



Subject:

Guidance on Approval Requests for Single Tender Action for Goods and Services procurement by DHSSPS Arm's Length Bodies

**Circular Reference:
HSC(F) 05/2012**

1st February 2012

For Information to:

Chief Executive and Finance Director of each HSC Body and NIFRS

Summary of Contents:

The purpose of this circular is to set out the approval procedure for Single Tender Actions in the procurement of goods and services by DHSSPS Arm's Length Bodies.

Enquiries:

Any enquiries about the contents of this Circular should be addressed to:

John Allen
Procurement Policy Unit
Room D1.2
Castle Buildings
Stormont
BT4 3SQ

Tel: 028 90522902
john.allen2@dhsspsni.gov.uk

Superseded Documents:

Not Applicable

Related Documents:

CPD Procurement Guidance Note
(PGN) 03/11

Expiry Date:

Not Applicable

Status of Contents:

For Information and action if appropriate

PROCUREMENT PRACTICE: DEPARTMENTAL GUIDANCE ON SINGLE TENDER ACTION

1. Andrew McCormick wrote to you on 29 November to consult on the terms of draft guidance which is intended to set out a practical approach to the handling and approval of single tender actions (STAs). The attached document takes account of the suggestions received. It is to be adopted forthwith.
2. I trust that the content of the guidance is clear and self-explanatory. It may, however, be helpful if I comment on those points raised by you which have not, in the event, been incorporated in the text. The following are the main ones:
 - i. the requirement for Departmental Accounting Officer approval remains as specified in Andrew's letter of 27 June, but will be reviewed at the end of the financial year;
 - ii. references in that letter to the EU threshold for goods and services relate to the revised threshold of £173,934;
 - iii. there are some unresolved matters in the specialised field of pharmaceutical procurement. These will be clarified and notified to you – if necessary by way of an *addendum* to the guidance;
 - iv. the 'pre-approval matrix' at Annex C of the guidance specifies the arm's length body official with authority to approve a particular type of single tender action. But it is recognised that the posts specified may not exist in every organisation, or that the post named may not invariably be best placed to convey the required approval for your organisation. Exceptionally, therefore, an alternative postholder may be deputed to approve certain STAs provided that his/her name and function is notified in advance to PaLS; and
 - v. where contract extensions are directly precipitated by legal challenge to a planned award of tender (necessitating the extension of the incumbent supplier's contract), separate Departmental Accounting Officer approval is not called for.
3. Regarding the last point, the Department will nevertheless need to be informed of such extensions in order to fulfil the requirement laid down in paragraph 8.1

of Procurement Guidance Note 03/11 that “arm’s length bodies should ... forward details of all STAs to departments”. We will be writing shortly on the arrangements for complying with that obligation.

4. A copy of this goes to Directors of Finance. If you have any queries on the content of this letter or of the guidance itself, you should direct them in the first instance to John Allen (john.allen2@dhsspsni.gov.uk).

PETER TOOGOOD

Guidance on Approval Requests for Single Tender Action for Goods and Services procurement by DHSSPS Arm's Length Bodies

**DHSSPS Procurement Policy Unit
February 2012**

Background

1. In procurement, competition is the most consistent guarantor of value for money for the purchaser. (It is essential also to the vigour of the local economy; without exposure to competition, suppliers become inefficient and their goods less marketable.) Because of its significance for value for money, any procurement action which excludes competition is a matter which touches on the role and personal responsibilities of the accounting officer (AO). Northern Ireland public procurement policy therefore requires that, except in specifically sanctioned categories, all proposals for single tender action (STA) must be approved by the AO of the procuring organisation (or by his/her formally designated deputy).
2. With the exception of those items noted in the Annex C matrix, all proposals for STA must be referred to Centre of Procurement Expertise (CoPE) for procurement advice before they are approved by the AO of the procuring arm's length body (ALB). So far as BSO PaLS is concerned, this requirement extends to all procurements within its field of expertise regardless of whether the actual tendering or purchasing is conducted by PaLS.
3. For many lines of public business, approval at the highest level is a reasonable requirement; STAs should be relatively few and far between. In certain HSC bodies, however, both the scale of their operations and the variety of specialised goods and services can make a literal interpretation of the policy impracticable. That, in turn, creates a tension with the AO's duty to comply with the essential principles of procurement policy – principles which, in many instances, are backed by the force of EU and UK law.
4. The purpose of this DHSSPS procurement guidance note is, therefore, to provide AOs with a comprehensive framework for their organisations' STA approvals that will both:
 - ensure compliance with procurement law, policy and good practice; and
 - minimise the administrative burden on the AO or the organisation as a whole (with the concomitant opportunity cost which that would inflict).
5. It is important that organisations are able to produce clear, documented evidence for approval of and accountability for, STA procurements where those are deemed appropriate. This guidance note and its annexes have been designed with that in mind. In addition, HSC staff should refer to or use this material whenever they wish to place an order or extend an existing contract without competition.

