

**THE ISLE OF MAN GOVERNMENT
FINANCIAL REGULATIONS**

Tendering Handbook

***Acquisition of Goods and Services with an
Aggregated Value of £100,000 or more***

Issued by the Treasury, Government Office

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INTRODUCTION

KEY POINTS TO REMEMBER - FOR ALL OFFICERS

1 Introduction

Requests for amendments to this Handbook

If there are any further amendments that any Designated Body or Officer considers should be considered by the Treasury for future updates to this Handbook, or the Financial Regulations (including any Financial Directions or Financial Practice Notes), then they should be submitted to your Designated Finance Officer.

1.1 Purpose of this Handbook – Procurement with an aggregated value of £100,000 or more

This Handbook has been developed as a **supplement** to the Isle of Man Financial Regulations and should be read in conjunction with them. It is designed to highlight the specific responsibilities and risks associated with procurement as set out in the Financial Regulations; however, where there is **any doubt** in interpretation, the Financial Regulations **must** be referred to for clarification.

Any Financial Practice notes mentioned in this booklet that are relevant to any acquisition of goods and/or services should also be referred to in their entirety to ensure that the reader has a full understanding of any requirements.

Wherever Financial Regulations are mentioned, this also refers to any relevant Financial Directions and Financial Practice Notes.

This Handbook provides an overview of the requirements when making purchases with an aggregated value of more than £100,000

Purchases/ Contract values under £100,000 are covered in the General Procurement less than £100,000 Handbook

1.2 Non-Compliance with Financial Regulations

The consequences for failing to comply with any of the requirements stated in the Financial Regulations are stated within the Financial Regulations, Financial Direction A.12:

A 12.1. Wilful failure to comply with any part of the Financial Directions or Financial Practice Notes by any officer shall be considered as gross misconduct.

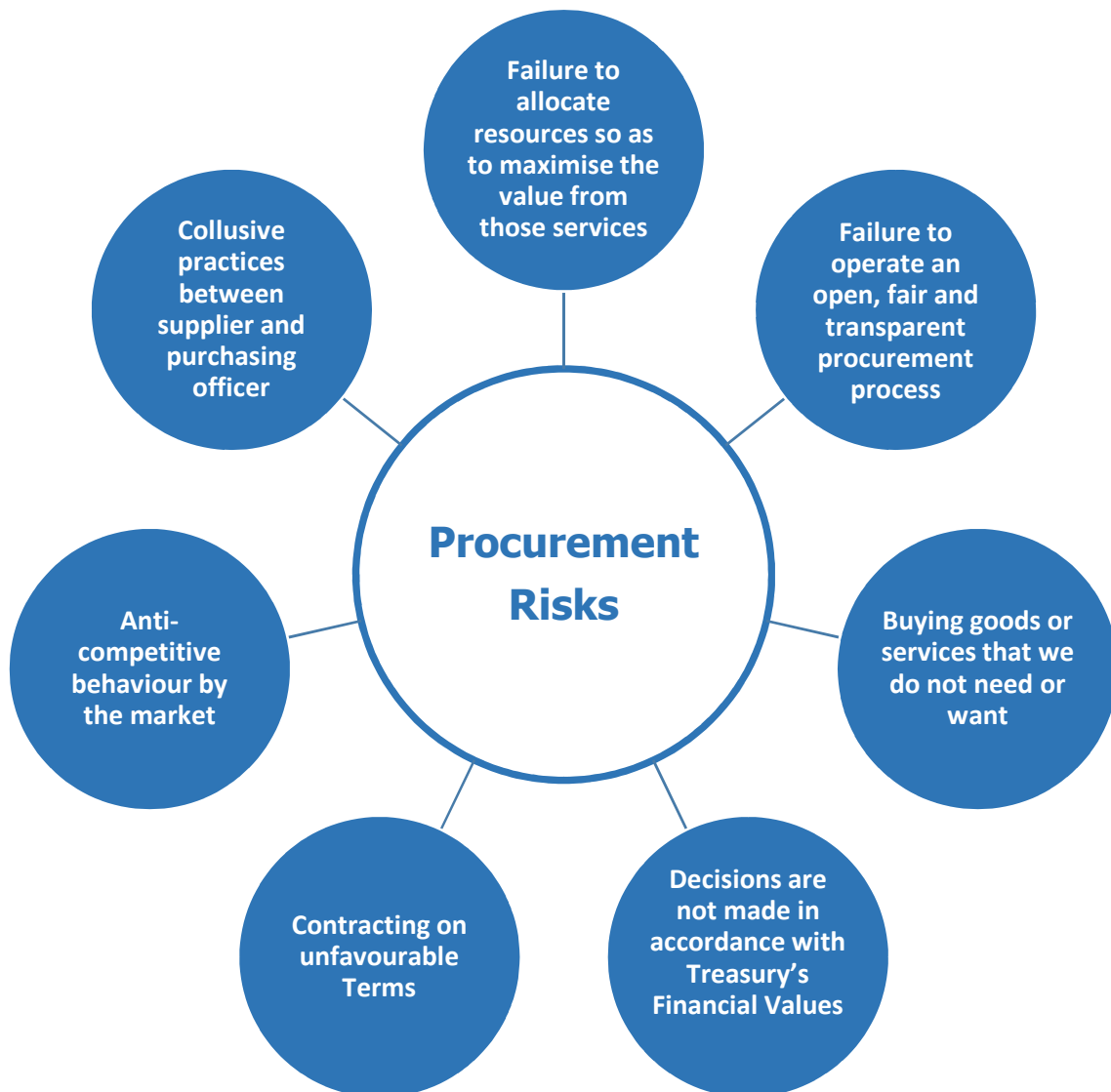
A 12.2. Where a wilful failure to comply with any part of the Financial Directions or Financial Practice Notes is suspected the relevant disciplinary procedures must be implemented.

All requirements of Financial Directions and Financial Practice Notes must either be fully complied with or you will have received a prior approval for an exemption from them, specifically:

Directions	<i>Non-compliance may lead to prosecution under the Audit Act 2006 and may also lead to the award of costs and compensation in relation to any unlawful actions taken. It is also a requirement that any non-compliance is investigated and progressed (as appropriate) under the applicable disciplinary or capability procedure.</i>
Financial Practice Notes	<i>Compliance is mandatory and it is a requirement that any non-compliance is investigated and progressed (as appropriate) under the applicable disciplinary or capability code.</i>

1.3 Our Procurement Risks

The policies stated within this Handbook have been designed to mitigate some key risks associated with the procurement of goods and services:



1.4 Our Procurement Objectives

FD C 1.1. All Budget Holders and Delegated Officers must ensure that:

- a) we only buy the things we really need for the delivery of our services;*
- b) we sufficiently understand why we need them;*
- c) we only make commitments to suppliers when we know we have the resources available to meet those commitments;*
- d) we appropriately communicate to suppliers so that they understand what we need;*
- e) an appropriate level of fair and open competition is undertaken to ensure impartiality and best value is achieved;*
- f) we 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;*
- g) goods, services and assets that are delivered by our suppliers meet our needs;*
- h) we only pay for those things that do so;*
- i) we make payments in a timely manner in line with agreed terms, obtaining discounts whilst considering Government cashflow requirements;*
- j) when paying for goods & services we record transactions appropriately to meet our statutory requirements;*
- k) when we make payments 'as a service' (e.g. grants/support payments) they are in line with relevant statutory requirements.*

This Handbook covers the acquisition of goods and services with an aggregated value (net of Value Added Tax) greater than £100,000.

1.5 The '7 Step' Workflow - Approaching Procurement in a Logical Manner

Before deciding to proceed with a commitment to purchase goods or services, consideration should be given to various factors that are at the core of Governments Financial Values. These have been covered in the All Officer Handbook and include (amongst others) values such as using internal resources first, only buying those things we really need, achieving best price, fair an open competition and obtaining value for money.

The Financial Regulations therefore suggest a logical 'workflow' when considering the procurement of goods and services; this is shown in the chart below.

Insurance

Where any assets covered by insurance are damaged or stolen, Departments must not order replacements, remedial work or other work until the Financial Controller has been consulted.

