

Risks identified: Risk of challenge to a procurement exercise resulting in damages and legal costs

Risk categories (such as *Reputation, Governance, Finance, Operational*): **Reputation, Governance, Finance, Operational**

Possible consequences if the risk were to emerge?

1. Substantial claim made as a result of a procurement exercise. Given the nature of the procurements that are let it is possible these claims could be substantial. This could result in ESPO being placed at substantial risk of continuing in business due to level of damages paid and reputational impact.
2. If challenge arises during the procurement exercise then this could delay the procurement and/or result in its abandonment.
3. If challenge is 'official' and through the courts this would involve considerable resource and expense to defend.
4. Supplier challenge could devalue a potential framework agreement benefit to the sector.

Raw Risk Assessment:

Predicted impact of the risk: (Scale 1-5, see Guide)	Predicted likelihood of the risk: (Scale 1-5, see Guide)	Total risk score: (Impact x likelihood, Scale 0-25)
5	3	15
Explanation for rating:	Explanation for rating:	Low / Medium / high
Not limited to single contract - financial loss difficult to quantify Could require significant resource to manage Potential for adverse press exposure and reputational risk	Historical experience suggests a low level of claims, litigious environment suggests this could change	High

Control Measures:

Actions to reduce the likelihood and severity of the risk to an acceptable level?

1. All procurements now subject to either an Outline Business Case and/or Full Business Case which require approval at a Pre-Procurement Panel.
2. All full Business Cases are subject to a full Business Risk Assessment which will highlight any potential residual risk.
3. Residual risk issues will be referred initially to SMT and thereafter to COG and/or Management Committee as deemed appropriate.
4. All procurement exercises are subject to a final Contracts Panel approval to ensure full procurement compliance prior to any award announcement.
5. All procurement awards are fully de-risked in terms of any potential for a remedy of ineffectiveness - by ensuring full compliance with the Remedies Directive in relation to information shared with both successful and unsuccessful tenderers.
6. Contract procedure rules
7. Procurement policies and procedures
8. Procurement performance measures
9. Staff training and development
10. Professional Indemnity Insurance

Risk indicators to be used to monitor the risk? *(These provide early warning, minimum of 3)*

1. All supplier complaints, requests for debriefings, FOI requests and/or formal and informal challenges are notified to the Director or Assistant Director.
2. Monitoring of ESPO compliance with procurement timetabling to manage reduction in levels of disaffection from both demand and supply side.
3. Monitor case law developments in the sector and network with other PBOs for their 'lessons learnt'.
4. Procurement Performance Measures
5. Procurement Panel Minutes
6. Post award review and feedback

Residual Risk Assessment following Control Measures:

Predicted Impact of the risk: (Scale 1-5, see Guide)	Predicted likelihood of the risk: (Scale 1-5, see Guide)	Total risk score: (Impact x likelihood, Scale 0-25)
5	2	10
Explanation for rating:	Explanation for rating:	Low / Medium / high
Risk of challenge cannot be entirely eliminated.	Improved policies and procedures which demonstrate strict compliance. We could settle early.	High

Further action required to reduce risk:

1. Introduce further standard operating procedures to ensure consistency in market engagements i.e. standard contract templates.
2. Introduce contract/commercial 'refresher' training in-house for procurement staff.
3. Include new Social Value considerations in all EU Service Contracts.
4. Annual Review of Contract Procedure Rules
5. Development of Procurement policies and procedures
6. Development of Procurement Performance Measures

Recommendation to Director/Committee:

The actions identified all remain relevant and on-going
 Quarterly update on progress

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Score Summary:

Raw Risk Score	Risk Tolerance	Residual Risk Score	Effect of Internal Controls
15/25	10/25	10/25	5/25