

Supplier factsheet - Transparency in Procurement and Contracting

Introduction

The Prime Minister has set out three specific Transparency commitments in procurement and contracting to enable the public to hold central civil government departments and their wider families to account and to provide greater visibility on where and how taxpayers money is being spent. As part of this Government policy, there is a need for information on departmental tendering and contracting activities to be made publicly available. The Prime Minister published a letter on 31st May setting out the new policy requirements:

- All new central government ICT contracts to be published online from July 2010.
- All new central government tender documents for contracts over £10,000 to be published on a single website from September 2010, with this information to be made available to the public free of charge.
- All new central government contracts to be published in full from January 2011.
- All new central government spend over £25,000 to be published from November 2010.

Cabinet Office's Efficiency and Reform Group (ERG) has published guidance to government departments and this is available on the OGC website. This factsheet is provided specifically for suppliers. Buying Solutions have also produced guidance and written to their Framework suppliers.

What information is being published?

The Transparency agenda has important implications for you including:

- New framework agreements and new contracts for Civil Central Government and their wider family organisations that are let should include a transparency clause which will explicitly allow for publication of the contract;
- The contract documents being published will include the specification, terms and conditions and associated schedules, which may include the winning supplier's bid;
- The tender documents being published are the documents issued by the contracting authority i.e. government departments;
- Some text in these tender and contract documents may be redacted (i.e. removed), prior to publication in order to prevent sensitive information, for example, where it is assessed that the publication of certain information may be detrimental to the commercial interests of the supplier. The criteria for redactions will be in line the exemptions set out by Freedom of Information Act (FOIA) – and will be for departments to assess in discussion with suppliers;
- HM Treasury is leading on the transparency of central government spending data over £25,000. Unlike the transparency commitments on contracts, the data being published is for all spend, not just new contract spend. You can see Treasury guidance on the data to be published at http://hm-treasury.gov.uk/psr_transparency_index.htm
Whilst it will not include specific invoice detail, it will list amounts paid to suppliers over £25,000. In some cases departments are, with the full support of government going beyond this to report at £500. This is in line with the commitment that the government has made on local authority spend;
- Suppliers are strongly encouraged to support publication and help their customers in meeting the Government's policies.

What does this mean for suppliers?

The new transparency policies are not intended to change procurement processes but they are intended to create change in departmental procurement behaviour and to enable the public to see more easily what public sector procurement activity is going on and how much government spends. This more transparent approach is not just specific to central government departments or Buying Solutions, but to most public sector organisations. This is the way that most public procurement will be conducted in future. The Government's commitment to publish tender and contractual information does not require anything new to be published that cannot already be published under the FOIA. Instead it is taking a proactive approach to FOIA and the publication of certain types of information.

As part of the procurement process suppliers will be given the opportunity to identify which pieces information they believe to be confidential and why, and the contracting authority will assess this against the exemptions provided by the FOIA. Any information which is considered/justified as commercially sensitive under FOIA will therefore be protected.

What can suppliers do to comply?

- Embrace the spirit of the commitments to help inform the public.
- Be fully aware of transparency commitments and plan to support them.
- Work with the contracting authority i.e. (department, agency or NDPB) to ensure as much information is published as possible.
- Before deciding whether to compete, be sure you are comfortable in supporting the transparency principles.
- Identify (and separate) areas of commercial sensitivity in your bids and have clear reasons why it is sensitive and might not be disclosed.
- Submit documents in the format and style as requested in the tender documents.
- Provide any requested information in a timely fashion.

Where are tender documents and contracts being published?

Currently, Tender document information (not tender opportunities) can be found at www.businesslink.gov.uk/transparency/procurement, contracts can be found on departmental websites. From January 2011, all tender and contracts can be found on Contracts Finder, the government's single platform providing access to public sector procurement related information and documentation, including the facility to publish both tender and contract documents in a single place. Currently

Frequently asked questions

How will my commercially sensitive information and information containing my Intellectual Property Rights (IPR) be protected?

There are measures in place to identify, assess and protect information that is sensitive and should therefore be redacted (not published). Departments will use the exemptions set out by the FOIA as the criteria for assessing whether information should be redacted.

Where a framework agreement was awarded before the new transparency policies came into force are departments required to publish tender information?

Departments are asked to discuss this with you, with a view to coming to an agreement of what can be published as government policy is to publish as much information as is possible.

What are the benefits to suppliers?

Long-term publication of tender documents, contracts, prices and data sets will encourage suppliers to build innovative solutions and websites using public data and visibility. Also, visibility of the market offerings of other suppliers will create better informed preparations to go to market.

Will confidentiality clauses prevent publication?

Information that is covered by a confidentiality clause will be assessed against the exemptions set out by the FOIA in the same it would for a request under the FOIA. This may result in the redaction of some information prior to publication. Where appropriate, departments will discuss publication and possible redaction with suppliers before taking any decision to publish.

Where can I find more information on transparency in procurement and contracting?

ERG guidance on all three of these commitments is available at:

http://www.ogc.gov.uk/policy_and_standards_framework_transparency.asp

Buying Solutions have also produced guidance for their suppliers:

<http://www.buyingsolutions.gov.uk/aboutus/transparency/>

Talk to SRG Procurement for your individual contracts if you have questions or areas of concern or contact the OGC Service Desk, phone: 0845 000 4999 email: ogcservicedesk@cabinet-office.gsi.gov.uk