

**Internal Procurement Guidance Document**

**How to procure Consultancy Services with a value of less than £50,000 (before VAT)**

**Version 5**

**Dated Oct 2017**

**What is this Guide For?**

This guide has been produced by the University Procurement Department to help individuals within the University independently and competently contract for Consultancy Services which have a value below £50,000 (before VAT).

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**If your questions are not answered…**

If any of your related questions or issues are not addressed in this document please contact Professional and Campus Services team contact details available at <http://www.ed.ac.uk/procurement/about/contact-us> Additional information can then be incorporated into the buyer’s guide so that over time the content will be enhanced to cover all issues and questions raised by guide users.

**What are the options for meeting my Consultancy need?**

**A)** There may be a pre-existing University Framework that you can use to quickly and easily fulfil your Consultancy need. To find out what is currently available in the area of Consultancy Services please click on this link <https://www.ed.ac.uk/procurement/buy-at-ed> and use “Consultancy” in the search facility.

**B)** Before deciding to buy Consultancy Services, consider if individuals already employed by the University could meet your need. Your consultancy requirements might help other departments to fulfil certain research goals and you might be able to avoid paying VAT.

Contact the relevant academic school/department that you believe might be able to assist. Alternatively, official University support services are detailed here <http://www.ed.ac.uk/schools-departments/support-services>. If internal resources can meet your need, then you will be required to establish and agree certain protocols to govern the working relationship between, and the respective responsibilities of, the consultant(s) and the unit to which the service is to be provided.

**C)** The University Business School offers Consultancy services here; <https://www.business-school.ed.ac.uk/business-services>

**D)** Source and contract with a Consultant yourself. This is what this guide will assist you with.

**What is so important about the £50,000 + VAT threshold?**

Legislation governing Scottish public sector procurement requires that all University Contract opportunities over £50,000 (before VAT) in value:

* are advertised publically on certain national websites;
* have formal procurement tender documents published via specific eProcurement Tendering portals; and
* follow specific evaluation procedures.

Therefore, you will need the assistance of the University’s Procurement Office, specifically the Professional and Campus Services Team, to ensure all legal obligations are met.

Requirements below this value do not require such a formal approach, but their acquisition must meet the basic principles of transparency, fair and equal treatment of bidders and achievement of value for money, and the University has published procedures and protocol which must be followed.

**How do I calculate the Value of my Requirement?**

Please refer to the guidance on the University’s Procurement Assistance pages to help ascertain if your requirement will exceed the £50,000 (before VAT) threshold.

<http://www.ed.ac.uk/procurement/policies-procedures/how-to-buy-guidance/estimating-contact-value-aggregation>

If you are satisfied that your Consultancy requirement will not exceed £50,000 (before VAT) over 4 years and will not grow in scope overtime to exceed £50,000 (before VAT) you have the option to Contract the Consultancy Services you require independently from the Procurement Department via the procedures outline below.

**Budget, Authority and VAT considerations**

Gain confirmation that a budget is in place for your requirement before starting the procurement procedure if possible. And, before placing any contract, ensure that you have written agreement from the correct individual who has the spend authority to commit to such a Contract value, as per the University’s [delegated authority schedule.](http://www.docs.sasg.ed.ac.uk/GaSP/Governance/Governance/DelegatedAuthorisationSchedule.pdf)  Please note that while procurement threshold values are exclusive of VAT, spend authority levels are inclusive of VAT for the purposes of the delegated authority schedule.

Ensure that you have budgeted for paying VAT. Even if the consultancy services are sourced from overseas and do not attract overseas VAT, the University will have to self-declare this contract to Her Majesty’s Revenue and Customs (HMRC) and pay the UK VAT directly to HMRC.

There may be very rare circumstances were VAT is not payable. You are advised to contact the VAT helpdesk [TaxandVAT@ed.ac.uk](mailto:TaxandVAT@ed.ac.uk) before proceeding to check if your situation is indeed VAT exempt.

Will my Consultancy Project fall within the scope of IR35 “off payroll” HMRC tax legislation?

Read this material

Fill out this form

If it is applicable it will affect each of the procurement process steps outlined below.

Link to work flow

Public bodies including the University are now subject to rules designed to ensure that our personal service providers including consultants are paying the correct amount of tax regardless of how they are being paid. If a consultant is paid through an intermediary e.g. a personal services company, and they are not paying the correct amount of tax, the University may be liable for repayment of tax and any associated fines which can be considerable.

