

ISLE OF MAN GOVERNMENT PROCUREMENT POLICY

GD 2017/0026



**Isle of Man
Government**
Reillys Ellan Vannin

INTRODUCTION

This Document sets out the Council of Ministers' Procurement Policy for Government

Ministerial Forward – The Treasury Minister

The Isle of Man Government spends over £200 million each year on goods, works and services. Local spend and social value are important to our community. The purpose of this Policy is to ensure that all Isle of Man Government procurement activity is focussed on the delivery of best value for the public purse whilst ensuring Government's purchasing power is used to spend locally wherever possible. This Policy clearly and unequivocally sets out Government's commitment to consider local economic benefits, social value and environmental and sustainability considerations when making contract award decisions.

Our colleagues in Department of Health and Social Care are working on a policy to cover partnership agreements for the delivery of services from the third sector. Arrangements with this sector can be difficult to accommodate following a traditional procurement route.

It is also equally important that Government procurement is undertaken in a fair and open manner. Government is committed to greater transparency across its operations so that the public can hold public bodies to account. This Policy sets out a clear duty of fairness and equality for the Isle of Man Government in its procurement activity and promotes a level of transparency never seen before.

This Policy sets out the clear intent to make it simpler and more straightforward for businesses to sell to Government. Through the use of a new on-line tender system, we will look to replace the current repetitive and time-consuming paper based processes. Finally, by raising the tender threshold and introducing a new £10,000 threshold for advertising contracts we will increase the opportunity to win contracts whilst reducing the administrative burden of selling to Government.



The Honourable Alfred Cannan MHK
Treasury Minister
15th June 2017



What is Procurement?

Procurement is simply the name given to the process by which the Isle of Man Government buys the goods, services and works that enable it to operate and in turn deliver cost effective public services.

Why do we need a Policy?

The purpose of the Procurement Policy is to ensure that all Isle of Man Government procurement activity is focussed on the delivery of best value for the public purse whilst being conducted to high professional standards.

What do we want to Achieve?

In carrying out procurement activity, the Isle of Man Government will strive to achieve three core policy objectives:

- Achieving best value for the Isle of Man from Government purchasing whilst ensuring Government's purchasing power is used to spend locally wherever possible.
- Purchase through fair and open competition.
- Make selling to Government as simple and straightforward as possible.

In doing so, the Isle of Man Government aims to ensure:

- **Competition** – To subject more than 95% of Government purchasing expenditure to open competition by advertising all contract opportunities with a value of £10,000 or more and in doing so greatly increase the opportunity for public money to be spent locally.
- **Fairness** – To promote a duty of fairness and equality when dealing with suppliers and by doing so ensure equal opportunities for all without unfair discrimination.
- **Value** – To consider the value of procurement decisions beyond simply providing the goods and services required to deliver public services. Taking account of, as appropriate, local economic benefits, social value and environmental and sustainability considerations when making contract award decisions.
- **Transparency** – To conduct procurement activity in a transparent manner publishing:
 - Annual tender plans in order to provide greater notice of potential contract opportunities.
 - The results of all tender exercises.
 - A summary of any decisions for non-competitive action; including the reasons why such a course of action was considered necessary and appropriate.

Achieving Best Value - Contracts will normally be awarded based on best value for money, this being the most advantageous combination of cost, quality, fitness for purpose and risk. Furthermore, best value for money may also include benefits to society and the economy. In adopting this approach, Government recognises that the 'lowest price' does not always represent the best outcome and only in specific circumstances should contracts be awarded based on lowest price.

How will this be achieved?

Contract Opportunities

The greater the number of contract opportunities subjected to competition the greater the opportunity for public money to be spent locally; Isle of Man businesses have a strong track record of winning Government Contracts when given the opportunity to compete.

Therefore, except when the provisions for non-competitive action set out in this Policy apply, all Departments, Boards and Offices will advertise all contract opportunities with a value of £10,000 or more through the Government's Procurement Portal. In doing so more than 95% of Government purchasing expenditure will fall within the competition threshold.

For contracts below £10,000 in value Departments, Boards and Offices will through their best endeavours strive to seek appropriate competition where practicable to do so.

Value for Money

Best value for money is defined as the most advantageous combination of cost and quality to meet the Government's requirements. In this context

- cost means consideration of the total whole life cost such as the cost of support and maintenance, consumables, licensing, training and disposal
- quality means meeting a specification which is fit for purpose and sufficient to meet the Government's requirements

All Departments, Boards and Offices will strive to ensure that they achieve best value for money when awarding Government contracts.

Local Economic Benefits

Procurement should be considered beyond simply providing the goods and services required to deliver public services. If employed correctly procurement can act as enabling tool to promote business and employment sustainability. Procuring an organisation to provide goods or to deliver a service can provide much needed income for that organisation; it can promote employment creation in turn enabling economic and social regeneration.

