



Cabinet Office

Procurement Policy Note – Preparing for the UK Leaving the EU

Action Note PPN 02/19(2) March 2019

(Updated 25th March 2019)

Issue

1. This Procurement Policy Note (PPN) provides further information on how the UK's public procurement regulations will be affected in the event of either an agreed deal with the EU or a no deal exit from the EU.

Dissemination and Scope

2. This PPN is directly applicable to all contracting authorities, including Central Government Departments, Executive Agencies, Non Departmental Public Bodies, wider public sector, local authorities and NHS bodies, and utilities. Together these are referred to in this PPN as 'contracting authorities'. Please circulate this PPN within and to relevant organisations that you are responsible for, drawing it to the specific attention of those with a purchasing role.

Timing

3. Contracting authorities should be prepared to apply the provisions of this PPN in either deal or no deal scenarios from the point of the UK's exit from the EU.

Action

4. In either a deal or no deal scenario, the public procurement regime (the procurement procedures, financial thresholds, etc.) will remain broadly unchanged.
5. In the event of a deal, the current procurement regulatory framework will continue to apply, unamended, during the implementation period. Further details are at **Annex 1**.
6. In the event of no deal, contracting authorities will need to take action. In particular, they will need to publish public procurement notices to a new UK e-notification service that will replace the EU Publications Office. Further details are at **Annex 2**.
7. More information will be issued when the final position is known.

Background

8. The European Union (Withdrawal) Act 2018 contains powers to fix deficiencies that arise as a result of the UK's withdrawal from the EU. For public procurement, the amendments to the current regulatory framework were made in March. [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2019¹](#) were made on 13th March. Those Regulations were subsequently amended by the [Public Procurement \(Amendment etc.\) \(EU Exit\) \(No. 2\) Regulations 2019²](#) which were made on the 20th March. In the event of no deal, the [Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2019³](#) will come into force, in their amended form, on exit day.

Contact

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

¹ <https://www.legislation.gov.uk/uksi/2019/560/contents/made>

² <https://www.legislation.gov.uk/uksi/2019/623/contents/made>

³ <https://www.legislation.gov.uk/uksi/2019/560/contents/made>

Annex 1 - Public Procurement: Preparing for the UK to Leave the EU with a Deal

1. If the UK leaves the EU with a deal, the current public procurement regulations will continue to apply, unamended, during the implementation period (except in circumstances where there are reforms to the EU regime). Subject to the [Withdrawal Agreement](#)⁴ between the UK and the EU being approved by Parliament, Article 127 sets out the agreement for the implementation period.
2. During the implementation period, EU public procurement law will continue to apply.
3. The procurement regulations for England, Wales and Northern Ireland during the implementation period will continue to be:
 - [The Public Contracts Regulations 2015](#)⁵
 - [The Concession Contracts Regulations 2016](#)⁶
 - [The Utilities Contract Regulations 2016](#)⁷
4. Defence and security procurement is dealt with separately in the [Defence and Security Public Contracts Regulations 2011](#)⁸, which will continue to apply to the whole of the UK.
5. For any procurement procedures ongoing at the end of the implementation period the existing regulatory regime will continue up to award. Further guidance will be provided towards the end of the implementation period.

⁴ <https://www.gov.uk/government/publications/withdrawal-agreement-and-political-declaration>

⁵ <http://www.legislation.gov.uk/ukSI/2015/102/contents/made>

⁶ <http://www.legislation.gov.uk/ukSI/2016/273/contents/made>

⁷ <http://www.legislation.gov.uk/ukSI/2016/274/contents/made>

⁸ <http://www.legislation.gov.uk/ukSI/2011/1848/made>

Annex 2 - Public Procurement: Preparing for the UK to Leave the EU with No Deal

1. If the UK leaves the EU without a deal, the public procurement regime will remain largely unchanged. There will however be appropriate amendments to the procurement regulations to reflect the UK's new status outside the EU.

What will change for contracting authorities?

2. The current regulations have been amended to ensure they remain operable. The majority of the procurement regulations and in particular the different procedures available to contracting authorities will remain exactly the same. The key difference will be the need to send notices to a new UK e-notification service instead of the EU Publications Office.
3. Contracting authorities have a legal obligation to publish public procurement information. In a no deal scenario, contracting authorities may no longer have access to the EU Publications Office and the online supplement to the Official Journal of the EU (OJEU) dedicated to European public procurement (Tenders Electronic Daily).
4. Therefore the Government has amended current legislation to require contracting authorities to publish public procurement notices to a new UK e-notification service instead.
5. Any requirements to advertise on other platforms such as Contracts Finder, MOD Defence Contracts Online, or devolved administration systems such as Public Contracts Scotland, Sell2Wales, eSourcing NI and eTendersNI will remain unchanged.

The new UK e-notification service

6. The new UK e-notification service will be available for active use from the time that the UK leaves the EU. Earlier versions are available for testing and on-boarding.
7. Contracting authorities that are currently working with a third party provider ('e-sender') to submit notices to the EU Publications Office should be able to continue to use them provided that the e-sender successfully completes integration work to post notices to the new UK e-notification service. Contracting authorities may wish to contact their e-senders to ask them about their plans for integrating with the new UK e-notification service.
8. Contracting authorities that need to publish directly to the new UK e-notification service will need a Contracts Finder Supplier Registration Service account.
 - Existing Contracts Finder users will be enabled to publish to the new UK e-notification service automatically and need take no action.
 - Contracting authorities that do not have a Contracts Finder (CF) or a Supplier Registration Service (SRS) account will need to register as a buyer

at <https://www.contractsfinder.service.gov.uk/organisation/register> and apply to post notices.

- Contracting authorities that do have an SRS account, but not a CF account will need to go to CF and sign in with their SRS credentials at <https://www.contractsfinder.service.gov.uk/login> and then apply to post notices.

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

What will change for businesses?

10. Suppliers wishing to access UK contract opportunities from the UK public-sector will need to access the new UK e-notification service instead of Tenders Electronic Daily (TED). Suppliers can continue to access the relevant domestic portal, such as Contracts Finder, MOD Defence Contracts Online, Public Contracts Scotland, Sell2Wales and eTendersNI.
11. Suppliers who wish to access contract opportunities from the EU may continue to do so via OJEU/TED.

Procurements in progress on exit day

12. For procurements that have commenced before the UK leaves the EU (i.e. they have been advertised in the OJEU already), contracting authorities will need to comply with the new regulations from that point, for example by posting subsequent contract award notices on the new UK e-notification service instead of OJEU/TED.

Further information

13. We have published further information on [GOV.UK](#).⁹

⁹www.gov.uk/government/uploads/system/uploads/attachment_data/file/784212/Frequently_Asked_Questions_to_company_PPN_02_19.pdf