

NAO Procurement Policy 2013

Purpose of the Procurement Policy

The procurement policy aims to “*help the NAO spend wisely*” by:

- Protecting the NAO from poor contracting decisions, eg decisions which result in non-delivery, low quality and low value for money (vfm) etc.
- Maximising vfm, reducing costs in what and how we buy, including:
 - Deploying maximum competition sourcing strategies which:
 - ensure **no** high reputational risk contract awards to predetermined suppliers (eg “trusted brand name” companies)
 - encourage supplier innovation
 - Optimal use of public sector Framework Agreements and centralised contracts
- Protecting NAO reputation through adopting good governance “practicing what we preach” culture in all procurement-related activities ie:
 - Adopting recognised good practices
 - Complying with UK and EU procurement legislation
- Embedding good practices throughout the 4 main phases of the procurement lifecycle eg:
 - Standard documentation and processes,
 - NAO and public sector Framework Agreements
 - Electronic tendering and evaluation
 - Procurement cards etc where possible
- Guiding and supporting:
 - Decision-making, including provision of relevant and accurate management information
 - Effective contract management, using recognised project, contract management and relationship management techniques
- Reinforcing optimum use of:
 - Standard terms and conditions to maximise contractual protection
 - The in-house continuously developing professional procurement team, ie the Central Procurement Team (CPT)

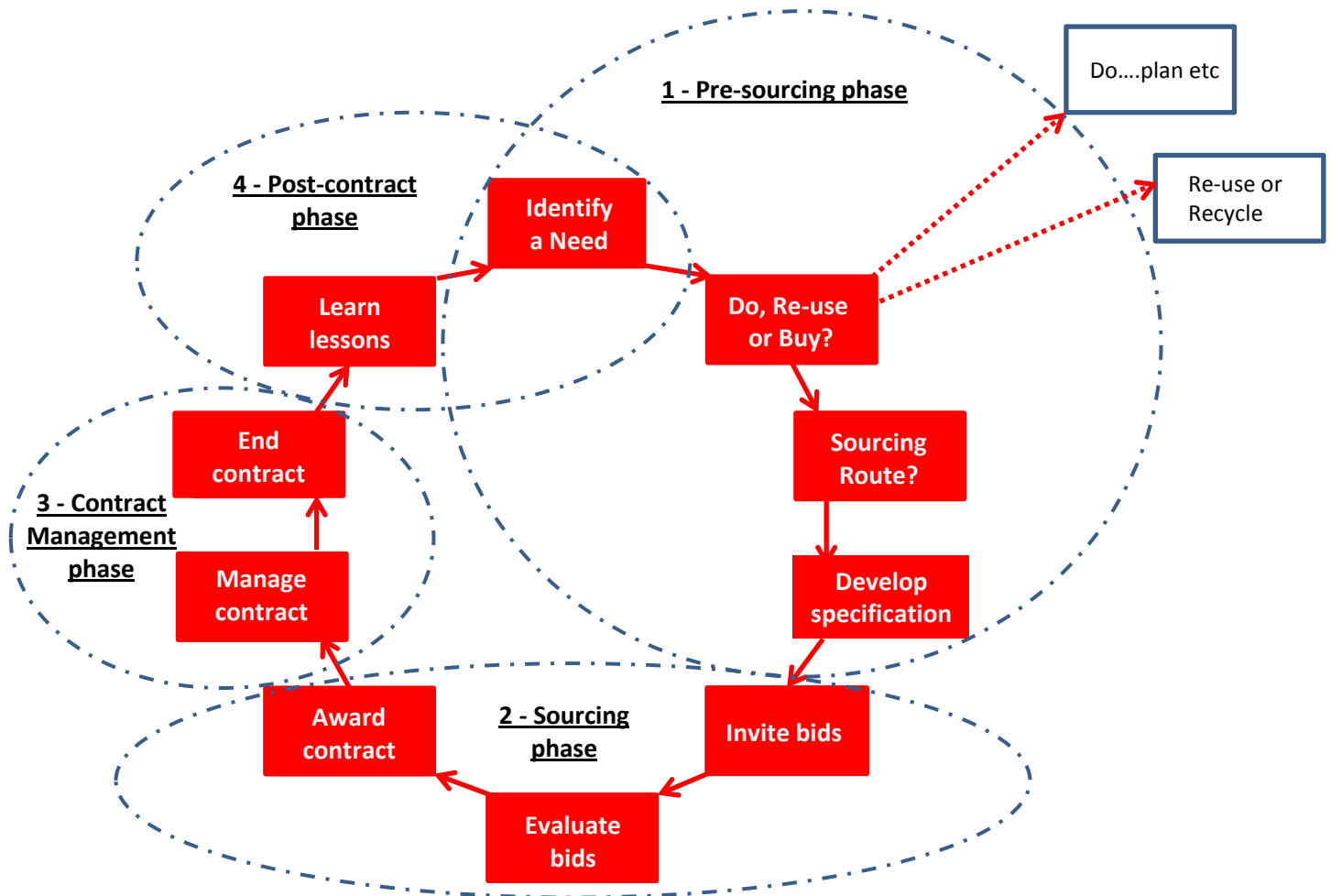
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1. Procurement Lifecycle