Financial Direction C: Buying and Making Payments C 2. Insurance



Use Internal Resources First

Where an Internal Service provides services to other Designated Bodies without making a cross charge for the provision of the services then all requests must be referred to the Internal Service in the first instance

Financial Direction C: Buying and Making Payments C 3. Using Internal Resources First



Only Spend What You Can afford

Expenditure may only be incurred where there is an existing revenue or capital budget available. Where there is no available budget, then appropriate resourcing must be in place prior to any external commitment to expenditure

Financial Direction C: Buying and Making Payments C 4. Only Spending What We Can Afford



Financial Thresholds

You must determine the appropriate treatment in terms of the procurement and any relevant exemptions by aggregating the estimated cost over the lifetime of the supply. If there is no pre-determined end date, then over a period of 3 years.

Financial Direction C: Buying and Making Payments C 5. Financial Thresholds for Procurement Decisions and Exemptions



Central Framework Agreements

Where any required goods or services are covered by a Central Framework Agreement on the Attorney Generals Chambers published Central Framework Agreements list, then those agreements must be used.

Financial Direction C: Buying and Making Payments C 6. Central Framework Agreement



Specific Types of Procurement

When the procurement relates to vehicles and plant, or the acquisition of land and buildings, then you must refer to *FPN C.03 Vehicle and Plant Procurement*, and *FPN C.05 Land & Buildings Acquisitions*

Financial Direction C: Buying and Making Payments C 7. Alternative Procedures for Specific Types of Procurement



Procurement of Goods and Services over £100,000

Where the cost of purchase is £100,000 or more, then it must be sourced in accordance with FPN C.08 Tendering (please refer to Financial Direction C 8 for specific exclusions)

Financial Direction C: Buying and Making Payments C 9. Procurement of General Goods and Services Over £100K

1.6 Which Financial Directions and Financial Practice Notes are relevant to Tendering?

This Handbook contains references from the following sources:

The Financial Regulations (November 2018)
<i>Financial Direction C: Buying & Making Payments</i>
FPN C01. Determining Supplier Financial Relationships
<i>To mitigate against circumvention of the Financial Regulations</i>
FPN C.03 Vehicle & Plant Procurement
<i>Deals with specific provisions relating to the purchase of vehicles and plant.</i>
FPN C.04 ICT Hardware & Software Procurement
<i>Deals with specific provisions relating to the purchase of ICT Hardware & Software</i>
FPN C.05 Land & Building Acquisitions
<i>Deals with specific provisions relating to the acquisition of land and buildings</i>
FPN C.08 Tendering
<i>Describes the rules relating to the tendering process</i>
FPN C.09 Contract Management
<i>Describes the rules surrounding the management of contracts</i>
FPN C.10 Tender Evaluation
<i>Describes the approach to the evaluation criteria</i>
FPN A.01 Obtaining Approval for Exemptions
<i>Describes the process to obtain an exemption from the Financial regulations</i>
Conflicts of Interest - Staff Guidance Notes
<i>Guidance to assist in mitigating the risk of a conflict of interest arising</i>
Isle of Man Government Procurement Policy
<i>To ensure best value for the public purse, and to high professional standards</i>

Where they are specifically stated, Section 4 (below) details the responsibilities for officers involved in the tendering process.

1.7 Tendering Provisions set out in the Financial Regulations

Where the level of expenditure is likely to exceed £100,000, then goods and/or services **must** be sourced in accordance with Financial Practice Note - FPN C.08 Tendering. It is mandatory for all officers to comply with this practice note as required by Treasury's published Financial Directions.

Exceptions to this will apply when the procurement relates to:

- a) The procurement of land and/or buildings – see FPN C.05 Land & Building Acquisitions
- b) The purchase of vehicles and/or items of plant – see FPN C.03 Vehicle & Plant Procurement

The following types of purchase also have specific provisions within the Financial Regulations:

- c) Where computer hardware and/or software is being purchased, then you also need to take into account FPN C.04 ICT Hardware & Software Procurement.
- d) Where the use of external consultants is being considered, unless the appointment is covered by a procedure that has received prior approval by the Assessor of Income Tax, then the provisions set out in FPN C.01 Determining Supplier Financial Relationships will also apply.
- e) For the purchase of any capital assets, and capital projects, including all construction work, engineering and other projects, which are wholly or partially commissioned, funded or underwritten by one or more designated bodies. (Regardless of the source of funding), you should also ensure that the provisions within FPN C.02 Capital Procedure Notes are applied.

1.8 Tender Planning

In relation to tender planning, FPN C.09 Contract Management states that the Budget Holder is required to review all existing contracts within their budget area in order to:

- a) plan in advance for any renewal action required;
- b) confirm that for all contracts suppliers are performing to required standards;
- c) negotiate any contract variations and ensure they are reflected in the contract documentation.

The Budget Holder must also ensure that no later than 1st January in each year any contracts requiring tender in the next financial year, or other action dependent upon the Attorney General's Chambers Procurement Services, are included on the Designated Body's annual Tender Plan.

They must also ensure that their tender plans remain up to date and must notify the Designated Finance Officer of changes to the agreed plan, and ensure appropriate action is taken to address any issues arising from sub-standard suppliers.

1.9 Determining the value of the supply of goods and/or services

It is imperative for the Budget Holder to maintain adequate control over expenditure within the area under their control. The Financial Regulations aim to mitigate the risk that only an element of the total cost is used in determining the correct Procurement Approach.

When purchasing/ committing to spend you must determine the most accurate value of the acquisition you intend to make; the estimated whole of life cost of the contract including for example (but not limited to) delivery; ongoing support & maintenance costs; estimates of possible additional/discretionary services must all be considered – this is the **contract aggregated** cost.

1.9.1 Contract Aggregated Cost

C 5.1. In determining the required procurement mechanism to be applied in accordance with these Financial Directions Delegated Officers must aggregate the estimated cost:

a) over the full term of the proposed contract, including any extension options;

b) if the proposed supply of goods or services has no pre-determined end date, then over a period of three years.

“Over the full term of the proposed contract” can be a **single transaction** where it is a standalone transaction without obligation to receive further supplies. However the value for money ethos of the Financial Regulations implies that where you have repeated spend it may be best value to implement framework agreements or select supplier lists (undertaking appropriate competitive actions for same).

1.9.2 Incomplete Competitive Action

Aggregation is also relevant when no competitive action has been undertaken, or when competitive action is incomplete as only one supplier has submitted an actionable response and you are seeking exemption from the Financial Regulations.

Under FPN C.01, in addition to the Contract Aggregated Cost, the Budget Holder is required to consider Sub-Division of Procurement and Budget Area Aggregated Spend when considering the appropriate authority required for exemption from the Financial Regulations.

FPN C.01 Determining Supplier Financial Relationships 3.1 (Sub-Division of Procurement) and 3.2 (Aggregated Spend) outlines the requirements.

[Extract from FPN C.01 Determining Supplier Financial Relationships]

Sub-Division of Procurement

3.1. ensure that the opportunity within their Budget Area has not been sub-divided to circumvent Financial Directions and the applicable expenditure thresholds:

- a) this applies in the case of understating the expected value of a contract;*
- b) attempting to enter into a shorter term agreement in order that it's value would then fall below the financial thresholds;*
- c) purchasing the same or similar goods or services from different suppliers in order that the value of each contract would fall below the financial thresholds.*

Aggregated Spend

3.2. aggregate spend on similar and/or regular goods and services across their Budget Area to calculate a total value for the purpose of ensuring compliance with Financial Directions and the applicable expenditure thresholds.

This applies where:

- a) a budget area purchases over a period of time goods or services of a particular type. In these cases the values of the separate purchases are added together and, if the total value exceeds the thresholds, the Financial Directions apply to all the purchases, even if individually the amount of each purchase is below the thresholds;*
- b) where a supply of goods or services has no pre-determined end date and the total cost of the aggregated requirement across a period of three years is likely to exceed the financial thresholds.*
- c) the estimated whole of life cost of the contract including for example (but not limited to) delivery; ongoing support & maintenance costs; estimates of possible additional/discretionary services that would be linked to the contract are likely to exceed the financial thresholds.*

1.9.3 Aggregation Example

A Department requires regular maintenance of specific land and property to be carried out, and an officer within the Department has used what they consider to be a reliable supplier many times over the previous 3 years, and there appears to be sufficient work going forward to retain the services of this supplier.

The Department has had a good working relationship with them, and they are able to provide staff and resource to undertake the work whenever they are asked to, and often at short notice. Other suppliers providing similar services are available but have not been approached by the Department.

No competitive action has therefore been taken because the officer believes that the supplier offers excellent value for money, and the value of each invoice is always less than £10,000 and has only ever required Budget Holder approval. The work undertaken by this supplier has become more frequent over the last 12 months when compared with previous years.

