

ANNEX C: Commercial Activities and Reporting Requirements.

A. Commercial activities

The following outlines in full the commercial requirements of DCMS ALBs, as well as a list of mandated reporting requirements. This document provides additional detail to ALBs Framework Documents, in order to support their compliance with commercial and procurement requirements.

Public Procurement Regulations

1. The ALB will comply with and ensure its procurement policies are aligned with and comply with any relevant UK or other international procurement rules and in particular the current Public Procurement Regulations (For Example but not exclusive to Public Contracts Regulations 2015 and Procurement Act 2023). Further, as a Central Government Authority, the ALB is subject to certain thresholds when tendering for a procurement opportunity.

Central Government Policy and Processes

2. The ALB shall acquire goods and services through fair and open competition, in accordance with the Government Commercial Operating Standards (including the Outsourcing Playbook), delivering value for money through procurement, and operating in line with UK and other international law, including restrictions on state aid/subsidy controls.
3. Subject to the exemptions listed ('Freedoms') at Annex B, the ALB shall comply with current and future requirements on additional spend controls, delegated authorities and authorisations on procurement and leases as notified to them by the Department.
4. The ALB shall not be required to comply with the Cabinet Office Learning and Development Spend control Guidance, nor any of the caps or restrictions set out in it.
5. ALBs designated as a freedom body have flexibility to opt in or out of central procurement on a case by case basis. However, where possible and appropriate, the ALB shall utilise whichever Crown Commercial Services frameworks are relevant to its needs.
6. The ALB must support the wider Government Commercial Function's strategies and programmes in their design, implementation and sustained application.
7. The ALB must embed all applicable current and future Procurement Policy Notes into its commercial operations. In particular, the ALB must:

- Support the Government's SME agenda through appropriate procurement activity where this does not conflict with the ALB's charitable or Freedom body status.
- Promote the inclusion of the Social Value Act and its associated principles in procurement activity wherever possible.
- Comply with Government transparency policies and commitments.

8. Support Commercial Procurement and Contract Management improvement and oversight initiatives including:

- Contract Classification for all contracts
- Internal spend control assurance & governance processes, aligned to the Department and Cabinet Office Commercial Spend Control approval processes (subject to exemptions detailed at Annex B - 'Freedoms')
- Pipeline reporting where relevant
- Assurance and audit implementation and reporting
- Contracts Finder compliance reporting
- Contract KPI reporting for external public publication
- Commercial Systems and Data improvement initiatives eg. CASIE

9. Attend Cabinet Office training programmes designed to raise commercial awareness and improve commercial capability, including Playbook and GCOS masterclasses, and Contract Management Capability Training.

Departmental Policy and Processes

10. Subject to the exemptions listed ('Freedoms') at annex B, the ALB shall comply with departmental spend controls as set by DCMS Commercial.
11. In procurement cases where the National Gallery is likely to exceed any applicable delegated authority limit, procurement strategy approval for the specific planned purchase must be sought from the DCMS Commercial Director.
12. Direct Award Contracts: The ALB must notify DCMS a minimum of 48 hours in advance of its intention to award a direct award contract the value of which exceeds the delegated threshold. These requirements do not apply to purchases for collections, acquisitions, core public offerings, or subscriptions that support these (e.g. subscriptions to unique journals).
13. The ALB must adhere to requirements of its charitable status, and inform the DCMS Commercial Director if there may be a conflict with public law and its charitable status.

Collaborative initiatives

The ALB shall:

- Support all Commercial Procurement and Contract Management improvement and oversight initiatives from DCMS and the Cabinet Office.
- Support collaborative procurement and commercial efforts across the Department and its ALBs. This will include supporting the establishment of a DCMS Commercial Council or similar body, where such a group has been instituted, and wider commitments to support knowledge-sharing and training for staff involved in Commercial and Procurement activity across DCMS ALBs.
- Support the formation and ongoing activities of a commercial function across the DCMS family of public bodies, through engagement with the DCMS Commercial team.
- Engage with Department and Government wide procurement initiatives that seek to achieve VfM from collaborative projects.

