official in the contracting authority</li> <li>7. Notify economic operators of the location of a public opening ceremony</li> <li>8. Check for missing documentation</li> <li>9. Reject late tenders, inform economic operators and return the tenders unopened</li> <li>10. Reject improperly submitted tenders and inform economic operators</li> </ol>

	11. Make sure information does not leak out to economic operators
Tools and templates used	IT systems
Outputs	Secure receipt and opening of tenders that are have not been viewed by anyone since they were despatched by the economic operators

### Step 16 – Selection (qualification) of economic operators

Step objective(s)	To confirm whether the economic operators are qualified to perform the contract to be awarded and to select the best qualified tenders if that approach is being used
Procurement officer actions	<p>Procurement officers will need to:</p> <ol style="list-style-type: none"> <li>1. Evaluate the information submitted by economic operators</li> <li>2. Check that the economic operator must not be excluded in accordance with the provisions relating to mandatory exclusion grounds</li> <li>3. Ensure that a competent person checks the financial probity of the supplying contracting authority</li> <li>4. Check that the economic operator meets the standards of competency set by the contracting authority</li> <li>5. Check that key individuals within the economic operator are competent and have no criminal convictions or other circumstances that would prevent them from working with the contracting authority</li> <li>6. Discuss any issues that arise with economic operators</li> <li>7. Make sure that information does not leak out to economic operators</li> </ol> <p>Qualification of economic operators is discussed in more detail in Module E3</p>
Tools and templates used	Financial ratio analysis, questionnaires on probity
Outputs	A robust view of an organisation that is fit to supply the contracting authority with its requirement

### Step 17 – Evaluation

Step objective(s)	To review the tenders made by economic operators and compare them so as to understand which tender(s) has (have) the best opportunity of meeting the needs of the contracting authority
Procurement officer actions	<p>Procurement officers will need to:</p> <ol style="list-style-type: none"> <li>1. Ensure that a multi-disciplinary team composed of appropriately competent people is available to review different aspects of the economic operators' tenders. For complex projects different technical specialists may need to be drawn together to evaluate different parts of the tender</li> <li>2. Ensure that each economic operator's tender is evaluated fairly and in an unbiased manner in accordance with the pre-set contract award criteria</li> <li>3. Ensure that the same scoring mechanism is used for all tenders</li> <li>4. Record the scores and the decisions</li> <li>5. Evaluate the commercial aspects of the economic operators' tenders</li> </ol>

	6. Make sure that information does not leak out to economic operators 7. Check for arithmetic errors
Tools and templates used	Spreadsheets and templates based upon the weighting and scoring mechanism and the specific requirement
Outputs	A prioritised group of tenders where an unbiased process has been used to identify tender(s) that best meet the needs of the contracting authority. A recommendation of which tender to accept or a decision of which tender to accept

### Step 18 – Clarification

Step objective(s)	To clarify parts of the economic operators' tender that are unclear to persons in the contracting authority. This step may not be necessary if the tender is perfectly clear.
Procurement officer actions	Procurement officers will need to: 1. Take comments from members of the multi-disciplinary evaluation team and contact economic operators to clarify the points at issue 2. Ask economic operators to review arithmetic errors 3. Refrain from being drawn into negotiation 4. Feedback clarified points to the evaluation team or panel
Tools and templates used	e-mail and word processing software
Outputs	A clear view of what is being offered. A recommendation of which tender to accept or a decision of which tender to accept. Refer also to Module E5

### Step 19 – Award approval

Step objective(s)	To seek the necessary approvals within the contracting authority before the procurement can move forward
Procurement officer actions	Procurement officers will need to: 1. Provide information to senior people within the contracting authority concerning the tenders made by economic operators and the rationale for the decision or recommendation being made. 2. Keep the recommendation and/or decision secret until it is fully approved 3. Make sure information does not leak out to economic operators
Tools and templates used	Recommendation templates
Outputs	An approved go-ahead to purchase

### Step 20 – Standstill period

Step objective(s)	To formally administer the statutory standstill period
Procurement officer actions	Procurement officers will need to: 1. Issue the contract award decision notice in the required format 2. Run the 10-15 day standstill period 3. Comply with the statutory provisions
Tools and templates used	Standard templates should be prepared, but feedback should be specific to the requirement being procured and the economic operator's tender

Outputs	The output of this step in the process is beyond the control of the contracting officer. It may be a challenge or it may be a formal award of contract. Challenges are dealt with in Module F1
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### Step 21 – Tender protest and contract review

Step objective(s)	To contribute to the management of the challenge and contract review - <b>Localisation required</b>
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Inform stakeholders and colleagues in the legal department of the challenge (Modules E5 and F1 deal with this area in more detail)</li> <li>2. Inform audit where the challenge relates to fraud</li> <li>3. Notify the successful economic operator of the challenge so that it is understood that the supply cannot immediately proceed</li> <li>4. Review the decision with the tender board and/or others as appropriate. Where this review leads to a conclusion that the decision was not properly made, the contracting authority may choose to re-tender the requirement</li> <li>5. Prepare for a court case where this may occur</li> <li>6. Prepare for alternative dispute resolution where this may occur (refer to Module G2)</li> </ol>
Tools and templates used	None
Outputs	The output of this process step is beyond the control of the contracting officer. It may be a formal award of contract, the contract may be set aside, or the court may award damages to other economic operators

### Step 22 – Award of contract

Step objective(s)	To formally notify the economic operator that it has been selected as the provider of the goods, works, supplies or services as required and specified by the contracting authority
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Prepare the contractual documents, possibly with legal colleagues</li> <li>2. Organise the signing of the contractual documents by both parties</li> <li>3. Request and receive performance bonds or other forms of security from economic operators</li> </ol>
Tools and templates used	Standard contractual documents, standard letters and briefing formats
Outputs	A contractual arrangement with an economic operator

### Step 23 – Publishing contract award notice

Step objective(s)	To publish a notice of the contract
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Use standard form contract notices to prepare the notice</li> </ol>

	This process is described in Module E2
Tools and templates used	Standard form contract notices
Outputs	A notice is published in accordance with the EC directives and national laws

### 4.3 Role and activities during contract management

This section considers the activities necessary to run the procurement exercise (steps 24 to 39 in the total procurement process). The process steps within this stage are:

24. Internal communication
25. Engaging with contractor
26. Enabling ordering mechanisms
27. Acknowledgement
28. Expediting
29. Quality control
30. Special transportation
31. Receipt
32. Inspection
33. Storage and control
34. Issuing to stakeholder
35. Payment
36. Performance review
37. Continuous improvement
38. Disposal
39. Close-out

#### Step 24 – Internal communication

Step objective(s)	<p>To communicate to the relevant stakeholders in the contracting authority the specific nature of the contractual arrangements agreed with the economic operator(s).</p> <p>This step is vital wherever one group in the contracting authority procures the contract and another manages it. A good handover is essential.</p>
Procurement officer actions	<p>1. Procurement officers will need to communicate information about the new contract to:</p> <ul style="list-style-type: none"> <li>• persons managing the contract</li> <li>• persons who will be requesting the service</li> <li>• persons who will be using the service</li> <li>• IT department - to set up, amend and remove entries from computer systems</li> <li>• finance department - to make sure that payments go to the correct places</li> <li>• departments concerned in organising site access</li> <li>• persons engaged in receiving or inspecting consignments</li> <li>• economic operators concerned, if a handover is needed</li> <li>• others involved in actions to ensure the effective implementation of the contract, as necessary</li> </ul>
Tools and templates	IT systems and e-mail

used	
Outputs	Everyone in the contracting authority who needs to know about the contract does in fact know what they need to know, including when the new contract will start

### Step 25 – Engaging with contractor

Step objective(s)	To move from competing with the persons working for the economic operator to legitimately collaborating with them
Procurement officer actions	<p>Procurement officers will need to:</p> <ol style="list-style-type: none"> <li>1. Meet with persons working for the economic operator. This may be the first time that these persons, who are actually tasked with delivering the goods or services, will meet with procurement and stakeholder staff.</li> <li>2. Involve stakeholders in appropriate meetings and set up communication channels between key stakeholders and key persons working with the economic operator. There is no single, finite list of stakeholders to be engaged – this will depend upon the contract. A typical list could include: <ul style="list-style-type: none"> <li>• persons who will be requesting the service</li> <li>• persons who will be using the service</li> <li>• IT department - to set up, amend and remove entries from computer systems</li> <li>• finance department – to make sure that payments go to the correct places</li> <li>• departments concerned in organising site access</li> <li>• persons engaged in receiving or inspecting consignments</li> <li>• others as necessary</li> </ul> </li> <li>3. Undertake specific actions, which could include: <ul style="list-style-type: none"> <li>○ planning cutover from the current economic operator (if appropriate)</li> <li>○ planning introduction of the requirement through a new contractor</li> <li>○ considering systems integration</li> <li>○ considering ordering mechanisms</li> <li>○ organising accommodation, site passes, etc.</li> <li>○ pilot run, where appropriate</li> <li>○ handover of stocks or other equipment from in-house service providers or current economic operators</li> <li>○ press releases, where appropriate</li> <li>○ others actions to ensure the effective implementation of the contract, as necessary</li> </ul> </li> <li>4. Progressively carry out handover activity from procurement/contract management staff to stakeholders, where appropriate</li> <li>5. Check the progress of handover</li> </ol>
Tools and templates used	Diary systems to be used to prompt checks
Outputs	A good working relationship between the persons from the economic operator and the procurement and contract management persons in the contracting authority

## Step 26 – Enabling ordering mechanisms

Step objective(s)	To ensure that the mechanisms to be used for communicating to economic operators under the contract are available for procurement and stakeholders to use when necessary  This is particularly relevant where a framework agreement has been set up and other stakeholders will make call-off orders within the framework, as it forms part of the three-way match.
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Ensure that IT, stakeholders and economic operators discuss and agree specific means of communication for all transactions within a framework or call-off agreement</li> <li>2. Ensure that forms for paper-based systems are prepared with appropriate information</li> <li>3. Ensure that access to electronic systems is provided on time for potential system users</li> <li>4. Test or ensure that electronic processes are tested with sample or dummy orders</li> <li>5. Ensure that contact numbers and e-mail addresses are exchanged</li> <li>6. Organise a launch meeting where appropriate</li> </ol>
Tools and templates used	IT systems, software templates and paper templates
Outputs	An ordering mechanism that is tested and ready to go

## Step 27 – Acknowledgement

Step objective(s)	To ensure that this document does not contradict the agreed contract or introduce new terms and conditions
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Check the document thoroughly</li> <li>2. Seek legal advice where necessary</li> <li>3. Discuss the document with the economic operator if necessary</li> </ol> <p><b>Localisation issue here – the different legal systems will treat the acknowledgement differently</b></p>
Tools and templates used	The signed contract
Outputs	A reconciled situation, where the acknowledgement attempts to introduce new terms and conditions

## Step 28 – Expediting

Step objective(s)	To ensure timely delivery of works, supplies and services
Procurement officer actions	Procurement officers will need to ensure that an appropriate level of expediting is completed (by contract managers, stakeholders, or procurement officers themselves). The person responsible for expediting should: <ol style="list-style-type: none"> <li>1. Know whom in the economic operator to contact about delivery and discuss a means of expediting with them. This can include:</li> </ol>

	<ul style="list-style-type: none"> <li>• progress reports submitted on agreed dates</li> <li>• planned conference calls</li> <li>• exception reporting by economic operators (reporting assuming that delivery will be on time unless exceptionally the economic operator duly informs the contracting authority)</li> </ul> <ol style="list-style-type: none"> <li>2. Devise a means of keeping a diary of actions when necessary and therefore be proactive on behalf of stakeholders</li> <li>3. Obtain the facts about the situation before chasing economic operators</li> <li>4. Contact the economic operator contact point by e-mail, fax or phone</li> <li>5. Be persistent</li> <li>6. Be assertive</li> <li>7. Escalate problems in an economic operator's organisation as necessary</li> <li>8. Report the results of actions to stakeholders</li> <li>9. Seek to identify systemic problems and address them internally and with economic operators</li> </ol>
Tools and templates used	Expedite templates
Outputs	<ol style="list-style-type: none"> <li>1. The best possible delivery</li> <li>2. The remedy of a bad situation</li> <li>3. Lessons learned for future requirements</li> </ol>

### Step 29 – Quality control

Step objective(s)	To ensure that, where this step is necessary, a qualified person confirms that the requirement is progressing properly
Procurement officer actions	<p>Procurement officers will need to:</p> <ol style="list-style-type: none"> <li>1. Understand when this step is necessary and when it is not</li> <li>2. Ensure that the plan for this purchase includes this step</li> <li>3. Ensure that a person with appropriate skills carries out the assessment</li> <li>4. Keep a diary of the timing of the assessment and check that it has been carried out</li> <li>5. Record the outcome of the assessment</li> <li>6. Address any issues from the assessment with the economic operator and stakeholders internally</li> <li>7. Ensure that links are made to payment triggers when necessary</li> </ol>
Tools and templates used	Diary
Outputs	Progress is monitored satisfactorily

### Step 30 – Special transportation

Step objective(s)	To organise special transportation and unloading services when appropriate
Procurement officer actions	<p>Procurement officers will need to:</p> <ol style="list-style-type: none"> <li>1. Understand which procurements require this step</li> <li>2. Keep a diary of actions when necessary</li> <li>3. Link to economic operators and other stakeholders, who may be able to organise the requirements</li> <li>4. Establish contracts with the economic operator for transportation or unloading as necessary</li> </ol>

Tools and templates used	Diary
Outputs	Delivery occurs as planned without problems

### Step 31 – Receipt

Step objective(s)	To ensure that a formal receipt is promptly made by an authorised person for each requirement received
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Take no action at all where receipts are processed via a store that has a formal goods receipt procedure</li> <li>2. Ensure that stakeholders make receipt transactions that are linked to purchase orders and to the payment system, particularly for services</li> <li>3. Contact economic operators where delivery quantity is greater or lesser than the quantity expected</li> </ol>
Tools and templates used	None
Outputs	The second stage of the three-way match is completed

### Step 32 – Inspection

Step objective(s)	To ensure that the goods and services received are fit for purpose
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Take no action at all where inspection is processed via other competent departments or where specialist economic operators are used</li> <li>2. Ensure that stakeholders clarify that acceptance transactions are linked to purchase orders and to the payment system, particularly for services</li> <li>3. Contact economic operators where delivery quality is lower than expected</li> <li>4. Organise the return of faulty goods to economic operators</li> <li>5. Expedite delivery of replacement goods from economic operators</li> <li>6. Close out the order</li> </ol>
Tools and templates used	Procurement systems
Outputs	Only goods that are fit for purpose are flagged as acceptable and forwarded for payment

### Step 33 – Storage and control

Step objective(s)	To store and control goods and materials in such a way that they can be readily used by stakeholder as and when required
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Take no action at all where a storage facility is run by professionals</li> <li>2. Help stakeholders by providing or obtaining advice on suitable means of storage</li> </ol>
Tools and templates	None

used	
Outputs	Goods and materials are in good condition when needed by stakeholders

### Step 34 – Issuing to stakeholder

Step objective(s)	To make goods and materials available to authorised stakeholders in the contracting authority when needed
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Take no action at all where a storage facility is run by professionals</li> <li>2. Help stakeholders by providing or obtaining advice on suitable issuing procedures</li> </ol>
Tools and templates used	None
Outputs	Goods and materials are issued to authorised stakeholders and costs are transferred to their budget

### Step 35 – Payment

Step objective(s)	To make authorised payments to economic operators
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Take no action at all where an accounts payable system is run by professionals</li> <li>2. Help stakeholders by providing or obtaining advice on suitable payment procedures</li> <li>3. Receive queries from accounts where economic operators have invoiced incorrectly</li> <li>4. Contact economic operators to resolve invoice queries</li> </ol>
Tools and templates used	None
Outputs	Authorised payment is made against ordered and accepted items

### Step 36 – Performance review

Step objective(s)	To review the performance of the works, supplies and services within the contracting authority against the quoted, specified and agreed criteria
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Organise a meeting of stakeholders to review performance, with the aim of understanding how well the goods, works, materials or services have performed</li> <li>2. Attempt to involve those who made the original assessment</li> <li>3. Involve economic operators where appropriate</li> <li>4. Record the results of the review</li> <li>5. Internally discuss lessons learned for the next time</li> <li>6. Discuss changes with economic operators</li> </ol> <p>Modules A4, B7 and G3 include more detail on performance measurement</p>
Tools and templates used	The original business case and the documentation used to make decisions through the procurement process should be reviewed against actual performance

Outputs	An assessment of how proposed performance and actual performance compare, together with lessons learned for the next time

### Step 37 – Continuous improvement

Step objective(s)	To review the procurement process and the goods, works, materials and services bought, identifying areas for improvement that can be applied to future procurement
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Organise a meeting of stakeholders and procurement colleagues</li> <li>2. Attempt to involve those who made the original assessment</li> <li>3. Record the results of the review</li> <li>4. Propose changes to processes as an outcome of the review</li> </ol>
Tools and templates used	Continuous improvement checklist linked to the procurement process
Outputs	Improvements to the procurement process based on the experience of the current procurement

### Step 38 – Disposal

Step objective(s)	To dispose of goods, works and materials in an ethical and environmentally friendly way, whilst ensuring value-for-money for the contracting authority
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Do nothing where other competent departments manage this process</li> <li>2. Ensure that no confidential data has been disclosed</li> <li>3. Organise a competition of potential customers to purchase the items</li> <li>4. Go through a process of ensuring the probity of the customers</li> <li>5. Run the process fairly for all customers</li> <li>6. Seek value-for-money</li> <li>7. Ensure that payment is received before anything is released to customers</li> </ol>
Tools and templates used	Standard forms and templates
Outputs	Disposal, with value-for-money

### Step 39 – Close-out

Step objective(s)	To complete all procurement steps and administrative actions relating to the contract, settle all disputes and make final payments
Procurement officer actions	Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Complete any price revisions</li> <li>2. Receive the contractor's final closing statement</li> <li>3. Ensure that all indirect costs are settled</li> <li>4. Ensure that all subcontracts are settled by the prime contractor (where appropriate)</li> <li>5. Ensure that there are no outstanding change proposals</li> <li>6. Identify excess funds for redistribution</li> </ol>

	7. Review contract data and confirm that all deliveries have been accepted Refer to Module G1
Tools and templates used	Close out checklist
Outputs	Completed procurement process

## Section 3 Exercises



### Exercise 1: Attributes of a Procurement Officer

An “attribute” is defined as “a quality or feature as a characteristic or inherent part of someone or something”. What are the attributes of a procurement officer? Weigh them up.

