ASSESSMENT OF LARGE SCALE, COMPLEX OR INNOVATIVE EXTERNAL CONSULTANCY ASSIGNMENTS

Purpose

1. This letter provides additional guidance for cases involving relatively large scale external consultancy expenditure i.e. around £1m or more, or which are particularly complex or innovative, taking account of recent reports by the Northern Ireland Audit Office (NIAO) and the Northern Ireland Public Accounts Committee (NIPAC); and an Interim Lessons Learnt Report on the NI Direct project. It supplements the general guidance on professional services including external consultancy issued with FD(D) 07/12 on 20 April 2012.

Background

2. The use of professional services, including external consultancy, is important to the running of any large public organisation. Any decision to employ consultants or any other external professional service must be fully justified, the procurement properly conducted, the assignment managed effectively and the costs recorded, all in accordance with the general guidance set out in FD(DFP) 07/12.
Large Scale, Complex and Innovative Consultancy Assignments

3. Many consultancy assignments have costs well below £1m and are relatively uncomplicated. Accordingly, the business cases for these assignments tend to be quite short, and the arrangements for managing them are reasonably straightforward.

4. However, there is a minority of cases involving large scale spending on consultants. These assignments represent major investments in themselves. Some assignments may be relatively complex or innovative, with uncertainties that make it difficult in advance to envisage the precise outcome or to estimate the full scale of the input required. In accordance with the principle of proportionate effort, such very costly, complex or innovative assignments deserve significantly more effort when appraising and managing them.

5. For example, the 10 steps set out in para 3.6.4 of the attachment to FD(DFP)07/12 will still be relevant and should be covered in all large scale, complex or innovative consultancy cases. However, DFP will expect to see them assessed in significantly greater detail when planning to spend around £1m or more on consultants. Greater detail is also likely to be appropriate in less costly cases that are particularly complex or innovative. The external consultancy business case template and checklist may still be used as guidance, but not as justification for submitting a document that is too brief or lightweight. The effort applied to the business case and the detail of documentation should be similar to that for a capital project of comparable cost or complexity.

6. There have been some cases where actual outturn spend on consultancy has been considerably higher than was originally estimated. DFP acknowledges the inherent difficulty in estimating future costs, particularly in cases that involve breaking new ground, but would emphasise that this should be mitigated, as far as possible, by ensuring that cost estimation is given thorough consideration by suitably qualified personnel.
7. That said, I want to emphasise that the key issue in such cases becomes the procurement and management of all associated spend, rather than extent to which it bears comparison to the initial estimate. As such, greater effort should be put into not only the appraisal of large scale, complex or innovative consultancy assignments, but also the arrangements for procuring, managing, monitoring and evaluating them to ensure value for money. It is important that these arrangements are made and implemented by staff with the right qualifications and experience. The same effort should be put into these issues for an external consultancy assignment as befits, for example, a capital project of a similar scale or complexity.

**NIAO & NIPAC Reports on External Consultancy**

8. NIAO published "Use of External Consultants by Northern Ireland Departments: Follow-Up Report" on 15th June 2011. Subsequently, NIPAC published its own report titled "Report on the Use of External Consultants by Northern Ireland Departments: Follow-Up Report" on 18th April 2012. An executive summary of the latter report, together with a link to the full text, may be found at the NI Assembly website [here](#).

9. Departments should note the key conclusions and recommendations of both of these reports and take them into account when developing any external consultancy assignments, and particularly in complex or innovative cases, or where large scale expenditure is in view.

10. I will not attempt to summarise all of the relevant advice given in these reports. It is up to departments themselves to read it and absorb it. However, but I would draw attention to the following specific issues that are emphasised:

   - **Skills Transfer**: Business cases should always give explicit consideration to the potential for transferring skills to the public sector and, particularly for large scale consultancy cases, should include an action plan to ensure that skills transfer is actually delivered. Where skills transfer is not considered practical or appropriate, this should be justified clearly in the business case.

   - **Post Project Evaluation / Lessons Learnt**: It is important that consultancy assignments are evaluated promptly after their completion and that the lessons learnt are shared within the
department and made available to the wider NICS. Evaluations should be open and honest about the success or otherwise of the project and the quality of the consultants' performance.

- **Competitive Tendering / Single Tender Actions**: External consultants should generally be appointed by competitive tendering rather than by single tender actions (also known as direct award contracts). The latter should be used only in exceptional circumstances and in such cases the rationale should be clearly documented and the approval of the Accounting Officer must be obtained.

