

# Procurement and Equality

This document informs central Government departments of the Government's policy on equality and procurement.

The Government's policy on Equality and Procurement requires central Government departments and their agencies to ensure they meet their legal obligations pertaining to equality legislation and associated public sector duties, in a way that is consistent with value for money policy and the UK procurement regulations and EU Procurement Directives<sup>1</sup>. Departments should address equality issues through the procurement lifecycle in accordance with OGC's guidance, 'Make Equality Count'.

In addition to national equality laws, departments must also meet their legal obligations under the public sector equality duties (which apply only to the public sector). These include:

- The Disability Equality Duty
- The Gender Equality Duty
- The Race Equality Duty

These duties mean that departments must pay due regard to the need to eliminate discrimination and promote equality of opportunity with regard to disability, gender and race in their procurement activities. Where a public service is contracted out and an equality duty applies to part of that service, departments must consider whether relevant obligations should be passed on to the contractor.

Departments should do the following:

- Incorporate and embed equality into their overarching commercial strategies and procurement policies.
- Consider which equality-related issues are relevant to their individual procurements at the earliest possible stages, as this is where there is most scope to address them.
- Where equality issues are assessed as being relevant to the subject matter of the individual procurement, take appropriate and proportionate action at each stage of the procurement process to address these issues.
- Ensure that contracting opportunities are accessible to all types of diverse businesses (including small and medium sized enterprises, third sector organisations, women-owned, ethnic minority owned and disabled-owned businesses).
- Consider whether it is appropriate on the basis of their user requirement and specification to reserve a contract for organisations providing supported employment opportunities for disabled people in line with OGC's guidance on reserving contracts, which can be found at the link below.
- Where appropriate, work with suppliers on a voluntary basis to promote the importance of equality to their suppliers and supply chain, for example including suppliers' workforce on internal equality and diversity training courses.

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<sup>1</sup> The Public Contracts Regulations 2006 and Utilities Contracts Regulations 2006, which implement Directive 2004/18/EC and Directive 2004/17/EC respectively.

- Test all requirements for need, cost-effectiveness and efficiency, and ensure a careful cost-benefit analysis is completed to clarify which route is likely to be the most effective to achieve its aims (the Treasury's Green Book provides guidance on how to make an assessment of social costs and benefits).

Equality issues can be addressed:

- Pre-procurement – when identifying the need and considering the market. This can include consultation with potential users of a product or service to establish any equality-related requirements.
- Specification Stage – when defining the requirement, ensure relevant equality requirements are addressed, for example, access to building for disabled people.
- Selection Stage – when selecting potential suppliers to invite to tender. This can include asking suppliers for evidence of professional or technical ability, for example, for services to ethnic minority communities, cultural awareness and language skills.
- Award Stage – when awarding the contract. This can include using equality-related award criteria to help determine the most economically advantageous tender where they relate to the subject matter of the contract.
- Contract Conditions – where they relate to the performance of a contract, are proportionate and compatible with European Community Law.

'Make Equality Count' contains practical guidance explaining what the existing public sector equality duties mean in the context of public procurement and also illustrates, with case studies, when and how equality issues can be addressed at each stage of the procurement process in line with procurement law.

### Links to Other Policies and Guidance

- All procurement activity is subject to **VFM Policy** and [EU Law](#).
- More detailed guidance on how to address equality issues in public procurement can be found in OGC's [Make Equality Count](#).
- OGC's guidance on reserving contracts for [Supported Factories and Businesses](#).
- OGC's [Buy and Make a Difference](#) offers practical guidance on how to address social issues in public procurement, with more detailed guidance in OGC's [Social Issues in Purchasing](#) guide.

### Questions and Comments

Questions on this policy should be addressed in the first instance to the OGC Service Desk on **0845 000 4999** or at [servicedesk@ogc.gsi.gov.uk](mailto:servicedesk@ogc.gsi.gov.uk)