## Exercise 2: Competencies of a Procurement Officer

### Competencies of a Procurement Officer

Take the information from the previous exercise and the document which forms section three of module B2 and make notes on what you feel are the key competencies of a procurement officer

<b>Process management</b>	
<b>Financial understanding</b>	
<b>Contract selection and legal</b>	
<b>Contract management</b>	
<b>Supply chain analysis</b>	
<b>Supply base analysis</b>	
<b>Risk identification &amp; management</b>	
<b>Communication skills</b>	
<b>Stakeholder management</b>	

### Exercise 3: Stakeholders

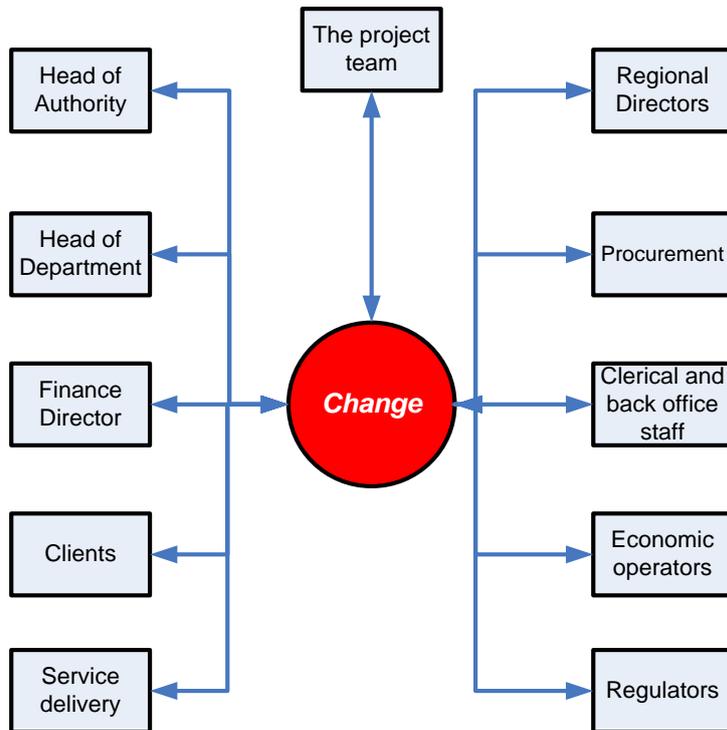
Stakeholders can be defined as “anyone who has an interest in something”. In our context we are keen to identify stakeholders in the procurement process. Can you:

1. Identify who in your own organisation has a “stake” or “interest” in the process of procurement
2. Identify what it is that the stakeholders may want from the process and people like you who are deeply involved in the process.

No.	Stakeholder name	What the stakeholder wants
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		

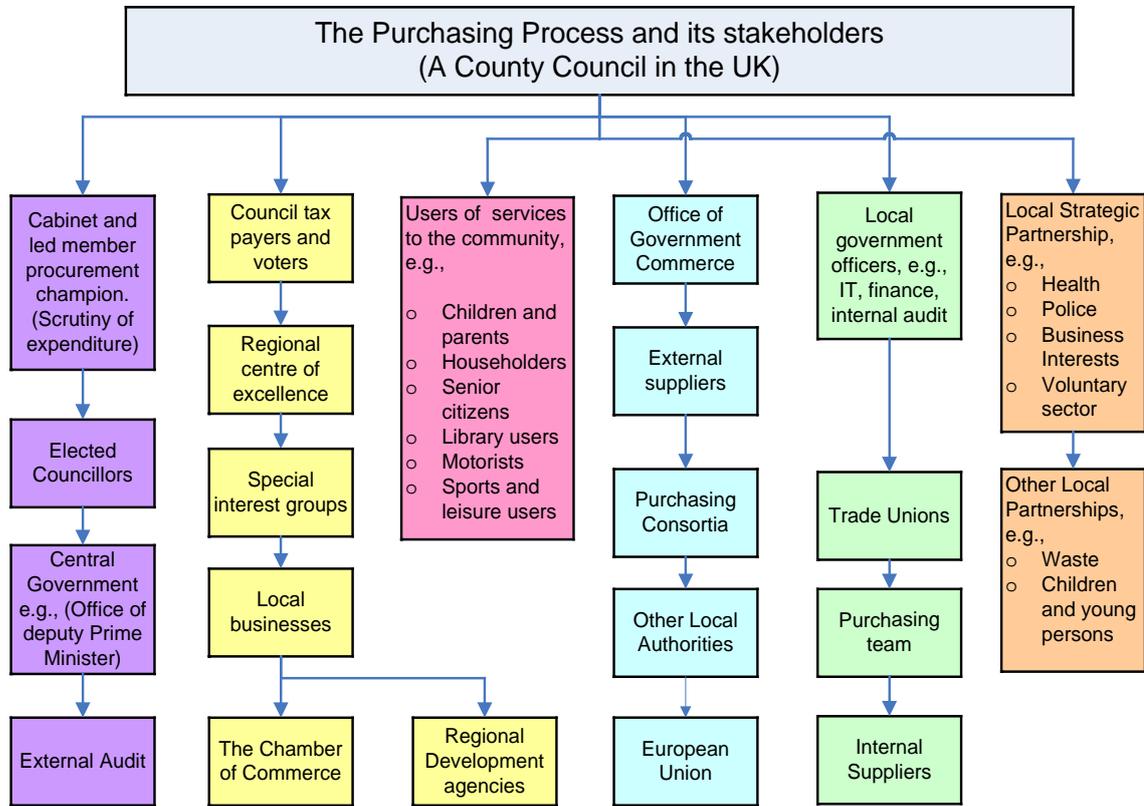
**Information section: Stakeholder examples**

This group of stakeholders might be involved in a change project. It could be a project to introduce the EU procurement legislation to a contracting authority.



**Information section**

This is a real group of stakeholders from an English county council.



NB: The hierarchical sequence of the business functions in this chart is not meant to give prominence to one function over another, it is simply a convenient way of grouping stakeholders together in this environment. The author would like to thank Fiona Holbourn of Leicestershire County Council and Ken May of ESPO for their assistance in refining this diagram

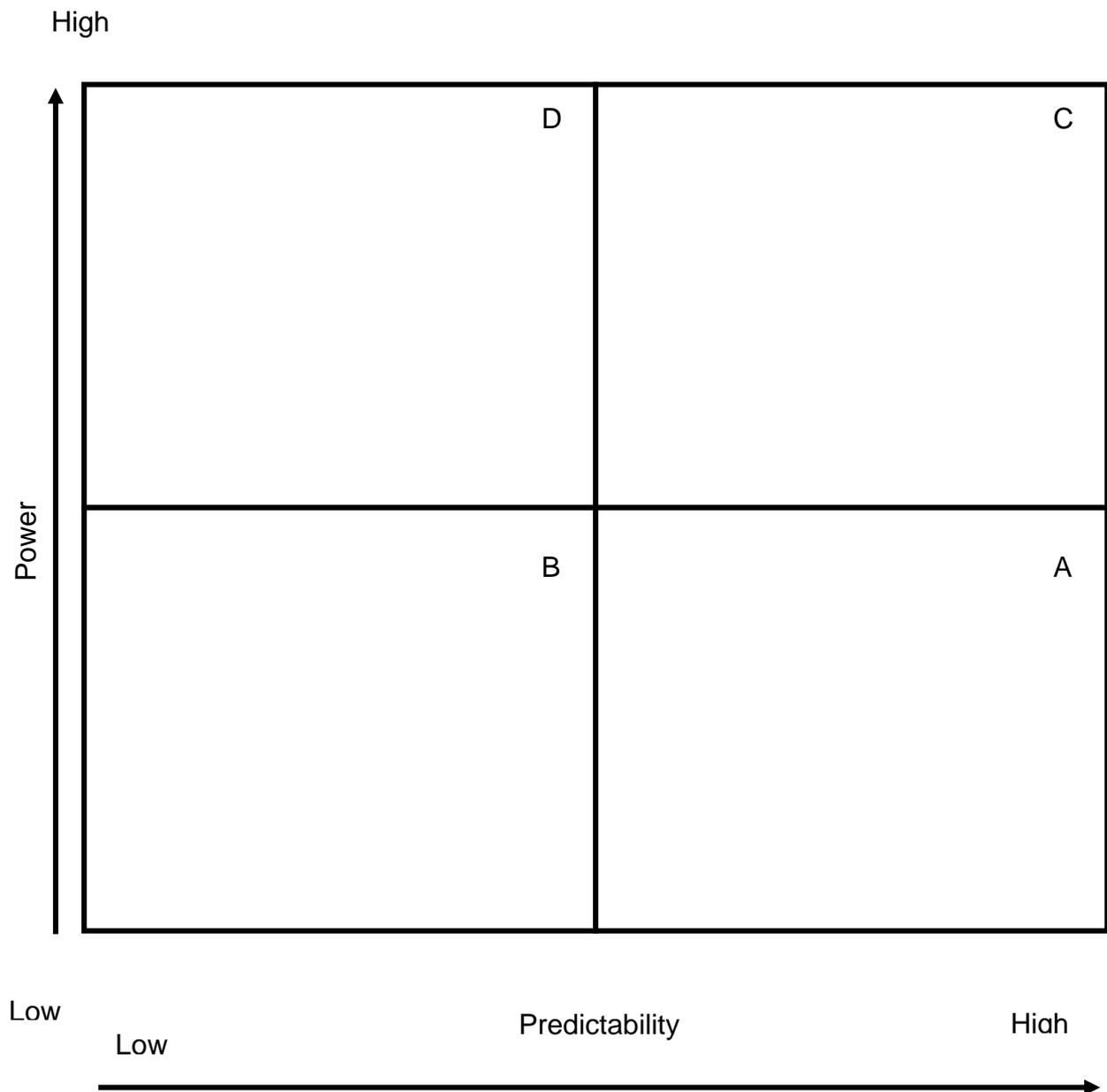
#### **Exercise 4: Power**

Who has power in your organisation? The trainer will ask you to work in groups to answer some specific questions and draw up a list.

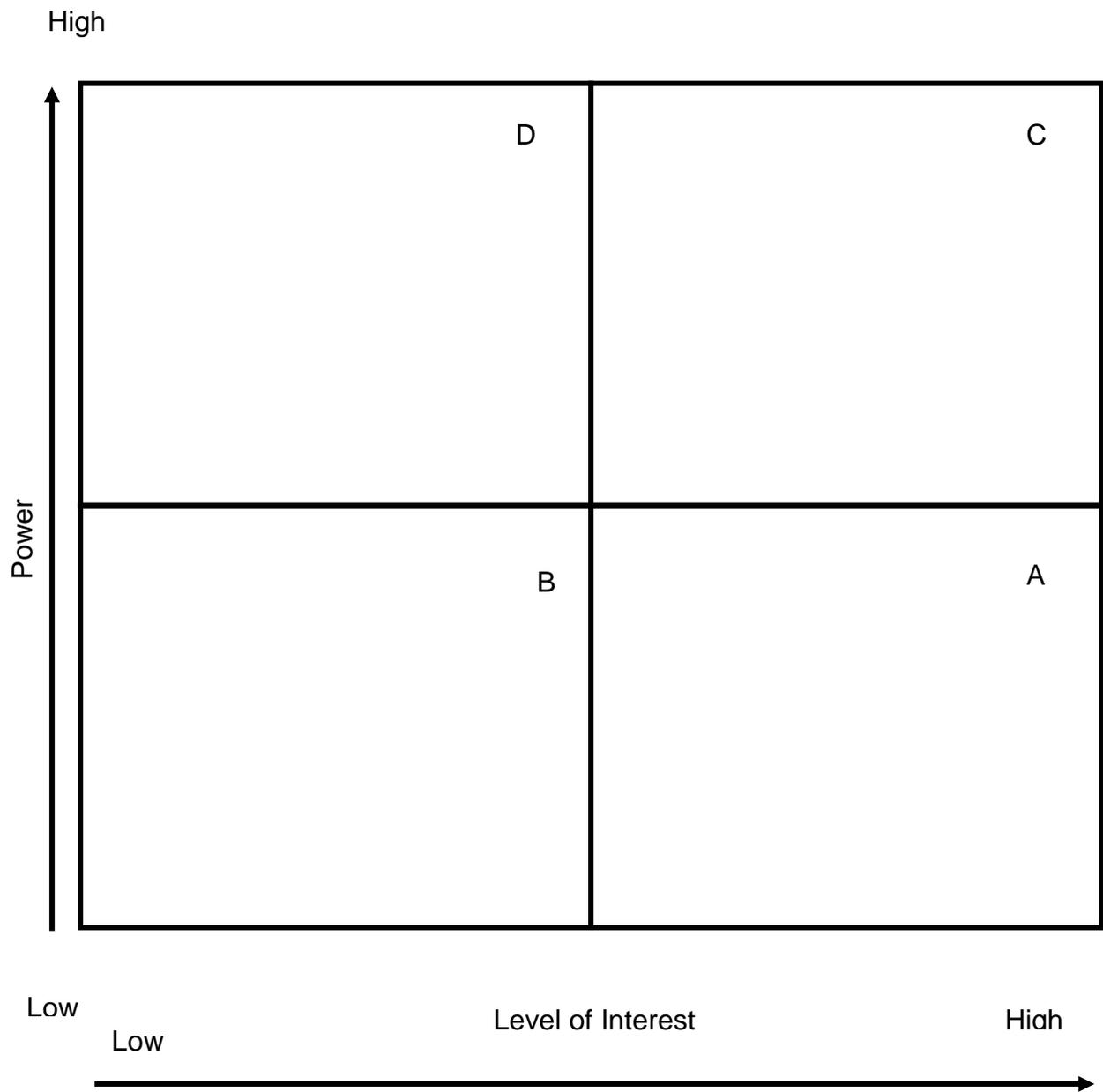
### Exercise 5: Stakeholder Mapping

Assume you are making a major procurement in your organisation. Choose a requirement that you are familiar with, or assume a new computer system is to be procured. Identify the stakeholders and map them into the two matrices below. *There is no specimen answer to this exercise, as it is dependent on the organisation of the participant.*

#### Matrix One – Power and Predictability



*Matrix Two – Power and Interest*



## **Information section**

### **Case study – Competent people deliver results**

#### **Basic data about the institution**

This case relates to a group of seven publicly owned hospitals spending several hundred million euros.

#### **Introduction**

Within the group of publicly owned hospitals there was difficulty with the expert surgeons and other key medical staff. One example of the difficulty was where the experts identified the X-ray machine from a given economic operator and instructed the procurement team to purchase “that” machine.

#### **The course of the event(s)**

The procurement staff pointed out that the machine would cost EUR 300 000 and that this was above the threshold requiring an OJEU notice. The view of the expert was, “You do what you like, but get me that machine.”

The procurement team undertook a stakeholder analysis and discovered that other stakeholders did value the procurement process and understood the need for transparency, fairness and value-for-money.

These stakeholders were particularly interested when the procurement team explained the processes, risks and the consequences of simply awarding a EUR 300 000 contract to a given economic operator. As some of the stakeholders were very senior within the organisation, they were able to meet the experts and advise them that the solution proposed by the experts was not advisable and was not going to take place.

A briefing session using an independent trainer was then organised to make sure that the experts understood how procurement must be carried out to achieve value-for-money and follow good practices.

The experts have since accepted the procurement processes as the “right” approach and working within them. Some of them have become advocates of procurement within the group of hospitals.

#### **Analysis of the event(s)**

The stakeholder analysis tool enabled procurement people to obtain the support of decision makers who had the power to convince the experts.

#### **Conclusion**

Stakeholder analysis is vital at the start of the procurement process.

## **Exercise 6: Aspects of Good Relationships**

### **Question**

We must have relationships with the people who work for economic operators. What factors would you say make a “good” relationship?

### **Exercise 7: Reporting**

Assume that you are the head of procurement in a government department. You are aware that reports of activity are required under the directives; however, you want to demonstrate that you and your team are doing a brilliant job. Identify the information that you would provide to the governing board of your organisation to demonstrate this.

## Exercise 8: The Role of the Procurement Officer in the Procurement Process

### Your task...

As directed by your tutor, take the steps of the procurement process allocated to you and identify:

- the objective of the step
- the actions that procurement officers need to take
- tools and templates that you would use
- outputs of the process.