The 4 main phases within the procurement lifecycle are “pre-sourcing”, “sourcing”, “contract management” and “post-contract”. See figure 1.

Figure 1 – Procurement Lifecycle



Pre-sourcing involves analysis and decisions which ensure the sourcing phase focuses on both:

- a. achieving the business and operational objectives, including vfm
- b. choosing optimum sourcing routes which fully comply with procurement legislation

Pre-sourcing tasks include:

- identifying business & operational objectives
- make/do or buy decisions
- market assessment
- risk assessment
- business case development
- specification development
- sourcing route option analysis
- sourcing route decision

Sourcing ensures the NAO a) contracts with suppliers which will fully provide the required outputs (including vfm), and b) fully comply with procurement legislation. Sourcing tasks include:

- inviting bids
- evaluating bids
- negotiating terms
- awarding contracts

Contract Management (see section 9 below) is to ensure that the contractor's delivery and performance is as specified in the contract.

Post-contract involves learning lessons from the relative success of the performance & processes in the related pre-sourcing, sourcing and contract management phases; this may inform the pre-sourcing phase of subsequent procurement activity.

2. Roles and responsibilities

Separation of duties

To protect both individual members of staff and the NAO, no individual should be responsible for all the key decisions in the procurement process, which are:

- identification of the need to buy
- commitment of expenditure
- contract award decision
- goods/services receipt confirmation

Delegated contractual authority

NAO sourcing decisions are made jointly by business areas and Central Procurement Team (CPT). In practice the person who approves the financial commitment will award each contract, **providing that CPT has confirmed on the [Request for Approval to Award Contract Form](#) that appropriate up to date professional procurement strategies and processes have been followed.**

The CPT will not approve the award of a contract where the procurement has not been conducted appropriately and would pose a risk to the NAO's reputation. For all contracts above £25,000, the CPT will draft the Contract Award Letter.

Code & Ethics

Any staff undertaking procurement activity must maintain the highest professional standards of behaviour and always treat all suppliers and potential suppliers fairly and equally. All staff involved in procurement activity must ensure that sourcing is conducted fairly and openly.

Staff with any financial interest in or personal or domestic relationship with a potential supplier must comply with paras 5.12 and 5.13 of the NAO Code of Conduct.

Professional procurement staff are also expected to comply with the Chartered Institute of Purchasing and Supply's (CIPS) Professional Code of Ethics.

