

# SUMMARY GUIDANCE ON THE APPLICATION OF THE FINANCIAL MEMORANDUM/SCHEME OF DELEGATION



**NRA**

*National Rivers Authority*



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## LIST OF ABBREVIATIONS

<b>CE</b>	<i>Chief Executive</i>
<b>DF</b>	<i>Director of Finance</i>
<b>DO</b>	<i>Director of Operations</i>
<b>DoE</b>	<i>Department of the Environment</i>
<b>DWM</b>	<i>Director of Water Management</i>
<b>FGN</b>	<i>Finance Guidance Note</i>
<b>FM</b>	<i>Financial Memorandum</i>
<b>HEF</b>	<i>Head of Estates Function</i>
<b>HOFM</b>	<i>Head of Financial Management</i>
<b>HOSD</b>	<i>Head of Systems Development</i>
<b>IHWF</b>	<i>In-House Work Force</i>
<b>ISSG</b>	<i>Information Systems Steering Group</i>
<b>MAFF</b>	<i>The Ministry of Agriculture, Fisheries, and Food</i>
<b>NBV</b>	<i>Net Book Value</i>
<b>NDPB</b>	<i>Non-Departmental Public Body</i>
<b>NRA</b>	<i>The National Rivers Authority</i>
<b>MV</b>	<i>Market Value</i>
<b>p.a.</b>	<i>per annum</i>
<b>PIGN</b>	<i>Policy Implementation Guidance Note</i>
<b>PSE</b>	<i>Project Supplementary Expenditure</i>
<b>PTNL</b>	<i>Preferred Tender not the Lowest</i>
<b>RGM</b>	<i>Regional General Manager</i>
<b>RISM</b>	<i>Regional Information Systems Manager</i>
<b>RS</b>	<i>Regional Surveyor</i>
<b>SG</b>	<i>Summary Guide (this document)</i>
<b>SHLS</b>	<i>Secretary and Head of Legal Services</i>
<b>SoD</b>	<i>Scheme of Delegation</i>
<b>STA</b>	<i>Single Tender Action</i>
<b>WO</b>	<i>The Welsh Office</i>

# 1 INTRODUCTION

The National Rivers Authority (NRA) is a non-departmental public body (NDPB) which fully took up its statutory duties as an independent watchdog to regulate water undertakers and protect the aquatic environment at vesting on 1st September 1989. Its sponsor in Government is the Department of the Environment (DoE), although it also has important policy links with the Ministry of Agriculture, Fisheries, and Food (MAFF) and the Welsh Office (WO).

The NRA's position as an NDPB and its support by public money places particular responsibilities upon all its employees to ensure value-for-money and financial regularity at all times.

The rules to ensure financial regularity are contained within three main documents :

- o the Financial Memorandum (FM)
- o the Scheme of Delegation (SoD)
- o the Financial Guidance Note (FGN) - on the application of the FM and SoD

These are contained collectively within the Policy Implementation Guidance Note (PIGN) Volume 7.

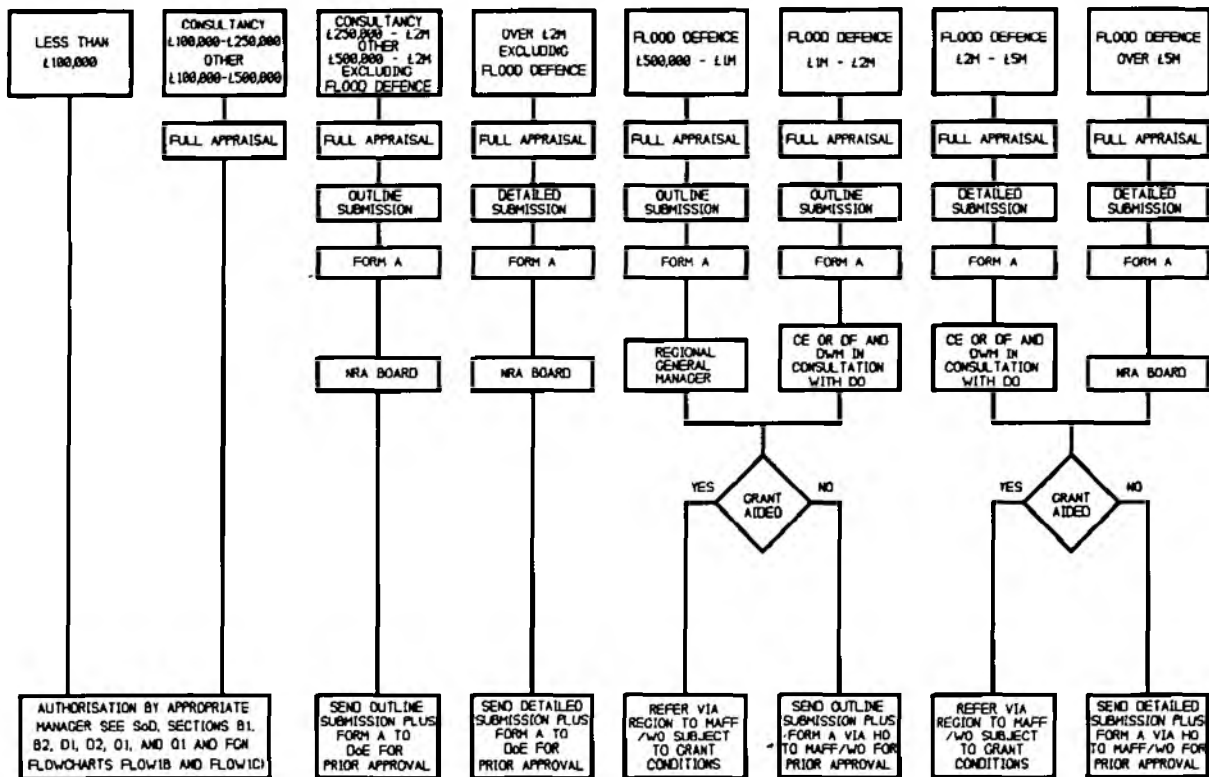
The FM is produced by the DoE and contains the rules on financial, personnel, corporate planning and other matters through which the DoE administers control over the NRA. This includes the rules determining when the DoE, MAFF or WO must give prior approval to certain activities. Such rules are frequently based on value limits. The SoD is an internal NRA document which deals with how authority vested within the NRA is delegated to officers. This again is frequently based on value. Much of the SoD deals with financial matters, although other topics are also addressed. The FGN sets out the procedures and advice on the use of the relevant financial areas of the FM and SoD.