### Step number 02 – Determine the need

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

### Step number 05 – Specification

Step objective(s)	
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Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 06 – Performance measures**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 07 – Terms and conditions**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 11 – Prepare ITT**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 14 – Handle questions**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 15 – Receive tenders**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 17 – Evaluation**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 18 – Clarification**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 19 – Award approval**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 20 – Award contract**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 22 – Internal communication**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 23 – Engage with contractor**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 26 – Expediting**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 27 – Quality control**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 34 – Performance review**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

**Step number 35 – Continuous improvement**

Step objective(s)	
Procurement officer actions	
Tools and templates used	
Outputs	

## Section 4 Chapter summary

### Self-test questions

No.	Question
1	How would you describe the term “stakeholder” in a procurement context?
2	This module had a long list of issues about which a procurement officer should be a source of advice to stakeholders. Can you remember five of them?
3	This module identified the competencies of a procurement officer. Process management was one of the nine identified. How many of the others can you remember?
4	The competency of process management had seven bullet points. Which of the bullets can you remember?
5	“Communicate” means to impart, participate, convey knowledge of or information about something, make known or to reveal by clear signs. To whom does a procurement officer need to communicate? (there were four directions)
6	Finish this sentence:  “Irrespective of whom we are trying to communicate to, the communication must be.....”
7	Relationships with people who work for economic operators may be characterised by seven points. Here are five of them; what two are missing? <ul style="list-style-type: none"> <li>◦ Quality of information exchange</li> <li>◦ Openness in the relationship</li> <li>◦ Commitment to each other in the relationship</li> <li>◦ Risk assessment carried out by the parties</li> <li>◦ Risk management carried out by the parties</li> </ul>
8	The nationality of the economic operator with which the contract or framework agreement has been concluded is one of the mandatory things that a contracting authority must report each calendar year by a given date. True or false?
9	Question 8 above only applies to framework agreements. True or false?
10	The text below relates to the actions of procurement officers during one step of the procurement process. What is that step?  “Procurement officers will need to: <ol style="list-style-type: none"> <li>1. Understand what performance options are available.</li> <li>2. Understand what other authorities have done on equivalent procurements.</li> <li>3. Advise the stakeholders on performance options.</li> <li>4. Ensure that a multidisciplinary team composed of appropriately competent people is available to set performance criteria. For complex projects, different technical specialists may need to be drawn together to evaluate different parts of the requirement.”</li> </ol>

## **Module B4 The Role of the Evaluation Panel and other Stakeholders in the Procurement Process**

### **Section 1 Introduction**

#### **1.1. Objectives**

The objectives of this module are to make participants aware of:

1. The role of stakeholders in the procurement process
2. The specific role of the evaluation pane in evaluating economic operators' tenders
3. Information that can form the basis of their own guidance to stakeholders on their role within the procurement process

#### **1.2. Important issues**

Stakeholders are both customers of and contributors towards the success of the procurement process. Their keenness and involvement is vital to its success. However, their involvement must be channelled appropriately.

#### **1.3. Links**

Links to other modules appear throughout the text of this document, especially to Modules B2 and B3; to some extent, the latter is a reciprocal of this module.

#### **1.4. Relevance**

This module is relevant for all procurement officers, because they must all deal with stakeholders.

## Section 2 Narrative

### 1 Overview

This module B4 looks at the role of stakeholders in the evaluation of tenders, including the role and conduct of evaluation panels.

#### 2.1 Introduction

A stakeholder can be defined as ‘anyone who has a stake or interest in the process of procurement’. Persons who have been assigned roles in the end-user and in finance, legal and IT departments, as well as elected officials, will have a ‘stake’ in procurement.

To make this module as meaningful as possible, edited extracts of information provided by actual contracting authorities operating within the EU are included below. Modules E4 and E5 cover in more detail the setting of evaluation criteria, evaluation of tenders, and legal compliance.

#### 2.2 The objectives of evaluation

The objectives of evaluation include ensuring that:

- the solution meets (or exceeds) business aims, government policies, and technical requirements;
- potential economic operators are able to demonstrate the capacity and flexibility to meet changing business needs;
- the cost of the solution is within budget;
- the solution delivers significant savings wherever possible;
- potential economic operators meet all commercial and/or legal requirements;
- potential economic operators are able to successfully deliver against the defined service targets.

#### 2.3 Selection of the evaluation panel

The evaluation panel should comprise a number of persons within the contracting authority who have a stake in the procurement and/or a stake in the process of procurement. In some countries, the requirements are regulated by national law. Even where this is the case, the following information will be of practical assistance. **Localisation to describe this.**

##### 2.3.1 An example of governance guidance for stakeholders

One contracting authority has an instruction in its internal rules that states:

“A tender evaluation panel will be established. Its composition will be determined by the value of the procurement.

The composition of an evaluation panel will be determined by the value and complexity of the procurement. For low-value straightforward tenders, a panel may consist of two or more officers from the originating department working with a procurement officer. When more

complex tenders require a range of expertise, the composition of the panel should reflect this.”

### 2.3.2 A typical evaluation panel

**Localisation: The exact nature of the evaluation panel will vary from country to country.**

There is no single correct list of persons who should or who must be involved. A typical list could include the following:

- The procurement officer running the procurement: this person may have an opportunity to score the tenders or may simply serve as the facilitator or manager of the process;
- The budget-holder or most senior stakeholder in the procurement, or their nominee: this person (or persons) is the key customer and as such must have a role in evaluating the technical content of the economic operators’ tenders;
- A technical specialist: this person is an employee within the contracting authority who has the in-depth technical capability to understand, comment on and query the economic operators’ proposals;
- A consultant fulfilling the role of technical specialist;
- A commercial specialist: this person will evaluate the commercial aspects of the economic operators’ tenders. This may be the role of a member of the procurement team or it may be another person who has been independent of the process;
- A financial specialist: this person is responsible for assessing the financial stability of the economic operators and possibly the financial and commercial aspects of the economic operators’ tenders;
- A legal expert: this person is responsible for assessing the legal issues related to the economic operators’ tenders;
- A person exercising a function that is not connected with the procurement: this person has the role of taking an independent view of the procurement on behalf of the whole contracting authority;
- A person from the governing body of the contracting authority: this person has the role of taking a strategic as well as independent view of the procurement on behalf of the whole contracting authority.

### 2.3.3 Involving the governing body

One contracting authority asked members of its governing body (the executive committee) to appoint persons to take part in the evaluation panel two months beforehand. Its request read:

“Members are asked, therefore, to nominate two representatives from the Executive Committee to serve on the Tender Evaluation Panel. The commitment from Members would require the following:

- Read the tender submission documentation for each economic operator (some procurement officer analysis of this information will be undertaken to assist this process)
- Familiarise themselves with the tender evaluation methodology
- Attend the economic operators' presentations at (address deleted) on [date] and the Tender Evaluation Panel on [date]. These will probably be full working days, i.e. 9.00

a.m. to 5.00 p.m., dependent on the number of economic operators submitting tenders.”

This contracting authority is flagging the time required from senior staff to attend the tender board.

#### **2.3.4 A third example of guidance**

Another contracting authority provides the following guidance for evaluation:

- “As a general principle, evaluation will always be undertaken by more than one person.
- For simple tenders the Director of the [contracting authority] or a delegated senior member of staff, and the [contracting authority]’s finance officer will normally evaluate the tenders.
- Complex and/or high value tenders will be evaluated by a panel of two or more [members], the Director of the [contracting authority], the finance officer and any other relevant senior member of staff. A representative and/or observer from an outside body may be invited to join the panel if applicable. Representatives will act as full panel members; observers will not take part in the decision process.
- All evaluation panel members will be fully aware of the procedures and criteria to be used throughout the selection process.
- All evaluation panel members will use the same ranking/evaluation forms.
- The chair of the panel will direct members as to the procedure to be applied.”

#### **2.3.5 A fourth example of guidance**

A final example is given below:

“The evaluation panel comprises the following individuals:

- A facilitator. (Usually the person responsible for the tender process)
- Scorer 1. (Usually from the Department who will manage the contract)
- Scorer 2. (Usually from the Department who will manage the contract)
- Scorer 3. (Usually from the prime user of the purchase)
- Scorer 4. (A second user, who can be a union representative)”

#### **2.3.6 Time, a vital consideration**

The evaluation panel must allow enough time for evaluation. If short cuts are taken there will be risks of:

- not understanding what is tendered;
- uninformed decision-making;
- service delivery not meeting required needs;
- low value-for-money over the life of the contract.

Procurement officers need to determine the complexity of the evaluation, the number of stages, the number of economic operators, the composition of the evaluation panel, and the evaluation criteria.

Persons new to the evaluation process will require time to understand the process as well as the tenders.

### 2.3.7 A tabulated example

The following table is an example of the membership of an evaluation panel published on the Internet by one contracting authority (in this context 'commissioning' is equivalent to purchasing).

<b>Name(s)</b>	<b>Job Title</b>	<b>Role</b>	<b>Status on Project</b>
All names have been removed	Commissioning manager universal services	Chair and project sponsor/ lead	Chair of board
	Commissioning officer home care	Vice chair and project sponsor / lead and technical support home care deliverability	Permanent panel member
	Procurement officer	Manage the tender project (recruited specifically to manage this tender)	Permanent panel
	Quality manager	Quality assurance	Permanent panel member
	Contract monitoring officer home care manager	Project support and technical support in relation to home care deliverability	Permanent panel member
	Support officer home care	Project administration	Permanent panel member
	Children's commissioning officer	Project support and technical project support in relation to specialist needs areas at the pre-qualification and tender evaluation stage in relation to home care requirements for adults with mental health problems	Permanent panel member
	Specialist commissioning officer	Technical project support in relation to specialist needs areas at the pre-qualification and tender evaluation stage in relation to extra care sheltered, dementia, neuro rehab alcohol urgent care and other forms of adult specialist older people and physically disabled home care services	Occasional member as required

	Mental health commissioner	Technical project support in relation to specialist needs areas at the pre-qualification and tender evaluation stage in relation to home care requirements for adults with mental health problems	Occasional member as required
	Commissioner social care	Technical project support in relation to specialist needs areas at the pre-qualification and tender evaluation stage in relation to home care requirements for adults with a learning disability	Occasional member as required
	Contracts lawyer	Technical Legal Project Support	Occasional member as required

## 2.4 Grounds for exclusion of persons from the evaluation panel

Persons can be excluded from participating in the evaluation panel if:

- they have a conflict of interest, which means that, for example, they have:
  - a significant stake in one of the economic operators that are tendering;
  - previously worked for one of the economic operators;
  - a friend or relative who works for one of the economic operators;
  - a stated preference for one of the economic operators;
- they are not experienced enough to participate in the evaluation. However, the advantage of the independent evaluator might be his/her lack of experience;
- separation of duties is an issue, and in this event the end-user or the specifier could be asked to step down from the evaluation panel.

Article 24 of the 2014 Directive requires Member States to ensure that “contracting authorities take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators”.

Article 24 explains that the concept of conflicts of interest “shall at least cover any situation where staff members of a contracting authority...who are involved in the conduct of procurement procedures or may influence the outcome of that procedure have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.”

Where a conflict of interest cannot be effectively remedied by other less intrusive measures, it will then constitute a discretionary ground for exclusion under article 57(4)(e).

Localisation to reflect national/local law and codes of ethics.

## 2.5 Tasks for the evaluation panel – a fundamental understanding

The members of the evaluation panel must have an understanding of the background to the procurement, including knowledge about the process that is being used to carry out the procurement, and they must have a clear understanding of the scoring mechanism that is to be used. They should also have an understanding of the legal issues and statutory requirements.

The evaluation panel members must understand the context, including:

- Overall business objectives of the contracting authority
- Objective(s) of this procurement
- Benefits that this procurement is likely to bring to the contracting authority
- Costs that are implicit in carrying out this procurement
- Principles of public procurement, as laid down in national procurement legislation

In relation to the procurement process, the evaluation panel members must understand:

- Process used to select potential economic operators
- Specification, in general terms at least
- Key deliverables based on the specification, as expressed in the evaluation criteria and weighting
- Fact that the evaluation criteria and weighting cannot be amended
- Fact that communication with economic operators must be directed through the procurement team

The evaluation panel members must understand the scoring:

- Process that is to be used for scoring the tenders by economic operators
- Fact that the same process and same scoring methodology must be used for all economic operators
- Need to exempt themselves from the decision process if they have a conflict of interest or otherwise feel unqualified or unable to commit to the process

One contracting authority included the following statement in its governance documentation:

“The whole purpose (of evaluation) is to ensure that the Council appoints a firm(s) capable of working with us to:

- Achieve our objectives as set out in the ITT.
- Contribute to a continuous improvement of service for end users.
- Establish a transparent and well-documented process that is fair and equitable.”

[www.eastrenfrewshire.gov.uk](http://www.eastrenfrewshire.gov.uk)

## **2.6 Tasks for the evaluation panel – specific ‘must do’s’**

A structured approach to evaluation based on evaluation criteria and weightings is a vital part of a best-value approach to procurement.

The evaluation process focuses on how each economic operator proposes to deliver the contracting authority’s requirement (quality issues) and the total cost of meeting that requirement (cost issues).

Each member of the evaluation panel must:

- understand the process and background to the procurement
- have time to play their role fully
- Fully read the documents that form the specification and the requirement
- Fully read each economic operator's tender
- Respect the confidentiality of the information to which they are given access
- Be prepared to attend economic operators' presentations and/or clarification meetings, where appropriate
- Be prepared to make visits to economic operators' sites or reference sites, where appropriate
- Make notes of questions on the tender that need to be clarified with other colleagues and/or economic operators
- Satisfy themselves that they are competent to carry out the evaluation that is requested of them. This places a requirement of an appropriate level of technical and other competence on some panel members; other panel members may defer to the technical competence of these specialists.
- Score each economic operator's tender against the evaluation criteria and weightings in accordance with the scoring methodology. On some occasions panel members will be requested to:
  - Score separately and then meet with the whole panel to arrive at a composite score
  - Score the part of the tender that relates to their speciality only
  - Read the documents and attend a meeting to score with other members of the panel
  - Evaluate a technical part of the tender without seeing the commercial elements of the tender (depending upon their speciality)
  - Evaluate a commercial part of the tender without seeing the technical elements of the tender (depending upon their speciality)
- Evaluate each tender on its merit and not in comparison to other tenders. While it is recognised that moderation will involve comparing the evaluation scores across tenders, evaluators should keep any such comparison to a minimum.
- Provide clear, succinct but comprehensive statements in support of scores awarded during the evaluation process. The rationale for the choice of an economic operator to be recommended for the award should be transparent and based on all of the supporting evaluation.
- Use only the information contained in the economic operators' tenders. Evaluators may not take into account information obtained from other sources outside the tender process. No extraneous views, suppositions or assumptions should influence the evaluation.
- Retain paper and/or electronic evaluation notes and material for audit purposes
- Act in accordance with the EU *acquis*
- Make an award decision on the basis of the most economically advantageous tender

## 2.7 Scoring

Evaluation panels must evaluate and score the tenders in accordance with the pre-disclosed criteria and weightings and using the agreed methodology. Modules E4 and E5 cover in detail the setting of evaluation criteria and the evaluation of tenders.

## 2.8 Accountability of the evaluation panel

Members of an evaluation panel are accountable to their own contracting authority, the contracting authority is accountable to elected officials (where the authority is an elected body), and the elected officials are accountable to the general public. **Localisation – there will not always be an elected official in every contracting authority.**

Module B1 discussed the fact that accountability can be split into accountability for decisions and accountability to answer questions. The award of a contract at the end of a tender evaluation process is a major decision and questions may be asked about it. Procurement officers and stakeholders should ensure that the evaluation activity is closed with a report.

A sample of a report template taken from the website of the UK Office of Government Commerce (OGC) is attached to this document as Appendix A.

The report includes the following headings, which could be adapted to meet individual requirements:

- Executive summary: this summary describes the process followed to arrive at the decision
- Purpose: the purpose of the document is to present a recommendation
- Introduction: the introduction describes the contents of the document and who has compiled it
- Background: this section describes how the requirement was advertised, how many expressions of interest were obtained, how many tenders were received, and how shortlisting was carried out
- Evaluation process: this section describes how tenders were received and opened, how compliance was checked, the qualitative and commercial evaluation, the clarification, moderation meetings, economic operator presentations, site audits, and the use of e-auctions if appropriate
- Evaluation results: this section describes the qualitative and commercial evaluation of the tenders
- Overall score: this section summarises the overall scores of the economic operators
- Recommendation: this section indicates which economic operator(s) is proposed for the contract on the basis of the evaluation and which economic operators have been unsuccessful
- Approval: here the evaluation team seek approval of their decision from a senior person in the contracting authority
- Appendices: appendices can supply the necessary supporting data

## 2.9 Summary

Stakeholders have a vital role to play in the procurement process. During the evaluation of tenders stakeholders need to be objective and to work hard at evaluating on behalf of the whole contracting authority, making sure that they understand the background of the procurement and that they are aware of the principles of public procurement as laid down in national procurement legislation. Where there is a conflict of interest, stakeholders should exclude themselves from the tender evaluation panel. Scoring should be carried out in a fair and transparent way, and stakeholders must realise that they are accountable for their actions for as long as they are members of an evaluation panel.

### **3 Stakeholders' roles throughout the procurement process**

#### **3.1 Introduction**

Stakeholders both contribute to the procurement process and have requirements of the process.