Each instance of spend with the supplier is stand alone and does not imply any commitment to further spend/ works.

At the end of January 2019, the Budget Holder (BH) notes the requirement under FPN C.5 Financial Thresholds and realises that they need to consider aggregation and looks back at the previous three financial years:

Year Ended 31 st March	Invoice Totals (Net of VAT)
2016	£20,000
2017	£31,000
2018	£47,000

It is discovered that the aggregated spend in the previous three financial years is £98,000, which falls below the tendering threshold of £100,000.

The BH then notes that in the current financial year to the end of January 2019, expenditure with the supplier has increased significantly when compared to previous years and totals £72,000.

Within the Department, there is still a genuine need for the work that the supplier undertakes, and the BH does not see this diminishing in the near future.

Best judgement needs to be applied, and the BH looks at the expenditure with the supplier over the immediately preceding 12 months.

Expenditure within the current year, including the forecast expenditure for the current year period 1st February to 31st March will amount to £86,400 (£72,000 + £14,400); this is the figure that should be used to aggregate over the 3 years, resulting in an estimated aggregation of £259,200, and should now be subject to a competitive tender exercise.

If competitive action is **not** going to be taken, and there is a valid reason not to (see *Exemption Authority Conditions*, below) then **an exemption must be obtained prior to committing to any expenditure.**

If none of the Exemption Authority Conditions cannot be satisfied (see 2.1.2 Exemption Authority Conditions), or if the aggregated value exceeds £250,000, then **Treasury approval is mandatory.**

2 Obtaining Exemption from Tendering Requirements

Exemption from the requirements of FPN C.08 Tendering may be approved by the Responsible Officer, and/or other officers if nominated within the Financial Directions, provided it is made in accordance with FPN A.01 Obtaining Approval for Exemptions.

2.1.1 Obtaining Exemptions from the FD's and FPN's

Compliance with all Practice Notes is mandatory; however, providing there is a valid reason, there is the facility for any requirement to be exempted, provided that the required approval is obtained **in advance** of any expenditure being committed.

2.1.2 Exemption Authority Conditions

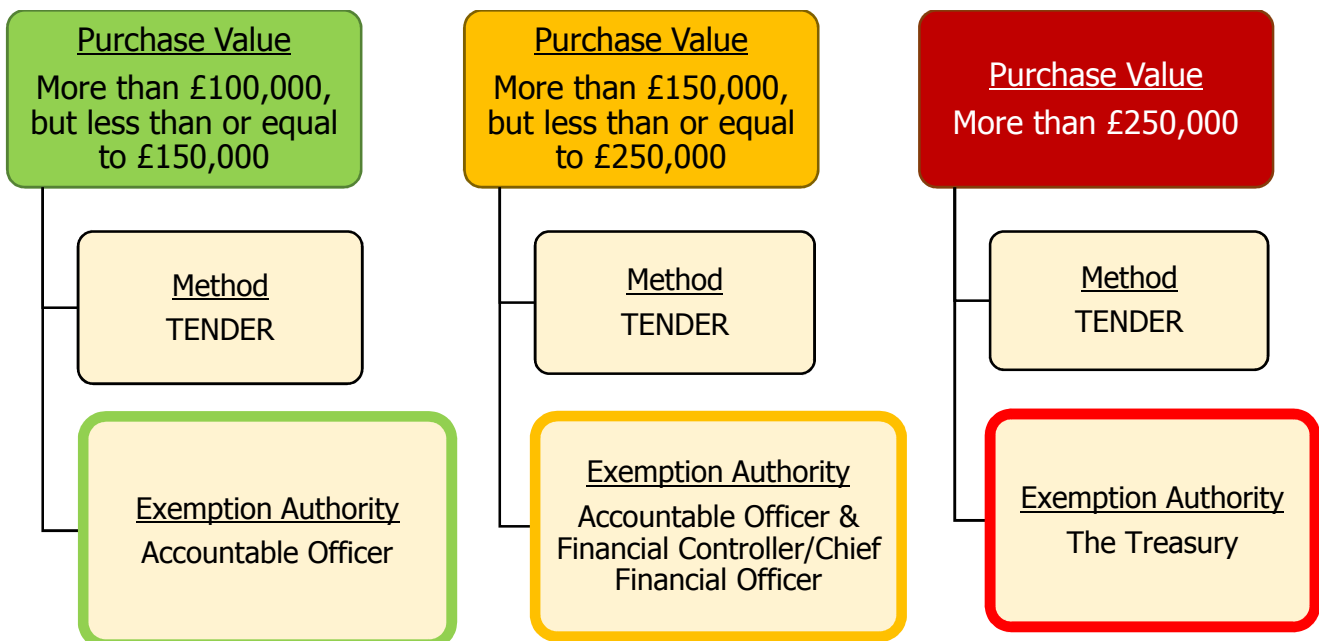
For purchases of goods and/or services between £100,000 and £250,000, Financial Direction C 9. Procurement of General Goods and Services Over £100k applies, and requires that at least 1 of the 4 conditions listed below must be satisfied for a Financial Regulations Exemption to be authorised by the Accountable Officer and/or the Financial Controller/Chief Financial Officer.

The conditions are:

1. The work is of exceptional urgency caused by unforeseeable circumstances where competitive tendering would cause unacceptable delay, such as after critical equipment breakdown, storm damage etc.
2. 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.
3. 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.
4. 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.

Providing that one or more of the conditions above are satisfied, then an exemption may be approved by the appropriate officer (see diagram below).

If any of the four conditions listed above cannot be met, or the total aggregated value is greater than £250,000, then Treasury approval is mandatory in all instances.






2.1.3 How do I apply for an exemption?

There are links to the exemptions form throughout the financial regulations, but you should read *FPN A.01 Obtaining Approval for Exemptions* in the first instance; available within the Financial Practice Notes section of the [Isle of Man Government Financial Regulations](#).

All financial waiver/ exemption forms must be submitted electronically, this places them on the central register maintained by Treasury. In the event that the electronic form or central register is not available to you, a copy of the approved form can be obtained from Treasury Audit Advisory Division and submitted by email to enquiries.audit@gov.im.

The exemptions form can be found [here](#) and will download as the image below; however, you should read the Exemptions Form User Guide that is available on the intranet via [Employee > Allowance and Financial Regulations > Exemption Forms User Guide](#).

Request for Exemption from Financial Regulations	
Reference	
Status	Awaiting Submission
Title for application	*
Applicant	
Department	* ▾
Division	* ▾
Subdivision	* ▾
Cost Centre	* ▾
Is the applicant the Authorised Budget Holder for this cost centre ?	<input type="checkbox"/> Authorised Budget Holder E-mail Address *  
Total Estimated Value (£)	*
Exemption	* ▾
Is this application confidential ?	Mark this application as confidential <input type="checkbox"/> If you tick the confidential box, only those officers involved in the approval process can see your application. Leaving it unticked means only officers within your own Department (and system administrators and senior Treasury officials) can see your request. If your application is for less than £10,000 and you require it to be confidential, please contact AAD who will arrange it for you
File Attachments to support application	 Click here to attach a file
Background / Description of Requirement	* <i>What do you want to do ?</i> <i>Why do you need exemption from Financial Regulations ?</i>

3 Tendering

Once an aggregated value over the lifetime of an anticipated contract, or over the course of 3 years (if there is no pre-determined end date) has been established, and there is not a valid reason to obtain an exemption from the Financial Regulations, then a competitive tendering exercise **must** take place.

Contract length must also be considered with the maximum allowable length being for 5 years; exemption from Financial Regulations to allow a contract period of more than 5 years can be made under FD C 11.1: >£100k Max. Contract Length 5 years.

3.1 Responsibilities of the Budget Holder

Budget Holders must ensure that all procurement to be undertaken in accordance with FPN C.08 is tendered, and must ensure that a suitable experienced Tender Evaluation panel is appointed to undertake the tender on behalf of the Designated Body.

The tender process will not start and expressions of interest will not be sought until the specification and all required Invitation to Tender (ITT) documents are complete and ready for release.

3.1.1 Conflicts of Interest

All officers involved in the tender process (Tender Evaluation Panel Members) must act impartially and must not be influenced by personal relationships. Any conflicts of interest must be notified to their Accountable Officer, and to the Senior Legal Officer (Civil), and may include any personal or business interests or those of immediate family, which will be recorded (see also *Appendix [Section 6]* to this handbook).

