

# **Procurement Procedure and Guidance**

## **Introduction**

Where there is a requirement to procure goods, services or works, this document explains how to identify the appropriate procurement route and then conduct the procurement exercise. It sets out step-by-step procedures and then provides supporting guidance, equipping officers to conduct procurement exercises in line with the Procurement Policy and with confidence. It should be read alongside the Procurement Policy.

## **Roles and Responsibilities**

The Lead Officer is responsible for carrying out the procurement in line with the Procurement Policy and Procedures, including obtaining necessary approvals at appropriate points in the process from the Relevant Officer. Any employee can be a Lead Officer.

The Relevant Officer is the person with the appropriate authority to incur funds according to the Financial Regulations, with regard to the relevant budget, who must approve the procurement route and decision. The Lead Officer and the Relevant Officer can be the same person.

The Governance Team is responsible for:

- Providing advice and support to officers wishing to procure;
- Where tenders are to be sought, coordinating the issuing/advertisement of the Invitation to Tender and the return of tenders;
- Keeping appropriate records of all procurement exercises;
- Checking to ensure the Procurement Policy is followed; and
- Reporting on procurements to the Audit and Risk Committee, especially instances where the requirements of the Procurement Policy have been waived.

Executive Directors should liaise with their Heads of Service on an on going basis, to try and ensure that procurement requirements are planned in advance and coordinated. A Director must approve any procurement via a framework or via a group or consortium.

Heads of Service and Senior Managers should in turn liaise with their officers, to ensure procurements are conducted properly. They must report on procurements within their teams in Compliance Certificates to the Risk Panel.

## **Record Keeping**

The following Registers will be maintained by the Governance Team:

- Procurement Register – To record the details of each procurement with a value of at least £2k (including those via tenders), including the estimated contract value, procurement route and company appointed, to provide an audit trail.
- Tender Register – To record the details of each procurement via tenders, largely as a practical tool to allow the Governance Team to track progress but also to provide an audit trail.
- Frameworks register – To identify all frameworks that Southway is a member of or has used, so it is easy to establish whether there is a framework that could easily be used for a procurement.
- Contracts Register – To record the basic details of all contracts. This:
  - Enables officers who are responsible for contract management to proactively plan for contract renewals and re-procurements;
  - Enables officers to establish whether there is an existing supplier or a contract that could be extended, when a new requirement for goods/services is identified;
  - Forms part of the Asset and Liabilities Register, which helps Southway to plan for and be able to quickly respond to detrimental situations.

Completed forms and other procurement documentation will also be filed by the Governance Team and retained in accordance with the Document Retention Schedule.

## **Reporting**

Any procurements conducted within the last quarter or planned for the near future must be reported to the quarterly Risk Panel, via each team's Compliance Certificate. An explanation should be provided for any instances in which the requirements of the Procurement Policy have been waived.

Any instances in which the requirements of the Procurement Policy have been waived must be reported to the next (quarterly) meeting of the Audit and Risk Committee.

The Procurement Register must be reported to the Audit and Risk Committee annually (in April).

## **Procedure and Guidance Part 1:**

### **Identifying the Most Appropriate Procurement Route**

1.1	Define the goods/services that are required
1.2	Estimate the value of the goods/services required
1.3	Consider practical and compliance issues (a) Whether the contract will be a 'Development Contract' (b) Whether there is an existing contract/arrangement that could be extended to include the required goods/services (c) Whether others within Southway require the same goods/service and could procure jointly (d) Whether leaseholders or tenants will contribute to paying for the goods/service
1.4	Identify the most appropriate procurement route <i>(In some cases, you should stop here and refer to an alternative document – see guidance)</i>
1.5	Complete Form 1: Approval to Proceed, seek approval from the Relevant Officer and submit the signed form to the Governance Team

#### **1.1 Define the goods/services that are required**

Be specific. Thinking through exactly what you want to achieve now will enable you (with appropriate advice) to identify the most effective procurement route.