CPT's Role – "Helping the NAO spend wisely"

The CPT:

- Protects the NAO from poor contracting decisions (eg decisions which result in non-delivery, low quality, sub-optimal vfm, damaged NAO reputation etc)
- Supports business areas with good practice advice on all 4 procurement phases (ie pre-sourcing, sourcing, contract management and post-contract)
- Guides the NAO to "practice what it preaches" re procurement

In the 1st procurement phase (pre-sourcing) CPT will:

- Set up a meeting with the business area client to begin pre-sourcing activity including:
 - discussing the business & operational objectives
 - agreeing the level of direct activity &/or assistance required from CPT
- Assist the business area to:

- Assess the specific supply market
- Identify potential risks & mitigation actions
- Identify the requirements
- Develop a specification
- Assess potential sourcing routes & recommend the optimum route

In the 2nd procurement phase (sourcing), re contracts above £25,000, CPT will:

- Manage the sourcing activity through to award of the contract including:
 - Developing & issuing all appropriate documents, eg invitation to tender (ITT) documents & contracts, using optimum terms & conditions (Ts&Cs)
 - Chairing and facilitating the overall bid evaluation process, including ensuring evaluators comply with optimum evaluation practice (see Bid Evaluations below)
 - Evaluating the cost elements of the bids
 - Ensuring compliance with legislation, plus the rules of any used government frameworks

Advice - When CPT advice is needed, all key consultations with the CPT must be documented and kept on file, plus **sufficient time must be built into the sourcing timetable to allow CPT to review the documentation, prior to the issue to potential suppliers of any advertisements or documents, at the following key stages:**

- Draft business case development; template available ([Checklist for procurement business case](#))
- Decision on the sourcing route;
- Issue of Contract Notice where requirements are to be advertised in the Official Journal of the European Union (OJEU);
- Development of pre-qualification questionnaire;
- Development of selection and award criteria;
- Development of the specification and other invitation to tender documentation;
- Evaluation of tenders
- Contract award recommendation (including AAG or Director approval prior to contract award)
- Issue of contract documents;
- Giving feedback to unsuccessful applicants and bidders
- Contract management

Prior to any commitment being made to a supplier, a [Request for Approval to award contract](#) form must be submitted to CPT. Following their **approval to award** a contract, **CPT** will provide the appropriate contract documents on behalf of the relevant business area (see [section 3](#)).

Role of the business area

NAO business area clients should use CPT's advice, including:

- Never setting out to contract with pre-conceived suppliers – this is very poor and risky practice
- Allow sufficient time for all of the key activities in both the pre-sourcing and sourcing phases

In the pre-sourcing and sourcing phases the business area client will be responsible for:

- Working with CPT to:
 - Assess the specific supply market
 - Identify and mitigate potential risks
 - Identify the requirements
 - Agree evaluation and scoring criteria
- Establishing a robust specification for inclusion in ITT's
- Keeping all relevant NAO stakeholders informed and up-to-date;
- Complying with optimum evaluation practice (see Bid Evaluations below) when recruiting a bid evaluation team and evaluating non-cost bid criteria

Budget and financial approval

Prior to commencing any procurement activity, staff must confirm that there are sufficient resources available to cover the likely cost of the procurement with Principal Budget Holders (PBHs). A list of current PBHs can be found in [here](#) or via [2011-12 Financial Management Guidance](#) from [MC 10/11](#)

Delegated financial authority

Only staff named in the NAO's schedule ([Delegated Financial Powers Master](#)) may commit the NAO to expenditure. This document sets out the approved limits for nominated members of staff. Expenditure must be approved **prior to being incurred**.

3. Tender Thresholds

Potential contracts' values and duration must be aggregated to identify their total anticipated costs, to assess whether a sourcing exercise must comply with UK and EU Procurement legislation. If the total value is sourced as per the legislation, arranging more than one contract to cover the total value is allowed, eg Financial Audit outsourced Lots or to encourage more SME suppliers.

For all contracts - the supplier's Terms and Conditions (including printed on supplier's documents) must not be accepted/used. The supplier must be informed that the purchase is subject to NAO's Terms and Conditions.