[Extract from Financial Direction A 2. Financial Values]

Conflicts of Interest

- A 2.2. *All officers must ensure that they do not use, or give the appearance of using, their public position to further the private interests of themselves, their families, their friends or organisations in which they may have an interest.*
- A 2.3. *All officers must ensure that whenever they have an actual or perceived conflict of interest that they immediately identify the relevant Budget Holder. Where it is the Budget Holder raising the conflict then they should inform their line manager.*
- A 2.4. *Budget Holders must ensure that all actual or perceived conflicts of interest are recorded in a Conflicts Register covering the relevant Budget Area.*

Personal or business interests may include, but are not limited to:

- a) a senior position or directorship
- b) post of company secretary
- c) beneficial interest in 5% or more of the issued share capital of a company

The Public Services Commission Code also makes specific reference to conflict of interests:

[Extract from The Public Services Commission Code paragraph 8]

Civil servants should not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. They should not receive benefits of any kind from a third party which might reasonably be seen to compromise their personal judgement or integrity.

All officers involved in the tender process must ensure that they have complied with any financial training requirements set out in the Financial Regulations.

3.2 Non-Competitive Action

This is where, for example, there may be an existing **framework agreement** in place, or it is simply not feasible to go out to the open market because the work required is of exceptional urgency, then a tendering exercise may not be the most appropriate course to take – this will result in a **non-competitive action**.

In the event of any non-competitive action, an exemption from the requirements stated in the Financial Regulations **must be applied for and authorised before any expenditure is incurred** (See 'Obtaining Exemptions'). Exemption may be approved by the Responsible Officer and/or other officers if nominated within the Financial Directions, provided it is made in accordance with [FPN A.01: Obtaining Approval for Exemptions](#), which is applied for and approved by the relevant officers using the [Electronic Financial Waiver Form](#), which must then be submitted electronically onto the central register maintained by Treasury.

3.2.1 Non-Competitive Action Examples

Example 1- A Government owned building requires specialised maintenance work to be carried out as a matter of urgency; tendering the requirements would result in unacceptable delays and potentially serious and costly damage to the building.

There is also a health and safety risk to the public and to the staff working in the building; there is only one supplier on the Island who has the ability to carry out this work, and a detailed quote for £125,000 for the work to be undertaken, as soon as it is approved, is received from the supplier.

The quote is deemed to represent good value for money by the Public Estates and Housing Division, and they opt to go with the quote in order to rectify the problem as quickly as possible and to mitigate the risk to the building and to anyone using the building.

In this scenario the cost of the supply was more than the tendering threshold of £100,000, and only one supplier has been formally approached; an Invitation To Tender will not be produced, and an exemption from [FPN C.08 Tendering](#) will therefore be required (see *Obtaining Exemption* [below]) **before any expenditure is committed**.

In this example [C 9 Procurement of General Goods & Services over £100k – C9.3 \(a\)](#) applies:

- a) The work is of exceptional urgency caused by unforeseeable circumstances where competitive tendering would cause unacceptable delay, such as after critical equipment breakdown, storm damage etc.

Example 2 - A Government Department requires work to be carried out on a building that is very similar to the work for which a fully compliant, competitive procurement exercise had already been carried out at the end of the previous financial year.

The winning bidder was found to offer the best value for money by a clear margin, and the Department is therefore able under [C 9. Procurement of General Goods & Services Over £100k – C9.3 \(b\)](#) to contract the work to the winning bidder without spending time and staff resources entering into a further procurement exercise.

As noted above [C 9. Procurement of General Goods & Services Over £100k – C9.3 \(b\)](#) applies:

- b) The proposed supplier has, by recent experience (normally, within the last 12months, 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.

Again, the cost of the supply was more than the tendering threshold of £100,000, and only one supplier has been formally approached; an Invitation to Tender will not be produced, and an

exemption from FPN C.08 Tendering will therefore be required **before any expenditure is committed**.

3.2.2 Exemption Authorisation

This is dependent on the aggregated value of the goods and/or services you intend to obtain. Financial Direction C 9. Procurement of General Goods & Services Over £100k states that:

C 9.2. Exemption from Financial Direction C 9.1 may be approved:

- a) Where the amount is £150,000 or less: by the Accountable Officer;
- b) Where the amount is over £150,000 but less than (or equal to) £250,000: by both the Accountable Officer and either the Chief Financial Officer or the Financial Controller;
- c) Where the amount is over £250,000: by the Treasury.

3.3 The Tender Process

Once the value of the supply over a proposed contract term, or a period of 3 years (if there is no defined end date) has been established, the tender process will then consist of a number of distinct stages:

3.3.1 Planning

1. The Designated Body (DB) will instruct Procurement Services of their requirements.
2. The DB is made aware of confidentiality requirements and advised not to discuss the project with potential suppliers; they are however, able to continue with an existing business relationship, but must not discuss the project with them.

3. A project initiation meeting is held in which the DB explains their requirements to Procurement Services and they in turn explain the methodology, responsibilities and requirements. The meeting may also be attended by a legal officer; the Procurement process and responsibilities should also be agreed at this meeting.

4. Project documentation is then drafted and agreed, and must be completed prior to proceeding to the next stage.

3.3.2 Expressions of Interest

1. This is the first point at which the tender is released, and may be advertised in the press, On-line, the Procurement Portal, or on social media. The Minimum level of advertising is via gov.im and the Procurement Portal. Identified potential suppliers, trade organisations etc. may be also be contacted directly.
2. The procurement of different types of goods and services will be advertised as appropriate and it is advisable to consider whether the opportunity relates to a provision covered by a previously advertised framework agreement, including a select list of suppliers, in which case, the opportunity need only be advertised to them.
3. Where a potential contract relates to a professional service regulated on the Isle of Man, then it may only be advertised to those suppliers who are already subject to the regulatory regime.
4. Expressions of Interest will allow a minimum of 10 working days for response.
5. Interested suppliers will be required to confirm their compliance with and acceptance of the procurement process.

3.3.3 Pre-Qualification Questionnaire (PQQ)

1. The inclusion of a PQQ is optional; however, this is dependent on the level of interest received from the expression of interest. If a PQQ is issued, bidders are allowed a period of **10 working days** to submit a response.
2. PQQ's are evaluated and appropriate due diligence is undertaken in accordance with FPN C.10 Tender Evaluation (see below) and bids ranked in order of suitability. Unsuccessful suppliers may request feedback and/or lodge an appeal against the decision.

Due Diligence [Extract from FPN C.10 Tender Evaluation]

8.1. Due diligence must be undertaken in accordance with Appendix 1, in a manner proportionate to the value of the overall supply and its associated risks, on potential new suppliers and where appropriate, periodically on existing suppliers.

8.2. In particular, suppliers must not be awarded contracts where they are not meeting their tax or social security obligations or where they (or a member of their governing body) have been convicted by final judgement of one of the following criminal offences:

- a) Participation in a criminal organisation;*
- b) Bribery or Corruption;*
- c) Fraud;*
- d) Terrorist offences or offences linked to terrorist activities;*
- e) Money laundering or terrorist financing;*
- f) Child labour and other forms of trafficking in human beings;*

3.3.4 Invitation to Tender (ITT)

1. Shortlisted suppliers are then provided with the ITT pack, with potential bidders allowed a minimum period of 20 working days to submit their response. Longer periods may be stipulated for tenders that are more complex.

3.3.5 Appraisal, Award, Standstill and Appeal.

1. Tender responses are evaluated on price, quality/technical compliance and local economic benefit factors in order to determine the most economically advantageous submission is undertaken in accordance with FPN C.10 Tender Evaluation.
2. Once the evaluation panel have agreed the preferred bidder an appraisal report is produced and signed off by the Senior Legal officer (Civil) and the Departments Chief Executive or a delegated signatory.
3. Following sign-off, bidders are informed of the outcome and a 10 working day standstill period commences, during which time any unsuccessful bidders can obtain feedback and also challenge the decision.
4. Any challenge to the decision made by unsuccessful bidders must be on the grounds of Equity, Fairness or Reasonableness and will be considered by Treasury, Audit Advisory Division within 10 working days.
5. If an appeal is rejected and they remain unsatisfied with the decision, they may lodge a complaint with the Department.
6. The agreement can be signed once the standstill period has expired, or any appeal has been completed and finalised.

3.4 Tender Evaluation

Any officers who are members of a Tender Evaluation Panel must ensure that all tenders are evaluated as listed below. [FPN C.10 Tender Evaluation](#) details the evaluation process.

