

# **Desk Guide To Procurement**

## **CONTENTS**

1. Introduction
3. VISTA
4. Initial considerations
7. Value for money
8. Competition: "going out to tender"
10. The Voluntary & Community Sector
11. Single Tender Actions - can approaching just one supplier be justified?
14. Can I extend a contract?
15. Is competition necessary for low value purchases?
19. Business cases
20. Professional Services
22. European Union (EU) Public Procurement Directives
29. Propriety and the separation of duties
30. Legal aspects of contracting
31. Discrimination
32. Service Level Agreements
33. Key events
36. Establishing a procurement strategy
37. Restricted Procedure
40. Specifying the requirement
42. Evaluation Criteria
44. Inviting tenders (proposals to do the work)
47. How long should I allow for responses to ITTs?
49. Is a briefing meeting necessary?
51. Site Visits to the Department's & Tenderer's Premises
53. What happens when I receive the tenders?
57. How do I evaluate the tenders?
61. Am I getting good value for money?
65. How many suppliers should be invited to present their proposal?
66. Managing the presentations
71. Post tender negotiations (PTN) and clarification
74. The Tender Report
75. Awarding the contract
77. Advising and debriefing unsuccessful tenderers
80. Contract management and review
83. The Future - E-tendering

**Appendix A: Procurement levels of action**

**Appendix B: Procurement levels of action for Professional Services**

**Appendix C: EU Directives apply**

**Appendix D: Non EU Directives**

## Introduction

1. This guide outlines the main considerations and processes involved in making a purchase on behalf of the Department of Health. The Procurement Policy & Advisory Unit (PPAU), which is part of the NHS Purchasing & Supply Agency (PASA), is responsible for maintenance of this guide and can give advice on its implementation. PPAU is also able to assist at key stages in the procurement process. It is worth noting that PPAU has access to the NHS Supplier Information Database (SID), which contains comprehensive and searchable details of many organisations who may be able to fulfil Departmental requirements.

2. PPAU comprises 2 Senior Procurement Managers and 3 Procurement Managers. All are graduate members of the Chartered Institute of Purchasing and Supply (CIPS). An Organisation Chart [\[html link\]](#) is available on the OIS Notice Board.

## Vista

3. The Department has introduced a new finance and purchasing system (Oracle (Vista)). The system provides the Department with an opportunity not only to improve the way it monitors its finances, but also to improve upon its overall procurement and commercial performance. Vista has been incorporated into the Departmental procurement processes, and must be considered before going out to tender. In particular, some purchases (Stationery, IT & Telecoms) can be made directly using on-line catalogues. Additionally, low value purchases (i.e. up to your personal GPC limit) can often be made using the Government Procurement Card (GPC), which is controlled through Vista. Further information can be found on the Vista Intranet site. [\[html link\]](#)

## Initial considerations (Please refer to Appendix A)

4. Once you have identified a requirement to purchase, and considered the value of that purchase, you should try to find out if the Department has an existing contract or agreement that you may be able to use - PPAU may be able to advise you. If the Department does already have a contract, you will need to contact the owner to verify eligibility to use it, e.g. is it possible to vary the contract to incorporate your requirements? If it is possible to use an existing contract, you will save both the time and cost of running a procurement exercise, and may be able to go straight to the Vista purchase order process (see para 3). If you raise an order against this contract, the contract number must be quoted in the description area of the Purchase Order.

5. If there is no existing contract you will need to consider undertaking a procurement exercise. Once the decision has been taken to commence a procurement exercise, it is in your best interests to contact PPAU as early as possible. In any event, all purchases over £50,000 must have the involvement of a trained purchaser (Please refer to Appendix D).

6. Additionally, procurements with a total value in excess of £99,000 (throughout the life of the contract) are likely to be governed by European Union regulations on public expenditure. In that case, the tender must be advertised in the *Official Journal of the European Union* (OJEU). PPAU will normally place that advertisement for you. An Overview of the EU Regulations [\[html link\]](#) appears on the OIS Notice Board (Please refer to Appendix C).

## Value for money ("vfm")

7. Public sector purchases are not judged on obtaining goods or services for the lowest possible price, but on value for money. This includes the quality and other relevant attributes of the resulting service or goods. It is a judgement based on the best combination of the cost of a product or service, spread over its whole lifetime, and its ability to meet, but not necessarily exceed, user requirements. This is normally achieved through comparing suppliers' prepared bids, and by generally 'testing the market'.

### Competition: "going out to tender"

8. All goods and services should be purchased by competition, unless they are of low value (typically less than £1000), or there are convincing reasons to the contrary. Competition avoids any suggestion of favouritism, discourages monopolies and demonstrates that value for money has been sought.

9. Typically, a competition is carried out through seeking tenders from several suppliers, by inviting them to make an offer to supply specified goods and services at a stated cost or rate. The prerequisites are described in the Procurement Process section of this Guide, which starts at Establishing a Procurement Strategy [[html link to para 36](#)].

## The Voluntary & Community Sector

10. If your procurement is likely to be of interest to the voluntary & community sector you should consult the Office of Government Commerce / Home Office guidance entitled "think smart...think voluntary sector! Good Practice Guidance on Procurement of Services from the Voluntary and Community Sector", which can be found at:

- [http://www.homeoffice.gov.uk/docs3/thinksmart\\_040608.pdf](http://www.homeoffice.gov.uk/docs3/thinksmart_040608.pdf) [[html link](#)]

### Single Tender Actions - can approaching just one supplier be justified?

11. Usually not - because it is contrary to achieving value for money through open and fair competition. Therefore, single tender action should normally be avoided. However, exceptionally and subject to Branch Head approval, single tendering might be justified where:

- (a) the work concerns a new contract that is directly related to a recently completed contract, and the added value gained from the additional work being given to the same contractor outweighs any potential reduction in price that may be derived through competitive tendering.
- (b) the expertise required is only available from one source. This may be due to ownership of exclusive design rights or patents but, nonetheless, the specification should be reviewed to ensure that no other product / service would meet user requirements.

