Almost every government and most public bodies across the world procure goods and services from companies and sometimes from charitable and social enterprises.

Among 22 OECD-EU countries for which data is available, public procurement increased from 13.7% of GDP in 2019 to 14.9% of GDP in 2020. Other countries also saw significant increases such as Norway (from 15.8% to 17.1%) and the United Kingdom (13.2% to 16.1%).

Most western democracies have adopted laws which regulate such procurement. In the European Union (EU) there are procurement regulations which apply in all twenty-seven member states, and which are often applied in those jurisdictions which trade significantly with and/or are seeking membership of the EU. The World Trade Organisation (WTO) also sets international standards for public procurement.

Above all what matters is that the following principles apply:

- the procuring body achieves value for money and public value in ways that promote wider social, economic, and environmental goals and employment standards as well as securing efficiency and effectiveness
- the highest standards of probity are always applied and that any conflicts of interest are avoided
- the regulations are applied in every procurement without favour or compromise
- there is full transparency of the process, relationships between bidders and those involved in the procuring bodies; and that these are subject to independent audit and public democratic accountability
- unless there is an overriding public interest there should be competition between bidders
- key stakeholders including communities, services users and staff and their trade unions should be involved in procurement processes
- outsourced services should only be procured when there is no alternative and its demonstrably in the public interest

These principles should apply to both the procurement of goods and of services.

The procurement process should be proportionate to the size of the potential contract and to the risks associated with the procurement itself and with the goods or services being contracted.

It is legitimate for governments and for other public bodies to adopt processes which are not based on competition between bidders but only when this is within the law, in the public interest and cannot be open to any accusation of actual or perceived failure of impropriety by any party involved. For example, in the UK and elsewhere public bodies may decide to contract or partner with a non-governmental organisation such as a charity or community group to deliver some specialist services. A public body may wish to buy goods from local suppliers – for example local famers. In such cases complex and expensive procurement processes may well not be appropriate. This should not be the default though for governments and other public bodies buying from commercial suppliers.

There can also be times when governments must move fast to address unforeseen issues and may have to derogate from their full procurement regulations. This was the case in many countries when governments were faced with the Covid-19 pandemic. However, there is much evidence in the UK and possibly over countries that the public procurement of personal protective equipment (PPE) and other clinical supplies, that mistakes were made or even deliberate political decisions taken were made leading to some serious questions about the failure to meet the required standards of probity and to secure value for money and public value. This demonstrates that
even countries with comprehensive regulations can stray or be politically led to act outside such regulations.

There have been many reports on this UK experience including some detailed enquiries by the National Audit Office (NAO). The government’s preparedness for the COVID-19 pandemic: lessons for government on risk management - National Audit Office (NAO) Report and Initial learning from the government’s response to the COVID-19 pandemic - National Audit Office (NAO) Report

Transparency International have also produced a very comprehensive report on the UK Government’s procurement during the Covid crisis. Concern over corruption red flags in 20% of UK’s PPE procurement | Transparency International UK. In this report Transparency International Track and Trace reviewed of nearly 1,000 contracts worth a total of £18 billion.

The report details how critical safeguards designed to prevent corruption were suspended without adequate justification and UK identify 73 contracts worth more than £3.7 billion, equivalent to 20 percent of COVID-19 contracts between February and November 2020, that raise one or more red flags for possible corruption.

Of particular concern is the ‘VIP’ or ‘high priority’ lane used to fast track offers of PPE from companies referred by parliamentarians and senior public officials. The analysis of the available evidence is consistent with there being systemic bias towards those with connections to the party of government in Westminster, despite continued claims by the Government to the contrary.

The report concludes that poor record keeping combined with opaque, uncompetitive contracting and a suspiciously high number of awards to companies with political connections has undermined public trust and justifiably fuelled criticism of the Government.

- contracts awarded without competition: between February and November 2020, 98.9 percent of COVID-19 related contracts by value (£17.8 billion) were awarded without any form of competition, many without adequate justification.

- contracts awarded to companies with no track record of supplying goods or services: fourteen companies incorporated in 2020 received contracts worth more than £620 million, of which 13 contracts totalling £255 million went to 10 firms that were less than 60 days old.

These findings are worrying and undermine public confidence in public procurement and ultimately in democratic government.

This UK case study will be the subject of the national enquiry into the Covid-19 pandemic, but it should also be examined by those responsible for public procurement and political leaders in every country. There will be examples from other countries too. The UK Government’s approach to public procurement during the pandemic should be a wake-up call to all democratic countries.

Lessons must be learnt, and mistakes never repeated. Effective and enforced regulations matter

Ideally procurement would be standardised across countries and be subject to same levels of scrutiny and accountability as other aspects of government and governance but whatever, every government should review and strengthen its public procurement legislation and processes based on the six principles set out earlier in this piece.

Public money must always be used wisely and prudently especially when it moves from the government to private sector businesses. Improving public procurement should be one of the core bricks in “building back better” post Covid.

Fundamentally maximising the public interest and behaving to the highest ethical standards to ensure probity must always be paramount whatever the circumstances.