

Procurement Guidance Note
PGN 07/14
(as amended)

Subeconomic Tendering in Construction Professional Services Contracts

Reissued: 24 April 2017

PROCUREMENT GUIDANCE NOTES

[Northern Ireland Public Procurement Policy \(NIPPP\)](#) was approved by the Northern Ireland Executive in 2002. In approving the policy, the Executive took the decision that legislation was not necessary to ensure that Departments, their Agencies, Non-Departmental Public Bodies and Public Corporations complied with the policy. Instead, it considered that compliance could be achieved by means of administrative direction.

Procurement Guidance Notes (PGNs) are the administrative means by which Departments are advised of procurement policy and best practice developments. They apply to those bodies subject to NIPPP and also provide useful guidance for other public sector bodies.

PGNs are developed by the Central Procurement Directorate (CPD), in consultation with the Centres of Procurement Expertise (CoPEs), and are subject to the approval of the Procurement Board.

Once endorsed by the Procurement Board, they are issued to the Departments for implementation and copied to CoPEs to develop, if necessary, underpinning procedures supporting the implementation of this guidance in their particular sector. PGNs are also published on the [Department of Finance \(DoF\) website](#).

The following PGN was endorsed by the Procurement Board with effect from 05 June 2014 for use by those bodies subject to NIPPP.

Revision History

First issued as a Procurement Guidance Note	15 December 2014
Revised to make reference to The Public Contracts Regulations 2015	27 February 2015
Hyperlinks updated	17 November 2015
Reissued to reflect the restructuring of the Northern Ireland Government departments	25 May 2016
Reissued to remove pilot status and update contact details	24 April 2017

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Definition of Terminology

The term **Department** has been used to refer to those bodies subject to Northern Ireland Public Procurement Policy including Departments, Non-Departmental Public Bodies and Public Corporations. A full list of such bodies is available in Annex A of the [Northern Ireland Public Procurement Policy \(NIPPP\)](#).

1 BACKGROUND

The current economic downturn has created a difficult trading environment for construction consultants, with fewer tender and contract opportunities available. As a result, some firms are prepared to submit subeconomic tender prices in order to survive. Such practices are unsustainable and significantly increase the risk to Government of poor contract performance. In addition they can create difficulties within supply chains and have a damaging effect on the industry.

Departments, in conjunction with their Centre of Procurement Expertise (CoPE), should discourage construction consultants from submitting prices that are so low that they put the delivery of a contract at risk.

2 APPLICATION

Departments that consider subeconomic tendering in construction professional services contracts to be a concern, in their sector, should adopt the processes described below. The guidance applies to tenders for construction professional services contracts that have a pre-tender estimated contract value above £5,000 and below the value of the [EU Procurement Threshold](#) for construction services.

Where fewer than three tenders are received, the Department should consider if it is appropriate to apply the process.

Where a contract includes a *Model Compensation Event* as part of the overall tender, then this guidance will be applied to the total value of that tender.

The application of this process does not remove the need to undertake the normal tender assessment before awarding a contract.

Construction professional services contracts that have a value above the [EU Procurement Thresholds](#) are subject to the [Public Contracts Regulations 2015](#). [Regulation 69](#) requires Contracting Authorities to seek an

explanation from tenderers regarding the price or costs proposed in its tender where the tender appears *abnormally low*.

3 DEFINITIONS

For the purposes of the processes described in this guidance the following definitions will apply:

- **The Lower Average**
This is the average of all the tender prices received excluding the highest tender price.
- **The Adjusted Lower Average**
This is the value that is 5% below the *Lower Average*; that is, equal to 95% of the *Lower Average*. This value is considered to be a competitive yet sustainable tender level.
- **The Price Mark**
This is a mark that is used solely for those contracts awarded on the basis of *Best Combination of Price and Quality*. It is used to translate a tender price into a mark that can ultimately be added to the quality score in order to identify the successful tender. Further details, as to how it is calculated and applied, are included within Section 6.

4 THE BASIS OF CONTRACT AWARD

Construction services contracts, that have a value below the [EU Procurement Thresholds](#), may be awarded on the basis of either:

- Price Only; or
- Best Combination of Price and Quality.

5 CONTRACTS AWARDED ON THE BASIS OF *PRICE ONLY*

Where *Price Only* is used as the basis of contract award, the *Most Acceptable Price* is identified as the tender received which is closest (equal, above or below) to the value of the *Adjusted Lower Average*.

Pre Qualification Questionnaire (PQQ) and *Invitation to Tender (ITT)* documentation should advise tenderers of the price assessment methodology that will be used in each contract. Sample text for inclusion in the PQQ documentation for contracts is provided at Annex A. CoPEs should develop their own wording to suit their ITT documents.

6 CONTRACTS AWARDED ON BASIS OF *BEST COMBINATION OF PRICE AND QUALITY*

6.1 Contracts that are awarded on the basis of the *Best Combination of Price and Quality* will apply the following process to the scoring of the Price criterion.

6.2 A *Price Mark* will be awarded based upon the proximity of the tender price submitted to the value of the *Adjusted Lower Average*. A maximum *Price Mark* will be awarded to a tender price that is equal to the value of the *Adjusted Lower Average*. The *Price Mark* awarded to each of the other tenderers will reduce proportionately depending on the proximity of their tender price to the *Adjusted Lower Average*. Consequently, the further away the tender price is from the *Adjusted Lower Average*, the lower their *Price Mark* will be.