12. If you believe that you have convincing reasons for inviting only one supplier to tender, you should fully document the case, justifying the decision. Branch Head approval is required to use single tender action for purchases of goods or proprietary items priced at more than £1,000. Additionally, for Professional Services [[html link to para 20](#)] over £50,000, Chief Executive / Departmental Board approval is required for single tender action.

13. Please note that single tendering still requires a set of Invitation to Tender (ITT) documents to be drafted (see [Invitation to Tender Pack](#) [[html link](#)]).

## Can I extend a contract?

14. It is a common misconception that any contract can be extended to finish a job that has overrun, or has been deflected by external or unforeseen circumstances. However, a contract can only be extended if there is provision to do so (for advice on what constitutes provision, you should contact PPAU). Otherwise, a new contract will have to be created, in which case it will be necessary to go out to tender.

## Is competition necessary for low value purchases? (Please refer to Appendix A)

15. Finding suitable suppliers depends on the value, complexity and size of your requirement. The Department's procurement policy requires the following thresholds to be applied when seeking quotes/tenders:

Up to £1000	1 oral/telephone quote.
£1,000 - £3,000	2 oral/telephone quotes.
£3,000 - £5,000	2 written quotes.
£5,000 - £10,000	3 written quotes.
£10,000+	3 or more formal tenders invited.
£50,000+	qualified purchaser must be involved
£99,000+	EU public procurement threshold probably applicable (and a qualified purchaser must be involved)

16. Formal tenders are very different from quotes. This is because the formal invitation to tender (ITT) includes a written explanation of the Department's requirements, legal terms & conditions, etc and, additionally, it requests information which will allow the evaluators to assess information other than price (such as cv's) before awarding the work.

17. The time, effort and methods used to identify potential suppliers will vary according to the complexity and value of the contract. For simple, low value requirements the Yellow Pages, Kelly's Guide, Thompson Local, the Internet, or local knowledge and experience (including that of PPAU) may be sufficient. It is good practice to make preliminary telephone calls to establish if the company is likely to be interested in the work.

18. For more complex, higher value contracts you should consider:-

(a) consulting the NHS Supplier Information Database (NHS-SID) – PPAU has access and can conduct the search for you

(b) checking the suitability of OGC S-CAT framework agreements, which require limited competition between a selection of S-CAT approved suppliers and the use of OGC framework terms & conditions - PPAU can advise you further. S-CAT suppliers are listed at:

- <http://www.s-cat.gov.uk/>

(c) advertising locally or nationally in appropriate publications or, where EU thresholds are exceeded, in the Official Journal of the European Union (OJEU - see paras 22 to 26). Note: depending on the nature of the procurement, advertising in OJEU may be mandatory, in which case it must be undertaken before any other form of advertising.

## Business cases

19. A business case should be drafted, and submitted to the Branch Head for approval, before conducting any procurement exercise. The business case should address, as an absolute minimum, the following considerations:

- (a) why the work needs to be done
- (b) what are the consequences of not doing the work
- (c) what are the various options for doing it
- (d) why a Civil Servant cannot do the job
- (e) how much is it likely to cost (include supporting financial analysis)

further guidance on completing business cases is provided by OGC at:

- [http://www.ogc.gov.uk/sdtoolkit/reference/documentation/p13\\_buscase.html](http://www.ogc.gov.uk/sdtoolkit/reference/documentation/p13_buscase.html)

## Professional Services – (Please refer to Appendix B)

20. The term Professional Services can cover a wide range of suppliers who offer professional and specialist expertise, not only through providing advice, but also through the delivery of projects and the management of services such as internal audit. Professional Services may be defined as any external organisation engaged to provide professional advice and assistance for a finite period covering e.g. training; surveys and statistical analysis; project management; and management consultancy.

21. Ministerial approval is required for any professional services projects with a total expected value of £250,000. All Ministerial submissions should be copied to PPAU. Please note that, in the very exceptional event of single tender action at £50,000, users must also obtain Chief Executive / Departmental Board approval (as at paras 11 to 13 above),

## European Union (EU) Public Procurement Directives – (Please refer to Appendix C)

22. If your procurement of goods or services is likely to be worth more than £99,000 over the whole life of the contract, one or other of the EU Public Procurement Directives is likely to apply. The Directives specify detailed procedures, including adherence to strict timetables, requirements for advertising, invitations to tender, and the award of contracts. An outline of their purpose is to be found at Overview of EU: Procurement Rules [[html link](#)].

23. Compliance with EU Directives governing public procurement is a mandatory legal requirement. It should, however, also be appreciated that compliance can enable sourcing on a wider European scale, thereby increasing competition and the scope for getting best value for money. Also, the timetables can be used as a framework to help with project management.

24. Where applicable, the Department must place Notices advertising the procurement in the Official Journal of the European Union (OJEU). The Notices detail requirements, pre-qualification criteria, and the procurement timetable, etc, for all purchases over the following current thresholds:

Supplies	£99,695
Services	£99,695 (except for Research & Development, which is £129,462)
Works	£3,834,411

Please note, however, individual procurements of a similar nature must be aggregated to establish whether the total cost of the requirement exceeds the threshold. If in doubt, you should consult PPAU.

25. EU procurements usually take between 4 and 6 months to complete, and this needs to be taken into account when business planning. Although the EU timetable can sometimes lengthen the overall time taken, the process is very similar to any other procurement - the majority of the work (and therefore time) is spent in specifying the requirement and evaluating the bids. The best way to speed up the process is to be clear about what goods/services you need and what information you want tenderers to provide.

