



# HM Government

## NATIONAL PROCUREMENT POLICY STATEMENT

### Purpose

1. This National Procurement Policy Statement sets out the strategic priorities for public procurement and how contracting authorities can support their delivery.

### Introduction

2. At around £290 billion every year, public sector procurement accounts for around a third of all public expenditure. The huge power of this expenditure must support the delivery of public sector policy priorities, including generating economic growth, helping our communities recover from the Covid-19 pandemic, and supporting the transition to net zero carbon. The importance of efficient, effective public procurement has been underlined by the Covid-19 pandemic and it can play a significant role in this country's economic recovery.

3. Using common benchmarks and standards allows the many examples of best practice in public procurement to be shared across all contracting authorities, enabling a culture of continuous improvement in procurement practice and capability, to not only save the taxpayer money but also drive sustainable economic growth.

4. Contracting authorities should act to ensure their procurement and commercial teams have the right capability and capacity to deliver the priorities in this National Procurement Policy Statement. This includes ensuring transparency in public procurement to support engagement with the market, allow proper scrutiny of procurement decisions and demonstrate good custodianship of public money. The priorities in this Statement are concerned with the core standards of procurement capability and delivery, as well as the additional social value outcomes that public procurement can support.

### Scope

5. This Statement applies to contracting authorities as defined in section 39(3) and (4) of the Small Business Enterprise and Employment Act 2015<sup>1</sup>. This includes central government departments, executive agencies, non-departmental public bodies, local authorities, NHS bodies and the wider public sector. All contracting authorities should have regard to the priorities set out in this Statement.

6. Nothing in this Statement should conflict with contracting authorities' requirements under existing public procurement regulations nor with their obligations to procure goods, works and services in an open, fair and transparent way whilst guarding against fraud and corruption.

### Duration and review

7. This Statement is intended to cover the period from date of publication to the end of the current Parliament. It will remain in place until it is withdrawn, amended or replaced, and

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<sup>1</sup> This relies in part on the definition in the Public Contract Regulations 2015 (S.I. 2015/102). Should this legislation be amended or revoked (and the definition not saved) as a result future rules reform proposals or otherwise the Government will update this statement accordingly.

can be reviewed when the Minister for the Cabinet Office considers it appropriate to do so. When considering whether to review the Statement, the Minister for the Cabinet Office will give regard to whether there has been a significant change in any circumstances on which the Statement was based and whether such change was anticipated when the Statement was published.

### **International trade obligations**

8. Nothing in this Statement should conflict with the Government's international trade obligations. The UK is open for business. The UK joined the World Trade Organisation's Agreement on Government Procurement (the GPA) as an independent member on 1 January 2021 guaranteeing access to £1.3 trillion in overseas public procurement markets, with major export opportunities for British businesses. The Government will continue to maintain and build on our existing international relationships and bilateral trade agreements.

### **Equality Assessment**

9. This Statement and the policy underlying it has been informed by an Equality Assessment. Under section 149 of the Equality Act 2010, public bodies must have due regard to the public sector equality duty in the exercise of their functions. The Equality Assessment considered the potential equalities implications of this Statement, including the effect on persons or groups of persons who share certain characteristics protected by the Equality Act 2010. The Equality Assessment concluded that public procurement will have effects on these groups, but that such effects are reasonable and not disproportionate to the policy aim.

## NATIONAL PRIORITIES FOR PUBLIC PROCUREMENT

10. Contracting authorities should have regard to the following national priorities in exercising their functions relating to procurement<sup>2</sup>. The national priorities relate to social value; commercial and procurement delivery; and skills and capability for procurement.

### Social value

All contracting authorities should consider the following national priority outcomes alongside any additional local priorities in their procurement activities:

- creating new businesses, new jobs and new skills;
- tackling climate change and reducing waste, and
- improving supplier diversity, innovation and resilience.

11. Achieving value for money in public procurement remains focused on securing from contractors the best mix of quality and effectiveness to deliver the requirements of the contract, for the least outlay over the period of use of the goods or services bought. But the Government wants to send a clear message that commercial and procurement teams across the public sector do not have to select the lowest price bid, and that in setting the procurement strategy, drafting the contract terms and evaluating tenders they can and should take a broad view of value or money that includes the improvement of social welfare or wellbeing, referred to in HM Treasury's Green Book as social value.<sup>3</sup>

12. This includes incorporating award criteria for comparing final bids and scoring their relative quality, to encourage ways of working and operational delivery that achieve social, economic and environmental benefits.