The rules under which MAFF and WO administer control over flood defence expenditure eligible for specific capital grant, often known as Grant Aided Expenditure, are contained in their 'Memorandum Relating to Grants'. The rules in the FM related to flood defence expenditure, therefore relate to non grant aided expenditure, and in no way override the MAFF/WO grant conditions.

This document, the Summary Guide (SG), has been produced in recognition of the desire for a more "user-friendly" version of the PIGN and is intended to summarise and explain, but not replace, this document. The purpose of the SG is to promote general staff awareness of the financial rules within the FM/SoD. It is intended to provide guidance on dealing with common situations and to highlight particular potential problem areas. In cases of doubt, or where the SG does not deal with a situation which has arisen, refer initially to the FGN, which will then direct you (if necessary) to the SoD or FM as appropriate. If staff are still in doubt, they should refer initially to their manager, subsequently to the Regional SoD Co-ordinator.

Flowcharts are used, where appropriate, throughout the document, to explain the decision-making process, the forms required and the sequence of authorisation. These deal generally with the relationship between the NRA and external bodies. Equivalent flowcharts dealing with internal NRA delegations are contained within the FGN. These should be consulted whenever the flowcharts in the SG make reference to 'approval / authorisation by an appropriate manager (see SoD section xxx)'. This will normally signal the presence of an appropriate flowchart in the FGN.

# PROJECT AUTHORISATION



## 2 PROJECT AUTHORISATION

A project is defined in the FM as "a commitment to a discrete item of expenditure or to a set of expenditures related in such a way that the benefits of any one of them cannot be fully realised independently of the others". The purpose of the project authorisation step is to consider the total costs and total benefits of these expenditures before commitment to any of them.

Projects may consist of capital or revenue expenditure, but all capital expenditure is considered to be project related.

The FGN (section 2.3.4) provides useful examples of how the decision should be made on whether particular expenditure should be treated as project related or not. Within revenue expenditure, a general guide is that if the expenditure is the subject of a separate contract, and thus supported by an analysis of costs and benefits, then it is a project. The subsequent placing of orders within the terms of this contract would not be a project.

The flowchart opposite shows the forms and sequence of procedures required for project authorisation, provided that the following conditions are met :

- any expenditure with novel, unusual, or financially contentious features should be discussed initially with the Finance Directorate, Head Office. This includes any proposals for finance leases.
- there is no artificial division of items of expenditure which would affect the requirements to obtain DoE/MAFF/WO approval.
- that it is consistent with the NRA's resources (normally recognised by its presence as a discrete item within the capital or revenue budget).
- that the budget under the NRA's control is used as the determining factor. This is the total budget for projects which are partly or fully rechargeable or funded by an outside body, and is the NRA's contribution when the work is to be controlled by an outside body.

Consultancy is defined in the FGN (section 2.9.1) as "a contract for the provision of intellectual services other than as part of a contract of employment".

It should be noted that this authorisation excludes leases and property, which are dealt with separately in section 10.

### 3 *INCUR EXPENDITURE*

To incur expenditure is defined within the FGN as "to bind the NRA to another body in a contractual relationship, and includes signing contracts, making purchase orders, and authorising invoices for payment".

You should note that a verbal commitment can also constitute the making of a contract and care should be exercised in this regard.

For the authorisation limits associated with incurring expenditure refer to SoD Sections: B3; D3; O2; P1 and Q2/3. Please note that the limits referred to within these sections, as with all other limits within the SoD, exclude VAT. The FGN contains explanatory flowcharts. Separate limits apply for the following situations:

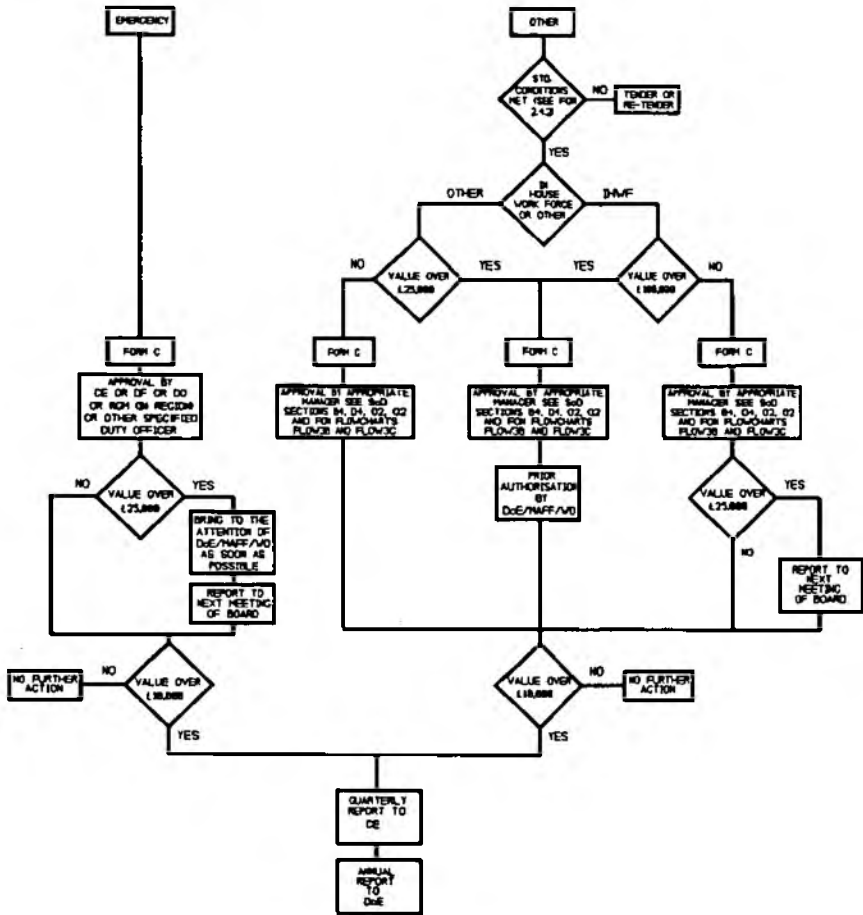
- it is a single tender action - if so see section 4
- the preferred tender is not the lowest - if so see section 5
- the project is in danger of exceeding the current authorised cost - if so see section 6.

The authorisation of expenditure by the appropriate officer should not be an automatic process. Authorisation should only be given if:

- the business problem has been identified clearly
- all feasible options have been considered and costed to a sufficient extent to allow the best solution to be identified
- budget and resources are available
- conditions in section 2 are met and none of the special situations noted above apply
- adequate documentary evidence is provided to support verification of the transaction.



## SINGLE TENDER ACTION (STA)



WHERE D/E/MAFF/WO IS QUOTED, REFERENCE TO MAFF OR WO AS APPROPRIATE IS FOR NON GRANT AIDED FLOOD DEFENCE EXPENDITURE. REFERENCE TO MAFF/WO FOR GRANT AIDED FLOOD DEFENCE EXPENDITURE IS SUBJECT TO THEIR GRANT CONDITIONS.

## 4 SINGLE TENDER ACTION

Single Tender Action (STA) is defined in the FGN (Section 2.4.1) as "the placing of an order with a supplier on the basis of a single tender". This can also arise if a tendering exercise has led to the receipt of only one valid tender. A tender should be considered not to be valid if it deviates significantly from the specification.

You may not accept a single tender unless one of the following conditions is met and the appropriate approval obtained:

- urgent action needed because of emergency situations
- sole source supplier (product/service cannot be obtained practically from any other source)
- generic (draw down from an existing contract)
- In-House Work Force (subject to the constraints and provisions of the FM)

The flowchart opposite shows the forms and sequence of procedures required for approval of STA. A further flowchart covering prior approval by the appropriate manager is included in the FGN. The SoD sections B4, D4, O2(i), Q2(i) also refer.

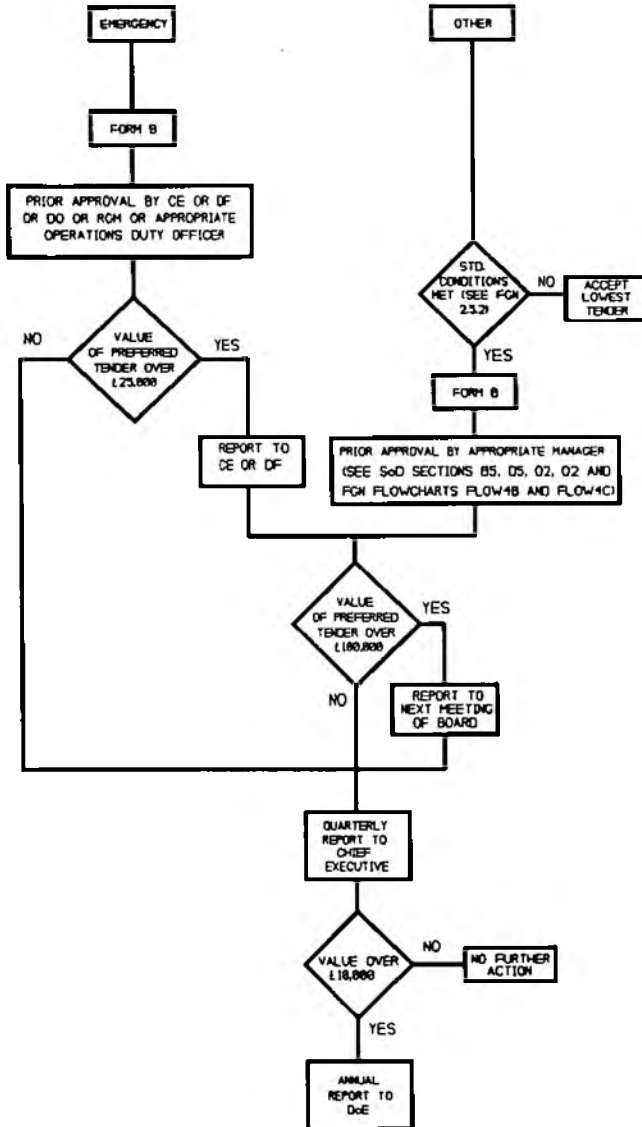
The condition relating to the IHWF is an interim concession allowed by the Board until the relevant FM rules are fully operational. See FGN (section 2.4.7) for full details.

