



OFFICE OF THE
DEPUTY PRIME MINISTER

Towards a National Strategy for Local Government Procurement

The Joint Response of the Government and the
Local Government Association to the Local
Government Procurement Taskforce Report
Delivering Better Services for Citizens



Local Government Association

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July 2002

Office of the Deputy Prime Minister

Following the reorganisation of the government in May 2002, the responsibilities of the former Department for Transport, Local Government and the Regions (DTLR) in this area were transferred to the Office of the Deputy Prime Minister.

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CONTENTS

FOREWORD	5
EXECUTIVE SUMMARY	7
CHAPTER 1	
Introduction	9
CHAPTER 2	
Joint Response to the Taskforce Recommendations	15
The procurement function within an authority	15
Making markets work better	22
Tender design, tender evaluation and contract management	23
Actions at a national level	28
CHAPTER 3	
Next Steps	34
Towards a national strategy for local government procurement	34
Roles and responsibilities	34
ANNEXES	
I Taskforce terms of reference and membership	37
II Interim statement of support	38

FOREWORD

We are very pleased to introduce this comprehensive response to the recommendations made by Sir Ian Byatt in his report. It is a good example of co-operation between central and local government.

We fully endorse the approach recommended by Sir Ian that procurement expertise must be integral to the way that councils pursue Best Value. His recommendations together with the work of the Strategic Partnering Taskforce, the conclusions of the Best Value Review and the capacity building proposals in the White Paper, Strong Local Leadership – Quality Public Services, provide a sound foundation for a national strategy to improve local government procurement. We are committed to putting such a national strategy in place.

This initiative is a means to a common end – innovative, higher quality and more responsive public services that local people expect and deserve. In the meanwhile, we urge authorities to adopt the examples of current good practice recommended by Sir Ian.



A handwritten signature in black ink, reading "John Prescott".

Rt Hon John Prescott MP
Deputy Prime Minister



A handwritten signature in black ink, reading "Jeremy Beecham".

Sir Jeremy Beecham
Local Government Association

EXECUTIVE SUMMARY

In July 2000 the DETR and the Local Government Association invited Sir Ian Byatt to chair a Taskforce charged with reviewing local government procurement in England.

The Taskforce produced its report, *Delivering Better Services for Citizens*, in June 2001. The report's starting point was the critical contribution that procurement can make to the quality of public services. Its 39 recommendations attracted wide support.

In December 2001 we published an interim statement of support, highlighting key recommendations for immediate action. This is reproduced at Annex II. The present document is the final response of the Government and Local Government Association.

We believe that, taken together, the recommendations of the Taskforce, the work of the Strategic Partnering Taskforce, the findings of the Review of Best Value and the capacity-building proposals in the White Paper *Strong Local Leadership – Quality Public Services*, constitute the foundations of a national strategy to improve local government procurement.

The White Paper set out plans to put in place an integrated performance management framework for local government including new arrangements for the comprehensive performance assessment (CPA) of all local authorities. CPA will consider each authority's competence in the management of procurement and partnerships.

Taskforce recommendations directed to local authorities are considered in Chapter 2 under the same headings used in *Delivering Better Services for Citizens*:

- The procurement function within an authority;
- Making markets work better;
- Tender design, tender evaluation and contract management.

Recommendations on capacity-building measures directed to the Government, LGA and central bodies are considered separately in the final section of Chapter 2 – *Actions at a national level* while Chapter 3 outlines practical next steps towards a national strategy for local government procurement.

We fully endorse the approach recommended by the Byatt Report that procurement expertise must be made integral to the way local authorities pursue best value. Each authority needs to review their current procurement structures and processes and set out a clear policy on how procurement is to be managed across the authority. Authorities should develop a register of current contracts and a schedule of contracts to be awarded over the next three years. These should be published alongside a 'how to do business with the council' guide.

All unitary and county councils will be expected to establish a corporate procurement function to stand alongside finance, performance management, legal and HR. It is vital that all staff and executive members engaged in procurement and those members involved in scrutiny of procurement are identified and measured against an appropriate competency framework. Priority should be given in training programmes to developing procurement skills.

At national level, a local government procurement forum will be established to take forward a national strategy for local government procurement. The forum will give early consideration to:

- the capacity issues faced by small councils, including an evaluation of initiatives already taken to support better procurement among small councils and the proposal to create regional centres of excellence in procurement;
- sources of market intelligence and how to ensure that such intelligence is shared to the benefit of both authorities and suppliers;
- the development of standard contract documentation;
- the development of appropriate training programmes, building as appropriate on the competency frameworks whose development is being led by the Employers Organisation.

CHAPTER 1

Introduction

The Review

In July 2000 the DETR and the Local Government Association invited Sir Ian Byatt to chair a Taskforce charged with reviewing local government procurement in England.

The Taskforce's terms of reference were 'to review the state of procurement and commissioning skills and practice in local government in the light of the requirements of Part 1 (Best Value) of the Local Government Act 1999 and its objective of continuous improvement in the economy, efficiency and effectiveness of local services; and to make recommendations'.

The full terms of reference and membership of the Taskforce are set out at Annex I.

The Taskforce presented its report, *Delivering Better Services for Citizens*, in June 2001. The report's starting point was the critical contribution that procurement can make to the quality of public services. Its 39 recommendations attracted wide support.

In December 2001 an interim statement of support was published, highlighting key recommendations for immediate action. This is reproduced at Annex II. The present document is the final response of the Government and Local Government Association to the Byatt Report.

We are grateful to Sir Ian and the Taskforce for producing such a carefully considered report and believe that the recommendations will have a significant and beneficial impact on local government procurement in England.

Indeed, in the context of the wider developments discussed below, we believe that the Taskforce's recommendations form the basis of a national strategy for local government procurement.

The Broader Context

LOCAL GOVERNMENT WHITE PAPER

The White Paper *Strong Local Leadership – Quality Public Services*, published in December 2001, sets out the Government's vision of a 'strong, vibrant, innovative and responsive local government delivering the quality of local leadership and public services their communities need' and the measures the Government will take to enable councils to realise that vision.

The White Paper sets out plans to put in place an integrated performance management framework for local government. The framework includes:

- clearly defined service priorities for local government agreed through the Central-Local Partnership;
- new arrangements for the comprehensive performance assessment (CPA) of all local authorities;
- new freedoms for all councils and extra freedoms according to councils' ability to use them;
- a proportionate and co-ordinated inspection regime;
- enhanced support for capacity-building and targeting of resources for support and inspection according to councils' strengths, weaknesses and needs;
- a streamlined Best Value regime.

CPA will consider each authority's competence in the management of procurement and partnerships.

Chapter 5 of the White Paper sets out the Government's plans to build local authority capacity for procurement and partnering in the context of the new CPA process.

