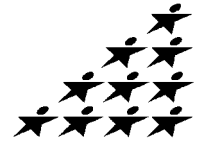


Delivering Better Services for Citizens

A review of local government
procurement in England

EXECUTIVE SUMMARY
AND RECOMMENDATIONS





Local Government Association

Delivering Better Services for Citizens

A review of local government
procurement in England

EXECUTIVE SUMMARY
AND RECOMMENDATIONS

Sir Ian Byatt

Sponsored by the Department for Transport, Local Government and the
Regions and the Local Government Association

June 2001

Preface

by Sir Ian Byatt



In summer 2000 the local government Minister and the chairman of the Local Government Association asked me to chair a taskforce to review the state of procurement skills and practice in local government in England.

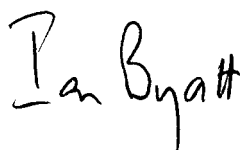
This report examines the emerging opportunities for local authorities to develop and improve their procurement practices. It sets out 39 specific recommendations, directed to local and central government, private suppliers and professional bodies.

The members of the taskforce have been drawn from across the public and private sectors. They were chosen for their personal skill and expertise. I am very grateful to all of them for their help, both for their individual contributions and for their collective contribution to the message of our report.

We are all deeply indebted to:

- our Secretary, Stephen Edwards of the DTLR, for expertly guiding our thoughts and elegantly drafting our report;
- Lourdes DeBarry from the LGA, for successfully organising our work and marshalling the evidence submitted to us;
- Demelza Birch of the DTLR for skilfully carrying out an authoritative study on local government procurement (*Local Authority Procurement: A Research Report*);
- Ian MacFadyen, our consultant, for helpfully assisting with case studies, work on consortia and providing useful insights.

I commend this report and its recommendations to all who strive to improve the delivery of local services to citizens in affordable ways.



Ian Byatt
13 June 2001

The opportunities

The chance for a new deal

Local government has great opportunities to improve local services to citizens in affordable ways. The scope for working productively with the private and voluntary sectors is widening. Restraints on innovative and effective approaches to procurement are easing. Information technology enables a wider use of markets and opens up a range of new ways of delivering services. This report sets out practical ways to take advantage of these opportunities.

Local government has its own legal standing and its own democratic accountability. And within local government, councils vary greatly in size – from counties to large towns and cities to district councils – each with its own unique range of challenges. Local authorities have, nevertheless, much in common with each other. Our specific recommendations are designed to be adopted in ways that are sensitive to local conditions.

Best value

Better delivery starts with well based decisions on what citizens want and what they can afford. The duty of Best Value is to put this into effect. Government wishes to expand the opportunities available to local people for service delivery. That requires diversity amongst suppliers and the way services are delivered. We support the effect of such a policy, which is to encourage a mixed economy.

To achieve Best Value, local government should decide pragmatically what to buy from the private or voluntary sectors, and in what way, and what to provide directly. This should be done on the merits of individual cases, from the point of view both of service users and council taxpayers, taking account of the quality of service. Decisions should be taken strategically, on the basis of costs and benefits. Elected representatives should look at the strategic development of services, at strategic options for their delivery and how it can best be financed and monitored.

Competitive markets

Greater use of competitive markets offers considerable scope for lower costs and better performance – as is well illustrated in the utilities and in the private sector. It enables suppliers to use private sector business practices to good effect, while allowing authorities to concentrate on the political task of deciding what services should be delivered and by whom. But, where markets are dominated by a few suppliers, authorities need to consider how their actions can both help market development and protect local choice.

There is now a much greater choice of supplier for many services and the scope for external procurement is expanding. Smaller authorities will need to be more ready to collaborate with larger ones or to use the same supplier. Whether or not external suppliers are successful in bidding to carry out work for local authorities should of course depend upon whether they can provide services at a lower cost or of a better quality than can be provided in-house. The principles of good procurement also apply to the relationships with in-house teams and our conclusions are therefore directed at them too.

Risk

Better procurement requires a new approach to risk. The key issue is not how risk should be allocated but how it should be managed. The trade-offs between risk and reward should be assessed, recognising that continuing in old ways carries its own risk. This should be coupled with strategies for dealing with what could go wrong and avoiding the culture of blame.

The local economy

Local government has responsibilities to local communities including promoting local economic development. Local business should be able to compete for work alongside contractors from outside the area. And local authorities should encourage and support them in doing this. But it would not be consistent with fair competition to give them an advantage, nor would it be in the best interests of service users. It may even be counterproductive, by reducing their ability to innovate and so to survive in the long run. Policies aimed at meeting social objectives should be legal, transparent and effective. Where a policy involves additional expenditure, specific costings should be included.

