



RISE

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Procurement for Contract Delivery

Quick guide

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Contents

Contents2

Summary3

Introduction.....3

Defining ‘procurement for contract delivery’3

Making it happen6

Procurement process for contract delivery7

Procuring contracts for delivery checklists.....8

Best practices for effective contract delivery10

Useful links11

Summary

This quick guide covers procurement activities specifically related to contract delivery within the context of domestic retrofit programmes. It starts with some considerations around procuring large projects through complex supply chains, before discussing some key procurement principles, processes, and essential elements to include in procurement contracts. The guide also includes some best practice tools and relevant provisions from the Procurement Act 2023, to help ensure successful and compliant provisions. It should be useful to anyone procuring goods and services as part of a complex domestic retrofit project.

Introduction

In large and complex projects there are often instances where the lead client is contractually obliged to deliver certain requirements for another organisation, usually a funder. This applies to domestic retrofit projects that receive Government funding, which are contractually obliged by the funding organisation to deliver a series of different but related requirements, ranging from project reporting to capital works.

The term 'procurement for contract delivery' implies that, where the lead client is procuring goods and services from one or more external suppliers, they should consider how to share all the contract requirements. Taking a strategic approach to this at the outset of a project will help the lead client work with its supply chain to meet those obligations in a timely and effective way throughout the project's lifecycle.

Defining 'procurement for contract delivery'

'Procurement for contract delivery' brings together procurement and the fulfilment of project contractual requirements in a way that is advantageous to a project. For example, recipients of Government funding for domestic retrofit must comply with a series of contract requirements, which might include:

- Requirement 1 – regular reporting to the funder (R1)
- Requirement 2 – engaging with residents (R2)
- Requirement 3 – property surveys (R3)
- Requirement 4 – capital works (R4)
- Requirement 5 – post-works energy monitoring and assessments (R5)
- Requirement 6 – sharing good practice examples (R6)

Possible supply chain configurations

Typically, many of these requirements are subcontracted to external organisations. Depending on the grant recipient's working preferences and style, this can result in one of many project supply chain configurations:

- The grant recipient can use a combination of direct employment and contracts with key suppliers to fulfil its obligations (figure 1)
- It may rely on multiple contracts with key suppliers that undertake some of the requirements. They may subcontract some of the requirements (figure 2)
- The grant recipient may commission a managing agent undertake and subcontract most of the requirements (figure 3)

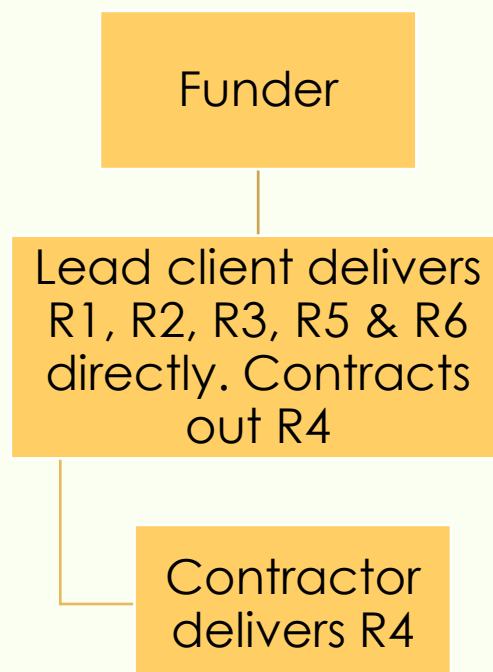


Figure 1 shows a relatively short supply chain where the lead client undertakes most roles except R5 (capital works). Contract delivery might be improved if elements of R1 and R6 were incorporated into the contract, to ensure the key client had up to date information at reporting intervals and improve best practice case studies

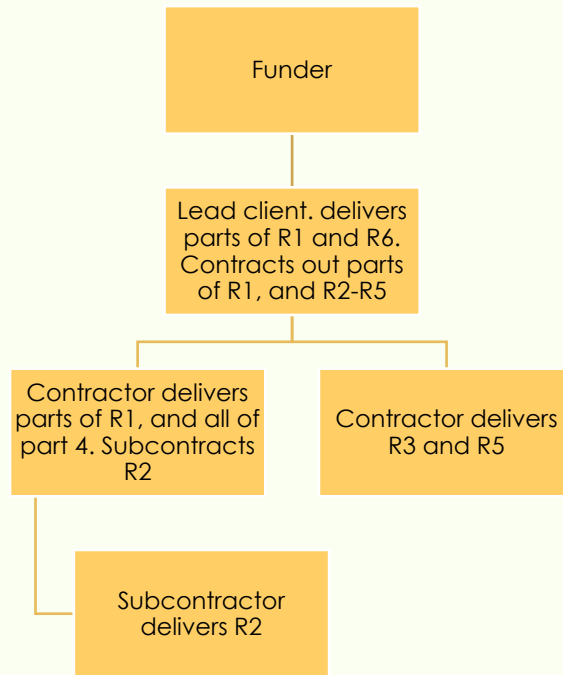


Figure 2 shows a scenario where the lead client retains some responsibility for project reporting (R1) and sharing best practice (R6), but contracts out works in two packages: the first contains parts of project reporting (R1), resident engagement (R2) and capital works (R4); while the second includes property surveys (R3) and monitoring (R5). Again, a more sophisticated version could share some responsibility for R1 with both contractors, and resident engagement could be shared with the lead client

