



Llywodraeth Cymru
Welsh Government

Mutual Investment Model (MIM)

Guidance in respect of the use of Prior Information Notices for MIM schemes in Wales

September 2017 (Version 1)

**Guidance in respect of the use of Prior Information Notices for MIM projects in Wales
("Guidance")**

Disclaimer

Use of this Guidance is not a substitute for project specific advice and Contracting Authorities must take appropriate legal, financial and technical advice when using this Guidance.

This Guidance does not represent an exhaustive list of project specific matters that need to be considered by each Contracting Authority and its advisors when preparing a Prior Information Notice.

Introduction

In terms of the Public Contracts Regulations 2015 ("**2015 Regulations**"), a Prior Information Notice (PIN) can be used in three circumstances:

1. where a Contracting Authority wishes to make known its intention for a forthcoming procurement (regulation 48(1));
2. where a Contracting Authority which is a "sub-central" Contracting Authority (e.g. a local authority) wishes to use the PIN as a call for competition instead of using a contract notice as the call for competition (this is available in respect of restricted procedures and competitive procedures with negotiation only) (regulation 48(2); or
3. where a Contracting Authority wishes to reduce the time period for the receipt of tenders (this is available in respect of open procedures and restricted procedures only) (regulations 27(2) and 28(3)).

It is Welsh Government policy that MIM projects will be procured using the competitive dialogue procedure. Given this choice of procedure, a PIN can only be used by a Contracting Authority for the purpose of making known its intention to procure the particular MIM project. This Guidance is provided for use by Contracting Authorities who are procuring a MIM project pursuant to the competitive dialogue procedure.

Given the novel nature of the MIM projects, it is Welsh Government policy, prior to the issue of a Contract Notice, for Contracting Authorities to carry out one or more of the following activities:

- advertise any preliminary market engagement which is to be carried out in advance of progressing the procurement; and/or
- give the market early warning of the proposed procurement; and/or
- advertise a bidders' conference, to be convened by the Contracting Authority in respect of the MIM project which is planned to be procured

In terms of preliminary market engagement, regulation 40 of the 2015 Regulations states that before commencing a procurement procedure, a Contracting Authority may conduct a market consultation with a view to preparing the procurement and informing economic operators of their procurement plans and requirements. The Contracting Authority may seek or accept advice from independent experts, authorities, or market participants. Such advice may be used in the planning and conduct of the procurement procedure, provided that it does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency.

Publication of a PIN in respect of any preliminary market engagement has the advantage of advertising the intention to carry out market engagement to a wider audience. However, a PIN does not need to be used for such engagement but the Contracting Authority must comply with regulation 40 of the 2015 Regulations in carrying out any engagement. Contracting Authorities must also be aware of, and comply with, the requirements of regulation 40 which sets out how Contracting Authorities must deal with the prior involvement of tenderers or candidates or their undertakings, so as to avoid distortion of any procurement competition.

It is recommended by Welsh Government that Contracting Authorities should publish a PIN at least two months in advance of the anticipated publication of the Contract Notice for the MIM project for the purpose of making known its intention to procure the particular MIM project.

Completion of a PIN for use in respect of a MIM Project procured under the Competitive Dialogue Procedure

Guidance on how to complete a PIN for use in respect of a MIM project procured under the competitive dialogue procedure is set out in the table below. The template PIN is available on www.sell2wales.gov.wales.

In order to complete the template PIN, first select "Create Notice – Title and Type – select “OJEU for 2014 Directive”, then select SF01, PIN"