The speed of change

The scope for better procurement, and with it the scope for better services, is widespread. But it will not – of course – happen overnight. Each authority will have its own priorities and these must be recognised.

Some local authorities have shown rapid progress in making changes, but over-ambitious targets would not be helpful. It is better to proceed steadily than risk failure through hasty actions. This should not be an excuse for inaction; but it is important not to lose what works well.

The strategic response

A procurement strategy and plan

Better procurement should be an integral part of best value within every authority, as the achievement of best value depends on good procurement. The procurement function should have a much higher profile and be more strongly staffed:

- The procurement function should be the responsibility of a senior officer and be part of the remit of a member
- Procurement experts should guide any delegation of individual procurement to officers in service areas, to ensure that good practices are used and transaction costs properly controlled
- Robust and clear procedures should be set out for appraising and implementing large and complex contracts, drawing from current best practice

Each authority should draw up and publish its procurement plan which:

- implements the authority's forward plan for service delivery
- sets out the authority's likely demand for the supply of goods, works and services from outside suppliers, in broad categories, in the medium term (say the next 5 years)
- signals to suppliers the nature and scale of market demand

Incentives and stability from the centre

To give local government proper incentives for efficiency, central government must deliver greater stability in funding from national sources. This should cover capital allocations and specific grants as well as Revenue Support Grant (RSG) in line with the proposals in the Green Paper on Local Government Finance. This would bring significant benefits:

- local government could set out meaningful medium term procurement plans
- by enabling savings to be devoted to better services or lower taxes it would give local government a powerful incentive to efficient procurement

Making markets work better

The markets for different kinds of local authority goods, works and services offer different challenges:

- Well-established competitive markets exist for many of the routine goods currently bought by local authorities. There is scope for improvements in procurement, particularly by reducing transaction costs. E-procurement has an important part to play.

- Markets for some local authority services have operated for a number of years. The markets for other services are at an earlier stage of development. They have great potential, but they need to be encouraged by both buyers and sellers. They need to be competitive, where suppliers respond to customers and where innovations contribute to better products.
- The markets for capital works, especially with long lead times, has received more attention, including studies on construction and PFI projects and a number of initiatives to support these.

In markets for goods and commodities, e-procurement could substantially reduce transaction costs. There should be greater use of purchasing cards and more use of electronic catalogues. In time, more sophisticated means of trading will develop as IT companies compete for business. In most local authorities, incremental progress will be preferred to big changes. The best should not be the enemy of the good.

Where there are new markets for large and complex services, local authorities will need new capabilities of contract design and contract management. To design good contracts, local authorities:

- need up to date information on potential suppliers and on innovation in supply
- should be ready to indicate and discuss their requirements with potential suppliers at an early stage and to understand suppliers' commercial requirements
- should acquire well based information on innovative ways of designing contracts, arranging tenders and managing and monitoring delivery
- should look at the costs and benefits of projects over their lifetime – capital costs are only one part of the picture
- should be ready to draw up contracts that allow for changing circumstances
- need information to be confident that markets are sufficiently competitive for long term contracts to be viable options

To act as intelligent clients over the life of a contract, local authorities must:

- manage risks
- monitor progress to meet the aspirations of their citizens
- link stability to ability to meet changing circumstances
- understand not just the requirements of the service but also the market conditions affecting the contractor's business
- be prepared to accept responsibility for contract management and monitoring and to resource that commitment appropriately
- manage well the commercial relationship with the contractor

To be successful in these markets, suppliers must understand the nature of local government services and be willing to invest in developing capacity in these markets. They should:

- be ready to be open about costs, eg. by using open book accounting
- be able to show capability for continuous improvement throughout the period of the contract
- understand the priorities of service users and stay informed about changes in these priorities
- be able to respond to changing requirements in long term contracts, including variations resulting from changes in political control
- be adequately equipped, operationally and financially, to surmount unanticipated difficulties
- understand the regulatory, financial and political constraints that affect local authorities

Both the local authority and supplier need to have an open and robust approach to commercial relationships. Proper attention should be paid at an early stage to considering how risk should be managed and the respective roles which authorities and suppliers should play. Decisions on the best management of risks should determine its allocation between authorities and suppliers. All must accept that the incidence of risk will affect tender prices.

