

# Guidance on how to take account of a supplier's approach to payment in the procurement of major contracts

## Introduction

1. This guidance supports Procurement Policy Note (PPN) 03/18 and sets out how payment approaches can be taken into account in the procurement of central Government contracts (subject to the Public Contracts Regulations 2015) in excess of £5m per annum. **A set of standard selection questions is contained in Annex A.**

## Assessment Methodology

2. The key issue to be assessed is whether a bidder pays its suppliers in accordance with the terms and systems which apply to its arrangements with its supply chain.
3. The assessment of the selection criterion should be undertaken on a case-by-case basis. Bidders should only be excluded if they do not meet the selection criterion having taken into account the self-declarations and an assessment of question 7 or if the successful bidder is unable to verify its self-declarations with the required evidence.

## Self-declarations

4. Questions 1 and 4 are for information only and will not be scored. If the answer to question 1 is "No", the bidder is not required to answer the remaining questions.
5. Questions 2, 3, 5 (if relevant) and 6 should be assessed on a pass/fail basis based on self-declarations by bidders.
6. For question 5, it is not sufficient that a bidder is a signatory to a code or standard; it must confirm that it is complying with that code in order to achieve a pass.

## Question 7

7. Contracting authorities must make an assessment of the bidder's responses to this question in order to determine whether it has an effective supply chain management system in place. Contracting authorities will need to decide on an appropriate assessment methodology for this question. There are various ways in which this can be done, including the following three options:

- a. use a pass/fail approach taking account of any explanation included in the response provided by the bidder to determine whether or not they are satisfied that the requirement has been met;
  - b. assess on a scored basis, for example by using a scoring matrix to score the response and requiring a minimum score on this question;
  - c. where other selection criteria are also scored, assess on a scored basis as in option b (for example by using a scoring matrix to score the response) but rather than set a minimum score for this question, allocate an overall minimum score for all scored questions that bidders must achieve in order to pass. This approach might be more appropriate if the contracting authority is using scored selection criteria more generally.
8. The standard required (payment of 95% of invoices within 60 days across two six monthly reporting periods) is deemed an appropriate standard for determining whether a bidder has an effective payment system in place.

### **Remedial Steps**

9. When assessing responses to question 7, contracting authorities should take into account any reasons set out in the responses as to:-
- a. **why a bidder is not meeting the required standard.** This may be the case, for example, where a bidder is a new entrant to the market who may not have a payment history. It may also be relevant to consider the volume of invoices processed by the bidder as performance below the required standard may be acceptable where volumes of invoices processed are particularly high or particularly low as measurement by percentage may distort the true picture.
  - b. **what remedial steps a bidder has taken or proposes to take to make improvements.** The bidder would need to satisfy the contracting authority that it has made any necessary changes and / or put plans in place to remedy. This may include, for example, any structural / process / system changes, along with a timeline for improvement.
10. If a bidder is unable to explain or show any plans for improving, a contracting authority may determine that this is grounds for exclusion.

### **Verification**

11. Contracting authorities must verify that the successful bidder meets the selection criterion prior to award of the contract or appointment to a framework agreement or dynamic purchasing system by requiring the evidence set out in Table 2. Contracting Authorities may request this evidence at any time during the procurement process. For multi-stage procurements, Contracting Authorities may want to consider verifying the evidence before taking bidders on to the next stage. For contracts awarded under a framework agreement or dynamic purchasing system, Contracting Authorities should verify that the bidder continues to meet the selection criterion prior to entering into any contract awarded under a framework agreement or dynamic purchasing system.

12. Contracting Authorities should not require a bidder to provide evidence where it can be obtained directly and free of charge by the Contracting Authority from a national database (although it is not unreasonable for the bidder to be required to provide details of how to access that database).

**Annex A: Selection criterion:** If you intend to use a supply chain for this contract, you must demonstrate you have effective systems in place to ensure a reliable supply chain. This criterion is focused on exploring your payment systems. If your response to question 1 is that you do not intend to use a supply chain for this contract, you are not required to complete the rest of this section.

