

Financial Direction No 5.6 [U]

Management of Consultants

States of Jersey

July 2012

1 SUMMARY AND OBJECTIVE

1.1 This Financial Direction is applicable to all:

- Accounting Officers;
- Budget Holders;
- Finance Directors; and
- Anyone with authority delegated to them under a Scheme of Delegation.

1.2 The purpose of this Financial Direction is to provide departments with the mandatory requirements on the engagement and use of consultants. Specifically it includes:

- [Planning the engagement](#)
- [Supplier selection: Procurement procedures](#)
- [Contract management](#)
- [Project closure and post contract review](#)

1.3 In addition to the requirements set out in [section 2](#) of this Direction, [Financial Direction 5.1 Purchasing of Goods and Services](#) sets out the requirements on **HOW** to make a purchase and must be observed in full.

The requirements relating to the appointment of consultants to assist in the development of capital projects are set-out in [Financial Direction 5.6 The control of Capital Expenditure](#).

The engagement of temporary or agency staff (including interims) brought in to cover vacant posts or workflow peaks are not covered by this Financial Direction.

1.4 Financial Directions are issued by the Treasurer of the States under Article 34 the Public Finances (Jersey) Law 2005 (hereafter referred to as “the Law”). Compliance with Financial Directions is mandatory and not following them may lead to an offence being committed under Part 7 of the Law.

1.5 Any departure from the requirements set out in [section 2](#) of this Direction must have an [exemption](#) approved by the Treasurer of the States.

- 1.6** For the purpose of interpreting this Financial Direction, the following definition of ‘consultant’ as specified in Guidance on Accounting for Consultants on the We All Count Website should be used:

A consultant is any individual or organisation engaged on behalf of the States of Jersey to provide independent intellectual input into decision making.

1.7 Who should I contact if I have a question / need further guidance?

Further information and guidance can be obtained from your departmental finance team in the first instance, then if necessary finance may need to contact the following:

Procurement (the purchase of goods and services) – e mail
procurement@gov.je

Engagement of legal services – Contact the Chief Clerk, Law Officers’ Department (Tel: 441224)

All other queries should be directed to the Financial Accounting and Control Team (e mail FACT@gov.je)