As relevant, think about:

- Type of contract or agreement\*
- One-off order/service or on-going contract\*\*
- Required outcomes\*\*\*
- Quantity of goods / amount of work
- Required standards or qualifications
- Deadlines for appointment or delivery
- Dependencies that will influence the specification

\* In most instances the procurement will result in a straightforward agreement with the selected supplier. You may, however, wish to appoint a panel of suppliers, with or without a guarantee of work.

\*\* If it will be an on-going contract, think about the length of the contract and whether the types and amounts of goods/services required will be known at the outset. If not, you may be looking to set agreed prices or rates and service standards, for delivery of items/services as and when we require them.

\*\*\* Focus on the outcome you want to receive. Pre-empting the approach that should be taken to achieve this outcome could prevent you from appointing a provider with innovative ideas or a more efficient way of working.

E.g.

- *Supply and fitting of a new bike shed at the Barlow Centre. To be completed by [date].*
- *Design work to enable us to progress the regeneration of xxx green space, including technical specifications for sculpture.*
- *Appointment of a consultant to review recruitment and progression processes with regard to equality and diversity, work with HR to produce an action plan, and provide training for managers.*
- *Appointment of a panel of solicitors with fees agreed for a period of two years, to provide advice on housing management issues as and when required.*
- *An on going contract to provide office furniture for Aspen House and two community centres as required, for a set time period (three years?).*

## **1.2 Estimate the value of the goods/services required**

You must refer to section 4 of the Procurement Policy to ensure you are correctly estimating the value of the goods/service. You should include VAT as relevant in the calculation of value.

Aggregation must be considered and you should speak to the Governance Team and the relevant Director for advice on this matter.

There is no specific procedure to be followed for the procurement of goods/services below the value of £2k, but you must consider the questions in section 2 before proceeding.

## **1.3 Consider practical and compliance issues**

### **(a) Whether a contract will be a 'Development Contact'**

Refer to the Glossary of Terms in the Procurement Policy for the definition of a Development Contract.

There are different procurement routes available and procedures to be followed if the contract will be a Development Contract.

(b) Whether there is an existing contract/arrangement that could be extended to include the required goods/services

Check the Contracts Register and speak to the Governance Team and relevant Directors or Managers for information.

If there is an existing contract that could be extended, you need to think about whether doing so would increase the value of that contract over the procurement process thresholds. If it would do so, then it may be that the procurement exercise conducted to appoint the supplier in question was insufficient for the value of work we now intend to give them. In that case, a new procurement exercise must be conducted. This must be discussed with the Governance Team.

If there is you should provide details of the contract and supplier in the Notes section. For future reference, you can also include notes of why an existing contract was considered but rejected.

(c) Whether others within Southway require the same goods/service and could procure jointly

It can be beneficial to procure goods / services in conjunction with colleagues, whether in your department or another. This can be more efficient in terms of staff time, with only one person needing to conduct the procurement or two people pooling their efforts. It can lead to efficiencies of scale, whereby the goods/services are cheaper due to the quantity procured. And it can lead to less tangible benefits, such as shared expertise and a more effective service that improves consistency in the way different teams work.

If the services will be jointly procured, establish who will be the Lead Officer and how the other party/ies will be involved.

(d) Whether leaseholders or tenants will contribute to paying for the goods/service

If leaseholders will be expected to contribute towards the cost of goods or works, or if any of the service will be paid for via a service charge, then the tenants and/or leaseholders affected may need to be consulted as part of the procurement process.

If you are not sure of the answer to these questions, seek guidance from the Strategic Director: People and Places, the Head of Neighbourhoods and/or the Southway Homes Manager.

If the answer to either of these questions is 'yes', then you must speak to the Strategic Director: People and Places for guidance and consent before proceeding, and they should sign the Approval to Proceed Form to confirm that this has been done.

## **1.4 Identify the most appropriate procurement route**

See section 3 of the Procurement Policy.