For all contracts above £5,000 - A business case will be required and any resultant contract must be registered on the Contract Management Database (see [9](#) below)

The following thresholds will determine the nature of the sourcing activity:

<p>£0 to £5,000 (ex VAT)</p>	<p>CPT will not be managing sourcing exercises or facilitating Tender Evaluation Panels. Sourcing may be via 2/3 telephone quotations (recorded on file)* plus a procurement requisition form should be completed, with payment to the supplier by GPC.</p>
<p>£5,001 to £25,000 (ex VAT)</p>	<p>CPT will not be managing sourcing exercises or facilitating Tender Evaluation Panels. Specific sourcing advice, including contact with suppliers and Tender Evaluation Panels, should be sought and taken from CPT to ascertain the most appropriate sourcing strategy and guidance/templates, due to the complexity of public procurement rules & to review requirements on a 'case by case' basis. After receiving CPT advice, sourcing may be via 3 written competitive quotations, using Request for Quotation* and evaluation of the quotations.</p>
<p>£25,001 to £100,000 (ex VAT)</p>	<p>To ensure probity in the process & compliance with legal requirements, CPT must be involved in all stages of the sourcing exercise, including managing the sourcing exercise, guiding/ facilitating Tender Evaluation Panels and managing all contact with suppliers. Also CPT will chair and facilitate Tender Evaluation Panels for NAO-critical contracts (eg key operational systems). Unless a framework agreement can be used, all requirements within these limits should have an appropriate degree of advertising in order to comply with the principles of the EU Treaty of Rome (ie non-discrimination, equal treatment, transparency, mutual recognition and proportionality).</p>

<p>£100,000+ (ex VAT):</p>	<p>The requirement will most likely be subject to the EU Procurement Directives and be sourced via an OJEU advertisement. The CPT will advise on the appropriate process - see Roles and Responsibilities</p> <p>CPT will chair and facilitate Tender Evaluation Panels, plus NAO critical contracts above £25,000 (eg key operational systems), to ensure:</p> <ul style="list-style-type: none"> • CPT-guided evaluation techniques are consistently used • Recordings of evaluation scores and decisions are rigorously produced so that contract award decisions can be explained to unsuccessful suppliers and, if necessary successfully defended, thereby reducing risks of legal challenge or reputation damage
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4. Sourcing

Aiming to award contracts with predetermined suppliers (eg “trusted brand name” companies) is bad practice which increases reputational risks therefore, this will **not** be adopted.

Good sourcing strategies will always be adopted eg:

- Encouraging vigorous bidder competition eg via “Contract Finder” or OJEU advertisements, if over the EU threshold levels
- Adopting appropriate Frameworks or Centralised Government Contracts.

Frameworks

The NAO will seek to source its requirements as much as possible through existing framework agreements, which have been competitively tendered after OJEU advertisements and involve a reduced timescale sourcing process for each subsequent requirement. CPT can advise which framework agreements the NAO may access. Care must be taken to ensure that framework agreements are used appropriately as incorrect usage may result in a breach of procurement law.

When it is not possible to use a framework, the NAO is committed to an inclusive and transparent approach to sourcing across a range of requirements; this means encouraging competitive bidding. For very low value requirements, sourcing can be undertaken using a range of tools, including the internet. For higher value requirements (i.e. over £25,000) it will be necessary to advertise in a suitable medium (eg the [Contracts Finder](#); the [NAO Procurement e-Tendering portal](#))

Centralised Government Contracts & Frameworks

The Government Procurement Service (GPS) provides centralised contracts and frameworks for commonly procured products and services, which are mandatory for central government organisations (departments, agencies, NDPBs etc). As these contracts generally provide improved VFM, the NAO will always consider using such contracts/frameworks.

However, the NAO’s independent status enables non-use of these contracts/frameworks if aspects of the contract/framework are a sub-optimal fit with NAO needs. If one of these contracts/frameworks is not used, the NAO will source independently through its own Frameworks or other sources of supply.

When the NAO considers sourcing from GPS frameworks, all contact must be solely with the relevant framework’s prime contractors and not through any of their sub-contractors; this should include all pre-sourcing discussions or requests for quotes. As the prime contractors have been appointed to the GPS frameworks, following full OJEU-published sourcing exercises, only they are allowed to:

- decide who they want to sub-contract with

- add or remove sub-contractors to a GPS framework, notifying GPS on each occasion

If the NAO, as a GPS Customer, held any discussions with sub-contractors or received any bids from sub-contractors, the NAO would increase risks to its reputation by breaching the terms of a GPS framework.

