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Checklist for running and Open Procurement under the Procurement Act 2023

1. Version Management

| Authors | Doc. Version | Date of Change | Changes |
|----------------|--------------|----------------|----------------------|
| John Valentine | 0.5 | - | First public version |

NOTICE

DfT makes no representation or warranty, express or implied regarding the accuracy or completeness of the checklist provided nor does DfT accept any liability for any statement, opinion or conclusion it contains, or any omission from it.

2. Overview

This article provides a high-level checklist for managing concession contracts, from the initial planning phases through to procurement and contract management.

3. Introduction

This Commercial Lifecycle Checklist is designed to guide you through the essential stages of managing a concession contract. By following this checklist, you will be able to navigate the commercial lifecycle, from initial planning and procurement to contract management and closure. Each stage of the checklist provides a structured approach to key activities, ensuring that all necessary steps are taken to achieve a successful outcome.

This document aims to help you maintain a comprehensive and organised approach, ensuring all critical aspects of the process are addressed, risks are managed, and opportunities are maximised. Whether you are a project manager or a procurement specialist, this checklist serves as a valuable resource for effective concession contract procurement and management.

It is important to note that any procurement carries risks that are the responsibility of the contracting authority. Buyers are strongly advised to seek legal and commercial advice before undertaking any procurement activity and to refer to LEVI Article “Pivoting to an Open and Competitive flexible procedure for Regulated Concession Contracts”. DfT makes no representation or warranty, express or implied regarding the accuracy or completeness of this checklist nor does DfT accept any liability for any statement, opinion or conclusion it contains, or any omission from it.

4. Transitioning

Switching from using a Dynamic Purchasing System (DPS) or a competitive tendering (an open or competitive flexible procedure) or direct award procedure under the Procurement Act 2023 (PA23) involves several strategic, operational, and technical considerations. This transition requires a thorough understanding of the regulatory landscape and a shift from the established DPS or framework procedures to one that complies with the rules governing open and competitive dialogue procurement.

Strategically, the shift necessitates careful planning to align organisational objectives with the new procurement approach. This includes assessing the suitability of open or competitive dialogue for the specific procurement needs and ensuring that all stakeholders are aware of and prepared for the change.

Operationally, the transition involves adapting processes and workflows to fit the requirements of open or competitive dialogue procurement. This may include revising documentation, and updating timelines associated with the new approach.

Technically, it requires ensuring that all procurement activities comply with relevant regulations and standards. This involves reviewing and potentially updating existing templates, guidelines, and tools to meet the demands of an open or competitive dialogue process.

Overall, this switch is not merely a procedural change but a change that demands planning, effective communication, and robust management to ensure a seamless and compliant transition.

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5. Checklist

The following checklist is structured into three comprehensive sections: Planning, Procurement, and Management. Each section provides detailed considerations and useful links to guide you through the respective stages of the commercial lifecycle for a concession contract. This checklist outlines critical steps and includes resources to support informed decision-making and ensure compliance with regulatory standards. By following this structured approach, you can effectively navigate the complexities of concession contract management, from initial planning through to successful execution and oversight.

Please see the next page.

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| Step | What do you need to consider | Detailed considerations | LEVI Guidance | Generic Guidance |
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| Planning | Business Plan / Strategy – vision and ambition | <p>Vision and ambition for the procurement project considered.</p> <p>Delivery model options (commercial arrangements, operating models, procurement options, ownership options, or ownership models) assessed for alignment with the Local Authority's overarching strategy and goals.</p> <p>Expected outcomes and benefits of the procurement identified.</p> <p>Transition arrangements from the current to the new arrangement considered.</p> | <p>Just Starting Out - National EV Insight & Support Delivered by Cenex</p> <p>Decision to Act - National EV Insight & Support Delivered by Cenex</p> <p>EVI Strategy - National EV Insight & Support Delivered by Cenex</p> | |
| | Planning and resourcing | <p>Comprehensive plan/schedule in place to ensure all tasks and milestones are clearly outlined and tracked.</p> <p>Resource implications considered.</p> <p>Staff appointments planned to support procurement and contract management.</p> <p>Suitable e-sourcing arrangements in place.</p> | <p>Delivery Plan - National EV Insight & Support Delivered by Cenex</p> <p>Resourcing - National EV Insight & Support Delivered by Cenex</p> | <p>Lean sourcing: guidance for public sector buyers - GOV.UK (www.gov.uk) (note that this guidance can be adapted to reflect the open or competitive flexible procedure)</p> |