3.4.1 Broader Benefits

In all instances, the panel must consider the broader benefits beyond simply providing goods and/or services required to deliver the public service.

3.4.2 Local Economic Benefits

The local economic value of procurement spending must be balanced against the need to provide best value at all times, and must not become an 'at any cost' approach.

3.4.3 Social Value

This is concerned with looking beyond the price of any contract and looking at what the collective benefit to a community might be.

3.4.4 Sustainability and Environmental Value

This is a procurement concept that considers the rewarding of contracts 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 any environmental impact.

3.4.5 Most Economically Advantageous Tender (MEAT)

The MEAT approach ensures that a Designated Body applies criteria other than just price when evaluating a tender, and has to determine a weighting split between quality and price.

[Extract from C 10. Evaluation of Suppliers for General Goods & Services over £100k]

C.10.2. Where goods or services with a cost of more than £100,000 are being tendered, the evaluation weighting given to quality criteria is not permitted to prevail over that given to cost.

3.4.6 Quality to Cost Ratio and Criteria to Assess Quality

Where the cost of the supply is more than £100,000, the evaluation weighting given to the quality criteria is not permitted to prevail over that given to cost.

Each tender exercise will be different, and so there is no definitive list of criteria that could be applied to all tenders; however, a quality criteria list may include capacity, technical merit, after sales service, technical assistance and local employment.

10% quality/ 90% cost: might be appropriate for low value easily defined requirements where there are many existing alternative products or service providers, typically for requirements associated with support functions and/ or where there is a very restricted budget.

30% quality/ 70% cost: might be appropriate where a requirement is more detailed, yet still relatively easy to define, or where the quality of the product is key to the designated body's function, typically requirements associated with frontline service delivery.

50% quality/ 50% cost: might be appropriate where a requirement is complex and/or difficult to define, or where the level of service to be delivered is critical to the designated body's function, such as consultancy services or strategic advice and support.

3.4.7 Use of Pass/Fail and Minimum Score Hurdles

Some elements of a tender may be fundamental and so a pass/fail hurdle may need to be applied to ensure that potential suppliers have a minimum standard. Bids which fail on any hurdle are excluded from the evaluation.

The use of these hurdles must be based on clearly identified requirements and not used to create a bias in the evaluation process.

Pass/Fail criteria must be set out clearly in the tender documents; both that such a hurdle will be used and how it will be applied. It must be completely objective and without risk of mis-interpretation.

A Minimum Score is a more subjective hurdle that can be applied where only bids scoring specified minimum on clearly identified and key aspects would be considered.

3.4.8 Due Diligence

Due diligence must always be undertaken for all new suppliers, and where appropriate on existing suppliers prior to authorising/ executing contracts.

Suppliers must not be awarded contracts where they are not meeting their tax or social security obligations or where they have been convicted by final judgement on a number of specified criminal offences including:

- Participation in a criminal organisation;
- Bribery or Corruption;
- Fraud;
- Terrorist Offences;
- Money Laundering;
- Child labour or other forms of trafficking in human beings.

Appendix 1 of FPN C 10 Tender Evaluation provides further information regarding appropriate due diligence for various stages of the tender process, i.e.:

- Pre-qualification: information as to who owns the company, details of bankers and references, a copy of Memorandum and Articles of Association and most recent Annual Report and Financial Statements.
- ITT: details of insurance cover, contact information for lawyers, presentations and site visit.
- Contract Award: company searches of IOM or UK companies registry, interpret audited accounts, credit reference agency check, confirmation from other Government Department's of known problems, confirmation from Isle of Man Income Tax and National Insurance with regard to outstanding debts and obtaining clearance from the Assessor of Income Tax in relation to making gross payments to consultants.

Due diligence must always be undertaken for all new suppliers, and where appropriate on existing suppliers in a manner proportionate to the value of the overall supply.

3.4.9 Use of Tie Breakers

In the unlikely event of a tie, consideration may be given to building in potential tiebreakers into the evaluation model. and disclosing to bidders upfront how such a mechanism may be used if there is a tie. For example this may be:

- Setting additional questions to be answered
- Re-scoring criteria based on clarification
- Asking for an oral presentation or demonstration

A tie does not have to be an exact tie, but a statistical tie (that is a tie within acceptable margin of error) making it difficult, if not impossible, to differentiate between two or more bids.

3.4.10 Evaluation Methods

Consideration must be given to evaluation methods to ensure that all bidders have a fair and equal opportunity to present all the required information; evaluation criteria should also be weighted according to their importance.

Criteria methods must be set out in the tender documents.

Possible methods include:

- Written tender
- Method statements
- Presentations/ demonstrations/ interviews
- References
- Site visits
- Sample products

3.4.11 Weighting the Criteria

A decision is required as to what percentage of the overall scores each of the criteria will carry and how these will be built into the evaluation, i.e. evaluation criteria are weighted according to their importance.

The weighting is a multiplier applied to the score awarded against each question to reach a final score for that question. The weighting should be applied to all evaluation methods to ensure results are not distorted.

3.4.12 Awarding a Score for Quality

Quality scoring is normally marked out of five for each category; the score may also be weighted depending upon the importance of each criteria to the overall score.

Score	Criteria for awarding score
0	Completely fails to meet required standard or does not provide a proposal.
1	Proposal significantly fails to meet the standards required, contains significant shortcomings and/or is inconsistent with other proposals.
2	Proposal falls short of achieving expected standard in a number of identifiable respects.
3	Proposal meets the required standard in most material respects, but is lacking or inconsistent in others.
4	Proposal meets the required standard in all material respects.
5	Proposal meets the required standard in all material respects and exceeds some or all of the major requirements

3.4.13 Awarding a Score for Price

Price is also scored in order to facilitate the combination of quality and price scores into one overall score for a tender bid.

3.4.14 Abnormally Low Bids

In the event of receiving an abnormally low bid, this may be an indication that the bidder may not be able to provide the goods and/or services to an acceptable standard; however, in such circumstances Procurement Services would contact the bidder for an explanation for the low bid.

Only after the Evaluation Panel has taken account of the information provided and verified that in light of such information the bid remains abnormally low, may the designated body proceed to reject that bid.

3.4.15 Combining price and quality scores

The scores are converted into percentages using pre-set weightings to create a combined score for the winning bidder.

3.4.16 Tender Outcomes

If, upon completion of the due diligence exercise, the Designated Body has doubts as to whether the other party has the necessary financial standing to enter into the contract (or other legal obligation), there are various options that the Designated Body can consider:

- Seek the advice of the Attorney General's Chambers and Treasury
- Seek a Parent Company Guarantee – subject to Parent Company due diligence checks.

- Request a Performance Bond: a surety issues by an insurance company or bank to guarantee satisfactory completion of a project/ performance contract.
- Insurance – to cover losses incurred where the contractor becomes insolvent during the contract term.
- Structuring of Payment Terms – to minimise risks associated with non-performance, i.e. payment in arrears, payment on agreed milestones.
- Retention – set aside a retention from invoice amounts payable to guarantee performance of later obligations under the contract

Designated Bodies should be aware that there are numerous potential difficulties which may arise obtaining due diligence on a foreign contractor and subsequently enforcing agreed terms of contract. When proposing to engage the services of a foreign contractor the advice of the Attorney General's Chambers must be sought.

3.4.17 Decision to not award the contract

If, having undertaken due diligence, untenable risks remain following all possible mitigation, the Designated Body may elect not to award to the winning bidder and may instead award the contract to the second placed bidder (subject to completion of satisfactory due diligence), or to cancel the tender process.

Any such decision must be fully documented and retained for audit purposes.

Further guidance can be provided by Procurement Services.

3.5 Other Considerations

3.5.1 Managing Contracts

FPN C.09 1.3 Delegated Officers must ensure that suppliers are meeting their contractual requirements prior to approving contract payments and escalate any contract performance issues to the relevant Budget Holder for consideration.

Budget Holders have specific additional responsibilities under FPN C.09 in relation to tenders which are outlined in the Budget Holders course.

FPN C.09 Contract Management

Budget Holders must ensure that

- all contracts within their Designated Budget Area are recorded on a contracts register designated by the Designated Finance Officer for the purpose.
- they undertake an annual review of all contracts within their designated Budget Area to plan in advance for any renewal action required;
- confirm that for all contracts suppliers are performing to required standards;
- negotiate any contract variations and ensure they are reflected in the contract documentation.
- no later than the 1st January in each year any contracts requiring tender in the next financial year, or other action dependent upon the Attorney General's Chambers Procurement Services, are included on the Designated Body's annual Tender Plan.
- their tender plan remain up to date and they must notify the DFO of changes to the agreed plan.
- appropriate action is taken to address any issues arising from sub-standard supplier performance.