To allow for changing circumstances, long-term contracts must:

- contain provisions for changes in the form of agreed processes, both within the authority and between the authority and the supplier
- satisfy the reasonable expectations of suppliers concerning the consequences of such changes for costs and remuneration

Tender design, tender evaluation and contract management

Success in long term contracts depends on good contract design and contract management:

- costs should be estimated over the life of a project or contract
- capital costs should be annuitised or all costs of alternative methods of provision should be set out as present values
- outcomes should be specified as clearly as possible at the outset

Local authorities should explore with potential suppliers:

- alternative ways of delivering outcomes to encourage imaginative solutions
- trade-offs between better quality delivery and higher costs

Local authorities should draw up specifications:

- where relevant and to the extent possible, in terms of outcomes (what is to be achieved for citizens) or outputs (deliverables)
- widely rather than narrowly, to encourage suppliers to be innovative in delivering outcomes

Local authorities should, whenever relevant:

- monitor quantitative delivery of outputs (deliverables) and outcomes (eg user satisfaction), as well as inputs (such as expenditure or items purchased)
- link performance on big contracts with delivery of outcomes for citizens.

Local authorities should ensure they will have sufficient resources or technical capability to monitor any targets they include in contracts.

Workforce issues

A motivated and skilled workforce is crucial to the delivery of quality services. Good procurement must take into account the ability of a contractor or in-house provider to provide staff with the qualities necessary to do the job well. Flexibility in working practices is essential to better delivery of services. In turn, the provision of better services offers opportunities to individual workers. The approach adopted in the public sector to TUPE has reduced concerns amongst existing staff who transfer out of the public sector, although we recognise that there is concern about the terms and conditions of those subsequently employed on local authority work.

Staff employed by private contractors on local authority contracts to provide services to local authorities now have opportunities to remain within or to join the local government pension scheme. Local authorities and contractors should understand and make best use of these provisions.

Handling these issues will be more straightforward when employees have been fully engaged in the process of working up options for improved service delivery and in their appraisal. At the same time potential suppliers should devise packages of work and remuneration that are designed to incentivise as well as improve productivity.

Implementation

Information

Local authorities, and their suppliers, need better market information across the board. This cannot be delivered by one central source. A number of different approaches are needed, including:

- a national forum to broker a dialogue between local authorities and suppliers on matters affecting the wider market
- better systems of information exchange on markets and on the future buying intentions of local authorities

Internal information systems

Authorities should improve the linkages between procurement and their accounting systems and between procurement and their systems of performance measurement. Better IT systems would help, but should be carefully evaluated before implementation.

Large/complex projects

Large single supplier contracts for the delivery of complex services have high risks. Local authorities should follow the Gateway model developed for central Government, adapted to suit the particular circumstances of local government.

Legal issues

European public procurement rules do not always encourage good procurement, but local authorities can find ways to follow good practice within the current regulations. We support the Government in its efforts to make the rules more flexible, but meanwhile local authorities should not use the current rules as an excuse to avoid innovation.

Central government should provide more guidance to local authorities on the interpretation of national and EU rules affecting procurement, including examples of successful innovations in procurement within the rules.

Local authorities' standing orders should be designed to emphasise positive outcomes rather than simple compliance. Local authorities should learn from the best of these.

Training

Training is needed for all levels, including:

- members and senior officers
- professional procurement staff
- purchasers in decentralised units

Training is particularly needed to support strategic procurement issues. This should cover:

- devising a procurement strategy
- appraisal of options
- definition of outputs and evaluation of outcomes
- project management

The LGA, Improvement & Development Agency (IDeA) and the Local Government Employers Organisation (EO) should take the lead in drawing up a prospectus for procurement training, in consultation with other interested bodies. It should consider the potential for joint delivery with the Office of Government Commerce (OGC) and other bodies.

Buying consortia

The local government buying consortia have been very useful for buying standard commodities but so far have not proved very suitable for joint procurement of services. They are under threat from e-procurement, from devolved procurement in schools, and from the growth of service contracts which include goods provision. They will need to change in structure and business methods to play a significant role in the future pattern of local government procurement. They also need to be more transparent in the way they operate and report on their performance.

Financial Support

Pump-priming from central Government will be necessary to support some of the recommendations in this report such as Gateways, training, market information and centres of excellence. This should be designed to be short term. If products and services add value, users will be willing to pay for them.

Care should be taken to avoid incentives which distort the market by making one procurement method or approach disproportionately attractive. Procurement options should be considered on their own merits. Money should be directed to support outcomes rather than inputs or particular techniques. There would be benefits in rationalising and consolidating the existing funds.

