



## The Cathedral and Church Buildings Division guidance on procurement rules relating to professional advisers fees covered by grant-aid.

Following clarification of the law on procurement, there is a requirement to seek tenders for services by a professional adviser (usually a church architect) if public funds make up more than 50% of the total funding for a repair scheme, even if it is divided into stages over several years.

Public funds include the Repair of Places of Worship Grant Scheme, the Listed Places of Worship Grant Scheme, Heritage Lottery Fund grants and any other public sector grants.

The following gives a brief overview of the new system.

A Q&A sheet prepared by English Heritage and the Heritage Lottery Fund is appended.

- **Fees up to £10,000**

Tendering is not required; however you will need to be able to demonstrate good value for money.

- **£10,000-50,000**

Tendering is required, evidence may need to be demonstrated.

You should get at least three competitive tenders or quotes and show that you have selected the one which provides best value for money.

- **£50,000 plus**

You must provide proof of competitive tendering procedures including advertising for services.

Invitations to tender may be placed in newspapers or on the internet, whereby you are encouraged to use the free service on Churchcare.

Your proof should be a report on the tenders you have received, together with your decision on which to accept.

- **£150,000 plus (at the time of writing)**

Advertisement in the European Journal will be necessary.



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If you have not followed a competitive tender process, EH/HLF must agree this in writing before they award the contract.

There are sometimes cases where the normal competitive tender process is not suitable or possible.

If you believe your circumstances are such that they would fit this exception, you should discuss this with the Historic Buildings Architect or Surveyor in the EH regional office at the earliest opportunity.





## RGPOW PROCUREMENT Q+A

### **Why are English Heritage and the Heritage Lottery Fund making us do this? Don't they know we are volunteers?**

We are doing this because we are required to do so by law. We are aware that many of our grant recipients are volunteers and may not have experience of procurement or the building industry. This is why we have provided guidance in the simplest form that will in our view satisfy the current regulations.

If you need help from a professional person who can advise on procurement (eg. a solicitor or quantity surveyor), we are happy to take the cost into account in our assessment of financial need.

Please tell us how much it will cost you and how you will go about it.

### **Is this a new HLF requirement because they are putting more money into the scheme now?**

No, the timing is entirely coincidental. Lottery players' money is treated as public funds in the same way as tax payers money is. So HLF are subject to this in the same way as EH.

What if my professional adviser has already done some work for free of charge on the basis that he will get the job if it is grant aided?

The grant does not cover any cost incurred prior to the offer. If this adviser decides now to charge a fee for that work you will need to settle with him/her on the basis of your existing contract.

### **If I have to pay my old professional adviser off will you include this in your grant?**

No. We cannot grant aid any work which is outside the scope of the grant and has been carried out before the grant offer and/ or by someone who has not been procured in line with the guidance.

### **What if my professional adviser has been working for this POW for many years?**

If they were appointed following a competitive tender process for the work which we are grant aiding then you just need to confirm this in writing.

If they were appointed following a competitive tender process for general advice not specifying the present repairs then as long as this was in the last four years it should satisfy the requirements.





**What if my professional adviser's involvement in previous work to the building is directly relevant to the work about to be undertaken?**

If you feel that **no other** professional adviser will be able to understand the unique repair needs of your building and therefore no other professional adviser would be able to do the work you should discuss this with the Historic Building Architects/ Surveyors in our regional office.

Please ask the Caseworker dealing with your grant.

**What if my professional adviser is the cheapest around and is therefore very likely to get the job anyway if we competitively tender?**

This will not be enough to satisfy the regulations and will need to be confirmed via a competitive process.

**What if I have a contract with my professional adviser and would have to break it to competitively tender?**

If you wish to take up the grant you will need to meet the procurement requirements and this may mean ending an existing contract and settling any payment due.

You should start by making sure what the terms of the existing contract laid down for this situation and establish whether there is any work which will need to be paid for.

**This seems like a lot of bureaucracy and red tape. Isn't the government trying to cut down on this?**

Public procurement is a complex area. We hope to be able to satisfy the regulations in the least onerous way. Procurement policy has continued to be increasingly driven by domestic policy by the coalition government, as well as from Europe.

These regulations are designed to ensure fair competition in bidding for publicly funded contracts which the public sector is committed to.

**My professional adviser has already drawn up the specification for the job. If he doesn't get the job when I go out to tender won't someone else have to repeat this work?**

The RIBA advises that it is good practice for the client to be granted a licence for such material so that it can be used by the new adviser.

