



Cabinet Office

A Guide to Reserving Below Threshold Procurements

Introduction

This guide describes what to consider in deciding whether and how to reserve procurements for below threshold contracts. Commercial practitioners at all levels within central government departments, executive agencies and non-departmental public bodies (referred to in this document as 'In-scope Organisations') should consider this guide when seeking to apply the specified reservations. Other contracting authorities may apply the principles outlined in this PPN. However, application of the PPN should be considered in the light of authorities' relevant legal obligations including but not limited to the restriction applicable to local authorities and certain other authorities under Section 17 of the Local Government Act, 1988.

This guidance covers options that may be considered by In-scope Organisations when procuring contracts for goods, services and works below the relevant thresholds. The current thresholds are set out in PPN 06/19¹ but, in summary, are:

Supplies & Services - £122,976 Works - £4,733,252 LTR for certain Services - £663,540

Other contracting authorities should confirm the relevant thresholds applicable to them if they choose to adopt this approach.

Reserving Contracts

In-scope Organisations should consider, where appropriate, the following options for the procurement of below threshold contracts:

- Reserve the procurement by supplier location - this means being able to run a competition and specify that only suppliers located in a geographical area can bid. This could be UK-wide to support domestic supply chains and promote resilience and capacity, or where appropriate, by county (metropolitan or non-metropolitan, or by borough for London) to tackle economic inequality and support local recruitment, training, skills and investment. In-scope Organisations should not define by nations of the UK (i.e. England, Scotland, Wales, Northern Ireland) and where a county reservation is to be applied, only a single county (or borough for London) may be reserved. Supplier location should be described by reference to where the supplier is based or established and has substantive business operations and not by location of corporate ownership.

AND

- Reserve the procurement for Small and Medium sized Enterprises (SMEs) / Voluntary, Community and Social Enterprises (VCSEs) - this means being able to run a competition and specify that only SMEs and VCSEs can bid.

These options should be considered on a case-by-case basis, and can be exercised on their own or together. For example, an In-scope Organisation may wish to reserve a procurement for suppliers based in a particular location (UK-wide, county, borough) and for SMEs and VCSEs. Whichever option(s) is selected, In-scope Organisations should not reserve procurements for suppliers in England, Scotland, Wales and Northern Ireland.

In-scope Organisations may still choose to compete below threshold contracts on an open basis without any reservation for supplier type or supplier location where it is considered the

¹ <https://www.gov.uk/government/publications/procurement-policy-note-new-thresholds-2020>

approach will deliver better value for money, for example because there is a lack of a competitive market. This could include bids from overseas suppliers.

In order to ensure value for money, In-scope Organisations should not direct award when reserving procurements under this policy.

Definitions

In-scope Organisations should describe clearly in their procurement notices and documentation which reservations are to be applied, including the standardised definitions of SME / VCSE, and any supplier location restrictions. The following definitions should be used:

- **Small and Medium sized Enterprise (SME):** Any business with fewer than 250 employees and either an annual turnover below £45m or a total balance sheet less than £40m.
- **Voluntary, Community and Social Enterprises (VCSEs):** Any organisation (incorporated or not) working with a social purpose. This ranges from small community based groups / schemes, through to larger registered charities and social enterprises, public service mutuals and cooperatives that operate locally, regionally and nationally. This term is often interchangeable with the terms 'third sector' or 'civil society' organisations.
- **Supplier Location:** Where the supplier is based or established in a particular location and has substantive business operations in that location. In this context, this means having a registered office, factory or other permanent base in that location from which meaningful business operations have been conducted for at least 12 months. For example, if the reservation is for the UK or a county such as Dorset (non-metropolitan county), this should not preclude foreign suppliers from participating as long as they are based or established and have substantive business operations in the UK in the first example or in Dorset in the second example.

Considerations

In opting to reserve a procurement by supplier location and / or supplier type, In-scope Organisations will still need to comply with their own internal guidance, governance and procedures. This includes considering a range of additional information to identify and manage risks and ensure value for money, as well as good commercial practices.

In-scope Organisations should keep appropriate records of **all** their commercial decisions. Spot checks on below threshold procurements may be undertaken by the Public Procurement Review Service.