**NI Direct Interim Lessons Learnt Report**

11. NIAO and NIPAC have urged greater sharing of lessons learnt from experience of dealing with specific cases. Accordingly, I am attaching a copy of the NI Direct Interim Lessons Learnt Report produced in April 2012 as a source of further relevant information and guidance.

12. This report contains a number of lessons and recommendations which are worth considering when developing future external consultancy assignments. They will not all be relevant in every case, but there are some that are likely to apply generally.

13. For example, problems arose because of the project team's lack of understanding of the subtle differences between Competitive Dialogue and Negotiated Procedure. Also, its assumption that the OGC Model Agreement would only require minor tailoring was invalid and proved to be a key reason why additional resources were needed. The lessons arising are likely to be generally applicable ie:

- project teams should be suitably trained in the procurement procedures and models that are relevant to the case in hand; and

- in-house teams for large consultancy projects should include personnel with significant knowledge of or past experience in using these procedures and models.

**Action**

14. Departments should implement the guidance in this letter immediately and also ensure that it is promulgated to and applied by all of the NDPBs, Agencies and other bodies for which they are responsible.
**Enquiries**

15. Enquiries about this guidance should be made in the first instance to Ken McConville (telephone no. 02891858086 or ext 68086) of DFP’s Strategic Policy Division, at Rathgael House.

RICHARD PENGELLY
Strategic Partner Procurement (SPP) Project

Financial Adviser Interim Lessons Learnt Report

19 April 2012
Background

1. NI Direct initiated a Strategic Partner procurement project in July 2011 and received Ministerial and DFP Supply approval for the financial service external business case on 6 September 2011.

2. The procurement commenced in July 2011 and has been progressing well with detailed solutions received from the remaining 3 bidders on 5 April 2012. These are currently being evaluated by the internal technical, financial and commercial teams in conjunction with the external legal and financial advisers.

3. The original business case estimated the amount of external financial consultancy resources required at £70k which was based on assumptions considered by the project board. Some of these assumptions have subsequently proved invalid and were escalated to the interim SRO.

4. This interim report was requested by the DFP Permanent Secretary and lists the summary recommendations followed by a high level review and details about the need for the recommendations.

5. A final Lessons Learnt Report will be developed within one month of contract award covering all of the required areas including an analysis of resource usage and this will be submitted to DFP Finance for review and onward submission to DFP Supply.

Recommendations

6. The following recommendations have been made based on the findings of the review:

   Recommendation 1: that awareness training of the relevant procurement process is provided by CPD to project teams were required.

   Recommendation 2: that more robust analysis is undertaken of the OGC Model Agreement by project teams and CPD to
understand the likely tailoring required prior to completion of any consultancy business case.

Recommendation 3: that more robust analysis is undertaken of the resource estimates required for each phase of the procurement and that these are discussed sooner with the SRO and project board to enable the necessary approvals to be obtained.

Recommendation 4: that more robust analysis is undertaken of the work packages required to see if any can be provided on a fixed priced basis rather than on a time and materials basis.

Recommendation 5: that consideration is given to identifying and training a pool of internal accountants who could evaluate PQQ financial elements and develop the required financial model templates.

Recommendation 6: that consideration is given to identifying, training and retaining a pool of internal staff with some commercial experience to assist in large scale or strategic ICT procurements across the NICS.

Review of Resource Estimate

7. The original business case assumed that the standard OGC Model Agreement for ICT managed service contracts would be used to cover the services required with only minor tailoring required. However, this has not been the case due to the range of services required, the complexity of the proposed deal and the innovative payment mechanisms required.

8. As the dialogue meetings with bidders progressed, the complexities of the issues to be resolved in the procurement become clearer and it was important that experienced specialist advice were available to ensure a robust draft contract was developed. The ability to discuss complex commercial and financial issues with external advisers has
provided a higher level of assurance than would have been achieved with the Authority team alone.

9. In addition, given the proposed call-off arrangements and range of potential payment mechanisms being dialogued (e.g. fixed price, time & materials, outcome based, benefit based, transactional based, mix of the above etc) there was a requirement for additional support during the initial implementation period. The areas discussed included contractual arrangements to enable faster on-boarding of new services (e.g. online services) and proposals around a range of potential channel migration projects.