Section	Guidance for completion																								
Type of PIN	As the PIN for the MIM projects is being used "for prior information only" and not as a call for competition or to reduce the time limit for the receipt of tenders, "for prior information only" should be selected from the list of three options.																								
I: Contracting authority																									
I.1: Name and addresses	<p>In this section, identify the Contracting Authority responsible for the procedure. Name, address, contact person, telephone, email, fax, internet address and national registration number (if applicable) should be completed. In addition, a NUTS code should be inserted which relates to where the Contracting Authority is located. "NUTS" refers to Nomenclature of Territorial Units for Statistics, which was established by Eurostat in order to provide a single uniform breakdown of territorial units for the production of regional statistics for the European Union. For each EU member country, there is a hierarchy of three NUTS levels; the subdivisions in some levels do not necessarily correspond to administrative divisions within the country.</p> <p>The NUTS codes for Wales are:</p> <table data-bbox="571 1429 1109 2011"> <tbody> <tr> <td>UKL</td> <td>WALES</td> </tr> <tr> <td>UKL1</td> <td>West Wales and The Valleys</td> </tr> <tr> <td>UKL11</td> <td>Isle of Anglesey</td> </tr> <tr> <td>UKL12</td> <td>Gwynedd</td> </tr> <tr> <td>UKL13</td> <td>Conwy and Denbighshire</td> </tr> <tr> <td>UKL14</td> <td>South West Wales</td> </tr> <tr> <td>UKL15</td> <td>Central Valleys</td> </tr> <tr> <td>UKL16</td> <td>Gwent Valleys</td> </tr> <tr> <td>UKL17</td> <td>Bridgend and Neath Port Talbot</td> </tr> <tr> <td>UKL18</td> <td>Swansea</td> </tr> <tr> <td>UKL2</td> <td>East Wales</td> </tr> <tr> <td>UKL21</td> <td>Monmouthshire and Newport</td> </tr> </tbody> </table>	UKL	WALES	UKL1	West Wales and The Valleys	UKL11	Isle of Anglesey	UKL12	Gwynedd	UKL13	Conwy and Denbighshire	UKL14	South West Wales	UKL15	Central Valleys	UKL16	Gwent Valleys	UKL17	Bridgend and Neath Port Talbot	UKL18	Swansea	UKL2	East Wales	UKL21	Monmouthshire and Newport
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	UKL22 Cardiff and Vale of Glamorgan UKL23 Flintshire and Wrexham UKL24 Powys
I.2: Joint procurement	If the procurement of the MIM project will be carried out on a joint procurement basis or the contract will be awarded by a central purchasing body, then this should be reflected here. Seek advice in respect of any joint procurement.
I.3: Communication	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders, other than complete the "Additional information" question and confirm whether additional information is available from another address or the address included in Section I.1.
I.4: Type of the Contracting Authority	Regulation 2 of the 2015 Regulations defines a Contracting Authority as <i>"the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities, but does not include Her Majesty in her private capacity"</i> . Select the appropriate type which relates to the Contracting Authority.
I.5: Main activity	To be completed. Select the activity which relates to the Contracting Authority.
Will the PIN be a published by a third party?	To be completed, if relevant.
Select "Add Object"	
II: Object	
II.1: Scope of the procurement	
II.1.1: Title	Insert the title of the MIM project and include a reference number (if applicable).
II.1.2: Main CPV Code	The CPV (Common Procurement Vocabulary) establishes a single classification system for public procurement aimed at standardising the references used by Contracting Authorities to describe the subject of procurement contracts. The use of the CPV is mandatory in the European Union as from 1 February 2006. The CPV, adopted by Regulation (EC) No. 213/2008 is the current CPV version which should be used to complete this PIN The CPV consists of a main vocabulary for defining the subject of a contract, and a supplementary vocabulary for adding further

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	<p>qualitative information. The main vocabulary is based on a tree structure comprising codes of up to 9 digits (an 8 digit code plus a check digit) associated with a wording that describes the type of supplies, works or services forming the subject of the contract.</p> <p>Contracting authorities should find the code that suits the MIM project as accurately as possible and use this as the "Main CPV Code". Additional CPV codes should be included in Section II.2.2. Expert advice should be sought in respect of the selection of the appropriate Codes. An appropriate balance should be achieved between the used of Generic and Specific Codes.</p> <p>For further information on CPV codes and a link to current CPV Regulation, see http://simap.ted.europa.eu/web/simap/cpv</p>
II.1.3: Type of Contract	<p>Contracting authorities are required to choose one category only - works, supplies or services.</p> <p>It is likely that MIM contracts will be considered as a services contracts. This needs to be assessed by each Contracting Authority on a project by project basis using the rules on "mixed procurements" set out in regulation 4 of the 2015 Regulations.</p>
II.1.4: Short Description	<p>The short description of the MIM project should be drafted with precision and accuracy. It is important to be as specific as possible to indicate to economic operators what is being procured.</p>
II.1.5: Estimated Total Value	<p>Complete with the estimated total value. Valuation rules are set out in regulation 6 of the 2015 Regulations.</p>
II.1.6: Information about lots	<p>It is not currently envisaged that any of the MIM projects will be procured on the basis of lots. It is likely that if separate procurements of, for example, equipment, consultancy services, ground investigation or other enabling works are required, then such procurements will be advertised separately. Therefore, select "no".</p>
Estimated date of publication of the Contract Notice	<p>Complete with the estimated date of publication of contract notice</p>
II.2: Description	
II.2.1: Title	<p>This field is automatically completed as per the information entered in II.1.1.</p> <p>Lot No: N/A</p>
II.2.2: Additional CPV code(s)	<p>See comments in Section II.1.2.</p>
II.2.3: Place of performance	<p>Insert NUTS code which relates to the place of performance. See comments in I.1</p>