Grants and other bodies

14. If applicable, the National Gallery shall comply with the government functional standard for the management of grants. These standards set expectations for the management of grants, and to promote efficient and effective grant making to ensure funding is used as intended and provides value for money through high quality delivery.
15. In circumstances where the ALB finds itself having oversight and assurance of other public bodies or the procurement activities of private bodies spending public money the ALB shall ensure, as far as is reasonably practicable, and in so far as it has legal authority to do so, that all such parties adhere to the principles of Managing Public Money including the encouragement of transparent and robust practices and compliance with any applicable law.

Management Information and Compliance

16. The Department and the National Gallery are committed to sharing information to ensure transparency and alignment.
17. The National Gallery recognises that the Department will at times need to request information on an ad hoc basis and/or with a short time frame as required. The National Gallery must (within any reasonable timescale required by DCMS) supply any information requested by DCMS, and should proactively seek to provide DCMS with advance sight of events and publications which the Government would take an interest in.
18. In addition to this ad hoc information and open lines of communication, DCMS expects the National Gallery to provide regular information as listed below at Part 2 (reporting requirements). The list is not definitive, and intended to enable advanced planning for periodic Departmental commissions.

B. Reporting requirements - Freedom Bodies

Commission title	Timescale	DCMS lead team	Purpose
Consultancy Spend Control pipeline and compliance return (including nil returns)	Quarterly	Commercial	For DCMS and the Cabinet Office to plan and keep track of the public sector consultancy contracts and approvals
Commercial Spend Control Pipeline return (including nil returns)	Quarterly	Commercial	For the submission of the Departments quarterly Commercial Spend Control pipeline to Cabinet Office in accordance with Cabinet Office guidelines
Contract register	To be kept updated and accessible if requested by DCMS	Commercial	For oversight of commercial liability and risk across sectors, categories and suppliers, if a contract register is available.
Government Commercial Operating Standards (GCOS) return	If required / requested	Commercial	For the submission of the Department's Government Commercial Operating Standards (GCOS) return and update against improvement plans.
Contracts finder compliance report	Six months	Commercial	Transparency policy compliance reporting
Submission of procurement spend transactions to Bravo	Annually	Commercial	To comply with Cabinet Office spend reporting requirements
Government Key Contracts Public KPIs return (including nil responses if not on CCS)	If relevant - quarterly	Commercial	For the submission of the Department's quarterly Key Contracts Public KPIs return to the Cabinet Office
Procurement pipeline for publication return (including nil responses if not on CCS)	Quarterly	Commercial	For the submission of the Departments quarterly pipeline return for publication on .Gov.uk

Social Value reporting return	If required / requested	Commercial	To comply with Cabinet Office policy on Social Value reporting. Specifically at (a) pipeline (b) procurement strategy (c) Contract award (d) contract close subject to PPN06/2020
Prompt Payment reporting for contracts	Annually	Commercial	To ensure accurate reporting to Cabinet Office of in-scope contracts including any exclusions and exemptions requested

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Return for the review of key metrics, targets and reports related to procurement, contract management and commercial resourcing	Quarterly	Commercial	To benchmark procurement spend, compliance assessment to policy and provide data on economic effect of spend by Departments and PBs including 3rd party spend and commercial risk reporting.
Direct and Indirect SME spend	Quarterly and Annually	Commercial	To support the Government's SME Agenda and the DCMS SME Action Plan

C. Delegated financial limits

All delegations are subject to the requirement that spending proposals falling within Managing Public Money Annex 2.2, box A.2.2C should be referred to DCMS. These are:

- Items that are novel, contentious, or repercussive, even if within delegated limits ●
Items that could exceed the agreed budget and Estimate limits.
- Contractual commitments to significant spending in future years for which plans have not been set. Appropriate planning should be carried out to account for DCMS & HMT approval if required.
- Items requiring primary legislation (e.g. to write off NLF debt or PDC)
- Any item which could set a potentially expensive precedent
 - Where Treasury consent is a specific requirement of legislation. Please refer to Managing Public Money and Framework Agreements for further detail.

A breakdown of delegated financial limits can be found in the delegations letter, issued by DCMS to ALBs annually shortly after the start of each financial year.

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