

Procurement Policy

June 2014

This Policy outlines the key principles related to procurement as a functional and important activity of Ofgem. It is an outward facing document to demonstrate to Ofgem's current and potential supplier base and its stakeholders that the organisation takes procurement activity seriously, fairly and objectively being mindful of the need to achieve value for money in a transparent and competent manner.

This Policy is endorsed by senior management as being current, up-to-date, practical and fit for purpose.

Endorsed by:

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1. Context

- 1.1 The Office of Gas & Electricity Markets has a procurement team. This policy document looks at the key principles of procurement in the public sector, contextualised to Ofgem's needs.
- 1.2 This document fills the gap between the procurement team's strategy and manual. The strategy outlines how it will meet its objectives for the coming financial year, and document its activities. The manual outlines all the team's processes and procedures.
- 1.3 We are pleased to have been endorsed for our policies and procedures by the Chartered Institute of Purchasing and Supply. The Institute awarded us the Certificate of Excellence first in March 2010, successfully re-assessed in February 2012 and re-certified in November 2013. You can find out more about what this award means on the [CIPS website](#).

2. Introduction

2.1 There are many principles that govern what Ofgem's procurement team does, and how it operates. These include:

- Compliance with EU procurement directives & UK public procurement regulations
- Our own code of conduct
- Intellectual and commercial information
- Supplier sourcing and achieving value for money
- Sustainability

2.2 Procedural matters are dealt with in the procurement manual.

2.3 The team has high standards of performance, and is expected to improve continually. This is outlined in a balance scorecard at the end of this document.

2.4 The head of procurement will review this policy annually, along with the strategy and manual documents. This review will ensure documentation is up-to-date and fit for purpose. The review's outcome will be documented in an annual stewardship report on procurement. This, and the report, will include:

- a look back at the work, challenges and achievements of the previous year
- a look forward to the priorities for the coming year
- a review of the team structure, knowledge and cost of the function
- the outcome of auditing the function and processes
- a view on whether the delegated procurement levels of authority are still adequate and consistent with the authority holder's performance
- a view on whether there are correct procurement thresholds for the organisation

- a view on whether the procurement policy, strategy and processes are still adequate
- an analysis of procurement trends, such as volume of contracts awarded by type and competition, savings achieved, etc.
- an analysis of key suppliers and a summary of any major supplier performance problems
- an outline of how the team works with the business
- a summary of frameworks
- a summary of feedback from our customers and suppliers

3. Compliance with directives and regulations

- 3.1 The European Union's Public Procurement Directives have been enshrined in UK law through the Public Contracts (Amendment) Regulations 2006 & 2009. As Ofgem is a public body these regulations apply and have been translated into the practical procedures and processes documented in the procurement manual. The procurement team is familiar with the legislative and regulatory requirements, such as using specific procedures, adhering to strict timetables, requirements for advertising, and protocols for tendering and the award of frameworks and contracts including time provision for appeal/challenge (ie the standstill period).
- 3.2 Where the directives/regulations apply, a member of the procurement team should put a contract notice advertising the procurement in the Supplement of the Official Journal of the European Union (OJEU). This is only if the value of a framework or contract will probably exceed the procurement threshold which (as at January 2014) stands at £172,514.
- 3.3 Requirements over this threshold can also be met by using EU-compliant frameworks, ie those which have previously been advertised in OJEU. We are legally obliged to comply with EU Directives/UK Regulations governing public procurement, and the procurement team ensures we do so.
- 3.4 Ofgem's head of procurement will ensure that the team is updated on the implications of relevant case law through team discussion and amendments to the manual.
- 3.5 In addition to the legislation and regulations noted above, we will comply with our obligations under the Equality Act 2010.

4. Code of conduct

- 4.1 We observe public procurement ethics, and an audit trail is therefore essential. The Chartered Institute of Purchasing & Supply has a [Code of Conduct](#) which the procurement team complies with. The basic test is "Could I defend this action in public?"

There are four key principles underpinning our high standard of ethical behaviour:

- staff do not allow (or foster any suspicion of) any conflict between official and private interests
 - staff are not influenced by any gift/consideration, or show favour or disfavour to any person or organisation
 - dealings with suppliers are at all times honest, fair and even-handed
 - the standards are promoted and supported by systems and procedures.
- 4.2 Procurement team members will maintain the highest standard of integrity in all business relationships, by:
- rejecting any business practice which might be deemed improper
 - never using their authority or position for their own financial gain
 - declaring to their line manager any personal interest that might affect, or be seen by others to affect, their impartiality in decision-making
 - ensuring that the information they give in the course of their work is accurate and not misleading
 - never breaching the confidentiality of information they receive in a professional capacity
 - striving for genuine, fair and transparent competition
 - being truthful about their skills, experience and qualifications.