10. However, this resulted in a significant increase in the number of days to complete the initial phases of the procurement project over the estimate included in the original business case. The table below sets out a comparison of planned versus actual days along with an estimate for the remaining days required:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Planned Days</th>
<th>Planned Cost</th>
<th>Revised Days</th>
<th>Revised Cost</th>
<th>Variance Days</th>
<th>Variance Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase 1 of Competitive Dialogue (ISOS)</td>
<td>18</td>
<td>£18k</td>
<td>14</td>
<td>£17k</td>
<td>-4</td>
<td>-£1k</td>
</tr>
<tr>
<td>Phase 2 of Competitive Dialogue (ISDS)</td>
<td>14</td>
<td>£14k</td>
<td>62</td>
<td>£63k</td>
<td>+48</td>
<td>+£49k</td>
</tr>
<tr>
<td>Phase 3 Final Bid Stage (ISFT)</td>
<td>10</td>
<td>£10k</td>
<td>30</td>
<td>£33k</td>
<td>+20</td>
<td>+£23k</td>
</tr>
<tr>
<td>Phase 4 Appointment / Full Business Case</td>
<td>21</td>
<td>£21k</td>
<td>6</td>
<td>£7k</td>
<td>-15</td>
<td>-£14k</td>
</tr>
<tr>
<td>Phase 5 Contract Finalisation and Award</td>
<td>5</td>
<td>£5k</td>
<td>8</td>
<td>£9k</td>
<td>+3</td>
<td>+£4k</td>
</tr>
<tr>
<td>Phase 6 Post Award Activities</td>
<td>2</td>
<td>£2k</td>
<td>10</td>
<td>£11k</td>
<td>+8</td>
<td>+£9k</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>70</strong></td>
<td><strong>£70k</strong></td>
<td><strong>130</strong></td>
<td><strong>£140k</strong></td>
<td><strong>+60</strong></td>
<td><strong>+£70k</strong></td>
</tr>
</tbody>
</table>

11. The key area that required significantly more financial adviser resources was the Phase 2 of Competitive Dialogue (ISDS) which increased from 14 to 62 days. This was due to the complex nature of the topics that needed dialogued with each of the 3 bidders which required an increase in the number of dialogue rounds from 3 to 5 for each bidder. In addition, there were a large number of due diligence
requests and clarifications raised by bidders on a range of technical and financial areas.

12. The ISDS phase also explored for the first time a wide range of innovative payment arrangements (e.g. outcome based, benefit based etc) and technical solutions (cloud based, capital and resource based funding models etc) that were subsequently dialogued with each bidder and refined down to a more manageable number of variations.

13. This has required significant additional input from the financial advisers to ensure that the financial and commercial arrangements provide the necessary protection for the duration of the contract term (i.e. 7 to 10 years).

14. The project involves a combination of managed ICT, contact centre and specialist business development services (i.e. not just the standard managed ICT services on which the budget was based). The project also involves a hybrid model of service delivery with a combination of authority and contractor staff (for contact centre and business development services) with the additional complexity of secondary TUPE private sector staff transfers. The contract has also needed to be structured to provide flexibility to expand the services provided by NI Direct in future years including provision for new types of services and a range of innovative payment mechanisms.

15. Accordingly, the procurement has required addition time for meetings to scope the authority requirements, contract drafting, meeting preparation and additional dialogue meetings with bidders in respect of each of the following areas:

   a. Schedule 2.1 Services Description
   b. Schedule 2.2 Service Levels
   c. Schedule 2.4 Services Improvement
   d. Schedule 7.1 Charges and Invoicing
   e. Schedule 9.1 Employment
f. Project Agreement clauses

g. Financial model

h. Service credit abatement model

16. The contract also needs to provide a framework type mechanism to enable NI Direct to call-off specialist business development and technical development services from the Contractor to scope, appraise, design and implement new services that may be added to NI Direct over the course of the next 7 to 10 years. These cannot be scoped and priced now and therefore to provide controls over the process and costs of any such development work a new mechanism has been developed to allow such activity to be called-off by the Authority whilst still ensuring value for money.

17. This has also required significant addition time for meetings to scope the authority requirements, contract drafting, meeting preparation and additional dialogue meetings with bidders in respect of each of the following areas:

   a. a new Schedule 12 covering arrangements for NI Direct, Departments and the wider NI public sector to procure, pay and manage the call-off specialist business and ICT services

   b. new terms and conditions for these call-off services

   c. bespoke evaluation criteria and methodology

   d. additional financial model templates and guidance

18. During Phase 2 of Competitive Dialogue (ISDS) internal resources were also involved in the detailed commercial discussions and development of the financial model which helped to transfer new skills from Grant Thornton to members of the project team.

19. Going forward to reduce the use of external financial resources it has been decided to develop both the appointment and full business cases using mainly internal team resources. External financial adviser input
will be limited to providing an accounting opinion and providing the final figures from the financial models.