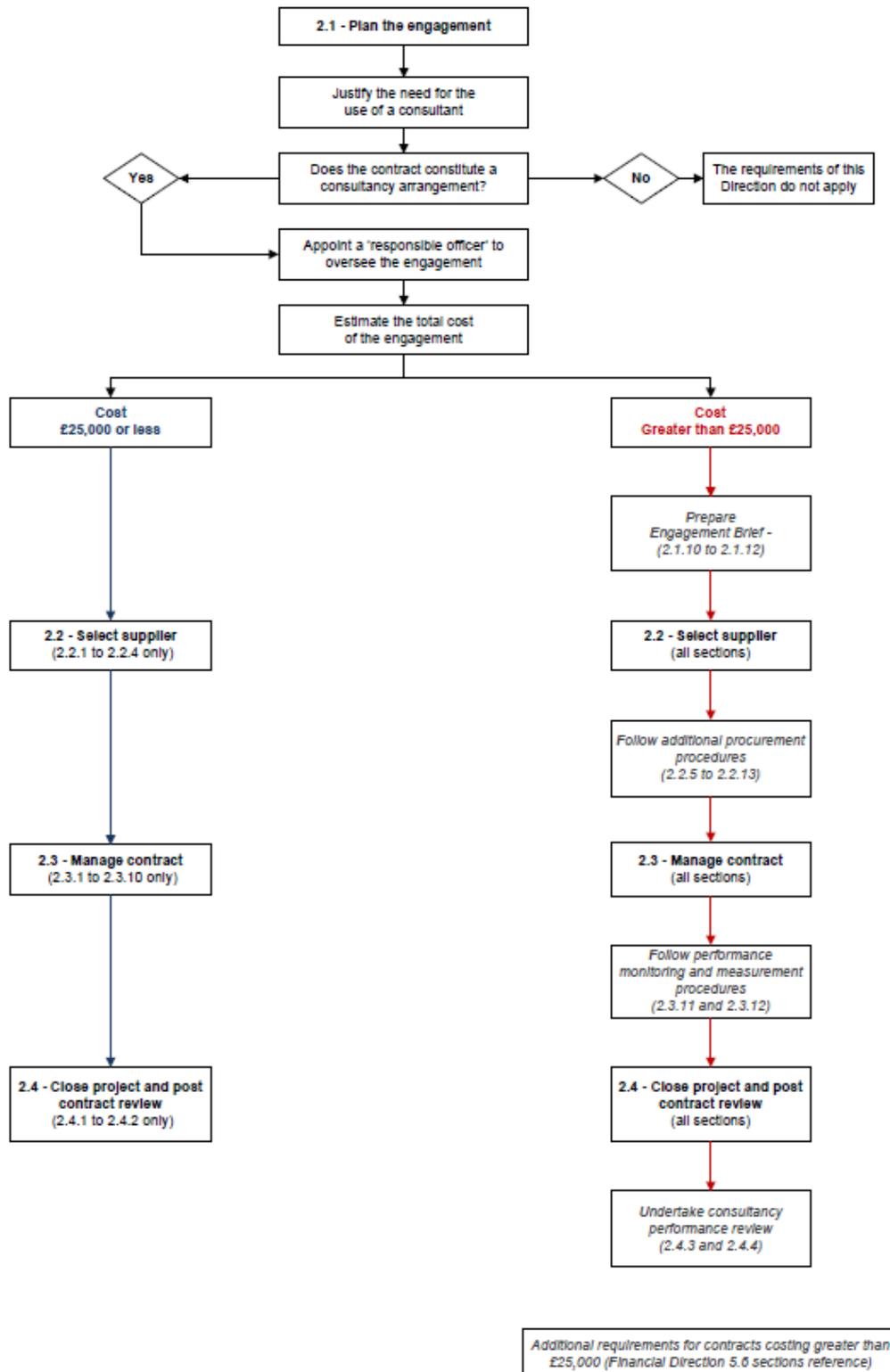
2 SPECIFIC REQUIREMENTS

Specific requirements cover the following:

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NB – The flowchart on page 5 of this Financial Direction provides a high level summary of the requirements that must be followed when engaging a consultant. Application of a number of the requirements is dependent on the estimated contract value, with the most stringent requirements applying to contracts valued at greater than £25,000.

Engaging a consultant: Requirements flowchart



2.1 - Planning the engagement

Procedures for all contracts, regardless of value

Permitted use of consultants

2.1.1 Consultants may only be engaged by the States of Jersey to perform work where:-

- Professional, independent and expert advice or services are required; or
- Specialist professional knowledge and/or expertise are not available in-house.

Identification of consultancy contracts

2.1.2 Departments must refer to the document Guidance on Accounting for Consultants (which can be found on the We All Count Website) when considering whether the proposed arrangement actually constitutes a consultancy contract. The document contains extensive information on consultancy spend, including characteristics, an indicative listing and examples of both consultancy (and non-consultancy) contracts.

2.1.3 Where the proposed contract does not constitute a consultancy arrangement the requirements set-out below do not apply, although other relevant Financial Directions must still be complied with, e.g. Financial Direction 5.1 Purchasing of Goods and Services. The Financial Accounting and Control Team should be contacted if further advice is required.

Accountability and reporting lines

2.1.4 The relevant Accounting Officer (or their delegate) must appoint a 'responsible officer' to oversee the consultancy process through from inception to completion.

2.1.5 The officer appointed has responsibility for the administration and management of the consultancy engagement and contract, including monitoring the actual consultancy work, and must have access to the right skills, experience and knowledge.

Estimating costs

2.1.6 It is expected that contracts will normally be fixed price, with payments being linked to the completion of tasks. In instances where consultants are employed on an "as required" basis, i.e. where it is not possible to

define precisely the volume of work required the responsible officer must prepare a cost estimate based on pre-set realistic assumptions. The potential for any supplementary/follow-on work must be considered when estimating the cost of the engagement.