3.5.2 Information Security

[Extract from FPN C.10 Tender Evaluation Appendix 1]

If any of the following apply:

- *personal information of citizens, such as home addresses, bank details, or payment information is handled by a supplier;*
- *personal information of Government employees, Ministers and Special Advisors such as payroll, travel booking or expenses information is handled by a supplier;*
- *ICT systems and services are supplied which are designed to store, or process, data at the OFFICIAL level of the Government Security Classifications;*

If the above provision from FPN C10 applies, then all suppliers must demonstrate that they meet the technical requirements prescribed by Cyber Essentials, unless the following exceptions apply:

[Extract from FPN C.10 Tender Evaluation Appendix 1]

1. The UK Government Digital Service is responsible for the management of a number of schemes which already include comprehensive cyber security obligations. Isle of Man Government recognises that some suppliers may already be operating under the following schemes and are therefore exempt from having to conform to the requirements of Cyber Essentials:

i) G-Cloud: Cloud services procured through G-Cloud are assessed against Government's Cloud Service Security Principles.

ii) Digital Services Framework (DSF): DSF suppliers have been technically and commercially evaluated to provide a comprehensive choice for agile projects.

iii) Public Sector Network (PSN): PSN services are currently accredited against the network's security standards. In the future, PSN services will be assessed against Government's Network Security Principles.

iv) ID Assurance Framework: Being able to provide your identity online easily, quickly and safely is recognised as a key enabler of internet use by the Government and its users. Providers of public services such as national and local governments, major internet companies, online retailers, banks and others have to address business and security issues around identity proofing and username/password fallibility to mitigate the financial and administrative implications of identity fraud and compromise of personal data.

v) Assisted Digital: Assisted Digital is support for people who can't use online services independently

Further exceptions may apply in the following circumstances:

2. Suppliers accredited to the ISO27001:2013 standard where the Cyber Essentials requirements, at either basic or Plus levels as appropriate have been included in the scope, and verified as such, would be regarded as holding an equivalent standard to Cyber Essentials. Therefore suppliers in this situation are exempt, provided that the certification body (likely to be a consultancy) carrying out this verification is approved to issue a Cyber Essentials certificate by one of the accreditation bodies

3. Contracts may be exempt where use of Cyber Essentials can be demonstrated to be either not relevant or clearly disproportionate, such as where a cyber security risk is assessed as very low. In such cases it is suggested that a decision audit trail is recorded.

The Cyber Essentials requirements can be found at
<https://www.cyberstreetwise.com/cyberessentials/files/requirements.pdf>

4 A Reminder of the Responsibilities of Officers with Key Roles

Many Financial Practice Notes (FPN) contain guidance relating to specific responsibilities of officers involved in the procurement of goods and/or services; these responsibilities are listed below where they appear within an FPN.

The following text relating to the responsibilities is shown in its entirety and is taken directly from the Financial Regulations. Parts of it may have already been stated within the text of this handbook.

4.1.1 FPN C01. Determining Supplier Financial Relationships

3. Responsibilities of Budget Holders

Exemption Authorities

Where no competitive action has been undertaken (and documented) when offering opportunities to 3rd parties or where competitive action has been undertaken and only one supplier has submitted an actionable response, then when considering the appropriate authority required for exemption from Financial Directions, Budget Holders must:

Sub-Division of Procurement

- 3.1. ensure that the opportunity within their Budget Area has not been sub-divided to circumvent Financial Directions and the applicable expenditure thresholds:
 - a) this applies in the case of understating the expected value of a contract;
 - b) attempting to enter into a shorter term agreement in order that it's value would then fall below the financial thresholds;
 - c) purchasing the same or similar goods or services from different suppliers in order that the value of each contract would fall below the financial thresholds.

Aggregated Spend

- 3.2. aggregate spend on similar and/or regular goods and services across their Budget Area to calculate a total value for the purpose of ensuring compliance with Financial Directions and the applicable expenditure thresholds.

This applies where:

- a) a budget area purchases over a period of time goods or services of a particular type. In these cases the values of the separate purchases are added together and, if the total value exceeds the thresholds, the Financial Directions apply to all the purchases, even if individually the amount of each purchase is below the thresholds.;
- b) where a supply of goods or services has no pre-determined end date and the total cost of the aggregated requirement across a period of three years is likely to exceed the financial thresholds.
- c) the estimated whole of life cost of the contract including for example (but not limited to) delivery; ongoing support & maintenance costs; estimates of possible additional/discretionary services that would be linked to the contract are likely to exceed the financial thresholds.

Determining Relationships with Consultants

Unless the appointment is covered by a procedure that has received prior approval by the Assessor of Income Tax, then where the services of a consultant are used:

- 3.3. the Budget Holder must submit appropriate documentation to the Assessor of Income Tax for review before any payment is made to a consultant.
- 3.4. Where the Assessor is content that a contract for services (external organisation or self-employed individual) is in place, approval may be given for gross payments to be made to the consultant.
- 3.5. Where the Assessor rules that a contract of service (employed individual, office holder or personal service company) is in place, the Budget Holder must follow the Assessor's instructions regarding the deduction of ITIP and National Insurance contributions from payments made to the individual or entity.

4.1.2 FPN C.04 ICT Hardware & Software Procurement

5. Responsibilities of the Budget Holder

The Budget Holder must ensure, within their designated Budget Area:

- 5.1. that any ICT equipment which does not fall within the scope of the PISAM has been reviewed and approved by GTS on behalf of the requesting designated body;
- 5.2. that all ICT projects complete a post implementation review as part of project or programme delivery;
- 5.3. that all ICT enabled projects are registered and logged through a Documented Request, in the format provided by GTS, which will be reviewed and authorised by the Director of Government Technology Services (GTS);
- 5.4. that no ICT equipment will be modified or connected to the IOMG network without the express approval of GTS.

6. Responsibilities of the Accountable Officer

The Accountable Officer must ensure:

- 6.1. That the responsibilities of service managers include the development and maintenance of the designated body's strategic ICT programme to support, enhance and transform core processes and services.

4.1.3 FPN C.05 Land & Building Acquisitions

5. Responsibilities of All Delegated Officers

All Delegated Officers must ensure that:

- 5.1. subject to paragraph 5.3 below, any acquisitions are discussed with the *Director of Strategic Asset Management and Valuations* prior to commencing negotiations;
- 5.2. all freehold and leasehold acquisitions of land and buildings except for internal Government transactions and below are at Market Value (MV) or Market Rent (MR), defined in the RICS Valuation Standards as:
 - a) Market Value: The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion;
 - b) Market Rent: The estimated amount for which an interest in real property should be leased on the valuation date between a willing lessor and willing lessee on appropriate lease terms in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion;
- 5.3. The requirements of 5.1 & 5.2 above:
 - a) will be subject to any onerous conditions imposed by the acquiring Department or Statutory Board or other designated body.
 - b) do not apply to compulsory or voluntary acquisition of land subject to compulsory purchase (including wayleaves and easements).
- 5.4. if there are exceptional circumstances, it must be formally recorded that the Board or Minister has authorised acquisition at above Market Value or Market Rent and prior written approval from Treasury's Strategic Asset and Capital Investment Committee must be sought for such a course of action. Where the acquisition (or lease value aggregated over 3 years) exceeds £250,000 the prior written approval of the Treasury and the Council of Ministers must be obtained;
- 5.5. when entering into lease arrangements for land and property either as lessee or lessor, the advice of both the *Director of Strategic Asset Management & Valuations* and the *Attorney General's Chambers* is obtained and followed;
- 5.6. the designated land and building asset register on which the asset is recorded is updated with the details of its acquisition or lease;
- 5.7. as appropriate, the Government's insurance policies are updated to reflect the acquisition upon completion;
- 5.8. acquisitions are reported to the *Director of Strategic Asset Management & Valuations* at point of completion.

6. Responsibilities of the Budget Holder

The Budget Holder must ensure that:

- 6.1. all land and building assets within their Budget Area are recorded on a register designated by the Designated Finance Officer for the purpose;
- 6.2. the registers are reviewed and updated annually by the 1st May;
- 6.3. land and buildings registers within their control are retained for 6 years plus the current year;
- 6.4. where standard rates of payments for wayleaves, easements, etc. apply these must be reviewed on a five yearly basis with the *Director of Strategic Asset Management & Valuations*.