Central government should provide greater stability in LG finance and opportunities for local authorities to retain the savings from efficiency gains. This will allow local authorities to plan ahead with greater certainty and will provide incentives to better performance.

Recommendations

The procurement function within an authority

ALIGNING PROCUREMENT AND BEST VALUE

1. Procurement expertise should be integrated into best value reviews and represented in every local authority on the body which oversees best value.
2. Best value reviews should incorporate a wide-ranging approach to a local authority's key strategic objectives and be aligned to outcomes rather than the existing patterns of service provision.
3. Local authorities should adopt policies which ensure the effective involvement of staff in service reviews and in the procurement process.

DEVELOPING A CORPORATE PROCUREMENT FUNCTION

4. Local authorities should set out their procurement strategy in a document which includes principles and information on current and planned activities. This should be regularly reviewed and updated.
5. Local authorities should develop a corporate procurement function to collect management information, oversee devolved buying, co-ordinate training and act as an internal source of expertise.
6. Smaller local authorities without the resources to set up a corporate procurement function should work with others to share resources. The Local Government Association (LGA) should work with the private sector to build up centres of excellence available to such authorities.

REVIEWING CURRENT PRACTICE

7. Local authorities should review their procurement structures and processes as part of the best value review programme.
8. Local authorities should, at an early stage, map their procurement activities using techniques such as a low/high risk and low/high value matrices. They should identify the areas where procurement resources can have most impact and the appropriate skills and techniques for each type of procurement.
9. Using the analysis set out in recommendation 8, local authorities should seek to aggregate demand and reduce costs by setting up central contracts for commonly used items and by requiring consolidated invoices.

ENGAGING MEMBERS

10. Elected members should take a strategic role in securing quality outcomes. This should include scrutinising the procurement processes and monitoring the outcomes of procurements. There should be clear political responsibility for procurement with appropriate training.

IMPROVING REGULATIONS

11. Local authorities should review their standing orders to ensure they promote efficient and effective procurement whilst maintaining safeguards of probity and good governance. Standing orders should be used positively to encourage good practice. Changes to standing orders should be accompanied by an effective education programme.
12. The Audit Commission should guide and train auditors and inspectors to support a strategic approach to procurement. This should emphasise a risk-based approach and aim to equip auditors and inspectors to deliver effective scrutiny in a mixed economy of service provision. The Audit Commission should continue to review its experiences of significant and large procurement exercises and disseminate the lessons learnt from them.
13. To help local authorities, the Audit Commission should clarify the roles of inspectors and auditors in relation to procurement and seek to co-ordinate their activities locally.

BUILDING CAPABILITY

14. Each local authority should identify all those engaged in procurement within the organisation and identify the skills needed in each post across the authority. It should set out a strategy to meet these needs, including recruitment of suitable staff, training, and ways of retaining trained staff.
15. The Improvement & Development Agency (IDeA) and the Local Government Employers Organisation (EO) should lead on developing a suite of training programmes. This should particularly be developed in partnership with the Chartered Institute of Purchasing and Supply (CIPS) and the Society of Purchasing Officers in Local Government (SOPO). This should build on the work done by the Office of Government Commerce (OGC).
16. Pump-priming funding should be provided to support the development of training programmes and to subsidise costs of local government staff who use the courses. This could be provided through the IDeA or EO as part of the annual settlement or through the funding referred to in recommendation 18.

USING E-PROCUREMENT

17. Local authorities should increase their use of simple forms of e-procurement such as purchasing cards and BACS payments. They should adopt a modular approach to the implementation of e-procurement solutions.

FUNDING IMPROVEMENT

18. Government should consolidate its funding for improvements in local government's capacity into a single fund, designed to provide both revenue and capital support on a pump-priming basis for key priorities. Such a fund could usefully absorb the resources currently made available in support of PFI projects so as to allow a wider range of partnership options related to outcomes to be pursued.

19. Government funding for e-solutions (such as Local Government Online) should be used to support the development of a variety of different e-procurement models in local government. Projects should be designed to encourage joint working between local authorities.

Making markets work better

GATHERING AND SHARING INFORMATION

20. Local authorities should identify the information they need about the markets for local authority goods, works and services. The LGA, together with the IDeA and the 4Ps, should lead in devising better systems of information exchange on these markets, in consultation with the private sector.
21. Each local authority should produce a prospectus for suppliers. This could usefully be adapted from the procurement strategy document described in recommendation 4. It should include the significant items which the council expects to buy in the future, with an indication as to how and when it will procure them.

