



Procurement Policy Note – EU statistics on utilities procurement – annual return for calendar years 2013 and 2014

Action Note 15/15

04 September 2015

Issue

1. Request for annual statistical returns on utilities procurement contracts awarded in calendar years **2013 and 2014**.

Dissemination and Scope

2. Please circulate this document (for action) to those within your department or organisation, with responsibility for collection of procurement statistics, and ensure that this is brought to the attention of any utilities within your departmental area of responsibility. **This exercise is in respect of the utility sector entities only and not for use by public bodies purchasing utility products or services (gas, electricity etc).**

Timing

3. Annual statistical returns should be made by direct input into the Crown Commercial Service system by **25 September 2015**.

Action

4. The key actions on utilities are to obtain registration to the on-line system, and to complete the returns on-line as follows:
 - a. Please respond to info@crownccommercial.gov.uk including the name and a relevant email address for the person in your organisation responsible for the annual statistical returns by **11 September 2015**, to enable individual invitations to be issued in time.
 - b. Once registered, utilities are requested to ensure that their returns are entered into the data collection system in accordance with Annex 1 to this PPN, by no later than **25 September 2015**. Nil returns are required.
 - c. Separate returns are required for each of the years 2013 and 2014;

Background

5. Regulations 38 and 39 of the Utilities Regulations 2006 (The Regulations) cover obligations on utilities to provide statistical information on procurement activities to the government department responsible for that utility, for onward transmission to the European Commission. Those obligations flow from the Utilities Procurement Directive 2004/17/EC. .
6. **Below threshold information:** The Utilities Contracts Regulations require each utility to produce reports on the total estimated value of supplies, works and services contracts awarded by the utility in each area of activity to which the Regulations apply, but where the individual contracts are excluded from the Regulations because their estimated value is below the threshold.

7. **Above threshold information:** In addition, utilities undertaking certain activities are required by the Regulations to provide information on contracts above the threshold.
8. Annex 2 to this PPN provides further background and information to assist utilities in completing these returns.
9. Subject to confirmation from the European Commission, we expect that once Government has transposed the Utilities Directive there will not be required to make future returns.

Detail

10. Departments and devolved administrations are asked to ensure that utilities in their fields of responsibility are made aware of these requirements and that the necessary information is provided to them for onward submission to the Cabinet Office. The following are deemed to be the responsible departments for specific utility sectors:
 - BIS – electricity, gas coal, postal services.
 - DEFRA – water, waterways
 - DfT - rail, buses, trams, ports, airports
 - DECC - energy
 - Devolved Administrations (where not provided for by the above departments).
11. Separate returns (including nil-returns) are required for each utility
12. Utilities should complete the on-line data forms only (see Annex 1).

Contact

13. Enquiries about this PPN should be should be directed to the Crown Commercial Service Helpdesk (telephone 0345 410 2222, email info@crowncommercial.gov.uk)

Annex 1 – How to fill in your Statistics Returns for 2013 and 2014

Responses to the data gathering exercise may be made either online (Option A) or offline and then uploaded into the esourcing Suite (Option B)

OPTION A – RESPONDING TO THE ONLINE QUESTIONNAIRE

These general instructions are contained in the invitation email you will have received, the screenshots relate to the steps in the email:

- Please follow the instructions below to access the survey:-
1. Logon to CCS eSourcing Suite
 - i. Enter your user name in the Name field.
 - ii. Enter your password in the Password field.
 - iii. Click the Login button.
 2. From the main menu select RFX(s) > Manage RFX(s).
 3. Locate the event in the list of RFX(s).
 4. Select [Buyer Survey] in the RFX Type column to access the survey.
 5. Select [PLACE RESPONSE] in order to prepare your response.
 6. Select [Submit all Draft Responses] to submit your response.