Section	Guidance for completion
II.2.4: Description of the procurement	Expand the short description in II.1.4. The description of the MIM project should be drafted with precision and accuracy. It is important to be as specific as possible to indicate to economic operators what is being procured (even when there is still some scope for development).
II.2.14: Additional information	<p>This Section should be used by Contracting Authorities to explain the reason for issue of the PIN. For example:</p> <ul style="list-style-type: none"> • to advertise any preliminary market engagement which is to be carried out in advance of progressing the procurement; and/or • to give the market early warning of the proposed procurement; and/or • to advertise a bidders' conference in respect of the MIM project which is being held by the Contracting Authority <p>Complete this Section with information in respect of, where relevant: details of the proposed preliminary market engagement and what interested parties should do if they are interested in participating in such market engagement; details about the proposed procurement including the procedure to be used, indicative procurement timetable etc (NB scope is already covered in II.2.4), and details of any bidders' conference which is being held.</p> <p>NB There is a character limit in sell2wales.</p>
III: Legal, economic, financial and technical information	
III.1: Conditions for participation	
III.1.1: Sustainability to pursue the professional activity, including requirements relating to enrolment on professional or trade registers	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders.
III.1.2: Economic and financial standing	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders.
III.1.3: Technical and professional ability	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders.
III.1.4: Information about reserved contracts	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders.
III.2: Conditions related to the contract	
III.2.1: Information about a	Leave blank as this PIN is not being used as a call for competition or

Section	Guidance for completion
particular profession	to reduce the time limit for the receipt of tenders.
III.2.2: Contract performance conditions	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders.
III.2.3: Information about staff responsible for the performance of the contract	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders.
IV: Procedure	
IV.1: Description	
IV.1.1: Type of procedure	Leave blank as this PIN is not being used as a call for competition.
IV.1.3: Information about the framework agreement or a dynamic purchasing system	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders.
IV.1.6: Information about electronic auction	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders.
IV.1.8: Information about the Government Procurement Agreement (GPA)	<p>The application of the GPA is complex. The GPA does not automatically apply to all government procurement of parties to the GPA. Annex 1 to the GPA sets out those Contracting Authorities within each signatory state (in our case the European Union) who are bound by the Agreement. Annexes 1-3 of that Appendix specify the central and sub-central government entities as well as other entities, such as public utilities, that each party has committed to complying with the Agreement. Each party's Appendix I Annex also specifies the threshold value above which individual procurements are covered by the Agreement. As a general rule, all goods are covered by the GPA, while Annexes 4 and 5 to Appendix I specify each party's covered services and construction services. Appendix I also includes Notes and General Notes qualifying the coverage accorded under the Agreement.</p> <p>Each Contracting Authority should complete this Section on a project by project basis, but it is likely that the GPA will apply.</p>
IV.2: Administrative information	
IV.2.1: Time limit for receipt of expressions of interest	Leave blank as this PIN is not being used as a call for competition.
IV.2.2: Languages in which tenders or requests to participate may be submitted	Leave blank as this PIN is not being used as a call for competition.
IV.2.3: Scheduled start date	Leave blank as this PIN is not being used as a call for competition or

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for start of award procedures	to reduce the time limit for the receipt of tenders.
VI: Complementary Information	
VI.2: Information about electronic workflows	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders.
VI.3: Additional information	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders.
VI.4: Procedures for review	
VI.4.1: Review body	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders.
VI.4.2: Body responsible for mediation procedures	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders.
VI.4.3: Review procedure	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders.
VI.4.4: Service from which information about the review procedure may be obtained	Leave blank as this PIN is not being used as a call for competition or to reduce the time limit for the receipt of tenders.
VI.5: Date of dispatch of this notice	
dd/mm/yy	This will be inserted automatically.

Glossary and Acronyms

2015 Regulations means the Public Contracts Regulations 2015.

Contract Notice means the notice published by a Contracting Authority in the OJEU in relation to the Procurement Process.

Contracting Authority means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities, but does not include Her Majesty in her private capacity.

EU means European Union.

GPA means the Agreement on Government Procurement between certain parties to the World Trade Organisation signed in Marrakesh on 15th April 1994 as amended.

OJEU means the Official Journal of the European Union.

Prior Information Notice or PIN means a prior information notice as referred to in regulations 48 of the 2015 Regulations.

Procurement Process means the competitive dialogue procedure adopted by the Contracting Authority for the procurement of a project.