

ANNEX C TO DAO(GEN)16/04



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PROCUREMENT OF VACCINES

At the Committee's hearing on 20 October, Mr Field asked, in relation to procurement decisions in general, whether the department had a system for checking the public registers of political donations. As this question is relevant to all government departments, I agreed with Sir Nigel Crisp after the hearing that I would seek the views of the Cabinet Office and the Office of Government Commerce. I am sorry for the delay in replying.

Having looked into this in consultation with the Cabinet Office and OGC, a number of difficulties have been identified. Although details of political donations over £5000 are published quarterly, there can be significant delay in reporting them and many individuals make donations on a personal basis so their links to individual companies will not be obvious. Linking donations and tenderers would therefore be difficult, time-consuming and uncertain. There are also problems of whether to apply a time cut-off, whether to include donations by close family members and how to cover other types of political connection (eg former Ministers on the boards of companies). Any checking process of registers of donations would therefore only be a partial and unreliable response to the issue discussed at the hearing.



It must also be borne in mind that the public procurement procedures themselves provide significant protection to Ministers and officials. Officials handling contracts are required to make sure that the correct procedures have been followed and that the award recommendation follows from the evidence of the evaluation of tenders. All contract award decisions must be based on value for money, normally through competition (a requirement of Chapter 22 of *Government Accounting*). The EC procurement directives, and the Regulations which implement them in the UK, must also be followed for contracts above certain financial thresholds (approx. £100k for supplies and services). Even for contracts below those thresholds or otherwise outside the scope of the directives (concessions for example), EC Treaty principles of equal treatment and transparency apply. The directives require appropriate advertising of contracts and other transparency mechanisms, including the need to provide an explanation to any unsuccessful bidder who seeks it. Aggrieved bidders may complain to the courts or the European Commission if they consider that they have been treated unfairly and, in that event, the purchasing department has to justify its actions. A detailed audit trail is therefore required for all public procurements, which provides evidence in the event that procurement decisions are challenged or questioned. Officials who feel that some additional substance to the audit trail is required, for whatever reason, may refer the case to their Accounting Officer and/or to Internal Audit to verify that the procedures have been correctly conducted.

Aside from the public procurement laws, Ministers and officials are also expected to observe the Seven Principles of Public Life set out in the first report of the Nolan Committee and the requirements of the Ministerial Code and the Civil Service Code as appropriate. Any decision by Ministers to overturn a recommendation by officials on a public procurement contract would have to be fully recorded and explained in the documentation. Where officials consider that a decision cannot be defended on grounds of propriety, Government Accounting requires an Accounting Officer to seek a written

instruction and to inform the Treasury and the Comptroller and Auditor General.

In the light of these considerations, we are therefore of the view that it would not be appropriate to introduce such a checking system into the procurement process. However, the Treasury will write to Departments to remind them of the above points.

I am copying this letter to Sir Nigel Crisp and to the C&AG.

Yours sincerely

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Treasury Officer of Accounts