Scope of Guidance

6. This guidance is applicable to DHSSPS arm's length bodies' procurement of goods and services only. The guidance does not, at present, extend to those services considered to fall under "social care" or "independent sector commissioning" (although they remain subject to the requirements of the Public Contracts Regulations 2006 (and its subsequent amendments in 2009 and 2011) in respect of "Part B" services). The scope of this guidance will be kept under review by DHSSPS Procurement Policy Unit and, in consultation with Centres of Procurement Expertise and other interested parties, updated as necessary. It will, in the first instance, be reviewed and updated no later than January 2014.

External consultancy

7. The principles outlined here apply equally to the procurement of external consultancy, apart from the de minimis limit for Departmental Accounting Officer approval. **The present DFP requirement is that all STAs in respect of consultancy – regardless of value - require prior Departmental Accounting Officer approval if they are to proceed.** The text should, therefore, be read with that exceptional category in mind – on which the extant guidance is HSS(F) 40/09 and Supplements.

Definition of Single Tender Action

8. Single Tender Action is broadly defined as procurement for which no competition is sought or where competition is not available in the marketplace. This definition applies to all single orders above £2,000 placed by the Department or its arm's length bodies (the value currently applied under the DHSSPS Expenditure Control Limits (DH1/10/149941, 16 September 2010).
9. The regulatory framework surrounding public procurement¹ makes specific provision for single tender actions in certain circumstances. Annex A provides information on types of STA viewed as acceptable under Regulation 14 of the Public Contracts Regulations 2006, and **Annex C** gives examples of the circumstances in which a contracting authority would be permitted to depart from the standard obligations on competition and transparency in order to negotiate a contract direct with one or more contractors. As should be plain from the text, Regulation 14 sanctions recourse to STA within a very few, narrowly defined, parameters. The parameters set out in Regulation 14 place legal obligations in respect of STAs on contracting authorities for expenditure above the EU threshold²(the obligation encompasses recurring expenditure with an aggregate value, measured over 48 months, in excess of that threshold).

¹Public Contracts Regulations 2006 and amending regulations 2009 and 2011.

² Currently set at **£173,934** for goods and services for single order value or where aggregated over a 48-month period (see Regulation 8(10) 2006).

10. Historically, STAs by HSC bodies have been regarded as falling into the category of 'Stipulated Supplier' i.e. multiple sources may be available but there are sufficiently compelling reasons for a particular one to be selected and, in consequence, for there to be no need for a competition. An example would be where there are five generally suitable infusion pumps on the market but where, for compatibility or standardisation reasons, one is favoured. Such items have required delegated Accounting Officer approval since 1998. Under the new guidance issued by DFP's Central Procurement Directorate (PGN 03/11, dated 24 November 2011), the following additional categories require explicit STA approval;

- Sole Supplier – where just one source is capable of supply or no competition is available e.g. a pharmaceutical therapy obtainable only under patent from the manufacturer and which the clinician judges essential to patient care; and
- Contract Extension – either an addition to the contract's scope, or extension to its duration, which is outside the options originally specified in the contract. (Where such extensions had been anticipated in the contract, by definition no new contract is called for and the question of STA does not arise.)

Approval of Single Tender Actions

11. In his letter of 27 June 2011 on procurement practice, the Departmental AO asked for assurance from each arm's length body's AO that:

- he/she has in operation appropriate arrangements to secure his/her STA approval where that is required; and
- there are no cases within his/her organisation where goods or services have been procured without an appropriate procurement process.

12. On the first point, existing guidance and practice has provided AOs with delegated authority to approve all values of STA. This operational guidance replaces these previous arrangements; where stipulated, the involvement of the Departmental AO in STAs will be required to promote compliance.

13. On the second, the content of PGN 03/11 has shown the need for this DHSSPS guidance note to help each AO obtain assurance that, for all types of STA in goods & services, the procedure is fully compliant with procurement law, policy and good practice. This guidance note expressly delegates to ALB AOs authority for all procurements below the EU threshold, together with discretion to further delegate authority for STA approval where that is operationally required.