- 2.1.7** Details of what expenses will be reimbursed must be considered when estimating the total cost of the engagement, including costs incurred on the consultant's premises, e.g. printing and photocopying.
- 2.1.8** Allowable expenditure on subsistence, travel and accommodation must be reasonable, and consideration must be given as to whether expenditure on luxury restaurants/hotels and first class travel is acceptable. Where appropriate, the use of approved corporate contracts is actively encouraged when booking travel and accommodation on behalf of consultants (see [Financial Direction 5.2 Travel and Accommodation Expenditure](#)). The [Procurement Team](#) should be contacted where users require further information.
- 2.1.9** See [Financial Direction 5.1](#) for additional information on calculating contract values.

Additional procedures for all contracts greater than £25,000

Engagement Brief

2.1.10 For all contracts with an estimated **total**¹ value above £25,000, an Engagement Brief must be drawn up by the designated responsible officer. The Brief must clearly:

- Explain the justification for the engagement, e.g. identify the skills and capabilities necessary to complete the task(s) (see [section 2.1.1](#));
- Specify the purpose of the engagement, including details of the background to the engagement and the final objectives, i.e. the required outcomes (see [section 2.1.2](#));
- State a contact name and number for enquiries, i.e. the responsible officer (see [sections 2.1.4 and 2.1.5](#));
- Specify the basis on which quotations or tenders are sought, i.e. fixed price or daily rate (see [section 2.1.6](#));
- Specify the total estimated costs of the engagement, including the potential for further supplementary/follow-on work and the extent and range of disbursements and expenses to be met (see [sections 2.1.7 to 2.1.8](#));

¹ This applies to large engagements that can be broken down into smaller components that when aggregated exceed £25,000.

- Set criteria for the assessment of quotations and tenders (see [section 2.2.7](#)); and
- State the evaluation criteria against which the performance of the consultant will be assessed (see [sections 2.3.11 and 2.3.12](#)).

Where the estimated **total** value of the contract is greater than £50,000, as a minimum the Brief must also clearly:

- Detail the department's own contribution to the engagement;
- Identify the risks associated with the engagement and how to manage them;
- Indicate the timescale for the work to be completed within, i.e. the length of contract;
- Identify requirements in terms of quality, public consultation, presentation to officers and/or members;
- Set the timetable for submitting proposals, as well as details of the format for the submission document; and
- Specify payment arrangements.

NB - An Engagement Brief is not required for engagements valued at £25,000 or less.

2.1.11 The Engagement Brief must be approved by the Accounting Officer (or their delegate) and retained by the responsible officer together with documentary evidence that sufficient budget is available to cover all of the costs relating to the engagement.

2.1.12 The Engagement Brief may be used as the basis for the consultant's Terms of Reference.

2.2- Supplier selection: Procurement procedures

Procedures for all contracts, regardless of value

- 2.2.1** All purchases of goods and services must be compliant with [FD 5.1 Purchasing of Goods and Services](#).
- 2.2.2** The procedures to be followed will depend on whether an approved corporate contract (i.e. a procurement framework agreement) exists. The [Procurement Team](#) should be contacted where users are in any doubt over whether any consultancy framework agreements already exist.
- 2.2.3** In the absence of an approved corporate contract, the purchasing procedures will apply as set out in section 2.1.3 onwards of Financial Direction 5.1, including procedures for obtaining quotations or for tendering.
- 2.2.4** Where a purchase relates to the provision of legal services, officers must in the first instance consult with the [Chief Clerk of the Law Officers' Department](#).

Additional procedures for all contracts greater than £25,000

- 2.2.5** Financial Direction 5.1 sets-out additional procurement procedures for contracts greater than £25,000. The requirements set out in the rest of this section supplement those requirements.

