

## **GUIDANCE ON PROCUREMENT REGULATIONS NMRN**

(updated 22 December 2017)

As a public body, the NMRN has legal obligations under the **Public Contracts Regulations 2015** that it must follow.

*This is a very brief summary of the key requirements of the relevant procurement regulations. The procurement regulations can be complex and sometimes require a significant lead-in time. As such, please plan any significant procurement projects (in particular those with a value of £25,000 or more) well ahead of time and seek early advice or guidance relating to any planned procurement activities.*

The NMRN is classified as a “sub central contracting authority” under the regulations. This means that the procurement thresholds that apply to us are different to those of a central government authority. We are, however, still a public sector organisation and are expected to comply with [Managing Public Money](#), securing value for money through sound procurement and normally acquiring goods and services through fair and open competition.

The Crown Commercial Service and Cabinet Office release [Procurement Policy Notes](#) from time to time providing best practice guidance for public sector procurement.

### **Contract Value**

A contract value is defined as follows:

- The estimated value of the contract must include all costs, not simply the purchase price, e.g. delivery, installation and any ongoing annual charges such as maintenance/support packages. It excludes VAT.
- If a contract is to be let over a period, the aggregated spend determines the total contract value
  - e.g. for a contract payable by monthly payments of £700 over the period of a year, the contract value is £8,400 and three quotations should be obtained.
  - If the same contract is to be let over a period of three years, the contract value is £25,200 and a full tender process must be followed.
- Items of a similar type should be included in one contract. They must not be split into several contracts to disaggregate the spend.
- Contracts must be approved by an authoriser with the appropriate authority band based on the aggregated contract value. So if you are authorised at Band F, up to £2,000, you may not approve the contracts in the example above.

### **EU Procurement**

The Public Contracts Regulations 2015 regulations require that we do the following:

- Where a proposed contract exceeds an estimated value threshold (excluding VAT) of:
  - £181,302 for supplies or services, or
  - £4,551,413 for works

We must follow a full EU procurement process as defined within the regulations.

- The estimated value of procurement is based on the total amount payable over the duration of the contract, net of VAT, including any form of option or contract renewals as explicitly set out in the procurement documents.
- Procurement must not be subdivided to circumvent the regulations nor should it be designed with the intention of it artificially narrowing competition.
- We are expected to follow one of five standard procedure routes defined in the regulations. The nature of the vast majority of our procurement decisions dictates that we should follow the "Open Procedure" where the standard timescale from despatch of contract notice to receipt of responses is 35 days plus a 10 day standstill period.

#### **Below-threshold procurement**

- Where a proposed contract is "below-threshold" we are still required to procure it in line with the general principles of fair and open competition.
- What these principles imply in practice is that the contract has to be "adequately" advertised and some form of fair competition run thereafter. The scope and nature of the advertisement will depend on the nature of the contract in question and who is or is likely to be interested in it. **It is a legal requirement that where a contract exceeding £25,000 is advertised, it must also be advertised on the government's "Contracts Finder" portal within 24 hours of when it is first advertised in any other way.**
- Information on contracts awarded must also be published on Contracts Finder within a reasonable time.

#### **Framework agreements**

- Framework agreements enable specific purchase ("call offs") to be made without going through a full EU procurement process. To make a call off, we must confirm that:
  - Confirm that the particular goods, services or works required are available under the framework agreement; and
  - Confirm that we fall within the definition of contracting authorities who may lawfully use the framework agreement.
  - Ensure we comply with the specific rules and processes of the chosen framework agreement.

- Where the terms of a framework are sufficiently precise to cover a particular call off, a contract may be awarded without further competition. The choice of provider must be based on objective criteria laid out in the procurement documentation. This direct call off option is most likely to be relevant for commodity products and services based on value for money.
- Where the terms of a framework are not sufficiently precise to cover a particular call off, a mini competition should be held with all those suppliers within the framework capable of meeting a particular need. The mini competition will consider supplementary terms such as delivery timescales, associated services, or special terms such as specific services provided to meet a particular requirement. All framework providers capable of performing the contract must be invited to submit a written tender for each contract to be awarded.

### **NMRN Financial Scheme of Delegation**

- The financial scheme of delegation requires that for all purchases with a total contract value:
  - Over £25,001 a full tendering procedure must be followed
  - £5,001 to £25,000 a minimum of 3 written quotations must be obtained
  - Below £5,000 value for money must be properly considered and demonstrated
- Prior approval must be sought from the Director General or Executive Director of Resources, plus the Chair of the Audit and Governance Committee if an alternative procurement route is proposed.

| <b>Procurement value:</b> | <b>Procurement route:</b>  | <b>Authority Band:</b> |   |
|---------------------------|--|------------------------|---|
| Over £250,001             | Full tendering procedure to be followed in accordance with Public Contracts Regulations including advertisement on "Contracts Finder" portal | A                      | Chair, Deputy Chair, Chair of Audit and Governance  |
| £50,001 to £250,000       |  | B                      | Director General or Executive Director of Resources   |
| £25,001 to £50,000        |  | C                      | Relevant Executive Director or Deputy Director of Resources   |
| £5,001 to £25,000         | A minimum of 3 written quotations must be obtained   | D                      | Authority delegated to specified posts to be determined in writing by Director General or relevant Executive Director |
| £2,001 to £5,000          | Value for money must be properly considered and demonstrated   | E                      |   |
| £501 to £2,000            |  | F                      |   |
| Up to a maximum £500      |  | G                      |   |

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