13. Public procurement should be leveraged to support priority national and local outcomes for the public benefit. This Statement sets out the national priorities that all contracting authorities should have regard to in their procurement where it is relevant to the subject matter of the contract and it is proportionate to do so. Contracting authorities should consider the following social value outcomes alongside any additional local priorities:

- Creating new businesses, new jobs and new skills
  - increasing opportunities for entrepreneurship and helping new and/or small businesses to grow, supporting higher economic growth and greater business creation;
  - increasing employment opportunities particularly for those who face high barriers to employment or who are located in disadvantaged areas;
  - extending training opportunities, particularly for people in industries with known skills shortages or in high growth sectors.

<sup>2</sup> “the exercise of functions relating to procurement” has the same meaning as in section 39(2) of the Small Business, Enterprise and Employment Act 2015 and includes the exercise of functions in preparation for entering into contracts and in the management of contracts.

<sup>3</sup> Social value refers to the wider financial and non-financial impacts of projects and programmes including the wellbeing of individuals and communities, social capital and the environment. PPN 06/20 provides more information on taking account of social value in the award of central government contracts.

- Tackling climate change and reducing waste
  - contributing to the UK Government's legally-binding target to reduce greenhouse gas emissions to net zero by 2050<sup>4</sup>;
  - reducing waste, improving resource efficiency and contributing to the move towards a circular economy;
  - identifying and prioritising opportunities in sustainable procurement to deliver additional environmental benefits, for example enhanced biodiversity, through the delivery of the contract.
- Improving supplier diversity, innovation and resilience
  - creating a more diverse supply chain to deliver the contract, which will better support start-ups, small and medium-sized businesses<sup>5</sup> and VCSEs<sup>6</sup> in doing business on public sector contracts;
  - increasing innovation and the use of disruptive technologies and business models throughout the supply chain, to deliver lower cost and/or higher quality goods and services, and encourage the wider adoption of innovation
  - contributing to the development of scalable and future-proofed new methods to modernise delivery and increase productivity.

14. There should be a clear link from the development of strategies and business cases for programmes and projects through to procurement specifications and the assessment of quality when awarding contracts. This is in line with Green Book guidance which makes it clear that the procurement specification should come from the strategic and economic dimensions of a project's business case, and that commercial experts should be involved in the development of the business case from the start.

15. Taking additional social value benefits into account effectively is a balance with delivery of the core purpose of the contract. Contracting authorities should ensure that they do not 'gold-plate' contracts with additional requirements which could be met more easily and for better value outside of the contract compliance process, particularly where legislation has already determined that such provisions do not apply, for example by imposing requirements in the Equality Act 2010 on the private sector that are only meant to apply to the public sector.

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<sup>4</sup> This includes using multi-factor sustainability indices to embed decarbonisation across the entire project right from design to delivery to eventual decommissioning

<sup>5</sup> An SME is an organisation with fewer than 250 employees

<sup>6</sup> VCSEs are voluntary, community and social enterprise organisations, including charities and public service mutual.

## Commercial and procurement delivery

All contracting authorities should consider whether they have the right policies and processes in place to manage the key stages of commercial delivery identified in this statement, where they are relevant to their procurement portfolio.

16. Contracting authorities should have the right policies and processes in place to manage the key stages of procurement delivery set out below. This will help secure value for money including delivery of social value outcomes, and ensure that authorities have a solid foundation for continuously improving their procurement practice.

17. Not all of these stages will be relevant for every procurement, but contracting authorities should be confident that they can manage the size and complexity of their procurement portfolio. Contracting authorities should have processes and governance in place to determine and manage their most important contracts. Typically, the greater the complexity, cost and risk, the more important a project or programme will be and the more robust and rigorous a process is required to successfully set up, procure and manage contracts relating to it.

18. Some of these stages are directed particularly at complex outsourcing projects. When assessing whether a project is a complex outsourcing project, contracting authorities should consider factors such as whether the project: is first generation outsourcing; is introducing a significant transformation of service delivery; involves obtaining services from markets with limited competition or where the public sector is the only customer; includes any service obtained by contract that is considered novel or contentious.

19. Contracting authorities, as part of their consideration of their commercial delivery policies and procedures, should consider how the following principles, practices and guidance could be applied in their organisation.