Bid evaluation process

- 2.2.6** In accordance with Financial Direction 5.1 (see Examination of quotations and tendering), all quotations and tenders must be evaluated. For contracts between £25,001 and £100,000, a minimum of two people must undertake an evaluation review and make a recommendation. For contracts above £100,000, a formal tender evaluation panel must be appointed by the Accounting Officer (or their delegate). In both cases, when engaging consultants, the responsible officer must be involved in the evaluation process.
- 2.2.7** When engaging consultants, initially, quotations and tenders must be assessed as to whether they meet the minimum technical criteria for the engagement with those failing to do so being rejected immediately. Then more sophisticated evaluation criteria must be employed to take account of, and give due weight to, such matters as skill and experience, technical knowledge, problem solving abilities etc. as well as price.
- 2.2.8** In accordance with Financial Direction 5.1, following the evaluation of quotations and tenders, an Evaluation Report must be prepared and submitted to the Accounting Officer for approval. Accounting Officers

may delegate approval of Evaluation Reports where the estimated contract value is less than £100,000. When engaging consultants, the Evaluation Report must be prepared by the responsible officer.

Due diligence

2.2.9 In accordance with Financial Direction 5.1 (see Due diligence and award of contract), prior to awarding the final contract the Accounting Officer (or their delegate) must ensure that appropriate due diligence has been undertaken by the responsible officer.

2.2.10 Specifically, the responsible officer must:

- Take up references in respect of any similar work previously undertaken by the proposed consultant for the States of Jersey (for example on quality of work, any problems experienced or disputes over payment);
- Confirm that the proposed consultant carries sufficient professional indemnity insurance and public liability cover. For further information refer to the document [‘Terms and Conditions for the supply of professional services’](#) on the Corporate Procurement Toolkit.
- Consult with the States Human Resources Department where a decision is made to employ a consultant who has been a previous employee of the States of Jersey and who may have left under States VR/VER schemes, to check whether there are any employment restrictions.

Acceptance of quotations and tenders

2.2.11 In accordance with Financial Direction 5.1, all quotations and tenders must be accepted on the basis of offering the best value for money except where the quality of goods or services is a key factor. When engaging consultants, where the best price is not selected detailed documentation must be retained which illustrates the selection process followed and the reasons for not accepting the lowest price.

2.2.12 An Accounting Officer may not accept any tender of more than £200,000 where it is:-

- The only tender received; or
- Not the lowest tender received

unless written approval has been obtained from the Treasurer of the States based on a written report from the Accounting Officer concerned and after consultation with the Director of Strategic Procurement. A copy of the Treasurer’s approval must be kept on file.

2.2.13 Where the estimated value of the work is above £50,000 accepted consultancy engagements must be highlighted in the department’s quarterly financial report.

2.3 – Contract management

Procedures for all contracts, regardless of value

Accounting for consultants

2.3.1 Consultancy spend must be charged against the correct object account in JD Edwards (see [Guidance on Accounting for Consultants on the We All Count Website](#)), including claims for agreed/allowable expenditure.

2.3.2 Costs must be recorded in such a way that consultancy spend on individual projects can be analysed separately. The [Financial Accounting and Control Team](#) should be contacted if further advice on accounting for consultancy spend is required.

Consultancy reimbursements

2.3.3 When claiming reimbursement of agreed, allowable expenditure consultants must produce suitable supporting documentation, e.g. an invoice or receipt.

Budgetary control

2.3.4 The responsible officer must monitor costs against the budget that has been set and agreed for a consultancy engagement. If the cost of the engagement appears to be exceeding the budget the responsible officer must notify the Budget Holder. Where the engagement is expected to exceed the estimated total cost by the lower of 10% or £30,000 this must be brought to the attention of the relevant Accounting Officer and the relevant minister must be notified in the department's next quarterly financial report.

Data security

2.3.5 Consultants must comply with the data security standards as set out in their Terms of Reference/contract, especially when personal data or sensitive data is being accessed or viewed. This may require the need for confidentiality agreements.

Extensions to contracts

2.3.6 In accordance with Financial Direction 5.1, the Accounting Officer may authorise extensions to an existing contract in certain circumstances (see Extensions to Contracts). Extensions to consultancy engagements may only be considered where the contract specifically allows this - i.e. the potential for supplementary/follow-on work has been considered at the planning stage and has subsequently been documented in the Engagement Brief - and the consultant has performed well.

- 2.3.7** The contract must be re-competed where significant ‘new’ outputs (i.e. deliverables) have been defined. If in doubt, users should contact The [Procurement Team](#).

