

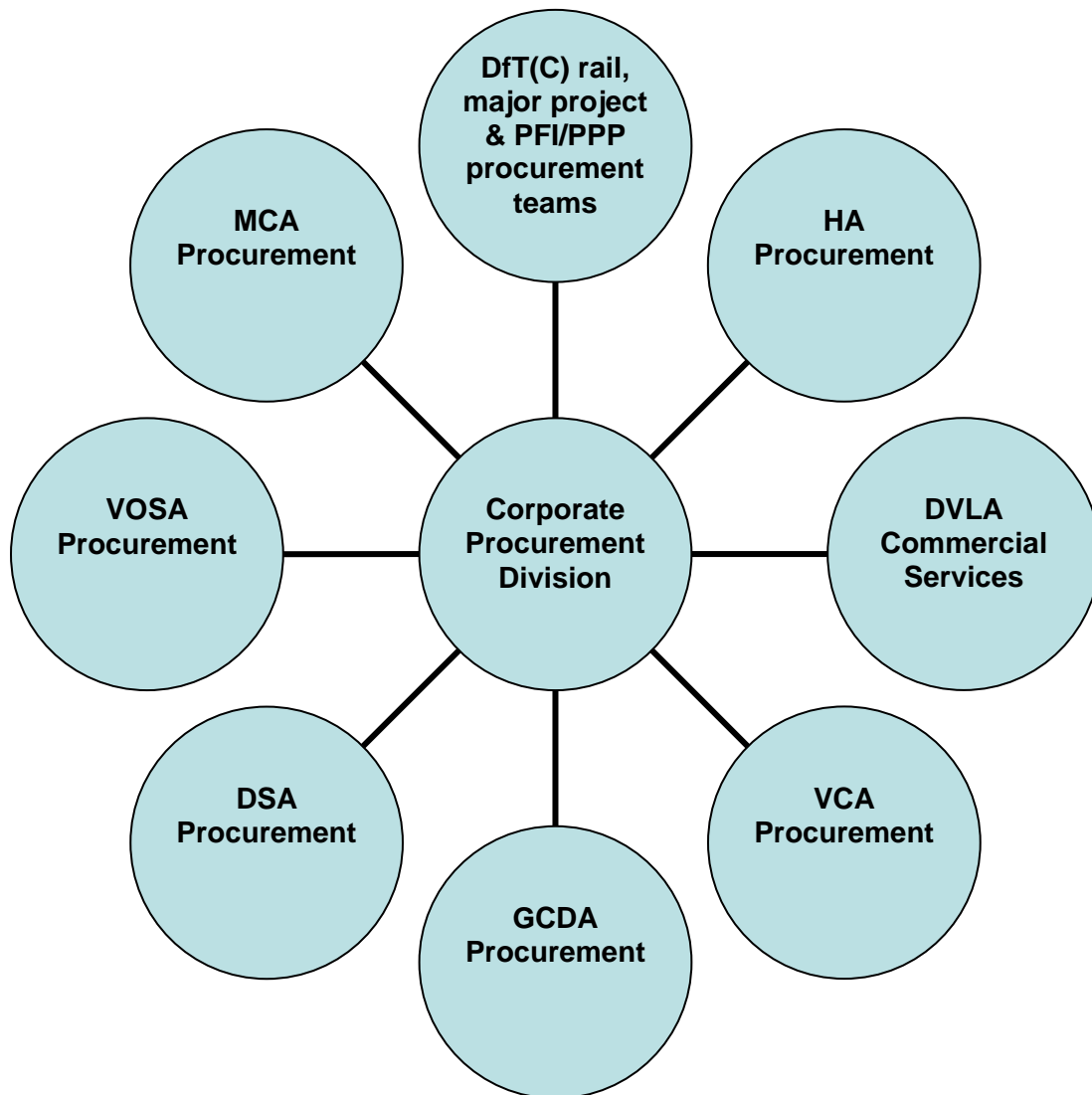
Department for Transport: how we buy

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Procurement within the Department

The organisation of procurement in the Department for Transport (DfT) reflects its federal nature, and comprises a central procurement organisation with separate procurement teams in each of the Department's seven agencies.



