

Transparency in Procurement and Contracting - FAQs for Suppliers

What are the Government's transparency commitments for procurement and contracting?

The Prime Minister has set out three specific transparency commitments in procurement and contracting to enable the public to hold public bodies and politicians to account and to provide greater visibility on where and how taxpayers' money is being spent.

As part of this government policy, there is a need for information on departmental tendering and contracting activities to be made publicly available. The Prime Minister published a [letter](#) on 31st May 2010 setting out the new policy commitments:

- All new central government ICT contracts to be published online from July 2010;
- All new central government tender documents for contracts over £10,000 to be published on a single website from September 2010, with this information to be made available to the public free of charge;
- All new central government contracts to be published in full from January 2011;

The Office of Government Commerce, now part of Cabinet Office's Efficiency and Reform Group (ERG), has published instructions to government departments and these are available on the OGC website. Meanwhile this factsheet is provided specifically to help departments and suppliers to have a better understanding of the implications of the transparency in procurement & contracting agenda.

What information is being published?

- All new framework agreements and new contracts for central government departments and their wider family organisations that are let should include a transparency clause which will explicitly allow for publication of the contract;
- From early January 2011, Contracts Finder will be the place where contract documents, including the specification, terms and conditions and associated schedules, which may include the winning supplier's bid will be published;
- The tender documents being published are the documents issued by the contracting authority i.e. government departments;
- Some text in these tender and contract documents may be redacted (i.e. removed and not published) prior to publication in order to protect sensitive information, for example, where it is assessed that the publication of certain information may be detrimental to the commercial interests of the supplier. The criteria for redactions will be in line the exemptions set out by Freedom of Information Act (FOIA) – departments will assess their application in discussion with suppliers;
- HM Treasury is leading on the transparency of central government spending data over £25,000. Unlike the transparency commitments on contracts, the data being published is for all spend, not just new contract spend. You can see Treasury guidance on the data to be published at http://hm-treasury.gov.uk/psr_transparency_index.htm. Whilst it will not include specific invoice detail, it will list amounts over £25,000 paid to suppliers. In some cases departments are, with the full support of the Government, going beyond this to report at £500. This is in line with the commitment that the Government has made on local authority spend;

What does this mean for suppliers?

The new transparency policies are not intended to change procurement processes but are intended to create changes in departmental procurement behaviour and to enable the public to see more easily what public sector procurement activity is going on and how much government spends. This more transparent approach is not just specific to central government departments but to most public sector organisations. This is the way that most public procurement will be conducted in future. The Government's commitment to publish tender and contractual information does not require anything to be published that would not be published under the FOIA. Instead there is a proactive approach to FOIA and the publication of certain types of information.

As part of the procurement process suppliers will be given the opportunity to identify which pieces of information they believe to be confidential and why, and the contracting authority will assess this against the exemptions provided by the FOIA. Any information which is considered as justifiably commercially sensitive under FOIA will therefore be protected.

What can suppliers do to meet the Government's transparency commitments?

Suppliers are strongly encouraged to support publication and help their customers in meeting the Government's policies and embrace the spirit of the commitments to help inform the public. Suppliers are asked to be fully aware of transparency commitments, support them and to work with the contracting authority (i.e. department, agency or other government organisation) to ensure as much information is published as possible. Before deciding whether to compete, suppliers should be comfortable in supporting the transparency principles; identify (and separate) areas of commercial sensitivity in their bids and have clear reasons why these are sensitive and should not be disclosed.

Where are tender documents and contracts being published?

From January 2011, tender documents and contracts will be published on Contracts Finder. Live opportunities will be accessible via Contracts Finder from 31 March 2011. In the meantime, low value opportunities can be accessed via Supply2Gov and higher value OJEU opportunities are available via Tenders Electronic Daily.

How will supplier's commercially sensitive information and Intellectual Property Rights (IPR) be protected?

There are measures in place to identify, assess and protect information that is sensitive and should therefore be redacted (removed and not published). Departments will use the exemptions set out by the FOIA as the criteria for assessing whether information should be redacted. Departments have been encouraged to engage with their suppliers prior to publication of procurement documentation.

Where a framework agreement was awarded before the new transparency policies came into force are departments required to publish tender information?

Departments are asked to discuss this with their suppliers, with a view to coming to an agreement about what can be published because government policy is to publish as much information as is possible.

Will confidentiality clauses prevent publication?

Information that is covered by a confidentiality clause will be assessed against the exemptions set out by the FOIA in the same way as it would for a request under the FOIA. This may result in the redaction of information prior to publication. Departments have been encouraged to engage with their suppliers prior to publication of procurement documentation.

Where can I find more information on transparency in procurement and contracting?

ERG instructions to departments covering the three commitments is available at:

http://www.ogc.gov.uk/policy_and_standards_framework_transparency.asp

Buying Solutions have also produced guidance and have written to their framework suppliers:

<http://www.buyingsolutions.gov.uk/aboutus/transparency/>

If suppliers have questions about this subject they should talk to the relevant departmental procurement lead(s). Or, they may contact the OGC Service Desk, phone: 0845 000 4999 email:

OGCServicedesk@cabinet-office.gsi.gov.uk

**This publication was
withdrawn on 24/06/2021**