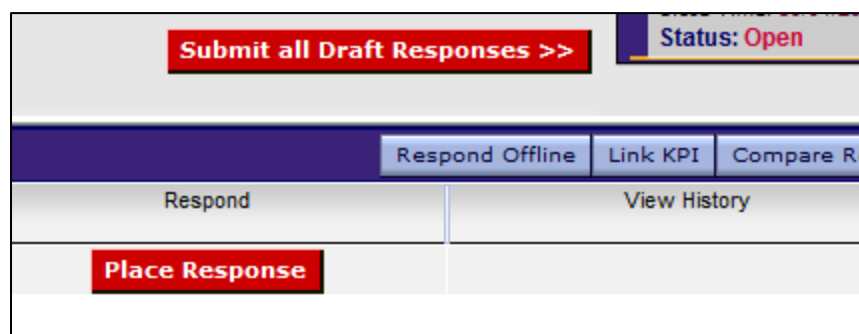
Step 2



Step 3 and 4



Step 5



After selecting [**Place Response**] populate the data on the next screen and then after data input finish by selecting [**Save**] at the foot of the screen and then [**Close**] to exit the data capture screen.

You can return to add new data, and amend existing, by logging back into the CCS eSourcing Suite and at Step 5 selecting [**Revise Response**]. When all the required data had been entered, move to Step 6.

Step 6 – Select [**Submit all Draft Responses**] to submit your response

OPTION B – RESPONDING TO THE OFFLINE QUESTIONNAIRE

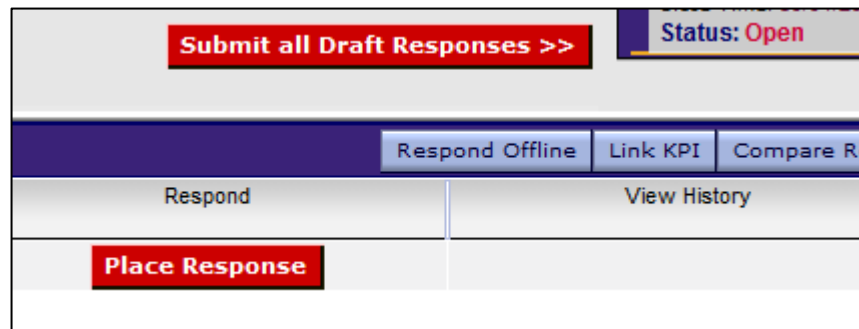
These general instructions are contained in the invitation email you will have received, the screenshots relate to the steps in the email:

- Please follow the instructions below to access the survey:-
1. Logon to CCS eSourcing Suite
 - i. Enter your user name in the Name field.
 - ii. Enter your password in the Password field.
 - iii. Click the Login button.
 2. From the main menu select RFX(s) > Manage RFX(s).
 3. Locate the event in the list of RFX(s).
 4. Select [Buyer Survey] in the RFX Type column to access the survey.
 5. Select [PLACE RESPONSE] in order to prepare your response.
 6. Select [Submit all Draft Responses] to submit your response.

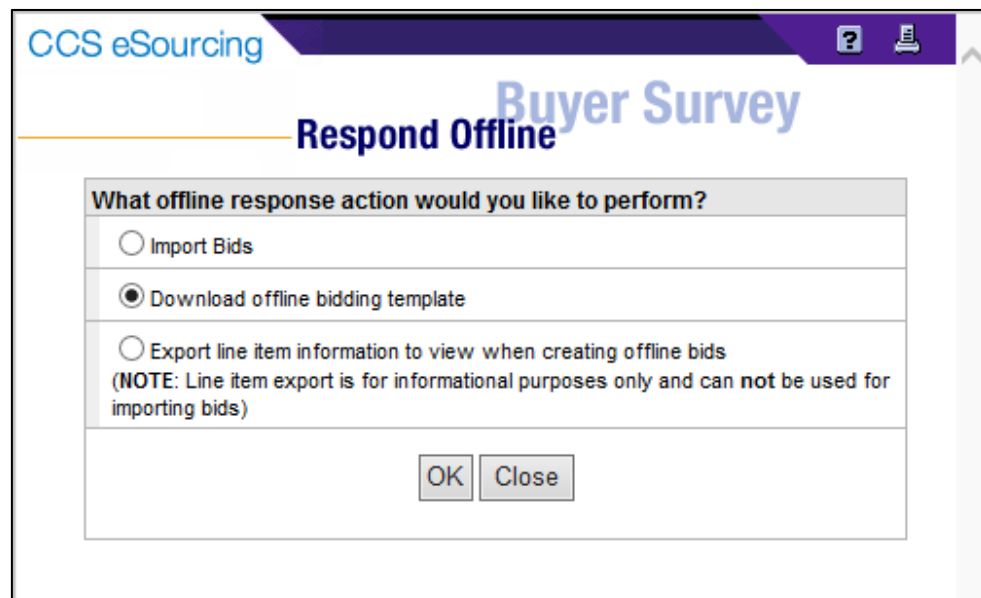
Step 2



Step 3 and 4



Instead of selecting [Place Response] as in Option A, select [Respond Offline] and the following screen will appear:



Select [OK]

CCS eSourcing Utilities

Export Data

Exporting Bid Template for Buyer Survey

Language *

Number Format

File Name: *

File Type:
 CSV
 XLS
 XLSX

Zip File

* Required Field

The XLS / XLSX file type usually works best if you plan to complete the template in Microsoft Excel.

