



Financial and Procurement Regulations 2020-21

1.	Introduction	2
2.	Part 1 – Financial Regulations	3
3.	Financial Control.....	4
4.	Accounting Arrangements	7
5.	Audit Requirements	9
6.	Treasury Management.....	11
7.	Income.....	12
8.	Expenditure	13
9.	Pay Expenditure	18
10.	Assets.....	20
11.	Funds Held on Trust	21
12.	Other.....	21
13.	Part 2 - Procurement Regulations	23
14.	Standards of Conduct	24
15.	Responsibilities.....	25
16.	Formal Tendering Procedure	28
17.	Formal Quotation Procedure	29
18.	Selecting Potential Tenderers.....	31
19.	Inviting tenders	33
20.	Receiving Tenders.....	35
21.	Opening and Recording Tenders.....	35
22.	Late Tenders.....	36
23.	Assessing Tenders	36
24.	Accepting and Rejecting Tenders	37
25.	Negotiating	38
26.	Awarding a Contract	38
27.	Publication of Contract Details.....	39
28.	European Procurement Rules.....	40
29.	Awarding Contracts Subject to the European Procurement Rules	41



30.	Framework Contracting	42
31.	Other Procurement Procedures	43
32.	Waivers and Exemptions from NMITE’s Procurement Regulations	43
33.	Glossary of Terms	45
	Appendix A – Key Contacts in Finance	46
	Appendix B – Summary of Protocols for Proposed Capital Expenditure	47
	Appendix C – Summary of Protocols for Proposed Major Deveopments	48
	Appendix D – Capital Request Form	49
	Appendix E – Main Features of the Public Interest Disclosure Act 1998	52
	Appendix F – The Seven Principles of Public Life (The Nolan Report).....	54
	Appendix G – Fraud Response Plan	55

1. Introduction

1.1 These Financial & Procurement Regulations reflect NMITE’s position as a registered charity; a public body in receipt of public money and subject to the seven principles of public life, Treasury principles, guidance on managing public money; and a higher education institution registered by the Office for Students as an approved provider.

1.2 In these Financial & Procurement Regulations:

Any reference to:

- i. the “FD” is to the Finance Director.
- ii. the “Finance Team” is the team of staff members designated as such by, and reporting to, the Finance Director. The members of the Finance Team and their different roles are set out in Appendix A.
- iii. a “designated budget holder” is a budget holder specified in the annual budget and approved by the Board.
- iv. the “SLT” is NMITE’s Senior Leadership Team, comprising the CEO, the Chief of External Engagement, the Chief Academic Officer and the Chief Operating Officer; and to the “wider SLT” is the SLT together with the Finance Director, the Human Resources Director, and the Academic Registrar & Company Secretary.
- v. “staff” are the employees and contracted staff members of NMITE and includes the SLT members unless otherwise specified
- vi. “Xero” is NMITE’s accounting system



- vii. the “FRC” is the Finance and Resources Committee of the Board
 - viii. the “PIC” is the Property and Infrastructure Committee of the Board
 - ix. a “year” is NMITE’s financial year 1 August to 31 July, unless otherwise specified or the context otherwise requires.
- 1.3 All monetary amounts are stated exclusive of value added tax unless otherwise specified.

2. Part 1 – Financial Regulations

2.1 Financial Planning

- 2.1.1 The Finance Director, supported by the Finance Team, is responsible for preparing annually a financial plan for approval by the Board and for preparing financial forecasts for monitoring purposes. Financial plans should be consistent with the strategic plans and property strategy approved by the Board.

2.2 Budget objectives

- 2.2.1 The Board will, from time to time, set budget objectives for NMITE. These will help the FD in preparing a more detailed financial plan for NMITE. See budget cycle in paragraph 2.3.

2.3 Resource allocation

- 2.3.1 Resources are allocated annually by the Board and on the basis of the budget objectives. The CEO and the wider SLT are responsible for the economic, effective, and efficient use of resources allocated to them.

2.4 Budget preparation

- 2.4.1 The FD in collaboration with the wider SLT members is responsible for preparing in respect of each year an annual revenue budget and capital programme for submission to the Board. The budget should also include monthly cash flow forecasts for the year and a projected year-end balance sheet.
- 2.4.2 During the year, the FD is responsible for preparing revised budgets and forecasts to reflect material changes in NMITE’s actual or anticipated income and expenditure and submitting these to the Board for approval.

2.5 Capital programme

- 2.5.1 The capital programme includes all expenditure on land, buildings, digital infrastructure and related software and equipment, furniture, and associated costs whether or not they are funded from capital grants or capitalised for inclusion in NMITE’s financial statements. Expenditure can only be considered as part of the capital programme if approved as such by the Board.
- 2.5.2 The FD will establish protocols for the inclusion of capital projects in the capital programme for approval by the Board. These will detail the information that is required for each proposed project as well as the financial criteria that they are required to meet. These are summarised in Appendix B.



- 2.5.3 Requests for capital should be made using the 'Request for Capital Expenditure' form. This is set out in Appendix D.
 - 2.5.4 The FD will also establish procedures for the approval of variations to budgeted capital expenditure.
 - 2.5.5 The FD in conjunction with the Head of Estates is responsible for providing regular statements concerning all capital expenditure to the Board for monitoring purposes.
 - 2.5.6 Following completion of a capital project, a post-project evaluation or final report should be submitted to the Board including actual expenditure against budget and reconciling funding arrangements where a variance has occurred as well as other issues affecting completion of the project.
 - 2.5.7 The Head of Estates will be responsible for individual capital development projects reporting to the FRC on the progress of each development and for the capital programme overall. The COO, supported by the FD, will report on financial implications, provide support on funding and financing of projects, make the necessary grant claims as well as providing the necessary financial monitoring.
- 2.6 Other major developments**
- 2.6.1 Any new aspect of NMITE's business, or the proposed establishment by NMITE of any joint venture or other commercial venture, which will require an investment in buildings or other infrastructure or any material commitment of resources or staff time should be presented for approval to the Board.
 - 2.6.2 The COO will establish protocols for these major developments to enable them to be considered for approval by the Board. These will set out the information that is required for each proposed development as well as the financial criteria that they are required to meet. They are summarised at Appendix C.

3. Financial Control

3.1 Budgetary control

- 3.1.1 The control of income and expenditure within an agreed budget is the responsibility of the designated budget holder who must ensure that day-to-day monitoring is undertaken effectively.
- 3.1.2 Significant departures from agreed budgetary targets must be reported by the budget holder immediately to the CEO and, if required, corrective action taken.
- 3.1.3 The FRC is charged with monitoring the annual budget and the budgetary position of all projects included in the Capital Programme. Project Implementation Programme Reports will be provided to the FRC on a monthly basis for monitoring of performance and the Chair of the FRC will report on performance monthly to the Board. The Project Implementation Programme Reports will provide analysis on financial progress, variations to plan and on the performance and achievability of outcomes in line with any external stakeholder



KPIs. Notwithstanding the monthly report to the Board, it will be the responsibility of the FRC to challenge officers on performance.

3.2 Financial information

3.2.1 Budget holders are assisted in their duties by management information provided by the FD and the Finance Team.

3.2.2 The FD is responsible for supplying budgetary reports on all aspects of NMITE's finances to the Board on a basis determined by the Board but subject to any specific requirements of external stakeholders. These reports are presented to the Board, which has overall responsibility for NMITE's finances.

3.2.3 The CEO in consultation with the wider SLT members and FD are responsible for:

- i. Setting the Annual Budget.
- ii. Long Term Financial Planning; and
- iii. The process of approving the Annual Accounts.

3.3 Budget cycle

The timetable below shows the main stages of the Budget Planning Round.

Month/Year	Activity
Jun/Jul	<p>Formal planning guidance issued by the CEO/FD. This will provide the reported position and any variations on stipulated grant funding profiles.</p> <ul style="list-style-type: none">▪ Changes to accounting practice.▪ Budgeting metrics to be used for the forthcoming academic year e.g. inflation indices and interest rates.▪ Use of unspent balances

Jul-Dec	<ul style="list-style-type: none"> ▪ Budget holders prepare the financial forecasts for their respective areas of responsibility in line with the management cost centres in the Chart of Accounts and other institutional wide programmes. ▪ The involvement of the FD and the Finance Team in this process is paramount with control remaining a key role in the first budgetary cycle. Devolving more responsibility to the budget holders will happen as the organisation becomes more mature and the risks associated with financial planning are minimised. ▪ The financial forecast is reviewed and approved by the CEO in consultation with the wider SLT members. ▪ The financial forecast is submitted to the FRC for scrutiny, and any other external funding bodies. ▪ All comments are then passed to the FD for final approval of the budget by the Board.
Sep/Oct	<p>Actual income and expenditure for the last financial year is analysed by the Finance Team into the same activity categories as used in planning.</p>
Beginning of Dec	<p>Submitted to the FRC and Regulatory Bodies</p> <ul style="list-style-type: none"> ▪ Financial forecasts including Annual Revenue Budget, Capital programme and Cash flow. ▪ Student number forecasts (when planned) ▪ Every three years - Strategic Plans
Mid Dec	<p>Feedback from the FRC and Regulatory Bodies</p> <ul style="list-style-type: none"> ▪ Review financial forecasts submitted ▪ Consolidate individual feedback ▪ Create NMITE wide analyses of income and expenditure <p>Board</p> <ul style="list-style-type: none"> ▪ Develop and review Strategic Plans ▪ Review and consolidate forecast of non-financial data and reassessed target setting for the Project Implementation Plan
Jan/Feb	<p>Strategic Plans are reviewed.</p> <ul style="list-style-type: none"> ▪ FRC and PIC review the strategies

Feb/Mar	Finance <ul style="list-style-type: none"> ▪ Considers plans i.e. Financial (wider SLT), Strategic (SLT), Fundraising (Head of Fundraising), Income Generation Strategy (Chief of External Engagement) ▪ Agrees provisional allocations to designated budget holders, and the Head of Estates re the Project Implementation Plan
Apr	FRC considers Plans and Allocations
May	FRC/PIC to consider Plans and Allocations and make recommendations to the Board
May/Jun	Budget Report approved by the Board after considerations from the FRC and the Board
Jun	Budget Report in the public domain and sent to Regulatory Bodies
Jul/Aug	Departmental budgets produced by FD and passed to budget holders
Aug	Budgets uploaded into Xero by Finance Administrator.

3.4 Changes to the approved budget; and virement

- 3.4.1 All changes proposed to the approved budget will be considered by the FRC and material variations must be approved by the Board.
- 3.4.2 All virements will need approval by the FRC.
- 3.4.3 Any budget variations or virements affecting the use of public funds must be reported relevant funders.

3.5 Treatment of year-end balances

- 3.5.1 At the year end, budget holders will not generally have the authority to carry forward a balance on their budget to the following year unless the FRC has approved the proposal.
- 3.5.2 Unspent public funds may not be carried forward from one fiscal year to the next unless requested to and approved by the relevant funding body.

4. Accounting Arrangements

4.1 Financial year

4.1.1 NMITE's financial year will run from 1 August until 31 July the following year.

4.2 Basis of accounting

4.2.1 The financial statements are prepared on the historical cost basis of accounting and in accordance with applicable accounting standards and guidelines, in particular meeting the statutory obligations including the current HE/FE SORP and Charities SORP and such requirements defined by the Office for Students.

4.3 Capitalisation and depreciation

4.3.1 New land and buildings will be recorded in the balance sheet at actual build or acquisition cost, except where they are received as gifts, where they will be recorded at an independent valuation. Buildings will be depreciated in equal instalments over their estimated remaining useful life. Land will not be depreciated.

4.3.2 Expenditure incurred on repair or refurbishment may not be capitalised unless it can be demonstrated that the resultant value of the building, on the basis of the depreciated valuation is greater than the current book value. The extension of existing buildings may be capitalised.