The central procurement organisation comprises the Corporate Procurement Division, responsible for the Department's overall procurement strategy and policy, together with a number of procurement teams with responsibility for general procurement, rail procurement, major projects and PFI/PPP projects.

Corporate Procurement Division

Corporate Procurement Division (CPD) is the Department's lead procurement body whose role is to ensure that:

- the Department and its agencies award compliant, deliverable, affordable, value for money contracts with associated governance
- appropriate procurement processes and procedures are in place to ensure these are delivered
- the Accounting Officer(s) do not have to face successful, procurement-related legal challenges

- the Head of CPD, as Head of Procurement, provides leadership and co-ordination in all procurement matters across the DfT family
- the Department complies with the Cabinet Office agenda of centralising government procurement, and that the DfT context is recognised in the Government's implementation of this agenda

The Head of Corporate Procurement is Simon Lydiard

- simon.lydiard@dft.gsi.gov.uk
- Phone: 020 7944 3041

DfT procurement teams

Within the central Department's Commercial and Technical Services Division are a number of procurement teams responsible for the procurement of rail projects and franchises, major transport projects and PFI/PPP projects.

The Head of Rail Contracts and Major Projects Procurement is John Gilbert

- john.gilbert@dft.gsi.gov.uk
- Phone: 020 7944 3045

The head of the central Department's Procurement delivery Team is Roger Reed

- roger.reed@dft.gsi.gov.uk
- Phone: 020 7944 8431).

The contact for enquiries about Public Private Partnerships is Colin Goodwillie

- Colin.goodwillie@dft.gsi.gov.uk
- Phone: 020 7944 5016

The agencies

Each agency has its own procurement organisation. The Highways Agency, for example, is responsible for the management and development of England's motorway and trunk road network.

- [Highways procurement](#)
- [Highways procurement strategy](#)

The Highways Agency's Procurement Director is David Poole

- david.poole@highways.gsi.gov.uk
- Phone: 0121 678 8045

General procurement enquiries

- [General contact points for the DfTc and the agencies](#)

DfT Procurement Board

The DfT Procurement Board exists to develop common commercial and procurement best practice and governance across the Department and its Agencies and to implement a category management procurement strategy. The Board is chaired by the Head of Corporate Procurement and each DfT agency is represented.

Selecting suppliers

DfT aims to invite tenders from enough suppliers to ensure there is genuine competition; whilst still giving tenderers a fair chance of winning.

Public procurement is carried out in accordance with the EU public procurement regulations. Where the estimated contract value exceeds the EU thresholds, we will normally advertise the requirement in the Official Journal of the European Union (OJEU). Interested suppliers must then express their interest in the opportunity by submitting by the published deadline, either a written expression of interest (EOI) in response to the advertisement, or, if required by the Department, completing and returning the Department's Pre-Qualification Questionnaire (PQQ).

DfT uses the Government's standard PQQ, although we may add more specific supplementary questions to help us assess suppliers' suitability for a specific project.

- Pre-Qualification Questionnaire (PQQ) core questions

When the deadline for receipt of EOIs or PQQs is reached, DfT will assess the supplier's responses against the selection criteria set out in the public procurement regulations. These focus on the supplier's qualifications and suitability to meet our requirement, and cover economic and financial standing, experience and technical or professional ability.

The OJEU notice will specify which procurement procedure is being used. When using the *Restricted*, *Negotiated* or *Competitive Dialogue* procedures, DfT will select a list of tenderers from those suppliers who meet the selection criteria. If the *Open* Procedure is used, suppliers are not pre-selected and all suppliers who respond to the notice are invited to tender.

For contracts above the EU threshold, we will normally assess the financial viability of potential tenderers as part of the selection process. This is because we need to manage the risk of suppliers being unable to complete a contract through financial failure.