For information about IR35 tax status and University service providers please see information on the procurement office website add link.

If IR35 rules might apply to your requirement you will first need to complete Employment Status Questionnaire—Future Engagements form (available on the [Payroll Office website](http://www.ed.ac.uk/finance/about/sections/payroll/payroll-forms)) about the services they wish to procure, and must submit the completed form to the Payroll Office (email: [finpay@ed.ac.uk](mailto:finpay@ed.ac.uk)). The Payroll Office will conduct an official IR35 status check at this stage and inform the buyer of the outcome. Please [contact the Payroll Office](http://www.ed.ac.uk/finance/about/sections/payroll/contacts) with any questions about the use of this form.

If IR35 rules do apply this will affect various parts of your procurement process such as

* a modified invitation to quote document
* a modified pricing schedule declaring day rate for labour and estimated number of days
* pay your supplier via pay roll rather than purchase order and invoice.

Please see the IR35 procurement workflow diagram (add link when ready) and additional info below. Please note that IR35 tax status may entail additional costs for both the University and the service provider.

**What is the buying process I have to follow?**

To procure Consultancy Services less than £50,000 (before VAT), you should follow the following process:

1. If necessary, engage with potential suppliers to gather information about the services/possible solutions available in the market (Market Engagement)
2. Write a full description ([Specification](http://www.ed.ac.uk/procurement/policies-procedures/how-to-buy-guidance-under-fifty-thousand/how-to-write-a-specification)) of your Consultancy Requirements.
3. Check IR35 Tax status of your requirement.
4. Decide how you would like the bidders to price their Consultancy services then create a

Pricing Schedule

1. Consider the options for the Terms and Conditions for your Contract. As a default, you should request compliance with the [University’s Terms and Conditions](http://www.ed.ac.uk/procurement/supplying/terms-and-conditions-of-purchase).
2. Decide what evidence of the bidders’ ability to do the job you want to see and then create a set of questions for the bidder to answer which will demonstrate their ability (Evaluation Criteria)
3. Send the information (Specification, Price Schedule and Evaluation Criteria) to a minimum of 3 bidders who you believe will be able to meet your needs and ask them to respond within a certain timescale. See below and [our website](http://www.ed.ac.uk/procurement/policies-procedures/how-to-buy-guidance-under-fifty-thousand/3q-non-contracted-goods-serviceshttp:/www.ed.ac.uk/procurement/policies-procedures/how-to-buy-guidance-under-fifty-thousand/3q-non-contracted-goods-services) for procedures and tips on requesting quotes.
4. Evaluate the bidders’ responses and decide who to contract with
5. Form the Contract with the successful bidder and place a purchase order

More information on how to successfully navigate through the different stages is given below:

**1 How can I explore the market for consultancy solutions?**

If you are unsure as to what the market can offer or what sort of consultancy could meet your need, it is permissible to speak to several potential suppliers before you send out a formal Invitation to Quote. Communicating your needs to suppliers, openly and transparently, and discussing possible solutions can stimulate innovation and value for money in the delivery of your solution.

It is best practice to engage with a minimum of 3 potential suppliers to get a rounded view of the market. In addition try to ensure that your specification is written in a way that allows more than one supplier to bid. It is not permitted to intentionally skew or unnecessarily narrow your specification so that only one supplier will be able to respond.

It would also be very useful at this stage to gauge if any of your potential suppliers may be “intermediaries” e.g. individuals who work via a Personal Service Company, their own limited company, a partnership or certain agencies. It is important to establish this as if a contract is placed with an intermediary, the University has increased responsibilities to ensure the correct amount of tax is paid against work done for the University under IR35 tax legislation changes which came into force April 2017.

**2 How do I write an effective Consultancy Specification for my requirement?**

Your specification is your opportunity to communicate to the bidders exactly what it is that you want them to do for you, so you must communicate all necessary information in order that they understand how they can best meet your needs.

Just because the value of a contract below £50,000 does not automatically mean that your requirement is simple or does not attract risk. In addition, consultancy services are not tangible objects and can therefore seem difficult to specify.