Ensuring Value for Money

Value for money is a fundamental principle of “Managing Public Money”². It requires cost and quality to be balanced and this can be achieved by securing the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought. It is not about minimising upfront prices; value for money is about securing the best whole life cost, demonstrated throughout the contract and beyond.

In the context of this policy, value for money will not be achieved by direct award. Competition may be achieved through obtaining written quotes or through a full tender process.

² <https://www.gov.uk/government/publications/managing-public-money>

Consideration should be given to the appropriate method of competition based on a number of factors including transparency, the sector, supply base, value and complexity of the requirement.

When opting to reserve a procurement for suppliers located in a specific location, In-scope Organisations should record the rationale / approval of their decision and keep with other procurement documentation. A sample template is provided at **Annex A: Reserving by Supplier Location Template**.

In-scope Organisations may choose to compete below threshold contracts on an open basis without any reservation for supplier location or supplier type where it is considered the approach will deliver value for money more effectively, for example because there is a lack of a competitive market. This could include bids from overseas suppliers.

Identifying and managing risks

The purpose of commercial and reputational risk management is to ensure government contracts are awarded and completed successfully in support of government policy or organisation objectives, taking into account the extent of identified threats and opportunities. Overall risk should be managed within the Organisation's risk appetite and tolerance and in accordance with the Orange Book³.

Whilst there are a broad range of risk categories which may apply to specific procurements, In-scope Organisations should always consider the potential commercial, and fraud and corruption risks when undertaking below threshold procurements.

Commercial risks may include:

- the ability of the market to provide the quantity and quality of services or goods required;
- interruptions to public services which rely on suppliers;
- poor performance by suppliers;
- impact of uncertainties in volume of service or goods provided; and
- failure of a supplier to meet all or part of their obligations.

In-scope Organisations should ensure effective risk management is established in their commercial assurance and governance processes that is proportionate to the value, complexity and criticality of the contract to the Organisation. A proactive approach to identifying and managing risks and opportunities using contracts effectively can drive improvement, innovation and value throughout the commercial lifecycle. The key is to have joined up, transparent mechanisms to identify and handle foreseen and unforeseen risks and opportunities when they arise. For further guidance on risk identification, allocation and management in services and works contracts refer to the Sourcing⁴ and Construction⁵ Playbooks.

Fraud and corruption risks may include:

³ <https://www.gov.uk/government/publications/orange-book>

⁴ <https://www.gov.uk/government/publications/the-outsourcing-playbook>

⁵ <https://www.gov.uk/government/publications/the-construction-playbook>

- conflicts of interest, where a relationship exists between a member of the In-scope Organisation and the supplier;
- disaggregation of contracts, purposely splitting out requirements to avoid above threshold obligations;
- gaming the policy, setting up 'phantom' offices to be eligible for geographically defined contracts; and
- abuse of contract amendments / change orders to increase contract price after award.

In-scope Organisations should identify and manage fraud and corruption risks in their below threshold procurements, identifying appropriate safeguards and mitigating actions through which to manage those risks. Relevant actions may relate to internal assurance and governance processes, conflict of interest guidance / declarations, contract oversight (pipeline, register), spend analysis, supplier due diligence etc. It is recommended that an assessment of fraud and corruption risks for below threshold procurements is undertaken with the counter fraud team / person within the Organisation.

For further guidance on managing fraud and corruption risks refer to **Annex B: Frequently Asked Questions**.

Using model contracts

Choosing the right terms and conditions of contract is essential for government and public sector buyers to achieve best value. These should not be burdensome and be relevant and proportionate to the value and risk of the procurement.

- Goods and Services:
 - The Short Form Terms and Conditions⁶ have been developed by the Cabinet Office for general goods and / or services contracts with a value below the relevant thresholds.
 - The document is designed to ensure that you are able to use appropriate and proportionately 'light touch' contract terms for below threshold procurements. This is aimed at avoiding the use of overly complex terms which can increase costs and act as a barrier to the involvement of SMEs / VCSEs. Further guidance is included in the introductory notes at the beginning of the Short Form document.
- Works:
 - There are many benefits to using industry model contracts for works. These include:
 - they are industry recognised, tested and accepted contractual terms;
 - they are regularly updated to take account of changes in statute and relevant case law;
 - users are familiar with the administration requirements and risk apportionment of the various different contracts;
 - their precise meaning and terminology has been tested through the courts; and
 - there is no need to spend time and cost negotiating terms of bespoke contracts.

