



# Procurement Policy Note - Supply Chain Visibility

Action Note 01/18

10 April 2018

## Issue

1. The Government wants to level the playing field and increase the visibility of supply chain opportunities to assist suppliers, including SMEs, in bidding for work in its supply chains. The Contracts Finder platform has been developed with new functionality that enables suppliers to Government to advertise subcontracting opportunities. In addition, the Government wants to have greater visibility of spend with SMEs in its supply chains.

## Dissemination and Scope

2. This PPN applies to all Central Government Departments, their Executive Agencies and Non Departmental Public Bodies. These organisations are referred to in this PPN as 'In-Scope Organisations'. Please circulate this PPN within your organisation, drawing it to the attention of those with a commercial and procurement role.

## Timing

3. In-Scope Organisations must apply the provisions of this Procurement Policy Note in new procurements commencing from 1 May 2018.

## Action

4. For all new procurements valued above £5 million per annum<sup>1</sup> commencing from 1 May 2018 which are subject to the Public Contracts Regulations 2015, all In-Scope Organisations must update their terms and conditions to include clauses requiring the successful prime supplier(s) to:
  - a. advertise on Contracts Finder, subcontract opportunities arising from that contract above a minimum subcontract threshold of £25,000; and

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<sup>1</sup> Based on advertised contract value, averaged over the life of the contract, e.g. a contract with a 4 year term with a total contract value of £21m would be in scope, even if the value in the first year were under £5m. In the event that the advertised contract value is below the threshold, but an extension subsequently takes it over the value, then the original value should still be used as the threshold.

- b. Separately, report on how much they spend on subcontracting, and separately how much they spend directly with SME<sup>2</sup> or VCSE<sup>3</sup> organisations in the delivery of the original contract.

5. Standard clauses for these measures are attached at Annexes A and B.

### **Advertising subcontracting opportunities**

6. The clause on subcontracting (Annex A) requires a successful supplier to advertise on Contracts Finder any new subcontracting opportunities valued above a minimum threshold of £25,000 that arise after contract award. The clause does not apply to subcontracts that were arranged or existed prior to the award of the contract, i.e. when a prime contractor has established its supply-chain as part of the tender process.
7. Contract conditions must be relevant and proportionate to the contract subject-matter. The Government expects that in the majority of contracts valued above £5 million p.a., this condition is likely to be relevant and proportionate. However, there may be exceptions, for example:
  - where there are issues of national security, which mean that subcontracts cannot be openly advertised;
  - where a contract is to be delivered overseas and the resulting subcontracts can only be delivered by in-country partners and/or there are local laws, customs, or security issues that mean subcontracts cannot be advertised;
  - where the supplier has confirmed there will be no subcontracted spend;
8. In-scope organisations may also consider setting a higher threshold value for advertisement of subcontracting opportunities up to, but not exceeding, £100,000 in the event that they consider the minimum threshold of £25,000 is overly burdensome to suppliers on a particular procurement.
9. The relevance and proportionality of the contractual conditions addressed in this PPN should be considered at all appropriate stages. For example, they might be considered both when developing the procurement strategy and in response to concerns raised during the tender process by suppliers. In-scope organisations should satisfy themselves that the contractual condition remains relevant and proportionate on a case by case basis, and seek advice where appropriate.
10. The standard clause does not specify how the advertised procurement is to be conducted, but suppliers are expected to allow a reasonable and proportionate amount of time to allow bidders to respond.
11. Upon award, the supplier should update the notice within 90 days with the details of the awarded supplier.

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<sup>2</sup> "SME" means an enterprise falling within the category of [micro, small and medium-sized enterprises](#) defined by the European Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.

<sup>3</sup> "VCSE" means Voluntary, Community and Social Enterprise, a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives. VCSEs include small local community and voluntary groups, registered charities, foundations, trusts and the growing number of social enterprises and co-operatives.

12. Suppliers should monitor the number, type and value of subcontract opportunities advertised and awarded on Contracts Finder during the life of the contract. Suppliers should provide reports on the above to the contracting authority in a manner and frequency as reasonably specified by the contracting authority.
13. In-Scope Organisations should draw suppliers' attention to these measures and support them in registering on Contracts Finder by following the process documented in the [Public Sector Contractors User Guide](#) for Contracts Finder.
14. In addition to the new contractual measure, In-Scope Organisations should continue to encourage their large suppliers to proactively use Contracts Finder to provide greater visibility of supply chain opportunities on a voluntary basis, when they are refreshing their supply chains more widely. e.g. when refreshing approved supplier lists, undertaking early market engagement and so on.