The following information is useful to include in your specification:

It is helpful to include relevant background information regarding: your department or project; current progress; issues, and higher level objectives you are trying to achieve. Links to further information on relevant higher level projects, and or other parties involved and their role can also be useful.

You might also want to include some or all of the following:

* What you want the consultant to do for you
* In some cases it may be appropriate to describe how you want the consultant to do it
* The type of deliverable(s) you want (report, presentation, training etc.)
* Timescales, deadlines and when you want each deliverable by (if known)
* What information the deliverables should contain
* Any scheduled meetings where attendance is required (including venue if known).
* What the University should be able to do/achieve after the deliverable(s) have been completed
* What benefit the University must be able to secure after the deliverable(s) have been completed
* Any additional training of UoE staff or others that may be required during or after the Consultancy has been delivered.
* How the University will test if deliverables have been achieved.

Scope: State clearly both what is in and what is out of scope of the services you are expecting. It can be useful to identify specific responsibilities and risks and state clearly who has responsibility for each.

Budget: If you suspect your budget is quite low for the consultancy services required it can be beneficial to state your maximum budget (+ VAT) within the specification to ensure that you don’t receive quotes that you cannot afford. If you are confident that you have sufficient budget, it is often better not to state a budget, to ensure that all suppliers offer their best value. Where your budget is really quite low, it would be best to submit your ideal specification, but ask for bidders to state what can and cannot be achieved within the budget allowed. This will help you decide if the objectives you wish to fulfil within your budget are achievable within your budget.

Remember to budget for paying VAT in your planning.

Additional work: it is beneficial to mention and give as much detail as possible in the Specification if it is probable that follow on consultancy work may be required or additional future deliverables, even if the budget is not yet secured for this. However ensure that this additional work does not take your total value of work over the £50k (before VAT) threshold over 4 years.

If you require any assistance in clarifying your thoughts or writing a specification, please get in touch with the Procurement Department who can assist.

For More General information on Specification writing please refer to the following pages.

<http://www.ed.ac.uk/procurement/policies-procedures/how-to-buy-guidance/how-to-write-a-specification>

<https://www.procurementjourney.scot/route-1/route-1-prepare-brief>

**IR35 - IMPORTANT:** Once your specification is complete, you must complete the Employment Status Questionnaire—Future Engagements form (available on the [Payroll Office website](http://www.ed.ac.uk/finance/about/sections/payroll/payroll-forms)) about the consultancy services you wish to procure. You must then submit the completed form to the Payroll Office (email: [finpay@ed.ac.uk](mailto:finpay@ed.ac.uk)). The Payroll Office will conduct an official IR35 status check at this stage and inform the buyer whether your requirement is likely to fall within IR35 legislation. Please [contact the Payroll Office](http://www.ed.ac.uk/finance/about/sections/payroll/contacts) with any questions about how to complete this form. See more information on IR35 implications in the next section.

3) Check IR35 Status of your requirement

**IR35 - IMPORTANT:** Once your specification is complete, you must complete the Employment Status Questionnaire—Future Engagements form (available on the [Payroll Office website](http://www.ed.ac.uk/finance/about/sections/payroll/payroll-forms)) about the consultancy services you wish to procure. You must then submit the completed form to the Payroll Office (email: [finpay@ed.ac.uk](mailto:finpay@ed.ac.uk)). The Payroll Office will conduct an official IR35 status check at this stage and inform the buyer whether your requirement is likely to fall within IR35 legislation. Please [contact the Payroll Office](http://www.ed.ac.uk/finance/about/sections/payroll/contacts) with any questions about how to complete this form. See more information on IR35 implications in the next section.

**3 How do I structure Consultancy Contract Pricing?**

The simplest approach to pricing a consultancy contract is asking the bidder to submit: either a total cost for all deliverables; or a cost to complete each specific deliverable as detailed within your specification. However there are other standard pricing strategies that can be used, please see attached for more guidance:



It is important as far as possible to standardise how bidders submit their prices so that it is easy to compare like for like between different quotes. The easiest way to do this is to create a pricing schedule for all bidders to fill in to ensure that they are submitting costs in a way that is easily comparable. (It is standard to request prices Ex VAT).

Please see attached an example of a simple Pricing Schedule:



If this is not feasible, you must ask the bidder to submit a full breakdown of all costs when they submit their quotation. It is a legal requirement to provide a cost breakdown if they are providing services via an intermediary company.

