

CORPORATE PROCUREMENT SERVICES



Working together to promote equalities in procurement

A GUIDE FOR CONTRACTORS AND SUPPLIERS

EQUALITY AND DIVERSITY IN THE PROCUREMENT PROCESS

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Introduction

Promoting Equality Through Procurement Matters

All groups within our communities, may quite properly expect that public money is spent on local services which suit their needs - and that it is spent in a way which promotes equality of opportunity and delivers high quality goods and services. The Council is committed to equality and diversity in its service provision and will ensure compliance with all legislation covering anti-discrimination and assess suppliers' and service providers' commitment to these aims and values.

Equality and diversity issues in contracts.

Relevance

Two guiding principles to always bear in mind when considering equality and procurement is 'relevance' and 'proportionality' to the contract. Equality will be more relevant to some services, works or supplies than to others. The more relevant equality is to a contract, the more attention you need to give to making sure it is properly reflected (proportional) at all stages of the procurement process.

Legislation

The Race Relations (Amendment) Act 2000, Disability Discrimination Act 2005 and Equality Act 2006 together with other Acts of Parliament and Regulations have effectively outlawed discrimination in all functions of local authorities. Legislation gives local authorities a clearer, more direct, positive legal duty to eliminate discrimination and to promote equality of opportunity on the grounds of race, disability and gender in carrying out all their functions, including procurement. Although the statutory duties fall primarily on public sector bodies to comply with, contractors and suppliers should be aware that under the gender and disability duties they can be directly subject to the duties through 'public authority' contracts.

The various acts and regulations on equality in employment are listed below and apply to all employers and employees. They prohibit discrimination, harassment and victimisation of employees and others on grounds of race, gender, gender identity, sexual orientation, religion or belief, disability and age.

Small Business Concordat

Birmingham City Council is committed to delivering locally the National Procurement Strategy for Local Government. The strategy asks local authorities to adopt a small business friendly procurement concordat and to encourage a mixed range of suppliers in order to help develop and stimulate a varied and competitive market place. The concordat is a statement of principles intended to under-pin effective trade between local authorities and small businesses.

The concordat sets out what small and medium sized enterprises that are our suppliers, or who want to do business with us, can expect and what we expect from our suppliers. It commits us to good practice in procurement and contract management in order to deliver high quality public services.

We recognise the important contribution that small and medium sized enterprises, social enterprises and the voluntary and community sector organisations can make to the delivery of public services and the vital role these organisations play in the national and local economy. We are committed to making the most of the benefits offered by them.

This concordat is not an exclusive contractual relationship with any particular organisation or sector, but is intended to set a framework for a more strategic, inclusive and consistent relationship between Birmingham City Council and our Suppliers.

Click to view [Concordat](#)

Community Engagement



BCC's Procurement & Commissioning Strategy (P&CS) sets out Birmingham's approach to using its resources in the best possible way to meet the needs of Birmingham's citizens, and secure its strategic outcomes. BCC spends, through commissioning and procurement, over £1 Billion a year and Corporate Procurement Services (CPS) lies at the centre of this activity.

CPS has gone through a major business transformation programme to move the organisation away from the hierarchical and disparate structure that was previously in place. The structure is now based around category teams, a more holistic approach to procurement that enables a better understanding of market needs and fuller engagement of stakeholders.

As a result, CPS now consults and engages with the whole range of stakeholders and people who use its services. This has informed our understanding of the diverse needs of the local community and has also assisted in establishing priorities to build into our service planning and design.

Procurement specialists have now gained an in-depth understanding of their supply markets and embedded market based strategies. This has been achieved by implementing a structured approach to leading cross functional teams in reviewing business needs and options appraisals, assisted by the Category Management Toolkit, developed to facilitate consistent best practice in procurement projects.

Equality Needs Impact Assessment



What is an Equality Impact Needs Assessment?

An equality impact needs assessment (EINA) is a systematic tool for identifying the potential impact of a council's policies, services, strategies and functions on its residents and staff. The aim is to identify any effect or likely effect on different groups within the community and act a form of risk analysis.

The assessments are required under law on the grounds of disability, gender and race. Birmingham City Council also assesses for impact on the grounds of age, religion and sexual orientation. The purpose of the assessment is to identify and anticipate the discriminatory or negative consequences for a particular group or sector of the community.

This process enables counter measures to be taken, which eliminate, minimise or balance any discriminatory or negative consequences. To support this objective the City Council will be using the guidance developed in partnership with the IDeA and adopting the reporting template produced by the Equality and Human Rights Commission.