14. For the present; the requirement for Departmental Accounting Officer approval for all above-EU threshold STAs (set out in the Permanent Secretary's letter of 27 June 2011) remains in force. The matter will be reviewed in light of experience during the rest of the 2011-12 financial year.

15. The bedrock for AO assurance is the STA's relevance to a Regulation 14 category. Accurate and valid association of an STA proposal with the relevant provision of Regulation 14 is, therefore, essential for all procurements above the EU threshold; without this, the procurement will require specific authorisation from the Departmental AO. In all instances (i.e. above *or* below the threshold), when an organisation decides to award a contract without a competition it must record its reasons and the justification. Apart also from the fact that the European Commission takes a close interest in the use of Regulation 14, Internal Audit will be expected to verify a sample of such STAs.
16. While responsibility for approval of STAs rests with the AO of each arm's length body, the day-to-day operation of such approvals is customarily delegated to another Board-level officer (normally the Director of Finance). Annex C of this guidance provides a matrix of examples of STAs that might be considered appropriate under the procurement regulations; it further suggests officers to whom specific responsibilities for approval of STAs might be delegated when such cases arise. Such delegations are intended to reflect operational practicalities. Arm's length bodies must ensure that arrangements are in place to collect and monitor such delegated approvals (in addition to those given directly by the AO) for the purposes of comprehensive reporting to the Department, as required under PGN 03/11.

The STA Approval Request

17. The Approval Request form at **Annex B** has been framed to accommodate the information needed to document the reasons for an STA. As of date of issue, this replaces the forms previously used by PaLS³ and ALBs for approval of goods & services STAs. In completing the form, and as an aid to assessing the STA against the requirements of Regulation 14, the requesting officer should refer to the Annex C matrix which furnishes examples of the goods & services most likely to be procured by STA alongside the Regulation 14 categories that would sanction such action. Where applicable, value for money justification should be inserted in the Approval Request. More particularly, where existing departmental guidance on the subject would require it, a proportionate business case must be produced which identifies the case for the project and supports the request for approval to single tender action by setting out the clear VFM implications of the action. **Appendix 1** to Annex C is a flow chart showing the steps to be followed in seeking approval for an STA.
18. Once completed and approved by the organisation, the STA Approval Request must – pending establishment of the PaLS Procurement Compliance Unit – be forwarded to the PaLS senior procurement manager responsible for the relevant ALB (see Annex C, Appendix 2). PaLS will then review the Request and provide

³ SS50 and SS51 forms

advice through a “Red/Amber/Green” (RAG) rating which will present the ALB AO with an expert view on the compliance risks of the procurement proceeding as an STA. The RAG ratings are defined as follows:

- Red Status – an STA where a breach of public procurement regulations will clearly occur;
- Amber Status – an STA where there is a risk of a breach in public procurement regulations occurring but where alternative or supplementary actions might help reduce / remove / mitigate that risk; and
- Green Status – an STA where there is no breach of the public procurement regulations

Since, in formal terms, the Public Contracts Regulations apply only to transactions above the relevant EU threshold (see paragraphs 21/22 below), it follows that, on this RAG approach, all STAs below EU procurement thresholds will normally be classified as “Green” (unless, as explained in paragraph 9, their aggregate value exceeds the threshold). It is, however, important that all STAs, whatever their value, comply with the Treaty on the Functioning of the EU’s principles of transparency and fairness. That being so, in relevant instances below the EU threshold BSO PaLS will appraise the element of risk attached to the proposed STA. Where material risk is considered to exist, such proposals will be classed as “Amber” and an explanation for that categorisation will be provided by PaLS to inform the ALB AO in arriving at his/her decision.

19. Any above-EU threshold⁴ request for an STA which fails to meet one of the Regulation 14 criteria will automatically attract “Red” status.