Typical stakeholders in public procurement include persons in the following roles:

- Governing body of the contracting authority
- Elected representatives
- Regulators
- Economic operators
- Technical specialists
- Internal customers (users of goods and services)
- Internal and external audit
- Finance
- Legal experts

The various stakeholders within the contracting authority will require:

- to be involved at different stages of the procurement;
- to be involved concerning issues that relate to their own particular departmental interest.

Procurement officers must plan the approach to a given procurement exercise so as to include time and communication with stakeholders who are relevant to the procurement in question.

You may notice that procurement officers are not included in the above list of stakeholders. In this module there is no text referring to their stake in the process, as this subject was covered in Module B3. Also, you may refer to some of these stakeholders by different names and you may include additional stakeholders.

This section considers these stakeholders and how and when they need to be involved in the procurement process. The steps in the procurement cycle model introduced in Module B2 and referred to in Module B3 are referred to again in this section.

#### **3.2 Individual stakeholders**

##### **3.2.1 Governing body of the contracting authority**

The governing body of the contracting authority has a stake in procurement best practice because it is accountable for the process of procurement. It does not want its decisions to be reported negatively in the press or contested by review bodies. It will be keen to ensure that:

- annual planning takes place
- reporting is maintained on the decisions made and processes followed, so that the governing body can be assured that the contracting authority for which it is responsible is operating properly
- members have little day-to-day involvement in the procurement process, although they may have a role to play in opening tenders (step 15) and in approving activities (steps 1, 8, 9, 19, 33 and 37)

- during the activities leading up to the publishing of a procurement notice, the persons working in both procurement and stakeholder areas follow best practice by:
  - using generic specifications
  - setting evaluation criteria and weightings
  - considering terms and conditions
  - considering performance measures
  - following the prescribed processes for publishing the notice
- during the procurement process:
  - internal and external legal processes are followed
  - evaluation decisions are made on merit and following the criteria and weighting previously set by the contracting authority
- during contract management, only in exceptional cases will members of the governing body be involved – usually when a contract management issue impacts on the contracting authority. Essentially they are probably satisfied to see periodic reports and to ask questions when necessary, although in some cases they may be involved in high-profile contracts.

### **3.2.2 Elected representatives**

Elected representatives will demand less involvement than members of the governing body of the contracting authority. However, they will want to see reports or extracts that are sent to the governing body. They may also be a target of economic operators seeking information and may need to be briefed on processes and procedures. Elected representatives may also participate in evaluation panels.

### **3.2.3 Regulators**

Each country will have a national body that will regulate the operation of public procurement and/or will be responsible for the implementation of public procurement policy. This regulation will be effected through the reporting described in Module B3, and the regulators will expect to be informed of the procurement activity of the contracting authority. [Localisation required here for the name of the body.](#)

### **3.2.4 Economic operators**

Economic operators have a stake in the procurement process. They are also a resource for contracting authorities, and economic operators normally wish to operate within the framework of the public procurement legislation and the EU *acquis*.

The focus of economic operators is on understanding what is required of them and on submitting a tender that will best meet the needs of the contracting authority, whilst allowing them to make a profit. Persons working with some economic operators will attempt to influence steps 1, 2, 3 and 5 of the process, resulting in a specification that relates more closely to their own offer(s). Procurement officers and other stakeholders must avoid this path, as it prevents fair competition, is not transparent and rarely delivers value-for-money.

Some persons working for economic operators will also attempt to receive favourable treatment during the tendering process and they may even seek to negotiate from the starting position provided by their tender. Procurement officers and other stakeholders

must work within the framework of rules set out in the public procurement legislation and in the EU *acquis*.

Contract management may also provide an opportunity for economic operators to seek variations in parts of the requirement, which should be considered within the original scope of the procurement.

The above comments may appear to paint a bad picture of economic operators. The above three paragraphs should be regarded as a worst-case scenario. Many economic operators work in compliance with the public procurement legislation and the EU *acquis*.

### 3.2.5 Technical specialists

Technical specialists have a major part to play in a number of steps throughout the process of procurement. These steps are itemised below:

Step	Step name	Technical specialist involvement
1	Annual procurement plan	Technical specialists can advise on options and requirements to meet the business needs set out in the annual procurement plan.
2	Determining the needs	Technical specialists should be involved in the debate about the requirement with users, procurement officers and others in the contracting authority. Options and solutions result from these discussions and lead to specification.
5	Specification	Technical specialists should draft the generic specification with other stakeholders.
6	Performance measures	Technical specialists should contribute to determining performance requirements with other stakeholders.
8	Constructing business case	Technical specialists can assist in this step of the process.
14	Handling questions	Technical specialists must handle technical questions from economic operators (via procurement).
16	Selection (qualification) of economic operators	Technical specialists can play a key role in assessing the technical competence of economic operators.
17	Evaluation	Technical specialists must evaluate the technical elements of the economic operator's tender.
25	Engaging with contractor	Technical specialists may have a small role in this step of the process, where necessary.
29	Quality control	Where necessary, technical specialists will perform appropriate quality checks at the economic operator's site(s) or where a building is being built for the contracting authority.
32	Inspection	Where necessary, technical specialists will perform appropriate quality checks on goods, works, materials and services received.
36	Performance review	Technical specialists should be involved in a performance review of the goods and services to ensure that they meet the criteria laid down earlier in the process.
37	Continuous improvement	Technical specialists can play a role in working with other stakeholders on continuous improvement of goods and services.

### 3.2.6 Internal customers (users/recipients of goods, works, supplies and services)

Where procurement is practiced poorly, persons from areas of the contracting authority using the goods, works, supplies and services purchased for them are not involved in the procurement process.

Best practice is to involve staff from user departments as ‘internal customers’, at both manager and ‘doer’ levels, in a number of steps throughout the process. These steps are itemised below:

Step	Step name	Internal customer involvement
1	Annual procurement plan	Internal customers can advise on the specifics of their requirements for the coming year and work with technical specialists to set out the annual plan.
2	Determining the needs	Internal customers should lead the debate about the requirement with procurement officers and others in the contracting authority. Options and solutions result from these discussions and lead to specification.
5	Specification	Internal customers should review parts of the generic specification with technical specialists.
6	Performance measures	Internal customers should contribute to determining performance requirements with other stakeholders and technical specialists.
8	Constructing business case	Internal customers should be key players in this step of the process.
9	Approval	Internal customers may be asked questions about the business case and the need to purchase during the approval process.
14	Handling questions	Internal customers may need to handle questions from economic operators (via procurement officers).
16	Selection (qualification) of economic operators	Internal customers can play a role in assessing the technical competence of economic operators in some cases.
17	Evaluation	Internal customers must have a role in evaluating the economic operators’ tenders.
25	Engaging with contractor	Internal customers will have a role in this step of the process.
29	Quality control	Where necessary, internal customers may be involved in quality checks.
32	Inspection	Where necessary, internal customers may be involved in quality checks on goods, works, materials and services received.
36	Performance review	Internal customers should be involved in a performance review of the goods and services to ensure that they meet the criteria laid down earlier in the process.
37	Continuous improvement	Internal customers can play a role in working with other stakeholders on continuous improvement of goods and services.
38	Disposal	Internal customers can play a role in the timely disposal of goods and materials no longer required.

### 3.2.7 Internal and external audit

The use of the term 'audit' refers to the operation of a professional audit function within a company and to any external auditors employed by the company.

Audit will be keen to check that processes and procedures have been demonstrably followed. There are international accounting standards <http://www.iasb.org/IFRS+Summaries> and local accounting standards, and both will impact on procurement processes, for example in the valuation of stocks. **Localisation will be needed here.**

Step	Step name	Audit involvement
1	Annual procurement plan	In some countries the annual procurement plan will set a limit on the procurement to be carried out during the following year, and where this is the case audit will want to check that procurement does not extend beyond this limit. <b>Localisation will be needed here.</b>
8	Constructing business case	Audit may wish to review the business case, if one has been constructed.
9	Approval	Audit will wish to check that the necessary approvals were made.
12	Publishing procurement notice	Audit will wish to ensure that the procurement notice was published in accordance with established procedures.
15	Receiving tenders	Audit will wish to check that tender approval processes were followed.
16	Selection (qualification) of economic operators	Audit will wish to review the checks and outputs of the qualification process.
17	Evaluation	Audit will wish to review the scoring and reporting process used to record the evaluation of tenders.
19	Award approval	Audit will wish to check that the necessary approvals are in place and signed for the contract to be awarded. Audit will also wish to review the separation of duties here. Where the annual procurement plan sets a limit for the procurement to be carried out during the following year, audit will want to check that procurement is within the limits of the annual plan. <b>Localisation</b>
22	Award of contract	Audit will wish to ensure that the award notice was published according to established procedures. This may be the first part of the three-way match.
26	Enabling ordering mechanisms	Audit will wish to check that the process to enable ordering is valid and that separation of duties is in place. This may also be the first part of the three-way match if a call-off order is used.
31	Receipt	Audit will wish to ensure that the receipt is made against a valid order and that separation of duties is in place, particularly if receipt results in a payment trigger.
32	Inspection	Audit will wish to ensure that appropriately qualified persons verify the fitness for purpose of the goods and services received.
34	Issuing to stakeholder	Audit will want to check the authorisation to issue stocked items to stakeholders.

Step	Step name	Audit involvement
35	Payment	Audit will wish to ensure that the three-way match is in place before payment is made.
38	Disposal	Audit will wish to ensure that value-for-money is achieved for items sold through a disposal process and that separation of duties is in place.

### 3.2.8 Finance

Finance will demand the probity of the procurement process and of the persons operating it. They will want to review processes and procedures to ensure, insofar as it is possible to do so, that no adverse comments will be received during the audit review of the processes. There are international accounting standards <http://www.iasb.org/IFRS+Summaries> and local accounting standards, and both will impact on procurement processes, for example in the valuation of stocks. **Localisation will be needed here.**

Specifically, finance will impact on the following steps;

Step	Step name	Finance involvement
1	Annual procurement plan	In some countries the annual procurement plan will limit the procurement to be carried out during the following year, and officers working in finance will want to be involved in constructing budgets to reflect the plan or will insist that internal customer areas construct a plan reflecting their budgets. Additionally, finance, like audit, will want to check that procurement does not extend beyond this limit where this is the case. <b>Localisation will be needed here.</b>
8	Constructing business case	Finance may be part of the team drawing up the business case and/or reviewing it.
9	Approval	Finance may be part of the approval process or will wish to check that the necessary approvals have been given.
16	Selection (qualification) of economic operators	Finance will wish to review the financial status of potential economic operators and may raise questions to which economic operators will need to respond.
17	Evaluation	Finance may wish to play a part in the evaluation of tenders.
19	Award approval	Finance may be part of the approval process or will wish to check that the necessary approvals have been given.
31	Receipt	Finance will wish to ensure that separation of duties is in place, particularly if receipt results in a payment trigger.
34	Issuing to stakeholder	As current assets are being issued from stocks to stakeholders, finance will want to ensure that a robust authorisation process is in place.
35	Payment	Finance has a prime role in ensuring that the invoice received is accurate and, where necessary, approved and that a three-way match is in place before payment is made.
38	Disposal	Finance will wish to ensure that value-for-money is achieved for items sold through a disposal process and that separation of duties is in place. They will insist that the payment for the goods or equipment is cleared before the items are released.

### 3.2.9 Legal experts

Persons working in the legal team of the contracting authority will want to ensure that the processes and procedures of the contracting authority follow the internal and external legal requirements. Specifically this will impact on the following steps: **Localisation will be needed here.**

Step	Step name	Involvement of legal experts
1	Annual procurement plan	In some countries the annual procurement plan will limit the procurement to be made during the following year, and officers working in legal departments will want to ensure that these processes follow the local laws. <b>Localisation will be needed here.</b>
6	Performance measures	In some cases performance measures being considered by procurement officers may need to reflect custom and practice relating to both the requirement and the contract law of the country, e.g. some countries will not allow 'penalty charges'. <b>Localisation will be needed here.</b>
7	Contract terms and conditions	Legal resources in a contracting authority will help to write and maintain the terms and conditions of the contract and will be a key source of advice in developing or amending them. Advice on specific clauses in relation to setting conditions on specific purchases will also be provided. <b>Localisation will be needed here.</b>
16	Selection (qualification) of economic operators	Legal experts may need to be involved in this process and may raise questions to which economic operators will need to respond. <b>Localisation will be needed here.</b>
29	Quality control	Legal experts may need to advise on exactly when acceptance of developments or stages has or should have taken place in relation to the local laws. This may impact on payment. <b>Localisation will be needed here.</b>
32	Inspection	Legal experts may need to advise on exactly when acceptance of inspection has or should have taken place in relation to the local laws. This may impact on payment. <b>Localisation will be needed here.</b>
38	Disposal	Legal experts may need to advise on specific legal terms and processes to dispose of sensitive equipment, data, or hazardous substances. <b>Localisation will be needed here.</b>

**Localisation and production note. Names may need amending within this document and colour is used to separate guidance, the need to insert text and sample wording.**

## **Section 3 Exercises**

### **Exercise 1: Role-play Preparation**

Your trainer will run this session and ask a number of questions.

## **Exercise 2, Part 1: Discussion – Examples of Guidance for Tender Panels**

### ***Example 1***

One contracting authority has an instruction which states:

“A tender evaluation panel will be established. Its composition will be determined by the value of the procurement.

The composition of an evaluation panel will be determined by the value and complexity of the procurement.

For low-value straightforward tenders, a panel may consist of two or more officers from the originating department working with a procurement officer.

When more complex tenders require a range of expertise, the composition of the panel should reflect this.”

### ***Example 2 – Involving the executive committee***

Here – regard the executive committee as the top group of people in the organisation; they are its governing body.

This organisation asked members of its governing body (the executive committee) to appoint people to take part in the evaluation two months before the evaluation was scheduled. Their request read:

“Members are asked, therefore, to nominate two representatives from the Executive Committee to serve on the Tender Evaluation Panel. The commitment from Members would require the following:

- Read the tender submission documentation for each economic operator (some procurement officer analysis of this information will be undertaken to assist this process).
- Familiarise themselves with the tender evaluation methodology.

Attend the economic operators’ presentations at (address deleted) on 27 April 2010 and the Tender Evaluation Panel on 29 April 2010. These will probably be full working days, *i.e.* 9:00 a.m. to 5:00 p.m., depending on the number of economic operators submitting tenders.”

This organisation is flagging the time required from senior people to attend the tender board.

### ***Example 3***

Another organisation provides the following guidance for evaluation:

- “As a general principle, evaluation will always be undertaken by more than one person.

- For simple tenders, the Director of the Trust, or a delegated senior member of staff, and the Trust's finance officer will normally perform the evaluation of the tenders.
- Complex and/or high-value tenders will be evaluated by a panel of two or more Trustees, the Director of the Trust, the finance officer and any other relevant senior member of staff. A representative and/or observer from an outside body may be invited to join the panel if applicable. Representatives will act as full panel members; observers will not take part in the decision process.
- All tender panel members will be fully aware of the procedures and criteria to be used. The chair of the panel will direct members throughout the selection process.
- All tender panel members will use the same ranking/evaluation forms.

#### ***Example 4***

A final example is given below:

“The tender panel comprises the following individuals:

- A facilitator. (Usually the person responsible for the tender process)
- Scorer 1. (Usually from the Department who will manage the contract)
- Scorer 2. (Usually from the Department who will manage the contract)
- Scorer 3. (Usually from the prime user of the purchase)
- Scorer 4. (A second user, can be a union representative)”

## Exercise 2, Part 2: Case Study – The New IT System

### *The scenario*

You work for a city council and your organisation has decided to purchase a new IT system to bring it into the 21<sup>st</sup> century. A contract notice has been placed in OJEU and from tomorrow invitations to tender are being sent out to potential economic operators.

The new system will manage the administration of the council offices, the payroll, the collection of local taxes, the libraries and the publicity about council activities for the community. It will have Internet access, allowing mail to be received from and sent to councillors, businesses and residents.

The mayor is a strong advocate of the project and has approved the budget, the Director of finance is less sure of the merits of the project, and the local newspaper has just pointed out that the brother of the mayor runs a software company that devises systems like this one.

The head of IT at the council has been pushing everyone to implement a fully integrated system that does much more than this one. She used a system like this at her previous council and already has budget costs from that economic operator as an alternative solution.

Your council has yet to write procedure for who should be on the tender evaluation panel; as head of procurement, you feel that a fair and robust evaluation of the current ITT is essential.

### *Your tasks*

- 1 Indicate the persons you would propose be on the tender evaluation panel. Provide their job titles
- 2 Indicate those you would suggest not be on the tender evaluation panel
- 3 For each person you have selected in point one above, indicate what you would expect them to evaluate

Use the next page for your answer.

***Not on the panel***

1	<i>Example: Mayor</i>	<i>Not on the evaluation panel – conflict of interest</i>
2		

***The panel could comprise***

	Stakeholder	What I would like them to evaluate
1	<i>Example: Head of HR</i>	<i>To evaluate the payroll offering in the software</i>
2		
3		
4		
5		
6		
7		
8		
9		
10		



### Exercise 3: Stakeholder Requirements

#### *Your tasks*

- 1 You will be split into teams for this exercise. On the pages below are some tables which have columns for:

The procurement process step  
The procurement process step name  
The involvement of the given stakeholder

- 2 Your task is to work with others to identify the steps where you feel that the stakeholder you have been assigned will be involved, and what that involvement will be.