Virus scanning is enabled for attachments. The export job will fail if it contains any infected files.

Select [Export]

CCS eSourcing Utilities

Data Manager

Jobs (176) Type Status Server

Current Page:1 (1-50 of 176)

Organization	User	Job ID	Type	Description	Status	Time Submitted	Time Scheduled	Time Completed
Crown Co...	Girling...	69...	Integrat...	Export -...	Done - Click here to download results.	29/01/20...		29/01/20...

In the status column the request to export the offline sheet may initially be listed as “**Pending**”, but on completion will be listed as above. Click on the link “**Done – Click here.....**” to download to your desktop and populate the relevant fields in the Excel workbook with the required data. When populated, save and exit the Excel workbook.

Status: Open

To import the offline sheet, login to the event using Steps 1 to 4 in the invitation email and then select [Respond Offline]

The screenshot shows a web interface for CCS eSourcing. At the top, there is a purple header with the logo and a question mark icon. Below the header, the text 'Buyer Survey' is displayed in a large, light blue font. Underneath, the title 'Respond Offline' is shown in a bold, dark blue font. The main content area is a form titled 'What offline response action would you like to perform?'. It contains three radio button options: 'Import Bids' (which is selected), 'Download offline bidding template', and 'Export line item information to view when creating offline bids'. A note below the third option states: '(NOTE: Line item export is for informational purposes only and can not be used for importing bids)'. At the bottom of the form are two buttons: 'OK' and 'Close'.

Select "Import Bids"

The screenshot shows a web interface for CCS eSourcing. At the top, there is a purple header with the logo and a question mark icon. Below the header, the text 'Utilities' is displayed in a large, light blue font. Underneath, the title 'Import Data' is shown in a bold, dark blue font. The main content area is a form titled 'Select a file to import.'. It contains several fields: 'Language *' with a dropdown menu set to 'British English'; 'Number Format' with a dropdown menu set to '#,###.##'; 'File Type: *' with three radio button options: 'XML', 'CSV', and 'XLS / XLSX' (which is selected); 'Import Type: *' with a dropdown menu set to 'Bids/Responses'; and 'File: *' with a text input field and a 'Browse...' button. At the bottom of the form are two buttons: 'Import' and 'Close'. A legend at the bottom left indicates that an asterisk (*) denotes a 'Required Field'.

Select **[Browse]** and navigate to the offline sheet, then select **[Open]** to pick the file.

CCS eSourcing Utilities

Import Data

Select a file to import.

Language *

Number Format

File Type: * XML CSV XLS / XLSX

Import Type: *

File: *

* Required Field

Select **[Import]**

CCS eSourcing Utilities

Data Manager

Jobs (180) Type Status Server

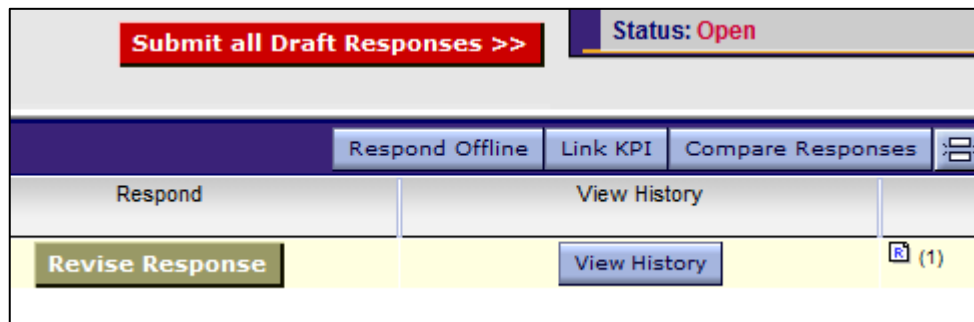
Current Page:1 (1-50 of 180) 1 2 3 4

Organization	User	Job ID	Type	Description	Status	Time Submitted	Time Scheduled	Time Completed
Crown Co...	Girling...	69...	Integrat...	Import -...	Done	29/01/20...		29/01/20...