<b>Selection Questions 1- 6 Self-declarations</b>		
1	Please confirm if you intend to use a supply chain for this contract. If you answer “No” you do not need to complete the rest of this section. <b>[INFORMATION ONLY]</b>	Yes/No <b>NOT SCORED</b>
2	Please confirm that you have systems in place to ensure that those in your supply chain are paid within your agreed contractual terms.	Yes/No <b>PASS/FAIL</b>
3	Please confirm you have procedures for resolving disputed <sup>1</sup> invoices promptly and effectively with those in your supply chain.	Yes/No <b>PASS/FAIL</b>
4	Please confirm whether you are a signatory to a code <sup>2</sup> or standard on payment practices. <b>[INFORMATION ONLY]</b>	Yes / No <b>NOT SCORED</b>
5	If you have answered “Yes” to question 4 above, please confirm whether you have taken steps to ensure that you meet the requirements of the code or standard.	Yes/No <b>PASS/FAIL</b>
<b>PUBLIC SECTOR CONTRACTS ONLY – Requirement under the Public Contracts Regulations 2015 (“PCR 2015”) (Reg 113)</b>		
6.	For all contracts entered into pursuant to a procurement carried out under the PCR 2015, please confirm you include 30 day payment terms in all of your sub-contracts (and you require your supply chain to do so) on all such contracts.	Yes / No <b>PASS/FAIL</b>
<b>PUBLIC AND PRIVATE SECTOR CONTRACTS</b>		
7.	<p>Please provide the percentage of invoices<sup>3</sup> paid by you to those in your immediate supply chain on all contracts within 60 days of the receipt of the invoice in each of the last two six month periods. This should include the percentage of invoices paid within each of the following categories:-</p> <ul style="list-style-type: none"> <li>● within 30 days</li> <li>● in 31 to 60 days</li> <li>● in 61 days or more.</li> </ul> <p>Please include the total volume of invoices in each category.  <b>It is acceptable to cross refer to information that has previously been submitted to Government or is publicly available (provided it covers the requested period), in which case, please provide details and/or insert link(s):-</b></p> <p><i>If you are unable to demonstrate that 95% of invoices payable to your supply chain on all contracts have been paid within 60 days of the receipt of the invoice in each of the last two six month periods, please explain why and if applicable what remedial steps you have taken and/or are planning to take.</i></p>	

<sup>1</sup> Not all payments involve an invoice (see FAQs). We advise that this includes situations where all payments are due

<sup>2</sup> A payment code or standard is a voluntary initiative, where signatories agree to undertake certain behaviours as a mark of good practice. For example, signatories to the Prompt Payment Code commit to paying 95% of their invoices within 60 days.

<sup>3</sup> Not all payments involve an invoice (see FAQs). We advise that this includes situations where all payments are due.

**Table 2: Evidence Requirements (questions 2 – 6)**

<p><b>Evidence for self-declarations (questions 2-6):</b> Prior to contract award the following evidence will be required from the successful bidder (where the bidder has answered “Yes” to question 1 above) in order to verify the bidder’s responses</p>	
Question	Evidence
2	A copy of your standard payment terms for all of your supply chain contracts.
2	Details of the systems which are in place to ensure that suppliers are paid promptly.
3	A copy of your procedures for resolving disputed invoices promptly and effectively.
3	Details of any payments of interest for late payments you have paid in the past 12 months or which became due during the past 12 months and remain payable (contractually or under late payment legislation) and, if any such payment has been made (or arose), an explanation as to why this occurred and an outline of what remedial steps have been taken to ensure this does not occur again.
4	Details of any code or standard on payment practices to which you are a signatory.
5	If you are a signatory to a code or standard on prompt payment, details of what steps you have taken to ensure that you meet the requirements of the code or standard.
6	A copy of your standard payment terms used with sub-contractors on public sector contracts subject to PCR 2015