DfT uses a standard template for an initial financial assessment and seek advice from an internal accountant before rejecting any supplier on financial grounds. The assessment of risk seeks to be based on sound business judgement, rather than just the application of formulae and we endeavour to avoid imposing overly restrictive turnover requirements unless there are good reasons for doing so. Even if a supplier "fails" an element of the financial assessment, they may still be invited to tender if they are able to provide either a Bankers or Parent Company Guarantee.

Transparency requirements

Besides publishing in the OJEU, DfT's OJEU notices are also published on Government's "Contracts Finder" website. As part of the Government's transparency agenda, the Department additionally publishes on "Contracts Finder" contract opportunities that fall below the EU thresholds but exceed £10,000 for which suppliers can apply to take part.

- Contracts Finder

Suppliers and other organisations looking to tender for public sector contracts should be aware that if they are awarded a new Government contract, the resulting contract between the supplier and Government will be published. In some circumstances,

limited redactions will be made to some contracts before they are published in order to comply with existing law and for the protection of national security.

To assist the Department to meet its obligation to publish contracts it awards, tenderers are asked to ensure that their tenders comply with the Department's instructions for formatting tenders.

- [Instructions for formatting tender submission documentation: RFT/Word, CSV/Excel and Zip files](#)

Opportunities for small to medium enterprises (SMEs)

It is Government policy to encourage SMEs, and the Department has published its SME action plan. Although we are a large Department, we have contracts suitable for smaller organisations and welcome tenders from SMEs.

- [DfT actions for improving business opportunities for SMEs](#)

Business Link is a support network that gives information and advice to SMEs. If you wish to be directed to your nearest Business Link, please contact 0845 600 9006. The Business Link website includes an online procurement course "Winning the Contract", that is a free resource to help businesses (and in particular SMEs) learn about public procurement and how to tender for public sector contracts.

- [Business Link](#)
- [Winning the contract](#)

Suppliers employing the severely disabled

The Government introduced Special Contracts Arrangements (SCAs) in 1994. These assist eligible non-profit-making suppliers and workshops, where severely disabled people make up more than 50 per cent of the workforce, within the European Union and European Economic Area, to compete for government business.

Special Contracts Arrangements for tendering under the EU threshold enable us to 'offer back' tenders to supported businesses that are unacceptable on price alone, whereby supported businesses can be given an opportunity to submit a revised tender for part or all of a contract. If on 'offer back' the supplier is able to match the best offer, its revised tender will be accepted.

In addition Regulation 7 of the Public Contracts Regulations 2006 allows the right to tender for public contracts to be reserved to supported factories and businesses, or to economic operators which operate supported employment programmes.

Tendering procedure

Whenever the Department invites a company to tender, it:

- specifies its needs in terms of outputs/deliverables whenever possible, to encourage innovation;

- seeks to ensure that tendering procedures and documentation are as clear and concise as possible, only asking for the information necessary to evaluate tenders;
- includes the evaluation criteria on which the decision to award the contract will be based;
- provides all tenderers with the same information and opportunity, for example if a tenderer asks a question or requests further clarification during the process.

To ensure safety and reliability, some specifications may require products to meet specific international, European or British technical standards. Tenderers may be asked to produce relevant certificates.

When the Department invites suppliers to tender for work it provides full instructions on how each tender should be submitted.

- Instructions for tenderers

Failure to follow all our Instructions for Tenderers could mean that a tender is rejected. For example, tenders received after the stated deadline will be rejected, even if the delay occurred in transit.

Sustainability in procurement

Operational sustainability and corporate responsibility are key priorities and the Department has adopted:

- Government Buying Standards (GBS) these are a set of mandatory minimum environmental standards to which commonly-purchased products must conform
- Government's policy on the purchase of timber

In addition the Department is working to meet government targets on sustainability.

- Sustainable development in Government

Conditions of contract

The Department uses its own conditions of contract and tenderers should not refer to any terms or conditions that their company uses when submitting a quotation or responding to a formal invitation to tender. In the case of quotations the Department's Conditions of Contract are printed on the reverse of its Purchase Order forms.

