**STFC Procurement Guidance Note – exception for the need to tender under the Public Contracts Regulations**

STFC is a contracting authority within the meaning of The Public Contracts Regulations 2015 (“PCR 2015”). As such, procurement of public contracts by the STFC must ordinarily be undertaken in compliance with PCR 2015 unless an exception applies.

**Use of an International Organisation’s procurement regulations**

One (rare) exception to the need to tender within the PCR exists if the item to be procured is to fulfil a contract that STFC has with a partner/customer which is an International Organisation (examples include ESA and CERN) ***and*** if that organisation demands (in writing) that STFC follow that organisations specific procurement rules. In that case STFC must strictly follow the customer’s procurement rules which, typically, will be of a very similar nature to that of the PCR. In these cases advice should be sort from the STFC Procurement group as to how to proceed.

**Collaboration arrangements with no further need to tender**

In cases where STFC make a bid for a contract jointly with another organisation or multiple organisations and when the tendering organisation are undertaking the tender within PCR 2015 (or if they are an International Organisation using their procurement regulations) then there is no need for STFC to follow PCR 2015 for the goods or services rendered by the collaborating parties. The reason for this is because the collaborative bid has already been part of a regulated competition by way of the customer tender action itself.

A few key issues to consider in this situation:

* This “no further need to tender” situation is ONLY applicable if;
  + the supplier and products / services have been clearly identified in the original bid
  + the customer is a contracting authority or an international organisation
* To assist in clarifying the situation it is advisable to clearly identify bids as a collaboration in the text of the bid (Legal and Commercial will assist)
* Any supply or supplier identified outside or after the bid to customer must be procured in compliance with PCR 2015

This situation is somewhat unusual and might easily be misinterpreted. To ensure the smooth implementation of each instance all such cases should be passed to the STFC Procurement group for approval before raising a requisition to UKSBS.

Gary Robbins

Head of Procurement