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Procurement Policy Note – Supporting Sustainable Skills Development through Major Construction and Infrastructure Projects

Action Note 06/15 27th March 2015

Issue

1. On 24th March the Government announced that it would require public procurers of major construction and infrastructure projects with a capital value over £50m to use public procurement to drive increased investment in training and apprenticeships.
2. 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) as long as they are consistent with the Government's overarching priority of value for money.
3. 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.

Dissemination and Scope

4. 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.

5. This Action Note applies to infrastructure and construction projects and programmes, including infrastructure consultancy services contracts, with a capital value greater than £50 million.

Timing

6. The provisions of this Action Note will take effect from 1 April 2015

Action

7. The key actions are:

- In all new procurements for major construction or infrastructure projects over £50m, 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-Scope organisations should consider the example questions at Annex A in setting out these requirements.
- In-Scope Organisations should also ensure that any commitments made by suppliers are included in contracts as appropriate, consider whether to build these into any related incentivisation mechanisms and monitor the outcomes as part of their normal contract management procedures.

8. Material to support procurers in delivering these actions is provided in Annex A as follows:

- a guidance note to provide procurers with clarity on compliance and application of this policy consistent with EU procurement law and value for money considerations; and
- a checklist of example objectives and measures for procurers to apply – Annex A Schedule 1.

Background

9. In order to build a more skilled and productive workforce and to reduce the risks of supply constraints and increasing labour cost inflation the government believes that a step-change in skills investment is required.

10. 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

11. The Construction Leadership Council has been asked to develop 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.

12. The government intends to monitor the impact of this policy and In-Scope Organisations may therefore be asked to report back on progress.

Contact

13. Enquiries about this PPN should be addressed to the Service Desk 0345 410 2222 or info@ccs.gsi.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 how skills outcomes can best be delivered, consistent with value for money considerations.

EU Procurement and competition law

The public procurement rules were recently 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.

Scope

The requirements set out in this PPN apply to infrastructure and construction projects and programmes, including infrastructure consultancy services contracts, with a capital value greater than £50 million. In-Scope Organisations procuring for significant projects and programmes below this figure are encouraged to consider adopting these requirements but should note that the requirements should not be considered for projects of a low capital value falling below the original minimum reporting thresholds of the Government Construction Pipeline.

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 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.

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.

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.

Guidance on how to incorporate skills requirement into public procurement

Do:

- Ensure you follow the PCR requirements, including the need for equal treatment, non-discrimination, transparency and proportionality, when dealing with economic operators
- Engage early and widely with suppliers to give them an opportunity to shape the requirement and get ready to meet the skills demand
- Build an understanding of the skills required to deliver, maintain and operate the project / programme over the whole life of the asset
- Discuss procurement pipelines with the market and the capabilities needed to deliver them.
- Engage with supply chain and local skills bodies to understand current and predicted capability and capacity to identify potential gaps or pinch points
- From the analysis, engage with the supply chain ahead of procurement, setting out expected / desired skills outcomes from the project in the context of:
 - Employment and economic growth
 - Apprenticeships
 - Development of advanced and higher level skills
 - Skills and retraining of existing workforce
- Write agreed outcomes into contract assessment and award criteria
- Establish KPI's and benchmarks to measure delivery against skills outcomes throughout the delivery of the contract, linked to any incentive-based payment mechanisms where appropriate.

Do Not:

- Apply unrealistic targets, either in terms of values 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.

Establishing and contracting for appropriate outcome targets

There is a range of ways in which an appropriate outcome might be sought. For example, the approach of requiring one 'training output' per certain value of spend has been applied to a number of major projects (e.g. Olympics, Crossrail). When used appropriately this approach can have very positive outcomes, although it does not differentiate between capital and labour intensive contracts. Another approach is to explore with the supplier whether it would be appropriate for it to commit to a certain percentage of its workforce to be in structured training schemes (such as apprenticeships).

Where suppliers have offered to commit to such hard 'targets' and/or qualitative considerations (e.g. balance between the vocational training levels or sustainability of employment following apprenticeship completion) these commitments should be incorporated into any resultant contract.

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

Annex A: Schedule 1 – Example prequalification, procurement, KPI measures

The schedule below sets out examples of potential questions that could be asked of suppliers bidding as part of a prequalification or shortlisting process (Column 1), as a tender or contract measure (column 2) with some notes, including potential measures or examples of good practice (column 3).

Potential prequalification/ selection questions	Potential tender / contract measures	Notes
Provide evidence of a policy and process for workforce training and development for direct and subcontracted staff.	n/a	<i>An example response could include demonstration of contractor's experience and capability in the management of sustainable delivery and legacy outcomes.</i>
Can the supplier confirm that a proportion of its total workforce (excluding admin staff) being in any form of apprenticeship or training agreement over each of the last [3 years]	Clearly stated, measurable objectives for structured training opportunities to be delivered as part of contract /framework?	<i>As an example of good practice, some contractors have offered to commit to having a certain percentage of the workforce in structured training schemes (including apprenticeships) as a measurable target.</i>
Over the last 3 years: How many staff have achieved professional registration ? How many are currently working towards professional registration and when are these due to be achieved? How many accredited training weeks in total of any level have been completed over each of the last [3 years]?	How many accredited training opportunities of any level will be delivered as part of this contract /framework? Will these training opportunities be recognised, valued, and transferable qualifications?	<i>The Technician Council is developing professional registration as a means to increasing the quality and size of the UK technician workforce and is aiming to raise the profile and status of technicians working in science, engineering and technology sectors.</i> <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>
How many apprenticeship weeks in total have been completed over each of the last [3 years]?	How many apprenticeships will be started and completed as part of this contract/framework? What steps will be taken to ensure these opportunities are both valued and sustainable and will be maintained beyond the term of the host employer's engagement with the project?	<i>An apprenticeship is a formal arrangement between an organisation and a person age 16+ to gain paid on the job experience as well as off the job training towards a nationally recognised qualification. Apprenticeships last at least 18 months, so may not be possible in your contract term.</i> <i>Project specific examples include Crossrail setting a target for 400 apprenticeships on the project. Other projects have developed targets of one apprentice per 50 FTE on site. There is no single "right" answer. Any target should be appropriate and meet the needs of the specific project</i>

<p>What are your plans for ensuring the skills and training requirements flow down to your supply chain? How will these plans be designed to include SMEs without imposing disproportionate administrative and cost burdens on smaller suppliers?</p>	<p>Agree an appropriate proportion of opportunities to be advertised on CompeteFor and/or pipeline of planned work to be placed with SMEs.</p>	<p><i>KPIs should measure compliance against the tender / contract measures.</i></p>
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NOTE: Some training outputs (e.g. work placements) are less onerous to deliver than others (e.g. apprenticeships). Care also needs to be taken in such an approach that this continues to represent value for money, is deliverable and supportive to economic growth in the long-term. This approach is more suited to projects drawing resource from a relatively large geographical area.