7. Responsibilities of the Designated Finance Officer

The Designated Finance Officer must ensure that:

- 7.1. Budget Holders are notified of the designated Land & Buildings Register for their Budget Areas;
- 7.2. following the required update by the relevant Budget Holders, Land and building registers for the Designated Body are forwarded annually to the *Director of Strategic Asset Management & Valuations* by the 1st June;
- 7.3. land and buildings registers within their control are retained for 6 years plus the current year.

8. Responsibilities of the Accountable Officer

The Accountable Officer must ensure:

- 8.1. The Accountable Officer must ensure that the appropriate delegations are in place to assign the responsibilities set out within this practice note;

4.1.4 FPN C.08 Tendering

3. Responsibilities of the Budget Holder

- 3.1. Budget Holders must ensure that all procurement required to be undertaken in accordance with this financial practice note is tendered and must ensure that a suitably experienced Tender Evaluation Panel is appointed to undertake the tender on behalf of the Designated Body.

4.1.5 FPN C.09 Contract Management

2. Responsibilities of the Delegated Officer

Delegated Officers must:

Due Diligence

Prior to authorising/executing any contracts/agreements or associated variations:

- 2.1. ensure that appropriate due diligence has been undertaken in accordance with *FPN C.10 Tender Evaluation* (Appendix 1) in a manner proportionate to the value of the overall supply and the associated risks;
- 2.2. Suppliers must not be awarded contracts where they are not meeting their tax or social security obligations or where they (or a member of their governing body) have been convicted by final judgement of one of the following criminal offences:
 - a) Participation in a criminal organisation;
 - b) Bribery or Corruption;
 - c) Fraud;
 - d) Terrorist offences or offences linked to terrorist activities;
 - e) Money laundering or terrorist financing;
 - f) Child labour and other forms of trafficking in human beings;
- 1.3. Where the services of Consultants are used, their payment arrangements must be in accordance with FPN C.01: Determining Supplier Financial Relationships.

Contracting for Goods & Services

- a) not accept a supplier's terms and conditions (except for utilities) unless the prior written approval of the Director of Civil Law has been given;
- b) ensure that all contracts/agreements include appropriate performance management clauses established with the assistance of the Attorney General's Chambers;
- c) ensure that all contracts and legal agreements have been approved by the Attorney General's Chambers;

Managing Contracts

- d) ensure that suppliers are meeting their contractual requirements prior to approving contract payments;
- e) escalate any contract performance issues to the relevant Budget Holder for consideration.

3. Responsibilities of the Budget Holder

Budget Holders must:

- 3.1. ensure that all contracts within their designated Budget Area are recorded on a contracts register designated by the Designated Finance Officer for the purpose;
- 3.2. ensure that they undertake an annual review of all contracts within their designated Budget Area to:
 - a) plan in advance for any renewal action required;
 - b) confirm that for all contracts suppliers are performing to required standards;
 - c) negotiate any contract variations and ensure they are reflected in the contract documentation.
- 3.3. ensure that no later than 1st January in each year any contracts requiring tender in the next financial year, or other action dependent upon the Attorney General's Chambers Procurement Services, are included on the Designated Body's annual Tender Plan;

- 3.4. ensure that their tender plans remain up to date and must notify the Designated Finance Officer of changes to the agreed plan.
- 3.5. ensure appropriate action is taken to address any issues arising from sub-standard supplier performance.

4. Responsibilities of the Designated Finance Officer

The Designated Finance Officer must ensure that:

- 4.1. Budget Holders are notified of the designated Contract Register for their Budget Areas;
- 4.2. the Designated Body's annual Tender Plan is forwarded to the Attorney General's Chambers' Procurement Services no later than the 1st March each year, and submit any subsequently updated plans during the financial year.

4.1.6 FPN A.01 Obtaining Approval for Exemptions

2. Responsibilities of All Officers

Use of Financial Waiver Form

- 2.1. Where an officer wishes to obtain an exemption (in whole or in part) from compliance with any Financial Direction or Financial Practice Note then they must use the electronic [Financial Waiver Form](#), which must be used and submitted electronically onto the central register maintained by Treasury¹.
- 2.2. If there have been previous exemption requests that are relevant to the currently requested exemption, then the relevant Financial Waiver Form reference(s) must be included (or if prior to the use of Financial Waiver Forms then relevant documentation attached).
- 2.3. Exemption from Financial Regulations must not be applied for retrospectively. If you believe an exemption should already have been in place, then you must refer to [FPN A03 Financial Irregularities](#), and report it as a Financial Irregularity.
- 2.4. All information included within the Financial Waiver Form must be clear, sufficient, accurate and relevant for the requested exemption.
- 2.5. Where additional information is requested to support an exemption approval, this must be submitted via the same form as used for the original exemption request.

Submission for Required Approvals

- 2.6. In all cases, exemptions for approval must be submitted to the responsible Budget Holder in the first instance.
- 2.7. Financial commitments or transactions must not be made unless they are fully compliant with Financial Directions and Financial Practice Notes or in accordance with an authorised exemption via a Financial Waiver Form.

Compliance with Exemption Conditions

- 2.8. Where any approval for exemption is authorised, all officers must either comply with all conditions made for that approval or revert in full to the original Financial Direction or Financial Practice Note requirements.

3. Responsibilities of Budget Holders²

- 3.1. Budget Holders must approve the submission of all Financial Waiver Forms within their designated budget area.
- 3.2. Where Budget Holders do not have the required authority to approve a Financial Waiver Form then they must submit it for approval from the person with the appropriate delegated authority prior to any financial commitments or transactions being made.

4. Responsibilities of Those Officers Approving Exemptions

Consideration

- 4.1. A person must only approve an exemption once they are satisfied:
 - a) that they have the appropriate authority to do so;
 - b) that sufficient information has been provided to enable them to make an appropriate risk assessment; and
 - c) that they are satisfied that the requested exemption would further the Financial Values & Objectives more than compliance with the requirements.

Rejection

4.2. If a person with the appropriate authority to approve an exemption is not satisfied that it should be approved then they must:

- a) Refer it: if they require any clarification or further information in order to make a decision. They must identify the relevant information required for them to make a decision.

This will refer the Financial Waiver Form back to the submitter in order for them to provide the information.

- b) Refuse it: if they are satisfied that they have sufficient information to make a decision but that the existing financial regulations should continue to be applied in full.

A person rejecting an exemption must use the Financial Waiver Form received and submit it electronically onto the central register maintained by Treasury¹.

Approval

4.3 A person approving an exemption must ensure that the approval includes:

- a) The extent of the exemption i.e. whether the whole or which specific parts of the requirements have been exempted;
- b) Any additional requirements or conditions considered necessary to manage any significant additional risks arising from the exemption;
- c) Where the exemption does not only relate to a single one-off instance but relates to a class or series of transactions, an expiry date for the exemption of no more than 5 years.

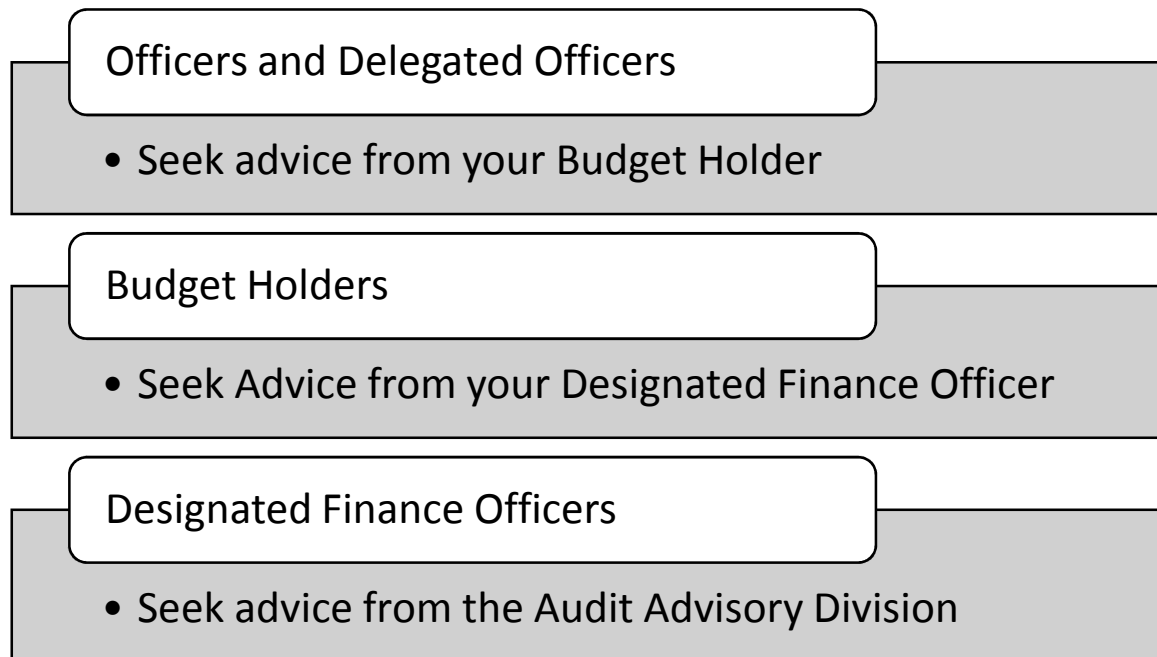
3.4 A person approving an exemption must use the Financial Waiver Form and submit it electronically onto the central register maintained by Treasury³.

