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CPD

Procurement Guidance Note
PGN 04/12 (as amended)

PROCUREMENT CONTROL LIMITS AND THE BASIS OF CONTRACT AWARDS

Issued: 16 May 2016



PROCUREMENT GUIDANCE NOTES

Northern Ireland Public Procurement Policy was approved by the Northern Ireland Executive in 2002. In approving the policy the Executive took the decision that legislation was not necessary to ensure that Departments, their Agencies, non-Departmental Public Bodies and Public Corporations complied with the policy. Instead, it considered that compliance could be achieved by means of administrative direction.

These Procurement Guidance Notes are the administrative means by which the Northern Ireland Public Sector is advised of procurement policy and best practice developments. They are developed by Central Procurement Directorate (CPD), in consultation with the Centres of Procurement Expertise (CoPEs), and are subject to the approval of the Procurement Board.

Once endorsed by the Procurement Board, they are issued to the Departments for implementation and copied to CoPEs to develop, if necessary, procedures supporting the implementation of this guidance in their particular sector.

CPD is responsible for disseminating advice and guidance to the NI public sector on public procurement policies and for monitoring implementation. Procurement Guidance Notes are also published on [Department of Finance \(DoF\) website](#).

The following Procurement Guidance Note was endorsed by the Procurement Board with effect from 16 May 2012 for use by those bodies covered by the Northern Ireland Public Procurement Policy.

Revision History

First issued as a Procurement Guidance Note PGN 03/10	17 June 2010
Reissued as Procurement Guidance Note PGN 04/12	21 May 2012
Revised to take account of The Public Contracts Regulations 2015	26 March 2015
Revised to reflect LTR/higher advertising threshold for Utilities	16 May 2016

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Definition of Terminology

In the preparation of this guide, the term **contractor/supplier** has been used to denote an organisation that contracts directly with a Department, whether it is a supplier, a service provider or a construction contractor.

The term **Department** has been used to refer to those bodies subject to Northern Ireland Public Procurement Policy including Departments, Non-Departmental Public Bodies and Public Corporations.

The term [eTendersNI](#) has been used to describe the current web-based portal used by the wider Northern Ireland public sector to advertise and tender its available contracts.

1 PURPOSE

- 1.1 The purpose of this guidance is to set out the Procurement Control Limits (PCLs) and the basis for contract award for application in all procurements.
- 1.2 The PCLs are designed to ensure:
- an effective competition (competition is the best way of achieving and demonstrating best value for money);
 - a balance is struck between the value of the contract and the transactional cost of undertaking the procurement procedures; and
 - a proportionate approach is taken to procurement for low value requirements.

2 BACKGROUND

- 2.1 In Northern Ireland, public procurement is a devolved matter. [Northern Ireland Public Procurement Policy](#) applies to those bodies listed in Annex A of the policy document.
- 2.2 At the heart of Northern Ireland Public Procurement Policy is the achievement of 'Best Value for Money' (BVFM) through adherence to the 12 guiding principles of procurement. Included in these guiding principles is the principle of competitive supply which states that procurement should be carried out by competition unless there are convincing reasons to the contrary. Competition promotes economy, efficiency and effectiveness in public expenditure and also contributes to the competitiveness of contractors.

- 2.3 All public sector procurement over the applicable EU threshold values¹ and to which an exemption does not apply, is regulated in the European Union (EU) through EU Procurement Directives which have been transposed in the UK (excluding Scotland) as [The Public Contracts Regulations 2015](#) and [The Utilities Contracts Regulations 2016](#) (as amended) – the “Regulations”.
- 2.4 In determining the value of a contract, for the purpose of assessing whether it is above the threshold, the value of all options and renewals must be taken into consideration. The Regulations provide methods for calculating the estimated value of a contract².
- 2.5 Departments must not split purchases or disaggregate project costs in order to circumvent the control limits set out in this guidance note.
- 2.6 The PCLs recommended in this note provide the optimum level required to ensure that the transaction cost of procurement procedures is efficient, whilst maintaining a sufficient level of competition to achieve best value for money. CoPEs may choose to make minor variations to these limits to suit the particular circumstances of their business. In such instances, CoPEs should ensure that the Head of CoPE and Accounting Officer are made aware of such instances and the reasons for the proposed actions.

3 PROCUREMENT CONTROL LIMITS

3.1 Goods and non-construction services

- 3.1.1 The PCLs set out below are recommended for goods and non-construction services.