REVIEW OF BEST VALUE

In October 2001, the Secretary of State announced a review of best value whose terms of reference were to:

- explore ways in which best value can be more focused on higher standards of service;
- ensure best value is neutral as to whether services are provided by the public, private or voluntary sectors, having regard to the need for alternative providers to challenge existing providers and tackle failing services;
- ensure that terms and conditions of staff are fair, both in terms of the work being done and incentives for better performance and, where there is evidence of a two-tier workforce, to propose effective remedies;
- consider how staff can be fully involved in best value;
- review the scope for providing incentives to managers and employees in the public sector.

The Best Value Review Group reported in May 2002. The review confirmed a number of the Taskforce's findings, including a recognition of the capacity problems that prevent some local authorities taking a strategic approach to procurement.

STRATEGIC PARTNERING TASKFORCE

In May 2001 DETR announced a two-year research and development programme into strategic service-delivery partnerships in local government. A Strategic Partnering Taskforce (SPT), drawing on local government and private sector expertise, has been brought together to deliver the programme. An advisory board provides advice and strategic direction for the programme.

The main aims of the programme are to:

- learn the lessons from existing strategic partnering arrangements;
- identify the critical success factors for the development of strategic partnering;
- disseminate practical knowledge and advice on implementing strategic service delivery partnerships to the wider local government community;
- facilitate the growth of strategic partnering by undertaking R&D work which will build supply and demand capacity;
- help and assist authorities in identifying their business needs and developing their own service delivery partnerships where appropriate to do so.

Twenty-four pathfinder projects were announced in February 2002. The SPT provides direct support to these projects through one-to-one mentoring, training and development modules and project health checks. Networking and collaboration are promoted.

Good practice will be disseminated in a variety of ways, including management toolkits. Service delivery models and option appraisal methods are an early focus for guidance, reflecting the outcome of the Review of Best Value.

SUSTAINABLE PROCUREMENT

On 24 October 2001, Margaret Beckett, Secretary of State for the Department of the Environment, Food and Rural Affairs (DEFRA) announced that a cross-Whitehall Sustainable Procurement Group would be established to develop recommendations on the procurement of sustainable goods and services within the framework of the EC public procurement rules.

This group is chaired by Claire Poulter, Deputy Chief Executive of OGCBuying.solutions and involves senior officials from across central government. It will initially look at central government departments and executive agencies. The ODPM and LGA will ensure that links are made to the local government procurement agenda and that local government's experience of green procurement is fed in.

SUPPORT FOR PROCUREMENT

In January 2002, the LGA initiated a joint review with the Improvement and Development Agency (IDeA) and the Public Private Partnerships Programme (4Ps) of the role of those bodies in supporting local authority procurement, to ensure an effective response to the Taskforce recommendations and the Local Government White Paper. The review reported in May 2002. Acting on its recommendations, the IDeA and 4Ps, working closely with Office of Government Commerce and Partnerships UK, are co-operating to provide integrated support to local authorities, particularly on major projects and to ensure that the expertise of the 4Ps is applied across a wider remit than PFI projects alone.

BEST VALUE AND PROCUREMENT

In this response 'procurement' is used to mean 'the acquisition of goods, works and services from third parties', in accordance with the definition used across Government.

Procurement in local government must be set in the broader context of best value. Local authorities have a duty to secure continuous improvement in the way they exercise their functions, including through reviews that consider alternative options for securing their objectives and then to choose those most likely to deliver best value. Every review involves a decision whether the local authority will itself provide the relevant goods, works or services or procure them from another provider. This choice is often referred to as the 'make or buy' decision, although the range of options available is often much more complex.

Best value implies that an authority must consider, in relation to all its activities, whether procurement rather than provision is the best value choice for securing its objectives. It also implies that authorities should begin every procurement by considering whether its approach – both the proposed specification and the proposed procurement method – can be justified by reference to best value. This does not mean that every procurement should be preceded by a best value review, although this may be appropriate before the procurement of major projects or services. It does mean that every authority should ensure that its approach to procurement complies with best value principles, if necessary by carrying out a best value review.

Lessons from the first two years of best value are reflected in the White Paper and in the findings of the Best Value Review work by the Audit Commission and others. They point to a need to improve best value processes in five key areas:

- **to ensure that local authorities align best value reviews with strategic priorities and the key areas for improvement identified through CPA.** As the pattern of best value reviews in the first year of best value became clear, DTLR, the Audit Commission, the LGA and IDeA all advised authorities to go for fewer, more strategic reviews focused on the authorities priorities for improvement. This advice stands and will be reinforced by the action plans agreed through CPA.
- **to focus best value on improving services and outcomes.** The focus of best value was always intended to be on improving services and outcomes for local people. But too often best value reviews have been processes to justify the status quo rather than focusing attention on priorities for improvement. Evidence from the Audit Commission suggests that in too many cases authorities have only looked at whether to tender or re-tender the existing service rather than focusing on how the service needed to be improved. This has often been associated with a narrow focus on cost in procurement at the expense of quality.

- **to strengthen challenge by requiring external involvement in best value reviews.** Both the White Paper and the Best Value Review point to a need to help authorities identify opportunities for improvement and new options for service delivery by strengthening challenge in best value reviews. Many authorities already involve third parties in best value reviews whether from other authorities or local public, private or voluntary organisations. The Best Value Review highlighted the valuable skills that the voluntary sector can bring to partnerships. Stronger challenge will help to highlight the broader range of options that may be available for the delivery of given services.

The Government is also acting to:

- provide new opportunities for authorities to develop their in-house provision through legislation to provide greater freedom for capital investment and new rules to allow authorities to take on work for others where they can demonstrate that they are competent to do so;
- use powers under s16 of the Local Government Act 1999 to remove legal obstacles to joint working between public sector bodies and with others.
- **to ensure that authorities have access to the expertise needed to make informed choices among options.** The Best Value Review strengthening the procurement capacity of local authorities is a key theme of the Taskforce report and of Chapter 5 of the White Paper. Proposals for achieving this are a central concern of this response.
- **to build in workforce issues throughout best value and procurement processes.** A key recommendation of the Best Value Review is that staff and union involvement in best value should be mainstreamed and not seen as a discrete element. Consultation with key stakeholders, including staff and trade unions, should begin at an early stage, when options for improvement are being generated and before the options are narrowed down. This can ensure that better decisions are made and increase understanding and acceptance of such decisions. A well-motivated and appropriately-skilled workforce is as crucial to the delivery of services procured from a third party as those provided directly by an authority. In response to concerns raised in the Review about the growth of a 'two-tier' workforce, the Government has agreed a package of measures designed to ensure that all providers of local government services have employment practices which will secure a quality workforce over the life of a contract. The Government will draw up a Code of Practice on the treatment of new staff joining outsourced services, to be included in contracts and supported by new statutory guidance. The statutory guidance will also be revised to ensure that staff and recognised trade unions are appropriately involved in best value and procurement processes.