20. In brief, the approval procedure appropriate to each RAG status is as follows:

- RED: procurement above EU threshold
 - i. requires CoPE advice and ALB AO (or delegated officer) approval
 - ii. requires the approval of the Departmental AO before proceeding
- AMBER: procurement above EU threshold
 - i. requires CoPE advice and ALB AO (or delegated officer) approval
 - ii. requires the approval of the Departmental AO before proceeding
- AMBER: procurement below EU threshold
 - i. requires CoPE advice and ALB AO (or delegated officer) approval
 - ii. does not require the approval of the Departmental AO

⁴ Currently set at £173,934

- GREEN: procurement above EU threshold
 - i. requires CoPE advice
 - ii. requires ALB AO (or delegated officer) approval before proceeding, in line with Annex C
 - iii. requires the approval of the Departmental AO
- GREEN: procurement below EU threshold
 - i. requires CoPE advice
 - ii. requires ALB AO (or delegated officer) approval before proceeding, in line with Annex C
 - iii. does not require the approval of the Departmental AO

21. The above approval process reflects the distinct roles and responsibilities of the Department, arm's length body and CoPE. Thus:

- the Departmental AO has ultimate responsibility for satisfying him-/herself that the Department's ALBs are in a position to comply with the requirements of procurement law. In that context, it is for him/her to consider for approval those STAs above the EU threshold where an ALB AO has not obtained an evidenced view – evidenced, that is, by CoPE (and, where necessary, legal) advice – that the circumstances of a procurement accord with Regulation 14;
- an ALB's AO has direct accountability for procurement practice within his/her organisation. At operational level, it is for the officer initiating the procurement to set out the case for proceeding with the STA, producing for that purpose a clear description of the circumstances and whether these comply with Regulation 14. It is also for that individual to explain how value for money is secured by the use of STA. It is then for the ALB AO (or delegated approving officer) to review the circumstances of the proposed STA and decide whether the organisation should proceed with the STA;
- the role of PaLS is to advise on whether the STA meets the legal requirements (or, in cases below the EU threshold, the spirit) of the procurement regulations, and to apply a "RAG" status to each proposed STA. PaLS will also, in relevant cases, provide information on alternative procurement approaches or methods of minimising the compliance risks of proceeding with the procurement.

Note on Legal Obligations under Public Procurement Regulations

22. For all procurements of goods or services above the EU threshold⁵ there are legal obligations placed on public bodies. For STA procurement to be considered legally compliant it must fall within the set of circumstances defined in Regulation 14 of the Public Contracts Regulations⁶. As applied to the Department's arm's length bodies, PGN03/11 makes the use of STAs for goods & services dependent on the advice received from PaLS. One purpose of this guidance note is to provide the basis for a consistent and compliant approach to approval – but the onus remains on the contracting authority to demonstrate that its use of STA was compliant with the Regulations.
23. It is important also to understand that all procurements justified under Clause 14 require the contracting authority to publish an Award Notice in the Official Journal of the European Union (OJEU) announcing the contract award. This legal requirement is quite separate from the STA authorisation process. If the procurement is being handled by PaLS, the award notice will be published by PaLS; otherwise, for all goods & services procurements above the EU threshold, arm's length bodies must ensure that award notices are placed as required under the legislation. They will also wish to consider the most practical way to handle such matters so as to avoid duplication and unnecessary expenditure.

⁵ 2011 – EU threshold value is £173,934

⁶ Clause 14 - Use of the Negotiated Procedure without prior publication of a contract notice

Regulation 14 - Use of the Negotiated Procedure Without Prior Publication of a Contract Notice

14.—(1) A contracting authority may use the negotiated procedure without the prior publication of a contract notice in accordance with regulation 17(3) in the following circumstances—

(a) in the case of a public contract—

(i) when a contracting authority is using the negotiated procedure in accordance with regulation 13(a) and invites to negotiate the contract every economic operator which submitted a tender following an invitation made during the course of the discontinued open procedure or restricted procedure (not being a tender which was excluded in accordance with regulation 15(11) or 16(7));

(ii) subject to paragraph (2), in the absence of tenders, suitable tenders or applications in response to an invitation to tender by the contracting authority using the open procedure or the restricted procedure but only if the original terms of the proposed contract offered in the discontinued procedure have not been substantially altered in the negotiated procedure;

(iii) when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the public contract may be awarded only to a particular economic operator;

(iv) when (but only if it is strictly necessary) for reasons of extreme urgency brought about by events unforeseeable by, and not attributable to, the contracting authority, the time limits specified in—

(aa) regulation 15 for the open procedure;

(bb) regulation 16 for the restricted procedure; or

(cc) regulation 17 for the negotiated procedure;

cannot be met;

(b) in the case of a public supply contract—

(i) when the goods to be purchased or hired under the contract are to be manufactured solely for the purpose of research, experiment, study or development but not when the goods are to be purchased or hired with the aim of ensuring profitability or to recover research and development costs;

