

Procurement Policy Note – Modernising the EU Public Procurement Rules: Update on UK Influencing Activity

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Foreword by the Minister for the Cabinet Office, Francis Maude

Common rules across the European Community and beyond are key to achieving the real benefits of fair and open competition in public procurement. However the existing public procurement rules are widely recognised as too complex; too many detailed requirements add costs and constraints to the process, and can promote risk averse, over – bureaucratic procurement. And despite the rules, the playing field is still not always and everywhere as level as it should be.

The European Commission's current review of the rules offers a once in a decade opportunity to achieve a simpler, less bureaucratic and more effective public procurement regime. The rules must help promote growth, and encourage innovative ways of delivering public services such as employee-owned providers. The Government is determined to play a positive and pivotal role in promoting change. I would like to invite you as a member of the public procurement community, to take an active part; this note explains how you can help. With your assistance we can achieve simplified and improved public procurement rules to the benefit of public authorities, suppliers and citizens both in the UK and across the EU.



Rt Hon Francis Maude MP

Issue

The UK Government response to the Green Paper on modernising the public procurement rules has been sent to the European Commission, and published on the Cabinet Office website. The Government will be actively influencing the Commission, other EU Member States and the European Parliament in the run up to the publication of the Commission's proposals for revised and updated directives. The Government invites you to help maximise our influence through any engagement you may have with these bodies and other stakeholders.

Timing

1. Negotiations will commence on the legislative proposals from the Commission early in 2012.

Dissemination

2. Please circulate this Procurement Policy Note (PPN) within your organisation, agencies, non-departmental public bodies (NDPBs), and any other bodies for which you are responsible, drawing it to the particular attention of those with a purchasing role.

Contact

3. Please direct your response and any general enquiries to the Service Desk: 0845 000 4999 servicedesk@cabinet-office.gsi.gov.uk.

Background

4. The Cabinet Office has developed the United Kingdom response to the European Commission Green Paper on modernising the public procurement rules. This was published on 25 July 2011, is attached to this notice as a PDF and can be found at:

<http://www.cabinetoffice.gov.uk/resource-library/modernisation-eu-public-procurement-policy>

5. The UK response has been developed after the receipt of feedback from a wide range of stakeholders, following a previous PPN requesting your views in February 2011.
6. The government is actively pursuing a strategy to help ensure our key aims, outlined later in this PPN, are achieved by:
 - i) Influencing the early strategic direction of the EU review process, by engaging with key strategic EU stakeholders, including senior members of the Commission and the European Parliament, and pressing the case for radical simplification at relevant opportunities;
 - ii) Engaging extensively with other Member States to understand their positions, develop alliances and build support for UK objectives, in readiness for the subsequent negotiations.
 - iii) Actively involving ministers, senior officials and where possible the wider public procurement community.

Summary of the UK proposals

7. The Government wants radical simplification of the public procurement regime to free up markets and facilitate growth. In its response to the consultation, the UK urges the EU to:
 - Allow a flexible approach towards employee led organisations/mutuals to enable employees to gain experience of running public services prior to full and open competition
 - Reduce lengthy and burdensome procurement processes that add cost to business and barriers to competition
 - Modernise the procurement procedures and provide more flexibility for purchasers to follow best commercial practice, so that the best possible procurement outcomes can be achieved
 - Support measures to enhance SME access to public procurement, where such measure are non-discriminatory and are consistent with a value for money approach.

8. The UK response also sets out several specific changes that we think are necessary, and which should contribute to the overall aim of simplification described above :
 - Raise the threshold for goods and services procurement
 - Allow temporary exemptions for employee-led organisations/mutuals
 - Improve framework agreements and similar models (eg DPS), with much greater flexibility to add new suppliers.
 - Enable faster procurement. Pare-back mandatory timescales to the absolute minimum
 - Allow procurers much more freedom to negotiate
 - Allow more flexibility on when and how suppliers' and service providers' past performance, skills and quality of service can be taken into account.
 - Simplify and reduce the burden of supporting documents which candidates have to provide
 - Provide more flexibility in the use of electronic marketplaces by public authorities
 - Provide clarification and clearer guidance on how social and environmental issues can be taken into account, and how they can help to achieve value for money.

How the public procurement community can help

9. It will not be easy to influence the EU to change the rules in the ways that the UK wants. But we are more likely to be successful if we have the active support of the UK stakeholder network. Therefore, we invite you, as a recipient of this PPN, to consider how you can help to push the UK message at any relevant opportunities. The scope for possible involvement will vary greatly depending on what role you have in procurement, but some examples are listed below:
- Promoting the UK objectives at international conferences and events on public procurement, or domestic conferences and events that are attended by representatives from elsewhere in the EU
 - Promoting the UK objectives when engaging with the Commission, other Member States, or with members of the European Parliament
 - Providing relevant messages when writing published articles in the UK
 - Briefing senior officials or ministers when they are engaging with the European Union on procurement-related issues, or on policy issues with a procurement angle.
10. We can discuss options and approaches with you, provide a slide deck and briefing on key messages, and we would encourage you to make use of this material. If you have the chance to use it we would be grateful if you could let us know, and we would of course welcome your feedback on the outcome of any meetings or events. We would also welcome any other ideas or assistance which you can offer.
11. The wider and deeper our influencing strategy, the more likely we are to achieve a successful outcome, with updated directives which meet the UK public procurement community's goals.

If you are able to contribute in any way, please contact julie.bremner@cabinet-office.gsi.gov.uk or servicedesk@cabinet-office.gsi.gov.uk

Next Steps

12. The following are key actions for the Government for the near future:
- i) Study the Commission's findings and evaluate all Member State positions
 - ii) Further build and deliver the influencing plan
 - iii) Build strategic alliances with other Member States
 - iv) Attend and press the UK case at key events
 - v) The Cabinet Office will keep stakeholders updated on developments.

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