

D1. Contracts for services over EU threshold

Background

All contracts for services expected to cost more than the [EU Threshold](#) must be issued by Procurement and Commercial Department (PCD), using contract processes set out in Her Majesty's Government's (HMG) public procurement regulations (derived from the European Union (EU) Procurement Directives). The purpose of the Directives is to open public procurement markets to international competition thereby increasing opportunities for all suppliers and service providers. This reinforces HMG policy on value for money through fair, open and transparent competition.

All Consultancy (Administration spend only) above £20,000 must be approved by the Minister of State.

The regulations cover:

- Contracts for services, supplies & works
- Those services, which must be purchased through procedures, set by the Directives (Part A services), and those, which may be excluded (Part B Services)
- [Financial thresholds](#) (adjusted every two years) above which competition is required
- Certain Research & Development and Telecommunications Services have a financial threshold - please seek further guidance from PCD
- Four contracting Procedures - open, restricted, (the norm for DFID contracts), competitive dialogue and negotiated.

Compliance tasks

1. All Consultancy (Administration spend only) above £20,000 must be approved by the Minister of State (MoS). Submissions to MoS must be in the prescribed format detailed in the Resourcing Policy

and Procedures guidance.

Task assigned to: All staff, Local Contract Officer

2. The mandatory requirements to ensure a fair, open and transparent competitive process are:
 - a. Business must be advertised through the Official Journal of the European Union (OJEU)
 - b. Advertisements must specify which procedure is to be used
 - c. The required output, and criteria for the selection of tenderers and award of contract must be advertised and adhered to
 - d. Minimum timescales must be adhered to
 - e. Competition, to achieve best value for money, must not be distorted by the development of specifications or terms of reference in favour of one product or supplier
 - f. Contract award notices must be placed in OJEU
 - g. Unsuccessful applicants or tenderers must be debriefed if requested.

Task assigned to: Project staff

3. A requisition must be raised on ARIES for all procurement of services. This must include details of Quest numbers for the Terms of Reference (TORs) and all other relevant documents in the workflow comments field. The TORs must be completed in accordance with Terms of Reference guidance. The ARIES requisition and the completed TORs, together form an authorisation for PCD, or a Local Contract Officer (LCO), to proceed with the

procurement of services.

Task assigned to: All Staff, Local Contract Officer,
Project staff

4. PCD must be commissioned to tender, award and manage contracts with an anticipated value in excess of the EU financial thresholds. Any proposed exceptions to this requirement must be agreed with the Head of PCD.

Task assigned to: Local Contract Officer, Project Staff

5. Any subsequent contract amendment must adhere to the EU Aggregation Rules that prohibits the splitting of requirements into smaller units in order to avoid the application of regulations. Consult with PCD as necessary.

Task assigned to: Local Contract Officer, Project staff

6. Duty of care to suppliers must be considered and addressed at the beginning of the procurement process. An initial risk assessment must be completed to determine if the intervention is Low/Medium/High risk. Those identified as Medium/High risk require SCS level approval before proceeding with a procurement and the procurement process must include an assessment of supplier capability to take on their Duty of Care responsibilities. The country risk register must be updated and monitored regularly. Suppliers should be updated as necessary as part of on-going

contract management.


Task assigned to: Project staff

Risks of non-compliance

- Legal challenge to HMG through the High Court, or the European Court of Justice under the Remedies Directive, for breach of EU Directives
- Failure to implement appropriate procurement policy
- Damage to DFID's reputation for fair and open procurement
- Cost of legal proceedings
- Criticism from National Audit Office (NAO), or the Parliamentary Public Accounts Committee (PAC)
- Legal risk to DFID for acting incompatibly with the 1998 Human Rights Act (HRA).
- Failure to implement Central Government Directives
- Failure to implement HMRC Tax Rules

D2. Contracts for services under EU threshold

Background

You must also read and understand the new Government Spending Controls published on the  [Cabinet Office website](#).

Responsibility for all contracting activity within DFID rests with Head of Procurement and Commercial Department. Contracting authority for lower value contracts can be delegated to other departments across the organisation subject to the appointment of suitably trained staff and PCD agreement.

All DFID procurement must represent value for money (VfM). This is usually best achieved through competition. However, where competition for lower value contracting is

likely to involve disproportionate costs suppliers may be 'single sourced', with contracts awarded without competition.

Secretary of State approval is required for all supplier contracts of £1million and above (including contract amendments and call down contracts from Framework Agreements of £1m and over).

1. Ministerial approval is required for all supplier contracts of £1million and above (including contract amendments and call down contracts from Framework Agreements of £1m and over). A prescribed format which must be followed, and the Ministerial split is available on inSight.

All Consultancy (Administration spend only) above £20,000 must be approved by the Minister of State (MoS) and must follow the prescribed format in the Resourcing Policy and Procedures.