26. PPAU will advise you on the effect of the EU Public Procurement Directives on individual procurements. The Unit can also:

- (a) assist you in compiling the project timetable and advise on its use - an Example EU Procurement Plan/Timetable [\[html link\]](#) is available on the OIS Notice Board;
- (b) submit Notices (for advertisement & subsequent award) to "OJEU" on your behalf; and
- (c) arrange for Notices and pre-qualification questionnaires, etc to be posted on the Procurement section of the DH web site, for immediate access by suppliers.

27. Para 26 above particularly relates to the commonly recommended "restricted" EU procedure - a two stage process whereby the capacity of applicants to do the work is initially assessed via questionnaire, and then only shortlisted organisations are invited to tender. A summary of the other EU procedures is included within the Example EU Procurement Plan/Timetable [\[html link\]](#) - PPAU can advise on the most appropriate procedure to use.

28. In addition to OJEU, work can be advertised in the national press or trade journals, but it must not be submitted to these publications before the Notice has been sent to OJEU, nor must it contain information over and above that in the Notice. The sponsoring branch/section will have to bear the cost of any non-OJEU advertisements. The Department's Public Information and Service Support Team can advise about advertising in national press or trade journals.

### **Propriety and the separation of duties**

29. Public procurement ethics must be observed to avoid accusations of impropriety and it is, therefore, essential to maintain a complete audit trail. The basic test is "*..could I defend this action in public?*". Guidance on ethical issues can be obtained from PPAU. Also, the Office of Government Commerce (OGC) produces "The Government Procurement Code of Good Practice", which can be found at:

• [http://www.ogc.gov.uk/sdtoolkit/reference/ogc\\_library/codeofpractice/codeofcusprac.pdf](http://www.ogc.gov.uk/sdtoolkit/reference/ogc_library/codeofpractice/codeofcusprac.pdf) [\[html link\]](#)

### **Legal aspects of contracting**

30. This can be a complicated area, mostly because it is all too easy to unintentionally create a legally binding contract by word, action or in writing (even if the document does not refer to itself as a contract), which could, of course, commit the Department to unfavourable terms & conditions. For instance, many companies print their own terms & conditions on the reverse side of all correspondence and invoices, so unless the Department's standard terms are already in place, the contractor's terms will apply by default. If in doubt, or if you are

unsure about the contractual impact of any correspondence received, please contact PPAU for advice **before** communicating with the proposed supplier.

## **Discrimination**

31. The Department's standard terms and conditions and Scope of Work have been updated to require that the contractor complies with the Department's positive duty to promote race equality, as if that duty applied to the contractor directly under the Race Relations Act 1977, and to carry out ethnic monitoring. The first Scope of Work includes the wording that must be used for most contracts. However, where the service is highly relevant to race equality, eg. for social services or outsourcing, you may need to use the second example of a Scope of Work named "s3-Race Relations Scope of Work".

## **Service Level Agreements**

32. There must be two parties to form a contract. One application of this rule is that, because public sector organisations are often officially part of the single legal entity called the "Crown", they cannot form "contracts" with each other. Agreements between public sector organisations are usually called Service Level Agreements, to distinguish them from legally enforceable documents. However, whatever these documents are called, they cannot be enforced in a court of law because the Crown cannot sue itself. The converse is also true i.e. you cannot avoid forming a contract simply by calling your document a Service Level Agreement - where it is formed with a party other than the Crown, it will still necessarily remain a contract. For further information see the OIS notice board page on What is a Service Level Agreement [\[html link\]](#).

## **Key events**

33. Whatever causes a procurement to be initiated, the process to be followed will typically involve the following stages:

- (a) Identify the need and develop an outline specification for inclusion in the business case;
- (b) Obtain financial approval/authority to proceed;
- (c) Identify prospective suppliers/contractors/consultants;
- (d) Finalise the specification and prepare the rest of the invitation to tender (ITT) documents;
- (e) Issue ITTs and handle enquiries;
- (f) Evaluate tenders;
- (g) Award and manage the contract; and,
- (h) Raise an order on Vista and notify PPAU, so they can maintain central records.

34. The basic stages are outlined in the Procurement Cycle diagram, which also highlights how each tendering process completed should inform the next one.

\* [DOCUMENT/procurement cycle diagram.doc](#)

35. Typically PPAU become involved only after stages (a) and (b) in para 33 above, and thereafter, as required, to provide advice and support.

### **Establishing a procurement strategy**

36. PPAU will help you to assemble a timetable and programme of events, and will also agree with you the level of assistance that they can give to help you achieve a successful outcome. For example, decisions will need to be taken on:

- (a) Whether to use an existing contract/agreement (as arranged elsewhere in the Department or by another government department);
- (b) The need to consider Sustainable Development issues *[html link]*
- (c) Whether EU Directives apply.
- (d) The type and form of contract.
- (e) Sourcing potential suppliers.
- (f) Duration of contract; and opportunity to review/extend.
- (g) Payment schedules.
- (h) How to minimise any risks with the chosen strategy, including supplier appraisal, and evaluation / clarification of suppliers' bids.

### **Restricted Procedure**

37. If EU Directives are likely to apply, you should contact PPAU, who will advise on the particular process & timetable to follow. It is likely that the commonly recommended "restricted" EU procedure *[html link to para 27]* will be appropriate. Under this procedure, potential suppliers are invited, via a published OJEU Notice, to complete a customised Expression of Interest (EOI) Questionnaire, which must be returned by a pre-specified deadline.

\* *[DOCUMENT "EOI Questionnaire (Goods).doc" + DOCUMENT "EOI Questionnaire (Services).doc]*

38. The completed Questionnaires should be evaluated, using customised EOI Evaluation sheets, in order to shortlist those applicants who are to be invited to tender. The number selected should normally be within a pre-specified range, but around 6 is usually sufficient to promote value for money.