It is not necessary to adopt competitive tendering for purchase values of less than £500 as this may be administratively inefficient. This should not prevent you from competitively tendering if there are good technical or commercial reasons for so doing, and it should still be considered good practice to obtain a fixed price quotation, possibly following telephone enquiry to a number of suppliers.

STA will not be allowed for any consultancy or contract let to an ex-member of staff, or Board member.

# PREFERRED TENDER NOT THE LOWEST (PTNL)

NOTE THAT THE MONETARY DIFFERENCE BETWEEN THE LOWEST AND PREFERRED TENDERS HAS NO IMPACT ON THE APPROVAL PROCESS



## 5 *PREFERRED TENDER NOT THE LOWEST (PTNL)*

The NRA is required to let contracts by competitive tender and to accept the lowest tender, unless there are good reasons to the contrary. Cases where other than the lowest tender is chosen should be exceptional / infrequent events. Examples of these exceptional events could include :

- information received subsequent to the tender invitation which makes the tenderer unacceptable on technical or financial grounds
- specialist services which are difficult to specify precisely and where evaluation of the tender response forms part of the evaluation process (e.g. specialist expertise or knowledge).

Careful specification of requirements and pre-tender vetting of suppliers should reduce the frequency of such incidents to a minimum.

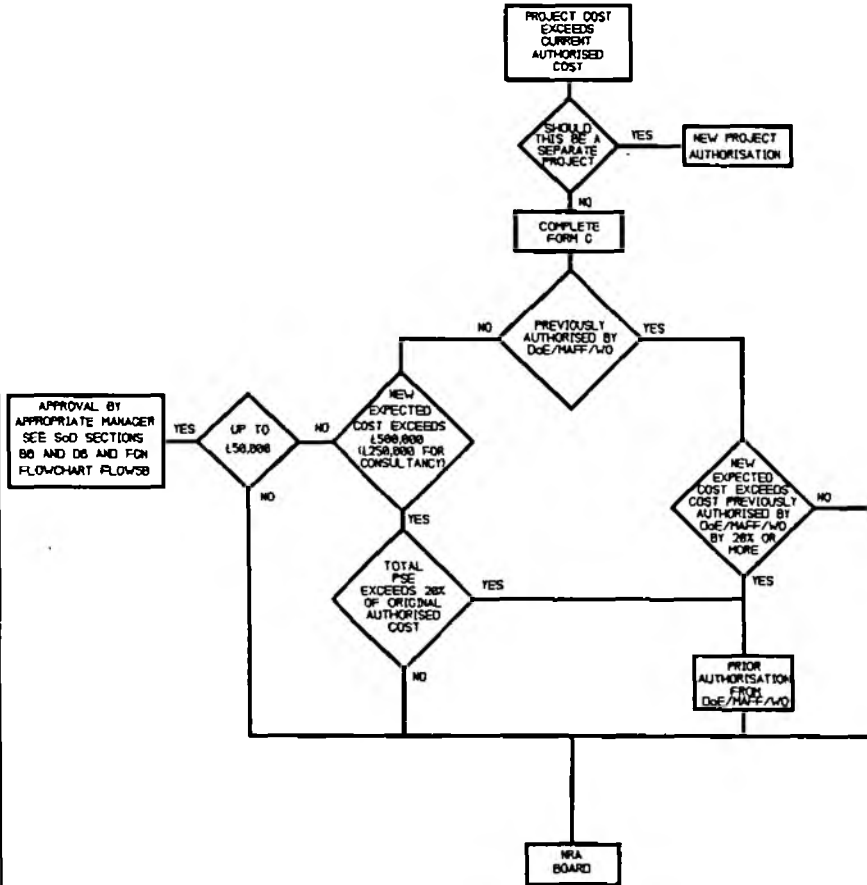
PTNL is covered in further detail in the FGN (section 2.5).

The flowchart opposite shows the necessary approval procedures provided that there are good reasons for adopting the preferred tender. A further flowchart covering prior approval by the appropriate manager is included in the FGN and detailed in the SoD sections B5, D5, O2, Q2.

For the purpose of determining whether PTNL has occurred, the tender prices after bid clarification but before post-tender negotiation, should be used. Specifically, post-tender negotiation which alters the financial ranking of the tenders does not eliminate the need for PTNL reporting and approval, even if the preferred tender price becomes the lowest.

It should be noted that the FM requires that the monetary difference between the preferred and the lowest tender has no impact on the approval process.

# PROJECT SUPPLEMENTARY EXPENDITURE (PSE)



WHERE DdE/MAFF/WO IS QUOTED, REFERENCE TO MAFF OR WO AS APPROPRIATE IS FOR NON GRANT AIDED FLOOD DEFENCE EXPENDITURE

REFERENCE TO MAFF/WO FOR GRANT AIDED FLOOD DEFENCE EXPENDITURE IS SUBJECT TO THEIR GRANT CONDITIONS.

Project Supplementary Expenditure (PSE) initially occurs when the original authorised cost of the project is expected to be exceeded, but can re-occur whenever the latest authorised cost is expected to be exceeded.