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| | <p>Risk, Issues, Assumptions and Dependencies</p> | <p>Logs in place to regularly capture risks, issues, assumptions, and dependencies.</p> <p>Clear process to monitor and resolve risks, issues, assumptions, and dependencies.</p> | <p>Procurement Risks - National EV Insight & Support Delivered by Cenex</p> | <p>Managing-risk-procurement-7fd.pdf (local.gov.uk)</p> |
| | <p>Assess / evaluate requirement</p> | <p>Needs assessment conducted to identify the scope and specifics of the requirement.</p> <p>Subject matter experts identified and consulted.</p> <p>Testing and acceptances, as well as security and cyber considerations, factored in.</p> <p>Service levels considered.</p> | <p>Concession Heads of Terms - National EV Insight & Support Delivered by Cenex</p> <p>Technical Schedules - National EV Insight & Support Delivered by Cenex</p> | |
| | <p>Market assessment</p> | <p>Market research conducted to understand the supplier landscape, including options for Small and Medium Enterprises (SMEs).</p> <p>Potential suppliers identified and their capabilities and market share assessed.</p> <p>Market trends, risks, and opportunities analysed.</p> <p>Lotting opportunities considered and analysis conducted.</p> | <p>EVI Market - National EV Insight & Support Delivered by Cenex</p> | <p>Market Management (publishing.service.gov.uk)</p> <p>Levelling the playing field: The benefits of working with SMEs and how public sector organisations can make it easier for them to bid for work – Procurement Essentials - CCS (crowncommercial.gov.uk)</p> |

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| | <p>Routes to market options (open or competitive flexible)</p> | <p>Procurement route options (open and competitive flexible) evaluated.</p> <p>Procurement route proportionate to the complexity and value of the requirement.</p> | <p>Link to PA23 Article</p> | <p>Competitive Tendering Procedures (HTML) - GOV.UK (www.gov.uk)</p> |
| | <p>Social value and additional benefits</p> | <p>Social value opportunities considered and factored into the procurement strategy.</p> <p>Additional benefits such as sustainability and local economic impact considered and aligned with the Local Authority's overall strategic objectives.</p> | | <p>Social-Value-Model-Edn-1.1-3-Dec-20.pdf (publishing.service.gov.uk)</p> <p>Social value in procurement – Procurement Essentials - CCS (crowncommercial.gov.uk)</p> |
| | <p>Prepare the business case</p> | <p>Business case outlining the need, benefits, costs, and risks developed. Supported by financial analysis, cost-benefit analysis, and risk assessment.</p> <p>Internal approvals process understood, and approvals board primed for the business case.</p> | | <p>Develop business cases Local Government Association</p> |

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| | <p>Conflict of Interest Assessment</p> | <p>A conflicts assessment has been prepared in relation to the procurement.</p> <p>A plan to identify, and keep under review, conflicts of interest has been created.</p> <p>The conflicts assessments includes details of—</p> <p>(a) conflicts or potential conflicts of interest identified in accordance with section 81 (duty to identify), and</p> <p>(b) any steps the contracting authority has taken or will take for the purposes of section 82 (duty to mitigate).</p> | | <p>Procurement Act 2023 (legislation.gov.uk) (Section 83)</p> |
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| | <p>Prepare for Early Market Engagement</p> | <p>Assessed any previous market engagement to identify any gaps.</p> <p>Market forewarned of any Early Market Engagement (EME) and Preliminary Market Engagement Notice published within appropriate timeframes.</p> <p>KPIs drafted and tested as suitable for the planned scope of works and services, including relief events.</p> <p>Relief events identified.</p> <p>Process for engaging industry, including the use of a data room to share information, considered.</p> <p>Necessary information prepared in advance for market release to facilitate effective two-way engagement.</p> <p>Questions drafted, prioritised, and reviewed to support effective engagement, gauge interest, and gather insights.</p> | | <p>Guidance: Preliminary Market Engagement (HTML) - GOV.UK (www.gov.uk)</p> <p>The Sourcing Playbook – June 2023 (publishing.service.gov.uk)</p> <p>Key Performance Indicators (KPIs) - National EV Insight & Support Delivered by Cenex</p> <p>How to carry out early market engagement successfully – Procurement Essentials - CCS (crowncommercial.gov.uk)</p> |
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| | <p>Conduct early market engagement</p> | <p>Information supporting the market engagement (events, meetings, etc.) released to all suppliers in advance.</p> <p>Clear process and means for keeping a record of discussions with suppliers in place.</p> <p>Commercial confidentiality, including respecting Intellectual Property Rights, considered.</p> <p>Suppliers informed that any resulting procurement will be conducted competitively.</p> <p>Insights (e.g., lotting opportunities) obtained through Early Market Engagement incorporated into the procurement strategy and business case.</p> | <p>Market Engagement - National EV Insight & Support Delivered by Cenex</p> | |
| | <p>Business case approval</p> | <p>Business case updated and submitted for approval.</p> | | <p>Develop business cases Local Government Association</p> |