4.3.3 Expenditure incurred on the acquisition of assets other than land and buildings will be recorded in the balance sheet where the acquisition cost per item is £1,000 or more. Grouped items with an individual value of less than £1,000, but a group value of £1,000 or more, will be capitalised. Capitalised assets other than land and buildings will be depreciated over a period of between 3 and 10 years commencing in the month following acquisition (provided that they have brought into use).

4.4 Accounting & Administrative records

4.4.1 The FD is responsible for the retention of financial documents. These should be kept in a form that is acceptable to the relevant authorities such as the Charity Commission; Office for Students and HMRC.

4.4.2 NMITE is required by law to retain prime documents for six years or more. These include:

- i. minutes and contracts
- ii. official purchase orders
- iii. paid invoices
- iv. accounts raised
- v. bank statements
- vi. copies of receipts
- vii. paid cheques
- viii. all payroll records.



- 4.4.3 The FD will make appropriate arrangements for the retention of electronic records.
- 4.4.4 The FD should ensure that retention arrangements comply with any specific requirements of any donor or public funding body.
- 4.4.5 Additionally, for auditing and other purposes, other financial documents should be retained for three years or as determined by the donor/funder.

4.5 Public access

- 4.5.1 Under the Charities Act 2011, the Board is required to supply any person with a copy of NMITE's most recent financial statements within two months of a request. The Act enables the Board to levy a reasonable fee and this will be charged at the discretion of the CEO.
- 4.5.2 NMITE will make available on its website a copy of the most recent financial statements.

4.6 Taxation

- 4.6.1 The CEO, supported by the FD, is responsible to NMITE in respect of all tax considerations arising from the activities of budget holders, in the light of guidance issued by the appropriate bodies and relevant legislation as it applies to NMITE. Therefore, the FD will issue instructions on compliance with applicable legislation and guidance, including those concerning VAT, PAYE, national insurance, corporation tax and Gift Aid.
- 4.6.2 The FD is responsible for maintaining NMITE's tax records, making all tax payments, receiving tax credits, and submitting tax returns by their due date as appropriate.

5. Audit Requirements

5.1 General

- 5.1.1 External auditors shall have authority to:
 - i. access NMITE premises at reasonable times
 - ii. access all assets, records, documents, and correspondence relating to any financial and other transactions of NMITE
 - iii. require and receive such explanations as are necessary concerning any matter under examination
 - iv. require any member of staff, contractor, or Board member of NMITE to account for cash, stores, equipment or any other NMITE property under his or her control
 - v. access records belonging to third parties, such as contractors, when required.
- 5.1.2 The CEO, supported by the FD, is responsible for drawing up a timetable with the external auditors for the preparation of NMITE's annual financial statements and will advise its staff and the Board accordingly.

5.1.3 The financial statements should be reviewed by the Audit & Risk Committee and, on their recommendation will be submitted to the Board for approval.

5.2 External audit

5.2.1 The appointment of external auditors to audit the annual financial statements of NMITE will take place every three years and is the responsibility of the Board. The Board will be advised by the Audit & Risk Committee.

5.2.2 The primary role of the external audit is to report on NMITE's financial statements and to carry out such examination of the statements and underlying records and control systems as are necessary to reach their opinion on the statements and to report on the appropriate use of funds. Their duties will be in accordance with advice set out in the relevant audit code of practice and the Auditing Practices Board's statements of auditing standards.

5.3 Internal Audit

5.3.1 The appointment of internal auditors is an important element in the corporate governance framework of a provider of higher education. NMITE will appoint an internal audit partner for a period of three years, who will work alongside the FD and the wider SLT to provide objective assurance and insight on the effectiveness and efficiency of risk management, internal control and governance process.

5.3.2 A robust internal audit work programme will be presented to the Audit & Risk Committee every July / August for approval, and the outcomes reported at appropriate intervals.

5.4 Fraud and corruption

5.4.1 It is the duty of each member of staff and each member of the Board and its committees to notify the CEO or, if the matter concerns the CEO, the Chair of the Board immediately whenever any matter arises which involves, or is thought to involve, irregularity, including fraud, corruption or any other impropriety.

5.4.2 The CEO shall immediately invoke the fraud response plan, which incorporates the following key elements (see Appendix E for Public Interest Disclosure Act 1998, Appendix F the Seven Principles of Public Life, and Appendix G Fraud Response Plan for fuller details):

- i. the CEO shall inform the Chair of the Board and the Chair of the Audit & Risk Committee of the suspected irregularity and shall take such steps as he or she considers necessary by way of investigation and report
- ii. the CEO (or an appropriate person) shall inform the police if a criminal offence is suspected of having been committed
- iii. the Audit & Risk Committee shall commission such investigation as may be necessary of the suspected irregularity
- iv. those commissioned to carry out an investigation, shall prepare a report for the Audit & Risk Committee on the suspected irregularity. Such report shall include advice on preventative measures.



5.5 Value for money

5.5.1 NMITE should keep under review its arrangements for managing all the resources under its control through the Audit & Risk Committee, taking into account guidance on good practice issued from time to time by public bodies relevant to NMITE, including the principles and guidance published by HM Treasury on managing public money.

5.6 Other auditors

5.6.1 NMITE may, from time to time, be subject to audit or investigation by external bodies such as the Office for Students, the Charity Commission, the Public Accounts Committee, the European Court of Auditors and HM Revenue and Customs. They have the same rights of access as external auditors.

6. Treasury Management

6.1 Treasury management strategy.

6.1.1 The Board is responsible for approving a treasury management strategy (if it has long term borrowings or significant reserves to invest) setting out the policies for cash management, long-term investments, and borrowings. The Board has a responsibility to ensure implementation, monitoring and review of such policies.

6.1.2 All executive decisions concerning borrowing, investment or financing will be determined by the policy parameters set by the FRC and approved by the Board and an appropriate reporting system set up to monitor performance of investments made. The CEO will report to the Board in each financial year on the activities of the treasury management operation and on the exercise of treasury management powers delegated to him or her (including a Mid-Year Monitoring Report and an Annual Report on the past year's performance). The CEO, with the Board's approval, will require external expert advice on developing and managing an investment strategy.

6.2 Appointment of bankers and other professional advisers

6.2.1 The Board is responsible for, or for approving the process for, the appointment of NMITE's bankers and other professional advisers (such as investment managers, if required). The appointment shall be for a specified period after which consideration shall be given by the Board to competitively tender the service.

6.3 Banking arrangements

6.3.1 Only the FD may open or close a bank account for dealing with NMITE's funds (by strict instruction from the Board). All bank accounts shall be in the name of NMITE.

6.3.2 All banking arrangements, borrowing or other financial transactions, including any banking overdraft facility, should be approved by the FRC.



6.3.3 The upper limit of electronic transactions is currently set at £50,000 per transaction.

6.3.4 The FD is responsible for ensuring that all bank accounts are subject to regular reconciliation.

7. Income

7.1 General

7.1.1 Levels of charges for learning courses, consultancy, contract research and other services provided and the level of rent charged for any property or facilities which are let or otherwise made available to third parties, are determined by procedures approved by the Board.

7.1.2 Any project for which grant funding is or might be available, but which gives rise to a matched funding commitment in order to access that funding must be approved by the Board before any commitment is entered into. Such approval shall be dependent upon eligible matching funds being prospectively available and on the project being financially viable according to the application of NMITE's costing and pricing policy. The FD is responsible for submitting bids for funding, subject to approval by the Board; and where successful, for submitting income or drawdown claims.

7.2 Maximisation, collection, and receipt of income

7.2.1 The FD is responsible for NMITE's invoicing and collection procedures and in particular for ensuring that all debtors are required to make payment directly to NMITE's bank account or otherwise directly to NMITE's finance/administration office. The arrangements for the collection of tuition fees are detailed in the Fee Collection Policy.

7.2.2 It is the responsibility of all members of staff to ensure that revenue to NMITE is maximised by the efficient application of agreed procedures for the identification, collection, and banking of income. In particular, this requires the prompt notification to the FD of sums due so that collection can be initiated.

7.2.3 All monies received from whatever source must be recorded by the Finance Team on a daily basis together with the form in which they were received.

7.2.4 All sums received at NMITE's finance/administration office must be paid promptly directly into NMITE's bank account.

7.2.5 The FD should ensure that:

- i. accounts receivable are invoiced promptly on official invoices, in respect of all income due to NMITE
- ii. invoices are prepared with care, recorded on Xero, show the correct amount due and are credited to the appropriate income account
- iii. any credits granted are valid, properly authorised, and completely recorded
- iv. VAT is correctly charged where appropriate, and accounted for



- v. monies received are posted to the correct debtor's account
- vi. swift and effective action is taken in collecting overdue debts
- vii. outstanding debts are monitored, appropriately aged and reports are prepared for management.

7.2.6 Only the FD can implement credit arrangements and indicate the periods in which different types of invoice must be paid. i.e. those transactions that require a credit period of more than 30 days.

7.2.7 Requests to write off debts must be referred in writing to the FD for submission to the FRC for consideration and possible write-off.

8. Expenditure

8.1 General

8.1.1 The FD is responsible for the Procurement Regulations in accordance with which goods and services must be purchased, and for making payments to suppliers of goods and services supplied to NMITE

8.2 Authorisation of the purchase of goods and services

8.2.1 The CEO and designated budget holders are responsible for purchases within his or her area of responsibility. Purchasing authority may **not** be delegated to any other individual within NMITE. In exercising this delegated authority, budget holders are required to observe the Procurement Regulations. The Board will review the approved budget holders on an annual basis.

8.2.2 The FD shall keep a record of the authorised signatories (budget holders). The budget holders must supply him or her with their specimen signatures authorised to certify invoices for payment.

8.2.3 Budget holders are not authorised to commit NMITE to expenditure without first reserving from their budget sufficient funds to meet the purchase cost.

8.2.4 All purchases shall require the approval of the relevant budget holder.

8.2.5 NMITE requires the budget holders, irrespective of the source of funds, to obtain goods and services on the basis of value for money, demonstrating a balance between the most economically advantageous offer and consideration of quality, design delivery requirements and sustainability. Factors to be considered in determining value for money are set out in more detail in the Procurement Regulations.

8.3 Purchase orders

8.3.1 The ordering of goods and services shall be in accordance with NMITE's Procurement Regulations.

8.3.2 Official NMITE purchase orders must be placed for the purchase of all goods or services, except for personal expenses claims by members of staff, the Board and its committees for travel, accommodation, and subsistence.



8.3.3 In exceptional circumstances, urgent orders may be given orally, but must be confirmed by an official purchase order endorsed 'confirmation order only' not later than the following working day. The FD shall ensure that the form of purchase order requires the supplier to include the purchase order number in the relevant invoice and to send the invoice to the finance/administration office. Invoices will be returned to suppliers unless an NMITE purchase order number is referenced.

8.4 Company credit cards

8.4.1 In certain circumstances it may be appropriate to pay for goods or services on an NMITE company credit card (of which there are five, four are held by members of the SLT and 1 in the Finance Office).

8.4.2 These cards can be used to pay for minor items of expenditure such as rail tickets and subsistence and also other expenses which can only be paid on-line and must be supported by receipts which are submitted to the Finance Team every month so that the costs can be allocated correctly in Xero.

8.4.3 Other members of NMITE team may request to use the company credit card, but, as above, must support all purchases with receipts.

8.4.4 The credit card statements will be reconciled on a monthly basis by the Finance Team and all costs posted to Xero.

8.5 Tenders and quotations

8.5.1 Budget holders must comply with NMITE's tendering procedure set out in the Procurement Regulations.

8.6 Post-tender negotiations

8.6.1 The Procurement Regulations make it clear that post-tender negotiations (i.e. after receipt of formal tenders but before signing of contracts) with a view to improving price, delivery or other tender terms can be entered into, provided:

- i. it would not put other tenderers at a disadvantage
- ii. it would not have attracted different tenderers to participate in the process
- iii. it would not affect their confidence in NMITE's tendering process.