\* *[DOCUMENT "EOI Evaluation.doc"]*

39. It will be important to maintain careful records of the evaluation process in order to be able to demonstrate impartiality. Unsuccessful applicants should be sent an EOI Decline letter, which offers due opportunity for a debrief. If a debrief is requested, it should only be given verbally, following the process at Advising and debriefing unsuccessful contractors *[html link to para 77]*.

\* *[DOCUMENT "EOI Decline.doc"]*

### **Specifying the requirement**

40. The Scope of Work (or Specification) should be clear and concise, with enough information to enable tenderers to decide what goods and services to offer, and at what cost. Also, the Scope of Work should be unbiased (so that all tenderers have an equal opportunity to offer the goods/services they regard as capable of meeting it), yet flexible enough to allow

innovative solutions. A generic version of the Scope of Work, [\[html link\]](#) with details of the type of information required, is available on the OIS Notice Board.

41. The Scope of Work needs to be drafted by the end users/customers, for they will be the ultimate beneficiaries of the tender exercise. You are, however, welcome to discuss what to include in it with PPAU, who can also help you to establish if the final product is unambiguous and credible. Remember that there may be several items to redraft or add so, if you would like assistance, it is best to send the document for comments as soon as possible.

#### 42. **Evaluation Criteria**

(a) The Scope of Work needs to cover the various measurables, against which all of the bids will be evaluated, in order to ensure that the criteria are wholly relevant. It is a requirement under the EU Directives to advise tenderers on what they will be evaluated against and all evaluation criteria should, therefore, be listed on a separate annex within the Invitation to Tender (which will be cross-referenced to within the covering letter). An example of a set of Evaluation Criteria [\[html link\]](#) is on the OIS notice board.

(b) The criteria should include a request for evidence of financial stability (e.g. 3 years audited accounts), as appropriate (i.e. unless already requested at the Expression of Interest stage when using the OJEU Restricted Procedure). PPAU will be able to advise on how this information should be evaluated.

43. The tenderers should be checked for financial stability. Ideally, the estimated annual value of the contract to be awarded should not be greater than 25% of one year's turnover. However, you should also be sensitive to the difficulties that Small & Medium Sized Enterprises (SME's) [\[Html link\]](#) can have when seeking Government work. On request, PPAU can also obtain independent financial reports (this would be at the internal customer's expense, the price for a basic "overview" report was £16 per company, as at November 2004, but please confirm the price before requesting).

#### **Inviting tenders (proposals to do the work)**

44. An Invitation to Tender (ITT) is a formal document asking suppliers for a sealed bid to be submitted by a specific date. The ITT asks suppliers to offer their price, delivery, methodology, etc, to carry out work to the Department's specification and terms & conditions.

45. The Department's Invitation To Tender pack [\[html link\]](#) includes downloadable template documentation. It comprises the following 6 sections:

- (a) **Section 1 - Form of Tender** consisting of three parts:
- (i) the declaration (to which the tenderer agrees to be bound);
  - (ii) tender qualifications (upon which the tenderer should list any matters in which his tender varies with the wording of the proposed Contract documents); and,
  - (iii) parent company guarantee (only to be completed if applicable).

(b) **Section 2 - Conditions of Contract** (sometimes referred to as "terms & conditions", they are standard, are designed to protect the Department's interests, and should not be amended without seeking advice from PPAU). A Glossary to the Conditions can be found on the OIS Notice Board.

(c) **Section 3 - Scope of Work** (sometimes referred to as the "specification"; "statement of requirements"; or, "terms of reference").

(d) **Section 4 - Schedule of Prices** (a standard format is helpful for comparative purposes when evaluating bids).

(e) **Section 5 - Administrative instructions.**

(f) **Section 6 - Confidential & Commercially Sensitive Information** allows the tenderer to specify information that they consider may require special consideration in the event of requests for disclosure under the Freedom of Information Act.

46. Covering papers i.e. The ITT Letter, Instructions to Tenderers and Evaluation Criteria [*html links*] should also be sent out with the Department's ITT pack. These documents should be customised to suit the requirements of each procurement exercise. e.g. some exercises may require briefing meetings, which will need to be notified.

### **How long should I allow for responses to ITTs?**

47. For a relatively straightforward consultancy assignment, which is not above EU procurement thresholds, a range of ten to fifteen working days might be sufficient. However, it is important for the tenderer to have enough time to submit his best offer. PPAU may be able to advise for specific projects.

48. Additionally, you should note that all OJEU-advertised procurement exercises have prescribed timetables. For instance, under the frequently used Restricted Procedure, a minimum of 40 days should be allowed. (See para 27 for other timescales).

### **Is a briefing meeting necessary?**

49. Briefing meetings advise prospective bidders about the work required, so it is usually advisable to schedule them early in the tender period. It is helpful to announce the date/time and venue in the covering letter of the ITT. Such briefings avoid having to respond repeatedly to individual enquiries or visits from tenderers, which could be laborious, especially as any responses to individual queries must be copied to all tenderers to ensure a "level playing field".

50. The sponsoring branch normally arranges and chairs the briefing meeting, but PPAU can assist if necessary and, if requested, will also chair the meeting. The sponsoring branch should take notes of all questions and answers, which should be copied to all tenderers, whether they attended the meeting or not. The decision not to attend a briefing meeting should never be held against prospective bidders.

### **Site Visits to the Department's & Tenderer's Premises**

51. If the contract is to be operated on the Department's premises (e.g. cleaning, security, etc), it may be necessary for the tenderers to be shown round the relevant sites prior to bidding for the work. Care should be taken not to allow commercially confidential information, concerning the operating procedures of any current contractors, to be divulged during such visits. Advice for the conduct of Site Visits [*html link*] is available on the OIS notice board.