Structure of this Response

For the purposes of this response, Taskforce recommendations directed to local authorities are considered in Chapter 2 under the same headings used in *Delivering Better Services for Citizens*:

Responses to Recommendations		
Subject/Heading	Recommendation	Page ref
The procurement function within an authority	1-11, 14 & 17	15-21
Making markets work better	21, 23 & 24	22-23
Tender design, tender evaluation and contract management	25, 27-28, 30-34 & 38	23-27
Recommendations on capacity-building measures directed to the Government, LGA and central bodies are considered separately in the final section of Chapter 2 – <i>Actions at a national level</i>	12-13, 15-16, 18-20, 22, 26, 29, 35-37 & 39	28-33

Finally, Chapter 3 outlines practical next steps towards a national strategy for local government procurement.

CHAPTER 2

Joint Response to the Taskforce Recommendations

The procurement function within an authority

ALIGNING PROCUREMENT AND BEST VALUE

Recommendation 1

Procurement expertise should be integrated into best value reviews and represented in every local authority on the body which oversees best value.

We signalled in our interim response that councils should act immediately on this recommendation.

Procurement know-how has a critical role to play in best value reviews and must be brought to bear at an early stage. This does not imply that the result of every review will be the procurement of goods or services from a third party. Instead this recommendation recognises that key stages of any best value review need to be informed by procurement best practice. For example, good market intelligence is vital to help authorities identify possible options for future service delivery. Expertise in risk assessment and procurement is essential to the effective evaluation of options.

Corporate procurement teams (see Recommendation 5), where they exist, can be an important source of this know-how. Further consideration needs to be given to support for smaller councils (see Section 3).

We agree with the Taskforce that early involvement of procurement expertise can be facilitated by representation of the procurement function on any body charged with management of the fundamental review programme or performance management more generally.

Recommendation 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.

We have already endorsed this central recommendation for immediate action. Comprehensive performance assessment will check whether an authority is clear about its strategic objectives and priorities for improvement and the extent to which resources and processes are focused on their delivery. It should help to ensure that every authority

approaches best value reviews in the spirit of this recommendation. The message that best value reviews should be strategic and outcome-focused and include an effective challenge to current service delivery methods will be reinforced in the new best value guidance to be issued by ODPM.

Recommendation 3

Local authorities should adopt policies which ensure the effective involvement of staff in service reviews and in the procurement process.

The Government and LGA lent support to this recommendation in the interim response.

Working Together for Best Value: promoting employee and trade union involvement, published jointly by the IDeA, Employers Organisation, Local Government Information Unit, Association for Public Service Excellence, Unison, TGWU and GMB, provides detailed guidance on staff and union involvement in best value. Staff and union involvement was also considered in the Review of Best Value and the conclusions will be reflected in the new best value guidance.

DEVELOPING A CORPORATE PROCUREMENT FUNCTION

Recommendation 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.

With more than 50% of councils' current spending going to external providers of goods, works and services, it is self-evident that each authority needs a clear policy on how procurement is to be used.

In DETR Circular 10/99, the Government set out certain matters to be addressed by councils in their corporate procurement strategies, policy on competitiveness and methodologies for option appraisal and tender evaluation. It continues to be necessary for these issues to be addressed but this is not the sole purpose of a procurement strategy.

The corporate procurement strategy should identify how the authority will set about obtaining best value from all its procurement expenditure, including supplies and construction projects as well as services and should describe how procurement will contribute to the delivery of the community strategy, performance plan and other corporate and service strategies. It should reference key procurement policies.

We agree with the Taskforce that the corporate procurement strategy should be a succinct, strategic document. As the Audit Commission commented in *Competitive Procurement*, the procurement strategy is not the place for procedural guidance. That should be set out in financial regulations and contract standing orders and supported by codes of practice (e.g. on procurement and the management of reviews).

Based on a portfolio analysis (see Recommendation 8) the corporate procurement strategy should identify, in particular, the council's strategy with regard to high value/high risk projects (where partnering should be considered) and its strategy for low value/low risk requirements (where e-procurement can have a significant impact).

We also concur with the Taskforce on the need for better procurement planning in local government and better information for suppliers. All authorities should have a register of current contracts and a schedule of contracts planned to be awarded over the next three years. The purpose of the register is:

- to enable councils to adopt a strategic approach to the resourcing and management of procurement projects;
- to alert potential suppliers to bidding opportunities.

To be useful the register must be continually updated. This is best achieved by maintaining it in electronic form. Councils should publish a 'how to do business with the council' guide on the council website alongside the register.

Recommendation 5

Local authorities should develop a corporate procurement function to collect information, oversee devolved buying, co-ordinate training and act as an internal source of expertise.

We support this recommendation. Our expectation is that all unitary and county councils will establish a corporate procurement team led by the professional head of the procurement function.

This will be a strategic function along with finance, performance management, legal and HR. The aim is not to centralise all procurement. The objective is to create a centre of expertise in procurement in each council and a focus on the strategic management of procurement and partnerships.

It is essential that corporate procurement teams are developed to provide best practice advice and support for the management of major procurement projects alongside expertise in buying.

Recommendation 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.

We acknowledge that smaller councils may lack the resources to create a corporate procurement team and we endorse the recommendation that they collaborate to share resources.

We welcome the steps taken by some larger authorities to offer their expertise to other councils and by some groups of authorities to explore the feasibility of jointly establishing a source of procurement expertise. We will take early action to evaluate these approaches and make recommendations on the most appropriate forms of support for small councils. In particular we will look at the proposal to create regional centres of excellence in procurement while recognising that a single approach is unlikely to fit all circumstances.

REVIEWING CURRENT PRACTICE

Recommendation 7

Local authorities should review their procurement structures and processes as part of the best value review programme.

In our interim statement of support we encouraged local authorities to take action on this recommendation.

Comprehensive performance assessment will consider the adequacy of procurement structures and processes. Where these are found to be weak authorities will be expected – and in some cases required – to take early action to tackle the shortcomings identified.

Recommendation 8

Local authorities should, at an early stage, map their procurement activities using techniques such as 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.

We endorse the use of procurement ‘portfolio analysis’ of the type recommended by the Taskforce as part of the development of a corporate procurement strategy (see Recommendation 4) and as an integral part of any fundamental review. Our interim statement of support recommended that authorities adopt this approach.

Recommendation 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.

Framework agreements and invoice consolidation are recognised best practices. The Government and LGA agree that there are significant benefits to be obtained by councils that have not already adopted such practices including reduced prices, better terms, lower transaction costs and improved quality.