Task assigned to: All staff, Local Contract Officer

2. Contracts must only be issued by appropriately trained staff - up to £25k or the [EU Threshold](#) with limits subject to approved level of training and accreditation.

Task assigned to: Local Contract Officer, Project staff

3. Delegated contracts must be signed by appropriately trained and authorised staff and appropriate records maintained to support the procurement process decision.

Task assigned to: Local Contract Officer, Project staff

4. DFID departments and overseas offices issuing contracts between £25k and the [EU Threshold](#) must appoint a Local Contracts Officer (LCO). PCD maintain a register of all Local Contract Officers (LCOs). Only LCOs may issue contracts between £25k and the [EU Threshold](#).

Task assigned to: Head of Department, Local Contract Officer, Project staff

5. A requisition must be raised on ARIES for all procurement of services.

Where a competition is required, details of Quest document numbers for the Terms of Reference (TORs) and all other relevant documents must be completed in the workflow comments field.

The TORs must be completed in accordance with Procurement Guidance Note 05

The ARIES requisition and the completed TORs, together form an authorisation for PCD, or a Local Contract Officer (LCO), to proceed with the procurement of services.

Task assigned to: Local Contract Officer, Project staff

6. Duty of care to suppliers must be considered and addressed at the beginning of the procurement process. An initial risk assessment must be completed to determine if the intervention is

Low/Medium/High risk. Those identified as Medium/High risk require SCS level approval before proceeding with a procurement and the procurement process must include an assessment of supplier capability to take on their Duty of Care responsibilities.

The country risk register must be updated and monitored regularly. Suppliers should be updated as necessary as part of on-going contract management.

Task assigned to: Project staff

7. A detailed record of the competitive process must be maintained in order to provide a clear and secure audit trail at every stage, including the evaluation and scoring of proposals.

Task assigned to: Local Contract Officer, Project staff

8. Spending Departments seeking to waive competition for contracts between £25k and the [EU Threshold](#) must obtain approval from their Head of Department/Overseas Office before proceeding.

Task assigned to: Head of Department, Local Contract Officer, Project staff

9. PCD must be consulted about any proposed contract amendments likely to carry the aggregate value of the contracts beyond the [EU Threshold](#) or above the LCOs level of delegated authority.

Task assigned to: Local Contract Officer, Project staff

10. Government policy requires that value for money, transparency and probity be achieved in the expenditure of public funds. Managing Public Money rules requires a separation of the roles of all staff involved in the procurement process, to reduce opportunity for collusion. As a minimum requirement the following responsibilities must be separated:

- a. Specifying the need
- b. Placing the order/signing the contract
- c. Receipt of services
- d. Payment

Task assigned to: Local Contract Officer, Project staff

11. A minimum of two staff should be involved in the process. Where the separation of duties cannot be achieved due to staffing constraints the Head of Department/Overseas Office must be alerted and the matter referred to PCD to advise on possible compensatory controls.

Task assigned to: Local Contract Officer, Project staff

Risks of non-compliance

- Value for Money (VfM) not obtained
- Legal risk to DFID through breach of European Commission (EC) Public Procurement Directives

- Reputational risk if standards of fair and open procurement are not upheld
- Inaccurate information to Parliament and the public
- Legal risk to DFID for acting incompatibly with the 1998 Human Rights Act (HRA)
- Failure to implement Central Government Directives
- Failure to implement HMRC Rules

D3. Procurement of goods and equipment

Background

DFID has outsourced procurement of goods to a panel of professional Procurement Agents. In certain countries, termed 'core countries', agents have been granted exclusive rights to all procurement of goods and equipment by DFID or by the host government using DFID Financial Aid. In return for this, the agent is required to maintain an office presence in that country and may additionally receive a management fee where the volume of procurement activity is uncertain. Procurement Agents are required to apply Her Majesty's Government (HMG) procurement policies.

Procurement Agents act on behalf of DFID or the client government who carry the same contracting responsibilities and risks as if the contracts were let directly by themselves.

Procurement agents may be engaged by using a call down contract or 'indent' (essentially a requisition form). Procurement Agent performance is both managed and monitored by Procurement and Commercial Department (PCD).

Enquiries in connection with any aspect of this service should be addressed to PCD.

Information Technology (IT) goods and equipment for DFID use

DFD aims to ensure that corporate (and not programme) IT goods and equipment are compatible and consistent with existing systems. IT goods and equipment are normally sourced from DFID frameworks. ISD procure all required items in the UK. Overseas

offices may be able to obtain better value for money by sourcing low value goods or equipment locally. Local IT administrators and/or Regional Managers will be able to advise overseas offices on compatibility on a case by case basis. All UK purchases and all items above £5,000 for overseas offices are routed through the ServiceDeskISD. There is no need to contact procurement agents when purchasing corporate IT goods or equipment.