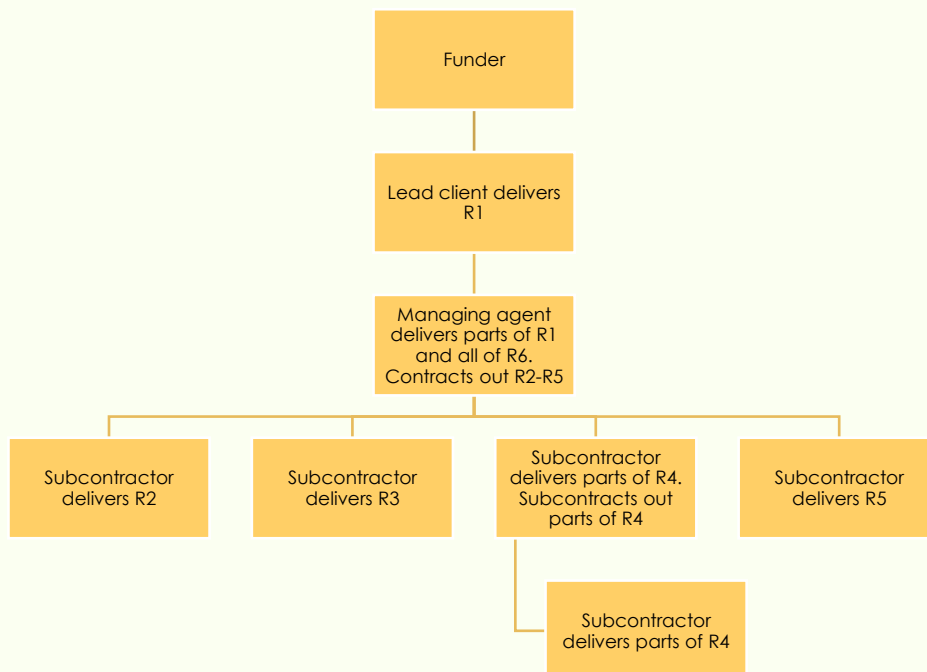


Figure 3 shows a long and complex supply chain, where the lead client has passed most responsibility to the managing agent. A more sophisticated version of the subcontracting would pass on some of the project reporting (R1) tasks to those involved in deliver. Again, this would ensure the key client's reporting information was current at key intervals

Making it happen

Essentially, making sure that procured goods and services support full contract delivery involves being very strategic about procurement activities. It is a critical component of project management, ensuring that all parties meet their commitments while achieving mutually beneficial outcomes. Effective procurement minimises risks, enhances operational efficiency, and fosters long-term supplier relationships. It begins with getting basics right.

Key principles

- **Transparency:** Ensuring that all procurement activities are open and transparent helps build trust and accountability. This includes publishing contract opportunities and awards, and making rules clear in advance. This will help if responsibilities for certain tasks are shared, as everyone will start working together on an open and equal footing
- **Equal treatment and non-discrimination:** All potential suppliers should be given the same information and opportunities, ensuring a fair and competitive process
- **Proportionality:** The requirements and procedures should be proportionate to the size and complexity of the contract
- **Value for money:** Achieving the best possible outcome for the resources expended balancing cost, quality, and sustainability

Impact of the Procurement Act 2023

The Procurement Act 2023 introduces several provisions that impact procurement for contract delivery:

- **Competitive flexible procedure:** Allows for tailored procurement processes, enhancing flexibility and efficiency, leading to better contract outcomes
- **Transparency requirements:** Mandates publication of procurement opportunities and awards, increasing visibility and accountability
- **Sustainability and innovation:** Encourages inclusion of sustainability criteria, promoting environmentally and socially responsible practices
- **Support for SMEs and Voluntary, Community, and Social Enterprises (VCSE):** Extends 30-day payment terms to subcontractors, aiding smaller organisations in managing cash flow and participating in procurement
- **Streamlined processes:** Simplifies procurement procedures, making it easier for buyers and suppliers to engage, leading to more efficient processes
- **Central digital platform:** Improves access to procurement data, enhancing transparency and accountability
- **Exclusion mechanism:** Allows exclusion of suppliers that fail to meet standards, ensuring integrity and reliability in procurement