The objection is sometimes raised that corporate arrangements unduly restrict customer choice or that they create delays that impact on service delivery. We believe that these concerns can be addressed by a procurement process that builds in effective stakeholder consultation from the outset and through the introduction of electronic procurement (see Recommendations 17 and 19).

ENGAGING MEMBERS

Recommendation 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.

The Government and LGA see this as a priority recommendation and we recommended in our interim statement that councils take immediate action on it.

It is our view that procurement and partnering are ultimately responsibilities of the executive and must be recognised as such. Executive members need to be familiar with current best practices in procurement and partnering and how these differ from CCT. They also need to be equipped with the knowledge necessary to hold officers managing procurement projects and partnerships to account and the skills necessary to manage relationships with external partners. Members serving on scrutiny committees will also need to have sufficient familiarity with these issues to carry out their role effectively.

The essential first step is to establish the competencies that members require to perform their roles in procurement and relationship management. Development needs can then be assessed and appropriate training commissioned. The IDeA and EO are working with others to produce clear procurement competency frameworks.

IMPROVING REGULATIONS

Recommendation 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.

We support this recommendation.

Recommendation 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.

See – Actions at a national level – page 28.

Recommendation 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.

See – Actions at a national level – page 28.

BUILDING CAPABILITY

Recommendation 14

Local authorities 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.

Mapping of procurement and contract management processes will identify all member and officer roles. Where necessary, this map needs to be generated as part of the best value review (Recommendation 7). The next step is to assess the development needs of people in each role against a competency framework. A procurement competency framework is one of a set being developed by the EO and IDeA. Appropriate training can then be commissioned.

We believe that procurement training and development for members and officers must be prioritised in corporate training strategies and programmes.

Recommendation 15

The Improvement and 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).

See – Actions at a national level – page 28.

Recommendation 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.

See – Actions at a national level – page 28.

USING E-PROCUREMENT

Recommendation 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.

We have already encouraged councils to make progress in this area. Electronic procurement has a particularly important role to play in relation to low value/low risk (but high volume) requirements.

The critical role of e-procurement should be identified in corporate procurement strategies, supported by a more detailed e-procurement strategy and implementation plan.

DTLR provided financial support to three e-procurement pathfinders (Huntingdonshire, Leeds and Newham) as part of the Local Government Online pathfinder programme. The Department's consultation paper on a national strategy for local e-government, *e-gov@local*, confirms that e-procurement is a priority and that further work will be supported. The aim is that all councils have access, at the earliest possible date, to the considerable financial benefits that simple and effective e-procurement solutions and supply chain management can bring.

The IDeA has developed IDeA Marketplace as a commercial service to provide a one-stop electronic shopping mall and e-procurement service specifically to meet the needs of local authorities.

FUNDING IMPROVEMENT

Recommendation 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.

See – *Actions at a national level* – page 28.

Recommendation 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.

See – *Actions at a national level* – page 28.

Making markets work better

GATHERING AND SHARING INFORMATION

Recommendation 20

Local authorities should identify the information they need about the markets for local authority goods, works and services. The LGA, together with IDeA and the 4Ps, should lead in devising better systems of information.

See – Actions at a national level – page 28.

Recommendation 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.

We believe that councils need to adopt an active approach to supplier management. The provision of better information to the supplier community is an important part of this. For this reason our interim statement indicated our support for Recommendation 21.

Our response to the Taskforce's recommendations on procurement strategy and procurement planning is set out under Recommendation 4 above. We indicated that councils should prepare a 'how to do business with the council' guide and publish it, including on the council's website, alongside a register of current contracts and a schedule of contracts to be awarded over the coming period. This should help small and medium sized enterprises (SMEs) in particular to bid for appropriate contracts.

We further believe that a 'prospectus' should be issued at an early stage in every major procurement project (for example, at the pre-qualification stage) setting out the background to the project, the council's objectives and an outline of the procurement process and timetable.

DISCUSSING AND RESOLVING MARKET ISSUES

Recommendation 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.

See – Actions at a national level – page 28.

BUYING CONSORTIA

Recommendation 23

Buying consortia should publish annual accounts and performance information which is sufficient to allow local authorities to make informed decisions.

We will look into the potential benefits to be obtained from the adoption of a common set of performance indicators for the procurement function in local government. These might include the ability to benchmark and to target improvements. Such benefits would not be confined to purchasing consortia.

We will invite the Audit Commission to publish an appropriate set of indicators, initially within the Library of Local Performance Indicators, as part of the Commission's contribution to the national strategy for local government procurement (see Section 3).

Recommendation 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 the needs of smaller councils.

We support collaboration among councils in the field of procurement and wish to encourage it. In particular, we wish to promote collaboration on major projects – the area in which it is least well established. A collaborative approach to procurement should be a consideration in every fundamental review.

The publication of a common set of performance indicators (see Recommendation 23) could make it easier to assess whether purchasing consortia offer best value.

We concur with the Taskforce that, in this competitive environment, purchasing consortia would be advised to review their business plans and their relationships with key stakeholders. In particular, they should consider whether and to what extent they can support collaboration among authorities on major projects.

Tender design, tender evaluation and contract management

DESIGNING AND PLANNING A PROJECT

Recommendation 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 time for their completion.

A structured approach to project management and associated risk management is critical to the success of major projects.

Every council's approach to procurement should require that all major procurement projects are managed in accordance with corporate procedures. The council's policy should be included in the corporate procurement strategy (see Recommendation 4).

Appropriate project management procedures (based on the PRINCE2 method) should be set out in a corporate project management handbook or in the council's procurement code of practice. Councils also need to consider the need to systematically manage programmes or series of projects linked together. The OGC has produced *Managing Successful Programmes* as guidance in this area.

Recommendation 26

The LGA and ODPM 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.

See – *Actions at a national level* – page 28.

Recommendation 27

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

The Government recognised the potential value of standard core contract documentation in the Local Government White Paper. Standardisation can bring down transaction costs for both councils and suppliers bidding for work and it can aid learning. However when standard documentation is produced, it needs to be targeted on specific areas with clear guidance as to its use. The Local Government Procurement Forum will give early consideration to this issue.

We also support the development of common pre-qualification standards particularly in the areas of health and safety, equal opportunities and HR practices. The Employer's Organisation will lead on the standardisation of pre-qualification procedures in the HR area.

Our support for electronic procurement was signalled in the response to Recommendations 17 and 19.

MANAGING RISK

Recommendation 28

Each local authority should develop a corporate strategy for managing risk which recognises the trade-off between risk and reward. That strategy should be applied to individual procurement decisions.

Risk management is a central plank of corporate governance and as such will be considered as part of the CPA process. It is critical that the corporate framework includes appropriate risk management disciplines at the programme and project levels.