The local economic value of procurement spending must of course be balanced against the need to achieve overall best value for the public purse from the purchase and must not become an 'at any cost' approach.

All Departments, Boards and Offices will consider if the application of local economic factors are appropriate as part of the overall quality assessment in a contract award decision.

Social Value

As a concept, social value is about seeking to maximise the additional benefit that can be created when procuring services above and beyond the benefit of merely the services themselves. Social value is about looking beyond the price of each individual contract and looking at what the collective benefit to a community is when Government chooses to award a contract. Social value asks the question – “If £1 is spent on the delivery of services, can that same £1 be used, to also produce a wider benefit to the community?”

All Departments, Boards and Offices will consider if the proportionate application of social value factors are appropriate as part of the overall quality assessment in a contract award decision.

Sustainability and Environmental Value

Sustainability in a procurement context considers awarding contracts that achieve value for money on a whole life basis in terms of generating benefits not only to the Department, Board or Office, but also to society and the economy, whilst minimising damage to the environment. Environmental values are also recognised as being an important contract award factor in their own right. Consideration of energy, production process, materials, waste and logistics chain are examples of areas where services and products may be differentiated.

All Departments, Boards and Offices will, as appropriate, consider the proportionate application sustainability and environmental values as part of the overall quality assessment in a contract award decision.

Economies of Scale

When officers are considering procuring goods, services or works they will consider maximising potential savings, to Government as a whole, through acting collaboratively, not only within their own organisation, but also across all Departments, Boards and Offices in areas of common spend.

By aggregating demand in this manner officers should strive to obtain:

- greater leverage with suppliers through economies of scale,
- greater commonality, and
- a reduction in administrative cost.

Internal Resources

The Government comprises a broad spectrum of public funded capabilities and resources the use of which should be maximised in order to achieve best value from the monies already committed. Therefore, in order to maximise the benefit from this committed expenditure officers will first consider the use of these ‘in-house’ capabilities and resources from across all of Government before commencing any procurement exercise.

Fair and Open Competition – Goods, services and works will be obtained through genuine and effective competition, including adequate publication of the contract opportunity, unless there are convincing reasons to the contrary. Government will adopt proportionate approaches to procurement to ensure that contract opportunities are open to all and smaller, local suppliers are not precluded from winning contracts.

How will this be achieved?

Fairness and Equality

When spending public money Government has a duty of fairness and equality when dealing with suppliers. Procurement processes and practices must reflect and promote this duty and all Departments, Boards and Offices will strive to ensure equal opportunities for all, when procuring goods, works or services without unfair discrimination.

All Departments, Boards and Offices will disclose the criteria being used to assess contract bids with all the bidding parties at the earliest opportunity in the competition process and once disclosed the criteria will not be altered.

Defined Contract Term

In order to ensure that contract opportunities are open to all Departments, Boards and Offices will look to re-tender contracts when the term expires rather than seeking to extend. For all contracts, the value of which exceeds the tender threshold the maximum length of the contract term will be five years unless specific circumstances dictate otherwise.

Public Expressions of Interest

All contract opportunities the value of which exceeds the published tender threshold will be advertised through the Government's Procurement Portal for a period of not less than 10 working days, subject to the exclusions below and unless exceptional circumstances apply.

If a contract relates to a provision covered by a previously advertised framework agreement, including a select list of suppliers, the opportunity may only be advertised to those parties subject to the existing agreement.

If a contract relates to a professional service regulated on the Isle of Man the requirement may only be advertised to those parties already subject to the regulatory regime.

Publication of Tender Plans

Departments, Boards and Offices will plan and prioritise all tender activity. In order to ensure the adequate publication of the contract opportunities each of the tender plans for the coming year will be published on the Attorney General's Chamber's website.

Publication of Tender Results

All tender results will be published on the Attorney General's Chamber's website.

Non-competitive Action

Although fair and open competition represents a corner stone of Government's Procurement Policy there will be certain circumstances where competition is not possible or practicable. When such circumstances occur contracts may need to be awarded on a non-competitive basis. Grounds where such an approach may be considered appropriate are:

- For work of exceptional urgency caused by unforeseeable circumstances where competitive tendering would cause unacceptable delay such as after critical equipment breakdown, storm damage etc.
- The proposed supplier has, by recent experience (normally, within the last 12 months, but this will depend on relevant market conditions), proved to offer best value for money as the result of a fully compliant, competitive procurement exercise. Further competition would be highly likely to produce the same outcome.
- The proposed supplier is the only one known to provide the goods and/or services required. Adequate research must have been carried out to clearly and objectively demonstrate that this is the case and there are no satisfactory alternatives.
- Where Intellectual Property Rights are an issue, such as bespoke designs and/or software licensing. In such circumstances, it is essential that procedures are in place to ensure best value for money has been achieved.