The main reasons why PSEs occur are :

- higher tenders received than estimated
- design issues arising from the tender process or during construction
- poor estimation or management of the contract
- unforeseen events occurring during the project.

Good project management techniques require that the expected cost to completion should be frequently reviewed. The PSE approval should therefore be sought at the time that the project appears to be about to exceed its authorised cost.

PSE is covered in further detail in the FGN (section 2.6).

A revised project investment appraisal should be prepared if the total PSE exceeds £100,000 (£50,000 for consultancies).

The flowchart opposite shows the forms and sequence of procedures required for approval of PSE. A further flowchart covering prior approval by the appropriate manager is included in the FGN and detailed in the SoD sections B6 and D6.

Note that the approval by the appropriate manager is determined by the amount by which the new expected cost exceeds the authorised cost on the latest **Form G**.

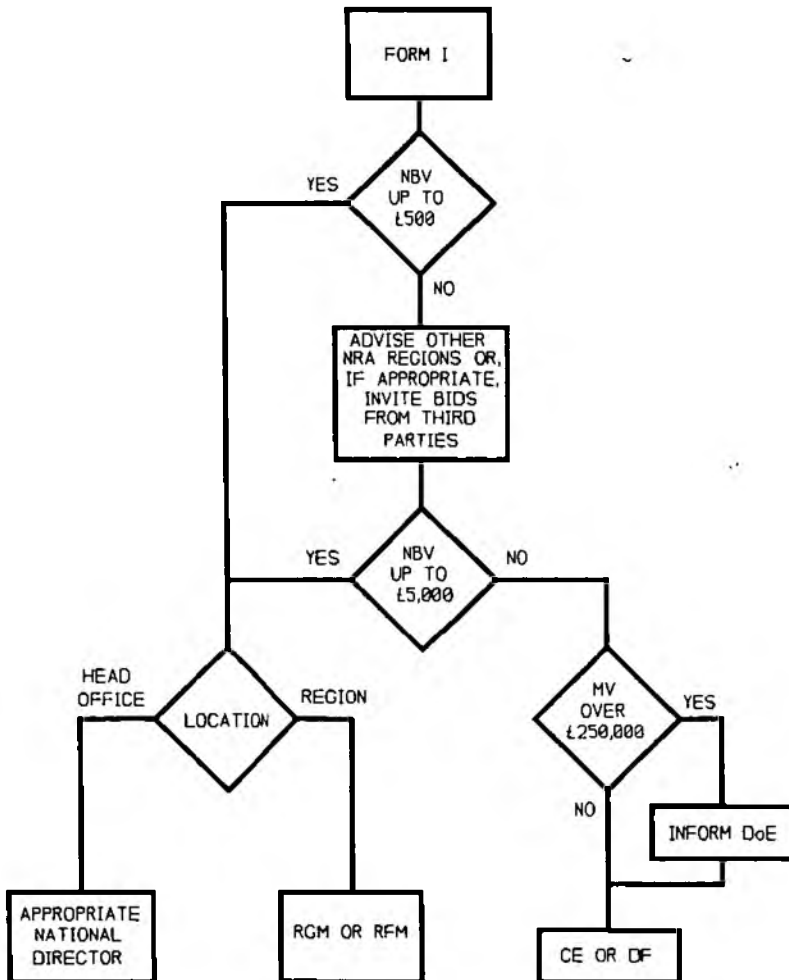
You should note that prior approval should be sought except where there are demonstrably robust, practical, contractual, legal, or value-for-money grounds for not doing so, in which case retrospective approval must be sought at the earliest opportunity. The exceptions would include cases where :

- contractors are on site and delay would incur substantial costs
- there is an obligation under the terms of the contract to abide by the judgement of the engineer to the contract.

A key decision at the start of the PSE process is whether the additional work should actually be established as a separate (new) project. This judgement will depend upon the degree to which its costs and benefits arise independently of the existing project. The greater the extent to which the additional work is of value for its own sake, the more likely it is to be a separate project.

# DISPOSAL OF ASSETS

(EXCLUDING LAND AND ESTATES)



NOTE : NET BOOK VALUE (NBV) FOR EQUIPMENT IS ORIGINAL COST MINUS ACCUMULATED DEPRECIATION. FOR STOCK IS THE LOWER OF COST OR NET NET REALISABLE VALUE.

EXPECTED MARKET VALUE (MV) IS ESTIMATED REALISABLE VALUE.

## 7 DISPOSAL OF ASSETS

This section excludes the disposal of land, buildings, and structures, which is covered in section 10.

Unwanted stores, plant, equipment, vehicles, and any other assets should be disposed of as soon as reasonably practical, applying the proceeds to the function(s) which originally funded their acquisition. The following points should be noted :

- Other NRA regions should be informed of any planned disposals.
- You have a duty to achieve the best price obtainable - this may involve inviting tenders or auctioning, best practice depending on the type of asset being disposed of.

The flowchart opposite summarises the necessary approvals and forms, and the SoD sections L1 and L2 also refer.