⁶ <https://www.gov.uk/government/publications/short-form-terms-and-conditions>

- Model forms of contract for construction, suitable for varying levels of value and complexity are referenced in the Construction Playbook⁷.

Developing KPIs and data reporting

The central aim of any contract is to obtain the goods or services as agreed in the contract and achieve value for money. This means optimising the efficiency, effectiveness and economy of the product / service described by the contract, balancing costs against risks and actively managing the supplier relationship.

It may be appropriate for below threshold contracts to include Key Performance Indicators (KPIs) in order to track successful performance of the contract. KPIs may also be used to mitigate identified contract risks. KPI categories typically include delivery, product / service quality, best practice and continuous improvement, asset/service availability, customer focus, environmental factors and ethical and social issues. The number of KPIs included should be proportionate and will depend on the value, complexity and criticality of the contract.

A performance baseline for the contract i.e. the existing level at which the service is being delivered, should be identified in order that performance measures and any improvements in performance, are then tracked and monitored against the baseline during the life of the contract. Assessment and reporting of KPIs should be undertaken on a regular basis. Depending on the KPIs selected, assessment may be binary (satisfactory or unsatisfactory) or numerical (counted or measured). Other KPIs may be more subjective i.e. those relating to useability or flexibility. Assessment is still important, and the approach should ensure the information collected is analysed and used in a meaningful and objective way.

Undertaking supplier due diligence

In-scope Organisations must continue to comply with the legal requirements in Chapter 8 of the Regulations, these include obligations relating to assessing the suitability of suppliers.

In-scope Organisations must not include a pre-qualification stage in below threshold procurements but may ask suppliers to answer questions to assess their suitability, capability, legal status, and financial standing, provided that the questions are relevant to the contract and are proportionate. They should not be burdensome to the extent that it would dissuade SMEs / VCSEs from expressing an interest in the procurement.

Due diligence can help minimise common purchasing risks and can help organisations make better purchasing decisions. The level of due diligence to be undertaken will vary depending on the nature, size, complexity and value of a contract. For below threshold contracts, due diligence may include:

- verifying the supplier meets the relevant definitions for an SME, VCSE, or the supplier location specific to this policy;
- checking supplier details with Companies House and other open information sources;
- referring to Companies House disqualified directors register;
- verifying VAT numbers (if applicable);

⁷ <https://www.gov.uk/government/publications/the-construction-playbook>

- undertaking ethical practices and criminal checks
- requesting and verifying references / evidence of previous work (with consideration given for start ups / new entrants);
- requesting and verifying (where relevant) qualifications, trade certificates etc; and
- undertaking site visits (where appropriate).

In-scope Organisations should comply with their own internal guidance on due diligence for below threshold contracts, record due diligence undertaken and keep with other procurement documents. Contracting authorities are reminded to ensure that contract requirements are proportionate and do not exclude SMEs and VCSEs from the tender process. In particular, financial turnover requirements and requirements for insurance and other liability should be proportionate.

Publishing transparency notices

It is Government policy to adopt and encourage greater transparency in its commercial activity. The legal requirements in regulations 110 and 112 of the Public Contracts Regulations 2015 applicable to below threshold procurements continue to apply. Where these requirements apply, In-scope Organisations must:

- publish a contract notice on Contracts Finder for all advertised contract opportunities above £10k (central government) ; and
- publish an award notice on Contracts Finder for all awarded contracts above the same contract value limits, irrespective of whether or not they have been advertised.

In-scope Organisations should also publish the contract documents for each contract on Contracts Finder in accordance with transparency guidelines.

Further details of these requirements and applicable timescales can be found in PPN 07/21⁸.

