

## **Tendering and Procurement Procedures**

### **1 Statement of Intent**

The National Maritime Museum operates a delegated system whereby activity centre managers and nominated deputies have the authority to purchase goods and services. These procedures are designed to ensure that the obligations placed upon the Museum by the DCMS, the National Audit Office, and HM Treasury and the requirements of good practice are met while bureaucracy is minimised and the flexibility of the delegated system is maintained.

It is the Museum's intention that good practice is developed and maintained. Activity centre managers and their deputies should ensure they understand fully their obligations as set out in the NMM Corporate Governance, Codes and Policies, and that they operate responsibly and within public service values to avoid any suggestion of impropriety or irregularity.

The word "tender" is used in this document in the widest possible sense and should be interpreted to include any prospective purchase of goods or services.

### **2 Procurement**

No contract may be tendered unless the requisite approvals have been obtained and adequate provision exists within the Activity Centre Manager's budget. Contracts must be let on a competitive basis in accordance with these rules (Appendix 1). The following types of transactions are covered by the tendering requirements:

- the letting of a contract;
- the nomination of sub-contractor;
- the appointment of a consultant;
- the nomination of a sub-consultant;
- the ordering of supplies and/or services; and
- any other expenditure.

Orders placed with monopoly supply organisations such as those involved in the supply of utilities, local/national government services, etc, are not subject to the tendering procedures. Activity Centre Managers must obtain a quotation from monopoly services before work commences, reconcile actual costs to the quotation and ensure any advance payments that are not spent are refunded promptly.

Full tendering is not required where estimated expenditure is less than £10,000. Nevertheless, Activity Centre Managers are still obliged to pursue value for money and to retain evidence to demonstrate how this has been tested.

For expenditure up to £5,000, evidence of the test of value for money might include adverts, letters, e-mails or quotations. Evidence for expenditure of £5,001 - £10,000 should be written quotes from suppliers/consultants addressed to the National Maritime Museum.

### **3 Contract Clauses following Advice on Public Sector Contracts**

The Freedom of Information Act (FOIA) recognises that there are valid reasons for withholding some information in response to a request. The Act lays out 23 situations in which information is considered exempt. **A public authority cannot attempt to contract out of its responsibilities under FOIA and unless information is covered by an exemption it must be released if requested.**

The following clauses should be inserted in all contracts, prelims and tender documents:

- **Freedom of Information Act (FOIA)**

The Contractor/Consultant is to note that the Client is subject to the FOIA and that all information from the Contractor/Consultant, which the Contractor/Consultant considers is confidential or commercially sensitive, will nevertheless be subject to the NMM's obligations under the Act.

The Contractor/Consultant has an obligation to release back to the Client information on the Client that is being held by the Consultant should that information be required by a requestor under the Freedom of Information Act.

- **Museum Data and Security**

The Contractor/Consultant is required to physically protect all Museum data from loss or theft. No data received from the Museum can be used for purposes outside the contract or passed to unrelated parties without receiving prior written permission from the Museum.

### **4 EU Tender Procedure**

The EU Procurement Rules apply to public authorities and set out detailed procedures for the award of a contract whose value equals or exceeds specific thresholds. The revised EU Procurement threshold effective as of 31 January 2006 for Supplies and Services is £93,738.

Contracts to be awarded of this amount or over must be advertised in OJEU (Official Journal of the European Union). There are specific timescales laid down for inviting tenders which must be adhered to, these can be reduced if a Prior Information Notice is posted.

Previous service categories that did not fall under EU procedures are now subject to EU Tender if their aggregate threshold exceeds £144,371.

## **5 Single Tender Procedure**

Single tender procedures may be used for expenditure between £5,000 and £25,000 in exceptional circumstances only:

- (a) where goods or services are only available at fixed price, or where sourced from a single supplier/consultant;
- (b) where, in respect of consultancies and in an extreme emergency, the tendering of work may result in an opportunity being forgone or business lost.

Any single tender procurement must have the approval of the Divisional Director.

Any single tender for work in excess of £25,000 must have the approval of the Executive Board.

## **6 Selection of Firms to Tender**

No firms will be invited to tender unless the activity centre manager is satisfied with their financial capacity and technical ability. Assessments of financial health of companies can be obtained from the NMM Security Manager. Evidence of these assessments must be maintained for audit.

Where the contract duration is more than one year, it may also be desirable to check the financial viability of the contractor at regular intervals.

Activity centre managers are to ensure wherever possible that competition is supported by the avoidance of unnecessary concentration on one or a small number of suppliers/consultants.

The Museum does not keep a list of approved contractors for all types of supplies and services but information on the performance of contractors may be available from other activity centre managers. HM Treasury have lists of contractors approved for use, and also of contractors not to be used, by public sector bodies. Operations & Facilities Management, who use contractors extensively, will provide help with the identification of suitable/acceptable contractors.