As mentioned under Recommendation 25, best practice risk management routines should be built into the council's project management procedures.

Recommendation 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.

See – *Actions at a national level* – page 28.

ASSESSING BIDS

Recommendation 30

Local authorities, with the support of 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.

The Government's definition of 'value for money' in the context of procurement is 'the optimum combination of whole-life cost and quality (or fitness for purpose) to meet the user's requirement'. This approach permits sustainability to be taken into account as well as quality.

In order to establish which tender represents best value in this sense councils need to construct an appropriate evaluation model. The evaluation model should be developed before tenders are invited and should be made available to bidders. The model should not be altered during the procurement process.

In our interim statement we indicated our endorsement of this approach. IDeA and 4Ps will produce best practice guidance including appropriate evaluation models, as part of their contribution to the national strategy for local government procurement (see Section 3).

CONTRACT MANAGEMENT

Recommendation 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 manager. Whenever possible, client managers should be party to the negotiation of the contract. The skills needed by the client managers should be discussed with potential service providers.

We agree with the Taskforce that arrangements for contract management must be considered at an early stage in the procurement process.

This includes consideration of the development needs of service managers and the availability of appropriately trained contract management staff.

The training and development needs of service managers and contract management staff need to be considered as part of the process described under Recommendation 14.

The council's project management procedures should provide for the inclusion of service managers from the client department in project teams and negotiating teams.

Recommendation 32

Suppliers should provide managers who are experienced or trained to understand the local authority environment.

Within the framework of the local government procurement forum (see Section 3) we will discuss with the supplier community how essential information about the structure, legal, financial and operational environment of councils and their drivers and constraints can best be communicated to operational managers within supplier organisations. This could include secondment as well as professional development.

Recommendation 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.

We supported this recommendation in our interim response. Best practice guidance on open book will be generated by the Strategic Partnering Taskforce as part of the strategic partnering programme (see Section 3).

Recommendation 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.

Within the framework of the local government procurement forum (see Section 3) we will explore with the supplier community the scope for the sharing of comparative performance information.

APPLYING AND IMPROVING LEGISLATION

Recommendation 35

Government should give a clear lead on how intelligent procurement might be achieved within the European public procurement rules.

See – Actions at a national level – page 28.

Recommendation 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.

See – Actions at a national level – page 28.

Recommendation 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.

See – Actions at a national level – page 28.

Recommendation 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.

In our interim response we endorsed this recommendation for action by councils. Following the Secretary of State's Review of Best Value, the Government has agreed a package of measures designed to ensure that all providers of local government services have employment practices which will secure a quality workforce over the life of a contract.

The government will draw up a Code of Practice on the treatment of new staff joining outsourced services, to be included in contracts and supported by new statutory guidance. The statutory guidance will also be revised to ensure that staff and recognised trade unions are appropriately involved in best value and procurement processes.

The best value guidance will also be revised to reflect the conclusions of the Review of Best Value.

Local authority practices in this area will be examined as part of the CPA process introduced by the White Paper.

Recommendation 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.

See – Actions at a national level – page 28.

Actions at a national level

The procurement function within an authority

IMPROVING REGULATIONS

Recommendation 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.

The Audit Commission has declared its commitment to encouraging auditors to respond constructively and positively to Modernising Government initiatives and support worthwhile change. This pledge has been laid out through the Public Audit Forum's statement in the Modernising Government White Paper.

As part of this commitment, in June 2001 the Commission issued guidance to its auditors and inspectors on local government procurement in a best value framework. This was followed by a series of workshops with auditors across the country to discuss the audit implications of key developments in procurement. Procurement issues were also discussed at a series of updates held for inspectors. These training events are part of the regular liaison that the Commission has with auditors and inspectors, which will continue to identify and discuss procurement issues.

The Commission is also committed to collating evidence provided by its auditors and inspectors to identify and disseminate good practice to authorities. It has published a series of 'Learning from Inspection' and 'AC Knowledge' papers which draw on the Commission's work in audit, inspection and research.

In *Competitive Procurement*, a volume in the AC Knowledge series, the Commission uses recent work by auditors and inspectors to review the progress made by authorities in making procurement more effective. A strategic approach is one of the foundations for effective procurement and the review looks at achievements to date.

The Commission will continue to bring together the results of the audits of Best Value Performance Plans, Best Value inspections and CPA assessments and to feed back lessons and observations.

Recommendation 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.

The guidance on procurement issued by the Audit Commission to auditors and inspectors in June 2001 considered the different roles of each in the effective scrutiny of service provision arrangements.

In its 2001 strategy consultation, *Delivering Improvement Together*, the Commission recognised stakeholders' concerns about better co-ordination of audit and inspection activities and sets out how the Commission would address them. Further details were included in the Commission's 2001 best value annual report, *Changing Gear*. The AC Knowledge paper *Competitive Procurement* addressed how greater co-ordination might impact on the review of approaches to procurement taken by authorities.

BUILDING CAPABILITY**Recommendation 15**

The Improvement and 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 (SOPOL). This should build on the work done by the Office of Government Commerce (OGC).

Our approach to training and development is set out in our responses to Recommendations 14 and 31. Our initial focus is on the development of appropriate competency frameworks for procurement professionals and all members and officers with a role in procurement and contract management. These competency frameworks will enable councils to assess training and development needs and provide or commission appropriate training.

The Employers Organisation for Local Government will lead the development of the competency frameworks in conjunction with IDeA, the 4Ps, the procurement professional bodies and OGC and in consultation with the members of the local government procurement forum (see Section 3). This will form part of a comprehensive 'people strategy' for procurement, aimed at the development of a Local Government Procurement Service on a par with the Government Procurement Service created after the 1995 White Paper *Setting New Standards*. The strategy will map existing sources of supply for procurement training identifying any gaps and encompass career development, recruitment and retention issues.

Recommendation 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.

The Government and the LGA are currently undertaking a wide-ranging review of support for councils and training for councillors and council staff in the context of the current spending review. A capacity building strategy will be published later this year. This will look to make the

best use of scarce skills and facilitate the effective exchange of good practice between local authorities and between local authorities and other organisations. In the context of this strategy, the Local Government Procurement Forum will give detailed consideration to the development of appropriate training programmes, building as appropriate on the competency frameworks whose development is being led by the Employers Organisation.

FUNDING IMPROVEMENT

Recommendation 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.

This recommendation is being considered as part of the review of the support available for councils in the current spending review (see Recommendation 16). Its implications are also being considered in the course of the major review of the overall revenue and capital finance systems announced in December's local government White Paper. Councils that can show a good track record and capacity to use them will be given additional freedoms and flexibility over resources. In addition this exercise will look at the longer term financial arrangements for encouraging authorities to explore PFI and other forms of partnership.

Recommendation 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.