A brief summary of the detail of each approval for non-competitive action for contracts the value of which is above the tender threshold will be published on the Attorney General's Chamber's website.

Exclusion

By applying exclusion grounds Government can ensure that suppliers, who deliver public contracts, do so in full compliance with the law and supporting principles. In addition, exclusion grounds also help ensure that all suppliers are being treated fairly and equally.

Some grounds for exclusion are circumstances in which a supplier must be excluded from the procurement process. Some other grounds for exclusion are circumstances in which Departments, Boards and Offices may determine on a case-by-case basis whether a supplier should be excluded. These are referred to as mandatory and discretionary exclusion grounds respectively.

Mandatory Grounds will include a failure to meet tax or social security obligations and when a supplier has been convicted of by final judgement of certain criminal offences.

Discretionary exclusions grounds may include breaches of social, environmental, health and safety, employment and competition law obligations. In addition, circumstances where a supplier has breached an agreement or contract may also be a consideration. Also failure of a supplier, during a tender process, to comply with reasonable written instructions of the procurement officer managing the process where it is considered that the actions would jeopardise the fairness, and equality of the process.

Exclusion grounds will be clearly defined in the tender documents, to ensure a common understanding of the requirements by all potential suppliers. In order to ensure complete fairness grounds for exclusion will not be changed or waived during the procurement process.

Make selling to Government as simple and straightforward as possible: We will strive ensure that procurement processes follow standard approaches and use common systems that where possible minimise complexity, cost, timescales and requirements for suppliers.

How will this be achieved?

Reducing Administration and Increasing Opportunities

Although all Departments, Boards and Offices are to advertise all contract opportunities with a value of £10,000 or more, only those contracts the value of which is £100,000 or more are to be subjected to a mandatory formal tender process. Through this approach, Government will increase the opportunity to win contracts whilst reducing the administrative burden of selling to Government often associated with competitive tendering.

Purchase Cards

Government will continue to promote the use of purchase cards for low value low volume transactions. The use of purchase cards will ensure suppliers are paid immediately without the need to submit invoices for payment.

Electronic Requisition (E-Req)

Government will replace wherever possible paper orders with an Electronic Requisition System known as E-Req. E-Req will ensure a consistency of format across all Government orders bringing familiarity which will in turn make it easier and quicker for suppliers to sell to Government. Moreover, E-Req will greatly improve internal Government processes that in turn should improve the promptness of payments to suppliers.

Electronic Tendering (E-Tendering)

Government will look to manage as far as is practicable all tender activity electronically through an online Procurement Portal. Regardless of the size or complexity of the tender, the e-tendering capability will streamline tenders, simplifying the process for the supplier and ensuring the

procurement is as transparent and fair as possible. Key benefits include:

- Electronic notification of contract opportunities.
- Simple step-by-step on-line guidance for suppliers throughout the process.
- Electronic questionnaires making the tender process easier for suppliers to complete and reducing the risk of errors.
- A standardised approach bringing familiarity and confidence for suppliers in submitting tenders.
- System-generated notifications for buyers and suppliers improving communications between Government and the suppliers.
- Enforced compliance with relevant legislation and Government regulations and procedures.
- Full electronic evaluation of bids and proposals helping to prevent errors and reducing risk.

Applicability

The Government's Procurement Policy applies to the following entities often referred to in Government documentation and correspondence as "designated bodies":

All Government Departments which as at the date of publication of this policy comprise: Department of Economic Development; Department of Education and Children; Department of the Environment, Food and Agriculture; Department of Health and Social Care; Department of Home Affairs; Department of Infrastructure; the Treasury; and the Cabinet Office being the bodies specified in Section 1 (1) of the Government Departments Act 1987.

All Statutory Boards which as at the date of publication of this policy comprise: Communications Commission; Isle of Man Office of Fair Trading; the Isle of Man Post Office, Public Sector Pensions Authority; Isle of Man Financial Services Authority; Isle of Man Gambling Supervision Commission; Manx Utilities Authority; being the bodies specified in Schedule 1 of the Statutory Boards Act 1987.

The Offices of the General Registry and the Attorney General's Chambers.

Any other Body or Authority (other than a local government body) constituted by any enactment for any purposes involving the expenditure of public monies or the receipt of public monies for the purposes of that body or authority or for the public revenue.

Any other Body designated as such for the purposes of the Treasury Act 1985 by order of the Council of Ministers.

The Government's Procurement Policy also applies to anyone acting on behalf of a designated body, including contractors and consultants commissioned for specific purposes. The Policy is applicable to all Government procurement including both revenue and capital funded activity.

The Policy is not intended to cover agreements between designated bodies either contractual or non-contractual.

For further information regarding Government Procurement, please e-mail the Commercial Services Team at procurement@gov.im.