- 4.3 You can find more information about procurement ethics from the Crown Commercial Service or the Cabinet Office. Core values and behaviour within the public sector supply chain include:
- fairness
 - honesty and openness
 - efficiency and effectiveness
 - professionalism.
- 4.4 The procurement team will ensure that we are fair and seen to be fair, to potential suppliers/contractors by:
- competitive tendering: treating all firms invited to bid equally, and to not give any information or relax conditions to one firm unless all of them have the same treatment
 - non-discrimination: staff must be honest, fair and impartial in dealing with suppliers and, in particular, not discriminate against the staff of contractors on any grounds. The legitimate interests of both the supplier and Ofgem should be recognised in negotiating and administering contracts
 - avoiding casual contacts: avoid casual enquiries for bids from potential suppliers. All requests should be based on a serious intention to buy something. The cost to a supplier of putting a bid package together can be extremely high
 - being a good customer: we must maintain a reputation as a good customer, so we should take all possible steps to make it as convenient as possible for suppliers to deal with us. We should deal with them promptly, courteously and professionally
 - preparing for meetings with representatives of suppliers: the way we behave at meetings with outside organisations reflects on us. Staff should brief themselves fully on matters to be discussed at meetings. They should be punctual, take notes and record a file note if necessary.
- 4.5 The purchases we make using Ofgem's funds are under constant scrutiny. They are subject to internal and external audit to ensure probity and propriety. We will retain all purchasing documentation and keep it secure in files relating to individual purchases or contracts. This is to make the audit trail clear.

- 4.6 We separate duties to make sure that the same individual cannot make a requisition, purchase and authorise payment for goods or services. This is embedded within Ofgem's purchase to pay procedures.
- 4.7 Additionally, our code of conduct requires that:
- those involved in the purchasing process make others aware of suppliers' anti-competitive behaviour, for example, evidence of cartels
 - we do not use suppliers who exploit people unfairly
 - we do not use suppliers who disregard health and safety legislation
 - we do not use suppliers who damage the environment
 - we do not use suppliers who pirate or breach intellectual property laws
 - we seek to minimise the environmental impact of our sourcing decisions
 - any organisations working on our behalf are aware of and adhere to our code of conduct.

5. Intellectual and commercial information

- 5.1 It is important that procurement staff protect intellectual property rights and commercial information from unauthorised access by third parties, or misuse by the parties bound by a contract. Our [standard terms and conditions of contracting for service agreements](#) show what we require. The procurement team may suggest having a separate confidentiality agreement if the information that the supplier/contractor will have access to is highly commercially sensitive.

6. Supplier sourcing and achieving value for money

- 6.1 The procurement team will advertise Ofgem supply requirements where the procurement thresholds show competition is necessary. The team will advertise on Contracts Finder using our procurement ePortal, www.myTenders.org so that competition is open. We will advertise if the requirement is above £25,000, and if it is above the EU procurement threshold (currently, £172,514) we will put a Contract Notice in the Supplement to the OJEU unless we can use an EU-compliant framework.
- 6.2 We will conduct a closed mini-competition if our requirement can be met through a pre-existing framework (one that might have been awarded by us or another public sector contracting authority such as the Crown Commercial Service, eg, G-Cloud). We prefer to use a mini competition against a framework, because it means that the suppliers are pre-approved, maximum charge rates are known and terms & conditions of engagement are agreed.
- 6.3 It is our procurement policy to award contracts on the basis of the bidder who has provided the most economically advantageous tender. This is one where it is not only the cost that's important, but also that they take into account issues such as sustainability, quality, delivery and added value.
- 6.4 We have a responsibility to ensure that, when procuring goods, works or services from external providers, these providers have eliminated unlawful discrimination and promote equality of opportunity. We always try to deal with suppliers fairly and ethically.
- 6.5 We ensure that suppliers, contractors or service providers accept their legal duties in this area and take them seriously. We do this by:
- Including terms and conditions in contracts that require that a contractor does not unlawfully discriminate and positively promotes

equality and diversity in supplying and delivering goods, works or services and in employment.