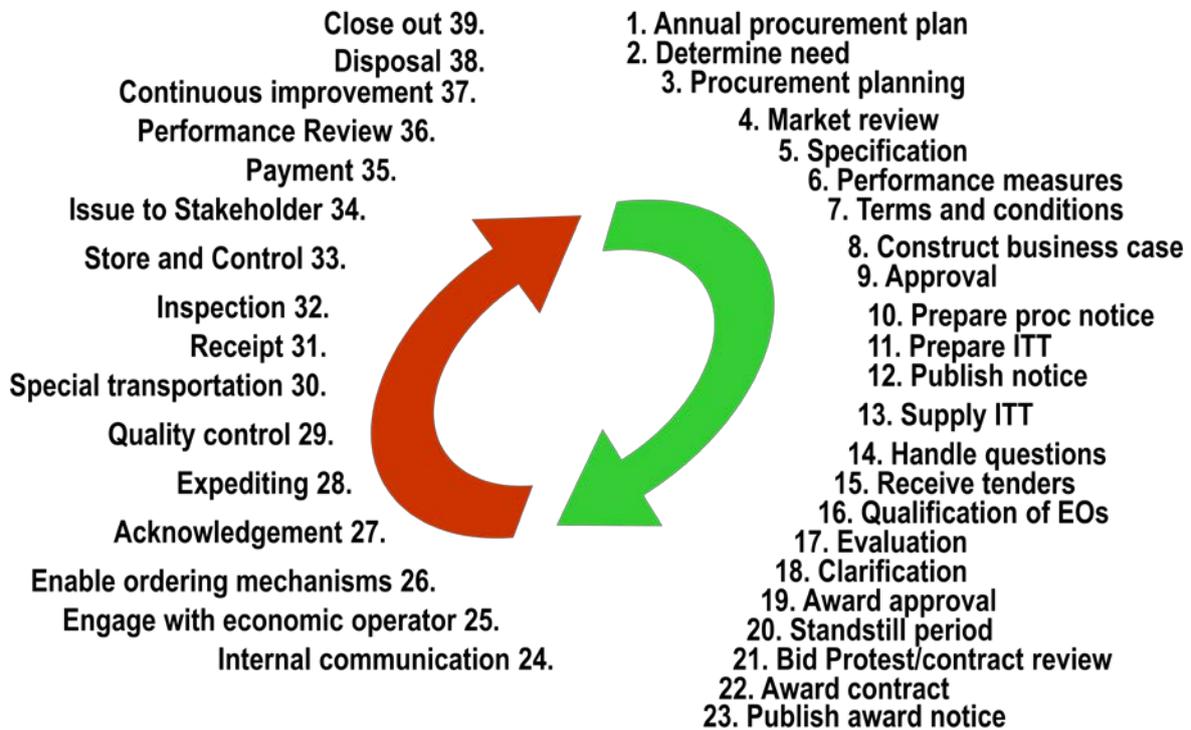
- 3 The stakeholders selected for this exercise are shown below. You may have other stakeholders you may wish to consider within your organisation.

1. Technical specialists
2. Internal customers (users of goods and services)
3. Internal and external audit
4. Finance
5. Legal

NB1: “Involvement” will be both actions we can expect the stakeholder to take and outputs they may want from the procurement process.

NB2: To assist you, the procurement cycle model is reproduced on the next page.

# Steps in the Procurement Cycle













## **Information**

### **Case study – A lesson well learned**

#### **Basic data about the institution**

A local hospital spending EUR 550 million

#### **Introduction**

Specialists in the hospital knew they needed to replace a fleet of ambulances and had the money in the budget, but did not plan ahead.

#### **The course of the event(s)**

- 1 The EUR 1 340 000 budget for ambulances was agreed at the end of the previous year and put into the procurement plan.
- 2 The department responsible for running the fleet was too busy to discuss the requirement in detail with procurement, and it was not until the last month of the financial year that it approached the procurement team to make the purchase.
- 3 The procurement team advised the head of department that time was needed to specify, place the notice and go through the normal good practice procedures. It would not be possible to award the business during this financial year.
- 4 Finance attempted to “claw back” the EUR 1 340 000 to help with overspends in other areas.
- 5 After much lobbying, it was agreed that the budget could be carried forward.
- 6 The chief executive of the hospital issued a note to all heads of department indicating that this was the first and last occurrence of its type.
- 7 At the start of the following financial year, heads of department contacted procurement to plan their requirements.

#### **Analysis of the event(s)**

The lack of planning or involvement of stakeholders almost meant that the procurement could not take place.

#### **Conclusions**

It is vital that procurement officers and stakeholders work together to plan the timing of procurement exercises to meet the needs of the people who will use the goods, works or services to be procured.

## SECTION 4 CHAPTER SUMMARY

### Self-test questions and summary

No.	Question
1	<p>This module presented six bullets as objectives of a tender evaluation. Two of them are shown below; can you remember the other four?</p> <ul style="list-style-type: none"><li>◦ Potential economic operators can demonstrate the capacity and flexibility to meet the changing business needs</li><li>◦ Potential economic operators can successfully deliver against the defined service targets</li></ul>
2	<p>Who might be on a typical tender evaluation panel?</p> <p>If the law of your country prescribes who must be on the panel, then provide their roles for the answer.</p>
3	<p>Why is time a vital consideration in tender analysis?</p>
4	<p>If someone has a conflict of interest, they should be excluded from the tender evaluation panel. What is meant by “conflict of interest”?</p>
5	<p>The module indicated must-do’s for the members of the tender evaluation panel and one of them is below; however, a rogue word has crept into the statement. Can you identify and delete the word?</p> <p>“Each member of the tender evaluation panel must not respect the confidentiality of the information they are given access to.”</p>
6	<p>The text below is from the same list in the documentation, but this time a word is missing. Can you identify which word, and where it goes?</p> <p>“Use only the information contained in the economic operator’s tender to evaluate. Evaluators may take into account information obtained from other sources outside the tender process.”</p>
7	<p>What is the role of technical specialists in answering questions from economic operators?</p>
8	<p>What is the role of internal customers in determining the need for the procurement?</p>
9	<p>What will audit want to check at the receipt stage of the procurement process?</p>
10	<p>Sometimes a person who works for the contracting authority but has nothing to do with the procurement will be on the tender evaluation panel. What purpose does this serve?</p>

### Resources

The following websites have been used in this module:

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

<http://www.iasb.org/IFRS+Summaries>

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

## Appendix A Tender Evaluation Report Template

Localisation and production note. Names may need amending within this document and colour is used to separate guidance (blue), the need to insert text (*red italics*) and sample wording (black).

# Invitation to Tender: Tender Evaluation Report Template

Version 0.1

## Table of Contents

No table of contents entries found.

**Guidance note:** The Evaluation Report summarises the evaluation process, providing a detailed analysis of the outcome. This report would normally include recommendations (to the senior responsible officer, project board, contracting authority, CPD director); provide assurance that the evaluation has been undertaken in accordance with the pre-approved evaluation process and methodology; and present justification for the award of a framework agreement to selected tenderers.

Although the senior responsible officer / project board / contracting authority / CPD director may be content to approve the recommendations based on a review of the hard or soft copy report, you should (if requested) be prepared to present the Tender Evaluation Report to the person(s) or board from whom you are seeking approval.

This document is not designed to be prescriptive but rather to provide useful direction for drafting your Tender Evaluation Report. Wording and annexes should therefore only be used if considered appropriate to the specific procurement project. In particular, Section 6 onwards may need to be varied should an eAuction be used as part of the commercial evaluation process.

## 1. Executive Summary

- 1.1. The procurement strategy for the project was to ensure that sufficient suitably qualified Potential Providers were invited to tender to meet the requirements of *[insert details of the names of the Contracting Authority and other collaborating organisations]*. It was anticipated that a maximum number of *[insert number]* Framework Agreements would be awarded on a *[insert direct award, single / multiple provider or re-opening of competition multiple provider]* basis.

- 1.2. Following completion of the Pre-Qualification process, *[insert number]* Potential Providers were selected to receive an Invitation to Tender. The ITT was issued on *[insert date]* to: *[insert Potential Providers names]*.
- 1.3. A Tenderer's Conference was held on *[insert date]* to enable Tenderers to seek clarification relating to the requirement and ITT documentation.
- 1.4. *[insert number, divided into Lots if applicable]* Tender Responses were received at *[insert time]* on *[insert date]*.
- 1.5. Of those received *[insert number, divided into Lots if applicable]* Potential Providers submitted a compliant Tender Response. *[insert number]* responses were considered non-compliant for the following reasons - *[insert name of Potential Provider and reason for non-compliance, e.g. non-acceptance of the Framework Agreement Terms and Conditions]*.
- 1.6. A tender response was not received from *[insert number]* of the *[insert number]* potential providers for the following reasons: *[insert name of potential provider and reason given for not submitting a tender response]*.
- 1.7. Tenders were evaluated in accordance with the approved evaluation process and methodology. *[The evaluation was undertaken using a traditional paper-based evaluation OR the evaluation was undertaken using an electronic evaluation tool (insert name of tool, e.g. "AWARD")]*. A copy of the evaluation process and methodology documents are available on request from *[insert title, e.g. project manager, evaluation manager]*, *[insert name, telephone and email contact details]*.
- 1.8. The results of the Evaluation are as follows: *[insert tenderer's names and scores]*
- 1.9. On the basis of the results in 1.8, the tender evaluation team recommends a framework agreement be awarded to *[insert tenderer's names]* subject to any challenges during the Alcatel period.
- 1.10. The tender evaluation team seeks to obtain approval from the *[senior responsible officer, project board, contracting authority, CPD director]* to award a framework agreement to tenderers identified in 1.9.
- 1.11. Subject to approval, a standard award letter covering Alcatel will be issued to successful tenderers, and an unsuccessful letter covering Alcatel will be issued to unsuccessful tenderers.
- 1.12. Both successful and unsuccessful tenderers will be provided with the opportunity to receive a debrief in accordance with the ITT Debriefing Guidance

## 2. Purpose

- 2.1. The purpose of this document is to present a recommendation to the *[senior responsible officer, project board, contracting authority, CPD director]* for consideration and approval. The recommendation is based on the results of the Tender Evaluation carried out by the tender evaluation team on the responses to the *[xxx services / supplies / supplies and services]* ITT.

### 3. Introduction

- 3.1. This report has been compiled on behalf of the *[insert project title]* tender evaluation team following the completion of the evaluation of responses to the invitation to tender (ITT) for *[xxx services / supplies / supplies and services]*.
- 3.2. This document contains information that is commercial in confidence and not in the public domain. The contents of this document must not be disclosed or discussed with any third party.
- 3.3. An Executive Summary has been provided, supplemented with supporting *[insert information data, evidence]*. Any further information or points of clarification should be addressed to the *[insert person's details from 2.1]*.

### 4. Background

- 4.1. The *[insert project title]* project advertised under the *[insert procedure, e.g. Restricted]* procedure in the Official Journal of the European Union on *[insert date]* covers the *[insert scope of the requirement including lots if applicable]*.
- 4.2. The Contract Notice generated *[XX]* expressions of interest from a wide range of potential providers.
- 4.3. Following evaluation of the Expressions of Interest the following *[XX]* potential providers were shortlisted to receive invitation to tender (ITT) documents: *[insert shortlist of potential providers]*.

### 5. Evaluation process

**Guidance note** – An overview of each stage should be provided, depending on which stages have been followed during the evaluation process.

- 5.1. Tender receipt and opening
- 5.2. Compliance check
- 5.3. Qualitative and commercial evaluation
- 5.4. Tender clarification
- 5.5. Moderation meeting(s)
- 5.6. Tenderers' presentation / Clarification meeting
- 5.7. Site audit
- 5.8. eAuction

### 6. Evaluation results

**Guidance note** – An overview of the outcome of the qualitative (e.g. technical, delivery, quality) and commercial (e.g. price, cost, risk, legal) evaluation should be provided, with reference to annexes as appropriate.

- 6.1. Qualitative results
- 6.2. Commercial results

**Guidance note** – The person(s) or board responsible for approving the recommendations of the evaluation team must have access to a summary of each tenderer’s response. This may include but is not restricted to:

- Name of tenderer
- Summary of their qualitative response
- Key points relating to the site audit
- Key points relating to the tenderer presentation / clarification meeting
- Summary of their commercial response, including financials (reference to eAuction outcome if applicable) and identification of any issues and risks
- Confirmation or acceptance / non-acceptance of the terms and conditions
- Pros and cons of the overall response
- Award recommendation

This information should be sufficient to provide a comprehensive debrief on request from a successful or unsuccessful tenderer.

If the project has attracted a significant number of tender responses you may opt not to include this section within the main body of the Evaluation Report, but rather attach it as an annex or even produce a separate document that is made available to the [senior responsible officer, project board, contracting authority, CPD director].

## 7. Overall score

- 7.1. Following agreement of an overall score for each tenderer and taking into consideration all qualitative and commercial elements of the responses, a high-level summary sheet was completed. This can be found at *[insert annex number / letter]*. A full evaluation matrix is available on request from the *[insert person’s details from 2.7]*.

## 8. Recommendation

- 8.1. The recommendation of the tender evaluation team is that a framework agreement be awarded to: *[insert name of tenderer(s)]*, subject to any challenges during the Alcatel period.
- 8.2. Subject to approval, a standard award letter covering Alcatel will be issued to successful tenderers and an unsuccessful letter covering Alcatel will be issued to unsuccessful tenderers.

- 8.3. Both successful and unsuccessful tenderers will be provided with the opportunity to receive a debrief in accordance with the ITT Debriefing Guidance.

## 9. Approval

- 9.1. The tender evaluation team seeks to obtain approval from the *[senior responsible officer, project board, contracting authority, CPD director]* to award a framework agreement to the tenderer(s) identified in 9.1.

<b>Recommendation Supported:</b>	
<b>Signed:</b>	<b>Name:</b>
<b>Date:</b>	<b>Title:</b>

## Module B5 Contribution from External Consultants and Experts in the Procurement Process

### Section 1 Introduction

#### 1.1. Objectives

The objectives of this module are to make participants aware of:

1. Valid reasons for using external consultants in the procurement process
2. The consultants' role(s) in advising their contracting authority and then stepping back to allow the contracting authority to make the decision
3. The advantages and disadvantages of using consultants in the procurement process
4. What to look for when using consultants successfully in the procurement process
5. Getting the best out of a consultant who is an expert resource

### **1.2. Important issues**

While consultants can add great value, some public sector organisations overuse them in the procurement process and stifle the knowledge and growth of their own human resources.

### **1.3. Links**

Links to other modules appear throughout the text of this document.

### **1.4. Relevance**

Procurement officers should seek the assistance of consultants only where they have to, due to the reasons given below.

## Section 2 Narrative

### Overview

#### 2.1 What is a consultant?

A consultant can be defined as ‘one who gives professional advice or services: an expert’.

An expert can be defined as ‘one with the special skill or knowledge representing mastery of a particular subject’.

There are times when a contracting authority will need professional advice and expertise in the procurement process.

#### **Good practice note – consultants**

Consultants are economic operators who supply a service. They are normally there to advise on the procurement process. Some consultants think that they ‘know better’ and may seek to take decisions. Remind them gently that they are ‘trusted advisors’.

**Provision of ancillary purchasing activities by central purchasing bodies:** Support to the procurement process can take various forms, including support in the form of “ancillary purchasing activities”, as described below.

The 2014 Directive includes special provisions covering the situation where a central purchasing body provides “ancillary purchasing activities”. Ancillary purchasing activities in this context may include certain consultancy services. These services are described in the 2014 Directive as:

- advice on the conduct or design of public procurement procedures
- preparation and management of procurement procedures on behalf of and for the account of the contracting authority concerned
- technical infrastructure enabling contracting authorities to award public contracts or to conclude framework agreements for works, supplies or services

A contracting authority is permitted to purchase ancillary services, as described in the 2014 Directive under “ancillary purchasing activities”, directly from a central purchasing body without using the competitive tender process.

#### 2.2 Why hire external consultants?

External consultants can be a bane or a blessing. Consultants should only be used when the contracting authority cannot operate without them. This may be because:

- Persons working with the contracting authority are overstretched and need additional manpower
- Persons working with the contracting authority do not have the expertise for the tasks in hand
- Time pressures necessitate additional resources

- Independent advice is needed

Some authorities do become over-reliant on consultants. It is possible to expand the four bullet points above, for it can be appropriate to hire consultants to:

- provide a strategic overview of the position of the contracting authority in its marketplace or environment, and thereby recommend mid-term to long-term strategic directions;
- provide an independent review of:
  - a situation or proposed course of action
  - the choice between two or more typically tactical decisions, based on their knowledge of how such decisions have been successful in other contracting authorities;
- catalyse change by recommending alterations to management processes and to the contracting authority. Often this will be in cases where the contracting authority has a clear idea of problems and solutions (however, possibly, though not necessarily, as the result of previous consultancy) but is unsure of 'how to get from A to B';
- strengthen a team. The contracting authority and consultancy may create a joint team to develop in-house capabilities, for example to manage a new process. The intention here is that, once strengthened, the in-house team can carry on without the consultants;
- achieve the implementation of a new system or process. Sometimes the implementation of a new system may be beyond the capacity of the contracting authority, not because of any lack of skills but because those skills are fully deployed in other tasks. If there is no longer-term justification for strengthening the in-house team, it may make sense to hand the implementation project over to consultants;
- be involved in the long-term operation of the contracting authority. It may be, particularly with information technology situations, that the most desirable management solution is to employ consultants on a long-term contract to manage particular processes or systems.

