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Procurement Policy Note – Supporting Apprenticeships and Skills Through Public Procurement

Action Note 14/15 27 August 2015

Issue

1. Raising skills levels within the UK workforce is key to delivering sustainable growth. The Government has committed to increasing the quantity and quality of apprenticeships in England to three million starts over the next five years.
2. Public procurement of contracts with a full life value of £10 million and above and duration of 12 months and above should be used to support skills development and delivery of the apprenticeship commitment.
3. Whilst procurement decisions should always be made on a quality/cost/risk basis, this can include taking into account broader qualitative long-term benefits on the supply side (in this case, appropriate investment in skills outcomes, developed in particular through formal apprenticeship schemes) as long as they are consistent with the Government's overarching priority of value for money.
4. This policy is aimed at supporting growth by building a more skilled and productive workforce, reducing the risks of supply constraints and increased labour cost inflation.
5. This Action note builds upon and replaces PPN 06/15 "Supporting Sustainable Skills Development through Major Construction and Infrastructure Projects".

Dissemination and Scope

6. The contents of this Action Note apply to all Central Government Departments including their Executive Agencies and Non Departmental Public Bodies (In-Scope Organisations). Please circulate this document within your organisation, drawing it to the attention of those with a purchasing role. All other Contracting Authorities are strongly encouraged to adopt the Government's new approach.

7. This Action Note applies to new procurements with a full life value of £10 million and above and with a contract duration of 12 months and above.

Timing

8. The provisions of this Action Note will take effect for procurements advertised on or after 1 September 2015.

Action

9. The key actions are:

- In all new procurements covered by this Action Note, the In-Scope Organisation must determine whether apprenticeships and skills development are sufficiently linked to the subject matter of the contract to be included as tendering and contractual requirements
- In-Scope Organisations should bear in mind that in principle, apprenticeships/skills should be capable of being linked to the subject matter of contracts covered by this Action Note in the majority of cases. Where In-Scope organisations consider that skills/apprenticeships are not sufficiently relevant to be able to be linked, for example as a result of pre-procurement dialogue with industry, they should keep a written record of this.
- In all new procurements where apprenticeships and skills development have been determined to be sufficiently linked to the subject matter of the contract, In-Scope Organisations should include in the relevant procurement documentation, a requirement for the supplier to provide evidence of their commitment to developing and investing in skills in performance of the contract in question, and in particular their commitment to the creation of apprenticeships, under the contract.
- This should be achieved through asking the supplier specific questions:
 - at selection stage, seeking evidence of developing and maintaining skills relevant to the contract in question
 - at award stage, seeking the supplier's proposals for skills development and apprenticeships in performance of the contract.
- In-Scope Organisations should ensure that any apprenticeship and/or skills commitments contained in the bid, for example, the number of new apprenticeships the bidder commits to creating in performance of the contract, are subsequently included in contracts.
- In-Scope Organisations should consider whether to build apprenticeship and/or skills commitments into any related incentivisation mechanisms, and monitor the outcomes as part of their normal contract management procedures.

Link to contract and evaluation weightings

10. Consider the appropriateness of apprenticeship creation and skills outcomes to the subject matter of the contract. For example, where the In-Scope Organisation is buying an off the shelf product as one of many customers, apprenticeships and skills development outcomes are likely to be less relevant.
11. Where an In-Scope Organisation considers apprenticeship creation and skills development are sufficiently linked to the subject matter of the contract, it should decide in each case the scoring and weighting to be allocated to apprenticeship creation and skills development. In reaching a decision, the In-Scope Organisation should consider relevance and proportionality in relation to the:
 - **Market from which the requirement is to be fulfilled.** Consider the ability of the market to provide quality apprenticeship and skills outcomes. As an example of good practice, and depending on the size of the contract and the market, we would expect contractors to aim for 3-5% of the workforce to be apprentices, sponsored students and/or on graduate programmes, with a focus on apprentices. 5% would represent a gold standard (which is equivalent to the industry-led “5% Club”). Some markets, such as construction, are more likely by virtue of workforce numbers and type of work undertaken to offer greater opportunity for apprenticeship creation than others.
 - **Subject matter of the contract.** As explained at paragraph 9 above, consider the impact of the contract’s subject matter, which may also have an effect on the scoring and weighting to be applied where apprenticeship creation and skills development are considered relevant.

Further Guidance

12. Material to support In-Scope Organisations in delivering these actions is provided in Annex A as follows:
 - a. a guidance note to provide clarity on compliance and application of this policy consistent with EU procurement law and value for money considerations; and
 - b. a checklist of example objectives and measures to apply – Annex A Schedule 1.