Sustainable Procurement (including social, ethical and environmental issues)

Sustainable procurement (SP) is *“a process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst minimising damage to the environment.”* Source: Sustainable Procurement Taskforce (SPTF).

Therefore sustainable procurement is good procurement which will save costs, deliver environmental benefits, such as reducing carbon and cutting waste to landfill (see NAO Environmental Policy at <http://merlin/CorporateServices/Facilities/Sustainability.htm>) plus deliver social, and ethical benefits.

Sustainability should be ensured within procurement’s 4 phases (pre-sourcing, sourcing, contract management and post contract) by:

1. Including sustainable requirements in the specification,
2. Evaluating bidders’ responses to NAO sustainable requirements (eg evidence of their environmental policies supported by sustainable processes and procedures)
3. Choosing appropriate suppliers
4. Managing contracts using agreed delivery targets

The DEFRA **Sustainable Procurement Prioritisation Tool** should be used for prioritising which procurement categories to focus SP upon. However, the NAO must comply with the **Public Services (Social Value) Act 2012** requirements to consider a) the economic, environmental and social benefits of the sourcing approach at the pre-sourcing phase and b) whether it should consult on these issues with stakeholders before advertising the procurement requirement.

The Government Buying Standards (GBS) are designed to make it easier to procure sustainably and, where relevant, should be considered including as mandatory requirements in invitations to tender and bid evaluations. Some GBS are already mandated by law such as through the ‘EC Regulation on a Community energy-efficiency labelling programme for office equipment’. The GBS can be found at: <http://sd.defra.gov.uk/advice/public/buying/products/>

The Equality Act 2010 requires the NAO both to eliminate discrimination and to promote equality. This cannot be transferred to external suppliers however, where a supplier is engaged to carry out services on behalf of the NAO either to the public or to its own staff, the NAO may require the supplier to behave as if it were a public body and to comply with the relevant provisions of the act.

The SPTF Flexible Framework can be used to assess the current standard of NAO sustainable procurement, as well as setting targets for next step developments of sustainable procurement.

CPT will advise on all of these issues.

5. Bid Evaluation

Optimum contract award decisions resulting from effective bid evaluations are fundamental to the development of successful contracts. Evaluation decisions are generally based on qualitative aspects, seldom on price alone. Bid evaluations should reduce risks of legal challenge & reputation damage by being demonstrable to the bidders that an effective, transparent & non-discriminatory process was rigorously followed.

To ensure that evaluation panels make optimum contract award decisions and provide full supporting evidenced audit trails CPT will facilitate an effective evaluation process, which involves:

- Providing guidance to evaluation panels via:
 - Pre-evaluation face to face communication
 - Individual evaluation templates & consensus scoring templates
- Advising evaluation panels on the optimum process which enables a professional consensus resulting in collective team scores; this includes ensuring:
 - All panel members have an agreed common view of the score criteria
 - No panel members dominate discussions and/or decisions, thereby enabling the panel to consider all panel members' views
 - Average scores are not used so panels reach consensus scores and optimum decisions
- CPT chairing/facilitating evaluation consensus meetings.
- Ensuring that panels provide suitable recorded comments which explain the consensus scores and contract award decision

Evaluation panel members should:

- Ensure sufficient time to complete CPT-provided evaluation templates in advance of the evaluation consensus meetings; only the scores provided in advance of the evaluation consensus meetings will be used
- Provide robust evaluation comments, which are required for the audit trail to:
 - Defend scores
 - Provide feedback to the unsuccessful suppliers

Evaluation panel members should not:

- Reveal their individual scores to other panel members prior to consensus scoring meetings, to avoid influencing other panel members' scores before they have completed their scores
- Attend evaluation consensus meetings without providing their individual scores

6. Terms and Conditions of Contract

The NAO's standard Terms and Conditions, or Government Procurement Service (GPS) Terms and Conditions when using a GPS framework agreement, will apply to all its contracts to ensure maximum legal protection for the NAO.