If “Reimbursable” expenses such as travel, car mileage and subsistence costs, are likely to be incurred, it is advisable to insist on the University’s rates, not the consultant’s rates. Check here for up to date information on the University’s policies in this area: <http://www.ed.ac.uk/finance/for-staff/staff-expenses>

If IR35 tax legislation is applicable – impact on consultancy pricing

If any of your bidders will be offering consultancy services via a Personal Service Company, their own limited company, a partnership or an agency, they may be in the scope of IR35 tax legislation which came into force April 2017. Consultancy services are particularly likely to attract bidders of this sort and Payroll will be able to inform you if your particular consultancy work is likely to fall within this legislation, once you have filled in the Employment Status Questionnaire—Future Engagements form, which is an important part of the process of contracting for consultancy services.

If IR35 legislation is likely to be applicable to your role and any of your bidders:

* Bidders must complete a specific pricing schedule which requires them to declare a daily rate and an estimated number of days input to complete the deliverables.
* You must use a particular Invitation to Quote template given below in section 6.
* There could be increased cost to the University, which must be taken into account when evaluating tenders. The pricing schedule will automatically calculated and highlight these costs for you.

Further information and explanation of IR35 rules and repercussions for the University can be found at the link below, including guidance on your responsibilities and potential liabilities if any of your bidders is within scope of IR35 legislation: <http://www.ed.ac.uk/procurement/policies-procedures/how-to-buy-guidance-under-fifty-thousand/ir35-tax-changes>

Additional work: you are permitted to ask at this stage for a price for possible additional work either as part of the overall evaluated price or for information only.

Standard University payment terms are 30 days from receipt of a valid Invoice. This is stated in the University’s Terms and Conditions.

It is unadvisable to ever pay for work before it has been undertaken.

**4 Do I need Terms and Conditions for my Contract?**

Bidders will often ask you to accept their standard Terms and conditions of business, and for low value, low risk projects this might be sufficient and acceptable. The safest course of action is to ask all bidders to confirm that they will accept the University’s Terms and Conditions of Contract.

The University has a standard set of Terms and Conditions for Service Contracts which can be found here: <http://www.docs.csg.ed.ac.uk/Procurement/Terms_Conditions_2011/Services2011.pdf>

If your Consultancy requirement is higher value, complex or carries risk for the department or University, asking the bidders to comply with the University’s Terms and Conditions is strongly recommended. If the bidder cannot comply, they should state specifically what cannot be adhered to, and what alternative wording they could agree to. Judgement would then have to be made as to whether the amendment or alternative was acceptable or not. If your Consultancy requirement is a high risk project, you may want to seek legal advice from the University’s Procurement lawyers. <http://www.ed.ac.uk/university-secretary-group/departments/legal-services>. You could also consider stating in your Invitation to Quote that acceptance of the University’s Term and Conditions is a minimum requirement to be eligible to win the Contract in the first instance.

**5 What information should I ask bidders to submit in their quotes? (Evaluation Criteria)**

It is advisable to ask bidders to provide you with information on their **suitability** to meet your need, and **how** they will commit meet your need, after they have seen your specification. This will help you decide who the most suitable consultant to engage is. The information in the bidders’ responses will ultimately help you to differentiate the quality and suitability of quotations you are receiving.

Information can be divided into ascertaining:

1. Bidders suitability to undertake the consultancy and
2. Exactly how they are going to meet your needs.

These questions should be addressed to the bidders at the same time they see your specification and their answers should be submitted back to you in the quotation that bidders submit. You will then be able to evaluate their responses according to how best they will meet your need going forward, in terms of quality as well as cost. These questions are often referred to as Evaluation Criteria.

Here are some examples of suitability questions you might want to ask:

* Is the bidder able meet the full set of requirements in the specification? If not, what cannot be provided and why and what can be offered instead?
* Can the bidder meet the required timescales and deadlines?
* Is the bidder a Member of a certain professional body and can they submit their membership number?
* Can the bidder demonstrate experience in successfully undertaking similar or comparable work?
* Does the bidder have professional indemnity insurance and what is the extent of this cover?
* Will the bidder accept the University’s Terms and Conditions of Contract? If not, what cannot be accepted? (or The Bidder must confirm that they accept the University’s Terms and Conditions of Contract).