It is important that In-Scope Organisation identify their intention to reserve a procurement by supplier type and / or location within the Opportunity Notice. There are a number of fields in which to do this. For example:

Description - "Note Reserved Contract"

More Information - "This contract is reserved for [insert SMEs / VCSEs if reserving by supplier type] based in [insert UK or county if reserving by supplier location]."

How to apply - "Please indicate the [supplier type / location] for the delivery of these [goods / services / works]."

In-scope Organisations should also indicate in the relevant fields whether the contract is suitable for SMEs / VCSEs even when they opt not to reserve by supplier type.

Contact

For further information on how to apply this policy refer to Annex B: Frequently Asked Questions. Should you have an enquiry not covered by the FAQ please contact Crown Commercial Service Helpdesk on 0345 410 2222 or info@crownccommercial.gov.uk

⁸ <https://www.gov.uk/government/publications/procurement-policy-note-0721-update-to-legal-and-policy-requirements-to-publish-procurement-information-on-contracts-finder>

Annex A: Reserving by Supplier Location Template

[You must refer to PPN 11/20 “Reserving Below Threshold Contracts” before completing this template. Spot checks on procurements reserved by supplier location may be undertaken by the Public Procurement Review Service and therefore you should ensure your rationale is clear and robust].

Section A: Requirement

Title of contract:	
Brief outline of the requirement:	
Estimated value:	
Period of contract (including extensions):	
Senior responsible officer:	
Geographical reservation to be applied:	[UK-wide or specific county or borough for London]

Section B: Rationale

[Provide details outlining why the proposed geographical reservation (UK-wide or county / borough) has been chosen. This may include but is not restricted to aspects including supporting domestic supply chains, promoting resilience, attracting new entrants to government markets, tackling economic inequality, supporting more localised recruitment, training, skills, investment and start-up businesses. Supporting examples should be included.

If you have opted to apply a county (or borough for London) reservation, you should also demonstrate you have considered any adverse effects of applying a narrower geographical reservation. This may include higher costs which cannot be balanced against non-cost benefits; the local area’s dependency on the public sector; impact on suppliers in the surrounding counties excluded from contracts etc.

Also detail any other options considered and why these were subsequently discounted].

Section C: Approval

Approved / Not Approved	
Name:	
Position:	
Date:	
Comments:	

Annex B: Frequently Asked Questions

Q - What is different about how the Government can procure below threshold goods / services / work contracts?

A - The UK's exit from the EU means we can exercise additional freedoms in relation to contract spend on contracts with a value below the relevant thresholds for goods, services and works. This policy provides options for In-scope Organisations to reserve below threshold procurements explicitly for suppliers in a geographic location and SMEs or VCSEs.

Q - Which type of procurements does the policy apply to?

A- The policy can be applied to below threshold procurements for supplies, services and works which would otherwise be subject to Part 2 of the Public Contracts Regulations 2015 and to certain social and other specific services which would otherwise be procured under the Light Touch Regime.

Q - Can the policy be applied to frameworks agreements and dynamic purchasing systems?

A - No. It is not intended that the policy applies to the award of framework agreements and dynamic purchasing systems, or to the award of contracts under those agreements or systems.

Q - Are there any exceptions that apply to this policy?

A - The policy should not be applied to below threshold procurements which are of cross-border interest (i.e. which may be of potential interest to suppliers from EU Member States including the Republic of Ireland) and which involve the provision of goods into Northern Ireland.

From the end of the transition period, under the terms of Article 7(1) of the Northern Ireland Protocol, the import of goods into the Northern Ireland market is governed by Articles 34 and 36 of the Treaty on the Functioning of the European Union. These Articles flow directly into domestic law by virtue of section 7A of the European Union (Withdrawal) Act 2018 but have been disapplied in England, Scotland and Wales by statutory instrument. In the procurement context, the courts have interpreted Article 34 as giving rise to an obligation of transparency which requires contracts to be advertised if they might be of cross-border interest. As a result, contracts which fall outside the scope of procurement regulations, such as below threshold contracts, may still need to be opened up to competition, including from potential suppliers located in other EU Member States.

More generally, application of the PPN should be considered in the light of authorities' relevant legal obligations, including but not limited to the restriction applicable to local authorities and certain other authorities under Section 17 of the Local Government Act, 1988.