52. Similarly, as an aid to final evaluation before tender award, it may be necessary to visit the tenderers' premises, especially if the contract is complex or high risk, and if the contractor's premises will play an important part in its operation. The visits should be undertaken by at least two members of the Team, using an agreed checklist of areas to view and report on.

### **What happens when I receive the tenders?**

NOTE: Detailed procedures for the tender opening process can be found in the Tender Opening Desk Guide [*Html link*]. However, in summary:

53. A suitable evaluation marking system must have been agreed, and transferred on to the Tender Evaluation Matrix sheets, before the tenders are opened. The evaluation criteria sent to the tenderers should be used to form the basis for scoring and, if appropriate, individual criteria may be weighted to indicate relative importance.

\* [*DOCUMENT "Tender Evaluation Matrix"*]

54. To ensure probity, a note should be made on the envelope of the date and time that each tender is received, and all tenders should then be kept in a secure cabinet until the due date and time of opening (as notified in the ITT). If a tender is received late, it must not be accepted, unless the tenderer can prove that it should have been delivered on time (e.g. by providing a note from their courier company, or a receipt for registered mail).

55. Tenders should be opened by a minimum of two people; if required, PPAU can assist. Details of bids must be recorded on the Tender Opening control sheet, and every page of the original bid document that contains a price figure must be witnessed and initialled by both openers, to demonstrate that the bid has not been altered in any way. Any existing alterations (e.g. type-overs or crossings-out) must be highlighted and initialled by all openers. If the bidder has not identified a copy as the original, you should select one and mark it up as such. Once the opening has been recorded, copies of the tenders should be distributed to the tender evaluation team. A template for recording the opening process is to be found below.

\* [*DOCUMENT "Tender Opening"*]

56. Only persons that are appointed members of the evaluation team, steering group, or from PPAU, should attend the tender opening.

### **How do I evaluate the tenders?**

57. The sponsoring branch is expected to take the lead on selecting the membership of the evaluation team. PPAU may provide support, depending on need and availability. Evaluation teams should comprise at least three people, but generally no more than six. When choosing team members, consideration should be given to any specialist expertise held, such as may be useful for IT / design proposals or for the analysis of complex data and pricing information. The team members must be prepared to set-aside sufficient time to evaluate the written bids and to attend any presentation and wash-up meetings. Please note that, if any team members have a connection with any of the tendering organisations, advice should be sought from PPAU on whether they should be excluded from the team, for the sake of propriety.

58. Having agreed the methodology, the evaluations should be undertaken independently by each panel member. To avoid one bid becoming the standard, it is recommended that evaluators are each asked to commence their assessment with a

different bid. The evaluators should record their evaluations on the Tender Evaluation Matrix [\[html link\]](#) sheets. When doing so, they should make comments to support their scoring, and they should also note if any bid is non-compliant with the ITT.

59. Once the independent assessments have been completed, the evaluation team should hold a wash-up meeting, in order to reconcile any wide variations in scoring and to determine the preferred supplier(s). They may either take forward all tenderers achieving a pre-determined score, or perhaps just the most highly ranked 3 or 4. Only affordable suppliers with a realistic chance of being awarded the contract should be invited for interview.

60. During the meeting, the team should establish one agreed Tender Evaluation Matrix [\[html link\]](#) sheet for each bid. This record will prove useful if unsuccessful tenderers want debriefing, and it might also provide points for discussion at the suppliers' presentations, or post tender negotiation meetings.

### **Am I getting good value for money?**

61. It is Government procurement policy to seek the best overall value for money, and this cannot be judged on price alone. Therefore, so far as possible, all the other relevant aspects of suppliers' offers should be evaluated before prices are considered.

62. Where a bid price significantly exceeds budget (by, say, more than 15 – 20%), it is pointless to take the bidder forward, unless there is a realistic prospect of the price being reduced substantially. For instance, a price reduction may be likely if it appears that the bidder has over-estimated the service or personnel needed, or if inexplicable or extraordinarily high add-on costs are included.

63. If, on the other hand, any prices seem unusually low in comparison to other bids, you should contact the tenderer to make sure that they have not misunderstood the requirements, before taking the tender forward for evaluation.

64. If required, PPAU can assist with preparing a comparative analysis of tenderers' prices.

### **How many suppliers should be invited to present their proposal?**

65. If a presentation is required, usually no more than three tenderers should be seen, unless the difference in score between the third and fourth placed tenders is so small as to be negligible. Furthermore, a significant difference in marks awarded to second and third placed tenderers might justify meeting only the top two rated tenderers. It should be borne in mind that tendering has a cost, both to the Department and the suppliers, and it is, therefore, unreasonable to put tenderers to the expense of attending an interview when they have little prospect of getting the work. The selected presenters should be invited by (Presentation Invite) letter.

\* [\[DOCUMENT "Presentation Invite.doc"\]](#)

### **Managing the presentations**

66. Usually presentations are attended by a sub-set of the tender evaluation team, with perhaps an added specialist, such as an IT or financial expert (if there are particular perceived weaknesses in the bids, or technical clarification is needed). Presentations should be scored, though not necessarily to the same criteria as the tender evaluation, on customised Presentation Evaluation sheets.

\* [DOCUMENT "Presentation Evaluation.doc"]

67. Typically, agendas for presentations will comprise:

- (a) a 5 minute introduction by the company
- (b) a 15-20 minute explanation of the bid (ideally addressing any areas of perceived weakness and specifying the level of support to be given to the contract by the company); and,
- (c) about 15-20 minutes question/answer time.