### **2.3 Two different roles**

Fundamentally, consultants may adopt one of two roles in relation to procurement:

- 1 If the consultant is hired to perform a line role within the contracting authority, he/she has the responsibilities of that role (e.g. procurement manager) and is expected to perform it for the duration as a staff member would. This includes taking the necessary decisions inherent to the delegated authority of the role.
- 2 The consultant may be hired, however, to provide specific advice based upon his/her experience, and perhaps to contribute as part of a multi-disciplinary team. In that case, the consultant has no delegated authority at all, and his/her role is to advise the staff of the contracting authority about appropriate courses of action and let them take the decisions, whether or not the consultant agrees with those decisions.

When a consultant is used for role two described above and starts taking decisions or undermining the decisions made by the staff of the contracting authority, he/she is overstepping the consultant role and should be warned and if necessary dismissed.

When a consultant is used for role one described above and does not take decisions, he/she should be dismissed.

## 2.4 Advantages of using consultants

The advantages of using consultants should include:

1. The ability to tackle situations and deliver unique solutions reflecting the particular circumstances and aspirations of the contracting authority
2. Speed of action (because the consultancy team, unlike the in-house management, is not being constantly distracted by other tasks)
3. An injection of knowledge of 'good practice' and effective solutions
4. Exposure to expertise derived from other industries, sectors or countries
5. Provision of specific technical skills that are either non-existent or in short supply in-house
6. Skills transfer to in-house staff
7. Freedom from bias. Consultants should offer independent advice. An exception may be if the consultant's expertise is needed in the selected solution only
8. Change management skills, enhanced by the consultants' position as independent, objective and 'above the fray'
9. The contract of a consultant can be terminated more quickly than that of a staff member ([Localisation check here](#))

All of the advantages listed above should lead to 'value-for-money' from the consultancy assignment, demonstrated by the improved performance of the contracting authority.

## 2.5 Disadvantages of using consultants

Consultants can add value; however, there can be disadvantages in using them. These include:

1. Cost: consultants will cost more than an employee.
2. Consultants may say that they have the knowledge, but once in place they may not be able to deliver.
3. Consultants may try to 'force' contracting authorities to do it their way (the consultants' way).
4. Knowledge and/or experience of what has been done elsewhere may not be relevant for this contracting authority.
5. Skills transfer to in-house staff may not take place. Some consultants work hard to avoid such a transfer.
6. Contracting authorities may become over-reliant upon consultants.
7. Consultants may be biased towards one solution. It may be that they have implemented the solution before and it has worked; however, whilst a solution may be appropriate somewhere else, it may not be appropriate for this contracting authority.

### **Good practice note – selecting consultants**

There is a choice to be made between using a consultant who has ‘done it before’ and using someone whom you believe has the ‘spark’ to deliver a good job. Precisely because the consultant has ‘done it before’ he/she may deliver the same solution that was delivered before, which may or may not meet your needs. Equally, the person who has not done it before may not meet your needs; however, he/she may bring fresh vision that is worth its weight in gold. Make an assessment on a case-by-case basis.

## **2.6 What to look for and be aware of when seeking consultants**

When seeking to appoint consultants, contracting authorities should:

- require consultants to state in writing any commercial arrangements that they may have with other parties that the assignment may bring them into contact with. This is particularly important if the consultants are required to recommend supplies and services for the use of the contracting authority;
- insist upon meeting the actual team that will deliver the consultancy before appointing them;
- check upon the technical knowledge of consultants; phone referees;
- provide a clear brief to the consultants and confirm that the consultants understand your requirements;
- ensure that the required expenditure has been understood and authorised through the total life-cycle of the consultancy spending;
- make sure that both the contracting authority and consultancy have clear expectations about roles, responsibilities, costs and benefits before the assignment starts;
- confirm the independence of the persons in the consultancy if an independent appraisal of a supply market or solution is needed;
- confirm the expertise of consultants if work on a given solution only is needed;
- ensure that the consultants adhere to the rules of engagement laid down in the tender process;
- ensure that the consultants know about:
  - all areas of work between their consultancy practice and the contracting authority – they should communicate this effectively within their practice
  - areas of work between other consultancy practices and the contracting authority – they should communicate this effectively within their practice
  - areas that are out of scope;
- require consultants to:
  - take a holistic approach to assignments with a contracting authority to assist economies of scale
  - place the interests of the contracting authority before their own earning opportunities
  - keep the scope of the project in line with its real complexity and not over-complicate it
  - talk about the practical needs of the contracting authority without jargon or pomposity
  - be honest about their strengths and only submit quotations in line with those capacities;

- run the procurement process for the appointment of consultants in accordance with the requirements of the 2014 Directive and any local or national laws.  
Note: Public service contracts for the provision of ancillary purchasing activities that are not performed by a central purchasing body in connection with its provision of central purchasing activities to the contracting authority concerned should be awarded in accordance with the 2014 Directive and with any local or national laws (see 2.1 above)
- be aware of the current European Court of Justice (ECJ) case law relating to the tender evaluation criteria that can be used, particularly with reference to consultancy and professional services (see Modules E3 and E4).

Localisation required, particularly if there are different processes or laws that must be followed for the appointment of consultants.

## 2.7 Using consultants successfully

### 2.7.1 The consultant as an expert

Within a given procurement process, consultants can be used successfully as an expert resource to:

- advise at the earliest stage on the options available in the supply market and on the timing of a purchase so as to obtain maximum benefit;
- advise on EU processes;
- investigate and report on the technical fit of a given solution within the business environment of a contracting authority;
- undertake the role of the technical expert of a project in an area where the contracting authority has no expertise;
- use their experience to advise on the best way to bundle a requirement or group of requirements so as to attract the supply market;
- assess the basic requirements of the contracting authority and develop an independent generic specification;
- investigate and comment on the applicability of different solutions to the specification of the contracting authority;
- assess economic operator presentations and report on their suitability in the light of the needs of the contracting authority;
- review the current operation of the contracting authority and advise as to whether a purchase is necessary at all;
- assist in the development of evaluation criteria and weightings;
- assist in the evaluation of economic operators' tenders;
- assist in/lead the construction of a business case;
- assist in/lead the development of implementation plans on behalf of the contracting authority;
- assist in/lead the implementation on behalf of the contracting authority;
- evaluate what is received or delivered by economic operators on behalf of the contracting authority;
- participate in the performance review with staff from the contracting authority.

In these roles the consultants could be working 'full-time' for the period in which they are needed or used for short bursts of expertise during the process. It is in any case clear that their role in either of these scenarios is to advise and not to take decisions.

### 2.7.2 The consultant as part of the procurement team

Within a given procurement process, consultants can be used successfully as members of the procurement team to undertake any of the activities that the procurement team carries out with its stakeholders.

## 2.8 Conclusion

Buying the services of consultants should be treated in the same way as buying any other service. Frequently stakeholders seek to meet or introduce their 'favourite' individual or firm of consultants and in some cases they may have the power within the contracting authority that will allow them to do so. Frequently, however, the consultants who best meet the needs of the contracting authority will emerge from a selection process. Here their ideas, track record and approach to the contracting authority combine to put the selection team at ease with them.

### **Information: A consultant's code of conduct**

A search of the Internet will reveal a number of codes of conduct for consultants. The one that follows is from ICON, an independent consultants' network in New York State, USA.

#### **The mission statement of ICON is:**

ICON, the Independent Consultants Network, is an organisation committed to enhancing contracting authority access to Ithaca-region consultants through promotion of consultant skills and expertise, via ICON programs and the ICON website, [www.iconconnect.org](http://www.iconconnect.org). To this end, ICON offers local and regional businesses and contracting authorities the opportunity to find the right consultants, right now, and right here.

ICON is also committed to promoting professionalism, ethics, and excellence among consultant members and accomplishes these goals by providing opportunities for its members to network with other consultants. ICON hosts monthly meetings and other events where independent consultants can exchange ideas, expertise, and business contacts.

#### **ICON Consultants Code of Conduct**

As members of Independent Consultants Network (ICON) based in Ithaca, NY, we are guided by and agree to adhere to the following "Code of Ethics."

1. We keep the interests of our client as our highest priority and respond to these interests in a prompt and equitable manner.
2. We conduct consultations confidentially and on terms agreed upon with our clients. We protect and will not disclose any company information without the approval of our client and will not gain financially or take any other advantage based on this information.
3. We confer with our clients in sufficient detail to understand each concern or need and will match our service to our client's need.
4. We offer advice and accept only those assignments we are truly qualified to perform. We endeavour to provide results that have a real and lasting benefit to our clients.

5. We estimate and charge reasonable and consistent fees. We agree in advance on our fee or fee basis with our clients.
6. We write advertising, contract, guarantees, and other representations that are honest, truthful, and easily understood.
7. We refuse all assignments in which we have a conflict-of-interest or which might compromise our objectivity or professional independence. We promptly disclose any interest that may affect our clients, influence our judgment, or impair the equitable character of our services. We do not allow any outside interest to negatively affect the quality or results of our work.
8. We compete fairly and give appropriate credit for the work of others.
9. We recognize intellectual property rights and adhere to the laws meant to protect them.
10. We assume the responsibility for our employees' and subcontractors' compliance with this code.
11. We adhere to and maintain the professional standards required by our particular disciplines or areas of expertise including our respective professional ethical codes.
12. We obey all laws and accept total responsibility for our actions and we treat all contacts with fairness regardless of race, religion, sex, sexual orientation, age, or national origin.
13. We accept only those projects which are legal and are not detrimental to our profession.
14. We understand that the Independent Consultants Network (ICON) shall review complaints or violations of this code made either by clients or member consultants and that ICON maintains the authority to take appropriate sanctions with respect to ICON membership and its privileges.

Revised October 25, 2005

## Section 3 Exercises and case study



**Why use consultants?**

Can you provide five good reasons for using the services of a consultant?

It can be appropriate to hire consultants to:

1

2

3

4

5

## **Information section**

### **Case study – The honest consultant**

#### **Basic data about the institution**

The regional authority purchased EUR 125 million in goods and services using a range of different processes across a physically diverse area.

#### **Introduction**

The authority sought external expertise to map the processes and then take decisions on making improvements.

#### **The course of the event(s)**

A regional authority asked for proposals to map its procurement processes and make recommendations for improvements. Seven consulting organisations expressed interest and received the full tender.

Six of the consultant organisations submitted tenders offering complex business solutions, including their own models and in some cases software. These solutions did not meet the requirement expressed by the authority.

The seventh organisation indicated that it had the capability to flowchart the business processes and then present the regional authority with options for development. The problem there was that their resources were fully stretched on other projects, and the authority required an “immediate start”.

The authority chose the seventh provider and started “immediately”, but allowed the provider a window to work on other projects and their project at the same time.

#### **Analysis of the event(s)**

Six of the consultant organisations were seeking to offer/impose predetermined solutions for the regional authority; one provider was offering what was wanted.

#### **Conclusions**

Consultants will sometimes offer predetermined solutions when a more open mind is appropriate.

## Section 4 Summary

### Self-test questions

No.	Question
1	How would you define the term “consultant”?
2	Can you finish this sentence?  Consultants should only be used ...
3	One valid reason for using consultants is given as: <ul style="list-style-type: none"> <li>◦ “People within the contracting authority do not have the expertise for the tasks at hand”</li> </ul> What are the other three reasons that were given?
4	Fundamentally, consultants can adopt one of two roles in relation to procurement. What are they?
5	Nine reasons are given as advantages for using consultants – here are four of them. Can you remember the other five reasons? 1. The ability to tackle situations and deliver unique solutions reflecting the particular circumstances and aspirations of the purchasing organisation 2. Speed of action (because the consultancy team, unlike the in-house management, is not constantly being distracted by other tasks) 3. An injection of knowledge of “best practice” and effective solutions 4. Exposure to expertise derived from other industries, sectors or countries
6	Read this sentence and then answer the question below:  “There is a balance between using a consultant who has ‘done it before’ and using someone who you believe has the ‘spark’ to deliver a good job.”  Provide an example of when you would want “someone who has done it before” rather than a “spark”
7	Consultants can add value; however, there can be disadvantages to using them. Seven points were referred to in the text. Three of them are below. Can you remember the others?  1. Cost. Consultants will cost more than an employee 2. Consultants may say they have the knowledge and then once in place not be able to deliver 3. Consultants may try and “force” contracting authorities to do it their way (the consultant’s way)
8	When seeking to appoint consultants, contracting authorities should: <ul style="list-style-type: none"> <li>◦ Make sure that both the contracting authority and consultancy have clear expectations about roles, responsibilities, costs and benefits before the assignment starts</li> </ul>

No.	Question
	True or false?
9	When seeking to appoint consultants, contracting authorities should insist upon meeting ...  Can you complete the above sentence?
10	When seeking to appoint consultants, contracting authorities should agree to pay monthly in advance  True or false?

### **Resources**

<http://iconconnect.org/members/?q=node/35>

## **Module B6 Measuring Performance in Procuring Organisations**

### **Section 1 Introduction**

#### **1.1. Objectives**

The objectives of this module are to explore, explain and understand:

1. Why performance measurement at different levels within a public procurement system is an important and even necessary activity
2. How performance measurement – in particular, the methodology employed – can be exercised at the contracting authority level within a procuring organisation, but also at a national level
3. The preconditions for creating and implementing a supporting environment for performance measurement
4. What contributions a well-designed and well-managed performance measurement system can make to improving procurement operations and, more generally, to efficient delivery of public services

#### **1.2. Important issues**

The most important issues are understanding:

- That performance measurement is key to improving a procurement system and should be a priority area in public procurement reform
- The need for a systematic and collaborative approach to designing and implementing performance measure frameworks at the various levels of the procurement system
- The interdependency of procurement standards and measures between the different levels of a national public procurement system

#### **1.3. Links**

There is a particularly strong link between this module, and

- Module A4 on the economics of public procurement
- Module B2 on the responsibilities of the contracting authority
- Module E1 on preparing tender documents
- Module G1 on contract management

#### **1.4. Relevance**

This module is important for all procurement professionals involved in public procurement, but especially for those managing contracting authorities and heads of procuring organisations.

### **1.5. Legal Information helpful to have at hand**

This module is not governed by any specific legal requirement. However, indirectly, the principles and objectives laid down in the EU Directives and the Treaty for the role and conduct of public procurement provide strong arguments for making performance measurement a priority area.

## Section 2 Narrative

### 2.1 Introduction

This narrative will discuss the issue of measuring performance in public procurement operations, in particular in contracting authorities but also at national level. It needs to be stressed that the EU *acquis* does not cover the way in which performance is measured in public procurement operations (although there are requirements for reporting on procurement activity – see Module E6).

It is therefore entirely a matter for each individual EU Member State to take initiatives to establish policies and methodologies for the performance measurement of public procurement. Methodologies for assessing the standard or performance of public procurement systems have also been developed and put into practice by a number of international organisations, including the World Bank and OECD/Sigma. This module summarises some of these experiences and knowledge, which can be regarded as ‘good practice’.

Three different levels of performance measurement are broadly identifiable:

- 1. National Level – Assessing the performance of the national public procurement system**
- 2. Contracting Authority Level – Assessing the performance of the procurement organisation and operations**
- 3. Contract Management Level – Assessing the performance of the delivery of an individual contract (this level is covered in Modules G1 and G3)**

There are close links between these three levels of performance measurement in terms of performance interdependence. However, the objectives and methodologies for measuring performance may well differ. The design of the regulatory framework at the national level will affect the operational environment at the level of the contracting authority as well as all follow-up activities.

Analyses indicate that the market for procurement contracts within the European Union exceeds 1.5 billion EUR or the equivalent of more than 16% of all EU Member States’ Gross Domestic Product (GDP). The high public procurement share of GDP – although based on very rough estimations – further suggests that a considerable amount, perhaps more than 30% of the public expenditure budget of member states, is allocated for the purchase of goods, services and works. The potential for savings is significant, but equally the potential for waste and inefficiency is also considerable.

The recent 2014 Directives reflect the need for modernisation, more flexibility and simplification of the legal framework in order to adapt to a decade of extensive technological and commercial developments, as well as a continuous evolution in the provision and organisation of public services.

The overriding objective of a member state’s public procurement system is to deliver efficiency and ‘value-for-money’ in the use of public funds, whilst adhering to the EU *acquis* as well as to national laws and policies. Performance measurement is about trying to answer the fundamental question of whether the procurement system and operations ultimately deliver efficiency or ‘value-for-money’ (see Modules A1 and E4 in particular for further discussion of the concept of ‘value-for-money’).

### 2.2. Some key issues

It is easy to subscribe to the idea of efficiency/effectiveness or 'value-for-money' as being the ultimate objective of a public procurement system. However, at the same time there are a number of significant difficulties associated with applying the concept of efficiency in public procurement, including:

- **Problems with measuring efficiency:** Firstly, it is difficult to objectively conclude whether a public procurement system actually delivers efficiency or not. Efficiency is often expressed in terms of budget or cost savings, but the basis for the calculation of those savings is based on non-common grounds, e.g. an accountancy standard. A contracting authority lacks the clear-cut instruments that private firms have at their disposal to measure efficiency in terms of economic outcome. A private firm's profitability is shown on the bottom line of a balance sheet, which provides the ultimate feedback on the soundness of the total operations of the firm, including the efficiency of its purchase operations.

A contracting authority has, in a traditional sense, no 'revenue' side in terms of invoiced turnover for services delivered (unless it is a public sector company, but even in that case tariffs and fees are often decided by the government).