The process is done through two stages. The first is the Initial Screening Test. This checks to what extent the service, policy or strategy is relevant to the Council's equality duties, and whether there is evidence that suggest that a detrimental impact is likely. Where evidence suggests potential negative impact on any equality group a second stage of a Full EINA is undertaken in more detail.

West Midland Common Standard for Equalities in Public Procurement



A common approach (The Common Standard for Equalities in Public Procurement) to assessing equalities in council contracts has been developed and used by a group of six local authorities in the West Midlands collectively known as the West Midlands Forum (WMF) since 1998. The aims of the Standard include: helping contractors meet their obligations for non discrimination, encouraging and acknowledging firms who comply with the Standard, sharing best practice, greater efficiency and securing contracts that deliver equalities in public procurement.

Authorities can use the Standard to assess whether or not contractors are meeting their obligations under equality legislation at an early stage (prequalification) which is when the authority decides who they will invite to tender or put on to their approved lists. Firms are asked to achieve up to ten criteria, depending on the number of employees. These criteria include: providing a comprehensive equal opportunities policy; using open recruitment practices; identifying and addressing imbalances in job applicants and employees according to gender, ethnicity and disability; providing equality training for managers; and reporting and consultation on equality in the workplace. Once a contractor has been approved they need not resubmit equal opportunities policies to any of the WMF members within a three year review period.

The Standard demands a proportionate response from firms as it allows for the size of the company in terms of the evidence it requires. For example, firms with less than 5 employees need only provide a written assurance that they will meet the Standard if the number of employees increases. Benefits for contractors and local authorities include reducing paperwork (saving time and money) and better implementation of equality in the workplace.

Click to view West Midland Forum web site

[West Midlands Forum Portal](#)

Pre-qualification questionnaires (PQQ)

Pre-qualification questionnaires (PQQs) can be used to help assess the suitability of potential suppliers. PQQs can contain 6 questions approved for use by The Local Government Act 1988.

The Questions

The following questions (1 – 6) are those used by the WMF and associated councils in pre-qualification questionnaires.

Service providers need to demonstrate compliance with equality in employment legislation through their answers to the following six questions and by providing supporting evidence.

1. Is it your policy as an employer to comply with your statutory obligations to employees and applicants for employment under the Acts of Parliament
2. In the last three years has any finding of unlawful discrimination or other breach of these laws been made against your organisation by any court or employment tribunal?
3. In the last three years has your organisation been the subject of formal investigation by any of the statutory equality commissions on grounds of alleged unlawful discrimination?
4. If you answered 'yes' to question 2 or, in relation to question 3 a commission made a finding adverse to your organisation what steps did you take to address that finding?
5. Is your policy on equal opportunities at work set out:
 - (a) In instructions to those concerned with recruitment, training and promotion?
 - (b) In documents available to employees, recognised trade unions or other representative group of employees
 - (c) In recruitment advertisements or other literature?
6. Do you observe as far as possible the regulations which give practical guidance to employers and others on the elimination of discrimination and the promotion of equality of opportunity in employment?

Note: If you are not currently subject to UK legislation please supply details of your experience in complying with equivalent legislation that is designed to eliminate discrimination and to promote equality of opportunity

Finditinbirmingham

Advertising Council Contracts

Finditinbirmingham is a new BCC delivered initiative which aims to support the local small business community by making opportunities to supply the City Council, our suppliers, and partner organisations more visible. It will also provide a variety of support mechanisms to local businesses to enable them to compete for work more effectively.

Any business of any size can register as a potential supplier on Finditinbirmingham to compete for a wide and diverse range of supply opportunities.

The initiative provides a free web based supply portal which all Birmingham City Council staff use to source goods and services that cannot be sourced from existing supply contracts. Using the Finditinbirmingham website removes the requirement to identify and contact businesses individually to supply quotations. The supply requirement only submitted to the website once. Email alerts will be sent to suitable registered businesses advising them of the supply opportunity and the person that posted the opportunity simply waits for quotations to be submitted. The local emphasis to Finditinbirmingham helps support the Council's priority to succeed economically and reduces the environmental impact of procurement decisions.

Please register on www.finditinbirmingham.com .



Official Journal of the European Union (OJEU)



Where the estimated total value of a contract for goods or services* is greater than the EU Threshold it must be the subject of a call for competition by publishing and advertisement on the OJEU. A shortened version of the OJEU notice will also be published on the Council's website.

*There is no requirement in the EU rules for Part 'B' service contracts to be advertised in OJEU although a Contract Award Notice must be placed no later than 48 days after award.