### Development Contracts

You must refer to section 12 of the Procurement Policy and the Development Procedures.

### Contracts above the relevant EU Threshold

You must refer to the Procurement Guide for above Threshold Procurement.

### Contracts less than £2k

There is no formal requirement to follow, *unless you wish to use a framework or procure via a group or consortium*, in which case you should complete Form 1 to gain approval to proceed.

The use of frameworks needs to be considered at a corporate level, so we can ensure we use them efficiently and effectively – e.g. if we are already paid into a different framework that will meet your needs, we shouldn't pay to join another without good reason.

Procuring via a group or consortium is inherently more complex and risky in terms of compliance and reputational exposure, so it is essential that the relevant Director is aware of any such procurement exercise no matter the value.

### Contracts £2k - EU Threshold

Refer to 'Procurement Routes £2k-EU Threshold: Guidance' below.

## **1.5 Complete Form 1: Approval to Proceed and seek approval from the Relevant Officer**

In completing Form 1, you may wish to consult with the Relevant Officer and/or the Governance Team for guidance and information.

So long as the contract will be below the EU threshold, you may also consult with suppliers, for example to get an initial idea of what products are available in the market or to get information about their preferred procurement routes (e.g. this type of supplier might prefer to give a presentation to prospective clients, and you might find that this is likely to give you a better opportunity to select the best supplier than simply asking for quotes).

## **Procedure and Guidance Part 2:**

### **Procurement Routes**

The relevant procedure should be followed once Form 1 (Approval to Proceed) has been completed, approved and submitted to the Governance Team and you have read 'Appointments and Contracts: Guidance' below.

Regardless of the procurement route taken, before a supplier can be appointed they must complete the Supplier Details Form and relevant checks must be completed by the Governance and Finance Teams.

#### **(A) Appointing a Supplier without Competition**

2A.1	Once Form 1 has been approved and the selected supplier has passed the mandatory checks, you can appoint them – sign a contract or send an appointment letter/email
2A.2	Submit the Contract or Form of Appointment to the Governance Team

#### **(B) Seeking Quotes**

2B.1	Draft a clear statement of requirements
2B.2	Seek quotes via written communication (email is fine), referring to the statement of requirements
2B.3	Make your assessment and decide which supplier to appoint
2B.4	Complete Form 3: Quotes – Decision, and seek approval
2B.5	If the selected supplier has passed the mandatory checks, you can appoint them – sign a contract or send an appointment letter/email
2B.6	Submit the contract or form of appointment to Governance Team

##### **2B.1 Draft a clear statement of requirements**

You will be comparing suppliers based purely on price, so you must be comparing like with like in terms of the product or service that the supplier will provide. It is also important from the prospective suppliers' perspective, that they must have all the information they need to be able to give you an accurate price. The statement of requirements will form the basis of your agreement or contract with the selected supplier, so it must be clear enough for you to be able to hold them to account if they fail to deliver what you expect.

## (C) Seeking Tenders

2C.1	Draft Invitation to Tender documents: Specification, Form of Tender and Contract, and ensure the Relevant Officer is happy with these
2C.2	Complete Form 4: Selection via Tenders – Details, and provide this to the Governance Team along with the Invitation to Tender Documents. The Governance Team will continue to liaise with you as the tender exercise progresses.
2C.3	Once the deadline for submission has passed, take part in tender opening
2C.4	Coordinate assessment of tenders by the selection panel. This may include shortlisting and further steps to selection, e.g. presentations by shortlisted suppliers, depending on what you have specified.
	Complete Form 6: Selection via Tenders – Decision, and seek approval
	Submit Form 6 to the Governance Team along with the scoring matrix
2C.5	If the selected supplier has passed the mandatory checks, you can coordinate negotiation and signing of the contract
2C.6	Submit the contract to Governance Team

### 2C.1 Draft Invitation to Tender documents

#### *Tender Specification*

There is a template, which requires you to set out details of the goods/service required and how suppliers can tender. The template includes guidance.