8.6.2 However, complex rules govern post tender negotiations and the advice of the FD should be sought prior to commencing negotiations in accordance with the Procurement Regulations [16.3 below]. In each case, a statement of justification should be approved by the budget holder before doing so, showing:

- i. background to the procurement
- ii. reasons for proposing post-tender negotiations
- iii. demonstration of the improved price, delivery, or other tender terms.

8.7 Building (works) Contracts



- 8.7.1 Building (works) contracts are the responsibility of the Head of Estates and are administered by the Procurement Clerk.
- 8.7.2 Proposals will normally be initiated by the Head of Estates in respect of planned replacements and general maintenance, repair, refurbishment, and improvement schemes.
- 8.7.3 Proposals shall be presented in the form of costings or investment appraisals prepared for consideration by the FD. Investment appraisals should comply with the appropriate HM Treasury guidance.
- 8.7.4 Following consideration and approval by the FD, submissions should be forwarded to the relevant funding body for approval where appropriate in accordance with the relevant grant funding agreement. If the required agreement is secured from the funding body, NMITE will comply with the funding body procedural rules. Funding body guidance on best practice should be followed even when funding body approval is not required.
- 8.7.5 All contracts will be tendered in accordance with the Procurement Regulations. As for purchases of goods and services generally, NMITE will assess proposals and make its selection on the basis of value for money, demonstrating a balance between the most economically advantageous offer and consideration of quality, design delivery requirements and sustainability. Factors to be considered in determining value for money are set out in the Procurement Regulations.

8.8 EU Procurement Rules

- 8.8.1 The FD is responsible for ensuring NMITE complies with its legal obligations concerning EU procurement legislation. EU procurement principles of equal treatment, non-discrimination and proportionality apply to all contracts, regardless of value. However, specific EU procurement rules apply to all contracts with a total value exceeding a threshold value. These rules are described in some detail in the Procurement Regulations.
- 8.8.2 The FD will advise budget holders on the thresholds that are currently in operation. A breach of the EU procurement rules is actionable by a supplier or potential supplier.
- 8.8.3 It is the responsibility of the budget holders to ensure that they and their staff/advisers comply with EU procurement rules by notifying the FD of any potential purchase that is likely to exceed the applicable threshold. This will need to be done well in advance in order to permit advertisements in journals such as the *Official Journal of the European Union* (OJEU).

8.9 Receipt and acceptance of goods and services

- 8.9.1 All goods shall be received at designated receipt and distribution points. They shall be checked for quantity and/or weight and inspected for quality and specification. A delivery note shall be obtained from the supplier at the time of delivery and signed by the person receiving the goods.

- 8.9.2 All goods received shall be entered onto an appropriate goods received document or electronic receipting system on the day of receipt. For the purposes of NMITE's internal procedures the relevant budget holder will, by authorising payment for the goods, be deemed to confirm that the goods are of the expected quantities and quality.
- 8.9.3 If the goods are deemed to be unsatisfactory, the record shall be marked accordingly, and the supplier immediately notified so that they can be collected for return as soon as possible. Where goods are short on delivery, the record should be marked accordingly, and the supplier immediately notified.
- 8.9.4 In the case of services, the relevant budget holder must be satisfied that the services have been delivered in accordance with the relevant contract; and for the purposes of NMITE's internal procedures the budget holder will by certifying the invoice for the services for payment be deemed to confirm that that is the case.

8.10 Payment of invoices

- 8.10.1 The details of each invoice should be entered on Xero to start the process of accounting and recording the age of the invoice and the appropriate charge in the accounts.
- 8.10.2 The procedures for making all payments shall be specified by the FD with all invoices being sent directly to NMITE's finance/administration office and **not** to the budget holders. The FD will make arrangements for authorisation which ensure that at no time should the original invoice leave NMITE's offices.
- 8.10.3 The FD is responsible for deciding the most appropriate method of payment for categories of invoice. Payments to UK suppliers will normally be made by bank transfer every second week.
- 8.10.4 Budget holders are responsible for ensuring that expenditure within their areas of responsibility does not exceed funds available in accordance with their budget. In the event they materially exceed their budget the Chair of the FRC may suspend the delegated authority of the budget holder, on the advice of the FD, to incur further expenditure. Such delegated authority may not be reinstated, if at all, until the situation has been regularised.
- 8.10.5 This will be done by observing the following priorities:
- i. Budget holder and the FD to complete a revised budget for the year
 - ii. The expenditure is brought into line during the year to meet the expected (prudent assessment) income for the rest of the year.
- 8.10.6 If NMITE enters a period of financial difficulty and worsening cashflow then the following rules for the payment of creditors will be followed:
- i. Income received during this period will first go to paying staff salaries and related taxes and essential operational expenditure to keep NMITE operational
 - ii. If there is excess income after a. then regular/operational creditors should be paid for the current period



- iii. If there is excess income after a. and b. then the aged creditors should be paid
- iv. After payment of the aged creditors, sufficient reserves should be built up to meet 3 months operational expenditure (i.e. a.+ b.).

8.10.7 Care must be taken by the budget holder to ensure that discounts receivable are obtained.

8.10.8 Payments will only be made by the FD against invoices that have been certified for payment by the appropriate budget holder and authorised for payment by the relevant SLT member.

8.10.9 Certification of an invoice will ensure that:

- i. the goods have been received, examined, and approved with regard to quality and quantity, or that services have been delivered, or work done, in accordance with the contract
- ii. where appropriate, it is matched to the purchase order
- iii. invoice details (quantity, price discount) are correct
- iv. the invoice is arithmetically correct
- v. the invoice has not previously been passed for payment
- vi. where appropriate, an entry has been made on a stores record or inventory.

8.11 Director/Staff reimbursement

8.11.1 NMITE's purchasing and payments procedures are in place to enable most supplies to be procured and paid for directly by NMITE without staff members having to incur any personal expense. However, on occasion, staff members may incur expenditure directly on NMITE's behalf, most often in relation to travel, and are entitled to reimbursement.

8.12 Petty cash

8.12.1 The CEO shall make available to budget holders such imprests as he or she considers necessary for the disbursements of petty cash expenses. However, it is important for security purposes that petty cash imprest floats are kept to a minimum.

8.12.2 Requisitions for reimbursements must be sent to the Finance Administrator, together with appropriate receipts or vouchers, before the total amount held has been expended, in order to retain a working balance pending receipt of the amount claimed.

8.12.3 Anyone granted a float is personally responsible for its safe-keeping. The petty cash box must be kept locked in a secure place in compliance with the requirements of NMITE's insurers when not in use and will be subject to periodic checks by the FD.

8.12.4 At the end of the financial year a certificate of the balances held should be completed by the budget holder responsible for the float and counter-signed by the Finance Director.



8.13 Late payment rules

8.13.1 The Late Payment of Debts (Interest) Act 1998 was introduced to give small businesses the right to charge interest on late payments from large organisations and public authorities. Key points are:

- i. small businesses can charge interest on overdue invoices
- ii. the rate of interest is currently 8% per annum above the official daily rate of the Bank of England
- iii. the Act also applies to overseas organisations
- iv. NMITE can be sued for non-payment.

8.13.2 In view of the penalties in this Act, the Board requires that authorised invoices must be passed for payment in time to ensure that payment is made within the specified credit period subject to funds being available.

9. Pay Expenditure

9.1 Remuneration policy

9.1.1 All NMITE staff will be appointed to the salary scales approved by the Board and in accordance with appropriate conditions of service. All letters of appointment must be issued by the Human Resources Director, other than in respect of members of the SLT. SLT contracts shall be issued by the Board.

9.1.2 The Board will determine what other benefits, such as pensions and medical and life insurance, are to be available, the basis of their provision (contributory or not) and the staff to whom they are to be available.

9.2 Appointment of staff

9.2.1 All contracts of service shall be concluded in accordance with NMITE's approved human resource practices and procedures and all offers of employment with NMITE shall be made in writing by the appropriate budget holder. Budget holders shall ensure that the Human Resources Director is provided promptly with all information they may require in connection with the appointment, resignation, or dismissal of employees.

9.3 Salaries and wages

9.3.1 The FD is responsible for all payments of salaries and wages to all staff including payments for overtime or services rendered. Salaries will be paid on the fifteenth day of every month except when the fifteenth day is a Saturday or Sunday, in which case salaries will be paid on the Friday preceding.

9.3.2 The budget holders will be responsible for keeping the Finance Team informed of all matters relating to human resources for payroll purposes. In particular these include:

- i. appointments, resignations, dismissals, supervisions, secondments, and transfers



- ii. absences from duty for sickness or other reason, apart from approved leave
- iii. changes in remuneration other than normal increments and pay awards
- iv. information necessary to maintain records of service for pensions, income tax and national insurance.

9.3.3 The FD is responsible for payments to non-employees and for informing the appropriate authorities of such payments. All casual and part-time employees will be included on the payroll.

9.3.4 The FD shall be responsible for keeping all records relating to payroll including those of a statutory nature.

9.3.5 All payments must be made in accordance with NMITE's payroll procedures and comply with HM Customs & Revenue regulations.

9.4 Pension schemes

9.4.1 NMITE is responsible for undertaking the role of employer in relation to appropriate pension arrangements for employees.

9.4.2 The Human Resources Director, is responsible for day-to-day pension matters, including:

- i. paying contributions to any authorised NMITE pension schemes
- ii. preparing the annual return to any authorised NMITE pension schemes

9.4.3 The Nominations & Remuneration Committee will maintain NMITE's Pension Policy which is approved by the Board for administering eligibility to pension arrangements and when deductions should begin or cease for staff.

9.5 Travel, subsistence, and incidental expenses

9.5.1 All claims for payment of travel, subsistence and incidental expenses shall be completed in the prescribed format and must be in accordance with NMITE's Travel and Expenses Policy. The FD is responsible for instructing staff on eligibility of claims according to NMITE's Travel and Expenses Policy. All claims are made a month in arrears and must be submitted by the eighth of the month following the month in which the expenses were incurred.

9.5.2 Claims by staff members must be authorised by their budget holder or the relevant member of the SLT. The certification by the budget holder or SLT member shall be taken to mean that:

- i. the travel was authorised
- ii. the expenses were properly and necessarily incurred
- iii. the expenses are properly payable by NMITE
- iv. consideration has been given to value for money in choosing the mode of transport or choice of supplier.

9.6 Overseas travel



- 9.6.1 All arrangements for overseas travel must be in line with the Travel and Expenses Policy of NMITE.
- 9.6.2 Where spouses, partners, or other persons unconnected with NMITE intend to participate in a trip, this must be clearly identified in the approval request. NMITE must receive reimbursement for any part of the cost to be charged to NMITE which is attributable to the participation of that other person in advance of confirming travel bookings.

9.7 Severance and other non-recurring payments

- 9.7.1 Severance payments shall only be made in accordance with relevant legislation and under a scheme approved by the Board. Professional advice should be obtained where necessary. All such payments shall be authorised by the Chair of the Board or, if the Chair so determines in any particular case, by the Board and calculations checked by the Company Secretary.
- 9.7.2 All matters referred to an industrial tribunal shall be notified to the Board at the earliest opportunity in order that budget provision may be made, as necessary. All determinations of tribunals must be similarly notified.

10. Assets

10.1 Land, buildings, fixed plant, and machinery

- 10.1.1 The purchase, lease or rent of land, buildings or fixed plant digital infrastructure and related software and software as a service can only be undertaken with authority from the Board and where relevant with reference to the funding body's requirements where public funds are involved.

10.2 Fixed asset register

- 10.2.1 The FD is responsible for maintaining the register of land, buildings, and other fixed machinery.

10.3 Stocks and stores

- 10.3.1 The FD is responsible for establishing adequate arrangements for the custody and control of equipment, stocks, and stores. The FD is responsible for ensuring that regular inspections and stock checks are carried out. The FD is responsible for maintaining inventories for all plant, equipment, furniture, and stores with a value in excess of £50.