¹ <http://www.ojec.com/thresholds.aspx>

² Regulation 6 of [The Public Contracts Regulations 2015](#) and Regulation 11 of [The Utilities Contracts Regulations 2016](#)

Table 1 – PCLs goods and non-Construction services

Value	Procedure
Up to £5,000	Departments must demonstrate that value for money has been secured. Guidance is attached at Annex A.
£5,000 to £30,000	A minimum of two tenders invited by the person authorised to procure for their organisations in accordance with a Service Level Agreement (SLA) with a CoPE; or A tender process undertaken by a CoPE.
£30,000 to EU Thresholds	Advertise on eTendersNI. Tender process must be conducted in line with PGN 05/12: Procurement of Goods, Works and Services Over £30,000 and Below EU Thresholds .
Above EU Thresholds	Advertise on eTendersNI. EU Directives apply –advertise in the Official Journal of the European Union (OJEU).

Table 2 – PCLs Utilities goods and non-Construction services

Value	Procedure
Up to £5,000	Departments must demonstrate that value for money has been secured. Guidance is attached at Annex A.
£5,000 to £50,000	A minimum of two tenders invited by the person authorised to procure for their organisations in accordance with a Service Level Agreement (SLA) with a CoPE; or A tender process undertaken by a CoPE.
£50,000 to EU Thresholds	Advertise on eTendersNI. Tender process must be conducted in line with PGN 05/12: Procurement of Goods, Works and Services Over £30,000 and Below EU Thresholds .
Above	Advertise on eTendersNI.

EU Thresholds	EU Directives apply –advertise in the Official Journal of the European Union (OJEU).
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3.2 Construction works and services

3.2.1 Construction is a distinct area of procurement, with specialist requirements and forms of contract. All construction related contracts, irrespective of value, should be procured through or under the delegated authority of a construction CoPE or via a Service Level Agreement with a CoPE in accordance with the following PCLs. CoPEs may choose to make slight variations to these limits to suit the particular circumstances of their business (see paragraph 2.6).

Table 3 – PCLs construction works

Value	Procedure
Up to £5,000	Departments must demonstrate that value for money has been secured.
£5,000 to £30,000	Contractors must be registered on Constructionline ³ First six contractors from a randomly selected list generated by Constructionline are invited to tender.
£30,000 to EU Thresholds	Advertise on eTendersNI Tender process must be conducted in line with PGN 05/12: Procurement of Goods, Works and Services Over £30,000 and Below EU Thresholds.
Above EU Thresholds	Advertise on eTendersNI. EU Directives apply –advertise in OJEU. Normally use the restricted procedure.

³ Constructionline is the UK’s register of construction related contractors and consultants pre-qualified to work for public sector clients.

Table 4 – PCLs Utilities construction works

Value	Procedure
Up to £5,000	Departments must demonstrate that value for money has been secured.
£5,000 to £50,000	Contractors must be registered on Constructionline ⁴ First six contractors from a randomly selected list generated by Constructionline are invited to tender.
£50,000 to EU Thresholds	Advertise on eTendersNI Tender process must be conducted in line with PGN 05/12: Procurement of Goods, Works and Services Over £30,000 and Below EU Thresholds.
Above EU Thresholds	Advertise on eTendersNI. EU Directives apply –advertise in OJEU. Normally use the restricted procedure.

Table 5 – PCLs construction services

Value	Procedure
Up to £5,000	Departments must demonstrate that value for money has been secured.
£5,000 to £30,000	Consultants must be registered on Constructionline First six consultants from a randomly selected list generated by Constructionline are invited to tender.
£30,000 to EU Thresholds	Advertise on eTendersNI. Tender process must be conducted in line with PGN 05/12: Procurement of Goods, Works and Services Over £30,000 and Below EU Thresholds.
Above EU thresholds	Advertise on eTendersNI. EU Directives apply –advertise in OJEU. Normally use the Restricted Procedure.

⁴ Constructionline is the UK's register of construction related contractors and consultants pre-qualified to work for public sector clients.

Table 6 – PCLs Utilities construction services

Value	Procedure
Up to £5,000	Departments must demonstrate that value for money has been secured.
£5,000 to £50,000	Consultants must be registered on Constructionline First six consultants from a randomly selected list generated by Constructionline are invited to tender.
£50,000 to EU Thresholds	Advertise on eTendersNI. Tender process must be conducted in line with PGN 05/12: Procurement of Goods, Works and Services Over £30,000 and Below EU Thresholds .
Above EU thresholds	Advertise on eTendersNI. EU Directives apply –advertise in OJEU. Normally use the Restricted Procedure.