In the status column the request to import the offline sheet may initially be listed as **"Pending"**, but on completion will be listed as **"Done"**. Close this window.

Status: Open

Select [**Submit all Draft Responses**] and confirm, to make your response available for collection.



The screen should refresh similar to this layout:

- [**Place Response**] now showing as [**Revise Response**]
- [**View History**] now displayed
- "R" icon now displayed with a mouse-over showing "Placed Response" instead of "DB"

On completion, you can logout of the eSourcing Suite.

Annex 2 – Utilities Procurement: Statistics for 2013 and 2014

Information is required in respect of each supply, work and service awarded in 2013 and in 2014. All utilities must provide a contact name, e-mail address and telephone number.

In obtaining and preparing returns, departments should note the following general points:

EU procurement Thresholds applicable:

2013

Supplies and Services	£347,868
Works	£4,348,350

2014

Supplies and Services	£345,028
Works	£4,322,012

Below threshold information

Regulation 38(1)(a) of the Utilities Contracts Regulations 2006 (as amended by SI 2000/2848) requires every utility to report the total value, estimated if necessary, of the works, supplies and part A service contracts awarded by it in the previous calendar year for each relevant area of activity, but which were excluded from the Regulations because their estimated value was less than the threshold. The purpose of the report is to enable the European Commission to monitor the application of the thresholds

The relevant areas of activity are set out in the Schedule 1 to the Regulations:

(Parts A-C) the production, transport or distribution of drinking water, hydraulic engineering, irrigation, land drainage or the disposal or treatment of sewage;
(Parts D-F) the production, transport or distribution of electricity;
(Parts G-L) the transport or distribution of gas or heat;
(Part M) the exploration for and extraction of oil or gas;
(Part N) the exploration for and extraction of coal or other solid fuels;
(Part O) the provision of airport facilities;
(Part P) the provision of maritime or inland port or other terminal facilities;
(Part Q) railway services;
(Parts R-S) urban railway, tramway, trolleybus or bus services, and;
(Part T) postal services

Above threshold information

Regulation 38(3) requires utilities undertaking certain activities (see below) to provide information on contracts above the threshold. This relates to contracts awarded in 2010.

Relevant activities as set out in Schedule 1 to the Regulations are:

(Parts A-C) the production, transport or distribution of drinking water, hydraulic engineering, irrigation, land drainage or the disposal or treatment of sewage;
(Parts D-F) the production, transport or distribution of electricity;
(Part O) the provision of airport facilities;
(Part P) the provision of maritime or inland port or other terminal facilities, and
(Part R) urban railway, tramway, trolleybus or bus services;

Detail on information to be provided

- a. Only contracts which were awarded during calendar year 2013 and 2014 should be included in returns. Contracts for which the award procedure commenced in 2014 but for which the contract was not awarded until 2015 should not be included.
- b. Actual or estimated total contract values, exclusive of VAT, should be given. **Please do not include annual figures.**
- c. Entities should include contracts which they have themselves awarded. This includes procurements for which another entity or body has acted as an agent. Details of procurements not covered by contracts, for example customer service agreements with gas or water companies, are not required. Purchase orders are regarded as contracts.
- d. A number of entities have formed consortia to act as central purchasing bodies. Such consortia are themselves contracting authorities and should submit a return, either under their own name or one of the consortium members.
- e. Wherever possible, the price at which a contract was awarded should be used. If this is not possible, e.g. because the contract was for call-offs up to (but not necessarily reaching) a certain value, or contains a variation of price formula or provides the contracting authority with an option to extend - the best estimate of the total value should be used.
- f. Where a framework agreement has been awarded in accordance with the rules this should be indicated on the spreadsheet. The value shown should be the estimated value of anticipated call-offs or the maximum possible value of call-offs. Where more than one framework agreement has been awarded in response to a single requirement authorities should estimate the likely total value of call-offs. Authorities should not report the value of call-offs, either from their own or from centrally arranged frameworks that have been awarded on their behalf. The assumption should be that the authority that has awarded the framework would report the information.
- g. Care should be taken to state the nationality of suppliers and not the origin of goods or services. For instance, a contract for foreign built computers bought from a UK dealer or a UK subsidiary of the manufacturer should be treated as a UK contract.
- h. CPV codes must be used. The relevant code can be obtained from the contract notice or contract award notice used for the procurement in question. Alternatively they can be downloaded from the SIMAP website – <http://simap.europa.eu/>. We have had clarification from the European Commission that it is only necessary to include the first five digits of these codes. For example, “15321” is sufficient for procurements for orange juice (CPV 15321100-5).
- i. Entities should indicate whether contracts advertised in the Official Journal (OJEU) were awarded under the open, restricted or negotiated procedure. For contracts awarded under the negotiated procedure, and where one of the derogations from the need to publicise the call from competition was applied, the appropriate justification should be given. The text of the possible justifications set out in the regulations is reproduced at Appendix A.