10.4 Safeguarding assets

- 10.4.1 Budget holders are responsible for the care, custody and security of the buildings, stock, stores, furniture, etc. under their control. They will consult the Head of Estates in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 10.4.2 Assets owned by NMITE shall, so far as is practical, be effectively marked to identify them as NMITE property.

10.5 Personal use



10.5.1 Assets owned or leased by NMITE shall not be subject to personal use without proper authorisation.

10.6 Asset disposal

10.6.1 Disposal of equipment and furniture must be in accordance with procedures agreed by the Board.

10.6.2 Disposal of land and buildings must only take place with the authorisation of the Board. Funding body consent may also be required if public money was involved in the acquisition of the asset.

10.7 All other assets

10.7.1 Budget holders are responsible for establishing adequate arrangements for the custody and control of all other assets owned by NMITE, whether tangible (such as stock – see above) or intangible (such as intellectual property), including electronic data. Best practice guidelines will be set out by the Chief Operating Officer, and all budget holders must adhere to that guidance.

11. Funds Held on Trust

11.1 Gifts, benefactions, and donations

11.1.1 The Head of Fundraising is responsible for maintaining financial records in respect of gifts, benefactions and donations made to NMITE and initiating claims for recovery of tax where appropriate.

11.2 NMITE funds/Earmarked Donations

11.2.1 The Head of Fundraising is responsible for maintaining a record of the requirements for each NMITE fund/earmarked donation.

11.2.2 The Board is responsible for approving an endowment strategy setting out the policies for cash management and a strategy and policies for investment and investment management of endowment funds, taking due account of the conditions subject to which the endowment funds have been given and relevant legislation. The Board will seek external expert advice in relation to the development of an appropriate cash management and investment strategy as required having regard to the value and nature of NMITE's endowment funds.

11.2.3 All executive decisions concerning investment and cash and investment management will be determined by policy parameters set by the FRC and approved by the Board in light of advice received and an appropriate review and reporting system set up to monitor performance of investments made, which may include the appointment of an external and independent investment manager.

12. Other

12.1 Insurance

12.1.1 The FD is responsible for NMITE's insurance arrangements, including the provision of advice on the types of cover available. As part of the overall risk



management strategy, all risks will have been considered and those most effectively dealt with by insurance cover will have been identified. This is likely to include important potential liabilities and provide sufficient cover to meet any potential risk to all assets. This portfolio of insurances will be considered and approved by the Board on an annual basis.

- 12.1.2 The FD is responsible for effecting insurance cover as determined by the Board. He or she is therefore responsible for obtaining quotes, negotiating claims, and maintaining the necessary records. The FD will keep a register of all insurances effected by NMITE and the property and risks covered. The FD will also deal with NMITE's insurers and advisers about specific insurance problems.
- 12.1.3 Budget holders must ensure that any agreements negotiated with external bodies cover any legal liabilities to which NMITE may be exposed. The FD's advice should be sought to ensure that this is the case. Budget holders must give prompt notification to the FD of any potential new risks and additional property and equipment that may require insurance and of any alterations affecting existing risks. Budget holders must advise the FD immediately of any event that may give rise to an insurance claim. The FD will notify NMITE's insurers and, if appropriate, prepare a claim in conjunction with the budget holder for transmission to the insurers.
- 12.1.4 All SLT members/staff using their own vehicles on behalf of NMITE shall maintain appropriate insurance cover for business use.

12.2 Security

- 12.2.1 Keys to safes or other similar containers are to be carried on the person of those responsible at all times. The loss of such keys must be reported to the FD immediately.
- 12.2.2 The Chief Operating Officer shall be responsible for maintaining proper security and privacy of information held on or via NMITE's computer network. Appropriate levels of security will be provided, such as passwords for networked PCs together with restricted physical access for network servers. Information relating to individuals held on computer will be subject to the provisions of the General Data Protection Regulation (GDPR) and other applicable legislation relating to data security. A data protection officer and the FD shall ensure compliance with GDPR and other applicable legislation and for the safety of documents.
- 12.2.3 The FD is responsible for the safekeeping of official and legal documents relating to NMITE (e.g. signed copies of deeds, leases, agreements, and contracts etc.). All such documents shall be held in an appropriately secure, fireproof location.

12.3 Provision of indemnities

- 12.3.1 Any staff member asked to give an indemnity, for whatever purpose, should consult the CEO before any such indemnity is given.

12.4 Business Entertaining



12.4.1 From time to time it may be necessary for members of NMITE to engage in business entertaining. This is not explicitly covered in the Travel & Expenses Policy.

12.4.2 Members of NMITE who are proposing to engage in business entertaining must first seek the approval of the CEO, who will confirm whether the expense can be justified as a business expense.

12.4.3 No claim for business entertaining should exceed the maximum allowance per person (including the staff member) set out in the Travel & Expenses Policy unless prior approval is obtained from the CEO.

13. Part 2 - Procurement Regulations

13.1 Introduction

13.1.1 The primary objective of NMITE's Procurement Regulations is to ensure that all contracts for works, goods and services are entered in a manner that secures value for money and is demonstrably free from impropriety.

13.1.2 NMITE's Procurement Regulations also ensure that:

- i. contract selection and award procedures are conducted transparently and proportionately, in a non-discriminatory and properly regularised manner and in accordance with relevant legal requirements
- ii. strategic service delivery and supply partners are used where possible to ensure value for money is obtained and the cost of procurement is minimised, to avoid lengthy and costly procurement procedures. NMITE will generally use framework agreements where these meet NMITE's needs and offer best value
- iii. NMITE will support supply chain diversity and local economy by specific measures (e.g. dividing contracts into smaller lots; seeking quotations from local organisations; holding tender workshops; publicising its procurement pipeline and holding supply chain events) to encourage local organisations to tender successfully for contracts.
- iv. NMITE's strategic policies are taken into account, for example in promoting the economic development of Hereford, Herefordshire and the Marches and in relation to sustainability and protecting the environment.
- v. alternative methods of procurement compatible with the objectives of the Procurement Regulations can be considered
- vi. procurement procedures are kept under review to ensure continuous improvements to services and provide value for money to NMITE and its wider community of stakeholders

13.1.3 The CEO has delegated responsibility for establishing NMITE's Procurement Regulations such that they meet the objectives described above. The FD has overall responsibility for the preparation, review and maintenance of the Procurement Regulations and their implementation.



- 13.1.4 The CEO works closely with the FD due to the significant legal issues involved in contracting and procurement activity.
- 13.1.5 NMITE's Financial & Procurement Regulations form an important part of NMITE's governance arrangements and, in relation to matters of financial management and procurement, reference should also be had to other relevant provisions of the Governance Handbook, in particular those relating to the functions of Board committees and the delegation of functions from the Board to the CEO and to the Board committees.
- 13.1.6 Wherever it is mutually advantageous to do so, NMITE should seek to conduct procurements in collaboration with partner organisations such as the Southern Universities Purchasing Consortium (SUPC) <https://www.supc.ac.uk> Improvement and Efficiency West Midlands (IEWM). [Improvement and Efficiency West Midlands](#) and the Crown Commercial Service (CCS).
- 13.1.7 Failure to observe NMITE's Procurement Regulations or NMITE's Policy on Anti-Bribery & Corruption could lead to disciplinary action and also to legal action, not only against NMITE but also against the member of staff concerned.
- 13.1.8 All contracts relating to procurement shall contain provisions to this effect.

14. Standards of Conduct

14.1 Declarations of Interest

- 14.1.1 Staff must ensure that they comply with NMITE's policies relating to the declaration of interests, in particular the Declaration and Registration of Interests and the Disclosure of Financial Interest Policy. Reference should also be made to the Employee Code of Conduct.

14.2 Gifts and Hospitality

- 14.2.1 Any offer of gift, favour or hospitality made by any person or firm doing or seeking to do business with NMITE must be treated with extreme caution. NMITE's policy in respect of these matters is strict and set out in its Anti-bribery and Corruption Policy.
- 14.2.2 Any such offer the value of which is above the (low) limit specified by the policy must be noted on the appropriate form and reported to the Company Secretary who shall maintain and make available to NMITE's auditors a register of such matters.
- 14.2.3 No staff member may accept any gift, favour, or hospitality except strictly in accordance with NMITE's Anti-bribery and Corruption Policy.

14.3 Honesty Code of Conduct

- 14.3.1 All SLT members must make sure that staff members, consultants, volunteers involved in an in-house tender for a contract submission do not take part in the preparation of tender documentation or the decision on the award of such a contract.



15. Responsibilities

15.1 Chief Executive's Responsibilities

15.1.1 The Chief Executive is responsible for resolving issues concerning the operation of NMITE's Procurement Regulations, seeking advice as necessary from the FD.

15.2 Budget Holders Responsibilities

15.2.1 All SLT members are responsible for working in conjunction with the Finance Team to ensure that:

- i. staff are monitoring compliance with NMITE's Procurement Regulations in relation to expenditure and contracts funded by their budget
- ii. the provisions of NMITE's Procurement Regulations are brought to the attention of their staff
- iii. the contracts within their areas of responsibility are legal, comply with Financial & Procurement Regulations and protect NMITE's interests fully.

15.3 Procurement Responsibilities

15.3.1 The FD is responsible for:

- i. providing guidance to SLT members on the operation of NMITE's Procurement Regulations and all contracting and procurement activity
- ii. working with the Procurement Clerk on the preparation and review of the Procurement Regulations
- iii. assisting the CEO with the resolution of questions regarding the interpretation of NMITE's Procurement Regulations
- iv. advising on the preparation of contract documentation and maintaining a Contract Procedures Exemption Register and for informing relevant officers of any information received that calls into question the suitability of a contractor, consultant, agency or any other person carrying out work for NMITE.
- v. Maintaining a contracts register to record details of all contracts entered into by NMITE with a total value of £15,001 or more (exclusive of VAT) (with contract details to be input by the Procurement Clerk and the register to be reviewed at each commercial meeting, as described in 9. below).

15.4 Budget holders Responsibilities

15.4.1 The CEO shall appoint a Procurement Clerk to take responsibility for contracts with an estimated total value of £15,001 or more. The relevant Responsible Officer will be responsible for maintaining and providing timely information regarding contracts to the Procurement Clerk for entry in the contracts register.

15.4.2 Budget holders are responsible for liaising fully with the Finance Director and the Procurement Clerk on all matters relating to contracting and procurement.



15.4.3 Budget holders are responsible for agreeing waivers and exemptions from the formal tendering procedures with the FD, subject to and in accordance with the approval and reporting procedure set out in Section 32 below.

15.4.4 Budget holders are responsible for liaising with officers administering contracts regarding any reports concerning failures by contractors to comply with contractual obligations or otherwise satisfactorily complete work.

15.4.5 Budget holders are responsible for advising the FD and the Procurement Clerk of any concerns they receive regarding the suitability of a supplier to carry out work for NMITE.

15.4.6 The Procurement Clerk is responsible for maintaining records (in respect of a and b below with regard to contracts with a total value of £15,001 or more (exclusive of VAT), by inputting them into the contracts register) of the:

- i. contracts awarded including the nature and value of contracts and the names of successful tenderers
- ii. total value of contracts awarded to each successful tenderer during each financial year
- iii. names of unsuccessful tenderers and reasons why their tenders were not accepted if the reason is other than price
- iv. details of any failure by a tenderer to comply with instructions to tenderers
- v. details of the reasons for any tenders being withdrawn and details of failures by contractors to submit tenders after having requested and been invited to do so
- vi. contractors' performance
- vii. reasons for opening late tenders and reasons for exceptions to tendering procedures.

15.4.7 The FD is responsible for deciding the retention of tender and contract documentation in accordance with NMITE's Record Retention Policy.