DISCUSSING AND RESOLVING MARKET ISSUES

22. A joint national forum, convened by DTLR, the LGA and the CBI, should broker a dialogue between local authorities and suppliers. Matters affecting the wider local authority market should be raised and resolved in this forum. This should be underpinned by an open dialogue, conducted through a variety of media such as workshops, web enabled discussion groups, training and development opportunities and case studies.

BUYING CONSORTIA

23. Buying consortia should publish annual accounts and performance information which is sufficient to allow local authorities to make informed decisions.
24. Buying consortia should review their services and their structures in the light of the need to retain and win new business in a competitive environment. They should pay particular attention to meeting the needs of smaller councils.

Tender design, tender evaluation and contract management

DESIGNING AND PLANNING A PROJECT

25. A project plan should be drawn up at the beginning of each procurement exercise, setting out all the strands of work, how they will be undertaken and the times for their completion.
26. The LGA and DTLR should explore how a Gateway project review process can be developed to support local authorities who are involved in major, complex or high risk projects. It should include a strategy for providing high quality project review teams with an understanding and experience of the commercial sector. It should take advantage of the work done by OGC.

27. Local authorities should, in conjunction with suppliers, rationalise their procurement processes, eg by using common documents and pre-qualification processes or by using websites to exchange information.

MANAGING RISK

28. Each local authority should develop a corporate strategy for managing risk which recognises the trade-offs between risk and reward. That strategy should be applied to individual procurement decisions.
29. The Audit Commission should continue to develop good practice on risk assessment for auditors and inspectors which supports a balanced view of the risks and benefits of various procurement techniques.

ASSESSING BIDS

30. Local authorities, with the support of the IDeA and other organisations, should develop evaluation criteria which incorporate quality and whole life costs. The criteria chosen should not detract from the need for clear and prioritised objectives. They should be agreed in advance and should be published, transparent and auditable.

CONTRACT MANAGEMENT

31. The project plan for all major procurements should include a requirement for client managers to be recruited or receive training and development prior to contract award. It should specify the skills needed by the client managers. Wherever possible, client managers should be party to the negotiation of the contract. The skills needed by client managers should be discussed with potential service providers.
32. Suppliers should provide managers who are experienced or trained to understand the local authority environment.
33. Suppliers should be prepared to adopt an open book approach to the contract in complex contracting environments where change is likely. The DTLR-led R&D programme 'Supporting Strategic Service Delivery Partnerships in Local Government' should look at the definition of open book and its use.
34. Suppliers should help local authorities by publishing data to support performance measurement (though where they have legitimate commercial concerns about confidentiality, these should be respected and assured). This issue should be considered by the joint national forum.

APPLYING AND IMPROVING LEGISLATION

35. Government should give a clear lead on how intelligent procurement might be achieved within the European public procurement rules.
36. Changes are required to the European public procurement rules to simplify them and make them more flexible. Changes should support the setting up of framework arrangements and greater use of discussion and negotiation.

37. Central government should use the opportunity presented by the recent review of legislation on partnership working to relax restrictions which prevent effective joint delivery of goods, works and services.
38. Local authorities and contractors should understand and make best use of statutory and non-statutory arrangements to protect the legitimate interests of staff during transfers, including TUPE regulations, the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector and the provisions to allow admission to the local government pension scheme.
39. Central government and the LGA should set up arrangements to monitor the effects of TUPE and local government pension scheme regulations which particularly look at what happens on subsequent retender of contracts.

Department for Transport, Local Government and the Regions
Eland House
Bressenden Place
London SW1E 5DU
Telephone 020 7944 3000
Internet service www.dtlr.gov.uk

© Crown copyright 2001.

Copyright in the typographical arrangement and design rests with the Crown.

This publication (excluding the Royal Arms and logos) may be reproduced free of charge in any format or medium provided that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright with the title and source of the publication specified.

Further copies of this report are available from:

Department for Transport, Local Government and the Regions
PO Box 236
Wetherby
West Yorkshire
LS23 7NB
Tel: 0870 1226 236
Fax: 0870 1226 237
Textphone: 0870 1207 405
E-mail: dtlr@twoten.press.net

This document is also available on the DTLR website: www.dtlr.gov.uk/consult.htm

Department for Transport, Local Government and the Regions. Printed in the UK, June 2001
on material containing 75% post-consumer waste and 25% ECF pulp.

Product code 01LG0420