#### *Documents to be Returned by Tenderers*

All tenderers will be asked to return the *Supplier Details Form*.

You may wish to provide another form or template for them to complete with the other information required, or you may simply list the information you require in the Specification and allow them to decide what format to send it in. The former can make it much easier for the selection panel to assess and compare tenders, with a little work for you at the outset. The approach is very much dependent on the nature of the goods/services you are procuring and the type of information you are asking for to assess quality. If you want to see plans, brochures, or examples of work, for example, it may be easier to allow the tenderers to return the information in their own way.

You need to think about what further information you will need from them in order to assess their suitability to provide the goods/service required (which you might think of as ‘mandatory requirements’) and in order to assess the quality of their tender.

As well as the standard questions in the Supplier Details Form, you may need to ask for commitments regarding other matters. You can ask for these as part of the tender and/or include them in the draft contract. For example:

- Confidentiality – Will the supplier have access to sensitive information about Southway, our tenants or our staff? If so you need to think about assurance that this will be treated sensitively. Speak to the Governance Officer for guidance.
- Data protection and retention – Will the supplier process personal information on Southway’s behalf, about our tenants or staff? If so, there needs to be a Data Sharing Agreement in place to ensure they will deal with this data in line with our Data Protection Policy and Document Retention Schedule. Speak to the Governance Officer for guidance.
- Safeguarding – Will the supplier be working with potentially vulnerable tenants or entering tenants’ homes? If so they should be expected to comply with Southway’s Safeguarding Policy, raising concerns if they arise. Speak to the Community Support and Age Friendly Manager for guidance.

*Contract*

The contract may simply be based on the returned tender, along with standard terms of business, but for more complex, high value or high risk work, a formal contract must be drafted in advance of tendering, and where appropriate legal advice must be sought. You should also read ‘Appointments and Contracts: Guidance’ below.

In producing these documents, you may wish to consult with the Governance Team, the Relevant Officer or Director, and/or other officers who will use the goods/services or who have undertaken similar procurement exercises in the past

**(D) Using a Framework**

2D.1	Each framework will have its own processes to follow and documentation to use, but the Lead Officer must ensure that the requirements of Southway’s Procurement Policy are adhered to. You may liaise with the Governance Team and/or the Relevant Officer or Director. Note that the Governance Team must update the Frameworks Register, so must be kept informed of any changes to your plans.
2D.2	Submit the Contract or Form of Appointment to the Governance Team

## **(E) Procuring as Part of a Group or Consortium of Organisations**

2E.1	The Group/Consortium will have its own processes, protocols and documentation; however, you are reminded that the Lead Officer must ensure that the requirements of Southway's Procurement Policy are met. You should receive advice from the Governance Team and/or the Relevant Officer or Director.
2E.2	Submit the Contract or Form of Appointment to the Governance Team

### **Exemptions to the Requirements of the Procurement Policy: Procedure and Guidance**

The Chief Executive can give permission for the requirements of the Procurement Policy to be waived in genuinely urgent situations and/or where there is a sound legal, financial or Value for Money reason. See section 11 of the Procurement Policy for details, including the list of acceptable reasons for a waiver.

A waiver will not be granted where:

- The contract will be above the EU procurement threshold; or
- Southway would be in breach of the Regulations or any other applicable law.

Exemptions must be approved by the Chief Executive before an appointment is made.

In circumstances where the Chief Executive is not available to sign the form and an appointment needs to be made urgently, it is acceptable to make an appointment if an email has been received from the Chief Executive stating that they approve of the proposed appointment. The Chief Executive must then sign the form at the earliest opportunity.

In the event of the longer term absence of the Chief Executive, the Chief Financial Officer may approve an exemption.

A decision to waive the requirements of the Procurement Policy must be reported to the next meetings of the Risk Panel and the Audit and Risk Committee.

