



The Transparency of Suppliers and Government to the Public

Intention

1. Transparency and accountability of public service delivery data and information builds public trust and confidence in public services. It enables citizens to see how taxpayers' money is being spent; and allows the performance of public services to be independently scrutinised. It also supports the functioning of competitive, innovative and open markets by providing all businesses with information about public sector purchasing and service providers' performance. This note¹ sets out a high level statement of the expectations on government and its suppliers in meeting these aims.

Audience and scope

2. The following groups should note and act on the contents of this statement:
 - all central government authorities²
 - all suppliers to the above, whether from the public, private or voluntary and community sector, or new commercial models such as mutuals.

Objectives

3. This statement aims to:
 - ensure the public has access to clear and accurate information pertaining to service delivery,
 - emphasise the importance of suppliers and government working together to improve transparency and service delivery,
 - highlight the merits of a proactive approach to information management; and
 - advocate a seamless and consistent flow of contracting and service delivery information between government and suppliers.

Considering what should be disclosed

4. All in-scope organisations should operate on a presumption in favour of disclosing information. Exemptions will follow the provisions of the Freedom of Information Act – for example, on national security or commercial confidentiality grounds. The presumption in favour of disclosure should apply to the vast majority of commercial information about government contracts, with commercial confidentiality being the exception rather than the rule.
5. Companies that deliver public services must be mindful of their existing legal and contractual obligations, especially those related to disclosure.
6. In-scope procuring organisations should explain transparency requirements to potential suppliers as early as possible in the procurement process and set out clearly in tender documentation the types of information to be disclosed on contract award and thereafter.

¹ This was set-out originally in PPN 13/15

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416421/Transparency_of_suppliers_and_government_to_the_public.pdf and has now been updated and simplified.

² as defined in regulation 2 of the Public Contracts Regulations 2015

7. Government contractual requirements will stipulate how the need for transparency will be met. This will include defining information that will be released to the public, covering the following:
 - contract prices and any incentivisation mechanisms in the contract
 - performance metrics
 - plans for management of underperformance
 - governance arrangements, including those for supply chains where significant contract value rests with subcontractors
 - resource plans
 - service improvement plans
 - frequency of information release.
8. Suppliers and government will also discuss what categories of information may be exempted and government will stipulate the categories of information that may be exempt in contracts where feasible.
9. Decisions on what information should be published or withheld under these Transparency Principles will be in accordance with the stipulations of the Freedom of Information Act (FOIA).
10. Note that the following categories of information could be reasonably withheld on the grounds of commercial confidentiality:
 - a. **Pricing**. The way the supplier has arrived at the price they are charging government in a contract could normally be withheld but this should not be grounds for withholding the contract value itself.
 - b. **Intellectual property**. Certain proprietary details of the solution that the contractor is deploying for government could be confidential. This should not be grounds for withholding performance information.
 - c. **Business plans**. Detail of how the contractor expects to yield a financial return from the service, including investment plans could normally be withheld.
11. Suppliers must respect the confidentiality provisions in their contracts and the legal requirement to protect sensitive information. This will be the case particularly where suppliers to government are party to confidential information that is necessary for them to be effective partners. This information, even if it is not acquired in the process of delivering a contract, should be handled with the same care as information of similar sensitivity in the supplier's own organisation.
12. Transparency clauses for inclusion in all new government contracts were introduced in 2011. These have been incorporated into the government's Model Services Contract for major services contracts.³ Crown Commercial Service is also adopting the new transparency clause in their model contracts for common goods and services.
13. The government has implemented the Open Contracting Data Standard (OCDS) in the Crown Commercial Service's operations by publishing Contracts Finder data in OCDS format.

Releasing information proactively

14. All public services should be transparent about their performance, regardless of their function or delivery model. It is expected that proactive release of information is the norm.
15. In-scope procuring organisations should:
 - ensure that information is made available to, and is accessible by, the public either by uploading the information into the 'Transparency' section of their own websites or by updating the relevant sections of GOV.UK

³ www.gov.uk/government/publications/model-services-contract.

- ensure that the data published is in line with Open Data Principles. This means ensuring the data is accessible at no more than the cost of reproduction, without limitations based on user identity or intent, and in a digital, machine-readable format under the Open Government License. Open Data Principles in full can be found at <https://www.gov.uk/service-manual/technology/open-data.htm>
- not, other than in exceptional circumstances, explicitly prohibit or otherwise impede the proactive release of information by suppliers.
- ensure that if information is redacted, there is a clear explanation as to why.
- update the information at regular intervals during the life of the contract so it remains current.
- update published information when significant changes have occurred during the life of the contract. This might mean, for example, setting out plans for performance improvement at the start of the contract, and detailing specific plans if performance improvement is required later on in the contract's life.
- ensure that all central government contracts over £12,000 are published online on Contracts Finder.

Releasing information on public request

16. Government will stipulate how to manage enquiries from the public. When requests for release of information are received, government will:
 - act as a single point of contact for public enquiries relating to the performance of privately delivered services that they commission.
 - decide what information is relevant to the contract(s) in question, communicating this to suppliers.
 - cascade enquiries regarding a service that the government commissions to the relevant private supplier in a timely fashion
 - respond to public enquiries, using information supplied by the relevant supplier(s)
 - decide what to release, bearing in mind the stipulations of FOIA.
17. Suppliers will:
 - provide government with information that helps it respond to public enquiries regarding the contract(s) in question.
 - supply government with information that helps it respond to the government's own transparency obligations
 - respond to government queries that are relevant to the service in question within a reasonable time frame and with due consideration to the urgency of the question.

Audit

18. Suppliers and government will set out the types of audit envisaged throughout the life of the contract so that suppliers can better price this activity. This will not limit the rights of the National Audit Office to audit government contracts. The Comptroller and Auditor General will have access rights to government contracts.

Unreasonable requests

19. If suppliers receive an information request from government that they believe to be unreasonable or to represent poor contract management practice, they should alert as follows:
 - suppliers that are not 'Strategic Suppliers' to government should raise any such request with the Crown Commercial Service's Mystery Shopper Service
 - Strategic Suppliers should refer the matter to their relevant Crown Representative
20. The Mystery Shopper Service can be contacted at MysteryShopper@cabinetoffice.gsi.gov.uk. More information can be found at

<https://www.gov.uk/government/publications/mystery-shopper-scope-and-remit>.

21. If the Crown Representative has been unable to resolve the issue, suppliers should contact the Government Chief Commercial Officer at cco@cabinetoffice.gov.uk.