20. Significant progress has been made in the procurement project with the assistance of the external financial advisers but there remains a need for NI Direct to continue to have access to specialist external financial advisers to ensure the contract (potentially up to £50m) that is put in place for the next 7 to 10 years is robust and provides value for money.

21. NI Direct is confident that the increase in cost of the external financial advisers will be more than offset by the contractual value of the benefit and assurance they will provide. To date this has enabled savings to be negotiated to at least one service area (Flooding Incident Line) which currently costs around £380k p.a. but under the new contract could potentially be provided for around £50k p.a.

Lessons Learnt

22. The above high-level review of the main reasons for the additional financial consultancy days highlights a number of key lessons that can be learnt:

a. The internal team had no prior experience of running procurements under the Competitive Dialogue process. Whilst two had been involved in some of the other Reform programmes (i.e. HR Connect and RecordsNI) neither of these used the Competitive Dialogue process but used the Negotiated Procedure. There was a lack of understanding of the subtle differences between the two procurement processes and this led to additional input being required from both the financial and legal advisers to clarify the most appropriate way forward. This resulted in additional resource input during both the Invitation to Submit Outline Proposals (ISOS) and the Invitation to Submit Detailed Solutions (ISOS) phases;
Recommendation 1: that awareness training of the relevant procurement process is provided by CPD to project teams were required.

b. The assumption that the standard OGC Model Agreement for ICT managed service contracts would only require minor tailoring was an invalid assumption and a key reason why additional resources were required. Significant additional drafting including a complete new schedule had to be developed to cover the range and complexity of services. In future large scale or complex projects should spend more time reviewing the applicability of the OGC Model Agreements and the likely changes required prior to estimating the level of external financial adviser resources required;

Recommendation 2: that more robust analysis is undertaken of the OGC Model Agreement by project teams and CPD to understand the likely tailoring required prior to completion of any consultancy business case.

c. The original resource estimates were based on other managed ICT projects and these proved to be totally inadequate. The original estimate of man-days for the dialogue phases were significantly underestimated given the range of topics, issues and complexity of this procurement. However, the need for further external resources should have been picked up much earlier in the process. Although resource estimates for the ISDS dialogue phase were provided by the external adviser before the phase these had to be revised during the phase due to the range and amount of issues being raised by bidders during dialogue and due diligence sessions. This included a need to increase the number of dialogue rounds from 3 to 5 as well as additional pre-meetings and analysis of bidder proposals. Again some of this additional resource requirement should have been identified and discussed sooner with the SRO and project board to enable timely completion of the amended business case seeking approval of additional resources.

Recommendation 3: that more robust analysis is undertaken of the resource estimates required for each phase of the
procurement and that these are discussed sooner with the SRO and project board to enable the necessary approvals to be obtained.

d. The financial consultancy assignment was tendered on a daily rate basis with no fixed elements due to the uncertainty around the level of resources required and the desire to use as much internal resource as possible. Again if more time had been spent reviewing the actual work required then certain elements could potentially have been included as fixed price elements enabling some risk to be transferred to the external financial adviser.

**Recommendation 4:** that more robust analysis is undertaken of the work packages required to see if any can be provided on a fixed priced basis rather than on a time and materials basis.

e. The lack of experienced internal staff who could undertake some of the roles provided by the external financial consultant team forced the project to buy in this expertise from the private sector. Given the number of large scale ICT procurements that occur across the NICS each year some consideration should be given to developing a pool of internal accountancy and financial modelling expertise who could undertake some of the roles provided by external financial/commercial consultants. NI Direct used accountancy resources from ISID and DFP Finance to undertake the initial PQQ financial evaluation of bidders but were unable to find experienced internal staff to develop the required financial model templates although this was provided by an external accountant.

**Recommendation 5:** that consideration is given to identifying and training a pool of internal accountants who could evaluate PQQ financial elements and develop the required financial model templates to support complex procurements.

f. There is also a lack of experienced internal staff who could undertake the commercial adviser role provided by the external financial consultant team. Whilst the NI Direct Programme Director has significant commercial experience in negotiating contracts
including payment mechanisms, service credit regimes, limits of liability etc there is a lack of commercial experience elsewhere within the team and the wider NICS. Individuals who have been through large scale and complex procurements involving detailed commercial discussions tend to either revert to their previous day job or are re-allocated to another business area following contract award. Given the number of large scale ICT procurements that occur across the NICS each year some consideration should be given to developing a pool of internal commercial expertise who could undertake some of the roles provided by external financial/commercial consultants for large scale or strategic ICT procurements.

Recommendation 6: that consideration is given to identifying, training and retaining a pool of internal staff with some commercial experience to assist in large scale or strategic ICT procurements across the NICS.