

Frequently asked Questions on No-deal Exit

8th May 2019

UK e-notification service

Question	Answer
If I have already started my procurement before Exit, will I have to republish all of my previous notices on the new portal?	No. However, when you publish any subsequent notices for your procurement on the new e-notification service you should include the OJEU/TED reference number so an audit trail can be followed for the procurement.
When publishing to both UK e-notification service and Contracts Finder, do I have to publish to UK e-notification first?	Yes. The post-Exit Regulations will require publication on the UK e-notification service in place of OJEU/TED. Therefore, as with the current arrangements, UK e-notification publication takes precedence over publication on Contracts Finder. Unlike the OJEU/TED, there should be minimal delay between submitting a notice to the UK e-notification service and publication of the notice on the site.
How do I reference things that were on the OJEU portal correctly and when should I do this?	A notice submitted on the new UK e-notification service will include fields where reference numbers of OJEU/TED notices can be added.
What will happen to any OJEU notices currently in progress / live as of 11pm on 29/03/19?	Procurement procedures that have already commenced will continue in accordance with the post-Exit Regulations. In the future, notices should be published on the new UK-e-notification service. There is no need to republish notices already published on OJEU. Instead, contracting authorities should include a reference to the OJEU notice on any notice submitted to the new UK e-notification service.
Will historic information on OJEU remain the same?	The standard practice of the EU Publications Office is that it will maintain data in the OJEU/TED system for two years.
Why do we have a new system at all? Why not just extend contracts finder?	To comply with international agreements such as the Government Procurement Agreement (GPA), relevant procurements in the UK must be advertised through a single point of access available free of charge. To replace OJEU, a UK-wide service is necessary. Existing portals such as Contracts Finder, Sell2Wales, eTendersNI will continue to operate in the same way as they do now.
When will the new portal be available to use?	The new UK e-notification service will be available for active use from the day the UK leaves the EU in the event of a no deal Brexit. Earlier versions are available for testing and on-boarding. Should you wish to find out more about this please contact the CCS service desk on 0345 410 2222 or info@crownccommercial.gov.uk .

<p>I use a specialist provider to place my notices. What do I need to do?</p>	<p>Contracting authorities who are currently working with a third party provider (i.e. an '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.</p> <p>The following e-senders have told Cabinet Office that they intend to integrate their services with the new UK e-notification service in advance of site launch.</p> <ul style="list-style-type: none"> ● Adam (useadam.co.uk) ● ADB (UK) Limited ● Atamis Limited ● BiP Solutions ● European Dynamics ● EU Supply ● In-Tend Ltd ● Jaggaer ● Millstream Associates (part of Proactis) ● Proactis ● Sourcedogg ● Wax Digital <p>Contracting authorities may wish to contact their e-senders to ask them about their plans for integrating with the new UK e-notification service.</p>
<p>After EU exit, if I have a problem publishing a notice to the UK e-notification service who do I contact?</p>	<p>If you publish via an e-sender, contact them in the first instance. Should you publish directly to the new UK e-notification service and require further assistance, please contact the CCS service desk on 0345 410 2222 or info@crowcommercial.gov.uk</p>
<p>Do I still have to publish my notices to Contracts Finder?</p>	<p>Yes. The requirement in the current Regulations for certain contracting authorities to publish to Contracts Finder¹ remains unchanged. These contracting authorities must publish opportunities and awards on Contracts Finder¹ instead of, or in addition to, other portals or sites.</p> <p>Further details are described in Procurement Policy Note 07/16: Legal requirement to publish on Contracts Finder. PPN 07/16 can be viewed HERE².</p>
<p>Will there be a link from the new portal to Contracts Finder or will we have to submit notices to both sites like we currently do?</p>	<p>There will be no automated link to republish a notice from the UK e-notification service onto Contracts Finder. Contracting authorities will need to submit notices to both sites as they currently do with the EU Publications Office, either directly through the user interface or through their existing e-sender service.</p>
<p>Will the portal allow me to place my notices in languages other than English?</p>	<p>The UK e-notification service will initially be available in English only. Descriptions in notices written in both Welsh and English will be published in both languages.</p>

¹ <https://www.contractsfinder.service.gov.uk/Search>

² <https://www.gov.uk/government/publications/procurement-policy-note-0716-legal-requirement-to-publish-on-contracts-finder>

