



MORAY PROCUREMENT INITIATIVE - BUSINESS INFORMATION LINK

The Moray Council is working to address barriers to business. It is important to us that we keep you informed and advised of any procurement developments that may affect the way in which we do business with you.

This fourth newsletter is to give you an introduction to EU and UK Legislation and Competitive Tendering.

EU AND UK LEGISLATION AND COMPETITIVE TENDERING

The European public sector procurement rules are intended to promote fair and open competition and a single European market.

European law provides for different levels of competitive procurement depending on the value of the contract and the nature of the service or goods being sought. A consolidated directive became law in the UK in January 2006 and this makes it possible, among other things, for social and environmental considerations to be taken into account in awarding contracts. This allows contracting authorities to undertake public procurement in such a way that achieves both value for money and meets vital social, employment and environmental challenges.

Public sector procurement is governed by EC directives and UK procurement regulations. (EC rules). These apply to the majority of procurements of works, services and supplies with a total value, excluding VAT, over a specified threshold. They stipulate rules and time limits for the procurement process particularly concerning specifications, advertising, selection of suppliers, tendering and contract award which aim to increase competition across Europe.

European Thresholds for Supplies, Services and Works

	SUPPLIES	SERVICES	WORKS
Public sector contracting authorities	£139,893 (€101,215)	£139,893 (€101,215)	£3,497,313 (€2,528,792)
Indicative Notices	£513,166 (€750,000)	£513,166 (€750,000)	£3,497,313 (€2,528,792)
Small Lots	£54,738 (€80,000)	£54,738 (€80,000)	£684,221 (€1,000,000)

EU Procurement Legislation

Public Contract Directive 2004/18/EC

Utilities Contract Directive 2004/17/EC

Scottish and UK Legislation

Public Contracts Regulations (Scotland) 2006 (SI 2006 No 1)

Utilities Contracts Regulations (Scotland) 2006 (SI 2006 No 2)

Public Contracts Regulations 2006 (SI 2006 No 5)

Utilities Contracts Regulations 2006 (SI 2006 No 6)

You can find these regulations on the SPD website, please click on link

<http://www.scotland.gov.uk/Topics/Government/Procurement/PublicProcurement/EUProcurement>

Under the Directives, purchasers must:

- Publicise substantial requirements in advance throughout the member states by means of a Prior Information Notice (PIN) placed in the Supplement to the Official Journal of the European Union (OJEU);
- Give all suppliers within the European Union an equal opportunity to tender for the business (above threshold) by placing a Contract Notice in the OJEU, and ensure fairness of information;
- Invite tenders in accordance with one of the prescribed procedures; open, restricted, or negotiated. Comply with regulations covering standards. Specifications must not discriminate against suppliers from other member states by stating national standards or brand names, when international standards can be used;
- If supplier selection prior to Invitation To Tender (ITT) is involved, specify in the advert the broad technical and financial criteria against which potential suppliers will be appraised. All applicants

must be treated fairly and objectively, taking into account at this stage only the limited criteria set out in the Directives;

- Specify the criteria for the award of contracts which in the vast majority of cases will be the "most economically advantageous tender" rather than "lowest price", and ensure evaluation criteria plus weightings are notified to tenderers in the ITT;
- Publish the result of the contract award by placing a notice in the OJEU (this includes contract awards for Category B services that will not have been advertised through OJEU), and debrief on request unsuccessful tenderers and those not selected to bid;

Contracts falling below the EU Threshold

All contracts below the EU Threshold should be advertised to provide competition. This advertising should be of an adequate degree in order to enable different businesses to compete so that the contract could be awarded to the tenderer submitting the best bid, this guaranteeing that public money is well spent.

The Moray Council are committed to improving fairness and transparency in the way we procure by operating effective procurement practices that ensure a varied and competitive marketplace for business organisations of all sizes. Contracts falling below the EU Threshold, but not less than £30,000 will be advertised to provide competition. Normally this will be through the website www.publictender.co.uk.

Tendering procedures for all works, goods and services will be carried out in accordance with the Moray Council's Financial Regulations and Procurement procedures, having regard to all current legislation and best practise.

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