Q - Am I obliged to reserve below threshold procurements?

A - No. In-scope Organisations may still choose to compete on an open basis without any reservation for supplier type or supplier location where this approach is considered to deliver better value for money. This could include bids from overseas suppliers.

Q - Am I obliged to reserve below threshold procurements for UK SMEs / VCSEs?

A - No. It is permissible to reserve by supplier location only, which would open competition to a broader range of suppliers, or alternatively not apply any reservations at all.

Q - How do we ensure procurers do not disaggregate requirements to avoid above threshold obligations?

A - In-scope Organisations are under a legal duty not to disaggregate requirements to prevent them from falling within the scope of the above threshold rules. There are a range of actions which In-scope Organisations can take to ensure that requirements are not artificially disaggregated. These may include:

- ensuring requirements are legitimate and cannot be delivered through a pre-existing commercial vehicle (catalogue, framework, contract)
- referring to the In-scope Organisation's contract register and/or procurement pipeline and;
- making staff aware that spend is monitored and contract reviews and/or spot checks are carried out.

Q - Am I able to make a direct award under this policy?

A - No. This policy does not promote direct awards. In order to ensure value for money, In-scope Organisations should not direct award under this policy, although they may of course take advantage of the additional freedoms in relation to below threshold procurements in other ways.

Where In-scope Organisations are considering direct award for below threshold contracts outside of the scope of this policy (i.e. where reservations are not being applied) they are reminded to consider whether:

- the requirement can be met through an existing contract, catalogue or framework agreement;
- they can demonstrate the direct award represents value for money based on market research, price/cost benchmarking, social value factors etc;
- a single source approach is justified. For example:
 - a supplier has already provided goods, services, work in the same field, that were awarded from open competition (subject to compliance with rules on disaggregation, contract variations, etc);
 - there is a compatibility issue which needs to be met E.g. specific equipment required, or compliance with a warranty cover clause;
 - it involves the protection of exclusive rights E.g. supplier intellectual property rights;
 - there is genuinely only one supplier;
 - there is a need to retain a particular supplier for business continuity reasons, not just preference;
 - only one supplier has responded to a competitive process E.g. quotes or formal tender and

- the requirement is urgent, brought about by events unforeseeable by the In-scope Organisation.

Where a direct award action is appropriate, aspects of this guidance relating to risk management, model contracts, supplier due diligence, KPIs etc. will still be relevant. In-scope Organisations should refer to their internal policies and procedures for further guidance.

Q - Does the policy apply to consortia bidding?

A - Yes. If you reserve a procurement for SMEs / VCSEs, it is possible to accept a consortia bid from a group of SMEs / VCSEs. The consortia cannot include non-SMEs / VCSEs.

If you reserve for supplier location without also reserving for SMEs / VCSEs, the consortia may include supplier types other than SMEs / VCSEs, however all members of the consortia must meet the supplier location reservation.

Q - How do I verify that a supplier is an SME?

A - As part of your due diligence you could ask the supplier to confirm they are an SME and do not have a parent company. You could also request details of their DUNS number which will show if they are an SME.

Q - What options are available when reserving a procurement by supplier location?

A - There are 2 options available under this policy. The first is UK-wide or where appropriate, by county (or borough for London). Only one county may be reserved and metropolitan / non-metropolitan boundaries should be applied. The exception to this is London. As it is neither a metropolitan or non-metropolitan county, reservations may instead be applied by London borough. Justification for reserving for a county or London borough should be recorded and kept with other procurement documentation. A template is provided at Annex A.

Q - Can a combined authority that represents more than a single county reserve for all the counties it represents under this policy?

A - No. Under this policy, geographic reservations for multiple counties should be avoided as the policy relates to single county (or borough for London) reservations or a UK-wide approach.

Q - Can I reserve a procurement for suppliers in England under this policy?

A - No. This policy does not promote reservations for nations of the UK. It is not the government's policy to discriminate between nations of the UK. Under this policy, In-scope Organisations can choose to reserve a procurement for suppliers located in the UK or where appropriate, for suppliers located in a specific county (metropolitan / non-metropolitan) or London borough.