<p>At the moment we can post a VEAT notice to inform the market where we intend to award a contract without having published a contract notice - will there be similar processes in place on the UK e-notification service?</p>	<p>The Voluntary Ex-Ante Transparency Notice (VEAT) notices are built into the new UK e-notification service and will still be available for contracting authorities and entities to use.</p>
<p>Will the notices all be the same as they were before?</p>	<p>All the current procurement notices that are referred to in the current Regulations and the OJEU TED portal will exist and be available in the new UK specific e-notification service.</p>
<p>What extra costs will there be for businesses applying for public contracts? Will it be more complicated to do?</p>	<p>The UK e-notification service will be free and accessible for all users. The information contained in the procurement notices will remain the same as the notices that were published on OJEU TED. There will be no changes to the publication of notices at a local level, for example, on Contracts Finder³, Public Contracts Scotland⁴, Sell2Wales⁵ and e-TendersNI⁶.</p>
<p>Can suppliers claim that I haven't advertised under the rules if I place notices for part of my procurement in the OJEU and the rest in the new UK e-notification service?</p>	<p>No. Provided you have complied with the rules pre-Exit to publish in OJEU TED and post-Exit to publish in the UK e-notification service, you will have met your obligations.</p>
<p>How do I deal with notices I have already sent to OJEU TED that have not been published by them at the point of Exit from the EU?</p>	<p>It can take up to 48 hours (or longer in exceptional circumstances) for notices submitted to the EU Publications office to be published on TED. To ensure that your organisation remains compliant with legislation, you will need to check to make sure that the notices you have sent to OJEU TED for publication prior to Exit were published on the OJEU TED before the UK left the EU. If they have not been published on OJEU TED before exit day, you will need to resend them to the new UK e-notification service, Find a Tender Service.</p>

³ <https://www.contractsfinder.service.gov.uk/Search>

⁴ <https://www.publiccontractsscotland.gov.uk/>

⁵ <https://www.sell2wales.gov.wales/>

⁶ <https://etendersni.gov.uk/>

Thresholds

Question	Answer
Who will set the thresholds when we have left the EU?	Revaluing the sterling value of the financial thresholds in the light of currency fluctuations will be assumed by the Minister for the Cabinet Office. Thresholds will remain aligned to those in the Government Procurement Agreement (GPA).
Will the thresholds be changing? How will I know that they are changing?	The thresholds will remain aligned to the Government Procurement Agreement (GPA) thresholds ⁷ as they are currently. The next review of the thresholds will be implemented by January 2020. You will be advised of any changes in the threshold in the same way as you currently are - i.e. by Procurement Policy Notices (PPNs).
How will I know what the value of the public procurement threshold is?	The thresholds have not changed, instead they are quoted in £sterling as can be seen in the draft SI (available here ⁸). Future changes will be notified via Procurement Policy Notices (PPN). PPN can be found here ⁹ .
Will the thresholds be quoted in £ sterling in future?	<p>Yes, the £ sterling value of the thresholds will be as follows:</p> <ul style="list-style-type: none"> • for works: £4,551,413 for everyone; • for central government goods and services: £118,133; • for sub-central government goods and services: £181,302. • in the light touch regime the threshold will be £615,278 for all bodies. <p>The thresholds in the Utilities Regulations will be:</p> <ul style="list-style-type: none"> • for works: £4,551,413 for everyone; • supplies and services: £363,424 all sectors. <p>The thresholds in the Concessions Regulations will be £4,551,413.</p>
Will we be able to alter and particularly, raise the procurement thresholds to reduce the burden on public procurement?	The thresholds will remain aligned to the Government Procurement Agreement (GPA) thresholds. The next review of the thresholds will be implemented by January 2020. You will be advised of any changes in the threshold in the same way as you currently are- i.e. by Procurement Policy Notices (PPN), which can be found here ¹⁰ .