No member of staff should sign, or in any other way agree to, a supplier's terms and conditions without prior agreement by CPT, who will assess any potential legal and commercial risks which may result.

Terms and Conditions involving performance incentives to motivate contractors may be used where feasible in business supporting contracts (eg security contract), but not in audit outsourcing contracts. The relative success of such incentives should be assessed during the post-contract phase and used to inform future contracts.

Intellectual Property

As set out in its standard Conditions of Contract, the NAO will own all intellectual property that arises out of contracted services (unless this is clearly inappropriate e.g. with "off-the-shelf" software). Staff should be aware that this is an area on which the C&AG is not prepared to negotiate and if a bidder is unwilling to accept this, it may mean that work cannot be procured from them.

Staff sourcing external services must ensure that service providers accept these provisions and that there is nothing in their bid to contradict this. Where necessary, advice should be sought from CPT.

7. PARIS and purchase orders/prompt payment

In order that the NAO can pay its suppliers promptly within 30 days in accordance with the Late Payment of Commercial Debts Legislation, an invoice must be successfully matched to a valid purchase order (PO) on PARIS. All contracts require a PO. If a requirement has been dealt with by CPT, CPT will issue the PO number together with the contract award letter. For all other purchase order requests please fill out a [Procurement Requisition](#) form and email [z3-Purchasing](#).

8. Non-competitive Sourcing - Single Tender Action

a) Introduction

It is government policy that all goods and services in the public sector should be procured by competition, as this is considered to be the best way to obtain VFM.

b) CPT's single tender role

CPT will advise internal customers on the benefits of competition versus single tender. Any verbal advice from CPT should be followed up in writing to ensure there is a full audit trail.

As it is the business area's role to write the business case attempting to justify single tender action, the CPT's role is to provide guidance regarding the business case and the overall approach.

c) When a single tender may be appropriate

Whilst £25,000+ single tenders are unlikely to be approved, some below £25,000 may have reasonable grounds for single tender action in the following circumstances:

- If there was competition for initial work, follow-up work where the provider carried out initial work in the same area. NB This must **not** start a series of several single tenders on the same grounds;
- Where there is a "compatibility issue" - for example, with office equipment, IT, or where a proposed business model or other recommendation made by a consultancy is to be implemented;
- Where there is **genuinely** only one provider who is capable of meeting the requirement or will be interested in doing so;
- In the case of an individual contractor where it is necessary for business continuity to retain a specific individual; or
- Where there is sufficient evidence that competition will not result in a better price.

d) When single tender will **not** be appropriate

The following circumstances can **never** justify single tender action:

- The provider has a good track record with the NAO over several years
- The business area is under time pressure to complete the procurement
- The business area is familiar, or has a good working relationship, with a particular provider
- An earlier single tender action had been applied in the same area

Each case when the circumstances in section d) above do not apply must be judged on its own merits, bearing in mind the factors listed in section c) above.

Whilst it is for the internal customer (and their approver) to recommend single tender action, the CPT will advise against it if any or all of the following apply:

- The requirement will cost over £25,000;
- The market is very competitive;
- There are no apparent factors which suggest single tender would secure best value for money;
- The VFM Strategic Partners or a similar framework agreement is being used (note competitive bids are required within these frameworks); or

- There is a potential breach of procurement law.

e) The need for genuine competition

Requirements should never be competed just for the sake of it or to get a "tick in the box" in terms of procedure. It takes time and effort to run a competition, and time and effort to bid. The associated costs can be considerable. Providers who, for whatever reason, have no chance of winning the work should not be invited to bid for it.

This situation will not apply with framework agreements such as the VFM Strategic Partners. All partners satisfied the same criteria during the procurement exercise for the framework agreement and are deemed capable of meeting the requirement. Further competition will determine who offers the best VFM for a particular requirement.

f) Single tender action under the NAO's VFM Strategic Partner framework

The VFM Strategic Partner framework has been competitively tendered following an advertisement in OJEU. The EU Public Procurement Directives require further competition between the Strategic Partners for individual assignments (call-off contracts) to be awarded within the framework.