Procurement process for contract delivery

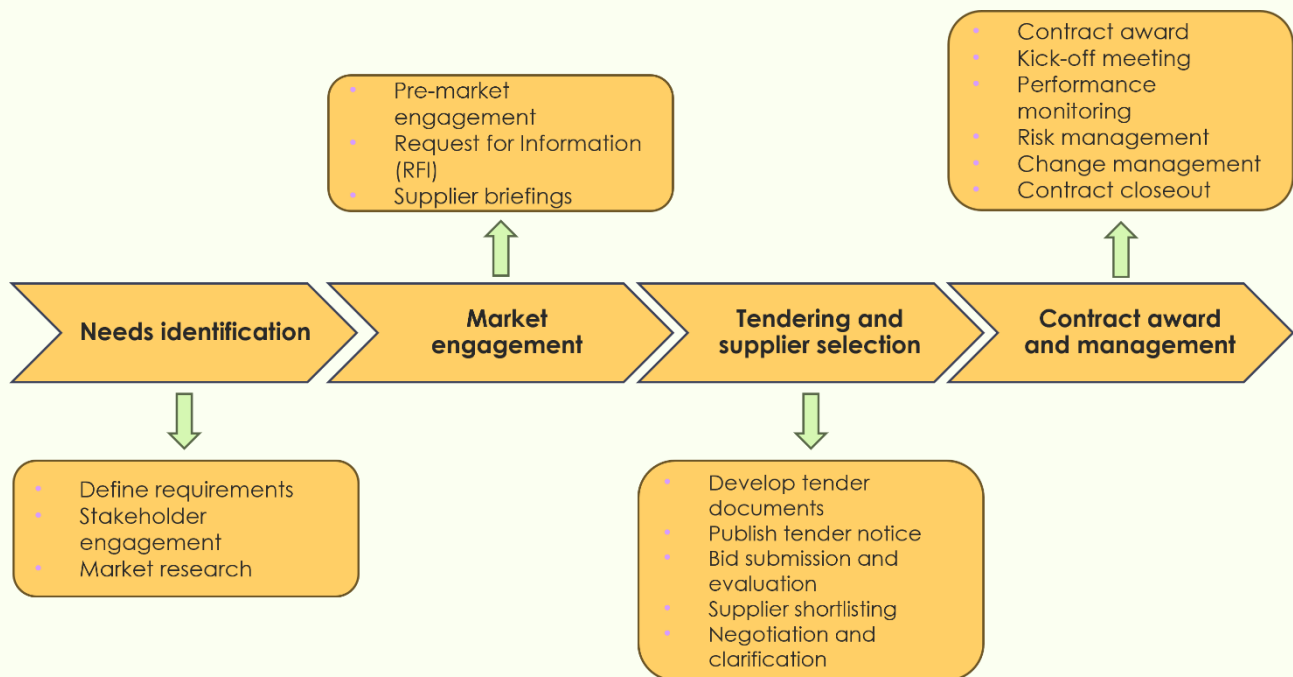


Figure 4 shows procurement process for contract delivery

The **first step** of the procurement journey for contract delivery starts with **needs identification**. Clearly defining the required goods or services involves understanding the project's scope and objectives. Understanding any requirements placed on you by other organisations, such as funders, is essential if these requirements are going to be effectively shared and fulfilled. Engaging stakeholders and conducting market research ensures all needs are accurately captured and potential suppliers are identified.

The **second step** is **market engagement**, where early interaction with the market provides valuable insights and informs suppliers about upcoming opportunities. Issuing a Request for Information (RFI) and holding supplier briefings help gather information and set expectations.

Tendering and supplier selection is the **third step**, which involves preparing detailed tender documents, publishing the tender notice, and evaluating bids based on predefined criteria. Shortlisting suppliers and negotiating terms ensure that the selected suppliers can meet the requirements and deliver high-quality outcomes.

The **final step** is **contract award and management**, the contract is awarded and signed. A kick-off meeting aligns expectations and timelines. Regular performance monitoring, risk management, and handling any changes to the contract scope are crucial for successful delivery. Finally, the contract closeout process reviews performance and documents lessons learned.

Procuring contracts for delivery checklists

Scope of work (SOW)

- **Definition:** Have you clearly defined the specific goods or services to be provided? This should include the provision of any information you need to report to funders or as part of internal governance. The SOW should detail the tasks, deliverables, and timelines.
- **Specifications:** Have you included detailed specifications and standards that the goods or services must meet? For capital works, this could include compliance with Building Regulations or British Standards. For information sharing, it could include file formats.
- **Milestones:** Have you outlined key milestones and deadlines to track progress and ensure timely delivery?

