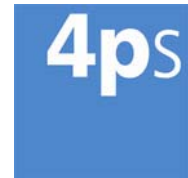


Bulletin

4ps procurement packs and model documentation

The following procurement packs and model documentation launched on the 6 December 2007 have been developed to include the following key issues:

1. All procurement packs have been updated to reflect the changes to the EU procurement regime introduced in 2006 to facilitate the procurement of particularly complex projects. All the packs are predicated on the basis that such projects will be procured using the Competitive Dialogue Process and the core pack guidance follows the approach to competitive dialogue set out in more detail in other 4ps guidance, namely 4ps guide to the competitive dialogue process and the 4ps map of the new EU public procurement rules available from the 4ps website www.4ps.gov.uk
2. All model contracts included in the procurement packs have been conformed to SOPC4 subject to the inclusion of a change protocol for the relevant sector
3. 4ps have published on its website an accommodation based change protocol which may be used as the basis for drafting sector specific change protocols for PFI model contracts in each sector. The current 4ps draft accommodation change protocol has been approved as SOPC4 compliant by PUK but is available on the 4ps website at this stage for consultation purposes. Change protocols for each sector will be developed and included in each sector specific contract when these model forms are next updated (likely to be in six months time)
4. The 4ps guidance on workforce matters sets out guidance and drafting on TUPE 2006, Pensions, workforce code and general employee clauses (available from the 4ps web site www.4ps.gov.uk) . All 4ps model contracts include the 4ps current workforce drafting (November 2007) on workforce matters with one exception, namely, Clause 2.5A of the workforce drafting. This is an optional clause which would permit the authority to agree a mechanism with the contractor or sub-contractor to the effect that they will pay a fixed employer contribution rate to the LGPS. This may become standard if the "pass-through" mechanism discussed at 3.10 of the 4ps workforce guidance comes into effect.
5. The model contracts in all the packs take in the approach and any relevant drafting in the Local Government Supplement to SOPC published in 2004. The contract in particular includes 4ps current drafting on best value compliance and the 4ps standard local authority capacity clause. The approach to best value compliance is, however, currently being reviewed in line with the development of sector specific change protocol drafting.
6. Any sector specific derogations from SOPC4 are highlighted in the contractual issues guidance part of the relevant procurement packs.



7. The model finance direct agreement is SOPC4 compliant and, at the request of PUK, has also been conformed to the current model used by Partnerships for Schools on building schools for the future projects;
8. 4ps intend to update the model documentation and guidance in all their procurement packs to reflect changes in law or practice. The next update to the model contracts should include any relevant sector specific change protocol drafting.
9. For any questions or issues of a legal nature arising please contact Rob Hann, Director, Legal Services 4ps on rob.hann@4ps.gov.uk

Please note the following:

The procurement packs, guidance, all model contracts and other relevant drafting ('the procurement packs') produced by 4ps have been developed to provide assistance to local authorities and their professional advisers. The procurement packs have been published in good faith and neither the 4ps nor any of its advisers, shall incur any liability for any action or omission arising out of any reliance being placed on the procurement packs by any local authority or organisation or other person.

Any local authority or organisation or other person in receipt of the procurement packs should take their own relevant professional advice when considering what action (if any) to take in respect of any initiative, proposal, or other involvement with any public private partnership, or before placing any reliance on anything contained therein.