



**Procurement Guidance Note
PGN 04/12**

**PROCUREMENT CONTROL LIMITS AND
BASIS FOR CONTRACT AWARDS**

Revised: 23 April 2014

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 action.

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 [CPD's website](#).

The following Procurement Guidance Note was endorsed by the Procurement Board with effect from 21 May 2012 for use by those bodies covered by the Northern Ireland Public Procurement Policy.

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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 **eSourcingNI** 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.

The term **lowest acceptable price** has been used to refer to the lowest price 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.

1.0 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.

2.0 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 is regulated in the European Union (EU) through EU Directives. The current procurement directives were transposed into UK national law on 31st January 2006 as The Public Contracts Regulations (2006) SI 2006 No.5 (as amended) and the Utilities Contracts Regulations (2006) SI 2006 No.6 (as amended) – the “Regulations”.

2.4 The Regulations apply to all contracts above a published [EU threshold](#) which are not covered by an exemption.

2.5 In determining the value of a contract, for the purposes of assessing whether it is above the threshold, the value of all options and renewals must be taken into consideration. When a Department has a single requirement for goods, services or works contracts and a number of contracts are to be entered into to satisfy the requirement, the value of the consideration is the aggregate value of all the contracts¹.

2.6 Departments must not split purchases or disaggregate project costs in order to circumvent the control limits set out in this guidance note.

2.7 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.

¹ Refer to the Public Contracts Regulations 2006 [as amended] Reg. 8 (11)-(12) and the Utilities Contracts Regulations [as amended] Reg.11 (8) – (9) for detail on aggregation rules

3.0 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.

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 eSourcingNI. Tender process must be conducted in line with Procurement Guidance Note 05/12: Procurement of Goods, Works and Services Over £30,000 and Below EU Thresholds.
Above EU Thresholds	Advertise on eSourcingNI. EU Directives apply –advertise in the Official Journal of the European Union (OJEU).

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 2.7).

Table 2 – PCLs construction works

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	Contractors must be registered on Constructionline ² First six contractors from a randomly selected list generated by Constructionline are invited to tender.
£30,000 to EU Thresholds	Advertise on eSourcingNI Tender process must be conducted in line with Procurement Guidance Note 05/12: Procurement of Goods, Works and Services Over £30,000 and Below EU Thresholds.
Above EU Thresholds	Advertise on eSourcingNI. EU Directives apply –advertise in OJEU. Normally use the restricted procedure.

² Constructionline is the UK's register of construction related contractors and consultants pre-qualified to work for public sector clients.

Table 3 – PCLs 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	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 eSourcingNI. Tender process must be conducted in line with Procurement Guidance Note 05/12: Procurement of Goods, Works and Services Over £30,000 and Below EU Thresholds.
Above EU thresholds	Advertise on eSourcingNI. 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 eSourcingNI as the electronic tendering portal for all bodies covered by the Northern Ireland Public Procurement Policy.

4.0 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) or lowest price. In most cases the most appropriate basis shall be MEAT. Lowest price should only apply in relation to very simple straightforward projects. Where lowest price 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 price.
- 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 Terms and 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 a Contract Without a Competition'.

5.0 CONTRACTS FOR PART B SERVICES

5.1 The procurement rules do not fully apply to a Part B Services Contract as defined in the Regulations. These include services not deemed to have sufficient cross border interest to warrant full application of the Directives. The limited provisions that do apply are the requirement to ensure adequate advertising of any contract, EU compliant specifications and an obligation for an award notice to be placed in the OJEU. However the Treaty on the Functioning of the European Union (TFEU) principle of transparency requires that an economic operator in another Member State should have access to appropriate information regarding a contract before it is awarded so that, if it wishes, it would be in a position to express an interest.

5.2 An Interpretative Communication³ was issued by the European Commission in 2006 to inform Member States that, in order to satisfy the principle of transparency, a level of advertising for all contracts, including Part B Services and below threshold, is required for contracts which would be of interest to economic operators in other Member States, "in particular in view of its subject-matter and value and of the customary practices in the relevant sector". This should be taken into consideration by CoPEs when applying the Procurement Control Limits. It is considered that in most cases it should be sufficient to advertise on the eSourcingNI portal, unless for a very high value Part B Services Contract, or in the case of subject matter which is so limited that it needs to be advertised very widely in order to attract sufficient interest.

³ Commission Interpretative Communication 2006/C179/02

6.0 FURTHER INFORMATION

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

Central Procurement Directorate
Procurement Policy Branch
2nd Floor East
Clare House
303 Airport Road West
BELFAST
BT3 9ED

Phone: 028 9081 6518

e-mail: procure.policy@dfpni.gov.uk

All Procurement Guidance Notes can be found at

<http://www.dfpni.gov.uk/cpd>

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 check⁴ 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.

⁴ Could include internet price checks.