The Local Government Online programme has allocated £25 million to pathfinder projects. As mentioned under Recommendation 17, this included e-procurement pathfinders in Huntingdonshire, Leeds and Newham. The Department's consultation paper on a national strategy for local e-government in April 2002 (*e-gov@local*) indicates that e-procurement continues to be a priority for the Government.

Making markets work better

GATHERING AND SHARING INFORMATION

Recommendation 20

Local authorities should identify the information they need about the markets for local authority goods, works and services. The LGA, together with IDeA and the 4Ps, should lead in devising better systems of information.

We recognise that both councils and suppliers would benefit from better market knowledge. The development of an effective national strategy for local government procurement will also depend on it.

Information derived from councils' registers of current contracts and schedules of contracts to be awarded could contribute to a comprehensive market intelligence database.

We will examine how the market intelligence needs of councils and suppliers, including SMEs, can best be met within the local government procurement forum (see Section 3).

Discussing and resolving market issues

Recommendation 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.

The Government and LGA recognise the need for a high-level body to oversee the development and implementation of a national strategy for local government procurement. Our proposals for the establishment of a local government procurement forum under the auspices of the Central-Local Partnership are set out in Section 3.

Tender design, tender evaluation and contract management

DESIGNING AND PLANNING A PROJECT

Recommendation 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.

This recommendation is supported. OGC has carefully developed this process for central government over the last two years and the Strategic Partnering Taskforce is also using a similar process in its local authority pathfinder programme. The 4Ps is exploring options for a voluntary gateway process for PFI projects. We will work with these organisations and use this existing work to help develop a model for gateway reviews appropriate to local government and explore how best to apply this model more widely in local government.

MANAGING RISK

Recommendation 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.

The Commission recognised the importance to councils of risk assessment and risk management in its management paper *Worth the Risk – Improving Risk Management in Local Government*. The aim of the paper is to help councils improve the way in which they identify, evaluate and manage significant risks.

A constructive approach to risk is a key element of effective procurement. *Competitive Procurement* reviews councils' attitudes towards risk in considering service delivery options.

In order to support councils in moving towards a more constructive approach to risk when considering service delivery models, *Competitive Procurement* discussed the nature of some of the risks and how councils can best approach managing them.

In tandem with encouraging councils to review their approach to risk, the Commission continues to emphasise the importance of risk assessment to auditors and inspectors. A national risk assessment tool has been developed for auditors, which enables their annual local risk assessments to be placed within a national context.

APPLYING AND IMPROVING LEGISLATION

Recommendation 35

Government should give a clear lead on how intelligent procurement might be achieved within the European public procurement rules.

Based on OGC guidelines, ODPM issues guidance to local authorities on the application of European public procurement rules.

It is for each local authority to take legal advice on compliance with the rules. However, the Government and LGA have agreed that practical advice on procurement within the framework of the European rules will be provided by the IDeA through its procurement advisory service.

Recommendation 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.

Political agreement at European level has been reached on a package of amendments to the public procurement directives. Reflecting the concerns expressed by the UK government and many local authorities, the new directives will be clearer on how environmental issues can be taken into account in public procurement. They will also include clearer rules on electronic procurement (including 'reverse auctions'), framework

agreements and group purchasing (including consortia). A new, more flexible contract award procedure for complex contracts known as 'competitive dialogue' will be introduced.

Recommendation 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.

The Consultation Paper, *Working with Others to Achieve Best Value: A Consultation Paper on Changes to the Legal Framework to Facilitate Partnership Working* was published on 29 March 2001. The Consultation Paper contained proposals for the use of powers in Section 16 of the *Local Government Act 1999* to provide new and amended powers to promote and facilitate the achievement of best value through partnership working. The proposals in the Consultation Paper were designed to remove legal barriers to innovative partnership working with the private, voluntary, social enterprise and public sectors under Best Value.

The Paper proposed new powers to encourage joint working and to create new structures. It also proposed to extend the circumstances under which Best Value authorities could provide goods and services to others. The Local Government White Paper (December 2001) proposed wider trading powers, but more narrowly targeted at those who could use them effectively. All councils would be able to trade in any service in which they had demonstrated a strong performance on delivery. High performing councils would have freedom to trade across the full range of their services. In addition, the White Paper said that the Government will give authorities the power to charge an appropriate fee for providing discretionary services.

Recommendation 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.

The Government has recently carried out public consultation on a package of proposals for reform of the TUPE Regulations. One of these proposals was to make the operation of the Regulations clearer and more effective in circumstances where service contracts change hands. Ministers are currently considering the outcome of the consultation and will keep under review the operation of all employment rights legislation.

On 29 March 2002, the Secretary of State announced, as part of the Review of Best Value, a package of measures to improve the treatment of employees working on local authority contracts. This included legislating to make statutory within local government the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector. A review and monitoring system is to be established involving local authorities, contractors and unions to ensure that these measures deliver fair terms and conditions for new recruits. We have initiated discussions on the detailed monitoring arrangements with the Employers Organisation, representative organisations for business and the relevant trades unions.

CHAPTER 3

Next Steps

Towards a national strategy for local government procurement

The Government and LGA consider that, taken together, the recommendations of the Taskforce, the work of the Strategic Partnering Taskforce, the findings of the Review of Best Value and the capacity-building proposals in the White Paper *Strong Local Leadership – Quality Public Services* constitute the necessary foundations of a national strategy to improve local government procurement.

We have decided jointly to convene a local government procurement forum under the auspices of the Central-Local Partnership to take forward the development of a national strategy. In addition to ODPM and the LGA, the forum will include representatives of –

- all government departments with an interest in local government procurement in England including HMT, the Office of Government Commerce, Cabinet Office, DfES, DoH, DTI, DEFRA, DCMS and Home Office;
- the local government central bodies including the Audit Commission, the IDeA, 4Ps, Local Government Employers Organisation and the Local Government Taskforce (*Rethinking Construction*);
- the supplier community including the Confederation of British Industry, the Business Services Association, the National Council for Voluntary Organisations, the Social Enterprise Coalition and construction industry trade bodies;
- the professional bodies with an interest in procurement including the Chartered Institute of Purchasing and Supply, the Institution of Civil Engineers, the Society of Procurement Officers, the Society of IT Managers, the Association of Directors of Social Services and the Chartered Institute of Public Finance and Accountancy;
- the public sector trades unions including UNISON, TGWU and GMB.

Roles and responsibilities

The ODPM will consult on revised best value guidance consistent with this response during the summer.

The ODPM and LGA retain overall responsibility for policy and strategy. We will ensure that the Forum gives early consideration to:

- the capacity issues faced by small councils, including an evaluation of initiatives already taken to support better procurement by small councils and the proposal to create regional centres of excellence in procurement;
- sources of market intelligence and how to ensure that it is shared to the benefit of both authorities and suppliers;
- the development of standard contract documentation;
- the development of appropriate training programmes, building as appropriate on the competency frameworks whose development is being led by the Employers Organisation.