Examples of question around how the bidder will meet your requirement might be:

* How does the bidder propose to meet the requirements outlined in the Specification?
* How will the bidder ensure that the deliverables are of the highest quality?
* Who will be the individual(s) that will undertake the Consultancy and what is their relevant ability/expertise to do the specific work required by the University?
* What additional value can the bidder add for no additional cost?

**6 How do I communicate my requirements to my bidders?**

An “Invitation to Quote” should be sent to a minimum of 3 potential suppliers who you reasonably believe have the experience, expertise and capacity to meet your requirements. In order to receive three quotes back from suppliers you may wish to approach four or five suppliers in case not all respond.In order to receive 3 quotes back you may wish to approach 4 or 5 suppliers in case not all respond.

The Invitation to Quote must include the following information:

* Specification
* Pricing schedule
* Evaluation Criteria questions (if required)
* Terms and condition of Contract (if required).

Information can be sent via email. Make sure you have found the most suitable email addresses to send your Invitation to Quote to, to ensure that your requirement will be dealt with promptly by each potential supplier.

Send exactly the same information to each supplier at the same time and let them know by when you require a response and how long you require their quotation to be valid for. How long you allow for responses should be proportionate to the complexity of your specification. A minimum of 2 weeks is advisable if possible.

Be prepared to respond to requests for clarification from the bidders regarding your requirement. It is best practice to share any additional information given to one bidder with all the other bidders during the bidding period.

Make sure you request a Quote and not an Estimate. What’s the difference?

* A **Quote** is an official price given by a supplier based on a clear description of a requirement. Buyers can hold suppliers to prices and terms given in quotes for the period for which they are valid
* **Estimates** from suppliers provide an approximate costing only, which can be very useful for budgeting purposes. Suppliers are not obligated to hold themselves to prices or terms given in an estimate

Please see below a template that can be used to issue an Invitation to Quote. Amend or delete the text highlighted in yellow.



**IR35:** If any of your requirement/is assessed as in scope of IR35 legislation it is important use the IR35 compliant Invitation to Quote Template which is available on the procurement office webpage and includes the appropriate pricing schedule and a one page self-declaration of tax status that the bidders much complete in addition to other quote information:

[**https://www.ed.ac.uk/procurement/policies-procedures/how-to-buy-guidance-under-fifty-thousand/ir35-tax-changes**](https://www.ed.ac.uk/procurement/policies-procedures/how-to-buy-guidance-under-fifty-thousand/ir35-tax-changes)

Please see the IR35 procurement work flow diagram or contact Stuart Mclean if you have any further questions about this requirement.

6a What if I know there is only one consultant that could possibly fulfil my requirement before requesting a quotation?

In certain situations, you may know that there is only one Consultant who has the skill and expertise to fulfil your requirements. In this case, it is permissible to contract directly with the Consultant without asking for quotes from others, however before doing so, you must undertake market engagement to ensure that your assumption is correct (see point 1 Market Engagement). You must document your market engagement discussions as evidence and justification of your conclusion that no other consultant can meet your needs, and this rationale must be approved by your budget holder.

It is still very important to create your specification, (and pricing schedule/evaluation criteria if beneficial) and ask for a formal quotation from the Consultant against which a contract can be placed. Do not inform the bidder that they are the only party involved in the process otherwise they may submit inflated prices and you may wish to negotiate on certain parts of the consultant’s quotation.

You must still follow IR35 protocol as detailed in previous paragraphs.

**7 How do I evaluate the bidders’ responses and decide who to Contract with?**

In some instances after receiving the quotations from the bidders it will be very obvious who is the best Consultant to meet your need. For example:

* Only one bidder can fully meet your need;
* Only one bidder can meet your required deadline; or
* Of all bidders who can meet your need, one offers considerably better value for money.

In other instances however it can be a little more difficult to decipher between quotations and this is where the answers to the evaluation criteria should be used to differentiate between the quality and merit of different bids.

Commercial evaluation: ensure that all quotes are ex VAT to be able to compare like for like. In addition, remember to incorporate the additional costs associated with any bidder falling within IR35 rules, when undertaking commercial comparisons – the IR35 pricing schedule should automatically calculate this for you.

If any of the bidders’ responses are unclear, you should ask them to clarify what they mean in their response. It is always safer not to make assumptions.