Document retention

- 2.3.8** Copies of all documentation must be retained on a consultancy engagement file for six years (see [Financial Direction 12.7 General Accounting](#)).

Code of Practice on Public Access to Official Information

- 2.3.9** In accordance with the Code of Practice on Access to Official Information², where a report provided by a consultant – including exempt reports – is deemed to be of public interest, the name of the report must be listed on the [States of Jersey Website](#). The responsible officer must forward the name of the report to their departmental Content Manager, who will then arrange for it to be uploaded onto the Website. If the cost of preparation of any such report exceeds £2,000³, then the cost and details of its status must also be listed.
- 2.3.10** Subject to the exemptions of the Code, departments must make available to the public all unpublished consultancy reports after a period of five years.

Additional procedures for all contracts greater than £25,000

Performance monitoring and measurement

- 2.3.11** For all contracts with an estimated total value above £25,000 and above, criteria against which the performance of individual consultants can be measured must be set in advance and documented (see [section 2.1.10](#)).
- 2.3.12** Where appropriate, a review must be completed at key milestones and contract meetings must be held regularly to discuss progress on these and performance of the consultant against the agreed criteria. Defining a schedule of regular contract management meetings when developing the consultant’s Terms of Reference will ensure that the consultant is aware of how their performance will be measured.

² The Code of Practice is set out in Appendix ‘A’ of Proposition [P.80/2004 Code of Practice on Public Access to Official Information – Measures to improve implementation](#) (which was lodged on 27th April 2004 by the Privileges and Procedures Committee (PPC)).

³ This amount was fixed by the PPC in 2004 and, in line with the Code of Practice, is subject to review from time to time.

2.4 – Project closure and post contract review

Procedures for all contracts, regardless of value

Project closure

2.4.1 The responsible officer must establish processes to ensure that the consultancy engagement ends in a controlled manner, i.e. that the handover at the end of the contract is as smooth as possible.

2.4.2 The responsible officer is responsible for ensuring:-

- The effective completion of knowledge transfer where appropriate prior to or on completion of the engagement;
- That all allowable claims have been settled; and
- The return of any States of Jersey assets by the consultant.

Additional procedures for all contracts greater than £25,000

Consultancy performance review

2.4.3 Where the estimated value of the consultancy engagement is greater than £25,000 the responsible officer must carry out a consultancy performance review at the end of the assignment to compare actual output with the outcomes specified in the consultant's Terms of Reference. The reasons for any discrepancies must be documented together with what remedial action, if any, should be taken.

2.4.4 The responsible officer must also document:-

- Any problems encountered during the project, together with the aspects which were successful.
- Any ongoing risks to the project that still require management.
- Any aspects of the project that are incomplete in order that those charged with managing a service or contract after the project closes are aware of the actions that they may need to take.

3 GOVERNANCE

Legal Responsibilities

3.1 In relation to engaging consultants, under the Public Finances (Jersey) Law 2005 Accounting Officers must ensure that:-

- Expenditure does not exceed the amount appropriated to it by a head of expenditure and is used for the purpose for which it was appropriated (Article 38(2) (a));
- In so far as practical, all money owed by their department is duly paid (Article 38(2) (b));
- Proper accounts of all financial transactions are kept (Article 38(2)(c)); and
- Resources are used efficiently and effectively (Article 38(2) (f)).

In the absence of delegation, only an Accounting Officer can incur expenditure. The Accounting Officer may delegate this power, if appropriate, to another States employee.

Scheme of Delegation

3.2 In the absence of a Scheme of Delegation, only an Accounting Officer can incur expenditure. The Accounting Officer may delegate this power, if appropriate, to another States employee. However, the Accounting Officer will remain ultimately accountable for all financial duties and responsibilities.

3.3 Where an Accounting Officer delegates their financial authority, a Scheme of Delegation must be documented. The Scheme must detail what authority has been delegated and to whom and the limit placed on that delegation, and must be in accordance with the requirements of this Financial Direction.