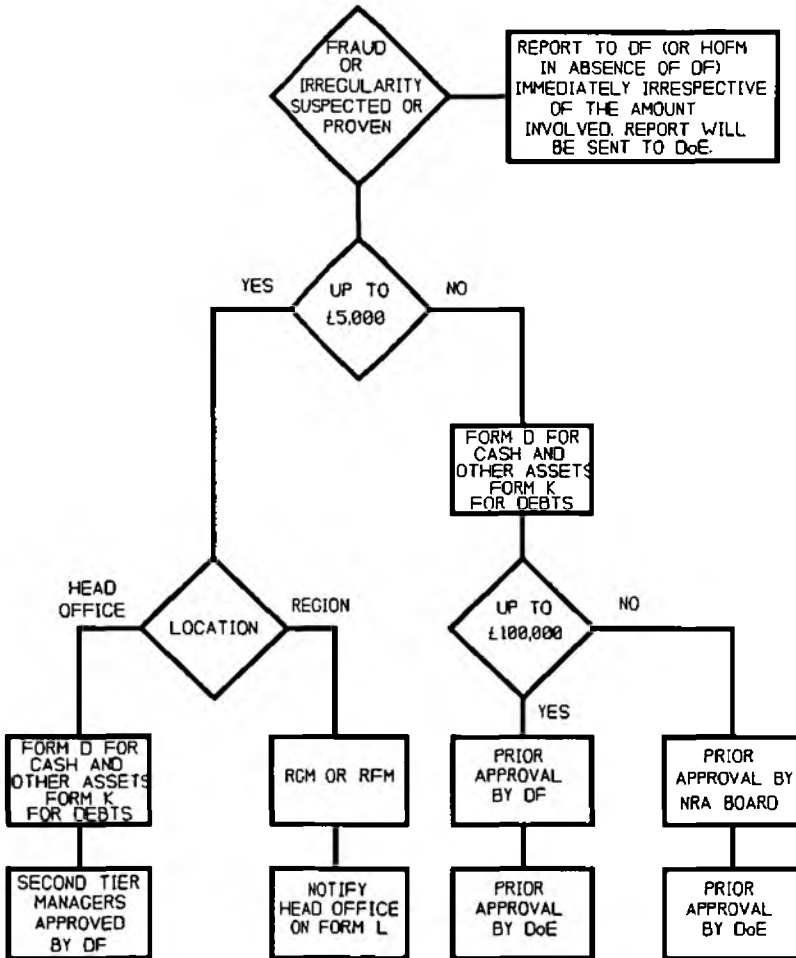
Net Book Value should be ascertained prior to disposal, and may be obtained on request from your Finance Department.

If the value realised at disposal is less than the Net Book Value (NBV), the difference will need to be written off as a loss (see sections 8 and 9) , unless the asset is transferred by way of a gift (see section 11).

Because of handling and administrative costs, it will not generally be necessary to inform other Regions or seek competitive tenders for items with an NBV below £500. Any disposals with an expected market value above £250,000 must be advised in advance to DoE.



# WRITE-OFF OF LOSSES



## 8 WRITE-OFF OF LOSSES

Any cases of write-off involving fraud or irregularity, proven or suspected, must be referred to the Director of Finance, or in his absence the Head of Financial Management immediately they come to light irrespective of the amount involved. With Regional cases the Director of Operations should be notified as well. A report will then be sent to DoE. See section 12 for further guidance.

The procedure for write-off depends on the type of loss being written off. These are classified into three categories as follows :

- **Cash losses**, including fraud or irregularity; physical loss of cash or cash equivalents (e.g. stamps); book keeping losses; losses of pay, allowances, and superannuation benefits paid to staff, failure to make adequate charges for the use of public property or services; exchange rate losses; failure to recover prepayments or overpayments
- **Debt write-offs**, including decisions not to pursue claims for any reason; claims reduced in negotiation or for policy reasons; and decisions to reduce the interest rate on a loan
- **Write-offs of other assets**, including stock, motor vehicles, land, buildings etc. arising from the difference between market value and book value at disposal; losses due to suspected or proven fraud, theft, arson, or other cause where someone can be blamed; losses due to fire (other than arson), obsolescence, accident, weather damage or other cause where nobody can be blamed

Note that losses of assets, fruitless payments, constructive losses, and unenforceable claims are not treated as write-offs under current accounting policies. See section 9 for definitions and action required.

Write-off of losses is covered in further detail in the FGN (section 5).

The flowchart opposite shows the procedures and forms required for write-offs. It should be noted that a different form is used for values above £5,000 depending on whether it is a debt write-off or not.

For the purposes of determining the appropriate procedure, separate write-offs should not be aggregated. The only exception to this is where a debt write-off involves the same debtor for the same transaction type (e.g. abstraction charges).

Debt adjustment is not treated as a write-off unless it involves the NRA foregoing a genuine legal claim. If a debt or part of a debt is not legally enforceable it can be adjusted by issuing a credit note, and is not considered as a write-off.

Stock adjustments may fall within this section depending on the cause or suspected cause of the adjustment (see FGN section 5.4.5).

## 9 UNENFORCEABLE CLAIMS

This type of loss is not treated as a write-off under current accounting policies. They must, however, be notified to Head Office in every case, irrespective of value.