1.	Work through the first part of this procedure, as relevant issues need to be considered even in urgent circumstances
2.	Complete Form 7: Authority to Waive Procurement Policy Requirements and seek approval
3.	Make an appointment on the terms agreed in Form 7
4.	Submit Form 7 and the Contract or Form of Appointment to the Governance Team

## **Guidance: Procurement Routes £2k-EU Threshold**

Extract from 3.2 of Procurement Policy	
<b>Contract Value</b>	<b>Standard Process</b>
<b>£2,000 - £24,999</b>	<p>One supplier, from the relevant Approved Supplier List (see Section 7) or elsewhere, can be appointed without competition, provided that the lead officer is reasonably satisfied that value for money has been obtained.</p> <p>To ensure value for money, you may need to seek a number of quotes or tenders. There will be control mechanisms in place to ensure that an appropriate and proportionate approach is taken. Refer to guidance.</p> <p>Details of the decision must be recorded.</p>
<b>£25,000 – EU threshold</b> (See section 5)	<p>Tenders or quotes must be sought in line with Section 8.</p> <p>Details of the decision must be recorded.</p> <p>An award notice must be published on Contracts Finder (see Section 9).</p>

### **Option 1: Seeking a range of quotes or tenders**

Benefit: Comparing different providers enables you to establish how good each supplier's costs (if seeking quotes), or quality and costs (if seeking tenders), are relative to other suppliers in the current market. It is therefore usually the most effective way to establish that the selected supplier provides value for money, assuming you select a reasonable range of suppliers for comparison.

This is the standard approach. There is detailed explanation of the process in section 8 of the Procurement Policy and there are template documents that include additional guidance.

#### **Quotes or Tenders?**

If you have clearly defined requirements and simply want to compare on cost, you should seek quotes. You must produce a clear Statement of Requirements, upon which quotes and the contract will be based.

If you wish to assess potential suppliers based on their proposed approach and service standards, you should seek tenders. Use template Invitation to Tender and Form of Tender, which include relevant guidance, and liaise with the Governance Team who will send out the ITT

## **Option 2: Appointing a supplier without competition**

This is fine for contracts below £25k, so long as you sufficiently explain and justify how value for money is obtained. There may be occasions where it would be a desirable approach for contracts above £25k, but it would be treated as an exception to the Procurement Policy and the CE would have to approve an Exemption.

Benefit: Not seeking quotes or tenders obviously saves time and effort. If an existing supplier is used, then time and effort is also saved with regard to conducting some standard checks. In addition, if a supplier is selected with whom Southway has a long-standing relationship, on going contract management can be used more effectively to ensure that value for money is improved over time.

However, it may be more difficult to demonstrate how you have assured value for money. This approach is likely to be preferable, for example:

- For lower value and lower risk contracts within the £2k-£25k bracket. In some instances the likely cost saving of 'shopping around' is outweighed by the time and resource required to do so.
- Where the service that an existing supplier provides is very bespoke or varied, so it is difficult to compare suppliers. There may be a case here for splitting off elements of the work that they provide and checking the value for money of each against the market. However, there may be significant value (whether tangible or intangible) in one supplier providing the services, and experience may tell the officers involved that this obtains the best value for money.
- Where there is only one or very few appropriate suppliers in the market and it is easier to establish value for money based on previous experience or seeing what other contracting authorities pay for the service.

## **Option 3: Using a framework**

Benefit: Using a framework can bring cost and time savings and can make it easier to ensure compliance with regulatory and governance requirements, because the work of comparing suppliers, assessing their quality, and conducting standard checks (of financial viability, insurance etc.) has already been done. It can also be predictable and straightforward, because fees are set and there are established, simple processes and documentation to use.

However, it is important to note that there will be other costs to using a framework. There may be a cost to become a member, and/or a fee for each time the framework is used to award a contract (either a flat fee or a percentage of the contract value). Such costs may be different depending on whether Southway is a member of the framework or using it on a one-off basis (the former is likely to be more economical, despite any joining fee, if we are going to use the framework numerous times).