⁷ <https://www.gov.uk/government/publications/procurement-policy-note-0417-new-threshold-levels-2018>

⁸ <https://www.legislation.gov.uk/ukdsi/2019/9780111176788>

⁹ <https://www.gov.uk/government/collections/procurement-policy-notes>

¹⁰ <https://www.gov.uk/government/collections/procurement-policy-notes>

Timings

Question	Answer
I started a procurement before Exit day, which procurement rules apply?	<p>The no-deal rules will apply from Exit day. They will generally apply in relation to procurements that are already underway on Exit day. There will be some exceptions to this, mainly in cases in which applying the amended provision to such procurements would 'move the goalposts' in ways that would, or could, produce unfairness. Examples are provided in the Statutory Instrument¹¹.</p> <p>A procurement is considered as having been started if a notice had been sent to OJEU and published before Exit day, or a business has been contacted to seek expressions of interest, or to respond to an unsolicited expression of interest in relation to a proposed contract, framework or dynamic purchasing system.</p>
When do the new rules actually apply from?	In a no deal scenario, the new rules will apply from Exit Day.
What would happen to any tenders that had been advertised in OJEU but hadn't been awarded as at 29/03/19 (e.g. At the standstill period/alcatel, or still undergoing internal approvals)?	If your procurement is started before Exit Day, you should continue to treat them as you would any other bidder on your procurement. In the unlikely event that the UK leaves the EU with no deal in place, procurement opportunities that would have been placed on OJEU/TED will instead need to be published on the new UK e-notification service.

¹¹ <https://www.legislation.gov.uk/ukxi/2019/560/contents/made>

Procedures

Question	Answer
Are there any new procedures in the No Deal Regulations?	No, there are no new procedures in the post-Exit Regulations.
If the EU comes up with any new procedures, will they be brought into the no deal regulations?	No, we will not be required to give effect to any EU Directives or regulations in the field of public procurement if we leave the EU without a deal.
What references do I use in my notices in the no deal regulations? I used to use NUTS and CPV codes. Are they being replaced?	We are retaining CPV codes in their current format. This is described in the draft EU Exit Regulations HERE¹² . NUTS codes, as referred to in the Directives will continue to be used for the time being.
In a procurement I am doing that spans Exit day how will exclusions decisions I have made under the pre-Exit Regulations be affected?	To ensure the 'goal-posts' are not moved for a selection stage spanning Exit, for procurements started before Exit day, businesses will continue to declare exclusions based on the exclusion grounds in the pre-Exit Regulations. For procurements started after Exit day, businesses will declare grounds for exclusion based on the post-Exit Regulations. These post-Exit no deal Regulations omit the exclusion grounds related to the offence of fraud affecting the European Communities' financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities.
How do I deal with the need to specify and refer to membership of a European professional or trade register? I am currently able to require such membership (which is typically on a register held outside of the UK), as part of the bid process?	For procurements started before exit day the business could still be expected to be enrolled in one of the professional or trade registers kept in their member State. This is to ensure the selection criteria for procurements spanning Exit day remain consistent and 'goal posts' are not moved. For procurement started after Exit day a requirement for a business to be enrolled in one of the professional or trade registers kept in their member State would not be appropriate.
What happens to the European Single Procurement Document (ESPD) in the no deal regulations?	ESPD will be having a name change to the Single Procurement Document (SPD). There are no differences in how it operates.
How do I conduct my supplier engagement under the new rules?	There is no change to the way supplier engagement should be conducted.
I am aware that I have to meet mandatory accessibility guidelines that are defined by the EU when I am writing technical specifications, to ensure that accessibility criteria for disabled people are met. How will this be different in future?	There will be no immediate difference between the two requirements. Where there is a requirement to include accessibility guidelines to ensure accessibility for disabled people currently then they will remain post Exit.

¹² <https://www.legislation.gov.uk/ukxi/2019/560/contents/made>

How will the remedies regulatory regime be affected by no deal Brexit?	There is no effective change to the remedies regime.
--	--

Suppliers

Question	Answer
Will UK companies be restricted as to what they can bid on after Brexit?	<p>UK companies will be able to continue to bid for UK opportunities and read UK notices on the new UK e-notification service.</p> <p>The GPA committee has agreed to the UK joining the WTO Government Procurement Agreement (GPA). In light of this, it is anticipated that UK suppliers will continue to have substantially the same access to government procurement markets in the other GPA parties. UK suppliers will have access to EU markets to the extent they are covered by the EU's coverage schedules to the GPA¹³. UK suppliers will continue to be able to search for public contract opportunities throughout the EU via OJEU/TED.</p> <p>The Government is also seeking continuity of our existing bilateral EU trade agreements as we leave the EU. The aim is to ensure that procurement provisions in these agreements are replicated as far as possible, in new bilateral UK agreements.</p>
Will there be any impact on non-UK companies bidding for tenders?	There will be no material change. All non-UK suppliers should continue to be treated equally and fairly through open competition as per existing arrangements.
Some UK-based suppliers have parent companies based elsewhere. What will be the impact on these suppliers after Brexit?	The intention is that there should be no material change. Contracting authorities should continue to satisfy themselves that businesses are registered either in the UK, in Government Procurement Agreement (GPA) States HERE ¹⁴ or in States in respect of which there is an international agreement between the EU and the third country HERE ¹⁵ .
Can I just buy British? What do I do with non-UK bidders?	All suppliers should continue to be treated equally and fairly through open competition. Keeping our procurement market open to international competition ensures better value for money for the taxpayer and facilitates UK suppliers being offered reciprocal rights to participate in procurements abroad.