At the contract execution level, efficiency is usually measured in terms of whether the outcome is 'within budget and on time' so as to determine whether the objectives of the project have been met. However, if the underlying assumptions of the objectives are wrong (for example, if these assumptions do not reflect optimal speed and the most cost-effective project implementation), a validation problem remains.

- **No agreed definition of 'efficiency':** Secondly, the international community has not agreed on a single definition for 'efficiency' in public procurement. The term 'efficiency' is widely used in these contexts to define the primary goal of public procurement, but it is applied without any reference to a commonly understood or agreed definition. For example, the concept of 'efficiency' is unlikely to have the same meaning for a legislator at the European Union level as for policy-makers at the national government level or for the purchaser at the contracting authority level. The concept of the efficiency of public procurement may be interpreted in different ways and practised at various levels within a public procurement system. Therefore, decision-makers may operate with different sets of priorities and policy objectives.
- **Conflicting goals and objectives act as constraints:** Thirdly, the wide range of inconsistent policy goals and objectives in public procurement may act as a constraint on opportunities to maximise the economic outcome and efficiency of public procurement operations. Other important principles governing public procurement systems also play a significant role in determining the soundness of the system, such as transparency, non-discrimination, fair treatment and integrity, as well as the need, where permissible, to take into consideration environmental and social policy objectives.

Subsequently, any attempt to measure the 'efficiency' of a public procurement system faces a combination of difficulties. Public sector decision-makers at different levels and in various capacities

should nevertheless benefit from a performance measurement system that is designed to measure the standard of public procurement operations.

The underlying question that needs to be answered is: “Does our public procurement system or operation deliver ‘value-for-money’ in accordance with the objectives and targets set and how and when do we know this to be or not to be the case?” Performance measurement is a vital activity, not only in the area of public procurement but in all public sectors. Without measuring performance and obtaining the results of these measurements, there is no basis for increasing efficiency and, importantly, for ensuring accountability.

### **2.3 Characteristics of a sound and efficient public procurement system**

Public procurement is currently part of a major transformation process in all EU Member States, but not only because of the introduction of new legislative instruments and the wider use of electronic techniques. Public procurement is also increasing in importance in terms of the fulfilment of political goals and policy objectives on short and long-term bases. Procurement has a key function in delivering a wide spectrum of a government’s priorities in a variety of public sectors, such as health, education, transportation, and the whole range of public infrastructure. Procurement is a means of achieving value-for-money in the delivery of those public services in a sustainable way. The concept of ‘value-for-money’ definition-wise goes beyond pure economic factors, such as price and other cost-related factors, and relates equally to the quality of the services and products provided and to the extent to which other goals are met, such as environmental and social objectives, where permitted.

Performance in procurement operations is ultimately measured at the transaction level – the market interaction between purchasers and suppliers – where the result of the acquisition process, economically and otherwise, is determined. The legal and central institutional frameworks, including other influential factors, set the basic conditions for the way in which procurement may be undertaken procedurally, the results that can be expected, and the potential efficiency gains that can be achieved. Within this environment, the professionalism and experience of procurement officers in managing the procurement process and in taking full advantage of competition in the market are decisive for the outcome in terms of ‘value-for-money’.

#### **The main indicators of a sound and efficient public procurement system can be defined as:**

- National legislation in compliance with the EC Directives and appropriate procurement policies and rules concerning the effective, efficient and proper use of public resources, whether or not the Directives apply;
- Clear strategies and policies for the allocation of responsibility and structures for public procurement decisions, for the accountability for public expenditure, and for increasing efficiency and ensuring integrity in procurement processes;
- Well-developed central institutional structures and sufficient administrative capacity for the effective implementation of laws and other national policies, including the preparation and dissemination of information and the provision of guidance and training to stakeholders in the system, such as purchasers, economic operators, review bodies and auditors;
- Appropriate means to monitor the effectiveness of policy and legal frameworks, taking into account the need to strike the right balance between control and discretionary power so that the decision-maker can be held accountable for decisions made;

- Professionalisation of the procurement function at all levels of the public sector, which would cover not only individual purchasers and the operational side of procurement. Equally important, the concept of professionalisation should guide the government in all of its decisions and actions in terms of the organisation and handling of procurement processes, such as procedures for decision-making, co-ordination and collaboration within the administration at various levels, control and audit, complaints review, budget planning and execution, and contract management.

The indicators of a sound and efficient public procurement system, as outlined above, could serve as the principal standards in the design of a performance measurement system, with the objective of determining whether these standards have been met. Once these standards or benchmarks have been set, it is of course important for decision-makers at various levels to also consider the techniques for measuring achievements in relation to the agreed goals and policy objectives.

The benefits of a system of performance measurement vary depending on the level within the procurement system. As mentioned above, three different levels are easily identifiable, namely the national level, the contracting authority level, and the contract delivery level. Measuring contract delivery is actually part of the contracting authority's responsibilities, but for pedagogical reasons this level is discussed separately in Module G3.

## **2.4 Benefits of performance measurement**

The benefits of performance measurement may vary between the three levels, and they depend very much on the differences in objectives and responsibilities. Set out below is a summary of the key justifications for developing and implementing systems of performance measurement.

### **1. National level**

The principal benefit of a performance measurement system at national level is that the aggregate output resulting from the application of the system generates a more solid platform of information upon which to base policy decisions. This information enables governments to improve the quality of decision-making and to take constructive and long-term actions that will most effectively develop their public procurement systems (e.g. in terms of procurement policy and regulatory reform, institutional development and capacity strengthening). Furthermore, it is important for policy-makers to possess a good understanding of how various policy goals may interact and how the overall performance of the procurement system may be affected – positively or negatively – by the implementation of certain measures, depending on objectives and priorities.

#### ***Additional benefits of a performance measurement system at national level:***

- Governments may have stronger incentives to improve their public procurement systems.
- Performance measurement may help to set priorities for reform actions in the area of public procurement and to monitor progress against the objectives set.
- Performance measurement may provide supporters of reform with clear arguments for change and help to focus political attention and mobilise commitment.

- The output of the performance measurement system for public procurement, as an integral part of the public financial system, would also provide valuable information for the assessment of the public expenditure system.

#### **Comment: Measuring performance at national level**

Peer reviews carried out by Sigma reveal that EU Member States generally pay limited attention to initiatives aimed at measuring the performance of public procurement systems at national level in terms of aggregated outputs and efficiency. Performance measurement of public procurement systems focuses instead on input issues (resource allocations) and on compliance of the regulatory framework and institutional arrangements with the EU *acquis* and other national requirements.

Performance measurement in efficiency terms is more frequently conducted at the level of the contracting authorities, triggered by control and monitoring actions decided by parliament, the government or the contracting authorities themselves. Performance control of contracting authorities is often exercised by external audit institutions or by ministries of finance, but few attempts are made to answer the fundamental question: *What is the overall standard or quality of our national public procurement system?* Maybe it is an impossible question to answer correctly, but in any case there are contexts where it becomes necessary to assess a national procurement system, with the objective of answering just that question, at least indicatively.

In that context, Sigma undertakes, on behalf of the European Commission, regular assessments of public procurement systems in EU candidate and potential candidate countries and conducts peer reviews of procurement and concession systems in those countries.

Also important in this regard is the project being carried out by the OECD/DAC (Development Co-operation Directorate) and the World Bank Roundtable, which in recent years has developed a performance measurement system composed of baseline and performance indicators. This system is meant to enable both external assessments and self-assessments or a combination thereof, and it is aimed to generate guidance concerning the required standards of a national procurement system. This performance measurement system could in turn serve as a basis for decision-making by the donor community concerning the extent and conditions for donor financing of a national procurement system, whether this financing be channelled as budget support or allocated directly for particular projects and programmes. Furthermore, the assessment system would provide a roadmap for public procurement reform work in a particular country.

#### **Defining a national public procurement system**

The first important task in designing a performance measurement system at national level is to define the system and its main coverage.

In principal, a public procurement system may be defined as the totality of all those elements affecting the final outcome and effectiveness of an individual procurement operation. A complete analysis of a public procurement system would then by necessity cover a large number of aspects with a varying degree of inter-dependency and impact on the execution of public procurement.

In order to make the assessment of a public procurement system on a national level manageable, it is necessary to identify and include areas directly associated with public procurement and to deliberately exclude areas of less direct influence on public procurement processes. In addition, the assessment should focus on factors that are perceived to play a significant role in terms of the quality and efficiency of the national public procurement system, and it should include only indicators that are reasonably easy to observe and measure.

Such an assessment will be predominantly based on macro-variables, which do not necessarily reflect the standard at the level of contracting entities. The areas subject to assessment tend also to coincide with the normal scope of application of a public procurement law. This leads to a comparatively strong focus on the tendering process and to a lesser focus on other important elements of the procurement process, such as procurement planning and preparation, internal management and decision-making systems, contract administration, and *ex post* financial control and audit.

### **Defining the performance areas**

The following four key areas (pillars) have been identified, at least in broad terms, as constituting the basic components of a national public procurement system. Under these pillars a number of baseline indicators have been defined.

#### ***Pillar I. Legislative and Regulatory Framework***

1. *The country's legislative and regulatory framework for procurement complies with applicable obligations derived from national and international requirements (such as EU law).*
2. *The country has appropriate regulations, documentation, and tools to support the implementation of its legislative and regulatory framework.*

#### ***Pillar II. Institutional Framework and Management Capacity***

3. *The public procurement system is mainstreamed and well integrated into the public sector governance system.*
4. *The country has a functional central normative/regulatory/advisory body.*
5. *The country has institutional development capacity.*

#### ***Pillar III. Procurement Operations and Market Practices***

6. *The country's procurement operations and practices are efficient.*
7. *The country's public procurement market functions well.*
8. *The country has contract administration and dispute-resolution provisions.*

#### ***Pillar IV. Integrity of the Public Procurement System***

9. *The country has effective control and audit systems.*
10. *The country has an efficient appeals mechanism.*
11. *The public has broad access to information.*
12. *The country has ethics and anti-corruption measures in place.*

The main indicators listed above, which also contain a large number of sub-indicators, are intended to serve in the evaluation of procurement systems at a fairly high level, i.e. they do not dig down very far into the details, but are designed to give a broad, global overview of the strengths and weaknesses of the system concerned. Another important feature of the indicators is that a simple 'yes' or 'no' cannot answer most of the questions. In general, the questions are complex and professional judgment is required to provide an answer that fairly and objectively rates

performance, e.g. the quality of a national procurement training system against the point rating scale proposed as the performance measure. The successful application of certain indicators requires access to accurate and reliable statistical information and other data, even where the indicators themselves are not numerically based. The quality of the information system underpinning a procurement system is thus of prime importance and should itself be part of the evaluation process.

### **OECD/DAC (Development Co-operation Directorate) assessment methodology**

One key activity is to prepare a baseline against which performance will be measured with respect to each main area of performance indicators as well as to sub-indicators. The baseline represents a desirable 'quality standard' under each indicator against which the assessment is made. In addition, for each sub-indicator an 'assessment key' provides guidance on the level of achievement that needs to be reached in order to qualify for a specific degree of acceptability. The assessment is carried out by an assessment team, composed of senior procurement experts (external and internal), which prepares a report for review and approval by the relevant institutions. The assessment is based on interviews, review of documents, and analyses of procurement statistics. For further information on the OECD/DAC model, consult [www.oecd.org/dac/effectiveness/procurement](http://www.oecd.org/dac/effectiveness/procurement).

### **Other means of measuring procurement performance at national level**

The comprehensive assessment methodology described above is normally not feasible for national implementation unless there are clear guarantees of the full independence of the assessment team and consensus regarding the design of the performance indicators and of the baseline for determining acceptability. However, other means and methods are available to a government for assessing the functionality of the public procurement system at national level. Some of these methods are described below.

#### **1. Regulatory Impact Assessment (RIA)**

The role of a regulatory impact assessment (RIA) is to provide a detailed and systematic appraisal of the potential impacts of a new law or regulation in order to assess whether the regulation is likely to achieve the desired objectives. In the area of public procurement, an EU Member State is bound to implement EC Directives, where those apply, in the public procurement law and to ensure that all other specific national provisions comply with the fundamental principles of the EC Treaty. However, within these limitations, a member state is free to design its regulatory framework, and in practice a vast majority of all contracts will be awarded under nationally designed policies and rules. Consequently, those rules and procedures will have a significant impact on the execution of public procurement in the country. The need for RIA arises from the fact that regulation commonly has numerous impacts, which are often difficult to foresee without detailed study and consultation with affected parties. Economic approaches to the issue of regulation also emphasize the high risk that regulatory costs may exceed benefits. The RIA is first of all meant as an action to be taken before the adoption of new legislation, but there is no hindrance to using an RIA on existing legislation as a means of initiating regulatory reform. Both the European Commission and the OECD have published guidance documentation on the use of RIA.

#### **2. Peer reviews**

A peer review is an instrument for diagnosing public sector operations, including public procurement, which has been developed and used by the OECD for a long time. It has certain similarities with the assessment methodology described above, but there is a major difference in terms of objectives and the point of ownership. A peer review is always decided and implemented in co-operation with the partner country. The peer review team consists of international senior experts

with extensive background and expertise in the area subject to review. The purpose is to identify strengths and weaknesses (performance review) in the procurement system, with special focus on the main components, such as legislative and institutional frameworks, procurement organisations in terms of capacity and capability, and markets. Based on the analysis and conclusions, the peer review team provides recommendations for improvements where needed, but it is entirely a matter for the country to decide on the actions to be taken following the recommendations.

### **3. Stakeholder surveys**

Another complementary measure for collecting information regarding the status of the procurement system could be to carry out regular surveys addressing important areas and issues connected to the performance of the public procurement system. The survey should be disseminated to a selection of contracting authorities, business associations and individual economic operators, audit institutions, universities and other important stakeholders with an interest in public procurement. The survey could be prepared and managed by the public procurement office of the country. If the survey is carried out on a regular basis, there is a possibility of capturing the differences in opinions from one year to another. The results of the surveys should be used by the government as a basis for considering changes in the procurement system in areas where problems have been identified.

### **4. Establishing a consultation forum**

A forum for consultation, composed of representatives of the main stakeholders of the national procurement community, is also a means for a government to receive information and indications of critical features (performance and non-performance) of the procurement system. The results of the surveys above, as an example, could be the subject of discussion in the forum. An official from the public procurement office could chair the forum.

### **5. External audit institutions**

External audit institutions have important tasks, on an *ex post* basis, in the identification of strengths and weaknesses in the execution of public procurement operations at the level of contracting authorities. These audits aim to determine the extent of compliance or non-compliance with laws and regulations as well as the performance and achievements that have been made in relation to the objectives and targets set for a procurement activity.

### **6. Academic institutions**

Universities and other research institutions may play an important role in developing new knowledge on the functionality of the public procurement system.

## **2. Contracting authority level**

The principal benefit of a performance measurement system adapted to the needs of individual contracting authorities is that they would be in a better position to determine the degree of efficiency and effectiveness of their procurement operations as a whole, but also at the level of individual projects, such as major infrastructure projects.

### ***Additional benefits of a performance measurement system at contracting authority level:***

- The contracting authority can more easily identify strengths and weaknesses in its procurement operations.

- The information can be used to monitor progress over time, as well as assisting in setting the correct priorities and in taking the appropriate actions to improve weak areas.
- The performance measurement system would form an integral part of long-term strategic and operations planning, including the annual budget process, management and staff development, thus providing an excellent basis for the effective implementation of the contracting authority's operational goals and strategies.
- The performance assessment process would constitute an important 'learning exercise' within the procurement organisation for all those taking part in purchase operations. This process would offer an opportunity to provide constructive guidance on where and how improvements could be made in order to meet the various targets of the contracting authority.
- In conclusion, with a better understanding of the mechanisms affecting the performance of public procurement, identification of the key success and failure factors, and a deeper knowledge of the contracting authority's comparative strengths and weaknesses, decision-makers would be in a better position to take appropriate decisions and actions to further improve their public procurement systems and operations.

### **3. Measuring performance of procurement operations in a contracting authority**

The model set out in this section has been prepared with the objective of providing a 'good practice' basis for **contracting authorities** on how to measure the performance of their procurement operations. Governments may also use the data emanating from the performance assessment at this level for the purpose of monitoring and evaluating public procurement operations and with a view to drawing conclusions on the impacts of the legal and institutional frameworks. The results of a performance measurement system at the contracting authority level may provide valuable input to national aggregate achievements, such as budget savings and general quality improvements in the delivery of public services.

#### **3.1 Structure of the performance measurement system for contracting authorities**

##### **3.1.1. Introduction**

The performance measurement system is designed to measure the performance of the **procurement organisation/department** of a contracting authority against the objectives and targets that have been set and against the baseline that has been determined for procurement operations in both short and long-term perspectives.

The performance measurement system may include the following key components:

- Determining performance areas
- Selection of performance indicators
- Determining baselines
- Performance measures
- Setting performance targets

- Reporting of achievements/results
- Performance measurement organisation

This section looks first at each of the above key components and then goes on, in section 3.2, to address how the performance measurement system works in practice.

### 3.1.2. Selection of performance areas and indicators

#### Performance areas

In this model six main performance areas have been identified and are proposed to be included in the performance measurement system. These six main performance areas are listed below in section 3.2. The performance areas have been selected with the aim of encompassing the critical components of the internal procurement system of a contracting authority. It is always open to debate whether the performance areas listed truly reflect the essence of procurement operations and are relevant for the individual contracting authority. There will always be a need for contracting authorities to customise the performance areas by taking into account their specific circumstances and operational conditions, but at the same time, for the purpose of comparability, it is essential to maintain a high degree of uniformity. The areas (and indicators) set out below are generally considered to be relevant to the typical procurement operations of a contracting authority.