(ii) subject to paragraph (3), when the goods to be purchased or hired under the contract are required by the contracting authority as a partial replacement for, or in addition to, existing goods or an installation and when to obtain the goods from a supplier other than the supplier which supplied the existing goods or the installation would oblige the contracting authority to acquire goods having different technical characteristics which would result in—

(aa) incompatibility between the existing goods or the installation and the goods to be purchased or hired under the contract; or

(bb) disproportionate technical difficulties in the operation and maintenance of the existing goods or the installation;

(iii) for the purchase or hire of goods quoted and purchased on a commodity market;

(iv) to take advantage of particularly advantageous terms for the purchase of goods in a closing down sale or in a sale brought about because a supplier is subject to a procedure referred to in regulation 23(4)(a), (b) or (c);

(c) in the case of a public services contract, when the rules of a design contest require the contract to be awarded to the successful contestant or to one of the successful contestants, provided that all successful contestants are invited to negotiate the contract;

(d) in the case of a public works contract or a public services contract—

(i) subject to paragraph (4), when a contracting authority wants an economic operator which has entered into a public works contract or a public services contract with the contracting authority to carry out additional work or works or provide additional services which were not included in the project initially considered or in the original public works contract or public services contract but which through unforeseen circumstances have become necessary, and such work, works or services—

(aa) cannot for technical or economic reasons be carried out or provided separately from those under the original contract without major inconvenience to the contracting authority; or

(bb) can be carried out or provided separately from those under the original contract but are strictly necessary to the later stages of the performance of that contract; and

(ii) subject to paragraph (5), when a contracting authority wants an economic operator which has entered into a public works contract or a public services

contract with that contracting authority to carry out new work or works or provide new services which are a repetition of the work or works carried out or the services provided under the original contract and which are in accordance with the project for the purpose of which the first contract was entered into.

(2) A contracting authority using the negotiated procedure in accordance with paragraph (1)(a)(ii) shall, if the Commission requests it, submit a report recording the fact that it has used that procedure to the Office of Government Commerce for onward transmission to the Commission.

(3) A contracting authority shall not use the negotiated procedure in accordance with paragraph (1)(b)(ii) if the term of the proposed contract, or the term of that contract and of any other contract entered into for the same purpose, is more than three years, unless there are reasons why it is unavoidable that this period should be exceeded.

(4) A contracting authority shall not use the negotiated procedure in accordance with paragraph (1)(d)(i), where the aggregate value of the consideration to be given under contracts for the additional work, works or services exceeds 50 per cent of the value of the consideration payable under the original contract.

(5) A contracting authority shall not use the negotiated procedure in accordance with paragraph (1)(d)(ii) unless—

(a) the contract notice relating to the original contract stated that a public works contract or a public services contract for new work, works or services which would be a repetition of the work or works carried out or the services provided under the original contract may be awarded using the negotiated procedure in accordance with paragraph (1)(d)(ii);

(b) in determining the estimated value of the original contract for the purposes of regulation 11, the contracting authority took into account the value of the consideration which it expected to be payable for the new work, works or services; and

(c) the procedure for the award of the new contract is commenced within 3 years of the original contract being entered into.

Annex B

**Health and Social Care
Request for Approval of Single Tender Action (STA)**

This form to be completed by the requesting officer, authorised by the appropriate Assistant Director / Co-Director and sent to BSO Procurement and Logistics Service (PaLS) along with a properly completed requisition.

Section 1. Contact Details

Name of Requesting Officer	
Job Title	
Department	
HSC Organisation	
Address	
E-mail address	
Office Telephone Number	
Mobile Telephone Number	

Section 2. STA Details

Title of STA	
Estimated value of STA	
Proposed length of contract of STA	

Section 3. STA justification: Sole Source
Are these goods or services only available from one source? Y/N
If Yes complete section 3.1; if No proceed to section 4

This section to be completed where goods or services can be procured from only one source and no competition is available.

3.1 Technical Reasons or Exclusive Rights

Is this STA being justified for technical or artistic reasons or because the supplier has exclusive rights?
 If Yes, specify the reasons and explain in detail

Now proceed to section 5.

Section 4. STA justification: Preferred Supplier

This section to be completed where goods or services can be procured from multiple sources, but where for specific reasons only one supplier is to be used.

4.1 Justification for Procuring without Competition

State the reasons for procuring the goods or service without competition (including vfm justification):

Now proceed to section 5.

Section 5. Single Tender Action - Contract Extension or Extension of Scope of Contract

This section to be completed where extension of the scope or duration of an existing contract is being requested. If no contract currently exists, ensure that you have completed either section 3 or section 4 and then proceed to section 6.