Certainly, if you have to pay for the work already undertaken, we recommend that you make sure you are entitled to pass it on to your new professional adviser. You should make clear in your tender exercise that the specification is available and that tenderers should take this into account in their bid.





This should mean that you don't end up paying for this element twice. Making amendments to existing documentation by the new adviser will be eligible for grant.

**The work is urgent as the building is not structurally sound and I do not have time to go through a full procurement process. What do I do?**

You should discuss this with the Historic Buildings Architects/ Surveyors in our regional office. Please ask the Caseworker dealing with your grant.

**This phase of work will follow on directly from the previous phase and there are costs savings to the project associated with this. If I competitively tender for my professional adviser this will cause a delay and the work will also be delayed. Do I still need to competitively tender?**

You should discuss this with the Historic Buildings Architects/ Surveyors in our regional office. Please ask the Caseworker dealing with your grant

**I did get three quotes for the professional adviser before I appointed the current one but I didn't get formal tenders. Is this ok?**

It may satisfy the regulations. Please ask us.

**I chose an architect from the DAC approved list. Does this count as competitively tendering?**

No. Even if the DAC set up a framework under OJEU, there would still need to be mini-tendering between all those on the framework capable of doing the work.

**Even including Listed Places of Worship grant our grant aided project will receive no more than 50% public funding. Do we need to go through this process?**

You will not be subject to public procurement regulations but we do expect you to obtain value for money by obtaining at least three written tenders. We recommend that you follow the process set out on our website.

**What if the fee for the main professional adviser for the project is under £10,000?**

Contracts under £10,000 in value do not need to be competitively tendered where it can be shown that it would not be cost-effective to do so. However, we would still expect you to demonstrate good value for money.

You should discuss this with the Historic Buildings Architects/ Surveyors in our regional office. Please ask the Caseworker dealing with your grant.





## **I've never carried out a tendering exercise before. How do I do this?**

Our website has guidance documents and suggested formats for the tender documents for you to use if you wish. Please see [www.english-heritage.org.uk/procurement-regulations](http://www.english-heritage.org.uk/procurement-regulations). If in doubt the Historic Buildings Architects and Surveyors in our regional offices will be able to help. Please ask the Caseworker dealing with your grant.

## **If I want to employ someone to undertake the procurement of a professional adviser, would this be a grant eligible cost?**

Yes. We will take reasonable costs for a suitable adviser into account in our financial need assessment. You will need to let the Caseworker dealing with your grant have the details of the costs involved.

## **Can my current professional adviser help me with the procurement process?**

Yes as long as they are not intending to bid themselves.

## **I need to competitively tender before I can start the project development work. Can I have an extension to the project development deadline?**

It should be possible to complete the work required within the deadline even after carrying out the procurement process.

If not we will in principle agree reasonable extensions for this reason. We will deal with any requests for extensions nearer the time when you know what the effect on your timetable is.

## **What factors should be taken into account when conducting a new tender process and making an appointment?**

As well as price, the procurement process should take account of qualifications, relevant experience/knowledge, and resources. It could also take account of, quality of service, communication skills, understanding the needs of the client and any other of issue that would have a bearing on cost effectiveness.

You will need to be able to demonstrate the factors you take into account and how you arrive at a decision to appoint. There are suggested ways of undertaking a procurement process on our website. You should read these before making this decision.

## **I am advertising the contract and don't want to do it online. Where else would be acceptable to you?**

You may advertise in appropriate local/regional press/ journals or online or both. By appropriate we mean relevant trade journals or general press that carries similar advertisements that is likely to be seen by potential candidates.





There may be a charge for this. Please note that the online service provided by Churchcare is free as is advertising Delta e-solutions. Further details are on our website.

**You suggest using the CIC contract conditions but I would rather use the RIBA contract conditions. Can I do this?**

We have used the CIC contract so that it can be used by both Architects and Surveyors. If you wish to use another form of contract such as the RIBA contract you will then need to make sure that your tender document is tailored to the RIBA contract conditions and that the contract is altered in line with our grant conditions.

**I would like to appoint someone who is not conservation accredited. Is this acceptable?**

No, unless your EH report specifies a main professional adviser who does not need to be conservation accredited.

**What happens if I only get one or two responses to my advert?**

As long as you have advertised in an appropriate place and allowed sufficient time this should be acceptable. Of course the tender you accept will need to meet your criteria.

**What about procurement of a contractor. Do I have to do that too?**

Advertising and seeking tenders for the works will usually be part of the services you ask your architect, building surveyor or quantity surveyor to carry out on your behalf.

You therefore do not have to do the procurement yourself but you can be involved if you wish.

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