68. Presentation panels need to test bidders' familiarity with their bid and the ITT. If, during the presentation, a tenderer offers something new, that was not included in their tender, the chair should ask them to confirm the revision to the offer in writing as soon as possible after the presentation. All such written clarification must be received before the contract is awarded. This should be referred to as "bid clarification" in any ensuing correspondence.

69. Scores from presentations can either simply be used on their own to determine the favoured supplier or they can be added to the original evaluation marks (to give a single revised score). Presentations often enable the subjective elements of proposals to be addressed. For example, personal chemistry and communications skills are likely to make an important contribution to the final outcome of consultancy projects.

70. The assessment process should now be finalised, so that a preferred supplier can be nominated for award (subject to any post-tender negotiations or clarifications that may take place).

### **Post tender negotiations (PTN) and clarification**

71. Sometimes, following tender evaluation and suppliers' presentations, it is not advisable to accept a supplier's tender without qualification. Equally, it may be advantageous, through post tender negotiations, to find out whether any improvements in suppliers' offers are available. Such negotiations must be carried out by a trained purchaser (e.g. from PPAU), to ensure that other tenderers are not disadvantaged, competition is not distorted, or that trust in the tendering process is not adversely affected.

72. While the UK Government views PTN as a legitimate exercise, **it is rarely considered appropriate for tenders let under the EU Directives**. However, this exception does not prevent clarification of tenders, which is strongly encouraged. If in doubt about whether the point at issue is one of negotiation or clarification, please contact PPAU.

73. If negotiation or clarification proves unsuccessful, it may be necessary to abandon the first choice preferred supplier and to select the second choice instead. The first choice must have irreversibly been eliminated from the process before any negotiations can commence with the second.

### **The Tender Report**

74. Once the preferred supplier has been decided, the evaluation team leader should compile the Tender Report, which will include details of the tender & evaluation process, as well as the final recommendation. Issues of non-compliance or qualifications to the tender, in so far as they effect the recommended supplier, should also be commented upon. Any

information that is relevant to the decision making process, but is not obvious from the evaluation records, should also be included. The report will need to be approved, at an appropriate level within the Branch or Division, before the contract can be awarded.

\* [DOCUMENT's "Tender Report.doc"]

### **Awarding the contract**

75. The contract should now be formally recognised by issuing The Agreement (+ Cover Letter). The Agreement spells out the basis of the contract award in broad terms. Typically, the components for the actual contract will be the ITT, the contractor's written proposal, plus any modifications (as may have been agreed at the presentation or in the post tender negotiation). The Agreement should be issued in duplicate and signed by both parties, with each party retaining an original copy. Where practical, all contract papers should be bound together in date order, and a duplicate copy issued with the Agreement for the contractor's retention, so that both parties can be satisfied as to the completeness of contract documentation. Any subsequent contract variations should be attached to the retained DH copy, as and when issued.

\* [DOCUMENT's "The Agreement (+ Cover Letter).doc"]

76. Once the contract has been awarded you will need to set up the supplier and raise a purchase order(s) using the Vista [[html link](#)] process. You should also send a New Contract Notification form to PPAU at [mb-procurement@dh.gsi.gov.uk](mailto:mb-procurement@dh.gsi.gov.uk) giving details of the new contract.

\* [DOCUMENT's "New Contract Notification"]

### **Advising and debriefing unsuccessful tenderers**

77. The Department should issue Tender Decline letters to all unsuccessful tenderers. The letter includes an offer to give a debrief which, if taken up, can be given over the telephone or by face to face meeting (depending on supplier preference). Debriefs should be carefully prepared in advance from the evaluation and presentation records. Treasury Solicitors have advised that the Department should not send out any written debrief information.

\* [DOCUMENT "Tender Decline.doc"]

78. Any debrief given over the telephone should be read out, with the date, time and name of the supplier's representative being recorded. If given face-to-face, there should be two departmental representatives present, and as far as possible, the debrief should be delivered from a prepared "script". The papers for the debrief should then be put on a registered file. If required, PPAU staff can attend face-to-face debriefs and / or assist with their preparation.

79. It is also good practice to offer a debrief to the successful tenderer.

### **Contract management and review**

80. The original tenders (unsuccessful as well as successful), and completed evaluation records, should be kept on a registered file for an appropriate period of time (in accordance with the Department's Schedule of Contractual Records [[html link](#)]), to form a proper audit trail. Copy tenders should be discarded as confidential waste or (if unmarked) offered back to the bidders. Other parties may subsequently need to refer to the procurement records, and they should therefore be kept as clear as possible. All relevant issues, including telephone

conversations, should have been documented, so that it is easy to follow the trail. However, do not keep every draft of every document, as this can be confusing.

81. PPAU's involvement usually ends with the debriefings. Thereafter, it is the task of the sponsoring branch to manage and review the contract (including confirming that the contractor has sufficient insurance cover). Nevertheless, if any contractual issues should subsequently arise, PPAU will always be available for advice and support.

82. The Office of Government Commerce (OGC) produces guidance on contract management, which can be found at :

- [http://www.ogc.gov.uk/sdtoolkit/reference/ogc\\_library/generic\\_guidance/contract\\_mgtguidelines.pdf](http://www.ogc.gov.uk/sdtoolkit/reference/ogc_library/generic_guidance/contract_mgtguidelines.pdf) [html link]

Also, a "Managing Contracts Effectively" course is available at the Civil Service College:

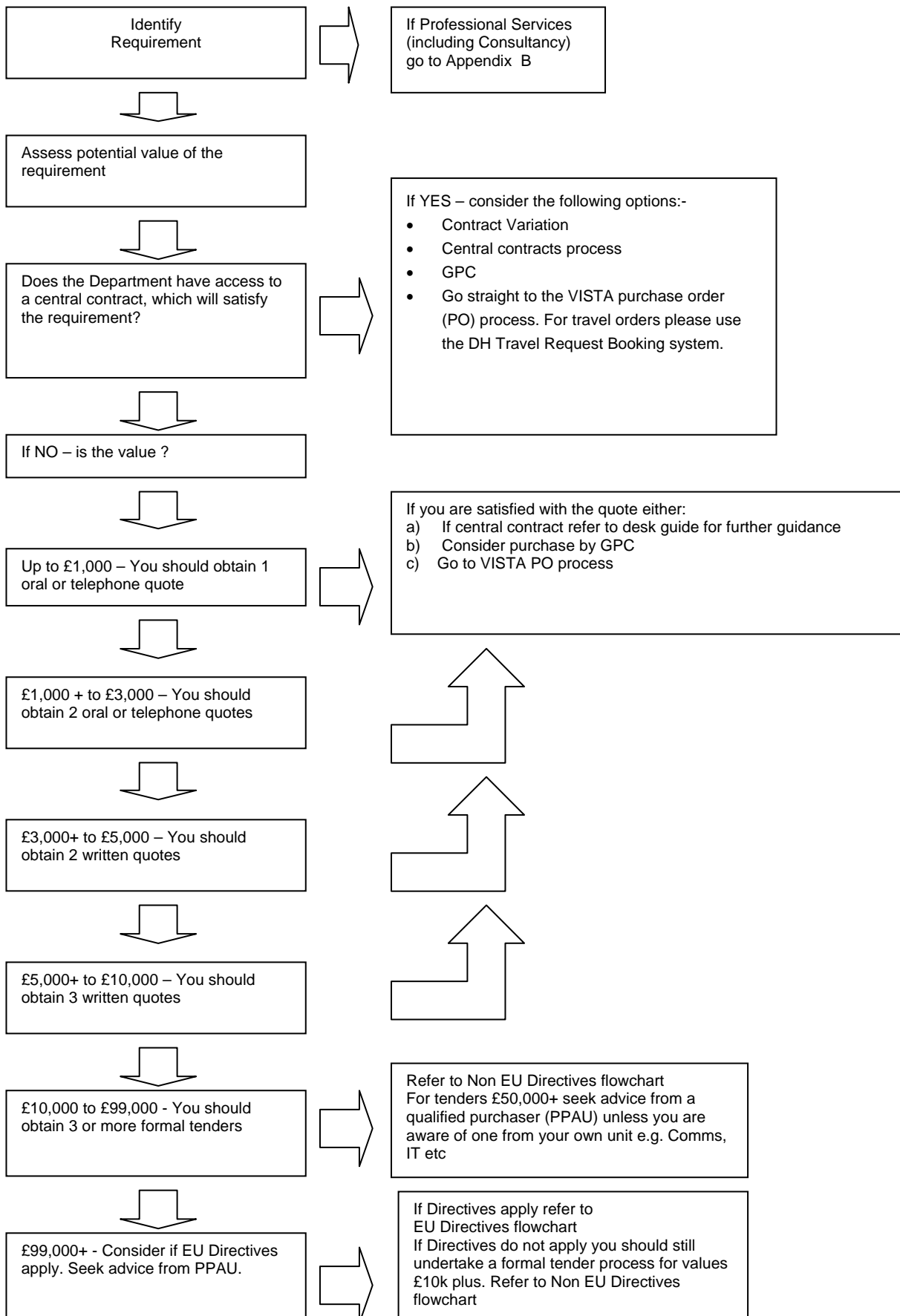
- <http://www.cmps.gov.uk/courses/course.asp?id=15242> [html link]

### **The Future - E-tendering**

83. E-tendering is an important breakthrough in procurement and is likely to have an increasing effect on the way Government does business. PASA has a number of initiatives in this area, including NHS-SID. Further information will be disseminated in due course.