Click to view www.ojec.com

Think Venue Think Third Sector



Birmingham City Council (BCC) is committed to support voluntary and not for profit organisations (the third sector). The third sector is invaluable to the City often supporting or training some of the most vulnerable people of our community.

The Council has, in the past, booked venues for conferences and meeting rooms from commercial suppliers. In February 2009, BCC reviewed its procurement arrangements and decided to work with Birmingham Voluntary Services Council to create a web site of third sector meeting/conference venues. www.tvts.coop

Think Venue Think Third Sector is an initiative that aims to provide customers with a real choice of venues when looking to hold a meeting, event or conference. The key difference between this and other private sector venue finding services is that it is run as a cooperative and that profits are re-invest into member businesses and their social and environmental aims. The venues are very varied ranging from charities, social enterprises, faith organisations and community centres.

Procurement Policy Framework for Jobs and Skills

For Birmingham, tackling unemployment is a key part of the wider regeneration of the city and surrounding areas. Unless sufficient people with the relevant skills are available to take up job opportunities, the growth of the local economy will be limited, affecting the prosperity of the whole of Birmingham, not just those out of work

BCC has adopted the best practice model produced by the Sustainable Procurement Task Force – The Flexible Framework, a matrix for organisations to measure their progress on sustainable procurement. The framework includes five progressive levels – Foundation, Embed, Practice, Enhance and Lead. BCC achieved Foundation Level 1 in March 2009 and the Council has committed to achieving Practise Level 3 of the Flexible Framework by 2011.

Addressing Worklessness in the City remains a key priority for the City Council and its strategic partners. The onset of the recession has obviously impacted on the number and type of jobs that are available to our residents, with further, disproportionate impact on the most disadvantaged groups.

The '**BCC Procurement Policy Framework for Jobs and Skills**' aims to ensure that local people not only have access to improved goods and services and an improved built environment, but also benefit directly from a sector-wide strategy that places specific requirements on contractors to provide far more training and job opportunities for local people, **as part of their contractual commitments**.

The purpose of this policy therefore is to provide an effective lever in tackling Worklessness by embedding within BCC a requirement to consider¹, **at every stage of the procurement process**, the contractual relevance of clauses that stipulate a commitment to Targeted Recruitment and Training (TR&T) initiatives or the provision of apprenticeships.

¹ This does not mean jobs and skills clauses can be applied to all contracts, but that they will be considered. And where it is determined that they can not be applied, the procuring department will look to apply either Approach 2 (a Voluntary Agreement) or Approach 1 (a Charter) instead.

Procurement Policy Framework for Jobs and Skills

To support implementation of this policy BCC is adopting the following framework²

Approach 4 Strategic Approach		
The strategic application of contract clauses to the end-to-end Procurement System		
Approach 1	Approach 2	Approach 3
Jobs and Skills Charters	Voluntary Agreements	The specific use of Contract Clauses

Approaches 1, 2, and 3 offers a menu of appropriate responses which underpin the strategic approach to procurement set out in Approach 4.

Four Approaches for securing contractor support

The Framework comprises four identified approaches to securing contractor support for Targeted Recruitment and Training (TR&T) initiatives, and to thereby secure greater access to jobs and skills opportunities for local people. The four distinct approaches set out are as follows:

- **Approach 1: Charters:** through which public sector organisations share their strategic priorities and goals (specifically around Worklessness) with current and prospective contractors and encourage the adoption of exemplar behaviours and practices and look to develop new customer-supplier relationships.
- **Approach 2: Voluntary Agreements:** whereby public sector organisations work with their existing contractors to secure commitments to specific jobs and skills outcomes over a specified time period, with support provided to contractors by a range of public sector agencies. This approach can be used retrospectively with longstanding contractors and in the middle of long term contracts.
- **Approach 3: The specific use of Contract Clauses:** whereby public sector organisations include jobs and skills requirements within specific procurement exercises, leading to a contractually agreed set of outputs and outcomes.
- **Approach 4: The strategic application of Contract Clauses:** whereby public sector organisations deliberately adopt a 'default' position, which requires clauses specifying jobs and skills requirements to be routinely **considered** for their relevance to all stages of the commissioning and procurement process and each and every procurement exercise undertaken (and measure on an ongoing basis the percentage of contracts and the proportion of expenditure to which such clauses apply, in addition to tracking outputs and outcomes).

² that formed the basis for the West Midlands Procurement Framework for Jobs and Skills, launched by the West Midlands economic Inclusion Panel in March 2010.

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