A procurement reserved for Dorset for example will exclude suppliers who are not based or established in Dorset and do not have substantive business operations in Dorset but may do so in other regions in England, as well as suppliers who do not have substantive business operations in England but do so in other nations of the UK.

Q - If an In-scope Organisation is procuring overseas, can it reserve a procurement for suppliers within that location under this policy?

A - No. This policy does not promote reservations for supplier locations outside of the UK.

Q - Could I reserve a procurement for suppliers located in an ‘historic county’ such as Yorkshire under this policy?

A - No. This policy does not promote geographic reservations based on historic counties. For the purposes of this policy metropolitan / non-metropolitan boundaries should be applied (or boroughs for London).

Q - Is the policy open to contracting authorities in Northern Ireland and Wales to use?

A - The policy applies to Central Government Departments, their Executive Agencies and Non Departmental Public Bodies in conducting procurements for public contracts, where Part 2 of the Public Contracts Regulations 2015 (the Regulations) would have otherwise applied to the award of the contract but does not apply because the estimated value of the procurement is less than the relevant threshold applicable under the Regulations. On this basis it would also apply to In-scope Organisations based in Northern Ireland and Wales.

Please refer to Q&A above - “Are there any exceptions that apply to this policy?”

Q - How would a county reservation apply in Northern Ireland or Wales?

A - Counties in Northern Ireland and Wales are not defined as metropolitan or non-metropolitan. In this instance In-scope Organisations should define by equivalent location. Justification for the reservation should be recorded (refer to template at Annex A) and kept with other procurement documentation.

Q - What do I need to consider when deciding whether to reserve a procurement by supplier location under this policy?

A - When choosing to reserve a procurement by supplier location under this policy you will need to consider what you are procuring and your primary drivers (economic, commercial, social). For example if these are to support domestic supply chains, promote resilience, attract new entrants to government markets etc. a UK reservation may be appropriate. Where the drivers are to tackle economic inequality, support more localised recruitment, training, skills, investment, start-up businesses etc. a county (or borough for London) approach might be the preferred option. Only a single county can be reserved and In-scope Organisations should consider any adverse effects of applying a narrower geographic reservation. This may include whether giving preference to local suppliers means higher costs which cannot be balanced against non-cost benefits; the local area’s dependency on the public sector; impact on suppliers in the surrounding area excluded from contracts etc.

When opting to reserve a procurement by supplier location, In-scope Organisations are required to record the rationale / approval of their decision and keep with other procurement documentation. A template is provided at Annex A.

If reserving a procurement by supplier location removes competition (i.e. there is only one supplier) then the reservation should not be applied.

Q - Should the decision to reserve procurements be taken on a case-by-case basis or as part of a wider organisational approach?

A - The same approach and justification is unlikely to apply to all of an In-scope Organisation’s below threshold procurements and therefore consideration to reserve a procurement by supplier type (SME / VCSE) or supplier location, should be undertaken on an individual procurement basis.

Q - If I reserve by supplier location (i.e. UK) without reserving for SMEs / VCSEs, would the bidder's subcontractors and supply chain also need to be based within the UK?

A - It is not a requirement for the lead bidder's subcontractors and supply chain to meet the supplier location reservation, but you will need to assure yourself that the lead bidder does meet the requirements and will play a meaningful role in the delivery of the contract.

Q - How do we prevent businesses setting up 'phantom' offices in order to be eligible for the UK reservation?

A - The Supplier Code of Conduct⁹ underlines the importance of Government acting together with trusted suppliers to deliver better public services. Government expects the highest standards of professionalism, ethical behaviour, transparency and honesty from its suppliers.

Undertaking appropriate levels of supplier due diligence can help to minimise the risk of impropriety or gaming of the policy. Check supplier details with Companies House and other open information sources, seek verification directly from the supplier and / or where appropriate conduct a site visit to ensure that the supplier has a substantive business operation in that location. If you are not satisfied with the answers you have received, and the evidence suggests that the supplier is not substantially operating from a defined geographical location, you should not allow the supplier to participate in the procurement.