#### Performance indicators

Within the six main performance areas, a number of performance indicators have been identified. Usually, the selection of performance indicators is associated with **output indicators**, where quantifiable factors are used to a large extent to measure the performance of a system. Output indicators show whether a system works in accordance with a given standard set of factors, but they do not attempt to explain why a certain result is achieved. For this purpose, a diagnostic study is required. **Typical examples of output indicators are found in the field of economics, such as changes in GDP, unemployment statistics, and national debt ratios. An example in the procurement field is the value of monetary indicators, such as savings and efficiency improvements.**

However, relying solely on output indicators is not a sufficient method to measure the standard and progress of a public procurement system. In fact, it has been found to be equally important to also include **input or process indicators** since they lay the foundation for the generation of economic output within a public procurement system. It is very important to be able to control and/or understand how this output has been achieved in order to encompass the additional high-priority goals within public procurement, such as transparency, non-discrimination, fair treatment, and accountability. The instruments to secure these goals are traditionally associated with the design of the legislative and regulatory framework, the institutional set-up, and the mechanisms for control and complaints. Input indicators can only be assessed by means of **'subjective criteria'** based on qualified judgments by independent procurement professionals. **Typical examples of input indicators are various procurement statistics (e.g. proportional share of the use of the open procedure and number of annual complaints) and perception indexes (e.g. user-satisfaction index).**

As for the six performance areas, there will always be a need for contracting authorities to customise the performance indicators by taking into account their specific circumstances and operational conditions, but at the same time, for the purpose of comparability, it is essential to maintain a high degree of uniformity.

### 3.1.3. Determining baselines

One key activity is to prepare a baseline against which performance will be measured with respect to each main performance area and to individual indicators. The **baseline** represents a chosen standard under each indicator against which the assessment will be made and compared. In principle, the baseline represents the level of performance (acceptability or outcome) that should be achieved at a certain point in time. It also constitutes the starting point for measuring the degree of progress over a specific period, e.g. one calendar year.

If the baseline is considered to be the desirable threshold for acceptability, there is also a need to define the **minimum level** below which performance is considered to be unacceptable.

### 3.1.4. Performance measures

Performance can be measured by different means, depending on the nature of the indicator used. Output indicators can normally be measured by means of a numerical system (e.g. savings achieved in euros), while input indicators, such as the quality of the procedural framework, normally require a systematic assessment by qualified assessors, which may be complemented by surveys and similar data-gathering tools. The main challenge is to determine the baseline and the assessment key for the chosen indicator (what is good and what is bad).

#### Example

Each indicator is measured against a four-point numerical scoring.

	<u>Scoring</u>
Baseline fully achieved (FA)	(4)*
Baseline substantially achieved (SA)	(3)*
Baseline partially achieved (PA)	(2)*
Baseline not achieved (NA)	(1)*

\*Whether an alphabetical or numerical system should be used is irrelevant for the determination of performance. However, for the construction of the composite index, the numerical system is easier to use.

### 3.1.5. Performance targets

The final component of the assessment system is the setting of performance targets for each performance area as well as performance indicators in words or figures and/or a combination thereof. The government will set some of these targets as part of the overall objectives for public sector development and budget implementation, for example in terms of financial savings and efficiency improvements in public service delivery. Such nationally set goals will have to be implemented by contracting authorities, while operational goals that are exclusive to the contracting authority will be set by the management of that authority.

The performance targets used should have the following qualities:

- **Relevant** to what the organisation is aiming to achieve;
- **Attributable** – the activity measured must be capable of being influenced by actions that can be attributed to the organisation, and it should be clear where accountability lies;
- **Well-defined** – with a clear, unambiguous definition so that data will be collected consistently and the measure will be easy to understand and use;
- **Timely**, producing data regularly enough to track progress and quickly enough so that the data is still useful;
- **Reliable** – accurate enough for its intended use and responsive to change;
- **Comparable** with either past periods or similar programmes elsewhere;
- **Verifiable**, with clear documentation behind it, so that the processes producing the measure can be validated.

***Note on Benchmarking***

Benchmarking – by making comparative studies or analyses of successful procurement systems of all or a number of contracting authorities – could be an excellent method of assisting with the definition of performance targets. Benchmarking data may also be made available nationally to ensure the use of a uniform performance measurement system throughout the country, which may also facilitate comparisons at a national level.

Benchmarking is also a method by which a contracting authority may compare its own operations in various aspects with comparable external undertakings, such as a similar contracting authority known for its excellence. Benchmarking can also be used for various other comparisons, such as prices or service levels.

### **3.1.6. Performance measurement organisation**

The organisation of performance measurement activities is one of the critical factors for the successful implementation of the system. Furthermore, the introduction of the system will need strong central support and guidance at national level, and it will need to include guidance documentation and a broad information campaign led by an organisation with a clear mandate.

Within contracting authorities, the introduction of the system has to be decided by the management at the highest level and to be given its full support. Most likely such a decision will have to be prepared by the procurement organisation through the formation of a special working group assigned the task of proposing a functional performance measurement system, including performance indicators, performance targets, measures, baselines and internal assessment organisation. Since the measurement of many of the performance areas will require a 'judgment methodology', it is advisable, for the purposes of objectivity and independence, to assign an external assessment team.

### 3.2 Practical implementation of a performance measurement system

As mentioned above, the implementation of a performance measurement system on a wider scale is likely to require a policy decision by the government to the effect that performance in public procurement should be measured by contracting authorities. Such a decision would need to be followed by concrete obligations on the part of contracting authorities as to the performance to be met and how it will be measured. It is further likely that performance measurement is not restricted to the procurement area but is a natural component of public administration governance.

Based on the performance and indicator areas chosen above, **an outline of an assessment methodology is presented below** as a basis for discussion in the procurement training programme, together **with examples** of possible baselines and performance measures. The practical introduction of the methodology in contracting authorities requires a firm commitment by the management of those entities. A step-by-step approach is recommended, by introducing a few indicators as a start instead of implementing a fully-fledged system from the outset.

#### **Model performance measurement system for a contracting authority**

##### **Performance Area 1. The Procurement Process**

The assessment is to reflect the standard of the procurement process from the stage of planning and preparation to the stage of completion of a procurement activity upon the closing of the file of the specific operation.

##### ***Indicator 1.1 Planning and preparation of tender proceedings***

The contracting authority should have established effective procedures and routines for the planning and preparation of its tender proceedings. The overall performance of procurement operations relies heavily on the standard of the preparatory phases.

##### ***Baseline:***

- a) The average period for planning and preparation should not exceed X days.
- b) The average cost for the planning and preparation of tenders should not exceed X EUR).
- c) Amendments to tender documents should be kept to a minimum and should in no case exceed X% of the total number of tenders issued by a contracting authority during a calendar year.

##### ***Indicator 1.2 Choice of tender procedures and contract arrangements***

The choice of competitive tender procedures that correctly reflect the size, nature and complexity of the contract is crucial, in terms of both compliance and efficiency.

##### ***Baseline:***

- a) Competitive procedures, such as the open and restricted procedures, including competitive procedures below EC thresholds, should be used in no less than X% of the total number of procedures (and X% where the threshold(s) exceed X EUR).
- b) Non-competitive procedures, such as the negotiated procedure without prior publication of a contract notice (and direct awards), should be kept to a minimum and should not exceed X% of the total number of procedures.
- c) The use of framework agreements should exceed X% of the total value of the contracts concluded by the contracting authority.

**Indicator 1.3 Participation in tender proceedings and award data**

The contracting authority must ensure sufficient and genuine competition in conjunction with tender invitations, including consideration of the specific needs of small and medium-sized enterprises (SMEs) where appropriate. The publication of notices is the recommended method of advertising.

**Baseline:**

- a) The average participation rate in connection with open invitations during a calendar year should not be fewer than X tenderers or applicants.
- b) The number of contracts awarded to SMEs should normally not be fewer than X% of the total number of contracts awarded during a calendar year.

**Indicator 1.4 Extent of complaints**

Complaints may be a serious non-performance signal to the contracting authority with regard to the management of the procurement process, in particular concerning the design of tender documentation and the setting and application of selection and award criteria. The number of complaints should be kept as few as possible.

**Baseline:**

- a) The number of complaints during a calendar year should not exceed X% of the total number of tender procedures conducted.

**Indicator 1.5 Extent of claims and disputes during contract execution**

The proper choice of contracting strategy and contract conditions as part of the preparation of tender proceedings and the efficient management of the contract are essential for the successful performance and outcome of the procurement process.

- a) The number of claims should be kept to a minimum and should in no case exceed X% of the total number of contracts concluded.

- b) The number of disputes leading to formal dispute settlement (arbitration, adjudication, etc.) should not exceed X in number.

## **Performance Area 2. Organisations Capacity and Capability**

This section indicates the basic capacity and capability of the procurement organisation to undertake its duties and responsibilities efficiently in terms of management capacity, organisational clarity, budget resources, number of staff, and staff competence.

### **Indicator 2.1 Organisations clarity**

#### **Baseline:**

- a) The procurement function should be clearly described in terms of objectives, organisational structure, job descriptions, and decision-making power.

### **Indicator 2.2 Capacity and operational resources**

#### **Baseline:**

- a) The number of procurement staff and the cost of operating the procurement function should reflect the annual number and value of the contracts awarded during the calendar year, and they should be comparable to those of contracting authorities with similar operations and structures.

### **Indicator 2.3 Procurement staff skills**

#### **Baseline:**

- a) The percentage of procurement officers with an appropriate procurement qualification should not be less than X% of the total number of procurement staff.

## **Performance Area 3. Systems and Methodology**

This section measures the standard and sophistication of administrative systems and routines, including the extent of IT and e-procurement applications, as well as the availability and standard of supporting documentation, such as model tender documents, evaluation formats, model contract tender and award notices, and model contract conditions for works, goods and services.

### **Indicator 3.1 Availability of IT and Internet-based systems for tendering, contract management and record-keeping**

#### **Baseline:**

- a) Key administrative processes are IT-based, such as for the publication of contract notices,

release of tender documents, inspection of deliveries, payment of invoices, and filing.

**Indicator 3.2. Extent of e-procurement**

**Baseline:**

- a) The percentage of e-procurement should be no less than X% of the total number of tenders during a calendar year, starting from X year.

**Performance Area 4. External and Internal Relations and Collaboration**

This performance area demonstrates the standard of external and internal relations pursued by the procurement organisation, as perceived in particular by suppliers and internal clients of the contracting authority, but it also attempts to evaluate the relationships with other contracting authorities.

**Indicator 4.1 Supplier relationships**

**Baseline:**

- a) An annual **Supplier Satisfaction Survey** aims to ensure that the majority of suppliers are satisfied with the co-operative collaboration with the contracting authority.

**Indicator 4.2 Internal client relationships**

**Baseline:**

- a) An annual **Internal Customer Survey** aims to ensure that the majority of internal clients are satisfied with the services of the procurement organisation.

**Indicator 4.3 External collaboration**

**Baseline:**

- a) Procurement spending that is channelled through a collaborative framework contract/agreement issued by the contracting authority should not be less than X% of the total procurement volume.

**Indicator 4.4 Internal compliance (to identify maverick spending)**

**Baseline:**

- a) Procurement spending that is carried out by means of 'maverick spending' (by contracting suppliers that are not covered by a contract/framework agreement/dynamic purchasing system)

should not exceed X% of the total framework contract volume.

## **Performance Area 5. Efficiency and 'Value-for-Money'**

This key area reflects the efficiency and effectiveness of the procurement organisation, which is measured with respect to its ability to meet performance goals in terms of economic targets, implementation deadlines, favourable prices, cost-effective purchasing contractually and logistically, as well as the innovative and developmental strengths of the contracting authority. This performance area could be considered in summary as a conception of "best value-for-money".

### ***Indicator 5.1 Annual cashable savings***

#### ***Baseline:***

- a) Based on a representative **basket of contracts** with an identical composition (product or service-wise and in number) that ensures consistent calculation over time and is not subject to rapid specification changes, the price and cost development are determined with reference to year 1. The outcome is to be applied to the whole procurement volume for goods and services that do not fluctuate with the market.
- b) For goods and services that are subject to rapid price fluctuations and specification changes, such as IT and utilities, **individual price analyses** should be carried out for those contracts, with reference to the baseline year, in order to determine the extent of savings or losses.

### ***Indicator 5.2 Annual cashable efficiencies in the procurement function (other than price)***

#### ***Baseline:***

- a) The procurement function produces the same or improved results with fewer resources, transforming efficiency gains, through improvements either in output (e.g. technology improvements) or input (e.g. collaboration, logistics, processes), into verifiable, cashable savings by carrying out comparative cost/benefit analyses from year X to year Y.

### ***Indicator 5.3 Project/contract implementation efficiency***

#### ***Baseline:***

- a) For one-off projects, such as capital investment and infrastructure projects, the feasibility study (business case), together with a detailed set of performance targets including costs and implementation deadlines, constitutes the baseline against which the performance of the project is to be measured.
- b) The number of contracts with cost overruns may not exceed X.
- c) The number of contracts with time overruns may not exceed X.

**Performance Area 6.****Accountability – External and Internal Control**

This indicator measures the quality and credibility of external and internal control procedures and associated information systems, with the purpose, among others, of ensuring financial accountability.

**Indicator 6.1 Quality of the statistical base of the contracting authority****Baseline:**

- a) The management information system, including the procurement reporting and filing system, and the accounting system of relevance to the procurement function should provide the necessary information and data that are comprehensive enough to elaborate key statistical and economic data on the status of procurement operations.

**Indicator 6.2 Quality of internal and external audit****Baseline:**

The assessment of the control and audit standard in public procurement is based on the following factors and refers to the control exercised by the government in accordance with relevant legislation.

- a) A satisfactory legal and regulatory basis for financial control and audit of procurement operations, in line with international standards, should be in place.
- b) Organisation and procedures for internal and external control and audit of public procurement operations at all levels in the public administration should follow acceptable international practices and requirements.
- c) The supreme audit institution should conduct external audit, giving balanced attention to the needs of both compliance audit and performance audit.

**Indicator 6.3 Claiming financial accountability****Baseline:**

- a) On the financial side, external audit should annually attest to the reliability of the information provided in the contracting authority's financial reports and to the quality of the overall internal control systems (including the quality of internal audit), with the aim of giving reasonable assurance that the funds entrusted to the organisation have been spent in compliance with the regulations in force. On the performance side, external audit should focus on the efficiency and effectiveness of the procurement system as a whole, with the aim of fostering procurement operations in line with best practices.

### 3.2.1 Reporting of achievements and results

The performance areas or indicators are not all of the same importance for the management of the contracting authority in the assessment of the public procurement system. Where there is an interest to develop a **composite index**, with an aggregate result of the measurements that have been conducted under the various performance areas, it may be left to the discretion of the individual authority to introduce a **weighting of indicators** in order to better reflect its own priorities with regard to its procurement policy requirements. A composite index may offer certain advantages since it may produce a clear and immediate message concerning the standard or status of the procurement system, including individual performance areas and indicators, which is less confusing about how the results should be interpreted, thereby making it easier to measure progress or lack of progress over time. However, the subjectivity element of the process, in particular with regard to indicators requiring a judged assessment, would entail a serious validation problem.

The results and findings should be presented in an annual report and made accessible within the public administration for comparative and benchmarking purposes, as well as to the general public. With reference to the fundamental objectives set for the operations and procurement measurement system, the report should (i) describe the main findings in terms of **strengths and weaknesses** of public procurement operations, and (ii) define a list of **recommended actions for improvement** of the system. The results should form part of the management strategic planning in the short and medium terms.

## Section 3 Exercises

### Exercise 1: Class Case Study

Your department has been asked by the top management team to analyse performance in terms of cost and price savings on certain crucial items that your contracting authority purchased during a period of three years against the baseline year 1.

Strong concerns have been raised by the user departments over the correctness of the prices they have had to pay for the products and services provided by the contracting authority. They are considering running future procurement processes themselves.

Your task will be the following:

- (a) To prepare a basket of representative products of your organisation, on the basis of which you should determine the price developments in nominal terms as well as in real terms (taking into account inflation). What would be the most appropriate items to include in such an analysis?
- (b) You should further benchmark your own results against market development for the same products by undertaking a simple market analysis. How could such a market analysis be carried out?
- (c) You should prepare a brief report (1-2 pages) on your findings to be sent to the top management team. What is the main content of such a report?

## **Exercise 2: Individual Case Study**

You have been asked by your manager to prepare an Internal Customer Survey. He/she is interested in receiving information and feedback from the users of the department's services, which could serve as a platform for improving the quality and performance of the procuring organisation. The top management is not satisfied with the general efficiency of the overall organisation, and has launched a "Performance Improvement Programme 2011".

Your task will be to:

- a) Prepare a draft survey with objectives, a table of contents, and key questions
- b) Prepare an action plan for the implementation of that survey
- c) Present the results of the survey to the class (10 minutes)

## Section 4 Chapter Summary

### Self-test questions

1. What is a baseline?
2. State the main reasons why performance measuring of procurement operations is such an important activity.
3. What is a performance indicator?
4. What are the differences between an output and input performance indicator?
5. Which are the main performance areas that should be measured?
6. What is benchmarking?