5.1 Details of Contract

Name of the Contract				
Name of the supplier(s) on the contract				
Start and end dates of the contract including extensions	Start Date		End Date	
If the contract has been extended beyond the original options to extend, please provide details:				
Was this contract awarded under STA?	YES		NO	
If No, was there an advertisement placed in the local papers and/or the OJEU and, if so, provide dates	Local papers		OJEU	
Value of the initial contract at the time of award				
Actual spend to date from the commencement of this contract				

5.2 Proposed Extension of Contract Term			
Name of the supplier(s)			
Start and end dates of the proposed extension	Start Date		End Date
Estimated value of the extension			
Reason for new extension of contract term (including vfm justification):			

5.3 Extension of Contract Scope - new requirement
Justification for the STA to this supplier (including vfm justification):

Section 6: Requesting Officer Approvals		
Requester		
I hereby seek approval for a single tender action as detailed above. In doing so, I declare that <u>I do not</u> have an external personal or monetary interest in the company to which this STA will be awarded.		
Print Name	Signature	Date
Recommended by Assistant / Co-Director		
I hereby confirm that the details provided in respect of this single tender action are correct, and I declare that <u>I do not</u> have an external personal or monetary interest in the company to which this STA will be awarded.		
Print Name	Signature	Date

BSO PaLS ADVICE – For PaLS Use Only

Risk RAG Status of this Request:	R/A/G
Signed:	
Print Name:	
Grade (Senior Procurement Manager and above only):	
Date:	

ACCOUNTING OFFICER DECISION

I authorise the following action:

- a) progress this STA on behalf of the Contracting Authority as detailed above
- b) do NOT progress this STA – take no further action
- c) do NOT progress this STA – procure these goods or services in accordance with normal HSC procurement procedures.

(delete as applicable)

I hereby declare that **I do not** have an external personal or monetary interest in the company to which this STA will be awarded (applicable only in respect of option (a) above). I have read CPD Policy Guidance Note 03/11, related DHSSPS Guidance HSC(F) 05/12 and the comments above provided by HSC Centre of Procurement Expertise.

Name:	Title:	Date:
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Signature:

Departmental Accounting Officer Approval (where required)

Name:	Title:	Date:
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Signature:

Publication of award notice (if applicable)

Annex C

Single Tender Action Pre-Approval Matrix

Basis of Approval	Examples: reasons for approval	Additional Action Required	CoPE Advice Required	ALB Accounting Officer Approval
All STA procurements below EU thresholds (£173,934k for a single order or multiple orders over a 48-month period)	N/A	CoPE must provide advice on the procurement along with a RAG status.	Y	Chief Executive or his/her delegated officer
Section 14.1.(a).i and 14.1.(a).ii – Absence of Suitable Tenders	No tender responses received to advert	Where expenditure will exceed EU thresholds a Contract Award Notice to be published in OJEU.	Y	Director of Finance will require BSO PaLS advice to confirm application of this clause.
Section 14.1.(a).iii – “Exclusive Rights” “when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the public contract may be awarded only to a particular economic operator”	Purchase of <u>patent protected</u> drugs	Where annual expenditure is above EU threshold the procurement needs to be published as an award notice in OJEU	N	Head of Pharmaceutical Services may approve.
	Purchase of goods where a copyright, patent or intellectual property right exists restricting supply to a single supplier	Where expenditure will exceed EU thresholds a Contract Award Notice to be published in	Y	Director of Finance will require proof that such rights exist and restrict supply. BSO PaLS advice to be provided.