Development and implementation of the national strategy will require inputs from all members of the forum, and collaboration in a number of key areas. This will be based on the ongoing work of the Office of Government Commerce and Partnerships UK. Organisations with a specific local government orientation will have the following key roles and responsibilities:

	SPT	IDeA	EO	4Ps	LGTF	AC
Procurement advisory services		✓		✓	✓	
Corporate procurement health checks		✓				
Project health checks	✓			✓		
Project mentoring	✓			✓		
Project networks and demonstration projects	✓			✓	✓	
Best practice guidance	✓	✓	✓	✓	✓	✓
Gateway review process	✓	✓		✓		✓
Contract standardisation	✓	✓		✓	✓	
Procurement performance indicators		✓				✓
Common KPI set for contracts	✓	✓		✓	✓	✓
Electronic commerce		✓				
Competency frameworks	✓	✓	✓	✓	✓	
Sustainable procurement		✓			✓	
Common pre-qualification standards		✓	✓		✓	
Recruitment and retention strategy		✓	✓			
Workforce issues		✓	✓			

The IDeA's focus will be on advice, best practice guidance and contract standardisation for general procurement purposes. The Agency will operate a procurement helpdesk as a single point of contact for procurement enquiries and will provide practical support to authorities on the organisation and management of procurement and contract management functions.

The emphasis of the SPT and 4Ps will be on the management of major projects, including strategic partnering and PPP. This will encompass advice, guidance, contract standardisation and practical support.

The LGTF is implementing the *Rethinking Construction* agenda in local government and further steps will be taken to integrate its work with that of the IDeA, SPT and 4Ps.

The EO will lead on the people strategy and standardisation of pre-qualification procedures in the HR area. The EO will work with the IDeA to develop a set of procurement competency frameworks.

The Audit Commission will continue to focus on risk management and the rigour of the procurement process.

We will explore the potential contribution of other members of the Forum as work on the national strategy for Local Government procurement continues.

ANNEX I

Taskforce terms of reference and membership

Terms Of Reference

To review the state of procurement and commissioning skills and practice in local government in the light of the requirements of Part 1 (Best Value) of the Local Government Act 1999, and its objective of continuous improvement in the economy, efficiency and effectiveness of local services; and to make recommendations.

Taskforce Membership

Chair	Sir Ian Byatt
Vice-chair	Sarah Wood Director of Finance and Performance Review, Birmingham CC
Members	Neil Argyle Associate Director, NHS Purchasing & Supply Agency Iain Beaton Former Assistant Chief Executive, St Helens MBC Jo Blundell Marketing Director, SERCo Government Services Gareth Davies Regional Director of District Audit, Audit Commission Ian Elliott Director of Engineering, Severn Trent Water Ltd Richard Footitt Head of Local Government Competition & Quality Division, DETR Mike Grealy Deputy Director of Local Government Finance, LGA Helen Randall Senior Solicitor, Nabarro Nathanson Tony Wiltshire Head of Procurement, Leeds City Council
Secretariat	Stephen Edwards DETR Lourdes DeBarry LGA
Research support	Demelza Birch DETR

ANNEX II

Interim statement of support

Background

In July 2000, the DETR and Local Government Association jointly commissioned a review of local government procurement in England from the independent Local Government Procurement Taskforce, chaired by Sir Ian Byatt.

The taskforce terms of reference were to review the state of procurement and commissioning skills and practice in local government in the light of the requirements of Part 1 (Best Value) of the *Local Government Act 1999* and its objective of continuous improvement in the economy, efficiency and effectiveness of local services; and to make recommendations.

Existing Legislation

Under Part 1 (Best Value) of the *Local Government Act 1999*, local authorities have the duty to choose the best value option for future service delivery. This requires a fundamental rethink about the needs that each local authority service is intended to address and the method of procurement that is used.

The DETR Circular 10/99 gives procurement guidance:

1. Authorities need to adopt a considered and far-reaching approach to the commissioning and procurement of services.
2. Authorities should have a corporate perspective that embraces a clear procurement strategy and a written policy on evaluation and appraisal.
3. Authorities should revisit their standing orders on procurement and tendering to ensure that they are consistent with the statutory provisions of the 1999 Act and the requirements of the DETR Circular 10/99.
4. Authorities should look at developing the capacity to analyse supply markets and identify what such markets can provide, to select the best suppliers, to manage new forms of relationship designed to achieve whole life value for money, and to achieve continuous improvement and the sharing of risks and rewards. Authorities should take steps to create the conditions in which new suppliers might take root or existing suppliers might become more competitive.
5. Authorities are encouraged to adopt Government statements of practice regarding staff transfers, including guidance on employees' pension entitlements.

The Byatt report provides helpful advice on how to take forward these requirements.

The Byatt Review

The review was published in June 2001. It highlights the key position of procurement in providing high quality public services to local people, with a focus on commissioning outcomes from a community perspective.

To achieve this, the taskforce addressed broad issues across local government and made 39 recommendations in line with best practice. These recommendations have been widely supported across the board: consultation indicates that local authorities, public bodies, professional organisations, trade unions, voluntary groups, and industry broadly welcome the practical approach that underpins the recommendations.

White Paper – Capacity Building

Since publication of the Byatt review, the Government has announced its intention to publish a White Paper on Local Government and undertake a short review of best value.

The White Paper on Local Government will reflect the Government's commitment to reforming public services. The conditions will be created for authorities to drive up standards through greater freedoms and enhanced local democracy. This will further empower local authorities to be confident and effective in leading their communities.

As part of this, the White Paper will explain the way in which capacity issues in local government are to be addressed as part of the 2002 Spending Review, and in particular Byatt's concern for the quality of commissioning and procurement skills. The White Paper will be followed by a detailed response to the Byatt review of local government procurement in England.

Current Actions

In the meantime, central and local government are working together on various projects to advance good procurement practice. These include:

- (i) Government is providing £25m of funding for an e-government pathfinder programme. As part of this, 3 local authorities are carrying out pioneering work on e-procurement: Huntingdonshire District Council is building a fully replicable e-procurement model for local authorities; Leeds City Council is following a three year strategy for the development and implementation of e-procurement; and London Borough of Newham is developing e-payment and e-procurement and an interface into back office accounting systems. The pathfinders have a requirement to disseminate their learning and information.
- (ii) The drive to develop e-governance is encouraging joint-working amongst local authorities. Evidence from authorities' Implementing Electronic Government statements submitted in July suggest that 90% of councils are planning to deliver e-government in partnership with other local authorities, and 60% plan to work with private sector partners.

- (iii) The DTLR published a consultation paper in March 2001 on reforming the statutory framework for partnership working (rec. 37). This looked at proposals to use Section 16 of the Local Government Act 1999 to facilitate partnership working between best value authorities and others in the public, private and voluntary sectors. The consultation period ended on 25 May and the Department received about 123 responses from a wide range of organisations. Analysis of the responses has been completed and the Department is now drafting the necessary Orders and Guidance (to accompany the Orders) with a view to laying these before Parliament later in the year.
- (iv) Joint action between central and local government is now evident on a number of fronts. The Office of Government Commerce (OGC) has been working with the Central Buying Consortium to develop and transfer experience of procurement skills training; increasingly contracts and frameworks negotiated by central government are being made accessible to local authorities; and a wide range of OGC advice and best practice guidance is available to local government procurement teams. Regular liaison between OGC and the Society of Procurement Officers in local government (SOPO) is also instrumental in promoting good exchange of information and intelligence.
- (v) The DTLR have established a new Taskforce – the Strategic Partnering Taskforce – to support local authorities in developing new and innovative forms of Strategic Service-delivery Partnerships (SSPs) which will reflect the more strategic approach to local service delivery given by Best Value. The Taskforce is made up of secondees from the public and private sectors with direct project management, financial and legal experience.
- (vi) The Improvement and Development Agency (IDeA) has created a Procurement Advisory Service including a helpdesk and website (see sources of information below) to help local authorities with best value procurement. The Service receives over 70 enquiries from local authorities each week. Regional and county-level workshops on the management of procurement under best value have been delivered to all Welsh authorities and some 80% of English authorities.
- (vii) The Public Private Partnerships Programme (4Ps) is developing a suite of procurement packs for PFI/PPPs covering leisure, transport, housing and education. On behalf of DTLR and OGC, the 4Ps has also produced a local government supplement to the General Guidance for the Standardisation of PFI Contracts which covers the application of best value to PFI/ PPPs.
- (viii) The IDeA and the Employers' Organisation (EO) are collaborating on the development of training and development programmes for procurement and contract management. The EO has agreed to fund a study which will map and evaluate existing training provision and identify training needs.
- (ix) The EO also promotes initiatives to create or support common standards and schemes so that contractors wishing to be considered by a number of authorities need only to prequalify once. As part of this, the EO has been involved in developing consortia for prequalifying contractors on equalities. This work aims to reduce the burden on both suppliers and local authorities.

- (x) The Confederation of British Industry (CBI), contractors' representatives, the LGA, the Employers' Organisation (EO) and the three main unions have been working together on workforce matters in procurement. The Social Partners are holding two roadshows on the use of the new workforce provisions, at which the DTLR will participate.

What Can Be Done Now?

In the meantime, there are examples of current good practice recommended by Byatt which we urge all authorities to adopt, if they have not already done so. These include:

- (i) the integration of procurement expertise into best value reviews (rec.1);
- (ii) a strategic role for elected members and scrutiny of procurement processes (rec.10);
- (iii) review of standing orders to promote efficient and effective procurement (rec.11);
- (iv) increased use of simple forms of e-procurement such as purchasing cards and BACS payments (rec.17).

In all, we recommend that authorities immediately act on the following Recommendations in the report: 1, 2, 3, 7, 8, 9, 10, 11, 14, 17, 25 and 38.

Suppliers are also encouraged make progress in implementing Recommendations 33 and 34 on open book accounting and the publication of performance data.

Suppliers and local authorities should already be following Recommendation 39 and making the best use of statutory and non-statutory arrangements to protect staff interests.

In addition, some of the recommendations in the report touch on more advanced or stretching good practice which not all authorities may feel able to tackle immediately. For example:

- (i) the production of a prospectus for suppliers (rec.21);
- (ii) the rationalisation of procurement processes by using common documents and pre-qualification processes (rec.27);
- (iii) the development of evaluation criteria which incorporate quality and whole life costs (rec.30).

It is our view that all authorities should ultimately implement these proposals for advanced good practice. To support this, the DTLR and the LGA will commission and publish detailed guidance on improving local authority procurement.

Sources of Information

Supporting information and advice on procurement is already available to authorities through:

1. A procurement toolkit covering the basics, know-how and services is available from the Improvement and Development Agency (IDeA) at www.idea.gov.uk/knowledge. This is a 'self-service' resource for local authorities which currently covers 24 topics (from procurement strategy to ICT procurement and project management/gateway reviews) and includes FAQs, case studies, glossaries and 'how to...' guides. The site provides online access to publication of notices in the EU *Official Journal* and a basic market intelligence database managed by the EO.
2. The Office of Government Commerce (OGC) which provides procurement information and news at www.ogc.gov.uk. This information covers a range of central government actions and reports. For example OGC actions on e-commerce; OGC gateway process; OGC supplier management; a Procurement Excellence Model; documents covering construction procurement, post tender negotiation, supply and service agreements with agencies, and measuring performance in purchasing; HM Treasury procurement policy guidelines with data on technical specifications and the Treasury and DETR guide to environmental procurement.
3. Private Finance Initiative (PFI) procurement know-how is provided by the 4Ps at <http://www.4ps.co.uk/knowhow/procure.htm>. This covers various areas including FAQs, contractual issues, accounting issues, and the procurement process. The latter gives a step by step guide and information on option appraisal and the outline business case, the project review team, output specifications for PFI projects, and the criteria for allocating PFI credits.
4. The Society of Procurement Officers (SOPO) provides procurement information, including advice on developing procurement strategies at www.sopo.org. This website compiles relevant reports, publications and guidance from various bodies including information on effective procurement for best value, and business information publications.
5. Nabarro Nathanson Public Sector *Preparation for Procurement* (July 2001) available at www.local-regions.odpm.gov.uk/consult/procure/preproc/index.htm. This paper is an official annex to the report 'Delivering Better Services for Citizens'. It offers advice on the main issues which need to be addressed before letting a contract, including external and internal consultation, preparation for transfer of employees, transfer of land/ property, transfer of assets, and the procurement process.
6. Information on the support available to authorities from the Strategic Partnering Taskforce is available on: www.local-regions.odpm.gov.uk/ssdp/research/index.htm. The taskforce is part of a government Research and Development programme looking to learn the lessons from existing strategic partnering arrangements, disseminate practical knowledge and advice, and help and assist authorities in developing their own strategic service delivery partnerships where it is appropriate to do so.

NOTES TO EDITORS

1. The Byatt review of local government procurement in England is available on the ODPM website at:
<http://www.local-regions.odpm.gov.uk/consult/betterservices/index.htm>
2. Further information on the forthcoming Local Government White Paper is given in DTLR Press Notice 313
3. Further information on the short review of the Local Government best value regime is given in DTLR Press Notice 407.