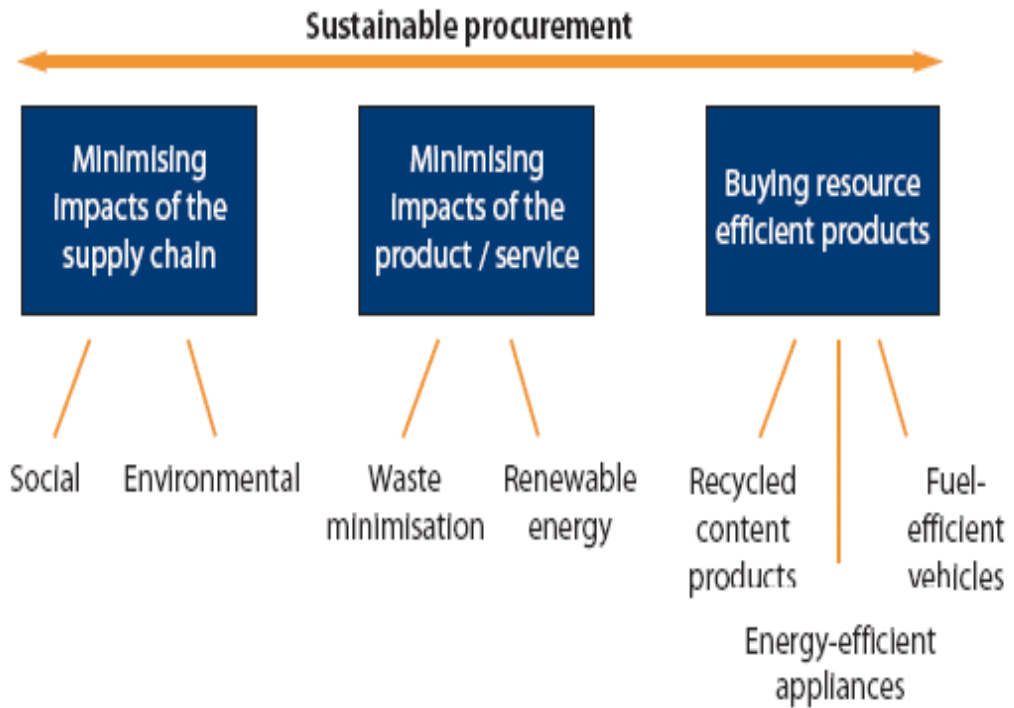
- For procurement exercises for appointing consultants or specialist trainers, the pre-qualification questionnaire and/or the Invitation to Tender documentation should include questions about equality and diversity for completion by the tenderers.

7. Sustainability

- 7.1 Sustainable procurement is about avoiding depleting natural resources. Procurement should take account of environmental, social and economic factors when making purchasing decisions. It is about looking at what products are made of, where they have come from, and who has made them. It is even about looking at whether the purchase needs to be made at all.
- 7.2 We encourage suppliers to remove packaging at the point of delivery to us. This eliminates waste and lets the supplier re-use the packaging. It is particularly relevant for IT equipment and other goods.
- 7.3 We apply the principle of 'whole life costing' to promote sustainable procurement. This looks at all life-cycle costs (including disposal costs) of a product or service, and makes sure they are minimised. Making procurement sustainable also involves challenging the repeat purchase demand and examining business processes to be sure that a justified business need exists. The procurement team will ensure this challenge is made.
- 7.4 The procurement team will use sustainability criteria, for instance, the [Government Buying Standards](#), and will consider supplier policies for waste, transport, energy, procurement and staff awareness of environmental issues in its pre-qualification questionnaire and specification. It will also use the criteria in the tender evaluation and may ask suppliers to submit alternative goods or services that are more sustainable.
- 7.5 Where sustainability factors in the supply chain are particularly important, the procurement team will speak to our direct supplier to understand the sustainability risks and how they are managed and mitigated. We'll also need to understand the social and environmental impacts of making a particular purchase.
- 7.6 We will encourage our supply base to investigate and minimise the environmental impacts of supplying us, including resource use, waste, energy consumption and carbon emissions. We will also improve our understanding of the social considerations of our purchasing decisions, so we can become an environmentally and socially responsible procurer.
- 7.7 Ofgem was previously a signatory to the Mayor of London's Green Procurement Code and achieved the gold standard of accreditation (ie

equivalent to Level 5 of the [Flexible Framework](#)). This demonstrates that our practices, procedures and policies are of the highest sustainability standard.

7.8 The diagram below, sourced and reproduced from 'Sustainable procurement – making it happen' by the Waste and Resources Action Programme (WRAP), usefully summarises how sustainable procurement can work in practice and how Ofgem sees it:



8. Performance standards

- 8.1 The diagram overleaf demonstrates the procurement team's performance expectations, in the form of a balance scorecard, which if achieved and applied, will lead to continuous improvement. Evidence of this will be found by periodic inspections and audits by the National Audit Office, as well as internal audits.
- 8.2 Additionally, the head of procurement will be subject to six-monthly performance reviews, where he may be asked to provide evidence of compliance and where continuous improvement is being achieved. We expect that savings will be quantified and documented monthly, and there is an audit trail for individual entries.
- 8.3 Procurement team members regularly interact with the business and Ofgem's suppliers, and will learn from this so that they improve. This will help the team to better meet customer expectations and demonstrate professionalism and fairness to our suppliers.