Q - How do we ensure that contracts are not awarded to suppliers where a conflict of interest exists with a member of the In-scope Organisation?

A - There are a range of actions that In-scope Organisations can take to appropriately manage conflicts of interest. These may include:

- checking their Organisational COI register to identify any pre-existing interests;
- requiring new / updated COI declarations at the beginning of a procurement and as and when a conflict arises;
- ensuring separation of duties and approvals;
- undertaking spot checks for links between the supplier and staff members - addresses, persons of significant control on Companies House, bank details etc;
- where a COI is identified, agreeing effective remedies to manage the conflict. This will vary on a case-by-case basis but may for example include the removal of the staff member from the team managing the procurement;
- retaining records of conflicts and remedies for audit trail purposes; and
- ensuring all requests to change bank account details undergo third party checks prior to being actioned.

In-scope Organisations should refer to their internal guidance and / or procedures on identifying, reporting and managing conflicts of interest. Further guidance on managing COI is also contained within PPN 04/21: Applying Exclusions in Public Procurement, Managing Conflicts of Interest and Whistleblowing.¹⁰

⁹ <https://www.gov.uk/government/publications/supplier-code-of-conduct>

¹⁰ <https://www.gov.uk/government/publications/procurement-policy-note-0421-applying-exclusions-in-public-procurement-managing-conflicts-of-interest-and-whistleblowing>

Q - What should I do if I am aware of a conflict of interest between someone within my organisation and a supplier which has not been flagged?

A - Concerns should, in the first instance, be raised with your line manager or if that is not possible with somebody more senior in the line management chain. You may also wish to consider if this is a matter for whistleblowing. If you are a public sector employee concerned about a procurement activity within your own organisation, you should refer to your internal whistleblowing policy which will outline the process which you should follow.

Q - Is there a simple contract document that I can use for below threshold contracts?

A - Yes. The Short Form Terms and Conditions¹¹ have been developed by the Cabinet Office for general goods and services contracts with a value below the relevant thresholds. The document is designed to ensure that you are able to use appropriate and proportionately light touch contract terms. This is aimed at avoiding the use of overly complex terms which can increase costs and act as a barrier to the involvement of SMEs.

Model forms of contract for works / construction contracts, suitable for varying levels of value and complexity, are published by various industry bodies. These are referenced in the Construction Playbook¹².

Q - Are KPIs required for below threshold contracts?

A - No but it may be appropriate for below threshold contracts to include Key Performance Indicators (KPIs) in order to track successful performance of the contract. KPIs may also be used to mitigate identified contract risks.

KPI categories typically include delivery, product / service quality, best practice and continuous improvement, asset / service availability, customer focus, environmental factors and ethical and social issues. It is important to choose to measure what matters most.

Key things to remember when developing KPIs include being able to:

- identify what success looks like;
- measure success; and
- define in SMART (specific, measurable, attainable, relevant and time-bound) terms that are easily understood by both the Organisation and the supplier.

The number of KPIs you select should be proportionate to the value, complexity and criticality of the below threshold contract.

Q - What are the transparency requirements for below threshold contracts?

A - For details of the transparency requirements for below threshold contracts refer to PPN 07/21: Update to Legal and Policy Requirements to Publish Procurement Information on Contracts Finder¹³

Q - How do I include information about the reservation I'm applying to a procurement on a 'Opportunity Notice' on Contracts Finder?

A - There are a number of fields in which you can do this. For example:

¹¹ <https://www.gov.uk/government/publications/short-form-terms-and-conditions>

¹² <https://www.gov.uk/government/publications/the-construction-playbook>

¹³ <https://www.gov.uk/government/publications/procurement-policy-note-0721-update-to-legal-and-policy-requirements-to-publish-procurement-information-on-contracts-finder>

- Description - "Note Reserved Contract"
- More Information - "This contract is reserved for [insert SMEs / VCSEs if reserving by supplier type] based in [insert UK or county if reserving by supplier location]."
- How to apply - "Please indicate the [supplier type / location] for the delivery of these [goods / services / works]."

You should also indicate in the relevant fields whether the contract is suitable for SMEs / VCSEs even if you opt not to reserve by supplier type.