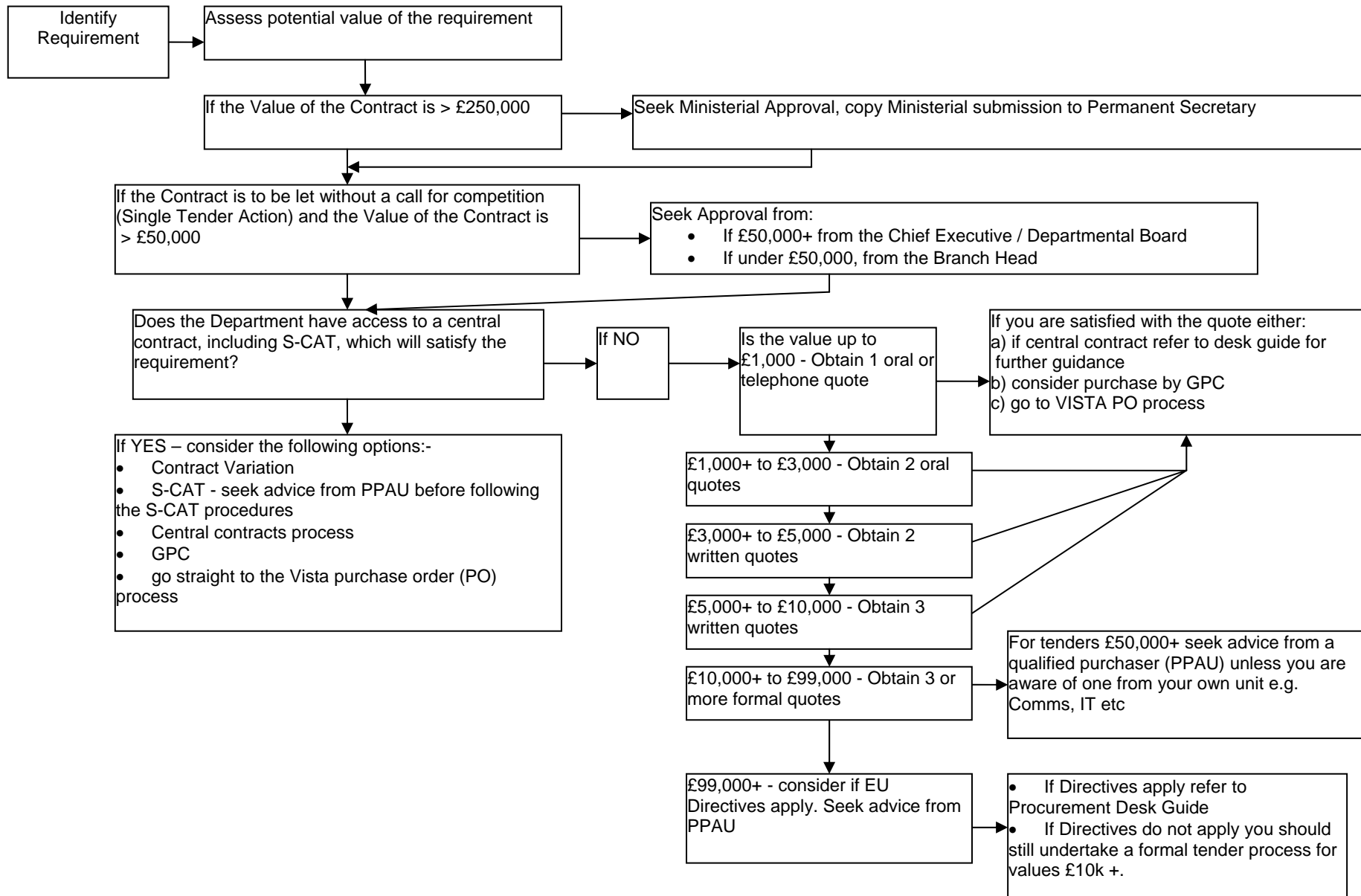
## Procurement Levels of Action –

**Please note this should be read in conjunction with the Departments desk guide to procurement**



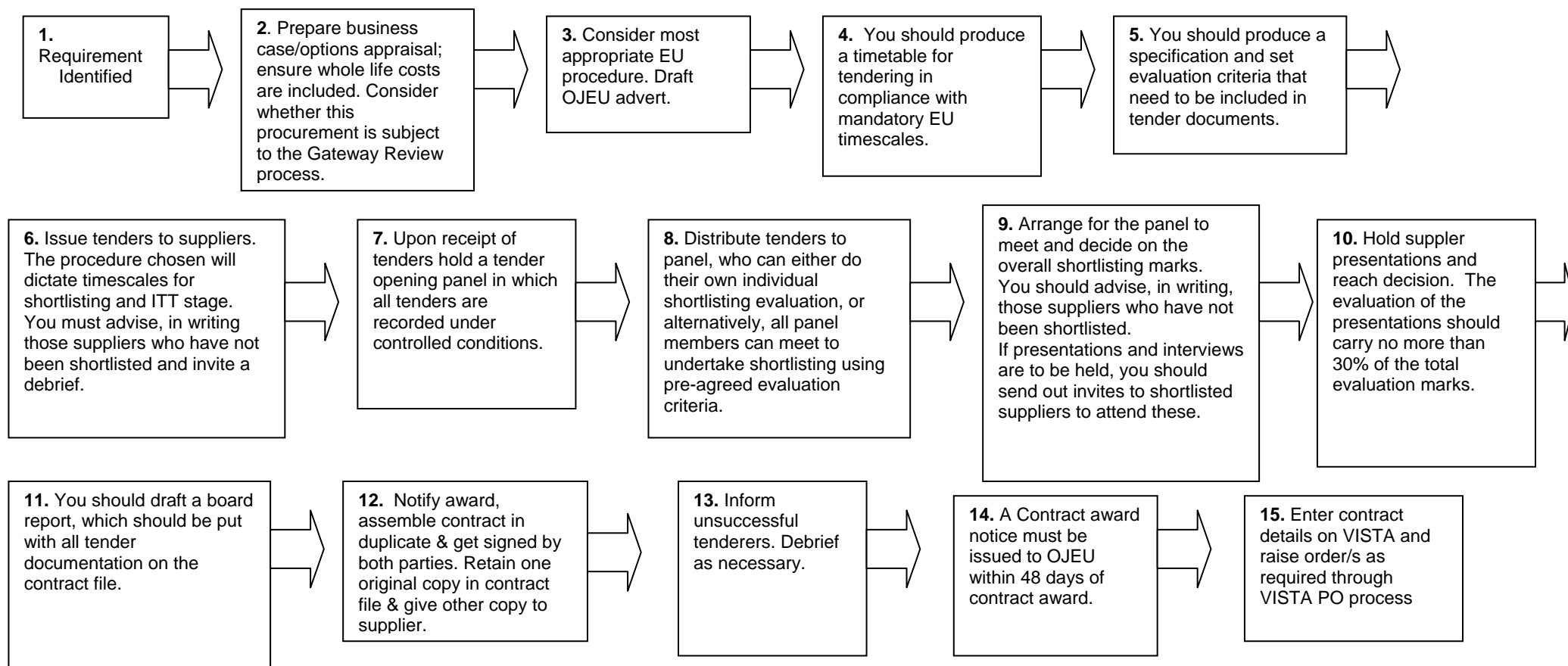
# Procurement Levels of Action for Professional Services (inc. consultancy)

Please note this should be read in conjunction with the Department's Desk Guide to Procurement



### EU Directives apply

This should be read in conjunction with the Departments desk guide to procurement. You should seek advice from the Procurement Unit (PPAU).



## Non EU Directives

## Appendix D

This should be read in conjunction with the Departments desk guide to procurement. Please seek advice from the Procurement Unit (PPAU) if you are unsure at any or all stages