Therefore no single tender action can be allowed under the framework agreement. If only one Strategic Partner firm is invited to bid, the resulting contract will be outside the framework and if the value exceeds the OJEU threshold it will result in a breach of procurement law.

g) Approval for single tender action

The approval sequence is as follows:

1. Before completing a potential Business Case, advice should be sought from CPT. NB CPT may advise that single tender action is inappropriate and unlikely to be approved
2. CPT advice should be taken before finalising a Business Case.
3. Head of Commerce may initially approve a single tender request accompanied by an appropriate Business Case
4. If approved by the Head of Commerce, he will seek the required final approval from the Director General Finance & Commerce

9. Contract Management and Post-Contract

As the essential third phase of procurement, effective contract management is fundamental to the success of all contracts and helps to ensure that delivery and performance is as specified. Contract Management should be approached professionally and pragmatically by an agreed contract manager, who will be supported by CPT via a MoU. An [e-learning course](#) for contract managers is available.

At the final phase of procurement, ie post-contract, the lessons learnt from the relative success or failure of the contract performance &/or processes in the earlier procurement phases (ie pre-sourcing, sourcing and contract management) should be recorded and used to inform future procurement activity, especially regarding the specific service or product in the pre-sourcing phases of any subsequent procurement activity.

Supplier References - If a supplier asks for a reference regarding one of their past contracts with the NAO, please contact CPT for guidance regarding which reference information may, or may not, be provided.

All contracts above £5000 must be registered on the Contracts Management Database (CDB). For a list of trained CDB users, please contact Z3-Procurement. The CDB is linked to PARIS. Users of the contract database can enter the ID Number (Contract Reference Number) generated for a new

contract in the designated field in PARIS. Once entered, the purchase order number will appear on the CDB.

10. Supplier Relationship Management (SRM)

SRM is the proactive management of on-going business relationships and which facilitates continual performance improvements by key suppliers. The focus is on overall relationships between the supplier and the NAO, not just a focus on a specific contract. Its purpose is to encourage a structured understanding of the nature of current relationships that exist within and between the NAO and its key suppliers.

The objectives for SRM are likely to include:

- Reduction in costs
- Service improvement
- Solution development
- Flexibility and mutual benefit

Analysis of the relationship in terms of each of the above will be required in order to identify opportunities for improvement and efficiencies. Outcomes may include:

- Reduced joint costs
- Opportunities to integrate operations
- On-going benchmarking to ensure competitiveness

To ensure effective collaborative relationships the NAO should:

- Invest in sufficient relationship building skills and resource
- Only appoint relationship managers who will:
 - Wholeheartedly input the necessary time and effort into developing/managing relationships
 - Have effective inter-personal skills, preferably assisted by relationship management training, rather than appointing someone just because they manage the service/goods being provided
- Refer to NAO relationship management tools and BS11000 is advisable.

11. Consultants and Contractors with Unsupervised Access to NAO Premises or Network

Only consultants, contractors or other temporary staff who have undergone the baseline personnel security standard check (BPSS) ([HMG Baseline Personnel Security Standard](#)) may have unescorted access to NAO premises and/or the NAO network. All new NAO contracts require suppliers to undertake the baseline check on all their staff who will have such access, if they have not already done so as part of their own recruitment process. If a supplier cannot undertake the baseline check for a good reason, arrangements can be made for it to be undertaken by HR, providing adequate notice is given to the HR Service Desk.

Further information on this can be obtained from the NAO's Deputy Departmental Security Officer.

12. Record keeping

It is essential that the NAO has a full record of all procurement activity undertaken. The CPT maintains a central record of contracts in which it is involved under the Joint Working folders in Keystone. Once a folder has been set up for an individual requirement, the team will arrange access for appropriate individuals who will be notified of the location. Staff must ensure that all relevant documents are saved appropriately, and that duplicates are not held elsewhere on the network.