## **7 Minimum Number of Tenders Required**

The number of tenders, quotations, or estimates as set out are the minimum required and, to ensure that at least this number of submissions are received, tender lists must be of sufficient size to take account of the possibility of some tenders not being submitted. The activity centre manager must contact the selected firms to ascertain their willingness to tender, prior to sending out invitations. When a situation arises where, despite best efforts, insufficient tenders have been received this may be acceptable, providing that a satisfactory level of competition has been achieved.

## **8 Approval to Tender a Consultancy**

The Divisional Director must approve all proposed tenders for consultancies up to the value of £10,000. Any proposed consultancies valued over £10,001 must be submitted to the Executive Board for approval prior to tendering.

## **9 Return of Tenders**

All tenders should be returned to the activity centre manager in plain, sealed envelopes, marked clearly 'Tender Documents not to be opened'. The activity centre manager will arrange for the opening of tenders to ensure confidentiality and fairness. This will normally take the form of a Tender Board with an independent member of staff in attendance (for example another activity centre manager). Evidence of the tenders received, their values and initial comment will be retained as evidence of the competition. The activity centre manager will then undertake a full evaluation of the tenders and record their decision on selection with full reasons given.

Non-conforming tenders should not normally be evaluated unless an activity centre manager feels it would be detrimental to the Museum's interest to reject

the tender. Full justification of the reasons for accepting a non-conforming tender should be given to the Divisional Director or EB for approval.

## **10 Tender Evaluation**

The objective is to be able to compare, in commercial, technical and financial terms, the offers from those submitting tenders. These assessments are compared in order to identify the tender that offers the best value for money. The reasons for selecting or rejecting tenders should be clearly documented and recorded in TRIM to ensure transparency.

## **11 Approval to Let a Contract**

The activity centre manager, Divisional Director or EB (depending on value) will approve acceptance of the lowest conforming tender after it has been evaluated and subject to budget provision. Acceptance of any tender other than the lowest must be approved by the Divisional Director or EB as appropriate.

## **12 Follow-On Consultancy Appointments**

Where a consultant is required to undertake follow-on work directly related to a previous consultancy contract which was awarded to the lowest tender on a competitive basis, and the Museum considers them to be best equipped for this reason, they may be reappointed without competitive tender. This is subject to the value of the follow-on work not exceeding 20% of the value of the original work. Follow-on appointments can only be made within 12 months of the completion of the original work.

Where a proposed follow-on appointment does not satisfy the above criteria the consultancy must be tendered in the normal way.

## **13 Professional Advisory and Term Consultancy Appointments**

The initial letting of contracts for professional advisory or term consultancy appointments for which the eventual level of expenditure cannot accurately be predetermined, must be subject to the general requirement of at least five competitive submissions and requires the approval of EB. Such contracts will be limited to a maximum period of five years when the market must be retested.

## **14 Appointment of Contractors on the Basis of Intellectual or Artistic Specialism**

It is recognised that the application of these procedures for the appointment of such a contractor may cause difficulty. Where the appointment cannot be subjected to the full competitive procedure, activity centre managers should evaluate the market to demonstrate that Value for Money will be achieved. This may take the form of establishing the market rate for contractors / consultants from different disciplines that are broadly comparable. Activity centre managers are responsible for retaining evidence of the test.

## 15 Procurement Documentation

Activity centre managers are to ensure that adequate documentation is maintained to demonstrate that competitive procedures were observed and that the necessary approval to deviate from the normal procedure was obtained.

Copies of all contracts arising from these procedures for goods/services in excess of £5,000 must be lodged in TRIM.

## 16 Procurement/Tendering Roles and Responsibilities

The tables below indicate the responsibilities for the various roles at the two stages prior to purchasing:

### Pre-tendering

|                                  | Project Manager | Divisional Manager | Executive Board |
|----------------------------------|-----------------|--------------------|-----------------|
| Business Case Preparation        |                 | X                  |                 |
| Business Case Approval           |                 |                    | X               |
| Procurement Strategy Preparation |                 | X                  |                 |
| Procurement Strategy Approval    |                 |                    | X               |

### Tendering to Ordering

|                      |   |   |   |
|----------------------|---|---|---|
| Invitation to Tender | X |   |   |
| Tender Approval      |   | X | X |
| Ordering             | X |   |   |

## **17 Contract Management**

Contract management is the active monitoring and control of all aspects of the relationship between the provider of goods or services and the Museum. The aim is to ensure the delivery of a cost effective and reliable service (or goods) to the agreed price and standard, consistent with legal requirements and financial propriety.

Both parties to the contractual relationship should establish contact points at the outset, effective monitoring requires good two-way communication between both parties and good management information.

Good management ensures:

- problems are identified quickly and corrective action can be taken with the minimum of disruption
- necessary variations to a contract can be made
- extensions or renewals agreed

**Appendix 1**

**APPROVAL AND TENDERING LIMITS (supplies & services) -  
Who needs to authorise my purchase?**