The Department has three standard Conditions of Contract, as follows:

- General conditions of contract for services
- General conditions of contract for goods used for the supply of goods and any services associated with those goods
- Purchase order conditions used when the Central Department places a purchase order (typically for goods and services valued at less than £25,000). Agency rules may vary.

For engineering, works and FM contracts the Department may use the appropriate form of the NEC3 suite of contracts.

- NEC3 contracts

Special transparency condition

The Department's standard Conditions of Contract incorporate a condition that sets out the Government's transparency requirements. Where any non-Departmental contract conditions are used this transparency condition will also be incorporated.

Timber condition

Where a contract includes the procurement of timber and wood-derived products an additional standard condition is included in our contracts.

- Government's policy on the purchase of timber

Contractor's liability and insurance

The Department's requirements

The Department's standard Conditions of Contract require contractors to indemnify the Authority in respect of personal injury, loss or damage to property, financial loss resulting from advice given or omitted to be given and any other loss arising from the Contractor's act or omission.

In DfT's standard Terms and Conditions of Contract, the liability of the Department and Contractor to each other, is normally limited to an annual aggregate of five million pounds (£5,000,000) or twice the contract value (whichever is higher).

However the Department may change (including increase) the limits of liability (or indeed any exclusions) on a case by case basis, to reflect value for money and risk to the Department. These issues are considered at an early stage in a procurement, and any exclusions or caps will be set before the issue of the invitation to tender.

The Department aims to establish liability ceilings that reflect a combination of the best estimate of the losses that might be suffered in the event of a default by the Contractor, the likelihood of those losses occurring and value for money considerations. The limit should not be so high that the commercial risk for the Contractor becomes unacceptable.

For some contracts, e.g. complex services contracts where there are a number of work streams, it might be appropriate to have separate limits for different kinds of loss.

Insurance

The Department requires its contractors to effect and maintain a policy or policies of insurance that provide an adequate level of cover in respect of all the risks that may arise out of the contractor's performance of their contractual obligations, including in respect of death or personal injury, loss of or damage to property or any other loss.

The levels of insurance cover held are normally a matter for the Contractor, reflecting their estimate of the risks involved.

Employers' liability insurance

Employers are legally obliged to insure against liability for injury or illness sustained by their employees during the course of their employment. The sum insured must be at least £5 million per claim. The Department may ask a contractor to provide

evidence of its employer's liability insurance policy and a copy of the certificate of insurance.

Intellectual property rights

The term 'intellectual property' is used to describe the output of creative or innovative activity which might be used for commercial purposes. It can include written work, images, designs, software, data, industrial processes and inventions, and can take the form of copyright, patents, trademarks and design rights.

'Intellectual property rights' (IPR) recognise ownership of the intellectual property by the originator and give legal protection against unauthorised use, imitation or theft. IPR can arise from any contract or consultancy where a process of thought is required.

The Department's standard Conditions of Contract vest IPR in the Crown. This is used where there is any possibility of the Contractor producing or having access to, any material, which is subject to copyright.

Where this standard clause is not relevant to a contract, it may be amended. If it is decided, having regard to all the relevant factors and value for money that the IPR should remain with the Contractor, then the Contractor will be required to issue a licence permitting the Department to use those rights.

Submitting and receiving tenders

It is essential that the Department receives tenders in a consistent way, as set out in its Invitation to Tender, and it will not accept tenders received by fax or email.

When tenders are received, they are securely stored until the closing date for receipt has passed.

Any tenders received after the tender deadline will not be evaluated. All such tenderers will be informed that their tender was received after the deadline and will not be progressed.

It is important that the department applies the rules on late tenders consistently. This not only protects the integrity of the tendering process, but also protects the Department against any charge of impropriety or unfairness.

Where insufficient tenders are received to provide adequate competition, the Department may decide not to open the tenders received (so it does not know which tenderers are involved) but keep them secure whilst the Department write to **all** tenderers to give them the same opportunity to submit new (or if they wish, revised) tenders to a new deadline.