15.5 Commercial Meetings

15.5.1 The Finance Director will be responsible for:

- i. chairing the commercial meeting. (Each SLT member shall appoint a senior officer to be a member of the commercial meeting and the membership shall include the Procurement Clerk).
- ii. Approval of exemptions and waivers in respect of the Procurement Regulations subject to and in accordance with the procedure set out in Section 32 below.
- iii. Approval of new suppliers in accordance with the approval procedure - for example when a request for a new supplier is received by the Finance Team (or when an invoice is received without an existing supplier record) the Procurement Clerk shall check whether the request relates to a requirement for which there is an existing contract; how the requirement has been (or is to be) procured; and



require the completion (by the supplier) of a simplified due diligence questionnaire to ensure their good standing.

15.5.2 NMITE's commercial meetings shall be organised on a category management basis. The commercial meetings will take place quarterly to fulfil the following responsibilities:

- i. continually reviewing NMITE's Procurement Strategy and making recommendations on appropriate enhancements to take forward in consultation with the CEO for approval in line with NMITE's arrangements for decision making.
- ii. developing a procurement pipeline of NMITE's requirements over the next 3 years so that sufficient time, resources, and budget can be allocated to ensure that procurements can be carried out efficiently and effectively to ensure that NMITE's requirements are met.
- iii. reviewing and maintaining a contracts register of current contracts with a total value of £15,001 or more and publishing details of these as appropriate to ensure transparency of expenditure in accordance with ICO guidance https://ico.org.uk/media/for-organisations/documents/1245/definition_document_for_universities_and_higher_education_institutions.pdf
- iv. monitoring compliance with NMITE's Procurement Regulations and reporting non-compliance to the CEO for appropriate action and preparing an annual report on the operation of and compliance with NMITE's Procurement Regulations as a basis for the CEO, in consultation with the FD, to report to the Audit & Risk Committee;
- v. continually reviewing NMITE's Procurement Regulations to ensure they keep pace with developing best practice and advising amendments, as necessary.
- vi. prescribing the information needed from each budget holder to enable the contracts register to be maintained up to date.
- vii. reviewing NMITE's sustainable procurement strategy.
- viii. providing training and support for staff members involved in procurement activities
- ix. organising supply chain events, promotion of opportunities (including the content of the procurement web pages) and activities to promote supply chain diversity and the economic regeneration of Herefordshire.
- x. managing the content and processes within NMITE's e-tendering system, including the management of any procurement processes and the support and training of staff members utilising the system. A review of framework terms, procurements through frameworks and performance will be undertaken periodically.

15.6 Responsibilities of all Staff

15.6.1 All staff are responsible for:



- i. following NMITE's Procurement Regulations and any codes of practice, guidance or instructions provided by the Finance Director and the Procurement Clerk
- ii. following all relevant English and European procurement legislation
- iii. following NMITE's policies related to equality and environmental concerns, including but not limited to the Equalities Act 2010. Where necessary seek advice from the Finance Director and the Procurement Clerk.
- iv. following NMITE's Employee Code of Conduct and rules on confidentiality
- v. following NMITE's Financial Regulations and the systems and procedures that are in place to control budgets properly
- vi. declaring any interest that could influence their judgement in contracting matters to the SLT member to which they report and the Procurement Clerk
- vii. not taking part in any decisions relating to the procurement of work, goods, or services if they are part of a formal in-house bid for that work
- viii. reporting any suspected fraudulent, corrupt, or other irregularity to the CEO
- ix. ensuring that value for money is evidenced through the procurement process
- x. applying appropriate monitoring arrangements to all contracts to ensure the management of risk and the projected delivery of services and benefits.

16. Formal Tendering Procedure

- 16.1 NMITE, will engage with external suppliers to create large-scale strategic service delivery partnerships. This form of commissioning will become more common as NMITE seeks to secure longer term efficiency gains and it is likely that it will involve larger amounts of more complex services within each contract's scope. Officers must use NMITE approved strategic service delivery partners if the work required is within the scope of NMITE's service delivery contracts. Should officers be unclear of the scope of such contracts, they should seek advice from the Procurement Clerk or the Finance Director prior to proceeding with any procurement exercise.
- 16.2 Wherever possible major suppliers should be encouraged to retain the services of local/regional SMEs and third sector operators within the local supply base.
- 16.3 The following procedures must be followed for all types of procurement. Official orders should be raised for works, goods, and services in line with NMITE's Financial Regulations. All monetary amounts here and elsewhere in the Financial & Procurement Regulations are stated exclusive of value added tax (VAT).
 - 16.3.1 **Purchases in total valued up to £15,000** – one formal quotation but officers must be able to demonstrate value for money has been obtained and that all other relevant aspects of NMITE's Procurement Regulations have been followed. See NMITE's Financial Regulations on obtaining value for money.



- 16.3.2 **Purchases in total valued between £15,001 and £35,000 (inclusive)** – at least two formal quotations must be sought (see 17.2 to 17.6)
- 16.3.3 **Purchases in total valued between £35,001 and £75,000 (inclusive)** – at least three formal quotations must be sought (see 17.2 to 17.6)
- 16.3.4 **Purchases in total valued between £75,001 and up to relevant EU limit** – formal tendering arrangements must be followed (see 17.7 to 27.4)
- 16.3.5 **Purchases in total valued more than the relevant EU limit (currently circa £189,330 for goods and services and £4,733,252 for works) – The Public Contracts Regulations must be followed (see Section 28).**
- 16.4 As the value, size and complexity of the contract increases, the degree of risk to NMITE will also increase. Before procuring any contract, the Responsible Officer shall produce a business case in the form of an options appraisal to support the requirement for a procurement. For all contracts valued at £75,001 or over, the business case shall contain comments obtained from the Finance Director (including comments from legal and financial services) to ensure that the procurement has complied with the Procurement Regulations. In addition, a formal risk assessment must be undertaken, and a managed risk register maintained throughout the procurement process. For contracts valued at £75,000 or less, a summary report shall be produced outlining the justification for the quotation process. The business case or summary report shall be submitted to the relevant officer authorised to approve the procurement [under the Scheme of Delegation].
- 16.5 Any variation from the Procurement Regulations should be subject to authorisation via the waiver and exemption procedure. The Responsible Officer shall produce a waiver or exemption report setting out the reason for the variation and shall obtain comments from legal and financial services as appropriate. This report shall be submitted to the FD for authorisation subject to and in accordance with the procedure set out in Section 32 below.

17. Formal Quotation Procedure

- 17.1 The requisite number of formal quotations must be sought for all purchases (other than those within the scope of a properly procured strategic service delivery contract or where a legally compliant Framework Agreement is utilised – see section 15) where the value is £15,001 or more and £75,000 or less in total (see 16.3).
- 17.2 A quotation is a written offer to execute works; supply goods or provide services detailing what is to be provided and the cost for this.
- 17.3 Officers must produce a description of the goods or specification of the services required before seeking quotations. This will enable a fair comparison of prices. The level of detail in the description or specification will depend on the value and type of goods or services being purchased. Advice can be obtained from the Procurement Clerk.

- 17.4 Formal quotations should contain as a minimum the following information and be issued to all suppliers in the same standardised format requesting:
- i. date and reference number
 - ii. supplier company details
 - iii. officer/service area name
 - iv. item/part number
 - v. description specification
 - vi. quantity required
 - vii. unit/service cost
 - viii. total cost
 - ix. delivery information
 - x. payment details
 - xi. any special requirements
 - xii. details of any discounts or rebates
 - xiii. conformance with specification
 - xiv. acceptance of NMITE's standard contract terms
 - xv. confirmation of no impropriety
- 17.5 Every person or firm who makes a quotation must be treated fairly and equally.
- 17.6 When officers are engaging in procurement activity on behalf of third parties who will be the actual contracting entity, and NMITE is therefore acting as the agent of the other party, they must adhere to NMITE's Procurement Regulations recognising that NMITE may be held liable for any complaints or challenges relating to the process.
- 17.7 Formal tendering procedures apply to all contracts with a total value of £75,001 or more and the prevailing European procurement limits for goods, services and works apply to all procurements above the prevailing EU procurement threshold, except in each case for those with an NMITE approved strategic service delivery contract or via a Framework. To ensure that European procurement rules are properly applied, including aggregation rules, officers should liaise with the FD before commencing any procurement with an estimated value of £75,001 or more. Aggregation rules also apply to NMITE formal tenders, and requirements must not be artificially split to fall below the £75,001 threshold to avoid following the correct process. (However, if appropriate, procurement may be split into lots to facilitate the participation of SMEs). Further guidance is available at 28.7 and advice should be sought from the FD if uncertain.
- 17.8 It is important to respect confidentiality during all stages of the formal tendering process. Officers must not disclose any information they have about potential suppliers to other persons/suppliers potentially competing for the same contract.



- 17.9 Advice and guidance on how to describe the works, goods or services required for formal tendering purposes can be obtained from the Procurement Clerk.
- 17.10 In accordance with regulation 111 of the Public Contract Regulations 2015, officers should note that they should not issue a PQQ for any tender below the EU threshold. However, a selection questionnaire (including a proportionate version for quotations) should be used on all procurements.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/558531/PPN_8_16_StandardSQ_Template_v3.pdf

18. Selecting Potential Tenderers

- 18.1 Potential suppliers must be sought by placing advertisements in the most appropriate media, in addition to NMITE's e-tendering portal, subject to 18.4.
- 18.2 Advertisements for potential suppliers may be placed at the officer's discretion in relevant trade or professional journals, local and national newspapers or national websites administered by responsible bodies and **must** be placed in the EU Journal (OJEU) if the contract is likely to exceed the relevant EU threshold. All contracts with a potential value of £15,001 or more must be advertised on NMITE's e-tendering portal ("the Portal"), in addition to any discretionary advertising by other means. Furthermore, details of all contracts with a potential value of £75,001 or more must be published on the UK Cabinet Office's Contracts Finder portal and the information provided shall include at least the following:
- i. the internet address at which the procurement documents may be obtained.
 - ii. the time by which a prospective tenderer must respond if it wishes to be considered.
 - iii. how and to whom a prospective tenderer is to respond; and
 - iv. any other requirements for participating in the procurement
- 18.3 Where advertisements are published in OJEU such publication must **precede** their appearance on the Portal, or any other supplementary means of advertising, to comply with EU regulations. Note, for clarity, publication is still required on the Portal if OJEU is used, and must quote the specific OJEU Reference for the contract, which suppliers should be asked to quote in their application. As a rule, officers should leave 48 hours between the time of OJEU publication and any subsequent publication in other media.
- 18.4 The only occasions when procurements do not need to be advertised on the Portal is when the contract value will be £15,000 or less, or if an existing strategic service delivery contract or Framework Agreement is to be used to source suppliers and advertising is therefore not required.
- 18.5 For formal tenders (value of £75,001 or more), the minimum number of tenders required is three. If officers find that they have less than the minimum number of applications (market failure) they must consult with the FD before they proceed

further. In considering whether to proceed on the basis of fewer than 3 tenders, the FD will consider the reasons for market failure. For example, any market feedback as to the reasons for no response; whether the specification was complete, accurate, was packaged appropriately and of a size to be commercially attractive and if so, directed at capable suppliers; whether sufficient time was provided for responses (such time being proportionate to the complexity of the requirement); and whether the period during which quotations were requested affected the likelihood of responses e.g. during an industry shut-down or holiday period and whether any budget set was adequate.