3.3 Ensuring consistency and visibility

3.3.1 To ensure consistency and visibility in the award of contracts, CoPEs must use eTendersNI as the electronic tendering portal for all bodies covered by the Northern Ireland Public Procurement Policy.

4 BASIS OF THE AWARD OF CONTRACTS

4.1 Contracts over the EU threshold must be awarded on the basis of the Most Economically Advantageous Tender (MEAT), this can include assessment on the basis of price/cost only as well as other methods including the 'best price/quality ratio' which can include social and environmental requirements provided they relate to the subject matter of the contract. Contracts should only be awarded solely on the basis of basis of price/cost only if they are very simple straightforward projects. Where this is to be

used the supporting rationale should be clearly set out in the procurement strategy and signed off by the Head of CoPE.

- 4.2 For contracts below the EU threshold, the basis of award must be either the Best combination of Price and Quality (BPQ) or lowest acceptable price⁵.
- 4.3 For contracts for the supply of standard goods, non construction services or below EU threshold construction services and works, the preferred basis of award should be the lowest price or lowest acceptable price. In this context, “standard” means when the goods, services or works can be clearly and simply specified, and are capable of being routinely delivered by a number of suppliers/contractors.
- 4.4 For more complex or strategic requirements involving the use of MEAT or BPQ the price quality ratio should be selected on the advice of a COPE. In either case the minimum quality element should be 30%.
- 4.5 All contracts with a value greater than £5,000 should be awarded on the Department’s/CoPE’s Conditions of Contract.
- 4.6 In exceptional circumstances it may be necessary to award a contract directly, without obtaining quotes or advertising, in which case Departments should consult [PGN 03/11- Award of Contracts Without a Competition](#).

⁵ After unacceptably low prices have been excluded. Each case should be treated on its merits. There should be no automatic exclusion and tenderers whose tenders are considered to be significantly low should be given the opportunity to justify their prices.

5 LIGHT TOUCH REGIME

5.1 The PCLs do not apply to certain service contracts mainly in social, health and education services that tend to be of lower interest for cross-border competition. A Light Touch Regime (LTR) has been provided for in the PCR 2015 which includes a relatively high threshold value (€750,000) and a flexible approach, provided minimum criteria are met.

Below the EU threshold, Departments can determine the procedure to award contracts though they must observe:

- the NIPPP requirement that procurement should be managed via service level agreement with a CoPE;
- the need to use competitive tendering where possible and that a balance is maintained between the value of the contract and the transaction cost of the procurement process;
- the requirement to process all tender competitions through eTendersNI;
- the requirement to publish award criteria in procurement documents and the need for an appropriate use of quality and price criteria to assess best value for money;
- the rules on aggregation; and
- the removal of arbitrary requirements which discourage SME participation.

[PGN 02/16](#) provides further guidance on the LTR.

6 FURTHER INFORMATION

6.1 Any queries on this Procurement Guidance Note should be addressed to:

Procurement Policy Branch
Central Procurement Directorate
2nd Floor East
Clare House
303 Airport Road West
Belfast, BT3 9ED
Phone: 028 9081 6518
Email: procure.policy@finance-ni.gov.uk

Construction Procurement Policy Branch
Central Procurement Directorate
2nd Floor East
Clare House
303 Airport Road West
Belfast, BT3 9ED
Phone: 028 9081 6871
Email: ConstructionProcurementPolicy@finance-ni.gov.uk

GUIDELINES FOR PURCHASES UP TO £5,000

Purchases up to £5,000 will be classified as procurement expenditure but they are not subject to procurement rules. Departments must ensure that all purchases up to £5,000 are subject to value for money considerations and Managing Public Money Northern Ireland.

Departments should ensure that:

- (i) the purchase is not covered by an existing framework agreement, call-off contract or e-catalogue;
- (ii) the purchase is a one-off requirement;
- (iii) the total spend is up to £5,000; and
- (iv) the requirement is clearly specified.

When existing arrangements at (i) are not available, then departments should carry out a price check⁶ with at least two contractors/suppliers to ensure value for money has been achieved. Price checks should be documented and retained on file for audit purposes.

In the exceptional circumstance when it is not possible to obtain price checks (eg, emergencies) then an order may be placed directly with a contractor/supplier. In these cases, Accounting Officer approval is not required when the total spend is up to £5,000 but the reasons for the action should be recorded and retained for audit purposes.

This derogation does not apply to the procurement of consultancy services.

⁶ Could include internet price checks.