The Department will also look closely at any tender that does not comply with the Instructions for tendering before deciding if it can be admitted. If the breach is serious, this may mean the tender is considered "qualified" and may not be admitted to the competition.

When all the tenders have been opened and recorded, the original tenders are held on the contract file and copies forwarded to the evaluation panel, together with any letters from tenderers who have declined to tender.

Evaluating tenders

Evaluation criteria

All competing tenders are assessed against the same criteria, which will have been established before the tenders are opened.

The purpose of the award criteria is to assess which tender is the most economically advantageous and the evaluation criteria will be set out in the Invitation to Tender. Under EU law, the department is required to ensure that the award criteria are:

1. completely transparent – the criteria cannot be changed after the tenders have been received or introduce new sub-criteria or different weightings
2. relevant to the subject matter of the contract - criteria the Department used at the selection stage (for example the track record of the organisation) or consider wider environmental or social benefits cannot be re-used at tender evaluation

If an order is to be placed against an existing Framework Agreement, new evaluation criteria that were not part of the original Agreement cannot be introduced.

Tenders are evaluated by assessing how suppliers fulfill the key criteria in the specification, and other aspects such as price, delivery date and quality. The Department will often interview the tenderers who have submitted the best proposals.

Your tender will be successful if it is the one that offers us the best value for money.

Checks undertaken before evaluation

Once the tenders have been opened the Department will check them to make sure they do not contain any arithmetical errors and are not qualified or non-compliant in any way.

If the Department finds any arithmetical error, it will identify where the error has occurred (and what the correct figure should be) and write to the tenderer to ask for formal agreement to the revised figure. If it is not clear where the mistake has been made, the Department will write to the tenderer to seek clarification.

If a tendered price appears to be unrealistically high or low (perhaps as the result of a mistake by the tenderer, or a misunderstanding of the requirement), the Department will write to the tenderer asking them to confirm their price.

If this (or any other changes) results in the tenderer wanting to change a rate or price, the Department will need to consider if the change is fair and reasonable. If significant, the Department will need to consider whether this is likely to affect the outcome of the competition and whether it can therefore be taken into account as part of the evaluation.

If a tenderer tries to change or qualify our terms and conditions of contract, it is known as a qualified tender. A non-compliant tender is one that tries to amend or qualify (or does not meet) the specification or instructions for tenderers. The Department rarely accepts qualified/non-compliant tenders because they may put

DfT at a disadvantage, set a precedent for future negotiations and distort the level playing field.

A qualified/non-compliant tender must not be confused with alternative tenders, which the Department can always consider, provided they are accompanied by a fully priced compliant tender.

Finally, the Department needs to check tenderers have not flagged up any confidential material which they do not wish to be published under the transparency provision. DfT will challenge this if the Department would normally expect to release this type of information under the Freedom of Information Act.

Tender evaluation

Each evaluation team member will read the tenders and evaluate them independently against the published evaluation criteria. Then the evaluation team will meet and agree a final moderated score for each tender.

Following tender evaluation, shortlisted suppliers may be invited to attend an interview and/or give presentations to enable their proposal to be explored further and to test any areas of weakness identified in the tender evaluation. Any secondary evaluation conducted as a result of these presentations/ interviews will supplement rather than replace the evaluation of the written proposals and use the same criteria.

Awarding a contract

The department will always award contracts in writing. If a copy of the award is sent by email, it will be followed with written confirmation containing a "wet ink" signature.

Because a contract will be created by the Department's unqualified written acceptance of the Supplier's offer, there is no requirement for the successful tenderer to sign any further documents, although they may be asked to acknowledge receipt of the award letter.

The process for awarding a contract varies depending upon whether the contract is above or below the EU Public Procurement threshold.

- EU Public Procurement threshold

Standstill periods

For all above-threshold contracts (i.e. those that were advertised in the Official Journal of the European Union (OJEU), the Department will apply a standstill period before awarding a contract. At the start of the standstill period, the Department will issue a letter giving notice to all tenderers of the outcome of the tender evaluation. It will then allow at least 10 days between the date of dispatch of the notice and award of the contract, for tenderers to challenge the outcome of the tender evaluation.

The standstill letter will include either a precise statement of when the period is expected to end **or** the date before which DfT will not enter into the contract. It will provide the name of the winning tenderer and a full breakdown of scores against each evaluation criteria (and any sub-criteria) supported by a narrative of why the

winner scored higher in the relevant areas than the tenderer. The information provided should be sufficiently detailed to help unsuccessful tenderers improve future tenders and determine whether or not a decision is well-founded. However the information needs to be sufficiently generic to avoid compromising the confidentiality or intellectual property of the successful tenderer.

If the award of an above-threshold contract is successfully challenged by an aggrieved supplier *after* it has been awarded, it may be deemed "ineffective" by the UK courts, which also have the power to cancel the contract and impose a civil financial penalty.

The Department may *voluntarily* apply the standstill period where an above threshold requirement was not advertised, either because it is using an existing Framework Arrangement or the contract falls outside the full scope of the procurement regulations.

In some circumstances, the Department may also publish a Voluntary Ex Ante Transparency (VEAT) notice in the Official Journal of the European Community to notify suppliers of our intention to award a contract and provide the same opportunity to challenge our decision.

‘Below threshold’ contract awards

The mandatory standstill period does not apply to below threshold contracts, and contract award letters will include a clear, unqualified acceptance of the tender and a list of all the documents making up the contract.

The Department will write to unsuccessful tenderers at the same time as the contract award letter is issued. Unsuccessful tenderers may want to know why their tender failed and it is EU and Government policy to offer a debriefing if a tenderer requests. The amount of information provided will depend on the circumstances of the particular tender but a broad indication of the reasons and, on cost, where a tender ranked in the tender list will be given. It is essential that, in providing any debrief, the commercial confidentiality of other tenderers is not breached.

Challenging a decision

During the standstill period

To be successful, a legal claim form must be received within the standstill period. Once a challenge has been received, the contract award is put on hold until any interim measures are granted by the Court. Where interim measures are granted, the Department would await the outcome of the legal proceedings before proceeding. This automatic suspension remains in force until either the court terminates the suspension or the proceedings come to an end.

After contract award

Even if the standstill period has ended without challenge, the Department remains open to claims of “ineffectiveness” once the contract has been awarded. However, by correctly applying the standstill period the possibility of such a claim being successful will be reduced because there has been an opportunity for challenge before the award took place.

The default position is that proceedings for ineffectiveness must be started within 6 months from the day after contract award. This is because, if a contract award has not been publicised, it may take longer for interested parties to become aware of its existence.

However, this period can be reduced to 30 days if the award is publicised. If the procurement was advertised via a contract notice in the OJEU, this can be done by informing the tenderers and candidates who received a standstill notice that the contract has now been awarded for the reasons set out in the standstill notice.

In procurements where there is no prior publication of a contract notice, the time limit can be shortened by publication of a contract award notice in the OJEU. However, in order to qualify for a reduction in the time limit this notice must include the justification for proceeding without a call for competition.

These reductions help reduce uncertainty for both DfT and the successful tenderer.

If you are a supplier and are unhappy with the way DfT has dealt with you, please tell us! Alternatively, you might prefer to contact the [Office of Government Commerce supplier feedback service](#).

Freedom of Information Act 2000

It is not the Department's policy to ask tenderers to identify commercially confidential information (and its duration) at the tender stage. It is the Department's view that this is likely to increase the amount of information that suppliers consider "confidential" and cause additional work and delays during the tender process.

If, during the tender process, a supplier identifies information which they believe to be commercially confidential, the Department will consult the Freedom of Information Act 2000 (FOIA).

If the Department agrees that it should be kept confidential (for example, under exemption C43 *Commercial Interests* of the FOIA), it will ensure that the information is clearly identified as such.

If the Department does not agree that the information should remain confidential, it will inform the tenderer in writing, drawing their attention to the instructions for tenderers and asking them to confirm that they still wish their tender to be included in the competition.

Even where it is agreed that information is sensitive, in the event of a request under FOIA, the Department would still need to consider the nature of the information requested and whether an exemption applies. The Department would then need to weigh the public interest considerations at the time of the request. Suppliers' views on these matters and any time limits on the information's sensitivity will be among the Department's considerations.

- [Freedom of Information Act 2000](#)

Payment procedures

The Department recognises the importance of cash flow to all companies, especially Small and Medium Enterprises, and has adopted the Better Payment Practice Code. The Department is committed to meeting the Government Prompt Payment targets of 80% of vendors paid within 5 days of receipt of invoice, and 98% within 30 days. Our performance is published monthly:

- Department for Transport prompt payment performance

Our policy is also to pay vendor invoices within the terms of the contract, where they differ from the above.

Suppliers can contribute to the prompt payment of their invoices by ensuring that all invoice details are accurate, by checking that the DfT Purchase Order number is clearly quoted on the face of the invoice, and by ensuring that all invoices are addressed to the DfT Shared Service Centre at 5 Sandringham Park, Swansea Vale, Swansea SA7 0EA. Suppliers are always welcome to send a further copy of their invoice to their day to day contact within the DfT, provided it clearly marked 'Copy'. Only invoices posted to the Swansea address will be processed for payment.

Any changes to vendor name, address or bank details should be advised to the Department as soon as possible, on business letterhead. Alternatively, the letter can be sent to our Shared Service Centre at the above address. To facilitate efficient payment, the Department pays the vast majority of suppliers via the Bankers Automated Clearing Service (BACS). Other payment mechanisms are available, by prior agreement.

The Department is keen to ensure that prime contractors pay their own sub-contractors in the same prompt manner that they receive payment from the DfT. Accordingly, our standard Conditions of Contract include a condition requiring suppliers employing sub-contractors to pay them promptly too. Any sub-contractors who are not being paid within a 30 day period should raise their concern with the DfT, by emailing dftprocurementpolicy@dft.gsi.gov.uk. Please include the name, and reference number of the contract, and the nature of their complaint. Should this not be resolved to the supplier's satisfaction, this can be escalated to the Office of Government Commerce supplier feedback service.

The Government procurement card/corporate card

The Department also makes use of Government procurement cards (GPC) and corporate cards (CC). These are VISA branded purchasing cards, operated by Barclaycard Business. Both the GPC and CC seek to reduce the cost of processing large volumes of low-value transactions, by reducing the need for purchase orders, goods receipting and multiple invoices. It also simplifies the payment process and is the preferred method of purchasing and payment for low value goods or services, creating a process cost saving to the Department.

Each card has spend limits (normally £1,000 per transaction; £10,000 per month) and category restrictions for control purposes.

The GPC and CC work in the same way as a normal charge card. Cardholders can use them to make purchases against particular categories of goods/services (in the case of CC for work-related travel and subsistence) up to the financial limits. The

card provider makes payments to suppliers quickly once the goods or services have been despatched or delivered.

Contract management

Contract management is about ensuring the effective and timely delivery of the contracted goods and services, developing sound relationships with suppliers, and striving for continuous improvement.

The Department and its contractors will need to appoint contract managers in respect of each contract, to ensure the delivery of the specified goods and services to the required programme, quality and price.

The Department's Contract Manager will:

- monitor and ensure delivery of the goods/service to time, quality and price, and in accordance with any contractual milestones and performance indicators
- manage the relationship with the contractor's Contact Manager;
- establish clear administrative procedures to ensure that all parties to the contract understand who does what, when and how
- monitor spend and ensure prompt payment in respect of goods and services correctly delivered
- collect and maintain contract records and management information

The Department recognises that the relationship between itself and its suppliers is vital if contracts are to be successful. The approach to managing that relationship will vary depending on the nature and strategic importance of the contract.

The Contract Manager will be the focal point for information about the contract, keeping records, managing change and assessing the supplier's performance and at the end of the contract.