- 18.6 Should the FD consider that the market failure is capable of remedy (and doing so will ensure best value), the FD may recommend withdrawal and recommencement of the process (rectifying any issues considered to have caused the market failure).
- 18.7 The procurement strategy, specification and evaluation strategy must be agreed before the commencement of the procurement.
- 18.8 The entire process of advertising, selecting suppliers to tender, through to final award, is highly prescribed under European law for all procurements over the relevant threshold. Advice needs to be sought from the FD before commencing a procurement more than the EU thresholds (including ensuring sufficient time is allowed to carry out a compliant process, which, (depending on complexity) can take between several months to years). For procurements below the European thresholds, the advice in paragraphs 19.1 to 27.4 applies.
- 18.9 Pre-procurement market consultation can be carried out to gauge market interest and specification of the requirement, commercial and legal terms etc. Sufficient time should be allowed within the procurement process for any market consultation to be carried out and this should be included within the procurement pipeline. Whilst this may include approaching suppliers directly, the opportunity to participate in the market consultation should be advertised transparently via the appropriate medium e.g. for procurement with a value above the EU threshold via a Prior Information Notice (PIN) in the OJEU. In any event, information gathering, and market consultation should be carried out transparently and ensuring equal treatment, including not providing consultation participants with an advantage over non-participants. To ensure this, as a minimum all information provided to market consultation participants shall also be provided when the procurement is advertised and a summary of the results of the market consultation should be published. Further advice can be obtained from the Procurement Clerk.
- 18.10 A standard business questionnaire should be used to collect information from the potential suppliers. The method for selecting tenderers must:
 - i. be transparent
 - ii. treat all tenderers in the same way
 - iii. keeps the process clear and simple and transparent

iv. record all the selection decisions which shall be proportionate.

18.11 On all procurements except where not required in relation to a procurement via a Framework, officers must utilise the CCS Standard Questionnaire to ensure that suppliers are of good financial and professional standing. In addition, officers must also use the approach set out in the CCS Standard Questionnaire when selecting suppliers to participate in a procurement (pre-qualification i.e. shortlisting). Factors to be considered include:

- i. past performance on similar contracts (quality and costs)
- ii. technical capacity
- iii. specialist experience in the type of products and services being procured
- iv. financial situation
- v. public and employer's liability insurance arrangements
- vi. health and safety arrangements
- vii. equalities policy
- viii. written references on the contractor's reputation
- ix. environmental policies.
- x. the good standing of an organisation - essential as there are mandatory and compulsory grounds for exclusion).

18.12 Officers may also use information from referees and from company searches to assess which persons or firms to invite to submit a tender.

19. Inviting tenders

19.1 In accordance with regulation 53 of the Public Contract Regulations 2015, NMITE's e-tendering system is the default option for the publication of procurement documents. To access these documents, prospective tenderers must register on the e-tendering portal. For each tender, the following procurement documents will be published:

- i. A letter of invitation
- ii. Instructions to tenderers
- iii. Form of Tender
- iv. Specification
- v. Schedule of Rates/pricing documentation
- vi. Terms and Conditions of the Contract
- vii. Quality requirements/method statement questions
- viii. Tender Evaluation Criteria
- ix. Any relevant supporting information



- 19.2 A copy of NMITE's standard contract terms shall be included so that the tenderer is aware of the terms and conditions that will form part of the final contract. When an industry standard contract is used, advice should be sought from the FD on which of the standard clauses to incorporate.
- 19.3 Tenderers must be instructed to return their tendering documentation via the e-tendering portal, rather than by any other method. In addition, tenderers must be told that tenders which are received by other means, or received after the deadline, will not be accepted. See 21.1, 22.2 & 23.4 below.
- 19.4 Tenderers should be advised that tenders will be opened at the same time and no advantage is secured by seeking to delay submission until the last moment.
- 19.5 The invitation to tender must state that NMITE does not bind itself to accepting the lowest of any tender.
- 19.6 The invitation to tender will set out how NMITE deal with any mistakes it identifies in the tender documentation submitted. If the mistake is capable of correction (ensuring equal treatment of tenderers and transparency to the marketplace), NMITE will publish a clarification informing tenderers how the mistake will be corrected. If the mistake is material (necessitating additional time for tenderers to incorporate the correction into their tenders/quotations), then the deadline for responses will be extended in accordance with 20.2 below. If the deadline for responses to the OJEU contract notice is still open and if a material correction is required to ensure transparency of opportunity to the marketplace, then NMITE will publish a correction notice as appropriate (e.g. for procurements above the EU threshold via OJEU). If the mistake is not capable of correction (ensuring transparency and equal treatment of tenderers), then NMITE will withdraw and/or re-advertise the opportunity as appropriate.
- 19.7 The invitation to tender must set out the criteria that will be used to select the preferred supplier. These criteria should include all weightings, sub-weightings and any guidance or marking criteria by which tenders are to be evaluated. The assessment criteria must not prevent fair competition or discriminate between tenderers in any way. They must also comply with relevant legislation.
- 19.8 The tender should be assessed according to the Most Economically Advantageous Tender (MEAT) criteria which can be the lowest price, but typically will be a price-quality assessment reflecting the qualitative, technical, sustainable and social aspects of the tender submission as well as price and such assessment criteria may include the following factors:
 - x. experience and skills of staff performing the contract where staff quality can have a significant impact on contract performance
 - xi. financial proposals
 - xii. contract management arrangements
 - xiii. quality including technical merit and functional characteristics
 - xiv. delivery proposals



- xv. social value
 - xvi. environmental factors
 - xvii. innovation
- 19.9 During the live tender period (i.e. the period between first advertisement and the deadline for tender submission), all communications with tenderers must be recorded in the clarification log on the e-tendering Portal. The clarification log will record all enquiries which are raised during the respective period and the relevant responses. The identity of the tenderer who has raised the query **must not** be disclosed.

20. Receiving Tenders

- 20.1 The original tender return date should be fixed and unchanged except in appropriate and necessary circumstances. Any extension should not provide either advantage or disadvantage to any of the tenderers. And if an extension is necessary due to the publication of further information (including the correction of mistake), the length of such extension shall be proportionate to the length of time that will be required by tenderers to request any further information from NMITE as a result; consider such information and make any required revisions to their tenders / quotations.
- 20.2 Should it be necessary to extend the time limit for the submission of tenders all potential tenderers should be informed of the new date in good time before the original submission date. Any information should be issued to tenderers no later than 6 calendar days prior to the deadline for receipt of tenders. If this is not possible, a proportionate extension will be applied (see 19.6 above)
- 20.3 NMITE's e-tendering Portal will automatically record the time, date, and name of the tenders as they are received.
- 20.4 Tenders cannot be opened until the final deadline for receiving them. All tenders will be stored in the secure e-tendering portal until the requisite deadline for opening them.
- 20.5 In exceptional circumstances, officers, in consultation with and the approval of the Procurement Clerk, can accept a late tender (see the section "Late Tenders" below). The core principle is that tenders should not be rejected if the delay is due to the actions of NMITE, a third party, or force majeure as 'e.g. unavailability of the e-tendering portal or internet connectivity. NMITE considers the allowance of sufficient time to complete document upload (including allowing for any problems that may be encountered with upload speed etc.) as within the control of Tenderers.

21. Opening and Recording Tenders

- 21.1 All tenders relating to a contract will be opened at the same time automatically using NMITE's e-tendering system. This system will formally record the date and time for audit purposes.



21.2 Once the tenders have been opened, they will be stored securely in the electronic portal.

22. Late Tenders

22.1 Any tenders received after the deadline must be rejected unless there are exceptional circumstances in accordance with paragraph 21.1

22.2 If it is decided to accept a late tender, it must be treated in the same way as all other tenders. The full details of the decision to accept the late tender must be recorded.

22.3 If the late tender is rejected, a record should be kept on file for two years with the other documents from the tender opening. The tender should be opened, under the same conditions as the other tenders, merely to ascertain the return name and address. The tenderer should be informed in writing of the reasons for rejecting the tender, i.e. that it was received late and is therefore deemed to be non-compliant under NMITE's Procurement Regulations.

23. Assessing Tenders

23.1 Before assessing the tenders, the Responsible Officer needs to check that each part of them meets the requirements of the specification. The Responsible Officer also needs to make sure that there are no mistakes and that nothing is missing.

23.2 If there are substantial omissions of data or documentation that make it impossible to assess the tender, this should be fully recorded, and the tender rejected.

23.3 If the tenderer has omitted ancillary documents, made an obvious error in calculating figures, or has otherwise made an error in their tender they may be allowed, to ensure proportionality of assessment treatment, to correct any minor non-compliance or mistakes or to provide any necessary clarification. However, where a tenderer fails to allow sufficient time for the punctual submission of his tender, then the tender submission will be rejected in accordance with paragraphs 22.2 to 23.1.

23.4 A record of all mistakes must be kept and attached to the tender documents together with any corrections agreed with the tenderer.

23.5 The correct tenders can then be assessed in accordance with the assessment criteria that have previously been agreed in accordance with these formal tendering procedures.

23.6 The assessment criteria used for the tender evaluation must be the same in all respects as the criteria advised to prospective suppliers at the beginning of the process.

23.7 Assessment details are strictly confidential and must not be passed on to anyone else. During the assessment, tender documentation must be kept secure and confidentiality preserved. If, in a major tendering exercise, the



documentation is going to be copied or divided to aid the assessment process, a record should be maintained to identify those to whom such documents have been issued and the date returned.

23.8 The Responsible Officer shall retain a complete set of documents in a secure place in case any parts of the documentation go missing.

23.9 Once the assessment has been completed the Responsible Officer should produce a report showing:

- i. the result of the assessment of each tender
- ii. comparison of assessment results
- iii. the recommendation on which tenderer should be offered the contract.

23.10 In addition, for procurements with a value above the OJEU threshold, a report should be produced in accordance with regulation 84 of the Public Contract Regulations 2015. The Responsible Officer should seek further advice from the Procurement Clerk regarding preparing such reports.

24. Accepting and Rejecting Tenders

24.1 The FD in consultation with the Responsible Officer should accept the tender that is the most economically advantageous tender in accordance with paragraph 19.8 i.e.:

- i. it is the lowest priced tender; or
- ii. it is the most cost-effective tender

24.2 Where this is not the lowest tender, the Responsible Officer should explain in writing, giving objective reasons why that tender is preferred, and seek approval from the FD to proceed to appoint. A note should be placed on file to show that the FD has reviewed the evaluation process and agreed with the outcome.

24.3 The Responsible Officer should always consider whether their proposed decision for awarding the contract should be put before the FRC for consideration prior to submitting it to the FD for approval.

24.4 The Procurement Clerk should write to inform the successful tenderers of the decision as soon as possible after all necessary approvals have been received.

24.5 Care should be taken when issuing letters informing the tenderer that they have been successful as an unqualified acceptance of the tender may create a binding contract before the formal documentation has been completed and signed by the appropriate authorised signatories. In the case of an EU-compliant process the contract cannot be formally awarded until the losing bidders have been informed and the mandatory standstill period has elapsed without any challenges arising from the bidders.

24.6 Unsuccessful tenderers should be informed of the outcome of the tendering process at the same time that the successful tenderer is notified. All bidders



should be provided with a comprehensive briefing on the results of the tender to understand the relative merits of their tender when compared to that of the successful bidder. This is particularly important as losing bidders or third parties may ask for such information under the Freedom of Information Act, and accordingly it is essential that full details are recorded and can be supplied easily for all tender exercises, both above and below the EU thresholds. Debriefs should also be provided to successful tenderers

25. Negotiating

- 25.1 The Responsible Officer must comply with the following conditions when negotiating on price or material aspects of quality with tenderers:
- i. guidance must be sought from the FD who will consult with the Responsible Officer as necessary before advising on the appropriate course of action
 - ii. the Responsible Officer must be accompanied by another officer during negotiations with tenderers and a full written record of all discussions should be made and signed by both officers. The results of the negotiation process must be shared with the FD
 - iii. all negotiations must be carried out at NMITE's offices
 - iv. officers must not discuss one tenderer's detailed prices, conditions, or terms with another tenderer
 - v. officers must respect the confidentiality of information provided by tenderers
 - vi. if negotiations lead to a material change in the description of the work, goods or services or other terms, the officer must invite everyone who has provided a tender to re-tender on the basis of the revised contract. And if a change from the description as advertised, a new tender process if the changes might attract different tenderers.
- 25.2 If there is an in-house tender for a contract, negotiations must not take place without permission from the FD.