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| Procure | Develop and finalise tender pack | <p>Tender Notice and necessary tender documentation, including instructions to bidders, contract terms and conditions (aligned with the LEVI Heads of Terms), award criteria, assessment methodology, and supporting schedules, drafted.</p> <p>Tender pack checked for clarity, comprehensiveness, and regulatory compliance.</p> <p>Tender pack and award criteria/questions uploaded to an e-sourcing platform.</p> <p>Clear and detailed instructions to bidders created, including submission deadlines and formats.</p> | <p>Concession Heads of Terms - National EV Insight & Support Delivered by Cenex</p> <p>Tender Evaluation (Concession) - National EV Insight & Support Delivered by Cenex</p> <p>Key Performance Indicators (KPIs) - National EV Insight & Support Delivered by Cenex</p> | <p>How to write a specification – Procurement Essentials - CCS (crowncommercial.gov.uk)</p> <p>Guidance - Technical Specifications.pdf (publishing.service.gov.uk)</p> <p>How to set performance metrics for your service - Service Manual - GOV.UK (www.gov.uk)</p> <p>Demystifying the key terms and abbreviations in procurement – Procurement Essentials - CCS (crowncommercial.gov.uk)</p> <p>How to build sustainability into procurement: staying on track for carbon net zero – Procurement Essentials - CCS (crowncommercial.gov.uk)</p> |
| | Publish Tender Notice and ITT | <p>Tender notice published on the appropriate e-sourcing platform.</p> <p>Tender pack made available via an online e-sourcing platform.</p> | | <p>The Procurement Regulations 2024 (legislation.gov.uk) (Sections 18 & 19)</p> |

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| | <p>Ensure evaluator readiness and COI</p> | <p>Evaluators identified, trained on the evaluation process, and ready to assess bids objectively.</p> <p>Conflicts of interest identified and addressed to ensure fairness and transparency.</p> | | <p>Microsoft Word - Bid evaluation guidance note May 2021.docx (publishing.service.gov.uk)</p> |
| | <p>Manage and respond to clarification questions</p> | <p>Establish a system for handling clarification questions (CQs) from suppliers.</p> <p>Respond to CQs promptly and accurately.</p> <p>Maintain a comprehensive record of all CQs and responses.</p> | <p>Link to Article 2 when published.</p> | <p>Assessing and monitoring the economic and financial standing of suppliers guidance note (HTML) - GOV.UK (www.gov.uk)</p> |
| | <p>Assess Economic and Financial Standing / supplier due diligence</p> | <p>Evaluate the economic and financial standing of suppliers and conduct any other due diligence checks to ensure supplier capability and compliance.</p> | | <p>Assessing and monitoring the economic and financial standing of suppliers guidance note (HTML) - GOV.UK (www.gov.uk)</p> |
| | <p>Evaluate supplier tender responses</p> | <p>Conduct a thorough assessment of bids against the award criteria.</p> <p>Use a structured evaluation process as communicated through the Tender Notice to ensure fairness and consistency.</p> <p>Score supplier responses based on the advertised assessment methodology and award criteria.</p> | <p>Tender Evaluation (Concession) - National EV Insight & Support Delivered by Cenex</p> <p>site-number-evaluation-v2_0.xlsx (live.com)</p> | <p>How to evaluate bids – Procurement Essentials - CCS (crowncommercial.gov.uk)</p> <p>Assessing Competitive Tenders (HTML) - GOV.UK (www.gov.uk)</p> <p>Microsoft Word - Bid evaluation guidance note May 2021.docx</p> |