### **Supply chain spend with SMEs**

15. The clause on supply chain spend (Annex B) requires a successful supplier to provide In-Scope organisations with data on their direct spend with SME/VCSEs in the supply chain relating to that contract. Suppliers should provide figures on (i) the value of contract revenue they subcontract out and (ii) the value that is subcontracted to SMEs or VCSEs. A reporting template is provided (Annex C), which includes a definition of spend that should/should not be included as contract spend with SME/VCSEs.
16. Suppliers should provide reports on the above to the contracting authority in a manner and frequency reasonably specified by the contracting authority.
17. Contract conditions must be relevant and proportionate to the contract subject-matter. The Government expects that in the majority of contracts valued above £5 million p.a., this condition is likely to be relevant and proportionate. However, there may be exceptions, for example:
  - where a contract is to be delivered overseas and the resulting subcontracts can only be delivered by in-country partners;
  - where the supplier has confirmed there will be no subcontracted spend;
18. The relevance and proportionality of the contractual conditions addressed in this PPN should be considered at all appropriate stages. For example, they might be considered both when developing the procurement strategy and in response to concerns raised during the tender process by suppliers. In-scope organisations should satisfy themselves that the contractual condition remains relevant and proportionate on a case by case basis, and seek advice where appropriate.

### **Background**

19. Contracts Finder is the Government's one stop shop for public sector opportunities. Government extended Contracts Finder to the subcontracting market in 2016, offering wider access to procurement opportunities. Suppliers who advertise

subcontracting opportunities on Contracts Finder gain access to over 25,000 potential supply chain partners - 63% of these are SMEs. Registration is free and easy and provides suppliers with a discrete set of supply chain notices to advertise their requirements at different stages of the procurement process. These are easily distinguished from public sector notices and easy to search and filter.

20. Government already annually surveys its largest suppliers on their spend with SMEs in the supply chain and is now moving from a centralised collection of this management information to collection at department level.

### **Contact**

21. Enquiries about this PPN should be directed to the Crown Commercial Service Helpdesk on 0345 410 2222 or [info@crowncommercial.gov.uk](mailto:info@crowncommercial.gov.uk).

## **Annex A - Standard Clause on Advertising Subcontracting Opportunities**

### **Clause to be inserted:**

#### **Improving visibility of subcontract opportunities available to SMEs and VCSEs in the supply chain**

1. The Supplier shall:
  - 1.1 subject to clause 3, advertise on Contracts Finder all subcontract opportunities arising from or in connection with the provision of the Goods and/or Services and/or Works above a minimum threshold of £25,000 that arise during the Contract Period;
  - 1.2 within 90 days of awarding a subcontract to a subcontractor, update the notice on Contracts Finder with details of the successful subcontractor;
  - 1.3 monitor the number, type and value of the subcontract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;
  - 1.4 provide reports on the information at clause 1.1.3 to a Contracting Authority in the format and frequency as reasonably specified by the Contracting Authority; and
  - 1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.
2. Each advert referred to at clause 1.1 above shall provide a full and detailed description of the subcontract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.
3. The obligation at Clause 1.1 shall only apply in respect of subcontract opportunities arising after the contract award date.
4. Notwithstanding clause 1, the Contracting Authority may by giving its prior written approval, agree that a subcontract opportunity is not required to be advertised on Contracts Finder.

### **Definitions**

Under the definitions section of the contract, insert new definitions as set out below and include definitions for “Commencement Date”; “Contracting Authority”; “Expiry Date”; “Goods”; “Services”; “Supplier” and “Works” as appropriate for each relevant contract.

The definition of “Contract Period” will be dependent on the terms of the Contracting Authority’s contract and should be adapted as appropriate.

“Contract Period” the term of the contract from the Commencement Date till the Expiry Date.

“Contracts Finder” the Government’s publishing portal for public sector procurement opportunities.

“SME” means an enterprise falling within the category of [micro, small and medium-sized enterprises](#) defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises; and

“VCSE” means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

## **Annex B**

### **Standard Clause on Supply Chain Spend with SMEs**

#### **Clause to be inserted:**

#### **Management Charges and Information**

1. In addition to any other management information requirements set out in this Contract, the Supplier agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME Management Information (MI) Reports to the [Contracting Authority] which incorporate the data described in the MI Reporting template which is:
  - 1.1 the total contract revenue received directly on a specific contract;
  - 1.2 the total value of sub-contracted revenues under the contract (including revenues for non-SMEs/non-VCSEs); and
  - 1.3 the total value of sub-contracted revenues to SMEs and VCSEs.
2. The SME Management Information Reports shall be provided in the correct format as required by the MI Reporting Template and any guidance issued by the Contracting Authority from time to time. The Supplier shall use the initial MI Reporting Template which is set out in the Annex to this Schedule and which may be changed from time to time (including the data required and/or format) by the Contracting Authority by issuing a replacement version. The [Contracting Authority] shall give at least thirty (30) days notice in writing of any such change and shall specify the date from which it must be used.
3. The Supplier further agrees and acknowledges that it may not make any amendment to the current MI Reporting Template without the prior written approval of the Contracting Authority.