Contracts that are below the threshold should be included in the detailed returns where they have been advertised because of the aggregation rules. This applies where they are part of a series of contracts for goods of the same type which, in aggregate, exceed the threshold.

Justification for the use of the Negotiated Procedure

Utilities should indicate in their return the justification for use of the negotiated procedure by reference to the appropriate letter **(A-L)** which relate to the specific provisions shown below, taken from the Utilities Contracts Regulations 2006.

JUSTIFICATIONS FOR THE AWARD OF A CONTRACT WITHOUT A CALL FOR COMPETITION - REGULATION 17 OF THE UTILITIES CONTRACTS REGULATIONS 2006

Regulation

17(1)(a) - in the absence of tenders, suitable tenders or applications in response to a procedure with a call for competition but only if the original terms of the proposed contract offered in the discontinued procedure have not been substantially altered;

17(1)(b) - when the contract is to be awarded purely for the purposes of research, experiment, study or development but not where it has the purpose of securing profit or of recovering research and development costs and insofar as its award will not prejudice the competitive award of subsequent contracts which are, in particular, for the same purpose;

17(1)(c) - when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract may only be performed by a particular economic operator;

17(1)(d) - when (but only if it is strictly necessary) for reasons of extreme urgency brought about by events unforeseeable by the utility the time limits specified in regulations 22(2) to (11) cannot be met;

17(1)(e) - when the contract to be awarded is a supply contract and the goods to be purchased or hired under the contract are required by the utility as a partial replacement for, or in addition to, existing goods or an installation and when to obtain the goods from a supplier other than the supplier which supplied the existing goods or the installation would oblige the utility to acquire goods having different technical characteristics which would result in -

(i) incompatibility between the existing goods or the installation and the goods to be purchased or hired under the contract, or

(ii) disproportionate technical difficulties in the operation and maintenance of the original goods or the installation

17(1)(f) - when a utility wants an economic operator which has entered into a works contract or services contract with the utility to carry out additional works or provide additional services were not included in the project initially considered or in the original works contract or services contract but which through unforeseen circumstances have become necessary and such work, works or services-

(i) cannot for technical or economic reasons be carried out or provided separately from those under the original contract without major convenience to the utility, or

(ii) can be carried out or provided separately from those under the original contract but are strictly necessary to the later stages of the performance of that contract;

17(1)(g) - subject to paragraph (2), when the utility wants an economic operator which has entered into a works contract with that utility following a call for competition which satisfies the requirement of regulation 16(1) to carry out new work or works which are a repetition of the work or works carried out under the original contract and which are in accordance with the project for the purpose of which the first contract was entered into.

17(1)(h) - in respect of a supply contract for the purchase or hire of goods quoted and purchased on a commodity market

17(1)(i) - when the contract to be awarded is to be awarded under a framework agreement which has been concluded in accordance with these Regulations and to which the provisions of regulation 18 apply

17(1)(j) - when the contract to be awarded is a supply contract, to take advantage of a particularly advantageous bargain available for a very short time at a price considerably lower than normal market prices

17(1)(k) - when the contract to be awarded is a supply contract, to take advantage of particularly advantageous conditions for the purchase of goods in a closing down sale or in a sale brought about because a supplier is subject to a procedure referred to in regulation 26(5)(a), (b) and (c); and

17(1)(l) - in the case of services contracts, when the rules of a design contest require the contract to be awarded to the successful contestant or to one of the successful contestants, provided that all successful contestants are invited to negotiate the contract.