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| | <p>Moderation of evaluation</p> | <p>Hold moderation sessions to ensure consistency and fairness in the evaluation process.</p> <p>Review and agree on final scores and rankings.</p> <p>Document the moderation process and outcomes.</p> | | <p>publishing.service.gov.uk</p> |
| | <p>Prepare business case</p> | <p>Justify the selection of the preferred supplier and outline the benefits.</p> <p>Summarise the evaluation process and results.</p> <p>Obtain necessary approvals for the award decision.</p> | | <p>Develop business cases Local Government Association</p> |
| | <p>Seek internal approvals to award contract</p> | <p>Obtain endorsements and approvals from relevant internal stakeholders.</p> <p>Ensure that all necessary internal governance processes are followed.</p> <p>Document the approval process and decisions.</p> | | |
| | <p>Prepare communications plan</p> | <p>Develop a plan to communicate the award decision to stakeholders.</p> <p>Prepare announcements and notifications, ensuring clear and consistent messaging.</p> | | |

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| | <p>Assessment summaries and 8 working day standstill period</p> | <p>Provide assessment summaries to suppliers who submitted evaluated tenders.</p> <p>Observe the mandatory 8 working day standstill period before contract award.</p> <p>Address any challenges or issues raised during the standstill period.</p> | | <p>Guidance: Assessing Competitive Tenders (HTML) - GOV.UK (www.gov.uk)</p> |
| | <p>Conduct debriefs</p> | <p>Offer feedback to suppliers to improve future bids.</p> <p>Provide detailed explanations of the evaluation results and areas for improvement.</p> <p>Ensure that debriefs are conducted professionally and constructively.</p> | | |
| | <p>Publish Contracts Award Notice</p> | <p>Announce the award decision publicly via a Contracts Award Notice, ensuring compliance with transparency requirements.</p> | | <p>Guidance: Competitive Tendering Procedures (HTML) - GOV.UK (www.gov.uk)</p> |
| | <p>Award Contract and sign contract</p> | <p>Finalise and sign the contract with the selected supplier.</p> | | |
| | <p>Publish contract</p> | <p>Publish the Contract within 90 days of the public contract being entered into</p> <p>Ensure that sensitive information is appropriately redacted.</p> | | |

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| Manage | Mobilise contract (onboarding and offboarding) | <p>Execute the plan for onboarding of the new supplier.</p> <p>Execute a smooth transition from any outgoing supplier.</p> <p>Provide necessary training and resources to the new supplier.</p> <p>Create an “Obligations Matrix” to clearly define whose responsible for what, where, when and how.</p> <p>Ensure KPIs include mobilisation.</p> | | <p>Effective Contract Management – Procurement Essentials - CCS (crowncommercial.gov.uk)</p> <p>Contract management principles - GOV.UK (www.gov.uk)</p> <p>Commercial capability: contract management standards - GOV.UK (www.gov.uk)</p> <p>Civil Service: helping you with managing contracts and suppliers - GOV.UK (www.gov.uk)</p> <p>Civil Service: helping you with managing contracts and suppliers - GOV.UK (www.gov.uk)</p> <p>Supplier Relationship</p> |
| | Contract Management Plan | <p>Plan implemented for managing the contract, including performance monitoring and reporting.</p> <p>Roles and responsibilities defined for contract management.</p> <p>Processes established for managing contract variations and issues.</p> <p>Create an “Obligations Matrix” to clearly define whose responsible for what, where, when and how.</p> | | |