If Southway is not already a member of the framework in question, it is important to check that we are entitled to use the framework and that its terms are aligned with the principles of Southway's Procurement Policy. The relevant Director and the Governance Team should be consulted before proceeding. If a new framework is to be used, the Director is best placed to decide whether it is preferable to join it or use it on a one-off basis.

A register of frameworks is maintained by the Governance Team, to make it easy for you to establish which particular frameworks Southway is a member of or has used. It is vital that the Governance Team is informed when a framework is used, so the register can be updated.

#### **Option 4: Procuring as part of a group or consortium of organisations**

**Benefit:** This approach can provide efficiencies through bulk buying power and economies of scale through larger contracts, helping to improve value for money. Other benefits include the sharing of skills and knowledge, as well as division of effort and cost, between consortium members.

However, the process may well be more complex and risky than a straightforward procurement exercise.

The consortium is likely to use a similar approach to one Southway might take (a competitive tender or quote process or use of a framework); however, it is also likely to agree bespoke documentation and processes. The Lead Officer for Southway must ensure that the requirements of Southway's Procurement Policy are met (or, if they are not, that an Exemption is approved by the CE). The relevant Director and the Governance Team should be consulted before proceeding.

It should also be noted that on going contract management can be complicated if numerous parties are involved in one contract. This needs to be carefully considered before a contract is entered into.

#### **Guidance: Appointments and Contracts**

Any written agreement can be a form of contract; it does not need to say the word 'contract' on it. We will take a more formal or informal approach to appointments depending on the circumstances, but the same things need to be considered in almost all cases. Essentially you need to ensure that when a supplier is appointed, both parties are completely clear about what the supplier is expected to deliver and what they will get in return from Southway (generally how much they will be paid).

For complex, high value and/or high risk arrangements, a formal contract must be drafted. This can be done or organised by the Lead Officer, who should speak to their Manager or Director for advice and should take legal advice as appropriate.

A formal contract must be signed by the appropriate Southway Officer, in accordance with section 9 of the Financial Regulations.

In other cases, the Lead Officer may simply send an email or letter to the selected supplier, stating that they are to be appointed and on what terms this will be. This should usually refer to a Statement of Requirements that was produced earlier in order to seek quotes, or a tender that was submitted by the supplier.

When drafting a contract or writing a form of appointment, you should think about the following factors and ensure they are clearly defined:

- Exactly what is expected of the goods/service – specific outcomes and specifications against which the supplier can be held to account
- Any added value or peripheral matters that have been agreed – including social value activities, and things like delivery timescales or ongoing improvements
- Performance measures and how performance information will be gathered and assessed
- What Southway will do should the supplier fail to provide the goods/service agreed or to meet performance targets
- The benefits that the supplier will receive in return – usually straightforward payment, but there may be others such as reimbursement for expenses, or reciprocal arrangements
- The timing and phasing of payments, and what the supplier can do if Southway fails to pay
- The term (timespan) of the contract or arrangement and whether there is an option to extend it at the end of the initial period
- Arrangements for ongoing communication and contract management – who the principle point of contact will be on each side, how regularly will they communicate and by what means, what information each party will provide and how regularly
- Arrangements should either party default on its commitments or wish to end the arrangement before the end of its term

### **Related Documents**

- Procurement Policy
- Financial Regulations
- Guidance - Above Threshold Procurement
- Procurement Form 1 – Procurement Route – Approval to Proceed
- Procurement Form 2 – New Supplier Details (Non-Development)
- Procurement Form 3 – Selection via Quotes – Decision
- Procurement Form 4 – Selection via Tenders – Details
- Procurement Form 5 – Selection via Tenders – Receipt
- Procurement Form 6 – Selection via Tenders – Decision

- Template – Invitation to Tender – Tender Specification
- Template – Invitation to Tender – Tender Response
- Development Procurement – Procedure Flowchart
- Development Procurement – New Supplier Form
- Procurement Form 7 – Authority to Waive Procurement Policy Requirements