

UK Shared Prosperity Fund

Procurement

Guidance

v7

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Purpose of the Guidance

The purpose of this document is to provide guidance to organisations delivering projects funded by the Good Growth programme. It is an overview of the rules and organisations should take their own independent advice on this matter. Organisations can also receive advice from the Good Growth Delivery Facilitation Team for example, through the attendance at webinars or via direct support.

Cornwall Council, as the Lead Authority, must put in place appropriate and proportionate control measures for the spending of public funds. These measures are required to demonstrate value for money, ensure a transparent procurement process is undertaken and minimise the risk of fraud. The SPF Good Growth Principles should be considered by organisations undertaking procurement activity.

The overarching public procurement guidance within section 7.6.2 of the SPF Prospectus launched on 13 April 2022 remains applicable; in addition, the Department for Levelling Up, Housing and Communities, has published information on procurement for the SPF. <https://www.gov.uk/guidance/uk-shared-prosperity-fund-procurement-8>.

Changes in procurement legislation (or other applicable legislation) may occur and further procurement guidance may be released by Government. This guidance may be updated accordingly and re-distributed.

Please note that if your project has multiple funding sources, you must ensure that your procurement policy is compliant with all funding programmes and therefore a different approach to procurement may be required.

Guidance for Organisations

SPF is public sector funding and therefore there are certain legislative requirements to adhere to. The procurement process must demonstrate value for money and be fair and transparent.

Procurement is the purchase of supplies, works and services. Further explanation of these terms can be found in the [Public Contracts Regulations 2015](#), but in short:

- **Supplies** includes the purchase or rental of products or equipment such as office furniture, IT equipment etc;
- **Works** includes construction of buildings and civil engineering works;
- **Services** includes professional services, repair and maintenance services.

Contracting Authorities

The organisation or entity receiving funding must ensure that all matters relating to public procurement law have been met and, where necessary, have been implemented.

The first stage is to determine whether the organisation / entity is governed by [Public Contracts Regulations 2015](#). Those subject to the [Public Contracts Regulations 2015](#) are referred to as Contracting Authorities.

Contracting Authorities

“Contracting authorities” means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities, but does not include Her Majesty in her private capacity;

In addition, and crucially for some organisations in receipt of funding, where a procurement is:

- above £213,477¹ for supplies and services and above £5,336,937² inclusive of VAT
- AND**
- more than **50%** of the procurement is subsidised directly by a contracting authority³

the organisation will need to conform with the full requirements of the [Public Contracts Regulations 2015](#) as if it were a contracting authority. If this situation applies the organisation will be required to:

- Comply with and follow the procedure set out in the [Public Contracts Regulations 2015](#) and
- Advertise on the UK e-notification service called Find a Tender Service.

On 1 January 2022, the rules changed for all types of organisations so that VAT is **included** for the purpose of determining whether a tender meets the Find a Tender Service/Official Journal of the European Union (OJEU) threshold.

Where an organisation is able to reclaim VAT they can still do so, but must include VAT in the contract value for the purposes of advertising.

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041964/Procurement_Policy_Note_10_21_-_New_Thresholds_Values_and_Inclusion_of_VAT_in_Contract_Estimates.pdf

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041964/Procurement_Policy_Note_10_21_-_New_Thresholds_Values_and_Inclusion_of_VAT_in_Contract_Estimates.pdf

³ [Public Contracts Regulations 2015 Regulation 13: Contracts subsidised by contracting authorities](#)

The full details of how to run a procurement under [Public Contracts Regulations 2015](#) are very complicated and should not be attempted without seeking specialist commercial and legal advice.

Non-Contracting Authorities

An organisation or entity not considered to be a Contracting Authority, or not required to act as one as per the guidance above, is not governed by [Public Contracts Regulations 2015](#).

These organisations will, however, still be required to demonstrate a fair, transparent and diligent process that considers value for money for the purchase of supplies, works and services and minimises the risk of fraud. The following table offers guidance to organisations deemed Non-Contracting Authorities to manage their procurements, based on different thresholds, in a way that allows them to demonstrate consideration of value for money through an open and transparent process. Procurements under £25,000 excluding VAT should be aligned to Cornwall Council's Social Value principles as detailed in the table below:

Value of Procurement	Procurement requirement
Under £24,999 (Exclusive of VAT)	<p>Direct Award:</p> <p>Obtain 1 written quotation for each expenditure item.</p> <p>In line with CC social value policy, where possible, contracts under £25k should be awarded to a Local Supplier. A Local Supplier is one which has a base in Cornwall this is determined using the postcode.</p> <p>However, consideration should be given to achieving best value for money when awarding on one quote.</p>
£25,000 and above (Exclusive of VAT)	<p>Tender:</p> <p>Tender process to be followed including the advertising of the opportunity.</p> <p>The advert needs to incorporate or direct any interested party to the following information:</p> <ul style="list-style-type: none"> • Details of the opportunity; • What is required from all interested parties; • How the successful candidate will be chosen;

	<ul style="list-style-type: none"> • Deadline and details of how to apply. • A conflict of Interest Statement <p>Justification will also be required to demonstrate that the contract award is in line with the advert.</p> <p>The Council recommends the use of a tender portal to advertise the opportunity such as the Government's Contracts Finder website. https://www.gov.uk/contracts-finder or https://www.find-tender.service.gov.uk/</p> <p><u>Guidance for Contract Finder</u></p> <p>These procurements should be undertaken by suitably experienced personnel.</p>
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It is not permissible for procurements to be artificially divided into smaller purchases only to circumvent the thresholds. This is known as disaggregation and will result in clawback of any grant offered. The full estimate of contract value should be considered, including the whole life term of a contract and any extensions.

Additional Requirements

All recipients of funding are required to submit a procurement policy as part of their application, which will be included as part of their contractual documentation. The policy will need to demonstrate a compliant approach to procurement and adhere to these principles:

- Shows how you ensure value for money is achieved;
- Manages conflicts of interest;
- Demonstrates openness and transparency;
- Ensures suppliers are all treated fairly and consistently;
- Minimises the risk of fraud;
- Commits to sustainable development and the promotion of good environmental management;

- Commits to providing services in a way that promotes equality of opportunity and expects its suppliers to demonstrate similar values;
- Considers Health and Safety and levels of insurance indemnity appropriate to each procurement.

Cornwall Council reserves the right to request evidence that these principles have been considered and expects these principles to be cascaded, where appropriate.

The organisations procurement policy should also identify the systems, processes and responsibilities for any procurement.

Cornwall Council will expect suppliers to be treated fairly and consistently, and if not prohibited, measures should be put in place to consider local suppliers and to facilitate Small and Medium Size Enterprises or Voluntary, Community and Social Enterprises bidding for contracts.

We would expect the recipient to consider possible conflicts of interest and include a declaration as part of the procurement process; this could be in the form of a statement on the scoring forms, which states any relationship to the potential supplier.

A comprehensive audit record will need to be retained for the time period identified within the Funding Agreement. As a minimum this should include (where applicable):

- Specification;
- Procurement option chosen as per your policy;
- Where the procurement was advertised and for how long;
- Details of any clarifications;
- The basis on how the procurement was evaluated;
- Copies of all the bidder responses (and their covering emails);
- Letter awarding the contract;
- Letters to the unsuccessful bidders;
- contract or purchase order.

Although this advice has been prepared for organisations which receive funding, the advice is for guidance only and organisations should secure their own advice.