6.3 The *Price Mark* for each individual tender is calculated using the following formula:

$$\text{Price Mark} = 1 - \text{ABSOLUTE VALUE OF THE: } \left[\frac{(\text{Tender Price} - \text{Adjusted Lower Average})}{\text{Adjusted Lower Average}} \right]$$

Notes:

1. The ABSOLUTE VALUE is the non-negative value of a number. Consequently, no matter whether the *Tender Price* is greater or less than the *Adjusted Lower Average*, the ABSOLUTE VALUE shall never be a negative number and will be subtracted from 1.
2. However, where the *Tender Price* is greater than or equal to twice the *Adjusted Lower Average*, then the *Price Mark* shall be set to zero.

6.4 The *Price Mark* shall then be weighted in accordance with the predefined *Quality/Price ratio* (when applicable) in order to identify the *Best Combination of Price and Quality*.

6.5 *Pre Qualification Questionnaire (PQQ)* and *Invitation to Tender (ITT)* documentation should advise tenderers of the price assessment methodology that will be used in each contract. Sample text for inclusion in the PQQ documentation is provided at Annex A.

7 ADDITIONAL GUIDANCE TOOLS

Worked examples are provided at Annex B to illustrate the application of the processes within this guidance.

A decision flow chart is provided at Annex C to assist in the application of the process detailed within this guidance.

To assist in the application of either process, a spreadsheet calculator is provided on CPD's [dedicated webpage](#) for this PGN. Whilst every effort has been made to ensure that this calculator is accurate and up to date, CPD accepts no liability for the use of this tool. CPD recommends that all calculations are independently verified. As the [EU Procurement Threshold](#) is subject to variation please also ensure that the correct figure is applied.

8 FURTHER INFORMATION

Any queries on this guide should be addressed to:

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Clare House
303 Airport Road West
Belfast, BT3 9ED
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ANNEX A: TEXT FOR INCLUSION IN PQQ DOCUMENTATION

A.1 Contracts awarded on the basis of *Price Only*

This contract will be awarded on the basis of *Most Acceptable Price*. The *Most Acceptable Price* is the tender received which is closest (equal, above or below) to the value of the *Adjusted Lower Average*.

The following definitions apply:

- **Lower Average:** This is the average of all tenders received excluding the highest tender.
- **Adjusted Lower Average:** This is calculated as 95% of the *Lower Average*.

A.2 Contracts awarded on the basis of *Best Combination of Price and Quality*

This contract will be awarded on the basis of *Best Combination of Price and Quality*.

Under the Price criterion, a *Price Mark* will be awarded based upon the proximity of the tender price submitted to the value of the *Adjusted Lower Average*. A maximum *Price Mark* will be awarded to a tender price that is equal to the value of the *Adjusted Lower Average*. The *Price Mark* awarded to each of the other tenderers will reduce proportionately depending on the proximity of their tender price to the *Adjusted Lower Average*. Consequently, the further away the tender price is from the *Adjusted Lower Average*, the lower their *Price Mark* will be.

The *Price Mark* shall then be weighted in accordance with the predefined *Quality/Price ratio* (when applicable) in order to identify the *Best Combination of Price and Quality*.

The following definitions apply:

- **Lower Average:** This is the average of all tenders received excluding the highest tender.
- **Adjusted Lower Average:** This is calculated as 95% of the *Lower Average*.
- **Price Mark:** This is a mark that is used solely for those contracts awarded on the basis of *Best Combination of Price and Quality*. It is used to translate a tender price into a mark that can ultimately be added to the quality score in order to identify the successful tender.

ANNEX B: WORKED EXAMPLES

B.1 Contracts awarded on the basis of *Price Only*

Example 1:

	Tender Value	Absolute Variation from Adjusted Lower Average
Tenders	£12,000	£540
	£13,200	£660
	£13,400	£860
	£13,600	£1,060
	£13,800	£1,260
	£14,000	£1,460
Lower Average ...the average of those tenders received, excluding the highest		= £13,200
Adjusted Lower Average ...95% of the Lower Average (£13,200)		= £12,540
(if Price Only) Winning Tender Price ...the tender that is closest to the Adjusted Lower Average (£12,540)		= £12,000

Example 2:

	Tender Value	Absolute Variation from Adjusted Lower Average
Tenders	£9,800	£3,652
	£13,000	£452
	£14,000	£548
	£16,000	£2,548
	£18,000	£4,548
	£20,000	£6,548
Lower Average ...the average of those tenders received, excluding the highest		= £14,160
Adjusted Lower Average ...95% of the Lower Average (£14,160)		= £13,452
(if Price Only) Winning Tender Price ...the tender that is closest to the Adjusted Lower Average (£13,452)		= £13,000

B.2 Contracts awarded on the basis of *Best Combination of Price and Quality*

Example 1:

	Tender Value	Absolute Variation from Adjusted Lower Average	BCPQ Price Mark
Tenders	£12,000	£540	0.96
	£13,200	£660	0.95
	£13,400	£860	0.93
	£13,600	£1,060	0.92
	£13,800	£1,260	0.90
	£14,000	£1,460	0.88
Lower Average ...the average of those tenders received, excluding the highest			= £13,200
Adjusted Lower Average ...95% of the Lower Average (£13,200)			= £12,540

Example 2:

	Tender Value	Absolute Variation from Adjusted Lower Average	BCPQ Price Mark
Tenders	£9,800	£3,652	0.73
	£13,000	£452	0.97
	£14,000	£548	0.96
	£16,000	£2,548	0.81
	£18,000	£4,548	0.66
	£20,000	£6,548	0.51
Lower Average ...the average of those tenders received, excluding the highest			= £14,160
Adjusted Lower Average ...95% of the Lower Average (£14,160)			= £13,452

ANNEX C: DECISION FLOW CHART

Flow chart for contracts awarded on the basis of *Price Only* and *Best Combination of Price and Quality (BCPQ)*:

