



Cabinet Office

Procurement Policy Note - Reserving Below Threshold Procurements

Action Note PPN 11/20

December 2020

Issue

1. The UK's exit from the EU means we can exercise additional freedoms in relation to contract spend on goods, services and works contracts with a value below the applicable thresholds. This Procurement Policy Note (PPN) sets out information and associated guidance on the options available to Contracting Authorities to streamline and simplify procurement under these thresholds, and also tackle economic inequality, create new businesses, jobs and skills, as well as increasing supply chain resilience, encouraging entrepreneurship, and attracting new entrants to government markets.

Dissemination and Scope

2. The contents of this PPN apply to all Central Government Departments, their Executive Agencies and Non Departmental Public Bodies in conducting procurements for public contracts. It is relevant only where Part 2 of the Public Contracts Regulations 2015 (the Regulations) would have otherwise applied to the award of the contract but does not apply because the estimated value of the procurement is less than the relevant threshold applicable under the Regulations. They are referred to in this guidance as 'In-scope Organisations'.

3. Other contracting authorities may apply the principles outlined in this PPN. However, application of the PPN should be considered in the light of authorities' relevant legal obligations, including but not limited to the restriction applicable to local authorities and certain other authorities under Section 17 of the Local Government Act 1988.

4. There are exceptions to the application of the policy, to certain procurements which involve the provision of goods into Northern Ireland. EU Treaty rights relating to the free movement of goods continue to apply in Northern Ireland beyond the end of the transition period under the terms of the Northern Ireland Protocol¹. This means that below threshold procurements involving the provision of goods into Northern Ireland continue to be subject to a cross-border interest test (i.e. which may be of interest to suppliers from EU Member

¹ The Northern Ireland Protocol is a practical solution to avoid a hard border with Ireland whilst ensuring the UK, including Northern Ireland, leaves the EU as a whole, enabling the entire UK to benefit from future Free Trade Agreements. There will be special provisions which apply only in Northern Ireland while the Protocol is in force.
<https://www.gov.uk/government/publications/moving-goods-under-the-northern-ireland-protocol>

States including the Republic of Ireland). Consequently, for supplies, services or works procurements where goods are to be provided into Northern Ireland and where there is cross-border interest, this policy should not be applied.

5. Please circulate this PPN within your organisation, drawing it to the attention of those with a commercial and procurement role.

Timing

6. From 1 January 2021.

Action

7. This PPN and associated guidance covers options that may be considered by In-scope Organisations when procuring contracts for goods, services and works below the following thresholds. These thresholds are provided for in the Regulations and derive from the WTO Agreement on Government Procurement (GPA). The current thresholds for central government are set out in PPN 06/19² but, in summary, are:

Supplies & Services - £122,976

Works - £4,733,252

Light Touch Regime for certain social and other specific services - £663,540

Other contracting authorities should confirm the relevant thresholds applicable to them.

8. In-scope Organisations may consider, where appropriate, the following options for the procurement of below threshold contracts:

- Reserve the procurement by supplier location - this means being able to run a competition and specify that only suppliers located in a geographical area can bid. This could be UK-wide to support domestic supply chains and promote resilience and capacity, or where appropriate, by county (metropolitan or non-metropolitan, or by borough for London) to tackle economic inequality and support local recruitment, training, skills and investment. In-scope Organisations should not define by nations of the UK (i.e. England, Scotland, Wales, Northern Ireland) and where a county reservation is to be applied, only a single county (or borough for London) may be reserved. Supplier location should be described by reference to where the supplier is based or established and has substantive business operations and not by location of corporate ownership.

AND

- Reserve the procurement for Small and Medium sized Enterprises (SMEs) / Voluntary, Community and Social Enterprises (VCSEs) - this means being able to run a competition and specify that only SMEs and VCSEs can bid.

9. These options should be considered on a case-by-case basis, and can be exercised on their own or together. For example, an In-scope Organisation may wish to reserve a procurement for suppliers based in the particular location and for SMEs and VCSEs only. In-scope Organisations should be clear in their procurement documentation about any

² <https://www.gov.uk/government/publications/procurement-policy-note-new-thresholds-2020>

intention to reserve the procurement, for example by including the standardised definitions of SME / VCSE and supplier location outlined in the associated guidance.

10. In applying the policy it is important that In-scope Organisations achieve value for money and use good commercial judgement. In-scope Organisations may still choose to compete below threshold contracts on an open basis without any reservation for supplier type or supplier location. In order to ensure value for money, In-scope Organisations should not direct award when reserving procurements under this policy.

11. In considering whether to reserve a procurement, In-scope Organisations will still need to comply with their own internal guidance, governance and procedures. These will need to be updated as appropriate to capture the new flexibilities and to reflect the policy measures in this PPN.

12. In reserving procurements, In-scope Organisations should:

- ensure value for money;
- assess the sector / market;
- identify and manage associated risks, including fraud and corruption;
- ensure a budget is available and approved at an appropriate level(s);
- use suitable model contracts;
- develop simple and proportionate KPI and data reporting mechanisms;
- undertake supplier due diligence checks;
- ensure final approval is obtained at an appropriate level(s);
- keep suitable records of commercial decisions;
- publish transparency notices on Contracts Finder as appropriate in a timely manner.

13. In-scope Organisations must continue to comply with the legal requirements in Chapter 8 of the Regulations applicable to below threshold procurements. These include obligations on certain organisations to publish certain contract opportunities and awards on Contracts Finder and rules on assessing suitability.

14. Further information relating to the application of this policy is included in the associated guidance document and frequently asked questions.

Background

15. Growing and diversifying supply chain opportunities is at the heart of the Government's industrial and civil society strategies and it is recognised that markets with a broad range of suppliers of different types, including SMEs and VCSEs, can offer better value for money, promote innovative solutions and give public services access to expertise and knowledge on complex issues.

16. As part of its drive to level up the UK economy, the government is committed to tackling inequality and giving everyone across the country the opportunity to fulfil their potential. An economy with diverse, resilient and innovative supply markets provides the best environment to start and grow a business; when local markets are stimulated in this way, this can also help to tackle economic inequality through the creation of new businesses, jobs and skills and other community benefits.

Contact

17. Enquiries about this PPN should be directed to the Crown Commercial Service Helpdesk on 0345 410 2222 or info@crowncommercial.gov.uk