26. Awarding a Contract

- 26.1 Before awarding any contract, the Responsible Officer shall produce a written report evaluating each tender received against the evaluation criteria. The officer shall ensure that for all contracts valued at £75,001 or above, the report shall contain comments obtained from the FD (including where appropriate, comments from legal and finance specialists when required) to ensure that the procurement has complied with the Procurement Regulations. For contracts, below this level, a summary report shall be produced outlining the justification for the quotation process. The report shall identify the supplier who has submitted the highest score in the evaluation and recommend the award of the contract to that supplier. This report shall be submitted to the CEO.
- 26.2 The FD will ensure that each contract is signed by an Authorised Signatory in accordance with the following thresholds:



- i. Officers as authorised by the CEO/relevant budget holder of contracts of
- ii. the value up to £25,000.
- iii. The CEO may authorise contracts with a value of up to £100,000.
- iv. The Chairs of FRC/PIC may authorise contracts of up to £250,000.
- v. The Board must authorise all contracts of the value in excess of £250,000.
- vi. All amounts are exclusive of VAT.

26.3 Officers are responsible for seeking advice from legal advisors if they are not clear about the form of contract to be used or changes are needed to the standard form of contract used by NMITE.

26.4 The Procurement Clerk is responsible for recording the details of all contracts with a value of £15,001 or more in the contracts register.

26.5 The Responsible Officer must provide the FD with a record of each contract, including all the quotes and letters they have received and notes of telephone calls and meetings about selecting suppliers for the purpose of record retention in accordance with 4.4 and 9.7 above. These records must be made available to internal or external audit as required by them.

26.6 In accordance with the Public Contract Regulations 2015 and the Late Payment of Commercial Debts Regulations 2013 and to maximise performance under the contract, NMITE will process for payment all undisputed invoices within the agreed payment terms. The same shall apply to contractors in respect of any subcontractor arrangements applied under the applicable contract(s). All contracts shall contain provisions to this effect.

27. Publication of Contract Details

27.1 CEO and SLT members must ensure that all contracts comply with all NMITE's policies.

27.2 Officers must not give tenderers or suppliers any information about the bids or affairs of any other tenderer or contractor unless the law requires it. All information relating to tendering and contracting procedures is confidential.

27.3 The only information officers should make public is the name of the successful tenderer. However, this information must not be released until the contract has been awarded and signed.

27.4 Government guidance on transparency (see below) states that officers should “engage in early discussions with suppliers, and in advance of any contract award, the types of procurement and contracts information which can be disclosed to the public, and then to ensure publication of that information in an accessible format.”

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/596904/PPN0117-UpdatedtoTransparencyPrinciplesv1.1.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592358/TransparencyPrinciplesFebruary2017.pdf

28. European Procurement Rules

28.1 Whilst the European Procurement Rules prevail, officers are expected to follow the principles set out in NMITE's Procurement Regulations.

28.2 The European Procurement Rules are complex with significant penalties if the legislative requirements are not strictly adhered to. All officers are therefore responsible for seeking advice and guidance at all stages of the process from the FD. EU procurement principles of equal treatment, non-discrimination and proportionality apply to all contracts, regardless of value.

28.3 The following table sets out the public sector thresholds for 1 January 2020 to 31 December 2022:

	Supplies	Services	Works
Public Sector Contracting Authorities	£ 189,330	£ 189,330	£ 4,733,252

28.4 For the latest information regarding the EU thresholds for procurement, please visit the EU Procurement website via the following link:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/850566/PPN_for_New_Thresholds_2020_pdf.pdf

28.5 The figures are revised every two years on 1 January and officers should check with the Finance Director for the latest values.

28.6 If a contract for supplying works, goods or services will be worth more than the limits set out in the table above, the contract is likely to be governed by both the EU Procurement Rules and English Law. Note that the calculation of the value of the contract is to be as detailed in paragraph 28.8.

28.7 To ensure that contracts are advertised in accordance with the EU Procurement Rules, requirements should be valued not merely in respect of individual contracts, but also including the value of requirements of a similar nature where it is appropriate for these contracts to be commissioned together. The procurement strategy, procurement pipeline and individual pre-procurement business case should analyse the nature of the requirements (ideally in the context of a category strategy) to establish the most appropriate route to market. This should include reference to any justification for carrying out separate procurements and or the appropriate length of contracts in order to demonstrate that procurements have not been packaged to come underneath the value at which the EU Procurement Rules apply. In addition, the suitability of requirements to be split into lots to facilitate the participation of SMEs should be considered.

- 28.8 There are specific provisions relating to the calculation of contract values, based on the contract's duration. It is important that contract values are transparently advertised not just to present an attractive opportunity to the marketplace, but also to make sure that capable suppliers are not deterred or excluded by an over or under valuation. The basic rule is that value should be calculated on the basis of the total value of the contract including any extensions or options. This is particularly important when it is considered that under the EU Procurement Rules the advertised expenditure represents the maximum value that can be expended in relation to a contract, prior to a new procurement process being required.
- 28.9 Valuation and aggregation rules are complex. To ensure that the aggregation rules are properly applied the Responsible Officer should liaise with the FD for all contracts with a value of £75,001 or more and to this end it is important that all potential requirements are included within the procurement pipeline so that the appropriate route to market can be confirmed as part of the procurement strategy to ensure that all requirements can be fully, efficiently and timely met.
- 28.10 Before commencing a European procurement process, officers must discuss the next steps with the FD and the COO.

29. Awarding Contracts Subject to the European Procurement Rules

- 29.1 Contact the FD or external procurement consultants for advice before issuing an award notification, or if an unsuccessful tenderer challenges the award of the contract at any time during the standstill period or at any time during the process.
- 29.2 To ensure compliance with European Procurement Rules there must be a minimum standstill period of 10 calendar days between advising all tenderers of the award decision and the actual award of the contract (to end on midnight of the 10th after the date the notification was sent).
- 29.3 The purpose of the standstill period is to allow any unsuccessful tenderers the opportunity to challenge any award decision. Where a legal challenge is made within the 10-day standstill period, the contract cannot be awarded until the outcome of the application to the court is known. It is imperative that no correspondence amounting to an acceptance letter is issued during this period.
- 29.4 The written notification to the unsuccessful tenderers which triggers the standstill period must contain:
- i. The award criteria
 - ii. The tenderer's score (where appropriate)
 - iii. The winning tenderer's score (where appropriate)
 - iv. The reasons for the decision, including a comparative summary of the characteristics and relative advantages of their bid and the winning bid.

- 29.5 The European Procurement Rules require tender results to be published in the Official Journal within 30 days of the date a contract is awarded. This must be done in consultation with the Responsible Officer.
- 29.6 The FD and the Procurement Clerk must be consulted on all EU procurements to ensure that the correct procedure is followed.

30. Framework Contracting

- 30.1 Framework contracting involves selecting a contractor from a list of contractors on an approved “Framework” for given works, goods, or services. The contractors are included on the Framework following a tendering exercise to establish capability, quality, and value. The tendering procedures will have had to comply with the EU Procurement Rules
- 30.2 Purchasers can enter into subsequent ‘call-off’ contracts from a Framework. Framework contracting is becoming increasingly prevalent to avoid duplication of effort and achieve best values via economies of scale
- 30.3 Frameworks can be externally formed (for example, by Government) or internally formed (for example, by NMITE). The number of approved contractors on a Framework can vary but the minimum number should be three
- 30.4 When an external Framework is formed general terms and conditions are agreed between the Framework contractors and the Framework organiser. These pre-agreed terms and conditions will form a major part of any purchaser’s ‘call-off’ contract and contractors are not obliged to agree to any amendments to them
- 30.5 Framework Agreements can be established for a maximum of 4 years (unless special justification can be made for a longer period). Any subsequent call-offs under the framework may be for a duration longer than four years provided this is justified by the nature of the call off contract e.g. such factors as the time needed for contract performance, where maintenance of equipment with an expected useful life of more than four years is necessary or where extensive training of staff to perform the contract is needed.
- 30.6 Officers must take the following steps to ensure compliance with the EU Procurement Rules when using a Framework contract:
 - i. all the contractors on a Framework that are capable of meeting the purchaser’s specification must be allowed to submit a bid against that specification.
 - ii. the reasons for selecting a smaller number of contractors on a Framework must be clearly evidenced and should indicate why the excluded contractors were not capable of meeting NMITE’s requirements.

iii. award of contract must be on the basis of the criteria for the Framework as set out in the Framework agreement itself, that is, within the original tender documentation setting up the Framework.

30.7 The FD and the Procurement Clerk must be consulted on all Framework contract procurements and a pre-procurement options appraisal to establish that the use of a framework provides best value shall be carried out.

31. Other Procurement Procedures

31.1 There are a number of other procurement procedures that may be available in particular circumstances:

- i. design contests, particularly in the fields of planning, architecture, civil engineering, and information technology.
- ii. concession contracts where contractors derive income from the completed work, for example, such as a concession which will allow the provider to generate income such as the operation of leisure or catering facilities.

31.2 The FD and the Procurement Clerk must be consulted regarding any proposals to follow any such procedures.

32. Waivers and Exemptions from NMITE's Procurement Regulations

32.1 Waivers and exemptions from NMITE's Procurement Regulations are only allowed in exceptional circumstances such as there being insufficient suppliers for the goods, works or services being procured. Permission must be obtained for any waiver or exemption from the FD and the Chief Executive Officer. In respect of any contract which is subject to the European Procurement Rules, NMITE may not authorise any exemption from those requirements.

32.2 A written application for a waiver or exemption from NMITE's Procurement Regulations must be made to the FD setting out the reasons for the application. The FD must respond within 21 days. If agreed by the FD and the Chief Executive Officer, the waiver or exemption is subject to approval by the Board.

32.3 To apply for a waiver or exemption, the normal procedure should be for the Responsible Officer to complete an Exemption Form (Single Tender Waiver) and arrange for the budget holder to approve the request by signing the form, and then forward the form to the FD for approval by both the FD and the Chief Executive Officer. This will then be submitted by the FD to the Board for its approval. Subject to Board approval the FD will forward the exemption form to the Procurement Clerk who will make an appropriate entry in the register of approved waivers and exemptions.

32.4 Single Tender Actions or Direct Awards may only be used if the following criteria are met:



- i. the service/good is follow-up work where a provider has already undertaken initial work in the same area (and where the initial work was awarded from open competition).
 - ii. there is a compatibility issue which needs to be met e.g., specific equipment required, or compliance with a warranty cover clause.
 - iii. there is genuinely only one provider.
 - iv. there is a need to retain a particular contractor for real business continuity issues (not just preferences).
- 32.5 Agreement must be sought from the FD and CEO before a Single Tender Action or Direct Award process is started.
- 32.6 Tenders need not be invited in accordance with the provisions of NMITE's Procurement Regulations if an urgent decision is required, for example for the protection of life or property, however such examples normally relate to the existence of a genuine public emergency such as unsafe building. Wherever possible though, at least two quotations must be obtained, and any decision made, or contract awarded shall be reported to the relevant SLT member, the Chair of FRC and the Board. Such emergency contracts should be let for as short a period as possible to allow their replacement with a contract that is fully compliant with the Procurement Regulations at the earliest practical opportunity.



33. Glossary of Terms

Authorised Signatory	This would usually be the budget holder for any given activity.
Commercial Meeting	The nominated team in NMITE which deals with the tendering process. This meeting will be chaired by the FD.
Procurement Clerk	Responsible for officially recording and overseeing approvals and seeking professional legal advice where necessary (in conjunction with the FD).
SLT Member	The person who is responsible for looking after contracts in a given service area.
Responsible Officer	The person who is responsible for a particular procurement.
MEAT Criteria	The principles by which tenders are judged; namely, the Most Economically Advantageous Tender.
E- Tendering Portal	PROACTIS

Appendix A – Key Contacts in Finance

The NMITE Finance Team is based at Gardner Hall

Tina Benson	Finance Director
James Smith	Management Accountant
Nina Upcott	Finance & Payroll Administrator
Steffen Cunningham	Procurement Clerk

Appendix B – Summary of Protocols for Proposed Capital Expenditure

Proposed capital projects should be supported by:

- i. A statement that demonstrates the project's consistency with the strategic plans and estates strategy approved by the Board.
- ii. An initial budget for the project for submission to the Board. The budget should include a breakdown of costs including professional fees, VAT, and funding sources.
- iii. A financial evaluation of the plans together with their impact on revenue plus advice on the impact of alternative plans.
- iv. An investment appraisal in an approved format which complies with HM Treasury's 5
- v. Case Model guidance on option and investment appraisal.
- vi. A demonstration of compliance with NMITE's Financial & Procurement Regulations. This will require careful consideration where partnership arrangements are in place.
- vii. A cash flow forecast.