¹ Only in the event that the electronic Financial Waiver Form or central register is not available: a copy of the approved form must be obtained from Treasury Audit Advisory Division and submitted by email to enquiries.audit@gov.im.

² Budget Holder: This must be the budget holder directly responsible for the relevant budget area or any other budget holder whose designated budget responsibility also incorporates the relevant budget area.

5 Further Advice

If further information or advice is required, then you should refer to the diagram below that shows the most appropriate route to take:



6 Appendix

6.1.1 Conflicts of Interest Guidance Note



CONFLICTS OF INTEREST STAFF GUIDANCE NOTE

Approved by the Council of Ministers

April 2007

What is a conflict of interest?

Public service staff must demonstrate the highest standards of propriety, involving impartiality, integrity and objectivity, in relation to the stewardship of public funds and the oversight and management of all related activities. This means that any private, voluntary, charitable or political interest which might be material and relevant to the work of the Department, Board or Office concerned, must always be declared. A conflict of interest arises when a member of staff might reasonably be perceived by a member of the public to be likely to be biased, partial, or otherwise personally interested in the outcome of dealings between citizen, business or organisation and the Government.

There is always the possibility for real or perceived conflicts of interest to arise. Both are potentially a problem, as the perceived inference of a conflict may, on occasions, be as damaging as the existence of a real conflict.

It is important, therefore, that you consider your circumstances and identify any potential conflicts of interest, whether real or perceived.

Surely a perceived conflict is not a problem, as long as I act impartially at all times?

The integrity of the member of staff is not in question here. However, it is necessary for the standing of the individual and the Isle of Man Government that members of the public have confidence in their independence and impartiality. Even a perceived conflict of interest can be damaging to the Government's reputation and it is therefore essential that these are declared and explored in the same way as an actual conflict would be. The fact that a member of staff acted impartially may be no defence against accusations of potential bias. However, within a compact jurisdiction such as the Isle of Man, it is important to be appropriately robust and not overly sensitive.

The test which should be applied in relation to a potential case of perceived bias is:

"whether the ascertained relevant circumstances would lead a fair-minded and informed observer to conclude that there is a real possibility that the decision-maker was biased."

However, decisions taken in a compact jurisdiction such as ours, whilst being appropriately robust, should not be overly sensitive.

What should I do if I think I have a conflict of interest?

You should make your line manager aware of any potential issue in which you are involved where you could have an actual, or perceived, conflict of interest.

If you are unsure if your circumstances constitute a possible conflict, you should still inform your line manager, in order that it can be addressed if necessary.

You may find it helpful to set your concerns down in writing and to ask your line manager for a meeting to discuss the matter. Your line manager may wish to seek further advice from the Chief Secretary's Office or the Personnel Office.

What happens if I do not declare a known conflict, which is then discovered later?

If you have a conflict of interest which you do not declare, you are compromising your own integrity and that of the organisation. If the conflict comes to light later, the matter may need to be investigated in accordance with the disciplinary process.

Areas where a conflict could arise

Conflicts of interest could arise in a variety of ways and it is for the officer to be alert to his own situation. It would not be possible to list all the ways in which a conflict of interest might arise however, there are a number of main issues, which could lead to real, or apparent, conflicts of interest. These are:

- Relevant financial or other interests outside of the Department, Board or Office for which you work;
- Relationships with parties/organisations which could lead to split loyalties, real or perceived;
- Knowledge of emerging Government Policy which could give unfair personal advantage to individuals or groups with allied business interests – for example, access to privileged information eg trade secrets or commercially confidential information;
- Perception of rewards in return for favours;
- Family relationships;
- Area of residence;
- Membership of some societies or organisations.

In other words, no one should use, or give the appearance of using, their public position to further the private interests of themselves, their families or organisations

in which they may have an interest. This is an area of particular importance, as it is of considerable concern to the public and could receive media or other attention.

The above are examples only, so you should consider carefully your own circumstances to gauge whether or not a real, or perceived, conflict might exist.

6.1.2 The Public Services Commission Code

- 1.** The role of the Civil Service is, with integrity, honesty, impartiality and objectivity, to assist the duly constituted Government of the Isle of Man [*] in formulating its policies, carrying out decisions and in administering public services for which they are responsible.
- 2.** Civil servants are public servants and, subject to the provisions of this Code, they owe their loyalty to the Government which they serve.
- 3.** This Code should be viewed in the context of the duties and responsibilities set out for Ministers in the Ministerial Code.
- 4.** Civil servants should serve the Government in accordance with the principles set out in this Code and recognising:
 - the accountability of civil servants to the Minister;
 - the duty of all civil servants to discharge public functions reasonably and according to the law;
 - the duty to comply with the law, including international law and treaty obligations, and to uphold the administration of justice; and
 - ethical standards governing particular professions.
- 5.** Civil servants should conduct themselves with integrity, impartiality and honesty. They should give honest and impartial advice to Ministers, without fear or favour, and make all information relevant to a decision available to them. They should not deceive or knowingly mislead Ministers, Tynwald, or the public.
- 6.** Civil servants should endeavour to deal with the affairs of the public sympathetically, efficiently, promptly and without bias or maladministration.
- 7.** Civil servants should endeavour to ensure the proper, effective and efficient use of public money.
- 8.** Civil servants should not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. They should not receive benefits of any kind from a third party which might reasonably be seen to compromise their personal judgement or integrity.
- 9.** Civil servants should conduct themselves in such a way as to deserve and retain the confidence of Ministers and to be able to establish the same relationship with those whom they may be required to serve in some future Government. They should comply with restrictions on their political activities.
- 10.** PSC civil servants should not, without authority, disclose official information which has been communicated in confidence within the Government. Nothing in the Code should be taken as overriding existing statutory or common law obligations to keep confidential, or to disclose, certain information. They should not seek to frustrate or influence the policies, decisions or actions of Ministers, by the unauthorised, improper or premature disclosure outside of Government of any information to which they have had access as civil servants.

11. Where a civil servant believes he or she is being required to act in a way which:

- is illegal, improper, or unethical;
- is in breach of constitutional convention or a professional code;
- is required to act in a way which, for him or her, raises a fundamental issue of conscience;
- may involve possible maladministration; or
- is otherwise inconsistent with this Code;
- or if he or she becomes aware of other breaches of this Code,

He or she should report the matter to the Department's Accounting Officer. The Accounting Officer should report to the appropriate authorities evidence of criminal or unlawful activity brought to his/her attention.

12. Where a civil servant has reported a matter covered in paragraph 11 and believes that the response does not represent a reasonable response to the grounds of his or her concern, he or she may report the matter in writing to the Chief Secretary.

13. Civil servants should not seek to frustrate the policies, decisions or actions of the Government by declining to take, or abstaining from, action which flows from decisions by Ministers. Where a matter cannot be resolved by the procedures set out in paragraphs 11 and 12 above, on a basis which the civil servant concerned is able to accept, he or she should either carry out his or her instructions, or resign from the Civil Service.

14. Civil servants should continue to observe their duties of confidentiality after they have left employment.

Note:

[*] The Code is written referring to Ministers and relates to civil servants working in Departments. Where civil servants are employed in Statutory Boards or Offices outside of Departments, reference to Ministers should be understood to include the Statutory Board or the Officer in Charge of the Office.