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| | <p>Monitor Supplier Performance</p> | <p>Assess supplier performance against KPIs and contractual obligations.</p> <p>Conduct performance reviews and address any issues promptly.</p> <p>Continuous communication and collaboration with the supplier.</p> <p>A predefined process for resolving disputes in the contract or agreement with the supplier has been established.</p> <p>All relevant parties been informed of the dispute resolution process.</p> <p>An escalation procedure in place if the dispute cannot be resolved at the initial level.</p> <p>Provisions for mediation or arbitration if the dispute cannot be resolved through standard procedures are established.</p> | | <p>Management CIPS</p> |
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| | <p>Manage Contract Changes</p> | <p>Changes to the contract terms or scope are managed in a controlled manner.</p> <p>Variations are documented and approved.</p> <p>The impact of variations on contract performance and costs have been assessed.</p> <p>The Contract Notice is published where the contract modification meets the requirements of Section 75, PA23.</p> | | |
| | <p>Supplier Relationship Management</p> | <p>Regular communications established with the supplier to ensure smooth contract execution.</p> <p>Agreement to conduct a collaborative and constructive relationship.</p> | | |
| | <p>Performance Reviews</p> | <p>Periodic reviews established to assess supplier performance and contract compliance.</p> <p>Process in place to address any performance issues and implement corrective actions.</p> | | <p>Contract Performance CIPS</p> |

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| | Contract exit and transition | Establish a clear, defined and well communicated plan to suppliers as to roles and responsibilities specifically around, intellectual property, asset management, asset uptake by a new supplier. | | |
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6. Key Considerations:

If you have developed your tender documents using a DPS or framework, you should aim to reuse the content in the open or competitive flexible procedure. However, in doing so, it is crucial to consider the following:

Vision and Ambition Alignment

- Ensure that the procurement project aligns with the overarching strategy and goals of the LA. Clearly define the vision and expected outcomes of the project to guide decision-making throughout the process.

Comprehensive Planning and Scheduling

- Develop a detailed plan and schedule that outlines all tasks and milestones relating to the new procurement procedure. Ensure that this plan is comprehensive, tracking progress and adjusting as necessary to stay on course.

Resource and Staffing Considerations

- If necessary, assess the resource implications of transitioning to support procurement and contract management. Ensure that the necessary expertise and capacity are in place to manage the project effectively.

Risk Management and Monitoring

- Establish logs to regularly capture risks, issues, assumptions, and dependencies. Implement a clear process to monitor and resolve these factors to minimize their impact on the project.

Market Research and Supplier Assessment

- If required, conduct thorough market research to understand the supplier landscape, including options for Small and Medium Enterprises (SMEs). Identify potential suppliers, assess their capabilities, and analyse market trends, risks, and opportunities.

Regulatory Compliance and Transparency

- Ensure that the procurement process complies with the PA23. Maintain transparency throughout the process, including clear communication with suppliers and adherence to commercial confidentiality and intellectual property rights.

Stakeholder Engagement and Approvals

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- Engage with internal and external stakeholders to obtain necessary support and approvals. Ensure that the business case, procurement strategy, and contract award decisions are well-supported and approved through the appropriate governance channels.

Social Value and Sustainability

- Consider and integrate social value opportunities into the procurement strategy. Evaluate how the project can contribute to sustainability and local economic impact, ensuring alignment with the Local Authority's overall strategic objectives.

Contract Management and Performance Monitoring

- Implement a robust plan for managing the contract, including performance monitoring and reporting. Define roles and responsibilities, establish processes for managing contract variations and issues, and conduct regular performance reviews to ensure compliance and address any problems promptly.

Transition Arrangements

- Carefully plan and manage the transition from the current arrangement to the new contract. This includes coordinating with both outgoing and incoming suppliers to ensure a smooth handover and continuity of service.

7. Related Articles:

[Aggregations, eAuctions, and how to take advantage of the public sector's national buying power – Procurement Essentials - CCS \(crowncommercial.gov.uk\)](#)

[How to prepare for the Procurement Act 2023 – Procurement Essentials - CCS \(crowncommercial.gov.uk\)](#)

[How your buying decisions have the power to help put an end to modern slavery – Procurement Essentials - CCS \(crowncommercial.gov.uk\)](#)

8. Additional Resources:

[Procurement best practice – how to unlock efficiency and consistency through using playbooks – Procurement Essentials - CCS \(crowncommercial.gov.uk\)](#)

[How local authorities can harness the power of national procurement to meet local objectives – Procurement Essentials - CCS \(crowncommercial.gov.uk\)](#)

[How to achieve transparency in your procurement – Procurement Essentials - CCS \(crowncommercial.gov.uk\)](#)