Appendix C – Summary of Protocols for Proposed Major Developments

The proposal should be supported by a business plan for three years which sets out:

- i. a demonstration of the proposal's consistency with the strategic plans approved by the Board and with NMITE's powers under current legislation
- ii. details of the market need and the assumptions (based on reference data) of the level of business available
- iii. details of the business and what product or service will be delivered
- iv. an outline plan for promoting the business to the identified market and achieving planned levels of business
- v. details of the staff required to deliver, promote, and manage the business, together with any re-skilling or recruitment issues
- vi. details of any premises and other resources required
- vii. a financial evaluation of the proposal together with its impact on revenue and surplus, plus advice on the impact of possible alternative plans and sensitivity analyses in respect of key assumptions
- viii. contingency plans for managing adverse sensitivities
- ix. consideration of taxation and other legislative or regulatory issues
- x. a three-year financial forecast for the proposal including a monthly cash flow forecast and details of the impact on NMITE's cash flow forecast for the financial years in question

Appendix D – Capital Request Form

The capital development / improvement programme should be used by managers when they are requesting capital projects that fall outside of the scope of the Estates Strategy.

When requesting funds from the capital allocation managers must complete the attached form as follows (Capital Request Form):

Item 1 – Project Title

Choose terminology to ensure the title clearly reflects the nature and scope of the proposed project.

Item 2 – Project Priority

On a scale of 1 – 5 how urgent is the project (5 being the most urgent and 1 being less so)?

Item 3 – Project Description and Justification

All projects should be explained as thoroughly as possible. For example, in the case of a proposed classroom building the description should indicate the number of teaching and student stations in the classroom or workspace.

It should detail the predicted amount of time the programme will require to complete and anticipated spend at each milestone (if appropriate).

Item 4 – Identified Risks

The proposer needs to highlight any inherent risks they perceive with the project such as recruitment issues, re-skilling, or competitors.

Item 5 – Estimated Project Cost

This area needs to be broken down into the major components of the project:

- i. Construction (including fixed equipment and sitework)
- ii. Architect or engineer fees
- iii. Moveable equipment
- iv. Project contingency
- v. Miscellaneous costs (e.g. site surveys, plans consultant and design services etc).

Item 6 – Project Phasing

The total estimated project costs reflected in item 5 should be broken down into 3 major phases:

- i. Preliminary plans
- ii. Final plans
- iii. Construction

Item 7 – Funding

This section should detail the projected split over fiscal years (August – July), along with any details of funding from external sources, this can include match funding or donations either cash or in kind (these are to be included in the external section).

Item 8 – Revenue Consequences

This section requires the requesting manager to have considered the revenue consequences of the capital spend over the projected life of the project.

Item 9 – Signatures

Once all sections are completed the requesting manager must sign and date the form and pass to the Finance Director for authorisation.

The Finance Director will then ensure that the capital spend is processed through the appropriate committees.

Final Checks:

The proposed project should be clear with regard to:

- i. Its strategic fit with the Estates strategy approved by the Board which will conform to a predetermined set of criteria
- ii. Have alternatives been considered – if so, why have they been rejected?
- iii. The proposer also needs to highlight any associated risks – such as recruitment
- iv. The project should have considered HM Treasury’s 5 Case Model (set out below)



Following Approval:

Following approval from the Board the proposed capital spend should be discussed with the FD to ensure that and the Financial & Procurement Regulations are followed.

The requester will be required to provide regular updates to the PIC.

Appendix E – Main Features of the Public Interest Disclosure Act 1998

Summary

The Act encourages people to blow the whistle about malpractice in the workplace and is designed to ensure that organisations respond by acting on the message rather than against the messenger. The Act applies to employees blowing the whistle about crime, civil offences (including negligence, breach of contract, etc.), miscarriage of justice, danger to health and safety or the environment and the cover-up of any of these. It applies whether or not the information is confidential and extends to malpractice occurring in the UK and any other country or territory. In addition to employees, it covers trainees, agency staff, contractors, home workers, trainees and every professional who is acting on behalf of NMITE. Employment law restrictions on minimum length of service and age do not apply. At present, the Act does not cover the genuinely self-employed, volunteers, the army, intelligence services or police officers.

Internal Disclosures

A disclosure in good faith to a manager or the employer will be protected if the whistleblower has a reasonable suspicion that the malpractice has occurred, is occurring or is likely to occur.

Regulatory Disclosure

The Act protects disclosures made in good faith to prescribed bodies such as the Health and Safety Executive, the Financial Services Authority and the Inland Revenue, where the whistleblower has a reasonable belief that the information and their allegation(s) are substantially true.

Wider disclosures

Wider disclosures (e.g. to the police, the media, MPs, and non-prescribed regulators) are protected if, in addition to the tests for regulatory disclosures, they are reasonable in all the circumstances and they meet one of the three preconditions. Provided they are not made for personal gain, these preconditions are that the whistleblower:

- i. reasonably believed they would be victimised if they raised the matter internally or with a designated regulator
- ii. reasonably believed a cover-up was likely and there was no regulator
- iii. had already raised the matter internally or with a prescribed regulator.

An employee who makes a wide, public disclosure is more likely to be protected if there was no internal procedure set up.

Full Protection

Where the whistleblower is victimised in breach of the Act they can bring a claim to an employment tribunal for compensation. Awards are uncapped and based on the losses suffered. Additionally, where an employee is sacked, they may apply for an interim order to keep their job. Not all disclosures made by an employee are protected under the Act. Those that are include criminal acts, health and safety violations, breaches of legislation and miscarriages of justice. However, such acts are only protected as long as the disclosure is made in good faith to the employer, or any other person authorised under a procedure set up by the employer for this purpose.

(Disclosures can also be made to appropriate regulatory bodies, such as the Health and Safety Executive.) Where an employee reasonably suspects malpractice (and this includes any crime), they will be protected from victimisation where they raise the matter in good faith with a person who is legally responsible for whistleblowing.

Qualifying Areas

The qualifying areas consist of information that the employee reasonably believes tends to show one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:

- i. a criminal offence
- ii. the breach of a legal obligation
- iii. a miscarriage of justice
- iv. a danger to the health or safety of any individual
- v. damage to the environment
- vi. deliberate covering up of information tending to show any of the above five matters.

Appendix F – The Seven Principles of Public Life (The Nolan Report)

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their families or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that may influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all their decisions and the actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Appendix G – Fraud Response Plan

Purpose

1. The purpose of this plan is to define authority levels, responsibilities for action and reporting lines in the event of a suspected fraud or irregularity. The use of the plan should enable NMITE to:
 - i. prevent further loss
 - ii. establish and secure evidence necessary for criminal and disciplinary action
 - iii. notify the appropriate body(ies), if the circumstances require in a timely fashion and without contamination of any evidence
 - iv. recover losses
 - v. punish the culprits
 - vi. deal with requests for references for employees disciplined or prosecuted for fraud
 - vii. review the reasons for the incident, the measures taken to prevent a recurrence, and any action needed to strengthen future responses to fraud
 - viii. keep all personnel with a need to know suitably informed about the incident and the NMITE's response
 - i. inform the police
 - ii. assign responsibility for investigating the incident
 - iii. establish circumstances in which external specialists should be involved
 - iv. establish lines of communication with the police.

Initiating Action

2. All actual or suspected incidents should be reported without delay to CEO (or, if the incident concerns the CEO, the Chair of the Board). The CEO (or if applicable the Chair) should, within 24 hours, hold a meeting of the following group to decide on the initial response:
 - i. another independent member of the SLT (or if applicable, the Chair of the Audit & Risk Committee) and
 - ii. the Company Secretary.
3. The group will decide on the action to be taken. This will normally be an investigation, led by the Chair of the Audit & Risk Committee.



Prevention of Further Loss

4. Where initial investigation provides reasonable grounds for suspecting a member or members of staff of fraud, the group will decide how to prevent further loss. This may require the suspension, with or without pay, of the suspect. It may be necessary to plan the timing of suspension to prevent the suspect from destroying or removing evidence that may be needed to support disciplinary or criminal action.
5. In these circumstances, the suspect should be approached unannounced. They should be supervised at all times before leaving NMITE's premises. They should be allowed to collect personal property under supervision but should not be able to remove any property belonging to NMITE. Any security passes and keys to premises, mobile phone or laptop provided by NMITE, offices and furniture should be returned.
6. Advice should be obtained on the best means of denying access to NMITE while suspects remain suspended (for example, by changing locks and informing security staff not to admit the individuals to any part of the premises). Similarly, access permissions to NMITE's computer systems and records should be withdrawn without delay.

Establishing and Securing Evidence

7. A major objective in any fraud investigation will be the punishment of the perpetrator, to act as a deterrent to other personnel. NMITE will follow disciplinary procedures against any member of staff who has committed fraud. NMITE will normally pursue the prosecution of any such individual.
8. NMITE will:
 - i. maintain familiarity with NMITE's disciplinary procedures, to ensure that evidence requirements will be met during any fraud investigation
 - ii. establish and maintain contact with the police where appropriate
 - iii. establish whether there is a need for staff to be trained in the evidence rules for interviews under the Police and Criminal Evidence Act

Recovery of Losses

9. Recovering losses is a major objective of any fraud investigation. NMITE shall ensure that in all fraud investigations, the amount of any loss will be quantified. Repayment of losses should be sought in all cases.
10. Where the loss is substantial, legal advice should be obtained without delay about the need to freeze the suspect's assets through the court, pending conclusion of the investigation. Legal advice should also be obtained about prospects for recovering losses through the civil court, where the perpetrator refuses repayment. NMITE would normally expect to recover costs in addition to losses.

References for Employees Disciplined or Prosecuted for Fraud



11. The Chair of the Board shall prepare any answer to a request for a reference having regard to employment law.

Reporting to Directors

12. Any incident shall be reported without delay by the CEO to the chairs of both the Board and the Audit & Risk Committee.

13. Any variation from the approved fraud response plan, together with reasons for the variation, shall be reported promptly to the chairs of both the Board and the Audit & Risk Committee.

14. On completion of a special investigation led by the Chair of the Audit & Risk Committee, a written report shall be submitted to the Audit & Risk Committee containing:

- i. a description of the incident, including the value of any loss, the people involved, and the means of perpetrating the fraud
- ii. the measures taken to prevent a recurrence
- iii. any action needed to strengthen future responses to fraud, with a follow-up report on whether or not the actions have been taken.

Reporting Lines

15. The group shall provide a confidential report to the Chair of the Board, and the Chair of the Audit Committee, at least monthly, unless the report recipients request a lesser frequency. The scope of the report shall include:

- i. quantification of losses
- ii. progress with recovery action
- iii. progress with disciplinary action
- iv. progress with criminal action
- v. estimate of resources required to conclude the investigation
- vi. actions taken to prevent and detect similar incidents.

Responsibility for Investigation

16. Special investigations shall not be undertaken by management.

17. Some special investigations may require the use of technical expertise. In these circumstances, the group may approve the appointment of external specialists to lead or contribute to the special investigation.

Review of Fraud Response Plan

18. This plan will be reviewed for fitness of purpose at least annually or after each use. Any need for change will be reported to the Audit & Risk Committee for approval.