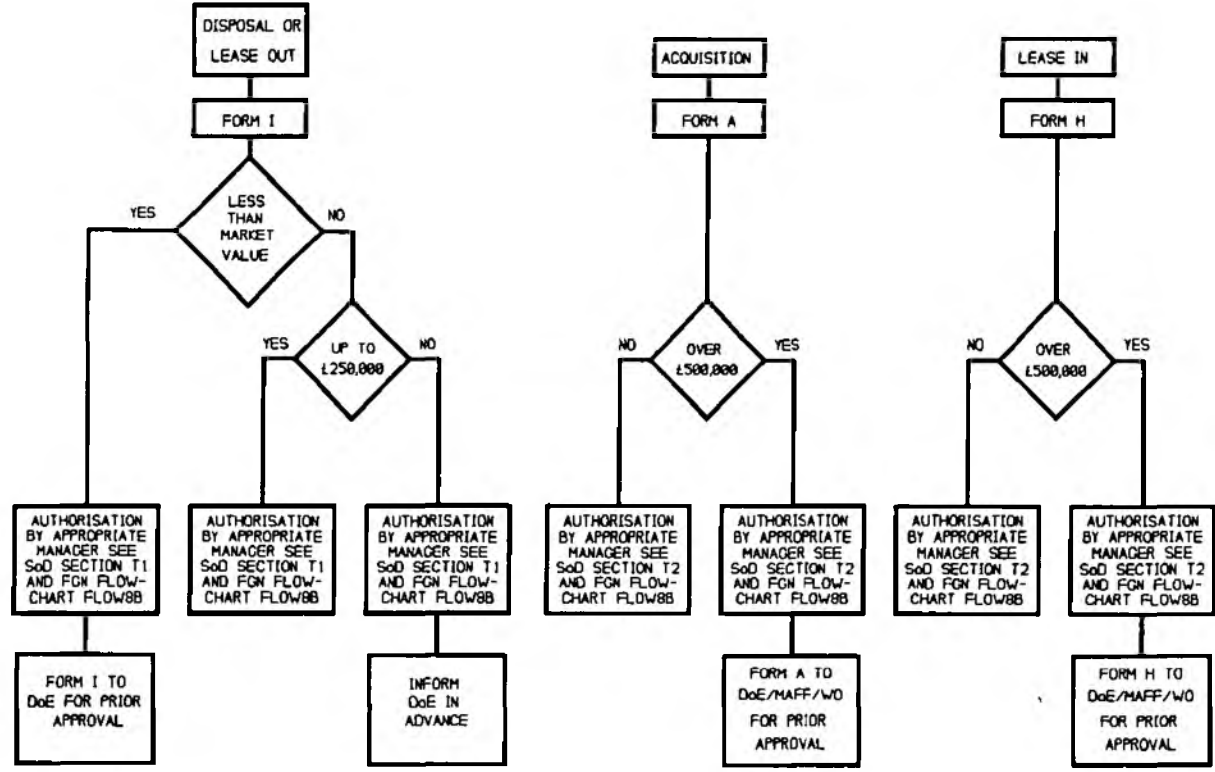
- **Losses of Assets** relates to all NRA property such as stock, vehicles, plant, equipment, land, and buildings, and comprises either **total loss** (i.e. not repairable) arising from any cause or **repairable damage** due to suspected or proven fraud, theft, arson, vandalism, recklessness, or any other culpable cause.
- **Fruitless Payments** cover situations where a liability **ought not** to have been incurred, for example hotel accommodation wrongly booked, goods wrongly ordered or accepted, cost of rectifying design faults due to lack of diligence or defective professional practices.
- **Constructive Losses** occur when, for example, stores or services are correctly ordered, but owing to a change of policy or similar reason prove not to be needed, or to be less useful than when the order was placed.
- **Unenforceable Claims** cover all cases where the NRA incurs cost which it would normally expect to recover from other parties but is unable to do so because the identity or whereabouts of those parties cannot be established.

Losses falling into the above categories must be notified to Head Office using **Form L**, as soon as possible after the loss has occurred.

When reporting the amount of a loss on **Form L**, any amounts recovered from an insurance claim should be recorded as deducted from the amount of the loss. If the amount recovered fully reimburses the loss no report is required, since the NRA has incurred no financial loss. It is recognised that a delay in submission of the form will occur until the insurance claim is settled.

No flowchart is provided for this activity since the required action does not depend on the value or type of loss.

# LAND AND ESTATES



Leases and the acquisition and disposal of property are subject to approvals which differ from those applied to general acquisitions. The main difference is the involvement of the Secretary and Head of Legal Services (SHLS).

The flowchart opposite shows the forms and sequence of procedures required for approval of transactions involving land and property. A further flowchart covering prior approval by the appropriate manager is included in the FGN. The SoD sections T1, T2, and T3 also refer.

The value of a lease, where not otherwise specified as an annual cost, should be taken as the aggregate cost of annual payments up to the breakpoint in the lease where penalties would not accrue.

The requirement for prior DoE approval for any acquisition in excess of £500,000 should be noted. Also, the DoE must be informed in advance of any disposal with an expected value in excess of £250,000.

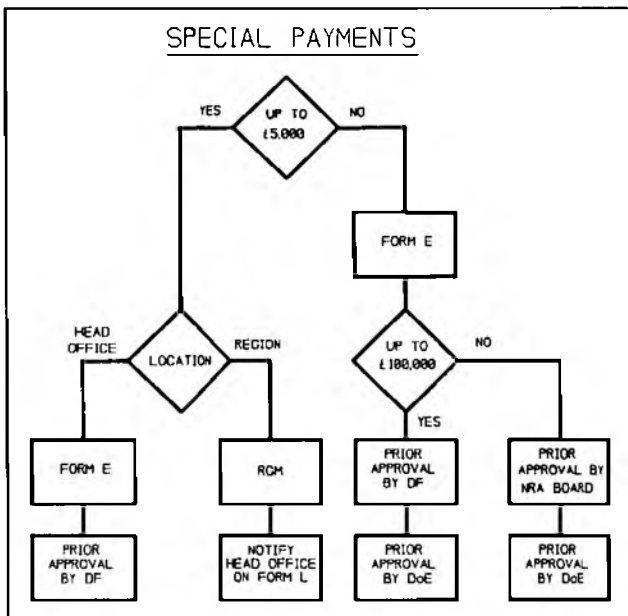
MAFF/WO prior approval should also be obtained for any acquisition in excess of £500,000 that is not grant aided.