In exceptional circumstances, you may consider interviewing or inviting presentations from bidders in order to assist in the evaluation process. This should be stated upfront in the Invitation to Quote document. Care should be taken to ensure equal treatment of bidders in this process. Records of the interviews/presentations should be kept for audit purposes.In exceptional circumstances, you may consider interviewing/inviting presentations from suppliers in order to assist in the evaluation of quotation responses: this need should be identified upfront in the process.  Should you decide to score the presentation as part of the evaluation process this should be stated in the Invitation to Quote. If you decide to request supplier interviews/presentations, you should provide details of the time, place and format of any interview or presentation to the suppliers. Care should be taken to ensure equal treatment of suppliers in this process. All suppliers should be provided with an equal opportunity for interview, presentation or site visits unless the initial evaluation undertaken shows that the supplier could not meet the core requirements.

Records of the interviews/presentations should be kept for audit purposes.

In exceptional circumstances, you may consider interviewing/inviting presentations from suppliers in order to assist in the evaluation of quotation responses: this need should be identified upfront in the process.  Should you decide to score the presentation as part of the evaluation process this should be stated in the Invitation to Quote. If you decide to request supplier interviews/presentations, you should provide details of the time, place and format of any interview or presentation to the suppliers. Care should be taken to ensure equal treatment of suppliers in this process. All suppliers should be provided with an equal opportunity for interview, presentation or site visits unless the initial evaluation undertaken shows that the supplier could not meet the core requirements.

Records of the interviews/presentations should be kept for audit purposes.

Inserted below is a template that will help you document and justify your evaluation decision:



You are not required to select the cheapest bidder, but you must record a detailed justification for your decision citing reasons such as best value for money or best fit with technical needs etc.

Sometimes you might receive an abnormally high or low commercial quote. In this instance it is permissible to engage with the bidder to investigate if there has been a mistake.

Important: if all quotes received exceed £50,000 before VAT in value, you must contact the procurement department who will be able to assist you in the best next steps.

IR35 commercial evaluation…. Contact stuart mclean

7a - Am I allowed to Negotiate?

You should not negotiate unfairly without allowing each bidder to enter into the same negotiations.

**8 How do I form the contract with the successful Consultant?**

Once you have identified the winning Consultant, you should send a letter of engagement stating that you accept the quotation issued (outlining any negotiated differences if relevant) clearly defining the terms of the engagement, the required output, timescales, cost, terms of payment etc.

In addition, an official University purchase order should be raised on the [eFinancials](http://www.ed.ac.uk/finance/finance-systems/user-guides/efinancials) system. Otherwise your Consultant will not be paid. If your supplier is within scope of IR35 rules a purchase order is not needed, but Payroll will have to be notified see below for more details.

**What should I do after I have awarded my Contract?**

* Keep copies of all relevant procurement documentation locally according the University’s document retention requirements <http://www.ed.ac.uk/records-management/records-management/staff-guidance/retention-schedules/financial-records> . This is important for both internal audits and external funding audits.
* Ensure that if the Consultant is a new provider to the University that their payment details are loaded onto eFinancials or payroll depending on supplier status system. Please see [Finance WIKI page](http://www.ed.ac.uk/finance/for-staff/forms) for the appropriate form to complete.
* Manage your Consultant and actively engage with them to ensure that deliverables are being completed satisfactorily and to deadlines. Encourage the Consultant to act and inform you quickly if they foresee any issues that could affect the outcome or timescales of the Contract.
* Consultant to undertake Equality Act and Unconscious Bias training before beginning consultancy services? Check this out with stuart.

**What should I do after the Consultancy Contract has finished?**

After the consultancy has been completed, a Post-Consultancy Review could be useful. The depth of the review will depend upon the strategic and/or financial importance of the consultancy project. The supplier’s input can also be beneficial.

In the review, the following questions could be considered and answered:

* Did the consultancy meet the requirements of the initial proposed need?
* How could the specification be changed if conducting a similar project in the future?
* What were the actual costs of the project and did they fall within the original estimated value? If not, why not?
* Did the use of the consultant aid and/or improve the activities of the unit's own staff resources?
* Where the project was for the development of a strategy, did the University implement the consultant's recommendations? If not, why not?
* Could the project have been handled as well using the University's own staff?
* Would you consider using the consultant again? If not, why not?