Compliance tasks

1. A completed 'indent' or call down contract carrying the necessary management information for charging purposes and authorisation must be sent to the Procurement Agent to initiate all procurement activity.

Task assigned to: Office Manager

2. Single items over £5,000 must be purchased through agents except for corporate IT goods and equipment

Task assigned to: All staff, Head of Department, Office Manager

3. Where the collective value of a number of small purchases exceeds £25,000 the procurement must be referred to a Procurement Agent or a case made to PCD to buy locally on Value for Money (VfM) grounds.

Task assigned to: Estate Management Officer, Head of Department, Head of Overseas Office, Local Contract Officer, Office Manager, Project staff

4. DFID offices without 'core country' status may use any agent from the panel up to a total value of

£250,000. Competition between agents is encouraged for contract purchases between £250,000 and £500,000, and mandatory for contract values above £500,000. All procurement in excess of £250,000 must be referred to PCD.

Task assigned to: Estate Management Officer, Head of Department, Head of Overseas Office, Local Contract Officer, Office Manager, Project staff

5. Duty of care to suppliers must be considered and addressed at the beginning of the procurement process. An initial risk assessment must be completed to determine if the intervention is Low/Medium/High risk. Those identified as Medium/High risk require SCS level approval before proceeding with a procurement and the procurement process must include an assessment of supplier capability to take on their Duty of Care responsibilities. The country risk register must be updated and monitored regularly. Suppliers should be updated as necessary as part of on-going contract management.

Task assigned to: Project staff

6. For purchases below £5,000 a minimum of three quotes should be obtained from suppliers. Details of the quotations obtained and reasons for supplier selection should be recorded on file to demonstrate VfM and to maintain an audit trail.

Task assigned to: All staff, Estate Management Officer, Head of Department, Head of Overseas

Office, Local Contract Officer, Office Manager,
Project staff

7. All purchases for IT goods and equipment must be sourced from the UK via the BSD Service Desk. Overseas Offices may locally procure low value items up to the value of £5,000 with the prior authority of a local IT administrator. All purchases for the following items (whether or not they can be procured locally) must have BSD approval before proceeding:

- a. Any devices which store data, including but not limited to laptops, desktops, PDAs and data sticks
- b. Network Switches
- c. Printers

Task assigned to: All staff

Risks of non-compliance

- Damage to DFID reputation for fair and open procurement
- Challenge to DFID's procurement policy and procedures
- Legal challenge to HMG through the High Court, or the European Court of Justice under the Remedies Directive, for breach of EU Procurement Directives
- Financial Loss
- Fraud
- Lack of compatibility of goods with current IT systems and the resulting need to write these costs off
- Legal risk to DFID for acting incompatibly with the 1998 Human Rights Act (HRA).

D4. Procurement of works

Background

'Works' procurement concerns procurement for civil engineering or building works.

DFID does not undertake significant amounts of Works procurement and this is now most likely to occur with the refurbishment of an overseas office or where a new building has been commissioned.

Procurement of all 'Works' activity relating to the DFID state is overseen by Business Solution Department's SEPPS Team. Professional assistance is usually obtained by calling down the services of specialist works contractors from central government frameworks.

All contracts for services expected to cost more than £4,348,350 must be issued using contract processes set out in Her Majesty's Government's (HMG's) public procurement regulations derived from the European Union (EU) Procurement Directives. Work below this value will be subject to DFID's normal procurement rules, which includes appropriate use of competition.

Normal contracting authority levels will also apply unless otherwise agreed by Procurement and Commercial Department (PCD).

All major construction and acquisition projects within Government are now potentially subject to the Gateway Review process. SEPPS can provide further advice on this requirement.

Compliance tasks

1. The SEPPS Overseas Estates Support Team (OEST) must be notified immediately of any proposed works activity.

Task assigned to: All staff, Estate Management Officer

2. Professional procurement assistance must be obtained, either through PCD or another recognised body as identified by OEST.

Task assigned to: All staff, Estate Management Officer, Head of Department, Head of Overseas Office, Local Contract Officer.

3. Where procurement is estimated to exceed £4,348,350 procurement must be undertaken in accordance with the 'Works' Directives of the European Union (EU) Public Procurement regulations

Task assigned to: All staff

4. SEPPS must be consulted early in the planning process to consider whether the construction project should be subjected to Gateway Review.

Task assigned to: All staff

5. Where DFID is directly funding school construction, including changes to an existing educational structure , then all work must be designed to allow useable access for all, including people with disabilities.

Task assigned to : Project staff

Risks of non-compliance

- Damage to DFID's reputation for fair and open procurement
- Challenge to DFID's procurement policy and procedures
- Legal challenge to HMG through the High Court, or the European Court of Justice under the Remedies

Directive, for breach of EU Public Procurement

Directives

- Financial loss
- Fraud
- Legal risk to DFID for acting incompatibly with the 1998 Human Rights Act (HRA).