¹³ https://www.wto.org/english/tratop_e/gproc_e/gp_app_agree_e.htm

¹⁴ https://www.wto.org/english/tratop_e/gproc_e/memobs_e.htm

¹⁵ <http://ec.europa.eu/trade/policy/countries-and-regions/negotiations-and-agreements/>

<p>Where can I find a list of all the things that are covered by the WTO GPA, so I can check if the goods/service I seek is listed?</p>	<p>The coverage schedules for the WTO's Agreement on Government Procurement (GPA) can be found here¹⁶: The schedule of each party contains several annexes which define the concerned party's commitment with respect to the following areas of coverage:</p> <ul style="list-style-type: none"> - the procuring entities covered by the GPA - the goods, services and construction services covered by the GPA - the threshold values above which procurement activities are covered by the GPA - exceptions to the coverage. <p>All suppliers should continue to be treated equally and fairly through open competition. Keeping our procurement market open to international competition ensures better value for money for the taxpayer and facilitates UK suppliers being offered reciprocal rights to participate in procurements abroad.</p>
<p>How do I know which services or goods are covered by the WTO GPA rules?</p>	<p>The coverage schedules for the WTO's Agreement on Government Procurement (GPA) can be found at: The schedule of each party contains several annexes which define the concerned party's commitment with respect to the following areas of coverage:</p> <ul style="list-style-type: none"> - the procuring entities covered by the GPA - the goods, services and construction services covered by the GPA - the threshold values above which procurement activities are covered by the GPA - exceptions to the coverage. <p>All suppliers should continue to be treated equally and fairly through open competition. Keeping our procurement market open to international competition ensures better value for money for the taxpayer and facilitates UK suppliers being offered reciprocal rights to participate in procurements abroad.</p>

Standards

Question	Answer
<p>I refer to 'British standards or equivalents' in my specifications. Do I need to change how I do this in future?</p>	<p>The references to standards in the post-Exit Regulations have not changed. We still refer to EU standards that are transposed to UK ones. This means that standards that are published by BSI will remain the standards to quote.</p>
<p>I used to use E-Certis to check certificates. Will this be replaced? Can I still use it?</p>	<p>You can still access E-Certis to check equivalency for EU member states' certificates. However information on UK certificates will no longer feature.</p>
<p>Can we confirm the status of the 'CE' Mark?</p>	<p>There will be no change to the Regulations. The order of preference set out in the Regulations continues to include</p>

¹⁶ https://www.wto.org/english/tratop_e/gproc_e/gp_app_agree_e.htm

<p>Will it have a UK equivalent? How does this affect technical assessments? How might this all change in future?</p>	<p>European harmonised standards: those products will be affixed with a 'CE mark'.</p> <p>The continued acceptance of CE marked products is intended to be for a time-limited period and more information on this will be provided in future. UK 'designed standards' should be treated as equivalent; those products will be affixed with the new UKCA mark¹⁷.</p> <p>UK technical assessments (for construction products where a mandatory standard does not apply) are equivalent to <i>European Technical Assessments</i>.</p>
---	---

Further information

Question	Answer
<p>I still don't understand something. Who do I talk to about operational questions?</p>	<p>In the first instance, it is sensible to speak with your legal advisers. They are well placed to understand your individual needs. Cabinet Office is not able to offer operational or legal advice. Should your question relate to UK procurement policy or the new UK e-notification service, please contact the CCS Customer Service Centre on Email: info@crownccommercial.gov.uk or Tel: 0345 410 2222.</p>

¹⁷ <https://www.gov.uk/government/publications/prepare-to-use-the-ukca-mark-after-brexit>