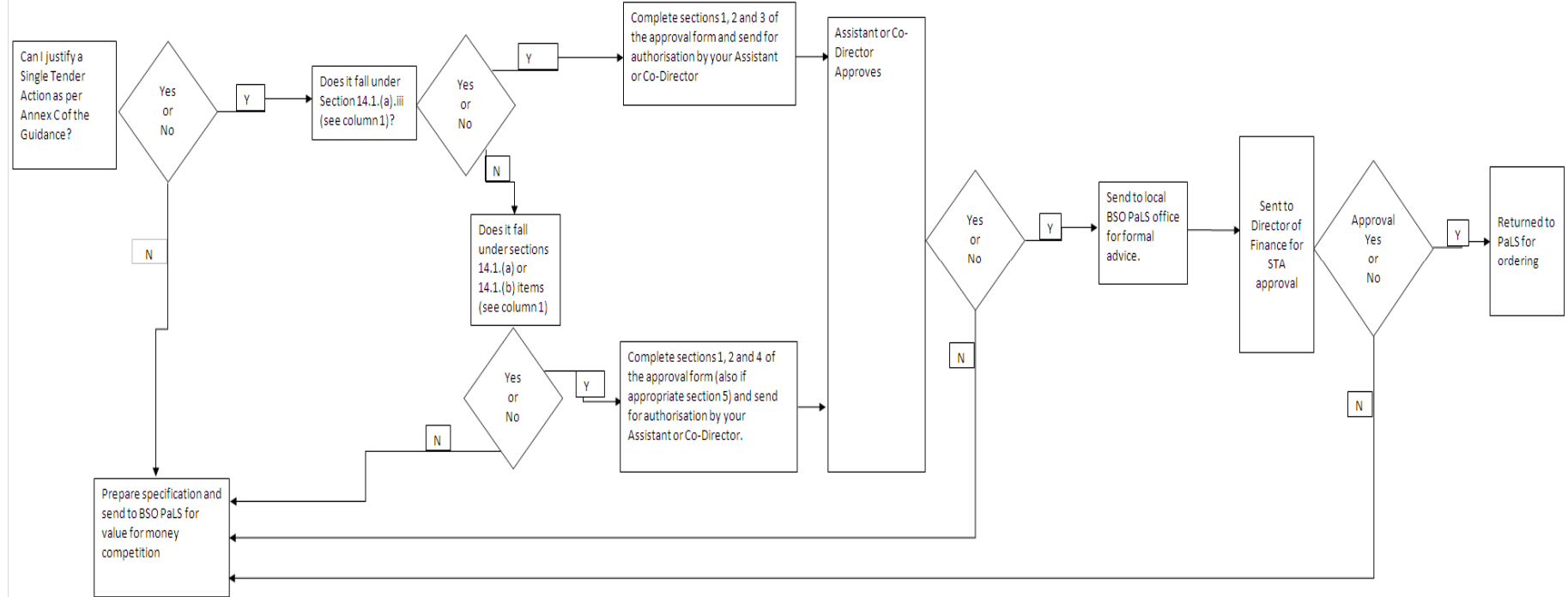
	(generally the manufacturer). An example might be proprietary software.	OJEU.		
Section 14.1.(a).iv – “Extreme urgency”	Purchase of drugs without competition where there is an <u>urgent and unforeseen demand</u>	Where expenditure will exceed EU thresholds a Contract Award Notice to be published in OJEU.	N	Head of Pharmaceutical Services may approve.
	Purchase of goods, services or works where <u>life or property is under threat</u> . Such instances would extend to single tender actions required to immediately secure premises to prevent theft or further damage to property.		N	Head of Estates may approve.
Section 14.1.(b).i – Research, Experiment, Study or Development “when the goods to be purchased or hired under the contract are to be manufactured solely for the purpose of research, experiment, study or development but not when the goods are to be purchased or hired with the aim of ensuring	Purchase of goods that are to be used solely to carry out research, experiment, study or development. In such instances the Trust is having these goods made solely to meet	Where expenditure will exceed EU thresholds a Contract Award Notice to be published in OJEU.	Y	Director of Finance will require proof that goods to be purchased meet these requirements. BSO PaLS advice to be provided.

<p>profitability or to recover research and development costs;”</p>	<p>the purposes of a specific study.</p>			
<p>Section 14.1.(b).ii – Compatibility or disproportionate technical difficulty “subject to paragraph (3), when the goods to be purchased or hired under the contract are required by the contracting authority as a partial replacement for, or in addition to, existing goods or an installation and when to obtain the goods from a supplier other than the supplier which supplied the existing goods or the installation would oblige the contracting authority to acquire goods having different technical characteristics which would result in—</p> <p style="padding-left: 40px;">(aa)incompatibility between the existing goods or the installation and the goods to be purchased or hired under the contract; or</p> <p style="padding-left: 40px;">(bb)disproportionate technical difficulties in the operation and maintenance of the existing goods or the installation;”</p>	<p>Purchase of drugs required for <u>continuity of care of patient</u> where not the contracted drug.</p>	<p>Where expenditure will exceed EU thresholds a Contract Award Notice to be published in OJEU.</p>	<p>N</p>	<p>Head of Pharmaceutical Services may approve.</p>
	<p>Purchase of equipment or consumables where they are required to come from a particular source or brand for purposes of technical compatibility.</p>	<p>Where expenditure will exceed EU thresholds a Contract Award Notice to be published in OJEU.</p>	<p>Y</p>	<p>Director of Finance will require an assessment to confirm STA is valid. Advice also required from BSO PaLS</p>
<p>Section 14.1.(b).iii – Purchases on a Commodity Market</p>	<p>This is not generally applicable to HSC Procurement</p>			

<p>Section 14.1.(b).iv – Closing Down Sale “to take advantage of particularly advantageous terms for the purchase of goods in a closing down sale or in a sale brought about because a supplier is subject to a procedure referred to in regulation 23(4)(a), (b) or (c);”</p>	<p>Purchase of goods where the supplier is declared bankrupt and the goods being offered for are below normal costs and are required to ensure continued HSC operation.</p>	<p>Where expenditure will exceed EU thresholds a Contract Award Notice to be published in OJEU.</p>	<p>Y</p>	<p>Director of Finance will require proof that goods to be purchased meet these requirements. BSO PaLS advice to be provided.</p>
<p>Section 14.1.(d).i – Extension to Contract Scope “subject to paragraph (4), when a contracting authority wants an economic operator which has entered into a public works contract or a public services contract with the contracting authority to carry out additional work or works or provide additional services which were not included in the project initially considered or in the original public works contract or public services contract but which through unforeseen circumstances have become necessary, and such work, works or services—</p> <p>(aa)cannot for technical or economic reasons be carried out or provided separately from those under the original contract without major inconvenience to the contracting authority; or</p>	<p>Purchase of a Service or Works where the need arises for additional requirements where such requirements over the life of the contract do not exceed 50% of the value of the original tender.</p>	<p>Where individual expenditure will exceed EU thresholds a Contract Award Notice to be published in OJEU.</p>	<p>Y</p>	<p>Director of Finance will require proof that services to be purchased meet these requirements. BSO PaLS advice to be provided.</p>

<p>(bb)can be carried out or provided separately from those under the original contract but are strictly necessary to the later stages of the performance of that contract;”</p>				
<p>Section 14.1.(d).ii “subject to paragraph (5), when a contracting authority wants an economic operator which has entered into a public works contract or a public services contract with that contracting authority to carry out new work or works or provide new services which are a repetition of the work or works carried out or the services provided under the original contract and which are in accordance with the project for the purpose of which the first contract was entered into.”</p>	<p>Purchases of additional works or services that are a repetition of a previous contract for those services and are linked to the original contract i.e. are connected with the purpose of the original contract, for example extension of a contract for cleaning to take in a new facility.</p>	<p>Where individual expenditure will exceed EU thresholds a Contract Award Notice to be published in OJEU.</p>	<p>Y</p>	<p>Director of Finance will require proof that services to be purchased meet these requirements. BSO PaLS advice to be provided.</p>

Flow Diagram for Approval of Single Tender Actions



Annex C, Appendix 2

Peter McColgan - BELFAST TRUST (Medical & Estates)

Senior Procurement Manager

BSO Procurement and Logistics Service

Royal Hospitals

Broadway

BELFAST

BT12 6BA

028 9063 4414

peter.mccolgan@hscni.net

Myles O'Hagan - WESTERN TRUST

Senior Procurement Manager

BSO Procurement and Logistics Service

Gransha Hospital

Clooney Road

LONDONDERRY

BT47 6YZ

028 7186 5138

myles.ohagan@hscni.net

Florence McAllister

Senior Procurement Manager – Non-Medical

BSO Procurement and Logistics Service

77 Boucher Crescent

BELFAST

BT12 6HU

028 9055 3435

florence.mcallister@hscni.net

Jonathan Irvine - SOUTH EASTERN TRUST

Senior Procurement Manager

BSO Procurement and Logistics Service

Ards Hospital

Church Street

NEWTOWNARDS

BT23 4AS

028 9151 0100

jonathan.irvine@hscni.net

Sandra Armstrong - NORTHERN TRUST

Senior Procurement Manager

BSO Procurement and Logistics Service

Bretten Hall

45 Bush Road

ANTRIM
BT41 2PS
028 9442 4324
sandra.armstrong@hscni.net

Gerard Kearney - SOUTHERN TRUST
Senior Procurement Manager
BSO Procurement and Logistics Service
Pinewood Villa
Longstone Hospital
73 Loughgall Road
ARMAGH
BT61 7PR
028 3741 2803
gerard.kearney@hscni.net