

Grant Funding or Procurement?

Introduction

The purpose of this guidance is to give help in deciding when it is appropriate to progress the Welsh Government's business through competitive procurement procedures or grant funding support.

Procurement is the acquisition of goods and services from third party suppliers through tender arrangements under legally binding contractual terms, where all the conditions necessary to form a legally binding contract have been met.

Grant funding is made to bodies where the Welsh Government wishes to further its strategic policy objectives and external bodies are best placed to achieve the desired outcomes. All grants arrangements need specific statutory authority (e.g. Education Act 1996 educational service and research grants and grants under the Housing Grants, Construction and Regeneration Act 1996). The great majority are covered by cyclical grant funding where bids are invited from individuals or organisations.

This can, however, be a complex area, and in practice it may be difficult to decide whether procurement or grant funding is the most appropriate approach. If in doubt, advice should be sought from Value Wales or the Grants Centre of Excellence.

Where a situation is particularly complex and a decision to grant fund or procure cannot be reached, the Rapid Response Team has been established to support the decision process between grant and procurement.

The remainder of this guidance sets out key questions that need to be addressed in coming to a view.

Key Questions

Does the Welsh Government itself have the legal power to carry out the work needed to obtain the outcomes it wants i.e. the ability to employ staff to carry out the work directly?

If it does not have the statutory authority to undertake the work it is very unlikely that it would have the authority to acquire them under contractual arrangements. In these circumstances there is a presumption that the Welsh Government would pursue its objectives through grant funding other organisations or persons with a locus (e.g. local authorities or registered social landlords in respect of housing).

Are the goods, services or outcomes to be provided of direct benefit to the Welsh Government?

If the intention is to secure a direct service for the Welsh Government, either in terms of the supply of goods and services (e.g. office supplies; computer equipment or consultancy services) in direct furtherance of its functions or policy development; then there should be a presumption in favour of procurement. Research may well have a wider secondary interest or benefit, but the question of whether the research outcomes are primarily of direct benefit to the Welsh Government remains relevant.

Is there more than one source for the acquisition of goods; services and outcomes?

If so then again there should be a presumption in favour of competitive procurement as the most effective way of appraising the options available and achieving the best value for money. That said, procurement remains relevant in cases where there is only one option available (i.e. a sole supplier) when the Welsh Government wants full discretion in terms of the outcomes it requires and ownership of them.

What degree of control does the Welsh Government wish to exercise in achieving outcomes?

The more prescriptive the Welsh Government wishes to be in terms of specifying the service required or the outputs to be obtained, the greater the presumption there is for proceeding via procurement under a legally binding contract that clearly sets out our requirements and expectations. Procurement should ensure that intellectual copyright for the service outcomes remains with the Welsh Government (i.e. it will own them).

Is the Welsh Government proposing to provide all the funding relevant to the activity?

If so, then again the presumption is in favour of a procurement exercise. Grant funding usually covers only a part of the cost of a project or service, with funding also coming from other sources. This in turn means that other funders also have a stake in determining the direction and outcomes of the work.

Other Factors

Organisations in receipt of core funding

A number of organisations (such as an umbrella body in the voluntary sector) receive grant funding as a contribution towards their core costs such as staffing and accommodation. This does not mean that all activities such a body may be requested to undertake should be paid for through a grant. If the activity proposed is a direct service for which the Welsh Government is meeting all the cost then procurement procedures should apply. The same applies in the case of statutory bodies (e.g. the Welsh Joint Education

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Committee). Their statutory status does not in itself exempt them from tendering for a service they may be able to provide. If there are potential alternative providers, procurement procedures should apply.

A change in circumstances

In a number of cases the Welsh Government has pursued its strategic objectives through the grant funding of non-Welsh Government organisations in order to fill an initial “gap in the market”. These organisations have provided managerial, consultancy and advisory functions to both the Welsh Government and wider sectorial interests within Wales. In cases such as this, careful consideration should be given when the initial grant term expires as to whether market conditions have changed. Alternative providers may have entered the market from which the service could be procured in open competition.

Summary of Sign-post Considerations

Sign-posts to Procurement

- The Welsh Government has power to undertake work and achieve outcomes itself;
- Outcomes primarily represent a direct service to the Welsh Government (although maybe also of wider interest) and owned by the Welsh Government;
- Availability of alternative providers;
- Whole cost of the service outcomes to be met;
- Desirability for full discretion over specification of service and outcomes.

Sign-posts to Grant Funding

- The Welsh Government does not have legal powers to undertake work relating to the required outcomes;
- Work not a direct service: it primarily furthers the specific objectives of a third party (although conducive to Welsh Government’s wider strategic objective);
- Proposal initiated by third party and not Welsh Government, or submitted in response to a request for bids under statutory grant funding powers;
- Only a proportion of the funding being provided by the Welsh Government;

- Ownership of outcomes rests with third party not the Welsh Government (although they may be adjusted in recognition of funding contribution).