For example, a Scheme of Delegation must include details on the following:

- Who can appoint responsible officers to oversee the consultancy process

- Who is authorised to sign Engagement Briefs and to what value
- Who can appoint a tender evaluation panel
- Who can approve an Evaluation Report and to what value
- Who can approve the reimbursement of allowable expenses

Where a scheme of delegation applies, all the mandatory requirements of an Accounting Officer (detailed in this Financial Direction) applies to any officer with delegated powers.

Required/Assumed Knowledge of this Financial Direction

Accounting Officers

- 3.4** Accounting Officers must be aware of this Financial Direction. A more detailed knowledge of the requirements of this Direction by Accounting Officers will depend on the Scheme of Delegation (if any) in Place within their department. However, as mentioned in section 3.2, the Accounting Officer remains personally accountable.

Budget Holders

- 3.5** Budget Holders who are involved in the management of grants must be aware of the details of this Financial Direction as they apply to them, i.e. in line with the departmental Scheme of Delegation (if any) in place.

Finance Directors

- 3.6** Finance Directors are responsible for developing and maintaining control and assurance processes at departmental level and therefore need to be comfortable with all of the Specific Requirements set out in [section 2](#) of this Financial Direction.

Operational staff

- 3.7** All officers involved in the management of consultants need to be comfortable with the Specific Requirements that are relevant to them, i.e. knowledge is required on a need to know basis in line with the departmental Scheme of Delegation (if any) in place.

Departmental Compliance Procedures

- 3.8** Accounting Officers are responsible for ensuring that a control and assurance framework is in place in their department.
- 3.9** Finance Directors are responsible for developing and maintaining a control and assurance framework at departmental level. They are also responsible for implementing assurance processes (e.g. compliance procedures and assurance statements).

3.10 Finance Directors must ensure that departmental assurance processes are documented. A robust assurance framework will assist accounting officers in the preparation of the Accounting Officer's Statement on Internal Control.

4 SELF-CERTIFICATION CHECKLIST

	Yes	No	N/A
<i>Planning the engagement</i>			
Is the need for the use of a consultant justified? (see section 2.1.1)			
Does the proposed contract constitute a consultancy arrangement? (see section 2.1.2)			
Has a 'responsible officer' been appointed to oversee the consultancy engagement? (see section 2.1.4)			
Has the total cost of the engagement been estimated, including allowable expenditure? (see sections 2.1.6 to 2.1.9)			
For all contracts valued at greater than £25,000: has an Engagement Brief been prepared in sufficient detail? (see sections 2.1.10 and 2.1.11)			
<i>Supplier selection: Procurement procedures</i>			
Have the appropriate procurement procedures as set-out in Financial Direction 5.1 been complied with? (see sections 2.2.1 to 2.2.3)			
Has the Chief Clerk of the Law Officers' Department been consulted where the contract relates to the provision of legal services? (see section 2.2.4)			
For all contracts valued at greater than £25,000: have the additional procurement procedures been followed, as set out in Financial Direction 5.1 and as supplemented by this Direction? (see sections 2.2.5 to 2.2.13)			
<i>Contract management</i>			
Is consultancy expenditure correctly recorded in JD Edwards? (see sections 2.3.1 and 2.3.2)			
Are claims for allowable expenditure adequately supported? (see section 2.3.3)			
Is performance against budget being monitored and any overspend appropriately reported onwards? (see section 2.3.4)			
Are data security standards being complied with? (see section			

2.3.5)			
Have extensions to contracts only been considered in accordance with Financial Direction 5.1 and as supplemented by this Direction? (see section 2.3.6 and 2.3.7)			
Are procedures in place to ensure that all relevant documentation is retained for six years? (see section 2.3.8)			
Have the requirements of the Code of Practice on Public Access to Official Information been complied with? (see section 2.3.9 and 2.3.10)			
For all contracts valued at greater than £25,000: has performance evaluation criteria been set and documented in the Evaluation Brief, and is performance being routinely monitored at an appropriate level? (see sections 2.3.11 and 2.3.12)			
<i>Project closure and post contract review</i>			
Has the responsible officer closed the project appropriately? (see sections 2.4.1 and 2.4.2)			
For all contracts valued at greater than £25,000: has the responsible officer carried out a consultants performance review at the end of the assignment (see sections 2.4.3 and 2.4.4)			