Background

13. On 24th March 2015 the previous Government announced that it would require In-Scope Organisations procuring major construction and infrastructure projects with a capital value over £50m to use public procurement to drive increased

investment in training and apprenticeships. PPN 06/15 was issued in support of this.

14. Requiring skills and apprenticeships to be considered in contracts beyond the scope of PPN 06/15 supports the government's desire to encourage investment in skills and apprenticeship development, building a more skilled and productive workforce and reducing the risks of supply constraints and increasing labour cost inflation.
15. Public procurement, utilising the greater flexibilities provided under The Public Contracts Regulations 2015, provides a valuable lever to achieve this step change.
16. Planning ahead and procuring for supply chain skills and capability investment can:
 - Improve value for money and risk management – ensuring across projects and programmes that skills capacity and capability are matched to programme or project needs, thus mitigating the impacts during peak demand of wage inflation and skills gaps;
 - Improve long-term productivity – by encouraging investment in new skills and capability to support new innovative technologies;
 - Encourage a more responsive supply chain – by giving the market sufficient time to prepare to meet demand e.g. by ensuring the right skills and resources are in place; and
17. The Construction Leadership Council is developing a clear definition of good company skills performance. When available, this will help government procurers define the types of behaviours they should look for or expect in the construction sector.
18. The Government intends to monitor the impact of this policy and In-Scope Organisations may therefore be asked to report back on progress.

Contact

19. Enquiries about this PPN should be addressed to the Service Desk 0345 410 2222 or info@ccs.gov.uk

Annex A: Further guidance and best practice

It is entirely acceptable within EU procurement and competition law for procurers to make better use of public procurement in support of broader supply side benefits or other ‘additionality’ as set out in the Green Book¹. This note provides guidance on how skills outcomes can best be delivered, consistent with value for money considerations.

EU Procurement and competition law

The public procurement rules were in February revised under the Public Contracts Regulations (PCR) 2015, which have transposed early the provisions of the 2014 EU Procurement Directive (Directive 2014/24/EU). The PCR 2015 reinforce the ability of procurers to make use of public procurement in support of common societal goals, provided that these are relevant and proportionate to the subject matter of the contract.

Contracting authorities can therefore request certification/labels or other equivalent evidence of ‘additionality’ benefits through the procurement process, provided always that these are linked to the subject matter of the contract and that this is done in a transparent, non-discriminatory and proportionate way.

Value for Money considerations

Whilst procurement decisions should always be made on a quality/cost/risk basis, this can include taking into account incentivising investment in apprenticeships and skills as part of broader qualitative long-term benefits on the supply side alongside other ‘additionality’.

This is consistent with the principles of the Green Book. Value for Money in public procurement should be considered as the optimum combination of whole-of-life costs in terms of not only generating efficiency savings and good quality outcomes for the organisation, but also benefits to society and the economy, whilst minimising damage to the environment.

Further guidance on the appraisal and evaluation of broader benefit or ‘additionality’ and unvalued costs and benefits can be found in the Green Book:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220541/green_book_complete.pdf.

¹ The success of government intervention in terms of increasing output or employment in a given target area is usually assessed in terms of its ‘additionality’. This is its net, rather than its gross, impact after making allowances for what would have happened in the absence of the intervention. Additionality can also be referred to as a ‘supply side’ or ‘structural’ impact, which operates by altering the productive capacity of the economy.

Guidance on how to incorporate apprenticeship and skills requirements into public procurement

The key requirement is to ask the supplier specific questions which can include the examples at Schedule 1 to this Annex A:

- at selection stage, seeking evidence of developing and maintaining skills relevant to the contract in question; and
- at award stage seeking the supplier's proposals for apprenticeships and skills development in performance of the contract.

The following is more general guidance on taking account of apprenticeship and skills requirements

Do:

- Ensure you comply with the PCR 2015, in particular the need for all requirements to be relevant and proportionate to the contract's subject matter, and for equal treatment, non-discrimination, transparency and proportionality, when dealing with economic operators.
- Engage early and widely with suppliers to inform your decision whether apprenticeships and skills development link to the subject matter of the contract and give them an opportunity to shape the requirement.
- Through pre-procurement market engagement, build an understanding of the likely apprenticeship and skills development requirements necessary to successfully deliver over the whole life of the contract.
- Where apprenticeship and skills development are relevant, discuss procurement pipelines with the market and the capabilities needed to deliver them.
- Where appropriate (e.g. for larger procurements):
 - engage with supply chain and local skills bodies to understand current and predicted capability and capacity to identify potential gaps or pinch points; and
 - engage with the supply chain ahead of procurement, setting out expected / desired skills outcomes from the project in the context of:
 - Apprenticeships
 - Employment and economic growth
 - Development of advanced and higher level skills
 - Skills and retraining of existing workforce
- Ensure all criteria used (including at selection and award stage) are appropriate.
- Establish KPIs and benchmarks to measure delivery against apprenticeship and skills outcomes throughout the delivery of the contract, linked to any incentive-based payment mechanisms where appropriate and document these in the contract.
- Request the supplier to suggest the most appropriate number of apprenticeships to be created through performance of the contract.

Do Not:

- Apply apprenticeship or skills requirements that are not relevant or proportionate to the specific contract being procured.
- Require as selection criteria that bidders must currently have a set number or % of apprenticeships. This potentially discriminates, for example, against SMEs who may be able to create apprenticeships in performance of the contract.
- Use selection criteria requiring a bidder to have a general policy on apprenticeships in order to participate in the competition. Selection criteria addressing apprenticeship policy should instead invite bidders to demonstrate how their current skills policy, including any policy on apprenticeships, would support developing and maintaining skills required under the contract.
- Use criteria that potentially discriminates against a bidder in another member state / non-member state.
- Apply unrealistic targets, either in terms of values or numbers of apprenticeships to be created or geographic restrictions.
- Give any one potential supplier an unfair advantage in bidding over another – for example through skills or training requirements that disproportionately favour that supplier, or that set a higher or narrower standard to meet than would be needed in order to carry out the contract effectively.
- Apply contract conditions relating to apprenticeships where apprenticeships were insufficiently linked to the contract subject matter to be used as selection/award criteria.

Establishing and contracting for appropriate outcome targets

Where suppliers have offered to commit to hard skills ‘targets’ other than number of apprenticeships to be created, such as number of training days to be provided, these commitments should be incorporated into any resulting contract.

Other potential outcome measures are set out in the following Schedule 1.

Annex A: Schedule 1 – Example selection and award stage questions, criteria and measures

The schedule below sets out examples of potential questions that could be asked of potential suppliers at the selection stage (e.g. in the PQQ) (Column 1), and those which might be included at award stage as an evaluation criterion (column 2) with some notes (column 3).

Potential prequalification Selection stage questions	Potential award stage measures	Notes
<p>Evidence of skills to support performance of the contract:</p> <p>Provide evidence of developing and maintaining skills over the last three years relevant to delivering the contract. This could include, for example, evidence of apprenticeships started and of apprenticeships completed or of other skills training or development.</p> <p>Provide evidence of your proposed policy and process for workforce training and development for direct and subcontracted staff relating to performance of this contract.</p>	None	<p><i>This question should be scored as part of the selection stage evaluation criteria</i></p> <p>Apprenticeships are a valuable, but not the only, means by which a contractor can provide evidence. For example the recruitment of experienced staff that are offered on-going training could also be a means of maintaining skills levels.</p>
	<p>Number and Quality of Apprenticeships: How many apprenticeships will be, started and, where the contract duration allows, completed as a result of this contract?</p>	<p><i>Apprenticeships are full time paid jobs with training, which typically last a minimum of 12 months.</i></p> <p><i>The supplier should propose what measures it will take and the number of apprenticeships it will commit to create as a result of the contract. These measures should then be incorporated into the terms and conditions of the contract.</i></p>
<p>Commitment to skills and training:</p> <p>Over the last 3 years:</p> <p>What proportion of staff have achieved professional registration and/or are engaged in accredited training?</p>	<p>How many accredited training opportunities of any level will be delivered as part of this contract?</p> <p>Will these training opportunities be recognised, valued, and transferable qualifications?</p>	<p><i>ACCREDITED training is any training towards a formal qualification, for example NVQs, Institute of Leadership and Management (ILM), Health and Safety (e.g. NEBOSH, IOSH) qualifications. KPIs should measure compliance against the tender / contract measures.</i></p>

<p>What proportion of staff proposed to perform the contract are currently working towards professional registration and when are these due to be achieved?</p>		<p><i>In-Scope Organisations should consider the feasibility of a bidder being able to identify the staff members proposed to perform the contract at the time of bidding.</i></p>
	<p>Commitment to skills and training:</p> <p>What are your plans for ensuring that the skills and training commitments (made in your bid) flow down to your supply chain?</p>	<p><i>KPIs should measure compliance against the tender / contract measures.</i></p>