- Publication of procurement pipelines. Contracting authorities should publish annual pipelines of their planned procurements and commercial activity, looking forward at least 18 months but ideally three to five years.
- Market health and capability assessments. Projects should undertake market assessments to determine the health of the relevant market and consider how the commercial strategy and contract design could be set to address potential market weaknesses.
- Project validation review. Complex outsourcing projects should go through an independent review prior to any public commitment being made in order to benefit from cross sector expertise in assuring deliverability, affordability and value for money.
- Delivery model assessments (also known as Make versus Buy). Contracting authorities should conduct a proportionate delivery model assessment before deciding whether to outsource, insource or re-procure a service through evidenced based analysis.
- Should cost model. Complex projects should produce a Should Cost Model as part of the Delivery Model Assessment to estimate the total cost of delivering the service and protect the contracting authority from low bid bias.

- Pilots. Pilots should be used where a service is being outsourced for the first time. Piloting a service delivery model is the best way to understand the environment, constraints, requirements, risks and opportunities.
- Key performance indicators. New projects should include performance measures that are relevant to the service objective and proportionate to the size and complexity of the contract.
- Risk allocation. Risk allocation should be subject to scrutiny prior to going to market, with meaningful market engagement.
- Pricing and payment mechanism. The approach to pricing and payment goes hand in hand with risk allocation and should similarly be subject to consideration and scrutiny to ensure it incentivises the desired behaviours or outcomes.
- Assessing the economic and financial standing of suppliers. Outsourcing projects should include a proportionate assessment of the risk of a supplier going out of business during the life of a contract.
- Resolution planning. Suppliers of contracts which the contracting authority considers as critical service contracts to the public sector should provide corporate resolution planning information so that the contracting authority is prepared for any risk to the continuity of service delivery posed by insolvency.

20. Contracting authorities should also take measures to identify and mitigate modern slavery risks in their contracts. Contracting authorities should work in partnership with suppliers to improve labour standards in their operations and supply chains, and be transparent about the steps they have taken.

21. As well as considering key stages of delivery, contracting authorities should consider opportunities for working with each other to deliver best value for money both at national and local levels. By collaborating on procurement and on contract and supplier management, contracting authorities can: make best use of commercial and procurement skills; benefit from economies of scale; achieve efficiencies in the use of resources and realise savings and wider community benefits. This includes the role of shared services and professional buying organisations (PBOs). PBOs and shared services can provide a means of aggregating spend and securing the best commercial deals for common goods and services. Collaboration and place-based procurement can deliver significant benefits and contracting authorities should work in partnership to secure value for money.

22. Contracting authorities should ensure they comply with existing reporting requirements in public procurement. The Government will work with local government, the NHS and other contracting authorities to align procurement reporting requirements across the wider public sector.

## Skills and capability for procurement

All contracting authorities should consider their organisational capability and capacity, with regard to the procurement skills and resources required to deliver value for money.

23. Contracting authorities should consider the procurement and contract management capability across their organisation. They should be confident they have sufficient capacity and capability to ensure tax payers' money is spent effectively and efficiently. The specific capability will vary depending on the scale and complexity of each authority's portfolio. Where contracting authorities identify gaps in their capability they should plan now how to fill these, whether through developing their own team's capacity and capability, through collaboration with other contracting authorities or through making use of shared services and professional buying organisations.

24. In addition, all contracting authorities should consider benchmarking themselves annually against relevant commercial and procurement operating standards and other comparable organisations. Benchmarking can play an important role in informing contracting authorities' assessment of whether they have the appropriate procurement skills and capability to deliver value for money and benefit from future reforms to the public procurement regulations.

25. In benchmarking their procurement and commercial capability, contracting authorities should consider the following:

- whether commercial objectives are aligned to relevant policies and organisational objectives;
- whether governance, management frameworks and controls are integrated, proportionate and appropriate to the commercial work and level of prevailing risk;
- whether work is undertaken and assigned to people who have the required capability and capacity to undertake it;
- whether business needs are adequately informed by the commercial strategy to determine when, and how to procure services and works;
- whether market conditions are sufficiently understood and procurement routes align with supply capacity and capability;
- whether contract management capability is sufficient and resources are proportional to complexity and risk; and
- whether appropriate procurement systems and data reporting enables process efficiency, robust controls and effective decision making.

26. There are a number of professional standards that contracting authorities can choose to benchmark themselves against. These include the Commercial Continuous Improvement Assessment Framework produced by the Government Commercial Function with NHS England and NHS Improvement, and the National Procurement Strategy Toolkit produced by the Local Government Association.