MAFF/WO prior consent must be obtained to the sale of land and property assets surplus to scheme works which was purchased with grant aid.

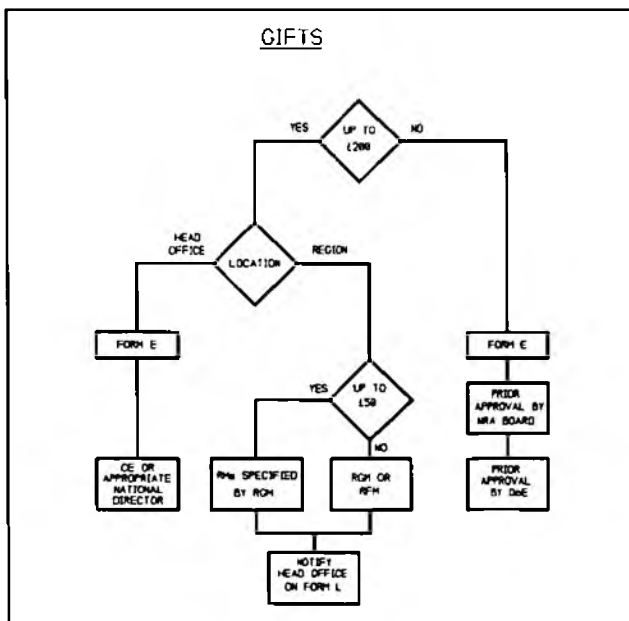
The disposal of land and property assets is subject to additional regulations :

- Land originally acquired compulsorily or under threat of compulsion may have to be offered back to the former owner
- Land with potential for development should normally be sold with the benefit of outline planning permission
- An adjustment to value may be appropriate if delays occur in resolving planning permission issues
- The NRA should take all proper steps to secure the best price, taking proper professional advice and marketing with due vigour
- Sales by auction and tender should lead to sufficient competition to ensure that a genuine market price is achieved

## SPECIAL PAYMENTS



## GIFTS



## 11 SPECIAL PAYMENTS AND GIFTS

Special payments (see FGN section 5.6) are essentially payments made to other bodies or organisations for which there is no legal liability. Such payments should be rare and are subject to a greater degree of control than the generality of payments. The flowchart opposite shows the authorities and forms required.

Situations which may lead to special payments include :

- Extra-contractual : a payment which although not legally due under a contract, appears to be an obligation which the courts might uphold. (This will normally be attributable to NRA action or inaction)
- Ex-gratia payment to contractor : normally compensation on the grounds of hardship
- Ex-gratia payments other than to contractors : may include payments made to meet hardship caused by official failure or delay.

The donation of gifts (see FGN section 4) by a public body at taxpayers expense is a very sensitive issue, and gifts are therefore subject to a high degree of control. Under no circumstances may gifts take the form of cash.

The following should be treated as gifts :

- near money items e.g. stamps, vouchers
- the loaning of property at less than full market value
- the gift of an asset including land and buildings or assignments of leases at less than full value. The value will be the difference between the full market value and the price at which it is transferred
- the gift of stock.

The FGN provides useful examples of the types of gifts which may reasonably be made.

The NRA is required to keep a register of all gifts. This record is maintained by the Finance Directorate at Head Office, notified by Regions via **Form L**. It is required that in addition, Regions will maintain their own register of gifts (see flowchart).

## 12 FRAUD AND IRREGULARITY

Any cases involving fraud or irregularity, proven or suspected, must be referred to the Director of Finance, or in his absence the Head of Financial Management immediately they come to light irrespective of the amount involved. With Regional cases the Director of Operations should be notified as well. A report will then be sent to DoE.

Fraud and irregularity refers to any matter perpetrated by staff, suppliers, consultants or contractors engaged by the NRA which involves, or is thought to involve, any of the following :

- Fraudulent encashment of a payable instrument
- Misappropriation of cash
- Falsification of a document to obtain payment e.g. order, invoice, expenses claim etc.
- Theft, or suspected theft, of Authority equipment, stocks, assets etc.
- False claim for hours worked
- Unauthorised use of Authority property
- Matters not clearly falling within the above categories, but which may arise from accusations or suspicions of impropriety in dealing with the affairs of the Authority e.g. tenders, contracts, computer frauds, etc.

It is essential to realise that you should report any suspicion or allegation of fraud or irregularity as soon as you become aware of it. You should not wait for concrete evidence to be produced.

Each Regional General Manager / National Director will nominate a 'linkperson' to whom all such incidents should be reported.

The 'linkperson' will complete Form M, maintain a register of notifications, inform Internal Audit immediately by telephone, liaise with RGM / Director to agree and approve the action taken and complete a Form D or Form L as appropriate (see section 8, Write-off of Losses). Where appropriate they will also notify the Head Office SoD co-ordinator and the police.

The Head Office SoD co-ordinator will maintain a register of all Form Ms and inform the DoE. They will also progress the completion of information on incomplete Form Ms and prepare the Annual Return of Frauds for despatch the DoE.

Fraud and Irregularity is covered in further detail in the FGN (section 8).