



European Union



The Scottish Government

Riaghaltas na h-Alba

EUROPE & SCOTLAND

European Regional Development Fund

Investing in a Smart, Sustainable and Inclusive Future

# Public Procurement Aide Memoire and Checklist

Green Infrastructure Fund

Guidance for Applicants

September 2016



## Disclaimer

Applicants should be aware that as the Green Infrastructure Fund is a new programme, the guidance will be reviewed as the programme evolves and therefore may be subject to change. The European Union and Scottish Ministers reserve the right to amend the National Rules and SNH reserves the right to amend the published guidance during the period of the programme. Decisions to fund Projects will be based on the availability of funding, how well the project matches the Green Infrastructure Fund priorities and its contribution to outcomes as part of the whole Strategic Intervention. These priorities may change during the course of the Strategic Intervention to take into account gaps in meeting priorities in previously funded Projects and not to fund at all. The Scottish Government reserves the right not to award any support at all under this programme.

## Version Control

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## 1. Purpose

If a procurement procedure has been carried out under national law, the auditors will require certain documentation to demonstrate that the procedure was carried out in compliance with the national requirements.

The purpose of this form is to ensure all relevant documentation has been provided, however it is not exhaustive. You should ensure that all supporting documentation in support of the process followed is available for inspection.

## 2. Background

Information regarding procurement can be found in the National Rules, Section 1.8.

<http://www.gov.scot/Resource/0048/00487277.pdf>

Grantees must ensure they comply with the requirements of ERDF funding, meeting the European Union Directives, Scottish public sector legislation and the regulatory framework and any internal procedures and policy regarding procurement in force at the time of tender and as such are required to follow procurement principles (Open or Restricted tender or suitable Framework Agreement) for all elements of the work including the provision of works, materials and/or services. Procured contracts below the EU thresholds must adhere to the principles of the Treaty of Rome, ensuring that they are advertised and are fairly and equally treated.

Using another public body to do the work is acceptable as long as the competition was held in a fair and open manner and delivery of elements by the Grantee is acceptable as long as all work is again tendered in a fair and open manner using fully costed market rates. However, please note that internal invoicing is not acceptable.

Please refer to the Scottish Government websites for further guidance:

<http://www.gov.scot/Topics/Business-Industry/support/17404/EuropeanStructuralFunds/ProgrammeDocumentation/Publicprocurementguidance>

<http://www.gov.scot/Topics/Government/Procurement>,

<https://www.procurementjourney.scot/>

## 3. Claims

We recommend that you use the following form to record evidence of procurement processes. These forms will be helpful in providing SNH, as Lead Partner, with claims and audit information and may be required by The Scottish Government or European Commission Auditors.

	<b>CONTRACTS</b>	<b>Contract 1</b>	<b>Contract 2</b>
1.	Your organisation's Procurement instructions/Standing orders at time of contract.		
2.	Estimated Value of Contract.		
3.	Evidence of how you advertised the contract, e.g. OJEU advert, national press etc.		
4.	Record of responses to the OJEU/National advert requesting the tender documents (in an open procedure) or expressing interest (in a restricted procedure).		
5.	Pre-Qualification Questionnaires or Expressions of Interest received (Restricted Procedure).		
6.	PQQ scoring documents, including selection criteria, scoring matrix and evaluation report.		
7.	Details of the PQQ Evaluation Committee.		
8.	Notifications to unsuccessful companies.		
9.	Notifications to successful companies.		
10.	Copies of instructions and details of Award Criteria issued to those invited to tender.		
11.	Details of those invited to tender, if different from 8 above.		
12.	Details of any requests for information received and responses issued.		
13.	If an information meeting was held you should provide details of who was invited/attended and any additional information that was provided.		
14.	A record of the tender opening procedure.		
15.	Details of the Tender Evaluation Committee.		
16.	Tender evaluation report.		
17.	Tender documents (can be known as Bill of Quantities).		
18.	The contracts drawn-up between the final beneficiary and contractor.		

19.	Agreed Contract Price.		
20.	Any complaints or appeals (at the Award Stage).		
21.	A copy of the published Award Notice.		
22.	Notification to successful bidder.		
23.	Notification to unsuccessful bidders.		
24.	Evidence of any variations and modifications to the Contract, if relevant.		

**Please note that if your tender process is electronic, there must be someone available at audit to show all the relevant parts of the process and documentation.**

To further assist understanding of what is required as evidence to support claims and match funding via a Procurement Model, the following is an extract from Annex B of the ESIF 2014-2020 National Rules on Eligibility of Expenditure, Issue 5 dated 19 July 2016.

**Q)** To what level of detail will an operation that is delivered through a procurement model be audited. To invoice level or to the detail behind the invoice?

**A)** The principle for audit is to ensure the EC funding has been properly spent and accounted for within the Regulations that govern the Programme. Whilst no definitive guidance is available from the EC, the principle the MA will adopt is to audit the procurement process followed by the Lead Partner and to inspect evidence that the payment terms set out within the contract are being followed. How the contract is set up is a matter for the Lead Partner and must clearly relate to the Offer of Grant made for the Operation. Different payment structures are available including, for example, paying for a specific piece of work such as a workshop where the contract specifies that the billable item is the workshop itself regardless of the number of participants. Another may specify a workshop to deliver training to a specified number of participants where the rate of payment is on a per participant basis. In line with the principle of simplification, it is likely that the invoice for the workshop and evidence that it was held along with attendee lists, and in the second case the number of participants who attended, should be adequate. There are many different mechanisms however, and care is needed in setting the payment terms and the specification of the records to be kept to ensure that the principle of meeting the EC Regulations is met.

**Q)** What evidence is required to address point 2.13 in the Offer of Grant letter where a Lead Partner must demonstrate funding is in place for a Challenge Fund or procurement with match delivery model at the point of accepting the Offer?

**A)** It is necessary to be certain that where a challenge fund or a delivery with match funding model is being used to deliver an operation that the funding is in place prior to the start of the operation. To do otherwise risks both the delivery of the operation and the eligibility of the EC funding.

The fact of Lead Partner budget setting on a shorter horizon than the operation delivery is well known and the Offer of Grant relates the guarantee to the terms set out in the operation application that gave rise to the Offer. Clearly, this extends only as far as Lead Partners can

guarantee, and may not be further ahead than one year. In this situation as future years' funding becomes certain, the change process within the Programme should be used to update that guarantee. Similarly, where the level of funding being committed by a Delivery Agent is confirmed the change process should be used.

## **4. Non-compliance**

The following EC documents provide an explanation of the consequences of a procurement that is not compliant.

COMMISSION DECISION of 19.12.2013 on the setting out and approval of the guidelines for determining financial corrections to be made by the Commission to expenditure financed by the Union under shared management, for non-compliance with the rules on public procurement

[http://ec.europa.eu/regional\\_policy/sources/docoffic/cocof/2013/cocof\\_13\\_9527\\_en.pdf](http://ec.europa.eu/regional_policy/sources/docoffic/cocof/2013/cocof_13_9527_en.pdf)

Guidelines for determining financial corrections to be made to expenditure financed by the Union under shared management, for non-compliance with the rules on public procurement

[http://ec.europa.eu/regional\\_policy/sources/docoffic/cocof/2013/cocof\\_13\\_9527\\_annexe\\_en.pdf](http://ec.europa.eu/regional_policy/sources/docoffic/cocof/2013/cocof_13_9527_annexe_en.pdf)

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**Scottish Natural Heritage**  
**Dualchas Nàdair na h-Alba**

All of nature for all of Scotland  
Nàdar air fad airson Alba air fad