Pricing and payment terms

- **Form of contract:** Do you have standard terms of conditions that you would like to use? You should include this in your tender documentation to speed up any appointments
- **Pricing structure:** Have you specified the pricing structure? It could be fixed-price, cost-reimbursable, or time and materials
- **Payment schedule:** Have you defined the payment schedule? This should include payment milestones linked to the completion of specific deliverables
- **Invoicing requirements:** Have you detailed the invoicing process? This should include documentation required for payment and timelines for invoice submission and approval

Delivery and performance requirements

- **Delivery schedule:** Have you stated the delivery timelines and any specific delivery instructions clearly?
- **Performance standards:** Have you defined the performance standards and quality criteria that the goods or services must meet?
- **Acceptance criteria:** Have you outlined the criteria for acceptance of deliverables, including inspection and testing procedures?

Warranty and liability clauses

- **Warranty terms:** Have you included warranty terms that specify the duration and coverage of warranties for goods or services provided?
- **Liability limits:** Have you defined the limits of liability for both parties, including any exclusions or caps on liability?

- **Indemnification:** Have you included indemnification clauses that outline the responsibilities of each party in case of third-party claims or damages?

Confidentiality and intellectual property

- **Confidentiality obligations:** Have you specified the confidentiality obligations of both parties, including the handling of sensitive information?
- **Intellectual property rights:** Have you defined the ownership and usage rights of any intellectual property created or used during the contract?
- **Data protection:** Have you included clauses that address data protection and compliance with relevant data protection laws?

Termination and dispute resolution

- **Termination clauses:** Have you outlined the conditions under which the contract can be terminated by either party, including termination for convenience and termination for cause?
- **Dispute resolution:** Have you specified the methods for resolving disputes, such as negotiation, mediation, or arbitration?
- **Governing law:** Have you defined the governing law and jurisdiction that will apply to the contract?

Additional clauses

- **Force majeure:** Have you included a force majeure clause that addresses unforeseen events that may impact contract performance?
- **Amendments:** Have you specified the process for making amendments to the contract, including the requirement for written agreement by both parties?
- **Compliance:** Have you included clauses that ensure compliance with relevant laws and regulations, including health and safety, environmental, and labour laws?

Best practices for effective contract delivery

Risk management

Effective risk management is crucial for successful contract delivery. Here are some strategies to identify and mitigate risks:

- **Risk identification:** Regularly review contracts to identify potential risks, such as financial, legal, and operational risks
- **Risk assessment:** Evaluate the potential impact and likelihood of identified risks. Prioritise them based on their severity
- **Risk mitigation:** Develop strategies to minimise or eliminate risks. This can include diversifying suppliers, setting clear contract terms, and using insurance
- **Monitoring and control:** Continuously monitor risks throughout the contract lifecycle and adjust mitigation strategies as needed

Fraud risk management

Effective fraud risk management is essential for safeguarding contract integrity and ensuring compliance with the Procurement Act 2023. Here are some strategies to identify and mitigate fraud risks:

- **Identifying fraud risks:** Regular audits, data analytics, and stakeholder engagement help uncover potential fraud risks
- **Assessing fraud risks:** Analyse and prioritise risks based on their likelihood and impact
- **Mitigating fraud risks:** Implement strong internal controls, conduct thorough due diligence, and use fraud detection tools
- **Continuous monitoring and adaptation:** Establish a monitoring system, update strategies regularly, and ensure compliance with the Procurement Act 2023

Supplier relationship management

Maintaining positive relationships with suppliers is key to ensuring smooth contract delivery. Here are some tips:

- **Clear communication:** Establish and maintain open communication channels with suppliers to ensure mutual understanding and timely updates
- **Performance monitoring:** Regularly assess supplier performance using key performance indicators (KPIs) and provide constructive feedback
- **Timely payments:** Ensure payments are made on time to build trust and reliability

- **Collaborative approach:** Work collaboratively with suppliers to solve problems and improve processes

Continuous improvement

- **Regular evaluations:** Conduct regular reviews of procurement processes to identify inefficiencies and areas for improvement.
- **Feedback mechanisms:** Implement feedback loops with stakeholders to gather insights and suggestions for improvement.
- **Adopt best practices:** Stay updated with industry best practices and integrate them into your processes.
- **Training and development:** Invest in continuous training for your procurement team to enhance their skills and knowledge.

Useful links

[Procurement Act 2023 guidance documents](#)

[The Procurement Act - a summary guide to the provisions](#)

[Procurement Act 2023 guidance documents - Manage phase](#)

[New public procurement rules to drive growth, opportunities for small businesses and exclude suppliers that fail to deliver](#)

[The Procurement Act 2023: Key changes and what you need to know](#)

[10 Enterprise Contract Management Best Practices + Checklist for Procurement](#)



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